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Sent: Tuesday, 5 December 2023 4:19 PM
To: TPC Enquiry
Cc: Simmons Wolfhagen (david.morris@simwolf.com.au); robert.holbrook@simwolf.com.au; cmilnes@devonport.tas.gov.au; epieniak@devonport.tas.gov.au; Victoria Lightfoot
Subject: Planning Scheme Amendment (AP-DEV-AM2022.02)
Attachments: Tasmanian Planning Commission 05.12.23.pdf; Submission to Adjourn - Simmons Wolfhagen 07.07.23.pdf; Submissions in Opposition to Application to Adjourn 28.07.23.pdf; Commission direction- Devonport draft amendment AM2022.02 and permit PA2022.0092, 11 August 2023.pdf; Tasmanian Planning Commission 01.09.23.pdf; Statement of Evidence (Jim Higgs) 05.12.23.pdf; Form No. 2 Hearing Attendance for Parties.pdf

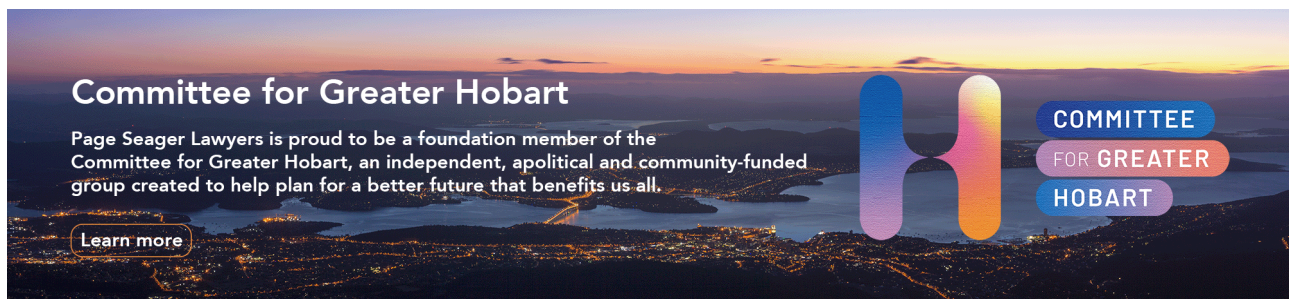
Dear Mr Howlett

Please find **attached** the following:

- Letter and attachments
- Statement of Evidence of Jim Higgs
- Form No. 2 Hearing Attendance for Parties

Regards,

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5 December 2023

Mr Roger Howlett
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By email: tpc@planning.tas.gov.au

Dear Mr Howlett

PLANNING SCHEME AMENDMENT (AP-DEV-AM2022.02) - 1, 5 FRIEND STREET & 88, 90-102 STONY RISE ROAD, STONY RISE

Introduction

I now act on behalf of Mr David Yaxley and Ms Yvonne Rundle (Chianina Investments Pty Ltd) in addition to Goodstone.

I refer to Mr Holbrook's letter of 27 November 2023 wherein, without leave of the Commission, he seeks to rely upon evidence of Ms Emma Riley and Mr Ellis Davies.

In summary, my clients' position is as follows:

- The Commission ought to have no regard to or consider the evidence of Ms Riley or Mr Davies.
- Tipalea is free to make whatever submissions it wishes to in respect of the certified draft amendment and proposed permit.
- The basis relied upon by Tipalea for submitting the additional material is legally flawed and contrary to established authority.

A resumed hearing

It is apposite to consider where we were at the conclusion of the hearing before the Commission on 16 June. In summary:

- All planning evidence had been heard.
- There was traffic evidence yet to be heard.
- There are Residents who were representors who wished to, and were indeed quite entitled to, make a presentation to the Commission.

Summary of events

On 20 June 2023 Ms Paola Barlund wrote to all parties to provide options for the resumption and conclusion of the hearing providing three options all of which were in July.

By email of 23 June Mr Holbrook advised that his client could not be available for any of those dates.

In contrast, our email of 23 June advised that we could make ourselves available for all the proposed hearing dates.

I interpolate to note that this matter should have been heard and concluded in July, that it hasn't has been purely a result of the developer / applicant and no one else.

That then feeds into the next development being Mr Holbrook's application for adjournment dated 7 July 2023, **attached**. For ease of convenience, I set out below the basis of the application:

"15. *In summary, the basis of the application is to:*

- (i) *Afford our client sufficient time to further consider and respond to various matters that were raised by the Commission delegates and representors at the hearing on 15 and 16 June 2023;*

- (ii) *Afford our client the opportunity to liaise with the Planning Authority in relation to the matters raised by the Commission delegates, including; the proposed removal of the Industrial SAP, drafting of the amended Homemaker SAP and the draft Retail Activity Centre Hierarchy that we understand was initially considered at the Council's 22 August 2022 meeting; and*
- (iii) *Address unavailability of Counsel, expert witness, and our client to attend a hearing before 11 December 2023 due to leave and other existing commitments. In particular, Mr David Morris is on leave and unavailable from approximately 14 August to 1 October 2023 and has existing commitments prior to that time that severely limit his capacity to appear. Our client's sole traffic expert, Mr Mark Petrusma is also on leave and unavailable during October and November. Furthermore, our client is also overseas and unavailable to provide instructions from 13 to 26 October 2023."*

We opposed the open ended adjournment by our letter of 28 July 2023, copy **attached**.

The Commission made a ruling 11 August 2023, copy **attached**, noting as follows:

"The Commission considers that procedural fairness ought to be afforded to all parties. It is most disappointing that the availability of some parties was not made known at the conclusion of the hearing on 16 June 2023, particularly given the clear intent to reconvene in the near future. The availability of all parties for a hearing provides fairness in the procedures when the Commission arrives at the decision. In this case particularly the availability of Mr Morris and Mr Petrusma is considered important, given the hearing is part heard. Consequently, the Commission agrees to the application for adjournment.

It is further noted that the consideration of the items regarding planning merit, of the proposed amendment, have been completed at the hearing. Should the parties wish to raise these matters again, this can be done as final submissions. Day one of the upcoming hearing will consider traffic items. Following the completion of the traffic matters, the Commission will hear the representors who have not yet had an opportunity to participate, consider the drafting of the SAP, conditions on the permit and allow for final submissions.

The Commission is proposing to hold a hearing to conclude the matter on Tuesday 12 December and Wednesday 13 December 2023, commencing 10:00am at the Tasmanian Planning Commission Hearing Room, Level 3, 144 Macquarie Street, Hobart.

The Commission anticipate that the hearing will likely conclude on Wednesday 13 December 2023 but have set aside a reserve day on Thursday 14 December 2023 should it be required." (our emphasis)

The next development was an article in the Mercury of 24 August 2023 which was the subject of my letter to the Commission of 1 September 2023 which is further **attached**.

That article reports Mr Spanton complaining about the delay in respect to the process which is quite astonishing given that but for the position of the applicant this case would have been finished months ago.

Tipalea's current position

The applicant now states as follows:

"New Information

2. *As foreshadowed in our letter to the Commission of 7 July 2023, in order respond to the issues that have been raised by the Commission delegates and the representors at the hearing on 15 and 16 June 2023, our client files the attached statements of evidence of Ms Riley and Mr Davies dated 24 and 21 November 2023 (respectively)."*

The above paragraph is, with respect, disingenuous. Clearly at no stage was it foreshadowed that the applicant would, as it were, change horses and instruct a new planner. No explanation is provided for this course of events, the inescapable conclusion is that Tipalea was not satisfied with Mr Tom Reilly's evidence and therefore seeks to start again.

Factual information required

There are a few matters that ought to be clarified:

- Firstly, when were Ms Riley and Mr Davies instructed by Simmon Wolfhagen?
- Secondly, what is Council's position? Specifically, was this a case of Ms Riley working with Council over the several couple of months.

If this information is not to be provided on a voluntary basis, I would seek the Commission use its powers under s14 of the *Tasmanian Planning Commission Act 1997* to compel production of documents or information.

Legal position

The Commission is being barraged with submissions to the effect that if it, the Commission, does not acquiesce to every demand of Tipalea that that would in some way constitute a denial of natural justice. That is simply not correct. I will outline the law but of course I am happy if the Commission seeks advice from the Solicitor General.

It appears that I will need to repeat, yet again, the nature of the hearing before the Commission. It is outlined by Crawford J, as he then was, in *R v Davis*.¹ That is, it's a hearing of the representations. No case cited by Tipalea in respect to the nature of the hearing is as relevant as *Davis* as that was directly in respect of a Commission hearing.

I do not believe it is of assistance to make joinder with all the matters outlined in paragraph 9 of Mr Holbrook's letter. However, with respect, suffice it to say it shows a lack of understanding of the ratio of the *Attorney General v University of Tasmania*.² Tipalea has had the opportunity of presenting its case and responding to evidence against it.

One can only conclude that Tipalea was not satisfied with the way in which it presented its case and wishes to start again. That is, it appears that it asserts it has a right to endless opportunities to present its case and if matters don't go to plan, that it is entitled to start again.

To draw a sporting analogy, in particular an AFL grand final, you only get one opportunity.

The situation in a different context is well summarised in *R v Medical Council of Tasmania; Ex parte Dr Harold Stewart Blackburn*.³

"... There is ample authority which establishes that he was not entitled to two opportunities to present his case, to present evidence and make submissions to the committee and again to the Council ..."

In short, natural justice does not require the Commission to acquiesce to every demand by Tipalea.

Resumed hearing

We are proceeding upon the basis that the matter proceeds as outlined by the Commission, that is that the traffic experts will be heard and questioned.

That said, whilst it's a matter of detailed submissions, it's quite astonishing that a situation would arise that after two years of planning and it being put that the underlying zoning of Commercial is not appropriate and a specific Special Area Plan is required, that we are now advised at the conclusion of the hearing that the applicant's position is that the site should simply be zoned Commercial. That, however, is not the end of it.

I turn to Ms Riley's evidence paragraph 2.2⁴ "Basis of this evidence":

"2.2.1 For the purposes of preparing my evidence, I am proceeding on the basis that the Draft Amendment should be further modified to the following effect:

- The land shown in Figure 1 is removed from the area to which Clause DEV-S1.0 Devonport Regional Homemaker Centre Specific Area Plan applies, so that land solely relies on the provisions of the Commercial Zone going forward. I will refer to the land in Figure 1 across the rest of my evidence as 'Stony Rise Village'.*
- The existing Clause DEV-S1.0 Devonport Regional Homemaker Centre Specific Area Plan would otherwise remain as existing.*
- Clause DEV-S2.0 Devonport Homemaker Service Industrial Centre Specific Area Plan is retained as existing or is similarly treated to the area in Figure 1, although this is not the focus on my evidence and I have not addressed any issues raised to date in relation to that land.*

...

2.2.4 In the alternative the Draft Amendment for the purposes of preparing my evidence, I note that the Draft Amendment could be further modified so that:

- A further modified Clause DEV-S1.0 Devonport Regional Homemaker Centre Specific Area Plan is applied to the land contained in Figure 4 and as listed in Table 1. This alternative SAP*

¹ (1999) 102 LGERA 88

² (2020) TASFC 12

³ (1998) TASSC 14

⁴ Page 4

is provided at Appendix B.

- *Clause DEV-S2.0 Devonport Homemaker Service Industrial Centre Specific Area Plan is retained as existing.*"

Therefore, there appears to be at least three scenarios being put forward to the Commission, that is, I summary:

- The Certified amendment;
- A proposal to remove the Devonport Regional Homemakers Centre Specific Area Plan;
- A redrafting of the Specific Area Plan.

In those circumstances it is simply not clear what the case is.

I emphasise that natural justice is not simply for the convenience of Tipalea, but requires fairness to all parties.

Noting that the importance of public participation in the planning process is being recognised by the Supreme Court in *Drewitt v Resource Management and Planning Appeal Tribunal (No 2)*.⁵

Therefore, in summary:

- The hearing should proceed as specified by the Commission.
- The evidence of Ms Riley and Mr Davies ought not be accepted by the Commission.
- In the alternative, if the Commission is minded to consider that evidence, then that aspect would have to be put off until 2024 so that in fairness my clients can respond to it and I should say, to anticipate any objection, the Commission has already granted Mr Holbrook an adjournment of over 5 months so therefore fairness would dictate the same for my clients.

Yours faithfully



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⁵ (2008) 18 Tas R 115

1 September 2023

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Dear Mr Howlett

PLANNING SCHEME AMENDMENT (AP-DEV-AM2022.02) - 1, 5 FRIEND STREET & 88, 90-102 STONY RISE ROAD, STONY RISE

I generally don't engage with media reports in respect to planning matters in which I am involved. However I feel compelled to bring to the Delegates attention a report in the Mercury of 24 August 2023, copy **attached**.

