TASMANIAN PLANNING COMMISSION

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

Draft State Planning Provisions Report

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Executive summary

It is the Tasmanian government's policy that there be a single planning scheme for Tasmania, to be known as the Tasmanian Planning Scheme (TPS). This policy has been given effect through amendments to the *Land Use Planning and Approvals Act 1993* (the Act) in December 2015.

The Tasmanian Planning Scheme consists of State Planning Provisions (SPPs) and Local Provisions Schedules (LPSs) for each municipal area.

Under the Act, the Minister for Planning and Local Government, the Hon Peter Gutwein MP, approved the draft State Planning Provisions (SPPs) for exhibition on 9 March 2016.

The draft SPPs have drawn heavily on provisions in interim planning schemes that are already in operation.

The Tasmanian Planning Commission (Commission) exhibited the draft SPPs for a 60 day period between 12 March and 18 May 2016, during which representations were invited. During that period 294 representations were received and a further nine late representations were accepted.

The Commission then held public hearings in Hobart, Launceston and Burnie on dates between July and October 2016 to assist its consideration of the draft SPPs.

A number of issues raised were in relation to matters outside the Commission's consideration, including that:

- insufficient time had been given to the process;
- the full implications of the draft SPPs could not be meaningfully considered in isolation from planning scheme mapping;
- a state-wide approach will be at the expense of losing local character.

The Commission's consideration of the draft SPPs has been bounded by the available time and parameters of the process under the Act. It accepts that:

- the government has legislated to introduce the Tasmanian Planning Scheme and the Act establishes the process and scope of the reform;
- the draft SPPs establish a planning regulatory framework for the state that embodies the government's planning policies, extending beyond compliance with State Policies under the *State Policies and Projects Act 1993*.

The Commission recommends numerous modifications throughout the draft SPPs to improve the clarity and consistency of drafting. It has avoided, wherever possible, making modifications that change the policy intent of provisions. However, in some circumstances it has done so in response to representations and submissions or to

ensure that the draft SPPs can be practically applied or to operate in the manner intended.

Recommended modifications to the draft SPPs

A large number of drafting modifications have been recommended by the Commission to improve the clarity and consistency of the draft SPPs and in response to representations received. The following key modifications are recommended:

Administration

- Deletion of the exemption for Visitor Accommodation accompanied by the recommendation that an alternative exemption be introduced by amendment to the SPPs (after they are made) for 'home stay', including the introduction of a new term and definition for 'home stay'.
- Limit some exemptions so that specific codes are taken into account before the exemption is applied.
- Provide an over-riding exception to exemptions to ensure that no development can occur on actively mobile landforms to be consistent with the State Coastal Policy 1996.
- Modify the exemptions for maintenance and repair of building and works to reflect recent amendments to the Act.

General Provisions

- Introduce a new provision to deal with sheds on vacant lots.

Zones

- Introduce further densities in the Rural Living Zone by allowing for 1ha, 2ha, 5ha and 10ha minimum lot sizes.
- Modify servicing standards for subdivision across zones.
- Introduce landscaping standards.
- Modify the Environmental Management Zone to apply to all land irrespective of tenure and to clarify that the range of uses that are Permitted must be on State-reserved land and granted an approval or authority by the managing authority.
- Add a Future Urban Zone, based on the Particular Purpose – Future Urban Zone.

Codes

- Remove the Natural Assets Code pending its further review.
- Remove significant trees from the Local Historic Heritage Code, as trees of historic heritage significance can be listed as local heritage places.
- Remove airport attenuation standards from the Attenuation Code, pending introduction of a separate Safeguarding of Airports Code.

LPS Requirements

- Modify the LPS requirements to ensure consistency with the requirements of the Act and to better align the LPSs with the SPPs, including the numbering conventions and formatting, having regard to its future online display.

Implementation issues

The Commission foreshadows that the following implementation issues may influence the making of LPSs in the next stage of the reform process:

- Recalibration of the Rural Resource and Significant Agricultural Zones to the Rural and Agriculture Zones based on state-wide mapping of the agricultural estate will likely result in very widespread changes for property owners as these zones account for a significant proportion of the state.
- Deletion of the Environmental Living Zone will result in zoning changes for all property owners that are currently zoned Environmental Living under an interim planning scheme.
- There may be a considerable task for planning authorities to complete the Local Heritage Code listing requirements to the extent required by the LPS Requirements.
- For those planning authorities intending to ground-truth or modify the overlays for codes as part of preparing their LPS, there are likely to be considerable time, resource and cost implications.
- Considerable guidance in the form of section 8A guidelines and Commission Practice Notes will be required as a high priority after the SPPs are made to assist planning authorities to prepare LPSs.
- Some tasks that require resolution require a priority to avoid delays in the preparation of LPSs:
    - State-endorsed mapping as a basis for overlay mapping codes (including new mapping for the Safeguarding of Airports Code);
    - Mapping of the agricultural estate for application of the Rural and Agriculture Zones;
    - Review of the matters contained in the Natural Assets Code and the preparation of a new code or codes to be include in the SPPs by amendment; and
    - Preparation of a Safeguarding of Airports Code, for inclusion in the SPPs by amendment.

Key Recommendations

The Commission's detailed recommendations are at 10.0 Recommendations. They include an overarching recommendation that the Minister makes the SPPs with the modifications broadly outlined above, and set out in Appendix D.

Priority recommendations are made regarding:

- the preparation of amendments to the SPPs (after being made) for the Natural Assets Code and a new Safeguarding of Airports Code;
- the exhibition of an amendment to the SPPs to introduce an exemption for 'home stay', including consequential amendments;
- review of the State Coastal Policy, particularly outcome 1.4.2; and
- review of the residential development standards in the General Residential and Inner Residential zones.

The Commission makes a number of other specific recommendations that can improve the SPPs and their operation.

The Commission also recommends that the Minister make this report publicly available.

Greg Alomes	**Roger Howlett**	**Sandra Hogue**	**Marietta Wong**
Chair	Member	Member	Member

Glossary

COAG	Council of Australian Governments
DFCS	Desired Future Character Statement
EPA	Environmental Protection Agency
DPIPWE	Department of Primary Industries, Parks, Water and Environment
HWM	high water mark
LAOs	local area objectives
LIST	Land Information System Tasmania
LPS	Local Provisions Schedules
LGBMPA	*Local Government (Building and Miscellaneous Provisions) Act 1993*
NEPMs	National Environmental Protection Measures
OSEM	Office of Security and Emergency Management
PAL	State Policy on the Protection of Agricultural Land 2009
PPU	Planning Policy Unit
PPZ	particular purpose zone
RMPS	Resource Management and Planning System
SAP	specific area plan
SCP	State Coastal Policy 1996
SPPs	State Planning Provisions
SPWQM	State Policy on Water Quality Management 1997
SSQ	site-specific qualification
TFS	Tasmania Fire Service
THR	Tasmanian Heritage Register

Disclosure statement

In accordance with Schedule 2, clause 7, of the *Tasmanian Planning Commission Act 1997*, Mr John Ramsay, Commissioner and Co-Chair of the Commission's delegated panel for consideration and reporting on the draft State Planning Provisions (SPPs) under sections 24 and 25 of the *Land Use Planning and Approvals Act 1993* disclosed at a Commission meeting held on 7 November 2016 his consideration of an assertion by a representor of conflict of interest and perhaps bias.

Mr Ramsay is the Chair of the Board of the Forest Practices Authority, in addition to his Commission roles. The forest practices planning and certification process is continued as one of the exemptions contained the draft SPPs.

Acting on his own judgment, Mr Ramsay withdrew from the delegated panel immediately after his disclosure to the Commission to remove any doubt about the transparency and integrity of the Commission's process.

1.0 Introduction

1.1 Background

It is the Tasmanian government's policy that there be a single planning scheme for Tasmania, to be known as the Tasmanian Planning Scheme (TPS). This policy has been given effect through amendments to the *Land Use Planning and Approvals Act 1993* (the Act) in December 2015.

The Tasmanian Planning Scheme consists of State Planning Provisions (SPPs) and Local Provisions Schedules (LPSs) for each municipal area. Part 2 of the Act makes provision for the introduction of the Tasmanian Planning Scheme. The making and amendment of SPPs is set out in Part 3 of the Act and the making and amendment of LPSs is set out in Part 3A.

The Minister for Planning and Local Government, the Hon Peter Gutwein MP established a Planning Reform Taskforce to prepare the (SPPs).

Under section 17 of the Act, the Minister issued terms of reference for the preparation of the draft SPPs.

The SPPs apply across the state and include the administration, general provisions, zones and codes sections of the planning scheme. They also include provisions about what can be contained in the LPSs – the LPS requirements. The zoning of land (planning scheme maps), particular purpose zones (PPZs), site-specific qualifications (SSQs), specific area plans (SAPs) and local area objectives (LAOs) are part of the LPSs.

1.2 Commission's Role

On 9 March 2016 the Minister approved the draft SPPs for exhibition by the Tasmanian Planning Commission (Commission) under section 21(3) of the Act.

The Commission exhibited the draft SPPs, as required under section 22 of the Act, from 12 March until 18 May 2016. Representations were invited during this period.

The terms of the Commission's consideration of the draft SPPs is set out under section 24 of the Act and includes:

- considering the terms of reference for preparation of the draft SPPs (Appendix A);
- considering each representation made during the exhibition (and at its discretion any late representations);
- holding hearings into representations if it thinks fit;
- considering whether the SPPs criteria are met; and

- whether there are technical or implementation issues if the SPPs are made under section 27 of the Act.

1.3 This report

The Commission is required under section 25 of the Act to report to the Minister and the report is to include:

- a copy of the draft SPPs as exhibited (Appendix B);
- a summary of the representations and the Commissions opinion of their merit (Appendix C);
- a summary of information obtained at any hearings (see 2.3 Hearings);
- recommendations of the Commission on the draft SPPs (see 10.0 Recommendations); and
- a statement as to whether the Commission is satisfied the draft SPPs meet the SPPs criteria (see 8.0 State Planning Provisions Criteria).

The Commission is required, under section 25(1) of the Act, to report on the draft SPPs within 90 days or a longer period if allowed by the Minister. An extension of time until 9 December 2016 was granted by the Minister on 8 August 2016.

1.4 Recommendations

Under section 25(3) of the Act, the Commission's recommendations can include that the Minister:

- makes the SPP without modification;
- makes the SPPs with modifications recommended by the Commission; or
- refuses to make the SPPs.

If the recommendation is for the Minister to make the SPPs with modifications, then the Commission's report must include a copy of the modified draft SPPs and a recommendation as to whether or not the modified draft of the SPPs ought to be re-exhibited.

Under section 25(5) of the Act, the Commission may include recommendations regarding any matters of a technical nature or that may be relevant to the implementation of the SPPs.

2.0 Commission's consideration of the draft SPPs

The Commission notes that the preparation of the draft SPPs and the making of the SPPs is, as a matter of law, the responsibility of the Minister.

The Commission's role is to undertake an independent assessment of the draft SPPs and to provide advice to the Minister. The final decision on the content of the SPPs is for the Minister.

In the context of the process established by the Act, the Commission has taken the provisions of the draft SPPs to reflect planning policy positions determined by the Minister.

While some of those planning policy positions were not accepted by those who made representations, the Commission accepts the planning policy positions inherent in the draft SPPs.

2.1 Delegation

The Commission delegated its powers and functions under sections 24 and 25 of the Act to consider and report to the Minister on the draft SPPs to the following delegates:

- Greg Alomes, Executive Commissioner (Co-Chair);
- John Ramsay, Commissioner (Co-Chair);
- Roger Howlett, Commissioner;
- Sandra Hogue, Commission Senior Planning Consultant; and
- Marietta Wong, Commission Senior Planning Consultant.

On 8 November 2016, Commissioner John Ramsay withdrew from the delegated panel.

2.2 Representations

During the 60 day exhibition period 294 representations were received. A further 9 representations were received after the end of the exhibition period and accepted by the Commission. Many representations raised multiple issues and the overall number of issues raised in representations was substantial.

After the close of the exhibition of the draft SPPs, the representations were available on www.iplan.tas.gov.au.

A number of groups and individuals sought to make representations after the period for representations had closed. In the majority of instances, the issues of concern had either already been raised in other representations, or there was an opportunity to attend and participate in a hearing.

A summary of representations and Commission's opinion on the merit of those representations is attached in Appendix C in accordance with the requirements of section 24(b) of the Act.

After considering the representations received, the Commission decided to hold hearings under section 24(c) of the Act.

2.3 Hearings

Hearings were held in public in accordance with the Part 3 of the *Tasmanian Planning Commission Act 1998*.

Prior to the commencement of the hearings, the Minister wrote to the Commission's Co-Chairs to convey his instructions to the PPU in assisting the Commission and their role in the hearings. Officers of the Planning Policy Unit (PPU) of the Department of Justice attended each hearing. They were sometimes assisted by officers of relevant State agencies who had been requested to attend to provide more detailed or technical information that may assist the Commission.

The PPU and agencies provided background information to assist the Commission to better understand the policy intent and implications of implementing the draft SPPs. Revised drafting was also provided for some parts of the draft SPPs.

Directions hearings were convened in each of the three regions of the state to assist the Commission establish a schedule of hearings. The hearing schedule comprised two stages, the first addressing matters in the administration and general provisions. zones and LPS requirements; and the second stage addressing the codes. Hearings were held in in Burnie, Launceston and Hobart, with a total of 25 days scheduled between July and October 2016.

Some representors attended several days of hearings as a result of the hearing schedule being based on the SPPs, rather than individual representations. The Commission appreciates the time and expense of participation in the hearing process, particularly for individuals and community organisations; and thanks all those representors who were able to attend hearings to make submissions.

In summary, at the hearings many representors provided submissions, elaborating on their original representations. Some provided suggested revised drafting of provisions and examples to illustrate their concerns. The Commission considered the additional information received after each hearing and found that the information invariably confirmed that provided in representations.

The Commission acknowledges that the hearing program was constrained by the available time but it has made best efforts to allow groups and individuals to participate in the process in a fair and equitable manner.

2.4 Terms of Reference

The terms of reference issued by the Minister describe the scope for preparation of the draft SPPs. They establish that Planning Directive No. 1 – the Format and Structure of Planning Schemes as a foundation document to the draft SPPs but they also reference other documents that provide context to the draft SPPs, including the three regional land use strategies and other Planning Directives in force.

As required under section 24 of the Act, the Commission has had regard to the terms of reference as part of its consideration of the draft SPPs.

2.5 Recommendations for re-exhibition

The Act does not include any criteria for determining when modifications ought to be re-exhibited. However, in determining whether to recommend re-exhibition of any modifications under section 25(4)(b) of the Act, the Commission had regard to:

a. the extent to which the modification affects a planning policy expressed or implicit in the draft SPPs;

b. whether the modification results in a substantial departure from the draft SPPs as exhibited; and

c. the public interest in the modification.

3.0 Consideration and recommendations for Administration and General Provisions

3.1 Clause 3.0 Interpretation

The Commission recommends a number of modifications to the planning terms and definitions in the draft SPPs.

The Commission found that many of the terms and definitions have been established for some time and only needed minor modification. The Commission supports the principle of using plain English expression in the drafting of the SPPs and, where satisfied that the ordinary meaning of a word can be relied upon, has avoided adding further definitions.

The Commission has taken into account suggestions made in representations. Generally, modifications were made to:

a. remove terms not used in the SPPs and add new terms;

b. uphold the convention of listing terms that are used in more than one code under clause 3.0, rather than in codes;

c. reflect other drafting modifications and conventions, such as to add the words 'as that existing at the effective date'; and

d. clarify expression or remove ambiguity.

