

16 June 2025

Mr John Ramsay
Executive Commissioner
Tasmanian Planning Commission
Level 3, 144 Macquarie Street Hobart Tasmania

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

Dear John,

**RE: MACQUARIE POINT MULTIPURPOSE STADIUM PROJECT OF STATE
SIGNIFICANCE (POSS)**

We refer to the Directions Hearing held on 10 June 2025 and for the direction that any further information to support representations be provided to the Commission by 17 June 2025. As indicated on 10 June 2025, Council seeks to be heard as to any conditions that may be specified under section 26 of the *State Policies and Projects Act 1993* (the **Act**). Council's primary concern include its role as an approval body for any detailed design, information and/or documentation to be submitted and approved by way of condition, its role as an enforcement body should any conditions impose ongoing monitoring or compliance responsibilities and its role as assets owner in relation to any conditions that may impact Council infrastructure.

Council notes the Panel will consider the conditions of the draft project permit as defined in the draft Macquarie Point Planning Permit Bill 2025 (the **draft Permit**) and accordingly, we make submissions responsive to the draft Permit.

The Council has provided feedback to the *Macquarie Point Planning Permit Bill 2025* (the **Bill**) and the associated Enabling Legislation Report (the **Report**). The feedback provided to the State Government is duplicated in this submission although we note that supplementary information is included to address those matters which Council asserts require additional conditions given any conditions that may be specified by the Commission will be stand alone and will not be linked to the enabling legislation.

Council formally submits this document as supplementary information to support the Council's representation dated 7 May 2025 in relation to the draft Integrated Assessment Report (IAR).

As stated in Council's original IAR submission under Section 11.1 Conditions, the assessment of a proposal for planning permission must involve consideration of the specific conditions to be imposed on any permit which may be granted. The formulation of conditions is inextricably linked to the consideration of whether a permit should be granted.

In its IAR submission, the Council requested that the Panel specifies the conditions which may be appropriate to be imposed on a permit, if it is granted, as soon as possible so that the conditions can be considered as part of the Hearing process.

In the event the Panel considers any terms and conditions not forming part of the draft Permit are necessary, Council seeks to be heard and reserves its position in relation to any such conditions that may have impacts for Council's future operational, statutory, or financial responsibilities.

We provide this submission in three parts:

- Firstly, we have provided general comments;
- Secondly, feedback on the conditions as included in the Draft Permit;
- Lastly, we have prepared draft conditions additional to the draft Permit that Council suggests are necessary given the POSS Permit would not be delivered through the proposed Bill.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'K. Turner', with a stylized, cursive-like script.

Kirsten Turner
MANAGER CITY COMPLIANCE

1. PART 1 - GENERAL COMMENTS

1.1 Enforcement of Conditions

- 1.1.1 Council acknowledges section 26 of the Act which requires the Commission, if it recommends that the Proposal should proceed on conditions, it must specify -
- a) those conditions; and
 - b) the Act pursuant to which, and the permit, licence or other approval in which each condition would normally be imposed; and
 - c) the agency responsible for the enforcement of each condition.
- 1.1.1 Council notes that Bill assigns responsibility for permit compliance to the Minister but provides no enforcement powers. Clause 17 of the Bill lacks mechanisms to ensure compliance. Council, in its feedback to the Bill and draft Permit, recommended that enforcement powers be explicitly granted to the Minister and relevant agencies.
- 1.1.2 It is appropriate that these agencies are afforded the right to enforce compliance with the relevant conditions and approved plans. These conditions are rightly attributed to the relevant agency with the necessary expertise to determine compliance and it is only logical that the responsibility for enforcement should also be undertaken by these agencies.
- 1.1.3 As outlined below, Council requests that the Commission specify, pursuant to section 26 of the Act that the conditions in Schedule 7 are conditions which would normally be imposed pursuant to the LUPA and that the Hobart City Council is responsible for both determining compliance and enforcing any breach of the conditions in Schedule 7. With the exception of these conditions, Council recommends that it is not responsible for the enforcement of conditions, either during construction or for any on-going use.
- 1.1.4 Council acknowledges this position is not without difficulty as enforcement powers under LUPA are able to be exercised only by a person authorised by a general manager of a council. However, the Act contemplates, by section 26(2)(c) that an agency, other than Council, may be specified as responsible for enforcement of conditions. Given that compliance with the conditions of any permit will be determined by various different agencies it is only appropriate that these agencies be given the responsibility for enforcing any breaches as well.

