

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Hobart Interim Planning Scheme 2015
Amendment	PSA-18-2- to rezone property at 66 Summerhill Road, West Hobart to Low Density Residential and extend the Biodiversity Protection Area Overlay.
Planning authority	City of Hobart
Applicant	ERA Planning & Environment Pty Ltd
Date of decision	11 November 2021

Decision

The draft amendment is modified under section 41(ab) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 42.

Robin Nolan
Delegate (Chair)

Dianne Cowen
Delegate

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

The draft amendment proposes to rezone the site at 66 Summerhill Road to the Low Density Residential Zone from the General Residential Zone, the Environmental Living Zone and the Environmental Management Zone and to extend the Biodiversity Protection Area Overlay over the entire area rezoned to Low Density Residential.

Site information

The site is irregular in shape and is located to the south of Summerhill Road and Knocklofty Reserve to the west.

The site is generally east facing and partly vegetated. The site is vacant and for the most part contains intact native vegetation dominated by Eucalyptus globulus dry forest and woodland and patches of Eucalyptus viminalis. There is substantial weed infestation.

The site is zoned a combination of the General Residential Zone, the Environmental Living Zone and the Environmental Management Zone and is subject to the Biodiversity Protection Area Code, the Landslide Hazard Code and the Bushfire Prone Areas Code.

Issues raised in representations

2 representations were received.

TasWater under section 56S of the Water and Sewerage Industry Act 2008 did not object and had no formal comments for the Tasmanian Planning Commission in relation to the draft amendment and did not require to be notified of nor attend any subsequent hearings.

One representation was received, in which the following issues were raised:

- Impact on traffic on Summerhill Road;
- The public exhibition time;
- Increase in the number of dwellings on Summerhill Road;
- Impact on the surrounding residential areas; and
- Construction time periods.

Planning authority's response to the representations

The planning authority considered the representations and recommended:

It is not considered necessary to make any changes to the proposed amendment in response to the representation.

Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 2 November 2021.

Appearances at the hearing

Planning authority: Ms Sarah Crawford, Development planner

Mr Rowan Moore, Environmental Development Planner

Ms Sarah Zehmeister, Technical Officer Environment

Ms Christine Corbett, Park Planner

Applicant: Ms Caroline Lindus, era Planning & Environment (Planning consultant)
Ms Emma Riley, era Planning & Environment (Planning consultant)
Mr Andrew Welling, Enviro-dynamics (Ecological consultant)
Mr John Kelly, the applicant

Consideration of the draft amendment

1. Under section 40 of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. A hearing was convened to assist the Commission consider the issues in the representations.
3. The amendment has been initiated and certified by the City of Hobart, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (f) 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.
5. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.
6. Section 300 includes that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.

Regional land use strategy

7. The planning authority's assessment was that residential lots could be configured to respond to the risks associated with landslide and bushfire mitigation, through siting and appropriate zoning, and is consistent with Regional Policies MRH 1.1; MRH1.3 and MRH 3.2 – Managing Risks and Hazards.
8. The planning authority notes that the proposal maximises the efficiency of existing physical infrastructure and is consistent with Regional Policy PI 1. In addition, the draft amendment gives preference to urban expansion in close physical proximity to existing transport corridors and higher order Activity Centres and is consistent with Regional Policy LUTI 1.

9. The applicant states that the Greater Hobart region is the primary urban centre for the region as identified in the regional land use strategy's growth management strategies for settlements. At the hearing, Ms Lindus further noted that the draft amendment aligns with the Regional Policy SRD 1.6 by utilising low density residential zoning to manage land constraints in settlements.

