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5 June 2020

Peter Fischer
Delegate (Chair)
Tasmanian Planning Commission

By email: peter.fischer@planning.tas.gov.au

Dear Mr Fischer

Draft Planning Directive No. 7 – Permits for Temporary Housing

I refer to your letter of 28 April 2020 directing the Planning Policy Unit (PPU) to provide a written submission on the representations received on draft *Planning Directive No. 7 – Permits for Temporary Housing* (draft PD7).

I understand the delegated Panel seeks the views of the PPU on the submissions received. The following provides background to draft PD7, including how it is intended to apply, followed by a response to the key themes identified in the representations. Recommended revisions to draft PD7 are also contained in Attachment 1.

Background

Tasmania is currently experiencing considerable pressures on housing affordability and availability as a consequence of numerous and complex factors. This is likely to be compounded further by the impacts of COVID-19 with further pressures put on the need for social housing as a consequence of:

- increasing unemployment making it difficult for people to afford rental accommodation;
- the need for people experiencing homelessness to self-isolate; and
- the potential for increased instances of family violence during periods of lockdown.

While the overall goal is to provide suitable permanent accommodation for those in need, there are times when there is an urgent need to provide temporary housing options as an interim step until more permanent housing options become available. Some suitable options for temporary housing

may be in locations where residential use or development is in some way restricted, or is not normally permissible, under the planning scheme.

Draft PD7 proposes targeted opportunities for the use and development for temporary housing. This is limited to temporary housing delivered by the Director of Housing, or another recognised housing support provider, for people in immediate need of housing assistance on land where residential use or development may be prohibited or restricted under the provisions of the planning scheme. This includes those who are homeless, on the brink of homelessness, or those seeking refuge from family violence.

Draft PD7 aims to provide a temporary measure for housing for those people in immediate need of housing assistance. It is intended as an immediate, short-term response in times of crisis or emergency where a significant shortfall of permanent accommodation may exist. It is unlikely to frequently be used to deliver social housing options, with the focus being on permanent housing options.

Application of draft PD7

Draft PD7 applies to land covered by all interim planning schemes and the *Sullivans Cove Planning Scheme 1997*. It does not apply to land administered under the *Flinders Planning Scheme 2000*. It is intended to be attached to the applicable planning schemes under former section 14(6) of the *Land Use Planning and Approvals Act 1993* (the substituted Act) and therefore it will not form part of the planning scheme.

In summary, draft PD7 proposes:

- A Permitted assessment pathway for the use of an existing building, and any associated minor development, for temporary housing for up to 12 months if within certain zones (or Activity Areas under the *Sullivans Cove Planning Scheme 1997*) and subject to restrictions relating to heritage and certain hazard codes.
- A Permitted assessment pathway for the placement of buildings (such as converted shipping containers) for temporary housing for up to 12 months on the same site, or a site adjoining, an existing social housing facility if within certain zones (or Activity Areas under the *Sullivans Cove Planning Scheme 1997*), and subject to building height and setback requirements and restrictions relating to heritage and certain hazard codes.
- A Discretionary assessment pathway for temporary housing for up to 12 months for broader range of circumstances where it would normally be prohibited.

Temporary housing under draft PD7 may only be provided for eligible persons by the Director of Housing, a recognised housing support provider, or someone acting on their behalf.

The terms of 'Director of Housing', 'eligible persons', and 'housing support provider' are all defined in the *Homes Act 1935* (the Homes Act), of which the overall intent is the:

provision of housing assistance to, and improving the housing conditions of, persons in this State, the provision of assistance to persons or bodies providing housing support services, and the undertaking of activities that are consistent with the achievement of those purposes.

The 'Director of Housing' has the same meaning as the 'Director' under the Homes Act, which is the Director of Housing appointed pursuant to that Act.

An 'eligible person' means a person:

- (a) who is determined under subsection to be an eligible person; or
- (b) who is a member of a class of persons that is prescribed for the purposes of this definition.

