

Background Report

Draft Planning Directive No. 8 – Exemptions, Application Requirements, Special Provisions and Zone Provisions

Introduction

This background report provides supporting information to accompany draft *Planning Directive No. 8 – Exemptions, Application Requirements, Special Provisions and Zone Provisions* (the draft planning directive). This draft planning directive will apply to all remaining interim planning schemes. It does not apply to the *Sullivans Cove Planning Scheme 1997* or the *Flinders Planning Scheme 2000*.

The draft planning directive proposes to provide for early implementation of some elements of the State Planning Provisions (SPPs) through interim planning schemes. In particular, these cover:

- certain exemptions and general provisions;
- the application requirements;
- the development standards for dwellings in the General Residential Zone and Inner Residential Zone; and
- terms and definitions that relate to the above provisions.

These provisions have already been subject to a formal consultation and assessment process in the making of the SPPs.

The aim is to assist with the delivery of public infrastructure projects, housing developments, other aspects of the post COVID-19 recovery, and to implement a number of important reforms delivered through the SPPs.

This background report has been prepared to assist with the assessment of the draft planning directive undertaken by the Tasmanian Planning Commission (the Commission), specifically in making its recommendation to the Minister for Planning in accordance with section 10(3) of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act) and whether to recommend that the draft planning directive has interim effect.

The background report provides the context for the draft planning directive, outlining the policy background, legislative basis, assessment process, stakeholder engagement undertaken, and an overview of the proposed provisions and requirements.

Policy Background

Tasmania's recovery from the coronavirus (COVID-19) emergency will rely heavily on stimulating our economy to quickly recover and evolve greater resilience for possible future

waves of impacts. To support the recovery, Tasmania's planning system must be operating efficiently and have an appropriate, sustainable development framework in place to both encourage investment, and ensure the right developments occur in the right location.

The draft planning directive is focussed on providing a means for early implementation of certain SPPs exemptions, application requirements, general provisions, and zone provisions in interim planning schemes.

The SPPs were made in early 2017, but are only current implemented as part of the Tasmanian Planning Scheme within the Burnie City Council area with implementation also imminent with the Devonport City Council area. Estimated completion of the full implementation of the Tasmanian Planning Scheme is at least a further 12 months away.

The SPPs contain revised exemptions, application requirements, general provisions (known as special provisions within the current interim planning schemes), and revised development standards for dwellings in the General Residential Zone and Inner Residential Zone that will only come into effect as the Local Planning Provisions (LPSs) for each council are approved.

Many of the SPPs exemptions do not rely upon zone maps or code overlays to operate, or relate to equivalent zones or codes currently contained in interim planning schemes. The application requirements and general provisions in SPPs are generally not reliant upon zone maps or code overlays.

There are no practical reasons for not bringing these provisions forward to replace or augment the current provisions in the interim planning schemes which are themselves largely determined by the content of *Planning Directive No.1 - The Format and Structure of Planning Schemes* (PD1).

Early implementation of some the SPPs exemptions and general provisions will deliver more contemporary planning provisions which were prepared and tested as part of the SPPs review, and will also assist with other Government initiatives currently in train, including:

- providing more efficient delivery of public infrastructure and road works;
- providing greater flexibility for bushfire hazard reduction in response to the devastating bushfires that have occurred across Tasmania and the mainland over the last two fire seasons;
- further clarifying the application requirements to assist with councils accepting and determining development applications; and
- providing broader assistance for economic stimulus as part of the COVID-19 recovery.

Early implementation of the road works exemptions in the SPPs would assist in delivering key elements of the State Government's COVID-19 recovery strategy, specifically the \$3.1 billion 'Construction Blitz' announced on 4 June 2020, which includes a number of State road infrastructure projects, such as:

- Highland Lakes Road realignment at the intersection with Midland Highway;

- East Derwent Highway duplication at Geilston Bay;
- Bass Highway realignment from Cooee to Wynyard;
- Arthur Highway road widening and pedestrian access at Eaglehawk Neck;
- Tasman Highway duplication between the Hobart Airport and the causeway;
- Tasman Highway intersection upgrade at Midway Point;
- Midland Highway pedestrian facilities at Campbell Town; and
- a variety of West Tamar Highway road projects.

