

# TASMANIAN PLANNING COMMISSION



## DECISION

<b>Planning scheme</b>	Tasmanian Planning Scheme - Clarence
<b>Amendment</b>	PDPSAMEND-2021-022803 – Rezone the Rosny Hill Nature Recreation Area from the Recreation Zone to the Environmental Management Zone
<b>Planning authority</b>	Clarence
<b>Date of decision</b>	17 August 2022

## Decision

The draft amendment is approved under section 40Q of the *Land Use Planning and Approvals Act 1993*.

Handwritten signature of John Ramsay in black ink.

John Ramsay  
**Delegate (Chair)**

Handwritten signature of Michael Hogan in black ink.

Michael Hogan  
**Delegate**

Handwritten signature of Nick Heath in black ink.

Nick Heath  
**Delegate**

## REASONS FOR DECISION

### Background

#### Substantial modification under section 35KB

On 24 June 2021 the Commission published its decision to substantially modify part of the Clarence draft Local Provisions Schedule (draft LPS).

Following amendments to *Land Use Planning and Approvals Act 1993* (the Act) on 14 July 2021, the Commission published its final decision on the Clarence draft LPS on 1 September 2021. As part of that decision, the Commission decided under sections 87H and 35KB(1) of the Act that the substantial modifications should be made as draft amendments to the Clarence Local Provisions Schedule (LPS).

The Clarence LPS (as modified) became effective on 13 October 2021.

The subject draft amendment is one of the draft amendments directed by the Commission under section 35KB(1) of the Act. The Clarence planning authority has publicly exhibited the draft amendment consistent with section 40G, and provided the Commission with its section 40K report.

#### Amendment

Rezone land known as the Rosny Hill Nature Recreation Area at 12A Akuna Street, Rosny from the Recreation Zone to the Environmental Management Zone.

#### Site information

The draft amendment applies to the Rosny Hill Nature Recreation Area. The land contains a number of vegetation communities, walking tracks, and also a road leading up to a car parking area and look out. The land is reserved as a nature recreation area under the *Nature Conservation Act 2002*.

The priority vegetation area overlay applies to the majority of the site.

The site is surrounded by land within the General Residential Zone, which has been predominantly developed for single dwellings.

An area within the Open Space Zone at 22 Haven Court adjoins the site and provides pedestrian access from Haven Court and Leura Street into the site. This land is not proposed to be rezoned.

#### Issues raised in representations

The planning authority received 106 representations in support of the draft amendment, and two representations against. The issues raised include:

- concern the rezoning would impact on or prevent the development proposed for the site;
- the rezoning would improve recognition of the values of the land, protect the skyline and provide for the retention of trees and natural habitat;
- the proposed zone will prevent littering and hooning;
- the proposed zone more accurately reflects the role and purpose of the site, compared to the Recreation Zone;
- objection to the use of the land for commercial purposes;
- green spaces are important for cities.

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating no objection to the draft amendment and that TasWater did not wish to attend any hearing.

## Planning authority's response to the representations

The planning authority considered the representations and recommended:

- the issues raised in the representations do not warrant amendments to the draft amendment.

## Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on the 4 August 2022.

## Appearances at the hearing

Planning authority: Evan Boardman, Planning Consultant

## Consideration of the draft amendment

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the LPS and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. A hearing was convened to assist the Commission consider the issues in the representations.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
  - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
  - (b) is in accordance with section 32; and
  - (c) furthers the objectives set out in Schedule 1; and
  - (d) is consistent with each State policy; and
  - (da) satisfies the relevant criteria in relation to the TPPs; and
  - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
  - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
  - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates;
  - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
  - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.
4. The Commission considers the draft amendment meets the LPS Criteria. Where relevant, further detail is provided below.

### **Regional land use strategy**

5. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010-2035 (regional strategy).
6. The Commission notes the land has been reserved as a nature recreation area under the Nature Conservation Act 2002 for the purposes of public recreation and education consistent with conserving the natural and cultural values of the land.
7. The Commission considers that, although not directly relevant to the draft amendment, the regional policies for Recreation and Open Space, and Biodiversity and Geodiversity in the regional strategy are generally consistent with the application of the Environmental Management Zone to the land.

### **Guideline No. 1**

8. Following assessment of the draft LPS, the Commission's decision of 24 June 2021 established that the Recreation Zone was not the most suitable zone for the site under Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application, issued under section 8A of the Act.
9. The Commission considered that, as the land is reserved as a nature recreation area under the *Nature Conservation Act 2002*, the application of the Environmental Management Zone is consistent with EMZ1(a) of Guideline No. 1 which sets out:
  - The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values, such as:
    - (a) land reserved under the Nature Conservation Act 2002;...
10. The Commission noted that the approval of the Visitor Accommodation development on the site represented a clear commitment that the site not be used purely for passive recreation. The Commission noted that the Environmental Management Zone allows for Visitor Accommodation use as a permitted use, if authority is granted by the Managing Authority under the National Parks and Reserved Land Regulations 2009. Otherwise the use is discretionary.
11. At the hearing, no further information was provided.

### **Commission consideration**

12. The Commission supports the previous consideration of the Commission in the decision dated 24 June 2021 that the application of the Environmental Management Zone is consistent with the relevant zone application guidelines in Guideline No. 1.

