



City of **HOBART**

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27 June 2023

Dear Neil Noye

Council's Representation Hobart Draft Local Provisions Schedule

The Council, acting as a corporation, voted to endorse the following content at its meeting on 19 June 2023 for submission as a representation in accordance with section 35E of the *Land Use Planning and Approvals Act 1993* in relation to the Hobart Draft Local Provisions Schedule:

1. Short Stay Visitor Accommodation

Issue

Ensure Visitor Accommodation use status under the draft LPS is consistent with the proposed Council endorsed HIPS Planning Scheme amendment to prohibit new, whole dwelling Visitor Accommodation (unless an ancillary dwelling) in the residential zones within Hobart.

Proposed Resolution

Implemented through a Specific Area Plan (SAP) applying a prohibited use status to Visitor Accommodation within the Inner Residential Zone, General Residential Zone and Low Density Residential Zone.

2. Late Night Venues Provisions/Hotel Industry Use

Issue

The Use Standard that applies to Hotel Industry uses proposing to operate between the hours of 12:00 am and 7:00 am has been carried over from the HIPS. Under the draft Local Provisions Schedule, this Use Standard is implemented under HOB-S4.6.2 of the Central Business Zone SAP and HOB-S6.6.2 of the Commercial Zone SAP. The

This is considered inequitable, and it is logical to provide the same level of consideration for the potential impacts of late-night venues in other zones, particularly as some areas within these zones are closely surrounded by residential uses.

The requirement for a Hotel Industry Impact Assessment should be standard throughout the municipal area for all Hotel Industry uses operating between the hours of 12:00 am and 7:00 am.

Proposed Resolution

The Use Standard should be implemented through the creation of a SAP that applies to all Hotel Industry uses operating between the hours of 12:00 am and 7:00 am throughout the municipal area.

3. Hobart Commercial Zone Specific Area Plan - Use Table

Issue

The Commercial Zone SAP largely translates the provisions of the HIPS Commercial Zone. However, under the State Planning Provisions, the Zone Purpose is focused on retailing, service industries, storage, and warehousing, which require large floor areas and outdoor spaces. The Use Table has not been adequately modified in the draft LPS to reflect the intent of Hobart's Commercial Zone SAP, which aims to create a transition between the Central Business Zone and inner residential areas. As a result, potentially undesirable uses that do not align with the intent of the zones SAP, such as Bulky Goods Sales, Equipment and Machinery Sales and Hire, Service Industry, and Storage, are permitted. This could affect prime development sites within the zone and also would be inconsistent with the recommendations of the Central Hobart Plan.

Additionally, desirable uses such as Business and Professional Services, Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Hotel Industry, Research and Development, and Visitor Accommodation which are generally in line with the proposed Zone Purpose are discretionary in the zone.

Proposed Resolution

In the Use Table for the Commercial Zone SAP, apply a permitted use status for Business and Professional Services, Community Meeting and Entertainment, Educational and Occasional Care, Food Services, General Retail and Hire, Hotel Industry, Research and Development, and Visitor Accommodation.

Apply a discretionary use status for Bulky Goods Sales, Equipment and Machinery Sales and Hire, Service Industry and Storage.

4. Hobart Commercial Zone Specific Area Plan - Building Height Development Standards

Issue

The wording of the objective and Performance Criteria for the Building Height Development Standards refer to compatibility with the surrounding area, streetscape, and existing buildings. Additionally, it the wording does not allow for the consideration of positive attributes of proposed development when assessing a building height that exceeds the permitted height limits.

Past Tribunal decisions have considered the terms 'compatible' and 'surrounding area', resulting in the specific application of these words when assessing development. The term 'Streetscape' is also specifically defined under the State Planning Provisions (SPP) '*either side of the same street within 100m of each side boundary of the site*'. In the Commercial Zone, it is not necessarily desirable for proposed building height and development to be compatible with existing buildings and the established streetscape character in the zone. This also presents issues for the approval of appropriate and quality development, which may be a 'first mover' in an area with lower existing building heights nearby, as is common throughout the Commercial Zone. In an area with significant future development potential, this becomes problematic.

Proposed Resolution

Proposed amendments to the wording of the Building Height Objective and Performance Criteria of the Commercial Zone SAP to address the required compatibility of buildings with the existing character of development in the streetscape and surrounding area. Instead, allowing for the consideration of the positive contribution of buildings and the height, bulk, and form reflecting the transition between the Central Business Zone and residential areas. However, as the variations propose to remove the required compatibility of scale for existing buildings nearby, this leaves adjoining heritage buildings within the zone vulnerable to unsympathetic adjoining development. Therefore, the inclusion of the adjacent Heritage Building Height Development Standards used in the Central Business Zone SAP will allow for a respectful transition to adjacent heritage buildings.

Summary of amendments

- Variation to the wording of point HOB-S6.1.3 of the Plan Purpose
- Variation to the wording of point (a) of the Building Height Objective
- Variation to the wording of Performance Criteria P1
- Deletion of Performance Criteria P1 (c) relating to compatibility with the surrounding area
- Variation to improve the wording of Performance Criteria P1 (d)
- Inclusion of adjacent Heritage Height provisions and diagrams

The proposed amendments are highlighted in the Commercial Zone SAP in Attachment A.

5. Hobart Commercial Zone Specific Area Plan – Design Passive Surveillance Development Standards

Issue

There are no passive surveillance and active frontage provisions proposed in the Commercial Zone as they have been removed from the zone under the State Planning Provisions. Therefore, to be consistent with the existing Commercial Zone under the HIPS provisions and the proposed intent of the zone, it is important to consider passive surveillance and activation of frontages in respect of new development.

Proposed Resolution

Apply the Design Development Standards for facades and passive surveillance from the State Planning Provisions, as used in other zones, to the Commercial Zone SAP.

The proposed inclusion is highlighted in the Commercial Zone SAP in Attachment A.

6. Hobart Central Business Zone SAP – Building Height Development Standards Performance Criteria

Issue

The proposed wording of the Central Business Zone Building Height Development Standards Performance Criteria, like the Commercial Zone, refers to the compatibility with existing buildings in the area and buildings not being individually prominent. The term 'Individually Prominent' is defined within the SAP, with part of the definition stating 'means in contrast with buildings in the vicinity'. These aspects of the Performance Criteria, particularly in light of recent Tribunal decisions, are seen as potentially problematic. For example, a building may positively contribute to the streetscape and townscape, as well as satisfy all the other aspects of performance criteria. However, as it is located in a currently underdeveloped area within the Central Business Zone SAP, it may not be able to be assessed as compatible or could be regarded as individually prominent. These potentially problematic aspects of the wording of the performance criteria are, in part, a result of the combination of the existing HIPS and the SPP wording for the Central Business Zone, which does not reflect the unique attributes and function of the Hobart CBD.

There are other aspects and oversights in the wording of the Performance Criteria that need refining. This includes duplication of the consideration of the Local Area Objectives within the Performance Criteria and inclusion of the consideration of buildings viewed 'in the round' within the Fringe Height Area but not the Core Height Area.

The Performance Criteria also require an urban context report and associated design response demonstrating that the proposed development derives from and responds to the existing characteristics of the site and surrounding area. Like other aspects of the proposed criteria that require compatibility with the surrounding area, this is not always desirable and has the potential to stifle design excellence.

Proposed Resolution

Proposed amendments to the wording of the definition of 'Individually Prominent' to remove reference to 'buildings in the vicinity' and remove wording 'more pronounced' as it is unnecessary and overly subjective. Also, minor refinements to the Performance Criteria to address the issue of required compatibility with buildings nearby. The proposed variations will still allow assessment of individual prominence of buildings both within the streetscape and townscape but not necessarily require compatibility of height with buildings that are within close proximity. The variations will not affect the Performance Criteria relating to the protection of the view lines and view cones on the landform horizons to kunanyi/Mt Wellington and the Wellington Range.

The multiple references to the Local Area Objectives are proposed to be refined to a single Performance Criteria. Also, the inclusion of the criteria requiring consideration of buildings viewed 'in the round' to apply to the Core Height Area. Additional refinement of the wording of the criteria is proposed as 'in the round' and 'cityscape' are not defined terms like townscape also removal of the specific mention of rooftop gardens is proposed. Instead, replaced with broader more commonly used terms 'elevations' and 'visually enhancing the townscape'.

