



City of **HOBART**

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

## **CABLE CAR - NEWSPAPER ARTICLE**

**Meeting: City Planning Committee**

**Meeting date: 15 November  
2021**

**Raised by:** Councillor Dutta

### **Question:**

Can the Director explain/clarify/advise if the comments attributed to Alderman Behrakis in the Mercury newspaper is true/correct in relation to the Cable Car development application processes?

### **Response:**

Comments attributed to Alderman Behrakis in The Mercury on 11 November 2021 included:

*Ald Behrakis said the public would have been able to have a say if his motion of deferral was successful.*

*"I moved a deferral motion and it was thoroughly knocked back and now there are concerns the community can't have a say," Ald Behrakis said.*

*"If the applicants were able to go back to council and make amendments, the public could have had a say on it.*

*"Now we're in the tribunal stage that's not going to happen."*

*"That was rejected 9-3 and the people who voted against the deferral voted against the application in its entirety."*

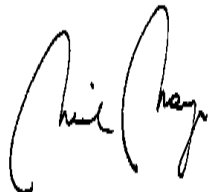
In the Supreme Court decision of *Tomaszewski v Hobart City Council* (2020) TASSC 48 Blow CJ held, as far as relevant, that the legislation only allows for one statutory advertisement period.

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

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

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

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



Neil Noye  
**DIRECTOR CITY PLANNING**

Date: 29 November 2021  
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