



CITY OF HOBART

AGENDA

Special City Planning Committee Meeting

Open Portion

Monday, 6 February 2017

at 4.20 pm

Lady Osborne Room, Town Hall

THE MISSION

Our mission is to ensure good governance of our capital City.

THE VALUES

The Council is:

| | |
|----------------------------|--|
| about people | We value people – our community, our customers and colleagues. |
| professional | We take pride in our work. |
| enterprising | We look for ways to create value. |
| responsive | We're accessible and focused on service. |
| inclusive | We respect diversity in people and ideas. |
| making a difference | We recognise that everything we do shapes Hobart's future. |

ORDER OF BUSINESS

Business listed on the agenda is to be conducted in the order in which it is set out, unless the committee by simple majority determines otherwise.

APOLOGIES AND LEAVE OF ABSENCE

- 1. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST 4**
- 2. COMMITTEE ACTING AS PLANNING AUTHORITY 5**
 - 2.1 APPLICATIONS UNDER THE HOBART INTERIM PLANNING SCHEME 20156**
 - 2.1.1 Hobart Interim Planning Scheme 2015 - Planning Scheme Amendment 6/2016 and S43A permit application - 191 & 199 New Town Road, New Town - Consideration of Representations6
- 3. CLOSED PORTION OF THE MEETING 49**

Special City Planning Committee Meeting (Open Portion) held Monday, 6 February 2017 at 4.20 pm in the Lady Osborne Room, Town Hall.

COMMITTEE MEMBERS

Briscoe (Chairman)
Ruzicka
Burnet
Denison

ALDERMEN

Lord Mayor Hickey
Deputy Lord Mayor Christie
Zucco
Sexton
Cocker
Thomas
Reynolds
Harvey

APOLOGIES:

LEAVE OF ABSENCE:

1. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

Ref: Part 2, Regulation 8(7) of the *Local Government (Meeting Procedures) Regulations 2015*.

Aldermen are requested to indicate where they may have any pecuniary or conflict of interest in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the committee has resolved to deal with.

2. COMMITTEE ACTING AS PLANNING AUTHORITY

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Committee to act as a planning authority pursuant to the Land Use Planning and Approvals Act 1993 is to be noted.

In accordance with Regulation 25, the Committee will act as a planning authority in respect to those matters appearing under this heading on the agenda, inclusive of any supplementary items.

The Committee is reminded that in order to comply with Regulation 25(2), the General Manager is to ensure that the reasons for a decision by a Council or Council Committee acting as a planning authority are recorded in the minutes.

2.1 APPLICATIONS UNDER THE HOBART INTERIM PLANNING SCHEME 2015

2.1.1 Hobart Interim Planning Scheme 2015 - Planning Scheme Amendment 6/2016 and S43A permit application - 191 & 199 New Town Road, New Town - Consideration of Representations File Ref: F16/140711

Report of the Manager Planning Policy and Heritage of 2 February 2017
and attachments.

Delegation: Council

**REPORT TITLE: HOBART INTERIM PLANNING SCHEME 2015 -
PLANNING SCHEME AMENDMENT 6/2016 AND S43A
PERMIT APPLICATION - 191 & 199 NEW TOWN
ROAD, NEW TOWN - CONSIDERATION OF
REPRESENTATIONS**

REPORT PROVIDED BY: Manager Planning Policy and Heritage
Director City Planning

1. Report Purpose and Community Benefit

- 1.1. The purpose of this report is to discuss the merits of two representations received during the public exhibition of Hobart Interim Planning Scheme 2015 amendment 6/2016 and associated S43A permit at 191 & 199 New Town Road, New Town (**Attachment C**).
- 1.2. The proposed amendment is to rezone the title at 199 New Town Road from Inner Residential to Urban Mixed Use (**Attachment A**), and the permit is for 'partial demolition, new building for hotel industry (bottle shop), signage, alterations and extensions to carparking and access and consolidation of titles' (**Attachment B**).
- 1.3. Recommendations to the Tasmanian Planning Commission (TPC) regarding the need for any modifications to the amendment or S43A permit as a result of the representations are considered.
- 1.4. The proposal benefits the community by ensuring that land is appropriately zoned, that development is undertaken in a fair and orderly manner, and that public consultation has been considered.

2. Report Summary

- 2.1. The purpose of the report is to consider two representations received in relation to the exhibition of a planning scheme amendment and concurrent S43A permit for rezoning and a bottle shop development.
- 2.2. The representations raised concerns relating to the rezoning itself, the physical development associated with the bottle shop, noise and hours of operation issues and traffic and access issues.
- 2.3. Each concern is responded to in detail, and it is concluded that while no changes to the rezoning are considered justified, amendments to the S43A permit to address some of the concerns of representors would result in an improved outcome.
- 2.4. It is proposed that Council recommend to the TPC that the planning scheme amendment is approved as certified, and that the S43A permit be amended to include one additional condition and two additional advice clauses.

3. Recommendation

That:

- 1. Pursuant to Section 39(2) of the former provisions of the Land Use Planning and Approvals Act 1993, the Council endorse this report as the formal statement of its opinion as to the merit of the representations received during the exhibition of the draft 6/2016 amendment and S43A permit.***
- 2. Pursuant to Section 39(2) of the Land Use Planning and Approvals Act 1993, the Council recommend to the Tasmanian Planning Commission that the 6/2016 Amendment to the Hobart Interim Planning Scheme 2015 be approved as certified.***
- 3. Pursuant to Section 39(2) of the Land Use Planning and Approvals Act 1993, the Council recommend to the Tasmanian Planning Commission that the S43A permit (PLN-16-00655-01) be amended by including the following condition and advice:***

Condition

PLNs1

Noise generated by the operation of the bottle shop, use of the delivery bay and lockable trolley cages must not cause environmental harm when measured at the north-eastern boundary of the site.

Measures to reduce the potential for noise emanating from the delivery bay and trolley cage area at the north-eastern corner of the site towards adjacent properties to the north/north-east must be incorporated into the overall development. Such measures may incorporate acoustic screens or similar to achieve a reduced noise impact, particularly for deliveries occurring during the evening or early morning.

Design drawings and/or details of the chosen method of reducing noise impact, supported by evidence from a suitably qualified person, must be submitted and approved prior to the issue of building consent for the development, with all works required to be implemented prior to the first use of the new development.

All work required by this condition must be undertaken in accordance with the approved drawings.

Advice: Once the drawing has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure noise emissions do not cause environmental harm and do not have an unreasonable impact on residential amenity.

Advice***AMENITY IMPACT***

Noise, dust, odour or other pollutants emitted from any activities associated with the development must not unreasonably cause any disturbance, annoyance or nuisance to owners/occupiers in the vicinity and shall comply with the Environmental Management and Pollution Control Act 1994 and subsequent regulations.

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. If the proposed development requires alteration in order to meet this requirement, any such change should be discussed and if necessary approved by Council prior to the submission of any plans for building consent.

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.

4. Background

- 4.1. At its meeting of 7 November 2016, Council considered an application under the *Land Use Planning and Approvals Act 1993* (LUPAA), from Pitt & Sherry on behalf of Findella Pty Ltd/Mantzis Holdings Pty Ltd, to amend the *Hobart Interim Planning Scheme 2015* (HIPS 2015) by rezoning the property at 199 New Town Road from Inner Residential to Urban Mixed Use.
- 4.2. Pursuant to S43A of the *former provisions* of LUPAA, the planning scheme amendment application was combined with a planning permit application for 'partial demolition, new building for hotel industry (bottle shop), signage, alterations and extensions to carparking and access and consolidation of titles' (PLN-16-00655).
- 4.3. The planning permit was granted and the amendment certified, and both were placed on public exhibition on 17 November 2016 until 15 December 2016.
- 4.4. The exhibition process resulted in two representations being received within the statutory period. Copies of the representations are provided in **Attachment C**.