Commission's consideration

10. The Minister for Planning amended the Southern Tasmania Regional Land Use Strategy on 22 September 2021 to include the site within its Urban Growth Boundary.
11. The Commission accepts the submissions provided by the applicant and planning authority as to consistency with the regional land use strategy. The draft amendment allows for an area that is suitable for residential use and development, consistent with Regional Policies LUTI 1 and PI 1.
12. The assessments for the draft amendment have considered and found acceptable the risks associated with landslide and bushfire mitigation via appropriate zoning, the consideration of interim planning scheme provisions and the regional strategy's goals for Managing Risks and Hazards- MRH 1.1; MRH1.3 and MRH 3.

Suitability of the site

13. The planning authority's section 35 report assessed the draft amendment against the purpose statements of the Low Density Residential Zone stating:

It is considered that the Low Density Residential Zone is a reasonable alternative zone for the remainder of the site, including the portion currently zoned General Residential which includes site constraints, such as landslide hazard areas, that will likely limit potential development density.

14. The planning authority notes that future development of the site is able to meet the purpose statements of the Low Density Residential Zone. At the hearing Ms Crawford submitted that site constraints will not allow lots to be developed at a higher residential density or for an alternative land use.
15. In terms of the visual impact on the surrounding landscape, the planning authority notes the following:

It is agreed that the development of additional houses in the northern section of the site will not have a significant adverse impact from a visual point of view, given the existing line of development, the recently approved subdivision, the primarily cleared nature of the building areas, and the small number of possible dwellings.
16. The planning authority further notes that due to the size of the site, the potential development impacts can be accommodated on-site without compromising the requirements of the relevant codes.
17. The applicant submitted that the draft amendment would allow a transition of density from the General Residential Zone through to the Environmental Management and the Environmental Living zoning on adjoining land. The applicant submitted that the draft amendment would allow for orderly development while not requiring bushfire clearance and vegetation maintenance on non-residential zoned land.

Commission's consideration

18. The provisions of the Low Density Residential Zone restrict site coverage of future dwellings and allows for consideration of landscape values. The orientation of the site in relation to the

adjoining residential and recreational areas is assessed as not creating unreasonable loss of amenity to adjoining uses.

19. The Commission is satisfied with the justification for the draft amendment from the applicant and planning authority and notes that the interim planning scheme includes provisions that protect the amenity of the area and that reduce any adverse impacts on the surrounding environment.
20. The Commission finds that the limitations of the site can be managed for residential use. The site is located adjacent to and on a similar contour line as the established residential areas on the West Hobart hill side. Although at a lower density, the site provides for a suitable extension to the existing established residential development pattern.

Expansion of the biodiversity overlay

21. The planning authority at the hearing, submitted that expansion of the biodiversity protection area overlay across the entirety of the site is consistent with other locations within the municipality. The previous zoning of Environmental Management was the reason as to why the overlay did not already apply for this location.
22. The applicant agreed with this approach to protect the biodiversity values.
23. Mr Welling on behalf of the applicant gave evidence on natural values of the site including on the significant white gum referred to in his report. Whilst Mr Welling notes this is one of the significant trees located on the site, he also noted this is an individual tree on degraded land. Mr Welling confirmed that whilst this is not usually a prerequisite for the biodiversity protection area overlay to apply, there were other values across the site worthy of protection. Mr Welling confirmed that most of the significant trees within the bushfire hazard management areas relating to previous subdivision of the adjoining lot would be capable of being retained with regard to future subdivision of this site.

Commission's consideration

24. The Commission accepts the submissions of the planning authority and the applicant and finds that expansion of the biodiversity protection area overlay across the remainder of the site is required to adequately protect the existing natural values.

Bushfire hazard management

25. The planning authority notes in their section 35 report that the recently constructed cul de sac head is insufficiently sized to allow fire trucks to turn around. This means that the Bushfire Management Plan provided with the application may not adequately cover fire protection. Concerns were also documented within the report raised by TasFire, as to whether future subdivision would be able to meet the requirement of a 120 metre unobstructed fire hose run from a fire hydrant to proposed lots.
26. At the hearing, Mr Moore advised that at the subdivision stage, potential restrictions on the proposed development would be able to solve matters regarding fire hazard management requirements on the site to meet the relevant Scheme provisions, including potential for a static water supply if required and configuration of accesses to ensure water supply access.

