

Sandra Hogue
Executive Commissioner
The Tasmanian Planning Commission
GPO Box 1691
HOBART TAS 7001

Sent by email: tpc@planning.tas.gov.au

Dear Ms Hogue

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

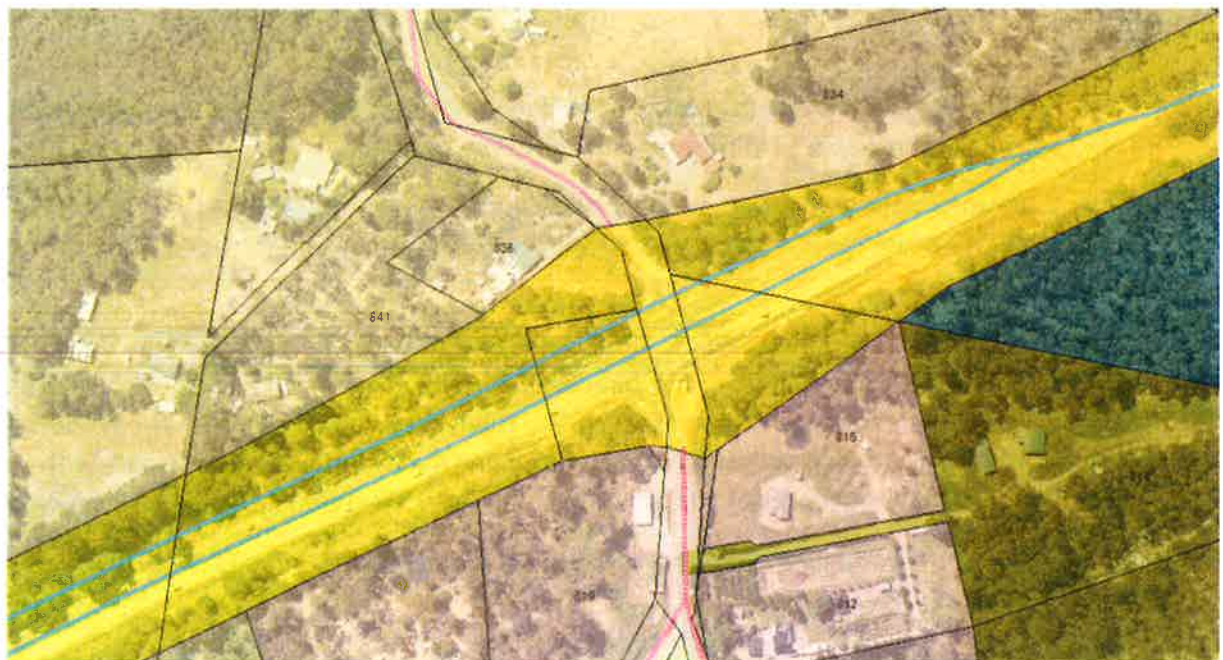
Thank you for the opportunity to provide a response to the recently advertised *Draft Planning Directive No. 8 – State Planning Provisions Exemptions, Application Requirements, Special Provisions and Zone Provisions*.

Kingborough Council will not be including in this submission our concerns around the decision to bring forward the implementation of this Directive before the Tasmanian Planning Schemes are in place as I feel that this has been covered well in the submissions of the other Southern Councils and we support their feedback on both the process (including the lack of prior engagement with Councils) and the consequences of this decision and the very short timeframes for implementation.

For the purpose of providing a response we have limited our submission to the working parts of the amendments proposed.

1. Definitions: The definition for 'private garden' is too loose. How far can it reasonably be argued that it is private garden? This is an issue with the vegetation exemptions and works that would typically trigger the need for planning approval such as significant site cut. Council has already had to try and deal with this matter in relation to an Environmental Living Zone where significant works have occurred, and the matter of a flimsy definition has caused issues.
2. Exemption: Clause 5.1.3 'home occupation', the definition has removed 'occasional visitor' from the limitation, which we believe is unwise. This can lead to significant amenity impacts where there can be many people and their associated cars visiting the site. Such examples where we have experienced issues in the past is yoga classes or other lessons or therapy where there are multiple people at any time of the day and case traffic and noise issues. The clause also limits the use to the 'dwelling' and therefore the uses cannot occur in shed, outbuilding or garden. It is not clear if that was intended. A shed is only included in the definition of 'single dwelling', not dwelling.

3. Exemption: Clause 5.1.4 'Markets' being exempt is problematic with respect to considering parking associated with the market. Or is it assumed that the owner of the public land can refuse to host/allow to occur it if there is insufficient parking available?
4. Exemption: Clause 4.3.6 'unroofed decks', we are not sure why decks that are attached to buildings are not included. The exemption should also include that it must be permeable (while typically decking is, our experience is that without a tighter definition there is likely to be a push to install something that should include a form of drainage). The limitation of no removal of 'significant trees' should be extended to any tree that may require approval for its removal or damage (including building/footings within the TPZ).
5. Exemption: Clause 5.2.4 'road works' exemption requires clarification on the application of 3m. Does the 3m apply from the title boundary or the road reserve? Or was it intended from the edge of the existing road shoulder? If application is from the edge of the title there are potentially very significant impacts on native vegetation, sensitive environments and waterways. Below is an aerial photo that demonstrates the potential impact:



6. Exemption: Clause 5.3.2 'maintenance and repair of buildings' – why has reference to Heritage been taken out? This would conflict with the heritage code, the exemption even allows you to change materials.
7. Exemption: Clause 5.3.5 'outbuildings' (b)(ii) is very confusing. It does not clearly articulate how to treat an area beyond the 'roof span' (as defined under the Building Act 2016) – for example, an outbuilding which has roofing such as a carport or awning.
8. Exemption: Clause 5.5.1 'ground mounted solar energy installations' – there is no maximum height, potential impact on amenity or solar access of neighbours. Further there is no consideration of heritage given there is no restriction preventing it being forward of a dwelling.
9. Exemption: Clause 5.6.1 'use or development in a road reserves or public land', mainly referring to outdoor seating. There is potential impact on the car parking requirements for the associated use. For example, if there are 20 seats inside and then an additional 20 seats outside (that is

only 5x4 seat tables) then it can have a significant impact on the parking demand in the area and that should be considered at the planning stage.

9.1. It is unclear why the reference to the by-law has been removed.

10. Exemption Clause 5.6.2 'fences not within 4.5m of a frontage in the General Residential Zone or Inner Residential Zone' & 5.6.3 'fences within 4.5m of a frontage in General Residential Zone or Inner Residential Zone' -the front fence exemptions for some zones, but not all zones, is confusing. It will result in poor planning outcomes and should not be changed from the current limitations.
11. There are issues with the exemptions and potential implications for a range of heritage and natural values, with some exemptions including limitations/qualifiers, others not and no apparent logic. Apart from safety reasons, consistent with the southern interim schemes all exempt development should only be exempt where there is not:
 - (a) *a code relating to historic heritage values or significant trees applies and requires a permit for the use or development;*
 - (b) *a code in this planning scheme which expressly regulates impacts on scenic or landscape values and requires a permit for the use or development that is to be undertaken;*
 - (c) *a code in this planning scheme which expressly regulates impacts on biodiversity values and requires a permit for the use or development that is to be undertaken;*
 - (d) *disturbance of more than 1m² of land that has been affected by a potentially contaminating activity;*
 - (e) *excavation or fill of more than 0.5m depth in a salinity hazard area or landslip hazard area shown in the planning scheme;*
 - (f) *the removal of any threatened vegetation; or*
 - (g) *land located within 30m of a wetland or watercourse.*

Therefore, the following exemptions should all include a qualifier where the exemptions do not apply in the above circumstances: 5.2.3, 5.2.4, 5.2.7, 5.2.8, 5.2.9, 5.2.10, 5.2.11, 5.3.3, 5.3.4, 5.3.5, 5.3.6, 5.3.8, 5.3.9, 5.4.2, and 5.4.3.

12. General Residential Zone: Clause 10.4.2 A3 – the requirement for a rear setback should not have been removed. This is likely to lead to detrimental impacts on the amenity including solar access for abutting dwellings. This is become more and more of an issue as infill development is encouraged and where backyards will be smaller and have less options for solar access.
13. General Residential Zone: Clause 10.4.3 A1 – is the removal of permeability provisions is problematic as it will continue to increase issues of stormwater impacts on the network; which will be made worse by the removal of the Stormwater Code in the incoming Planning Scheme.
14. General Residential Zone: Clause 10.4.3 A2 – the requirement that private open space is not used for carparking should remain. Removing the requirement for good solar access will likely be to the detriment of the future residents (who are not necessarily the developer). Similarly, the requirement for the open space to be directly accessible from a living area should not be removed as it will impact on the amenity of the future occupants. This leads to archaic design and is contrary to the basics of good design. Further, the associated objectives (refer to c)) and Performance Criteria speaks of solar access, yet the Acceptable Solution ignores it.

15. Inner Residential Zone: Clause 11.4.2 A1 'setbacks and building envelopes for all dwellings' – the performance criteria removed consideration of street qualities and integrating new development into the streetscape.
16. Comments about permeability, solar access and direct access to open space from living areas is the same for Inner Residential as discussed above for General Residential.

If you wish any further comments or discussion about the concerned raised, please feel free to contact me on (03) 6211 8267

Regards



TASHA TYLER-MOORE
MANAGER DEVELOPMENT SERVICES

From: Tasha Tyler-Moore <ttyler-moore@kingborough.tas.gov.au>
Sent: Wednesday, 19 May 2021 1:41 PM
To: TPC Enquiry
Cc: Adriaan Stander
Subject: Further submission to PD8 consultation response - error in General Residential

Dear Ms Houge,

Further to our submission emailed on 17 May 2021, there are other errors that we did not include in our submission to the PD8 changes to the Planning Scheme that require correction.

1. Clause 10.5.1 'Non-Residential Development' in the General Residential Zone refers to, among other clauses, 10.4.3 A1 (a) and (c). Clause 10.4.3 only has subclauses (a) and (b); there is no (c).
2. Clause 11.4.9 'Non-Dwelling Development' in the Inner Residential Zone refers to, among other Clauses, 11.4.3 A1 (a) and (c). Clause 11.4.3 only has subclauses (a) and (b); there is no (c).
3. The other issue (not a result of PD8), but would be useful to correct, is that the definition of "disturbance" that you get when you click on the underlined word within Clause E10.7.1 is different to the definition of "disturbance" found in Clause E10.3.

It would be appreciated if this could be included in our submission for your consideration.

Regards

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