
From: Justine Brooks <justine.brooks@pda.com.au>
Sent: Tuesday, 29 November 2022 2:42 PM
To: Devonport City Council
Subject: Representation - A2022.02 & PA2202.0092 - PDA Surveyors
Attachments: Final Stony Rise Submission combined docs 291122.pdf

Dear General Manager

Several commercial business owners and retailers have engaged PDA to prepare the attached representation in response to the advertised combined scheme amendment & development, referenced as A2022.02 & PA2022.0092.

Do not hesitate to contact me should you require additional information or clarification on any matter contained within the document.

Regards,



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Stony Rise Representation - Cover Page

Representation to the Devonport City Council

**AM2022.02 & PA2022.0092 - 1, 5 FRIEND STREET & 88, 90-102 STONY
RISE ROAD, STONY RISE - REMOVE AND AMEND GENERAL RETAIL
AND HIRE (SUPERMARKET AND OTHER RETAIL), FOOD SERVICES,
BUSINESS AND PROFESSIONAL SERVICES, BULKY GOODS SALES AND
SERVICE INDUSTRY**

Key issues:

1. The proposed amendment fails to sufficiently address the objects of Parts 1 and 2 of the Resource Management and Planning System;
2. The proposed amendment fails to correctly apply Section 8a of the Land Use Planning and Approvals Act 1993, Guideline No.1 – Local Provision Schedule (LPS): zone and code application;
3. The current objective of the Home Maker Specific Area Plan is to protect the vibrancy of the Devonport Central Business District, ensuring General Retail and Hire and Professional Services are contained within Devonport's Central Business District. The proposed change would substantially alter the original intention of the SAP.
4. The proposal conflicts with the Living City Urban Renewal Project and will intensify the existing detrimental impacts felt by inner-city retailers.
5. The proposed amendment does not align with the strategic land use principles provided within the Cradle Coast Regional Land Use Strategy
6. The increase in traffic associated with the development application will intensify existing congestion and increase the risk of traffic incidents, particularly at the Stony Rise and Friend Streets intersection. The application fails to provide definite mitigation strategies or even assurance that this can be managed.

The signatories to this representation request that Council review their commitment to the strategic planning that has been carried out for Devonport CBD

Living City aims to

Provide a significant economic stimulus to the whole of the NW Region; Implement the long-held community vision to open up the City to the waterfront; Create a cultural heart for the region focused on arts and food;

Establish the City as a retail destination, complementing existing retail and limiting further fragmentation;

Create a destination where produce from North West Tasmania, one of the greatest food producing regions of the world, can be showcased;

Give a purpose to the southern part of the CBD, consolidating a critical mass of business and professional service uses; and

Raise the standard for tourist services, attracting more visitors who will spend longer in the region.

Rezoning land to allow for the further expansion of the BIG BOX development is hurting retailers. There are already suitable supermarkets in closer proximity to the City. The Stony Rise proposal is in direct conflict with the Living City Urban Renewal Project.

The traffic the proposal will generate will further congest the area which is already at gridlock proportions during peak times of the day.

Signatories:

Total Number of Signatures collected: 22

Signature Page(s)

Print Name	Print Address	Signature
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MARA LING	215 WILLIAM ST D'PORT	<i>Mara Ling</i>
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General Manager
Devonport City Council
Via email: council@devonport.tas.gov.au

29th November 2022

Dear General Manager

Representation against Amendment – AM2022.02 & Planning Application - PA2022.0092

Thank you for providing the opportunity to provide this representation in response to the Public Notice advertising Council's intention to amend the Tasmanian Planning Scheme – Devonport (the **Planning Scheme**) and approve the construction of a supermarket, specialty stores and associated parking.

Introduction

In the first instance, it must be acknowledged that the advertised application has layers of complexity. The planning report is professional in its presentation and content, but it is difficult for community members not practised in planning systems to comprehend. It was, therefore, not surprising that several local business owners and retailers have sought assistance with preparing a submission. Those people who have provided their names, addresses and signatures as part of the cover sheet request to be considered as individual representors and included in any future hearings should the application progress.

It is unknown whether the Council provided information sessions specific to the operation of the Tasmanian Planning System, the Planning Scheme and the Statutory Planning Process, including the role played by the Tasmanian Planning Commission and the process of writing a valid planning submission. Simply advertising the application might meet the statutory requirements of the Act, but given the complexity of the application, it is reasonable to ask whether considered sufficient for the purposes of Schedule 1 - Part 1 Objectives of the Resource Management and Planning System of Tasmania, in particular (c) *to encourage public involvement in resource management and planning?*

Further, while the developer is congratulated for proactively running community consultation sessions through public meetings, social media and website messaging, the data provided is more akin to marketing than education. It is also noted that some of the social media discussions are potentially misleading, particularly around traffic management and dealing with the community concern raised around the existing congestion. Redacted screenshots of the referenced conversations are included at the end of this submission.

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The Submission

This representation is submitted in accordance with Section 40J of the *Land Use Planning and Approvals Act 1993* (the **Act**). The submission is not exhaustive, focusing only on the elements of the application which are of most concern for the representors.

The first section of the representation addresses the proposed planning scheme amendment, and the second section addresses elements of the use and development standards, particularly the road and railways asset code.

