



City of **HOBART**

APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report: Committee
Committee: 18 January 2023
Expiry Date: 25 January 2023
Application No: PLN-22-662
Address: 17 BEACH ROAD , SANDY BAY
Applicant: Katrina Hill (JMG Engineers & Planners)
117 Harrington Street
Proposal: Lighting
Representations: Two
Performance criteria: Zone Use Standards; Zone Development Standards

1. Executive Summary

- 1.1 Planning approval is sought for Lighting at 17 Beach Road, Sandy Bay.
- 1.2 More specifically the proposal includes:
 - four new light poles for floodlighting oval 2 at Sandown Park.
 - lighting to meet Australian Standard for soccer competition to 200 lux minimum over oval 2.
 - lighting to be switched off by 10pm, enabling operating hours of oval 2 to cover the following times:
 - 7am to 10pm Mondays to Fridays.
 - 8am to 10pm Saturdays.
 - 10am to 10pm Sundays and Public Holidays.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
 - 1.3.1 Recreation Zone - hours of operation; noise; commercial and patron vehicle movements; building height
- 1.4 Two (2) representations objecting to the proposal were received within the statutory advertising period between 22 November 2022 and 6 December 2022.
- 1.5 The proposal is recommended for approval subject to conditions.

1.6 The final decision is delegated to the Planning Committee because it involves Council owned land.

2. Site Detail

- 2.1 The site is known as oval 2 at Sandown Park and is located in Long Beach Reserve at 17 Beach Road, Sandy Bay. The site is bound by oval 1 at Sandown Park to the south, the Sandy Bay Sailing Club to the north, Long Point Road and the recreation grounds of Long Beach Reserve to the east, and Sandown Avenue and residential use to the west. The site is currently used for junior soccer, athletics, public recreation, and off lead dog exercise, and has recently received upgrades to drainage and irrigation.



Figure 1: Aerial image of site and surrounds with Sandown Park oval 2 shown in blue outline (source: LISTmap; accessed 1 Dec 2022)

3. Proposal

3.1 Planning approval is sought for Lighting at 17 Beach Road, Sandy Bay.

3.2 More specifically the proposal is for:

- four new light poles for floodlighting oval 2 at Sandown Park, including associated underground power supply.
- lighting to meet Australian Standard for soccer competition to 200 lux minimum over oval 2.
- lighting to be switched off by 10pm, enabling operating hours of oval 2 to cover the following times:
 - 7am to 10pm Mondays to Fridays.
 - 8am to 10pm Saturdays.
 - 10am to 10pm Sundays and Public Holidays.

