
From: NMC Planning <planning@nmc.tas.gov.au>
Sent: Monday, 18 December 2023 2:40 PM
To: TPC Enquiry
Subject: 40K report - 10/2023 Northern Midlands
Attachments: 40K report and Minute 11.12.23.pdf; ECM_1295222_v1_Instrument of Appointment, Delegation and or Authorisation - Erin Miles 2023-04-27.pdf; 1) Representation.pdf; Section 40K Report for TPC with attachments.pdf

Good afternoon,

Please be advised that draft amendment 10/2023 to the Northern Midlands Local Provisions Schedule received a representation. A Section 40K report was prepared and presented to Council on the 11th December 2023 for their comment.

Attached are the following documents:

- Representation received from Diane Heald
- 40K report + attachments
- Minutes of Council meeting held 11.12.23
- Planner's instrument of delegation.

Kind regards,

Rosemary Jones



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11 PLANNING REPORTS

11.1 SECTION 40K REPORT ON DRAFT AMENDMENT 10/2023 AT 16A LOGAN ROAD (PREVIOUSLY KNOWN AS 35 OR 36 COLLINS STREET) (FOLIO OF THE REGISTER 141412/1), EVANDALE

Responsible Officer: Des Jennings, General Manager

Report prepared by: Erin Miles, Project Officer

MINUTE NO. 23/0447

DECISION

Cr Archer/Cr Goss

That the Council planning authority, under section 40K of the Land Use Planning and Approvals Act 1993, provide the Tasmanian Planning Commission with the report at attachment 11.1.1 of this report in relation to draft amendment 10/2023 to introduce a Site-Specific Qualification to the Northern Midlands Local Provisions Schedule:

- 1) Stating that, in relation to the merit of the representation, the planning authority is of the opinion that the draft amendment ought to be modified as follows:
 - The qualification be amended to read: "If for a market directly associated with the Evandale Market". The reason being to avoid the possibility of the site being operated as a market in isolation; and
- 2) Stating that the draft amendment meets the LPS criteria; and
- 3) Recommending that the Tasmanian Planning Commission give its approval to the draft amendment.

Carried Unanimously

Voting for the Motion:

Mayor Knowles, Deputy Mayor Lambert, Cr Adams, Cr Andrews, Cr Archer, Cr Brooks, Cr Goss and Cr Terrett

Voting Against the Motion:

Nil

RECOMMENDATION

That the Council planning authority, under section 40K of the Land Use Planning and Approvals Act 1993, provide the Tasmanian Planning Commission with the report at attachment 11.1.1 of this report in relation to draft amendment 10/2023 to introduce a Site-Specific Qualification to the Northern Midlands Local Provisions Schedule:

- 1) Stating that, in relation to the merit of the representation, the planning authority is of the opinion that the draft amendment ought not to be modified; and
- 2) Stating that the draft amendment meets the LPS criteria; and
- 3) Recommending that the Tasmanian Planning Commission give its approval to the draft amendment.

1 PURPOSE OF REPORT

This report advises the Northern Midlands Council planning authority of a representation received to draft Amendment 10/2023 to the Northern Midlands Local Provisions Schedule (LPS) and recommends a response to the Tasmanian Planning Commission (TPC).

2 INTRODUCTION/BACKGROUND

At the 16th October 2023 Council Meeting, the Planning Authority agreed to initiate and certify a draft amendment as follows:

MINUTE NO. 23/0367

DECISION



Cr Terrett/Cr Goss

1. That, under section 38(2)(a) of the Land Use Planning and Approvals Act 1993, Council as planning authority, decide to agree to the amendment to 'insert a Site-Specific Qualification (SSQ) to the existing Northern Midlands Local Provisions Schedule NOR-Site-specific Qualifications table, to allow General retail and hire with the qualification "If for a market and directly associated with the Evandale market" as a Discretionary use for 36 Collins Street, Evandale' and prepare draft amendment 10/2023 of the Local Provisions Schedule as below.

And

2. That, under section 40F(2)(a) of the Land Use Planning and Approvals Act 1993, Council as planning authority, certify draft amendment 10/2023 of the Northern Midlands Local Provisions Schedule as meeting the LPS criteria.
Draft Amendment 10/2023 of the Northern Midlands Local Provisions Schedule:

A. Amend clause NOR-Site-specific Qualifications by inserting the following:

Ref No.	Site Reference	Folio of the register	Description (modification, substitution or addition)	Relevant clause in the State Planning Provisions
NOR-8.3	36 Collins Street, Evandale	141412/1	An additional Discretionary Use Class for this site is: General retail and hire with the qualification "If for a market and directly associated with the Evandale market".	General Residential Zone – clause 8.2 Use Table

Carried Unanimously

Voting for the Motion:

Mayor Knowles, Deputy Mayor Lambert, Cr Andrews, Cr Archer, Cr Brooks, Cr Goss and Cr Terrett

Voting Against the Motion:

Nil

3 STRATEGIC PLAN & INTEGRATED PRIORITY PROJECTS PLAN

3.1 Strategic Plan 2021-2027

The Strategic Plan 2021-2027 provides the guidelines within which Council operates.