It asks the Council and the Planning Commission to consider the detrimental development 'creep' occurring through multiple amendments. Each application moves the planning controls of the Home Maker Centre further away from its intended purpose, which was to *provide use and development for integrated bulky goods showrooms and trade supplies, including associated food outlets, car parking, signage and landscaping.* (*Local Area Objective*).

The original Home Maker Zone Scheme Amendment provided strong assurance that general retail and hire and professional services would not be located at the Home Maker Centre and that it was only intended for BIG BOX development because there was insufficient space within the central business district (CBD). However, after the first approval, consecutive amendments have gradually whittled down the original intent, diluting the delineation between bulky goods sales and general retail and hire and at the same time, the confidence of those who have established businesses within the CBD. In that regard, the current proposal is the boldest of the amendments to date. Understandably, City retailers and professional service businesses believe this to be a complete backflip on earlier assurances and 'protections' established by the Council through the restrictions in the SAP.

The application attempts to reassure city retailers that the stores that go into the centre will not compete but rather complement through the use of terms such as 'speciality stores', but the main issue of concern is not 'competition' but redirection and reduction of activity in the City.

The community consultation that has occurred could be potentially misleading, attempting to garner a social licence by identifying specialty retail 'types' that the community would like to see at the centre. However, once the use and development have been approved, there would be no restriction on what businesses could lease the space. The developer has indicated that the only tenancy currently secured is that of Woolworths. Once the 'use' is approved, there are no mechanisms to restrict the types of stores that would go into the complex.

The justification by the applicant appears to rely on the fact that the original economic assessment was overstated in its projections for BIG BOX growth and that now the land should be allowed to be developed for other uses. The representors would argue that is flawed because big box development is still occurring in the area, with a new development under construction as the time of writing this submission. They have stated that the area is being developed per the initial proposal and that the specific area plan has been successful, apart from the growing traffic congestion becoming a severe cause for concern.

Further, there are contradictions and conflicts with the Council's Living City Strategy, which those in the central business district have been anxiously waiting to be delivered. After several years of financial impact due first to the development of the Paranapple

Centre, closely followed by the restrictions associated with the Covid 19 pandemic, and more recently, the street closures related to the construction of the multistorey car park and the construction of the Novotel, businesses have been severely impacted by recurring restrictions beyond their control. All of these 'interruptions' have led to accessibility issues, driving people away from the city centre. This proposal will, without doubt, regardless of any economic model presented, further redirect visitation away from the City.

Finally, the road network in and around the Homemaker Centre is already congested. The application documentation fails to appear to have concrete solutions to address the issue proactively and instead seems to attempt to justify what is 'acceptable' congestion, wait times, banking/ queuing and even accident numbers. The mitigation strategies proposed are not ideal, and some rely on State Growth which has already indicated a lack of support.

Background

The information in this section references sections of reports prepared by the Tasmanian Planning Commission, sourced from the Austlii records database. Austlii.edu.au

The planning application report lists two of the earlier Scheme amendments that had been approved but failed to list one that had been refused and the reasons for that.

The Devonport Regional Homemaker Centre Zone (the 'Homemaker Zone') was created by Amendment 2008/01 and approved by the Resource Planning and Development Commission on the 28th July 2009. The zone was initially applied to an 8.5 hectare site at Stony Rise Road, Devonport. The total floor area at the Stony Rise site was capped at 28,000 square metres, and a prescription for tenancy sizes was adopted to maintain a balanced mix of larger and smaller tenancies. Large tenancies (>3000m²) were required to occupy not less than 45% of the total floor area of all tenancies.

A Table of Use Classes, specific to the Homemaker Zone, provided conditions or restrictions over the kinds of Showrooms that might establish in the zone, to ensure that the homemaker centre would predominantly be used for the sale of 'bulky goods' (as described in the Amendment) from Showrooms with a minimum floor area of 500 m². 'Bulky goods' included furniture, floor coverings, electrical appliances, whitegoods, outdoor recreation equipment, construction hardware, landscaping materials, auto accessories and similar. Notably, the use of general retail and hire was prohibited in the Homemaker Zone.

In August 2011, the Commission approved Amendment 2011/03 and Amendment 2011/05. The relevant effect of these two amendments was, in summary: -

- *The extent of the Homemaker zone was expanded, and a new 'Homemaker Service Industrial Zone' (with its own Table of Uses) was created on the part of the site. (Showrooms are not permitted in the Homemaker Service Industrial Zone)*
- *The floor area 'cap' was raised to 46,150 m²;*

- *The applicant developer sought relaxation of the minimum floor size for showrooms and the size range prescription, arguing that it would be difficult to comply with the 45% requirement for large tenancies if applied across the enlarged zone.*

The minimum showroom size was maintained at 500m² but the tenancy size distribution was changed to: –

Tenancies larger than 3000m² - at least 35% of the total floor area

Tenancies between 1000m² and 3000m² - at least 35% of the total floor area

- The definition of Showroom in Clause 1.4 was changed to mean 'any building or part thereof over 150 square metre in floor area used or intended to be used for the display and/or sale and/or hire of bulky items requiring an extensive display area.' (This definition applies to Showrooms throughout the planning area but does not override the conditions/restrictions for Showroom in the Homemaker Zone.)
- The conditions/restrictions for Showroom in the Homemaker zone were changed to include 'Pet supplies and ancillary services' as an allowable retail activity.

On 8 May 2012, an application was made to the planning authority for an amendment to Clause 8.20.3 of the planning scheme. The Amendment sought changes to the Table of Uses for the Homemaker Zone, in respect of the range of goods that could be sold in a Showroom, and changes in the floor area prescriptions for tenancies in the zone, such that the minimum permitted floor area for a Showroom would become 500m² and the planning authority could exercise discretion to enable 10% of the total zone floor area to be in smaller tenancies, (i.e. for Showrooms - 150m² to 500m²).

The proposal received numerous representations, the majority of which were focused on the potential economic impact on existing retail businesses within the City.

Copies of those representations, as presented in the Devonport Council Meeting Agenda 20 August 2012, are attached to this submission.

This application was rejected because it did not meet the required Objectives of the Resource Management and Planning System. Specifically:

Part 1

- b. *To provide for the fair, orderly and sustainable use and development of air, land and water;*

Comment: *The Amendment is not considered to provide for orderly and sustainable use and development in that (i) it is not soundly based on the strategic planning for the retail sector previously adopted by the planning authority, and (ii) the drafting of the Amendment is ambiguous and unclear.*

- d. To facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c);

Comment: The Amendment may facilitate some shift in the allocation of development, but the net benefit of such development and use in the broader context of Devonport's retail hierarchy has not been confirmed

Part 2

The Part 2 objectives are not furthered by this Amendment chiefly in terms of lack of strategic consistency, insufficient regard to potential economic and social impacts in the region and insufficient clarity in the proposed planning instrument.

For those reasons, the Panel concluded that the certified Amendment should be rejected.

The representors believe that the current application should also be rejected for the same reasons.

Section 1: The Amendment – AM2022.02

The Amendment, as advertised, seeks to:

- i. Remove the Devonport Homemaker Service Industrial Centre Specific Area Plan from CT167737/18 and delete from the Devonport Local Provisions Schedule;
- ii. Apply the Devonport Regional Homemaker Centre Specific Area Plan (as amended) to CT167737/18;
- iii. Set aside request for rezoning CT167737/15, CT173536/16 and CT173536/17 to a Particular Purpose zone;
- iv. Amend the Devonport Regional Homemaker Centre Specific Area Plan as per section 40F (2) (b) of LUPAA Planning Application PA2022.0092:

Section 40J (3) of the Act sets out the requirements for a representation against a draft amendment of a Local Provision Schedule.

S.40J (3) states:

Without limiting the generality of subsection (1), a person or body may make a representation in relation to a draft amendment of an LPS as to whether –

- (a) a provision of the draft amendment of an LPS is inconsistent with the SPPs; or*
- (b) a provision of the draft amendment of an LPS should, or should not, apply a provision of the SPPs to an area of land; or*
- (c) the draft amendment of an LPS should, or should not, contain a provision that an LPS is permitted under section 32 to contain.*

This submission asserts that the draft amendment of the LPS is inconsistent with the SPP's in the following manner:

1. Rezoning Commercial Zoned land to PPZ – Stony Rise Village

The application of a PPZ is proposed because the use and development combination required by the developer for the site does not align with the Section 8a Guideline No1. – Local Provision Schedule (LPS): zone and code application.

The guideline for applying a PPZ states:

*PPZ 1 A Particular Purpose Zone (PPZ) may be applied to a particular area of land where the intended planning outcomes cannot be achieved through the application of one or more State Planning Provision zones. It may be applied to land that provides major facilities or sites which require a unique or tailored approach to both use and development standards, such as a university campus, or major hospital site. Note: A new PPZ **must** meet a requirement of section 32(4) of the Act*

S32 (4) states:

(4) An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –

*(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or
(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.*

Planning Response

The application does not appear to address this critical test of the Act directly.

It is difficult to understand how a supermarket, regardless of size and amount of line items, can be argued to have a significant social, economic or environmental benefit to the State, region or municipal area when a search of the Devonport area indicates that there are no less than 18 supermarkets, including specialty and convenience stores. Seven of those stores, located within a 2klm radius of the site, carry full line items. No other activities proposed for the site are already operating elsewhere within the municipal area.

How does the applicant say that the proposal meets S32 (4) (b) given that no associated provisions are unique to the land area?

2. Matters for consideration of an amendment to an LPS are set out in section 34 (2). S34 (2) states:

The LPS criteria to be met by a relevant planning instrument are that the instrument –

- (i) contains all the provisions that the SPPs specify must be contained in an LPS;*
- (ii) is in accordance with section 32;**
- (iii) furthers the objectives set out in Schedule 1;**
- (iv) is consistent with each State policy; and (da) Satisfies the relevant criteria in relation to the TPP's (Tasmanian Planning Policies); and*
- (v) 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;**

- (vi) ***has regard to the strategic plan, prepared under section 66 of the Local Government Act 1993 that applies in relation to the land to which the relevant planning instrument relates;***
- (vii) *(vii) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and*
- (viii) *has regard to the safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000.*

Planning Response

There are several clauses within this section that the representors assert have not, and can not, be met. Of most relevance to this submission are: s34 (2) (ii) (iii)(v)(vi).

(ii) is in accordance with section 32;

As stated above in this report, the application is not in accordance with s32 because the use and development proposed with the Supermarket and associated tenancies do not provide a significant social, economic or environmental benefit to the State, Region or Municipal area given there are already seven Supermarkets an average of just 2klm distance away.

