

26 October 2026

Tasmanian Planning Commission
Level 3, 144 Macquarie Street
Hobart TAS 7000

Dear Mr Howlett,

**Tasmanian Planning Scheme - Launceston, Draft amendment
PSA-LLP0034, Newstead Crescent Heritage Precinct**

I am writing in response to your letter from the 24 August 2026 to further consider the draft amendment and findings of the hearings held on 19 August 2026.

Following the hearings in relation to this amendment, Council adopted the Heritage Stewardship Project in its agenda on 3 September 2026¹. The 'report sets the direction for future management of Launceston's Historic Heritage assets through the planning scheme'. The report identifies that there are around 700 local heritage places and 30 local heritage precincts that are to be included in the Local Provisions Schedule (LPS); and provides a commitment to list an additional two precincts and 50 places in the next 12 months. These would be in addition to current initiated amendments for 2 precincts and 35 places.

As identified in the Council Agenda (02/04/26, p19) it has been identified that guidance be prepared for planners to be able to respond to community enquiries about Local Heritage Precincts. In preparing the draft amendment Council sought legal advice to clarify when a permit would be required as this draft amendment is the first local heritage precinct since the Cimitiere Street Heritage Precinct was adopted with the Tasmanian Planning Scheme in 2022.

The following responses are provided to matters raised in the Commission Directions.

- 1. Whether it considers development associated with minor alterations to buildings, including the replacement of windows, roofing and cladding*

¹ Item 18.1 available <https://www.launceston.tas.gov.au/Agendas-and-Minutes>

within a Local Heritage Precinct, to be Exempt development under the Tasmanian Planning Scheme and, if so, identify the relevant provisions of Clause 4.0 and the Local Historic Heritage Code relied upon in reaching that conclusion.

Response:

Please refer to accompanying legal advice, which finds that the described minor alterations would apply where the all the elements of C6.7.3 A1 are satisfied.

2. *Whether it considers development associated with minor alterations to buildings, including the replacement of windows, roofing and cladding within a Local Heritage Precinct, to be No Permit Required development where clauses (a) to (c) of the relevant Acceptable Solution in the Local Historic Heritage Code are satisfied and, if so, identify the provisions of the Tasmanian Planning Scheme relied upon, including how the relevant provisions of the Local Historic Heritage Code relate to clause 6.6.1(e).*

Response:

Please refer to accompanying legal advice which finds that clause 6.6.1(e) is capable of being satisfied if the minor alterations satisfy all the requirements of clause C6.7.3 A1, together with the remaining requirements of clause 6.6.1.

3. *If development associated with minor alterations to buildings, including the replacement of windows, roofing and cladding within a Local Heritage Precinct is neither Exempt nor No Permit Required development in some circumstances, but instead requires a permit and assessment against the applicable Acceptable Solutions and/or Performance Criteria:
(a) does this affect the planning authority's views regarding the merits of the draft amendment; and
(b) does this result in any recommended changes or modifications to the draft amendment?*

Response:

The advice supports Council's opinion that minor alterations within Local Heritage Precincts is capable of meeting the exemptions of the scheme, as such the planning authorities views are unchanged and no modifications are required to the draft amendment.

Further Matters

As evidenced in the response to the directions, there could be potential for misinterpretation of the Tasmanian Planning Scheme for heritage works. Council would like to ensure that in progressing the Heritage Stewardship

project that it is able to consistently and fairly implement the State Planning Provisions at a local level. As such, it is suggested that the Commission provide guidelines or practice notes on how the Local Historic Heritage Code should be applied.

Yours sincerely



Jen Welch

Coordinator Planning Assessments

Enc. Letter of advice, Nathan Street, 20/09/2026

Contact: Nathan Street
Our Ref: NS:EB:266999

29 September 2026

Ms Jen Welch
Launceston City Council
PO Box 396
LAUNCESTON TAS 7250

By email: Jen.Welch@launceston.tas.gov.au

Dear Ms Welch,

Launceston Draft amendment PSA-LLP0034 Newstead Crescent Local Heritage Precinct

You have requested advice responding to the first two questions posed to the Launceston City Council in the letter from the Tasmanian Planning Commission dated 24 August 2026.

Those two questions are:

1. is development associated with minor alterations to buildings including the replacement of windows, roofing and cladding within a Local Heritage Precinct, exempt development under the *Tasmanian Planning Scheme* and, if so, identify the relevant provisions of clause 4.0 and the Local Heritage Code relied upon in reaching that conclusion; and
2. is development associated with minor alterations to buildings including the replacement of windows, roofing and cladding within a Local Heritage Precinct, to be No Permit Required development where clauses (a) to (c) of the relevant Acceptable Solution in the Local Heritage Code are satisfied, and if so, identify the provisions of the Tasmanian Planning Scheme relied upon, including how the relevant provisions of the Local Historic Heritage Code relate to clause 6.6.1(e).

