



City of **HOBART**

APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee
Committee: 12 November 2018
Expiry Date: 30 November 2018
Application No: PLN-18-227
Address: 3 RAYMONT TERRACE , MOUNT STUART
Applicant: SAM OR VICKY KING (KINGS OUTDOOR LIVING)
P O BOX 1203
Proposal: Alterations
Representations: Two (2)
Performance criteria: General Residential Zone Development Standards

1. Executive Summary

- 1.1 Planning approval is sought for alterations at 3 Raymont Terrace, Mount Stuart.
- 1.2 More specifically the proposal includes:
 - Alterations for a new shade sail to the rear of the existing dwelling.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
 - 1.3.1 General Residential Zone Development Standards - Side and Rear Setbacks
- 1.4 Two (2) representations objecting to the proposal were received within the statutory advertising period between 25th September and 9th October 2018.
- 1.5 The proposal is recommended for approval subject to conditions.
- 1.6 The application has been called in by an Alderman to be determined by the City Planning Committee.

2. Site Detail

- 2.1 The proposal is for alterations comprising a new shade sail to the rear of the existing dwelling at No.3 Raymont Terrace, which is in an established residential area. The site has dwellings adjoining to the north, east and west, and Raymont Terrace forms the property's southern (front) boundary.



Figure 1: location plan showing the applicant site in centre, 5 Raymont Terrace to its west, and 6 Darling Parade to its north.



Figure 2: aerial photograph with contours showing downward slope to northeast. No.5 Raymont Terrace is to the west of the applicant site.



Figure 3: Google Streetview showing the applicant site to the right, and No.5 Raymont Terrace (including driveway and rear garage) to the left.



Figure 4: View from neighbouring window (5 Raymond Terrace) looking at the subject site and location for proposed shade sail.



Figure 5: View from neighbouring window (5 Raymond Terrace) looking at the subject site and location for proposed shade sail.



Figure 6: View from neighbouring rear deck (5 Raymont Terrace) looking at the subject site and location for proposed shade sail.



Figure 7: View from neighbouring rear garden (5 Raymont Terrace) looking at the subject site and location for proposed shade sail.



Figure 8: View from neighbouring side driveway (5 Raymont Terrace) looking at the subject site and location for proposed shade sail.

3. Proposal

3.1 Planning approval is sought for alterations at 3 Raymont Terrace, Mount Stuart

3.2 More specifically the proposal is for:

- Alterations for a new shade sail to the rear of the existing dwelling.

4. Background

4.1 A previous application for a partial demolition, house extension and alterations, ancillary flat, carport and front fence (the rear ancillary flat to have a roof deck) was approved by Council under PLN-12-00662 dated 23 July 2012. The approved works appear to have been completed.

4.2 The current proposal for alterations (shade sail) is to the deck over the ancillary flat. The works were commenced and are the subject of Council enforcement action under ENF-18-99.

5. Concerns raised by representors

- 5.1 Two representations objecting to the proposal were received within the statutory advertising period between the 25th September and the 9th October 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.

Application wrongly advertised:-

- The application has not been advertised in accordance with Section 9(3) of the Land Use Planning and Approvals Act 1993;
- Proposal is wrongly described as alterations.

Plans are inaccurate:-

- Plans describe the proposal as a new dwelling when clearly it is not.
- Plans erroneously show carport on eastern side of applicant site.
- The plans suggest the designer has not visited the site.
- The proposal plans wrongly show natural ground level. The ground level shown reflects a modified ground level.
- The implication of the failure to show natural ground level is that height is under estimated, and the protrusion through the building envelope is more significant than implied.
- The northern elevation shows a screen on the western side of the dwelling. No such screen exists.

Re-advertising required:-

- Both the inaccuracy of the proposal plans and the inadequate description of the proposed development necessitate the re-advertising of the proposal.

Scale and proportion:-

- The proposal is not in keeping with surroundings in terms of the apparent scale and proportion of the proposed awning.
- 'Finished roof height' of the proposal is effectively three storeys higher above northern rear neighbours garden.

Height and setback, and visual intrusion:

- Proposal effectively three storeys in height above neighbouring gardens;
- Excessive protrusion of building envelope.
- Unreasonable loss of amenity.
- Proposal visually dominating and overbearing when viewed from rear garden and outdoor living area of neighbouring properties.
- Loss of enjoyment and amenity of neighbouring property.
- Siting and scale would result in visual intrusion and loss of amenity when viewed from the kitchen and dining areas of neighbouring property.
- The proposal does not provide a separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area which is a compulsory requirement under 10.4.2 P3 of the Planning Scheme.