(iii) furthers the objectives set out in Schedule 1:

Relevant to this submission are:

- (a) *The application states that the development promotes the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.*

It is difficult to correlate the response provided with the development plans, which show the majority of the site will have an impervious surface coverage. Over half the site will be dedicated to vehicle parking.

(c) To encourage public involvement in resource management and planning.

The developer has carried out community consultation and encouraged the community to attend public developer-run forums and have input into the submission process. However, there is concern about some of the messaging that has been delivered through these forums and social media. Developer marketing ought not to be confused with public consultation when the messaging is biased. An example of this messaging is provided at the end of this submission. Others can be found by accessing the Stony Rise Village Facebook page.

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

The Cradle Coast Regional Land Use Strategy

The Cradle Coast Regional Land Use strategy is very clear about the importance of separating Bulky Goods 'use' (Big Box Development) from General Retail and Hire and Professional services. The following statements are contained within the document and are required to be taken into consideration when determining whether the application is consistent with Section 34 (2) (V) of the Act.

Page 53

Settlement structure planning should encourage appropriate and sensitive redevelopment and rationalisation. Expansion at the fringe of existing centres is preferred over new locations to concentrate retail and commercial activity into geographically confined yet highly accessible locations.

New retail and business activity should be directed to existing commercial locations unless necessary to serve requirements resulting from growth in local populations. Attention is required to avoid decline in attraction and performance of primary centres through dispersed provision of opportunity for bulky good and large format retailing on sites that are not contiguous.

Focussing high-order business and commercial activity into major centres at Burnie and Devonport; Latrobe, Sheffield, Ulverstone, Wynyard, Queenstown, Smithton and Currie will support on-going viability of these towns and assist sustained access by the Region's population. It also provides incentive for effective public transport and provides a critical mass and synergies which attract other human and recreation services.

Page 141

3.3.8

i. restrict intrusion by development that may displace industry through competition for cheaper land or by use conflict, including for bulky good and large format retailing and recreation

j. restrict sale of food, clothing and carry away consumables through bulky goods and large format retail outlets located outside town centres

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 effect on established town centres and the regional pattern of retail and service provision

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

This is perhaps the point of greatest contention for the representors. Devonport City Council have prepared several strategic planning documents for the municipal area. Of relevance to this application are:

- Devonport Living City Master Plan
- Devonport City Council Retail Study

Relevant observations obtained from the retail study include:

The **Devonport City Council Retail Study** by Ethos Urban discusses the move of the Spirit of Tasmania dock southwards/upstream along the Mersey River on **Page 27**. This work is currently underway with TasPorts having prepared their own strategic planning through the Quaylink document, which aims to create a planned commercial precinct providing opportunities for complimentary port operations and to build links with the central business district.

Page 33 mentions that the relocation of Harvey Norman from the CBD Core precinct to the Homemaker Precinct is the primary reason for the large decline in large format retail floorspace in the CBD Core precinct. It also mentions that an IGA supermarket was developed in Spreyton to replace a former dated store on a nearby site. Another notable point is that Devonport East food catering floor area was reduced by 200m² and the Homemaker precinct gained 330m² of food catering floor area, and that does not include Stony Rise Village.

Page 35 mentions that compared with other Devonport activity centres, 40% of the \$55m spent at the existing Homemaker Centre is spent by those who live within Devonport. This will increase significantly if a large supermarket were built there, further dropping the spend elsewhere in Devonport.

Page 47, Recommendation 1 prioritises the primacy of the Devonport CBD. Urban mixed-use development is encouraged, especially if it involves smaller-scale retail and commercial offices.

Page 48, Recommendation 1 also mentions the potential to reinvigorate the Best Street and LIVING CBD precincts for business and retail activity, especially at night. That form of development is not encouraged for the Homemaker centre.

Page 48, Recommendation 2 encourages better zoning for precincts that aligns with Council strategy. 'Commercial' is potentially the best zone application for the Homemaker Precinct, in terms of prioritising bulky good sales and other economic activities which require a large area to effectively operate.

Page 50, Recommendation 4 encourages the defragmentation of precincts such as East Devonport Village and Spreyton. Development located outside of the "decided upon" Devonport activity centre hierarchy should be discouraged, but new activity centres could be constructed if there is a demonstrated need for them in the future. There may be a case to make for other areas to be prioritised for defragmentation/infill that are located in preferred areas for smaller-scale retail activity. That includes better urban design to better integrate two adjoining major supermarkets, which could be updated with more modern facilities and surrounding area urban/landscape design.

Page 50, Recommendation 5 prioritises consulting with existing local businesses to ensure that they are not too adversely impacted by development elsewhere.

Pages 53-54, Recommendation 6' could be interpreted to suggest that the proposal (as it currently is on the Stony Rise Village website) would come at the cost of vibrancy and activity at other activity centres. There is a recommendation that Council commission or require significant economic evidence regarding net community benefit by comparing how Stony Rise Village would benefit and how other activity centres would be affected. The recommendation includes specified tests for how Council should determine what major developments should go ahead and which major developments should not.

Devonport Living City

Relevant to this submission, the strategic plan aims to:

- *Facilitate new retail development in the CBD, complementing existing retail and limiting further fragmentation.*
- *Establish the City as a retail destination with attractive downtown retailing complementing the existing Homemaker Centre (Northern Tasmania's largest)*
- *Create a cultural heart for the region focused on the arts and food.*
- *Establish a platform on which to realise a long-held vision to open the City to the waterfront.*
- *Give a purpose to the southern part of the CBD, consolidating a critical mass of business and professional service uses.*
- *Raise the standard for accommodation and visitor services, attracting more visitors who will spend longer in the region.*
- *Create a destination where produce from North West Tasmania, one of the greatest food producing regions of the world, can be showcased.*
- *Provide massive economic benefits for the region with initial modelling indicating the flow on effect to the regional economy to be in excess of \$500 million annually.*

Both strategic plans aim to centralise retail in the City and resolve a fragmented CBD. Of note, as part of the strategic planning process, the Council carried out Community consultation, and 78% of respondents agreed that future retail space should be consolidated in the CBD.

The application documentation indicates that while people will use the Supermarket at the Home Maker Centre they believe people will still go into the City to do 'higher, non-food related shopping. It is challenging to respond given there is no indication of tenancies will be at the centre. Nominal ones are notated on the drawings but the developer has indicated there are none yet confirmed other than woolworths.

It is noted that the economic assessment was completed prior to the Covid 19 pandemic and has been well documented that shopping patterns through and after covid have brought about lasting changes in consumer attitudes and behaviour. 'Arm chair' shopping (online shopping) is now more broadly accepted and trusted, so it is quickly becoming a preferred way of shopping for many people. Further, the change in work patterns, including working from home, results in fewer people in central business centres and reduced retail and food service activity. For these reasons, it's never been more critical to ensure the focus for retail and professional services is within the central business centre **IF** land use managers want to create and sustain a vibrant city centre.

The representors have a real and genuine concern based on current economic patterns. They know that the reality is that this proposal will result in fewer people

(workers and consumers) frequenting the city centre, instead choosing the outer lying shopping complex, it moves towards a 'one-stop shop' for everyday needs because of the free parking and centralised services. They will then continue to shop online for the 'higher level' retail purchases mentioned in the report.

Section 2: The Planning Application

The Planning application is for the Use and Development of:

- *General Retail and Hire (Supermarket and other retail)*
- *Food Services*
- *Business and Professional Services*
- *Bulky Goods Sales*
- *Service Industry*
- *Signage*

DEV-S1.6.1 A1

Page 23 of the GHD report highlights that the Amendment, if approved, reduces the area of the Homemaker Centre SAP from 12.73ha to 9.56ha, resulting in site coverage that exceeds the coverage under Acceptable Solution, with no Performance Criteria to address. The application suggests that Council may want to fix that up later. Our submission requests that Council obtain advice about this approach as ordinarily, the inability to address the Acceptable Solution, when there is no Performance Criteria, would indicate the application was Prohibited and unable to be approved.

CODES

C3 Road and Railways Assets Code

This code aims to protect the safety and efficiency of the road and railway networks and reduce conflict between sensitive uses, major roads, and the rail network. I

The traffic in and around the Home Maker centre is already congested, particularly at Stony Rise Road and Friend Street intersection. While the application has addressed the relevant code, some concerning information was contained within the document:

The crash data potentially highlights a problem with the banking with thirteen accidents having occurred at the intersection between Friend and Stony Rise Roads. The other areas for concern are Middle Road and the intersection between the Bass Highway and Middle Road, with 10 and 11 crashes reported, respectively. The proposal will put far more significant pressure on this intersection which will inevitably result in higher incidents of 'crashes'.

Concerningly, the report highlights that the volumes of traffic are resulting in banking and impacting the traffic flow of the Bass Highway/ Middle Road interchange and require **immediate** signalisation. However, it also states that State Growth is not in favour of the proposal, which ought be of concern to both the Council and the Planning Commission.

However, on the developers social media / community consultation, the public who have expressed concerns about the traffic have been told its in hand and discussions are occuring with State Growth.

It is requested that a peer review be obtained. Preliminary observation comments obtained from Richard Burke, Traffic Engineer, highlighted the following:

- *The Bass Highway West bound off ramp to Middle Road will be exposed to increased traffic in the AM and PM peaks potentially resulting in queuing back along the off ramp to towards the Bass Hwy.*
- *Obviously the Stony Rise Road / Friend Street intersection requires upgrade but there are likely network effects that need to be identified and treated.*
- *The Department of State Growth would want to understand the effects on State Roads as Road Manager responsible for Stony Rise Road and the Bass Highway.*

The representors are in the process of engaging Mr Burke to provide a expert advice should the matter progress to a hearing before the Planning Commission.

A sample of community comments available on the Stony Rise Village Social Media page are provided below, with many more available for review. Relevant to this submission they show that not only is traffic an existing concern but that the messaging to the community is that this proposal aims to become a primary retail centre which will take people out of the central business area.



Conclusion

The Tasmanian Planning System makes provision for Councils to develop special or unique planning controls (Specific Area Plans, Particular Purpose Zones and site-specific qualifications) where they meet the criteria for Local Provision Schedules as set out in the Act. The Act stipulates that the circumstances for approving unique planning controls are limited to:

- a significant social, economic or environmental benefit to the State, a region or a municipal area; or
- a site with particular ecological, economic, social or spatial qualities requires a unique approach to the planning controls.

