

Ref: 13/006/008



18 May 2021

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

By email: tpc@planning.tas.gov.au

Dear Ms Hogue

Representation to Draft Planning Directive No. 8

I refer to your letter dated 15 April 2021 inviting representations to draft Planning Directive No. 8, and your letter dated 10 May 2021 granting an extension of time to submit a representation until close of business on 18 May 2021.

The Northern Midlands Council considered draft Planning Directive No. 8 at its meeting of 17 May 2021 and resolved to make the following representation.

Maintenance and repair of buildings (heritage buildings and precincts)

Clause 5.3.2 of draft Planning Directive 8 would allow the maintenance and repair of buildings that are heritage listed or in a heritage precinct to:

- have roof material changed without planning approval.
- have wall material changed without planning approval.
- have external paint colours changed beyond colours like existing, without planning approval.

If repairing a roof, a corrugated or tile roof could be replaced with a profile such as trimdek.

If repairing a wall, a weatherboard wall could be replaced with a profile such as corrugated or trimdek.

As these are not traditional profiles for heritage buildings or precincts, it is considered that the provision does not further the Schedule 1 Objective (Part 2 (g)) of the *Land Use Planning and Approvals Act 1993* to 'conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value' and should read:

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5.0.1 Use or development described in Table 5.1 – 5.6 is exempt from requiring a planning permit under this planning scheme provided it meets the corresponding requirements.

Table 5.3

	Use or development	Requirements
5.3.2	Maintenance or repair of buildings	<p>Maintenance and repair of buildings including repainting, re-cladding and re-roofing whether using similar or different materials provided this does:</p> <ul style="list-style-type: none"> • not contravene a condition of an existing permit which applies to a site; and • not involve a place or precinct listed in a heritage code that is part of this scheme.

Vegetation Removal Exemptions

Clause 5.4.1 (g) of draft Planning Directive 8 would exempt the removal of native vegetation for *safety reasons where the work is required for the removal of dead wood, or treatment of disease, or required to remove an unacceptable risk to public or private safety, or where the vegetation is causing or threatening to cause damage to a substantial structure or building.*

This exemption is currently in force through Interim Planning Directive 4. It has been found that the exemption allows native vegetation to be removed with no onus to demonstrate that it was causing an unacceptable risk.

The exemption also allows trees to be removed on the basis that they are rotten and threatening to cause damage, or tree roots are causing damage.

However, trees do not suddenly become rotten, and damage from tree roots is not a cause for immediate action.

If trees are removed without any prior discussion with Council, it cannot be demonstrated that they were not causing an unacceptable risk or threatening to cause damage, and enforcement action becomes difficult due to lack of evidence.

It is considered that the provision does not further the Schedule 1 Objective (Part 2 (c)) of the *Land Use Planning and Approvals Act 1993* to 'to ensure that the effects on the environment are considered ... when decisions are made about the use and development of land'.

It is recommended that the exemption be amended as follows:

Table 5.4

	Use or development	Requirements
5.4.1	Vegetation removal for safety or in accordance with other Acts	<p>If for:</p> <p>(g) <i>safety reasons where the work is required for the removal of dead wood, or treatment of disease, or required to remove an unacceptable risk immediate threat to public or private safety, or where the vegetation is causing or threatening to cause immediate damage to a substantial structure or building.</i></p>

General Residential Zone Provisions

Draft Planning Directive 8 removes the following provisions:

- 10.4.3 A1 (c) *Dwellings must have a site area of which at least 25% of the site area is free from impervious surfaces.*
- 10.4.3 A2 (c) *A dwelling must have an area of private open space that is directly accessible from, and adjacent to, a habitable room (other than a bedroom).*
- 10.4.4 A1 *A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north.*
- 10.4.4 A2 *A multiple dwelling that is to the north of a window of a habitable room (other than a bedroom) of another dwelling on the same site, which window faces between 30 degrees west of north and 30 degrees east of north, must be in accordance with (a) or (b), unless excluded by (c):*
- (a) *The multiple dwelling is contained within a line projecting:*
- (i) *at a distance of 3 m from the window; and*
- (ii) *vertically to a height of 3 m above natural ground level and then at an angle of 45 degrees from the horizontal.*
- (b) *The multiple dwelling does not cause the habitable room to receive less than 3 hours of sunlight between 9.00 am and 3.00 pm on 21st June.*

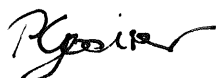
It is understood that these provisions are not in the State Planning Provisions, the draft planning directive proposes to provide for early implementation of some elements of the State Planning Provisions through interim planning schemes, and that these provisions (including the removal of those mentioned above) have already been subject to a formal consultation and assessment process in the making of the State Planning Provisions.

However, the Northern Midlands Council retains its view that the removal of these provisions does not further the Schedule 1 Objectives (Part 2 (f) and (h)) of the *Land Use Planning and Approvals Act 1993*:

- to promote the health and wellbeing of all Tasmanians by ensuring a pleasant and efficient environment for living and recreation; and
- to protect public infrastructure and other assets for the benefit of the community.

Thank you for the opportunity to submit this representation.

Yours sincerely



Paul Godier
Senior Planner