Lead: Serve with honesty, integrity, innovation and pride

Leaders with Impact

Strategic outcomes:

1.1 Council is connected to the community

1.2 Councillors serve with integrity and honesty

3.2 Integrated Priority Projects Plan 2021

This plan has been developed with a coordinated perspective to align with local, regional, state and federal plans. Rather than grouping projects by town or assembling a long list of 'nice to have' projects, this plan takes a Council-wide view of needs and opportunities in relation to the strategic investment drivers in the region. This matter has relevance to:

Not applicable.

4 POLICY IMPLICATIONS

There are no policy implications.



5 STATUTORY REQUIREMENTS

5.1 Land Use Planning and Approvals Act 1993 (the Act)

40K. Report to Commission about draft amendments

- (1) *A planning authority, within 35 days after the end of the exhibition period in relation to a draft amendment of an LPS in relation to the municipal area of the planning authority or a longer period allowed by the Commission, must provide to the Commission a report in relation to the draft amendment of an LPS.*
- (2) *The report by a planning authority in relation to the draft amendment of an LPS is to contain –*
 - (a) *a copy of each representation made under section 40J in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and*
 - (b) *a copy of each representation, made under section 40J in relation to the draft amendment after the end of the exhibition period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and*
 - (c) *a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –*
 - (i) *whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and*
 - (ii) *the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and*
 - (d) *a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and*
 - (e) *any recommendations in relation to the draft amendment that the planning authority thinks fit.*
- (3) *Without limiting the generality of subsection (2)(e), the recommendations in relation to a draft amendment of an LPS may include recommendations as to whether –*
 - (a) *a provision of the draft amendment of an LPS is inconsistent with a provision of the SPPs; or*
 - (b) *the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or*
 - (c) *the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.*
- (4) *A planning authority must not include in a recommendation in relation to a draft amendment of an LPS a recommendation to the effect that the content of a provision of the SPPs should be altered.*

6 FINANCIAL IMPLICATIONS

There are no financial implications to Council.

7 RISK ISSUES

No risk issues to Council are identified.

8 CONSULTATION WITH STATE GOVERNMENT

The application was subject to the following referrals:

TasNetworks

TasNetworks advised on 28/09/2023 that:

Based on the information provided, the development is not likely to adversely affect TasNetworks' operations. It is recommended that the customer or their electrician contact TasNetworks on 1300 137008 if they have any questions regarding any upgrades they may require to their electricity supply due to this development.

TasWater

TasWater advised on the 26th September 2023 that it does not object to the draft amendment and has no formal comments in relation to the matter and does not require to be notified of, nor attend any subsequent hearings.



Planning Policy Unit - Department of State Growth

The application was referred to the Planning Policy Unit on 19 September 2023. As of writing, a response has not been received.

9 COMMUNITY CONSULTATION

Council published an exhibition notice in relation to the draft amendment in accordance with section 40G of the Act on 28 October 2023 and 11 November 2023. The exhibition period ended 28 November 2023. One representation (attached) was received from Ms. D Heald. A summary of the issues raised within the representation and officer response is provided below:

Representation issue	Response
Exact meaning and guidelines are required for long term planning laws [that?]* are not disregarded covertly [covertly?]*. *assumed corrections	The scope and limitations (use and spatial) are clearly outlined within the application documents.
Can the business name Evandale Market be used on any other buildings or land in addition to Falls Park, NOT just the falls park area for the market.	The business name 'Evandale Market', may be used as the business operator sees fit, subject to relevant Planning Scheme requirements, such as compliance with the Signs Code.
Reason for concern, is the long-term change of venue with the new land holding and proposed building being used for the same purpose or other business in years to come.	The scope of the draft amendment is for a site specific qualification to allow 'General retail and hire with the qualification "If for a market and directly associated with the Evandale market,"' limited to the area of CT141412/1 outlined in the proposal. The area subject to the SSQ is approximately 1800m2 and would be insufficient to accommodate the existing market on the SSQ site alone. Use of an alternative site external to Falls Park for the Evandale Market would be subject to further Planning Approval.
Any permit should have conditions to exclude such occurring nor be linked to the Falls Park marketplace lease.	A future application for use or development of the land will be required if the proposed draft amendment is approved.
Does the "discretion and use" revert back to general residential land - the landowner / Mr Woof is no longer the lessee of Fall Park for Sunday market.	The SSQ applies to the subject site and is not linked to the lease of the adjacent Falls Park to the market operator. The SSQ does not preclude the subject site from being used for other uses available within the General Residential in the future.
Are the usage hours to be identical to the current Falls Park Market use? 8:30 AM to 1:30 PM Sundays?	Hours of use may be considered/restricted as part of a future application for use or development of the site.
Please advise the size, construction and the purpose of the proposed new building.	No building is proposed as part of this application – a future planning application for use or development of the site would be required.
Will the discretionary use clause be reviewed regularly.	If approved, any future changes to the wording of the SSQ would be subject to a further Planning Scheme amendment.
If this is changed to market related practises, does such any permit expire at the termination or expiration of lease on Falls Park?	Given the wording of the site specific qualification "If for a market and directly associated with the Evandale market", a future permit for use of the site could condition such matters.
Will it revert back to residential or can it be used for another business?	The SSQ does not preclude the subject site from being used for other uses available within the General Residential in the future.
Will the council have the power to ensure all regulations guidelines and standards are enforced?	Council has enforcement powers under the <i>Land Use Planning and Approvals Act 1993</i> .
What will happen about all previous conditions and work that has been ignored or not attended to previously? That is council imposed conditions orders and community concerns.	Such matters are not relevant to the consideration of the proposed draft amendment and may be pursued separately.