Commission's consideration

27. The Commission accepts the submission of the planning authority and finds that bushfire hazard requirements are able to be managed as part of the future subdivision assessment.

Stormwater

28. Ms Zemeister on behalf of the planning authority, submitted that there are two possibilities for the provision of stormwater infrastructure to service future subdivision of the site and that both possibilities flood from time to time. However, Ms Zehmeister confirmed that the increase in future development of the site was slight and did not raise concern.

Commission's consideration

29. The Commission accepts the planning authority's submission that future stormwater is manageable for the level of potential future development.

State Policies and Resource Management and Planning System Objectives

30. The planning authority submitted that the relevant State Policy is the *State Policy on Water Quality Management 1997*. The planning authority notes that the interim planning scheme includes provisions that ensure use and development is undertaken consistent with the policy.

Commission's consideration

31. The Commission finds that the *State Policy on Water Quality Management 1997* can be addressed through future permit conditions relating to effluent disposal and management of stormwater and erosion and sedimentation.
32. In the Commission's assessment relating to regional strategies, the requirements of the Low Density Residential zone and requirements of the Biodiversity Protection Area Overlay finds that the draft amendment furthers the Schedule 1 Objectives of the Act.

Modifications required to draft amendment

33. The Commission finds that the draft amendment is in order and gives its approval subject to minor modification to the title references to reflect the terminology of folio of the Register rather than CT, and to amend the text for clarification (see Annexure A).

Decision on draft amendment

34. The draft amendment is modified under section 41(ab) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 42.

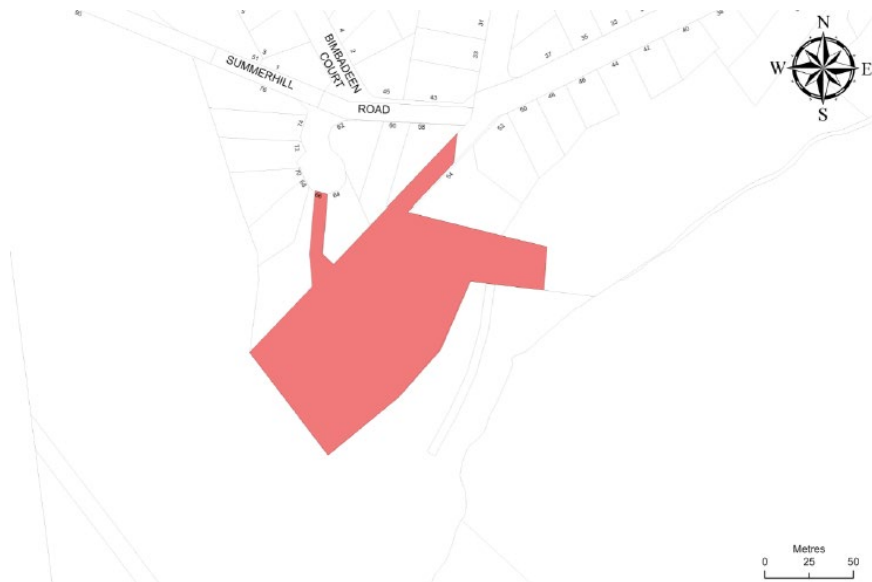
Attachments

Annexure A – Modified amendment

Annexure A

Modified amendment PSA-18-2, Hobart Interim Planning Scheme 2015

1. Rezone the land at 66 Summerhill Road, West Hobart (folio of the Register 178330/1) from Environmental Management Zone, Environmental Living Zone and General Residential Zone to the Low Density Residential Zone, as indicated in the map below:



2. Amend the Biodiversity Protection Area Overlay over the land at 66 Summerhill Road (folio of the Register 178330/1) as indicated in the map below:

