

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Latrobe Interim Planning Scheme 2013
Amendment	03-20 – insert Merseylink Specific Area Plan
Planning authority	Latrobe Council
Applicant	Commercial Project Delivery
Date of decision	26 February 2021

Decision

The draft amendment is modified under section 41(ab) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 42.

A handwritten signature in black ink, appearing to read 'Sandra Hogue', written in a cursive style.

Sandra Hogue
Executive Commissioner

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

The draft amendment proposes to insert F3.0 Merseylink Specific Area Plan (SAP) over a portion of land at 283 Port Sorell Road, Wesley Vale (the site).

The SAP allows for a transport depot and distribution use (if a bus depot) as a no permit required use over the applicable area. The SAP does not include development standards.

Site information

The site contains one parcel of land, being folio of the Register 179000/1, with a total area of 22.46ha. The portion of the site that is to be subject to the SAP is approximately 4.5ha of land along the southern boundary.

The site is currently zoned Rural Resource and is used as a transport depot and distribution (bus depot) use, and resource development use.

Issues raised in representations

One representation was received from TasWater. TasWater advised that it has no objection to the draft amendment and are not required to attend any hearings.

Planning authority's response to the representations

The planning authority's strategic planner recommended to the Tasmanian Planning Commission (the Commission), under delegation of Latrobe Council, that the Commission endorse the draft amendment as presented.

Consideration of the draft amendment

1. Under section 40 of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. One representation was received and after consultation under section 40(2A) of the Act, the Commission dispensed with holding a hearing.
3. The amendment has been initiated and certified by the Latrobe Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (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.

5. Section 32(1)(e) is not considered relevant to the draft amendment as the land does not adjoin an adjacent municipal area.
6. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme. These matters are not relevant, as the draft amendment has no implications for any common provisions.
7. Section 300 includes that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.

Strategic justification

8. The relevant regional strategy under section 300(1) is the Living on the Coast – Cradle Coast Regional Land Use Strategy 2010-2030, 27 October 2011 (the regional strategy).
9. In its section 35 report, the planning authority considers that the draft amendment is consistent with section 3.1 – The Nature of Economic Activity, as the business would provide local employment for at least 100 persons.
10. The planning authority also considers that the draft amendment is consistent with section 3.3 – Land for Agriculture, as:

It has been demonstrated that the agricultural capability of the land subject of the proposed amendment is minimal and that the operation of the bus depot on the site has minimal if any impact on adjoining agricultural use. (p 10)
11. In its supporting planning report, the applicant considers that the draft amendment is consistent with section 5.2 – Transport – moving freight, connecting people, place and activities’, as follows:

... there is a desire to reduce and minimise fossil fuel by road freight and passenger transport vehicles to meet the Tasmanian government’s carbon emission reduction targets. The private car is seen as the most significant contributor to this... it is submitted that one way of achieving this outcome is to ensure one of the major players in the public transport sector are able to improve and upgrade their established base at the subject site... (p 26)

Commission’s consideration

12. The Commission is satisfied with the justification provided by the planning authority and applicant, and considers that the draft amendment is, as far as is practicable, consistent with the regional strategy.

Planning scheme

13. In its section 35 report, the planning authority advised that the bus depot use at the site currently operates under existing use rights. The original approval for the use was granted through a section 43A application in 2012 by the Commission.
14. A site-specific qualification was not implemented for the use in the transition to the interim planning scheme as it was considered that the use could operate under existing use rights. The planning authority now considers this to be problematic as the business cannot expand its operation given its prohibited use status in the interim planning scheme.

15. The planning authority states:

The proposed amendment seeks to reinstate previously approved land use rights for the bus depot site. Since the original amendment was approved, the company has expanded its operations and needs additional land on which to store their buses. (p 10)

16. In its supporting planning report, the applicant states that a specific area plan has been chosen as:

Whilst the proposal is essentially a site specific amendment to allow the Transport depot and distribution use class to be a permissible use class at the site (with no qualification), given the overall size of the subject title, it is appropriate to limit the extent of land on which the variation applies. As such, it is proposed to introduce a Specific Area Plan which clearly outlines the extent of the site within which Transport depot and distribution is a permitted use class in addition to the use classes allowable within the underlying Rural Resource Zone. (p 19)

Commission's consideration

17. The Commission considers that, as the draft amendment allows for an existing use to expand its operation at the site and is drafted to protect the remaining area of the site for agricultural use, the specific area plan is, in this case, an appropriate mechanism for the interim planning scheme.

State Policies and Resource Management and Planning System Objectives

18. The planning authority and applicant consider that the draft amendment supports the Objectives of the Resource Management and Planning System in Schedule 1.
19. The planning authority and applicant consider that no State Policies, except the State Policy on the Protection of Agricultural Land 2009 (PAL Policy), are relevant to the draft amendment.
20. An agricultural report prepared by AK Consultants was submitted with the applicant's supporting planning report. The agricultural report concluded that the site is limited to predominantly grazing use and would be best farmed in conjunction with other adjacent agricultural land.
21. The applicant submits that the location of the proposed specific area plan on the site does not remove any land currently used for Resource development, and is therefore consistent with the PAL Policy.

Commission's consideration

22. The Commission finds that the draft amendment is in accordance with the PAL Policy and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

Modifications required to draft amendment

23. The draft amendment is modified to be consistent with the language and formatting conventions of the other SAPs in the interim planning scheme. The modified SAP is set out in Annexure A.

Decision on draft amendment

24. The Commission finds that the draft amendment is in order and gives it approval.

Attachments

Annexure A

Modified amendment 03-20 to the Latrobe Interim Planning Scheme 2013.

1. Amend Maps 43 and 44 by adding the notation F3 Merseylink Specific Area Plan to the land shown as hatched on the diagram attached.



F3 Merseylink Specific Area Plan



2. In Part F Specific Area Plans, insert the following as F3.0:

F3.0 Merseylink Specific Area Plan

F3.1 Purpose of Specific Area Plan

The purpose of the Merseylink Specific Area Plan is to:

- (a) recognise the existence of an area previously developed as a bus depot but which is inconsistent with the underlying zone provisions;
- (b) allow for the operation of the Transport depot and distribution use class within the area to which the Merseylink Specific Area Plan applies.

F3.2 Application of Specific Area Plan

F3.2.1 The specific area plan applies all use and development of land shown as the Merseylink Specific Area Plan on the planning scheme map.

F3.2.2 For the land to which the Merseylink Specific Area Plan applies, the provisions are in substitution for, and are in addition to the provisions of the Rural Resource Zone as specified in the relevant provision.

F3.3 Use Table

This clause is in addition to Rural Resource Zone – Clause 26.2 Use Table

Use Class	Qualification
No Permit Required	
Transport depot and distribution	If a bus depot