

# TASMANIAN PLANNING COMMISSION

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30 July 2013

Mr Mat Clark  
Associate/Senior Town Planner  
Johnstone McGee & Gandy obo Department of Education  
117 Harrington Street  
HOBART TAS 7000

Dear Mr Clark

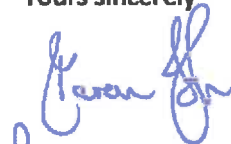
## **DRAFT AMENDMENT 1/2012 & PERMIT SD 2012/80 GEORGE TOWN PLANNING SCHEME 1991**

Further to the hearing of this matter the Delegates have decided, pursuant to section 41(a) of the *Land Use Planning and Approvals Act 1993* (the Act), that this draft amendment should be modified before it is approved. The Commission has directed Council, pursuant to section 41A of the Act, to modify the draft amendment.

Upon receipt of the modified draft amendment from Council and once the Commission is satisfied that the draft amendment is in order, you will be provided with the approved permit. Permit SD 2012/80 will be approved as modified in Annexure B of the attached decision pursuant to section 43H(1)(b)(ii) of the Act.

If you wish to seek any further clarification of this decision, please do not hesitate to make contact.

Yours sincerely



Pam Scott  
**DIRECTOR ASSESSMENTS**

# TASMANIAN PLANNING COMMISSION

## DECISION AND REASONS FOR DECISION

<b>Amendment</b>	1/2012
<b>Section 43A permit</b>	SD 2012/80
<b>Planning instrument</b>	George Town Planning Scheme 1991
<b>Planning Authority</b>	George Town Council
<b>Date of decision</b>	26 July 2013
<b>Delegates</b>	Commissioner John Ramsay & Clarence Pryor
<b>Date of Commission's delegation</b>	4 February 2013

### Description of draft amendment

The draft amendment is to:

1. Insert a site specific clause into the ordinance as follows:  
*3.1.11 Notwithstanding any other provision of this Planning Scheme, use and development for a single storey Learning Information and Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental offices, Child Family centre, associated car parking and bus stop at 29-67 Macquarie Street, George Town is permitted in accordance with clause 2.3.1 for the area delineated "area of departure" on the ARTAS plan No. 101009 A601a/A4 attached as Annexure A" if generally in accordance with the plans forming part of Permit No. DA 2012/80.*
2. Amend the plans to delineate an area at 29-67 Macquarie Street, George Town subject to site specific clause 3.1.11.

### Description of permit

The permit provides for use and development of a single storey Learning Information and Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental offices, Child Family Centre, associated car parking and bus layby at 29-67 Macquarie Street, George Town.

### Decision

Amendment:

1. Pursuant to section 41(a) of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission requires the Planning Authority to modify the draft amendment as set out in Annexure A.

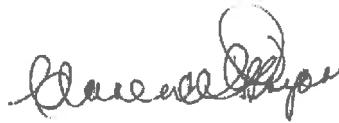
2. Pursuant to section 41A of the Act, the Commission directs that the Planning Authority undertakes the required modifications and submits the modified amendment to the Commission within 28 days.
3. Pursuant to section 42 of the Act, the Commission gives its approval to the draft amendment as modified, once it is satisfied the modified amendment is in order.

**Permit:**

Pursuant to section 43H(1)(b)(ii) of the *Land Use Planning and Approvals Act 1993* the Commission modifies the permit as set out in Annexure B.



Commissioner John Ramsay  
**Delegates**  
**Tasmanian Planning Commission**

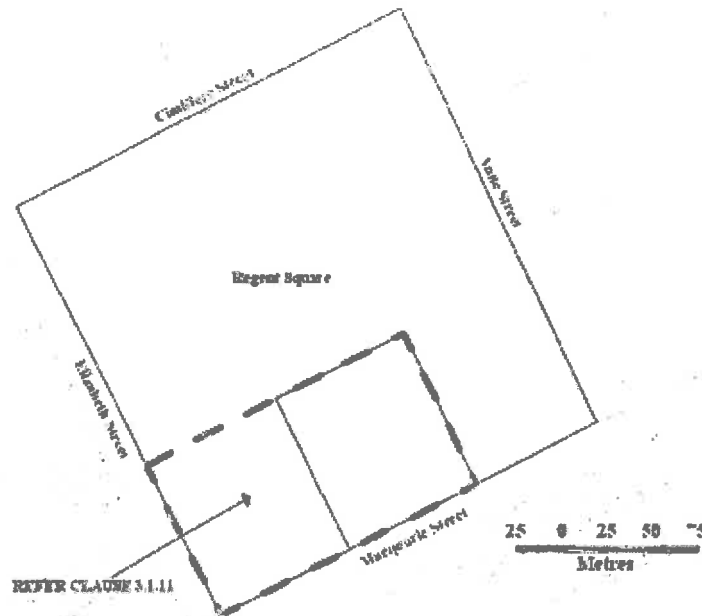


Clarence Pryor

## Reasons for decision

### **Amendment**

The draft amendment is to make the specified use and development permitted as follows:



*Clause 3.1.11 Notwithstanding any other provision of this Planning Scheme, use and development for a single storey Learning Information and Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental Offices, Child Family centre, associated car parking and bus stop at 29-67 Macquarie Street, George Town is permitted in accordance with clause 2.3.1 for the area as delineated "area of departure" on the ARTAS plan No. 101000 A601a/AA attached as Annexure A," if generally in accordance with the plans forming part of Permit No. DA 2012/80.*

### **Section 43A permit**

The s.43A permit provides for use and development of a single storey Learning Information and Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental offices, Child Family Centre, associated car parking and bus layby at 29-67 Macquarie Street, George Town.

### **Representations**

Representations were received from the following:

1. Julie Hicks
2. Frank Hicks
3. Mary Jones
4. Clive and Pat Watson
5. L Body
6. Daryl Camino
7. June & Peter Hale
8. Michael and Janine Spicer
9. Dr J Zimmerman

10. James Wood
11. Angela Prosser Green
12. Angela McGowan on behalf of Cultural Heritage Practitioners Tasmania
13. Wendy McHugh
14. Tanya & Greg McKinnon
15. Judith Northeast on behalf of Macquarie Holdings
16. Maria Florissen
17. JM & AA Smeeton
18. Mary Gillard
19. Pat Webb
20. Brenda Gunst
21. Lee Bannon
22. Rhiannah Bajaky
23. Lesley Proctor
24. Helen Flanagan
25. Beverley & Mr John Franken
26. Garry & Karen Rabbett
27. Richard Nicholls
28. Deborah Rainbow on behalf of George Town Residents and Ratepayers Assoc. Inc
29. Peter Cox
30. Gwenda Sheridan
31. Nicole Hale
32. Ian Abernethy of Pitt & Sherry on behalf of Mr & Mrs Neilsen
33. Lana & Mr Craig Harris
34. Lorraine Wootton
35. Gerald O'Doherty
36. Trudi Parsons & Andrew Cross
37. John & Christine Parsons
38. Abel & Louise de Groot
39. Anonymous

***Issues raised in the representations***

The representations are summarised as raising the following issues:

- Support for a Hub on Regent Square.
- Support for a Hub at an alternative location.
- Objection to the Hub concept.
- Procedural matters.
- Incorrect acronym for LINC and interpretation of the use provided by the draft amendment.
- Cultural and heritage values.
- Traffic and car parking issues.
- Availability of alternate sites.
- Amenity and visual impacts.
- Noise impacts.
- Environment and flora/fauna impacts.

***Planning Authority's response to the representations***

The Planning Authority's report pursuant to section 39 of the Act considered the representations and recommended:

1. Modification of the draft amendment to change the wording of '*Learning Information and Network Centre (LINC)*' to '*Learning and Information Network Centre (LINC)*'.
2. Modification of the permit to insert an advisory note to address Aboriginal heritage matters.

***Date and place of hearing***

Dates of Hearing: Thursday, 14 February 2013  
Friday, 15 February 2013  
Thursday, 28 February 2013  
Friday, 1 March 2013  
Monday, 18 March 2013  
Thursday, 21 March 2013  
Wednesday, 3 April 2013  
Thursday, 4 April 2013  
Friday, 28 June 2013

Location: George Town Council  
16-18 Anne Street, George Town

***Attendance at the hearing***

***Planning Authority:***

Justine Brooks (Municipal Planner) and Geoff Davis (Planning Consultant) represented the George Town Council.

***Applicant:***

Paul Turner (Assistant Director Public Prosecutions) of Department of Justice represented the Department of Education.

***Evidence was provided by:***

Mat Clark (Senior Planner) of Johnstone, McGee and Gandy Pty Ltd.

Heath Clayton (Director) of ARTAS Architects.

Jenny Raynor (Acting Director, LINC Tasmania) of Department of Education.

Cheryl Larcombe (Manager Child & Family Centre Project) of Department of Education.

Terry Eaton (Traffic Engineer).

Ian Boesma (Works Manager) of Heritage Tasmania.

Peter Voller [Manager (Land Conservation)] of Department of Primary Industries, Parks, Water and Environment.

***Representors:***

Graeme Neilsen represented himself, Mrs Neilsen and Dr Jane Zimmerman

Ian Abernethy of Pitt and Sherry Pty Ltd represented Mr and Mrs Neilsen on one hearing day

Deborah Rainbow represented herself and George Town Residents & Ratepayers Assoc Inc

Helen Flanagan

Peter Cox

Gerald O'Doherty

Lorraine Wootton

Brenda Gunst

Richard Nicholls

Judith Northeast

Angela Prosser-Green

Adrienne Smeeton

Daryl Camino

Mary Gillard

Garry & Mrs Karen Rabbett

*Interested persons in attendance:*

John Austin  
John Watts  
Winston Archer  
Frank Hicks  
Pat Webb  
Desiree Fidler  
Christine Price  
Kim Booth MP  
Wendy McHugh

**Commission's assessment of the draft amendment**

***Site and locality***

The area of land subject to the amendment forms part of a parcel of Crown land leased to the George Town Council known as Regent Square. The total area of Regent Square is approximately 5.8 hectares. The draft amendment is to apply the site specific provision to the defined part of the site as shown on the amendment plan.

Regent Square is located towards the western end of the main commercial area of George Town and comprises an entire block bounded by Macquarie, Elizabeth, Anne and Cimitiere Streets. It contains the George Town Memorial Hall on the southern part with frontage to Macquarie Street. The use of the Memorial Hall buildings includes a library, online access centre, meeting rooms, multi-purpose space and indoor sporting activities. External to the buildings are car parking and landscaping. An extension to the Memorial Hall was approved in March 2007 comprising a large adjoining building for an indoor sports venue and meeting spaces [Permit DA 2007/012 (Redevelopment of Memorial Hall)].

The remaining area of Regent Square is predominantly grassed with scattered trees, footpaths, an exercise area, children's play area, skateboarding facilities and rotunda. It is used for passive recreation purposes, with occasional organised functions and events. The site is also used informally for parking of campervans.

Regent Square is zoned Public Recreation in the George Town Planning Scheme 1991 (the Scheme). Land to the east and south is zoned Business. Land to the north and west is zoned Urban Residential.

Both the Memorial Hall and Regent Square are permanently listed on the Tasmanian Heritage Register.

***Background***

In October 2010, the Commission approved Amendment 2/2010 for a site specific provision to make the use class of Civic Building discretionary on the same part of Regent Square, subject to considerations for external appearance, adequate access and parking, and the physical relationship to other buildings on the Square.

