

Representation No. 17

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Sent: Wednesday, 8 April 2020 4:17 PM

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Subject: Submission to Draft Circular Head Local Provisions Schedule from UPC/AC Renewables

Please find attached a submission on behalf of UPC/AC Renewables. Representation is made under Section 35 E of the *Land Use Planning and Approvals Act 1993*.

If you wish to discuss the contents of the representation, please refer to the contact details of the relevant person representing UPC/AC Renewables in the content of the letter.

Kind Regards

Kylie

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8 April 2020

Mr Scott Riley
The General Manager
Circular Head Council
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SMITHTON TAS 7330

Emailed to: council@circularhead.tas.gov.au

Dear Mr Riley

**RENEWABLE ENERGY PARKS AND ASSOCIATED TRANSMISSION INFRASTRUCTURE UPC\AC
RENEWABLES SUBMISSION TO CIRCULAR HEAD LOCAL PROVISIONS SCHEDULE**

UPC\AC Renewables Australia ("UPC") is an Australian entity, established in late 2016, that is headquartered in Tasmania. We have a development portfolio of several GWs of renewable energy within the National Electricity Market. UPC is part of the global UPC Renewables Group that was established in the early 1990s. The UPC Renewables Group has developed, owned and operated over 4500MW of large scale wind and solar farms in 10 countries across Europe, North America and Australia-Asia, with an investment value of over \$5Billion USD. We have always been a pioneering renewable energy developer, developing the first commercial wind farms in Italy and Indonesia as an example. Our mission is to meet our world's growing energy needs with clean electricity and improve the lives of local people and communities. As a developer, owner and operator, UPC is vested in the community for the long term.

UPC has been made aware of the public exhibition of Circular Head Council's Draft Local Provisions Schedule (LPS) under section 35B of the *Land Use Planning and Approvals Act 1993* (LUPAA).

On behalf of UPC\AC Renewables, GHD Pty Ltd has undertaken a review of the LPS and has assisted with the following representation with a view to seeking more appropriate provisions pursuant to S 34 of the *Land Use Planning and Approvals Act 1993* and the S 8a Guidelines. Representation is made having regard to the LPS requirements under the *Land Use Planning and Approvals Act 1993*.

It is also understood Council may also make representation under Section 35 of the *Land Use Planning and Approvals Act 1993*, should Circular Head Council choose to do so UPC request Council support the recommendations of this submission in their own submission.

1. Introduction

UPC wishes to provide input into the Local Provision Schedule (LPS) to ensure its interests are protected with respect to planned projects in the region. This includes the Jim's Plain and Robbins Island Renewable Energy Parks (known as the Parks) and the associated transmission line (known as the Line) which are currently progressing through the planning and approvals process. The focus of the submission relates to provisions of the LPS and how they might impact on future development of renewable energy parks and electricity transmission lines in appropriate areas. An example of the potential impact of the LPS on the assessment of applications for planning approval in the Local Government context has been given to demonstrate the deficiencies of existing interim schemes in assessing these projects and that the proposed LPS provisions are a retrograde step.

Whilst it is acknowledged there are matters raised here outside of the scope of the consideration of the Circular Head Local Provisions Schedule, it is necessary to provide context with current public policy and regulatory approaches that are trying to keep pace with the changing approaches to electricity generation to support local communities, the Tasmanian economy and the environment.

2. Summary of Recommendations for draft Local Provisions Schedule

- a. Insert in each of the Zone Purpose Statements of the Rural, Agriculture and Environmental Zones wording to reflect air as a resource as stated in Schedule 1 of the *Land Use Planning and Approvals Act 1993*.
- b. The specific standard that exists in the Rural Resource Zone of the Interim Scheme is retained as a development standard in each of the Rural, Agriculture and Environmental Management Zones to allow up to 20 metres in height for this type of infrastructure. Insert, in the Acceptable Solutions for the Building Height Standards in the Rural, Agriculture and Environmental Management Zones for the draft LPS, the following qualification:

Wind power turbines and wind power pumps must not exceed 20 m in height.