Section 3(3) of the Homes Act provides for the Director of Housing to "determine that a person, or a class of persons, is or are an eligible person or eligible persons". As of 19 April 2018, the Director of Housing determined that an eligible person in need of housing assistance:

- is homeless or at risk of becoming homeless, or
- lives in housing that is unsafe or unsuitable, or
- is a safety risk to themselves or others or there is a third party threat to them, or
- is living in housing that does not meet or makes worse their health or mobility, or
- does not have the financial capacity to meet their housing needs.

A 'housing support provider':

means a person or body that provides housing support services to eligible persons, whether or not that person or body also provides housing support services to persons who are not eligible persons.

Current Tasmanian housing support providers are:

- Mission Australia Housing, Tasmania
- Centacare Evolve Housing
- Community Housing Limited, Tasmania
- Housing Choices Tasmania
- Salvation Army Housing
- Shelter Tasmania

The definition of 'temporary housing' describes the scope of the use or development, which is a residential use or development for a period of not more than 12 months. It outlines that the 12-month period only commences after an occupancy permit, or temporary occupancy permit, is issued in accordance with the *Building Act 2016*.

Attachment 2 provides a summary of the requirements applicable to the Permitted and Discretionary assessment pathways under draft PD7. The underlined text in Attachment 2 provides a summary of the additional requirements recommended below.

Issues raised in the representations

The issues raised in the representations have been broadly categorised by the PPU into the following four themes:

1. **Overall management of temporary housing** – ensuring the safety, security and privacy of clients and the quality of the temporary housing.
2. **Effect of the temporary housing permit** – the lifetime of the permit and the possibility issuing additional permits for temporary housing.
3. **Scope of requirements for Permitted assessment pathway** – largely on which planning codes should apply or limit the Permitted assessment pathway.
4. **General queries and suggestions for improvement** – queries on how PD7 applies, what certain clauses mean, and general improvements to assist with interpretation.

The PPU provides the following responses to these issues.

Overall management of temporary housing

A number of representations outlined the need to ensure the safety, security and privacy of clients and the quality of the temporary housing with appropriate facilities to meet the client's needs.

This issue is outside the scope of draft PD7 and planning in general, with the overall management being the responsibility of the Director of Housing or the relevant housing support provider in delivering the temporary housing. Limiting the provision of temporary housing options under draft PD7 to these providers ensures the appropriate management of the properties.

The Director of Housing and the housing support providers have an obligation under Homes Act to provide quality housing options which are safe and secure and the necessary facilities to support the client's needs.

One representation outlined concerns with the recent inadvertent disclosure of the location of some crisis accommodation facilities and has recommended procedures be put in place to ensure this does not happen in the future. The PPU fully appreciates the concerns raised however, this was not as a result of draft PD7 and not a matter that can be controlled through a planning directive.

Effect of the temporary housing permit

Draft PD7 provides for a temporary housing permit to be in effect for a period of 12 months from the date of an occupancy permit, or temporary occupancy permit, being issued.

After the expiry of the permit, the housing provider must, within 6 months, remove from the site all traces of any works, buildings, plant or materials introduced and used for the purposes temporary housing, to the satisfaction of the planning authority. This is unless a new permit has been granted for temporary housing, or the works, buildings, plant or materials are to be used as part of another use or development for which a permit has been granted.

The concern raised in some representations is that new permits could be issued under draft PD7 for temporary housing, and provided the requirements are met, this could be done every 12 months indefinitely.

It was not the intent of PD7 to provide for permanent housing however, it was anticipated that additional permits could be issued to deliver a period longer than 12 months in times of need. One of the representations suggested the life of temporary housing be capped at 3 years, meaning that an initial 12 months could be granted with a further two permits maximum being issued. After this, approval would need to be sought for permanent housing under the normal provisions of the planning scheme for the buildings to remain in place.

The PPU supports capping the period for which temporary housing permits can be reissued, and the suggestion of 3 years maximum is considered reasonable. Having a cap is consistent with the intent of draft PD7 and the 'light touch' approach to the planning requirements.

One suggestion was made for extending the life a permit to 2 years instead of 12 months. The PPU recommends retaining it at 12 months consistent with the intent of providing for temporary housing.

Draft PD7 was never meant to provide for permanent social housing, instead it was intended as a process for delivering temporary accommodation during critical times of housing shortages or during emergency periods, such as the current COVID-19 emergency.

Recommended modifications to draft PD7 are included at Attachment 1.

Scope of requirements for Permitted assessment pathway

A range of concerns have been raised in the representations with the limited scope of requirements applicable to the Permitted assessment pathway, with a number of suggestions made to include additional requirements, particularly limiting the Permitted status to land that is not subject to certain codes, or having the code requirements applicable (such as car parking requirements).

There also appears to be some confusion with the scope of requirements that are applicable for the Discretionary assessment pathway under clauses 4.1(c) and 4.2(c) of draft PD7. The Discretionary assessment pathway only applies to circumstances beyond the Permitted assessment pathways provided in clauses 4.1(a) and (b) and 4.2(a) and (b). Unless there is any direct or indirect inconsistency with the temporary housing having a Discretionary status, the normal provisions of the planning scheme will apply, including the zone use and developments standards, code requirements and any specific area plans.

The Permitted assessment pathway is intended as a streamlined process for delivering temporary housing in appropriate locations with limited applicable planning requirements. The limited number of requirements corresponds with the housing being only temporary.

The suggestions for a greater number of requirements to be applicable demonstrates an interest in dealing with these as permanent housing, which is not the intent of draft PD7.

The following key issues have been identified in the representations in relation to the scope of requirements applicable to the Permitted assessment pathway.

- ***Avoiding land subject to hazards, such as potentially contaminated land, or the use of an existing buildings on land susceptible to landslip hazard.***

Avoiding land that is subject to significant hazards is important for the safety of the occupants and is obviously a high priority of Director of Housing and housing support providers in choosing a suitable site.

The Permitted assessment pathway already requires that the Bushfire-Prone Areas Code must not apply, along with any code relating to flooding or inundation hazards. For new temporary buildings, a code relating to landslip hazards must also not apply.

The PPU recommends that the Permitted assessment pathway should also not apply if a code relating to potentially contaminated land is applicable. While codes relating to potentially contaminated land currently vary in interim planning schemes, their application is based on the knowledge of the site being previously used by a potentially contaminating activity. There are also exemptions from these codes relating to minor development, or where a determination has been made that no land contamination has occurred, or where there is considered to be insufficient increase in risk from contamination. The PPU recommends equivalent changes to the requirements for the Sullivans Cove Planning Scheme.

The PPU also recommends the Permitted assessment pathway for use of an existing building should not apply if a code relating to landslip hazard is applicable, consistent with the approach for new temporary buildings.

Recommended modifications to draft PD7 are included at Attachment 1.

- ***Temporary housing should be considered as a 'vulnerable use' under the Bushfire-Prone Areas Code.***

A 'vulnerable use' is defined under the Bushfire-Prone Areas Code as a use that is within one of the following Use Classes:

- (a) Custodial Facility;
- (b) Educational and Occasional Care;
- (c) Hospital Services;
- (d) Residential if for respite centre, residential aged care home, retirement home, and group home.

The policy setting for the definition of 'vulnerable use' and the linkages with the relevant Director's Determination under the *Building Act 2016* has been set through the implementation of *Planning Directive No. 5.1 – Bushfire-Prone Areas Code*. There is no intention of changing this. Temporary housing is no more vulnerable than permanent housing, so unless the type of housing proposed meets the definition, the requirements under the Bushfire-Prone Areas Code should not apply.

- ***Providing for the protection of existing public infrastructure, such as roads, railways, water, sewer, stormwater, electricity and telecommunications infrastructure.***

There are no current provisions in planning schemes that specifically protect water, sewer, stormwater and telecommunications infrastructure. This is largely managed through separate legislation relating to that infrastructure, such as:

- o Section 13 of the *Urban Drainage Act 2013*;
- o Section 56W of the *Water and Sewerage Industry Act 2008*;

Road and Railway Assets Codes currently provide some protection for road and railway infrastructure. Current codes already provide a Permitted pathway for new buildings if they are located in a row of buildings and setbacks are no closer than the existing buildings. The Permitted assessment pathway under draft PD7 for new buildings is limited to sites already containing existing social housing, or on adjoining sites therefore the risks to road and railway infrastructure is considered minimal given the housing is only temporary. The housing providers also have an interest in providing safe accommodation for its clients. The *Rail Infrastructure Act 2007* also places limitations on drainage works and excavation in proximity to railways (sections 44 and 45).