The SPPs provide broader scope for exempting road works, particularly road upgrades within 3m of the road reserve. The equivalent exemption at clauses 6.2.3 and 6.2.4 of interim planning schemes (in effect through PD1) is limited to 'minor' road upgrades only and to circumstances where no threatened vegetation is removed.

The broader exemptions for vegetation removal in the SPPs will assist authorities and landowners with bushfire hazard reduction measures, particularly in response to recent bushfire events. It is also worth noting the current Royal Commission into National Natural Disaster Arrangements which is examining each jurisdiction's land management and bushfire reduction measures available through the land use planning system. Indeed the Government is currently preparing a Bill to address a range of matters concerned with bushfire mitigation that aligns with the SPP exemption and its passage through Parliament may result in a requirement to modify the exemptions currently operating in any event.

The SPPs vegetation removal exemptions, specifically those which relate to bushfire hazard reduction in clauses 4.4.1(c), (d), and (e), do not have the same limitations as imposed by the equivalent exemption in clauses 6.3.1 and 6.3.2 of interim planning schemes. The equivalent vegetation removal exemptions for bushfire hazard reduction in clauses 6.3.2(c), (d) and (e) of interim planning schemes do not apply if:

- a heritage, scenic/landscape, or biodiversity values code applies;
- more than 1m² of land is affected by a potentially contaminating activity;
- excavation or fill of more than 0.5m in depth occurs within a salinity hazard area or landslip hazard area;
- threatened vegetation is removed; or
- the land is located within 30m of a wetland or watercourse.

A range of other provisions in the SPPs, which are proposed for earlier implementation, can assist with economic stimulus as part of the COVID-19 recovery. These include:

- assistance for the employment of trades in the housing industry for domestic house renovations and domestic outbuilding and garden structures through:

- the greater flexibility provided by the development standards for dwellings in the SPPs General Residential Zone and Inner Residential Zone; and
- broader exemptions for outbuildings and garden structures in clauses 4.3.7 and 4.3.11 in the SPPs;
- broader exemptions for home occupations in clause 4.1.4 of the SPPs by not limiting visitors attending the site, which can assist with small businesses that currently operate from home, or are needing to move their premises to home;
- assistance for climate change initiatives and environmental management through broader exemptions for solar panels in clauses 4.5.1 and 4.5.2 of the SPPs and environmental rehabilitation works in clause 4.4.3 of the SPPs;
- more flexibility for changes of use through the general provisions at clauses 7.4 and 7.5 of the SPPs; and
- broader exemptions in clauses 4.1.2, 4.1.5 and 4.2.7 of the SPPs for events and building of local facilities, such as markets and minor public infrastructure (e.g. street furniture and facilities, and playground equipment).

Earlier implementation of these elements of the SPPs also align with the recently released interim report from the Premier's Economic and Social Recovery Advisory Council, which emphasises the importance of timely consideration of proposals that assist with the economic and social recovery, particularly reforms that deliver a fit-for-purpose regulatory framework and support the rollout of the Government's 'construction blitz' program.

There is a broader issue that the Government now considers relevant to the draft planning directive, that being the desire to retain and improve the consistency between planning schemes in operation. While the interim planning schemes are based on PD1 and therefore have to date presented a consistent approach to application requirements and many of the exemptions, this has now changed with the recent approval of the Burnie LPS. There are now two slightly different sets of provisions operating across the State.

The trajectory of approvals for the other LPSs suggests that there will be a substantial period over the next two years perhaps, where this dual system will operate presenting less consistency than has been the case over the last 5 – 6 years. The Government's intent to introduce the Tasmanian Planning Scheme was to provide a higher level of consistency but its incremental introduction through the LPSs over a longer period will diminish this consistency. While many of the actual planning scheme standards will remain at variance the early adoption of some of the SPPs will at least retain consistency in some parts of the administrative provisions.

While not necessarily seen as a fundamental part of the planning scheme, the exemptions and application requirements etc. provide a uniform platform for planning assessments. This will assist both developers and the local council planners in dealing with applications.

