



City of **HOBART**

APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee
Committee: 10 September 2018
Expiry Date: 12 September 2018
Application No: PLN-18-474
Address: 66 BURNETT STREET , NORTH HOBART
Applicant: (Hobart Properties & Securities Pty Ltd by agent Ireneinc Planning & Urban Design)
49 Tasma Street
Proposal: Demolition and Associated Works
Representations: Three (3) representations.
Performance criteria: Potentially Contaminated Land Code - Excavation
Historic Heritage Code - Building, Works and Demolition

1. Executive Summary

- 1.1 Planning approval is sought for demolition and associated works at 66 Burnett Street, North Hobart.
- 1.2 More specifically the proposal includes:
 - Demolition of the existing buildings on the site. These buildings are generally one or two storey in height and not visible from surrounding public areas, other than from the existing vehicular access points to the site. Associated decontamination of the site and archaeological works are also proposed.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
 - 1.3.1 E2.0 Potentially Contaminated Land Code - E2.6 Development Standards
 - 1.3.2 E13.0 Historic Heritage Code - E13.10 Development Standards for Places of Archaeological Potential
- 1.4 Three (3) representations objecting to the proposal were received within the statutory advertising period between 10 and 24 August 2018.

1.5 The proposal is recommended for approval subject to conditions.

1.6 The final decision is delegated to the City Planning Committee.

2. Site Detail

- 2.1 The site is a commercial property within North Hobart. The property is irregular in shape and has an area of 3014m². The property is an internal lot with access strips off Burnett Street, to the north-west, and Elizabeth Street to the south-west. The property is mostly within the Commercial Zone but the part taken up by the laneway off Elizabeth Street is within the Urban Mixed Use Zone. The buildings proposed for demolition are several conjoined commercial buildings on the eastern boundary of the site. These buildings are currently occupied (or were occupied until recently) by an automotive repair centre and machining workshop. The remainder of the land is taken up by car parking and driveways. The land slopes gradually downward from its frontage with Burnett Street to its south-eastern boundary.
- 2.2 The land to the north-east of the site is similar commercial land. There are commercial buildings on the adjoining property to the north-east of a similar scale as those found on the site. The site is surrounded by a mix of commercial and residential development in the remaining directions. There are residences and offices to the north of the site, between it and Burnett Street. Further commercial development occurs on the opposite side of this street. The Republic Bar and Cafe is to the west of the site, on the corner of Burnett Street and Elizabeth Street. The relatively recently approved mixed use development at 285 Elizabeth Street, which includes food services uses on its ground floor and residential apartments on its upper level, is to the south-west of the site. The other commercial and residential development on this section of Elizabeth Street is also two storey. There are a number of residences to the south-east of the site on properties with frontage to Tasma Street.

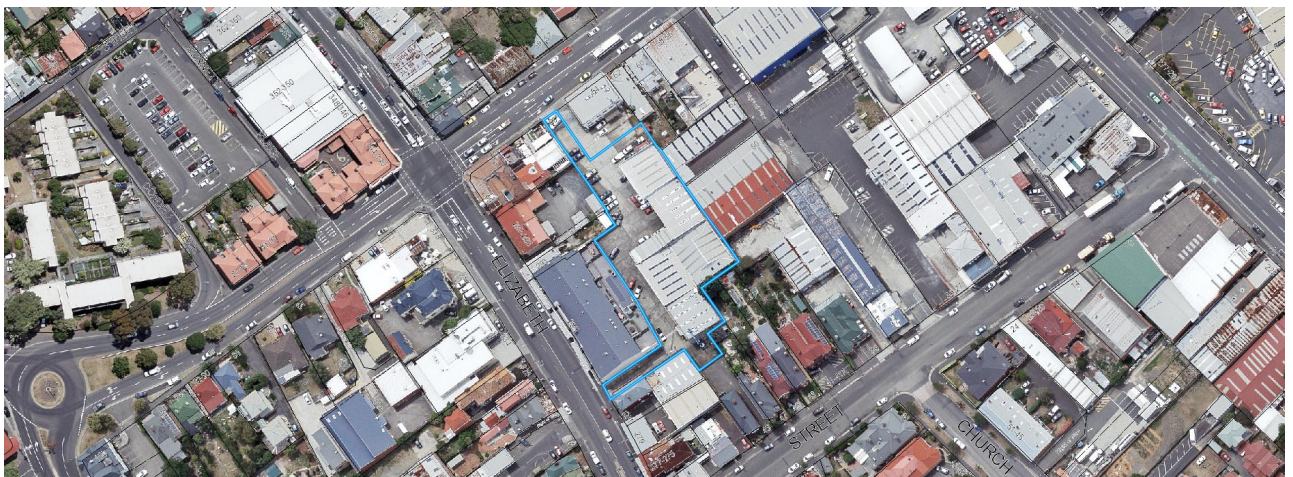


Figure 1: aerial view of proposed development site (outlined in blue) and surrounding area (source: HCC GIS, accessed 31 July 2018).

