

Prior to the commencement of the meeting, the Mayor will make the following declaration:

“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”.

The Mayor also to advise the Meeting and members of the public that Council Meetings, not including Closed Meeting, are audio-visually recorded and published to Council’s website.

COUNCIL MEETING
TUESDAY 9 FEBRUARY 2021

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	APOLOGIES	5
2.	***CONFIRMATION OF MINUTES	5
3.	MAYOR’S COMMUNICATION	5
4.	***COUNCIL WORKSHOPS.....	5
5.	DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE	6
6.	***TABLING OF PETITIONS	7
7.	PUBLIC QUESTION TIME.....	8
7.1	PUBLIC QUESTIONS ON NOTICE	8
7.2	ANSWERS TO QUESTIONS ON NOTICE	8
7.3	ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE	9
7.4	QUESTIONS WITHOUT NOTICE.....	9
8.	DEPUTATIONS BY MEMBERS OF THE PUBLIC.....	10
9.	MOTIONS ON NOTICE	
9.1	NOTICE OF MOTION – ALD MULDER INDEPENDENCE DAY	11
10.	***REPORTS FROM OUTSIDE BODIES.....	13
10.1	***REPORTS FROM SINGLE AND JOINT AUTHORITIES	13
	• CIPPING REFUSE DISPOSAL SITE JOINT AUTHORITY	
	• TASMANIAN WATER CORPORATION	
	• GREATER HOBART COMMITTEE	
10.2	***REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES	13
11.	REPORTS OF OFFICERS	14
11.1	***WEEKLY BRIEFING PEPORTS.....	14
11.2	DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS	15

11.3 PLANNING AUTHORITY MATTERS

11.3.1	DEVELOPMENT APPLICATION PDPLANPMTD-2020/013970 – EAST DERWENT HIGHWAY WITHIN THE VICINITY OF KANDOS DRIVE AND OTAGO BAY ROAD, OTAGO - UPGRADES TO THE EAST DERWENT HIGHWAY INCLUDING THE RELOCATION OF THE OTAGO BAY ROAD JUNCTION, UPGRADES TO THE KANDOS DRIVE JUNCTION AND ASSOCIATED REHABILITATION WORKS	17
11.3.2	DEVELOPMENT APPLICATION PDPLANPMTD-2020/013996 – 112 BALOOK STREET, LAUDERDALE - 2 MULTIPLE DWELLINGS	25
11.3.3	DEVELOPMENT APPLICATION PDPLANPMTD-2020/014305 – 14 TIANNA ROAD, LINDISFARNE - ALTERATIONS TO EXISTING DWELLING (UNIT 1) & DECK ADDITION TO UNIT 2 (APPROVED).....	53
11.3.4	DEVELOPMENT APPLICATION PDPLANPMTD-2020/014888 – 4 ALINTA STREET, HOWRAH - ADDITIONS & ALTERATIONS TO DWELLING	67
11.3.5	DEVELOPMENT APPLICATION PDPLANPMTD-2020/013923 – 167 BLESSINGTON STREET, SOUTH ARM - 2 MULTIPLE DWELLINGS	75
11.3.5	SOUTHERN TASMANIAN REGIONAL LAND USE STRATEGY - REVIEW OF URBAN GROWTH BOUNDARY AT 52 RICHARDSONS ROAD, SANDFORD	86

11.4 CUSTOMER SERVICE - NIL ITEMS**11.5 ASSET MANAGEMENT ITEMS**

11.5.1	LAUDERDALE CANAL PARK DRAFT MASTER PLAN – COMMUNITY CONSULTATION	120
--------	--	-----

11.6 FINANCIAL MANAGEMENT - NIL ITEMS**11.7 GOVERNANCE ITEMS**

11.7.1	TASNETWORKS CREATION OF EASEMENT – 21 KING STREET, BELLERIVE.....	128
11.7.2	MINISTER’S ROADMAP AND PROPOSAL TO AMEND THE SOUTHERN TASMANIAN REGIONAL LAND USE STRATEGY URBAN GROWTH BOUNDARY	132
11.7.3	DOG MANAGEMENT POLICY REVIEW	150
11.7.4	KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE	159
12.	ALDERMEN’S QUESTION TIME	168
12.1	QUESTIONS ON NOTICE	168
12.2	ANSWERS TO QUESTIONS ON NOTICE	168
12.3	ANSWERS TO QUESTIONS WITHOUT NOTICE – PREVIOUS COUNCIL MEETING	168
12.4	QUESTIONS WITHOUT NOTICE	172

- 13. CLOSED MEETING
- 13.1 APPLICATIONS FOR LEAVE OF ABSENCE
- 13.2 CONTRACTUAL MATTER

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. APOLOGIES

Nil.

2. *CONFIRMATION OF MINUTES****RECOMMENDATION:**

That the Minutes of the Council Meeting held on 18 January 2021, as circulated, be taken as read and confirmed.

3. MAYOR'S COMMUNICATION**4. ***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**

Proposed Workshop Guidelines

Urban Growth Boundary Report

Mid-year Budget Review and Budget Overview 2021/22

Hotel Project Update

Dog Management Policy Consultation Update

1 February

RECOMMENDATION:

That Council notes the workshops conducted.

5. 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.

6. ***TABLING OF PETITIONS
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(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.

7. 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.

7.1 PUBLIC QUESTIONS ON NOTICE

Chris Boron of Howrah has given notice of the following questions:

INSTALLATION OF GATE – SALACIA STREET ENTRANCE

Mr Nelson, you stated 21/1/21 ...*"The Salacia Avenue car park provides vehicle parking to Wentworth Play Park and access to the Clarence Foreshore Trail for the public. Council does not gate car parks to our public park areas"21/11/20...."Council has an obligation to protect the health and wellbeing of community members"....*

- Who authorised installation of the gates at the entrance to the Wentworth Park Sports Grounds, denying the public access to the Clarence Foreshore Trail between Bellerive and Howrah Beaches? The Car Parks are clearly marked as access to the Clarence Foreshore Trail, defined and specified on your website cadastral maps.
- Who is authorised by Council, to open the Wentworth Sports Grounds Public Car Park Gates at 6am and close the Public Car Park Gates at 10pm each day and evening, denying the public access, to the Clarence Foreshore Trail?
- Why does Council continue to allow dangerous hooning by not placing rocks to stop the hooning circuit? You will recall, Council inexplicably removed stockpiled rocks in the Car Park, which should have been strategically positioned to **stop** this latest hooning circuit.

CCC Learned Aldermen, you can easily stop hooning, anti-social behaviour and illegal overnight camping in the Wentworth Children's gravel Car Park, by installing a NO BRAINER appropriate, 10pm to 6am Gate!

Please advise the names of the Aldermen opposing the installation of a gate, to stop this ongoing dangerous anti-social behaviour.

7.2 ANSWERS TO QUESTIONS ON NOTICE

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

7.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE

The General Manager provides the following answers to Questions taken on Notice from members of the public at previous Council Meetings.

At Council's Meeting of 18 January 2021 Mrs Joanne Marsh of Bellerive asked the following question:

TREES

Over a long period of time it has been very sad to see young trees stressed, dying and dead in Kangaroo Bay, Bellerive Beach Park, Rosny Hill Road, Bayfield Street, Wentworth Park playground and the South Street Reserve.

Why are the trees dying?

Why aren't they being promptly replaced?

ANSWER

Further discussion has occurred with Mrs Marsh. There can be many reasons for trees dying, including not surviving the initial establishment period. A number of these trees have been identified to be replaced in the months May to July, when the weather is cooler.

7.4 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.

8. 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)

9. MOTIONS ON NOTICE**9.1 NOTICE OF MOTION – ALD MULDER
INDEPENDENCE DAY**

In accordance with Notice given Ald Mulder intends to move the following Motion

“That Council

1. Acknowledges the desire of the Premier to commence a conversation about a new date for Australia Day.
2. Supports a new date that recognises Australia becoming a fully “sovereign, independent and federal nation”.

EXPLANATORY NOTES

1. Leaders of all 3 Tasmanian political parties have expressed a desire for a national conversation regarding the appropriateness of January 26 as Australia’s national day.
2. January 26 marks the date in 1788 that Australia was colonised by the British Crown.
3. January 1, 1901 marks the commencement date of the *Commonwealth of Australia Act 1900*. This statute of the United Kingdom Parliament received Royal Assent from Her Majesty Queen Victoria and established Australia as a ‘dominion’ of the Empire
4. September 3, 1939 marks the (retrospective) commencement of the Australian *Statute of Westminster Adoption Act of 1942*. The UK *Statute of Westminster* ‘formally demonstrated Australia's independence to the world’.
5. Although the *Statute of Westminster Adoption Act* established our independence, the Parliament of the United Kingdom retained legislative and judicial powers over Australia, including appeals to the Monarch and the Privy Council.

NOTICE OF MOTION – ALD MULDER /contd...

6. March 3, 1986 marks the commencement of the *Australia Act 1986* with the preamble
 1. “An Act to bring constitutional arrangements affecting the Commonwealth and the States into conformity with the status of the Commonwealth of Australia as a sovereign, independent and federal nation.”
7. The *Australia Act* achieved sovereignty and independence by, inter alia:
 1. Section 1 - Termination of power of Parliament of United Kingdom to legislate for Australia
 2. Section 10 - Termination of responsibility of United Kingdom Government in relation to State matters
 3. Section 11 - Termination of appeals to Her Majesty in Council (Privy Council).

T Mulder
ALDERMAN

GENERAL MANAGER’S COMMENTS

A matter for Council

10. *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.

10.1 *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

Representative Reporting

- **TASWATER CORPORATION**

TasWater Corporation has distributed its Quarterly Report for the period ending 31 December 2020 (refer Attachment 1).

- **GREATER HOBART COMMITTEE**

10.2 *REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES**

11. REPORTS OF OFFICERS**11.1 ***WEEKLY BRIEFING REPORTS**

The Weekly Briefing Reports of 18 and 25 January and 1 February 2021 have been circulated to Aldermen.

RECOMMENDATION:

That the information contained in the Weekly Briefing Reports of 18 and 25 January and 1 February 2021 be noted.

11.2 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS

11.3 PLANNING AUTHORITY MATTERS

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:

11.3.1 DEVELOPMENT APPLICATION PDPLANPMTD-2020/013970 – EAST DERWENT HIGHWAY WITHIN THE VICINITY OF KANDOS DRIVE AND OTAGO BAY ROAD, OTAGO - UPGRADES TO THE EAST DERWENT HIGHWAY INCLUDING THE RELOCATION OF THE OTAGO BAY ROAD JUNCTION, UPGRADES TO THE KANDOS DRIVE JUNCTION AND ASSOCIATED REHABILITATION WORKS**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for upgrades to the East Derwent Highway including the relocation of the Otago Bay Road junction, upgrades to the Kandos Drive junction and associated rehabilitation works at the East Derwent Highway within the vicinity of Kandos Drive and Otago Bay Road, Otago.

RELATION TO PLANNING PROVISIONS

The land is zoned Utilities and subject to the Road and Railway Assets Code under the Clarence Interim Planning Scheme 2015 (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.

Note: References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and Transitional Provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 9 February 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and three representations were received raising the following issues:

- pedestrian and cyclist safety; and
- further planned works.

RECOMMENDATION:

- A. That the Development Application for upgrades to the East Derwent Highway including the relocation of the Otago Bay Road junction, upgrades to the Kandos Drive junction and associated rehabilitation works at East Derwent Highway within the vicinity of Kandos Drive and Otago Bay Road, Otago (Cl Ref PDPLANPMTD-2020/013970) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
 2. ENG M7 – WEED MANAGEMENT PLAN.
 3. ENG M1 –DESIGNS DA.
 4. ENG M5 – EROSION CONTROL.
 5. ENG R3 – RURAL ROAD.
 6. ENG R5 – ROAD EXTENSION.
 7. ENG S1 – INFRASTRUCTURE REPAIR.
- 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.

ASSOCIATED REPORT**1. BACKGROUND**

Currently, vehicles turning right into the northern end of Otago Bay Road have to turn from the southbound overtaking lane which is considered an unsatisfactory arrangement by the Department of State Growth as vehicles travelling in an overtaking lane would not expect to be confronted by a stationary vehicle waiting to turn right. The Austroads Guidelines do not support vehicles turning right from overtaking lanes.

The highway at the Kandos Drive junction consists of three traffic lanes, two southbound and one northbound with the opposing lanes undivided. The alignment of the highway consists of a sweeping high-speed curve, combined with a vertical sag curve, with Kandos Drive located on the inside curve. With one traffic lane for northbound traffic, a vehicle that is turning right into Kandos Drive must turn from this single traffic lane.

There is no widening of the road on the left to allow for traffic to pass the stationary turning vehicle. The highway characteristics supports free flow of traffic conditions and a vehicle stationary in the northbound traffic lane waiting to turn right, could catch unsuspecting motorists, increasing the risk of rear-end collisions.

2. STATUTORY IMPLICATIONS

2.1. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 28.4 – Utilities Zone; and
- Section E5.0 – Road and Railway Assets Code; and
- Section E7.0 – Stormwater Management Code.

2.2. 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 proposed highway upgrades are located on the East Derwent Highway and involve two junctions including Kandos Drive and Otago Bay Road. These junctions are located 2.7km north of the Bowen Bridge. The project relates to East Derwent Highway road reservation as well as minor integration works with adjacent council road reservations for Kandos Drive, Otago Bay Road and Restdown Drive. Seven road casements are involved. Design of the upgrades has been limited to the existing road reserves and does not require land acquisition.

The East Derwent Highway is a Category 3 Regional Access Road, managed by the Department of State Growth.

3.2. The Proposal

The proposal involves improvements to the East Derwent Highway within the vicinity of Kandos Drive and Otago Bay Road.

The first improvement involves providing a protected right turn lane into Kandos Drive by widening the inside of the horizontal curve, on the eastern side of the Highway.

The second improvement involves providing a protected right turn lane into Otago Bay Road and includes the relocation of the existing junction 110m to the south. Rehabilitation works to remove the old junction and the establishment of a new bus pull off area on Otago Bay Road is also proposed. Vehicles turning left into Otago Bay Road will benefit from the provision of a left turn deceleration lane to allow them to move clear of the through traffic and slow down before negotiating the turn.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act,*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”

References to these principles are contained in the discussion below.

4.2. Compliance with Zone and Codes

The following aspects of the proposed works are exempt under Clause 6.2.4 of the Scheme:

- Minor road widening to provide a right turn lane into Otago Bay Road;
- Minor road widening to provide a right turn lane into Kandos Drive; and
- Minor road widening to provide a left turn deceleration land into Otago Bay Road.

The relocation of the Otago Bay Road junction does not satisfy exemption Clause 6.2.4(a) or (b) as the works are not associated with a minor upgrade to an existing road and will rather provide for a new junction. This aspect of the proposal therefore requires discretionary consideration under Clause 28.3.2 A1 and 28.4.3 A2 of the Scheme in relation to noise and landscaping.

The proposal meets the Scheme’s relevant Acceptable Solutions of the Utilities Zone, Road and Railway Assets Code and Stormwater Management Code with the exception of the following.

Utilities Zone

- **Clause 28.3.2 A1 (Noise)** – The location of the planned works is located adjacent to Rural Living zoned properties. In the absence of a noise report, noise emissions can be expected to exceed those specified under the Acceptable Solution.

Performance Criteria	Proposal
<i>“P1 – Noise emissions measured at the boundary of the residential zone must not cause environmental harm.”</i>	The Performance Criteria requires demonstration that the highway and intersection upgrade will not cause environmental harm in the form of excessive noise to properties within the surrounding residential zone. Given the proposal is for minor upgrades and relocation of an existing junction, it is considered there would be no increased perceptible noise impact to nearby residents beyond the current noise environment. The proposal will improve the existing safety and efficiency of the road network and will not increase traffic generation. Specific noise modelling is therefore not considered necessary. For this reason, it is considered that the proposal will not cause environmental harm to residences within the vicinity of the proposal and the requirements of the performance criteria are therefore met.

Utilities Zone

- **Clause 28.4.3 A2 (Landscaping)** – Landscaping is not proposed along the boundaries shared with a residential zone.

Performance Criteria	Proposal
<i>“P1 – Along a boundary with a residential zone landscaping or a building design solution must be provided to avoid unreasonable adverse impact on the visual amenity of adjoining land in a residential zone, having regard to the characteristics of the site and the characteristics of the adjoining residentially-zoned land.”</i>	The proposal relates to the existing highway environment with grass verge. The dwellings on adjacent rural residential land are well setback from the highway (10m+) and contain mature plantings along the frontage with the highway. Disturbed areas including those around the existing junction to be removed are proposed to be rehabilitated and revegetated with topsoil and grass. Having regard to these characteristics and the proposed rehabilitation, the existing landscape setting is considered appropriate to ensure sight lines are maintained along the highway within the vicinity of the junctions and no other specific landscaping measures are necessary. The performance criteria is therefore considered to be satisfied.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and three representations were received. The following issues were raised by the representors.

5.1. Pedestrian and Cyclist Safety

The representor has requested consideration be given to incorporation of a pedestrian crossing (pedestrian island) into the design to make crossing the highway safer for pedestrians. The representor has also suggested consideration be given to improving cyclist safety along the highway.

- **Comment**

The Department of State Growth has advised there are currently no plans to provide pedestrian or cycle infrastructure in this location project due to the low number of pedestrians and cyclists and no adjoining footpaths.

Further, the Department of State Growth has advised that due to the posted speed limit of 80km/h they do not support a pedestrian island in this location as it would present a safety risk to all road users. The installation of a pedestrian island would likely require further road widening, the installation of a median barrier and likely acquisition of private land to accommodate additional infrastructure.

5.2. Further Planned Works

The representor has queried whether the Department of State Growth plans to undertake junction upgrades at Murtons Road to improve the safety of this junction for motorists.

- **Comment**

Murton Road is outside of the project extent and has not been included in this scope of works. The Department has been contacted in relation to this issue and has not provided any commitment to the upgrade of this junction.

6. EXTERNAL REFERRALS

The proposal was referred to DPIPWE's Conservation Assessments and Wildlife Division. The Department's response is attached. In response to the Department's recommendation in relation to weed management, a condition requiring the production and implementation of a weed management plan has been included.

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 2016-2026 or any other relevant council policy.

9. CONCLUSION

The proposal for upgrades to the East Derwent Highway including the relocation of the Otago Bay Road junction, upgrades to the Kandos Drive junction and associated rehabilitation works on the East Derwent Highway within the vicinity of Kandos Drive and Otago Bay Road, Otago is considered to satisfy all relevant performance criteria of the Scheme and is accordingly recommended for conditional approval.

Attachments: 1. Location Plan (1)
2. Proposal Plan (10)
3. DPIPWE Referral Advice (2)
4. Site Photo (1)

Ross Lovell
MANAGER CITY PLANNING

**11.3.2 DEVELOPMENT APPLICATION PDPLANPMTD-2020/013996 – 112
BALOOK STREET, LAUDERDALE - 2 MULTIPLE DWELLINGS****EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for 2 Multiple Dwellings at 112 Balook Street, Lauderdale.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential and subject to the Coastal Erosion Hazard, Waterway and Coastal Protection, Inundation Prone Areas, Stormwater Management, Road and Railway Assets and Parking and Access codes under the Clarence Interim Planning Scheme 2015 (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.

Note: References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and Transitional Provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 9 February 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and two representations were received raising the following issues:

- parking impact;
- construction impact;
- stormwater management; and
- overshadowing.

RECOMMENDATION:

A. That the Development Application for 2 Multiple Dwellings at 112 Balook Street, Lauderdale (CI Ref PDPLANPMTD-2020/013996) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. The development must be connected to the TasWater reticulated sewer system prior to the commencement of the use of the multiple dwellings.

3. ENG M1 –DESIGNS DA [Access, car park and driveway construction, service upgrades or relocation].
4. ENG A5 – SEALED CAR PARKING.
5. ENG A1 – NEW CROSSOVER [3.6m wide, TSD-R09 (Urban)].
6. The structural design and construction must be in accordance with the recommendations contained within Appendix 2 of the Coastal Vulnerability Report prepared by GES dated December 2020. Specifically, the pier foundations must be end bearing case only and not assume lateral support within the scour zone. Certification from a suitably qualified civil engineer is required to be provided with the documentation submitted with a future building permit application demonstrating that the structural design meets the requirements of Appendix 2.
7. The development must meet all required Conditions of Approval specified by TasWater notice dated 15 December 2020 (TWDA 2020/01920-CCC).

ADVICE

- a. The demolition of the existing dwelling will require demolition approval, for which a Building Surveyor must be engaged to provide a Certificate of Likely Compliance Demolition Work which must then be registered with council.
 - b. Direct access from the eastern rear boundary to Lauderdale Beach is not approved as part of this permit and the existing access must be removed to prevent further coastal erosion.
- 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.

ASSOCIATED REPORT**1. BACKGROUND**

The dwelling located on 112 Balook Street, Lauderdale has an existing access to Lauderdale Beach through the dunes. Council has previously advised property owners adjoining Lauderdale Beach to remove direct accesses to the beach to minimise coastal erosion and impacts upon natural values.

The property has since changed ownership therefore it is considered reasonable to include an advice that the beach access should be removed to prevent further coastal erosion. This issue is discussed in further detail under the Coastal Erosion Hazard Code Assessment below.

2. STATUTORY IMPLICATIONS

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

The proposal is discretionary because it does not meet the Acceptable Solutions under the Scheme relating to building envelope, private open space, solar access, width of garages, on-site car parking, number of vehicle accesses, layout of car parking areas, stormwater management, inundation hazard and coastal erosion hazard.

2.2. The relevant parts of the Planning Scheme are:

- Section 8.10 – Determining Applications;
- Section 10 – General Residential Zones;
- Section E5.0 – Road and Railway Assets Code;
- Section E6.0 – Parking and Access Code;
- Section E7.0 – Stormwater Management Code;
- Section E11.0 – Waterway and Coastal Protection Code;
- Section E15.0 – Inundation Prone Areas Code; and
- Section E16.0 – Coastal Erosion Hazard Code.

2.3. 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 668m² rectangular shaped lot located on the eastern side of Balook Street. The eastern (rear) boundary of the site adjoins the Lauderdale Beach reserve. The site has frontage to Balook Street and forms a level, low-lying property to the rear of the dune system lining Lauderdale Beach. The site is developed with a single storey dwelling and is surrounded by established residential development to the north, west and south. The dwelling is setback 1.8m from the southern side boundary, 2.7m from the northern side boundary and 16m to the rear.

3.2. The Proposal

It is proposed to demolish the existing dwelling and construct two conjoined multiple dwellings.

The multiple dwellings would be two storeys with a maximum height of 6.74m above natural ground level. The multiple dwellings would be setback 6m from the frontage with Balook Street and would be provided with upper level decks. Each multiple dwelling would be provided with parking in the form of a single car garage and uncovered space between the dwelling and the street. The dwellings would have a flat roof form and would have a contemporary appearance.

Waste storage facilities would be provided for the exclusive use of each dwelling.

The existing vehicular access is proposed to be removed and two new accesses constructed to provide each dwelling with independent access from Balook Street.

4. PLANNING ASSESSMENT

4.1. Determining Applications [Section 8.10]

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) *all applicable standards and requirements in this planning scheme; and*
- (b) *any representations received pursuant to and in conformity with ss57(5) of the Act,*
but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”

References to these principles are contained in the discussion below.

4.2. Compliance with Zone and Codes

In accordance with Clause E11.4.1(p), the proposed development is exempt from the Waterway and Coastal Protection Code because the development would be connected to full services (sewerage and stormwater).

The proposal meets the Scheme’s relevant Acceptable Solutions of the General Residential Zone, Road and Railway Assets, Parking and Access, Stormwater Management, Inundation Prone Areas and Coastal Erosion Hazard codes with the exception of the following.

General Residential Zone

- **Clause 10.4.2 A3 (Building envelope)** – the proposal would project beyond the prescribed 3D building envelope, at the northern and southern side boundaries. The length of the northern garage wall to Unit 1 is 9.9m within 1.5m of the side boundary.

The proposed variation must be considered pursuant to the Performance Criteria P3 of Clause 10.4.2 as follows.

Clause	Performance Criteria	Assessment
10.4.2 P3	<i>“The siting and scale of a dwelling must:</i>	
	<i>(a) not cause unreasonable loss of amenity by:</i>	See below assessment.
	<i>(i) Reduction in sunlight to habitable room (other than bedroom of a dwelling on an adjoining lot; and</i>	The degree of building envelope encroachment is illustrated in the elevation plans (Attachment 2). The upper level of the proposed dwelling encroaches the 45-degree tangent of the prescribed building envelope on the north and south side elevations.

		Specifically, the diagrams demonstrate that no overshadowing impact would occur to the property to the north at 110 Balook Street due to the northerly orientation of this adjoining property in relation to the subject site. The diagrams indicate the adjoining property to the south at 114 Balook Street would be affected by overshadowing caused by the proposed development during the afternoon. The adjoining property to the south at 114 Balook Street contains two small north facing living room windows and a larger east facing window to the same room that currently receive full sun between 9am and 3pm on 21 June (6 hours). The diagrams demonstrate these windows would be in shadow between 10-11am on 21 June (Winter solstice). However, the east facing living room window, being much larger in size, will continue to receive full sun between 9am-12noon on 21 June and will continue to provide the greatest value in terms of solar access to the living room due to its size. It is therefore considered the loss of morning sunlight to the north facing windows of the living room would be offset by the larger east facing window and accordingly the living room will receive adequate levels of morning sunlight. The performance criteria is therefore met in this regard.
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		The shadow diagrams also demonstrate the two small north facing living room windows would be subject to a 50-100% reduction in sunlight between 1-2pm on 21 June. The proposal will therefore result in a loss of 1 hour of sunlight to the living room which represents an overall reduction of 16.6% compared with the existing scenario. The resultant reduction would be minor in that well in excess of 3 hours of sunlight would be retained to the living room.
	(ii) <i>Overshadowing the private open space of a dwelling on an adjoining lot; and</i>	The diagrams demonstrate that no overshadowing impacts would occur to the property to the north at 110 Balook Street due to the northerly orientation of this adjoining property in relation to the subject site. The private open space allocated to the adjoining dwelling to the south at 114 Balook Street would be impacted to varying degrees. The private open space consists of a 20m² north facing deck located along the northern side of the dwelling and a 330m² backyard area beyond. The shadow diagrams demonstrate the deck would not be affected by additional overshadowing impact arising from the proposed development. In terms of the broader backyard space, the proposed development will cause additional overshadowing impact from 2pm onwards on 21 June. Most of the backyard will continue to receive morning, midday, and early afternoon sunlight. The proposal would therefore not cause an unreasonable reduction in solar access to the private open space of this adjoining dwelling.

	(iii) <i>Overshadowing of an adjoining vacant lot; or</i>	not applicable
	(iv) <i>Visual impacts caused by apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</i>	Unit 1 would have a solid wall 1.1m from the northern boundary with a height of 4.2m and a length of 9.9m comprising a lower level garage. The bulk of the upper level of Unit 1 is setback 2.9m from the northern side boundary. The adjoining dwelling at 110 Balook Street is single storey and contains two habitable room windows which face the subject site. However, these windows are supplemented with east and west facing windows which form the primary windows to these rooms in terms of solar access and view retention. The proposed dwelling would not be visible from the main windows to these rooms therefore would not cause any unreasonable visual impact when viewed from within the dwelling. Unit 1 would extend 5.7m beyond the rear building line established by the dwelling at 110 Balook Street. While the building will have greater visual prominence when viewed from the private open space of 110 Balook Street, when compared with the existing dwelling, the proposed design solutions including greater setback for the upper level, flat roof and varied external materials and finishes will result in Unit 1 appearing lighter and less bulky. The adjoining property to the south at 114 Balook Street comprises a single storey dwelling containing a living room with windows on the

		northern elevation facing proposed Unit 2. The southern elevation of proposed Unit 2 would consist of a 19.7m long solid ground level wall and 16m long upper level with a maximum height of 6.7m. The living room windows facing the subject site are narrow therefore only provide glimpses of the neighbouring property. The main windows to this room are to the east to take advantage of the coastal views. The visual impact when viewed from within the dwelling would therefore be reasonable. The southern elevation of proposed Unit 2 will be visible from the deck and backyard attributed to 114 Balook Street. While the proposed building will be highly visible, the main outlook to the east would not be impacted and the proposal includes design solutions to minimise the bulk when viewed from this adjoining property including a reduced upper level footprint, flat roof and varied external materials and finishes. The visual impact of the development when viewed from the private open space of this adjoining dwelling would therefore be reasonable.
	(b) <i>provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area."</i>	The proposed separation from the side boundaries of 1.1m – 2.9m is greater than the setbacks offered by the existing dwelling located on the subject site and would not have any negative impact upon the separation of dwellings. The distance between dwellings on adjoining lots varies from 5.7m to 9m with the proposal providing a 3.8 – 12m separation. Therefore, the proposal is

		considered consistent with the separation between dwellings in the area.
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General Residential Zone

- **Clause 10.4.3, A2(c) (Site coverage and private open space for all dwellings)** – Unit 2 is provided with a ground level deck to the rear and upper level deck on the front facade, both of which are not accessible from a habitable room.

The proposed variation must be considered pursuant to the Performance Criteria P2 of Clause 10.4.3 as follows.

Clause	Performance Criteria	Assessment
10.4.3 P2	<i>“P2 - A dwelling must have private open space that:</i> <i>(a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children’s play and that is:</i>	The private open space to Unit 2 comprises a variety of areas to the east, west and south of Unit 2. The ground level private open space for Unit 2 would be located to the east and south of the dwelling and would provide a minimum dimension of 4m and a minimum area of 24m² as required by the acceptable solution. The backyard of Unit 2 is large enough for children’s play, while the alfresco area located to the rear of the dwelling could comfortably accommodate outdoor dining. The ground level private open space would be supplemented by an upper level deck located on the front façade of the dwelling. The deck has been designed to be of a size, layout and orientation to facilitate outdoor dining, entertaining and relaxation.
	<i>(i) conveniently located in relation to a living area of the dwelling; and</i>	Access to the upper level deck would be provided by sliding doors from a hallway to the living room. The location of the deck in relation to the living room is considered sufficiently convenient to serve as an outdoor

		extension to the dwelling for a range of recreation and leisure activities.
	<i>(ii) orientated to take advantage of sunlight.”</i>	The private open space would extend to the west, south and east of the dwelling. During the morning, the backyard of the proposed dwelling would receive reasonable sunlight, and the upper level deck would achieve reasonable solar access in the afternoons. Over 50% of the backyard area would receive at least 3 hours of sunlight on the Winter Solstice and the proposed upper level deck would almost receive unimpeded sunlight from 12pm onwards on the Winter Solstice. The combination of these areas would take advantage of available sunlight and would be convenient, to varying degrees, as useable outdoor living areas as required by the performance criteria.

General Residential Zone

- **Clause 10.4.4, A1 (Sunlight and overshadowing for all dwellings) –**
The living room windows to Unit 2 would be oriented 45 degrees east of north, as opposed to the required 30 degrees.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause 10.4.4 as follows.

Clause	Performance Criteria	Proposal
10.4.4 P1	<i>“A dwelling must be sited and designed so as to allow sunlight to enter at least one habitable room (other than a bedroom).”</i>	The dwelling has been designed to include a living room window on both the eastern and southern elevations of the living space and west elevation windows along the “nook” area which flows through to the living space. The design of windows will therefore allow both morning and afternoon sunlight to enter the living room during the Winter Solstice. The open plan design of the living space will allow ample solar access into this space throughout the year therefore improving the thermal efficiency and amenity of the dwelling.

General Residential Zone

- **Clause 10.4.5, A1 (Width of openings and garages and carports for all dwellings)** – The total width of the garage openings for Unit 1 and 2 facing the street is 7.85m, which exceeds the 6m maximum width of openings prescribed by the acceptable solution.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause 10.4.5 as follows.

Clause	Performance Criteria	Assessment
10.4.5 P1	<i>“A garage or carport must be designed to minimise the width of its openings that are visible from the street, so as to reduce the potential for the openings of a garage or carport to dominate the primary frontage.”</i>	The proposed front setback of 6m together with the separation of the garage openings and second storey above will reduce the visual dominance of the garages when viewed from the street. While the garage openings will occupy a reasonable high percentage of the lower level façade, the scale and presentation of the upper level of the multiple dwellings will significantly reduce the ratio of openings to façade visible from the street.

		It is therefore considered that this test of the Scheme would be met by the proposal.
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Road and Railway Assets Code

- **Clause E5.6.2 A2 (Number of vehicular accesses)** – in that two separate access are proposed to each of the dwelling units, which does not comply with the single access point prescribed by the acceptable solution.

The proposed variation must be considered pursuant to the Performance Criteria P2 of Clause E5.6.2 as follows.

Clause	Performance Criteria	Assessment
E5.6.2 P2	<i>“For roads in an area subject to a speed limit of 60km/h or less, accesses and junctions must be safe and not unreasonably impact on the efficiency of the road, having regard to:</i>	See below assessment.
	<i>(a) the nature and frequency of the traffic generated by the use;</i>	The proposed development is expected to generate 20 vehicle movements per day based on the occupancy rate. The likely daily vehicle movements are considered to be very low with adequate capacity within the surrounding road network to ensure traffic efficiency and safety is maintained.
	<i>(b) the nature of the road;</i>	The access would be located on a residential street accommodating low traffic volumes. Balook Street has been constructed to meet road construction requirements and provides adequate passing opportunity. Council’s Development Engineer is satisfied that the proposal would not compromise traffic flows, as required by this test.

	(c) <i>the speed limit and traffic flow of the road;</i>	Balook Street is subject to the general urban speed limit of 50km/h. The traffic generated by the proposed development would be residential in nature which is consistent with the existing Balook Street and traffic conditions of the surrounding network.
	(d) <i>any alternative access to a road;</i>	It is feasible to provide a shared access arrangement via the existing access however, it would warrant a re-design that may compromise the ability to provide adequate private open space and parking spaces.
	(e) <i>the need for the access or junction;</i>	The General Urban Speed Limit of 50km/h applies to Balook Street and there is no known crash history in the vicinity of the site area which entrenches the low speed/low volume nature of the road. The access is required to facilitate independent access to the multiple dwellings in a way that maximises compliance with private open space and parking requirements.
	(f) <i>any traffic impact assessment; and</i>	Council's Development Engineer indicated a Traffic Impact Assessment was not warranted in this case.
	(g) <i>any written advice received from the road authority."</i>	Council's Development Engineer considers that the development and proposed access points are a reasonable response to the development of the site, in conjunction with the provision of the necessary services. For the above reasons, the proposal is therefore considered to satisfy the performance criteria.

Parking and Access Code

- **Clause E6.6.1, A1 (Number of car parking spaces)** – It is not proposed to provide a single visitor parking space for the development.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E6.6.1 as follows.

Clause	Performance Criteria	Assessment
E6.6.1 P1	<i>“The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:</i>	See below assessment.
	<i>(a) car parking demand;</i>	The proposal requires the provision of two spaces each per dwelling unit. These are provided within the proposed garages.
	<i>(b) the availability of on-street and public car parking in the locality;</i>	Council’s Development Engineer has advised there is no record of parking issues in the area and is satisfied that given the nature of the development and availability of on-street parking on both sides of Balook Street in the vicinity of the site, that there is sufficient capacity within proximity of the site to absorb the visitor space. It is therefore considered that there is adequate on-street car parking to satisfy overflow and visitor parking demand.
	<i>(c) the availability and frequency of public transport within a 400m walking distance of the site;</i>	The site is located within 400m of a public transport route which extends along Bangalee Street. However, the service is not of a reasonable frequency and requires multiple bus exchanges to form a viable alternative to car ownership.

	<i>(d) the availability and likely use of other modes of transport;</i>	The site is located within an urban environment where occupants would have options to use bicycles and motorcycles, which could easily be parked on-site. However, the distance from major employment centres and services and facilities would prevent reliance on these alternatives to car ownership.
	<i>(e) the availability and suitability of alternative arrangements for car parking provision;</i>	Aside from on-street parking, there are no other viable alternatives for car parking provision.
	<i>(f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;</i>	not applicable
	<i>(g) any car parking deficiency or surplus associated with the existing use of the land;</i>	There is no previous site credit associated with the use of the site as a dwelling.
	<i>(h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;</i>	not applicable
	<i>(i) the appropriateness of a financial contribution in-lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;</i>	A cash contribution in-lieu of the deficient visitor parking space is not considered appropriate in the case of this proposal, in that the site is not located within an activity centre and there are no facilities or other transport facilities within proximity of the site that a contribution could be taken towards.

	(j) <i>any verified prior payment of a financial contribution in-lieu of parking for the land;</i>	not applicable
	(k) <i>any relevant parking plan for the area adopted by Council;</i>	There is no parking plan for the area.
	(l) <i>the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code;”</i>	not applicable

Parking and Access Code

- **Clause E6.7.1 A1 (Number of vehicular accesses)** – in that two access points are proposed to each of the multiple dwellings, which exceeds the single access point prescribed by the acceptable solution.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E6.7.1 as follows.

Clause	Performance Criteria	Assessment
E6.7.1 P1	<i>“The number of vehicle access points for each road frontage must be minimised, having regard to all of the following:</i>	See below assessment.
	(a) <i>access points must be positioned to minimise the loss of on-street parking and provide, where possible, whole car parking spaces between access points;</i>	The frontage of the site currently provides enough space for the parking of two vehicles on-street. The proposed accesses would have a separation of 5.4m which is sufficient to provide for the parking of one vehicle along the frontage of the site. Council’s Development Engineer has advised ample on-street parking is available within close proximity to the site that will offset the reduction in on-street parking arising from the introduction of a second access point.

	<i>(b) whether the additional access points can be provided without compromising any of the following:</i> <i>(i) pedestrian safety, amenity and convenience;</i> <i>(ii) traffic safety;</i> <i>(iii) residential amenity on adjoining land;</i> <i>(iv) streetscape;</i> <i>(v) cultural heritage values if the site is subject to the Local Historic Heritage Code;</i> <i>(vi) the enjoyment of any ‘al fresco’ dining or other outdoor activity in the vicinity.”</i>	While it is uncommon for a dual access arrangement servicing multiple dwellings in this area, the allocation of individual access points will provide satisfactory separation so as to ensure easy pedestrian and vehicle recognition and is an appropriate design response for an access servicing a larger volume of vehicles. The access to frontage ratio would also remain consistent with that of properties located further to the south fronting the 90-degree bend. The proposed access points would not compromise residential amenity and would not compromise any sites identified by the Historic Heritage Code of the Scheme. Conditions of approval have been included to ensure the accesses are designed and constructed in accordance with current Australian Standards to ensure traffic safety is not compromised.
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Parking and Access Code

- **Clause E6.7.5 A1 (Layout of car parking areas)** – The two parking spaces allocated to each dwelling would form a tandem parking arrangement.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E6.7.5 as follows.

Clause	Performance Criteria	Assessment
E6.7.5 P1	<i>“The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.”</i>	The proposed parking layout of Units 1 and 2 will ensure the provision of two on-site car parking spaces for each dwelling as required by Table E6.1 of the Parking and Access Code and provides for adequate dimensions to enable vehicles parked within these spaces to exit the site in a forward direction. Council’s Development Engineer advises the proposed car parking arrangement is satisfactory. The access and parking allocated to each dwelling would be via a separate driveway so as to not interfere with the parking arrangements associated with the other dwelling on the site. The car parking arrangement is considered to provide for safe and convenient access to and from the site. For the above reasons, the proposed parking layout will provide for safe, easy and efficient use.

Stormwater Management Code

- **Clause E7.7.1 A1 (Stormwater drainage and disposal)** - As Stormwater from new impervious surfaces must be disposed of by gravity to public stormwater infrastructure.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E7.7.1 as follows.

Clause	Performance Criteria	Assessment
E7.7.1 P1	<i>“Stormwater from new impervious surfaces must be managed by any of the following:</i>	See below assessment.
	<i>(a) disposed of on-site with soakage devices having regard to the suitability of the site, the system design and water sensitive urban design principles</i>	Council’s Development Engineer considers that the land area of the property is sufficient to enable all stormwater to be retained and/or reused on the site. Details of the stormwater disposal system, such as trenches and/or rainwater tanks, would need to be submitted with applications for building and plumbing permits as normally required.
	<i>(b) collected for re-use on the site;</i>	as per above
	<i>(c) disposed of to public stormwater infrastructure via a pump system which is designed, maintained and managed to minimise the risk of failure to the satisfaction of the Council.”</i>	not applicable

Inundation Prone Areas Code

- **Clause E15.7.2 A1 (Riverine, Coastal Investigation Area, Low, Medium, High Inundation Prone Areas)** - As the proposal is for a new habitable building in which there is no acceptable solution.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E15.7.2 as follows.

Clause	Performance Criteria	Assessment
E15.7.2.P1	<i>“A new habitable building must satisfy all of the following:</i>	See below assessment.
	<i>(a) floor level of habitable rooms, and rooms associated with habitable buildings (other than a dwelling) that are either publicly accessible, used frequently or used for extended periods, must be no lower than the Minimum Level for the Coastal Inundation Low Hazard Area in Table E15.1;</i>	The finished floor level of the ground floor level habitable rooms to Units 1 and 2 would be 3.37m AHD which exceeds the 3m required by Table E15.1. The proposal therefore meets the performance criteria.
	<i>(b) risk to users of the site, adjoining or nearby land is acceptable;</i>	A Coastal Vulnerability Report has been submitted which includes a stable foundation zone assessment. The eastern (rear) end of the building would be located within an area identified as being susceptible to future erosion impacts. The report recommends the portions of the proposed structure located seaward of the design setback (areas outside of the stable foundation zone) be founded on deep pier foundations extending below the design scour depth of -1.0m AHD with appropriate structural engineering design including accounting for hydrostatic pressures. Subject to implementation of the structural design measures, the proposal presents an acceptable risk to users of the site, adjoining or nearby land. A condition has been included addressing the additional structural design requirements.
	<i>(c) risk to adjoining or nearby property or public infrastructure is acceptable;</i>	As discussed above, Council’s Development Engineer considers the proposal presents an acceptable risk to adjoining or nearby property or public infrastructure.

	<i>(d) risk to buildings and other works arising from wave run-up is adequately mitigated through siting, structural or design methods;</i>	As discussed above, the proposal includes a recommendation for structural design measures to be incorporated to minimise the risk of damage to the building arising from wave run-up and erosion.
	<i>(e) need for future remediation works is minimised;</i>	Council's Development Engineer has reviewed the Coastal Vulnerability Report and supports the recommendations made within the report. However, an additional measure is considered necessary requiring the applicant's engineer to certify that the proposed structural design will not increase the need for future remediation works. A condition has been included to this effect.
	<i>(f) access to the site will not be lost or substantially compromised by expected future sea level rise either on or off-site;</i>	Figure 10 of the Coastal Vulnerability Report demonstrates the expected recession impact relative to the stable foundation zone. The expected recession impact relates to the eastern (rear) portion of the site only and does not extend to the Balook Street property frontage. Access to the site would therefore not be lost or compromised as a result of expected future sea level rise.
	<i>(g) provision of any developer contribution required pursuant to policy adopted by Council for coastal protection works;</i> <i>except if it is development dependent on a coastal locationR1."</i>	not applicable

Inundation Prone Areas Code

- **Clause E15.7.5 A1 (Riverine, Coastal Investigation Area, Low, Medium, High Inundation Prone Areas)** - As the proposal includes a wall that is greater than 5m in length and 0.5m in height.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E15.7.5 as follows.

Clause	Performance Criteria	Assessment
E15.7.5.P1	<i>“Landfill, or solid walls greater than 5m in length and 0.5m in height, must satisfy all of the following:</i> <i>(a) no adverse affect on flood flow over other property through displacement of overland flows;</i> <i>(b) the rate of stormwater discharge from the property must not increase;</i> <i>(c) stormwater quality must not be reduced from pre-development levels.”</i>	Council’s Development Engineer is satisfied that the multiple dwelling development will not adversely affect flood flow over adjoining properties or increase the rate of stormwater discharge from the property or reduce the stormwater quality.

Inundation Prone Areas Code

- **Clause E15.7.5 A2 (Riverine, Coastal Investigation Area, Low, Medium, High Inundation Prone Areas)** - As there is no Acceptable Solution.

The proposed variation must be considered pursuant to the Performance Criteria P2 of Clause E15.7.5 as follows.

Clause	Performance Criteria	Assessment
E15.7.5.P2	<i>“Mitigation measures, if required, must satisfy all of the following:</i> <i>(a) be sufficient to ensure habitable rooms will be protected from flooding and will be able to adapt as sea levels rise;</i> <i>(b) not have a significant effect on flood flow.”</i>	Councils Development Engineer has assessed the proposal and considers that the design and construction is to be in accordance with the recommendations of the submitted Coastal Vulnerability Report. A condition has been included to this effect.

Coastal Erosion Hazard Code

- **Clause E16.7.1 A1 (Buildings and works within a Coastal Erosion Hazard Area)** - As there is no Acceptable Solution.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E16.7.1 P1 as follows:

Clause	Performance Criteria	Assessment
E16.7.1 P1	<i>“Buildings and works must satisfy all of the following:</i>	See below assessment.
	<i>(a) not increase the level of risk to the life of the users of the site or of hazard for adjoining or nearby properties or public infrastructure;</i>	Council’s Development Engineer is satisfied that there would be no increase in risk to users of the subject or adjoining sites, in relation to the proposed building.
	<i>(b) erosion risk arising from wave run-up, including impact and material suitability, may be mitigated to an acceptable level through structural or design methods used to avoid damage to, or loss of, buildings or works;</i>	The Coastal Vulnerability Report indicates that the erosion risk from wave run-up can be mitigated to an acceptable level through the use of structural and design methods to prevent damage and loss. Specifically, the report recommends the use of piled footings to the stable foundation zone. Council’s Development Engineer supports this recommendation in conjunction with appropriate indemnity from the design engineer.

	(c) <i>erosion risk is mitigated to an acceptable level through measures to modify the hazard where these measures are designed and certified by an engineer with suitable experience in coastal, civil and/or hydraulic engineering;</i>	The Coastal Vulnerability Report recommends that the structural and design methods are to be developed by a suitably qualified engineer. Council's Development Engineer supports this recommendation.
	(d) <i>need for future remediation works is minimised;</i>	Subject to implementation of the recommended structural and design methods outlined above, the need for future remediation works would be minimised.
	(e) <i>health and safety of people is not placed at risk;</i>	Subject to implementation of the structural and design methods outlined above, the proposed development would not compromise public health and safety.
	(f) <i>important natural features are adequately protected;</i>	No known natural features would be compromised as a result of the proposed development. However, protection of the coastal dunes and vegetation located on the beach adjoining the site must also be considered. The property has an existing access to the beach through the dunes. The retention of the existing vegetation on the sand dunes is a relevant issue to ensure that the development does not cause coastal erosion through further removal of vegetation. The existing access to the beach must be removed and adequately treated to ensure that no additional vegetation is removed from the coastal dune system. As discussed above, owners have previously requested to prevent beach access.

	<i>(g) public foreshore access is not obstructed where the managing public authority requires it to continue to exist;</i>	The proposed development would be located within the boundaries of the site and although beach erosion can be expected to occur, the development would not obstruct public access to the foreshore.
	<i>(h) access to the site will not be lost or substantially compromised by expected future erosion whether on the proposed site or off-site;</i>	Access and parking to the site would be provided from Balook Street, which is not identified as an area subject to coastal erosion.
	<i>(i) provision of a developer contribution for required mitigation works consistent with any adopted Council Policy, prior to commencement of works;</i>	The proposed development would not create any additional burden on infrastructure requiring any cost contribution as part of this proposal.
	<i>(j) not be located on an actively mobile landform.”</i>	Council’s Development Engineer is satisfied that the proposed development would not be located on an actively mobile landform.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and two representations were received. The following issues were raised by the representors:

5.1. Parking Impact

The representor is concerned the proposal will result in further shortages of on-street parking within Balook Street.

- **Comment**

The proposal will result in the shortfall of one visitor car parking space. Council’s Development Engineer is satisfied there is adequate on-street parking available within Balook Street to cater for any overflow parking demand arising from the proposed development.

5.2. Construction Impact

The representor is concerned the construction phase (parking of construction vehicles) will place increased pressure on on-street parking availability and cause an inconvenience and reduce pedestrian safety.

- **Comment**

The inconvenience of construction vehicles parked within the street would form an unavoidable temporary inconvenience to residents.