5. Proposal and Implementation

- 5.1. The proposal is to consider two statutory representations made in relation to planning scheme amendment 6/2016 and S43A permit PLN-16-00655).
- 5.2. The concerns raised in the representations can be summarised into four categories as follows:

Rezoning

- 5.2.1. The rezoning of 191 and 199 New Town Road expands the commercial footprint of the area by approximately 28%;
- 5.2.2. The expansion of the commercial element is contrary to the Inner Residential Zone Purpose Statements;
- 5.2.3. The rezoning of 199 New Town Road to Urban Mixed Use would adversely affect the amenity of the area;
- 5.2.4. The rezoning provides additional uses, less restrictive use standards for commercial uses and reduced consideration of residential scale and amenity through the development standards;
- 5.2.5. The purposes of the existing Inner Residential Zone are largely related to encouraging residential use and restricting commercial uses whereas the proposed zone, while providing for a mixture of uses, is focussed on commercial development;

- 5.2.6. The Inner Residential Zone only provides for commercial uses where they do not displace residential uses, whereas the Urban Mixed Use Zone provides permitted status for uses such as 'Business and professional services' and 'Food services' and discretionary status to a wide range of other non-residential uses;
- 5.2.7. While the proposed rezoning does not introduce a new zone into the area it will increase the number of residential properties that share a boundary with the commercial site;
- 5.2.8. Given all three titles are in common ownership, the increase in area of the Urban Mixed Use Zone provides for a scale of development which would not have been possible without the additional land being rezoned;
- 5.2.9. Although the current proposal for the rezoned area of land (199 New Town Road) is only for car parking, signage and landscaping, there is no limitation proposed in the amendment which prevents alternate proposals once the land is rezoned;
- 5.2.10. The scale of the site and the rezoned area encourages a scale of development which is contrary to the zone statements in the UMUZ to *'encourage the retention of existing residential uses and the greater use of underutilised sites as well as the reuse and adaptation of existing buildings for uses with a scale appropriate to the site and area'*.

Bottle shop development

- 5.2.11. The development of a large bottle shop building and associated facilities near a boundary will affect the amenity of both the residential and professional aspects of neighbouring properties;
- 5.2.12. The development does not demonstrate integration or harmony with surrounding buildings;
- 5.2.13. The substantial development on the boundary does not adequately demonstrate integration with neighbouring residential uses in accordance with the purpose of the zone to *'provide for integration of residential, retail, community services and commercial activities in urban locations'*;
- 5.2.14. The proposed development substantially expands the intensification of the 'Hotel Industry' to a proportion that is not consistent with the zone or with the surrounding areas;
- 5.2.15. The claim that the building is more than 10m from a residential zone is untrue, and therefore the development does not meet the acceptable solution for building height within 10m of a residential zone, and also does not meet the performance criteria requiring development to be compatible with the height

of existing buildings and reduce visual impact when viewed from adjoining lots;

- 5.2.16. The adjoining residential dwelling at 8/12 Risdon Road is located within the Urban Mixed Use Zone, however a significant part of the property is within the Inner Residential zone and therefore the property is still considered to be a residential property in a residential zone;

The large wall proposed very close to the shared boundary with this dwelling is of substantial height given its minimal setback in close proximity to an existing dwelling. The area of the dwelling most affected is a habitable living room with 3 highlight windows providing afternoon sunlight and mountain views across the development site;

- 5.2.17. The token narrow strip of lawn dividing the development from the closest boundary will be an area that will be difficult to maintain. If unable to be maintained, this would impact on neighbouring residential amenity;
- 5.2.18. Should the 'bizarrely out-of-proportion development' be allowed to proceed, the warehouse/bottle shop and associated facilities should be located as far from the boundaries of adjacent properties as possible to demonstrate natural justice towards ratepayers who have for many years 'striven to enhance the residential amenity, rather than to destroy it';
- 5.2.19. There has been no consideration of the impact on adjacent properties and Council should reject the proposal.

Noise and hours of operation

- 5.2.20. The loading bay and lockable trolley cage are in close proximity to the neighbouring dwelling where noise and other impacts have the potential to substantially impact on amenity;
- 5.2.21. While the proposed development claims it meets the noise emissions acceptable solution as the operation is not noisy and delivery trucks will operate within the permitted standard, there was not a noise report which details potential noise from the site;
- 5.2.22. Given commercial vehicles can start from 7am and the hours of operation hours until 10pm will presumably include use of the trolley cage, it appears unlikely the noise provision will be met, particularly outside daytime hours where the potential impact on residential amenity is greater;
- 5.2.23. The layout of the development, particularly the location of the potentially impacting elements, have not adequately considered or addressed the noise standard.

Traffic and access

- 5.2.24. 19m semi-trailer trucks operating outside of normal operating hours, including performing reversing manoeuvres across all lanes of Risdon Road, will impact on residential amenity;
 - 5.2.25. It appears the application includes car parking and retaining wall structures that encroach on a right-of-way benefiting 8/12 Risdon Road.
- 5.3. Detailed responses to the concerns raised are as follows:

Rezoning

- 5.3.1. The rezoning does extend the area of land within the Urban Mixed Use Zone (UMUZ), which allows for a greater range of uses than the Inner Residential Zone (IRZ).
- 5.3.2. However, given the site constraints of the parcel to be rezoned (the high voltage transition tower and wayleave easement over the majority of the site), the actual development potential of this area is very limited, even under the UMUZ.
- 5.3.3. Very little built development could occur on the rezoned area of land. The rezoning essentially accommodates only car parking and access related to the development of the adjacent land in common ownership, which is already in the UMUZ. Without the rezoning, carparking and access for a commercial use would be prohibited on 199 New Town Road and would have to be contained within 191 New Town Road.
- 5.3.4. It is considered that allowing for the consolidation of access and parking over the rezoned area allows for improved access outcomes for an existing commercial site, which is a reasonable outcome. This is particularly the case given the current Inner Residential zoning of 199 New Town Road effectively sterilises the site of development potential.
- 5.3.5. It is accepted that the rezoning does increase the ability for the site to be utilised, and this has more potential to affect amenity compared to a vacant site. It is reasonable, however, to allow for a well-located parcel of land that is currently unusable to be utilised in some form.
- 5.3.6. One representation raises concerns that the expansion of the 'commercial footprint' of the area 'runs contra to the existing uses' as outlined by the IRZ purpose statement 11.1.1.6, which limits displacement of existing residential uses and considers amenity.

Given the proposal is to rezone the site to the UMUZ, however, the IRZ purpose statements are not a relevant consideration.

- 5.3.7. Concerns are also raised that the IRZ largely relates to encouraging residential use and restricting commercial uses, whereas the Urban Mixed Use Zone focuses on commercial development.

This is not considered to be the case, as the Zone Purpose Statements of the UMUZ include encouraging the retention of existing residential uses and maintaining an appropriate level of residential amenity (without unreasonable restriction or restraint to commercial activities). The zone is considered to have a true 'mixed use' focus, although this does mean it is less residentially focussed than the IRZ.

- 5.3.8. It is accepted that the UMUZ provides for additional uses and more relaxed use and development standards compared to the IRZ. However, given the proximity of the rezoned site to existing Urban Mixed Use land and the significant restrictions on the site for any built development, this is not seen to be an unreasonable outcome for neighbouring properties.

- 5.3.9. Concerns are raised that while the rezoning does not introduce a new zone to the area, it will increase the number of residential properties that share a boundary with the zone, and that given all three titles are in common ownership the increase in the UMUZ area provides for a scale of development that would otherwise not be possible without the rezoning.

The rezoning does increase the number of residential titles that share a boundary with the UMUZ. However, the UMUZ contains provisions specifically relating to building height, setbacks and landscaping in close proximity to residential zones. In addition, the wayleave easement will continue to preclude built development on 199 New Town Road in any instance, which will provide an open space 'buffer' between residential properties to the north-west and new buildings within the UMUZ.

