

STATEMENT OF EVIDENCE

Reference: AM2022-02 & Permit PA2022-0092

Author: Theresia Williams

Field of expertise: Town planning

Filed on behalf of: Goodstone Group Pty Ltd

Date: 8 June 2023

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1 INTRODUCTION

This is a statement of evidence from Theresia Williams, Town Planner of 11 West Park Grove, Burnie. I have a Bachelor of Science (Geography & Environmental Studies) and a Masters of Social Science (Environment & Planning), am a member of the Planning Institute of Australia and have 18 years of experience as a planner. My curriculum vitae is attached as Appendix A.

2 DECLARATION

This statement of evidence has been prepared in accordance with the Tasmanian Planning Commission Practice Note 14. All enquiries considered appropriate are addressed and no matters considered relevant have, to my knowledge, been withheld.

I have attempted at all times to distinguish between fact, professional opinion and submission in the preparation of this statement.

Signed:



Date: 7 June 2023

3 INVOLVEMENT OF WITNESS

3.1 ENGAGEMENT

- 3.1.1 I have been engaged by Goodstone Pty Ltd to prepare an expert statement of evidence in accordance with the Tasmanian Planning Commission Practice Note 14 to the proposed concurrent scheme amendment and planning permit application AM2022-02 & PA2022-0092 (the **Application**).

3.2 INVOLVEMENT IN PROPOSAL

- 3.2.1 My involvement in this proposal began upon the advertising of the Application to Council in October 2022. At that time I was engaged by Goodstone Pty Ltd to review the proposal and prepare a planning assessment to accompany the representation prepared by Page Seager Lawyers which was ultimately submitted to the Devonport City Council on 28 November 2022.

3.3 MATERIALS RELIED UPON IN PREPARING STATEMENT OF EVIDENCE

- 3.3.1 The materials relied upon in the preparation of this statement of evidence includes:
- (a) Documents as advertised by the Devonport City Council on 29 October 2022 for AM2022.02 and PA2022.0092;
 - (b) *Tasmanian Planning Scheme – Devonport*;
 - (c) Representation by Page Seager Lawyers to the Devonport City Council, dated 29 November 2022, including a planning assessment by myself dated 28 November 2022;
 - (d) *Devonport & Environs Planning Scheme 1984 Amendment AM2008/01 [2009] TASRPDComm 34 (28 July 2009)*
 - (e) *Devonport & Environs Planning Scheme 1984 amendment AM2011/03 [2011] TASPComm 52 (23 August 2011)*
 - (f) Devonport City Council Retail Strategy 2018-2023
 - (g) Devonport City Council Retail Study 2022
 - (h) Devonport Living City Master Plan Dated August 2014
 - (i) Devonport Strategic Plan 2009-2030
 - (j) the Cradle Coast Regional Land Use Strategy 2010 – 2030
 - (k) Planning Authority section 40K report, dated 23 January 2023
 - (l) Planning authority submission to the TPC, dated 24 April 2023

4 PROPOSAL – DRAFT AMENDMENT AND PLANNING PERMIT APPLICATION

- 4.1.1 The proposal seeks to:

- (a) Delete the Devonport Homemaker Service Industrial Centre Specific Area Plan;

- (b) Amend the Devonport Regional Homemaker Centre Specific Area Plan by Inserting Stony Rise Village Precincts A and B, inserting definitions and various amendments to the use table, use standards, development standards, sign standards and access standards; and
- (c) Apply the Devonport Regional Homemaker Centre Specific Area Plan to 1 Friend Street, Stony Rise.

4.1.2 The proposal subsequently seeks to allow for General Retail and hire (supermarket and other retail), Food Services, Business and Professional Services, Bulky Goods Sales, Service Industry and Signage at 5 Friend Street, 88 Stony Rise Road and 90-102 Stony Rise Road, Stony Rise.

4.1.3 The proposed development includes the following in the application documentation as publicly notified:

- (a) General Retail and hire

One supermarket and four additional General Retail and Hire tenancies for unspecified purposes (p46 GHD application documentation). It is noted that this differs from the documentation included in the Council Agenda Report of 24 October 2022 (p.26), which details one supermarket and six additional General Retail and Hire tenancies.

- (b) Food services

Seven Food Services uses are proposed in the original application documentation (GHD, application documentation, p 46). Six of these are incorporated into a shopping centre style arrangement alongside the supermarket, the other has capacity to be a drive through food service. Exact use is unspecified.

- (c) Business and Professional services

Three tenancies are proposed under the Business and Professional Services use class (p. 46, GHD application documentation). Exact use is unspecified. This differs from the assessed documents extracted at page 13, Figure 6 & Figure 7 Council Agenda Meeting, 24 October 2022, where two Business and Professional service tenancies are provided for.

- (d) Bulky Goods Sales

One tenancy providing for Bulky Goods Sales is proposed (GHD application documentation, p. 46).

- (e) Service Industry

Two Services Industries tenancies were proposed in the original application documentation (GHD, application documentation, p46). One of these is specified for use for a car wash, the other remains unknown. This differs from the extract inserted into the Council Agenda Report of 24 October 2022, p 26 where the carwash is the only Service Industry detailed.

4.1.4 The site sits within the established Homemaker's Centre, a large format shopping centre located adjoining the Bass Highway to the south west of the Devonport CBD. The Homemaker's Centre sits 1.9km at the closest point to the Devonport Central Business Zone and is surrounded by residential and utility lands.



Figure 1 Site area

4.1.5 The original application proposed a Particular Purpose Zone (**PPZ**), rather than a Specific Area Plan. The Application documentation questioned the compliance of the proposed changes with the underlying land zoning and determined that a PPZ was therefore the most appropriate mechanism for the proposed changes (p. 24 & 25, GHD application documentation). Notwithstanding, Council set aside this request and rather determined to certify a proposed amendment to the Devonport Regional Homemaker Centre Specific Area Plan.

5 BACKGROUND ANALYSIS

5.1.1 The land is currently subject to the following:

- (a) The *Tasmanian Planning Scheme- Devonport*
- (b) Commercial land zoning (see Figure 2).

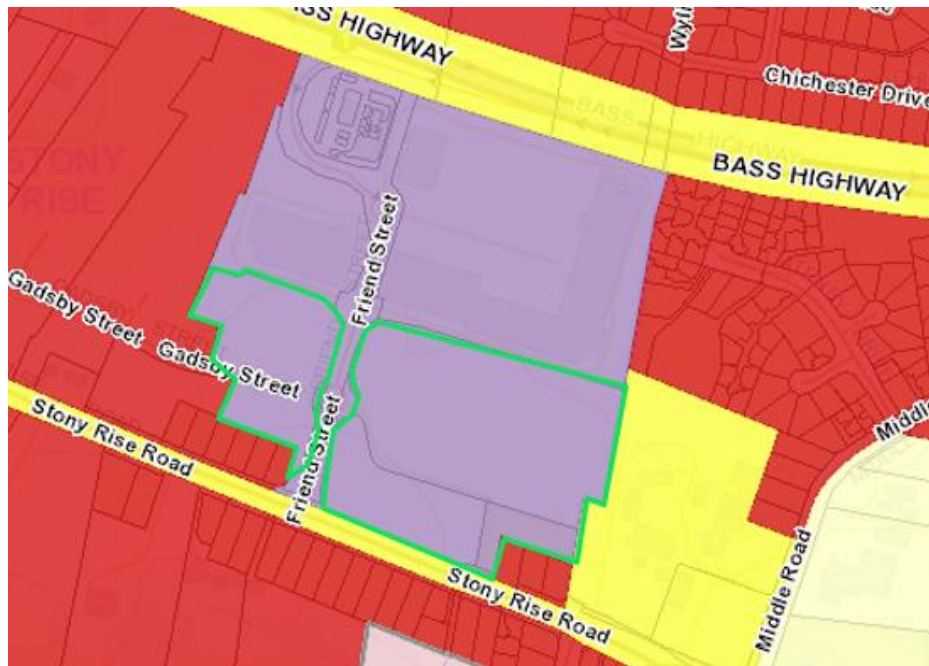


Figure 2 Existing land zoning, where purple shading indicates the commercial zone, yellow shading indicates the utilities zone and red indicate the general residential zone

- (c) DEV S1.0 Devonport Regional Homemaker Centre Specific Area Plan over CT 157737/15, CT 173536/16 and CT 173536/17 as well as other pieces of land not relevant to the planning application and scheme amendment (see Figure 3).
- (d) DEV-S2.0 Devonport Homemaker Service Industrial Centre Specific Area plan over CT167737/18 (see Figure 3).