### **Approved use and existing activities on the site**

13. Some representors submitted concerns that the Environmental Management Zone may restrict or prevent the development of the approved visitor accommodation proposed for the site.
14. Other representors, in support of the Environmental Management Zone, considered that the zone would prevent anti-social activities, and would improve the natural values of the land.
15. In the section 40K report, the planning authority noted that rezoning would not alter the existing planning approval for Public recreation facilities, Visitor accommodation and Food services. The planning authority also noted that the zone would not prevent anti-social activities nor directly lead to the area being better cared for, and stated:

The LPS only regulates new proposals for use and development. The Environmental Management Zone does not control how the land must be managed, unless associated with a

planning permit. Any future development application would have to be assessed against the relevant development standards within the Environmental Management Zone.

16. The planning authority also noted the application of the Natural Assets Code would not be altered as a result of the rezoning.
17. At the hearing, no further information was provided.

### **Commission consideration**

18. The Commission agrees with the submission of the planning authority that the Environmental Management Zone will not lead directly to improved management of the land, and that it will not impact on the existing development approval.

### **State Policies and Resource Management and Planning System Objectives**

19. The Commission finds that no State Policies are relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

### **Decision on draft amendment**

20. The Commission is satisfied that the draft amendment, as exhibited, meets the LPS criteria and gives its approval.

### **Attachments**

Annexure A – Approved amendment PDPSAMEND-2021-022803

**Annexure A**

Approved amendment PDPSAMEND-2021-022803, Tasmanian Planning Scheme - Clarence

1. Rezone the land shown in Figure 1 below from the Recreation Zone to the Environmental Management Zone.

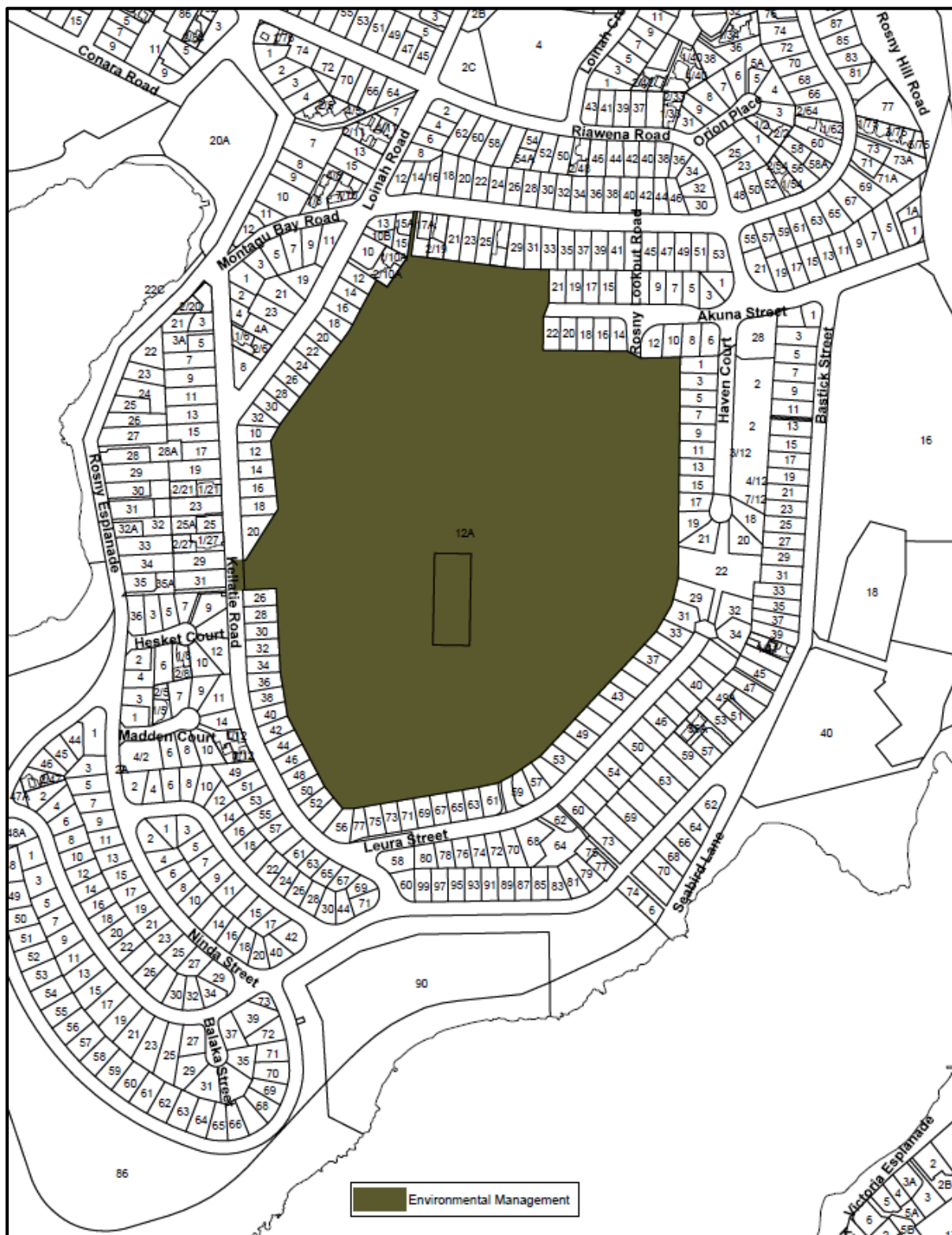


Figure 1 - Approved amendment PDPSAMEND-2021-022803