

## **DRAFT STATE PLANNING PROVISIONS SUBMISSION**

This submission has been prepared in accordance with the following requirements of the Resource Management and Planning System of Tasmania:

### **LAND USE PLANNING AND APPROVALS ACT 1993**

Section 32.(1) An amendment of a planning scheme –

- (a) must seek to further the objectives set out in Schedule 1; and
- (b) must be prepared in accordance with State Policies made under section 11 of the State Policies and Projects Act 1993 (in this case in particular the State Coastal Policy)
- (c) may make any provision which relates to the use, development, protection or conservation of any land.

### **SCHEDULE 1- OBJECTIVES**

#### **PART 1 OBJECTIVES OF THE RESOURCE MANAGEMENT AND PLANNING SYSTEM OF TASMANIA**

- 1.(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.
  - (c) to encourage public involvement in resource management and planning
- 2.(b) safeguarding the life supporting capacity of air, water, soil and ecosystems
  - (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

The content of our submission is made up of the following:

1. Comments on the process of reviewing/changing Planning Schemes in Tasmania
2. Submissions regarding the proposed new Statewide Planning Scheme
3. A Statewide Biodiversity mapping report by Nick Fitzgerald
4. A Summary of the Science supporting conservation planning in Tasmania by Dr Peter McQuillan
5. Supporting documents
  - (a) The Importance of Ecological Processes for Terrestrial Biodiversity Conservation in Tasmania- a Review by P.B.Mcquillan, J.E.M Watson, N.B Fitzgerald, D. Leaman and D. Obendorf
  - (b) Break O Day Priority Habitat Mapping Project by N. Fitzgerald (an example of Biodiversity planning at a municipal level)
  - (c) Land Use Plan by the North East Bioregional Network (an example of a Conservation Action Plan which explicitly considers ecological processes and informed the Break O Day Priority Habitat Mapping Report)

## **THE PROCESS**

We need to record here that the Statewide Planning Reform process has not been in keeping with the stated objective under Schedule 1 of encouraging public involvement. Consultation has been selective and undertaken mostly with individuals and groups with a vested interest in development outcomes. In addition the appointment of Mary Massina to head the Planning Reform Taskforce to oversee the Statewide Planning Reform process was unacceptable. The reason for this being that for five years prior to her appointment she had been a high profile representative of the Property Council of Australia advocating for “planning reform” on behalf of developers interests. This has meant that the process cannot be viewed as independent and representing a balanced assessment of development versus conservation issues or private /self interest v the public interest.

We are also concerned that the Regional Land Use Strategies are considered to be valid and independent documents when in the case of the Northern region for example the

“process” was run by Northern Tasmania Development (NTD) which has a clearly pro development bias. Similarly local government plans such as the Break O Day Councils Land Use and Development Strategy fail the due process test and should not be given any weight when assessing Local Planning Provisions.

## **DRAFT TASMANIAN PLANNING SCHEME**

### **CODES**

#### **C7.0 The Natural Assets Code**

The Natural Assets Code is an amalgamation of the previous Biodiversity and Water Quality Codes. Before commenting further on the new Code it is relevant at this point to note (yet again) a glaring deficiency in the LUPA Act which is the number of current land use exemptions such as Aquaculture, Dams, Mining Exploration, Forestry on Public and Private Land etc. Such exemptions mean that the Objectives of Schedule 1 in relation to encouraging public involvement in resource management and planning as well as the maintenance of ecological processes and genetic diversity and the overall protection, management and restoration of the environment cannot be met.

- All land uses must be incorporated under LUPA in order to meet the requirements of Schedule 1

#### **Comparison of Biodiversity Code and Natural Assets Code**

There has been a significant change in and weakening of ecological planning principles in the transition from the Biodiversity Code under the Break O’Day Interim Planning Scheme to the Natural Assets Code. Some of the major differences are:

- There are no exemptions in the Biodiversity Code while in the Natural Assets Code there are a number of exemptions. In addition some Zones are excluded from the application of the Natural Assets Code.
- Under the Biodiversity Code the Priority Habitat layer is not limited to threatened species/ecological communities while this the case for the Natural Assets Code.
- The Biodiversity Code Performance Criteria is stronger (but still in need of work) because it makes specific reference to species diversity, wildlife corridors and connectivity.