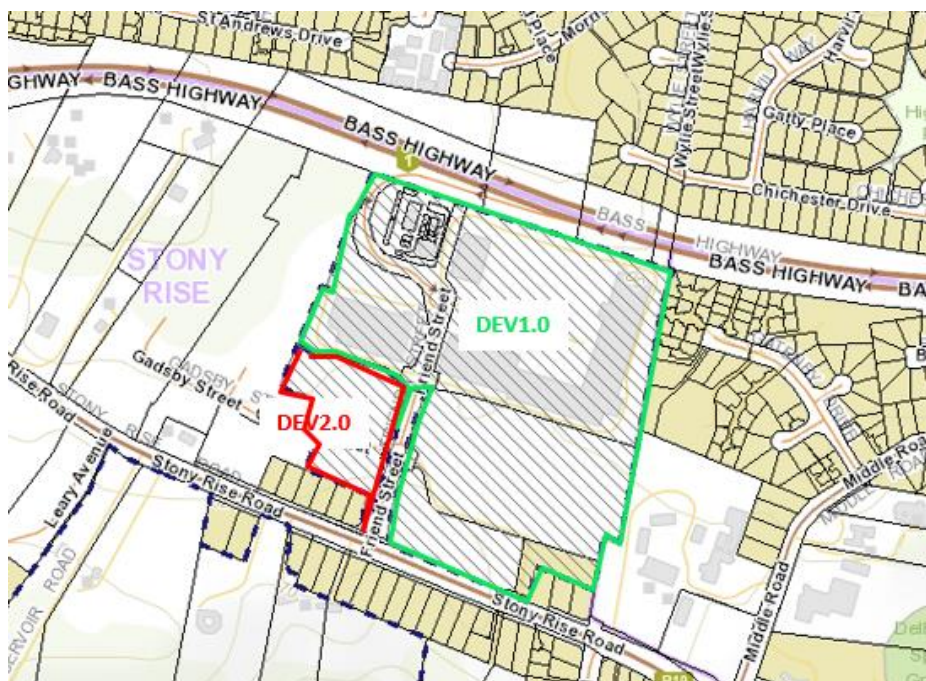


Figure 3 Existing SAP DEV S1.0 and DEV S2.0

5.1.2 The Devonport & Environs Planning Scheme 1984 Amendment AM2008/01

[2009] TASRPDComm 34 (28 July 2009) resulted in the initial introduction of the Homemaker's Centre to the area.

- 5.1.3 The initial introduction of the Homemaker's Centre to the area included justification and research to support a Homemaker's Centre with a catchment of over 80km, spanning the entirety of Devonport, supporting settlements (Port Sorell, Railton, Sheffield and Latrobe) and through to Wynyard, including Ulverstone, Penguin, Burnie, Somerset and Wynyard.
- 5.1.4 The certified amendment (AM2008/01) excluded some uses applied for, including hotel or licensed premises. The planning scheme at that point included a bottleshop within the hotel industry use class, rather than within General Retail and Hire as is the case within the Tasmanian Planning Scheme. Council considered these uses "*as being more appropriately related to activities in other commercial zones*".
- 5.1.5 Discussion at that time included the statement that "*there should not be any ambiguity or latitude in the interpretation of the provisions of the Homemaker Zone that would allow it to 'morph' over time into a general shopping centre*".
- 5.1.6 It is noted that whilst the rezoning was approved, the development proposal was refused due to access.
- 5.1.7 *Devonport & Environs Planning Scheme 1984 amendment AM2011/03* [2011] TASPComm 52 (23 August 2011) brought about the subsequent expansion of the original Homemaker's Centre to include the Industrial precinct.
- 5.1.8 The Commission's decision, *Devonport & Environs Planning Scheme 1984 amendment AM 2011/05 TASPComm 55*, also resulting in amendments which sought to expand the retail activity accommodated by the showroom Use Class by including pet supplies and ancillary service.
- 5.1.9 The last proposed amendment before the Commission, AM 2012/02 was rejected, see *Devonport & Environs Planning Scheme 1984 amendment AM 2012/02 TASPComm 66*. The amendment sought to amend Clause 8.20.3 to vary the controls applying to the Devonport Regional Homemaker Centre Zone. The draft amendment sought to change the description of the Showroom use class in the Table of Uses and reduce the minimum size of Showroom tenancies. The Commission held that the proposed amendment did not satisfy the Objectives contained in Schedule 1 of LUPAA, specifically, Part 1(b) and (d) and the objectives contained in Part 2 as the amendment lacked strategic consistency, had insufficient regard to potential economic and social impacts in the region and had insufficient clarity in the proposed planning instrument.

6 EXECUTIVE SUMMARY

- 6.1.1 The proposal is for a concurrent amendment and planning permit application to the subject land. The amendment is intended to modify the spatial

application of the existing Specific Area Plan(s) and redraft the Specific Area Plan to allow for a transition from a site focused on large format retail to a mix of large format and standard retail.

6.1.2 This Statement of Evidence reviews the proposed amendment(s) as well as the proposed development, and provides an assessment of each as required under the *Land Use Planning and Approvals Act 1993 (LUPAA)*.

6.1.3 This submission concludes that the proposal:

- (a) Is in conflict with the underlying commercial land zoning;
- (b) Does not adequately consider alternative sites for the proposed development;
- (c) Will remove land which has been safeguarded for additional bulky goods retailing into the future;
- (d) Will result in conflict with the established retail hierarchy;
- (e) Is not in keeping with the relevant strategic plans, including but not limited to the Cradle Coast Regional Land Use Strategy, the LIVING CITY Master Plan and the Devonport Retail Strategy; and
- (f) the narrow definition of "retail catchment" that is utilised in the Location IQ Report's economic assessment is not suitable for guiding an assessment of the potential economic impacts on the CBD.

Therefore, the proposal has not made adequate demonstration for approval as required by the LUPAA.

7 ASSESSMENT OF PROPOSED AMENDMENT

7.1.1 Section 32 (2) of the LUPAA sets out the criteria that must be met by a relevant planning instrument, which here relates to the proposed amendment of the Local Provision Schedule (**LPS**).

7.1.2 I have undertaken an assessment of each of those legislative requirements against the proposed scheme amendment.

7.2 Section 34(2)(a)

7.2.1 Section 34(2)(a) requires that the amendment of the LPS contains all the provisions that the SPPs specify must be contained in an LPS.

7.2.2 I concur with the Council's conclusion that the proposed amendment is in compliance with s34(2)(a) (Devonport City Council Agenda – Attachments, 24 October 2022, p 580).

7.3 Section 34(2)(b)

7.3.1 Section 34(2)(b) requires that the amendment of the LPS is in accordance with section 32 of LUPAA.

7.3.2 There are many requirements in section 32 that must be complied with, however I have focused my assessment on the requirements contained in s32(4), sub-clauses (a) and (b) which I set out below:

- (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.

7.3.3 Only one of the sub-clauses must be satisfied.

7.3.4 The submission accompanying the advertised documentation states that s32(4)(b) is being relied upon for the purposes of the amendment (GHD, Tipalea Partners, August 2022, p.27).

7.3.5 The land and the existing SAP have previously (AM2008/01 & AM2011/03) been identified as having *"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"* as required by s32(4)(b).

7.3.6 The application documentation states that *"the site has been identified in the existing SAP as suitable for limited commercial and bulky goods retail activity on the proviso that it does not undermine the function or primacy of the existing Devonport CBD for general retail and hire"* (GHD, Tipalea Partners, August 2022, p.27).

7.3.7 There is no additional reference to s32(4)(a) or (b) in the application documentation outside of this statement on p.27 (GHD, Tipalea partners, August 2022). Given the Commission is not bound by its previous decisions I consider this is an insufficient demonstration of compliance with s32(4)(a) or (b).

7.3.8 I have considered:

- (a) The Devonport City Council Retail Study (**DCC Retail Study**); and
- (b) the Location IQ supporting report provided with the Application (**Location IQ Report**)

in my assessment on whether the Application complies with s32(4)(a) and (b).

7.3.9 The proposed amendment is intended to result in a modification of the use of this area. The proposed extent of the broadening of land uses is not considered to result in 'significant social benefit', particularly when the site is surrounded by Residential land, which is able to be utilised for a number of land uses which would provide a small social benefit (e.g. medical consulting rooms, childcare, community centre).

