



15 December 2023

Tasmanian Planning Commission

GPO Box 1691

Hobart Tasmania 7001

by email: tpc@planning.tas.gov.au

Dear Sir/Madam

STATEMENT OF OPINION - DRAFT AMENDMENT PSA 2023/1 TO THE CIRCULAR HEAD LOCAL PROVISIONS SCHEDULE

We are writing to advise you that the Draft Amendment PSA 2023/1 to the Circular Head Local Provisions Schedule has been completed the exhibition period and the Council is now providing you with its Statement of Opinion.

Council advertised the Draft Amendment from 2 November 2023 until 1 December 2023, with two separate advertisements placed in the local paper on 1 November 2023 and 11 November 2023. Thirty submissions were received during the exhibition period. One submission was received on 11 December 2023 from the Tasmanian Heritage Council after the exhibition ended.

Twenty-seven 27 representations, including the late submission from the Tasmanian Heritage Council, support or have no objection to the draft amendment. Therefore, the modification to the draft amendment is not required.

Four (4) representations are in objection to the draft amendment. The Planning Authority's opinions toward those representations are provided in the Section 40K Report attached to this letter. It is considered that the representations do not have adequate merit to warrant modification to the draft amendment.

Therefore, the Planning Authority's view is accurate as per the previous decision, and this view has not changed post exhibition. This view is expressed in the attached Council Resolution.



CIRCULAR HEAD COUNCIL

Council, as the Planning Authority, is of the opinion that the proposal is consistent with all relevant State Policies, regional land use strategies and statutory requirements and is generally in accordance with the Tasmanian Planning Scheme – Circular Head.

Should you have any further queries regarding this matter, please do not hesitate to contact Council's Town Planner on 6452 4848.

Yours sincerely

Phil Loone
DIRECTOR INFRASTRUCTURE & DEVELOPMENT SERVICES

**DRAFT AMENDMENT PSA 2023/1 TO THE CIRCULAR HEAD LOCAL PROVISIONS
SCHEDULE – SECTION 40K REPORT TO THE TASMANIAN PLANNING COMMISSION
FOLLOWING EXHIBITION PERIOD**

To: Council
Reporting Officer: Town Planner
Responsible Manager: General Manager
Report Date: 6 December 2023
File Reference: PSA2023/1
Enclosures:

1. Statement of Opinion
2. Representation 1 - Jonathan Smith - 3 November 2023
3. Representation 2 - Gary Evans - 4 November 2023
4. Representation 3 - Robert Smith - 4 November 2023
5. Representation 4 - Margaret Smith - 4 November 2023
6. Representation 5 - Mike O'Brien - 6 November 2023
7. Representation 6 - Yvette Haller - 6 November 2023
8. Representation 7 - Russell Kenery - 7 November 2023
9. Representation 8 - April Kenneally - 7 November 2023
10. Representation 9 - Jake Neasey - 7 November 2023
11. Representation 10 - Lynn Jensen-Schnapper - 7 November 2023
12. Representation 11 - TasWater - 8 November 2023
13. Representation 12 - Trina Morris - 9 November 2023
14. Representation 13 - Donald Hay - 12 November 2023
15. Representation 14 - Circular Head Tourism Association - 21 November 2023
16. Representation 15 - TasRail - 21 November 2023
17. Representation 16 - Kim Anderson - 23 November 2023
18. Representation 17 - Jill Cainey - 26 November 2023
19. Representation 18 - Romy Greiner - 27 November 2023
20. Representation 19 - MRT Department of State Growth - 27 November 2023
21. Representation 20 - Anthea Fergusson - 28 November 2023
22. Representation 21 - John David Bruce - 28 November 2023

23. Representation 22 - Kristen Smith - 28 November 2023
24. Representation 23 - David Emerson - 29 November 2023
25. Representation 24 - Craig and Melinda Dwyer - 29 November 2023
26. Representation 25 - Kerry Houston - 29 November 2023
27. Representation 26 - Alastair Houston - 29 November 2023
28. Representation 27 - Sam Humphries - 30 November 2023
29. Representation 28 - Rebecca Tyers - 30 November 2023
30. Representation 29 - William Humphries - 30 November 2023
31. Representation 30 - John Hammond - 30 November 2023

RECOMMENDATION

That Council in its role as a Planning Authority resolves that:-

1. In accordance with s40K(1) of the *Land Use Planning and Approvals Act 1993*, provide the Tasmanian Planning Commission with a copy of this report; and
2. In accordance with s40F(2)(a) of the *Land Use Planning and Approvals Act 1993*, provide the Tasmanian Planning Commission a copy of each representation received during the exhibition period;
3. In accordance with s40K(2)(c) of the *Land Use Planning and Approvals Act 1993*, provide the Tasmanian Planning Commission with the Statement of Opinion that the representations received during the exhibition period do not warrant a modification to the draft amendment of the LPS as detailed in this report; and
4. In accordance with s40K(2)(d) of the *Land Use Planning and Approvals Act 1993*, advise the Tasmanian Planning Commission that the Planning Authority is satisfied that the draft amendment of the LPS meets the LPS criteria.

PURPOSE

The purpose of this report is to seek the Planning Authority's endorsement to provide the Tasmanian Planning Commission (TPC) with a Statement of Opinion, a copy of each

representation and a report under Section 40K of the *Land Use Planning and Approvals Act 1993* after the public exhibition period ended.

BACKGROUND

At the Ordinary Council Meeting on 19 October 2023, the Planning Authority resolved to:

1. In accordance with s40F(2)(a) and (3) of the *Land Use Planning and Approvals Act 1993*, certifies a draft amendment of a Local Provisions Schedules (PSA 2023/1) to:-
 - amend CIR-Table C8.1 Scenic Protection Areas:
 - by removing the existing CIR-C8.1.1 Green Hills, Stanley; and replacing with CIR-C8.1.1 Stanley Peninsula
 - by including CIR-C8.1.2 Marrawah
 - by including CIR-C8.1.3 Coastal Estuaries and Islands
 - by including CIR-C8.1.4 Eastern Gateway
 - by including CIR-C8.1.5 Sumac Lookout
 - remove CIR-Table C8.2 Scenic Road Corridor
 - amend the Scenic Protection Area Code Overlay Map
 - remove the Scenic Road Corridor Code Overlay Maps
2. In accordance with s40F(4) of the *Land Use Planning and Approvals Act 1993*, within seven days of certifying a draft amendment, directs the Director of Infrastructure and Development Services to forward a copy of each of the sealed Instruments of Certification and the draft amendment to the Tasmanian Planning Commission.
3. In accordance with s40FA of the *Land Use Planning and Approvals Act 1993*, before exhibiting a draft amendment of the LPS, directs the Director of Infrastructure and Development Services to notify relevant agencies and State authorities that may have an interest in the draft amendment of the LPS, of the date on which the exhibition period in relation to the draft amendment of the LPS is to begin.
4. In accordance with s40H of the *Land Use Planning and Approvals Act 1993*, as soon as practicable after providing the Instruments of Certification to the Commission under s40F(4), directs the Director of Infrastructure and Development Services to publicly exhibit draft amendment PSA 2023/1 for a period of 28 days at Council's office and website, including notification in the local newspaper.

PUBLIC EXHIBITION

The Draft Amendment PSA 2023/1 was publicly exhibited for a 28-day period which commenced on the 2nd of November 2023 until the 1st of December 2023, which was extended one day for the public holiday (6 November 2023). The amendment appeared in the local newspaper on the 1st of November 2023 and the 11th of November 2023.

Prior to the public exhibition, exhibition notices of the draft amendment PSA 2023/1 were sent to 15 relevant agencies, State Service Agencies, and State Authorities, listed as follows:

1. Tasmania Parks and Wildlife Service
2. Mineral Resources Tasmania
3. Homes Tasmania
4. Tasmanian Gas Pipeline
5. Department of Natural Resources and Environment
6. Department of State Growth
7. Department of Education
8. Department of Premier and Cabinet
9. Department of Health
10. TasWater
11. TasNetworks
12. TasRail
13. Tasmania Fire Service
14. Tasmania State Emergency Service
15. Forest Practices Authority

On the first day of the public exhibition period, 540 exhibition notices were posted to relevant landowners and occupiers identified within the locations affected by the draft amendment PSA 2023/1.

Thirty (30) representation submissions were received during the public exhibition period, including responses from TasWater, TasRail, and Mineral Resources Tasmania.

Following the end of the public exhibition period, the Planning Authority has obligations under Section 40K of the *Land Use Planning and Approvals Act 1993* to provide a report in relation to the representations received to the Tasmanian Planning Commission.

THE REPRESENTATIONS AND RESPONSES

Section 40J of the *Land Use Planning and Approvals Act 1993* clearly sets out the matters to which a person or body may make a representation to in relation to a draft amendment. It states in sections 2 and 3:-

- (2) A representation in relation to a draft amendment of an LPS –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft amendment of an LPS; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 40G(3)(b), in the exhibition notice in relation to the draft amendment of an LPS.
- (3) Without limiting the generality of subsection (1), a person or body may make a representation in relation to a draft amendment of an LPS as to whether –

- (a) a provision of the draft amendment of an LPS is inconsistent with the SPPs; or
- (b) a provision of the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or
- (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.