In respect of the urban context report and associated design response the proposed inclusion of the wording 'where considered established and desirable' is recommended to allow flexibility for when development should respond to the existing characteristics of the site and surrounding area.

It is important to note, the City of Hobart has comprehensively identified buildings of significance and character in the Central Business Zone SAP within the draft LPS. Therefore, despite the proposed amendments to the wording of the Performance Criteria heritage buildings are well protected in terms of scale and transition of adjoining development as well as proposed facade appearance by the additional Heritage building height and facade Development Standards in the SAP.

Summary of amendments

- Variation to the wording of the definition of 'Individually Prominent' under HOB-S4.4 Definition of Terms
- Variation to the wording of Performance Criteria P1 (a) to address duplication of the consideration of the Local Area Objectives.
- Deletion of Performance Criteria P1 (b) relating to compatibility
- Deletion of Performance Criteria P1 (j) as it is addressed under P1 (a)
- Inclusion of the consideration of how buildings are viewed on all elevations under Performance Criteria P1 in both the Fringe and Core Height and refinement of the wording.
- Inclusion of 'where considered established and desirable' to the required urban context report and associated design response under P1.3 (a)

The proposed amendments are highlighted in the Central Business Zone SAP in Attachment B.

7. Hobart Central Business Zone SAP - Amenity Building Envelope

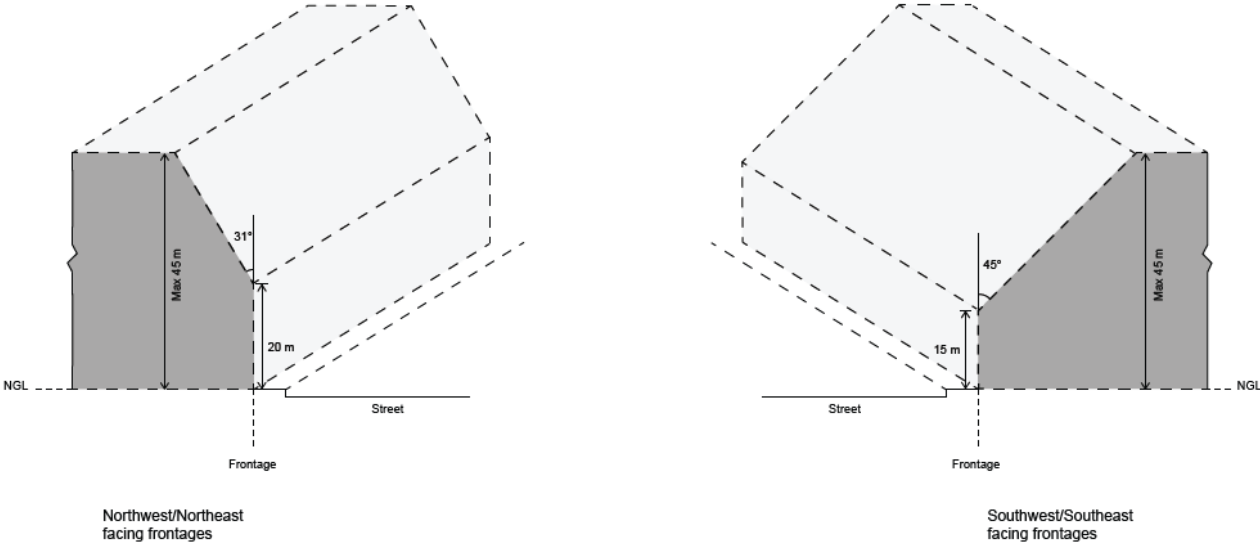
Issue

The Amenity Building Envelope diagram in Figure HOB-S4.3 referred to in the Building Height Development Standards Performance Criteria is proposed to be carried over from the HIPS however it could be clearer to avoid misinterpretation and confusion. The current diagram suggests a stepped building form and the appearance of a rear setback, which has resulted in cases of misapplication of the control.