Firstly my client, Goodstone Pty Ltd or its principals, had nothing to do with the article and indeed were not aware of it until I brought it to their attention.

I am proceeding upon the basis that the Mercury accurately reflects the position taken by the proponent and in particular its CEO Mr Scott Spanton. If that is incorrect and Mr Spanton has been misquoted, or is otherwise inaccurate, I have no doubt Mr Morris will disabuse me.

Implicit in the article is that there are delays associated following objections to the "development application" (noting that is an inaccurate description of that which is before the Commission).

The article fails to state that the lengthy delay was wholly and solely due to Tipalea's application for an adjournment and nothing whatsoever to do with my client. Further, the statement that the decision was disappointing is difficult to reconcile with what occurred.

I am not sure what the "decision" was other than the Commission deciding to acquiesce to an extent to the lengthy delay requested by Mr Spanton.

Even further confusing is a statement the delay comes from "planning" issues and not to do with the development.

One can make the obvious retort that the Tasmanian Planning Commission was created by the *Tasmanian Planning Commission Act 1997 (TPC Act)* is by its very nature created to deal with "planning issues".

However, had that been the only matter contained in the article I expect I would have not taken it further.

However my concern is the following:

"Calling the circumstances "unfortunate", Mr Spanton confirmed that Tipalea will be doing as much as possible "behind the scenes" to ready the development ahead of the hearing in December."

The expression of "behind the scenes" is of particular concern to me and I would seek that it be clarified immediately.

I have raised to the Commission's attention the nature of the hearing, see *R v Davis*¹, essentially being adversarial.

Further, there is both the statutory obligation to observe natural justice, s10(1)(b)(v) of the TPC Act together with related common law obligation, both of which are discussed in *R v Resource Planning & Development Commission; ex parte Dorney (No 2)*².

¹ (1999) 102 LGERA 88

² (2003) 12 Tas R 69

If there is material being prepared adverse to my client then it must be disclosed with sufficient time for me to respond to it, see *R v Land Use Planning Review Panel, ex parte M F Cas Pty Ltd*³ and in another forum *R v Medical Council of Tasmania; Ex parte Dr Harold Stewart Blackburn*⁴.

It is appropriate that I put my client's position fairly and squarely now against the event that I need to rely upon this in another forum.

Yours faithfully



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³ (1998) 103 LGERA 38

⁴ (1998) TASSC 14

28 July 2023

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Dear Mr Howlett

DEVONPORT LPS - DRAFT AMENDMENT AM2022.02 AND PERMIT PA 2022.0024 - STONY RISE

Introduction

I refer to the application of Tipalea Partners dated 7 July 2023 to adjourn the hearing of the Tasmanian Planning Commission (the **Commission**).

The application has three components:

- (a) Firstly, it seeks the deferment of the conclusion of the hearing of evidence from the Traffic experts and consequential submissions in respect of the proposed Specific Area Plan (**SAP**) and closing submissions from the parties; and
- (b) Secondly, it would appear an indefinite adjournment of the matter is sought. I say indefinite because while it stated not before 11 December 2023, the reality of the situation of all courts, tribunals and commissions, is that it is highly unlikely to be able to list a matter at that time in December and therefore the reality will be going off until February or March 2024 at the earliest.
- (c) Thirdly, time is sought to liaise with Council in respect of unspecified matters.

The open-ended indefinite adjournment is opposed by my client Goodstone Group. It is not for an applicant, for the amendment to a planning scheme to dictate the matter. No doubt the Council will agree with what is proposed.

It is for the Commission to determine whether to grant an adjournment and upon what terms.¹ In summary, no proper basis has been put forward as to why there needs to be such a protracted and indefinite adjournment.

When the matter was adjourned on 16 June 2023 there was not the slightest suggestion of unavailability of Counsel or witness and my expectation was that the matter would be relisted in short order. The dates provided by the Commission were all ones that could have been accommodated by me.

Certainly, no adjournment was foreshadowed by Counsel for Tipalea Partners on 16 June 2023.

The matters raised in the course of the hearing, albeit obliquely, are not matters that ought to have come as a surprise to Tipalea Partners and one is left with the impression that as a combination of questions from the Commission the fact that Mr Thomas Reilly, under cross-examination, conceded that the certified SAP would not protect retail hierarchy of the CBD, the decision being made to "regroup to fill in the holes of the case".

Availability

The unavailability of Counsel and Mr Petrusma have been raised in the application:²

"Address unavailability of Counsel, expert witness, and our client to attend a hearing before 11 December 2023 due to leave and other existing commitments. In particular, Mr David Morris is on

¹ *Houghton Pty Ltd v Resource Development and Planning Commission* (2005) TASSC 58 at [7] - [8]

² Submissions of the Appellant dated 7 July 2023 at [15(iii)]

leave and unavailable from approximately 14 August to 1 October 2023 and has existing commitments prior to that time that severely limit his capacity to appear. Our client's sole traffic expert, Mr Mark Petrusma is also on leave and unavailable during October and November. Furthermore, our client is also overseas and unavailable to provide instructions from 13 to 26 October 2023."

Firstly, even now, there would still be the opportunity of listing the matter before 14 August.

Noting availability of Counsel is not overriding importance, see *Ryan v CHC & Smith v CHC & Birdlife Tasmania v CHC & ACEN Robbins Island Pty Ltd v CHC & Bob Brown Foundation v CHC & Ors.*³ Noting Mr Holbrook may be available or another counsel could be instructed.

Nature of the Commission hearing

With respect, the cases referred to by Tipalea Partners, for the most part they are irrelevant, particularly in relation to the reference to *Commissioner of State Revenue v Melbourne's Cheapest Cars Pty Ltd*⁴ and *Tomaszewski v Hobart City Council (No 2)*.⁵

The Supreme Court authority directly on point in respect to the nature of the hearing is *R v Davis*.⁶

26. *In this case the nature of the hearing being conducted by the Commission was largely adversarial. The adversarial nature of the process arose because what was being conducted was a hearing into the representations of the prosecutors and other persons who were opposed to the proposed amendments to the relevant planning scheme. The hospital/and the prosecutors were in direct conflict with one another, the hospital wishing to expand its operations in the promotion of its own interests and the prosecutors seeking to prevent or restrict that expansion in defence of their own interests.*

27 *However, the function of the Commission was partly inquisitorial. It had to approve or reject the proposed amendments, or to approve them in a modified or altered form, following the holding of the hearing. In the performance of that function, the Commission's duty was not merely to resolve the conflict between the interests of the hospital and the interests of the prosecutors and other representors... [emphasis added]*

The hearing is one in respect of the representations:

*"... As soon as practicable after receipt by it of a report under s 39(2), the Commission must consider the draft amendment and the representations, statements and recommendations contained in the report (s 40(1)). For the purpose of its consideration, the Commission must hold a hearing in relation to each representation contained in the report (s 40(2)). Such a hearing is not required if the Commission is satisfied that all the representations are in support of the draft amendment or if persons who made representations do not wish to attend a hearing (s 40(2A))..."*⁷

*"As I have pointed out more than once, the legislation did not provide that there be a hearing into whether the proposed amendments to the planning scheme should be approved. It required that there be a hearing into the representations by the prosecutors and other representors. Essentially it was to be a hearing into the matters raised by the persons in their representations. ... In a sense, therefore, it is the representors who set the agenda for a hearing by the nature of what is contained in their representations which give rise to the holding of the hearing. In this case the representations have not been put before me."*⁸ [emphasis added]

The hearing in this situation is primarily adversarial. Council and Tipalea want the amendment to be approved, my client wants it to be refused.

³ (2023) TASCAT 97

⁴ [2018] TASSC 4

⁵ [2021] TASSC 15

⁶ (1999) 102 LGERA 88 at [26] - [27]

⁷ *R v Davis* (1999) 102 LGERA 88 at [3]

⁸ *R v Davis* (1999) 102 LGERA 88 at [30]

Natural Justice

We do not dispute that the Commission is obliged to afford natural justice, see *R v Davis*.⁹

“17 *The requirement in the Resource Planning and Development Commission Act, s10(1)(b)(v), that the Commission must observe the rules of natural justice in turn requires procedural fairness. What that requirement is in a particular case will depend on its own circumstances...*”

In *R v Resource Planning & Development Commission; ex parte Dorney (No 2)*,¹⁰ the Supreme Court quashed a decision of the Commission on the basis of a denial of natural justice in that in amending a draft amendment, which included expanding the area in question, it adversely impacted upon landowners who had not been provided the opportunity to respond.

The Commission is under no obligation to acquiesce to requests for an adjournment in these circumstances. Particularly, and I will expand upon this, the vagueness attendant on the basis for the request. That is clearly demonstrated in *Attorney General v University of Tasmania*.¹¹

That *Attorney General v University of Tasmania*¹² concerned, inter alia, a determination by the Commission to not to agree to an open-ended deferral of a hearing by an applicant for a scheme amendment. At first instance that was determined to be a denial of natural justice but that was reversed on appeal, I refer to the judgement of Pearce J as follows:¹³

“47 ... However, it was not suggested to this Court that, if the Commission had offered an opportunity to be heard about the request for a deferral, anything more of any use could have been said by the University about the utility of a deferral. It is plainly apparent that, over the course of about seven months between October 2017 and May 2018, the Commission extended every opportunity to the University to present its case in support of the draft amendment. The Commission received oral and written evidence and consulted with the parties. Its duty was to consider the amendment which had been submitted to it. It was to approve the amendment only if satisfied that it was “in order”: s 42. It was to either approve it, require a modification or alteration or reject it. Although extensions were possible with Ministerial approval, s42(2) imposed a time limit on approval of three months. It may have been that the University could have been in a better position to advance an amendment to the planning scheme, in some form, had the deferral been agreed to. However, the decision to refuse the draft amendment did not deprive the University of the possibility of a decision in its favour. The refusal was no impediment to a future request to the planning authority to initiate a new amendment if and when the further information the University proposed to obtain became available.

48 ... The failure to address and accede to the University’s request, in the circumstances of this case, was not procedurally unfair and did not breach the Commission’s obligation to afford natural justice.”

I also note that the Tasmanian Civil and Administrative Tribunal (**TASCAT**) will not necessarily grant an adjournment, even if it is with the consent of all the parties, see *Owens v Kingborough Council*.¹⁴

Stated basis for the adjournment

I have reviewed, on a number of occasions, the application but must confess I am none the wiser as to why the adjournment is to be sought and what is to occur. One can certainly posit situations where an adjournment is appropriate. It may be that, during the course of a hearing, it became apparent that some biodiversity issue needed to be addressed, perhaps the presence of swift parrot or seasonal orchid. In those situations it would be quite reasonable to say the lengthy adjournment was required, particularly in the case of vegetation which may only become apparent at certain times of the year.

Another example on a similar theme might be the presence of indigenous relics. There may be a situation where, through no fault of an applicant, it had not considered the presence of indigenous relics. If that arises,

⁹ (1999) 102 LGERA 88 at [17]

¹⁰ (2003) 12 Tas R 69

¹¹ (2020) TASFC 12

¹² (2020) TASFC 12

¹³ *Attorney General v University of Tasmania* (2020) TASFC 12 at [47] - [48]

¹⁴ (2023) TASCAT 114

it would be reasonable to enable some time for an accredited expert to undertake a site inspect, archival analysis and prepare a report.

That then brings us to what one can discern as a basis for this open-ended adjournment.

