City of HOBART

# APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

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| Type of Report: | Committee |
| Committee: | 15 February 2023 |
| Expiry Date: | 17 February 2023 |
| Application No: | PLN-21-471 |
| Address: | 175 CAMPBELL STREET , HOBART<br>177 CAMPBELL STREET , HOBART<br>179 CAMPBELL STREET , HOBART<br>169 - 173 CAMPBELL STREET , HOBART<br>ADJACENT ROAD RESERVE |
| Applicant: | (JMG Engineers and Planners obo BUILDING GROUP APPRENTICESHIF SCHEME LTD)<br>117 Harrington Street |
| Proposal: | Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Foo Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal |
| Representations: | Fourteen (14) |
| Performance criteria: | Urban Mixed Use Zone Use and Development Standards, Potentially Contaminated Land Code, Road and Railway Assets Code, Parking and Access Code, Stormwater Code, Attenuation Code, Historic Heritage Code, Inundation Prone Ares Code, Signs Code |

## 1. Executive Summary

1.1 Planning approval is sought for Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal, at 169-173, 175, 177, and 179 Campbell Street, and the Adjacent Road Reservation.

1.2 More specifically the proposal includes:

- Consolidation of all lots comprising 175, 177, and 179 Campbell Street, Hobart.
- Demolition of the rear lean to additions to the dwellings at 177 and 179 Campbell Street.
- Demolition of all outbuildings on 177 and 179 Campbell Street.
- Demolition of all buildings on 175 Campbell Street.
- External alterations to the dwellings at 177 and 179 Campbell Street to facilitate a connection between the two buildings, and level access.
- Internal demolition and alterations within the dwellings at 177 and 179 Campbell Street to facilitate their change of use to a food premises and consulting rooms.
- Construction of a new 6 storey building at 175 Campbell Street which contains two ground floor commercial tenancies, basement carparking, and 31 new multiple dwellings.
- The multiple dwellings will include 6 one bedroom, 14 two bedroom, and 11 three bedroom dwellings.
- The proposal relies upon the ongoing use, and upgrading of the shared right of way between 175 and 169-173 Campbell Street.
- Upgrades to public infrastructure are proposed to facilitate the proposed development.

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

1.3.1 Urban Mixed Use Zone - Use, Height, Setback, Design, Passive Surveillance, Landscaping, Fencing, Residential Amenity

1.3.2 Potentially Contaminated Land Code - Excavation

1.3.3 Road and Railway Assets Code - Existing Road Accesses and Junctions, Sight Distance at Accesses, Junctions and Level Crossings

1.3.4 Parking and Access Code - Number of Parking Spaces, Design of Vehicle Accesses, Layout of Parking Areas, Design of Bicycle Parking Areas, Facilities for Commercial Vehicles

1.3.5 Stormwater Code - Stormwater Drainage and Disposal

1.3.6 Attenuation Code - Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm

1.3.7 Historic Heritage Code - Development Standards for Heritage Places, Development Standards for Places of Archaeological Potential

1.3.8 Inundation Prone Areas Code - Riverine Inundation Hazard Areas

1.3.9 Signs Code - Standards for Signs, Standards for Signs on Heritage Places subject to the Heritage Code

1.4 Fourteen (14) representations objecting to the proposal were received within the statutory advertising period between 12 and 26 July 2022.

1.5 The proposal is recommended for refusal.

1.6 The final decision is delegated to the Planning Committee, because more than five objections were received, the proposal is a major application, and the officer recommendation is for refusal.

1.7 This application was considered by the Planning Committee on 14 December 2022. At that meeting, the Elected Members proposed that the application be deferred to give the applicant and officers an opportunity to consider aspects of the application further. The applicant agreed that this may be useful and the Committee passed a resolution to defer the application. In section 7 of this report, there is a further analysis of the issues which arose at the earlier meeting and on the subsequent discussions with the applicant.

## 2. Site Detail

2.1 The application site is comprised of five separate titles, one of which (163-173 Campbell Street) is relied upon for right of way access to the site only, and has no actual development proposed. The works are to occur on 175, 177 and 179 Campbell Street, with infrastructure works spilling on the road reserve either side. The site is surrounded by a mixture of commercial, retail, bulky goods sales, residential, business and professional services, and educational uses. The site is slightly below the level of Campbell Street, but is generally flat back toward the Brooker Highway. There are two heritage listed dwellings on 177 and 179 Campbell Street, with a carpark behind associated with the commercial use of 175 Campbell Street.

*Figure 1: The location of the application site is highlighted in orange*

*Figure 2: The location of the area where works are to occur is highlighted in orange*

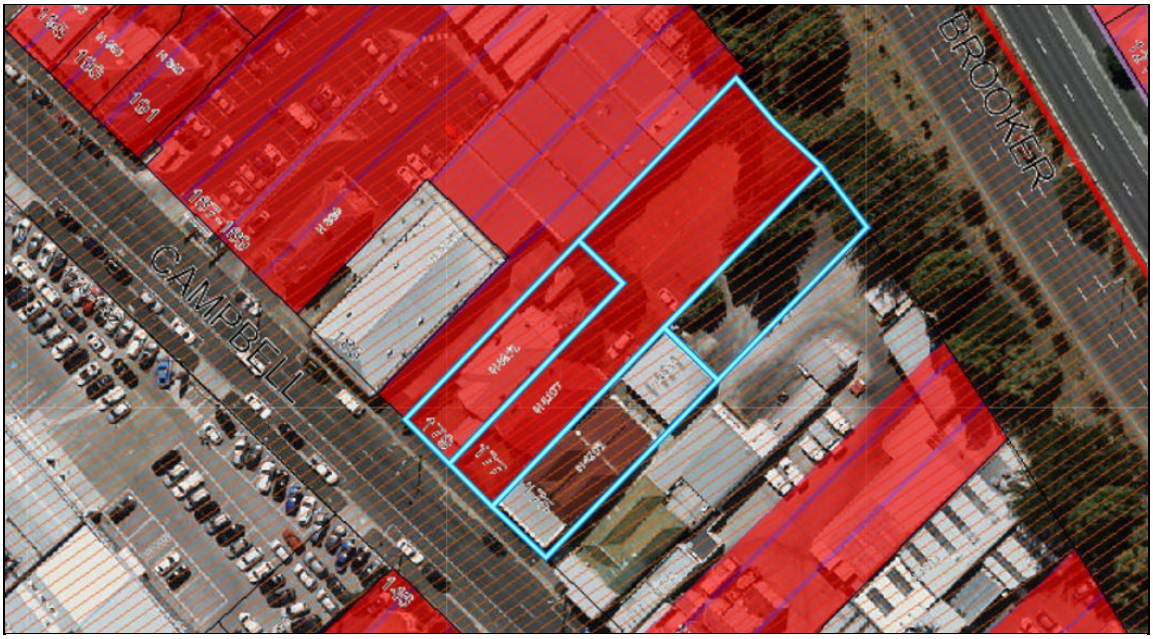


*Figure 3: Showing the heritage listings for the site. The red denotes individual heritage listing under the planning scheme. The brown hatching indicates the area of archaeological potential. Source: Council GIS.*

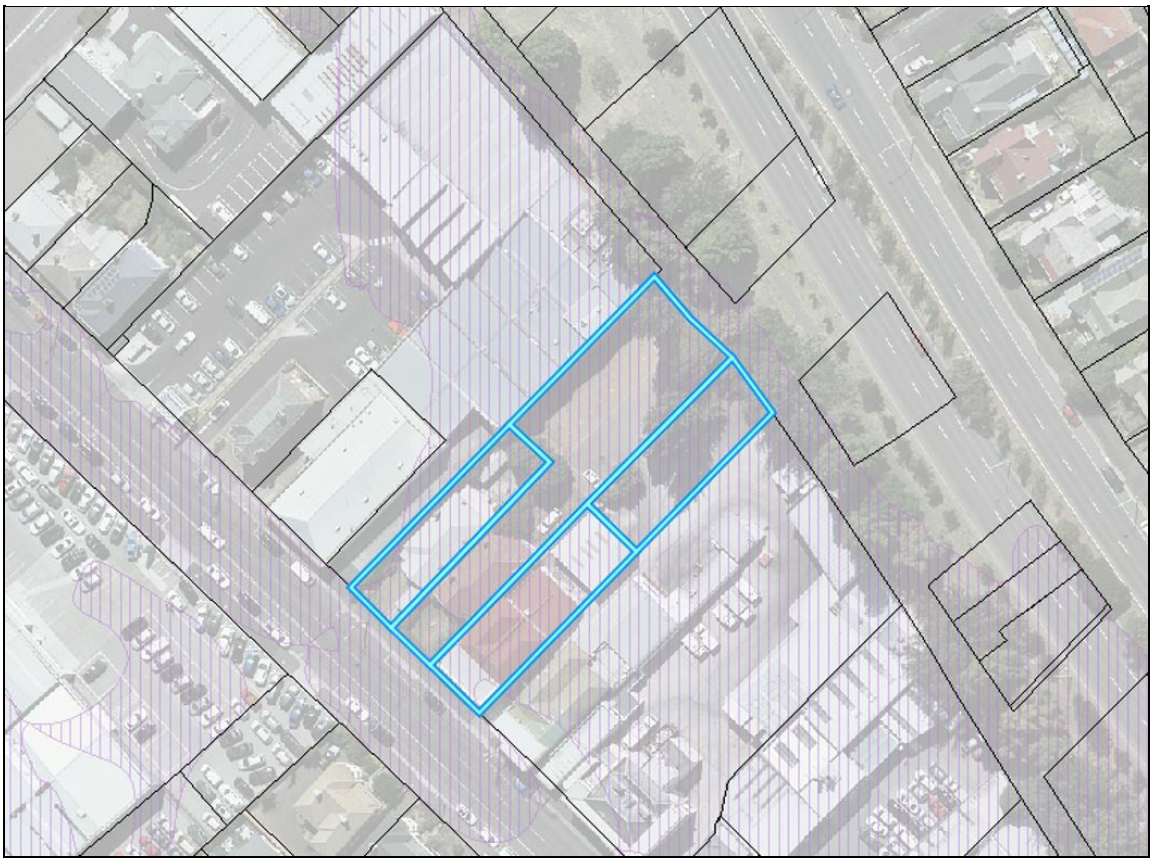

*Figure 4: The site is flood prone (purple hatching). Source: Council GIS.*

## 3. Proposal

3.1 Planning approval is sought for Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal, at 169-173, 175, 177, and 179 Campbell Street, and the Adjacent Road Reservation.

3.2 More specifically the proposal is for:

- Consolidation of all lots comprising 175, 177, and 179 Campbell Street, Hobart.
- Demolition of the rear lean to additions to the dwellings at 177 and 179 Campbell Street.
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- Upgrades to public infrastructure are proposed to facilitate the proposed development.

*Figure 5: Rendering of the proposal's front elevation. Source: Cumulus.*

## 4. Background

4.1 Several pre-application meetings occurred between the applicant and Council Officers.

4.2 The application was considered by the Urban Design Advisory Panel at its meetings of 28 April 2021 and 7 September 2021 in a pre-application review of the proposed development. The minutes of both meetings are provided as attachments to this report. In the context of the provisions on which they were asked to comment, the Panel was broadly not supportive of the proposal. The Applicant has advised that the Panel's comments were incorporated in the final design through a number of design changes to the proposed building(s) including:

4.3 The proposal considered by the Panel at its 28 April 2021 meeting was at a very early stage, and was largely a massing exercise. Refer figure 6 below.

*Figure 6: Campbell Street Model of the original design taken to UDAP on 28 April 2021*

4.4 At its 7 September 2021 meeting, the Panel considered the proposal at the early stages of the planning application, will it was still invalid awaiting General Manager's Consent. The applicant provided the Panel with two iterations of the design - the original version and a reduced height version. Refer Figures 7 and 8 below.

*Figure 7: Front and rear elevations of the original proposal submitted in the planning application. Ultimately this iteration of the design was not pursued. Source: Cumulus.*

*Figure 8: Front and rear elevations of the reduced height proposal provided to the Panel for comment. Ultimately this iteration of the design was not pursued. Source: Cumulus.*

4.6 In response to the Panel's comments, the applicant made a number of changes to the design, most notably:

- Reduced overall height and number of apartments
- Reduced roof height over circulation space to south
- Simplification of building form behind heritage cottages
- Relocation of plant equipment on the street so that heritage cottages are not concealed.

4.7 The third iteration of the design incorporating the above changes is what was publicly advertised, and is before the Council for consideration. It is depicted in Figure 9 below.

*Figure 9: Front and rear elevations of the current iteration of the design, currently before the Council for determination. Source: Cumulus.*

4.8 Throughout the assessment process, the applicant has been advised that it would be difficult for Council Officers to recommend support for the proposed height of the building, or for the proposed response to the Planning Provisions surrounding flood safety and mitigation. Following advertising the applicant had this reiterated to them and was asked if they wished to progress the application to City Planning Committee and Council Meetings. The applicant acknowledged officer concerns and requested that the application progress regardless.

## 5. Concerns raised by representors

5.1 Thirteen (14) representations objecting to the proposal were received within the statutory advertising period between 12 and 26 July 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.

| Height: |
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| Several representors are concerned that the height of the proposed new building is not consistent with the surrounding area, and will detract from the streetscape and heritage values of the site. |
| Several representors have suggested that the proposed height will dominate surrounding buildings and is therefore not appropriate. |
| Representors are concerned that the application relies on examples of buildings that are not nearby the development site to justify the proposed building height. |
| Representors suggest that the height of nearby buildings is only 1-2 stories on average, and as such the proposed height does not satisfy the performance criteria. |

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| Representors have indicated their view that the proposed building does not provide any transition of height between it and adjoining buildings. |
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| Views: |
| Several representors have expressed concern that the proposed building will obstruct views of Mount Wellington and the Historic buildings (including the Holy Trinity Church) in Church Street, Paternoster Row, and the surrounding area, from the Glebe. The representors suggest that this compromises the historic connection between the two areas. |
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| Sunlight / Overshadowing: |
| Representors have expressed concern that the proposed new building will result in an unreasonable amount of overshadowing of adjoining properties, reducing the amenity and enjoyment of the current use of the sites, as well as compromising future development potential. |
| Representors have expressed concern that the proposed new building will result in an unreasonable amount of overshadowing and loss of sunlight to the footpath and road in Campbell Street to the front of the site. They suggest that the impact on the public area is unacceptable and that the proposal should not be supported. |
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| Amenity: |
| Several representors are concerned that the proposed new building being constructed to the footpath will not provide opportunity for landscaping, and will negatively impact the amenity of the surrounding area. |
| Representors have noted that he trees that are to remain on the Brooker Highway are deciduous, and as such will offer little screening for residents of the Glebe during the winter months, thus making the appearance of the building at this street front facade of concern. |
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| Tree Removal: |

