



City of **HOBART**

APPLICATION UNDER SULLIVANS COVE PLANNING SCHEME 1997

Type of Report: Committee
Committee: 26 January 2023
Expiry Date: 5 February 2023
Application No: PLN-22-842
Address: 27 / 1 COLLINS STREET , HOBART
COMMON LAND OF PARENT TITLE
Applicant: Gregory Hurford
14 Clarence Street
Proposal: Change of Use to Visitor Accommodation
Representations: Six
Performance criteria: Planning Directive No.6

1. Executive Summary

- 1.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 27/1 Collins Street, Hobart and the Common Land of the Parent Title.
- 1.2 More specifically the proposal includes:
- Complete change of use two bedroom multiple dwelling to Visitor Accommodation
 - One on-site car parking space will be provided for the use
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
- 1.3.1 Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes - Visitor Accommodation
- 1.4 Six (6) representations objecting to the proposal were received within the statutory advertising period between 19/12/22 - 09/01/23.
- 1.5 The proposal is recommended for approval subject to conditions.
- 1.6 The final decision is delegated to the Planning Committee, because six (6) objections were received during the statutory advertising period.

2. Site Detail

- 2.1 The application site is one of 65 lots on the strata title for 1 Collins Street, Hobart, on the corner of Collins Street and Brooker Avenue on the eastern fringe of the Hobart CBD. Of these lots there are six approved visitor accommodation lots, and the remainder are residential. The subject dwelling is a ground floor unit and has 1-2 bedrooms (one bedroom and a study), an open kitchen dining living area, and a courtyard for private open space, which is walled from the street and accessible only to the unit. Access to the dwelling is via a common lobby and corridor area, with car parking provided in a shared, secure parking area at ground level.
- 2.2 A visit to the site was undertaken, however, due to security doors, this was only in the form of a walk around the perimeter of the complex, not an internal inspection of the dwelling and shared spaces.



Figure 1: Aerial image of the subject site (parent title bordered in red) and the specific unit (highlighted in blue).

3. Proposal

- 3.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 27/1 Collins Street, Hobart and the Common Land of the Parent Title.
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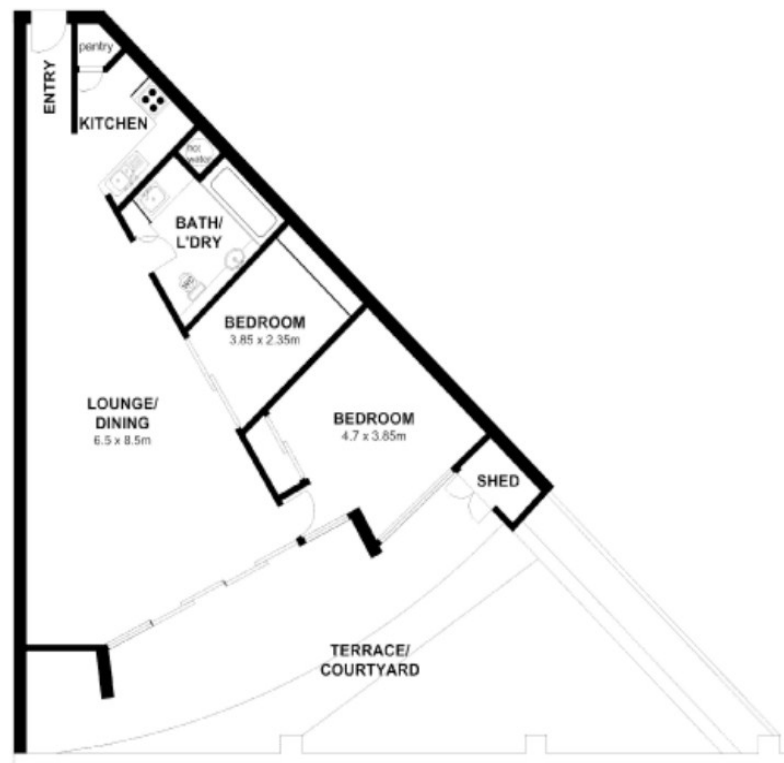


Figure 2: Floor plan of existing unit.

4. Background

- 4.1 Council has issued planning permits for Visitor Accommodation Use to operate within several other apartments on the property.
- 4.2 Three of these apartments are those at 8, 9, and 29 /1 Collins Street (PLN-17-541, PLN-17-963, and PLN-18-250 respectively). All of these approvals were permitted and issued in accordance with section 58 of the *Land Use Planning and Approvals Act 1993* when the previous Interim Planning Directive No. 2 Exemption and Standards for Visitor Accommodation in Planning Schemes was in effect.

