

TASMANIAN PLANNING COMMISSION



ASSESSMENT CRITERIA

Project	Kangaroo Bay Hotel Major Project
Proponent	Chambroad Overseas Investment Australia Pty Ltd (Trading as Chambroad Australia)
Date	25 February 2025

Under section 60ZM of the *Land Use Planning and Approvals Act 1993* (the LUPA Act), the Development Assessment Panel (the Panel) has determined the assessment criteria.

The Panel outlines its consideration in this determination report and provides the assessment criteria at Annexure A.

Pam Allan
Chairperson

Alex Brownlie
Member

Jamieson Allom
Member

Rohan Probert
Member

ASSESSMENT CRITERIA

The considerations required for the Panel to determine the assessment criteria are specified in section 60ZM of the LUPA Act.

Due to the complexity of section 60ZM, it is not practical to report against each subsection. This is because section 60ZM contains multiple cross references to different sections and sub-sections of the LUPA Act, that in turn contain their own cross references.

To minimise repetition, this report addresses the considerations under each stage of the LUPA Act that relate to preparing the assessment criteria.

Draft assessment criteria

Section 60ZM of the LUPA Act requires the Panel to have complied with section 60ZK.

Before preparing the draft assessment criteria, the Panel considered the major project proposal to inform the relevant land use planning matters. In particular, it focused on:

1. the description of the major project;
2. the location of the project site, and the physical features of the project site and the vicinity; and
3. potential effects of the major project, both positive and negative.

Section 60ZK of the LUPA Act requires the Panel to consider comments on what should be specified in the draft assessment criteria provided under subsection 60ZJ(3), as set out in subsection 60ZJ(4).

Comments were also received from the Department of Natural Resources and Environment Tasmania (Aboriginal Heritage Tasmania), Homes Tasmania, the Department of Treasury and Finance, the Tasmania State Emergency Service, the Tasmania Fire Service, the Tasmanian Heritage Council, the Clarence City Council, P and P O'Malley, and M and A Geard.

An assessment requirement notice was received from TasWater, the only participating regulator. Section 60ZK requires the matters set out in the assessment requirement notice to be included as matters to be addressed in the draft assessment criteria.

The comments and notice received informed determination of the relevant land use planning matters. In particular, the comments and notice related to the proposed use and development and its suitability and impacts, parking and traffic related matters, environmental impacts and natural hazards, Aboriginal heritage, social wellbeing and economic development, site services and infrastructure, and construction management.

The Panel prepared the draft assessment criteria within the relevant period, under subsection 60ZK(2).

Cross references to section 60ZM in subsection 60ZK(3) are set out under the headings 'land use planning matters' and 'participating regulator matters' below.

The Panel has complied with section 60ZK.

Representations

Under section 60ZL, the assessment criteria were advertised as a draft for 14 days up to 3 February 2025. Twenty-three representations were received in the statutory period and three were received after the statutory period and accepted by the Panel as representations for the purposes of section 60ZL(2).

Representations were received from:

1.	James Lockley	14.	Anne Boxhall
2.	TasWater	15.	Jenny Rayner and David Jones
3.	Department of Natural Resources and Environment Tasmania	16.	Warwick Moore
4.	Tasmania State Emergency Service	17.	Sachie Yasuda
5.	Peter Cusick	18.	Zane Yasuda
6.	John Hepper	19.	Jeanette Bray
7.	Penny Sowter	20.	Lisa Litjens and Alan Kemp
8.	Marcus Higgs	21.	Bradley and Emma Walsh
9.	Shannon Heard	22.	Chambroad Overseas Investment Australia Pty Ltd (the proponent)
10.	Ruginia Duffy	23.	Clarence City Council
11.	Lindi Wall	24.	The Office of the Coordinator General
12.	Sue Todd	25.	Department of State Growth
13.	Michael Geard	26.	Department for Education, Children, and Young People

The Panel determined not to give TasWater any representations because none related to matters in their assessment requirement notice, in accordance with section 60ZL(3) of the LUPA Act.

In determining the assessment criteria, the Panel considered the representations. Without going into the detail of each representation, the Panel notes:

- Representations from individuals were primarily objecting to the major project itself, rather than raising any issues with the draft assessment criteria. The representations from individuals also criticised the declaration of the proposal as a major project, and many also raised the ownership of the land as an issue that should have been resolved prior to the declaration of the proposal as a major project by the Minister.
- The issues raised in the representations from individuals relayed concerns about the following aspects of the major project: traffic, transport, parking, visual impacts, the development's built form, amenity impacts, natural hazards and

environmental impacts, connectivity of the site with the surrounding area, access to the foreshore within the site, the provision of public open space, as well as the suitability and compatibility of the proposed use and development in general.

- The state agency representations focussed on the wording of the water quality and flow criterion, the coastal inundation and flood criterion, the traffic and transport criterion, and the reference to the Tasmanian Planning Policies (TPPs) in the preamble.
- The representation from the proponent raised the reference to the TPPs in the preamble, as well as seeking clarification in relation to the car parking and access criterion, and Aboriginal heritage criterion.