- 5.3.10. The presence of the easement also disputes the claim by one representor that although the current proposal for the rezoned area is for car parking, signage and landscaping, there is 'no limitation proposed in the amendment which prevents alternate proposals once the land is rezoned', and that the scale of the site encourages a scale of development inappropriate to the site and area.

In practical terms, due to the existing site constraints of 199 New Town Road, there are very few alternative uses for the site

other than what is proposed in the S43A development application.

- 5.3.11. Without the rezoning component, the development could still have been submitted in a very similar form, but with reduced car parking and less efficient access, which could in fact have resulted in greater amenity impacts to neighbouring properties.
- 5.3.12. Overall, it is not considered that the rezoning of 199 New Town Road itself introduces the opportunity for an unreasonable increase in amenity impacts on neighbouring properties.

Bottle shop development

- 5.3.13. The current proposal has been assessed as acceptable in terms of setbacks from adjoining properties and in terms of impact upon residential amenity, the protection of which is limited given applicable development standards and the immediately adjacent zones and uses. The proposal is consistent with the purpose of the Urban Mixed Use Zone given the existing character and mix of uses in the surrounding area.
- 5.3.14. As proposed, the development demonstrates compliance with Zone standards for setbacks and height where abutting adjoining properties, some of which are within residential zones. A setback discretion occurs in terms of the development's distance from front boundaries on New Town and Risdon Roads. As the site of the proposed building exhibits some cross-slope and is lower than the surrounding street levels and in parts lower than adjacent properties, the overall scale of the proposed building in terms of height would be reduced relative to existing buildings on adjacent properties.
- 5.3.15. Whilst there is no doubt that the proposed building is located within 10m of a residential zone, the scheme simply limits the height of buildings within 10m of a residential zone. The proposed building demonstrates compliance with the acceptable height limit of 8.5m where within 10m of a residential zone, and as such is not subject to assessment against the corresponding performance criteria.
- 5.3.16. The adjacent dwelling on the 8/12 Risdon Road strata lot is a residential use within the Urban Mixed Use Zoned portion of 12 Risdon Road. The remainder of 12 Risdon Road is zoned Inner Residential, however no part 12 Risdon Road within the Inner Residential Zone abuts the subject site. As such development standards applicable to adjacent residential zones do not apply to 8/12 Risdon Road. There are no relevant standards controlling setbacks to another property within the same zone.

- 5.3.17. The maintenance of any landscaping around the site as well as the associated car park would be the responsibility of the landowner.
- 5.3.18. Any relocation of the proposed building on the site would warrant a new planning application.

Noise and hours of operation

- 5.3.19. The proposal incorporates a new Hotel Industry use upon a site with a long history of commercial use within a defined commercial hub. There are minimal adjacent residential properties and in an overall sense, residential amenity in the area would to some extent be already secondary to the operation of existing commercial uses. As an example, the existing Kmart opposite on Risdon Road has a 24 hour operation. The Maypole hotel on the same site would reasonably operate to at least the hours proposed for the operation of the bottle shop.
- 5.3.20. The proposed development essentially backs onto adjoining properties given the corner nature of the subject site and the positioning of the existing Maypole Hotel and carpark. Although introducing what is likely to become a busier operation to the site, the positioning of the new building would act to provide a shield to the closest residential properties. The proposed use is not considered a particularly noisy one. In this case the main noise of the operation of the site would be focused towards the middle of the subject site and would mostly be linked to vehicle movements, which outside of normal business hours would likely be reduced.
- 5.3.21. Opening until 10pm seven days per week is not atypical of other bottle shops throughout the state.
- 5.3.22. The proposal originally stated that the acceptable noise limit standards for non-residential use in the Urban Mixed Use Zone would be met by the development, particularly with regard to commercial vehicle movements which would be limited to the specified acceptable times.

Nevertheless as a result of the assessment of traffic movements through the site by large delivery vehicles by the Council's Manager Traffic Engineering, a condition was included that requires delivery vehicles greater than 12.5m in length to make deliveries outside of operating hours between closing time each day and 7.30am the following morning. This requirement was included to address conflicts between large trucks passing through the site impacting on potentially occupied parking spaces during operating hours, and to ensure that impacts on traffic flows on Risdon Road were limited to less

busy periods. Larger vehicles were shown in vehicle movement information to need to encroach out onto the roadway whilst manoeuvring into the loading bay of the proposed building.

Complying with this condition means that the development could not fully meet the relevant acceptable solutions as originally claimed.

- 5.3.23. It should be noted however that the submitted Traffic Impact Assessment states that during normal trading periods 12.5m fixed axle trucks will be used for all deliveries, so the abovementioned condition does not restrict their use during normal trading hours.

Given deliveries by such vehicles will be the most regularly occurring, it is expected the majority of deliveries to the site will occur during or either side of normal operating hours, and the application's statement that the proposal will comply with the scheme requirements for noise and commercial vehicle movements is therefore for the most part likely to be accurate. The submitted TIA also states that 19m semi-trailers would only be used during peak periods only (i.e Christmas, sporting finals etc.) and would not be at the site on normal day to day operations. As such, potential amenity and traffic impacts caused by larger delivery vehicles would be minimised.

- 5.3.24. The delivery bay, and also the trolley cage for the proposed development are located clear of any adjacent residential use, closer to Risdon Road along the north-eastern side boundary of the site, where there is also a landscaped grass area atop a retaining wall.
- 5.3.25. The ground level inside the development site, particularly where closest to the delivery bay door would be lower than the properties immediately adjacent to the north-east. Given the confined area proposed for deliveries in one corner of the site close to Risdon Road, and not immediately adjacent to any residential dwelling, it is not expected that noise produced by out of hours deliveries would unreasonably impact any existing residential amenity in the area.

Nevertheless, given the proposal to include retained grassed areas between the delivery area and the north-eastern property boundary, there is additional scope to include noise reducing structures or even screen planting if deemed necessary and effective.

Taking all of the above into account, and in order to reduce the potential for noise impacts towards adjacent properties and assist in reducing the concerns of representors, it is recommended that a condition be placed on the permit to

require an acoustic screen or similar to be installed between the loading bay of the proposed building and the adjacent lockable trolley cage and the north-eastern side boundary of the subject site, in the area detailed for landscaping with low maintenance grass.

The screen would need to be demonstrated to assist in reducing the extent of noise emanating from the loading bay and trolley cage area, with final details to be submitted to the Council's satisfaction prior to the issue of building consent for the development. The screens would need to be installed prior to the first use of the building.

The following condition is considered appropriate:

Noise generated by the operation of the bottle shop, use of the delivery bay and lockable trolley cages must not cause environmental harm when measured at the north-eastern boundary of the site.

Measures to reduce the potential for noise emanating from the delivery bay and trolley cage area at the north-eastern corner of the site towards adjacent properties to the north/north-east must be incorporated into the overall development. Such measures may incorporate acoustic screens or similar to achieve a reduced noise impact, particularly for deliveries occurring during the evening or early morning.

Design drawings and/or details of the chosen method of reducing noise impact, supported by evidence from a suitably qualified person, must be submitted and approved prior to the issue of building consent for the development, with all works required to be implemented prior to the first use of the new development.

All work required by this condition must be undertaken in accordance with the approved drawings.

Advice: Once the drawing has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure noise emissions do not cause environmental harm and do not have an unreasonable impact on residential amenity.

- 5.3.26. Additional general advice should also be added on the permit regarding noise impact:

Noise, dust, odour or other pollutants emitted from any activities associated with the development must not unreasonably cause any disturbance, annoyance or nuisance to owners/occupiers in the vicinity and shall comply with the Environmental Management and Pollution Control Act 1994 and subsequent regulations.

