

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
MONDAY 13 JANUARY 2020

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

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

1. APOLOGIES

Nil.

2. CONFIRMATION OF MINUTES

(File No. 10/03/01)

RECOMMENDATION:

That the Minutes of the Council Meeting held on 2 December 2019, as circulated, be taken as read and confirmed.

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

An Aldermen's Meeting Briefing (workshop) was conducted on the Friday immediately preceding the Council Meeting.

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

(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

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

Jenny Rayner has given notice of the following question:

ROSNY HILL

On 20 October 2019, the Sunday Tasmanian quoted Mr Jock Campbell, as former Mayor of Clarence, as follows: *“The cost of trying to maintain the (Rosny) hill for just a select few is too much for all tiers of government”*.

The statement is clearly linked to Mr Campbell’s former role as Mayor.

Does the current Council endorse this statement?

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

Nil.

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 VON BERTOUCHE
NATIONAL AND TASMANIAN BUSHFIRES – CLARENCE CITY COUNCIL
SUPPORT FOR REPARATION, ADAPTATION AND MITIGATION MEASURES**
(File No 10-03-05)

In accordance with Notice given Ald von Bertouch intends to move the following Motion:

“That Council:

1. writes, through the Mayor, to the Local Government Association of Tasmania (LGAT) expressing its grave concern as to the scale and severity of the National and Tasmanian bushfires, and urges LGAT to advocate for co-ordinated policies and actions from the three levels of Government, as to bushfire reparation, adaptation and mitigation;
2. donates, on behalf of the citizens of Clarence, \$20,000 to the Australian Red Cross Disaster Relief Fund, utilising funds from Council’s General Reserve (noting that the donation is not budgeted within the FY2019/20 Estimates);
3. writes, through the Mayor, to other Tasmanian Councils currently affected by bush-fire, offering in-kind support and resources to those communities”.

EXPLANATORY NOTES

Several Australian States, including Tasmania, have recently experienced catastrophic bushfires. All levels of government have been involved in the immediate tangible responses to these disasters, however a co-ordinated national approach to reparation, adaptation and mitigation needs to be considered and determined as soon as possible.

The methods of inquiry and decision making could include a royal commission; a parliamentary commission of inquiry; and/or a meeting of the Council of Australian Governments (COAG). COAG is made up of the Prime Minister, state and territory First Ministers and the President of the Australian Local Government Association (ALGA). According to its website: “Its role is to manage matters of national significance or matters that need co-ordinated action by all Australian governments”. It usually meets twice a year, and the next meeting is scheduled for 13 March 2020. However, meetings can be called when needed.

In the very near future, consideration of and action by all levels of government working together needs to occur on issues relevant to the amelioration, control and prevention of bushfires, including national disaster response plans; long-term funding for compensation of volunteer firefighters; management of insurance claims; power network supply and prices; land management practices, particularly in national parks and public land; hazard reduction burning; and the nexus between climate change and extreme weather events, such as more frequent and intense bushfires as compared to previous seasons.

In the past areas within Clarence City Council and neighbouring municipalities have experienced severe bushfires. At those times there has been support from other jurisdictions within Tasmania and Australia. It is appropriate that Council, on behalf of the citizens of Clarence, takes a leadership role, via its membership of LGAT which is represented at a national level by ALGA, by stressing the importance of co-ordinated proactive policy and strategies measures which involve all levels of government. Council should also join other levels of government, businesses, celebrities and individuals in contributing financial and in-kind support for restoration and recovery activities to those communities which have suffered loss of human and animal life; property destruction and damage; and environmental degradation.

S R von Bertouch
ALDERMAN

GENERAL MANAGER'S COMMENTS

The donation of funds as proposed is not budgeted within the current Estimates. In accordance with the Local Government Act requirements, an absolute majority of Council is required to approve expenditure of unbudgeted funds.

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

September Quarterly Report pending.

Representative Reporting

- **TASWATER CORPORATION**

- **GREATER HOBART COMMITTEE**

An Initiation Workshop was held on Friday, 29 November 2019. The Meeting summary is attached (refer Attachment 1).

10.2 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES

Greater Hobart Act – Initiation workshop – Meeting summary

Friday, 29 November 2019

Work program purpose

The following broad purpose statement for the Work Program was agreed as a good starting point:

To create a more **liveable, accessible** and **productive** Greater Hobart area.

