

# Tasmanian Planning Scheme

## Fact Sheet 7 – Clause C7 Natural Assets Code

### What is the purpose of the Natural Assets Code in the Tasmanian Planning Scheme?

The main purpose of the Natural Assets Code of the Tasmanian Planning Scheme is to protect natural values. The code provides guidance in relation to the assessment of development applications within identified waterways and coastal protection areas, future coastal refugia areas and priority vegetation areas.

- The 'waterway and coastal protection area' applies to land in proximity to Class 1-4 watercourses and wetlands and includes the State's coastal areas.
- The 'future coastal refugia area' provides for the protection of land for the landward retreat of coastal habitats that have been identified at risk from predicted sea level rise. These areas specifically aim to address outcomes of the:
  - State Coastal Policy 1996, namely the management and protection of the natural assets and processes
  - associated with coastal areas; and
  - State Policy on Water Quality Management, namely the protection of water quality through control on point source stormwater discharges.
- The 'priority vegetation area' provides for the protection of:
  - threatened native vegetation communities listed under the Nature Conservation Act 2002;
  - threatened flora species;
  - significant habitat for threatened fauna species; and
  - other locally important native vegetation, in conjunction with other State legislation such as the Nature Conservation Act 2002, Threatened Species Protection Act 1995 and the Forest Practices Act 1995.

### What zones does the Natural Assets Code apply to in the Tasmanian Planning Scheme?

The Natural Assets Code differs from the Interim Planning Schemes in that it intentionally limits the application of 'priority vegetation areas' to certain zones to avoid undermining the purpose of those zones intended for more intensive development. The main difference is that:

- The provisions relating to 'waterway and coastal protection areas' and 'future coastal refugia areas' apply to all zones. There are however reduced buffer distances for the main urban zones when applying the requirements for waterway and coastal protection areas.
- The Natural Assets Code does not apply to any of the residential zones (except for subdivision in the General Residential and Low Density Residential Zone) and also allows for up to 3,000m<sup>2</sup> of vegetation clearance



in the Rural Living zone without the need for a permit. The code will also not apply to the Agricultural, Commercial and Industrial Zones.

It should be noted that while the code may not apply to certain zones, the requirements under other State legislation remain applicable, such as the need to have a forest practices plan certified for the clearance of vegetation under the Forest Practices Act 1985.

### **Biodiversity in Kingborough**

One of the most important and significant grouping of environmental values within Kingborough relates to biodiversity and the associated management of native vegetation. Kingborough is recognised as containing a very high proportion of significant biodiversity values relative to many other local government areas, particularly threatened vegetation communities and threatened species habitat. Due largely to the scale of past development and the correlation between the location of significant values and urban growth, the remaining natural areas possess a higher need for future protection and in many cases consist of critical remnants that must be retained to protect rare or threatened species and threatened vegetation communities.

As well as the planning scheme itself, there are various other statutory responsibilities that Council must consider. Consideration of new developments should be consistent with the requirements of the Australian Government's Environment Protection and Biodiversity Conservation Act 1999, and the Tasmanian Government's Forest Practices Regulations 2007, Threatened Species Protection Act 1995 and the Nature Conservation Act 2002. The Kingborough Interim Planning Scheme's requirements (as contained within the Biodiversity Code and the future Natural Assets Code) complement these other statutory requirements and assist in ensuring that development proposals comply.

This Natural Assets Code reduces the capacity to protect environmental values compared to the current Biodiversity Code in the KIPS2015. Under the new provisions there will be limited capacity to protect these values and an increased level of development is also likely (due to increased development potential in the zones).

In addition to the above, the Natural Values Code only provides limited protection to high priority vegetation and does not enable consideration of other biodiversity or natural asset issues including geo-conservation or threats to threatened species not involving vegetation clearing (such as collision risk and disturbance during breeding seasons). It also does not acknowledge that tracts of high priority vegetation are likely to be surrounded by low priority vegetation that remains unprotected. This leads to an erosion of the high priority vegetation through development encroachment and results in smaller isolated pockets of high priority vegetation becoming even more vulnerable.

The Natural Assets Code does contain offset provisions, but these are quite limited and do not follow the mitigation hierarchy, are not consistent with the use of offsets by other regulators and do not reflect current accepted best practice. An offset is regarded as a "last resort" measure. Preference is given to avoiding the impact entirely and to make design adjustments to minimise the impact. An offset would be approved by way of an approval condition on the development and will vary considerably depending upon the circumstances relating to the land in question. It may include the permanent protection and ongoing management of similar





vegetation on site or on another area of land, remediation measures may be carried out (eg. revegetating a larger area than was cleared) or a cash contribution made to carry out remediation works elsewhere.

The offsets must deliver a net benefit for biodiversity conservation and they should aim to be “like for like” (what is lost is being replaced) and onsite offsets are generally preferred.

### **How will Biodiversity be considered under the Tasmanian Planning Scheme?**

The assessment of vegetation clearing applications in order to enable a development application is complex. The Natural Assets Code is designed to ensure that appropriate factors are considered and in the most reasonable manner possible. The complexity is because not all land or all vegetation has the same biodiversity value. Historic clearance levels, the current extent of reserved land, the quality of the vegetation and interconnectivity are also factors that must be considered. When assessing whether land is suitable for development, questions as the following need to be asked:

- Is the vegetation recognised as a priority due to its rare or threatened status?
- Does the land contain threatened flora or fauna, including threatened ecological communities and threatened species habitat?
- Is the vegetation on that land of good quality?
- Does the vegetation form part of a viable patch or a corridor linking viable patches of habitat?
- Is the land adjacent to or does it include sensitive environmental values, for example a waterway, wetland or coastal environment?
- Is the development proposed for that area likely to result in significant encroachment into a vegetated area, including for bushfire protection?
- Is the development located in the place of least impact and designed to minimise impact?
- Is it possible to create a buffer between the development and the good quality vegetation or aquatic environment through the planting of additional vegetation and/or restriction of the development?

Ultimately the Tasmanian Planning Scheme will assist in protecting natural values through the way that it zones land and in the manner by which development proposals are assessed against the various development control standards within the scheme.

The development controls for each of the various zones and codes will influence how land will be zoned. Those areas that do have biodiversity values that warrant protection will need to be zoned in a manner that limits the possibility of vegetation clearing (such as might be caused by further subdivision or an increased density of development). As mentioned previously, the identification and protection of important environmental values is complex and requires regulatory approaches that can adequately respond to the particular characteristics of both the affected land (and surrounding areas) plus the type of use or development that is being proposed.