The following advice responds to the questions.

1. **Questions 1 - Is development associated with minor alterations to buildings including the replacement of windows, roofing and cladding within a Local Heritage Precinct, exempt development under the Tasmanian Planning Scheme and, if so, identify the relevant provisions of clause 4.0 and the Local Heritage Code relied upon in reaching that conclusion?**
 - 1.1 Section 51(1) of the *Land Use Planning and Approvals Act* 1993 ('LUPAA') provides that a person must not commence any use or development which, under the provisions of a planning scheme, requires a permit and a permit has been granted.

Hobart

+61 3 6226 1200
Level 4, 99 Bathurst Street
HOBART TAS 7000
GPO Box 146
HOBART TAS 7001

Launceston

+61 3 6338 2390
45 Cameron Street
LAUNCESTON TAS 7250
PO Box 379
LAUNCESTON TAS 7250

Kingston

+61 3 6226 1200
Shop 77, Level 1
Channel Court
KINGSTON TAS 7050

Smithton

+61 3 6452 1861
32 King Street
SMITHTON TAS 7330
PO Box 111
SMITHTON TAS 7330

Devonport

+61 3 6424 4633
20 Rooke Street
DEVONPORT TAS 7310
PO Box 1101
DEVONPORT TAS 7310

Email info@simwolf.com.au

Web simwolf.com.au

ABN 31 635 248 976

- 1.2 Words in planning schemes must be given their ordinary meaning and are to be interpreted with regard to their context and purpose. In undertaking that task, effect should be given to every word of a provision, and a construction that renders words redundant or without practical operation should be avoided.¹
- 1.3 Section 6 of the *Tasmanian Planning Scheme* ('TPS') sets out how applications for use or development are to be assessed.
- 1.4 Clause 6.1.1 states that an application must be made for any use or development for which a permit is required under the TPS.
- 1.5 Clause 6.4.1 of the TPS deals with the general requirement for a permit and relevantly provides:

"Except as provided in subclauses 6.5 and 6.6 of the planning scheme, use or development of land must not be commenced or carried out;

(a) without a permit granted and in effect in accordance with the Act and the provisions of this planning scheme; or

(b) in a manner contrary to the conditions and restrictions of a permit."

- 1.6 As referred to in clause 6.4.1, clause 6.5.1 of the TPS relevantly states that:

"A permit is not required to commence or carry out a use or development if it is exempt from requiring a permit under clause 4.0 of this planning scheme."

- 1.7 It follows that a permit is not required if a use or development is exempt under clause 4.0 of the TPS.
- 1.8 Clause 4.0.1 of the TPS states that use or development listed in Tables 4.1-4.6 is exempt from requiring a permit provided that it meets the corresponding requirements.
- 1.9 It follows that if such works meet the corresponding requirements of an exemption listed in Tables 4.1-4.6 of the TPS, they will be exempt from requiring a permit.
- 1.10 In relation to the replacement of windows, roofing, and cladding, the exemption in clause 4.3.4 of the TPS in relation to "*minor alterations*" is relevant. It provides:

"If for minor alterations of buildings, such as re-cladding, re-roofing and replacing windows and doors without enlargement or extension, unless the Local Historic Heritage Code applies and requires a permit for the use or development."

- 1.11 It follows that the replacement of windows, roofing and cladding may be exempt as a "*minor alteration*" within a Local Heritage Precinct. However, the exemption will not

¹ *Saltwater Lagoon Pty Ltd v Glamorgan Spring Bay Council* [2022] TASFC 5 at [19]. See, also, *Raff Angus Pty Ltd v Resource Management and Planning Appeal Tribunal* (2018) 28 Tas R 224 at [22]-[24]; *Pribil v State of Tasmania* [2022] TASSC 41 at [26] and [41]; and *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355 at 382 [71].

apply where the Local Historic Heritage Code both applies to the development and requires a permit.

