



City of **HOBART**

## APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee  
Committee: 17 December 2018  
Expiry Date: 17 December 2018  
Application No: PLN-18-565  
Address: 58 GOULBURN STREET , HOBART  
Applicant: (Neil Shephard and Associates obo Communities Tasmania)  
PO Box 273  
Proposal: Change of Use to Residential (Communal Residence)  
Representations: N/A  
Performance criteria: N/A

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### 1. Executive Summary

- 1.1 Planning approval is sought for Change of Use to Residential (Communal Residence) at 58 Goulburn Street, Hobart.

1.2 More specifically the proposal includes:

- Changing the use of the property from 'welfare institution' (the use group approved under the *City of Hobart Planning Scheme 1982*) to 'residential (communal residence)' (the use category that the use falls into under the *Hobart Interim Planning Scheme 2015*).
- Changes to the management model of the site whereby there will no longer be a staff member on site at all times. Instead, at certain times when there is not a staff member on site, there will be someone on call who will attend the property if any issues arise.
- The new management model for the site will include the following:
  - Anglicare will provide three (3) full-time equivalent (FTE) workers at Goulburn Street – one (1) senior and two (2) support workers (8am to 8pm Monday to Friday).
  - Additional funding has been provided to provide one (1) staff member working six (6) hours Saturday (4pm to 10pm) and six (6) hours Sunday (9am to 2pm). This is for a three (3) month period and has been implemented to address concerns raised by tenants. It is not expected to continue.
  - Anglicare also have two (2) security patrols on weeknights (around 9pm and 11pm), one (1) on Saturday (around midnight) and two (2) on Sunday (6 pm and 10pm).
  - There is also the option available to tenants to call security should the need arise outside of the patrol hours. To date, the only calls to security have been when tenants have locked their keys in their units.
  - The regular security patrols are expected to wind down, with the option that tenants will still be able to call security as needed (i.e. on-call). As with the other facilities Anglicare manage across the state, if there are concerns at any given times, Anglicare will arrange ad-hoc patrols. Security services will retain the ability of phoning Anglicare on-call Area Managers if the need arises.

1.3 The proposal complies with all acceptable solutions for all applicable standards.

1.4 The application is therefore permitted and was not publicly advertised in accordance with section 58 of the *Land Use Planning and Approvals Act 1993*.

1.5 The proposal must be approved in accordance with section 58 of the *Land Use Planning and Approvals Act 1993*.

1.6 The final decision is delegated to the Council due to the application being called in by an Alderman/Councillor.

## 2. Site Detail

2.1 The property has frontages to three streets: Goulburn, Liverpool and Barrack. The property is rated as 58 Goulburn Street. 275 Liverpool Street is the Council owned car park (subdivided from the rest of the site and on a separate title) and so has not been included in the address of the development.



*Fig. 1. Subject property.*



*Fig. 2. Subject property (Goulburn Street frontage). Source: GoogleMaps.*



*Fig. 3. Subject property (corner Barrack and Liverpool Streets). The ground floor car park is 275 Liverpool Street and owned by the Hobart City Council. The first and second levels are part of 58 Goulburn Street and form part of the subject site. Source: GoogleMaps.*

### **3. Proposal**

3.1 Planning approval is sought for Change of Use to Residential (Communal Residence) at 58 Goulburn Street, Hobart.

3.2 More specifically the proposal includes:

- Changing the use of the property from 'welfare institution' (the use group approved under the *City of Hobart Planning Scheme 1982*) to 'residential (communal residence)' (the use category that the use falls into under the *Hobart Interim Planning Scheme 2015*).
- Changes to the management model of the site whereby there will no longer be a staff member on site at all times. Instead, at certain times when there is not a staff member on site, there will be someone on call who will attend the property if any issues arise.
- The new management model for the site will include the following:
  - Anglicare will provide three (3) full-time equivalent (FTE) workers at Goulburn Street – one (1) senior and two (2) support workers (8am to 8pm Monday to Friday).
  - Additional funding has been provided to provide one (1) staff member working six (6) hours Saturday (4pm to 10pm) and six (6) hours Sunday (9am to 2pm). This is for a three (3) month period and has been implemented to address concerns raised by tenants. It is not expected to continue.
  - Anglicare also have two (2) security patrols on weeknights (around 9pm and 11pm), one (1) on Saturday (around midnight) and two (2) on Sunday (6 pm and 10pm).
  - There is also the option available to tenants to call security should the need arise outside of the patrol hours. To date, the only calls to security have been when tenants have locked their keys in their units.
  - The regular security patrols are expected to wind down, with the option that tenants will still be able to call security as needed (i.e. on-call). As with the other facilities Anglicare manage across the state, if there are concerns at any given times, Anglicare will arrange ad-hoc patrols. Security services will retain the ability of phoning Anglicare on-call Area Managers if the need arises.