- “(i) *A potential jurisdictional issue associated with the proposed deletion of the DEV-S2.0 Devonport Homemaker Service Industrial Centre Specific Area Plan (‘Industrial SAP’) and associated assessment against the relevant provisions of the Act;*
- (ii) *A potential conflict between the underlying Commercial Zone purpose and clause 17.3.2 of the TPS dealing with discretionary uses, as initially raised in item 3 of the Commission’s letter of 24 March 2023; and*¹⁵
- “8. *As the hearing progressed, other various matters and potential issues were raised by the Commission delegates and representors. Our client apprehends that some of these matters to date have not been adequately responded to.*”¹⁶
- “14. *As detailed below, by applying for this adjournment our client seeks the opportunity to fully respond to the anticipated issues that have been raised by the Commission delegates and the representors at the hearing. It is submitted that granting the application will ensure that our client is afforded procedural fairness and given the opportunity to assist the Commission in making the correct or preferable decision.*”¹⁷
- “(i) *Afford our client sufficient time to further consider and respond to various matters that were raised by the Commission delegates and representors at the hearing on 15 and 16 June 2023;*
- (ii) *Afford our client the opportunity to liaise with the Planning Authority in relation to the matters raised by the Commission delegates, including; the proposed removal of the Industrial SAP, drafting of the amended Homemaker SAP and the draft Retail Activity Centre Hierarchy that we understand was initially considered at the Council’s 22 August 2022 meeting; and*”¹⁸

See further paragraphs [21] and [23] which I set out below:¹⁹

- “21. *It is submitted that any consideration of the justice of this case and procedural fairness to our client dictates that it should be afforded the opportunity to properly consider and fully respond to the various matters raised by the Commission delegates at the hearing.*
- ...
- 23. *This is undoubtably a complex matter that requires detailed consideration. In the circumstances, it is not reasonable and would be procedurally unfair to require our client and/or the Planning Authority to effectively respond ‘on the fly’ to the matters raised at the hearing prior to any new hearing date. This is particularly so given the possible implications of the potential jurisdictional issue raised by the Commission delegates.”*

With all due respect, what then can one discern as the basis for the adjournment. In my submission, fairly read, there are two components:

- (a) That issues “have arisen” that the appellant is not in a position to deal with.
- (b) That it wishes to liaise with Council but we are not told as to what that liaising is about or would hope to produce.

Firstly, it needs to be born in mind that the issues, or difficulties, we say are attendant on the draft amendment which militates refusal have been canvassed. Specifically:

- (a) Representation filed by Page Seager Lawyers dated 29 November 2022, which included an accompanying report prepared by Equilibrium Town Planning (Theresa Williams) dated 28 November 2022;
- (b) Representation filed by PDA Surveyors (Justine Brooks) dated 29 November 2022;

¹⁵ Submissions of the Appellant dated 7 July 2023 at [7(i)] - [7(ii)]

¹⁶ Submissions of the Appellant dated 7 July 2023 at [8]

¹⁷ Submissions of the Appellant dated 7 July 2023 at [14]

¹⁸ Submissions of the Appellant dated 7 July 2023 at [15(i)] - [15(ii)]

¹⁹ Submissions of the Appellant dated 7 July 2023 at [21] and [23]

(c) Statement of Evidence (Theresa Williams) dated 8 June 2023.

I reiterate that Tipalea Partners is represented by extremely experienced Counsel and none of these issues ought to be a surprise, in particular the significance of s32(4) of *Land Use Planning and Approvals Act 1993 (LUPAA)*.

The Commission has heard all the evidence in respect of planning, the evidence remaining is limited to traffic evidence.

I note that in *Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs*²⁰ an entire Full Court complicated administrative appeal was prepared for and argued in under 48 hours and 32 page decision delivered 4 days after the Sunday hearing.

Therefore, with respect, this is simply not a viable reason to adjourn the matter indefinitely.

Liase with Council

One of the stated reasons for the adjournment is to afford time for Tipalea Partners to liaise with Council. I have considered this very carefully and I can see no basis for why there ought to be some form of confidential discussions between a developer and the Council. This is not transactional between Council and the developer.

The statutory process to certify the proposed amendment has been completed and there is nothing further for a developer to discuss with Council. One can posit what other requests the developer will put to Council.

In the absence of any information provided we are left with speculating. Are we going to see the creation of some Council strategy to retrofit an application which, in our submission, is clearly not in accordance with strategic documents?

Prejudice

In light of all the other matters I almost left this matter alone but on reflection as it's erroneous I must bring that to the attention of the Commission. Paragraph [28] is in the following terms:²¹

"28. It is submitted that our client will suffer general prejudice from the adjournment insofar as it will not be able to act on the permit granted by the Planning Authority, now being reviewed by the Commission in accordance with section 42B of the Act, until the matter is determined. Our client is willing to accept this prejudice."

This is misconceived. It is equating an appeal in respect of a permit granted, initiated under LUPAA and heard under the TASCAT regime with the current hearing of a combined amendment and permit.

If a council has issued a permit and that is subject to a third party appeal, then the permit is stayed by operation of the appeal, see s53(3) of LUPAA. In those circumstances TASCAT, and previous to it RMPAT, took into account that a developer had a permit which had been stayed pending the outcome of the appeal.

The reference to s42B is misconceived. The applicant has no permit.²² Simply on its terms it requires the Commission to also determine the permit. Of course if the draft amendment is refused it follows that the permit must similarly be refused.

²⁰ (2022) 289 FCR 21

²¹ Submissions of the Appellant dated 7 July 2023 at [28]

²² "42B. Commission to review planning authority's decision about permit

- (1) *The Commission must, at the same time as it makes a decision under section 40Q in relation to a draft amendment of an LPS to which a request under section 40T(1) relates -*
 - (a) *confirm the decision of the planning authority under section 40Y in relation to the application for a permit to which the request relates; or*
 - (b) *if the decision in relation to the application for a permit to which the request relates was to grant a permit -*
 - (i) *refuse the permit; or*
 - (ii) *modify or delete a condition or restriction attached to the permit or add new conditions or restrictions to the permit; or*
 - (c) *if the decision in relation to the application for a permit to which the request relates was to refuse to grant a permit - grant a permit subject to the conditions or restrictions that the Commission thinks fit; or*

Conclusion

In summary, it is the submission of Goodstone Group that the open-ended request for adjournment ought to be refused.

Rather a directions hearing ought to be called with a view to hearing the balance of the evidence and closing submissions.

I note the time limits applicable in determinations, see s40Q(2) and I am not aware as to what, if any, further period has been allowed by the Minister.

This is not an indefinite process and there is a legislative intent that it be determined within a specified time.

Yours faithfully



Anthony Spence SC

Principal

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-
- (d) *if the Commission decides under section 40Q to refuse to approve the draft amendment of an LPS - refuse the permit.*
 - (2) *If the Commission decides under section 40Q to approve a draft amendment of an LPS to which a request under section 40T(1) relates, the decision by the Commission under subsection (1) in relation to an application under section 40T(1) for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision, as if the scheme had been amended in accordance with the draft amendment of the LPS.*
 - (3) *If the Commission decides under section 40Q not to approve a draft amendment of an LPS to which a request under section 40T(1) relates, the decision by the Commission under subsection (1) in relation to an application under section 40T(1) for a permit is to be made by reference to the provision of the planning scheme as in force at the date of the decision.*
 - (4) *The Commission must give notice in writing, of a decision under subsection (1) in relation to an application under section 40T(1), to -*
 - (a) *the planning authority to which the application was made; and*
 - (b) *the applicant; and*
 - (c) *each person or body who or that made a representation under section 41(1) in relation to the permit to which the application relates; and*
 - (d) *the Board of the Environment Protection Authority, if the permit application has been referred to the Board under section 24 or 25 of the Environmental Management and Pollution Control Act 1994."*

Contact: David Morris / Robert Holbrook

Our Ref: DJM:RJM:230427

7 July 2023

Mr Roger Howlett
Delegate (Chair)
Tasmanian Planning Commission
GPO Box 1619
HOBART TAS 7001

By Email: tpc@planning.tas.gov.au

Dear Mr Howlett,

Devonport LPS - Draft Amendment AM2022.02 and Permit PA 2022.0024 - Stony Rise

1. As the Commission is aware, this firm acts for Tipalea Partners in this matter.
2. The purpose of this letter is to make an application to adjourn the hearing of the matter to a date to be listed not before 11 December 2023. It is submitted that granting the application is necessary to ensure justice in all the circumstances.

Background

3. It is necessary to briefly address the background of this matter.
4. Our client, though its agent GHD Pty Ltd, on or about 6 May 2022 filed an application with the Planning Authority for a scheme amendment and permit pursuant to sections 37(1) and 40T (respectively) of the *Land Use Planning and Approvals Act 1993* ('Act'). The scheme amendment as applied for was in the form of a Particular Purpose zone.
5. The section 40F report prepared by the Planning Authority and considered at its meeting on 24 October 2022 varied the amendment to set aside the proposed Particular Purpose Zone and instead sought to amend the existing DEV-S1.0 Devonport Regional Homemaker Centre Specific Area Plan ('Homemaker SAP'). It was this varied amendment that was subsequently certified by the Planning Authority.
6. Following the receipt of the sections 40F and 40K reports, the Commission wrote to the Planning Authority on 24 March 2023 requesting further information to clarify issues that were identified following a preliminary

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- › Employment & Workplace Relations Law
- › Bankruptcy, Insolvency & Securities Enforcement
- › Insurance Law, Personal Injury Law
- › Building, Construction & Engineering Law

consideration of the draft amendment by the Commission. The Planning Authority provided a response to those directions in its submission dated 24 April 2023.

7. At the outset of the hearing on 15 and 16 June 2023, the Commission delegates raised various matters with the Planning Authority. This included:
 - (i) A potential jurisdictional issue associated with the proposed deletion of the DEV-S2.0 Devonport Homemaker Service Industrial Centre Specific Area Plan ('**Industrial SAP**') and associated assessment against the relevant provisions of the Act;
 - (ii) A potential conflict between the underlying Commercial Zone purpose and clause 17.3.2 of the TPS dealing with discretionary uses, as initially raised in item 3 of the Commission's letter of 24 March 2023; and
 - (iii) General issues relating to the proposed drafting of the amended Homemaker SAP, including the proposed removal of the existing floor area standard in clause DEV-S1.6.1 and 10m building setback standard contained in DEV-S1.7.2 A2 of the Homemaker SAP.
8. As the hearing progressed, other various matters and potential issues were raised by the Commission delegates and representors. Our client apprehends that some of these matters to date have not been adequately responded to.
9. The matter is now part heard.
10. It is trite to observe that the Commission has a very wide discretion in relation to the content of planning schemes, as it operates at the top of the hierarchy of authorities responsible for land and resource planning management within Tasmania.¹
11. It is submitted that as a result the Commission has a duty to make the correct or preferable decision in this matter.² Because of that duty, it will sometimes be appropriate for the Commission to take on an inquisitorial role.³ That is effectively enshrined in section 10(1) of the TPC Act, noting that the Commission can inform itself about any matter in any way it thinks fit.⁴
12. The Commission must consider information obtained at hearings per section 40M(1)(b) of the Act. Following a hearing, the Commission also has broad powers to either direct a Planning Authority to, or alternatively, modify or substantially modify itself, a draft amendment pursuant to section 40N(1) of the Act.

¹ See, eg, *Attorney-General v University of Tasmania* [2020] TASFC 12 at [62].

² See, eg, *Commissioner of State Revenue v Melbourne's Cheapest Cars Pty Ltd* [2018] TASSC 47 at [16] which are apposite to the duty of the Commission.

³ See, eg, *Tomaszewski v Hobart City Council (No 2)* [2021] TASSC 15 at [16] which are similarly apposite to the Commission.

⁴ TPC Act s 10(1)(b)(i).

13. Such modifications are common and allow the Commission and the parties respond to matters raised at the hearings and ensure that a draft amendment meets the relevant LPS criteria provided in section 34(2) of the Act.
14. As detailed below, by applying for this adjournment our client seeks the opportunity to fully respond to the anticipated issues that have been raised by the Commission delegates and the representors at the hearing. It is submitted that granting the application will ensure that our client is afforded procedural fairness and given the opportunity to assist the Commission in making the correct or preferable decision.

Basis of the Application

15. In summary, the basis of the application is to:

- (i) Afford our client sufficient time to further consider and respond to various matters that were raised by the Commission delegates and representors at the hearing on 15 and 16 June 2023;
- (ii) Afford our client the opportunity to liaise with the Planning Authority in relation to the matters raised by the Commission delegates, including; the proposed removal of the Industrial SAP, drafting of the amended Homemaker SAP and the draft Retail Activity Centre Hierarchy that we understand was initially considered at the Council's 22 August 2022 meeting; and
- (iii) Address unavailability of Counsel, expert witness, and our client to attend a hearing before 11 December 2023 due to leave and other existing commitments. In particular, Mr David Morris is on leave and unavailable from approximately 14 August to 1 October 2023 and has existing commitments prior to that time that severely limit his capacity to appear. Our client's sole traffic expert, Mr Mark Petrusma is also on leave and unavailable during October and November. Furthermore, our client is also overseas and unavailable to provide instructions from 13 to 26 October 2023.

Submissions in Support

16. The following submissions are provided in support of the application. The principal submission is that the adjournment sought is necessary to ensure justice in all the circumstances.
17. Section 10(1) of the *Tasmanian Planning Commission Act 1997* ('**TPC Act**') provides the power to the Commission to grant this application. In accordance with that section, the Commission is not bound to act in a formal manner and must observe the rules of natural justice as part of any hearing.⁵

⁵ TPC Act s 10(1)(b)(iv)-(v).

