

Council Meeting - Agenda Item 9.2  
Attachment 3 - Representations - 22 Margaret Street Launceston - 17 June 2021

**From:** Chloe Lyne  
**Sent:** Mon, 24 May 2021 10:37:55 +1000  
**To:** Contact Us  
**Cc:** [REDACTED]  
**Subject:** Representation  
**Attachments:** Representation.pdf

Morning

Please find attached a representation to DA 0174/2021

Kind Regards

Chloe Lyne  
Planning and Development Consultant  
MPIA, RPIA  
Commercial Project Delivery

[REDACTED]

COMMERCIAL PROJECT DELIVERY

Project + Construction Management



\*\*\*\*\*Please note our office has moved to [REDACTED]

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[REDACTED]



**May 17, 2021**

General Manager  
City of Launceston

Dear Michael

**DA0174/2021 - Representation**

I am writing this representation on behalf of TRC Multi Properties Pty Ltd who wish to object to the proposed change of use from car park to private open space at 22 Margaret Street.

Firstly I note that the application is unclear as to what is proposed. Private open space is not a defined use under the planning scheme. It appears as though the application really seeks to amend a condition of a previous permit DA01.97.355 which requires provision of 5 on-site parking space associated with a restaurant. However, this information is not made clear in the application material.

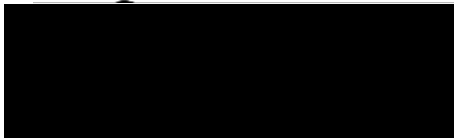
The car parks are required to be provided as off street parking associated with an approved restaurant at the site. As noted in the application, conversion of the car park to private open space will leave the restaurant with no off street parking available to customers. Whilst the applicant has stated that the opening hours of the restaurant are 5pm-8.30pm Monday to Saturday, condition 7 of the permit issued for the restaurant DA01.97.355 allows operating hours of 10am to 10pm Monday to Saturday. A decision to allow the restaurant to operate with no on site parking based on the premise that it is mainly open at night time would not take account of the fact that the permit allows day time operation of the restaurant and the proponent can choose to operate during the day if they wish.

DA01.96.355 required 5 on-site parking spaces to be provided. A reduction to zero on-site spaces on the basis of car parking availability at an adjacent property is not appropriate especially given the adjacent property owner (TRC Multi Properties Pty Ltd) have plans to develop the car park and it will no longer be open for the public. Further, this car park is closed from 5pm until 5am so not available to restaurant customers during the period which the applicant says they operate. This will mean that customers will likely choose to park in the TRC car park which is provided for TRC customers. The Bathurst Street car park mentioned in the applicant's supporting information is unlikely to be utilised by restaurant customers as the entrance is some 100m from the site.

There are no street parking spaces along Brisbane St and only 4 spaces along the western side of Margaret Street for the entire length of the block between Brisbane and Paterson Streets. It is submitted that this is insufficient parking provision for a restaurant of the size of the Golden Brumby which is capable of being provided with on site car parking for customers.

The application has failed to adequately demonstrate that it meets all the required matters to be considered under Clause E6.5.1 Car parking numbers P1.1. At a minimum, given the restaurant is operating, the proposal should detail the number of seats in the restaurant and actual demand for parking. It is noted that a sign on the building advertises that it has a function room to seat 30 people. There is no viable demonstration in the application as to where those 30 customers would park. As the application fails to demonstrate how it meets P1.1 of Clause E6.5.1 it must be refused.

Yours faithfully



Chloe Lyne  
Planning and Development Consultant  
Commercial Project Delivery



**From:** Dean Cocker  
**Sent:** Fri, 21 May 2021 17:23:35 +1000  
**To:** Contact Us  
**Subject:** Representation re DA0174/2021, 22-24 Margaret Street, Launceston  
**Attachments:** Scan\_20210521\_171256.pdf

Hi,

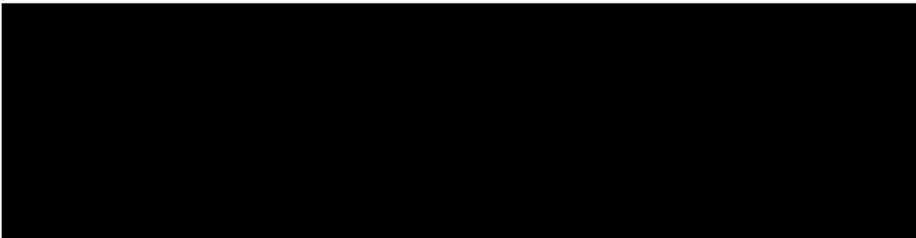
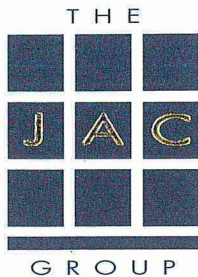
Please find attached a Representation re DA0174/2021 for 22-24 Margaret Street, Launceston.

