

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Tasmanian Planning Scheme – Devonport
Amendment	draft amendment AM2021.03 - to rezone part of 215-221 Tarleton Street and a portion of the adjoining road lot from the General Residential Zone to the Local Business Zone
Planning authority	Devonport City Council
Applicant	Donoj Pty Ltd
Date of decision	31 March 2022

Decision

The draft amendment is modified under section 40N(1)(b) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 40Q.

John Ramsay
Executive Commissioner

Land Use Planning and Approvals Act 1993 (the Act)

Erratum under section 81AA(1)

**Decision on Devonport Local Provisions Schedule - draft amendment
AM2021.03**

dated 31 March 2022

Table 1- list of corrections to the decision and the approved instrument

Page	Paragraph	Correction	Approved
6	Annexure A	<p>Modify the map to extend the rezoning to the centreline of Riverview Avenue.</p> <p>The correction to the map is shown below.</p>	<p>John Ramsay</p> <p>Executive Commissioner</p> <p>1 April 2022</p>
1	Approved instrument	<p>Modify the approved instrument to refer to the Devonport Local Provisions Schedule, not the Meander Valley Local Provisions Schedule.</p>	<p>John Ramsay</p> <p>Executive Commissioner</p> <p>1 April 2022</p>

Annexure A

Modified amendment AM2021.03, Tasmanian Planning Scheme - Devonport

1. Rezone 215-221 Tarleton Street, East Devonport (folio of the Register 21185/2) and part of the adjoining roadway (folio of the Register 158439/1) from the General Residential Zone to the Local Business Zone, as identified in the following map:



REASONS FOR DECISION

Background

Amendment

The amendment seeks to rezone a part of 215-221 Tarleton Street and a portion of the adjoining road lot from the General Residential Zone to the Local Business Zone.

Site information

The subject land is located at 215-221 Tarleton Street, East Devonport. It also comprises a road title, with a frontage to Tarleton Street. The site is developed with a motel and the existing commercial uses include visitor accommodation, a restaurant, bars and associated vehicle parking and laundry facilities. The portion of the site subject to rezoning has an area of 2700m² and is currently vacant.

The site is surrounded by land zoned General Residential, Open Space, Environmental Management and Local Business.

Issues raised in representations

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating no objection to the draft amendment and that TasWater did not wish to attend any hearing.

Consideration of the draft amendment

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the Local Provisions Schedule (LPS) / LPS Devonport and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. 1 representation was received and after consultation under section 40L(2) of the Act, the Commission dispensed with holding a hearing.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
 - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
 - (b) is in accordance with section 32; and
 - (c) furthers the objectives set out in Schedule 1; and
 - (d) is consistent with each State policy; and
 - (da) satisfies the relevant criteria in relation to the TPPs; and
 - (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; and
 - (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; and

- (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;
- (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
- (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

Regional land use strategy

4. The relevant regional strategy under section 300(1) is the Living on the Coast- The Cradle Coast Regional Land Use Strategy 2010-2030 (the regional strategy).
5. The applicant considers that the draft amendment is consistent with the regional land use strategy, because it:
 - provides opportunity for additional land uses, whilst protecting the rights of other existing and potential land uses, therefore optimising the use of land and resources (2.2 Land Use Outcomes for Wise Use of Resources);
 - supports established uses providing for development within an area serviced by public transport and other services (2.3a Changing Climate);
 - is located in a close proximity to the existing retail infrastructure, public transport and passive transportation routes. It is close to local fruit and vegetable sources minimising freight transport and distribution of relevant products (2.3c Changing Climate);
 - maximises utilisation of existing, established land (2.5a Land);
 - broadens the economic activity possible on the subject site, whilst providing for sensitive consideration of potential impacts on adjoining existing land uses and zoning (3.2 Support for Economic Activity);
 - increases employment opportunities supporting and compatible with the adjoining activities, as well as those more broadly across the Devonport community (3.3.1a Economic Activity);
 - supports the adjoining land uses, providing additional employment opportunities for the local community (3.3.1c Economic Activity); and
 - is located on a site close to the Spirit of Tasmania terminal and will provide an alternative for visitors and personnel to stay in Devonport and to pass time locally (3.3.5 Sustainable Tourism).
6. The planning authority agrees with the applicant, and considers that the draft amendment is consistent with the regional strategy. The planning authority considers:

The Cradle Coast Regional Land Use Strategy acknowledges that land is required to allow for local and convenient access to a range of businesses including those for social and economic activity. Rezoning the subject site to Local Business will enable improvements to the established hotel industry which benefit both locals and visitors.

