

# Department of Premier and Cabinet State Planning Office

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6 September 2023

Roger Howlett  
Delegate (Chair)  
Tasmanian Planning Commission  
GPO Box 1691  
Hobart TAS 7001

Dear Mr Howlett

## **Draft Planning Directive No. 9 and draft amendment 01-2022 State Planning Provisions - Container Refund Scheme - Exemptions and Special Provisions**

I refer to your letter of 23 August 2023 regarding a request for further submissions following the hearing on 17 and 18 August 2023. Thank you for the opportunity to provide a further submission. The State Planning Office (SPO) response to the issues raised is set out below.

### **1. Exemptions**

The exemption for clause 4.2.11 a) is not intended to limit a pop-up refund point associated with a market, sporting, social or cultural event to only occurring on public land. Some of these events occur on privately owned land, such as a music festival.

The exemption clause 4.2.11 a) i) expressing a time limit for 2 days for pop-up refund points is intended to enable a pop-up refund point to occur outside any market, sporting, cultural or social event that may occur, but only on public land.

In order to clarify the intent, it is recommended to alter the drafting of the exemption clause 4.2.11 a) to ensure that the 2-day time limit only applies to use of public land for a pop-up refund point and to clarify that pop-up refund points can occur on any type of land tenure when they are associated with a market, sporting, social or cultural event.

The altered clause 4.2.11 a) is shown as follows –

- a) *a pop-up refund point:*
  - i. *located on public land and used for a period not longer than 2 days; or*
  - ii. *used in association with a market, sporting, social or cultural event; or*

### **2. Building setbacks and height**

In clause 7.14.2 e), the SPO supports the revised front setback to be 2m for all the zones listed in clause 7.14.2 e), as long as the height in clause 7.14.2 g) is reduced to 3m. This is on the basis that the container refund machines, or bag drop structures will be relatively small in the streetscape in comparison to any existing buildings that may have a larger front setback, due to their low height and small relative bulk size to other buildings in the area.

The SPO notes that in the applicable zones under clause 7.14.2 (Central Business Zone, Community Purpose Zone, Commercial Zone, General Business Zone, Local Business Zone, Recreation Zone, Urban-mixed Use Zone and Village Zone), the standards across the zones refer to a range of setbacks to residential zones. Not all of the zone provisions refer to a side or rear setback. An example is clause 17.4.2 A2 of the State Planning Provisions (SPPs), which is expressed as a setback to a property in an adjoining residential zone rather than a side or rear setback.

Effectively, clause 7.14.2 f) as drafted in the exhibited SPP amendment is confusing in its operation because not all of the zones refer to a side or rear setback, which may also give rise to a varied interpretation of the application of the clause. The intent of clause 7.14.2 f) was that consideration be given to the zone standards that cover all of the setbacks (other than frontage setbacks). Essentially between all of the zones listed in the clause, the standards list 3 types of setbacks, a side setback, a rear setback and a setback to a property in a residential zone.

In order to reduce confusion and improve operation of the clause, the SPO suggest the clause be redrafted to ensure that the relevant applicable setbacks in each zone are considered. Noting that the front setback is covered in clause 7.14.2 d) & e).

The redrafted provision for clause 7.14.2 f) is shown as follows –

*f) the setback, excluding the frontage setback, is not less than the Acceptable Solution setback for the relevant zone or an applicable specific area plan;*

### **3. Automated and large format container refund depots**

The container refund scheme was an unknown quantity when the SPPs were drafted in 2015/16. At that time, waste transfer stations were large, smelly, and dirty. Unlike the modern container refund points, which are generally neat and tidy in appearance. This is a likely reason for not providing for the “Recycling and waste disposal” use class in the Commercial Zone and only under limited scenarios in the Light Industrial Zone.