The representation does not raise any issues that require modification to the draft amendment. The issues raised in the representation also do not impact on the draft amendment, or compliance with the LPS criteria.

10 OPTIONS FOR COUNCIL TO CONSIDER

Council can report to the Tasmanian Planning Commission that:



- The representation does not have merit and the draft amendment should be approved; or
- The representation has merit, and the draft amendment should be modified or rejected.

11 OFFICER'S COMMENTS/CONCLUSION

The representation does not raise any issues that require modification to the draft amendment. The issues raised in the representation also do not impact on the draft amendment, or compliance with the LPS criteria. It is recommended that the Planning Authority advise the Tasmanian Planning Commission to give its final approval to the Draft Amendment.

12 ATTACHMENTS

1. Draft Amendment 10/2023 Section 40K Report for TPC inclusive of representation [**11.1.1** - 17 pages]

**Report to the Tasmanian Planning Commission Under
Section 40K of the *Land Use Planning and Approvals Act*
1993**



**NORTHERN
MIDLANDS
COUNCIL**

Subject: Draft amendment 10/2023 of the Northern Midlands Local Provisions Schedule for a site specific qualification to add General Retail and Hire "if for market and directly associated with the Evandale Market" as a Discretionary Use in the General Residential Zone, if on part of Folio of the Register 141412/1 at 16A Logan Road (previously known as 35 or 36 Collins Street) (Folio of the Register 141412/1), Evandale

Date: 30 November 2023

File no: 13/026/007/174 (Ref no: PLN-23-0164)

Council published an exhibition notice in relation to the draft amendment in accordance with section 40G of the Act on 28 October 2023 and 11 November 2023. The exhibition period ended 28 November 2023.

Section 40K of the Act requires the planning authority to provide the Commission with a report in relation to the draft amendment within 35 days after the end of the exhibition period.

The report is to contain–

(a) a copy of each representation made under Section 40J in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and

One representation (attached), from Ms. D Heald, was received during the public exhibition period.

(b) a copy of each representation, made under section 40J in relation to the draft amendment after the end of the exhibition period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and

No representations were made after the end of the exhibition period.

(c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –

(i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and

Statement: The representation raises issues that are relevant to a future planning application for use and development of the site, as discussed later in this report.

(ii) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and

Statement: The issues raised in the representation do not impact on the draft amendment, or compliance with the LPS criteria.

(d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and

Statement: The Planning Authority is satisfied that the draft amendment meets the Local Provisions Schedule criteria in accordance with section 34(2) of the *Land Use Planning and Approvals Act 1993*, as per the original assessment and certification as its meeting of the 16th October 2023 (minute reference 23/0367).

(e) any recommendations in relation to the draft amendment that the planning authority thinks fit.

The Northern Midlands Council recommends that the Tasmanian Planning Commission give its final approval to the Draft Amendment.

Representations

A copy of the representation is attached.

Statement of the planning authority's opinion as to the merit of each representation

Representation 1

A summary of the issues raised within the representation and officer response is provided below:

Representation issue	Response
Exact meaning and guidelines are required for long term planning laws [that?]* are not disregarded covertly [covertly?]*. *assumed corrections	The scope and limitations (use and spatial) are clearly outlined within the application documents.
Can the business name Evandale Market be used on any other buildings or land in addition to Falls Park, NOT just the falls park area for the market.	The business name 'Evandale Market', may be used as the business operator sees fit, subject to relevant Planning Scheme requirements, such as compliance with the Signs Code.
Reason for concern, is the long-term change of venue with the new land holding and proposed building being used for the same purpose or other business in years to come.	The scope of the draft amendment is for a site specific qualification to allow 'General retail and hire with the qualification "If for a market and directly associated with the Evandale market,"' limited to the area of CT141412/1 outlined in the proposal. The area subject to the SSQ is approximately 1800m2 and would be insufficient to accommodate the existing market on the SSQ site alone. Use of an alternative site external to Falls Park for the Evandale Market would be subject to further Planning Approval.
Any permit should have conditions to exclude such occurring nor be linked to the Falls Park marketplace lease.	A future application for use or development of the land will be required if the proposed draft amendment is approved.
Does the "discretion and use" revert back to general residential land - the landowner / Mr Woof is no longer the lessee of Fall Park for Sunday market.	The SSQ applies to the subject site and is not linked to the lease of the adjacent Falls Park to the market operator. The SSQ does not preclude the subject site from being used for other uses available within the General Residential in the future.
Are the usage hours to be identical to the current Falls Park Market use? 8:30 AM to 1:30 PM Sundays?	Hours of use may be considered/restricted as part of a future application for use or development of the site.
Please advise the size, construction and the purpose of the proposed new building.	No building is proposed as part of this application – a future planning application for use or development of the site would be required.
Will the discretionary use clause be reviewed regularly.	If approved, any future changes to the wording of the SSQ would be subject to a further Planning Scheme amendment.
If this is changed to market related practises, does such any permit expire at the termination or	Given the wording of the site specific qualification "If for a market and directly associated with the Evandale market", a future permit for use of the site could condition such

expiration of lease on Falls Park?	matters.
Will it revert back to residential or can it be used for another business?	The SSQ does not preclude the subject site from being used for other uses available within the General Residential in the future.
Will the council have the power to ensure all regulations guidelines and standards are enforced?	Council has enforcement powers under the <i>Land Use Planning and Approvals Act 1993</i> .
What will happen about all previous conditions and work that has been ignored or not attended to previously? That is council imposed conditions orders and community concerns.	Such matters are not relevant to the consideration of the proposed draft amendment and may be pursued separately.