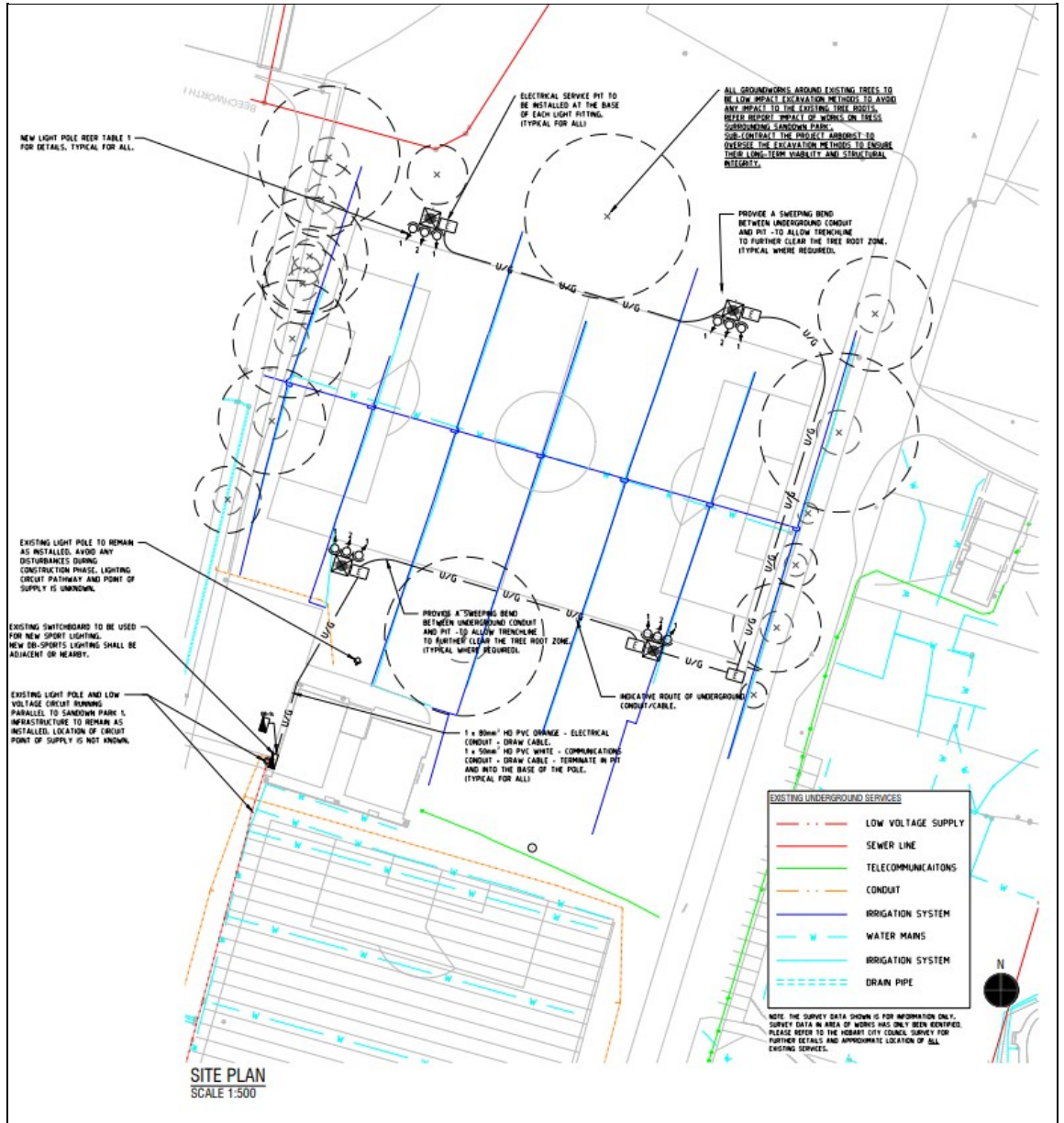


Figure 2: Proposed site plan (source: applicant)

4. Background

- 4.1 General Manager's Consent GMC-22-72 was granted for the lodging of this application on 2 November 2022.
- 4.2 Lighting at Oval 1 in Sandown Park (south of the site) is operating under planning permission PLN-05-01035-01 subject to condition that it be switched off by 830pm nightly.
- 4.3 Oval 2 at Sandown Park (the site) received upgrades to drainage and irrigation that are understood to have been completed in late 2022.

4.4 Council's Development Appraisal Planner, Senior Statutory Planner, and Environmental Development Planner had telephone conversations with interested members of the public during the public advertising period. Advice was provided regarding the assessment process, applicable standards, and ability to make a representation.

5. Concerns raised by representors

5.1 Two (2) representations objecting to the proposal were received within the statutory advertising period between 22 November 2022 and 6 December 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.

Operating hours

The proposal indicates that lighting will generally be switched off by 10pm, but eludes to special events that are not defined and provide no indication of how long lighting might be used for these events.

[planner's note: the proposal seeks approval for operating hours til 10pm. Should approval be granted, it is recommended that a condition be applied to clarify the approved hours. Any use for special events occurring beyond these hours will require separate permit processes.]

The lighting for oval 1 was approved under PLN-05-01035-01 on condition that it be switched off by 830pm to ensure there is minimal impact on residential amenity. Given there is no current lighting on oval 2, there is no justification to have the proposed lighting, especially until 10pm.

[planner's note: the lighting and operating hours for oval 1 was assessed and approved under a previous planning scheme with different assessment provisions.]

Residential amenity

The application documents provide little to no assessment of proposed operating hours and how that use will impact on residential amenity. The use of the site til 10pm is far beyond what occurs now and will result in an unreasonable loss of residential amenity resulting from noise, light, and traffic. It will allow two night games to be played simultaneously.