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| Several representors are concerned that the application will result directly in the removal of trees on the Brooker Highway road reservation, and potentially indirectly in the need to remove more as a result of potential construction damage. The representors have suggested that the trees are a significant streetscape element and as such that they should be preserved and not compromised through this proposed development. |
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| Adjacent Site Access: |
| One representor is concerned that access to the adjacent property that shares the right of way will be impacted during construction, and may be impacted into the future as a result of the increased volume of users. The representor has requested that construction not impact site access for the adjoining property, and that there be no ongoing impacts on access from the use of the proposed new development. |
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| Construction Impacts: |
| Several representors were concerned about the potential footpath and road closures that could occur from the construction of this proposed development. They have indicated that the ongoing impacts of other developments in the street create unreasonable impacts when traversing the street already and that they do not feel it appropriate to compound this with more partial road and footpath closures. |
| Representors are concerned that there will be unreasonable dust and noise from the construction of the proposed new building for a protracted amount of time. |
| One representor was concerned that there may be structural impacts for adjoining buildings during construction given the proximity of the proposed new building to the site boundaries. |
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| Parking: |
| Several representors have suggested that there is insufficient parking proposed for the use of the site. |
| Several representors have suggested that there is too much parking for the use on site given the location, proximity to services, and availability of alternate means of transport in this location. |
| Representors are concerned that the lack of parking provided on site will result in vehicles from the site occupying long term car parking in the surrounding area, which the representors say is already highly sought after. |

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| One representor has suggested that the Australian Standard relied upon for the car parking design is outdated and reflects a time when vehicles were generally smaller, and as such should not be relied upon for a modern development. |
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| Traffic / Access: |
| Representors are concerned that there may be a loss of access to nearby and adjacent sites during construction, and have expressed the desire for this not to occur. |
| One representor has suggested that building to the footpath will make use of the driveway to exit the site difficult. |
| One representor has suggested that the access will be unsafe for pedestrians walking down Campbell Street. They have suggested that there is already difficulty given the existing use of the driveway, so adding extra vehicles will likely exacerbate the concern. |
| One representor is concerned that the design fails to provide access for high vehicles. |
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| Trade Interruptions: |
| Representors are concerned that workers vehicles, potential footpath or partial road closures, and general difficulty in accessing the area will result in customers seeking alternate routes, resulting in loss of casual trade, and in other customers not being able to park nearby, or thinking that nearby businesses are closed, so not visiting retain premises nearby. They are concerned that this will have a negative impact on their trade during construction. |
| One representor has suggested that surrounding businesses should be compensated for any loss in trade during the construction of the proposed new building. |
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| Bike Parking: |
| Several representors are concerned that the proposed bicycle parking is both insufficient and poorly designed. The representors suggest that the location of the site is ideal for alternate means of transport, such as bicycles, and as such suggests that all the residences should be provided with secure on-site bicycle parking to help facilitate this option. The representors go so far as to say that the bicycle parking could be included at the cost of car parks to encourage this means of transport. |
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| Scale / Bulk / Intensity: |
| Representors have suggested that the proposed development is too large for the site, and will unreasonably intensify the use of the site and surrounds, negatively impacting the area. |
| One representor has suggested that the vertical articulation of the building design further exacerbated the appearance of building height and bulk. |
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| Design: |
| Representors have suggested that the design of the building should include stepping of the frontage, and introduce balconies with landscaping to soften the facade and make it more sympathetic to its surrounds. |
| Representors have questioned the efficacy of replicating other saw-tooth roof structures on commercial buildings in the area as a means of reducing the visual bulk of the building. The representors have suggested that the building referenced by this design is likely to be replaced with housing in the medium to long term future, and that this will result in a roof form which is out of character with the surrounding area. |
| Representors have suggested that the proportion of the site dedicated to impervious surface is a poor design outcome. They have suggested that for future climate change risks it would be better to have more plantings and water pervious surfaces. |
| One representor has suggested that the failure to angle all roofs in the same direction means that the design fails to reflect the sawtooth roofs that they are suggested to replicate. |
| One representor has suggested that he proposed finished are neither reflective of the surrounding materials, nor of sufficient distinction to warrant their use. They have suggested that the materials are a cheap option that denigrates the heritage values of the surrounding area. |
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| Heritage: |
| Representors are concerned that the proposed new building is not consistent with the heritage streetscape of Campbell Street. |
| Representors suggest that the proposed new building is not subservient or complimentary to the heritage buildings and sites. |
| Representors have suggested that the design of the new building is not sympathetic to that of the two exiting heritage listed dwellings on site. |

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| One representor suggest that the proposed demolition within the heritage listed buildings is not necessary or appropriate. |
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| Neighbourhood Character: |
| Several representors have suggested that the scale and design of the proposed new building is out of character with the surrounding neighbourhood. |
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| Flood Risk: |
| Representors are concerned that the site is prone to flooding in significant weather events, the carparking area will be under a significant amount of water, and therefore unsafe for residents. |
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| Precedent: |
| Several representors are concerned that the proposed height and form of this development will set a precedent for other similar such developments in the area. |
| One representor was concerned that the approval of this development will set a precedent for incremental increases in the height of buildings in the area, paving the way for further inconsistent development by similar degrees to that which they perceived from this development. |
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| Noise: |
| Several representors are concerned that the residents will be subjected to unreasonable amounts of noise due to the proximity of the dwellings to the Brooker Highway. |
| Representors have expressed concern that there is no noise attenuation proposed for users of the rooftop garden or courtyard, and that he likely impost of Highway noise will result in limited use of these facilities |

## 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 Urban Mixed Use Zone of the *Hobart Interim Planning*

*Scheme 2015*.

6.3 The existing use is Residential and Business and Professional Services. The proposed use is Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal. The existing uses are permitted uses in the zone. The proposed uses are permitted and discretionary uses in the zone.

6.4 The proposal has been assessed against:

6.4.1 Part D - 15.0 Urban Mixed Use Zone

6.4.2 Part E - E2.0 Potentially Contaminated Land Code

6.4.3 Part E - E5.0 Road and Railway Assets Code

6.4.4 Part E - E6.0 Parking and Access Code

6.4.5 Part E - E7.0 Stormwater Management Code

6.4.6 Part E - E9.0 Attenuation Code

6.4.7 Part E - E13.0 Historic Heritage Code

6.4.8 Part E - E15.0 Inundation Prone Areas Code

6.4.9 Part E - E17.0 Signs Code

6.5 The proposal relies on the following performance criteria to comply with the applicable standards:

6.5.1 Urban Mixed Use Zone:

*Zone Use Table - Part D - 15.3.1*
*Height - Part D 15.4.1 P1*
*Setback - Part D 15.4.2 P1*
*Design - Part D - 15.4.3 P1*
*Passive Surveillance - Part D 15.4.4 P1*
*Landscaping - Part D 15.4.5 P1*
*Fencing - Part D 15.4.7 P1*
*Residential Amenity - Part D 15.4.8 P1, P3*

6.5.2 Potentially Contaminated Land Code:

*Excavation - Part E E2.6.2 P1*

6.5.3 Road and Railway Assets Code:

*Existing Road Accesses and Junctions - Part E E5.5.1 P3*
*Sight Distance at Accesses, Junctions and Level Crossings - Part E E5.6.4 P1*

6.5.4 Parking and Access Code:

*Number of Parking Spaces - Part E E6.6.1 P1*
*Design of Vehicle Accesses - Part E E6.7.2 P1*
*Layout of Parking Areas - Part E E6.7.5 P1*
*Design of Bicycle Parking Areas - Part E E6.7.10 P1 and P2*
*Facilities for Commercial Vehicles - Part E E6.7.13 P1*

6.5.5 Stormwater Code:

*Stormwater Drainage and Disposal - Part E E7.7.1 P2 and A4*

6.5.6 Attenuation Code:

*Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm - Part E E 9.7.2 P1*

6.5.7 Historic Heritage Code:

*Development Standards for Heritage Places - Part E E13.7.1 P1 and E13.7.2 P1, P2, P3, P4, P5, and P6, and E13.7.3 P1*
*Development Standards for Places of Archaeological Potential - Part E E13.10.1 P1 and E13.10.2 P1*

6.5.8 Inundation Prone Areas Code:

*Riverine Inundation Hazard Areas - Part E E15.7.4 P1*
*Riverine, Coastal Investigation Area, Low, Medium, High Inundation Hazard Areas - Part E E15.7.5 P1*

6.5.9 Signs Code:

*Standards for Signs - Part E E17.7.1 P1*

*Standards for Signs on Heritage Places subject to the Heritage Code - Part E E17.7.2 P1*

6.6 Each performance criterion is assessed below.

6.7 Zone Use Table - Part D 15.3.1

6.7.1 The Zone Use Table provides for the status of all uses within the Urban Mixed Use Zone.

6.7.2 General Retail and Hire is a discretionary use in the Zone Use Table.

6.7.3 Clause 8.10.1 and 8.10.2 require that a use satisfy the relevant zone use standards, along with the Zone Purpose Statement, Local Area Objectives, and Desired Future Character Statements of the relevant zone.

6.7.4 The proposed use satisfies the relevant Use Standards for the Zone.

6.7.5 The relevant Zone Purpose Statements for the Urban Mixed Use Zone are as Follows:

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

The mixed use proposed for the site combines residential, commercial, consulting rooms. and food services in an urban area

*15.1.1.2 To encourage use and development at street level that generates activity and pedestrian movement through the area.*

The development includes food services, consulting rooms, and commercial tenancies facing the street, with residential above. This will encourage activity in the street.

*15.1.1.3 To provide for design that maximises the amenity at street level including considerations of microclimate, lighting, safety, and pedestrian connectivity.*

The proposed works retain the existing building setbacks, albeit that the southern building is replaced with a taller structure. This ensures minimal impact on the microclimate of the street. Lighting will remain largely unchanged at the street as the courtyard for the

development is internal and therefore the majority of the lighting (excluding security and pedestrian walkway lighting) will be shielded from the street. Public pedestrian connectivity is not provided through the site, however, this is not desirable as there is no destination on the Brooker Highway side of the site that does not have adequate alternative access.

*15.1.1.4 To ensure that commercial use are consistent with the activity centre hierarchy.*

N/A

*15.1.1.5 To ensure development is accessible by public transport, walking and cycling.*

The site is on a bus route, and a bicycle path, and is close enough to the city, and to supermarkets, schools, and other business and professional services that walking and cycling are options for residents.

*15.1.1.6 To provide for a diversity of uses at densities responsive to the character of streetscapes, historic areas and buildings and which do not compromise the amenity of surrounding residential areas.*

The diversity of use introduced to the surrounding area by the proposed development will compliment the existing use. The existing area is capable of supporting the residential density proposed without any compromise of the existing residential amenity. Council's Cultural Heritage Officers have assessed the proposed works and have determined that they are acceptable in the context of the heritage surrounds.

*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.*

Whilst the residential function of the two existing dwellings on the site is displaced, this is offset by the introduction of much higher density residential in the new building(s) on site which are designed to modern construction standards for enhanced residential amenity. The existing dwellings are re-purposed to commercial uses which

require a lower amenity standard, but retain the character and aesthetic of the site.

*15.1.1.8 To ensure that the proportions, materials, openings and decoration of building facades contribute positively to the streetscape and reinforce the built environment of the area in which the site is situated.*

The works to the heritage buildings achieve this. The proposed new building does not achieve this, and is discussed in detail at paragraph 6.8 below.

*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.*

The proposal will introduce new residential use to the site with current construction standards. This will result in residential development that protects its own amenity from potential commercial activity in the area, thus conserving the ability to maintain a diverse pattern of use of the wider area.

*15.1.1.10 To ensure that retail shopping strips do not develop along major arterial roads within the zone.*

No new retail strip will result from the proposed development.

6.7.6 There are no Local Area Objectives for the Urban Mixed Use Zone.

6.7.7 There are no Desired Future Character Statements for the Urban Mixed Use Zone.

6.7.8 The proposal complies with the Planning Scheme requirements for discretionary use for the site.

6.8 Height - Part D 15.4.1 P1

6.8.1 The acceptable solution at clause 15.4.1 A1 requires buildings to have a maximum height of 10m.

6.8.2 The proposal includes a new building with a maximum height above natural ground level of 23.6m.

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

6.8.4 The performance criterion at clause 15.4.1 P1 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) be compatible with the scale of nearby buildings;*
>
> *(c) not unreasonably overshadow adjacent public space;*
>
> *(d) allow for a transition in height between adjoining buildings, where appropriate;*

6.8.5 In relation to (a), there are no Desired Future Character Statements for the Urban Mixed Use Zone.

6.8.6 In relation to (c), the sun shadow diagrams submitted with the application show that the footpath in Campbell Street will be overshadowed by the proposed development for much of the day at the winter solstice. However, the plans also show that the adjacent buildings will also overshadow the footpath for much of the same time. As such, it can reasonably be extrapolated that a much smaller building, possibly even complying with the permitted building height, would have a similar impact on the footpath in terms of overshadowing. As there are no other public spaces affected by overshadowing or loss of sunlight from this development, this is considered acceptable.

6.8.7 In relation to (b) and (d), the Tribunal has held that 'compatibility' means:

> *To be compatible is to be consistent or congruous with that which comparison is required to be made. The Tribunal holds that to be "compatible" requires that the building height be capable of co-existing with the scale of nearby buildings. 'Compatible' [means] "not necessarily the same… but at least similar to, or in harmony or broad correspondence with the surrounding area". [Compatible] requires an outcome which is in harmony or broad correspondence with the surrounding area.*

The Tribunal has held that 'scale' means:

*The Tribunal holds that "scale" in this Clause [clause 15.4.1 – building height in the Urban Mixed Use zone] should be read in the context of P1; the term takes its colour from that context. The terms of P1 relate to building height. Accordingly, the reference to scale in this part is an inference to height and requires compatibility in that respect. Such matters cannot ignore altogether the form of the building, since height generates mass … but the intent is that building height must be compatible with the scale (height) of "nearby" buildings.*

The Tribunal has held that 'nearby' means "close to" the subject development.

The Tribunal has held that 'transition' means:

*Transitions between adjoining buildings are common provisions in town planning controls. Obviously, the intent of such controls is to avoid discordant differences in building heights by requiring the design of higher buildings to have regard for, and a recognition of, lower buildings. Stepped buildings are one way to achieve a transition.*

The Tribunal has held that 'adjoining' means:

*The Tribunal prefers a wider interpretation of this concept. 'Adjoining' should be construed to mean 'next to', without a requirement for physical connection between structures.*

The height of the proposed building is between 4 and 6 storeys, and a maximum of 23.6m above the existing ground level.  Buildings that are 'close to' the subject development, including those that are adjoining, are between one and two stories in height and have a significantly lower maximum height in relation to the existing ground level.

*Figure 10: Showing the height of nearby and adjoining buildings. 175 Campbell St is highlighted blue. Note the site also includes 177 and 179 Campbell Street. Source: HCC Digital Twin.*

The lack of higher buildings adjoining and nearby the subject site is a significant constraint on the development potential of the site, given the wording of the performance criteria. It is acknowledged that this proposal has some positive elements, and hypothetically, if there was higher development already existing in close proximity to the site, a more favourable assessment against the performance criteria could potentially be made However, as a 'first mover', this development has to comply with the above performance criteria in the context of the development which currently exists.

While it is noted that towards the city there are higher buildings, these are too far afield to be considered nearby, and therefore cannot be relied on for the purposes of this clause.

As a consequence, the proposal cannot be said to be compatible with the height of nearby buildings.

While (d) includes the words 'as appropriate' in requiring a transition in height to adjoining buildings, with a permitted maximum height of only 10m, the maximum height of almost 24m makes it very hard to argue that appropriate transitioning is being provided, either to current existing development, or possible future permitted development. Further, while it is noted that the 'tower' of the building is located at the centre of the site, behind the two heritage buildings, and is lower than the remaining new building(s), the proposed new buildings are designed with full height to all boundaries, with no discernable stepping of the facade to respond to adjacent properties. It is acknowledged that the application site is restricted in the extent that stepping can be effectively achieved given the two significant frontages, and the number and location of the heritage listed structures, both on site and in the surrounding area. Notwithstanding this limitation, it is considered that the lack of stepping is unacceptable as it fails to assist the proposed new building(s) in sitting comfortably within the surrounds. It is considered that some form of stepping to help soften the appearance of the building in its surrounds is considered necessary in this location.

