



Representation Author Background

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 focussed controls in the form of development standards in Planning Schemes and the resulting designs, architectural styles and development.

My Master of Town Planning thesis entitled *Aesthetic Control in Inner City Area Planning* specifically investigated the link between historical mimicry and statutory heritage controls for development in Planning Schemes for Heritage (precinct) 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 17 years (2003 to present day) has significantly 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-December 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 then 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 Council management of the Kingborough Heritage Review 2006 with the engaged consultants, from 2015 onwards I undertook all management and all assessments related to the Kingborough Local Heritage Review 2016 (including all historical research and identification of new Heritage Places), assisting in the writing of the heritage provisions and development standards for the Heritage Code in the *Kingborough Planning Scheme 2000*, assisted in the identification and extent of 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 matters of historic and cultural heritage significance and values.

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 the present day, I am engaged by Kingborough Council on an 'as needed' basis to provide heritage assessments and decisions 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 the present day I have been engaged by Derwent Valley Council, City of Hobart, Huon Valley 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 Historic Heritage Code in respective Interim Planning Schemes and also the SPP heritage code 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, City of Hobart, 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 provision of advice with respect to nominations for listing on the Tasmanian Heritage Register which has included producing written documentation to address HERCON based 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 have been a previous Associate Member of the International Council of Monuments and Sites (ICOMOS).

The following representation outlines concerns with the current Local Historic Heritage Code which is Code C6.0 in the State Planning Provisions dated 19 February 2020.

It should be noted that where the term 'contributory' has been used, the intent and generally accepted definition of this wording in heritage practice is that a contributory building etc is one which positively contributes to the historic and cultural heritage values and significance of the place/precinct/surrounding area.



Name of the Code

For reasons as outlined in this representation the name of the code as ‘Local Historic Heritage Code’ is not supported.

Some Councils still have dual listed properties which will apparently carry across to the LPS and SPP when applicable to their municipal area.

As outlined further in this representation some state listed properties also have both local and state level values. These properties are generally complex sites that have been developed over a long period of time and are able to demonstrate a range of values.

Therefore, the Code and issues covered by the Code such as streetscape and landscape impacts will unavoidably be applicable to some properties currently listed on the Tasmanian Heritage Register.

The proposed naming of the Code also implies that values and significance relate only to historic matters with respect to age or history.

Conversely, the value and significance of some places may relate to intangible and cultural values such as association with an event, person or artistic or technological achievements as per standardised heritage criteria with the HERCON criteria adopted in 1998 which also include consideration of cultural values. (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 and these include consideration of cultural significance).

Heritage by its very nature is often a complex relationship of interlinking values where a site may have significance across both state and local levels.

Furthermore, the objectives of the Act (LUPAA) include under (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

It is recommended instead that the Code be renamed to ‘*Historic Cultural Heritage Code*’ instead or quite simply: ‘*Heritage Code*’.



Terminology and definitions within the Code

Definitions are contained under part C6.3.1 as a Definition of Terms.

The extent of definitions is considered to be brief and is not exhaustive. Items such as ‘Conservation Management Plan’ and ‘Heritage Impact Assessment’ or more general terms such as ‘pruning’ and ‘demolition’ are not included.

The *Burra Charter* contains Definitions contained within Article 1. These definitions should be included as part of C6.3.2 as they include basic and widely used terms in heritage practice such as ‘maintenance’ ‘conservation’ etc.

The inclusion of terms such ‘maintenance’, ‘repairs’ and ‘pruning’ are particularly pertinent as these are used repeatedly in *C6.4 Development Exempt from this Code*.

Given that Significant Trees and vegetation are both included within the Code, a clear line needs to be established as what constitutes ‘pruning’. One person’s interpretation could involve minor trimming of tree canopy resulting in less than 5% of the overall canopy being removed. For another, this could result in significant extents of canopy being removed. Pruning and also demolition by their nature, and the extent to which they are undertaken, can vary significantly and therefore have significantly varied outcomes depending on their extent. Where pruning has been included as being able to be exempt, the extent of pruning as a measurable and quantitative amount such as a percentage of tree/shrub cover or extent of overall width and height of affected tree/vegetation should be confirmed as outlined above.

Therefore, clear definitions are necessary particularly when it comes to Exemptions so that the extent of works and to what fabric it is happening to (original contributory fabric versus non original and non-contributory fabric) needs to be clearly outlined so there is less chance of misinterpretation.

In general, definitions should align with those used in the *Burra Charter* and also J.S. Kerr’s *The Conservation Plan*. Variance of basic definitions of widely used terms in heritage practice should not occur.

The issue of demolition and adequate management of demolition is affected by there being no definition of ‘demolition’. For example, demolition in terms of the removal of non-original and non-contributory fabric could well be dealt with an exemption rather than automatic discretion. But for this to occur, clear definitions need to be provided with respect to demolition and possibly ‘partial demolition’ or ‘minor demolition (non contributory fabric removal)’.



Local Heritage and state listed Heritage on the Tasmanian Heritage Register

The current Code in the SPP's under clause C6.2.3 specifically states that the Code does not apply to a registered place entered on the Tasmanian Heritage Register.