The representation does not raise any issues that require modification to the draft amendment. The issues raised in the representation also do not impact on the draft amendment, or compliance with the LPS criteria.

The Northern Midlands Council recommends that the Tasmanian Planning Commission give its final approval to the Draft Amendment and does not request modification to the draft amendment.

Attachments

1. Representation
2. Report to Council, inclusive of Council's minute from **16.10.2023** (minute reference 23/0367)

Dear Northern Midlands Council Planning Department

Draft Amendment 10/2023, PLN 23-064

The residential land owned by Mr Peter Woof - discretionary use, "General Retail and Hire" if for market and directly associated with the Evandale Market.

I have a number of concerns and representations in relation to this application.

Exact meaning and guidelines are required for long term planning laws are not disregarded covertly.

Can the business name Evandale Market be used on any other buildings or land in addition to Falls Park, NOT just the falls park area for the market.

Reason for concern, is the long term change of venue with the new land holding and proposed building being used for the same purpose or other business in years to come.

Any permit should have conditions to exclude such occurring nor be linked to the Falls Park marketplace lease.

Does the "discretion and use" revert back to general residential land - the land owner / Mr Woof is no longer the leasee of Fall Park for Sunday market.

Are the usage hours to be identical to the current Falls Park Market use? 8:30 AM to 1:30 PM Sundays?

Please advise the size, construction and the purpose of the proposed new building.

Will the discretionary use clause be reviewed regularly.

If this is changed to market related practises, does such any permit expire at the termination or expiration of lease on Falls Park?

Will it revert back to residential or can it be used for another business?

Will the council have the power to ensure all regulations guidelines and standards are enforced?

What will happen about all previous conditions and work that has been ignored or not attended to previously? That is council imposed conditions orders and community concerns.

Dianne Heald



11 PLANNING REPORTS

11.1 DRAFT AMENDMENT 10/2023 TO THE NORTHERN MIDLANDS LOCAL PROVISIONS SCHEDULE: COLLINS STREET, EVANDALE (141412/1)

File: *PLN-23-0164*
Responsible Officer: *Des Jennings, General Manager*
Report prepared by: *Erin Miles, Project Officer*

MINUTE NO. 23/0367

DECISION

Cr Terrett/Cr Goss

1. That, under section 38(2)(a) of the *Land Use Planning and Approvals Act 1993*, Council as planning authority, decide to agree to the amendment to 'insert a Site-Specific Qualification (SSQ) to the existing Northern Midlands Local Provisions Schedule NOR-Site-specific Qualifications table, to allow General retail and hire with the qualification "If for a market and directly associated with the Evandale market" as a Discretionary use for 36 Collins Street, Evandale' and prepare draft amendment 10/2023 of the Local Provisions Schedule as below.

And

2. That, under section 40F(2)(a) of the *Land Use Planning and Approvals Act 1993*, Council as planning authority, certify draft amendment 10/2023 of the Northern Midlands Local Provisions Schedule as meeting the LPS criteria.

Draft Amendment 10/2023 of the Northern Midlands Local Provisions Schedule:

A. Amend clause NOR-Site-specific Qualifications by inserting the following:

Ref No.	Site Reference	Folio of the register	Description (modification, substitution or addition)	Relevant clause in the State Planning Provisions
NOR-8.3	36 Collins Street, Evandale	141412/1	An additional Discretionary Use Class for this site is: General retail and hire with the qualification "If for a market and directly associated with the Evandale market".	General Residential Zone – clause 8.2 Use Table

B. Amend the planning scheme maps to show a site-specific qualification on 36 Collins Street, Evandale (folio of the Register 141412/1).

Carried Unanimously

Voting for the Motion:

Mayor Knowles, Deputy Mayor Lambert, Cr Andrews, Cr Archer, Cr Brooks, Cr Goss and Cr Terrett

Voting Against the Motion:

Nil

RECOMMENDATION

1. That, under section 38(2)(a) of the *Land Use Planning and Approvals Act 1993*, Council as planning authority, decide to agree to the amendment to 'insert a Site-Specific Qualification (SSQ) to the existing Northern Midlands Local Provisions Schedule NOR-Site-specific Qualifications table, to allow General retail and hire with the qualification "If for a market and directly associated with the Evandale market" as a Discretionary use for 36 Collins Street, Evandale' and prepare draft amendment 10/2023 of the Local Provisions Schedule as below.

And

2. That, under section 40F(2)(a) of the *Land Use Planning and Approvals Act 1993*, Council as planning authority,



certify draft amendment 10/2023 of the Northern Midlands Local Provisions Schedule as meeting the LPS criteria.

