



City of **HOBART**

APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee
Council: 11 July 2022
Expiry Date: 27 July 2022
Application No: PLN-21-569
Address: 2 / 816 SANDY BAY ROAD , SANDY BAY
COMMON LAND OF PARENT TITLE
Applicant: Shane Farmer
2/816 Sandy Bay Road
Proposal: Change of Use to Visitor Accommodation
Representations: Seven (7)
Performance criteria: Planning Directive No. 6 - Exemption and Standards for Visitor Accommodation in Planning Schemes; Landslide Code; Parking and Access Code

1. Executive Summary

1.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 2/816 Sandy Bay Road and Common Land of Parent Title, Sandy Bay.

1.2 More specifically the proposal includes:

- Change of use from permanent, four bedroom, 235m² single residential dwelling to short term visitor accommodation.
- Two existing on-site parking spaces are allocated to the use.
- No signage is proposed.
- No physical works are proposed.
- An existing garage on the site is not included in the proposed use, and is intended as storage.

1.3 The proposal relies on performance criteria to satisfy the following standards and codes:

1.3.1 Planning Directive No. 6 - Exemption and Standards for Visitor Accommodation in Planning Schemes

1.3.2 Landslide Code - Vulnerable Use

1.3.3 Parking and Access Code - Number of Car Parking Spaces; Layout of Parking Areas

- 1.4 Seven (7) representations objecting to the proposal were received within the statutory advertising period between 20/05 to 03/06/2022.
- 1.5 The proposal is recommended for approval subject to conditions.
- 1.6 The final decision is delegated to the Council, because the planning application received more than five objections and in any case is of a category that has been called in by an Elected Member.

2. Site Detail



Figure 1: Aerial view of the subject property and surrounds (Source: Council ArcGIS).

- 2.1 2/816 Sandy Bay Road, Sandy Bay is a 1058m² 'internal' residential property with frontage to the shore of the River Derwent and accessed via a common land driveway adjacent to 1/816 Sandy Bay Road. The site is part of a two-lot strata property. The site slopes moderately downwards to the east, and is occupied centrally by a four bedroom dwelling with decks and a swimming pool to its eastern, seaward side. An external parking and manoeuvring area and a double garage are located to the west of the dwelling. The site is adjoined on both sides by residential properties, with the northern adjacent title a predominantly garden lot associated with the dwelling on the next title to the north.



Figure 2: A 3D aerial approximation of the site (outlined in yellow) as viewed from the River Derwent (Source: Microsoft Maps).



Plate 1: Interior view of the rear of the dwelling from the access driveway (Source: Planner's photo).



Plate 2: The existing external parking area to the western side of the dwelling (left), with southern neighbouring dwelling in the background (Source: Planner's photo).



Plate 3: Looking to the west/southwest back towards Sandy Bay Road from the southern side boundary of the property, with neighbouring properties to the centre and left, and the existing garage on the subject site to the right (Source: Planner's photo).

3. Proposal

3.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 2/816 Sandy Bay Road and Common Land of Parent Title, Sandy Bay.

3.2 More specifically the proposal is for:

- Change of use from permanent, four bedroom, 235m² single residential dwelling to short term visitor accommodation.
- Two existing, external on-site parking spaces allocated to the use.
- No signage is proposed.
- No physical works proposed.
- An existing garage on the site is not included in the proposed use, and is intended as storage.

4. Background

4.1 The past eighteen months have seen several applications submitted for the overall site. For 2/816 (the subject property), an application for Partial Demolition, Alterations, Ancillary Dwelling, Carport and Garage was withdrawn prior to being determined. A subsequent proposal for Partial Demolition, Alterations and Ancillary Dwelling was deemed No Permit Required at the planning stage. This development has since received a Plumbing Permit but no application has been made for building consent. For 1/816 Sandy Bay Road (in the same ownership), an application for Change of Use to Visitor Accommodation was approved in 2021, and then more recently an application for Partial Demolition, Alterations and Extension was also approved. Building consent has not yet been sought for these works.