- 7.3.10 The next consideration is economic impact. This issue is explored in detail throughout the proposed amendment and subsequent representations and submissions. The application documentation concludes that the impacts are mixed, stating there are a *"range of economic impacts, both positive and negative that may result from development at the site"* (p.5, Location IQ report). There is no clear pathway for the proposal to be considered as having *"significant ...economic...benefit to the State, region or municipal area"*.
- 7.3.11 The proposed amendment has no environmental impact outside of the management of stormwater and other services, which would be required for development of any sort on the site. It is considered that the proposal brings no significant benefit to environmental impacts.
- 7.3.12 In conclusion, no significant benefit to social, economic or environmental benefit(s) have been demonstrated, nor would be expected in a proposal of this nature. The proposal is not considered to comply with s32(4)(a).
- 7.3.13 The Devonport Retail Catchment is defined within Chapter 3 of the DCC Retail Study as operating *"in a regional context...retailers in Devonport serve both local residents and those coming to shop in Devonport from further afield"* (p.15, DCC Retail Study).
- 7.3.14 The DCC Retail Study goes on to state that *"it is critical that the shopping needs and patterns of those residents outside the municipality are also considered when determining retail need in Devonport"* (p.15, DCC Retail Study). This consideration should be key in any assessment of retail hierarchy for a proposed amendment or development.
- 7.3.15 It is submitted that the supporting Location IQ Report provided with the proposal:
- (a) operates from a narrow definition of the Retail Catchment which differs from the DCC Retail Study (refer Trade Area Analysis, pp18-21, as well as Competitive Environment pp31-36 of the Location IQ Report). It is our opinion that the wider definition of the Retail Catchment as per the DCC Retail Study ought to be adopted for this assessment;
 - (b) assesses the development itself, that is the built form and uses outlined in the planning permit application, but does not address the change in land zoning / SAP, the original PPZ as proposed, nor the modifications introduced by the Planning Authority (which include expansion of the original proposal through incorporation of additional land uses); and
 - (c) provides a limited assessment of the impact of the development on retail hierarchy (refer discussion below), but does not provide an assessment of the impact the proposed amendment of the LPS will have on the retail hierarchy (p.62, Location IQ, October 2021).

- 7.3.16 The Location IQ Report addresses the main proposed use, that is the supermarket, as well as childcare, gyms, medical. The proposal before us, however, incorporates significant additional land uses that are not in the Location IQ report.¹ The Planning Authority relies exclusively upon this report in the determination of impact on the retail hierarchy.
- 7.3.17 The location of the site itself results in removing the requirement for shoppers (whatever their geographical origin) to enter the Devonport City Centre, due to the interaction with the Bass Highway (particularly in relation to the broader retail catchment outside of Devonport itself including Latrobe, Port Sorell, Ulverstone, Penguin, Burnie and further along the north west coast.
- 7.3.18 The site has no unique environmental qualities, and the proposed use(s) do not require specific environmental qualities.
- 7.3.19 The economic qualities of the site are most beneficial to a use that cannot occur elsewhere, due to scarcity of the appropriate land. The relevant strategic documents demonstrate that the Devonport CBD provides sufficient space for general retail. This is therefore not considered to fit the requirement for "*particular...economic...qualities*" necessary for the proposed development.
- 7.3.20 The site has no unique social qualities. In addition, the proposed uses do not require specific social qualities.
- 7.3.21 The site has spatial qualities (e.g. access to the Bass Highway, sufficient land area) that could be considered to be unique. These are suited to the bulky goods format sales that are already provided for on the site, and are unnecessary for the proposed amendments. The site is therefore not considered to have "*particular.....spatial qualities*" necessary for the proposed amendment.
- 7.3.22 A number of the land uses proposed are able to be located in land already zoned for these purposes (e.g. General retail and hire, Sport and Recreation, Business and Professional services). In my view, the land cannot be said to be so unique that these uses must occur on this specific land. There is no clear exploration of alternative sites within the application documentation.
- 7.3.23 The site has historically been developed with a specific purpose in mind, the sale of bulky goods, ensuring that the site does not undermine the retail hierarchy of the Devonport area. The proposed amendment is intended to allow expansion of the original proposal, through sale of any items in Precinct A (outside of the listed exclusions), including a local shop, betting, alcohol sales etc. This will result in further erosion of the smaller businesses within the CBD.

¹ There is a short mention on page 46 of "10-15 additional supporting shops". This is in relation to interaction with the proposed supermarket only, and does not consider the retail hierarchy, nor impact that the additional supporting shops would potentially have on existing uses other than supermarkets in the area.

7.3.24 As such, it is submitted that the proposal cannot be considered to be in accordance with s34(2)(b).

7.4 Section 34(2)(c)

7.4.1 Section 34(2)(c) requires that the amendment of the LPS furthers the objectives set out in Schedule 1 of LUPAA, noting that there are two parts.

7.4.2 I have addressed each of the objectives of Part 1 and 2 of Schedule 1. Where I have considered that an objective is not relevant to the proposal, I have identified this.

7.4.3 In summary, it is my opinion that the proposal does not demonstrate that the proposal furthers the Objectives of Schedule 1, Part 1, namely (b)&(d).

7.4.4 In my opinion, the proposed amendment also does not further the objectives of Schedule 1 Part 2 of LUPAA, particularly in regard to (a), (b), (d) & (h), which are not met by the proposed amendment.

7.4.5 The below table sets out each objective of set out in Schedule 1 of LUPAA Part 1 and 2 and my corresponding assessment. I note that for some of the objectives my assessment is expanded on later in my evidence.

Objective	Assessment
Part 1 Objectives	
(a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity	I consider that the proposed amendment would make little change to compliance with this objective.
(b) To provide for the fair, orderly and sustainable use and development of air, land and water	<p>Fair and orderly use and development require amendments to be in keeping with existing applicable strategies and studies, as well as supporting reports to apply logically and comparably to these existing strategies and studies.</p> <p>As submitted, weight attributed to the Location IQ Report in the assessment of the proposal is limited due to the narrow definition of "retail catchment" adopted.</p> <p>In addition, the drafting of the proposed amendment is ambiguous and unclear, leaving strategic decisions open to assessment for a new proposed use, rather than providing clear criteria for assessment. This creates uncertainty in relation to future planning permit applications which may result in approvals that are not fair, orderly or sustainable.</p>

Objective	Assessment
Part 1 Objectives	
The proposal is not considered to comply with (b) as a result.	
(c) To encourage public involvement in resource management and planning	Public involvement has been, and remains standard as per s40G of LUPAA.
(d) To facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c)	<p>The proposal does not satisfy this objective for the following reasons:</p> <ul style="list-style-type: none"> • The narrow definition of "retail catchment" adopted in the supporting documentation, which differs from the wider definition adopted in the DCC Retail Study (refer Trade Area Analysis, pp18-21, pp31-36). It is our opinion that the wider definition of the Retail Catchment as per the DCC Retail Study ought to be adopted for this assessment; • The fact that the supporting documentation has not been updated to address the modified proposal. <p>The proposal is not considered to comply with (d) as a result.</p>
(e) To promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.	Standard involvement from all relevant spheres of government has occurred as part of the statutory process.

Objective	Assessment
Part 2 Objectives	
(a) To require sound strategic planning and coordinated action by State and local governments	<p>In my opinion the Application does not meet this objective, the reasons of which I outline in detail, commencing at section 7.4.6 of my evidence.</p> <p>My assessment considers the following Council strategies:</p> <ul style="list-style-type: none"> • The Devonport Living City Master Plan • The Devonport Retail Strategy 2018 - 2023 <p>It is submitted that the proposal does not comply with (a).</p>

Objective	Assessment
Part 2 Objectives	
(b) To establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land	<p>The existing planning system fulfils this purpose.</p> <p>The proposal however, does not correlate with (b). Refer to discussion commencing at section 7.4.21 of my evidence.</p>
(c) To ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land	No significant modification from existing.
(d) To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels	<p>Refer to discussion below.</p> <p>It is submitted that the proposal does not comply with (d), my detailed reasons are set out in full later in my evidence, commencing at section 7.4.29.</p>
(e) To provide for the consolidation of approvals for land use or development and related matters, and to coordinate planning approvals with related approvals	The process has been established and is being maintained for the assessment of the proposal.
(f) To promote the health and wellbeing of all Tasmania and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation	No concerns.
(g) To conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value	None of the listed items have potential to be impacted by the proposal.
(h) To protect public infrastructure and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community	<p>Refer to discussion commencing at section 7.4.53 of my evidence.</p> <p>It is submitted that the proposal does not comply with (h).</p>
(i) To provide a planning framework which fully considers land capability	The land is heavily modified. I do not consider land capability as being relevant to this assessment.

Schedule 1, Part 2 (a)

- 7.4.6 Schedule 1, Part 2 (a) of LUPAA requires sound strategic planning and coordinated action by State and local governments.
- 7.4.7 It is submitted that the proposed modifications are not in keeping with the local strategic planning, and as such, the proposal would not comply with (a), as evidenced herein.
- 7.4.8 I have considered the following strategies and plans of Council in my assessment:
- (a) the Devonport Living City Master Plan; and
 - (b) the Devonport Retail Strategy 2018-2023.

Devonport Living City Master Plan

- 7.4.9 The Devonport Living City Master Plan, dated August 2014, relates to a large development project to create a new retail, business/ service and waterfront precinct.
- 7.4.10 The Devonport Living City Master Plan was developed, and has been gradually implemented, with a particular focus on the primacy of the CBD, link existing shopping centres and limiting fragmentation as per these extracts:

"Facilitate new retail development in the CBD, complementing existing retail and limiting further fragmentation" (p.3, Devonport Living City Master Plan).