On 20 October 2011, Council approved a permit application made by the Department of Education for use and development of a single-storey civic building for a Learning and Information Network Centre (LINC), Service Tasmania, Child and Family Centre and bus shelter, otherwise known as the 'George Town Hub'. Council's decision was appealed to the Resource

Management and Planning Appeal Tribunal (RMPAT) and on 2 March 2012, Council's decision was replaced with a refusal<sup>1</sup>. RMPAT determined that while some of the functions of the Hub were encompassed by the definition of Civic Building, a number remained prohibited on the site. RMPAT made no determination of the planning merits of the proposed development.

On 12 October 2012, the application for the combined amendment and permit was lodged by Johnstone, McGee and Gandy Pty Ltd (JMG) on behalf of the Department of Education.

At its meeting of 17 October 2012, Council resolved to initiate and certify the draft amendment and to grant the permit.

At the time of Council's resolution, Regent Square was provisionally listed on the Tasmanian Heritage Register and a heritage works permit was approved for the proposed development by the Tasmanian Heritage Council on 19 December 2012. As of 20 February 2013, Regent Square is permanently listed on the Tasmanian Heritage Register.

#### **Relevant provisions of the Planning Scheme**

The draft amendment sets aside the Scheme provisions to allow the use and development to occur in accordance with the specified drawings and permit.

For the underlying zoning, the Purpose of the Public Recreation Zone at Clause 5.12.1 is:

#### **5.12.1 PURPOSE**

*To provide and protect land within the Municipality set aside for recreational use and development and associated low-intensity use or development whether public or privately owned.*

Uses are classified in the Public Recreation Zone as follows:

- |               |   |                                 |
|---------------|---|---------------------------------|
| <b>5.12.2</b> | <b>PERMITTED USE OR DEVELOPMENT (PERMIT REQUIRED)</b> |                                 |
|               | <i>Home Occupation</i>                                | <i>Public Recreation</i>        |
| <b>5.12.3</b> | <b>DISCRETIONARY USE OR DEVELOPMENT</b>               |                                 |
|               | <i>Agriculture</i>                                    | <i>Recreation Grounds</i>       |
|               | <i>Caravan Park</i>                                   | <i>Restaurant</i>               |
|               | <i>Car Park</i>                                       | <i>Road</i>                     |
|               | <i>Indoor Sports Centre</i>                           | <i>Utility Services (Major)</i> |
|               | <i>Place of Assembly</i>                              | <i>Utility Services (Minor)</i> |
|               | <i>Private Recreation</i>                             | <i>Tourist Facility</i>         |
| <b>5.12.4</b> | <b>PROHIBITED USE OR DEVELOPMENT</b>                  |                                 |
|               | <i>Any other use not in 5.12.2. or 5.12.3</i>         |                                 |

Existing Clause 3.1.10 applies to the site:

- 3.1.10** *Notwithstanding any other provisions of this Planning Scheme, a Civic Building use and development is Discretionary on that part of the land identified on the plans by reference to this clause at 29-67 Macquarie Street, George Town (PID 6440533). The development for the use must have regard to the following:*
- (i) whether new buildings will be in harmony with the external appearance of other buildings on Regent Square in terms of design, style, materials and colour; and*
  - (iii) whether new buildings make adequate provision for access and parking and provide a physical relationship to other buildings on Regent Square*

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<sup>1</sup> *L. Wootton and P Cox v. George Town Council and Department of Education [2012] TASRMPAT 40 (2 March 2012)*



*and to Macquarie Street and to the major area of Regent Square to the north.*

In Part 4 Interpretations, a Civic Building is defined as:

*means a building designed, used or intended to be used by Government Departments, statutory bodies, or the Council as offices, assembly rooms, meeting halls or other like purposes and includes a general post office, telephone exchange, police station, fire station, or ambulance depot.*

The site is not listed in Schedule 2 of the Scheme, Buildings and Works of Historical Interest as an historic building or object of natural beauty.

### **Consideration of issues**

#### **Preliminary matters**

One representor, Ms Gwenda Sheridan, was unable to attend the hearing for health reasons. To address the circumstances of Ms Sheridan, the Delegates provided all parties with the opportunity to pose questions in writing or seek written clarification of any matter in the representation prior to the hearing, with Ms Sheridan to provide a written response. No questions or requests for clarification were forthcoming.

Other preliminary matters addressed by the Delegates in response to specific enquiries from individual representors were:

- Clarification as to the power of the Commission under section 14 of the *Tasmanian Planning Commission Act 1997* to require a person to produce documentation or appear at a hearing to give evidence.
- Clarification as to the power of the Commission under section 11A(2) of the *Tasmanian Planning Commission Act 1997* to refuse to allow a party to a hearing to be represented if the Commission is satisfied that another party to the hearing would be significantly disadvantaged by the representation.

#### **Procedural and jurisdictional matters**

A number of procedural matters were raised in the representations and during the hearing:

- *Landowner consent for the application.*

Representors submitted that permission from Crown Land Services, Department of Primary Industries, Parks, Water and Environment had only been obtained for lodgement of an application for a 'multi-function civic building' and not the additional uses allowed by the draft amendment. It was argued that section 43D(1)(b) of the Act which requires an application for a permit to be accompanied by written permission of the owner of the land had not been satisfied.

The consent letter from Crown Land Services provides written permission for lodgement of the application for the draft amendment and 'a development application for a multi-function civic building on that land'. The permit provides for multiple uses of which a Civic Building as defined in the Scheme, forms only one component of those uses.

The Delegates are satisfied that the reference in the consent letter is not intended to curtail the use specifically to Civic Building as defined in the Scheme, and that landowner consent was provided with the full knowledge of what was being proposed in the combined application. Sections 33(2A)(b) and 43D(1)(b) of the Act are satisfied for the purpose of obtaining permission to request an amendment to a planning scheme and for the granting of an accompanying permit.

- *Jurisdiction of the Commission to consider matters arising prior to the receipt of the section 39 report.*

Counsel for the applicant argued that the Commission's assessment of the draft amendment and permit may only commence following receipt of Council's section 39 report. It was submitted that the Commission has no jurisdiction to review any procedural failing that occurred under any provision of the Act prior to receipt of the section 39 report and therefore, could not receive evidence concerning matters preceding the delivery of that report. In summary, the grounds for the objection were:

- The Commission is not required nor has it power to consider the draft amendment and permit prior to receiving Council's section 39 report.
- Once the section 39 report is received, the Commission must consider the draft amendment and permit, and the representations, statements and recommendations contained in the report.
- The Commission must hold a hearing in relation to each representation contained in the section 39 report.
- The Commission is confined in its considerations to the representations, statements and recommendations relating to the draft amendment and permit, as referred to in section 39(2) and section 43F(6).
- A "*representation*" which seeks to raise issues concerning the process preceding delivery of the section 39 report does not fall within the meaning of the phrase "*representations in relation to that draft amendment*" (subsection 39(1)) nor is it a representation which seeks to raise issues concerning the processes preceding the decision of the George Town Council to grant the permit.
- Those "*representations*" which complain of failure on the part of the George Town Council to properly exhibit and which contend that the Council did not properly consider matters, are not within the meaning of a "*representation in relation to*" in the relevant subsections of the Act. They are referring to matters beyond the amendment/permit and are beyond the jurisdiction of the Commission in a hearing. Any challenge to the process is to be made in the proper forum, being the Supreme Court.
- The Commission is to consider the merits of the draft amendment and permit, and has no capacity to deal with nor consider the processes leading to the compilation of the section 39 and related reports, or to make any determination in relation to any contended failure of process (to advertise/exhibit).

A Direction was issued by the Chair of the Delegated Panel on 1 March 2013 to clarify the Delegates' position on the matter. As summarised, the Direction was:

- The supervisory jurisdiction of the Commission in relation to a draft scheme amendment commences on receipt of a certified draft amendment from a planning authority pursuant to section 35(4) of the Act.
- It is not the responsibility of the Commission to review the decision-making processes of a planning authority leading up to the decision of the planning authority to certify an amendment or grant a permit under section 43F. Nor is it the responsibility of the Commission to review the decision-making processes of an applicant leading up to the decision to submit an application for an amendment or section 43A permit.
- When advice under section 35(4) of the Act has been received from the planning authority, the Commission has determinative powers to dispense with a hearing provided it is satisfied that the requirements of section 37 are met.
- The Commission's supervisory jurisdiction continues in relation to a planning authority's compliance with timelines under the Act as the Commission can grant the planning authority an extension of time to submit a section 39 report.

- The Commission has a responsibility to ensure that the advertising and public exhibition requirements in the Act and the Regulations for a draft amendment or a section 43A application have been undertaken by the planning authority pursuant to section 38 and section 43F of the Act.
- The Commission needs to ensure that these requirements have been sufficiently complied with to achieve the purpose of the Act in relation to representations and to make sure that the section 39 report requirements as outlined in section 39(2) have been sufficiently complied with.
- Failure to sufficiently comply with those requirements can be grounds for a challenge to the validity of a Commission decision; therefore the Commission has a responsibility to establish that those requirements have been sufficiently met.
- While the section 39 report is the basis of the 'merits review' jurisdiction, it is not considered that the Commission is precluded from reviewing the sufficiency of the action taken in accordance with the Act and the regulations that are the precursors to the Commission receiving the section 39 report, or the sufficiency of the section 39 report.

- *Inadequate public exhibition of all relevant documents.*

Representors claimed the plans exhibited at Council offices during the public exhibition period were of inadequate scale to determine dimensions of the building and to properly consider the likely impacts of the proposal. It was submitted the location and size of the exhibited material would have prevented a significant number of people from making a representation.

Section 38 of the Act requires that a draft amendment (and an accompanying permit) must be placed on public exhibition for not less than 3 weeks and not more than 2 months, excluding those days on which the planning authority is closed, and advertised as prescribed in the *Land Use Planning and Approvals Regulations 2004* (the Regulations).

At the hearing, evidence was produced by the Council detailing the public exhibition process and the documents that were placed on public exhibition, and the availability of Council officers to provide detailed information on request. Council also posted notices on Regent Square advising of the details of the proposed development and, although there were no adjoining properties owners, advised nearby residents by letter of the proposed development.

The Delegates are satisfied that the public exhibition undertaken by Council is satisfactory for the purposes of the Act and Regulations, and that no person was disadvantaged through being unable to access all the documentation necessary to be adequately informed about the application and what was being proposed in the draft amendment and permit.

- *Compliance with subsection 20(3) of the Act.*

It was submitted that the draft amendment does not comply with subsection 20(3) of the Act as it would prevent the continuance of the use of the land upon which buildings and works are not erected for the purposes for which it is lawfully being used. The reasons given were:

- The subject site is currently being lawfully used for Public Recreation, Car Park, Recreation Grounds and Public Open Space.
- The amendment and permit is for a building that will physically prevent the continued use of the land.
- The draft amendment specifically refers to the development application and permit, directly preventing the continued lawful use of the land.

In response, counsel for the applicant contended that the intent of section 20(3)(a) is to preserve existing use rights and does not prevent an owner and/or occupier from seeking a change to the use to which a piece of land may be lawfully put. In addition, that the current use of the subject land is not a 'right of use', rather a permission on the part of the George Town Council to allow parking of cars and other vehicles.

The Delegates are of the view that the intent of section 20(3)(a) is to protect existing use rights where it is intended for the use to continue to operate. It is not to obligate the continuance of a lawful use. The Delegates accept the argument put forward by the applicant's counsel and are satisfied the draft amendment does not contravene section 20(3) of the Act.

- *Compliance with subsection 62(2) of the Act*

It was submitted that subsection 62(2) of the Act has not been complied with as the request for a permit made under section 43A is for use and development that is substantially the same as the use or development that was the subject of the RMPAT appeal and leave was not sought of RMPAT prior to making the application.

