



City of **HOBART**

## APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report:	Committee
Council:	19 November 2018
Expiry Date:	21 November 2018
Application No:	PLN-18-706
Address:	6 / 15 LANSDOWNE CRESCENT , WEST HOBART
Applicant:	Mahni Dugan (NEUROADS PTY LTD) 728 Nubeena Back Rd Mahni Dugan (NEUROADS PTY LTD) 728 Nubeena Back Rd
Proposal:	Partial Change of Use to Visitor Accommodation
Representations:	Five (5)
Performance criteria:	General Residential Zone Use Standards/Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes Parking and Access Code

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### 1. Executive Summary

- 1.1 Planning approval is sought for a partial change of use to visitor accommodation.
- 1.2 More specifically the proposal includes:
  - A change of use to visitor accommodation of flat 6 within the multiple dwellings complex at No.15 Lansdowne Crescent.
  - Two car parking spaces are to be provided.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
  - 1.3.1 General Residential Zone Use Standards/Planning Directive No. 6 Exemption and Standards for Visitor Accommodation in Planning Schemes - Clause 3.1(e) P2
  - 1.3.2 Parking and Access Code - Excess of Onsite Parking Provision - E6.6.1 P1
- 1.4 Five representations objecting to the proposal were received within the statutory advertising period between 12 and 30 October 2018.

- 1.5 The proposal is recommended for approval subject to conditions.
- 1.6 The final decision is delegated to the Council.

## 2. Site Detail

- 2.1 The site is within the General Residential Zone. No. 15 Lansdowne Crescent is an existing multiple dwellings complex.
- 2.2 Council granted planning approval for alterations and change of use to self contained visitor accommodation under PLN-13-01119-01 dated 16 December 2013.



Figure 1: location plan.



Figure 2: aerial photograph, flat 6 is to the rear part of the main 'L' shaped building.



Figure 3: image of facade. Source: Google Streetview.

**3. Proposal**

3.1 Planning approval is sought for a partial change of use to visitor accommodation.

3.2 More specifically the proposal is for:

- A change of use to visitor accommodation of flat 6 within the multiple dwellings complex at No.15 Lansdowne Crescent.
- Two onsite car parking spaces are to be provided.

#### **4. Background**

4.1 There appears to be no recent (i.e. within two years) relevant background for No.6/15 Lansdowne Crescent in Council's records.

4.2 PLN-13-01119-01 for Alterations and Change of use to Self Contained Visitor Accommodation at 15 Lansdowne Crescent (the entire site) was issued planning approval by Council dated 16 December 2013.

The question is as to whether the use has been substantially commenced and remains 'valid' for the site.

'Lansdowne Apartments' is listed on Google as visitor accommodation (checked 17/10/2018). There is no operating phone number and no email address.

'Hobart and Beyond' advised 17/10/2018 that the site is not listed with them. The Tourism Industry Council Tas. advised 17/10/2018 that the site is not accredited.

The Body Corporate for the site (N. Burridge 17/10/2018) advised he is not familiar with on-site uses. The existing uses are predominantly residential but cannot rule out the presence of visitor accommodation.

The Body Corporate (N. Burridge later on 17/10/18) provided further advice that it has taken a position of not encouraging visitor accommodation use on the site.

The Council's Compliance Investigation Officer states the presence or not of visitor accommodation use is not a building matter.

In summary, in terms of any visitor accommodation use on the site:

- There is no accreditation; and
- There is no unified phone or email address.

The above does not preclude any ongoing visitor accommodation use of individual dwellings as approved under PLN-13-01119-01.

Based on the above, a continuing use right of PLN-13-01119-01 as visitor accommodation for the entire site cannot be ruled out.

4.4 Given the lack of certainty with regard to use right, it was considered prudent to continue to process the current application. Any approval or otherwise will not prejudice the original approval if it is subsequently confirmed to be still 'valid'. Of further note is that, whether or not any planning permit is issued, the applicant remains subject to any by-laws imposed by the Body Corporate.

## **5. Concerns raised by representors**

- 5.1 Five representations objecting to the proposal were received within the statutory advertising period between 12 and 30 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.

Use and amenity:

- 'My wife and I strongly object to this proposal to allow Unit 6 of 15 Lansdowne to be used as visitor accommodation.
- Like the overwhelming majority of owners-occupiers who purchased the units and town houses that make up this Strata Corporation, we wanted to purchase a long-term home, with the assurance that long-term residents could enjoy the quiet and pleasant character of a small and friendly community. We strongly oppose any proposal that could easily lead to a situation where the amenities of our small community are sacrificed so that short-term holiday-makers can be offered convenient accommodation in the growing tourism market of Hobart. Such accommodation can lead to major problems, as the experience of inner-city apartment blocks in Melbourne and Sydney clearly demonstrate. Our Strata Corporation intends to strongly oppose this application, and an extraordinary general meeting will be held to allow all owners to have their say'.
- 'Displacing young working people from the rental market where they work and socialise, destroying the amenity of the area for all residents'.
- 'On a macro level the so called "sharing economy" is displacing young working people from the rental market where they work and socialise, destroying the amenity of the area for all residents'.
- 'On a micro level, the loss of amenity for fellow residents could be significant.
- Businesses like Airbnb are unregulated, pay negligible tax in countries like Australia and are near impossible to speak with if trying to make a complaint.
- There are numerous examples worldwide of so called "visitor accommodation" being used for all night parties, drug dens, brothels etc'.
- 'Typically "guests" can arrive late, leave early, generate far more noise than the
- owners and residents, destroying amenity for all. Wear and tear on common property, paid for by all owners, can skyrocket in these situations. What capacity does Hobart City Council to

enforce flimsy, if any, regulations on virtual businesses answerable to nobody? None. So, please don't approve this application';

- 'As a resident and owner I experience parking issues and a general loss of amenity of the area. Short stay accommodation also adversely affects the sense of community, social involvement and the ability to know /recognise/ watch out for and assist people living in the area. It also decreases the number of actual residents who have an "investment" in the neighbourhood eg. participate in local events, issues, crime prevention and awareness etc'.

Traffic, parking and access:

- Visitor parking is limited, and the Entry and Exit laneways are both one-way single lane, with no parking possible in the laneway. Delivery vehicles already cause access difficulties through stopping/parking in the wrong places, and on occasions exiting the wrong way down the Entry lane'.

- 'Operating the Unit as short-term accommodation will significantly increase vehicle movements in and out of the complex, both for the guests and for the staff involved in servicing the Unit prior to check-in and following departure'.

Security risk:

- 'There are increased security risks as a consequence of access to the complex, and especially in accessing the large Security Parking Garage, and the wider circulation of the security access keys used for this Parking Garage';

- 'With the Unit 6 owners and other unit servicing staff not being resident on the site, there is a serious risk of unregulated and unacceptable behaviour by booked guests and others. Who is going to be responsible for the conduct of guests, and ensuring that they comply with Tasmanian law, the Lansdowne Strata Corporation By-Laws and Rules, and the standards expected in a higher density residential complex such as ours at 15 Lansdowne Crescent(?)'.



Other:

The Managers of the Body Corporate for the site refer to the minutes of a Body Corporate meeting held dated 29th October 2018, and make the following comment.

'Please refer to the attached minutes and passed by-law prohibiting short term accommodation at 15 Lansdowne Crescent at a meeting held (dated) 19/10/2018. Owners request this application not be approved on this basis'.

## 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/Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes
  - 6.4.2 E6.0 Parking and Access Code
- 6.5 The proposal relies on the following performance criteria to comply with the applicable standards:
- 6.5.1 Use - Planning Directive 6 - Clause 3.1(e) P2
  - 6.5.2 Excess Parking Provision - Clause E6.6.1 P1
- 6.6 Each performance criterion is assessed below.

6.7 Use - Planning Directive 6 Clause 3.1(e) P2

6.7.1 The acceptable solution at PD 6 Clause 3.1(e) A2 requires that visitor accommodation is not for a lot forming part of a strata scheme site.

6.7.2 The proposal includes a change of use to a dwelling forming part of a strata scheme.

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 3.1(e) P2 provides as follows.

*Visitor Accommodation within a strata scheme must not cause an unreasonable loss of residential amenity to long term residents occupying other lots within the strata scheme, having regard to:*

*(a) the privacy of residents;*

*(b) any likely increase in noise;*

*(c) the residential function of the strata scheme;*

*(d) the location and layout of the lots;*

*(e) the extent and nature of any other non residential uses; and*

*(f) any impact on shared access and common property.*

6.7.5 The neighbourhood is characterised by residential use, comprising single dwellings and with some multiple dwelling development in the vicinity. There are multiple dwellings at the adjacent sites at Nos.13 and 13A Lansdowne Crescent. The subject site contains 23 multiple dwellings in a generally two storey and partly three storey arrangement. There is non residential use in the vicinity, including a nearby school (15 Gourlay Street) and adjacent oval (19 Lansdowne Crescent). The nearest shops are some 150 metres away at the Hill Street corner.

The site is occupied by multiple dwellings in three separate groupings, generally of two storeys in height with parking at ground level, on deck and partially below ground. The subject dwelling is to the rear of the frontage building (the original on site). It is at ground level with separate access to a foyer adjacent to the existing rear car park.

There may be some increased activity and potential impact resulting from arrivals and departures of visitors, and staffing for any cleaning or other services on demand. There may be some impact from an increased degree of arrival and departure of occupants of any visitor accommodation unit, in comparison with the level of activity of a dwelling.

The proposed use is a departure from the approved residential dwelling use of the site. On the other hand, the ongoing level of activity from the existing 23 dwelling development or any residential complex of similar size is in any case likely to be significant.

