

COUNCIL MEETING
MONDAY 4 JULY 2022

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BUSINESS TO BE CONDUCTED AT THIS MEETING IS TO BE CONDUCTED IN THE ORDER IN WHICH IT IS SET OUT IN THIS AGENDA UNLESS THE COUNCIL BY ABSOLUTE MAJORITY DETERMINES OTHERWISE

COUNCIL MEETINGS, NOT INCLUDING CLOSED MEETING, ARE AUDIO-VISUALLY RECORDED AND PUBLISHED TO COUNCIL’S WEBSITE

1. ACKNOWLEDGEMENT OF COUNTRY

The Mayor will:

- make the following statement:

“I acknowledge the Tasmanian Aboriginal Community as the traditional custodians of the land on which we meet today, and pay respect to elders, past and present”.

- recite the Council prayer; and
- advise the Meeting and members of the public that Council Meetings, not including Closed Meeting, are livestreamed, audio-visually recorded and published to Council’s website. The meeting is not protected by privilege. A link to the Agenda is available via Council’s website.

2. APOLOGIES

Ald Walker (Leave of Absence)

3. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 and Council’s adopted Code of Conduct, the Mayor requests Aldermen to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in any item on the Agenda.

4. OMNIBUS ITEMS**4.1 CONFIRMATION OF MINUTES****RECOMMENDATION:**

That the Minutes of the Council Meeting held on 14 June 2022 and the Special Council Meeting held on 27 June 2022, as circulated, be taken as read and confirmed.

4.2 MAYOR'S COMMUNICATION**4.3 COUNCIL WORKSHOPS**

In addition to the Aldermen's Meeting Briefing (workshop) conducted on Friday immediately preceding the Council Meeting the following workshops were conducted by Council since its last ordinary Council Meeting:

PURPOSE	DATE
Victoria Esplanade and Queen Street Master Plan	
Skylands Internal Discussion	
Rates Modelling	20 June
Mornington Park Waste Transfer Station	
Water Quality Howrah/Bellerive Beach Update	
Seven Mile Beach Consultation Update	
Former Bellerive Library	27 June

RECOMMENDATION:

That Council notes the workshops conducted.

4.4. TABLING OF PETITIONS

(Note: Petitions received by Aldermen are to be forwarded to the General Manager within seven days after receiving the petition).

Petitions are not to be tabled if they do not comply with Section 57(2) of the Local Government Act, or are defamatory, or the proposed actions are unlawful.

The General Manager will table the following petition which complies with the Act requirements:

- Received from 91 signatories requesting Council investigate and implement traffic management measures to reduce speed of vehicles travelling on North Terrace, Lauderdale to at least the prescribed limit of 50km/hr, in the interests of public safety.

4.5 REPORTS FROM OUTSIDE BODIES

This agenda item is listed to facilitate the receipt of both informal and formal reporting from various outside bodies upon which Council has a representative involvement.

4.6 REPORTS FROM SINGLE AND JOINT AUTHORITIES

Provision is made for reports from Single and Joint Authorities if required.

Council is a participant in the following Single and Joint Authorities. These Authorities are required to provide quarterly reports to participating Councils, and these will be listed under this segment as and when received.

- **COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY**

Representatives: Ald James Walker
(Ald Luke Edmunds, Deputy Representative)

Quarterly Reports

June Quarterly Report pending.

Representative Reporting

- **TASWATER CORPORATION**

- **GREATER HOBART COMMITTEE**

4.7 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES

4.8 WEEKLY BRIEFING REPORTS

The Weekly Briefing Reports of 13, 20 and 27 June 2022 have been circulated to Aldermen.

RECOMMENDATION:

That the information contained in the Weekly Briefing Reports of 13, 20 and 27 June 2022 be noted.

5. PUBLIC QUESTION TIME

Public question time at ordinary Council meetings will not exceed 15 minutes. An individual may ask questions at the meeting. Questions may be submitted to Council in writing on the Friday 10 days before the meeting or may be raised from the Public Gallery during this segment of the meeting.

The Chairman may request an Alderman or Council officer to answer a question. No debate is permitted on any questions or answers. Questions and answers are to be kept as brief as possible.

