

TITLE: 36 Hiawatha Street, Norwood - Residential - Construction of Two Outbuildings

FILE NO: DA0538/2020

AUTHOR: Catherine Mainsbridge (Senior Town Planner)

GENERAL MANAGER: Leanne Hurst (Community and Place Network)

DECISION STATEMENT:

To consider and determine a development application pursuant to the *Land Use Planning and Approvals Act 1993*.

PLANNING APPLICATION INFORMATION:

Applicant:	Design To Live Pty Ltd
Property:	36 Hiawatha Street, Norwood
Zoning:	General Residential
Receipt Date:	2/09/2020
Validity Date:	2/09/2020
Further Information Request:	11/09/2020
Further Information Received:	19/11/2020
Deemed Approval:	28/01/2021
Representations:	Three

PREVIOUS COUNCIL CONSIDERATION:

Council - 28 January 2021 - 9.6 - 36 Hiawatha Street Norwood - Residential - Construction of Two Outbuildings - Refusal

DA0342/2013 - Subdivision - Approved Under Delegation - 14 October 2013

RECOMMENDATION:

MOTION 1:

That Council, by absolute majority determines:

- pursuant to Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), to deal with this matter, being one that was not included in the published Agenda; and
- to note the advice from the Chief Executive Officer in respect of the reason it was not possible to include this matter in the Agenda and that the matter is urgent, that advice having been provided to Councillors by email on 24 February 2021 and in the report attached to this matter.

MOTION 2:

That Council:

1. under the provisions of the *Land Use Planning and Approvals Act 1993*, acts as a Planning Authority in its determination of this matter.
 2. grants delegation to the Manager City Development to participate in negotiations under Section 17 of the *Resource Management and Planning Appeal Tribunal Act 1993* with the other parties in the Appeal Number 22/21P (DA0538/2020 - Residential - Construction of Two Outbuildings at 36 Hiawatha Street, Norwood) and is further authorised to compromise the proceedings and so enter into a consent agreement in accordance with the drawings by Design to Live numbered:
 - a. Cover Page, Prepared by Design to live, Job no HWTH36, Drawing No. 1, Revision No. R3, dated 22 February 2021.
 - b. Site Plan, Prepared by Design to live, Job no HWTH36, Drawing No. 2/8, Revision No. R3, Scale 1:200, dated 22 February 2021.
 - c. Shed Plans, Prepared by Design to live, Job no HWTH36, Drawing No. 3/8, Revision No. R3, Scale 1:100, dated 22 February 2021.
 - d. Carport Plans, Prepared by Design to live, Job no HWTH36, Drawing No. 4/8, Revision No. R3, Scale 1:100, dated 22 February 2021.
 - e. Shed Elevations, Prepared by Design to live, Job no HWTH36, Drawing No. 5/8, Revision No. R3, Scale 1:100, dated 22 February 2021.
 - f. Carport Elevations, Prepared by Design to live, Job no HWTH36, Drawing No. 6/8, Revision No. R3, Scale 1:50, dated 22 February 2021.
 - g. Section 7A, Prepared by Design to live, Job no HWTH36, Drawing No. 7/7, Revision No. R1, Scale 1:100, dated 2 September 2020.
 - h. Sunstudy, Prepared by Design to live, Job no HWTH36, Drawing No. 8/8, Revision No. R1, Scale 1:100, dated 22 February 2021.
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REPORT:

Late Council Meeting Agenda Item

Pursuant to Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2015 (Tas), a council by absolute majority at an ordinary council meeting, may decide to deal with a matter that is not on the agenda if -

- (a) the general manager has reported the reason it was not possible to include the matter on the agenda; and*
- (b) the general manager has reported that the matter is urgent; and*
- (c) in a case where the matter requires the advice of a qualified person, the general manager has certified under section 65 of the Act that the advice has been obtained and taken into account in providing general advice to the council.*

- Councillors are advised that advice from the Resource Management Appeals Tribunal (RMPAT) was received after the release of the Agenda and it was not possible to prepare a report for inclusion in the Agenda. The RMPAT advice is that the Appellant has agreed to provide revisions to the development proposal by way of offer of settlement by 5.00pm on Tuesday, 23 February 2021. Any responses to the revised designs are to be made within a further seven days. To meet this deadline, the matter was considered urgent.
- The Chief Executive Officer certifies that under section 65 of the *Local Government Act 1993* (Tas) that advice has been obtained and taken into account in providing general advice to Council.

