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**From:** Iain More <Iain.More@launceston.tas.gov.au>  
**Sent:** Tuesday, 19 December 2023 10:30 AM  
**To:** TPC Enquiry  
**Subject:** Amendment PSA-LLP0002 - DA0439/2022 - Ref: DOC/23/97737 - s.40K Report  
**Attachments:** Amendment PSA-LLP0002 - DA0439.2022 - Council Minutes.pdf; Amendment PSA-LLP0002 - DA0439.2022 - Council Report.pdf

Dear Commission,

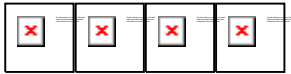
As per the Commissions directs letter dated 4 September 2023, and post further advertising, please find attached Councils s.40K report and the Council minutes for the section 40K report.

Should you require any further information please let me know.

Kind Regards,



**Iain More**  
Senior Town Planner - Policy and Projects, Community and Place  
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**10.5 Amendment PSA-LLP0002 - Rezoning of Land at 9 Rose Lane, South Launceston (Described as CT159336/1, CT247578/2, CT217855/1 and CT200709/1) From the General Residential Zone and Recreation Zone to Community Purpose Zone and Development Application DA0439/2022 - Subdivision - Consolidate Four Titles Into one, Including Alterations to the Road Network; Business and Professional Services - Construction of Six New Commercial Tenancies and Associated Car Parking**

**FILE NO:** PSA-LLP0002/DA0439/2022

**AUTHOR:** Iain More (Senior Town Planner Policy and Projects)

**ACTING GENERAL MANAGER APPROVAL:** Michelle Ogulin (Community and Place Network)

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**DECISION STATEMENT:**

To make a recommendation to the Tasmanian Planning Commission subsequent to the public exhibition period for a draft amendment to the Launceston Local Provisions Schedule.

**PLANNING APPLICATION INFORMATION:**

Applicant: ERA  
Area of the Site: 9 Rose Lane, South Launceston (described as CT159336/1, CT247578/2, CT217855/1, CT200709/1, CT210081/1, CT226165/2 and CT68237/1)  
Existing Zones: General Residential and Recreation  
Existing Use: Vacant land  
Receipt Date: 10 September 2022

**RELEVANT LEGISLATION:**

*Land Use Planning and Approvals Act 1993*  
Tasmanian Planning Scheme - Launceston

**PREVIOUS COUNCIL CONSIDERATION:**

Council - 15 December 2022 - Agenda Item 9.3  
Initiated Draft Amendment PSA-LLP0002 to the Launceston Local Provisions Schedule, to initiate Amendment PSA-LLP0002, to Rezone land at 9 Rose Lane, South Launceston (described as CT159336/1, CT247578/2, CT217855/1 and CT200709/1; and approve DA0439/2022 - Subdivision - Consolidate four titles into one, including alterations to the road network; Business and Professional Services - Construction of six new commercial tenancies and associated car parking, at 9 Rose Lane, South Launceston.

Council - 9 March 2023 - Agenda Item 10.2

Section 40.K report to consider representations for Amendment PSA-LLP0002 - Rezoning of land at 9 Rose Lane, South Launceston (described as CT159336/1, CT247578/2, CT217855/1, and CT200709/1) from the General Residential Zone and Recreation Zone to Community Purpose Zone, and Development Application DA0439/2022 - Subdivision - Consolidate three titles into one, including alterations to the road network; Business and Professional Services - Construction of six new commercial tenancies and associated car parking