Traffic and access

- 5.3.27. As mentioned previously, the use of 19m semi-trailer trucks for deliveries to the site would not be a regular occurrence. The impact of the use of such delivery vehicles upon the surrounding road network and traffic flows has been considered in detail by the Council's Manager Traffic Engineering. A condition has previously been included which limits the time of day such delivery vehicles can visit the site in order to reduce the potential for disruption of traffic flows and the operation of the site. With this condition, and others suggested above to manage noise impacts, overall amenity impacts should not be unreasonable.

- 5.3.28. The proposed carparking under the wayleave easement across 199 New Town Road does appear to encroach part-way into an existing 3.0m wide private right-of-way from New Town Road benefitting the adjacent property at 8/12 Risdon Road. This was not previously identified in the assessment of the proposal.

Ideally a matter such as this could have been addressed prior to the advertising and determining of an application, however the standard approach is to apply advice to any permit granted to highlight the responsibilities of landowners with regard to right-of-ways. Access over such a right-of-way cannot legally be prevented by the owner of the land. Ultimately it is a matter for the landowner to address.

It may be that adjustments to the parking arrangement will need to be made in order to preserve this right-of-way. Given the proposal is well in excess of required parking numbers some loss of parking through parking layout adjustment could be absorbed into any approval granted for the development. The acceptability of any such change will be at the discretion of Council.

- 5.3.29. The following advice should be added to the previously compiled and endorsed permit:

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. If the proposed development requires alteration in order to meet this requirement, any such change should be discussed and if

necessary approved by Council prior to the submission of any plans for building consent.

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.

- 5.4. Given the reasons stated above, it is not considered that the concerns raised in the two representations received are sufficient to warrant changes to the amendment component of the proposal. In terms of the S43A permit component, it is recommended that one additional condition be added to the permit relating to acoustic screening on the north-eastern boundary, and two advice clauses be added relating to environmental nuisance and not impeding the right of way over 199 New Town Road.

6. Strategic Planning and Policy Considerations

- 6.1. The proposal is consistent with the objectives of the Capital City Strategic Plan 2015-2025 in regard to Strategic Objective 2.3 – ‘City and regional planning ensures quality design, meets community needs and maintains residential amenity’.

7. Financial Implications

- 7.1. The proposal should not result in any additional significant Council expenditure.

8. Legal, Risk and Legislative Considerations

- 8.1. The proposed planning scheme amendment, including the reporting process on representations which is the subject of this report, will be subject to the usual amendment process under LUPAA.

9. Environmental Considerations

- 9.1. There are no additional environmental considerations relating to this report.

10. Social and Customer Considerations

- 10.1. The proposal is not considered to have any negative impact on social inclusion.

11. Marketing and Media

- 11.1. There are no marketing or branding implications of this proposal.

12. Community and Stakeholder Engagement

- 12.1. This report considers the results of a 28 day public consultation process. The two representations would indicate a reasonably low level

of community concern about the proposed amendment and permit. This report gives Council the opportunity to recommend to the TPC modifications or refusal of the permit or amendment in response to community feedback.

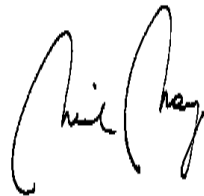
13. Delegation

13.1. Delegation rests with the Council.

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.



James McIlhenny
**MANAGER PLANNING POLICY AND
HERITAGE**



Neil Noye
DIRECTOR CITY PLANNING

Date: 2 February 2017
File Reference: F16/140711

Attachment A: Attachment A - Amendment Document ↓
Attachment B: Attachment B - S43A Permit ↓
Attachment C: Attachment C - Representations ↓



HOBART INTERIM PLANNING SCHEME 2015

6/2016 AMENDMENT

The Common Seal of the City of Hobart
is fixed hereon, pursuant to
Council's resolution of 7 November 2016,
in the presence of:


.....General Manager


.....Deputy General Manager



6/2016 Amendment

AMENDMENT TO THE PLANNING SCHEME ZONING MAP

Amend the zoning map by rezoning the land indicated at 199 New Town Road, New Town from the Inner Residential Zone to the Urban Mixed Use Zone.



DES-F-0102-67
21/06/2011**Hobart Interim Planning Scheme 2015**
Land Use Planning and Approvals Act 1993

Planning Permit - Section 43A

| | |
|-----------------------|--|
| APPLICATION NO | PLN-16-00655-01 |
| ADDRESS | 191 & 199 New Town Road New Town |
| PROPOSAL | Partial Demolition, New Building for Hotel Industry (Bottleshop), Signage, Alterations and Extensions to Carparking and Access and Consolidation of Titles |
| PERMIT DATE | |

The following conditions and restrictions apply to this permit:

The use/development of the land for the purpose of Partial Demolition, New Building for Hotel Industry (Bottleshop), Signage, Alterations and Extensions to Carparking and Access and Consolidation of Titles subject to the following conditions and restrictions.

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-16-00655-01 - 191 & 199 New Town Road - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

TW

The use and/or development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2016/01018-HCC dated 23/08/2016 as attached to the permit.

Reason for condition

To clarify the scope of the permit.

ENG 12

Construction of the works must not adversely impact the Maypole Rivulet.

A Construction Management Infrastructure Protection Report must be submitted and approved prior to commencement of works. The report must:

- a. be prepared by a suitably qualified and experienced engineer
- b. detail the proposed construction methodology and identify all potential risks to the Rivulet (including the adjacent freestone arch section) during construction including but not limited to construction loading, traffic loading, excavation works, footing construction, vibrations, undermining, flood, and environmental harm
- c. incorporate all findings from the pre-works inspections (eg CCTV and deflection measurements)
- d. clearly state all assumptions
- e. provide treatment measures to eliminate or otherwise mitigate to as low as reasonably practicable all identified risks
- f. include a monitoring regime

All work required by this condition must be undertaken in accordance with the approved report.

Reason for condition

To ensure the protection of the Council's hydraulic infrastructure.

ENG sw2

The Council's stormwater infrastructure adjacent to and within the subject site must be protected from damage during the construction of the development.

Digital copies of a pre and post construction work inspection video and associated report(s), of all Council stormwater infrastructure within the site or within five metres of the works must be submitted to Council as well as deflection measurements of the freestone arch and DN1950 RCP conveying Maypole Rivulet:

- a. prior to issue of any consent under the Building Act 2000 or the commencement of work (whichever occurs first), and
- b. after completion of all work but prior to the issue of any Certificate of Completion.

The post construction work inspection and deflection measurements will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction.

If any pipes are found to be in poor condition (i.e would need to be replaced within the expected lifespan of the works), and Council deems it necessary), then the pipe must be replaced after the demolition of existing structures and before the construction of the new buildings. The developer must pay a proportion of the cost of the pipe replacement, with the Council paying the rest.

The size of the developer's contribution will be based on the age, condition and life expectancy of the pipe. If a pipe replacement is deemed necessary, then the actual apportionment of these costs must be agreed upon by both the Council and the developer prior to the issuing of consent under the Building Act and the start of works onsite (whichever occurs first).

Advice: Due to the diameter of the Rivulet, a tractor camera may not be adequate to obtain adequately clear footage and details of all defects. A tractor camera will be required for the DN450 main through the site.

Deflection measurements are required due to the proposed depth of fill over Council's DN1950 – if the final design has significantly reduced loading, these may not be required.

Reason for condition

To ensure that any of the Council infrastructure affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG sw3

The proposed works, including cut, fill, driveway, and retaining walls and their foundations, must be designed to ensure the long term protection of and access to the Council's stormwater infrastructure.

A detailed design certified by a suitably qualified engineer must be submitted and approved prior to issue of any consent under the Building Act 2000 or commencement of works (whichever occurs first). The detailed design must:

- a. Demonstrate how the design will maintain the overland flow path, provide adequate access to the mains, impose no unreasonable loads onto the mains from the fill, and that all structures will be fully independent of the mains and their trenching with no loading on the mains.
- b. Include sufficient site-specific cross-sections to clearly demonstrate the relationship both vertically and horizontally between Council's stormwater infrastructure and the proposed works (including footings), and stating the minimum setbacks from the works to the nearest external surface of the main. These are required for all works within 5m of the stormwater infrastructure, including retaining wall returns.
- c. Include long-sections of Council's stormwater infrastructure, clearly showing proposed cover. Full calculations to relevant Australian standards (including construction traffic loading) must be submitted to demonstrate the mains can withstand the likely forces and will be adequately protected. All assumptions must be stated.
- d. Be certified by a suitably qualified, experienced and insured structural engineer .

