

KENTISH COUNCIL

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KENTISH COUNCIL SUBMISSION TO INQUIRY INTO AI DATA CENTRES IN TASMANIA

Thank you for the opportunity to make a submission to the Standing Committee on Government Administration A in relation to the construction and operation of AI data centres in Tasmania, including recommending future legislation and regulations necessary to;

1. Protect public resources and the environment;
2. Ensure Tasmania's Resource Management and Planning System adequately recognises and addresses the specific impacts of the development and construction of AI and data facilities;
3. Provide Parliamentary oversight and accountability for new facility construction and resource allocation;
4. Ensure transparent public disclosure of resource consumption;
5. Provide the Tasmanian community with adequate opportunities for consultation;
6. Ensures the Tasmanian community receive tangible benefits from all AI and data facilities constructed in the state; and
7. Any other matter incidental.

INTRODUCTION

Data centres are beginning to emerge in Tasmania following establishment of hundreds of centres across mainland Australia. Tasmania is attractive due to its cool climate and access to renewable energy. There is strong community interest in their potential impacts such as electricity use, water consumption, noise, aviation safety, electromagnetic fields, impact on agricultural land, impact on residential amenity, employment, impacts to wildlife including the effect on bee pollination and impacts from backup diesel generators.

Latrobe Council has received a development application for a proposed data centre within a General Industrial zone and in proximity to the Devonport Airport. Council, acting as a planning authority, has made a proposal that the Minister for Planning declare the data centre a major project under Section 60C (1) of the Land use Planning and Approvals Act, 1993 (LUPAA). At the time of writing this submission a determination has not been made by the Minister.



Council's submission focusses on Terms of Reference Point 2. relating to matters surrounding Tasmania's Resource Management and Planning System and the restrictive assessment process, in particular under Section 57 (discretionary permit process) of the *Land Use Planning and Approvals Act, 1993* and the matters it has identified in relation to the assessment of data centre developments.

RESPONSE

Data centres depend on infrastructure such as energy and water and generally require a large site. They operate continuously, 24 hours per day and generally upon completion have low employment requirements when compared to other industrial uses.

It is Kentish Council's view that there has been no consideration for how such proposals are addressed within the defined use classes in the Tasmanian Planning Scheme. The Tasmanian Planning Scheme was not designed with data centres in mind.

PLANNING SCHEME USE CLASS

While the State Planning Provisions provide consistent statewide controls and standard use classes, there is no specific use class, qualification or code that recognises the particular land use characteristics of data centres.

The planning scheme requires a use or development to be categorised into a use class within the Scheme. If a use or development does not readily fit into any use class, it must be categorised into the most similar use class. Data centres do not fit within the definition of a warehouse, service industry or manufacturing and processing and the Utilities use class is the most similar use class. This creates a fundamental assessment difficulty. The planning authority is required to assess the application against the standards that apply to the selected use class and zone, rather than against standards that directly address the actual impacts of the proposal.

SAFEGUARDING OF AIRPORTS CODE

This code applies to;

- (a) a sensitive use within an airport noise exposure area and
- (b) development within an airport obstacle limitation area.

Despite a proposed data centre being located within proximity of an airport, the C.16 Safeguarding of Airports Code does not apply. Airport operators have raised concerns in relation to the need for consideration of impacts to prescribed airspace, radio frequencies, plume rise from generator emissions and associated operational or safety risks. Without a mandatory referral process, there is a real possibility that the development could commence resulting in adverse impacts and safety risks to airport operations.



DEVELOPMENT STANDARDS FOR GENERAL INDUSTRIAL ZONE AND IMPACTS ON PRIME AGRICULTURAL LAND

At a National Cabinet meeting on 26 August 2026 discussions focussed on developing new legislated standards concerning land use impact, including developments in proximity to prime agricultural land. The use and development standards for the General Industrial Zone are completely silent in relation to assessing potential impacts on any industrial proposals that are adjacent to agricultural land. The only mechanism that would trigger the need for industrial uses to expressly identify potential impacts to the adjoining agricultural land would be if the proposal was assessed by the EPA as a level 2 activity.