Commission consideration

7. The Commission is satisfied with the justification provided by the applicant and planning authority. The draft amendment allows serviced and established land to be rezoned for commercial purposes, broadening the economic activities possible on the subject site.

8. The Commission agrees that the draft amendment is consistent with the regional strategy's policies relating to Support for Economic Activity and Land. The Commission considers that rezoning the site will enable improvements to the established hotel industry, which will in turn benefit the local community.
9. The Commission finds that the draft amendment is, as far as is practicable, consistent with the regional strategy.

Suitability of the site

10. In the supporting report, the applicant considers that the rezoning is consistent with the Objectives of the Local Business Zone, as follows:

The existing development(s) on the adjoining site provide multiple services to the local community (bottleshop, restaurant, socialising and functions). There are very limited alternatives available to the East Devonport local community, without crossing into Devonport proper. The operations on the adjoining site also provide for direct employment of local residents.

The site is within the established settlement centre of East Devonport. The proposal provides for potential minor expansion of existing uses, and does not result in any modification to the settlement hierarchy.

11. The applicant considers that existing infrastructure and services would be utilised, which would allow for a broader scope of infill development. The applicant further notes that, as the site is already utilised for local business purposes, the proposed rezoning would result in collaboration of these adjoining land uses and facilitate access to related services, employment, complementary retail, personal services and other social and recreational facilities in both the Devonport CBD and East Devonport.
12. The planning authority agrees with the applicant, and further notes:

Hypothetically, it would be difficult to justify how the Zone Application Guidelines could be satisfied if the site was to be rezoned to the General Residential Zone as the site is highly constrained due to the proximity of the Bass Highway and the adjoining Argosy use.
13. The planning authority also notes that the proposed rezoning would consolidate the existing use and further development of the Argosy site to achieve the intended Argosy Master Plan.
14. Both the planning authority and the applicant consider that the Local Business Zone under the Tasmanian Planning Scheme- Devonport includes provisions that ensure that a development on the site is of appropriate scale and intensity, and will not have adverse impacts on the adjoining residential land use to the east. The applicant further notes:

..the applicable codes provide for appropriate checks and balances to ensure management of any potential land use conflict.

Commission consideration

15. The Commission agrees with the planning authority and the applicant that the draft amendment would provide services to the local East Devonport community within an established settlement centre of East Devonport. It is noted that the site is already established and constrained by the existing commercial uses and its proximity to the Bass Highway.
16. The Commission considers that the Tasmanian Planning Scheme- Devonport includes provisions that protect the amenity of the adjoining land and prevents any potential adverse impacts on the adjoining land. The Commission further notes that the applicable codes, such as the Road and Railway Assets Code and the Parking and Sustainable Transport Code, also provide appropriate protection of adjoining land use, and appropriately manage the adverse

impacts to adjoining land uses through stormwater management standards and other relevant Australian Standards.

17. The Commission is satisfied with the applicant's and planning authority's justification for the suitability of the site to accommodate the draft amendment.

State Policies and Resource Management and Planning System Objectives

The State Coastal Policy 1996

18. The State Coastal Policy 1996 applies as the site is within 1 km of the high water mark along the Mersey River.
19. The planning authority provided an assessment against the State Coastal Policy, concluding that the site is located within a highly modified and established area. The planning authority then notes that the subject site does not have any vegetation or identified coastal features. The surrounding area, including the adjoining development, is connected to council's reticulated stormwater system which drains to Mersey River via a headwall outlet. The planning authority concludes that the Devonport LPS contains no restrictive overlays over the subject site which are relevant to the State Coastal Policy.

Commission Consideration

20. The Commission finds that the draft amendment is consistent with the State Coastal Policy. No other State Policies are relevant to the draft amendment. The Commission also finds that the draft amendment it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

Modifications required to draft amendment

21. Under section 40M of the Act the Commission must consider whether modifications to a draft amendment of an LPS ought to be made.
22. The draft amendment is modified to amend the text to clarify and to make a minor modification to the title references to reflect the terminology of folio of the Register rather than CT (see Annexure A).

Decision on draft amendment

23. Subject to the modifications described above, the Commission is satisfied that the draft amendment meets the LPS criteria gives its approval.

Attachments

Annexure A – Modified amendment

Annexure A

Modified amendment AM2021.03, Tasmanian Planning Scheme - Devonport

1. Rezone 215-221 Tarleton Street, East Devonport (folio of the Register 21185/2) and part of the adjoining roadway (folio of the Register 158439/1) from the General Residential Zone to the Local Business Zone, as identified in the following map:

