



City of **HOBART**

**MEMORANDUM: LORD MAYOR  
DEPUTY LORD MAYOR  
ELECTED MEMBERS**

## **CABLE CAR - DEFERRAL MOTION**

**Meeting: City Planning Committee**

**Meeting date: 15 November  
2021**

**Raised by:** Councillor Dutta

### **Question:**

Can the Director advise that if the deferral motion proposed by Alderman Behrakis was approved by the Planning Authority and the applicant made amendments could this allow for the application to be re-advertised by Council and representations received, in other words “ the public would have been able to have a say”, as claimed by Alderman Behrakis?

### **Response:**

In the Supreme Court decision of *Tomaszewski v Hobart City Council* (2020) TASSC 48 Blow CJ held, as far as relevant, that the legislation only allows for one statutory advertisement period.

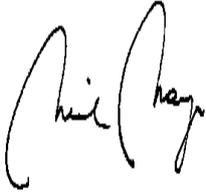
Blow CJ also said that the planning authority may grant approval to revised plans after an application has been advertised by imposing conditions requiring the use and/or development to be undertaken substantially in accordance with revised plans. However the revised plans cannot change the proposal in question such that the revised proposal is substantially different from that which was originally applied for

It follows from this decision that the only opportunity for an application to be re-advertised by Council and representations received is when an applicant lodges any amended design as a new application.

Subject to the extent of any changes proposed by an applicant, it may be possible to approve an amended design by a condition however the public do not have an opportunity to make representations to an amended proposal if it is approved by a

condition. A substantial modification to a proposal cannot be approved by a condition.

*As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.*

A handwritten signature in black ink, appearing to read 'Neil Noye', written in a cursive style.

Neil Noye  
**DIRECTOR CITY PLANNING**

Date: 29 November 2021  
File Reference: F21/117043; 13-1-10