



24 April 2023

Mr Roger Howlett
Delegate (Chair)
Tasmanian Planning Commission

Email: tpc@planning.tas.gov.au

Dear Mr Howlett,

**Devonport Local Provisions Schedule – draft amendment AM2022.02 and permit PA2022.092 –
1, 5 Friend Street & 88, 90-102 Stony Rise Road, Stony Rise**

Thank you for your recent correspondence of 24 March 2023 regarding the abovementioned draft amendment and associated permit application. I understand that the Commission is seeking clarification upon a number of matters prior to public hearings being conducted.

In response to the Commission's request, Council provides its response to these matters as set out with **Attachment 1**.

Yours sincerely,

Matthew Atkins
GENERAL MANAGER



ATTACHMENT 1: Planning Authority response to request for clarifications

| Item | Clarification requested by the Commission | Planning Authority response |
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| 1 | <p>Provide a written submission that considers the proposed amendment addressing land use policies (i), (j), (k) contained within Part C, section 3.3.9 Business and Commercial Activity, of the <i>Cradle Coast Regional Land Use Strategy 2010-2030</i> (see policy statements reproduced below).</p> <p><u>PART C, section 3.3.9 – Business and Commercial Activity</u></p> <p>(i) provide designated locations for bulky goods and large format retailing, including for vehicle, building and trade supply, and home improvement goods;</p> <p>(j) restrict sale of food, clothing and carry away consumables through bulky goods and large format retail outlets located outside town centres;</p> <p>(k) require proposals for major business or commercial development outside designated town centres be supported by need, absence of suitable alternative sites and of potential for immediate, incremental or cumulative adverse affect on established town centres and the regional pattern of retail and service provision</p> | <p>The rationale set out in the following paragraphs supports the Planning Authority's position that the draft amendment is appropriately consistent with the relevant policy considerations of the <i>Cradle Coast Regional Land Use Strategy 2010 – 2030</i>.</p> <p>(1) The site currently accommodates well established business activity generally in the form of bulky goods and ancillary type use and development. The proposal compliments this existing activity and involves the creation of a 'Stony Rise Village centre¹' that is intended to offer a limited range of retail, business and food service uses for the convenience needs of the local area. A major supermarket will serve as the primary activity generator and will be supported by a limited range of complimentary uses.</p> <p>(2) The provisions of the draft Specific Area Plan (SAP) are intended to provide for an appropriate regulation of land use and development that supports but does not compromise the role of established activity centres (including the CBD). Importantly, the intention of the draft SAP is not to facilitate a full spectrum of retail use and development to occur. Rather, it seeks a nuanced approach that is appropriately consistent with the concept and function of a localised and measured activity centre which is central to the Stony Rise Village proposal.</p> <p>(3) The findings of the recently commissioned Devonport Retail Study² identify a shortfall of retail floor space, including both the demand and opportunity for an additional supermarket. The Homemaker Centre site is further identified by the Devonport Retail Study as an appropriate location to accommodate additional large format retail stores.</p> <p>(4) With particular regard to the development of an additional major supermarket to serve as the main activity generator at this location, it is important to emphasise that this will be an additional major supermarket to those already operating in the CBD. The Devonport Retail Study provides the following statements with regard to potential retail outcomes for supermarkets/neighbourhood centres:</p> <p style="padding-left: 40px;"><i>'A general benchmark often considered in the property industry is the provision of one major supermarket operator for every 8,000 to 10,000 people. The Devonport Retail Catchment contains a population of approximately 69,700 residents. On this broad measure there is demand for at least another full-line supermarket currently, and potentially another supermarket in the medium term.'</i></p> <p>(5) Furthermore, the site is well placed to service surrounding settlement patterns (including the future residential growth areas contemplated by the <i>Greater Devonport Residential Growth Strategy 2021-2041</i>).</p> |

¹ See also Item 4 of this Table.

² Devonport City Council: Retail Study (Ethos Urban, June 2022)

