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**From:** Brian Walsh <bwa007@gmail.com>  
**Sent:** Monday, 17 May 2021 4:33 PM  
**To:** TPC Enquiry  
**Subject:** No Exemption without Protection: Representation re Draft Planning Directive No. 8  
**Attachments:** No\_Exemption\_without\_Protection.pdf;  
Terms\_of\_Reference\_-\_Inquiry\_into\_Planning\_Framework.pdf; 2013\_Extract\_Overlay  
Map12\_GT\_InterimScheme.pdf; 2020\_Extract\_Map7  
\_TPS\_NaturalAssetsCode\_GT\_LPS.pdf

Dear Commission,

I enclose my submission "No Exemption without Protection:", regarding Draft Planning Directive No. 8.

Please do not hesitate to contact me if you have any queries.

Yours sincerely,

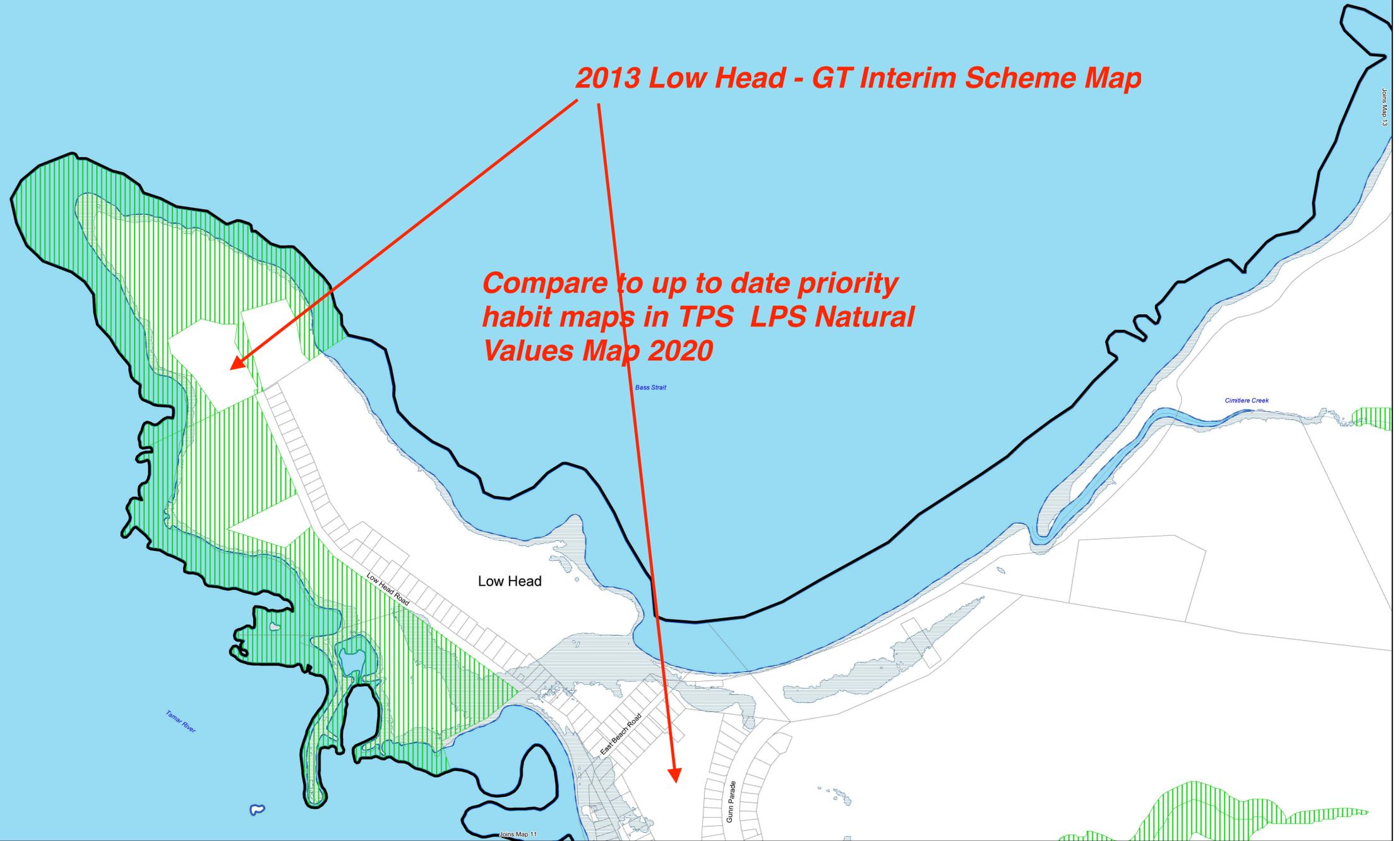
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14 East Beach Road  
LOW HEAD  
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encs: 4