The summary of key matters raised from representations validly received during the public exhibition and Planning Authority responses are provided in the table below.

Number	From	Key matters	Section 40K Response
1	Jonathan Smith	In support of the amendment	No further comment is required
2	Gary Evans	In support for the amendment	No further comment is required
3	Robert Smith	In support for the amendment	No further comment is required
4	Margaret Smith	In support for the amendment	No further comment is required
5	Mike O'Brien	In support for the amendment	No further comment is required
6	Yvette Haller	In support for the amendment	No further comment is required
7	Russell Kenery	In support for the amendment	No further comment is required
8	April Kenneally	In support for the amendment	No further comment is required
9	Jake Neasey	In support for the amendment	No further comment is required
10	Lynn Jensen-Schnapper	In support for the amendment	No further comment is required
11	TasWater	Pursuant to the <i>Water and Sewerage Industry Act 2008</i> (TAS) Section 56S(2), TasWater makes the following submission: <ol style="list-style-type: none"> 1. TasWater does not object and has no formal comments for the Tasmanian Planning Commission in relation to this matter and does not require to be notified of nor attend any subsequent hearings. 	No further comment is required
12	Trina Morris	In support for the amendment	No further comment is required
13	Donald Hay	In support for the amendment	No further comment is required
14	Circular Head Tourism Association	In support for the amendment	No further comment is required
15	TasRail	(a) The Eastern Gateway Scenic Protection Area covers some of the Western Rail Line which remains part of the State Rail Network. TasRail has obligations	(a)(b)(c)(d)(f) It is understood that under Section 19(1)(3) of the <i>Rail Infrastructure Act 2007</i> , a railway entity does not have to comply with the requirements of the <i>Land Use Planning</i>

Number	From	Key matters	Section 40K Response
		<p>to manage and protect non-operational corridors to ensure they remain available for future use.</p> <p>(b) The affected State Rail Network land corridor runs from approximately the KPW222.5 (Sisters Creek) to KPW259 (Wiltshire Loop).</p> <p>(c) In principle, TasRail has no objection to the inclusion of new Scenic Protection Areas, but requests that Council reconsider any limitation on vegetation clearing of land adjoining the rail corridor which may be detrimental to, or constrain future rail operations and maintenance of the existing rail corridor.</p> <p>(d) Concerns on the remove/clear areas of vegetation in order to access the rail network for periodic care and maintenance; to mitigate/remedy erosion, including soil erosion and coastal erosion; to maintain/upgrade/install appropriate drainage; and potentially for future upgrade and/or development of the rail corridor etc. These type of works all require access for vehicles and machinery and also for material laydown areas etc.</p> <p>(e) Concerns on the overlay areas include mine sites, with potential to significantly limit future potential for extension/expansion of activity/economic development.</p> <p>(f) The railway crosses also crosses over the Detention River and Black River. Consideration needs to be given to not only rail access requirements but also potential</p>	<p><i>and Approvals Act 1993</i> as regards to emergency railway works, or routine railway works that are carried out wholly within the rail network in order to maintain the rail network. Moreover, emergency works which are required or authorised by or on behalf of a State authority are exempt from planning approval under Clause 4.3.1 of the Tasmanian Planning Scheme – Circular Head.</p> <p>(e) The Planning Authority acknowledges the new Scenic Protection Areas will overlay existing mine sites. However, the application of the Scenic Protection Code will not limit the future expansion of the mining activities, but providing assessment guidelines that balance future developments while not negatively affecting the scenic value of the areas.</p> <p>Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, a planning permit is not required under the Tasmanian Planning Scheme for mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the <i>Mineral Resources Development Act 1995</i>, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time.</p> <p>The extension/expansion of mining sites will only trigger the assessment under the Code if they extend outside of the existing mining leases and do not meet the code exemption standards (which allows vegetation clearance within on existing pasture or crop production land). It does not prohibit the use or development within this area, but provides frameworks for better outcomes where the new mining activity does not impact scenic value within that</p>

Number	From	Key matters	Section 40K Response
		for access to manage flood events, and noting in recent years flood events have seen large volumes of debris accumulate under rail and road bridges. Where this occurs, areas of vegetation may need to be cleared in order to provide safe access for necessary cranes, vehicles and laydown areas.	area, viewing from sensitive public places. It is considered that the representation does not have adequate merit to warrant modification to the draft amendment.
16	Kim Anderson	In support for the amendment	No further comment is required
17	Dr Jill Cainey	In support for the amendment	No further comment is required
18	Romy Greiner	In support for the amendment	No further comment is required
19	MRT, Department of State Growth	<p>(a) The potential to adversely affect mineral exploration licensees, with the consequence being one of sovereign risk as the progression from exploration to mining (extractive industries) may be severely curtailed by the imposition of the scenic protection overlay in these areas.</p> <p>(b) Concerns effects on the proposed coastal estuaries and islands scenic protection area. This includes Robbins Island where exploration and mining for construction materials has been identified as a potential future need.</p> <p>(c) Concerns effects on proposed eastern gateway scenic protection area. This proposed area includes the active Mining Lease ML 1808P/M. The proposed extent of this area is not supported due to the economic importance of supply of construction materials close to the areas of use. Future expansion of this resource extraction may be curtailed by the addition of this code over this area. Based on the summary of the rationale for this area to be under the scenic protection code it appears to be more relevant to</p>	<p>(a) Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, a planning permit is not required under the Tasmanian Planning Scheme for mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the <i>Mineral Resources Development Act 1995</i>, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time.</p> <p>(b) The draft amendment will not affect the mine on Robbins Island as the use/development was approved with the Robbins Island wind farm development application in early 2023.</p> <p>This mining lease is small, in the middle of the island. It can be considered as having a low risk of impact on the public view.</p> <p>(c) The lease ML1808P/M is an existing mine, already visible from the Bass Highway. The Eastern Gateway Scenic Protection Area focuses on the entrance to Circular Head. This mine is only visible on the exit. It, therefore, can be considered as having a very low impact to the public sensitive viewpoints.</p>

Number	From	Key matters	Section 40K Response
		<p>the areas north of the highway, and there appears to be no rationale for the inclusion of the southern areas, which are largely areas of highly modified landscapes.</p> <p>(d) Concerns effects on proposed Sumac lookout scenic protection area. This includes an active Exploration Licence EL17/2021. This area is also included as part of the Balfour Strategic Prospectivity Zone, an area identified in the Mining (Strategic Prospectivity Zones) Act 1993 as being of specific interest to the State due to the potential for discovery of mineral resources. There is a real likelihood of the application of this code to this region to be a disincentive to economic activity associated with mineral exploration due to increased sovereign risk.</p> <p>(e) MRT requests that further consideration be given to current and future potential mineral resources in the Circular Head Council area in the application of the scenic protection code that may affect the potential for the realisation of the economic and social benefits from extractive industries. MRT believes that, at a minimum, consideration could be given by Council to revise the extent of the proposed scenic protection areas in recognition of the potential for economic activity and jobs associated with the extractive industries.</p>	<p>Moreover, implementing the Code will not affect the existing extractive industry uses.</p> <p>Identified in the Scenic Assessment and Management Report, the area is mapped as having high to moderate scenic values using the criteria from North-West Plateau and Hills and Coastlines Landscape character types (LCTs) frames of reference. The agricultural landscape through this area has been mapped as having extensive areas of moderate scenic quality and smaller areas of high scenic quality using the same criteria as elsewhere.</p> <p>Application of the Agricultural LCT to this area would reinforce the high scenic quality ascribed to the landscape from the municipal boundary through to near Rocky Cape Road. Such an assessment is based on the rolling nature of the pastures, the extent of retained vegetation along watercourses and elsewhere, the presence of hedgerows and the seemingly natural transitions between clearing and native bushland.</p> <p>(d) The lease EL17/2021 takes a large area with environmental protections. Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, nothing in the Tasmanian Planning Scheme affects the undertaking of mineral exploration in accordance with an exploration licence.</p> <p>According to the proposed Management Objectives for the Sumac Lookout Scenic Protection Area, the area required to minimise the visual impact is the landscape viewed from the Sumac Lookout.</p> <p>As it is a relatively small, covered area, Sumac Lookout Scenic Protection Area can be considered a low risk to the Balfour Strategic Prospectivity Zone under the <i>Mining (Strategic Prospectivity Zones) Act 1993</i>.</p>