Noise

The application documents provide no assessment of noise impacts and suggest that clause 18.3.2 is not applicable. The use of the site til 10pm is far beyond what occurs now and will result in an unreasonable loss of residential amenity resulting from noise, light, and traffic.

Lighting

The application documents indicate that the lighting will not subject the residential lots to obtrusive light, but does not consider other amenity impacts from lighting such as glare and sky glow.

Vehicle movements

The application documents do not include an assessment of traffic impacts resulting from the proposal. The extended operating hours will result in more vehicles later into the evening, which will have an unreasonable impact on residential amenity resulting from associated noise and light nuisance. There are already parking issues associated with the existing use of the park and this will make it worse.

Height

The 18m light poles substantially exceed the permitted height and that of other structures in the area. The height of the poles will create visual impacts from neighbouring properties and adjoining public spaces, particularly when viewed in context of the beachfront setting.

Other

The application documents do not include an assessment against the discretionary use clause despite there being discretions applicable to the proposal. There is a lack of sufficient fencing to prevent balls from hitting adjoining properties. There are concerns with the efficiency of lighting, questioning why solar power was not used.

[planner's note: sports and recreation use is a no permit required use in the zone, therefore, the discretionary use clause is not applicable.]

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 Recreation Zone of the *Hobart Interim Planning Scheme 2015*.
- 6.3 The existing and proposed use is Sports and Recreation, a no permit required use in the zone.
- 6.4 The proposal has been assessed against:
- 6.4.1 Part D - 18 Recreation Zone
 - 6.4.2 E5.0 Road and Railway Assets Code
 - 6.4.3 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 Recreation Zone:
 - Hours of operation – 18.3.1 P1*

Noise - 18.3.2 P1

Commercial and patron vehicle movements - 18.3.4 P1

Building height - 18.4.1 P1

6.6 Each performance criterion is assessed below.

6.7 Hours of operation - 18.3.1 P1

6.7.1 The acceptable solution at clause 18.3.1 A1 requires the use of the site to occur between the following hours:

- 7am to 8pm Mondays to Fridays.
- 8am to 6pm Saturdays.
- 10am to 5pm Sundays and Public Holidays

6.7.2 The proposal includes lighting and seeks the use of the site to occur between the following hours:

- 7am to 10pm Mondays to Fridays.
- 8am to 10pm Saturdays.
- 10am to 10pm Sundays and Public Holidays.

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

6.7.4 The performance criterion at clause 18.3.1 P1 provides as follows:

Hours of operation of a use within 50 m of a residential zone must not have an unreasonable impact upon the residential amenity of land in a residential zone through commercial vehicle movements, noise or other emissions that are unreasonable in their timing, duration or extent.

6.7.5 The nearest residential land in proximity to the proposed use is located west of the site, approximately 15m from Sandown Park. This residential land is separated from the site by Sandown Avenue and large trees lining the edge of the site. To determine whether the proposed operating hours will have an unreasonable impact on residential amenity of land the residential zone, it is necessary to describe the nature of the use, as well as its timing, duration and extent.

The site is, and will continue to be, used for junior organised sports (e.g. soccer and afl matches and training, athletics), public recreation, and off lead dog exercise. Currently, the timing of use on the site occurs throughout the day all year round, and in evening periods where natural light is available. The proposed lighting enables the timing of use on the

site to be extended to evening periods in low light conditions throughout the year, including winter when soccer is played. It is important to consider that a permitted use of the site until 10pm for organised sports would typically result in peak use dissipating prior to 10pm, presumably around 9 or 930pm, as it would be expected that all use would cease on the site by 10pm.

The use of the site for sports and recreation during evening periods introduces potential amenity impacts such as noise and light spill. Although the extent of use on the site will remain unchanged, which is limited to Sandown Park Oval 2, the duration of use will occur beyond the hours permitted under the acceptable solution at clause 18.3.1 A1. Specifically, the use of the site until 10pm represents a 37% increase above the permitted operating hours, and a 12% increase above the permitted operating hours for similar lighting on the adjoining Sandown Park oval 1.

