

**Representation on the Draft Glenorchy Local Provisions Schedule (the Draft LPS)  
Submission by Council Officers, 18 September 2020**

Terms used:

Draft Glenorchy LPS: Draft Glenorchy Local Provisions Schedule

GIPS 2015: Glenorchy Interim Planning Scheme 2015

LUPAA: *Land Use Planning and Approvals Act 1993*

SPPs: State Planning Provisions

STRLUS: *Southern Tasmania Regional Land Use Strategy 2010-2035*

TPC: Tasmanian Planning Commission

TPS: Tasmanian Planning Scheme

S8A Guidelines: Guideline No 1 Local Provisions Schedule (LPS): zone and code application, June 2018

**1 Include land at 115 Allunga Road, Chigwell in a General Residential Zone**

The Draft LPS includes 115 Allunga Road in a Community Purpose Zone.

PLS43A-18/01, approved by the TPC on 28 May 2019, included the land in a General Residential Zone under the GIPS 2015. The Draft LPS was originally submitted to the TPC on 19 December 2018, before the amendment came into effect (see Figure 1).

The transitional provisions of Schedule 6 to LUPAA, fail to provide for the transition of amendments that rezone land (among other things). At the time of preparing this representation, the Planning Policy Unit had indicated it was considering changes to LUPAA to address this omission.

The inclusion of 115 Allunga Road, Chigwell, in a General Residential Zone is considered appropriate, as it has already been assessed via a planning scheme amendment.



Figure 1 – Zoning of 115 Allunga Road, Chigwell

**2 Extent of SSQ over Wellington Park**

The Wellington Park Specific Area Plan under the GIPS 2015 was not mapped, see Figure 2



Figure 2 - Extract from the LIST showing Tasmanian Interim Planning Scheme Overlay – 27 July 2020

The extent of the Park within the Glenorchy Local Government Area (LGA) is shown in Figure 3 below.

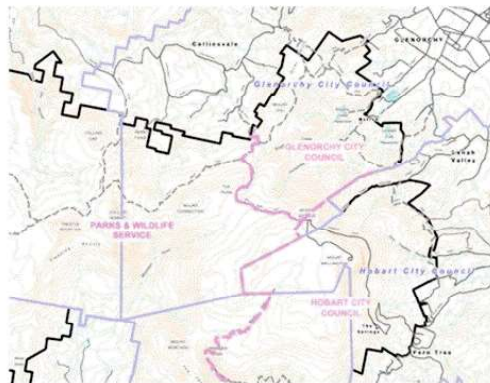


Figure 3 – Extent of Wellington Park within the Glenorchy LGA

The Draft LPS was required to transition F3 - Wellington Park Specific Area Plan, into the Draft LPS as a Site Specific Qualification GLE-23.1. However, Wellington Park has not been correctly shown in the exhibition maps: it does not cover the full extent of the park and includes Council land outside the Wellington Park area (see Figure 4).

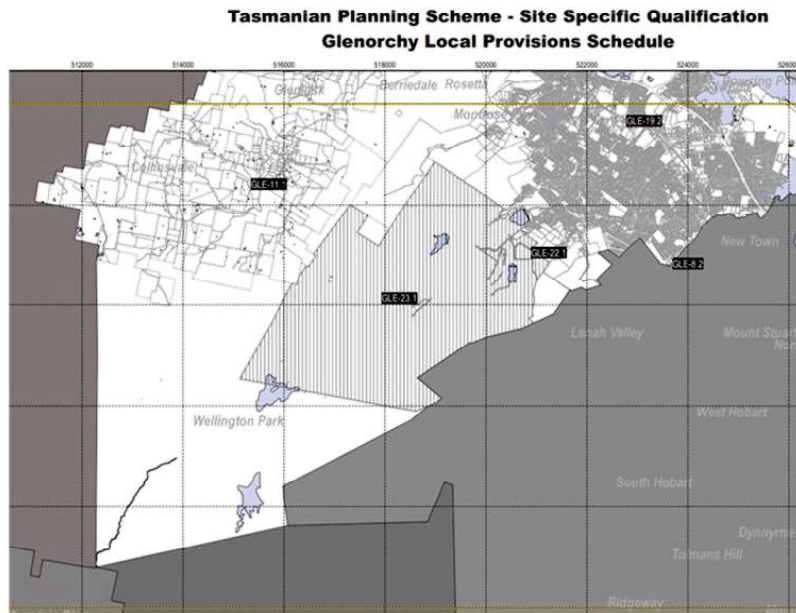


Figure 4 – Extract from Draft LPS showing extent of GL23.1 does not cover the whole park

As the GIPS 2015 Wellington Park control was a transitioning provision under Schedule 6 of LUPAA, it is requested that the SSQ mapping be revised to show the correct extent of Wellington Park identified in the Draft LPS ordinance, this area would be that shown in Figure 5 below.