3. Proposal

3.1 Planning approval is sought for demolition and associated works at 66 Burnett Street, North Hobart.

3.2 More specifically, the proposal is for:

- Demolition of the existing buildings on the site. These buildings are generally one or two storey in height and not visible from surrounding public areas, other than from the existing vehicular access points to the site. Associated decontamination of the site and archaeological works are also proposed.

4. Background

4.1 Council is currently assessing another application for the site that includes demolition of the existing buildings but also includes significant redevelopment (see PLN-17-1066). The applicant is the same for both applications and has advised that the current proposal, for demolition and associated decontamination and archaeological works only, is intended to allow the site to be prepared for redevelopment while associated issues are resolved. The applicant has also advised that it is intended to reuse some of the materials from the existing buildings on the site in another project. There is apparently a limited window of opportunity for this reuse to occur, given the timing of the other project.

5. Concerns raised by representors

5.1 Three (3) representations objecting to the proposal were received within the statutory advertising period between 10 and 24 August 2018.

5.2 The following table outlines the concerns raised in the representations received. Those concerns which relate to a discretion invoked by the proposal are addressed in Section 6 of this report.

<p>"This DA is for the demolition of existing buildings "and associated works". There is no description of the works proposed. Nor is there any details of how the impacts - noise, dust , visual will be managed. I own an adjoining residence. Are the existing brick walls to be removed? Is there any asbestos present etc. There is too little detail provided. The proposals should be re-advertised with the appropriate information to make an informed decision. The HCC should not have accepted the proposal with the lack of detail provided".</p>

<p>"We strongly object to the planned demolition work (pln-18-474) at 66 Burnett Street, North Hobart and believe this should not be approved until the planning application (PLN-17-1066) for the new development at that site is ruled on from the Council".</p>
<p>"If this demolition is to be approved we want to ask that the hours of the work be restricted preferably Monday to Friday, 8am to 6pm so this does not impact on the enjoyment of our home life due to noise, dust, vibration from heavy machinery etc".</p>
<p>We also have concerns regarding the contamination from the site as our balcony/entertaining area will run along the boundary of the new development and will in fact be only a few metres from the planned work".</p>
<p>"This application does not provide any detail on the nature of the buildings and their fabric and therefore no assessment of such potential hazards. On this issue the application is deficient by omission and could present significant risks to workers on the site as well as neighbours and the general public in adjacent streets during demolition".</p>
<p>"The proposal does not provide any detail on the method of demolition of the buildings and the impact on neighbouring properties, both commercial and residential. How long will the demolition take? What machinery will be required to bring the buildings down and remove the waste? What machinery will be used to excavate and remove soil at the northern end of the site? What will be the traffic impact of large machinery accessing the site from Burnett Street?".</p>
<p>"In short the proposal is so deficient in detail as a demolition and associated works proposal that it is impossible to tell what is actually being proposed. The proposal appears to have been cobbled together from documentation prepared for PLN-17-1066 without any genuine attempt to present a demolition application that can be assessed".</p>

"The Planning Scheme is careful to assure that the impact of developments in a Commercial zone on adjacent Residential zones are considered and ameliorated. There is no such protection for residences within an adjacent Urban Mixed Use zone despite a purpose of the zone being to "encourage the retention of existing residential uses". The 66 Burnett Street site shares boundaries with residences on Burnett Street, Elizabeth Street and Tasma Street (the latter two locations being within the Urban Mixed Use zone). This proposal makes scant reference to this fact and the potential impact of the proposal on these residences is not considered".