6.8.8 In relation to height, the UDAP commented as follows at its 7 September 2021 meeting:

The Panel note the proposal substantially exceeds the current Scheme's height requirements, and if required to comment on height in a formal Development Application review, the Panel would recommend refusal on the height of the proposal.

The Panel appreciated the proponents reason for introducing a varied roofline, to reflect the industrial buildings' roof-lights nearby, though felt they were being used as an architectural expression and could have assisted more in reducing the height adjacent to neighbours to allow more sunlight on adjoining properties.

The panel noted that while the proposal needs to be compatible with nearby buildings, it does not need to match.

The Panel noted that the proposal did seem to be addressing the Campbell Street streetscape by reducing the height. The Panel felt that the street frontage could maintain the form in the higher of the two versions shown, given the relationship to the existing buildings on the opposite side of Campbell Street. However, the Panel were also of the opinion that massing impacts are more significant to the neighbouring properties than tinkering with the streetscape. The panel raised the issue

of bulk not just height, noting that height should be an outcome of location and form.

On a strict interpretation of the planning scheme provisions for height, the Panel concluded that the proposal does not comply. While there are meritorious elements of the proposal, overall they are not yet so significant as to warrant supporting the proposal, notwithstanding the non-compliance with the scheme.

6.8.9 The proposal does not comply with the performance criterion.

6.9 Setback - Part D 15.4.2 P1

6.9.1 The acceptable solution at clause 15.4.2 A1 requires buildings and works to be set back from the front boundary within 1m of the median setback within 100m on the same side of the street. An assessment of the setbacks within 100m of the site on the Campbell Street frontage has determined that this is between 0.2m and 2.2m from the front boundary. An assessment of the setbacks within 100m of the site on the Brooker Highway frontage has determined that this is between 0.7m and 2.7m from the front boundary.

6.9.2 The proposal includes a new building with a 0m setback from the front boundary to both Campbell Street and the Brooker Highway.

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 15.4.2 P1 provides as follows:

*Building setback from frontage must satisfy all of the following:*

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

*(b) be compatible with the setback of adjoining buildings, generally maintaining a continuous building line if evident in the streetscape;*

*(c) enhance the characteristics of the site, adjoining lots and the streetscape;*

*(d) provide for small variations in building alignment only where*

*appropriate to break up long building facades, provided that no potential concealment or entrapment opportunity is created;*

*(e) provide for large variations in building alignment only where appropriate to provide for a forecourt for space for public use, such as outdoor dining or landscaping, provided the that no potential concealment or entrapment opportunity is created and the forecourt is afforded very good passive surveillance.*

6.9.5 There are sufficient buildings built tot he front boundary in the nearby streetscape, and the extent to which the building does not comply with the front setback is small enough, that the proposed setback will not be out of character with the majority of the surrounds. The exception to this are the existing dwellings on the application site, but they are also significantly outside or the median range of front setbacks. As such, the proposed new building is more in keeping with the streetscape than the existing dwellings are.

6.9.6 The proposed setback to the Brooker Highway is consistent with that of buildings on adjacent properties. There is sufficient setback from the road carriageway, and sufficient detail in the building facade above ground level that it will not detract from the streetscape in this location.

6.9.7 The proposal complies with the performance criterion.

6.10 Design - Part D 15.4.3 P1

6.10.1 The acceptable solution at clause 15.4.3 A1 requires that blank walls occupy no more than 30% of the surface area of the ground floor level facade.

6.10.2 The proposal includes 51% of the Campbell Street front facade as blank wall.

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 15.4.3 P1 provides as follows:

*Building design must enhance the streetscape by satisfying all of the following:*

*(a) provide the main access to the building in a way that addresses*

*the street or other public space boundary;*

*(b) provide windows in the front façade in a way that enhances the streetscape and provides for passive surveillance of public spaces;*

*(c) treat large expanses of blank wall in the front façade and facing other public space boundaries with architectural detail or public art so as to contribute positively to the streetscape and public space;*

*(d) ensure the visual impact of mechanical plant and miscellaneous equipment, such as heat pumps, air conditioning units, switchboards, hot water units or similar, is insignificant when viewed from the street;*

*(e) ensure roof-top service infrastructure, including service plants and lift structures, is screened so as to have insignificant visual impact;*

*(f) not provide awnings over the public footpath only if there is no benefit to the streetscape or pedestrian amenity or if not possible due to physical constraints;*

*(g) only provide shutters where essential for the security of the premises and other alternatives for ensuring security are not feasible;*
*(h) be consistent with any Desired Future Character Statements provided for the area.*

6.10.5 Half of the ground floor facade of the new building is proposed to be shop front window and door. This will provide opportunity for mutual passive surveillance between the business and the street.

6.10.6 The large expanse of blank wall is at ground floor only. As there is no signage proposed for the site it is anticipated that this would be the location for business signage at a later date. Should this not occur, the limited detailing of the doors for the fire hydrant and booster assembly that are understood to be accessed from this location can be conditioned to add sufficient detail so as not to detract from the streetscape..

6.10.7 The proposal complies with the performance criterion, subject to the condition regarding the detailing of the access to the fire hydrant and booster assembly.

## 6.11 Passive Surveillance - Part D 15.4.4 P1

6.11.1 The acceptable solution at clause 15.4.4 A1 requires that blank walls occupy no more than 30% of the surface area of the ground floor level facade.

6.11.2 The proposal includes 51% of the Campbell Street front facade as blank wall.

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

6.11.4 The performance criterion at clause 15.4.4 P1 provides as follows:

> *Building design must provide for passive surveillance of public spaces by satisfying all of the following:*
>
> *(a) provide the main entrance or entrances to a building so that they are clearly visible from nearby buildings and public spaces;*
>
> *(b) locate windows to adequately overlook the street and adjoining public spaces;*
>
> *(c) incorporate shop front windows and doors for ground floor shops and offices, so that pedestrians can see into the building and vice versa;*
>
> *(d) locate external lighting to illuminate any entrapment spaces around the building site;*
>
> *(e) provide external lighting to illuminate car parking areas and pathways;*
>
> *(f) design and locate public access to provide high visibility for users and provide clear sight lines between the entrance and adjacent properties and public spaces;*
>
> *(g) provide for sight lines to other buildings and public spaces.*

6.11.5 Half of the ground floor facade of the new building is proposed to be shop front window and door. This will provide opportunity for mutual passive surveillance between the business and the street.

6.11.6 The proposal complies with the performance criterion.

6.12 Landscaping - Part D 15.4.5 P1

6.12.1 There is no acceptable solution at clause 15.4.5 A1 for circumstances where a building is set back more than 1m from the front boundary.

6.12.2 The proposal includes alterations and additions to buildings that are set back 9.7m from the front boundary.

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

6.12.4 The performance criterion at clause 15.4.5 P1 provides as follows:

*Landscaping must be provided to satisfy all of the following:*

*(a) enhance the appearance of the development;*

*(b) provide a range of plant height and forms to create diversity, interest and amenity;*

*(c) not create concealed entrapment spaces;*

*(d) be consistent with any Desired Future Character Statements provided for the area.*

6.12.5 Landscaping of the front garden of the whole of the site is proposed. The landscaping is to be sympathetic to the era of the original buildings, whilst ensuring that mutual passive surveillance is retained between the site and the street.

6.12.6 The proposal complies with the performance criterion.

6.13 Fencing - Part D 15.4.7 P1

6.13.1 The acceptable solution at clause 15.4.7 A1 requires walls, fences and gates within 4.5m of the front boundary to have a maximum height of 1.5m, and to be at least 50% transparent above 1.2m.

6.13.2 The proposal includes fencing above a retaining wall within 4.5m of the frontage that has a combined maximum height of approximately 3.2m above the existing ground line.

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

6.13.4 The performance criterion at clause 15.4.7 P1 provides as follows:

> *Fencing must contribute positively to the streetscape and not have an unreasonable adverse impact upon the amenity of land in the General Residential Zone or Inner Residential Zone which lies opposite or shares a common boundary with a site, having regard to all of the following:*
>
> *(a) the height of the fence;*
>
> *(b) the degree of transparency of the fence;*
>
> *(c) the location and extent of the fence;*
>
> *(d) the design of the fence;*
>
> *(e) the fence materials and construction;*
>
> *(f) the nature of the use;*
>
> *(g) the characteristics of the site, the streetscape and the locality, including fences;*
>
> *(h) any Desired Future Character Statements provided for the area.*

6.13.5 There is insufficient detail of the fence at the top of the retaining wall, and at the side of the pedestrian ramp to have understanding of the transparency or height. It appears, however, that these un-specified fences will be of the same design as the front fence for the two heritage buildings. Given the height and transparency of the boundary fence, it is considered that this would provide for mutual passive surveillance, and be in keeping with the site and surrounds, so long as the material, transparency and height in relation to AHD match those of the proposed front boundary fence. As such a condition requiring this is recommended.

6.13.6 The proposal complies with the performance criterion.

6.14 Residential Amenity - Part D 15.4.8 P1

6.14.1 The acceptable solution at clause 15.4.8 A1 requires that all dwellings have one window facing between 30 degrees of east west alignment.

6.14.2 The proposal includes all dwellings with windows facing 45 degrees east and west of north.

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

6.14.4 The performance criterion at clause 15.4.8 P1 provides as follows:

> *A dwelling must be sited and designed to optimise sunlight to at least one habitable room (other than a bedroom).*

6.14.5 The orientation of all dwellings is such that they will receive sunlight to the habitable rooms for large parts of the day.

6.14.6 The proposal complies with the performance criterion.

6.15 Residential Amenity - Part D 15.4.8 P3

6.15.1 The acceptable solution at clause 15.4.8 A3 requires dwellings to have a minimum 10m$^2$ private open space, with a minimum 2m dimension.

6.15.2 The proposal includes two dwellings (G09 and 107) which have less than 10m$^2$ private open space with a minimum 2m dimension.

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

6.51.4 The performance criterion at clause 15.4.8 P3 provides as follows:

> *Outdoor living space must be provided for a dwelling with dimensions sufficient for the projected requirements of the occupants.*

6.15.5 These two dwellings have sufficient private open space for outdoor dining, and to extend the living area of the dwelling to the outside. This is augmented by a large, communal rooftop garden, as well as courtyards within the site to facilitate larger gatherings. As such, the performance criteria is considered to have been satisfied.

6.15.6 The proposal complies with the performance criterion.

6.16 Excavation - Part E E2.6.2 P1

6.16.1 There is no acceptable solution for E2.6.2 A1.

6.16.2 The proposal includes (insert what the proposal includes, so far as relevant to the acceptable solution).

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

6.16.4 The performance criterion at clause E2.6.2 P1 provides as follows:

> *Excavation does not adversely impact on health and the environment, having regard to:*
>
> *(a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; or*
>
> *(b) a plan to manage contamination and associated risk to human health and the environment that includes:*
> *(i) an environmental site assessment;*
> *(ii) any specific remediation and protection measures required to be implemented before excavation commences; and*
> *(iii) a statement that the excavation does not adversely impact on human health or the environment.*

6.16.5 The application has been reviewed by Council's Environmental Health Officer, who has provided the following comment:

> *E2.6.2 Excavation is the section of the Potentially Contaminated Land Code that applies to this development. As there is no acceptable solution, the applicants are relying on meeting P1 (b), which contains three components:*
> *(i) An Environmental Site Assessment (ESA) dated November 2021 - this was submitted.*
> *(ii) Any specific remediation and protection measures required to be implemented before excavation commences - see below.*
> *(iii) A statement that the excavation does not adversely impact on human health or the environment - this was included in Section 13.4 'Conclusions Summary' of the ESA (Environmental Site Assessment).*

*Regarding (ii), the ESA states that a 'Contamination Management Plan' and 'Soil and Water Management Plan' are required to be completed for the site. This has been included as a recommended condition on the planning permit for the development.*

6.16.6 The proposal complies with the performance criterion, subject to the above mentioned condition.

6.17 Existing Road Accesses and Junctions - Part E E5.5.1 P3

6.17.1 The acceptable solution at clause E5.5.1 A3 requires use and development not to result in an increase of more than 20% or 40 vehicle movements per day to and from a site, whichever is the greater.

6.17.2 The proposal includes a traffic impact assessment stating that the increase in vehicle movements to and from the site will exceed this.

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

6.17.4 The performance criterion at clause E5.5.1 P3 provides as follows:

*Any increase in vehicle traffic at an existing access or junction in an area subject to a speed limit of 60km/h or less, must be safe and not unreasonably impact on the efficiency of the road, having regard to:*

*(a) the increase in traffic caused by the use;*

*(b) the nature of the traffic generated by the use;*

*(c) the nature and efficiency of the access or the junction;*

*(d) the nature and category of the road;*

*(e) the speed limit and traffic flow of the road;*

*(f) any alternative access to a road;*

*(g) the need for the use;*

*(h) any traffic impact assessment; and*

*(i) any written advice received from the road authority.*

6.17.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The existing road access must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E5.5.1 (A3) and as such, shall be assessed under Performance Criteria.*

*Acceptable Solution A3: - NON COMPLIANT*
*The annual average daily traffic (AADT) of vehicle movements, to and from a site, using an existing access or junction, in an area subject to a speed limit of 60km/h or less, must not increase by more than 20% or 40 vehicle movements per day, whichever is the greater.*

*Performance Criteria – P3:*
*Any increase in vehicle traffic at an existing access or junction in an area subject to a speed limit of 60km/h or less, must be safe and not unreasonably impact on the efficiency of the road, having regard to:*

*"The TIA indicated that the currently AADT of vehicle movements will be increased by more than 40 vehicle movements per day (182 vmpd), therefore, P3 must be considered." - Page 21, JMG Planning Report, dated January 2022*

*(a) the increase in traffic caused by the use;*
*- "When fully occupied based on the medium density residential, office and commercial and restaurant will generate approximately 182 vehicle movements per day. The residential building is expected to generate 94 vehicle movements per day (base on the RTA Traffic Generating Guidelines). The business and professional services will generate 22 vehicle movements per day. The food service will generate 66 vehicle movements per day. Additionally, 18 vehicle movements were generated within the weekday peak hour surrounding the road network. Thus the fully occupied vehicle movement number will be 200 per day. This number of vehicle movements is low for an Urban Mixed Use area*

*of this size, given much of the zone area is used for multiple purposes." - Page 21, JMG Planning Report, dated January 2022*

*(b) the nature of the traffic generated by the use;*
*- "The proposed development is likely to be offset by the inner-city location and will encourage the uptake of other modes of transport." - Page 21, JMG Planning Report, dated January 2022*

*(c) the nature and efficiency of the access or the junction;*
*- "The proposed development is located in a section of Campbell Street which already provides a high level of accessibility to local businesses in area." - Page 21, JMG Planning Report, dated January 2022*

*(d) the nature and category of the road;*
*- "Campbell Street has sufficient capacity as a collector road for the additional traffic movements." - Page 21, JMG Planning Report, dated January 2022*

*(e) the speed limit and traffic flow of the road;*
*- "The Campbell Street signalised intersection with Warwick Street effectively creates gaps in the traffic flow for this section of the road for safe entry/exit into properties and parking but not so long that traffic flow is restricted." - Page 21, JMG Planning Report, dated January 2022*

*(f) any alternative access to a road;*
*- "There is no alternative access." - Page 21, JMG Planning Report, dated January 2022*

*(g) the need for the use;*
*- "The existing site access has operated safely and efficiently to date and will be upgraded as part of the proposed development." - Page 21, JMG Planning Report, dated January 2022*

*(h) any traffic impact assessment; and*
*- "A minor crash history exists for the area but there is no evidence of significant road safety issues in the study area." - Page 21, JMG Planning Report, dated January 2022*

*(i) any written advice received from the road authority.*
*- "No advice was received from the road authority." - Page 21, JMG Planning Report, dated January 2022*

*"Based on the above the proposal is considered to satisfy Performance Criteria P3." - Page 21, JMG Planning Report, dated January 2022*

*The minor access intensification identified (182 vmpd) may be accepted as a performance based solution by the City, based on the applicant's responses for each of the relevant performance criteria.*

6.17.6 The proposal complies with the performance criterion.

6.18 Sight Distance at Accesses, Junctions and Level Crossings - Part E E5.6.4 P1

6.18.1 The acceptable solution at clause E5.6.4 A1 requires site distances at accesses to be provided in accordance with Table E5.1.