Draft Amendment 10/2023 of the Northern Midlands Local Provisions Schedule:

A. Amend clause NOR-Site-specific Qualifications by inserting the following:

Ref No.	Site Reference	Folio of the register	Description (modification, substitution or addition)	Relevant clause in the State Planning Provisions
NOR-8.3	36 Collins Street, Evandale	141412/1	An additional Discretionary Use Class for this site is: General retail and hire with the qualification "If for a market and directly associated with the Evandale market".	General Residential Zone – clause 8.2 Use Table

B. Amend the planning scheme maps to show a site-specific qualification on 36 Collins Street, Evandale (folio of the Register 141412/1).

1 INTRODUCTION

This report:

- Assesses a draft amendment of the Northern Midlands Local Provisions Schedule to insert a Site-Specific Qualification (SSQ) to the existing Northern Midlands Local Provisions Schedule NOR-Site-specific Qualifications table, to allow General retail and hire with the qualification "If for a market and directly associated with the Evandale market" as a Discretionary use for 36 Collins Street, Evandale.

The applicant advises that:

The purpose of the proposed draft amendment is to enable consideration of a development application for construction of a new building associated with the Evandale Market. The building would be used to house indoor market stalls to expand the existing Sunday market. The intention is to expand the market offerings and meet demand for additional undercover market stalls, as these are less impacted by poor weather.

The proposed use and development would not be possible under the Scheme without the proposed draft scheme amendment.

2 BACKGROUND

Applicant:

6ty°

Zone:

8.0 General Residential

Classification under the Scheme:

Planning scheme amendment.

Decision Date:

Decision whether or not to agree to the amendment must be made by 18th October 2023.

Owner:

Peter Hickson Woof

Codes/Specific Areas Plans:

C13.0 Bushfire-Prone Areas, C16.0 Safeguarding of Airports - Obstacle Limitation Area, C2.0 Parking and Sustainable Transport, C9.0 Attenuation

Existing Use:

Vacant

Recommendation:

That Council as planning authority agree to, and certify, the draft amendment.



Planning Instrument:

Tasmanian Planning Scheme - Northern Midlands

Preliminary Discussion:

The applicant has held preliminary discussions with council officers on this proposal.

3 STATUTORY REQUIREMENTS

Land Use Planning and Approvals Act 1993

37. Request for amendment of LPSs

- (1) A person may request a planning authority to amend an LPS that applies to the municipal area of the planning authority.
- (2) A request under subsection (1) is to be in a form approved by the planning authority or, if a form has been approved by the Commission, is to be in that form.
- (3) A request under subsection (1) by a person to a planning authority to amend the zoning or use or development of one or more parcels of land specified in an LPS must, if the person is not the owner, or the sole owner, of the land –
 - (a) be signed by each owner of the land; or
 - (b) be accompanied by the written permission of each owner of the land to the making of the request.

38. Decision in relation to request

- (1) A planning authority, before deciding whether to prepare a draft amendment of an LPS in relation to a municipal area in accordance with a request under section 37(1), must be satisfied that such a draft amendment of an LPS will meet the LPS criteria.
- (2) A planning authority, within 42 days after receiving a request under section 37(1) or a longer period allowed by the Commission, must–
 - (a) decide to agree to the amendment and prepare a draft amendment of the LPS; or
 - (b) decide to refuse to prepare the draft amendment of the LPS.

4 ASSESSMENT

4.1 Proposal

The application requests an amendment to the Northern Midlands Local Provisions Schedule as follows:

To insert a Site-Specific Qualification (SSQ) to the existing Northern Midlands Local Provisions Schedule NOR-Site-specific Qualifications table, to allow General Retail and Hire with the qualification “If for a market and directly associated with the Evandale market” as a Discretionary use for 36 Collins Street, Evandale.

The following would be added to the NOR-Site-specific Qualifications table:

NOR-Site-specific Qualifications table

Ref No.	Site Reference	Folio of the register	Description (modification, substitution or addition)	Relevant clause in the State Planning Provisions
NOR-8.3	36 Collins Street, Evandale	141412/1	An additional Discretionary Use Class for this site is: General retail and hire with the qualification “If for a market and directly associated with the Evandale market”.	General Residential Zone – clause 8.2 Use Table

4.2 Zone and Land Use

The land is in the General Residential Zone. The site is currently vacant, other than a small shed.

4.3 Subject Site and Locality

The author of this report conducted a site visit on 5th September 2023. The land has a total area of 8375m², however, only a 1800m² portion is proposed to be impacted by the Site Specific Qualification. The site is mostly vacant, with the exception of a shed and vegetation and is relatively level, except for the very eastern side adjacent to the carpark, which gently slopes to the east.

Figure 1 - Photograph of subject site looking south



Figure 2 - Photograph of subject site looking south east



Figure 3 - Photograph of subject site looking west along walkway from market carpark to Falls Park



Figure 4 - Photograph of Falls Park market area looking toward subject site



Figure 5 – Aerial photograph of area



4.4 Permit/Site History

- An application for a dwelling on the site was received in 2018 but expired awaiting further information prior to a decision being made.
- PLN-21-0071 – Dwelling, garage and shed (within attenuation distance of Evandale Sewage Treatment Plant, removal of vegetation) at 35 Collins Street, Evandale (access over 18 Logan Road)

4.5 Notice to agencies and State authorities

If Council as planning authority certifies the draft amendment, before exhibiting the draft amendment of an LPS, Section 40FA of the Land Use Planning and Approvals Act requires the planning authority to notify:

- (a) the relevant agencies; and*
- (b) those State Service Agencies, or State authorities, that the planning authority considers may have an interest in the draft amendment of the LPS.*

TasNetworks

TasNetworks advised on 28/09/2023 that:

Based on the information provided, the development is not likely to adversely affect TasNetworks' operations.

