

8.2 Amendment 59 - Text Amendment to Include a Site Specific Qualification for Assisted Housing at 22 Hoblers Bridge Road, Newstead

FILE NO: SF6981

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DIRECTOR: Leanne Hurst (Director Development Services)

DECISION STATEMENT:

To consider whether to initiate Amendment 59 to insert the Residential use class as a discretionary use (if for Assisted Housing at 22 Hoblers Bridge Road, Newstead) in the Community Purpose Zone.

RECOMMENDATION:

That Council:

1. pursuant, to the former section 34(1)(b) of the *Land Use Planning and Approvals Act 1993*, initiates Amendment 59 to the Launceston Interim Planning Scheme 2015 to insert the Residential use class as a discretionary use with the qualification, 'if for Assisted Housing at 22 Hoblers Bridge Road, Newstead' in Table 17.2 of the Community Purpose Zone of the Launceston Interim Planning Scheme 2015.
 2. directs Council Officers to prepare Draft Amendment 59 of the Launceston Interim Planning Scheme 2015.
 3. in accordance with the former section 6(3) of the *Land Use Planning and Approvals Act 1993*, delegates to the Director of Development Services its functions under section 35(1) of the *Land Use Planning and Approvals Act*, for the purposes of Amendment 59 to the Launceston Interim Planning Scheme 2015.
 4. in accordance with the former section 38(a) of the *Land Use Planning and Approvals Act 1993*, determine the period for public exhibition to be 28 days.
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REPORT:

1. Introduction

St Michaels is a not-for-profit organisation that offers a range of community services throughout Tasmania. A key service offered by St Michaels is the provision of accommodation and support to Tasmanian people with intellectual and physical disabilities. St Michaels offers residential options and day programs with integrated daily living skills.

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Assisted housing is currently prohibited in the planning scheme. In order to facilitate the future use and development of the St Michaels site, a text amendment is required to include the assisted housing qualification in the residential use class.

Officers in City Development have decided to recommend that Council initiate a planning scheme text amendment to the Launceston Interim Planning Scheme 2015 to allow for Assisted Housing (if at 22 Hoblers Bridge Road, Newstead) as a discretionary use class in the Community Purpose Zone of the Launceston Interim Planning Scheme 2015.

All use and development is controlled by the Launceston Interim Planning Scheme 2015 (the planning scheme) and all development must be assigned a use class as defined in the planning scheme.

The Community Purpose Zone in the planning scheme limits the use of land for residential purposes to a residential aged care facility and retirement village only and prohibits all other sub-uses within the residential use class - including assisted housing.

Consequently, the existing assisted housing use on the site is a prohibited use within the Community Purpose Zone and future development of the site for multiple dwellings is prohibited.



Figure 1 - St Michaels, 22 Hoblers Bridge Road, Newstead

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The residential aged care facility and retirement village residential sub use classes are defined in the scheme as:

Retirement Village - means use of land to provide permanent accommodation for retired people or the aged and includes communal recreational or medical facilities for residents of the village.

Residential aged care facility - means the use of land for accommodation and personal or nursing care for the aged. It includes recreational, health or laundry facilities and services for residents of the facility.

Assisted housing means:

Assisted Housing - means housing provided by an organisation for higher needs tenants or residents, including those with physical or intellectual disabilities, and may include associated support services.

It is important to understand the similarities between the above residential use classes and the assisted housing definition. All three residential sub uses provide housing or permanent accommodation with associated support services for people either retired, aged or with physical or intellectual disabilities.

When comparing the above definitions it should be assumed that the nonexistence of a residential sub use for assisted housing in the Community Purpose Zone is an oversight. The proposed solution is to initiate a text amendment to the Launceston interim Planning Scheme 2015 to allow Residential (if for assisted housing at 22 Hoblers Bridge Road, Newstead) as a discretionary use in the Community Purpose Zone.

2. Proposed Amendment

The proposed amendment seeks to insert a site specific qualification for the Residential use class, with the qualification of 'if for assisted housing at 22 Hoblers Bridge Road', as a discretionary use in Table 17.2 of the Community Purpose Zone.

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2.1 Text Amendment

The proposed amendment will be achieved by making an alteration below to the Launceston Interim Planning Scheme 2015:

*17.0 Community Purpose Zone
Table 17.2 Use Table*

Discretionary	
Use Class	Qualification
Residential	If for Assisted Housing* at 22 Hoblers Bridge Road, Newstead *means housing provided by an organisation for higher needs tenants or residents, including those with physical or intellectual disabilities, and may include associated support services

The existing Use Table for the Community Purpose Zone prohibits a Residential use class for Assisted Housing. The purpose of the planning scheme amendment is to allow for a Residential use class for Assisted Housing at 22 Hoblers Bridge Road, Newstead.