We will work collaboratively to identify principles, priority areas and implement actions that will deliver strategic, efficient and integrated land use planning and infrastructure outcomes.

Liveable, accessible and productive – will be explored through the drafting process to be clear on the scope and shared intent of these terms. It was also agreed that alternatives to 'liveable' would be further considered to reflect the intended positive and proactive urban design sought.

Work program key focus areas

The Greater Hobart Objectives were discussed through five key elements: strategic land use planning, transport, urban renewal, facilities/hubs, and other priorities.

The following priorities were identified:

1. Develop an overarching shared vision

The importance and benefits of establishing an agreed overarching vision for the Greater Hobart area, capturing the four council areas, was noted in the workshop.

In particular, the vision should set out the activity centres and cities that make up the Greater Hobart area, and provide an overview of the transport, urban renewal, development/redevelopment of facilities and hubs, and the aspirations and opportunities for the sub-region.

2. Update of the Southern Tasmania Regional Land Use Strategy

Informed by the vision, the development of a Metro Plan was identified as the key output desired from the first work program. This plan should be sufficiently detailed and spatially presented to enable it to be used to seek an update to the Southern Tasmania Regional Land Use Strategy.

3. Implementation of the Hobart City Deal and integration

The deliverables identified in the Hobart City Deal to support the achievement of the Greater Hobart Objectives were highlighted as priorities.

It was noted that the Work Program should refer to these, rather than duplicate the existing commitments, and in keeping with the vision and using the governance structures established through the Act, support integration in planning and delivery of the commitments across the Greater Hobart area.

4. Waste management

In addition to the Greater Hobart Objectives that focus on strategic land use planning, transport, urban renewal, development and redevelopment of facilities and hubs, a collaborative approach to waste management within the Greater Hobart area was highlighted as a focus area to be supported and delivered through the Work Program.

Next steps

The key outputs to deliver through the Greater Hobart Act were identified as:

- the Work Program (including the vision for the Greater Hobart area)
- preparing a Metro Plan to seek an update to the Southern Tasmania Regional Land Use Strategy.

A target date of end of 2020 was identified to deliver these. Once completed, the Metro Plan and a request to update the Southern Tasmanian Regional Land Use Strategy will be forwarded to the Minister for Planning for his consideration.

The Act is on track to be proclaimed in December 2019, with the supporting Regulations to come into effect in parallel.

This will enable the Greater Hobart Advisory Group (senior officials) and Greater Hobart Committee (elected officials) to commence meeting in the new year.

It was agreed that the first priority for the Advisory Group will be to provide guidance on how these outputs will be delivered.

Background overview discussed

The *Greater Hobart Act 2019* and supporting Greater Hobart Regulations 2019 are progressing through formalities that will see them come into effect in December 2019.

The Act has three key elements. It provides a framework for the four councils and Tasmanian Government to collaborate, by:

1. establishing a **governance structure** to work together and agree on priorities and actions (Greater Hobart Committee and Advisory Group)
2. setting in legislation the **Greater Hobart Objectives** to focus collaboration efforts
3. requiring the establishment of a **work program** to identify the actions that will be taken to achieve the Objectives

The workshop was convened to bring together the senior officials and elected members that will make up the formal governance structures for the Greater Hobart Act to discuss and identify the priorities for a shared work program.

The group was joined by Natalie Camilleri, Acting Executive Director, City Planning Infrastructure, Greater Sydney Commission, who provided insights into the work undertaken by the Greater Sydney Commission.

Attendees

Elected officials

Hon Michael Ferguson MP, attending in his capacity as the *Minister for State Growth*, and *Minister for Infrastructure and Transport*

Hon Roger Jaensch MP, attending in his capacity as the *Minister for Housing*, and *Minister for Disability Services and Community Development*

Alderman Doug Chipman, *Mayor, Clarence City Council*

Alderman Kristie Johnston, *Mayor, Glenorchy City Council*

Councillor Anna Reynolds, *Lord Mayor, Hobart City Council*

Councillor Dean Winter, *Mayor, Kingborough Council*

Senior officials

Kim Evans, *Secretary, Department of State Growth*

Brian Risby, *Director Planning Policy Unit, Department of Justice (Proxy for Ginna Webster)*