It is recommended that the customer or their electrician contact TasNetworks on 1300 137008 if they have any questions regarding any upgrades they may require to their electricity supply due to this development.

TasWater

TasWater advised on the 26th September 2023 that it does not object to the draft amendment and has no formal comments in relation to the matter and does not require to be notified of, nor attend any subsequent hearings.

Planning Policy Unit - Department of State Growth

The application was referred to the Planning Policy Unit on 19 September 2023. As of writing, a response has not been received.



Council's Works and Infrastructure Department

Council's Works and Infrastructure Department advised on 19th September 2023 of no comment to make.

Heritage Advisor, David Denman

The site is not within the Evandale Heritage Precinct and does not require referral to Council's Heritage Advisor.

4.6 Notice of exhibition in relation to the draft amendment

Section 40G of the Land Use Planning and Approvals Act requires:

- (1) A planning authority, as soon as practicable after providing to the Commission a copy of a draft amendment of an LPS, must ensure an exhibition notice in relation to the draft amendment of an LPS is published in accordance with this section.*
- (2) The exhibition notice is to be published once before, and once within 14 days after, the first day of the exhibition period, in a newspaper that is published in Tasmania and circulates generally in the area to which the draft amendment of an LPS relates.*
- (3) The exhibition notice is to –*
 - (a) specify the period that is to be the exhibition period in relation to the draft amendment of the LPS; and*
 - (b) specify that the draft amendment of the LPS is or will be –*
 - (i) available for viewing by the public, during the exhibition period, at premises, that are offices of the planning authority, specified in the notice; and*
 - (ii) available for viewing and downloading by the public, during the exhibition period, at an electronic address specified in the exhibition notice; and*
 - (c) contain an invitation to all persons and bodies to, within the exhibition period, make to the planning authority a representation in relation to the draft amendment of the LPS by submitting the representation to –*
 - (i) the premises specified in the notice in accordance with paragraph (b)(i) ; or*
 - (ii) an electronic address specified in the notice.*
- (4) The exhibition period, in relation to a draft amendment of an LPS, is to be a period of 28 days –*
 - (a) beginning on the day on which the draft amendment of the LPS begins to be available for viewing by the public at exhibition premises in accordance with section 40H ; and*
 - (b) excluding any days on which the exhibition premises are closed during normal business hours.*

Any representations received during the exhibition period will be considered by the Council as planning authority for reporting on to the Tasmanian Planning Commission.

4.7 Assessment Against LPS Criteria

34(2) The LPS criteria to be met by a relevant planning instrument are that the instrument –

(a) contains all the provisions that the SPPs specify must be contained in an LPS

The proposed rezoning has no impact on provisions required to be contained in an LPS.

(b) is in accordance with section 32

Under section 32:

- (3) An LPS may, if permitted to do so by the SPPs, include*
 - (a) a particular purpose zone...*
 - (b) a specific area plan, being a plan consisting of –*
 - (i) a map or overlay that delineates a particular area of land; and*
 - (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs.*
 - (c) a site-specific qualification, being a provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.*
- (4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –*
 - (a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or*
 - (b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.*



The General Residential Zone applies to the subject site. The draft amendment seeks to insert a site-specific qualification. As advised in the application:

The purpose of the proposed draft amendment is to enable consideration of a development application for construction of a new building associated with the Evandale Market [currently located adjacent to the site]. The building would be used to house indoor market stalls to expand the existing Sunday market. The intention is to expand the market offerings and meet demand for additional undercover market stalls, as these are less impacted by poor weather.

The spatial qualities of the site relate to its proximity to the existing Evandale Market and demonstrate the draft amendment is in accordance with section 32.

(c) furthers the objectives set out in Schedule 1

Schedule 1, Part 1 – Objectives of the Resource Management and Planning System of Tasmania

a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity

The site is a General Residential zoned lot, surrounded by a range of urban uses. The area impacted by the proposed Site Specific Qualification is mostly cleared and contains limited natural resources. Any future development of the site is likely to have minimal impact on the maintenance of ecological processes and genetic diversity.

b) to provide for the fair, orderly and sustainable use and development of air, land and water

The amendment process gives due consideration to these matters and the subject site does not contain any particular natural or cultural values that require special consideration. The draft amendment presents a logical expansion of the market site and forms a natural linkage between the established market car park, walkway and Falls Park market area, without impacting on existing retail and service provisions within the town. The proposal is consistent with this objective.

c) to encourage public involvement in resource management and planning

If the draft amendment is certified by the planning authority, it will be placed on public notification in accordance with the Land Use Planning and Approvals Act, allowing for representations to the draft amendment to be submitted.

d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)

The draft amendment seeks to allow for an extension of the existing Evandale Market onto adjoining land and facilitate additional undercover area for stallholders, ameliorating the impact of adverse weather. The market is a key economic driver for the township and facilitates economic development across a range of local businesses.

e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

Notice of the draft amendment has been given to relevant agencies and State authorities.