2.2 Zone Purpose Statements

It is considered that the proposed amendment will not substantially alter the functionality of the Launceston Interim Planning Scheme 2015 apart from the insertion of an additional use class which is currently prohibited in the Community Purpose Zone. The proposed Residential use class for Assisted Housing is considered to be compatible with the anticipated impacts of other residential uses in the zone and aligns with the zone purpose statement as follows:

- 17.0 Community Purpose Zone*
- 17.1.1 Zone Purpose Statements*
- 17.1.1.1 To provide for key community facilities and services where those facilities and services are not appropriate for inclusion as an associated activity within another zone.*
- 17.1.1.2 To provide for a range of health, educational, government, cultural and social facilities.*

It is considered that any future development applications made under a scenario where the proposed amendment is approved are able to demonstrate consistency with the zone purpose statements by:

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- Providing key community facilities including housing for higher needs community members, including those with physical or intellectual disabilities;
- Providing associated educational and support services to those residents; and
- Ensuring the anticipated impacts are consistent with other permissible residential uses in the zone.

Any development application made under a scenario where the proposed amendment is approved will be subject to assessment against all relevant standards of the scheme including zone and code use and development standards.

Overall, the proposed amendment is considered to be compatible with the scheme.

3. Requirements of the Act

The amendment must be decided under section 34(1)(b) as it is a proposed amendment of the Planning Authority's own motion.

Section 33 (3) of the *Land Use Planning and Approvals Act 1993 (the Act)* reads:

33. *Request for amendment of planning scheme*

(3) *A planning authority must, within 42 days of the receipt of a request or such longer time as the Commission may allow, make a decision as to whether or not to initiate an amendment of the planning scheme and serve on the person who made the request notice of its decision within 7 days of making the decision.*

(3AA) *If the planning authority decides under subsection (3) to initiate an amendment of a planning scheme after receipt of a request from a person under subsection (1), it must-*

- (a) initiate the amendment under section 34; and*
- (b) certify the draft amendment under section 35 - within 42 days of receiving the request or such longer time as the Commission allows.*

The matters which Council must consider when making a decision whether to reject or exhibit the application are listed in section 32 of the Act and are set out in subsequent sections of this report.

Should the Council decide to initiate the Amendment, the Draft Amendment will be publicly exhibited for a period of 28 days, or a longer period agreed to by the Council and the Commission pursuant to section 38 of the Act. During the public exhibition period, representations may be submitted to the Council before the expiration of the exhibition period.

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Following the public exhibition period, pursuant to section 39 of the Act the Council must, no later than 35 days after the exhibition period, provide the Commission with a report comprising the following elements:

- a. Copy of each representation received, or if no representations were received, a statement to that effect; and
- b. A statement of Council's opinion as to the merit of each representation (if any), including, in particular Council's views as to-
 - i. the need for modification of the draft amendment in light of each representation; and
 - ii. the impact of that representation on the draft amendment as a whole; and
- c. Any recommendations in relation to the draft amendment as Council considers necessary.

The Commission must then consider the draft amendment in addition to the representations (if any), statements and recommendations contained in Council's report and where necessary, conduct hearings pursuant to section 40 of the Act. The Commission then makes a decision to modify, reject or approve the draft amendment pursuant to sections 41-42 of the Act.

4. Assessment

4.1 City of Launceston Corporate Strategic Plan 2014-2024: 2019

The City of Launceston Corporate Strategic Plan 2014-2024 (the Plan) seeks to provide direction to the range of operations Council undertakes in their role as the major provider of services and facilities for the City of Launceston. The Plan essentially indicates the actions and strategies that the Council will implement to deliver on the Greater Launceston Plan goals. The relevant Strategic Priorities are addressed below.

Strategic Priority 5 - We serve and care for our community by providing equitable and efficient services that reflects needs and expectations of our community.

The proposed amendment seeks to support social and demographic diversity and develops a socially inclusive Launceston. The amendment is consistent with providing services and facilities that recognise the changing demographics and will enable St Michaels to provide residential options for vulnerable and diverse members of the community, where all people feel valued, their differences are respected, and their basic needs are met.

Strategic Priority 7 - We are a City planning for our future by ensuring our approach to strategic land-use, development and infrastructure is coordinated, progressive and sustainable.

