

APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee
Council: 19 September 2016
Expiry Date: 8 October 2016
Application No: PLN-16-00326-01
Address: 29 Clutha Place , SOUTH HOBART
ADJACENT ROAD RESERVE
Applicant: Michael & Shirley Alan
C/- 242 Elizabeth Street
Proposal: Dwelling and Works in Road Reserve
Representations: Nil
Performance criteria: General Residential Zone Development Standards (front setback, rear setback, privacy)

1. Executive Summary

- 1.1. The proposal is for a single two storey dwelling at 29 Clutha Place, South Hobart. There would be some proposed works within part of the adjacent Council road reservation, comprising fill and removal of a gum tree.
- 1.2. The proposal relies on performance criteria to satisfy the following standards and codes.
 - 1.2.1. General Residential Zone Development Standards (front setback, rear setback, privacy)
- 1.3. No representations have been received in relation to the proposal.
- 1.4. The proposal is recommended for approval subject to conditions.
- 1.5. The final decision is delegated to the Council, because the proposal involves development on the Council's road reservation.

2. Site Detail

- 2.1 The site is on the western fringe of the built up area of South Hobart. Clutha Place is located uphill of Huon Road. The site is largely cleared, with dwellings on adjacent sites.

3. Proposal

- 3.1 The proposal is for a single two storey dwelling at 29 Clutha Place, South Hobart. There would be some proposed works within part of the adjacent Council road reservation, comprising fill and removal of a gum tree.

4. Background

- 4.1 The proposal involves development on part of the adjacent Council road reservation. Council General Manager consent for the application was received on 24 May 2016.

5. Concerns raised by representors

- 5.1 No representations have been received in relation to the proposal.
- 5.2 The final decision is delegated to the Council, because the proposal involves development on the Council's road reservation.

6. Assessment

The Hobart Interim Planning Scheme 2015 is a performance based planning scheme. To meet an applicable standard, a proposal must demonstrate compliance with either an acceptable solution or a performance criterion. Where a proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to approve or refuse the proposal relates only to the performance criteria relied on.

- 6.1 The site is located within the General Residential Zone of the Hobart Interim

Planning Scheme 2015.

- 6.2 The proposed use as a dwelling has permitted status within the Zone.
- 6.3. The proposal has been assessed against the following:
 - 6.3.1. Part D-10 General residential zone
 - 6.3.2. E6.0 Parking and access code
 - 6.3.3. E7.0 Stormwater management code
- 6.4 The proposal relies on the following performance criteria to comply with the applicable standards;
 - 6.4.3. Front setback Part D 10.4.2 P1
 - 6.4.4. Rear setback Part D 10.4.2 P3
 - 6.4.2. Privacy Part D 10.4.6 P1
- 6.5 Each performance criterion is dealt with separately below.
- 6.6 Setbacks and Building Envelope – front setback: Part D 10.4.2 P1
 - 6.6.1 The proposed front setback of the main wall of the dwelling would be 4.0 metres at its closest point. The front stairwell would project to a front setback at its closest point of around 1.3 metres.
 - 6.6.2 The acceptable solution under Part 10.4.2 A1(c) is for a front setback not less nor greater than the front setbacks of neighbouring dwellings. In this case the front setback of the nearest neighbouring dwelling on the same side of the street (at 25 Clutha Place) is around 15 metres.
 - 6.6.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.
 - 6.6.4 The performance criterion Part 10.4.2 P1 states as follows:

A dwelling must:

- (a) *have a setback from a frontage that is compatible with the existing dwellings in the street, taking into account any topographical constraints; and*
- (b) *if abutting a road identified in Table 10.4.2, include additional design elements that assist in attenuating traffic noise or any other detrimental impacts associated with proximity to the road.*