5.1 PUBLIC QUESTIONS ON NOTICE

(Seven days before an ordinary Meeting, a member of the public may give written notice to the General Manager of a question to be asked at the meeting). A maximum of two questions may be submitted in writing before the meeting.

Nil.

5.2 ANSWERS TO QUESTIONS ON NOTICE

The Mayor may address Questions on Notice submitted by members of the public.

Nil.

5.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

5.4 QUESTIONS WITHOUT NOTICE

The Chairperson may invite members of the public present to ask questions without notice.

Questions are to relate to the activities of the Council. Questions without notice will be dependent on available time at the meeting.

Council Policy provides that the Chairperson may refuse to allow a question on notice to be listed or refuse to respond to a question put at a meeting without notice that relates to any item listed on the agenda for the Council meeting (note: this ground for refusal is in order to avoid any procedural fairness concerns arising in respect to any matter to be determined on the Council Meeting Agenda).

When dealing with Questions without Notice that require research and a more detailed response the Chairman may require that the question be put on notice and in writing. Wherever possible, answers will be provided at the next ordinary Council Meeting.

6. DEPUTATIONS BY MEMBERS OF THE PUBLIC
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(In accordance with Regulation 38 of the Local Government (Meeting Procedures) Regulations 2015 and in accordance with Council Policy, deputation requests are invited to address the Meeting and make statements or deliver reports to Council)

7	PLANNING AUTHORITY MATTERS
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In accordance with Regulation 25 (1) of the Local Government (Meeting Procedures) Regulations 2015, the Mayor advises that the Council intends to act as a Planning Authority under the Land Use Planning and Approvals Act 1993, to deal with the following items:

**7.1 DEVELOPMENT APPLICATION PDPLANPMTD-2022/027374 – 1
DOMINIQUE WAY, ROKEBY - 2 MULTIPLE DWELLINGS****EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for 2 Multiple Dwellings at 1 Dominique Way, Rokeby.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential and subject to the Parking and Sustainable Transport Code, Bushfire Prone Areas Code, Safeguarding of Airport Assets Code and the Paraville Specific Area Plan under the Tasmanian Planning Scheme - Clarence (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42-day period which has been extended with the applicant's consent until 6 July 2022.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and no representations were received.

RECOMMENDATION:

- A. That the Development Application for 2 Multiple Dwellings at 1 Dominique Way, Rokeby (C1 Ref PDPLANPMTD-2022/027374) be refused for the following reason.
 - 1. The proposal does not comply with Clause 8.4.2 P1 as the front setback of Unit 2 is not compatible with the streetscape and there are no topographical constraints to justify the setback.
- B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

DEVELOPMENT APPLICATION PDPLANPMTD-2022/027374 – 1 DOMINIQUE WAY, ROKEBY - 2 MULTIPLE DWELLINGS /contd...

ASSOCIATED REPORT**1. BACKGROUND**

The lot was created as part of the 163 Pass Road, SD-2018/3 subdivision. The newly created lot was part of Stage 4 of the subdivision, which still consists primarily of vacant lots, three dwellings currently are under construction and several other permits have recently been granted for single dwellings and one multiple dwelling site.

The proposed application seeks a reduction to the front setback to Danes Avenue. In communications with the applicant, officers identified the technical inability of the proposed setback to comply with the relevant standard. The applicant has chosen to proceed with the application in its current form.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned General Residential under the Scheme.

2.2. The proposal is discretionary because it does not meet the Acceptable Solutions under the Scheme.

2.3. The relevant parts of the Planning Scheme are:

- Section 7.5 – Compliance with Applicable Standards;
- Section 8.10 – Determining Applications;
- Section 10 – General Residential Zone;
- Section C2.0 – Parking and Sustainable Transport Code;
- Section C16.0 – Safeguarding of Airport Assets Code; and
- Section CLA-S4.0 – ParanVille Specific Area Plan.

- 2.4.** Council’s assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act, 1993* (LUPAA).

3. PROPOSAL IN DETAIL

3.1. The Site

The site is a 675m² vacant lot, with frontages to both Dominique Way and Danes Avenue. Vehicle and pedestrian access are from Dominique Way, although the primary frontage as defined by the Scheme is Danes Avenue. This definition of a primary frontage being “*if there are 2 or more frontages, the frontage with the shortest dimensions measured parallel to the road irrespective of minor deviations and corner truncations*”. In this instance Danes Avenue has a shorter frontage than Dominique Way.

The lot slopes downwards from east to west, with a uniform slope of approximately 16%.

3.2. The Proposal

The proposal is for construction of two multiple dwellings on the subject site. The multiple dwellings would be single storey with each unit provided with a single garage and the additional parking spaces, including visitor parking, contained on-site in allocated parking areas.

The proposal would include a 3m setback to the frontage along Danes Avenue for Unit 2 and a 5.1m setback to Dominique Way for the garage of Unit 2 and a front setback of 8.5m to Unit 1 from Dominique Way.

A fence is proposed along the Danes Avenue frontage, which if the development were approved would require a condition regarding height and transparency levels to meet exemption clause 4.6.3 of the scheme.

4. PLANNING ASSESSMENT

4.1. Compliance with Applicable Standards [Section 5.6]

“5.6.1 A use or development must comply with each applicable standard in the State Planning Provisions and the Local Provisions Schedules.”

4.2. Determining Applications [Section 6.10]

“6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”*

References to these principles are contained in the discussion below.

4.3. General Provisions

The Scheme contains a range of General Provisions relating to specific circumstances not controlled through the application of Zone, Code or Specific Area Plan provisions.

There are no General Provisions relevant to the assessment of this proposal.

4.4. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the General Residential Zone and the Bushfire Prone Areas Code, Safeguarding of Airport Assets Code and the Paranville Specific Area Plan with the exception of the following.

General Residential Zone

- **Clause 8.4.2 A1** – requires a 4.5 m setback to the primary frontage. The proposal would have a setback to Unit 2 of 3m to the primary frontage to Danes Avenue.

Approximately 25m² of Unit 2 would be located within the 4.5m setback, including part of a bedroom, the open plan living and dining room and deck.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause 8.4.2 P1 as follows.

Clause	Performance Criteria	Assessment
8.4.2 P1	<i>“A dwelling must have a setback from a frontage that is compatible with the streetscape, having regard to any topographical constraints.”</i>	Does not comply. The streetscape of Danes Avenue is currently dominated by vacant lots, with three dwellings under construction and several others with recent approvals that all meet the 4.5m setback. Currently, upon viewing the street it does not present any established setbacks or a recognised pattern of built form. Therefore, with the street devoid of any examples of dwellings with reduced setbacks to support the proposal, the application is reliant on any topographical constraints the site may present. In communications, the applicant was asked to justify the 3m setback to Danes Avenue or to consider amending the plans to meet the required 4.5m setback. In response, the applicant submitted that the site contained topographical constraints with the embankment parallel to Danes Avenue, and that the crossover was already constructed on Dominique Way, therefore making Dominique Way more appropriate as the frontage.

		On review of these points, it is considered that although the lot does contain a uniform slope of approximately 16%, this slope would not limit the construction of Unit 2 to be built 3m from the front boundary. The limiting characteristic of the site is having two frontages and fitting two moderately sized dwellings within the prescribed setbacks. The topography would not prevent alternative designs for multiple dwellings that meet the setbacks for the site. As the planning scheme only provides for a variation to the acceptable solution if there are other examples of dwellings with a reduced setback within the street, or if there are some kind of topographical constraints, it is considered the application provides no evidence to satisfy either criteria and therefore must be refused.
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It is appropriate to consider the purpose of this clause in establishing the front setback standard, in order to consider why the setback variation is not applicable in the current proposal. To do that, it is necessary to refer back to the objective of the clause where the relevant part is set out below.

“The Siting and scale of dwellings:

(a) Provides reasonably consistent separation between dwellings and their frontage within a street.”

Clause 8.4.2 A1 adopts 4.5m to a primary frontage as the means of meeting the above objective. This provides a satisfactory mechanism especially in more modern suburbs, where generous setbacks have been the norm, to ensure that new dwellings or extensions reasonably fit with the existing dwellings in a streetscape. It also implements the objective, when new streets and suburbs develop, by setting or contributing to consistent standard.

However, the performance criteria recognise the need for discretion to vary from the 4.5m front setback, in order to achieve the objective. This facility is necessary, particularly in older inner neighbourhoods or in established suburbs, where there are often lesser or varying setbacks within streetscapes and the appropriate design response for new infilling developments is to adopt a setback in line with the existing arrangements.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and no representations were received.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, who have provided a number of conditions to be included on the planning permit if granted.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic 2021-2031 Plan or any other relevant Council policy

9. CONCLUSION

The proposal for the development of 2 multiple dwellings at 1 Dominique Way, Rokeby does not meet the front setback requirements of the performance criteria for Clause 8.4.2 P1. In view of Clause 5.6.1 of the Tasmanian Planning Scheme – Clarence, it is recommended the application be refused.

Attachments: 1. Location Plan (1)
2. Proposal Plan (15)
3. Site Photos (1)

Ross Lovell
MANAGER CITY PLANNING

4.2. Determining Applications [Section 6.10]

“6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”*

References to these principles are contained in the discussion below.

4.3. General Provisions

The Scheme contains a range of General Provisions relating to specific circumstances not controlled through the application of Zone, Code or Specific Area Plan provisions.

There are no General Provisions relevant to the assessment of this proposal.

4.4. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the General Residential Zone, Parking and Sustainable Transport Code and the Road and Railway Assets Code with the exception of the following.

General Residential Zone

- **Clause 8.6.1 A1(a)(ii) Lot Design** – The northern elevation of the existing dwelling on Lot 1 is not fully contained within the building envelope as prescribed by clause 8.4.2 A3(A) and therefore does not meet the acceptable solution.

		On this basis, the development will not be inconsistent with the pattern of development in the area when taking into consideration the “no permit required” and “permitted” developments that can and have occurred on the subject and surrounding lots. It is considered that the proposal meets the objective of the standard as it has been demonstrated that proposed Lot 2 can be developed appropriately for residential use.
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General Residential Zone:

- **Clause 8.6.1 A2(a)(ii) Lot Design** – Proposed Lot 2 would have frontage via an access strip 7.63m wide as opposed to the required 12m.

The proposed variation must be considered pursuant to the Performance Criteria (P2) of Clause 8.6.1 as follows.

Clause	Performance Criteria	Assessment
8.6.1 P2	<i>“Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to:</i>	See below assessment.
	<i>(a) the width of frontage proposed, if any;</i>	Preliminary engineering design drawings for the access and internal driveway have been provided demonstrating both lots contain adequate frontage to be able to provide practical and safe access.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, who have provided a number of conditions to be included on the planning permit if granted.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

7.2. The proposal is consistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2021-2031 or any other relevant Council policy.

Developer contributions are required to comply with the following Council policies:

- **Public Open Space Policy**

The subject site is zoned General Residential and will be afforded the highest level of access to both local and regional recreational opportunities. It is considered that the development resulting from an approval of this application will, or is likely to, increase residential density creating further demand on Council's Public Open Space (POS) network and associated facilities.

No POS land is proposed to be provided to Council as part of this application and nor is it considered desirable to require it on this occasion. Notwithstanding, it is appropriate that the proposal contributes to the enhancement of Council's POS network and associated facilities. In this instance there are no discounting factors that ought to be taken into account that would warrant a reduction of the maximum POS contribution.

8. REPORTS OF OFFICERS

8.1 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS

Nil.

8.2 ASSET MANAGEMENT

Nil Items.

8.3 FINANCIAL MANAGEMENT

Nil Items.

7. FINANCIAL IMPLICATIONS

The Recommendation has no direct implications on Council's Annual Operating Plan.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

9.1. The LGA sets out the functions and powers of the Council, including the power under section 207 to remit a fee or charge set out in the List of Fees and Charges.

9.2. It is administratively efficient that the General Manager be delegated the power to remit all, or part of a fee or charge set out in the List of Fees and Charges where it specifies that the General Manager may do so.

Attachments: Nil.

Ian Nelson
GENERAL MANAGER

