State Planning Provisions Review 2022 - Submissions 81-100

Submission No:	Name	Organisation
81	Lynette Taylor	
82	Shane Wells	Sorell Council
83	Greg Pullen	
84	Brian Hauser	Cement Concrete & Aggregates Australia
85	Lucy Burke-Smith	Purcell
86	Tricia Ramsay	
87	Matt Evans	Australian Mobile Telecommunications Association
88	Iain More	Launceston City Council
89	Peter McGlone	Tasmanian Conservation Trust
90	Michael Haynes	Future Common
91	Ray Mostogl	Tasmanian Minerals, Manufacturing & Energy Council
92	Shane Gregory	Department of Health
93	Victoria Wilkinson & Jim Collier	Launceston Heritage Not Highrise
94	Danielle Gray	Gray Planning
95	Kate Mauric	King Island Council
96 & 98	Jim and Linda Collier	
97	Malcolm Crosse	
99	Dr Carolina Bouten-Pinto	
100	Leigh Murrell	

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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 PMAT should take part in these reference/consultative groups because a representative independent voice is essential. 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.

In my conversations with local Councillors they frequently express concern about their lack of ability to assess applications deemed to be discretionary, permitted or no permit required in that they meet SPPs. A development suitable for an urban area, large town or city may not and probably will not be appropriate for a small town but, currently Councillors have no say, this automaticity prevents community input, consultation and results in less than optimal outcomes. I have seen the height limits, previously single story raised to 7 metres, the shading, amenity and visual impacts are not addressed.

The adoption of seriously flawed LPS, SAP and PPZ from the previous interim planning scheme without allowing for modification or amendment, submissions and comments were in effect ignored unless some legal technicality could be discovered. Basically a rollover was in place, this incorporated changes made with no consultation e.g. changing areas from rural to rural residential. adding PPZs and SAPs. Some matters were referred from the Planning Commission back to Council but no follow up has occurred.

There should be full integration of planning with overlays and mapping covering the entirety of Tasmania with all land tenure types and zones included, a complete picture. Agricultural, industrial and forestry practices have had a detrimental impact on water catchment systems and the natural environment. I have witnessed the rapid and continuing expansion of Devils Corner vineyard with planting over a five year period with no consideration of a four year drought. They had no onsite irrigation capacity and instead drew water from the Swan and Apsley river systems resulting in degradation of the Ramsar listed Moulting Lagoon wetlands and also impacted on other users.

I wholeheartedly oppose any developments in National Park and reserves.

Yours sincerely,

Lynette Taylor.

[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.

SPP Review Process

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

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

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

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

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

SPP Review - Stage 1 – SPP Scoping Issues

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

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

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

SPP Review - Stage 2 – SPP Amendments

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

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

This process includes a 42 day period of public exhibition and independent review by the Tasmanian Planning Commission and may also include public hearings. I consider such public hearings

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

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

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

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

The new Tasmanian Planning Scheme has two parts:

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

1. State Planning Provisions (SPPs)

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

Read the current version of the SPPs here.

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

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

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

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

The LPS comprise:

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

View the Draft LPS approval process here.

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

Site Specific Local Planning Rules

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

The three planning tools are:

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

My concerns and recommendations regarding the SPPs

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

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

My key concerns and recommendations cover the following topics:

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

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

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

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

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

National Parks and Reserves and right of say

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

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

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

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

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

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

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

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

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

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

Residential areas and right of say

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

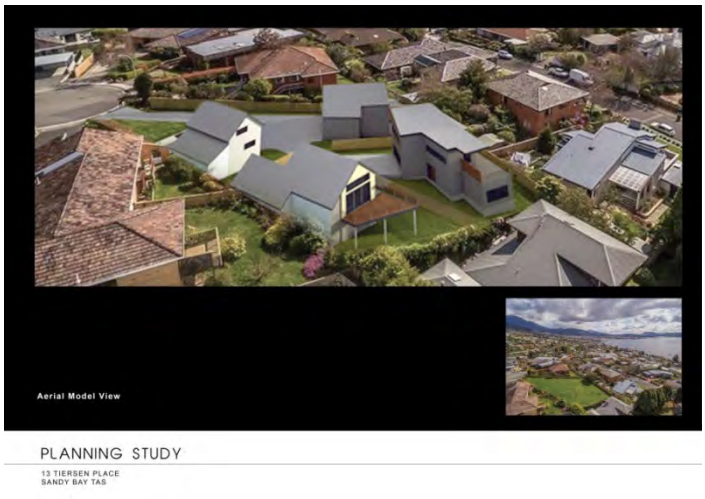

Figure 1 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment, and no appeal rights.

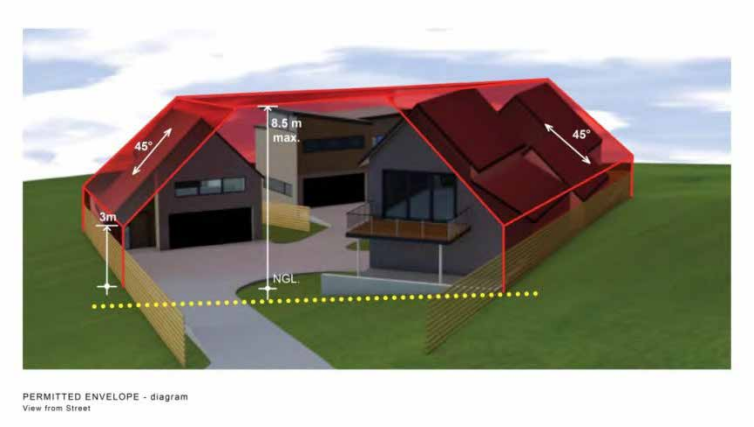

Figure 2 – PMAT's planning study demonstrates what is *Permitted* in the General Residential Zone. This is what is allowed to be built with no notification to your adjoining neighbour, no ability to comment and no appeal rights.

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

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

2. Climate Change Adaptation and Mitigation

Adaptation

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

Mitigation

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

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

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

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

3. Planning, Insurance and Climate Risks

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

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

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

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

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

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

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

4. Community connectivity, health and well-being

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

Recommendation:

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

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

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

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

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

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

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

5. Aboriginal Cultural Heritage

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

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

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

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

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

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

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

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

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

7. Tasmania's Brand and Economy

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

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

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

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

8. Housing

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

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

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

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

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

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

Recommendation:

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

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

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

9. Residential Issues

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

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

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

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

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

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

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

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

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

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

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

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

Recommendation:

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

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

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

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

10. Stormwater

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

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

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

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

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

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

11. On-site Waste Water

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

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

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

12. Rural/Agricultural Issues

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

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

13. Coastal land Issues

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

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

14. Coastal Waters

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

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

15. National Parks and Reserves (Environmental Management Zone)

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

Permitted Uses

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

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

Set Backs

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

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

16. Healthy Landscapes (Landscape Conservation Zone)

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

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

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

17. Healthy Landscapes (Natural Assets Code - NAC)

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

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

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

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

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

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

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

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

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

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

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

18. Healthy Landscapes (Scenic Protection Code)

The purpose of the Scenic Protection Code is to recognise and protect landscapes that are identified as important for their scenic values. The Code can be applied through two overlays: scenic road corridor overlay and the scenic protection area overlay. However, I consider that the Scenic Protection Code fails to protect our highly valued scenic landscapes. There is an inability to deliver the objectives through this Code as there are certain exemptions afforded to use and development that allow for detrimental impact on landscape values. Concerns regarding the Scenic Protection Code have also been provided to the Tasmanian Planning Commission from the Glamorgan Spring Bay Council on the SPPs in accordance with section 35G of LUPAA.

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

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

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

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

19. Geodiversity

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Integration of Land Uses

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

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

21. Planning and Good Design

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

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

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

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

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

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

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12 August 2022

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

Dear Project Team

RE: SCOPING THE STATE PLANNING PROVISIONS REVIEW

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

The key strategic planning imperative to Sorell Council is the review of the Southern Tasmanian Regional Land Use Strategy (STRLUS), which is critical to the future of the Sorell municipal area and to Southern Tasmania. Council also supports a policy-led planning system with statutory rules informed by the STRLUS review and the future Tasmanian Planning Policies (TPPs).

A review of the SPPs is a significant task. The current legislative requirement for a review of the SPPs on their five year anniversary will be repeated in the near future once the TPPs are made.

In our view the current SPPs review should be limited in scope to a number of key issues, which are outlined later. The rationale for a limited scope are:

- To focus resources and attention of the TPPs;
- To avoid statutory planning outcomes made in advance of, or separate to, land use policy which could simply repeat the failings on the SPPs that are now in effect;
- The number and complexities of issues that can be raised on the SPPs are many and could take significant effort to resolve and cannot be properly resolved without the TPPs; and
- To reduce the likelihood of delays to the review of the STRLUS.

A significant issues with the SPPs that are now in effect is the lack of policy guidance, and therefore explanation, for many provisions. Such provisions include:

- The prohibition on access to a new dwelling via a Crown road reserve in the Rural Zone;

- The requirement at 21.3.1 P4 (b)(ii) of the Agriculture Zone that require a Planning Authority to consider if a vacant lot could be adhered to other agricultural land, which is particularly unclear in its scope and messy in its practicality;
- The re-introduction of house excisions in the Agricultural Zone; and
- The removal of outbuilding design standards in the Rural Living Zone.

A further significant issue with the SPPs is that many provisions were approved contrary to the recommendations of the Tasmanian Planning Commission.

Many Planning Authorities have also submitted section 35G reports through the statutory process associated with their Local Provisions Schedules (LPS). This mechanism in LUPPA was intended to raise and resolve issues with the TPPs that became apparent during the preparation of an LPS or the consultation on an LPS. The status and response to these section 35G reports is unclear and these reports where not considered in any depth by the TPC.

In our view the scope of the current review of the SPPs should:

1. Be led by policy development, such as through the TPPs or separate policy initiatives such as the review of the residential development standards.
2. Resolve areas of concern raised by the Tasmanian Planning Commission during the initial approval of the SPPs via new issue specific policy initiatives where necessary.
3. Collate and prioritise issues identified in section 35G report.
4. Seek to improve and strengthen administrative components of the SPPs.

Some examples of administrative components of the SPPs that could be reviewed are outlined below.

- Aligning exemptions, wherever possible, with low risk categories of work
- Consistency in drafting between standards, such as all standards adopting the 'have regard to' approach
- Ensuring that all terms that should be defined, are so
- Ensuring all terms are appropriately defined (for instance, protrusion is defined as a list of examples only rather than providing a substantive meaning that can then be interpreted and applied)
- Ensuring that the use classes are logical (for instance, a commercial art gallery is somehow in a different use class to a public art gallery; 'food and beverage production' is a qualified use for resource processing but production and processing are not the same thing)

There are, however, many other administrative elements across the definitions and exemptions that would benefit from review.

In response to the question of priority areas, we identify the following in no particularly order:

- The Rural and Agriculture Zone, which concern a large number of community members om terms of residential use standards in marginal agricultural areas, the minuscule setback provisions of the Rural Zone, the broad scope of discretionary

uses, the approach to the management of biodiversity and the excision of housing and visitor accommodation.

- The lack of outbuilding design standards.
- The management of natural values generally.
- The operational requirements of the Flood Hazard Code for habitable buildings and the exemption for residential outbuildings without detailed requirements in the associated building approval system.

I trust that the above is of assistance. If you have any queries please contact me.

Kind regards

Shane Wells
Senior Planner

Submission to the State Planning Provisions review – scoping issues

I live in the Central Highlands, and have made a submission on the Local Provision Schedules which are being proposed for my council area.

While efficiency for development seems to be the catch-cry for planning law reform, the devolvement to a central bureaucracy comes at a cost to local sensitivities.

My home is in an area of significant natural values – which is the reason why I choose to live here. It also provides solace for thousands of Tasmanians who own shacks in the Highlands, or those who come here to fish, shoot or hike, plus, of course, our passing tourist trade.

A century ago this area became the centrepoint of "hydro-industrialisation" – a development process which has undoubtedly benefitted our State. But we are now in the early stages of a renewables boom focussed on wind energy – and there has been an automatic assumption by Government that this area will become a major Renewable Energy Zone, based on its past.

With proposed changes to zoning in the Central Highlands municipality – especially from Rural to Agricultural – there will be the removal of Natural Values as a pertinent consideration when developments are assessed.

In addition, and as obviously absent, is any provision for "no go" areas for wind farm proposals. Critical biodiversity populations are not considered before initial turbine sites are considered, with permit conditions for developers privately negotiated between state authorities and proponents. It is only after plans are announced to the public that real issues are able to be debated.

But with years of negotiation in the early stages, government and developers are in a strong position to argue mitigation measures are adequate, with communities left to organise and finance their own perspectives – all in a 42-day timeframe after the Development Application and Environmental Impact Statements are made publicly available.

There needs to be wind farm zoning, accompanied by a credible set of regulations which outline, up front, what is permissible.

Shoving massive structures into a landscape which results in significant obliteration of skyline panoramas is an area which needs attention. While the NIMBY label is easily applied, no-one in metropolitan areas would be silent if their "views" were marred by turbines or towers. The industrialisation of a rural or largely natural area signals its brutal end.

This is no small issue, as the Renewable Energy Action Plan heralds 9,950MW of (predominantly) wind generation – which would require between two and three thousand new towers to be placed in the three designated REZs.

Without specified wind turbine zones, complaints of noise disruption filed by residents will multiply. The Bald Hills judgement in Victoria has confirmed that disturbance is a health issue – therefore siting turbines without impacting neighbours' rights should also be part of a codified precinct.

An essential piece of regulation which must be incorporated into a wind farm permit is the decommissioning of the assets. With a predicted 25 year life, this is not a matter which should be left “for the future”, as is now the case.

The Australian Energy Infrastructure Commissioner has noted in his 2021 report that contracts with host land-holders are complex documents, and he warns that should a generator either abandon a project, or as is happening, not be the original entity with which a host arrangement was signed, the property owner may bear the responsibility of decommissioning. Current cost estimates are between A$250,000 to A$500,00 per unit.

For a 50-turbine layout there needs to be a compulsory, upfront bond of A$30 million lodged with a statutory authority before construction commences. Unless this is done, the reality will be a landscape littered with standing junk, or massive dumps containing thousands of tonnes of unrecycled materials, possibly funded by local ratepayers.

We need more renewable energy generation in Tasmania, but we should not wreck our world-class environment to achieve it. A first step is to make an informed decision, with community support, as to where this is to occur, and where it cannot. Only defined turbine zones, which do not corrupt natural values, will achieve this.

Greg Pullen
[redacted]

August 12, 2022.

CEMENT CONCRETE & AGGREGATES AUSTRALIA

12 August 2022

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

Submission

Tasmanian State Planning Provisions – Review

CCAA is the peak body for the heavy construction materials industry in Australia. Our members operate cement manufacturing and distribution facilities, concrete batching plants, hard rock quarries and sand and gravel extraction operations throughout the nation.

CCAA membership consists of the majority of material producers and suppliers, and ranges from large global companies to SMEs and family operated businesses. It generates approximately $15 billion in annual revenues and employs approximately 30,000 Australians directly and a further 80,000 indirectly. We represent our members' interests through advocacy to government and the wider community; assistance to building and construction industry professionals; development of market applications; and a source of technical and reference information.

Cement, concrete, stone and sand are the critical building blocks for Tasmania's vital construction industry, employing 19,500 workers and contributing 57.4% of Tasmania's taxation revenue base. These products are derived from extractive and processing operations in every region in the state. Most extractive and processing operations (quarries) hold environmental permits issued by the Environment Protection Authority (EPA) and Development Permits issued by the Local Government Authority.

New permits and changes to existing permits are assessed under the jurisdiction of the Planning Scheme currently applied by the Planning Authority at the time of the application.

State Planning Provisions – 3.0 Interpretation Table 3.1

Term	Definition
Sensitive use	means a residential use or a use involving the presence of people for extended periods except in the course of their employment such as a caravan park, childcare centre, dwelling, hospital or school.

The State Planning Provisions includes the definition of *'Sensitive Use'* as shown above. Planning Authorities interpret this definition to not include '*Visitor Accommodation'* as visitors are seen as not being present for extended periods. Conversely the Environment Protection Authority (EPA) has a contrary view and does treat '*Visitor Accommodation'* as a '*Sensitive Use'*.

The lack of consistency in interpretation can lead to Permitted visitor accommodation uses within the attenuation buffer area fettering the operation of a Permitted activity listed in Tables C9.1 and C9.2.

Visitor Accommodation must be included in the definition of a sensitive use in the State Planning Provisions to avoid conflict.

Summary of issues previously raised on the SPPs

The Public Consultation Papers for the SPPs review included the document *'Summary of issues previously raised on the SPPs'*. This document included a request to include an additional clause into the C9.0 Attenuation Code, C.9.2 Application of the Code. The proposed clause titled C9.2.5 offers an admission of *'Sensitive Uses'* within an attenuation buffer area if another sensitive use is already within the buffer.

Such a clause erodes the capacity of the Attenuation Code to prevent conflict between sensitive uses and activities listed under Tables C9.1 and C9.2.

Do not include an extra clause in the C9.2 Application of the Code to provide an exemption to subsequent sensitive use applications if one has already been admitted.

[redacted]

Yours sincerely,

[redacted]

Brian Hauser
State Director, Victoria and Tasmania

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12 August 2022

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To whom it may concern,

State Planning Provisions - Submission

We welcome the opportunity for public input as part of the review of the State Planning Provisions.

Purcell are Architects and Heritage Consultants with 75 years of practice. We deliver professional services on behalf of government and private clients within Tasmania and have a good working knowledge of the application of the Historic Heritage Code. We provide the following comments with respect to the State Planning Provisions 02-2021 20 July 2022.

Code Purpose

- We suggest that the Code purpose be redrafted. The use of the word 'protect' suggests preservation rather than conservation. Preservation under the Burra Charter limits change. A 'nil change' is not sound conservation practice. Alternate text such as 'To ensure sensitive change consistent with best practice' might be considered.

Application

- We suggest clarity around the current drafting of C6.2.2.

Definitions

- **C6.3 Definition of Terms.** We recommend that terminology be consistent with that of the Australia ICOMOS Burra Charter (the Burra Charter). This should be the case both with terms presently included in C6.3 such as 'setting', and additional terms not included within C6.3 but used through out the Code, such as 'maintenance' and 'repairs'.
- Clauses associated with 'new work', should be consistent with the Burra Charter Article 22. Specifically Article 22.1 states:

  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.

  Presently new work within the Code is required to be compatible with the local historic heritage significance. We consider compatible to be a problematic term, best replaced by 'does not distort or obscure' or 'does not detract from', per the Burra Charter.

- **Local Historic Heritage Significance** We strongly recommend consistency with the Criteria of the Historic Cultural Heritage Act 1995 and a mechanism to link the 2021 publication *Assessing Historic Heritage Significance for application with the Historic*

Cultural Heritage Act 1995. The nominated criteria are generally consistent with the nationally adopted HERCON framework. This publication provides a valuable guide to inclusion and exclusion thresholds for the listing of place, affording the basis of a common understanding. This approach would mitigate disputes with respect to the significance of a place, and set the standards both for both Councils and 'suitably qualified persons'.

- Local Heritage Precinct a framework should be established for the assessment of local heritage precincts.
- Suitably qualified person Reference is made in several instances to a suitably qualified person yet no definition or minimum experience is established.
- The terms 'compatible' and 'having regard to' are used extensively throughout the Code and are problematic. Consideration should be given to alternatives which are measurable.
- Landscape Precinct reference should instead be made to Cultural Landscape as with the Burra Charter.

Signage

- Exempt Development Signage has the potential to adversely impact both the fabric of a place and its visual setting. We recommend that greater definition be given to signage which may be exempt from the Code. Replacement of existing signs to same dimensions and finishes as a previously approved sign could reasonably be exempt development. This approach has been adopted by other consent authorities.

Development Standards

- We recommend considerable revision of the nominated development standards. They are more onerous than that of the existing. Further there is considerable focus on the retention of 'fabric' rather than the retention, protection and enhancement of values and significance. Such a trend toward 'nil change' is not sound conservation practice.
- C6.6.1 Demolition This clause has been historically problematic and requires careful revision and consultation. In addition to the language and terms require measurable definitions.
- C6.6.1(h) Economic impact In the absence of any calculations or threshold criterion for the demonstration of economic impact Clause C6.6.1 P1(h) should be deleted. In practice there has historically been little to no requirement for economic modelling or costings to demonstrate 'loss' or 'impact' with respect to the economics of development proposals.
- C6.6.2 Site Coverage Given the intention of the Code this Clause should has greater focus on the curtilage and setting of a place, as opposed to a generalised planning consideration with respect to site coverage.
- C6.6.4 Siting of buildings and structures should provide greater opportunity for solar orientation of new forms.
- C6.6.5 Fences This Clause implies consideration of dominant fencing styles beyond the place. It is our position that this is only applicable to Precincts and not Places.
- C6.6.6 Roof form and materials We recommend that this clause be removed or redrafted. In the current form it implies duplication of roof forms presently seen at a place, where an alternate form may present a lesser impact and better design response.
- C6.6.7 Building alterations, excluding roof form and materials We recommend that this clause be redrafted. As with C6.6.6 It presently implies duplication of the style and period of construction presently seen at a place, where indeed an alternate style may present a lesser impact and better design response. C6.6.7 P1(d) is relevant only to Historic Heritage Precincts, and the streetscape presentation of a place may not directly contribute to it significance and values.
- C6.6.8 Outbuildings and structures We question to appropriateness of inclusion of C6.6.8 A1 within the Code.

- **C6.6.9 Driveways and parking for non-residential purposes** It seems unrealistic that driveways could be located behind building lines. C6.6.9 P1(f) is relevant only to Historic Heritage Precincts, as the streetscape presentation of a place may not directly contribute to its significance and values. We suggest that C6.6.9 P1(b) and (c) apply only to 'significant' buildings and gardens.
- There appears a full duplication of C6.7.1 and C6.7.2.
- **C6.7.3 Buildings and works, excluding demolition** This Clause is unnecessarily complex and constraining. Consideration should be given to the importance of design response as opposed to performance criteria which are bordering on conforming development standards.

We feel strongly that the assessment of significance places and precincts is responsibility of Councils. The criteria and values for which a place is deemed significant should be clearly defined within the Historic Heritage Codes with the onus not being transferred to the owner or proponent to define via a suitably qualified person.

Should you wish to discuss the contents of our submission, please don't hesitate to contact with me on [redacted]

Yours faithfully,

[redacted]

Lucy Burke-Smith
B.Sc (Arch); BArch (Hons 1) Grad Cert Hert Cons
Associate Partner (ARN. Tas 898, NSW 8242)

On behalf of Purcell®

12 August 2022

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

To Whom It May Concern,

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

Thank you for the opportunity to comment on the review of scoping issues associated with the SPPs. It is noted that all SPPs are up for review. Having said that, as a concerned, time-poor resident with no specialist planning training, researching the complexity and technical terminology associated with the SSPs and associated processes has not been easy.

Nevertheless, I am disturbed that the proposed Tasmanian Planning Scheme will weaken the safeguards that to date have protected our living and natural environments. Safeguards that have underpinned the social and economic value of the unique Tasmanian Brand.

As planning is an omnipresent and influencing factor that affects all Tasmanians in a myriad of ways, it was important to make some contribution to this process. Being a member of a community group affiliated with Planning Matters Alliance Tasmania (PMAT) has been fortuitous for the purpose of this exercise. I am aware of the significant specialist and expert resources PMAT has facilitated, collaborated with, and engaged to produce its final submission regarding this Review.

I wish my endorsement of the 22 broad concerns and recommendations incorporated in PMAT's final submission to this process be noted.

Additionally, I make the following comment about issues that have a personal resonance - in addition to that outlined in PMAT's final submission -with respect to SPPs scoping issues and to improve future planning initiatives:

1. As PMAT represents over 70 communities and groups across Tasmania, it is imperative it should be included in any future focus/reference/consultative groups – as a voice for the community -to assist with detailed projects and amendments associated with the SPPs.
2. The SSPs should be informed by PMAT's Platform Principles and the objectives of the Land Use Planning and Approvals Act 1993.
3. As planning has the ability to affect the well-being of every Tasmanian, it is essential that the public maintains the ability to contribute to, and appeal decisions that affect them personally and/or as a community. To prioritise development over community well-being and natural and cultural values will erode all that is special about Tasmania and its brand. Sustainable development with a social licence maintains the democratic imperative: this principle should be enshrined in the future Planning Scheme.
4. National Parks and Reserves have been declared for a reason: they are precious for the reasons motivating the Tasmanian National Parks Association's submission and its recommendations to this review: which I have endorsed via PMAT's recommendation regarding Environmental Management Zones in National Parks and Reserves. It is essential that all current Environmental Management Zone's Permitted Uses should be classified as 'discretionary' to guarantee public comment and appeal rights on developments on public land.
5. Tasmanian Aboriginal people are the traditional and original owners of Tasmania and the SPPs should recognise that fact. It is timely that recognition and protection to Aboriginal cultural heritage be accommodated, and an Aboriginal Heritage Code – developed in collaboration with the Aboriginal community – be included. As Tasmania is heading towards a Treaty with Tasmanian Aboriginals, it is essential that a formal mechanism is in place from which they can comment on, or object to, a development – or use – that would adversely impact their cultural heritage. This code would need to incorporate appeal rights.

6. Climate change adaptation should be incorporated, and risk mapping based on the best scientific inputs available. As a flood victim of the 2018 floods in Tasmania I am sensitive to this issue. The impacts of the horror flooding occurring in New South Wales and Queensland this summer have been well documented. Thousands of homes in flood-plains are uninsurable. Given the recent history of flooding caused by climate change, it would be unconscionable for the state government to allow future building development in areas that will become uninsurable.
7. A Stormwater Code is required so that councils can consider stormwater run-off implications of new developments.
8. Wastewater issues also need to be addressed: currently no provision exists.
9. A percentage of social and affordable homes should be factored into major new residential developments to offset current housing shortage for lower income groups.
10. Green design of buildings and subdivisions should be articulated into planning processes.
11. Protection of solar panels, and solar access for residential properties, need to be strengthened.
12. Local area objectives and character statements should be reinstated to guide councils regarding discretionary decisions to make it easier for communities to protect and enhance local character. When reinstated, these statements need to be revisited – say every 10 years – to accommodate changes in local conditions.
13. The Local Historic Heritage Code should be consistent with the Burra Charter.
14. Public open space and walking/cycling infrastructure should be codified, but not at the exclusion of car parking: both should co-exist. Irrespective of the health and well-being benefits to be obtained by walking/cycling for recreational purposes, the necessity for car parking to accommodate the elderly and mobility-impaired will continue to be an issue. The terrain of many Tasmanian urban areas is not conducive to walking/cycling for these cohorts. For people dependant on cars for grocery shopping, travelling to medical appointments etc., the ability to park close wherever they need to go increases their independence and ability to remain where they chose to live. Car parking therefore increases their well-being and enhances their quality of life. Car parking is essential to provide for an ageing population by enabling residents to have easy access to relevant services.
15. Windfarms are an important source of renewable and sustainable energy, but future locations for windfarms should factor-in appropriate environmental and cultural heritage considerations, to limit negative impacts.

In closing, I would urge more user friendly documentation be produced in future regarding the planning system. In its present form it is broad in scope, highly technical and complex. As such, it characterises a barrier-to-entry for many community members to have their say in what is an important underlying contributor to the social and economic fabric of Tasmania.

Yours sincerely,

[redacted]

Tricia Ramsay

[redacted]

Australian Mobile Telecommunications Association

12th August 2022

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

Sent via email: yoursay.planning@dpac.tas.gov.au

Dear Sir/Madam

MCF Submission on the 2022 SPP Review Stage 1

Thank you for the opportunity to make a submission to the State Planning Office in relation to the above matter on behalf of the members of the Mobile Carriers Forum (MCF) namely: Telstra, Optus and Vodafone (part of TPG Telecom Ltd). The MCF is a division of the Australian Mobile Telecommunications Association (AMTA) and deals specifically with social, environmental, policy and regulatory issues related to the deployment and operation of mobile phone networks.

In the enclosed submission, the MCF has highlighted the importance of a regulatory framework that supports the provision of reliable mobile telecommunications infrastructure in Tasmania, including for the continued investment in upgraded and new networks, and to extend networks to fill mobile blackspots. The MCF considers that there is a clear necessity to revise the Telecommunications Code within the SPP and add to the provisions that are permit exempt for telecommunication infrastructure developments that have a low or negligible impact.

In light of the significant research of the importance of Telecommunications Deployment, the MCF requests a **Stage 2 SPP Detailed Review** of the C5 Telecommunications Code and the TPS that will assist to achieve the key findings of the above-mentioned reports and Tasmanian and local Governments' own published findings on Digital Infrastructure and Inclusion. We note that gaps and blackspots in mobile connectivity limit business and tourism. Connectivity is also critical in responding and recovering from natural disaster and other emergencies and in maintaining the safety of the community and visitors.

[redacted]

Yours sincerely,

Matt Evans
Mobile Carriers Forum
Australian Mobile Telecommunications Association Ltd

Mobile Carriers Forum Submission on the 2022 SPP Review Stage 1

Thank you for the opportunity to make a submission to the State Planning Office in relation to the above matter on behalf of the members of the Mobile Carriers Forum (MCF) namely: Telstra, Optus and Vodafone (part of TPG Telecom Ltd). The MCF is a division of the Australian Mobile Telecommunications Association (AMTA) and deals specifically with social, environmental, policy and regulatory issues related to the deployment and operation of mobile phone networks.

Terms of Reference

Under the Land Use Planning and Approvals Act 1993 (LUPAA), the SPPs are required to be reviewed every five years. Regular review of planning instruments is considered best practice to:

- *improve how they achieve their purpose,*
- *apply improvements in knowledge and policy, and*
- *give people and groups a chance to provide their views on how those planning instruments are working, and to suggest improvements.*

The SPPs review will occur in two stages. The Government has commenced the first stage with the release of this scoping paper for public comment. The feedback you provide will assist in identifying the key themes or parts of the SPPs that require detailed review.
Submissions are requested to consider:

1. *Which parts of the SPPs do you think work well?*
2. *Which parts of the SPPs do you think could be improved?*
3. *What improvements do you think should be prioritised?*
4. *Are there any requirements that you don't think should be in the SPPs?*
5. *Are there additional requirements that you think should be included in the SPPs?*
6. *Are there any issues that have previously been raised on the SPPs that you agree with or disagree with?*
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?*

Background/ Summary

On behalf of its' members the MCF has made numerous submissions to Councils, the TPC and the Minister for Planning since 2009 highlighting the need for improvements to State and Local Planning policy and assessment provisions for Telecommunications across Tasmania.

The introduction of the C5 Telecommunications Code in 2017 had the effect of removing all Acceptable Solutions under many local planning scheme Telecommunications Codes.

Whilst the MCF welcomes a consistent, state-wide Telecommunications Code under the SPPs, the C5 has had the effect of placing more onerous and restrictive development standards for the deployment of Telecommunications Networks.

All Telecommunications deployment that does not fall under the provisions of the *Federal Telecommunications Act 1997* and the *Low Impact Facilities Determination 2018 (as amended 2021)*, require a Discretionary Permit under C5.

Since the last SPP review in 2017, there have been significant evolutions in the technologies of mobile networks. Specifically, 5G is the 5th generation of mobile networks, a significant evolution of today's 4G networks.
There have been several key reports undertaken by both industry and government that highlight the importance of 5G and future technology deployment in Australia.

Key to this research and relevant to telecommunications deployment in Tasmania are the following publications and submissions:

1. *5G Unleashed: Realising the potential of the next generation of mobile technology,* Deloitte Access Economics, Australian Mobile Telecommunications Association 2022
2. Federal *2021 Regional Telecommunications Review - A step change in demand, 14 February 2022*
3. *Local Government Association of Tasmania (LGAT) submission on the 2021 Regional Telecommunications Review,* 30 September 2021
4. *The Tasmanian Premier's Economic and Social Recovery Advisory Council (PESRAC) Final Report,* March 2021.

It is noted that currently Telecommunications do not feature in the SPP Review document; *Summary of issues previously raised on the SPPs.*

One of the Key Reference points in the SPP Review is to: *apply improvements in knowledge and policy.* There has been much work by Government and Industry as highlighted in the above documents that warrant a review of the SPP's specific to the deployment of Telecommunications and how to address the key findings of these reports and submissions.

The MCF request that Telecommunications be recognised under Stage 2 of the SPP review as requiring a *detailed review* of:

1. The TPS *C5 Telecommunications Code*
2. Exemptions provided for in *4.2 Exempt infrastructure use or development.*
3. Restrictive Use classifications in various Zone provisions
4. Recognition of high priority Government Funded Projects.
5. Updating the purpose of the SPP and C5 Telecommunications Code to reflect the importance of Telecommunications Deployment and address Tasmania's current deficit in Digital Inclusion.

On digital inclusion, Tasmania is ranked as the most disadvantaged state[1]

The importance of regulatory and legislative frameworks that are reasonable, flexible and proportionate, as a means of supporting ongoing innovation and investment in mobile infrastructure cannot be underestimated. There is a disparity with the introduction of C5 Telecommunications Code in 2017 and current research and submissions relating to Technology and Telecommunications Deployment in Tasmania.

The MCF and its members would welcome the opportunity to contribute to a **Stage 2 Detailed Review** of C5 Telecommunications Code, 4.2 Exemptions and other areas within the SPP to ensure that future deployment recognises the economic, social and productivity benefits of efficient and timely telecommunications deployment, and better reflects the finding of current research.