Prior to issue of any Certificate of Completion a suitably qualified engineer must confirm the construction of the works within five metres of Council's stormwater infrastructure is in accordance with the approved drawings and complies with this condition. Should any remediation works be required, these must be carried out at the developer's cost.

All work required by this condition must be undertaken in accordance with the approved design.

Advice: Once the detailed design drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement)

Please note adequate cover.

Reason for condition

To ensure the protection of the Council's hydraulic infrastructure.

ENG sw4

The cost of any alterations to the Council's or third-party infrastructure, including the site's service connection points, incurred as a result of the proposed development works must be met by the owner.

Reason for condition

To ensure that any of the Council infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG sw5

All alterations to Council's stormwater infrastructure, including conversion of the grated pit to a manhole if no longer at the sag point, must be constructed prior to the issue of a completion certificate.

Engineering design drawings must be submitted and approved, prior to commencement of work. The engineering drawings must:

- a. be certified by a qualified and experienced Engineer.**
- b. show in both plan and long section the proposed stormwater infrastructure alterations.**
- c. Clearly distinguish between public and private infrastructure**

All work required by this condition must be undertaken in accordance with the approved engineered drawings.

Advice: Once the engineered drawings has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement)

Please note that once the condition endorsement has been issued you will need to contact Council's City Infrastructure Division to obtain a Permit to Construct Public Infrastructure.

Reason for condition

To ensure Council's hydraulic infrastructure meets acceptable standards.

ENG sw6

The site (including hardstand) must be drained to Council infrastructure taking into account the limited receiving capacity of Council's infrastructure.

Any new stormwater connection(s) required must be constructed, and existing redundant connections must be sealed, by the Council at the owner's expense prior to issue of a Certificate of Completion.

Detailed design drawings showing both existing and proposed services and calculations must be submitted and approved, prior to issue of any consent under the Building Act or commencement of work (whichever occurs first). The detailed design drawings must include:

- a. the location of the proposed connection and all existing connections;
- b. the size and design of the connection and private pits such that it is appropriate to safely service the development given the limited receiving capacity of Council infrastructure (e.g backflow prevention, temporary stormwater storage, overflows);
- c. design surface gradients;
- d. long-sections of the proposed connection(s) clearly showing any nearby services, cover, size, material and delineation of public and private infrastructure;
- e. Clearly distinguish between public and private infrastructure
- f. Be checked and certified by a qualified and experienced engineer

All work required by this condition must be undertaken in accordance with the approved detailed design drawings.

Advice: Once the detailed design drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement)

Please note that once the condition endorsement has been issued you will need to contact Council's City Infrastructure Division to initiate an application for service connection.

Reason for condition

To ensure the site is drained adequately.

ENG sw7

Stormwater pre- treatment and detention for stormwater discharges from the development must be installed prior to issue of a Certificate of Completion.

A stormwater management report and design must be submitted and approved, prior to issue of any consent under the Building Act. The stormwater management report and design must:

- a. be prepared by a suitably qualified engineer;**
- b. include detailed design of the proposed treatment train, including final estimations of contaminant removal;**
- c. include detailed design and supporting calculations of the detention tank, sized such that flows are limited to the receiving capacity of the rivulet and timed such that there is no worsening of flooding downstream. All assumptions must be clearly stated.**
- d. Include design drawings of the detention tank showing the layout, the inlet and outlet (including long section), the overflow mechanism.**
- e. Include a Stormwater Management Summary Plan that outlines the obligations for future property owners to stormwater management, including a maintenance plan which outlines the operational and maintenance measures to check and ensure the ongoing effective operation of all systems, such as: inspection frequency; cleanout procedures; descriptions and diagrams of how the installed systems operate; details of the life of assets and replacement requirements.**

All work required by this condition must be undertaken and maintained in accordance with the approved stormwater management report and design.

Advice: Once the stormwater management report and design has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement)

Reason for condition

To avoid the possible pollution of drainage systems and natural watercourses, to comply with relevant State legislation, and to ensure the development's stormwater system takes into account limited receiving capacity of Council's infrastructure.

ENG tr1

Traffic management within the car parking area must be installed prior to the commencement of the use.

Traffic management design drawing(s) of the proposed traffic management within the car park (including signage and linemarking), must be submitted and approved, prior to commencement of the use. The design drawing(s) and management plan must show:

1. Signage and other traffic management controls at the New Town Road driveway to ensure that vehicles are restricted to left-in and left-out access only.

All work required by this condition must be undertaken in accordance with the approved traffic management design drawings.

Advice: Once the traffic management design drawings have been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

In the interests of user safety and the amenity of the occupiers of the development.

ENG tr2

A construction traffic and parking management plan must be implemented prior to the commencement of work on the site (including demolition).

The construction traffic (including cars, public transport vehicles, service vehicles, pedestrians and cyclists) and parking management plan must be submitted and approved, prior to commencement work. The construction traffic and parking management plan must:

1. Be prepared by a suitably qualified person;
2. Develop a communications plan to advise the wider community of the traffic and parking impacts during construction;
3. Include a start date and finish dates of various stages of works;
4. Include times that trucks and other traffic associated with the works will be allowed to operate; and
5. Nominate a superintendant or like to advise the Council of the progress of works in relation to the traffic and parking management with regular meetings during the works.

All work required by this condition must be undertaken in accordance with the approved construction traffic and parking management plan.

Advice: Once the construction traffic and parking management plan has been approved

Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure the safety of vehicles entering and leaving the development and the safety and access around the development site for the general public and adjacent businesses.

ENG 2

Vehicle crash barriers compliant with the Australian/New Zealand Standard AS / NZS 1170.1 must be installed prior to the first occupation where deemed necessary by a suitably qualified engineer.

Where vehicle crash barriers are necessary, a certified design/report prepared by a suitably qualified Engineer, to satisfy the above requirements, must be provided to the Council prior to the issuing of any permit under the Building Act 2000.

Where vehicle crash barriers are not necessary, a suitably qualified engineer must provide a written report to confirm they will not be required.

All works, required by this condition must be undertaken in accordance with certified design/report. Upon completion the barriers must be inspected by a qualified engineer and a certification submitted to the Council, confirming that the installed barriers comply with the above requirement.

Reason for condition:

To ensure that the safety of users of the driveway/parking and compliance with the standard.

ENG 4

The driveway and car parking areas approved by this permit must be constructed to a sealed standard and surface drained prior to the commencement of use.

Reason for condition

To ensure safe access is provided for the use.

ENG 3

The driveway, car parking and manoeuvring areas must be constructed in accordance with certified driveway design drawings, prior to the first occupation.

The design of these areas must be submitted to the Council, prior to the issuing of any permit under the Building Act 2000.

The design of the driveway, car parking and manoeuvring areas must be prepared and certified by a suitably qualified engineer that the design is in accordance with the Australian Standards AS/NZS 2890.1 or that the design provides for a safe and efficient access.

Upon completion of the driveway, car parking and manoeuvring areas, documents signed by a suitably qualified engineer, certifying that these areas have been constructed in accordance with the certified design drawings must be lodged with the Council.

Reason for condition

To ensure that the safety of users of the driveway/parking.

ENG 14

Parking, access and turning areas must be generally designed and constructed in accordance with the Australian Standard Parking facilities, Part 1: Off-Street Carparking, AS 2890.1 – 2004, prior to the first occupation.

Design drawings must be submitted and approved, prior to commencement of work. The amended design drawings must show dimensions, levels & gradients, transitions and other details as necessary to satisfy the above requirement.