- 4.3 Council has also issued three approvals for visitor accommodation to operate from 37, 53, and 51 / 1 Collins Street (PLN-19-30, PLN-20-762, and PLN-21-63 respectively). These approvals were discretionary and issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993* under the current Planning Directive 6 Exemption and Standards for Visitor Accommodation in Planning Schemes.
- 4.4 A further approval for a change of use to Visitor Accommodation has recently been granted again for 53/1 Collins Street, (PLN-22-775).

5. Concerns raised by representors

- 5.1 Six (6) representations objecting to the proposal were received within the statutory advertising period between 19/12/22 - 09/01/23.
- 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.

Residential Dwellings:
Representors are unhappy that the visitor accommodation is proposed in what they feel is a residential complex, not a hotel complex.
Representors state that the building is not fit for purpose for overnight accommodation and was built for owner and renter long term stays. There is no on site management and if the unit is let to overnight there is no available assistance.
Security:
Representors are concerned that guests will not ensure that the security doors and gates are closed properly.
Communal Facilities:
Representors have suggested that the body corporate by-laws are ignored and that common facilities, such as the swimming pool are being offered to visitor accommodation guests in spite of the rules prohibiting this.
Residential Amenity:

<p>One representor is concerned that the visitor accommodation guests will treat the property like a hotel, leaving their luggage in the foyer unattended for extended periods of time.</p>
<p>Representors are concerned that the visitor accommodation guests will not use the appropriate bins when disposing of their rubbish, and in some cases will not even dispose of the rubbish, rather leaving it in the common areas when they leave</p>
<p>One representor has suggested that the visitor accommodation guests will throw cigarette butts on the ground in common areas, and over balconies into adjoining courtyards, littering without regard for residents.</p>
<p>Representors are concerned that the visitor accommodation will be used to host parties, and that the noise, associated mess, and additional people will compromise the residential amenity for long term residents.</p>
<p>Property Damage:</p>
<p>Representors are concerned that short term accommodation users are not residents and therefore are not concerned when they damage things in the building. It is suggested that this is currently occurring as a result of the existing visitor accommodation approved within the complex.</p>
<p>One representor has suggested that the foyer is being damaged by keys and other objects by unfamiliar visitor accommodation guests.</p>
<p>Parking and Vehicle Safety:</p>
<p>Representors are concerned that visitor accommodation guests currently park in the wrong parking bay, and that this will continue for future guests.</p>
<p>Representors are concerned that guests do not follow traffic directions both on the site, and in the surrounding one way streets. They suggest that this is unsafe and undesirable.</p>
<p>Planning Directive No. 6</p>
<p>One representor state that an approval of this application will bring the total approvals of known short term accommodation to 5 units on the site which they believe is not accordance with Planning Directive No 6, and that the performance criteria of this directive are not being satisfied.</p>
<p>Response to Previous Approvals and Conditions</p>

<p>One representor has suggested that Council Planning Committee are not taking their concerns or objections seriously, and that the continued approvals are changing a safe and secure residential building to Hotel type accommodation which often results in disruption, noise and damage to this property.</p>
<p>One representor has objected to the application of management plans in previous approvals in the building. The objection is that there is an assumption that the Unit will operate in a similar fashion compared to a permanent/long term residential Unit but that this operation cannot be predicted or guaranteed. This assumption has not been based on any comprehensive study to indicate the impact on amenity and characteristics and that there is no official data available to support the number of visitor nights</p>
<p>The same representor has stated that the management plans continue to allow for unacceptable impacts on residential amenity and that most short term visitors do not consider the management plan let alone respect the bi-laws in place.</p>
<p>Housing Availability:</p>
<p>Representors are concerned that the conversion of long term housing to short term visitor accommodation will result in a reduction in available house in the city in a time where housing is already in short supply.</p>
<p>One representor has stated that previously, Councillors have argued that was no relationship between the increasing number of short term visitors accommodation being made available and the decreasing number of residential housing for people in Hobart. The representor states that this is untrue and that state and federal governments have provided evidence to the contrary, and that short-term facilities not only reduce the availability of longer-term accommodation , but they also cause the overall rental and leasing rates to increase significantly.</p>
<p>Potential Conditions:</p>
<p>One Representor has requested that any approval is limited to 12 months as if there is no time cap on the approval then this goes on indefinitely regardless of change of situation or owner.</p>

6. Assessment

6.1 The *Sullivans Cove Planning Scheme 1997* is a performance based planning

scheme. This approach recognises that there are in many cases a number of ways in which a proposal can satisfy desired environmental, social and economic standards. In some cases a proposal will be 'permitted' subject to specific 'deemed to comply' provisions being satisfied. Performance criteria are established to provide a means by which the objectives of the planning scheme may be satisfactorily met by a proposal. Where a proposal relies on performance criteria, the Council's ability to approve or refuse the proposal relates only to the performance criteria relied on.

