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3 August 2026

Mr John Ramsay
Executive Commissioner
Tasmanian Planning Commission

tpc@planning.tas.gov.au

Dear Mr Ramsay,

Draft Amendment 02-2026 of the State Planning Provisions Alignment with Commonwealth Airports legislation

It is important to keep the State Planning Provisions (SPPs) under regular review to ensure that they remain relevant and suitable to deliver better planning outcomes.

Draft amendment 02-2026 of the SPPs is being proposed as a minor amendment intended to clarify provisions in the SPPs, specifically in relation to aligning the SPPs with the outcomes specified in the *Airports Act 1996* (Commonwealth) and the recent changes to the *Airports (Protection of Airspace) Regulations 2026* (Commonwealth) which enable certain approvals to be given by the Commonwealth and the relevant Commonwealth airport operator (under limited circumstances).

In summary, the proposed amendment is to enable the SPPs to recognise that approvals can be made by either the Commonwealth or the airport operator regarding development that extends above an obstacle limitation surface, and those matters that are not intended to be a “controlled action” under the *Airports Act 1996* (Commonwealth).

In accordance with section 30C of the *Land Use Planning and Approvals Act 1993* (the LUPA Act), the Minister has prepared terms of reference in relation to the preparation of draft amendment 02-2026 of the SPPs which are available for viewing on the Planning in Tasmanian website: www.planningreform.tas.gov.au.

The Minister has also prepared the attached draft minor amendment 02-2026 of the SPPs (Attachment 1) that is in accordance with the terms of reference, and an accompanying explanatory document (Attachment 2).

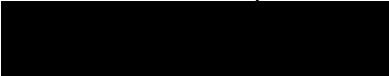
In accordance with section 30NA(2)(b) of the LUPA Act, the State Planning Office, on behalf of the Minister, is seeking comments in relation to draft amendment 02-2026 of the SPPs from the planning authorities and relevant State government agencies, who are directly affected by this amendment and the relevant

Commonwealth airport operators. Feedback from them is sought by Monday, 7 September 2026.

Concurrently, the State Planning Office, on behalf of the Minister, is seeking the Commission's advice under section 30NA(3) of the LUPA Act on whether draft amendment 02-2026 meets the minor amendment criteria under section 30NA(1) of the Act. Please provide your advice to the Minister and State Planning Office by Monday, 7 September 2026. This will allow for the Minister's timely consideration of the draft amendment, particularly to align with recent changes to Commonwealth legislation.

If you would like to discuss the matter further please contact the State Planning Office on 1300 703 977 or SPO@stateplanning.tas.gov.au

Yours sincerely



Sean McPhail
Acting Director, State Planning Office

Attachments:

1. Draft Amendment 02-2026 of the SPPs
2. Draft Amendment 02-2026 of the SPPs – explanatory document

Draft amendment 02-2026 of the State Planning Provisions Alignment with Commonwealth Airports legislation

Proposed minor amendment for consultation under section 30NA(2)(b) of the Land Use Planning and Approvals Act 1993

1. In C16.4 Use or Development Exempt from this code, in clause C16.4.1 add the additional subclause, as shown in the table.

Clause	Amendment	Reason
C16.4.1 Use or Development Exempt from this code	In Clause C16.4.1, amend the exempt requirements by inserting the text shown underlined below: C16.4.1 The following use or development is exempt from this code: (a) development that is not more than the AHD height specified for the site of the development in the relevant airport obstacle limitation area; <u>or</u> (b) <u>a lateral addition attached to an existing building, if the altered building does not increase in height above the obstacle limitation surface by more than the original building.</u>	To remove an inconsistency between the SPPs Safeguarding of Airports Code and the Commonwealth legislation by providing for the SPPs (code) to only require consideration of “controlled activities” and no longer require consideration of a specific addition to an existing building that is not a “controlled activity” in line with the meaning of section 182(1)(b) of the <i>Airports Act 1996</i> (Commonwealth). Capable of meeting section 30NA(1)(a)(v) of the <i>Land Use Planning and Approvals Act 1993</i> as it removes an inconsistency between the operation of the SPPs and the <i>Airports Act 1996</i> (Commonwealth).

2. In C16.6 Development Standards for Buildings and Works, in clause C16.6.1 A1 add the additional subclause, as shown in the table.