## 4. Background

4.1 The welfare institution use at the site was approved under two planning permits: PLN-09-01116 in 2009 and PLN-12-00021 in 2012. Both permits were granted under the *City of Hobart Planning Scheme 1982*.

- 4.2 The site was divided into two zones under the *City of Hobart Planning Scheme 1982*. The Goulburn Street end of the site was zoned Residential 1 and the Liverpool Street end was zoned Central Service.

The 2009 permit approved the 'welfare institution' use on the Goulburn Street portion of the site and flats on the Liverpool Street portion of the site (this is because 'welfare institution' was, under the *City of Hobart Planning Scheme 1982*, a prohibited use in the Central Service Zone, and so this use could not be approved on the Liverpool Street end of the site).

In 2012, a section 43A amendment was issued, which made 'welfare institution' a discretionary use on the Liverpool Street portion of the site, and so the flats which were approved in 2009 were able to be approved as 'welfare institution' under PLN-12-00021.

- 4.3 The 2009 permit includes condition 35 as follows:

*The operator of the welfare institution component of the development must maintain and implement a management strategy generally in accordance with the Goulburn Street Property & Tenancy Overview dated April 2010 (attachment B). The management strategy must include provision for at least one (1) staff member to be on-site at all times and be acting in a supervisory capacity. A current copy of the management strategy is to be provided to the Hobart City Council at the time of the first occupation of the welfare institution component of the development and at any time after that event upon the request of the Hobart City Council.*

*Reason for condition: To ensure the safe and effective management of the Welfare Institution*

- 4.4 This is very similar to condition 8 on the 2012 permit, which reads:

*The operator of the welfare institution must maintain and implement a management strategy. The management strategy must include provision for at least one (1) staff member to be on-site at all times and be acting in a supervisory capacity. A current copy of the management strategy is to be provided to the Hobart City Council at the time of the first occupation of the welfare institution and at any time after that event, upon the request of the Hobart City Council.*

*Reason for condition: To ensure the safe and effective management of the welfare institution.*

- 4.5 The site managers no longer want the operation of the use across the entirety of the site to be subject to a requirement for a staff member to be onsite 24 hours a day. The operators have therefore applied (under the current planning application) for a change of use to residential (communal residence). The Anglicare Management Strategy update which was lodged with the current application does not propose that at least one supervisory staff member will be on the site at all times. Instead, the strategy states that there will be staff members on the site 8am to 8pm Monday to Friday, one staff member on site for part of the day on Saturday and Sunday (this is a three month interim measure and is not expected to continue) and security patrols at specified times during the evening and night, seven days a week.
- 4.6 The application is considered to be for a change of use rather than a partial change of use because the ground floor of the Liverpool Street end of the site (275 Liverpool Street) is not part of the site. This property has been subdivided vertically from the rest of the site. It is owned by the Hobart City Council, is rated as 275 Liverpool Street, and is used as an 'unlisted use (car park)' which was approved under PLN-09-01112.

- 4.7 Prior to assessing the planning application (PLN-18-565), Council sought independent legal advice in relation to the classification of the use of the property. This preliminary advice reads:

*"The Council's planning officer has assessed the DA and has formed the view that:*

*(a) the use which is proposed should be classified as "residential";*

*(b) the proposal should be treated as "permitted", so that the Council is required to grant a permit; and*

*(c) there is nothing in the planning scheme which supports the imposition of a condition requiring a staff member to be on-site at all times, and there is no basis to refuse the DA on the basis that this is not proposed.*

*You have asked for advice on whether or not the planning officer's assessment is correct.*

*In our view:*

*(a) the planning officer has properly characterised the use as falling within the "residential" use class;*

*(b) based on our understanding that the DA complies with all applicable standards (such as parking), a permit must be granted by the Council; and*

*(c) the proposal for a staff-member to be on call may be imposed as a condition, and there is no ability for the Council to impose a more onerous management strategy."*

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

- 5.1 As the proposal complies with all acceptable solutions for all applicable standards, the application is deemed to be 'permitted', and must be approved without public advertising in accordance with section 58 of the *Land Use Planning and Approvals Act 1993*.