Cheers,

**Dean Cocker**  
**Managing Director**

**The JAC Group**





21<sup>st</sup> May 2021

Chief Executive Officer  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

**By Express Post & Email: [contactus@launceston.tas.gov.au](mailto:contactus@launceston.tas.gov.au)**

Dear Sir,

**REPRESENTATION RE DA0174/2021, 22-24 MARGARET STREET, LAUNCESTON**

I am a director of Kipep Pty Ltd that operates the TRC Hotel on land that [REDACTED] the property known as the Golden Brumby at 22-24 Margaret Street. This is a representation on behalf of Kipep Pty Ltd made pursuant to s.57 of the Land Use Planning & Approvals Act 1993. For the reasons that follow, Kipep Pty Ltd opposes the grant of the planning permit that is sought in the development application and the Launceston City Council, acting correctly and in accordance with the Launceston Interim Planning Scheme 2015 should refuse the grant of a permit. Those reasons are:

1. Contrary to the suggestion in Ms Cai's application letter, nearby restaurant premises such as Cataract on Paterson have use of the car park at the rear of the TRC Hotel by virtue of the fact that TRC Multi Property owns both premises and leases the restaurant to Cataract on Paterson on the understanding that its customers can use the TRC Hotel car park.

Ms Cai and her restaurant and customers have no right to use private TRC Hotel car parks owned by TRC Multi Property Pty Ltd and operated by Kipep Pty Ltd. The Margaret Street Car Park is also owned by TRC Multi Property Pty Ltd and currently closed to traffic entering the car park after 5pm to prevent it from being used by undesirable groups after dark. This means the Margaret Street Car Park is not available for use by customers of the Golden Brumby Chinese Restaurant which currently operates from 5pm to 8:30pm.

2. Alternative parking such as the Bathurst Street Car Park near Dan Murphy's is approximately [REDACTED] away and as a result, the Golden Brumby's customers would be forced to illegally use the private car park at TRC Hotel. It is not reasonable for a restaurant approved with car parking to offload its car parks and rely on its customers illegally using the private car parks of [REDACTED] hospitality businesses.
3. It is clear from the plan in the application that the car park is still to be used as a car park because the plan includes two designated car spaces, and a 'car park' by definition is not 'private open space'.

Yours faithfully,



Dean Cocker  
Director obo Kipep Pty Ltd

PROPERTY - INVESTMENT - DEVELOPMENT - VINEYARDS

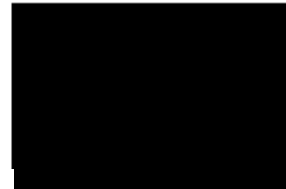
**From:** Office  
**Sent:** Thu, 20 May 2021 16:08:03 +1000  
**To:** Contact Us  
**Subject:** REPRESENTATION DA 0174/2021 22 MARGARET STREET, LAUNCESTON  
**Attachments:** ltr - LCC 20-5-21.pdf

Please see attached.

Shaun McElwaine SC

SHAUN  
McELWAIN  
+ ASSOCIATES

BARRISTERS + SOLICITORS



20 May 2021

The General Manager  
Launceston City Council  
Town Hall, St John Street  
LAUNCESTON TAS 7250  
Attn: Duncan Payton

Email: [contactus@launceston.tas.gov.au](mailto:contactus@launceston.tas.gov.au)

Dear Mr Payton,

**REPRESENTATION DA 0174/2021  
22 MARGARET STREET, LAUNCESTON**

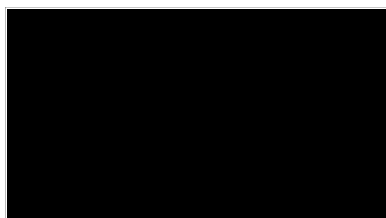
**AMENDED REPRESENTATION**

I act on behalf of the JAC Group, the owner of land that adjoins the property known as the Golden Brumby at 22 Margaret Street Launceston. This is a representation on my client's behalf that is made pursuant to s.57 of the Land Use Planning & Approvals Act 1993. For the reasons that follow, my client opposes the grant of the planning permit that is sought in the development application and the Launceston City Council, acting correctly and in accordance with the Launceston Interim Planning Scheme 2015 should refuse the grant of a permit.

The development application is short on detail. The property at 22-24 Margaret Street Launceston is zoned Urban Mixed Use pursuant to the planning scheme and is surrounded by land that is zoned Urban Mixed Use. Although the use class Food Services does not require a permit, the car parking requirements of Code E6 must be met. There is an obligation to provide a minimum number of car parking spaces, calculated by floor area at Table E6.1. It is questionable whether the extant use complies with that standard, but it is accepted that a permit for the use was granted pursuant to an earlier planning scheme.