The SPO notes that when considering a development application for container refund scheme return points, they would be classified in the “Recycling and waste disposal” use class if the exemptions or general provisions were not applicable. This use class is currently not allowed in the Commercial Zone and only allowed in the Light Industrial Zone as a discretionary use, with limitations on what is allowed within that use class, which is a scrap yard or a waste transfer station.

The SPO notes from the submissions from TOMRA that their interest in these zones is to accommodate the depot style of container refund point where the public would drive onto the site and return a large amount (car full) of containers at one time and receive a refund. Bulk amounts of the containers are then collected and taken to the main container processing facility when required. Such a site is defined as a ‘container refund point’ under the *Container Refund Scheme Act 2022*.

When considering the nature of the intended operation of these container refund point depots and their potential impacts on surrounding land, the SPO considers that they are likely to be less intrusive than other uses currently allowed in the Commercial and Light Industrial Zone, such as a Service Industry, Storage, Manufacturing and Processing or Transport Depot and Distribution.

Given the nature of how the depots would operate, it would be expected that they are only intended to be located in areas with a large population catchment, as each depot will need to receive enough containers to make a profit.

Consideration of zone compatibility is given in the context of the potential depot style return points.

*The purpose of the Commercial Zone is:*

*17.1.1 To provide for retailing, service industries, storage and warehousing that require:*

*(a) large floor or outdoor areas for the sale of goods or operational requirements; and*

*(b) high levels of vehicle access and parking for customers.*

*17.1.2 To provide for a mix of use and development that supports and does not compromise or distort the role of other activity centres in the activity centre hierarchy.*

The intended container refund point depot is a form of storage that requires high levels of vehicle access and is of such a business nature, that it would be highly unlikely to distort the role of an activity centre. The sites for the container refund point depots also require large areas (relative to other businesses) of land for operational reasons for vehicle movement, storage and sorting equipment.

*The purpose of the Light Industrial Zone is:*

*18.1.1 To provide for manufacturing, processing, repair, storage and distribution of goods and materials where off site impacts are minimal or can be managed to minimise conflict with, or unreasonable loss of amenity to, any other uses.*

*18.1.2 To provide for use or development that supports and does not adversely impact on industrial activity.*

The intended container refund point depot is a form of storage that requires high levels of vehicle access and with minimal offsite impacts. The container refund scheme as a whole supports industrial activity through recycling and reuse of materials and is highly unlikely to adversely impact on industrial activity.

On the above grounds, the container refund point depots are considered to be well aligned with the zone purpose for the Commercial Zone and the Light Industrial Zone.

Accordingly, the SPO supports the modification to the SPPs Commercial Zone and the Light Industrial Zone to allow for the container refund scheme depots to be a permitted use. This is only needed for the container refund scheme depots and not any other types of container refund points, because the other container refund points are covered by the exemptions and the general provisions in the SPP amendment 01-2022. Noting that all of these features are a type of container refund point, a distinction will need to be made to be clear when allowing a container refund point depot.

To accommodate the change, the "Recycling and waste disposal" use class should be allowed in these zones, but qualified to only be for a container refund point that operates as a depot. Being clear on this will also reduce any potential confusion as to whether the general provision applies, or the zone and code provisions apply to the development applications for the container refund scheme. In order to provide this level of clarity, a definition for a container refund depot is considered necessary to use in the qualifications for the use class, as just referring to a 'container refund point' would actually cover the other container return points that are allowed under the exemptions and the general provisions in the amendment. Also, simply qualifying the use class for a waste transfer station would allow undesirable waste transfer stations in the zone. The proposed alteration to the SPP amendment is for the insertion of the "Recycling and waste disposal" use class into the use tables for the Commercial Zone (Table 17.2) and Light Industrial Zone (Table 18.2), as a permitted use. In each case the permitted use should be qualified to only allow a container refund point depot.

The proposed alteration to the amendment will also need a consequential amendment in the Light Industrial Zone discretionary use class part of Table 18.2 for the “Recycling and waste disposal” use class to exclude matters that are “permitted”.

