

7.5 CLARENCE LOCAL PROVISION SCHEDULE - ROSNY HILL NATURE RECREATION AREA: REZONING TO THE ENVIRONMENTAL MANAGEMENT ZONE**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to review the representations received following the exhibition of the proposed amendments to the Clarence Local Provision Schedule (LPS) which was directed to be advertised by the Tasmanian Planning Commission (TPC).

RELATION TO PLANNING PROVISIONS

The LPS makes up the local component of the future Tasmanian Planning Scheme (TPS).

LEGISLATIVE REQUIREMENTS

The proposed planning scheme amendment was directed to be advertised by the TPC following the hearing into the LPS.

The report on this item details the basis and reasons for the recommendation. Any alternative decision by council will require a full statement of reasons to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

CONSULTATION

The amendments were exhibited from Wednesday 17 November - Tuesday 14 December 2021 in accordance with statutory requirements and 108 representations (106 in support and two against) were received. TasWater responded to the advertised amendment and did not raise any objections.

RECOMMENDATION:

- A. That council resolves, under Section 40K of the Land Use Planning and Approvals Act, 1993 to advise the Tasmanian Planning Commission regarding draft amendment PDPSAMEND-2021/022803 that:
- the draft amendment is not modified to take account of any representation;
 - it is satisfied that the draft amendment meets the LPS criteria; and
 - it does not recommend that any modifications be made to the amendment.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

CLARENCE LOCAL PROVISION SCHEDULE - ROSNY HILL NATURE RECREATION AREA: REZONING TO THE ENVIRONMENTAL MANAGEMENT ZONE /CONTD...**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1. The LPS and the representations received were considered at the Special Council Meeting of 26 August 2020.
- 1.2. Following the TPC determination of the LPS, the TPC directed the council to prepare amendments to the LPS.
- 1.3. Council was required to notify the relevant agencies, such as TasWater and those State agencies and authorities that may have an interest in the draft amendment.

2. STATUTORY IMPLICATIONS

- 2.1. Pursuant to Section 40K of the Land Use Planning and Approvals Act 1993 (LUPAA), council is required to consider the merits of any representation and provide the TPC with:

- “(a) a copy of each representation made under section 40J in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and*
- (b) a copy of each representation, made under section 40J in relation to the draft amendment after the end of the exhibition period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and*
- (c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –*

- (i) *whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and*
- (ii) *the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and*
- (d) *a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and*
- (e) *any recommendations in relation to the draft amendment that the planning authority thinks fit.”*

3. PROPOSAL IN DETAIL

The Amendment

The LPS is proposed to be amended to rezone 12a Akuna Street, Rosny from Recreation to Environmental Management as shown in Figure 1.



Figure 1: Rezone the Rosny Hill Nature Recreation Area (folios of the Register 12799/1 and 236367/1) from the Recreation Zone to the Environmental Management Zone.

TPC consideration

“The Commission agrees with the representors that the Recreation Zone is not the most suitable zone for the site under Guideline No. 1. However, the Commission agrees with the submission of the planning authority that the approval of the Visitor Accommodation development on the site represents a clear commitment that the site not be used purely for passive recreation.”

The Commission notes that the Rosny Hill site has been reserved as a nature recreation area under the Nature Conservation Act 2002. The Commission notes that EMZ1(a) of Guideline No. 1 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;

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. The Commission therefore considers the Environmental Management Zone is consistent with the site's natural values, as well as the Council's vision for the use and development of the site.

The Commission notes that the site is also within the priority vegetation area overlay, and that the Natural Assets Code will also apply to any future use or development.

The Commission considers that the proposed zone change has a public interest due to the different allowable uses under the Environmental Management Zone. Clarence draft Local Provisions Schedule 13.”

Commission decision

“Modification:

- revise the zoning of folio of the Register 12799/1 to the Environmental Management Zone.*

Reason:

- To apply the Environmental Management Zone consistent with the purpose of the zone and Guideline No. 1.*
- The Commission considers that the modifications are a substantial modification as there may be a public interest in the modifications.”*

4. CONSULTATION

The proposal was advertised in accordance with the statutory requirements and 108 representations were received (106 in support of the proposed amendment and two against). The issues raised in the representations are considered below.