5.3. Stormwater Management

The representor is concerned the existing stormwater infrastructure within the street will be unable to cater for the increased flows arising from the development.

- **Comment**

Council's Development Engineer has advised that the land area of the property is sufficient to enable all stormwater to be retained and/or reused on the site. Details of the stormwater disposal system, such as trenches and/or rainwater tanks, would need to be submitted with applications for building and plumbing permits as normally required.

5.4. Overshadowing

Concern was raised regarding the overshadowing that would be caused by the proposed development with respect to the habitable rooms and private open space of their dwelling.

- **Comment**

Overshadowing impacts have been discussed in detail in the assessment of Clause 10.4.2 P3 above and have been found to not unreasonably impact upon an adjoining lot based on quantitative assessment. The application is considered to comply with the Performance Criteria for this clause. Both the private open space and habitable room windows of 112 Balook Street will receive well above 3 hours of sun light during the Winter Solstice.

6. EXTERNAL REFERRALS

The proposal was referred to TasWater, which has 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 2016-2026 or any other relevant council policy.

9. CONCLUSION

The proposal is for two multiple dwellings at 112 Balook Street, Lauderdale. The proposal satisfies all the relevant performance criteria of the Scheme and is recommended for conditional approval.

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

Ross Lovell
MANAGER CITY PLANNING

11.3.3 DEVELOPMENT APPLICATION PDPLANPMTD-2020/014305 – 14 TIANNA ROAD, LINDISFARNE - ALTERATIONS TO EXISTING DWELLING (UNIT 1) & DECK ADDITION TO UNIT 2 (APPROVED)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for alterations to the existing dwelling (Unit 1) and a deck addition to Unit 2 (approved) at 14 Tianna Road, Lindisfarne.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential and subject to the Bushfire Prone Areas, Parking and Access, Road and Railway Assets and Stormwater Management Codes under the Clarence Interim Planning Scheme 2015 (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.

Note: References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires with the written consent of the applicant on 11 February 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 3 representations (1 with 3 separate submissions) were received raising the following issues:

- Concerns surrounding Unit 1 & unapproved site works;
- Height of Unit 2, & inability to construct within approved heights;
- Duration of construction works;
- Open space and landscaping;
- Drainage;
- Retaining works;
- Overshadowing;
- Solar panels;
- Use of garage of Unit 2;
- Deck balustrade;

- Privacy;
- Inconsistency with character of area; and
- Failure to comply with Scheme provisions.

RECOMMENDATION:

A. That the development application for alterations to the existing dwelling (Unit 1) & deck addition to Unit 2 (approved) at 14 Tianna Road, Lindisfarne (CI Ref PDPLANPMTD-2020/014305) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.

ADVICE

- Works associated with excavations, road construction and other activities, including the use of portable and mobile equipment and machinery, associated with the development must be in accordance with the *Environmental Management and Pollution Control (Noise) Regulations 2016*.

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.

ASSOCIATED REPORT**1. BACKGROUND**

The lot was created as part of SD-2011/18 which involved a boundary adjustment between parcels 14 Tianna Road and 10 Moirunna Road. The boundary adjustment increased the lot size of 14 Tianna Road. At this time, 14 Tianna Road was a vacant lot.

A single dwelling was subsequently constructed on the site, which did not require planning approval under the previous scheme. Building and plumbing permits were granted under BPA-2014/229 and PA-2014/340.

A development application, PDPLANPMTD-2019/001355, was received in 2019 for the development of 2 multiple dwellings (1 existing, 1 new) on the site. This application was publicly advertised as part of the assessment, and the application subsequently withdrawn prior to determination.

A development application, PDPLANPMTP-2020/008858, was approved on 15 July 2020 for the development of 2 multiple dwellings (1 existing, 1 new) on the site. The approved development was a permitted development, which also included modifications to Unit 1 to both enclose the lower level of the existing dwelling to create rumpus / cinema rooms, and to remove windows facing the shared driveway. A condition was included as part of the permit granted to require the removal of the southwest facing habitable room windows of the existing dwelling, Unit 1, as proposed, in order to meet the associated acceptable solution of the Scheme for separation from the shared driveway.

The development of Unit 2 is notifiable building work, and Council has been notified as required of construction having commenced in December 2020.

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 8.10 – Determining Applications;
- Section 10.0 – General Residential Zone;
- Section E1.0 – Bushfire Prone Areas Code;
- Section E5.0 – Road and Railway Assets Code;
- Section E6.0 – Parking and Access Code; and
- Section E7.0 - Stormwater Management Code.

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 regular-shaped, 1055m² lot located on the southern side of Tianna Road. The site is in an established residential area, adjoining five properties: 8, 10, 12 and 14 Moirunna Road and 16 Tianna Road. Opposite the site to the north is Natone Hill (refer Attachment 1).

The site slopes down to the southeast towards Moirunna Road and contains a 2.5m wide easement for sewerage. A 1.5m wide easement for stormwater is also located on the site in the southern portion, along the south western side boundary.

The site contains an existing two storey split level dwelling with integral garage and upper level corner south east/west facing deck. The dwelling is located within the northern half of the site, north of the easement and has a maximum height of 7.7m above natural ground level.

3.2. The Proposal

The proposal is for the development of an 18.65m² upper level deck addition to the dwelling unit, Unit 2, which itself has been approved under PDPLANPMTP-2020/008858. Also proposed as part of this application are modifications to the existing dwelling, Unit 1, to allow the southwest facing upper and lower level habitable room windows to remain in place.

The proposed deck would be located on the upper level of Unit 2, facing southeast. It would have a finished floor level of 4.23m above natural ground level, a finished height of 5.53m including a proposed glass balustrade and would be setback 3.0m from the northeastern (side) boundary and 5.45m from the southeastern (rear) boundary.

The windows for which approval is sought are 2 southwest facing windows on the upper level of Unit 1, one to a bedroom and one to the living room, and one on the lower level to the rumpus room. The proposal plans are included in the Attachments.

4. PLANNING ASSESSMENT

4.1. Determining Applications {Section 8.10}

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

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

(b) any representations received pursuant to and in conformity with ss57(5) of the Act,

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”

References to these principles are contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the General Residential Zone and Road and Railway Assets, Parking and Access and Stormwater Management Codes with the exception of the following:

General Residential Zone

- **Clause 10.4.2 (A3) setbacks and building envelope for all dwellings**
– the proposed deck for the upper level of Unit 2 would have a finished floor level of 4.23m above natural ground level, a finished height of 5.53m which includes a proposed glass balustrade and would be setback 3.0m from the northeastern (side) boundary and 5.45m from the southeastern (rear) boundary. The balustrade would protrude beyond the building envelope prescribed by the acceptable solution as shown by the proposal plans.

The proposed variation must therefore be considered pursuant to the Performance Criteria (P3) of the Clause 10.4.2 as follows:

Performance Criteria	Proposal
<i>“P3 - The siting and scale of a dwelling must:</i> <i>(a) not cause unreasonable loss of amenity by:</i> <i>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or</i> <i>(ii) overshadowing the private open space of a dwelling on an adjoining lot; or</i> <i>(iii) overshadowing of an adjoining vacant lot; or</i> <i>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</i> <i>(b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.”</i>	See below. The part of the proposal that protrudes beyond the building envelope is the glass balustrade, proposed to secure the deck space, as shown in the proposal plans. The screen would be transparent and would therefore have no impact upon solar access to adjacent properties. The subject unit, Unit 2, has an existing planning permit and therefore any considerations associated with overshadowing caused by the building itself are not considered afresh as part of this assessment. On the basis that the proposal will not cause an unreasonable (or any) loss of sunlight to the adjoining dwellings, the requirements of this test are met. The proposed deck would be located on the upper level of the approved Unit 2. The physical works proposed include the construction of the deck surface and associated glass balustrade (and rail), to a height of 5.63m above natural ground level. Being glass and therefore transparent, it is considered that the visual impact of the deck addition would be low, in that it would largely not change the appearance of the approved dwelling unit. Similarly, it is considered that the glass balustrade associated with the deck would not unreasonably impact the appearance of the approved dwelling unit, in terms of the bulk and scale of the development. The proposed deck would be separated by 3.0m from the nearest (side) boundary, and 5.45m from the rear boundary. This separation distance is considered to be compatible with the surrounding area and on this basis, the development of the proposed deck is not considered to have an unreasonable visual impact on the adjoining properties.

	There are many examples in the surrounding area where outdoor living (deck) areas are located in proximity to the rear and side boundaries of lots and on this basis, the separation between the proposed dwellings is considered compatible with that prevailing in the surrounding area.
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General Residential Zone

- **Clause 10.4.6 (A3) privacy for all dwellings** – the proposal is for retention of rumpus room, living room and bedroom windows of Unit 1 within 1m of the shared driveway, as prescribed by the acceptable solution.

The proposed variation must be considered pursuant to the Performance Criteria (P3) of Clause 10.4.6 as follows:

Clause	Performance Criteria	Assessment
10.4.6 P3	<i>“A shared driveway or parking space (excluding a parking space allocated to that dwelling), must be screened, or otherwise located or designed, to minimise detrimental impacts of vehicle noise or vehicle light intrusion to a habitable room of a multiple dwelling.”</i>	While Unit 1 has various windows with a 0m setback to the shared driveway, the rumpus room window has a minimum sill height of 1.5m increasing to 2.0m downslope above the driveway and the bedroom window has a sill height of 1.7m above the driveway. The living room located on the upper level of Unit 1 has a sill height of 1.7m above the finished floor level. Accordingly, the Unit design minimises detrimental impacts of vehicle noise or light intrusion to habitable room of a multiple dwelling. On this basis, it is considered that the location of the habitable room windows satisfies the requirements of this performance criterion.

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 3 representations (1 with 3 separate submissions) were received. The following issues were raised by the representors:

5.1. Concerns surrounding Unit 1 (existing) and unapproved site works

Concern is raised that Unit 1 has been constructed over height and that the lower level of Unit 1 has been enclosed as a rumpus and cinema room space without approval. The representations request that Council require that a land surveyor provide confirmation of the constructed height of the dwelling unit. The colour of Unit 1, being white, is also raised as a concern, in terms of reflectivity for nearby residences.

- **Comment**

The enclosure of the lower level of the existing dwelling was shown by the proposal plans and is relevant to this application only in relation to the proposal to retain windows to the associated rumpus room on the lower level, where within 1m of the shared driveway. The enclosure of the deck would have, were it not associated with the development of the site for multiple dwellings, met the building envelope requirements of the Scheme and not have required a planning permit except in relation to windows, and the proposal complies with the associated performance criteria, P3, of Clause 10.4.6 for the reasons discussed above.

Unit 1 was constructed in 2014 and did not require a planning permit. The concerns surrounding height have been analysed in detail as part of this assessment by the relevant officers including Council's building officers, and it is considered that there is no evidence that the existing dwelling unit has been constructed over the approved height. These issues, including the colour of Unit 1, are not planning considerations relevant to this application and therefore not of determining weight.

5.2. Height of Unit 2 (approved), and inability to construct within approved heights

The representations raise concerns that Unit 2 cannot be constructed in accordance with the approved plans, specifically in relation to height. It is submitted that work should be stopped on site to enable the necessary (discretionary) development application to be lodged for the building, which the representors submit is to be constructed over the approved height.

- **Comment**

This issue has been reviewed in detail as part of this assessment, and it is considered that the approved dwelling unit, Unit 2, can reasonably be constructed in accordance with the approved plans. There is no evidence that the approved dwelling unit would be constructed over the approved height, in that the building plans reflect those endorsed by the permitted planning permit for the development of multiple dwellings on the site. This issue is not a consideration relevant to the determination of this application and therefore not of determining weight.

5.3. Duration of construction works

Concern is raised by the representations that the site has, since the first dwelling (Unit 1) was constructed, resembled a construction site with large amounts of noise generated. It is submitted by the representors that the development should be undertaken within a specified timeframe, and associated noise limited.

- **Comment**

The Scheme does not include development standards within the zone that seek to limit construction timeframes. Noise is not a relevant consideration under the Scheme, and noise associated with typical residential land use is anticipated within a residential area. That said, any noise must not breach the requirements of the Environmental Management and Pollution Control (Noise) Regulations 2016 and the *Environmental Management and Pollution Control Act 1994*. It is reasonable to include advice to alert the applicant to their responsibilities in relation to both. This issue is therefore not of determining weight.

5.4. Open space & landscaping

The representations raise concern that there is insufficient area for outdoor living, and insufficient area for landscaping as part of the development.

- **Comment**

This development relates to a deck addition and reinstatement of windows only. The development of multiple dwellings was approved as a permitted development on the basis of compliance with the prescribed requirements of the acceptable solution for private open space. This issue is therefore not of determining weight.

5.5. Drainage

Concern is raised by the representations in relation to the proposed stormwater design for the development, and whether the proposed works have been designed to adequately cater for the proposed additional impervious area associated with the development.

- **Comment**

This proposal is for the development of a deck on Unit 2 (previously approved) and reinstatement of windows in Unit 1 (existing) only. Conditions associated with stormwater management and treatment were included as conditions of the approved multiple dwelling development, in relation to the provision of detailed engineering designs for the proposal. This issue is therefore of no relevance to this proposal and not of determining weight.

5.6. Retaining works

The representations raise concern in relation to retaining works associated with the level outdoor living area to the southeast of Unit 1. It is submitted that the retaining structure and a possible future fence have not been considered or approved by Council.

- **Comment**

The development proposed by this application is for a deck addition to Unit 2 and reinstatement of windows to Unit 1 only. No retaining works are proposed as part of this proposal.

The planning permit granted for the development of multiple dwellings considered the proposed retaining wall and associated screen fence associated with the proposed outdoor living area to the southeast of Unit 1, with a retaining wall height of 1.5m and associated fence for screening purposes to Unit 2. This is reflected by the approved permit and associated building plans for construction as notifiable work. This issue is therefore not of determining weight.

5.7. Overshadowing

Concern is raised by the representations that the proposed development would have an adverse impact upon solar access for nearby residential properties.

- **Comment**

Being that this proposal is for a deck only as part of Unit 2, overshadowing considerations associated with the approved unit are not relevant to the determination of this application.

The approved development was approved as a permitted development on the basis of compliance with the prescribed building envelope, in which consideration of overshadowing impacts was not required. This issue is therefore not of determining weight.

5.8. Solar panels

The representations raise solar panels as being a concern in relation to Unit 2. Specific concern is that solar panels have not been shown on the plans, if proposed as part of the development.

- **Comment**

Solar panels are not proposed, and Clause 6.1.3 of the Scheme provides that such works would not require a permit. The applicant is therefore not obliged to provide any information in relation to the possibility of solar panels, if proposed.

5.9. Use of garage of Unit 2

Concern is raised by one representation that the southwest facing windows of the lower level garage of Unit 2 indicate that the owners intend using the garage for habitable purposes in the future.

- **Comment**

This proposal is for the development of a deck on Unit 2 (previously approved) and reinstatement of windows in Unit 1 (existing), as discussed. Unit 2 has previously been approved, and queries about possible future use of the garage space is not a consideration relevant to this assessment.

5.10. Deck balustrade

Concerns are raised that the heights of the proposed deck glass are not accurately shown, and that the plans have omitted the required railing as part of such a deck.

- **Comment**

The proposed height of the balustrade is shown by the proposal plans. The applicant has not proposed a railing on the balustrade, and even if proposed, it would have no impact upon the assessment of the proposed development as discussed above, in that there would be a negligible impact in terms of both overshadowing and visual impact. This issue is therefore not of determining weight.

5.11. Privacy

Concerns are raised by the representations that privacy for nearby residential properties would be compromised by the proposed development. Noise has also been raised as a privacy issue, in relation to the use of the proposed deck.

- **Comment**

The proposed deck complies with the acceptable solution in relation to setback distance from side and rear boundaries as articulated by Clause 10.4.6 (A1), in that a 3m side setback and 5.45m rear setback are proposed.

Being that this distance is compliant with the acceptable solution, Council is not empowered to require privacy screening on the deck.

Noise associated with residential land use and including the use of the proposed deck as an extension of the living spaces of the approved dwelling unit is considered reasonable within an established urban area. This issue is therefore not of determining weight.

5.12. Inconsistency with character of area

The representations raise concern that the proposed development is inconsistent with the character of the area, both in terms of the scale of the development and the lack of backyard, in that the representors submit that the area is characterised by single dwellings with large backyards.

- **Comment**

This proposal is for the development of a deck on Unit 2 (previously approved) and retention of windows in Unit 1 (existing), as discussed above. The development of multiple dwellings (1 existing, 1 new) has a planning permit. Density of development and the size of the approved Unit 2 is not a consideration relevant to this development application.

There are many examples of decks for outdoor living purposes within proximity of the development site. The proposal satisfies the relevant tests of the Scheme in relation to building envelope and privacy, as discussed. This issue is therefore not of determining weight.

5.13. Failure to comply with Scheme provisions

Concerns have been raised by the representations that the proposed development does not satisfy a number of development standards of the General Residential Zone. Specific concerns are that the proposal does not satisfy the privacy requirements of Clause 10.4.6 in relation to noise, and overlooking likely from the proposed deck, Clause 10.4.2 in relation to building envelope in relation to the proposed deck, and Clause 10.4.3 in relation to site coverage in that neither dwelling unit would have open space areas with appropriate solar access.

- **Comment**

The proposal is reliant upon the performance criteria relating to building envelope (Clause 10.4.2, P3) and privacy relative to the shared driveway (Clause 10.4.6, P3). For the reasons discussed above, it is considered that the relevant tests of both performance criteria are met. This issue is therefore not of determining weight.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

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 or any other relevant Council policy.

9. CONCLUSION

The proposal is for alterations to the existing dwelling (Unit 1) and a deck addition to Unit 2 (approved) at 14 Tianna Road, Lindisfarne. The proposal satisfies the relevant requirements of the Scheme and is recommended for approval subject to conditions.

Attachments: 1. Location Plan (1)
2. Proposal Plan (5)
3. Site Photo (3)

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11.3.4 DEVELOPMENT APPLICATION PDPLANPMTD-2020/014888 – 4 ALINTA STREET, HOWRAH - ADDITIONS & ALTERATIONS TO DWELLING**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for Additions & Alterations to Dwelling at 4 Alinta Street, Howrah.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential and subject to the Parking and Access and Stormwater Management codes under the Clarence Interim Planning Scheme 2015 (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.

Note: References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 10 February 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 3 representations were received raising the following issues:

- Overshadowing;
- Visual impacts;
- Privacy; and
- Impact on property values.

RECOMMENDATION:

A. That the Development Application for Additions & Alterations to Dwelling at 4 Alinta Street, Howrah (CI Ref PDPLANPMTD-2020/014888) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.

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-2020/014888 - 4 ALINTA STREET, HOWRAH - ADDITIONS & ALTERATIONS TO DWELLING /contd...

ASSOCIATED REPORT**1. BACKGROUND**

No relevant background.

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 8.10 – Determining Applications;
- Section 10 –General Residential Zone; and
- Section E6.0 Parking and Access and Stormwater Management Codes.

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 567m² property with one existing dwelling and associated garage. The site has frontage and access to Alinta Street. The site slopes at approximately 7 degrees and falling to the west.

The existing house is a 3-bedroom single storey, weatherboard dwelling with a floor area of 164.7m².

The site is zoned General Residential and is within a suburban living setting.

3.2. The Proposal

The proposal is for additions and alterations to the existing dwelling. The additions include a second storey addition which would accommodate two bedrooms, a bathroom, a kitchen, a small deck and a second living room. The lower level alterations would include a replacement of the existing garage. The maximum height of the proposed extension would be 6.5m above natural ground level.

The proposed extension would have a 3.1m setback from the rear boundary, a 0.81m setback from the west side boundary and a 6.2m setback from the front boundary.

4. PLANNING ASSESSMENT

4.1. Determining Applications {Section 8.10}

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act,*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”

References to these principles are contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the General Residential Zone and Parking and Access and Stormwater Management Codes with the exception of the following.

- **Clause 10.4.2 A3 (Building Envelope)** – the proposal would project beyond the prescribed 3D building envelope, at the west side elevation and at the rear.

The proposed variation must be considered pursuant to the Performance Criteria P3 of Clause 10.4.2 as follows.

Clause	Performance Criteria	Assessment
10.4.2 P1	<i>“The siting and scale of a dwelling must:</i>	
(a)	<i>not cause unreasonable loss of amenity by:</i>	The application is considered to comply as:
(i)	<i>reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or</i>	Complies- the shadowing diagrams provided demonstrate that the development would impact upon the habitable room windows for 6 Alinta Street. However, it is noted that this dwelling would receive unimpeded sunlight to windows between 9am and 1pm on the Winter Solstice. Therefore, it is considered that the proposed development would not cause an unreasonable impact upon neighbouring dwellings by reducing sunlight to habitable rooms.
(ii)	<i>overshadowing the private open space of a dwelling on an adjoining lot; or</i>	Complies- the proposed development would cast shadows upon 6 Alinta Street during the hours of 9am and 3pm on the Winter Solstice. The property at 6 Alinta Street has areas of private open space at the rear which exceed the minimum land area of 25m² as required by the Scheme. These areas meet the relevant criteria regarding size, solar orientation and gradient to be utilised as private open space areas. These would be moderately impacted by overshadowing between 2pm and 3pm on the Winter Solstice. As demonstrated by the overshadowing diagrams, at the worst time of day during Winter Solstice, a minimum of 90% of these areas will receive unimpeded solar access.

(iii)	<i>overshadowing of an adjoining vacant lot; or</i>	There are no vacant residential lots adjoining the subject site.
(iv)	<i>visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</i>	Complies- the maximum height of the proposed development would be 6.5m from Natural Ground Level, well below the 8.5m height standard. The building elevations that face adjoining lots contain several design elements to articulate the building form and avoid blank expanses which might impact on bulk and mass. The design would employ several materials, textures and elements to lessen visual bulk. The proposed design solutions, such as varied external finishes, will make the dwelling appear lighter and less bulky. Building and design elements, such as different window sizes and heights, varied building height across the elevations, low roof pitch, will all reduce the bulkiness and mass of the proposed development. Each of the proposed elevations consist of these elements which will make the proposed dwelling appear lighter. Furthermore, it is noted that when viewed from an adjoining or neighbouring property, such as from Carella Street, the subject site is located on a lower contour line and will appear smaller than shown on the eastern elevation. The proposed development would not be unreasonable and is consistent with the mass and scale of residential buildings in the surrounding area which compromise a range of styles and two storey dwellings.

(b)	<i>provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.”</i>	Complies- the distance of separation between the proposed extension at 4 Alinta Street and the existing dwelling at 2 Alinta Street would be 2.1m. There are several instances of similar developments with comparable separation in the surrounding area. For instance, dwellings at 6 and 8 Alinta Street, which are located west of the subject site, have single dwellings with a separation distance of 1.6m between them and the dwellings at 11 Alinta Street and 13 Alinta Street have a separation distance of 3m. It is also noted that the dwellings at 12 Alinta Street and 14 Alinta Street only maintain a vertical separation of 2.75m. The proposal is therefore consistent with the separation of dwellings in the area and are considered compatible with the streetscape.
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5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 3 representations were received. The following issues were raised by the representors.

5.1. Overshadowing

Concern was raised by 2 representors regarding the overshadowing that would be caused by the proposed development with respect to the habitable rooms and private open space of their dwelling.

- **Comment**

Overshadowing impacts have been discussed in further detail in the assessment of Clause 10.4.2 P3 above and has been found to not unreasonably impact upon an adjoining lot based on quantitative assessment. The application is considered to comply with the Performance Criteria for this clause.

Adjoining properties and their private open space and habitable room windows will receive well above 3 hours of sunlight during the Winter Solstice.

5.2. Visual Impacts

Concern was raised by 2 representors with respect to the visual bulk and loss of views caused by the proposed development.

- **Comment**

Visual bulk has been discussed in the assessment of Clause 10.4.2 P3 earlier in this report. The proposal would not unreasonably impact upon amenity due to bulk height or mass for the reasons discussed above. In relation to the impacts of views, it is worth noting the appeal decision in *R Kasem v Hobart City Council and Ors* [2018], which discussed the matter of visual impact. Regard was given to an outlook from a habitable window in its entirety but not to the protection of any particular view, such as the River Derwent. In this case, while there may be some loss of views from dwellings to the rear, the matter has no determining weight under the Scheme.

5.3. Privacy

Concern was raised by 2 representors with respect to the privacy and the overlooking of the windows on the northern elevation.

- **Comment**

The proposal complies with the relevant Clause 10.4.6 A2 Privacy for all dwellings, and therefore the matter does not have any determining weight.

5.4. Impact on property values

Concern was raised by 2 representors with respect to the impact on property values.

- **Comment**

This matter is not a relevant consideration under the Scheme, and therefore does not have any determining weight.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

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 or any other relevant Council policy.

9. CONCLUSION

The proposal is recommended for approval.

Attachments: 1. Location Plan (1)
2. Plans (4)
3. Overshadowing diagrams (1)
4. Site Photo (1)

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11.3.5 DEVELOPMENT APPLICATION PDPLANPMTD-2020/013923 – 167 BLESSINGTON STREET, SOUTH ARM - 2 MULTIPLE DWELLINGS**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for 2 Multiple Dwellings at 167 Blessington Street, South Arm.

RELATION TO PLANNING PROVISIONS

The land is zoned Village and subject to the Parking and Access, On-site Wastewater Management, and Stormwater Management under the Clarence Interim Planning Scheme 2015 (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.

Note: References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42-day period which expires on 11 February 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 2 representations were received raising the following issues:

- Consistency with housing type in the area;
- Traffic;
- Obtrusive to the playground;
- Loss of views;
- Decrease in property value;
- Trees as habitat; and
- Trees as bushfire risk.

RECOMMENDATION:

- A. That the Development Application for 2 Multiple Dwellings at 167 Blessington Street, South Arm (Cl Ref PDPLANPMTD-2020/013923) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.

2. ENG A1 – DESIGNS DA.
 3. ENG A1 – NEW CROSSOVER.
 4. ENG A5 – SEALED CARPARKING.
 5. ENG M5 – EROSION CONTROL
- 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.

ASSOCIATED REPORT

1. BACKGROUND

No relevant background information.

2. STATUTORY IMPLICATIONS

- 2.1. The land is zoned Village under the Scheme.
- 2.2. The proposal is discretionary due to being a discretionary use within the Use Table for the zone and because it does not meet Acceptable Solutions under the Scheme.
- 2.3. The relevant parts of the Planning Scheme are:
 - Section 8.10 – Determining Applications;
 - Section 16 – Village Zone; and
 - Section E6.0 – Parking and Access Code;
 - Section E7.0 – Stormwater Management Code; and
 - Section E23.0 – On-Site Wastewater Management Code.
- 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 an 850m² vacant block at the southern end of Blessington Street in South Arm. It is bound by a property with a single dwelling (165 Blessington Street.) to the north and west, Council owned open space to the south and east, and the road to the northeast. It is not encumbered by any easements. The location of the site is shown in Attachment 1.

3.2. The Proposal

The proposal is for the development of 2 multiple dwellings on the site.

The proposed dwellings would be double storey 3-bedroom units, each with a south facing deck. They would have a maximum height of 6m from natural ground level. They would also be setback 2.17m from the north-western side boundary; Unit 2, 2.5m from the south-western boundary; 3.6m from the south-eastern boundary and Unit 1, 4.7m from the front boundary. Each unit would have private open space in the form of a second storey deck of 28m² and 36m² for Unit 1 and Unit 2 respectively.

There would be two carparking spaces dedicated to each unit located in separate double garages. There would also be a single uncovered visitor space provided for at the front of the site. The units would be serviced by a secondary treatment wastewater system.

4. PLANNING ASSESSMENT

4.1. Determining Applications {Section 8.10}

“8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by s51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with ss57(5) of the Act,*

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”

References to these principles are contained in the discussion below.

4.2. Compliance with Zone and Codes

The proposal meets the Scheme’s relevant Acceptable Solutions of the Village Zone and On-site Wastewater Management, Road and Rail Assets, Parking and Access, and Stormwater Management Codes with the exception of the following.

Village Zone

- **Clause 16.4.2 A2 (side and rear setbacks)** – the Acceptable Solution requires that a side or rear setback must be either half the height of the wall of the building, or 2m whichever is the greater of the two. The proposed units would be located 2.17m from the north-western side boundary. Unit 2 would also be 2.5m from the rear boundary.

The proposal must be considered pursuant to the Performance Criteria P2 of Clause 16.4.2 as follows.

Clause	Performance Criteria	Assessment
16.4.2	<i>“Building setback from side and rear boundaries must satisfy all of the following:</i> <i>(a) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:</i>	The proposal is considered to comply as follows:
	<i>(i) overlooking and loss of privacy;</i>	The subject property is south of a row of three successive access strips for neighbouring lots. These span approximately 18m and solely accommodate driveways. There is also solid fencing and established vegetation along these driveways, as can be seen in the site photos (Attachment 3).

		Therefore, there would be no privacy implications as a result of the side setback due to the distance, vegetation and intermittent use of the adjacent area. Unit 2 is offset from the majority of the dwelling at 165 Blessington Street as shown by the application site plan. This would result in potential overlooking mostly impacting the driveway area and garage area. There would be approximately 14.5m between Unit 2 and the nearest habitable room window at 165 Blessington Street. The distance between habitable room windows is adequate to prevent any unreasonable loss of privacy. The dwelling at 165 Blessington Street has in excess of 220m² of Private Open Space located to its south and east. The deck and immediate surrounding area of open space would be shielded from view of the proposed units by the existing dwelling. There may be some overlooking potential for the eastern portion of the open space, this area appears to be mainly used for landscaping and clothes drying. The separation distances for the proposed units are therefore adequate to prevent any unreasonable impacts due to overlooking.
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	(ii) <i>overshadowing and reduction of sunlight to habitable rooms and private open space on adjoining lots to less than 3 hours between 9.00 am and 5.00 pm on June 21 or further decrease sunlight hours if already less than 3 hours;</i>	The property most impacted due to overshadowing is 169-177 Blessington Street which is the Council owned playground/park. As there is no residential use on this site there would be no impact upon residential amenity. The property to the west of the subject site would have some overshadowing during the Winter Solstice between 9am and 10.30am. This would not reduce the solar access to a habitable room window to less than 3 hours. 165 Blessington St has a large deck facing Seacroft Bay. This deck would not be impacted by overshadowing after 10am on the Winter Solstice. Shadowing diagrams were provided by the applicant showing the potential shadowing effect which is considered to be accurate.
	(iii) <i>visual impact, when viewed from adjoining lots, through building bulk and massing;</i>	The proposed units are to be two storeys. The resultant visual impact is not considered to be unreasonable taking into consideration the site location and separation distance between dwellings. There is some established vegetation in place along the south-western and south-eastern property boundaries which would be retained, providing some visual softening. Additionally, the design would incorporate Sycon Matrix sheet cladding on the lower storey of the units, Sycon Axon vertical cladding on the upper storey, and timber balustrades. This would provide a visual break to the overall bulk of the buildings. A low pitch skillion roofline is also proposed to minimise bulk. As the units would be separate, there would be a physical break

		between the built forms. Multiple external finishes (cladding and colours) have also been proposed. Together these will ensure no unreasonable bulk or massing impacts.
	<i>taking into account aspect and slope.”</i>	There are no considerations relevant that arise from aspect or slope. The application is considered to satisfy all requirements of the Performance Criteria.

Stormwater Management Code

- **Clause E7.7.1 A1 (disposal of stormwater)**– the proposal is not able to dispose of stormwater from new impervious surfaces by gravity to public stormwater infrastructure.

The proposed variation must be considered pursuant to the Performance Criteria P1 of Clause E7.7.1 as follows.

Clause	Performance Criteria	Assessment
E7.7.1	<i>“Stormwater from new impervious surfaces must be managed by any of the following:</i>	
	<i>(a) disposed of on-site with soakage devices having regard to the suitability of the site, the system design and water sensitive urban design principles;</i>	Not applicable.
	<i>(b) collected for re-use on the site;</i>	The application proposes to collect the rainwater on site for re-use in stormwater tanks. This complies with the requirements of this Performance Criteria.

	<i>(c) disposed of to public stormwater infrastructure via a pump system which is designed, maintained and managed to minimise the risk of failure to the satisfaction of the Council.”</i>	Not applicable. No public infrastructure is available in this area.
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5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 2 representations was received. The following issues were raised by the representors.

5.1. Type of dwellings proposed

Concern was raised that the proposed units were not consistent with the style of housing in Blessington Street, leading to a significant change to the streetscape.

- **Comment**

Blessington Street does not have a uniform house ‘style’. The area has a range of dwelling types from modest single storey shacks to very large 2 storey modern houses. In any event, there is no applicable planning control pertaining to the style of dwellings. This issue therefore has no determining weight.

5.2. Traffic

Concern was raised with respect to the driveway being utilised by 4 residences, creating a traffic hazard.

- **Comment**

The application proposes a new access point for the subject site which currently does not have a crossover. The existing access referred to in the representation is the access strip for the property to the north of the subject site (165 Blessington Street.). The application would not be using that access and does not benefit from a Right of Way easement to do so. The application complies with all relevant clauses of the Parking and Access Code.

5.3. Development obtrusive to playground

Concern was raised that the proposed units would be obtrusive to the public playground that the subject property adjoins.

- **Comment**

There is no relevant Clause in the Scheme related to this matter for Council to consider. In any event, the development of two units on the site would pose no greater imposition to the playground than a large single dwelling. The units have been located on the side of the subject property that is farthest from the playground. Therefore, this matter has no determining weight.

5.4. Loss of views

Concern was raised with respect to the proposal causing a loss of views for the representor from their property.

- **Comment**

There is no relevant Clause in the Scheme related to the loss of views for Council to consider. Therefore, this matter has no determining weight.

5.5. Decrease in property value

Concern was raised with respect to the representor's property being devalued due to the proposed development.

- **Comment**

There is no relevant Clause in the Scheme related to the potential devaluation of nearby properties for Council to consider. This issue therefore has no determining weight.

5.6. Protection of trees

Concern was raised with respect to the gum trees on site being habitat for a number of bird species, including cockatoo, kookaburra, swift parrot and galah.

- **Comment**

The site is not covered by the Natural Assets Code, consequently there is no relevant Clause in the Scheme related to the removal of vegetation on the site. The tree removal does not trigger any relevant requirements. This issue therefore has no determining weight.

5.7. Risk posed by trees

Concern was raised with respect to the gum trees on site posing a bushfire risk to the units and surrounding properties.

- **Comment**

Bushfire risk and mitigation is regulated in the Building Act 2016. There is no relevant Clause in the Scheme related to bushfire risk for the construction of a single dwelling. Notwithstanding this, the gum trees would be removed given they are within the proposed building footprint. This issue therefore has no determining weight.

6. EXTERNAL REFERRALS

No external referrals were required or undertaken as part of this application.

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 2016-2026 or any other relevant Council policy.

9. CONCLUSION

The proposal is recommended for approval, subject to conditions.

Attachments: 1. Location Plan (1)
2. Proposal Plan (17)
3. Site Photo (2)

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11.3.5 SOUTHERN TASMANIAN REGIONAL LAND USE STRATEGY - REVIEW OF URBAN GROWTH BOUNDARY AT 52 RICHARDSONS ROAD, SANDFORD

(File No. PDPSAMEND-2020 011424)

EXECUTIVE SUMMARY**PURPOSE**

The purpose of this report is to consider a request to modify the Southern Tasmanian Regional Land Use Strategy's (STRLUS) Urban Growth Boundary (UGB). Specifically, it requested that the UGB be extended to include a 12.1Ha portion of the land at 52 Richardsons Road, Sandford.

RELATION TO PLANNING PROVISIONS

The land at 52 Richardsons Road, Sandford is zoned Rural Resource and Environmental Living under the provisions of Clarence Interim Planning Scheme 2015 (the Scheme). It is also subject to the following Code Overlays:

- Bushfire Prone Areas;
- Landslide Hazard Area (Low);
- Waterway and Coastal Protection Areas;
- Coastal Inundation Hazard Area (Low, Medium & High);
- Coastal Erosion Hazard Area (Low);
- Natural Assets (Low & High);

Additionally, parts of the site are known to have been used for potentially contaminating activities and therefore subject to the Potentially Contaminated Land Code.

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.

CONSULTATION

The request to amend the STRLUS has not been exhibited and there is no requirement to do so.

The proposal was, however, referred to TasWater and the Department of State Growth for comment.

RECOMMENDATION:

- A. That Council resolves to advise the applicant that:
1. The proposal is premature, and Council does not support an expansion of the UGB to include the land at 52 Richardsons Road, Sandford for the following reasons:
 - The proposal will exacerbate impacts of sprawl and compound costs associated with infrastructure and service provision. Which will, in the longer term, be subsidised by the broader community.
 - The proposal is inconsistent with the Minister’s proposed amendment to the STRLUS and associated Roadmap to a full review of the STRLUS.
 - The proposal would adversely impact on the Greater Hobart settlement strategy.
 - The increased traffic load on Bayview Road would adversely impact residential amenity for those residents
 2. As part of a comprehensive review of the STRLUS, should it be demonstrated that additional urban land is required, then the subject land should be considered as a potential site in the context of the overall review and desired settlement strategy progressed by the Minister for Planning.
- 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.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** The STRLUS was approved by the Minister for Planning on 27 October 2011. The STRLUS was amended as part of a “housekeeping” review on 1 October 2013. It was further amended on 14 September 2016, 9 May 2018 and again on 19 February 2020 in response to ad hoc requests to expand the UGB.
- 1.2.** Although the STRLUS has now been amended several times to facilitate urban expansion in Hobart, Sorell and Clarence, the changes have not been major. The STRLUS is now in urgent need of review. Councils are experiencing increasing development pressure on the fringes, and since its initial approval, there have been important changing trends in regional population, housing, transportation and traffic management, infrastructure and other planning issues.

1.3. Despite the *Land Use Planning and Approvals Act* 1993 (LUPAA) specifying that the Minister must keep all regional land use strategies under regular and periodic review [S.30C(4)], a thorough review of the STRLUS has not yet commenced. For this reason and the fact there is no statutory mechanism for either individuals or Planning Authorities to apply to amend it, the Minister developed a non-statutory method for individuals and Councils to request amendments to the regional strategies. The method is articulated in the form of information sheet developed by the Department of Justice's Planning Policy Unit (PPU) and released on 1 February 2019. A copy of the Information Sheet RLUS 1 - Reviewing and Amending the Regional Land Use Strategies is included in the attachments.

1.4. While non-statutory, the information sheet provides information on when and under what circumstances the regional land use strategies may be reviewed and amended. It also provides details on the requirements and processes for reviewing and considering amendments to the regional land use strategies.

The information sheet recognises that amending a regional land use strategy is not always the most appropriate course of action to facilitate use and development within a region. In the first instance use and development should be directed to those agreed areas identified in the relevant strategy.

1.5. In a letter received 8 December 2020 the Minister advised that prior to a full review of the STRLUS, the government wished to introduce an interim policy by an amendment to the STRLUS that enabled the consideration of proposals for minor urban zoning beyond the UGB in particular circumstances and without needing to seek an amendment to the STRLUS.

The proposal was referred to councils for feedback prior to finalisation and is the subject of another report on this agenda.

2. STATUTORY IMPLICATIONS

2.1. Under Section 30C(3) of LUPAA the Minister for Planning may declare a regional land use strategy. Section 30C(4) specifies that the Minister must keep all regional land use strategies under regular and periodic review.

- 2.2.** Section 30O(1) of LUPAA (for Interim Schemes) and S.34 - LPS Criteria (for the future Tasmanian Planning Scheme), requires that planning schemes (and any amendments to an existing planning scheme) are to be, as far as practicable, consistent with the relevant regional land use strategy. In Clarence the relevant regional land use strategy is the STRLUS.
- 2.3.** There is no formal statutory mechanism for either individuals or Planning Authorities to apply to amend the STRLUS.
- 2.4.** Pursuant to Section 32(ea) [and 30O(1)] of LUPAA, before certifying and publicly exhibiting a draft planning scheme amendment Council needs to be satisfied that the draft amendment is consistent with the relevant regional land use strategy.
- 2.5.** Pursuant to Section 30O(1) of LUPAA, the TPC must be satisfied that a draft planning scheme amendment is consistent with the relevant regional land use strategy before approving an amendment. Similar legislative requirements apply to all future LPS', and amendments to LPS' that will be in place under the Tasmanian Planning Scheme.
- 2.6.** Despite the Minister's proposed amendment to the STRLUS to insert a new strategy/consideration at SRD 2.12 discussed at section 1.5 of this report, it has not been approved and has no statutory effect at this time. Notwithstanding that, it is noted that should it be approved in its current form, the proposal to expand the UGB by 12.1ha would not comply with the 2, 3 or 4ha maximum areas proposed.
- 2.7.** The subject land is outside the UGB. Accordingly, an application to rezone the land for urban purposes (General Residential for example) would be inconsistent with the STRLUS and should not be initiated by Council and, in the event that it was, it could not be approved by the TPC without the STRLUS first being amended by the Minister for Planning prior to determination.

3. THE SITE AND CONTEXT

3.1. The Site

The subject site is 52 Richardsons Road, Sandford (CT 158742/9), a 73Ha irregular shaped vacant lot located to the south of Lauderdale. The site has a westerly aspect varying in both slope and elevation from relatively flat and low-lying adjacent to the saltmarsh up to the 10m contour rising with increasing slope (up to 1:5) to the 79m contour.

The site abuts the TasWater Reservoir at the of top of Richardsons Hill and has direct road frontage to Bayview Road and the South Arm Highway and Richardsons Road.

The site abuts and is to the east of Council's land at Racecourse Flats. The lower lying areas of the site represents an extension of the saltmarsh. Further east, increasing in elevation is a 23Ha patch of remnant bushland currently developed with an informal trail network.

A location plan and site photograph are contained in the attachments.

3.2. Planning Controls

The site is zoned Rural Resource and Environmental Living under the provisions of the Clarence Interim Planning Scheme 2015 (the Scheme). It is also subject to the following Code Overlays:

- Bushfire Prone Areas;
- Landslide Hazard Area (Low);
- Waterway and Coastal Protection Areas;
- Coastal Inundation Hazard Area (Low, Medium & High);
- Coastal Erosion Hazard Area (Low); and
- Natural Assets (Low & High).

Additionally, parts of the site are known to have been used for contaminating activities and accordingly the Scheme's Potentially Contaminated Land Code also applies.

The northern boundary of the site adjoins the UGB however the entire site is outside of it.

A zone plan and a plan showing the existing UGB are contained in the attachments.

3.3. Natural Assets

The proposal is accompanied by a Natural Values Assessment by North Barker dated 28 May 2020. The report identifies that the site includes *“forested western slopes of Richardsons Hill, some remnant and regenerating saltmarsh, brackish and freshwater wetlands and extensive areas of old long-established pasture dominating the southern slopes of Richardsons Hill.”*

The report states that a total of 152 vegetation species were recorded on site of which 120 are native and 32 are introduced (including 8 declared weeds). The vegetation communities range from poor to excellent condition and are identified in Figure 3 of the North Barker report (p13) included in the attachments.

A description of habitat is included at p23 of the report. In summary, the forested areas support foraging and nesting habitats and include occasional large mature white gums suitable for nesting birds and mammals in the form of hollows.

The wetland and saltmarsh communities provide habitat for various specialist fauna, although their extent on the property is small.

3.4. Potentially Contaminated Land

Parts of the site have been modified and known to have been subject to a range of contaminating activities including landfill, asbestos, quarrying operations and fuel storage. A plan showing the area of the site previously used for these activities is included in the attachments. While this area is considered to be “potentially contaminated” thereby invoking the Scheme’s Potentially Contaminated Land Code, based on the information available, it is considered that the remainder of the site outside of this area is unlikely to be contaminated.

4. THE PROPOSAL

The applicant requests an amendment to the STRLUS by expanding the UGB to include a 12.1Ha portion of the subject land. Ultimately the request is that Council support the proposed expansion and to advise the Minister for Planning accordingly.

In addition to the applicant's planning report (JMG, November 2020) the proposal was accompanied by the following supporting documentation:

- Concept Plan;
- Aboriginal Heritage Assessment (Cultural Heritage Management, 28 May 2020);
- Traffic Impact Assessment (Milan Prodanovic, July 2020);
- Natural Values Assessment (North Barker, 28 May 2020);
- Geotechnical Assessment (GES, May 2020);
- Photomontages;
- Bushfire Hazard Report (JMG, August 2020);
- Concept Services Report (JMG, 14 August 2020);
- Land Capability Assessment (GES, 14 August 2020); and
- A letter of support from the University of Tasmania (17 June 2020).

For the most part the documentation appears to support a planning scheme amendment lodged under S.43A for a rezoning and subsequent subdivision. However, the proposal is limited to a request to modify the STRLUS. If the request is ultimately approved by the Minister for Planning, then a future S.43A application is foreshadowed that is likely to reflect that described in the reports and shown in the concept subdivision proposal.

4.1. Southern Tasmanian Regional Land Use Strategy (STRLUS)

It is proposed to expand the STRLUS UGB (Map 10) by approximately 12.1Ha to include a portion of the site to provide for future residential development as shown in the attachments. This portion of the site abuts the southern extent of the Lauderdale UGB and provides for a 300m linear link from Bayview Road to the substantive expansion to the south.

4.2. Foreshadowed S43A application.

Should the requested UGB expansion ultimately be approved, the applicant foreshadows the submission of a subsequent application under S.43A of LUPAA seeking a planning scheme amendment and subdivision permit.

The planning scheme amendment is anticipated to:

- rezone the portion of the land within the expanded UGB to General Residential (12.1Ha);
- rezone a 35.6Ha portion of the site to Open Space;
- rezone the balance to be zoned Rural Living; and
- introduce a Specific Area Plan (SAP) to guide the form of future development on the land.

A concept subdivision plan was submitted with the proposal and included in the attachments. The concept plan is contingent on the proposed UGB expansion being approved and provides for 147 future General Residential lots, 8 Rural Living lots, road lots and 35.6Ha of Public Open Space (POS).

The proposed POS represents 49% of the total site area. This land captures a significant proportion of the area covered by the Natural Areas overlay mapping backing on to the Racecourse Flats saltmarshes.

The applicant's planning report outlines (at p6&7, attached) that the adjoining Racecourse Flats saltmarshes is one of the largest saltmarsh communities in the Derwent estuary, has significant ecological values and is internationally recognised as a crucial migratory shorebird habitat and fish nursery. It is submitted that the provision of 35Ha dedicated area of public open space will provide significant environmental benefit by allowing for the future migration to the saltmarsh.

5. PLANNING ASSESSMENT

5.1. Concept Plan

While under this process the applicant's Concept Plan cannot form part of the proposed expansion to the UGB, it does provide a clear indication of the applicant's intent, anticipated development potential and expectations, and for this reason warrants discussion.

6.1.1 Residential form

A total of 147 General Residential zoned lots are proposed with the majority of lots ranging in size from 500m² to 700m². The lots are connected to Lauderdale via an extension of Bayview Road continuing east to the top of Richardsons Hill before heading south west back down hill to the substantive residual area. The first 600m of the Bayview Road extension is bounded on one side (south and west) by the proposed POS lot and provides frontage to 34 residential lots on the other (north and east).

In terms of settlement structure, the majority of the lots have a westerly aspect with views to Mt Mather and Mt Wellington beyond. The lots will be separated from the existing Lauderdale General Residential Zone by a ridgeline and the proposed POS lot, a distance of approximately 300m. For this reason, the proposal presents as an isolated cluster within a separate drainage catchment rather than an extension of Lauderdale.

It is noted that traffic generated from the proposal would be distributed north through Bayview Road and south through Richardsons Road. This is discussed in further detail at Section 5.7 of his report.

6.1.2 Rural Living Lots

The Concept Plan shows 8 rural living lots (ranging from 2.0Ha to 8.4Ha) to the west and south of the proposed UGB expansion/General Residential Zone. This area is currently zoned Rural Resource and would need to be rezoned as part of the foreshadowed future S.43A application. No amendments to the STRLUS are proposed to facilitate these lots as a standalone Rural Living cluster. The applicant was provided with opportunity to support/explain this element of the proposal and provided a submission to the effect that, in their view, the future rezoning of these lots could be facilitated under the STRLUS as currently expressed, and without the need for alteration.

Despite the applicant's submission it is considered that this is likely to be problematic and would not meet the relevant tests. An assessment of the most relevant considerations against SRD 1.3 is included in the attachments.

6.1.3 Proposed Public Open Space

The area of the proposed POS allocation is significant and represents 49% of the total site area. This has been proposed in an attempt to offset the UGB expansion/General Residential zoning in terms of both biodiversity and POS recreation opportunities. Notwithstanding this intent, it is not possible to secure the land under this process and there is no capacity to ensure that the proposed POS will be reflected in any future proposal as there is no legal mechanism to link any support to expand the UGB to this offer.

Should the POS be proposed as part of any future proposal, considerations will be:

- Whether the land has been identified in any adopted POS strategy as being required.

In this instance Council's trail register identifies one linear trail through the site but it is not shown on the Tracks and Trails Action Plan 2015-2020.

- Whether the land needs to be in public ownership to manage/protect its biodiversity value, or whether the planning controls (zone and code provisions) can do this sufficiently independent of ownership.
- Whether Council is prepared to maintain such a significant area of land in that location. With limited resources, where does this fit in terms of Council's other obligations.

Nevertheless, the proposed POS allocation is not relevant to this assessment. The proposal to expand the UGB ought to be assessed based on the considerations relevant to supply, demand, density and settlement strategy.

5.2. Function of UGB

The UGB is one of the most important tools in land use planning for ensuring the rational and efficient growth of cities. It has been applied in cities around the world for many decades and throughout Australia in capital and regional cities.

The purpose of the UGB is to direct urban growth to areas best able to be supplied with appropriate infrastructure and services and protect other valuable peri-urban and environmentally valuable land from urban development pressures (i.e. controlling sprawl). Its consequence is to promote rational and efficient city building, in terms of infrastructure, controlling traffic congestion, equitable access to community services and facilities, shops, employment and schools.

The STRLUS recognised the significant role that the UGB has to play in achieving the best form of city growth for metropolitan Hobart.

Irrespective of the review mechanism (i.e. comprehensive review, recognition of emerging trends/new data, or in response to an ad-hoc request), it follows that any modification of an established UGB ought to consider:

- Population trends;
- Greater Hobart settlement strategy;
- Land supply across the Southern region;
- Land supply at the local level/market segment (Clarence specific); and
- Land suitability and weighting assessment against alternative sites.

5.3. Settlement Structure and Associated Costs

The cost of providing, maintaining and operating infrastructure and services can vary substantially depending on settlement structure, location and proximity to existing infrastructure and services. Increased population can be accommodated by one of three basic models:

- Greenfield expansion on the urban fringe;
- Infill development provided within established urban areas; and
- Dispersed (ad hoc piecemeal subdivision) growth on the urban/peri-urban fringe.

The cost associated with each approach varies in terms of initial cost to the developer and ongoing servicing/maintenance cost to councils and other agencies.

In practice, governments use or provide for a combination of each of these models, however, consideration of the costs associated with each approach is a relevant settlement consideration.

The literature establishes the following key components/observations and cost comparisons between settlement types.

Greenfield development

Greenfield development usually requires completely new infrastructure networks to be constructed and the volume of development places additional ‘at once’ pressure on service provision. Under this model developers usually provide any required infrastructure and/or contribute towards required upgrades which occur upstream (such as road and intersection expansions).

From this perspective, greenfield development appears to be a cost-effective settlement type to councils. Lot sale prices reflect the value of the land and associated capital improvements when released to the market. However, there are often additional costs to councils and other agencies associated with providing new facilities and upgrading off-site infrastructure. Ongoing maintenance costs and servicing are the responsibility of councils and can be significant over time.

Infill development

Typically infill development provides for increased density in established areas making better utilisation of existing assets while at the same time increasing the rate base to contribute to ongoing maintenance. Infill development can be facilitated through a range of methods including:

- Small scale rear lot subdivision /units;
- Gentrification through redevelopment of existing urban areas to higher densities; and
- Remnant large undeveloped inner urban lots subdivided/developed to urban densities.

This settlement model costs the least to Council and other agencies. However, infill development is often less desired by the development industry due to higher initial land prices, limited size of developable land parcels and the development expectations/opposition in established communities.

Dispersed development

Dispersed development is usually incremental and takes place gradually as larger rural lots are subdivided, often at some distance from existing development. For a single development, dispersed development is usually inexpensive to service with infrastructure where any connection costs are borne by the property owner/developer. For this reason, sale prices of lots released to the market are often more affordable and, in the short term, seen as a cost-effective settlement type to residents and councils alike.

However, over time, dispersed non-contiguous development is difficult to service efficiently (particularly with any community services that may be required) and can lead to “leapfrog” development and result in significant costs to councils and agencies in the longer term.

Of the three models, infill development results in the cheapest model to develop and service for councils, followed by greenfield development and then dispersed development which is the most expensive.

The proposal to expand the UGB at 52 Richardsons Road would be an example of Greenfield development while the proposed Rural Living lots would be considered dispersed development.

There are financial modelling tools available to quantify the actual cost to develop, maintain and service a settlement. Advanced models will cater for:

- The costs of installing and maintaining infrastructure (including roads, footpaths, water, sewerage, stormwater etc);
- The costs associated with developing/upgrading and maintaining new community facilities (including public open space, recreational facilities, community buildings, schools, medical services etc);
- The cost of service provision (including childcare, meals on wheels, rubbish collection etc); and
- Rates and revenue sources.

The models are only as good as the data and assumptions fed into it. However, establishing the parameters is a complex exercise requiring detailed breakdown of costs over the life of the respective assets, external servicing requirements, knowledge of required community facilities and services, recognition of any developer contributions, state government funding and rating revenue received. Even with robust starting parameters, the costs over the life of the assets, which may be up to 100 years for some assets, have a high potential for distortion.

For these reasons, the cost of the proposed UGB and associated Rural Living lots have not be modelled. However, it will be more expensive to service in the longer term than the same yield provided through infill alternatives. Matters unique to this proposal that will further compound the costs to Council include:

- The upgrading of Richardsons Road and Forest Hill Road to Council's Rural Road standard as specified under the Local Highways Standards Requirements By-law No 1/2014 (6.0m wide spray seal minimum); and
- The installation of a new Bayview/South Arm Road roundabout.

These costs are substantial and will be specific/unique to this proposal and discussed below.

Richardsons Road and Forest Hill Road

The TIA submitted with the proposal identified that Richardsons Road and Forest Hill Road would need to be sealed (1.2km). There is no commitment that the developer would undertake the work and there is no capacity to ensure that the costs will be borne by the developer through this process. Accordingly, it is likely that Council will need to contribute to the upgrade (if not fund it entirely) and commit to its ongoing maintenance. The full cost of sealing this road is likely to be in the order of \$1M.

Even if a developer contribution could be secured, which is not possible through this process) it would be based on a proportionate share meaning Council would need to contribute the balance. This could only occur as part of a future application and condition on the permit. Accordingly, there is uncertainty and an inherent financial risk.

Bayview/South Arm Road roundabout

The existing Bayview/South Arm Road intersection is coping under the current load. The TIA submitted with the proposal identifies that the proposal will reduce the level of service of this intersection to level of service “F”. The proponent does not propose to upgrade the intersection with the roundabout that will be required, instead indicated that it is a matter that DSG should monitor. Accordingly, there is a high risk that the reduced level of service experience by the existing Lauderdale residents will result in pressure for Council to undertake/fund the works. The cost associated with this project have not been modelled but will be expensive given the location, proximity to the coast, low water table, no alternative accesses and the need to undertake the works whilst the intersection is still being used. The cost of works is likely to be within the \$1.5M-\$5M range.

5.4. Clarence Land Supply

A review of current lot supply in Clarence is undertaken periodically. The review is comprised of the most significant subdivisions/land holdings and is completed to provide an indication of residential land availability. It does not account for all available lots or minor infill subdivision and on this basis underrepresents the number of lots actually available, or readily subdividable within the UGB.

The last review was completed in July 2020 and a copy is included in the attachments. In summary, there are over 2800 lots that have been approved, or could be, across a range of market segments (affordable, medium and premium). The majority are greenfield lots and all are appropriately zoned, within the STRLUS’ UGB and in most cases are within an approved staged subdivision.

The STRLUS identifies several Greenfield Development Precincts in Greater Hobart. The Greenfield Development Precincts in Clarence are identified on the Tranmere Rokeby peninsula (Droughty Point) and the north western side of Sugarloaf Road, Risdon Vale. This land is zoned Future Urban and has not yet been approved for subdivision. Subject to the preparation of suitable masterplans this land could readily be rezoned, subdivided and developed for residential purposes. The July 2020 review indicated that together these sites are likely to provide for an additional 2300 lots. However, the latest figures associated with the “Skylands” proposal (Droughty Point) indicate that that project may yield up to 3500 lots (up from 1700).

Accordingly, there are 5000-6500 lots in greenfield areas/edge estates in Clarence that are within the UGB that are either approved or could be readily approved and able to be released over the coming years. Again, infill and minor subdivisions are not included in this estimate.

The release of land in some zoned and greenfield area in Clarence has been slow in some instances. This has been particularly so along Pass Road associated with the ParanVille estate and Clarence Heights estate behind Clarendon Vale. However, there has been increasing interest in the ParanVille subdivisions and Clarence Heights has commenced on ground works with the first of these lots anticipated to be released to the market in the coming months. Other areas such as Risdon Vale (Sugarloaf Road), Glebe Hill, Rokeby, Howrah and Tranmere have been developed and released steadily.

While there is land available in a range of market segments and there is limited opportunity for infill development (small scale subdivision and multiple dwellings) in Lauderdale (adjoining the site) none of the 2800 lots are within this suburb. This is not a new issue and should have been anticipated as consequence of adopting the current UGB.

In addition to the above, at its meeting on 10 August 2020 Council considered a request to expand the UGB at 471 Cambridge Road, Mornington and 540 Pass Road, Cambridge. Council resolved to support the expansion of the UGB and advised the Minister for Planning accordingly. To date that request has not progressed. However, if ultimately approved it would provide for 60-70 additional lots beyond the 5000-6500 lots described above.

Providing for growth in Sandford (as an extension to Lauderdale), independent of a comprehensive review of the STRLUS, will result in an altered settlement pattern and release of land that could potentially be to the detriment of other settlements elsewhere in Clarence.

5.5. Hobart City Deal

While LUPAA requires the Minister to undertake reviews of regional strategies, at this time the Government is focussed on the completion of the transition of council planning schemes to the TPS followed by the development and introduction of certain state planning policies, before reviewing the STRLUS.

However, the Hobart metropolitan councils are focussed on a more urgent review. The Hobart City Deal acknowledges that “... *planning, identification, sequencing and prioritisation of actions being considered in the City Deal are informed by the following factors:*

- *Efficient movement of people;*
- *Improved passenger experience;*
- *Responsiveness to new technologies;*
- *Pedestrian and cycling improvements;*
- *Current and future land use; and*
- *Infrastructure investment”.*

The impact of the STRLUS is an important factor in dealing with these matters and the Greater Hobart Committee has raised the prospect of undertaking the necessary review work effectively through the metro plan now underway.

One of the drivers behind the City Deal is to provide for and encourage medium rise development and infill housing options. The measure of success is that:

“Hobart will have a more diverse, affordable and inclusive housing mix to provide choices to meet our changing lifestyle and population needs.”

Low density development on the fringe will not further this objective as it neither increases diversity nor is inclusive. On this basis the proposed 12.1Ha expansion to the UGB, which would provide new greenfield development at the fringe, will not further the objectives of the Hobart City Deal.

Expanding the UGB in this location will exacerbate sprawl. This approach, as opposed to targeted infill opportunities, or fringe locations closer to Hobart, will result in new residents having to travel further to access jobs, education and services. Sprawl models, such as this would have serious physical and social impacts on metropolitan Hobart and is contrary to the recommendations in the state’s Toward Infill Housing Development report prepared for the Department of State Growth dated August 2019.

5.6. Planning Policy Unit Information Sheet - Application Requirements

The PPU’s *Information Sheet RLUS 1* (attached) prescribes the following minimum information required to be submitted in order to consider an amendment request. Additionally, amendments seeking to modify an urban growth boundary, settlement growth management strategies or seek other modifications to a regional settlement strategy, will usually require additional supporting information such as an analysis of current residential land supply and demand, using accepted contemporary and verifiable data sources, that considers the region in its entirety.

The applicant’s report attempts to address each of the requirements and is included in the attachments (p41-45). Based on the applicant’s response, it is considered that the request is in order and in a form suitable for Council’s consideration.

The PPU's Information Sheet strongly recommends:

- that written endorsement for the proposed change is sought from all the planning authorities in the relevant region; and
- that consultation with relevant State Service agencies, State authorities and other infrastructure providers be undertaken before making a request for an amendment to ensure that any significant issues are avoided.

Therefore, if supported by Council, the Minister will consult with each of the planning authorities and agencies, authorities, and infrastructure providers as part of any State assessment process.

5.7. Planning Policy Unit Information Sheet - Assessment Requirements

The PPU's Information Sheet outlines that the following matters must be considered if an amendment is proposed to a regional land use strategy to develop 'greenfield' land.

- 1. How the amendment accords with the other strategic directions and policies in the relevant regional land use strategy.*

The applicant's report provides an assessment against the other STRLUS strategic directions. In summary, there are two regional policy directives that are particularly relevant to the proposal, being *Land Use and Transport Integration* and *Settlement and Residential Development*.

The *Land Use and Transport Integration* policy directive highlights the relative location of different land uses (for example where people live in relationship to places for employment, shopping and key services) and transport demand, cost and modal choice. It seeks to improve integration of transport and land use planning to enable the development of urban areas that are efficient, liveable, and environmentally sustainable in the face of a changing climate.

The applicant's report addresses this issue at p38-39 (attached). It is acknowledged that the proposed subdivision layout would provide for new road connections between existing and potential future roads. However, it is not accepted that the proposed urban expansion on the fringe is necessary to improve existing key public transport corridors and improve the frequency of service. The location is unlikely to improve walking and cycling linkages beyond recreation, and the site's spatial separation from employment centres, shops, education and other and key services will result in increased car dependency. This has significant ramifications in the short and longer term including:

- Increased traffic on Bayview Road/Bayside Drive and impact on the highway;
- Infrastructure upgrades on South Arm Road; and
- Future maintenance.

With respect to *Settlement and Residential Development*, the applicant acknowledges the role of the UGB. The justification to expand the UGB to include 12.1Ha of the subject site is based on:

- providing open space and recreational opportunity not otherwise available in the locality;
- improving connectivity with the surrounding area;
- improving the environmental management and expansion opportunities of the Lauderdale Saltmarsh Reserve;
- increasing housing supply and greater mix of housing choice; and
- increasing affordable housing.

In this regard, it is noted that it is not possible to secure the proposed Open Space through this process. The proposed Open Space, regardless of how desirable it may be, does not justify the need for urban expansion, when the costs of that are so great in terms of social impacts, cost of servicing and maintaining infrastructure resulting in subsidisation by the urban rate base.

Additional low-density housing on the fringe will further distort greenfield/infill targets. While this would increase land supply it will not introduce a greater mix of housing diversity. In terms of affordable housing, there is nothing to ensure that the expansion will provide for the delivery of affordable housing. It may be that the land is more affordable than other more appropriately located alternatives, however, as previously discussed this will result in a sprawl model heavily subsidised by the broader community.

For the above reasons it is considered that the proposal is inconsistent with the STRLUS Settlement and Residential Development strategies.

2. Impacts on natural values, such as threatened native vegetation communities, threatened flora and fauna species, wetland and waterway values, and coastal values.

The proposal does not impact on natural values including threatened native vegetation communities, threatened flora and fauna species, wetland and waterway values and coastal values.

The proposal would avoid impacts upon the wetland and waterway values found within the western part of the site, adjacent to the Racecourse Flats saltmarsh. While it cannot be secured through this process, the future management of this land and the adjoining woodland could be secured if transferred to Council as part of a future subdivision application (as foreshadowed).

3. Impacts on cultural values, such as historic heritage values, Aboriginal heritage values and scenic values.

The land is not subject to the scheme's Historic Heritage Code and known to contain any cultural or Aboriginal heritage values. The Scenic Landscape Code is not used in Clarence.

Notwithstanding that, the proposal would encroach the skyline as shown in the site photographs in the attachments. For this reason, the proposed concept plan indicates an alternative road lot layout below the 65m contour level. This configuration would have a reduced impact on scenic values but has not been reflected in the proposed amendment to UGB or the foreshadowed S.43A rezoning and subdivision proposal.

4. *The potential loss of agricultural land from Tasmania's agricultural estate (including but not limited to prime agricultural land and land within irrigation districts) or land for other resource-based industries (e.g. extractive industries).*

As detailed above the land is not prime agricultural land. The conversion of the land to General Residential (and Rural Living) would result in the loss of grazing pasture.

5. *The potential for land use conflicts with adjoining land, such as agricultural land and nearby agricultural activities, other resource-based industries (e.g. forestry and extractive industries) and industrial land taking into account future demand for this land.*

It is considered that the proposal is unlikely to introduce any land use conflict. Any real or perceived conflict between urban and rural/rural living land would effectively be shifted rather than introduced and the reasons outlined in the applicant's report (p52) are accepted.

6. *Risks from natural hazards, such as bushfire, flooding, coastal erosion and coastal inundation, and landslip hazards.*

As previously discussed, the land is subject to the following Scheme Code Overlays:

- Bushfire Prone Areas;
- Landslide Hazard Area (Low);
- Waterway and Coastal Protection Areas;
- Coastal Inundation Hazard Area (Low, Medium & High);
- Coastal Erosion Hazard Area (Low); and
- Natural Assets (Low & High).

Additionally, parts of the site are known to have been used for a potentially contaminating activity and therefore subject to the Potentially Contaminated Land Code (discussed in further detail below).

The applicant claims that a key driver behind the Concept Plan was to develop a solution that reduced the proposed residential development's exposure to potential natural hazards. This being the case, any future use and development provided for through any approved UGB expansion would be required to be assessed against each of the above codes and is likely to be able to be designed to meet the relevant requirements.

In a broader context the applicant's report identifies (p22) that the proposal provides opportunity for residential zoned land that is outside of the Lauderdale Coastal Inundation Hazard Area to *“allow for the orderly retreat and abandonment of land that is susceptible to future inundation – i.e. the proposal would ensure the future viability of the Lauderdale settlement by ensuring that sufficient residential land is available should existing residential areas be affected by inundation and other climate change related impacts”*.

7. Risks associated with potential land contamination.

As previously stated, parts of the site have been modified and known to have been subject to a range of contaminating activities including landfill, asbestos, quarrying operations and fuel storage. Accordingly, any future application would need to be accompanied by a submission from a suitably qualified person addressing the relevant Code considerations.

Based on the information available it is considered that the extent of any contamination would be unlikely to extend to the area proposed to be included within the UGB and zoned General Residential in the future.

8. The potential for impacts on the efficiency of the State and local road networks (including potential impacts/compatibility with public transport and linkages with pedestrian and cycle ways), and the rail network (where applicable).

The proposal accesses South Arm Road in Sandford at Forest Hill Road (via Richardsons Road) and in Lauderdale via an extension of Bayview Road. Richardsons Road is a 740m long gravel road which junctions with Forest Hill Road at its western end. The trafficable width of Richardsons Road varies from around 6.0m at the western end down to 4.3m at the eastern end of the road. Forest Hill Road is sealed around 490m long with a width of 5.5m widening to 7.3m before its junction with South Arm Road.

Bayview Road is a 2.0km long residential collector road serving the Lauderdale area. The road is sealed, generally 8.3m wide and provides access and frontage to properties along both sides of the road width for its full length.

The traffic impact assessment (TIA) accompanying the proposal indicates that this will result in up to an additional 131 vehicle movements per hour during peak periods or 1,312 per day. The TIA concludes that based on travel times the resultant load onto South Arm Road will be reasonably evenly distributed with 55% using the Richardsons Road junction and 45% using the Bayview Road junction.

This will result in around 716 vehicles/day and around 72 vehicles/hour during the peak hours using Richardsons Road and around 596 vehicles/day and around 60 vehicles/hour during peak hours using Bayview Road.

Based on these figures the TIA concluded that:

- The Forest Hill Road/South Arm Road and Bayview Road/South Arm Road junctions will continue to operate at an acceptable level of service beyond Year 2030.
- No improvements will be required at the Forest Hill Road/South Arm Road junction for operational efficiency.
- During the morning peak hour, the Bayview Road/South Arm Secondary junction will operate at a level of service F in the year 2030 if the traffic volume along the South Arm Secondary Road continues to increase at a compound rate of 2.3% for the next 10 years.
- That DSG will need to plan for the upgrading of the traffic management at the Bayview Road/South Arm Road junction with the installation of a roundabout.

As discussed in further detail below the proposal was referred to the Department of State Growth (DSG) for comment. DSG's response was high level and did not comment on the likely impact that the proposal would have on the existing road network and any upgrades that may be necessary.

Key observations:

- The proposal would contribute to around 12% increased load on Bayview Road / South Arm Road junction.
- The TIA indicates that the Bayview Road/South Arm Road roundabout would not be developed as part of the foreshadowed proposal and that obligation will fall to DSG.
- The TIA indicates that the foreshadowed proposal would necessitate Richardsons Road and Forest Road being upgraded to a sealed surface. It is not specified who would undertake upgrades. However, it is anticipated that, at best, a developer contribution proportionate to the increased load could be required as part of any future application.

- The resultant load on Bayview Road will be 2,300 vehicles/day at the western end. This will change the nature of the road from its current classification of a “Residential Street” to one that functions as a “Collector Road”. Council’s Traffic engineer advises that the road geometry is capable of absorbing this load, but it will adversely impact the residual amenity on the adjoining properties. To provide context, the impact on amenity would be comparable to currently experienced in Begonia Street, Lindisfarne (2,100 vehicles/day) and Riawena Road, Montagu Bay (2,700 vehicles/day).

5.8. Proposed roadmap and Interim Amendment to the STRLUS

The Minister for Planning’s recently proposed amendment to the STRLUS facilitating the ability to apply for land to be rezoned for urban purposes outside of the UGB is currently in draft form and has not yet been approved. Even so, it is noted that the intent is to limit the scope of application to potentially 2, 3 or 4Ha lots. The proposal to expand the UGB by 12.1Ha is several times the scale of expansion envisaged through this mechanism and therefore inconsistent with it.

6. CONSULTATION

The request to amend the STRLUS has not been exhibited and there is no requirement to do so.

Should Council support the request, the Planning Policy Unit’s *Information Sheet RLUS 1 - Reviewing and Amending the Regional Land Use Strategies* outlines that, as a minimum, the Minister for Planning will consult with the TPC, all planning authorities within the region and the relevant State Service Agencies and Authorities for a period of at least 5 weeks.

Subject to the Minister’s discretion, requests seeking to incorporate broader strategic changes are likely to require public input through a public exhibition process.

7. EXTERNAL REFERRALS

The proposal was referred to TasWater and DSG for comment.

TasWater advised that they agreed with the recommendations within the concept services report, the setup was relatively straightforward and that both of the sewerage options presented were possible.

In terms of water supply, TasWater expressed concern about the ability to service any additional future expansion (beyond that currently proposed) on the eastern side of the water tank. Even so, TasWater advised that an additional 15 lots may be able to be serviced but might require a different pump to the one required for this development.

With respect to sewerage, TasWater advised that in new areas their preference is to not rely on pressure sewer due to the high operating costs. However, the area can be serviced, there are likely to be several viable options and the developer is likely to incur external costs in order to connect.

DSG provided a very high-level response making no reference to the likely impact that the proposal would have on the existing road network and any upgrades that may be necessary. They advised that detailed commentary will be provided if a future rezoning and development application is made.

With respect to the need to expand the UGB in this location they advised *“further analysis is required to better understand how the proposal relates to existing residential land supply and demand. The proposal seeks to meet demand in the middle to upper market segment within a fringe urban area, and this also requires further, strategic justification”*.

This is an indication that based on the available information the applicant’s justification for the proposal is premature.

A copy of DSG’s response is included in the attachments.

8. COUNCIL COMMITTEE RECOMMENDATION

The proposal was not referred to any Council committees. However, the applicant gave a presentation to Council's Tracks and Trails Committee. Accordingly, they are aware of the proposal and supported the proposed track network.

9. STRATEGIC PLAN/POLICY IMPLICATIONS

The following State Policies are made under the State Policies and Projects Act 1993:

- State Policy on the Protection of Agricultural Land 2009;
- State Policy on Water Quality Management 1997; and
- Tasmanian State Coastal Policy 1996. The National Environmental Protection Measures (NEPMS) are automatically adopted as State Policies under the *State Policies and Projects Act 1993*.