More specifically:

- The following terms used in servicing standards across zones were added: full water supply service; limited water supply; minimum flow rate; potable water supply and regulated entity.
- To interpret standards associated with roads the terms arterial road and collector road have been added.
- Tolerable risk and coastal zone were added as these terms are used in more than one of the hazard codes and the definition of coastal protection works was modified to include reference to the coastal zone.
- As a result of making modifications to the Environmental Management Zone, reserve class and reserved land are no longer used and are deleted. The terms State-reserved land and State authority have been added.
- The following other terms that arise variously in the SPPs have been added: building line, irrigation district, private garden, public land, and solar energy installation.
- Modifications have been made to home-based business to reflect issues raised in representations about the number of persons employed on the site, display of goods for sale, the quantity of hazardous chemicals allowed and the inclusion of vehicle detailing to the exclusions.

3.2 Clause 4.0 Exemptions

Exemptions are a key part of any planning scheme since a permit will not be required if a use or development is exempt.

The draft SPPs set out a series of exemptions in Table 4.1 which is read in conjunction with clause 4.0.1. The exemptions are grouped thematically. While the formatting differs from Planning Directive No.1, the exemptions are similar in scope to those in interim planning schemes.

The Commission recommends modifications to number each exemption so each can be individually cited. As a consequence there are now six tables:

- exempt uses;
- exempt infrastructure use and development;
- exempt building and works;
- vegetation exemptions;
- renewable energy exemptions; and
- miscellaneous exemptions.

The Commission has also made a modification to include two additional clauses that apply generally:

- reinserting a clause from Planning Directive No.1 that clarifies when a permit is not required as result of provisions in the Act, with reference to existing use and development; and
- clarifying that exemptions do not apply to development on actively mobile landforms to implement the State Coastal Policy.

While there are a number of modifications to the exemptions, they are without significant change to the policy intent of the exemptions included in the draft SPPs.

In some instances modifications to the exemptions are consequential to modifications elsewhere in the draft SPPs. For example, the term 'State authority' has been introduced to 3.0 Terms and Definitions and is applied in a number of the exemptions. Quite a number of exemptions are now also qualified with reference to one or several codes, particularly the Local Historic Heritage Code and hazard codes.

The following exemptions have been modified after consideration of matters raised in representations and at the hearings:

- Home-based childcare;
- Home occupation;
- Visitor accommodation;
- Stormwater infrastructure;
- Irrigation pipes;
- Dam construction works;

- Minor telecommunications;
- Fences;
- Outbuildings;
- Electric car chargers;
- Renewable energy exemptions; and
- Rainwater tanks and fuel tanks.

Representors also raised the potential lack of clarity where exemptions are limited by reference to a code. This issue was addressed in interim planning schemes by amendment to Planning Directive No.1 in February 2016 by the inclusion of extra words to clarify that the exemption would apply if the use or development is also exempt under the code. Suitable modifications to the SPPs are recommended.

As with other provisions, modifications have been made to improve the clarity and consistency of drafting and to be consistent with the building reform framework, which is to be implemented from 1 January 2017.

3.2.1 Vegetation exemptions

Numerous representations and submissions were received in relation to the effect of exemptions for vegetation removal and management. A key concern is that vegetation clearing can occur under a certified forest practices plan (FPP) without consideration of biodiversity values under the planning scheme. The exemption allows for clearance and conversion of a threatened native vegetation community, or the disturbance of a vegetation community, in accordance with a certified FPP.

The exemption that applies under Planning Directive No.1 is for clearance or conversion of a vegetation community in accordance with a FPP but this is limited by being subject to a code that expressly regulates impacts on biodiversity. Codes were not included in the Planning Directive, but the majority of interim planning schemes include codes which impose controls over vegetation clearance.

The Commission supports the general principle that the exemptions should not duplicate arrangements in place under other legislation. It notes that under the *Forest Practices Act 1985* clearance and conversion of a threatened native vegetation community and clearing of trees cannot occur without a certified FPP. Specific requirements apply when the Forest Practices Authority considers an FPP involving a threatened native vegetation community.

The Commission does not consider that the vegetation exemptions require modification.

3.2.2 Maintenance and repair of buildings and minor alterations

Modifications are recommended to the buildings and works exemptions to bring them into line with section 12(1)(b) of the Act. Recent amendments to the Act clarify that a permit cannot be required for repairs and maintenance of existing buildings. The exemption in the SPPs has been widened to reflect this. A separate exemption

for minor alterations is included but this merely re-states the terms of the original exemption which was for maintenance, repair and minor alteration to buildings.

3.2.3 Internal building and works

A number of representors did not support the exemption for internal buildings and works. The exemption is not included in Planning Directive No.1 but the definition of 'development' under the Act has commonly been interpreted to be limited to the exterior of buildings by reference to including '(a) the construction, exterior alteration or exterior decoration of a building'.

The inclusion of the exemption removes any doubt. The Commission considers that building interiors do not necessarily fall within the scope of development as the purpose of the planning system is concerned more broadly with the external implications of development.

The Commission supports the inclusion of the exemption as it adds clarity and will assist a consistent approach by avoiding the opportunity for alternate interpretations.

3.2.4 Use and development that exceeds exemptions

A number of planning authorities were concerned that there is a 'gap' where a use or development may not meet the criteria for exemption, requiring an application. However, in some instances there are no appropriate standards against which to assess an application. This arises generally because the use or development is exempted as a consequence of its low likelihood of having an impact, for example a hot water cylinder or heat pump.

The Commission acknowledges this issue and notes that it occurs in interim planning schemes. However, without a ready solution, and as a result of the limited time available, the Commission has been unable to recommend modifications to address the issue. Further investigation would be beneficial but the Commission notes that that the issue does not appear to have caused significant problems in interim planning schemes.

Acceptable Solutions for fencing have also been deleted in some zones where these mirrored the exemption and it was considered that this would potentially lead to confusion in application.

3.2.5 Strata division

It was submitted by the City of Clarence that the exemption for strata division could undermine the subdivision and density standards in the draft SPPs and lead to the future illegal conversion of strata-titled buildings, from say holiday accommodation to permanent residential use.

Instead, it was submitted that the draft SPPs should include standards across zones to address the creation of lots under the *Strata Titles Act 1998* and that the exemption for strata division should be qualified to ensure use of any buildings is subject to a permit.

The Commission accepts that it is a deliberate policy position that strata division is provided for outside the subdivision process as an alternate form of tenure. If this policy intention requires change or modification, the Commission considers that changes should be as a revision to the *Strata Titles Act 1998*.

Further, as the conversion or change of a use to another requires a permit, the failure to do so is capable of enforcement. Accordingly, the Commission is not persuaded that additional standards are required.

3.2.6 Visitor accommodation

A number of representations were received regarding the provisions relating to Visitor Accommodation in the draft SPPs.

The draft SPPs include an exemption for Visitor Accommodation in a dwelling for 'no more than 42 nights in any calendar year'. Most zones include use standards to address Visitor Accommodation. The use standards include an Acceptable Solution with the requirement that the use is to occur within existing buildings and within a gross floor area of not more than 160m^2. Performance Criteria to assess the impact of the use on residential character and privacy are applied where the Acceptable Solution is not met.

Representatives and operators from the home share and holiday rental sector attended the hearing and made submissions. Their submissions emphasised approaches taken in other jurisdictions. These ranged from allowing a more generous exemption period to measuring occupancy on the basis of the number of bedrooms. The Commission agreed with other representors, including planning authorities, that enforcement of the 42 day threshold set in the exemption would be difficult, if not impossible, particularly as properties may be multi-listed.

Under most interim planning schemes, and if exceeding the exemption for visitor accommodation in a dwelling under the draft SPPs, offering a dwelling for rental or home share would be defined as Visitor Accommodation. This is then assessed by reference to the Use Table and standards in the relevant zone. In most SPP zones, Visitor Accommodation is permitted or discretionary, requiring an application.

The Commission considers, from a planning perspective, that the use of a dwelling for home sharing or short term (holiday rental) does not have discernibly different impacts to that of the long term residential use of a dwelling.

The physical capacity for occupancy of the dwelling does not change and there is no change in the demand for services and infrastructure. A dwelling or a room in a dwelling, could be occupied to capacity by the owner and the owner's family, or be let on a long term basis without the need for a planning permit.

The potential for impacts on amenity due to noise or traffic are the same for short term occupancy as for long term occupancy. Generally, the intensity of the use and potential for increased impacts will be a consequence of the number of occupants in the dwelling. This is directly related to the number of bedrooms.

The Commission recommends the following modifications:

a. Add a new definition for 'home stay' which allows for short term accommodation in an existing dwelling, if it has 4 bedrooms or less, with no limit on the number of nights.
b. Replace the exemption for 'visitor accommodation in a dwelling 'with 'home stay' if for the use of a dwelling for home stay accommodation, with no limitation on the number of nights.
c. Include the example of home stay in the Residential Use Class.

The Commission recognises that there is high public interest in this issue and that the modifications reflect a different policy approach to the manner the activity is addressed in the draft SPPs.

It considers that re-exhibition of these provisions is appropriate, as provided for under section 27(1)(c) of the Act and has prepared a draft amendment to the SPPs for this purpose (see Appendix F).

3.3 Clause 5.0 Planning Scheme Operation and Clause 6.0 Use Classes

Clause 5.0 of the draft SPPs sets out the operational provisions of the planning scheme.

While the provisions are similar to those in interim planning schemes, the operation of the draft SPPs differ in that there is a need to provide for LPSs. As a result of reviewing the LPS Requirements that form part of the draft SPPs, modifications are recommended to clause 5.0 to ensure the SPPs and LPSs operate together in the manner intended and in accordance with the provisions of the Act. This does not impact the policy implicit in the draft SPPs that sets out the relationship between state and local provisions.

Clause 6.0 sets out how applications are assessed, including the application requirements and Use Classes.

3.3.1 Application requirements

The Commission recommends only minor editorial modifications to clause 6.1 Application Requirements. Some planning authorities made representations seeking the ability to include specific information requirements in the codes. While it accepts the draft SPP approach of not providing for code-specific information requirements, it considers that this may be worthy of further consideration if the SPPs are reviewed at a future time.

3.3.2 Clause 6.2 Categorising Use or Development

The Use Classes in Table 6.2 have been applied through Planning Directive No.1 to interim planning schemes and are considered fairly robust. The Commission recommends only minor modifications, including some additions and deletions to examples in response to representations.

It is recommended that General Retail and Hire is modified to include 'bottle shop' (which would be correspondingly deleted from Hotel Industry) and 'cellar door

sales'. Both bottle shops and cellar doors are essentially retail activities. The term 'video shop' is also recommended for deletion as it is simply a 'shop' and examples are becoming fewer.

It is recommended that the Residential Use Class is modified to include 'home-based childcare' for clarification; and to delete 'living' from 'shared living accommodation' and 'hostel' for clarification.

The examples of 'bed and breakfast establishment' and 'holiday unit' are recommended for deletion in the Visitor Accommodation Use Class as these terms are now out-dated.

It is recommended that 'serviced apartment' be modified by adding the word 'complex' to clarify that that it is a reference to an apartment complex, rather than an individual apartment for short term rental.

3.3.3 Clause 6.10 Determining Applications

Clause 6.10 significantly sets out the matters that must be had regard to in determining an application and establishes that for a discretionary use this includes any relevant local area objectives (LAOs). Consequential drafting modifications are recommended throughout the draft SPPs where use standards refer to LAOs because they must be considered under clause 6.10 in any event. The same applies to the zone purpose as this must also be considered under clause 6.10.

The Commission notes that Desired Future Character Statements (DFCSs) that were included in Planning Directive No.1 as an option are not included in the draft SPPs. The draft SPPs do not include development standards that refer to LAOs in the Performance Criteria.

There were submissions about whether clause 6.10 ought to be expanded to include development but the Commission considered that the current drafting represented a deliberate policy intent that could be clearly operationalised and therefore does not require modification.

3.3.4 Clause 6.11.1 Conditions and Restrictions on Permit

Several representors suggested that there was scope to expand clause 6.11.1 to add consideration of landscaping and stormwater.

Planning authorities, in particular, were concerned that the draft SPPs do not include standards for landscaping and stormwater, yet it is commonplace for these matters to be addressed in permit conditions. Without a standard or a head of power, such as in clause 6.11.1, conditions may be beyond power.

After giving wider consideration to standards for landscaping and stormwater, the Commission recommends landscaping standards in selected zones. A stormwater code as suggested by planning authorities and practitioners is not supported but the Commission recommends its further consideration and potential future amendment to the SPPs.

In the absence of a stormwater code the Commission has modified clause 6.11.1 to include 'erosion and stormwater volume and quality controls'. This provides broader

powers to apply conditions to not only the construction phase of development but also its ongoing use and at the same time does not extend the scope of clause 6.11.1 excessively. The Commission considers it important that where possible, the means of satisfying the standards that apply to use or development are clearly expressed as Acceptable Solutions and Performance Criteria and that clause 6.11.1 should only be expanded in the absence of other options. Matters that may be taken into consideration under clause 6.11.1 are not accompanied by standards and are a less transparent mechanism.

3.4 Clause 7.0 General Provisions

In interim planning schemes these were referred to as Special Provisions and comprised the mandatory clauses under Planning Directive No.1 – the Format and Structure of Planning Schemes. While the name has changed, the General Provisions provide for matters that are not constrained by the other provisions of the planning scheme.

The General Provisions expand the matters contained previously in Planning Directive No.1 – the Format and Structure of Planning Schemes. The Commission accepts that this is a deliberate policy and notes that the expansions are either found currently in an interim planning scheme or respond to operational issues experienced by planning authorities in applying their interim planning schemes.

Although a number of representations suggested expansion of the General Provisions, the Commission recommends only a small number of modifications.

3.4.1 Re-organisation of lots

The Commission heard from representors proposing that the allowance for boundary adjustments should extend to the re-organisation of lots. This would allow for subdivision that does not create new lots to be considered under the General Provisions, rather than as a discretionary application under the applicable zone provisions.

A key concern was the subjectivity of first determining whether a subdivision is for a ‘minor change . . . ‘. While including a percentage to define the terms of ‘minor’ may help in relation to the size of a lot, it lacks meaning for consideration of the shape and orientation of lots.

Some representors supported the draft SPPs as drafted on the basis that there is scope for the re-organisation of lots to lead to inappropriate subdivision.

Despite the limitations of the provisions as currently drafted, the Commission does not recommend modifications. It considers there is a risk that inappropriate subdivision could occur if a General Provision for re-organisation of lots is included.

3.4.2 Sheds on vacant sites

A number of representations from planning authorities raised the difficulty of dealing with sheds on vacant sites. Sometimes a landowner may wish to store equipment on their vacant lot before building a dwelling. A difficulty arises because the shed is considered part of the residential use of the land. As a result, the

planning authority may require an application to include a proposal for a dwelling, even if there is no immediate intention to build a dwelling. This can be unnecessarily costly for applicants, particularly if subsequent variations to the proposed dwelling require a further future application. Alternatively this may be classified as Storage which is prohibited in some zones.

The Commission recommends modification of the draft SPPs to include a further General Provision, 7.5 Sheds on Vacant Sites, to clarify this circumstance.

4.0 Consideration and recommendations for zones

While the 23 zones currently available have been maintained, they have been organised to more deliberately distinguish those zones that are intended for living from those for which the primary intention is agriculture or values management.

The former Environmental Living Zone has been deleted and a new zone, the Landscape Conservation Zone, added. Changes have also been made to the former Rural Resource, Significant Agricultural and Environmental Management Zones to implement a new approach.