- c. Insert, in the Performance Criteria for the Building Height Standards in the Rural, Agriculture and Environmental Management Zones for the draft LPS:

Wind power turbines or wind power pumps must minimise their impacts on the broader landscape having regard to –

- (a) the visual impacts of the development;*
- (b) the characteristics of the vicinity of the site;*
- (c) the characteristics of the wind resource;*
- (d) the topography of the site and how that location affords access to wind; and*
- (e) potential impacts on birds.*

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- d. That the Utilities Use Class be afforded permitted status in the Agriculture and Environmental Management Code, recognising that discretion is afforded by other Scheme mechanisms.

3. Summary of Recommendations for Alternative Approaches in further consideration of the Circular Head Local Provisions Schedule

The draft LPS will see changes that provide less certainty to the assessment of the Parks and future renewable energy projects. The recommendations about the inclusion of applicable standards will ensure the impact is lessened. However, even with these changes the Line will still be required to be assessed under performance criteria under three planning Schemes, three zones and numerous codes.

This submission demonstrates that the current and draft future provisions do not adequately cater for the assessment of renewable energy projects. The preferred approach would be the development of a Renewable Energy Code suited to the specific assessment of this type of infrastructure as is evident in other States in Australia.

To this end UPC makes this submission to ensure its continuing involvement in the consideration of the LPS by Council and the Tasmanian Planning Commission of the following:

1. Impact of changes to Scheme provisions with respect to the effect on the approvals for potential renewable energy park developments and transmission lines
2. Regulation to respond to renewable energy projects with policy approaches that recognise the unique opportunity on Tasmania's North West Coast, rather than the existing piecemeal approach.

In addition, UPC's concerns could be reflective of many major energy providers, that current Regulation and Planning Assessment is not equipped to adequately tailor assessment pathways for large-scale and alternative approaches to infrastructure. This was exemplified in the assessment of the Low Head Wind Farm development and application for planning permit.

Submission in detail

4. Impact of changes to scheme provisions with respect to the effect on the approvals for wind energy turbines, utility scale solar PV and transmission lines

Whilst UPC recognises the current need for discretionary planning approvals for the Parks and the Line under the Circular Head Interim Scheme (including two other local Schemes for the Line), this submission is based on the observations that the draft LPS will introduce additional complexity and uncertainty to these assessment processes.

It is also recognised that the Section 8a Guidelines for the drafting of the LPS are, in themselves, restrictive for Planning Authorities considering alternative approaches to planning provisions, and that the State Planning Provisions (particularly the 16 Codes) present complex challenges for

proponents and Planning Authorities to navigate. This is exemplified in the discussion on the draft LPS provision below.

Exemptions

Given the size and complexity of most renewable energy park projects, the exemptions provided for in the State Planning Provisions will not include any of the proposed renewable energy park (consisting of wind turbines, solar PV, batteries etc) or transmission line infrastructure.

The absence of exemptions is perhaps understandable given the restrictions around what an LPS can provide for (as detailed in the Guidelines), and the need for discretionary approval, as is the case currently under the CHIPS 2013, is acknowledged and accepted. However, this submission is based on the observations that the draft LPS will introduce additional complexity and uncertainty in the use of Local Area Objectives, Desired Future Character Statements and Use and Development Standards found within the Zoning and Codes that apply for the region.

Zoning

A fundamental difference between the interim scheme and the LPS relates to zoning.

Taking a broad review of the application of zones across the region between Robbins Island in the west and the Waratah-Wynyard municipality in the east, particularly the land south of Smithton, it is evident that the LPS includes more zones than the interim scheme. This is demonstrated in the following figure with the Agricultural Zone (brown), Rural Zone (beige) and Environmental Management Zone (green) applied in the LPS when compared to the predominately the Rural Resource Zone (cream) of the interim scheme.