The Department of Justice's Planning Policy Unit (PPU) has reviewed all the SPP exemptions and general provisions to determine which could be introduced to the interim

planning schemes, particularly those that can operate with minimal or no changes to other parts of the interim planning schemes, such as needing new definitions to operate properly, and those that reference equivalent zones or codes.

The SPPs also include revised development standards for dwellings in the two main residential zones – the General Residential Zone and Inner Residential Zone. These development standards are derived from *Planning Directive No. 4.1 – Standards for Residential Development in the General Residential Zone* (PD4.1) which are in effect in interim planning schemes through the General Residential Zone. The majority of interim planning schemes that apply the Inner Residential Zone also apply development standards derived from PD4.1.

The revised development standards for dwellings have been implemented through most of the Housing Land Supply Orders issued to assist with the development of affordable housing. There is benefit from bringing across these standards to assist with other housing projects to help further stimulate the economy as part of the COVID-19 recovery.

The selected provisions in the draft planning directive can be clustered according to their particular characteristics, as follows:

- Assistance for the employment of trades in the housing industry through broader exemptions for domestic house renovations, domestic outbuildings and garden structures, and greater flexibility in the development standards for dwellings in the main residential zones.
- Broader exemptions for home-based businesses.
- Broader exemptions for public infrastructure and road works.
- Assistance for climate change initiatives and environmental management through broader exemptions for solar panels and environmental rehabilitation works.
- More flexible uses and changes of use through the exemptions and general provisions.
- Broader exemptions for events and building local facilities, such as markets and minor public infrastructure (e.g. street furniture and facilities, and playground equipment)
- Broader exemptions for bushfire hazard reduction to provide for safer communities.

The draft planning directive process provides a means for early implementation of these SPPs, specifically the issuing of an interim planning directive.

Legislative basis and assessment process

The draft planning directive will be lodged by the Department of Justice with the Commission for assessment under section 10(1) of the former provisions of the Act.

The former provisions of the Act remain in effect for planning directives through the savings provisions under Schedule 6 of the Act, specifically clause 3(2)(b), which provides for the making of a planning directive and an interim planning directive .

Under the former provisions of the Act, the Minister, may issue an interim planning directive following a recommendation from the Commission.

Schedule 6, Clause 3(2)(b) of the Act states:

(2) Despite the substitution of Parts 2A and 3 of the former provisions, if there was, immediately before the commencement day, a planning instrument in operation in relation to a municipal area, then, on and from the commencement day until an LPS comes into effect in relation to the municipal area –

(a) ...

(b) Parts 2A and 3 of the former provisions remain in force in relation to the municipal area and accordingly a planning directive, and an interim planning directive, each within the meaning of the former provisions, may be made under Part 2A of the former provisions in relation to the municipal area; and

...

Section 9 (in Part 2A) of the substituted Act provides that a planning directive may be made in respect of the following matters:

- (a) issues relating to use, development, protection or conservation of any land requiring consistency for all municipal areas;*
- (b) issues relating to use, development, protection or conservation of any land unique to one municipal area or only some municipal areas;*
- (c) procedural matters arising from the operation of this Act or a State Policy;*
- (d) the application of a State Policy; and*
- (e) any other matter the Minister considers appropriate.*

The draft planning directive is consistent with section 9(b) of the substituted Act in that it relates to issues for use and development on land that is unique to some municipal areas in Tasmania (noting that the intention is to limit its application to interim planning schemes – therefore will not be implemented within the Flinders municipality, the Sullivans Cove area, or any areas where the Tasmanian Planning Scheme is already in effect).

The process for developing the draft planning directive and issuing an interim planning directive under part 2A of the substituted Act, if this course of action is recommended by the Commission, is as follows:

1. The draft planning directive is prepared, by the Department of Justice, Planning Policy Unit (section 10(1)) of the substituted Act).
2. The draft planning directive is lodged with the Commission by the Department of Justice, as a State Service Agency (section 10(2) of the substituted Act).
3. The Commission forwards the draft planning directive to the Minister with a recommendation as to whether or not an assessment of the draft planning directive should be undertaken (section 10(3) of the substituted Act). The Commission also recommends to the Minister whether or not the draft planning directive should have interim effect as an interim planning directive (section 12A of the substituted Act).
4. Minister directs the Commission to undertake assessment of the draft planning directive (section 11(1) of the substituted Act).
5. Should the Commission so recommend, the Minister issues an interim planning directive (section 12A(2) of the substituted Act), gives notice to the Commission and all planning authorities, and publishes the notice in the *Gazette*.
6. The interim planning directive takes effect on the day the notice is published in the *Gazette* and it has effect for a period of 12 months (section 12A(9) of the substituted Act).