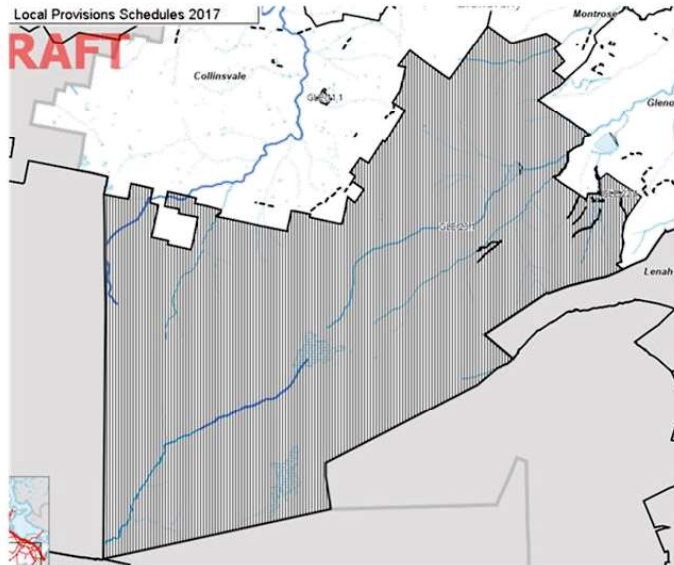


Figure 5 – correct extent of GLE-23.1

### 3 Exemptions Table 4.3.2 internal buildings and works – heritage interiors

In applying C6.0 Local Historic Heritage Code, the Draft Glenorchy LPS is seeking to protect the local historic heritage significance of local places. However, in some instances, the significance of a place is expressed in its interior.

Industry best practice heritage protection and assessment is set out in published and widely-used heritage standards such as the *Australia ICOMOS Burra Charter* and J.S.Kerr's *The Conservation Plan*. These documents advocate holistic consideration of all aspects (which includes interiors) that together contribute to the significance of a heritage place.

Further, the *Historic Cultural Heritage Act 1995* includes scope for consideration of internal building and works for places entered on the Tasmanian Heritage Register.

However, the ability to fulfill the objectives and purpose of the Local Historic Heritage Code to recognise and protect the local historic heritage significance of local places, is prevented by Table 4.3.2 which exempts the assessment of interiors. This essentially renders the Local Historic Heritage Code deficient and unworkable.

The Draft Glenorchy LPS is impeded from furthering the LUPAA Objective Part 2 (g): *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*, and from achieving regional policies CV 2 (*recognize, retain and protect historic cultural heritage values...*) and CV 2.5 (*to base heritage management on the Burra Charter...*) of the STRLUS, as the potential recognition of significant heritage values (interiors) cannot be achieved.

### 4 Exemptions Table 4.4.1 vegetation removal for safety or in accordance with other Acts.

In applying C6.0 Local Historic Heritage Code, the Draft Glenorchy LPS is seeking to protect the local historic heritage significance of local places which includes the gardens of some places and significant trees.

However, the exemptions in Table 4.4.1 enable removal of vegetation under a variety of circumstances, including clearance to construct or maintain a fence within 3m of a lot boundary in a Rural or Agriculture Zone and 1.5m of a lot boundary in any zone, and clearance within 2m of lawfully constructed buildings for maintenance repair and protection.

This is fundamentally in conflict with the C6.0 Code Purpose Statement and negates every other provision of the TPS including, but not limited to, removing the ability of a planning authority to protect/regulate removal of vegetation that forms part of a setting identified as being of local historic cultural heritage significance in Table C6.1 Local Heritage Places or a significant tree under Table C6.5, by nullifying the application of C6.6.10 and C6.9.1 wherever clearance around lawfully constructed buildings and lot boundary fences is carried out.

It is also noted that C8.0 Scenic Protection Code is intended to facilitate the protection of large exotic trees and hedgerows along scenic roads within a Scenic Road Corridor. The Draft Glenorchy LPS does not include any Scenic Road Corridors (the transitioning provision from the GIPS 2015 is a Scenic Landscape Area Overlay). However, any future intent by Council to include a Scenic Road Corridor to protect exotic vegetation which forms a key feature of the Collinsvale rural landscape, would also be prevented by the broad exemptions for vegetation removal at Table 4.4.1.

The Draft Glenorchy LPS is impeded from furthering Objective Part 2 (g) of LUPAA: *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*, by seeking to protect these values through the available SPP

tool - as the tool itself is compromised by the SPP exemptions and cannot do what it is intended to do.

#### 5 Front fence exemption at Clause 4.6.3 - conflict with Specific Area Plan and Particular Purpose Zone provisions and safety issues

The exemption under Clause 4.6.3 fences within 4.5m of a frontage, applies to all front fences except where a permit is required under a Local Historic Heritage Code.

However:

- GLE-S1.7.5.7 Fences A1(b) (GLE-S1.0 Claremont Peninsula Specific Area Plan) requires fences between buildings and the foreshore to be no more than 0.5m in height if solid, in order to promote open and natural areas with connections to the foreshore.
- GLE-P2.6.7 Fencing A1(b) (GLE-P2.0 Particular Purpose Zone – Technopark), requires a fence along a frontage to be 50% transparent above a height of 1.2m, to ensure an appropriate balance of security and passive surveillance.

It has been demonstrated through a planning scheme amendment process that for these unique sites, lower frontage fences, or variation in design of the front fence, are required to meet specific social and environmental values. These provisions are also required to transition into the Glenorchy LPS - however these outcomes will be lost due to the conflict with the exemptions at Clause 4.6.3.

This is also likely to create interpretation issues and reduce the effective operation of the planning scheme.