All work required by this condition must be undertaken in accordance with the approved design drawings.

Advice: Once the design drawing has been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that the access and parking layout for the development is to accepted standards.

ENG 1

The cost of repair of any damage to the Council infrastructure resulting from the implementation of this permit, must be met by the owners within 30 days of the completion of the development or as otherwise determined by the Council.

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

ENG r1

The excavation and earth-retaining structures supporting the highway reservation must not undermine the stability and integrity of the highway reservation and its infrastructure.

Detailed design drawings, structural certificates and associated geotechnical assessments of the retaining structures supporting the New Town Road highway reservation must be submitted and approved, prior to the commencement of work and must:

1. Be prepared and certified by a suitable qualified and experienced engineer;
2. Not undermine the stability of the highway reservation
3. Be designed in accordance with AS4678, with a design life in accordance with table 3.1 typical application major public infrastructure works
4. Take into account any additional surcharge loadings as required by relevant Australian Standards.
5. Take into account and reference accordingly any Geotechnical findings
6. Detail any mitigation measures required
7. The structure certificated and/or drawings should note accordingly the above
8. Show proposed landscaping of the area between the property boundary and the back of existing footpath.
9. Show details of pedestrian fence on top of walls.

All work required by this condition must be undertaken in accordance with the approved select design drawing and structural certificates.

Advice: Once the design drawing has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that the stability and integrity of the Council's highway reservation is not compromised by the development

ENGR 3

The proposed driveway crossover within the New Town Road highway reservation must be designed and constructed in accordance with

- **Commercial Urban- TSD-R09-v1 – Urban Roads Driveways and TSD R16-v1 Type KCR & B1 or Type KCRB & B1**
- **Footpath - Urban Roads Footpaths TSD-R11-v1**

prior to the commencement of the use.

Design drawings must be submitted and approved prior to the commencement of work. The design drawing must:

- a. **Show the cross and long section of the driveway crossover within the highway reservation and onto the property**
- b. **Detail any services or infrastructure (ie light poles, pits, awnings) at or near the proposed driveway crossover**
- d. **Show swept path templates in accordance with AS 2890.2 2002 (for expected delivery vehicles)**
- e. **If the design deviates from the requirements of the TSD then the drawings must demonstrate a B99 (AS/NZS 2890.1 2004, section 2.6.2) can access the driveway from the road pavement into the property without scraping the cars underside**
- f. **Show that vehicular and pedestrian sight lines are met as per AS/NZS 2890.1 2004.**
- h. **Be prepared and certified by a suitable qualified person, to satisfy the above requirement.**

Note: that the agreement of the Council is required to adjust footpath levels.

All work required by this condition must be undertaken in accordance with the approved drawings.

Advice: Once the approved drawings has been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that works will comply with the Council's standard requirements.

ENG s1

Landscaping is to be implemented on the New Town Road frontage inside the property boundary in the area between the back of the existing footpath and the proposed retaining structures supporting the road.

A landscaping plan for this area to the satisfaction of the Council's Manager Road & Environmental Engineering must be submitted prior to the commencement of works on site.

Advice: to discuss available options in relation to this requirement please contact the Council's Road Services Engineer, Emily Burch on 6238 2108.

Reason for condition

To provide delineation from the public highway.

ENG s2

All deliveries to the site by vehicles greater than 12.5m in length must occur outside of operating hours between closing time each day and 7:30am the following morning.

Reason for condition

To minimise the impact on the development and the road network

ENG s4

The owner must lodge with the Council security and provide insurance to ensure the protection of the Council's Infrastructure.

Prior to the issue of any building consent pursuant to the Building Act or the commencement of works (whichever occurs first), the owner must lodge a cash deposit or bank guarantee from an approved financial institution, for an amount of \$50,000 (fifty thousand dollars) for the protection from damage of the Maypole Rivulet during construction of the development, such bond to be released once the works are completed should no damage occur.

The owner must have contract works insurance and liability insurance policies to the satisfaction of the Council.

Advice: The bond can be paid once the building permit is ready to be issued.

Once the certificate of completion for the development has been issued (or the works are completed) and the post completion survey submitted, please contact the Council's Project and Development Inspector on telephone (03) 6238 2967 to arrange an inspection prior to the release of the Council's infrastructure bond.

The Council's Project and Development Inspector must be contacted at least 24 hours prior to the commencement of any works to locate and inspect public infrastructure within and adjacent to the development site.

Reason for condition

To ensure the protection of the Council's infrastructure.

ENV 2

Sediment and erosion control measures, in accordance with an approved soil and water management plan (SWMP), must be installed prior to the commencement of work and maintained until such time as all disturbed areas have been stabilised and/or restored or sealed to the Council's satisfaction.

A soil and water management plan (SWMP) must be submitted and approved, prior to the commencement of work. The SWMP must be prepared in accordance with the Soil and Water Management on Building and Construction Sites fact sheets (Derwent Estuary Program, 2008). http://www.hobartcity.com.au/Development/Engineering_Standards_and_Guideline. All work required by this condition must be undertaken in accordance with the approved soil and water management plan (SWMP).

Advice: Once the soil and water management plan (SWMP) has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To avoid the pollution and sedimentation of roads, drains and natural watercourses that could be caused by erosion and runoff from the development.

HER 20

The site must be landscaped to ensure visual separation between the new development and the rear of the Maypole Hotel and screening along the New Town Road boundary of the property prior to the first use of the bottleshop.

An extended and comprehensive landscaping plan for the overall site must be submitted and approved, prior to the commencement of work on the site. The landscape plan must include the provision of:

- 1. Visual separation and a landscaped buffer of trees and medium sized shrubs with additional low scale planting between the new development and the rear of the Maypole Hotel; and**
- 2. Additional screen planting to the New Town Road boundary of the property.**

The plan must indicate the species of trees and shrubs proposed and must be submitted for approval by the Council's Director City Planning. When approved, the landscaping plan will form part of this permit and must be implemented prior to the first use of the bottleshop and maintained to the satisfaction of the Council.

All work required by this condition must be undertaken in accordance with the plan.

Advice: Once the plan has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that setting of the Maypole Hotel is conserved and impacts of the new development on the heritage values of the place are mitigated.

HER s2

The overall signage regime for the proposal must be revised in order to reduce its cumulative impact.

The proposed signage shown on the three elevations of the taller entrance structure must either be removed from the proposal or alternatively, a reduction of proposed signage elsewhere within the site/on the building must be carried out to reduce the cumulative impact of signage upon the site.

A revised signage regime for the development/site demonstrating compliance with the above requirements must be submitted to the satisfaction of the Director City Planning prior to the commencement of works.

All work required by this condition must be undertaken in accordance with the revised and approved plan.

Advice: The removal of the existing billboard sign and its structure in its entirety from the roof of the Maypole Hotel may assist in achieving an acceptable reduction of the cumulative impact of signage upon the overall site.

Once the plan has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure the size, siting and cumulative impact of signage to the site does not impact on the cultural heritage significance of the Maypole Hotel.

Part 5 1

Prior to the issue of any consent under the Building Act, the owner(s) of the property must enter into an agreement with the Council pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 with respect to building within 5 metres of Council's storm water infrastructure. The owner must agree to:

- a. indemnify Council against any costs or claims arising from building over the Council's stormwater main or for damages incurred in the act of performing operation, maintenance, or replacement tasks on the stormwater main
- b. not perform any future works to the structure within 5m of the main, including replacement of footings without written permission from Council; and
- c. dismantle/ replace the structure at the owner's cost at Council's request to allow free access to Council's infrastructure.
- d. Ongoing compliance with the approved stormwater management plan for the proposed stormwater management system.

All costs for the preparation and registration of the Part 5 Agreement must be met by the owner.

The owner must comply with the Part 5 Agreement which will be placed on the property title.