This approach to enact a very hard line into the separation of local versus state is considered to be extremely problematic as heritage values of a Place can include both state and local significance.

It is also unclear what will happen to dual listed sites that are still contained with Interim Planning Schemes. For example, of the list of Places in the *Kingborough Interim Planning Scheme 2015* 80-90% are also listed on the Tasmanian Heritage Register. Many of these places have both state and local significance.

In 2015, the Tasmanian Heritage Council undertook a process of 'delisting' dual listed properties. It is the understanding of the representation author who was a Member of the Tasmanian Heritage Council at that time (2015-2020) that the avoidance of dual listed places was to remove listings where a place has no state significance at all and all values and significance were ascribed to local level only. For example, such 'delisted' places included residential dwellings (such as an 1880s Victorian dwelling at 23 Hill Street West Hobart) which was originally on the Council local heritage list as a locally listed place and also was listed on the Tasmanian Heritage Register. The rationale for being listed on a state level was entirely unclear as the noted significance of the place was a Victorian dwelling. There were no identified or obvious values of a state level and as the building was already protected as a Place on the local register in the Council planning scheme, the decision was made to remove the property from the THR. The majority of delisted properties removed from the THR were understood to be along these lines.

A current example of a dual listed place with both state and local values is Huntingfield House at 1179 Channel Highway, Huntingfield. The THR listing does not include both titles of this property. The Council listing does include the vacant title as this title was part of the original property and includes the location of the original access and retains original frontage to the Channel Highway. Failure to consider this frontage and access as part of a consideration of setting and impact of landscape values may result in a loss of significance for Huntingfield House.

The Tasmanian Heritage Council assessment of an application for a state listed place cannot consider directly associated issues such as setting, streetscape, landscape or in general groups of buildings that have significance as a related and associated group. There are a few exceptions of THR listed groups such as Arthur Circus and Salamanca Place but in general, the consideration of streetscape, related groups of buildings and impact on properties outside the specific extent as noted in the data sheet on state listed places does not form part of the Tasmanian Heritage Council's assessment.

Dual listing across both the THR and SPP heritage code should generally be avoided but should not be definitively ruled out either. This is because there are complex and substantial sites across the state that do clearly have both state and local values. On that basis, the SPP code for heritage should not have a blanket exclusion of state listed places on the THR.



The *Burra Charter*

The *Burra Charter* (2013) is a standard of practice for those working with, managing and dealing with historic and cultural heritage in Australia. It is used by heritage practitioners and those making decisions above, and providing advice for places of heritage value.

The *Burra Charter* provides a set of definitions for general heritage terms and also provides practice notes and guidance for best practice heritage and conservation management in Australia.

As a result, the *Burra Charter* is considered the preeminent document for historic and cultural management in Australia and therefore unusual that it is not referenced in any way in the SPP heritage code. There is no reference at all.

Definitions provided in the code do not align at all with those in the *Burra Charter*.

The code purpose does not align with the principles and practices of the *Burra Charter* and does not reference the *Burra Charter* in any way.

Practices involving maintenance, demolition, fabric disturbance, new work, etc. in the *Burra Charter* are not reflected at all in Performance Criteria in the code. It is considered very important that Conservation Processes (Articles 14 to 25) as outlined in the *Burra Charter* should be reflected in code Performance Criteria.

Issues covered in the *Burra Charter* are considered to be very important to maintaining historic and cultural heritage values such as setting, context and use are not mentioned in the SPP code at all.



Application Requirements

Unlike current and now redundant Interim Planning Schemes (such as Hobart, Kingborough and formerly Glenorchy) the SPP code does not specify application requirements. This approach is not supported.

This is considered a significant weakness in the code where requests for information currently reference application requirements as part of further information requests where a Council is concerned about an application for development having a significant adverse impact and/or where insufficient information is lodged as part of an application.

A list of application requirements provides for a faster and more efficient assessment process and may reduce the likelihood for requests for further information from planning authorities.

The failure to list any application requirements is not supported and is detrimental to facilitating well supported applications as well as providing advice on requirements for planning applications to heritage places and precincts to prospective developers as well as home owners.

The failure to list application requirements also may give a false impression that there is not real need to provide substantive supporting information in complex, potentially detrimental or contentious applications for development where assessment under the code is required.

It is considered an appropriate list of Application Requirements can be found in clause E13.5.1 of the *Hobart Interim Planning Scheme 2015* and similar should be included in the SPP code.

For information, clause E13.5.1 of the *HIPS2015* is as follows:

E13.5.1

In addition to any other application requirements, the planning authority may require the applicant to provide any of the following information if considered necessary to determine compliance with performance criteria:

- (a) a conservation plan;*
- (b) photographs, drawings or photomontages necessary to demonstrate the impact of the proposed development on the heritage values of the place;*
- (c) a statement of significance;*
- (d) a heritage impact statement;*
- (e) a statement of compliance;*
- (f) a statement of archaeological potential;*
- (g) an archaeological impact assessment;*
- (h) an archaeological method statement;*
- (i) a report outlining environmental, social, economic or safety reasons claimed to be of greater value to the community than the historic cultural heritage values of a place proposed to be demolished or partly demolished, and demonstrating that there is no prudent and*



feasible alternative;

(j) for an application for subdivision, plans showing :

(i) the location of existing buildings; and

(ii) building envelopes on the relevant lots, including the balance lot.



03 6288 8449
0439 342 696



danielle@grayplanning.com.au
224 Warwick St, West Hobart, Tas, 7000



grayplanning.com.au
ABN 99148920244

Objectives and Purpose of the Code

The SPP Code purpose in C6.1 simply states that it seeks to ‘recognise and protect’.

This is considered too limited and makes no mention of assessment, conservation or management.

The Historic Cultural Heritage Act 1995 states the following: An Act to promote the identification, assessment, protection and conservation of places having historic cultural heritage significance and to establish the Tasmanian Heritage Council.

The *Land Use Planning and Approvals Act 1993* Part 2 Objectives of the Planning Process includes:

(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

It is considered that the overall purpose of the Code should include a reference to the assessment process ensuring the proper management and protection of historic and cultural heritage significance of local places, precincts, landscapes and areas of archaeological potential in terms of their management, conservation and development.

Objectives are included for each development standard in the SPP Code. The wording of these are considered to be extremely problematic as the terms ‘compatible’ is widely used. The term ‘unacceptable’ is also used.

‘Compatible’ is a word loaded with meaning and legal interpretation in the planning sphere. There have been multiple appeals where the meaning of ‘compatible’ has been confirmed as not meaning ‘consistent’. RMPAT appeal 50/20P commented on the term ‘compatible’ as follows: *What constitutes compatibility is not defined in the Scheme. Compatible must be given its ordinary meaning. To be compatible is defined in the Macquarie Dictionary as being “capable of existing together in harmony”. This is consistent with a number of earlier Tribunal decisions.* The Tribunal further stated that compatibility was considered to be a consideration of ‘similar to or broadly correspond to, consistency is not a requirement’.

It is considered that the term ‘compatible’ is therefore an entirely inappropriate term to be included in a heritage code where often good heritage outcomes often require consistency, subservience and sympathy.



Exemptions

The exemptions as listed in the SPP Code are in some cases ambiguous and would benefit greatly from further clarification and basic terms being defined under Definitions.

Comments are provided accordingly:

Development within a local heritage place:

- (a) There is no definition of what constitutes ‘temporary’. There should be a definitive timeframe given as part of a definition of ‘temporary’. For example ‘temporary’ works are those in place for a period not exceeding 6 months. There should also be the ability to extend this period by Council’s General Manager to a maximum period not exceeding 2 years.
- (b) To ‘maintain’ should also include ‘conserve, restore or rehabilitate’.
- (c) Should include as long as there is no detrimental impact on historic cultural heritage significance and should not result in the demolition or detrimental impact of any fabric or features that contribute to the historic and cultural heritage significance.
- (d) Pruning is not defined. As already noted, the ambiguity of the word ‘pruning’ needs to be defined to give clarification as to the acceptable extent. The word ‘appearance’ can be extremely subjective and should be removed. ‘Retarded’ should be replaced with ‘is maintained’.

Development within a local heritage place, local heritage precinct or local historic landscape precinct:

- (a) 6m is too high. No other measurable dimensions are proposed. No necessarily required for a flagpole but maximum dimensions should be provided for an antenna.
- (b) Side and rear boundary fences should not be exempt from demolition if they are contributory fabric. ‘Garden and grounds’ should instead be reworded to listed extent.
- (c) Clearing and modification of vegetation should not include contributory vegetation in the form of plantings that contribute to the setting or landscape values. Under this exemption, old plantings of poplars or hawthorn hedges could be removed.
- (d) No changes recommended.
- (e) After ‘external’ the words ‘original or contributory’ fabric.
- (f) Separate clauses should be given for painting and rendering to avoid any likelihood of them being exchanged. No exemptions should be given to repainting existing colours if not in a colour scheme appropriate for the period of development for the primary building. Rendering exemptions should be given only for re-rendering in the same like-for-like finish. Otherwise, this could result in characteristic period architectural renderings such as roughcast rendering being replaced with contemporary rendering for reasons of economy, or traditional lime finishes being replaced by modern (and damaging) cementitious coatings.
- (g) Needs further clarification on the meaning of ‘aligned’.
- (h) Satellite dishes should freestanding and not be physically attached to any heritage place or any building noted as part of the listing.



- (i) Minor upgrades should not detrimentally impact on any Significant Tree or result in the ‘pruning’ (to be further defined) of any Significant Tree.

Development involving a place or precinct of archaeological potential:

- (a) ‘ground disturbance’ needs to be clearly defined.
- (b) The assessment must have been by a suitably qualified person. ‘Excavation’ should also include ‘ground disturbance’.
- (c) ‘Minor’ excavations should be defined. ‘Significant archaeological values’ should be linked to historic and cultural heritage significance of the place.
- (d) ‘deposits’ should be defined.
- (e) Should also include a contributory site within a Precinct. Many sites of value are not being listed by Councils owing to resourcing issues. A suitably qualified person can confirm if a site or building is contributory and gives such contributory items a layer of protection rather than an ‘all or nothing’ approach (listed versus not listed).
- (f) ‘minor building works and structures’ need to be defined. 20sqm is far too large an area.