## **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 Inner Residential Zone and the Central Business Zone of the *Hobart Interim Planning Scheme 2015*.
- 6.3 The existing use is 'welfare institution' which was approved under the provisions of the *City of Hobart Planning Scheme 1982* under application numbers PLN-09-01116 and PLN-12-00021.
- 6.4 The use class 'welfare institution' does not exist under the current planning scheme (the *Hobart Interim Planning Scheme 2015*). This planning scheme has the use class 'residential' which includes all residential types, irrespective of whether they are supported or managed accommodation or not. The 'residential' use class is defined as:

*Use of land for self contained or shared living accommodation. Examples include an ancillary dwelling, boarding house, communal residence, hostel, residential aged care home, residential college, respite centre, retirement village and single or multiple dwellings.*

- 6.5 There are no use standards for any of the uses within the 'residential' use class. Simply put, the scheme does not recognise any difference between people living in owner-occupied dwellings, rented dwellings or supported accommodation, and subsequently does not require that some dwelling types are treated or assessed differently to others. As a result, there is no discretion under the *Hobart Interim Planning Scheme 2015* to require that some of the uses within this category (e.g. supported accommodation) have management strategies.
- 6.6 The units do not have laundries and so are not considered to be 'dwellings'. They therefore have not been classified as 'multiple dwellings' (which is more than one dwelling on a lot). The occupiers of the units have their own private space (bathroom, bedroom, lounge and kitchenette), and parts of the facility are also shared amongst all residents (e.g. recreation rooms and laundry). The development is therefore considered to be a 'communal residence' which is one of the sub-groups in the 'residential' use category.

A communal residence is defined as:

*Means use of land for a building to accommodated persons who are unrelated to*

*one another and who share some parts of the building. Examples include a boarding house, residential college and residential care home.*

- 6.7 'Residential' (including a 'communal residence') is a permitted use in the Inner Residential Zone and permitted use above ground floor level in the Central Business Zone. The ground floor of the site within the Central Business Zone is a Council owned car park, and the residential use is on the first and second floor levels.

The change of use is therefore permitted within both zones and must be approved by Council.

- 6.8 There is no discretion in relation to the provision of on-site parking spaces. The site has 12 spaces, which is the required number under clause E.6.6.1 A1 of the Parking and Access Code.

- 6.9 The proposal has been assessed against:

6.4.1 Part D - 11.0 Inner Residential Zone Standards

6.4.2 Part D - 22.0 Central Business Zone Standards

6.4.3 Part E - 6.0 Parking and Access Code

- 6.9 The proposal complies with all acceptable solutions for all applicable standards.

## **7. Discussion**

- 7.1 Planning approval is sought for Change of Use to Residential (Communal Residence).

- 7.2 The application was not advertised, in accordance with section 58 of the *Land Use Planning and Approvals Act 1993*.

- 7.3 The proposal has been assessed against the provisions of the *Hobart Interim Planning Scheme 2015* and does not rely on any performance criteria to satisfy the scheme's relevant standards and codes. As such, the proposal must be approved by Council in accordance with the provisions of section 58 of the *Land Use Planning and Approvals Act 1993*.

7.4 The proposal has not been assessed by other Council officers.

7.5 The proposal must be approved.

## **8. Conclusion**

8.1 The proposed Change of Use to Residential (Communal Residence) at 58 Goulburn Street 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 Change of Use to Residential (Communal Residence) at 58 Goulburn Street 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-18-565 - 58 GOULBURN STREET HOBART TAS 7000 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 Permitted Planning Permit issued in accordance with section 58 of the *Land Use Planning and Approvals Act 1993*.



(Liz Wilson)

**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: 5 December 2018

**Attachment(s):**

Attachment B - CPC Agenda Documents