6.18.2 The proposal includes site distances at the site access that do not comply with Table E5.1.

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

6.18.4 The performance criterion at clause E5.6.4 P1 provides as follows:

The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles, having regard to:

(a) the nature and frequency of the traffic generated by the use;

(b) the frequency of use of the road or rail network;

(c) any alternative access;

(d) the need for the access, junction or level crossing;

(e) any traffic impact assessment;

(f) any measures to improve or maintain sight distance; and

(g) any written advice received from the road or rail authority.

6.18.5 The application has been reviewed by Council's Development Engineer,

who has provided the following assessment:

*The sight distance at access and junctions must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E5.6.4 and as such, shall be assessed under Performance Criteria.*

*Acceptable solution - A1: - NON COMPLIANT*
*Sight distances at:*
*(a) an access or junction must comply with the Safe Intersection Sight Distance shown in Table E5.1; and*
*(b) rail level crossings must comply with AS1742.7 Manual of uniform traffic control devices - Railway crossings, Standards Association of Australia. - N/A*

*Performance Criteria – P1:*
*The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles, having regard to:*

*"An acceptable solution is partially met as safe intersection sight distance to the right of the site access is deficient and on-street parking restricts sight distance to the left of the site access. E5.6.4 has been assessed in the TIA against the Performance Criteria. It is deemed acceptable on the following grounds:" - Page 22, JMG Planning Report, dated January 2022*

*(a) the nature and frequency of the traffic generated by the use;*
*- "Sight distance to the right of the site access meets the minimum safe sight distance requirement stated in Figure 3.2 of AS/NZS 2890.1 for exiting an access driveway other than domestic property. Use of the site access to enter/exit the off-street car park is less frequent due to the largely residential nature of the development." - Page 22, JMG Planning Report, dated January 2022*

*(b) the frequency of use of the road or rail network;*
*- "Sight distance to the right of the site access meets the minimum safe sight distance requirement stated in Figure 3.2 of AS/NZS 2890.1 for exiting an access driveway other than domestic*

*property. Use of the site access to enter/exit the off-street car park is less frequent due to the largely residential nature of the development." - Page 22, JMG Planning Report, dated January 2022*

*(c) any alternative access;*
*- "The site access arrangements are consistent with those around it hence the proposal does not introduce any new elements." - Page 22, JMG Planning Report, dated January 2022*

*(d) the need for the access, junction or level crossing;*
*- "In addition to being a collector road, Campbell Street plays a local access role hence it is challenging to satisfy the SISD requirement for all access points along this road when on-street parking is present." - Page 23, JMG Planning Report, dated January 2022*

*(e) any traffic impact assessment;*
*- "A minor crash history exists for the area but there is no evidence of significant road safety issues in the study area." - Page 23, JMG Planning Report, dated January 2022*

*(f) any measures to improve or maintain sight distance; and*
*- "It is acknowledged on-street parking is commonplace in urban streets thus it is normal for sight distance to be partly obstructed at site accesses. Drivers generally observe gaps between parked vehicles. Whilst the site access will be upgraded, the existing site access has operated safely and efficiently to date. There is sufficient capacity in Campbell Street for the additional traffic movements from the proposed development." - Page 23, JMG Planning Report, dated January 2022*

*(g) any written advice received from the road or rail authority.*
*- "No advice was received from the road authority." - Page 23, JMG Planning Report, dated January 2022*

*"Therefore, the proposed development is consistent with E5.6.4 P1." - Page 23, JMG Planning Report, dated January 2022*

*The available S.I.S.D may be accepted under a performance based solution by the City, based on the applicant's responses for each the relevant performance criteria.*

6.18.6 The proposal complies with the performance criterion.

6.19 Number of Parking Spaces - Part E E6.6.1 P1

6.19.1 The acceptable solution at clause E6.6.1 A1 requires 101 car parking spaces to be provided on site for the proposed uses.

6.19.2 The proposal includes 34 car parking spaces on site.

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

6.19.4 The performance criterion at clause E6.6.1 P1 provides as follows:

*The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:*

*(a) car parking demand;*

*(b) the availability of on-street and public car parking in the locality;*

*(c) the availability and frequency of public transport within a 400m walking distance of the site;*

*(d) the availability and likely use of other modes of transport;*

*(e) the availability and suitability of alternative arrangements for car parking provision;*

*(f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*

*(g) any car parking deficiency or surplus associated with the existing use of the land;*

*(h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;*

*(i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;*

*(j) any verified prior payment of a financial contribution in lieu of parking for the land;*

*(k) any relevant parking plan for the area adopted by Council;*

*(l) the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code;*

*(m) whether the provision of the parking would result in the loss, directly or indirectly, of one or more significant trees listed in the Significant Trees Code.*

6.19.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The parking number assessment must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E6.6.1 (a) and as such, shall be assessed under Performance Criteria.*

*Acceptable solution - A1: - NON COMPLIANT*
*The number of on-site car parking spaces must be:*

*(a) no less than and no greater than the number specified in Table E6.1;*

*Performance Criteria - P1:*
*The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:*

*"The proposed development has 31 dwellings comprising 2 bedrooms and 3 bedrooms apartments, townhouses and 2 commercial dwellings. The proposed car parking space contains 34 car parking spaces. Table E6.1 stipulated the number of vehicle parking spaces are 101 (Refer to Appendix G Traffic*

*Impact Assessment – Table 7 Parking Requirements). Therefore, it cannot meet the A1 thus P1 must be considered." - Page 24, JMG Planning Report, dated January 2022*

*(a) car parking demand;*
*- "The residential component of the proposed development is sited in a location that reduces the need for a personal vehicle due to the high level of accessibility to local services and community activities." - Page 24, JMG Planning Report, dated January 2022*

*(b) the availability of on-street and public car parking in the locality;*
*- "There is a considerable range of on-street parking around the subject site to cater for visitors to the building and business employees." - Page 24, JMG Planning Report, dated January 2022*

*(c) the availability and frequency of public transport within a 400m walking distance of the site;*
*- "Campbell Street is a Metro route and a bus stop is located less than 50 m from the proposed development." - Page 24, JMG Planning Report, dated January 2022*

*(d) the availability and likely use of other modes of transport;*
*- "Close proximity to the Hobart CBD and North Hobart with the option to use transport modes such as walking, cycling or bus. The café is likely to attract people in the local area as there are very few other similar food services, and it is likely customers will walk or ride rather than drive." - Page 24, JMG Planning Report, dated January 2022*

*(e) the availability and suitability of alternative arrangements for car parking provision;*
*- "Close proximity to the Hobart CBD and North Hobart with the option to use transport modes such as walking, cycling or bus. The café is likely to attract people in the local area as there are very few other similar food services, and it is likely customers will walk or ride rather than drive." - Page 24, JMG Planning Report, dated January 2022*

*(f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from*

*the consolidation of shared car parking spaces;*
*- "Car parking demand in this section of Campbell Street is likely to vary considerably across the day with a turnover of time-restricted on-street parking regularly making spaces available for short-term use." - Page 24, JMG Planning Report, dated January 2022*

*(g) any car parking deficiency or surplus associated with the existing use of the land;*
*- "Car parking demand in this section of Campbell Street is likely to vary considerably across the day with a turnover of time-restricted on-street parking regularly making spaces available for short-term use." - Page 24, JMG Planning Report, dated January 2022*

*(h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;*
*- "There is no car parking credit as a result of previous use of the site, therefore sub-clause." - Page 24, JMG Planning Report, dated January 2022*

*(i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;*
*- "Private off-street parking is provided extensively for various purposes in this area taking pressure off on-street parking availability." - Page 24, JMG Planning Report, dated January 2022*

*(j) any verified prior payment of a financial contribution in lieu of parking for the land;*
*- Not applicable.*

*(k) any relevant parking plan for the area adopted by Council;*
*- "There is no relevant parking plan for the area adopted by Council, therefore sub-clause (k) is not applicable." - Page 24, JMG Planning Report, dated January 2022*

*(l) the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code; and*
*- "The heritage building has been retained and protected, thus*

*there is no significant impact on the listed items. The Heritage Assessment is enclosed with the report to demonstrate details regarding the Local Heritage Code." - Page 24, JMG Planning Report, dated January 2022*

*(m) whether the provision of the parking would result in the loss, directly or indirectly, of one or more significant trees listed in the Significant Trees Code.*
*- "The site is not in proximity to any significant trees listed in the Significant Trees Code; therefore, sub-clause (m) is not applicable." - Page 24, JMG Planning Report, dated January 2022*

*"Based on the above, the proposed development is considered to satisfy the applicable E6.6.1 P1." - Page 24, JMG Planning Report, dated January 2022*

*Within the Residents Car Park, submitted plans show 35 car parking spaces, 4 of which are configured in tandem (i.e., 2 'jockey' for 2 out of 4 Skyhomes) and 1 DDA (car parking bay 4), hence 33 private provisions appear to have been proposed.*

*Based on the applicant's responses for each relevant performance criteria, and given the submitted design documentation (including reports), the car parking quantities proposed may be accepted as a performance based solution by the City.*

*This is particularly due to the practical consideration for residential amenity demonstrated, as the total proposed provisions ensure at least one (1) car parking space per residence, see CUMULUS DWG J20823-A-100 Rev DA06 dated 13/1/22.*

6.19.6 The proposal complies with the performance criterion.

6.20 Design of Vehicle Accesses - Part E E6.7.2 P1

6.20.1 The acceptable solution at clause E6.7.2 A1 requires vehicle accesses to be designed in accordance with the relevant Australian Standard.

6.20.2 The proposal includes a vehicle accesses that has not been designed in accordance with the relevant Australian Standard.

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

6.20.4 The performance criterion at clause E6.7.2 P1 provides as follows:

*Design of vehicle access points must be safe, efficient and convenient, having regard to all of the following:*

*(a) avoidance of conflicts between users including vehicles, cyclists and pedestrians;*

*(b) avoidance of unreasonable interference with the flow of traffic on adjoining roads;*

*(c) suitability for the type and volume of traffic likely to be generated by the use or development;*

*(d) ease of accessibility and recognition for users.*

6.20.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The design of the vehicle access must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E6.7.2 (a) and as such, shall be assessed under Performance Criteria.*

*Acceptable Solution - A1: - NON COMPLIANT*
*Design of vehicle access points must comply with all of the following:*
*(a) in the case of non-commercial vehicle access; the location, sight distance, width and gradient of an access must be designed and constructed to comply with section 3 – "Access Facilities to Off-street Parking Areas and Queuing Areas" of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking.*

*Performance Criteria - P1: - COMPLIANT*
*Design of vehicle access points must be safe, efficient and convenient, having regard to all of the following:*

*"The existing access will be utilised which satisfies the location requirements of Section 3.2.3 of AS/NZS 2890.1:2004 and entry*

*width of 5.5 m wide (Combined for Category 1 access as defined in Tables 3.1 and 3.2 – Based on User Class 1A; local road frontage, <100 car spaces)." - Page 26, JMG Planning Report, dated January 2022*

*"The minimum entering sight distance to the right is acceptable despite SISD not being achieved however this is not considered an issue for the reasons given in Section 4.4. The minimum sightlines for pedestrian safety appear to be met (as required in Figure 3.3 of AS/NZS 2890.1:2004) however this should be checked at the site access detailed design stage. The gradient of the access driveway does not comply however modification of the grade will be incorporated into the site access driveway design to achieve the standard as far as reasonably practicable." - Page 27, JMG Planning Report, dated January 2022*

*(a) avoidance of conflicts between users including vehicles, cyclists and pedestrians;*
*- Submitted documentation appears to satisfy this requirement given the statements provided by the applicant*

*(b) avoidance of unreasonable interference with the flow of traffic on adjoining roads;*
*- Submitted documentation appears to satisfy this requirement given the statements provided by the applicant*

*(c) suitability for the type and volume of traffic likely to be generated by the use or development; and*
*- Submitted documentation appears to satisfy this requirement given the statements provided by the applicant*

*(d) ease of accessibility and recognition for users.*
*- Submitted documentation appears to satisfy this requirement given the statements provided by the applicant*

*"The proposed development is consistent with E6.7.2 A1." - Page 27, JMG Planning Report, dated January 2022*

*The design of the access driveway (including vehicular access) appears to meet the relevant parameters of a performance based solution, and therefore may be accepted by the City.*

*It has been noted the engineering modifications proposed, to*

*widen the existing vehicular access to 6m, are typical in the context of works proposed. It has also been noted, in addition to passenger vehicles (Class 2) the Category 2 (as per AS2890.1) access will also serve in a commercial vehicle capacity. Therefore, the access design evidently needed to also consider the largest likely vehicle (HRV) to use the facility.*

*See JMG Basement Carpark Layout and Proposed Surface Levels DWG P02 Rev DA3 dated 18/2/22, approved under GMC-21-81.*

6.20.6 The proposal complies with the performance criterion.

6.21 Layout of Parking Areas - Part E E6.7.5 P1

6.21.1 The acceptable solution at clause E6.7.5 A1 requires parking areas to be layed out in accordance with the relevant Australian Standard.

6.21.2 The proposal includes a car parking area that has not been layed out in accordance with the relevant Australian Standard..