Presently significant archaeological remains within major centres (excepting perhaps Hobart) or associated with significant historic places (many not on the THR) are not recognised in planning scheme. This has led to the loss of significant heritage and/or significant delays in developments and needs to be better addressed. Archaeological overlays regarding significant heritage need to be better provided for in planning schemes or sites like the Kings Meadows Probation Station site will continue to be lost.

Involving development to significant trees:

- (a) Pruning should be defined and a measurable extent provided. ‘Appearance’ is too subjective a term. ‘Retarded’ should be replaced with ‘is maintained’.

Signs:

- (a) Name plaques of maximum dimensions should be exempt. Otherwise, small and appropriate house name plaques commonly applied to residential properties measuring approximately 0.2sqm require a planning permit.



Additional exemptions or special provisions with respect to Heritage Places (subdivision and use)

Some Interim Planning Schemes and Planning Schemes prior to the introduction of Interim Planning Schemes gave special exemptions to listed places in terms of use and subdivision.

These exemptions resulted in prohibited uses in a zone being instead a discretionary use for a heritage listed place or prohibited subdivision that did not meet minimum lot sizes being able to be considered for a heritage listed place so long as the subdivision process result in the conservation and management of the Place without any adverse impact on values or significance.

Such exemptions have been known to be used by Southern Midlands for the subdivision of buildings (one example is Kenmore Arms near Oatlands) and also Kingborough Council with respect to use.

The *Kingborough Interim Planning Scheme 2015* currently contains the following under Part 9.0 Special Provisions with respect to use;

9.5 Change of Use of a Place listed on the Tasmanian Heritage Register or a heritage place

9.5.1

An application for a use of a place listed on the Tasmanian Heritage Register or as a heritage place in a code relating to historic heritage values that would otherwise be Prohibited is Discretionary.

9.5.2

The planning authority may approve such an application if it would facilitate the restoration, conservation and future maintenance of:

- (a) the local historic heritage significance of the heritage place; or*
- (b) the historic cultural heritage significance of the place as described in the Tasmanian Heritage Register.*

9.5.3

In determining an application the planning authority must have regard to:

- (a) any statement of historic cultural heritage significance for the place, as described in the Tasmanian Heritage Register;*
- (b) any statement of local historic heritage significance and historic heritage values, as described in a code relating to historic heritage values;*
- (c) any heritage impact statement prepared by a suitably qualified person setting out the effect of the proposed use and any associated development on:

 - (i) the local historic heritage significance of the heritage place or heritage precinct; and*
 - (ii) the historic cultural heritage significance of the place as described in the Tasmanian Heritage Register;**



- (d) *any conservation plan prepared by a suitably qualified person in accordance with The Conservation Plan: A guide to the preparation of conservation plans for places of European cultural significance 7th edition, 2013;*
- (e) *the degree to which the restoration, conservation and future maintenance of the heritage significance of the place is dependent upon the establishment of the proposed use;*
- (f) *the likely impact of the proposed use on the amenity, or operation, of surrounding uses;*
- (g) *any Heritage Agreement that may be in place, in accordance with the provisions contained in the Historic Cultural Heritage Act 1995;*
- (h) *the purpose and provisions of the applicable zone; and*
- (i) *the purpose and provisions of any applicable code.*

Adaptive reuse of heritage places and sites is not just sustainable but also extremely important and can readily facilitate the ongoing conservation and management of listed places that would otherwise not occur.

The Heritage Council of NSW and the Royal Australian Institute of Architects (RAIA) believe that historic buildings are not a constraint but an opportunity for creative endeavour, which results in the whole being greater than the sum of the parts and actively encouraged adaptive reuse of buildings and sites for uses not comparable to their original intended use. The Tasmanian Heritage Council has likewise specifically referenced and encouraged adaptive reuse in Works Guidelines and Practice Notes.

It is considered that the SPP Code should include such special provisions that encourage adaptive reuse and which are strongly subject to the demonstrated ongoing conservation, management, maintenance and restoration of a Place.



C6.6 Development Standards for Local Places

Comments are provided under each clause with respect to wording, intent, etc.

C6.6.1 Demolition

Demolition is not defined. There is a sliding scale of demolition. The term *'unacceptable'* is also problematic. The clause should instead state that demolition must not cause a detrimental impact on the historic and cultural heritage value and significance of the place or the loss of contributory fabric (including internal elements). The terminology *'having regard to'* is extremely problematic in a heritage Code. There are legal ramifications for the wording *'having regard to'* and the implications of this wording is that the sub criteria can be effectively disregarded. Wording should instead state *'and must demonstrate compliance with the following'* instead of *'having regard to'*.

Sub clauses (a), (b) and (c) are extremely concerning and give the ability for demolition of heritage listed places to be allowed on the basis of their dilapidated condition. This approach will encourage some owners of such places to avoid maintenance in order to achieve a permit for demolition.

