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10 July 2026

Mr John Ramsay
Executive Commissioner
Tasmanian Planning Commission

tpc@planning.tas.gov.au

Dear Mr Ramsay

Draft Amendment 04-2026 of the State Planning Provisions Land title and permit requirements

It is important to keep the State Planning Provisions (SPPs) under regular review to ensure that they remain relevant and suitable to deliver a better planning outcome.

Draft amendment 04-2026 of the SPPs is being proposed as a minor amendment intended to remove an anomaly and clarify provisions in the SPPs, specifically in relation to aligning the SPPs with recent land titling reforms and clarifying that permits issued under former planning schemes.

In summary, the proposed amendment is to enable the removal of the reference to certificates of title from the SPPs to align with land titling reforms and clarify if there is a requirement for a planning permit under the LUPA Act or the SPPs and that permits issued under former planning schemes are valid when the Tasmanian Planning Scheme (TPS) comes into effect in a municipality.

In accordance with section 30C of the *Land Use Planning and Approvals Act 1993* (the LUPA Act), the Minister has prepared terms of reference in relation to the preparation of draft amendment 04-2026 of the SPPs which are available for viewing on the Planning in Tasmanian website: www.stateplanning.tas.gov.au

The Minister has also prepared the attached draft amendment 04-2026 of the SPPs (Attachment 1) that is in accordance with the terms of reference, and an accompanying explanatory document (Attachment 2).

In accordance with section 30NA(2)(a) of the LUPA Act, the State Planning Office, on behalf of the Minister, is seeking comments in relation to draft amendment 04-2026 of the SPPs from all planning authorities and relevant Tasmanian Government agencies and authorities, including the Land Titles Office by Friday, 14 August 2026.

Concurrently, the State Planning Office, on behalf of the Minister, is seeking the Commission's advice under section 30NA(3) of the LUPA Act on whether draft amendment 04-2026 meets the minor amendment criteria under section 30NA(1) of the Act. Please provide your advice to the Minister and State Planning Office by **Friday, 14 August 2026**. This will allow for the Minister's timely consideration of the draft amendment, particularly to align with the 1 September 2026 changes to the land titling system.

If you would like to discuss the matter further please contact Claire Wolf or Leigh Stevens at the State Planning Office on 1300 703 977 or SPO@stateplanning.tas.gov.au