Number	From	Key matters	Section 40K Response
			<p>(e) Implementing the Code will give management guidelines for future projects within the overlay, rather than restrictions or prohibiting mining and resource extraction.</p> <p>The application of the Code will not affect the existing approvals of mining and quarry operations.</p> <p>The Landscape Visual Impact Assessment (LVIA) is not a compulsory requirement for projects that are unlikely to negatively impact scenic values viewing from public places.</p> <p>On that basis, it is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>
20	Anthea Fergusson	In support for the amendment	No further comment is required
21	John David Bruce	<p>(a) We completely disagree with adding further scenic values assessment requirements for landowners and developments on the Stanley Peninsula.</p> <p>(b) The landowner families that have managed the Stanley rural landscape for generations are to be congratulated for their contribution to our area, not penalised. The farming families on the Green Hills have actively protected their farmland from subdivision and urban sprawl.</p> <p>(c) There is a small group who contribute nothing to the Stanley rural landscape, but aspire to profit from it, and take control of any change not meeting their approval. These restrictions risk stifling growth in our area by reducing employment, damaging tourism experiences, and reducing both urban and agricultural land values by making developments more challenging and difficult than they are now. Planning regulations are currently very</p>	<p>(a) From the Scenic Values Assessment and Management Report that the Council adopted in 2022, Stanley Peninsula has significant landscape and scenic value that plays an important part in Circular Head social and economic perspectives.</p> <p>The Landscape Visual Impact Assessment (LVIA) not a compulsory requirement for new development within the Scenic Protection Area. It is only a requirement of large-scale industrial projects that have the potential to:</p> <ul style="list-style-type: none"> - have immense scale and visibility, so as to present an overwhelming line, form, texture or colour which contrasts strongly with its surrounds; - be inappropriately sited, so as to be a focal point in the landscape which contrasts strongly with its surrounds; and have ‘discharges’ which strongly contrast with the surrounding apparently natural context (as might occur with excessive night lighting and/or through visible emissions from ‘smoke’ stacks).

Number	From	Key matters	Section 40K Response
		<p>adequate and should not have extra layers of added restrictions.</p> <p>(d) Ill-considered aversion to change is holding back the growth of Circular Head, the opportunities for people currently living here, and those who would like to share in the great lifestyle we enjoy.</p> <p>(e) The pride and respect these local landowners exhibit for the area is very evident. Contrast this with the weed infestations evident on the Nut State Reserve and other publicly managed land on the peninsula, which sadly shows to us what the rural landscape could look like. Aspirational moves to add further levels of unnecessary controls and red tape to these farm businesses should be firmly resisted by the Circular Head Council.</p> <p>(f) In the 50 years our family has been in Circular Head change has been constant. Stanley had a daily shipping service to Melbourne, a sawmill, planing sheds and drying kilns, three banks, a railway station, a merchandise store and a communications tower on the Nut. Change in our area is constant and necessary to provide better opportunities for ratepayers and residents.</p> <p>(g) The poor fire management on the iconic Nut Reserve is a serious threat to the tourist operators in Circular Head. A wild fire would undoubtedly result in a life-threatening situation. The recommendations included in the Nut State Reserve Management Plan 2003 have not been enacted. What use are</p>	<p>(b) It is not a relevant consideration of the draft amendment.</p> <p>(c) The Scenic Protection Area in Stanley Peninsula does not prohibit future developments but provides better frameworks for types of developments that do not impact or compromise the existing landscape and scenic values of the area. These frameworks are lacking from considerations of zoning standards that form the necessity of the Scenic Protection Code application.</p> <p>The Scenic Protection Code does not apply to urban areas.</p> <p>(d) The draft amendment of the LPS meets the LPS criteria and is consistent with SPPs. It does not prohibit but provides guidance frameworks for emergent major developments in Circular Head municipality.</p> <p>(e) Agricultural use and relevant development associated with Resource Development uses are mostly exempt from planning permit requirement. The application of the Code is unlikely to have detrimental impact to the farming businesses in the area.</p> <p>(f)(g)(h) These are not relevant to the draft amendment.</p> <p>(i)(j) the draft amendment will not prohibit future renewable energy projects in Circular Head but provide better development guidance for the performance criteria that can promote better alignment with scenic values. It is considered in the Scenic Values Assessment and Management report that large scale of industrial estates which have aesthetic design can contribute to the scenic value of the areas. Therefore, the application of the Scenic Protection Code can contribute to better outcomes for future wind farm projects in the areas.</p>

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		<p>expensive management plans without follow-up action?</p> <p>(h) The increasing tourist visitation definitely requires other developments to provide the part-time staff required for dining and accommodation providers. Many workers coming into Circular Head bring a spouse and family that could provide much needed labour in other areas, eg, milking cows, waiting tables and cleaning rooms. This labour shortage will not be met in a town full of retirees.</p> <p>(i) The Woolnorth and Studland Bay wind farms are a major drawcard for visitors to this area, as is clearly seen by the success of the tours. It is completely misleading to suggest visitor numbers will be adversely affected by wind energy projects.</p> <p>(j) The Western Plains Wind Farm project has been targeted by a small anti-development group in Stanley, with a list of outdated concerns, most which live in visually prominent locations. This Scenic Values proposal is directly aimed at wind energy generation and transmission, stifling opportunity in Circular Head.</p> <p>(k) Misleading reporting and sensationalist "opinion" articles by anti-groups are harming the hard-won image of Circular Head, and also damage opportunities for growth. The priority of Councils should be to advance the economic future for local residents and businesses, and certainly not unnecessarily delay opportunities for growth. Is Circular Head Council planning for a better future, with growth and developments to expand and</p>	<p>(k) The Scenic Assessment and Value Management Report was prepared by Inspiring Place in associated with Entura. They are reputable firms with rich experience in strategic consultancy. In the report, there was clear methodology, background studies, assessment, and recommendations. Throughout the preparation of the report, public consultation played a critical part for scenic value and areas identification and drawing recommendations. As mentioned above, the application of the Scenic Protection Code does not restrict development in the future but balances economic growth with significant scenic values in the identified areas.</p> <p>It is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>

Number	From	Key matters	Section 40K Response
		improve our community, or is Council looking to restrict and control people endeavouring to provide opportunities and prosperity for our unique and productive area? We are confident it is the former, and that a proper balance between protection and production can be found.	
22	Kristen Smith	In support for the amendment	No further comment is required
23	David Emerson	In support for the amendment	No further comment is required
24	Craig and Melinda Dwyer	In support for the amendment	No further comment is required
25	Kerry Houston	In support for the amendment	No further comment is required
26	Alastair Houston	In support for the amendment	No further comment is required
27	Sam Humphries	In support for the amendment	No further comment is required
28	Rebecca Tyers	In support for the amendment	No further comment is required
29	William Humphries	In support for the amendment	No further comment is required
30	John Hammond	<p>(a) Concerns on how the draft New Scenic Protected Areas Amendment (NSPAA) was pushed forward by the anti-wind farm lobby groups and individuals that are opposed to wind farm development in the NW REZ which of course includes not only the municipality of Circular Head but also Waratah/Wynyard. We fail to see how there is any scientific or substantial community-based support for the draft amendment.</p> <p>(b) This is the first draft scenic values/areas report to be done and council adopted by any of the 29 Tasmanian councils, so this is a groundbreaking exercise and fraught with unknown and potentially unintended consequences.</p>	<p>(a) The draft amendment is to include new Scenic Protection Areas within the Circular Head Local Government Area (LGA). It does not cover outside of our LGA. Public participation plays a critical role in forming the amendment through preparing the Scenic Values Assessment and Management Report and initiating the draft amendment.</p> <p>(b) Circular Head is not the first Council to have Scenic Protection Code overlay in the Local Provisions Schedule. We have existing Scenic Protection Areas and Scenic Road Corridor. Our close neighbour LGA, Burnie, has Scenic Protection Areas in their Local Provisions Schedule. The draft amendment meets LPS criteria and is consistent with existing State Policies and Regional Land Use Strategies. Therefore, it provides certain frameworks for future development in those identified areas.</p>