The proposed alteration to the SPP amendment is as follows –

*Amend Table 3.1 Planning Terms and Definitions by inserting the following definition –*

<i>Depot refund point</i>	<i>means the use of land for a container refund point for a staffed or automated container refund facility that provides a ‘drive through’ facility to receive, sort, pay refunds for the approved containers and to temporarily store the approved containers on-site for later collection.</i>
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*Amend Table 17.2 and Table 18.2 by inserting in the “Permitted” category (in alphabetical order) the Recycling and Waste Disposal use class with the qualification “If for a depot refund point”, as follows -*

<i>Recycling and Waste Disposal</i>	<i>If for a depot refund point</i>
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*In table 18.2 discretionary part, amend the qualification for the Recycling and Waste Disposal to make a clear distinction between the “Permitted” and “Discretionary” use classes, as follows – “if not listed as Permitted, and if for a scrap yard or waste transfer station”, as follows -*

<i>Recycling and Waste Disposal</i>	<i>If not listed as Permitted, and if for a scrap yard; or waste transfer station.</i>
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In relation to the SPP Criteria, the proposed changes listed above are considered to be consistent with the overall SPP amendment 01-2022, and for that reason, adding these into the SPP amendment 01-2022 should not offend the SPP Criteria.

In relation to whether the alterations mentioned above to the Commercial Zone and Light Industrial Zone should undergo a re-exhibition of the SPP amendment, the SPO provides the following observations about these proposed alterations to the SPP amendment –

The container refund scheme will improve the level of container recycling across the state, providing an overall benefit to the State.

The potential network operator has identified ideal sites for the Container Refund Scheme program and some of these sites are in the Commercial Zone. Ideal locations are essential for the success of the Container Refund Scheme program, where success is measured by the volume of containers that are recycled instead of going to landfill. Improving the level of container recycling is in the broader public interest for the State.

Re-exhibition of the alteration to the SPP amendment would delay the roll-out of part of the container refund scheme across the State and delay the implementation of improved container recycling conditions that currently exist in the state.

While the introduction of the container return point depots into areas under the Commercial Zone will enable the container refund scheme to operate in locations that differ from those covered by the SPP amendment originally exhibited, the potential impacts from the container return point depots are considered to be less than other uses that are already “Permitted” in the Commercial Zone.

The exhibition of the SPP amendment noted that container refund point depots are suitable to be assessed as a “Discretionary” use in the Light Industrial Zone. Adjusting the zone use table

to enable a “Permitted” use in this zone for a container refund point depot would be a lessor alteration in this zone than the Commercial Zone.

On balance it would appear that the alterations to the SPP amendment are suitable to include in the SPP amendment without re-exhibition of the alterations.

In relation to the remaining interim planning schemes and Sullivans Cove planning scheme the SPO makes the following observations:

- Derwent Valley does not use the Commercial Zone and has a small amount of the Light Industrial Zone.
- King Island is unlikely to have a depot due to the low population base and there is only a small amount of the Light Industrial Zone.
- Kentish, due to its close proximity to Devonport, would be unlikely to have a depot which is additional to a depot in Devonport and there is only a small amount of the Light Industrial Zone.
- Hobart Commercial Zone and Light Industrial Zone sites are quite small and unlikely to be used for a depot.
- Sullivans Cove lacks a site suitable for a depot, other than Macquarie Point but this site has been flagged for other purposes and would not be available for a container refund point depot.
- Huon and Kingborough have both the Commercial Zone and Light Industrial Zone with limited sites that are potentially suitable for a container refund point depot.

Collectively, the only real gain could come from making adjustments to the Huon and Kingborough Interim Planning Schemes through draft Planning Directive No. 9, but the SPO would only suggest making the changes if the potential Network Operator expressed a view as to suitability for those areas for a container refund point depot.

Based on the above analysis, modification of draft Planning Directive No. 9 to accommodate container refund point depots in the Commercial Zone and Light Industrial Zone of the remaining interim planning schemes or Sullivans Cove planning scheme does not appear necessary at this time. The SPO is happy to hear further submissions from the potential Network Operator on this matter regarding their need or desire to locate container refund point depots in the Huon or Kingborough areas.

#### 4. Clarification of the drafting for clause 7.14.2 l)

Upon review of the grammar for how clause 7.14.2 l) is intended to work, the SPO agrees that some redrafting is required to reduce confusion and improve operation of the clause.

In order to reduce confusion and improve operation of the clause the SPO suggest the clause be redrafted as follows –

- l) *use of a bag drop refund point or a container refund machine within 50m of a General Residential Zone, Inner Residential Zone or Low Density Residential Zone:*
  - i. *operates within the following hours of operation:*
    - a. *7.00am to 9.00pm Monday to Saturday; and*
    - b. *8.00am to 9.00pm on Sundays and public holidays; or*
    - c. *alternatively within the hours of operation of the existing business;*
  - ii. *operates external lighting, excluding any security lighting, within the hours of 6.00am to 11.00pm;*
  - iii. *baffles any security lighting so that direct light does not extend into adjoining lots in a General Residential Zone, Inner Residential Zone or Low Density Residential Zone; and*
  - iv. *is serviced by commercial vehicles for the container refund point within the hours of:*
    - a. *7.00am to 9.00pm Monday to Saturday; and*
    - b. *8.00am to 9.00pm Sunday and public holidays.*

Through this exercise of reviewing the drafting of clause 7.14.2 l) it was also discovered that a typo will arise from a proposed change (removal of 'same') to clause 7.14.2 i), the text should refer to "operation of the existing business" instead of "operation as the existing business". The SPO supports the grammar being corrected in this clause as well.

## 5. Interim Planning Schemes and draft PD9

The SPO is of the view that the draft PD9 should only apply to the *Kentish Interim Planning Scheme 2013*, the *King Island Interim Planning Scheme 2013*, the *Derwent Valley Interim Planning Scheme 2015*, the *Huon Valley Interim Planning Scheme 2015*, the *Kingborough Interim Planning Scheme 2015*, the *Hobart Interim Planning Scheme 2015* and the *Sullivans Cove Planning Scheme 1997*, as decision on the George Town Local Provisions Schedule has recently been made by the Commission (effectively switching off the George Town Interim Planning Scheme 2013).

Accordingly, the draft Planning Directive No. 9 only needs to refer to the above planning schemes that are still in effect. References to Waratah-Wynyard, Latrobe, George Town, Break O'Day and Central Highlands can be removed from the draft planning directive.

This includes deleting 6.0 b) and 6.0 c).

This includes deleting the following from Attachment 2 -

- references to Latrobe and Waratah-Wynyard from 9.1.1 b) i)
- 9.1.1 b) ii)
- references to Central Highlands from 9.1.1 b) iii)
- references to Latrobe and Waratah-Wynyard from 9.1.2 c) ii)
- reference to Latrobe and Waratah-Wynyard from 9.1.2 j) i)
- 9.1.2 j) ii)
- references to Central Highlands from 9.1.2 j) iii)

This includes deleting 3.2 from Attachment 3.

Finally, the SPO supports the draft planning directive being redrafted to reflect the final form of the SPP amendment, where relevant.

## 6. Cradle Coast signs code and draft PD9

Clause 9.1.2 c) ii) of the draft planning directive refers to clause numbers instead of sign types, because the Kentish and King Island Interim Planning Scheme's sign code does not include any definitions for sign types, as other planning schemes in the state do. In order for the clause to work as intended in relation to the Kentish and King Island Interim Planning Schemes, the actual code provisions need to be referred to instead of referring to defined sign types.

If you require any further information regarding this, please contact Leigh Stevens, Senior Planning Adviser: [Leigh.Stevens@dpac.tas.gov.au](mailto:Leigh.Stevens@dpac.tas.gov.au) or phone 6232 7063.

Yours sincerely



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