| Item | Clarification requested by the Commission | Planning Authority response |
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| 2 | <p>Provide a written submission that clarifies which part of section 32(4) of the <i>Land Use Planning and Approvals Act 1993</i> the proposal is considered to comply with - (a), (b) or both and provide evidence in support of the Planning Authority's position.</p> | <p>The Planning Authority recognises the significant economic benefit and level of investment that the Stony Rise Village proposal represents. As identified in Attachment 4 of the 'Planning Authority section 40F report prepare and certify 24 October 2022' the proposal has been assessed by the Planning Authority as complying with Section 32(4)(a) of the <i>Land Use Planning and Approvals Act 1993</i> noting:</p> <p><i>'The proposed amendment will facilitate the development for essential retail and service needs for the growing number of residents within Stony Rise, Quoiba, Spreyton and Tugrah without impacting upon the existing Devonport CBD. The amended Devonport Regional Homemaker Centre Specific Area Plan continues to provide a focus on economic benefits of commerce whilst providing a small degree of diversification that is complimentary to the large format retail as established and continues to be encouraged within the site. The initial investment in construction jobs will create further employment opportunities for many residents within the Devonport and surrounding municipalities. The proposed development has the potential to provide significant social benefit to nearby residents with the opportunity for convenient access to essential retail and services within one location, that can be readily accessed as a pedestrian or by public transit.'</i></p> |
| 3 | <p>Provide a written submission addressing how the proposal relates to the existing activity centre hierarchy with reference to:</p> <p>(a) the underlying Commercial Zone purpose; and</p> <p>(b) Clause 17.3.2 of the Commercial Zone Discretionary Uses noting that in the construction of the proposed SAP this clause in the zone will still apply.</p> | <p>The Planning Authority sets out the following advice in response to this matter:</p> <p>(1) Although the definition for 'activity centre hierarchy' held at clause 3.1 of the State Planning Provisions carries the instruction that this hierarchy detail is referred to in the relevant regional land use strategy – the <i>Cradle Coast Regional Land Use Strategy 2010-2030</i> offers little assistance to the identification or formalisation of an existing activity centre hierarchy that has direct relevance to the consideration of this proposal.</p> <p>(2) Notwithstanding the apparent policy gap described above, policy initiatives undertaken by Council including the Devonport Retail Study³ (and preliminary Activity Centre hierarchy prepared by Council as part of its endorsement of this Retail Study) and also the adopted principles of the <i>Living City</i> master plan do establish a strategic planning environment which identify and promote the primacy of the Devonport CBD. These settings represent the adopted policy position of Council, and the Stony Rise Village proposal (including the nuanced approach of the draft Specific Area Plan) is appropriately consistent with these policy settings.</p> <p>(3) The proposal submitted by the applicant advocates a position, supported by an Economic Needs Assessment report, which identifies that the Stony Rise Village proposal <i>'would not impact on the viability or continued operation of any existing centre within the Devonport area'</i>⁴. This position is accepted by the Planning Authority as part of its endorsement of the Stony Rise Village proposal.</p> |

³ *Devonport City Council: Retail Study* (Ethos Urban, June 2022)

⁴ *Economic Needs Assessment – Devonport Tasmania* (Location IQ, October 2021) – p. 7

| Item | Clarification requested by the Commission | Planning Authority response |
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| | | <p>(4) Furthermore, the findings of the recently commissioned Devonport Retail Study⁵, which was commissioned by Council independent of the Stony Rise Village proposal, identify a shortfall of retail floor space, including both the demand and opportunity for an additional supermarket. The Homemaker Centre site is further identified by the Devonport Retail Study as an appropriate location to accommodate additional large format retail stores.</p> <p>(5) Additionally, and as previously detailed in the Planning Authority response to Item 1 above:</p> <ul style="list-style-type: none"> (a) the site currently accommodates well established business activity generally in the form of bulky goods and ancillary type use and development. The proposal compliments this existing activity and involves the creation of a 'Stony Rise Village centre' that is intended to offer a limited range of retail, business and food service uses for the convenience needs of the local area. A major supermarket will serve as the primary activity generator and will be supported by a limited range of complimentary uses; (b) the provisions of the draft Specific Area Plan (SAP) are intended to provide for an appropriate regulation of land use and development that supports but does not compromise the role of established activity centres (including the CBD); and (c) importantly, the intention of the draft SAP is not to facilitate a full spectrum of retail use and development to occur. Rather, it seeks a nuanced approach that is appropriately consistent with the concept and function of a localised and measured activity centre which is central to the Stony Rise Village proposal. <p>(6) With regard to the Commission's observations regarding the operation of the underlying Commercial Zone discretionary uses clause at 17.3.2 of the State Planning Provisions, following further consideration the Planning Authority advises that this particular matter likely warrants further examination including whether it may be appropriate to include an additional clause in the draft Specific Area Plan (SAP) dealing with discretionary uses and which would act in substitution for the Commercial Zone – clause 17.3.2 Discretionary uses. This possible approach could facilitate a more tailored clause with respect to discretionary uses and one that may better reflect the intended function of the draft SAP, the prescribed Local Area Objectives for the draft SAP, and also the customised Use Table that is included with the draft SAP.</p> <p>The Planning Authority suggests that this matter can be further explored as part of the upcoming hearing process.</p> |

⁵ Devonport City Council: Retail Study (Ethos Urban, June 2022)

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| 4 | <p>The proposed definition of 'neighbourhood centre' in the draft Specific Area Plan (SAP) is an existing defined term included with the administrative provisions at clause 3.1 of the State Planning Provisions (SPPs). Owing to the instruction contained with clause 5.3.3 of the SPPs, the draft SAP cannot include a definition which would override the standard definition contained with the SPPs.</p> <p>Provide a submission on how the above circumstance impacts the drafting and content of the proposed SAP.</p> | <p>The Planning Authority sets out the following advice in response to this matter:</p> <p>(1) The conflict between the use of the defined term 'neighbourhood centre' as proposed in the draft amendment and the defined term of 'neighbourhood centre' as included with clause 3.1 of the State Planning Provisions is recognised.</p> <p>(2) The Planning Authority suggests the term 'Stony Rise Village centre' as an alternative term to 'neighbourhood centre' to resolve this conflict. To this end the Planning Authority proposes that the definition in draft clause DEV-S1.4 be modified as shown below through insertion of additional text (shown in underline) and deletion of text (shown in strikethrough):</p> <table><tr><th>Term</th><th>Definition</th></tr><tr><td>Neighbourhood centre <u>Stony Rise Village centre</u></td><td>Means a localised activity centre that provides for a limited range of use and development to service the convenience needs for the local area. A major supermarket serves as the primary activity generator and is supported by a limited range of complimentary uses.</td></tr></table> <p>(3) Following the above suggested modification, there is a need to also make further consequential modifications to:</p> <p>(a) draft clause DEV-S1.3.1 so that the term 'neighbourhood centre' in the Local Area Objective is replaced with 'Stony Rise Village centre'; and</p> <p>(b) draft clause DEV-S1.6.1 so that the term 'neighbourhood centre' in Performance Criteria P1(b) and P1(c) is replaced with 'Stony Rise Village centre'.</p> | Term | Definition | Neighbourhood centre <u>Stony Rise Village centre</u> | Means a localised activity centre that provides for a limited range of use and development to service the convenience needs for the local area. A major supermarket serves as the primary activity generator and is supported by a limited range of complimentary uses. |
| Term | Definition | | | | | |
| Neighbourhood centre <u>Stony Rise Village centre</u> | Means a localised activity centre that provides for a limited range of use and development to service the convenience needs for the local area. A major supermarket serves as the primary activity generator and is supported by a limited range of complimentary uses. | | | | | |
| 5 | <p>Clarify the purpose of the Addendum Report submitted on 10 February 2023 as it relates to the requirements of the <i>Land Use Planning and Approvals Act 1993</i></p> | <p>The Planning Authority notes that advice to this effect has previously been provided to the Commission as included with the documentation dated 10 February 2023. Notwithstanding, and in response to the Commission's request, the Planning Authority reaffirms this advice as set out below.</p> <p>(1) At its ordinary meeting of 23 January 2023, and in its capacity as a Planning Authority under the <i>Land Use Planning Approvals Act 1993</i> (LUPAA), the Devonport City Council considered a report prepared in accordance with sections 40K and 42 of LUPAA regarding the representations received during the public exhibition period of the abovementioned draft amendment to the Devonport Local Provisions Schedule (LPS) and combined permit application.</p> <p>(2) At this meeting, the Planning Authority determined that the representation received from the applicant had sufficient merit to warrant some modifications to the exhibited draft amendment and also some modifications to the conditions on the associated permit.</p> | | | | |

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| | | <p>(3) The purpose of the Addendum Report is to provide supplementary justification to that determination. The Addendum Report has a specific focus on the Planning Authority's decision in relation to the representation from the applicant and provides supplementary detail for this purpose.</p> <p>(4) Whilst the Addendum Report has a specific focus on supplementary information to support the Planning Authority's determination of the representation received from the applicant, the remaining content of the report about the exhibition of the draft amendment and combined permit application (as included with the agenda for Council's 23 January 2023 ordinary meeting) remains applicable.</p> <p>(5) To conclude and clarify, both the report included with the agenda for Council's 23 January 2023 ordinary meeting and the Addendum Report are provided to the Commission for the purposes of responding to sections 40K and 42 of LUPAA. In the context of Council's determination of the representation received from the applicant, where there is inconsistency between the former mentioned report and the Addendum Report, the content of the Addendum Report is to prevail.</p> |
| Item | OTHER MATTERS | |
| A | <p>The Planning Authority notes that the Commission's assessment webpage for this combined amendment and permit application (refer: AP-DEV-AM2022.02 – Tasmanian Planning Commission Website) references the former <i>Devonport Interim Planning Scheme 2013</i> which ceased operation in November 2020.</p> <p>The Tasmanian Planning Scheme is the planning scheme in effect for the Devonport local government area and is the relevant planning scheme to which the combined amendment and permit application relates.</p> | |
| B | <p>The Planning Authority notes that the modified draft amendment and modified draft permit as included with the documentation prepared by the Planning Authority in response to sections 40K and 42 of the <i>Land Use Planning and Approvals Act 1993</i> (and as supplied to the Commission on 10 February 2023) are not currently shown on the Commission's assessment webpage at AP-DEV-AM2022.02 – Tasmanian Planning Commission Website.</p> <p>The endorsed documentation provided to the Commission on 10 February 2023 appropriately represents the Planning Authority's recommended modifications to the draft amendment and the draft permit following the consideration of the representations received during the public exhibition period and these modifications have been made in accordance with the requirements of section 40K and section 42 of the <i>Land Use Planning and Approvals Act 1993</i>.</p> | |