Section 62(2) of the Act provides;

*Where the Appeal Tribunal has determined an appeal, an application for a permit in respect of a use or development which is substantially the same as the use or development to which the appeal related may not, without the leave of the Appeal Tribunal, be made within a period of 2 years from the date on which the Appeal Tribunal made its decision.*

It was not disputed that the use and development which was the subject of the section 43A application was not materially different to the previous permit that was considered and refused by RMPAT on appeal.

However, counsel for the applicant contended that section 62(2) of the Act did not apply to an application under section 43A. Counsel for the applicant advanced a number of arguments in support of that contention. The arguments were that:

- the application of section 62(2) is not within the remit of the Commission in relation to consideration of matters under s43H(1)(a) or (b). The role of the Commission is confined to the substantive merit of the permit.
- Section 62(2) is a provision of general application, whereas section 43A(1) specifically allows a person who has requested an amendment to a planning scheme to also request the planning authority to consider an application for a permit which would not be allowed if the planning scheme were not amended as requested. Applying the accepted rules of statutory construction where there is a conflict between specific and general provisions, the specific provisions prevail.
- It was not conceded that there was a conflict between section 43A and section 62(2), as on a proper construction of the Act as a whole, section 43A is concerned with a particular process namely as the title to Division 2A of the Act suggests a "*Combined permit and amendment process*". Section 62(2) does not apply so the sections relate to different things.
- While it is not conceded that there is conflict, applying a rule of statutory interpretation as a rule of last resort, when it is not possible to reconcile two sections of an Act the latter section prevails over the earlier. Section 43A was inserted in the Act in 1997

applying since 1 January 1998, whereas section 62(2) has been the Act since its inception.

The Delegates accept that the responsibility is to proceed to determine the merits of the section 43A application. They do not consider that section 62(2) operates to preclude them from hearing and determining the application.

The Delegates accept that section 43A and the related provisions were included in the Act to enable a request for a scheme amendment which if approved would enable a permit application to be considered at the same time, and that this is a different application to an application to which section 62(2) applies.

- *Compliance with Permit DA 2007/012 (Redevelopment of Memorial Hall)*

Representors submit that the draft amendment and permit provide for development to occur on land that has been specifically set aside for construction of 120 car parking bays as part of Permit DA 2007/012 (Redevelopment of Memorial Hall).

Evidence at the hearing is that the requirement for a total of 120 onsite parking spaces as part of Condition 14 of Permit DA2007/012 is yet to be completed. The first parking design plan for Condition 14 submitted by Council at the hearing showed the proposed location of the 120 parking spaces on Regent Square, with parking spaces clearly marked to be constructed on the area on which the Hub is proposed to be located. This has been superseded by a new parking design plan submitted by Council during the hearing to remove encroachment of any car parking on the Hub site.

Condition 14 of Permit DA2007/012 states:

*A detailed design plan of the proposed onsite parking in accordance with the requirements of AS28901.1, 1993 Parking Facilities – Off Street Car Parking, shall be provided to incorporate 120 car parking bays including at least two parking bays for the disabled and adequate turning provision for emergency and other service vehicles required to utilise the internal road network.*

Condition 14 only requires the submission of a car parking plan that accords with the specified requirements. There is an implied assumption that the car parking is required to be constructed in accordance with the plan, however this is not explicitly stated in the permit condition. Therefore, it is argued by counsel for the applicant, that Condition 14 has been complied with.

Counsel for the applicant submits that the only significance of the car parking for the previous development (of 120 space) is whether, when coupled with the new development and plans for parking to accommodate the new development, such parking is reasonably sufficient to meet the needs of both the Hub and the extension to the Memorial Hall. The new permit, if approved, simply coexists with the previous permit with any necessary modifications if the development is approved.

The Delegates accept the proposition that more than one permit may exist for a given site. Each permit issued may contain conditions which must be for a proper planning purpose. The Delegates accept the submission of the applicant and are of the view there is no legal impediment to the Commission's consideration of the permit under sections 43G and 43H.

- *Other matters*

A number of other matters were raised that are not considered by the Delegates to be within the jurisdiction of the Commission including:

- The draft amendment and permit do not comply with the terms of the existing Crown lease.
- Inadequate public consultation by George Town Council and State Government.
- Compliance with the *Local Government Act 1993*.
  - The public were disenfranchised by being restricted from asking questions at Council meetings.
  - Elected members were not privy to all the relevant information at the time of making the decision to initiate and certify the draft amendment. Some elected members requested additional time to consider the application but were denied this opportunity.
- Timing of the preparation of the Municipal Planner's report to Council.
  - The Municipal Planner's report was included in the Council Meeting agenda on the same day as the application for the draft amendment and permit was received by Council.
- Elected members of Council were not provided with accurate information at the time of initiation and certification to adequately consider the heritage values of Regent Square.

#### **Social & economic need**

A number of representors supported the proposal for the Hub on Regent Square considering that its central location will allow families to easily access a range of much-needed services while maintaining ample space for public recreation and parklands in the remainder of the Square. A number were of the view that the Hub will aid in addressing social problems in George Town and will be located in a central and accessible area of George Town with the aim of assisting families to achieve the best they can for their children. There was support for any positive flow-on effects to local business and George Town's economy in general.

Other representors supported the concept of a Child and Family Centre (CFC) in George Town but at an alternative location to Regent Square, while others objected to the 'Hub' concept in principle and the need for relocation of existing services, arguing that it would result in duplication of services that were currently being satisfactorily provided at other locations, such as at the George Town Council (Service Tasmania, Centrelink), the Memorial Hall (State Library, Online Access Centre) and the Hospital (child and family services). It was argued that relocation of these services will create inefficiencies and leave underutilised space in other civic buildings.

One representation queried the lack of risk assessment undertaken by Council for the proposal in order to determine the best possible location for the CFC. Other submissions questioned whether the uses encapsulated in the CFC would include child care services that would be better placed near the schools. Another representation pointed to the benefits of relocating the LINC near post-secondary education establishments given the supporting services provided such as access to computers and adult literacy programs.

The George Town Hub is based on the concept that three service entities (LINC Tasmania, Child and Family Centre, and Service Tasmania) will operate in partnership to deliver a range of services to George Town and the surrounding community.

As part of the Department of Education, LINC Tasmania comprises the State Library of Tasmania, Tasmanian Archive and Heritage Office, Adult Education and Online Access Centres. Evidence from Ms Jenny Rayner, Acting Director of LINC Tasmania as to the background of the HUB project is outlined as follows:

- Regional LINC project funding was announced in 2008 with George Town nominated as a priority location for a regional LINC due to its level of social disadvantage. During the

early stages of the Regional LINC project, CFC project funding also became available which resulted in discussions about the feasibility of a joint approach for communities where both services were scheduled. Along with George Town, Queenstown and Bridgewater were identified as candidates for co-location of these services under a 'Hub' concept. Service Tasmania is also a partner to the Regional LINC project and was to be included in Hub developments.

- Under the Regional LINC project, a Project Officer was employed to research likely communities for LINC developments and to discuss options with local councils. The Project Officer reported to an internal Steering Committee.
- The proposal for a joint LINC/CFC i.e. Hub was discussed with each local council and CFC Local Enabling Group. Agreement was reached to progress a Hub at each location. The Steering Committee agreed that each Hub was to operate as integrated services where sharing of facilities, equipment and resources would provide support to staff and community members across a range of needs.
- Budget allocations for the projects do not allow for land purchase and are therefore reliant on existing government-owned land or sites that are available through partnership arrangements with Councils.
- Criteria guiding the site selection of each Hub is summarised as:
  - Close to shops and other services such as supermarkets, banks and cafes.
  - High level of street appeal and visibility to passing traffic from likely catchment areas.
  - Easy pedestrian access from convenient parking.
  - East walking distance from home for significant or target client groups.
  - Suitable for out-of-hours access – good street presence and visibility, with activity levels after hours to increase security of staff and clients.
- Services to be provided at the Hub include:
  - Parental support programs.
  - Play-based activities for children and parents together.
  - Artistic and recreational activities.
  - Adult literacy support.
  - Access to basic skills training such as computer literacy.
  - Access to a range of services such as Centrelink and Service Tasmania.
  - Support to adult learners.
  - Free access to computers and the internet.
  - Free access to recreational reading and information services.
  - Free community spaces such as library reading room, lounge and foyer.
  - Low cost access to meeting rooms.
  - Volunteer opportunities.

Evidence from Cheryl Larcombe, Manager of the Child and Family Centre Project, Department of Education is that CFCs are multi-service centres aimed to meet the health and wellbeing, education and care needs of local children from before birth to age 5 as well as supporting and empowering families in their parenting role, strengthening local communities and offering pathways to employment. It is anticipated a number of benefits from development of CFCs will flow to children, families, Tasmanian communities, government and the economy. In terms of a Hub, having the CFC alongside and connected with the LINC was viewed as extending the opportunities for personal and community development through the provision of a wider range of activities that are more easily acceptable to many community members.

There are currently six CFCs operating in Tasmania. They are located at Beaconsfield, Break O'Day, Clarence Plains, East Devonport, Queenstown and Ravenswood. It is intended that six more are to be developed at Bridgewater (Aboriginal focus), Burnie, Chigwell, Derwent Valley, Geeveston (Aboriginal focus) and George Town.

The State Infrastructure Planning System Report<sup>2</sup> (SIPS Report) into Child and Family Centre locations was developed for the Department of Premier and Cabinet (DPAC) as one input into the identification of future CFC locations across the State. The SIPS Report provided a broad community profile for each suburb identified as a potential location for a future CFC, focusing on key socio-economic indicators, the type and location of existing health, commercial and transport services. The report also provided an accessibility analysis to determine ease of access to potential CFC sites, using different transport modes. The sites examined for potential development for a CFC have been adopted from existing overview work undertaken by DPAC.

The SIPS Report identified accessibility as important in determining the suitability of a site for a CFC, the concept considers the types of services and activities residents might need to meet their needs; the location of these services, including the spatial relationship between services; and ease of access to these services (considering all transport options). Given the impact of accessibility on economic and social opportunities, CFC strategies should consider accessibility factors in identifying appropriate future locations such as proximity to essential services including schools and shops, access to public transport systems, distance to major employment centres, and existing childcare and health facilities. Site-specific issues also need to be considered in identifying opportunities for co-location of future facilities, to expand or develop existing sites or develop new infrastructure.

The SIPS Report identified George Town as a potential location for a future CFC due to its function as the regional centre for the George Town Local Government Area (LGA) and residents in the surrounding area utilise the services available in the town such as shopping and education. There is a daily bus service to Launceston; however the population size does not support a local service therefore any households outside of walking distance to services require the use of private transport. Walking is relatively easy within George Town given its topography and grid-like layout, however its dispersed pattern of development means those households on the fringes of the town may not be within walking distance of many services. Residents outside of George Town are reliant on private transport.

The site-specific analysis undertaken as part of the SIPS process identified there are difficulties in providing a single CFC in George Town within easy walking distances of all residents due to its urban form and size combined with a lack of existing public transport services. The analysis concluded that the location and separation distances of the existing early learning programs, and child health and commercial services makes it impractical to link up those existing services in their current locations, and preference is for the services to be co-located on a single site.

A Local Area Analysis was undertaken which identified a range of existing child related services existing within George Town:

- Port Dalrymple School
- South George Town Primary School
- George Town Child Health Centre
- George Town Hospital and Community Health Centre

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<sup>2</sup> Child and Family Centre Location Report, Department of Premier and Cabinet, SIPS Stage 2, February – April 2009



- George Town Neighbourhood House
- Star of the Sea Catholic College
- Gordon Square Early Learning Centre.