Proposed Resolution

A new diagram has been devised which provides greater clarity and is more consistent in design with the diagrams for the Building Envelopes shown in the Inner Residential Zone and the General Residential Zone under the SPP. Additionally, a diagram has been created to graphically demonstrate the permitted height standards within the Acceptable Solutions for the zone for easier interpretation and will be referred to in the Acceptable Solutions for the SAP. The diagrams were designed by members of the City's Urban Design team in consultation with the Development Appraisal Planners.

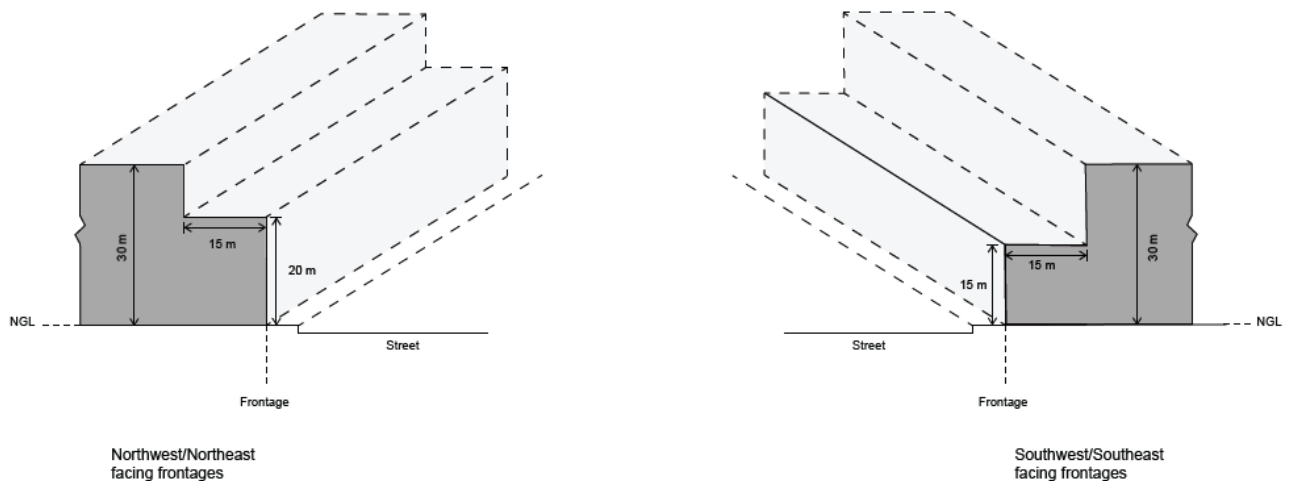
Proposed Amenity Building Envelope Figure HOB-S4.3:



NOTE:
The Amenity Building Envelope (defined by the dotted line) excludes minor protrusions such as eaves, steps, porches, awnings, chimneys, flues, pipes, aerials, antennae, vents, fuel or water tanks, heating or cooling equipment, that extend no more than 0.6m from the envelope.

Amenity Building Envelope

Proposed Diagram for Building Height Development Standards Acceptable Solution A1:



8. Amenity Standards for Multiple Dwellings Other Zones

Issue

The Amenity Standards for Multiple Dwellings have been carried forward from the HIPS into the Central Business Zone SAP and Commercial Zone SAP.

Originally, it was planned that Amenity Standards for Multiple Dwellings would not be retained in the Local Provision Schedule (LPS), as the State Government Apartment Code, was expected to incorporate similar requirements. However, due to delays in the development of this code, the amenity standards for Multiple Dwellings in the Hobart Interim Planning Scheme 2015 (HIPS) have been carried over into the Hobart Central Business Zone SAP and Hobart Commercial Zone SAP in the draft LPS.

Considering the number of existing or proposed apartment developments in the Urban Mixed Use Zone, and potential for development of apartments within the Local Business Zone and General Business Zone, it is logical to ensure multiple dwellings have appropriate levels of residential amenity consistent with that required in the Central Business Zone SAP and Commercial Zone SAP.

Proposed Resolution

Extend the application of the amenity standards for Multiple Dwellings to the Urban Mixed Use Zone, Local Business Zone and General Business Zone through the use of an SAP. The logical approach would be to have a single SAP for the amenity standards for Multiple Dwellings that would apply to the Urban Mixed Use Zone, Local Business Zone, General Business Zone, Hobart Central Business Zone SAP and Commercial Zone SAP which could more simply be amended, to be removed and replaced with the State Government Apartment Code.

