The Planning Institute of Australia, Tasmania Division (PIA) commends the Tasmanian Government on taking steps to continuously improve the effectiveness and efficiency of the planning system in Tasmania. It shows recognition of the key role land use planning plays in contributing to the achievement of the Tasmanian Government’s priorities for economic growth, community development, environmental sustainability, and innovation.

Reform must however enable the planning system to respond effectively and efficiently to these priorities.

This submission is made on behalf of the Tasmanian membership of the Planning Institute of Australia. It combines feedback gained from State-wide consultation sessions coordinated by PIA and held in April 2016.

The first section of this submission provides input at a broad level, covering the key concerns raised by the PIA membership regarding the planning reform in terms of intent, structure and process.

The second section provides specific feedback on the content of the draft State Planning Provisions with reference to their ability to further the objectives of the Resource Management and Planning System of Tasmania.

What is good planning policy?

In drafting any planning document that will ultimately shape the manner in which the State delivers key land use planning objectives for the benefits of its residents both now and in the future it is critical to provide a sustainable planning system that delivers an effective, efficient and enabling planning system that:

- is simple, transparent, easy to understand and user-oriented;
- is outcome-focused, evidence-driven and open to innovation;
- provides streamlined processes for investment at any scale;
- is responsive to changing circumstances and priorities; and
- places importance on ethical professionalism and integrity.

A good planning system: sets out clear directions and robust policies that have been built on detailed investigation and analysis; encourages communities to be involved when their participation is most
meaningful; ensures plans and rules are up to date and addresses contemporary needs; promotes place-relevant design outcomes; de-clutters and simplifies the assessment process; makes it easier to access and understand planning information; and promotes integrated, regional collaboration and a professional culture.

These basic principles in the delivery of a good planning system and the development of planning policy are accepted amongst planning experts nation-wide and is consistent with the PIA ‘Planning Systems Principles’ (07/13) and indeed the PIA charter.

The State Government’s rationale behind the latest reform of Tasmania’s planning system is to “deliver greater consistency in the planning rules across the State, providing greater certainty to investors and the community.” The Government is seeking to deliver a “fairer, faster, cheaper and simpler planning system for Tasmania.”

PIA commends efforts for continuous improvement of Tasmania’s Planning system but is not satisfied the drivers for reform, and the process for reform in this instance, will deliver “better” planning outcomes for the State – a term noticeably absent from the Government’s reform mantra. To be worthwhile, planning reform in this state needs to be focused on and driven by good planning outcomes for the State, not focused on outputs and driven by election commitments and project timeframes.

State Policy

Put simply, as the current reform is focused on delivery of a State-wide planning scheme (a single implementation tool) in the absence of a sound State-wide planning policy framework, the State remains without clear purpose and strategic direction for planning and development at any scale.

The initial focus of reform needs to be shifted away from statutory processing to the achievement of strategic outcomes through setting of clear State policy purpose and direction. In Tasmania, key planning policy focus areas should be economic development, housing affordability, ecologically sustainable development, climate change, infrastructure coordination, public transport use, and social sustainability. Although we are aware development of State policy (small “p” policy) is currently occurring and will be available for public review in early 2017, this is happening after the development of the implementation tool – a classic backwards “cart before the horse” approach. Any development of State policy must be implemented under the State Policies & Projects Act 1993 (SPP Act) and tied back into the Tasmanian Planning Scheme.

The intent of State policy is to provide clear and consistent direction to inform and guide the development of implementation tools. The implementation tools should not be guiding the development of policy. Because of this backward approach, critique of the current draft State Planning Provisions remains difficult as there is no framework to assess their consistency and purpose. We have a new draft set of rules for minor development across the State, but no context, guiding principles or direction for these rules to sit within.

The Regional Land Use Strategies, although commendable in providing another piece of the much needed State policy framework, are inconsistent across the State, in some instances outdated, and are not bound by clear and consistent State policy direction and objectives.

The lack of co-ordinated planning policy direction at a State level was a key criticism of our members across the State. For planning professionals, that planning controls at a State level are informed by State policy is a critical and absent part of true planning reform.
“A Fairer System”

Fairness in the planning system implies transparency, the opportunity for participation in planning and decision making, and the ability for the system to provide for equal access to essential goods and services for all members of the community.

With a combined total of over 600 pages, the draft State Policy Provisions and supporting explanatory document are largely impenetrable to those not directly involved in the planning system. In the absence of any plain English, summary information about the proposed changes or public information sessions outlining and explaining the proposed changes and what they mean, many community members and special interest groups directly and indirectly impacted by planning decisions have been excluded from the process.

This is of concern to our members.

There is also community concern about being shut out of the planning approvals process on a general level. The expectation that there will be more permitted uses equates to less public involvement in decision making. It may be the first stage of numerous reforms to the system, but appears to be death by a thousand cuts in terms of community involvement.

In the absence of State policy providing guidance on issues of social justice and equity such as housing affordability, public transport use, employment, health and education, it is difficult to say whether the new State Planning Provisions will result in a fairer system for all members of the Tasmanian community.

“A Faster and Cheaper System”

On a national level, Tasmania has the second fastest application processing rate, the lowest development assessment fees and low numbers of appeals. At present in Tasmania, the percentage of development applications appealed by third parties is extremely low, sitting at only 1%. 83 per cent of all appeals are mediated. If the costs being targeted are those associated with delays caused by lengthy approvals processes then the evidence around approval timeframes and third party appeals do not seem to support the argument.

This does not mean that there aren’t opportunities for improvement, but reforms that target improvement in the speed and cost of the development approvals process should not be at the detriment of achieving broader strategic objectives, and removal of meaning public participating in planning decision-making.

“A Simpler System”

A simpler system should be user-friendly, clear and consistent. To achieve greater simplicity at a State level, the system needs to be underpinned by a clear and consistent policy approach. Whilst uniform and standard planning requirements, controls and processes ensure a level of certainty and simplicity, a one size fits all approach does not acknowledge or respect the specific character of local areas. A balanced approach needs to be taken.

Although the proposed reforms recognise this through the intention to include Local Provisions Schedules (comprising Local Planning Provisions), there is great confusion as to what level of local control can be applied. On instances where the State-wide planning controls do not “fit” local circumstances, the response has been “use a Specific Area Plan”. The lack of “fit” between the Central Business Zone and Hobart’s CBD are an example of this.
This essentially undermines the pursuit of greater simplicity as the local provisions can override the Statewide provisions to make it relevant to their local context. The process being proposed is inconsistent, confusing and may result in a piecemeal system. More thought should be given to local controls through schedules to zone to vary development standards for local circumstances.

Over simplification of the system also has the potential to diminish the role and capacity of the planning profession in Tasmania. In a system that is already severely under-resourced relative to other jurisdictions, unless properly resourced the success of the current reform agenda is likely to be limited.

Standardising regulation without the ability for flexibility, and without clear strategic direction will stifle innovation. If we progress with a standardised version of what we have always had, we will only end up with what we’ve already got. Faced with an ageing population, intergenerational disadvantage, housing affordability issues and low economic productivity, innovation and changes to the ways we currently do things are essential. A standardised system, with overly prescriptive development controls, which in many ways confine the scope of relevant considerations, do not allow for the flexibility to explore and test new ideas and approaches to address the major issues facing Tasmania.

The effect of the development controls in many zones is that an assessment of a permit is confined only to subject matters identified in the development standards, and the broader merit of the proposal cannot be considered. In the view of our members, this unreasonably restricts the role of the planning system, contrary to the broader requirement of section 51(2)(a) and 51(3A) of the LUPA Act and to the objectives of the LUPA Act.

Achievement of policy outcomes

The role of the Commission is constrained by both the Terms of Reference and the scope and content of the SPPs as prescribed in the LUPA Act.

Further, section 24 of the Act requires that:

“\textit{The Commission, as soon as practicable, after the end of the exhibition period in relation to a draft of the SPPs –}

(a) \textit{Must consider the terms of reference in accordance with which the draft of the SPPs was prepared; and}

(b) \textit{Must consider each representation, in relation to the draft of the SPPs, made under section 23(1) before the end of the exhibition period;}

(c) ...

(d) ...

(e) \textit{Must consider whether it is satisfied that the draft of the SPPs meets the SPPs criteria; and}

(f) ...”.

The SPPs’ criteria are set out in section 15(2)(A) Act as follows:

“\textit{The SPPs’ criteria to be matched by a relevant planning instrument are that the instrument –}

(a) \textit{Only contains provisions that the SPP’s may contain under section 14; and}

(b) \textit{Furthers the objectives set out in the Schedule I; and}
While section 15(3) of the Act purports to limit the effect of the SPP criteria, this only applies to amendments of the SPPs or draft amendments of the SPPs. If this is correct, the Commission is required to assess the adequacy of the first iteration of the SPPs against the SPPs criteria. This is a critical part for the Commission’s task.

This is in line with the Commission’s duty under section 5 of the Act “to perform the function or exercise the power [conferred under the LUPA Act] in such a manner as to further the objectives set out in Schedule 1”.

Whether the SPPs further those objectives is therefore a mandatory relevant consideration of the Commission. It is also by necessary implication a critical consideration of the Commission’s in determining whether to recommend to the Minister that the SPPs be made in a current form or including with any minor amendments.

It is not enough to presume that the SPPs in their current form properly achieve or further the objectives of the Act. Rather this is a matter that the Commission is required by law to specifically analyse in its determination and in making recommendations to the Minister.

It is for this reason, and to provide proper assistance to the Commission, that PIA has chosen to structure its submission in response to the exhibition of the draft SPPs to respond to the objectives of the resource management and planning system of Tasmania.