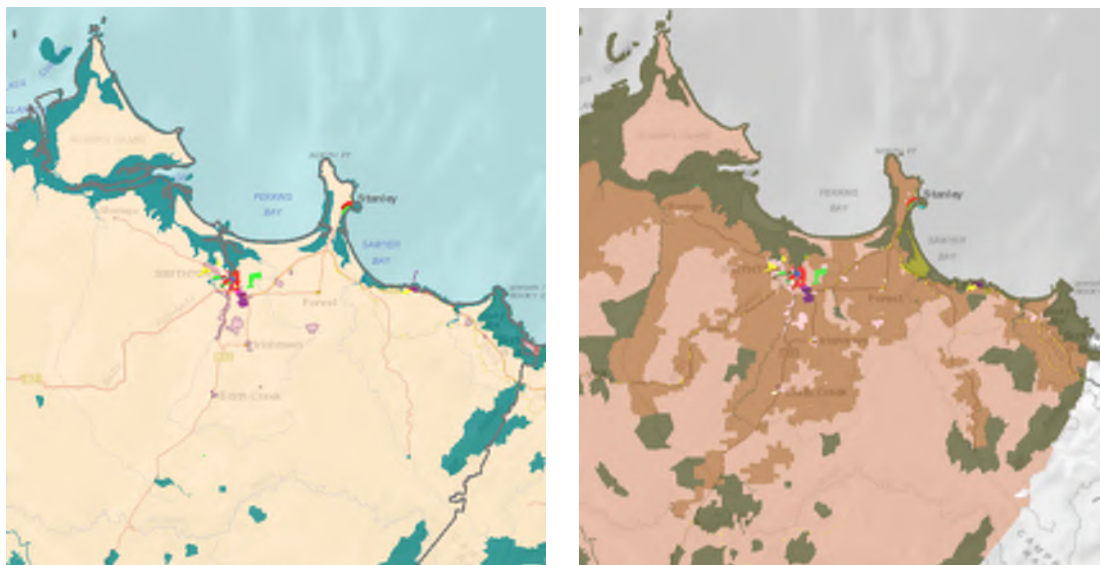


Figure 1 Zone comparison between the Circular Head Interim Scheme (left) and LPS (right)

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Whilst it is acknowledged that the zones have been applied as per the State's Guidelines, it is important to highlight there will be added complexities associated with the development approval of wind turbine, solar PV and transmission line infrastructure in the rural zonings prescribed under the TPS and LPS.

Local Area Objectives and Desired Future Character Statements

The existing Rural Resource Zone Local Area Objectives have not transitioned into the LPS, because the Guidelines require land in this zone to transition to a Rural or Agriculture Zone. The Rural Zone and Agriculture Zone Purpose statements within the LPS do not account for 'air'. The reasons for this omission are unclear, whether purposefully or accidentally, however it is a glaring omission from the perspective of a renewable energy developments, which see air as a resource for the creation of wind and in turn, renewable energy generation. Additionally, it is an omission from the perspective of the Schedule 1 objectives of LUPAA, which recognises air as a resource:

- "1. The objectives of the resource management and planning system of Tasmania are –
- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State."¹

5. Current Local Area Objectives for the Rural Resource Zone

26.1.2 Local Area Objectives

- (a) The priority purpose for rural land is primary industry dependent upon access to a naturally occurring resource;
- (b) **Air**, land and water resources are of importance for current and potential primary industry and other permitted use;
- (c) **Air**, land and water resources are protected against –
 - (i) permanent loss to a use or development that has no need or reason to locate on land containing such a resource; and
 - (ii) use or development that has potential to exclude or unduly conflict, constraint, or interfere with the practice of primary industry or any other use dependent on access to a naturally occurring resource;

¹ LAND USE PLANNING AND APPROVALS ACT 1993 - SCHEDULE 1

- (d) *Primary industry is diverse, dynamic, and innovative; and may occur on a range of lot sizes and at different levels of intensity;*
- (e) *All agricultural land is a valuable resource to be protected for sustainable agricultural production;*
- (f) *Rural land may be used and developed for economic, community, and utility activity that cannot reasonably be accommodated on land within a settlement or nature conservation area;*
- (g) *Rural land may be used and developed for tourism and recreation use dependent upon rural location or undertaken in association with primary industry*
- (h) *Residential use and development on rural land is appropriate only if –*
 - (i) *required by a primary industry or a resource based activity; or*
 - (ii) *without permanent loss of land significant for primary industry use and without constraint or interference to existing and potential use of land for primary industry purposes*