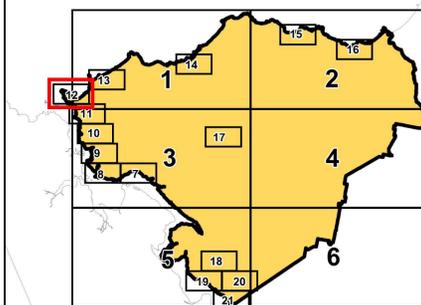
**2013 Low Head - GT Interim Scheme Map**

**Compare to up to date priority  
habit maps in TPS LPS Natural  
Values Map 2020**

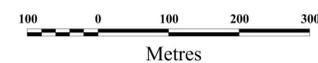


**Legend**

-  Flood Risk
-  Landslide Hazard
-  Priority Habitat
-  Scenic Corridor
-  Scenic Management Area
-  Waterbody
-  Specific Area Plan
-  Bell Bay Proclaimed Wharf Area
-  Scheme Boundary
-  Neighbouring LGA Boundary
-  Cadastral Parcels
-  Mean High Water Mark
-  Mean Low Water Mark
-  Watercourse



**NORTH**



Map Scale 1:5,000 printed at A1  
 Coordinate System: GDA 1994 MGA Zone 55  
 Base data from theLIST, © State of Tasmania  
 Land and title data current 15/2/2012

Disclaimer/advice: Before taking any action based on data shown in this map it should be first verified with a Planning Officer of Council.

**GEORGE TOWN COUNCIL  
 INTERIM PLANNING SCHEME 2013  
 - OVERLAY MAPS 12 OF 21**



Date: 5/09/2013  
 Doc. Version: 2



## **No Exemption without Protection:**

**Responsible Planning Authorities must be given enough power to act responsibly.**

**Submission to the Tasmanian Planning Commission**

**Re Draft Planning Directorate No. 8.**

**17 May 2021**

The Commission's assessment of Draft Planning Directorate No.8 is most welcome.

Directive 8's aim to assist with the delivery of public infrastructure projects, housing developments, other aspects of the post COVID-19 recovery, is both necessary and desirable.

However, the proposed reduction in the power of Local Councils as the responsible planning authorities charged with administering the new planning policy exemptions will also increase potential risks, particularly if the new policy protections in the Draft Directive are not also brought up to date to deal with the proposed exemptions.

As the public is now well aware out of date planning protections can present a significant risk in any planning scheme. The Lacrosse apartments fire in Melbourne in 2014, and London's Grenfell Tower tragedy that claimed the lives of 72 people in 2017 demonstrated the potential danger associated with out of date planning protections both here in Australia and overseas.

In NSW alone at least 8 State Environment Planning Policies had to be amended following the Grenfell flammable cladding disaster. In Victoria over 3000 buildings had to be inspected as part of a state wide audit, and only last week Port Phillip Bayside Council ordered residents of a Melbourne bayside apartment building to evacuate because of flammable cladding fears.