Current knowledge, research, and publications

5G Networks

5G is designed to meet the very large growth in data and connectivity of today's modern society, the internet of things with billions of connected devices, and tomorrow's innovations. 5G will initially operate in conjunction with existing 4G networks before evolving to fully standalone networks. The rollout of 5G will help meet Australians' growing demand for more data, with the Australian Communications and Media Authority (ACMA) reporting that the volume of data downloaded in Australia for the June 2020 quarter (retail NBN, retail non-NBN

[1] Thomas, J, Barraket, J, Wilson, CK, Holcombe-James, I, Kennedy, J, Rennie, E, Ewing, S, MacDonald, T, 2020, Measuring Australia's Digital Divide: The Australian Digital Inclusion Index 2020, RMIT and Swinburne University of Technology, Melbourne, for Telstra, available at: digitalinclusionindex.org.au

and mobile services) was 8.2 million terabytes, an increase of more than one-third compared to the June 2019 quarter (6 million terabytes) and this is set to continue.[2]

5G is the latest generation in mobile technology transforming Australia's business landscape. 5G networks deliver faster speeds, better reliability and improved capacity. It enables a range of technologies – such as drones, Internet of Things (IoT), Edge Computing, autonomous vehicles, and virtual reality. At the core of this technology sits a network and devices sector that is continually investing and innovating to enable mobile connectivity.

The Tasmanian Premier's Economic and Social Recovery Advisory Council (PESRAC) Report March 2021.

The Tasmanian Premier's Economic and Social Recovery Advisory Council (PESRAC) delivered its Final Report in March 2021. The purpose of the report is to provide advice to the Government on long-term recovery from the COVID-19 pandemic. Digital Infrastructure and Inclusion was identified as a critical enabler to economic and social recovery for Tasmania.
Key relevant findings:

> *Digital Infrastructure and Inclusion*
> *The State Government should take an active role in strengthening Tasmania's digital infrastructure, particularly in our regions.*
> *The State Government should set clear whole-of-government Key Performance Indicators (KPIs) for closing the digital divide (with a focus on affordability, access, and ability) and provide funding to address the KPIs.* [3]

Key Statements in the Local Government Association Tasmania (LGAT) Submission: 2021 Federal Regional Telecommunications Review, 30 September 2021

This submission to the Federal Governments Regional Telecommunications Review identifies that:

> *Accessible, effective telecommunications are critical for Tasmania. Our state faces significant challenges, many shared with other regional areas, but some more acute than other areas due to unique local circumstances. Tasmania has one of the most dispersed populations of any state, is ageing with the highest median age of any state and has the largest increase in the median age over recent times. As an island, we are critically reliant on telecommunications to connect with the rest of the country, and to the world, for social, cultural and economic reasons.*
>
> *On digital inclusion, Tasmania is ranked as the most disadvantaged state. At the same time there is a widening gap between those that are digitally included and those that are not – on income (higher income; more included), age (younger; more included) and geography (more included in Hobart; less in other areas, particularly the north-west).*
> *For local government services, digital access is a critical support that has only be accelerated by the COVID-19 pandemic.*
> *Gaps and blackspots in mobile connectivity limit business and tourism. Connectivity is also critical in responding and recovering from natural disaster and other emergencies and in maintaining the safety of the community and visitors.*
> *For urban areas, the continued rollout of higher speed mobile networks is important to support innovation for 'smart cities'.*[4]

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[2] The Communications and media in Australia—Supply and use of services 2019–20 acma.gov.au
[3] The Tasmanian Premier's Economic and Social Recovery Advisory Council (PESRAC) Report March 2021
[4] Local Government Association Tasmania (LGAT) Submission: 2021 Federal Regional Telecommunications Review, 30 September 2021

Key findings of the *5G Unleashed: Realising the potential of the next generation of mobile technology*, Deloitte Access Economics, Australian Mobile Telecommunications Association
2022

The report titled: Realising the potential of the next generation of mobile technology, was commissioned by the Australian Mobile Telecommunications Association (AMTA) to examine the economic impact of adoption levels of 5G-enabled technologies and innovations, and the policy and regulatory principles required to support accelerated adoption.

While Australia has been a world leader in mobile telecommunications for decades and is currently ranked 3rd globally, it is at risk of falling to 9th by 2025 due to lack of business readiness for change and a policy regime that needs to be recharged.

Australian businesses were found to be slow when it comes to readiness for adoption of 5G despite 62% of businesses leaders across four sectors agreeing 5G will accelerate the growth of their business, with 59% saying they have no strategy to realise 5G and nearly 1 in 3 (30%) having no plans to implement 5G.
The report's economic modelling estimates 5G will increase Australia's GDP by $67 billion by 2030 based on the current trajectory for adoption, however an additional $27 billion can be realised by maintaining Australia's global leadership position through accelerated adoption – a 40% uplift in economic benefit over nine years.

The Key points for government in the report are:

- *Australia is a global leader in 5G mobile, but needs to accelerate uptake and investment to maintain its lead on other countries*
- *If Australia can maintain its current position amongst global leaders, this creates an extra $27 billion in economic benefits to GDP by 2030 by lifting business productivity*
- *Key 5G policy priorities include driving adoption and facilitating private sector investment through spectrum and infrastructure policy, especially for regional areas*

Specifically in relation to Infrastructure deployment, the report identifies that:

- *Coordinate clear and consistent policy across all communications-related issues at Federal, State and Territory level*
- *Facilitate reform opportunities outlined in AMTA's 5G Infrastructure Readiness Assessment report at the state & territory level, and progressing reforms to Carrier powers and immunities framework*
- *Government to consider incentives to encourage private investment in 5G services such as new funding arrangements or tax incentives to support greater 5G coverage into regional and remote areas*
- *Government should consult with industry on the need for further de-regulation with a view to removing out of date and inefficient regulatory requirements across the sector and seek to enable greater co-regulation*[5]

Key findings of the *AMTA State & Territory 5G Infrastructure Readiness Assessment* First edition – March 2021 (relative to the Tasmanian SPP Review)

The Report identifies that Delivery of 5G requires a commitment from all levels of Government. AMTA reviewed and assessed the current regulatory frameworks of each of Australia's eight State and Territory Governments, and by extension local governments:

[5] 5G Unleashed: Realising the potential of the next generation of mobile technology, Deloitte Access Economics, Australian Mobile Telecommunications Association
2022

Investment in 5G and delivery of improved speed, capacity and latency has the potential to support economic recovery, provide substantial benefits to business and consumers, enable remote work and education, support critical utilities and ultimately contribute to carbon reduction.

Australia's state, territory and some local governments are increasingly turning to smart city or smart region strategies as a means to solve problems and improve the lives of their residents. 5G will increasingly become a technology that enables smart cities and smart regions.[6]

Specific to Tasmania the report outlines the following findings:

Best Practice Examples in Tasmania

- Short statutory timeframes for processing of DAs for Telecommunications Facilities.
- Firm statutory timeframes for decision on 3rd Part Appeals to RMPAT.

Reform Opportunities

- Review acceptable heights in Single Planning Scheme Telco Code.
- Introduce complying development with additional facilities listed as 'minor communications infrastructure in Tasmanian Planning Scheme.

With planning well progressed for the continuing rapid deployment of 5G infrastructure across Australia, the time has never been better for Australia's states and territories to review and recalibrate their policy settings and planning rules to cater for the demand for new 5G telecommunications network infrastructure. The rules and requirements need to be rewritten to reflect the ubiquitous and essential nature of the infrastructure to recast the balance in favour of timely and efficient deployment.

The ongoing application of the Telecommunications Code in the SPP could jeopardise approvals for augmentation of mobile network service in Tasmania (including 5G), and approval for mobile Blackspot towers, many of which are in rural areas and co-funded by Tasmanian State Government.[7]

2021 Regional Telecommunications Review - A step change in demand, 14 February 2022

The Review found a digital shift has been taking place and is continuing, prompting a step change in demand. The Review emphasised the importance of reliable, modern, high-quality telecommunications to regional communities, particularly in light of COVID-19 and the increased data demands of working and studying from home.

The findings and recommendations fall in four main areas:

- a more strategic, coordinated approach;
- more investment in digital infrastructure services and skills;
- better consumers support and information; and
- policy and regulatory change.

Improving mobile coverage and performance, as well as broadband and enhancing the resilience of telecommunications infrastructure to natural disasters, are key focuses of the report.

[6] AMTA State & Territory 5G Infrastructure Readiness Assessment First edition – March 2021
[7] AMTA State & Territory 5G Infrastructure Readiness Assessment First edition – March 2021

2022 SPP Review Framework

Submissions to the 2022 SPP Review are requested to consider five key questions. The MCF provide the following response to the five questions:

Which parts of the SPPs do you think work well?

Relatively short statutory timeframes for processing of DAs for Telecommunications Facilities, particularly for permitted development.

Firm statutory timeframes for decision on 3rd Part Appeals to RMPAT.

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

1. C5 Telecommunications Code to provide for:
    a. Acceptable Solutions (A1) provided for Facilities located within existing utility corridors or on sites with existing facilities.
    b. Increased height limits for A2, to reflect previously accepted and standard heights for freestanding towers, particularly in the Rural, Industrial and Environmental Management Zones.
    c. Additional acceptable solution for Telecommunications infrastructure funded or partly funded by State and Federal Government.
    d. Review the Code purpose to reflect the increasing importance of telecommunications and digital connectivity positive to social, economic and cultural outcomes in Tasmania.

2. Additional Exemptions provided for in 4.2 Exempt infrastructure use or development.
    a. Exemptions to be broadened particularly for minor infrastructure:
3. Restrictive Use classifications in various Zone provisions
    a. The role of Telecommunications be recognised as essential infrastructure and that a Use for a Telecommunications Facility (which is subject to the Telecommunications Code) should be a permitted or no permit required Use in all Zones.
4. Recognition of high priority Government Funded Projects and apply appropriate exemptions and/or Acceptable Solutions specific to these projects.
5. Review the requirement for a Discretionary Permit for telecommunications facilities on Crown Reserve Land already subject to a rigorous Environmental Assessment Process (via the Department of Natural Resources and Environment Tasmania). This is essentially a double up of assessment and time (and cost) for development approval.

Comment:

The *AMTA State & Territory 5G Infrastructure Readiness Assessment First edition* – March 2021, has done much of the work in assessing the current regulatory framework in Tasmania. It broadly reflects the above items identified for improvement and goes further with detailed assessment and commentary.

> *AMTA is seeking the urgent attention of governments to rewrite their planning rules to ensure that they are consistent with best practice regulation found in the Leading Practice Model for Development Assessment, as well as non-discriminatory tenure rules consistent with the provisions of Telecommunications Act.* [8]

[8] Pg 69 AMTA State & Territory 5G Infrastructure Readiness Assessment First edition – March 2021

Specifically for Tasmania, it identifies 2 Key Recommendations:

> ***Recommendation 15 (TAS):***
> *AMTA calls on the Tasmanian State Government and Minister for Planning to undertake a review of the Tasmanian Planning Schemes' Telecommunications Code, and in particular C5.6 Development Standards for Buildings and Works, to ensure that the acceptable solution for the height of structures strikes an appropriate balance between providing important mobile network services (including 5G) and protecting amenity.*[9]
>
> ***Recommendation 16 (TAS):***
> *AMTA calls on the Minister for Planning to amend Clause 4.2.6 of the Tasmanian State Planning Provisions, with additions to the list of minor communications infrastructure that are exempt from requiring a permit. This should include:*
> *a) the addition of antennas to an existing facility where the antennas do not exceed the dimensions of existing antennas and the overall height of that facility does not increase.*
> *b) the establishment of a shelter or cabinet/s within an existing Telecommunications compound area*
> *c) co-location of new 5G small cells onto existing utility poles within heritage areas.*
> *In addition, Clause 4.2.6 could include several types of Telecommunications infrastructure that is currently not captured by the Telecommunications (Low-impact facilities) Determination 2018 but are exempt in States including Victoria or NSW*[10]

Currently under C5 Telecommunications Code, all Telecommunications Facilities outside of those contained in the Low Impact Facilities Determination 2018 (as amended 2021) and the Telecommunications Act 1997 require a Discretionary permit. This is a significant departure from many previous local interim Telecommunications Codes and has the effect of delaying and/or discouraging deployment.

Height limits within the C5 Telecommunications Code do not reflect existing predominant heights of towers (many previously considered acceptable under local interim schemes). This has the potential for poorer outcomes for coverage with significantly lower heights listed as acceptable. It creates a community perception that heights above acceptable solutions are inappropriate. Lower heights can discourage co-location as small structures cannot cater for as much equipment.

If future applications for Telecommunications Infrastructure fell into a permitted category (as a result of the 2022 SPP Review), Mobile Carriers consultation with local communities would still occur via "Industry Code C564:2020 Mobile Phone Base Station Deployment" (the "Deployment Code"), the exemptions proposed will not negate the need for the carriers to notify communities in an area around a proposed telecommunications facility, and then consider and respond to any feedback.

3. What improvements do you think should be prioritised?

The MCF strongly recommend a review and provision of a set of exempt facilities under Clause 4.2 Exempt Infrastructure. Advice on these exemptions has been previously provided in 2016, via the MCF's Submission on the Tasmanian Planning Scheme and Final Draft State Planning Provisions (as attached) and further refined under the *AMTA State & Territory 5G Infrastructure Readiness Assessment*.

Additionally, the *AMTA State & Territory 5G Infrastructure Readiness Assessment* provides a detailed assessment of reform opportunities in Tasmania and should be reviewed in conjunction with the SPP 2022 Review for Telecommunications under a **Stage 2 Detailed Review** process.

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[9] Pg 71 AMTA State & Territory 5G Infrastructure Readiness Assessment First edition – March 2021
[10] Pg 71 AMTA State & Territory 5G Infrastructure Readiness Assessment First edition – March 2021

The provision of additional exemptions for Telecommunications infrastructure will bring Tasmania in line with other states and will assist to address the lagging digital inclusion index in Tasmania, and also recognise the social and economic benefits of the importance of reliable, modern, high-quality telecommunications. Undertaking a **Stage 2 Detailed Review** with Stakeholders such as Local and State Government, the MCF and Tasmanian communities should be prioritised so that the Key findings of the reports and publication listed above can be recognised, implemented, and correctly reflected within the SPP.

Digital Infrastructure and Inclusion is identified as a critical enabler to economic and social recovery for Tasmania. The SPP Policy review has the opportunity to take a proactive approach to apply improvements in knowledge and policy and in particular to facilitate reform opportunities outlined in *AMTA's 5G Infrastructure Readiness Assessment* report at the state level.

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

These are covered in the sections above.

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

The MCF highlights the need for further de-regulation with a view to removing out of date and inefficient regulatory requirements with the SPP that impact Telecommunications Deployment.

Are there any issues that have previously been raised on the SPPs that you agree with or disagree with?

The MCF previously made submissions on the C5 Telecommunications Code in 2016. None of the suggested amendments were adopted or subject to further review. This submission is attached as it contains many relevant items, particularly in relation to expanding additional exempt facilities under Clause 4.2, and relevant commentary in relation to C5 Telecommunications Code.

Key Telecommunications Deployment Projects currently underway in Tasmania and subject to the Telecommunications Code (either C5 TPP or local interim specific Code)

- Federal Regional Connectivity Program (Rounds 1 and 2)
- Federal Mobile Black Spot Program (Rounds 4 and 5)
- Carrier Specific 4G and 5G Deployment
- Tasmanian Government Radio Network (TasGRN) (Telstra are the Service Provider for the TasGRN, responsible for the design, build and management of the network)
    - 152 TasGRN Sites all requiring Planning approval (due to antenna size) despite only 19 new structures being proposed. 152 Planning Permits were required for this essential emergency services network. Whilst some applications were permitted under interim planning schemes, once the interim planning schemes are all replaced, all of these applications would be discretionary.

Conclusion

The MCF has highlighted the importance of a regulatory framework that supports the provision of reliable mobile telecommunications infrastructure in Tasmania, including for the continued investment in upgraded and new networks, and to extend networks to fill mobile blackspots.

The MCF considers that there is a clear necessity to revise the Telecommunications Code within the SPP and add to the provisions that are permit exempt for telecommunication infrastructure developments that have a low or negligible impact.

In light of the significant research of the importance of Telecommunications Deployment, the MCF requests a **Stage 2 SPP Detailed Review** of the C5 Telecommunications Code and the TPS that will assist to achieve the key

findings of the above-mentioned reports and Tasmanian and local Governments' own published findings on Digital Infrastructure and Inclusion.

Gaps and blackspots in mobile connectivity limit business and tourism. Connectivity is also critical in responding and recovering from natural disaster and other emergencies and in maintaining the safety of the community and visitors.

We thank you for your consideration of the matters raised in this submission.

Attached are Key Reference Documents to support this submission:

- Pages 55-58 of the *AMTA State & Territory 5G Infrastructure Readiness Assessment* First edition – March 2021, relating to Tasmania **(Attachment 1)**
- *MCF's Submission on the Tasmanian Planning Scheme and Final Draft State Planning Provisions*, 2016 **(Attachment 2)**

And links to Key referenced documents:

- *5G Unleashed: Realising the potential of the next generation of mobile technology, Deloitte Access Economics,* Australian Mobile Telecommunications Association 2022 https://amta.org.au/5g-unleashed-deloitte-access-economics/
- *Federal 2021 Regional Telecommunications Review - A step change in demand*, 14 February 2022 https://www.infrastructure.gov.au/department/media/publications/2021-regional-telecommunications-review-step-change-demand
- *Local Government Association of Tasmania (LGAT) submission on the 2021 Regional Telecommunications Review,* 30 September 2021 https://www.infrastructure.gov.au/sites/default/files/documents/rtr2021-submission-no-522-local-government-association-of-tasmania.pdf
- *The Tasmanian Premier's Economic and Social Recovery Advisory Council (PESRAC) Final Report*, March 2021. https://www.pesrac.tas.gov.au/reports
- *AMTA State & Territory 5G Infrastructure Readiness Assessment First edition* – March 2021 https://amta.org.au/wp-content/uploads/2021/03/AMTA-5G-Readiness-Report-Summary_Final-Edition-No1-Date-23-02-21.pdf

A Stage 2 SPP Detailed Review will be able to consider these documents in detail. The MCF will be able to provide further detailed case studies and examples to support the key improvements identified in this submission.

AMTA

Australian Mobile Telecommunications Association

AMTA State & Territory 5G Infrastructure Readiness Assessment

First edition – March 2021

Foreword

Mobile telecommunications are fundamental to Australia's economy and society. Australians demand near-ubiquitous, high-quality mobile services, and Australian networks must cater for continuous exponential growth of mobile traffic while maintaining affordable prices.

It is increasingly important that state and territory planning policy makers recognise the essential nature of telecommunications services and the rapidly-evolving dynamic requirements for network deployment and upgrade. Otherwise Australia's networks will fall behind and hinder economic growth and social connectivity.

AMTA counts amongst its members the three mobile network operators deploying and operating mobile networks in Australia: Telstra, Optus, Vodafone (part of the TPG Telecom Limited Group), together with infrastructure suppliers and support industries. The industry acknowledges both the critical role that it plays and the need to balance the very legitimate concerns of communities and government and comply with relevant regulations and standards. However, there is an opportunity to share best practice to identify opportunities for earlier realisation of the benefits of network upgrades for Australia.

In a competitive environment, our members are constantly investing in their existing 4G networks, and are now racing to deliver the benefits of 5G to Australia. After carefully planning their network infrastructure they must secure development approval from councils and tenure on freehold and government land, and to do this they must navigate through a complex and sometimes outdated web of rules and regulations in each of Australia's States and Territories, and over five-hundred council areas.

Regulation of telecommunications has traditionally been a Commonwealth responsibility, but Australia's state and territory governments play a key role in facilitating or hindering network deployment. They devise planning policies and the rules and processes for assessment of a substantial proportion of mobile network infrastructure. It is then local councils that are central in the process of interpreting these rules, assessing proposals and finally deciding whether to grant approval.

Despite several challenges during 2020 and 2021, Australia's mobile industry is now rapidly deploying new and augmented network infrastructure suitable to deliver 5G enabled services including new and additional antennas, new towers, poles and 'small cells'.

The continued deployment of 4G and emergence of 5G network infrastructure offers the potential for a substantial stimulus impact on the economy as we adapt to a "new post-Covid normal". As a technology that enables other sectors of the economy, 5G mobile infrastructure also offers economic benefits supporting communities, businesses and public services.

To ensure readiness for the deployment of the 5th generation of mobile networks, AMTA and its members encourage Australia's state, territory and local governments to embrace the opportunities for 'best practice' policy and regulatory reform recommended in this report.

In doing so, the industry is keen to work with all levels of government to unlock and expedite private sector investment in Australia's increasingly essential telecommunications sector.

Dan Lloyd, Chair, Australian Mobile Telecommunications Association (AMTA)

Contents

Executive Summary

The time has never been better for Australia's State and Territory Governments to review and recalibrate their policy settings and planning rules to cater for improved mobile connectivity and deployment of new 5th Generation (5G) telecommunications network infrastructure.

As the peak industry body and voice of Australia's mobile telecommunications industry, one of AMTA's top priorities is the need to ensure the timely, efficient and effective deployment of 5G mobile technology.

Investment in 5G and delivery of improved speed, capacity and latency has the potential to support economic recovery, provide substantial benefits to business and consumers, enable remote work and education, support critical utilities and ultimately contribute to carbon reduction.

Australia's state, territory and some local governments are increasingly turning to smart city or smart region strategies as a means to solve problems and improve the lives of their residents. 5G will increasingly become a technology that enables smart cities and smart regions.

Whilst much of Australia's Telecommunications infrastructure is established using Federal 'Low-impact' exemptions, there is a substantial proportion that requires approval from local government. This means navigating the planning and tenure regulations framed by the various State and Territory Governments.

AMTA's recommendations for State and Territory governments are grounded in best regulatory practice and have been guided by the Development Assessment Forum 'Leading Practice Model for Development Assessment' endorsed by the Council of Australian Governments; (COAG) Business Advisory Forum.

When it comes to carriers securing land tenure, the central requirement is found in the non-discrimination requirements of the Telecommunications Act 1997, which requires that states, territories and local governments should not commercially 'discriminate' against telecommunications infrastructure in their laws.

AMTA acknowledges the important objectives of State and Territory Planning systems to minimise the visual impact of network infrastructure, and to strike a balance to provide for a net-community benefit.

Together with its members, AMTA has reviewed and assessed the current regulatory frameworks of each of Australia's eight State and Territory Governments, and by extension local governments.

After a thorough analysis by AMTA and its members, the assessment for each State and Territory includes:

- National 'Best Practice' elements of that State or Territory;
- Each 'Reform Opportunity' in that State or Territory; and,
- 'Recommendations' to improve 5G infrastructure regulatory 'readiness' in that State or Territory.

This 5G Infrastructure State Territory Readiness Assessment has highlighted best practice across Australia and has given credit where it is due. It has also sought to highlight and document a series of 21 recommendations based upon models for best practice regulation for which reform is also necessary. These are summarised in the following diagram.

The three mobile carriers deploying 4G and emerging 5G networks including Telstra, Optus and Vodafone are seeking objective, clear and non-discriminatory planning policies, rules and regulations that strike a balance between provision of essential telecommunications services and minimising impact.

The industry is already building the first 5G networks, with critical investment decisions being made now and in the very near future.

It is imperative that there is certainty around the ability to deploy the requisite infrastructure to provide 5G.

AMTA and its members look forward to working with all levels of Government so that Australians can realise the economic, social and environmental advances that can be enabled via existing 4G and emerging 5G mobile networks.

5G Readiness - Summary of Best Practice Examples and Reform Opportunities

NORTHERN TERRITORY

Reform Opportunities

- Include Telecommunications Facilities as 'permitted' to allow for exemption from consent in several zones (including Industrial and Rural) where conditions are met.
- Adopt AMTA's suggested amendments to the Northern Territory Planning Scheme 2020 as contained in the AMTA/MCF submission lodged with the Commission in April 2020.

QUEENSLAND

Best Practice Examples

- Moves to reform leasing with review and introduction of Land Regulation 2020.

Reform Opportunities

- Introduce Telecommunications Code into Queensland Planning Provisions.
- Introduce State-wide consistency for DA fees.
- Review Appeal process at P & E Court to avoid undue delay, expense and technicality.
- Review Dept Education Exclusion Zone Policy which is not science based.

NEW SOUTH WALES

Best Practice Examples

- The Infrastructure SEPP provides Exempt and Complying Development for specified types of telecommunications infrastructure within specified timeframes.

Reform Opportunities

- NSW Dept Education withdraw its policy promoting non-science based exclusion zones.
- IPART to create single fee structure that applies to all occupiers of Crown Land and does not discriminate.

WESTERN AUSTRALIA

Best Practice Examples

- Statement Planning Policy 5.2 provides a consistent policy framework, but requires action by councils to ensure consistency.

Reform Opportunities

- Ensure Council Policy compliance with SPP5.2 (3 Councils remaining).
- Seek amendments to ensure use not permitted is removed from zones in some Schemes.
- Timely & consistent approach to leasing Crown Land.

AUSTRALIAN CAPITAL TERRITORY

Reform Opportunities

- Introduce complying development for some facilities.
- Review Communications Facilities Code and minimise subjective assessment criteria.
- Introduce Master Agreement including timely & consistent approach to leasing land.

SOUTH AUSTRALIA

Best Practice Examples

- Independent professional members on Council Assessment Panels make decisions on DA under delegation from Council.

Reform Opportunities

- Phase 2 & 3 Planning and Design Code to recognise Telecommunications and provide Code with exemptions.
- Ensure Historic Overlays don't impact LIFD exemptions.
- DEW encouraged to establish Master Agreement.

TASMANIA

Best Practice Examples

- Short statutory timeframes for processing of DAs for Telecommunications Facilities.
- Firm statutory timeframes for decisions on 3rd Part Appeals to RMPAT.

Reform Opportunities

- Review acceptable heights in Single Planning Scheme Telco Code.
- Introcude complying development with additional facilities listed as 'minor communications infrastructure in Tasmanian Planning Scheme.

VICTORIA

Best Practice Examples

- Limited 3rd party appeals for mobile blackspot funded sites.
- Policy across the State underpinned by a Planning Policy Framework, Particular Provisions and a State-wise Code which offers permit exempt approval pathway.

Reform Opportunities

- Bring forward review of 2004 Victorian Code.
- Resolve permit triggers (use/development).
- Seek amendment to ensure no zones prohibit telecommunications facilities.

Background & Purpose

Australia consistently ranks amongst the top-tier of best performing countries for mobile broadband speeds, and this is in no small part a result of ongoing innovation, competition and investment in network infrastructure by Australia's licensed mobile carriers.

With the right policy settings at federal, state/territory and local government level, Australia's mobile carriers can continue to deliver this investment in quality next generation mobile networks – including new towers for wide area coverage, small smart poles and small cells for localised service and all of the antennas and technology that connects smart phones, sensors, machines, cars and the 'internet of things'.

During 2019/20, Australia's drought, bushfire and covid-19 pandemic response has highlighted the ever-increasing reliance on quality mobile connectivity for a wide range of uses. Most Australians are now acutely aware of the level of broadband and mobile connectivity and service available where they live and work. During the covid-19 pandemic, the level of demand for mobile networks has spiked, and as people spent more time online at home, network traffic loads shifted geographically from city centres and office areas to suburban residential areas[2]. This amplified the present and ongoing challenges associated with ensuring quality network service in residential areas during peak times of the day.

And just like council development approval is required for some new homes, apartments, office buildings and commercial premises, so too it is required for a substantial number of our new telecommunications network infrastructure, including for 5G when new structures are established.

The process for 'planning approval', which is interchangeable with terms including 'development approval' or 'development consent' is different in each state and territory, and is given effect by Acts of each State Parliament, regulations, codes and planning schemes which tend to include both state-wide and local council planning scheme provisions.

When it comes to securing "the go ahead" to build towers, poles, antennas and other network infrastructure, mobile telecommunications is somewhat unique, insofar as some of it is exempt from council planning approval due to federal exemptions, some of it requires council approval due to state planning rules, and some is exempt from council approval due to state planning rules. In short, all three levels of government have a role which presents significant regulatory complexity.

AMTA and Australia's three mobile carriers deploying 5G networks including Telstra, Optus and Vodafone are seeking objective, clear and non-discriminatory planning policies, rules and regulations that strike a balance between provision of essential telecommunications services (including ongoing 4G and emerging 5G), and minimising impact.

The industry is already well advanced in building the first 5G networks, with critical investment decisions being made now and in the very near future. It is imperative that there is certainty around the ability to deploy the requisite infrastructure to provide 5G, so the benefits can be realised across Australia.

What should State & Territory governments do to achieve 5G deployment readiness?

The next sections of this report outline and distinguish between the powers and immunities (or 'exemptions') from State & Territory Planning laws provided by the Federal Government, and the planning (development assessment) requirements of Australia's state and territory governments. It then examines State and Territory regulatory best practice with an outline of the highly regarded 'Leading Practice Model for Development Assessment'.

Importantly for context, we also outline the not well understood non-discrimination requirements of the Telecommunications Act 1997 as they relate to state and territory planning systems for telecommunications, and terms for tenure on government land. In short, the Telecommunications Act requires that states, territories and local governments should not 'discriminate' against telecommunications infrastructure in their laws.

The report then reviews and assesses the current regulatory frameworks of each Australian State and Territory and by extension local governments as a legislated instrument of the States & Territories, and determines how these frameworks align with best regulatory practice. After a thorough analysis by AMTA and its members, the analysis for each State and Territory includes:

- National **'Best Practice'** elements of that State or Territory;
- Each **'Reform Opportunity'** in that State or Territory
- Several **'Recommendations'** to improve 5G infrastructure regulatory 'readiness' in that State or Territory

The on-going evolution of services, which at the moment are focussed around the roll-out of 5G, requires a nimble and responsive policy regime and regulatory framework that recognises the essential nature of mobile telecommunications infrastructure and the on-going improvements to technology which allow new ways for services to be delivered.

AMTA has prepared this report to promote discussion, action and ultimately 5G deployment readiness by Australia's State and Territory Governments and councils.

The importance of 5G to Australia

The establishment of 5G network infrastructure is not an end point – rather it is the beginning of exciting possibilities with the introduction of substantially improved reliability, latency, throughput and speeds across our mobile networks.

More than ever, all forms of communications networks including mobile networks are viewed as essential, particularly when Australians are working remotely during the covid-19 pandemic. 5G infrastructure and services offer opportunities including for Australia's economy, consumers, utilities and carbon reduction.

"the productivity benefits of mobile telecommunications will be worth **$65 billion** to the Australian economy by 2023"

Economy

As we emerge from the pandemic, the foundation for a successful recovery in coming months and years will be rebuilding our local economies as quickly as possible, and mobile networks are key to enabling technology for all other sectors of the economy. For example, for every FTE role employed in the mobile industry there are 3.7 employed in flow-on industries.[3]

According to the Deloitte Access Economics Report' Mobile Nation – the 5G Future', the productivity benefits of mobile telecommunications will be worth $65 billion to the Australian economy by 2023 – equivalent to 3.1% of GDP.

Consumers

Consumers are embracing technology in the mobile ecosystem. Recent research points to the potential of 5G for consumers[4] with a key finding that data usage for one in five users could reach more than 160GB per month on a 5G device by 2025.

Australian consumers expect 5G to provide relief from urban network congestion in the near term - especially in Australia's bigger cities, where nearly half (47%) of smartphone users report facing network issues in crowded areas - and to create new home broadband choices.[5]

Current 4G usage patterns are not indicative of future usage behaviours. Video consumption is set to rise significantly with 5G. Australian consumers expect to not only stream video in higher resolutions but also use immersive video formats such as Augmented Reality (AR) and Virtual Reality (VR), resulting in an additional two hours of video content being watched weekly on mobile devices by users in the 5G future when they are out and about, including half an hour wearing AR glasses or VR headsets.

Remote work and education

5G's bigger bandwidth, lower latency and faster speed will remove remaining impediments to working, collaborating, studying and attending classes remotely.

Whether working from home, in the field, whilst travelling or in the office, 5G will allow for virtual meetings and the collection, retrieval and sharing of data rich material with ease.

As we emerge from the height of the Covid-19 pandemic, people are acutely aware of the need for quality mobile connectivity, which will go hand-in-hand with advances in edge computing and cloud-based storage.

The contribution of 5G to remote work and education will have a significant impact on the livelihood and competitiveness of Australia's regions and closing the digital divide.

Enhancing Australia's Utilities

Because 5G is an 'enabling' technology, critical infrastructure resilience increasingly recognises the interdependencies between telecommunications and other essential infrastructure for utilities such as water, power, manufacturing and transportation networks. 5G and IoT will promote the use of sensors, automation and precise machine control for monitoring equipment and processes virtually, delivering significant benefits for Australia's utilities.

From smart power grids to connected cars that autonomously traverse streets, massive amounts of mobile broadband data will be required. A heterogeneous network of technologies underpinned by 5G will be required to meet the challenge of providing enough coverage and capacity to power these advances.

Carbon Reduction

5G's most important contribution to energy efficiency may come from enabling users and especially the 5G-driven 'Internet of Things' to contribute to a net-reduction in carbon emissions.

Environmentalists and policy think tanks alike believe that smart wirelessly connected appliances, factories, cities and transportation grids will be able to optimize and reduce their power consumption. The end result will be lower costs and a meaningful contribution to global efforts to mitigate climate change.

A detailed analysis sector by sector, confirms that ICT (including 5G) has a substantial potential to mitigate climate change, with indications that total Greenhouse Gas emissions could be reduced by as much as 15% by 2030.[6]

Governments embracing the benefits of 5G Infrastructure

Australia's state, territory and some local governments are increasingly turning to smart city or smart region strategies as a means to solve problems and improve the lives of their residents.

Rather than starting with the technology, the public sector is designing solutions to improve the human experience. Communications networks, sensors and IoT are then drafted and applied as enabling solutions.

During 2020, state and local governments in places such as Western Sydney, South-East Queensland and central Melbourne were examining the use of 5G technology as a means to enable smart solutions for their communities. Whilst these Governments are proceeding to examine all facets of deployment, regulation, governance and use of 5G technology, it is increasingly the economic imperative of being an early mover to 5G that appears to be the primary catalyst.

The potential economic benefits of 5G will soon become a differentiator for cities looking to attract businesses and residents.