- 6.2 The site is located in the Inner City Residential (Wapping) Activity Area of the *Sullivans Cove Planning Scheme 1997*.
- 6.3 The existing use is Residential (multiple dwelling). The proposed use is Visitor Accommodation. The existing use is a permitted use in the Activity Area. The proposed use is a permitted use in the Activity Area.
- 6.4 The proposal has been assessed against:
- 6.4.1 Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes
- 6.5 The proposal relies on the following performance criteria to comply with the applicable standards:
- 6.5.1 Planning Directive No.6 Exemption and Standards for Visitor Accommodation in Planning Schemes Clause 3.3 (e)
- 6.6 Each performance criterion is assessed below.
- 6.7 Planning Directive No. 6 ("PD6") Exemption and Standards for Visitor Accommodation in Planning Schemes Clause 3.3 (e)
- 6.7.1 The permitted standard at clause 3.3(d) allows a total of 200sqm of visitor accommodation use per parent strata lot.
- 6.7.2 The proposal includes the change of use of a 149 sqm unit in Activity Area 1 of the *Sullivans Cove Planning Scheme 1997* from Residential to Visitor Accommodation. There are already other units operating as Visitor Accommodation use, the floor area in use at the address of 1 Collins Street for Visitor Accommodation exceeds 200sqm.
- 6.7.3 The proposal does not comply with the acceptable solution; therefore assessment against the performance criterion is relied on.

6.7.4 The performance criterion at clause 3.3 (e) provides as follows:

Unless 3.3(a) applies, Bed and Breakfast Establishment and Visitor Accommodation that does not comply with the provisions in 3.3(d) is 'Discretionary' in Activity Area 1.0 Inner City Residential (Wapping) subject to the following conditions:

Bed and Breakfast Establishment and Visitor Accommodation must:

(i) not cause an unreasonable loss of privacy to adjoining properties;

(ii) not likely to cause an unreasonable increase in noise;

(iii) be of a scale that respects the character and use of the area;

(iv) not adversely impact the safety and efficiency of the local road network;

(v) not unreasonably disadvantage owners and users of rights of way;

(vi) not be located on the same site as a dwelling providing long term residential accommodation, unless:

a. it has a separate ground level pedestrian access to a road; or

b. there is an existing mix of uses on the site;

and the impact on the amenity of the long term residents within the site is not unreasonable

6.7.5 Clause 3.3(a) of PD6 does not apply as the dwelling in question is not used by the owner as their main place of residence. The proposal does not comply with clause 3.3(d) as the proposal would result in there being a floor area used for visitor accommodation greater than 200m² on the lot. Therefore, the proposed visitor accommodation is discretionary and requires justification against the above conditions.

Privacy clause 3.3(e)(i)

6.7.6 The proposed visitor accommodation would be contained within an existing apartment. No additional features that may affect privacy such as windows or elevated decks are proposed. Therefore, the proposal is

considered unlikely to cause a loss of privacy. The proposed use may have an impact upon areas on the site such as lifts, corridors, and entry spaces. However, these spaces are already shared spaces that are not considered to provide privacy.

Noise clause 3.3(e)(ii)

- 6.7.7 While it is recognised that some guests may use visitor accommodation in a manner that generates unreasonable noise, it is also considered that visitor accommodation provides for sleeping and occupancy in a similar manner as a permanent residence, albeit on a short term basis. It is also recognised that a permanent residence can also be used in a manner that generates unreasonable noise. Therefore, provided that arrangements are put in place to manage what are likely to be limited instances of increased noise, the proposed visitor accommodation is not considered likely to cause an overall unreasonable increase in noise.
- 6.7.8 Given the representor concerns and the potential for impact upon long term residents, it is considered appropriate to require that a visitor accommodation management plan be implemented, providing contact details for residents should there be any issues arising from visitor accommodation guests.