The National Environmental Protection Measures (NEPMS) are automatically adopted as State Policies under the State Policies and Projects Act 1993.

9.1. State Coastal Policy

The State Coastal Policy 1996 is applicable to the entire site as it is within 1km of the high-water mark. The applicant's report contained a detailed assessment against the State Coastal Policy at pages 29-38 and a copy is included in attachments. The applicant's assessment is accepted, subject to the clarification that:

- The proposed POS cannot be transferred to Council as part of this proposal to expand the UGB; and
- There is no mechanism to ensure that a future proposal will include the transfer of the POS described.

9.2. State Policy on the Protection of Agricultural Land 2009

The purpose of the State Policy on the Protection of Agricultural Land 2009 policy is to:

“conserve and protect agricultural land so that it remains available for the sustainable development of agriculture, recognising the particular importance of prime agricultural land”.

The policy identifies eleven principles to establish sustainable agricultural use and development by minimising:

- a) conflict with or interference from other land uses; and
- b) non-agricultural use or development on agricultural land that precludes the return of that land to agricultural use.

Again, the applicant’s report contains an assessment against the applicable considerations at pages 27-29. In summary, the proposal was accompanied by a Land Capability Assessment that concluded that the land is not prime agricultural land and its productive potential is limited. There is no agricultural activity to the north and west of the site and the land to the south and east characterised by low intensity/domestic scale grazing associated with rural residential use. The Land Capability Assessment’s observations and conclusions are accepted and it is considered that the land has neither regional nor local agricultural significance.

9.3. State Policy on Water Quality Management 1997

The purpose of the State Policy on Water Quality Management 1997 is *“To achieve the sustainable management of Tasmania's surface water and groundwater resources by protecting or enhancing their qualities while allowing for sustainable development in accordance with the objectives of Tasmania’s Resource Management and Planning System.”*

Given that the site and subsequent development would be serviced by reticulated water, sewerage and stormwater the most relevant sections of the policy are 17.2 and 33.1 relating to waste discharge, erosion and stormwater management and could be addressed through conditions as part of a future application.

9.4. National Environment Protection Measures

National Environment Protection Measures (NEPM's) are also taken to be State Policies in Tasmania. NEPMs are made under Commonwealth legislation and given effect in Tasmania through the State Policies and Projects Act.

The National Environmental Protection Measures relate to:

- ambient air quality;
- ambient marine, estuarine and freshwater quality;
- the protection of amenity in relation to noise;
- general guidelines for assessment of site contamination;
- environmental impacts associated with hazardous wastes; and
- the re-use and recycling of used materials.

The listed NEPMs are most relevant to subsequent development and not directly applicable to this proposal. However, as a generalisation the Codes within the Scheme contain provisions that address these matters in detail at the time of application.

10. CONCLUSION

The proposal is limited to a request to expand the UGB to include a 12.1ha portion of the land at 52 Richardsons Road, Sandford. No development is proposed at this time. If approved the proposed expansion to the UGB would facilitate the submission of a foreshadowed future planning scheme amendment and associated subdivision that would result in the creation of 147 General Residential lots, 8 Rural Residential lots and a 35.6Ha POS lot.

The proposal is not supported for the following reasons:

- The proposal does not meet the requirements of the PPU's information sheet on amending the regional land use strategies.
- The proposal is inconsistent with the requirements of the Minister's proposed amendment to the STRLUS.
- Additional land is not urgently required to meet the future needs of Greater Hobart and there are no exceptional circumstances that warrant modification of the UGB to include the subject property at this time.
- Piecemeal consideration of amendments to the STRLUS may result in the further delay of the increasing need for its urgent review and may have unplanned implications for the staging and settlement distribution of Greater Hobart.
- The proposal is inconsistent with the STRLUS in that it would exacerbate sprawl and further distort planned infill/greenfield ratios.
- Sprawl has implications for the environment, use of fossil fuels, transport options and efficiency, social inclusion and access to services. In the longer term the cost of sprawl is higher than infill alternatives and subsidised by others.
- The proposed POS lot cannot be transferred to Council through this process and there is no mechanism available to ensure that it will be transferred as part of a future proposal.
- The existing natural assets contained within the site can be effectively managed under provisions of the Scheme and do not need to be transferred to public ownership.

- Attachments:
1. Location Plan (1)
 2. Aerial & Site Photographs (2)
 3. Zoning & STRLUS UBG Plan (2)
 4. Concept Subdivision Plans (2)
 5. Potentially Contaminated Land (1)
 6. Rural Living Assessment Against STRLUS SRD 1.3 (3)
 7. Clarence Subdivision & Residential Land Supply - Updated July 2020 (1)
 8. Information Sheet RLUS 1 - Reviewing and Amending the Regional Land Use Strategies (7)
 9. Comments from the Department of State Growth (2)
 10. Applicant's Planning Report (53)
 11. Natural Values Assessment (52)

Ross Lovell
MANAGER CITY PLANNING

Council now concludes its deliberations as a Planning Authority under the Land Use Planning and Approvals Act, 1993.

11.4 CUSTOMER SERVICE

Nil Items.

11.5 ASSET MANAGEMENT**11.5.1 LAUDERDALE CANAL PARK DRAFT MASTER PLAN – COMMUNITY CONSULTATION**

(ECM 4517140)

EXECUTIVE SUMMARY**PURPOSE**

To seek approval to consult on the draft Master Plan for a new district level park at Lauderdale Canal, Lauderdale.

RELATION TO EXISTING POLICY/PLANS

Council's Strategic Plan 2016 - 2026 is relevant. Council's Community Engagement Policy 2020 is also relevant.

LEGISLATIVE REQUIREMENTS

Nil.

CONSULTATION

No formal consultation has been undertaken to date. Local and city-wide consultation is recommended to determine the views of the community in relation to the draft Master Plan for Lauderdale Canal Park, Lauderdale.

FINANCIAL IMPLICATIONS

Council allocated funding for the development of the South East Regional Park in the 2019/2020 budget and these funds have been used to develop the draft Master Plan for the Lauderdale Canal Park. There are remaining funds within this project to undertake the community consultation program for the draft Lauderdale Canal Park Master Plan.

RECOMMENDATION:

That Council:

- A. Approves the draft Master Plan for Lauderdale Canal Park to be used for city-wide community consultation; and
- B. Authorises the General Manager to co-ordinate the city-wide community consultation to obtain feedback on the draft Master Plan for Lauderdale Canal Park and to report the consultation outcomes to a future workshop.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** A Notice of Motion was presented by Alderman James at the Council meeting held 3 December 2018 for Council officers to investigate and report back on the establishment of a Regional Park in the south eastern region of the City.

The Motion was:

“A. That Council seek an officer’s report and estimate of costs for the establishment of a Regional Park in the south eastern region of the city.

The report to include the following:

- 1. Availability of Council land south of Rokeby and include areas of Lauderdale, Cremorne and Sandford, and*
- 2. South East Regional Park be commensurate with size, scale and scope of other Regional Parks already established in the City at Simmons Park and Bellerive Beach.*

B. The officer’s report and recommendations on the benefits or otherwise of a Regional Park in the SE region of the City be available for consideration in the first round of the 2019/20 budget workshops set down for March 2019.”

- 1.2.** At the Council Workshop held on 13 May 2019 Aldermen considered four options for a South East Regional Park.
- 1.3.** A Workshop Briefing was sent to Aldermen dated 23 August 2019 which provided further analysis of potential sites for a South East Regional Park.
- 1.4.** At the Council Workshop held on 26 August 2019 Aldermen considered more detailed analysis of three sites, Lauderdale Canal, former Lauderdale Tip and Neilson Park, Rokeby for a South East Regional Park. Council did not support any of the 3 options and directed Council staff to:
 - Develop concept plans for Lauderdale Canal for a high-quality District Park.
 - Identify foreshore land opportunities in the Rokeby area for a future South East Regional Park.
- 1.5.** In May 2020, council engaged Inspiring Place to develop the draft Lauderdale Canal Park Master Plan.

1.6. The draft Lauderdale Canal Park Master Plan was presented to Aldermen at the Council Workshop held on 30 November 2020. Aldermen raised several matters for discussion including:

- Protection of assets from sea level rise.
- Any potential for improving the flow of canal water from Ralphs Bay.
- Ensure BBQ's are above high tide and take into account sea level rise.
- Accessible playground.
- Shared paths being safe for walkers and not used as a 'racetrack'.

2. REPORT IN DETAIL

2.1. Main design elements of the proposed draft Master Plan are as shown in **Attachment 1:**

- District Park level park and play facilities;
- Inclusive, diverse play spaces;
- Picnic and community facilities;
- Wheel sports (skate, scoot, bike);
- Passive park and water recreation;
- Inclusive design across entire park;
- Protection and revegetation of the unique canal environment;
- Maximisation of the waterside location and provision of physical and visual access to the canal;
- Improved pedestrian access and circulation;
- Improved parking provision and road edges; and
- Stronger pedestrian and cycle links to the neighbouring beach, former tip site, shops, etc.

2.2. Estimate for implementation of the draft Master Plan:

- Construction works \$2,500,000
- Professional services (design) \$200,000
- Total \$2,700,000

2.3. It is proposed to consult city-wide to obtain feedback on the elements of draft Lauderdale Canal Park Master Plan.

2.4. The consultation will be in accordance with the Community Engagement Policy 2020 and will use council’s “Have Your Say”, advertising, social media platforms, face to face meetings and letters to the Lauderdale community.

2.5. The program for public consultation and development of final Lauderdale Canal Park Master Plan is as follows:

- City-wide public consultation February-March 2021
- Consultation outcomes to inform design March-April 2021
- Council review and adoption May-June 2021

3. CONSULTATION

3.1. Community Consultation

To date, no formal community consultation has been undertaken for the draft Master Plan.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Internal discussions with relevant staff have been undertaken to inform the draft Master Plan design. Issues discussed include traffic, parking, stormwater infrastructure, bus transport, tracks and trails, public art, dog management, sea level rise and natural areas. Discussions with internal staff will continue throughout the design development of the project.

In September 2020, council staff informally met with two community members as representatives of the local Coast Care and Scouts groups. They provided feedback on existing site use and issues and offered preliminary suggestions for consideration in the draft Master Plan.

3.4 Further Community Consultation

Community consultation will be undertaken in accordance with the proposed consultation plan outlined below and consistent with council's Community Engagement Policy 2020.

Consultation Plan

- **Consultation Aim**

To engage city-wide and with the immediate Lauderdale community to exchange views, ideas and information on the elements of the draft Lauderdale Canal Park Master Plan.

- **Community Engagement Tools**

In accordance with Clause 8 of the Community Engagement Policy 2020. The consultation will be provided online via the 'Have Your Say Clarence' website. Residents of Lauderdale and Roches Beach will be notified of the consultation via a direct mail out and invited to visit the website. The wider Clarence community will be invited to the 'Have Your Say Clarence' site via notifications on council's digital platforms including social media and website. Council officers will make hard copy versions of the consultation available as required for members of the community who cannot access the online survey.

Council staff will also arrange for face to face consultation sessions with the general public and key stakeholders onsite at Lauderdale Canal. The sessions may include the set up of a tent or similar with equipment such as printed plans and feedback forms so staff can directly engage with the community and seek ideas. Further information regarding the structure and timing of these sessions will be provided to council prior to the events.

- **Consultation Timing**

The consultation is anticipated to commence in February and will be open for a minimum of six weeks.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Council's Strategic Plan 2016/2026 within the Goal Area *A Well-Planned Liveable City* contains the following strategy:

“Create safe, well connected and high quality public open spaces that meet the needs of the community and visitors, with a focus on accessibility and safe design principles.”

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

Lauderdale Canal has, in the past, been impacted by significant rain events, coastal inundation, storm surges and effects of stagnant water. It can be expected that these types of events will continue to impact on the Lauderdale Canal area and therefore potentially place council assets at risk. These issues are considered as part of the draft Master Plan.

7. FINANCIAL IMPLICATIONS

7.1. Council allocated funding for the development of the South East Regional Park in the 2019/2020 budget and these funds have been used to develop the draft Master Plan for the Lauderdale Canal Park. There are remaining funds within this project to undertake the community consultation program for the draft Lauderdale Canal District Park, Lauderdale.

7.2. The budget for the final Lauderdale Canal Park Master Plan will depend on council's consideration of the adopted elements to be built for the community.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

The previous Lauderdale Canal Master Plan was developed in 1997. There is an opportunity to obtain community feedback on the site and develop a new and improved District Level park at Lauderdale Canal to better service the local community and people visiting the area.

Attachments 1. Draft Lauderdale Canal Park Master Plan (1)

Ian Nelson

GENERAL MANAGER

11.6 FINANCIAL MANAGEMENT

Nil Items.

11.7 GOVERNANCE**11.7.1 TASNETWORKS CREATION OF EASEMENT – 21 KING STREET, BELLERIVE****EXECUTIVE SUMMARY****PURPOSE**

To consider a request from TasNetworks to create an easement over council's park at 21 King Street, Bellerive for the replacement of an existing substation.

RELATION TO EXISTING POLICY/PLANS

Nil.

LEGISLATIVE REQUIREMENTS

As the proposed creation of easement represents a transaction of an interest in council land, this decision is required to be dealt with under section 177 of the *Local Government Act 1993* (Tas) and requires an Absolute Majority decision of Council.

CONSULTATION

Consultation has occurred between council officers and TasNetworks regarding the design and location of the replacement substation.

FINANCIAL IMPLICATIONS

Costs associated with the establishment of the easement will be borne by TasNetworks and will not impact on council's Annual Plan.

RECOMMENDATION:

- A. That council endorses the creation of the electricity easement in favour of TasNetworks at 21 King Street, Bellerive.
- B. That all costs associated with the creation of the electricity easement are to be borne by TasNetworks.
- C. That TasNetworks undertakes all remedial works in respect to the replacement of the existing substation and cabling by suitable landscaping and replanting of the affected areas to be to the satisfaction of Council's Group Manager Engineering Services.

NB: An Absolute Majority is required for a decision on this item.

TASNETWORKS CREATION OF EASEMENT – 21 KING STREET, BELLERIVE
/contd...

ASSOCIATED REPORT

1. BACKGROUND

- 1.1** A request has been received from TasNetworks to replace the existing substation and cabling on the council land at 21 King Street, Bellerive to maintain the reliability and safety of the network.
- 1.2** Council approval is required to create an easement on the title for the council land to formalise the construction and future maintenance of the electricity infrastructure in favour of TasNetworks.

2. REPORT IN DETAIL

- 2.1** Council owns the park at 21 King Street, Bellerive which has a war memorial, pathway, basic gardens and an existing TasNetworks substation and underground cabling.
- 2.2** TasNetworks has requested council approval to replace the existing substation and cabling to maintain reliability and safety of the network in this vicinity.
- 2.3** Council and TasNetworks officers have identified a suitable location for the new substation to minimise impact on the park.
- 2.4** TasNetworks has agreed to accept all costs associated with the creation of the easement on the title, reinstate surfaces and make good any damage including installation of planting along the fence line between 21 King Street and 2 Britannia Place.

3. CONSULTATION

3.1 Community Consultation

Nil.

3.2 State/Local Government Protocol

Nil.

3.3 Other

Consultation has occurred between council officers and TasNetworks regarding the design and location of the replacement substation.

3.4 Further Community Consultation

Not applicable.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Nil

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

6.1 TasNetworks has a statutory obligation to maintain a register of its easements and agreements and to formalise these arrangements by the creation of electricity easements on the title. The Electricity Supply Act 1995 (Tas) provides TasNetworks with a head of power to establish electricity infrastructure in or over public land subject to the agreement with the relevant land authority.

6.2 As the proposed creation of an easement represents a transaction of an interest in council land, this decision is required to be dealt with under the Local Government Act 1993 (Tas) and requires an Absolute Majority decision of council.

7. FINANCIAL IMPLICATIONS

Costs associated with the establishment of the easement will be borne by TasNetworks and will not impact on council's Annual Plan and Estimates.

8. ANY OTHER UNIQUE ISSUES

None identified.

9. CONCLUSION

9.1 Council owns the park at 21 King Street, Bellerive which has a war memorial and existing TasNetworks substation and underground cabling.

9.2 TasNetworks has requested council approval to replace the existing infrastructure and to create an easement on the title meeting all costs associated with the remedial works and creation of easement on the title.

9.3 The *Electricity Supply Act 1995* (Tas) provides TasNetworks with a head of power to establish electricity infrastructure in or over public land subject to the agreement with the relevant land authority.

Attachments: 1. Photograph of Council Land showing existing Substation (1)
2. Plan showing Proposed Easement (1)

Ian Nelson
GENERAL MANAGER

11.7.2 MINISTER'S ROADMAP AND PROPOSAL TO AMEND THE SOUTHERN TASMANIAN REGIONAL LAND USE STRATEGY URBAN GROWTH BOUNDARY**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider a State Government proposal to introduce an amendment to the Southern Tasmanian Regional Land Use Strategy (STRLUS) to provide for consideration of applications involving urban rezoning outside of the Urban Growth Boundary (UGB).

RELATION TO PLANNING PROVISIONS

The proposal is limited to an amendment to the STRLUS to introduce a new Regional Policy (SRD 2.12) at 19.7 that provides for limited urban rezoning outside of the UGB.

LEGISLATIVE REQUIREMENTS

Nil.

CONSULTATION

The proposal was referred to the Mayor seeking feedback on:

- the proposed amendment to the STRLUS as an interim measure; and
- the roadmap to a full review of the STRLUS.

RECOMMENDATION:

- A. That the Minister for Planning be thanked for his proposal to address uncertainties associated with the delays in the review of the Southern Tasmanian Regional Land Use Strategy and that council recommends the following modifications, to ensure that the intention of this timely initiative is met, without long term risk to the integrity of regional settlement strategy.
1. Prior to determining the appropriate maximum property sizes for rezoning (i.e. 2, 3 or 4ha), the Planning Policy Unit should provide the Minister with indicative modelling of potential cumulative supply impact or a total additional supply to be provided through the proposed mechanism.
 2. Urban rezoning beyond the UGB should be restricted to the Greater Hobart metropolitan area.
 3. Measures should be introduced to ensure that any rezoned land is developed as intended rather than add to current land banking.
 4. Measures should be introduced to provide for urban anomalies separated from the UGB, such as retirement villages in non-urban zones.
 5. Within metropolitan Hobart, there should be added flexibility around the perimeter of land earmarked for growth, via the Tasmanian Planning Scheme's Future Urban zone.

6. The current Information Sheet on Amending the Regional Land Use Strategies prepared by the Planning Policy Unit should be revoked or amended to relevantly apply to proposals under the new initiative.
- B. That the Minister be requested to revise the roadmap to:
1. Allow review of the regional strategies concurrently with the completion of the TPS, noting that this is in the hands of the Tasmanian Planning Commission, whereas the Planning Policy Unit will oversee the implementation of the regional strategy review; and
 2. Specify a projected completion timeframe for the review and implementation of regional strategies in the roadmap, giving clarity to councils, relevant agencies, developers and the community.
- C. That the details and conclusions included in the Associated Report be recorded as the reasons for council's decision in respect of this matter.

ASSOCIATED REPORT

1. BACKGROUND

- 1.1. The STRLUS was approved by the Minister for Planning on 27 October 2011. The STRLUS was amended as part of a "housekeeping" review on 1 October 2013. It was further amended on 14 September 2016, 9 May 2018 and 19 February 2020 in response to specific requests to expand the UGB.
- 1.2 Under Section 5A of the *Land Use Planning and Approvals Act 1993* (LUPAA), the Minister must undertake regular and periodic reviews of regional strategies.
- 1.3 Councils and the Minister's office have recognised that the STRLUS is in urgent need of review. Councils are experiencing increasing development pressure on the fringes, and since its initial approval, there have been important changing trends in population, housing, transportation and traffic management, infrastructure and other planning issues.

2. STATUTORY IMPLICATIONS

- 2.1. Under Section 30C(3) of LUPAA, the Minister for Planning may declare a regional land use strategy. Section 30C(4) specifies that the Minister must keep all regional land use strategies under regular and periodic review.

- 2.2.** Section 30O(1) of LUPAA (for Interim Schemes) and S.34 - LPS Criteria (for the future Tasmanian Planning Scheme), requires that planning schemes (and any amendments to an existing planning scheme) be, as far as practicable, consistent with the relevant regional land use strategy. In Clarence the relevant regional land use strategy is the STRLUS.
- 2.3.** There is no formal statutory process for individuals or planning authorities to apply to amend the STRLUS.
- 2.4.** Pursuant to Section 32(ea) [and 30O(1)] of LUPAA, before certifying and publicly exhibiting a draft planning scheme amendment council needs to be satisfied that the draft amendment is consistent with the relevant regional land use strategy.
- 2.5.** Pursuant to Section 30O(1) of LUPAA, the TPC must be satisfied that a draft planning scheme amendment is consistent with the relevant regional land use strategy before approving an amendment. Similar legislative requirements apply to all future LPS', and amendments to LPS' that will be in place under the Tasmanian Planning Scheme.

3. REVIEWING AND AMENDING THE REGIONAL LAND USE STRATEGIES – PLANNING POLICY UNITS INFORMATION SHEET

- 3.1.** Despite LUPAA specifying that the Minister must keep all regional land use strategies under regular and periodic review [S.30C(4)], with the exception of the amendments detailed above, a thorough review of the STRLUS has not yet commenced.

For this reason, and the fact there is no statutory mechanism for either individuals or planning authorities to apply to amend it, the Minister requested the Department of Justice's Planning Policy Unit (PPU) to develop a method for individuals and councils to request amendments to the regional strategies.

- 3.2.** By letter of 1 February 2019, the Minister articulated the role the regional land use strategies have in setting the medium to longer term strategic directions for each region and confirmed his commitment to regularly and periodically reviewing the strategies to ensure they address current and emerging land use planning issues.

In summary the Minister's letter outlines:

- amendments to the Strategies will need to be considered over time for a number of reasons;
- amendments will generally occur as part of the reviews that are conducted by the Minister for Planning;
- amendments may be considered outside the normal review periods under exceptional circumstances;
- to assist councils seeking amendments to their strategy the PPU's *Information Sheet RLUS 1 - Reviewing and Amending the Regional Land Use Strategies*, was prepared to provide guidance on the process and information requirements needed to support any amendment requests.

- 3.3.** All 3 regional land use strategies including the STRLUS provide the strategic direction for future land use and development in each region over a 25-year time horizon. LUPAA requires all new planning schemes and any amendments to existing planning schemes to be, as far as practicable, consistent with the relevant regional land use strategy. For this reason, it is important that the strategic directions, policies and actions contained within each strategy appropriately address both current and emerging land use planning issues.

The non-statutory information sheet provides information on when and under what circumstances the regional land use strategies may be reviewed and amended. It also provides information on the requirements and processes for reviewing and considering amendments to the regional land use strategies.

The information sheet recognises that amending a regional land use strategy is not always the most appropriate course of action to facilitate use and development within a region. In the first instance use and development should be directed to those agreed areas identified in the relevant strategy.

The information sheet, setting out the requirements and assessment process, is attached.

3.4. Despite the process provided for in the PPU's Information Sheet to amend the STRLUS (including the UGB), no amendments to the STRLUS have been approved via this process to date. However, at its meeting on 10 August 2020, council supported a request to expand the UGB to include the land at 471 Cambridge Road and 540 Pass Road, Cambridge (approximately 4ha). To date, the Minister's decision is pending.

3.5. The information sheet outlining the mechanism to instigate and process an amendment the STRLUS has not been revoked. This is important to note as the discussion below will address its inconsistency with the proposed initiative.

4. ROADMAP FOR REVIEW OF STRLUS

4.1. At a Local Government Association of Tasmanian (LGAT) webinar held on 20 October 2020, the Minister observed that for a range of reasons, there was strong interest in progressing the reviews of the respective regional land use strategies. This was partly because of the time that had elapsed since their approval, the need to keep them current, but also, because of pressure on land supply.

The Minister confirmed that the delivery of the Tasmania Planning Schemes (TPS) was of the highest priority but remained committed to reviewing the regional land use strategies and that work would commence after the TPS was in place. While the substantive work would commence in 2022, a range of activities have already started that will enable councils to address the particular issues that they are currently experiencing including pressures on the UGB. This work is being undertaken under the banner of the Hobart City Deal, as preparatory work for the Greater Hobart Metro Plan.