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 General Residential Zone of the *Hobart Interim Planning Scheme 2015*.
- 6.3 The existing use is a permitted use in the zone. The proposed use is a permitted use in the zone.
- 6.4 The proposal has been assessed against:
- 6.4.1 Part D - 10 General Residential Zone
 - 6.4.2 E7.0 Stormwater Management Code
- 6.5 The proposal relies on the following performance criteria to comply with the applicable standards:
- 6.5.1 Setbacks and Building Envelope - Part D 10.4.2 P3

6.6 Each performance criterion is assessed below.

6.7 Setback and Building Envelope Part D 10.4.2 P3

6.7.1 The acceptable solution at clause 10.4.2 A3 requires compliance with a prescribed building envelope.

6.7.2 The proposal includes alterations comprising a shade sail outside of the building envelope with regard to side and rear boundary setbacks.

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 at clause 10.4.2 P3 provides 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 Impact on side neighbouring property at No.5 Raymont Terrace:-

No.5 Raymont Terrace is to the west and slightly uphill of the applicant site, and contains a dwelling.

The proposed shade sail would be set back from 0.747 to 0.869 of a metre from the side property boundary. It would require discretion with regard to side boundary setback.

The proposed shade sail comprises a canopy mounted on four posts, above a pre-existing rear deck.

In terms of overshadowing, the submitted sunshade diagrams indicate as follows:

- Winter 9am overshadowing of the rear facing corner of the neighbours

dwelling. By late morning/noon, there would be no overshadowing of the neighbours property.

- Equinox 9am overshadowing of the rear facing corner of the neighbours dwelling. By late morning/noon, there would be no overshadowing of the neighbours property.
- Summer 9am overshadowing of the adjacent section of neighbours rear yard, which is occupied by a garage. By late morning/noon, there would be no overshadowing of the neighbours property.
- Main northerly aspect would remain unaffected.

In terms of visual intrusion, the proposal would comprise a shade sail mounted on four posts, above a pre-existing rear deck. The area of the shade sail would be 18 square metres. To the top of the posts, the proposed structure would extend up to 2 (two) metres outside of the building envelope. The structure is considered of a lightweight nature and appearance, as opposed to any solid, non-see-through structure. The neighbouring property has its main aspect to the north/northeast, and to a degree this aspect would be impinged upon by the proposed structure, which would effectively be of two storey height. There would be a degree of visual intrusion. On the other hand, the aspect directly north of the neighbouring property would remain unaffected by the proposal.

A site visit was conducted dated the 15th October 2018. The downslope rear of the neighbouring dwelling is of two storey height, with two main upper level windows facing north/northeast. The kitchen window is that closest to the proposed structure, and its distance from the structure is estimated at some 5 metres. The main aspect of this window to the north/northeast would not be affected. However, in the view from the window at an angle toward the east, the structure would be visible in front of the distant eastern shore hills. A second larger rear facing window from the dining room would be similarly affected, as would a deck further to the western side of the neighbour's dwelling, in that the structure would be visually prominent in the view towards the east.

There would be some visual impact from the structure when viewed from the applicant's rear garden. The neighbour's garage is positioned on the side boundary adjacent to the existing deck on the subject site and proposed structure. It is accepted that the garage is of single storey height and that the proposed structure would be at an effective two storey height. Nevertheless, the garage is considered to provide to some degree a buffer of the neighbors rear garden.

The proposed structure would extend well beyond the rear alignment of

the existing dwellings at Nos. 3 and 5 Raymont Terrace. The existing precedents are the applicant's deck and neighbour's garage, being adjacent to each other and each of an equivalent single storey in height. The proposed structure would extend to an equivalent two storeys in height, and to this extent, could be viewed as uncharacteristic were it a solid structure. That the extent of the structure comprises posts and a shade sail in between is considered to serve to minimise its potential impact in terms of visual intrusion.

On balance, there is considered likely to be a degree of impact on the amenity of this neighbouring property in terms of overshadowing and visual intrusion. The concern is as to whether the degree of impact warrants either modification or refusal of the proposal. The applicant has stated a willingness to consider a redesign of the proposal so as to more fully meet the building envelope acceptable solution if necessary. The representor has also suggested that a retractable umbrella solution would be more acceptable than the design submitted.

Given the position of the existing deck adjacent to the side boundary, it is difficult to see any shading solution that would not protrude to some degree from the building envelope both side and rear. Again, the structure is considered of a lightweight nature and appearance.

On balance, there would be an impact. Given the lightweight nature and appearance of the structure, the degree of impact is not considered likely to be excessive. The degree of likely impact is not considered sufficient as to warrant any recommendation to either modify or refuse the proposal.

On balance, impact on the amenity of this neighbour is not considered likely to be excessive.