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		<p>(c) We, the Hammond family, as a significant landowner in one of the newly proposed scenic protected areas were not provided with the opportunity to discuss this proposal by the consultants who drafted the report, even though they promised to consult with land owners. The question is how could the NSPAA be drafted and have any creditability without the consultants discussing NSPAA in detail with the potentially affected landowners and wider community?</p> <p>(d) We hold freehold title to Robbins and Walker Islands as well as a property at Montagu that borders Robbins Passage. Total area of Hammond Family land ownership is 12,200 hectares in the new “coastal islands protected area”. We are significant landowners in the nominated NSPAA area and have not been consulted.</p> <p>(e) Not only the offshore islands but also the intertidal channel networks are included in this new scenic protection area. This again is driven by the anti-wind farm activists who are trying to stop a bridge to connect Robbins Island to Robbins Island Road at West Montagu and a new jetty on the east side of Robbins Island for wind farm component delivery by ship and barge. The bridge is a low-profile design, with the one navigational channel spanned by the bridge will not impede travel for recreational boats as they have access underneath it. The bridge is part of the DA for the Robbins Island Wind Project and is a key piece of project infrastructure as the power</p>	<p>(c) (d) The draft Circular Head Council Scenic Values Assessment and Management Report 2021 was released for public review and comment during March - April 2022. The community and stakeholders were invited to complete an online survey or to forward written submissions regarding the draft report. Prior to commencing the planning scheme amendment process, the council notified landowners and delivered two community information sessions on 30 January 2023 to ensure the landowners within the scenic protection areas were aware of the potential impacts the scenic protection overlay might have upon their land. The first session had 11 attendees, with the second attracting over 70 attendees. Therefore, the Planning Authority has ensured the public had been consulted and engaged throughout the process.</p> <p>(e) It is understood that the mentioned bridge to connect Robbins Island was included and approved with the Robbins Island Windfarm DA. The draft amendment will not affect the existing uses and approvals.</p> <p>(f) Depending on where the proposed development locates and its design, not all wind turbines have detrimental impacts to the scenic values of an area. It depends on how they are visible from public sensitive viewpoints.</p> <p>Under Clause 4.5.3 of the Tasmanian Planning Scheme – Circular Head (the Scheme), wind turbines can be exempted from a planning approval if it can meet certain standards.</p> <p>The mapping methodology for high scenic quality landscapes has been identified in the Scenic Values Assessment and Management Report that Council adopted in 2022. Classification of scenic quality in each area is based on the degree of variety,</p>

Number	From	Key matters	Section 40K Response
		<p>cables connecting the wind turbines on Robbins Island to the 220kv transmission line will be laid in the bridge structure.</p> <p>(f) Why is the addition of temporary wind turbines being highlighted as a detriment to the scenic values of an area? Where is the community or scientific evidence to support this proposition?</p> <p>(g) The two wind farms at Woolnorth, “Studland Bay and Bluff Hill”, in our view, add to the scenic value of what would be an unremarkable ridge line when viewed from the east as the land-based views are. We note that this area has been excluded from the NSPAA.</p> <p>(h) In many parts of the world, they are getting on with the job of installing renewable wind and solar to de-carbonise their economies. The density of wind farms in Europe is impressively staggering. In Australia we are so far behind the installation of renewables that we are really playing catch up due to decades of having no reliable federal energy policy. From a wind turbine visuals perspective, why is it ok in these major renewable installing countries to have wind turbines in their landscapes and it is not ok in Circular Head?</p> <p>(i) Why is the council trying to make development harder and sink any opportunity for growth? We submit that “ecotourism” is not the answer and will not happen without something to draw people to the area. We believe the Circular Head area is a wonderful and beautiful place,</p>	<p>uniqueness, prominence and naturalness of the landform, vegetation, and water form. Higher scenic quality is associated with greater topographical relief, variety and diversity of vegetation, naturalness, and the presence of unusual features. Patterned variation is valued over a lack of features. Common features are rated as moderate. Those areas with little or no diversity are classed as being of low scenic quality.</p> <p>A community’s interests on a particular area are important for the scenic values identified in the report.</p> <p>For those wind turbines that cannot meet Clause 4.5.3 of the Scheme and are located within the future Scenic Protection Areas, the application of the Scenic Protection Codes will provide guidance for minimal impacts may have to the scenic value of the area.</p> <p>(g) The draft amendment is the next stage after the Council adopted the Scenic Values Assessment and Management Report in 2022. Studland Bay and Bluff Hill were not proposed as Scenic Protection Areas in the report. This draft amendment follows the recommendations of the report.</p> <p>(h) This is not relevant to the draft amendment. The application of the Scenic Protection Code in the identified scenic protection areas will not prohibit wind farms in the future.</p> <p>(i) This is not relevant to the draft amendment.</p> <p>(j) The application of the Scenic Protection Code in the identified scenic protection areas will not prohibit wind farms in the future.</p> <p>As mentioned in (c) (d), there were public consultation and notifications regarding the background studies and</p>

Number	From	Key matters	Section 40K Response
		<p>but so are many other parts of Tasmania and these parts are more accessible.</p> <p>(j) it is irresponsible of planners, councils, and regulators if wind turbines are determined to be a negative impact on scenic landscapes and/or determined that they permanently alter or degrade landscape values. To impose another restriction on private freehold land without consultation and to the potential economic detriment of those landowners seems to be an unfair and dictatorial process. The potential positive impact of economic development for the Circular Head Community should not be discounted or subdued in favour of “visual impacts that would permanently alter or degrade its landscape character”. Who is the arbiter of such an evaluation and on what grounds would these impacts be assessed?</p>	<p>how and why the Council proposed the draft amendment.</p> <p>Guideline and flow chart of how the landscape visual impact assessment (LVIA) was provided in the Scenic Values Assessment and Management Report. The LVIA is only a requirement of large-scale industrial projects that have the potential to:</p> <ul style="list-style-type: none"> - have an immense scale and visibility, so as to present an overwhelming line, form, texture or colour which contrasts strongly with its surrounds; - be inappropriately sited, so as to be a focal point in the landscape which contrasts strongly with its surrounds; and - have ‘discharges’ which strongly contrast with the surrounding apparently natural context (as might occur with excessive night lighting and/or through visible emissions from ‘smoke’ stacks). <p>On that basis, it is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>

SECTION 40K COMPLIANCE

<p>(1) A planning authority, within 35 days after the end of the exhibition period in relation to a draft amendment of an LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft amendment of an LPS.</p>	<p><i>This report will be provided to the Tasmanian Planning Commission within 35 days after the end of the public notification being the 5th of January 2024.</i></p>
<p>(2) The report by a planning authority in relation to the draft amendment of an LPS is to contain –</p> <p>(a) a copy of each representation made under section 40J in relation to the draft amendment before the end of</p>	<p><i>(2)(a) Copies of each representation received are attached to this report;</i></p> <p><i>(2)(b) no representations were received after the end of the exhibition period;</i></p>

<p>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</p> <p>(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</p> <p>(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 –</p> <p>(i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and</p> <p>(j) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and</p> <p>(d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and</p> <p>(e) any recommendations in relation to the draft amendment that the planning authority thinks fit.</p>	<p><i>(2)(c) statements of the Planning Authority's opinion as to the merit of each representation are included in this report;</i></p> <p><i>(2)(d) the Planning Authority is satisfied that the draft amendment meets the LPS criteria;</i></p> <p><i>(2)(e) the Planning Authority is not of the opinion that any modifications to the draft amendment are required.</i></p>
<p>(3) Without limiting the generality of subsection (2)(e), the recommendations in relation to a draft amendment of an LPS may include recommendations as to whether –</p> <p>(a) a provision of the draft amendment of an LPS is inconsistent with a provision of the SPPs; or</p> <p>(b) the draft amendment of an LPS should, or should not, apply a</p>	<p><i>(3) the Planning Authority is not of the opinion that any modifications to the draft amendment are required.</i></p>

provision of the SPPs to an area of land; or (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.	
(4) A planning authority must not include in a recommendation in relation to a draft amendment of an LPS a recommendation to the effect that the content of a provision of the SPPs should be altered	<i>(4) The recommendation does not include a recommendation to the effect that the content of a provisions of the SPP's should be altered.</i>

POLICY IMPLICATIONS

Council has a statutory duty as a planning authority to ensure local planning controls are appropriate to the provision of a sustainable future for the Circular Head municipality. The draft amendment is consistent with common provisions of the planning scheme.

STRATEGIC IMPLICATIONS

Strategic Plan Reference

GOAL: Environment - The world class environment of Circular Head will be respected and enhanced. Planning for and promoting its sustainable management and use will ensure a safe, healthy and unique lifestyle.
Desired Outcomes
4. The use of land reflects a balance of environmental and community needs.
Our Priorities
4b. Advocate for effective management of our natural, cultural, built and productive environments.
4a. Promote sustainable land management and development through our role in strategic land use planning and development control.

The draft amendment aligns with *Circular Head Council 10 Year Corporate Strategic Plan, Cradle Coast Regional Land Use Strategy 2010-2030* and *Sustainable Murchison 2040 Community Plan - Regional Framework Plan*.

FINANCIAL IMPLICATIONS

There may be financial costs associated with the expense to represent the interests of the planning authority before the Tasmanian Planning Commission (TPC) if a hearing is required,




and costs in preparing the amended planning scheme maps for inclusion in the planning scheme. These are operational costs within the budget considerations of Council.

RISK IMPLICATIONS

As the draft amendment, PSA 2023/1 is determined by the Tasmanian Planning Commission. The Planning Authority’s role is to prepare a Statement of Opinion as to the merit of representations received during the exhibition period. The particular risks appeared as the Tasmanian Planning Commission is not bound to the opinion of the Planning Authority and may decide an outcome which is entirely different. There is no right of appeal on the TPC’s decision.

CONCLUSION

It is recommended that the Planning Authority endorses the Recommendations in the first section of this report.