"Our own property [in] Tasma Street currently has the wall of the existing building on the site as the northern boundary to our property. This wall is a blank cement block wall rising to 6.0 – 6.5m being one of the walls of the structure on the 66 Burnett Street site. The wall as it stands provides a secure boundary to our property. This proposal provides no detail on:

- whether this wall will be taken down – the assumption is that it will be;
- what will replace the wall as a boundary to our property (and 41, 43, and 45 Tasma Street) as part of the new building proposal; and
- what measures the developer will take to assure the security of these residential properties after demolition of these existing walls and prior to the erection of any new building on the site. The risk is that the developer will do nothing thereby exposing these residential properties to unauthorised access from the cleared site".

"The CMP identifies the risk associated with dust borne contaminants and outlines measures for containing dust borne contaminants and for the protection of on-site workers during the excavation, sorting and stockpiling process. There is no consideration or recommendation in relation to the risk of potential contamination of neighbouring properties or of people in the vicinity of the site during the demolition phase of work due to the failure of measures taken onsite to contain dust borne contaminants".

"In summary there is a duty of care over and above the shortcomings of the Planning Scheme to assure that neighbouring residents are not at risk from the demolition activity in this application and do not suffer from the removal of security to their properties as a result of the application being approved and enacted".

6. Assessment

- 6.1 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.
- 6.2 The site is located within the Commercial Zone of the *Hobart Interim Planning Scheme 2015*. The property is also partly within the Urban Mixed Use Zone but the proposed demolition would not occur on this part of the property.
- 6.3 The existing use of the site is Service industry (motor repairs). There is no proposed use as only demolition and associated works are proposed. The existing use is a permitted use in the above zone.
- 6.4 In accordance with the special provision at clause 9.4:

Unless approved as part of another development or prohibited by another provision, an application for demolition may be approved at the discretion of the planning authority having regard to:

- (a) the purpose of the applicable zone;*
- (b) any relevant local area objective or desired future character statement of the applicable zone;*
- (c) the purpose of any applicable code; and*
- (d) the purpose of any applicable specific area plan.*

- 6.5 Therefore, as the proposed demolition would not be associated with another development and is not prohibited by another provision, it must be considered against the matters referred to in clause 9.4.1. The proposed demolition is considered to be consistent with the zone purpose statements for the Commercial Zone. The demolition would prepare what is considered to be an under-used site for future development in a location with high levels of vehicular access and high traffic volume. The existing buildings on the site appear to date from the middle of the last century and appear to be approaching the end of their useful life. Therefore, the proposal would not compromise the ability for "good quality building stock" to be re-used as required by statement 23.1.1.5. There are no Local Area Objectives nor Desired Future Character Statements for the Commercial Zone.
- 6.6 As discussed below, the Potentially Contaminated Land Code applies to the proposal. The proposal is considered to be consistent with the purpose of this

Code as it includes sufficient information to demonstrate that development of potentially contaminated land would not adversely impact on human health or the environment. The Historic Heritage Code also applies to the proposal. Similarly to above, the proposal is considered to be consistent with the purpose of this Code as it would protect the historic cultural heritage significance of an area of archaeological potential. There is no applicable specific area plan.

6.7 The proposal has been assessed against:

6.4.1 E2.0 Potentially Contaminated Land Code

6.4.2 E13.0 Historic Heritage Code

6.8 The proposal relies on the following performance criteria to comply with the applicable standards:

6.5.1 E2.0 Potentially Contaminated Land Code - *E2.6.2 Excavation*

6.5.2 E13.0 Historic Heritage Code - *E13.10.1 Building, Works and Demolition*

6.9 Each relevant performance criterion is assessed below.

6.10 E2.0 Potentially Contaminated Land Code - *E2.6.2 Excavation*

6.10.1 There is no acceptable solution for clause E2.6.2 which applies where works involving excavation of potentially contaminated land is proposed.

6.10.2 The proposal includes works involving excavation of potentially contaminated land.

6.10.3 As there is no acceptable solution for the above clause; the proposal relies upon assessment against the below performance criterion.

6.10.4 The performance criterion at clause *E2.6.2* provides as follows:

Excavation does not adversely impact on health and the environment, having regard to:

(a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; or

(b) a plan to manage contamination and associated risk to human health and the environment that includes:

(i) an environmental site assessment;

(ii) any specific remediation and protection measures required to be implemented before excavation commences; and

(iii) a statement that the excavation does not adversely impact on human health or the environment.

6.10.5 Council's Environmental Health Officer has assessed the proposal against the above performance criterion and provided the following comments:

6.10.6 "As required by the performance criteria, an Environmental Site Assessment was undertaken by a suitably qualified person in accordance with the National Environment Protection Measure 2013".