"Give a purpose to the southern part of the CBD, consolidating a critical mass of business and professional service uses" (p.3, Devonport Living City Master Plan).

"This new retail precinct bridges existing retail fragments and creates a unified experience in the city centre" (p.12, Devonport Living City Master Plan)

"The concept of revitalising Devonport's CBD to consolidate services and breathe life into the city has been a 30 year community dream. Council has studied previous planning to learn from past mistakes and form a stronger plan for the LIVING CITY strategy. This plan has also been heavily shaped by the community to build a city its people have always wanted" (p.18, Devonport Living City Master Plan)

- 7.4.11 The proposal seeks to expand retail operations on the site beyond the existing large format retail, specifically bulky goods. As previously detailed, the site sits outside the CBD, and as an out of centre development, the proposal sits in contrast to the Living City Master Plan, with its distinct focus on reducing fragmentation and consolidating the CBD.
- 7.4.12 In addition, the Location IQ report assesses the impact of the development only, and not the effects of the amendment. In the assessment of the proposed amendment, it is necessary to consider the potential use and development of

the land that could occur in the future as a consequence of the amendment, which proposes an expansion of the uses allowable on the site.

- 7.4.13 The Location IQ Report submitted in support of the proposal seeks to address the Devonport Living City Master Plan and its core strategic plan. Examination of the Location IQ Report confirms that it attempts to address the impact of the proposed development on the Devonport CBD. However, the issue remains that the Devonport Retail Catchment is defined in a different manner in all of Council's strategic documents, specifically Council's strategic documents provide for a wider definition of the retail catchment. Consequently, the Location IQ Report does not adequately demonstrate compliance as required due to the narrower definition of "retail catchment" adopted in the document.

Devonport Retail Strategy 2018-2023

- 7.4.14 The Devonport Retail Strategy is a strategic Council document that "*intends to provide a clear direction for the role of Council in supporting retail activities within the CBD and greater Devonport*".
- 7.4.15 The Devonport Retail Strategy states "*the city is planning to ensure future growth in downtown retailing occurs in the CBD*" (emphasis added). The proposal before the Commission does not align with this statement.
- 7.4.16 The Devonport Retail Strategy has four objectives:
- (a) Objective 1 – Increase visitation to CBD
 - (b) Objective 2 – Strengthen the retail experience
 - (c) Objective 3 – Build the capacity of retailers
 - (d) Objective 4 – Strengthen communication between Council and retailers
- 7.4.17 The first of these is particularly relevant. One of the desired outcomes of Objective 1 is to "*increase visitation by out of region visitors*". The Application does not demonstrate how the proposed development would achieve this outcome. Rather, the proposal seeks to actively increase visitation to retail services outside of the CBD.
- 7.4.18 The DCC Retail Strategy reinforces the role of Devonport as a regional retail provider. The strategic work undertaken is extensive, and a clear retail hierarchy emerges from Council's strategies and policies as explored throughout this Statement.
- 7.4.19 The established strategies identify the primacy of the Devonport CBD, with the subject site providing a supporting role for large format retail, bulky goods, for the region.
- 7.4.20 The proposal before the planning authority is not in keeping with these established strategic objectives.

Schedule 1, Part 2 (b)

- 7.4.21 Schedule 1, Part 2 (b) requires that a system of planning instruments is established to be the principal way of setting objectives, policies and controls for the use, development and protection of land.
- 7.4.22 An amendment as proposed by the Planning Authority is required to comply with the underlying land zoning, in this case the Commercial zone, in keeping with the established system of planning instruments.
- 7.4.23 The submission by the applicant (GHD, Stony Rise Village) details concerns, see pages 24 and 25, around the underlying land zoning and the proposed amendment, thus eventually concluding that a PPZ was the most appropriate mechanism. In my opinion, the applicant accurately concluded that the proposed land uses raise questions about compliance with the underlying land zoning. However, Council set aside the proposal to rezone to PPZ and rather amended the existing Devonport Regional Homemaker Centre SAP.
- 7.4.24 The Local Area Objectives and proposed land uses for proposed Precinct A, as defined in DEV-S1.3.2, remove the clear compliance with the Commercial land zoning requirements of the Zone Application Guidelines of the Commercial Zone contained in "Guideline No. 1, Local Provisions Schedule (LPS) zone and code application" dated June 2018, see page 12:

"CZ1 The Commercial Zone should be applied to land within urban settlements that provides, or is intended to provide, for large floor area retailing (such as Bulky Goods Sales and Equipment and Machinery Sales and Service), Service Industry, low Impact storage and warehousing, or other commercial use needs of the community that demand:

(a) Large floor or outdoor areas; and

(b) High levels of vehicle access and car parking for customers.

CZ2 The spatial application of the Commercial Zone must ensure that it does not compromise the viability of the other retail and business centres located within the three business zones.

CZ3 The Commercial Zone should not be applied to the land:

(a) Where the primary purpose is to provide for industrial purposes (see industrial zones); or

(b) Where the primary purpose is to provide for General Retail and Hire uses such as supermarkets, department stores or other variety stores (see business zones)."

[emphasis added]

- 7.4.25 The amendment is drafted to refer to a "neighbourhood centre". This wording in and of itself indicates the intention of the proposal, suggesting that the proposal is designed as a 'one stop shop', negating the need for a proportion

of the retail catchment from travelling to the CBD. In short, it will redirect and reduce activity to the CBD, in conflict with CZ3.

7.4.26 The draft amendments seek to remove the focus on large floor retailing in accordance with CZ1, shifting the focus instead to General Retail and Hire as per the Business zones described in CZ3. CZ3 explicitly states that the Commercial Zone should not be applied to proposal of the kind proposed by the Application.

7.4.27 As discussed throughout this Statement of Evidence, it is submitted that the proposal does not include adequate demonstration that the proposal will not “*compromise the viability of the other retail and business centres*” as required by CZ2.

7.4.28 It is submitted that the proposed modifications are not in keeping with the established system of planning instruments, and as such, the proposal does not comply with (b).

Schedule 1, Part 2 (d)

7.4.29 Schedule 1, Part 2, Objective (d) requires that land use and development planning and policy is easily integrated with environmental, social, economic and resource management policies at State, regional and municipal levels.

7.4.30 In a similar manner to my assessment of Schedule 1, Part 2 (a) above, it is submitted that the proposed modifications are not in keeping with the local economic planning policies, and as such, the proposal does not comply with (d), as evidenced herein.

7.4.31 This is reinforced due to the upcoming review of the Devonport Retail Strategy 2018-2023, due in June of this year, as well as the existence of the DCC Retail Study.

7.4.32 The DCC Retail Study, dated 5 August 2022, was prepared by Ethos Urban Pty Ltd on behalf of the Devonport City Council to assist Council in gaining an understanding of the current retail landscape of Devonport and to identify the most appropriate future retail development opportunities to support the community.

7.4.33 The Devonport Retail Catchment is identified in the DCC Retail Study as including the following municipal areas (see Figure 4 for a visual depiction):

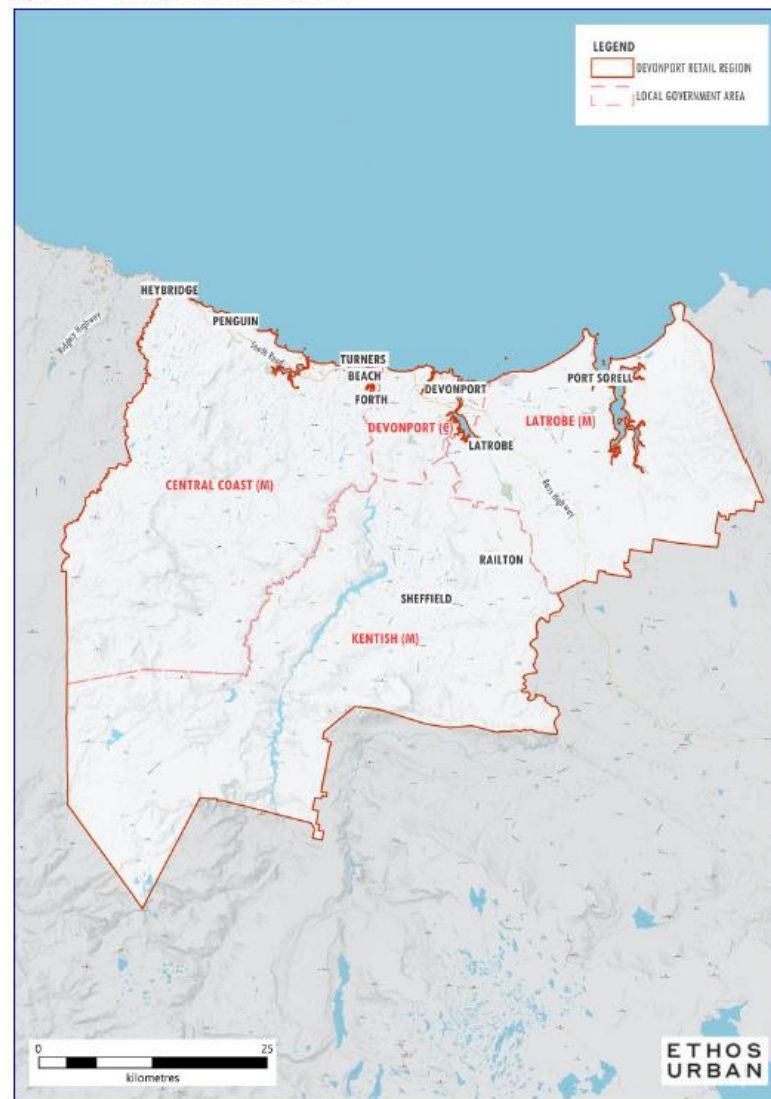
- (a) Devonport;
- (b) Latrobe;
- (c) Kentish; and
- (d) Central Coast