The history of the grant of planning permits to use the land as a restaurant was summarised by your planner, Iain More, in his reply statement of evidence in an appeal brought before the RMPAT of *Cai v Launceston City Council* 58/19P. That statement is dated 23 August 2019, and I will assume that it is readily available to you. The history that he sets out in that witness statement is as follows:

BARRISTERS + SOLICITORS



- D355/97. A planning permit was granted for the use class restaurant and it requires the provision of five car parking spaces for the sole use of the restaurant;
- DA0593/2008. A permit was granted to establish a residential use on top of the existing restaurant including a single car garage under the deck at ground level. The requirement to maintain five car parking spaces under the earlier planning permit was not altered;
- DA0012/2017. A permit was granted to enclose the existing deck approved under the second permit. No alteration was made to maintain the five car parking spaces under the first permit.

What is now sought by Ms Cai is conversion of the entire rear area required for car parking pursuant to the first permit so that the area may now be used for that which is described as *'private open space'*. One assumes that what is meant by that phrase is an area exclusively for the use of the occupants of the land, and their guests. A permit if granted as sought will obliterate the required car parking spaces and it will immediately follow that use of the land as a restaurant cannot be lawfully continued. There is no use class in the planning scheme of *'private open space'* pursuant to the table of uses at clause 8.2. There is a definition of private open space at clause 4 which means *'an outdoor area of the land or dwelling for the exclusive use of the occupants of the land or dwelling.'* Thus it is immediately apparent that what is contemplated by this change of use application is to expunge the present use of the land for car parking as a necessary requirement of the lawful conduct of the restaurant business pursuant to the first permit in favour of conversion of this portion of the land to a residential use which is discretionary, that is if not for a single dwelling, pursuant to clause 11.2. The application makes no attempt to demonstrate that the requirements for a change of use pursuant to clauses 11.3 or 11.4 of the planning scheme are capable of being met. Nor does it address how the Food Services use might continue without providing car spaces in accordance with Code E6.

Although the application does not say so, what is apparent is that in substance it is an application to vary the terms of the first planning permit. On that basis Council has no jurisdiction to grant a planning permit for what is sought for the simple reason that there is nothing in the Land Use Planning & Approvals Act 1993 that confers power to vary the conditions of a planning permit that has been granted, save for the power to make minor amendments pursuant to s. 56. An amendment to delete the car parking spaces is not minor and in any event no application has been made by the owner of the land for an amendment pursuant to that provision.

The correct procedure that applies pursuant to the Act where a person seeks the grant of a planning permit for an already approved use and development, but with different conditions, is to lodge a new development application for the extant use and to seek the grant of a planning permit with differently specified conditions. No application of that character has been made by Ms Cai.



Accordingly, for these reasons the application is utterly misconceived, Council has no jurisdiction to grant a permit for it and any permit that is purportedly granted will be invalid.

I am also instructed by my client to raise with you a number of incorrect factual statements that are made by Ms Cai in support of the application. Those matters are:

1. Contrary to the suggestion in Ms Cai's application letter, nearby restaurant premises such as Cataract on Paterson have use of the car park at the rear of the TRC Hotel by virtue of the fact that TRC Multi Property Pty Ltd owns both premises and leases the restaurant to Cataract on Paterson on the understanding that its customers can use the TRC car park.

Ms Cai and her restaurant and customers have no right to use private car parks owned and operated by TRC Multi Property Pty Ltd. The Margaret Street Car Park owned by TRC Multi Property Pty Ltd is also currently closed to traffic entering the car park after 5pm to prevent it from being used by undesirable groups after dark. This means the Margaret Street Car Park is not available for use by customers of The Golden Brumby Chinese Restaurant which operates from 5pm to 8:30pm.

2. Alternative parking such as the Bathurst Street Car Park near Dan Murphy's is approximately 100m away and as a result the Golden Brumby's customers would be forced to illegally use the private car park at the TRC Hotel. It is not reasonable for a restaurant approved with car parking to offload its car parks and rely on its customers illegally using the private car parks of adjacent hospitality businesses.
3. It is clear from the plan in the application that the car park is still to be used as a car park because the plan includes two designated car spaces, and a car park by definition is not private open space.

Yours faithfully



S B McELWAIN SC

17th May 2021

To Whom It May Concern,

I am writing to raise my objections over a current development application by the name of Wei Y Cai, Susan Cai (DA No: DA0174/2021). I find the current application regarding the change of use of the pre-existing carpark from business use to a private open space for the existing dwelling as a potential stalling of the planned hotel on Margaret Street.