Sub clause (h) should be removed entirely with respect to economic considerations. Economic reasons should never be a justification for the loss of listed buildings and/or significant fabric. The Natural Values Code C7.0 under clause C7.6.2.P1 allows the loss of priority vegetation on economic grounds but is coupled with social considerations as well as a requirement to demonstrate there is no feasible alternative location or design: *with use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design*. The bar for removal of priority vegetation (despite being able to be regenerated, regrown or resown) is significantly harder than the demolition of heritage buildings and fabric.

C6.6.2 Site coverage

The clause needs to make reference to the proposed new site coverage versus the existing site coverage of buildings comprising the heritage listed place. As noted elsewhere in this representation, there are concerns about the scale and extent of extensions to heritage listed places and contributory buildings in precincts where the new extension far exceeds the listed building in terms of scale, height, floor area, mass, bulk, etc.

As already noted, the word *'compatible'* is extremely problematic and needs to be replaced with *'consistent with'* or *'sympathetic to'*.

It is further recommended that an extension to a listed heritage place should not exceed the gross floor area of the listed place and this should be mandated in Performance Criteria.



Again, the wording *'having regard to'* should be replaced with *'must demonstrate compliance with'* or similar mandatory wording.

C6.6.3 Height and bulk

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.

The sub criteria (b) regarding *'the character and appearance of the existing building or place'* needs to instead make reference to the existing height and bulk of the heritage listed place.

The sub criteria (c) regarding *'the height and bulk of other buildings in the surrounding area'* should be removed altogether. This clause gives the ability to consider substantially out of scale and overbearing extensions to heritage listed places on the basis that there are other such examples in the surrounding area.

The sub criteria (d) *'the setting of the local heritage place'* needs to be reworded. 'Setting' is not defined. Reference to the retention of the visual prominence and significant views to and from the heritage listed place should instead be included as a sub criteria.

C6.6.4 Siting of buildings and structures

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.

The sub criteria (d) *'the setbacks of other buildings in the surrounding area'* needs to be reworded. Replication of the setbacks of other buildings in the surrounding area should only apply to contributory buildings that are in keeping with patterns or development and the building typology of the listed place. Reference to the retention of the visual prominence and significant views to and from the heritage listed place should also be included as a sub criteria.

C6.6.5 Fences

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.

The sub criteria (b) *'the architectural style of the buildings on the site'* should instead be reworded to make reference to the architectural style of the dominant heritage listed building on the site.

The sub criteria (c) *'the dominant fencing style in the setting'* should be deleted entirely. Setting is not defined and it is unclear what is meant. The dominant fencing



in the surrounding area may be of a style completely inappropriate for a heritage listed place and therefore this subclause should be deleted entirely.

C6.6.6 Roof form and materials

The A1 Acceptable Solution must also reference pitch in addition to form and materials with respect to matching the original roof. *'Existing'* should be reworded to *'original'* as the current wording ensures a permitted pathway to replacing non original inappropriate roof forms with like-for-like. The Code should strive for non-contributory fabric and alterations to be replaced with more complimentary/sympathetic replacements.

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.

The sub criteria (c) *'the dominant roofing style and materials in the setting'* should be deleted entirely. *'Setting'* is not defined and it is unclear what is meant or intended by the use of this word. The dominant roofing style and materials in the surrounding area may be of styles and materials completely inappropriate for a heritage listed place and therefore this subclause should be deleted entirely.

The sub criteria (d) simply makes reference to *'the streetscape'*. Clarification needs to be made on what this sub clause is trying to achieve. Perhaps reference should be given to contributory and similar periods of development in the streetscape that positively contribute to the character and amenity of the area.

C6.6.7 Building alterations excluding roof form and materials

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.

The sub criteria (c) *'the dominant external building materials in the setting'* should be deleted entirely. *'Setting'* is not defined and it is unclear what is meant. The dominant external building materials in the surrounding area may be of styles and materials inappropriate or indeed detrimental to the particular heritage listed place in question and therefore this subclause should be deleted entirely.

The sub criteria (d) simply makes reference to *'the streetscape'*. Clarification needs to be made on what this sub clause is trying to achieve. Perhaps reference should be given to the original external building materials of contributory and similar periods of development in the streetscape that positively contribute to the character of the area.

C6.6.8 Outbuildings and structures

As already noted, the words *'compatible'* and *'having regard to'* are problematic and should be replaced with wording as recommended in this representation.



As part of the Performance Criteria, the combined area of all outbuildings should not exceed the gross floor area of the heritage listed residential dwelling for sites located in General Residential, Inner Residential and Low Density Residential zones.

Reference also needs to be made to colours, materials and finishes being sympathetic and appropriate to the original external cladding materials of the heritage listed place.

C6.6.9 Driveways and parking for non residential purposes

A1 is problematic as it enables parking to be located in front of residences. It is recommended that the A1 Acceptable Solution should instead require that all parking for all uses should occur behind the frontage building line.