Representor concerns over the effectiveness of management plans is noted and understood, but Council officers cannot predict or foresee all the complexities and variabilities of the short stay accommodation environment. In the absence of legislative means to further control the length of stay and management of a Visitor Accommodation use on individual properties, it is recommended that application of management plans will continue to be conditioned to approvals. Further monitoring of these plans within the site specific Body Corporate environment would likely prove beneficial in ensuring noise and residential amenity is maintained.

Scale clause 3.3(e)(iii)

- 6.7.9 The performance criteria requires the proposed visitor accommodation use to be of a scale that respects the character and use of the area.
- 6.7.10 The proposal is for a change of use of a two bedroom dwelling, to a visitor accommodation unit, in an apartment building that contains 65 units. Of these, six have approval to operate as visitor accommodation, and that total would rise by one, to seven, if this application is approved.

- 6.7.11 It is likely that the performance criteria's reference to 'area' means Activity Area. On that basis, it is noted that the Wapping Activity Area has been specified under the *Sullivans Cove planning Scheme 1997* as an Activity Area with unique characteristics in the inner city area of Hobart. Under clause 15.2, the objectives of the Activity Area make clear that the area is to "provide for the development of an inner city residential neighbourhood" and "to ensure that residential development is the primary focus throughout the Activity Area" whilst also allowing "nonresidential uses to be developed on a flexible performance approach based on the amenity and characteristics of specific site." It is further noted that in the Wapping Activity Area there already exists a mix of uses, including visitor accommodation. The nature of existing visitor accommodation uses include hotels, and whole apartments/dwellings to be rented out on platforms like AirBnB. To that end, the proposed visitor accommodation use of a two bedroom dwelling is clearly consistent, compatible, and respectful of the existing character and use of the area.
- 6.7.12 The question is really whether the scale of the proposal is respectful of the existing character and use of the area.
- 6.7.13 The scale of this individual property, in other words, the scale of a two bedroom visitor accommodation unit, is considered to be of itself at a scale respectful of the character and use of the area. That is, it is a relatively small sized visitor accommodation unit, that is similar in size to others already operating.
- 6.7.14 In terms of the cumulative impact of this proposal, in conjunction with other existing approvals for the area, remaining respectful of the scale of the character and use of the area, it is pertinent to note that the website [insideairbnb.com](https://www.insideairbnb.com) shows that there are less than 10 visitor accommodation units available in the Wapping Activity Area. This is also supported by a search of the [AirBnB website](https://www.airbnb.com) itself. Although the exact number of dwellings in the Wapping Activity Area is not known, given the number of apartment buildings in the Activity Area, such as the subject apartment building, 10 visitor accommodation units is unlikely to represent a large percentage.