18. The paramount consideration in determining an application for an adjournment is justice in all the circumstances.⁶
19. Case management principles should not supplant that objective.⁷ Accordingly, the fact that the Commission ordinarily should make a decision in relation to the draft amendment within 90 days of receiving the section 40K report from the Planning Authority pursuant to section 40Q(2) of the Act, is to be balanced against the need to observe the rules of natural justice and afford procedural fairness.
20. Although technically the draft amendment as certified is the Planning Authorities, it is submitted that our client's interests as the original applicant are of principal, if not equal importance when determining this application.
21. It is submitted that any consideration of the justice of this case and procedural fairness to our client dictates that it should be afforded the opportunity to properly consider and fully respond to the various matters raised by the Commission delegates at the hearing.
22. While it is principally our client's position that the materials currently before the Commission are sufficient to demonstrate compliance with the relevant provisions of the Act,⁸ granting the application will not only ensure procedural fairness to our client but will also assist the Commission in its duty of reaching the correct or preferable decision.
23. This is undoubtably a complex matter that requires detailed consideration. In the circumstances, it is not reasonable and would be procedurally unfair to require our client and/or the Planning Authority to effectively respond 'on the fly' to the matters raised at the hearing prior to any new hearing date. This is particularly so given the possible implications of the potential jurisdictional issue raised by the Commission delegates.
24. As a matter of natural justice, the unavailability of our client's chosen Counsel and material traffic expert, who are already intimately familiar with this matter, to attend a hearing in mid-August through to the end of November 2023 should be considered as significant factors when determining this application and the justice of the case.
25. The interests of justice also include consideration of the public use in the efficient use of publicly funded resources of the Commission.⁹ It is submitted that as no future hearing date has been listed by the Commission, there is no

⁶ See, eg, *Queensland v J L Holdings Pty Ltd* [1997] HCA 1; (1997) 189 CLR 146.

⁷ See, eg, *AON Risk Services Australia Limited v Australian National University* [2009] HCA 27 at [30]; (2009) 239 CLR 175.

⁸ Noting however, the absence of a proper analysis of the removal of the Industrial SAP against the relevant provisions of the Act.
exception in relation to the assessment of the removal of the

⁹ See, eg, *Zetta Jet PTE LTD v The Ship "Dragon Pearl"* [2018] FCAFC 99 at [56]-[57].


risk of inefficiencies in the application of resources as an effect of the adjournment sought.

26. In the circumstances, it is submitted that no representor will suffer any specific or general prejudice from the granting of the application. Any potential flow on impacts relating to unavailability of Counsel or witnesses for the representors and Planning Authority from granting this adjournment can be appropriately dealt with as part of any relisting process.
27. Furthermore, the Commission could establish a timetable for the exchange of any further material, including sufficient time to allow the representors and Planning Authority to consider and possibly respond to any additional material, prior to a relisted hearing.
28. It is submitted that our client will suffer general prejudice from the adjournment insofar as it will not be able to act on the permit granted by the Planning Authority, now being reviewed by the Commission in accordance with section 42B of the Act, until the matter is determined. Our client is willing to accept this prejudice.
29. In the circumstances our client and to a lesser degree the Planning Authority will suffer significant prejudice if the application is not granted. It is submitted that both parties would not be afforded the opportunity to fully present a comprehensive case that responds to the matters raised and therefore assist the Commission to reach the correct or preferable decision.
30. For all of the above reasons, the Commission should grant the application.

Yours faithfully,

SIMMONS WOLFHAGEN

Per:



and

Counsel for Tipalea Partners

TASMANIAN PLANNING COMMISSION

Our ref: DOC/23/92876
Officer: Paola Barlund
Phone: 03 6165 6835
Email: tpc@planning.tas.gov.au

11 August 2023

By email:

To all parties

**Devonport Local Provisions Schedule
Draft amendment AM2022.02 and permit PA2022.0092
1,5 Friend Street & 88,90-102 Stony Rise Road, Stony Rise**

I refer to the above draft amendment and an application to adjourn the hearing of the draft amendment, so as not to be listed before 11 December 2023, from Mr Holbrook and Mr Morris on 7 July 2023. The Commission has considered the application for adjournment and the subsequent response submissions received from other parties.

Mr Holbrook and Mr Morris (Counsel for Tipalea Partners) filed an application for adjournment with the Commission in the following terms:

15. In summary, the basis of the application is to:
 - (i) Afford our client sufficient time to further consider and respond to various matters that were raised by the Commission delegates and representors at the hearing on 15 and 16 June 2023;
 - (ii) Afford our client the opportunity to liaise with the Planning Authority in relation to the matters raised by the Commission delegates, including; the proposed removal of the Industrial SAP, drafting of the amended Homemaker SAP and the draft Retail Activity Centre Hierarchy that we understand was initially considered at the Council's 22 August 2022 meeting; and
 - (iii) Address unavailability of Counsel, expert witness, and our client to attend a hearing before 11 December 2023 due to leave and other existing commitments. In particular, Mr David Morris is on leave and unavailable from approximately 14 August to 1 October 2023 and has existing commitments prior to that time that severely limit his capacity to appear. Our client's sole traffic expert, Mr Mark Petrusma is also on leave and unavailable during October and November. Furthermore, our client is also overseas and unavailable to provide instructions from 13 to 26 October 2023.

The Counsel provided the following submissions in support of the application.

18. The paramount consideration in determining an application for an adjournment is justice in all the circumstances.¹
19. Case management principles should not supplant that objective². Accordingly, the fact that the Commission ordinarily should make a decision in relation to the draft amendment within 90 days of

¹ See, eg, *Queensland v J L Holdings Pty Ltd* [1997] HCA 1; (1997) 189 CLR 146

² See, eg, *AON Risk Services Australia Limited v Australian National University* [2009] HCA 27 at [30]; (2009) 239 CLR 175

receiving the section 40K report from the Planning Authority pursuant to section 40Q(2) of the Act, is to be balanced against the need to observe the rules of natural justice and afford procedural fairness.

21. It is submitted that any consideration of the justice of this case and procedural fairness to our client dictates that it should be afforded the opportunity to properly consider and fully respond to the various matters raised by the Commission delegates at the hearing.
24. As a matter of natural justice, the unavailability of our client's chosen Counsel and material traffic expert, who are already intimately familiar with this matter, to attend a hearing in mid-August through to the end of November 2023 should be considered as significant factors when determining this application and the justice of the case.

The Counsel submitted no representor will suffer any specific or general prejudice from granting the application for adjournment.

26. In the circumstances, it is submitted that no representor will suffer any specific or general prejudice from the granting of the application. Any potential flow on impacts relating to unavailability of Counsel or witnesses for the representors and Planning Authority from granting this adjournment can be appropriately dealt with as part of any relisting process.

A response submission from the Page Seager Lawyers (representor) was received on 28 July 2023 stating:

The open-ended indefinite adjournment is opposed by my client Goodstone Group.

It is not for an applicant, for the amendment to a planning scheme to dictate the matter. No doubt the Council will agree with what is proposed. It is for the Commission to determine whether to grant an adjournment and upon what terms. In summary, no proper basis has been put forward as to why there needs to be such a protracted and indefinite adjournment.

The representor noted that the availability of the Counsel was raised in the application, and stated:

Noting availability of Counsel is not overriding importance, see *Ryan v CHC & Smith v CHC & Birdlife Tasmania v CHC & ACEN Robbins Island Pty Ltd v CHC & Bob Brown Foundation v CHC & Ors*³. Noting Mr Holbrook may be available or another counsel could be instructed.

The representor submitted that the nature of the Commission hearing is a relevant consideration.

As I have pointed out more than once, the legislation did not provide that there be a hearing into whether the proposed amendments to the planning scheme should be approved. It required that there be a hearing into the representations by the prosecutors and other representors. Essentially it was to be a hearing into the matters raised by the persons in their representations. ... In a sense, therefore, it is the representors who set the agenda for a hearing by the nature of what is contained in their representations which give rise to the holding of the hearing. In this case the representations have not been put before me.⁴ [emphasis added]

³(2023) TASCAT 97
R v Davis (1999) 102 LGERA 88 at [30]⁴

The representor referred to natural justice, and stated:

The Commission is under no obligation to acquiesce to requests for an adjournment in these circumstances. Particularly, and I will expand upon this, the vagueness attendant on the basis for the request. That is clearly demonstrated in *Attorney General v University of Tasmania*⁵

I also note that the Tasmanian Civil and Administrative Tribunal (TASCAT) will not necessarily grant an adjournment, even if it is with the consent of all the parties, see *Owens v Kingborough Council*⁶

With respect to the applicant's intention to liaise with the planning authority, the representor submitted:

The statutory process to certify the proposed amendment has been completed and there is nothing further for a developer to discuss with Council. One can posit what other requests the developer will put to Council.

PDA Surveyors for Yvonne Rundle and David Xaxley, in their response submission, raised concerns regarding the requested adjournment, and issues associated with natural justice. Mr Ian Day, in his response submission, also raised concerns regarding the proposed length of the adjournment, and its implications on the timeframes.

The Commission considers that procedural fairness ought to be afforded to all parties. It is most disappointing that the availability of some parties was not made known at the conclusion of the hearing on 16 June 2023, particularly given the clear intent to reconvene in the near future. The availability of all parties for a hearing provides fairness in the procedures when the Commission arrives at the decision. In this case particularly the availability of Mr Morris and Mr Petrusma is considered important, given the hearing is part heard. Consequently, the Commission agrees to the application for adjournment.

It is further noted that the consideration of the items regarding planning merit, of the proposed amendment, have been completed at the hearing. Should the parties wish to raise these matters again, this can be done as final submissions. Day one of the upcoming hearing will consider traffic items. Following the completion of the traffic matters, the Commission will hear the representors who have not yet had an opportunity to participate, consider the drafting of the SAP, conditions on the permit and allow for final submissions.

The Commission is proposing to hold a hearing to conclude the matter on **Tuesday 12 December and Wednesday 13 December 2023**, commencing 10:00am at the Tasmanian Planning Commission Hearing Room, Level 3, 144 Macquarie Street, Hobart.

The Commission anticipate that the hearing will likely conclude on Wednesday 13 December 2023 but have set aside a reserve day on **Thursday 14 December 2023** should it be required.

The Commission requests all parties to advise on their availability and the planning authority to advise if they will be able to accommodate representors who wish to attend the hearing via Teams in Devonport by **30 September 2023**.

If you require further information please contact Paola Barlund, Planning Adviser, on 03 6165 6835.

Yours sincerely,



Roger Howlett
Delegate (Chair)

⁵(2020) TASFC 12

⁶ (2023) TASCAT 114

TASMANIAN PLANNING COMMISSION

Reference: AM2022-02 & PA2022-0092

APPELLANT: **Goodstone Group**
FIRST RESPONDENT: **Devonport City Council**

AUTHOR: **James Donald Higgs**
FIELD OF EXPERTISE: **Traffic Engineering**
FILED ON BEHALF OF: **Goodstone Group**

DATE: **05 December 2023**

1. Witness Qualifications, Experience and Instructions

1.1 Personal Details

Witness Name	James Donald Higgs
Qualifications	Bachelor of Engineering (Civil), University of Melbourne
Position	Director, TTM Consulting (Vic) Pty Ltd Suite 17, 70-80 Wellington Street, Collingwood Vic 3066
Areas of Expertise	I have expertise in road and street design and construction, development traffic impact assessment including traffic and car parking demand generation and parking generation, traffic management and general traffic engineering, road safety and transportation and urban planning with an engineering focus.
Experience	<p>I have approximately 51 years' experience in engineering including:</p> <ul style="list-style-type: none"> • One year at Shire of Mortlake • Three years at Town of Kyabram • Ten years at City of Knox • One year experience Higgs-TTM Pty. Ltd • Twenty years at TTM Consulting Pty Ltd • Seventeen years at TTM Consulting (Vic) Pty Ltd <p>My experience over the past 51 years includes road design, project assessment, inter disciplinary urban planning, preparation of movement network design codes including Liveable Neighbourhoods (Western Australia) and Clause 56.06 (Victorian Planning Schemes) review, traffic impact assessments and determination of appropriate roadworks requirements for many large scale developments, determination of pavement design parameters and numerous car parking and traffic impact and amelioration assessments for a wide range of land use development proposals.</p> <p>A list of projects of a similar nature to the subject proposal, including my involvements, is provided in Appendix A to this statement.</p>

1.2 Instructions

- 1.2.1 I was engaged by Page Seager Lawyers on behalf of the Goodstone Group to provide an assessment of the traffic issues, in accordance with the Tasmanian Planning Commission Practice Note 14, in relation to the concurrent scheme amendment and planning permit application AM2022-02 & PA2022-0092 (the **Application**).
- 1.2.2 Since my engagement I have been advised that the proponent now seeks to withdraw the permit (PA2022-0092) that accompanied the draft amendment and to modify the draft amendment.
- 1.2.3 I have detailed the proposal and my responses later in this statement of evidence.