The Department of Justice only seeks this draft planning directive if the provisions can be implemented immediately through an interim planning directive.

To assist with implementation, the Government also intends to amend the Act to remove the requirement for an assessment of the draft planning directive to be undertaken by the Commission. The SPPs have been formally consulted on, assessed by the Commission, and approved by the Minister, which means that there should be no need to duplicate that assessment by further consultation and review of the draft planning directive.

Upon enacting of the legislative amendments a planning directive may be issued in the form of this interim planning directive without the formal public exhibition and assessment process.

Stakeholder Engagement

The Department's Planning Policy Unit (PPU) has been in direct consultation with the Department of State Growth, Department of Premier and Cabinet, and the Department of Communities Tasmania in identifying some of the key exemptions and provisions from the SPPs for early implementation.

While the Department has not undertaken any detailed consultation with local government on early implementation of certain SPPs, the PPU recently commenced consultation on the intention to amend the Act to assist with implementing parts of the SPPs through interim planning schemes.

Given the SPPs have already been subject to a thorough consultation and statutory review process by the Commission in 2016-17, further consultation on the draft planning directive is considered unnecessary.

Consultation with the Department of State Growth, Department of Premier and Cabinet and the Department of Communities Tasmania has outlined the importance of early implementation of a number of elements in the SPPs, specifically the:

- road works exemption in clause 4.2.4 of the SPPs, which provides broader scope for a range of current State-road upgrade projects;
- vegetation removal exemptions in clause 4.4.1 of the SPPs, particularly those that assist with bushfire hazard reduction in response to recent bushfire events and the current Royal Commission into National Natural Disasters Arrangements; and
- development standards for dwellings in the SPPs General Residential Zone and Inner Residential Zone which have been implemented in interim planning schemes for a number sites through Housing Land Supply Orders.

Detailed consultation with local government has not been undertaken on the specific elements of the SPPs proposed in the draft planning directive given the extensive consultation that has already occurred through the preparation, assessment and making of the SPPs. The councils are also avidly working to have their Local Provisions Schedules (LPSs) approved to bring the SPPs into effect for their municipal area.

Initial advice received from local councils from consultation on the proposed legislative amendments have identified the following concerns:

- potential unintended consequences of provisions from the SPPs not functioning effectively in interim planning schemes;
- loss of the opportunity to further scrutinise the SPPs, or implement 'overriding' provisions through a LPS; and
- it never being the intention for the SPPs to be implemented in this manner.

The Department is not intending to bring across any provisions from the SPPs that cannot readily operate in current interim planning schemes, as outlined in this background report. The PPU has carefully chosen those that provide improved outcomes and assist with current development programs and COVID-19 recovery efforts.

It is acknowledged that not all councils agree with some of the provisions in the SPPs however, there is currently no opportunity for councils to alter or override the exemptions or general provisions prior to an LPS coming into effect.

While councils may seek to 'add to, modify, or substitute' the zone provisions in the SPPs, the development standards for dwellings in the SPPs General Residential Zone and Inner Residential that are proposed in the draft planning directive are derived from the provisions in Planning Directive No. 4.1 which are already implemented through interim planning

schemes. Some Housing Land Supply Orders have already implemented the provisions from the SPPs zones through interim planning schemes.

There has been a conscious effort to avoid overriding any provisions that currently 'add to, modify, or substitute' these provisions in interim planning schemes.

Overview of the Draft Planning Directive

The following provides an overview of the various clauses of the draft planning directive.

1.0 Citation

This clause sets out how the draft planning directive is to be cited.

2.0 Application

The draft planning directive will apply to all remaining interim planning schemes. It will not apply to the *Sullivans Cove Planning Scheme 1997* or the *Flinders Planning Scheme 2000*.

The draft planning directive is intended to be implemented by modifications to interim planning schemes under former section 14 of the Act.