The recommendation from TasNetworks to avoid locating temporary housing within an 'inner protection area' as defined under the Electricity Transmission Infrastructure Protection Code is supported as an important safety issue, noting that not all interim planning schemes include this code. This should equally apply to land within a 'registered electricity easement' as defined under that code.

- ***Recommended modifications to draft PD7 are included at Attachment 1.***
- ***Protection of heritage values associated with internal works made in repurposing of heritage buildings.***

Advice received during the assessment of the State Planning Provisions confirms that internal works within buildings is not a form of development that can be assessed under a planning scheme. Internal works associated with State listed heritage buildings will be considered by the Tasmanian Heritage Council under the *Historic Cultural Heritage Act 1995*.

- ***Protection of listed significant trees.***

Three interim planning schemes currently include a significant tree register (Hobart, Kingborough and Break O' Day), with most listed for cultural or aesthetic values. The PPU recommends the Permitted assessment pathway should not apply if a code relating to significant trees is applicable, similar to heritage listed places.

Recommended modifications to draft PD7 are included at Attachment 1.

- ***Consideration of vegetation clearance, particularly for areas within a biodiversity code.***

Applying vegetation clearance requirements for the Permitted assessment pathway for temporary housing is considered unnecessary as the risks of clearing threatened vegetation are considered to be minimal.

Temporary social housing will only be used as an option during times of critical shortage or during emergency periods. The priority will always be the development of permanent social housing facilities and such development will be assessed against the normal requirements of the planning scheme. Sites will be carefully chosen for any temporary buildings where it can be easily installed and later removed without the need for significant excavations, vegetation clearing or other site works.

The Permitted assessment pathway under draft PD7 is also largely limited to land within urban zones where the priority is for urban development. Options exist for development within a Recreation or Open Space Zone if it abuts an existing social housing facility.

- ***Applying car parking space requirements to temporary housing.***

Requiring the provision of car parking spaces for emergency temporary accommodation is considered excessive. Any impacts will be short term due to the temporary nature of the buildings.

- ***Consideration of offsite amenity impacts, such as overshadowing and overlooking.***

The building height and setback requirements aim to limit impacts associated with overlooking and overshadowing of adjoining properties, similar to the three dimensional building envelope applied in most residential zones. Any impacts will be short term due to the temporary nature of the buildings.

- ***Applying the attenuation distances requirements in the Attenuation Code to limit temporary housing in proximity to certain uses.***

The land subject to the Permitted assessment pathway is limited to zones that normally have sensitive uses, so applying attenuation distances for temporary housing is considered excessive. The housing providers will also have an interest identifying suitable locations for any temporary housing to provide an appropriate and safe environment for their clients.

- ***Requiring connection to water, sewer and stormwater infrastructure.***

The connection of these services are largely managed outside the planning system through the building and plumbing requirements. The housing providers will also seek sites that can be easily connected to the necessary services to avoid excessive costs for the temporary housing.

- ***Requirements to ensure safe access to the site.***

Providing safe access to the site will be one of the highest priorities for the housing providers. Vehicular access will largely be through existing access points. Any specific requirements are considered unnecessary.

General queries and suggestions for improvement

A number of submissions raised queries on how draft PD7 was intended to operate. Other provided suggestions to clarify its operations.

The PPU recommends minor modifications to assist with interpretation of draft PD7 (see Attachment 1), specifically to:

- clauses 4.1(a)(i) and 4.1(b)(i) to clarify the zones of interim planning schemes which are applicable to Permitted assessment pathway;
- clauses 4.1(a)(iv), 4.1(b)(vi), 4.2(a)(iv) and 4.2(b)(v) to clarify scope of the requirements relating to listed heritage places and listed areas of archaeological significance;

- clauses 4.1(d) and 4.2(d) on the matters to have regard to in exercising discretion;
- correct a minor typographical error in clause 4.2(b)(v)b.;
- correct a clause numbering issue under clause 4.2(d); and
- clause 5.2 and 5.4 to clarify the exercise of discretion under clauses 4.1(d) and 4.2(d)

The following questions and answers are also provided below to address some of the queries raised.

