

Tasman Council
Email: tasman@tasman.tas.gov.au

13th March 2021

RE: Tasman draft Local Provisions Schedule (Tasman draft LPS)

Please find attached my representation regarding the Tasman draft Local Provisions Schedule (Tasman draft LPS).

My representation incorporates an attachment from an expert planner which I have adopted.

I would like the opportunity to present at any Tasman draft LPS hearings.

Could you please confirm that you have received this representation.

Anna Pafitis
864 Nubeena Road
Premaydena 7185

Introduction

Thankyou for the opportunity to comment on the Tasman Council draft LPS. This representation has been prepared following a review of the draft LPS and the Tasman Council Local Provisions Schedule Supporting Report.

Because the Council did not run any community information sessions about the LPS, with the exception of heritage for which I sought expert advice, I have had to make my own interpretations of what is intended in the Tasman LPS.

The following is a response to areas of concern.

LOCAL AREA OBJECTIVES (LAO)

There are no Local Area Objectives proposed for this LPS. In the Supporting Report Council claims the LAOs provided in the Interim Planning Scheme (IPS) were “written in a general, high level fashion and added little value to the assessment process”.

The LAOs in the IPS defined the commercial and educational hubs on the peninsula, as compared to the holiday settlements. It specified what type of development is to be avoided and what is preferred. The LAOs highlighted the value of protecting amenity and privacy, ecological and aesthetic values, and how this would be achieved in specific zones.

Without LOA's for this draft LPS the residents do not know what framework the Council has used for making decisions about future land use. A round of strategic planning consultations were conducted with community members during the LPS consultation period. The timing makes it impossible for the strategic values identified by the community from that forum to inform the LPS.

This representation claims that it is a mistake not to have articulated objectives to inform the LPS.

ZONING

This representation supports the zoning of all foreshores, National Parks and Conservation Areas as Environmental Management Zones.

This representation calls for all forests on the Tasman Peninsula that are recognised as part of the Future Potential Production Forest Land (FPPFL) to be zoned Environmental Management.

This representation calls for all informal Reserves on Sustainable Timbers Tasmania land to be zoned Environmental Management.

CODES

Scenic Protection Codes

The Scenic Protection Code of the Statewide Planning Provision (SPP) provides that a scenic road corridor can be applied to land, identified at the local or regional level, as important for protection of scenic values.

The turquoise bays and dramatic landscapes of the Tasman peninsula are its most valuable assets for its residents and visitors, however the draft Tasman LPS does not propose any scenic protection areas or scenic protection corridors. Without protection the beauty of the Tasman is at risk of being eroded, thus damaging the experiencing for locals and visitors, on whom much of our local economy is dependent.

The Tasman Councils Supporting Report recognises that the identification of scenic values requires a site specific report in which “landscape values are identified, described and prioritised and for specific management objectives for each instance to be prepared.” This representation supports the need for a scenic assessment report, specific to the Tasman, to be undertaken as a matter of priority to identify scenic corridors for protection, in the same way this comprehensive report in the link provided below was undertaken for North East Tasmania.

https://www.nebn.org.au/files/reports/ne-tasmania-spa-assessment_geoscene_0106519s.pdf

The need for a Scenic Corridor assessment and its importance in the context of the Arthur Highway being a passage to Port Arthur, a World Heritage Site, is also emphasised in the Heritage Report by the expert planner attached to this representation.

Local Historic Heritage Code

The Tasman local government area features heritage on all four levels of governance – international, national, state and local. Despite this the draft LPS gives almost no recognition to local heritage. The enormous concern of this omission promoted me to seek advice about what this means from an expert planner with a background in heritage. Please see the report attached by Danielle Gray.

In summary, the recent changes in the planning scheme will mean there will be no duplication of listings at a state and local level. State listings will be reserved for buildings with state significance and local government will be responsible for listings of local significance. The draft LPS currently recognises two local Places for heritage protection. This is in no way indicative of Tasman’s reality. The consequences result in the loss and destruction of places, buildings, settings and areas that clearly have historic and cultural values and are likely to have such values in the future.

The report is damning of Tasman Councils failure to manage and protect historic and cultural heritage at a local government level. In doing so, Gray points out that the Council is consequently failing to act in accordance with the Resource Management and Planning System and the COAG Agreement on the Environment 1997.

Gray notes that Tasman Council have proposed a SAP that pertains to the heritage for Port Arthur and the Coal Mines. The SAP however has a complete absence of standards, thus it is unclear what the actual purpose of this SAP is, or how it will be a meaningful contribution to the management and protection of heritage at a local level. She concludes that the SAP is “thus useless in practice and application”.

This representation calls for the Tasman Council to undertake heritage surveys and reviews, engage with communities and community groups and engage a heritage

officer or consultant to populate the LPS heritage codes with listings. In addition to the acknowledgement of European heritage I urge the Council to include Aboriginal Heritage which has unfortunately been omitted as a required code for the LPS.