- 1.12 As the Local Historic Heritage Code applies to development on land within Local Heritage Precincts, and the replacement of windows, roofing, and cladding in a Local Heritage Precinct would fall within the definition of “*development*” under LUPAA² the Local Historic Heritage Code would apply to those works.
- 1.13 Nonetheless, the fact that the Local Historic Heritage Code applies, does not, of itself, establish that a permit is required. Whether a permit is required remains a separate question.
- 1.14 In considering the requirements of the exemption in clause 4.3.4, it is necessary to consider whether the replacement of windows, roofing, and cladding requires a permit in a Local Heritage Precinct.
- 1.15 As also referred to in clause 6.4.1 of the TPS in relation to the requirement for a permit, clause 6.6.1 of the TPS deals with circumstances in which no permit is required and relevantly states that no permit is required for a use or development if:
 - “(a) the use is within a Use Class specified in the applicable Use Table as being a use for which no permit is required;*
 - (b) the use or development complies with each applicable standard and does not rely on any Performance Criteria to comply with each applicable standard;*
 - (c) the use or development is not Discretionary under any other provision of this planning scheme;*
 - (d) the use or development is not Prohibited under any other provision of this planning scheme; and*
 - (e) a permit for such use and development is not required by a code.”*
- 1.16 Accordingly, whether a permit is required for the replacement of windows, roofing, and cladding in a Local Heritage Precinct is to be determined by assessing the matters from (a) to (e).
- 1.17 In respect of matter (a), as there are no use class tables contained within the Local Historic Heritage Code, this matter is irrelevant.
- 1.18 In respect of matters (c) and (d) there do not appear to be any express provisions in the TPS that would otherwise make such development discretionary or prohibited.
- 1.19 In respect of matter (e), there is no provision in the Local Historic Heritage Code which expressly states that a permit is required for use and development, or that a permit is required merely because the Code applies.

² See definition of ‘development’ at section 3 of the *Land Use Planning and Approvals Act* 1993.

- 1.20 The remaining question is therefore whether paragraph (b) could be satisfied. That is, whether the development complies with each applicable standard and does not rely on any Performance Criteria.
- 1.21 Under the Local Historic Heritage Code, clause C6.7 provides development standards for Local Heritage Precincts, and in relation to building and works clause C6.7.3 relevantly provides:

C6.7.3 – Building and works, excluding demolition	
Objective <i>That development within a local heritage precinct or a local historic landscape precinct is sympathetic to the character of that particular precinct.</i>	
Acceptable Solution	Performance Criteria
A1 <i>Within a local heritage precinct or local historic landscape precinct, building and works, excluding demolition, must:</i> <i>(a) not be on a local heritage place</i> <i>(b) not be visible from any road or public open space; and</i> <i>(c) not involve a value, feature or characteristic specifically part of a local heritage precinct or local historic landscape precinct listed in the relevant Local Provisions Schedule</i>	P1.1 <i>Within a local heritage precinct, design and siting of buildings and works, excluding demolition, must be compatible with the local heritage precinct, except if a local heritage place of an architectural style different from that characterising the precinct, having regard to:</i> <i>(a) the streetscape or townscape values identified in the local historic heritage significance of the local heritage precinct, as identified in the relevant Local Provisions Schedule;</i> <i>(b) the character and appearance of the surrounding area;</i> <i>(c) the height and bulk of other building in the surrounding area;</i> <i>(d) the setbacks of other buildings in the surrounding area; and</i> <i>(e) any relevant design criteria or conservation policies for the local heritage precinct, as identified in the relevant Local Provisions Schedule.</i>

- 1.22 If any proposed replacement of windows, roofing or cladding satisfies each element of Acceptable Solution A1 in clause C6.7.3, the development would comply with the applicable standard without reliance on a Performance Criterion. Assuming the remaining requirements of clause 6.6.1 are also met, the development would have “no permit required” status.
- 1.23 In those circumstances, the exemption in clause 4.3.4 would be applicable because, although the Local Historic Heritage Code would apply, the proposed works would not require a permit under that code.
- 1.24 Clause C6.7.3 A1(a) cannot be satisfied if the development is a local heritage place. Accordingly, if the replacement of windows, roofing or cladding is proposed to occur on a local heritage place, clause C6.7.3 A1 is not satisfied and an assessment against the performance criteria is required, therefore triggering the requirement of a permit.

- 1.25 However, it is important to note that on a practical application of the exemption, the replacement of windows, roofing or cladding in a Local Heritage Precinct may not satisfy Acceptable Solution A1 because:
- (a) the works may be visible from a road or public open space (failing element (b) of A1); and/or
 - (b) the works could involve values, features or characteristics specifically identified as part of the heritage precinct (failing element (c) of A1).
- 1.26 Where the Acceptable Solution is not satisfied, the development must then be assessed against the Performance Criteria, which means a permit is required by the Local Historic Heritage Code. In those circumstances, the exemption in clause 4.3.4 would not be available.
- 1.27 Accordingly, the exemption will only be available where all elements of A1 are satisfied, namely where the works are not to a local heritage place, not visible from a road or public open space and do not involve a value, feature or characteristic specifically part of a local heritage precinct listed in the relevant Local Provisions Schedule.