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

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

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

6.21.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The layout of the parking area must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E6.7.5 and as such, shall be assessed under Performance Criteria.*

*Acceptable Solution A1: - NON COMPLIANT*
*The layout of car parking spaces, access aisles, circulation*

*roadways and ramps must be designed and constructed to comply with section 2 “Design of Parking Modules, Circulation Roadways and Ramps” of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and must have sufficient headroom to comply with clause 5.3 “Headroom” of the same Standard.*

*Performance Criteria - P1: - COMPLIANT*
*The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.*

*• Car Parking Space Dimensions (AS2890.1 Fig 2.2 = 2.5x5.4m Class 2):*
*- Submitted documentation appears able to satisfy this requirement, 2.5mx5.4m (31) bays detailed*

*• Car Parking Space Design Envelope (AS2890.1 Fig 5.2 300mm clearance on side):*
*- Submitted documentation appears able to satisfy this requirement, structural clearances (300mm) and design envelope detailed (bay 11) detailed*

*• Headroom: (AS2890.1 Fig 5.3 = 2.2m clearance):*
*- Submitted documentation appears able to satisfy this requirement,*

*• Parking Space Gradient (5%):*
*- Submitted documentation appears able to satisfy this requirement, <5% based on detailed RL(s)*

*• Aisle Width (AS2890.1 Fig 2.2 = 5.8m Class 2):*
*- Submitted documentation appears able to satisfy this requirement, > min. aisle widths detailed*

*• Garage Door Width & Apron (AS2890.1 Fig 5.4 = 2.4m wide = >7m wide apron):*
*- Submitted documentation appears able to satisfy this requirement, dimensions appear to satisfy their linear relationship's min. requirements*

*• Parking Module Gradient (5% Acceptable):*
*- Submitted documentation appears able to satisfy this requirement, <5% based on detailed RL(s)*

*• Driveway Gradient & Width (AS2890.1 Section 2.6 = 25% and 3m):*
*- Submitted documentation appears able to satisfy these requirements, longitudinal section detailed*

*• Transitions (AS2890.1 Section 2.5.3 = 12.5% summit, 15% sag = >2m transition):*
*- Submitted documentation appears able to satisfy this requirement, longitudinal section detailed*

*• Vehicular Barriers (AS2890.1 Section 2.4.5.3 = 600mm drop, 1:4 slope):*
*- N/A*

*• Blind Aisle End Widening (AS2890.1 Fig 2.3 = 1m extra):*
*- Submitted documentation appears able to satisfy this requirement, clearance detailed with additional widening shown*

*• Tandem Configuration "Jockey Parking" (Performance Assessment):*
*- Submitted documentation appears able to satisfy internal requirements, 2 (2.6mx5.4m) provisions detailed in accordance*

*The design documentation assessed appears to meet the relevant parameters of a performance based solution, and therefore may be accepted by the City.*

*See CUMULUS DWG J20823-A-100 Rev DA06 dated 13/1/22.*

6.21.6 The proposal complies with the performance criterion.

6.22 Design of Bicycle Parking Areas - Part E E6.7.10 P1 and P2

6.22.1 The acceptable solutions at clauses E6.7.10 A1 and A2 require bicycle facilities to be provided within 30m of the main entrance, and as specified in Table E6.2, as well as being designed in accordance with the relevant Australian Standard..

6.22.2 The proposal does not include the specified bicycle facilities.

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

6.22.4 The performance criterion at clauses E6.7.10 P1 and P2 provide as follows:

*P1 - The design of bicycle parking facilities must provide safe, obvious and easy access for cyclists, having regard to all of the following:*

*(a) minimising the distance from the street to the bicycle parking area;*

*(c) providing clear sightlines from the building or the public road to provide adequate passive surveillance of the parking facility and the route from the parking facility to the building;*

*(d) avoiding creation of concealment points to minimise the risk.*

*P2 - The design of bicycle parking spaces must be sufficient to conveniently, efficiently and safely serve users without conflicting with vehicular or pedestrian movements or the safety of building occupants.*

6.22.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The bicycle parking must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E6.7.10 and as such, shall be assessed under Performance Criteria.*

*Acceptable Solution A1: - NON COMPLIANT*
*The number of on-site bicycle parking spaces provided must be no less than the number specified in Table E6.2.*

*Acceptable Solution A2: - NON COMPLIANT*
*The design of bicycle parking spaces must be to the class specified in table 1.1 of AS2890.3-1993 Parking facilities Part 3: Bicycle parking facilities in compliance with section 2 "Design of Parking Facilities" and clauses 3.1 "Security" and 3.3 "Ease of Use" of the same Standard.*

*Table E6.2 sets out the number of bicycle parking spaces required. The requirement for spaces for a use or development listed in the first column of the table is set out in the second and forth columns of the table with the corresponding class set out in the third and fifth columns. If the result is not a whole number, the required number of (spaces) is the nearest whole number. If the fraction is one-half, the requirement is the next whole number.*

*Performance Criteria - P1:*
*The design of bicycle parking facilities must provide safe, obvious and easy access for cyclists, having regard to all of the following:*

*"This requirement is not applicable for residential dwellings but is applicable for the proposed commercial and food activities based on floor area. The proposed commercial and food activities individually cover small floor areas hence the requirements are not considered proportionate. It has been calculated that perhaps 2-3 bicycle parking spaces may be appropriate. Bicycle hoops are provided at the entry to the retail tenancies basement storage lockers (suitable for bicycle storage) and vertical hangers for 12 bicycles are provided in the basement car parking area." - Page 25, JMG Planning Report, dated January 2022*

*(a) minimising the distance from the street to the bicycle parking area;*
*- N/A*

*(c) providing clear sightlines from the building or the public road to provide adequate passive surveillance of the parking facility and the route from the parking facility to the building; and*
*- Acceptable, submitted documentation appears to satisfy this requirement*

*(d) avoiding creation of concealment points to minimise the risk.*
*- Acceptable, submitted documentation appears to satisfy this requirement*

*Performance Criteria – P2:*
*The design of bicycle parking spaces must be sufficient to conveniently, efficiently and safely serve users without conflicting with vehicular or pedestrian movements or the safety of building occupants.*

*12 vertical wall mounted (basement/private) bicycle storage hangers, and 8 private bicycle parking racks in 'entry secured' (resident's) courtyard.*

*Based on the applicant's statement, and given the submitted design documentation (including reports), the bicycle parking quantities proposed may be accepted as a performance based solution by the City.*

*This is particularly due to the quantity being proposed being practically reasoned, see CUMULUS DWG, J20823-A-100 J20823-A-101 Rev DA06 dated 13/1/22, and J20823-A-101 Rev DA07 dated 10/2/22.*

6.2.6 The proposal complies with the performance criterion.

6.23 Facilities for Commercial Vehicles - Part E E6.7.13 P1

6.23.1 The acceptable solution at clause E6.7.13 A1 requires commercial vehicle facilities to be provided in accordance with the relevant Australian Standard.

6.23.2 The proposal does not include commercial vehicle facilities that have been designed in accordance with the relevant Australian Standard.

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

6.23.4 The performance criterion at clause E6.7.13 P1 provides as follows:

*Commercial vehicle arrangements for loading, unloading or manoeuvring must not compromise the safety and convenience of vehicular traffic, cyclists, pedestrians and other road users.*

6.23.5 The application has been reviewed by Council's Development Engineer, who has provided the following assessment:

*The facilities for commercial vehicles must satisfy either Acceptable Solutions or Performance Criteria for each clause of the Hobart Interim Planning Scheme 2015 (HIPS 2015).*

*Documentation submitted to date does not satisfy the Acceptable Solution for clause E6.7.13 and as such, shall be assessed under*

*Performance Criteria.*

*Acceptable Solution A1: - NON COMPLIANT*
*Commercial vehicle facilities for loading, unloading or manoeuvring must be provided on-site in accordance with Australian Standard for Off-street Parking, Part 2 : Commercial. Vehicle Facilities AS 2890.2:2002, unless:*

*(a) the delivery of all inward bound goods is by a single person from a vehicle parked in a dedicated loading zone within 50 m of the site; and*

*(b) the use is not primarily dependent on outward delivery of goods from the site.*

*Performance Criteria - P1: - COMPLIANT*
*Commercial vehicle arrangements for loading, unloading or manoeuvring must not compromise the safety and convenience of vehicular traffic, cyclists, pedestrians and other road users.*

*The largest likely commercial vehicle expected to use the facilities is a Heavy Rigid Vehicle (HRV), albeit such a vehicle is likely to provide Occasional Service (as per AS2890.2).*

*With respect to the proposed development, the commercial vehicle facilities detailed have been designed to enable on-site waste collection using a private contractor 'Rear Lift Truck', the dimensions of which closely resemble a Small Rigid Vehicle (SRV). The specifications for this vehicle are;*

*Overall length, width (including mirrors), max. height: 7.54m, 2.84m, 2.6m*
*Wheel base (from centre of front and rear axle): 4.2m*

*See JMG New Carpark Entry Profile & Service Vehicle Clearances DWG P05 Rev DA1 dated 19/11/21, approved under GMC-21-81.*

*Despite the lack of a dedicated service area as required for Regular Service (as per AS2890.2), the access driveway and circulation roadway detailed designs;*

*Demonstrate operational vehicle clearances are available,*

*Show on-site turning can be achieved by the atypical SRV (swept paths detailed),*
*Detail roadway and ramp grades (including appropriate rates of change), and*
*Sight distance requirements.*

*Based on the above assessment and given the submitted documentation, the facilities for commercial vehicles may be accepted under a performance based solution by the City.*

6.23.6 The proposal complies with the performance criterion.

6.24 Stormwater Drainage and Disposal - Part E E7.7.1 P2

6.24.1 The acceptable solution at clause E7.7.1 A2 requires development to incorporate water sensitive urban design.

6.24.2 The proposal does not incorporate water sensitive urban design.

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

6.24.4 The performance criterion at clause E7.7.1 P2 provides as follows:

*A stormwater system for a new development must incorporate a stormwater drainage system of a size and design sufficient to achieve the stormwater quality and quantity targets in accordance with the State Stormwater Strategy 2010, as detailed in Table E7.1 unless it is not feasible to do so.*

6.24.5 The application has been reviewed by Council's External Consultant Engineer, who has provided the following assessment:

*The planning response detailed on page 13 of the engineering reports states the development meets the acceptable solution A2. Although, the assessment provided responds to P2. The most reasonable approach for a development of this size is to assess the site against P2 which has been done.*
*There are inconsistencies with how the water quality assessment is presented. Under the response to planning criteria on Page 13, a table of treatment train effectiveness is presented, along with a model schematic (Figure 1). There is no further information provided on how these model results were obtained*

*On page 60 of the engineering reports, a different water quality assessment is presented with a different model schematic and different results (Figure 2). This assessment does provide sufficient information to assess water quality compliance.*

*The information provided from Page 59 to Page 62 of the engineering reports provides sufficient detail for council to accept.*

*It should be noted the model results presented in the planning response to P2 do not have any technical background. A reasonable approach has been undertaken for this part of the assessment as an assessment has been provided that demonstrates compliance. It is recommended that council condition that an appropriate water quality management system be implemented meeting the Stormwater Quality Targets.*

6.24.6 The proposal complies with the performance criterion.

6.25 Stormwater Drainage and Disposal - Part E E7.7.1 A4

6.25.1 The acceptable solution at clause E7.7.1 A1 provides as follows:

*A major stormwater drainage system must be designed to accommodate a storm with an ARI of 100 years.*

6.25.2 The proposal include a major stormwater drainage system that does not accommodate a storm with an ARI of 100 years.

6.25.3 There is no performance criteria; therefore compliance with the acceptable solution is required.

6.25.5 The application has been reviewed by Council's External Consultant Engineer, who has provided the following assessment:

*The proposed development is located within a flood affected area. A major overland flow path exists at the rear of the property. The proposed development footprint is within this area.*

*A design to accommodate this flow path has not been provided. The flood modelling undertaken has classified the flood hazard as predominantly H5 and some areas of H6.*

*A major stormwater drainage system is required a system to*

*provide safe conveyance of stormwater runoff and a specific level of flood mitigation. The flood hazard category estimated and proposed use in the major stormwater drainage path does not constitute safe conveyance of floodwater.*

*The physical design of the development has not appropriately considered the overland flow path and relied upon administrative measures to attempt to manage the risk. The proposed solution accepts there will be damage to property (cars).*

*The response to A4 provided on Page 14 state all habitable floors are located more than 300mm above the calculated 1% AEP flood level. It is noted that the HIPS defines a habitable building as a building of Class 1*
*- 9 of the Building Code of Australia. The National Construction Code defines carparks as a class 7a building. As such the not all habitable floor areas are above the 1% AEP flood level.*

*Based on the information provided, the development does not comply with A4.*

6.25.6 The proposal does not comply with the acceptable solution, and there is no corresponding performance criterion.

6.26 Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm - Part E E9.7.2 P1

6.26.1 There is no acceptable solution for E9.7.2 A1.

6.26.2 The proposal includes a sensitive use (residential) adjacent to butcher and smallgoods manufacturer, within the attenuation area for the existing use.

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

6.26.4 The performance criterion at clause E9.7.2 P1 provides as follows:

Development for sensitive use, including subdivision of lots within a sensitive zone, must not result in potential to be impacted by environmental harm from use with potential to cause environmental harm, having regard to all of the following:

(a) the nature of the use with potential to cause environmental harm; including:
(i) operational characteristics;
(ii) scale and intensity;
(iii) degree of hazard or pollution that may emitted from the activity;

(b) the degree of encroachment by the sensitive use into the Attenuation Area or the attenuation distance;

(c) measures in the design, layout and construction of the development for the sensitive use to eliminate, mitigate or manage effects of emissions

6.26.5 The application has been reviewed by Council's Environmental Development Planner, who has provided the following assessment:

*Approval is sought for a multiple dwelling development at 175-179 Campbell Street, Hobart.*

*Attenuation Code*

*The Code applies because development for sensitive use is proposed within the attenuation distance of an activity listed in Table E9.1. The site is adjacent a butcher that includes smallgoods manufacturing at 169-173 Campbell Street.*

*Smallgoods are processed, ready-to-eat meat products or meat products that are heat treated and undergo a cooling process (e.g. ham, salami, bacon, saveloys). Table E9.1 lists odours as the likely environmental impact of smallgoods manufacturing.*

*No exemptions apply.*

*The relevant standards are under clause E9.7.2. There is no acceptable solution for A1. Performance criterion P1 states the following:*

*Use with potential to cause environmental harm and which is set back less than the distance prescribed in A1 must not have an unacceptable adverse affect on existing or likely future sensitive use, having regard to all of the following:*

*(a) operational characteristics;*
*(b) scale and intensity;*
*(c) degree of hazard or pollution that may be emitted from the activity;*
*(d) hours of operation;*
*(e) nature of amenity impacts from likely light, noise, odour, particulate, radiation, vibration or waste emissions;*
*(f) existing ambient background levels of light, noise, odour, particulate, radiation, vibration or waste emissions in the locality;*
*(g) measures to eliminate, mitigate or manage emissions.*

*The application includes the following information about the butcher:*

*Tasmanian Meat Wholesalers are located at 169-173 Campbell Street and sell approximately 52 tonnes of sausages, red meat, poultry and smallgoods a month;*
*The site currently operates a variety of small-scale equipment, including mincers, dicers, sausage fillers, bandsaws, and a smokehouse (which is used for a short period, mainly around Christmas);*
*The retail shop is currently open:*
*o 7:30 – 18:00, Monday – Friday*
*o 7:30 – 14:00, Saturday*
*o Closed Sunday and public holidays*
*The commercial/wholesale currently operates:*
*o 6:00 – 18:00, Monday – Friday*
*o Closed Sunday and public holidays*
*Deliveries currently comprise 4/5 LRV vehicles which enter and leave the site for deliveries multiple times a day, and approximately 3-5 third party deliveries per day, with suppliers operating a variety of HRV trucks that enter the site for loading/unloading (deliveries occurring from approximately 5:00 am – close of business, Monday – Saturday);*
*The site operates an LPG forklift which operates within the service yard areas and buildings approximately 12 hours a day (6:00 – 18:00, Monday – Friday);*
*All equipment is housed with the existing buildings, which minimises any potential noise impacts. The site has limited odour emissions due to the containment of operations within the existing buildings. In addition, the potential sources of odours are mainly smokehouse and grease traps. In relation to the smokehouse, the emissions are discharged above the roofline through a flue, and*

*the smoker is used for a very short period during December. The grease traps are maintained and cleaned approximately every three months to manage odour emission.*

*Noise nuisance is not considered a significant risk as the area is subject to high levels of traffic noise.*

*A review of Council records found no complaints relating to the operation.*

*Given the scale and nature of the use, and the lack of any compliant history, the smallgoods manufacturing activities are not expected to have an unreasonable impact upon future residents of the proposed development and the exercise of discretion is recommended.*

6.26.6 The proposal complies with the performance criterion.

6.27 Demolition - Part E E13.7.1 P1

6.27.1 There is no acceptable solution for E13.7.1 A1.

6.27.2 The proposal includes demolition of the rear lean-to additions to the heritage dwellings, as well as internal and external alterations to the two dwellings..

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

6.27.4 The performance criterion at clause E13.7.1 P1 provides as follows:

*Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied;*

*(a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place;*

*(b) there are no prudent and feasible alternatives;*

*(c) important structural or façade elements that can feasibly be*

*retained and reused in a new structure, are to be retained;*

*(d) significant fabric is documented before demolition.*

6.27.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

*The buildings have been proposed for adaptation to commercial uses (consulting rooms). To facilitate this new use a number of elements are proposed for demolition.*

*Internally demolition is as follows:*
*- Original doors in both residences*
*- Original windows in both residences*
*- A number of internal wall openings are proposed*

*Externally demolition is as follows:*
*- Roof galvanised short sheeting is to be removed and replaced*
*- Rear infilled verandahs / skillion structures at the rear of both residences are to be demolished*
*- External sections of walls are to be removed to allow for the proposed link-way between the two buildings*
*- Removal of existing front fencing*
*- Removal of carport structure in front of 179 Campbell Street*
*- Removal of existing front garden landscaping elements*

*A number of the proposed internal works can satisfy the demolition provisions of Performance Criteria 1 via permit conditions. Some elements proposed for demolition e.g original windows is viewed as unnecessary, and the proposed design can still be achieved without these removals. Internal wall demolition has been conditioned to retain bulkheads beneath picture rails and nibs where appropriate. The internal site visit for 177 Campbell Street has indicated that the existing floorplan submitted does not show the decorative hallway arch with plaster work mouldings (see fig.3). This element is significant heritage fabric and must be retained, a condition enforcing this has been applied.*

*In regards to external demolition both residences currently have painted short sheet galvanised iron roofs (see fig.4 below). Plans indicate this roof sheeting is to be repaired or made good, in the instance that the roof sheeting is to be replaced galvanised iron is considered the appropriate replacement and a condition has been*

*applied to reflect this.*

*It is noted that the submitted plans for 177 Campbell Street does not adequately show the entrance porch. The entrance porches and tessellated tiles of both properties must be retained and protected during construction.*

*The proposed demolition in regards to the carport removal, fencing, and landscaping to the frontage of the properties are considered acceptable. The front gardens do not contain significant plantings or landscape features, and whilst the ironwork fencing at 179 Campbell Street appears to date to the Inter-War period it is not considered to be of high significance and its removal and replacement will not result in detriment to the listed place.*

*Subject to the aforementioned conditions the proposed demolition components of the proposal are considered to satisfy Performance Criteria 1 of E13.7.1.*

6.27.6 The proposal complies with the performance criterion.

6.28 Works Other Than Demolition - Part E E13.7.2 P1, P2, P3, P4, P5, and P6

6.28.1 There are no acceptable solutions for E13.7.2 A1, A2, A3, A4, A5, or A6.

6.28.2 The proposal includes Alterations and additions to the existing dwellings.

6.28.3 There are no acceptable solutions; therefore assessment against the performance criterion is relied on.

6.28.4 The performance criterion at clauses E13.7.2 P1, P2, P3, P4, P5, and P6 provide as follows:

*P1 - Development must not result in any of the following:*

*(a) loss of historic cultural heritage significance to the place through incompatible design, including in height, scale, bulk, form, fenestration, siting, materials, colours and finishes;*

*(b) substantial diminution of the historic cultural heritage significance of the place through loss of significant streetscape elements including plants, trees, fences, walls, paths, outbuildings*

*and other items that contribute to the significance of the place.*

*P2 - Development must be designed to be subservient and complementary to the place through characteristics including:*

*(a) scale and bulk, materials, built form and fenestration;*

*(b) setback from frontage;*

*(c) siting with respect to buildings, structures and listed elements;*

*(d) using less dominant materials and colours.*

*P3 - Materials, built form and fenestration must respond to the dominant heritage characteristics of the place, but any new fabric should be readily identifiable as such.*

*P4 - Extensions to existing buildings must not detract from the historic cultural heritage significance of the place.*

*P5 - New front fences and gates must be sympathetic in design, (including height, form, scale and materials), to the style, period and characteristics of the building to which they belong.*

*P6 - The removal of areas of landscaping between a dwelling and the street must not result in the loss of elements of landscaping that contribute to the historic cultural significance of the place.*

6.28.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

*Performance Criteria 1*
*Development must not result in any of the following:*
*(a) loss of historic cultural heritage significance to the place through incompatible design, including in height, scale, bulk, form, fenestration, siting, materials, colours and finishes;*
*(b) substantial diminution of the historic cultural heritage significance of the place through loss of significant streetscape elements including plants, trees, fences, walls, paths, outbuildings and other items that contribute to the significance of the place.*

*The proposed new development at the rear of the listed properties will not have a detrimental impact upon the heritage significance*

*of the places. The proposed new buildings are considered to be clearly detached from the c1914 dwellings, and are interpreted physically and visually as a separate freestanding development within the rear of the sites.*

*A mixture of mono pitched, and flat roof forms have been proposed for the new development whilst the pitched roofs likely add some additional height, the roof forms are considered appropriate and compatible with the surrounding heritage roof forms. Performance Criteria 1 of E13.7.2 is considered satisfied.*

*Performance Criteria 2*
*Development must be designed to be subservient and complementary to the place through characteristics including:*
*(a) scale and bulk, materials, built form and fenestration;*
*(b) setback from frontage;*
*(c) siting with respect to buildings, structures and listed elements;*
*(d) using less dominant materials and colours.*

*In regards to the new development behind the listed residences, the proposal should be considered in its proximity to the residences and the objectives of performance criteria of being subservient and sympathetic to the historic cultural heritage values of these listed residences. The proposed development is sited to offer open space to the rear of the dwellings, this provides an appropriate degree of physical separation between the residences and new development. This separation also allows for a full and complete view of the residences rather than enclosing or obscuring the listed places.*

*The height of the proposed apartment buildings on the listed site are set back from Campbell Street with the height (see fig 5) stepping back from the listed residences and increasing in scale towards the Brooker Highway frontage, and the adjacent 175 Campbell Street lot.*

*It should be noted that a number of representations refer to the portion of development taking place at 175 Campbell Street to the right of the residences in the image below (see fig 3) under the Heritage Code of Planning Scheme (HIPS 2015), this site is assessable against the Archaeology provisions only, and the bulk, scale, setback, and sitting of this part of the development cannot be assessed under the Heritage Code.*

*Performance Criteria 2 of E13.7.2 is considered satisfied.*

*Performance Criteria 3*
*Materials, built form and fenestration must respond to the dominant heritage characteristics of the place, but any new fabric should be readily identifiable as such.*

*The proposed materials, colours and built form of the development is described by the architects as providing a "backdrop" to the listed residences. This is true in that recessive colours, and a relatively flat façade treatment allows for a more muted and simplified visual appearance behind the residences, whilst being readily identifiable as a modern structure. Performance Criteria 3 is considered satisfied.*

*Performance Criteria 4*
*Extensions to existing buildings must not detract from the historic cultural heritage significance of the place.*

*The proposed covered link-way extension between the two residences will have a standing seam basalt clad roof with a flat profile (2 degree pitch). The link-way will be recessed back from the front building line, and is considered to be subservient to the heritage significance and characteristics of the listed places. Performance Criteria 4 of E13.7.2 is considered satisfied.*

*Performance Criteria 5*
*New front fences and gates must be sympathetic in design, (including height, form, scale and materials), to the style, period and characteristics of the building to which they belong.*

*The proposed fencing is of a simple but traditional style, it is low scale, and uses appropriate materials that complement the characteristics of the listed residences. Performance Criteria 5 of E13.7.2 is considered satisfied.*

*Performance Criteria 6*
*The removal of areas of landscaping between a dwelling and the street must not result in the loss of elements of landscaping that contribute to the historic cultural significance of the place.*

*The landscape design proposes two small terrace gardens at the frontage of the residences, an element of the design incorporates*

*an access ramp to the side boundary of number 177. The landscape works are understood to enhance the residences presentation within the streetscape. There is no loss of cultural heritage significance to the places through these proposed landscaping works. E13.7.2 Performance Criteria 6 is considered satisfied.*

In relation to heritage, the UDAP commented:

*The Panel noted the heritage constraints of the site and appreciate the Council's heritage officer's assessment is based on the Scheme's requirement for new development to be "subservient" to the heritage properties. The Panel also felt that the treatment of the heritage buildings on site likely impacted the design in a detrimental way, leaving a building behind that was trying not to be tall. The Panel questioned whether the amended plans neither provided a "subservient" relationship to the heritage buildings, nor provided a rationale for a considered design solution in respect of the Scheme's requirement for a subservient relationship. The Panel felt there is more opportunity in addressing the relationship between the heritage buildings set down low from the street, and their relationship to the original landform including the former rivulet along its Brooker Highway edge, the subsequent pattern of development through infill of the Brooker Highway, and more recent and likely future development in the precinct.*

*On a strict interpretation of the planning scheme provisions for heritage, the Panel concluded that the proposal does not comply. While there are meritorious elements of the proposal, overall they are not yet so significant as to warrant supporting the proposal, notwithstanding the non-compliance with the scheme.*

Notwithstanding these comments, Council's Cultural Heritage Officers are satisfied that the proposal complies with the heritage provisions of the scheme, as set out above. In addition, it is noted that the proposal is not in a heritage precinct as alluded to by UDAP, the heritage buildings on the site have little presence from the Brooker and while the proposal is taller than the existing heritage buildings, the preceding heritage assessment concludes that it is an acceptable relationship.

6.28.6 The proposal complies with the performance criterion.

6.29 Subdivision - Part E E 13.7.3 P1

6.29.1 There is no acceptable solution for E13.7.3 A1.

6.29.2 The proposal includes the consolidation of all lots subject to works within the application.

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

6.29.4 The performance criterion at clause E13.7.3 P1 provides as follows:

> *A proposed plan of subdivision must show that historic cultural heritage significance is adequately protected by complying with all of the following:*
>
> *(a) ensuring that sufficient curtilage and contributory heritage items (such as outbuildings or significant plantings) are retained as part of any title containing heritage values;*
>
> *(b) ensuring a sympathetic pattern of subdivision;*
>
> *(c) providing a lot size, pattern and configuration with building areas or other development controls that will prevent unsympathetic development on lots adjoining any titles containing heritage values, if required.*

6.29.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

> *Lot consolidation of the various titles is required. The proposed adhesion is technically a subdivision and will create a large single lot. The lot boundaries shown on 1913 council records have been previously altered in the 1970s, meaning the existing lot boundaries do not reflect the original lot size or subdivision pattern. The proposed consolidation will not result in detriment to the listed places of 177, and 179 Campbell Street. Performance Criteria 1 of E13.7.3 is considered satisfied.*

6.29.6 The proposal complies with the performance criterion.

6.30 Development Standards for Places of Archaeological Potential - Part E E13.10.1 P1

6.30.1 The acceptable solution at clause E13.10.1 A1 requires that demolition

include no excavation.

6.30.2 The proposal includes excavation to facilitate the use and development.

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

6.30.4 The performance criterion at clause E13.10.1 P1 provides as follows:

> *Buildings, works and demolition must not unnecessarily impact on archaeological resources at places of archaeological potential, having regard to:*
>
> *(a) the nature of the archaeological evidence, either known or predicted;*
>
> *(b) measures proposed to investigate the archaeological evidence to confirm predictive statements of potential;*
>
> *(c) strategies to avoid, minimise and/or control impacts arising from building, works and demolition;*
>
> *(d) where it is demonstrated there is no prudent and feasible alternative to impacts arising from building, works and demolition, measures proposed to realise both the research potential in the archaeological evidence and a meaningful public benefit from any archaeological investigation;*
>
> *(e) measures proposed to preserve significant archaeological evidence 'in situ'.*

6.30.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

> *Building and works of the proposed development will involve excavation and ground disturbance as a basement level will be created for a car parking. The statement of archaeological potential provided indicates that there is likely minimal historical archaeological potential across the sites. A condition has been applied to the permit in the case that unanticipated significant archaeological evidence is uncovered. Performance Criteria 1 of E13.10.1 is considered satisfied.*

6.30.6 The proposal complies with the performance criterion.

6.31 Development Standards for Places of Archaeological Potential - Part E E13.10.2 P1

6.31.1 The acceptable solution at clause E13.10.2 A1 requires building envelopes to be placed on the titles for places of archaeological potential.

6.31.2 The proposal includes lot consolidation, not division, and no building envelopes are proposed.

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

6.31.4 The performance criterion at clause E13.10.2 P1 provides as follows:

> *Subdivision must not impact on archaeological resources at Places of Archaeological Potential through demonstrating either of the following:*
>
> *(a) that no archaeological evidence exists on the land;*
>
> *(b) that there is no significant impact upon archaeological potential.*

6.31.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

> *The statement of archaeological potential provided indicates that there is likely minimal historical archaeological potential across the sites. It is also noted that the lots although proposed to be consolidated will remain within the archaeological potential zoning that covers this part of Campbell Street. Performance Criteria 1 of E13.10.2 is considered satisfied.*

6.31.6 The proposal complies with the performance criterion.

6.32 Riverine Inundation Hazard Areas - Part E E15.7.4 P1

6.32.1 The acceptable solution at clause E15.7.4 A1 requires new habitable building to have a floor level no lower than the 1% AEP (100 yr ARI) storm event plus 300mm.