Schedule 1, Part 2 – Objectives of the Planning Process Established by this Act

a) to require sound strategic planning and co-ordinated action by State and local government

The draft amendment is consistent with the Northern Tasmania Regional Land Use Strategy that identifies Evandale as a satellite suburb, described as providing an extensive urban area independent of the Greater Launceston Urban Area with key local retail, commercial, and community service functions. The amendment does not seek to change the underlying zone but will allow for strategic development of the site given its location in relation to the established market site and adjoining car park. The site is already constrained for residential use, given the lack of road frontage, limited services and siting within an Attenuation area of the Evandale Wastewater Treatment Plant, but presents an opportunity to further promote a key local attraction to the township that is integral to the towns identity, being the Evandale Market.



b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land

Consistent with that system, the planning authority determines whether to prepare the draft amendment and approve the application for planning permit.

c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land

Given the urban location and semi-developed (cleared) nature of the site, the proposed draft amendment is unlikely to have any significant impact on environmental values of the site.

As noted in the application, the future use and development that will be facilitated by the proposed draft amendment for an expansion of the Evandale Market, will have a net community benefit from an economic and social perspective. The market has been operating consistently since approximately 1975, and runs every Sunday, in all weather. Visitor numbers to the market each week average 3000 people (up to 5000 at peak times) along with approximately 150 stallholders (Examiner, 2017). Providing all weather facilities is important in providing security for stallholders and subsequent patronage to the market and other retail outlets within the town.

d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels

The proposed amendment is consistent with relevant local, regional and state policies, as discussed later in this report.

e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals

The proposed planning scheme amendment is requested under section 37(1) of the Act.

f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation

The proposal allows for a use that is consistent with this objective, given the established and popular nature of the Evandale market with both locals and visitors to the town.

g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value

The subject site is not an area or place of scientific, aesthetic, architectural or historical interest.

h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community

The draft amendment will not have a negative impact on public infrastructure. The site has limited access to existing services.

i) to provide a planning framework which fully considers land capability.

LIST Map shows that the site was excluded from the study area of the land potentially suitable for agriculture zone and is not subject to the State Policy on the Protection of Agricultural Land.

(d) is consistent with each State policy

State Policy on the Protection of Agricultural Land 2009



LIST Map shows that the site was excluded from the study area of the land potentially suitable for agriculture zone. The draft amendment does not impact on the State Policy on the Protection of Agricultural Land.

Tasmanian State Coastal Policy 1996

The subject site is not in a coastal zone and the Coastal Policy does not apply.

State Policy on Water Quality Management 1997

Although not currently connected, the site has access to the existing reticulated stormwater and sewerage services and capacity to dispose of on-site subject to further assessment. The draft amendment is consistent with this State policy.

National Environmental Protection Measures (NEPMs)

In accordance with the State Policies and Projects Act 1993, a NEMP is taken to be a State Policy. The following NEMPs are therefore State policies:

- Air Toxics*
- Ambient Air Quality*
- Assessment of Site Contamination*
- Diesel Vehicle Emissions*
- Movement of Controlled Waste between States and Territories*
- National Pollutant Inventory*
- Used Packaging Materials*

None of the NEPMs apply to the subject site and proposed amendment.

(da) satisfies the relevant criteria in relation to the TPPs

There are no TPPs currently in effect; therefore, it is considered this criteria is met.

(e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates

The subject site is identified as being within the Urban Growth Area land use category of the Northern Tasmania Regional Land Use Strategy (NTRLUS). Urban Growth Areas comprise land within the developed urban settlement or in areas intended for urban development as identified in a Priority Consolidation Area, Supporting Consolidation Area or Growth Corridor shown in the Regional Framework Plan Map. Map D.3 identifies the site as being within a supporting consolidation area, defined as follows:

Supporting Consolidation Areas

- Comprising land in established suburbs which is separate from *Priority Consolidation Areas* as shown in the Regional Framework Plan Maps D.1, D.2 and D.3;
- Support reliable and effective transportation and reduce vehicle dependency;
- Physically connect new urban settlements to existing communities wherever possible, or otherwise provide new development with direct transport linkages to established urban areas;
- Promote cohesive communities;
- Support a wide range of services and facilities;
- Support access to existing or planned activity centres; and



- Comprise a suitable and complementary mix of land uses to support the *Regional Settlement Hierarchy* and the *Regional Activity Centre Hierarchy*.

Evandale is classified as a Satellite Settlement within the Regional Settlement Hierarchy and as a Neighborhood or Town Centre in the Regional Activity Centre Hierarchy. The proposal is consistent with the Key Activity Centre Network Strategies detailed at section E.3.3 of the NTRLUS and the associated Specific Policies and Actions, as further detailed in the Planning Submission report.

The draft amendment is consistent with the Northern Tasmania Regional Land Use Strategy.

(f) has regard to the strategic plan, prepared under section 66 of the Local Government Act 1993, that applies in relation to the land to which the relevant planning instrument relates

The current strategic plan for the Northern Midlands is the Northern Midlands Council Strategic Plan 2021-2027. The plan focusses on the unique elements of the Northern Midlands, an enviable place to live, work and play. The Plan is based upon four key priorities:

- Lead: Serve with honesty, integrity, innovation and pride
- Progress: Economic health and wealth – grow and prosper
- People: Cultural and society – a vibrant future that respects the past
- Place: Nurture our heritage environment

Each priority is supported by four strategic outcomes that describe what the Council aims to achieve, and that are consistent with its vision.