The ability to compare progress between municipalities and learn lessons from the successes or costly delays of others may generate constructive cooperation between cities and carriers to become more efficient when deploying 5G infrastructure. Cities that provide accelerated and lower-cost mechanisms for wireless infrastructure deployment are likely to get rewarded by providing their residents and businesses access to game-changing 5G services faster than cities that fail to address costly or unreasonable delays."[7]

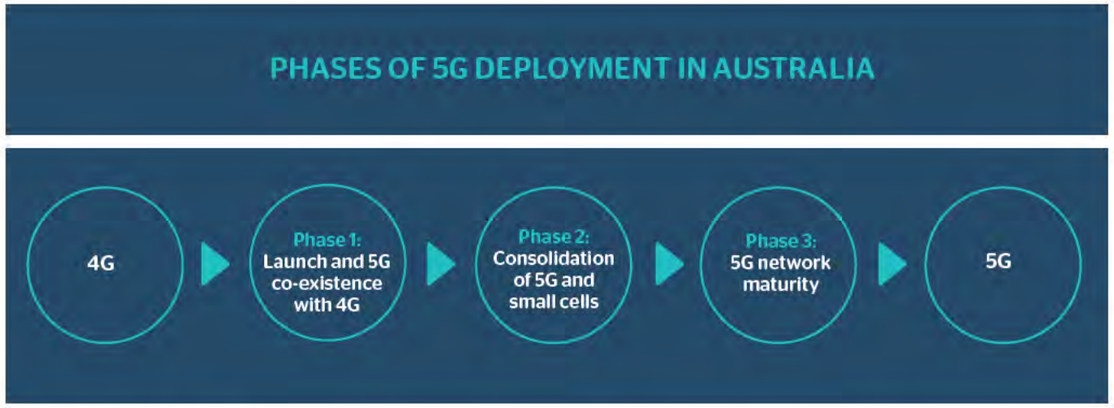
Speed of the processes for Councils to approve 5G infrastructure is central. The Australia New Zealand Smart Cities Council has produced a Smart Cities Readiness Guide. When it comes to the infrastructure for 5G the Guide recommends that Governments "seriously consider siting ordinances that shorten and/or simplify time-consuming review processes."[8]

In addition, the Australian Smart Communities Association, has drafted 'Common Principles and Recommendations for the Efficient, Unified and Community Viable Rollout of Next Generation Mobile and Wireless (5G & LPWAN) Infrastructure'.[9]

Further acknowledgement of 5G's role as a 'key enabler' in Smart Cities has been identified by Standards Australia, with the launch of its Smart Cities Standards Roadmap in August 2020. This includes the establishment of a national 5G standards development sub-committee of the Smart Cities 'Strategic Advisory Committee', to contribute to the development of 5G related standards and support 5G infrastructure deployment for Smart Cities.

Phases of 5G infrastructure deployment in Australia

It will take several years for Australia to migrate from 4G to 5G. This section summarises three phases of this transition, with indications of the likely form of infrastructure required in each phase and the corresponding regulatory response in each case.



Phase 1: Launch and 5G co-existence with 4G

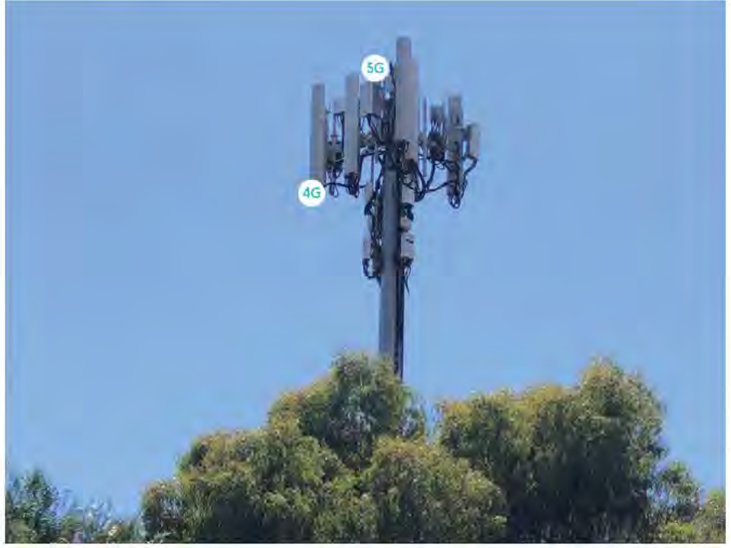
In this first phase of deployment in Australia, 5G will primarily coexist with 4G. This includes the addition of 5G antennas and ancillary equipment at existing 'macro' 4G facilities on towers, poles and rooftops. These deployments are usually referred to as non-stand-alone (NSA)[10]. This NSA co-location of 5G antennas onto existing 4G facilities typically in high traffic areas of the inner city and regional centres, and the use of lower and mid-band spectrum will allow for good coverage and mobility. In this scenario, carriers are essentially utilising Federal exemptions pursuant to the Telecommunications (Low-impact facilities) Determination to co-locate antennas in this initial phase. However, some standalone Telecommunications poles are reaching their structural capacity and may need to be replaced in order to achieve co-location of 5G. This will necessitate lengthy approvals from councils, if no suitable exemptions are available.

Phase 2: Consolidation of 5G and small cells

In the second phase, as 5G networks mature and higher spectrum bands (referred to as "mm Wave") become available in Australia from 2021, 5G will continue to be co-located on existing 4G sites.

In addition, 5G will also be deployed in mm Wave frequencies, meaning that 5G cell coverage areas will typically be smaller than those of 4G. Carriers will need to deploy 5G in this way to gain the significant new capacity in high demand areas and extremely high speeds that the mm Wave spectrum provides. As the 5G coverage area will be geographically smaller, some new sites will be needed in between existing 4G sites to achieve contiguous coverage. These will typically take the form of 'small cells', whereby 5G mobile antennas are typically attached to existing infrastructure, such as utility poles, streetlights, traffic lights, and sides of buildings. They may also be established on new small 'smart poles'.

Small cells typically have a range out to several hundred metres. Small cells will be a feature of 5G networks particularly where the new relatively high mm Wave frequencies which have short wavelengths are deployed. The signal is excellent but doesn't travel far, so more small cells will be deployed, but they'll be sending out less power than today's 4G systems. As the Australian Communications and Media Authority explains "5G base stations can also go into 'sleep mode' when they are not in use. This means their power output and EME emissions will be lower than 4G base stations".[11]



Many hundreds of small cells associated with 4G networks have already been deployed across Australia to boost depth of mobile coverage and provide capacity, mainly in built up areas including central business districts and sports stadiums. This is evident when searching within these localities utilising the Australian mobile industry's publicly accessible database called the 'Radio-frequency National Site Archive or "RFNSA" at www.rfnsa.com.au

A search for 'Melbourne', and 'Nearby Sites' in the map function will show a large number of existing small cells located in the "Road Reserve" within the Central Business District.

We are also seeing small cell deployments being utilised in too difficult to cover suburban locations where macro type facilities have been unable to deployed.

In this second phase, whilst carriers will be able to utilise Federal exemptions found in the Telecommunications (Low-impact facilities) Determination, this will not always be possible as these sites may be within "Areas of Environmental Significance" (including Environmental or Heritage protected) which may preclude the use of the exemptions within the Determination. In addition, suitable existing utility poles may not exist in the area to be serviced. The carriers will need to secure approval, navigating the uncertainty of state, territory and local government planning rules.

The challenges of deploying 5G small cells is complex and requires local government collaboration. This is neatly summed up by Accenture Strategy in its publication 'Smart Cities – How 5G can help Municipalities Become Vibrant Smart Cities.' "While the benefits of pervasive small-cell 5G technology are highly significant, the real-world logistics of deploying small cells on a large scale must also address the cost, complexity and time involved in deployment. Many municipalities continue to rely on regulations and processes that were created to handle the rollout of existing and previous wireless technologies, but which are likely to be inadequate for the rollout of 5G technology. The challenges in this area are threefold: local permitting and regulations; access to public rights of way; and fee structures" [12].

Prior to this phase, it is incumbent upon all levels of government, the industry and the community to work towards understanding what constitutes a balanced outcome in terms of providing quality and cost effective 5G service, as well as minimising negative impact on visual amenity.

Phase 3: 5G network maturity

In the third phase, when 5G reaches full maturity and demand is fully utilising and in balance with capacity of the technology, we expect to see operators deploy stand-alone (SA) 5G in low, mid and high (mm Wave) bands. This will require new macro base stations and new small cells, with many requiring council approval.

SA 5G deployments will also be used for new use cases, such as private or enterprise networks and industrial IoT, in 'self-contained' factory, hospital or campus environments.[13] It is in this phase, if not before, that 5G telecommunications infrastructure will be undoubtedly recognised as essential, and its omnipresence well accepted.

At least in the initial phases, 4G networks will continue to be utilised in parallel and be interoperable with 5G and new towers, monopoles and co-located 4G facilities will continue to be deployed. Therefore, the recommendations of this Readiness Assessment apply equally to 4G as they do to emerging 5G infrastructure.

Co-location and Site Sharing

For the successful delivery of 5G networks, 'co-location', site sharing and co-operation between the carriers will be required across all three phases of deployment.

There is a well-established industry practice and process for carriers to share 'passive' infrastructure such as towers, poles, buildings and housings. That is, where carriers co-locate their antennas onto a single structure. Despite misconceptions from state, territory and local government, the industry achieves high levels of 'co-location'.

AMTA members expect sharing of passive infrastructure to continue on throughout the 5G era where it is technically feasible (e.g., physical space, wind-loading of the structure, matching equipment rack types, etc) and this makes economic sense to do so.

State, territory and local government planning rules can play a significant part in incentivising carriers to co-locate. For example, allowing exemptions for the extension or swapping out of existing towers or poles for a stronger and moderately higher structure to enable the addition of co-located antennas can negate the need for an additional stand-alone structure.

However, sharing 'active' infrastructure such as electronics including radio transmitters and antennas, has a range of technical and economic constraints.

Nevertheless, the Australian industry continues to explore the potential for 'Open Radio Access Networks' (Open RAN) that provides for interoperability and sharing of open hardware, software, and interfaces for mobile networks.

As we move to deploying small cells, precise placement is critical for them to be effective. It will be rare that the needs of all carriers align for any small cell to a sufficient extent for sharing the small cell to be viable. The factors requiring precise small cell site placement include amount and geographic focus of customer demand and location of surrounding network elements (macros and other small cells) and these are unique to each carrier.

The visual impact of co-locating multiple small cells on a single structure should also be carefully considered when determining the best method of deployment and mitigating impacts in a locality. There is scope for coordination with local councils in relation to the best siting solutions, whether these involve co-located or standalone small cells.

Creating Planning Regulations for 5G Infrastructure

Minimising impact on amenity from 5G infrastructure

The purpose of each state and territory planning system as it relates to telecommunications network deployment is generally two-fold. Firstly, government is seeking to promote the development of network infrastructure due to social and economic benefits, which has been outlined in earlier sections of this report. Secondly, the other side of the equation involves government seeking to minimise the negative impact on 'amenity' from 5G infrastructure.

Commenting on this dual objective in its submission to the Federal Parliamentary 5G Inquiry the Australian Local Government Association (ALGA) states "While ALGA supports the rollout of modern telecommunications infrastructure to improve the lifestyles, environment and economy of cities and towns, it needs to be balanced with proper process to ensure structural integrity, safety, urban design, and visual amenity is retained and visual interference (e.g., along road corridors) is minimised".

The 'amenity' of a neighbourhood or streetscape is a 'wide ranging' and flexible concept.[14] Some aspects are 'practical and tangible such as traffic generation, noise, nuisance, appearance and even the way of life of the neighbourhood ... but others are more elusive such as the standard or class [or reasonable expectations] of the neighbourhood' [15]. But when it comes to the addition of 5G equipment in a streetscape or on a building, it is its visibility which is often the focus. Importantly, 'visual change' with the addition of antennas and other equipment does not always equate to a negative or detrimental change.

When combined, government will assess and balance these often-competing aspects to determine if a net-community benefit has been achieved as a result of a proposal. Achieving a net-community benefit places an emphasis on ensuring that an area is provided with comprehensive, ubiquitous communication and digital network services, particularly where this infrastructure will add to social well-being and economic growth, whilst seeking to minimise impact as much as possible within the context of the area. [16]

"'Visual change' with the addition of antennas and other equipment does not always equate to a negative or detrimental change"

The need for non-discriminatory and objective planning rules

Thankfully, in some states, territories and council areas, government has determined where the balance is achieved in their prescriptive planning rules between the positive service-based aspects and minimising impact on amenity. To avoid subjectively assessing every proposal, this is 'codified' into planning rules including performance criteria such as the maximum height or setback distance of the telecommunications infrastructure from site boundaries and protection of view-lines.

In attempting to achieve the objectives of the planning system in a state or local area this approach is desirable as the rules are clear and not subject to sometimes vague discretion when a permit application is being assessed by a council. This is consistent with the Leading Practice Model for Development Assessment, which is discussed later.

This approach incentivises carriers to establish network infrastructure without the need for formal approval if reasonable requirements for siting and design are met. The desired policy goal has been determined, and the policy makers have developed often prescriptive 'exempt' or 'complying development' controls. Such an approach has successfully been introduced in New South Wales and Victoria, and to a lesser degree and inconsistently in Queensland. In some cases, it has also been introduced into Council policies, such as in Mandurah, Western Australia.

Recognition of the essential role of telecommunications networks

If we are to realise the economic benefits and enable smart outcomes built on 5G infrastructure, much will depend on how robustly 5G networks are deployed locally, and how we can apply new regulatory approaches from those used in the past.

As outlined above, 5G networks have the potential to be a key input into the 4th industrial revolution. 5G services will be as critical as power, gas and water. Indeed, communications is commonly regarded as the fourth utility. However, when it comes to state and territory planning rules the mobile industry does generally not have the same rights as utility companies to deploy assets in a timely and cost-effective manner with similar planning exemptions. The industry is concerned that continuation of this approach risks making 5G networks commercially unviable in some areas, and also discourages other utilities from cooperating with mobile carriers to coordinate the sharing of infrastructure.

So, AMTA and its members are not seeking a regulatory break that is disproportionate or inflated from the rights of other utilities or from the importance of 5G services.

Rather, some of today's state and territory planning policies for telecommunications had their genesis twenty years ago, when mobiles were considered an optional accessory, when small cells were seldom deployed, and less than half of all Australians had a mobile subscription.

At that time, due to less demand, mobiles were not considered to be an essential or critical utility service. The siting of mobile infrastructure was able to be established in industrial or commercial zoned areas, but this is just not possible now or into future as 5G infrastructure needs to be in areas of demand which is increasingly where people access network services in residential areas.

In addition, the rules need to be updated to reflect the essential nature of the infrastructure, and to ensure they are written to reflect planning best practice.

Regulatory Responsibilities for 5G Infrastructure

The Federal Government and 5G Infrastructure

Legislative Framework

The power to regulate and control telecommunications in Australia is vested in the Commonwealth through Section 51 of the Australian Constitution. During the 1990's, when mobile carriers began their 1st and 2nd generation rollouts they were aided by a range of exemptions and powers afforded by the Commonwealth. This allowed the carriers to establish a network without the need for state and territory approvals, and this extended to the construction of structures such as monopoles and lattice towers.

With the arrival of the Telecommunications Act 1997, the Commonwealth limited the exemptions and powers available to the carriers and permitted only 'low-impact facilities' to be deployed without scrutiny of State and Territory laws and Council approval. These exemptions were enshrined in the Telecommunications (Low-Impact Facilities) Determination 1997 (the Determination), which was amended in 1999, 2018 and 2020.

For mobile telecommunications, the Determination deals primarily with the mounting of antennas on existing buildings and structures, as well as co-location and the placement of ground-based equipment.
It sets out in a schedule the physical and locational characteristics which must be complied with to enable a carrier to deem a facility 'low impact'.

For more than 20 years, the Determination and its successive amendments have been an effective instrument, striking a balance between expediting the deployment of network infrastructure and minimising visual impact. There is no better example of this than the high levels of co-location and site sharing between the carriers, which is required and encouraged by the Determination and Telecommunications Code.

Federal requirements for Co-location

Australia's mobile carriers have worked cooperatively for more than two decades to comply with government policy to co-locate, and in doing so have achieved high levels of site sharing and co-location of antennas on towers, rooftops and other structures. Whilst this has been the carriers' preference, it is also mandated within the Federal Telecommunications Code of Practice 2018 [17], which requires that each carrier must take all reasonable steps to use existing facilities.

This has negated the need for the establishment of many more towers in Australia than would otherwise exist. In short, it makes good sense for carriers to co-locate because it saves money, time and often minimises community angst. But this cannot be at the expense of coverage, quality and continuity of service and health and safety, so there will often be the need for new freestanding facilities for new services such as 5G.

Federal requirements for Notification & Consultation

From 2002 notification and consultation was required for telecommunications facilities that were either 'low impact' or did not require Development Approval pursuant to state and territory rules. It is a Carrier license condition that they must comply with a mandatory consultation code (the 'Code') produced through the Communications Alliance processes and titled "C564:2020 Mobile Phone Base Station Deployment".

Amongst several obligations, the Code requires a consultation strategy be devised for a new telecommunications facility, with council input, and it is then executed by the carrier or its representative.

The consultation is undertaken to ensure that community stakeholders have an opportunity to obtain information and engage with the carrier or its representative. The consultation is mandatory and where triggered it is regulated by the ACMA.

Federal Regulatory Framework for Tenure

When it comes to securing land access and tenure there is a misconception that carriers have rights to install all types of telecommunications infrastructure, without approval or tenure. But this only applies to 'low-impact' facilities – that is, facilities specified in the Telecommunications (Low-impact facilities) Determination 2018.

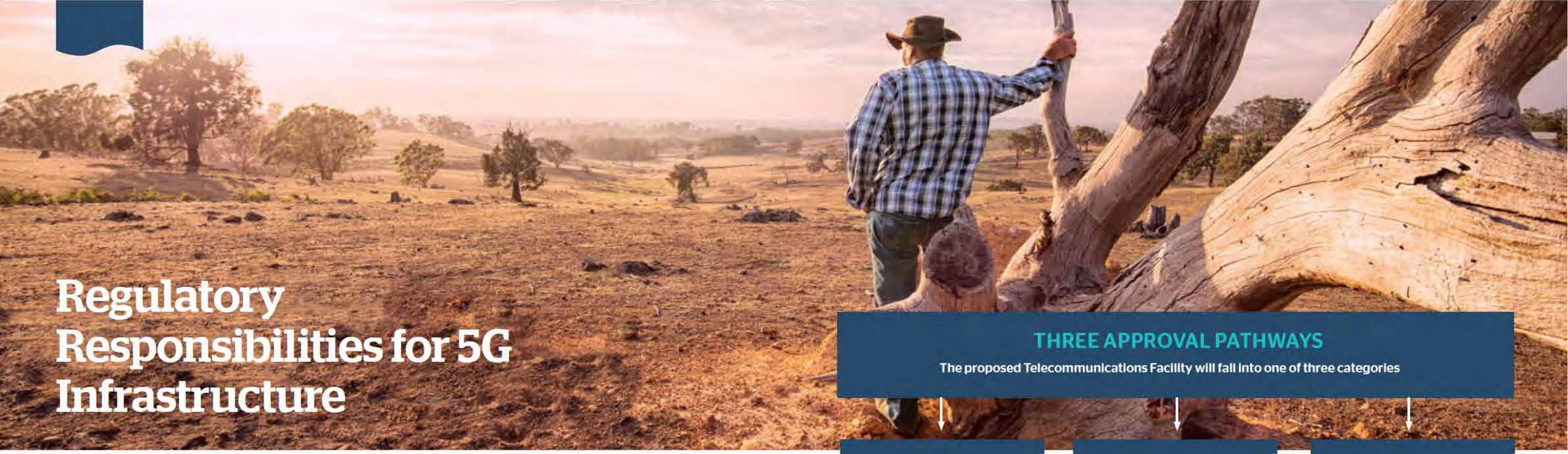
The mobile carriers must follow the rules in the Telecommunications Act 1997 when they seek to install these 'low-impact' facilities. If a licensed telecommunications carrier follows the rules in the Act, it can enter onto land to: inspect the land, install a low-impact facility, and maintain a facility. Whilst it should not be mistaken with the notification required by the Deployment Code outlined above, Schedule 3 of the Act requires notice to be supplied by the carrier to access land.

Whilst licenced carriers have some powers to occupy land and install telecommunications facilities for mobile base stations there is a clear preference to enter into commercial agreements.

Federal role in safety of 5G Radio-Frequency Energy

The legislative authority to control radiofrequency (RF) exposures from radiocommunications facilities derives from the Federal Radiocommunications Act 1992, and the applicable limits are set out in the ARPANSA Standard for Limiting Exposure to Radiofrequency Fields – 100 KHz to 300 GHz (RPS S-1). The limits are based on the recommendations of the International Commission for Non-Ionizing Radiation Protection (ICNIRP).

When it comes to demonstrating compliance with safety standards, Australian industry systems are world leading and offer unparalleled transparency. Carriers must prepare an Environmental EME Report in a format approved by the ARPANSA and these are uploaded onto the publicly accessible Radio Frequency National Site Archive (www.rfnsa.com.au). The Report shows calculated EME levels and compliance with the Standard for each and every facility, including additions to that facility.



Regulatory Responsibilities for 5G Infrastructure

Australia's States & Territories and 5G Infrastructure

Legislative Framework

Following deregulation by the Commonwealth in 1997, several States recognised that it would not be appropriate for all new telecommunications facilities which were not 'low impact facilities' to be caught by the full force of the planning system. Victoria moved first when in 1999 it adopted "A Code of Practice for Telecommunications Facilities in Victoria".

Other States implemented codes or policies at a State level so as to enable certain forms of Telecommunications facilities, including NSW's Infrastructure State Environmental Planning Policy (ISEPP), which was accompanied by the Telecommunications Guideline.

The ISEPP allows telecommunications infrastructure that would otherwise require development approval to be either exempt from planning approval, or be able to receive a ten-day complying development approval, subject to strict performance criteria including health and amenity considerations.

Importantly, planning instruments like the Victorian Code and the New South Wales ISEPP recognise critical nature of the infrastructure, and that this infrastructure should be dealt with in the same or similar manner as other critical utility infrastructure like that for water and electricity. They are designed to ensure there is a consistent approach and regulation state-wide, rather than allowing councils to adopt their own varying regulations and policies. They also recognise that subject to relevant performance criteria, there are telecommunications facilities outside those defined Federally as 'low impact' which don't need to be the subject of the development assessment process.

This type of framework has proven effective and provided greater certainty to carriers. The diagram on the right outlines this arrangement.

Some states however do not provide such an arrangement and do not provide this "middle" way, and they require development approval for all forms of telecommunications development, unless a proposal is a Low-impact facility.

The end result is:

- Unnecessary regulation of and delay in the deployment of critical infrastructure';
- Inconsistent policies, regulation and performance criteria between different council areas when the infrastructure required is ubiquitous and essential; and,
- Critical/essential infrastructure being zoned out of particular localities

Safety of 5G Radio-Frequency Emissions - State & Territory role

What are the states, territories and local government responsibilities when it comes to safety of 5G Radio-Frequency Energy?

State and territory governments are responsible for implementing, regulating and enforcing Work, Health and Safety laws in their jurisdictions. In relation to Radio Frequency EME, this can extend to ensuring that the work environment is safe for workers carrying out work, at or close to base stations, buildings or other facilities with radio transmitting antennas.

In some states and territories, councils that are assessing development applications for 4G and 5G infrastructure seek confirmation from the carrier that when it is operational, the facility is designed to operate and comply with the ARPANSA safety standards.

It is not open to a council, a planning court or a tribunal to pioneer new standards of its own on the basis of health concerns associated with electromagnetic energy.[18] A Council is obliged to have regard to relevant regulatory standards as it finds them, and the creation of new standards is a matter for other authorities. In addition, state and territory discretion in the planning system does not extend to the establishment of planning based-exclusion zones designed to separate a proposed facility from perceived 'sensitive' land uses such as schools. Finally, calls for precautionary measures in addition to the standards are not required, as the standards already adopt a precautionary approach, including significant safety margins.

State & Territory Regulatory Framework for Tenure

What are the states, territories and local government responsibilities when it comes to carriers securing tenure (usually a lease or license) to establish telecommunications facilities?

Whilst the carriers will often relegate the use of Crown and Council owned land in favour of freehold land due to the additional time to finalise tenure on the Crown and Council land, it can still make sense when a good site is found from either a planning perspective (due to good visual and physical separation from dwellings), or if such a site is required for efficient network coverage.

Authorisation to use, access and occupy Crown land in each State is generally subject to requirements and processes contained in an Act of State Parliament, ensuring that the Crown land is used in a manner consistent with certain land management practices. Tenure is often negotiated with the relevant State Department, and approved by the Minister. The process to obtain approval to occupy Crown Land is generally observed as time consuming and inefficient, delaying the establishment of new facilities. Council owned land is equally problematic.

For both Crown and Council owned land it is often necessary to undertake two separate and sequential environmental assessments and community consultations. The first to determine whether granting a lease would be appropriate and whether owner's consent should be provided allowing the Carrier to lodge a development application, and the second in relation to that development application. This adds considerably to the cost of and the delay in deployment. There is no reason why the two processes could not be combined with the right regulatory changes.

5G Readiness Reforms – USA & UK Examples

With all three Australian carriers having now launched commercial 5G services, Australia is amongst a leading group of nations seeking to realise the economic benefits this brings. For State, Regional and local governments in these nations, 5G will soon become a differentiator to attract businesses and residents. It is no surprise then that many of these governments are seeking to create a regulatory environment for deployment that is conducive to investment.

United States

To-date in the United States, 29 States have successfully enacted legislation to modernise and streamline state rules for small cell deployment. This legislation allows for expedited deployment of small cells in the public right-of-way (streets) in a responsible and sustainable manner. These carefully crafted and balanced laws reflect the innovative changes in technology for the deployment of 5G.

For example, in January 2020 in New York State, Governor Andrew Cuomo outlined a proposal to improve cell service in the State of New York. The Governor's new plan includes appointing a project director from Empire State Development, the state's economic development agency, who will begin by focusing on 1,950 miles of major roadways across the state that need more robust wireless coverage.

The state has facilitated the launch of private cellular projects through "batch permitting," or approving multiple projects under a single application. The state will also establish "shot clocks" — essentially shorter timelines — on smaller cell service projects on state land, rights of way and high priority corridors.

Lastly, the state will look to advance legislation that will standardize permitting for the installation of small cell technology on municipal infrastructure.

Equally impressive are early initiatives to support 5G deployment in New York City. In early 2020, the New York City Department of Information Technology and Telecommunications approved 10 franchise agreements with several companies to install 5G equipment on streetlamps and some traffic-light poles. With nearly 6,000 pole installations, with 5,000 more in the pipeline, each franchisee gets access to a number of poles, and that access is exclusive — they don't have to share with the other wireless infrastructure franchisees.

5G Readiness Reforms – USA & UK Examples

United Kingdom

In the UK the government has recently confirmed it will push ahead with its plans to reform planning laws to make it easier for industry to share and upgrade mobile phone masts. This will speed up the rollout of 5G and improve 4G coverage in rural areas. This is largely in response to the "Speed up Britain" campaign , an industry driven effort to expedite 5G infrastructure.

Following public consultation, the government has announced it is taking forward proposals to simplify planning rules to speed up 5G rollout and improve rural mobile coverage. The reforms to permitted development rights to support the deployment of 5G and extend mobile coverage in England will allow mobile network providers to put more equipment than they currently can on phone masts, making it easier to share masts and increase mobile coverage areas. This will help maximise the use of existing mast sites and minimise the need to build more infrastructure.

The reforms will provide greater consistency across England's regions and allow:

- New masts to be built taller, subject to prior approval by the planning authority, to deliver better coverage and allow more mobile operators to place equipment on them
- Existing phone masts to be strengthened without prior approval, so that they can be upgraded for 5G and shared between mobile operators
- Building-based masts to be placed nearer to highways to support better mobile coverage of the UK's road networks, subject to prior approval
- Cabinets containing radio equipment to be deployed alongside masts, without prior approval, to support new 5G networks

Best Practice State & Territory Regulation for 5G Infrastructure

Best Practice Planning Regulation for Telecommunications Network Infrastructure

Where it has been determined that a facility is not a 'Low-impact" facility as per the Federal Telecommunications (Low-impact Facilities) Determination, the process for a carrier to deploy a Telecommunications Facility broadly requires the need to:

1. Secure Development Approval to allow use of land and development of the infrastructure; and,
2. Secure a lease, license or 'tenure' to allow a carrier to establish a facility on the site.

'Development Approval' is a term that can be referred to as 'Planning Approval' or 'Planning Consent' in some jurisdictions. The Assessment tracks for securing approval can take many forms, as identified in the Leading Practice Model for Development Assessment, which is further discussed below. In some jurisdictions a "Building" Permit can also be required, but this is not generally a point of contention and is not discussed in this report.

Best Practice Planning Regulation for Telecommunications Network Infrastructure

Where the assessment tracks do not allow for a facility to be 'exempt' or 'complying', and a full application and assessment process is required, the basic process for development approval is essentially the same across all jurisdictions:

1. The applicant lodges an application with necessary documents and fees
2. The assessment authority checks the application and requests additional information if the application is incomplete.
3. The application may be passed to referral agencies and placed on exhibition for comments from owners of neighbouring properties and from the community (these may not happen concurrently.
4. Relevant assessment authorities consider the application, taking into account comments, submissions, and what is allowed under the planning regulation
5. The assessment authority decides to reject, approve or conditionally approve the application
6. The applicant (or a third party, in some cases) may apply for independent review of the decision.[19]

Notwithstanding the similarities in the system, there are substantial differences that can impact the successful deployment of mobile network infrastructure.

For example:

- Whether the system is underpinned with planning policies that support and promote the provision of reliable Telecommunications networks. These vary considerably.
- The availability of 'exempt' or 'complying' development in State Planning systems, and clear rules for what is considered to be acceptable development, rather than vague objectives applied with maximum discretion by a Council.
- The Fees paid to the assessment authority (usually a Council) for lodging an application also vary considerably, both across the States, but also even within some States. Most States set DA fees through regulations, but some States, such as Queensland, allow Councils to set their own fees. Whilst the carriers understand the need for cost recovery, this is not always reflected in fees charged.
- Statutory timeframes for development assessment vary widely, from 42 days in Tasmania to 84 days in the Northern Territory. Queensland and South Australian legislation include substantial possible extensions (up to 16 or 28 weeks respectively) for referrals and different types of development.
- Appeals from nearby property owners or residents against a decision on a DA are often referred to as a 'Third party appeal'. These Appeal processes for DAs are substantially curtailed in some jurisdictions, particularly Western Australia and New South Wales.. Victoria and Tasmania provide the most scope for third party appeals. These can take up to 2 years and require substantial resource outlay in terms of legal and professional experts.

Leading Practice Model for Development Assessment

As discussed above, the Development Assessment systems in each Australian State and Territory are unique with the rules being set by varying combinations of legislation, regulations, policies and statutory controls.

At its inaugural meeting in 2012, the Council of Australian Governments' (COAG) Business Advisory Forum agreed that all jurisdictions would undertake development assessment reforms to ensure that processes were efficient and did not create unnecessary delays .

The Development Assessment Forum (DAF), an independently chaired forum with representation from the development industry, related professional associations and the three spheres of government was originally formed in 1998 to recommend ways to streamline development assessment without sacrificing the quality of decision making.

In 2005 DAF developed a 'Leading Practice Model for Development Assessment in Australia' which provides a blueprint for jurisdictions for a simpler, more effective approach to development assessment. It achieves this by defining ten leading practices that a development assessment system should exhibit, and then by applying the ten leading practices to six development assessment pathways/tracks.

The recommendations in the following sections of this Readiness Assessment prepared by AMTA are grounded in the principles and guidance found in the 'Leading Practice Model for Development Assessment in Australia'.

The Development Assessment Forum Leading Practice Model

The DAF leading practice model is a toolkit that can be adapted and adopted by jurisdictions to suit their specific needs. Application of the model in each jurisdiction will result, over time, in the increased harmonisation of systems across Australia.

Development assessment should not operate in isolation but within a framework of good planning policy. To be efficient, assessment must operate in conjunction with effective policy development.

DAF emphasises that any review or implementation of a new development assessment process must include the formulation of strategic and statutory planning policies that meet community expectations.

The DAF leading practice model proposes:

- Ten leading practices that a development assessment system should exhibit. These practices articulate ways in which a system can demonstrate that it is efficient and fit for purpose.
- Six 'tracks' that apply the ten leading practices to a range of assessment processes. The tracks are designed to ensure that, at the time it is made, an application is streamed into the most appropriate assessment pathway.

The ten leading practices proposed by DAF are:

1

Effective policy development

Elected representatives should be responsible for the development of planning policies. This should be achieved through effective consultation with the community, professional officers and relevant experts.

2

Objective rules and tests

Development assessment requirements and criteria should be written as objective rules and tests that are clearly linked to stated policy intentions. Where such rules and tests are not possible, specific policy objectives and decision guidelines should be provided.

3

Built-in improvement mechanisms

Each jurisdiction should systematically and actively review its policies and objective rules and tests to ensure that they remain relevant, effective, efficiently administered, and consistent across the jurisdiction.

4

Track-based assessment

Development applications should be streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision. The criteria and content for each track is standard. Adoption of any track is optional in any jurisdiction, but it should remain consistent with the model if used.

5

A single point of assessment

Only one body should assess an application, using consistent policy and objective rules and tests. Referrals should be limited only to those agencies with a statutory role relevant to the application. Referral should be for advice only. A referral authority should only be able to give direction where this avoids the need for a separate approval process. Referral agencies should specify their requirements in advance and comply with clear response times.

6

Notification

Where assessment involves evaluating a proposal against competing policy objectives, opportunities for third-party involvement may be provided.

7

Private sector involvement

Private sector experts should have a role in development assessment, particularly in: undertaking pre-lodgement certification of applications to improve the quality of applications, providing expert advice to applicants and decision makers, certifying compliance where the objective rules and tests are clear and essentially technical, and making decisions under delegation.

8

Professional determination for most applications

Most development applications should be assessed and determined by professional staff or private sector experts. For those that are not, either: Option A – Local government may delegate DA determination power while retaining the ability to call-in any application for determination by council, or Option B – An expert panel determines the application. Ministers may have call-in powers for applications of state or territory significance provided criteria are documented and known in advance.

9

Applicant appeals

An applicant should be able to seek a review of a discretionary decision. A review of a decision should only be against the same policies and objective rules and tests as the first assessment.