The range of standards has increased from those in interim planning schemes in some zones, but fewer are included in other zones. A number of planning authorities commented on the absence of standards for landscaping and stormwater.

The Commission has made modifications to the zones primarily to improve the consistency and clarity of drafting. However, more extensive modifications have been made to the Environmental Management Zone than some of the other zones.

A Future Urban Zone has also been added. The Future Urban Zone is included in the draft SPPs as a particular purpose zone but because it includes mandatory standards, the Commission considers it is more appropriately included as a zone in the SPPs rather than part of an LPS.

More detailed information about the Commission's consideration of zones follows.

4.1 Clauses 8.0 General Residential Zone and Clause 9.0 Inner Residential Zone

The General Residential Zone includes standards for single dwellings and multiple dwellings that are based on those required in interim planning schemes under Planning Directive No.4.1 – Residential Development Standards in the General Residential Zone. In the draft SPPs, these have been modified to reduce the standards for windows facing in a northerly direction and accessibility of outdoor living space from a living room. In the zone there are also standards for non-dwelling development and subdivision which were not included in Planning Directive No.4.1. The standards for non-residential development largely repeat the same standards as for single dwellings.

The Commission notes that drafting of the residential provisions is inconsistent with the drafting conventions for the wider planning scheme as the majority of standards have been transposed from Planning Directive 4.1. Many non-residential development standards appear unnecessarily duplicative.

However, the Commission has resisted recommending significant modifications as to do so in the absence of a more comprehensive review may have unintended consequences.

The exception to this is to make modifications to the privacy standards in the General Residential Zone to add 'and' between clause 8.4.6 A2 (b)(i) and (ii) and to add 'and' between clause 8.4.6 P2 (a) and (b) as these omissions are considered by

the Commission to be unintended errors, albeit they are found in Planning Directive No.4.1. A further related modification is needed in the Inner Residential Zone to add 'and' to clause 9.4.6 A2 (b) between (i) and (ii), as the drafting is identical to the standard in the General Residential Zone.

4.1.1 Scale, including institutional residential development

A number of the representations received from planning authorities and individuals raised concerns about the development outcomes that can arise through application of the standards, since they are already in operation as a result of Planning Directive No.4.1 in interim planning schemes.

Concerns most often raised were about the scale of development and the effect of development density and building form on local character and amenity. While these comments were often in reference to examples of single and multiple dwelling development, a further specific concern was the standards that apply to institutional residential development, such as aged-care facilities.

In relation to institutional residential development, it was acknowledged that larger sites are typically required and sometimes proposals are considered in a combined permit and amendment process which gives greater opportunity for community engagement. Where occurring on land zoned General Residential, it is noted that there are specific standards for non-dwelling development and although the use may be permitted, often the development will be discretionary and needs to be assessed against Performance Criteria that include ensuring that the development is 'sympathetic to the form and scale of residential development and does not cause a loss of amenity' (8.5.1 Objective).

4.1.2 Local character

The Commission received many representations concerned about the loss of local character as a result of a 'one size fits all' planning prescription. In interim planning schemes, some planning authorities have included DFCSs and LAOs which assist a finer-grained assessment of development.

DFCSs are not included in the SPPs and LAOs may only be considered in relation to discretionary use under clause 6.10.2(b), unless specifically referenced in a Performance Criterion. This directly impacts the extent that local character can be taken into account.

The Commission acknowledges and accept that this is a deliberate policy of the draft SPPs which seek to increase the state-wide consistency of provisions. But it notes that while consistent provisions may make the administration of planning more convenient and efficient, the performance of the planning system will also be judged by on-the-ground outcomes. 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 qualifications in their LPSs.

4.1.3 Housing affordability and diversity

Shelter Tasmania's representation emphasised the progress made towards housing affordability with the State's strategy (Tasmania's Affordable Housing Strategy 2015-2025). However, they acknowledge the absence of a reference to social inclusion and housing diversity in the Act objectives and there is no State Policy giving direction on the issue. This is unlike the recent amendments to the Act to include 'to promote the health and wellbeing' of Tasmanians and visitors in the Schedule 1 Part 2 Objectives on which the Heart Foundation rely.

The Heart Foundation's representation presented evidence of the value of a wider choice in housing type as a means of supporting active living. The Foundation encourages mixed density housing to satisfy life cycle requirements and a raft of suggested modifications to improve the quality of the built environment for health and wellbeing.

The Commission considers it difficult to make any modifications to the draft SPPs without a greater policy mandate to do so.

It recommends that the Minister give consideration to whether housing affordability is a matter that should be addressed in the planning system and if so, what actions are required to set the policy context, such as modifications to the objectives of the Act or planning policy direction relevant to the SPPs.

4.1.4 Residential development standards review

Given residential development is the most commonly occurring form of development subject to the planning scheme, affecting the construction industry, owner builders and home owners, the Commission recommends that the General Residential and Inner Residential Zones be reviewed as a priority.

Consistent standards were put in place when Planning Directive 4.1 – Standards for Residential Development in the General Residential Zone was issued in 2014. A sufficient period of time has elapsed since their implementation that it is now appropriate to:

- evaluate the performance of the standards and whether the intended outcomes have been realised, including delivering greater housing choice, providing for infill development and making better use of existing infrastructure;
- consider the validity of the claims that the standards are resulting in an unreasonable impact on residential character and amenity; and
- introduce drafting that is more consistent with the conventions that apply to the SPPs generally.

4.2 Clauses 10.0 Low Density Residential Zone and 11.0 Rural Living Zone

The Low Density Residential and Rural Living Zones are residential zones that provide for larger lots that may be unserviced.

In the draft SPPs they are distinguished by density and the range of allowable uses.

4.2.1 Lot density – minimum lot area

An issue raised in representations that was common to both zones was the inability to recognise historically based local character, particularly in locations where a pattern of lot sizes was already established. The Low Density Zone has a minimum lot size of 1500m^2 and the Rural Living Zone has an A and B density of 1 and 2ha respectively. For planning authorities and individuals there was concern that further densities should be allowed, particularly to more closely reflect the pattern of existing lot sizes.

The Commission was not convinced that a further density option was necessary for the Low Density Zone. The minimum lot area of 1500m^2 has a high level of alignment with lot sizes in current schemes, although inevitably it is inconsistent with some schemes.

In the Rural Living Zone, the Commission recognises that this zone requires further options for density. The zone lies between the Low Density Residential and Landscape Protection Zone and there is a significant 'gap' between the Rural Living Zone and Landscape Protection Zone minimum lot sizes. The deletion of the Environmental Living Zone is a key reason for the 'gap'.

The Commission recommends that further minimum lot sizes of 5 and 10ha should be available in the Rural Living Zone.

Consequential modifications have been made to the Rural Living Zone provisions, including the Zone Purpose to reflect the expanded range of minimum lot sizes.

4.2.2 Multiple dwellings in the Low Density Residential Zone

The density implications of multiple dwellings being permitted in the Low Density Residential Zone was raised by a number of representors, including planning authorities. The Commission does not consider that allowing multiple dwellings is necessarily a threat to density. The Acceptable Solution for multiple dwelling density requires a site area of 1500m^2 if services are available and 2500m^2 if services are not available. Densities below this are assessed against the Performance Criteria, triggering discretion.

The Commission considers it may be more transparent to identify Multiple Dwellings as discretionary in the Use Table, indicating 'up-front' that Multiple Dwellings will be subject to discretion. This will allow any LAO to be considered under clause 6.10.2(b) in determining whether the use is appropriate. It also supports the introduction of a lower limit for density in the Performance Criteria to give some protection to the density objectives for the zone.

4.2.3 Scenic Protection Code in the Low Density Residential Zone

In the draft SPPs the Scenic Protection Code was not be applied to land zoned Low Density Residential under clause C8.2.1 of the Code. The Low Density Residential Zone is a residential zone and is applied to land at the outskirts of settlements or at elevations where full services are not available. These locations can be visually

prominent and the Commission agrees with representors that that it would be appropriate to apply the Scenic Protection Code to protect visual values where these are important.

The Commission recommends revision of the zone purpose to more accurately reflect the primary intention of the zone to provide for residential development. The Commission considers that editorial modifications to the zone purpose for clarification, including deleting reference to 'aesthetic constraints' in clause 10.1.1 is required. Reference to 'aesthetic' constraints is not clear and superfluous if the Scenic Protection Code can be applied to protect scenic values.

4.3 Clause 14.0 Local Business Zone; Clause 15.0 General Business Zone; Clause 16.0 Central Business Zone and Clause 17.0 Commercial Zone

The Commission heard from planning authorities that the business and commercial zones were not strongly distinguished from each other and each allowed a wide range of uses. The Commission agrees.

For discretionary uses, these zones have discretionary use and retail hierarchy standards that test the proposed use against the activity centre hierarchy. However, there is no state-wide hierarchy and a different approach has been taken in each of the state's three regions. This approach results in a more onerous assessment since there are two standards that require explicit consideration of the activity centre hierarchy. Presently, the Use Table for each zone reflects a hierarchy of allowable uses without reference to a further use standard.

The Commission recommends that further policy development be undertaken to establish a state-wide activity centre network and that this be given statutory status in the SPPS, potentially leading to amendments that will simplify the assessment of applications.

The Commission recommends only minor modifications to the drafting of these zones to reflect drafting conventions for the SPPs as a whole and to improve the clarity and consistency of standards.

For the Central Business Zone, representations demonstrated that the Acceptable Solution for building height suited neither Hobart nor Launceston. The Commission has not made modification to the building height standard, preferring to see whether the issue will be overcome by using other measures, such as SAPs, when drafting LPSs.

A late representation was received from the Large Format Retail Association, whose members include an extensive and diverse range of retailers that operate in multiple States and Territories.

The Commission agrees with the Association that retailing is undergoing significant change and acknowledges that the approach to retailing in planning schemes has economic implications for the sector. However, the Commission does not support the modifications sought by the Association as the approach is different in-principle

to that underpinning the drafting style of the TPS (and interim planning schemes) which rely on Use Classes rather than defining individual uses.

However, the Commission considers that the Bulky Goods Sales Use Class does not allow enough differentiation between retail activities. It recommends that future consideration is given to the scope of the Bulky Goods Sales Use Class and the need for an additional Use Class that would allow for the differentiation of activities such as landscaping supplies from other large format retail.

The Association also raised concerns about the zones in which large format retail use may occur and the limitation on floor area expressed in Acceptable Solutions. A response to these matters through the current process could result in unintended consequences but may also be worthy of further consideration at a future time.

4.4 Clause 18.0 Light Industrial Zone and Clause 19.0 General Industrial Zone

The Light Industrial and General Industrial Zones are similar to each other with the main distinction being the intention that the Light Industrial Zone will not have offsite impacts.

There were a number of representations about the lack of landscaping standards in the Commercial, Light Industrial and General Industrial Zones. The Commission agrees that the visual impact of commercial and industrial uses can be managed by the inclusion of standards for landscaping and that such standards are common-place in existing planning schemes.

Modification is recommended to include a landscaping standard for the Commercial, Light Industrial and General Industrial Zones. The standard would require a landscape treatment on the frontage setback as an Acceptable Solution.

It is also recommended that the General Industrial Zone is modified to delete the outdoor storage standard as the Zone Purpose is not concerned with off site impacts.

Other modifications are minor editorial changes or for consistency with similar standards in other zones, such as servicing.

4.5 Clause 20.0 Rural Zone and Clause 21.0 Agriculture Zone

These zones are best compared to the Rural Resource and Significant Agricultural Zones in current interim planning schemes. However, they have been recalibrated in the draft SPPs. It is proposed that mapping of the agricultural estate by the State government will assist planning authorities identify and map the zones.

4.5.1 Mapping

The explanatory document sets out the intention to map the state's agricultural estate to provide the basis for the delineation of the zones. The PPU advised at the hearings that the mapping is currently being prepared and will not be available until later in the year.

There was considerable interest and concern from planning authorities, since the mapping is yet to be developed and much must be assumed about the operation of these zones without the mapping and reference only to the provisions. Concerns were also raised about the need to further ground truth the mapping before it is fit for purpose, and the consequential impost on planning authorities.

While it would be beneficial to understand how the zones are applied based on the mapping, the Commission accepts that mapping is to be based on the purpose of the zones and that it is possible to progress the draft SPPs on that basis. Therefore attention has been given to the Zone Purpose for each zone below.

The mapping task and its associated practicalities are acknowledged as adding complexity and time to developing LPSs, however are not matters directly within scope of the Commission's consideration of the draft SPPs.

4.5.2 Two Zones or One?

Many representors, particularly planning authorities, submitted that a single zone for the rural setting is preferred. It was submitted that there is a diversity of use and complexities in the agricultural sector that make it difficult to meaningfully distinguish land which should be afforded greater protection for agriculture.

The Commission acknowledges that two of the state's three regions have applied only one zone for rural resource activities and only the Southern Region uses both. However, the opportunity to use two zones has been established in Planning Directive No. 1 – the Format and Structure of Planning Schemes since it was first issued. The current changes seek to 'recalibrate' the differences between the two zones.

The Commission considers that despite concerns about using two zones, there may be differences in municipal areas based on existing patterns of use and resource values. In some instances a single zone may almost exclusively be applied.

While the mapping is intended to be an aid to zone application, it is not a mandatory requirement referenced in the LPS requirements that form part of the draft SPPs. The Commission acknowledges that the implementation implications are none the less significant. The recalibration of the two zones will impact on expansive areas of the state that are currently zoned Rural Resource or Significant Agricultural.

4.5.3 Rural and Agriculture Zone Purpose

The Commission heard submissions from representors about the Rural Zone Purpose. It was confirmed by the PPU that the Rural Zone is akin to a non-urban zone in which a mix of uses is intended. Modifications are recommended to the zone purpose to clarify the role of the Rural Zone as a zone intended to allow for a mix of uses.

It is recommended that the Agriculture Zone purpose is modified to clarify the purpose and remove terms that are unclear and difficult to interpret.

4.5.4 Rural Zone standards

While there are confusing statements in the explanatory document, the Commission notes that land to be zoned Rural may include 'agricultural land' as defined in the State Policy on the Protection of Agricultural Land 2009 (PAL). This means that the standards in the zone must satisfy the PAL Policy principles for the protection of agricultural land, despite the zone purpose focussing on promoting a mix of uses.

The Commission recommends modifications to the permitted uses in the Rural Zone Use Table to ensure that Principle 5 of the PAL policy is satisfied.

Although the height and setback of buildings was raised in a number of representations, the Commission was not convinced of the need to modify these standards.

4.5.5 Residential use and development

The Commission has given particular attention to how a dwelling is dealt with in the Rural Zone. Conversion of agricultural land by residential use and the potential to confine or restrain agricultural use (Principle 5 of PAL) is managed in the Use Table in the draft SPPs by limiting residential use to single dwellings. This is intended to also clarify how an application for a dwelling would be assessed, removing the prospect that it could be incidental to Resource Development.

The Commission also considers modification to include a standard dealing exclusively with residential use will clarify that Principle 5 of PAL is satisfied. Currently the use standard for discretionary uses expressly excludes residential use.

Excision of a dwelling under clause 20.5.1 P1 requires modification to satisfy PAL by requiring that land is not unreasonably confined or restrained from agricultural use on or in the vicinity of the site.

In the Agriculture Zone the Commission recommends modifying the discretionary qualification for 'Residential' in the Use Table from 'if not listed as permitted' to 'if for a single dwelling' to narrow the impact of residential use on 'agricultural land', as in the Rural Zone, to satisfy PAL.

To give effect to the policy in clause 20.5.1 P1(b)(ii) requiring an agreement under section 71 of the Act preventing future residential use of a vacant balance lot, the Use Table requires modification to include a qualification to reference such an agreement.

