



City of **HOBART**

Memorandum: Lord Mayor
Deputy Lord Mayor
Elected Members

Response to Question Without Notice

PLANNING AUTHORITY - ROLES AND RESPONSIBILITIES

Meeting: City Planning Committee

Meeting date: 16 November
2020

Raised by: Alderman Behrakis

Question:

Can the Director provide some advice to confirm the roles and responsibilities of elected members when acting as a planning authority?

Response:

The roles of the Planning Authority are determined by both section 51(2) & (3) of Land Use Planning and Approvals Act 1993 and Clause 8.10 of Hobart Interim Planning Scheme 2015.

Section 51(2) & (3) states

- (2) *In determining an application for a permit, a planning authority –*
 - (a) *must seek to further the objectives set out in Schedule 1 ; and*
 - (b) *must take into consideration such of the prescribed matters as are relevant to the use or development the subject of the application;*
 - and*
 - (c) *must take into consideration the matters set out in representations relating to the application that were made during the period referred to in section 57(5) ; and*
 - (d) *must accept –*
 - (i) *any relevant bushfire hazard management plan, or other prescribed management plan relating to environmental hazards or natural hazards, that has been certified as acceptable by an accredited person or a State Service Agency; or*
 - (ii) *any certificate issued by an accredited person or a State Service Agency and stating that the proposed use or development will result in an insufficient increase in risk from*

the environmental hazard or natural hazard to warrant any specific protection measures.

(3) The decision of a planning authority on an application referred to in subsection (1A) or (1B) is to be made by reference –

(a) to the provisions of the planning scheme as in force at the date of that decision; or

(b) if the planning authority has been required under section 28(1)(a) of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences, to modify a draft planning scheme and that draft planning scheme has not been approved by the Commission at the date of that decision, to the provisions of the draft planning scheme modified as required; or

(ba) if the planning authority has been directed under section 35K(1)(a) to modify a draft LPS and that draft LPS has not been approved by the Commission at the date of that decision, to the provisions of the draft LPS modified as required; or

(c) if the planning authority has been required under section 41(a) of this Act, as in force before the day on which section 10 of the Tasmanian Planning Scheme Amendment Act commences, to modify, or alter to a substantial degree, a draft amendment to a planning scheme and that draft amendment has not come into effect at the date of that decision, to the provisions of the planning scheme as they would be if the draft amendment modified, or altered to a substantial degree, as required had come into effect; or

(d) if the planning authority has been required under section 40N to modify, or substantially modify, a draft amendment of an LPS and that draft amendment has not come into effect at the date of that decision, to the provisions of the planning scheme as they would be if the draft amendment modified, or substantially modified, as required had come into effect.

•
Clause 8.10 states

8.10 Determining Applications

8.10.1

In determining an application for any permit the planning authority must, in addition to the matters required by ss51(2) of the Act, take into consideration:

(a) all applicable standards and requirements in this planning scheme; and

(b) any representations received pursuant to and in conformity with ss57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

8.10.2

In determining an application for a permit for a discretionary use the planning authority must, in addition to the matters referred to in subclause 8.10.1, have regard to:

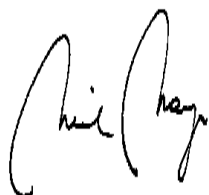
- (a) the purpose of the applicable zone;*
- (b) any relevant local area objective or desired future character statement for the applicable zone;*
- (c) the purpose of any applicable code; and*
- (d) the purpose of any applicable specific area plan,*

but only insofar as each such purpose, local area objective or desired future character statement is relevant to the particular discretion being exercised.

8.10.3

In determining an application for any permit the planning authority must not take into consideration matters referred to in clauses 2.0 and 3.0 of the planning scheme.

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.



Neil Noye
DIRECTOR CITY PLANNING

Date: 24 November 2020
File Reference: F20/124663; 13-1-10