Mathew Healey, *Executive Director Engagement and Innovation, Department of Communities Tasmania (proxy for Michael Pervan)*

Allan Garcia, *Chief Executive Officer, Infrastructure Tasmania*

John Toohey, *Acting General Manager, Clarence City Council*

Tony McMullen, *General Manager, Glenorchy City Council*

Nick Heath, *General Manager, Hobart City Council*

Gary Arnold, *General Manager, Kingborough Council*

Supporting officers

Michael Kerschbaum, *Senior Advisor, Office of the Hon Michael Ferguson MP*

David Palmer, *Advisor, Office of the Hon Roger Jaensch MP*

Martin Blake, *Director Network Planning, Department of State Growth*

Anne Beach, *Director Projects and Policy, Department of State Growth*

Rod Malcomson, *Principal Policy Officer, Department of State Growth*

Sophie Smith, *Policy Officer, Department of State Growth*

Facilitator

Greg Hudson, *SCA Marketing*

Guest speaker

Natalie Camilleri, *Acting Executive Director, Greater Sydney Commission*

Venue:

Putalina Room, Ground Floor, Salamanca Building, 4 Salamanca Place, Hobart

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

The Weekly Briefing Reports of 2, 9 and 16 December 2019 and 6 January 2020 have been circulated to Aldermen.

RECOMMENDATION:

That the information contained in the Weekly Briefing Reports of 2, 9 and 16 December 2019 and 6 January 2020 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 AMENDMENT APPLICATION A-2019/1 – MODIFICATION TO THE
CAMBRIDGE INDUSTRIAL ESTATE SPECIFIC AREA PLAN**
(Application No A-2019/1)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to review Council’s decision of 30 September 2019 in light of the representations received during the public exhibition period in accordance with the requirements of Section 39 of the Land Use Planning and Approvals Act, 1993 (LUPAA).

The representations relate to a Section 33 application made for a planning scheme amendment to modify the Clarence Interim Planning Scheme 2015 Cambridge Industrial Estate Specific Area Plan (SAP).

RELATION TO PLANNING PROVISIONS

The majority of the site is zoned *Light Industrial*, partially zoned *Particular Purpose Zone 2 - Future Road Corridor* and partially zoned *Open Space*. Additionally, the site is subject to the provisions of the Bushfire Prone Areas and Waterway and Coastal Protection Areas codes and the Cambridge Industrial Estate Specific Area Plan.

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 (LUPAA) are references to the former provisions of LUPAA 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.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and one representation was received from the Department of State Growth (DSG).

The DSG’s concern relates to reduced setbacks to lots abutting “Precinct C” and is discussed within the body of this report.

RECOMMENDATION:

- A. That Council resolves, under Section 39(2) of the Land Use Planning and Approvals Act, 1993 to advise the Tasmanian Planning Commission that it considers the merits of the representations relating to the Clarence Interim Planning Scheme 2015 Cambridge Industrial Estate Specific Area Plan warrant the following modifications to Draft Amendment A-2019/1.
1. Amend F15.7.2.2 A2 to refer to a “10m” setback to “Precinct C” instead of “3m” as certified.
 2. Modify the corresponding performance criteria at F15.7.2.2 P2 to include an additional consideration (f) *“any the written advice from the Department of State Growth or its successor”*.
 3. Amend F15.7.2.2 A2 to refer to “Precinct C” instead of “Area C” as certified.
- 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 subject site has been subject to a complex history of planning applications. The relevant background of which was documented in the report considered by Council at its Meeting on 30 September 2019.

2. STATUTORY IMPLICATIONS

Pursuant to Section 39 of LUPAA, Council is required to consider the merits of any representations received and provide the Tasmanian Planning Commission (TPC) with:

- a copy of each representation received;
- a statement of its opinion as to the merits of each representation;
- its view as to whether any modification to the Amendments (as exhibited) should be made in light of the representations;
- the impact that the representations have on the draft amendment as a whole; and
- such recommendations in relation to the draft amendment as the authority considers necessary.

