



## INTRODUCTION AND EXECUTIVE SUMMARY

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The Tasmanian Land Conservancy (TLC) is a private, not-for-profit organisation that conserves nature on private land in Tasmania. Our vision is for Tasmania to be a global leader in nature conservation.

TLC employs three main mechanisms to protect natural assets or conservation values on private land:

1. purchase of land to be kept and managed by the TLC as Permanent Reserves, with Conservation Covenants registered on the reserve titles;
2. operation of a Revolving Fund, where properties are purchased, protected by Conservation Covenants on Title and on-sold; and
3. working in partnership with private landholders and the Tasmanian and Australian governments, corporate sponsors and philanthropists to promote and facilitate nature conservation on private land.

In the fifteen years since inception, the TLC has grown rapidly to become one of the largest private landholders in Tasmania. Our sixteen Permanent Reserves across the state total around 13,099 hectares, protecting a range of important habitats from coastal wetlands to alpine meadows. We manage a further approximately 22,000 hectares for nature and have facilitated nature conservation over approximately 2% of the private land in Tasmania. Conservation on private land is significant in Tasmania. In total (as at 30 April, 2016) there were 807 Conservation Covenants in the state, protecting 98,582 hectares of natural assets. In many cases covenants or property purchases have been aided by State or Federal government investment.

The Department of Primary Industries, Parks, Water and Environment (DPIPWE) along with the agricultural sector and regional Natural Resource Management (NRM) committees, acknowledge the significant role of private landowners in conserving Tasmania's natural capital and the public and private benefits that flow from this approach. 'Capable land stewardship conserves the natural environment, providing benefits for future Tasmanians and visitors while enabling landowners to maintain market access and capitalise on new opportunities' ([DPIPWE's Private Land Conservation Program](#)).

Covenants are legally binding under the *Nature Conservation Act (2002)* and are registered on the land title. Usually established in perpetuity, covenants give peace of mind that natural values, such as native flora and fauna, natural wetlands and geo-conservation assets, will persist for generations. Nature conservation on private land makes an enormous contribution to the National Reserve System, Australia's network of protected areas.

As an organisation with land and associated partnerships throughout the state we have a strong interest in planning provisions, particularly regarding the recognition and protection of natural assets. TLC welcomes the opportunity to provide feedback on the Tasmanian Planning Scheme – Draft State Planning Provisions. We support the general proposition of improving efficiencies and providing consistency across the state.

To summarise our main points:

- **Extending the Environmental Management Zone to private land**

Applying the Environmental Management Zone to public/Crown land presumes it is only public land in reserves and/or only public land that requires the level of protection that the Environmental Management Zone provides. With 98,582 hectares in privately owned reserves, private land conservation makes a significant contribution to the protection of biodiversity and under-represented ecosystems in Tasmania. While serving a purpose, the Landscape Conservation Zone may not be adequate as a protection mechanism for some private land reserved for nature conservation. Private land reserved for nature, could be zoned by the planning system to recognise important natural values and to further its ongoing protection.

- **Effectively applying the Natural Assets Code**

The application of the Natural Assets Code will be an important tool in the protection of biodiversity. Effective state-wide mapping is critical for the application of this code and there is an opportunity within the Tasmanian Planning Scheme to apply mandatory provisions to protect important natural assets for future generations. Species and vegetation communities listed under the *Threatened Species Protection Act*, *Nature Conservation Act* and the *EPBC Act* are important to include. There is also a unique opportunity to apply a landscape-scale, cross-tenure approach that identifies habitat linkages, corridors and climate refugia. The inclusion of non-threatened species would be an innovative way to recognise the value of common species as natural assets into the future.

- **Aligning the Scheme to the principles of sustainability**

Sustainability remains a cornerstone of good planning and while the provisions propose a framework of zones, zone purposes, uses and use standards, the alignment to sustainability principles there is an opportunity for those provisions to be strengthened. Clarity on the integration of the Draft Scheme with state-wide policies would also be welcomed.