10

Third-party appeals

Opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests. Opportunities for third-party appeals may be provided in limited other cases. Where provided a review of a decision should only be against the same policies and objective rules and tests as the first assessment.

The six development assessment tracks proposed by DAF are:

- Exempt
- Prohibited
- Self assess
- Code assess
- Merit assess
- Impact assess.

Each track will be consistent with the ten leading practices and provide a process of assessment that is relevant to the project's complexity and impact on the built and natural environments. The track in which an application is to be assessed must be clear before an application is submitted.

Best Practice 'Tenure' Regulation for Telecommunications Network Infrastructure

Central to the process of providing an essential utility service including water, roads, electricity and telecommunications is ensuring appropriate and fair access to public land.

The Australian Constitution, (and in particular section 109) states that when a state law is inconsistent with a law of the Commonwealth, the Commonwealth law shall prevail, and the state act shall be invalid to the extent of the inconsistency. The Telecommunications Act 1997 (Cth) (the Commonwealth Act) provides that where state law discriminates against carriers, that law has no effect to the extent to which it discriminates.

So, the appropriate basis for States, Territories and councils to setting rents for the mobile carriers are, for example, the rentals charged by the Crown Land agencies to all other uses of Crown land. To do otherwise results in discrimination and inconsistency with the Telecommunications Act, cl. 44.

Notwithstanding, Carriers are treated differently to other critical infrastructure providers when it comes to utilising public roads and land, in that no rent is charged to electricity, water and other traditional utilities.

The Federal Court decision in Telstra Corporation Ltd v State of Queensland [2016] FCA 1213 found that Land Regulation 2009 discriminated by imposing higher rents for commercial carriers that lease Crown land for "provision, relay or transmission of telephonic television, radio or other electronic communication services".

It is therefore considered to be 'best practice' for 'tenure' arrangements that State, Territory and local governments do not discriminate against carriers. This extends to not just the lease terms, but fees and charges associated with rentals.

This can often be reflected in a 'Master Agreement' between carriers and the Government to guide the conditions under which land will be leased for the establishment of Telecommunications Facilities. The carriers are seeking a streamlined process for the leasing of land without discriminatory terms. Such an approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications.

Where feedback has been supplied by AMTA's members, this assessment examines land access arrangements and rents in the States and Territories to gauge their fairness and consistency.

State and Territory 5G Infrastructure Readiness Assessment

This section of the report reviews and assesses the current regulatory frameworks of each Australian State and Territory, and by extension local government as a legislated instrument of the States & Territories.

It seeks to determine how these frameworks align with best regulatory practice as outlined in the previous section.

After a thorough analysis of the regulations by AMTA and its carrier members, the following assessment for each State and Territory is provided.

Firstly, 'Best Practice' regulations displayed by that State or Territory are outlined and their alignment with model best practices as outlined in the previous chapter is explained.

Secondly, we then highlight each 'Reform Opportunity' identified in that State or Territory. An explanation of the likely improvement to '5G readiness' from the reform is provided. Finally, a specific 'Recommendation' is made, corresponding to each 'Reform Opportunity'.

Analysis for each State & Territory is not exhaustive, and only the most impressive "Best Practices" and most pressing "Reform Opportunities" are included.

New South Wales

Best Practice Example

DEVELOPMENT APPROVAL

In New South Wales the State Environmental Planning Policy (Infrastructure) 2007 (known as ISEPP) contains provisions relating to telecommunications, and offers exemptions from the need to secure development approval if stringent conditions are met. For several years, this system has demonstrated 'best practice' regulation. In addition, a separate supporting document 'The NSW Telecommunications Facilities Guideline including Broadband' has been produced to provide a guide to the State-wide planning provisions and development controls for telecommunication facilities in NSW contained in the Infrastructure SEPP.

When it was released on the 16th July 2010, it was described by the Mobile Carriers Forum as "Australia's leading framework for the deployment of advanced telecommunications infrastructure," and that the amendments to the State's planning system "now clear the way for improved telecommunication services to the people of NSW and represent a regulatory environment that is superior to any other Australian state".[22]

The ISEPP expands the amount of infrastructure which can be deployed without Development Approval beyond that identified by the Commonwealth in the Low-Impact Determination. This includes infrastructure such as the extension of existing towers to enable co-location in certain circumstances, the replacement of towers, and provision of new towers up to 50 metres tall in rural zones and up to 30 metres tall in industrial zones provided that specific performance and siting criteria are met. Where approvals are not required, new structures are required to undergo community consultation via the Industry Code for Mobile Base Station Deployment.

The NSW Planning and Environment website says of the Telecommunications Guideline: "The Infrastructure SEPP allows telecommunications infrastructure providers to be either exempt from planning approval, or be able to receive a ten-day complying development approval, for a number of telecommunications facilities subject to strict criteria including health and amenity considerations. New telecommunications towers in residential zones will continue to require development application approval from the local council".

As such, the NSW legislative regime, including the Infrastructure SEPP has:

- Identified and classified telecommunications as infrastructure being of the same essential and critical nature as a range of other traditional utilities;
- Has developed an over-arching policy which permits certain activities to occur without any local government approval provided certain performance and siting criteria are met; and
- Has allowed for easier deployment of facilities that are likely to be less controversial in any event (such as rural and industrial deployment).

This approach not only further streamlines the more straightforward deployment, it actively encourages carriers to utilise it in preference to development applications. It also states very plainly the importance NSW places on the timely and cost-effective deployment of telecommunications infrastructure and the balance that needs to be struck with public interest and amenity.

This is entirely consistent with the Leading Practice Model for Development Assessment. In summary the NSW Government has:

1. Demonstrated 'Effective policy development"
2. Created a planning instrument that has 'Objective rules and tests" that are "clearly linked to stated policy intentions'; and,
3. Included "Track-based assessment" whereby the system has streamed assessment into a 'track' that corresponds with the level of assessment required to make an appropriately informed decision (i.e. Exempt and Complying Development tracks are applied').

Whilst the NSW ISEPP and associated Guideline represent 'leading practice', it will be important for these to be systematically and actively reviewed to ensure they remain relevant, effective, and efficiently administered.

In due course, when the NSW Government next reviews the ISEPP and Guideline, In summary, AMTA considers that the following matters should be addressed in the next review:

- Expansion of the land use zones within which new towers can be erected as complying development, including commercial and business zones – recognising the increased value of this essential infrastructure to communities;
- Broadening the definition of co-location purpose – so that a single carrier be permitted to co-locate with itself for the purposes of technology upgrade and reducing the need to deploy additional infrastructure for this purpose;
- Increased flexibility to determine heritage impacts – to ensure heritage impacts are appropriately assessed through an independent statement of heritage impact; and,
- Ancillary facilities – adopting a definition which is consistent with the Federal governments interpretation of such facilities under the Low Impact Facilities Determination.

New South Wales

Best Practice Example

LOCAL PLANNING PANELS

AMTA welcomed the NSW Government's decision in 2017 to introduce local planning panels (LPPs) to make decisions on complex Applications, a system that is not dissimilar to that also found in South Australia. These are mandatory for all councils in Greater Sydney and Wollongong. The panels of qualified, independent experts determine Applications for Telecommunications, which improves decision making linked to planning policy. This is consistent with the Leading Practice Model for Development Assessment.

Reform Opportunity

DEPARTMENT OF EDUCATION (DOE) POLICY

Whilst the exempt and complying development is considered best practice, NSW has provided a mixed public policy response to deployment of existing networks and 5G.

Whilst the NSW ISEPP references the need for operators to comply with the Federal ARPANSA RF exposure (ICNIRP) limits, since 1997 the NSW Department of Education has applied a policy that seeks to limit the distance between the boundary of a school property and a radio base station to at least 500 metres.

The Department's policy carries no statutory weight in the NSW council planning process and contains no scientific assessment of the distance. In fact the policy acknowledges that:

"While the Department cannot state a specific separation distance between a proposed mobile telecommunications facility and a school or TAFE campus, the Department has a preference for a distance of at least 500 metres from the boundary of the property."[23] From time to time, the policy has sought to be applied to interfere with proper planning assessment when the Department is called upon by communities to intervene. The policy is only applied selectively, and many telecommunications facilities continue to be built within 500 metres of schools in NSW. Also, DoE continues to build schools within 500m of existing telecommunications facilities in contravention of its own policy.

Just as schools are located close to the residential communities to service the educational needs, so too are mobile network facilities, which seek to address the telecommunications needs of the same community. Students are not any more, or less, vulnerable simply by virtue of their congregating in one place, (a school or TAFE) then they would be anywhere else in the community. The regulated standards afford a wide margin of safety for all Australians, including the young, the sick and the elderly.

If the DET's Policy was applied uniformly across Greater Sydney the mobile network carriers would become inoperable and mobile network users would be unable to access network services. It is worth considering that the vast majority of calls to emergency services originated from mobile phones and that people are increasingly relying on the technology and quality mobile network coverage for their personal safety.

The full implications of the use of Planning based exclusion zones policies was comprehensively detailed in Australian analysis by the GSMA in its report "Impact of exclusion zones policies on siting base stations: Australian case study analysis."[24]

The main findings of the analysis include:

- Across the whole metropolitan area, 54% of all existing radio base stations would be impacted by a 500 m exclusion zone around community facilities (schools, pre-school and medical facilities).
- In an inner urban suburb an exclusion zone of 500 m around all community facilities would cover nearly 90% of the total geographic area of the suburb, affecting virtually all-existing antennas sites and making it nearly impossible to improve mobile network services.
- If an exclusion zone was to be applied around community facilities such as schools, then it may also impact upon a range of other RF sources including transmitters associated with emergency services.
- The many negative consequences mean that distance-based planning exclusion zones are not an effective response to community concerns about siting of base stations.
- Positive policy responses in the report included: adopting science-based exposure limits following the recommendations of the World Health Organisation (WHO); ensuring compliance with those limits; developing nationally consistent planning policies for base stations and ensuring the public availability of information about radio base stations in a format that is understandable by communities.

Today's educational environment is more reliant than ever on interactive applications were students, teachers and administrators can access the internet via Wi-Fi and wireless broadband services. The increasing demands to improve the quality of education in NSW will necessitate greater levels of accessibility to wireless technologies including 5G.

RECOMMENDATION 1

AMTA calls on the NSW Government's Department of Education to immediately review its Policy "Mobile Telecommunications Facilities" to ensure that it provides a science-based response to concerns about RF EME, and does not have any unintended consequences such as creation of insufficient 4G & 5G mobile network service.

New South Wales

Reform Opportunity

TENURE BASED UPON IPART

Locating Telecommunications Facilities on Crown Land in NSW will often provide a viable solution to supplying service to communities. The Carriers are seeking the Crown to adopt a single non-discriminatory fee structure that applies to all occupiers of Crown land, through a decision of NSW's Independent Pricing & Regulatory Tribunal (IPART) process. Without such a fee structure, the Carriers face uncertainty about the viability of investing in telecommunications facilities on Crown land.

As part of its latest review, IPART was also recommending new arrangements for sites used by emerging communication technologies, such as 5G mobile telecommunications. In announcing its review, IPART explained "This technology requires many small cells to be deployed in high density locations. Therefore, it needs many more sites than traditional communication technologies, and uses less land area per site".

During 2019, AMTA provided comment on IPART's Draft Review of rental arrangements for communication towers on Crown land. Central to AMTA's submission was that the precedent judgement by the Federal Court in the matter of Telstra v the State of Queensland (Queensland case) necessitated significant amendment to the current Terms of Reference (ToR) for IPART's most recent review.

The ToR stipulated that the fee schedule reflects fair market-based commercial returns having regard to recent market rentals for similar purposes and sites. The Queensland case was clear that this approach is discriminatory. The Crown should adopt a single fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier. In this regard, the fair market commercial return should be assessed on a reasonable return based upon the value of the land and rentals paid by other Crown Land occupiers. There does not appear to be any consideration given in IPART's interpretation of the ToR in regard to relevant land valuations or rentals paid by other Crown land occupiers.

The appropriate basis for setting rents for the mobile carriers are the rentals charged by the Crown Land agencies to all other uses of Crown land, and the value of that Crown Land. To do otherwise results in discrimination and this is inconsistent with the Telecommunications Act cl. 44.

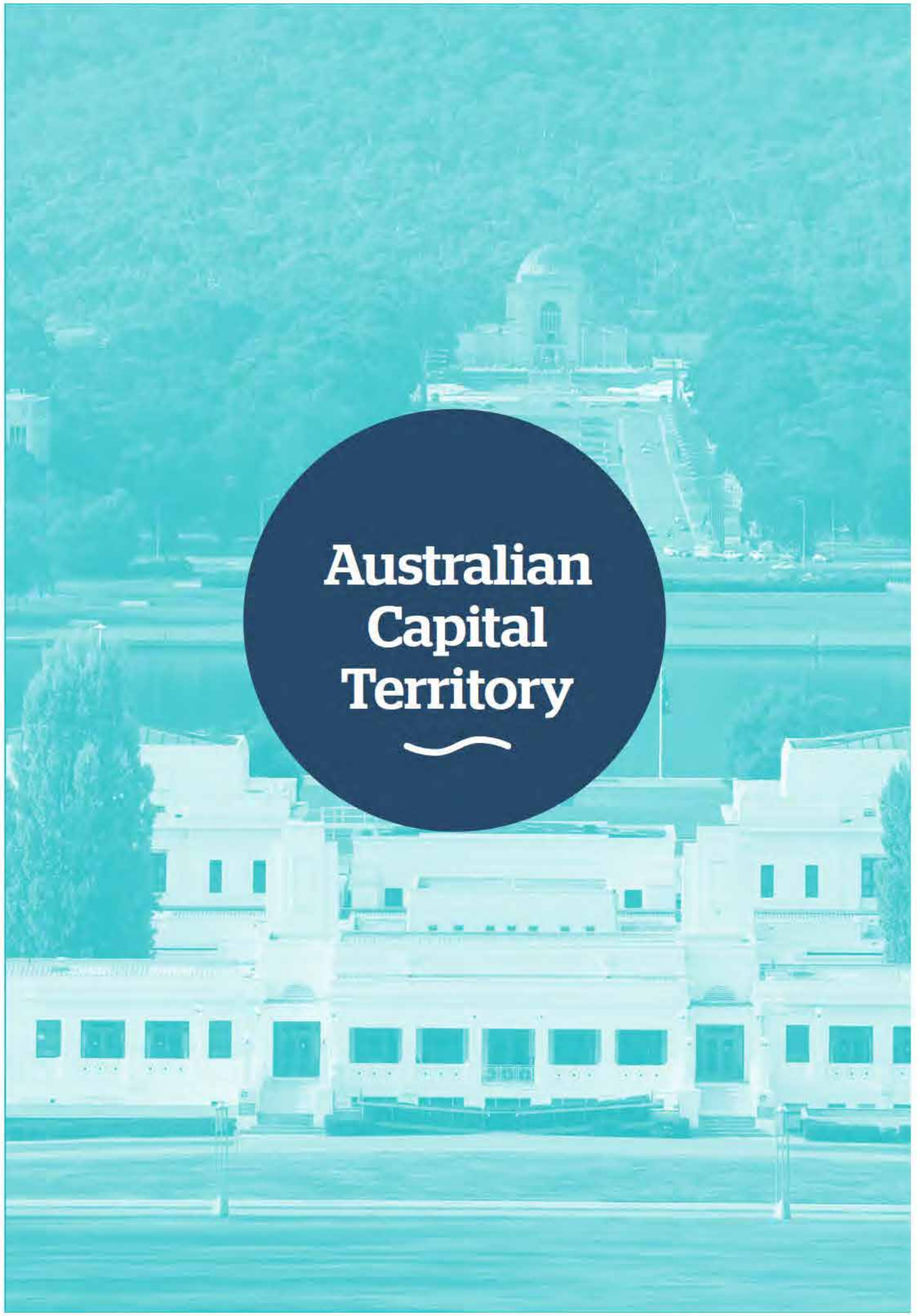
The use of rentals paid on private land is not a fair comparator for land held by the Crown. Private land has a variety of uses permissible under the numerous zoning restrictions which may result in a higher rental being paid to compensate that land-owner for a limitation in the future development of that land.

There is an obligation on the Crown to assist in the facilitation of utility service development and operation for the wider net-community benefit. In this case that is often the deployment of mobile network facilities in communities that have previously been under-served. At the time of preparation of this report, we understand that IPART has completed its Report and this has been provided to the Minister. The new rent schedule was to apply to all communication tower sites on Crown land from 1 July 2020 but has not yet been released.

RECOMMENDATION 2

AMTA calls on IPART and the NSW Minister responsible for Crown Land to:

a. **Adopt a single fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination and any potential breach of the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications; and,**
b. **Direct NSW Councils to apply this new IPART rate to all their leases to telecommunications carriers so the Councils also comply with Clause 44.**



Australian Capital Territory

Australian Capital Territory

Reform Opportunity

DEVELOPMENT APPROVAL

Deployment of facilities that utilise the Telecommunications (Low-impact facilities) Determination exemptions are not permitted within the National Capital Plan area and planning approvals here are determined by the Commonwealth Government. The National Capital Plan contains detailed policies relating to the installation and erection of telecommunications facilities on National land and within designated areas.

Outside of the National Capital Plan area but within the ACT, low-impact facilities are possible. Development in this area which is not low-impact is assessed against the Territory Plan.

Consistent with the Leading Practice Model for Development Assessment, the ACT has a track-based system for assessing proposals that need approval.

This includes:

- A code track – for simpler developments that meet all the relevant rules in the Territory Plan.
- A merit track – for most developments.
- An impact track – for developments that may have a major impact on the environment.

At section 11.6 of the Territory Plan is the Communications Facilities and Associated Infrastructure General Code, which came into effect in 2013. Whilst this Code seemingly provides codified requirements, each element of the Code consists of 'Intents' and Items under which are 'Rules' and 'Criteria'. '

Intent' describes the purpose of the development controls, 'Rules' provide the quantitative, or definitive, controls for development, and 'Criteria' provide the qualitative controls for development. Assessment of several of the 'Criteria' is highly subjective and uncertain.

There is important 'Criteria' in the Code that provides little realistic guidance to the siting of contemporary mobile networks with their widespread deployment of towers and antennas to provide ubiquitous network service. For example, Criteria C19 requires that 'Telecommunications towers are not visually intrusive to a significant extent when viewed from a public place". Such 'Criteria' provides little guidance, particularly when considering the need for relatively small poles and small cells as a part of 5G.

RECOMMENDATION 3

AMTA calls on the ACT Government to undertake a review of the Communications Facilities and Associated Infrastructure General Code, and in particular any subjective criteria, to ensure that this strikes an appropriate balance between providing important mobile network services (including 5G), and protecting amenity.

Reform Opportunity

TENURE

AMTA encourages the facilitation of 'Master Agreements' between carriers and the ACT Government to guide the conditions under which land will be leased across the ACT for the establishment of Telecommunications Facilities. The carriers are seeking a streamlined process for the leasing of land without discriminatory terms. This would comprise a single fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination and any potential breach of the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications.

RECOMMENDATION 4

AMTA encourages the ACT Government to establish Master Agreements with carriers, to ensure a timely and consistent approach to leasing of land. The approach must avoid discrimination consistent with the Telecommunications Act, Sch 3 cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G small cell facilities.

Queensland

Reform Opportunity

DEVELOPMENT APPROVAL

The State of Queensland has attempted to implement the DAF Leading Practice Model with the use of track-based assessment. That is, development applications are streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision.

The categories of development in Queensland are:

- 'Accepted development', whereby a development approval is not required. Some development is categorised as accepted, subject to meeting certain requirements, which are identified in the tables of assessment and in the relevant codes of a Council Planning Scheme.
- 'Assessable development', which comprises either (i) 'code assessment' or (ii) 'impact assessment', whereby a development approval is required.
- 'Prohibited development', whereby a development application may not be made for prohibited development.

Whilst such a track-based approach is welcome in-principle, these categories are applied inconsistently for development of Telecommunications Facilities, and council requirements diverge significantly across the State for reasons that are unclear. Such an approach would be entirely unsatisfactory in relation to water, electricity supply and for other 'traditional' utilities and accordingly state-wide consistency should be applied for mobile telecommunications infrastructure. Councils such as Redland City Council have a significant proportion of zones whereby Telecommunications Facilities are 'accepted development', whereas Sunshine Coast has few. Councils such as Toowoomba have attempted to devise conditional requirements for accepted development which is welcome.

For example, a facility can be accepted if a carrier is not increasing the number of Telecommunications facilities on the site, and:

a. Increasing the height of an existing Telecommunications facility by no more than 5m, or
b. Replacing an existing Telecommunications facility with a new Telecommunications facility with a height no more than 5m greater than the existing Telecommunications facility.

When it comes to 5G deployment, these proposals deemed to be "accepted development" (with or without conditions) will be widely welcomed by the carriers

Other arbitrary and highly subjective requirements are applied in Council Telecommunications Codes that do not reflect provision of modern telecommunications network service.

For example, in the Sunshine Coast Planning Scheme section 9.3.2 the Telecommunications Facility Code contains 'performance' and 'acceptable' outcomes for assessable development including a need for a facility to be:

a. 400 metres from any residential use or park; and,
b. 20 metres from any public pathway.

In addition, the facility must be located at least 1km from any other existing or approved telecommunications facility. Such requirements are often impossible to comply with so are virtually pointless.

AMTA therefore encourages the Queensland Government to include a State-wide Telecommunications Code within the Queensland Planning Provisions (QPP) to ensure that infrastructure can be deployed based upon uniform assessment criteria to meet the needs of consumers in all parts of the State in a timely manner. The Code's Purpose should reflect the importance of this form of Infrastructure.

We note that when the QPP were originally drafted in around 2008/09 they included a Telecommunications Infrastructure Code.

The Code, which was originally included in the QPP at section 9.2, outlined performance outcomes and acceptable outcomes for telecommunications facilities. The Code was withdrawn from subsequent drafts of the QPP pending a review, following significant feedback.

Across Queensland's 77 Councils there is a wide disparity of approaches and a lack of consistency that frustrates or delays provision of ubiquitous mobile network service.

RECOMMENDATION 5

AMTA encourages the Queensland Government to include a State-wide Telecommunications Code within the Queensland Planning Provisions (QPP) to ensure that infrastructure can be deployed based upon uniform assessment criteria to meet the needs of consumers in all parts of the State in a timely manner. AMTA also encourages the inclusion of consistent and wide-ranging acceptable outcomes in the QPP, not dissimilar to the criteria found in the NSW ISEPP and Victorian Codes.

Queensland

Reform Opportunity

QLD DEPARTMENT OF EDUCATION BUFFER ZONES

The Queensland Department of Education retains a Policy and Procedure Register (PPR), which is the Department's central directory for operational policies and procedures. This contains a Procedure 'Mobile Telecommunications Facilities', which was created in 2012 and reviewed in 2013.

The Procedure nominates a 'separation buffer' of 200 metres from mobile base station facilities and school or TAFE property boundaries. In addition it requires that exposure to electromagnetic energy (EME) from such facilities does not exceed 1% of the relevant Australian standard on school or TAFE premises.

Arbitrary and non-science based restrictions on the placement of mobile phone towers can lead to inefficient networks, increased energy from handsets and base stations, as well as more base stations required to fill coverage gaps, which is ultimately contrary to the Department's stated objective.

The Department's Procedure is not consistent with the objective of facilitating timely provision of advanced mobile telecommunication facilities to the Queensland public and must be addressed as a matter of priority to ensure the continued smooth deployment of mobile telecommunications services in Queensland.

In relation to 'buffer separations' or 'exclusion zones' specifically, the Department's Procedure does not meet the policy's stated objective of a "...risk avoidance position in relation to electromagnetic energy from mobile telecommunication facilities" because buffer zones do not necessarily reduce exposure to EME from mobile phone base stations.

Research has shown that mobile network facilities create exposures in public areas that are well below the exposure limit in national and international safety guidelines and setting arbitrary distances from network equipment does not guarantee that public exposures will be reduced.

RECOMMENDATION 6

AMTA calls on the Queensland Government's Department of Education to immediately review its Procedure "Mobile Telecommunications Facilities" to ensure that it provides a science-based response to concerns about RF EME at schools and TAFEs, and does not have any unintended consequences such as creation of insufficient 4G & 5G mobile network .

Reform Opportunity

DA FEES

Generally cost recovery is a delicate balance between competing considerations including efficiency and equity.

In Queensland, the Local Government Act 1993 (Qld) provides Council with the authority to set fees for development applications, and specifically section 1071A(2) provides that "a regulatory fee must not be more than the cost to the local government of providing the service or taking the action for which the fee is charged".

The approach taken by councils when determining fees for this class of application has sometimes been widely disparate with little transparency when it comes to 'cost recovery'.

Examples of fees charged are as follows:

- Central Highlands: Code Assessment $5,870.00, Impact assessment $8,805
- Sunshine Coast: Material Change of Use $5,940
- Logan City Council: Code Assessable $7,767, Impact Assessable $11,217
- Redland City Council Material Change of Use $1,826.00
- Toowoomba Regional Council: Code Assessable $5,933, Impact $7,916
- Rockhampton Regional Council Material Change of Use $1,826

AMTA has been monitoring fees for over 10 years, and in this time we understand that there has been some course correction due to the industry's focus on this matter. For example, after AMTA raised serious concerns with Council, we understand that Banana Shire Council no longer charges in excess of $29,000 for an Impact assessable development application[26].

But it remains that DA fees at the higher end of the range in Queensland for Code and Impact Assessment are considerably higher than fees charged in all other States and Territories, and would be difficult to justify in terms of cost recovery. The mobile carriers have a choice as to how and where they invest their capital and direct their resources, and Queensland is the only State where DA fees are carefully considered by the Carriers before such decisions are made.

In contrast, Application Fees in States such as Victoria also reflect a partial cost recovery approach, but these are uniform across the State. For development of a new telecommunications facility DA fees will typically be $1,500 [27]. In other States and Territories, fees are both lower and more consistent than in Queensland.

RECOMMENDATION 7

AMTA calls for Queensland State Government intervention to set standard fees across the State to process development applications for telecommunications facilities.

Reform Opportunity

APPEALS IN QUEENSLAND

Whilst AMTA has no commentary on the outcome of Court decisions in relation to Telecommunications Facilities in Queensland, there is an element of complexity and cost which distinguishes Queensland from other jurisdictions (such as in Victoria and Tasmania), which offer more efficient reviews of Council decisions.

Pursuant to the Planning and Environment (P & E) Court Act 2016 Qld, in conducting P&E Court proceedings and applying the rules, the P&E Court must both (a) facilitate the just and expeditious resolution of the issues; and (b) avoid undue delay, expense and technicality.

The P & E Court is a Division of the District Court of Queensland and operates with all of the formality and procedures of a standard Court.

AMTA's members have assessed the cost of seeking judicial review and have found that costs in Queensland are often at least ten times those of seeking a review in other States for similar matters.

The formality and complexity of appearances in front of the P & E Court is in stark contrast to the accessibility and efficiency of appearances in front of the Resource Management and Planning Appeal Tribunal - RMPAT (Tasmania) and Victorian Civil and Administrative Tribunal - VCAT (Victoria).

In contrast to Queensland, in Victoria when decisions in relation to applications are reviewed by VCAT, the Tribunal has regard for precedents set in similar cases and confines itself to points of contention. The Victorian system is focussed on a merits-based planning decision, as opposed to focussing on interpretation and application of law. It follows that the Victorian system is more accessible for all parties.

For example, in relation to disagreements amongst the parties in regarding the 'need' for a facility, VCAT will not entertain lengthy debate, as arguments that there is a lack of a need will rarely be a ground for refusing to grant a permit. Case law that efficiently dispose of such arguments are often cited including Tuhan v Moira SC [2016] VCAT 235 (22 February 2016) at Paragraph 21:

"Many Tribunal decisions have considered the relevance of need. Their primary finding is that a demonstrated need for a facility or use may be a relevant factor in a planning decision, but lack of a need will rarely, if ever, be a ground for refusing to grant a permit"

This reflects a principle often common across Australia's Planning system. In contrast, in Queensland the P & E Court seems to take the approach that lack of 'need' for a facility will always be considered relevant. Cases such as Lennium Group Pty Ltd v Brisbane City Council & Ors [2019] QPEC 17 (paragraphs 289 to 316) demonstrates how significant this factor is in decision making by the P & E Court.
It will often be the case that third parties will wish to contest matters such as property devaluation or exposure to radio-frequency energy, and again the efficiency of the Court in each jurisdiction in disposing of such matters can clearly be contrasted. VCAT's ruling in Marshall & Ors v Ararat Rural CC [2013] VCAT 90 (22 January 2013) nearly seven years ago has formed a strong precedent that does not appear to exist or be applied in Queensland.

Queensland

In this case VCAT Deputy President Helen Gibson ruled briefly and concisely on a number of grounds of objection that are not planning grounds to be relied upon at hearings involving telecommunications facilities.[28] Since then this case is cited regularly at VCAT.

We note that RMPAT in Tasmania is as equally efficient as VCAT when considering these matters. In stark contrast, even in 2020, the P&E Court appears to not have formed clear precedents to deal with these matters efficiently.

RECOMMENDATION 8

Pursuant to the Planning and Environment Court Act 2016 Qld, AMTA calls upon the Queensland State Government to review whether the P&E Court is facilitating the just and expeditious resolution of the issues, and is avoiding undue delay, expense and technicality when conducting P&E Court proceedings relating to Telecommunications Infrastructure.

Reform Opportunity

TENURE

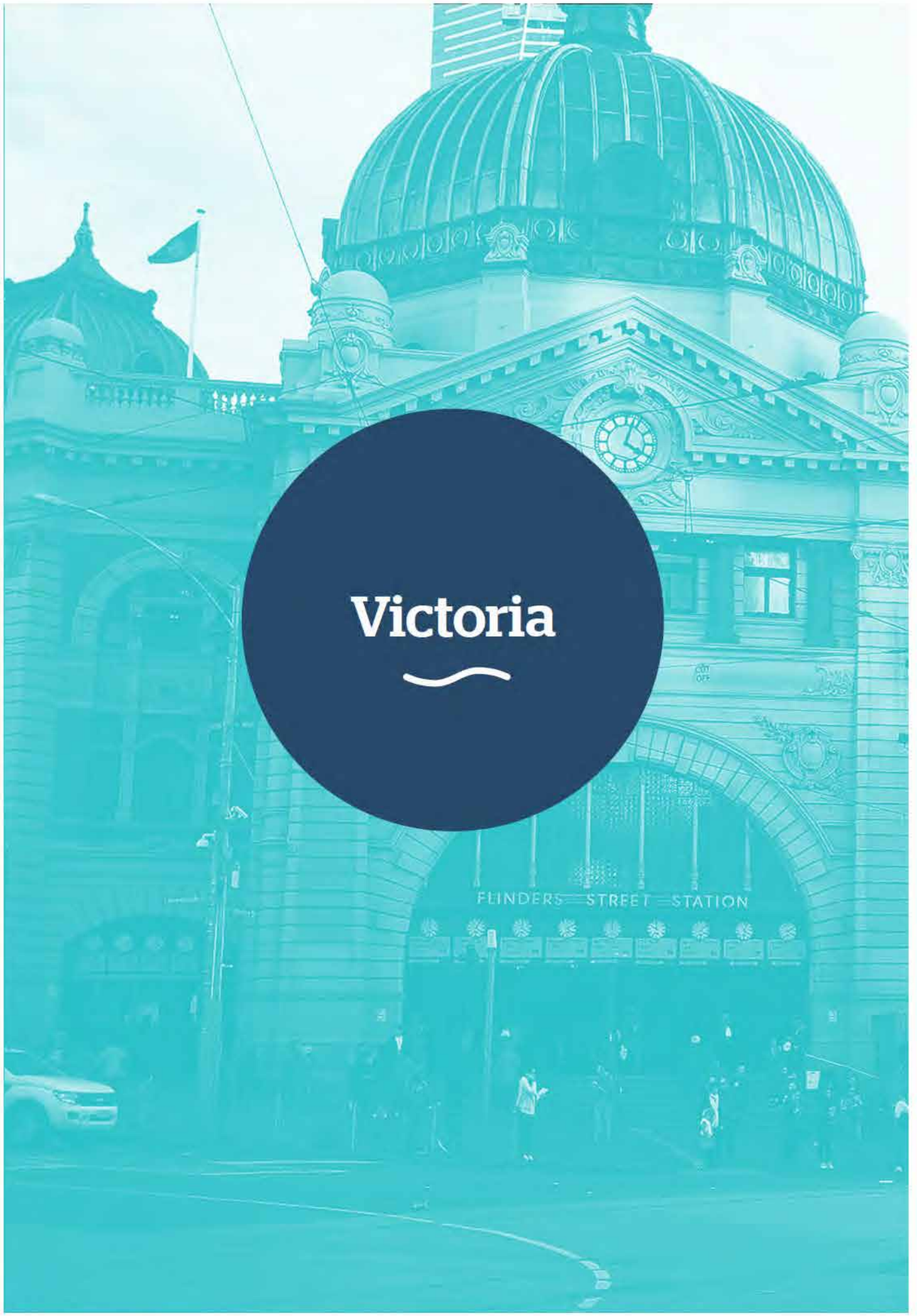
A landmark Federal Court decision in Telstra Corporation Ltd v State of Queensland [2016] FCA 1213 found that Land Regulation 2009 discriminated against carriers by imposing higher rents in certain circumstances. The appropriate basis for setting rents for the mobile carriers are the rentals charged by the Crown Land agencies to all other uses of Crown land, and the value of that Crown Land.
To do otherwise results in discrimination and is inconsistent with the Telecommunications Act, cl. 44.

Land Regulation 2009 automatically expired after 10 years, and this has recently been replaced by Land Regulation 2020. In remaking the Land Regulation, the industry was seeking a fair and equitable framework for allowing the use of land, and to not discourage the delivery of important telecommunications services to often remote Queensland communities. At the time of writing, Land Regulation 2020 has recently been released and the industry is reviewing this to understand whether it has addressed issues of discrimination against the carriers.