3.0 Effect of this planning directive (mandatory provisions)

This clause sets out the mandatory provisions that must be contained in all applicable interim planning schemes.

Clause 3.1 requires the following provisions be included in the applicable interim planning schemes:

- 15 additional terms and definitions from the SPPs that are used in the provisions of the draft planning directive (Attachment 1);
- a selection of exemptions from the SPPs which are either in addition to, or in substitution of, the general and limited exemptions in interim planning schemes (Attachment 2);
- the application requirements from clause 6.1 of the SPPs in substitution of the equivalent requirements in clause 8.1 of interim planning schemes (Attachment 3);
- general provisions from clause 7.0 of the SPPs which are either in addition to, or substitution of, the special provisions in clause 9.0 of interim planning schemes (Attachment 4);
- the development standards for dwellings in clause 8.4.2 of SPPs General Residential Zone of the SPPs in substitution of those in clause 10.4.2 of the General Residential Zone in interim planning schemes (Attachment 5); and

- the development standards for dwellings in clause 9.4.2 of the SPPs Inner Residential Zone in substitution of those in clause 11.4.2 of the Inner Residential Zone in interim planning schemes (Attachment 6).

Additional terms and definitions

Attachment 1 of the draft planning directive identifies the 15 additional terms and definitions to be included in the applicable interim planning schemes.

These terms are used in the SPPs exemptions, application requirements, general provisions and zone provisions that are being introduced by the draft planning directive.

All definitions are already contained in the SPPs. Minor revisions have been made to the definition of 'local historic heritage significance' to align with the operation of current interim planning schemes which are set out differently to the SPPs with very few providing equivalent statements of heritage significance as intended by the SPPs Local Historic Heritage Code.

Exemptions

Attachment 2 of the draft planning directive identifies the SPPs exemptions to be contained in the applicable interim planning schemes, which are either in addition to, or in substitution of, the PD1 and locally (or regionally) applied general and limited exemptions.

Only those SPPs exemptions that can readily operate through the interim planning schemes, provide clear benefits (particularly in response to current Government initiatives), and provide for greater standardisation across all interim planning schemes, have been included in the draft planning directive, such as those that:

- operate without reference to zones or codes; or
- operate with reference to zones and codes that are equivalent to those in interim planning schemes.

Attachment 2 also includes the residual PD1 general and limited exemptions in a format consistent with the SPPs exemptions. For ease of use, all exemptions (both general and limited) are to be included in clause 5.0 of interim planning schemes, with current clause 6.0 of interim planning schemes to be vacated.

The following table provides a summary of the exemptions in Attachment 2 of the draft planning directive and their origin (either the SPPs or PD1).

Attachment 2 clause	Origin of clause	
	SPPs	PD1
5.1.1 – bee keeping	4.1.1	
5.1.2 – occasional use	4.1.2	

Attachment 2 clause	Origin of clause	
	SPPs	PD1
5.1.3 – home occupation	4.1.4	
5.1.4 – markets	4.1.5	
5.2.1 – dam works construction	4.2.1	
5.2.2 – stormwater infrastructure	4.2.2	
5.2.3 – irrigation pipes		6.5.1 and 6.5.3
5.2.4 – road works	4.2.4	
5.2.5 – vehicle crossings, junctions and level crossings	4.2.5	
5.2.6 – minor communication infrastructure	4.2.6	
5.2.7 – provision of linear and minor utilities and infrastructure		6.2.1 and 6.2.2 (excluding stormwater infrastructure)
5.2.8 – upgrades of linear and minor utilities and infrastructure		6.2.3 and 6.2.4 (excluding road works and stormwater infrastructure)
5.2.9 – maintenance and repair of linear and minor utilities and infrastructure		5.4.1 (excluding road works, stormwater infrastructure and minor infrastructure)
5.2.10 – minor infrastructure	4.2.7	
5.2.11 – navigation aids	4.2.8	
5.2.12 – electric car charger	4.2.9	
5.3.1 – emergency works	4.3.1	5.7.1
5.3.2 – maintenance and repair of buildings		5.5.1
5.3.3 – temporary buildings or works		5.6.1
5.3.4 – unroofed decks	4.3.6	
5.3.5 – outbuildings	4.3.7	
5.3.6 – buildings and works in the Rural Resource Zone or Significant Agricultural Zone		6.5.1 and 6.5.2
5.3.7 – demolition of exempt buildings		5.9.1