	Name	Date	Signed
Prepared by	Dang Minh Duc Van TOWN PLANNER	5 December 2023	
Reviewed by	Alison Pykes MANAGER PLANNING & REGULATORY SERVICES	6 December 2023	
Endorsed to go to Council Planning Authority Meeting	Phil Loone DIRECTOR OF DEVELOPMENT & INFRASTRUCTURE SERVICES	6 December 2023	

6.3 DRAFT AMENDMENT PSA 2023/1 TO THE CIRCULAR HEAD LOCAL PROVISIONS SCHEDULE – SECTION 40K REPORT TO THE TASMANIAN PLANNING COMMISSION FOLLOWING EXHIBITION PERIOD

To:	Council
Reporting Officer:	Town Planner
Responsible Manager:	General Manager
Report Date:	6 December 2023
File Reference:	PSA2023/1
Enclosures:	<ol style="list-style-type: none">1. Statement of Opinion2. Representation 1 - Jonathan Smith - 3 November 20233. Representation 2 - Gary Evans - 4 November 20234. Representation 3 - Robert Smith - 4 November 20235. Representation 4 - Margaret Smith - 4 November 20236. Representation 5 - Mike O'Brien - 6 November 20237. Representation 6 - Yvette Haller - 6 November 20238. Representation 7 - Russell Kenery - 7 November 20239. Representation 8 - April Kenneally - 7 November 202310. Representation 9 - Jake Neasey - 7 November 202311. Representation 10 - Lynn Jensen-Schnapper - 7 November 202312. Representation 11 - TasWater - 8 November 202313. Representation 12 - Trina Morris - 9 November 202314. Representation 13 - Donald Hay - 12 November 202315. Representation 14 - Circular Head Tourism Association - 21 November 202316. Representation 15 - TasRail - 21 November 202317. Representation 16 - Kim Anderson - 23 November 202318. Representation 17 - Jill Cainey - 26 November 202319. Representation 18 - Romy Greiner - 27 November 202320. Representation 19 - MRT Department of State Growth - 27 November 202321. Representation 20 - Anthea Fergusson - 28 November 202322. Representation 21 - John David Bruce - 28 November 202323. Representation 22 - Kristen Smith - 28 November 202324. Representation 23 - David Emerson - 29 November 202325. Representation 24 - Craig and Melinda Dwyer - 29 November 202326. Representation 25 - Kerry Houston - 29 November 202327. Representation 26 - Alastair Houston - 29 November 202328. Representation 27 - Sam Humphries - 30 November 202329. Representation 28 - Rebecca Tyers - 30 November 202330. Representation 29 - William Humphries - 30 November 202331. Representation 30 - John Hammond - 30 November 2023

PURPOSE

The purpose of this report is to seek the Planning Authority's endorsement to provide the Tasmanian Planning Commission (TPC) with a Statement of Opinion, a copy of each representation and a report under Section 40K of the *Land Use Planning and Approvals Act 1993* after the public exhibition period ended.

BACKGROUND

At the Ordinary Council Meeting on 19 October 2023, the Planning Authority resolved:

1. In accordance with s40F(2)(a) and (3) of the *Land Use Planning and Approvals Act 1993*, certifies a draft amendment of a Local Provisions Schedules (PSA 2023/1) to:-
 - amend CIR-Table C8.1 Scenic Protection Areas:
 - by removing the existing CIR-C8.1.1 Green Hills, Stanley; and replacing with CIR-C8.1.1 Stanley Peninsula
 - by including CIR-C8.1.2 Marrawah
 - by including CIR-C8.1.3 Coastal Estuaries and Islands
 - by including CIR-C8.1.4 Eastern Gateway
 - by including CIR-C8.1.5 Sumac Lookout
 - remove CIR-Table C8.2 Scenic Road Corridor
 - amend the Scenic Protection Area Code Overlay Map
 - remove the Scenic Road Corridor Code Overlay Maps
2. In accordance with s40F(4) of the *Land Use Planning and Approvals Act 1993*, within seven days of certifying a draft amendment, directs the Director of Infrastructure and Development Services to forward a copy of each of the sealed Instruments of Certification and the draft amendment to the Tasmanian Planning Commission.
3. In accordance with s40FA of the *Land Use Planning and Approvals Act 1993*, before exhibiting a draft amendment of the LPS, directs the Director of Infrastructure and Development Services to notify relevant agencies and State authorities that may have an interest in the draft amendment of the LPS, of the date on which the exhibition period in relation to the draft amendment of the LPS is to begin.
4. In accordance with s40H of the *Land Use Planning and Approvals Act 1993*, as soon as practicable after providing the Instruments of Certification to the Commission under s40F(4), directs the Director of Infrastructure and Development Services to publicly exhibit draft amendment PSA 2023/1 for a period of 28 days at Council's office and website, including notification in the local newspaper.

DETAILS

Public Exhibition

The Draft Amendment PSA 2023/1 was publicly exhibited for a 28-day period which commenced on the 2nd of November 2023 until the 1st of December 2023, which was

extended one day for the public holiday (6 November 2023). The amendment appeared in the local newspaper on the 1st of November 2023 and the 11th of November 2023.

Prior to the public exhibition, exhibition notices of the draft amendment PSA 2023/1 were sent to 15 relevant agencies, State Service Agencies, and State Authorities, listed as follows:

1. Tasmania Parks and Wildlife Service
2. Mineral Resources Tasmania
3. Homes Tasmania
4. Tasmanian Gas Pipeline
5. Department of Natural Resources and Environment
6. Department of State Growth
7. Department of Education
8. Department of Premier and Cabinet
9. Department of Health
10. TasWater
11. TasNetworks
12. TasRail
13. Tasmania Fire Service
14. Tasmania State Emergency Service
15. Forest Practices Authority

On the first day of the public exhibition period, 540 exhibition notices were posted to relevant landowners and occupiers identified within the locations affected by the draft amendment PSA 2023/1.

Thirty (30) representation submissions were received during the public exhibition period, including responses from TasWater, TasRail, and Mineral Resources Tasmania.

Following the end of the public exhibition period, the Planning Authority has obligations under Section 40K of the *Land Use Planning and Approvals Act 1993* to provide a report in relation to the representations received to the Tasmanian Planning Commission.

The Representations and Responses

Section 40J of the *Land Use Planning and Approvals Act 1993* clearly sets out the matters to which a person or body may make a representation to in relation to a draft amendment. It states in sections 2 and 3:-

- (2) A representation in relation to a draft amendment of an LPS –
 - (a) is to be made under subsection (1) within the exhibition period in relation to the draft amendment of an LPS; and
 - (b) must be made by submitting the representation to the premises, or to the electronic address, that are specified, in accordance with section 40G(3)(b), in the exhibition notice in relation to the draft amendment of an LPS.

(3) Without limiting the generality of subsection (1), a person or body may make a representation in relation to a draft amendment of an LPS as to whether –

- (a) a provision of the draft amendment of an LPS is inconsistent with the SPPs; or
- (b) a provision of the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or
- (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.

The summary of key matters raised from representations validly received during the public exhibition and Planning Authority responses are provided in the table below.

Number	From	Key matters	Section 40K Response
1	Jonathan Smith	In support of the amendment	No further comment is required
2	Gary Evans	In support of the amendment	No further comment is required
3	Robert Smith	In support of the amendment	No further comment is required
4	Margaret Smith	In support of the amendment	No further comment is required
5	Mike O'Brien	In support of the amendment	No further comment is required
6	Yvette Haller	In support of the amendment	No further comment is required
7	Russell Kenery	In support of the amendment	No further comment is required
8	April Kenneally	In support of the amendment	No further comment is required
9	Jake Neasey	In support of the amendment	No further comment is required
10	Lynn Jensen-Schnapper	In support of the amendment	No further comment is required
11	TasWater	<p>Pursuant to the <i>Water and Sewerage Industry Act 2008</i> (TAS) Section 56S(2), TasWater makes the following submission:</p> <ol style="list-style-type: none"> 1. TasWater does not object and has no formal comments for the Tasmanian Planning Commission in relation to this matter 	No further comment is required

Number	From	Key matters	Section 40K Response
		and does not require to be notified of nor attend any subsequent hearings.	
12	Trina Morris	In support of the amendment	No further comment is required
13	Donald Hay	In support of the amendment	No further comment is required
14	Circular Head Tourism Association	In support of the amendment	No further comment is required
15	TasRail	<p>(a) The Eastern Gateway Scenic Protection Area covers some of the Western Rail Line which remains part of the State Rail Network. TasRail has obligations to manage and protect non-operational corridors to ensure they remain available for future use.</p> <p>(b) The affected State Rail Network land corridor runs from approximately the KPW222.5 (Sisters Creek) to KPW259 (Wiltshire Loop).</p> <p>(c) In principle, TasRail has no objection to the inclusion of new Scenic Protection Areas, but requests that Council reconsider any limitation on vegetation clearing of land adjoining the rail corridor which may be detrimental to, or constrain future rail operations and maintenance of the existing rail corridor.</p> <p>(d) Concerns on the remove/clear areas of vegetation in order to access the rail network for</p>	<p>(a)(b)(c)(d)(f) It is understood that under Section 19(1)(3) of the <i>Rail Infrastructure Act 2007</i>, a railway entity does not have to comply with the requirements of the <i>Land Use Planning and Approvals Act 1993</i> as regards to emergency railway works, or routine railway works that are carried out wholly within the rail network in order to maintain the rail network. Moreover, emergency works which are required or authorised by or on behalf of a State authority are exempt from planning approval under Clause 4.3.1 of the Tasmanian Planning Scheme – Circular Head.</p> <p>(e) The Planning Authority acknowledges the new Scenic Protection Areas will overlay existing mine sites. However, the application of the Scenic Protection Code will not limit the future expansion of the mining activities, but providing assessment guidelines that balance future developments while not negatively affecting the scenic value of the areas.</p> <p>Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, a planning permit is not required</p>