Similarly, AMTA is concerned about Queensland council's singling out and discriminating against telecommunications carriers by applying excessive rental demands for using Council land, and notes that this may also be inconsistent with the Telecommunications Act. If not resolved, a likely result may be the selection of environmentally and technically inferior locations and/or a delay in the delivery of enhanced telecommunications services to some communities.

RECOMMENDATION 9

AMTA calls upon the Minister responsible for Crown Land in Queensland to monitor implementation of Land Regulation 2020 to ensure the application of an equitable fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination and any potential breach of the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications.



Victoria

Victoria

Best Practice Example

DEVELOPMENT APPROVAL

In 1999, Victoria was the first State to introduce additional exemptions when it adopted A Code of Practice for Telecommunications Facilities in Victoria (The Code) to clearly enunciate the State's position with respect to the importance of telecommunications facilities in Victoria, as well as effectively expanding the range of facilities (with specific requirements) that do not require approval, beyond those contained in the Low-Impact Determination.

The Code contains a list of telecommunications facilities which may be developed without the need for a planning permit provided the specified requirements are met. If the specified requirements are not met, a planning permit is required.

This approach is entirely consistent with the Leading Practice Model for Development Assessment.

Best Practice Example

MOBILE BLACKSPOT AND STATE GOVERNMENT FUNDED MOBILE FACILITIES

In March 2018, Clause 52.19-3 of all Planning Schemes in Victoria was amended so that Telecommunications facilities funded, or partly funded by the Commonwealth through the Mobile Black Spot Program or The State of Victoria were provided with exemptions from the need to provide notice of the application, and the decision of council could not be appealed by 'third-parties'. This approach did not negate the need for councils to assess these proposals against the planning scheme provisions, and the applications were still able to be refused by council. **However, when it comes to mobile blackspots, it is pleasing that the Victorian State Government recognised the widespread community benefits from facilities funded under these programs in under-served areas of Victoria. It is these kinds of provisions that other states should consider including in their Planning provisions.**

Reform Opportunity

PLANNING POLICY

All of Victoria's Planning Schemes contain a single planning policy objective 'To facilitate the orderly development, extension and maintenance of telecommunication infrastructure'.

Whilst this seemingly offers strong policy support, in practice when working to design and site a proposal to be consistent with the planning scheme provisions including Zones, Environment and Landscape Overlays, Heritage and Built Form Overlays, the telecommunications carriers are confronted with limited siting options to minimise impact, setbacks from boundaries and other requirements. This has the effect that it can be very difficult to find a location for a telecommunications facility amongst multiple constraints presented by the scheme. This in turn leads to substantial compromise that can deliver an inefficient network and the need for new additional network facilities.

The height of antennas and their location is increasingly critical to network performance in 4G and emerging 5G networks. Accepting that mobile telecommunications infrastructure is essential, it should be considered by State and Territory Governments to be on-par with other essential infrastructure, and not be subject to compromise due to a false equivalence between protecting amenity and provision of service.

The Victorian State Government should consider strengthening planning policy support for mobile telecommunications infrastructure to align with other essential utility infrastructure. We note that in NSW, all such essential utility infrastructure, including mobile telecommunications has been treated in the same way, with inclusion in the NSW ISEPP.

RECOMMENDATION 10

AMTA calls on the Victorian State Government to recognise Telecommunications Facilities as essential infrastructure in planning policy across the 'Planning Policy Framework' and 'Particular Provisions' sections of the Victorian Planning provisions. This should in turn filter through the VPP including further exemption for additional forms of Telecommunications infrastructure, and strengthened guidance on what constitutes a net-community benefit.

Reform Opportunity

DEVELOPMENT APPROVAL

Given that the Victorian Code was originally drafted in the late 1990's, at the time when 2nd Generation (2G) mobile networks were being deployed, with very minor updates to the Code in 2004, the industry considers that the time is right for a review. This is a view shared by several Councils in Victoria, and we understand that some Councils are writing their own Local Planning Policies and Codes due to perceived deficiencies in the Victorian Code. For example, Melton City Council has recently produced a Local Planning Policy and Macedon Ranges Shire has publicly called for a review of The Code.

When Victoria's Capital City Strategy 'Plan Melbourne" was being formulated, AMTA encouraged the State Government to introduce a review of The Code into the Plan, and Policy 1.2.3 "Support the provision of telecommunications infrastructure" was included together with an action in Plan Melbourne's "Implementation Plan".

Originally, in around late 2014 AMTA, together with a working group from the Department of Environment, Land Water and Planning (DELWP), commenced drafting changes to The Code to bring this up to date to reflect new infrastructure requirements and to align with NSW Infrastructure SEPP (ISEPP) exempt and complying development provisions. DELWP intended to then consult with the local government sector on these changes (through the Municipal Association of Victoria). Unfortunately, Departmental priorities shifted, probably due to the "Refresh" of Plan Melbourne, and this was delayed.

Most recently, in the Report on progress for Plan Melbourne there is an update on "Action 15" with lead agencies identified as "DELWP, DEDJTR". The status update confirms that "DEDJTR is developing mapping tools to identify broadband and mobile coverage, relevant government infrastructure and business demand by location across Melbourne. These tools will be used to plan new telecommunications infrastructure, such as 5G mobile technology".

The timing for Action 15 is "Medium term" which has a timeframe "By the end of 2021 (2 - 5 years)". Given progress with 5G to-date, the level of interest from several stakeholders (particularly local government), and the focus on these matters in other States, AMTA encourages the Victorian State Government to immediately commence review of The Code.

RECOMMENDATION 11

AMTA calls on the Victorian DELWP and DJPR to bring forward the review of A Code of Practice for Telecommunications Facilities in Victoria 2004, including additional permit exempt facilities such as those that are 'Exempt" or 'Complying Development' in NSW, together with emerging 5G infrastructure.

Victoria

Reform Opportunity

ZONES WHERE TELECOMMUNICATIONS IS 'PROHIBITED'

Clause 19.03-4S of the Planning Policy Framework, which appears in all Planning Schemes in Victoria contains a strategy to "Ensure that the use of land for a telecommunications facility is not prohibited in any zone". This has mostly been achieved, and where it hasn't, it would appear to be an anomaly rather than intentional.

There are several cases where a 'Telecommunications Facility', which falls within the land use "Utility installation" are prohibited in existing schemes. Generally this is in some Special Use zones, Comprehensive Development zones and a Priority Development zone. It occurs in 14 municipalities in a total of 27 specific zones.

It is submitted that these 14 Planning Schemes be amended to remove the prohibition. Section 1 uses in these Zones must include "Any use listed in cl 62.01" with a condition "Must meet the requirements of Clause 62.01" and Section 2 should refer to "utility installation (other than a telecommunications facility").

If this is not done then no new telecommunications facilities can be built on this land. This land includes specific racecourses, showgrounds and golf courses, which can be suitable for facilities (subject to approval). These are places where business and the public would legitimately expect coverage for telecommunication services.

To deal with this number of schemes or sites individually would be cumbersome and an administrative burden, so a State-wide Amendment to capture all of these changes would be reasonable.

In addition, whilst Clause 62.01 'Uses Not Requiring A Permit', provides for a Telecommunications Facility to be a Use not requiring a Permit if it meets the condition, the Clause is limited to land in any Zone 'other than a requirement in the Public Conservation and Resource Zone (PCRZ)'. This has caused considerable uncertainty, and given the essential nature of telecommunications in bushfire prone areas is often in or near the PCRZ, there is a reasonable expectation that the use of land for a Telecommunications Facility in a PCRZ would not be prohibited. This should be made clear in the Victorian Planning Provisions.

RECOMMENDATION 12

In consultation with the industry, AMTA calls on the Victorian DELWP to amend:

a. **The 14 Planning Schemes and 27 specific zones that contain the anomaly prohibiting Telecommunications Facilities. Section 1 uses in these Zones must include "Any use listed in cl 62.01" with a condition "Must meet the requirements of Clause 62.01"; and,**
b. **The Public Conservation and Resource Zone in the Victorian Planning Provisions, to ensure that the use of land for a Telecommunications Facility in a PCRZ is not prohibited.**

Reform Opportunity

PERMIT TRIGGERS FOR TELECOMMUNICATIONS FACILITIES

There are conflicting interpretations of the Planning Scheme and case law in Victoria regarding the triggers for a permit for a Telecommunications Facility. The uncertainty likely stems from a time when the Victorian Planning provisions were amended in 2011.[29]

There are several Victorian Civil and Administrative Tribunal (VCAT) decisions that demonstrate that the interpretation of what triggers the need for a Permit differs amongst Members of the Tribunal.

The case law is too extensive to adequately describe in this report. However, the issues requiring clarity are neatly summarised in a 2018 VCAT case Optus Mobile Pty Ltd v Macedon Ranges SC [2018] VCAT 1683. At paragraph 20, the decision states "There was no dispute between the parties that the proposal before me is one that requires a planning permit under Clause 52.19. The question is whether it also requires permission for use and development under the zone provisions. This turns on the interpretation of the exemption provisions at Clauses 62.01 and 62.02 set out above that require the 'requirements of Clause 52.19 to be met'- in essence the question is are the 'requirements of Clause 52.19 met' by the grant of a permit under that clause?"

In addition to the question of whether a Telecommunications facility requires permission (or not) for use and development under the zone provisions, there is also a question of whether the proposal requires permission under any applicable overlay provisions.

Without going into the details of both sides of the argument, in the VCAT case Pfarr v Campaspe SC [2014] VCAT 872, the VCAT Deputy President states:

"These provisions are poorly drafted. They do not make it clear whether, if a permit is required for buildings and works under clause 52.19-2, then no permit is required under any other provision". Furthermore, in the VCAT case Optus Mobile Pty Ltd v Macedon Ranges SC [2018] VCAT 1683, the Member states: "If it is the intent of government that Clause 52.19 be the sole permit trigger for planning approvals for telecommunications facilities the planning scheme should be amended to make this clear".

This kind of uncertainty which has persisted for nearly a decade is not consistent with the Leading Practice Model for Development Assessment, and the Victorian State Government should seek to rectify this as a priority, given that it is adding cost and complexity at the Council application level, for public submissions and at VCAT.

RECOMMENDATION 13

In consultation with the industry, AMTA calls on the Victorian DELWP to redraft the Victorian Planning Provisions including Clause 52.19 and Clauses 62.01 and 62.02 (as required) to clarify the permit triggers for a Telecommunications Facility in Victoria.

Victoria

Reform Opportunity

TENURE

Despite some previous inconsistencies in the approach of securing tenure on Crown Land, which have extended to a turnaround of two-and-a-half-years in some cases, there has lately been some progress in Victoria in relation to securing tenure on Crown Land.

The State Government is guided in these matters by the Leasing policy for Victorian Crown land 2018 (and associated guidelines) to provide a consistent framework for the leasing of Crown land by formalising 'Crown Land Leasing Principles' at a State-wide level. These principles guide land managers, existing tenants and prospective tenants, help inform decision making around leasing and improve community awareness of government policy for the leasing of Crown land. Notwithstanding, the industry is seeking consistency and timely resolution of leasing and tenure matters on Crown Land from the Victorian State Government, and in particular the Department of Transport and Department of Environment, Land, Water and Planning. In order to progress a lease, these Departments defer to the Valuer General's Office to provide valuations and the industry is concerned at inconsistencies in approach and potential for discriminatory outcomes potentially inconsistent with the Telecommunications Act, Sch 3 cl. 44.

RECOMMENDATION 14

AMTA calls upon the Victorian State Government and the Minister for Energy, Environment and Climate Change, being the Minister responsible for Crown Land to ensure a timely and consistent approach to leasing of Crown Land. The approach must avoid discrimination and any potential breach of the Telecommunications Act, Sch 3 cl. 44. This approach should be applied to both land for 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G small cell facilities. Such an approach should also be applied by Victorian councils.

Tasmania

Tasmania

Best Practice Example

DA STATUTORY TIMEFRAMES

Tasmania's Planning system is well regarded for its 'statutory timeframes for assessing Development Applications.

Section 57(1) of Land Use Planning and Approvals Act 1993 (LUPAA) requires Council to make a decision on a discretionary application within 42 days of a valid application being received. The timeframe does not run where Council is waiting for further information to be provided by the applicant.

Within the 42 days, Council must advertise the application and allow 14 days for representations to be received. Council must consider those representations and decide to either approve it with or without conditions or refuse the application.

This timeframe can be extended by a written agreement between the applicant and the Council. This agreement must occur before the 42 days is up.

Many applications are decided in less than the statutory time frames, especially if they are straightforward applications and all of the necessary information has been provided at the beginning.

It is these types of best practice elements of a planning system that provide carriers with confidence to invest. Expedited DA timeframes was one element that recently contributed to Telstra completing an upgrade to its telecommunications infrastructure in north west Tasmania (Black-spot funded sites in conjunction with the federal government), more than 12 months ahead of schedule.

Best Practice Example

APPEALS

AMTA notes the Resource Management and Planning Appeal Tribunal's (RMPAT) high rates of resolution of planning appeals (against Council decisions) through mediation.

In relation to Appeals lodged for Telecommunications facilities, RMPAT continues to achieve a high degree of compliance with the requirement imposed upon it to hear, determine and deliver written reasons for decision within 90 days after an appeal is instituted.

This requirement is unique in Australia and is considered by AMTA to be "Leading Practice" as it provides significant certainty, particularly in contrast to jurisdictions such as Victoria or Queensland, where significant uncertainty exists. RMPAT's conduct is entirely consistent with the Leading Practice Model for Development Assessment.

Reform Opportunity

DEVELOPMENT APPROVAL

The Tasmanian Parliament enacted amendments to the Land Use Planning and Approvals Act 1993 (the Act) in December 2015, that provide for a single planning scheme for Tasmania, known as the Tasmanian Planning Scheme. The Tasmanian Planning Scheme consists of State Planning Provisions (SPPs) and Local Provisions Schedules (LPSs) for each municipal area. The Minister made the SPPs on 22 February 2017.

Whilst the industry welcomes a consistent approach, AMTA's primary concern is restrictive tower heights in the "Acceptable Solutions" section of the Telecommunications Code found within the SPP. This was modelled, with some modifications on the Launceston Telecommunications Code, which was one of the first Planning Schemes to be adopted based upon the single Planning Scheme for Tasmania.

Of particular concern is the Telecommunications Code's simplistic two size fits all approach, to the 'Acceptable Solution' height of a telecommunications tower with the acceptable approach being either 20m or 30m, depending upon which zone a facility was to be established. It is clear that across all of zones found in the SPP, expectations of amenity are on a wide spectrum necessitating a wide range of guidance as to what heights are acceptable.

Before the introduction of the Tasmanian Planning Scheme in March 2017, the Hobart Scheme reflected heights that were in place for at least the past 15 years in Schemes across Tasmania, and also in the Southern Region Interim Schemes, with the vast majority of approvals across Tasmania using these heights to provide clarity without major issue.

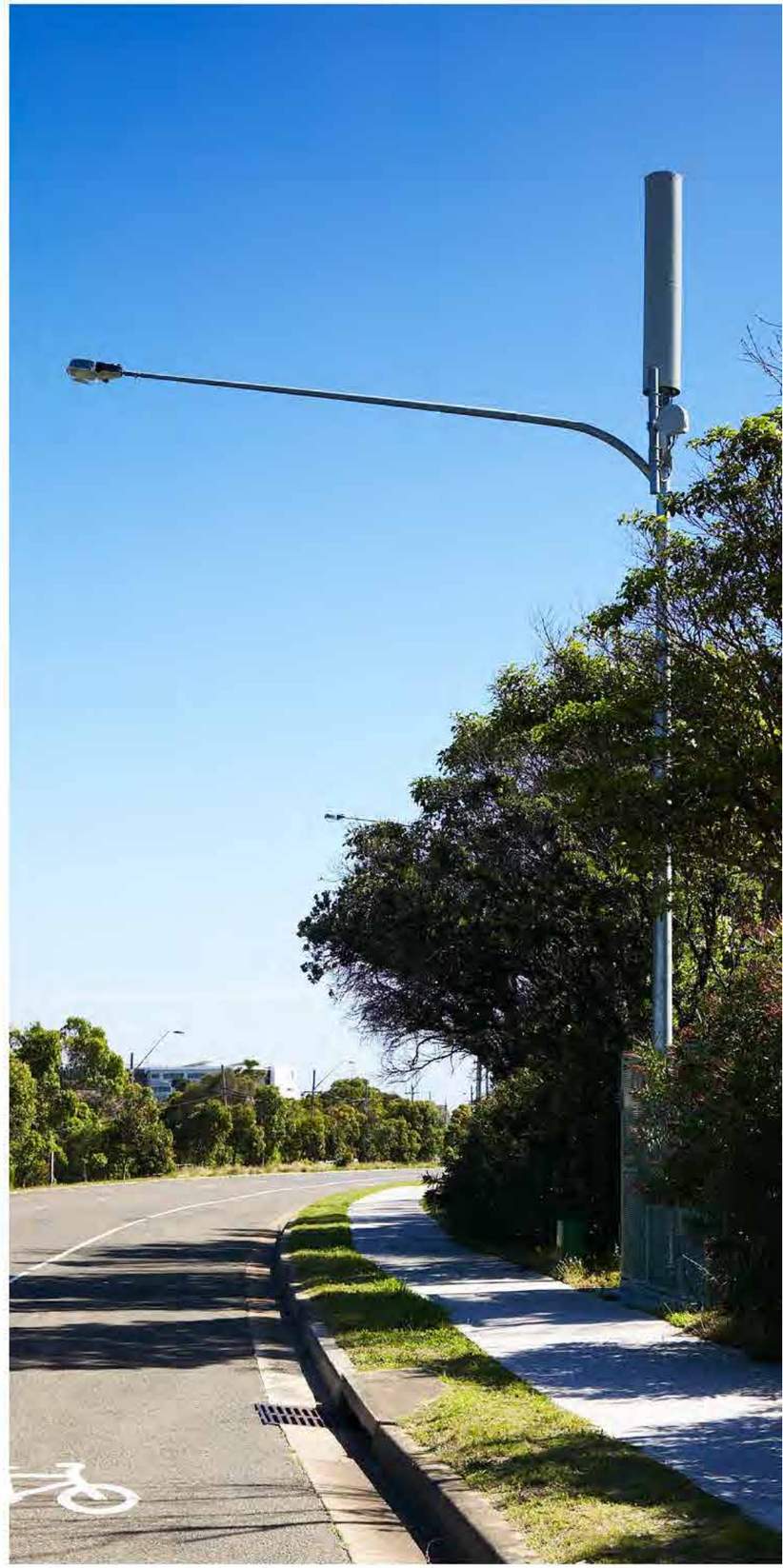
Whilst AMTA and the industry has been receptive to varying heights as acceptable solutions across different zones, the fact that they have been reduced by so much in the SPP is of significant concern. In some cases the heights deemed to be acceptable within some zones have been halved from the Interim schemes to the SPP.

This sends a very concerning signal. Although the Industry remains able to seek approval above the acceptable heights, the case is thin when attempting to gain approval for say a 50m tower in a rural zone when the acceptable solution set by the SPP is 30m. For comparison, we note that in NSW a tower of this height in a rural zone could be 'complying development' pursuant to the Infrastructure SEPP and no DA would be required at all.

The ongoing application of the Telecommunications Code in the SPP could jeopardise approvals for augmentation of mobile network service in Tasmania (including 5G), and approval for mobile blackspot towers, many of which are in rural areas and co-funded by Tasmanian State Government.

RECOMMENDATION 15

AMTA calls on the Tasmanian State Government and Minister for Planning to undertake a review of the Tasmanian Planning Schemes' Telecommunications Code, and in particular C5.6 Development Standards for Buildings and Works, to ensure that the acceptable solution for the height of structures strikes an appropriate balance between providing important mobile network services (including 5G), and protecting amenity.



Tasmania

Reform Opportunity

EXEMPT DEVELOPMENT

It is no surprise that a very substantial proportion of land in Tasmania is covered by one or more of the triggers in the Telecommunications (Low-impact Facilities) Determination for land to be in an "Area of Environmental Significance". This means that no telecommunications equipment, no matter how minor, can be established without the need for Council approval. For example, the addition of an antenna to an existing tower or the addition of a small equipment cabinet inside an existing Telecommunications compound area in a National Park could require a Planning Permit.

In addition there are several forms of development that are currently exempt or complying in NSW and/or Victoria that likewise should reasonably not require planning approval in Tasmania. These include the minor extension of an existing pole or tower to enable co-location, the swap out or replacement of a tower which is the same height (or not more than 5 metres taller) and must be similar in appearance to the original tower, and the addition of a new pole or tower of limited height in industrial or rural areas where there is a substantial distance to adjacent residential zones. These could be exempt from planning approval in Tasmania too provided they were not in heritage locations or conservation areas.

However, to provide new 5G service into heritage areas or conservation areas, the planning provisions should seek to direct new 5G small cells to utility poles, with the incentive of an exemption with their inclusion in Clause 4.2.6.

Clause 4.2.6 of the Tasmanian State Planning Provisions contains a list of minor communications infrastructure that is exempt from the need to secure a planning permit. The addition of the telecommunications infrastructure outlined above to 4.2.6 would provide a substantial incentive for carriers to prioritise investment of 5G infrastructure in Tasmania, by removing the need to engage in sometimes lengthy approval applications for minor or negligible modifications to existing infrastructure, or infrastructure with little impact on adjacent zones.

RECOMMENDATION 16

AMTA calls on the Minister for Planning to amend Clause 4.2.6 of the Tasmanian State Planning Provisions, with additions to the list of minor communications infrastructure that are exempt from requiring a permit.

This should include:

a. **The addition of antennas to an existing facility where the antennas do not exceed the dimensions of existing antennas and the overall height of that facility does not increase.**
b. **The establishment of a shelter or cabinet/s within an existing Telecommunications compound area**
c. **Co-location of new 5G small cells onto existing utility poles within heritage areas.**

In addition, Clause 4.2.6 could include several types of Telecommunications infrastructure that is currently not captured by the Telecommunications (Low-impact facilities) Determination 2018 but are exempt in States including Victoria or NSW.

Western Australia

Western Australia

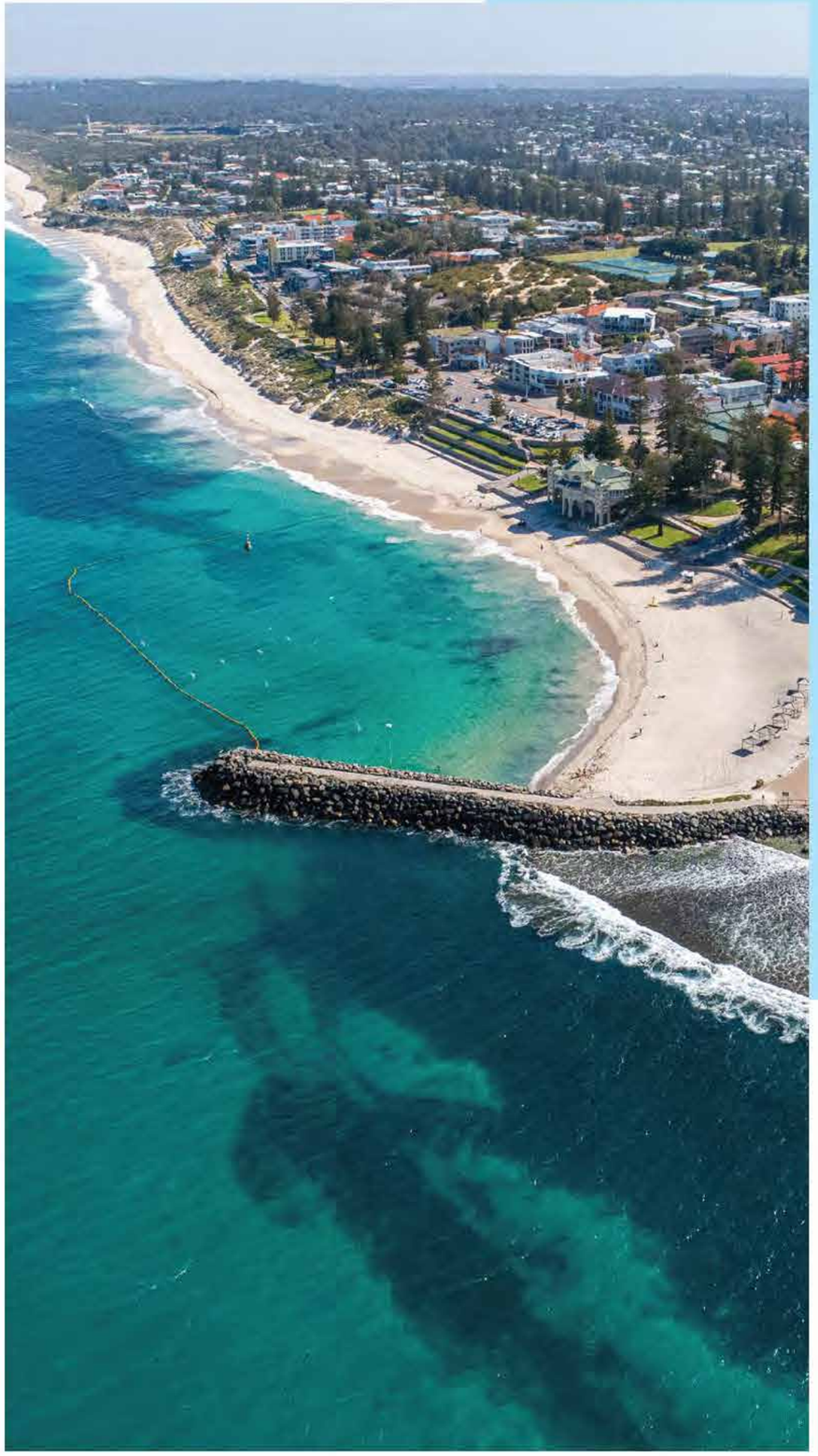
Best Practice Example

DEVELOPMENT APPROVAL

Western Australia has adopted a somewhat neutral State Planning Policy for telecommunications infrastructure, titled 'State Planning Policy 5.2 – Telecommunications Infrastructure, September 2015'.

The policy document outlines the State's position with respect to the importance and role of telecommunications infrastructure, which is intended to provide direction to local government for incorporation into local planning schemes and council policy documents. Unfortunately, it stops short of including state-wide exemptions like those found in Victoria and New South Wales, which would allow deployment of certain non-obtrusive telecommunications facilities without an application for development approval, if conditions are met.

Despite this, one Council in WA has recognised and applied 'best practice' found in the Leading Practice Model for Development Assessment. The City of Mandurah has identified an opportunity to attract investment in 4G, and now 5G, by offering incentives for carriers to establish facilities in certain zones and acceptable heights without the need for development approval.



Best Practice

Case Study – City of Mandurah Local Planning Policy LPP5 Telecommunications Infrastructure

In August 2017, the City of Mandurah adopted a new Local Planning Policy for Telecommunications Infrastructure. The Policy was a first in Western Australia, as it provided the opportunity for a carrier to deploy telecommunications infrastructure including a structure up to 30 metres in height as exempt development without an application for development approval, if certain conditions were met. This approach has long been advocated by the carriers, and is an example of the approach taken in the Leading Practice Model for Development Assessment.

A facility can be 'Exempt Development' and the prior development approval of the Council is not required for the erection of telecommunications infrastructure in the following circumstances:

a. On land zoned City Centre Development and Precinct Development unless otherwise described within the applicable
b. Activity Centre Plan; on land zoned Service Commercial and Industry;
c. On land zoned Commercial, subject to the designation of the site as a Strategic Centre, District Centre or Neighbourhood Centre within the Local Planning Strategy;
d. On any other land where expressly described in a Structure Plan or Activity Centre Plan;

Where the proposed development is consistent with the following criteria:

a. The structure has a maximum height of 30 metres;
b. The guiding principles for the location, siting and design of the structure is in accordance wwith the relevant State Planning Policy associated with telecommunications infrastructure; and
c. The proponent has notified the local community of the proposed structure consistent with the Council's requirements

The policy incentivises the carriers to deploy in commercial areas where opportunities to minimise negative visual impact are available. This is strengthened by several requirements for location, siting and design. The policy also ensures that the proponent has notified the local community of the proposed structure, consistent with the Industry Code for Mobile Base Station Deployment.

Western Australia

Reform Opportunity

DEVELOPMENT APPROVAL

AMTA considers that there is an increasing need in Western Australia to remove reference to Telecommunications Infrastructure from being a use 'not permitted' in certain zones in local Planning Schemes. The inclusion of 'telecommunications infrastructure' designated as an 'X' use is not permitted under SPP 5.2. Given the ubiquitous nature of mobile telecommunications, there is a need for service in all zones, and therefore the possibility that a facility will be needed. Therefore, at the very least, councils should allow carriers to lodge an Application for a facility and for council to apply its discretion as allowed for in policy when assessing an application. Notably, in its recent review of its Telecommunications Policy the City of Bayswater amended its Scheme to remove Telecommunications Infrastructure from being an "X" use not permitted in some zones and Council will now assess Applications on their merits.

In a 2010 review conducted by AMTA, more than seventeen councils in Western Australia had included planning exclusion zones for siting of telecommunications facilities around community sensitive sites (such as schools) within their local planning policies, ranging from 100 metres up to 500 metres. The choice of distance in policies was arbitrary and has little relationship to the actual Electromagnetic Energy exposure levels associated with mobile network antenna sites. This was in response to the perceived public opposition to the siting of telecommunication facilities. Once adopted, such policies may provide the basis for a council refusing a planning proposal.

Typically, these exclusion zones are imposed in areas around community facilities such as primary or secondary schools, pre-schools, or medical facilities including hospitals.

These policies were adopted and selectively applied despite legal precedent from Western Australia's Planning Tribunal in regard to the City of Swan's telecommunications policy requiring a minimum 200 metre separation from residential buildings. The Tribunal Member stated: 'No evidence was led to establish the rationale from any field of discipline to show the basis for such a figure. Without such direct evidence it can only be seen to be arbitrary and in any event Council, as a policy, has the discretion in order to deal with the particular circumstances of each development application'.[30]

Gradually, since the amendments to SPP5.2 in 2015, there's been a reduction of Councils with buffer zones from 17 to 3, following Council policy reviews which brought these policies into alignment with SPP5.2. AMTA is directly appealing to the remaining Councils to do likewise.

RECOMMENDATION 17

AMTA calls upon the remaining Councils in WA, being City of Gosnells, Shire of Serpentine-Jarrahdale and the City of Swan to review their Council Telecommunications Policies so that they comply with State Planning Policy 5.2. This should include removal of exclusion/buffer zones in accordance with SPP5.2.

In addition, all Councils in WA should remove any reference to Telecommunications Infrastructure from being a use 'not permitted' in certain zones in local Planning Schemes. The inclusion of 'telecommunications infrastructure' designated as an 'X' use is not permitted under SPP 5.2.

Reform Opportunity

TENURE

AMTA encourages the use of a 'Master Agreement' between the State Government and carriers to guide the conditions under which land will be leased across WA for the establishment of Telecommunications Facilities. The carriers are seeking a streamlined process for the leasing of land without discriminatory terms. This would comprise a single fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination consistent with the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications.

RECOMMENDATION 18

AMTA encourages the WA State Government and the Minister responsible for Crown Land to ensure a timely and consistent approach to leasing of Crown Land for telecommunications facilities. The carriers are seeking an approach that is streamlined and avoids discrimination consistent with the Telecommunications Act, Sch 3 cl. 44.

South Australia

South Australia

Best Practice Example

COUNCIL ASSESSMENT PANELS

In relation to the Development Assessment process in South Australia, the DAF Leading Practice Model promotes professional assessment and determination of applications, including by an expert panel, with delegated authority to make decisions. **The continued use of Council Assessment Panels constituted of not more than four professionally accredited members and an elected Council member, provides welcome focus on assessment of a Telecommunications Facility against planning policies and provisions. The Leading Practice Model encourages elected members to represent their communities in planning matters by investing time in establishing robust planning policy and adjusting this as required.**

Reform Opportunity

DEVELOPMENT APPROVAL

South Australia is nearing the completion of a process to reform its planning system, which is underpinned by the new Planning, Development and Infrastructure Act 2016. The Planning and Design Code (the Code) is the cornerstone of the new planning system. The Code will replace all development plans to become the single source of planning policy for assessing development applications across the state.

At the time of preparing this Readiness Assessment, the State Planning Commission was considering submissions for Phase Three Urban Areas) of the Planning and Design Code. AMTA had reviewed the consultation material and had made several submissions to the Commission (during phase 2 & 3). In addition detailed submissions on the Productive Economy policy and the draft Development Regulations were also made in 2019.

In summary, based upon the current status of proposed changes to the planning system in South Australia, AMTA is concerned that the clarity, balance and timeliness of the system as it relates to deployment of Telecommunications Facilities is deteriorating. There has been little regard for and response to the issues raised by the industry during the consultation process. Without changes, there will be a higher degree of difficulty to deploy networks in South Australia than prior to the commencement of the reform process.

When considering the DAF Leading Practice Model for Development Assessment, the system as proposed in South Australia fails to provide 'objective rules and tests that are clearly linked to stated policy intentions'. The desired objectives and outcomes set out in the Productive Economy discussion paper[31] focus on reliable, robust and generally ubiquitous access to telecommunications. In fact, one of the central tenets of the discussion paper is the provision of the necessary infrastructure to enable the continuing growth and diversification of the South Australian economy and allow it to attract and take advantage of new opportunities and emerging technologies. The discussion paper recognises: "Evolving technology and communications continue to change the way business is conducted, how we live our lives, and how our urban and regional environments are shaped." It also discusses 'Smart Cities' where it is noted "the emphasis is on the integration of public infrastructure, data technology and the internet to improve the quality of life for people living, visiting and working in the area". None of the reforms proposed contribute to the advancement and deployment of Telecommunications Infrastructure.

Strong consideration should be given to an instrument – whether it be practice directions/guidelines, or another form of separate code – to set out the State's position on Telecommunications Facilities as essential infrastructure. AMTA has repeatedly cited the NSW infrastructure SEPP and the Victorian Planning Provisions and Code as good examples.