While the Biodiversity Code is not comprehensive enough the main difference is that the intent of the Biodiversity Code was to broaden the scope of ecological assessment of development based on the understanding that natural landscape health, integrity and function relies on the protection, good management and restoration of common as well as threatened ecological communities/species and across different land tenures.

In other words the Biodiversity Code was moving in the direction of well established and accepted conservation planning science which acknowledges that holistic cross tenure land management that seeks to maintain and restore landscape connectivity is fundamental to the maintenance of ecological processes and genetic diversity. It is also a means of ensuring that development is not assessed on a block by block basis but considers each development’s landscape context and as such moves away from the incremental loss and fragmentation of habitat commonly referred to as “death by a thousand cuts”.

The following quote from a paper entitled “The Role of Landscape Connectivity in Planning and Implementing Conservation and Restoration Priorities” Ecological Society of America is a succinct summary of the importance of these principles:

“Landscape connectivity, the extent to which a landscape facilitates the movements of organisms and their genes, faces critical threats from both fragmentation and habitat loss. Many conservation efforts focus on protecting and enhancing connectivity to offset the impacts of habitat loss and fragmentation on biodiversity conservation, and to increase the

resilience of reserve networks (and the natural landscape in general) to potential threats associated with climate change. Loss of connectivity can reduce the size and quality of available habitat, impede and disrupt movement (including dispersal) to new habitats, and affect seasonal migration patterns. These changes can lead, in turn, to detrimental effects for populations and species, including decreased carrying capacity, population declines, loss of genetic variation, and ultimately species extinction”.

The Tasmanian Planning Scheme includes under Administration 3.1 Planning Terms and Definitions the following; Habitat Corridor “means an area or network of areas, not necessarily contiguous, which enables migration, colonisation or interbreeding of flora or fauna species between two or more areas of habitat”. This definition captures the essence of landscape connectivity and needs to be incorporated explicitly into the new Code to ensure that development does not destroy or fragment habitat.

### **Recommendations/Comments re Natural Assets Code**

- The weakening of the Biodiversity Code provisions via its transition to the Natural Assets Code means that the proposed changes are not furthering the Objectives of Schedule 1.
  
- The Natural Assets Code should be renamed as the Biodiversity Code to better reflect its key purpose.
- The mapping layer should be referred to as Priority Habitat rather than Priority Vegetation as this ensures that assessments are not limited to just vegetation. Change all references to Priority Vegetation to Priority Habitat.
- The mapping layer should not be confined to consideration of only threatened flora, fauna and ecological communities.
- The Habitat Corridor definition in Administration 3.1 Planning Terms and Definitions should be included in C7.3.1 Definition of Terms as well as being incorporated into C7.6 Standards. Amend the Objectives of the Code to read:
  - (a) *protect, conserve and restore the region’s biodiversity and ecological processes in consideration of the extent, condition and connectivity of habitats, habitat corridors, vegetation communities, including but not limited to threatened species and vegetation communities;*
  
  - (b) *consider and manage the impact of use or development on biodiversity through:*
    - (i) *minimisation of vegetation and habitat loss or degradation; and*
    - (ii) *appropriate location, design and scale of development.*
  
  - (c) *to avoid incremental degradation of the natural environmental by providing landscape scale planning overlays*
- Where the application of the Code relies on mapping, it is essential that such mapping is comprehensive, based on up to date scientific evidence and able to be amended to reflect changing circumstances (such as increased vulnerability of a particular species). Connectivity through habitat corridors is a critical component of biodiversity conservation, allowing species to build resilience, adapt to changing circumstances and successfully extend their geographic reach. Connectivity as a biodiversity management tool is not limited to critical habitats or threatened species. The Statewide Biodiversity mapping report by Nick Fitzgerald discussed in Part 3 of this submission is rigorous and consistent with the objectives of the Code and of the RMPS. We recommend that this mapping be adopted as the default mapping for Priority Habitat for the Tasmanian Planning Scheme, and that municipalities have the opportunity through the Local Planning Schedules process to submit any alternative Priority Habitat mapping layer for consideration. The Commission must

ensure that only mapping which demonstrates that it is based on the best available information and science is accepted.