Further, the exemption for fences (or free-standing walls) less than 1.2m in height or 1.8m with transparency, does not take into consideration sight lines for vehicles and pedestrians at driveways or sight lines for vehicles and pedestrians at junctions. While some applications for multiple dwellings show proposed front fence details that can then be conditioned to provide sight triangles for safety, others do not. There is a potential for a new fence to be constructed under the exemption without the need for sight lines, impacting driver and pedestrian safety. This is inconsistent with the objectives of LUPAA, particularly Part 2 (f) *to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation.*

#### 6 Vehicle access and roads in subdivisions

To satisfy Section 107 (2) Access orders, of the *Local Government (Building and Miscellaneous Provisions) Act 1993* [LG(B&MP)], subdivision designs need to demonstrate that a vehicle can get from the road *onto* the lot – not just from the road *to* the lot. This prevents the creation of lots that are so steep with a small frontage, that the new owner needs to construct retaining walls or commit significant funds to ensure a 'reasonable access' is achieved. While the concept of 'buyer beware' could be considered relevant, ensuring that these matters are addressed in the planning stage, and that planning permits align with the requirements of LG(B&MP), benefits both future land holders and Council.

Further, early advice from the road authority can mitigate poor design impacts, such as where the road access is too steep, has lots of retaining walls, lots of cul-de-sacs or internal lots with limited parking, making it easier for Councils to determine whether to take over the road.

Unless additional controls (such as Specific Area Plans) are applied over steeper residential land to ensure an alignment with the planning process and LG(B&MP), the Draft Glenorchy LPS will be obstructed from furthering the Objectives of LUPAA, particularly:

- Part 1 (b) to provide for the fair, orderly and sustainable use and development of air, land and water
- Part 2 (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.

#### **7 Consideration of ways and open space in subdivision applications and the ability to require landscaping, and public open space or cash in lieu of open space**

While the provision of public open space in a proposed subdivision can be considered under the *Local Government (Building and Miscellaneous Provisions) Act, 1993* [LG(BMP)] if a planning scheme is silent on such requirements, relying on a two part assessment process will be convoluted and protracted for developers.

For example, it is possible than an applicant may read the section on Development Standards for Subdivision in the relevant zone, seeking an understanding of potential lot yield, and not realise that they also need to consider the impacts of inclusion of open space provision in their proposal – as this is not set out anywhere in the SPPs or Draft Glenorchy LPS.

Further, there is a possibility that the planning authority may be required to recommend refusal of a proposed subdivision under Section 85 of the LG(BMP) if no ways, open space or provision for the preservation of trees and shrubs is provided.

All relevant elements relating to the assessment of subdivision – including public open space provision - should be included in the one place for the benefit of the applicant, the community and the planning authority.

Without applying additional controls (via SAPs) to larger undeveloped residential land and ensuring an alignment with the planning process and LG(B&MP) the Draft Glenorchy LPS is obstructed from furthering the Objectives of LUPAA – particularly:

- Part 1 (b) to provide for the fair, orderly and sustainable use and development of air, land and water
- Part 2 (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.

#### **8 Impact of illuminated signs**

Illuminated signs have the potential to impact drivers not only at controlled intersections, but also at busy intersections or along busy roads. Consideration of the impact of illuminated signs in all instances needs to be assessed in order to ensure consistency with the Objectives of LUPAA, particularly:

- Part 1 (b) to provide for the fair, orderly and sustainable use and development of air, land and water
- Part 2 (f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation.

## 9 Access and Parking

### ▪ Accessible parking

The provision of car parking spaces should be appropriate to meet the needs of all members of the community. The *Glenorchy Parking Strategy 2017-2027* (Parking Strategy) identifies that Glenorchy has more people with a disability living in the municipality than other areas in Southern Tasmania: 7.5% of people in Glenorchy as compared to 6.0% in the greater Hobart Region. The provision of older persons (85 years and older) is also expected to increase in the future. The Parking Strategy also notes that 58% of older residents use their own car for transport. Based on this data there is a clear need to provide more accessible parking throughout the municipality. This aligns with a key goal of the *City of Glenorchy Community Plan 2015 – 2040*, 'making lives better' by ensuring that car parking spaces are accessible.

However, there is no requirement under the new scheme for the provision of accessible car parking spaces.

It is understood that the State government policy position to remove duplication of regulations has resulted in allowing for accessible requirements to be considered under National Construction Code (NCC). However, this will only relate to new developments, not uses. Further, where a development must provide accessible parking to comply with the NCC, the redesigned parking layout may result in the need for an amended planning permit or significantly, a fresh permit – an onerous and unsatisfactory outcome for the applicant, Council and the community.

It is unclear how excluding the need to address accessible car parking requirements through the planning process can satisfy the Objectives of LUPAA, particularly:

- Part 1 (b) to provide for the fair, orderly and sustainable use and development of air, land and water
- Part 2 (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals.

### ▪ Clarity of terms and consistency

In order to ensure consistent application of planning schemes across the State, terminology needs to be clear and where possible defined within the planning scheme. If a term is defined – such as the term 'vehicular access' or 'vehicular crossover' – that term should be used. Using other terms that are not defined such as 'access', 'access ways' or 'driveways' will cause confusion and misinterpretation, and inconsistent decision making. Clear definitions and consistent terminology is required.

Similarly, reference to the relevant Australian Standard should relate to the actual part of the standard that is being assessed [C2.6.2 Design and layout of parking areas references AS2890 part 1 - 6. However, Part 3 is for bicycle and Part 2 is for commercial; it would be clearer for each standard to be referred to in the right section of the code] and all relevant standards should be referenced [for instance there is no reference to the standards relating to grades of the driveway including headroom, access and parking design which refers to the AS2890.1 (section 2 and section 3)].