Regarding light emissions, a light spill analysis has been submitted in support of the application. The analysis demonstrates that the proposal will not subject any nearby residences to obtrusive light, in compliance with *Australian Standard AS 4282-1997, Control of the obtrusive effects of outdoor lighting*.

Regarding noise emissions, the nature of emissions will remain unchanged. That is, the level of emissions will remain unchanged and will continue to result from players, spectators and vehicles. Notwithstanding the above, the duration of emissions into later evening periods has the potential for amenity impacts. Specifically, it is important to consider whether such impacts are unreasonable. It is considered that it is not unreasonable for sports and recreation use in a Recreation Zone to occur until 10pm. In addition, in practical terms, it is unlikely that the use would occur til 10pm on all evenings, and the nature of the use would vary the expected noise levels (e.g. training mid week compared to matches on weekends). Furthermore, Council appears to have no record of having received any noise complaints associated with the existing use of oval 2 or the use of oval 1 in the evenings.

During the advertising period, two representations objected to the proposed operating hours til 10pm, citing concerns with the perceived unreasonable impact on residential amenity resulting from noise and light emissions. The applicant was afforded the opportunity to respond to such concerns, and has recommended that the lighting be switched off at 9pm to reduce any amenity impacts.

Given the above, a condition is recommended on any planning permit granted to ensure use of the grounds is limited to 10pm and that floodlighting is automatically switched off by 9pm.

6.7.6 The proposal complies with the performance criterion.

6.8 Noise - 18.3.2 P1

6.8.1 The acceptable solution at clause 18.3.2 requires noise emissions measured at a residential zone boundary to not exceed 65dB(A)(LAmax) at any time and 5dB(A) above the background (LA90) level between 7pm and 7am.

6.8.2 The proposal includes sports and recreation use that will likely exceed the LAmax and/or 5dB(A) above the background (LA90) level between 7pm and 10pm.

6.8.3 The proposal does not demonstrate compliance with the acceptable solution; therefore, assessment against the performance criterion is relied on.

6.8.4 The performance criterion at clause 18.3.2 P1 provides as follows:

Noise emissions measured at the boundary of a residential zone must not cause environmental harm within the residential zone.

6.8.5 The source and level of noise emissions resulting from the proposal will remain unchanged from the existing use. That is, noise emissions will predominantly result from players, spectators and vehicles. However, the duration of emissions into evening periods will be increased. The existing use of Sandown oval 1, adjoining oval 2 to the south, occurs til 830pm in the evenings year round. Council has no record of complaints associated with noise nuisance resulting from the use of either oval.

The objective of clause 18.3.2 is to ensure that noise emissions near a residential zone do not result in unreasonable adverse impact on residential amenity. It is considered that it is not unreasonable for for sports and recreation use in a Recreation Zone to occur until 10pm.

Environmental harm takes its definition from the Environmental Management and Pollution Control Act 1994 (EMPCA), and refers to any adverse effect on the environment, however, provides no definition to what an adverse effect may be. It is considered plausible that the interpretation

of what constitutes an adverse effect is similar in meaning to the clause objective. That is, to not result in unreasonable adverse impact.

Given the above, although a degree of noise is expected into the evening beyond what currently occurs on the site, it is considered that it is not unreasonable in its duration and will not cause environmental harm within the residential zone. It is recommended that a condition be imposed specifying no environmental harm is to be caused.

6.8.6 The proposal complies with the performance criterion.

6.9 Commercial and patron vehicle movements - 18.3.4 P1

6.9.1 The acceptable solution at clause 18.3.4 A1 requires patron vehicle movements to the site to occur in the following hours:

- 7am to 9pm Mondays to Fridays.
- 8am to 7pm Saturdays.
- 10am to 6pm Sundays and Holidays.

6.9.2 The proposal includes operating hours that would enable patron vehicle movements to occur til 10pm nightly.

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 at clause 18.3.4 P1 provides as follows:

Commercial and patron vehicle movements, (including loading and unloading and garbage removal), to or from a site within 50m of a residential zone must not result in unreasonable adverse impact upon residential amenity having regard to all of the following:

(a) the time and duration of commercial vehicle movements;

(b) the number and frequency of commercial vehicle movements;

(c) the size of commercial vehicles involved;

(d) the ability of the site to accommodate commercial vehicle turning movements, including the amount of reversing (including associated warning noise);

(e) noise reducing structures between vehicle movement areas and

dwellings;

(f) the level of traffic on the road;

(g) the potential for conflicts with other traffic.