Clause	Amendment	Reason
C16.6.1 Buildings and works within an airport obstacle limitation area	In Clause C16.6.1, amend the requirements by inserting the text shown underlined below: C16.6.1 Buildings and works within an airport obstacle limitation area A1 Buildings and works within an airport obstacle limitation area associated with a Commonwealth-leased airport that exceed the specified height limit shown on the airport obstacle limitation area overlay applicable for the site of the development must have approval from the relevant: (a) Commonwealth department under the <i>Airports Act 1996</i> (Commonwealth); <u>or</u> (b) <u>delegate of the Commonwealth-leased Airport under the <i>Airports (Protection of Airspace) Regulations 2026</i> (Commonwealth).</u>	To remove an inconsistency between the SPPs Safeguarding of Airports Code and the Commonwealth legislation, by aligning the operation of the code to recognise the different decision makers that are now in operation under the <i>Airports Act 1996</i> (Commonwealth) and the <i>Airports (Protection of Airspace) Regulations 2026</i> (Commonwealth), as the Commonwealth can now delegate some of those decisions to the relevant airport operator under section 26 of the regulation. Capable of meeting section 30NA(1)(a)(v) of the <i>Land Use Planning and Approvals Act 1993</i> as it removes an inconsistency between the SPPs and the <i>Airports Act 1996</i> (Commonwealth) and the <i>Airports (Protection of Airspace) Regulations 2026</i> (Commonwealth). Note: There is no proposed change to the objective or performance criterion in this standard.



Draft Amendment 02-2026 of the State Planning Provisions

Alignment with the *Airports Act 1996* (Commonwealth) and
the *Airports (Protection of Airspace) Regulations 2026*
(Commonwealth)

Explanatory document under section 16(5) of the *Land Use Planning and
Approvals Act 1993*, including SPP criteria assessment

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Explanatory information

For the purposes of section 16(5) of *Land Use Planning and Approvals Act 1993* (LUPA Act), this document is the explanatory document for draft amendment 02-2026 of the State Planning Provisions (SPPs).

Background

The SPPs were made on 22 February 2017 and came into effect on 2 March 2017. Together with Local Provisions Schedules (LPS), they form part of the Tasmanian Planning Scheme (TPS). The SPPs are now in effect in 28 municipalities with the remaining Kingborough municipality to follow when its LPS is approved.

The LUPA Act requires that the SPPs are kept under regular review to ensure they remain contemporary and continue to serve their intended purpose effectively. A comprehensive review of the SPPs commenced in March 2022, as part of the five-yearly statutory review of the SPPs required under the LUPA Act.

Amendments to the SPPs Safeguarding of Airports Code are proposed to ensure that requirements in the code match with updated requirements in Commonwealth legislation for managing airports that came into operation on 1 April 2026. Specifically, the code exemptions and standards for development within an airport obstacle limitation area need to be adjusted to align with changes to the assessment requirements for building within an airport obstacle limitation area in the *Airports Act 1996* (Commonwealth) and *Airports (Protection of Airspace) Regulations 2026* (Commonwealth).

To ensure aircraft can operate safely, protected airspace is established around airports (prescribed airspace), which sits above an obstacle limitation surface (OLS) for the relevant airport. Anything that penetrates the OLS can affect aircraft safety or reduce the ability of larger aircraft to access airports. The Commonwealth sets the requirements for mapping the OLS, they follow the methods set out in the 1944 Chicago convention (Convention on International Civil Aviation – Chicago 7/12/1944).

This method does not consider nearby hills or higher land around airports. In some cases, this terrain sits above the airport's OLS. This is the case at both Hobart Airport and Launceston Airport, where some nearby land is higher than the airport OLS. This means that any development on this terrain requires approval from the Commonwealth Government.

Commonwealth airports are required to prepare masterplans every 5 years, and the relevant OLS for the airport must be included. The Safeguarding of Airports Code overlays in the TPS align with the OLS shown in both the Hobart and Launceston airport masterplans.

When the SPPs were prepared in 2017, the requirements in the Safeguarding of Airports Code were considered to align with the Commonwealth assessment requirements set out in the *Airports Act 1996* and *Airports (Protection of Airspace) Regulations 1996*. Currently, Clause C16.6.1 A1 of the code requires that development above the OLS has approval

from the relevant Commonwealth department under the *Airports Act 1996* (Commonwealth).

With the updated Commonwealth *Airports (Protection of Airspace) Regulations 2026*, the SPPs need further adjustment to continue to align with the revised Commonwealth approvals pathways. The updated 2026 Commonwealth regulation enables the OLS to be described as separate parts, being the primary or secondary surface.

A key change in regulation, is the ability for Commonwealth airport operators to approve intrusions into the OLS “secondary surface” when the terrain on the development site is already located above the OLS. The delegation to the airport operator enables them to approve development up to 30m high, but only in relation to an intrusion of the secondary surface. The relevant sections of the updated regulation are s7 and s26.

The SPPs Safeguarding Airport Code, does not currently recognise that an approval can now be given by an airport operator under the limited circumstances set out in the regulation.

The SPPs amendment proposes to revise Clause C16.6.1 A1 of the code to provide a second approval pathway for development above the OLS by a delegated airport operator to align with the Commonwealth *Airports (Protection of Airspace) Regulations 2026* regarding development sited above the airports OLS and the multiple decision makers who can now approve that development.

Section 182 of the *Airports Act 1996* specifies the buildings, works or activities that are considered to be a “controlled action” with respect to an OLS, and therefore needing an approval under that Act. Noting that the Commonwealth legislation does not define “building” as precisely as Tasmanian legislation does.

Through discussions with the affected Councils and Commonwealth airport operators, a further matter was discovered relating to the intended meaning of section 182(1)(b) of the current *Airports Act 1996* (Commonwealth) as it relates to additions to existing buildings and whether those additions are intended to be treated as a “controlled action” or not. Under this section an addition to a building that is no higher than the existing building is taken by the Commonwealth to not be a “controlled action”, and so they do not issue an approval for that type of building addition. This intended meaning was provided to Hobart airport from the Commonwealth department by email.

Currently, the SPPs Safeguarding Airport Code requires these building additions to have an approval from the Commonwealth, yet the Commonwealth does not issue an approval. This has created a scenario where the SPPs may prevent the consideration and approval of certain types of building additions when there is no need to, because an approval under the SPPs cannot be given if the Commonwealth does not issue an approval. Essentially, the SPPs Code is not in alignment with the Commonwealth Act and requires clarification about the assessment pathway for development proposals of this specific kind.

The draft amendment of the SPPs proposes to insert an additional exemption from the code at Clause C16.4.1 to clarify that specific additions to existing buildings do not need to be assessed under the code because they are not a type of development within an OLS

that requires Commonwealth approval, aligning the operation of the code and the *Airports Act 1996* (Commonwealth).

The Minister for Housing and Planning (the Minister) has prepared Terms of Reference for draft amendment 02-2026 of the SPPs (Appendix 1) and given notice in the three main Tasmanian newspapers.

Legislation Requirements

Part 3, Division 2 of the LUPA Act sets out the requirements for making amendments to the SPPs.

The LUPA Act enables minor amendments of the SPPs to be made without going through the normal public consultation and assessment processes provided they are for any of the following purposes in section 30NA(1):

- (i) *correcting a clerical mistake, an error arising from any accidental slip or omission, an evident miscalculation of figures, or an evident material mistake, in a provision of the SPPs;*
- (ii) *removing an anomaly in the SPPs;*
- (iii) *clarifying or simplifying the SPPs;*
- (iv) *removing an inconsistency in the SPPs;*
- (v) *removing an inconsistency between the SPPs and the LUPA Act or any other Act;*
- (vi) *bringing the SPPs into conformity with a State Policy;*
- (vii) *bringing the SPPs into conformity with a planning directive which the Minister has, under section 30BA of the LUPA Act, determined should be reflected in the SPPs;*
- (viii) *changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take; or*
- (ix) *a purpose prescribed by regulation.*

For an amendment to be considered as a minor amendment of the SPPs, it must also not prejudice the public interest by not following the normal SPPs amendment process under the LUPA Act.

A draft amendment of the SPPs must be prepared in accordance with the terms of reference to which notice has been given under section 30C(2) of the LUPA Act. It must also meet the SPPs criteria in section 15 of the LUPA Act.

The proposed minor amendment

The proposed minor amendment is outlined in the draft amendment document. It is presented in tabular format with accompanying reasons for the change.

