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11 October 2023

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

Dear Mr Howlett

Draft Planning Directive No. 9 Draft Amendment 01-2022 to the State Planning Provisions Container Refund Scheme - Exemptions and Special Provisions

I refer to your letter dated 3 October 2023, which includes further directions for the State Planning Office (SPO) to provide a submission regarding five (5) matters identified following the Commission's direction letter dated 23 August 2023 and SPO's submission dated 6 September 2023. The SPO's response to those matters is provided below.

1. Building setbacks and height

As requested, please see below a modified version of subclause 7.14.2(e):

- e) *in the Village Zone, Urban Mixed-Use Zone, Commercial Zone, Community Purpose Zone or Recreation Zone, the setback from a frontage is not less than 2m;*

The modified version of subclause 7.14.2(e) is only supported, provided that subclause 7.14.2(g) be modified as follows:

- g) *the height of the structure for a bag drop refund point or container refund machine is not more than 3m;*

2. Automated and large format container refund depots

The definition of 'depot refund point' specifies that it provides for a 'drive through' facility, given that:

- As suggested in the SPO's submission dated 6 September 2023, depot refund points are likely to be limited in numbers but attract higher levels of vehicular traffic than other types of container refund points.

- A key characteristics of these proposed depots is for them to be predominantly car based in how the public access them.
- The proposed depots are intended to receive large amounts of containers in a single customer visit, which is larger than people can carry and normally carried in their car.
- The reference to 'drive through' facility is used to highlight the key characteristic of these proposed depots.
- The proposed drafting follows the convention established in the State Planning Provisions (SPPs) for facilities that provide 'drive through' functions, such as certain take-away food premises.
- By categorising depot refund points within the 'Recycling and Waste Disposal' use class, there would be minimal on-site car parking space requirements for this type of container refund point (i.e., 1 space per 500m² of site area + 1 space per employee), meaning that vehicle queuing may be an issue if enough space on the site is not provided and the reference to 'drive through' facility brings this point to the attention of future applicants when they design their facilities.
- The requirement to provide for a drive-through-like facility would assist in mitigating potential conflicts with traffic movement to, on and from the site and ensuring that the site is easily usable and readable by users. It may also positively impact the site's amenity and provide better opportunities for passive surveillance.

Considering the above points and that this definition is only proposed to facilitate the development of this type of container refund point in the Commercial and Light Industrial zones, the requirement to provide for a drive-through-like facility is not considered an unnecessary or unreasonable limitation on the use.

Regarding your second request in relation to this matter, the semi colon you are referring to is a typo in the previous SPO response and it should be replaced with a comma, alternatively the qualification could be written as "If not listed as Permitted or a scrap yard or waste transfer station".

3. External lighting

The SPO agrees that inserting the word 'only' before the word 'within' in subclause 7.14.2(l)(ii) would assist in clarifying this subclause's intent and, as such, does not have any objections to the Commission undertaking such a modification. The modified subclause should read as follows:

- ii. *operates external lighting, excluding any security lighting, only within the hours of 6.00am to 11.00pm;*

4. Signage

Subclause 9.1.2(c) of draft Planning Directive No. 9 includes requirements for signage attached to a bag drop refund point or container refund machine.

This subclause includes 2 numerals, which are intended to have the following scope of application:

- Numeral i applies to those municipal areas operating under interim planning schemes other than Kentish and King Island and it is noted that Numeral i would not have any work to do under the Kentish and King Island Interim Planning Schemes because those schemes do not have any definitions for the sign types listed;
- It is noted that the definitions of those sign types in the southern interim planning schemes provide the measurable qualities that must be met, and it is not intended to rely on any of the standards in the southern interim planning schemes signs code, simply just to identify the type

of sign. The requirements in the Numeral i then set the standards to be met along with those specified in the sign type definitions.