4.6 Clause 22.0 Landscape Conservation Zone

This zone is a new zone and is a part of the recalibration of non-urban zones in the draft SPPs. At the hearing the PPU clarified that the zone does not replace the Environmental Living Zone but is an alternative zone in which landscape and natural values take precedence over residential use.

Many representations raised concerns that the Environmental Living Zone, available in interim planning schemes, is preferable to either the Rural Living Zone or Landscape Conservation Zone. Many considered that the Landscape Conservation

Zone, having significantly larger lots, would not have wide application, particularly in existing areas where smaller lots are prevalent.

The Commission does not consider that reinstatement of the Environmental Living Zone is appropriate. It would be a substantial modification to do so and by making minor modifications to the Rural Living Zone to provide a wider range of lot sizes, the difference in outcomes is considered marginal. However, it acknowledges that all land currently zoned Environmental Living will effectively be 'rezoned' to an alternate zone as a result of the Environmental Living Zone not being available.

The Commission recommends modifications to the zone purpose to clarify that the zone is for the protection, conservation and management of landscape values and that use or development should be compatible with those values. Consequential modifications to the standards follow. These are essentially editorial in nature.

The Commission has responded to representations about the difficulty of managing larger lots on the urban fringe in areas that may be zoned Landscape Conservation by allowing a single dwelling within a building area to be Permitted.

The Commission also recommends modifying the standards for Visitor Accommodation to include consideration of the safety and efficient use of local roads or rights of way, acknowledging that in some locations roads and access may have limited capacity for additional vehicle movements.

Further modifications deliver greater clarity and consistency in drafting.

4.7 Clause 23.0 Environmental Management Zone

There were a large number of representations that did not support the proposed Environmental Management Zone provisions. Key concerns were the potential for significant new developments to be approved without public input or opportunities for appeal; vegetation clearance in National Parks and reserves not being adequately scrutinised; and the application of the zone being limited to public land.

A small number of representations supported the zone provisions.

The Department of Primary Industries, Water and Environment (DPIPWE) attended the hearing to assist the Commission's understanding of the approval process which is effectively relied upon in the standards and to provide information about the extent, number and nature of managing authorities.

Further information about those entities that are managing authorities was requested by the Commission. DPIPWE subsequently advised that currently only Parks and Wildlife Service Tasmania is a managing authority for State-reserved land, although the legislation provides for managing authorities to include other entities.

The Commission notes that qualifications and standards in the draft SPPs rely on approval processes outside the planning scheme, providing a permitted pathway under the zone with the necessary 'authority' given by a managing authority or the Director General of Lands. A concern is that managing authorities do not necessarily have a clear and transparent process under which approvals are granted.

The Commission heard from DPIPWE that larger, more complex matters are assessed under the reserve activity assessment framework that includes public consultation. If the managing authority does not grant an approval or authority, the proposed development would be subject to a decision by the planning authority under the Performance Criteria which include comprehensive matters to which regard must be had.

The Commission accepts that this policy is to avoid duplication of assessment and that with relatively minor modifications to the Use Table and Acceptable Solutions, it can operate in the manner intended.

The Commission was also interested in the scope of matters to obtain an approval or authority from the managing authority, and whether they address the matters that planning schemes address, such as impacts on adjoining (private) land. The development standards for building and works have been modified to take account of the surrounding area to address this issue.

The Commission observed that the reference to an 'authority' given by a managing authority or the Director General of Lands in the Use Table is not consistent with the convention for drafting qualifications. It recommends that the qualifications in the Use Table reference 'if on State-reserved land' where the use is Permitted. This operates in conjunction with a new standard for 'Use of State-reserved land' which sets out an Acceptable Solution that is based on an approval or authority granted by a managing authority. The Commission has added a standard for 'use of land other than State-Reserve land' under which there is no Acceptable Solution, only a Performance Criteria.

The Commission questioned the application of the zone being limited to public land both because it is not usual to apply zoning based on tenure and it does not accept that the Landscape Conservation Zone is necessarily an alternative for the Environmental Management Zone. The Landscape Conservation Zone provides for the protection of natural values while allowing for residential development and is therefore fundamentally different to Environmental Management Zone the purpose for which includes providing 'for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value'. Modifications have been made to the Zone Purpose so that the zone may apply to both private and publicly owned land. The Zone Purpose has also been modified to refer to reserved land management objectives and objectives of reserve management plans.

The Commission also notes that public land is not defined in the draft SPPs and that many differing definitions are found in various relevant Acts. A definition for public land has been included in clause 3.0 for clarity.

4.8 Clause 24.0 Major Tourism Zone

At the hearing the Commission explored the application of the zone in interim planning schemes. It was apparent that the zone is not applied in many locations around the state and, where land is zoned Major Tourism, there is a high demand for localised standards to meet the requirements of specific developments. It is difficult, for example, to devise standardised setbacks for building height and setback as

tourism developments vary significantly in nature and scale, as do the site characteristics.

The Commission notes that the approval pathway for major tourism development is, in many instances, reliant on a combined permit and amendment approval (section 43A of the former Act) where the land is rezoned and a detailed proposal for the associated development is addressed at the same time. This reflects the difficulty in setting aside land for the purpose of attracting major tourism.

In many instances, other mechanisms may be more effective in providing for major tourism opportunities, such as particular purpose zones or specific area plans.

The Commission explored whether the zone would have practical application if the purpose of the zone were limited to simply 'Tourism', deleting reference to 'Major'. However, since the draft SPPs provide for Visitor Accommodation in a number of other Use Classes that are frequently associated with tourism, such a measure is not necessary.

The Commission has only recommended minor modifications to improve the clarity and consistency of drafting in this zone. Given the increasing importance of tourism to the Tasmanian economy, the Commission recommends that a planning approach to tourism is developed. This should include consideration of the implications for the application of zones in LPSs and associated standards in the SPPs.

4.9 Servicing standards

Representations, particularly from planning authorities, were received on the standards for servicing development and subdivision.

TasWater and the PPU assisted the Commission with further information at the hearings and made more detailed submissions to canvas alternate drafting of the standards.

The modifications clarify that the level of service can vary and in some instances it is acceptable for a lesser level of service to be provided. It was important to ensure that the terms used reflect the service obligations of TasWater, as the regulated entity.

The standards have been applied to zones taking into account whether the zones will be applied in areas where full or limited services are likely to be provided or are not necessary in some zones.

TasNetworks made a representation seeking inclusion of servicing standards for their assets. The Commission finds there is insufficient argument for the extension of servicing standards in the subdivision provisions of zones to include a separate standard for electricity infrastructure.

5.0 Consideration and recommendations for codes

Codes provide standards in addition to the zone provisions and can generally be described as applying to the following:

- Infrastructure;
- Specific forms of development;
- Specific values; and
- Hazards.

The draft SPPs include 15 codes. The code provisions form part of the SPPs but their application is often dependent on overlays or lists to identify where the code applies. The LPS requirements indicate whether an overlay or list is mandatory. For those codes applied through lists or overlays, the code will not apply in a municipal area if the overlay or list is not included in the relevant LPS. For those planning authorities intending to ground-truth or modify the overlays referred to in the LPS requirements, there could be considerable time and cost implications.

The Commission gave particular consideration to where and when a code should apply through the application clauses, preferring spatial application through overlays as the most certain way to determine application.

Some codes, such as the Signs Code and the Parking and Sustainable Transport Code, will apply in all municipal areas.

The Commission notes that some of the codes have an increased scope, particularly those addressing hazards. While there is evidence or 'science' to underpin the policy approach in these codes, their application in planning schemes is recent and emerging.

Generally, these codes address risk, based on 'desk top' evidence, and it will be for planning authorities to modify the mapping where more accurate information is available when preparing the LPSs.

A further implementation issue is whether the hazard code provisions will operate in the manner intended. Generally, the codes call upon suitably qualified experts to provide reports that will be key to the planning authority's determination of applications.

As an additional safeguard in relation to the hazard codes, the Commission recommends that the opportunity to request further information under section 54 of the Act applies in each circumstance. This is an important measure for a specific hazard, such as landslip, where development and works on adjoining land free of hazard can impact land subject to landslip hazard.

While the Commission recommends modifications that introduce more consistent drafting across these codes, acknowledging that the nature of each hazard means there are deliberate differences across the code provisions to reflect the policy response relevant to the risk.

Overall, the Commission considers that initially the hazard codes are likely to impose more regulation than currently applies. There is also potential for costs and delays to increase when they are implemented. However, it accepts that where there is information that identifies risk, a more cautious approach is warranted to ensure that loss of life and property and costs to the community are avoided.

The Commission notes that the Local Historic Heritage Code introduces the opportunity to 'list' local historic landscapes and local historic precincts (some interim planning schemes already allow for precincts to be nominated), extending the potential scope of the code compared to most planning schemes in operation. However, unless planning authorities choose to include any 'listings' in their LPS, these additional values will be unregulated.

5.1 C1.0 Signs Code

Unless exempt, signs are assessed under the Signs Code, including those that are subject to the Local Historic Heritage Code. Signs are one of the forms of development that does not require classification into a Use Class under clause 6.2.

The Signs Code is prescriptive and provides detailed descriptions of sign types and standards to be met based on the zones in which they occur.

The code allows for third party signs and includes Performance Criteria for their assessment.

While a number of representations addressed the code, the Commission recommends few modifications. An Acceptable Solution for a sign on a local heritage place, in a local heritage precinct or local historic landscape precinct has been added to allow for a very small sign or plaque. Other changes are largely limited to editorial matters that improve the clarity and consistency of the code's drafting.

However, the Commission acknowledges the representations and submissions by planning authorities and the University of Tasmania that the code does little to provide for new technologies, for example, the use of monitors which may play video content. The Commission has not made modifications to include new standards as the policy implications require deeper consideration.

5.2 Clause C2.0 Parking and Sustainable Transport Code

The Parking and Sustainable Transport Code has been drawn from codes already in operation in interim planning schemes. Some planning authorities made representations on the code as they considered its provisions onerous or impractical, based on their experience of standards in interim planning schemes.

Representations on the code were predominantly from planning authorities but also from individuals and the Heart Foundation.

It was put that there should be an additional definition distinguishing a 'shopping complex' as the code could be interpreted to require the recalculation of car parking requirements for individual shops or premises in a large complex when there is a change in use for a use in another Use Class, eg Food Services or Business and

Professional Services. The Commission considers on balance, that a modification is not required.

Another concern was the wide application of bicycle parking requirements, albeit that the requirements do not apply in all zones. The Commission agrees that perverse outcomes could follow the application of bicycle parking requirements, such as in small rural towns, or there could be an increase in discretionary applications to vary the bicycle parking requirements. This is another example of the 'one size fits all' approach.

The observation was also made that the number of car parking spaces required was variously calculated with reference to employees, seats, or area. While this circumstance already exists, it adds to the perception that there is no 'science' underpinning the code.

It was submitted by one planning authority that developers of commercial developments reliant on customers will inevitably respond to demand by supplying adequate numbers of car spaces, sometimes significantly beyond the number required by the planning scheme.

Another planning authority submitted that the number of spaces should not excessively exceed the required number and be capped by limiting additional spaces by a % of the required spaces. This would further the code purpose to encourage alternate means of transport.

General observations were made at the limited extent to which the code can be said to further sustainable transport. The Heart Foundation suggested that there ought not be any requirements for car parking as a means to encourage sustainable transport. However, to delete the code or modify it so extensively as to alter its policy intent is beyond the Commission's remit in its consideration of the draft SPPs.

However, it agrees that it is important that the code reflect changes to transport that are or can readily occur. It supports the modification sought by the University of Tasmania to widen the discretion in C2.5.1 P1.1(c) to include the availability and frequency of alternative transport (in addition to public transport). The University of Tasmania has, as may some other organisations, car sharing and other sustainable transport arrangements to deliver their organisational commitment to sustainable transport.

The Commission also accepts that residential uses, such as student accommodation in the inner city, may have lesser demand for parking as other modes of transport are available. C2.5.1 P1.2 (a) has been modified to allow the nature of the use to be taken account of in considering car parking numbers.

The Commission recommends a number of other minor modifications to the code to improve its clarity and consistency.

5.3 Clause C3.0 Road and Railway Assets Code

The Road and Railway Assets Code aims to protect the infrastructure from encroachment by incompatible use. It has been the subject of a draft Planning Directive and a version of the code is found in interim planning schemes.

There were only a small number of representations on this code. However, the Commission heard from a planning authority, with experience of the practical application of the code for rail corridors, that the code impacts, not only new development but existing use and development, if the rail corridor is through or adjacent to a township. In these cases the advice of the rail authority may be difficult to apply. A similar situation occurs for road authorities for road assets in existing townships.

The Commission acknowledges the challenges of applying the code but does not consider it is fatally flawed. In C3.5.1 P1 a planning authority can take into account the road or rail authority's advice but is not required to do so, therefore, providing the opportunity to take into account the particular circumstances of the location in which the development is occurring.

This issue caused the Commission to give closer examination to the application of the code and with reference to the 'road or railway attenuation area' definition in C3.3.1 and the LPS requirements for mapping associated with the code. The planning authority is able to determine the area of the codes application.

Other modifications are recommended to the code to improve the clarity and consistency of drafting, including confirming the expression of terms and references.

5.4 Clause C4.0 Electricity Transmission Infrastructure Protection Code

The Electricity Transmission Infrastructure Protection Code is triggered by mapping that has been prepared by TasNetworks for the whole state. The code protects TasNetworks' electricity transmission corridors, communications stations and substation assets.

TasNetworks made a representation seeking modifications to the code and to other provisions in the SPPs that are complementary to the code.

The Commission accepts that specific exemptions in clause 4.0 should be qualified to refer to the Electricity Transmission Infrastructure Code and that the exemption for utilities should be expanded to include 'demolition'.

TasNetworks also made submissions during the hearing process. The submission from TasNetworks for inclusion of evidence from the applicant that they have notified TasNetworks of their application as part of the Acceptable Solution is not supported. While early liaison with TasNetworks may be beneficial for TasNetworks and applicants, the requirement does not further the objective of the standard and it is inconsistent with the drafting conventions applied throughout the draft SPPs for Acceptable Solutions and is effectively a referral mechanism.

The Commission also heard from a planning authority that the code may be needlessly onerous to applicants with reference to C4.5.1 A1 which specifies the acoustic standards to be met by a sensitive use in a substation facility buffer area.

By including commonly accepted noise mitigation measures, the pathway may be streamlined so that the impost of an acoustic report is only required if relying on the Performance Criterion.

While the Commission is receptive in-principle, modifying the code to insert noise mitigation measures is not practical, given the limited time to explore appropriate standards. This may be achievable at a future time, should the code be reviewed or amended.

Other minor modifications are recommended to the code, but limited to clarifying and making the drafting more consistent with the wider SPPs.

5.5 Clause C5.0 Telecommunications Code

The Telecommunications Code assists in assessing the visual impact of facilities that are not exempt under the *Telecommunications Act 1997* or are minor telecommunications infrastructure in clause 4.0 exemptions, in the draft SPPs.

Representations were made from mobile carriers and the Mobile Carriers Forum. A key issue was the 20m and 30m height limits for towers. It was acknowledged that some interim planning schemes provide for a higher height in limited zones.

The Commission notes that under C5.6.1, all development subject to the code will be discretionary as there is no Acceptable Solution for A1 and Performance Criteria must be relied upon to assess the visual impact of locating a telecommunications facility on a site. The Mobile Carriers Forum submitted that an Acceptable Solution would be useful for installation of telecommunications infrastructure, and in doing so would lead to improved telecommunications coverage. However, the Commission acknowledges that assessing impacts on visual amenity is inherently subjective and consequently difficult to 'codify' in an Acceptable Solution.