6. Proposed Zone Purpose Statements for the Rural, Agriculture and Environmental Management Zone

Local Area Objectives can be applied by a Planning Authority in an LPS, the State Planning provisions do not contain Local Area Objectives or Desired Future Character Statements. However the draft LPS only contain Local Area Objectives for the Low Density, Village and Landscape Conservation Zone.²

Therefore the LPS will rely upon the Zone Purpose Statements of the SPPs for the Rural, Agriculture and Environmental Management Zone which are much more broad and therefore less likely to reflect any regional or local variations in character or land use potential. The North West Coast has been identified by the Australian Energy Market Operator as a Renewable Energy Zone and this should be reflected in the Planning Scheme provisions for the Region. There are no provisions in the Zone Purpose of each of the Zones to reflect this, or the State Government's commitment to its 200% renewable energy target. Each Zone intent is broad and are as follows.

20.0 Rural Zone

20.1 Zone Purpose

The purpose of the Rural Zone is:

20.1.1 To provide for a range of use or development in a rural location:

- (a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;
- (b) that requires a rural location for operational reasons;
- (c) is compatible with agricultural use if occurring on agricultural land;
- (d) minimises adverse impacts on surrounding uses.

20.1.2 To minimise conversion of agricultural land for non-agricultural use.

20.1.3 To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements.

² CH-LPS Written Instrument

21.0 Agriculture Zone

21.1 Zone Purpose

The purpose of the Agriculture Zone is:

21.1.1 To provide for the use or development of land for agricultural use.

21.1.2 To protect land for the use or development of agricultural use by minimising:

- (a) conflict with or interference from non-agricultural uses;
- (b) non-agricultural use or development that precludes the return of the land to agricultural use; and
- (c) use of land for non-agricultural use in irrigation districts.

21.1.3 To provide for use or development that supports the use of the land for agricultural use.

23.0 Environmental Management Zone

23.1 Zone Purpose

The purpose of the Environmental Management Zone is:

23.1.1 To provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value.

23.1.2 To allow for compatible use or development where it is consistent with:

- (a) the protection, conservation and management of the values of the land; and
- (b) applicable reserved land management objectives and objectives of reserve management plans.

Therefore in the absence of any Local Area Objectives any application would be required to address the more general standards, for discretionary uses in particular this will lead to significantly more uncertainty.

7. Development Standards

The following provides a comparison of the Circular Head Interim Scheme's Rural Resource Zone standard in relation to building or utility structure height with that for the Rural Zone, Agricultural Zone and Environmental Management Zones in the LPS. For simplicity, this relates only to the Acceptable Solution Provisions.³

³ Note that performance criteria are available to address for non-compliance with acceptable solutions including building height and setback. This introduces additional discretion and complexity in assessment against applicable standards.

Table 1 Comparison of applicable development standards between the CHIPS and LPS

Provisions	Rural Resource Zone (current Interim Scheme)	Rural Zone (Future LPS)	Agriculture Zone (Future LPS)	Environmental Management Zone (Future LPS)
Use (Utilities)	Discretionary	Permitted	Discretionary	Discretionary
Development Standards	Building height 8.5 m Wind power turbines and wind power pumps must not exceed 20 m in height	Building height 12 m	Building height 12 m	Building height 6 m

Table 2 shows that the interim scheme includes specific provisions that relate to renewable energy infrastructure whereas the Tasmanian Planning Scheme will not. It is understood that the standards in A3.2 were the result of changes brought about by an urgent amendment to each of the Cradle Coast Region's Schemes, including Circular Head IPS in August 2016. Just as the Tasmanian Planning Commission found the Interim Scheme warranted change to take into account wind turbine infrastructure, so should the LPS.

The LPS (as the local application of the SPP standards) is deficient in recognising that a structure such as a wind turbine or wind power pump may require a particular standard for assessment. The LPS sees the Acceptable Solution for height of structures reduce from 20 metres to a building height of 12 or 6 metres in the respective zone. It is assumed this reduction in permissible height standards creates automatic discretion for a development where height is a functional requirement. However what is also unclear is what standards relate to other structures that are not buildings, such as wind turbines.