Number	From	Key matters	Section 40K Response
		<p>periodic care and maintenance; to mitigate/remedy erosion, including soil erosion and coastal erosion; to maintain/upgrade/install appropriate drainage; and potentially for future upgrade and/or development of the rail corridor etc. These type of works all require access for vehicles and machinery and also for material laydown areas etc.</p> <p>(e) Concerns on the overlay areas include mine sites, with potential to significantly limit future potential for extension/expansion of activity/economic development.</p> <p>(f) The railway crosses also crosses over the Detention River and Black River. Consideration needs to be given to not only rail access requirements but also potential for access to manage flood events, and noting in recent years flood events have seen large volumes of debris accumulate under rail and road bridges. Where this occurs, areas of vegetation may need to be cleared in order to provide safe access for necessary cranes, vehicles and laydown areas.</p>	<p>under the Tasmanian Planning Scheme for mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the <i>Mineral Resources Development Act 1995</i>, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time.</p> <p>The extension/expansion of mining sites will only trigger the assessment under the Code if they extend outside of the existing mining leases and do not meet the code exemption standards (which allows vegetation clearance within on existing pasture or crop production land). It does not prohibit the use or development within this area, but provides frameworks for better outcomes where the new mining activity does not impact scenic value within that area, viewing from sensitive public places.</p> <p>It is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>
16	Kim Anderson	In support of the amendment	No further comment is required

Number	From	Key matters	Section 40K Response
17	Dr Jill Cainey	In support of the amendment	No further comment is required
18	Romy Greiner	In support of the amendment	No further comment is required
19	MRT, Department of State Growth	<p>(a) The potential to adversely affect mineral exploration licensees, with the consequence being one of sovereign risk as the progression from exploration to mining (extractive industries) may be severely curtailed by the imposition of the scenic protection overlay in these areas.</p> <p>(b) Concerns effects on the proposed coastal estuaries and islands scenic protection area. This includes Robbins Island where exploration and mining for construction materials has been identified as a potential future need.</p> <p>(c) Concerns effects on proposed eastern gateway scenic protection area. This proposed area includes the active Mining Lease ML 1808P/M. The proposed extent of this area is not supported due to the economic importance of supply of construction materials close to the areas of use. Future expansion of this resource extraction may be curtailed by the addition of this code over this area. Based on the summary of the rationale for this area to be under the scenic protection code it</p>	<p>(a) Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, a planning permit is not required under the Tasmanian Planning Scheme for mineral exploration in accordance with a mining lease, an exploration licence, a special exploration licence, or a retention licence, issued under the <i>Mineral Resources Development Act 1995</i>, provided that any mineral exploration carried out is consistent with the standards specified in the Mineral Exploration Code of Practice, published by Mineral Resources Tasmania, as in force from time to time.</p> <p>(b) The draft amendment will not affect the mine on Robbins Island as the use/development was approved with the Robbins Island wind farm development application in early 2023.</p> <p>This mining lease is small, in the middle of the island. It can be considered as having a low risk of impact on the public view.</p> <p>(c) The lease ML1808P/M is an existing mine, already visible from the Bass Highway. The Eastern Gateway Scenic Protection Area focuses on the entrance to Circular Head. This mine is only visible on the exit. It, therefore, can be considered as having a very low impact to the public sensitive viewpoints.</p>

Number	From	Key matters	Section 40K Response
		<p>appears to be more relevant to the areas north of the highway, and there appears to be no rationale for the inclusion of the southern areas, which are largely areas of highly modified landscapes.</p> <p>(d) Concerns effects on proposed Sumac lookout scenic protection area. This includes an active Exploration Licence EL17/2021. This area is also included as part of the Balfour Strategic Prospectivity Zone, an area identified in the Mining (Strategic Prospectivity Zones) Act 1993 as being of specific interest to the State due to the potential for discovery of mineral resources. There is a real likelihood of the application of this code to this region to be a disincentive to economic activity associated with mineral exploration due to increased sovereign risk.</p> <p>(e) MRT requests that further consideration be given to current and future potential mineral resources in the Circular Head Council area in the application of the scenic protection code that may affect the potential for the realisation of the economic and social benefits from extractive industries. MRT believes that, at a minimum, consideration could be given by Council to revise</p>	<p>Moreover, implementing the Code will not affect the existing extractive industry uses.</p> <p>Identified in the Scenic Assessment and Management Report, the area is mapped as having high to moderate scenic values using the criteria from North-West Plateau and Hills and Coastlines Landscape character types (LCTs) frames of reference. The agricultural landscape through this area has been mapped as having extensive areas of moderate scenic quality and smaller areas of high scenic quality using the same criteria as elsewhere.</p> <p>Application of the Agricultural LCT to this area would reinforce the high scenic quality ascribed to the landscape from the municipal boundary through to near Rocky Cape Road. Such an assessment is based on the rolling nature of the pastures, the extent of retained vegetation along watercourses and elsewhere, the presence of hedgerows and the seemingly natural transitions between clearing and native bushland.</p> <p>(d) The lease EL17/2021 takes a large area with environmental protections. Under s.11 of the <i>Land Use Planning and Approvals Act 1993</i>, nothing in the Tasmanian Planning Scheme affects the undertaking of mineral exploration in accordance with an exploration licence.</p> <p>According to the proposed Management Objectives for the Sumac Lookout Scenic Protection</p>

Number	From	Key matters	Section 40K Response
		<p>the extent of the proposed scenic protection areas in recognition of the potential for economic activity and jobs associated with the extractive industries.</p>	<p>Area, the area required to minimise the visual impact is the landscape viewed from the Sumac Lookout.</p> <p>As it is a relatively small, covered area, Sumac Lookout Scenic Protection Area can be considered a low risk to the Balfour Strategic Prospectivity Zone under the <i>Mining (Strategic Prospectivity Zones) Act 1993</i>.</p> <p>(e) Implementing the Code will give management guidelines for future projects within the overlay, rather than restrictions or prohibiting mining and resource extraction.</p> <p>The application of the Code will not affect the existing approvals of mining and quarry operations.</p> <p>The Landscape Visual Impact Assessment (LVIA) is not a compulsory requirement for projects that are unlikely to negatively impact scenic values viewing from public places.</p> <p>On that basis, it is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>
20	Anthea Fergusson	In support of the amendment	No further comment is required
21	John David Bruce	<p>(a) We completely disagree with adding further scenic values assessment requirements for landowners and developments on the Stanley Peninsula.</p> <p>(b) The landowner families that have managed the Stanley</p>	<p>(a) From the Scenic Values Assessment and Management Report that the Council adopted in 2022, Stanley Peninsula has significant landscape and scenic value that plays an important part in Circular Head social and economic perspectives.</p>

Number	From	Key matters	Section 40K Response
		<p>rural landscape for generations are to be congratulated for their contribution to our area, not penalised. The farming families on the Green Hills have actively protected their farmland from subdivision and urban sprawl.</p> <p>(c) There is a small group who contribute nothing to the Stanley rural landscape, but aspire to profit from it, and take control of any change not meeting their approval. These restrictions risk stifling growth in our area by reducing employment, damaging tourism experiences, and reducing both urban and agricultural land values by making developments more challenging and difficult than they are now. Planning regulations are currently very adequate and should not have extra layers of added restrictions.</p> <p>(d) Ill-considered aversion to change is holding back the growth of Circular Head, the opportunities for people currently living here, and those who would like to share in the great lifestyle we enjoy.</p> <p>(e) The pride and respect these local landowners exhibit for the area is very evident. Contrast this with the weed infestations evident on the Nut State Reserve and</p>	<p>The Landscape Visual Impact Assessment (LVIA) not a compulsory requirement for new development within the Scenic Protection Area. It is only a requirement of large-scale industrial projects that have the potential to:</p> <ul style="list-style-type: none"> - have immense scale and visibility, so as to present an overwhelming line, form, texture or colour which contrasts strongly with its surrounds; - be inappropriately sited, so as to be a focal point in the landscape which contrasts strongly with its surrounds; and have 'discharges' which strongly contrast with the surrounding apparently natural context (as might occur with excessive night lighting and/or through visible emissions from 'smoke' stacks). <p>(b) It is not a relevant consideration of the draft amendment.</p> <p>(c) The Scenic Protection Area in Stanley Peninsula does not prohibit future developments but provides better frameworks for types of developments that do not impact or compromise the existing landscape and scenic values of the area. These frameworks are lacking from considerations of zoning standards that form the necessity of the Scenic Protection Code application.</p>