7.4.34 The Location IQ report does not address these interactions, rather it only explores the following areas (see Figure 5 for a visual depiction):

- (a) Devonport;
- (b) Spreyton;
- (c) East Devonport;
- (d) Latrobe; and
- (e) Sheffield,

thus dismissing a large proportion of the Devonport City Council Retail Study, and as such dismissing a large proportion of the retail catchment area for the development.

Figure 3.1: Devonport Retail Catchment



Source: Ethos Urban

Figure 4 Devonport Retail Catchment as identified in DCC Retail Study p.16

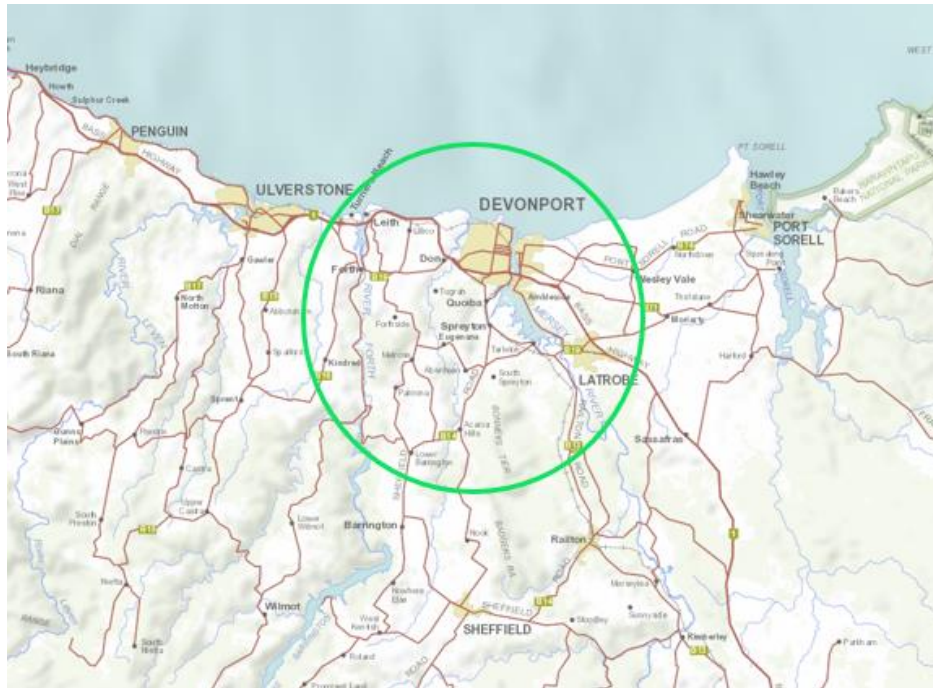


Figure 5 Approximate Retail Catchment as identified in Location IQ Report, as extrapolated from pp.19-21

7.4.35 This is regardless of the fact that the Location IQ report only considers the specific proposed development, and not the proposed amendment to the LPS.

7.4.36 The DCC Retail Study concludes that the retail sector in Devonport serves the wider, regional area.

“It is important to recognise that the retail sector in Devonport operates in a regional context and that retailers in Devonport serve both local residents and those coming to shop in Devonport from further afield, including tourists and other visitors.

.....it is critical that the shopping needs and patterns of these residents outside the municipality are also considered when determining retail need in Devonport”

(p.15, Devonport City Council Retail Study, 2022)

7.4.37 The Location IQ Report does not approach the assessment of the retail catchment in this manner and rather limits the scope of the defined retail catchment.

7.4.38 The DCC Retail Study made six recommendations for the strategic direction for Devonport retailing, which are examined below and demonstrate that the proposal is contrary to the DCC Retail Study and its recommendations.

7.4.39 Recommendation 1 of the Devonport City Council Retail Study is as follows:

“Recommendation 1 : Continue to support the primacy of the Devonport CBD

Actions: Ensure that all major retail development proposed in Devonport outside of the CBD be properly assessed to ensure the primacy of the Devonport CBD is protected."

(p.48, Devonport City Council Retail Study)

7.4.40 With the Location IQ Report utilising a narrow definition of "retail catchment", I consider that the wider definition utilised in the DCC Retail Study is a more appropriate definition to be adopted in for the assessment.

7.4.41 In addition, the proposed development, if approved, would be considered to be a retail location that would serve a variety of consumer needs, arguably resulting in less people in the retail catchment (regardless of its definition) travelling into the CBD. This could be exacerbated by the proximity and ease of access to and from the Bass Highway.

7.4.42 Recommendation 2 of the Devonport City Council Retail Study provides:

"Recommendation 2: Better define a retail centre hierarchy for Devonport

Actions:

- *Clearly define a retail centre hierarchy to assist in guiding the appropriate scale and type of new retail development in each centre, as well as assist in assessing development applications*
- *Once defined, maintain and support the retail centre hierarchy. If any changes to the nominated retail activity centre hierarchy are required, it would need to be clearly justified and consistent with the policy objectives of Council."*

(p.49, Devonport City Council Retail Study)

7.4.43 In this regard, Council appears to be undermining the retail hierarchy able to be inferred from existing strategies and policies by supporting the proposed amendments.

7.4.44 Recommendation 5 provides:

"Recommendation 5: Support the ongoing operation and evolution of activity centres in Devonport.

Council should also aim to strengthen the centres by encouraging appropriate development that reinforces the defined role of each centre."

(p.51, Devonport City Council Retail Study)

7.4.45 The Retail Study goes on to make specific comment regarding the existing Homemaker Centre:

"As the resident population of Devonport and the surrounding region continues to grow, there will be a need for additional large format retail outlets in Devonport. The demand analysis reveals that there is currently a shortfall of 4,600m² on non-food retail floorspace, increasing to 13,000

sq.m by 2036, some of which would be appropriately served by new large format retail outlets.

In addition, as demonstrated in the gap analysis provided in Chapter 7, there are several national large format retailers who typically operate stores in regional cities with a similar population base to Devonport that do not currently have a presence in the area.

Actions:

- Liaise with developers and retailers to ensure that there is sufficient land available to accommodate the development of large format retail facilities at appropriate locations
- Support and facilitate the development of additional large format retail outlets at appropriate locations subject to the market need being demonstrated" [emphasis added]

(p. 51, Devonport City Council Retail Study)

7.4.46 The DCC Retail Study specifically identifies a shortfall of non-food retail, in conflict to the proposal (original and as amended) which includes specific provision for additional food services, in apparent comparison with the Study.

7.4.47 The proposed amendment would arguably take away the space identified as necessary within the Retail Study without adequate demonstration that this space is no longer required. There is no significant exploration of the need for large format retail into the future for the Devonport retail catchment. The proposal and supporting documentation dismiss the potential future need based on apparent current demand.

7.4.48 The application documentation does not consider potential alternative sites for the proposed supermarket in any detail.

7.4.49 Finally, Recommendation 6 of the Devonport City Council Retail Study is as follows:

"Recommendation 6: Assess major retail development applications against appropriate criteria.

It is recommended that Council support major retail development applications where there is a clear demonstrated need and a market gap for the proposed development. Council would need to be satisfied that the proposed development would not have an adverse impact on the retail centre hierarchy of Devonport nor on the primacy of the Devonport CBD.

When assessing the need for new or expanded retail facilities, Council should request evidence that the additional retail floorspace is needed and will not have an adverse effect on the viability of any existing centre. This evidence should include an appropriate assessment of retail demand compared with retail supply, as well as consider the likely trading impacts on existing and approved centres from the proposed development...

.....Planning for new retail centres requires careful consideration to ensure that the market need for new retail facilities is balanced against the need to maintain the healthy operation of the existing retail centre hierarchy"

[emphasis added]

(p. 53, Devonport City Council Retail Study)

"Action: Support retail development applications where the proponent clearly establishes the retail need and market gap for the development, and where any adverse impacts on the retail centre hierarchy are within acceptable limits.