Natural Assets Code

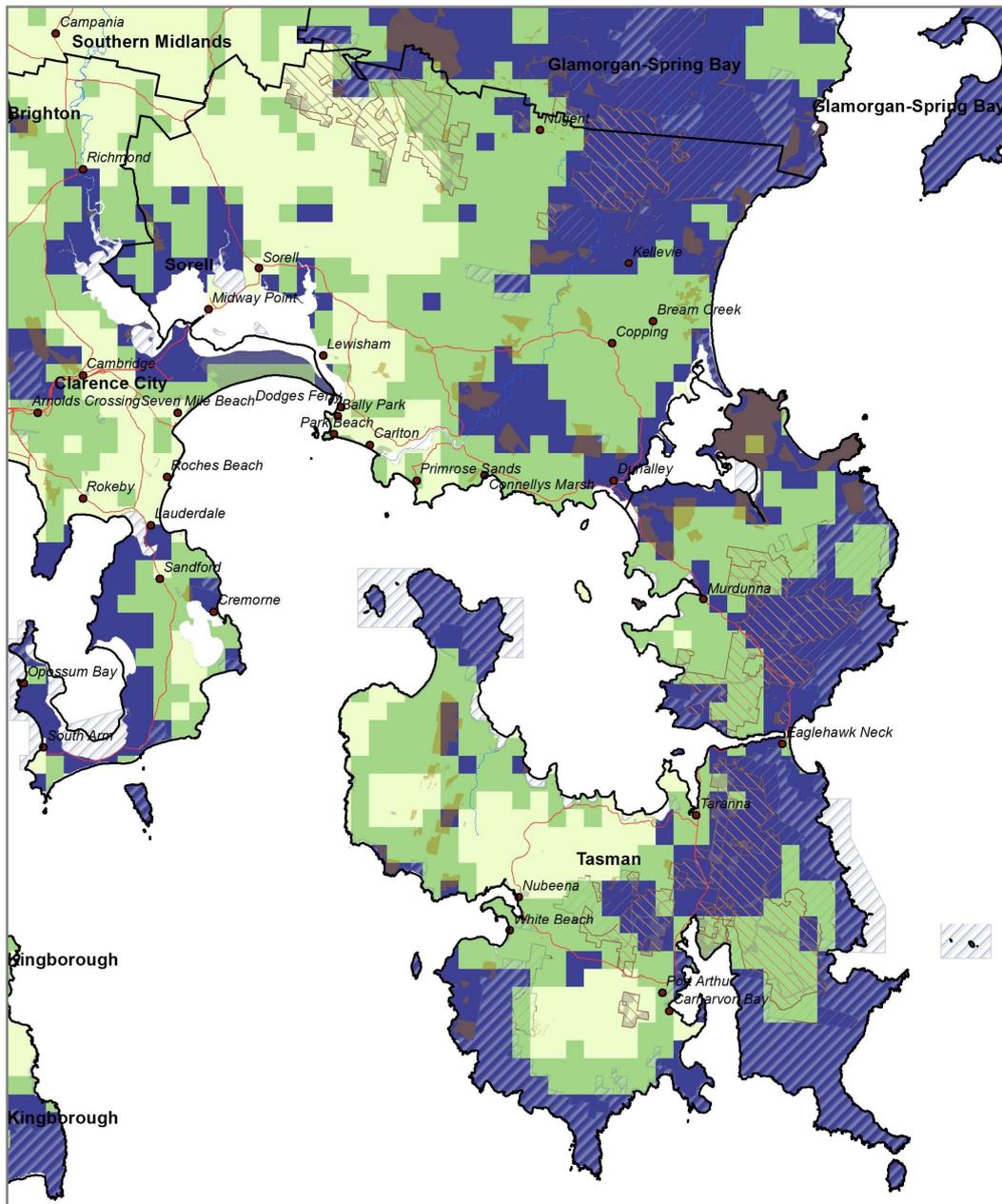
This representation calls for all reserved areas to be classified as priority vegetation.

This includes:

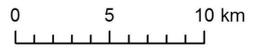
- All areas within the National Parks on the Tasman Peninsula,
- All Future Potential Production Forest areas (FPPF),
- All informal reserves
- All private land with a conservation covenant

The attached map labelled 'Areas for Biodiversity Conservation in Tasmania' produced by the Wilderness Society 2016 provides a map of the areas requiring recognition as priority vegetation.

Biodiversity conservation priorities: Tasman & Sorell LGAs



- | | |
|------------------------------|------------------------|
| Core conservation zone | Reserve |
| Buffer and connectivity zone | Conservation Agreement |
| Lower conservation priority | Informal Reserve |
| Local Government Areas | FPPF |
| Major road | PTPZ |
| River | |



Map produced November 2016
 Base data from theLIST © State of Tasmania
 Conservation priorities from "Priority areas for biodiversity conservation in Tasmania", The Wilderness Society, 2016

SPECIFIC AREA PLANS (SAP)

The draft LPS includes a Specific Area Plan for On-Site Waste Water Management. From the Tasman Supporting Report it is difficult to ascertain exactly what is being proposed but it is interpreted in this representation as providing water and sewage services by Taswater for properties that are 1000m² or smaller in all populated settlements on the Tasman Peninsula.

By providing reticulated sewage and water residents will be able to increase the size of their dwellings by more than 30% of their property as they will not require the open space for septic tanks and trenches.

It is not stated directly but it also appears that a large incentive in this decision is to allow for greater infill development in the identified areas on the SAPs, thus increasing the density of these areas.

If this is a correct interpretation it needs to be considered in the context of what it means to impose such infrastructure to the residents and the natural environment.

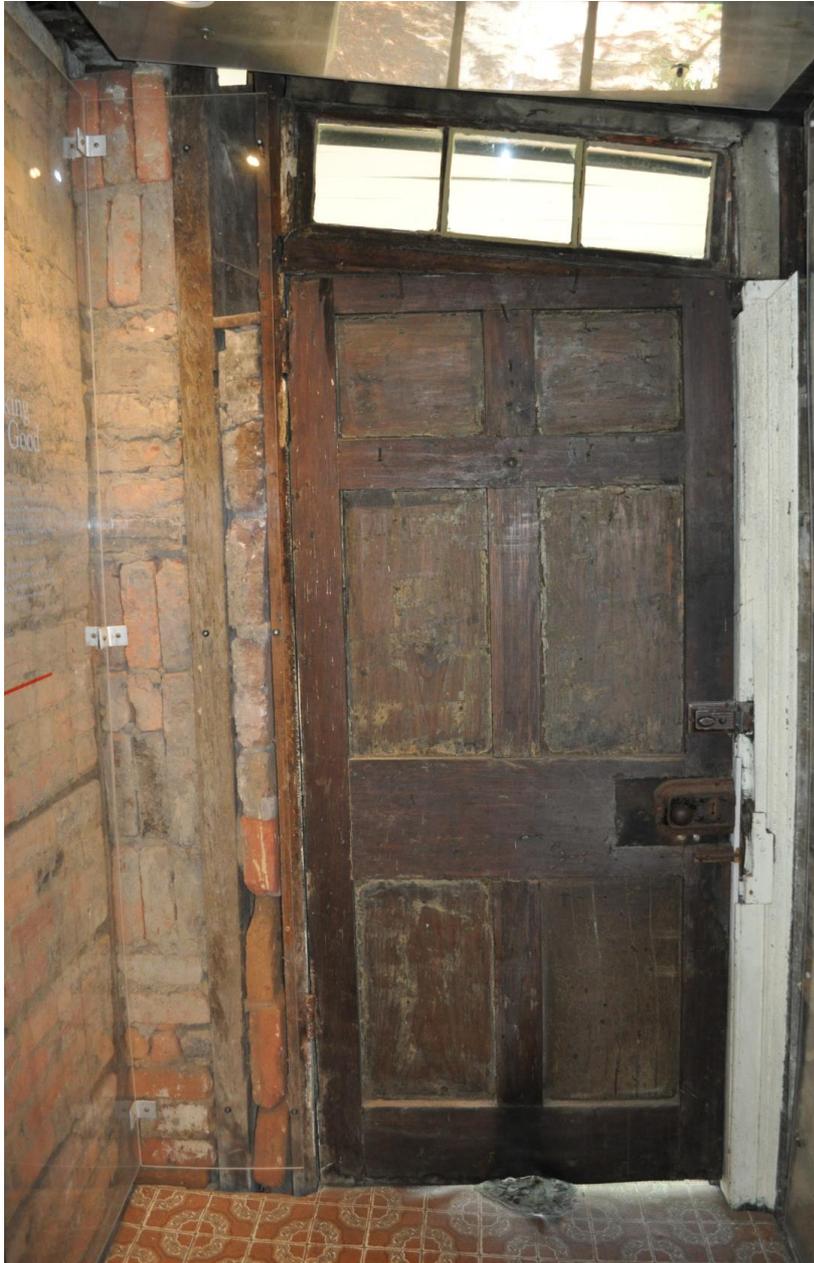
Reticulated sewage and water will attract a quarterly fee. Our population is one of the poorest in the nation. The imposition of unexpected bills for services they have not requested is a considerable one.