Provisions in planning schemes also need to be clear and not present an opportunity for conflict between provisions – for instance if all cars are required to leave a site in a forward direction, this should be consistent throughout the scheme [note the potential conflict between C2.6.2 Design and layout of parking areas A1.1 (a) (ii) and C3.5.1 Traffic generation at vehicle crossings A1.5].

## 10 Heritage

### ▪ *Heritage places that do not meet the requirements for significance*

In preparing the Statements of Significance for each place listed in Table E13.1 Heritages Places to the GIPS 2015, a review of the heritage merits of each place was undertaken. During this work, Council's Heritage Officer identified several places that did not meet the requirements of listing as a Heritage Place.

Council officers sought advice from the Planning Policy Unit (PPU) about the transitional process for the list in Table E13.1 to the GIPS 2015 under Schedule 6, 8D of LUPAA, and whether these sites should be 'carried over' into Table C6.1 Local Heritage Places to the Draft Glenorchy LPS.

The PPU indicated that it would not be appropriate for the Minister to remove these sites from the heritage list as part of the transitional process, and that any removal should be subject to an amendment. However, as the transitional provisions do not apply to any Code lists (ie the Local Historic Heritage Code) undertaking an amendment would be ineffective (ie a second amendment following approval of the LPS would be required). While it is noted that the State government are considering amending the transitional provisions to address this matter, the approach taken by Council officers in preparing Table C6.1 was to leave the Statement of Significance section for these sites blank and seek to gain clarity and/or resolve the issue through the Panel process.

A summation is provided below, noting that some of the Places identified as not meeting the requirements for entry as a Heritage Place, may potentially (ie, in future, subject to planning scheme amendment) be better suited to listing as part of a Precinct.

In preparing the entries for Table C6.1 Local Heritage Places, 2 Wyndham Road, Claremont (GIPS 2015, Table E13.1 Claremont, Place Ref 0396) was not considered to meet the requirements for significance. However, instead of listing the place and leaving the Statement of Significance blank in Table C6.1, the site was erroneously left off the list. In the interests of transparency and consistency it is recommended the Place be reinstated in the LPS noting that it is then included in the list of places that are not considered to meet the requirements for inclusion in Table C6.1 Local Heritage Places, below.

The sites that are not considered to meet the requirements for inclusion in Table C6.1 Local Heritage Places are:

- **4 Myrtle Forest Road, Collinsvale** on the grounds that, while it is a simple rural vernacular shed representative of a type commonly encountered in rural areas such as Collinsvale throughout the early to mid-20<sup>th</sup> century, its condition is such that to recover its structural integrity would require extensive reconstruction involving introduction of new fabric that would remove many, if not the majority of key qualities, that formed the basis for its listing in the first place.
- **404-408 Main Road, Glenorchy** on the grounds that the principal heritage item forming the subject of listing has been demolished (via the planning permit application process).
- **116 Bowen Road, Lutana** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.



- **14 O'Grady Avenue, Lutana** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.
- **10 O'Grady Avenue, Lutana** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.
- **20 Cook Street, Lutana** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.
- **6A Cox Avenue, Lutana** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.
- **117 Derwent Park Road, Lutana** on the grounds that it has been altered to the extent that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) and noting that future consideration as part of a precinct level listing may be warranted.
- **2 Wyndham Road, Claremont** on the grounds that it does not exhibit attributes that make it significant in its own right (ie, as a listed Heritage Place) or on a representative basis.

(Note this place is listed under Table E13.1 of the Glenorchy Interim Planning Scheme 2015, however it is erroneously left out of the Table C6.1 Local Heritage Places of the Draft Glenorchy Local Provisions Schedule.)

- **564, 566 & 568 Kalang Avenue, Glenorchy** on the grounds that these comprise subdivided lots, the development of which could have no conceivable impact upon the Heritage Listed CT for the parent property the nucleus of which is the house and outbuilding complex situated in excess of 250 metres to the north, at 123 Barossa Road, Glenorchy.
  - **Titles 91782/4 and 200123/1 forming part of 105-111 Main Road, Moonah** comprising a 1960s building to the rear of the complex and Dickensons Arcade, that has been extensively remodelled.
- ***Inability to protect the local historic heritage significance of local places, precincts, landscapes, area of archaeological potential and significant trees***

In applying the Local Historic Heritage Code, Council must seek to protect the local historic heritage significance of local places, precincts, landscapes, area of archaeological potential and significant trees, where appropriate. This is consistent with Objective Part 2 (g) of LUPAA: *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

The LPS tool intended to achieve this is the ability to insert a statement of significance in the relevant column of Tables C6.1, C6.2, C6.3 and C6.4. A Statement of Significance defines the

qualities and attributes of a place that give it its heritage value; it generally identifies 'what' is important, 'why' it is important, and 'how' it is significant.

However, the identification of qualities and attributes does not provide a way to measure whether changes to these values are 'unacceptable' or 'unreasonable'.

There is also no any opportunity in a Statement of Significance, or in any other list in the LPS, to identify or guide how 'any economic considerations' [C6.6.1 P1 (h), C6.7.1 P1 (h), C6.7.2 P1 (g)] are to be measured.