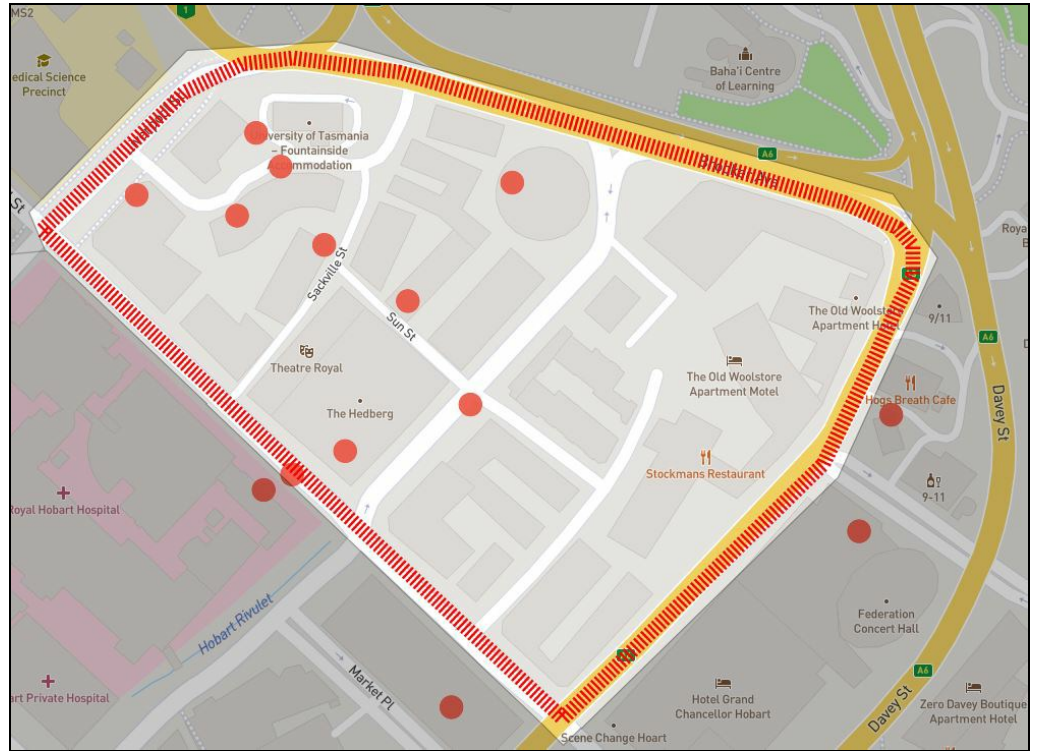


Figure 3: Listings in the Wapping Activity Area according to insideairbnb.com.

6.7.15 The website insideairbnb.com also provides detail on the average number of nights booked for the last 12 months. For entire homes in the Hobart municipal area, the average is 122 nights. This represents an occupancy of 33%.

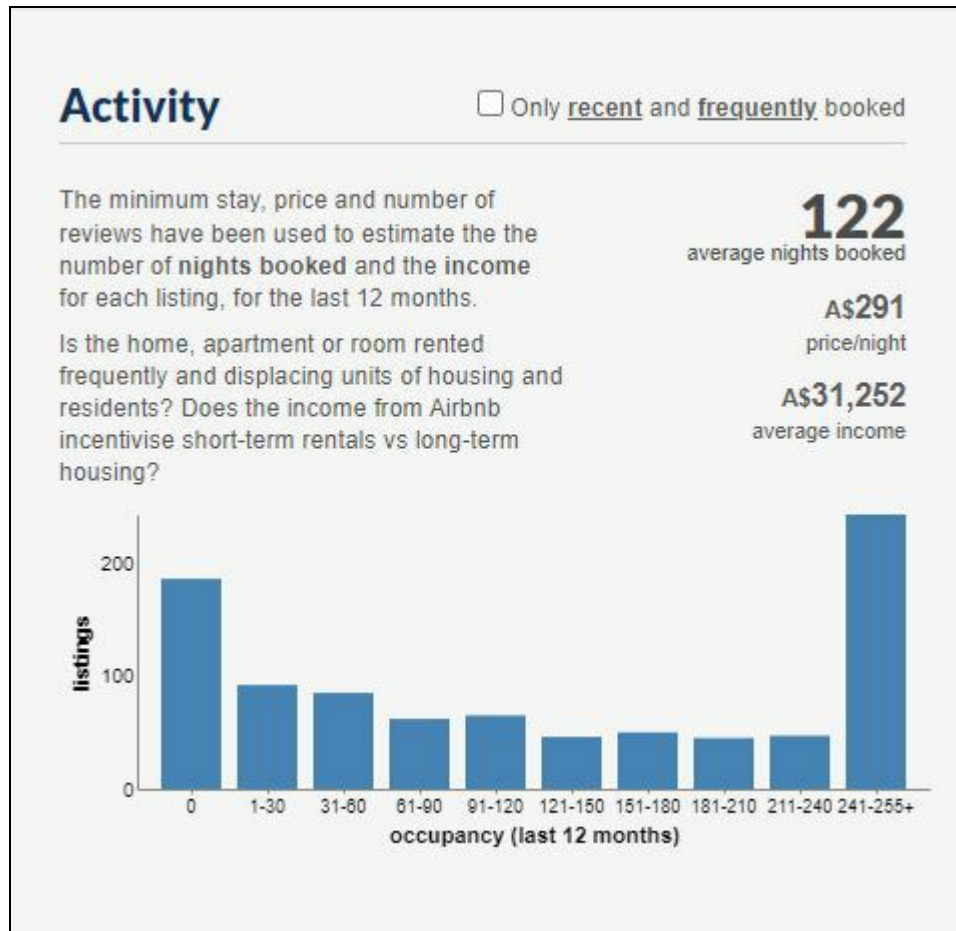


Figure 4: Information from the insideairbnb.com website demonstrating the average nights booked for the last 12 months in the Hobart municipal area.