9. Bicycle Parking for Residential Uses

Issue

There are currently no requirements for bicycle parking for residential uses within HIPS or under the TPS. With the growth of cycling as a popular sustainable transport option, which is likely to continue as the City of Hobart increases its cycle network and infrastructure, it is logical to include bicycle parking facilities in residential development. It is important to consider these facilities and supporting infrastructure at the design stage of development, particularly as they can be difficult to incorporate retrospectively.

Proposed Resolution

Require bicycle parking for multiple dwellings and other formats of multiple occupant residential uses, consistent with the standards of the Parking and Sustainable Transport Code of the TPS, through the development of a SAP.

10. Electric Vehicle Charging Facilities

Issue

The inevitable move towards electric vehicles (EV) and their increasing popularity, combined with the life cycle of new buildings, warrants the consideration of futureproofing development to accommodate EV charging facilities. According to the Electric Vehicle Council (national body for the electric vehicle industry in Australia), 80% of EV charging is done at home. It is important to determine how EV charging can be provided for new residences, and due to the complexity of infrastructure to accommodate charging facilities, it can be prohibitive to integrate retrospectively in residential developments. Additionally, the inclusion of charging facilities for commercial uses, such as employee parking and business vehicles, is also recommended.

Proposed Resolution

Require the appropriate infrastructure for the installation of charging facilities proportionately to the proposed use and the amount of vehicle parking proposed through the use of a SAP.

11. Enterprise Road Planning Scheme Amendment

Issue

The final approved amendment (PSA-21-4) to rezone the properties at 21, 21A, 21B Enterprise Road to Low Density Residential Zone and the associated application of the Biodiversity Protection Area Overlay came into effect in September 2022; however, the change is not represented within the draft LPS zoning maps. Normally, the Commission would direct us to include the planning scheme amendment as an update to the draft LPS, as part of the Section 35(5)(b) (LUPAA) notice however, there appears to have been an oversight, possibly due the very recent inclusion of this amendment to HIPS.

Proposed Resolution

The Commission has advised that the City include the issue within Council's representation so the resulting zoning and overlay can be carried over to the draft LPS.

ZONING/ZONE BOUNDARY ADJUSTMENT

12. 15 Oberon Court, Dynnryne

Issue

This site has recently been subdivided and is currently proposed to be zoned in the draft LPS as Rural Living Zone A, which has a minimum lot size of 1ha and setback requirements of 20m from a frontage and 10m from side and rear boundaries. These provisions are no longer appropriate for the smaller lots in the subdivision (which are approximately 950m² to approximately 2,500m²) and would result in unnecessary, discretionary planning applications for single dwellings due to the setback provisions not being able to be met. Low Density Residential Zone is a more appropriate zoning for lots 21-27, without generating additional development potential in the form of multiple dwellings or subdivision.

Refer to plan of subdivision below:

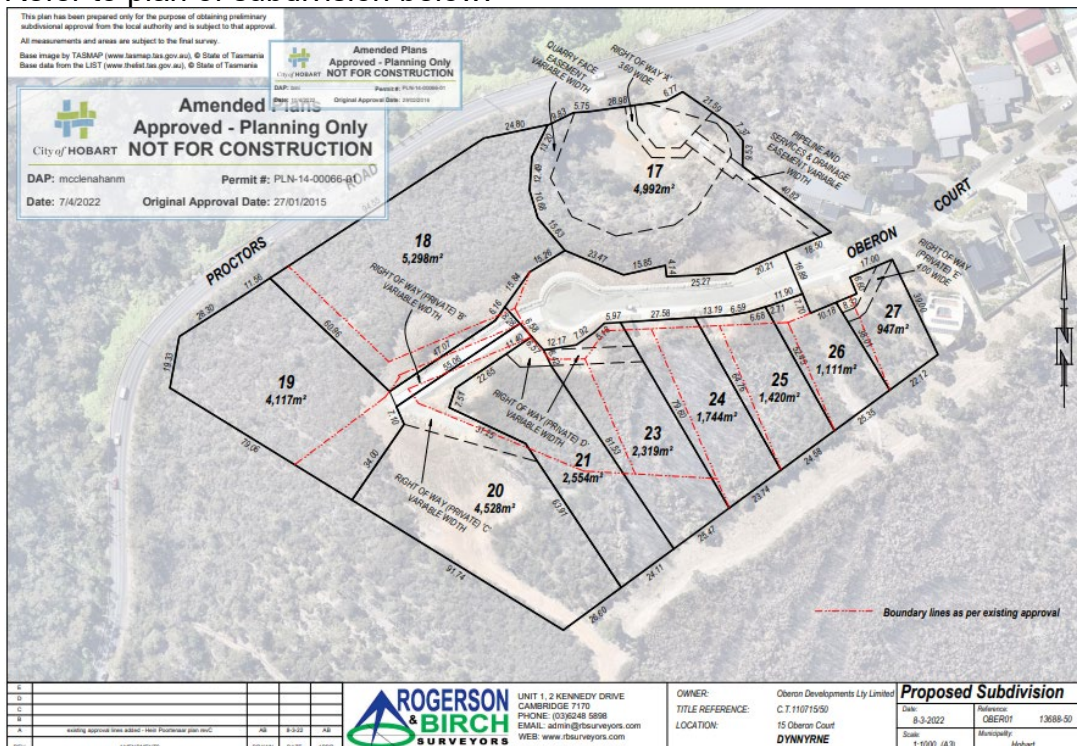


Figure 1: Approved Plan of Subdivision

Proposed Resolution

Amend the proposed Rural Living A zoning of lots 21-27 to the Low Density Residential Zone.

13. Urban Mixed Use Zone to Commercial Zone – Campbell Street

Issue

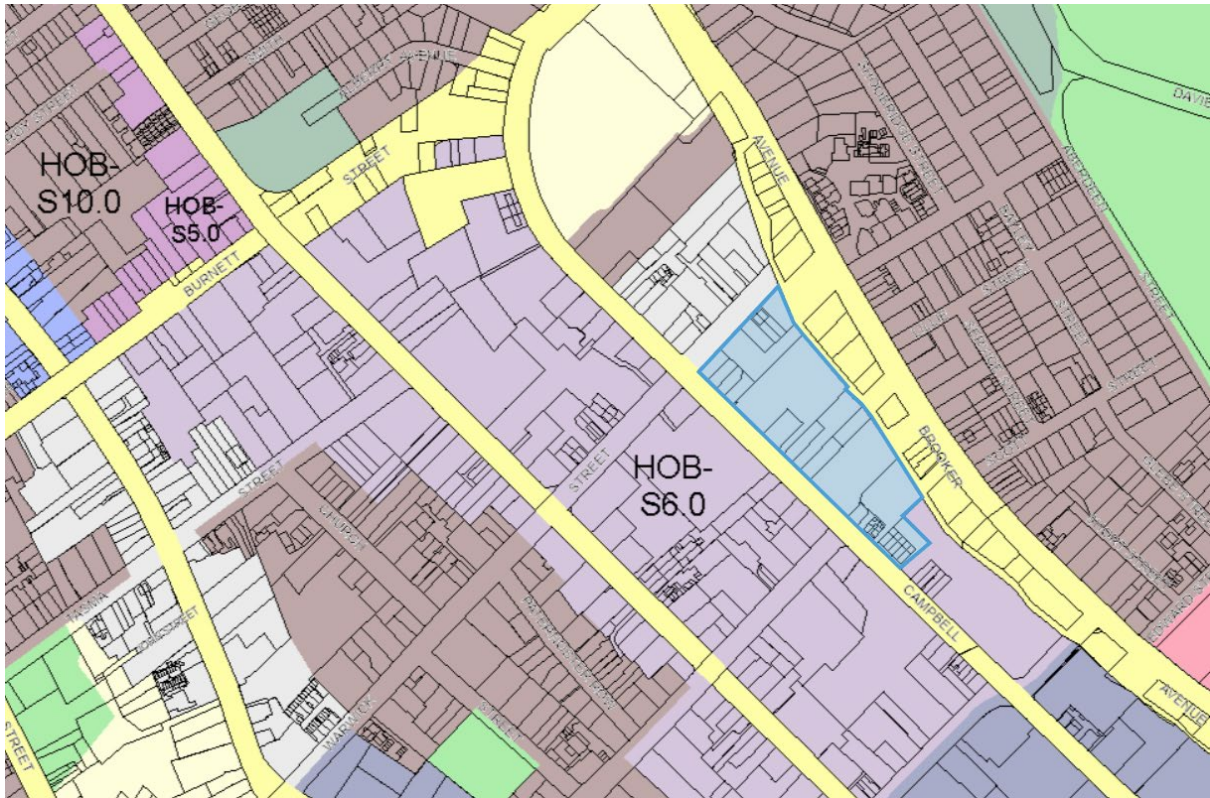


Figure 2: Proposed Zoning Map

The subject highlighted area of land in Figure 2, bordered by Warwick Street and Campbell Street, is currently proposed to be zoned Urban Mixed Use, which is carried forward from the HIPS. A review of the existing uses within this area and the development potential of the sites determined that the area is more appropriately aligned with the Hobart Commercial Zone SAP Plan Purpose and Development Standards. This has also been highlighted within the draft Central Hobart Plan.

Proposed Resolution

Amend the proposed Urban Mixed Use zoning of the highlighted area of land in Figure 2 to the Commercial Zone.

14. 11 Bimbadeen Court, West Hobart

Issue

The proposed zoning map in Figure 3 and aerial imagery in Figure 4 clearly illustrates the anomaly in the application of the Landscape Conservation Zone to the existing developed site at 11 Bimbadeen Court. It is not logical to apply the zoning to the site and would result in unnecessary discretionary planning applications for alterations and works to the existing dwelling. Due to the size and existing developed nature of the site, the application of the adjoining General Residential Zone is appropriate.

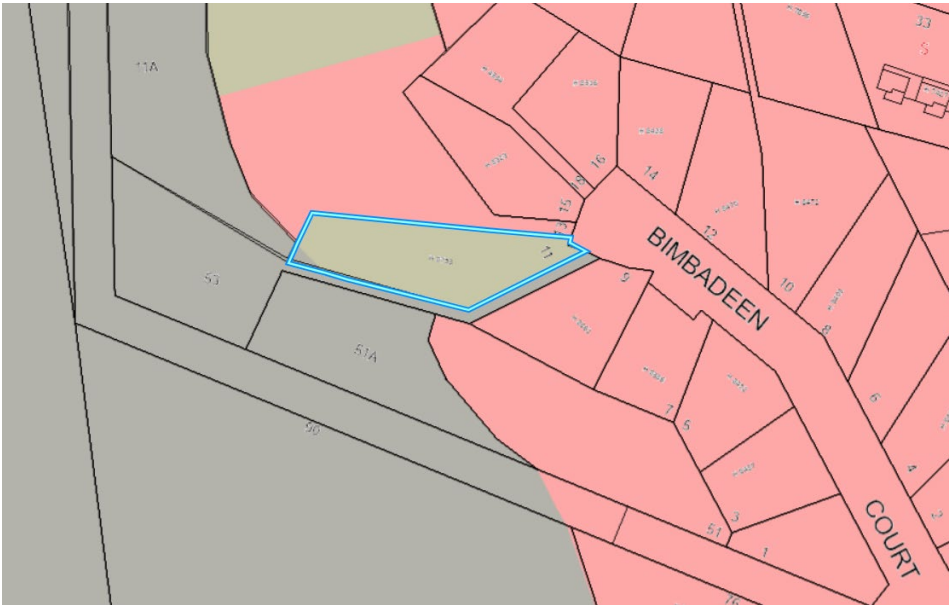


Figure 3: Proposed Zoning Map



Figure 4: Aerial Imagery

Proposed Resolution

Amend the proposed Landscape Conservation zoning of 11 Bimbadeen Court to the General Residential Zone.

Thank you for your consideration of these matters.

Yours faithfully,

Kelly Grigsby
CHIEF EXECUTIVE OFFICER