The Commission considers that, in the absence of more evidence to support an Acceptable Solution allowing for higher telecommunications facilities, the draft provisions should remain.

The Mobile Carriers Forum also encouraged incentivising the replacement or extension of towers where a higher tower would allow co-location of infrastructure. The Commission does not support extension of the scope of the code and only minor modifications are recommended.

5.6 Clause C6.0 Local Historic Heritage Code

The Commission notes that if applied by planning authorities this code has a very broad remit and applies to local heritage places, precinct and, landscapes, areas of archaeological potential and significant trees.

At the hearing, information was provided by Heritage Tasmania about its approach and program for mapping places on the Tasmanian Heritage Register (THR). A program is in place to make data sheets for listings available online and linked to the listed properties accurately identifiable on the LIST. Plans providing detailed information on the extent of listings, where only part of a title is the subject of the listing, are compiled and lodged in the Central Plan Registry.

The Heritage Council also has a program underway to review the listings on the THR and following consultation, some properties will be 'de-listed'. While there is still a

considerable program of work to be completed, it was indicated that much of the program will be delivered within the next 12 months.

A number of planning authorities, heritage practitioners and members of the public attended the hearings and supported their representations with robust submissions illustrated with practical examples. The state's heritage and planning regulatory frameworks are currently undergoing changes and heritage conservation is of high public interest in Tasmania.

In the hearing, the relationship between world, national, state and local listings was raised as well as issues about the reach or effect of the code, including whether internal works should be subject to the code; clause 7.4 of the draft SPPs which allows for local heritage places that contain a prohibited use to be considered as discretionary if listed (the adaptive re-use clause), whether lots adjoining listed properties should also be subject to the code; and section 12(1)(b) of the Act that limits the capacity to control repairs and maintenance.

The Commission considers that a number of modifications are needed to clarify and make the code's provisions more robust, including consequential changes to the LPS requirements.

5.6.1 Drafting expression in the code

Several representors raised the lack of reference to the Burra Charter and the use of definitions that were not drawn from those used by the heritage sector, derived in many instances from the Burra Charter and James Semple Kerr 'The Conservation Plan'. While this may be desirable, the terms and definitions in the code operate generally in the manner intended and to introduce definitions from the Burra Charter and James Kerr's document would require modifications without significant improvement to the legal robustness of the code.

There was also concern at the general drafting style or expression, particularly the 'looseness' of many Performance Criteria that rely on the drafting convention of 'having regard to' and that the matters being had regard to are in no particular order of priority. The Commission acknowledges that when considering heritage values, it may be appropriate for stronger emphasis to be given to those values and their significance. It has responded by recommending the modification of some of the Performance Criteria to include the expression 'must satisfy' in some instances and to extend the matters listed in Performance Criteria to strengthen the tests applied.

5.6.2 Extent of listings

The Commission accepts that the code should operate in unison with the THR and that sites may have a dual listing but on the proviso that any dual listing is for mutually exclusive parts of the same lot or lots. Modification has been made to C6.2.1 of the draft SPPs to clarify this intent.

5.6.3 Tasmanian Heritage Register listings in LPS

There were divergent views about whether or not places on the THR should be included in the LPSs. The Commission considers that the proposed approach to make

their inclusion optional is potentially confusing when a key outcome for the reform is greater consistency. Because the code does not apply to places listed on the THR, the Commission recommends that planning authorities do not include places on THR unless they are dual listed as above. In the event that a place is 'de-listed' from the THR, the planning authority will need to make a decision as to whether it has local values and to initiate an amendment to list it in its LPS.

5.6.4 Adjoining lots

Representors raised concerns that heritage values can be impacted by inappropriate development on adjoining lots. The Commission notes that the code includes the capacity to identify local historic precincts and historic landscape precincts where there may be broader heritage values and do not consider it necessary to broaden the effect of the code to extend to lots adjoining local heritage places.

The Port Arthur Historic Site Management Authority referred to the specific area plan provision that applies to land surrounding the site. It triggers the need for the Tasman Council to advise the Authority of applications received that are within the nominated area as a result of its World Heritage Area listing.

The mechanism applied in this instance is not one that is embodied in the draft SPPs and the Commission does not consider a modification would be appropriate without wider policy consideration. It considers that the circumstances of the Port Arthur Historic Site may be addressed at the LPS stage, or alternatively by an amendment to the Authority's governing legislation.

5.6.5 Exemptions for building interiors, repairs and maintenance

A further issue on which the Commission received strong submissions was the need to consider the interiors of listed buildings. The draft SPPs include an explicit exemption for interiors under clause 4.0 Exemptions.

The Commission supports inclusion of the exemption as discussed in 3.2.3 above.

The Commission observed that the operation of section 12(1)(b) of the Act that limits the capacity to control repairs and maintenance did not seem to be well understood.

To be consistent with section 12(1)(b) of the Act, the Commission has deleted C6.6.2 Maintenance and Repair of Buildings and Structures as the standard is inconsistent with the Act. The inability to make provision for repairs and maintenance under the code arises from recent amendments to the Act that establish a permit is not to be required for maintenance and repair of existing buildings and works.

For further discussion of the exemption see 3.2.2 above.

5.6.6 Implementation

The Commission notes that planning authorities and practitioners consider there is a considerable implementation task for the code to operate as intended, ideally capturing the information about each listing in terms of its heritage significance and the extent of values. The same issues extend to other matters captured by the code:

local heritage precincts, local historic landscape precincts, local heritage places or precincts of archaeological potential and significant trees.

Although the draft SPPs allow for planning authorities to choose whether or not to complete the listings in full the Commission considers this is required for the code to improve clarity and certainty in the operation of the code. To assist this process, modifications have been made to the LPS requirements to provide for a data sheet to record local heritage significance.

5.6.7 Significant Trees

In relation to significant trees, a number of planning authorities submitted that their listed trees were not always listed for heritage significance but for one or a number of other reasons, such as aesthetic or scientific grounds.

It was also submitted that trees of heritage significance could be listed as a place of local heritage significance with the description of extent being limited to the tree or trees. The Commission agrees with this approach since there are no parameters for significance with respect to trees with values other than heritage values. Modifications to remove significant trees from the code have been made.

The Commission recommends that consideration be given to whether a stand-alone code for significant trees to protect other values should be added to the SPPs by a future amendment.

Submissions were made that this approach is applied in other jurisdictions. The Commission agrees that reference to established systems, such as that of the City of Sydney for the classification of significant trees, would assist the development of any code.

5.7 Clause C7.0 Natural Assets Code

The Natural Assets Code in the draft SPPs makes provision for three key values: waterways and coastal protection areas; future coastal refugia areas; and priority vegetation areas. Priority vegetation provisions apply in a limited range of zones. The General Residential and Low Density Residential zones are not subject to the code as they are taken to be urban zones. This reflects an implicit policy that in these zones, the purpose for which the land is zoned is taken to have precedence over priority vegetation values.

A large number of representations from planning authorities, conservation groups, resource management associations and individuals raised issues with the Natural Assets Code. Issues were raised regarding the merit of the code and its implementation, particularly given the lack of mapping for priority vegetation.

5.7.1 Mapping

The Commission is not satisfied that there is adequate mapping available to support the application of the code.

At the hearing, it was submitted that ‘scientific’ mapping generated by the Derwent Estuary Program for waterways and coastal protection and future coastal refugia

values was complete but that further consideration was being given to how it may be applied as overlay mapping. For example, whether land that was already zoned for urban use and development should generally be subject to the future coastal refugia overlay or whether this was a matter to be determined by each planning authority when preparing its LPS.

The Commission was advised by letter from the Secretary of DPIPWE dated 16 September 2016 that the mapping for priority vegetation in the LPS Requirements (LP3.5.1) to be provided by DPIPWE was not being produced and that existing TasVeg data in the LIST would need to be relied upon.

A number of representors considered that the current mapping resources available for priority vegetation on the LIST were inadequate as a priority vegetation overlay. It was submitted that considerable more work by planning authorities, to develop more accurate and meaningful overlays, would be required.

It was further submitted that a state-wide overlay had been prepared by the Wilderness Society in collaboration with the University of Tasmania. This was developed using a methodology piloted in the North East Bio Region with assistance from the University of Tasmania using existing data from a wide range of sources.

While the Commission acknowledges the achievement, it considers it vital that the mapping be state-wide, based on a state-wide consistent methodology and endorsed by government. It is apparent that there is currently no State endorsed mapping apart from the Natural Values Atlas and TasVeg available on the LIST. The Commission considers that this is problematic for implementation of the code in respect to priority vegetation values.

The Commission considers the capacity to trigger the application of the code by reference to mapping is crucial to implementation of the code. While the code includes definitions, interpretation is complex. For example, the exercise of identifying the appropriate class of stream for the waterway and coastal protection area requires interpretation in the absence of mapping. This is impractical and could lead to uncertainty and inconsistency in the application of the code.

5.7.2 Priority vegetation

Representors expressed concern that the code does not provide adequately for the protection of vegetation on the basis that it is limited to threatened native vegetation communities and threatened flora species, and does not provide for wildlife corridors or habitat protection more generally. It was put that, as a result, there was a failure to provide adequately for ecological processes and genetic diversity in accordance with the objectives of the Act and in some instances it would be difficult to be consistent with regional land use strategies.

Representors were also concerned that the code does not apply in most urban zones and that land in these zones can include areas of bushland which can have biodiversity values and value as wildlife corridors.

The explanatory document acknowledges the significant change implicit in this approach but notes that consultation undertaken during the preparation of the draft SPPs, particularly involving rural producers, supports the new approach.

The Commission acknowledges the significant change to the policy in existing interim planning schemes but also notes that not all interim planning schemes include a code equivalent to the Natural Assets Code.

Confidence in the new approach is also affected by the lack of state based mapping of priority vegetation for the purposes of the code and the parameters for local variation of that mapping by each planning authority. This information has not been available to the Commission.

5.7.3 Scope of matters addressed in the code

Extension of the code to additional matters was raised during the hearing process. TasWater also submitted that drinking water catchments should be included as a further overlay in the code and tabled mapping of the proposed catchment areas. Taswater submitted that catchment areas for drinking water are natural assets and thus protected by the code provisions. The Commission considers the inclusion of a further water quality layer would be inappropriate without wider examination of the implications of doing so.

However, it highlights the breadth and complexity of values being considered in the code. The Commission believes that consideration should be given to including the drinking water catchments.

5.7.4 Revision of the Natural Assets Code

The Commission concluded that the Natural Assets Code, as proposed in the draft SPPs, requires further work to be suitable for implementation in the SPPs. While mapping for waterways and coastal protection areas and for future coastal refugia areas appears close to being suitable for application as an overlay, mapping for priority vegetation is not. Further consideration of the appropriate methodology for mapping vegetation that is to be protected is required to generate a state-wide map to assure a clear and consistently applied threshold for application of the relevant code standards.

The limited time for consideration of the SPPs made it difficult to give greater consideration to the issues raised in relation to priority vegetation, particularly the assertion that its scope is too narrow.

The submission from TasWater that drinking water catchments should be included in the code is worthy of further consideration in the course of reviewing the code.

The Commission recommends that the Natural Assets Code requires revision as a high priority giving consideration to:

a. potentially disaggregating the code to more clearly address the values of waterways and coastal protection; future coastal refugia; priority vegetation and potentially drinking water catchments in separate codes;

b. confirming the state-wide mapping to be used as a basis for overlays and providing the methodology or parameters that are to be applied for variation of the overlay mapping by planning authorities;

c. application of the code or codes, including whether values must be mapped comprehensively or by reference to, or exclusion from, zones;

d. the scope of priority vegetation values and standards for its protection and management;

e. developing standards for buildings and works that are self-contained without reference to incorporated documents; or that refer to specific standards in any incorporated document;

f. any relevant Commonwealth and State legislation, regulation and policies, and regional land use strategies to ensure broad consistency to avoid duplication;

g. the objectives of the Act; and

h. the need for any consequential amendments to other parts of the SPPs.

The Commission also recommends that:

- a revised code or codes be included in the SPPs by amendment, providing the opportunity for a further representation and hearing process;
- that no LPSs are approved before the SPPs have been amended to contain a complete suite of codes that includes a revised code or codes addressing natural values.

5.8 Clause C8.0 Scenic Protection Code

The Commission notes that the Scenic Protection Code aims to protect scenic values both alongside road corridors and in identified scenic protection areas, both to be identified by planning authorities when preparing their LPSs. The code only applies in non-urban zones.

There were a number of representations from planning authorities requesting that the code be available in the General Residential and Low Density Residential zones. It was put that scenic values can be important in urban areas, such as residentially developed areas that form an important element in the visual backdrop to cities and towns.

It was also suggested that there is presently a capacity to apply the equivalent code in the Low Density Residential Zone in interim planning schemes. Planning authorities reported applying the zone to manage character or mitigate the impact of development at urban densities and the capacity to apply the code in visually sensitive areas, such as on the approach to settlements, and in coastal areas was valuable.

The Commission agrees that the code should be able to apply in the Low Density Residential Zone although it notes that there are other ways of managing visual values. The Landscape Conservation Zone and local historic landscape precinct in the

Local Historic Heritage Code provide other mechanisms that may be helpful in certain circumstances.

Even with the ability to apply the code in Low Density Residential zones, its effect has some limitations. The exemptions at clause 4.0 of the scheme and at C8.4.1 in the code exempt a range of agricultural buildings and works from the provisions.

A representation was also made that visual values are important when viewed from some navigable waterways, such as the Derwent and Tamar estuaries. The Commission acknowledges this is the case. However, considers that the scale of the visual values viewed from these waterways goes beyond the policy scope of the Scenic Protection Code.

The Commission considers that clarification of the scenic corridor provisions is needed. It recommends modifying the definition for 'scenic corridor' to clarify its application and in the LPS requirements it has added the requirement that planning authority must nominate the distance that applies from the relevant road corridor, in addition to showing it on the overlay.

5.9 Clause C9.0 Attenuation Code

The Attenuation Code includes standards to minimise adverse impacts on sensitive uses as a result of certain activities that can have off site impacts; and it protects those activities from sensitive uses that may be located too close, giving rise to land use conflict. It also includes standards to manage use and development near airports.

The inclusion of airports under the Attenuation Code is a change to the way airports are addressed in interim planning schemes and a number of representations were received from airport operators, planning authorities and the Australian Airport Association who did not support the integrated code.

5.9.1 Scope and application of the code

The Commission has made a number of minor modifications that clarify the scope and application of the code:

a. references to the term 'environmental harm', which has specific meaning under the *Environmental Management and Pollution Control Act 1993,* has been replaced with 'emissions';

b. C9.5.1, which is about uses with the potential to impact existing sensitive use, the Acceptable Solution and Performance Criteria have been clarified to refer also to the land within zones likely to be developed for sensitive uses;

c. 'hothouses' in the table C9.1 has been revised to 'controlled environment agriculture' and C9.2.4 included to state that the code does not apply to this activity in the Rural or Agriculture zones to be consistent with PAL;

d. C9.2.3 clarifying that the code does not apply to sensitive uses within Light Industrial, General Industrial, Port and Marine and Utilities Zones has been moved from C9.4.1 consistent with drafting conventions; and

e. modifying standards to remove reference to lighting because some other activities treated lighting as an issue for use standards elsewhere in the SPPs

5.9.2 Airports

The Commission held a hearing to address the concerns of representors about the provisions for airports.

It was drawn to the Commission's attention that the COAG agreement to implement the National Airports Safeguarding Framework (NASF) in 2012 creates a nationwide commitment to protecting airport infrastructure. The NASF provides guidance on the protection of airports, particularly those that are under Commonwealth management or are regular passenger transport facilities.