With no guidelines to measure what is reasonable, acceptable or when or what 'economic consideration' is relevant or not, there is no way for an applicant to address the performance criteria in these standards, or for a planning authority to provide consistent and accountable decisions – let alone for consistent decision making to occur throughout the State. The ability to protect heritage values under the LPS is impeded as the measures provided for assessment in C6.0 Local Historic Heritage Code are unworkable.

The Code is therefore inconsistent with Objective Part 2 (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value* of LUPAA and Regional Policies CV 2 to recognise, retain and protect historic cultural values.

▪ **Process for updating Statements of Significance**

The inclusion of a Statement of Significant of a place, in accordance with LHC 5 of the Section 8A Guidelines, allows for the information to be set out in Table C6.1, C6.2 or C6.3, or in a separate datasheet. All external documents must be listed in the LPS's Applied, Adopted or Incorporated Documents table.

While this potential to create variances between schemes (where one planning authority chooses to populate the tables and another chooses to include an incorporated document) is likely to cause confusion for owners and the community, the key concern is the process for updating these documents.

The TPC *Practice Note 5, Tasmanian Planning Scheme drafting conventions*, May 2017, provides that in using applied, adopted or incorporated documents: *if the document is revised from time to time, a formal amendment is required to ensure that the regulatory change is appropriate as a matter of planning policy, and to alter the reference to the document to reflect the appropriate date of issue.*

Given that a planning permit may be issued to remove or alter certain attributes, or there may be changes in attributes prompting compliance and/or enforcement action, there is the very real prospect that a Statement of Significance can quickly become outdated.

The avenue for update of Statements prescribed by the TPC is via a planning scheme amendment. However, this is costly, time consuming and potentially resource intense as it would open the Statement of Significance up to re-assessment each time a change to the Statement is needed. Regular review is, therefore, unlikely to occur.

A simple, streamlined process to update the values and attributes within the Statement of Significance following a lawful change to the place is essential to ensure the heritage controls remain current.

**Need for a transparent process**

To ensure heritage controls remains relevant, a streamlined process to update the values and attributes within the Statement of Significance following a lawful change to the place is required.

It is recommended that a Practice Note be developed by the TPC to ensure accountability and consistency of the process.

The process should allow for the following steps:

Planning Authority provides the following to the TPC:

- photographic evidence that the attribute(s) listed in the Statement of Significance has been removed.
- copy of planning permit granting lawful removal / modification of the attribute(s) or copy of compliance documentation confirming same.
- track-change version of the revised Statement of Significance.

TPC updates the Statement of Significance.

TPC provides letter to Planning Authority indicating the change has been made.

Planning Authority provides copy of TPC letter to landowner.

## 11 Natural Assets Code

### ▪ *Inability to measure terms used in the Code*

LGAT and the Meander Valley Council in their representation on the Draft Meander Valley LPS, identified that the inability to measure many of the terms in the Natural Assets Code, means that the Code is unworkable. Council officers note and support this assessment.

### ▪ *Inability to minimise impacts on Priority Vegetation*

In applying the Priority Vegetation Area Overlay in accordance with LP1.7.5 (d) of the SPP, a local authority can modify any of the State data sets, and include any native vegetation of local importance, including habitat for native fauna of local importance.

The Priority Vegetation Area for the Draft Glenorchy LPS was defined by modifying the Regional Ecosystem Model data, developed by Rod Knight, using desktop and field work analysis undertaken by Council officers. A summary explanation of the Regional Ecosystem Model and the Ground Truthing Report are appended to the Draft Glenorchy LPS Supporting Report (Appendices 3, 4 & 5).

However, the result of this mapping is a tight line around only that vegetation classified as priority vegetation. This means that a development proposal could result in clearance up to the edge of that vegetation. However, once cleared up to the edge, the vegetation on the border is likely to become degraded (such as through weed invasion), consequently losing its value and no longer worthy of protection should a subsequent request to clear this now 'degraded' area occur. The priority vegetation is slowly eroded, its viability diminished, with the Code failing to implement measures to minimise impacts on the priority vegetation.

Further, while a planning authority may modify inaccuracies and update the State data, or identify locally significant vegetation, the most appropriate means of reflecting and implementing the Schedule 1 Objectives of LUPAA of promoting sustainable land use and development, is to give consideration of, and allowance for, the movement of natural values. Such movement has always occurred in any case but will be exacerbated over the coming decades by climate change.

For example, on a short-term timescale, the Chaostola skipper may appear within *Gahnia radula* suddenly where it was not present six months previously. Similarly, for threatened flora species and other threatened fauna such as the forty-spotted pardalote. On a mid-term timescale, vegetation

communities move and regenerate if left undisturbed. Over the longer term, climate change will cause species, communities and ecosystems to move.

Opportunity to move is also critical for the edges of existing vegetation communities and mapped habitats, and for connectivity between habitats. All values generally need 'room to move' to maintain biodiversity and viability. In this regard, allowing for on-ground ecological assessments to over-ride mapped values (which may be out of date) is essential to ensure that impacts on priority vegetation are minimised.

