
From: Victoria Lightfoot <vlightfoot@pageseager.com.au>
Sent: Tuesday, 29 November 2022 4:32 PM
To: Devonport City Council
Cc: Anthony Spence; Theresia Williams
Subject: Planning Scheme Amendment AM2022.02 and Planning Application PA2022.0092-1, 5 Friend Street & 88, 90-102 Stony Rise Road, Stony Rise (221853)
Attachments: Matthew Atkins- Devonport City Council- 29.11.22.pdf

Good afternoon

Please find the **attached** representation for the attention of the General Manager.

Kind regards

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29 November 2022

Mr Matthew Atkins
General Manager
Devonport City Council
PO Box 604
DEVONPORT TAS 7310

By email: council@devonport.tas.gov.au

Dear Mr Atkins

PROPOSED PLANNING SCHEME AMENDMENT - 1, 5 FRIEND STREET & 88, 90-102 STONY RISE ROAD, STONY RISE

We act for Goodstone Group.

We refer to the application for an amendment to the Devonport Local Provisions Schedule of the Tasmanian Planning Scheme, specifically amendment number AM2022.02, and the concurrent planning permit application, application number PA2022.0092.

Please treat this correspondence as a representation in accordance with ss 40J and 41 of the *Land Use Planning Approvals Act 1993* (LUPAA).

The proposed amendment and concurrent planning application relate to 1 & 5 Friend Street, 88 & 90-102 Stony Rise Road, Stony Rise (the **Site**) and are for general retail and hire (supermarket and other retail), food services, business and professional services, bulky goods sales, service industry and signage (the **Proposal**).

Our client has sought and received a planning assessment, from Ms Theresia Williams of Equilibrium Town Planning, of the proposed combined application to amend the LPS and permit application. We **attach** a copy of Ms Williams' assessment as part of this representation.

For the reasons outlined in this representation and the accompanying report, Council ought to reconsider its support of the proposed amendment and concurrent planning application.

At its highest, the proposal does not properly implement the strategic planning principles of the Devonport municipality. The proposal is developer driven, out of centre, amounts to fragmentation of Devonport's retail offer, jeopardises existing commercial and retail-based development within the Devonport Central Business District (**CBD**) and is in contrast to strategic land use planning. On that basis it is our submission that the proposal does not meet the objectives under Schedule 1 of LUPAA. It should not have been initiated.

Section 34(2)(c) of LUPAA provides that a draft amendment of an LPS should further the objectives set out in Schedule 1. Schedule 1 Part 2 (a) of LUPAA provides as follows:

"to require sound strategic planning and co-ordinated action by state and local Government"

In our submission, this objective is not met by the proposed amendment.

Section 34(2)(e) of LUPAA also provides that a draft amendment of an LPS should:

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

Ms Williams has undertaken a review of the Council's strategies. While there are a number of strategy documents are applicable, we have drawn particular focus on the following:

- (a) The LIVING CITY Plan;
- (b) The Devonport City Council Retail Study; and

(c) The Cradle Coast Regional Land Use Strategy

Upon a review of Council's strategies and plans, it can be seen that there is a strong focus on establishing and retaining primacy of the CBD. The combined application for a scheme amendment and planning application are in direct conflict with the plans, studies and strategies of Council.

We do not dispute that the area may have a need for an additional supermarket to account for the growth in the area. However, even where a specific need is demonstrated, a comprehensive assessment is required to establish whether it is appropriate to introduce that use on a particular site and if there are any more appropriate sites in the area. The application has not sufficiently demonstrated that the proposed development could be accommodated on another more appropriate site.

It is apt to provide some context on how the current specific area plans came to be over the site. In *Devonport & Environs Planning Scheme 1984 Amendment AM 2008/01* [2009] TASRPDComm 34 the Resource Planning and Development Commission allowed a scheme amendment to introduce the current Devonport Regional Homemaker Centre Zone and the Devonport Homemaker Service Industrial Specific Area Plan. Those specific area plans were specifically limited to ensure that the uses permitted would not unreasonably compete with the Devonport CBD. We extract a few relevant passages from the Resource Planning and Development Commission's decision:¹

"This capping of total floor area is consistent with the intent as described in Council's documents for the zone to operate as a distinct and complementary retail area to the CBD and that does not compete with the CBD for general retail functions. This as a policy matter is considered next."

"There should not be any ambiguity or latitude in the interpretation of the provisions of the Homemaker Zone that would allow it to 'morph' over time into a general shopping centre."

At the time the Homemaker SAP was introduced there was a similar primacy placed upon the CBD. From the passage above, it can be understood that the site was never intended to transform into a shopping centre complex which is exactly what the scheme amendment will result in.

We note that Ms Williams has also identified issues with the supporting documents of the application, including the traffic impact assessment and the environmental report.

In our submission the Proponent has failed to demonstrate the proposal could be accommodated within the existing retail hierarchy or on other appropriately zoned land. While the site is currently empty, this land would benefit from being kept reserved for the existing intended purpose of the Devonport Regional Homemaker Centre Specific Area Plan and Devonport Homemaker Service Industrial Centre Specific Area Plan.

Yours faithfully



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http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/tas/TASRPDComm/2009/34.html?context=1;query=%22homemaker%20centre%22%20;mask_path=au/cases/tas/TASRPDComm+au/cases/tas/TASPCComm