- 6.6.5 The site is located at the end of Clutha Place fronting the road reservation west of the culs-de-sac head. Given the steep slope, the dwelling would present as effectively a single storey frontage to the street. Streetscape impact is therefore considered unlikely to be excessive. The potential degree of traffic use and attendant noise on this end section of street is likely to be limited.
- 6.6.6 The proposal complies with the performance criterion.
- 6.7 Setbacks and Building Envelope – rear setback: Part 10.4.2 P3
- 6.7.1 The proposed rear setback would be 4.0 metres.
- 6.7.2 The acceptable solution: Part D10.4.2 A2 is not met in that while the 4.0 metre setback provision would be met, the rear portion of the dwelling would extend outside of the building envelope.
- 6.7.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.
- 6.7.4 The performance criterion Part 10.4.2 P3 states as follows:
- The siting and scale of a dwelling must:*
- (a) *not cause unreasonable loss of amenity by:*
- (i) *reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or*
- (ii) *overshadowing the private open space of a dwelling on an adjoining lot; or*
- (iii) *overshadowing of an adjoining vacant lot; or*
- (iv) *visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and*
- (b) *provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.*
- 6.7.5 The site is to the south of downhill rear neighbouring lots at Nos. 482 and 484 Huon Road, and west of the side neighbouring lot at No.27 Clutha Place. It is on the eastern side of a public walkway (between Huon Road and Clutha Place) which separates it from the side neighbouring property at No.486A Huon Road.
- Impact on the downhill rear neighbours is considered unlikely to be excessive given their relative southern position to the site. There may be some late afternoon overshadowing to the side neighbour at No.27 Clutha

Place, and morning overshadowing of the other side neighbour at No.486A Huon Road. Given the compliance of the proposal with side boundary setback provisions, impact in either case cannot be held to be excessive.

In terms of visual impact, the dwelling would be of two storeys in height which would be accentuated on its western side given the proposed 'benching' of the site with raised rear garden terrace. The roof would be of a shallow pitch skillion design, with the lower part of the roof to the western side. Existing dwellings in the vicinity are generally of single storey height with some two storey examples. At a maximum height of 8.25 metres above natural ground level, the proposal would remain within the 8.5 metre building envelope height limit. On balance, the proposal is considered acceptable in terms of visual impact.

In terms of separation between buildings, the proposal would comply with side boundary setback provisions. The rear boundary setback would be 4 metres, although non compliant with the building envelope provision. The surrounding neighbourhood is characterised by detached dwellings adopting a variety of boundary setbacks. The irregular shape of sites to either side at Nos. 27 Clutha Place and 486A Huon Road, as well as the subject site, would to a degree increase any difficulty in meeting building envelope provisions. The subject site in particular has a relatively long street frontage (over 42 metres) and shallow 'depth' (at its narrowest, just over 12 metres), which to some extent is considered to mitigate the need for a rear boundary setback discretion. The proposal would have a site coverage of 32% which would remain well within the 50% site coverage allowance under the acceptable solution. The proposal is considered acceptable in terms of separation.

6.7.6 The proposal complies with the performance criterion.

6.8 Privacy – rear setback: Part 10.4.6 P1

- 6.8.1 The proposed rear setback of the raised rear garden area would be nil. The raised garden would have a maximum height of 1.8 metres above natural ground level.
- 6.8.2 The acceptable solution under Part 10.4.6 A1 is not met, in that there would be a one metre high balustrade only. The Scheme specifies a 1.7 metre high screen of maximum 25% transparency.
- 6.8.3 The proposal does not comply with the acceptable solution; therefore

assessment against the performance criterion is relied on.

- 6.8.4 The performance criterion 10.4.6 P1 states as follows:

A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1 m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:

(a) *a dwelling on an adjoining lot or its private open space; or*

(b) *another dwelling on the same site or its private open space; or*

(c) *an adjoining vacant residential lot.*

- 6.8.5 The adjacent rear residential lots are Nos. 484 and 482 Huon Road. Both are currently vacant with respective planning permits for single dwellings. The lots are both downhill on this steep, north-facing slope. The proposed retaining wall would have a height of up to 1.8 metres above natural ground level. There would be some overlooking of both neighbouring properties from the proposed terraced rear garden, and also from the proposed dwelling itself. Overlooking from the latter is not the subject of any discretion, as the proposed 4 metre rear wall setback would meet the provision under Part 10.4.6 A2 (a)(ii).