As already noted, the words '*compatible*' and '*having regard to*' are problematic and should be replaced with wording as recommended in this representation.

Sub clause (b) should reference the avoidance of the loss of any contributory building fabric.

Sub clause (c) should reference that the loss of gardens and landscaping forward of the building line should not result in a complete loss of such garden and landscaping and should only occur where there is no feasible alternative for parking elsewhere on the site.

Sub clause (d) with respect to parking availability in the surrounding area should not be used as justification for the loss of front gardens and replaced with hard stand car parking. This sub clause should be deleted entirely.

The sub criteria (f) simply makes reference to '*the streetscape*'. Clarification needs to be made on what this sub clause is trying to achieve. Perhaps reference should be given to contributory and similar periods of development in the streetscape that positively contribute to the character of the area with respect to the inclusion of landscaping in the form of front gardens.

C6.6.10 Vegetation lopping et al

As already noted, the words '*compatible*' and '*having regard to*' are problematic and should be replaced with wording as recommended in this representation.

This clause should also include reference to pruning (with a definition for pruning provided in the Code).

The Performance Criteria of this clause should also make mention of the contribution for such vegetation in the streetscape that makes a positive contribution to the character and amenity of the streetscape.

Safety should also be considered. It is interesting to note that safety is currently considered as justification for the demolition of a heritage listed place but not



vegetation. This should be reversed. The word '*unreasonable*' should be replaced with '*detrimental impact*'.



03 6288 8449
0439 342 696



danielle@grayplanning.com.au
224 Warwick St, West Hobart, Tas, 7000



grayplanning.com.au
ABN 99148920244

C6.7 Development standards for local heritage precincts and local historic landscape precincts

Comments are provided under each clause with respect to wording, intent, etc.

C6.7.1 and C6.7.1 Demolition et al

The Acceptable Solution of both clauses should make reference to contributory items to the Precinct.

With respect to the Performance Criteria, the words '*unacceptable*' and '*having regard to*' should be replaced with more appropriate wording as already noted in this representation.

Sub clauses (a) and (b) should be deleted entirely. As already noted under clause C6.6.1 of this representation, such justifications based on condition and rate of deterioration give the ability for the demolition of contributory buildings, works, structures and landscaping to be removed/demolished on the basis of the dilapidated condition. This approach will encourage some owners of such places in precincts to avoid maintenance in order to achieve a permit for demolition or removal.

Likewise, sub clause (h) with respect to '*economic considerations*' should be deleted entirely. Economic reasons should never be a justification for the loss of contributory buildings and/or significant fabric, landscaping and structures that contribute positively to the historic and cultural values of a precinct. The Natural Values Code C7.0 under clause C7.6.2.P1 allows the loss of priority vegetation on economic grounds but is coupled with social considerations as well as a requirement to demonstrate there is no feasible alternative location or design: *with use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design*. The bar for removal of priority vegetation (despite being able to be regenerated, regrown or resown) is significantly harder than the demolition of buildings, structures, fabric and landscaping in a precinct of heritage value and significance.

C6.7.3 Buildings and works excluding demolition

As already noted elsewhere in this representation, the word '*compatible*' is problematic when used in a heritage assessment context. More appropriate wording is '*consistent with*', '*subservient to*', '*sympathetic to*'.

With respect to the Performance Criteria, the words '*having regard to*' should be replaced with more appropriate wording as already noted in this representation.

Sub clause (b) for P1.1 and P1.2 should be amended to make reference to the prevailing character and pattern of development for contributory elements in the precinct.

Sub clause (c) for P1.1 and P1.2 as already noted elsewhere in this representation, the height of other buildings in the precinct should make reference to contributory



and listed buildings in the surrounding area. Otherwise, out of character and detrimental buildings can be considered as justification for further such deleterious development.

The same comments for sub clause (d) for P1.1 and P1.2 with regard to setbacks is applicable as that above for heights under (c).

Statements of Significance for precincts should be referenced.

C6.8 Development standards for places of Archaeological Potential

C6.8.1 Building and Works

As already noted in this representation the word '*unacceptable*' should be replaced with more appropriate terminology such as '*detrimental*' or '*not result in any partial or entire loss of*'.

Sub clause (e) should be a statement of archaeological potential from a suitably qualified person.



Significant Trees

Significant trees are not always listed for historic heritage or cultural heritage reasons. The listing criteria used by the City of Hobart include:

CATEGORY 1: Trees of outstanding aesthetic significance;

CATEGORY 2: Trees of outstanding dimensions in height, trunk circumference or canopy spread;

CATEGORY 3: Trees that are very old or venerable;

CATEGORY 4: Trees that commemorate, or are reminders of, cultural practices, historic events or famous people.

CATEGORY 5: Trees that are recognised as a significant component of a natural landscape, historic site, town, park or garden.

CATEGORY 6: Trees that have local significance.

CATEGORY 7: Trees of a species or variety that is rare or of very localised distribution.

CATEGORY 8: Trees that are of horticultural or genetic value.

CATEGORY 9: Trees that have a significant contribution to the integrity of an ecological community.

CATEGORY 10: Trees that are significant for reasons that are difficult to categorise.