Actions and projects to achieve these outcomes will be included in the Council's Annual Plan. Performance measures will be included in the Annual Plan to enable the Council to track its progress against each of the strategic outcomes.

(g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates

While the site is not in close proximity to another municipal area, the draft amendment's consistency with the RLUS ensures a similar consistency and co-ordination with the LPSs of adjacent municipal areas.

(h) has regard to the safety requirements set out in the standards prescribed under the Gas Safety Act 2019

The site is not in the vicinity of the Tasmanian Gas Pipeline.

5 ASSESSMENT OF PLANNING APPLICATION

A permit application is not proposed under section 40T of the *Land Use Planning and Approvals Act*; therefore, assessment against the zone and NOR-S5.0 Evandale Specific Area Plan is not relevant. A summary of the relevant Code provisions is provided below.

CODES		
E1.0	Signs Code	N/a – no development proposed. Future development of the site will be subject to the Signs Code if signage is proposed.
E2.0	Parking and Sustainable Transport Code	Code applies to all use and development. Future use and development of the site will be subject to the provisions of the Code.
E3.0	Road and Railway Assets Code	Code applies to use and development specified in clause C3.2.1. Future use and development of the site may be subject to the provisions of the Code.
E4.0	Electricity Transmission Infrastructure Protection Code	N/a



E.5.0 Code	Telecommunications	N/a
E6.0 Code	Local Historic Heritage	N/a
E7.0	Natural Assets Code	N/a
E8.0	Scenic Protection Code	N/a
E9.0	Attenuation Code	The site is within the Attenuation Distance of the Tasmanian Gun Club on Nile Road and the Evandale sewerage lagoons. Future use and development will need to consider the requirements of the code, however, the use proposed by draft amendment will not be subject to the application of the Code under clause C9.2.1.
E10.0 Code	Coastal Erosion Hazard	N/a
E11.0 Code	Coastal Inundation Hazard	N/a
E12.0 Code	Flood-Prone Areas Hazard	N/a
E13.0 Code	Bushfire-Prone Areas	The site is mapped as Bushfire Prone and future use and development of the site will be subject to the provisions of the Code.
E14.0	Potentially Contaminated Land Code	N/a
E15.0	Landslip Hazard Code	N/a
E16.0 Code	Safeguarding of Airports	The subject site is within the Airport obstacle limitation area with 211m AHD. Future use and development of the site will be subject to the provisions of the Code.

PARTICULAR PURPOSE ZONES

NOR-P1.0	Particular Purpose Zone – Campbell Town Service Station	Not applicable
NOR-P2.0	Particular Purpose Zone – Epping Forest	Not applicable

GENERAL PROVISIONS

7.1	Changes to an Existing Non-conforming Use	Not applicable
7.2	Development for Existing Discretionary Uses	Not applicable
7.3	Adjustment of a Boundary	Not applicable
7.4	Change of Use of a Place listed on the Tasmanian Heritage Register or a Local Heritage Place	Not applicable
7.5	Change of Use from an existing lawful use to another use in the same use class	Not applicable
7.6	Access and Provision of Infrastructure Across Land in Another Zone	Not applicable
7.7	Buildings Projecting onto Land in a Different Zone	Not applicable
7.8	Port and Shipping in Proclaimed Wharf Areas	Not applicable
7.9	Demolition	Not applicable
7.10	Development Not Required to be Categorised into a Use Class	Not applicable
7.11	Use or Development Seaward of the Municipal District	Not applicable
7.12	Sheds on Vacant Sites	Not applicable

6 FINANCIAL IMPLICATIONS TO COUNCIL

Assessing planning scheme amendments is within budget allocations.



7 OPTIONS

Decision in relation to request

The planning authority can:

- decide to agree to the amendment and prepare a draft amendment of the LPS; or
- decide to refuse to prepare the draft amendment of the LPS.

Preparation of draft amendment

If the planning authority decides to agree to the amendment, it must prepare a draft amendment. A draft amendment has been prepared as shown in the recommendation of this report.

Certification of draft amendment

- The planning authority must consider whether it is satisfied that the draft amendment meets the LPS criteria, see section 4.7.
- If the planning authority is satisfied that the draft amendment meets the LPS criteria, it must certify the draft as meeting the requirements of the Land Use Planning and Approvals Act; or
- If the planning authority is not satisfied that the draft amendment meets the LPS criteria it must modify the draft so that it meets the requirements and then certify the draft as meeting those requirements.

8 DISCUSSION

As discussed in this report, the draft amendment is in accordance with the LPS criteria. It is recommended that the planning authority certify the draft amendment. The draft amendment will then be placed on public exhibition and any representations received considered by the planning authority before providing a report on the representations to the Tasmanian Planning Commission.

9 ATTACHMENTS

1. NMC - Planning Application Form 03-07-23 [**11.1.1** - 1 page]
2. TPC owner consent form completed [**11.1.2** - 2 pages]
3. Folio plan [**11.1.3** - 1 page]
4. 23.163 - Final Planning Submission - Evandale Market [**11.1.4** - 30 pages]
5. SPAN [**11.1.5** - 1 page]
6. Response W& I No comment [**11.1.6** - 1 page]
7. Tas Networks Response to referral [**11.1.7** - 1 page]