2 Materials relied upon

2.1.1 I have referred to the following documents in relation to this matter:

- a) Certified Draft Amendment 24 October 2022
- b) Traffic Impact Assessment (TIA) by GHD for Tipalea Partners
- c) Statement of Evidence (Mark Petrusma) 7 June 2023
- d) Supplemental Statement of Evidence (Mark Petrusma) 14 June 2023
- e) TCS Report (Richard Burk) 16 March 2023.
- f) Statement of Evidence by Theresia Williams dated 8 June 2023.
- g) Letter from State Growth (29.11.2022) responding to TIA for Draft Amendment and permit.
- h) RTA and RMS publications, *Guide to Traffic Generating Developments* (2002), and *Updated traffic surveys* (2013).
- i) Proposed Bunnings Warehouse Traffic Impact Assessment (O'Brien Traffic 2014).
- j) Devonport Homemaker Centre Stage 2 Transport Impact Assessment (GTA 2011)
- k) Nearmap images of site and surrounds including "Streetview" from Google.

2.1.2 I have not visited the site.

3 The Subject Site and Surrounds

3.1.1 The land that is the subject of the proposed amendment is as shown in the plan is the area shaded on the site plan below copied from the Draft Amendment document. I have added the site labels A - E.

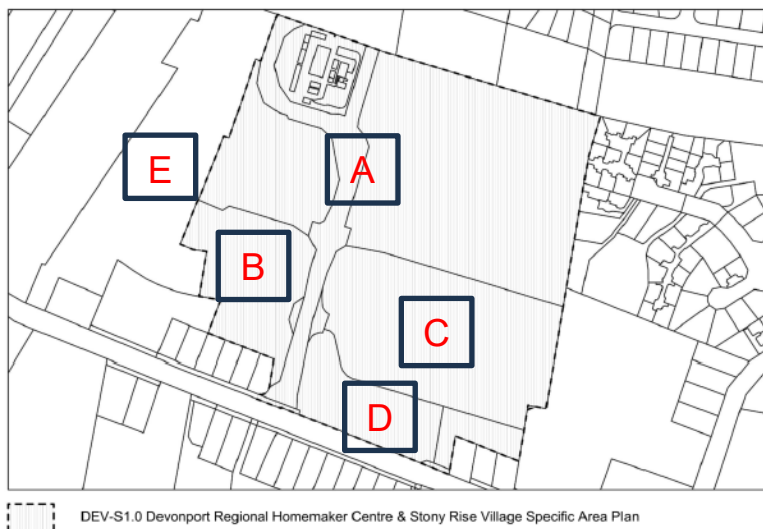


Figure 1

3.1.2 The site that is the subject of the permit application is marked DEV-S1.3.2 in the plan also copied from the Draft Amendment document, see Figure 2.

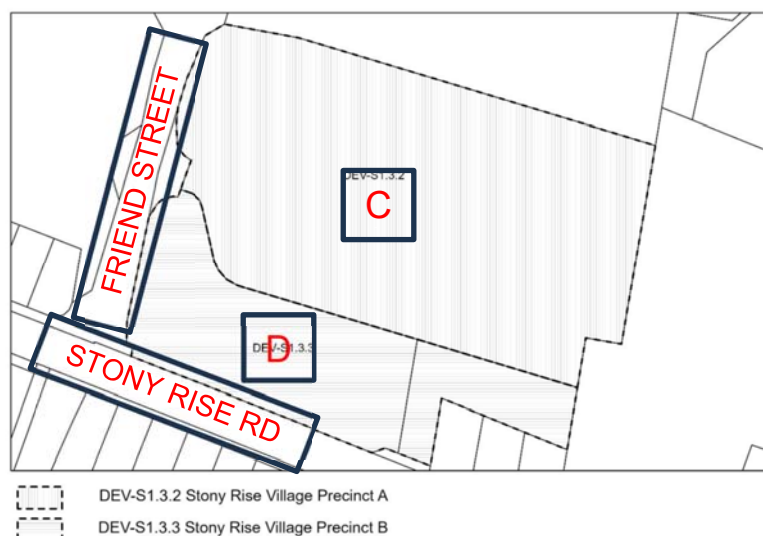


Figure 2

3.1.3 The area of site “C”, as shown in Figure 1, DEV-S1.3.2 is approximately 32,740 square metres.

3.1.4 The area of site “D”, as shown in Figure 1, DEV-S1.3.3 is approximately 12,890 square metres.

3.1.5 The area of site “B”, as shown in Figure 1, is approximately 13,300 square metres in 2 parcels with the road to the residential land (Site “E”) going through it as can be seen in Figure 3.

3.1.6 Site “E”, as shown in Figure 1, is general residential land with 76 lots proposed.

3.1.7 Site "A", as shown in Figure 1, is the existing bulky goods retail area including Bunnings in the north-eastern corner.

4 Existing Conditions Relevant to the Proposed Amendment and Permit

4.1.1 The Nearmap image shown at Figure 3 depicts the existing conditions along Stony Rise Road and on the relevant adjoining sites.



Figure 3

4.1.2 Figure 4 shows a Nearmap image along Stony Rise Road near the Friend Street intersection.



Figure 4

4.1.3 Some relevant points in respect of the existing conditions are:

- (a) The residential land, Site "E", is proposed to contain approximately 80 dwelling sites.
- (b) The existing roundabout on Friend Street, the access to Site "C" and the eastern left turn entry/exit onto Stony Rise Road were constructed between October 2015 and March 2017.
- (c) In around 2014 there was a proposal to develop a Bunnings Warehouse on Site "C", as shown in Figure 1, but the existing Bunnings store in the north-easter part of Site "A" was expanded between March 2017 and November 2017.
- (d) The residential development, on "Site "E " including the access roadway from the Friend Street roundabout was commenced between March 2022 and October 2022.
- (e) The line marking for the current unsignalized layout of the intersection of Friend Steet and Stony Rise Road has gaps in the double lines forming the right turn lane and chevron marked departure side traffic island to allow right turns into and out of the individual house lots located along both sides of Stony Rise Road in the vicinity of the intersection. There are driveways to approximately 18 properties with such gaps provided.
- (f) Site "A" in Figure 1 is approximately 78,780 square metres in area and contains around 21,200 square metres of floor area plus pad sites with a KFC outlet with building area about 200 square metres and a service station with MacDonaldis and Subway with about 750 square metres under roof. Typically, a Service station with convenience shop occupies about 250 square metres and I am therefore estimating the fast food floor area within the service station building at around 500 square metres.
- (g) Car parking provided for the (apparently primarily) bulky goods outlets and the Bunnings store is 530 spaces, a ratio of around 2.5 spaces per 100 square metres of floor area.

- (h) The service station and fast food outlet occupy about 6,000 square metres of Site “A”, indicating a site area of around 72,780 square metres for the balance of the development.
- (i) The plot ratio of the bulky goods component of the development is around 28% (21,200/72,780). If the area of Friend Street and the access from Bass Highway is taken out of the site area the plot ratio is about 32% (21,200/66,200). Friend Street and the Bass Highway connection would not normally be considered in a plot ratio calculation.
- (j) Traffic counts presented in the TIA by GHD show for the Thursday PM peak at Friend Street 325 vehicles per hour (**vph**) inbound and 478 vph outbound.
- (k) Traffic counts presented in the TIA by GHD show for the Saturday Midday peak at Friend Street 386 vph inbound and 705 vph outbound.
- (l) The RTA Guide to Traffic Generating Developments indicative weekday PM peak hour traffic generation rates for a service station with convenience shop and fast food outlet with drive-through applied to the existing developed pad sites is set out in the following table:

Use	Scale	Units	Rate In	Trips In	Rate Out	Trips Out
Service Stn/ Conv shop	1	no.	70	70	70	70
Food	700	Sqm FA	0.12	84	0.12	84
Drive Through food	2	no.	25	50	25	50
TOTALS				204		204

- (m) If the estimated numbers of trips related to the pad sites are removed from the counts recorded in the TIA the outbound volume generated by the bulky goods component during the Thursday PM peak is 274 vph and during the Saturday midday peak is 501 vph. That is assuming the pad site generation rates are the same for both peaks.
- (n) For the Thursday PM peak, assuming inbound volumes = outbound volumes the generation rate of the bulky goods component is $274 \times 2 / 21,200 = 2.5$ vph per 100 square metres of floor area. For the Saturday midday peak the rate is $501 \times 2 / 21200 = 4.7$ vph per 100 square metres of floor area.

5 Potential Development and Traffic Generation Under Existing Conditions

5.1 Showroom/Bulky Goods Proposal

5.1.1 A proposal for “Devonport Homemaker Stage 2” was the subject of a traffic impact assessment by GTA in 2011. Stage 2 involved the development of additional showrooms/bulky goods retail outlets on the land I have marked as Site “B”, Site “C” and Site “D” at Figure 1 in this statement. The proposed site development plan is copied from the GTA report to Figure 5.

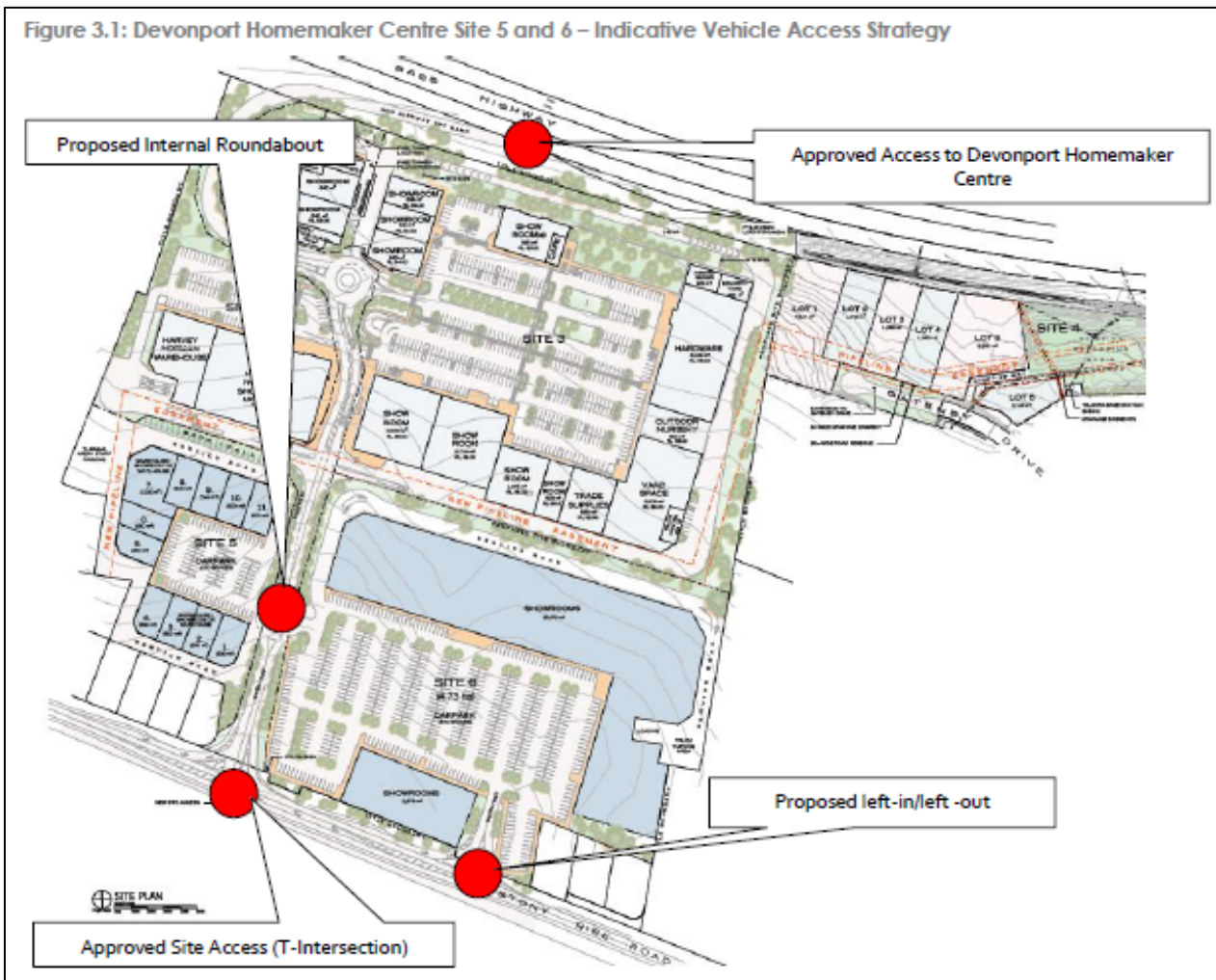


Figure 4

- 5.1.2 Broadly, the proposal described was for 24,050 square metres of floor area on about 61,000 square metres of site, a plot ratio of around 39%.
- 5.1.3 Traffic generation was estimated in the report on the basis of 1.53 vph per 100 square metre floor area for the weekday PM peak and 3.65 vph per 100 square metres floor area for the Saturday midday peak. A reduction of 10% for linked trips was allowed leaving total generation for weekday PM peak and Saturday midday peak at 331 vph and 790 vph respectively.
- 5.1.4 The GTA report noted surveys of traffic generation at Northland in Melbourne indicating 1.96 vph and 3.5 vph per 100 square metres of floor area for the peaks as described.