When the specific area plan for the Devonport Home Maker Centre was first proposed and subsequently approved, it was done so on the basis that there was not sufficient area for Big Box development within the CBD of Devonport but with the caveat that the use and development would be limited to Bulky Goods sales and ancillary uses such as food services. At the time of the initial application, this arguably met the above-stated test; however, the current proposal does not. Over time, time through various amendments, the applications have not delivered more social, economic or environmental benefit to the region; they have weakened that initial resolve which sought to protect the vibrancy of the CBD

A proposed supermarket within 2km of seven other supermarkets, does not deliver significant social, economic or environmental benefits to the region or municipal area. All it does is transfer the spending already occurring within the municipal area.

In summary, the representors assert that the proposal planning scheme amendment and development application should not be approved for the following reasons:

1. The proposed amendment fails to sufficiently address the objects of Parts 1 and 2 of the Resource Management and Planning System;
2. The proposed amendment fails to correctly apply Section 8a of the Land Use Planning and Approvals Act 1993, Guideline No.1 – Local Provision Schedule (LPS): zone and code application;
3. The current objective of the Home Maker Specific Area Plan is to protect the vibrancy of the Devonport Central Business District, ensuring General Retail and Hire and Professional Services are contained within Devonport's Central Business District. The proposed change would substantially alter the original intention of the SAP.
4. The proposal conflicts with the Living City Urban Renewal Project and will intensify the existing detrimental impacts felt by inner-city retailers.
5. The proposed amendment is in conflict with the strategic land use principles provided within the Cradle Coast Regional Land Use Strategy
6. The increase in traffic associated with the development application will intensify existing congestion and increase the risk of traffic incidents, particularly at the Stony Rise and Friend Streets intersection. The application fails to provide definite mitigation strategies or even assurance that this can be managed.

From: Justine Brooks <justine.brooks@pda.com.au>
Sent: Tuesday, 29 November 2022 4:27 PM
To: Devonport City Council
Subject: RE: Representation - A2022.02 & PA2202.0092 - PDA Surveyors
Attachments: Representations to AM2012 02 proposed amendment.pdf

Dear Council

Please include the attached document with the submission lodged at 2.42pm. The attachment, represented in the submission, outlines that the representations presented by the community in 2012 are similar, if not the same, concerns that the commercial businesses with the CBD still hold today.

Regards,



Justine Brooks MEnvPlg GDBA GCM MPIA
Director | Planning Manager

Phone: +61 (03) 6331 4099 | Mobile: 0429 201 271
justine.brooks@pda.com.au
PO Box 284, 3/23 Brisbane Street, Launceston TAS 7250

From: Justine Brooks
Sent: Tuesday, 29 November 2022 2:42 PM
To: 'council@devonport.tas.gov.au' <council@devonport.tas.gov.au>
Subject: Representation - A2022.02 & PA2202.0092 -

Dear General Manager

Several commercial business owners and retailers have engaged PDA to prepare the attached representation in response to the advertised combined scheme amendment & development, referenced as A2022.02 & PA2022.0092.

Do not hesitate to contact me should you require additional information or clarification on any matter contained within the document.

Regards,



Justine Brooks MEnvPlg GDBA GCM MPIA
Director | Planning Manager

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Report to Council Meeting on 20 August 2012

8.1 AM2012/02 AMENDMENTS TO SHOWROOM PROVISIONS TO HOMEMAKER CENTRE ZONE - 88,90,92,98 & 100-102 STONY RISE ROAD

File: 27256 D276015

RELEVANT PORTFOLIO

Technical and Finance

RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- Strategy 2.1.1 Ensure the City's Planning Scheme supports local community character and appropriate land use.

PURPOSE

To fulfil Council's statutory responsibility to forward a report to the Tasmanian Planning Commission on the representations received from the public exhibition of draft amendment AM2012/02 to the *Devonport and Environs Planning Scheme 1984*.

BACKGROUND

On 18 June 2012, Council initiated an amendment to the Devonport and Environs Planning Scheme to:

- Allow for the assessment of a Showroom which has a floor area less than 500m² as a discretionary application;
- Cap the amount of floor area that constitutes showrooms of less than 500m² to 10% of the total floor area for the Zone. The remaining 90% shall comprise showrooms greater than 500m²; and
- Amend the list of goods that can be displayed and sold in a showroom.

The amendment was placed on public display for a 3 week period ending 13 July 2012.

COMMENTARY

13 representations were received during the public representation period. All representations objected to the amendment. The following is a summary of the issues raised in the representations. A full copy of each representation is included in Appendix 1.

Representor	Date Received	Concerns Raised
Eric Mobbs, Chairman Retail Sub Committee – Devonport Chamber of Commerce and Industry	27 June 2012	<ul style="list-style-type: none"> • Creates a precedent for future development. • Will lead to empty shops in the CBD as existing shops from the CBD may be able to relocate. • Will lead to empty shops in the CBD as free car parking at the Homemaker Centre will entice shoppers to the smaller shops there instead of equivalents in the CBD. • The clauses relating to vehicle

