

Proposed approach for considering issues from submissions on draft Planning Directive No. 8

Abbreviations used in table:

- GRZ – General Residential Zone
- IPD4 – Interim Planning Directive No. 4
- IRZ – Inner Residential Zone
- PD1 – Planning Directive No. 1
- PD4.1 – Planning Directive No. 4.1
- PD8 – draft Planning Directive No. 8
- PPU – Department of Justice, Planning Policy Unit
- SPPs – State Planning Provisions
- THR – Tasmanian Heritage Register

Provision	Issue <i>(Note: clause numbers relate to those in Planning Directive No. 8, unless otherwise stated)</i>
Statutory review of SPPs	
Definitions	Brewery – no definition provided Tolerable risk – too vague and ambiguous <i>PPU Note: These definitions do not relate to PD8, but can be considered as part of the statutory review of the SPPs.</i> Private garden – too loose, and unclear how far a private garden extends. Implications for vegetation clearing exemption.
Exemptions	<p>Application of the Electricity Transmission Infrastructure Protection Code</p> <p>The following exemptions should exclude areas within the electricity transmission corridor or an inner protection area as identified in the Electricity Transmission Infrastructure Protection Code:</p> <ul style="list-style-type: none"> • 5.3.3 temporary buildings or works • 5.3.4 unroofed decks • 5.3.5 outbuildings • 5.3.6 buildings and Works in the Rural Resource Zone or Significant Agriculture Zone • 5.3.8 garden structures • 5.5.1 ground mounted solar energy installations • 5.5.2 roof mounted solar energy installations

- 5.6.5 retaining walls
- 5.6.7 minor structures

PPU Note: It is best to consider the above issues through the statutory review of the SPPs. The Electricity Transmission Infrastructure Protection Code is not contained in all interim planning schemes (remaining Southern Interim Planning Schemes only) and also differs to the equivalent Code in the SPPs. Not all of the above exemptions are contained in the SPPs (some are retained from current PD1).

Reinstating exclusions currently in Planning Directive No. 1

The following exemptions in the SPPs should include full range of limitations as expressed in PD1 (e.g. heritage, scenic, threatened vegetation, wetlands and watercourses, potentially contaminated land, salinity and landslip):

- 4.2.3 irrigation pipes
- 4.2.4 road works
- 4.2.7 minor infrastructure
- 4.2.8 navigation aids
- 4.3.5 temporary buildings and works
- 4.3.6 unroofed decks
- 4.3.7 outbuildings
- 4.3.8 outbuildings in the Rural Living Zone, Rural Zone or Agriculture Zone
- 4.3.9 agricultural buildings and works in the Rural Zone or Agriculture Zone
- 4.3.11 garden structures
- 4.4.2 landscaping and vegetation management

Detailed issues relating to Exemptions in Planning Directive No. 8 that are contained in the SPPs

- **Clause 5.0.3** – ambiguity of the term ‘actively mobile landforms’ in limiting exemptions
- **Clause 5.1.3 – home occupation** – removal of ‘occasional visitor’ as it could cause significant amenity impacts (e.g. yoga classes or lessons or therapy with traffic and noise impacts). Limited to a ‘dwelling’ therefore cannot be in a shed, outbuilding or garden.
- **Clause 5.1.4 – markets** – exempting markets is problematic if insufficient parking is provided – can the landowner refuse to host or allow?

PPU Note: The exemption does not change the council's (or the Crown's) abilities to control things that occur on public land through leasing, licencing and council by-laws. These are separate to the planning system.

- **Clause 5.2.4 – road works** – where is 3m distance measured from (title boundary or road reserve or existing road shoulder?). Potential for significant impacts on native vegetation, sensitive environments and waterways. Could allow for the replacement of heritage bridges – Glenorchy City Council has a number of heritage listed bridges. Lack of clarity in terminology – ‘including’ does not provide exhaustive list, ‘carriageway’ not defined, refers to ‘maintenance repair and upgrading’ and also ‘making, placing and replacement’
- **Clause 5.2.4 – road works/ Clause 5.2.8 – upgrades of linear and minor utilities and infrastructure/ clause 5.2.10 – minor infrastructure** – potential conflicts or overlap between these exemptions

PPU Note: Clause 5.2.8 is retained from the exemptions in PD1 and is therefore not contained in the SPPs.