Disappointingly, Telecommunications Facilities go completely unmentioned in over 80% of the zones in Phase 2 and Phase 3, which is not appropriate nor consistent with the State's high-level statements relating to the need for infrastructure. Only one zone out of 54 – the Employment Zone, specifically listed a Telecommunications Facility in the assessment provisions as being a desired or envisaged form of development. AMTA submissions to include telecommunications facilities as performance assessed developments and/or exempt from notification in a number of employment zones and infrastructure zones, appear to have been excluded at this stage.

The Hills Face Zone is introduced as the only zone within the Code where a 'telecommunications facility' is a restricted form of development. AMTA maintains the position that Telecommunications Facilities should not be restricted in the Hills Face Zone – the only zone where they appear to be. Just like other utilities, it should not be restricted, especially given the need for quality connectivity during bushfires and emergencies.

AMTA remains very concerned at the impact of the introduction of Character Overlays and Historic Overlays on the ability of carriers to continue using Commonwealth powers to build, maintain, replace and operate 'low-impact' facilities that would otherwise not need approval (and also increase the difficulty for facilities that do require approval). These are extensive powers and widely-used by the carriers to ensure continuation of service. We have already suggested possible ways this could be rectified, but there has been no action from the Commission.

AMTA is seeking a more declarative position from the State on the essential nature of telecommunications infrastructure teamed with a more resolute policy regime. This would effectively result in aligning the Code with the well-understood meanings and policy positions of the current Development Plan regime and would go a considerable way to ensuring the necessary changes to the Code are made and the State can more readily benefit from new telecommunications infrastructure and services.

RECOMMENDATION 19

AMTA is seeking the South Australian Planning Commission's intervention to address issues raised by AMTA in relation to the Planning and Design Code Phase 2 & 3 to ensure that the carrier's efforts to augment 4G and deploy 5G networks in South Australia are not frustrated.

Reform Opportunity

TENURE

Authorisation to use, access and occupy Crown land is subject to the Crown Land Management Act 2009 which ensures that all Crown land is used in a manner consistent with ecologically, sustainable land management practices. Use of Crown Land is administered by the Department for Environment and Water (DEW).

DEW's responsibilities include confirming the tenure of the parcel of land, negotiating with the carrier about suitable tenure requirements, and undertaking a detailed land assessment. When requirements have been satisfied, DEW can seek the Minster for Environment and Conservation's consent to allocate tenure.

The carriers have tended to avoid the use of Crown Land in South Australia due to protracted processes and uncertainty surrounding short tenure.

Whilst sites on Crown Land can often offer excellent visual and physical separation from sensitive uses, unfortunately these are often not pursued due to the uncertainty of the tenure process. Sometimes this is unavoidable, because even when a site for a telecommunications facility is selected on freehold land, the carrier must negotiate to secure an easement for access across Crown Land.

Carrier leasing of freehold land owned by the State or local government in South Australia can offer improved opportunities, albeit the processes and timing often relegate these candidate sites in the order of priority. Councils will often insist upon rentals that are above market value and outside the carriers' commercial parameters.

RECOMMENDATION 20

AMTA encourages South Australia's DEW to establish 'Master Agreements' with carriers to guide the conditions under which land will be licensed for the establishment of Telecommunications Facilities. The carriers are seeking a streamlined process with DEW for the leasing of land ensuring there is also no use of discriminatory terms in such arrangements.

Northern Territory

Northern Territory

Reform Opportunity

DEVELOPMENT APPROVAL

The Northern Territory Planning Commission, established in 2013, has responsibility for progressing the Territory's Planning Reform process.

Planning reform across the Territory has continued to be rolled out, and most recently this has included the establishment of a new Northern Territory Planning Scheme 2020. AMTA has made a submission during the process of establishing the new Planning Scheme, and has presented to a Hearing of the Commission.

Confirmation that Telecommunications Facilities are not prohibited in any zone in the Northern Territory Planning Scheme 2020 is welcome and ensures that the Territory is broadly in alignment with the planning systems in several other states that have acknowledged that this infrastructure is needed in all areas.

Notwithstanding, AMTA considers that some zones should allow for Telecommunications Facilities to be permitted development when conditions are met. With recent national emergencies including drought, bushfires and covid-19, telecommunications infrastructure of all types is universally regarded as 'essential infrastructure'.

Notably, the Purpose of the new policy wording guiding Telecommunications Facility deployment (Clause 5.8.10) has added "facilitating the provision of telecommunications infrastructure to meet community expectations and needs" to the purpose that was included in the old Planning Scheme, which just focussed on the protection of amenity. Whilst this is welcome, recent decisions of the Northern Territory Development Consent Authority on a Telstra Application near Alice Springs have not demonstrated facilitation.

In order to actively facilitate provision of the infrastructure, it follows that an assessment track less onerous than "Impact Assessable" in Zones where expectations of amenity are not as great, would be entirely consistent with the Purpose.
Therefore, like the Planning Schemes in New South Wales and Victoria, AMTA submits that the Northern Territory Scheme should allow some exemptions from the need to obtain consent for certain types of facilities in certain zones over and above those found in the Federal Low-Impact Facilities Determination. This should extend to allowing new towers in rural and industrial areas where conditions are met.

In addition, AMTA has offered several other suggestions regarding the Application process which would provide more certainty for the industry and community.

AMTA considers that the Northern Territory planning system has not yet demonstrated an adequate degree of readiness for future mobile network deployment including 5G.

RECOMMENDATION 21

AMTA calls on the Northern Territory Planning Commission to:

a. **Include Telecommunications Facilities as 'permitted' and therefore exempt from the need for development consent in several zones, including Industrial and Rural Zones where conditions are met; and,**
b. **Adopt AMTA's suggested amendments to the Northern Territory Planning Scheme 2020 as contained in the AMTA/MCF submission lodged with the Commission in April 2020.**

Conclusion and Summary of Recommendations

With planning well progressed for the continuing rapid deployment of 5G infrastructure across Australia, the time has never been better for Australia's States and Territories to review and recalibrate their policy settings and planning rules to cater for the demand for new 5G telecommunications network infrastructure.

Many of the State and Territory planning rules and requirements to lease land have not kept pace with community demand for essential services offered by existing 4G mobile networks and the emerging transformational services offered by 5G.

The rules and requirements need to be rewritten to reflect the ubiquitous and essential nature of the infrastructure to recast the balance in favour of timely and efficient deployment.

Gone are the days when entire residential suburbs could be serviced by a 'macro' telecommunications facility in an adjacent suburb. Telecommunications facilities are required where people use the service, which is increasingly in residential areas.

The Australian mobile industry represented by AMTA is not indifferent to the demands on State, Territory and local government to provide rules that protect amenity and minimise visual impact from telecommunications infrastructure.

But AMTA is seeking the urgent attention of governments to rewrite their planning rules to ensure that they are consistent with best practice regulation found in the Leading Practice Model for Development Assessment, as well as non-discriminatory tenure rules consistent with the provisions of Telecommunications Act.

AMTA, and its infrastructure division the Mobile Carriers Forum, has been willing to contribute necessary industry expertise to assist Governments to understand what is driving the telecommunications sector. This 5G Infrastructure State & Territory Readiness Assessment has highlighted best practice across Australia and has given credit where it is due. It has also sought to highlight and document a series of 21 recommendations based upon models for best practice regulation for which reform is also necessary. These are summarised below.

AMTA and its members look forward to working with all levels of Government so that Australians can realise the economic, social and environmental advances that can be enabled via existing 4G and emerging 5G mobile networks.

Summary of Recommendations

Recommendation 1 (NSW):

AMTA calls on the NSW Government's Department of Education to immediately review its Policy "Mobile Telecommunications Facilities" to ensure that it provides a science-based response to concerns about RF EME, and does not have any unintended consequences such as creation of insufficient 4G & 5G mobile network service.

Recommendation 2 (NSW):

AMTA calls on IPART and the NSW Minister responsible for Crown Land to:

a. Adopt a single fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination and any potential breach of the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications; and,
b. Direct NSW Councils to apply this new IPART rate to all their leases to telecommunications carriers so the Councils also comply with Clause 44.

Recommendation 3 (ACT):

AMTA calls on the ACT Government to undertake a review of the Communications Facilities and Associated Infrastructure General Code, and in particular any subjective criteria, to ensure that this strikes an appropriate balance between providing important mobile network services (including 5G), and protecting amenity.

Recommendation 4 (ACT):

AMTA encourages the ACT Government to establish Master Agreements with carriers, to ensure a timely and consistent approach to leasing of land. The approach must avoid discrimination consistent with the Telecommunications Act, Sch 3 cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G small cell facilities.

Recommendation 5 (QLD):

AMTA encourages the Queensland Government to include a State-wide Telecommunications Code within the Queensland Planning Provisions (QPP) to ensure that infrastructure can be deployed based upon uniform assessment criteria to meet the needs of consumers in all parts of the State in a timely manner. AMTA also encourages the inclusion of consistent and wide-ranging acceptable outcomes in the QPP, not dissimilar to the criteria found in the NSW ISEPP and Victorian Codes.

Recommendation 6 (QLD):

AMTA calls on the Queensland Government's Department of Education to immediately review its Procedure "Mobile Telecommunications Facilities" to ensure that it provides a science-based response to concerns about RF EME at schools and TAFEs, and does not have any unintended consequences such as creation of insufficient 4G & 5G mobile network service.

Recommendation 7 (QLD):

AMTA calls for Queensland State Government intervention to set standard fees across the State to process development applications for telecommunications facilities.

Recommendation 8 (QLD):

Pursuant to the Planning and Environment Court Act 2016 Qld, AMTA calls upon the Queensland State Government to review whether the P&E Court is facilitating the just and expeditious resolution of the issues, and is avoiding undue delay, expense and technicality when conducting P&E Court proceedings relating to Telecommunications Infrastructure.

Recommendation 9 (QLD):

AMTA calls upon the Minister responsible for Crown Land in Queensland to monitor implementation of Land Regulation 2020 to ensure the application of an equitable fee structure that applies to all occupiers of Crown land without regard to the purpose and the actual or perceived financial viability of the occupier, and in doing so, avoid discrimination and any potential breach of the Telecommunications Act, cl. 44. This approach should be applied to both 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G mobile telecommunications.

Recommendation 10 (VIC):

AMTA calls on the Victorian State Government to recognise Telecommunications Facilities as essential infrastructure in planning policy across the 'Planning Policy Framework' and 'Particular Provisions' sections of the Victorian Planning provisions. This should in turn filter through the VPP including further exemption for additional forms of Telecommunications infrastructure, and strengthened guidance on what constitutes a net-community benefit.

Recommendation 11 (VIC):

AMTA calls on the Victorian DELWP and DJPR to bring forward the review of A Code of Practice for Telecommunications Facilities in Victoria 2004, including additional permit exempt facilities such as those that are 'Exempt" or 'Complying Development in NSW', together with emerging 5G infrastructure.

Recommendation 12 (VIC):

In consultation with the industry, AMTA calls on the Victorian DELWP to amend:

a. The 14 Planning Schemes and 27 specific zones that contain the anomaly prohibiting Telecommunications Facilities. Section 1 uses in these Zones must include "Any use listed in cl 62.01" with a condition "Must meet the requirements of Clause 62.01"; and,
b. The Public Conservation and Resource Zone in the Victorian Planning Provisions, to ensure that the use of land for a Telecommunications Facility in a PCRZ is not prohibited.

Recommendation 13 (VIC):

In consultation with the industry, AMTA calls on the Victorian DELWP to redraft the Victorian Planning Provisions including Clause 52.19 and Clauses 62.01 and 62.02 (as required) to clarify the permit triggers for a Telecommunications Facility in Victoria.

Recommendation 14 (VIC):

AMTA calls upon the Victorian State Government and the Minister for Energy, Environment and Climate Change, being the Minister responsible for Crown Land to ensure a timely and consistent approach to leasing of Crown Land. The approach must avoid discrimination and any potential breach of the Telecommunications Act, Sch 3 cl. 44. This approach should be applied to both land for 'macro' tower sites as well as for sites used by emerging communication technologies, such as 5G small cell facilities. Such an approach should also be applied by Victorian councils.

Recommendation 15 (TAS):

AMTA calls on the Tasmanian State Government and Minister for Planning to undertake a review of the Tasmanian Planning Schemes' Telecommunications Code, and in particular C5.6 Development Standards for Buildings and Works, to ensure that the acceptable solution for the height of structures strikes an appropriate balance between providing important mobile network services (including 5G), and protecting amenity.

Recommendation 16 (TAS):

AMTA calls on the Minister for Planning to amend Clause 4.2.6 of the Tasmanian State Planning Provisions, with additions to the list of minor communications infrastructure that are exempt from requiring a permit. This should include:

a. the addition of antennas to an existing facility where the antennas do not exceed the dimensions of existing antennas and the overall height of that facility does not increase.
b. the establishment of a shelter or cabinet/s within an existing Telecommunications compound area
c. co-location of new 5G small cells onto existing utility poles within heritage areas.

In addition, Clause 4.2.6 could include several types of Telecommunications infrastructure that is currently not captured by the Telecommunications (Low-impact facilities) Determination 2018 but are exempt in States including Victoria or NSW.

Recommendation 17 (WA):

AMTA calls upon the remaining Councils in WA, being City of Gosnells, Shire of Serpentine-Jarrahdale and the City of Swan to review their Council Telecommunications Policies so that they comply with State Planning Policy 5.2. This should include removal of exclusion/buffer zones in accordance with SPP5.2.

In addition, all Councils in WA should remove any reference to Telecommunications Infrastructure from being a use 'not permitted' in certain zones in local Planning Schemes. The inclusion of 'telecommunications infrastructure' designated as an 'X' use is not permitted under SPP 5.2.

Recommendation 18 (WA):

AMTA encourages the WA State Government and the Minister responsible for Crown Land to ensure a timely and consistent approach to leasing of Crown Land for telecommunications facilities. The carriers are seeking an approach that is streamlined and avoids discrimination consistent with the Telecommunications Act, Sch 3 cl. 44.

Recommendation 19 (SA):

AMTA is seeking the South Australian Planning Commission's intervention to address issues raised by AMTA in relation to the Planning and Design Code Phase 2 & 3 to ensure that the carrier's efforts to augment 4G and deploy 5G networks in South Australia are not frustrated.

Recommendation 20 (SA):

AMTA encourages South Australia's DEW to establish 'Master Agreements' with carriers to guide the conditions under which land will be licensed for the establishment of Telecommunications Facilities. The carriers are seeking a streamlined process with DEW for the leasing of land ensuring there is also no use of discriminatory terms in such arrangements.

Recommendation 21 (NT):

AMTA calls on the Northern Territory Planning Commission to:

a. Include Telecommunications Facilities as 'permitted' and therefore exempt from the need for development consent in several zones, including Industrial and Rural Zones where conditions are met; and,
b. Adopt AMTA's suggested amendments to the Northern Territory Planning Scheme 2020 as contained in the AMTA/MCF submission lodged with the Commission in April 2020.

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21. https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2009-0282#
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24. https://www.gsma.com/publicpolicy/wp-content/uploads/2012/11/GSMA_2012_impact_planning_restriction_network_web.pdf
25. https://www.ipart.nsw.gov.au/Home/Industries/Special-Reviews/Reviews/Tower-Sites/Rental-arrangements-of-communication-towers-on-Crown-Lands-2018/08-Jul-2019-Media-Release-Draft-Report/Media-Release-Rental-arrangements-for-communication-towers-on-Crown-lands-July-2019#
26. Banana Shire, Register of Fees and Charges for Financial Year 2010/2011". The assessment fee is calculated as the sum of the general Impact Assessment fee plus 1.5% of the value of the works plus the use surcharge fee.
27. https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-and-subdivision-fees
28. http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2013/90.html?context=1;query=Marshall%20&%20Ors%20v%20Ararat%20Rural%20CC;mask_path=au/cases/vic/VCAT
29. VC77 (gazetted in Sept 2011) removed Telecommunications Facility as a section 1 use in all zones, and moved it to cl 62 "uses not requiring a permit". Poor drafting with that amendment has created the issue.
30. TPAT: APP 6 of 2003 – Taylor (Hutchison 3G Australia Pty Ltd) and City of Swan, 14 July 2004.
31. https://www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0004/513328/Productive_Economy_Policy_Discussion_Paper.pdf

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From:	[redacted]
To:	State Planning Office Your Say
Subject:	City of Launceston - SPP Review Paper
Date:	Friday, 12 August 2022 12:45:33 PM
Attachments:	COL - SPP Review - For Submission.pdf

To whom it may concern,

Please find attached City of Launceston's comments on the State Planning Provisions review.

Please note that as Council has not operated under the provisions in their entirety, that the comments are limited.

Council will have further comment to provide once the planning authority have had ample opportunity to utilise, discuss, and assess the provisions.

Should you require any further information or clarification, please do not hesitate to contact me on the details below.

Kind Regards,

Iain More I Town Planner I City Development I City of Launceston
[redacted] I www.launceston.tas.gov.au

City of Launceston
State Planning Provisions Review

SECTION 1 - IDENTIFICATION AND PURPOSE OF THIS PLANNING SCHEME

No current known concerns.

SECTION 2 - ADMINISTRATION

3.0 Interpretation (Planning Terms and Definitions)	
Number	1
Clause Reference	Table 3.1 - Planning Terms and Definitions
Clause	secondary residence: means an additional residence which is self-contained and: (a) has a gross floor area not more than 60m²; (b) is appurtenant to a single dwelling; (c) shares with the single dwelling access and parking, and water, sewerage, gas, electricity and telecommunications connections and meters; and (d) may include laundry facilities.
Concern	The name of the definition.
Comment	There is concern that the use of 'secondary residence' or the previously utilised 'ancillary dwelling' can be potentially misleading. The name ancillary dwelling is defined in the name as becoming ancillary to an existing dwelling on site, however does have the notion of being a use that may not require approval. Secondary residence could have the potential to be misleading, especially on a permit where owners may believe they are constructing or can utilise the new building as a multiple dwelling development. It may be worth revisiting the definition.
Number	2
Clause Reference	4.1.4 - Home Occupation

Clause	home occupation If: (a) not more than 40m² of gross floor area of the dwelling is used for non-residential purposes; (b) the person conducting the home occupation normally uses the dwelling as their principal place of residence; (c) it does not involve employment of persons other than a resident; (d) any load on a utility is no more than for a domestic use; (e) there is no activity that causes electrical interference to other land; (f) it does not involve display of goods for sale that are visible from any road or public open space adjoining the site; (g) it involves no more than 1 advertising sign (that must be non-illuminated) and not more than 0.2m² in area; (h) it does not involve refuelling, servicing, detailing or repair of vehicles not owned by the resident on the site; (i) no more than 1 commercial vehicle is on the site at any one time and no commercial vehicle on the site exceeds 2 tonnes; and (j) any vehicle used solely for non-residential purposes must be parked on the site.
Concern	The removal of 'occasional visitor'.
Comment	The removal of 'occasional visitor' from the definition may have unattended consequences and would permit multiple persons to visit a home without consequence. Appointment based uses should not be exempt as a consideration of parking and visitors to a site should be made. The result could be uses such as exercise classes or food trucks, which have the ability to attract a high volume of people to a suburban area. Such uses would be better assessed under a home based business application.
Number	3
Clause Reference	Table 3.1 - Planning Terms and Definitions 6.2 Categorising Use or Development
Clause	N/A
Concern	Lack of definition
Comment	Whilst the majority of use classes contain sub-use classes, there is a lack of direction for certain uses. Most prominently is the 'farm worker accommodation' use, which is not defined, and it is unclear whether or not the use fits within Residential or Visitor Accommodation. It is suggested that further definitions are included to ensure there is no confusion.

4.0 Exemptions	
Number	4
Clause Reference	4.2.5 - Vehicle crossings, junctions and level crossings

Clause	4.2.5 — vehicle crossings, junctions and level crossings If: (a) development of a vehicle crossing, junction or level crossing: (i) by the road or rail authority; or (ii) in accordance with the written consent of the relevant road or rail authority; or (b) use of a vehicle crossing, junction or level crossing by a road or railway authority.
Concern	How the exemptions interacts with E2.0 Parking and Sustainable Transport Code.
Comment	There is confusion as to how the exemption interacts with clause 2.6.3 of the parking and sustainable transport code. If an applicant receives an exemption under 4.2.5 for a new second crossover, would a discretionary permit be required under C2.6.3 as they would be exceeding one crossover. Alternatively, if the exemption is granted and the second crossover constructed, would a proposal be compliant with C2.6.3 A1(b), as the crossover is existing.
Number	5
Clause Reference	4.2.7 - Minor Infrastructure
Clause	4.2.7 — minor infrastructure — Provision, maintenance and modification of 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, rubbish bins, public art, and the like by, or on behalf of, the Crown, a council or a State authority.
Concern	Public art is not defined.
Comment	Public art should be defined. There is potential a wall mural, as defined under C1.0 Signs Code, could be exempt as it could also be considered public art.

5.0 Planning Scheme Operation	
Number	6
Clause Reference	6.1.2
Clause	6.1.2 An application must include: (a) a signed application form; (b) any written permission and declaration of notification required under s.52 of the Act and, if any document is signed by the delegate, a copy of the delegation; (c) details of the location of the proposed use or development; (d) a copy of the current certificate of title for all land to which the permit sought is to relate, including the title plan; and (e) a full description of the proposed use or development.
Concern	The interaction between a valid application and *Historic Cultural Heritage Act 1995*.
Comment	The concern arises from whether or not the Tasmanian Heritage Council (THC) have an interest in an application. There is the potential a Planning Authority could receive an application that is either No Permit Required or Permitted and considered valid, however an interest from the THC could make it Discretionary. It would be beneficial if a valid application as per Clause 6.1.2 included a reference to the THC and their interest.

SECTION 3 - GENERAL PROVISIONS

No current known concerns.

SECTION 4 - ZONES

8.0 General Residential Zone	
Number	7
Clause Reference	8.4.2 - Setbacks and building envelope for all dwellings
Clause	8.4.2 Setbacks and building envelope for all dwellings

Objective:	The siting and scale of dwellings: (a) provides reasonably consistent separation between dwellings and their frontage within a street; (b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings; (c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and (d) provides reasonable access to sunlight for existing solar energy installations.

Acceptable Solutions	**Performance Criteria**
A3 A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must: (a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by: (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a property with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees	**P3** The siting and scale of a dwelling must: (a) not cause an unreasonable loss of amenity to adjoining properties, having regard to: (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property; (ii) overshadowing the private open space of a dwelling on an adjoining property; (iii) overshadowing of an adjoining vacant property; or

	from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of not more than 8.5m above existing ground level; and (b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling: (i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or (ii) does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser). (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property; (b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and (c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on: (i) an adjoining property; or (ii) another dwelling on the same site.
Concern	A3 - Building envelope
Comment	The building envelope allows development to occur at the rear of the property, without permit, if located within the building envelope, and for certain development. Rear setbacks have essentially been removed. This is not conducive to good planning practice and encourages large, bulky style buildings with the potential to have a negative and unreasonable impact on adjoining properties. It also encourages multiple dwelling development to be largely placed against the rear of the property. This has the ability to change the character of an area by introducing new scale and development type within what are essentially suburban areas. Whilst it may be conducive to more inner city and semi inner city areas, the zones and its provisions need to be looked at more holistically. Some separation would at least encourage thought is design and appropriateness for an area.
Number	8
Clause Reference	8.4.3 - Site coverage and private open space for all dwellings
Clause	**A1** Dwellings must have: (a) a site coverage of not more than 50% (excluding eaves up to 0.6m wide); and (b) for multiple dwellings, a total area of private open space of not less than 60m^2 associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer).
Concern	Impervious area
Comment	The concern lays around the requirement for a development to provide pervious and impervious areas. A requirement for a certain amount of impervious area contains its own issues. By inadvertently triggering requirements for persons to obtain a planning permit for simple development, such as paving an area of outdoor open space. It is questioned if an impervious surface clauses should be required, or if this can be dealt with under the *Urban Drainage Act 2013*. It is also questioned if instead of an impervious area clause, that another clause be implemented requiring some sort of vegetation or landscaping. It should be made clear either way as to how each Council and applicant should proceed.
Number	9

Clause Reference	8.4.3 - Site coverage and private open space for all dwellings
Clause	**A2** A dwelling must have private open space that: (a) is in one location and is not less than: (i) 24m^2; or (ii) 12m^2, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); (b) has a minimum horizontal dimension of not less than: (i) 4m; or (ii) 2m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); (c) is located between the dwelling and the frontage only if the frontage is orientated between 30 degrees west of true north and 30 degrees east of true north; and (d) has a gradient not steeper than 1 in 10
Concern	Orientation
Comment	A2(c) - Consideration against *M Cubitt and T Powell v Launceston City Counci9l and Ors (2022) TASCAT 74* needs to be considered, especially understanding their decision against the orientation of private oopen space.
Number	10
Clause Reference	8.4.4 - Sunlight to private open space of multiple dwellings 8.4.2 - Setbacks and building envelope for all dwellings

Clause

8.4.4 Sunlight to private open space of multiple dwellings

Objective:	That the separation between multiple dwellings provides reasonable opportunity for sunlight to private open space for dwellings on the same site.

Acceptable Solutions	**Performance Criteria**
A1 A multiple dwelling, that is to the north of the private open space of another dwelling on the same site, required to satisfy A2 or P2 of clause 8.4.3, must satisfy (a) or (b), unless excluded by (c): (a) the multiple dwelling is contained within a line projecting (see Figure 8.4): (i) at a distance of 3m from the northern edge of the private open space; and (ii) vertically to a height of 3m above existing ground level and then at an angle of 45 degrees from the horizontal; (b) the multiple dwelling does not cause 50% of the private open space to receive less than 3 hours of sunlight between 9.00am and 3.00pm on 21st June; and (c) this Acceptable Solution excludes that part of a multiple dwelling consisting of: (i) an outbuilding with a building height not more than 2.4m; or (ii) protrusions that extend not more than 0.9m horizontally from the multiple dwelling.	**P1** A multiple dwelling must be designed and sited to not cause an unreasonable loss of amenity by overshadowing the private open space, of another dwelling on the same site, which is required to satisfy A2 or P2 of clause 8.4.3 of this planning scheme.

Concern	Existing sunlight: 8.4.2 - A3/P3 8.4.4 - A1/P1
Comment	Consideration of existing sunlight conditions should be made. The clause should not assume that an area receives full sunlight, but should understand the amount of sunlight that an area currently receives, versus what it will receive. This will allow a better determination of whether or not a new development and its effect on overshadowing is unreasonable.
Number	11
Clause Reference	8.4.6 - Privacy for all dwellings

Clause	**A3** A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of not less than: (a) 2.5m; or (b) 1m if: (i) it is separated by a screen of not less than 1.7m in height; or (ii) the window, or glazed door, to a habitable room has a sill height of not less than 1.7m above the shared driveway or parking space, or has fixed obscure glazing extending to a height of not less than 1.7m above the floor level. **P3** A shared driveway or parking space (excluding a parking space allocated to that dwelling), must be screened, or otherwise located or designed, to minimise unreasonable impact of vehicle noise or vehicle light intrusion to a habitable room of a multiple dwelling.
Concern	A3 - Driveways and their interactions with dwellings
Comment	The clause only requires consideration of shared driveways. Driveways for any multiple dwelling should be taken into consideration, especially if there are two separate driveways and one may pass by a separate dwelling on the same site.

9.0 Inner Residential Zone	
Number	12
Clause Reference	9.4.1 - Residential density for multiple dwellings
Clause	9.4.1 Residential density for multiple dwellings

Objective:	That the density of multiple dwellings: (a) makes efficient use of land for housing; and (b) optimises the use of infrastructure and community services.

Acceptable Solutions	**Performance Criteria**
A1 Multiple dwellings must have a site area per dwelling of not less than 200m^2.	**P1** Multiple dwellings must only have a site area per dwelling less than 200m^2 if: (a) the development contributes to a range of dwelling types and sizes appropriate to the surrounding area; or (b) the development provides for a specific accommodation need with significant social or community benefit.

Concern	Location
Comment	P1(A) - The clause assumes that the Inner Residential Zones is appropriately located having no consideration of walkability or public transport. Whilst in a larger city it may be correct, where the Inner Residential Zone is not within an easily accessible area there is the potential for an increase in traffic and density concerns.

10.0 Low Density Residential Zone

No current known concerns.

11.0 Rural Living Zone

No current known concerns.

12.0 Village Zone

No current known concerns.

13.0 Urban Mixed Use Zone

No current known concerns.

14.0 Local Business Zone

No current known concerns.

15.0 General Business Zone

No current known concerns.

16.0 Central Business Zone

No current known concerns.

17.0 Commercial Zone

No current known concerns.

18.0 Light Industrial Zone

No current known concerns.

19.0 General Industrial Zone

No current known concerns.

20.0 Rural Zone	
Number	13
Clause Reference	20.3.1

Clause	

20.3.1 Discretionary use

Objective:	That the location, scale and intensity of a use listed as Discretionary: (a) is required for operational reasons; (b) does not unreasonably confine or restrain the operation of uses on adjoining properties; (c) is compatible with agricultural use and sited to minimise conversion of agricultural land; and (d) is appropriate for a rural location and does not compromise the function of surrounding settlements.

Acceptable Solutions	**Performance Criteria**
A1 A use listed as Discretionary, excluding Residential, is for an alteration or extension to an existing use, if: (a) the gross floor area does not increase by more than 30% from that existing at the effective date; and (b) the development area does not increase by more than 30% from that existing at the effective date.	**P1** A use listed as Discretionary, excluding Residential, must require a rural location for operational reasons, having regard to: (a) the nature, scale and intensity of the use; (b) the importance or significance of the proposed use for the local community; (c) whether the use supports an existing agricultural use; (d) whether the use requires close proximity to infrastructure or natural resources; and (e) whether the use requires separation from other uses to minimise impacts.

	A4 No Acceptable Solution.	**P4** A use listed as Discretionary, excluding Residential, must be appropriate for a rural location, having regard to: (a) the nature, scale and intensity of the proposed use; (b) whether the use will compromise or distort the activity centre hierarchy; (c) whether the use could reasonably be located on land zoned for that purpose; (d) the capacity of the local road network to accommodate the traffic generated by the use; and (e) whether the use requires a rural location to minimise impacts from the use, such as noise, dust and lighting.
Concern	P1 & P4 The intention of P1(b) is not understood. It is unclear if a discretionary use must provide for some importance or significance to the local community, of which in most cases would be difficult, or if the importance or significance must be insignificant. PC4(c) - It is unclear how this clause is to be interpreted. The section of the clause '*land zoned for that purpose'* is unclear. If a use has the ability to operate within a zone, then the zone is fit for that purpose. If the clause is referring to uses, such as an industrial use, may be more suited to an industrial zone, it should state that. There should be no confusion.	
Comment		
Number	14	
Clause Reference	20.5.1 - Lot design	

Clause	20.5.1 Lot design		
	Objective:	To provide for subdivision that: (a) relates to public use, irrigation or Utilities; or (b) facilitates use and development for allowable uses in the zone.	
	Acceptable Solutions	**Performance Criteria**	
	A1 Each lot, or a lot proposed in a plan of subdivision, must: (a) be required for public use by the Crown, a council or a State authority; (b) be required for the provision of Utilities or irrigation infrastructure; (c) be for the consolidation of a lot with another lot provided each lot is within the same zone; or (d) be not less than 40ha with a frontage of no less than 25m and existing buildings are consistent with the setback and separation distance required by clause 20.4.2 A1 and A2.	**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 A2 or P2 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.
Concern	Interpretation	
Comment	P1(b) - The clause discusses excision of dwellings and visitor accommodation but offers no date. It may be beneficial to include the wording as prescribed within the Agriculture Zone which states 'existing at the effective date'. P1(b)(ii) - The section 7 1 agreement precludes residential development but not visitor accommodation. It is unclear if this is the intention or not consideration the provisions consolidating residential and visitor accommodation together in respect to Rural and Agriculture zones.	

21.0 Agriculture Zone	
Number	15
Clause Reference	21.2 Use Table

Clause	<table><tr><td>Residential</td><td>If: (a) not restricted by an existing agreement under section 71 of the Act; and (b) not listed as Permitted.</td></tr></table>
Concern	Multiple dwellings
Comment	The use table within the zone allows a Residential use to be permitted if for: (a) a home-based business in an existing dwelling; or (b) alterations or extensions to an existing dwelling. It allows a discretionary application if for: (a) not restricted by an existing agreement under section 71 of the Act; and (b) not listed as Permitted. Based on the use table, multiple dwelling development would be a discretionary use within the zone. It is generally understood that this would be understandable for dwellings associated with the agricultural use, however it also opens a pathway for development that is not associated with the use. Considerations should be made against limiting multiple dwellings to being associated with the active use of the property.
Number	16
Clause Reference	21.5.1 - Lot design

Clause	21.5.1 Lot design	
	Objective:	To provide for subdivision that: (a) relates to public use, irrigation infrastructure or Utilities; and (b) protects the long term productive capacity of agricultural land.
	Acceptable Solutions	**Performance Criteria**
	A1 Each lot, or a lot proposed in a plan of subdivision, must: (a) be required for public use by the Crown, a council or a State authority; (b) be required for the provision of Utilities or irrigation infrastructure; or (c) be for the consolidation of a lot with another lot provided both lots are within the same zone.	**P1** Each lot, or a lot proposed in a plan of subdivision, must: (a) provide for the operation of an agricultural use, having regard to: (i) not materially diminishing the agricultural productivity of the land; (ii) the capacity of the new lots for productive agricultural use; (iii) any topographical constraints to agricultural use; and (iv) current irrigation practices and the potential for irrigation; (ii) all new lots must be not less than 1ha in area; (iii) existing buildings are consistent with the setback required by clause 21.4.2 A1 and A2; (iv) all new lots must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use; and (v) it does not create any additional lots; or

		(c) be for the excision of a use or development existing at the effective date that satisfies all of the following: (i) the balance lot provides for the operation of an agricultural 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; c. any topographical constraints to agricultural use; and d. current irrigation practices and the potential for irrigation; (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) any existing buildings for a sensitive use must meet the setbacks required by clause 21.4.2 A2 or P2 in relation to setbacks to new boundaries; and (iv) all new lots must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use.	
Concern	Consideration of PC		
Comment	21.5.1 (b)(iii) - The clause requires that buildings are compliant with the Acceptable Solution, with no consideration of the Performance Criteria. Considering the clause relates to boundary adjustments, there could potentially be issues with farm buildings not being able to meet the AS and would not be able to proceed.		