5.2 Bunnings Warehouse Proposal on Site “C”

5.2.1 A proposal for a Bunnings Warehouse on Site “C” was described in a traffic impact assessment by O’Brien Traffic (OBT) in 2014. The site plan for the proposal is copied from the OBT report to Figure 6.

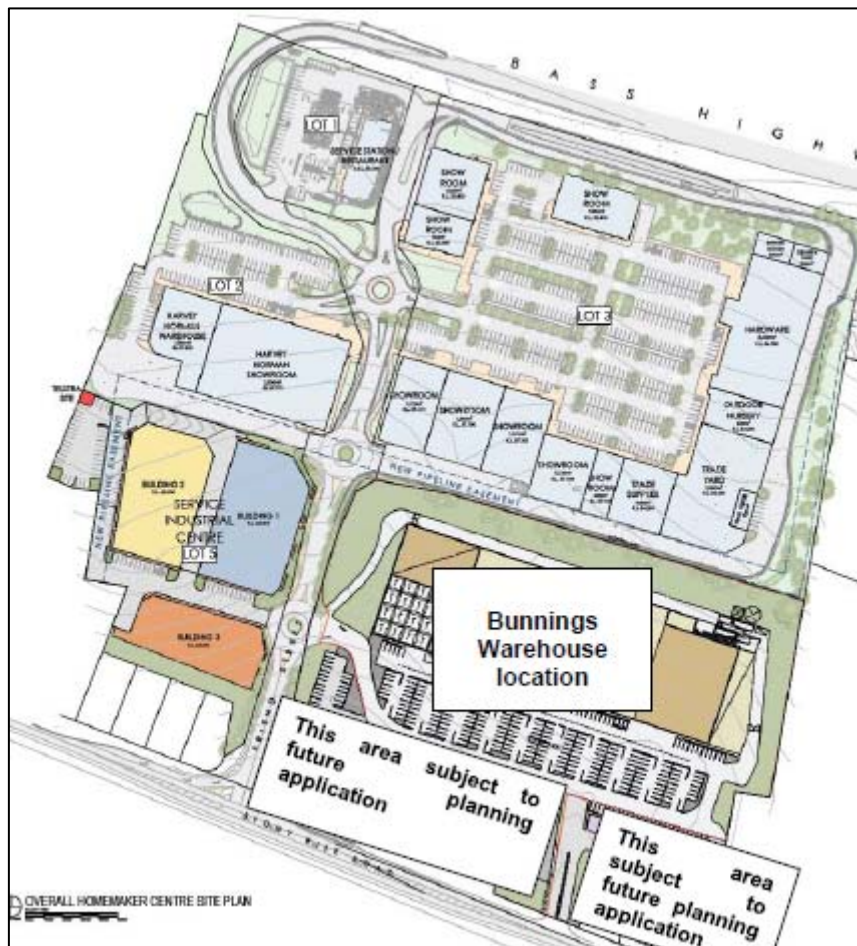


Figure 5

- 5.2.2 Broadly the proposal was for 12,733 square metres of floor area. Traffic generation was estimated on the basis of rates of 2.0 vph and 4.5 vph per 100 square metres of floor area for the weekday PM and Saturday midday peaks.
- 5.2.3 No reduction for linked trips was allowed leaving total generation for weekday PM peak and Saturday midday peak at 250 vph and 570 vph respectively for the Bunnings proposal.
- 5.2.4 OBT estimated peak period traffic generation from 5,430 square metres of potential floor area on those sites at 196 vph and 261 vph for the respective peak periods. In my opinion those rates make little sense when the overall GTA estimate for bulky goods/showroom development was based on rates of 1.53 vph per 100 square metres and 3.65 vph per 100 square metres in the 2011 report described above. Applying those rates to 5,450 square metres would give traffic generation of 83 vph and 199 vph for the respective peak periods for development of showrooms/bulky goods retail on Site “B” and Site “D”.
- 5.2.5 Total traffic generation under the Bunnings Warehouse on Site “C” and Showrooms/bulky goods retail on Site “B” and Site “D” proposal would be 333 vph and 769 vph.

5.2.6 It should be noted that Site “B” has now been reduced in area and fragmented by the access road to the residential development on the land to the west of the Proposal Site, reducing the capacity for traffic generation.

6 Potential Traffic Generation Potential under the Proposed Amendment

6.1.1 Whilst the Proponent has now indicated that they no longer seek to rely upon the permit, it is likely that a similar proposal will be made at some point in the future should the proposed amendment be approved, noting that the precise amendment being sought is currently uncertain. On that basis I have undertaken an assessment against the development that was proposed under the permit.

6.2 The Proposed Development on Site “C”

6.2.1 Copying from the TIA by GHD the project is inventoried as:

Building	Assumed Use	Floor Area Categories (RMS)	Gross Floor Area
Supermarket	Supermarket	Supermarket - A(SM)	3,400 sqm
Tenancy 1	Office	Office, Medical - A(OM)	657 sqm
Tenancy 2	Medical Centre		302 sqm
Tenancy 3	Pharmacy	Specialty stores - A(SS)	284 sqm
Tenancies 4-9	Food and Beverage		482 sqm
Tenancies 10-14	Specialty Retail/services		1,008 sqm
Tenancy 15	Liquor Store		300 sqm
Tenancy 16	Fast Food		275 sqm
Offices, amenities, circulation and corridors		NA (considered ancillary)	1,097 sqm
TOTAL			7,805 sqm

6.2.2 The proposed site development plan is copied to Figure 7.



Figure 6

6.2.3 The plot ratio of the proposal is about 25%. Car parking is proposed at 373 spaces, a ratio of 5.56 spaces per 100 square metres based on a “countable” floor area of 6,708 square metres. That floor area has also been applied to the traffic generation estimates in the TIA by GHD. That parking provision is higher than necessary which is at least partially why the plot ratio is lower than normally expected for a shopping centre development of similar scale and form to that proposed.

6.2.4 The TIA by GHD provides estimated traffic generation based on the RTA/RMS Guide to Traffic Generating Developments. An average of the results of 2 methods is set out. The first method applies an empirically developed formula which takes account of the floor areas of each component of the development, and the second method applies a blanket rate based on the scale of the shopping centre.

6.2.5 The outcomes are averaged in the TIA to indicate 741 vph and 922 vph for the respective peak periods.

6.3 Site “D”

6.3.1 Assuming Site “D” is also developed for normal retail use an additional floor area of around 40% of the effective site area would be possible. The higher plot ratio is possible because an additional supermarket would not be likely and therefore the resultant retail floor area would be classified as “Specialty” retail with lower traffic generation and carparking demand in comparison with a supermarket. Site area is 12,890 square metres but is irregular and fragmented by the access road to Stony Rise Road. I estimate the effective site area at about 8,000 square metres allowing floor area of around 3,200 square metres.

6.3.2 Applying the RTA/RMS formula values of 46 vph/1000 square metres floor area and 107 vph/1000 square metres floor area for the respective peak periods. That method gives 147 vph and 342 vph for the respective peak periods under consideration.

6.4 Site “B”

6.4.1 Assuming showrooms/bulky goods retail on Site “B” at a plot ratio of 40% on an area of 13,300 square metres indicates potential floor area of $13,300 \times 0.4 =$ about 5,000 square metres. Applying the GTA estimating rates for the peak periods under consideration gives 77 vph and 183 vph for the respective peak periods. If industry at about 50% plot ratio with weekday PM traffic generation rate at 0.65 vph/100 square metres floor area the generation will be around 40 vph for the weekday PM peak and almost nil for the Saturday peak. The higher values are applied in this analysis.

6.5 Residential Development on Site “E”

6.5.1 Weekday PM peak hour traffic generation from 84 lots is likely to be around 60 vph, Saturday midday peak period the generation is likely to be around 40 vph.

6.6 Summary

6.6.1 Total potential traffic generation from possible development under the proposed amendment is estimated as set out above and summarized in the following table:

Component	Weekday PM Peak Hour	Saturday Midday Peak Hour
Shopping Centre Site “C”	741	922
Shopping Centre Site “D”	147	342
Showrooms/Bulky Goods Site “B”	77	183
Residential Site “E”	60	40
Total	1062	1487

7 Potential Traffic Generation under Existing Situation

7.1.1 At Section 7.1 the TIA states that the approved developments are considered to include the following:

- (a) 76-lot residential subdivision at 126-136 Stony Rise Road, and
- (b) Formerly proposed Bunnings development at the subject site (5 Friend Street)

7.1.2 In my opinion a comparison of traffic generation estimates between current zoning development including a Bunnings Warehouse of Site “C” is not appropriate because the existing development on Site “A” has a now expanded Bunnings Warehouse and two such proposals in the Devonport Homemaker Centre are not a likely outcome. It should be noted that Bunnings Warehouse traffic generation is typically significantly higher than the general case for bulky goods retailing, which is likely to be a factor in the relatively high traffic generation from the existing Site “A” development.

7.1.3 The GTA report of 2011 provides a solid basis for estimation of potential traffic generation under the current zoning. The floor areas on Site “B” need to be adjusted to allow for the connection roadway to the residential area, resulting in potential floor area of around 23,300 square metres and the addition of the residential traffic. The connection to the residential area was not accounted in 2011, presumably because it was envisaged that the residential development would have access directly to Stony Rise Road.

7.1.4 At rates of 1.53 vph and 3.65 vph per 100 square metres for the respective peaks as applied in the GTA report, and allowing for the residential development, the summary is therefore as follows:

Component	Weekday PM Peak Hour	Saturday Midday Peak Hour
Showrooms/Bulky Goods	344	822
Residential	65	40
Totals	409	862

7.1.5 In the RMS Updated Traffic Surveys document average bulky goods outlet traffic generation in the peak periods is reported at 2.68 vph and 3.85 vph per 100 square metres floor area for the respective peak periods under consideration. Applying those rates gives the results as set out below.

Component	Weekday PM Peak Hour	Saturday Midday Peak Hour
Showrooms/Bulky Goods	624	897
Residential	65	40
Totals	689	937

7.1.6 For conservatism I apply the values calculated on the RMS Update basis.

8 Traffic Impacts

8.1.1 In the following analysis I have used the GHD recorded counts and factored up the Stony Rise Road values by 20% to allow for growth. Arguably the factoring should be more than 20% to allow for 2% p.a. growth from present day over a 10 year period as is typically requested by the road authority. I have applied the directional distribution set out in the TIA at Figure 12 and Figure 13 for the Thursday PM peak hour and the Saturday midday peak hour respectively. I have used the trip generation values in the summary tables above but reduced by 10% to allow for linked or multi-purpose trips. The diagrams at Figure 8 and Figure 9 respectively show the determination of the values that I have plugged into SIDRA for traffic generation estimated under the current zoning (Figure 8) and the proposed amendment (Figure 9).