Advice: Further information with respect to the preparation of a part 5 agreement can be found http://www.hobartcity.com.au/Development/Planning/Part_5_agreements

Reason for condition

To ensure that Council's infrastructure is protected and owners responsibilities are clearly noted.

Part 5 r1

The owner(s) of the property must enter into an agreement with the Council pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 with respect to the protection of retaining walls, adjacent to the New Town Road highway reservation prior to the commencement of work.

The owner must not undertake any works at any time (including excavation and building) that will have any effect on the integrity of the New Town Road highway reservation or any retaining structure adjacent to New Town Road highway reservation or the road formation themselves or undermine the structural integrity of the highway reservation.

All costs for the preparation and registration of the Part 5 Agreement must be

Hobart City Council Planning Permit

met by the owner.

The owner must comply with the Part 5 Agreement which will be placed on the property title.

Note: Further information with respect to the preparation of a part 5 agreement can be found at http://www.hobartcity.com.au/Development/Planning/Part_5_agreements

Reason for condition

To ensure the protection of Council are retained.

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 www.hobartcity.com.au 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 a condition endorsement is required by a planning condition above, you will need to submit the relevant documentation to satisfy the condition, via the Condition Endorsement Submission on Council's online e-service portal.

Once approved, the Council will respond to you via email that the condition(s) has been endorsed (satisfied). Detailed instructions can be found at http://www.hobartcity.com.au/Development/Planning/How_to_obtain_a_condition_endorsement

BUILDING PERMIT

Building permit in accordance with the *Building Act 2000*;

<http://www.hobartcity.com.au/Development/Building>

PLUMBING PERMIT

Plumbing permit under the Tasmanian Plumbing Regulations 2014;

<http://www.hobartcity.com.au/Development/Plumbing>

MAYPOLE RIVULET

The Maypole Rivulet and DN450 Council stormwater main running through the site must be carefully and accurately located onsite.

Prior to construction of any footings within five metres of the mains, the stormwater infrastructure and clearance must be inspected and confirmed by the Council's Project and Development Inspector to ensure the minimum separation is achieved.

The Council's Project and Development Inspector, must be contacted on phone (03) 6238 2967 at least 24 hours prior to the commencement of any works.

METRO BUS STOP

As a result of the new driveway access on new Town Road, the Metro Tasmania bus stop (and associated infrastructure) is to be relocated. The new location shall be determined in conjunction with Metro Tasmania and is subject to the approval of the Director City Infrastructure. This shall be relocated prior to the new driveway being constructed.

TASMANIAN HERITAGE COUNCIL

The applicant should be advised that they will need to seek Heritage Council approval prior to the commencement of any works on 191 New Town Road, New Town (CT 37218/1). This approval may be in the form of a Certificate of Exemption granted under section 42 of the Historic Cultural Heritage Act 1995.

WORK WITHIN THE HIGHWAY RESERVATION

Please note development must be in accordance with the Hobart City Council's Highways By-law

<http://www.hobartcity.com.au/Council/Legislation>

STREET LIGHTING

The relocation of a light pole must be in accordance with TasNetworks and Hobart City Council requirements

http://www.hobartcity.com.au/Transport/Lighting_Roads_Footpaths_and_Street_Cleaning/Street_Lighting

TITLE ADHESION

An adhesion of your titles is required because a portion of your development is across one or more title boundaries. Contact your solicitor or a registered land survey to initiate the process.

WASTE DISPOSAL - TOP TEN TIPS

http://www.hobartcity.com.au/Environment/Recycling_and_Waste

FEES AND CHARGES

http://www.hobartcity.com.au/Council/Fees_and_Charges

DIAL BEFORE YOU DIG

www.dialbeforeyoudig.com.au

If you do not have access to the Council's electronic web page, please phone the Council (City Planning) on 62382715 for assistance.

Date

ireneinc &
smithstreetstudio
PLANNING & URBAN DESIGN



15 December 20016

The General Manager
City of Hobart
GPO Box 503
HOBART TAS 7001

By Email: representation@hobartcity.com.au

Dear Sir

**HOBART INTERIM PLANNING SCHEME 2015 - AMENDMENT 6/2016 & S43A
191 & 199 NEW TOWN ROAD - REZONING AND BOTTLESHOP**

I write in relation to the above draft amendment to the Hobart Interim Planning Scheme 2015 and associated planning application on behalf of Ennio Didomenico and Anne Brown, the owners of adjacent land at 8/12 Risdon Road, New Town.

The following figure describes the location of the subject land in relation to our client's property.



Figure 1: Aerial and zones (Source the LIST)

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PROPOSED AMENDMENTS

Like the subject land our client's property is partially within the Inner Residential Zone and partially within the Urban Mixed Use zone. The area proposed to be rezoned adjoins the garden of the existing dwelling which is within the Inner Residential zone.

The proposed rezoning has an area of 1313m² it increases the size of the parcel comprised of 3 existing titles to 6431m², an increase in area of almost 30%.

The rezoning proposed provides additional uses, less restrictive use standards for commercial uses and reduced consideration of residential scale and amenity through the development standards.

The purposes of the existing Inner Residential zone are largely related to encouraging appropriate forms of residential use and development and importantly intend to restrict commercial uses as follows:

11.1.1.6 To allow commercial uses which provide services for the needs of residents of a neighbourhood and do not displace an existing residential use or adversely affect their amenity particularly through noise, traffic generation and movement, and the impact of demand for on-street parking.

Alternatively, the proposed zone while providing for a mixture of use classes is focused on commercial development with its purpose including the following:

15.1.1.9 To maintain an appropriate level of amenity for residential uses without unreasonable restriction or constraint on the nature and hours of commercial activities.

Within the Inner Residential zone the Use Classes of 'Business and professional services', 'Food services', 'General retail and hire' are provided for as discretionary but only with significant restriction to existing sites where they do not displace residential uses.

The use table for the Urban Mixed Use zone provides both permitted status for 'Business and professional services' and 'Food services' and discretionary status for a wide range of non-residential uses as follows:

| | |
|---|---|
| <i>Bulky goods sales</i> | <i>Storage</i> |
| <i>Equipment and machinery sales and hire</i> | <i>Tourist operation</i> |
| <i>Hospital services</i> | <i>Transport depot and distribution</i> |
| <i>Hotel industry</i> | <i>Vehicle fuel sales and service</i> |
| <i>Research and development</i> | <i>Vehicle parking</i> |
| <i>Service industry</i> | |

The proposed rezoning while not introducing a new zone in to the area will increase the number of residential properties which share a boundary with the commercial site as well as significantly increasing the extent of shared boundary that our client has with the Urban Mixed Use zone. The increase in the area of the parcel, given all three properties are within the same ownership, provides for a scale of development which would not have been possible without the additional land being rezoned.

The proposal also includes substantial development on the boundary with the existing dwelling and does not adequately demonstrate integration with neighbouring residential uses in accordance with the Purpose of the zone:

15.1.1.1 To provide for integration of residential, retail, community services and commercial activities in urban locations.

Although the development currently proposed for the subject land only proposes car parking, signage and landscaping there is no limitation proposed in the amendment which prevents alternate proposals once

the land is rezoned. The scale of the site and the rezoned area encourages a scale of development which is contrary to the following zone statement:

15.1.1.7 To encourage the retention of existing residential uses and the greater use of underutilised sites as well as the reuse and adaptation of existing buildings for uses with a scale appropriate to the site and area.

The proposed development substantially expands the intensification of the 'Hotel Industry' to a proportion that is not consistent with the zone or with the surrounding areas.

PROPOSED USE & DEVELOPMENT

Further to the above, the assessment of the proposed development against the provisions of the Planning Scheme has identified the following issues related to the application:

NOISE AND HOURS OF OPERATION

The loading bay and lockable trolley cage are located in close proximity to the neighbouring dwelling where noise and other impacts related to the use of these areas has the potential to substantially impact upon the amenity of neighbouring residents.