**RECOMMENDATION:**

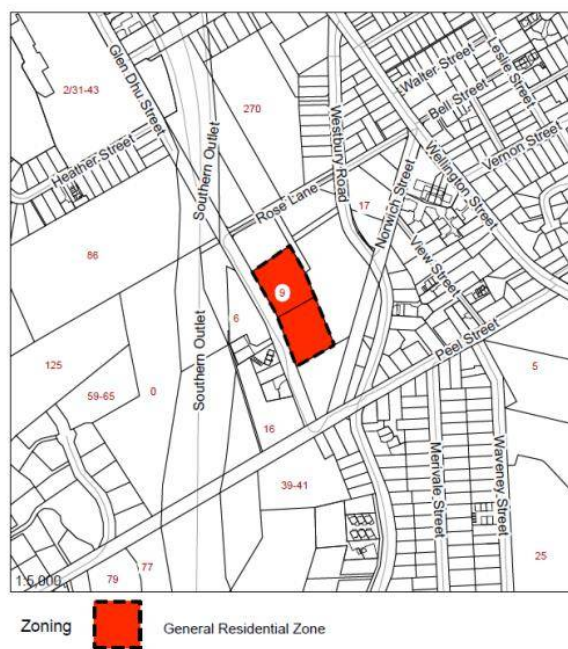
That Council:

1. in accordance with sections 40K and 42 of the *Land Use Planning and Approvals Act 1993*, consider any representations, if received, to draft Amendment PSA-LLP0002 and DA0439/2022.
2. recommends to the Tasmanian Planning Commission that draft Amendment PSA-LLP0002 be approved as shown below, subject to the site being demonstrated to be suitable for its intended purpose, as required by the National Environment Protection (Assessment of Site Contamination) Measure and other relevant guidelines.

TASMANIAN PLANNING COMMISSION



Apply the General Residential Zone to 9 Rose Lane, South Launceston folios of the Register 247578/2 and 200709/1.



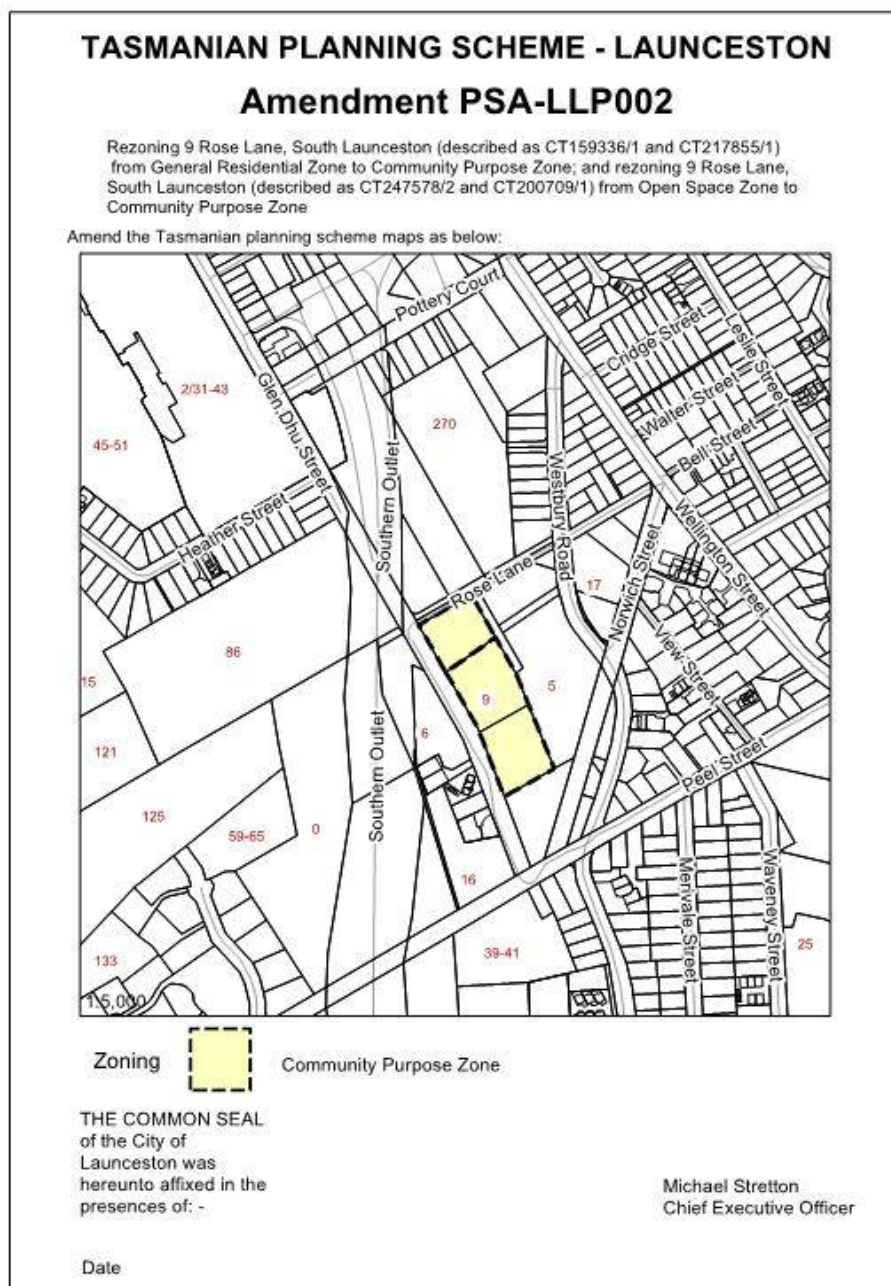
- 3. refuses DA0439/2022 as the proposed uses no longer align to the General Residential Zone.

