

30/07/23

Mr Roger Howlett
Delegate
Tasmanian Planning Commission
Via email: tpc@planning.tas.gov.au

Dear Mr Howlett

Re: **AP-DEV-AM2022.02 - 1, 5 Friend Street & 88, 90-102 Stony Rise Road, Stony Rise**

I write to provide a submission to the applicant's response to delay the statutory process.

On behalf of PDA's clients, Yvonne Rundle and David Yaxley, I raise the following concerns, which, combined, form the basis of our opposing position:

1. The applicant was provided with the opportunity to make a presentation at the hearing, which was not submitted in accordance with RPS Practice Direction 4 – Evidence, Witnesses and Hearing process. Several pieces of information in that 'presentation' were inaccurate, but there was no opportunity to review and respond to the new information submitted. The applicant made a false statement about our clients 'running supermarkets', inferring they are concerned about competition. This is incorrect. Our clients are commercial property landlords, owning property that happens, in this instance, to be leased by a supermarket and other retail businesses. The basis for their concern does not regard 'competition', but rather advocacy on behalf of tenants and Devonport's broader retail business community. This information was provided transparently through a petition that accompanied the representation.
2. The client has submitted expert evidence on traffic matters. Despite the expert attending the two-day hearing, he has not been provided with the opportunity to speak to the statement. The applicant has been provided with that information, which clearly shows several major omissions in the application documents, and the delay offers the applicant the opportunity to review this evidence and formulate an opposing counterargument. The application of 'natural justice' requires that our expert witness be heard and that all matters pertaining to the traffic issues be finalised.
3. Failure to meet Statutory time frames: The statutory time frames require that a determination **must** be made within three months (Section 39 (2)), unless the Minister approves an extension of the time (s42 (b) & Practice Note 1). I note that there is a more defined process for requests for extensions of time associated with Planning appeals through TASCAT, but that delaying the determination of a rezoning application by several months, particularly after all the evidence has been provided, is highly unusual and that the reasons cited are not of sufficient significance to warrant a request to the Minister. The TASCAT process requests that any party entering the process **must** ensure they are available to participate throughout the hearing or subject themselves to potential costs. Although costs are not a consideration for this jurisdiction, the same availability stipulation should be made for those applying to amend the planning scheme. The applicant's legal counsel is highly experienced in this jurisdiction and is familiar with the associated time frames.

Thank you for the opportunity to present our client's objection to the applicant's request to delay these proceedings. We look forward to learning of your decision.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'J. Brooks'.

Justine Brooks
Planning Consultant
PDA Surveyors, Engineers and Planners