For any major retail development or rezoning application, economic / planning analysis showing the market need, impact analysis and an assessment of Net Community Benefit should be requested. The analysis should be properly detailed, transparent and verifiable."

(p. 54, Devonport City Council Retail Study)

7.4.50 The DCC Retail Study states that a development must provide a clear demonstrated need and a market gap (p.53&54, DCC Retail Study).

7.4.51 Due to the scale of the proposal, it can be reasonably argued that the proposed development and uses will impact on the primacy of the CBD, in direct contrast to these requirements.

7.4.52 In my opinion the Location IQ Report does not demonstrate that Schedule 1, Part 2 (d) is satisfied. The proposal is not able to be easily integrated with the existing local strategies as required by Schedule 1 Part 2(d). This conclusion is reached due to the narrow definition of "retail catchment" adopted combined with the fact that the report addresses the original proposed development only and not the overall impact of the scheme amendment.

Schedule 1, Part 2 (h)

7.4.53 Schedule 1, Part 2(h) states the objective of protecting "*public infrastructure and other assets and enable[ing] the orderly provision and coordination of public utilities and other facilities for the benefit of the community*".

7.4.54 The Traffic Impact Assessment (**TIA**) as advertised is dated 11 April 2022. It does not consider the proposal put forward by the planning authority or the changes that may result from the amended proposal in any way.

7.4.55 Secondly, the TIA has only been partially updated to reflect the approved plan. The plans used throughout the planning authority report and the body of the TIA differ from those provided in the Appendices of the TIA, particularly regarding the differing use classes detailed on the proposal plans.

7.4.56 Finally, the TIA identifies that there will be issues post 2031, which is a mere 8

years away, and that further research will need to be undertaken (p.37-38, 45-48). The assessment is not for a proposal which will only be operating until 2031 and further work is warranted prior to approval to ensure that solutions are available.

7.4.57 It is noted that the unsuitability of the traffic management in the area was reiterated by the development in discussions with the local media, as published in The Advocate and attached as Appendix B to this submission.

7.4.58 In short, the supporting report as provided cannot be considered to be an adequate demonstration against Schedule 1, Part 2(h), due to the following:

- (a) The TIA does not consider the proposal as certified by the Planning Authority, or changes arising;
- (b) The TIA references outdated versions of the development plans, and as such calculations are made which relate to different use classes;
- (c) The TIA identifies future issues in the area as a result of the development; and
- (d) The TIA utilises estimates due to the unknown use classes (refer to scheme assessment below).

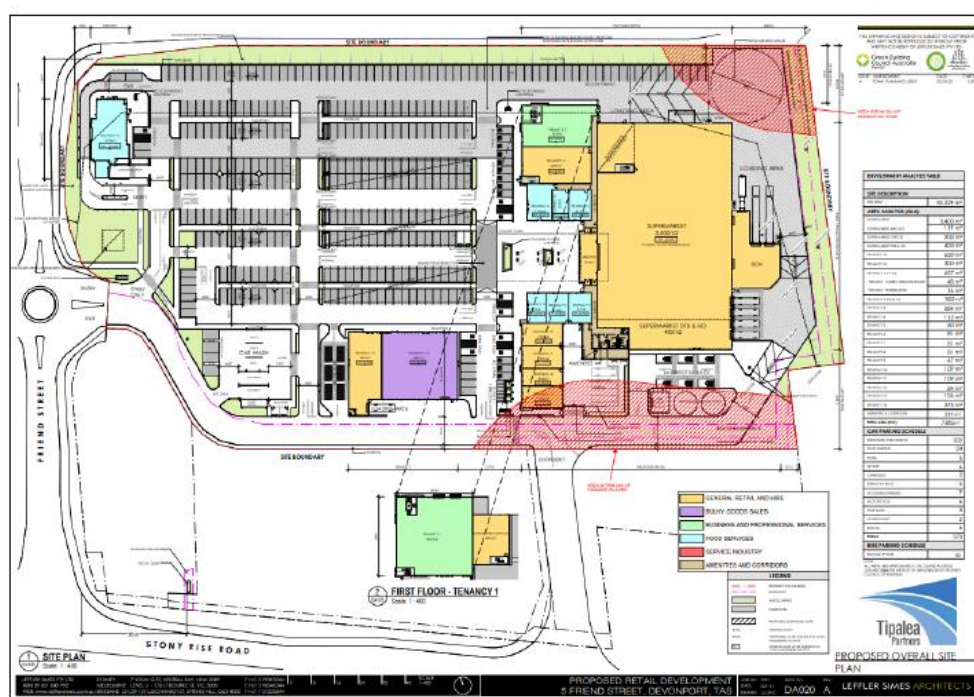


Figure 6 Plan provided in Council Agenda report, dated 24 October 2022, p 22 and at Fig 10 of TIA (p14)

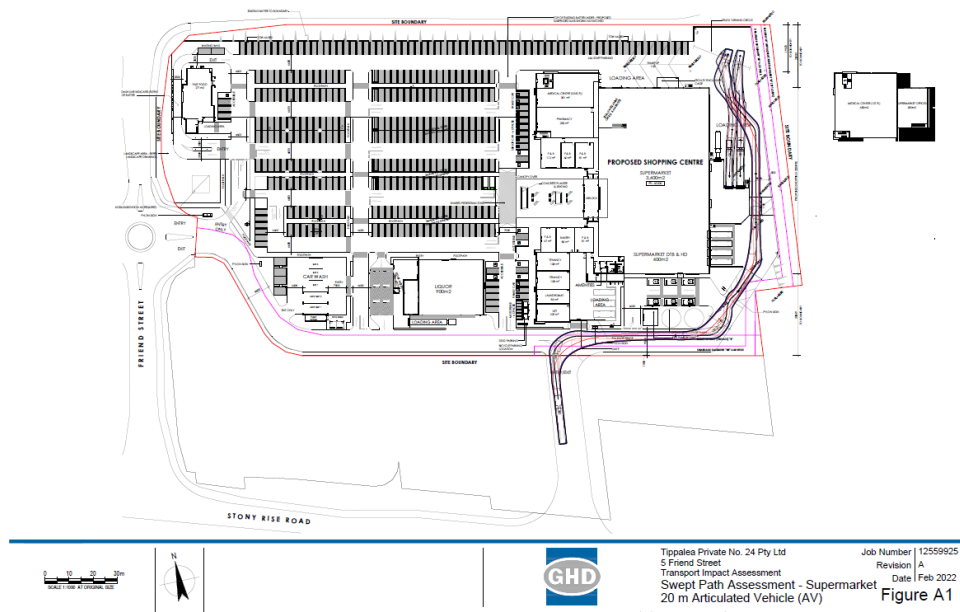


Figure 7 Appendix to traffic impact assessment (Advertised documents 29 October 2022, p464 of 584)

7.5 Section 34(2)(d)

7.5.1 Section 34(2)(d) requires that the amendment of the LPS is consistent with each State policy. Tasmania currently has the following state policies.

- (a) Tasmanian State Coastal Policy 1996
- (b) State Policy on Water Quality Management 1997
- (c) State Policy on Protection of Agricultural Land 2009
- (d) National Environmental Protection Measures

7.5.2 It has not been considered necessary to make an assessment on these policies, based on the assessment provided by the Devonport City Council.

7.6 Section 34(2)(da)

7.6.1 Section 34(2)(da) requires that the amendment of the LPS satisfies the relevant criteria in relation to the Tasmanian Planning Policies.

7.6.2 There are currently no Tasmanian Planning Policies in effect.

7.7 Section 34(2)(e)

7.7.1 Section 34(2)(e) requires that the amendment of the LPS as far as practicable, is consistent with the regional land use strategy for the regional area in which is situated on the land to which the relevant planning instrument relates.

7.7.2 The applicable regional land use strategy is the Cradle Coast Regional Land Use Strategy 2010 – 2030 (the **CCRLUS**).

7.7.3 The CCRLUS includes significant guidance in relation to economic activity and employment.

7.7.4 Page 53 of the CCRLUS states:

"There is a strong public interest component in planning strategically for an aggregation of business and commercial land uses to support liveability and the wellbeing of communities. Designation of commercial centres allows ease of access to consumer goods and services and create places which provide a centre for community activity.

Emphasis must be given to retaining the attraction and function of existing commercial centres. Policies must accommodate opportunities to provide a range of retail and business activity by enabling development that will enhance established character and identity. Capacity of a town centre to provide a vibrant and functional commercial space generates efficiencies in social, economic and infrastructure." [emphasis added]

"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." [emphasis added]

7.7.5 These statements raise concerns around exactly the type of modifications proposed through the expansion of General Retail outside the existing retail areas. This cannot be considered to be "aggregation of business... land uses" and can only be linked with the conclusion (intended to be avoided) stated on page 53 of the CCRLUS of decline in attraction and performance of the primary centre.