COVID-19 has increased pressure on planning protections in jurisdictions throughout Australia, and in late 2020 the Victorian Legislative Council recognising that many serious problems had developed, established a Parliamentary Inquiry into Planning Protections in Victoria. (See Terms of Reference attached).

### **The Problem.**

One example of out of date planning protections taken from the George Town Interim Planning Scheme.

The Background Report on Draft Directive 8 claims that:

*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.*

However, the latter claim conceals more than it reveals. The term "equivalent" is not defined, and although the phrase "*.. a code in this planning scheme..*" is used thirteen times in Directive 8, it cannot be assumed that a code of the form referred to is up to date, or actually even exists in the interim planning scheme in question.

For example, in the case of the George Town Municipality it appears that the Significant Tree Register, as provided for in the Local Planning Schedule (LPS) and State Planning Provisions (SPP), does not even exist in the George Town Interim Scheme. Similarly, the Local Heritage Code provided for in the LPS and SPP, does not exist in the Interim Scheme, and to make matters worse, the Biodiversity Code that does exist in the Interim Scheme appears to be significantly out of date, and inconsistent with the “equivalent” Natural Assets Code provided for in the LPS and SPP.

The latter inconsistency appears to be significant because the Natural Assets Code does appear to provide an up to date protection measure – it was approved by George Town Council for inclusion in its LPS in May 2020 – and it identifies priority habit protection areas which are not identified in the Interim Scheme.

However, because Directive 8 is mandating the use of the out of date Biodiversity Code Maps in the Interim Scheme, George Town Council’s hands appear to be tied, and it may be forced to act irresponsibly in this instance.

A smarter solution would be for the Commission to ensure that the Responsible Planning Authority, in this case George Town Council, has the power to act responsibly. This could either be done by simply restoring Councils’ discretionary powers to choose the most up to date version of the relevant Codes and other protections available, or if deemed desirable by direction on a case by case basis.

Attachments:

1. Terms of Reference, Planning Protections inquiry, Parliament of Victoria, 2020

Extracts:

2. Biodiversity Code Map, Interim Planning Scheme, George Town Council, 2013
3. “Equivalent” Natural Assets Code Map, Draft LPS, George Town Council 2020

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PARLIAMENT OF VICTORIA – COMMITTEES

## LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

### Terms of Reference

59th Parliament

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#### **Inquiry into Protections within the Victorian Planning Framework**

**On 28 October 2020 the Legislative Council agreed to the following motion:**

That this House requires the Environment and Planning

Committee to inquire into, consider and report, by June 2022, on the adequacy of the Planning

and Environment Act 1987 and the Victorian planning framework in relation to planning and

heritage protection, and in particular the Committee is to examine —

(1) the high cost of housing, including but not limited to —

- (a) provision of social housing;
- (b) access for first home buyers;
- (c) the cost of rental accommodation;
- (d) population policy, state and local;
- (e) factors encouraging housing as an investment vehicle;
- (f) mandatory affordable housing in new housing developments;

(2) environmental sustainability and vegetation protection;

(3) delivering certainty and fairness in planning decisions for communities, including but not limited to —

- (a) mandatory height limits and minimum apartment sizes;
- (b) protecting Green Wedges and the urban growth boundary;
- (c) community concerns about VCAT appeal processes;
- (d) protecting third party appeal rights;

- (e) the role of Ministerial call-ins;
- (4) protecting heritage in Victoria, including but not limited to —
- (a) the adequacy of current criteria and processes for heritage protection;
  - (b) possible federal involvement in heritage protection;
  - (c) separating heritage protection from the planning administration;
  - (d) establishing a heritage tribunal to hear heritage appeals;
  - (e) the appointment of independent local and state heritage advisers;
  - (f) the role of Councils in heritage protection;
  - (g) penalties for illegal demolitions and tree removals;
- (5) ensuring residential zones are delivering the type of housing that communities want; and
- (6) any other matter the Committee considers relevant.