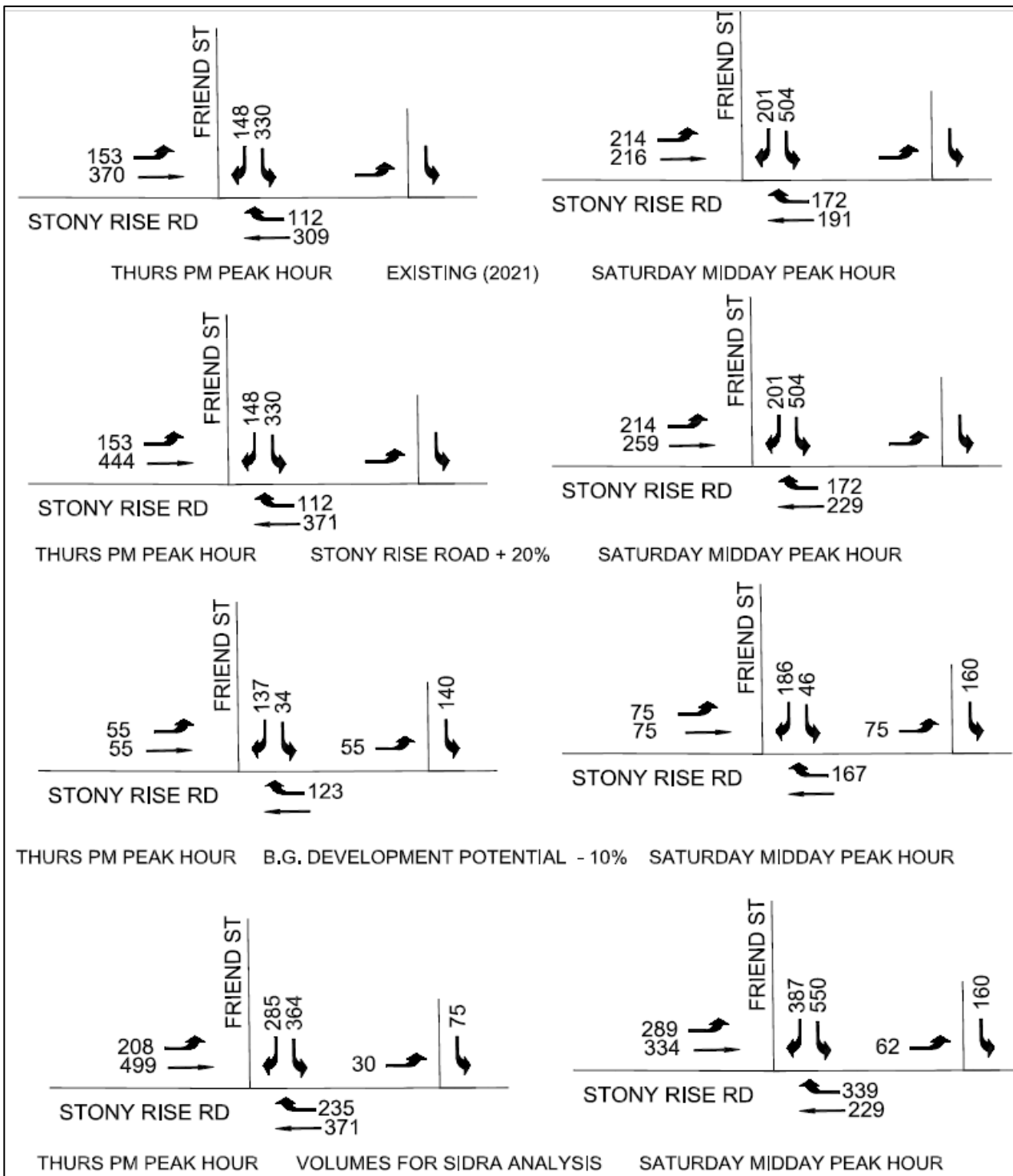


Figure 7

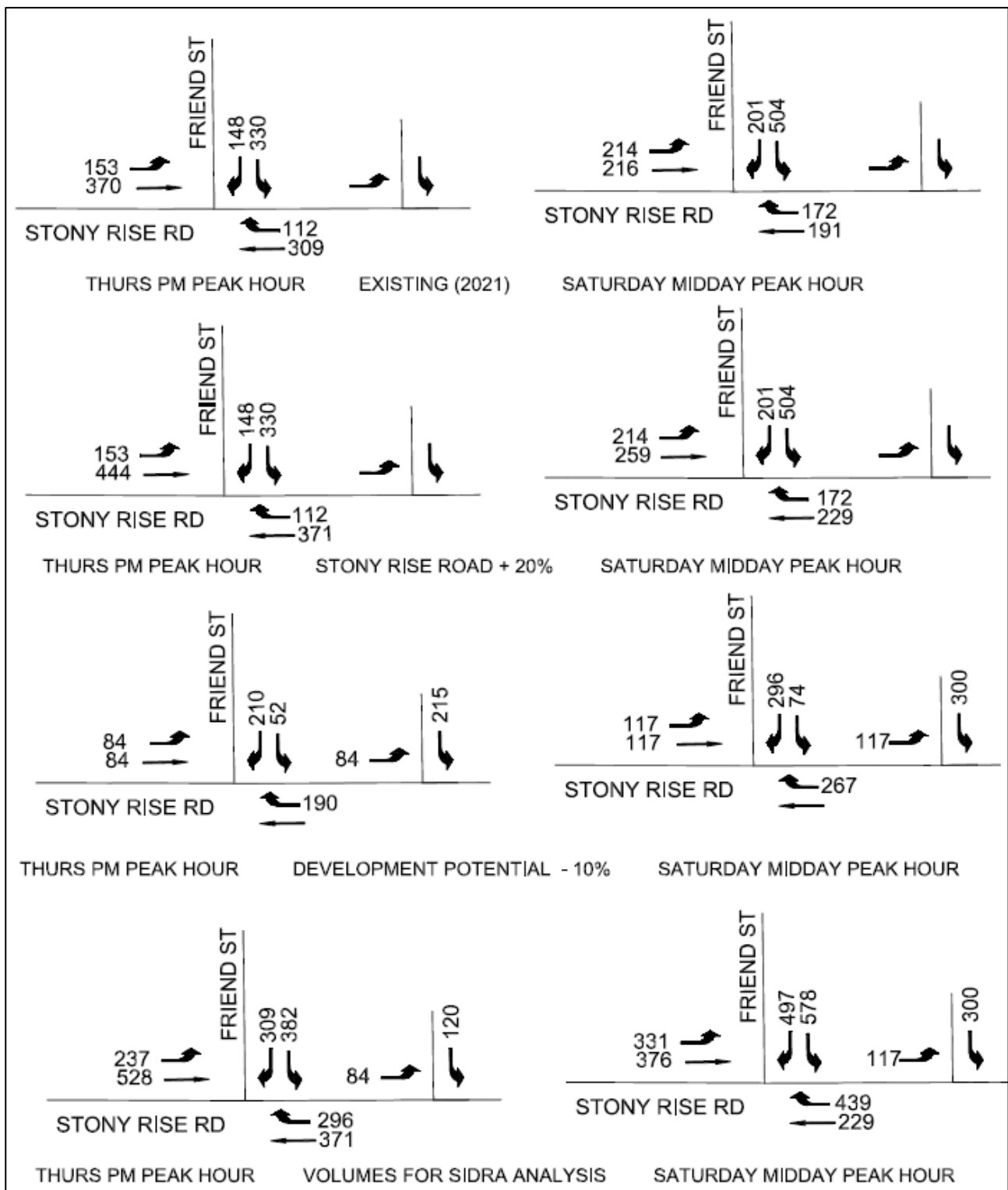
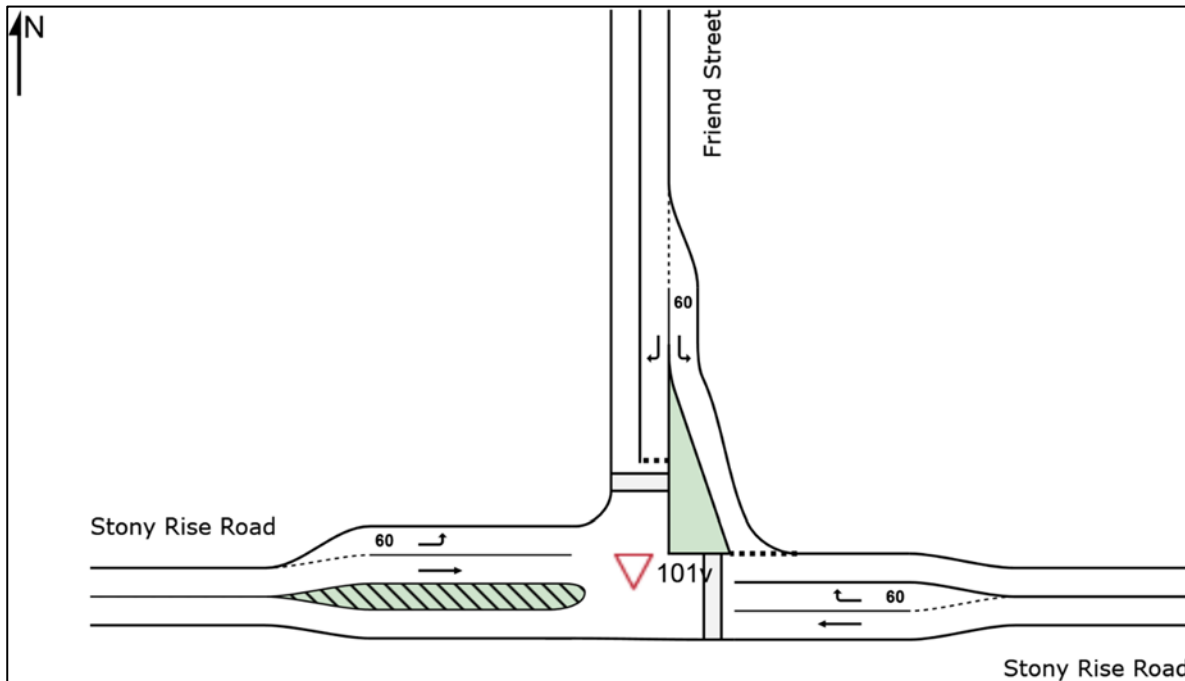


Figure 8

8.1.2 The SIDRA analyses are summarized in the following extracts.

SITE LAYOUT Friend Street at Stony Rise Road Thursday PM - Current Zone Potential



LANE SUMMARY Friend St at Stony Rise Road Thursday PM - Current Zone Potential

Lane Use and Performance													
	Demand Flows		Cap.	Deg. Satn	Lane Util.	Average Delay	Level of Service	95% Back of Queue		Lane Config	Lane Length	Cap. Adj.	Prob. Block.
	Total	HV						Veh	Dist				
	veh/h	%	veh/h	v/c	%	sec			m		m	%	%
East: Stony Rise Road													
Lane 1	391	7.0	1854	0.211	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Lane 2	247	0.0	597	0.414	100	12.5	LOS B	2.1	14.9	Short	60	0.0	NA
Approach	638	4.3		0.414		4.9	NA	2.1	14.9				
North: Friend Street													
Lane 1	383	0.0	727	0.527	100	11.3	LOS B	3.2	22.7	Short	60	0.0	NA
Lane 2	300	0.0	438	0.686	100	19.9	LOS C	3.9	27.1	Full	500	0.0	0.0
Approach	683	0.0		0.686		15.1	LOS C	3.9	27.1				
West: Stony Rise Road													
Lane 1	219	0.0	1857	0.118	100	5.6	LOS A	0.0	0.0	Short	60	0.0	NA
Lane 2	525	7.0	1865	0.282	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Approach	744	4.9		0.282		1.7	NA	0.0	0.0				
Intersection	2065	3.1		0.686		7.1	NA	3.9	27.1				

LANE SUMMARY Friend St at Stony Rise Road Saturday Midday - Current Zone Potential

Lane Use and Performance													
	Demand Flows		Cap. veh/h	Deg. Satn v/c	Lane Util. %	Average Delay sec	Level of Service	95% Back of Queue		Lane Config	Lane Length m	Cap. Adj. %	Prob. Block. %
	Total veh/h	HV %						Veh	Dist m				
East: Stony Rise Road													
Lane 1	241	7.0	1853	0.130	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Lane 2	357	0.0	699	0.511	100	12.1	LOS B	3.3	22.8	Short	60	0.0	NA
Approach	598	2.8		0.511		7.2	NA	3.3	22.8				
North: Friend Street													
Lane 1	579	0.0	919	0.630	100	10.3	LOS B	5.7	39.6	Short	60	0.0	NA
Lane 2	407	0.0	561	0.727	100	17.6	LOS C	5.0	35.3	Full	500	0.0	0.0
Approach	986	0.0		0.727		13.3	LOS B	5.7	39.6				
West: Stony Rise Road													
Lane 1	304	0.0	1857	0.164	100	5.6	LOS A	0.0	0.0	Short	60	0.0	NA
Lane 2	352	7.0	1865	0.189	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Approach	656	3.8		0.189		2.6	NA	0.0	0.0				
Intersection	2240	1.9		0.727		8.6	NA	5.7	39.6				

8.1.3 The SIDRA analyses for both the Thursday PM peak hour and the Saturday midday peak hour indicate that the installation of traffic signals is not necessary for the likely development under the current zoning. Degrees of Saturation, Level of service and queue lengths are all within acceptable limits.