- Remove the exemption for forest practices conducted in accordance with a certified Forest Practices Plan. The existence of an external approval should not be relied on, or exclude assessment where the criteria used in that approval process do not match the expectations or objectives of the Code.

Certification under the *Forest Practices Act 1985* does not require public participation and no rights of appeal are available. However, in rare situations where forestry activities have been subject to appeal, the Resource Management and Planning Appeal Tribunal has questioned the sufficiency of the Forest Practices Code provisions to protect threatened species.

For example:

- In *Gunns Ltd v Kingborough Council* [2005] TASRMPAT 250, the Tribunal considered that the Forest Practices Code provided “a useful guide, if not necessarily an exhaustive test”, and held that a planning scheme could adopt higher standards for forestry operations than those prescribed in the Forest Practices Code (at [20]) where necessary to protect threatened species.
- In *Giles & Weston v Break O’Day Council* [2001] TASRMPAT 150, the Tribunal considered that the Code provisions were not sufficiently specific to protect threatened species habitat and concluded that, even with full compliance with the Code, there was an unacceptable risk that proposed logging would adversely impact on the Giant Velvet Worm (at [44] and [52]).

While considerable work has been undertaken by the Forest Practices Authority over the past few years to update and implement its management tools, it remains the case that forest practices officers rarely have any qualifications in relation to threatened species management. As a result, there is no guarantee that desktop or on-ground assessments will necessarily identify all potentially impacted species, or that management prescriptions will be adequate to protect species in a particular coupe. As an example, it was revealed only post harvesting at Lapoinya that the FPO had failed to identify an eagles’ nest within the coupe or to enforce the required buffer around it.

Even where assessment practices and management prescriptions are rigorous, if they are reflected in non-statutory policy documents and practice only, there is no way to ensure that the required standards are met.

For all these reasons, it is not appropriate to rely on the existence of an FPP to satisfy the planning authority that the objectives of the Code are being met. Clearing should be subject to Performance Criteria and public participation.

- Further, given the stated objectives of the Code, and the overarching sustainability objectives of the RMPS, all vegetation clearing should be subject to the Code. The extensive list of exemptions seriously comprises the achievements of the Code’s objectives.
- It is not appropriate to allow vegetation clearing in priority habitat on the basis of an onsite offset in the absence of a clear Statewide policy on the use of biodiversity offsets. C7.6.2 P1(d) should be deleted.  
At a minimum, the performance criteria should be amended to restrict the use of offsets to situations where an expert flora and fauna report concludes that:
  - (a) alternatives and options to avoid clearance of native vegetation have been exhausted. The report must outline the alternatives and options considered for the site;
  - (b) all options to mitigate the impact of clearing on the site have been implemented

(c) the proposed offset measures will not:

- substantially detract from the availability of habitat in the vicinity of the site
  - detract from the conservation status of any priority vegetation in the vicinity of the site or in the bioregion generally
  - have a net negative impact on habitat corridors (as defined in the Scheme) at a local, state or national level.
- There should be a prohibition on subdivision within 1km of the coast across the State which applies in the Rural Living Zone, Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Major Tourism Zone, Recreation Zone, Open Space Zone, Particular Purpose Zone. It also should apply to properties in Low Density/Urban Zones that have significant ecological values. This is consistent with the State Coastal Policy intent (Clauses 2.4.1 and 2.4.2) to protect sensitive coastal environments and limit ribbon development along the coast. We also note that it is proposed that under Table 6.1.3 Deleted Terms that “ribbon development” be deleted. Ribbon development needs to be reinstated as it very relevant to this document in terms of identifying a key planning issue and also because it needs to be consistent with the State Coastal Policy.
  - There should not be any exemptions under the new Code. For example the Agriculture Zone may contain significant conservation values. Likewise in the Break O Day municipality some land that is zoned General Residential or Low Density contain significant populations of State and Federally listed threatened flora species (this is particularly the case in places such as St Helens Point which is a threatened species hotspot).  
We strongly recommend that Agriculture Zone be added to C7.2.1(c), and the qualification regarding subdivision in relation to General and Low Density Zones C7.2.1 (xi) be deleted.
  - Regarding C7.4.1 Development Exempt from this Code.
    - (a) Generally support this concept as long as it is not misused to justify unnecessary projects such as the St Helens Barway extension.
    - (b) Level 2 activities are generally relatively high impact developments and as such should not be exempt from this Code.
    - (c) As stated previously limiting the scope of the Code to threatened species/communities is not acceptable. The viability, health and integrity of threatened species/communities depends to a large extent on protection, management and ecological restoration of the broader natural landscape.
    - (d) This clause further weakens the Code by allowing an exemption to clear threatened species habitat and threatened communities. Threatened species do not recognise human imposed boundaries.
    - (e) We have already commented on this.
    - (f)(g) This clause allows all works undertaken by a “relevant agency or Council” in a number of marine and freshwater ecosystems to proceed without proper scrutiny and accountability processes. As with any other organisations or individuals there is a significant variation in what is considered acceptable environmental practice in aquatic environments. Over the years some works by a “relevant agency or Council” have been high quality while many have also been destructive and unnecessary. We do not support the general thrust of this clause (which is a theme repeated throughout this document) that relevant agencies, Councils and consultants should be allowed to approve and or carry out works in sensitive aquatic environments without proper public scrutiny and where necessary objection.
    - (h) Not supported.Delete C7.4.1 (b)(c)(d)(i)(ii)(e)(f)(g)(h)

- Allowing clearance of 3,000m<sup>2</sup> in the Rural Living Zone as an Acceptable Solution is not only a recipe for incremental fragmentation of flora and fauna habitat it is also inconsistent with environmental laws if the clearing involves destruction of TSPA or EPBC listed species. C7.6.2 A1 (b) should be deleted.
- All Classes of watercourse (1,2,3,4) should be classified and mapped as Priority Habitat. Class 4 waterways are important (not “minor” as expressed on page 141 of the Explanatory Document) for maintaining water quality and habitat values. As such delete C7.6.1 A1 (b) and add Class 4 to C7.6.1 A1 (a). Also add ...”and waterway values” to C7.6.1 P1(a), C7.6.1 P4 (c) to ensure habitat and landscape function is taken into account when assessing impacts on watercourses.

### **Scenic Protection Code**

C8.4.1 Delete (a) as scenic protection also applies to native vegetation (b) delete public parks, National parks and State reserved land from this clause to ensure scenic values are properly assessed and protected (c) delete as it is too open ended (e) delete as intent is unclear (f) delete as telecommunications towers can have significant visual impact and should be subject to stringent assessment (g) delete as this is again far too open ended.

### **Bushfire-Prone Areas Code**

There is a marked discrepancy between the approach taken in this Code towards Vulnerable and Hazardous uses as opposed to Subdivision. Basically the approach towards Vulnerable and Hazardous uses is one in which development is discouraged in high risk areas and proponents are directed to seek low bushfire risk alternatives. This is not the case with subdivision where the approach is one of identifying and managing risks rather than avoiding them. This is not good planning and will lead to more developments being approved in high risk areas. The outcome will be either significant loss of native vegetation (as well as pressure from residents to undertake regular hazard reduction burning or additional clearing of vegetation) and/or more developments that put residents and fire fighters at risk. We have no confidence in the BAL process which is basically a rubber stamp approval that facilitates rather than regulates building in high risk areas. A recent approval in the Break O Day municipality highlighted this when a dwelling was approved on the top of a steep ridgeline surrounded by Dry Eucalypt forest for kilometres in every direction and with only one 2km dirt road access to the site (DA 209-14 Banticks rd Four Mile Creek).

Add the wording from C13.5.1 A1 and P1 as a clause under C13.6.1 to direct developers to low risk sites, to eliminate or significantly reduce the environmental impact of clearing and burning native vegetation on or adjacent to development sites for hazard reduction purposes and to reduce the bushfire risk to residents and fire fighters.

We also believe that any references to the “TFS or an accredited person” should be a Performance Criteria rather than an Acceptable Solution to ensure the community are aware of and can scrutinise the certification/approval process. We do not support the delegation of the planning authorities’ responsibilities to external approval authorities or consultants.

### **Potentially Contaminated Land**

As with the Bushfire Code we do not think it is appropriate for the planning authority to delegate their responsibilities to external approval authorities or consultants when the potential impacts may be significant on the environment and human health.

C14.5.1 A1 and C14.6.1 A1 delete and replace with No Acceptable Solution.

### **Landslip Hazard Code**

We agree with the No Acceptable Solution approach in this Code.

## **ZONES**

### **10.0 Low Density Zone**

This zone should only be applied to land which has minimal environmental values because even if the Acceptable Solutions for lot size/site area are applied (for subdivision or multiple dwellings respectively) it would mean virtually complete loss of all native vegetation on the blocks due to clearance requirements for bushfire safety in high bushfire risk areas such as Break O Day. As such the Low Density Zone should only be applicable in low bushfire risk areas and where there is little or no native vegetation present on the blocks.

In addition the Performance Criteria for 10.4.1 P1.1 and P1.2 and 10.6.1 P1 should be deleted as there is no absolutely no point in having a Low Density Zone if you can potentially have high density development approved in it.

### **11.0 Rural Living Zone**

As with the Low Density Zone there is no point having such a Zone if the minimum lot sizes are so small. Delete 11.5.1 P1. The minimum lot size in the Acceptable Solution should be 5ha. We do not support the implementation of this Zone as it encourages fragmentation and intensification of development around settlements that will inevitably lead to urban density in the future via rezoning applications. If this Zone is accepted it should be mandatory that the land has minimal native vegetation cover on it. In addition the Purpose of the Zone should acknowledge that natural values need to be maintained as they contribute to the ecological health and amenity of the Zone.

### **20.0 Rural Zone**

Our main concern is that there is potentially no minimum lot size in this zone. Delete 20.5.1 P1 and change 20.5.1 A1 (d) to not less than 100ha. These two changes will ensure that rural land is not fragmented or subdivided particularly in coastal locations such as along the Break O Day coastline.

### **21.0 Agriculture Zone**

There should be no subdivision of land in this zone as the intent is to maintain productive agricultural land for agricultural use. Loss of prime agricultural land for non-productive purposes puts more stress on producers to clear land or use less productive land which requires more water, fertiliser etc. The Purpose of the Zone should also acknowledge that conservation values may be present on some land in this Zone and these should be maintained and where possible restored.

### **22.0 Landscape Conservation Zone**

We support residential development being discretionary in this zone and being limited to a single dwelling. This will ensure a high level of environmental scrutiny of developments and protection of natural and scenic values. A minimum lot size of 50ha is supported with 22.5.1 P1 being deleted to not allow lots any smaller than that.

Clause 22.4.4 A1 and P1 is supported and should also apply to other Zones where development is proposed that involves clearing of native vegetation. This Zone closely resembles the Environment Protection Zone which was in place in the Break O Day municipality (and included many excellent environmental protection provisions) prior to being replaced by the Environmental Living Zone. There has already been a significant loss of native vegetation across Tasmania (over 400,000ha since 1972) and as such it is vital that remaining areas of conservation value must be protected and well managed. The Landscape Conservation Zone standards give greater certainty that this will occur than the former Environmental Living Zone. It should be noted that there is significant discrepancy between different Council's (for example between Councils in the Hobart/Kingborough area as opposed to smaller rural Councils) resources and approach in regard to the administration and enforcement of planning provisions. It should not be assumed that support from a few

Southern Councils for the Environmental Living Zone means this is an adequate level of protection for conservation values there or in other parts of Tasmania.

### **23.0 Environmental Management Zone**

We have two major concerns with this Zone. The first is the Acceptable Solutions which allow approval of development or vegetation clearance by “the Director General of Lands under the Crown Land Act 1976” or the “Managing Authority”. We do not support any in house approvals process that bypasses public input and scrutiny. As such delete 23.4.1 A1 (a) (b) (c) (note if (a) is retained it should also stipulate not more than 500m<sup>2</sup> OR 6 metres in height), 23.4.2 A1 (a) (b), A2 (a)(b), 23.4.3 (a)(b), 23.4.4 (a) (clause (b) to be retained), 23.5.1 (a)(b)(c)(d)(e).

The Reserve Activity Assessment (**RAA**) process is non-statutory and provides no guarantee of public participation. While guidelines exist in relation to the criteria against which proposed development will be assessed, those guidelines have no statutory basis and cannot be enforced.

The Tribunal has confirmed that a requirement in a planning scheme to obtain an RAA is satisfied as long as the RAA is obtained and complied with. The Tribunal does not have the power to consider the merits of the RAA and whether it should have been issued, it is only concerned with whether or not it has been issued: *North East Bioregional Network Inc. v Break O' Day Council and Break O' Day Council obo Parks and Wildlife* [2013] TASRMPAT 90.

The Explanatory notes for the SPP indicate that all land in this Zone will be public / reserved land. Such land is a public resource, and the public should be able to comment on proposals which may compromise the protection of that resource.

Therefore, it is appropriate that use on reserved land should be discretionary. A positive Reserve Activity Assessment may be relied on by the planning authority to demonstrate that P1 is met, but the planning authority will retain the capacity to refuse a development that it believes is inconsistent with the management objectives for reserved land in its municipality.

We do not think that this Zone should be limited to Public land as there are circumstances such as private land with a perpetual conservation covenant managed only for conservation purposes where this Zoning would be appropriate as it would if the land has significant environmental constraints. We do support Residential use being discretionary (which was previously the case in the Environment Protection Zone which was in place before the Environmental Living Zone) and limited to dwellings required for management of conservation values to ensure the values of the Zone are protected.

### **24.0 Major Tourism Zone**

We do not support this Zone as it creates special conditions for large scale development which potentially places significant and unsustainable demands on sensitive locations in terms of waste management, water usage, visual impact etc.

We are also concerned there is no minimum lot size stipulated for this zone. Delete 24.5.1.

## **Other issues**

### **Strata plans**

The draft Statewide Planning Provisions do not seek to regulate strata development, excluding strata titles from both the definitions of “subdivision” and “lot”. We understand that this is intended to remove duplication with the requirements under the *Strata Titles Act 1998*.

In Break O’ Day municipality there have been numerous examples of strata title developments approved under the interim scheme that have created a density of development that would not have been permitted under the subdivision standards.

The most appropriate response would be to tighten multiple dwelling and density provisions across all zones to better regulate residential densities. However, there is no clear policy position on this reflected in the Statewide Planning Provisions.

### **Aboriginal Heritage Code**

We support the inclusion of an Aboriginal Heritage Code to ensure important cultural heritage items are protected and there are adequate assessment requirements in place. We have no confidence in Aboriginal Heritage Tasmania as they regularly give a low probability rating to development proposals where there is medium to high likelihood of Aboriginal Heritage being present. The most effective protection would be through a prescriptive Code mapping Aboriginal cultural heritage areas and setting strict assessment criteria

### **Acid Sulphate Soils Code**

The preliminary Break O Day Interim Scheme included a mapping layer identifying risk areas for Acid Sulphate Soils. This was later deleted. There needs to be a Statewide map which is important to reduce the risk of environmental harm occurring.

We understand this data is available – developing Statewide mapping and consistent use and development standards in ASS hazard areas would improve certainty in the planning system and minimise risks to developers and the broader community from the disturbance of ASS.

### **Geoconservation Code**

As with the Acid Sulphate Soils layer the preliminary Break O’ Day Interim Scheme also had a Geoconservation layer to identify important values. Again this information is readily available and should be incorporated into Planning Schemes. To not do so is a case of negligence and inconsistent with the required precautionary approach to planning.

### **Landscaping**

An effective way to maintain biosecurity and genetic resilience is to require all new plantings (such as landscaping and revegetation work) to be undertaken with seeds or rootstock derived from provenance taken within the boundaries of the site, or the vicinity of the site. Landscaping must also ensure that listed weeds are not used.

Acceptable solutions should be included to this effect across all relevant zones. No performance criteria should be provided in respect of the prohibition on the use of weeds.

### **Specific Area Plans**

5.4.4 Where there is conflict between a provision in a Specific Area Plan and a provision in a Zone or a Code the Code should prevail followed by the Zone.