The full analysis is found as Attachment A to this letter.

It is apparent from this analysis that drafting of the SPPs fails to meet the objectives of the Act in a number of areas. Our members consider that the objectives of the Act are critical to the proper functioning of the planning system.

**Recommendations**

PIA urges the government to adopt its recommendations in relation to the draft State Planning Provisions, set out in Attachment B to this letter. Given the potential for the Tasmanian Planning Scheme to have significant impacts on the State’s economic, social and environmental development, it is critical for the State Planning Provisions to get it right.

PIA has recommended necessary changes to protect our agricultural land and right to farm, to protect our environmental assets and natural values, to advance the State’s economic strategy through activity centre policy and innovation, and to better reflect community values through local area objectives and reforms to heritage controls.

In addition to these changes, PIA urges the government to provide the leadership required to prepare Statewide planning policy, adopted as statutory policy under the State Policies and Projects Act 1993 and implemented through amendments to the SPPs.

There ought to be State policy that applies to the full range of matters to which planning controls apply. However, given the challenges and opportunities facing our State, it is critically important that there be State policy in the areas of climate change adaptation and mitigation, agricultural land use
policy, economic growth, social equity and affordable housing, sustainable transport and achieving high quality urban design in our urban areas.

I would like to take this opportunity to thank Nicole Sommer, Anna Balmforth and Gregoria Taylor in the drafting of this representation, as well as those members that contributed to our consultation sessions.

PIA welcomes an opportunity to discuss the detail of the submission with the Commission, and otherwise seeks to be heard in relation to this representation.

Yours faithfully

Alex Brownlie
MPIA
President Tasmania
Planning Institute Australia
ATTACHMENT A – ANALYSIS OF PROVISIONS

A. PART 1 OBJECTIVES

The objectives of the resource management and planning system of Tasmania are set out in Part 1 of Schedule 1 to the Act.

How do we give effect to these objectives? What are their purpose and how can these objectives be furthered?

The Part 1 objectives were inserted into the Act as the result of the Inter-governmental Agreement on the Environment between all Australian States and Territories, and the Commonwealth. That agreement arose from the Rio Declaration on the Environment and Development in 1992, and the proceeding report on sustainable development, known as the “Brundtland Report”. The IGAE continues to be binding on the State. The IGAE “reflects the policy which should be applied unless there are cogent reasons to depart from it”.¹

It is in that context that the RMPS Objectives ought be viewed.

As an over-arching statement on the draft SPPs, the SPPs do not contain any link between the LUPA Act objectives and how these are to be furthered by the Tasmanian Planning Scheme. From our analysis, this absence is likely to be as a result of the lack of State policy informing the draft SPPs.

In PIA’s view there must be an up-front statement about how the objectives are furthered through the provisions of the SPPs and how the provisions are consistent with State Policies under the State Policies and Projects Act 1993. It is not enough to simply re-state the objectives of the system.

The State Policies made under the State Policies and Projects Act 1993 (SPP Act), including National Environment Protection Measures are also to be given effect. The draft SPPs also do not indicate how these State Policies are implemented.

Further, any new policy made at State level ought also be made as a State Policy under the SPP Act. In this respect, we note that there are two policies to which PIA has made a submission – the draft Climate Change Action Plan and the now final Tasmanian Affordable Housing Action Plan. To the extent relevant, these policies must be incorporated into the planning system. To do so, they must be first made as policies under the State Policies and Projects Act, and then given effect through the SPPs.

In order to achieve the Government’s objectives of creating a “fairer, faster, simpler, cheaper” system, there must be policy leadership at a State level. PIA considers that the planning system can be made “better” through the creation of State policy, and its considered implementation into the planning system.

Finally, if the Regional Land Use Strategies are to be given effect and continue to serve a useful function in the planning system – a function which PIA supports – the government must ensure that the RLUS are properly given effect, are regularly updated and are consistent with statewide policy

¹ BGP Properties Pty Limited v Macquarie City Council [2004] NSWLEC 399 per McClellan CJ at [92], citing Re Drake and Minister for Immigration and Ethnic Affairs (No 2) [1979] AATA 279 at 641.
direction. To do so, there must first be statewide policy, and then there must be the right tools provided in order to implement that policy.

One of the difficulties faced by PIA in drafting this representation is that the draft SPPs are made in the absence of State policy. It is a difficult task to make a representation on whether the SPPs provide the right tools, in a policy vacuum.

Legislative drafting is, as a rule, led by policy. Policy leads regulatory reform. It is not the other way around. The SPPs are a form of delegated legislation and are, in many other jurisdictions, drafted by experienced Parliamentary draftspeople. Without policy to lead the drafting exercise, the SPPs can only be viewed in a vacuum. There can be no certainty about what the purpose of the provision is, nor can there be constructive criticism as to whether the drafting fulfills that purpose.

This is one of the reasons this representation does not always represent a precise change in form that PIA seeks from the Commission, but on occasion represents a broad policy prescription that requires further consideration by the Commission. In these areas, PIA’s recommendation is that further work is undertaken to ensure that the particular planning policy objective is clearly articulated and review of the SPPs is undertaken to implement that objective achieved.

**Objective 1(a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity**

Other jurisdictions can provide useful guidance on how to give effect to the concept of “sustainable development” or as referred to in other jurisdictions “ecologically sustainable development”. In *Bentley v BGP Properties* the Chief Justice of the New South Wales Land and Environment Court found that:

“Ecologically sustainable development is fundamental to meeting the needs of present and future generations. It is a touchstone, “a central element”, in decision-making relating to planning for and development of the environment and the natural resources that are the bounty of the environment: Murrumbidgee Ground Water Preservation Association v Minister for Natural Resources [2004] NSWLEC 399 at 271.”

Consistent with PIA’s national policy setting, the types of planning issues that fall within this objective are:

1. whether the SPPs give effect to climate change policy, both in terms of adaptation and mitigation of the effects of climate change;
2. whether in decision making in respect of land use and use of natural resources there is appropriate consideration of inter-generational affects and impacts on biodiversity values and ecological processes;
3. whether in considering whether the system promotes the maintenance of ecological processes and genetic diversity will undermine those values.

**Action on Climate Change**

PIA’s consultation with its members indicated that the planning profession is concerned and disappointed that there is very little by way of climate policy given effect to in the draft SPPs.

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2 *Bentley v BGP Properties Pty Limited* [2006] NSWLEC 34 per Preston CJ at [57].
The following is PIA’s view on the opportunities presented by planning schemes to facilitate actions to mitigate or adapt to the impacts of climate change.

In saying this, we acknowledge the steps the draft SPPs have taken in the right direction.

PIA supports the renewable energy exemptions in Clause 4.0.1, for certain small-scale renewable energy systems, such as low wattage ground mounted solar panels, roof mounted solar panels, and wind turbines.

PIA likewise supports some of the qualifications on the exemptions. For instance, that rooftop solar is not exempt if the building is subject to the Local Historic Heritage Code.

PIA supports climate change adaptation measures in the draft SPPs including:

- the Statewide adoption of a Coastal Erosion Hazard Code and Coastal Inundation Code which provides consistent controls and certainty to the community as to use and development controls to expect in vulnerable coastal locations; and
- the inclusion of development standards for waterway and coastal protection areas and future coastal refugia areas in the Natural Assets Code.

However, it is our members’ view that more can and should be done. Greater action is not only important to play Tasmania’s part in mitigating the effects of climate change, but importantly, to take the steps that can be taken today to enable our communities to be ready for the unpredictable risks of the future.

PIA has not been able to identify each individual action that should be taken by the Government to respond to climate change through planning controls. However, the value in using the regulatory tools of the planning system must be considered in action taken to mitigate the risk of and adapt to climate change. This is an area that requires State leadership, clearly articulated planning policy, and implementation of policy through planning controls.

**Recommendation:**

1. **Consider the SPPs holistically having regard to the need for it to assist in mitigating the effects of and adapting to climate change.**

**Climate change adaptation**

More can be done to guide planning authorities in exercising discretions in respect of land likely to be impacted by climate change. This includes in applications in coastal areas at risk of inundation by sea level rise and increased storm surge, coastal erosion, and areas likely to be subject to increased bushfire risk.

Planning authorities – as well as communities – need certainty in making decisions in areas at risk. It may be that development in some areas is no longer appropriate, and retreat strategies should be put in place. Planning authorities require those tools to exercise that discretion.
This includes in coastal and bushfire risk areas that have not had the opportunity to have the areas of risk defined. Unless the Coastal Erosion Hazard Code and Coastal Inundation Hazard Code are to be broadly applied, this requires significant financial investment that is beyond most municipalities in the State.

Application in low-lying areas for development have been refused in other jurisdictions. Residential development within the Residential Zone in the town of Lakes Entrance was refused due to flooding risks in *Taip v East Gippsland SC*[^3], by the Victorian Civil and Administrative Tribunal in the absence of a formulated adaptation policy. Planning authorities bear the risk of being held liable for future damage to property if they continue to allow development in at risk areas.

Planning authorities need the ability to exercise a discretion to refuse or appropriately condition development at risk from climate change impacts, in the absence of the expensive strategic and hazard mapping work required to implement adaptation strategies.

A related question is what is the State policy on the planning threshold? That is, at what year is the requisite risk calculated? And according to what IPCC scenario? In other jurisdictions, the State Government has provided this leadership by nominating the figure in the Planning Scheme, for instance, as sea level rise of 0.8 metres by 2100 (which is now considered to be an under-estimate).