22.0 Landscape Conservation Zone

No current known concerns.

23.0 Environmental Management Zone

No current known concerns.

24.0 Major Tourism Zone

No current known concerns.

25.0 Port and Marine Zone

No current known concerns.

26.0 Utilities Zone

No current known concerns.

27.0 Community Purpose Zone

No current known concerns.

28.0 Recreation Zone

No current known concerns.

29.0 Open Space Zone

No current known concerns.

30.0 Future Urban Zone

No current known concerns.

SECTION 5 - CODES

C1.0 Signs Code	
Number	17
Clause Reference	C1.2 Application of this code
Clause	**C1.2 Application of this Code** C1.2.1 Unless otherwise stated in a particular purpose zone, this code applies to all development for signs, unless the following clauses apply: (a) C1.4.2; or (b) C1.4.3. C1.2.2 This code does not apply to use.
Concern	Dual assessment
Comment	The code will offer dual assessment to those properties listed on a local heritage site. There is no exemption for signs under C6.0 local Historic Heritage Code and an assessment against both codes will apply. There is also the possibility on both a THC and local heritage listed property that the THC exempt the sign but it still requires an assessment against the code.

C2.0 Parking and Sustainable Transport Code	
Number	18
Clause Reference	C2.6.3 - Number of accesses for vehicles
Clause	

Objective:	That: (a) access to land is provided which is safe and efficient for users of the land and all road network users, including but not limited to drivers, passengers, pedestrians and cyclists by minimising the number of vehicle accesses; (b) accesses do not cause an unreasonable loss of amenity of adjoining uses; and (c) the number of accesses minimise impacts on the streetscape.

Acceptable Solutions	**Performance Criteria**
A1 The number of accesses provided for each frontage must: (a) be no more than 1; or (b) no more than the existing number of accesses, whichever is the greater.	**P1** The number of accesses for each frontage must be minimised, having regard to: (a) any loss of on-street parking; and (b) pedestrian safety and amenity; (c) traffic safety; (d) residential amenity on adjoining land; and (e) the impact on the streetscape.
A2 Within the Central Business Zone or in a pedestrian priority street no new access is provided unless an existing access is removed.	**P2** Within the Central Business Zone or in a pedestrian priority street, any new accesses must: (a) not have an adverse impact on: (i) pedestrian safety and amenity; or (ii) traffic safety; and (b) be compatible with the streetscape.

Concern	Exemptions and applicability
Comment	If a person were to receive an exemption under 4.2.5 for a new second crossover, it is unclear if a discretionary permit would be required under C2.6.3 as they would be exceeding one crossover. Alternatively, if the exemption is granted and the second crossover constructed, would a proposal be compliant with C2.6.3 A1(b), as the crossover is existing. Further, it is unclear if a site had 3 crossovers, but proposed to remove 1, and that was the only discretion, whether or not a permit would be required. It is also noted that access, whilst defined, if open for interpretation. Generally a 3.6m crossover servicing one or two vehicles is understood. However, a single, large, wide crossover servicing multiple entry and exit points could also be considered a crossover. Further clarification is required.
Number	19

Clause Reference	C2.5.1 - Car parking numbers
Clause	C2.5.1 Car parking numbers

Objective:	That an appropriate level of car parking spaces are provided to meet the needs of the use.

Acceptable Solutions	**Performance Criteria**
A1 The number of on-site car parking spaces must be no less than the number specified in Table C2.1, excluding if: (a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan; (b) the site is contained within a parking precinct plan and subject to Clause C2.7; (c) the site is subject to Clause C2.5.5; or (d) it relates to an intensification of an existing use or development or a change of use where: (i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or (ii) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows: N = A + (C- B) N = Number of on-site car parking spaces required A = Number of existing on site car parking spaces B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1 C= Number of on-site car parking spaces required for the proposed use or development specified in Table C2.1.	**P1.1** The number of on-site car parking spaces for uses, excluding dwellings, must meet the reasonable needs of the use, having regard to: (a) the availability of off-street public car parking spaces within reasonable walking distance of the site; (b) the ability of multiple users to share spaces because of: (i) variations in car parking demand over time; or (ii) efficiencies gained by consolidation of car parking spaces; (c) the availability and frequency of public transport within reasonable walking distance of the site; (d) the availability and frequency of other transport alternatives; (e) any site constraints such as existing buildings, slope, drainage, vegetation and landscaping; (f) the availability, accessibility and safety of on-street parking, having regard to the nature of the roads, traffic management and other uses in the vicinity; (g) the effect on streetscape; and (h) any assessment by a suitably qualified person of the actual car parking demand determined having regard to the scale and nature of the use and development. **P1.2** The number of car parking spaces for dwellings must meet the reasonable needs of the use, having regard to: (a) the nature and intensity of the use and car parking required; (b) the size of the dwelling and the number of bedrooms; and (c) the pattern of parking in the surrounding area.

Concern	A1(d)(ii) - The complexity of calculating car parking numbers
Comment	It is unclear why such a complex calculation is required to calculate the number of spaces when intensifying a use. It would be suggested that the clause be looked at in detail to allow persons to understand what is required.

C3.0 Road and Railway Assets Code	
Number	20
Clause Reference	C3.5.1
Clause	Traffic generation at a vehicle crossing, level crossing or new junction

Objective:	To minimise any adverse effects on the safety and efficiency of the road or rail network from vehicular traffic generated from the site at an existing or new vehicle crossing or level crossing or new junction.

Acceptable Solutions	**Performance Criteria**
A1.1 For a category 1 road or a limited access road, vehicular traffic to and from the site will not require: (a) a new junction; (b) a new vehicle crossing; or (c) a new level crossing. **A1.2** For a road, excluding a category 1 road or a limited access road, written consent for a new junction, vehicle crossing, or level crossing to serve the use and development has been issued by the road authority. **A1.3** For the rail network, written consent for a new private level crossing to serve the use and development has been issued by the rail authority. **A1.4** Vehicular traffic to and from the site, using an existing vehicle crossing or private level crossing, will not increase by more than: (a) the amounts in Table C3.1; or (b) allowed by a licence issued under Part IVA of the *Roads and Jetties Act 1935* in respect to a limited access road. **A1.5** Vehicular traffic must be able to enter and leave a major road in a forward direction.	**P1** Vehicular traffic to and from the site must minimise any adverse effects on the safety of a junction, vehicle crossing or level crossing or safety or efficiency of the road or rail network, having regard to: (a) any increase in traffic caused by the use; (b) the nature of the traffic generated by the use; (c) the nature of the road; (d) the speed limit and traffic flow of the road; (e) any alternative access to a road; (f) the need for the use; (g) any traffic impact assessment; and (h) any advice received from the rail or road authority.

Concern	The interpretation of A1.2.
Comment	Written consent needs to be defined. From a Council perspective, consent may not be given until such time that sufficient information is provided to allow consent, resulting in reliance on P1 and the need for a Traffic Impact Assessment. However, once that assessment is provided, consent may then be given, resulting in compliance with A1. The issue lays around an application potentially requiring a discretionary application due to P1, and then back to a permitted application once P1 has been satisfied. A revision of the clause is recommended.

C4.0 Electricity Transmission Infrastructure Protection Code

No current known concerns.

C5.0 Telecommunications Code

No current known concerns.

C6.0 Local Historic Heritage Code

No current known concerns.

C7.0 Natural Assets Code	
Number	21
Clause Reference	C7.2 - Application of this code
Clause	Application of this code **C7.2 Application of this Code** C7.2.1 This code applies to development on land within the following areas: (a) a waterway and coastal protection area; (b) a future coastal refugia area; and (c) a priority vegetation area only if within the following zones: (i) Rural Living Zone; (ii) Rural Zone; (iii) Landscape Conservation Zone; (iv) Environmental Management Zone; (v) Major Tourism Zone; (vi) Utilities Zone; (vii) Community Purpose Zone; (viii) Recreation Zone; (ix) Open Space Zone; (x) Future Urban Zone; (xi) Particular Purpose Zone; or (xii) General Residential Zone or Low Density Residential Zone, only if an application for subdivision
Concern	It is unclear why priority vegetation is not mapped in all zones it applies to.
Comment	The code only applies to thirteen zones as per clause C7.2.1(c). It is unclear however why the statutory overlay maps remove the vegetation layer from all other zones. The code makes it clear what zones need to be considered, however, leaving on the layer over all affected properties, no matter the zoning, would ensure persons understand that their sites may have priority vegetation, and that its removal, whilst not requiring assessment against the Natural Values Code, may need consideration under separate legislation.
Number	22
Clause Reference	C7.2 - Application of this code

Clause	**C7.2 Application of this Code** C7.2.1 This code applies to development on land within the following areas: (a) a waterway and coastal protection area; (b) a future coastal refugia area; and (c) a priority vegetation area only if within the following zones: (i) Rural Living Zone; (ii) Rural Zone; (iii) Landscape Conservation Zone; (iv) Environmental Management Zone; (v) Major Tourism Zone; (vi) Utilities Zone; (vii) Community Purpose Zone; (viii) Recreation Zone; (ix) Open Space Zone; (x) Future Urban Zone; (xi) Particular Purpose Zone; or (xii) General Residential Zone or Low Density Residential Zone, only if an application for subdivision
Concern	Zone applicability
Comment	Multiple concerns have been raised by Council and by members of the public on the codes applicability to all zones. It is understood that the code has had multiple reviews, as well as recommendations to change, to ensure that all threatened communities within the natural area of Tasmania are maintained. The purpose of the code are as follow: **C7.1 Code Purpose** The purpose of the Natural Assets Code is: C7.1.1 To minimise impacts on water quality, natural assets including native riparian vegetation, river condition and the natural ecological function of watercourses, wetlands and lakes. C7.1.2 To minimise impacts on coastal and foreshore assets, native littoral vegetation, natural coastal processes and the natural ecological function of the coast. C7.1.3 To protect vulnerable coastal areas to enable natural processes to continue to occur, including the landward transgression of sand dunes, wetlands, saltmarshes and other sensitive coastal habitats due to sea-level rise. C7.1.4 To minimise impacts on identified priority vegetation. C7.1.5 To manage impacts on threatened fauna species by minimising clearance of significant habitat.

	At this stage, considering the representations already made to the provisions of the code, as well as an understanding that the code will be subject to change upon a review against the Tasmanian Planning Policies, that there is little comment that can be made that would result in action. Notwithstanding, the objective of the code is to minimise and protect the natural and threatened species of a site. Under the current SPP's, those protections are limited through the planning process, to only a certain few zones. This does not envelope the entirety of the area that could or should be protected. Council would welcome and invite conversation as to how properties can maintain and introduce new uses whilst protecting natural flora and fauna, and whilst maintaining the policy position of the Planning Commission, and that of the wider community. For this review however, it would be beneficial for any review process to detail, research, and review the Natural Assets Code as it is currently endorsed, to ensure that the natural assets that exist are well protected against any development that may have a detrimental impact on the environment.
Number	23
Clause Reference	C7.6.1 Buildings and works within a waterway and coastal protection area or a future coastal refugia area C7.6.2 Clearance within a priority vegetation area C7.7.1 Subdivision within a waterway and coastal protection area or a future coastal refugia area C7.7.2 Subdivision within a priority vegetation area
Clause	As above.
Concern	The performance criteria lacks reference to relevant reports.
Comment	No performance criteria under any clause specifically requires an applicant to have a natural values report, nor are suitably qualified people mentioned. This could lead to disagreements between an applicant and the planning authority as to what information is required to meet any performance criteria. It should be made clear as not to cause nay confusion.

C8.0 Scenic Protection Code	
Number	24
Clause Reference	C8.2 - Application of this code
Clause	Application of this code C8.2.1 This code applies to development on land within a scenic protection area or scenic road corridor and only if within the following zones: (a) Rural Living Zone; (b) Rural Zone; (c) Agriculture Zone; (d) Landscape Conservation Zone; (e) Environmental Management Zone; or (f) Open Space Zone.
Concern	Low density residential zone.
Comment	It is unclear why only six zones are applicable to the code. The purpose of the code is to recognise and protect landscapes that are identified as important for their scenic values. The purpose of the code against the code applicability does not appear to be in harmony. Specifically, it is unclear why the code is not applicable to residential land and why larger rural type lots only apply. In areas such as Launceston, vegetation provides for a scenic amenity that is enjoyed within the city. Areas such as West Launceston, Trevallyn, and East Launceston are generously covered in protected vegetation. Removing any protection of this natural scenic landscape goes against the purpose of the code.

Number	25
Clause Reference	8.4 - use or development exempt from this code
Clause	**C8.4 Use or Development Exempt from this Code** C8.4.1 The following development is exempt from this code: (a) planting or destruction of vegetation on existing pasture or crop production land, unless for the destruction of the following: (i) exotic trees, other than part of an agricultural crop, more than 10m in height within a scenic road corridor; or (ii) hedgerows adjoining a scenic road within a scenic road corridor, (b) agricultural buildings and works, including structures for controlled environment agriculture, irrigation and netting, on land within an Agriculture Zone or Rural Zone, excluding the destruction of vegetation identified in C8.4.1(a); (c) alterations or extensions to an existing building if: (i) the gross floor area is increased by not more than 25% from that existing at the effective date; (ii) there is no increase in the building height; and (iii) external finishes are the same or similar to the existing building; (d) subdivision not involving any works; (e) development subject to the Telecommunications Code; and (f) any development or works associated with road construction within a scenic road corridor.
Concern	8.4.1(d) and the applicability of the code for subdivision.
Comment	Two concerns are noted: (a) There would be almost no subdivision that does not involve works. These may be minor works, such as servicing connections, or larger, such as road construction. However, it would be difficult for an applicant to argue that their subdivision would not involves some type of works (as defined by LUPAA). (b) The consideration of vegetation removal at the subdivision stage, even if no vegetation removal is proposed. A subdivision may be approved, signed, and sealed without any vegetation being removed. However, there would be an expectation that any new lots would be able to be developed, resulting in a loss of vegetation. A review should look at whether any controls should be in place for any consideration of vegetation removal in the future due to a subdivision.

C9.0 Attenuation Code	
Number	26
Clause Reference	Table C9.1
Clause	N/A
Concern	Use definitions
Comment	Whilst it is understood it will be up to applicants and Council to consider all uses and their distances through the table, some uses within the table are not specifically defined. An example is Bakery. There are multiple instances within the Launceston municipality that have bakery's that equally sell their goods to the public through a shop front, as well as distribute to other outlets. Without proper definition, the use of the code will be open to interpretation, and potentially trigger applications that were only 'No Permit Required'.

C10.0 Coastal Erosion Hazard Code

No current known concerns.

C11.0 Coastal Inundation Hazard Code

No current known concerns.

C12.0 Flood-Prone Areas Hazard Code	
Number	27
Clause Reference	C12.2
Clause	**C12.2 Application of this Code** C12.2.1 This code applies to development of land within a flood-prone hazard area. C12.2.2 This code applies to use of land within a flood-prone hazard area if for: (a) a change of use that converts a non-habitable building to a habitable building; or (b) a new habitable room within an existing building. C12.2.3 This code applies to use in a habitable building, or development of land, identified in a report prepared by a suitably qualified person, that is lodged with an application for a permit, or required in response to a request under section 54 of the Act, as subject to risk from flood or that has the potential to cause increased risk from flood. C12.2.4 The planning authority may only make a request under clause C12.2.3 where it reasonably believes, based on information in its possession, that the land is subject to risk from flood or has the potential to cause increased risk from flood. C12.2.5 This code does not apply to land subject to the Coastal Inundation Hazard Code.
Concern	The applicability of the code.
Comment	That the flood code is not applicable when the coastal inundation code is. It is unclear why the flood-prone areas hazard code and the coastal inundation hazard code cannot both be applicable to a site. The codes, whilst similar in provisions and required information, both require very specific flood reports relating to inland flooding and coastal flooding. There are instances of properties where both the overlay mapping applies, however only the coastal inundation hazard code would be applicable. This has the potential to fail new developments within these areas, as they would not be assessed against the potential impacts on inland flooding.

C13.0 Bushfire-Prone Areas Code	
Number	28
Clause Reference	C13.2 - Application of this code
Clause	**C13.2 Application of this Code** C13.2.1 This code applies to: (a) subdivision of land that is located within, or partially within, a bushfire-prone area; and (b) a use, on land that is located within, or partially within, a bushfire-prone area, that is a vulnerable use or hazardous use.

Concern	The code only applies to subdivision.
Comment	It is unclear why the code only applies to subdivision of vulnerable or hazardous uses. Whilst it is understood there is a bushfire code required to be addressed at the building stage, this can cause issues with approved planning permits. There have been multiple instances of planning applications being approved, and then having to proceed through to a minor amendment or a new application as their bushfire assessment has resulted in the location of a building been changed, or needing the building to be redesigned. There have also been instances of properties outside of a priority vegetation area at the planning stage, but requiring significant clearing through a bushfire hazard management plan at the building stage, which required the removal or priority vegetation, and the requirement of a new application.

C14.0 Potentially Contaminated Land Code

No current known concerns.

C15.0 Landslip Hazard Code	
Number	29
Clause Reference	C15.4 - Use or development exempt from this code
Clause	**C15.4 Use or Development Exempt from this Code** C15.4.1 The following use or development is exempt from this code: (a) use of land within a low or medium landslip hazard band, excluding for a critical use, hazardous use or vulnerable use; (b) use or development of land for Extractive Industry where a mining lease under the *Mineral Resources Development Act 1995* is in force, excluding a hazardous use; (c) use of land for: (i) Natural and Cultural Values Management; (ii) Passive Recreation; (iii) Resource Development; or (iv) Utilities; (d) development on land within a low or medium landslip hazard band that requires authorisation under the *Building Act 2016*; (e) development, including subdivision, on land within a low landslip hazard band, if it does not involve significant works; (f) development for Resource Development on land within the low or medium landslip hazard band, if it does not involve significant works; (g) development for minor utilities or linear utilities associated with sewer, water, or stormwater systems, electricity, gas, telecommunications and roads, if it does not involve significant works; (h) subdivision of land within the medium-active or high landslip hazard band, if it does not involve any works; and (i) subdivision of land within a medium landslip hazard band if: (i) it does not involve significant works; or (ii) it does not create a new road, or extend an existing road.
Concern	C15.4.1(d) - Clarification
Comment	It is unclear what the exemption means when it states 'authorisation under the Building Act 2016'.
Number	30

Clause Reference	C15.3.1 - definitions C15.4 Exemptions
Clause	**C15.4 Use or Development Exempt from this Code** C15.4.1 The following use or development is exempt from this code: (a) use of land within a low or medium landslip hazard band, excluding for a critical use, hazardous use or vulnerable use;
Concern	The code has the ability to exempt a single dwelling, so long as it meets the exemptions.
Comment	The issue lays with a use and development that may be exempt from the code, but changes uses later. If a single dwelling were to apply for a use as vulnerable or hazardous, how could the change of use proposal meet the requirements of the code when the building is already constructed.

C16.0 Safeguarding of Airports Code

SECTION 6 - MISCELLANEOUS

Number	31
Clause Reference	N/A
Clause	N/A
Concern	Housing design and quality
Comment	There is a lack of housing guidance in terms of design. It is hoped that the State Planning Provisions review looks at house design and quality to ensure that these aspects are assessed. Currently, there are no design guidelines against climate change or urban design, and the ability to construct a dwelling is unfettered, not taking into consideration any guidelines. It would be prudent that guidelines or policies are established so that Planning Authorities will have the ability to guide design for their cities or towns.

Number	32
Clause Reference	N/A
Clause	N/A
Concern	Visitor Accommodation
Comment	Visitor accommodation is used often when multiple dwellings are not permitted or allowed. It appears to be somewhat of a loophole, as some of those constructed visitor accommodation units are used for long term rental. It is suggested that visitor accommodation density be looked into to ensure loopholes are not exploited.

Number	33
Clause Reference	N/A
Clause	N/A
Concern	Business using residential land.
Comment	Business uses moving out to the fringe of the CBD or activity centres and into residential areas. A review of use classes within residentially zoned land is appropriate.

Number	34
Clause Reference	N/A
Clause	N/A
Concern	No provisions for Public Open Space
Comment	There is no code that requires the provision of public open space, nor are there any requirements through the subdivision provisions of any of the zones. It appears that the only path is through LGBMP.

tasmanian conservation trust inc

11 August 2022

State Planning Office
Department of Premier and Cabinet

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State Planning Provisions review - scoping issues

The TCT does not wish at this point in the SPP review process to make specific comments on the SPPs. The TCT's main point is that the state government has gotten its priorities incorrect and needs to reconsider the order in which different reviews are undertaken. Prior to reviewing the SPPs the process of developing the Tasmanian Planning Policies should be concluded. It is only sensible that the policies are set first and that these are used to direct the review of the SPPs. As we have been saying for years, it doesn't make sense to develop the Statewide Planning Scheme or review elements of it before developing TPPs. The higher-level policies are meant to guide the development of the scheme and SPPs. To finalise the scheme and review the SPPs and then develop TPPs is just illogical and ineffective and suggests that the government does not take the TPPs seriously.

TCT made a submission in October 2021 to the"Scoping paper for Draft Tasmanian Planning Policies". In that submission the TCT's main point was that we were unable to make informed comments on the SPP scoping process because the state government had not provided the community with a statement of the planning policy framework that was incorporated into the existing SPPs. The TCT submission on the TPPs is attached here and forms part of this submission to the SPP review.

In conclusion the state government should put on hold the SPP review. The TPPs need to be developed first. That a precondition of developing the TPPs is to inform the community of the policy framework that is contained within the existing SPPs. When the TPPs are finalised they assist in the SPPs review.

Yours sincerely

[redacted]

Peter McGlone
CEO Tasmanian Conservation Trust
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22 October 2021

Scoping paper for Draft Tasmanian Planning Policies

Liberal planning policies: a not so short history

The state government's approach to policies related to planning (whether they are state policies or Tasmanian Planning Policies) can only be described as perplexing. In the lead up to the 2014 state election the Liberal party had a policy to:

> 'Immediately after the election..' 'We will commence drafting state policies to provide the necessary guidance to councils on how to implement the single statewide planning scheme and plan for Tasmania's future land use needs.'

The election policy made it clear the policies were to focus on economic development.

There was no action on planning policies immediately after the election.

The State Government released the documents 'Tasmanian Planning Policies: Overview and suit of policies' and 'Tasmanian Planning Policies: an explanatory document' in April 2017 and requested public comment on them. The introduction to the explanatory document reiterated the 2014 election policy and also stated:

> 'Feedback from local government and a range of stakeholders on the draft Land Use Planning and Approvals (Tasmanian Planning Scheme) Amendment Bill 2015 indicated that the new Tasmanian Planning Policies will address a widely recognised gap in the planning system by providing strategic direction on matters of state interest, guiding councils when they make decisions regarding development and land use planning.'

But shortly after the release of these documents the government withdraw the 'suit of policies' claiming they were provided merely as examples. And the

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'widely recognised gap in the planning system' has remained unfilled to this day.

If the government had treated this issue seriously it could have created legislation and developed the planning policies by the end of 2017, well ahead of the roll out of the Statewide Planning Scheme. It could have done this without using the already prepared 'suit of policies'. As it eventuated the legislation t5o create TPPs was passed by Parliament in November 2018 but no action was taken on TPPs until a few months ago.

The planning policies that were a priority in 2017 and before that in 2014 still have not been developed. Nearly eight years later the Statewide Planning Scheme is in force in much of the state and we have not seen any planning policies developed. Now the government wishes to develop policies that will probably not be finalised until the Statewide Planning Scheme is in place across the state.

The current TPP scoping process

The current consultation process is seeking comments on the scope of yet to be drafted TPPs.

While it is never too late to develop TPPs, the government deserves to be severely criticised for developing the Statewide Planning Scheme in the absence of publically state polices (after promising to develop the policies first), and now wanting to develop polices when the scheme is nearing completion.

The TPPs or other policies such as state policies have the purpose of driving the development or revision of regional planning strategies and then potentially amendments to the Statewide Planning Scheme. The community would be justified in not having faith in the current process having any significant benefit.

The TPP scoping process is occurring in total isolation from the existing planning system. This calls into question whether the government really wants to find out what the community thinks and has an interest in responding to it. Instead it may be that the state government is going through the motions with consultation but will simply develop TPPs that reflect the policy intent of the existing Statewide Planning Scheme, but perhaps with tweaks to better suit its policy interests.

The community is at a great disadvantage by needing to convince the state government to overturn its existing policies, as embodied in the statewide planning scheme, if it is needed to implement its policy interests. If the TPPs had been done first, then the community and government would have been on a level paying field.

To assist in addressing this dire situation, the government should admit to the farcical situation where the planning policies are being developed after the scheme and seek to make amends for this. At a minimum, it must develop and release for public comment a statement of the planning policies that underpin the existing Statewide Planning Scheme and provide detailed justifications for them. This would allow the community to directly challenge the existing policy framework as well as identify what they want that is different. The government should make it clear that it is willing to make changes to the policies in response

to community comments and that this would flow through to changes to the scheme.

When the state government does identify what the existing planning policies are and the justifications for them then the TCT would welcome the opportunity to make a submission.

Yours sincerely

[redacted]

Peter McGlone
Director
[redacted]

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

12 August 2022

To whom it may concern,

re. State Planning Provision Review

My name is Michael Haynes and I am the director of Future Common. Future Common is an urban planning consultancy based in Hobart that works to improve the conditions for active and sustainable transport, community led placemaking, and the development of our towns and cities public and shared spaces for the benefit of all people and visitors to Tasmania.

I am writing this submission to the State Planning Provision (SPP) review to advocate for the inclusion of public space provisions into the Tasmanian Planning Scheme. Currently, these crucial spaces of transport, recreation, leisure and connection are not sufficiently addressed by the planning scheme, and are leading to inadequate results for the accessibility, sense of place and community wellbeing of our towns and neighbourhoods.

As the owners and managers of our State's public space, it is the responsibility of the relevant governments to ensure the provision of high amenity and quality infrastructure and service that meets the needs of every Tasmanian or visitor to this land. Without firm and locally applicable statutory provisions in our planning system that reflect the varying needs of different communities, our public spaces are becoming devoid of cultural representation while amplifying barriers for people to move, communicate and exchange in our shared spaces.

The benefits of including the standards of our public spaces in the SPP review are numerous and profound. Public places that invite and welcome people help people connect to their neighbours, encourage healthy and sustainable lifestyles and help empower the needs and contributions of people often overlooked in our society, including the elderly, people with disability, our young people and children. All these influences are crucial to the wellbeing and contentment of our people - helping overcome isolation, improving long-term health outcomes, reinforcing community cohesiveness and resilience and enabling social and economic opportunities.

This is vitally important in Tasmania as we have the highest percentage of people with disability in Australia, the most aging population, the lowest access to employment and entertainment and the most sparse public open space provision of any capital city in Australia. Good public

space policy in the SPP is the key ingredient to overcoming these disadvantages - enabling universal design and access, economic and employment opportunities and providing equitable access to wellbeing and the sense of belonging in community and nature.

Future Common would like to see the inclusion of a Neighbourhood Code into the SPP that can reflect the needs and desires of local towns and centres. The Heart Foundations 2016 submission to the draft SPP built an excellent case and background to the impact of good neighbourhood design and standards. Further, we are seeing the influence in other Australian jurisdictions, especially the 20 minute neighbourhoods that are guiding the Victorian planning system.

The SPP should be a guiding policy for the development of great places to live and visit. If it only addresses the administration of private land, it would seem the relevant governments have succumbed to the wants of the wealthy, established and powerful over the needs of the majority who use, traverse and exist outside of the exclusive ownership of land.

I consider it exciting that the SPP review can find innovation of governance, expanded opportunities beyond the constraints of the established private land and welcome people who have previously been excluded due to poor planning and provision of social, beautiful and accessible infrastructure.

Future Common is happy to contribute further to conversations about how a neighbourhood code could be included into the SPP.

Your sincerely,

Michael Haynes

Director

Future Common
[redacted]

12th August 2022

TMEC
Tasmanian Minerals, Manufacturing & Energy Council

Cleaner.
Smarter.
Diverse.

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Dear Sir or Madam,

Re: Submission: State Planning Provisions review

TMEC represents the state's minerals, manufacturing and energy industries and provides leadership, effective issues management and cooperative action on behalf of its members. Our mission is to promote the development of sustainable exploration, mining, industrial processing and manufacturing sectors which add value to the Tasmanian people and communities.

TMEC's membership base represents an important wealth creating sector within the Tasmanian economy. Minerals exports alone account for 64 percentage of Tasmania's commercial exports and is the foundation stone of many regional communities with 5,600 direct jobs.

TMEC welcomes the opportunity to provide its views on aspects which frustrate members and potential developers and request the authors of the scoping document consider the applicability of these issues within the context of what the SPP's could influence.

One of the criticisms and frustrations routinely raised by TMEC's member companies is the inefficient elements where overlaps occur and or gaps between different planning authorities such as local government and the EPA. Cases have been cited where Local Government are required to make approval decisions on aspects where the expertise exists in another authority. The impact when this happens is that timeframes cannot be committed to and attempts to resolve this often ends up with duplication of resources, rework, and other wasteful outcomes.

The same can occur within large Councils where internal processes stall due to gaps in who has authority, etc.

The scoping study should seek to identify where overlaps or gaps (it is not clear who has the authority to decide) occur in the decision making and approvals process between different authorities. Once identified, it provides focus on where a change is needed to provide improved certainty.

One of the key attractions for investors to consider Tasmania as a destination is the Strategic Prospectivity Zone, which affords some clarity on ensuring a key mineral resource should not be inadvertently sterilised through a rezoning decision. This presents a problem for new entrants as well as existing operators who may be seeking to extend their footprint and find land has been rezoned which prohibits this from occurring. Businesses (extractive industries - mines and quarries, but also mineral processing and manufacturing facilities) are being encroached upon by new developments. Examples include residential zones being established in what may have been "buffer zones" (by design or by chance) and now a new resident complains about noise or smell from a business which has operated for decades. This can mean millions of dollars of sunk capital being put at risk.

The scoping study should understand how existing Acts are neutralised by subsequent changes to planning zones and what mechanisms could be utilised to prevent this from happening.

The Canadian based Fraser Institute carries out a comparative analysis of global mining jurisdictions across a range of factors which ultimately rank jurisdictions by a consolidated rating for investment attractiveness, but also shows individual criteria rankings. Overall, Tasmania ranks 19th out of 84, an improvement over the previous year. The diversity and value of the minerals in Tasmania has made Tasmania more attractive. Tasmania ranks the worst of all jurisdictions over, "Uncertainty of protected areas". Also dragging down Tasmania is disputed land claims, duplication of regulation and uncertainty concerning environmental regulations.

The scoping study should include references to interstate and international "best practice" benchmarks to understand Tasmania's comparative performance which in turn may provide insights on how it could be improved, or at least, "what good might look like".

Thank you for the opportunity to provide feedback on the State Planning Provisions review. Please don't hesitate to contact us if you require further information.

Yours sincerely,

Ray Mostogl
Chief Executive Officer

Department of Health

GPO Box 125, HOBART TAS 7001 Australia
Web: www.health.tas.gov.au

Tasmanian Government

Contact: Shane Gregory
Phone: [redacted]
E-mail: [redacted]

Our Ref D22/77332

Michael Ferguson MP
Deputy Premier
Minister for Planning
Department of Premier and Cabinet
State Planning Office

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

Scoping the State Planning Provisions (SPP) Review

The Department of Health (the Department) welcomes the opportunity to provide input into the 5-yearly review of the State Planning Provisions (SPPs).

The Department owns and manages significant health infrastructure assets across Tasmania and is also responsible for the delivery of an extensive range of health services. These assets and services are distributed throughout the State, from urban and regional centres to rural and remote locations and should be directly considered as part of the scope of the SPPs review.

The health sector interacts with the planning system on many levels. For example, identifying and developing appropriate, well-located land for health facilities such as ambulance stations and helicopter land sites (helipads), that are critical to emergency patient care.

Given the significance of health infrastructure to the community, and the level of Government investment into health facilities, it is appropriate that the development of this infrastructure is supported by approval pathways that provide clarity during the early planning phase.

Over recent years the Department has been provided with differing advice in relation to the use and development of helipads for aero-medical retrieval and emergency patient transfer (medical transport) purposes and wishes to seek clarification through your SPP review process. Our analysis of the issue is outlined in the table below.

Issue - Helipads
• Heliports are listed in the Transport and Distribution Use Class. The Transport and Distribution use class is permitted only in a limited number of zones. • Heliports would ordinarily include infrastructure such as hangars, servicing, refuelling and office facilities. • A 'helicopter landing site' or 'helipad' for purposes of providing medical transport does not include the infrastructure that typically forms part of a 'heliport'. • On this basis, it would be inappropriate to describe a helipad as a heliport. • In most instances a helipad will be constructed on or adjacent to a hospital or medical facility and therefore, would be considered a subservient use to the Hospital Services or similar use (e.g. Emergency Services). • However, in the event that a helipad for medical transport purposes is not subservient to another use, it would be more appropriately listed in the Emergency Services Use Class. • This clarification is important for future planning of helicopter landing infrastructure.
Department of Health proposal
• There should be a clear distinction between heliports and helipads and as such each allocated to the appropriate Use Class i.e. Transport & Distribution and Emergency Services respectively, noting that some helipads will be subservient to another use e.g. Hospital Services. • Specify 'helipad' or 'helicopter landing site' for medical transport alongside police, fire and ambulance in the Emergency Services Use Class Description to remove the risk of an alternative interpretation. • Propose: Examples include ambulance station *<including helipads for medical transport>*, fire station and police station, or similar.

We look forward to further engagement during the review of the SPPs and would be pleased to expand on the issue raised above or any other matter that has the potential to impact our ability to deliver health infrastructure and services to the Tasmanian community.