1.2 Approval of detailed design documentation

- 1.2.1 The draft Permit conditions include a number of conditions that require detailed design document or further information or reports to be submitted for approval. In the ordinary course of a permit issued pursuant to LUPA, such documentation would be required to be submitted to Council for approval.
- 1.2.2 The draft Permit in its current form requires detailed design documentation to be approved by, for the most part the Secretary, State Growth (or delegate) and sometimes in consultation with other agencies.
- 1.2.3 With the exception of conditions recommended by Council or involving Council infrastructure, Council does not support a requirement that Council is responsible for approval of detailed design documentation as it has not been involved in the assessment of the original application. The Council would be required to approve complex and potentially sensitive design elements without the benefit of being involved in assessment of the original application, increasing the risk of inconsistent or uninformed decision-making.

1.3 Council infrastructure

- 1.3.1 The draft Permit in its current form must be read in conjunction with the draft Bill. In the absence of the draft Bill, additional conditions are required. This submission contains a number of recommended additional conditions at Part 3. These conditions fall into two main categories.
- 1.3.2 The first is “road” conditions. The Bill proposes a number of parcels of land will be acquired and declared subsidiary roads for the purposes of the *Roads and Jetties Act 1935*. Without the acquisition and declaration, Council will remain the road authority and accordingly, conditions are recommended which would ordinarily be imposed where a proposal requires new or upgraded roads or changed access arrangements.
- 1.3.3 Secondly, conditions are recommended which govern the proposed subdivision. Under the Bill, the Minister may take action under Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* as if the Minister were a council. Without these powers, Council will be responsible for exercising the powers under that Act and, accordingly, conditions are recommended which would ordinarily be imposed where a proposal includes subdivision.

1.4 Northern Access Road

- 1.4.1 Council shares the concerns expressed by the Commission in the IAR with respect to the Northern Access Road noting, as indicated in the IAR, the Northern Access Road is essential infrastructure for the project, and detailed design has not been provided. It is Council submission that approval for the Northern Access Road, if not included as part of the POSS project, must be a condition precedent to implementation of any approval that may be granted for

the Proposal. If the Commission recommends the Proposal proceed, it is Council's position that any approval must include a condition that no works can commence unless and until approval is obtained for the Northern Access Road.

2 PART 2 – THE PERMIT

As submitted to the Government on 16 June 2025, the City has provided the following feedback on the Government's draft Permit and reproduces the feedback below for the Commission's consideration.

2.1 Part A and Part B General comments

2.1.1 Documentation and timeframes

We suggest that the conditions that require submission of documentation to be approved, such as B3, should condition a requirement that once approved, the documentation must be complied with and include a timeframe for compliance. Whilst we note compliance is implicit, a planning permit condition would ordinarily include this.

2.2 Part C – Construction Management

2.2.1 General Comments

We encourage the State to consider highest and best standards for the drafting of this Section and note that HCC will be consulted in the finalisation and endorsement of these critical plans.

2.2.2 Condition C5

C5 lists what infrastructure requires dilapidation reports to be prepared and whilst general reference is made to infrastructure, given the uniqueness of the Hobart Rivulet Tunnel we believe it should be explicitly stated.

Recommendation

Explicitly include the Hobart Rivulet tunnel structure in the list.

C5 should also include a requirement for copies of dilapidation reports to be provided to relevant owners.

2.3 Part D – Operational Management and Adaptive Review

2.3.1 Condition D1

D1 places a requirement that “*the use of the multipurpose stadium for events must not commence until the following requirements have been implemented to the satisfaction of the relevant regulator specified in Schedule 8.*” This includes requirements *D1(i) for the completion of pedestrian and cycling infrastructure improvements identified in the approved Operational Transport Management (OTM) Plan.*

Recommendation

Given that the City has no role in the development and or approval of this OTM Plan, it needs to be reiterated that any pedestrian and cycling infrastructure improvements must be funded by the proponent, not the Council.