Council determined to refuse the application at its Meeting held on 28 January 2021. The owner of the property subsequently appealed Council's decision to the RMPAT.

A RMPAT directions hearing was held on 18 February 2021. A pre-mediation discussion was held, pursuant to section 17 of the *Resource Management and Planning Appeal Tribunal Act 1993* where the parties agreed to circulate revised plans. The proposed revisions follow:

- removal of the mezzanine floor (48.83m²) bringing the total footprint of the outbuilding back to 67m².
- increasing the rear setback to 550mm further away from the adjoining property boundary on the south-western side.
- altering the cladding on the south western elevation to a colorbond finish instead of a block wall
- decrease the overall height of the proposed outbuilding by 655mm reducing the maximum height to 4.245m.
- the height of the south-western elevation is reduced from 4.250m to 3.615m.

The grounds of refusal included the following:

1. *Clause 10.4.2 - Setbacks and building envelope for all dwellings - Performance Criteria P3*

The proposed outbuilding encroaches on the building envelope requirements of A3 (a)(ii) in respect of height along the north-western side boundary and height and setback along the south western rear boundary. It will cause a loss of amenity by overshadowing impacts to the rear and so does not meet P3 (a)(i). It will impact the visual amenity of the properties to the side and rear due to the height and minimal setbacks and not meet P3 (a)(iv).

The original proposal included an outbuilding in the rear north-western corner with the height of its skillion roof form rising from 4.02m just off the rear south-western boundary to approximately 5m at its front north-eastern elevation. The proposed changes remove the mezzanine floor and reduces the height from 4.245m to 3.615m. The outbuilding will still encroach upon the building envelope in respect of setback and height, however, it is likely to have a lesser impact on the adjoining property. The overshadowing impact on the rear neighbour will be reduced and only a small area of overshadowing above what is already cast from the fence will occur as a result of the proposed outbuilding. The shadow is cast between the fence and the dwelling up to mid-morning in the winter and by 11.00am a significant portion of the open space will be free of shadows. There will be no overshadowing of the adjoining dwelling.

As the subject site has an angled rear boundary the rear setback of the shed increases from south to north. The original setback increased from zero to 1.7m. The proposed increase to the rear setback results in the setback increasing from 550mm to 2.19m.

The combination of the changes allows a suitable outbuilding for the owner and a lesser impact to neighbouring properties.

ECONOMIC IMPACT:

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such economic impacts have been considered.

ENVIRONMENTAL IMPACT:

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such environmental impacts have been considered.

SOCIAL IMPACT:

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such social impacts have been considered.

STRATEGIC DOCUMENT REFERENCE:

Launceston Interim Planning Scheme 2015

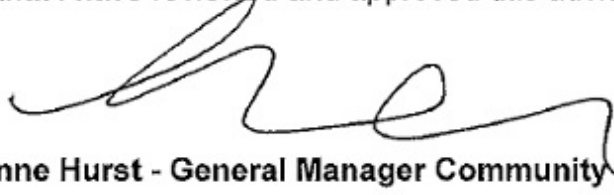
BUDGET & FINANCIAL ASPECTS:

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 - General Manager Community and Place Network

ATTACHMENTS:

1. Attachment 1 - Site Plan - 36 Hiawatha Street, Norwood (*electronically distributed*)
2. Attachment 2 - Original Plans - 36 Hiawatha Street, Norwood (*electronically distributed*)
3. Attachment 3 - Amended Plans - 36 Hiawatha Street, Norwood (*electronically distributed*)
4. Submission Letter - Amended Plans - 36 Hiawatha Street, Norwood (*electronically distributed*)