## COMMENTS ON THE DRAFT SCHEME

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### Zoning

1. We understand that Local Planning Schedules will determine which areas of land are subject to particular zones, to which the provisions outlined in the Draft Planning Scheme will then apply. As an organisation that aspires for Tasmania to be a global leader in nature conservation, TLC believes it is important to ensure that natural assets such as irreplaceable or rare species and vegetation communities are

recognised and valued. The current planning reform is a great opportunity for to acknowledge the natural conservation assets that make Tasmania so very unique, underpin Tasmania's brand and are our comparative advantage globally and to ensure appropriate zone mapping for the management and protection of these values.

2. The Explanatory Document for the draft of the State Planning Provisions of the Tasmanian Planning Scheme (7 March 2016) states that the Environmental Management Zone will be applied only to public/Crown Land. Currently there are various private properties which, through the Interim Planning Schemes (IPSS) are zoned Environmental Management. For example, Skullbone Plains, owned by the TLC, is part of Five Rivers Reserve and in the Tasmanian Wilderness World Heritage Area. The TLC encourages planning authorities to interrogate values and specific zone purposes, rather than focusing entirely on tenure when formulating zone maps for this zone under the new Scheme.
3. We believe that some private property, including the TLC's Permanent Reserves are a better fit with the Environmental Management Zone than the Landscape Conservation Zone. The purpose of all TLC Permanent Reserves aligns with the Environmental Management Zone Purpose:

*23.1.1 To provide for the protection, conservation and management of areas with significant ecological, scientific, cultural or aesthetic values or with a significant likelihood of risk from a natural hazard; and*

*23.1.2 To only allow for complementary use or development where it is consistent with relevant strategies for protection and management of the land.*

Unlike the Landscape Conservation Zone, the Environmental Management Zone recognises ecological and scientific values, which are important values on all of the TLC's Permanent Reserves. To deliver our vision that Tasmania be a global leader in nature conservation, the TLC is engaged in a range of science-based projects across the state. In our Permanent Reserves we have implemented long-term ecological monitoring to track the condition and trajectory of any changes to natural assets. Our science and research programs are aided by a skilled Conservation Science and Planning Advisory Council and delivered in collaboration with state and Commonwealth bodies, universities and community organisations - locally, nationally and internationally. While Research and Development is a listed use in the Environmental Management Zone, it is excluded from the Landscape Conservation Zone Use Table.

The Environmental Management Zone also notes the Zone Purpose of providing for cultural values. Some private land, including TLC's Skullbone Plains, Five Rivers Reserve, The Big Punchbowl, Flat Rock Reserve and Gordonvale Reserve, are highly valued for their significant Aboriginal and/or European heritage. Cultural value is not identified in the Landscape Conservation Zone.

Most private reserves, including all private Conservation Covenants and the TLC Permanent Reserves have a reserve management plan prepared by experts to protect, conserve and manage the ecological, scientific, cultural and aesthetic values

of the area in the public interest. These plans guide the protection and management of the land.

TLC believes that the zoning for Environmental Management could be broadened to include the natural values and management of many private reserves around the state.

4. The Explanatory Notes imply that land within this zone is publicly owned and that developments consistent with a statutory management plan will be permitted. For privately owned land in the Environmental Management Zone, a discretionary pathway should be maintained for proposals that are consistent with protection and management of the natural assets and values of the land.
5. Some properties under a Conservation Covenant have been purchased with a covenant in place, or purchased and a covenant subsequently applied to all, or part of the property. Small-scale building envelopes are often defined within the title, identifying a site where disturbance will have the lowest impact on the conservation values that are being protected. The provisions could ensure that private landowners with Conservation Covenants can continue to undertake small-scale residential developments on these properties, within pre-defined building envelopes, while avoiding or minimising impacts on important values.

For landowners putting a Conservation Covenant on their property, building envelopes could be identified to position residential development to avoid and minimise impacts on natural assets. A human presence in these natural settings helps to manage those natural values.

6. The Explanatory Document notes that the Landscape Conservation Zone has been developed to protect significant natural and landscape values on private land. Many properties have previously been zoned Environmental Living where Residential Use was permitted. The Draft Scheme notes that Residential Use within the Landscape Conservation Zone will be discretionary. The TLC welcomes residential use as a discretionary pathway.

### **Application of Codes**

7. We are encouraged that natural assets are acknowledged in the Statewide Planning Scheme through the Natural Assets Code. This Code intends to provide a mechanism through which important values can be recognised and appropriate planning decisions made for the sustainability of the environment. The purpose of the Code includes protecting identified threatened native vegetation communities and threatened flora species; and managing impacts on threatened fauna species by minimising clearance of significant habitat (C7.1.4 and C7.1.5). There is an opportunity to strengthen this commitment to protecting Tasmania's future natural capital by reconsidering the exemptions that appear to be inconsistent with the

intention of the Code. Without reconsideration it may lead to perverse outcomes whereby natural assets are only protected if listed under Commonwealth legislation.

8. Native vegetation and particularly critical natural assets are encouraged to be valued across all landscapes, including farmland. While providing valuable habitat and connectivity for many species, native vegetation (not just threatened vegetation) also provides a healthy ecosystem by controlling or reducing erosion and salinity, regulating water flows, ameliorating climate change and facilitating crop pollination.

The Natural Assets Code defines priority vegetation as threatened vegetation communities of 'significant' habitat for threatened species. Native vegetation and biodiversity is also extremely important and there is an opportunity in the application of the Code to value nature beyond threatened species. Accordingly, we encourage consideration of The Code being expanded beyond priority vegetation.

9. Tasmania's Midlands is one of Australia's fifteen biodiversity hotspots with 32 nationally threatened species and more than 180 plants and animals that are locally threatened. Since European settlement, Lowland Native Grasslands in Tasmania's Midlands have diminished to less than 10% of their previous extent, almost exclusively now occurring as fragmented remnants on private land.

With Bush Heritage Australia, the TLC co-founded the Midlands Conservation Fund (MCF), a non-profit Company Limited by Guarantee. The MCF raises funds and facilitates the protection of high value ecosystems, many of which are on or adjacent to farmland.

Since June 2013, the MCF has signed Stewardship Agreements with landholders across 2,636 hectares. Through these agreements, landholders commit to conservation activities that protect rare and threatened species and ecosystems, and receive an income as stewards. The MCF puts conservation on the farming business' balance sheet and improves linkages between significant ecosystems. More farming businesses with critical natural assets have expressed interest in participating and are likely to enter the program as funds become available.

Protection of natural assets across all zones is important for species surety, connectivity, landscape resilience and for programs like the MCF that help farming businesses protect some of Tasmania's most critically endangered ecosystems.

10. The Natural Assets Code references the overlay maps in the Local Provisions Schedule when applying the specific natural values. Relying on mapping is challenging as the application of the code will only be as good as the maps themselves. Values may change, or the dataset previously used may be upgraded with more current information. To effectively protect natural assets, up-to-date and accurate data are required.

We encourage the State Government to consider making mandatory provisions regarding what is included in Priority Vegetation Areas i.e. all species and vegetation

communities listed under the *Threatened Species Protection Act*, *Nature Conservation Act* and the *EPBC Act*. There is also an opportunity beyond the mapping of threatened species and communities, important cross tenure landscape linkages and corridors could also be recognised.

A streamlined pathway could be developed to ensure that new information can be applied and deficiencies corrected. In a changing climate, priorities for nature conservation are also likely to change, and it is important for the land management and the planning system to be able to respond effectively.

11. The Biodiversity Code detailed in the Interim Planning Scheme, has not always been applied (for example, Central Highlands Council and the Derwent Valley Council). We encourage the application of the Natural Assets Code to be mandatory across all councils to ensure the protection of natural assets for generations to come.
12. Much of Tasmania's vegetation is inherently bushfire-prone and while a code is essential, it could be applied with consideration to the impacts on natural assets. TLC encourages the balance of human need and ecological requirements, particularly regarding the management of bushfire risk in a natural landscape.