The design and layout of the existing residential development is considered likely to engender a reasonable standard of privacy between dwellings, within the site. The nine two storey dwellings to the rear of the site each have their own separate frontages in respective 'terrace' arrangements. The proposed visitor accommodation use would be in the main building containing a total of 14 dwellings. While the use would have a separate ground level access, it would be to a shared foyer also providing access to a further ground floor and first floor dwellings. The proposed visitor accommodation unit would therefore share a foyer with ongoing dwelling use. Given the self contained nature of the proposed visitor accommodation unit with its own rear courtyard, and given the close proximity of the foyer to the car parking area, there does not appear to be any excessive likelihood of 'conflict' or 'non compatibility' between existing and proposed uses in the shared space.

There would be some loss of residential function of the strata development. On the basis that no other visitor accommodation currently exists on site, the ratio would be 22 to 1. On the other hand, it is understood that any future approval of further visitor accommodation uses at the site would alter that balance. Again, it is considered that the common or shared spaces within this reasonably dense development would have a measure of privacy only in terms of it being shared with neighbours within the complex. The introduction of a visitor accommodation use may diminish existing privacy levels in terms that the occupants would be a mix of resident and visitor rather than just resident. Within a large multiple dwelling site there is likely to be a reasonable level of activity at all times associated with the residential use of the site.

On balance, there is some potential for disruption to residents and some change to the character and amenity of use on the site. On the other hand, the proposed use is considered similar to the dwelling use it would replace in terms of impact, in that it is unlikely to result in any measurable increase in noise, or loss of privacy, or impairment to the residential function of the strata scheme. The potential impact of the proposal is not considered likely to be excessive, and is not considered such as to warrant any recommendation of refusal.

The proposal is considered reasonable with regard to the performance

criterion under Planning Directive 6 clause 31(e) P2.

6.7.6 The proposal complies with the performance criterion.

6.8 Parking and Access Code Part E 6.6.1 P1

6.8.1 The acceptable solution at clause E 6.6.1 A1 (a) requires parking no less and no greater than the number specified in Table E6.1. The parking requirement for a visitor accommodation unit in Table E6.1 is one space.

6.8.2 The proposal includes a visitor accommodation unit with two parking spaces.

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 at clause E6.6.1 P1 provides as follows.

*The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:*

*(a) car parking demand;*

*(b) the availability of on-street and public car parking in the locality;*

*(c) the availability and frequency of public transport within a 400m walking distance of the site;*

*(d) the availability and likely use of other modes of transport;*

*(e) the availability and suitability of alternative arrangements for car parking provision;*

*(f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*

*(g) any car parking deficiency or surplus associated with the existing use of the land;*

*(h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;*

*(i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;*

*(j) any verified prior payment of a financial contribution in lieu of parking for the land;*

*(k) any relevant parking plan for the area adopted by Council;*

*(l) the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code;*  
*(m) whether the provision of the parking would result in the loss, directly or indirectly, of one or more significant trees listed in the Significant Trees Code.*

6.8.5 The parking provision is existing and would be in surplus by one space.

It is noted under the applicant submission that a future intention is to revert to dwelling use. While such a change of use would require a separate application for Council planning approval, it is acknowledged that the two space provision allows some flexibility with regard to either dwelling or visitor accommodation use on the site.

The site is considered reasonably central although elevated above the city centre and waterfront areas. Were the site deficient in parking there would be considered a reasonable case to waive any parking requirement.

In this case, the surplus of one space which is existing, is not considered likely to result in any detriment to the character and amenity of the surrounding area. The proposal is considered acceptable in terms of the performance criterion.

The Council's Development Engineer advises that on the basis that the parking requirement under the proposal would reduce from two spaces to one space, no parking, traffic or access concerns are raised.

6.8.6 The proposal complies with the performance criterion.

## **7. Discussion**

- 7.1 Planning approval is sought for a partial change of use to visitor accommodation at 6/15 Lansdowne Crescent, West Hobart.
- 7.2 The application was advertised and received five representations. The representations raised concerns including impact with regard to use and amenity.
- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes and is considered acceptable.

- 7.4 The proposal has been referred to the Council's Development Engineer. The officer has raised no objection to the proposal.
- 7.5 The proposal is recommended for approval.

## **8. Conclusion**

- 8.1 The proposed partial change of use to visitor accommodation at 6/15 Lansdowne Crescent West Hobart TAS 7000 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 partial change of use to visitor accommodation at 6/15 Lansdowne Crescent West Hobart TAS 7000 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-18-706 - 6/15 LANSDOWNE CRESCENT WEST HOBART 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.

### **VISITOR ACCOMMODATION**

More information on visitor accommodation, including when building approval is required, can be found [here](#).

In all cases, check with your insurance company that you have adequate cover.

If you are in a bushfire prone area there may be a need to create/review the Bushfire Management Hazard Plan for your property.



(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