Airport operators and planning authorities that have major airports within their municipal areas all agreed that the draft SPPs did not adequately recognise the importance of airports as part of the state's critical infrastructure. They considered that the Attenuation Code provisions were deficient, and that a separate code was required.

The Commission recognises that airports are a vital part of the state's transport infrastructure network and are economically important to local business and industry and that it is essential that airports are adequately protected under the planning scheme.

The Commission supports the need for a separate code that could be titled the Safeguarding of Airports Code. At the hearing and afterwards, submissions were made on behalf of airport operators and by planning authorities on those provisions that would comprise a new code.

The Commission heard that mapping of noise contours and areas for airspace protection suitable is available for Launceston and Hobart Airports as they are Australian government managed and have Airport Master Plans under the Commonwealth *Airports Act 1996*. Mapping is not available for all of the smaller airports. However, it was generally agreed that mapping could readily be generated for other airports. This would comprise state-wide overlays that address noise emissions, penetration into protected airspace and management of potentially conflicting land use within a nominated distance of the airport. The parameters for generating mapping would require further more detailed consideration but once completed, the Commission considers that mapping should be mandated in the LPS requirements.

In response the draft SPP provisions, four alternate versions of a Safeguarding of Airports Code were offered. However, development of a code requires further consideration, in consultation with key stakeholders, to give more comprehensive consideration to its drafting.

It will be important that airport infrastructure is adequately protected from inappropriate development but at the same time that the code is not unnecessarily onerous. Exemptions and Acceptable Solutions can play an important role in sieving

out matters that do not require planning consideration however care must be exercised to ensure that exemptions do not pose a risk to airport operations.

Other matters that arose at the hearing included the appropriate zoning for airports, and whether zoning could be applied to Commonwealth land. While there were arguments for a separate Airport Zone, akin to that currently provided for ports – the Port and Marine Zone, to deliver more consistent provisions for all airports, the Commission considers that the draft SPPs already provide suitable zoning options. It considers the Utilities Zone is not an appropriate zone as recommended in the explanatory document accompanying the draft SPPs, but that planning authorities may wish to include a particular purpose zone (PPZ) that is specific to their circumstances. If a PPZ is not warranted for a particular airport, for some airports the Rural Zone is the preferred alternative. Transport Depot and Distribution is discretionary in the Rural Zone.

The Commission is not persuaded that there is a need to introduce a definition for airport.

To ensure that they are addressed in the manner envisaged under the NASF, the Commission considers it more appropriate that airports are addressed in a separate code that is within the group of codes that address infrastructure. Progress has been made towards an alternative code through the cooperation of airport operators and councils, the Commission considers that this presents a sound basis for the development of a new code.

Accordingly, the Commission has modified the Attenuation Code to remove those provisions that apply to airports and recommend that a new stand-alone Safeguarding of Airports Code is prepared. The Safeguarding of Airports code should be prepared with reference to:

a. the NASF, including its guidelines A-F;
b. the Commonwealth *Airports Act 1996* and any relevant regulations (to avoid duplication);
c. any approved Airport Master Plans;
d. Australian Standards relevant to mitigating impacts from airport noise for sensitive uses; and
e. any consequential amendments to other parts of the SPPs.

It should include overlays produced in collaboration with airport operators that:

a. identify an area of influence for managing aircraft noise impacts incorporating ANEF and N mapping ;
b. identify an area for airspace protection with reference to Obstacle Limitation Surface (OLS) and Procedures for Air Navigational Services – Aircraft Operations (PANS-OPS) mapping for all airports; and
c. identify a distance from the airport within which potentially conflicting land use is managed.

The preparation of a Safeguarding of Airports Code should be a priority as LPSs for planning authorities with airports within their jurisdiction will require the code and the LPS for a municipal area that includes an airport should not be approved until a the SPPs have been amended to include a Safeguarding of Airports Code.

5.9.3 Attenuation distances

In relation to the Attenuation Code more broadly, the PPU provided an updated Table C9.1 at the hearing into the Attenuation Code. The modified table, setting out attenuation distances that apply to various activities, largely elaborates on the description of activities and makes only minor changes to attenuation distances.

The Commission accepts the table as a modification to the code, subject to minor drafting changes that improve the clarity and consistency of drafting.

Although the Commission received a representation in relation to the attenuation distance for poultry farms and after reviewing approaches in other states, it was not persuaded that 500m was inadequate. It was submitted that, akin to piggeries, a stepped approach based on the scale of the operation was appropriate.

It was submitted in the hearing process that excluding application of the code to the Light Industrial and General Industrial Zones would give no protection to use or development within the zone. The Commission acknowledges this may be an issue in some industrial areas where there may be sensitive uses within the zone or close by, however it accepts the policy position that protection will be limited in these areas and makes no modification.

5.9.4 Effluent irrigation schemes

The Commission agrees that effluent irrigation schemes should be attenuated from sensitive uses. However, it recommends that further policy development is undertaken to arrive at a suitable planning scheme standard with reference to the Environmental Guidelines for the Use of Recycled Water in Tasmania (Environment Division, Department of Primary Industries, Water and Environment 2002).

In the meantime, modification to table C9.2 to delete effluent irrigation schemes is recommended. To identify the appropriate attenuation distance requires a complex calculation with reference to guidelines as compared to sewerage treatment plants for which the attenuation distance is specified based on the capacity of the plant/person equivalent.

5.10 Clause C10.0 Coastal Erosion Hazard Code and Clause C11.0 Coastal Inundation Hazard Code

The Commission requested that a representative from the Office of Security and Emergency Management (OSEM) in the Department of Premier and Cabinet assist at the hearings with background to the codes addressing hazards.

This was helpful to understand how the mapping currently published on the LIST was developed; how planning authorities may vary the mapping in accordance with the LPS requirements; and the implications of the code for use and development.

In simple terms, the Coastal Erosion Hazard Code addresses erosion on the coast and coastal recession; and the Coastal Inundation Hazard Code addresses the impact of storm surge and sea level rise.

State-wide mapping is available for both hazards. This distinguishes high, medium and low hazard bands and investigation areas where definitive data is not available and a case-by-case approach is needed.

The Commission notes that interim planning schemes contain provisions of some form to address coastal hazards, based on an earlier iteration of the OSEM's mapping. The Commission considers the 'science' has been progressively improved but its application to planning schemes is still evolving.

The Commission recommends modifications to make the drafting clearer and more consistent with other hazard codes and other parts of the SPPs. An important drafting convention is the need for the Performance Criteria to maintain the planning authority's capacity to exercise discretion when determining an application. There can be no appropriate exercise of discretion if the inclusion in a report of a suitably qualified person is the only criterion on which to base a decision that the Performance Criterion has been met.

In considering compliance with the SCP, the Commission needed to satisfy itself of how Outcome 1.4.2, which does not allow development on actively mobile landforms, could be met in the SPPs. The Coastal Hazard Erosion Code is a key mechanism for delivering this outcome. If actively mobile land forms were capable of being delineated in overlays or by textual description, the application of the code could be more certain.

However, the Commission is of the view that a definition for actively mobile land forms could not be introduced to the SPPs as a result of the SCP and SPPs being made under separate legislation and the explicitness of the prohibition in Outcome 1.4.2.

The Commission has modified the Coastal Erosion Hazard Code to clarify that the code's exemptions do not apply to actively mobile landforms and have included a new clause at 4.0.3 to clarify that development is not exempt if on an actively mobile landform, unless for emergency works. These measures ensure that the code complies with the SCP.

However, the Commission considers that there may be alternative approaches to addressing development on actively mobile landforms, particularly given the data on coastal processes that is now available. A prohibition, without any clarity on where it applies leaves an uncertain pathway for applicants. The Commission recommends an urgent review of Outcome 1.4.2 of the SCP to allow for a definition or the identification of the hazard by overlays.

The Commission concluded that, as with many other codes, further guidance will be needed to assist planning authorities with implementation of the code in their LPSs, particularly in applying overlays.

5.11 Clause C12.0 Riverine Inundation Code

The Riverine Inundation Code addresses flooding from a watercourse or other inland flood, such as from a heavy rainfall event. There are no state-wide overlays for this hazard. To apply the code, planning authorities will need to rely on other sources for mapping.

The Commission has made a modification by renaming the code to 'Flood-Prone Areas Code' to more clearly identify its purpose and differentiate it from the coastal hazard codes. Other modifications to the code broadly reflect the modifications to other hazard codes, including ensuring Performance Criteria have the 'having regard to' construction.

The Commission considers it is important that overlays for the Flood-Prone Areas Code be exclusive of those for the Coastal Inundation Code to clarify the application of the codes.

In the hearings, it was submitted that it is difficult to delineate between areas of inland and coastal inundation in some circumstances, such as in an estuary or delta. The Commission still considers it important to achieve greater certainty for the overlays to be exclusive of each other but agree that this may not be appropriate in all circumstances. It would be a matter for the planning authority to consider whether the specific circumstances of the location, and the use and development pressures necessitate a more tailored approach, such as a SAP.

5.12 Clause C13.0 Bushfire-Prone Areas Code

The Bushfire-Prone Areas Code included in the draft SPPs followed review of Planning Directive No.5 – Bushfire-prone Areas Code and is consistent with Interim Planning Directive No.1 – Bushfire-Prone Areas Code in February 2016.

The key changes from the review were that the code no longer applies to habitable buildings, as these are dealt with under the building regulatory framework. Its scope is limited to only hazardous uses, vulnerable uses and development for subdivision. The review aimed to reduce duplicative approvals and limit the code's scope to planning matters.

The policy intent of the Interim Planning Directive is maintained in the draft SPPs and differences arise only to meet the drafting conventions of the draft SPPs.

At the hearing, the PPU, the Tasmania Fire Service (TFS) and the Director of Building Control assisted the Commission to better understand the context and operation of the code. Planning authorities and practitioners also provided practical examples and scenarios that led the Commission to make modifications to a number of the code's provisions.

It was noted that mapping showing the extent of bushfire-prone areas was being prepared and further resources were expected to enable its completion in another 12 months. The mapping task involves a desktop methodology that is then ground-truthed on a municipality by municipality basis. So far, only the Clarence City Council has implemented mapping that is endorsed by the TFS.

The Commission supports the concept of mapping to provide a definitive trigger for application of any code and considers that mapping should be relied upon, rather than an alternative definition, where it exists. Evidence at the hearing was that this works effectively in practice. A modification to the definition for bushfire-prone area has been made to reflect this.

At the hearing, the need for hazardous uses to be addressed in the code was explored. The Director of Building Control submitted that hazardous uses could be managed outside the code with a Director's Determination under the *Work Health and Safety Regulations 2012.*

In a further submission, the PPU indicated that the TFS remained concerned at the loss of an opportunity to consider hazardous use at the planning stage. Given a Director's Determination would need to be prepared and further consultation between the Director of Building Control and the TFS, the Commission has not modified the provisions for hazardous use in the Bushfire-Prone Areas Code.

The Commission notes that Interim Planning Directive No.1 is also under consideration by the Commission. In the event that modifications to the Interim Planning Directive eventuate as part of the Commission's assessment, the Commission recommends that an amendment be made to the SPPs to bring them into alignment.

A number of matters were raised about the drafting of standards that referred to certification by the TFS or an accredited person. It was submitted in some instances the standards create a risk of liability for planning authorities.

The Commission recommends drafting modifications to improve the operation of these provisions. In Acceptable Solutions the certified Bushfire Hazard Management Plan is the essential test and in the Performance Criteria there is necessarily a role for the planning authority to consider the listed matters, and advice from TFS. It is noted that the planning authority may need to exercise discretion and to assume liability, if the site condition exceeds the authority of the accredited practitioner to certify the Bushfire Hazard Management Plan, that is, if practitioners have only been given accreditation up to BAL 19.

Representations were made about the advantages of including the scope of the code to cover habitable buildings to avoid the potential for applicants to find out late in the process that they may require a planning permit for vegetation clearing. Although this circumstance is not ideal, the Commission does not consider that the draft SPPs should be modified to make such a significant inclusion. Administrative measures implemented informally by planning authorities can go a long way to minimise the potential for the late discovery of the need for a planning permit as result of vegetation clearing required by a BHMP.

TasWater submitted that provisions for reticulated water supply for fire-fighting was not appropriate as it cannot guarantee supply during an emergency and the relevant legislation relieves it of the obligation. The Commission acknowledges the issue but prefer that the provisions are retained as they establish the hard infrastructure, irrespective of supply.

Planning authorities were also concerned about their liability for ensuring conditions of a permit that require the on-going maintenance of vegetation clearing. The Director of Building Control advised that there is an obligation for the building owner to meet the requirements of any building permit (or authorised building work) into perpetuity. While the Council may be responsible for enforcement of the permit as the building regulator it is not a planning enforcement issue.

Drafting modifications are also recommended to improve the operation of the code.

5.13 Clause C14.0 Potentially Contaminated Land Code

The Commission heard from planning authorities that they were concerned about the practicalities of applying the code. In particular, that the trigger for establishing contamination was not clear and the arrangements for suitably qualified persons could potentially expose planning authorities to liability.

The Commission recommends modifications to C14.2.1 to provide clear triggers for the application of the code. It must either:

- be shown on an overlay;
- the planning authority knows or suspects the site has been used for a potentially contaminating activity, or
- identified to be potentially contaminated in a report lodged with the application or by a suitably qualified expert requested under section 54 of the Act.

The planning authority may reasonably suspect the site to be contaminated based on knowledge of an environmental notice issued under the *Environmental Management and Pollution Control Act 1993* (EMPCA) or as a result of a previous permit.

Modifications are recommended to the code to address these concerns. However, the Commission considers that, as there is an accreditation scheme for site contamination practitioners and they are accredited in other jurisdictions, that it may be appropriate to put in place more formal arrangements, akin to those for bushfire-hazard management practitioners.

Section 69A of the Act ensures that planning authorities do not incur liability for anything done or omitted to be done in accordance with a certificate by an accredited person. To give effect to this protection from liability, provisions would be required in the relevant legislation and complementary regulations to set out the terms of accreditation.

The Commission recommends that this be further considered with a view to including in the *Environmental Management and Pollution Control Act 1993* an accreditation scheme similar to that available in the *Fire Service Act 1979.*

5.14 Clause C15.0 Landslip Hazard Code

The Landslip Hazard Code is aimed at managing landslip, which may be used interchangeably with landslide, hazard in a manner that is complementary to the requirements in the building regulatory framework.

Like the coastal hazard codes, the code's development has been led by the OSEM and is supported by mapping in hazard bands.

The Commission recommends modifications to the code similar to those made to other hazard codes. These broadly address those parts of the code that affect its application, the description for the relevant expert practitioner and their report, the capacity to request further information where there is a concern that a risk may be present, and the construction and drafting of Performance Criteria

At the hearings, the issue of development and works on land adjacent or nearby to landslip prone areas was raised. It is recommended that the application of the code provisions at C15.2.1(b) be modified to allow for a report to be requested where there is a potential to cause or contribute to landslip, irrespective of whether the site is within a landslip hazard area. The exemption for building and works has also been limited by reference to the code.

5.15 Other Codes

A number of representors were concerned that the draft SPPs should contain more codes to address a wider number of issues. Acid sulfate soils, dispersive soils, geo-conservation and Aboriginal heritage are examples. The need for a stormwater and an on-site waste water code were the most strenuously supported.

The Commission agrees that some further codes may be appropriate, however, the assessment process for the draft SPPs is not an appropriate process for introducing new codes. Whether further codes are included in the future by amendment to the SPPs is a matter for the Minister to consider.

While the State Policy on Water Quality Management 1997 (SPWQM) can be met with modifications to the SPPs without the addition of a code, the Commission encourages the inclusion of a code that more comprehensively addresses stormwater.

Extensive representations and submissions were made on stormwater and on-site waste water. Separate discussion of these issues follows.

5.15.1 Stormwater Code

Representations were received from planning authorities, practitioners and community organisations that a stormwater code should be included in the SPPs. Draft codes prepared; with input from council engineers and planners, and community groups, were submitted in representations and tabled at the hearings. While there was widespread agreement that a code was needed, representors were not in agreement about the drafting of the code.

The Commission accepts that the need to manage stormwater is for the purpose of preventing overland flows (flooding) and ensuring that the quality of stormwater reaching a natural wetlands and waterways meet the water quality objectives established under the SPWQM.

It was submitted by engineering staff from southern councils that the *Urban Drainage Act 2013* is principally to manage stormwater infrastructure. It includes a requirement that councils develop stormwater system management plans, although few councils have done so at this time. It does not address stormwater quality.

The Director of Building Control advised the Commission at the hearing that the plumbing regulatory framework was only concerned with the measures necessary to convey stormwater away from buildings, for the purpose of protecting buildings.

The Commission notes that urban stormwater is more readily addressed for greenfields sites at the subdivision stage. However, there is sometimes a need for more control where density is increased, such as for multiple dwellings on existing lots.

An issue faced by councils is the expectation of connection to a public stormwater system in an urban area. Sometimes subdivision and, or development can increase the load on infrastructure such that an upgrade is required. While ideally this cost may be borne by the developer, the planning scheme lacks the authority to leverage infrastructure charges.

Not all planning authorities agree that a stormwater code is necessary and it was suggested that clause 6.11.2 be augmented to provide a head of power for conditions addressing stormwater to be included on permits.

Given the limited time available for the Commission's assessment of the draft SPPs, the Commission recommends modifications to clause 6.11.2. However, it acknowledges that the regulatory regime for stormwater, manages stormwater drainage more effectively than stormwater quality.

The Commission recommends that the Minister gives consideration to whether the SPPs require a code or further provisions to better manage stormwater quality, and if so that this be included by amendment to the SPPs.

5.15.2 On-Site Waste Water Code

The drafts SPPs do not include an On-Site Waste Water Code. However, in some zones there are subdivision standards that require the size of lots to be sufficient in area to accommodate on-site waste water disposal. This is a site suitability test and design of a specific system comes later, when building and works are proposed.

Representations were received from planning authorities about the benefits of including a code for on-site waste water. A draft code prepared by the 12 southern planning authorities with collaboration from planners and environmental health officers was tabled at the hearing.

A key driver for including a code was to manage the cumulative impacts of waste water management systems. It was submitted that these may operate satisfactorily on a site by site basis, but over time can result in impacts on local water quality.

A code was also seen as an important measure to avoid problems later in the development process, where buildings and works may need to be relocated after establishing where the waste water management area is to be located and may even require another planning permit. This would be avoided if the plumbing permit is required at the planning stage.

Southern planning authorities also considered that addressing on-site wastewater at the development stage would give them better capacity to pursue enforcement for non-compliance.

The Commission notes that, in some instances, previous poor planning allowing dense un-serviced residential development and the increase in the duration of stays at 'weekenders' through holiday rentals contribute to the problems faced by councils.

While on-site waste water management systems have improved, the Commission heard that over time, the failure of home owners to comply with the requirements for maintaining sound operation of their systems, such failing to periodically pump-out, or allowing sometimes significant buildings and extensions and hard surfaces to encroach on the waste water application area, contributed to problems experienced in entire settlements.

The southern beaches area in the Sorell Municipality is the state's largest single settlement dependent on on-site wastewater management. The small size of 'legacy' lots has been problematic.

The Director of Building Control advised the Commission at the hearing that changes to the plumbing regulatory framework being introduced on 1 January 2017 will assist with on-site waste water compliance. It will be possible to include conditions that address the ongoing maintenance of systems.

He did not consider it necessary for the planning scheme to address the issue of on-site waste water management other than as already proposed, for subdivision.

The Commission acknowledges that, while the southern beaches is not a typical scenario, there are many other situations around the state where on-site waste water disposal may be required to allow development on existing smaller lots.

However, the Commission is not persuaded that the planning scheme should include 'regulation' of matters that are adequately addressed under another regulatory framework. The Commission notes that the mechanisms available in the LPSs, such as a Specific Area Plan (SAP) may also assist planning authorities where exceptional circumstances apply, such as in the southern beaches area, if a case can be made under section 32 of the Act.

6.0 Consideration and recommendations for Local Provisions Schedules Requirements

Section 14 of the Act sets out the contents of the SPPs, including the provisions they may make regarding LPSs. The draft SPPs include Local Provisions Schedules Requirements which direct what may be included in the LPS for each municipal area and how it must be set out.

The Commission recommends modifications to the requirements, including consequential modifications to other parts of the draft SPPs, particularly clause 5.0 Planning Scheme Operation.

In addition to editorial modifications; the Commission has also clarified with the PPU the relevant dates for mapping that is to form the basis of overlays to be included in LPSs. The draft SPPs were exhibited indicating that it was intended to reference the mapping by date, but without identifying the relevant dates. The Commission considers it vital that the dates are included in the SPPs to provide certainty about the application of overlays.

The modifications broadly include:

a. introducing an alphabetic convention to uniquely identify local provisions with an alphabetic prefix signifying the municipal area to which it relates;

b. deleting the requirement to apply standard map colours;

c. clarifying when mapping or the completion of lists to give effect to the code provisions is mandatory;

d. modification to descriptors or headings for tables and lists where this was required as result of modifications to a code, including introduction of a data sheet for local heritage significance; and

e. minor modifications to the layout and format of tables and lists; and to provisions to make ready for on-line publication of the LPSs in iplan.

The Commission considers it essential that information and guidance be provided to planning authorities to support the preparation of their LPSs to meet the LPS requirements as soon as possible after the SPPs are made. Some matters included in the LPS requirements are directory and the Commission considers it unnecessary to embed these matters in the SPPs.

An example is the requirement to apply standard colours to the maps. The need to do so remains important but the Commission considers it unnecessary to include the colour values in the SPPs. The Commission also notes that the LPS requirements are silent on the presentation of overlays and that a state-wide approach can continue to be developed and conveyed as a requirement in guidance to planning authorities.

The Commission recommends that a guideline or guidelines under section 8A of the Act, Commission Practice Notes, or both are required to provide more detailed information to planning authorities to assist the preparation of their LPSs as matter of priority.

7.0 Technical and implementation issues

Under section 25(5) of the Act, recommendations described under section 25(2)(d) can be in relation to technical or implementation matters.

7.1 Drafting

The Commission recommends modifications to the draft SPPs to rectify numerous minor editorial matters including; errors, omissions, numbering and formatting. Other drafting modifications are recommended to improve the consistency and clarity of drafting to improve the legal robustness of the SPPs.

A large number of representations raised drafting issues and many included detailed drafting suggestions. Generally, the Commission did not seek further information during the hearing process on drafting matters and relied on information provided in the written representations.

In many instances, the drafting suggestions reflect a preference for an alternate expression and do not go to the operation of the standard. The Commission has not accepted suggested modifications, unless necessary for clarity and consistency or to address an error.

7.1.1 Writing style and conventions

The explanatory document accompanying the draft SPPs sets out the drafting conventions applied in the preparation of the draft SPPs.

Generally, they embrace long-standing drafting principles, established when Planning Directive No.1 – The format and structure of planning schemes was made.

The Commission supports the following drafting principles:

1. The Tasmanian Planning Scheme is expressed in plain English.
2. The Tasmanian Planning Scheme contains minimal regulation while being legally robust.
3. Regional and local planning strategies are reflected in the Tasmanian Planning Scheme through the application of the local provisions.
4. Zoning is the primary mechanism for expressing spatial strategy.
5. Zone provisions contain the primary directions for the use, development, protection and conservation of land within each zone.
6. Zones identify the range of use and development that is allowable.
7. Codes, particular purpose zones, specific area plans, and site-specific qualifications are additional mechanisms for delivering planning policy and strategy. They may be used to qualify, but not distort, the underlying zone.

Drafting should be clear and consistently applied throughout the scheme. Words and phrases should carry the same meaning wherever they occur. Plain English, with reference to the Macquarie Dictionary should be used, unless the term is defined in clause 3.0 Interpretation.

The Commission recommends modifications throughout the draft SPPs to remedy internal inconsistencies, such as to improve the discipline of relating Acceptable Solutions and Performance Criteria to each Objective. The Acceptable Solutions and Performance Criteria are alternate means of meeting the Objective which is the standard.

The Performance Criteria should clearly articulate criteria considered to meet the standard and not refer broadly to the Zone Purpose or Objective. If relying on the Performance Criteria, the Zone Purpose and Objective may be considered in any event.

Another key drafting convention is the use of 'having regard to' before listing the matters relevant to the exercise of discretion in a Performance Criterion. The draft SPPs included varying expression, such as 'must demonstrate' or 'giving consideration to'. Modifications are required to make the drafting more internally consistent.

Many representors did not support the 'having regard to' drafting convention. However, the Commission considers this to be the preferred way of expressing Performance Criteria. It is important that expression of the Performance Criteria allows the planning authority to exercise discretion and expression such as 'ensure' or 'must demonstrate' may be problematic. In legal interpretation the 'having regard to' drafting style provides a mechanism for the decision maker to apply the appropriate weighting to the matters under consideration.

The Commission is also cognisant that the matters being had regard to can impose significant requirements on applicants and where possible it has moderated the number of matters listed. In other instances, to meet the Objective, it has been necessary to extend the list.

The Commission recommends that standards for any issue common to a number of zones, be expressed consistently. For example, the issue of residential amenity is addressed similarly in the General Residential, Inner Residential and Low Density Residential zones. The standards consistently refer to 'an unreasonable loss of amenity' which is assessed with reference to 'adjacent sensitive uses'.

Appendix E– Writing style and conventions reflects the parameters the Commission recommends for modifications. The Commission recommends the same writing style and conventions be used by planning authorities in the preparation of their LPSs.

7.1.2 Quality Assurance

While the Commission has made every effort to ensure that recommendations for modifications to the draft SPPs are clearly and consistently drafted, there has been limited time for quality assurance. For example, there has been no opportunity for focused consultation or release of an exposure draft to practitioners to mitigate the possibility of unintended consequences arising from modifications.

7.2 Guidelines under Section 8A of the Act

Under section 8A of the Act, the Commission can issue guidelines for the purpose of assisting planning authorities to prepare draft LPSs (and amendments) and regarding the implementation and operation of the Tasmanian Planning Scheme.

The Commission considers that guidance will be required to assist planning authorities to prepare their draft LPSs as soon as possible after the SPPs are made by the Minister. Guidance on the following matters is a high priority, whether as guidelines under section 8A of the Act or Commission Practice Notes, or both:

- application of zones and overlays;
- technical mapping requirements including the colour values for zones and the display of overlays;
- drafting conventions for the matters to be included by each planning authority in its LPS, including particular purpose zones, specific area plans, site-specific qualifications, and the various lists associated with codes; and
- transition of local provisions in interim planning schemes to LPSs.

7.3 Publication in iplan

While not a statutory requirement, the Commission has given consideration to the online publication of the Tasmanian Planning Scheme in its consideration of the draft SPPs. This has allowed formatting issues that could be problematic for digital publication of the SPPs and LPSs to be resolved early in the process. Necessary refinements to formatting and layout for digital publication are included in the recommended modifications to the draft SPPs.

7.4 Access to Australian Standards

The draft SPPs rely on Australian Standards in a number of standards, for example, for car parking. The referenced Australian Standards are incorporated documents and while they can be readily sourced, the cost of obtaining the Standards is significant and may present a barrier to users of the Tasmanian Planning Scheme being able to interpret some of its standards.

The Commission notes that, in other jurisdictions, arrangements have been made to ensure that the Australian Standards can be accessed more readily.

The Commission considers that, as the Australian Standards are incorporated documents, it is appropriate that they be made more readily available and recommends that mechanisms to achieve wider public access be pursued.

7.5 *Local Government (Building and Miscellaneous Provisions) Act 1993* (LGBMPA)

The draft SPPs do not provide a permitted pathway for subdivision. This issue was raised in a number of representations. The Commission considers that while there may be merit in providing a permitted pathway for subdivision, the provisions of the LGBMPA presently prevent this from occurring. The scope of the subdivision

provisions in the Act extend beyond the council's role as a planning authority. It is therefore difficult to provide a permitted pathway when there remains discretion for a subdivision to be refused under section 85 of the LGBMPA.

The Commission recommends review of the LGBMPA to allow planning for subdivision to be wholly considered under the Tasmanian Planning Scheme as part of the wider reform agenda.

7.6 Building regulatory reform

A significant reform of the building regulatory framework has been underway during the consideration of the draft SPPs. The *Building Act 2016*, accompanying regulations and Directors' Determinations will take effect from 1 January 2017.

The new approach takes a risk-based approach to building and plumbing work.

The Commission has made best efforts with the assistance of the PPU and Director of Building Control to ensure that recommendations for modification of the SPPs are expressed to reflect the new arrangements. For example, references to building permits have been modified to refer to an authority.

The building regulatory framework is most closely associated with exemptions and hazard codes. After the *Building Act 2016* commences there may be matters that have been overlooked that require modification of the SPPs.

8.0 State Planning Provisions Criteria

Under section 25(2)(e) of the Act, the Commission must provide a statement as to whether it is satisfied that the draft SPPs meet the SPPs criteria.

The SPPs criteria are set out under section 14 of the Act, contents of State Planning Provisions, and require:

a. that only provisions as set out in section 14 of the Act are included;

b. furtherance of the objectives in Schedule 1 of the Act;

c. consistency with each State Policy; and

d. that regard has been given to the safety requirements in standards under the *Gas Pipelines Act 2000*.

The Commission's consideration of these matters is set out below.

8.1 Contents of State Planning Provisions under section 14 of the Act

Section 14 of the Act sets includes reference to section 11 of the Act, which sets out matters that may be provided for in a planning scheme, as well as specific provisions that clarify the inter relationship between the SPPs and future LPSs so they may operate in the manner intended.

The Commission has considered the draft SPPs and agree that they contain only those provisions specified under section 14 of the Act.

8.2 Objectives of the Resource Management and Planning System (RMPS)

All decision makers under the Act, including the Minister, are required to further the RMPS objectives under section 5 of the Act. That is, at each step of the process there is an obligation to further the RMPS objectives.

Many representors expressed concern that the Objectives of the RMPS[1] have not been met, both as a result of the process by which the TPS is being developed and introduced, and as a consequence of provisions in the draft SPPs that provide new opportunities for use and development to proceed without third party input, or to limit third party input by the wider application of the No Permit Required and Permitted categories in the Use Tables.

The process by which the draft SPPs were prepared is a matter beyond the scope of the Commission's consideration. The process was established by legislative amendments which were passed by the Parliament in 2015.

The Commission accepts that the draft SPPs are drafted to avoid duplication of approvals. Modifications have been recommended in some parts of the draft SPPs to

[1] Part 1, Schedule 1 of the Act

ensure that other approvals do not have unintended consequences for planning considerations.

The Commission considered representors' claims that the draft SPPs include new opportunities to proceed without third party input, including providing for more uses to be No Permit Required and Permitted in the Use Tables. However, the draft SPPs include opportunities for public involvement where use and development is discretionary. While No Permit Required and Permitted use and development do not provide for third party input, compliance with the applicable standards is still required. While this may be a change from some interim planning schemes, it is not necessarily at odds with the Objectives of the RMPS. Representations also raised concerns about a range of particular Objectives of the RMPS.

