

4 January 2019

Mr Michael Stretton
General Manager
Launceston City Council
Town Hall
Launceston, TAS 7250

Dear Mr Stretton,

RE: DA 0680/2018 application for subdivision for 94 Arthur Street, Launceston

I am writing to request that DA 0680/2018 be refused on the grounds that it has not met Section 57 of the Land Use Planning and Approvals Act 1993.

I made an earlier request to Mr Ian More for this to be re advertised but was refused, instead he extended the date a few days. He was supplied with numerous items of evidence by adjoining land owners to support that request.

I have not been able to coordinate a meeting and seek advice with my consultant planner due to the late notice and the holidays taken by professionals during the Christmas / New Year's period.

Without having professional advice, it seems to me that this disingenuous proposal is exactly what the Planning Scheme should stop, but because of past lax acts L.C.C. has a proposal that in effect is only providing a 200 square metre block. This is 50% smaller than the allowable block in this area. The balance of the land is made up of rights of ways, part of which we have rights to and with the largest portion appropriated by adjoining land owners on 2 and 4 My Street many years ago. The right of way was created to access the horse stables of 6 Stewart Street.

Because of the staged nature of developments allowed under the Scheme it is precluded to comment on any future building on this site. However, it should be noted that because of the alarmingly small footprint of the block the most likely scenario is that a taller building would be built. This is directly overseeing [REDACTED] open space and habitable rooms. Future developers could argue that because such a small block was granted a subdivision, they have the right to build a structure of a volume in keeping with buildings in the area.

On Council records you will also find that the proponent Mr Robyn Airey has built over the right of way and was ordered to remove said structure. He also refuses to remove overhanging asbestos containing roof structure over our land.

A site inspection by you and Aldermen would certainly make obvious the deficient nature of this proposal.

I hope you will take these comments in the constructive manner in which they have been written.

Dear Sir/Madam,

We wish to raise four objections in relation to the above Development Application.

1. The area detailed for subdivision includes an Easement and A Right-of-Way, which we understand cannot be for built upon. If this understanding is correct, when the land area of the Easement and Right-of-Way are deducted from the total 400m² of the DA, the actual area available to build on is *significantly* reduced, and potentially less than the minimum required for a subdivision. We believe this needs to be taken into account when assessing the DA.
2. We dispute the Right of Way / Easement area at the rear of the properties of 2 and 4 My Street depicted in the DA as having a width of 2.9m; we have a current survey (Dated 2018) detailing these areas as having a width of 2.74 metres.
3. The Right of Way / Easement at the rear of 2 My Street and 4 My Street have been fenced off for over 30 years from 2 My Street to 4 My Street (similarly the rear-adjointing properties on Stewart Street). These Right-of-way / Easement areas have not (and are not) accessible, hence should not be included in the area allocated to subdivision. In speaking with a lawyer regarding the easement (immediately following our purchase of the property in 2014) we were advised that if the Right-of-way / Easement area had been fenced for such an extended period of time, it could be deemed as Adverse Possession under Common Law.
4. Car parking in My Street is *very* limited. The Development Application removes an existing car park from the rear of 94 Arthur Street. If a new dwelling was erected on the rear of the property, additional car parking capacity would be required for those occupants. There is only limited car parking currently available in My Street, and this potential development will *significantly exacerbate* the limited parking situation.

The General Manager
Launceston City Council
PO Box 396,
Launceston 7250
By email to: contactus@launceston.tas.gov.au

RE: DA0680/2018, 94 Arthur Street

Dear Mr Stretton

I hereby request that approval for DA0680/2018 be refused. The application has not met the public notice requirements of Section 57 of the Land Use Planning and Approvals Act 1993.

As of today I am in receipt of three notices as per attached image. These were variously mailed on or after the 18/12/18. They should have been mailed on the alleged date of notice, 08/12/18. The earliest a notice was received was 19/12/18, a full 10 days after the alleged date of notice. A profusion of late notices does not excuse the absence of a notice on time as would be reasonably expected under the Act.

I have been unable to seek professional advice about the subject application, largely due to the choice Council has made to notify me so late into a long period of practical business shutdown.

The application is not supported given that well over 130 sq meters of the land comprises land under Right of Way covenants that effectively makes it unusable for construction after subdivision. While the word of the planning scheme requirement for minimum lot size is complied with, the spirit of the requirement for minimum lot size is not.

Yours sincerely

HOBART MC 780ECT

POSTAGE
PAID
AUSTRALIA

PRIORITY

The Resident



REC 19/12/18



Town Hall, St John Street, Lau
PO Box 396, LAUNCESTON TAS 7250 T 03 63
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REC 20/12/18



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The Resident



REC 21/12/18

Application details

DA NO: DA0680/2018
APPLICANT: Cohen And Associates Pty Ltd
LOCATION: 94 Arthur Street,
EAST LAUNCESTON
PROPOSAL: Residential - Subdivision (2
Lots)
CONTACT: Iain More
Ph: (03) 6323 3382
DATE OF
NOTICE: 08/12/2018

Notice of application for a Planning Permit

The Launceston City Council has received an application to use or develop land at the address specified on this card.

Plans and documents can be inspected at the Council's Customer Service Centre Monday to Friday from 8.30am to 5.00pm or on Council's website at <https://onlineservice.launceston.tas.gov.au> until **02/01/2019**.

Written representations to the General Manager may be made during this time at Box 396, LAUNCESTON TAS 7250 or by email to contactus@launceston.tas.gov.au. However, the full content of your submission may be included in the report (available for public access) if the application is presented at a Council meeting for consideration. It is therefore the responsibility of the author of the representation to ensure that what is written is factual, fair and reasonable and not defamatory against any person. Please provide day time phone contact details with representations.

Before deciding on the application the Council must consider any written communication it receives. An appeal can be made against the Council's decision, but only if the representation is lodged before the specified closing date.

This is a notice under section 57(3) of the Land Use Planning and Approvals Act 1993.

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The above stated application is currently on public notification. It has been noted that the adjoining landowner notification letters have been received later than usual, such, and in accordance with Section 57(5) of the *Land Use Planning and Approvals Act 1993*, the period for exhibition has been extended until **Monday 7 January 2019**.

Written representations to the General Manager may be made during this time at Box 396, LAUNCESTON TAS 7250 or by email to contactus@launceston.tas.gov.au. However, the full content of your submission may be included in the report (available for public access) if the application is presented at a Council meeting for consideration. It is therefore the responsibility of the author of the representation to ensure that what is written is factual, fair and reasonable and not defamatory against any person. Please provide day time phone contact details with representations.

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Dear Councillors

Re application DA 0680/2018 to subdivide 94 Arthur Street

My concern relates to the benefiting easement 'right of access' that sits -12 feet to the right of 2 My Street plus 9 feet extension of the 'easement that runs across both 2 & 4 My Street.

at the time a carport sat at the entrance to the rear section, although unusable as no vehicle could drive into it. At the time of purchase we were advised that 2 other properties has 'rights over the benefiting easement' – 92 Arthur Street and 12 Stewart Street. The title for the benefiting easement was attached to 94 Arthur Street, property.

The planning application and diagram 'DA 0680/2018' appears to be somewhat miss leading', specifically that the right of way is marked – across land at the rear of 2 and 4 My Street. This stretch of land has not been 'accessed, passed over or used (except by the current owners of each property) in over 35 years. A survey of my land noted that due to 'inaccuracy of rear boundary fence the 'easement' runs across 12 & possibly 10 Stewart Street.

The used part of the road way is off My Street.

The road way or the lower half of the benefiting easement 'right of way' is used on a daily basis, I have no other access to off street parking. Both 92 Arthur and 12 Stewart Street also accessed their properties from the My Street entrance.

Objection to application DA 0680/2018 - Land size for subdivision

Both the unused land at the rear of 2-4 My Street plus the benefiting easement right of way have been incorporated into the 'land area' for the lot 2 subdivision of 94 Arthur Street.

If council approve the subdivision any potential buyer will assume council have also approved building on the block; the area excluding benefiting easement and dormant land to the rear renders the remaining land area less than the minimum needed to build.

Additional note

In order to use the 'right of way' we have also maintained this piece of land. It has been the only way to ensure access.

With out sealing the roadway it becomes a slippery muddy 'bog' that is impossible to access each winter.

We have paid the full cost of 'bitumen sealing the lower section of the benefiting easement 'right of way'

██████████ of 92 Arthur Street have gravelled the top section and also support weed maintenance.