6.9.5 The proposal will not result in additional commercial vehicle movements outside of the permitted operating hours. Patron vehicle movements could occur until 10pm, which would be related to players and spectators. The number of patron vehicle movements would be at a peak if both oval 1 and oval 2 are in use at the same time. This can occur under the existing use of the site, but the duration of this peak could theoretically be extended into evening periods under the current proposal. It is considered that it is not unreasonable for sports and recreation use in a Recreation Zone to occur until 10pm. Although a degree of noise is expected into the evening beyond what currently occurs on the site, it is considered that it is not unreasonable in its duration and will not cause an unreasonable adverse impact upon residential amenity.

6.9.6 The proposal complies with the performance criterion.

6.10 Building height - 18.4.1 P1

6.10.1 The acceptable solution at clause 18.4.1 A1 requires the light poles to be not more than 10m in height.

6.10.2 The proposal includes light poles that are 18m in height.

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 at clause 18.4.1 A1 provides as follows:

Building height must satisfy all of the following:

(a) be consistent with any Desired Future Character Statements provided for the area;

(b) not unreasonably overshadow adjacent public space;

6.10.5 There are no desired future character statements for the area and lighting poles will not unreasonably overshadow adjacent public space.

6.10.6 The proposal complies with the performance criterion.

7. Discussion

- 7.1 Planning approval is sought for Lighting at 17 Beach Road, Sandy Bay.
- 7.2 The application was advertised and received two representations. The representations raised concerns including operating hours, amenity, noise, light, traffic and height. The applicants response to the issues raised in the representation are provided at Attachment C to this report.
- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is considered to perform well.
- 7.4 The proposal has been assessed by other Council officers, including the Council's Development Engineer, Parks Planner, 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 Lighting at 17 Beach Road, 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 Planning Committee, in accordance with the delegations contained in its terms of reference, approves the application for Lighting at 17 Beach Road, 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-22-662 - 17 BEACH ROAD SANDY BAY TAS 7005 - Final Planning Documents, except where modified below.

Reason for condition

To clarify the scope of the permit.

PLN 14

The noise generated by the use must not cause environmental harm when measured at the boundary of the residential zone.

Reason for the condition

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

PLN 17

The flood lighting must operate in accordance with Australian Standard AS 4282 - Control of the obtrusive effects of outdoor lighting.

Reason for condition

To ensure that the non-residential use does not unreasonably impact residential amenity.

PLN 6

The use of the site must occur inside the following hours:

- **Mondays to Fridays 7am - 10pm**
- **Saturdays 8am to 10pm**
- **Sundays and Public Holidays 10am to 10pm**

Floodlighting must switch off via automatic timer no later than 9pm each evening.

Reason for condition

To ensure that non-residential use does not unreasonably impact on residential amenity

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.

OPS 5

The development must be carried out in accordance with the relevant recommendations in Table 1 and Section 5 of the arborist's report by Tree Inclined dated 5 August 2021 including:

- 1. low impact excavation methods (low-pressure hydro vacuuming, boring or hand excavation) must be employed for works encroaching into tree protection zones, under the supervision and direction of a project arborist, unless deemed unnecessary by the project arborist to ensure the tree's health and stability;**
- 2. tree protection zone exclusion zones must be determined and established prior to the commencement of works in accordance with the advice and direction of the project arborist; and**
- 3. excavated spoil may only be placed in locations approved by the project arborist.**

Reason for condition

To minimise the impact of development on trees

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's [website](#) for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

NOISE REGULATIONS

Click [here](#) for information with respect to noise nuisances in residential areas.

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click [here](#) for dial before you dig information.



(Mark O'Brien)

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: 5 January 2023

Attachment(s):

Attachment B - Planning Committee Agenda Documents

Attachment C -Applicant's Response to Representations