There is mention of planning for risks for coastal erosion to 2100 in clause C10.6.2 P1 of the Coastal Erosion Hazard Code. However, this is only in respect of “coastal protection works within a coastal erosion hazard area” and not broadly a nominated figure. It also does not quantify the “risk” to be assessed.

**Recommendations:**

2. **Nominate a planning standard for assessment of risk in the planning scheme by nominating quantitative standards based on the best available evidence; and**

3. **Provide flexibility in all zoning standards to enable an assessment of risk in determining any new application, regardless of whether a Coastal Erosion Hazard Code or Coastal Inundation Hazard Code has been applied; or**

4. **Fund and implement climate risk assessments for each municipality and direct that planning authorities apply appropriate planning controls;**

5. **Revisit controls that may be required to implement an adaptation strategy, including areas planned for protection and for retreat from at-risk areas.**

**Energy Efficiency**

The draft SPPs do not provide for energy efficiency measures or design on sustainability principles. Such measures aim to reduce reliance on centralised energy networks and take advantage in new development of natural heating and cooling.

[^3]: [2010] VCAT 1222; see also *D’Abate v East Gippsland SC & Ors* [2010] VCAT 1320; for more policy analysis on this issue, see *Coastal Climate Change Advisory Committee* [2010] PPV 140.
Energy efficiency measures are not simply to mitigate greenhouse gases through energy consumption. The decentralisation of power sources assists in adapting to climate change, and increases resilience of communities in the event of a breakdown in centralised energy supply.

Our members say that this lesson has never been so relevant as it is now, with members concerned for themselves, their clients, and their communities about the potential for energy cuts over winter due to low dam levels. Whatever the cause of the current energy issues in Tasmania, it is simply evidence of what may happen as weather patterns change. In future, Tasmania may not be able to rely on BassLink to provide energy security. In future, energy from Victoria may be unaffordable or unsustainable for Tasmania.

PIA urges the Commission to consider “future-proofing” measures against such potentialities, including the introduction of energy efficiency measures within the draft SPPs.

**Solar Access**

One such measure is the protection of solar access.

Our members deal daily with clients that are concerned about the lack of protection for sunlight to dwellings in the interim schemes. It is one of the principal reasons why neighbours take planning appeals to the Tribunal opposing neighbouring redevelopment. Access to sunlight is a key concern, particularly in Tasmania.

For this reason, PIA considers that there must be standards that enliven consideration of access to sunlight and that properly balance the right to develop against a neighbouring owner’s right to sunlight. There is concern that:

- setback standards that are acceptable solutions in the Residential Zones do not adequately protect access to sunlight; and
- there are no overshadowing provisions in the Inner Mixed Use Zone or the Central Business Zone, where residential uses are permitted.

Setback standards can provide for access to sunlight, but only if designed to properly account for slope and design of existing and proposed dwellings. As drafted, the setback standards as acceptable solutions do not do this. In particular, they do not properly account for multiple dwelling applications.

For example, the draft General Residential Zone provides a building envelope as an acceptable solution. The envelope at side and rear boundaries is measured at a height of 3 metres above existing ground level, rising at a 45 degree angle to 8.5 metres. Such a building envelope has the potential to cause overshadowing of neighbouring properties. Whether that overshadowing is reasonable is not assessed. It only becomes relevant if the building falls outside the building envelope, triggering the performance criteria. The performance criterion requires consideration of whether the scale of the dwelling causes “an unreasonable loss of amenity through reduction in sunlight to a habitable room of a dwelling on any adjoining property”. There is no objective standard to be met.

Like provisions are found in the other draft Residential Zones.

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4 clause 8.4.2, Acceptable Solution A3, draft SPPs.
5 See PD1
These provisions are not equitable, give rise to conflict between neighbours (in our members’ experience), and do not represent good planning practice.

These provisions also undermine and punish existing landowners who rely on sunlight for daytime heating or light.

There is no practical reason why an overshadowing standard cannot be introduced as an acceptable solution. It is a simple and measurable standard.

**Recommendations:**

6. **Review energy efficiency measures for buildings in urban zoning to require minimum standard measures and incentivise “high achieving” energy efficient buildings.**

7. **Overshadowing standards be re-introduced as acceptable solutions in the Residential Zones, such that habitable rooms and private open space receive 3 hours of sunlight between 9.00am and 3.00pm on the winter equinox.**

8. **There be some consideration to overshadowing of public and private communal open space and solar energy systems in all other Urban Zones.**

**Facilitating Renewable Energy**

Tasmania is fortunate that it relies primarily on renewable energy. In addition to the existing hydro-electricity energy sources, Tasmania has an abundance of renewable sources, i.e. solar, wave and wind.

In a future where weather patterns are likely to be more and more unpredictable, and El Nino cycles likely to be dryer, it may be that our dam levels will suffer the same way they have in the past few years. Our members urge the Government to look to other sources of renewable energy to provide future energy security to the State.

For this reason, PIA submits that more should be done in the draft SPPs to facilitate a transition to a more diverse mix of renewable energy sources.

There are a number of ways in which renewable energy could be further facilitated throughout the draft SPPs, for instance specific use and development controls for renewable energy facilities.

In this respect, PIA refers the Commission to the approach taken in the Victorian Planning Provisions which has particular provisions for renewable energy facilities and wind energy facilities which can be found in clauses 52.32 (Wind Energy Facilities) and 52.42 (Renewable Energy Facilities) of the VPPs.

For instance, it may be appropriate to facilitate renewable energy development on lower value agricultural land (consistent with the PAL Policy). We note that “utilities” is permitted in the Rural Zone but discretionary in the Agricultural Zone under the draft SPPs.

Larger solar and wind energy systems could be permitted in both the Agricultural Zones and Rural Zones subject to controls such as:

- minimum lot sizes, for instance 5-10 hectares, or aggregate lot sizes to account for existing fragmentation;
setbacks from sensitive receptors and roads; and
not unreasonably constraining or impacting on use of agricultural land.

Our members have no view at this stage on how such standards could be measured, however, it is important that the use be permitted, and such uses be allowed through exercise of discretion (e.g. to ensure measureable noise standards are met at dwellings).

Such controls would provide more certainty and facilitate the development of renewable energy within the State, capitalising on our abundant natural assets.

To facilitate small scale solar and wind, for domestic or business use, it is recommended that additional exemptions are made or that particular provisions are applied to assist in such development. It is conceivable that a business in the CBD of Hobart or Launceston could install small-scale solar or wind energy systems on a building, which may trigger a discretionary permit. This should be encouraged and facilitated by the planning system. As outlined below, the access of that building to its renewable resource (e.g. solar) should also then be protected.

Protecting access to renewable energy sources

There are no provisions within the draft SPPs that provide for protection for existing solar access to home-based renewable energy systems. In Residential Zones, development standards only require solar access to be provided to habitable rooms and private open space. There is no protection for solar access for solar energy systems.

There are likewise no protections for solar access in Commercial, Mixed Use, Central Business or Industrial Zones where there may be solar energy systems installed for personal or business use.

It is entirely conceivable that a building could be built next door to a building with roof mounted solar panels installed, and no consideration need be given as to whether solar access to those solar panels will continue into the future. This is inequitable, and acts as a disincentive to people installing home or business renewable energy facilities. This is a matter that ought to be addressed in the final SPPs.

There is precedent in other jurisdictions to protect solar access to solar panels through the exercise of planning discretions. In this regard PIA refers the Commission to John Gurry & Associates Pty Ltd v Moonee Valley CC & Ors [2013] VCAT 1258 and Chen v Melbourne CC [2012] VCAT 1909.

The Tribunal (constituted by Member Martin (a legal and senior member of the Tribunal) commented (at 19):

“I endorse Member Taranto’s observation in Chen that ‘consistent and clear guidance on a statewide basis’ would make the situation much easier for all stake-holders. Having such a framework would provide a more coherent and consistent approach, with much less uncertainty about what constitutes ‘acceptable impacts’.”

PIA endorses this view.
Recommendations:

9. The draft SPPs be amended to permit renewable energy in the Agriculture Zone, as well as the Rural Zone, and include specific development standards to facilitate renewable energy on a commercial scale, with clauses 52.32 and 52.42 of the Victorian Planning Provisions as a guide.

10. The draft SPPs be amended to provide a specific development standard in Urban and Commercial Zones to facilitate low-scale renewable energy in Commercial and Business Zones.

11. The draft SPPs be amended to include new development standards in Residential, Commercial, and Business Zones to protect access to sunlight for existing renewable energy systems.

Maintenance of Ecological Processes & the Natural Assets Code

Many of our members are concerned that the removal of controls preventing the clearance and conversion of native vegetation within Tasmania has the potential to:

- undermine ecological processes and the maintenance of biodiversity values within the State;
- result in a degradation of natural values, which is a major contributor to quality of life and the tourism economy in Tasmania;
- impact on the achievement of the national emissions reduction targets through incremental reduction of the State’s forests; and
- incremental reduction in the nation’s capacity to mitigate the effects of climate change by reduction of tree mass to sequester carbon.

We assume that the controls have been drafted to reflect that:

- the Forest Practices Act 1985 is the primary legislative regulation of clearance and conversion of native vegetation;
- the policy position of the State Government is that the Tasmanian Planning Scheme ought not duplicate regulatory controls; and
- where land is zoned for residential or other urban use and development, that use or development should not be prevented because it is covered by native vegetation, unless that native vegetation is of very high conservation value; and
- the Code therefore only applies to the Rural Zone and the Rural Living Zone.

This is also the rationale behind the removal of the Environmental Living Zone.

In respect of the Forest Practices Act, this policy position is partially achieved through the exemptions provided for in clause 4.0.1 for clearance and conversion of a threatened native vegetation community or disturbance of a vegetation community, in accordance with a forest practices plan, except where subject to the Scenic Protection Code.

Many of our members do not agree that simply because land is zoned to allow an urban or agricultural use that there is an assumption the vegetation on the land can be cleared or converted.

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6 As articulated in the Terms of Reference
Those members are concerned that this does not strike the appropriate balance between development and the environment, nor does it ensure that objective 1(b) of the RMP System is furthered.

The principal concern is that the Natural Assets Code as drafted only applies to “priority vegetation” (and only part of that “priority vegetation” is protected) and only to land in the rural zones.

The explanatory report says that the Environmental Living Zone should be rezoned to Scenic Landscape Zone or the Rural Living Zone in the application of Local Provisions Schedules to land.

It seems likely that most of the southern region land in the Environmental Living Zone will be rezoned to the Rural Living Zone due to the minimum of lot sizes in the Landscape Conservation Zone. This is of particular concern given on members’ feedback that planning authorities are likely to not use the Rural Zone, due to its deficiencies (addressed later), and the Code will have even more limited application.

Members in the Southern Region particularly consider that the RLZ is not a replacement zone for the Environmental Living Zone, and that the ELZ should be retained in the SPPs.

There are two reasons. One is that it is known that there are large areas of vegetation that provide the bulk of breeding habitat for the critically endangered Swift Parrot, namely the *E. globulus* forests of the south-east. The second reason is that the environmental values associated with that vegetation forms part of the local character and what people value about living in that area. Removing the “environmental” part of the Environmental Living Zone undermines these values. By analogy, it is viewed as though protections for agricultural uses are removed from the Agricultural Zones.

In the Rural Living Zone:

- Rural Living Zone A, the minimum lot size is 1 hectare;
- Rural Living Zone B, the minimum lot size is 2 hectares; and
- there are no building envelope standards in subdivision standards of the Rural Living Zone.

In the Natural Assets Code, clearance and conversion of native vegetation on land within Rural Living Zone is permitted within a building envelope or if the clearing and conversion is less than 3,000m².

If lots are subdivided to the minimum lot size, in the RLZ “A” this allows a permit to be granted to clear just under one-third of vegetation on a lot with no assessment. In the RLZ “B”, a person can clear 17% of vegetation on the land with no assessment.

There is no apparent policy or evidence-based reason for permitting such a generous amount of clearance and conversion with no discretion. If it is to allow a person to build a house and clear an asset protection zone for bushfire control, this is achieved through the building envelope acceptable solution, or through exemptions. For instance, the clearance and conversion of native vegetation is exempt in accordance with an approved bushfire management plan approved for a subdivision or development.⁷

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⁷ Pursuant to clause 4.0.1 of the draft SPPs.
A quantitative control of this kind might have a place if the Natural Assets Code applied more broadly. It would sensibly allow responsible development in appropriate areas.

The 3000m² clearing rule is not a proportionate response.

If this exemption is to be maintained, the drafting must be tightened. The acceptable solution for clearing of 3,000m² in the Rural Living Zone is unclear. Potentially, a person could apply for 3 consecutive planning permits to clear 3,000m² of priority vegetation and a planning authority would be bound to approve it. This would allow the whole of a 1 hectare lot to be cleared, and could conceivably result in authorised wholesale land clearing of priority vegetation.

Likewise, as there is no maximum building area for subdivision prescribed in any applicable Zone, a plan of subdivision could potentially show a very large building area, and a planning authority would have no discretion to refuse the application.

These acceptable solutions should be tightened to remove the ability to “game” the provisions of the Code. If they are not, the Commission cannot reasonably form the view that the Code furthers the objective to maintain ecological processes and biodiversity.

It also does not appear to serve any purpose. There is an exemption from clearance and conversion controls in clause 4.0.1 of the draft SPPs if in accordance with an approved bushfire hazard management plan. That will allow room for a dwelling and an Asset Protection Zone to be included in new rural residential development. The 3,000m² and building area development standards achieve no palpable policy purpose.

This exemption must be removed. And in fact, the Code only protects a very small proportion of native vegetation. It applies to “priority vegetation”, which is limited to listed threatened flora, “significant habitat” for threatened fauna, and any “integral part” of a listed vegetation community.

These limitations do not further the objective to promote the maintenance of biodiversity.

The exemptions in the Natural Assets Code go further. They allow clearing of non-priority native vegetation in a priority vegetation area. So non-listed species standing alongside listed flora species can be cleared. This ignores the role that non-listed flora may have in supporting the survival of listed flora.

The exemption in clause C7.4.1(d) is likewise open to interpretation. Does the exemption apply to “pasture or crop production land, vineyard or orchard land” that is existing at the date that the TPS comes into effect? Or is it intended to apply to all future agricultural production, meaning a person can clear land to create pasture, plant crops, to plant a vineyard or orchard.

And what is meant by “land” in, for example, “crop production land”? Does it mean only the area required for crop production? Or is it the whole of the lot, or the whole of the title of the land? The Act defines “land” broadly, and one might read “land” in this context as meaning the land comprising the estate or interest in the land (i.e. the land title).

The Explanatory Document suggests that it is meant to protect existing uses, to “allow existing uses to continue”, for instance “agriculture on existing land”.

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8 As required by Objective 1(a) of Part 1, Schedule 1 to the LUPA Act
If that is the case, clause C7.4.1(d)(i) ought to be replaced with the following:

“(i) On land used for pasture, crop production, vineyard or orchards on the commencement of the Tasmanian Planning Scheme;”

This requires an owner to establish that the land was used for the relevant purpose at the time the TPS commenced, and allows that person to continue to use it for that purpose. It is consistent with section 12 of the LUPA Act.

It is suggested that the exemption should go further. If priority vegetation as currently defined is the only vegetation protected by the Planning Scheme, there should be very strict control on that clearing. These are the most significant environmental values. Clearing exemptions should be to the minimum possible extent. So if there is an existing vineyard on land, the owner should not be able to clear priority vegetation also on the land that is not required for the vineyard. It is anathema to the maintenance of already threatened and protected species and communities. The exemption should only be to the extent necessary to maintain the existing area on the land used for a vineyard, orchard, pasture or crop production.

Such an exemption would be drafted as follows:

“(a) On an area of land used for pasture, crop production, vineyard or orchards on the commencement of the Tasmanian Planning Scheme;

Further, if there is to be this exemption to protect agricultural issues, there is no evidence-based reason why the Code should not apply to land in the Agriculture Zone. If it is intended to protect significant environmental values, which is a laudable policy reason, it should apply regardless of zoning. In PIA’s view, the Natural Assets Code should apply to all zones.

Finally, there is more complexity to the maintenance of biodiversity values, than simply keeping a minute portion of a threatened species alive. The Code does not place any value on native vegetation per se.

PIA does not agree with the approach of briefing the Code’s application to “priority vegetation” in the absence of policy justification. It is contrary to contemporary practice of our colleagues, in the natural resource management and ecological professions.

PIA recognises that there are benefits in standardising native vegetation controls, particularly given the differences between the three regions that exist under the Interim Schemes. However, in PIA’s view and the view of its members, this is not a reasonable compromise.

In PIA’s submission, the Commission cannot be satisfied that the draft SPP will further the objective to ensure the maintenance of ecological processes and protect biodiversity. It will do the opposite.

PIA recommends that the Code be applied to all native vegetation.

**Recommendations:**

12. That the Natural Assets Code be expanded to apply to native vegetation more broadly in all Zones.
13. That the same exemptions be maintained subject to:
   (a) removing clause C7.4.1(c);
   (b) replacing clause C7.4.1(d)(i) with “on an area of land used for pasture, crop production, vineyards or orchards on the commencement of the Tasmanian Planning Scheme”;
   (c) clause 7.6.2 Acceptable Solution A1 be amended to:
      (i) introduce a minimum building area in a sealed plan;
      (ii) remove (b); and
      (iii) retain an Environmental Living Zone.

In the alternative:

14. That the Commission recommend to the Minister that further hearings be held on the policy basis underpinning the Natural Assets Code and the drafting of this provision; and

15. That the existing Biodiversity Codes and Natural Assets Codes remain in the interim (i.e. to preserve the status quo).

**Objective 1(b) to provide for the fair, orderly and sustainable use and development of air, land and water**

A critical part of “fairness” is the degree of public participation provided in the process. We address this below.

Other attributes of “fairness” might include:

- to provide certainty to landowners and occupiers as to the use and development that can reasonably be expected to be approved on their land and on neighbouring land;
- to not provide an advantage to one landowner to the disadvantage of neighbouring landowners, where one person’s interests outweigh the other, without policy support which outweighs the disadvantage suffered (e.g. economic benefits flowing from urban density and consolidation in inner urban areas, economic benefits from protected high value agricultural land); and
- not making decisions today that will adversely impact on future generations disproportionately or unreasonably.

The first two points are the most important here.

**Local area objectives and character**

The choice to include local area objectives in the LPS is an interesting one. There is very limited discretion to allow the local area objectives to be considered, unless for discretionary uses in the business and retail zones.\(^9\) The use of local area objectives in only business and commercial zoning, and only for discretionary uses and retail floor space is strange.

\(^9\) Being as a performance criterion applying to discretionary uses in the Urban Mixed Use Zone, the Local Business Zone, the General Business Zone, the Central Business Zone, the Commercial Zone, the Light Industrial Zone, the General Industrial Zone, and the Major Tourism Zone; and for increases in gross floor area for Bulky Goods Sales and General Retail and Hire in the Urban Mixed Use Zone, the Local Business Zone, the General Business Zone and the Commercial Zone.
This use standard is a result of the proliferation of business and commercial zones with loaded use tables. It would be preferable to limit the uses available for various zones to create a hierarchy of commercial and business zoning, rather than relying on local area objectives to do this work.