To further emphasise the concerns above, there is potential that a data centre proposal on General Industrial zoned land could meet all acceptable solutions of the planning scheme. As data centres are considered to be classified as a Utilities use, and as Utilities uses are permitted in the General Industrial zone, if an application were to meet all acceptable solutions of the planning scheme, the application would be Permitted in status pursuant to Section 58 of LUPAA. Not only would such an application not require public advertising as part of the assessment, the planning authority would be constrained to imposing conditions or restrictions on a planning permit on matters only specified in the planning scheme. Conditions in relation to concerns such as impacts to airport operations or prime agricultural land could not legally be imposed.

DEVELOPMENT STANDARDS FOR RURAL ZONE

As data centres are considered to be classified as a Utilities use, and as Utilities uses are permitted in the Rural zone, if an application were to meet all acceptable solutions of the planning scheme, the application would be Permitted in status pursuant to Section 58 of LUPAA. As with the General Industrial zone, not only would such an application not require public advertising as part of the assessment, but the planning authority would also be constrained to imposing conditions or restrictions on a planning permit on matters only specified in the planning scheme. There is potential that data centres could be located on prime tourist routes adjacent to world renowned wilderness areas as of right with limited ability to legally impose conditions to mitigate any potential environmental and amenity impacts.

ASSESSMENT BY ENVIRONMENT PROTECTION AUTHORITY

Depending on the scale of a data centre, the number of backup diesel generators on site generally meet the definition of a fuel burning activity under Schedule 2 of the *Environmental Management and Pollution Control Act, 1994 (EMPCA)*.

Council understands that to date, that despite data centre activities meeting the definition of a Level 2 activity, the Environment Protection Authority have chosen not to assess such applications, determining that:



- that the Council's process and powers under LUPAA can facilitate an appropriate level of environmental impact assessment and regulatory control, sufficient to manage the risk of environmental harm or nuisance associated with proposals; and
- that the risk of the activity causing serious or material environmental harm or environmental nuisance is very low or negligible.

It is the Council's view that if a data centre development meets the criteria for a Level 2 activity that it should be assessed by the Environment Protection Authority. EMPCA has a broader criterion that would provide a more fulsome assessment to consider the range of environmental concerns that are being raised.

ADDRESS OF CONCERNS RAISED IN RELATION TO DATA CENTRES

Public notification and representation rights under the discretionary permit process are extremely important, but the community can only raise matters that are relevant to the applicable planning provisions and many of the legitimate concerns raised by the community are unable to be considered by a local planning authority assessment.

CONCLUSION

Assessment by individual local planning authorities is not sufficient to address the broader impacts of AI data centre developments. Many of the key issues, including cumulative demand on Tasmania's electricity generation and network capacity, pressure on water resources, environmental impacts, infrastructure investment and regional economic consequences, extend beyond the boundaries of a single development site and beyond the matters that can be fully considered under the current local planning assessment framework.

Council recommends that the Tasmanian Planning Scheme be amended to;

- Establish a specific use class and appropriate planning provisions for AI data centres, including development standard that address their particular impacts.
- That proposed data centre developments located near airports be subject to mandatory referral to the relevant airport operator and aviation authorities; and
- That the assessment of data centre proposals must consider the cumulative impacts on Tasmania's electricity generation and network, water resources and infrastructure.

For these reasons, Kentish Council submits that the Tasmanian Planning Scheme is not currently adequate to assess AI data centre developments at a local planning authority level. Until specific planning scheme provisions are introduced to address the unique characteristics and impacts of these facilities, Council considers that AI data centre proposals should be assessed as major projects by the Tasmanian Planning Commission which will provide a broader and more robust assessment.

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