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		<p>access allows a wide range of uses to occur on the site.</p> <ul style="list-style-type: none"> • Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone. • DCCI is supportive of development generally but not development that erodes existing businesses.
Mr John HC Cole – Owner/Manager Antique Emporium & JHC & ME Cole Enterprises	09 July 2012	<ul style="list-style-type: none"> • Devonport's population is not large enough to support additional retail space. • Will lead to empty shops in the CBD as existing shops from the CBD may be able to relocate • The intent of the Homemaker Centre Zone is to cater for retail goods and services not available in other centres. • Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone.
Soyer's IGA Pty Ltd	09 July 2012	<ul style="list-style-type: none"> • Concern with changing the rules at "half time" in the game. • Will lead to empty shops in the CBD as existing shops from the CBD may be able to relocate. • The amendment proposes to introduce uses that are not traditionally 'homemaker' which will further fragment the CBD and Fourways. • The clauses relating to vehicle access allows a wide range of uses to occur on the site. • Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone.
John van der Woude – Canoe N Surf P.L.	10 July 2012	<ul style="list-style-type: none"> • Concern about impact on the CBD due to the finite retail 'pie'. • This area should stay as a place for large bulky goods not suitable for retail in the city.
Julie E Foster – Fory Pty Ltd (trading as Passport Surf) and W & J Foster Pty Ltd (owner of 85	11 July 2012	<ul style="list-style-type: none"> • Creates a precedent for future development • Will lead to empty shops in the CBD

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Rooke Mall)		<p>as existing shops from the CBD may be able to relocate</p> <ul style="list-style-type: none"> • Will lead to empty shops in the CBD as free car parking at the Homemaker Centre will entice shoppers to the smaller shops there instead of equivalents in the CBD. • The clauses relating to vehicle access allows a wide range of uses to occur on the site. • Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone.
Donna James and Tameika Anthony – Star Channel Network	11 July 2012	<ul style="list-style-type: none"> • This area should stay as a place for large bulky goods not suitable for retail in the city and not altered at the expense of the CBD.
Stephen Butler – Devonport Amcal Pharmacy	12 July 2012	<ul style="list-style-type: none"> • The 10% cap allows for an area of 4615m² which is substantially bigger than the entire Woolworths Shopping Area. • The scale of the Retail area that would be opened up for small retail is unsustainable and disproportionate to the existing retail area of Devonport. • Council should not take into account economic considerations of the developer when making this decision. • The amendment will worsen the current economic plight of many existing retail outlets. • Creates a precedent for future amendments.
Addendum by Ireneinc	Addendum received 17 July 2012	<ul style="list-style-type: none"> • The amendment provides little guidance on how to assess a discretionary application for small showrooms. • It is not appropriate to use the Victorian decision to determining a planning outcome in Tasmania. • The application does not provide adequate consideration of the impact on the CBD. • The amendment is not consistent

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		<p>with the State Planning Template definition of uses.</p> <ul style="list-style-type: none"> • The amendment is contrary to the Essential Economics report recommendation that a minimum floor size of 1000m².
Mary-Ann Edwards (Land Use Planner) obo ENKZ Investments	13 July 2012	<ul style="list-style-type: none"> • The amendment does not meet the objectives of the Land Use Planning and Approvals Act 1993. • The Planning Authority have not demonstrated that they have considered the objectives of the Land Use Planning and Approvals Act 1993 in certifying this amendment. • The amendment is inconsistent with the Devonport Retail Study. • The amendment does not reflect any strategic plan for retail land in Devonport. • The amendment places an unjust imposition on the CBD. • The amendment changes the centre from homemaker to a 'new town shopping centre'. • Concern that the types of goods proposed as showroom do not all require an extensive display area (ie: baby goods, sports goods, office supplies etc). This will lead to small item retail by stealth. • The amendment does not progress any of Council's policies. • The amendment provides little guidance on how to assess a discretionary application for small showrooms.
PR Ibbott FAICD – Ibbott group of Companies	13 July 2012	<ul style="list-style-type: none"> • The amendment is not consistent with clause 6.2.8 of the Devonport and Environs Planning Scheme. • The amendment is not consistent with the advice provided by Essential Economics in relation to the Homemaker Centre which recommended tenancy sizes not be smaller than 1000m².

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		<ul style="list-style-type: none"> • The amendment will affect the long term viability of the existing CBD. • The amendment will reduce the number of retail available overall as a result of a loss of critical mass in the CBD. • The developer intends to promote a "retail focus" for the site over time.
Andrew Argent – Red Hot CD's	13 July 2012	<ul style="list-style-type: none"> • The amendment will result in retail businesses from the CBD will be lured to the homemaker and Big W sites resulting in empty shops in the CBD.
GW Thompson - GWT Investments & Chas Kelly – Property Manager	13 July 2012	<ul style="list-style-type: none"> • The CBD is experiencing increased levels of vacancies. • Several businesses within the CBD have been approached to relocate to the homemakers centre which will increase CBD vacancies. • CBD businesses relocating leads to this reduced foot traffic in the CBD and consequently reduces the viability of other CBD businesses.
Gabrielle Zolati – Zed Investments	13 July 2012	<ul style="list-style-type: none"> • Creates a precedent for future development. • Will lead to empty shops in the CBD as existing shops from the CBD may be able to relocate. • Will lead to empty shops in the CBD as free car parking at the Homemaker Centre will entice shoppers to the smaller shops there instead of equivalents in the CBD. • The clauses relating to vehicle access allows a wide range of uses to occur on the site. • Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone. • DCCI is supportive of development generally but not development that erodes existing businesses.
DC Willing – Don Willing & Associates	13 July 2012	<ul style="list-style-type: none"> • The 10% cap allows for an area of 4615m² which is substantially bigger than the entire Woolworths

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		<p>Shopping Area.</p> <ul style="list-style-type: none"> • The scale of the Retail area that would be opened up for small retail is unsustainable and disproportionate to the existing retail area of Devonport. • Council should not take into account economic considerations of the developer when making this decision. • The amendment will worsen the current economic plight of many existing retail outlets. • Creates a precedent for future amendments.
Addendum by Ireneinc	Addendum received 17 July 2012	<ul style="list-style-type: none"> • The amendment provides little guidance on how to assess a discretionary application for small showrooms. • It is not appropriate to use the Victorian decision to determining a planning outcome in Tasmania. • The application does not provide adequate consideration of the impact on the CBD. • The amendment is not consistent with the State Planning Template definition of uses. • The amendment is contrary to the Essential Economics report recommendation that a minimum floor size of 1000m².