6.10.7 "A total of 38 soil samples from 21 boreholes were analysed for a range of potential contaminants of concern based on the current and past history of the site. Results revealed that there were samples in which levels of contaminants exceeded the NEPM Guidelines - a large portion of these are situated within the proposed excavation zone and risks associated with excavation of this contaminated soil will be managed by implementation of a Contamination Management Plan (submitted and approved). The remaining samples are considered by the consultant to pose a low risk to the environment, ongoing users of the site and commercial workers".

6.10.8 "The Environmental Site Assessment has listed several recommendations which Council intends on listing as conditions of the planning permit. These include undertaking additional works to decommission and remove all undergrounds storage tanks and associated infrastructure and the interceptor trap and the remaining soil should be validated. It is also recommended that further investigations be undertaken under the footprint of the buildings currently on the site".

6.10.9 The proposal complies with the performance criterion subject to recommended conditions.

6.11 E13.0 Historic Heritage Code - *E13.10.1 Building, Works and Demolition*

6.11.1 The acceptable solution at clause *E13.10.1* requires buildings and works at a place of archaeological potential to not involve excavation or ground

disturbance.

- 6.11.2 The proposal includes buildings and works that involve excavation and ground disturbance. The site is identified as a place of archaeological potential in the planning scheme.
- 6.11.3 The proposal does not comply with the acceptable solution and therefore relies upon assessment against the below performance criterion.
- 6.11.4 The performance criterion at clause *E13.10.1* provides as follows:

Buildings, works and demolition must not unnecessarily impact on archaeological resources at places of archaeological potential, having regard to:

- (a) the nature of the archaeological evidence, either known or predicted;*
- (b) measures proposed to investigate the archaeological evidence to confirm predictive statements of potential;*
- (c) strategies to avoid, minimise and/or control impacts arising from building, works and demolition;*
- (d) where it is demonstrated there is no prudent and feasible alternative to impacts arising from building, works and demolition, measures proposed to realise both the research potential in the archaeological evidence and a meaningful public benefit from any archaeological investigation;*
- (e) measures proposed to preserve significant archaeological evidence 'in situ'.*

- 6.11.5 Council's Cultural Heritage Officer has assessed the proposal against the above performance criterion and provided the following comments:
- 6.11.6 "The proposal relates to land that falls within the area identified as being of Archaeological Potential and although the degree of excavation associated with the proposal has not been stipulated beyond the demolition of the existing buildings on the site, it is considered prudent to consider the application against the provisions of the Scheme, namely *E13.10.1*.
- 6.11.7 In support of the proposal, a Statement of Archaeological Potential and Archaeological Method Statement has been prepared by TASARC, dated 5th June 2018. Based on a tabletop investigation, the report indicates that significant parts of the site were formally occupied by a number of smaller residential properties with yards and gardens dating from the mid-1900s

through to the second half of the 20th century. Given the degree of concrete hard-standing covering the site, degree of disturbance is likely to be low and therefore the archaeological potential is considered to be medium to high over parts of the site. A method statement based on supervision of excavation by suitably qualified technicians is recommended.

- 6.11.8 The report is considered to have been produced by suitably qualified professional and the methodology and recommendations are considered to be sound. It is therefore considered that subject to a condition requiring the implementation of the Method Statement in full, the proposal is considered to be in compliance with the provisions of the Scheme relating to archaeology".
- 6.11.9 The proposal complies with the performance criterion.

7. Discussion

- 7.1 Planning approval is sought for demolition and associated works.
- 7.2 The application was advertised and received three (3) representations. The representations raised concerns including:
- The level and standard of information provided in the application,
 - The timing of the application,
 - Hours of operation for the proposed demolition, and,
 - Contamination and other potential hazards.
- 7.3 The level of detail provided within the application is considered adequate given the relatively few planning scheme standards that apply to the proposal. Extensive information prepared by suitably qualified experts has been provided to address these standards. The proposal is also supported by a planning report that provides a full description of the demolition proposed. It is also noted that many of the concerns raised by the representors would be addressed at the building approval stage, where details regarding demolition methods and management of hazardous materials such as asbestos must be provided.
- 7.4 Council has no control over the timing of an application and is bound to assess a proposal either within the prescribed statutory assessment period or such further period as the applicant agrees to. The applicant's justification for seeking approval for demolition on the site separately from approval for its redevelopment is provided in the background section of the report.

- 7.5 The hours of operation for the proposed demolition is not a matter directly considered in the planning scheme. However, given that the site is bordered by residential properties, there is considered to be justification pursuant to clause 8.11.3 for requiring a Demolition Management Plan. This plan would include measures for the identification and disposal of any potentially contaminated waste and asbestos, and proposed hours of work. In addition to building approval requirements, the Demolition Management Plan is considered to ensure that the risk of contamination as a result of the proposed demolition and other potential hazards is minimised.
- 7.6 The proposal has been assessed against the relevant provisions of the planning scheme and is considered to comply.
- 7.7 The proposal has been assessed by other Council officers, including the Council's Environmental Health Officer and its Cultural Heritage Officer. The officers have raised no objection to the proposal, subject to conditions.
- 7.8 The proposal is recommended for approval.

8. Conclusion

- 8.1 The proposed demolition and associated works at 66 Burnett Street, North Hobart satisfies the relevant provisions of the *Hobart Interim Planning Scheme 2015* and as is recommended for approval.

9. Recommendations

That: Pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve the application for demolition and associated works at 66 Burnett Street, North Hobart for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-18-474 - 66 BURNETT STREET NORTH HOBART TAS 7000 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

ENV 2

A soil and water management plan (SWMP) must be submitted prior to the issue of any approval under the *Building Act 2016* or the commencement of work, whichever occurs first. The SWMP must be prepared in accordance with the Soil and Water Management on Building and Construction Sites fact sheets (Derwent Estuary Program, 2008), available [here](#).

Sediment and erosion control measures, in accordance with the approved 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.

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.

HER 6

All onsite excavation and disturbance must be monitored in accordance with the Archaeological Method Statement contained within the TASARC report dated 5th June 2018. Should any features or deposits of an archaeological nature be discovered on the site during excavation or disturbance:

1. **All excavation and/or disturbance must stop immediately; and**
2. **The qualified archaeologist engaged to attend the site must provide advice and assessment of the features and/or deposits discovered and make recommendations on further excavation and/or disturbance; and**
3. **All and any recommendations made by the archaeologist engaged in accordance with (2) above must be complied with in full; and**
4. **All features and/or deposits discovered must be reported to the Council with 2 days of the discovery; and**
5. **A copy of the archaeologists advice, assessment and recommendations obtained in accordance with paragraph (2) above must be provided to Council within 5 days of receipt of the advice, assessment and recommendations.**

Excavation and/or disturbance must not recommence unless and until approval is granted from the Council.

Reason for condition

To ensure that work is planned and implemented in a manner that seeks to understand, retain, protect, preserve and manage significant archaeological evidence.

ENVHE s1

Any works that involve disturbance of land must be carried out in accordance with the 'Contamination Management Plan' developed by GES and dated December 2017 (amended March 2018).

Reason for condition

To ensure that excavation does not adversely impact on human health or the environment.

ENVHE 4

A demolition management plan must be submitted to Council and approved prior to the issuing of any approval under the *Building Act 2016* or the commencement of work, whichever occurs first. The plan must include but is not limited to the following:

1. **Identification and disposal of any potentially contaminated waste and asbestos;**
2. **Proposed hours of work (including volume and timing of heavy vehicles**

- entering and leaving the site, and works undertaken on site);
3. Identification of potentially noisy demolition phases, such as operation of rock- breakers, explosives or pile drivers, and proposed means to minimise impact on the amenity of neighbouring buildings;
 4. Control of dust and emissions during working hours;
 5. Proposed screening of the site and vehicular access points during work; and
 6. Procedures for washing down vehicles, to prevent soil and debris being carried onto the street.

The demolition management plan must be implemented and maintained throughout the demolition works.

Reason for condition

To minimise impact from demolition works on the environment.

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 the Council's [website](#) 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.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. Click [here](#) for more information.

NOISE REGULATIONS

Click [here](#) for information with respect to noise nuisances in residential areas.

WASTE DISPOSAL

It is recommended that the developer liaise with the Council's Cleansing and Solid Waste Unit regarding reducing, reusing and recycling materials associated with demolition on the site to minimise solid waste being directed to landfill.

Further information regarding waste disposal can also be found on the Council's [website](#).

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click [here](#) for dial before you dig information.



(Adam Smee)

Development Appraisal 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.



(Rohan Probert)

Manager Development Appraisal

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: 3 September 2018

Attachments:

Attachment B - CPC Agenda Documents

Attachment C - Referral Officer Report - Cultural Heritage