2.3.2 Condition D9

One of the reasons for this condition is “to reduce landfill”. To appropriately achieve this, it is important that the conditions seek to focus on ‘*waste avoidance*’ in equal measure to the points listed in (a) to (d). There should also be specific requirements relating to the diversion and management of organic/food wastes within the stadium, not just recycling and waste diversion programs.

2.4 Schedule 1 – Definitions

2.4.1 Recommendation

Provide a definition of ‘consultation’. Definition should include a requirement for both parties to act in good faith to achieve consensus to the greatest possible extent.

2.5 Schedule 4 – Historic Cultural Heritage Conditions

2.5.1 Condition 6

C6 does not state what the applicant is required to do once the report is prepared.

Recommendation

C6 should include a requirement for the Statement of Archaeological Potential (SoAP) to be approved by Heritage Tasmania prior to the excavation of land within the subject site. All recommendations of the SoAP must be complied with in full and in accordance with any advice from a suitably qualified archaeologist and Heritage Tasmania.

2.5.2 Condition 7

C7 requires reports to be signed off by Heritage Tasmania but lacks details about what the ‘relevant works’ are, who does them and at what stage.

Recommendation

C7 should be amended to detail the nature and specificity of the relevant works to be undertaken by the proponent and the timing of these works.

2.5.3 Condition 8

C8 relates to C7 which requires Heritage Tasmania to provide advice prior to the 'relevant works' being undertaken. This also lacks clarity about who does what and when on the ground.

Recommendation

C8 should be revised to detail the nature and specificity of the relevant works to be undertaken by the proponent and the timing of these works.

2.5.4 Condition 9

C9 requires archaeology to be undertaken prior to the commencement of building and excavation work.

Recommendation

This condition should be amended to require Heritage Tasmania to provide oversight of the recommendations and processes to be complied with to meet this condition.

2.5.5 Condition 10

C10 relates to preparing policies, but it fails to follow through with meaningful outcomes.

Recommendation

The Heritage Conservation Management Plan (HCMP) must also include an interpretation plan for the display of any artefacts and in situ archaeological deposits recovered during archaeological excavations. These management policies, including the interpretation plan, need to be submitted and approved by Heritage Tasmania within 60 days of the preparation of the HCMP. All recommendations for the recovery, recording, display and long-term management must be carried out in full and in accordance with the requirements of Practice Note 7 Conserving Moveable Cultural Heritage and Practice Note 2 Managing Archaeology by the Tasmanian Heritage Council.

2.5.6 Condition 11

C11 is about obtaining comment from Heritage Tasmania on ways to mitigate impacts on heritage values. There does not appear to be any evidence that the advice must be complied with.

Recommendation

C11 should be amended to include that any design changes to the Project Proposal should be submitted to Heritage Tasmania for assessment and endorsement within 30 days of the proposed design changes.

2.5.7 Condition 12

C12 is problematic as there needs to be a Conservation Management Plan (CMP) prepared that fully identifies the heritage values of the place as well as

recording it fully and a plan on what to do with the Red Shed, not just the preparation of an archival record.

Recommendation

It is recommended that C12 include an additional requirement for the CMP for the Red Shed to include a comprehensive analysis of the heritage values of the place and a plan for its potential future retention / relocation / or demolition during the preparation of the archival record.

The CMP (and archival record) must be submitted to Heritage Tasmania for endorsement within 30 days of completion and all recommendations must be complied with in full.

2.6 Schedule 7 – Hobart City Council – Stormwater Conditions

- 2.6.1 We suggest the Commission specify, as required by section 26 of the Act that the conditions in Schedule 7 are conditions which would normally be imposed pursuant to the Land Use Planning and Approvals Act 1993 and that the Hobart City Council is responsible for each of the conditions in Schedule 7.

2.7 Schedule 8

- 2.7.1 Schedule 8 prescribes that the City is the Relevant Regulator for Stormwater Design, and that the City of Hobart is to be consulted on:

- a) Construction Environmental Management plan
- b) Construction Traffic Management Plan
- c) Operational Waste Management Plan
- d) Operational Noise Management Plan
- e) Final Plan of Subdivision and Schedule of Easements.