A key purpose of the Code is to minimise impacts on priority vegetation:

*C7.1.4 To minimise impacts on identified priority vegetation*

*C7.1.5 To manage impacts on threatened fauna species by minimising clearance of significant habitat*

However, with no ability to minimise the degradation or erosion of known priority vegetation values, or to assess the potential vegetation values of a site, the application of the Priority Vegetation Overlay does not meet:

- LUPAA Objectives:
  - Part 1 (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.*
  - Part 1 (b) *to provide for the fair, orderly and sustainable use and development of air, land and water.*
  - Part 2 (c) *to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.*
  - Part 2(d) *to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels.*
  - Part 2 (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
- Regional policies under STRLUS:
  - BNV 1 *Maintain and manage the region's biodiversity and ecosystems and their resilience to the impacts of climate change.*
  - BNV 2 *Protect threatened native vegetation communities, threatened flora and fauna species, significant habitat for threatened fauna species, and other native vegetation identified as being of local importance and places important for building resilience and adaptation to climate change for these.*

## 12 Scenic Protection Code

The development of the Local Provisions Schedule requires planning authorities to complete Table C8.1 Scenic Protection Areas and Table C8.2 Scenic Road Corridors. The transitional provisions in Schedule 6, 8D of LUPAA allows for the inclusion of certain code-applying provisions (such as the Scenic Landscape Code Overlay and the information in Table 14.1 Specific Scenic Landscape Value, associated with the southern interim planning schemes E14.0 Scenic Landscapes Code).

As none of the southern interim planning schemes included any data in Table 14.1 (noting that not all southern schemes apply the code), Inspiring Place Pty Ltd and Geoscene International were engaged to assist in the preparation of the southern Councils' LPSs.

The document *Guidelines for Scenic Values Assessment Methodology and Local Provisions Schedules for the Scenic Protection Code*, 2018 (the Scenic Values Guidelines) provides a methodology for

assessing landscape values and by doing so, helps in articulating 'Scenic Values' and 'Management Objectives' for Tables C8.1 and C8.2. The Scenic Values Guidelines is included as Appendix 6 to the Draft Glenorchy LPS Supporting Report.

In developing the Scenic Values Guidelines, the consultants undertook a workshop with officers from the southern councils on application of the Scenic Protection Code. During this workshop a number of problems relating to the application of the Code were realised. These issues are identified in Section 2.3 of the Scenic Values Guidelines and relate to:

- Focus on skylines and not all scenic landscapes, in that the Code does not adequately provide for landscapes in coastal areas, river estuaries, or highly scenic rural areas. There is also no definition for skyline.
- Difficulties in interpreting and applying the Scenic Road Corridor provisions, and limited ability to provide scenic protection in any instance.
- Limited scenic protection within Rural and Agricultural Zones.

It is understood that the policy intent behind the Tasmanian Planning Scheme was to ensure that zone provisions address use and development standards relevant to the zone (uses, heights, setbacks, lot sizes), while codes would address elements relevant to a value or hazard. In the instance of the Rural Zone, controls on Design (light reflectance and impacts caused by cut and fill), present in similar zones in the interim schemes were not included in the SPP zone, and while it was anticipated that they would instead occur in the Scenic Protection Code (where such impacts on values should be assessed) they do not.

Due to the matters identified above, applying the Scenic Protection Overlay over land in a Rural Zone, such as Collinsvale where the landscape value is primarily in its rural/residential character, is ineffective in managing design elements like cut and fill and light reflectance and there are no other appropriate tools in the SPPs that enable this.

For instance an Extractive industry, proposing 500m<sup>2</sup> of cut and fill to 10m in depth, could be established on top of a ridgeline, but 50m below a skyline, and 120m from a road, in a Rural Zone and within a Scenic Protection Area, but there would be no standards to assess its visual impact.

With its ability to further the Schedule 1 Objectives of LUPAA (Part 2 (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*) and the relevant scenic landscape protection policies of STRLUS (C 1 and CV 4), stymied under the LPS tools, Council would need to apply Specific Area Plans over areas of scenic value, adding additional controls for applicants and the planning authority to assess, and moving away from the one planning scheme tenet of consistent state wide planning controls.

### 13 Stormwater management

In Tasmania, stormwater management is administered by a number of legislative and policy tools. The key policy is the *State Policy on Water Quality Management 1997* (SPWQM) which seeks to protect and enhance water quality while allowing for sustainable development. The policy emphasises the need to manage stormwater at the source and requires that development with the potential for offsite polluted stormwater runoff should (as a condition of approval), employ stormwater management strategies during the construction and operation of the development.

However, there is limited ability to manage stormwater within the SPPs - which is inconsistent with the following provisions of the SPWQM:

- Clause: 31.1: *Planning schemes should require that development proposals with the potential to give rise to off-site polluted stormwater runoff which could cause environmental nuisance or material or serious environmental harm should include, or be required to develop as a condition of approval, stormwater management strategies including appropriate safeguards to reduce the transport of pollutants off-site.*
- Clause: 31.5: *Planning schemes must require that land use and development is consistent with the physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised.*
- Clause: 33.1: *Regulatory authorities must require that erosion and stormwater controls are specifically addressed at the design phase of proposals for new developments, and ensure that best practice environmental management is implemented at development sites in accordance with clause 31 of this Policy.*
- Clause: 33.2: *State and Local Governments should develop and maintain strategies to encourage the community to reduce stormwater pollution at source.*

The other piece of legislation relevant to stormwater management is the *Urban Drainage Act 2013*. The Urban Drainage Act provides for the management of urban drainage and stormwater systems and infrastructure in Tasmania. The objectives of this Act include the minimisation of flood events, and the protection of stormwater services. The Urban Drainage Act was not written with the intent of being used as a planning control, and therefore provides no head-of-power to manage stormwater quality in new developments. Further, the Urban Drainage Act, as the name implies, only applies to urban areas.