- **Clause 5.3.4 – unroofed decks** – should not exclude decks attached or abutting a habitable building. Should ensure they are permeable, and do not require removal of any tree.
- **Clause 5.3.5 – outbuildings** – Need to clarify what is meant by ‘span’. Should it refer to ‘side’ rather than ‘span’?
- **Clause 5.4.1(f) – vegetation removal within 2m of lawfully constructed buildings and infrastructure for maintenance and repair** – could allow private landowners to remove significant trees or heritage gardens.
- **Clause 5.4.3 – landscaping and vegetation management** – concerned with landscaping and vegetation management in private gardens with very few exceptions as it could remove significant vegetation that is normally managed through codes. Should retain same exceptions as in clause 6.3.1 in PD1.
- **Clause 5.5.1 – ground mounted solar energy installations** – not height limited, potential amenity and solar access issues for neighbours, no heritage considerations.
- **Clause 5.6.1 – use or development in a road reserve or public land** – no consideration of impacts of outdoor seating and impacts on car parking requirements. Unclear why reference to by-laws have been removed.

PPU Note: These matters are normally covered through council by-laws.

- **Clause 5.6.2 – fences not within 4.5m of frontage of GRZ or IRZ** – references to heritage code should also include references to significant trees, consistent with other limitations on the exemption brought across from the SPPs that refer to the Local Historic Heritage Code. Fences for security purposes that are solid fences (chain mesh ok) should not be exempt as there are potential impacts on streetscape character and undermines the landscaping standards in Industrial Zones.

PPU Note: This exemption was not changed by IPD4/PD8 and is retained from PD1. The equivalent exemptions in the SPPs (clauses 4.6.4 and 4.6.5) captures significant trees through the Local Historic Heritage Code.

- **Clause 5.6.3 – fences within 4.5m of a frontage** – should be limited to 1.2m in height, 1.8m with 30% transparency will result in poor outcomes
- **Clause 5.6.5 – retaining walls** – unclear if exclusion of land filling is from exemption or qualification attached the exemption.

PPU Note: The intention was to exclude land filling from the exemption as the exemption is only relates to the construction of the retaining wall.

	<p>Detailed issues relating to Exemptions in the SPPs that are not contained in Planning Directive No. 8</p> <ul style="list-style-type: none"> • Clause 4.3.9(b)(ii) – agricultural buildings and works in the Rural Zone or Agriculture Zone – if the intent is to exclude buildings with ‘floors’ it should explicitly say so. • Clause 4.6.4 – fences not within 4.5m of a frontage – should not provide for any solid fencing in the Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Recreation Zone, Open Space Zone and Future Urban Zone to maintain character. • Clause 4.6.6 – fences in Rural Zone or Agriculture Zone – exemption should only apply to post and wire fences
<p>Conditions and restrictions on permits</p>	<ul style="list-style-type: none"> • Clause 6.11.2 – allow for conditions to be imposed for contributions towards and provisions of Public Open Space and conditions for landscaping.
<p>Special Provisions/General Provisions</p>	<ul style="list-style-type: none"> • Clause 9.1.1(a) – Changes to an existing non-conforming use – unclear if you can change to another non-conforming use <p><i>PPU Note: The intention was not to allow for changes to other non-conforming uses, only changes to how the current non-conforming use operates.</i></p> <ul style="list-style-type: none"> • Clause 9.3(b) – Adjustment of a boundary – limitations created by only ‘minor changes’ to lot shapes means that some subdivision that improve the usability of a site may be prohibited. • Clause 9.5 – Changes of use of a place listed on the THR or a heritage place – not as strong as current Hobart Interim Planning Scheme 2015 requirements, should require the preparation of a heritage impact statement and conservation management plan. <p>Suggestion for new General Provisions in the SPPs</p> <ul style="list-style-type: none"> • Suggest a new general provisions to allow split zoning across zone boundaries regardless of the size.
<p>Zone Provisions</p>	<p>Issues relating to zone provisions in the SPPs that are not included in Planning Directive No. 8</p> <ul style="list-style-type: none"> • Reinstate vegetation standards for Rural Living Zone and Rural Zone • Front fencing requirements should be provided in all residential and commercial zones