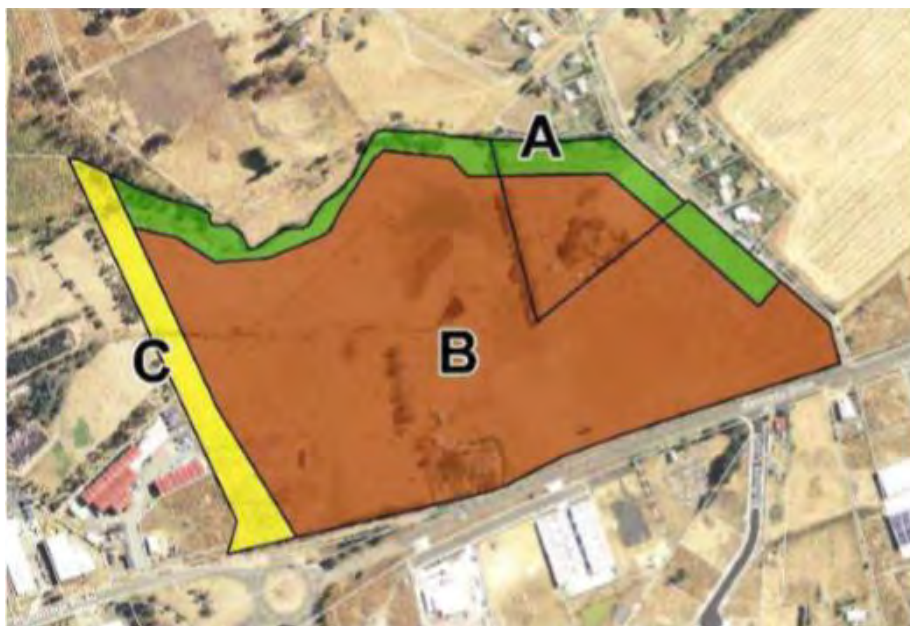
3. PROPOSAL IN DETAIL

3.1. The Site

The subject site comprises of all the land subject to the Scheme's Cambridge Industrial Estate Specific Area Plan (SAP) and described in detail in Council's previous report.

3.2. The Amendment

On 30 September 2019, Council resolved to initiate and certify a planning scheme amendment to replace the existing SAP controls at F15.7.2.1, F15.7.2.2 and F15.7.2.4 relating to Building Height, Setbacks and Landscaping respectively. The standards subject to the amendment relate to Precinct B only (shown below).



4. CONSULTATION

The proposal was advertised in accordance with the statutory requirements and one representation was received from the Department of State Growth (DSG).

At the closing of the exhibition period the applicant was provided with a summary of the DSG representation and invited to submit a supplementary submission. However, no further submissions were received from the applicant.

The DSG representation raised the following issues.

4.1. Reduced Setbacks to Precinct C

The DSG submit: *“State Roads does not support the proposed changes to Clause F15.7.2.2 Setbacks. State Roads does not support a reduction in setback requirements from ‘Area C’ under the Specific Area Plan (SAP) from 10m under the acceptable solutions. The proposed Cambridge Link Road, which has planning approval through Clarence Council and is soon to be constructed, will be a major road corridor that may be subject to widening or other road upgrades into the future. Therefore, it is considered unsuitable for a setback of only 3m to be considered an ‘acceptable solution’ under the provisions of the SAP”.*

To support this position, they submit that:

- The area identified as “Precinct C” in the SAP is now owned by the DSG.
- “Precinct C” has already been reduced in width through the approval of the SAP to allow a greater portion of the land to be developed for industrial uses.
- The 10m setback from the Cambridge Link Road boundary (“Precinct C”) specified in the current SAP reflects the width of the road corridor and DSG seeks to retain this requirement.

Comment

A title search of the subject land on 20 December 2019 indicated that “Precinct C” was still part of Lot 106 on SP177635 (CT:177635/106) owned by Linear Capital Pty Ltd. Even so, it is clearly evident that “Precinct C” will be developed as a state road and provide frontage to the approved lots within “Precinct B”.

It is agreed that the “Precinct C” road reservation corridor was reduced in width as part of the Tasmanian Planning Commission’s approval of A-2012/7 and Council’s approval of the subsequent subdivision application (SD-2014/41) approved on 2 February 2015.

Accordingly, it is recommended that the proposed amendment be modified as follows:

1. amend F15.7.2.2 A2 to refer to a “10m” setback to “Precinct C” instead of the originally certified 3m; and
2. modify the corresponding performance criteria at F15.7.2.2 P2 to include an additional consideration (f) *“any the written advice from the Department of State Growth or its successor”*.