Key sites were identified within George Town for a CFC for accessibility analyses were:

- Port Dalrymple School
- South George Town Primary School
- George Town Hospital and Community Health Centre
- George Town Neighbourhood House
- George Town Memorial Hall

The accessibility analysis for both on and off street walking path access acknowledged that the size of George Town means that a single site cannot be provided within close pedestrian access of all households. Therefore accessibility profile ratings are relative to other potential sites and take into consideration accessibility to the neediest households and access to other services.

The conclusions in the SIPS Report were that the location of the CFC in George Town should have good accessibility for the families that would need it the most, but ideally should be relatively close to other services so multiple activities can be accomplished in a single trip. Development of CFCs at both the government schools in George Town (Port Dalrymple School and South George Town Primary School) would provide best accessibility for the whole township and quick-start potential. Other potential sites more centrally located in George Town (George Town Hospital and Memorial Hall) provide best accessibility to health and other general services but are not close to highest disadvantaged households to north, east and south of the township. The SIPS Report specifically recommended that CFC sites in central George Town (such as the Memorial Hall or Hospital) should not be considered for this reason, however the occurrence of the CFC as part of a 'Hub' model requires broader strategic matters to be addressed, such as the potential for a more centralised location to benefit the other civic services provided as part of the Hub. It was acknowledged that wherever a CFC is located in George Town, many households will need to rely on transport by car (private, shared) and provision of community transport for children and their parents should be considered as part of any service model.

The Delegates are satisfied there exists a strong social need for a regional LINC and a CFC to be developed in George Town. The Delegates are also supportive of the Hub concept generally as a model for providing integrated government service delivery. It is accepted that the integration of these services into a single complex will provide the capacity for government to operate in a cost-effective manner by removing duplication of equipment and resources and through reducing overheads. Once established there will be a degree of long-term economic benefit to the proposal in terms of the rationalisation of government services. It is acknowledged there will likely be some positive economic flow-on effects to the local business community in locating such a facility near the central retail area of George Town; however benefits are difficult to measure and evidence at the hearing is insufficient to definitively draw a conclusion of any significant economic benefit to those businesses beyond generalised planning principles.

The Delegates accept the level of research and investigation undertaken in the development of the proposal from a government policy perspective. The Delegates also accept the likely social benefit of the services delivered as part of a Hub complex located within central George Town.

#### **Strategic planning basis**

Representors questioned the merit in locating the Hub facilities such as the CFC and the LINC within the central business area. They expressed a preference for the Hub's location within a residential area and in close proximity to schools, claiming parents and children would have greater access to library and child health facilities while saving expenditure by the Department of Education. The lack of available transport to some users of the Hub was presented as an argument for locating it closer to the residential areas. It was submitted that many members of the community likely to use the CFC would not have private vehicles and there is no local bus service operating within George Town. It was submitted that other CFCs in various parts of the State were better located in terms of other facilities in the towns in which they were located. In terms of economic benefits, the representations considered that the development will have very little impact on increasing patronage to local shops and the main commercial area of George Town as has been suggested by the applicant and Council. Many pointed to other vacant land where such facilities could be built without the need to encroach on Regent Square.

Representors objected to allowing the Hub to be built on land that was zoned for recreational purposes. It was considered the Hub facilities constituted uses other than civic ones and should not be placed on a public open space. Representors argued that the development would consume a large area of parkland forming a valuable part of the town centre. It was claimed this loss of public open space will impact on visual amenity and detract from the tourism potential of the area. It would prevent the use of the Square for community events, both formal and informal and undermine its purpose, being for the enjoyment and recreation of the public. Representors submit that the Regent Square Landscape Plan of 2007 should be implemented and updated.

Other representors supported the location of the Hub on Regent Square, considering its proximity to the commercial centre of George Town to be beneficial and there would remain adequate land for recreational use on the other parts of Regent Square. They acknowledged the importance and value of Regent Square but submitted that the development will have very little impact on the overall space given it appeared to be consistent with the use of the existing Memorial Hall and facilities, and the impact is to be limited to the existing car park.

There are several strategic documents that are relevant to the draft amendment.

The *Northern Tasmania Regional Land Use Strategy 2010 – 2035 (RLUS)* was declared by the Minister for Planning on 27 October 2011 and is intended to provide a range of regional policies that will facilitate growth and development within Northern Tasmania over the next 25 years. It is intended to guide the development of new planning schemes for each Council in the Northern Region.

Under the RLUS, George Town is identified as a District Service Centre, being traditional town centres that serve the immediate needs of the surrounding regional district, and are the centre for local government administration and related community and social services, including district health and education needs.

The relevant Policies and Actions are considered as:

***Part 4.2 – Regional Activities Centre Network:***

***Policies:***

***RAC-P15 Coordinate joint agreements on the range of future needs for community, social and recreational facilities and amenities with relevant providers and state agencies.***

*RAC-P16 Coordinate joint agreements on the range of future needs for community, social and recreation facilities and amenities with relevant providers and state agencies.*

*Actions:*

*RAC-A17 Enhance activity centres by encouraging people to linger beyond that required for their retail needs through providing:*

- *a good quality public realm including provision of a particular public open space focus (i.e. a town square) for community events and social networking; and*
- *entertainment, dining and indoor recreational opportunities.*

#### **Part 4.5 – Social Infrastructure and Community:**

*Policies:*

*SI-P01 Identify and plan for social infrastructure in sequence with residential development.*

*SI-P02 Provide social infrastructure that is well location and accessible in relation to residential development, public transport services, employment and educational opportunities.*

*SI-P03 Provide multi-purpose, flexible and adaptable social infrastructure that can respond to changing and emerging community needs over time.*

*CH-P02 Recognise and manage archaeological values throughout the region to preserve their key values.*

*Actions:*

*SI-A01 Investigate the social infrastructure for the region and consider:*

- *A needs analysis;*
- *Identification of locally appropriate standards of service;*
- *Gaps in supply and assess future needs;*
- *An implementation plan;*
- *Monitor and review.*

*SI-A05 Planning schemes are to facilitate the co-location of community facilities and services and encourage multi-purpose, flexible and adaptable social infrastructure.*

*CH-A03 Ensure recognised significant cultural heritage and archaeological sites are protected by subdivision design and placement of structures.*

The Delegates consider the draft amendment is consistent with the objectives and outcomes of the RLUS as it provides for co-location of community and social services in a centralised business area that is in close proximity to commercial uses while remaining accessible to residential areas. It allows for efficiencies in service provision and provision of support for other services within George Town.

The *George Town Central Area Study Strategy* (1999) has not been endorsed by Council but is accepted as forming a visionary document for the review of Municipal plan. It references a Regent Square Precinct with the following objective:

*The strategy objective for the Regent Square Precinct is to facilitate the redevelopment of Regent Square and the surrounding residential areas. This precinct should enhance the potential of Regent Square as a significant recreation and community resource, and encourage the development of medium density housing within a high quality landscaped setting due to the Precinct's proximity to the Central Area.*

The Key Issues for the Regent Square Precinct points to the significant potential of Regent Square to act as a landmark space which defines the character of George Town and the community, but

that it currently presents as a degraded and poorly defined area that could benefit from master planning to ensure:

- *appropriate form and scale of buildings to complement historic buildings and the proposed parkland setting;*
- *retention of existing significant and mature trees in the area;*
- *protection of historic buildings and open spaces;*
- *choice and flexibility within the housing stock; and*
- *development and maintenance of a critical level of activity close to the core of the Centre.*

The Central Area Strategy seeks to introduce a number of defined improvements to areas in the Town including Regent Square. An indicative Landscape Concept Plan provides guidelines for treatment of the parkland through creation of flexible civic parklands, which caters for both quiet relaxation and active games, and as an exhibition space suitable for large events. The Delegates find that while it was not envisioned as part of the Square when the Central Area Strategy was developed, the draft amendment is not inconsistent with the objectives and strategies of the George Town Central Area Strategy.

Council's *Strategy and Planning Report 2009* provides a background report for development of the new George Town Planning Scheme. It has not been endorsed by Council but is viewed as having some relevance in informing development of the new draft interim planning scheme being undertaken as part of the Planning Scheme Reform process. The Strategy provides objectives and strategies that include:

- *Promote the George Town Municipality as a great place to live, work and visit.*
- *Establish links and networks to encourage economic development in the area.*
- *Provide a high standard of infrastructure at affordable levels for visitors, industry and the local community.*
- *Encourage tourism visitation and expenditure and promote local events.*
- *Continue to implement the Central Area Strategy and the York Cove Development Plan to enhance the central area of George Town.*

The Strategy is considered a high level document and the draft amendment is not inconsistent with the objectives and strategies of the Strategy and Planning Report.

A number of other documents have been developed for Council but are not endorsed including:

- *Regent Square Landscape Guide Master Plan*
- *Memorial Hall and Surrounds Redevelopment*
- *George Town Development Strategy Ratio (status unknown)*
- *Elizabeth Street Streetscape Improvements 2007*

The implementation of any policy directions developed as part of these documents is a matter for Council in the context of any new development that may occur on Regent Square.

The Hub is a significant community facility given the services that will be provided for the benefit of the community. The location of the Hub near the commercial centre of George Town is favoured over its location close to residential areas, given the Hub contains a number of civic and educational uses that will allow for multi-use trips for those people making use of its facilities and the nearby retail area. It is acknowledged there would be some benefit in locating a CFC or educational/training aspects of a LINC near schools or other educational establishments, however the need for 'co-location' of the uses within the Hub model necessitates that, when considered in its entirety, the most suitable location is within the commercial centre of George Town. Uses within the Hub such as Service Tasmania and LINC facilities are more suitably located within a business area as opposed to residential areas.

The Delegates are of the view that the site is a suitable location for the Hub development and is consistent with the objectives of the relevant strategic documents reviewed as part of the assessment. The Delegates consider that majority of Regent Square will remain available to the community for use as public open space and for events, and the impact of the development will be limited to an area that is principally operating as a car park, although it includes a small landscaped garden. The site's location with frontage to Macquarie Street remains consistent with the treatment of the Memorial Hall buildings which also front Macquarie Street.

#### **Availability of alternative sites**

A number of representors raised issue with the availability of alternative sites on which the Hub would be better located. Whilst there may be other sites for the Hub, the consideration of such sites is not within the scope of the Commission's assessment of the draft amendment, beyond that which can be considered under generalised planning principles.

#### **Amenity, noise, visual and safety impacts**

Representors claimed that parkland vistas across Regent Square will be destroyed including those views from heritage-listed places. It was submitted the Hub will have a negative impact on privacy and security of nearby residences due to increased traffic, and noise from the playground area at the northern side of the development. The walkway access between the building and extension to Memorial Hall was not considered wide enough to provide views across the Square.

Representors raised issues with the safety and security aspects of the use and development given the narrow pedestrian walk way that is proposed between the Hub building and the Memorial Hall extension. The proximity of the site to licenced establishments on Macquarie Street and its impact on young children attending the CFC was also raised.

Evidence of Mr Clayton, architect for the applicant, is that the design response is sensitive to the site, as vistas across the Square were considered and are already compromised by extension of the Memorial Hall. The walkway between the buildings is intended to provide some view-scapes from Macquarie Street to the open space areas of the Square.

The Delegates do not accept that the public walkway between the Hub building and Memorial Hall extension will provide any genuine level of visual access across the Square, given its narrow width. However, the views from the corner of Macquarie and Elizabeth across the Square have not been established as significant view-scapes that require special protection beyond that which has been considered in the siting of the proposal. The building is single storey and uses a relatively small area of Regent Square. Views across the majority of the Square will be retained, particularly those that are experienced from the central business area, along Macquarie Street from east to west.