As previously outlined the expectation as to what constitute meaningful consultation needs to be adequately defined.

- 2.7.2 Furthermore, there are several conditions that require 'plans' to be developed which means that there is no line of sight on what the outcomes of the conditions will be. This is not a transparent means of achieving compliance with the draft Bill. This is particularly concerning to the City as it is only afforded a consultation role in most circumstances.

2.7.3 Recommendation

Define 'consult'. It is suggested that a definition for consultation should include a requirement for both parties to act in good faith to achieve consensus to the greatest possible extent.

2.8 General Comments

2.8.1 Fees

The draft conditions require assessment by the City in relation to stormwater related issues. For an application assessed under LUPA, any assessment of detailed design would attract a fee, pursuant to the Council's fees and charges. For standard condition endorsements, there is a fee of \$630. However, this fee is lower than the cost of the assessment and assumes a level of understanding of the project following the planning assessment (which has much higher fees).

Recommendation

It is proposed that a fee is allowed for the time spent by Council assessing the project which is higher than \$630 to properly compensate for the time which would be required to properly assess the proposal.

Further, a fee of 2% of the cost of a development relating to new or altered public assets is also imposed. Given the uncertainty as to the stormwater arrangements for the proposal, it is not possible to say whether this fee would apply and, if so, adequately compensate the City for the time spent assessing the proposal.

3 PART 3 – DRAFT CONDITIONS

The City has prepared the following recommended additional conditions:

3.1 Council Required Roads Conditions

3.1.1 R 1

The excavation and/or earth retaining structures (i.e. embankments, cuttings, retaining walls) and/or footings within or supporting the highway reservation must not undermine the stability and integrity of the highway reservation and its infrastructure.

Detailed design drawings, structural certificates and associated geotechnical assessments of the earth retaining structure within or supporting the highway reservation must be submitted and approved as a condition endorsement, prior to the issue of any approval under the Building Act 2016 or the commencement of work on the site (whichever occurs first). The (drawings/certificates/assessments) must be prepared and certified by a suitably qualified and experienced engineer and must:

- a) Not undermine the stability of the highway reservation.

- b) Be designed in accordance with AS 4678-2002, with a design life in accordance with table 3.1 typical application major public infrastructure works;
- c) Take into account any additional surcharge loadings as required by relevant Australian Standards;
- d) Take into account and reference accordingly any geotechnical findings;
- e) Detail any mitigation measures required;
- f) Detail the design and location of the footing adjacent to the highway reservation

All work required by this condition must be undertaken in accordance with the documents approved pursuant to this condition.

Reason for condition:

To protect Council's Infrastructure

3.1.2 **R3**

Prior to occupancy or the commencement of the use, the proposed driveway crossover and or driveway reinstatement/s within the existing local highway reservation/s must be designed and constructed in general accordance with the Local Government Association of Tasmania, Tasmanian Standard Drawings (the version which applies at the time the relevant works), as varied by the City of Hobart's published departures from those drawings:

- a) Commercial Urban: TSDR09 – Urban Roads Driveways and TSD R16 Type KCR and B1 or Type KCRB and B1
- b) Urban Road Footpaths TSD R11 and
- c) Kerb and channel dimensions TSD-R14 or approved equivalent

Design drawings must be submitted and approved as a condition endorsement prior to the issue of any approval under the *Building Act 2016* or the commencement of work on the site (whichever occurs first). The design drawing must be prepared and certified by a suitably qualified expert and must:

- a) Show the cross and long section of the driveway crossover within the highway reservation and onto the property.
- b) Detail any services or infrastructure (i.e. light poles, pits, awnings) at or near the proposed driveway crossover;
- c) Be designed for the expected vehicle loadings and must be accompanied by a structural certificate to note that the driveway is suitable for heavy vehicle loadings;
- d) Show swept path templates in accordance with AS 2890.2
- e) Show that vehicular and pedestrian sight lines are met as per AS/NZS 2890.1:2004;

All work required by this condition must be undertaken in accordance with the approved drawings.