Local area objectives should play a role in more than just the commercial and business zones. Indeed, local area objectives together with neighbourhood character statements and objectives should be introduced into the residential zones.

Planning should seek to create common standards but allow local areas to retain what is alternatively called neighbourhood character and streetscape character. Neighbourhood character is what we as members of a community value about the specific areas in which we live, and is driven by building form, vegetation, setbacks, front fencing, side setbacks, parking and access, to details such as rooflines, roof colour and tree retention.

It is beneficial to retain and enhance neighbourhood character, to retain those characteristics that we as citizens value in our streetscapes.

Our members’ view is that if the SPPs remove the discretion to consider neighbourhood character and local area objectives, this will undermine local character. This will not be a good planning outcome.

That said, PIA recognises there should be some areas earmarked for change in character e.g. those areas identified for more intensive residential development. But even in those areas, having a stated desired future character can assist in driving a form of future development desirable for the community as a whole.

These are not roadblocks to development. The consideration of character merely requires built form to be designed having regard to the characteristics of the area, and responding to that area in a sensitive way.

**Recommendations:**

16. **Revise the use tables in the business and commercial zones to provide for a commercial hierarchy.**

17. **Restore development standards in the residential zones that require development to be consistent with neighbourhood character and local area objectives.**

**Heritage**

PIA agrees with the submission of Hobart City Council, which we have been provided, that the “local” Heritage Code should be reconsidered. We agree that this control ought to allow State heritage places to be listed at the local level, and therefore apply this control to the building. To reflect this, it should remain as “Historic Cultural Heritage Code”.

We also consider that the “adjacency” provisions within the Historic Heritage Code be restored.

Cultural heritage in built form is of significance across the State. In accordance with the Burra Charter, development adjacent to a building of heritage significance may significantly impact on the heritage values of that building. Heritage should be protected, as it provides an ongoing link to our colonial past, is one of the foundations of the tourism industry, the intactness of historical built form
setting Tasmania apart from the rest of Australia. It also contributes to neighbourhood character and local values in a planning sense.

**Recommendations:**

18. **Restore the adjacency provisions in the Local Historic Cultural Heritage Code;**

19. **Restore the consideration of State heritage within the planning scheme, and restore the name of the Code to “Historic Cultural Heritage Code”**

**Objective 1(c) To encourage public involvement in resource management and planning**

This objective is fundamental to the planning system.

Specialist Courts and Tribunals have long recognised the benefits of public involvement in decision-making:

“The public interest is served and promoted by the opportunity for citizen and public participation in all aspects of the planning process.”

“Public participation in the development approval process is important if the best possible ecologically sustainable development outcomes are to be achieved.”

Indeed, public participation in administrative decision-making is a principle of international law.

Public participation is given effect through public notice under section 51 of the Act, and through the ability to appeal a decision on the merits afforded by section 62 of the Act.

The importance of these public notification processes is established:

“As I have observed earlier, compliance with the mandatory requirements for notification of development applications is in the public interest. Public participation in the development process is crucial to the integrity of the planning system under the EPA Act and promotes the objects of the EPA Act. It is not to be viewed as a technical and tokenistic speed hump designed to slow but not divert or prevent the inexorable passage of a development application along the highway to approval. To the contrary, if notification is undertaken in accordance with the statutory requirements, the consent authority’s consideration and determination of the development application might change.”

Public participation in planning decision making does not simply mean the giving of notice. Public participation means “meaningful” public participation. Meaningful public participation provides

10 Jenkins v Leichhardt Council [2000] NSWLEC 150 per Bignold J at 23; cited with approval in ADI Ltd v Hawkesbury Council [2001] NSWLEC 193 per Pearlman J.

11 Tweed Business and Residents Focus Group Inc v Northern Region Joint Regional Planning Panel [2012] NSWLEC 166 at 9.


13 Simpson v Wakool Shire Council [2012] NSWLEC 163 per Preston CJ at 102; cited with approval in Tweed Business and Residents Focus Group, op.cit. at 44.
individuals affected by a decision an opportunity to be heard about a proposal that impacts on them (satisfying natural justice requirements) and in appeals processes often results in a better outcome overall.

Discretion allows planning officers to negotiate changes to development between neighbours, either through the public exhibition or in a Tribunal appeal. This allows members of the community to have their say, and also to feel as if they have properly been heard, positively contributing to community cohesion and confidence in decision-makers and the planning system.

Restrictive development standards and lack of discretion, such as those provided for in the draft SPPs, reduces the scope for meaningful public participation. That this is the case is evident from a short period operating the interim schemes.

The access to sunlight issue in the interim schemes is a good example. If a person lives next door to a new development, and the development falls within the building envelope, the person’s ability to object on this basis is severely and unreasonably constrained. That person might receive 4 hours of sunlight pre-development, and only 1 hour of sunlight post-development, but they have no recourse and no right to participate or be heard on that issue.

This is an unjust situation, and undermines the furthering of this critical objective.

If the intention is to remove the ability of a third party participant to object or to reduce appeal rights to the Resource Management and Planning Appeals Tribunal, the policy basis for this move must be made clear. It is creating unjust decisions, and is undermining a central tenet of the planning system and the public’s faith in that system.

That the SPPs as currently drafted have the potential to detrimentally reduce public participation in planning decisions can be seen through looking at the interim schemes. Anecdotally, members of the public find it difficult to understand why their concerns about, for instance, overlooking, overshadowing, apparent bulk and scale of built form, cannot be heard by the planning authority or by the Tribunal.

This is one of the effects of reducing planning principles to performance standards that restrict true discretion, and in particular that restrict the ability to consider matters that will always affect adjoining landowners. Purely discretionary standards enable lay members of the public to have their say about how a decision impacts them, and enhances decision making.

It is also a question of procedural fairness. One of the purposes of a body such as RMPAT, providing merits review for administrative decision-making, is to cure any defect in decision-making for those people that are affected by a decision. If a concern of a person affected is “shut out” by the strict nature of the development controls, that person is not properly being heard in respect of the decision being made.

For instance, if a person builds a house that entirely overshadows the living area and private open space of their neighbor, but is allowed to do so under the development standards, the process “shuts out” a legitimate objection.

The purpose of notice in the planning system, at its most basic level, is to enable people to be heard in relation to decisions about development that will affect them.
If it no longer carries out this function, it is not serving any purpose. It certainly is not furthering the objective of encouraging public involvement in the planning system. It is also not achieving the non-statutory policy objective of this government to create a “fairer, cheaper and simpler” planning system. It finally is not achieving PIA’s stated objective of achieving a “better” system.

There is anecdotal evidence through the NSW and Victorian restrictions on statutory public participation in planning and environmental approvals processes, that resident and interest groups will resort to judicial review to uphold standards in administrative decision-making. This might be through judicial review of planning decision challenges to the Supreme Court. It might also be through challenges to the legislation itself, including delegated legislation such as a planning scheme.

The NSW Land and Environment Court list is made up of numerous judicial review appeals, taken when no recourse can be had to the merits review jurisdiction. Such appeals require the developer and the decision-maker to be involved, and cannot be run with the aid simply of planning professionals, but require Counsel to make out technical legal arguments.

This is not a good outcome. This outcome is significantly more costly, time-consuming and wasteful.

A planning system that incentivises resort to the Supreme Court is one that has ceased functioning the way it ought.

This is to be contrasted with the system put in place to administer the Resource Management and Planning System, through the Tribunal and Commission.

The Resource Management and Planning Appeals Tribunal runs a relatively straightforward and efficient appeals process. While it can be frustrating for developers, 83% of planning appeals are mediated, from which one can infer mutually acceptable planning outcomes are achieved 83% of the time. The remaining 17% of appeals are determined by an independent umpire in the form of 3 expert members. In such appeals, there must be a reasonable basis for the appeal or costs can be awarded. One must assume that the matters that proceed to hearing have a reasonable basis. The ability of a third party to review a decision on the merits, and have the development approval upheld, provides a greater social license for controversial decisions.

It is PIA’s view that the merits review role of the Tribunal should be maintained, and that discretionary applications enliven consideration of the issues with which a community or adjoining landowner are concerned are likely to be concerned about. The maintenance of this balance is a necessary part of the planning system.

That is not to say that a discretionary system be open-ended. There should be planning principles and policy that guide the exercise of discretion (e.g. hours of sunlight at the winter equinox, urban consolidation objectives). As members of the planning profession, our experience is that such clear policy formulation is simpler for a lay person to understand and accept than restrictive standards. This builds confidence in the planning system, rather than undermining it.

While there is benefit in this reductionist approach, in that it provides greater certainty to permit applicants, the right balance needs to be struck.

The Commission ought to consider whether in the drafting of the Residential Zones, the correct balance has been struck between certainty and the objective of encouraging public participation in planning decisions.
**Recommendations:**

20. Review the draft SPPs to ensure that meaningful public participation is provided.

21. Review development standards in residential zones to ensure that neighbouring landowners are afforded a right to meaningfully be heard on development affecting them.

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**Objective 1(d) To facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)**

The planning system is a tool available to facilitate economic development. It can provide for innovation and growth, and direct economic development to invest in the right locations.

**Activity Centre Policy**

By way of example, the activity centre policy outlined in Hill PDA Study of Activity Centre Network\(^{14}\) aims to direct economic activity into specific “activity centres”. This will only be successful if it drives planning decisions to increase residential density in activity centres, and drive investment into the facilities and services needed to grow business in the activity centre.

PIA supports the use of zoning as the primary tool to direct use and development. This is a fundamental tenet of the planning system.

If the intention is to achieve activity centre policy through zoning and appropriate strategic planning, PIA supports this approach. However, we are concerned that the controls within the Zones are not adequate to implement the Activity Centre Policy.

In saying this, we note that it is not clear what status this document has in the planning system.

The Zones that we assume are to be used for activity centres are:

1. Village Zone;
2. Urban Mixed Use Zone;
3. Local Business Zone;
4. General Business Zone;
5. Central Business Zone; and
6. Inner Residential Zone.

We assume that Inner Residential Zone and the Local and General Business Zones support the activity centres or are to be applied to activity centres.

**Minimum Site Area**

\(^{14}\) And forming part of the explanatory memorandum exhibited with the draft SPPs.
A question for the Commission to consider is whether the zones are sufficient to drive urban consolidation objectives in accordance with the activity centre strategy.

One of the drivers of urban consolidation is site area for dwellings, which will be a determiner of single dwellings on a lot, multiple dwelling units, and multiple dwellings in apartment buildings.

The minimum site areas in residential and inner urban zones, are 325m$^2$ in the GRZ and 200m$^2$ in the IRZ, with no site area for dwellings in the UMUZ or the CBZ.

A Victorian Departmental review of apartment sizes indicates that in Melbourne, the average 2-bedroom apartment is 70-90m$^2$. Single bedroom apartments are 40-60m$^2$. Only penthouse apartments are close to 200m$^2$.

Apartment developments may not have traditionally been a large part of the housing offer in Tasmania but, at least in Hobart, there is an increasing market for high quality 1-3 bedroom apartments.

A diversity of residential choice also drives increased options for first-home owners to enter the market at affordable prices. This achieves more than just economic objectives for developers, and is fundamental to planning policy.

Do the minimum site areas in the GRZ and IRZ appropriately drive urban consolidation objectives? What is the basis for a minimum site area of 325m$^2$ and 200m$^2$? Presumably it is because “multiple dwelling” applies to both unit development (where those site areas may be appropriate) and apartment development (where those site areas are too large).

Part of driving economic growth within urban areas is by truly achieving density in the GRZ and IRZ.

PIA supports higher density development in strategically identified areas. Planning policy aims to drive economic activity into activity centres through increased densification of residential development to increase local populations in employment centres, where there is a confluence of the services and facilities needed to support a large population base.

This objective needs to be balanced by good design. Good design can ensure amenity outcomes for residents, reduce impacts to neighbours, and mean that new development is a positive addition to the streetscape.

PIA considers that greater consideration should be given to the minimum site area in the General Residential Zone and Inner Residential Zone.

The lack of site areas in the CBZ and UMUZ may also fail to achieve those objectives. It is important that, where residential uses are allowed, that the appropriateness of that residential development be assessed. Conversely, there is a minimum lot size standard in the UMUZ of 300m$^2$ and in the CBZ of 45m$^2$. These are two conflicting standards. Presumably the CBZ lot size standard should be replicated in a dwelling site area standard in both the CBZ and UMUZ.

If that were done, it would be strange then for the minimum site area in the Inner Residential Zone – being the zone where one might expect medium to high density residential development – to be 200m$^2$. 
It is submitted that the differences arising between the residential zones’ use of site area are due to the failure of the standards to differentiate between different types of multiple dwelling development.

Unit development and apartment development call for different standards, and how those standards are to be properly drafted is a matter the Commission should properly consider.

One option worth considering is for particular development standards to apply to apartment buildings, for example of 2 or 3 storeys or greater. The multiple dwelling standards designed for unit development are not directly applicable to apartment development. The SPPs should be forward looking and provide separate development controls for apartments, with appropriate standards.

The achievement of activity centre policy is an important policy measure and the Commission ought to consider whether the zones provide sufficient flexibility to achieve those objectives.

Recommendation:

22. Draft new development standards specifically for apartment buildings of 2 storeys or more in each Residential Zone, the Central Business Zone and the Urban Mixed Use Zone that:
   (a) Specify an appropriate minimum site density for dwellings in apartment buildings;
   (b) Specify height and setback controls appropriate to apartment buildings in these zones;
   (c) Address other planning policy considerations, including achieving good urban design, activating frontages, passive surveillance, landscaping, water sensitive urban design, housing diversity, and transit-oriented design;
   (d) Require consideration of local area objectives and neighbourhood character.

23. Consider the appropriateness and consistency of the nominated minimum site area and lot size controls in the General and Inner Residential Zones, the Urban Mixed Use Zone and the Central Business Zone.

Innovation and urban design
PIA urges the Commission to consider whether the performance-based standards adopted in the business, Urban Mixed Use Zone and Inner Residential Zone provide sufficient flexibility to drive economic innovation.

Development controls are rigid and reward box-ticking development. Development standards should be designed to reward high quality urban design, and design that is sensitive to its surrounds. High quality urban design has the potential to add value to activity centres, and form a positive part of the streetscape. Box-ticking buildings can have the opposite effect. One only has to walk through the Hobart CBD to comprehend this.

By way of example, in the Urban Mixed Use Zone, if the acceptable solution for building height is not met, i.e. the building is more than 10 metres high, the building height must be:

- on the one hand, compatible with the streetscape and character of development in the area, having regard to, *inter alia*, “height, bulk and form” and “apparent height”;

• on the other hand, not cause an unreasonable loss of amenity through overshadowing, privacy impacts or visual impacts.\textsuperscript{15}

Similar setback controls apply, again with a focus on “compatibility” of setbacks with existing development.

These controls ask only for “no detriment”, or for the lowest common denominator building design. The building could be a blue box 10 metres by 10 metres with 3 metre setbacks and it could be approved. The controls do not seek to create good or high quality urban design in the streetscape, or provide for development at a range of forms. Such a system relies upon developers to apply design rigour to their development, which will not be done unless to suit their economic model.

This form of control does not reward developers for taking design risks and producing high quality design. Developers who seek to push design boundaries are punished, to the detriment of the community. There ought to be incentives in the SPPs to provide high quality design provided through acceptable solutions, and if not then provide for flexibility for high quality urban design through performance criteria. If the height control is 8 metres and a proposed building is 20 metres, the performance criteria should allow it to be of that height if it adds value to the character of the area, is of high quality design or creates a point of interest. The criteria should be positive criteria, where calling for something more than the tick-a-box development.

The types of urban design qualities that might be considered include:

• sustainable building design – e.g. a 6 star (or higher) building;
• water sensitive urban design – e.g. in apartments, achieving higher form but providing more permeable space onsite;
• architectural merit;
• development that enhances streetscape or local character.

PIA considers that there ought to be more flexibility within the system to allow for and encourage design innovation. It is planning policy to encourage high quality urban design through the planning system. This policy is missing from the draft SPPs.

\textit{Recommendation:}

24. Provide greater discretion in the height, setback and design performance criteria in the Urban Mixed Use Zone, the Inner Residential Zone, the Central Business Zone and other “activity centre” Zones to allow controls to be varied for high quality urban design.

\textbf{Active street frontages}

Likewise, the design standards in the Urban Mixed Use Zone in clause 13.4.3\textsuperscript{16} can be improved.

\textsuperscript{15} Clause 13.4.1 Performance Criteria P1 and P2 of the Urban Mixed Use Zone.
\textsuperscript{16} And replicated in slightly varying terms in the Local Business Zone at clause 14.4.3, the General Business Zone in clause 15.4.3, the Central Business Zone at clause 16.4.3, and the Commercial Zone at clause 17.4.3.
The intent of the design standards in (a), (b), (f) and (g) appears to be to activate street frontages at the ground level. If so, this is of merit. If the intent of (c) is to contribute to the streetscape and create visual interest, this is also of merit.

These are important urban design principles:

“Good-quality active frontages can contribute to creating successful public spaces, which can help deliver far-reaching benefits for towns and cities.”

The NSW Model Provision for active street frontages might be a little simplistic, but is effective:

“Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.”

Active street frontages have economic benefits to the local community, and in Hobart in particular, to the State. They create vibrant, liveable, walkable, and safe streets, and stimulate local economies.

Also important is the appearance of the building to the street, which is important for buildings of 2 or more storeys. If the building is too bulky and does not have a sufficient setback, landscaping or greater articulation may be needed to break up the appearance of scale and bulk from the streetscape.

The controls as drafted again do not achieve those policy objectives. The controls ask for the minimum requirements, doors on street frontages, glassed windows and provide awnings of footpaths. It says nothing of uses on ground floors, design for interest or impart any positive requirement to consider activating street frontages in the design stage of a development.

Recommendation:

25. Review the design development standards in Activity Centre Zones to ensure active street frontages are created and including by reference to:
   (a) activating street frontages in performance criteria for front setbacks (e.g. clause 13.4.2 P1 in Urban Mixed Use Zone);
   (b) ensuring that for buildings of 2 or more storeys, apparent bulk and scale from the street is reduced through good urban design, which may include a combination of upper level setbacks, materials and articulation, and landscaping.

Major Tourism Zone

PIA supports the policy objective (if that is what is intended) that tourism is a fundamental part of the Tasmanian economy that ought to be protected through the planning system.

PIA does not support the inclusion of a Major Tourism Zone in the SPPs.