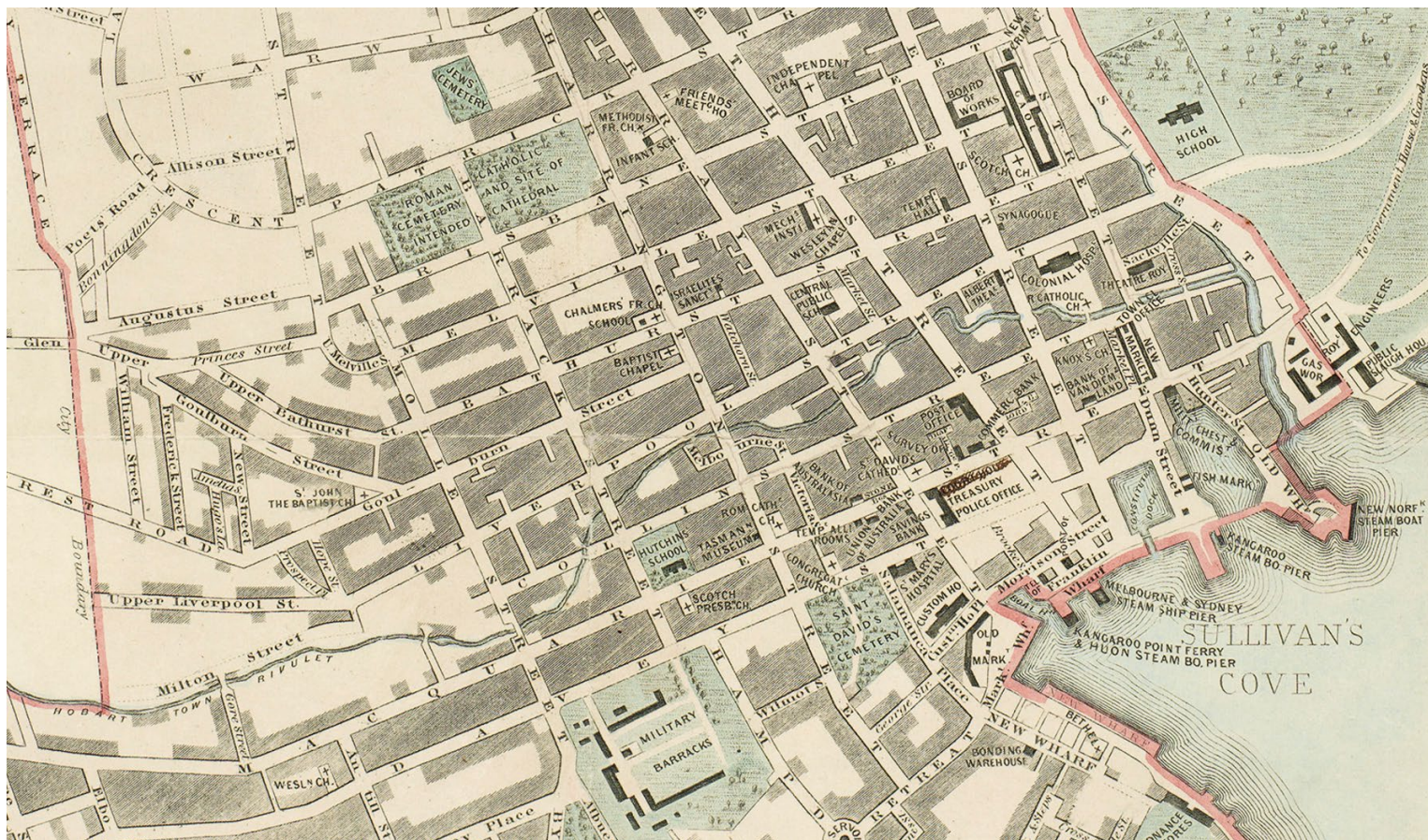
Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nell Nettlefold', written in a cursive style.

Nell Nettlefold
Acting Director State Planning Office

Attachments:

1. Draft Amendment 04-2026 of the SPPs
2. Draft Amendment 04-2026 of the SPPs – explanatory document



Draft Amendment 04-2026 of the SPPs

Land title and permit requirements

Explanatory document under section 16(5) of the *Land Use Planning and Approvals Act 1993*, including SPP criteria assessment

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Explanatory information

For the purposes of section 16(5) of *Land Use Planning and Approvals Act 1993* (LUPA Act), this document is the explanatory document for the draft SPPs amendment 04-2026.

Background

The State Planning Provisions (SPPs) were made on 22 February 2017 and came into effect on 2 March 2017 as part of the Tasmanian Planning Scheme (TPS). The SPPs are now in effect in 28 municipalities with the remaining Kingborough municipality to follow when its Local Provisions Schedule (LPS) is approved.

Under the LUPA Act, the SPPs must be reviewed regularly to ensure they remain contemporary and continue to serve their intended purpose effectively. A comprehensive review of the SPPs was completed in 2023 as part of the 5-yearly statutory review required under LUPA Act.

A variety of previous minor amendments of the SPPs have been made including correcting drafting errors and anomalies, clarifying provisions and alignment with legislation.

The proposed draft minor amendment 04-2026 is an opportunity to remove a potential anomaly and further clarify provisions in the SPPs. The draft amendment contains three minor updates to the SPPs as follows:

- Removing a potential anomaly that will be created by the discontinuation of issuing certificates of title on 1 September 2026, and clarifying the title information required to accompany a permit application;
- Removing a potential inconsistency between the SPPs and the LUPA Act in the general exemptions and clarifying whether a permit is, or is not, required to be issued under the TPS; and
- Clarifying how the SPPs apply to permits issued under former planning schemes before the TPS came into effect.

Land title requirements

The Register maintained by the Recorder of Titles under section 33 of the *Land Titles Act 1980* provides conclusive evidence of estates and interests in land for Tasmania. These documents show the registered owner of land and some interests affecting the land.

The Land Titles Office has recently changed land titles processes to a safer and more secure digital conveyancing system and determined that issuing certificates of title is no longer necessary for land dealings or for ownership verification. Certificates of title no longer add any legal certainty to information available from a digital search of the Register available at a single point in time through the Tasmania Online Land Dealings (TOLD) system. These Tasmanian reforms align with national e-conveyancing, where paper certificates of title (CTs) are being phased out or have already been abolished across most Australian states in favour of electronic conveyancing.

As a result of these reforms, the Tasmanian Government has formally decided that certificates of title will be removed from all land title registration processes from 1 September 2026. The proposed draft amendment responds to this decision.

Currently, certificates of title are required information as part of a valid planning application. Clause 6.1.2(d) of the SPPs requires applicants to provide a copy of the current certificate of title, including the title plans when lodging a permit application. As certificates of title will no longer exist from 1 September 2026, this SPP amendment proposes to remove the requirement for planning applications to include a copy of current certificate of title. Instead, it is proposed that a copy of a recent title search for the relevant land in the digital Register is provided with a permit application.

Essentially, the draft minor amendment is to update the format of title information provided in a permit application. This change is necessary to align the SPPs requirements under Clause 6.1.2(d) with the recent land conveyancing reforms and avoid potential confusion by clarifying the planning requirements to be met from 1 September 2026, preventing a potential anomaly from occurring in the SPPs after that date.

Submissions to the SPPs Review suggested that the clause 6.1.2(d) application requirement for current certificate of title documents, should be removed entirely since councils can access title documents digitally already, and questioned the benefit of providing title plans.

The move to a wholly digital system for accessing and providing title information will streamline the planning assessment process for applicants and councils by making it quicker and easier to start a valid permit application. Including title plans is still considered necessary to the process, as this requirement recognises that applications may involve several titles and serves to assure the planning authority and the public, if exhibited for comment, that the applicant, landowners, and any design specialists are fully aware of the title details relating to the proposed use and development of the land.

Permit requirements

When the Tasmanian Planning Scheme (TPS) comes into effect in a municipality, existing permits issued under a former planning scheme continue to have legal effect under the LUPA Act. These provisions ensure that:

- A new planning scheme cannot prevent the use or development authorised by an existing permit
- A permit remains valid and enforceable according to its original conditions¹
- A new planning scheme does not require a new permit for a use or development already authorised.

¹ Unless it lapses under section 53(5) or cancelled under section 65G of the LUPA Act or expires as part of a condition or restriction in the permit.

It is noted that the current wording of the SPPs Clause 6.4.1 has created uncertainty about whether these clauses refer only to permits issued under the TPS or also to permits issued under former planning schemes. This ambiguity risks misinterpretation and inconsistency across planning authorities as:

- Clause 6.4.1(a) includes wording that could be misrepresented as applying to permits issued under former schemes.
- Clause 4.0.2 does not clearly state that it applies to permits granted under the current planning scheme, although that is the intent.

The draft amendment clarifies if there is, or is not, a requirement for a planning permit under the LUPA Act or the SPPs and corrects a minor inconsistency between the LUPA Act and the SPPs regarding permits granted under the former planning schemes that were in effect prior to the TPS.

The Minister for Housing and Planning (the Minister) has prepared Terms of Reference for draft amendment 04-2026 of the SPPs (Appendix 1) and given notice in the three main Tasmanian newspapers.

Legislation Requirements

Part 3, Division 2 of the LUPA Act sets out the requirements for making amendments to the SPPs.

The LUPA Act enables minor amendments of the SPPs to be made without going through the normal public consultation and assessment processes provided they are for any of the following purposes in section 30NA(1):

- (i) correcting a clerical mistake, an error arising from any accidental slip or omission, an evident miscalculation of figures, or an evident material mistake, in a provision of the SPPs;
- (ii) removing an anomaly in the SPPs;
- (iii) clarifying or simplifying the SPPs;
- (iv) removing an inconsistency in the SPPs;
- (v) removing an inconsistency between the SPPs and the LUPA Act or any other Act;
- (vi) bringing the SPPs into conformity with a State Policy;
- (vii) bringing the SPPs into conformity with a planning directive which the Minister has, under section 30BA of the LUPA Act, determined should be reflected in the SPPs;
- (viii) changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take; or
- (ix) a purpose prescribed by regulation.

For an amendment to be considered as a minor amendment of the SPPs, it must also not prejudice the public interest by not following the normal SPPs amendment process under the LUPA Act.

A draft amendment of the SPPs must be prepared in accordance with the terms of reference to which notice has been given under section 30C(2) of the LUPA Act. It must also meet the SPPs criteria in section 15 of the LUPA Act.

The proposed minor amendments of the SPPs

The proposed minor amendments are outlined in the draft amendment document. They are shown in table format with reasons provided for each.

In summary, draft minor amendment 04-2026 comprises the following amendments to the SPPs.

- A revision to the application requirements in Clause 6.1.2(d) to remove the reference to “certificate of title” to clarify that certificates of title are no longer required for planning applications and provide a reference to the new format of land title information to be provided with a planning permit application that aligns with the reforms to the land titling system.
- A revision to the general Exemption explanations in Clause 4.0.2 to clarify that certain use and development listed as not requiring a permit or not able to be prevented under the LUPA Act, also does not require a permit to be issued under the TPS. This removes a potential inconsistency in the drafting of the SPPs compared to the LUPA Act, making it clearer if there is, or is not, a requirement for a permit under the SPPs exemption.
- A revision to the requirement for a permit in Clause 6.4.1(a) to remove unnecessary duplication of statutory requirements to ensure the clause does not imply that permits issued under former schemes must comply with the TPS.

Compliance with the legislative requirements

The draft minor amendment is considered to:

- meet the criteria for a minor amendment of the SPPs under section 30NA(1)(a)(ii) and (iii) of the LUPA Act for the reasons specified in the draft minor amendment document;
- be in accordance with the terms of reference for draft amendment 04-2026 of the SPPs to which notice was given under section 30C(2) of the LUPA Act; and
- meet the SPPs criteria contained in section 15 of the LUPA Act.

The SPPs criteria require an amendment of the SPPs to comply with the following:

- (a) only contains provisions that the SPPs may contain under section 14 of the LUPA Act;
- (b) furthers the objectives set out in Schedule 1 of the LUPA Act;
- (c) is consistent with each State Policy;
- (d) is consistent with the TPPs that are in force before the instrument is made; and
- (e) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

The draft amendment only contains provisions that section 14 of the LUPA Act allows the SPPs to contain. It proposes minor amendments to the current SPPs. The SPPs have already been determined as meeting the criteria in section 15 of the LUPA Act, including furthering the objectives in Schedule 1 of the LUPA Act, consistency with State Policies and having regard to the safety requirements in the *Gas Safety Act 2019*. These minor amendments do not affect compliance with these criteria.

Under section 15(ca) of the LUPA Act, a draft amendment of the SPPs must be consistent with the Tasmanian Planning Policies (TPPs), which are in effect from 1 July 2026.

The draft amendment has been assessed against the TPPs and is considered to be consistent with the relevant strategies at section 7.2.3. The draft amendment proposes very minor drafting changes that can comply with the minor amendment criteria under the LUPA Act. It simply clarifies the operation of existing requirements for issuing permits. It also aligns the SPPs with the recently approved conveyancing reforms to the land titling system. As the draft minor amendment simply clarifies existing provisions and removes an outdated one, it does not introduce any new policy positions and remains consistent with the TPPs strategies.

Specifically, the draft amendment aligns with the intent of strategy 7.2.3:

- 8. Promote the regular review of land use strategies so that they remain current, adaptive and responsive to planning issues as they arise.

Consultation

Section 30NA(2) of the LUPA Act requires the Minister to consult with planning authorities and relevant State Service Agencies and State authorities for minor amendments that relate to the following criteria in section 30NA(1)(a):

- (iii) clarifying or simplifying the SPPs;
- (iv) removing an inconsistency in the SPPs;
- (vii) bring the SPPs into conformity with a planning directive;

- (viii) changing provisions in the SPPs that relate to the structure or form of an LPS; or
- (ix) matters prescribed by regulation.

The Minister can determine whether or not to consult with planning authorities and relevant State Service Agencies and State authorities for minor amendments that relate to the following criteria in section 30NA(1)(a):

- (i) correcting clerical errors;
- (ii) removing anomalies in the SPPs;
- (v) removing an inconsistency between the SPPs and the LUPA Act or other legislation;
and
- (vi) bringing the SPPs into conformity with State Policies.

The draft amendment includes amendments that fall into both categories outlined above. For the purposes of this proposed minor amendment, the Minister has determined to consult with planning authorities and relevant State Service Agencies and State authorities on all proposed amendments under s30NA (2)(a) of the LUPA Act for practicality and to assist with keeping all informed of the proposed changes.

Appendix A – Terms of Reference

Draft Amendment 04-2026 of the State Planning Provisions – land title and permit requirements

Proposed minor amendment for consultation under section 30NA(2)(a) of the Land Use Planning and Approvals Act 1993

No.	Clause	Amendment	Reason
1.	6.0 Assessment of an Application for Use or Development - 6.1 Application Requirements	In clause 6.1.2(d) amend by deleting the text shown as strikethrough and inserting the text shown underlined: (d) a copy of the current certificate of title <u>search (Register extract)</u> for all land to which the permit sought is to relate, including the title plan; and	To remove the reference to “certificate of title” to align with the reforms to the electronic land titling system and to clarify that since certificates of title will no longer be issued by the Registrar an electronic extract of the title is required for planning applications. This will prevent a potential anomaly from occurring after 1 September 2026. Capable of meeting section 30NA(1)(a)(ii) and (iii) of the LUPAA Act.
2.	4.0 Exemptions	In clause 4.0.2 amend by inserting the text shown underlined: 4.0.2 Use or development which, under the provisions of the Act, including sections 12(1) - (4), a planning scheme is not to prevent, does not require a permit <u>under this planning scheme</u> .	The combination of amendments to clauses 4.0.2 and 6.4.1(a) are to remove a minor discrepancy between the <i>Land Use Planning and Approvals Act (1993)</i> (LUPAA) and the State Planning Provisions (SPPS) and clarify if there is a requirement for a planning permit under LUPAA or the SPPs. Clause 4.0.2 is revised to make it clearer that if this scenario applies, a permit is not required to be issued. Capable of meeting section 30NA(1)(a)(iii) of the LUPAA Act.
3.	6.0 Assessment of an Application for Use or Development - 6.4 Requirement for a Permit	In clause 6.4.1(a) amend by deleting the text shown as strikethrough: 6.4.1 Except as provided in sub-clauses 6.5 and 6.6 of this planning scheme, use or development of land must not be commenced or carried out:	The combination of amendments to clauses 4.0.2 and 6.4.1(a) are to remove a minor discrepancy between the <i>Land Use Planning and Approvals Act (1993)</i> (LUPAA) and the State Planning Provisions (SPPS) and clarify if there is a requirement for a planning permit under LUPAA or the SPPs. Clause 6.4.1(a) is revised to make it clearer that it applies to all necessary permits

		(a) without a permit granted and in effect in accordance with the Act and the provisions of this planning scheme; or (b) in a manner contrary to the conditions and restrictions of a permit.	whether they have been granted under any former planning scheme, prior to the Tasmanian Planning Scheme taking effect in the relevant municipality, or under the current Tasmanian planning scheme. Capable of meeting section 30NA(1)(a)(iii) of the LUPA Act.
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