



12 June 2020

Mr Matthew Atkins
General Manager
Devonport City Council

Email: council@devonport.tas.gov.au

Dear Matthew,

Representation on the draft Devonport Local Provisions Schedule (LPS)

Pursuant to section 35E of the *Land Use Planning and Approvals Act 1993* (LUPAA), this representation is made to the draft Devonport Local Provisions Schedule (LPS). The representation relates to what is considered to be a relatively minor and anomalous mapping inconsistency associated with the Waterway and Coastal Protection Area overlay applying to the land occupied by the Devonport Tennis Club facilities at 18-32 North Street, Devonport (Certificate of Title reference 156211/1). This is land owned by the Devonport City Council.

Further particulars on the representation are set out below.

Yours sincerely,

Mark McIver
PROJECT OFFICER

Waterway and Coastal Protection Area (WCPA) overlay – land occupied by the Devonport Tennis Club facilities at 18-32 North Street, Devonport

Background

- (1) The Natural Assets Code of the State Planning Provides requires a Waterway and Coastal Protection Area (WCPA) to be included with the draft LPS by means of a mapped overlay. This overlay map will show where the standardised requirements of the Natural Assets Code of the State Planning Provisions (relating to waterway and coastal protection) will be applied in the Devonport local government area.
- (2) The WCPA overlay map included with the draft Devonport LPS has been derived from the "Waterway and Coastal Protection Area Guidance Map" (the Guidance Map) published on the Land Information System Tasmania (LIST) database. This Guidance Map was generated by the Derwent Estuary Program in conjunction with UTAS as an extension to the work that was completed to apply the WCPA overlay for the equivalent code in the current interim planning schemes of local councils in the Southern Region of the State.
- (3) The Guidance Map published on the LIST map database attempts to identify:
 - (a) wetlands and saltmarshes based on the Department of Primary Industries, Parks, Water and Environment (DPIPWE) Conservation of Freshwater Ecosystem Values (CFEV) Program mapping, TASVEG 3.0, and additional areas identified by UTAS; and
 - (b) the applicable buffer areas from tidal coastlines, water bodies (e.g. lakes and artificial storage areas, excluding farm dams) and waterways based on CFEV catchment mapping and other relevant data obtained from the LIST database.




- (4) The WCPA overlay map which formed part of the draft LPS that was originally submitted to the Tasmanian Planning Commission (the Commission) in June 2019 included some modifications where there was variation from the information shown on the LIST Guidance Map.
- (5) These modifications were made in accordance with the instruction contained within the State Planning Provisions and also Guideline No.1 – Local Provisions Schedule (LPS): zone and code application (the LPS Zone and Code Application Guideline) which was issued by the Tasmanian Planning Commission pursuant to section 8A of LUPAA. Further supporting rationale for these modifications were outlined in the draft LPS Supporting Report.
- (6) The LPS Zone and Code Application Guideline is the principal point of instruction for the zone and code applications included with the draft Devonport LPS.
- (7) The abovementioned modifications included how the WCPA overlay was to be applied to the land area occupied by the Devonport Tennis Club facilities at 18-32 North Street, Devonport (forming part of the land described by Certificate of Title 156211/1). This land is owned by the Devonport City Council. The yellow outline in Figure 1 below shows the full extent of this land parcel which extends well beyond that area occupied by the tennis club.



Figure 1: Aerial image of 18-32 North Street, Devonport (Source: www.thelist.tas.gov.au)

- (8) The resultant WCPA overlay map originally included with the draft LPS showed the land area occupied by the Devonport Tennis Club as being excluded from the overlay area. This modification was made in accordance with the requirements of the LPS Zone and Code Application Guideline which contemplates modifications to the areas shown on the LIST Guidance Map to remove areas of existing development – refer to instruction NAC 3(d). In furtherance of this logic, the existing nature of the tennis club facilities at this location represents long established development upon land that has been significantly modified from its natural state.
- (9) The below table shows the extent of the LIST Guidance Map for the WCPA overlay at this location and also a similar version of the rationale for this modification that was provided with the original submission of the WCPA overlay map to the Commission in June 2019.