17 “The relationship between the quality of active frontages and public perceptions of public spaces”, Emma Heffernan, Troy Heffernan and Wei Pan, Urban Design International 19, 92-102
Member feedback is that the Major Tourism Zone has limited utility and could in fact inhibit tourism and innovation. It was said by members that successful tourism is not something that can be zoned or planned for. It is rather part of the vibrancy of a city (in the context of the Hobart wharf district) or due to some natural advantage (in the case of Cradle Mountain).

In each case, the underlying value of the place is what should be recognized through zoning. For instance, Salamanca Place is an activity centre containing a mix of residential, commercial, food services and bars and restaurants. One would expect it to be zoned Urban Mixed Use. If that does not provide sufficient flexibility in terms of the discretionary uses, perhaps amendments ought to be made to the Urban Mixed Use Zone, or perhaps a Specific Area Plan ought to be applied.

It is the view of PIA members that this form of zoning undermines the system of zoning, and has the potential to stifle innovation.

It was also said that any area that is designated for tourism, very quickly becomes unattractive to tourists. This form of sterile tourism environment is not why people are attracted to Hobart. They come here for its vibrancy and its natural values.

Recommendation:

26. Remove the Major Tourism Zone and consider whether other planning zones and particular provisions are sufficient to address the intended implementation of this zone.

Agricultural zoning

PIA does not support the introduction of two zones to be applied to agricultural land.

Tasmania’s agricultural industry is significant not only for the State of Tasmania but to Australia’s national food security and economic viability. It is therefore important to protect our agricultural land through proper planning controls, and ensure that this land is not made vulnerable to opportunistic future development or subdivision. Subdividing agricultural land or allowing uses that inhibit the sustainability of existing farming practices puts Australia’s food security at risk, and undermines one of Tasmania’s key economic assets.

The objective of the current Rural Zones in the interim schemes is to reinforce and enhance not only the right to farm but also to look after and maintain the uses and farming practices on agricultural land that are much valued to the land holders of land in this zone and valuable to the broader community.

It is particularly important that we maintain confidence in the planning system in our agricultural community, that we give clarity to those in rural and regional communities whose livelihoods depend on existing farming practices not being marginalized as a result of conflicting land uses potentially being approved on nearby land, through the protection of our agricultural land.

Our membership is concerned that the proposed changes to the Rural Resource Zone and proposed implementation of the Agricultural Zone is not based on evidence based studies that indicate that the current zones are not achieving this outcome.
Given the possible implications which could fetter the sustainability and longevity of agricultural uses to farming more broadly in Tasmania, it would be prudent to firstly, undertake detailed strategic planning and strategy development to inform whether any changes to the rural land use system is required, and secondly, if change is required because a specific element in the Rural Resource Zones is not working well then it is critical that policy makers provide a detailed implementation planning strategy and policy, that is subject to input from key agricultural planning experts and key stakeholders who might be affected by any such changes.

The only equitable and transparent way to do this would be for any proposed changes that might affect current uses in the rural zone is to go through an independent transparent process where key experts could make representations that would inform a robust strategic policy and in turn statutory planning outcome.

The principal planning policy objective should be that the permanent removal of productive agricultural land from the State’s agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors. This includes through subdivision, rural residential development, tourism development or other non-productive uses of agricultural land.

Introducing a split between the Rural Zone and Agricultural Zone brings with it the potential to increase subdivision and fragmentation of agricultural land, and decrease agricultural productivity. The number of discretionary uses in the Rural Zone is not supported. The planning system must protect the productive capacity of agricultural land as a priority.

PIA does not support the introduction of a Rural Zone. It will result in a “second tier” of agricultural land, which undermines the integrity of agricultural land in Tasmania.

**Recommendation:**

27. **Review the policy differences sought to be achieved between the Rural and Agricultural Zone.**

28. **Undertake a detailed independent process to inform future agricultural planning policy and statutory planning controls through the SPPs.**

As demonstrated above, a number of the Part 1 objectives are not met in the current revision of the SPPs. The recommendations we make in respect of each are the minimum requirement to meet the objective on each occasion.

**PART 2 OBJECTIVES**

The Commission must also consider the “Part 2 objectives”, being the objectives of the planning process established under this Act.

Our analysis against each objective follows. In many respects, the issues raised in respect of the Part 1 objectives apply and we will simply rely on those representations where relevant.

*Objective 2(a) to require sound strategic planning and coordinated action by State and local government; and*
The SPP process will require significant strategic planning work at the local level in order to properly implement the SPPs through Local Provisions Schedules. The Act clearly provides for this, and the Commission’s hearings it is hoped will provide more insight into the detailed workings of the draft SPPs.

On the negative side, it is currently unknown and unknowable how much local variation will be allowed. For instance, it appears to often be said that problems with the draft SPPs will be overcome through a Specific Area Plan. The Central Business Zone might be one example of this, with 20 metres being too low a height control for Hobart’s CBD, and too high for Launceston. If a SAP is prepared, does this undermine the policy intent for zones to be the primary driver of land use and development? The explanatory document and the Act both seem to suggest that SAPs will only be used in rare circumstances.

Secondly, sound strategic planning has not been done to inform the planning tools provided by the draft SPPs. To the extent that the Local Provisions Schedules will be based in sound strategic planning, they may be driven by the Regional Land Use Strategy. However, there is a disconnect between the RLUS across the regions, and the draft SPPs. Members expressed frustration about whether the RLUS were likely to be updated, and whether the State was going to provide a comprehensive State policy framework.

**Objective 2(b)**

to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and

PIA supports the introduction of a single statewide planning system, in that is has the capacity to deliver a greater level of consistency to the planning system.

However, the policy principle on which the draft SPP is based – that duplication should be avoided – undermines the centrality of the planning system as “the principal way of setting objectives, policies and controls for the use, development and protection of land”.

Rather, in parts, it defers to other legislative systems to regulate land use and development. This is the case in the Forest Practices Act 1984 for land clearing, the Local Government (Building and Miscellaneous Provisions) Act 1995 for subdivision design, the Historic Cultural Heritage Act for State heritage places, the non-statutory RAA process for development in national parks.

This policy approach is contrary to this Part 2 objective.

The planning system according to the objectives of the system, should be the “principal way” of regulating land use and development. If anything, those legislative (and quasi-legislative) systems should defer to the planning system.

The intention of the planning system can be – and should be – to integrate the assessment of any particular activity on land, to consider all the consequences of an action at once, and allow for the public to have an opportunity to be heard in that decision-making process. The devolution inherent in the draft SPPs – and required by the policy prescription in the terms of reference—undermines the achievement of this objective.

The Commission cannot be satisfied that this objective is furthered by the draft SPPs.
Objective 2(c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land

Environmental effects is broad and includes emissions to air, land and water, effects of clearing or disturbance to vegetation, effects of run-off to waterways, impacts on cultural heritage (European & indigenous).

There is limited scope under the SPPs to consider effects to the environment, unless the application is for a Level 2 activity.

Level 2 activities require the assessment of individual large-scale industrial or polluting agricultural activities. The effects to the environment of smaller-scale operations in urban environments, urban development or less intensive agricultural uses are not assessed in the same way.

The Attenuation Code is in principle supported. It allows consideration of the environmental effects of smaller-scale Level 1 uses. However, it should apply to the Light Industrial Zone, the General Industrial Zone and the Utilities Zone.

It does not make sense that any use may have an “unreasonable impact on amenity or unreasonable impacts on health and safety”, simply because of its zoning. It is correct to say that a residential use abutting an industrial zone ought to expect lower amenity standards. But it cannot be correct that such uses can cause unreasonable amenity impacts and be unregulated by the planning system.

There is an apt example of this from the Victorian system. There was a use in the Light Industrial Zone of the Maroondah Planning Scheme that was adjacent to a large area in the General Residential Zone. The use involved the shredding of cars in a car shredder, and storage and processing of metal recycling. The car shredder was not properly maintained, resulting in explosions and emissions to air, with the sound pressure waves (or vibrations) of which were felt in the adjacent residential area.

If there was no requirement to consider amenity impacts in issuing the permit, the use may have continued unregulated, to the detriment of the community. As it was, a condition was imposed on the permit required that an industrial use be permitted but not adversely affect the amenity of the area. This gave the Council and residents some recourse to action in those circumstances.

In the Light Industrial Zone of the SPPs, “Manufacturing and Processing” is a permitted use class. This might include “fuel burning”, which requires separation distances between 100 and 1000m.

It must be the case that this gives rise to a consideration of amenity impacts at some point prior to approval, if proposed within the attenuation distances to sensitive uses.

It is not enough to say that if the use once commenced causes environmental harm, the EPA can simply take action under the EMPC Act. Another purpose of the planning system is to ensure that environmental effects are assessed up-front in order that the regulated, the regulator and the community are all clear about the limits of that use and development.
For this reason, it is recommended that the exemptions for the Light Industrial Zone and General Industrial Zone in clause C9.4.1(a) be removed, and the exemptions for Port and Marine Zone and Utilities Zone be amended. It is recommended that clause C9.4.1(a) be replaced as follows:

“activities and uses listed in Tables C9.1 and C9.2 within the Port and Marine Zone or Utilities Zone if the attenuation distance specified for a Level 1 Activity is met”.

The Attenuation Code only properly addresses emissions to air.

There are also issues with emissions to land and water, and with the impact of the proposed development on land and water, e.g. through removal of vegetation, conversion of land to hard-surface, and run-off resulting from those activities.

This is not to say that all Level 1 uses be submitted with an environment effects report. Rather, the issue is that the SPPs do not provide a tool that allows a holistic consideration of environmental effects, or the discretion to where relevant.

This includes in the removal of native vegetation, in general terms.

The deficiencies identified above can be addressed through development controls in appropriate zones, for instance, in residential and rural zones. Some of these issues can also be in the Natural Assets Code. The latter has some benefits, in that it becomes the single code for all controls relating to “natural assets”. While the Code goes some way to achieving this already, it ought to, at a minimum, be extended to deal also with clearance and conversion of native vegetation.

Likewise, there is no capacity for consideration of social or economic effects when decisions are made about the use and development of land. The limits on discretion mean that the “merit” in the true sense of the word is not relevant in determining a development application. One’s mind can only be turned to the performance criteria. Nothing more.

This is one of the retrograde steps taken in the draft SPPs. Allowing for discretion in planning decision-making results not only in better decisions (and ones that comply with the objectives of the RMP system), but allow for the environmental, social and economic benefits of an action to be considered.

That would mean, for instance, that in approval a new tourism development, the benefits of the new development to the economy of the State would be relevant, including jobs created and investment. Any environmental impacts would be off-set against those economic benefits. That allows for innovative economy-driving development.

Or, where a developer proposes to revegetate land and it results in a better community outcome, this should be rewarded by the planning system.

The standards-driven approach found in the draft SPPs incentives only box ticking development which are generally poor outcomes in terms of design and innovation.

**Objective 2(d)** to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and

PIA considers that this objective is furthered in the provision of a single statewide planning scheme and supports the approach taken by the State government in this respect.
PIA relies on its previous representations that in developing that planning system, the controls ought to be led by integrated statewide policy, to which regional land use strategies and local planning provisions can respond.

**Objective 2(e)** to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and

We rely on our submission in respect of objective 2(b), that is, the planning system should be the central tool to provide for integration and consolidation of statutory approvals. That is not achieved through the policy principles underpinning the SPPs.

**Objective 2(f)** to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and

Health and wellbeing objectives are found in the nexus between the social determinants of health and the built environment.

The missed opportunity in the SPPs context, is that the urban zones in the draft SPPs do not further or promote a built environment that achieves these goals.

In terms of promoting the health and wellbeing of Tasmanians, the SPP controls should encourage active living, equity in travel, a diversity in housing densities, diverse uses, access to healthy and locally grown food-sources.

To provide a pleasant environment, the SPPs should be encouraging greening of the urban landscape, retention of street trees and trees on existing lots, retention of vegetation on green-field sites, and design on water-sensitive urban design principles. It should also promote good urban design outcomes.

Promoting community safety requires consideration of passive surveillance in design of buildings and subdivisions, ensuring that public open space in new subdivision is provided on appropriate land, ensuring that new housing does not create dark alleyways.

There are many more planning policy objectives that fall within the meaning of this objective, but these are some of the key ones.

In order to further this objective, the draft SPPs should be driving these forms of policy outcome. However, the draft SPPs are largely silent on these policy objectives.

The recommendations PIA has made in respect of activity centre policy, the natural assets code, urban design and urban density (infill development), ought to be adopted in order to further this objective.

There is more that can be done, however, in this respect. It is recommended that the urban zones in the draft SPPs be reviewed by the Commission to integrate health, affordable housing, urban design, transit-oriented design, and environmental considerations including tree retention and water-sensitive urban design principles.
Recommendation:

29. Review the urban zones within the draft SPPs to integrate health, affordable housing, urban design, transit-oriented design and environmental considerations, including tree retention and water-sensitive urban design principles, in order to promote the health and wellbeing of all Tasmanians and its visitors, and ensure a pleasant, efficient, and safe environment.

**Objective 2(g)**

to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and

We refer to our submission in relation to the Local Historic Heritage Code in this respect.

**Objective 2(h)**

to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and

**Objective 2(i)**

to provide a planning framework which fully considers land capability.

We refer to our submission on the agricultural zones above. The planning framework must assess land capability in considering a proposal to subdivide or develop agricultural land. The Rural Zone is simply not supported as it does not allow for this consideration in any appropriate way.
# ATTACHMENT B – RECOMMENDATIONS

## RECOMMENDATIONS

### PART 1 OBJECTIVES

<table>
<thead>
<tr>
<th>Action on Climate Change</th>
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<tbody>
<tr>
<td>1. Consider the SPPs holistically having regard to the need for it to assist in mitigating the effects of and adapting to climate change.</td>
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<tr>
<th>Climate Change Adaptation</th>
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<tr>
<td>3. Provide flexibility in all zoning standards to enable an assessment of risk in determining any new application, regardless of whether a Coastal Erosion Hazard Code or Coastal Inundation Hazard Code has been applied.</td>
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<tr>
<td>4. Fund and implement climate risk assessments for each municipality and direct that planning authorities apply appropriate planning controls;</td>
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<td>5. Revisit controls that may be required to retreat from at risk areas.</td>
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<tr>
<th>Energy Efficiency &amp; Solar Access</th>
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<tr>
<td>6. Review energy efficiency measures for buildings in urban zoning to require minimum standard measures and incentivise “high achieving” energy efficient buildings.</td>
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<tr>
<td>7. Overshadowing standards be re-introduced as acceptable solutions in the Residential Zones, such that habitable rooms and private open space receive 3 hours of sunlight between 9.00am and 3.00pm on the winter equinox.</td>
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<tr>
<td>8. There be some consideration to overshadowing of public and private communal open space and solar energy systems in all other Urban Zones.</td>
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<tr>
<th>Facilitating Renewable Energy</th>
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<td>9. The draft SPPs be amended to permit renewable energy in the Agriculture Zone and include specific development standards to facilitate renewable energy on a commercial scale, with clauses 52.32 and 52.42 of the Victorian Planning Provisions as a guide.</td>
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<tr>
<td>10. The draft SPPs be amended to provide a specific development standard in Urban and Commercial Zones to facilitate low-scale renewable energy in Commercial and Business Zones.</td>
</tr>
<tr>
<td>11. The draft SPPs be amended to include new development standards in Residential, Commercial, and Business Zones to protect access to sunlight for existing renewable energy systems.</td>
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<tr>
<th>Maintenance of Ecological Processes &amp; the Natural Assets Code</th>
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<tr>
<td>12. That the Natural Assets Code be expanded to apply to native vegetation more broadly in all Zones.</td>
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<td>13. That the same exemptions be maintained subject to:</td>
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</table>
(a) removing clause C7.4.1(c);
(b) replacing clause C7.4.1(d)(i) with one of the three iterations recommended above;
(c) clause 7.6.2 Acceptable Solution A1 be amended to:

| (i) introduce a minimum building area in a sealed plan; |
| (ii) remove (b); and |
| (iii) retain an Environmental Living Zone. |

In the alternative:

14. That the Commission recommend to the Minister that further hearings be held on the policy basis underpinning the Natural Assets Code and the drafting of this provision.
15. That the existing Biodiversity Codes and Natural Assets Codes remain in the interim (i.e. to preserve the status quo).

**Local Character and Local Area Objectives**

16. Revise the use tables in the business and commercial zones to provide for a commercial hierarchy.
17. Restore development standards in the residential zones that require development to be consistent with neighbourhood character and local area objectives.

**Heritage**

18. Restore the adjacency provisions in the Local Historic Heritage Code.
19. Restore the ability for State heritage to be listed at both the State and local level and the name of the Code to “Historic Cultural Heritage Code”.

20. **Public Participation** Review the draft SPPs to ensure that meaningful public participation is provided.
21. Review development standards in residential zones to ensure that neighbouring landowners are afforded a right to meaningfully be heard on development affecting them.

**Urban Consolidation Objectives & Activity Centre Policy**

22. Draft new development standards specifically for apartment buildings of 2 storeys or more in the General and Inner Residential Zones, the Central Business Zone and the Urban Mixed Use Zone that:

| a) Specify an appropriate minimum site density for dwellings in apartment buildings; |
| b) Specify height and setback controls appropriate to apartment buildings in these zones; |
| c) Address other planning policy considerations, including achieving good urban design, activating frontages, passive surveillance, landscaping, water sensitive urban design, housing diversity, and transit-oriented design; |
| d) Require consideration of local area objectives and neighbourhood character. |

23. Consider the appropriateness and consistency of the nominated minimum site area and lot size controls in the General and Inner Residential Zones, the Urban Mixed Use Zone and the Central Business Zone.
## Innovation and urban design

24. Provide greater discretion in the height, setback and design performance criteria in the Urban Mixed Use Zone, the Inner Residential Zone, the Central Business Zone and other “activity centre” Zones to allow controls to be varied for high quality urban design.

## Active street frontages

25. Review the design development standards in Activity Centre Zones to ensure active street frontages are created and including by reference to:
   (a) activating street frontages in performance criteria for front setbacks (e.g. clause 13.4.2 P1 in Urban Mixed Use Zone);
   (b) ensuring that for buildings of 2 or more storeys, apparent bulk and scale from the street is reduced through good urban design, which may include a combination of upper level setbacks, materials and articulation, and landscaping.

## Major Tourism Zone

26. Remove the Major Tourism Zone and consider whether other planning zones and particular provisions are sufficient to address the intended implementation of this zone.

## Agricultural Zoning

27. Review the policy differences sought to be achieved between the Rural and Agricultural Zone.

28. Undertake a detailed independent process to inform future agricultural planning policy and statutory planning controls through the SPPs.

## PART 2 OBJECTIVES

### Health and Wellbeing

29. Review the urban zones within the draft SPPs to integrate health, affordable housing, urban design, transit-oriented design and environmental considerations, including tree retention and water-sensitive urban design principles, in order to promote the health and wellbeing of all Tasmanians and its visitors, and ensure a pleasant, efficient, and safe environment.