There are two Parts to the Schedule 1 Objectives. The Part 1 Objectives include promoting sustainable development and providing for fair, orderly and sustainable use and development. Many representors were concerned that these objectives were not furthered by the draft SPPs.

The Commission considers that the draft SPPs include a complete suite of zones and codes that provide the standards to be applied to the assessment of use or development. These address built and natural values, hazards and infrastructure efficiency. For example, sustainability outcomes in the Part 1 Objectives can be furthered in a number of ways, including through the zoning of land for environmental management and landscape conservation, servicing standards that protect water quality and hazard codes that address the impact of climate change in coastal areas.

In relation to whether the draft SPPs further the Part 1, Schedule 1 Objectives, the Commission finds that the objectives are broad in their expression and the extent to which the objectives are furthered is a matter of judgment. It is the Commission's view that the draft SPPs further the Part 1 Objectives.

Part 2 of the Schedule 1 Objectives provides the objectives for the planning process. The draft SPPs 'establish a system of planning instruments to be the principal way of setting objectives, policies and controls'[2] and in doing so, the draft SPPs further the objectives.

As a further example, the Commission considers that amenity standards, the need for private open space, zones for open space and recreation, attenuation between certain activities and residential use and the like contribute to promotion of the health and wellbeing of all Tasmanians, a Part 2 planning process objective under the Act.

The Commission concludes that the draft SPPs further the Schedule 1 Objectives.

[2] Part 2, Schedule 1 of the Act

8.3 Consistency with State Policies

As part of meeting the SPPs criteria under section 15 of the Act, the draft SPPs must be consistent with each State Policy in effect under the *State Policies and Projects Act 1993.*

There are three State Policies and seven National Environment Protection Measures (NEPMs)[3] which are taken to be State Policies. The NEPMs are national standards for a range of environmental issues. Only the NEPM for the assessment of site contamination is considered to be relevant.

The draft SPPs include the Potentially Contaminated Land Code. The Commission considers the code has been prepared consistent with the Assessment of Site Contamination NEPM, subject to modifications set out in the relevant part of this report.

The State Policy on the Protection of Agricultural Land 2009 (PAL), the State Coastal Policy 1996 (SCP) and the State Policy on Water Quality Management 1997 are discussed below.

8.3.1 Protection of Agricultural Land Policy (PAL)

The Protection of Agricultural Land Policy (PAL) aims to conserve and protect agricultural land. Under the policy, agricultural land is all land in agricultural use or that has potential for agricultural use and is not zoned or developed for another purpose; or restricted for agricultural use.

The policy is given effect through the draft SPPs principally through the Agriculture and Rural zones. These zones are a recalibration of the Significant Agricultural and Rural Resource zones applied in interim planning schemes. Other zones in the draft SPPs include separation distances from these zones to mitigate the potential for land use conflict.

While mapping to assist the delineation of these zones is still being prepared, the Commission is advised that the mapping will identify an extensive area that can be broadly described as the 'agricultural estate'.

The effect of this recalibration is that the standards in the Agriculture Zone focus on meeting the principles of PAL. The Rural Zone provides for a range of other uses but does not preclude agricultural uses.

The Use Table (including qualifications) and standards in the Agriculture Zone gives effect to PAL by limiting conversion of agricultural land, and potential for land use conflict. Residential development is specifically addressed and subdivision limits the capacity for a balance lot to be developed for residential use by requiring a section 71 agreement to restrict future use for a dwelling.

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[3] There are NEPMs for the following environmental issues: Air Toxics; Ambient Air Quality; Assessment of Site Contamination; Diesel Vehicle Emissions; Movement of Controlled Waste between States and Territories; National Pollutant Inventory; Used Packaging Materials.

While the Rural Zone allows for a broader range of use and development, it also includes Use Table qualifications and use and development standards that can conserve and protect agricultural land.

Subject to the recommended modifications to the Agriculture and Rural zones discussed in the relevant part of this report, the Commission considers that the SPPs are in accordance with the PAL Policy.

8.3.2 State Coastal Policy (SCP)

The State Coastal Policy (SCP) embodies three main principles:

- Natural and cultural values of the coast shall be protected;
- The coast shall be used and developed in a sustainable manner; and
- Integrated management and protection of the coastal zone is a shared responsibility.

It applies to Tasmania's coast, delineated in the policy as a zone reaching 1km inland from HWM to the extent of State waters. The SCP's approach is holistic and outcomes focussed with planning schemes being only one of several means by which outcomes can be met.

Significantly, since the SCP was prepared, there is now a much greater understanding of coastal processes and the effect of climate change.

The draft SPPs address those outcomes for natural resources and ecosystems by:

- including hazard management codes that are based on contemporary evidence and that take a risk-based approach;
- a natural assets code to protect watercourses and wetland that are part of the coastal system;
- by providing a number of zones that may be appropriately applied in the coastal zone, including the Environmental Management Zone and Landscape Protection Zone.

The satisfaction of other outcomes relevant to planning schemes will come with the LPSs which include the zoning of land.

Outcomes for sustainable development of coastal areas and resources are more directly related to the application of zones and overlays. The SPPs provide the zone and code standards but their application will follow in the LPS process.

Outcome 1.4.2 'Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1' is challenging to implement. While it is read with reference to Outcome 1.4.1 which allows for 'engineering or remediation works to protect land, property and human life', without definition, it is necessary to be sure that development is not on an actively mobile landform.

The Commission recommends modifications to the draft SPPs to ensure that exemptions do not allow actively mobile landforms to be developed in

contravention of the SCP and that the Coastal Erosion Hazard Code applies, not just to the mapped hazard bands, but to an area that reflects the coastal zone in the SCP. Within this area, the code applies to that land beyond the hazard bands if the planning authority requests a report from a suitably qualified person and actively mobile landforms are identified.

The Commission recommends that urgent consideration be given to the review of the SCP and particularly Outcome 1.4.2 regarding actively mobile landforms. Now that contemporary mapping is available on a state-wide basis, there may be an opportunity to more clearly identify the presence or likelihood of actively mobile land forms. However, the Commission is of the view that a definition for actively mobile land forms could not be introduced to the SPPs as a result of the SCP and SPPs being made under separate legislation and the explicitness of the prohibition in Outcome 1.4.2.

A broader review of the policy is supported given that the SCP is largely unchanged since it was introduced 20 years ago.

Subject to modifications, particularly in relation to actively mobile landforms, the Commission is satisfied that the draft SPPs are in accordance with the SCP.

8.3.3 State Policy on Water Quality Management 1997 (SPWQM)

The State Policy on Water Quality Management applies to all surface waters in Tasmanian, including coastal waters and groundwater. The Policy aims to protect or enhance surface water and groundwater resources while allowing for development.

The related legislative and regulatory framework includes the *Water Management Act 1999* the *Urban Drainage Act 2013*, the *Plumbing Regulations 2014* and the *Water and Sewerage Industry (General) Regulations 2009*.

In respect to planning schemes, under clauses 31.1, 31.2 and 33.1 of the Policy there is an expectation that planning schemes require that development with the potential for off site polluted stormwater runoff should include or be required as a condition of approval, stormwater management strategies during construction and operation of the development.

Clauses 36.1 and 36.2 of the SPWQM suggest the identification of soils and geology with the potential for acid drainage and to implement development controls to mitigate the threat to water quality as a result of acid drainage developing.

Under clause 31.5, planning schemes are expected to require use and development be consistent with the physical capability of the land so that erosion and land degradation are minimised.

In considering the draft SPPs the Commission identified and were presented with issues relevant to the SPWQM including:

- stormwater management at the construction and during ongoing use;
- onsite waste water management; and
- water quality management through the protection of native vegetation, coastal and riverine processes to minimise erosion and land degradation.

The draft SPPs address the Policy largely with standards in zones that mitigate the impact of runoff with site coverage controls, the need to connect to reticulated services where these are at hand, and through codes, particularly the Natural Assets Code.

The Commission is satisfied that the SPPs accord with the Policy subject to modifications, including broader powers for conditions on permits that will assist stormwater management in clause 6.11.2. More detailed discussion of the Commission's findings on the Natural Assets Code and suggestions that there be additional codes specifically addressing stormwater management, on-site waste water management and acid sulfate soils, can be found in 5.7 and 5.15.

8.3.4 Safety Requirements in the *Gas Pipelines Act 2000*

The *Gas Pipelines Regulations 2014* (made under the *Gas Pipelines Act 2000*) include safety requirements for pipelines in Part 4. These are set out in schedules to regulation that reference the applicable Australian Standard or code.

The Commission considers that the prescribed standards are not directly relevant to provisions in the draft SPPs.

9.0 Conclusion

The Commission has considered the draft SPPs as exhibited and had regard to the large number of representations received. While it has had an extension of time within which to consider and report on the draft SPPs, its approach has been necessarily pragmatic. More time would have been helpful to better resolve some issues of complexity or detail.

However, the Commission recommends that the draft SPPs can be made, subject to a number of drafting modifications. The Commission is satisfied that, subject to the modifications recommended, the SPPs will be in accordance with the requirements of the Act.

The Commission considers that the recommended modifications contained in Appendix D do not require re-exhibition. The modifications are largely elaborations, corrections and editorial changes to improve the clarity and consistency of the draft SPPs. Generally modifications that change the policy intent have been avoided unless there has been a reason to do so for clarification or implementation reasons.

The Commission recommends that the proposed modification to the exemption for Visitor Accommodation in a dwelling, and the consequential amendments that arise from it, ought to be re-exhibited given the high public interest in this issue and that the modifications introduce a different policy to that in the draft SPPs. An amendment to the SPPs can be commenced immediately upon their making.

Further work is required to prepare a revised Natural Assets Code and separate Safeguarding of Airports Code to be included in the SPPs following an amendment process. Terms of Reference are required for these amendments.

A review of the State Coastal Policy 1996, particularly Outcome 1.4.2 regarding actively mobile landforms should be considered as a priority. Now that coastal hazard mapping is available on a state-wide basis, the SPPs could potentially include planning standards to deliver the outcomes envisaged by clause 1.4.2 but is constrained from doing so by the terms of the policy.

Review and consideration of amendments to the General Residential and Inner Residential zones is considered a priority as the Commission has made only very limited modifications, despite the large number of representations on standards in these zones.

The Commission considers its other recommendations will result in improvements to the SPPs and their implementation.

10.0 Recommendations

The Commission recommends under section 25(2)(d) of the Act that:

1. **Making the SPPs**

   The Minister makes the SPPs with modifications as set out in Appendix D of this report and that under section 25(4)(b) of the Act the modified SPPs do not require re-exhibition.

2. **Terms of reference for draft amendments to the SPPs**

   The Minister prepares a terms of reference under section 30C(1) of the Act for the preparation of a draft amendment of the SPPs, immediately upon their making, for the following matters:

   a. C7.0 Natural Assets Code

      Preparation of a draft amendment to insert a code (or codes) into the SPPs to address the values of waterways and coastal protection; future coastal refugia; priority vegetation and potentially drinking water catchments giving consideration to:

      i. whether a single or multiple codes assist the clarity, application and understanding of the planning policy and regulation inherent in the current provisions of the code;

      ii. the state-wide and government endorsed mapping to be used as a basis for overlays and providing the methodology or parameters that are to be applied for variation of the overlay mapping by planning authorities;

      iii. application of the code or codes, including whether values must be mapped comprehensively or by reference to, or exclusion from, zones;

      iv. the scope of priority vegetation values and standards for its protection and management;

      v. development standards for buildings and works that are self-contained, without reference to incorporated documents; or that refer to specific standards in any incorporated document;

      vi. any relevant Commonwealth and State legislation, regulation and policies, and regional land use strategies to ensure broad consistency to avoid duplication;

      vii. the objectives of the Act; and

      viii. the need for any consequential amendments to other parts of the SPPs.

   b. Safeguarding of Airports Code

      Preparation of a draft amendment to insert a code into the SPPs that is to be titled the Safeguarding of Airports Code. The Safeguarding of Airports code

should be prepared in consultation with airport operators and planning authorities with reference to:

i. the NASF, including its guidelines A-F;
ii. the Commonwealth *Airports Act 1996* and any relevant regulations (to avoid duplication);
iii. any approved Airport Master Plans;
iv. Australian Standards relevant to mitigating impacts from airport noise for sensitive uses;
v. overlay mapping that is to be produced in collaboration with airport operators that:
   - identifies an area of influence for managing aircraft noise impacts incorporating ANEF and N mapping ;
   - identifies an area for airspace protection with reference to Obstacle Limitation Surface (OLS) and Procedures for Air Navigational Services – Aircraft Operations (PANS-OPS) mapping for all airports; and
   - identifies a distance from the airport within which potentially conflicting land use is managed; and
vi. including any consequential amendments to other parts of the SPPs.

3. Draft amendment for exhibition – exemption for homestay

The Minister under section 27(2)(b) of the Act approves for public exhibition a draft amendment to the SPPs (after their making) to include an exemption for 'homestay' including consequential amendments, as set out in Appendix F**.**

4. Review of State Coastal Policy 1996

That priority consideration is given to the review of the State Coastal Policy 1996, particularly Outcome 1.4.2 regarding actively mobile landforms. Now that coastal hazard mapping is available on a state-wide basis, the SPPs could potentially include planning standards to deliver the outcomes envisaged by clause 1.4.2 but is constrained from doing so by the terms of the policy.

5. Review of the General Residential and Inner Residential zones

That the General Residential and Inner Residential zones are reviewed as a priority to:

a. evaluate the performance of the residential development standards and whether the intended outcomes have been realised, including delivering greater housing choice, providing for infill development and making better use of existing infrastructure;

b. consider the validity of the claims that the standards are resulting in an unreasonable impact on residential character and amenity; and

c. introduce drafting that is more consistent with the conventions that apply to the SPPs generally.

6. ***Local Government (Building and Miscellaneous Provisions) Act 1993* review**: that the LGBMPA be reviewed to enable planning assessment for subdivision to be wholly considered under the Tasmanian Planning Scheme.
7. **Significant trees:** that a stand-alone code for significant trees to protect a broader range of values be considered as an addition to the SPPs.
8. **Activity Centre Network**: that a state-wide activity centre network is established and standards in the SPPs be amended to refer to it.
9. **Affordable housing:** that consideration is given to whether housing affordability is a matter that should be addressed in the planning system and if so, what actions are required to set the policy context, such as modifications to the objectives of the Act or planning policy direction relevant to the SPPs.
10. **Stormwater management:** that a stormwater management code or standards suitable for inclusion in zones be prepared to better manage the stormwater disposal.
11. **Tourism:** that a planning approach to tourism is developed that includes consideration of the implications for the application of zones in LPSs and associated standards in the SPPs.
12. **Attenuation standard for effluent irrigation schemes**: that a suitable standard for attenuation of effluent irrigation schemes from sensitive uses with reference to Environmental Guidelines for the Use of Recycled Water in Tasmania (Environment Division, Department of Primary Industries, Water and Environment 2002) be included in C9.2.
13. **Planning authority liability:** that consideration is given to including in the *Environmental Management and Pollution Control Act 1993* an accreditation scheme similar to that available in the *Fire Service Act 1979* to protect planning authorities from liability under section 69A of the Act.
14. **Review of Bulky Goods Use Class:** that consideration is given to the scope of the Bulky Goods Sales Use Class and whether an additional Use Class that would allow for improved differentiation of activities such as landscaping supplies from other large format retail is beneficial.
15. **Access to Australian Standards:** that as the Australian Standards are incorporated documents mechanisms to achieve wider public access be pursued.