4.2 A recent Council enforcement has been raised for 2/816 Sandy Bay Road, regarding its use in breach of the Planning Scheme for Visitor Accommodation. This has come about as a result of a Section 63B notice being filed to Council by complainants Solicitors. Evidence has been submitted with this notice showing the property advertised for bookings on the AirBnB website, with the current, albeit not yet determined, planning application number noted as being used on the site as the Policy/Licence number for the premises. Prior to this, a separate enforcement was raised regarding the use of 1/816 Sandy Bay Road for failing to submit for approval a management plan for the operation of the visitor accommodation prior to commencement of the use. These enforcement matters are ongoing.

5. Concerns raised by representors

5.1 Seven (7) representations objecting to the proposal were received within the statutory advertising period between 20 May and 03 June 2022.

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.

Detailed concerns regarding the ongoing use of the property for Visitor Accommodation and the negative impact this is having on surrounding residential properties and the amenity of residents. Numerous incidents over the past two years have been cited alleging mismanagement/lack of management and improper use of the site involving the property owner, guests, accommodation booking companies/managers and the Police. All of this is evidence that the proposed use cannot meet planning standards.

<p>The accommodation is geared towards larger groups and even events, generating a greater degree of impact upon surrounding residential amenity.</p>
<p>Non-compliance and inability to comply (based on documented incidents) with the provisions of Planning Directive No. 6 regarding:</p> <p>Privacy of adjoining properties - overlooking into adjoining residences in close proximity, intrusive use of drones;</p> <p>Increased noise to adjoining properties - ongoing and over and above residential levels from at times excessive numbers of vehicles and their movements and the larger groups using the accommodation and making the most of the site for parties, loud music and the associated use of the pool. The site has been used for functions etc with additional guests beyond those being accommodated using the site;</p> <p>The scale of the use and its compatibility with the surrounding character and uses within the area - combined with the premises at 1/816 Sandy Bay in the same ownership, the commercial nature of the site is amplified and given ongoing problems already being experienced, there is mounting evidence that the overall site is not compatible with the character of the surrounding area;</p> <p>Retaining the primary residential function of an area - negative impacts on surrounding residential amenity, the impact of additional traffic on Sandy Bay Road, and also the failure of various management measures and models to ensure the operation of the accommodation and behaviour of guests can be effectively managed to ensure reasonable standards are met and impacts upon neighbours are reduced - An HCC imposed Visitor Management Plan would not be effective as Council would not be able to enforce it; and</p> <p>Impact on the safety and efficiency of the local road network - high numbers attending the site generates a regular increased volume of traffic including those not familiar with the site and access conditions. Additional vehicles are left on the street within bike lanes. The access point is on a bend with poor visibility. The access driveway is narrow and parking arrangement does not cater for the number of vehicles visiting the property.</p>
<p>The proposal fails to meet the standards of the parking and access code of the Hobart Interim Planning Scheme 2015.</p>

<p>The proposed development and use conflict with the purpose statements of the Low Density Residential Zone, being the provision of non-residential uses that are compatible with residential amenity; residential development that respects the neighbourhood character; and to provide a high standard of residential amenity.</p>
<p>The application provides an insufficient level of information for it to be adequately assessed,</p>
<p>There is no evidence that the application has had any regard to the objectives of Planning Directive No. 6, or the high-quality of amenity and character expected in the Low Density Residential Zone.</p>
<p>Concern about the impact upon the resale value of adjacent properties.</p>
<p>2/816 can only be described as a commercial venture which is being developed to capacity in a manner in conflict with the residential nature of the area. With proposals for extensions to 1/816 approved, the entire block will be visitor accommodation with inadequate supervision/support provided by the owner of the property.</p>
<p>Over the last 5 years rents in Hobart LGA have increased by 27% from \$470.00 per week to \$600.00 per week.</p> <p>Core logic reports the median rents in Hobart are more expensive than Adelaide, Brisbane Perth, and Melbourne, whilst Tasmanians have the lowest median income of any State or Territory in Australia.</p> <p>According to the Department of Communities Tasmania the vacancy rate in Hobart in February 2021 was 0.6 percent and is currently 0.3 per cent.</p> <p>Skyrocketing rents and lack of affordable rental properties is likely to have played a role in Hobartians being forced to move further away from their workplaces, extended families and friends and essential services located in the Hobart City Council Municipality. The Australian Bureau of Statistics recently reported that the Hobart City Council municipality lost 971 residents in 2020-21 whilst Clarence gained 533 residents, Brighton gained 486 residents and the Huon Valley gained 281 residents.</p> <p>There are currently 481 investment properties being used as visitor accommodation within the Hobart City Council municipality, including a 9 per cent increase between 1 July 2021 - 31 December 2021. All 481 properties are investment properties because properties that are "used by the owner or occupier as their main place of residence, and only let while the owner or occupier is on vacation or temporarily</p>

absent" are not included in the data.