Number	From	Key matters	Section 40K Response
		<p>other publicly managed land on the peninsula, which sadly shows to us what the rural landscape could look like. Aspirational moves to add further levels of unnecessary controls and red tape to these farm businesses should be firmly resisted by the Circular Head Council.</p> <p>(f) In the 50 years our family has been in Circular Head change has been constant. Stanley had a daily shipping service to Melbourne, a sawmill, planing sheds and drying kilns, three banks, a railway station, a merchandise store and a communications tower on the Nut. Change in our area is constant and necessary to provide better opportunities for ratepayers and residents.</p> <p>(g) The poor fire management on the iconic Nut Reserve is a serious threat to the tourist operators in Circular Head. A wild fire would undoubtedly result in a life-threatening situation. The recommendations included in the Nut State Reserve Management Plan 2003 have not been enacted. What use are expensive management plans without follow-up action?</p> <p>(h) The increasing tourist visitation definitely requires other developments to provide the part-time staff required for dining and accommodation providers.</p>	<p>The Scenic Protection Code does not apply to urban areas.</p> <p>(d) The draft amendment of the LPS meets the LPS criteria and is consistent with SPPs. It does not prohibit but provides guidance frameworks for emergent major developments in Circular Head municipality.</p> <p>(e) Agricultural use and relevant development associated with Resource Development uses are mostly exempt from planning permit requirement. The application of the Code is unlikely to have detrimental impact to the farming businesses in the area.</p> <p>(f)(g)(h) These are not relevant to the draft amendment.</p> <p>(i)(j) the draft amendment will not prohibit future renewable energy projects in Circular Head but provide better development guidance for the performance criteria that can promote better alignment with scenic values. It is considered in the Scenic Values Assessment and Management report that large scale of industrial estates which have aesthetic design can contribute to the scenic value of the areas. Therefore, the application of the Scenic Protection Code can contribute to better outcomes for future wind farm projects in the areas.</p>

Number	From	Key matters	Section 40K Response
		<p>Many workers coming into Circular Head bring a spouse and family that could provide much needed labour in other areas, eg, milking cows, waiting tables and cleaning rooms. This labour shortage will not be met in a town full of retirees.</p> <p>(i) The Woolnorth and Studland Bay wind farms are a major drawcard for visitors to this area, as is clearly seen by the success of the tours. It is completely misleading to suggest visitor numbers will be adversely affected by wind energy projects.</p> <p>(j) The Western Plains Wind Farm project has been targeted by a small anti-development group in Stanley, with a list of outdated concerns, most which live in visually prominent locations. This Scenic Values proposal is directly aimed at wind energy generation and transmission, stifling opportunity in Circular Head.</p> <p>(k) Misleading reporting and sensationalist “opinion” articles by anti-groups are harming the hard-won image of Circular Head, and also damage opportunities for growth. The priority of Councils should be to advance the economic future for local residents and businesses, and certainly not unnecessarily</p>	<p>(k) The Scenic Assessment and Value Management Report was prepared by Inspiring Place in associated with Entura. They are reputable firms with rich experience in strategic consultancy. In the report, there was clear methodology, background studies, assessment, and recommendations. Throughout the preparation of the report, public consultation played a critical part for scenic value and areas identification and drawing recommendations. As mentioned above, the application of the Scenic Protection Code does not restrict development in the future but balances economic growth with significant scenic values in the identified areas.</p> <p>It is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>

Number	From	Key matters	Section 40K Response
		<p>delay opportunities for growth. Is Circular Head Council planning for a better future, with growth and developments to expand and improve our community, or is Council looking to restrict and control people endeavouring to provide opportunities and prosperity for our unique and productive area? We are confident it is the former, and that a proper balance between protection and production can be found.</p>	
22	Kristen Smith	In support of the amendment	No further comment is required
23	David Emerson	In support of the amendment	No further comment is required
24	Craig and Melinda Dwyer	In support of the amendment	No further comment is required
25	Kerry Houston	In support of the amendment	No further comment is required
26	Alastair Houston	In support of the amendment	No further comment is required
27	Sam Humphries	In support of the amendment	No further comment is required
28	Rebecca Tyers	In support of the amendment	No further comment is required
29	William Humphries	In support of the amendment	No further comment is required
30	John Hammond	<p>(a) Concerns on how the draft New Scenic Protected Areas Amendment (NSPAA) was pushed forward by the anti-wind farm lobby groups and individuals that are opposed to wind farm</p>	<p>(a) The draft amendment is to include new Scenic Protection Areas within the Circular Head Local Government Area (LGA). It does not cover outside of our LGA.</p>

Number	From	Key matters	Section 40K Response
		<p>development in the NW REZ which of course includes not only the municipality of Circular Head but also Waratah/Wynyard. We fail to see how there is any scientific or substantial community-based support for the draft amendment.</p> <p>(b) This is the first draft scenic values/areas report to be done and council adopted by any of the 29 Tasmanian councils, so this is a ground-breaking exercise and fraught with unknown and potentially unintended consequences.</p> <p>(c) We, the Hammond family, as a significant landowner in one of the newly proposed scenic protected areas were not provided with the opportunity to discuss this proposal by the consultants who drafted the report, even though they promised to consult with land owners. The question is how could the NSPAA be drafted and have any credibility without the consultants discussing NSPAA in detail with the potentially affected landowners and wider community?</p> <p>(d) We hold freehold title to Robbins and Walker Islands as well as a property at Montagu that borders Robbins Passage. Total area of Hammond Family land ownership is</p>	<p>Public participation plays a critical role in forming the amendment through preparing the Scenic Values Assessment and Management Report and initiating the draft amendment.</p> <p>(b) Circular Head is not the first Council to have Scenic Protection Code overlay in the Local Provisions Schedule. We have existing Scenic Protection Areas and Scenic Road Corridor. Our close neighbour LGA, Burnie, has Scenic Protection Areas in their Local Provisions Schedule.</p> <p>The draft amendment meets LPS criteria and is consistent with existing State Policies and Regional Land Use Strategies. Therefore, it provides certain frameworks for future development in those identified areas.</p> <p>(c) (d) The draft Circular Head Council Scenic Values Assessment and Management Report 2021 was released for public review and comment during March - April 2022. The community and stakeholders were invited to complete an online survey or to forward written submissions regarding the draft report.</p> <p>Prior to commencing the planning scheme amendment process, the council notified landowners and delivered two community information sessions on 30 January 2023 to ensure the landowners within the scenic protection areas were aware of the potential impacts the scenic</p>

Number	From	Key matters	Section 40K Response
		<p>12,200 hectares in the new “coastal islands protected area”. We are significant landowners in the nominated NSPAA area and have not been consulted.</p> <p>(e) Not only the offshore islands but also the intertidal channel networks are included in this new scenic protection area. This again is driven by the anti-wind farm activists who are trying to stop a bridge to connect Robbins Island to Robbins Island Road at West Montagu and a new jetty on the east side of Robbins Island for wind farm component delivery by ship and barge. The bridge is a low-profile design, with the one navigational channel spanned by the bridge will not impede travel for recreational boats as they have access underneath it. The bridge is part of the DA for the Robbins Island Wind Project and is a key piece of project infrastructure as the power cables connecting the wind turbines on Robbins Island to the 220kv transmission line will be laid in the bridge structure.</p> <p>(f) Why is the addition of temporary wind turbines being highlighted as a detriment to the scenic values of an area? Where is the community or</p>	<p>protection overlay might have upon their land. The first session had 11 attendees, with the second attracting over 70 attendees.</p> <p>Therefore, the Planning Authority has ensured the public had been consulted and engaged throughout the process.</p> <p>(e) It is understood that the mentioned bridge to connect Robbins Island was included and approved with the Robbins Island Windfarm DA. The draft amendment will not affect the existing uses and approvals.</p> <p>(f) Depending on where the proposed development locates and its design, not all wind turbines have detrimental impacts to the scenic values of an area. It depends on how they are visible from public sensitive viewpoints.</p> <p>Under Clause 4.5.3 of the Tasmanian Planning Scheme – Circular Head (the Scheme), wind turbines can be exempted from a planning approval if it can meet certain standards.</p> <p>The mapping methodology for high scenic quality landscapes has been identified in the Scenic Values Assessment and Management Report that Council adopted in 2022. Classification of scenic quality in each area is based on the degree of variety, uniqueness, prominence and naturalness of the landform, vegetation, and water form. Higher scenic quality is associated</p>