Reason for condition:

To ensure that works on Council Assets will comply with the Council's standard requirements.

3.1.3 **Rs1**

Public road lighting changes on a statutory public highway must be approved by the relevant road authority and installed prior to occupancy or the commencement of use.

Lighting design and documentation are to be in accordance with AS/NZS 1158 series and to the satisfaction of the City of Hobart.

All work required by this condition must be undertaken in accordance with the approved road lighting design.

Advice

The current lighting scheme will not provide for the increased levels of pedestrian use of Evans Street that would result from the proposed development.

Reason for condition

To ensure that works on Council Assets will comply with the Council's standard requirements.

3.1.4 **Rs2**

New public roads that are proposed to be transferred to the City must be approved by the statutory road authority

Detailed engineering design drawings must be submitted for approval prior to the commencement of road construction works.

Design drawings must be submitted and approved prior to the issuing of any permit to construct public infrastructure. Issued under the Local Government (Highways) Act 1982, Local Government (Building and Miscellaneous Provisions) Act 1993, Urban Drainage Act 2013 and City of Hobart Policy No. 7.06.08)

The design drawing must include:

- a) A scaled and labelled site plan showing the location of new and proposed public infrastructure and boundaries in general accordance with TSD-R06.

The plan must clearly show:

- a) the extent of land to be transferred to Council in the short or long term.
- b) A pavement design, including CBR test results, in accordance with Austroads Guide to Pavement Technology.
- c) Detail of how the new and old road and footways will connect, including removal of redundant vehicle crossings and kerb ramps.
- d) Available sight distance at all proposed accesses and intersections.
- e) All services or infrastructure to become City assets must be in accordance with the requirements of the relevant division.

All work required by this condition must be undertaken in accordance with the approved drawing.

Advice

Construction design drawings are to be submitted to the Council via a condition endorsement (see general advice on how to obtain condition endorsement). Once the drawings have been approved, the Council will issue a condition endorsement.

Reason for condition

To ensure that works will comply with the Council's standard requirements.

3.1.5 **Rs3**

Detailed engineering design drawings of proposed changes to the existing public footpaths (as triggered by this development) must be submitted for approval prior to the commencement of construction works.

Design drawing must be submitted and approved prior to the issuing of any permit to construct public infrastructure, any approval under the Building Act 2016 or commencement of works (whichever occurs first).

The design drawing must:

- a) Demonstrate that the footpath levels provide reasonable access to the facility from the existing footpath.
- b) Show that materials used on the footpath and within the property provide a cohesive urban design while demarcating the boundary so that the public footpath can be maintained separately from the open areas within the site.
- c) Show how the footpath is suitably separated from the road carriageway
- d) Provide a clear path for vision impaired pedestrians for wayfinding and orientation.

Advice

A building line or other treatment against the back of the public footpath to assist vision impaired pedestrians for wayfinding and orientation should be considered in the design.

Existing pavers in Evans Street are no longer available, suitable replacement for construction damaged sections will need to be sourced by the developer

Reason for condition

To ensure that works will comply with the Council's standard requirements.

3.2 ENG 1 – Dilapidation Report

3.2.1 Any damage to council infrastructure resulting from the implementation of this permit, must, at the discretion of the Council:

- a) Be met by the owner by way of reimbursement (cost of repair and reinstatement to be paid by the owner to the Council); or
- b) Be repaired and reinstated by the owner to the satisfaction of the Council.

A photographic record of the Council's infrastructure adjacent to the subject site must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre-existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council's infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council's infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

3.3 Council required subdivision conditions

3.3.1 SURV 1

The applicant must submit to the City of Hobart a copy of the surveyor's survey notes at the time of lodging the final plan.

3.3.2 **SURV 3**

The final plan and schedule of easements must be submitted and approved under section 89 of the Local Government (Building and Miscellaneous Provisions) Act 1993.

The final plan and schedule of easements must provide easements to the satisfaction of the City of Hobart:

- a) Over any existing pipeline and rivulet services easements passing through the lots on the final plan, in favour of the Hobart City Council and/or TasWater.