As a long-term resident of Launceston, I was deeply disappointed that the last application for the Hotel and Conference centre planned for where the existing TRC hotel, petrol station and bottle shop was knocked back. There is a growing need for more quality accommodation in Launceston and we only have to look at the quality of such economic developments by Josef Chromy in the past such as The Silo Hotel to see that many, not only in Launceston, but tourists too enjoy and talk very highly of such development. I am convinced that this new development will be of equal standard and will be welcomed by many, not only for an increasing tourism trade in Launceston, but also a fabulous development for local and interstate businesses that need conference facilities, something that Launceston desperately needs.

I find the application of the owners of the Golden Brumby to be shortsighted and petty, especially when any business owner would welcome the increase in business as this new development next door would provide to them. The potential increase in business from the patrons staying at the planned hotel I am sure would be most welcomed. To be frank, I see the stalling tactic through wanting to privatise their business car park, one that takes cars off the road through their operating hours, leaving much needed car spaces on the road, as nothing short of selfish.

As someone who travels past that car park on a daily basis, it comes to my attention that the business owners have started to put potted plants and other 'personal' touches to this 'business carpark' as though this application has already been approved.

While, my concerns may seem small, this state has weathered a recent pandemic, many businesses in Launceston had to cease trading because they could not afford to trade and yet the Golden Brumby continues to trade and yet is selfish enough to deny a development in Launceston that will not only increase the vibrancy of Launceston in building up its business development for locals and tourists to enjoy, but also deny themselves an increase in their own business growth.

I am not sure if wanting to privatise the carpark, they are hoping that it will mean a third redesign of the hotel (to reduce it's height – because of overlooking into their property), but if this is the case, I ask the council to see it for what it is; a stalling and selfish act. It raises in my mind questions as to what the owners of a restaurant that was supported through the recent pandemic, welcoming trade in order to support themselves as a business as well as the livelihood of their family, really feel towards such a close community and supporting the wider community.

I strongly urge the council to reject this proposal and ensure that the carpark is left as a business carpark for the use of its current and future customers, thus also reducing the amount of limited spaces currently along Margaret Street that the businesses struggle to share, even with the allocated time allowances.

Yours Sincerely

Harvey

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**From:** Peter Stefanidis  
**Sent:** Thu, 13 May 2021 10:27:47 +1000  
**To:** Contact Us  
**Subject:** Att Chief Executive Officer Re DA0174/2021  
**Attachments:** DA Concerns (1) (1).docx

Please find attached letter  
Re The Opposing of Planing Application DA0174/2021

Date: 14th May 2021.

## **Re DA0174/2021 Development Application**

To whom it may concern,

I am writing to raise some concerns over a current development application by the name of Wei Y Cai, Susan Cai (DA No: DA0174/2021). I have reviewed the current application regarding the change of use of the pre-existing carpark from business use to a private open space for the existing dwelling.

I am the owner of The Flying Sparrow Cafe, situated directly opposite the Golden Brumby and have been trading at this location for almost three years. As a business the council have worked closely with us as to the one car park space on the road for customers to come and frequent our business. We have worked with council about discussions as to the time allocation for customers to park in the spot and have often had to call the council to closely monitor this spot due to its misuse by some, by exceeding the parking allowance of 30 minutes through visiting other business along the street.

My concern is that with the other businesses around, especially the Renault car seller, Carline, Launceston College and Buckby's car retailer, parking spots are much of the time limited along Margaret Street. By allowing the change of use of the car park for The Golden Brumby from a business to a private carpark this means that those customers will also have to find alternative parking, this could in turn, affect the decision of customers wanting to come to my business, because they have nowhere to park and thus costing me business which I have spent considerable time, money and building local relationships as a member of the local business community.

Another concern I have in regards to this development application is that if the owner of the Golden Brumby decides to open extended hours than their current trading times due to an increase of business because of this new development, have they considered where those customers would park? When initially they started up their business that parking that is present would have been approved by council and taken into consideration that was a requirement for that business. To now reverse this as there is talk of a development close by to the address in question is just a ploy by the above applicant to use this as their only last avenue to divert the process for their own interest and not for the local business in its circumference.

I would ask that this Development Application DA0174/2021 be carefully reviewed and wish to put my concerns against such an application in the spirit of fairness for all the surrounding business in regards to customer parking.

Furthermore I would like to secondly address that it seems to me that the only reason why the applicant wants to change the carpark to private use is because of her opposition to the last hotel development application, and this is possibly a stalling tactic to the current application, or a barrier to the new design because of her last concern of over-shadowing and that by making the carpark private this would impact on the current height of the what is planned with the hotel. I question on this point, that as part of her original agreement with the council to run a business from her location was with the agreement that the carpark was for the use of customers?

I can only hope that this Development Application be addressed by all concerned as to the factors and implications that may be associated to other businesses like myself who require car spaces if this subtraction of car spaces is implemented.

Kindest Regards

Peter Stefanidis

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