Q. *Is draft PD7 intended to apply to land subject to the Flinders Planning Scheme 2000?*

A. No, the Flinders Planning Scheme 2000 has been intentionally excluded as it already allows temporary permits to be issued.

Q. *The Permitted assessment pathway only appears to apply to land subject to the Hobart Interim Planning Scheme 2015. Is this correct?*

A. Incorrect, the Permitted assessment pathway in clauses 4.1(a) and 4.1(b) applies to the General Residential Zone, Inner Residential Zone, Urban Mixed Use Zone, Central Business Zone, General Business Zone, Local Business Zone, Community Purpose Zone, Recreation Zone, or Open Space Zone in all interim planning schemes. The Commercial Zone under the Hobart Interim Planning Scheme 2015 is an additional zone due to Residential use currently being allowable in this zone.

The PPU recommends minor modifications to clause 4.1(a)(i) and 4.1(b)(i) of draft PD7 to clarify this.

Q. *Do neighbours have appeal rights?*

A. Draft PD7 does not change the normal appeal rights under the *Land Use Planning and Approvals Act 1993*. Third party appeal right apply as normal for decisions on Discretionary applications.

Q. *Can the planning authority ask for information to determine whether the housing is for eligible persons and by or behalf of the Director of Housing or a housing support provider?*

A. The planning authority may request any additional information that it considers necessary to determine the application. No additional application requirements are included in draft PD7 as the ability to request all necessary information is already provided under clause 8.1.3 of all interim planning schemes.

Q. *How will the planning authority be able to determine whether any alterations to a heritage building are necessary to meet fire regulations?*

A. The planning authority may request any additional information that it considers necessary to determine the application in accordance with clause 8.1.3 of the relevant interim planning scheme.

Q. *Clause 4.1(c) states that an application is Discretionary, but what is the application required to be assessed against?*

A. Clause 4.1(c) is intended to provide an assessment pathway for temporary housing for instances where housing would otherwise be Prohibited under the planning scheme. In exercising this discretionary, the planning authority is to have regard to the matters outlined in clause 4.1(d) along with all relevant use and development standards in the applicable zone, codes and specific area plans.

Clauses 4.1(c) and 4.1(d) are not intended to apply if the temporary housing would be otherwise No Permit Required, Permitted or Discretionary. Revisions are recommended to clauses 5.2 and 5.4 of draft PD7 to clarify this.

Q. *Who will be responsible for remediating the site after the expiry of a permit?*

A. The relevant housing provider will be responsible for remediating the site as either the landowner, lessee, or licensee of the land.

Q. *What planning requirements would apply if temporary housing were proposed within the Utilities Zone?*

A. It is unlikely that temporary housing would be proposed within the Utilities Zone. If proposed, it would be considered as a Discretionary use and development under clauses 4.1(c) and 4.1(d) of draft PD7 and the relevant use and development standards would apply under the Utilities Zone.

Q. *Has consideration been given to an accompanying Director's Determination by the Director of Building Control under the Building Act 2016?*

A. This is a consideration for another branch of the Department of Justice and may be reviewed if considered necessary to assist with the delivery of temporary housing. This does not affect the implementation of draft PD7.

If you have any queries, please contact Sean McPhail, Assistant Director Planning Policy at sean.mcphail@justice.tas.gov.au.

Yours sincerely



Brian Risby

Director Planning Policy

Attachments:

1. Recommended modifications to draft Planning Directive No. 7
2. Summary of Permitted and Discretionary assessment pathway requirements

Planning Directive No. 7

Permits for Temporary Housing

This Planning Directive has been issued by the Minister for Planning under section 13(1)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act) and came into effect on <insert date>¹.

¹ References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the **former provisions** of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The **former provisions** apply to a planning scheme that was in force prior to the **commencement day** of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The **commencement day** was 17 December 2015.

1.0 Citation

This planning directive may be cited as Planning Directive No. 7 – Permits for Temporary Housing.

2.0 Application

2.1 This planning directive applies to the following planning schemes:

- (a) interim planning schemes that have been declared or made under the *Land Use Planning and Approvals Act 1993* (the Act); and
- (b) the *Sullivans Cove Planning Scheme 1997*.

