

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Tasmanian Planning Scheme - Clarence
Amendment	PDPSAMEND-2021-022805 - Replace waterway and coastal protection area overlay maps with new waterway and coastal protection area overlay maps
Planning authority	Clarence City Council
Date of decision	9 May 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 waterway and coastal protection area overlay (the overlay) maps with new waterway and coastal protection area overlay maps.

The draft amendment removes the overlay over piped or controlled systems in urban areas. The overlay is also added to a section of the Coal River at Richmond.

Site information

The overlay maps apply to all relevant coastal areas and waterways 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 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 application of the overlay to land adjacent to the Coal River at Richmond is consistent with regional policy W1 of the regional strategy. The overlay will assist with protecting the water quality of the river through additional development controls.
- 6. The Commission considers the removal of the overlay from existing piped or controlled systems is not inconsistent with the regional strategy as development adjacent to such areas would not affect the ecological health, environmental values, or water quality of those waterways.

Guideline No. 1

- 7. In the decisions and reasons to substantially modify part of the Clarence draft LPS dated 24 June 2021, the Commission agreed with the planning authority that the modifications to overlay would be consistent with NAC3 of Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application issued under section 8A of the Act.

State Policies and Resource Management and Planning System Objectives

- 8. The Commission finds that the State Policy on Water Quality Management 1997 and the Tasmanian State Coastal Policy 1996 are relevant to the draft amendment. The Commission considers the waterway and coastal protection area overlay and the implementation of the Natural Assets Code support both these state policies. The Commission finds that the modifications to the overlay do not impact on its consistency with the state policies.
- 9. The Commission finds that the draft amendment seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

Decision on draft amendment

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