7.7.6 The CCRLUS also raises the importance of integrating strategic work at all levels of government, see section 3.2 'Strategic Outcomes' which states that land use planning should:

"supports and grow liveable regional communities through coordinate action aligned with State and regional economic development plans specific to the issues, challenges and opportunities of the Region."

(p 136, of the CCRLUS)

7.7.7 As discussed above, the proposal is not in keeping with a number of the Devonport City Council's strategies. As such, it is impossible for the proposed amendment to achieve coordinate action as per 3.2.

7.7.8 Looking into this in more detail, Part C, section 3.3.9 – Business and Commercial

Activity of the CCRLUS (p.141) provides the following:

"(b)(i) ...Devonport, Burnie, Latrobe, Sheffield, Ulverstone, Wynyard, Queenstown, Smithton and Currie will provide regional or district business and commercial service roles in addition to meeting local demand."

7.7.9 Once again, we find that the Location IQ report is based on a narrow definition of the retail catchment which is not suitable for guiding assessment under CCRLUS Part C, Section 3.3.9(b)(i).

7.7.10 The CCRLUS, Part C, section 3.3.9 – Business and Commercial Activity of the CCRLUS also provides at page 141:

"(e) maintain the integrity, viability and vitality of established centres by locating new business and commercial development onto land within or immediately contiguous with existing town centres and commercial zones;

...

(i) Provide designated locations for bulky goods and large format retailing, including for vehicle, building and trade supply and home improvement goods;

(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 affect on established town centres and the regional pattern of retail and service provision.

[emphasis added]

7.7.11 The planning authority make it clear in their submission to the TPC, dated 24 April 2023 that the proposal is intended to complement the existing activity on the site, without compromising the established retail hierarchy, including the CBD:

"the proposal submitted by the applicant advocates a position, supported by an Economic Needs Assessment Report, which identifies that the Stony Rise Village proposal 'would not impact on the viability of continued operation of any existing centre within the Devonport area'. This position is accepted by the planning authority as part of its endorsement of the Stony Rise Village proposal."

(p.2. Council submission to TPC, 24 April 2023)

7.7.12 The broader Stony Rise site has historically been intended for bulky goods sales, servicing the wider north west region. The representor has no concerns with this historical use, in keeping with the original intention of the site. We support the continuation of the designated area for bulky goods sales that service the entire north west region in accordance with sub-clause (i) of Part C, section 3.3.9, CCRLUS.

7.7.13 Notwithstanding, Precinct A as currently proposed (ref. Amended Draft Amendment, Attachments to Council Meeting 23 January 2023) will allow as a "permitted" use general retail and hire, including the sales of additional items including a local shop, toys, electronics, alcohol, gaming and similar, thus directly competing with the Devonport CBD. The proposal would be in contrast with the intention for the area to "*restrict sale of food, clothing and carry away consumables*" (as per CCRLUS Part C, 3.3.9(j)) for areas dedicated to bulky goods sales. The recent focus on urban renewal for the township of Devonport would be undermined by the proposed amendment. This is also in direct contrast to the previously intended activity on the site.

7.7.14 The location of the Stony Rise Homemaker's Centre allows the site to service the broader region (refer retail catchment discussions above), with easy access ensuring that community members travelling through the retail catchment are not required to enter the Devonport CBD but pulls straight into this centre instead. The inclusion of additional retail and alcohol businesses, or operations outside the bulky goods sales will remove additional sales from the CBD, due to the ease and simplicity of pulling into the centre rather than diverting to the CBD.

7.8 Section 34(2)(f)

7.8.1 This Section requires that an amendment has regard to the relevant 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, in this case, the Devonport Strategic Plan 2009-2030.

7.8.2 The Devonport Strategic Plan 2009-2030 states that Goal 2 is to Build a Unique City. As part of this Goal, Outcome 2.4 is provided, to "*Promote the development of the CBD in a manner which achieves the LIVING CITY Principles Plan*", and subservient strategies to achieve this:

"2.4.1 Implement initiatives from the Living City Master Plan

2.4.2 Lobby and attract Government support to assist with the implementation of the LIVING CITY Master Plan

2.4.3 Implement initiatives to encourage private investment aligned with the outcomes of the LIVING CITY Master Plan."

7.8.3 As per commentary provided for Schedule 1, Part 2 (a), the LIVING CITY Master Plan has been embedded within the Devonport Strategic Plan 2009-2030. As such, where a proposal does not comply with the LIVING CITY Master Plan, it cannot be considered as being in keeping with the Devonport Strategic Plan 2009-2030.

7.8.4 The proposal therefore cannot comply with Section 34(2)(f) as it does not have regard to the relevant Strategic Plan.

7.9 Section 34(2)(g)

- 7.9.1 Section 34(2)(g) requires that the amendment of the LPS 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.
- 7.9.2 There is no significant interaction with LPS's applicable to adjoining municipal areas.

7.10 Section 34(2)(h)

- 7.10.1 Section 34(2)(h) requires that the amendment of the LPS has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.
- 7.10.2 I have not undertaken an assessment against the *Gas Safety Act 2019*.

8 DRAFTING OF THE AMENDMENT

- 8.1.1 I have considered the drafting of the proposed amendment.
- 8.1.2 I have concerns in relation to the general statements used in the proposed amendments which are vague and uncertain, providing for future potential conflict.
- 8.1.3 In the definition of "Neighbourhood centre" at DEV-S1.4 Definition of Terms it states that:

"... A major supermarket serves as the primary activity generator and is supported by a limited range of complimentary uses" [emphasis added]

It is unclear what is meant by this definition, particularly in relation to the reference to "supported", "limited range" and "complimentary uses". The link between the major supermarket and the additional proposed or potential uses (e.g. medical centre, veterinary centre, local shop, betting agency, bottle shop) as "complimentary uses" is unclear.

- 8.1.4 At DEV-S1.3.2 Local Area Objectives it is stated that Precinct A should *"...provide a limited range of retail..."*. The same issues as outlined above equally apply.
- 8.1.5 Throughout DEV-S1.5 Use Table in the qualification section the following statement is used on several occasions:

"...provided that...is not a predominant activity..."

During assessment of a proposal under these provisions, there are likely to be interpretive issues in relation to what is considered a 'predominant activity', as there is no measurable provision, nor even criteria, as to how to go about making such a determination (in comparison to, for example, the General Residential zone, where discretionary uses are to be assessed against amenity for sensitive uses).

9 ASSESSMENT OF PLANNING APPLICATION – AREAS OF COMPLIANCE CONCERN

9.1.1 I have also considered the planning permit application that has been concurrently proposed. I outline in the following sections some of the key areas of concern I have with this application.

9.1.2 I have undertaken my assessment assuming that the scheme amendments proposed are accepted.

9.2 Commercial Zone

9.2.1 As discussed at 7.4.24 in relation to Schedule 1, Part 2(b), the application does not comply with the underlying Commercial zoning of the site.

9.3 Use Classes

9.3.1 The below listed use classes are proposed by the Application documentation (noting that the assessment applies cl. DEV-S1.5 in substitution to cl. 17.2 Commercial Zone). It is noted again that these differ from those referred to in the Council Agenda Report of 24 October 2022 (p26).

(a) General retail and hire (supermarket and other retail)

General retail and hire is described as follows at Table 6.2 of the Scheme:

"Use of land for selling goods or services, or hiring goods. Examples include an adult sex product shop, amusement parlour, beauty salon, betting agency, bottle shop, cellar door sales, commercial art gallery, department store, hairdresser, market, primary produce sales, local shop, shop, shop front dry cleaner and supermarket."

The proposed supermarket will be permitted. Four other tenancies are unknown, due to limitation on predominant activities.

(b) Food Services

Food Services is described as follows Table 6.2 of the Scheme:

"Use of land for selling food or drink, which may be prepared on the premises, for consumption on or off the premises. Examples include a café, restaurant and take away food premises."

Seven food services are marked on the plans and are within the limitations set out in the permitted category.

(c) Business and Professional Services

Business and Profession Services is described as follows Table 6.2 of the Scheme:

"Use of land for administration, clerical, technical, professional or similar activities. Examples include a bank,

call centre, consulting room, funeral parlour, medical centre, office, post office, real estate agency, residential support services, travel agency and veterinary centre."

There are two business and professional services tenancies proposed in Precinct A and one in Precinct B. Due to the prescribed limitation on predominant activities, it cannot be determined whether these fit within the permitted category, therefore they ought not to be approved as part of this application. It is noted that there is no discretionary pathway for the Business and Professional use class.

(d) Bulky Goods Sales

Bulky Goods Sales is described as follows Table 6.2 of the Scheme:

"Use of land for the sale of heavy or bulky goods which require a large area for handling, storage and display. Examples include garden and landscaping materials suppliers, rural suppliers, timber yards, trade suppliers, showrooms for furniture, electrical goods and floor coverings, and motor vehicle, boat or caravan sales."