In December 2020 the Australian Housing and Urban Research Institute released a report entitled 'Marginal housing during COVID-19' which analysed the impact of COVID-19 on the private rental market. The report found that the return of an estimated 113 Airbnb properties to the private rental market in the Hobart City Council municipality during COVID-19 had resulted in a nine per cent reduction in rents and concluded "it is clear that relatively small changes in the availability of dwellings can have very significant impacts on rents".

In 2018 the Tasmanian Planning Commission acknowledged that "the conversion of housing stock to short term visitor accommodation is impacting the availability and affordability" of long-term rentals.

The findings from Hobart are not an outlier with the short stay accommodation market around the world increasing rents and reducing rental supply. In the words of Emeritus Professor Peter Phibbs: *There's been a lot of academic research on short term rentals, literally hundreds of studies and those studies have concluded there's a relationship between increases in short term activity and increases in housing rents.*

In summary, short stay accommodation has had a negative impact on the Hobart rental market by reducing supply and increasing prices.

We strongly recommend that the application for the proposed 'change of use to visitor accommodation' of premises at 2/816 Sandy Bay Rd, Sandy Bay is refused. In our opinion, the application does not comply with clause 3.1(e) of Planning Directive No. 6 of the Hobart Interim Planning Scheme 2015 (Tas) because the proposal is not compatible with the character and use of the area and it would cause an unreasonable loss of residential amenity.

The property is located in Sandy Bay which already has 129 whole investment properties being used as visitor accommodation. Many of these properties would, only a few years ago, have housed young professionals, families and students who would have contributed to the vibrancy of their local communities, sending their children to the local primary school, participating in local sporting teams and supporting local businesses.

Sandy Bay should remain a suburb which prioritises long-term residents. The proliferation of short-term accommodation diminishes the "retaining of the primary residential function of the area" as set out in Performance Criteria (d) of clause 3.1(e) of the Planning Directive No. 6 of the Hobart Interim Planning Scheme 2015 (Tas). Further growth in short-term accommodation within the Hobart City Council municipality will also result in reduced supply and increasing prices.

For all these reasons, we recommend that the application is refused.

I wish to object to the proposed partial change of use to visitor accommodation at 2/ 816 Sandy Bay Road. I do this on the basis that Tasmania, and Hobart more specifically, is undergoing an acute housing crisis particularly for renters. Any loss of rental amenity needs to be avoided and I am of the belief that the council has a duty of care to the people who live here to take active steps to prevent the loss of current residential homes to the short stay market. The time for turning homes into hotels has long past, and the consequences of past decision making are clear: approving the change of use for 2/816 Sandy Bay Road contributes to housing stress and homelessness.

At the root of the problem is that housing is seen to be a form of financial investment, and the council needs to take action to halt the continued financialization of essential needs like shelter. You can do so by rejecting the proposed change of use at 2/816 Sandy Bay Road.

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 Low Density Residential Zone of the *Hobart Interim Planning Scheme 2015*.
- 6.3 The existing use is Residential (Single Dwelling). The proposed use is Visitor Accommodation. The existing use is a No Permit Required 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 - 12 Low Density Residential Zone
 - 6.4.2 Planning Directive No. 6 - Exemption and Standards for Visitor Accommodation in Planning Schemes
 - 6.4.3 E3.0 Landslide Hazard Code
 - 6.4.4 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 Planning Directive No. 6 - Exemption and Standards for Visitor Accommodation in Planning Schemes:
 - Visitor Accommodation (Gross Floor Area) - 3.1(e) P1*
 - 6.5.2 Landslide Hazard Code:
 - Vulnerable Use - E3.6.2 P2*
 - 6.5.3 Parking and Access Code:
 - Number of Car Parking Spaces - E6.6.1 P1*
 - Layout of Parking Areas - E6.7.5 P1*
- 6.6 Each performance criterion is assessed below.
- 6.7 Visitor Accommodation – 3.1(e) P1
- 6.7.1 The acceptable solution A1(b) at clause 3.1(e) requires visitor accommodation to have a gross floor area of not more than 200m² per lot.
 - 6.7.2 The proposal includes use of the existing dwelling for visitor accommodation which has a gross floor area of 235m².
 - 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 P1 at clause 3.1(e) provides as follows:

Visitor Accommodation must be compatible with the character and use of the area and not cause an unreasonable loss of residential amenity, having regard to:

- (a) the privacy of adjoining properties;*
- (b) any likely increase in noise to adjoining properties;*
- (c) the scale of the use and its compatibility with the surrounding character and uses within the area;*
- (d) retaining the primary residential function of an area;*
- (e) the impact on the safety and efficiency of the local road network; and*
- (f) any impact on the owners and users rights of way.*

6.7.5 In terms of the impact on amenity of adjoining properties that this property may have if converted to visitor accommodation, it is noted that on the one hand this property is a relatively large four bedroom dwelling, and as such it does have the potential to accommodate larger numbers of people in the order of at least six to eight people based on the reasonable consideration of two people per bedroom. It is also noted that there is an outdoor pool on the eastern (Derwent) side of the subject dwelling, as well as generous surrounding decks and outdoor spaces within the rear yard area accessing the shoreline that have a high degree of amenity and so are likely to be well used, and a deck on the north-western (front) side of the dwelling . On the other hand the building stands alone from its neighbours, that is, it is not physically connected to any other dwellings, and there is reasonable separation between neighbouring dwellings that is quite typical of a lower density residential area such as this. It is considered that if well managed, there is no reason that a dwelling such as this should have any greater impact on neighbours if in residential use or as a visitor accommodation use.

As such, it is considered that with an appropriate condition requiring the implementation of a visitor management plan, the proposal will not unreasonably impact on the amenity, in particular in terms of privacy or noise, of adjoining properties. Refer to Attachment C for a draft visitor management plan.

In terms of the impact of this proposal on the character and residential functioning of the area, Council records indicate that, aside from for the building within the same strata at 1/816 Sandy Bay Road, there has been only one recent approval (4 Mitah Crescent) for visitor accommodation elsewhere in the immediate vicinity (approximately 200m in either direction) on both sides of Sandy Bay Road. At this rate, it is not considered that allowing this dwelling to be utilised for visitor

accommodation would compromise the primarily residential character or function of the area.

The proposal provides more car parking than the scheme requires for this use, and provides the same amount of car parking as required for a residential dwelling of this size. The proposal is not considered to unreasonably impact on the safety and efficiency of the local road network, and no rights of way will be impinged upon. In any case, car parking is a matter to be dealt with/provided for in the visitor management plan.

6.7.6 The proposal complies with the performance criterion.

6.8 Landslide Code - E3.6.2 P2

6.8.1 There is no acceptable solution for Visitor Accommodation, classified as a Vulnerable Use, upon land mapped as a landslide hazard area.

6.8.2 Part of the subject site is mapped for low landslide hazard.

6.8.3 There is no acceptable solution; therefore assessment against the performance criterion is relied on.

6.8.4 The performance criterion P2 at clause E3.6.2 provides as follows:

Vulnerable use must satisfy all of the following:

(a) No part of the vulnerable use is in a High Landslide Hazard Area;

(b) Landslide risk to occupants, staff, visitors and emergency personnel associated with the vulnerable use is either:

(i) acceptable risk; or

(ii) capable of feasible and effective treatment through hazard management measures, so as to be tolerable risk.

(c) Landslide risk to occupants, staff and visitors takes into consideration their specific circumstances including their ability to:

(i) protect themselves and defend property from landslide;

(ii) evacuate in an emergency;

(iii) understand and respond to instructions in the event of a landslide;

whilst minimising risk to emergency personnel.