Number	From	Key matters	Section 40K Response
		<p>scientific evidence to support this proposition?</p> <p>(g) The two wind farms at Woolnorth, “Studland Bay and Bluff Hill”, in our view, add to the scenic value of what would be an unremarkable ridge line when viewed from the east as the land-based views are. We note that this area has been excluded from the NSPAA.</p> <p>(h) In many parts of the world, they are getting on with the job of installing renewable wind and solar to de-carbonise their economies. The density of wind farms in Europe is impressively staggering. In Australia we are so far behind the installation of renewables that we are really playing catch up due to decades of having no reliable federal energy policy. From a wind turbine visuals perspective, why is it ok in these major renewable installing countries to have wind turbines in their landscapes, and it is not ok in Circular Head?</p> <p>(i) Why is the council trying to make development harder and sink any opportunity for growth? We submit that “ecotourism” is not the answer and will not happen without something to draw people to the area. We believe the Circular Head area is a</p>	<p>with greater topographical relief, variety and diversity of vegetation, naturalness, and the presence of unusual features. Patterned variation is valued over a lack of features. Common features are rated as moderate. Those areas with little or no diversity are classed as being of low scenic quality.</p> <p>A community’s interests on a particular area are important for the scenic values identified in the report.</p> <p>For those wind turbines that cannot meet Clause 4.5.3 of the Scheme and are located within the future Scenic Protection Areas, the application of the Scenic Protection Codes will provide guidance for minimal impacts may have to the scenic value of the area.</p> <p>(g) The draft amendment is the next stage after the Council adopted the Scenic Values Assessment and Management Report in 2022. Studland Bay and Bluff Hill were not proposed as Scenic Protection Areas in the report. This draft amendment follows the recommendations of the report.</p> <p>(h) This is not relevant to the draft amendment. The application of the Scenic Protection Code in the identified scenic protection areas will not prohibit wind farms in the future.</p> <p>(i) This is not relevant to the draft amendment.</p>

Number	From	Key matters	Section 40K Response
		<p>wonderful and beautiful place, but so are many other parts of Tasmania and these parts are more accessible.</p> <p>(j) it is irresponsible of planners, councils, and regulators if wind turbines are determined to be a negative impact on scenic landscapes and/or determined that they permanently alter or degrade landscape values. To impose another restriction on private freehold land without consultation and to the potential economic detriment of those landowners seems to be an unfair and dictatorial process. The potential positive impact of economic development for the Circular Head Community should not be discounted or subdued in favour of “visual impacts that would permanently alter or degrade its landscape character”. Who is the arbiter of such an evaluation and on what grounds would these impacts be assessed?</p>	<p>(j) The application of the Scenic Protection Code in the identified scenic protection areas will not prohibit wind farms in the future.</p> <p>As mentioned in (c) (d), there were public consultation and notifications regarding the background studies and how and why the Council proposed the draft amendment.</p> <p>Guideline and flow chart of how the landscape visual impact assessment (LVIA) was provided in the Scenic Values Assessment and Management Report. The LVIA is only a requirement of large-scale industrial projects that have the potential to:</p> <ul style="list-style-type: none"> - have an immense scale and visibility, so as to present an overwhelming line, form, texture or colour which contrasts strongly with its surrounds; - be inappropriately sited, so as to be a focal point in the landscape which contrasts strongly with its surrounds; and - have ‘discharges’ which strongly contrast with the surrounding apparently natural context (as might occur with excessive night lighting and/or through visible emissions from ‘smoke’ stacks). <p>On that basis, it is considered that the representation does not have adequate merit to warrant modification to the draft amendment.</p>

STATUTORY IMPLICATIONS

Section 40K Compliance

<p>(1) A planning authority, within 35 days after the end of the exhibition period in relation to a draft amendment of an LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft amendment of an LPS.</p>	<p><i>This report will be provided to the Tasmanian Planning Commission within 35 days after the end of the public notification being the 5th of January 2024.</i></p>
<p>(2) The report by a planning authority in relation to the draft amendment of an LPS is to contain –</p> <p>(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</p> <p>(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</p> <p>(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 –</p> <p>(i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and</p> <p>(j) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and</p>	<p><i>(2)(a) Copies of each representation received are attached to this report;</i></p> <p><i>(2)(b) no representations were received after the end of the exhibition period;</i></p> <p><i>(2)(c) statements of the Planning Authority's opinion as to the merit of each representation are included in this report;</i></p> <p><i>(2)(d) the Planning Authority is satisfied that the draft amendment meets the LPS criteria;</i></p> <p><i>(2)(e) the Planning Authority is not of the opinion that any modifications to the draft amendment are required.</i></p>

<p>(d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and</p> <p>(e) any recommendations in relation to the draft amendment that the planning authority thinks fit.</p>	
<p>(3) Without limiting the generality of subsection (2)(e), the recommendations in relation to a draft amendment of an LPS may include recommendations as to whether –</p> <p>(a) a provision of the draft amendment of an LPS is inconsistent with a provision of the SPPs; or</p> <p>(b) the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or</p> <p>(c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.</p>	<p><i>(3) the Planning Authority is not of the opinion that any modifications to the draft amendment are required.</i></p>
<p>(4) A planning authority must not include in a recommendation in relation to a draft amendment of an LPS a recommendation to the effect that the content of a provision of the SPPs should be altered</p>	<p><i>(4) The recommendation does not include a recommendation to the effect that the content of a provisions of the SPP's should be altered.</i></p>

STRATEGIC IMPLICATIONS

Strategic Plan Reference

<p>GOAL: Environment - The world class environment of Circular Head will be respected and enhanced. Planning for and promoting its sustainable management and use will ensure a safe, healthy and unique lifestyle.</p>
<p>Desired Outcomes</p>
<p>4. The use of land reflects a balance of environmental and community needs.</p>
<p>Our Priorities</p>
<p>4b. Advocate for effective management of our natural, cultural, built and productive environments. 4a. Promote sustainable land management and development through our role in strategic land use planning and development control.</p>

The draft amendment aligns with *Circular Head Council 10 Year Corporate Strategic Plan, Cradle Coast Regional Land Use Strategy 2010-2030 and Sustainable Murchison 2040 Community Plan - Regional Framework Plan.*

POLICY IMPLICATIONS

Council has a statutory duty as a planning authority to ensure local planning controls are appropriate to the provision of a sustainable future for the Circular Head municipality. The draft amendment is consistent with common provisions of the planning scheme.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications as a result of this report.

FINANCIAL IMPLICATIONS




There may be financial costs associated with the expense to represent the interests of the planning authority before the Tasmanian Planning Commission (TPC) if a hearing is required, and costs in preparing the amended planning scheme maps for inclusion in the planning scheme. These are operational costs within the budget considerations of Council.

RISK IMPLICATIONS

As the draft amendment, PSA 2023/1 is determined by the Tasmanian Planning Commission. The Planning Authority's role is to prepare a Statement of Opinion as to the merit of representations received during the exhibition period. The particular risks appeared as the Tasmanian Planning Commission is not bound to the opinion of the Planning Authority and may decide an outcome which is entirely different. There is no right of appeal on the TPC's decision.

CONCLUSION

It is recommended that the Planning Authority endorses the Recommendations in the first section of this report.

	Name	Date	Signed
Prepared by	Dang Minh Duc Van TOWN PLANNER	5 December 2023	
Reviewed by	Alison Pyke MANAGER PLANNING & REGULATORY SERVICES	6 December 2023	
Endorsed to go to Council Planning Authority Meeting	Phil Loone DIRECTOR OF DEVELOPMENT & INFRASTRUCTURE SERVICES	6 December 2023	

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MOVED BY	CR OLDAKER
SECONDED BY	CR PILKINGTON

RECOMMENDATION

That Council in its role as a Planning Authority resolves:

1. In accordance with s40K(1) of the *Land Use Planning and Approvals Act 1993*, to provide the Tasmanian Planning Commission with a copy of this report;
2. In accordance with s40F(2)(a) of the *Land Use Planning and Approvals Act 1993*, to provide the Tasmanian Planning Commission a copy of each representation received during the exhibition period, including the late representation;
3. In accordance with s40K(2)(c) of the *Land Use Planning and Approvals Act 1993*, to provide the Tasmanian Planning Commission with the Statement of Opinion that the representations received during the exhibition period do not warrant a modification to the draft amendment of the LPS as detailed in this report; and
4. In accordance with s40K(2)(d) of the *Land Use Planning and Approvals Act 1993*, to advise the Tasmanian Planning Commission that the Planning Authority is satisfied that the draft amendment of the LPS meets the LPS criteria.

The MOTION was put and was CARRIED.

IN FAVOUR

MAYOR BLIZZARD	DEPUTY MAYOR DAWES	CR COLLINS	CR DABNER
	CR HINE	CR OLDAKER	CR PILKINGTON
CR POPOWSKI			

PLANNING AUTHORITY CLOSED AT 6:24 PM

Cr Oldaker moved the recommendation and spoke to the fact that there were 31 recommendations received, 30 that were included in the agenda and 1 that was received late from the Tasmanian Heritage Council and he wished the resolution to be amended to reflect that. This was supported and dot point 2, duly amended.