Review of Residential Development Standards

	<p>Setbacks and building envelope</p> <ul style="list-style-type: none"> • Clause 10.4.2/11.4.2 P2 – Garage and carport setbacks – should require the development to maintain or improve quality of streetscape, not be compatible with existing which may have existing undesirable garages and carports. • Clause 10.4.2/11.4.2 A3 – Building envelope rear setback – reinstate the rear setback due to potential impacts on neighbouring windows (solar access), loss of rear garden area (vegetation loss, loss of privacy, less recreation space, character and amenity issues). Also inconsistent with heritage precinct requirements. • Clause 10.4.2/11.4.2 A3(b)(ii) – Side and rear boundary setbacks for building envelope – need to clarify whether 9m or 1/3 of boundary limitation applies of side and rear boundary <p><i>PPU Note: This requirement is limited to the side boundary only as the rear boundary is not specifically referenced.</i></p> <ul style="list-style-type: none"> • Clause 11.4.2 P1 – front setbacks – the consideration of streetscape qualities and integrating new development with the streetscape has been removed.
	<p>Site coverage and private open space</p> <ul style="list-style-type: none"> • Clause 10.4.3 A1/11.4.3 A1 – impervious surfaces – reinstate the limitations on impervious surfaces as will have stormwater impacts particularly with no stormwater code in the SPPs. • Clause 10.4.3 A2/11.4.3 A2 – private open space – reinstate requirement for good solar access and being directly accessible from a habitable room or living room.
	<p>Sunlight and overshadowing</p> <ul style="list-style-type: none"> • Clause 10.4.4 – north facing windows – reinstate requirement for habitable room windows to have a northerly aspect and requirement in former 10.4.4 A2 relating to multiple dwellings to the north of a northerly window of a habitable room.
	<p>Frontage fences</p> <ul style="list-style-type: none"> • Clause 10.4.7/11.4.7 – front fences – the objective and performance criteria should relate to the fence’s impact on the streetscape. The performance criteria should not relate to privacy.
	<p>Other suggested requirements</p> <ul style="list-style-type: none"> • Suggest adding landscaping requirements, similar to those in the Parking and Access Code of Southern Interim Planning Schemes, or amend clause 6.11.2 of the SPPs to allow conditions to be imposed for landscaping. • Review standards for multiple dwellings to align with other jurisdictions.

Minor modifications to Planning Directive No. 8

Exemptions

- **Clause 5.2.4 – road works/ Clause 5.2.8 – upgrades of linear and minor utilities and infrastructure/ clause 5.2.10 – minor infrastructure** – potential conflicts or overlap between these exemptions

PPU Note: Clause 5.2.8 and 5.2.10 specifically exclude the road works exemption at clause 5.2.4 to avoid any overlap or conflict. However an error correction is required to correctly refer to clause 5.2.4 instead of 5.2.3.

- **Clause 5.3.2 maintenance and repair of buildings** – reinstate heritage limitation for this exemption.

PPU response – This is a misinterpretation of IPD4 and PD8. It reflects the current PD1 exemption and each region has its own way of modifying the exemption to address heritage issues. IPD4 and PD8 retain these modifications through the operation of clause 4.3 and Attachment 2.1. The Commission has reflected this in the amendments to the interim planning schemes and has therefore retained the exemptions that existed prior to IPD4 coming into effect.

- **Clause 5.6.2/5.6.3 – fences exemption** – confusion between the two exemptions as to what applies

PPU Note: Clause 5.6.2 retains the fence exemption from PD1 while clause 5.6.3 relates to the exemption for front fences in the SPPs for the GRZ and IRZ. There appears to be some confusion over what fences clause 5.6.2 relates to. Clause 5.6.2 provides the exemptions for all fences that are not within 4.5m of a frontage in the GRZ and IRZ. This includes side and rear fences in the GRZ and IRZ (and in other zones), and the front fences in all other zones. The exemption could be further clarified in the heading in the 'Use or development' column to assist with interpretation.

Private open space

Clause 10.4.3/11.4.3 A2 – private open space should exclude car parking areas

PPU Note: Issue created by PD1 definition being different to SPPs definition. The private open space definition in the SPPs specifically excludes car parking areas or driveways and therefore doesn't need to be restated in the GRZ and IRZ development standards. To be corrected through a minor modification to PD8 to reinstate previous requirement from PD4.1 that private open space is not used for vehicle access or parking.

Non-dwelling development requirements in the General Residential Zone and Inner Residential Zone

- **Clause 10.5.1/11.4.9 – non dwelling development requirements** – 10.4.3/11.4.3 A1(c) no longer exists so should be deleted from the relevant interim planning schemes.

PPU Note: This is limited to some Southern interim planning schemes. This is not an error in PD8, but relates to the amendments made to interim planning schemes to implement IPD4. For consideration by the Commission in ensuring the interim planning schemes correctly implements PD8.

Minor amendments of the SPPs

also for inclusion in the equivalent clauses in Planning Directive No. 8 at time of issuing

(Note: clause numbers relate to those in the SPPs)

	<p>Exemption for outbuildings</p> <ul style="list-style-type: none">• Clause 5.3.5 – outbuildings – should be an ‘or’ between (a) and (b) rather than allowing up to 3 exempt outbuildings. <p><i>PPU Note: This appears to be a clerical error in the SPPs exemption. To be corrected in the SPPs and in PD8.</i></p>
	<p>Waste storage in the General Residential Zone and Inner Residential Zone</p> <ul style="list-style-type: none">• Clause 8.4.8/9.4.8 – waste storage – P1 should align with A1(b)(ii) to require separation from any dwelling, not just a dwelling on the site. <p><i>PPU Note: This is a clerical error that was transferred across from PD4.1 to the SPPs. To be corrected in the SPPs and in PD8.</i></p>