A large part of the motivation for people to live in rural areas is to be 'off the grid'. Peninsula residents generally seek out a lifestyle where they are, as much as possible, self sufficient - managing services and activities on their land in their own right. Town water and sewage services are not expected or desired.

In addition to being 'off the grid' many are seeking an escape from the intensification of urban living. This is generally something that generates fear, as it is a contradiction to the reason they come here in the first place. Reticulated water and sewage will mean the future zoning of these areas will be able to be changed to General Residential. Once this happens these areas will be subject to the same intensification of living that now allows no minimum setbacks for side and rear boundaries. If this happens the experience of being in many settlements on the Tasman peninsula will be no different to being in suburbia.

It is possible to eradicate the need for this wastewater management by limiting all new block sizes in the appropriate zones to a minimum of 1000m² with the only acceptable solution of a dwelling that is no larger than 30% of the size of the block, thus allowing for a septic tank and trenches. Ultimately this will limit the amount of impervious surfaces on individual properties which will have better outcomes for stormwater solutions and the natural values of the area. We have not seen any studies which tell us whether the surrounding vegetation in the SAP settlements are able to support increased run off from surrounding properties that will be able to increase their impervious surfaces as a consequence of having reticulated services.

Finally, the financial cost of providing such a service would be enormous and it has to be asked if this money can be better spent in other ways.



LPS Review (heritage)
Tasman Council
By Gray Planning, March 2021

Danielle Gray, Principal Consultant
Gray Planning
224 Warwick Street
West Hobart TAS 7000

12 March 2021

Anna Pafitis
864 Nubeena Road
Premaydena 7185

Dear Anna,

Thank you for considering Gray Planning to assist you with town planning enquiries you have in relation to the Tasman Council Local Provisions Schedule that is currently being advertised.

Gray Planning has been engaged to undertake the following work on your behalf:

Provision of a submission with respect to the LPS to be attached a report as an appendix to a representation you submit with respect to the advertised LPS documents. My report would focus on the lack of historic and cultural heritage input for the LPS as well as provide a review against the LPS documents being advertised pertaining to historic and cultural heritage which would include consideration of Heritage Precincts, Significant Trees and Cultural Landscapes. My report would also provide commentary on the upcoming changes to heritage management under the Tasmanian Planning Scheme and how this may affect historic and cultural heritage management in the Tasman municipality generally.

Please find attached that report for you to submit to Council as an appendix to your own representation.

Should you have any questions about the content of the report, please do not hesitate to contact me on 0439 342 696 and I will be pleased to assist you.



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Yours faithfully

A handwritten signature in black ink that reads "Danielle Gray". The signature is written in a cursive, flowing style.

Danielle Gray B.Env.Des. MTP. MPIA
Principal Consultant, Gray Planning
March 2021



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1 Introduction

1.1 Purpose

The purpose of this Review is to provide the client with professional advice pertaining to historic and cultural heritage management as it relates to the currently advertised Local Provisions Schedule and supporting documents for Tasman Council.

1.2 Copyright

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Last updated: March 2021

Report Author: Danielle Gray



2 Background for the Review

2.1 The advertised LPS documents for Tasman Council

The Tasman Council draft LPS, supporting documents and the State Planning Provisions and the list of provisions required to transition from the Tasman Interim Planning Scheme 2015 to the Tasmanian Planning Scheme were advertised on Council's website (as well as the Tasmanian Planning Commission website) from 11 January 2021 until close of business on 15 March 2021.

All of these documents were reviewed by Gray Planning to prepare for this report.

In terms of heritage, one of the proposed SAPs pertains to heritage. This is the Port Arthur and Coal Mines Historic Sites Specific Area Plan.

This SAP is reproduced as follows:



TAS-S1.0 Port Arthur and Coal Mines Historic Sites Specific Area Plan

TAS-S1.1 Plan Purpose

The purpose of the Port Arthur and Coal Mines Historic Sites Specific Area Plan is:

- TAS-S1.1.1 To recognise and protect the heritage significance of the Port Arthur and Coal Mines Historic Sites;
- TAS-S1.1.2 To protect the heritage values of the Port Arthur and Coal Mines historic sites from visual impacts within the areas assessed to be visually significant or potentially visually significant to the site.