**REPORT:**

**1. INTRODUCTION**

At its Meeting on 15 December 2022, Council considered an application under sections 37, 38 and 40T of the *Land Use Planning and Approvals Act 1993* (the Act) by ERA Planning, for a rezoning and concurrent development application at 9 Rose Lane, South Launceston

The rezoning proposal was to change the zone from Recreation and General Residential to Community Purpose, as shown below:



The application (DA0439/2022) was for Subdivision (Consolidate four titles into one, including alterations to the road network) and Business and Professional Services (Construction of six new commercial tenancies and associated car parking).

Council resolved to both initiate the rezoning and approve the application.

As required by the Act, the Council then advertised both the rezoning and application for 28 days between 14 January and 8 February 2023. No representations were received.

At its Meeting on 9 March 2023, Council considered the merits of each of the representations and resolved to recommend to the Tasmanian Planning Commission that draft Amendment PSA-LLP0002 and DA0439/2022 be approved with some minor changes relating to minor changes to permit conditions.

A hearing to consider the Amendment was held on 27 July 2023. On 27 September 2023 the Commission issued their decision, which directed the planning authority to draft a revised amendment and apply the General Residential Zone to 9 Rose Lane, South Launceston and advertise the modified amendment for a period of 28 days. This advertising for the revised zoning occurred from 11 October until the 6 November 2023. No representations were received during this public notification period.

On 23 October 2023, the applicant, ERA Planning and Environment, wrote to the Commission and stated:

*As the decision has been to direct a substitute draft amendment to the General Residential Zone, I advise that our client no longer wishes to progress with the permit application component of the request and is content for a refusal of the permit application to be issued. This approach will also address that the permit application, as requested, is in part prohibited by the General Residential zoning as some of the proposed uses do not meet the relevant use qualification for Business and Professional services under Clause 8.2, use table for the General Residential Zone.*

The Council is supportive of the refusal for the proposed permit based on the evidence given. This is reflected in the Council's recommendation.

## **2. FURTHER CONSIDERATION**

When Council considered the originally proposed rezoning it did not contemplate the use of the site for residential activities as these were not allowable uses under the Community Purpose zone proposed at the time.

With regard to the appropriateness of a General Residential Zone, the Council does not have sufficient information to determine a definitive position particularly on the matters of site contamination.

Reports submitted with the rezoning have identified that site is a former municipal landfill and that there are a range of contaminants including methane identified on the site.

The direction of the Commission to change the zoning to General Residential was unanticipated and assessments did not specifically consider the relevant contaminant assessment requirements for such a zoning change.

Under the Tasmanian Planning System the National Environment Protection (Assessment of Site Contamination) Measure has the status of a State Policy and, therefore, must be considered in decision making. This is particularly relevant in decision making for rezonings. This assessment has not yet been undertaken.

For this reason it is recommended that the Council request the Commission that this be the subject of evidence when the matter is considered by the Commission at a hearing.