The proposed amendment seeks to allow for a positive land use planning outcome by allowing for a use in an appropriate zone. The amendment will allow for future

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development of the subject site resulting in a minor intensification of the existing use which is currently non-conforming. The proposed amendment will assist in the coordination of planning and development of existing and future patterns of land use.

4.2 Northern Regional Land Use Strategy

Section 30O (1) of the Act requires the amendment to be, as far as practicable, consistent with the strategy. The Northern Regional Land Use Strategy (the NRLUS) was declared by the Minister for Planning on 27 June 2018 pursuant to section 30C(3) of the Act. The NRLUS is a policy framework that guides land use, development and infrastructure decision across the northern region by State and Local Government and other relevant infrastructure providers. The NRLUS has provided significant guidance for the preparation of the Launceston Interim Planning Scheme 2012 and 2015.

Part D of the NRLUS details the desired regional outcomes that have been determined as priorities for the northern region which include:

- Regional strategic planning direction and principles necessary to achieve those outcomes;
- Specific strategic policies to guide state and local government planning process and decision-making; and
- Specific regional planning projects and programs to be implemented over the life of the plan.

Of the six key desired regional outcomes, the Regional Settlement Network is considered to be the most relevant to the proposed amendment. The proposed amendment aligns directly with the Land Use and Development outcomes of the Key Settlement Network Strategies. Of particular relevance are:

- Provide a diversity of land uses; and
- Provide for affordable housing and a diversity of housing types and sizes, including retirement accommodation and aged care facilities.

The proposed amendment is considered appropriate to deliver these outcomes identified in the Regional Settlement Network Policy. The proposed amendment is not expected to impact the region from an environmental, economic or social perspective. The proposal will provide for much needed housing options within the City to effect the social and community needs of the city and the State.

It is considered that the proposed amendment will have a minimal impact on the region as a whole.

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4.3 Section 33 Considerations

Before making a decision as to whether or not to initiate a draft amendment, section 33 (2B) of the Act requires Council to consider whether the amendment is consistent with the requirements of other legislative requirements including section 32 of the Act.

Section 32(1) specifies that a draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of Council:

- must, as far as practicable, avoid the potential for land use conflicts with the use and development permissible under the planning scheme applying to the adjacent area; and
- must not conflict with the requirements of section 300 of the Act; and
- must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.

These requirements are addressed below:

4.3.1 Land Use Conflict

The proposed draft amendment does not modify the use of the site but allows for the principal use of the 2.5ha site to have a discretionary use status and provides surety for the continuing use of the site.

4.3.2 Section 300

Section 300(2) through to (4) of the Act allows for an amendment to the planning scheme to occur for the purposes of inserting a new provision into the scheme provided that the amendment:

- is not directly or indirectly inconsistent with a common provision of the scheme;
- does not revoke or amend an overriding local provision;
- does not result in a conflicting local provision; and
- does not impact upon a common provision within the scheme.

The proposed amendment seeks to provide clarity to the continuing residential use of the site being multiple dwellings which are prohibited under the Community Purpose Zone unless for a residential aged care facility or a retirement village.

The proposed amendment will not override, be in conflict or inconsistent with, any other local or common provision of the scheme. The proposed amendment will enable a use which is currently prohibited in the Community Purpose Zone.

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4.3.3 Regional Impact

The proposed amendment is not expected to impact the region from an environmental, economic or social perspective. The current residential development and use of the site is to remain and will not impact on the intents of the planning scheme. The proposed amendment is not likely to create any adverse impacts on adjoining residential areas. It is considered that the proposed amendment will have a minimal impact on the region as a whole.

4.4 Objective of the *Land Use Planning and Approvals Act 1993*

Section 20(1)(a) of the Act requires a planning scheme to seek to further the objectives set out in Schedule 1 of the *Land Use Planning and Approvals Act 1993*.

4.4.1 Schedule 1, Part 1 - Objectives of the Resource Management and Planning System of Tasmania

(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and

The proposed amendment will not adversely impact upon natural, ecological or physical values.

(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and

The proposed amendment will not directly impact the sustainable use of air, land and water in terms of creating environmental nuisances.

(c) to encourage public involvement in resource management and planning; and

Should Council decide to initiate the proposed amendment, public consultation will be undertaken in accordance with the Act. This will ensure the public are aware of the proposal and will enable the public to engage with the process through submissions.

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

The proposed amendment will enable the subject site to be utilised for an additional residential use. The proposed amendment is not expected to generate any additional impact to the amenity of surrounding sensitive uses greater than the level that currently exists from other permissible residential uses within the zone.

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- (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.*

This is facilitated through the amendment process and application of relevant legislation.