TAS-S1.2 Application of this Plan

- TAS-S1.2.1 The specific area plan applies to the area of land designated as Port Arthur Historic Site Viewshed Specific Area Plan on the overlay maps.
- TAS-S1.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in addition to the provisions of:
- (a) Low Density Residential Zone;
 - (b) Rural Living Zone;
 - (c) Rural Zone;
 - (d) Agriculture Zone;
 - (e) Environmental Management Zone;
 - (f) Community Purpose Zone; and
 - (g) Recreation Zone,
- as specified in the relevant provision.
- TAS-S1.2.3 Council must notify the Port Arthur Historic Sites Management Authority of any discretionary application at the same time and in the same manner as Council gives notice of an application for a permit under Section 57 of the Land Use Planning and Approvals Act 1993.
- TAS-S1.2.4 The Planning Authority must not determine the application until 14 days from the date of notification to the Port Arthur Historic Sites Management Authority, or until after the Authority has provided advice, whichever occurs first.

TAS-S1.3 Local Area Objectives

This sub-clause is not used in this specific area plan.

TAS-S1.4 Definition of Terms

This sub-clause is not used in this specific area plan.



TAS-S1.5 Use Table

This sub-clause is not used in this specific area plan.

TAS-S1.6 Use Standards

This sub-clause is not used in this specific area plan.

TAS-S1.7 Development Standards for Buildings and Works

This sub-clause is not used in this specific area plan.

TAS-S1.8 Development Standards for Subdivision

This sub-clause is not used in this specific area plan.

TAS-S1.9 Tables

This sub-clause is not used in this specific area plan.



The advertised LPS and supporting documents includes the other following references to historic and cultural heritage in the form of the following tables:

Tasmanian Planning Scheme - Tasman Draft LPS

TAS-Table C6.1 Local Heritage Places

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
TAS-6.1.1	Not applicable	Saltwater River	Saltwater River Road	Cemetery	Not applicable	Description Cemetery Specific Extent Part of PID 2165140 as shown on the overlay maps.
TAS-6.1.2	Not applicable	Premaydena	Premaydena Point Road	Cemetery	Not applicable	Description Cemetery Specific Extent Part of PID 2164850 as shown on the overlay maps.

TAS-Table C6.2 Local Heritage Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			

TAS-Table C6.3 Local Historic Landscape Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			



TAS-Table C6.4 Places or Precincts of Archaeological Potential

Reference Number	Town/Locality	Property Name / Address/ Name of Precinct	Folio of the Register	Description, Specific Extent and Archaeological Potential
This table is not used in this Local Provisions Schedule.				

TAS-Table C6.5 Significant Trees

Reference Number	Town/ Locality	Property Name and Street Address	Folio of the Register	Description / Specific Extent	Botanical Name	Common Name	No. of trees
This table is not used in this Local Provisions Schedule.							

TAS-Table C8.1 Scenic Protection Areas

Reference Number	Scenic Protection Area Name	Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.				

TAS -Table C8.2 Scenic Road Corridors

Reference Number	Scenic Road Corridor Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.			



2.2 The importance of historic and cultural heritage for Tasmanian communities including the Tasman Council community

Heritage and historical and cultural conservation at a local level in Tasmania is undertaken through the mechanism of Planning Schemes for each Council.

Heritage conservation is important in identifying, recording, analysing and protecting items that are important at a local level for communities.

The most commonly understood and prevalent means of heritage conservation is by way of the protection of buildings or nominated area that in turn provides an important role in the identity of local communities.

The protection of heritage buildings, items and landscapes without fail generates sometime significant economic return to communities not just as a means of providing a sense of identity but may also feature heavily in main economic drivers to a region and provide significant support to the local economy and particularly the tourism industry.

Tourism is obviously a very significant economic player and source of employment in the Tasman Council municipal area.

Heritage is an important community asset that has many demonstrable incidences on the way communities develop as well as providing security to local economies and certainty in the development of towns and localities.

Heritage makes a positive contribution to communities in many ways. These include the provision of housing, educations, community engagement, economic growth, community identity, provision of jobs and training for members of the community and also regeneration of townships and communities.

Historic settings and environments are a proven source of economic growth and activity as well as a source of jobs, employment, training and property values.

Communities where heritage is appropriately managed and protected are more likely to attract external investment as well as internal investment, creating opportunities for local businesses (not just tourism related businesses).

Communities where heritage appropriately managed and protected are often more likely to have a stronger sense of local identity and sense of community.

Communities where heritage is appropriately managed and protected adds individual character and distinctiveness to an area and is often a significant driver behind a community's sense of place.

The application of heritage protection aids in creating sustainable communities and in turn is a generator of community involvement, job creation and environmental sustainability.

Heritage places at all levels are a very important educational resource for the community and visitors. Understanding and learning about the history of a building, place, area or community can foster a strong sense of community for locals (and visitors) through a shared understanding of cultural and historic heritage values and their importance for a given area and community.



Where heritage is understood, documented and protected, it is significantly more likely to be better looked after than places and items of heritage value where that value is not documented, understood or apparent.

Often heritage values are only understood, appreciated or recognised where it becomes that those values are under threat or are due to be lost.



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2.3 The management of historic and cultural heritage Tasmania

Heritage is managed at different levels in Tasmania.

There are four levels of heritage management. These are:

- Local;
- State;
- National; and
- World.

Not all communities or local government areas in Tasmania feature more than two levels of historic and cultural management (these being local and state) but the Tasman Council local government area features heritage at all four levels, right up to internationally significant historic and cultural heritage in the form of the sites managed by the Port Arthur Historic Sites Management Authority.

Local heritage is predominantly dealt with by way of Planning Schemes which places considerations on development applications. This process is managed by Councils.

Most heritage listings in Planning Schemes are by way of Heritage Places, Significant Tree lists, Heritage Precincts, Archaeological Precincts or Scenic Landscapes or Corridors. It is considered that there are multiple ways of protecting historic and cultural heritage by the application of various Planning Scheme mechanisms.

State heritage currently is dealt with both under Planning Schemes where there is widely a duplication of state and local heritage listings in Interim Planning Schemes currently in operation in Tasmania.

Generally, places that are state listed are listed as a heritage place on the Tasmanian Heritage Register (THR). There are a very few heritage places which collectively form a collection of buildings with similar and interlinking historic and cultural heritage values. Two examples are buildings in Salamanca Place and buildings in Arthur's Circus in Battery Point. The result is that assessment of applications to state heritage places generally includes no consideration of townscape, overall setting and streetscape and the impacts of a development on these.

State listing on the Tasmanian Heritage Register means a property is considered to be of state significance and any development of the property is managed by the Tasmanian Heritage Council and associated state government department Heritage Tasmania.