Section 12 of LUPAA

- 1.28 For completeness, section 12 of LUPAA is not applicable to this type of development. The relevant parts of section 12 of LUPAA are:

"12. Existing uses and developments

- (1) ... *nothing in a provision of a planning scheme, or of the Tasmanian Planning Scheme, in relation to a municipal area is to be taken (including by virtue of requiring a permit to be obtained) to –*
- (b) *prevent –*
- ... (ii) *the maintenance or repair of such a building; or"*

- 1.29 Section 12 of LUPAA is then explicitly given effect to within the TPS by clause 4.3.3, which provides an exemption for repair and maintenance works.
- 1.30 Clause 4.3.3 provides:

"If for maintenance and repair of buildings."

- 1.31 Clause 4.3.4 separately establishes the distinct and separate exemption for "minor alterations" with this definition expressly including "*recladding, re-roofing, and replacing windows and doors*" as examples. The inclusion of those works as examples within clause 4.3.4 demonstrates that the TPS distinguishes between '*repair and maintenance*' on one hand and '*minor alterations*' on the other.
- 1.32 Accordingly, recladding, re-roofing, and replacing windows are not exempt as "*maintenance and repair*" per section 12 of LUPAA, as if that were so, the specific examples and the exemption in clause 4.3.4 would serve no independent purpose.

2. **Question 2 - Is development associated with minor alterations to buildings including the replacement of windows, roofing and cladding within a Local Heritage Precinct, to be No Permit Required development where clauses (a) to (c) of the relevant Acceptable Solution in the Local Heritage Code are satisfied, and if so, identify the provisions of the Tasmanian Planning Scheme relied upon, including how the relevant provisions of the Local Historic Heritage Code relate to clause 6.6.1(e)?**
- 2.1 Question 2 is substantially answered by the analysis set out above in relation to Question 1. In answering the question of whether replacement of windows, roofing and cladding within a Local Heritage Precinct is exempt under clause 4.3.4 of the TPS, it is necessary to determine whether the proposed works require a permit. Accordingly, the assessment of whether the works are exempt under clause 4.3.4 and whether they have "no permit required" status is one and the same exercise.
- 2.2 In this regard, if the proposed works satisfy each element of the Acceptable Solution A1 in clause C6.7.3 and otherwise satisfy the remaining requirements of clause 6.6.1 of the TPS, they will attract "no permit required" status and consequently will be exempt under clause 4.3.4.
- 2.3 Clause 6.6.1 of the TPS, referred to above at paragraph [1.6], sets out the circumstances in which no permit is required for a use or development. An analysis of the requirements of clause 6.6.1 is set out above at paragraphs [1.17]-[1.23].
- 2.4 It is however, acknowledged that the conclusion ultimately reached in relation to Question 1 largely turns on the interpretation of clause 6.6.1(e). A more detailed analysis of this matter is therefore set out below.
- 2.5 Clause 6.6.1(e) of the TPS provides that:
- "A permit is not required to commence or carry out a use or development if*
- (e) a permit for such use and development is not required by a code."*
- 2.6 There is no provision in the Local Historic Heritage Code which expressly states that a permit is required for a use or development to which the Code applies, nor any provision that expressly requires a permit merely because the Code applies.
- 2.7 Rather clause 6.6.1(e) is concerned with whether a permit is "required by a code". That language draws a clear distinction between the mere application of a code and a code that, by its standards, requires a permit for the development in question.
- 2.8 If the mere application of the Local Historic Heritage Code were sufficient to require a permit, clause 6.6.1(e) would have no meaningful operation. Every development to which the Code applied would necessarily require a permit unless expressly exempted by the Code itself.
- 2.9 A permit is "required by a code" when under the code's provisions and standards use or development cannot satisfy all elements of an Acceptable Solution and must rely on Performance Criteria. A permit is therefore "required by" the code because the code's standards necessitate discretionary assessment. Clause 6.6.1(e) therefore operates to capture development under a code where a discretionary assessment is triggered.

- 2.10 This is supported by the drafting of clause 4.3.4 which preserves the exemption “*unless the Local Historic Heritage Code applies and requires a permit*”. The words “*and requires a permit*” contemplate circumstances in which the Code applies but does not require a permit.
- 2.11 Accordingly, if clause 6.6.1(e) is capable of being satisfied, and any proposed replacement of windows, roofing, and cladding within a Local Heritage Precinct satisfies the requirements of Acceptable Solution A1 in clause C6.7.3, together with the remaining requirement of clause 6.6.1, the development will properly be categorised as exempt development under the TPS.

Thank you for your instructions and please do contact me if you have any questions or wish to discuss.

Yours faithfully
Simmons Wolfhagen



Nathan Street

Director | Local Government, Environment, Planning & Development Law