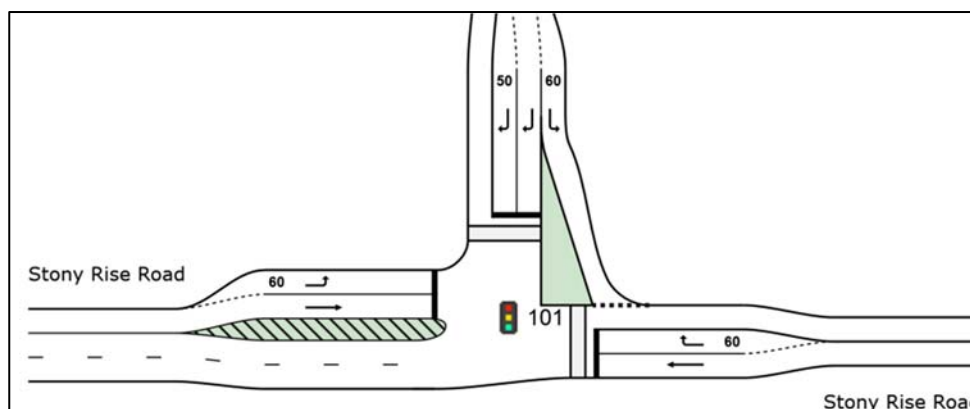
8.1.4 The critical movement is the right turn out of Friend Street. A further SIDRA analysis, by way of a sensitivity test, where all Friend Street volumes are increased by 10% shows a Lane Summary as follows, indicating adequate performance.

LANE SUMMARY Friend St at SRRd Sat Midday - Current Zone Potential - Add 10% to estimates as Sensitivity Test

Lane Use and Performance													
	Demand Flows		Cap. veh/h	Deg. Satn v/c	Lane Util. %	Average Delay sec	Level of Service	95% Back of Queue		Lane Config	Lane Length m	Cap. Adj. %	Prob. Block. %
	Total veh/h	HV %						Veh	Dist m				
East: Stony Rise Road													
Lane 1	241	7.0	1852	0.130	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Lane 2	393	0.0	674	0.582	100	13.4	LOS B	4.1	28.6	Short	60	0.0	NA
Approach	634	2.7		0.582		8.3	NA	4.1	28.6				
North: Friend Street													
Lane 1	637	0.0	910	0.700	100	11.4	LOS B	7.4	51.8	Short	60	0.0	NA
Lane 2	446	0.0	525	0.851	100	24.1	LOS C	7.8	54.8	Full	500	0.0	0.0
Approach	1083	0.0		0.851		16.6	LOS C	7.8	54.8				
West: Stony Rise Road													
Lane 1	324	0.0	1857	0.175	100	5.6	LOS A	0.0	0.0	Short	60	0.0	NA
Lane 2	360	7.0	1865	0.193	100	0.0	LOS A	0.0	0.0	Full	500	0.0	0.0
Approach	684	3.7		0.193		2.6	NA	0.0	0.0				
Intersection	2401	1.8		0.851		10.4	NA	7.8	54.8				

8.1.5 The operation of the intersection fails under potential loadings associated with the proposed amendment, leading to a likely need for a layout as shown below and as indicated in the TIA by GHD.

SITE LAYOUT Site: 101 [Friend Street at Stony Rise Road Saturday day Midday - 10% reduction new gen 3 phase double right out]



8.1.6 The SIDRA analysis outcome for this scenario is shown in the following Lane Summary table, indicating adequate performance:

LANE SUMMARY Site: 101 [Friend Street at Stony Rise Road Saturday day Midday - 10% reduction new gen 3 phase double right out]

Signals - Fixed Time Isolated Cycle Time = 60 seconds (Site Optimum Cycle Time - Minimum Delay)

Lane Use and Performance													
	Demand Flows		Cap.	Deg. Satn	Lane Util.	Average Delay	Level of Service	95% Back of Queue		Lane Config	Lane Length	Cap. Adj.	Prob. Block.
	Total	HV						Veh	Dist				
	veh/h	%	veh/h	v/c	%	sec		m		m	%	%	
East: Stony Rise Road													
Lane 1	241	7.0	466	0.517	100	21.6	LOS C	6.3	46.8	Full	500	0.0	0.0
Lane 2	462	0.0	526	0.878	100	37.9	LOS D	16.4	115.0	Short	60	0.0	NA
Approach	703	2.4		0.878		32.3	LOS C	16.4	115.0				
North: Friend Street													
Lane 1	608	0.0	1169	0.520	100	11.3	LOS B	7.1	49.4	Short	60	0.0	NA
Lane 2	262	0.0	310	0.845	100	38.8	LOS D	8.9	62.2	Full	500	0.0	0.0
Lane 3	262	0.0	310	0.845	100	38.8	LOS D	8.9	62.2	Short	50	0.0	NA
Approach	1132	0.0		0.845		24.0	LOS C	8.9	62.2				
West: Stony Rise Road													
Lane 1	348	0.0	464	0.750	100	31.0	LOS C	10.4	73.0	Short	60	0.0	NA
Lane 2	396	7.0	466	0.849	100	30.6	LOS C	13.4	99.1	Full	500	0.0	0.0
Approach	744	3.7		0.849		30.8	LOS C	13.4	99.1				
Intersection	2579	1.7		0.878		28.2	LOS C	16.4	115.0				

8.2 Friend Street Internal Impacts

8.2.1 As set out in the TIA by GHD, allowance will need to be made for alterations to the roundabout and approaches if the development proposed is to occur.

8.3 Potential Impacts of Traffic Signals and Alterations to Friend Street intersection at Stony Rise Road

- 8.3.1 There are 18 properties relying on driveways where double lines are broken to allow right turns. Under the expanded and signalized intersection, it is highly likely that the traffic associated with those properties will not be allowed to make right turns, either because a median or other barrier will be in place, or because the road authority will consider the right turn movements unsafe and will not allow the breaks in the double lines.
- 8.3.2 The TIA by GHD notes that there are roundabouts on either side of the Friend Street intersection where U-turns can be made. That may overcome the problems associated with right turns not being allowed provide the inconvenience is ignored. The roundabout to the west of the Friend Street intersection is over 800 metres away, and the roundabout to the east is 400 metres away. There is no local street network proximate to the affected properties.
- 8.3.3 In my view the impacts of the change in infrastructure requirements that would be consequent to allowing the proposed amendment and associated development are significant on the local community, and the plans shown in the GHD Signalization Report do not address those concerns.
- 8.3.4 It is unfortunate that the Devonport Homemaker site and the adjacent residential site to the immediate west, a total area of around 23 hectares, has only one location where it is practical to exit to the west and only 2 locations where it is practical to exit to the east. A typical street block in an urban centre is less than 2 hectares in area. An extension of Leary Road into the subject property would have been an obvious option to improve the access arrangements, perhaps with a roundabout at the intersection. A roundabout at the intersection, with or without the extension to the north, would reduce the inconvenience for occupants of the 18 properties potentially affected by an “upgrade” of the intersection at Friend Street.
- 8.3.5 Possible solutions to allow more intense traffic generation than under current zoning would include acquisition residential properties along the north side of Stony Rise Road to allow a northerly shift and expansion of the Stony Rise Road and associated Friend Street intersection. That may allow a service lane or similar to service existing residential land on the southern side of the road, with appropriate turning facilities.

9 Conclusion

- 9.1.1 In summary it is my opinion that insufficient planning has been undertaken to address all relevant impacts of development on the subject land, in particular any proposal to increase the intensity of use as implied by the proposed amendment and allowance of conventional retail outlets on the property. The differences between the traffic generation potential of the site under the existing Specific Area Plan and the proposed amendment are significant, with significantly different infrastructure and traffic related amenity outcomes.

TTM Consulting (Vic) Pty Ltd



J. D. Higgs



JIM HIGGS

Director - Traffic

jhiggs@ttmgroup.com.au

EXPERIENCE :

Jim has considerable experience in planning and design management across a broad field of traffic engineering and transport related projects in all eastern Australian States and internationally.

This experience ranges through roadworks, traffic management, parking, residential and industrial subdivisions, town and city centre enhancement programs, integrated land use planning, recreation facilities, and includes economic analysis of projects.

Prior to becoming a Director of TTM Consulting Pty. Ltd. Jim successfully managed Higgs - TTM Pty. Ltd.

This followed several years of experience gained whilst employed in local government.

Jim has been heavily involved in a number of innovative design solutions for residential developments on difficult sites. He has provided the traffic engineering input for a range of comprehensive developments of large scale projects including District Centres, major residential and mixed use projects, recreational and tourist related projects.

QUALIFICATIONS :

Bachelor of Civil Engineering, University of Melbourne
Certificate of Qualification as a Municipal Engineer in the State of Victoria

TYPICAL PROJECTS :

Mixed Use Developments with Town Centre Design

Jim has provided traffic design advice to project teams for a large number of Medium and High Density projects including Mixed Use Developments around Melbourne including the following locations :

Wandana Heights, City of Geelong (current project) - 60 townhouses on steeply sloping site with many constraints,

Kaduna Estate at Officer (current project, ongoing since 2015) residential development for 830 dwellings plus supermarket based shopping centre , commercial and industrial development of several 100,000 square metres of floor area, road and street network planning and design, traffic analysis and intersection design.
network planning and design, traffic analysis and intersection design.

Pakenham East in Victoria,(current project since 2016) residential development for 4500 dwellings plus mixed use town centre, commercial and highway related retail, movement network planning, road and street design including car parking, pedestrian and cycling facilities.

Aurora at Epping North (current project since 2001) – estate to accommodate c. 8,000 homes, two mixed use town centres focused on potential rail corridor, local activity centres, industrial site adjacent freeway – road and street network and intersection planning and design.

Stirling CBD enhancement project – Perth WA (2017-2018) Movement network analysis and design for additional street linkages, traffic and car parking, provisions for pedestrian movements and public transport.

Charlemont Town Centre – Geelong City (current project since 2020) – road and street network planning and design, intersection traffic signal design, loading facilities for retail and commercial land uses.

Liveable Arterials – Auckland City – strategic planning and design for enhancement of town centres and other activity nodes and corridors along the major arterial streets in Auckland City

Other CBD Focussed Projects include:

Sale Victoria – Traffic analysis and urban design to put trafficable street back not the previously malled central part of sale CBD, including civil engineering for the project.

Gisborne CBD enhancement – NZ
Basildon Activity Centre, UK for Prince of Wales Foundation.

Christchurch CBD Strategic Directions 2030
Newmarket CBD enhancement
Horsham CBD Urban Design Framework

MANY Others

Hearing attendance (for parties)

Complete this form if you are a party to the hearing proceedings.

Please read the notes below to assist with filling in this form.

Hearing details

Description:

Describe the matter being heard, as per the newspaper notice or hearing advice letter.

Hearing date:

Attendee details

Representor

Name(s):

Email address:

Contact number:

I wish to **speak at the hearing** **observe only** (select as appropriate)

I wish to use **telephone** **MS Teams*** **In person** (select as appropriate)

Contact details (if different to above):

Representative (if any):

Name:

Email address:

Contact number:

They will appear by **telephone** **MS Teams*** **In person** (select as appropriate)

Expert(s) (if any):

Name:

Email address:

Contact number:

They will appear by **telephone** **MS Teams*** **In person** (select as appropriate)

Please provide the name, email and contact number of any additional experts with this form.

Please return your completed form to tpc@planning.tas.gov.au **at least seven days before the hearing**. If you do not do so, it may not be possible to attend or phone in on the day of the hearing.

If you require any further information or require assistance with completing this form, please contact tpc@planning.tas.gov.au or telephone 6165 6828.

* MS Teams is a free downloadable app. It is the only application authorised for joining a Commission hearing by video or voice.

NOTES:

a. Appearing at a hearing

You may appear before the Commission if you made a representation to the matter being heard. If you did not make a representation and wish to appear, the Commission will determine whether you can be heard, on a case by case basis.

Completed forms must be submitted not less than seven days before the hearing.

b. Representation at the hearing

You may represent yourself at a Commission hearing. However, you may have someone else represent you, for example a legal representative, planning expert, friend or family member.

c. Experts

If you have relied on expert evidence in support of your application or representation, such as from a traffic engineer or flora and fauna expert, the Commission and other parties may wish to ask them questions at the hearing. If you are unsure if your experts are required, please contact the Commission.