Attachment 2 clause	Origin of clause	
	SPPs	PD1
5.3.8 – garden structures	4.3.11	
5.4.1 – vegetation removal for safety or in accordance with other Acts	4.4.1	
5.4.2 – planting, clearing or modification or vegetation on pasture or cropping land		6.3.1 and 6.3.2(a) (only for pasture or cropping land)
5.4.3 – landscaping and vegetation management	4.4.2	
5.4.4 – vegetation rehabilitation works	4.4.3	
5.5.1 – ground mounted solar energy installations	4.5.1	
5.5.2 – roof mounted solar energy installations	4.5.2	
5.6.1 – use or development in a road reserve or on public land	4.6.2	
5.6.2 – fences not within 4.5m of a frontage in the General Residential Zone or Inner Residential Zone		6.4.1 and 6.4.2 (excluding fences not within 4.5m of a frontage in the General Residential Zone or Inner Residential Zone and retaining walls)
5.6.3 – fences within 4.5m of a frontage in the General Residential Zone or Inner Residential Zone	4.6.3 (excluding fences not in the General Residential Zone or Inner Residential Zone)	
5.6.4 – temporary fencing	4.6.7	
5.6.5 – retaining walls	4.6.8	
5.6.6 – hot water cylinders	4.6.12	
5.6.7 – minor structures		6.1.1, 6.1.2 and 6.1.3 (excluding hot water cylinders and roof mounted solar energy installations)
5.6.8 – strata division	4.6.18	5.8.1

Modifications have been made to the SPPs exemptions in Attachment 2 to appropriately refer to equivalent codes in interim planning schemes as they do not match exactly with the code names used in the SPPs. Modifications have been made as follows:

SPPs	Draft Planning Directive
Local Historic Heritage Code	a code relating to historic heritage values or significant trees
Landslip Hazard Code	a code relating to landslip hazard
Safeguarding of Airports Code	a code relating to the protection of airports

Where the Local Historic Heritage Code is referenced, the modified reference also refers to a code relating to significant trees as the significant tree lists operate through the SPPs Local Historic Heritage Code.

Terminology in the retained PD1 exemptions has been kept with modifications only made to the formatting and to exclude elements of the exemptions substituted by the adopted SPPs exemptions.

The SPPs exemption for fences within 4.5m of a frontage has been included, but only for the General Residential Zone and Inner Residential Zone. This assists with implementation of the frontage fence development standards for dwellings in clauses 10.4.7 and 11.4.7 of Attachments 5 and 6 of the draft planning directive, which link with this exemption.

Clauses 5.0.1 and 5.0.2 in Attachment 2 of the draft planning directive are based on current clauses 5.0.1 and 5.0.2 in PD1 with modifications to align with the numbering in Attachment 2.

Clause 5.0.3 in Attachment 2 of the draft planning directive aims to provide equivalent outcomes to clause 4.0.3 in the SPPs for actively mobile landforms. This clause aims to ensure compliance with the *State Coastal Policy 1996*, specifically Outcomes 1.4.1 and 1.4.2. The SPPs clause 4.0.3 has been modified to deliver an appropriate outcome in the absence of the SPPs Coastal Erosion Hazard Code.

Clauses 4.3, 4.4 and 4.5 of the draft planning directive outlines the general or limited exemptions that are to remain in effect from those applied as local provisions in interim planning schemes.

Clause 5.1 of the draft planning directive specifies that this planning directive suspends the general and limited exemptions in clauses 5.0 and 6.0 of PD1 as they are either saved by the draft planning directive or substituted by the SPPs exemptions in Attachment 2.

Application Requirements

Attachment 3 of the draft planning directive contains the application requirements from clause 6.1 of the SPPs, which replace the applications requirements contained in clause 8.1 of the applicable interim planning schemes. The only modification made to the SPPs

applications requirements is to adjust the clause numbering to match with that in interim planning schemes.

Clause 5.1 of the draft planning directive specifies that this planning directive suspends the application requirements in 8.1 of PD1.

Special Provisions

Attachment 4 of the draft planning directive identifies the SPPs general provisions to be included as special provisions in the interim planning schemes, which consist of:

- 7.4 Change of Use of a Place listed on the Tasmanian Heritage Register or a Local Heritage Place
- 7.5 Change of Use
- 7.6 Access and Provision of Infrastructure Across Land in Another Zone
- 7.7 Buildings Projecting onto Land in a Different Zone
- 7.8 Port and Shipping in Proclaimed Wharf Areas
- 7.9 Demolition

With the exception of clause 7.9 in the SPPs (Demolition), the others are not currently contained in PD1. The demolition general provision from the SPPs is included at clause 9.4 of Attachment 4 in substitution for the equivalent special provision in PD1. Variations of some of the SPPs general provisions in Attachment 4 are contained in some interim planning schemes, but not all.

Modifications have been made to the SPPs general provisions to generically refer to the equivalent codes (or terms in codes) in interim planning schemes as follows:

SPPs	Draft Planning Directive
Local Historic Heritage Code	a code relating to historic heritage values
local heritage place	heritage place
local heritage precinct	heritage precinct
Parking and Sustainable Transport Code	a code relating to parking

Unlike the modifications made to the exemptions, all references to the Local Historic Heritage Code have been modified to refer to a code relating to historic heritage values, with no reference to a code relating to significant trees. This is due to the provisions being limited to a change of use to a heritage place or the demolition of a building that is subject to the heritage code.

For completeness, Attachment 2 of the draft planning directive also includes the residual PD1 special provisions.

Clause 5.1 of the draft planning directive specifies that this planning directive suspends the application requirements in clauses 9.1 to 9.4 of PD1.

Clause 4.6 and Attachment 4.1 of the draft planning directive outline the special provisions that are to remain in effect from those are included as local provisions in interim planning schemes.

General Residential Zone – Development Standards for Dwellings

Attachment 5 of the draft planning directive identifies the SPPs General Residential Zone provisions to be contained in the applicable interim planning schemes. This consists of the development standards for dwellings in clause 8.4.2 of the SPPs which substitute the development standards for dwellings in clause 10.4.2 of Attachment 1 in PD4.1.

The setbacks from a frontage to a road specified in the Table 10.4.2 of current interim planning schemes are saved by clause 4.7 of the draft planning directive and are specifically referenced in Attachment 5.1 of the draft planning directive.

Clauses 4.1 and 4.2 of the draft planning directive correspond with clauses 3.2 and 3.3 in PD4.1 and outline additional provisions that may be contained in interim planning schemes. Clause 4.9 of the draft planning directive also saves the current requirements for the protection of trees in clause 10.4.2 A4 and P4 of the *Kingborough Interim Planning Scheme 2015*.

Clause 5.2 of the draft planning directive specifies that this planning directive suspends clauses 10.4.1 to 10.4.8 in Attachment 1 of PD4.1 as they are substituted by the development standards in Attachment 5 of the draft planning directive.

Inner Residential Zone – Development Standards for Dwellings

Attachment 6 of the draft planning directives identifies the SPPs Inner Residential Zone provisions to be contained in the applicable interim planning schemes. This consists of the development standards for dwellings in clause 9.4.2 of the SPPs which substitute the development standards for dwellings in 11.4.2 of the applicable interim planning schemes.

Clause 3.2 of the draft planning directives specifies that the SPPs Inner Residential Zone provisions are to be included in the following interim planning schemes that currently apply the Inner Residential Zone:

- *Brighton Interim Planning Scheme 2015;*
- *Clarence Interim Planning Scheme 2015;*
- *Glenorchy Interim Planning Scheme 2015;*
- *Hobart Interim Planning Scheme 2015;* and
- *Kingborough Interim Planning Scheme 2015.*

The draft planning directive does not apply the SPPs Inner Residential Zone provisions to the *Launceston Interim Planning Scheme 2015* as they cannot be easily incorporated and will also cause a mismatch with the current minimum lot size requirements in the Zone.

The draft planning directive does not apply the SPPs Inner Residential Zone provisions to the *Devonport Interim Planning Scheme 2013*, which only applies the Inner Residential Zone to one site at 39A North Fenton Street. The SPPs already applying to this site through the

Housing Land Supply (Devonport) Order 2018 and the Devonport Housing Land Supply Order Specific Area Plan.