The LPS also sees that loss of the associated Performance Criteria (P3.2) as included in the existing Rural Resource Zone as follows:

“Wind power turbines or wind power pumps must minimise their impacts on the broader landscape having regard to –

- (a) the visual impacts of the development;*
- (b) the characteristics of the vicinity of the site;*
- (c) the characteristics of the wind resource;*
- (d) the topography of the site and how that location affords access to wind; and*
- (e) potential impacts on birds.”*

It is recommended that this Performance Criteria also be included in the Rural, Agriculture and Environmental Management Zones of the LPS.

Whilst adjoining Scheme provisions are not the primary topic of this submission, it is relevant to compare examples of applicable standards across other Schemes, which the Line in its entirety will be assessed

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against. It is noted that the current likely alignment of the Line from Robbins Island Road to Hampshire will also cross the Waratah-Wynyard and Burnie Local Government Areas.

The Burnie LPS ceased notifications in December 2019 and hearings at the Tasmanian Planning Commission have progressed recently. In the case of the Burnie draft LPS, the key point in the comparison between the BIPS 2013 and Burnie LPS was the Use standards for a discretionary use no longer applied to the Utilities use class and which is now a permitted use class in the Rural Zone. This is true of the Circular Head LPS, which will also see parts of the proposed Line be permitted, and parts discretionary. A confusing scenario and uncertainty for proponents and Planning Authorities alike. Indeed, the broader issues discussed here in relation to lack of consistency in assessment and lack of contemporary approaches to assessment of renewable energy projects are Statewide issues.

One of the criticisms of the existing provisions in the Interim Planning Schemes is that the Performance Criteria are not sufficiently broad enough to deal with large infrastructure whether that be wind turbines or transmission lines in the case of renewable energy. This type of infrastructure incorporates alternative approaches and functional requirements that are unique. It is therefore necessary that regulation becomes more specific to meet the criteria for their assessment. By its nature, the TPS is more general and consistent so that it may be applied across the State. Therefore the move towards the Statewide provisions reinforces the need for more specific overriding provisions to govern renewable energy infrastructure.

At the least, the specific standard that exists in the Rural Resource Zone of the Interim Scheme is retained as a development standard in each of the Rural, Agriculture and Environmental Management Zone to allow up to 20 metres in height for this type of infrastructure. Practically speaking even this 20 metres Height standard is manifestly inadequate.

Further, UPC believe that a permitted status should be afforded the Utilities use class across all zones for consistency's sake. Discretion is introduced by many other mechanisms and need not apply to the use class.

LPS Codes

Of the possible 16 Codes contained within the State Planning Provisions, the Circular Head LPS codes that are mapped as overlays through the proposed Line alignment, or indeed for any future projects include:

- The Natural Assets Code - proposed alignment traverses priority vegetation areas and waterway protection areas
- The Landslide Hazard Code
- The Bushfire Prone Areas Code
- The Electricity Transmission Infrastructure Protection Code.

Additionally, other Codes could apply due to other (non-spatial) criteria such as listing in a schedule or other matters relating to the proposed use or development such as below.

- Scenic Protection Code

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- Attenuation Code
- Coastal Erosion Hazard Code
- Coastal Inundation Hazard Code
- Flood-Prone Areas Code
- Bushfire Prone Areas Code
- Potentially Contaminated Lands Code
- Landslip Hazard Code
- Natural Assets Code

Whilst not all of the Codes will apply to the assessment of any application for development a proponent will need to address each of these in a review of the Planning Scheme provisions. This is time consuming and costly and in many cases irrelevant when one Single Code could deal specifically with the values of the existing codes, and other provisions, that are particular to renewable energy projects.