The Minister indicated that working toward a full review of the regional land use strategies in 2022 will provide opportunity to gather the data that will be required to support that process. Flexibility would be introduced to consider proposals that may straddle those boundaries and that may be moving into areas that have been earmarked for future growth beyond the established UGB.

It was significant to note that the Minister recognised land banking is impacting the supply of land. He noted that there are large areas of land that are appropriately zoned within the current strategies which are not yet activated and yet there are new proposals that are seeking to expand or work across those boundaries with greenfield development. He acknowledged that this is an important challenge for the State to find ways of activating more land that is already appropriately zoned or earmarked rather than just opening up new land to development and that innovative options for resolving this issue would be considered, with a *“significant appetite at all levels of government for being innovative and motivating the owners of that land to get on with the job of making it available to development”*.

4.2. Following the webinar presentation, on 8 December 2020 the Minister advised that he had released a “roadmap” in response to:

- concerns that the STRLUS is out of date and does not reflect current planning issues; and
- ongoing calls for adjustments to the UGB and to review the settlement policies.

The roadmap (attached) identifies a range of short, medium and long-term projects/initiatives.

4.3. The Roadmap and accompanying explanatory notes identify the following:

Short Term 2020

- flexibility to consider urban zoning beyond the UGB;
- potential to consider modifications to the growth strategies for regional towns, such as modified growth targets or the inclusion of structure plans;
- commencement of regional data collection to inform the MetroPlan;
- release of the Tasmanian Planning Policies Scoping Paper; and
- preparation of a position paper on a framework for regional land use strategy preparation and approval.

Medium Term 2021

- preparation, assessment and approval of the Tasmanian Planning Policies;
- review/modifications of regional town growth strategies;
- completion of the MetroPlan and review of STRLUS to incorporate relevant parts;
- continued development of regional planning data; and
- release of a position paper on a framework for regional land use strategy preparation and approval.

Long Term 2022 and beyond

- amendments to the planning legislation to provide for enhanced regional strategic planning framework;
- commencement of review of STRLUS against Tasmanian Planning Policies;
- completion of regional data set for review; and
- initiation of full review of STRLUS.

There are certain disappointing aspects to the roadmap, particularly in terms of the delays to the review of the STRLUS.

It is unclear why resource constraints mean the regional strategy must be delayed until after the TPS is completed, since the TPS is in the hands of the TPC and the regional strategies are in the hands of the PPU. Moreover, it is unclear why the strategy reviews must wait for the development of planning policies. The details of these policies are unknown and their relationship to the strategy unspecified. As the regional strategies contain their own planning policies, it must be queried why those policies are not simply examined as part of the review of the particular strategy. Then, if the PPU ultimately develops new planning policies that have implications for the regional strategy, it is unclear why that could not be addressed by an amendment to the strategy.

5. PROPOSED AMENDMENT TO THE STRLUS

Despite the short, medium and longer term initiatives provided in the roadmap, the proposal is limited to an amendment to the STRLUS that introduces a new policy enabling the consideration of proposals for minor urban zoning beyond the UGB in particular circumstances, without requiring an amendment to the STRLUS.

The background paper (attached) states that: *“the intention is to restrict the scope to address what appear to be anomalies and avoid detracting from the intent of the UGB and the goal of achieving a balanced infill to greenfield development ratio across Greater Hobart.*

The policy is proposed as an interim measure pending the outcomes of the Greater Hobart Metro Plan process and the comprehensive review of the STRLUS”.

The Minister is seeking feedback on the proposed amendment to the STRLUS and also any feedback or questions relating to the roadmap (attached).

- 5.1.** Specifically, it is proposed to introduce a new Regional Strategy SRD 2.12 at 19.7 of the STRLUS as follows:

“Notwithstanding SRD 2.2 and SRD 2.8, land outside the Urban Growth Boundary shown in Map 10 may be considered for rezoning for urban development if it:

- a) adjoins land within the Urban Growth Boundary;*
- b) comprises a lot that is outside the Urban Growth Boundary, or the residual area of a lot that is partially within the Urban Growth Boundary, with an area of not more than <2> hectares¹;*
- c) does not constitute a significant increase in land zoned for urban development outside the UGB in that locality; and*
- d) results in minimal potential for land use conflicts with adjoining land uses”.*

¹ *This figure will be informed by feedback from stakeholders. See background paper for discussion on maximum land area options of 2, 3, or 4 hectares.”*

- 5.2.** Feedback is sought on:

- the policy/mechanism;
- the criteria;
- the preferred land area (2, 3, or 4 Ha); and
- the Roadmap.

- 5.3.** In relation to the preferred land area, the background paper provides the following considerations at Table 1.

Table 1 – Considerations for determining a maximum size limit in proposed STRLUS policy SRD 2.12

Maximum size	Considerations
2 hectares	• potential for 30 dwellings at 15/ha; • relatively small and likely to have minimal impact on the broader settlement strategy; • potential to be an anomalous exclusion from the UGB.
3 hectares	• potential for 45 dwellings at 15/ha; • provides broader scope for considering land outside the UGB, but may lead to impacts on the broader settlement strategy.

4 hectares	• potential for 60 dwellings at 15/ha; • likely to allow for a significant increase in urban land outside the UGB with greater potential to impact on the settlement strategy; • likely to have been excluded from the UGB intentionally.
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- 5.4.** If the policy is approved, Planning Scheme Amendments could be initiated by planning authorities and approved by the Tasmanian Planning Commission, for urban rezonings outside the UGB. This is not currently possible.

6. PLANNING ASSESSMENT

6.1. Function of UGB

The UGB is one of the most important tools in land use planning for ensuring the rational and efficient growth of cities. It has been applied in cities around the world for many decades and throughout Australia in capital and regional cities.

The purpose of the UGB is to direct urban growth to areas best locations able to be supplied with appropriate infrastructure and services and protect other valuable peri-urban and environmentally valuable land from urban development pressures (i.e. controlling sprawl). Its consequence is to promote rational and efficient city building, in terms of infrastructure, controlling traffic congestion, equitable access to community services and facilities, shops, employment and schools. It is therefore a technique for ensuring that inappropriate urban sprawl is avoided. Urban sprawl usually comes at a significant cost in terms of factors such as social isolation from services and alternatives to car dependency, traffic congestion, higher infrastructure costs and subsidisation of it.

The STRLUS recognised the significant role that the UGB has to play in achieving the best form of city growth for metropolitan Hobart.

Irrespective of the review mechanism (i.e. comprehensive review, recognition of emerging trends/new data, or in response to an ad-hoc request), it follows that any modification of an established UGB ought to consider:

- land supply across the Southern Region;
- land supply at the local level/market segment;
- population trends;
- Greater Hobart settlement strategy; and
- land suitability and weighting assessment against alternative sites.

As the Minister highlighted, land banking is recognised as an issue impacting land release and the orderly release of new housing. In terms of greenfield supply, it is not so much a lack of land supply, but a land speculation problem. In Clarence, as with other municipalities within the Southern Region, there are several large land holdings appropriately zoned and approved for subdivisions which have not been completed. In other areas, it is commonplace for developers to release limited numbers of lots (on occasion a lot or 2 at a time), to avoid holding costs including land tax. This distorts the housing market. Yet no measures are proposed to discourage it and the practice is likely to be just as prolific associated with future land rezoned through the proposed process, unless suitable requirements are put in place as part of any approval.

The proposed amendment introducing SRD2.12 does not address these considerations. Ad hoc expansions may collectively have serious impacts on settlement strategy overall. The potential magnitude of aggregate expansion potential provided for through SRD2.12 on settlement strategy and land supply has not been modelled and the impacts are unknown. So, while it may prove that rezoning outside of the UGB may reasonably help address current residential land issues, the PPU has not provided any scientific assessment to provide confidence this will be so. Therefore, before implementing, it would be appropriate that the PPU provide the Minister with suitable modelling to support the proposal taking into account cumulative impacts. This could help better plan the scope and location of expansion or a quantitative regional limit.

While the Minister's initiative will provide for growth adjacent to the UGB, it fails to address an issue that council has identified and previously raised with the PPU. That is the issue of addressing occasional isolated anomalies outside of and not connected to the UGB in non-urban zones and the specific example in Clarence relates to retirement or lifestyle villages such as the Risdon Vale complex, which as council will recall seeks an expansion. Neither the background paper nor proposed amendment recognise the existence of these anomalies which appears to be one of the primary purposes of the initiative.

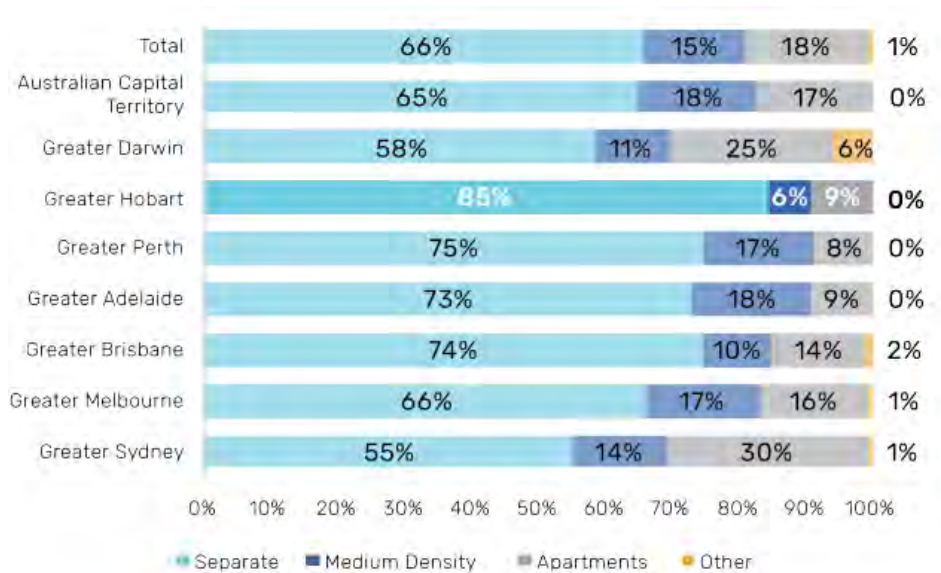
Accordingly it is considered that these types of developments ought to be recognised and provided opportunity for minor expansion where appropriately located abutting urban development and appropriately serviced.

The proposed amendment should also specifically provide for urban growth around those areas that the Minister in his webinar address identified as land earmarked for growth. This would resolve issues that arise as structure planning is undertaken for those major sites recognised in the STRLUS and zoned for future growth. The relevant experience here is that as the detailed design exercise proceeds, the boundaries identified at the broader scale require some adjustment in order to develop the best plan for the site, having regard to a wide range of opportunities and physical constraints that can only emerge as part of a detailed planning exercise, such as the Tranmere - Droughty Point - Rokeby Peninsula Structure Plan.

6.2. Balancing Greenfield and Infill Development

A report titled *Toward Infill Housing Development - prepared for the Tasmanian Department of State Growth* dated August 2019 provides a useful comparison of Greenfield and Infill Development. The report states at p14 that *"Australia's cities are characterised by urban sprawl, which has dominated residential development patterns for decades. Tasmania's urban centres have followed this trend. Separate houses account for 85% of total housing stock in Hobart, and 87% in Launceston, compared nationally with 66%"*.

The figure below provides a comparison of housing form and density in Australian capitals. The figure shows Hobart as being characterised by detached low density development and more so than any of the other capital cities [Source: ABS Table Builder – Dwelling Structure by Greater Capital City Statistical Area (2016)].



The STRLUS established that (in 2011) approximately 85% of new dwellings occur through greenfield development with relatively low densities between 7-10 dwellings per ha. This settlement pattern is consistent with sprawl.

For the reasons set out in the Background Report 13 and 14 relating to dwelling yield analysis and housing needs respectively, the STRLUS identifies that *“this strategy proceeds on the basis of a 50/50 ratio of greenfield to infill scenario, with a minimum net residential density of 15 dwellings per hectare”* (p91).

This is a fundamental component of the STRLUS, yet no figures have been maintained to establish how successfully this ratio is being implemented.

In the absence of qualifiable figures, the Toward Infill Housing Development report identifies that *“anecdotally and based on the location of growth across Greater Hobart, it is reasonable to assume that development has not moved far from the original 85/15 ratio since 2010 (p14).”* This claim is consistent with the development experience in Clarence.

The Toward Infill Housing Development report identifies that:

“Greenfield development requires the conversion of large areas of land, often for low-density housing, together with the provision of new and expanded infrastructure to service new residential areas.

In Tasmania, this land is often productive agricultural land and/or has greenspace and environmental values. Based on a density of ten dwellings per hectare, every hundred houses delivered as infill would avoid the conversion of ten hectares of land.

While housing development on the urban fringe is more costly for governments and the community, it does deliver affordable housing options and it does support a housing product – single dwellings on a larger block – which many households still prefer. From an industry perspective, it is also an easier form of housing to deliver, with less complexity and lower risks for developers compared to more constrained, inner-city sites.

The key for any housing market is to achieve an appropriate balance between infill and greenfield housing. Tasmania’s very high proportion of greenfield development suggests a greater focus on infill opportunities and stronger enforcement of infill ratios, would be appropriate.”

In summary, the Government’s own report establishes that:

- infill Targets are not being met;
- there is a cost associated with greenfield development. While it provides affordable housing options for individuals, ultimately it is subsidised by the broader community;
- low density development on the fringes contributes significantly to sprawl; and
- development on the fringe reduces the area of land available for alternative productive uses.

Given the implications associated with further distorting of infill/greenfield targets it is concerning that the sprawl provided for through the proposed amendments to the STRLUS have not been quantified or modelled as previously discussed.

6.3. Hobart City Deal

While LUPAA requires the Minister to undertake reviews of regional strategies, at this time the Government is focussed on the completion of the transition of council planning schemes to the TPS followed by the development and introduction of certain state planning policies, before reviewing the STRLUS.

However, the Hobart metropolitan councils are focussed on a more urgent review. The Hobart City Deal acknowledges that

“... planning, identification, sequencing and prioritisation of actions being considered in the City Deal are informed by the following factors:

- *Efficient movement of people;*
- *Improved passenger experience;*
- *Responsiveness to new technologies;*
- *Pedestrian and cycling improvements;*
- *Current and future land use; and*
- *Infrastructure investment”.*

The impact of the STRLUS is an important factor in dealing with these matters and the Greater Hobart Committee has raised the prospect of undertaking the necessary review work effectively through the metro plan now underway.

One of the drivers behind the City Deal is to provide for and encourage medium rise development and infill housing options. The measure of success is that: *“Hobart will have a more diverse, affordable and inclusive housing mix to provide choices to meet our changing lifestyle and population needs.”*

Low density development on the fringe will not further this objective as it neither increases diversity nor is inclusive. On this basis the proposed amendment to the STRLUS, which explicitly is designed to provide new greenfield development at the fringes, will not further the objectives of the Hobart City Deal.

However, it is noted that a modified amendment that limited its application to the Greater Hobart metro councils would provide for the limited growth envisaged while assisting to control the extent of sprawl. This would reduce the impact on the greater Hobart settlement pattern and associated strategies in the long term, bringing low density and less expansive housing close to the metropolitan area. This approach would provide new residents with closer access to jobs, education and services than in outlying townships, where sprawl would have serious physical and social impacts on metropolitan Hobart.

6.4. Planning Policy Unit Information Sheet

Neither the Roadmap and accompanying explanatory notes nor the background paper (both included in the attachments) recognise the amendment mechanism prescribed under the Information Sheet previously discussed. However, it is noted that the considerations afforded to applicants under the Information Sheet are inconsistent with the proposed criteria at SRD 2.12. Accordingly, the Information Sheet should be modified to suit or be revoked.

The background paper states that *“Any proposals that do not fit the criteria in SRD 2.12 would need to be considered as part of any medium term update of the STRLUS to implement the Greater Hobart Metro Plan, or as part of the longer term review of the STRLUS.”*

This is confusing as it is not evident whether both mechanisms would be available to applicants or whether the mechanism prescribed under the Planning Policy Unit’s Information Sheet will become redundant.

This will be important for proposals greater than the prescribed threshold at SRD 2.12 (whether it be 2, 3 or 4Ha) but still consistent with the considerations provided for in the Planning Policy Unit’s Information Sheet. Accordingly, it is recommended that the matter be raised with the Minister so that it may be clarified.

7. CONSULTATION

The proposal was referred to the Mayor seeking feedback on the proposed interim amendment to the STRLUS and the associated roadmap to a full review of the STRLUS.

8. STRATEGIC PLAN/POLICY IMPLICATIONS

The most significant strategic considerations relating to the potential expansion of the UGB are the strategies within the STRLUS and in particular those that relate to metropolitan settlement strategy. These matters have been discussed above.

The State Policies are:

- State Policy on the Protection of Agricultural Land 2009;
- State Policy on Water Quality Management 1997; and
- Tasmanian State Coastal Policy 1996.

The relevant considerations under each of these policies must be considered on a case by case basis and would be required to be assessed as part of any future planning scheme amendment involving a proposal for urban rezoning.

9. CONCLUSION

The STRLUS is in need of urgent review. The Minister for Planning is seeking feedback on a proposed roadmap towards the full review and specifically a proposed amendment to the STRLUS as an interim measure that would, subject to the prescribed tests, enable the TPC to approve proposals for urban rezoning proposals abutting the UGB.

The initiative to address uncertainties associated with the delays in the review of the STRLUS is timely, however, to ensure that the intentions of initiative are met while also delivering an efficient and rational settlement strategy, certain matters should be addressed. These are summarised as follows:

- to set the appropriate rezoning size to be allowed, the PPU should model the potential supply that may be achieved, or to determine a total target;

- to minimise the social, financial and environmental costs associated with sprawl, rezonings under the policy should be restricted to the Hobart metropolitan council areas. The need for and size of expansion at outlying towns and villages should be undertaken as part of the overall review which the Minister proposes in 2022;
- measures should be introduced to ensure that any rezoned land is developed as intended rather than add to current land banking;
- measures to resolve urban zoning anomalies distant to the UGB should be provided;
- provision should be made for added flexibility around the perimeter of the identified major growth sites within the metropolitan area; and
- the PPU's information sheet on Amending the Regional Land Use Strategies, should be revoked or amended to relevantly apply to proposals under the new initiative.

It is also recommended that the Minister's roadmap be modified to:

- review the regional strategies concurrently with the completion of the TPS process; and
- specify completion and implementation timelines for the review of the regional strategy, given the rather conceptual nature of the roadmap diagram suggests only the review from 2022, without tangible completion timeframes that councils require, for their own planning and to give certainty to all affected parties.

Attachments: 1. Road Map for Review of the STRLUS (3)
2. Background Paper (4)
3. Information Sheet – Reviewing and Amending the Regional Land Use Strategies (7)

Ian Nelson
GENERAL MANAGER

11.7.3 DOG MANAGEMENT POLICY REVIEW

(File No.)

EXECUTIVE SUMMARY**PURPOSE**

To obtain endorsement by Council of the draft revision of Council's Dog Management Policy, including a Schedule of Declared Areas, and to initiate a 4-week period of public consultation.

RELATION TO EXISTING POLICY/PLANS

The Policy is consistent with Council's Strategic Plan 2016-2026 and existing policy on user pays fees and charges.

LEGISLATIVE REQUIREMENTS

The Dog Control Act 2000 requires council to review its Dog Management Policy every 5 years. The policy contains a code of responsible dog ownership, a fee structure, the provision of declared areas and any other relevant matters.

CONSULTATION

A workshop was held with Aldermen in October 2020 with a follow-up survey of Aldermen through Have Your Say completed in November 2020. Discussions and meetings have been held with relevant organisations such as Dogs Tasmania, Dogs Homes of Tasmania, RSPCA, Eastern Shore Dog Club, Hobart Dog Walking Association, Birds Tasmania, RSL Tasmania, Bonorong Wildlife Park, Tasmanian Equestrian Centre, Coastcare groups and Parks and Wildlife Service. Discussions were also held with internal stakeholders in Asset Management such as the Tracks and Trails and Natural Areas and Recreational Planning groups.

FINANCIAL IMPLICATIONS

The fee structure contained within the policy will aim to recover 70% of the costs associated with dog management.

RECOMMENDATION:

That Council endorses the revised draft Dog Management Policy including the Schedule of Declared Areas (January 2021) and authorises its release to the public for a 4-week period of public consultation.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1** The Dog Control Act 2000 requires councils to develop and implement a policy relating to dog management within its municipal area, and states that this policy must be reviewed every 5 years.

The Act requires councils to invite public submissions relating to the policy and to consult with any appropriate organisation or body. Any submissions and outcomes of consultation are to be considered prior to adopting the policy.

- 1.2** The Dog Control Act was proclaimed on 4 April 2001, and the first Dog Management Policy was formally adopted by Council on 14 January 2002. There have been two reviews of this policy since that time which were adopted by Council on 25 February 2008 and 16 November 2015 respectively.
- 1.3** The current Dog Management Policy was adopted in 2015 after extensive public consultation and is now due for review.

2 REPORT IN DETAIL

- 2.1** The Policy is required to include:

- A code relating to responsible dog ownership;
- A fee structure;
- The provision of declared areas; and
- Any other matter.

- 2.2** The following changes to the Policy are proposed:

CODE

The Code of Responsible Dog Ownership is a voluntary code that defines best practice principles for people considering dogs as companion animals. The code includes suggested actions pre and post purchase of a dog.

While there have been no changes to the principles outlined within the Code of Responsible Dog Ownership, the code has been updated in format and language in line with council's adopted style guide.

FEE STRUCTURE

The fee structure provides guidelines within which councils can set annual fees for dog management. This fee structure is consistent with existing policies relating to user pays fees and charges and recognises efforts that owners have taken that signify responsible dog ownership.

The current fee structure is considered overly complicated and changes are being made to simplify and remove some historic elements of the fee schedule which are causing an impediment to the rollout of Project Connect. Simplification of the fee schedule will support the rollout of Project Connect. The objective of that project is that owners will be able to register their dogs on-line instead of needing owners to attend the Council offices and the Customer Contact Group processing the registration.

The following changes are proposed to the fee structure:

- Extending the pension discount to apply to all dogs owned by a pension card holder, currently a pensioner can only get the discounted rate on one dog.
- Rationalise the categories of dogs from seven to four categories by removing the separate fee for purebred dogs, working dogs and racing greyhounds. These dogs would be moved into either the desexed dog or entire-dog categories.
- Removing the historic \$5 early payment fee which is a remnant of the 2002 policy.
- Changing the fee incentives for trained dogs by removing the one-off discount for Grade 3 trained dogs. Dogs reaching the Grade 4 (all off-lead training) will continue to receive a lifetime 50% discount.
- The 50% discount for dogs reaching 6 months of age after 1 December be discontinued.
- No fee will be charged to owners registering their dogs from 1 May to 30 June. This will apply to new dogs to the area, overdue registration fees for dogs already on the Register of Dogs will be at the appropriate fee.
- Increasing the reliance on the general rate to 30% in light of changes to service levels and increased usage of Council facilities by out of area users.

DECLARED AREAS

The Dog Control Act provides for 4 types of declared areas:

- Exercise areas, where dogs can be either on-lead or off-lead;
- Training areas, areas designated for training such as obedience classes;
- Prohibited areas, where dogs are excluded to protect sensitive habitat for native fauna; and
- Restricted areas, where dogs can be restricted from entering during specified areas, days or seasons or at all times. These restrictions may be classified as either on or off-lead.

Several changes are proposed to the declared areas, these are as follows:

- The Tangara Trail will have the same declaration as the Clarence Coastal Trail and the Clarence Foreshore Trail, that is it will become an on-lead dog exercise area due to the increased usage of this trail by cyclists and pedestrians.
- All Council bushland reserves and nature recreation areas will become on-lead areas in order to protect local fauna and flora. This will include, but is not limited to, the Waverley Flora Park, Bedlam Walls and Natone Hill areas.
- ANZAC Park in Lindisfarne will be changed to on-lead at all times due to the ongoing development of this park as a memorial park.
- A new off-lead dog park be established in Natone Street Lindisfarne to compensate for the removal of ANZAC Park as an off-lead area.
- The disused Lauderdale tip site is to be developed into a fenced off-lead dog exercise area.
- Cambridge Dog Park (under development) is to be declared as an off-lead dog exercise area.
- 3/22 Rosny Hill Road (Rosny Golf Course site) is to become an on-lead exercise area if this area ceases to be a golf course in 2021.
- Roscommon Reserve (including Lauderdale Wetland Reserve) will become an on-lead exercise area due to the shared usage and sporting activities in this area and to protect local flora and fauna.
- A breed specific off-lead exercise area for greyhounds is to be established within easy access to the majority of greyhound owners.