On balance, in view of the high degree of likely overlooking from the rear garden, a condition of any approval is warranted. Two factors serve to limit the desirable height of any proposed screen. Firstly, the desirability of minimising the height when viewed from the rear neighbouring properties at Nos. 482 and 484 Huon Road. Secondly, the desirability of minimising the height with regard to preservation of distant views and sun from the lower level of the proposed dwelling. On balance, a 1.2 metre high screen is considered likely to achieve a reasonable balance of amenity between the applicant and rear neighbouring downhill lots.

The proposed rear retaining wall is to have a permanently fixed screen to a height of 1.2 metres above the finished surface level with a uniform transparency of not less than 25%.

- 6.8.6 The proposal complies with the performance criterion subject to condition.

7. Discussion

- 7.1 With respect to the removal of gum tree in road reservation, the Council's Park Planner in consultation with the Council's Horticultural Technical Officer recommends that the tree within the road reservation be retained and not damaged during construction. A condition of any approval is recommended to ensure that all proposed works are designed appropriately to avoid damage to the tree.
- 7.2 The proposal is considered acceptable subject to conditions.
- 7.3 Approval is recommended.

8. Conclusion

- 8.1 The proposed dwelling and works in road reserve at 29 Clutha Place and adjacent road reserve satisfies the relevant provisions of the Hobart Interim Planning Scheme 2015, and as such is recommended for approval

9. Recommendations

That: Pursuant to the Hobart Interim Planning Scheme 2015, the Council approve the application for a dwelling and works within road reserve at 29 Clutha Place and adjacent road reservation for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

GEN

The use and development must be substantially in accordance with the documents and drawings that comprise PLN-16-00326-01 -29 Clutha Place - final planning documents except where modified below.

Reason for condition

To clarify the scope of the permit.

PLN 1

Screening to a height of 1.2 metres above the level of the rear retaining wall and with no more than 25% transparency must be installed and maintained along the entire length of that retaining wall. The screening must be installed prior to first occupation of the dwelling.

Reason for condition

To provide reasonable opportunity for privacy for dwellings.

ENG sw6

All stormwater from the proposed development (including hardstand runoff) must be discharged to the Council's stormwater infrastructure prior to first occupation.

All costs associated with works required by this condition are to be met by the owner.

Design drawings of the proposed stormwater drainage via gravity, and connections to Council infrastructure must be submitted and approved prior to the issuing of a building permit/consent under the *Building Act 2000*. The

design drawing must be prepared by a suitably qualified person.

All work required by this condition must be undertaken in accordance with the approved design drawings.

Advice: Once the design drawing has been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that stormwater from the site will be discharged to a suitable Council approved outlet.

ENG 2

Vehicle crash barriers where required to satisfy the requirements of AS/NZS2890.1:2004 Section 2.4.5.3, compliant with the AS/NZS 1170.1:2002, must be installed prior to the first occupation.

A certified design/report prepared by a suitably qualified Engineer, to satisfy the above requirements, must be provided to the Council prior to the issuing of any permit under the *Building Act 2000*.

All works, required by this condition must be undertaken in accordance with certified design/report. Upon completion the barriers must be inspected by a qualified engineer and a certification submitted to the Council, confirming that the installed barriers comply with the above requirement.

Reason for condition:

To ensure that the safety of users of the driveway/parking and compliance with the standard.

ENG 4

The driveway and car parking area approved by this permit must be constructed to a sealed standard and surface drained prior to the first occupation.

Reason for condition:

To ensure safe access is provided for the use.

ENG 3

The driveway, access and manoeuvring area, must be constructed in accordance with certified driveway design drawings, prior to the first occupation.

The driveway, access and manoeuvring area, design must be submitted to the Council, prior to the issuing of any permit under the *Building Act 2000*.

