

2 June 2020

Peter Fischer  
Delegate (Chair)  
Tasmanian Planning Commission

Dear Peter

## **Submission obo Traders in Purple - Kingborough Interim Planning Scheme 2015**

### **Draft amendment PSA-2019-3, Kingston Park**

I refer to the above draft amendment and the directions set out in your letter 22 May 2020 and respond to matters 3, 4 as well as provide a submission in relation to whether the potential/proposed changes to the draft amendment constitute an alteration to a substantial degree under section 41 of the former provisions of the Act.

#### ***Submissions***

3. Traders in Purple will provide the planning permit and approved documentation for 67 multiple dwellings on the site under DA-2019-112.

4. Clause F3.7.1 of the Specific Area Plan as certified is problematic in that the heading, Objective, Acceptable Solution and Performance Criteria do not reconcile. I also suggest that the current wording is confusing and can be resolved with some minor rewording to confirm that the standard restricts large format retail rather than all non-residential uses.

The Performance Criteria in the certified amendment appears to apply to all non-residential uses and not just retail uses. The second part of the Performance Criteria also requires an investigation of the impact on the economic viability of adjacent and similar uses. A test that would seem anticompetitive and unlawful.

In my assessment the Use Standard as drafted would not be as far as practicable consistent with the Southern Tasmania Regional Land Use Strategy (STRLUS). Kingston is identified as a Principal Activity Centre within the Activity Centre Network under Table 1 of the STRLUS with the Role to:

*Provide for a wide range of services and facilities (including offices for business and government) to serve the surrounding sub-region, with a strong focus on the retail and commercial sector.*

The standard as drafted would prevent the use of the Central Business and Urban Mixed Use areas of the site for all non residential uses over 500m<sup>2</sup>. On that basis it would prohibit any non-residential use such as office, visitor accommodation, consulting, medical centre, educational, entertainment, public transport and community uses over 500m<sup>2</sup>.

The suitability of the site to contribute to the role Kingston as a Primary Activity Centre is addressed in Section 4.6 of the MacroPlan assessment (attached to my supplementary statement

6 May 2020). Macroplan state that large connected sites such as Kingston Park which meet the specific location requirements for both residential and higher density employment can deliver significant economic benefits both locally and regionally.

In my submission the Use Standard as drafted would not as far as practicable be consistent with the following Regional Polices for Activity Centres:

- AC1 to focus employment, retail and commercial uses, community services for social interaction within the Primary Activity Centre of Central Kingston.
- AC1.1 to implement the Activity Centre Network through the delivery of retail, commercial, business, administration, social and community and passenger transport facilities;
- AC 1.2 to Utilise the Central Business, General Business, Local Business Zones to deliver the activity centre network through planning schemes, providing for a range of land uses in each zone appropriate to the role and function of that centre in the network.
- AC 1.6 to encourage an appropriate mix of uses in activity centres to create multi-functional activity in those centres.
- AC 1.10 that activity centres should encourage local employment , ...

The proposed Use Standard is flawed and the Performance Criteria should be amended to refer only to *General retail and hire* uses as well as delete the reference requiring an evaluation on the impact on the viability of adjacent and similar uses.

Subject to these modifications I am satisfied that the amendments would as far as practical be consistent with eth STRLUS.

***An alteration to a substantial degree (Section 41)?***

The Panel has invited submissions in relation to whether three specific matters constitute an alteration to a substantial degree under section 41 of the former provisions of LUPAA.

An “alteration to a substantial degree” is not a defined term under the Act and there is no specific guidance as to what constitutes a modification as opposed to an alteration to a substantial degree. I therefor refer to the common meaning of the words.

*Alteration means: a change; modification or adjustment*

*Substantial means: of ample or considerable amount, quantity, size, etc*

*Degree means: extent, measure, scope, or the like.*

I proceed on the basis that an alteration to a substantial degree is a change of considerable size that has the potential to substantially increase the impact of a proposal on a person such that they ought be given the opportunity to comment before the change is made.

I provide submissions in relation to each of the matters raised by the Panel:

- (a) *proposed change to permitted building height in AS and remove maximum height limit in PC of building height standards, applying to Central Business zoned land, Inner Residential zoned land and Community Purpose zoned land;*

Council proposed modifications in the Section 39 report to increase the permitted building height in the Central Business Zone from 18m to 20m under A2 of F3.8.1.1 and remove the absolute maximum height of 25m in the corresponding Performance Criteria P2.

In my submission these changes do not constitute an alteration to a substantial degree in that:

- the proposed change from 18m to 20m in the AC is in order of 10%, is minor and not a considerable amount or size. In this respect the alteration could not be considered substantial;
- the Acceptable Solution height of 20m is also consistent with the Central Business Zone standard for Building Height under Clause 16.4.1 A1 of the State Planning Provisions (SPPs). It could reasonably be expected to be applied to this site to ensure consistency with other areas of Central Business Zone across the State;
- Removing the absolute maximum height under the Performance Criteria is consistent with P1 of Clause 16.4.1 of the SPPs and the remaining performance criteria a)-f) will ensure that building height is consistent with the desired streetscape, urban form and character under the SAP;
- The performance criteria will also ensure that the potential impacts on the amenity of adjacent properties through overshadowing, reflectivity as well as an evaluation of the bulk form, apparent height when viewed from public will continue to be relevant.

Subject to these considerations in my opinion the proposed change to remove an absolute maximum is not substantial or likely to lead to increased detriment to any person.

*(b) potential change to the proposed Inner Residential Zone on part of the site adjacent to the rear of the Central Business-zoned properties on Channel Highway and Summerleas Road;*

The proposal to retain Urban Mixed Use zoning along the rear boundary of the site will essentially reduce the scope of the amendment and retain more of the existing Urban Mixed Use zoning. The change is a response to the concerns of the closest neighbours and will reduce the potential for impact to their properties. For these reasons in my submission this change will not result in a considerable adjustment to the draft amendments. It therefore would not constitute an alteration to a substantial degree.

*(c) proposed change to clause F3.7.1.1, applying to Central Business zoned land and Urban Mixed Use zoned land, to increase the allowable floor area (modified, or further change proposed by the proponents.*

For the reasons discussed above it is considered that the modifications to amend Clause F3.7.1.1 will correct existing drafting errors and confirm that the Use Standard is not intended to restrict all non-residential uses to a maximum floor area of 500m<sup>2</sup>.

In my submission these modifications would clarify Council's original intent to limit large format retail. It would not constitute an alteration to a substantial degree.

I would be pleased to discuss as necessary.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Frazer Read'. The signature is written in a cursive style with a large 'F' and 'R'.

Frazer Read  
**Principal**  
All Urban Planning Pty Ltd