Impact on rear neighbouring property at No.6 Darling Parade:-

No.6 Darling Parade is to the north and downhill of the applicant site, and contains a dwelling.

The proposed awning would be set back 4.759 metres from the rear property boundary. It would require discretion with regard to rear boundary setback. There would be no impact on this neighbour with regard to sun. In terms of visual intrusion, as stated, the proposal comprises a shade sail mounted on four posts, above a pre-existing rear deck. The structure would protrude up to 1.6 metres outside of the rear building envelope.

A site visit was conducted dated the 15th October 2018. The structure would be visible from the rear garden and from the rear windows of the dwelling of this neighbouring property. The rear garden contains planting as well as a courtyard near the common rear boundary. Given the existing planting, there is a considerable degree of screening of this neighbouring rear garden. The degree of visual impact on the rear outlook of the neighbour's dwelling is likewise not considered likely to be excessive given the intervening distance of some 15 metres.

On balance, given the lightweight nature and appearance of the proposed structure, there is considered unlikely to be any excessive impact in terms of visual intrusion. Further, the neighbouring property has its main aspect to the north, away from the applicant site. On balance, impact on the amenity of this neighbour is not considered likely to be excessive.

6.7.6 The proposal complies with the performance criterion.

7. Discussion

- 7.1 Planning approval is sought for alterations at 3 Raymont Terrace, Mount Stuart.
- 7.2 The application was advertised and received two representations. The representations raised concerns including visual intrusion, error in plans and error in description.
- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is considered acceptable.
- 7.4 The proposal has been assessed by the Council's Development Engineer. The officer has raised no objection to the proposal, subject to conditions.
- 7.5 There has been consultation with the representor(s) and the applicant.

The representor has stated the application has been wrongly described in the public notification, that the plans are inaccurate and that the proposal requires re-advertising with correct description and plans. Further, the representors state that impact is excessive in terms of visual intrusion.

The applicant (S King 9 October 2018) has been advised of the two representations received. The applicant supports the accuracy of the plans as lodged. In particular, the applicant has stated that the submitted plans including depiction of natural ground level have been checked and are accurate.

The applicant further stated a willingness to consider a redesign of the proposal so as to more fully meet the building envelope acceptable solution if necessary.

A site visit to the site and to neighbouring properties was conducted dated the 15th October 2018. The site owner stated a fixed awning arrangement is preferred to umbrellas as a structural solution given prevailing strong winds. The shade would mainly provide protection from the sun given the deck as existing is fully open. The site owner further confirmed that the proposal is not the precursor to any further structure or extension. Further, that other shading options were previously considered but ultimately not considered practicable.

The owner sent an email to Council providing further explanation in support of the proposal, dated 15th October 2018, as follows:

'Thank you for meeting with me this morning and providing me the opportunity to address issues raised in the representations concerning our planning application.

Unfortunately, because of my condition, it is difficult for me to articulate clearly and effectively. There are two points that we discussed that I would like to elaborate upon.

The first of these is the concern expressed by one of our neighbours that the work may be the 'thin end of the wedge'. As I advised, my wife and I have no intention of converting the area into a more substantial structure; our plans do not provide us with a ready means to do so in the future, and it would defeat the purpose of having a deck in the first place.

The second point concerns other options to provide shade on the deck suggested by another neighbour. Having lived in Mount Stuart in a nearby property, we were aware of the problems posed by wind in Mount Stuart. When planning the deck at 3 Raymont Terrace in 2012, we had considered including a fixed shade sail but could not afford to do so, and waited until we could. In the five years we have had the deck we purchased several large umbrellas. All proved unusable on many occasions because of the prevailing wind, even with relatively mild sea breezes, due to the exposed nature of the deck. Two of these, bolted to the deck, were made unserviceable due to damage sustained in high winds even while folded down, and had to be disposed of. Aside from this, my mobility issues now make it extremely difficult for me to position and raise an umbrella, making me dependent on others to do so. A retractable awning is also not an option. In addition to having the same limitations in use due to wind, there are no suitable mounting points for an awning cassette to provide coverage over the deck'.

The applicant granted an extension of time dated 11th October 2018.

The application was called in by an Alderman to the City Planning Committee, dated 15th October 2018. The City Planning Committee meeting date is the 12th November 2018.

The representor dated 31st October 2018 further suggested that a retractable umbrella solution would be more acceptable than the design submitted.

7.6 The proposal is recommended for approval.

8. Conclusion

8.1 The proposed alterations at 3 Raymont Terrace Mount Stuart 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 alterations at 3 Raymont Terrace Mount Stuart 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-18-227 - 3 Raymont Terrace Mount Stuart TAS 7000 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

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*.



(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 November 2018

Attachment(s):

Attachment B - CPC Agenda Documents