Issue	Response
<p>Strong objection to the changing of zoning of Rosny Hill to Environmental Management.</p> <p>Objection to the proposal to rezone the Rosny Hill Nature Recreation Area to an Environmental Management Zone if it in any way impacts the proposed development works currently approved for Rosny Hill. Our children need jobs, and the development will offer many employment opportunities along with the jobs created or maintained during the construction phase. I am not associated with the project in any way, just want to support and commend the council in standing up to the Rosny Hill Friends Network.</p> <p>Improved recognition of the natural beauty of the bush, wildlife and glorious publicly accessible views will hopefully result in better care and protection for the area. Rezoning would lead to area being better cared for.</p>	<p>No reason for the objection is provided.</p> <p>The rezoning would not alter the existing planning approval for the Public recreation facilities, Visitor accommodation and Food services.</p>
<p>Rezoning would protect the skyline from buildings and keep the tops of the hills clothed in trees.</p>	<p>Rezoning of the land will not directly lead to the area being better cared for. 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.</p> <p>Any future development application would have to be assessed against the relevant development standards within the Environmental Management Zone.</p>
<p>Improved management of the natural and scenic values of Rosny Hill.</p>	<p>As above.</p>
<p>Give greater recognition of the natural and cultural values of Rosny Hill in future management and decision making, leading to a better standard of ongoing care and protection planning.</p>	<p>As above.</p>
<p>Protection for future generations.</p>	<p>The rezoning will only apply to future development proposals.</p>
<p>Natural Assets Code appears to provide little comfort that the area will be well managed in the future.</p>	<p>The land is subject to the Natural Assets Code/Priority Vegetation Area under the LPS. This would not alter as a result of the rezoning.</p>
<p>Rezoning will prevent littering and hooning.</p>	<p>Rezoning would not prevent this type of unsocial behaviour from occurring.</p>
<p>Environmental Management Zone more accurately reflects its role and purpose, and the requirements for its ongoing care and management that are quite different from the needs of other recreation facilities like sports fields.</p>	<p>The Local Area Objectives of the Environmental Management Zone are considered to be appropriate.</p>

Support the rezoning of Rosny Hill to Environmental Management. The council has shown little regard for this valuable community area	The rezoning would not alter the management practices undertaken on the land. However, it should be noted that council actively manages the area as a bushland reserve, and this involves a range of land management practices including burning and weed management work.
Current zoning is not congruent with the classification under the Nature Conservation Act as a Nature Recreation Area and should be changed to Environment Management Zone which is far more consistent	Noted.
If rezoning had occurred before the DA for the proposed hotel had been submitted, it is likely that development would have been rejected in line with what our local community wants for the area. Object to the development of the reserve for commercial purposes and opposed to the proposal in any form from Hunter Developments to develop the site for a Hotel and Conference Centre.	The rezoning would not alter the existing planning approval for the Public recreation facilities, Visitor accommodation and Food services. As above.
Important to retain green spaces within the urban environment and to protect the suburban skyline from development.	Noted.
It is important to maintain natural habitat and preserve existing native plants and habitat for animals and birds. The proposed change to “Environment Management” would help achieve this.	The rezoning will only apply to future development proposals.
Consistent with the zoning applied to other reserves proclaimed under the Nature Conservation Act 2002.	Noted.
Caring for the environment is a concern popular in all groups of people and of overwhelming concern worldwide.	Noted.
It has significant natural values, including endangered species, <i>Thelymitra bracteata</i> , and threatened <i>Themeda</i> grassland, and it should be managed as a community nature reserve.	Ongoing management of the reserve is a separate matter to that of the zoning of the land.
Many of the nearby green and open spaces in our cities are vanishing. Many people are lamenting the loss of our low-rise city as pressure from developers is placed on councils. This makes green spaces more important than ever.	Noted.
As the city lights up, we are losing the view of the night sky, a privilege we have which many cities don't. We need dark spaces.	Noted.

The remnant themeda grassland and inter tussock species such as *Bulbine glauca* and *Kennedia prostrata*, along with the diverse range of orchids, needs to be managed with seasonal low intensity mosaic burning. It is heartening to see the council conduct burns, and hopefully if it is rezoned the burns can be extended and the hill looked after as it should be.

Rezoning of the land will not in itself lead to any changes or improvement to the land management activities undertaken on the land.

5. STATE POLICIES AND PROJECTS ACT OBJECTIVES

5.1. The Strategic implications and assessment of the proposal against the objectives of Schedule 1 of LUPAA are considered below.

“(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and to provide for the fair, orderly and sustainable use and development of air, land, and water; and

(b) to encourage public involvement in resource management and planning; and

(c) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and

(d) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.”

The amendment was advertised in accordance with statutory requirements and all relevant agencies notified.

Any impact upon the natural and landscape values present on the land resulting from any future development proposals would be managed and regulated by the relevant provisions under the Environmental Management Zone.

The rezoning to Environmental Management would not prevent the approved Public recreation facilities, Visitor accommodation and Food services from proceeding.

The amendment has already been considered by council and the TPC which directed council to advertise the amendment.

- 5.2.** The proposal is consistent with the outcomes of the relevant State Policies and the LPS Criteria.
- 5.3.** There are no inconsistencies with council’s adopted Strategic Plan 2021-2031 or any other relevant council policy.

6. CONCLUSION

In accordance with the requirements of Section 40K of LUPAA council is required to provide a statement to the TPC which addresses the merits of the representations, the effect of the draft amendment, a statement as to whether it is satisfied that the draft amendment meets the LPS criteria and any recommendations in relation to the draft amendment which the council thinks fit.

It is considered that the issues raised in the representations do not warrant amendments to the draft amendment.

Attachments: 1. Certified Amendment (1)

Ross Lovell
MANAGER CITY PLANNING

Tasmanian Planning Scheme - Clarence

Amendment: PDPSAMEND-2021/022803



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PDPSAMEND-2021/022803

Rezone the Rosny Hill Nature Recreation Area (folios of the Register 12799/1 and 236367/1) from the Recreation Zone to the Environmental Management Zone, as shown.