

# TASMANIAN PLANNING COMMISSION

Our ref: DOC/23/135511  
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28 November 2023

Ms Mary-Ann Edwards  
Manager Land Use Planning  
Central Coast Council

By email: [mary-ann.edwards@centralcoast.tas.gov.au](mailto:mary-ann.edwards@centralcoast.tas.gov.au)  
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Dear Ms Edwards

**Tasmanian Planning Scheme - Central Coast  
Draft amendment LPS2022003 and permit DA2022107  
6 Johnsons Beach Road, Penguin**

I am writing to confirm that a hearing will be held into draft amendment LPS2022003 and permit DA2022107 and to raise a number of preliminary assessment matters. Information about the hearing will be provided in due course by separate letter to all parties.

The draft amendment proposes to introduce a site-specific qualification (SSQ) that enables consideration of short stay apartments and holiday cabins under the Discretionary Use Class Visitor Accommodation.

The draft permit allows for the demolition of buildings and the development of:

- 40 short stay apartments;
- 21 three bedroom holiday cabins;
- a café / restaurant;
- a function centre; and
- ancillary tennis court, car parking, and manager's residence.

A preliminary consideration of the draft amendment by the Commission has identified issues that require clarification as follows:

## **Consistency of the draft amendment with the LPS criteria**

Section 40M of the *Land Use Planning and Approvals Act 1993* (the Act) requires the draft amendment to satisfy the LPS criteria under section 34(2).

1. With reference to section 34(2)(b), the Commission invites the planning authority to submit a more detailed explanation for the draft SSQ with reference to the sections 32(3) and 32(4) criteria of the Act.

An explanation relating to section 32(3) could detail whether the proposed SSQ modifies, substitutes, or adds to the existing qualification in the Open Space Zone Use Table.

An explanation relating to section 32(4)(a) could detail:

- the use or development to which the proposed provisions relate;
- the anticipated significant social, economic, or environmental benefit of this use or development and any evidence for that anticipated benefit; and
- whether this benefit is to the State, region, or municipal area.

An explanation relating to section 32(4)(b) could detail:

- the area of land the proposed provisions would relate to;
  - the particular environmental, social, economic or spatial qualities of the land, that require provisions other than the State Planning Provisions (SPPs); and
  - how these unique provisions relate to the SPPs in terms of whether they substitute, add to, or modify parts of the SPPs.
2. With reference to section 34(2)(d), the planning authority is requested to submit a comprehensive assessment of the draft amendment against the State Coastal Policy, including, but not limited to, the following sections:
- 1.4 Hazards
  - 2.1 Coastal Uses and Development
  - 2.3 Tourism
  - 2.4 Urban Development
  - 2.6 Public Access and Safety
  - 2.8 Recreation
3. The Commission notes that representor 4 referred to the site having historically been used for waste disposal. Land Tasmania's aerial photography viewer includes an image of the site, dated 1976, indicating some apparent waste across the site (attached for your convenience).

With reference to section 34(2)(d), the planning authority is to:

- review the historical use of the site;
- identify whether the site is potentially contaminated; and
- if so, provide a response to the Assessment of Site Contamination National Environment Protection Measure and an assessment of the development proposal against C14.0 Potentially Contaminated Land Code.

### **Development application**

1. (a) The planning authority is requested to provide an assessment of a number of standards where:
- the proposal has been considered non-compliant with the Acceptable Solution and consideration against the Performance Criterion has not been provided;
  - the proposal has been considered non-compliant with the Acceptable Solution and a condition has been put on the permit to achieve compliance;
  - reference is made to a supporting document without a conclusion being made by the planning authority against the assessment criteria.

These standards include:

- Open Space Zone 29.4.1 Building height P1
- Open Space Zone 29.4.2 Outdoor Storage Areas P1
- Parking and Sustainable Transport Code C2.6.1 Construction of parking areas P1
- Parking and Sustainable Transport Code C2.6.2 Design and layout of parking areas P1
- Parking and Sustainable Transport Code C2.6.5 Pedestrian access P1
- Parking and Sustainable Transport Code C2.6.6 Loading bays P2
- Road and Railway Assets Code C3.6.1 Habitable buildings for sensitive uses within a road or railway attenuation area
- Natural Assets Code
- Coastal Erosion Hazard Code C10.5.1 Uses within a high coastal erosion hazard band
- Coastal Erosion Hazard Code C10.5.3 Critical use, hazardous use or vulnerable use P1.1, P1.2, and P4