8. Summary of observations of applicable standards (Zoning and development standards)

Any application for development of the proposed Line will require applications assessed against three Planning Schemes in north-west Tasmania. In the Circular Head Scheme alone, the LPS will see:

- The implementation of an additional zone across the possible development area
- The removal of an acceptable solution providing explicitly for renewable energy infrastructure wind power turbines and wind power pumps must not exceed 20 m in height (26.4.2 Location and configuration of development A3.2)
- The substantial reduction in height from the existing standard to 12 metres in the Rural or Agriculture Zone or 6 metres in the Environmental Management Zone

9. Summary of Overlay/Code differences

With regards to Codes under the current Interim Scheme, the proposed alignment is subject to the Landslide Hazard Overlay under the Hazard Management Code as well as the Operational Airspace Overlay under the Airport Impact Management Code. Clearing of vegetation is addressed under the Clearing and Conservation of Vegetation Code, although wind farms and the proposed transmission lines are expected to be exempt, as they would be assessed under the *Environmental Management and Pollution Control Act 1994* (EMPC Act).

Similarly, the airport and landslide overlays have been applied in the draft LPS to areas within the proposed alignment.

However, in addition to these, the Priority Vegetation Areas and Waterway and Coastal Protection Areas under the Natural Assets Code have been applied extensively in the area of the proposed alignment (shown in Figure 2).

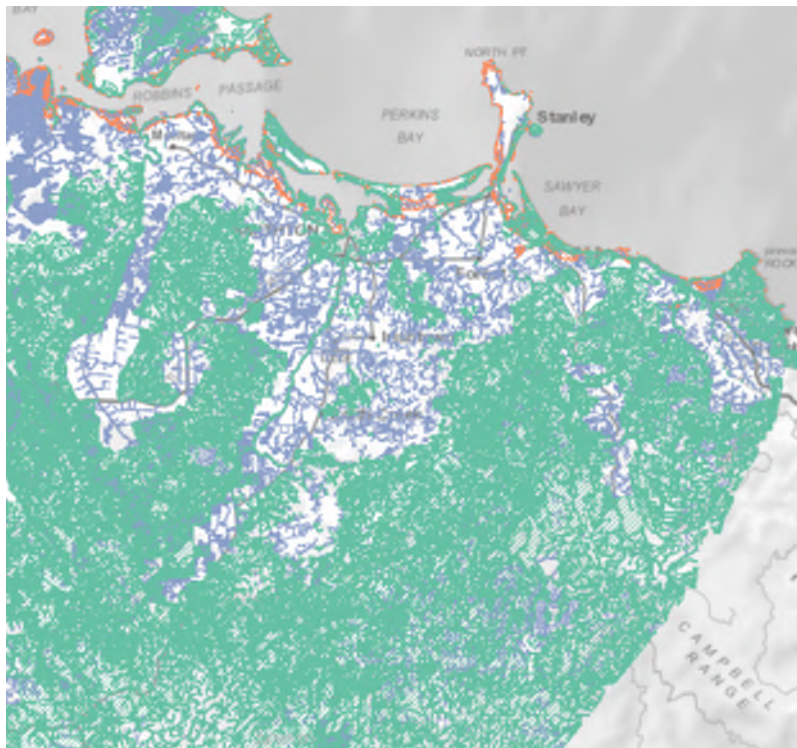


Figure 2 Draft LPS – Natural Assets Code: Priority Vegetation (green), Waterway and Coastal Protection Area (purple)

The Natural Assets Code is of particular concern to UPC. Unless “called in” by the Environmental Protection Authority the Natural Assets Code will be the primary environmental assessment to apply as the development application will be lodged to the Council as the Planning Authority. The requirements of this Code are extensive. If “called in” by the EPA a proposal would then be assessed under the *Environmental Management and Pollution Control Act 1994* by the Board of the EPA. But still, matters relating to vegetation removal and other environmental issues are echoed in many of the Zone standards and so will still be required to be addressed by the Planning Authority despite the environmental assessment being made by the EPA.

The application of environmental characteristics for assessment through the use of Codes has planning merit. However, we submit that the operation of the LPS for the Circular Head Scheme (and for adjoining municipal schemes for that matter) should keep pace with changes in utilities provision for renewable energy. This notion is supported by comment and research undertaken by Griffith University⁴. Byrne J and Matthew T, state that few planning guidelines and policies effectively engage with renewable energy, and that planning generally falls behind the changes of urban energy transitions. This is equally so of the current LPS provisions which fail to take into account the unique opportunities available in Tasmania,

⁴ Matthew T and Byrne J, Griffith University August 2017 <http://theconversation.com/pace-of-renewable-energy-shift-leaves-city-planners-struggling-to-keep-up-82206>

particularly in the North West, to transition to more renewable and sustainable energy provision. For this reason, the LPS should be amended to include specific provisions to allow a more holistic and contemporary approach to planning guidelines for assessing renewable energy infrastructure such as are in operation interstate.