6.8.5 The Council's Environmental Development Planner has assessed this aspect of the proposal, stating the following:

The Code applies because 'vulnerable use' is proposed within a Landslide Hazard Area ('Low Landslide Hazard Area'). A small sliver of land adjacent the southern boundary of the lot has been modelled as being susceptible to debris flow (runout area).



Image 1: Landslide Hazard Area overlay

No Code exemptions apply.

The relevant standards are under clause E3.6.2. The application complies with acceptable solution A1 as the vulnerable use is visitor accommodation.

There is no acceptable solution for A2. Performance criterion P2 states the following:

Vulnerable use must satisfy all of the following:

(a) No part of the vulnerable use is in a High Landslide Hazard Area;

(b) Landslide risk to occupants, staff, visitors and emergency personnel associated with the vulnerable use is either:

(i) acceptable risk; or

(ii) capable of feasible and effective treatment through hazard

management measures, so as to be tolerable risk.

(c) Landslide risk to occupants, staff and visitors takes into consideration their specific circumstances including their ability to:

- (i) protect themselves and defend property from landslide;
- (ii) evacuate in an emergency;
- (iii) understand and respond to instructions in the event of a landslide;

whilst minimising risk to emergency personnel.

No part of the land is within a High Landslide Hazard Area in conformity with P2(a).

With regard to P1(b) and (c), 'acceptable risk' is defined as 'a risk society is prepared to accept as it is. That is; without management or treatment.'

The vast majority of the lot is outside the LHA, including the accommodation building and outdoor living spaces. Examination of the contour data for the area suggests that any debris flow would travel slightly further south than suggested by the overlay (refer to Image 2 below).



Image 2: Contour data

Council's in-house debris flow modelling, which is considered to be more sophisticated than the debris flow modelling relied upon to create the overlay, does not identify a debris flow risk down this

gully.

The proposed visitor accommodation is currently a single home, so there are unlikely to be many people occupying the premises at one time, or any staff. There is nothing to suggest that guests would be any less able to defend themselves or evacuate in an emergency than permanent residents.

Based on the above considerations, in my opinion a reasonable person would accept the landslide risk without risk mitigation measures being employed.

The exercise of discretion is recommended with regard to E3.6.2 P2.

6.8.6 The proposal complies with the performance criterion.

6.9 Number of Car Parking Spaces - E6.6.1 P1

6.9.1 The acceptable solution A1 at clause E6.6.1 requires the number of on-site car parking spaces to be provided at a rate no less and no more than that specified for the use in Table E6.1 of the Parking and Access Code. For a single Visitor Accommodation unit, there is a requirement for one on-site car parking space.

6.9.2 The proposal includes the provision of two existing car parking spaces for the proposed visitor accommodation use.

6.9.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.9.4 The performance criterion P1 at clause E6.6.1 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.*

- 6.9.5 The proposal provides two car parking spaces, which is one more than required, and is discretionary on that basis. The surplus of car parking is considered to be appropriate given the scale of the visitor accommodation proposed. It is noted that two car parking spaces meets the planning scheme car parking requirement for a four bedroom dwelling.

The Council's Development Engineer has also commented that the provision of one additional on-site car parking space will likely provide an increased level of service with respect to the likely demands associated with the proposed use class.

- 6.9.6 The proposal complies with the performance criterion.

6.10 Layout of Parking Areas - E6.7.5 P1

- 6.10.1 The acceptable solution A1 at clause E6.7.5 requires the layout of car parking spaces, access aisles, circulation roadways and ramps to be designed and constructed to comply with section 2 "Design of Parking Modules, Circulation Roadways and Ramps" of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and must have sufficient headroom to comply with clause 5.3 "Headroom" of the same Standard,

to ensure that parking areas for cars (including assessable parking spaces), motorcycles and bicycles are located, designed and constructed to enable safe, easy and efficient use.

6.10.2 The proposal includes the use of two existing, albeit non-compliant parking spaces on the site. The non-compliance stems from the lack of vehicle barriers across the back of the parking spaces, beyond which there is a significant drop between the spaces and the existing dwelling.

6.10.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.10.4 The performance criterion P1 at clause E6.7.5 provides as follows:

The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.