The Panel considered that the matters raised in the representations were largely already addressed within the scope of the draft assessment criteria as written. However, the Panel made the following changes after considering the representations:

- In the preamble, a footnote was inserted to clarify status of TPPs.
- In criterion 1.3 Built form and architectural design, reference to the proposed development was included to clarify the intended scope of the criterion.
- In criterion 1.4 Public domain and passive surveillance, reference to the project site was included in the criterion and the matters that the Panel may have regard to, to clarify the intended scope of the criterion.
- In criterion 2.1 Car parking and access, reference to the project site and design of car parking and access was included to clarify the intended scope of the criterion.
- In criterion 2.2 Traffic and transport, the matters that the Panel may have regard to were modified to improve clarity and explicitly reference active transport.
- Criterion 3.1 Coastal inundation and flood was reworded to improve clarity.
- In criterion 3.3 Water quality and flow, the matters that the Panel may have regard to were modified to address potential impacts on the Spotted Handfish.
- In criterion 4.1 Aboriginal heritage, the wording was modified to improve clarity.
- Other minor grammatical and typographical changes were made to improve clarity and readability, and to ensure consistency.

Although not directly in response to the representations received, the Panel also removed criterion 4.2 Social wellbeing and economic development. The Panel considered that in having regard to the specific planning scheme provisions that apply to the project site, the matters addressed by this criterion were not reasonably required to enable the proper assessment of whether the major project would be an effective and appropriate use of land.

The Panel noted updated advice provided by the Department of Treasury and Finance, that where the Panel considered that an economic assessment was required as an assessment criterion, that criterion needed to be based on evidence and recognised modelling methods.

The Panel also considered that the proponent has the opportunity to submit information in relation to social and economic wellbeing matters that may be relevant to a consideration of the major project under the objectives of schedule 1 of the LUPA Act, separate to the major project impact statement (MPIS). The Panel

determined to insert additional wording into the preamble to clarify that where the proponent chooses to make a separate submission to the MPIS, it is preferable it be provided prior to the MPIS going on public exhibition.

The Panel notes that assessment criteria set a test to be achieved and require matters to be addressed but cannot require a proponent to undertake specific studies. The Panel considers that the studies or assessments some representors called for to be undertaken will be largely required to address the assessment criteria as written.

The Panel's views have been informed by the broad range of representations, and the Panel has complied with section 60ZL.

Land Use Planning Matters

The assessment criteria are based in part on the Panel's consideration of relevant land use planning matters for the major project.

The Panel considers that the assessment criteria are reasonably required to enable a proper assessment of whether the major project would be an effective and appropriate use and development of the land.

The Panel has had regard to:

1. the Tasmanian Planning Scheme – Clarence, noting the assessment criteria address issues relevant to the provisions within the zone and codes that apply to the land;
2. whether amendments to the planning scheme may be required in order to provide certainty and clarity on the planning provisions that apply to provide for the effective ongoing use and development of the major project and to ensure it could be lawfully carried out; and
3. the Southern Tasmania Regional Land Use Strategy 2010-2035 (regional strategy), particularly in relation to policies for Tourism, Activity Centres, Recreation and Open Space, the Coast, Land Use and Transport, Managing Risks and Hazards, Water Resources, Physical Infrastructure, and Cultural Values.

After having regard to the regional strategy and providing for the assessment criteria to address matters that arise in relevant policies and actions, the Panel considers the assessment criteria are not inconsistent with the regional strategy.

The Panel considers that the assessment criteria seek to further the objectives of schedule 1 of the LUPA Act. In particular, the assessment criteria seek to promote the fair and orderly use and development of land, and in conjunction with consideration of physical and environmental matters, the assessment criteria seek to promote sustainable development.

The Panel considers that the assessment criteria are consistent with each applicable State Policy (including National Environment Protection Measures) by addressing issues relevant to each State Policy, including:

- water quality;
- coastal values; and
- contamination.

The Panel notes the Tasmanian Planning Policies are not yet in effect.

In determining the assessment criteria, the Panel has considered the above matters and is satisfied that the assessment criteria meet subsections 60ZM(4)(a), (5), (6), and (7) of the LUPA Act.

Participating regulator matters

An assessment requirement notice was received from TasWater as the only participating regulator, in relation to the *Water and Sewerage Industry Act 2008*.

No alteration notice was received.

The Panel considers that the assessment criteria include the matters that TasWater required to be addressed in its assessment requirement notice in accordance with section 60ZM(4)(b), noting the Panel has structured and arranged the assessment criteria differently to the assessment requirement notice.

Guidance and advice provided by the participating regulator has been incorporated at a high level into factors the Panel may have regard to, and are also set out in full, in Appendix C to the Assessment Criteria.

Attachments

Annexure A - Assessment Criteria