## Site Coverage

Clearing for fire hazard management can be significant and compromise efforts to protect biodiversity, preserve connectivity and maintain amenity. For example, in *Ogilvie v Break O'Day Council* [2004] TASRMPAT 33, the Tribunal was not satisfied that residential subdivision was acceptable, having regard to the extent of disturbance required to provide "appropriate fire protection".

In any zones including land in Bushfire Prone Areas, consideration of the extent of clearing associated with hazard reduction must be factored in to any decision to relax the site coverage. This will allow a more accurate picture of site disturbance to be assessed.

This can be achieved by requiring performance criteria in relation to site coverage to have regard to:

*landscape character of the area and the need to remove vegetation to accommodate development and maintain hazard management areas.*

## Boundary Adjustments

Support 7.3.1(a)(b)(c)(d)(e)(f) to ensure that boundary adjustments are not used to circumvent subdivision restrictions.

## Exemptions

Apart from the exemptions we have already commented on we also oppose the following:

### 4.0 Exemptions

Vegetation exemptions for "vegetation removal for safety or in accordance with other statutes" (b)(c)(d)(e) because there needs to be an open and transparent process in place to ensure important nature conservation values are being properly assessed and protected. (h)

This clause has been abused in the past (2008) as when a FPP was approved for clearance of 17ha of "unsafe" trees on a property at Scamander (Owners Keys/Bromfield/Zar). It is important to differentiate between trees that pose a genuine risk as opposed to removing trees which may be dead but are not a safety threat but are important habitat for many species. For example in the West Wimmera Shire in Victoria a permit is required to cut down even one dead Eucalyptus because they are important habitat for the Red Tailed Black Cockatoo. In Tasmania tree hollows are used by a number of species including threatened birds such as the Swift Parrot and Masked Owl. There is also a problem when the assessment of the health and safety risk of trees is undertaken by the same arborist who will be paid to cut them down (a clear conflict of interest).

(i) The construction of such fences where there is no limit to the extent of the exemption may have significant impacts in terms of landscape fragmentation and limiting fauna movement in the landscape.

"vegetation rehabilitation works" (c) any streambank works should require an approved plan as a Performance Criteria otherwise this exemption potentially allows works to occur without proper expert advice or public input which could result in significant environmental damage. This has happened on many occasions in the past where landowners or local government authorities have used machinery in waterways and caused significant and sometimes long term erosion and streambank instability.

Wind Turbines: While wind energy contributes towards the generation of renewable energy this does not mean it should not be subject to planning controls as wind turbines can have significant visual impact as well as in some cases killing or injuring a range of bird and bat species.

Delete “renewable energy exemptions” wind turbines (a)(b)(c)(d)(e) and replace with a set of Acceptable Solutions and Performance Criteria which ensure environmental and visual impacts are properly assessed.

Following on from the last point there should be provisions in the Scheme to prevent and reduce the risk of bird strike which is one of the biggest killers of birds including threatened species such as the Swift Parrot. In places such as Binalong Bay where Swift Parrots and Urban development interface bird strike is a threat that needs to be assessed. It is recommended that the Acceptable Solutions and Performance Criteria for Bird Strike that is included on page 247 of the publication Tasmania’s Threatened Fauna Handbook (Bryant and Jackson 1999) be included to ensure this is taken into account for any new developments where this could be an issue. Tasmania’s Threatened Fauna Handbook is available online.

Other exemptions proposed or existing such as those for services such as power, water, sewerage and telecommunications should still be subject to thorough and transparent environmental scrutiny as the cumulative effect of incremental fragmentation and damage to native vegetation and habitat contributes to biodiversity decline as well as degradation (such as weed invasion as a result of ongoing clearing and disturbance).

### **Conclusion**

The proposed new Statewide Planning Scheme is inconsistent with the requirements of Schedule 1 because:

- it significantly reduces the ability of the public to participate in resource management and planning by increasing exemptions and allowing a system of self regulatory in house approvals to occur.
- it is moving away from rather towards a planning system which maintains ecological processes and genetic diversity
- it does not take a precautionary approach towards safeguarding, protecting and avoiding impacts on the natural environment

A new Statewide Planning process needs to be initiated that genuinely reflects the principles required under Schedule 1.