Three sites are identified as being suitable for this purpose, and it is recommended to put this out to public consultation with the following options:

- Subject to City Heart concept planning, Charles Hand Park off Bastick Street in Rosny; or
- Conara Foreshore Reserve, Rosny Esplanade in Montagu Bay; or
- Goodwins Road in Clarendon Vale.

Maps have been attached to this report for consideration. A separate declaration will need to be made for this land to permit greyhounds off-lead.

- Roches Beach at Lauderdale – 2 options are proposed. It is recommended to put this out to public consultation with the following options:

- The current restrictions to remain, which are:
 - Roches Beach (from Bambra Street, north to 11 Kirra Road) dogs to be on-lead at all times; and
 - Roches Beach (from Bambra Street south to Mays Point Road) no dogs from 10.00am – 6.00pm from 1 December to 31 March; at all other times dogs can be off-lead under effective control.
- Summer restrictions removed from the beach to enable shared use of:
 - Canal north to Bambra Street/Bambra Reef, dogs can be off-lead under effective control; and
 - Canal south to Mays Point dogs will be restricted from entering at all times.

Maps have been attached to this report for consideration.

- Bellerive Beach – 3 options are proposed. It is recommended to put this out to public consultation with the following options:
 - From First Bluff to Beach Street – no dogs at any time. From Beach Street to Second Bluff – No dogs from 10.00am – 6.00pm from 1 December to 31 March; at all other times dogs can be off-lead under effective control. This is the current declaration; or
 - From First Bluff to Beach Street – no dogs at any time. From Beach Street to Second Bluff – No dogs 1 December to 31 March; at all other times dogs must be on-lead; or
 - The entirety of Bellerive Beach becomes prohibited to dogs at all times.
- Howrah Beach – 4 options are proposed. It is recommended to put this out to public consultation with the following options:
 - No dogs from 10.00am – 6.00pm from 1 December to 31 March; at all other times dogs can be off-lead under effective control. This is the current declaration; or
 - No dogs from 10.00am – 6.00pm from 1 December to 31 March; at all other times dogs must be on-lead; or
 - No summer restrictions - dogs can be off-lead under effective control at all times; or
 - No summer restrictions - dogs to be on-lead at all times.

OTHER MATTERS

No changes are proposed to the existing elements of Other Matters section of the Policy but information on impounded dogs has been added. This information had previously been included in the Code of Responsible Dog Ownership but is more appropriate in this category.

3. CONSULTATION

3.1. Community Consultation Undertaken

Not applicable.

3.2. State/Local Government Protocol

The Parks and Wildlife Service was consulted as were groups within the Environmental Management branch of Council. A workshop and follow-up survey were held with Aldermen in respect to the policy review.

3.3. Other

Relevant organisations including Dogs Tasmania, Dogs Homes of Tasmania, RSPCA, Eastern Shore Dog Club, Hobart Dog Walking Association, Birds Tasmania, RSL Tasmania, Bonorong Wildlife Park, Tasmanian Equestrian Centre, Pipeclay Coastcare and Parks and Wildlife Service were consulted.

3.4. Further Community Consultation

The Dog Management Policy review community consultation will be undertaken in accordance with the proposed consultation plan outlined below and consistent with the proposed Community Engagement Policy 2020.

- **Consultation Plan**

- Prepare a survey through Your Say.
- Prepare posts for social media and media release for Council website.
- Prepare an edition of DogNews to be emailed and posted to registered dog owners.
- Advise organisations previously consulted that the draft Policy is now open for review.
- Notification in front foyer of Council chambers.

- **Consultation Aim**

To gain community feedback of the revised Dog Management Policy and Schedule of Declared Areas.

- **Community Engagement Tools**

In accordance with Clause 8 of the Community Engagement Policy 2020, this consultation will use:

- Your Say Clarence
- City of Clarence website
- Social media
- Media release
- Direct email/letter through DogNews

- **Consultation Timing**

The consultation is anticipated to commence in March 2021 and be open for 4 weeks. The results of the consultation are anticipated to be available in late April 2021.

Further consultation may be undertaken at Council request.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

The Policy is consistent with existing strategic plans and financial policies.

5. EXTERNAL IMPACTS

The revised Dog Management Policy will impact certain parts of the community dependent on the scope of any approved changes.

6. RISK AND LEGAL IMPLICATIONS

Council is required to review its Dog Management Policy once every 5 years.

7. FINANCIAL IMPLICATIONS

Dog management is partly funded through the general rate. This is provided as a community service obligation. The policy aims to set this contribution to 30%. There will be some additional costs in relation to fencing for a Greyhound exercise area (if approved) and amended signage for areas where declarations have changed.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

- 9.1.** The Policy aims to provide an approach to dog management in Clarence that balances the needs of both dog and non-dog owners. Public consultation is an important part of this process to enable a considered outcome as well as being a legislative requirement.
- 9.2.** Changes have been proposed to the Code of Responsible Dog Ownership, the fee structure, other relevant matters and declared areas.

Attachments: 1. Draft of the revised Dog Management Policy (13)
2. Draft of the revised Schedule of Declared Areas. (8)
3. Maps of proposed Bellerive Beach exercise options (3)
4. Maps of proposed Howrah Beach exercise options (4)
5. Maps of proposed Greyhound off-lead areas (3)
6. Maps of proposed Roches Beach exercise options (2)

Ian Nelson
GENERAL MANAGER

11.7.4 KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE**EXECUTIVE SUMMARY****PURPOSE**

To reconsider a request to grant a further extension of time to Chambroad Overseas Investment Australia Pty Ltd to achieve substantial commencement of the Kangaroo Bay Hotel and Hospitality School Site development, in accordance with the Sale and Development Agreement.

RELATION TO EXISTING POLICY/PLANS

Clarence City Council Strategic Plan 2016 – 2026 is relevant.

LEGISLATIVE REQUIREMENTS

Nil

CONSULTATION

Not applicable.

FINANCIAL IMPLICATIONS

There are no financial implications at this time. Should an alternative recommendation be adopted, there may be significant financial implications for council.

RECOMMENDATION:

That Council:

- A. Rescinds its 21 December 2020 decision in relation to Item 3.1.
- B. Notes the written request for an extension of time by Chambroad Overseas Investment Australia Pty Ltd (Chambroad), dated 7 October 2020.
- C. Acknowledges the challenges and circumstances that have confronted Chambroad and the University of Tasmania (UTAS) as a consequence of the global COVID-19 pandemic, and that the non-compliance with the agreed time limit for substantial commencement arises for reasons not within the reasonable control of Chambroad.
- D. Authorises the General Manager to write to Chambroad to confirm council's grant of an unconditional extension of time to 13 October 2022 in accordance with the terms of the Sale and Development Agreement.
- E. Authorises the General Manager to separately write to Chambroad to negotiate non-contractual conditions which will allow council to be regularly updated in respect to Chambroad's progress towards substantial commencement (as specified by the Sale and Development Agreement).

NB: An Absolute Majority is required for a decision on Recommendation A.

KANGAROO BAY HOTEL AND HOSPITALITY SCHOOL SITE /contd...

ASSOCIATED REPORT**1. BACKGROUND**

1.1. The background to this matter has previously been reported to council on 12 October 2020 and 21 December 2020.

1.2. At its Meeting of 21 December 2020, council resolved the following:

“That Council:

A. Notes the written request for an extension of time by Chambroad Overseas Investment Australia Pty Ltd (Chambroad), dated 7 October 2020, including the proposed measures to monitor the project and provide updated information to Council on a regular six-monthly basis during the extension period.

B. Acknowledges the challenges and circumstances that have confronted Chambroad and the University of Tasmania (UTAS) as a consequence of the global COVID-19 pandemic, and that the non-compliance with the agreed time limit for substantial commencement arises for reasons not within the reasonable control of Chambroad.

C. Authorises the General Manager to write to Chambroad to offer an extension of time in accordance with the terms of the Sale and Development Agreement, subject to the following conditions:

a. That the time for substantial commencement be no later than 13 October 2022.

b. That the Mayor and General Manager be briefed on progress immediately following each six-monthly review meeting, or at any other time that a critical decision related to the site or project is to be made, with an update report to be provided for tabling in open council by the Mayor at the following meeting of Council.

c. Prior to any decision to commence works at the site, the General Manager must be notified in writing. Chambroad is to provide council access, via an independent probity auditor appointed by the General Manager, to the following executed agreements which will provide evidence that key agreements are in place to support a reasonable conclusion that Chambroad will be able to complete the project. The key agreements are:

i. The agreements with UTAS (or another educational partner) in respect to the collaboration and rental of the education and related facilities;

- ii. *The agreement with a hotel operator in respect to the management agreement of the five-star hotel facility; and*
- iii. *The head contract with the principal construction contractor for construction of the buildings and other onsite facilities as approved by the relevant development permit, to the practical completion stage. If there is more than one head construction contract, then each contract shall be provided.*
- d. *Upon completion of the requirements set out at Recommendation C(c) above, the General Manager will issue Chambroad a certificate that confirms Council is satisfied that Chambroad can reasonably complete the project.*
- e. *That Chambroad provides acknowledgment that the extension of time and conditions set out above do not alter the buy-back provisions contained in the Sale and Development Agreement, which will become active from the 14 October 2022 if substantial commencement has not occurred.*
- f. *That Chambroad provides acknowledgment accepting Council's offered extension including the conditions contained within this Recommendation C.*

D. Authorises the General Manager to take all reasonable steps to conclude the arrangements set out at Recommendation C above.

E. Acknowledges Chambroad's offer to make the site available on a temporary basis for community use prior to development commencing.

F. Authorises the Mayor and General Manager to communicate this decision publicly following provision of advice to Chambroad Australia."

- 1.3.** In accordance with the council decision of 21 December 2020, council officers have been negotiating with Chambroad the conditions set out in Recommendation C above. Chambroad has now advised that its Board is not willing to accept all the conditions and that it will not accept the conditions as a variation to the SDA. Chambroad has suggested that any conditions be negotiated as non-contractual terms through an exchange of letters or a similar mechanism.

- 1.4.** It is relevant to note that at no point prior to 21 December 2020 did Chambroad advise council that it had any concerns with those conditions. It was clear that the conditions would need to be approved by the Chambroad Board, but there was no indication that the proposed conditions would be rejected in whole or in part. It was not until 6 January 2021 that Chambroad formally advised that its Board would not agree to the proposed conditions. In anticipation of this advice, council sought external legal advice on 4 January 2021 and received that advice on 5 and 6 January.
- 1.5.** It is now clear that while Chambroad is willing to provide regular updates they are reluctant to provide council with access to concluded construction, hotel operator and education provider agreements in the manner originally contemplated by council. Significantly, the proposed approach excludes altogether any confirmation of hotel and education provider agreements, and only high-level access to confirm completed construction agreements.
- 1.6.** In the circumstances, with the conditions as set out in the 21 December 2020 recommendation not being agreed to by Chambroad, it is now necessary for the matter to be brought back to council for further consideration and instruction.
- 1.7.** It is recommended that council's 21 December 2020 decision be rescinded as set out in the Recommendation to this Report. If resolved in the affirmative, this would overturn the previous decision of 21 December 2020. Council is then able to make a new decision. It is recommended that the new decision be in two parts. The first part – to grant an unconditional extension in accordance with the Sale and Development Agreement terms, to 13 October 2022. The second part – to authorise the General Manager to negotiate non-contractual arrangements aimed at keeping council informed and updated on Chambroad's progress toward substantial commencement in accordance with the terms of the Sale and Development Agreement.

2. REPORT IN DETAIL

- 2.1.** On 7 October 2020, Chambroad wrote to council and requested a time extension to reach substantial commencement by 13 October 2022. The letter detailed the reasons for the request, being that the project has been impacted by COVID-19 and consequent delays in finalising its commercial agreement with UTAS.
- 2.2.** The letter also outlined a number of specific conditions which Chambroad proposed could be attached to the time extension to provide increased transparency and comfort to Council that the project would still proceed. The conditions outlined in the letter were discussed with Aldermen at workshops on 7 and 28 September 2020. Within the context of proposed conditions, council officers worked with both Chambroad and Aldermen to develop conditions that were more contractually robust. These conditions formed part of the recommendations put to council on 12 October and 21 December 2020 respectively.
- 2.3.** The recommendation put to council on 12 October 2020 was lost. No alternative motion was put.
- 2.4.** As there was no decision arising from council's 12 October 2020 meeting, external legal advice was sought to clarify council's risk and liabilities in particular circumstances. The central focus of the advice was clause 6A of the SDA and what that clause required and permitted council to consider.
- 2.5.** The external legal advice advised that by failing to consider the request for the time extension in accordance with the SDA, council was in material breach of the SDA and needed to take immediate action to remedy that breach. The failure to remedy the breach created the real risk that Chambroad could terminate the SDA for breach of contract and consequently make a claim for substantial damages. That circumstance still exists.
- 2.6.** On 21 December 2020 council reconsidered the request for extension with the same conditions proposed in the 12 October 2020 report and resolved to grant the extension subject to those conditions.

- 2.7.** Following council's decision, Chambroad representatives advised council that the Chambroad Board would not agree to those conditions in full and would not agree to the conditions forming a variation to the SDA. In particular, Chambroad does not agree to the conditions related to Recommendation C(c)(i) and (ii) and wishes to only provide evidence sufficient to satisfy council that construction contracts are in place (Recommendation C(c)(iii)). Chambroad representatives have suggested that the conditions be non-contractual and operate to keep council advised of Chambroad's progress towards substantial commencement. This would still allow council to use the information provided to inform future decisions regarding Chambroad's progress toward substantial commencement and its achievement of the SDA requirements.
- 2.8.** In discussions between council officers and Chambroad representatives, it is clear that there is a mutual desire to ensure the conditions require Chambroad to keep council updated on their progress to substantial commencement including providing 6 monthly review reports.
- 2.9.** Council sought external legal advice and was advised firstly, that in accordance with the terms of the SDA, it is only the time extension that council must contractually consider. There is no contractual right for either party to impose conditions. Secondly, and following from the first point, any conditions must be mutually agreed between council and Chambroad. In this regard there is a contractual 'offer and acceptance' process in play.
- 2.10.** In these circumstances it is recommended that council rescind its 21 December 2020 decision and make a new decision in two distinct parts.
- 2.11.** Firstly, to grant the requested extension of time unconditionally in accordance with the terms of the SDA.
- 2.12.** Secondly, providing the General Manager with instructions to negotiate non-contractual terms (via an exchange of letters or similar) that put in place arrangements to keep council informed of progress toward substantial commencement during the extension period.

2.13. Relevant to the recommended course of action set out above, if council was to now grant an extension unconditionally, the buy-back clause under the SDA would be preserved.

2.14. In any event, Council is still required to make a decision on the request for extension prior to 13 April 2021.

3. CONSULTATION

3.1. Community Consultation Undertaken

No community consultation has been undertaken regarding this matter.

3.2. State/Local Government Protocol

Not applicable.

3.3. Other

This matter was discussed with Aldermen at workshop held on 1 February 2021.

3.4. Further Community Consultation

Should Council approve the recommendation, 6 monthly updates can be provided to council (and consequently the community) via the tabling of updates at council meetings.

- **Consultation plan**
Not applicable.
- **Consultation aim**
Not applicable.
- **Community engagement tools**
Not applicable.
- **Consultation timing**
Not Applicable

4. STRATEGIC PLAN/POLICY IMPLICATIONS

The Clarence City Council Strategic Plan 2016 – 2026 includes the following goal:

“Clarence is a city that fosters creativity, innovation and enterprise.”

The goal is supported by strategies. The following two strategies are relevant:

“5.5 Build upon the existing range of community and cultural assets at Rosny Park / Bellerive to establish a cultural and creative precinct as a place where ideas, creativity, learning and innovation are developed, shared and promoted.

5.10 Encourage and facilitate business enterprise through strategies within economic development, land use planning and cultural development programs.”

The proposal by Chambroad/UTAS to develop a combined hotel and hospitality school meets the strategic goal and strategies of Council, by fostering learning, innovation and business enterprise within the City.

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

Council has been provided with confidential legal advice regarding the SDA and, specifically, the operation and effect of the time extension provisions in respect to substantial commencement.

7. FINANCIAL IMPLICATIONS

Council has been advised that there are potentially significant financial implications should the time extension not be granted in accordance with the terms of the SDA.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

Council has received a request for time extension from Chambroad Australia in accordance with the terms of the Sale and Development Agreement. Council approved an extension subject to conditions on 21 December 2020. Chambroad has not fully agreed to those conditions. In the circumstances it is recommended that the granting of a time extension in accordance with the SDA be separated from the conditions and that the proposed conditions be resolved via an exchange of letters or similar on a non-contractual basis. This approach will resolve the time extension in accordance with the terms of the SDA and preserve the buy-back clause contained in the SDA.

Attachments: Nil

Ian Nelson
GENERAL MANAGER

12. ALDERMEN'S QUESTION TIME

An Alderman may ask a question with or without notice at Council Meetings. No debate is permitted on any questions or answers.

12.1 QUESTIONS ON NOTICE

(Seven days before an ordinary Meeting, an Alderman may give written notice to the General Manager of a question in respect of which the Alderman seeks an answer at the meeting).

Nil

12.2 ANSWERS TO QUESTIONS ON NOTICE

Nil

12.3 ANSWERS TO QUESTIONS WITHOUT NOTICE – PREVIOUS COUNCIL MEETING**Ald Mulder**

On October 21 last I understand you [Mayor Chipman], the General Manager and Ald Blomeley attended an invitation only breakfast meeting with the Minister for Infrastructure For the record Mr Mayor, in what capacity did you attend that party political fundraising event?

ANSWER

(Mayor) I attended in my official capacity believing it to be a meeting convened by the Minister. I wasn't aware at the time I accepted the invitation it was a party only event.

(Ald Blomeley) There were non-party members there as well and members of the community throughout southern Tasmania. It was well attended and people were very keen to engage in that type of forum with the Minister for Infrastructure so people like yourself, Mr Mayor and others who are not party members were present at that function.

Ald Kennedy

Regarding our walking trail from Lauderdale to Cremorne, I would just like to know what the current state of the steps is at the Mays Point entrance. A walker recently broke her leg in 3 places while trying to walk down the steps.

ANSWER

The steps in question are in a coastal reserve which is privately owned and not the responsibility of council. Following a decision of council, the process of transferring the land to council ownership is underway. However the likely timing of this is unknown.

Ald von Bertouch

1. When will the design and costing of the proposed berm/fence at the South Arm Skatepark be presented to an Aldermen's workshop?

ANSWER

It is anticipated the information will be ready in March 2021 for a workshop with Council.

Question contd

Will the design and its costing be considered in the 2021/22 budget deliberations without the design and its associated costing being determined at a Council Meeting?

ANSWER

(Mr Graham) There was a council decision for the General Manager to report to council on the costs of the berm but I will bring to a workshop the costs of the playground and the berm and then I will seek direction from council to report back on the costs of the berm.

2. Will a concept plan and associated costing be considered in the 21/22 budget deliberations for the proposed Play Space at the South Arm Oval?

ANSWER

(Mr Graham) I will take the costs for the playground and the berm to a workshop and I will seek direction from council.

Ald Blomeley

1. Following the community led petitions and the subsequent decisions of this council to undertake pedestrian safety works in both Bellerive and Lindisfarne villages can you please provide an update as to where these two projects are at?

ANSWER

In relation to Lincoln Street pedestrian crossing the consultation is complete with the local business owners and was well received. We are completing the quotation document and anticipate having that out to contractors in February. In relation to the Bellerive village pedestrian and traffic calming consultation that was completed before December, was well received and the survey results we are compiling at the moment to come to a council workshop, hopefully that should be ready in February.

2. Following the release of the preliminary plans of the ANZAC community sports pavilion and engagement with club users over the last couple of months can you please provide an update as to where this project is at?

ANSWER

The ANZAC Park plan is going through internal review by council officers and the architects are required to make some further changes and then we will be doing another engagement phase with the clubs at ANZAC Park in relation to the latest plans.

(Mayor) Do you intend to bring it to a workshop before going out to further consultation?

ANSWER

After we have discussed the next review of the plans with the clubs then we will go to a workshop.

Question contd

Is that all the ANZAC Park users together or club by club?

ANSWER

A joint user group meeting involving the clubs is being arranged for February 2021.

Ald Peers

I have had a question from a ratepayer regarding our parking signage. With our parking signage does it need to have days on the bottom of it? There is parking signage in Winkleigh Place that has hours but no days mentioned below. Do we need to have days or is it fine not having days on it?

ANSWER

(Mr Graham) I will confirm that. If it does not have days then it applies to every day I would envisage but I will confirm the actual location with Ald Peers. {Further response} Parking restrictions apply to the days indicated on the signs. If no days are stipulated, the parking restrictions apply every day.

Ald James

1. In your media release of 21 December 2020 you made some comments but in particular paragraph five says and I quote "the Council has now approved the extension of time with several new conditions that protect the interests of council and also preserves the buy back option". My question is should there be no substantial commencement of the project by the deadline in October 2022 then I understand that preserves and this means that the buy-back option can occur however if there is no substantial commencement does that mean that the buy-back option is still on the books?

ANSWER

(General Manager) That is my understanding. At 14 October 2022 the buy-back option is a live issue again.

Question /contd

So if in fact substantial commencement did occur and that is basically some footings were put down and it is deemed under the Sale and Development Agreement then if there were some footings put down then in fact that would meet the conditions of the agreement and there would be no buy-back option?

ANSWER

(General Manager) It is more than footings. Substantial commencement includes in-ground works and ground level works so it is not simply a case of digging some holes and pouring some concrete. It requires building permits and plumbing permits and for those in ground works to have been executed.

Question contd

It is a little bit of additional information that I need to seek and that is that the construction of the building in its entirety may not necessarily proceed other than those in-ground works which would basically put some plumbing, some infrastructure at a certain level on that ground but not the completion of the building.

ANSWER

(General Manager) In terms of the Sale and Development Agreement yes, but you will recall that council also was seeking conditions regarding the contractual basis for a variety of activities prior to that occurring so that we had some comfort that once construction does commence that it is likely to conclude as well, it won't be a start / stop exercise. That was the whole purpose of discussing those proposed conditions to be put to Chambroad.

2. In relation to Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 and on page 176 of our agenda it says and I quote Regulation 15 of that particular regulation provides that council may, may consider certain sensitive matters in closed meeting. In our policy which I have obtained a copy of that it says and I quote council in accordance with the procedures and intentions and intentions of the Local Government Procedures will deal with the following matters in closed meeting. Does the regulation 15 as presented under the regulations take precedence over the council policy in relation to “may” in the former and “will” in the latter.

ANSWER

(Mayor) The regulations certainly take precedence.

12.4 QUESTIONS WITHOUT NOTICE

An Alderman may ask a Question without Notice of the Chairman or another Alderman or the General Manager. Note: the Chairman may refuse to accept a Question without Notice if it does not relate to the activities of the Council. A person who is asked a Question without Notice may decline to answer the question.

Questions without notice and their answers will be recorded in the following Agenda.

The Chairman may refuse to accept a question if it does not relate to Council's activities.

The Chairman may require a question without notice to be put in writing. The Chairman, an Alderman or the General Manager may decline to answer a question without notice.

13. CLOSED MEETING

Regulation 15 of the Local Government (Meetings Procedures) Regulations 2015 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matters have been listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

13.1 APPLICATIONS FOR LEAVE OF ABSENCE

13.2 CONTRACTUAL MATTER

This report has been listed in the Closed Meeting section of the Council agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulation 2015 as the detail covered in the report relates to:

- contracts and tenders for the supply of goods and services;
- applications by Aldermen for a Leave of Absence;

Note: The decision to move into Closed Meeting requires an absolute majority of Council.

The content of reports and details of the Council decisions in respect to items listed in “Closed Meeting” are to be kept “confidential” and are not to be communicated, reproduced or published unless authorised by the Council.

PROCEDURAL MOTION

“That the Meeting be closed to the public to consider Regulation 15 matters, and that members of the public be required to leave the meeting room”.