3.0 Interpretation

3.1 In this planning directive, unless the contrary intention appears:

“**Director of Housing**” means the Director as defined in the *Homes Act 1935*.

“**eligible persons**” means as defined in the *Homes Act 1935*.

“**housing support provider**” means as defined in the *Homes Act 1935*.

“**temporary housing**” means residential use or development for a period of not more than 12 months commencing from the date on which an occupancy permit or temporary occupancy permit is issued in accordance with Part 17 of the *Building Act 2016*.

4.0 Effect of the planning directive

4.1 For all interim planning schemes to which this planning directive applies must have the effect that:

- (a) Use and development for temporary housing of eligible persons within an existing building is Permitted, and a permit must be granted, if:
 - (i) on land within:
 - a. a General Residential Zone, Inner Residential Zone, Urban Mixed Use Zone, Central Business Zone, General Business Zone, Local Business Zone, Community Purpose Zone, Recreation Zone, or Open Space Zone under an interim planning scheme; or
 - b. the Commercial Zone under the *Hobart Interim Planning Scheme 2015*;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) the development is limited to minor building works or structures necessary for the use of the existing building for temporary housing;

- (iv) a code relating to heritage does not apply, or if the code does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a heritage place, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
 - b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a listed place or precinct of archaeological significance; and
- (v) the following does not apply:
 - a. Bushfire-Prone Areas Code; ~~or~~
 - b. a code relating to flooding, or inundation, or landslip hazards; ~~does not apply~~
 - c. a code relating to potentially contaminated land; or
 - d. a code relating to significant trees.
- (b) Use and development for temporary housing of eligible persons within demountable, relocatable, or other forms of non-permanent buildings is Permitted, and a permit must be granted, if:
 - (i) on land within:
 - a. a General Residential Zone, Inner Residential Zone, Urban Mixed Use Zone, Central Business Zone, General Business Zone, Local Business Zone, Community Purpose Zone, Recreation Zone, or Open Space Zone under an interim planning scheme, or
 - b. the Commercial Zone under the *Hobart Interim Planning Scheme 2015*;
 - ~~(i)~~(ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - ~~(ii)~~(iii) located on the same site, or a site adjoining, an existing residential facility that is funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - ~~(iii)~~(iv) the building height is not more than 8m above existing ground level; and
 - ~~(iv)~~(v) the buildings have a setback from an adjoining property of not less than half the wall height of the building if the adjoining property is within a General Residential Zone, Low Density Residential Zone, or Inner Residential Zone, excluding:

- a. an adjoining property to which subclause 4.1(b)(iii) applies; and
- b. the portion of the wall that is not more than 3m above existing ground level;

~~(v)~~(vi) a code relating to heritage does not apply, or if the code does apply, the use or development does not involve:

- a. any external alteration or modification to a building that forms part of a heritage place, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
- b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a listed ~~place or precinct~~area of archaeological significance; and

~~(vi)~~(vii) the following does not apply:

- a. Bushfire-Prone Areas Code; ~~or~~
- b. a code relating to flooding, inundation, or landslip hazards; ~~does not apply~~;
- c. a code relating to potentially contaminated land;
- d. a code relating to significant trees;
- e. buildings are located on land within an inner protection area, or registered electricity easement, as defined in an Electricity Transmission Infrastructure Protection Code.

(c) Unless subclause 4.1(a) or 4.1(b) applies, use or development for temporary housing of eligible persons within an existing building, or in a demountable, relocatable or other non-permanent building, is Discretionary, if funded or operated by, or on behalf of, the Director of Housing or a housing support provider.

(d) In determining an application under subclause 4.1(c), a planning authority must have regard to:

- (i) ~~locating the proximity of~~ the temporary housing ~~as close as possible~~ to existing residential facilities and social support services that are funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
- (ii) the availability of public transport and capacity of road infrastructure and utility services to the site;
- (iii) the purpose and provisions of the applicable zone and any applicable codes; and
- (iv) the potential for land use conflict with other use or development on adjoining properties and any measures available to manage or mitigate such conflict.

- 4.2 For the *Sullivans Cove Planning Scheme 1997* to which this planning directive applies must have the effect that:
- (a) Use and development is Permitted, and a permit must be granted, for temporary housing of eligible persons within an existing building if:
- (i) on land within Activity Area 1.0 Inner City Residential (Wapping) or Activity Area 2.0 Sullivans Cove Mixed Use;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) the development is limited to minor building works or structures necessary for the use of the existing building for temporary housing; ~~and~~
 - (iv) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or if the schedule does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a place of cultural significance, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
 - b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a place of archaeological sensitivity; and-
 - (v) Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.
- (b) Use and development for the temporary housing of eligible persons within demountable, relocatable, or other non-permanent buildings is Permitted, and a permit must be granted, if:
- (i) on land within Activity Area 1.0 Inner City Residential (Wapping) or Activity Area 2.0 Sullivans Cove Mixed Use;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) located on the same site, or a site adjoining, an existing residential facility that is funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iv) building height is not more than 8m above existing ground level; ~~and~~
 - (v) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or if the schedule does apply, the use or development does not involve:

- a. any external alteration or modification to a building that forms part of a place of cultural significance, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or

b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a place of archaeological sensitivity; and-

(vi) Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.

- (c) Unless subclause 4.2(a) or 4.2(b) applies, use or development for temporary housing of eligible persons within an existing building, or in a demountable, relocatable or other non-permanent building, is Discretionary, if funded or operated by, or on behalf of, the Director of Housing or a housing support provider.

- (d) In determining an application under subclause 4.2(c), a planning authority must have regard to:

- (i) ~~locating the proximity of~~ the temporary housing ~~as close as possible~~ to existing residential facilities and social support services that are funded or operated by, or on behalf of, the Director of Housing or a housing support provider;

- (ii) the availability of public transport and capacity of road infrastructure and utility services to the site;

- ~~(iii)~~ the purpose and provisions of the applicable Activity Area and any applicable Schedule; and

- (iv) the potential for land use conflict with other use or development of adjoining properties and any measures available to manage or mitigate such conflict.

- 4.3 A permit granted under this planning directive must be subject to a condition to require that not more than 6 months after the date on which the permit lapses, all traces of any works, buildings, plant or materials introduced and used for the purposes temporary housing must be removed from the site to the satisfaction of the planning authority, unless:

- (a) a new permit for temporary housing has been granted; or
- (b) such works, buildings, plant or materials are to be used for a use or development for which a permit has been granted, or are exempt from requiring a permit.

4.4 Additional permits for temporary housing issued under this planning directive must not cause the approval of temporary housing for a period longer than 3 years commencing from the date on which the initial occupancy permit, or temporary occupancy permit, is issued in accordance with Part 17 of the *Building Act 2016*.

5.0 Application of standards and planning requirements

- 5.1 Subclauses 4.1(a) and 4.1(b) do not apply to use or development that has the status of No Permit Required under the applicable planning scheme.
- 5.2 Subclauses 4.1(c) and 4.2(c) ~~do not only~~ applies to use or development that has the status of ~~No Permit Required or Permitted~~ Prohibited under the applicable planning scheme.
- 5.3 No other provision or requirement in a planning scheme to which this planning directive applies is applicable to a proposal under subclauses 4.1(a), 4.1(b), 4.2(a) or 4.2(b).
- 5.4 If any provision or requirement in a planning scheme to which this planning directive applies that is directly or indirectly inconsistent with the provisions or requirements specified in subclauses 4.1(c), ~~or 4.1(d)~~, 4.2(c) ~~or 4.2(d)~~, that provision or requirement does not apply to the extent of the inconsistency.

6.0 Commencement

This Planning Directive takes effect on <insert date>.

Interim Planning Schemes

Requirements	Permitted pathway for temporary housing within existing building	Permitted pathway for temporary housing within temporary buildings	Discretionary pathway for temporary housing within existing building or temporary buildings
Applicable zones	General Residential Zone Inner Residential Zone Urban Mixed Use Zone Central Business Zone General Business Zone Local Business Zone Community Purpose Zone Recreation Zone Open Space Zone Commercial Zone (Hobart Interim Planning Scheme only)	General Residential Zone Inner Residential Zone Urban Mixed Use Zone Central Business Zone General Business Zone Local Business Zone Community Purpose Zone Recreation Zone Open Space Zone Commercial Zone (Hobart Interim Planning Scheme only)	All zones
Other locational requirements	Nil	Same site, or site adjoining, an existing residential facility funded or operated by, or on behalf of, the Director of Housing or a housing support provider.	Nil
Building height	Nil, only minor building works and structures allowed which are necessary for use of the existing building.	8m	In accordance with the relevant planning scheme
Building setbacks	Nil, only minor building works and structures allowed which are necessary for use of the existing building.	Half the wall height of the building if adjoining the General, Low Density, or Inner Residential Zone, excluding: <ul style="list-style-type: none"> an adjoining property containing the existing residential facility to which it relates; and the portion of the wall that has a height of 3m or less. 	In accordance with the relevant planning scheme
Heritage requirements	Must not involve: <ul style="list-style-type: none"> external alterations or modifications to a heritage building unless required by fire regulations and not visible off the site; or excavations to a depth of more than 0.3m and an area of 20m² on site of archaeological significance. 	Must not involve: <ul style="list-style-type: none"> external alterations or modifications to a heritage building unless required by fire regulations and not visible off the site; or excavations to a depth of more than 0.3m and an area of 20m² on site of archaeological significance. 	In accordance with the relevant planning scheme
Hazard code requirements	The following codes must not apply: <ul style="list-style-type: none"> Bushfire-Prone Areas Code code relating to flooding or inundation hazards <u>code relating to landslip hazards</u> 	The following codes must not apply: <ul style="list-style-type: none"> Bushfire-Prone Areas Code code relating to flooding or inundation hazards code relating to landslip hazards 	In accordance with the relevant planning scheme

Attachment 2
Summary of Requirements under draft Planning Directive No.7

Requirements	Permitted pathway for temporary housing within existing building	Permitted pathway for temporary housing within temporary buildings	Discretionary pathway for temporary housing within existing building or temporary buildings
	<ul style="list-style-type: none"> code relating to potentially contaminated land 	<ul style="list-style-type: none"> code relating to potentially contaminated land 	
Other requirements	A code relating to significant trees does not apply.	<p>The follow does not apply:</p> <ul style="list-style-type: none"> located within an inner protection area or registered electricity easement under the Electricity Transmission Infrastructure Protection Code code relating to significant trees 	In accordance with the relevant planning scheme

Sullivans Cove Interim Planning Scheme 1997

Requirements	Permitted pathway for temporary housing within existing building	Permitted pathway for temporary housing within temporary buildings	Discretionary pathway for temporary housing within existing building or temporary buildings
Applicable activity areas	Activity Area 1.0 Inner City Residential (Wapping) Activity Area 2.0 Sullivans Cove Mixed Use	Activity Area 1.0 Inner City Residential (Wapping) Activity Area 2.0 Sullivans Cove Mixed Use	All activity areas
Other locational requirements	Nil	Same site, or site adjoining, an existing residential facility funded or operated by, or on behalf of, the Director of Housing or a housing support provider.	Nil
Building height	Nil, only minor building works and structures allowed which are necessary for use of the existing building.	8m	In accordance with the Sullivans Cove Planning Scheme 1997
Building setbacks	Nil, only minor building works and structures allowed which are necessary for use of the existing building.	Nil	In accordance with the Sullivans Cove Planning Scheme 1997
Heritage requirements	<p>Must not involve:</p> <ul style="list-style-type: none"> external alterations or modifications to a heritage building unless required by fire regulations and not visible off the site; or excavations to a depth of more than 0.3m and an area of 20m² on place of archaeological sensitivity. 	<p>Must not involve:</p> <ul style="list-style-type: none"> external alterations or modifications to a heritage building unless required by fire regulations and not visible off the site; or excavations to a depth of more than 0.3m and an area of 20m² on site of archaeological significance. 	In accordance with the Sullivans Cove Planning Scheme 1997

Attachment 2
Summary of Requirements under draft Planning Directive No.7

Other Requirements	<u>Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.</u>	<u>Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.</u>	In accordance with the Sullivans Cove Planning Scheme 1997
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