Clause 4.9 of the draft planning directive saves the current requirements for the protection of trees in clause 11.4.2 A4 and P4 of the *Kingborough Interim Planning Scheme 2015*.

Clause 4.8 of the draft planning directives clarifies that clause 11.4.2 A3 in Attachment 5 does not apply to land within the Battery Point Heritage Precinct (BP1). This is consistent with current clause 11.4.2 in the *Hobart Interim Planning Scheme 2015* as the building envelope requirements for this area are currently contained in the Historic Heritage Code of the interim planning scheme.

4.0 Effect of this planning directive (local provisions)

The clause outlines the effect the draft planning directive has on existing local provisions contained in interim planning schemes.

Clauses 4.1 and 4.2 of the draft planning directive correspond with clauses 3.2 and 3.3 in PD4.1 and specify the additional provisions that can and cannot be applied in either General Residential Zone or Inner Residential Zone for dwellings.

Clause 4.3 of the draft planning directive saves a number of existing general and limited exemptions applied as local provisions in interim planning schemes, including qualifications or modifications made to PD1 exemptions.

Attachment 2.1 of the draft planning directive outlines the locally applied general and limited exemptions that are saved. Clause 4.5 of the draft planning directive specifies that no other general or limited exemptions contained in an interim planning scheme prior to the draft planning directive coming into effect are saved beyond those identified in Attachment 2.1.

Only those exemptions that are not substituted by the SPPs exemptions in Attachment 2 are saved, along with locally applied qualifications. The change of use exemption contained in Cradle Coast Region interim planning schemes and some Northern Region interim planning schemes is substituted by a special provision included in Attachment 4 of the draft planning directive, which is derived from the SPPs.

Clause 4.3 also specifies that the saved exemptions may be modified to:

- align with the numerical order of clause 5 of the relevant interim planning scheme;
- make correct references to provisions in the relevant interim planning scheme;
- align with the structure in Attachment 2 of the draft planning directive; or
- achieve the effect intended by the provisions specified in Attachment 2.1 prior to the draft planning directive coming into effect.

Clause 4.4 of the draft planning directive further allows for modifications to be made to the exemptions contained in Attachment 2 of the draft planning directive in order to provide for the effective operation of the saved exemptions in Attachment 2.1.

Clause 4.6 of the draft planning directive saves a number of special provisions applied as local provisions in interim planning schemes. Only those special provision that are not substituted by those in Attachment 4 of the draft planning directive are saved. Modifications may be made to the saved special provisions to:

- align with the numerical order of clause 9.0 of the relevant interim planning scheme; or
- make correct references to provisions in the relevant interim planning scheme.

Clause 4.7 of the draft planning directive saves the setbacks from a frontage to a road in Table 10.4.2 of interim planning schemes. These are specified in Attachment 5.1 of the draft planning directive.

Clause 4.8 of the draft planning directive excludes the land within the Battery Point Heritage Precinct (BP1) from clause 11.4.2 A3 in Attachment 6 of the draft planning directive. This saves the current approach in the *Hobart Interim Planning Scheme 2015* for managing the building envelope requirements in Battery Point.

5.0 Suspension of Provisions

Clauses 5.1 and 5.2 of the draft planning directive identify the provisions in PD1 and PD4.1 that are suspended for the period this planning directive is in effect. This includes:

- the general exemptions and limited exemptions contained in clauses 5.0 and 6.0 of PD1;
- the application requirements in clause 6.1 of PD1;
- clause 9.4 – Demolition of PD1; and
- in Attachment 1 of PD4.1; and
- Attachment 2 of PD4.1.

6.0 Commencement

This clause will identify the commencement date of the planning directive.

Consideration against the Schedule 1 objectives of the Act and State Policies

The draft planning directive is considered to further the Schedule 1 objectives of the Act and is consistent with State Policies, as the provisions have been assessed and determined as such as part of the SPPs review undertaken by the Commission and the approval granted by the Minister for Planning. The parts of PD1 and interim planning schemes that are retained have also been previously deemed to satisfy these requirements.