Outside of the assessment of contamination the Council's Officers are generally supportive of applying the General Residential Zone, however, consider it appropriate to qualify this support and defer to the Commission the matter of compliance with the *National Environment Protection (Assessment of Site Contamination) Measure 1999* and other relevant guidelines relating to management and reuse of former landfills.

If the rezoning is approved it will be necessary to deal with the provisions of the contaminated land code in assessment of any proposed future development.

### **3. CONCLUSION**

The Council is supportive of the change to the General Residential zone so long site issues can be considered and rectified.

#### **RISK IMPLICATIONS:**

Not considered relevant to this report.

#### **ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACT:**

The amendment to the Launceston Local Provisions Schedule has been assessed against the requirements of the Act. The Tasmanian Planning Scheme - Launceston and the Launceston Local Provisions Schedule also contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such economic impacts have been considered.

#### **STRATEGIC DOCUMENT REFERENCE:**

*Land Use Planning and Approvals Act 1993* (the Act)  
Tasmanian Planning Scheme - Launceston and Launceston Local Provisions Schedule  
Northern Tasmania Regional Land Use Strategy (NTRLUS) 2018  
Greater Launceston Plan (GLP) 2014  
Launceston Residential Strategy (LRS) 2009-2029  
City of Launceston Corporate Strategic Plan 2014-2024

#### **BUDGET AND FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The Author and Acting General Manager have no interests to declare in this matter.

**ATTACHMENTS:**

Nil

**10.5. Amendment PSA-LLP0002 - Rezoning of Land at 9 Rose Lane, South Launceston (Described as CT159336/1, CT247578/2, CT217855/1 and CT200709/1) From the General Residential Zone and Recreation Zone to Community Purpose Zone and Development Application DA0439/2022 - Subdivision - Consolidate Four Titles Into one, Including Alterations to the Road Network; Business and Professional Services - Construction of Six New Commercial Tenancies and Associated Car Parking**

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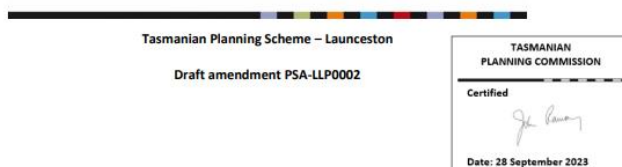
Section 40.K report to consider representations for Amendment PSA-LLP0002 - Rezoning of land at 9 Rose Lane, South Launceston (described as CT159336/1, CT247578/2, CT217855/1, and CT200709/1) from the General Residential Zone and Recreation Zone to Community Purpose Zone, and Development Application DA0439/2022 - Subdivision - Consolidate three titles into one, including alterations to the road network; Business and Professional Services - Construction of six new commercial tenancies and associated car parking

**RECOMMENDATION:**

That Council:

1. in accordance with sections 40K and 42 of the *Land Use Planning and Approvals Act 1993*, consider any representations, if received, to draft Amendment PSA-LLP0002 and DA0439/2022.
2. recommends to the Tasmanian Planning Commission that draft Amendment PSA-LLP0002 be approved as shown below, subject to the site being demonstrated to be suitable for its intended purpose, as required by the National Environment Protection (Assessment of Site Contamination) Measure and other relevant guidelines.

TASMANIAN PLANNING COMMISSION



Apply the General Residential Zone to 9 Rose Lane, South Launceston folios of the Register 247578/2 and 200709/1.



Zoning  General Residential Zone

3. refuses DA0439/2022 as the proposed uses no longer align to the General Residential Zone.
- 

**DECISION: 14 December 2023**

**MOTION**

**Moved Deputy Mayor Councillor D H McKenzie, seconded Councillor D C Gibson.**

**That the Motion, as per the Recommendation to Council, be adopted.**

**CARRIED 9:0**

**FOR VOTE: Mayor Councillor M K Garwood, Deputy Mayor Councillor D H McKenzie, Councillor D C Gibson, Councillor A G Harris, Councillor T G Walker, Councillor Dr G Razay, Councillor A J Palmer, Councillor S Cai and Councillor A J Britton**

**AGAINST VOTE: Nil**