It is not accepted that the Hub will result in degradation of privacy and security to nearby residences. The residences to the west and south-west that will be most impacted by the activities of the Hub are located on the edge of the central business area of George Town and are zoned Urban Residential, of which some of the uses comprising the Hub (Civic Building and Health Centre) are discretionary under the Scheme, in addition to a number of other community and business uses. Regent Square is zoned Public Recreation that would allow a number of buildings to be placed on the site such as for Public Recreation (permitted) and Indoor Sports Centre, Place of Assembly and Restaurant (discretionary). A Civic Building is discretionary on the subject site by virtue of Clause 3.1.10, subject to additional considerations for external

appearance, adequate provision for access and parking, and provision of a physical relationship to the surrounding buildings.

The Delegates do not accept that the proximity of licenced establishments to the site represents a threat to the safety of the Hub users, particularly children attending the CFC. The situation is not unusual in that the site occurs in the main street of a small town which contains a variety of commercial uses, including businesses that are licensed to sell liquor. The Delegates are of the view that land use conflict with such businesses will not be created through the siting of the Hub on Regent Square and that they are located a reasonable distance from the site.

The Delegates find that the distance between the two buildings is acceptable but acknowledges the need to address security aspects of the walkway. Installation of security lighting is required as part of the permit conditions to address the issue.

#### **Cultural and heritage values**

Representors assert the draft amendment and permit should be rejected as it will cause adverse impacts on the historic heritage values of Regent Square. The values pertain to colonial settlement, town planning, governance and architecture which have significance at a national, state and local level as Regent Square is one of only a few town squares remaining in Australia that are said to be representative of Governor Lachlan Macquarie's town planning vision for retention of a centralised square for recreational use of the public.

It was submitted that the history of George Town is an integral part of the history of European settlement and the history of Australia, making Regent Square a highly significant part of world history. Since being laid out 200 years ago, many public occasions have been celebrated on the Square which is used regularly for recreational purposes, sports, military demonstrations, fairs, parades and all kinds of entertainments.

Representors submitted that the application does not include a professionally prepared and holistic heritage assessment of the site as the proponent failed to follow Heritage Tasmania's "Pre-Development Assessment Guidelines" in comprehensively identifying the values of the Square so an adequately researched heritage assessment could be provided and Part 2(g) of Schedule 1 Objectives of the Act adequately furthered. It was submitted that the proposed development works against the site's heritage values and would drastically infringe upon its internal space which would in turn defeat the purpose of a town square. It was submitted that the decision of the Tasmanian Heritage Council to issue a works permit under the *Historic Cultural Heritage Act 1995* was based on flawed information provided by Heritage Tasmania staff through lack of access to all the available information, such as the survey notes of James Meehan (who laid out the town of George Town at Governor Macquarie's direction) which more comprehensively illustrate Macquarie's intent for George Town.

Removal of the bus layby was requested to ensure the integrity of the Square's curtilage remained intact.

Other representors considered that the development would have little impact on the overall space of the Square and the impact was limited to the existing car park. While Regent Square is an important and valuable open space for George Town, the proposed development was considered to be consistent with the existing Memorial Hall and facilities.

Representors questioned the lack of an Aboriginal heritage survey being undertaken for the site and considered the view by the applicant and Council that the site is 'highly disturbed' and

occurs within an established urban area, was not a basis for excluding the possibility of the site containing Aboriginal heritage values.

At the time of Council's decision to initiate and certify the draft amendment, Regent Square was provisionally listed on the Tasmanian Heritage Register. A works permit for the development was issued by the Tasmanian Heritage Council on 19 December 2012. During the course of the Commission's assessment, Regent Square was permanently entered onto the Heritage Register. The listing contains a Place Description and Development Guidelines for the site.

The Development Guidelines for Regent Square include heritage management objectives as follows:

- a) *preserve the Square as an urban landscape feature in the centre of the town grid, consistent with Governor Macquarie's design vision for George Town;*
- b) *preserve the Square as a place of community benefit, in which appropriate community facilities are provided within a setting of landscaped public open space, consistent with the use and development of similar Squares in other Macquarie-designed towns;*
- c) *preserve the War Memorial Hall and War Memorial through minimising the loss of any significant fabric that forms part of these structures whilst encouraging appropriate and sustainable on going uses and permitting appropriate degrees of change to facilitate this.*

The Guidelines emphasise the importance of maintaining appropriate public benefit in the use of the development of the Square through ensuring it remains as public land and for community use. For development of the Square, the Guidelines require consistency with specific development provisions, including that the overall percentage of the Square occupied by building, vehicular traffic areas and parking not exceed 25% site coverage, new buildings should be single storey and not exceed the height of existing buildings, and vehicular access and parking should only be provided for community facilities and uses located within the Square.

In objection to the proposal, evidence from the representors, in particular that of Mr Cox, Ms Sheridan and Mrs Wootten, was tendered in support of the view that:

- Governor Macquarie's vision of 1811 never intended for any of his town squares to be built upon, even for public buildings.
- Governor Macquarie's vision still has relevance today and has acquired heritage significance with the passage of time and the erosion of integrity of some of the other Macquarie squares, of which there is only five such squares remaining that are directly associated with the earliest years of colonial settlement and development in Australia.

At the hearing, expert opinion on heritage matters was presented by Mr Ian Boersma, Works Manager of Heritage Tasmania.

Mr Boersma's view was that the heritage values of Regent Square relate to:

1. The position of the Square in a contemporary street grid.
2. The intact curtilage of the Square.
3. The character of the Square as a largely open space for community use.

In support of the Hub proposal, Mr Boersma contended that:

- It is difficult to prove Governor Macquarie would have objected to any building being erected on Regent Square.
- Regent Square has contained civic buildings for approximately half the time it has existed; therefore there is a long established precedent for civic buildings on the Square.

- A level of development for civic purposes is reasonably consistent with Macquarie's intent and some departure from Macquarie's intent can be reasonably expected, and is consistent with the fact that George Town did not develop to the extent that was anticipated.
- Symmetry is no longer a design principle for the Square given the location of existing buildings, in particular the impact of the more recent extension to the Memorial Hall. Relocating the Hub to the eastern side of the Square would more detrimentally impact on any views from the main commercial area as one progresses along Macquarie Street from the east.

The heritage value of Regent Square as a colonial urban design feature associated with Governor Macquarie is accepted by the Delegates. The heritage values of the Square associated with its centralised public function are well documented in the supporting information and recognised as part of the Tasmanian Heritage Register listing. While the Development Guidelines attached to the Tasmanian Heritage Register listing are intended to provide guidance during assessment of a works permit under the *Historic Cultural Heritage Act 1995*, the Delegates are mindful of ensuring the Guidelines' heritage management objectives are furthered through the course of the assessment of the combined application.

The Delegates recognise the substantial amount of work undertaken by the representors to document the heritage values of Regent Square and the impact of the Hub on those values. While acknowledging the difficulties in considering the relevance of Macquarie's vision in the present day, the Delegates accept the evidence of Mr Boersma and consider that a limited degree of use and development of the Square for civic and community purposes is reasonably consistent with what could be expected to occur in a town centre. The proposed use of the site is essentially for a civic and community purpose, based on co-location of government services in an area where a social need has been demonstrated. The proposal allows for retention of a large area of open space on the remainder of Regent Square which can continue to be a venue for public events and passive recreation.

The construction of the building and works associated with the Hub requires an additional level of consideration for their impact on the physical heritage associated with the Square. The current availability of the area subject to the draft amendment for open space and recreational use is limited, given that informal car parking currently occupies a significant part of the area and any development necessary for the Hub will be contained to the area specified in the plans, noting that the Civic Building portion of the Hub is allowable on the site already through existing Clause 3.1.10. The Heritage Council Guidelines do not exclude additional development on Regent Square but do specify that the site coverage for the entirety of Regent Square should not exceed 25%, and that new buildings should not be greater than single-storey or exceed the height of existing buildings. Evidence presented by Mr Clayton is that the overall site coverage that encapsulates all the buildings and works on the Square is 20.02% (ARTAS Drawing A606/A2) and the height of the proposed single-storey building is 6.8 metres which complies with the Guidelines (Memorial Hall extension has approximate building height of 8.2 metres). Mr Boersma's evidence is that the western corner of the Square is not a view-scape of heritage significance that will be detrimentally affected by construction of the Hub is accepted by the Delegates.

On the evidence available, the Delegates are not persuaded that the heritage significance of the Square will be affected by the construction of the Hub to the extent that rejection of the draft amendment is warranted. In summary, the Delegates are of the view that it is consistent with the heritage management objectives of the Development Guidelines to provide for use and



development of additional community facilities while allowing Regent Square to continue to feature as part of the important urban landscape for George Town, being a central public open space. Consistent with the evidence of Mr Boersma as to the heritage values of Regent Square, the Delegates support the representors' submission for removal of the bus layby to ensure the original curtilage of the Square remains intact.

Representors raised issues with the Heritage Council decision-making process in relation to the Hub. However, matters concerning the assessment of the works application undertaken by Heritage Tasmania officers for the Tasmanian Heritage Council are beyond the scope of the assessment of the draft amendment.

The Delegates do not take issue with the lack of an Aboriginal cultural heritage assessment being undertaken for the site, given the disturbed nature of the portion of Regent Square subject to the draft amendment and its occurrence in a central urban area. It is noted that should any Aboriginal relics be found during construction of the development, that finding will be subject to the provisions of the *Aboriginal Relics Act 1975*.

#### **Traffic & parking**

Vehicular access to the site will be via the existing western car park access to Elizabeth Street, south of the Hub building and an access road to the rear of the Hub creating access to the car park at the rear of the Memorial Hall. The car parking arrangements for the Hub include the 'formalisation' of existing car parking spaces on the western car park and car park to the rear of the Memorial Hall through paving and marking, and creation of additional car parking spaces on part of the existing western car park with frontage to the Hub and to the rear of the Memorial Hall.

Representors raised concerns with increased traffic and hazards as a result of the Hub development as it was claimed Macquarie Street was currently experiencing congestion particularly during peak holiday periods. One representation raised issue with the safe movement of pedestrian traffic through car parking areas, particularly for families, children and elderly persons.

Representors submitted the development will result in a loss of central car parking spaces that will have an adverse effect on both tourism and local businesses with George Town. It was claimed the number of car parking spaces provided by the development will be inadequate in the context of the surrounding car parking required to service the business area of George Town more generally. It was submitted that the condition requiring construction of 120 car parking bays as part of previous Permit DA 2007/012 (Redevelopment of Memorial Hall) had not been complied with.

The representors requested removal of the bus layby as the existing bus-stop along Elizabeth Street was considered adequate for the current bus timetable servicing George Town. It was submitted that altering the bus route as a result of the new layby's location would cause problems for buses attempting to navigate roundabouts along Macquarie Street and create safety issues for people exiting buses and traversing the western car park on Regent Square.

Requests were made to increase the width of the new footpaths at the rear of the proposed Hub development in line with the standard of footpaths provided for similar development within George Town.

Expert evidence for traffic and parking was provided by Mr Eaton, Traffic Engineer on behalf of the applicant via a Traffic & Parking Study (October 2011) and through appearance at the hearing. Mr Eaton provided an assessment of the access and parking provisions, and comments in regard to safety and traffic services for the frontage streets (Macquarie and Elizabeth Streets).

*Traffic:*

In relation to the traffic survey, the methodology of Mr Eaton was questioned by the representors who sought to emphasise the limitations in conducting the survey over the course of a single day for 5-6 hours during school holidays, it would under-represent the amount of traffic experienced in George Town, particularly during peak holiday periods.