Yours sincerely

Shane Gregory
Deputy Secretary Infrastructure

11 August 2022

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

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

cc Michael.ferguson@dpac.tas.gov.au

12 August 2022

To whom it may concern,

Submission to State Planning Provisions Review – Stage 1 – Scoping Issues

Overall, with fewer discretionary developments and more exemptions, there is a reduction in the community's right to have a say in developments that affect them and the beautiful state of Tasmania. This is a disappointing feature of the State Planning Provisions (SPP), which, although not yet fully enacted across all 29 councils, are causing contested developments, community anxiety, delays, and inefficiencies. For Launceston Heritage Not Highrise issues regarding building height, solar access, heritage, and local character are of the utmost importance.

SPP and the Land Use Planning and Approvals Act 1993 (LUPA 93)
This revision process must be conducted with constant measurement against the Objectives of the LUPA 1993 The SPP under review does not reflect these objectives. The Tasmanian Planning Policies do list these objectives as intended but the current review must start this incorporation now.

We fully endorse the review submission from Planning Matters Alliance Tasmania (PMAT).
Launceston Heritage Not Highrise is a member group of PMAT. We have read and agree with this submission which has been prepared with great care and commitment incorporating input from professionals in the field and stakeholders.

In addition, we strongly recommend that PMAT be engaged as a stakeholder member of the reference/consultative group that is to be established as part of this review.
Their expertise, dedication and broad community representation is essential to the delivery of good outcomes.

This is also appropriate regarding the Stage 2 Review and the Tasmanian Planning Policy.

The composition of the review panel is an important aspect of this stage and must be seen to be broadly representative of the community. *"…progression of Stage 1 amendments to the SPPs through the normal processes with assistance from stake holder reference/consultative groups."*
planningreform.tas.gov.au/planning-reforms-and-reviews/review-of-the-state-planning-provisions

We also endorse the supporting documents to the PMAT submission:

- Local Historic Heritage Code – prepared by Danielle Gray of Gray Planning
- Residential Zones and Codes – prepared by Heidi Goess of Plan Place
- Natural Assets Code – prepared by Dr Nikki den Exter

A relevant document we have consulted and endorse is:

- Heart Foundation Representation to the final draft State Planning Provisions March 2016

The information from the above submissions include important recommendations to improve the SPP. Just what amendments/additions could be made before Stage 2 is confusing – the reference to minor amendments being made without public consultation is an area of concern. Nonetheless there is a pressing need for amendments to be made asap to apprehend developments happening via a weak and faulty scheme. There are decisions being made now, across all zones, that will leave a legacy for hundreds of years.

Yours sincerely,

Victoria Wilkinson & Jim Collier on behalf of Launceston Heritage Not Highrise

[redacted]

Gray Planning

Solutions for Town Planning & Heritage

Danielle Gray, Principal Consultant

Gray Planning

224 Warwick Street

West Hobart TAS 7000

12 August 2022

State Planning Office
Department of Premier and Cabinet
GPO Box 123
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Dear Mr Sir/Madam,

REPRESENTATION SPP REVIEW: DEVELOPMENT STANDARDS FOR GENERAL, INNER AND LOW DENSITY RESIDENTIAL ZONES

This representation outlines my concerns about the direction of Planning Schemes and the resulting residential development in urban areas that has occurred over the last 25+ years of my working life as a town planner in Tasmania.

During that time, I have witnessed a serious erosion in the amenity offered by residential development in residential areas that are produced as a result of development standards in Planning Schemes.

The 2010 book *The Life and Death of the Australian Backyard* by Tony Hall (CSIRO Publishing) provides detailed research on the link between residential development that fails to address climate change and contemporary planning scheme controls for residential development in urban areas.

My concerns centre around the density, building envelope, private open space and site coverage development standards for residential zones, specifically General Residential, Inner Residential and to a lesser extent, Low Density Residential zones.

From Interim Planning Schemes to the State Planning Provisions (SPPs), there has been an ongoing decline in the requirement for residential development to provide for any meaningful private open space and the maximise development versus available site area.

Changes in the last 12-18 months to General and Inner Residential zones under Interim Planning Schemes removed the requirement for a 4m setback from rear boundaries in terms of the placement of prescribed building envelopes, removed the requirement for a

site area that is at least 25% free from impervious surfaces and also watered down requirements for private open space.

Development standards for these zones do not require any street planting to be provided for subdivisions.

Development standards do not provide any consideration for avoiding darker colour schemes for external cladding of buildings and do not provide any consideration of colour schemes for impervious surfaces.

Development standards for buildings in other (non urban) zones in fact require darker colours schemes where LRV assessments are required.

Development standards encourage 4-5m setbacks from frontages that result in meaningless and largely unusable areas of space between a dwelling and the street.

Conversely, development standards no longer require the building envelope to have a setback from the rear boundary.

Development standards that sought to place a limit of the extent of impervious surfaces have disappeared altogether.

Minimum lot sizes have continued to shrink for new lots in residential areas. In the early 2000's minimum lot sizes were typically around 600sqm for residential areas and in some Planning Schemes, there was a prohibition on lots under 600sqm.

Minimum lot sizes are now as low as 200sqm (A1 Acceptable Solution for clause 9.6.1 in Inner Residential zones) while site coverage requirements have, over time, been increased to 65% (A1 Acceptable Solution for clause 9.6.1 in inner Residential zones). These have the ability to be further varied by discretion with no set limits provided in triggered Performance Criteria.

Private open space (as a permitted Acceptable Solution) for multiple dwellings states a requirement to have *50% of the private open space to receive less than 3 hours of sunlight within the hours of 9.00am to 3.00pm on 21st June*. This should be part of Performance Criteria, not as an Acceptable Solution.

There are now maximum lot sizes for lots in residential zones. These have the ability to prohibit simple boundary reorganisations between properties. On that basis, a boundary adjustment/reorganisation clause (where no new lots are created) needs to be included for all residential zones to facilitate such adjustments rather than these being assessed under subdivision development standards.

Development standards for subdivisions which include a new road have Performance Criteria where there is no reference whatsoever to providing any street planting or nature strip. While many Councils understandably may not wish to have more nature strips to mow and maintain, street trees within a year or two (if properly planted) are generally maintenance free.

As a planner, I understand the need for densification to provide for population growth, minimise sprawl and take advantage of existing serviced areas.

However, SPP development standards for dwellings (single and multiple) are encouraging and facilitating residential development that significantly covers lots with dark roofed development and hard paving with no meaningful private open space for residents, no ability to plant even a small tree in any area of private open space of such lots, a proliferation of dark external cladding and surfacing materials that result in a 'heat island' effect, a lack of any meaningful green spaces and typically an absence of any street planting.

Current Interim development standards and the SPPs we are transitioning toward are promoting dense, treeless suburbs with an absence of any greenspace.

As already noted, Interim Planning Schemes and the SPPs even place maximum lot areas in residential areas. Having a ceiling for lot sizes in residential urban areas is considered absurd and short-sighted and forces people to reduce lot areas.

Development standards governing the provision of private open space encourage, facilitate and result in virtually unusable private open space or the ability to plant trees. Private open space areas for many unit developments I regularly see as a consultant consist of south facing narrow strips of land to the rear of a unit where one could not even plant shrubs, let alone a tree or put in a sandpit for a child. Many such strips are even less than 1m in depth from the dwelling rear wall to the rear boundary fence.

As our planet heads toward more frequent heat waves, droughts and rising global temperatures, such planning development standards governing residential development as currently contained in the SPPs are short-sighted, result in reduced amenity for residents and communities, increase energy usage, result in treeless suburbs, increase stormwater runoff and refuse to acknowledge, let alone address climate change.

The concerns I am raising are not merely academic ones that have little basis in the reality of day to day statutory and strategic town planning. They are concerns that are only now being acknowledged by other states who are changing development standards to respond to the dangers of climate change.

In particular, the government in New South Wales are making changes to planning development standards to address climate change.

In August 2021, dark roofing has been banned in planning controls in areas of Sydney. Likewise, planning controls have been changed to require sufficient room in private open space for the planting of trees.

Source: https://www.theguardian.com/australia-news/2021/nov/16/ultimately-uninhabitable-western-sydneys-legacy-of-planning-failure

https://www.smh.com.au/national/nsw/blistering-temperatures-dark-roofing-banned-on-sydney-s-urban-fringe-20210820-p58kma.html?utm_medium=Social&utm_source=Twitter#Echobox=1629698892-1

The following image of western Sydney residential development was taken from an online article dated 16 November 2021:

Source: https://www.theguardian.com/australia-news/2021/nov/16/ultimately-uninhabitable-western-sydneys-legacy-of-planning-failure

The above photo example shows housing development that is entirely able to be approved under the current SPPs for single dwelling residential development in the General Residential zone.

The above development shows a sea of dark coloured roofing, dwellings covering the vast majority of lot area, dark coloured roads and a general absence of any trees in the tiny rear gardens. There are, however, some street trees evident on the left hand side of the image – something which one will rarely see in any new subdivision areas in Tasmania.

Such development is able to be easily found in urban areas throughout Tasmania that are the result of Planning Scheme development standards pushing for higher densification in the last 10-15 years.

Above Channel Highway in Kingston (source TheList, August 2022): Newer residential development (approved and constructed in the last 10 years) is able to be easily identified against older 1970's and 1980's residential development by the large areas of hard paving, absence of meaning private open space and dark roofing located closely together.

Above Guthrie Court and Eldridge Drive in Kingston (source TheList, August 2022): The above residential development (approved and constructed in the last 10 years) is comparable to the Western Sydney example provided on page 3 of this representation with small areas of narrow strips of private open space where planting even a small tree will be difficult, dwellings and hard paved areas covering a significant portion of each lot, an absence of any street trees, an absence of any trees in gardens and a sea of dark coloured roofing material coupled with dark asphalt road paving.

The SPPs must be amended to insist upon climate sensitive residential development in urban areas.

This includes the requirement to:

- ban dark coloured roofing,
- minimise dark external wall cladding, ban dark coloured hard paving (including Council road surfacing and footpaths),
- remove maximum lot sizes for lots in residential areas,
- reinstate the requirement for a site area that is at least 25% free from impervious surfaces (not able to be varied by discretion),
- require street planting (or contributions to the Planning Authority in the same manner as public open space contributions are handled under LGBMPA) as part of new subdivisions and multiple dwelling developments, and
- increase minimum areas for private open space (with minimum dimensions in both directions) so that these areas are actually useable and able to accommodate tree plantings.

Consideration should also be given to a minimum areas for the provision of private open space that cannot be varied by discretion and maximum site coverage areas as part of Performance Criteria, particularly for development standards in the General Residential zone.

Consideration should further be given to reinstate a rear boundary setback for the placement of building envelopes.

Multiple dwelling developments are by far the worst offenders when it comes to unusable areas of private open space and significant areas of the site being covered in either roofing or hard landscaping. Such developments are common throughout urban areas in Tasmania and I regularly see such development in the Brighton, Kingborough, Clarence, Glenorchy and Sorell municipalities in recently subdivided and developed residential areas.

The failure to place overall limits on the number of unit developments able to be accommodated in any residential area results in cheek to jowl dwellings packed in like sardines and an absence of any trees whatsoever.

Clarence City Council under their 1963 Planning Scheme had a unit density clause that allowed for a maximum number of dwellings in a measured residential area surrounding a potential development site. This was devised by Council's then senior planner Roger Howlett. This development standard resulted in pockets of higher density unit development throughout residential areas rather the entirety of residential areas being able to accommodate open slather cheek to jowl infill development devoid of gardens and any trees.

The SPPs as currently written fail to address any climate change issues I have raised in this representation.

Planning Schemes are currently producing residential development and residential zoned areas with very poor amenity and community outcomes that ignore climate change.

Such development encouraged by current Planning Scheme residential standards exacerbate the impacts of climate change while also destroy the opportunity for many children growing up today to experience a remotely useable backyard.

As a planner, I consider the wording of development standards for residential development in the SPPs to be a complete failure when it comes to addressing climate change and providing any quality residential development that provides amenity for communities and residents.

Furthermore, the SPPs as currently written are completely anti-tree and greenspace. Any planner, architect or urban designer should know the importance of trees and green spaces for the wellbeing of humans and communities as well as the environment and wildlife.

The SPPs need to be rewritten to address such concerns as outlined in this representation.

A failure to make any progressive changes will highlight a failure of planning in Tasmania to address climate change at a basic level in the planning and wellbeing of our residential communities.

Should you wish to discuss the above, I may be contacted on [redacted].

Yours faithfully

[redacted]

Danielle Gray B.Env.Des. MTP. MPIA

Principal Consultant, Gray Planning

KING ISLAND COUNCIL

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

11 August 2022

Dear Brian

STATE PLANNING PROVISIONS REVIEW

Thank you for the opportunity to make a submission on the review of the State Planning Provisions (SPP).

While King Island Council is still to lodge its Local Provision Schedules some issues arising with the implementation of the SPPs have been identified that are considered will have implications in the implementation of the SPPs in our municipality.

These issues include, but are not limited to:

- C7.0 Natural Assets Code – definition of watercourse and the implementation of Standard C7.6 Development Standards for Building and Works, particularly A4. In areas where there are extensive drainage channels essential to maintaining the ability to continue agricultural practices it is difficult to:
    - Differentiate between natural watercourses and drainage channels. For primary producers to maintain essential drainage lines this essential work cannot be undertaken relying on a discretionary permit for approval as there are no exemptions in Clause 4. Clause 4 does not recognize open drains but does recognize irrigation pipes. This is best explained through the use of LISTmap by applying the Waterway and Coastal Protection Area Guide Map over King Island
- C9.1 Attenuation Code – application of code to areas within an attenuation zone where infill of similar existing uses , particularly where those sensitive uses were established to support the use being attenuated, for example residential dwellings in mining towns.
- C16.0 Safeguarding of Airports Code – sections of the Code are only applicable where the airport is under a Commonwealth lease or falls under the *Airports Act 1996 (Commonwealth).* This fails to protect the smaller airports, particularly

where local communities are highly reliant on a local airport that does not fall under Commonwealth protection.

If you require further clarification on any of the above issues please contact Council's [redacted]

Yours sincerely

[redacted]

Kate Mauric
General Manager

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SUBMISSION TO THE
STATE PLANNING PROVISIONS (SPPs) REVIEW

My Concerns and recommendations regarding the SPPs cover 15 broad issues.

As a founder member of the Launceston Community Group, **Launceston Heritage Not Highrise (LHNH),** my interest in Planning matters arose for a number of reasons but initially because of the intent by developers to build a 39 metre hotel, to be known as the Gorge, Hotel, at a location in Launceston which many in the community considered to be most inappropriate.
An Appeal (Appeal No: 58/19P Nov. 2019) against the project was lodged with the Resource Management and Planning Tribunal by the owners of the adjoining property; …the Appeal was successful.
The Community were subsequently absolutely appalled at the devious way in which the Resource Management Planning Appeal Tribunal's decision in respect of the proposed Gorge Hotel in Launceston was so easily overturned by Launceston City Council through amending their interim Planning Scheme (amendment 66) to facilitate the proposed Hotel, a decision supported by the Tasmanian Planning Commission, resulting in, in the eyes of the community, the loss in credibility, integrity and trust of all organisations involved (LCC, RMPAT & TPC).

It is so vitally important that the Community has faith and confidence in the Planning and Planning Appeal system yet this was completely destroyed in the above action maybe never to return.

I am also concerned for the average householder/homeowner, such as myself, who may suddenly find themselves in the unenviable situation

of having a 2 or 3 storey building, or a large brick wall, suddenly built right up to their border.

Or, as in the Gorge Hotel case in Launceston, where it is proposed to build an 39 metre storey Hotel right up to the boundary of a small family run restaurant which, although the restaurant owners took all the right actions in appealing and were ultimately successful in the Appeal, only to find that decision reversed by what can only be described as, though maybe quite legal, shonky and devious methods.

I also endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions which includes detailed submissions compiled by expert planners regarding three key area: the *'Natural Assets Code,* the *Local 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.

Major (but not exclusive) Areas of Concern:

1. CLIMATE CHANGE ADAPTION and MITIGATION
Adaptation
Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, …all of which have been experienced in Australian in the last 2-3 years, 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 subdivision 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.

While on the subject of renewable energy, which will become increasingly important at the world moves to Net Zero, I am concerned that there appears to be no strategically planned Wind Farm designated areas.
I do not want open slather wind farms right across the state industrialising our science landscaped but would like to see appropriately placed wind farms decided after after careful modelling of all environmental data.
This is especially important as based on the 200% Tasmanian Renewable Energy Target I believe this could equate to approximately 89 wild farms and over 3,000 wind turbines in Tasmania!

RECOMMENDATIONS:

1. The SPP's be amended to better address adaption 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 building and subdivision 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. COMMUNITY CONNECTIVITY, HEALTH and Well-being:

The SPP's currently have limited provision to promote better health for all Tasmanian, such as facilitation of walking and cycling opportunities across suburbs, ensuring local access to recreation areas and public open stand and addressing food security.

RECOMMENDATION

Liveable Streets Code

I endorse the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*', which calls for the creation of a new '*Liveable Streets Code*'. In their representation they stated '*In addition to, or as alternative, the preferred position is for provisions for streets to be*

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

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

Public Open Space

I live in the West Tamar Local Government Area and I believe West Tamar are regularly accepting 'contributions' in lieu of Public Open Space; …this is of serious concern.

I recommend creation of 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. I 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 mandatory 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.

PLEASE note my earlier comments re **'contributions'** at the head of this section in regard to West Tamar Council

RECOMMENDATION:

I recommend creation of a new *Neighbourhood Code*.

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 I acknowledge 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*."[1]

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

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

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

RECOMMENDATION

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

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[1] 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

4. HERITAGE BUILDINGS and HERITAGE LANDSCAPE ISSUES

I consider 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; …this is of serious concern.

As prominent Launceston Historian Dr Eric Ratcliff once said: *Launceston's future lies in its past!*

So many of Launceston and Hobart's historic buildings have long been lost due to development; …it is vitally important to save what is left.

Expert Planner Danielle Gray of Gray Planning drafted a detailed submission on the Local Historic Heritage Code for Planning Matters Alliance Tasmania.

I wholeheartedly support and endorse the Gray submission and urge the Review to consider and implement the recommendations.

RECOMMENDATIONS:

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 recommendation regarding the Local Historic Heritage Code as outlined in the Gray Planning submission.

A code should be introduced whereby SIGNIFICANT TREES are identified and protected.

5. 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, and as stated in the PMAT submission (and repeated here) 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.

Anecdotally I have heard of one multi unit housing development where emergency services vehicles could have significant problems accessing some properties as there were so many built so closely together.

At this time my wife and I feel compelled to build a fairly large back fence as a 2 storey house is being built behind us which we feel will intrude in to our privacy.

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.

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 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.

6. 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.

Blocks are getting smaller while houses are getting larger; as shown below this can have consequences.

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 my 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 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.
- 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 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 submission to the draft SPPs in 2016.

RECOMMENDATION:

I 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.

7. STORMWATER

Launceston currently has a partially combined sewage/stormwater infrastructure system which, during certain weather conditions, can overflow and contaminate the upper reaches of the Kanamaluka/Tamar Estuary and yet the current SPPs provides no provision for the management of stormwater; … THIS IS APPALLING and should addressed to prevent, if nothing else, a similar system ever being installed again anywhere in Tasmania.

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

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

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

management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

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

RECOMMENDATION:

The SPPs should include a new *Stormwater Code*.

8. COASTAL LAND USES

I consider that weaker rules for subdivisions and multi-unit development will put our undeveloped beautiful coastlines under greater threat.

For example, the same General Residential standards that apply to Hobart and Launceston cities also apply to small coastal towns such as Bicheno, Swansea and Orford.

The SPPs are not appropriate for small coastal settlements and will damage their character.

RECOMMENDATION:

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

9. 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 have concerns regarding what is permitted in this Environmental Management Zone plus the lack of set-back provisions that fail to protect the integrity of, for example, our National Parks.

Permitted Uses

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

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

Set Backs

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

RECOMMENDATION:

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.

10. 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:

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.

11. 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.

12. 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.

13. 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.

14. 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.

15. OTHER AREAS OF CONCERN:

- 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.

CONCLUSION

Overall I am calling for the SPPs to be values based, fair and equitable, informed by PMATs 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 and that of our neighbours, 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.

As a Member of Launceston Heritage Nothighrise, which is affiliated with Planning Matters Alliance Tasmania, I strongly recommend that PMAT is engaged as a member of the consultative group that is to be established as part of this review.

Submitted by

Jim Collier

[redacted]

12th August 2022

Submission on State Planning Provisions.

Dear Sir,

As a highlands shack owner and a person who has been very involved in the promotion of the sport of fly fishing here in Tasmania I would like to lodge a submission on the state Planning provisions.

It is of great concern to me that the proposal to develop wind farms in Tasmania is being considered without due state planning processes in place.

The following are some of my concerns: -

1.In the area of St Patricks Plains it appears that there no Zones or codes which provide for the responsible development of wind farms .i.e No real planning guidlines for developers and the community to have wind farms in the right location.

2.There needs to be a Wind Farm Zoning and code. There should be a requirement for wind farm developers to address a code which address social licence, turbine noise, landscape and sky line issues.

3. The code should also be addressing environmental and heritage issues as well the nation's first people's interests.

4. The impact of the size of the Wind Turbines should be considered in the code.

5 . A provision in the code for No Wind Farms Zone and a publically available document detail the zones should be available.

Regards

Malcolm Crosse

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SUBMISSION TO THE
STATE PLANNING PROVISIONS (SPPs) REVIEW

My Concerns and recommendations regarding the SPPs cover 15 broad issues.

As a founder member of the Launceston Community Group, **Launceston Heritage Not Highrise (LHNH),** my interest in Planning matters arose for a number of reasons but initially because of the intent by developers to build a 39 metre hotel, to be known as the Gorge, Hotel, at a location in Launceston which many in the community considered to be most inappropriate.
An Appeal (Appeal No: 58/19P Nov. 2019) against the project was lodged with the Resource Management and Planning Tribunal by the owners of the adjoining property; …the Appeal was successful.
The Community were subsequently absolutely appalled at the devious way in which the Resource Management Planning Appeal Tribunal's decision in respect of the proposed Gorge Hotel in Launceston was so easily overturned by Launceston City Council through amending their interim Planning Scheme (amendment 66) to facilitate the proposed Hotel, a decision supported by the Tasmanian Planning Commission, resulting in, in the eyes of the community, the loss in credibility, integrity and trust of all organisations involved (LCC, RMPAT & TPC).

It is so vitally important that the Community has faith and confidence in the Planning and Planning Appeal system yet this was completely destroyed in the above action maybe never to return.

I am also concerned for the average householder/homeowner, such as myself, who may suddenly find themselves in the unenviable situation

of having a 2 or 3 storey building, or a large brick wall, suddenly built right up to their border.

Or, as in the Gorge Hotel case in Launceston, where it is proposed to build an 39 metre storey Hotel right up to the boundary of a small family run restaurant which, although the restaurant owners took all the right actions in appealing and were ultimately successful in the Appeal, only to find that decision reversed by what can only be described as, though maybe quite legal, shonky and devious methods.

I also endorse the Planning Matters Alliance Tasmania's (PMAT) submission to the review of the State Planning Provisions which includes detailed submissions compiled by expert planners regarding three key area: the *'Natural Assets Code,* the *Local 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.

Major (but not exclusive) Areas of Concern:

1. CLIMATE CHANGE ADAPTION and MITIGATION
Adaptation
Given the likely increased severity and frequency of floods, wildfire, coastal erosion and inundation, drought and heat extremes, …all of which have been experienced in Australian in the last 2-3 years, 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 subdivision 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.

While on the subject of renewable energy, which will become increasingly important at the world moves to Net Zero, I am concerned that there appears to be no strategically planned Wind Farm designated areas.
I do not want open slather wind farms right across the state industrialising our science landscaped but would like to see appropriately placed wind farms decided after after careful modelling of all environmental data.
This is especially important as based on the 200% Tasmanian Renewable Energy Target I believe this could equate to approximately 89 wild farms and over 3,000 wind turbines in Tasmania!

RECOMMENDATIONS:

1. The SPP's be amended to better address adaption 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 building and subdivision 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. COMMUNITY CONNECTIVITY, HEALTH and Well-being:

The SPP's currently have limited provision to promote better health for all Tasmanian, such as facilitation of walking and cycling opportunities across suburbs, ensuring local access to recreation areas and public open stand and addressing food security.

RECOMMENDATION

Liveable Streets Code

I endorse the Heart Foundation in its '*Heart Foundation Representation to the final draft State Planning Provisions 7 March 2016*', which calls for the creation of a new '*Liveable Streets Code*'. In their representation they stated '*In addition to, or as alternative, the preferred position is for provisions for streets to be*

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

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

Public Open Space

I live in the West Tamar Local Government Area and I believe West Tamar are regularly accepting 'contributions' in lieu of Public Open Space; …this is of serious concern.

I recommend creation of 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. I 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 mandatory 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.

PLEASE note my earlier comments re **'contributions'** at the head of this section in regard to West Tamar Council

RECOMMENDATION:

I recommend creation of a new *Neighbourhood Code*.

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 I acknowledge 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*."[1]

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

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

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

RECOMMENDATION

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

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[1] 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

4. HERITAGE BUILDINGS and HERITAGE LANDSCAPE ISSUES

I consider 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; …this is of serious concern.

As prominent Launceston Historian Dr Eric Ratcliff once said: *Launceston's future lies in its past!*

So many of Launceston and Hobart's historic buildings have long been lost due to development; …it is vitally important to save what is left.

Expert Planner Danielle Gray of Gray Planning drafted a detailed submission on the Local Historic Heritage Code for Planning Matters Alliance Tasmania.

I wholeheartedly support and endorse the Gray submission and urge the Review to consider and implement the recommendations.

RECOMMENDATIONS:

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 recommendation regarding the Local Historic Heritage Code as outlined in the Gray Planning submission.

A code should be introduced whereby SIGNIFICANT TREES are identified and protected.

5. 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, and as stated in the PMAT submission (and repeated here) 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.

Anecdotally I have heard of one multi unit housing development where emergency services vehicles could have significant problems accessing some properties as there were so many built so closely together.

At this time my wife and I feel compelled to build a fairly large back fence as a 2 storey house is being built behind us which we feel will intrude in to our privacy.

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.

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 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.

6. 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.

Blocks are getting smaller while houses are getting larger; as shown below this can have consequences.

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 my 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 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.
- 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 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 submission to the draft SPPs in 2016.

RECOMMENDATION:

I 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.

7. STORMWATER

Launceston currently has a partially combined sewage/stormwater infrastructure system which, during certain weather conditions, can overflow and contaminate the upper reaches of the Kanamaluka/Tamar Estuary and yet the current SPPs provides no provision for the management of stormwater; … THIS IS APPALLING and should addressed to prevent, if nothing else, a similar system ever being installed again anywhere in Tasmania.

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

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

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

management strategies including appropriate safeguards to reduce the transport of pollutants off-site.

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

RECOMMENDATION:

The SPPs should include a new *Stormwater Code*.

8. COASTAL LAND USES

I consider that weaker rules for subdivisions and multi-unit development will put our undeveloped beautiful coastlines under greater threat.

For example, the same General Residential standards that apply to Hobart and Launceston cities also apply to small coastal towns such as Bicheno, Swansea and Orford.

The SPPs are not appropriate for small coastal settlements and will damage their character.

RECOMMENDATION:

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

9. 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 have concerns regarding what is permitted in this Environmental Management Zone plus the lack of set-back provisions that fail to protect the integrity of, for example, our National Parks.

Permitted Uses

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

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

Set Backs

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

RECOMMENDATION:

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.

10. 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:

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.

11. 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.

12. 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.

13. 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.

14. 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.

15. OTHER AREAS OF CONCERN:

- 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.

CONCLUSION

Overall I am calling for the SPPs to be values based, fair and equitable, informed by PMATs 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 and that of our neighbours, 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.

As a Member of Launceston Heritage Nothighrise, which is affiliated with Planning Matters Alliance Tasmania, I strongly recommend that PMAT is engaged as a member of the consultative group that is to be established as part of this review.

Submitted by

Linda Collier

[redacted]

12th August 2022

From: Carolina Bouten-Pinto
To: State Planning Office Shared Mailbox
Subject: Submission on the review of the State Planning Provision
Date: Friday, 12 August 2022 3:10:13 PM

With this email, I formally provide a submission on the review of the State Planning Provision.

I am providing this submission as a concerned citizen and a strong advocate of the requirement of a social licence to operate by a development corporation and the need for appropriate planning systems that include checks and balances that specifically guide the planning of wind farms and wind turbines anywhere in Tasmania.

As such, I believe there are serious shortcomings in the proposed State Planning Provisions that require mitigation.

Specifically:

As windfarms and wind turbines are positioned as an increasingly important aspect of the Tasmanian Energy Infrastructure, there does not seem to be a specific planning system considered in the State Planning Provision that outlines specific guidelines for wind farms and wind turbines. Why is that?

There is myriad evidence of issues regarding the positioning of wind turbines, inappropriate location of windfarms, the adverse impacts on immediate neighbours, landscapes, flora, fauna, noise and other human and environmental aspects that is available from jurisdictions outside of Australia.

These provisions must be addressed in all aspects of the State Planning Provision.

Tasmania has a lot to lose, if it does not carefully consider where wind turbines are going to be located and which areas should be excluded. Examples such as Stanley, St Patricks Plains and Robbins Island come to mind, as places that should absolutely not be considered.

It is the above mentioned locations that are contested by the people who have a vested interest, as neighbours to these proposed windfarms. Their concerns cannot be properly considered unless the State Planning system includes a provision for development corporations to *demonstrate* they have obtained a social licence from those people who will be impacted most. This means having gained the specific acceptance of its activities from neighbours and broader community stakeholders**.** Current community consultation processes are tick-the-box exercises that pit neighbours and community stakeholders against each other.

Why is the requirement to demonstrate having obtained a social licence to operate by development corporations not an integral part of Tasmanian Planning Provisions.

Consideration of these questions and the inclusion of wind turbine and wind farm specific planning schemes and the need to demonstrate having obtained a social licence to operate must be included in every aspect of the State Planning Provisions.

Thank you

Dr Carolina Bouten-Pinto
[redacted]

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

I wish to make a submission to the above review because I believe that all members of the community In a Democratic society, not just developers or the business element, must have the right to have a say about developments that may adversely affect their way of life. You, as the arbiters of this, must be genuinely able to place yourself, each and every time, in the shoes of any community member who may be confronting radical change to their environment and you must understand what the sudden impact of a high-rise building or a multiple, two-story group of units next door for example may have in terms of the lifestyle, health and possibly wealth of the affected person(s). It is therefore imperative in my opinion, that we retain full and open access to a Planning Authority in order to allow for the presentation of an objection to a development. Land use planning should be part of any democratic process through which governments, businesses, and residents come together to shape their communities for the betterment of all…equally. Having a right of input is a critical democratic element of this.

As it stands however, the current SPPs significantly reduce the community's democratic right to have a say. In many instances they remove appeal rights thereby weakening democracy which we should always be aiming to strengthen, not weaken. More developments and defined uses are able to occur without public consultation or appeal rights. It must not be forgotten that we are all part of this. Without adequate community involvement in the planning process, we risk more contested projects and delays and ultimately the whole community is negatively affected. This is highlighted by the issues that have led to much 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, lack of private open space and inappropriate site coverage, overlooking private open space and blocking existing views

Planning schemes must democratically offer a balance between development, individual rights and community amenity, and not just make it easier for development and growth at the cost of community well-being and natural and cultural values to ensure that all Tasmanians have access to a right of input in a planning system that prioritises the health and well-being of the whole community, the liveability of our cities, towns and rural areas, and the protection of the natural environment and cultural heritage.

It is my contention that the State Government's Tasmanian Planning Scheme fails to adequately address a range of matters that will result in poor planning outcomes instead of it being a planning system that deals effectively with these issues for the betterment of Tasmania's future. Ensuring that the community always has equal right to have a say is about our democracy.

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 the critically important review of the RAA whereby proposed developments can be approved under the existing deeply flawed process without any opportunity for public comment and involvement which is inconsistent with three of the most fundamental of the objects of the *Land Use Planning and Approvals Act 1993*.

It is obvious for example that residential density is being increased with minimal to no consideration of amenity for the existing communities across all urban environments however, unless this is done exceedingly well, and the community is involved, then the quality of living will only decrease and Tasmania will become just another Mainland

choked and ugly suburban wasteland. We must be critically aware of retaining the qualities that make us want to live here.

Currently infill development in our residential zones is not strategically planned and strangely (wrongly I would argue), Councils cannot reject Development Applications even though they may fail community expectations and this results in an unreasonable impact on residential character and amenity. Additionally, they remove a right of input over what happens next door to home owners, undermining democracy. People's homes are invariably their biggest asset but such unrestricted developments can negatively affect the values of their properties which also impacts upon people's mental health and well-being.

Again I say, place yourself genuinely in their shoes and think how you personally would react to an unwanted alteration to your local environment through the sudden appearance of higher buildings constructed closer to, or on fences, and multi-unit developments and how that would affect the value of your property and how you feel about where you live.

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

The 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 with regard to overshadowing, loss of privacy, sun into habitable rooms and gardens, the potential loss of sun for solar panels, height, private open space and site coverage/density. Neighbourly relations have also been negatively impacted due to divisive residential standards. None of this is conducive to a healthy and contented society that can work together for the betterment of all.

Any good 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. Too often the effect of a development, which changes the existing density of a street, is allowed to proceed without any consideration for place. Existing residents have rights not just developers.

As it stands, The Tasmanian Planning Scheme is far too complex, is only available in a poorly bookmarked pdf and is very difficult for the general public to understand. This creates unnecessary difficulties for local communities, governments and developers with the assessment and development process becoming more complex rather than less so. Ordinary community members no doubt have trouble even finding the Tasmanian Planning Scheme online because of the confusion between the Tasmanian Planning Scheme and the State Planning Provisions. On top of this are the ongoing amendments to Tasmania's planning laws and information as to how the Tasmanian Planning Scheme is being rolled out. I believe that this is all far too complicated for the general public.

Thank you for your time and I trust that you will give due consideration to the concerns I have outlined. We are all part of the Tasmanian Community and we all must be able to have a right of input into the health and shape of our environment in order to foster a better place for all of us.

Yours Sincerely,

Leigh Murrell
[redacted]
[redacted]