Of the above criteria, only four of the categories are linked to historic or cultural heritage values. These are category 3, 4, 5 and potentially 6.

It is considered that Significant Trees warrant their own specific Code with standardised listing criteria and also a standard data sheet with standardised information requirements for each listing.

With respect to the development standards for Significant Trees the following comments are offered:

C6.9 Significant Trees

C6.9.1 Significant Trees

No issues with A1 and P1.

P2 Performance Criteria: Sub clause (b) needs to remove references to environmental and economic but retain safety reasons to the community.



C6.10 Development standards for subdivision

Comments are provided under each clause with respect to wording, intent, etc.

C6.10.1 Lot Design on a Local Heritage Place

Again, the words *'unacceptable'* and *'having regard to'* should be replaced with more appropriate wording as noted elsewhere in this representation.

Sub clause (c) stating *'the separation of buildings or structures from their original setting'* should instead be worded that *'the separation of buildings or structures from their original setting must be avoided'*.

Sub clause (f) that states *'the removal of vegetation, trees or garden settings'* should instead be worded to: *'the removal of contributory vegetation, trees or garden settings that positively contribute to the place or precinct must be avoided'*.

As already noted elsewhere in this representation, the setting and historic curtilage of contributory sites and heritage listed place buildings must be maintained and wording should be included to this effect.

Subdivision that results in a new lot in front of the building line of a contributory place or heritage listed place must be avoided and wording should be included to this effect in the Performance Criteria.

There should be an exemption from minimum and maximum lot sizes for applicable zones for sites that are located in precincts or for heritage listed places as already noted in this representation.



C6.10.2 Precincts

Again, the words '*compatible*' and '*having regard to*' should be replaced with more appropriate wording as noted elsewhere in this representation.

A sub clause stating: '*the separation of contributory buildings or structures from their original setting must be avoided*' should be included.

A sub clause stating: '*the removal of contributory vegetation, trees or garden settings that positively contribute to the place or precinct must be avoided*' should be included.

As already noted elsewhere in this representation, the setting and historic curtilage of contributory buildings must be maintained and wording should be included to this effect.

Subdivision that results in a new lot in front of the building line of a contributory building must be avoided and wording should be included to this effect in the Performance Criteria.

There should be an exemption from minimum and maximum lot sizes for applicable zones for sites that are located in precincts or for heritage listed places as already noted in this representation.

C6.10.3 Archaeological potential

Again, the words '*compatible*' and '*having regard to*' should be replaced with more appropriate wording as noted elsewhere in this representation.

With respect to sub clause (e), a statement of archaeological potential must be from a suitably qualified person.



LPS Code lists with respect to the Local Historic Heritage Code

It is acknowledged that few Councils have the ability to prepare, provide and regularly maintain data sheets for listed heritage places of a comparable extent and depth to recent data sheets for places on the Tasmanian Heritage Register, despite the fact that councils have an obligation to further the objectives of LUPAA, including the objective (g) to conserve special places.

However, the recommended layout of tables for Local Places and Precincts should include basic information to aid the identification of the listed Place or Precinct, clearly state its values important for protection and conservation, any particular exempt development and the extent of the place in terms of entire title area or otherwise.

Basic information in table form for each listing should include:

Reference number:

THR number:

Address:

Title reference:

Property name:

Description:

Statement of Significance:

Particular values/attributes:

Exempt development:

Specific Extent of listing:

Significant interior features:

Heritage Precincts (including landscape and archaeological) should include the following basic information:

Reference number:

Precinct name:

Description:

Statement of Significance:

Particular values/attributes:

Exempt development:

Specific Extent of listing (map):

Most Councils in the Launceston area do not want local heritage codes, although it is understood Launceston are planning to populate their LPS overlay with heritage precincts but as in past cases this may not actually happen.



The local heritage code is no use unless Council's populate their overlay with places of local and archaeological significance. Many say it is a state issue and they do not want to become involved because they are poorly informed, ignorant or show a deliberate avoidance of their obligations or potential future issues regarding local heritage and potential archaeological sites. Stakeholder dealings with Meander Valley to include some sites of local heritage significance at the LPS stage were initiated but Council refused saying whilst the places had significance they believed it was a state issue and not a local issue. Until it becomes compulsory for Councils to populate their local heritage code with sites the Code will not have any effect on the protection and management of historic and cultural heritage that despite demonstrated value, remains unlisted.



Heritage issues common to the Interim Planning Scheme development standards that are likely to continue or be exacerbated under the SPP Local Historic Heritage Code

Issues of concern about the wording and interpretation of the draft SPP in 2016 as raised by representors appear to have materialised in development outcomes. The primary one of concern is facadism or the creation of heritage shells.