Case study – Low Head Wind Farm

UPC's concerns could be reflective of many major energy providers, that current Regulation and Planning Assessment is not equipped to adequately tailor assessment pathways for large-scale and innovative approaches to infrastructure.

This was exemplified in the assessment of the Low Head Wind Farm development and application for planning permit, whilst not a UPC project the approvals process for that project is an exemplar of the issues that arise from a Planning Authority Assessment of such a proposal, where the Scheme provisions cross zone boundaries and incorporate several codes.

The application made by Low Head Wind Farm Pty Ltd involved six properties, for the purpose of wind turbines and transmission lines, those six properties incorporated four land use zonings.

The development involved the construction of ten wind turbines (with a maximum tip height of 180 m) and associated infrastructure between Low Head (Bell Buoy Beach) and Beechford.

The application was made on the 20th June 2017 and approved by the George Town Council on the 21st February 2018. As the project was classified by the EPA as a Level 2C activity, with the EPA assessing the project's environmental aspects, it was advertised for the statutory 6 week period and 9 submissions were made.

Reference has been made to the publicly available Council agenda for the 21st February 2018. This application for wind turbines and associated infrastructure was made possible as a result of an earlier-site specific amendment to the use and development standards in the Rural Resource Zone, which included revised desired future character statements for the Rural Resource Zone and additional acceptable solutions for wind turbine height, which allowed for turbines up to 180 metres.

Under the Interim Scheme, the assessment of the development was dealt with under four different zones; of note is that the amendment to the Desired Future Character Statements recognised that the use of the site for a wind farm was an exception to the statement that visual impacts of use and development within the rural landscape are to be minimised so as not to be obtrusive.

The development was assessed under the five Codes of the Scheme (including the Biodiversity Code and Water Quality Code) which was also assessed by the Board of the Environmental Protection Authority. This shows that the various layers of assessment in the current Scheme and draft LPS increases complexity.

That would not be the case if there was a single Code that applied to the assessment of renewable energy infrastructure.

During the statutory notification period, 8 representations were received and many of the representations raised issues of commonly cited concern regarding:

- Impact on property values
- Concerns on consultation process
- Visual impact
- Noise
- Effect on surrounding land use
- Impact on natural environment
- Impact on fauna
- Potential impact of electromagnetic interference
- Impact of shadow flicker

In summary, as is the case in other states and jurisdictions, there is the opportunity for specific provisions to be developed into a Code to deal with the many matters raised in the assessment and third party representations on these matters. The referral to the EPA draws the State into the assessment process anyway, but the determinations are still required to be made at the local level. This is unnecessary duplication of effort that is avoided under different assessment models.

10. Regulation that responds to renewable infrastructure projects

As stated above, the north-west coast of Tasmania is unique and the LPS should highlight and respond to this to ensure economic development opportunities in the form of renewable energy projects can be facilitated, while recognising the environmental values of the area. These values have seen this area identified as a Renewable Energy Zone by the Australian Energy Market Operator in its Integrated System Plan. Further, the Cradle Coast Regional Land Use Strategy 2010-2030 states the need for strategic outcomes that facilitate non-carbon energy alternatives, renewable energy and energy recovery projects which enhance transition to a carbon-neutral society.⁵

A preferred approach to the existing Scheme's multi zone, multi code approach is a single regulatory response, specific to the detail required to assess the complex technical characteristics of the infrastructure. Other states of Australia have such provisions.

Queensland – The Queensland Planning system has in place a Wind Farm Planning Code and Guidelines (effective from July 2016). These mechanisms are used by a State Government agency, the State Assessment Referral Agency (SARA), to assess such projects. Known as Planning Code 23, The Wind Farm Code and guidelines are incorporated into the Sustainable Planning Act 2009 and associated Regulations,

⁵ pp 130 Cradle Coast Regional Land Use Planning Framework

ensuring a consistent and integrated approach to the assessment of planning issues related to wind farm development such as:

- Setbacks to sensitive uses
- Noise levels
- Aviation safety
- Shadow flicker and reflectivity
- Environmental impact on flora and fauna
- Environmental impact on landscape

The Regulations also control third party notification and enforcement of permits.