Discussion and Response:

The representors have raised a number of valid issues for Council to consider. It is acknowledged that there are strong arguments for both sides and ultimately whether to continue to support the amendment or alternatively whether to support the representors will depend on what weighting Council puts on each argument put forward. The discussion below provides a response to each of the issues raised in the representations.

- **Creates a precedent for future development/amendments**
- **Concern with changing the rules at “half time” in the game.**

The approval of an amendment such as this, does not create a precedent as there is no other area in Devonport with minimum floor area restrictions that are able to be eroded. Any future amendment to the planning scheme will also have to go through a planning scheme amendment process and will be assessed on its merits.

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Any future development or planning scheme amendment will be assessed through the statutory process outlined in the *Land Use Planning and Approvals Act 1993* and assessed on its merits.

- **Will lead to empty shops in the CBD as existing shops from the CBD may be able to relocate.**
- **Will lead to empty shops in the CBD as free car parking at the Homemaker Centre will entice shoppers to the smaller shops there instead of equivalents in the CBD.**
A shop from within the CBD will only be able to relocate if it conforms to the proposed list of goods that can be displayed and sold in a showroom. General retail outlets, offices and personal services that anchor the CBD will not be able to relocate to this site.
- **The clauses relating to vehicle access allows a wide range of uses to occur on the site.**
Agreed. This statement related to the Table of Uses Clause 8.20 .3(ii) and the use class "Showroom". The draft amendment proposed that the following words be inserted into the Conditions/Restrictions column
"
Goods and accessories which:
Require a large area for handling, display and storage of goods; or
Require direct vehicle access to the building by customers for the purpose of loading and unloading goods into or from their vehicles after purchase or hire."
It is recommended that the "or" be replaced with an "and". This will prevent unintended retail selling small items in large quantities from locating at the site.
- **Concern that 'Shiploads' may be one of the tenants, despite it not fitting with the intent of the zone.**
Shiploads has been issued a permit to operate at the site under the current planning scheme. The application by shiploads was consistent with the current planning scheme. The proposed amendment does not change whether or not "Shiploads" would be one of the tenants.
- **The intent of the Homemaker Centre Zone is to cater for retail goods and services not available in other centres.**
- **This area should stay as a place for large bulky goods not suitable for retail in the city and not altered at the expense of the CBD.**
The Devonport Regional Homemaker Centre Zone has 4 objectives as follows:

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- (i) To provide for integrated bulky goods showrooms and trade supplies including associated food and drink outlets, car parking, signage and landscaping to enhance the development.
- (ii) To ensure that development enhances the role of Devonport as the retail and services regional centre for north-western Tasmania.
- (iii) To ensure that development provides economic benefits including competition, employment and provision of retail goods and services not available in other centres.
- (iv) To ensure that development contributes positively to the character and appearance of the area through the design of buildings, access from the street front, provision of active frontages to pedestrian areas, the treatment of the fronts and backs of buildings, outdoor advertising structures and landscaping.

It is necessary to consider all 4 objectives together as a whole, and one does not necessarily override the others. Objective (iii) provides for goods and services that are not available in other centres, but not exclusively.

The proposed amendment is not inconsistent with the intent of the zone, which primarily refers to the types of goods sold with no reference to the size of such retail space.

However, one of the reasons a homemaker centre was established in Devonport was to cater for large floor area buildings that could not fit elsewhere within the CBD. The Peripheral Retail Precinct also caters for bulky goods retailing within the CBD as demonstrated by its intent. The CBD Peripheral Retail Precinct intent "is to allow peripheral retailing, medical and health services and other mixed commercial activity and other complementary services that do not require a city centre location. Re-development of under utilised or vacant sites is to be encouraged. Businesses requiring large buildings, or external display space, or whose activities generate significant parking are able to locate here." Analysis at the time however, demonstrated that there was inadequate room for an integrated homemaker centre to occur within this precinct.

The minimum floor area clause was introduced by the Tasmanian Planning Commission in its decision of 28 July 2009. Its intent was to ensure that substantially sized anchor tenancies remained at the site in order that it maintained its homemaker focus within the Devonport retail hierarchy. The floor area was also considered to be a second safe guard to prevent the transformation of this area into a more general retail focus. This is demonstrated by the following excerpt of the Tasmanian Planning Commission's original decision into the approval of homemaker centre. Please note that this decision was prior to stage 2 being proposed and that is why it refers to a total floor area of 25,000m² not 46,150m².

"A second potential mechanism that could transform an integrated homemaker centre into a different kind of retail centre would be by the subdivision of buildings into many more showroom tenancies and 'other use' tenancies, if either of the 'anchor' uses departed. Table 1 shows that there is over 25,000m² of lettable floor area proposed. With

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