In terms of traffic management, Mr Eaton's methodology for factoring the data for peak week day value, week day volume and peak seasonal value allowed for generation of peak seasonal weekday volumes and weekday two-way peak hour volumes along Macquarie and Elizabeth Streets. When considering the impact of any additional traffic movements generated by the Hub development on the existing traffic volume experienced by Macquarie and Elizabeth Streets, Mr Eaton determined a weekday two-way volume of some 1250 vehicles close to the Macquarie Street roundabout with a weekday two-way volume of some 1050 vehicles on the two-way north of access off Elizabeth Street to the rear of the Hub. He concluded that this indicated satisfactory traffic conditions for accommodation of the Hub, as the traffic volumes are below the recommended Tascord environmental capacity of a two-way street of 2000 vehicles per day. In terms of traffic management, Mr Eaton concluded that no likely traffic safety or traffic service deficiencies are expected for the local streets in proximity to the site with the development in place.

The Delegates are satisfied the traffic volumes calculated by Mr Eaton are based on an acceptable methodology of extrapolation and application. The Delegates accept Mr Eaton's evidence that any additional traffic generated by the use and development of the Hub is within the traffic capacity of Macquarie and Elizabeth Streets, and can be satisfactorily accommodated in the existing traffic network of George Town.

*Car parking:*

Regent Square currently contains car parking in the following locations:

- Public car park on the eastern side of Regent Square at the Macquarie Street frontage with access to Anne Street (marked car spaces).
- Public car park on western side of Regent Square at Macquarie Street frontage with access to Elizabeth Street (marked and unmarked car spaces).
- Public car park to the rear of Memorial Hall (unmarked car spaces).

Parking within the vicinity of the subject site includes:

- Elizabeth Street – unmarked parking spaces along eastern side/Regent Square frontage with marked spaces and bus area on western side.
- Macquarie Street – angled marked parking spaces on northern side with spaces and loading zone on the southern side.

Additional car parking created for the Hub will be located on the northern side of the western car park at the Hub's frontage and additional spaces at the rear of the Memorial Hall.

Mr Eaton's revised evidence for the supply of available car parking is summarised as follows:

- The total number of car parking spaces (existing and proposed) on Regent Square is 130 spaces, with potential for an additional 8 spaces to the rear of the Memorial Hall.
- The total number of car parking spaces on Regent Square and the surrounding streets (being Macquarie and Elizabeth) available for the existing and proposal uses is 190 spaces, which includes space for approximately 10 cars along Macquarie Street, west of Elizabeth Street.

There was general acceptance of the total number of spaces available (existing and proposed) based on Mr Eaton's revised figures although disagreement over the availability of car spaces further west along Macquarie Street for overflow parking.

In considering the car parking demand created by the Hub development, the draft amendment sets aside the Scheme requirements for car parking in Schedule 3. Mr Eaton provided opinion that planning schemes typically overestimate the number of car parking spaces required and generally do not reflect the realities of car parking demand created by new development. Mr Eaton's calculations for estimated car parking demand for the Hub were based on the New South Wales Road and Traffic Authority recommended levels of parking provision for different uses. Mr Eaton gave evidence that he had previously used this methodology for like proposals and it had proved to be a reliable approach. In calculating the demands specifically for the CFC, Mr Eaton relied on car parking requirements for a childcare centre, being deemed as the most comparable use in terms of car parking requirements as no figures have been developed for application to a CFC.

Mr Eaton's calculations for demand are summarised as follows:

- Proposed Hub centre: 90 spaces
- Memorial Hall: 40 + 87 (during functions) = 127 spaces  
Reduced to 119 spaces (excluding library, relocated to Hub)
- Nearby Shopping Centre: 151 spaces  
(Elizabeth to Anne Streets)
- **Total:** **323 spaces**
- **Allowance for multi-purpose trips(70%):** **Reduced to 226 spaces**

The representors argued that the Mr Eaton's assessment had not complied with the Delegates' request for calculations for car parking requirements for the aggregate estimate area wide parking space demand for all associated buildings or reference to supply and demand for the nearby Shopping Centre including the area extending south of Macquarie Street, along Anne, Bathurst and Elizabeth Streets. In addition, that the car parking required for the library facilities currently housed within the Memorial Hall should not be excluded from the Memorial Hall demand as this space could be utilised for another use requiring car parking.

The Neilsens submitted that the car parking requirements set out in Schedule 3 of the Scheme had relevance as Council has a history of enforcing the requirements in previous development approvals. The Neilsens submitted that the demand for overflow parking created by other facilities and businesses such as the Woolworths supermarket, Pier Hotel, and Bass and Flinders Centre on Elizabeth Street should be considered in determining the parking requirements for the Hub. They undertook alternative data collection and calculations for the car parking requirements for a more extensive area than was considered by Mr Eaton to include businesses south of Macquarie Street, based on the car parking requirements in Schedule 3. It was

submitted that the applicant and Council had wrongly assumed the eastern and western car parks on Regent Square are used solely for the buildings on Regent Square and not the wider commercial area, and that a significant shortfall in car parking spaces of a minimum 113 (with an additional 66 spaces during functions) would be created by development of the Hub as all parking traditionally set aside for the commercial purposes would be eliminated.

In determining the parameters of the area required to be considered for calculating demand, the Delegates are satisfied the car parking demand calculations have taken into consideration the area that can be reasonably considered to be within the vicinity of the Hub. The Delegates are of the view that, while there is need to ensure that the demand for car parking generated by the Hub will not adversely affect the amenity and viability of commercial businesses in the surrounding area, the assessment is not intended to address the demand generated by all uses and operations within the George Town central area. It has not been established there are currently problems being experienced through lack of car parking within George Town that would warrant broader consideration of an area beyond that which has been considered in the car parking assessment undertaken by Mr Eaton.

The Delegates' objective in considering the provision of car parking for the proposed Hub and surrounding area is to ensure the appropriate number of car parking spaces is available having regard to the demand likely to be generated by the Hub and nature of the surrounding locality. The Delegates acknowledge the work undertaken by the representors to critically examine the impact of the Hub on the demand for car parking in the George Town central area, however favour the expert evidence of Mr Eaton. The Delegates are satisfied that a sufficient number of car spaces will be provided by the development as the aggregate supply of parking both on Regent Square and in the surrounding area is adequate to cater for aggregate demand for the Hub, Memorial Hall and surrounding commercial centre to the extent that has been considered. The Delegates accept Mr Eaton's evidence there will be a deficiency in car parking spaces in the vicinity of 35 spaces during daytime functions and events at the Memorial Hall. In the event it is accepted that car space requirements for the existing library in the Memorial Hall should not be reallocated to the Hub (given the space could be replaced with a use within the same Use Class without necessarily triggering a requirement for additional car parking), an additional deficit of 8 car spaces during functions and special events would be created. The evidence is that such events are likely to occur around 20 times per year. The Delegates accept the evidence of Mr Eaton that the surrounding streets are readily able to absorb any overflow car parking requirements during special events and functions and would not significantly affect the amenity of the locality to any extent that would be unacceptable on those occasions.

The Delegates are satisfied that any additional traffic and car parking demand created by the Hub will not detract from the amenity of the area, will provide a safe environment for the users, provide efficient use of and access to the Hub and surrounding commercial centre, and maintain an adequate supply of public parking.

*Pedestrian Safety:*

Safety concerns in relation to traffic and pedestrians using the car parks were raised by representors given the nature of the uses associated with the Hub and the presence of children aged 0-5 years attending the CFC. Mr Eaton's evidence was that accident information obtained from Department of Infrastructure, Energy and Resource (DIER) suggested a low accident rate with no significant safety issues in proximity to the proposed Hub development, and safe sight distances for the two access points from the car parks to Elizabeth Street. In addition, that the car parking areas will need to comply with Australian Standard, Parking Facilities Part 1: Off-

Street Car Parking – AS/NZS 2890.1 which takes into consideration the safe movement of pedestrians through parking areas.

The Delegates are satisfied that safety concerns regarding traffic and parking have been addressed in the application.

*Bus layby:*

A new bus layby on Elizabeth Street frontage of Regent Square has been provided, directly west of the Hub building. The bus layby has capacity for parking of 2 buses and includes a bus shelter. It is intended to replace the existing bus stop on the opposite side of Elizabeth Street.

The applicant advised the bus layby was provided on the plans at the request of Council as an upgraded facility for the existing coach services to Launceston (3 times daily each way) and to make provision for a local suburban service that would assist access to the Hub, particularly the Child and Family Centre. Council advised the combined application presented an opportune time to plan and develop a public transport facility for potential future bus services to and within George Town. Council's Municipal Engineer provided advice that the existing roundabout design and geometric layout is able to accommodate larger vehicles such as buses by allowing for the wheel path of such vehicles to track over the outer part of the roundabout island.

The Delegates are of the view that the need to include the bus layby has not been satisfactorily demonstrated. The area is already serviced by an existing bus stop on the opposite side of Elizabeth Street and there was no evidence to demonstrate an undertaking to provide a local bus service within George Town. As stated previously, there is potential for impacts on the heritage values of Regent Square through alteration of its curtilage. The draft amendment is to be modified to remove the bus layby from the plans.

*Footpaths:*

New pedestrian footpaths are to be provided from the existing footpath on the northern side of Macquarie Street across the western car park via a link between the Memorial Hall and the Hub to the rear car park and Regent Square, along the kerb at Elizabeth Street between Macquarie Street and on the new rear access road/driveway.

Representors claimed the width of the footpaths would be inadequate for the needs of pedestrian traffic (in particular, likely pedestrian traffic to the CFC) and is not in keeping with footpaths recently constructed near similar facilities in George Town, being either 1800mm or 2170mm in width. Council provided documentation of Municipal Standard Drawings dated November 1997 that establish Council's requirement for construction of footpaths to 1500mm width.

The Delegates are persuaded that construction of the new footpaths along Elizabeth Street and the new access road should be 1800mm in width in keeping with other sites in George Town and to ensure the comfort and safety of pedestrian passage, wheelchairs and prams. The ARTAS plans incorporated as part of the draft amendment are to be modified in accordance with these requirements.

**Technical issues**

During the hearing, the applicant submitted that the amendment to the plans contained an error in that the area of specified departure as delineated did not show the extent of the area required to allow for the use and development on the site. The access road on the northern side of the development site would be located outside the area of departure and would be prohibited.

The applicant recommended complete removal of reference to the area of departure within Clause 3.1.11 and referral only to ARTAS plan no. 101009 A601a/A4 as a plan forming part of Permit No. DA 2012/80. A revised ARTAS plan no. 101009 A606/A7 was submitted that removes the 'area of departure'. It was submitted the change would represent a modification under section 41(ab) of the Act and not a substantial alteration that would require further public exhibition and an additional hearing process.

Objections were put forward by the representors to the effect that the proposed amendments to the draft amendment went beyond that which could be entertained as a modification under section 41(ab) of the Act as the changes to the draft amendment propose to define an alternative area to that which the certified amendment initially relied upon. It was argued by Mr Nicholls that the Commission is restricted under section 41(ab) of the Act to those matters under section 40, being the draft amendment and the representations, statements and recommendations contained in the report pursuant to section 39. The changes to the draft amendment, as proposed by the applicant, do not form part of the section 39 report and regardless of the merits of the change, necessitate consideration as an alteration to a substantial degree which requires public exhibition pursuant to 41B(1)(b) of the Act.

The Delegates are of the view that the changes to the draft amendment to remove reference to the area of departure will have no effect on the total site area of Regent Square that will be required for the proposal. The certified draft amendment (as exhibited) requires the area of development (and building and works footprint) to be substantially in accordance with the plans forming part of Permit SD 2012/80. There will be no change to site coverage of the area that will be required for development works.

Consistent with the consideration and principles applied by Blow J in *R v Resource Planning and Development Commission; Ex parte Dorney (No.2)* [2003] TASSC 69 (11 August 2003) to determine whether a proposed change to an amendment is a modification or an alteration to a substantial degree, the Delegates consider that the recommended change to the draft amendment is a technical modification that should be approved. There should be corresponding modification to remove the amendment to the Scheme plan that delineates the area of departure as this will no longer have relevance.