### **Clarifying definitions**

13. The list of definitions in the Plan are important to clarify meaning and avoid ambiguity. There are various terms that are not defined in the initial definitions section (3.1.3) which we suggest be included such as:
  - Littoral reserve
  - Right of carriage way
  - Significant natural and landscape values
  - Unreasonable (as in impact or loss of amenity)

While some of these terms are defined in the Natural Assets Code, a definition in section three would be valuable for use through the whole document.

### **Mitigating impact**

14. Throughout the draft plan, reference is made to the minimising of impacts. In many cases, outcomes for the environment can be improved by avoiding, rather than just minimising the impacts. We encourage the insertion of 'avoid or minimise' in various sections, detailed in the attachment at the end of this document.

### **Improving clarity**

15. Better clarity regarding the use of 'and' and 'or' is required in various sections of the plan. There is significant ambiguity related to the requirement of either or all. For example the section 21.5.1 – Development Standards for Sub-division in the Agriculture Zone, performance criteria, it is difficult to discern what is required.

Likewise in 20.5.1 - Lot size in the Rural Zone, the combination of lot size and frontage creates ambiguities in the Performance Criteria. These issues can be itemised separately to improve clarity, as per the Landscape Conservation Zone.

### **Alignment with sustainable development**

16. One of the purposes of the Draft Scheme is to further the Objectives of the Resource Management and Planning System (RMPS) and of the Planning Process as set out in Parts 1 and 2 of Schedule 1 of the Act (LUUPA) (2.1.1(a)).

The concept of sustainable development provides overall direction for the RMPS, and the objectives of the RMPS are to:

- 'promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;
- provide for the fair, orderly and sustainable use and development of air, land and water;
- encourage public involvement in resource management and planning;
- facilitate economic development in accordance with the objectives set out above; and
- promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.'

In the objectives, 'sustainable development' means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while:

- sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
- safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- avoiding, remedying or mitigating any adverse effects of activities on the environment.

Planning provides a valuable opportunity to consider the design of our preferred future as a society, and it is the job of planning schemes to further the above objectives. Sustainability remains a cornerstone of good planning, there is an opportunity to strengthen the commitment to sustainability in the Draft Scheme. This could be done by aligning the commitment to sustainability principles within the framework of zones, zone purposes, uses and use standards.

There is an opportunity also to address a lack of clarity around the integration of the Draft Scheme with state-wide policies.

17. The TLC encourages specific councils to develop Existing Character and Desired Future Character Statements to ensure that Local Planning Schedules are future focused, visionary and sustainable.

Thank you for the opportunity to provide comment to what is an essential tool in the delivery of a vision for Tasmania. We absolutely see this as a unique and important opportunity to maximise the comparative global advantage Tasmania has by maintaining our natural capital now for generations to come.

Please do not hesitate to contact me for more information on the above comments or to further participate in the development of the State Planning Provisions.

With regards

Jane Hutchinson  
CEO  
Tasmanian Land Conservancy

## Attachment 1

### Inclusion of 'avoid or' minimise

#### 22.4 Development Standards for buildings and works, Landscape Conservation Zone

22.4.2 Objectives to ensure that building bulk, form and siting:

- (a) protects the amenity of adjoining properties;
- (b) **avoids or** minimises the impact on the natural values of the area;
- (c) **avoids or** minimises the impact on adjoining agricultural uses.

22.4.4 - P1 Development must be located to **avoid or** minimise native vegetation removal and the impact on natural and landscape values...