This occurs where contributory sites in Heritage Precincts or Places where the street facing facades are the focus of heritage protection owing to a complete lack of protection of interiors and also a lack of consideration of sites as an entity. Heritage Precincts concentrate on the impact of development on a streetscape per se. The impact of a development on existing contributory places is not considered unless that place is listed in and of itself. This has resulted in significant demolition to cottages and residences in Heritage Precincts where internal works also remove contributory and original fabric. There appears to be an attitude of assessing authorities that as long as the front street facing primary façade remains intact and the visual impact of the new development on streetscape is minimal, that widespread demolition of contributory buildings in Heritage Precincts is acceptable and is being widely approved. In some cases, the front two rooms are retained and the remainder of cottages are demolished and replaced with contemporary and often large scale extensions. Similarly, traditional timber flooring might be replaced by new concrete slab flooring, with devastating long-term results to the original building.

Another issue of concern that is being exacerbated by the wording of the SPP are extensions to, and alterations to both listed Places and also contributory buildings in Heritage Precincts.

There is currently no effective wording used in the SPP Code with respect to a sympathetic comparison in terms of the scale, height, site coverage and extent of new extensions to contributory buildings and listed Places. Double storey and large contemporary extensions to single storey diminutive residential buildings is relatively widespread. There is no consideration that requires new development to an existing building to be sympathetic to, and consistent with the scale, site coverage, height and extent or a heritage place. The wording ‘consistent’ and ‘sympathetic’ have completely different legal meanings and interpretations to commonly used words such as ‘compatible’ and therefore result in completely different outcomes.

Requirements to sites in Heritage Precincts fail to recognise the contribution of individual sites and buildings as being either being non-contributory or contributory. If a building or place is not individually listed as a heritage Place, there is often the attitude that it is ‘open slather’ in terms of the ability to develop. Contributory buildings and sites should be specifically mentioned under the Acceptable Solution of Buildings and Works development standards in precincts. Currently the wording only considers listed heritage places, being visible from a public location or being a ‘feature, value or characteristic specifically part of a local heritage precinct’ – the latter is too open ended and far too open to interpretation.

Another issue of concern is the ability to subdivide land from a listed place or a contributory building in a precinct that will result in its setting, views to and from the building and historic curtilage being detrimentally impacted. None of the wording contained in the SPP for 6.10 Development Standards for Subdivision specifically mentions curtilage, significant



views, setting or landscape values. This omission has resulted in historic curtilages, significant views and the setting of listed places and contributory buildings being under significant threat.



03 6288 8449
0439 342 696



danielle@grayplanning.com.au
224 Warwick St, West Hobart, Tas, 7000



grayplanning.com.au
ABN 99148920244

Summary of concerns and recommendations with respect to the current SPP Heritage Code

The name of the SPP Code should be simplified to 'Heritage Code'. This simplified naming is inclusive of historic heritage and cultural heritage rather than emphasising that heritage is about historic values only.

Definitions in the Code are currently brief and inexhaustive and do not align with definitions in the *Burra Charter*.

There are no clear and easily interpreted definitions for terms repeatedly used such as 'demolition, 'repairs' and 'maintenance'.

Conservation Processes (Articles 14 to 25) as outlined in the *Burra Charter* should be reflected in code Performance Criteria. Issues covered in the *Burra Charter* are considered to be very important to maintaining historic and cultural heritage values such as setting, context and use are not mentioned in the SPP code at all.

The Code does not deal with any place listed on the Tasmanian Heritage register and there is a hard line separate of local and state listed places. This fails to recognise the complexity of some sites which have documented state and local values.

Failure to also consider state and local heritage values as part of the Code will result in important issues such as streetscape and setting and their contribution to heritage values not being considered in planning decisions.

The SPP Code does not provide a summary of application requirements to assist both Councils and developers. This approach results in a failure to inform developers of information that may be required in order to achieve compliance.

The Objectives and Purpose of the Code is too limited and should align with the *Historic Cultural Heritage Act 1995* in terms of purpose.

The Exemptions as listed in the SPP Code are in some cases ambiguous and would benefit greatly from further clarification and basic terms being defined under a new Definitions section.



Previously, some Interim Planning Schemes included special provisions that enabled otherwise prohibited uses or subdivision to occur so long as it was linked to good heritage outcomes. Those have been removed.

Development standards for demolition are concerning and enable the demolition of heritage places and sites for economic reasons.

Development standards use terminology that is vague and open to misinterpretation.

The words and phrases ‘compatible’ and ‘have regard to’ are repeatedly used throughout the Code and are considered to be problematic and may result in unsympathetic and inconsistent outcomes owing to their established legal translation.

Performance criteria do not make definition between ‘contributory’ and ‘non contributory’ fabric. This may result in poor heritage outcomes where existing unsympathetic development is used as justification for more of the same.

The Code as currently written will allow for unsympathetic subdivision to occur where front gardens can be subdivided or developed for parking. This will result in loss of front gardens in heritage areas and contemporary development being built in front of and to obstruct view of buildings of heritage value.

The Code as currently written does not place limits on extensions to heritage places which enables large contemporary extensions that greatly exceed the scale of the heritage building to which they are attached to.

Significant tree listing criteria are not always heritage related. In fact most are not related to heritage. Significant trees should have their own separate code.

Currently there is no requirement for Councils to populate the Code with Heritage Precincts of Places. Failure to do so is resulting in buildings and sites of demonstrated value being routinely destroyed.