4.4.2 Schedule 1, Part 2 - Objectives of the Planning Process Established by the Act

- (a) *to require sound strategic planning and co-ordinated action by State and local government; and*

The proposed amendment is consistent with, and is assessed as being supportive of the objectives of the Act, the Northern Regional Land Use Strategy and the Scheme. Co-ordinated action by the State and local government is facilitated through the amendment process and application of relevant legislation.

- (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; and*

The proposed amendment seeks to effectively allow a broader and more inclusive range of residential uses to occur in the Community Purpose Zone that will be similar in nature as the residential use currently allowable in the zone. The amendment process is an established mechanism under the Act to allow the amendment to be lawfully considered. The proposed amendment has been assessed as being consistent with the established land use pattern within the Community Purpose Zone and is not expected to generate any additional impacts to surrounding sensitive uses greater than the level that already occurs from existing uses.

- (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; and*

The proposed amendment will allow for a minor intensification of the existing use within the limitations of the site. The Community Purpose Zone limits the use of land for residential purposes to a residential aged care facility and retirement village only and prohibits all other sub-uses within the residential use class. Consequently, the established multiple dwelling use is identified as an existing non-conforming use within the Community Purpose Zone and future development of the site for multiple dwellings is prohibited.

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- (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; and*

All relevant regional and state policies have been considered through the amendment process.

- (e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and*

This objective is not relevant to the proposed amendment.

- (f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and*

It is considered that existing use and development standards within the Scheme are sufficiently robust to control any future development applications made as a result of the proposed amendment.

- (g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and*

The proposed amendment will not impact on any place of historical interest or of special cultural value.

- (h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and*

The proposed amendment will not impact any public infrastructure or assets.

- (i) to provide a planning framework which fully considers land capability.*

Consideration of land capability is not relevant.

5. State Legislation and Policies**5.1 State Policy on the Protection of Agricultural Land 2009**

The proposal does not impact upon agricultural land.

5.2 State Policy on Water Quality Management 1997

Any future use and development will be subject to complying with development standards that are consistent with the policy.

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5.3 State Coastal Policy 1996

Any future use and development will be subject to complying with development standards that are consistent with the policy.

5.4 National Environmental Protection Measures

National Environmental Protection Measures (NEPMs) are automatically adopted as State Policies. They outline common environmental objectives for managing the environment.

Current NEPMs include:

- National Environmental Protection (Used Packaging Materials) Measure;
- National Environmental Protection (Ambient Air Quality) Measure;
- National Environmental Protection (Movement of Controlled Waste Between States and Territories) Measure;
- National Environmental Protection (National Pollutant Inventory) Measure;
- National Environmental Protection (Assessment of Site Contamination) Measure;
- National Environmental Protection (Diesel Vehicle Emissions) Measure; and
- National Environmental Protection (Air Toxics) Measure.

In this situation the NEPMs are either not applicable, or will not be impacted upon by the proposed Amendment.

5.5 Gas Pipelines Act 2000

Any future use and development will be subject to complying with development standards that are consistent the Act.

6. Conclusion

The application for amendment seeks to insert the Residential use class (if for assisted housing at 22 Hoblers Bridge Road) as a discretionary use in Table 17.2 of the Community Purpose Zone of the Launceston Interim Planning Scheme 2015.

The amendment is supported on the following basis:

- Land use conflicts will not exist as the proposed amendment will not modify the current use of the site; and
- The location of the subject site, surrounded mainly by residential zones, would be suitable for an assisted housing use; and
- The impacts of the assisted housing use are consistent with those of the other permissible residential uses in the zone; and
- The absence of an assisted housing residential sub use in the Community Purpose Zone is an oversight and housing options should not be limited to those who are aged or retired but should extend to those with physical or intellectual disabilities.

The proposed amendment has been assessed as being supportive of the objectives of the Act, NRLUS and the Scheme.

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ECONOMIC IMPACT:

No significant economic impacts have been identified.

ENVIRONMENTAL IMPACT:

No significant environmental impacts have been identified.

SOCIAL IMPACT:

No significant social impacts have been identified.

STRATEGIC DOCUMENT REFERENCE:

Launceston Interim Planning Scheme 2015
Land Use Planning and Approvals Act 1993
Local Government Act 1993 (Tas)

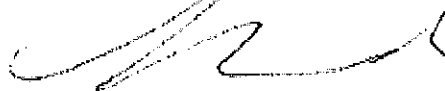
BUDGET & FINANCIAL ASPECTS:

Not considered relevant to this report.

DISCLOSURE OF INTERESTS:

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



Leanne Hurst: Director Development Services