

TASMANIAN PLANNING COMMISSION



DECISION

| | |
|---------------------------|--|
| Planning scheme | Tasmanian Planning Scheme - Clarence |
| Amendment | PDPSAMEND-2021-022806 – Replace flood-prone hazard area overlay maps with new flood-prone hazard area overlay maps |
| Planning authority | Clarence City Council |
| Date of decision | 8 June 2022 |

Decision

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

John Ramsay
Executive Commissioner

REASONS FOR DECISION

Background

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 subject draft amendment is one of the draft amendments directed by the Commission under section 35KB(1) of the Act.

Amendment

Replace the flood-prone hazard area overlay maps with new flood-prone hazard area overlay (the overlay) maps.

The new overlay maps are based on revised flood modelling commissioned by the Clarence City Council after the draft LPS was endorsed by the Council on 7 May 2018.

Site information

The overlay maps apply to all areas modelled as flood-prone across the Clarence municipality.

Issues raised in representations

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 did not recommend any modification to the draft amendment.

Consideration of the draft amendment

1. Under section 40M of the (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. One representation was received and after consultation under section 40L(2) of the Act, the Commission dispensed with holding a hearing.
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*.

Regional land use strategy

- 4. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010-2035 (regional strategy).
- 5. The Commission considers the updated flood-prone area mapping is consistent with regional policy MRH 2 of the regional strategy. The overlay provides for the mitigation of flooding risk at the earliest stage of the planning process, by including in the planning scheme the most recent and best evidence of flooding potential to parties considering development.

Guideline No. 1

- 6. In the decisions and reasons to substantially modify part of the Clarence draft LPS dated 24 June 2021, the Commission considered that the modifications to the overlay would be consistent with Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application issued under section 8A of the Act.
- 7. The Commission considers that the draft amendment is consistent with FPHAZ1 and FPHAZ2 of Guideline No. 1 because the mapping has been applied to areas known to be prone to flooding, and the new overlay has been developed using data obtained by the planning authority.

State Policies and Resource Management and Planning System Objectives

- 8. The Commission finds that no State Policies are particularly 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

- 9. The Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.