The Mixed Use Zone includes a Non-Residential Use Standard the objective of which to "ensure that non-residential use does not unreasonably impact residential amenity", it has acceptable solutions and performance criteria to achieve this objective for hours of operation, noise emissions, external lighting and commercial vehicles.

The application proposes the operation will operate from 10am to 10pm, with commercial vehicle movements meeting the acceptable solution of:

- (a) 7.00 am to 5.00 pm Mondays to Fridays inclusive;
- (b) 8.00 am to 5.00 pm Saturdays;
- (c) 9.00 am to 12 noon Sundays and Public Holidays.

The application further states that the acceptable solution in relation to noise emissions will be met as the operation is not noisy and delivery trucks will not operate within the permitted standard. There does not appear to have been a noise report submitted with the application which details the potential for noise from the site.

The acceptable solution which the application suggest will be met requires as follows:

A2

Noise emissions measured at the boundary of the site must not exceed the following:

- (a) 55 dB(A) (LAeq) between the hours of 8.00 am to 6.00 pm;
- (b) 5dB(A) above the background (LA90) level or 40dB(A) (LAeq), whichever is the lower, between the hours of 6.00 pm to 8.00 am;
- (c) 65dB(A) (LAmix) at any time.

Given that commercial vehicles can start from 7am and operation hours through till 10pm will presumably include use of the trolley cage it appear unlikely that 15.3.1 A2 will be met in particular subclause (b) outside of daytime hours where the potential for impact on residential amenity is significantly greater.

It does not appear that the layout of the development, in particular the location of the potentially impacting element of the activity have adequately considered or addressed the standard.

HEIGHT AND SETBACKS

The Acceptable solutions for height and setbacks include:

15.4.1

A2 Building height within 10m of a residential zone must be no more than 8.5m.

15.4.2

A2 Building setback from the General Residential or Inner Residential Zone must be no less than:

- (a) 3m; or*
 - (b) half the height of the wall,*
- whichever is the greater.*

The application states that the building is more than 10m from a residential zone; this is untrue as is within close proximity with the boundary of 6 Risdon Road which is zoned Inner Residential and is understood to contain existing residential and commercial uses, as well as to the Inner Residential zoned area of our client's property which contains their garden.

The development proposed does not meet these acceptable solutions above and does not demonstrate that it is compatible with the building height of existing buildings on adjoining lots required by 15.4.1 P2, or the visual impact when viewed from adjoining lots required by 15.4.2 P2.

While our client's dwelling located adjoining the development is located within the Urban Mixed Use zone a significant part of their property is within the Inner Residential zone and as such their property is still a residential property in the residential zone. The large wall proposed very close to the shared boundary is of a substantial height given its minimal setback in close proximity to an existing dwelling. The area of the dwelling most affected is a habitable living room which has 3 highlight windows which provide both, sunlight in the afternoon and mountain views across the subject land.

In addition to the above the building's proposed setback narrows to the extent that maintenance of the area between the building and the existing boundary wall 8/12 Risdon Road does not seem reasonably able to occur. If this area is unable to be appropriately maintained would also impact upon neighbouring residential amenity.

RIGHT OF WAY

199 New Town Road contains a right-of-way which benefits our client's property at 8/12 Risdon Road, providing access from New Town Road to their garden area, from the information available it appears the application includes car parking and associated retaining wall structures which encroach within the right-of-way.

If you wish to discuss any of the above, or require further clarification, please contact me on 6234 9281.

Yours faithfully



Jacqui Blowfield
Senior Planner
IRENEINC PLANNING

The General Manager
City of Hobart
GPO Box 503
Hobart TASMANIA 7001

14 December 2016

Dear Sir

**HOBART INTERIM PLANNING SCHEME 2015 - AMENDMENT 6/2016 &
543A - 191 AND 199 NEW TOWN ROAD - REZONING AND EXTENSIONS
ETC TO THE MAYPOLE HOTEL AND CONSTRUCTION OF
BOTTLESHOP.**

As owners of the property located at 6 Risdon Road, New Town, we wish to object to the proposed development of 191 and 199 New Town Road. The properties located at 6 Risdon Road include buildings that service both residential and professional purposes. We believe that the proposed rezoning of 191 and 199 New Town Road expands the commercial footprint of the area by approximately 28%.

This expansion runs contra to the existing uses as outlined by

11.1.1.6 To allow commercial uses which provide services for the needs of residents of a neighbourhood and do not displace an existing residential use or adversely affect their amenity particularly through noise, traffic generation and movement, and the impact of demand for on-street parking.

We would contend that the proposed rezoning of the entire title at 199 New Town Road from Inner Residential to Urban Mixed Use (2.1) would adversely affect the amenity of the area.

Further the proposed changes that place the development of a Warehouse/Bottleshop, trolley-cage, plant and handling facilities on the fenceline adjacent to 6 Risdon Road would also adversely affect the amenity of both the residential and professional aspects of 6 Risdon Road. The proposal includes substantial development on our boundary and does not adequately demonstrate any integration or harmony with the structures at 6 Risdon Road.

In terms of the impact of traffic on the occupiers of 6 Risdon Road we note:

Attachment A (Item 2.1.1 Page 80) - in the agenda presented at the Special Planning Committee Meeting - 7/11/2016 - are reference to points 3.4 (Page 90 of Attachment A) and 4.5 (Page 102 of Attachment A) to the implications of Loading requirements sought by the developers for a handling facility built over Lot 191 and 199 adjacent to 6 Risdon Road.

In points 3.4 and 4.5 it is made clear that the developers wish to use 19 metre semi-trailer trucks to bring in stock and that these trucks would operate outside normal

opening hours. We contend that these trucks outside normal operating hours will impact on the residential amenity currently enjoyed at 6 Risdon Road.

We note at 4.5 that the 19 metre semi-trailers will need to perform reversing manoeuvres, out of normal operating hours, across all lanes of Risdon Road to access the proposed bottleshop/handling facilities. These manoeuvres, particularly when performed at night or in the early morning, will also adversely impact on the residential qualities currently maintained at 6 Risdon Road.

Regarding the close proximity of the bottleshop/warehouse development in relation to 6 Risdon Road and the height of the proposed Dan Murphy buildings, it is clear that there will be a significant negative impact on the quality of amenity enjoyed by the professional and residential occupants of the 6 Risdon Road site. It also appears that - the token lawn - a narrow strip along the fenceline dividing our property from the Dan Murphy warehouse/bottleshop (that straddles 191 and 199 Main Road) will be a disaster area that will be difficult to maintain. Should this bizarrely out-of-proportion development be allowed to proceed, then the warehouse/bottleshop with associated trolley-bay, and handling/loading facilities should be located as far from the boundaries of adjacent blocks and residences etc as possible. This would only demonstrate natural justice towards the ratepayers who have for many years striven to enhance the residential amenity, rather than to destroy it.

It is apparent in the proposed development of 191 and 199 Risdon Road, New Town, that there has been no consideration of the impact on the property at 6 Risdon Road, or indeed on any of the residents situated in blocks to the east of the proposed development (for example the householders occupying 8/12 Risdon Road).

We ask that Council reject the current proposal represented by Amendment 6/2016 and 543A for 191 and 199 New Town Road.

Yours Sincerely

Val Hawkes
Kim Akerman

Dr Val Hawkes and Prof. Kim Akerman
4 Dorset St
Moonah TAS 7009
(Ratepayers at 6 Risdon Road, New Town TAS 7008)

3. CLOSED PORTION OF THE MEETING

The following items were discussed: -

- Item No. 1 Indications of pecuniary and conflicts of interest
- Item No. 2 Planning Authority Items – Consideration of Items with
 Deputations
- Item No. 3 City Acting as Planning Authority
- Item No. 3.1 Applications under the Hobart Interim Planning Scheme 2015
- Item No. 3.1.1 9 Sandy Bay Road, Hobart and Adjacent Reserve
 LG(MP)R 15(4)(a) and (b)