The implications of a state heritage listing mean that any planning application currently submitted to Council must be referred by a Council to Heritage Tasmania in the form of a permit application to be assessed and considered by Heritage Tasmania and the Tasmania



Heritage Council in accordance with the provisions of the *Historic Cultural Heritage Act 1995*. This happens concurrently with the planning application process.

The assessment of any permit application by Heritage Tasmania and the Tasmanian Heritage Council is managed under the *Historic Cultural Heritage Act 1995* in conjunction with the planning application applied for under the *Land Use Planning and Approvals Act 1993*, with a single decision and permit issued by Council (which may include any conditions of approval issued by Heritage Tasmania/Tasmanian Heritage Council).

Heritage values or places, items or landscapes are categorised according to the level of significance they have at a local (and community) level, a state level, a national level and an international level.

Increasingly over the last 10 years, it has become considered that there should be no duplication in heritage listings.

The Tasmanian Heritage Council in the last 5 years has increasingly sought to remove items from the Tasmanian Heritage Register where state level significance cannot be established. The removal of items from the Tasmanian Heritage Register has only occurred where the item is also listed (dual listed) at a local level as a Heritage Place under the applicable Planning Scheme.

This removal from the THR has only been undertaken where some form of heritage protection is available at a local level. The author of this report was previously involved with this process as a board member of the Tasmanian Heritage Council from 2015 until 2020.

To the author's knowledge, no places were removed from the THR unless they were dual listed. This was to ensure that places with no state level of heritage protection were still managed and afforded heritage protection per se.

It is considered poor heritage management for historic and cultural heritage to be managed at an incorrect level as the extent and nature of heritage assessments differ according to the formal level of heritage listing.

Items of state level heritage importance and significance are listed on the Tasmanian Heritage Register and their values are outlined (sometimes briefly) in a Data Sheet. Assessment of planning applications for development and decisions regarding these applications is generally restricted to these recognised values.

Heritage considerations involving landscapes, streetscapes and the character of townships is not dealt with at a state level. Such considerations are dealt with under Planning Scheme documents, usually where a property is listed in a Precinct or Landscape of noted historic heritage of cultural heritage value.

Where a place, item, building, township or setting has no listing under the Heritage Code of Tasmanian Planning Schemes, no protection can be given to the management or protection of historic and cultural heritage values unless there is a listing at state, national or internal level.

As already noted, in the last 10 years, dual heritage listings are becoming increasingly discouraged. The application of Interim Planning Schemes, Planning Scheme amendments and de-listing undertaken by the Tasmanian Heritage Council has increasingly reduced the occurrence of heritage dual listing in Planning Schemes statewide.



2.4 The proposed management of historic and cultural heritage Tasmania under the Tasmanian Planning Scheme

The following information has been sourced from Page Seager's website:

The Tasmanian planning system is undergoing sweeping reforms. On 22 February 2016, the Minister for Planning and Local Government, Mr Peter Gutwein, made the State Planning Provisions (SPP) in accordance with s.27(1)(b) of the Land Use Planning and Approvals Act 1993 (LUPAA). Although they formally came into effect on 2 March 2017, they will not apply until the next stage of the process – the Local Provision Schedules – have been finalised. The SPPs are the first step in the introduction of the Tasmanian Planning Scheme, the first of its kind in Australia.

The aim of the Tasmanian Planning Scheme is to further harmonise Tasmania's planning instruments and in doing so, produce faster, fairer and more cost-effective planning outcomes. Whether this will in fact eventuate, is yet to be seen.

What is the next step?

*The Tasmanian Planning Scheme will consist of a single set of SPPs and a Schedule of Local Provision Schedules for each council area. Now that the SPPs have been finalised, local councils will be required to prepare their Local Provision Schedules based on the existing interim schemes, with public exhibition and assessment by the Tasmanian Planning Commission (**Commission**), before being finalised.*

The drafting of the Local Provision Schedules will involve identifying zones (i.e. inner residential zone) within municipalities and the application of the spatial overlays (i.e. Natural Assets Code) to individual properties. The next stage is the most important in terms of the effect of the reforms for individual landholders and developers.

While the public notification and hearing stage for the Local Provision Schedules may be 12 months away, landholders are advised to stay abreast of opportunities to provide comments and/or attend the hearings.

Which version of LUPAA applies?

Those who have occasion to have regard to LUPAA would have noticed that the Act refers to the Tasmanian Planning Scheme already. On 17 December 2015, significant amendments were made to LUPAA to facilitate the transition to the Tasmanian Planning Scheme.

However, it is important to note that the transitional provisions preserve Parts 2A and 3 of the former Act until the Local Provision Schedules comes into effect. In this regard, the former version of LUPAA applies as it has previously.

What changes will the SPPs introduce?

While the SPPs do not apply until the Local Provision Schedules are finalised, there are some significant changes that will be introduced when the Tasmanian Planning Scheme comes into effect. These changes include:



Exemption for heritage listed places – *The Heritage Code will not apply to a registered place on the Tasmanian Heritage Register. The current system provides for heritage assessment under both the local planning schemes and the Historic Cultural Heritage Act 1995, but moving forward this will not be the case.*

As noted above, it is now clear that dual heritage listing of historic and cultural heritage (which is currently very prevalent in Tasmania) will now be effectively forced to separate into clearly distinct local heritage and state level heritage listings, separated from each other in terms of assessment and decision making criteria and also who makes the assessment and decision.

State and local heritage will be managed under different acts, different assessment processes and by different levels of government.



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2.5 The implications of the proposed management of historic and cultural heritage Tasmania under the Tasmanian Planning Scheme

Where Councils are individually progressive and responsive to local heritage, the proposed changes to the management of both local and state heritage under the introduction of LPS and the Tasmanian Planning Scheme will not be considered to be largely problematic or significant to local heritage.

Councils that are considered to deal with local heritage well are those who undertake heritage surveys and reviews, engage with communities and community groups with respect to historic and cultural heritage values, who formally engage some kind of officer charged with managing local heritage on behalf of Council or who engage a consultant to assist with historic and cultural heritage management at local level and who populate Planning Scheme heritage codes with listings.

Some of these Councils are considered to be Southern Midlands Council, Hobart City Council, Glenorchy City Council, Clarence City Council, Launceston City Council, Northern Midlands Council as an example.