6.10.5 The Council's Development Engineer has assessed this aspect of the proposal. Although no new works are proposed in the application, the safety risk associated with the lack of existing vehicle barriers, combined with the proposed use which would introduce users with less familiarity with site conditions, amount to the conclusion that the installation of such additional safety measures should be required by condition.

6.10.6 With the inclusion of a condition requiring vehicle safety barriers to be installed, the proposal can comply with the performance criterion.

7. Discussion

7.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 2/816 Sandy Bay Road and Common Land of Parent Title, Sandy Bay.

7.2 The application was advertised and received seven (7) representations. The representations raised concerns including that:

- Visitor accommodation use is not consistent with the character of the street or area.
- The scale of the use is geared towards larger groups with a greater likelihood of impact.
- The use, based on an alleged two-year history of occurring without approvals and with many associated problems, incidents and impacts, is incapable of being appropriately managed so as to not have an unreasonable impact upon surrounding residential amenity.
- The use is incapable of compliance with the standards of Planning Directive No. 6 and the Parking and Access Code of the Hobart Interim Planning Scheme 2015.
- A Visitor Accommodation Management Plan would not be an effective way to control the use of the site and Council would be unable to enforce this.
- The overall site, including 1/816 Sandy Bay Road, would become a larger commercial venture, conflicting with the residential nature of the area.
- Dwellings should not be converted to visitor accommodation, but should be used for long term residential use instead.

In response it is noted that:

- While sympathetic to the issue of housing availability and affordability, this is not a matter that is dealt with by the planning scheme, and the Council has no ability to refuse an application for visitor accommodation because on this basis.
- This proposal is for a single visitor accommodation use on Sandy Bay Road, where Council records indicate there are very few approvals for visitor accommodation in the immediate area. As such, it is not considered that this proposal will compromise the residential character of the immediate area. More broadly, the suggestion in one representation that the character of Sandy Bay as a residential suburb is already being undermined by the existing 129 visitor accommodation uses, is hard to support given there are in excess of 5000 dwellings in this suburb ([according to 2016 ABS data](#)). A use that occupies in the order of 3% of the available dwelling stock cannot be said to be undermining the residential character of the suburb. (It should be noted that this is a separate issue to housing availability, where the return of 129 dwellings to the rental market would clearly make a difference to the current vacancy rate, albeit that this is not an issue that is dealt with by the planning scheme.)
- Concerns regarding traffic, parking and amenity impacts, are considered to be adequately addressed by the imposition of a condition requiring a visitor accommodation management plan. A draft management plan is provided at Attachment C. This plan requires information to be set out providing:

- That a manager will be appointed, including detailing name and phone number, and that they are contactable 24hrs.
 - What the maximum number of guests to be on site at any one time.
 - What the maximum number of vehicles that can be accommodated on site at any one time, and that guests are requested to use on-site parking.
 - That the property is to be used in a way that is respectful of the surrounding long term residents. This includes keeping noise to a minimum and not having parties.
 - A waste management protocol.
 - That the management plan will be circulated to all neighbouring properties at a minimum.
- Council's Development Engineer has also reviewed the concerns raised in representations regarding the safety of the access and traffic impacts, particularly with regard to the Parking and Access Code, advising:

The parking and access concerns identified have been given due consideration, noting the development has been appropriately assessed with respect to the applicable codes and clauses of the *Hobart Interim Planning Scheme 2015*. The majority of the clauses under Code E5 & E6 have been deemed as not applicable due to 'existing' nature of the provisions and a 'change of use' application being far from a typical civil & structural development, hence narrowing Development Engineering's assessment scope considerably. Principally, a safe & efficient operation was considered thoroughly and has been conditioned for accordingly.

It is acknowledged that there appears to be a history of the site being used without a permit, and in a manner that has been alleged to have caused detriment to the amenity of surrounding residents, and that Council has commenced enforcement action against the property owner for operating without a permit. Primarily this appears to be a matter of poor or lack of management by the owner, notwithstanding the fact that they have been using the site for visitor accommodation without a permit.

It is a fair assumption to consider that if the site had not been subject to its recent history, this application would not have drawn anywhere near the level of interest as it has in the circumstances. The applicant has not helped themselves in anyway by operating in the alleged manner without a permit. The recent history of the site however cannot be used as grounds to determine an application and should not influence the final planning decision.

If properly managed, the site itself could easily integrate with the surrounding area, its character and uses, and used for visitor accommodation could quite easily generate similar levels of impact, including that of privacy and noise, as that of a dwelling occupied for residential occupation in a residential area. As visitor accommodation of the size proposed and in the waterside location of the subject site, there naturally may be the perception of there being more chance of visitors perhaps being less respectful of adjoining neighbours, however this is a typical observation for any location. Strict management guidelines that are enforceable are considered essential.

With a permit in place, conditions as discussed above could at least be enforceable by Council, and would to some extent provide structure around how the property should operate and be managed for visitor accommodation. If permit conditions were to be breached on any ongoing basis, additional avenues would be available to Council to take further action. Whilst representors claim that Council's regular means of management - a Visitor Accommodation Management Plan, would not be an effective method of control for the use of the site, the fact of the matter is that the owner has not been afforded the chance to operate legally, within the confines of a use permit with conditions.

- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is considered to be supportable.
- 7.4 The proposal has been assessed by other Council officers, including the Council's Development Engineer and Environmental Development Planner. The officers have raised no objection to the proposal, subject to conditions.
- 7.5 The proposal is recommended for approval.

8. Conclusion

- 8.1 The proposed Change of Use to Visitor Accommodation, at 2/816 Sandy Bay Road and Common Land of Parent Title, Sandy Bay 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 Visitor Accommodation, at 2/816 Sandy Bay Road and Common Land of Parent Title, Sandy Bay 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-21-569 - 2/816 SANDY BAY ROAD SANDY BAY TAS 7005 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

PLN 18

Prior to the commencement of the approved use, a management plan for the operation of the visitor accommodation must be submitted and approved as a Condition Endorsement, to the satisfaction of the Council's Director City Life. The management plan must include measures to limit, manage and mitigate unreasonable impacts upon the amenity of long term residents. These measures must include, but are not limited to, the following requirements:

- 1. To limit, manage, and mitigate noise generated as a result of the visitor accommodation.**
- 2. To limit, manage, and mitigate behaviour issues caused as a result of the visitor accommodation.**
- 3. To maintain the security of the building where the visitor accommodation would be located, including managing and/or limiting access to shared areas and facilities.**
- 4. To specify the maximum permitted occupancy of the visitor accommodation.**
- 5. To specify that guests must utilise the site for the parking of vehicles, that the maximum number of vehicles to be parked on the site (2), and detail where the parking spaces are located and how the spaces are to be accessed. Additionally, at the booking stage, guests should be discouraged from bringing more than 2 vehicles and the parking of any additional vehicles in nearby streets should also be discouraged.**

6. **To provide a name and contact phone number of a person who will respond to any complaints regarding behaviour of guests. If the property is sold the Visitor Accommodation Management Plan (VAMP) must be updated with new contact details.**

Once approved, the management plan must be implemented prior to the commencement of the approved use and must be maintained for as long as the visitor accommodation is in operation. The VAMP must be provided to adjacent property owners and occupiers within 14 days of being approved. If the property is sold, the updated VAMP (in accordance with 6. above) must be provided to adjacent property owners and occupiers within 10 business days of settlement.

Advice:

This condition requires further information to be submitted as a Condition Endorsement. Refer to the Condition Endorsement advice at the end of this permit.

Reason for condition

To ensure that visitor accommodation does not cause an unreasonable loss of residential amenity.

ENG sw1

Prior to first occupation or commencement of use (whichever occurs first), all stormwater from the proposed development (including but not limited to, roofed areas, ag drains, retaining wall ag drains, and impervious surfaces such as driveways and paved areas) must be drained to the Council's stormwater infrastructure.

Advice:

Under section 23 of the Urban Drainage Act 2013 it is an offence for a property owner to direct stormwater onto a neighbouring property.

Reason for condition

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

ENG 2b

Detailed designs for physical controls required must be submitted and approved via a Condition Endorsement, prior to the issue of any approval under the *Building Act 2016* or commencement of work (whichever occurs first).