Currently in southern Tasmania, in line with the STRLUS regional policy WR 1.1 - *Use and development is to be undertaken in accordance with the State Policy on Water Quality Management*, the key tool for managing stormwater quality and quantity (in new developments) is via interim planning schemes.

The management of stormwater under a planning scheme also furthers the Part 2 objectives of LUPAA by ensuring a scheme is the *principal way of setting objectives, policies and controls for the use, development and protection of land* and providing for the *consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals* [objectives (b) and (e) respectively].

Stormwater is essentially the same as water and sewerage in that it needs to be considered at the time of an application for development. TasWater is able to consider water and sewerage at the time of an application and is able to request additional information if necessary. Section 54 of LUPAA is sufficiently wide to enable a Council to request such information but the conflict with Clause 6.1.3 of the SPPs is likely to lead to interpretation issues.

Consideration under a planning scheme is the most effective way of ensuring development is consistent with State Policy.

In 2016, the Southern Tasmanian Councils drafted a Stormwater Code for inclusion in the State Planning Provisions (SPPs). The code was drafted in alignment with the SPWQM to facilitate the implementation of the provisions (Clause 31 and 33) outlined in the policy. The draft code set consistent, state-wide requirements for stormwater management in new developments. The code was omitted from the SPPs with the TPC citing that not all planning authorities agreed a

stormwater code was necessary. Instead, Clause 6.11.2 of the SPPs was modified to provide a broad 'head of power' for applying conditions on a permit with regard to 'erosion and stormwater volume and quality controls'. However, it is unclear how effective these conditions will be with planning authorities not permitted to apply conditions which defer the decision-making process.

Councils will therefore be left to independently develop approaches to manage stormwater impacts from development. This contradicts with the tenant of a single planning scheme to administer land use and development issues in a consistent way across the State, and as noted above, is inconsistent with the objectives of LUPAA.

Further, wherever approaches are not developed, the impacts of private development on stormwater management will be left largely unmanaged, resulting in poorer water quality outcomes and increased burden on public stormwater management systems – failing to achieve the outcomes of State Policy.

- **Listing Tasmanian Heritage Register archaeological places**

Some places or precincts of archaeological potential are listed on the THR. However, there is no ability to identify these sites in an LPS.

Improving access to information for members of the community by ensuring information is easy to find within the planning scheme furthers the objectives of LUPAA particularly Part 1 (e) by promoting *the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

#### **Mapping issues**

- **Flood prone areas**

The provisions of LP1.7.10 provide that if a planning authority has flood prone areas in its municipal area then they must be mapped.

While Glenorchy has identified some Flood Prone Areas, a complete review of the municipality is yet to occur. The resultant map which the TPC has required the planning authority to display is, therefore, incomplete.

An incomplete overlay has the potential to mislead potential purchasers or developers of land who may view the LIST and perceive that as some flood prone areas have been mapped, all flood prone sites would be mapped. They may not necessarily consult the planning authority about potential hazards.

While the ability for the community to access planning scheme information via other means (not directly through Council) is supported, the potential to create misleading overlays is not.

During the exhibition of the Draft Glenorchy LPS, clear flood mapping information which identified the extent of the study area subject to the mapping investigation and the areas where no flood modelling work had been undertaken was displayed along with the mapping that met the TPC formatting requirements.

It is considered that this information could be shown on the maps and not be inconsistent with the SPP requirements. It is also considered that the information which can be displayed on the maps is dictated under the S8A Guidelines, as prepared by the TPC, not under the SPPs.

It is requested that the S8A Guidelines be modified to allow for the boundary of a flood model study area to be shown on the maps, and for area for which no flood modelling details are known to also be clearly mapped.

- **Solid colours should not be used for overlays**

The S8A Guidelines implement mapping requirements (colours and hatching). The use of solid colours for overlays has the potential to block out the underlying image when viewing controls. This is particularly relevant in the heritage mapping where a place can have more than one value. For example, the whole of 36 Cadbury Road, Claremont is identified as a Local heritage place, however a part of the site is also identified as being a Place or precinct of archaeological potential (see Figure 6 – extract from Draft Glenorchy exhibition pdf mapping).

Noting that pdf maps are an inferior way to display scheme maps that consist of multiple layers, it is unclear whether the State government's LIST mapping will be able to show independent layers within a Code.

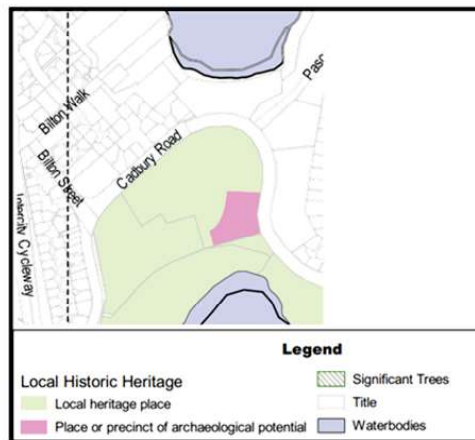


Figure 6 – Extract from Draft Glenorchy LPS pdf exhibition maps

While it is recommended that the S8A Guidelines should be completely updated to remove solid colours for overlays, it is essential that this occur for Local Historic Heritage Code overlays where a place can have more than one value, ie:

- Local heritage place
- Place or precinct of archaeological potential.