6.32.2 The proposal includes a habitable building with a floor level that does not meet the acceptable solution.

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

6.32.4 The performance criterion at clause E15.7.4 P1 provides as follows:

> *A new habitable building must have a floor level that satisfies all of the following:*
>
> *(a) risk to users of the site, adjoining or nearby land is acceptable;*
>
> *(b) risk to adjoining or nearby property or public infrastructure is acceptable;*
>
> *(c) risk to buildings and other works arising from riverine flooding is adequately mitigated through siting, structural or design methods;*
>
> *(d) need for future remediation works is minimised;*
>
> *(e) provision of any developer contribution required pursuant to policy adopted by Council for riverine flooding protection works.*

6.32.5 The application has been reviewed by Council's External Consultant Engineer, who has provided the following assessment:

> *As the carpark is a Class 7a building, the carpark is considered to be a habitable building. As the proposed car park floor level is 15.70m AHD, and the 1% AEP + CC flood level is estimated to be 18.015m AHD, A1 is not achieved and the performance criteria must be responded to.*
>
> *A specific response to P1 has not been provided. The review of the compliance against P1 has been undertaken based on the information presented in the engineering reports.*
>
> <u>(a) Risks to users of the site, adjoining or nearby land is acceptable.</u>
>
> *Page 80 of the engineering reports presents flood hazard maps for both the existing and developed case for the 1% AEP + climate change event. The maps show an increase in flood hazard*

*category on the site through the lowering of the ground level to facilitate the design of the car park. The flood hazard is predominantly H5 with some areas of H6. The flood hazard category H5 means unsafe for vehicles and people. All buildings vulnerable to structural damage. Some less robust building types vulnerable to failure. H6 means unsafe for vehicles and people. All building types considered vulnerable to failure. The level of flood risk within the carpark is considered to be unacceptable. It is noted the flood hazard rating on the site has increased when compared to the existing condition.*

*The proposed approach to manage risk is to implement a Flood Emergency Management Plan (FEMP). There is no discussion regarding alternate options for managing flood risk. The following comments are provided on the proposed FEMP:*

*• The engineering report states, depth in the car park rises from an initial noticeable depth of 50mm to maximum in a period of around 9.5 minutes (engineering reports, Page 13 - JMG). It is noted the maximum depth is approximately 2.2m. This is the time it takes to reach peak depth, but no comment has been provided on the time it takes to which flow becomes hazardous to people and infrastructure. This will be shorter and hence further reduces the time available to vacate affected areas.*
*• An understanding of how the flood hazard changes with time is required. The assumption of adopting a FEMP based on the time to peak depth is not appropriate. The documentation provided to support a FEMP as being possible is lacking adequate detail.*
*• The time for noticeable overland flow to hazardous flooding is too short for a flood emergency management plan to be appropriately implemented. It appears the approach relied upon will be for people to notice flood water and will make a decision to remove themselves from the area. There is no time for instruction or intervention from a flood warden. The emergency response system relies on automated measures as warning devices, although it is likely they may only provide minutes of warning.*
*• Figure 3 shows an exert from the Australian Disaster Resilience Manual 20 and presents an example evacuation timeline. For this example, only the first four steps are relevant. For a FEMP to work, the time between the first indication of flooding and the prediction of inundation height, plus the response initiation time must be less than the time where flood water first becomes hazardous (noting this is less than 9.5 minutes). There has been no discussion in the*

*material provided on evacuation timeline.*
*• A risk assessment is documented in Appendix A of the report (Page 88 of engineering reports). Risk Ref No. D2 recognises there is a risk to personal safety within the car park and waste room. The assessment nominates a consequence of moderate for a risk that could result in serious injury or death. This does not appear to be correct.*
*• The risk assessment states that with implementation of the flood emergency management plan that the consequence, reduces from moderate to minor. The consequence will not change with the implementation of administrative risk reduction measures. There is still the consequence of serious injury and death.*
*• The JMG report accepts that cars may become damaged and have suggested the body corporate insurance may be able to recover losses. This still means people will be without a car for a period of time. Insurance should not need to be relied upon if the risk is known prior to the development be constructed; and*
*• The flood hazard categorisation is predominantly H5 and some H6 and represents hazards typically found in defined river and creek channels. Areas that contain this level of hazard would normally be left clear of development. It is not recommended to place infrastructure or provide incentive for people to access areas like this.*

*The proposed design exposes users to an unacceptable level of risk with a mitigation option that cannot guarantee the safety of people and accepts the damage to property will occur. The proposed approach does not meet P1 (a)*

<u>(b) Risk to adjoining or nearby property or public infrastructure is acceptable.</u>

*Section 2.4.1 of the Flussig Report states there will be no displacement of overland flow over other property. A graph is provided in Figure 7, although, this only demonstrates a change at a single point. A comparison between the flood maps provided in Appendix B, Pre-Development 1% AEP + CC and Post-Development 1% AEP + CC, do show an increase in flood depth downstream, a minor decrease in flood extent onto Campbell Street, an increase in the flood extent within the Brooker Avenue Road Reserve and a minor increase in flood extent behind Woolworths.*
*A high level review of the flood hazard maps suggests the extent of*

*H6 hazard increases downstream.*
*Furthermore, figure 6 (page 75 of the engineering reports) shows an increase in peak flow rate of approximately 13% within the Brooker Avenue Road reserve.*
*To appropriately quantify the change in flood behaviour, a water level difference / flood afflux map or suitably detailed equivalent information is required. This has not been provided and hence there isn't enough information provided to adequately address P1 (b). This is information that should have been provided at this stage of the development assessment. As such it cannot be conditioned.*

<u>(c) Risk to buildings and other works arising from riverine flooding is adequately mitigated through siting, structural or design methods</u>

*With regard to mitigation options relating to structural design of the development, the engineering report has recommended the building be designed to resist flood forces. A review of the structural design is beyond the scope of this assessment although this item can be conditioned.*

<u>(d) Need for future remediation works is minimised</u>

*By allowing the overland flow path to pass through the car park introduces a problem for the development to deal with in the future. Damage to cars and building utilities are likely which will impose burden on those living at the proposed development site.*

<u>(e) Provision of any developer contribution required pursuant to policy adopted by Council for riverine flooding protection works</u>

*Developer contribution not applicable for this development.*

6.32.6 The proposal does not comply with the performance criterion.

6.33 Riverine, Coastal Investigation Area, Low, Medium, High Inundation Hazard Areas - Part E E15.7.5 P1

6.33.1 There is no acceptable solution for E15.7.5 A1.

6.33.2 The proposal includes solid walls greater than 5m in length and 0.5m high.

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

6.33.4 The performance criterion at clause E15.7.5 P1 provides as follows:

> *Landfill, or solid walls greater than 5 m in length and 0.5 m in height, must satisfy all of the following:*
>
> *(a) no adverse affect on flood flow over other property through displacement of overland flows;*
>
> *(b) the rate of stormwater discharge from the property must not increase;*
>
> *(c) stormwater quality must not be reduced from pre-development levels.*

6.33.5 The application has been reviewed by Council's External Consultant Engineer, who has provided the following assessment:

> *As the proposed development introduces a new structure into the development site that is greater than 5m, A1 cannot be achieved and the performance criteria (P1) must be addressed.*
>
> <u>(a) no adverse affect on flood flow over other property through displacement of overland flows;</u>
>
> *Section 2.4.1 of the Flussig Report states there will be no displacement of overland flow over other property. A graph is provided in Figure 7, although, this only demonstrates a change at a single point. A comparison between the flood maps provided in Appendix B, Pre-Development 1% AEP + CC and Post-Development 1% AEP + CC, do show an increase in flood depth downstream, a minor decrease in flood extent onto Campbell Street, an increase in the flood extent within the Brooker Avenue Road Reserve and a minor increase in flood extent behind Woolworths.*
>
> *A high level review of the flood hazard maps suggests the extent of H6 hazard increases downstream.*
>
> *To appropriately quantify the change in flood behaviour, a water level difference / flood afflux map or suitably detailed equivalent*

*information is required. This has not been provided and hence there isn't enough information provided to adequately address P1 (b). The review of flood maps provided suggests there is a change, but it is not possible to ascertain the impact. This is information that should have been provided at this stage of the development assessment. As such it cannot be conditioned.*

<u>(b) the rate of stormwater discharge from the property must not increase</u>

*Figure 6 (page 75 of the engineering reports) shows an increase in peak flow rate of approximately 13% within the Brooker Avenue Road reserve. The statement provided in the response to planning criteria (page 82 of the engineering reports) states no change. The response is inconsistent with the detail provided in the report. P1 (b) has not been achieved. Information should have been provided at this stage. It is not recommended to condition for this.*

<u>(c) stormwater quality must not be reduced from pre-development levels</u>

*The response stated on page 82 of the engineering reports suggest there is no evidence that stormwater quality will be reduced. Based on the review of the site this is reasonable and can be accepted.*

6.33.6 The proposal does not comply with the performance criterion.

6.34.1 Standards for Signs and Standards for Signs on Heritage Places subject to the Heritage Code - Part E E17.7.1 P1 and E17.7.2 P1

6.34.1 The acceptable solution at clause E17.7.1 P1 requires signs to be of the dimension and type specified in the nominated tables.

6.34.1 There is no acceptable solution for E17.7.2 P1.

6.34.2 The proposal includes a wall or possibly ground based panel sign, however the sign was not replicated on all plans, and insufficient detail was provided for the sign to confirm this.

6.34.3 The proposal does not comply with, or there is no acceptable solution; therefore assessment against the performance criterion is relied on.

6.34.4 The performance criterion at clauses E17.7.1 P1 and E17.7.2 P1 provide as follows:

*E17.7.1*
*P1 - A sign not complying with the standards in Table E17.2 or has discretionary status in Table E17.3 must satisfy all of the following:*

*(a) be integrated into the design of the premises and streetscape so as to be attractive and informative without dominating the building or streetscape;*

*(b) be of appropriate dimensions so as not to dominate the streetscape or premises on which it is located;*

*(c) be constructed of materials which are able to be maintained in a satisfactory manner at all times;*

*(d) not result in loss of amenity to neighbouring properties;*

*(e) not involve the repetition of messages or information on the same street frontage;*

*(f) not contribute to or exacerbate visual clutter;*

*(g) not cause a safety hazard.*

*E17.7.2*
*P1 - A sign on a Heritage Place listed in the Historic Heritage Code or within a Heritage Precinct or Cultural Landscape Precinct must satisfy all of the following:*

*(a) be located in a manner that minimises impact on cultural heritage significance of the place or precinct;*

*(b) be placed so as to allow the architectural details of the building to remain prominent;*

*(c) be of a size and design that will not substantially diminish the cultural heritage significance of the place or precinct;*

*(d) be placed in a location on the building that would traditionally have been used as an advertising area if possible;*

*(e) not dominate or obscure any historic signs forming an integral part of a building's architectural detailing or cultural heritage values;*

*(f) have fixtures that do not damage historic building fabric, including but not restricted to attachments to masonry and wood, such as to using non-corrosive fixings inserted in mortar joints;*

*(g) not project above an historic parapet or roof line if such a projection impacts on the cultural heritage significance of the building;*

*(h) be of a graphic design that minimises modern trademark or proprietary logos not sympathetic to heritage character;*

*(i) not use internal illumination in a sign on a Heritage Place unless it is demonstrated that such illumination will not detract from the character and cultural heritage values of the building.*

6.34.5 There are insufficient details of the signs provided in the application documentation. The applicant was contacted regarding this, and has agreed that the reference to the sign was left on some of the plans in error, and that there is no intention to apply for signage at this time. As such, it is recommended that a condition be included in any permit requiring the removal of any reference to any signage, and advising that signage for the site will need to be the subject of further application at a later time.

6.34.6 The proposal does not comply with the performance criterion, however a condition removing all reference to the signage from the scope of works, is considered appropriate.

## 7. Discussion

7.1 Planning approval is sought for Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal, at 169-173, 175, 177, and 179 Campbell Street, and the Adjacent Road Reservation.

7.2 The application was advertised and received fourteen (14) representations. The representations raised concerns including Height, Views, Sunlight / Overshadowing, Amenity, Tree Removal, Adjacent Site Access, Construction Impacts, Parking, Traffic / Access, Trade Interruptions, Bike Parking, Scale / Bulk / Intensity, Design, Heritage, Neighbourhood Character, Flood Risk, Precedent, and Noise.

7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is considered to not perform well, in terms of building height and inundation.

7.4 The proposal has been assessed by other Council officers, including the Council's Development Engineer, Cultural Heritage Officer, Environmental Development Planner, Environmental Health Officer, Open Space Planner, Roads Engineer, and Traffic Engineer. Given the flood characteristics of the site, the application was reviewed by an external hydraulic engineer. That external engineer has assessed the proposal as being non-compliant with the requirements of the Stormwater Code and the Inundation Prone Areas Code. The external engineer concludes as follows:

*The proposed development is located in an area affect by extremely hazardous flood water in a 1% AEP + Climate Change flood event. The primary issue is part of the development exposes users to an unacceptable level of risk, which is in conflict with the purpose of the code, and in particular E15.7.4/P1. It is our opinion that the management measure proposed (emergency management plan) is not appropriate for this situation. Even if a detailed flood emergency plan could be developed, there would be a problem enacting the plan as the time required to enact the*
*plan would be far longer than the flood response time.*

*It is reasonable to assume a person could be located within the basement carpark at the onset of flooding. They could be exposed the highly hazardous flooding (as defined by Australian Rainfall & Runoff Flood Hazard Categorisation- Book 6 – Chapter 7) and hence we do not believe the development in its current form meets the requirements of the [planning scheme].*

7.5 The application was considered by the Urban Design Advisory Panel twice in a pre-application capacity at its meetings of 28 April 2021 and 7 September 2021. The Panel's comments are provided in full as an attachment to this report, and have also been set out above in section 6 of this report where relevant. In the context of the provisions on which they were asked to comment, the Panel was broadly not supportive of the designs they saw prior to refinement and lodgement. The following additional comments of the Panel are worth noting:

*A previous early stage of the development, essentially a massing version, came before the Panel for pre-application advice at its meeting on the 28 April 2021. The Panel was broadly not supportive of that proposal, especially with regards to the impact on adjacent properties and the pattern this development would establish in exceeding the current Scheme requirements.*

*The Panel acknowledge the precinct warrants a review of Scheme requirements and an increased density, especially for housing, is appropriate. Consistent with previous advice (April 2021), the Panel seek urban analysis on the appropriateness of exceeding the current Scheme requirements and the pattern this establishes for future development.*

*The Panel remain concerned by the precedent established by the pattern which would be as a result of 'first in, best dressed' rather than as a proposal addressing amenity issues influenced by a precinct plan. The Panel is concerned that the width of the lots in the area would generate a typology that, if developed to similar height and bulk, will progressively overshadow each neighbouring lot.*

In response, this site forms part of the Central Hobart Precincts Plan, which, once implemented, will provide more clarity on what may be an acceptable development on this site. The exact timing of when the Precinct Plan will form part of the planning scheme is not known, and it is not expected to be in the short term.

7.6 In response to the officer recommendation for refusal, the Applicant provided further information in an attempt to address officer concerns. That material is at Attachment F. The material has been reviewed by Council officers and by the consultant engaged by the Council to assist with the assessment of stormwater and inundation issues for this application. The further information has not altered the assessment that this application is recommended for refusal.

7.7 The proposal is recommended for refusal.

.....

7.8 Discussions between Council officers and the applicant regarding possible application changes did not lead to any proposed new design. The further information provided by the applicant (Attachment G) included the following statement:

> *Whilst we welcome the suggestions of Council's subconsultant (Pitt & Sherry) these are not practical. Raising the car-park level to allow flood water to run underneath the building is both cost prohibitive and would result in a substantial reduction of dwellings or increased building height. Removal of the car park altogether is not desirable for tenants and would create an on-street car parking problem which the officers would be unlikely to support. The car stacker option again is not practical as these would not suit multiple tenants and cannot be located outside the flooded area.*

The following issues which were raised in the Planning Committee meeting are addressed below and in Attachment G:

1. Whether the Council has any risk of liability if it approves this proposal in the current circumstances.
2. Whether there can be conditions imposed on the permit which would allow the applicant / owner to indemnify the Council for any risks associated with inundation.
3. Clarification of what is a habitable floor area under the scheme and whether advice from a building surveyor that the car park is not a habitable space (noting the applicant has 3 building surveyors who have given that advice) is relevant to the interpretation / application of the scheme.
4. Further information provided by the applicant (see Attachment G) & the response by Council officers, along with Pitt & Sherry.