However, there are many Councils who do not have a nominated person on staff to specifically manage heritage issues, do not employ any consultants to assist with local heritage issues, do not upgrade, refine or populate local heritage listings and generally do not engage with the community on local heritage matters.

For many of these Councils, their current heritage codes under the Interim Planning Schemes introduced between 2013 and 2015, are largely or almost entirely devoid of local heritage listings. Where local heritage listings occur, these are almost always heritage listings that are also listed at a state level under the Tasmanian Heritage Register.

This means that once the LPS and Tasmanian Planning Scheme are introduced, some Councils will have no local heritage to either formally consider or manage as part of the development application process.

It is considered that this lack of any local heritage management and protection at local government will be devastating to these communities, given that the benefits of heritage have already been discussed in this report.

Quite simply, without any local heritage protection under Planning Scheme's the following can potentially occur:

- Houses being unsympathetically extended or altered or demolished entirely, regardless of age, degree of intactness or association with a particular person, group or era;
- Landscapes which form a backdrop to locations important for heritage which are still intact and comparable to eras of European exploration or early colonial settlement which occurred in that area can be altered by subdivision, development of buildings, roadworks and infrastructure and forestry;



- Areas of likely and potential archaeological potential such as suspected European burial sites and sites of important and early European development can be excavated without the requirement for any investigation or documentation;
- Trees, hedgerows or planted wind barriers can be lopped or cut down entirely regardless of their obvious aesthetic, historical or contribution to townscapes, streetscape or the wider countryside;
- There is no consideration of visual impact or visual qualities of development that is located in close proximity to major roads and highways (such as the Arthur Highway);
- Historic titles and estates can be fragmented by ongoing subdivision and strata titling;
- Garden settings and old plantings can be demolished entirely;
- Buildings and constructed items can be demolished entirely;
- Important viewfields (even viewfields important for already heritage listed sites) can be built out or obstructed;
- There is no consideration of townscape and streetscape qualities in applications for development;
- There is no consideration of landscape and setting qualities in applications for development or subdivision.



2.6 The importance of local historic and cultural heritage

Local heritage is at the bottom of a pyramid of heritage levels where local heritage is generally most prolific and most common. At the top of such a pyramid is World Heritage of international value. Such places include Port Arthur in the Tasman Peninsula. In between are state and national heritage levels.

World Heritage places are generally subject to a higher degree of assessment, intervention and consideration than places of local heritage owing to their rarity and very high levels of significance to the international community.

However, local heritage is considered to be grass level heritage and today's local heritage can sometimes be tomorrow's state heritage and so forth.

However, when local heritage is entirely absent from the development process, an entire tier of heritage is absent, disregarded and ultimately lost. This has a flow on effect to the other three tiers of heritage management.

Local government together with the state government (and the Heritage Council) are part of the Resource Management and Planning System (RMPS). The RMPS is the framework that guides all decisions about the use and development of land and natural resources in Tasmania.

The RMPS in Tasmania comprises legislation and policies and has the following objectives:

- *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*
- *to provide for the fair, orderly and sustainable use and development of air, land and water;*
- *to encourage public involvement in resource management and planning;*
- *to facilitate economic development in accordance with the objectives set out in the above paragraphs;*
- *to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State.*

Local and state government, together with the Heritage Council, generally work together to ensure that that local and state heritage places across Tasmania are acknowledged, documented and appropriately managed.

These arrangements also reflect the COAG Agreement on the Environment (1997) that established a tiered system of heritage management across all Australian jurisdictions and levels of government.

Where local heritage is not being managed by local government, this results in a substantial failure at a grassroots level in Tasmania to effectively and appropriately manage historic and cultural heritage per se in Tasmania. It is considered that this failure to engage with local heritage at a local government level leaves the state government and Tasmanian Heritage



Council 'carrying the can' and is not considered to act in accordance with the RMPS objectives and fails to act in accordance with the COAG Agreement on the Environment (1997).

It also results in the loss and destruction of places, buildings, settings and areas that clearly have historic and cultural heritage values or that are likely to have such values in the future.



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2.7 Threats to local historic and cultural heritage in Tasman Council municipality

Currently the biggest threats to existing unlisted items of local heritage value in the Tasman Council municipality include (in order of biggest threat):

- Private development that includes vegetation removal and demolition;
- Development in the form of new or expanded commercial development;
- Unit/accommodation development;
- Subdivision;
- Existing dwellings being extended/altered with unsympathetic additions and works as well as the removal of original fabric; and
- Bushfires.

Even with bushfires, all of these threats can be managed where local heritage protection is afforded in Planning Schemes.



3 Review of the LPS and supporting documents with respect to heritage – the SAP

In terms of heritage in the advertised LPS and supporting documents for Tasman Council, one of the proposed SAPs pertains to heritage. This is the Port Arthur and Coal Mines Historic Sites Specific Area Plan.

This SAP does not provide any use, development or subdivision standards. This is considered to be very unusual for a SAP to have a complete absence of such standards.

The objective of this SAP simply appears to create an obligation of Tasman Council to notify PAHSMA (Port Arthur Historic Sites Management Authority) of any discretionary planning application in the mapped SAP area.

This effectively entirely passes the buck over to PAHSMA to solely manage any development in the mapped SAP area.

It is queried what will happen if any development occurs in this mapped area that is also not mapped as part of the affected World Heritage sites and how this will be managed by PAHSMA.

PAHSMA cannot manage sites that are not part of World Heritage Sites where Council cannot manage sites with respect to heritage that are not specifically listed under any of the Tables in the Heritage Code (as a Heritage Place, Heritage Precinct, etc).

As PAHSMA cannot managed any site or property not located within the respective listed World Heritage site boundaries and in the absence of any proposed use, development or subdivision standards in the SAP, it is questioned what benefit this SAP will be or what it will realistically achieve in terms of local heritage.

It is unclear what the actual purpose of this SAP is or is intended to be or how it will be a meaningful contribution to the management and protection of heritage at a local level.

It is considered that in the absence of any use, development or subdivision standards its usefulness is extremely limited other than to be a formal requirement of Council to notify PAHSMA of discretionary applications that are publicly notified in any case under the process for Section 57 planning applications under the *Land Use Planning and Approvals Act 1993*.

It is considered that this SAP is likely to be useless in practice and application when it comes to the protection of any item or place of local heritage in the Tasman Council jurisdiction.



4 Review of the LPS and supporting documents with respect to heritage – the Heritage Code tables

Currently the existing E13.0 Historic Heritage Code in the *Tasman Interim Planning Scheme 2015* has a table of Listed Heritage Places comprising 42 entries.

Of these entries, 40 are also places listed on the Tasmanian Heritage Register (THR).

The 2 entries not on the THR are cemeteries.

No title references are given to either currently listed Heritage Place (both being cemeteries). All Table columns for each listing are empty apart from a description for each of these two listings as ‘cemetery’.

In the absence of any meaningful information, Place extent or recognised values for each cemetery, it is questioned how each Place can be effectively managed as part of the development assessment process, even where there are development and subdivision standards in the Code currently contained in the 2015 Interim Planning Scheme.

The current Interim Planning Scheme for the Tasman Council also fails to provide any current listings for Heritage Precincts, Cultural Landscape Precincts or Places or Archaeological Potential.

The advertised LPS and supporting documents show that Council does not intend for this situation to change or improve.

The advertised LPS and supporting documents still contain the same two cemeteries to be listed as Heritage Places but with no supporting or additional or new details other than the Place (site) extent as per the supporting mapping showing the location of each cemetery.

There are to be no Heritage Precincts, no Significant Tree listings, no Local historic Landscape Precincts, no Places or Precincts of Archaeological Potential, no Scenic Protection Areas and no Scenic Road Corridors.

It is particularly surprising that the Arthur Highway has escaped without having a Scenic Road Corridor applied along its length or parts of its length despite this highway directly leading to Tasmania’s fourth most visited tourist site of Port Arthur, after Salamanca Market, Mt Wellington/kunanyi and MONA.

Other major highways in other Council areas have such Scenic Road Corridor overlays to protect important visual, aesthetic and heritage related qualities and values. One such example is the Huon Highway in the Huon Valley Council municipality which is currently applied in the *Huon Valley Interim Planning Scheme 2015*.

It is considered the complete absence (other than two cemeteries) of local heritage is completely unacceptable and indicates a failure at local government level to even partially manage local heritage at the most basic level as required in accordance with the RMPA and the COAG Agreement.

It is questioned why a Heritage Code should and could even be applied in municipalities where an almost total disregard for local heritage is occurring and where 99.9% of the Code remains unpopulated.



5 Determining the historic and cultural heritage values of Tasman Council

It is considered that each Council has a clear obligation to populate the Heritage Code of both the Interim and upcoming Tasmanian Planning Schemes.

This obligation stems from being a jurisdiction and local planning authority bound by the objectives of the RMPS and also having obligation under the COAG Agreement as a tier of government.

Realistically, this is not generally occurring with many Tasmanian Councils. Tasman Council is therefore one of many Councils where local heritage is simply not being dealt with as part of the planning process managed by local government.

Ultimately, the losers are the communities and residents as well as visitors to these Council areas in addition to the wider Tasmanian community.

It would appear that budgetary constraints are primarily the reason for failure to adequately manage local heritage with Councils.

Sometimes a general disinterest in heritage at a local level is the reason for staff, management, elected representatives and local communities failing to engage with local heritage or actively ensure it is covered in the development assessment and approvals process.

Sometimes where a local government authority has a large number of places in the municipal area on the Tasmanian Heritage register, it can be considered that local heritage per se is being managed and protected, albeit by the state government only.

Ultimately, populating heritage codes in Planning Schemes with local heritage places, precincts, items and settings to ensure their protection and management must come down to a commitment of both the local planning authority and the local community with some involvement and support provided from the state government.

In terms of identifying such places of local heritage potential value, resources and sources are widely available and typically include:

- Local area history publications;
- Thematic studies and maps;
- Historical maps (Titles Office and TheList);
- Internet searches, websites of local historical societies;
- Trove (often entering a locality name will bring up historical articles);
- LINC online images (again, entering a locality name will often bring up historical images);
- Historical publications featuring historical photography;
- TheList historical aerial photography;
- Heritage studies held by Council;
- Organisations such as AIA (Australian Institute of Architects);
- Historical society records, oral history recordings;
- Community Group consultation; and
- Wider general community consultation.



It is considered that a vital source of information are local historical groups, societies and progress associations which are usually active in even the smallest and remote communities.



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6 Determining the historic and cultural heritage values of Tasman Council - criteria

While undertaking a local heritage review is a daunting task especially for a small Council such as Tasman Council, there are already recognised methodologies in place for assisting in identifying and listing places of historic and heritage value.

The Burra Charter provides Practice Notes for *Understanding and Assessing cultural significance* and notes: “*The cultural significance of a place is assessed by analysing evidence gathered through the physical investigation of the place, research and consultation. The next step is to evaluate its qualities against a set of criteria*”.

While items listed on the Tasmanian Heritage Register are assessed against the 7 criteria that provide a framework for assessment against to assist in determining the historical of cultural heritage of a ‘place’ (which under the *Historic Cultural Heritage Act 1995* can be either a building or area), items of local heritage value or local heritage precincts (‘Local Places’ or ‘Heritage Precincts’ under Code E13.0 of Interim Planning Schemes) are not subject to the requirements of the HCHA1995.

Therefore, the criteria in the Act do not specifically apply to local subject sites or other local items of potential heritage interest or value.

Within Australia there has been agreement to standardise heritage criteria with the HERCON criteria adopted in 1998. The HERCON values are reflected in the 7 criteria outlined in the *Historic Cultural Heritage Act 1995* which is the overarching Act for historic and cultural heritage management in Tasmania.

Section 16 of the HCHA1995 provides these criteria for the assessment of places to be entered onto the Tasmanian Heritage Register.

These are:

(2) For the purposes of subsection (1), the Heritage Council may determine that a place has historic cultural heritage significance if it is satisfied that the place meets one or more of the following criteria:

(a) the place is important to the course or pattern of Tasmania's history;

(b) the place possesses uncommon or rare aspects of Tasmania's history;

(c) the place has the potential to yield information that will contribute to an understanding of Tasmania's history;

(d) the place is important in demonstrating the principal characteristics of a class of place in Tasmania's history;

(e) the place is important in demonstrating a high degree of creative or technical achievement;

(f) the place has a strong or special association with a particular community or cultural group for social or spiritual reasons;

(g) the place has a special association with the life or works of a person, or group of persons, of importance in Tasmania's history;



(h) the place is important in exhibiting particular aesthetic characteristics.