New South Wales – The New South Wales Government, Department of Planning, released a Wind Energy Guideline which gives industry and the community clarity about criteria and appraisal for decision making specifically on wind energy projects.⁶

All new wind farm applications are assessed under these guidelines, and unlike Queensland where the State agency has responsibility, these applications are determined by Local Government, a Regional Panel, or by the State Body (the Independent Planning Commission) depending on the project value. In addition, projects over a certain amount are automatically assessed by the State if environmental sensitivities are deemed likely.

As in Queensland, the NSW Guidelines include standards for the following:

- Placement/location and noise
- Hazard and risk
- Bushfire
- Aviation
- Biodiversity
- Visual impact
- Emissions and decommissioning

South Australia - Current Code provisions for development of wind farms in South Australia are found in Council Development Plans.

However, in November 2019 a draft new Planning and Design Code produced by the Department of Planning, Transport and Infrastructure for rural areas was released for public consultation. This Code included specific provisions for wind farms and the key proposed changes were in relation to setback standards, noise provisions and restricting development in areas of high landscape significance and will become operational in September 2020, revoking the Council development plans. Whilst assessment may

⁶ <http://www.resourcesandenergy.nsw.gov.au/landholders-and-community/renewable-energy/wind-farms-in-NSW>

still be a Local Government responsibility the assessment tool will be a consistent Code tailored to the specific characteristics of the development for renewable infrastructure.

Action on Promised Policy approaches to facilitate change

In the most recent State of the State address⁷ the Hon Minister P Gutwein indicated that in terms of energy targets, the Government had already committed to being 100% renewable by 2022 and were on track to meet this target. Further, a more ambitious target of 200% renewable generation of Tasmania's needs by 2040, which will see Tasmania double its renewable production.

The address detailed that the new Renewable Energy Action Plan will be released in April and will ensure that Tasmania remains the renewable energy powerhouse of Australia.

Whilst it is understood that State Government departments are working to conduct an analysis of how this is best achieved, a broad view of public policy approaches suggest that there is a slowness to adopt more innovative approaches and that further consideration of this needs to be given to consider these options when opportunities present themselves, such as upon review of the State-wide Planning Policies, specifically the development of a Renewable Energy Policy and Code in line with the Premier's vision.

As a matter of priority, and in line with the recommendations of the National Wind Farm Commissioner, appropriate action needs to be taken to align Tasmania with similar improved regulatory processes, as is the case in other states. In the 2018 Report of the National Wind Farm Commissioner it stated:

"The opportunity exists for a clearer framework of standard setting and enforcement of standards, whereby there is independence in the setting and enforcement of standards from the planning function. Such independence allows for increased community confidence in the objectivity of setting standards and assessing compliance. It also allows the relevant independent agency to acquire and maintain the appropriate skills and expertise to fulfil its standards and compliance responsibilities.

The opportunity also exists for increased harmonisation of key standards across state jurisdictions, such as noise, visual amenity, shadow flicker and setback distances, providing a consistent approach and expectations for governments, industry and the community. Consistency across the states will not only provide a more equitable outcome for residents potentially affected by wind farms, but may also result in the additional benefit of driving improvements in the technology across the entire market based on the more stringent, while appropriate, standard.

While there may be a number of ways to address these issues, best practice appears to be assigning responsibility for the setting and compliance oversight of environmental-related wind farm standards with the state environmental regulator, while the application of the standards to specific

⁷ http://www.premier.tas.gov.au/releases/state_of_the_the_state_address

projects rests with the state or local government planning authority. The current arrangements in place in New South Wales and South Australia generally reflect practices along these lines.”⁸

We would be pleased to discuss this submission further, if you wish to do so please contact Ms Madeleine Skerritt, 0400 090 344 and madeleine.skerritt@upc-ac.com. Thankyou for your consideration.

Yours sincerely



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