

## Tasmania's Outdoor Art Gallery

### **MAKING A REPRESENTATION TO THE DRAFT KENTISH LOCAL PROVISIONS SCHEDULE**

The Tasmanian Planning Scheme (TPS) is made under the *Land Use Planning and Approvals Act 1993* (the Act) and will apply across the whole State. It will replace the current planning schemes that operate in each Council area.

The TPS is made up of the State Planning Provisions (SPP's) and Local Provisions Schedule (LPS).

Kentish Council has been given a direction by the Tasmanian Planning Commission (the Commission) to publicly exhibit its Draft Local Provisions Schedule (Draft LPS) and invite representations.

### **Assessment of the Draft Kentish LPS and the Role of the SPP's**

As the Tasmanian Planning Scheme is in two parts, State and local, the process of assessing Council's Draft LPS and considering public representations is complex. The Act contains limitations on representations relating to the SPP's. This is because the SPP's have already been through a public representation and hearing process before they were made by the Minister for Planning.

Any representation that states that the content of the SPP's should be altered cannot be considered by Council or the Commission through this LPS process. Council and the Commission can consider representations that relate to:

- whether a provision of the draft LPS is inconsistent with a provision of the SPP's; or
- whether the draft LPS should, or should not, apply a provision of the SPP's to an area of land.

The Council however, after considering representations, may advise in a separate notice to the Commission that the content of the SPP's should be altered. The Commission must consider the merits of Council's advice.

### **Contents of the Draft LPS**

A representation can also relate to the specific contents or merits of the draft LPS. However, section 32 of the Act sets out the required and allowable aspects of a LPS:

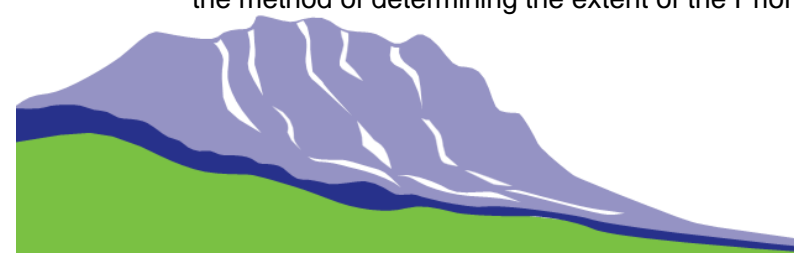
- The draft LPS must contain maps, overlays, lists or other provisions that provide for the spatial application of the SPP's if applicable. Examples of this would be the zoning of land or the State Bushfire Prone Area mapping, but not the State coastal hazard mapping as this is not applicable in Kentish. This must be done in the prescribed format of the Tasmanian Planning Scheme document;
- The draft LPS can provide for any of the matters allowable in sections 11 and 12 of the Act which describes the elements that can and can't be regulated by a planning scheme;
- The draft LPS may provide for greater detail in the application of the SPP's. An example of this is the method of determining the extent of the Priority Vegetation Area overlay;

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- The draft LPS may include provisions that modify the application of the SPP's to a particular area;
- The draft LPS may include a Particular Purpose Zone, Specific Area Plan or a Site Specific Provision. These are the provisions that override the SPP's by:
  - substituting a SPP;
  - modifying a SPP; or
  - including provisions that are additional to the SPP's.

A representation can relate to whether the draft LPS should, or should not, provide for any of the matters described above.

When considering what to write in your representation, it is helpful to explain which aspects of the SPP's you think are, or are not, appropriate for a particular area of land and then whether the Draft LPS should, or should not, include planning rules that are different to the SPP's to manage particular local values of that area.

Local planning rules are applied through a Particular Purpose Zone, Specific Area Plan or a Site Specific Provision and the justification required under the Act to demonstrate why these rules should be included is an important factor.

Section 32(4) of the Act only allows for these local planning rules if:

- it relates to use or development that is of significant social, economic or environmental benefit to the State, region or municipal area; or
- the area of land has particular environmental, economic, social or spatial qualities that require provisions that are unique to that area of land.

### **Transitional Provisions**

The Draft LPS includes Particular Purpose Zones, Specific Area Plans, a Site Specific Qualification and code applying provisions that are currently operating in the Kentish Interim Planning Scheme 2013. These provisions have been approved by the Commission and Minister for Planning to transition into the Draft LPS and must be included in the Draft LPS.

Because the Act has a mandatory requirement to include these transitional provisions (including planning scheme amendments that have been approved after the Draft LPS was lodged with the Commission in April 2020) in the final LPS that will come into operation, there is no ability to consider representations that relate to changes to, or the removal of, these provisions.

### **Lodging Your Representation**

The Tasmanian Planning Scheme structure and the legislative process for considering the Draft LPS is complex. Council will be holding a community information session in Kentish and Port Sorell in February. The date will be advertised as soon as it is confirmed. If you need further assistance in the explanation of the Tasmanian Planning Scheme or Council's Draft LPS prior to writing your representation, Council's town planners are available to discuss on the phone at 6426 4444, by email to [council@Kentish.tas.gov.au](mailto:council@Kentish.tas.gov.au) or by appointment at Council's offices at 69 High St, Kentish.

The period for lodging a representation runs from **Monday 8 May 2023 until Friday 7 July 2023**. Under the Act, Council cannot accept any representations outside of this time period.

Please note: All representations lodged will be available for public viewing.