The detailed designs submitted must;

1. be prepared and certified by a suitably qualified engineer,
2. be in general accordance with the Australian Standard AS/NZS 1170.1:2002, and AS/NZS 2890.1:2004, and
3. show typical structural details & dimensions, and any other details as Council deem necessary to satisfy the above requirement.

Prior to first occupation or commencement of use (whichever occurs first), vehicular barriers (compliant with the Australian Standard AS/NZS 1170.1:2002) must be installed to prevent vehicles running off the edge of the parking area where the drop from the edge of the trafficable area to a lower level is 600mm or greater, wheel stops must be installed for drops between 150mm and 600mm, and kerbs for drops less than 150mm. Physical controls installed must be in accordance with the approved detailed designs.

Advice:

Designers are advised to consult the [National Construction Code 2016](#) to determine if pedestrian handrails or safety barriers compliant with the Code are also required in the parking area, as it may be considered a path of access to a building.

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2c

Prior to first occupation or commencement of use (whichever occurs first), a suitably qualified engineer must certify that physical controls (including vehicle barriers) have been installed in accordance with the detailed designs approved by Condition ENG 2b.

Advice:

An example certificate is available on our [website](#).

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the relevant standards.

ENG 5

Prior to first occupation or commencement of use (whichever occurs first), the Two (2) car parking spaces approved by this permit, must be delineated by means of white or yellow pavement markers in accordance with the Australian Standard AS/NZS 2890.1:2004.

Reason for condition

To ensure the provision of parking for the use is safe and efficient.

ENG 1

Any damage to council infrastructure resulting from the implementation of this permit, must, at the discretion of the Council:

- 1. Be met by the owner by way of reimbursement (cost of repair and reinstatement to be paid by the owner to the Council); or**
- 2. Be repaired and reinstated by the owner to the satisfaction of the Council.**

A photographic record of the Council's 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's 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's infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENV 1

Sediment and erosion control measures sufficient to prevent sediment from leaving the site must be installed prior to any disturbance of the site, and maintained until all areas of disturbance have been stabilized or re-vegetated.

Advice:

For further guidance in preparing a Soil and Water Management Plan – in accordance with Fact sheet 3 Derwent Estuary Program click [here](#).

Reason for condition

To avoid the sedimentation of roads, drains, natural watercourses, Council land that could be caused by erosion and runoff from the development, and to comply with relevant State legislation.

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.

CONDITION ENDORSEMENT

If any condition requires that further documents are submitted and approved, you will need to submit the relevant documentation to satisfy the condition via the Condition Endorsement Submission on Council's [online services e-planning portal](#). Detailed instructions can be found [here](#).

A fee of 2% of the value of the works for new public assets (stormwater infrastructure, roads and related assets) will apply for the condition endorsement application.

Once approved, the Council will respond to you via email that the condition has been endorsed (satisfied).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building

approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

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.

STORMWATER

Please note that in addition to a building and/or plumbing permit, development must be in accordance with the Hobart City Council's Infrastructure By law. Click [here](#) for more information.

RIGHT OF WAY

The private right of way must not be reduced, restricted or impeded in any way, and all beneficiaries must have complete and unrestricted access at all times.

You should inform yourself as to your rights and responsibilities in respect to the private right of way particularly reducing, restricting or impeding the right during and after construction.

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.

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.

If you have a spa or a pool at your property then you are required to test for microbiological quality and chemical parameters on a monthly basis, under the *Public Health Act 1997*. If you have any questions about this then please call our Environmental Health team on 6238 2711.

If you are providing food for consumption on the property, you may require a food business registration in accordance with the *Food Act 2003*. Click [here](#) for more information, or call our Environmental Health team on 6238 2711.

Visitor accommodation is also considered to be a commercial use and also not eligible to residential parking permits. Under the current policy for the issuing of residential parking permits, the proposed change of use to visitor accommodation would not entitle the property to a residential parking permit, or a transferable "bed and breakfast" parking permit.



(Cameron Sherriff)

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.



(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: 22 June 2022

Attachment(s):

Attachment B - CPC Agenda Documents

Attachment C - Draft Visitor Accommodation Management Plan