7.9 **Council liability**

The Committee asked whether the Council could face any legal liability if it decided to approve this application in circumstances where the expert engaged by the Council to assess the application is not satisfied that the proposal meets the planning scheme requirements regarding stormwater and inundation. Potential liability may arise if the development is constructed and the mitigation measures which the applicant has proposed are not sufficient to avoid damage to property and / or safety of the occupants if there is a significant rain event.

For the reasons set out below, it is the opinion of the Manager Development Compliance that the answer is yes; at least, we are unable to say conclusively that the Council has no risk of being liable. Even if the Council is ultimately found to have no liability, there is a chance that the Council will have to defend legal proceedings which may be costly and time consuming for officers.

The answer to this question will depend on a number of issues, including:

1. the circumstances which gave rise to any loss or damage (including personal injury or death);
2. the basis of the claim (cause of action) against the Council, such as negligence or breach of statutory duty;
3. the extent to which any liability was shared with other entities, such as the owner of the property and anyone who was responsible for mitigation steps which were supposed to take place in a significant rain event; and
4. whether any statutory or common law protections will apply to limit or prevent any liability, such as the Council not having any liability *unless the act or omission was in the circumstances so unreasonable that no authority having the functions of the authority in question could properly consider the act or omission to be a reasonable exercise of its functions* (section 40 *Civil Liability Act 2002).*

This is a complex area of law, with many legal and factual variables, and it is not possible to say that the Council has no risk of liability by approving the application.

There could be an argument that in the context of two competing well formulated opinions of qualified experts as to the assessment of the particular performance criteria, and with the consideration of specific conditions to address the risk also informed by that advice, that the granting of a permit subject to those specific conditions would fall short of the threshold so as to establish the grant of the permit was negligent. However, even if the Council is successful with this argument and ultimately has no liability to anyone, it is not so clear-cut that a claim would never be made and that the Council would face legal fees defending its position.

The potential for facing liability is not a consideration which is relevant to the discretions which are called up by the planning scheme and this should not form part of an Elected Member's decision making process.

7.10 **Conditions**

The Manager Development Compliance has also considered whether a condition can be imposed to ensure that the owner or applicant takes on the full liability for the development, taking any risk of the Council having any liability. There are clear decisions which state that any such condition would not be legally enforceable.

The Tribunal has consistently struck down conditions requiring indemnities (following a line of NSW authorities). In *H Waldmann v Huon Valley Council* [2009] TASRMPAT 75, the Tribunal held that the indemnity condition was not imposed for a proper planning purpose, as "*its sole purpose is to allow a planning authority to have complete protection or indemnity from the consequences of its actions.*"

The Tribunal said:

> *17. The only conclusion in this case is that an indemnity in this form, or probably at all, is the antithesis of a condition which has a proper planning purposes and is, in fact, imposed for an ulterior purpose, namely to afford the Council protection from litigation arising from its decision to grant the permit at some stage in the future.*
>
> *18. It is the exact opposite of a condition that has a proper planning purpose for its sole purpose is to allow a planning authority to have complete protection or indemnity from the consequences of its actions. Thus, the planning authority is, in effect, relieved from having to make a decision on any proper planning basis whatsoever. It is empowered to make a decision without having much or indeed any regard to any proper planning considerations.*

As a model litigant, the Council must follow decisions which have been made by Tribunal previously. It would therefore not be appropriate to impose a condition which restricted the Council's liability.

### 7.11 Habitable building

There were questions raised about whether the car parking area was classified as a "habitable building". If so, the planning scheme provisions apply to it. In the opinion of the Manager Development Compliance, the car parking area does fall within this definition in the planning scheme and that element of the proposal must satisfy the relevant provisions of the scheme.

The performance criterion at clause E15.7.4 P1 provides as follows:

> *A new **habitable building** must have a floor level that satisfies all of the following:*
> *(a) risk to users of the site, adjoining or nearby land is acceptable;*
> *(b) risk to adjoining or nearby property or public infrastructure is acceptable;*
> *(c) risk to buildings and other works arising from riverine flooding is adequately mitigated through siting, structural or design methods;*
> *(d) need for future remediation works is minimised;*
> *(e) provision of any developer contribution required pursuant to policy adopted by Council for riverine flooding protection works.*

Habitable building is defined in the *Hobart Interim Planning Scheme 2015* (**HIPS**) as “means a building of Class 1 - 9 of the Building Code of Australia”.

Class 1-9 of the National Construction Code (NCC), which replaced the Building Code of Australia, are as follows:

| CLASSES OF BUILDING | | |
|---|---|---|
| **Class 1** | **Class 1a** | A single dwelling being a detached house, or one or more attached dwellings, each being a building, seperated by a *fire-resisting* wall, including a row house, terrace house, town house or villa unit. |
| | **Class 1b** | A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300m2, and where not more than 12 reside, and is not located above or below another dwelling or another Class of bulding other than a private garage. |
| **Class 2** | A building containing 2 or more sole-occupancy units each being a separate dwelling. | |
| **Class 3** | A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. *Example: boarding-house, hostel, backpackers accomodation or residential part of a hotel, motel, school or detention centre.* | |
| **Class 4** | A dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building. | |
| **Class 5** | An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9. | |
| **Class 6** | A shop or other building for the sale of goods by retail or the supply of services direct to the public. *Example: café, restaurant, kiosk, hairdressers, showroom or service station.* | |
| **Class 7** | **Class 7a** | A building which is a carpark. |
| | **Class 7b** | A building which is for storage or display of goods or produce for sale by wholesale. |
| **Class 8** | A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale or gain. | |
| **Class 9** | A building of a public nature - | |
| | **Class 9a** | A health care building, including those parts of the building set aside as a laboratory. |
| | **Class 9b** | An assembly building, including a trade workshop, laboratory or the like, in a primary or secondary school, but excluding any other parts of the building that are of another class. |
| | **Class 9c** | An aged care building. |
| **Class 10** | A non habitable building or structure - | |
| | **Class 10a** | A private garage, carport, shed or the like. |
| | **Class 10b** | A structure being a fence, mast, antenna, retaining or free standing wall, swimming pool or the like. |

Under the NCC, a class 7 building is not a habitable building (although noting that the term “habitable building” is not defined in the NCC) but the definition in HIPS is clear and does not refer to definitions in NCC but instead just refers to the class of building.

In our view, a car park is a class 7 and is therefore captured by the HIPS definition and clause E15.7.4 P1 must be satisfied.

The applicant has indicated that three building surveyors have concluded that the car park should not be classified as “habitable. Building surveyors are experts in the NCC, not planning. Their only point of reference is the NCC and the definitions contained in it; not the planning scheme. It is not disputed that the car park would not be habitable in a *Building Act 2016* sense, but that is not the relevant test here – it is the test in HIPS which is the relevant test.

For further explanation of “habitable” terms:

“Habitable room” is defined in HIPS as:

> *means any room of a dwelling other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, stair, hallway, lobby, clothes drying room and other space of a specialised nature occupied neither frequently nor for extended periods.*

“Habitable room” is defined in NCC as:

> *Habitable room means a room used for normal domestic activities, and—*
>
> *a. includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but*
>
> *b. excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods*

Despite these inconsistent terms and definitions, it is clear that the car park in this application is a “habitable building” and that part of the development must satisfy the requirements in HIPS, clause E15.7.4 P1.

7.12 **Further proposal by applicant & response**

Attachment G to this report is the further proposal provided by the applicant.

Pitt & Sherry have been engaged by the Waterways Unit to assist with the assessment of this proposal. The further proposal by the applicant was provided to Pitt & Sherry for their input. The response by Pitt & Sherry is summarised below.

7.13 ***Flood risk - Flood Emergency Management Plan***

> ***“We accept there is a risk with respect to flooding on this site, but these flooding risks appear on many sites within the Hobart City Council area”***

Flood risk is a very serious issue and regardless if other locations within the municipality have simular risk does not justify allowance or continuing to develop in unsafe flood zones, particularly very high hazard areas.

H5 and H6 flood risk generally represent flood depth greater than 2.0 m depth and/or velocities greater than 2.0 m/s. recent flood mapping illustrates there are few sites with this high level of risk. Where this high level of flood risk is mostly contained within exiting streams/waterways.

The majority of known overland flow paths within the City in the urban areas are typically within H3 or less flood hazard.

This statement is incorrect would needs to be substantiated by factual information.

> ***"In these cases, Council manages these risks to be to an 'acceptable risk' by undertaking flooding analysis/risk assessments and putting in place management plans to ensure the risk is minimised…"***

The City does not have a definition of 'acceptable' flood risk and is guided by water professionals, best practice, standards and guidelines. This includes the *Australian Rainfall and Runoff Guidelines* which is evidence based produced by the Australian Government. These guidelines clearly stipulate that for:

> **H5** – Unsafe for vehicles and people. All buildings vulnerable to structural damage. Some less robust building types vulnerable to failure.
> **H6** – Unsafe for vehicles and people. All buildings types considered vulnerable to failure.

> ***"We have investigated control mechanisms to ensure the flood risk is known early and the car park can be closed to avoid severe flood risks. The mechanism to ensure this is a Flood Emergency Management Plan which details the necessary warning systems/actions and is put as a condition on the Planning Permit."***

The City needs to be aware there are no enforcement mechanisms within the local or state government to ensure ongoing management of these systems.

> ***"Whilst we are aware that Council have some pre-warning sensors within the Hobart Rivulet and the same could be done for the Newtown Rivulet, we believe the simpler approach is to rely on the existing Australian Bureau of Meteorology warning system. Based on the attached advice from BOM severe weather warnings are issued 24-36***

***hours before an event and thunderstorm warnings are issued with 1-3 hours notice (Attachment A). BOM have a subscriber service whereby text messages and/or data warnings can be sent to direct to specific mobiles or devices (Attachment B). As such, we propose as part of a Flood Hazard Management Plan occupiers of the building would receive a text to mobile warning of a severe weather warning (24-36h in advance of an event) and the car park would be automatically closed to vehicles 30 minutes after a thunderstorm warning (1-3h in advance of an event).***

***Occupants would also receive the flood warning text to their phone and would be briefed that in such an event the car park will close in 30 minutes. This may be able to be done via specific text message to occupants also (i.e. the car park will be closing in 30min) or other internal building alarm/messaging. The car park would be opened by the building manager when the thunderstorm warning was lifted by the BOM. Again building occupants would be advised of this.***

***Our previous management measures would also remain in the form of:***

- ***An on-site building manager (responsible for occupier inductions/communication, visual sweeps of the car park during a thunderstorm warning/car park closure and opening the car park after the risk has passed);***
- ***A audio and visual (light) warning within the car park during a thunderstorm warning; and***
- ***Physical closure of the car park to entering and exiting vehicles via a cable across the entry (that allows pedestrian egress up the entry ramp) 30 minutes after a BOM thunderstorm warning."***

There is no disputing that robust early warning system would be effective. We do note there are risks associated with the practicality of implementing such a system such as:

- This is not a common approach for managing flood risk for at a development level. Flood warning systems are generally implemented by government authorities and maintained by them. Therefore this is untested, particularly in Hobart.
- Ongoing management for the life of the building given there is no regulatory frameworks or mechanisms to ensure compliance.
- Complacency due to false alarms. Utilising rainfall warning system with Bureau of Meteorology will likely trigger false alarms as these systems are no capable of predicting exact location of storms and usually warning cover wide range of areas due to this uncertainty. Regular lockdowns could leave to complacency.

***"We believe a condition similar to that used on the Bethleham House project in Harrington Street would meet Council's requirements on this issue:"***

**A copy of planning condition SW 11 from the Bethlehem house was provided.**

Note there was no condition requiring a flood emergency management plan for Bethlehem House (225 Harrington Street).

Comparison of other development cannot be used in the development assessment as it is unrelated, however it is important to note the differences give it has been mentioned.

Bethlehem House development has a different level of risk. The site presented hazard levels less than that of H3 "Unsafe for vehicles, children and elderly". The site was able to provide a safe overland flow path. This minimises the likely hood of the carpark being inundated and flood management plan would not be the sole mechanism for managing the risk.

Given the design, lower risks and no mechanism to enforce a flood emergency management there was no need to condition or require a flood emergency management plan in the circumstances of the redevelopment of that site.

***Flood afflux map***

A flood afflux map shows the change of depth of inundation between the existing conditions and the developed site. The flood afflux map which has been provided is considered to be unsatisfactory. Comparison has been made with previous flood maps provided and changes are shown. However it is unclear the extent of the changes. Given the potential for development on this site to have inundation impacts on surrounding property, is not equitable for a development to disadvantage other properties without considering the flood afflux.

***GHD Central Hobart Precinct Stormwater Modelling***

GHD has been engaged by the Council to provide flood mapping as part of the Central Hobart Precinct Structure Plan. It was hoped that this work would be sufficiently advanced so that the applicant and the Council could understand any changes that could be made to the public stormwater system around this particular site, to improve the flood risk. Unfortunately, this body of work is not yet at the point where this information can be provided and is not expected to be available for at least a further 6 months.

## 8. Conclusion

8.1 The proposed Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal, at 169-173, 175, 177, and 179 Campbell Street, and the Adjacent Road Reservation does not satisfy the relevant provisions of the *Hobart Interim Planning Scheme 2015*, and as such is recommended for refusal.

## 9. Recommendations

That: Pursuant to the *Hobart Interim Planning Scheme 2015*, the Council refuse the application for Partial Demolition, Alterations, New Building for 31 Multiple Dwellings, Food Services, Business and Professional Services, General Retail and Hire, Subdivision (Lot Consolidation), and Associated Works in the Road Reserve including Tree Removal, at 169-173, 175, 177, and 179 Campbell Street, and the Adjacent Road Reservation for the following reasons:

1 The proposal does not meet the acceptable solution or the performance criterion with respect to clause 15.4.1 A1 and P1 of the *Hobart Interim Planning Scheme 2015* because the proposed building height is not compatible with the scale of nearby buildings, and fails to provide stepping between itself and adjoining buildings.

2 The proposal does not meet the acceptable solution and there is no performance criterion with respect to clause E7.7.1 A4 and P4 of the *Hobart Interim Planning Scheme 2015* because it includes a major stormwater drainage system that has not been designed to accommodate a storm with an ARI of 100 years.

3 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E15.7.4 A1 and P1 of the *Hobart Interim Planning Scheme 2015* because the car park floor level is not 300mm above the 1% AEP flood extent, and its proposed floor level does not satisfy: (a) that risk to users of the site, adjoining or nearby land is acceptable; (b) that risk to adjoining or nearby property or public infrastructure is acceptable; (c) that risk to buildings and other works arising from riverine flooding is adequately mitigated through siting, structural or design methods; and (d) that the need for future remediation works is minimised.

4 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E15.7.5 A1 and P1 of the *Hobart Interim Planning Scheme 2015* because it includes a new wall that is greater than 5m in length and it will not satisfy the following: (a) that there is no adverse affect on flood flow over other property through displacement of overland flows; and (b) that the rate of stormwater discharge from the property will not increase.

(Helen Ayers)
**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: 8 September 2022

**Attachment(s):**

Attachment B - CPC Agenda Documents

Attachment C - Supporting Documents

Attachment D - Stormwater and Flooding Consultant Engineer's Report

Attachment E - Urban Design Advisory Panel Report (28 April 2021 and 7 September 2021)

Attachment F - Further information provided by Applicant in response to recommendation for refusal

Attachment G - Further information provided by the Applicant subsequent to the Planning Committee meeting on 14 December 2022