- Numeral ii applies exclusively to Kentish and King Island and cannot apply in any other municipal area. Clauses E7.4 and E7.6 AI are the only clauses in these schemes that are considered relevant to the assessment of signs for the purposes of the container refund scheme. In the absence of any definitions for sign types in the Cradle Coast interim planning schemes, the nominated standards need to be used. That is the container refund scheme sign will either meet the E7.4 exemption or meet the E7.6 AI Acceptable Solution. These clauses are also identical in both the King Island and Kentish interim planning schemes.
- The reference to 'relevant' is meant to give effect to the planning authority assessing the development application, which is applying their interim planning scheme.
- On the above basis, the SPO considers that the provision can operate as intended without the need for redrafting, except for removing references to interim planning schemes that are no longer in effect. However, to provide additional clarity Numeral i could contain the names of the 'relevant' interim planning schemes. Revised wording could be – "i. be for the following sign types, as defined by the relevant Derwent Valley, Huon Valley, Hobart or Kingborough interim planning schemes:". This would then clearly show that Numeral i only applies to the relevant southern interim planning schemes and Numeral ii only applies to the relevant Cradle Coast interim planning schemes.

5. Ethos Urban/TOMRA Cleanaway submission

After reviewing Ethos Urban/TOMRA Cleanaway submission dated 18 September 2023, the SPO has formed the following opinion:

- *Suggested change to the requirement in subclause 4.2.10(b)(iii)*

The SPO understands that the suggested change to the requirement in subclause 4.2.10(b)(iii) was discussed at the hearing, and it was concluded that providing a means to have external storage of returned containers for the small container refund machines and small bag drop points has merit and that it should be allowable under the exemption. The concept of providing external storage as requested in the Ethos Urban/TOMRA submission is supported, however, redrafting of 4.2.10 b) iii) also needs to acknowledge the container return devices that the clause applies to and their differences to any requirements for over-the-counter return points, which is essentially that the container refund machine and bag drop also provide for internal storage by their design. Accordingly, this requirement could be reworded using similar wording for the requirement in subclause 4.2.10(a)(ii-iii) and taking account of the design qualities of the container refund machine and bag drop. Consequently, the requirement in subclause 4.2.10(b)(iii) could be reworded, and added, as follows:

- iii. *the returned approved containers are:*
 - a. *stored inside the structure;*
 - b. *stored inside a relocatable bin that is not more than 15m² in area and a height of not more than 3m; or*
 - c. *stored in a shipping container and*
 - d. *any external storage of the returned approved containers is not visible from any road or public open space adjoining the site*

- *Suggested change to subclause 7.14.2(l)*

The Ethos Urban/Tomra submission raises 2 issues with 7.14.2(l), the first relating to referring to co-located businesses and the second referring to setbacks to residential zones across road reserves.

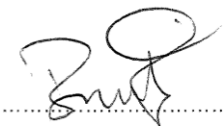
In the SPP amendment 7.14.2 a) requires the container refund point to be located on a site that contains an existing business. As written, this does not distinguish whether the site has a single business or multiple businesses. When applied through a development application, it is expected the application would nominate which business on the site the container refund scheme is co-located with and it would generally be expected to nominate the business that is open the longest. The reference in the proposed alteration to 7.14.2(l)(i)(c) of “the co-located business” is a reference to the business that is referred to in the development application to address 7.14.2(a). Accordingly, the SPO considers this is not confusing, when the entirety of 7.14.2 is applied to a proposed container refund point development application, and as such the proposed change is not considered necessary.

The SPO understands that the suggested change to subclause 7.14.2(l) was discussed at the hearing. While the discussion mainly focused on the potential reduction of the 50m setback to a 30m setback, which was not supported, it was implied that the subclause was going to be maintained (as it is) for consistency with only a minor modification (i.e., removing the comma immediately after “Inner Residential Zone”.

Whilst the impact of the provision with the 50m setback to a zone is understood by the SPO, making the change here would introduce an inconsistency across the SPPs in respect to the policy position on this matter. Accordingly, the SPO would prefer that the provision remains as is so that the broader issue of how to manage setbacks to zones across all of the SPPs can be considered at a later date. It is noted that the content of the SPP business zones is not open for review under this proposed SPP amendment. Accordingly, the suggested alteration is not supported at this time, but it may be considered more broadly in the near future under projects that are being undertaken as a consequence of the 5 yearly SPP review.

If you require any further information regarding this, please contact Leigh Stevens, Senior Planning Adviser: Leigh.Stevens@stateplanning.tas.gov.au or phone 6232 7063.

Yours sincerely



Brian Risby
Director, State Planning Office