The driveway, access and manoeuvring area, design must:

- **Be prepared and certified by a suitably qualified engineer that the design is in accordance with the Australian standards AS/NZS 2890.1:2004 or that the design provides for a safe and efficient access.**
- **The gradient of any turning areas must not exceed 10%, and the gradient of any driveway area must not exceed 25%.**

Upon completion of the driveway, access and manoeuvring area, documents signed by a suitably qualified engineer, certifying the driveway has been constructed in accordance with the certified design drawings must be lodged with the Council.

Reason for condition:

To ensure that the safety of users of the driveway/parking

ENG 14

Parking areas must be generally designed and constructed in accordance with the Australian Standard Parking facilities, Part 1: Off-Street Carparking, AS/NZS 2890.1:2004, prior to the first occupation.

Design drawings must be submitted and approved, prior to commencement of work. The amended design drawing must:

- **Show dimensions, levels & gradients, and other details as necessary to satisfy the above requirement.**
- **The gradient of any parking areas must not exceed 5%.**
- **The minimum width for a single garage door is 2.4m, and a double garage door is 4.8m**

All work required by this condition must be undertaken in accordance with the approved design drawings

Advice: Once the design drawing has been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement)

Reason for condition

To ensure that the access and parking layout for the development is to accepted standards.

ENG 1

The cost of repair of any damage to the Council infrastructure resulting from the implementation of this permit, must be met by the owners within 30 days of the completion of the development or as otherwise determined by the Council

A photographic record of the Council infrastructure adjacent to the subject site must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENV 2

Sediment and erosion control measures, in accordance with an approved soil and water management plan (SWMP) must be installed, prior to the commencement of work and maintained until such time as all disturbed areas have been stabilised and/or restored or sealed to the Council's satisfaction.

A SWMP must be submitted and approved, prior to the commencement of work. The SWMP must:

- a. be prepared in accordance with the Soil and Water Management on Building and Construction Sites fact sheets (Derwent Estuary Program, 2008).

http://www.hobartcity.com.au/Development/Engineering_Standards_and_Guideline All work required by this condition must be undertaken in accordance with the approved SWMP.

Advice: Once the SWMP has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for Condition

To avoid the pollution and sedimentation of roads, drains and natural watercourses that could be caused by erosion and runoff from the development.

OPS s1

The black peppermint (*Eucalyptus amygdalina*) located within the Council's road reserve as shown on Drawing No: ALLE-M-03 must be retained and not damaged during construction.

Construction of the new retaining wall specified on Drawing No: ALLE-M-03 directly adjacent to the tree must be in accordance with the following:

- The footings of the wall located within the tree's drip line and structural root zone must be excavated by hand;
- Piers and beams must be used to support the retaining wall around the roots;
- Tree roots must not be severed or damaged.

Construction plans demonstrating compliance with this condition to the satisfaction of the Council's Director Parks and City Amenity and Director City Infrastructure must be submitted and approved prior to issue of any building permit.

All work required by this condition must be undertaken in accordance with the approved construction plans.

Advice: Once the construction plans have been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To protect and retain the black peppermint located in the Council's road reserve for its aesthetic and biodiversity values.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit www.hobartcity.com.au for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

CONDITION ENDORSEMENT

As a condition endorsement is required by a planning condition above, please forward documentation required to satisfy the condition to rfi-information@hobartcity.com.au, clearly identifying the planning permit number, address and the condition to which the documentation relates.

Once approved, the Council will respond to you via email that the condition/s has been endorsed (satisfied). Detailed instructions can be found at
www.hobartcity.com.au/Development/Planning/How_to_obtain_a_condition_endorsement

BUILDING PERMIT

Building permit in accordance with the Building Act 2000

<http://www.hobartcity.com.au/Development/Building>

PLUMBING PERMIT

Plumbing permit under the Tasmanian Plumbing Regulations 2014;

<http://www.hobartcity.com.au/Development/Plumbing>

TASWATER

Taswater in its response TWDA 2016/00656-HCC dated 18/5/2016, states no objection to the proposal and imposes no conditions.



(Richard Bacon)

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(Ben Ikin)

Senior Statutory Planner

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Date of Report: 1 September 2016

Attachment(s)

- Attachment A - CPC Agenda Documents

Supporting Document(s)

- Attachment 1 - Final Planning Documents