One tenancy of 600m² is proposed, through the discretionary assessment process due to exclusions regarding floor area.

(e) Service industry

Service Industry is described as follows Table 6.2 of the Scheme:

"Use of land for cleaning, washing, servicing or repairing articles, machinery, household appliances or vehicles. Examples include a car wash, commercial laundry, electrical repairs, motor repairs and panel beating."

Two service industry tenancies are proposed. One for a car wash through the permitted use class, the other is again unknown and therefore ought not to be approved. There is once more no discretionary pathway.

9.3.2 The proposed use classes where there is no discretionary pathway may be uncommon, however there are no compliance concerns to be raised for these.

9.3.3 Regarding the unknown use classes, the application includes the following statement:

"The proposal plans designate areas for tenancies and use classes, which are best estimates as to the use class of future tenants and how much space each will require. Whilst the building footprint and an overall gross floor area of 8,095m² would be maintained, this application seeks a permit that allows some flexibility in the location and area of individual tenancies for permitted uses. Table 5 below uses colour coding reflected the in the proposal to indicate the best estimates of areas as well as the flexibility ranges sought."

(GHD, Tipalea Partners, August 2022, p.45).

- 9.3.4 As such, the use classes being applied for, and possibly approved, are unclear from the application documentation. This lack of clarity impacts further assessment (e.g. the Traffic Impact Assessment, C2.0 Parking and Sustainable Transport Code, C3.0 Road and Railway Assets Code at a minimum).
- 9.3.5 In my opinion, the development cannot be approved as the proposed use classes and the actual businesses that will be occupying these spaces are currently unknown.

9.4 Zone and Code Provisions

- 9.4.1 The proposed SAP is to be applied in substitution for the clauses as listed in each stated clause of the SAP and in addition to the requirements of:
- (a) the Commercial Zone;
 - (b) the Signs Code; and
 - (c) the Parking and Sustainable Transport Code.
- 9.4.2 It is noted that areas without compliance concern or points of difference from the Planning Authority assessment have been excluded from this assessment. These include the existing cl. 17.3.1, 17.4.1, 17.4.3 , 17.4.4, 17.4.5 and 17.4.6 as well as DEV-S1.7.1, DEV-S1.7.2, DEV-S1.7.3, DEV-S1.8.

Scheme assessment – areas of compliance concern		
Clause	Assessment	Conclusion
17.3.2	<p>Cl.17.3.2 P1 is intended to provide protection for the retail hierarchy and established activity centres from compromise or distortion as a result of new discretionary uses.</p> <p>As explored in detail above, the established retail hierarchy has not been addressed within the supporting documentation, with an alternative catchment being utilised for the supporting study as presented to this development.</p> <p>As such, it is considered that cl.17.3.2(d) P1 has not been satisfied.</p>	Inadequate demonstration
C2.0	<p>Firstly, The TIA has been identified as including outdated development plans and having no comment on the modifications as made by the Planning Authority.</p> <p>Secondly, given the use classes are unknown, the TIA is applicable only to the estimated use</p>	Inadequate demonstration

Scheme assessment – areas of compliance concern		
Clause	Assessment	Conclusion
	classes as provided in the application documentation.	

10 CONCLUSION

10.1.1 For the following reasons, I consider the concurrent amendment and planning permit application ought to be refused:

- (a) The proposal is in conflict with the underlying land zoning;
- (b) Alternative sites for the proposed supermarket have not been adequately considered;
- (c) The proposed amendment conflicts with the established retail hierarchy;
- (d) The proposal will remove land which has been safe guarded for additional home maker style floorspace;
- (e) The proposed amendment relies upon strategic documents (CCRLUS, Devonport Retail Strategy) that are either due for, or currently undergoing review;
- (f) The supporting Location IQ report:
 - (i) adopts a narrow definition for the retail catchment;
 - (ii) limits its assessment to the proposed development rather than the amendment; and
 - (iii) does not assess the impacts of the updated proposal as modified by the planning authority;
- (g) The supporting Traffic Impact Assessment references incorrect plans and unknown land uses.

10.1.2 I consider that the proposed amendment does not comply with the following requirements:

- (a) Section 34(2)(b);
- (b) Section 34(2)(c) Part 1(b);
- (c) Section 34(2)(c) Part 1(d);
- (d) Schedule 1, Part 2(a), (b), (d) and (h);
- (e) Section 34(2)(e) (the CCRLUS), namely:
 - (i) Economic Activity and Employment;
 - (ii) 3.2 Strategic Outcomes;

(iii) Part C, S3.3.9(b)(i), (e), (i), (j) or (k).

10.1.3 I also consider that the planning permit application does not adequately demonstrate compliance with:

(a) Cl.17.3.2 or

(b) C2.0.

and it does not, but should, include specific details in relation to the proposed retail tenancies proposed.

Appendix A



Theresia Williams

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2006*

*Bch Science (Geography&
Environmental Studies) 2004*

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Theresia is an Urban and Regional Planner with 18 years of experience in government and the private sector.

Theresia has qualifications in urban and regional planning, coastal management and natural resource management, climate change and sustainability, with specific interests in matters specific to coastal and agricultural land.

Her experience in New South Wales, Victoria and Tasmania allow Theresia to provide advice across a range of environments.

Theresia takes an integrated approach to planning in order to resolve complex planning issues within the available framework.

PROFESSIONAL HISTORY

Business owner, Equilibrium Town Planning	2021-2023
Director, Plan Place	2017-2021
Niche Planning Studio	2012-2017
Principal Planner, Environmental Service & Design	2010-2017
Senior Planner / Planning officer, Central Coast Council	2007-2009
Town Planner & NRM Officer, Circular Head Council	2006-2007

RECENT EXPERIENCE

Statutory planning support, Latrobe Council	2021-2023
Various successful scheme amendments including PSA1-2021 (General Industrial to PPZ), AM2021/03 (General Residential to Local Business)	2020-2023
Various successful planning appeals including P/2022/76 (industrial land)	2021-2022
Table Cape unique amenities block in conjunction with Waratah Wynyard Council	2023
Planning assessments & support, Central Coast Council, Burnie City Council	2021-2023
Consultancy services across a broad range of developments including multi stage subdivision, standard residential developments, rezonings and appeals	2010-2023

GENERAL SKILLS

High level written, oral and interpersonal communication skills
Honesty & integrity
Project management & teamwork
Effective research, report writing skills & capacity to disseminate
Ability to work as part of a team & individually

Appendix B

BY LIBBY BINGHAM

THE developer of a proposed new \$40 million shopping complex says the Stony Rise Road and Friend Street intersection where vehicles turn to enter the Devonport Homemaker Centre needs traffic lights to fix existing congestion and safety issues.

However, a State Growth spokesperson says the intersection has no "operational or safety issues" but will need traffic lights if the Stony Rise Village project proceeds adjacent to the Homemaker Centre, and it's up to the developer to fund road improvements.

Meantime, Stony Rise Village developer Tipalea Partners chief executive Scott Spanton said, "that intersection is diabolical".

"The big question we're not shying away from is the traffic issue," he said. "We've spoken to council and State Growth about solving the traffic congestion and safety issues and what's happening not only with the intersection but also Middle Rd."

Mr Spanton said traffic engineers gave two options for the intersection. "One is to signalise the intersection

that would have sufficient capacity for traffic growth over the next 10 years for the proposed supermarket and approved residential subdivisions," he said. "The forever solution and preferred option is to widen the intersection, adding a westbound traffic lane to maintain sufficient capacity for when the whole Homemaker Centre and other vacant commercial lots are built out."

He said the council recognised the problem and Mayor Alison Jarman spoke on traffic issues at a recent meeting to update the community. Councillor Jarman said her initial concerns relate to coming off Middle Rd into the Homemaker Centre from the highway. She said at times cars banked back to the highway. Her idea is to look into adding a lane to the Homemaker Centre roundabout. She said site owner Harvey Norman agreed to put cameras up to monitor it over Christmas. Regarding the intersection, she said forcing cars to turn left out of Friend St would help but "at the end of the day, it's not up to us; it's up to State Growth, it's their road."

A State Growth spokes-



Concerns have been raised about traffic congestion and safety issues at the Stony Rise Road and Friend Street intersection. Picture by Eve Woodhouse.

person said, "there are currently no operational or safety issues with the existing Stony Rise Rd and Friend St intersection; however, the proposed Stony Rise Village

development is expected to generate a significant increase in traffic through the intersection." State Growth said it reviewed the developer's Traffic Impact As-

essment and "accepted the recommendation that traffic signals should be installed at the intersection if the development goes ahead." State Growth said when

developments increased traffic at their access to the road network, the developer was responsible to fund and implement road improvements.