Council recommended that the incorrect reference in Clause 3.1.11 to the 'Learning Information and Network Centre (LINC)' be modified to 'Learning and Information Network Centre (LINC)'. This modification to the draft amendment should be approved.

Representors queried whether the building was single storey, given the existence of a stairway leading to a plant room. The Delegates are satisfied the building is a single storey building as stated in the application.

#### **Application of State Policies**

##### *State Coastal Policy 1996*

The site is located within the coastal zone as defined in the State Policy. The site is within a central urban area contributing to compact and contained planned urban development. The draft amendment has been prepared in accordance with the Policy.

##### *State Policy on the Protection of Agricultural Land 2009*

The Policy applies to all agricultural land in Tasmania. The site does not constitute agricultural land and the Policy does not apply.

*State Policy on Water Quality Management 1997*

Representors claimed an assessment of the site for the potential impact of acid sulfate soils should be undertaken as a result of the provisions of the Policy.

The Policy requires consideration of the potential impact of acid sulfate soils. Disturbance of acid sulfate soils (ASS) may be an issue on coastal sites and can lead to discharge of acidified drainage. Sites located on the coast may be required to be assessed in accordance with the Tasmanian Acid Sulfate Soil Management Guidelines which set out the requirements for acid sulphate soils.

Council advised there have been no known issues arising from the potential presence of acid sulfate soils within George Town. LIST mapping shows the site as being one that is subject to a low probability of containing acid sulfate soils. Evidence from Peter Voller of DPIPWE is that soil testing will be undertaken as part of any construction works and attenuation measures may be required to prevent adverse effects of any acid sulfate soils found to be present on the site.

The Delegates are satisfied that development of the site can be carried out consistent with the Policy. The draft amendment has been prepared in accordance with the Policy.

*National Environmental Protection Measures (NEPMs)*

The NEPMs are not applicable to the draft amendment.

**Objectives of the Resource Management and Planning System  
Schedule 1 of the *Land Use Planning and Approvals Act 1993*  
Part 1**

(a) *To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*

The draft amendment is to make the specified uses permitted on the site in accordance with the plans. There are no identified threats to the maintenance of ecological processes and genetic diversity on the subject site.

(b) *To provide for the fair, orderly and sustainable use and development of air, land and water;*

The draft amendment to allow the specified uses is assessed as providing for fair, orderly and sustainable use and development on the specified area of the site.

(c) *To encourage public involvement in resource management and planning;*

Public involvement has been achieved through the process of the consideration of the draft amendment and any subsequent applications where discretionary uses are proposed.

(d) *To facilitate economic development in accordance with the objectives set out in paragraphs (a), (b), and (c);*

The draft amendment will facilitate economic development consistent with the above objectives.

(e) *To promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State;*

The draft amendment has involved the sharing of responsibility for resource management and planning between state and local government and the community.

*Part 2*

The draft amendment is assessed as furthering the Part 2 objectives principally in terms of planning instruments setting controls for the use, development and protection of land, to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State and municipal levels; and to enable the orderly provision and co-ordination of public facilities for the benefit of the community.

*Part 2*

*(a) To require sound strategy planning and co-ordinated action by State and local government;*

The draft amendment is consistent with the directions of relevant strategic documents and requires co-ordinated action by the State and local government.

*(b) To establish a system of planning instruments to be the principle way of setting objectives, policies and controls for the use, development and protection of land;*

The draft amendment inserts a site-specific development that will enable use and the development of the George Town Hub consistent with the strategic directions for planning policy at a State, regional and local level.

*(c) To ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decision are made about the use and development of land;*

The draft amendment will provide significant social benefits to the George Town LGA and will not result in detrimental effects on the environment.

*(d) To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*

The draft amendment will enable the delivery of important civic and community services based on State government policy for co-location of services that is not inconsistent with regional and local planning policy.

*(e) To provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals;*

The section 43A process has provided for a combined application for an amendment and permit to be made.

*(f) To secure a pleasant, efficient, safe working, living and recreational environment for all Tasmanians and visitors to Tasmania;*

Use and development of the George Town Hub will enable the continuation of recreational and open space activities to occur on Regent Square and will not be detrimental to the amenity of the surrounding residential and commercial areas.

*(g) To conserve those buildings, areas or other places which are of scientific aesthetic, architectural or historical interest, or otherwise of special cultural value;*

The draft amendment will allow Regent Square to continue to feature as an important urban town planning feature with significant heritage values through its retention as a central public open space while providing for use and development of additional community and civic facilities.



(h) *To protect public infrastructure and other assets and enable the orderly provision of co-ordination of public utilities and other facilities for the benefit of the community.*

The subject site is within an existing serviced area and able to be fully serviced. It is easily accessed by the existing road and pedestrian network within George Town.

(i) *To provide a planning framework which fully considers land capability.*

The site is assessed as fully capability of being used and developed for the purposes of the George Town Hub.

#### **Conclusion on the draft amendment**

The draft amendment, with modifications, will provide a significant social benefit where a need has been demonstrated, is consistent with the relevant State, regional and local planning strategies and policies, furthers the objectives of the Act and has been prepared in accordance with State Policies. The draft amendment is supported and should be approved with modifications.

#### **Commission's assessment of the permit**

Permit SD 2012/08 provides for use and development of a single storey Learning and Information Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental Offices, Child and Family Centre, associated car parking, access road and bus layby at 29-67 Macquarie Street, George Town.

The Hub development comprises the following:

- Construction of a single storey building with a total floor area of 1494m<sup>2</sup>.
- Construction of an ancillary storage building with a total floor area of 30m<sup>2</sup>.
- Resurfacing/remarking of car parking space south of the building's frontage.
- Construction of a new access road north of the building to access an existing car park at the rear of the Memorial Hall, which is to be line-marked and additional spaces added.
- Construction of a new bus stop on Elizabeth Street frontage which includes a bus layby for 2 buses and bus shelter.
- Construction of a children's play area adjoining the northern end of the building and landscaping of approximately 700m<sup>2</sup> of land surrounding the building.

The Hub building is located on the south-western corner of Regent Square, directly west of the Memorial Hall. The building is undulating in form and has a maximum height of 6.8 metres. The setback to Macquarie Street is 34.7 metres and the setback to Elizabeth Street is 12.06 metres. The outdoor storage building has a building height of 3.3 metres and is located east of the children's play area and north of the Hub building.

The main entrance to the Hub building will be from Macquarie Street with additional access available from Elizabeth Street and Regent Square. A pedestrian walkway will be created between the Hub building and the Memorial Hall to allow for connectivity between Macquarie Street and Regent Square. The walkway ranges in width from 3.75 metres to 9.55 metres between the two buildings.

An access road off Elizabeth Street approximately 100 metres from the Macquarie Street corner will be constructed north of the children's play area to provide access to car parking at the rear of the Memorial Hall. Additional car parking for the Hub will be located on the northern side of the western car park at the Hub's southern frontage and at the rear of the Memorial Hall.

The internal parts of the building will provide separate areas for the different government services with shared meeting rooms. The CFC will employ three full-time staff with three part-time practitioners, the LINC will employ eight staff onsite per day, and Service Tasmania (incorporating Centrelink) will employ three staff onsite per day. A Hub Manager will be employed onsite.

The issues concerning the permit have largely been addressed in the preceding assessment given the interconnectedness between the draft amendment and permit. Matters concerning the site layout and form of development have largely been addressed, including the requirement for removal of the bus stop incorporating the bus layby and shelter from the plans, and delineation of the 'area of departure'.

There are a number of permit conditions that require modification.

Condition 2 requires modification to list the endorsed drawings and plans and require submission of amended drawings and plans to show:

- Deletion of the proposed bus stop on Elizabeth Street, including bus layby and bus shelter.
- Deletion of the dotted line 'area of departure'.
- Widening of the footpath along Elizabeth Street frontage and the new access road to 1.8 metres.
- Re-orientation of the northern access road so it reflects the alignment as originally proposed in the certified draft amendment and to ensure there is consistency between endorsed plans.

Modifications to other permit conditions are as follows:

- Several conditions are advisory and notify the applicant of the necessity to comply with external regulations. These are to be moved to the 'Advice' section of the permit.
- The condition for external lighting is to include the requirement for security lighting to be installed at the entrances to and along the pedestrian walkway between the Hub and Memorial Hall.
- All conditions requiring works to be undertaken to the approval of "Council" are to refer instead to "Council's Director Development and Infrastructure Services".
- Under the Construction Environmental Management Plan (CEMP), hours of construction are reduced on Saturdays and no work is to be undertaken on Sundays and during public holidays. Council may issue a notice to cease construction activities when public or special events are held on Regent Square. Details of public safety, access, amenity and site security are also to be included.
- The landscaping plan must have regard to the plant species recommended in the Regent Square Landscape Guide Master Plan (Kelly, 2007).
- Advice regarding aboriginal heritage and the requirements under the *Aboriginal Relics Act 1975* is to be included as per Council's section 39 recommendation.

#### **Conclusion on permit**

The permit specifying the use and development for the site is interconnected with the draft amendment. The proposal for use and development of the Hub, to co-locate a Child and Family Centre, LINC Tasmania and Service Tasmania on Regent Square is supported. The permit should be approved with modifications.

#### **Attachments**

**Annexure A: Amendment 1/2012 - Modifications to be undertaken by Planning Authority**  
**Annexure B: Modified Permit 2012/80**

Annexure A

# TASMANIAN PLANNING COMMISSION



## George Town Planning Scheme 1991

### Amendment 1/2012

#### Modifications to be undertaken by Planning Authority

1. Modify ARTAS Plan Nos. 101009 A601a/A4, A602/A3, A603/A3, A604/A3, A605/A3 and A606/A2 to show:
  - (a) Deletion of the bus stop on Elizabeth Street including bus layby and bus shelter from all relevant plans.
  - (b) Deletion of the dotted line "area of departure" from all relevant plans.
  - (c) A footpath width of 1.8m along Elizabeth Street frontage and the new access road.
  - (d) Realignment of "new access road" on ARTAS Plan No. 101009 A606/A2 to reflect the "new access road" as shown on ARTAS Plan Nos. A601a/A4, A602/A3 and A603/A3.
3. Modify Clause 3.1.11 of the Planning Scheme ordinance to:
  - (a) Delete "for the area as delineated "area of departure"" and replace with "as shown on".
  - (b) Insert all modified ARTAS Plan Nos. (as listed in "1.") following "ARTAS plan no 101009" and preceding "if generally in accordance with the plans forming part of Permit No. DA 2012/80."
4. Delete amendment to the Planning Scheme Plan.

Annexure B

# TASMANIAN PLANNING COMMISSION



DA 2012/80;6440533

Department of Education  
C/- JMG Consulting Engineers  
117 Harrington Street  
HOBART TAS 7000

## Notice and Permit

**PLANNING PERMIT NO: DA 2012/80**  
**NOTICE AND PERMIT FOR PLANNING APPROVAL**  
**SECTION 43H LAND USE PLANNING AND APPROVALS ACT 1993**

<b>Applicant:</b>	Department Of Education
<b>Address:</b>	As Above
<b>Premises for which permit shall issue:</b>	29-67 Macquarie Street GEORGE TOWN
<b>Purpose for which permit shall issue:</b>	Development Application for a Single storey Learning and Information Network Centre (LINC), Library, Meeting Rooms, Service Tasmania and Departmental Offices, Child Family Centre, and associated car parking.

**APPENDIX A**

**DA Number:** DA 2012/80  
**Applicant:** Department Of Education  
**Address of Development:** 29-67 Macquarie Street, GEORGE TOWN

**1. Period of Approval**

In accordance with the *Land Use Planning and Approvals Act 1993*, the approval will lapse after a period of two (2) years if the development is not substantially commenced within that period.

**2. Basis of Approval**

The development shall be undertaken in accordance with the endorsed drawings and plans except where specified otherwise in this permit and documents lodged with this application (DA 2012/80). Any substantial variation from this application shall require the further planning consent of Council.

Endorsed drawings and plans:

ARTAS	Plan No. 101009	Date
A601a/A4	Site Location Plan	8 October 2012
A602/A3	Proposed Site Plan	16 August 2011
A603/A3	Proposed Floor Plan	16 August 2011
A604/A3	Southern & Western Elevation Plan	24 August 2011
A605/A3	Northern & Eastern Elevation Plan	24 August 2011
A606/A2	Site Dimension Plan	27 February 2013

Amended plans are to be submitted to and approved by Council's Director Development and Infrastructure Services prior to the commencement of works. When approved, the plans will form part of the permit and are to show:

- (i) Deletion of the proposed bus stop on Elizabeth Street, including bus layby and bus shelter.
- (ii) Deletion of the dotted line 'area of departure'.
- (iii) A footpath width of 1800m along Elizabeth Street frontage and the new access road.
- (iv) Realignment of 'new access road' on ARTAS Plan No. 101009 A606/A2 to reflect the 'new access road' as shown in ARTAS Plan Nos. A601a/A4, A602/A3 and A603/A3.

**3. External Lighting**

All external spaces are to be lit and baffled in accordance with AS4282. Security lighting is to be installed at the entrances to, and along, the pedestrian walkway between the Hub and Memorial Hall.

**4. Development Assessment Fees (Development Applications – Non Subdivision)**

This Development has been assessed as Medium in accordance with the Ben Lomond Water (BLW) development Assessment Services Fee Schedule as posted on the BLW Web Site.

The Development Assessment Services fees applicable to this application and payable to BLW include:

- Development Applications – Non Subdivision

- Building and Plumbing Applications
- Certificate of Compliance (BAs and DAs)

The Applicant shall pay to BLW the Development Applications – Non Subdivision fee of **\$369.60** within 30 days of receipt of the associated invoice.

Further assessment and approvals by BLW may not proceed until any or all outstanding fees associated with this development have been paid.

The Applicant shall pay to BLW the Building and Plumbing Applications fee of \$267.30 within 30 days of receipt of the associated invoice.

Further assessment and approvals by BLW may not proceed until any or all outstanding fees associated with this development have been paid.

The Applicant shall pay to BLW, the Certificate of Compliance fee listed in the Fee Schedule on the BLW website, at the time of the formal request for the Certificate of Compliance.

Payment shall be made prior to the issue of the BLW Certificate of Compliance.

#### **5. Service Connections (Sewer & Water)**

All proposed “internal” sewer drainage and water service lines must be connected to the existing property connections. Multiple connections to Ben Lomond Water’s sewer and water mains are not acceptable.

#### **6. Developer Charges (Headworks)**

Prior to the issuing of a **Certificate of Compliance** for the development, the permit holder shall pay to Ben Lomond Water Developer Charges, in accordance with Ben Lomond Water’s Developer Charge Policy,

- for water infrastructure - \$1336 / Equivalent Tenement(ET) , indexed quarterly at the Consumer Price Index, All Groups Hobart rate from June 2011 until the date it is paid to Ben Lomond Water.
- for sewerage infrastructure - \$1265 / Equivalent Tenement(ET) , indexed quarterly at the Consumer Price Index, All Groups Hobart rate from June 2011 until the date it is paid to Ben Lomond Water

This development equates to 7.62 Equivalent Tenements over the 1 Equivalent Tenement entitlement.

Payable Headworks Charge amount is **\$19,820** (indexed quarterly at the Consumer Price Index, All Groups Hobart rate from June 2011 until the date it is paid to Ben Lomond Water)

Note: Prices are per lot or unit more than 1.

Developer Charges do not include Sewer and Water Connection and Assessment Fees.

#### **7. Protection of Pipelines**

The existing underground Ben Lomond Water water and sewer mains are to be located, both in alignment and depth, prior to the start of construction and all necessary steps taken to protect these pipes from damage during the construction process, including from vehicular access over

the pipes, or from loads transmitted to the pipes from the proposed development. This shall be achieved in the following manner:

- No part of the structure is to be in the drainage easement shown on the title plan and internal drainage must not be installed within the drainage easement, if there is any,
- The Structure (including eaves) must be no closer than 1metre from the outer edge of the pipe,
- Footings must extend below the line of influence, being a line rising at 45 degrees from the invert of the pipe,
- There must be a minimum clear space between buildings or substantial structures of at least 3 metres in width to facilitate maintenance (by BLW) along the line of the pipe.
- Manholes or inspection openings are not to be covered and must remain accessible at all times.

Prior to issue of Certificate of Certifiable Works (Building/Plumbing) an amended plan is to be submitted to Ben Lomond Water showing the off-set of the proposed structure to the existing sewer pipe and details of footings within the zone of influence of the sewer pipe.

In reference to Section 56W of the *Water and Sewer Industry Act 2008*.

#### **8. Traffic Management Plan – Civil Construction Works**

The permit holder shall ensure that the contractor responsible for construction has submitted and received approval from Council's Director Development and Infrastructure Services for the implementation of a Construction Traffic Management Plan prior to the commencement of any civil construction works. The Construction Traffic Management Plan shall adequately address the issues of noise, likely traffic conflict and safety of other road users in accordance with AS 1742.3 Manual of Uniform Traffic Control Devices and shall operate for the duration of the works.

#### **9. Construction Environmental Management Plan**

The permit holder shall ensure that a Construction Environmental Management Plan has been prepared, submitted and received approval from Council's Director Development and Infrastructure Services prior to commencement of any civil construction works. The plan shall address the potential environmental effects of the construction work to be carried out including the likely impact upon adjoining properties and parkland.

- (i) The CEMP shall be kept on site at all times and be made available to all contractors and subcontractors.
- (i) The permit holder shall ensure that the plan adequately addresses the issues of erosion, sediment control, and hours of construction and dust for the duration of the works.
- (ii) The CEMP shall detail:
  - Procedures for monitoring and maintenance of erosion and sediment controls;
  - Any staging of works; with construction activities only permitted within the hours of 7.00 am to 7.00 pm Monday to Friday, 9.00 am to 5.00 pm Saturday and no work on Sunday and public holidays, unless otherwise approved in writing by Council's Director Development and Infrastructure Services. Council may issue a notice to cease construction activities during public or special events.



- Details and procedures for dust control (to include minimising soil disturbance, use of water sprays, erecting screens, not carrying out dusty work during windy conditions, established grass or other ground treatment);
  - Details and procedures for stripping including timing of earthworks;
  - Details for reinstatement and rehabilitation of all disturbed land as a result of earthworks;
  - Details for public safety, access, amenity and site security.
- (iii) Civil construction work shall not commence until the construction environmental management plan has been approved in writing by Council's Director Development and Infrastructure Services or an alternate date for the receipt of the plans has been specified in writing by Council's Director Development and Infrastructure Services.
- (iv) The permit holder must ensure the construction environmental management plan is implemented and maintained for the duration of the construction phase of the site and that all requirements of the plan are completed to the satisfaction of Council's Director Development and Infrastructure Services.
- (v) The permit holder must obtain the written approval of Council's Director Development and Infrastructure Services for any consequent amendment to the endorsed construction environmental management plan.

#### ***10. Storm Water Management Design Plan***

A detailed stormwater management design plan must be submitted to Council's Director Development and Infrastructure Services for approval prior to the commencement of any civil construction work or by a date specified in writing by the Council's Director Development and Infrastructure Services.

- (i) The permit holder shall ensure that all use and development of the site storm water infrastructure is compatible with the capacity of existing downstream stormwater infrastructure and as required by the following conditions.
- (ii) A temporary oil, silt and debris separating gross pollutant trap of adequate capacity to treat the anticipated site flow during the construction period shall be provided.
- (iii) Construction of onsite stormwater infrastructure shall not commence until the plan has been approved in writing by Council's Director Development and Infrastructure Services or an alternative date for the receipt of the plans has been specified in writing by Council's Director Development and Infrastructure Services.
- (iv) The permit holder must ensure the Storm Water Management Design Plan, is implemented and maintained during and post construction and that all requirements of the plan are completed to the satisfaction of Council's Director Development and Infrastructure Services. The permit holder must obtain the written approval of Council's Director Development and Infrastructure Services for any consequential amendment to the endorsed Storm Water Management Design Plan.

#### ***11. Civil Construction Scheduling – Existing Utility Services***

The permit holder shall ensure that all existing utility services within the proposed development footprint shall be identified and re-located as required prior to commencement of any civil construction works.

Civil construction of site shall not commence until a Civil Construction Management Plan has been approved in writing by Council's Director Development and Infrastructure Services or an alternate date for the receipt of the plans has been specified in writing by Council.

- (i) The permit holder must ensure the Civil Construction Management Plan is implemented and maintained during construction and that all requirements of the plan are completed to the satisfaction of Council's Director Development and Infrastructure Services.
- (ii) The permit holder must obtain the written approval of Council's Director Development and Infrastructure Services for any consequent amendment to the endorsed Civil Construction Management Plan.
- (iii) The permit holder must meet the cost of any claims or proceedings arising from any damage that the work may cause to infrastructure associated with other utility services.
- (iv) Utility services within the development footprint declared redundant as a consequence of works authorized by this approval shall be decommissioned and removed from the site.

### ***12. Landscaping***

Prior to the commencement of any landscaping works a landscape plan for the site and adjoining road reserve specifying the botanical name and location of the species proposed shall be prepared and approved in writing by Council's Director Development and Infrastructure Services. Landscaping must enhance the streetscape and character of the surrounding environment, maximise the passive surveillance of the pedestrian walkway between the Hub and Memorial Hall, and have regard to the plant species recommended in the Regent Square Landscape Guide Master Plan (Kelly, 2007). A Bank guarantee shall be required to ensure completion and for maintenance purposes to ensure establishment to the satisfaction of Council.

Landscape management shall be in accordance with the management prescriptions and recommendations of the Development Application.

### ***13. Engineering Certification of Works***

- (i) All Civil construction work over the duration of the project shall be supervised by a qualified Chartered Professional Engineer (Civil).

On the completion of construction and prior to commencement of any required statutory maintenance period this Engineer shall confirm in writing that the works have been substantially completed in accordance with the approved plans and provide confirmation of the final cost of construction of the required civil infrastructure.

- (ii) The information provided in support of the required certification shall include calculated stormwater flows, road traffic volumes, internal roads, parking areas and access points to enable the development to be properly incorporated into the Council's infrastructure, and to form a basis upon which further development may be planned. Council's development assessment fee of 1% of the project infrastructure construction value shall apply.

### ***12. Footpaths***

The footpaths along the Elizabeth Street frontage and new access road are to be a minimum of 1800mm wide and constructed to the satisfaction of Council's Director Development and Infrastructure Services.

**Advice**

1. The applicant is to apply for a building, and plumbing permits for the construction of the structure, and provide all required information and documentation to enable assessment for compliance to the Tasmanian Building Act 2000, Tasmanian Plumbing Code, Building codes of Australian and relevant Australian Standards.
2. Food preparation and serving areas need to comply with Australian Standard AS4674-2004 'Design, Construction and Fit-Out of Food Premises'.
3. All works will be required to comply with Access to Premises — Buildings Standards 2010 and AS 1428 Part 1 (General Requirements for Access).
4. Any aboriginal relics found during construction and development will be subject to the provisions of the *Aboriginal Relics Act 1975*.