The draft amendment has been prepared to recognise that Commonwealth approvals can now be issued by either the Commonwealth or the airport operator acting under delegation provided in the new Commonwealth regulation (section 26).

An additional element has been added to the draft amendment to align with the meaning set out in section 182(1)(b) of the *Airports Act 1996*, which refers to additions to existing buildings. This section sets out that an addition to an existing building is not a “controlled activity” if the addition does not increase the height of the building above the OLS any more than the existing building. Meaning that the SPPs Safeguarding Airport Code does not need to consider building additions of this nature.

In summary, draft amendment 02-2026 of the SPPs proposes to remove inconsistencies between the SPPs Safeguarding Airports Code and the relevant Commonwealth legislation in relation to intrusions into airport obstacle limitation surfaces.

Compliance with the legislative requirements

The draft amendment is considered to:

- meet the criteria for a minor amendment of the SPPs under section 30NA(1)(a)(v) of the LUPA Act for the reasons specified in the draft amendment document;
- be in accordance with section 30NA(1)(b) of the LUPA Act as the public interest will not be prejudiced with the process under Part 3 Division 2, Subdivision 3 of the LUPA Act not applying, as the amendment simply aims to align the SPPs with the Commonwealth legislation and the physical requirements on new buildings are not being changed with respect to maintaining the safety of aircraft operations;
- be in accordance with the terms of reference for draft amendment 02-2026 of the SPPs to which notice was given under section 30C(2) of the LUPA Act; and
- meet the SPPs criteria contained in section 15 of the LUPA Act.

The SPPs criteria require an amendment of the SPPs to comply with the following:

- (a) only contains provisions that the SPPs may contain under section 14 of the LUPA Act;
- (b) furthers the objectives set out in Schedule 1 of the LUPA Act;
- (c) is consistent with each State Policy;
- (d) is consistent with the TPPs that are in force before the instrument is made; and
- (e) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

The draft amendment only contains provisions that section 14 of the LUPA Act allows the SPPs to contain. It proposes minor amendments to the current SPPs. The SPPs have already been determined as meeting the criteria in section 15 of the LUPA Act, including furthering the objectives in Schedule 1 of the LUPA Act, consistency with State Policies and having regard to the safety requirements in the *Gas Safety Act 2019*. These minor amendments do not affect compliance with these criteria.

The Tasmanian Planning Policies (TPPs) came into effect on 1 July 2026. The proposed amendment has been assessed against the draft TPPs and is considered consistent with the relevant strategies for ports and strategic transport networks at section 5.5.3.

Specifically, the amendment is consistent with the following strategy under section 5.5.3:

5. Protect major airports by applying appropriate buffers that prevent the encroachment of incompatible use and development.

Consultation

Section 30NA(2) of the LUPA Act requires the Minister to consult with planning authorities and relevant State Service Agencies and State authorities for minor amendments that relate to the following criteria in section 30NA(1)(a):

- (iii) clarifying or simplifying the SPPs;
- (iv) removing an inconsistency in the SPPs;
- (vii) bring the SPPs into conformity with a planning directive;
- (viii) changing provisions in the SPPs that relate to the structure or form of an LPS; or
- (ix) matters prescribed by regulation.

The Minister can determine whether or not to consult with planning authorities and relevant State Service Agencies and State authorities for minor amendments that relate to the following criteria in section 30NA(1)(a):

- (i) correcting clerical errors;
- (ii) removing anomalies in the SPPs;
- (v) removing an inconsistency between the SPPs and the LUPA Act or other legislation;
and
- (vi) bringing the SPPs into conformity with State Policies.

The draft minor amendment is for the purposes of clarifying the SPPs Safeguarding Airport Code exemption and development standard in accordance with section 30NA(1)(a)(v) and therefore consistent with purposes outlined in the second consultation category.

Prior to preparing the Terms of Reference, the State Planning Office undertook informal consultation with those Councils and airports that are affected by this issue. The consultation included informal discussions with officers from both Hobart and Launceston airports, Sorell Council, Clarence City Council, Northern Midlands Council and Launceston City Council where the Safeguarding Airport Code overlay for Launceston and Hobart airports applies.

All participants were in agreement about the form of the draft amendment by the end of the informal discussions.

Appendix A – Terms of Reference