- Coastal Erosion Hazard Code C10.6.1 Buildings and works, excluding coastal protection works, within a coastal erosion hazard area
  - Coastal Inundation Hazard Code C11.5.1 Use within a high coastal inundation hazard band P1.1 and P1.2
  - Coastal Inundation Hazard Code C11.5.2 Uses located within a non-urban zone and within a medium coastal inundation hazard band P1.1 and P1.2, noting that the medium hazard band applies to the site
  - Coastal Inundation Hazard Code C11.5.3 Uses located within a non-urban zone and within a medium coastal inundation hazard band P1, noting that the low hazard band applies to the site
  - Coastal Inundation Hazard Code C11.5.4 Critical use, hazardous use or vulnerable use P1.1, P1.2, and P4
1. (b) The planning authority is to recommend any changes to permit conditions arising from the above assessment.
  2. The planning authority is requested to review the status of the sewage works at Dial Point (300m from the subject site) and, if operational, complete an assessment against Attenuation Code C9.5.2 Sensitive use within an attenuation area.
  3. In conducting and reporting on the above assessments, the planning authority is requested to provide evidence such as:
    - photo montages and scaled cross sections prepared by a qualified person depicting height, bulk, and form from various angles in the context of the surrounding area and landscape values;
    - the location of dwellings and sight lines relative to the proposed 4 storey apartment building;
    - digital images of the proposed development in relation to the relevant overlays.

### **Land ownership**

1. The GES report indicates the role the boulder wall plays in protecting the site. It also states that, should maintenance be required, it should be done in a timely manner (p100). The importance of the boulder wall is also referred to in the application report (p59). The boulder wall appears to be partly outside the site boundary and within Crown land.

The planning authority is requested to provide a submission as to whether the consent of the relevant Minister has been obtained for the making of the application so far as it concerns the boulder wall, or why such consent was not required.

2. Permit condition 3 requires the implementation of the GES report.

The planning authority is requested to provide a submission advising who would be responsible for undertaking such work so far as it concerns the boulder wall. If it is intended that the owner of the proposed development has the power to do so, please include advice on whether any legal agreements are in place with the Crown to ensure permanent power to undertake such works on Crown land. Alternatively, if it is intended the Council or the Crown will be responsible for the permanent maintenance of the boulder wall, please provide evidence of any agreements or other arrangements in place.

### **Permit conditions**

1. Where conditions have been added to achieve compliance, the planning authority is to advise the Commission as to whether satisfying such conditions has the potential to result in modification of the proposal such that it is significantly different from what has been assessed and approved.

### *Traffic Impact Assessment (TIA)*

2. The Commission notes that the planning authority have stated that Central Coast Council Infrastructure Services has checked the TIA and accepts the conclusions and recommendations as reflected in the conditions. However, it remains unclear whether the planning scheme requirements are satisfied and representors concerns are adequately addressed.

In addition to the requests outlined in part 1 of the Development application section above, the planning authority is requested to provide advice as to:

- how the permit implements the conclusions and recommendations of the TIA; and
- whether the TIA addresses the concerns raised by representors (see representations 3, 4, 9, 14, 18, 20, 26, 30, 31) and whether any of the representors concerns warrant further consideration in an updated TIA.

### *Little Penguin habitat*

3. The Commission notes that the permit conditions include a requirement that 'prior to any works commencing, the applicant must provide Council with a Little Penguin and Shorebirds Management Plan'.

The Commission considers that a plan of this nature has the potential to result in a planning permit not being able to be carried out and ought to have informed the initial assessment of the proposal. The planning authority is requested to provide advice to the Commission regarding the anticipated operation of this condition.

The Commission requests that this information be provided by **2 February 2024**.

While it is intended that these matters be discussed at the hearing, any response submissions, or other submissions, by representors, applicant, or planning authority must be provided to the Commission by **23 February 2024**.

Submissions must be made by email to [tpc@planning.tas.gov.au](mailto:tpc@planning.tas.gov.au). Once received, the submissions referred to above will be made available under the [relevant assessment](#)<sup>1</sup> on the Commission's website.

Please note that submissions will be published in full, without redaction.

This website will be the primary portal for exchanging information.

If you require further information or are unable to access the website please contact Janelle Townsend, Planning Adviser, on 6165 6828.

Yours sincerely



Nick Heath  
**Delegate (Chair)**

CC applicant and representors

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<sup>1</sup> <https://www.planning.tas.gov.au/assessments-and-hearings/current-assessments-and-hearings/AP-CCO-LPS2022003>