- **Mapping Tasmanian Heritage Register listed places**

The S8A Guidelines need to be modified to introduce a key option to map Tasmanian Heritage Register listed places, as they can be listed in the LPS.



- **LIST disclaimers**

The current disclaimers on the LIST for overlays are only triggered when a portion of a site within the Overlay is selected (see Figure 7); if no overlay applies, or the portion of the land to which no overlay applies is selected no disclaimer is provided (see Figure 8).

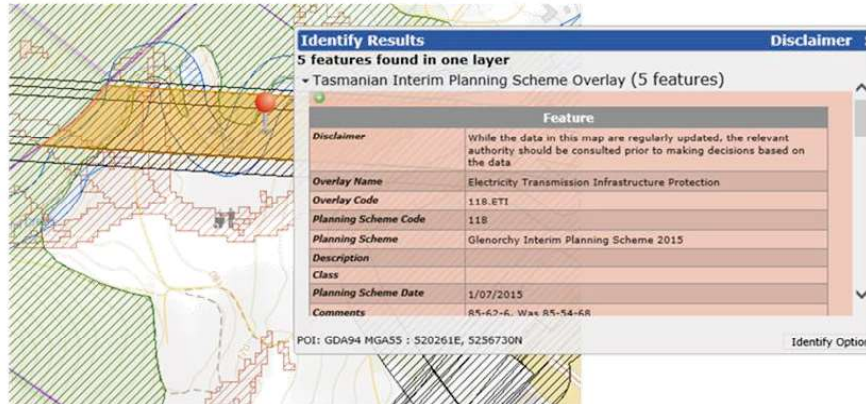


Figure 7 – extract from the LIST 29 July 2020 GIPS 2015 Overlays

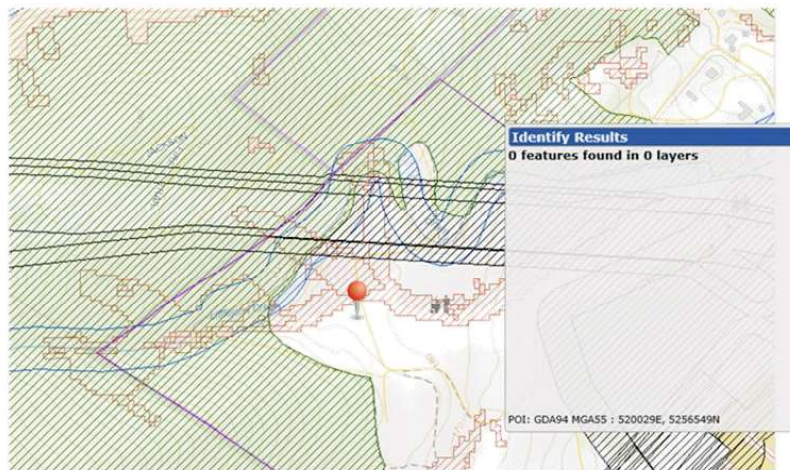


Figure 8 – extract from the LIST 29 July 2020 showing GIPS 2015 Overlays

It is recommended that the TPC discuss options with the managers of the LIST for a broader disclaimer to appear when ANY part of a property is selected.

- **Mapping Local Area Objectives in SAPs**

There is no need to separately map a Specific Area Plan (SAP) and the area to where the Local Area Objectives (LAOs) of the SAP apply on the planning scheme maps. If the SAP applies - the LAOs for the SAP apply.

For SAPs which have precincts, the requirement to include these on the planning maps creates a confusing and 'busy' map sheet. A plan within the SAP can indicate, if precincts are used, where the LAOs for that precinct apply and is a clearer way to convey the information – its discrete with the SAP document.

It is noted that the mapping requirements are not a function of the SPPs or the S8A Guidelines, but are protocols developed by the TPC.

▪ **Mapping requirements for SAPs**

The requirement to map a SAP with a dashed black outline is likely to cause confusion for some maps – particularly where a SAP may apply to land that is split zoned (see Figures 9 and 10).



Figure 9 – Map of SAP under Draft LPS

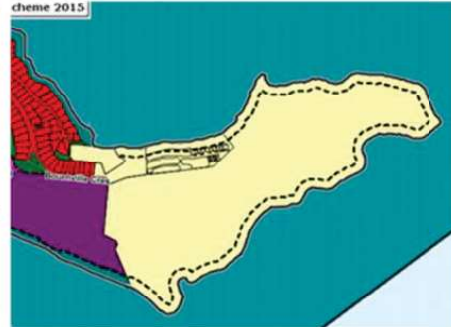


Figure 10 - Extent of the SAP (under the GIPS 2015)

In the above example, the SAP covers land in both a Recreation and an Environmental Management Zone. The land is 'split zoned' which is marked as a dashed line in the mapping conventions required by the TPC (Practice Note 7 – Draft LPS Mapping Technical Advice, October 2017). Figure 10 shows the full extent of the SAP (in yellow).

Practice Note 7 requires Specific Area Plans to also be mapped with a dashed line. However, by using the same mapping display as for split zoning, it could be interpreted that only the area in the Open Space Zone is covered by the SAP – which is incorrect.

If the SAP is also over the zone boundary the boundary of the SAP and zone is not clear.

These mapping requirements are not a function of the SPPs or the S8A Guidelines, but are protocols developed by the TPC, and should be revised to provide clear information.