Location	Rationale for modification to Guidance Map	Reference to LPS Zone and Code Application Guideline
<p>18-32 North Street, Devonport (Part of CT156211/1)</p>  <p>(Source: www.thelist.tas.gov.au)</p>	<p>Site contains the Devonport Tennis Club facilities. Propose variation to the Guidance Map to remove the overlay where it overlaps the tennis club facilities.</p>	<p>Modify in accordance with instruction NAC 3(d).</p>

Commission's direction to modify the draft LPS

- (10) Before the draft LPS was made available for public exhibition, the Commission was required to be satisfied that the particular set of criteria contemplated under section 34(2) of LUPAA were met. As part of this assessment process, the Commission directed Council (pursuant to section 35(5)(b) of LUPAA) to undertake some modifications to the draft LPS from that which was originally submitted in June 2019.

- (11) Some of the modifications directed by the Commission related to the WCPA overlay – including the land at 18-32 North Street, Devonport which was subject to the following instruction:
- 'The Waterway and Coastal Protection Area overlay must apply according to the widths provided by the guidance mapping in the following areas:*
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- the Open Space and Recreation zones 18-32 North Street'*
- (12) As part of the modifications made in accordance with the Commission's direction under section 35(5)(b) of LUPAA, this revised version of the WCPA overlay at this location was incorporated into the exhibited draft LPS.
- (13) Immediately prior to the exhibition of the draft LPS, the query was raised with the Commission's planning staff on the matter of the WCPA overlay being reinstated over the land occupied by the Devonport Tennis Club at 18-32 North Street, Devonport which Council had originally sought to exclude. At this point it was reiterated that Council's position is that the appropriate rationale had previously been made out for this modification in accordance with the variations contemplated under the LPS Zone and Code Application Guideline (specifically instruction NAC 3(d)).
- (14) There was general acknowledgement from the Commission's planning staff on this matter and there was ensuing discussion around whether the public exhibition of the draft LPS should be delayed to make this adjustment – or, given the relatively minor nature of the issue, whether it could instead be addressed as part of the public exhibition period. The latter option was decided upon and it was agreed that Council would seek to correct the issue by making a representation during the public exhibition period.

Representation with request to modify

- (15) The area occupied by the Devonport Tennis Club facilities at 18-32 North Street, Devonport represents land that has been heavily modified from its natural state. The WCPA overlay is not considered compatible with this circumstance and the application of the overlay may unreasonably impact/constrain the existing use and development of the tennis club site. On these terms, and consistent with the instruction contained at NAC 3(d) of the LPS Zone and Code Application Guideline, the WCPA should be removed from where it overlaps the tennis club facilities.
- (16) The suggested modification is that the WCPA overlay should be concluded at edge of the tennis club facilities which are readily evident from the aerial imagery and which correlate to the existing fence line around the site. The red outline detailed in Figure 2 below shows the proposed revised boundary of the WCPA overlay around the tennis club area.



Figure 2: Proposed revised boundary for the WCPA overlay around the Devonport Tennis Club facilities at 18-32 North Street, Devonport (Source: www.thelist.tas.gov.au)

- (17) The modification to the WCPA overlay proposed in paragraphs 15 and 16 above is deemed to be of a relatively minor nature and which is essentially to correct what is perceived to be an anomalous mapping inconsistency. This modification was originally proposed with the draft LPS endorsed by Council and submitted to the Commission in June 2019 under section 35(1) of LUPAA.
- (18) The proposed modification is appropriately consistent with the requirements of the State Planning Provisions, is consistent with the modifications contemplated by the LPS Zone and Code Application Guideline for the preparation of the WCPA overlay map, and can appropriately satisfy the LPS criteria prescribed under 34(2) of LUPAA.