In the past, Gray Planning has been engaged at local and state level to assist Councils and members of the community to identify items of local heritage and provide heritage services.

To provide assessment of the potential of the local historic heritage value of potential places, items or precincts, assessments are made against each of the national HERCON standard for statements of significance, based on the research from multiple sources and also on-site inspection.

The assessment methodology for each criterion follows the methodology outlined in the Tasmanian Government's *Assessing Historic Heritage Significance for Application with the Historic Cultural Heritage Act 1995* (October 2011).

This document produced by the state government through Heritage Tasmania provides a guide and associated model to assessing historic heritage significance. This approach is considered to provide a sound and recognised approach to assessing heritage values both for Heritage Places and Heritage Precincts at local government level.

The following assessment of any "place" (or precinct) should be made against the HERCON criteria at a LOCAL level:

- A. Importance to the course, or pattern of our cultural or natural history.**
- B. Possession of uncommon, rare or endangered aspects of our cultural or natural history.**
- C. Potential to yield information that will contribute to an understanding of our cultural or natural history.**
- D. Important in demonstrating the principal characteristics of a class of cultural or natural places or environments.**
- E. Importance in exhibiting particular aesthetic characteristics.**
- F. Importance in demonstrating a high degree of creative or technical achievement at a particular period.**
- G. Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.**
- H. Special association with the life or works of a person, or group of persons, of importance in our (local) history.**



7 Author Background

The author of this report is Danielle Gray trading as Gray Planning.

I have a Bachelor of Environmental Design (Architecture) and Master of Town Planning from the University of Tasmania. My Masters degree majored in historic and cultural heritage focussing on the study of heritage controls in Planning Schemes and the resulting design and development.

My Master of Town Planning thesis entitled *Aesthetic Control in Inner City Area Planning* investigated the link between historical mimicry and statutory heritage controls for development in Planning Schemes for Heritage Areas. The study area was Battery Point (Tasmania) and the heritage controls studied were those contained within the *Battery Point Planning Scheme 1979*.

I have 25 years of experience in statutory and strategic planning in Tasmania, of which 19 years (2003 to present day) has primarily focussed on statutory planning with respect to development to locally listed places ('Heritage Places') and heritage areas and heritage precincts ('Heritage Precincts') under Planning Schemes.

As a Council officer from September 2003-November 2017, I undertook all duties within Kingborough Council related to historic and cultural heritage management for the Kingborough municipality as part of my formal duties and responsibilities. These duties included management of all Works Applications submitted to Council involving development to Places on the Tasmanian Heritage Register included within the Planning Scheme, assessment of all development applications submitted to Council for development and works to Heritage Places of local value within the *Kingborough Planning Scheme 1988*, *Kingborough Planning Scheme 2000* and the *Kingborough Interim Planning Scheme 2015*, assessment of all development applications submitted to Council for development and works to properties within Heritage Areas and Heritage Precincts within the *Kingborough Planning Scheme 1988*, *Kingborough Planning Scheme 2000* and the *Kingborough Interim Planning Scheme 2015*.

As a Council officer from September 2003 until November 2017 I undertook management of the Kingborough Heritage Review 2006, management and all assessments related to the Kingborough Local Heritage Review 2016 (including all historical research and identification of new Heritage Places), wrote the heritage provisions for the *Kingborough Planning Scheme 2000*, assisted in writing Statements of Historic Cultural Significance for the *Kingborough Interim Planning Scheme 2015*, identified new areas for inclusion as Heritage Precincts in the *Kingborough Interim Planning Scheme 2015*, identified and mapped amended boundaries for existing Heritage Areas in the *Kingborough Planning Scheme 2000* which were then accordingly expanded as Heritage Precincts in the *Kingborough Interim Planning Scheme 2015*.

As a Council officer from 2010 until November 2017 I facilitated the development of a Significant Tree assessment panel within Kingborough Council and undertook the review and assessment of all nominations with respect to historic and heritage significance.



Since December 2017, I have worked as a private consultant where a significant proportion of my workload involves providing assistance and review of development proposals to private clients and developers involving development to Heritage Places and sites within Heritage Precincts in Planning Schemes.

As a private consultant from late 2017 to 2019, I was engaged by Kingborough Council to provide heritage assessments for development applications under the E13.0 Historic Heritage Code in the *Kingborough Interim Planning Scheme 2015*.

As a private consultant in 2018, I was engaged by Huon Valley Council to undertake a local heritage review for the municipality to assist in identifying new Heritage Places and new Heritage Precincts. This review also involved assisting Council to develop and write Statements of Historic Cultural Heritage Significance.

As a private consultant from late 2017 to present I have been engaged by Derwent Valley Council, Huon Valley Council, Hobart City Council, Northern Midlands Council and Southern Midlands Council to provide advice and heritage assessments for development applications and development applications subject to appeals under the E13.0 Historic Heritage Code for Local Places and sites in Heritage Precincts and also listed as a Heritage Place on the Tasmanian Heritage Register in respective Planning Schemes.

As a private consultant from late 2017 to present I have been engaged by private clients to provide heritage assessments for proposed development applications under the E13.0 Historic Heritage Code in respective Planning Schemes for development and works involving Local Places and properties within Heritage Precincts for sites within Sorell Council, Clarence City Council, Huon Valley Council, Kingborough Council, Glenorchy City Council, Hobart City Council, Southern Midlands Council, Brighton Council, Derwent Valley Council, Glamorgan Spring Bay Council, Northern Midlands Council and Launceston City Council municipal areas.

Since September 2017 as a Council officer and then as a private consultant, I have undertaken the drafting and lodgement of nominations for listing on the Tasmanian Heritage Register which has included producing written documentation to address criteria under the *Historic Cultural Heritage Act 1995*.

I am a Corporate Member of the Planning Institute of Australia (PIA), a recent previous Board Member of the Tasmanian Heritage Council (member nominated by the Local Government Association of Tasmania with expertise in planning from 2015 until January 2020) and am an Associate Member of the International Council of Monuments and Sites (ICOMOS).