#### 23.4 Development Standards for buildings and works

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#### C5.6 Development Standards for Buildings and Works

##### C5.6.1 Visual Amenity

P1.1 Facilities located within existing utility corridors or on sites with existing facilities, must not cause an unreasonable loss of visual amenity having regard to:

- (a) the siting and design of facilities;
- (b) best practice methods to:
  - (i) reduce the visual impact of facilities;or
  - (ii) conceal facilities within the surrounding natural or built environment;
- (c) the need to **avoid or** minimise clearing of vegetation...

P1.2 Facilities not located within existing utility corridors or on sites with existing facilities, must not cause an unreasonable loss of visual amenity having regard to:

- (a) the need to locate the facility outside existing utility corridors or on a site with an existing facility;
- (b) the siting and design of facilities;
- (c) best practice methods to:
  - (i) reduce the visual impact of facilities;or
  - (ii) conceal facilities within the surrounding natural or built environment;
- (d) the need to **avoid or** minimise clearing of vegetation;

##### C7.1 Code Purpose

The purpose of the Natural Assets Code is:

C7.1.1 To **avoid or** minimise impacts on water quality, natural assets including native riparian vegetation, river condition and the natural ecological function of watercourses, wetlands and lakes.

C7.1.2 To **avoid or** minimise impacts on coastal and foreshore assets, native littoral vegetation, natural coastal processes and the natural ecological function of the coast.

C7.1.5 To manage impacts on threatened fauna species by **avoiding or** minimising clearance of significant habitat.

### **C7.6.2 Clearance and Conversion or Disturbance within a Priority Vegetation Area**

To ensure that clearance and conversion or disturbance of priority vegetation within a priority vegetation area:

- (a) does not result in unreasonable loss of priority vegetation;
- (b) is appropriately managed to adequately protect identified priority vegetation; and
- (c) **avoids**, minimises and appropriately manages impacts from construction and development activities.

P1 - Clearance and conversion or disturbance of priority vegetation within a priority vegetation area must:

- (a) satisfy the following:
  - (i) the development is designed and located to **avoid or** minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the development;
  - (ii) impacts resulting from bushfire hazard management measures are **avoided or** minimised as far as reasonably practicable through siting and fire-resistant design of habitable buildings; and
  - (iii) additional mitigation measures are to be implemented to **avoid or** minimise the remaining impacts on priority vegetation values on the site from the development;...

### **C7.7.1 Subdivision within a Waterway and Coastal Protection Area or a Future Coastal Refugia Area**

Each lot, wholly or partly within a waterway and coastal protection area or a future coastal refugia area, must:

- (a) **avoid or** minimise impact on natural assets;

### **C7.7.2 Subdivision within a Priority Vegetation Area**

Each lot, wholly or partly within a priority vegetation area, must:

- (a) satisfy the following:
  - (i) subdivision works are designed and located to **avoid or** minimise impacts, having regard to constraints such as topography or land hazard;

### **C8.6.1 Development within a Scenic Protection Area**

P1 - Destruction of native vegetation within a scenic protection area must be **avoided or** minimised, and:

- (a) not have an unreasonable visual impact on a skyline;
- (b) not cause an unreasonable reduction of the scenic value; and
- (c) be consistent with any management objectives.

P2 - Buildings or works within a scenic protection area must not cause an unreasonable reduction of the scenic value and must:

- (a) have driveways or access tracks as close as practical to running parallel with contours and be surfaced to blend with the landscape;
- (b) have buildings with external finishes that are of low reflectance and coloured to blend with the landscape;
- (c) have buildings designed to:
  - (i) **avoid or** minimise visual impact due to height and bulk; and
  - (ii) **avoid or** minimise cut and fill;

### **C10.7.1 Subdivision within a Coastal Erosion Hazard Area**

Each lot, wholly or partly, within a coastal erosion hazard area must:

- (a) not create an opportunity for use or development that will be exposed to an intolerable risk from a coastal erosion hazard;
- (b) not increase risks from a coastal erosion hazard to adjacent properties;
- (c) not cause an unacceptable level of risk to use or development arising from an increased reliance on public infrastructure;
- (d) **avoid or** minimise the need for future remediation works;