- 6.7.16 The combination of the character and scale of the existing mix of uses in the Activity Area, the relatively low number of visitor accommodation units currently operating in the Activity Area, as well as the low occupancy rate of listings in the Hobart municipal area, means that the cumulative impact of this proposal should properly be considered as being of a scale that is respectful of the character and use of the area.
- 6.7.17 (This conclusion is the same if 'the area' referenced in the performance criteria is taken to be the suburb of Hobart, within which the Wapping Activity Area falls. Council's [statistics](#) indicate that 92 visitor accommodation approvals were issued between 2014 and June 2022. The [ABS data](#) indicates that there are 1457 dwellings in the suburb of Hobart. The percentage of visitor accommodation units (assuming all approvals are being acted on) is 6%. Again, the low number of visitor accommodation units, and the low occupancy rate, means that the cumulative impact of this proposed visitor accommodation use is not disrespectful of the character and use of the (wider) area.)

Impact on road network clause 3.3(e)(iv)

- 6.7.18 The building is existing, along with car parking allocated for the use of the individual residences. As such, there is limited scope for vehicles associated with the proposed visitor accommodation use. Given the vehicles associated with the existing approved residential use of the site, it is considered that there will be little or no impact on the safety and efficiency of the road networks resulting from the proposed change of use.

Rights of Way clause 3.3(e)(v)

- 6.7.19 There are no rights of way relied upon to facilitate access to the site.

Impact on amenity of long term residents clause 3.3(e)(vi)

- 6.7.20 There is an existing mix of uses on the site, such that separate ground floor access is not required for the unit to facilitate its proposed change of use.
- 6.7.20 The representations assert that the existing Visitor Accommodation use on the site is creating issues for long term resident amenity through noise, disturbance, repairs, and security concerns. While those concerns have not been raised with the Council in relation to any specific approved visitor accommodation unit to date, they have apparently been raised with the Body Corporate. In assessing this potential impact, it is relevant that if a permit is granted, this will be only one of two ground floor units in the main building approved to operate as a Visitor Accommodation use (the other is the recently approved 53/1 Collins St). All other units which already have Visitor Accommodation are on different floors of the tower and on the wings. This should minimise the impact from visitor accommodation guests for any specific residents. Being on the ground floor this approved use will also not see exacerbation of existing concerns over disturbances and littering from rubbish tossed off upper floor balconies. It is considered that a Visitor Management Plan is adequate to manage the risks posed to the amenity of long term residents within the sites, so that any impacts will not be unreasonable.
- 6.7.22 Correctly following the directions of this plan, it could reasonably be considered the proposed use would be able to operate in a manner respectful of the Activity Area character and use. In the absence of other regulatory options for management of the use, the recommendation will be that a condition for a visitor management plan to a similar standard with the previous approvals under PLN-19-30, PLN-20-762, PLN-22-63,

and PLN-22-775 be included in the permit of approval. This will seek to guarantee that the operation and scale of the use is appropriately managed to the satisfaction of Council, long term residents, as well as ensuring the character and use of the Amenity Area is respected.

6.7.23 The proposal complies with the performance criterion.

7. Discussion

- 7.1 Planning approval is sought for Change of Use to Visitor Accommodation, at 27/1 Collins Street, Hobart and the Common Land of the Parent Title.
- 7.2 The application was advertised and received six representations. The representations raised concerns including Residential Dwellings, Security, Residential Amenity, Building Damage, Parking and Vehicle Safety, Garbage Disposal, Communal Facilities, Previous Council Advice, Housing Shortage, and Planning Directive 6.
- 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 not been assessed by any other Council officers.
- 7.5 The proposal is recommended for approval.

8. Conclusion

- 8.1 The proposed Change of Use to Visitor Accommodation, at 27/1 Collins Street, Hobart and the Common Land of the Parent Title satisfies the relevant provisions of the *Sullivans Cove Planning Scheme 1997*, and as such is recommended for approval.

9. Recommendations

That: Pursuant to the *Sullivans Cove Planning Scheme 1997*, the Council approves the application for Change of Use to Visitor Accommodation, at 27/1 Collins Street, Hobart and the Common Land of the Parent Title 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-22-842 - 27 1 COLLINS STREET HOBART TAS 7000 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

PLN 18

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

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

respond to any complaints regarding behaviour of guests. If the property is sold the Visitor Accommodation Management Plan (VAMP) must be updated with new contact details.

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

Advice:

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

Reason for condition

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

ADVICE

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

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

CONDITION ENDORSEMENT

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

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

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

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.

VISITOR ACCOMMODATION

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

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

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

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

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

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



(Michael McClenahan)

Development Appraisal Planner

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(Ben Ikin)

Senior Statutory Planner

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Date of Report: 17 January 2023

Attachment(s):

Attachment B - Planning Committee Agenda Documents