This approach would address the concern raised by DSG while providing alternative solutions for future developments to be determined on their merits, having regard to any advice from DSG while leaving appeal rights open to both applicants and DSG.

5. OTHER ISSUES

At Clause F15.7.2.2 A2, the certified amendment refers to “Area C” rather than “Precinct C” as referred to in the remainder of the SAP. For consistency it is recommended that the proposed amendment be modified so that F15.7.2.2 A2 refers to “Precinct C” instead of the “Area C” as certified.

6. STATE POLICIES AND ACT OBJECTIVES

- 6.1.** The Strategic implications and assessment of the proposal against the objectives of Schedule 1 of LUPAA was detailed in Council’s initiation report dated 30 September 2019.
- 6.2.** The proposal is consistent with the outcomes of the relevant State Policies.
- 6.3.** There are no inconsistencies with Council’s adopted Strategic Plan 2016-2026 or any other relevant Council Policy.

7. CONCLUSION

In accordance with the requirements of Section 39 of LUPAA, Council is required to review its decision of 30 September 2019 in light of the representations received during the public exhibition period. In this instance one representation was received from the DSG and it is considered that the issue raised warrants minor modifications to the Certified Draft Amendment.

Attachments: 1. Certified Amendment (4)

Ross Lovell
MANAGER CITY PLANNING

INSTRUMENT OF CERTIFICATION



Clarence City Council

The Clarence City Council resolved at its meeting of 30 September 2019 that, Draft Amendment A-2019/1 of the Clarence Interim Planning Scheme 2015, meets the requirements specified in Section 32 of the *Land Use Planning and Approval Act 1993*.

Date 3 October 2019;

THE COMMON SEAL of the Clarence City Council was hereunto duly affixed in the presence of: -

A handwritten signature in blue ink, appearing to read 'C. Dea'.

ACTING CORPORATE SECRETARY



Clarence City Council

CLARENCE INTERIM PLANNING SCHEME 2015

AMENDMENT – A-2019/1

AMENDMENT TO PLANNING SCHEME ORDINANCE

To amend the Clarence Interim Planning Scheme 2015 as follows.

- (1) Delete Clause F15.7.2.1 relating to Building Height in the Cambridge Industrial Estate Specific Area Plan and replace with the following:

F15.7.2.1 Building Height

Objective: To provide for a building height that: (a) is necessary for the operation of the use; and (b) minimises adverse impacts on adjoining properties.	
Acceptable Solutions	Performance Criteria
A1 Building height must be not more than 10m.	P1 Building height must be necessary for the operation of the use and not cause an unreasonable impact on adjoining properties, having regard to: (a) the bulk and form of the building; (b) separation from existing uses on adjoining properties; and (c) any buffers created by natural or other features.

- (2) Delete Clause F15.7.2.2 relating to Setbacks in the Cambridge Industrial Estate Specific Area Plan and replace with the following:

F15.7.2.2 Setbacks

Objective: That building setbacks: (a) are appropriate for the site; and (b) do not cause an unreasonable loss of residential amenity to adjoining residential zones	
Acceptable Solutions	Performance Criteria
A1 Buildings must have a setback from a frontage of: (a) not less than 5.5m; (b) not less than existing buildings on the site; or (c) not more or less than the maximum and minimum setbacks of the buildings on adjoining properties;	P1 Buildings must have a setback from a frontage that provides adequate space for vehicle access, parking and landscaping, having regard to: (a) the topography of the site; (b) the setback of buildings on adjacent properties; and (c) the safety of road users
A2 A building must be setback a minimum of 3 m to a boundary shared with Area C.	P2 The setback of a building from a boundary shared with Area C must help to attenuate site impacts, taking into account: (a) the site's area and dimensions and the proportionate intrusion; (b) compatibility with buildings on adjacent lots in the streetscape; (c) compatibility with setback on the adjoining lot and whether the reduction would leave inadequate space between the buildings for a landscaped buffer to enhance the appearance of the area; (d) the setback on the opposite side of the site and whether the reduction will be offset by landscaping on that side; (e) whether the height and length of the wall are low or short enough to ensure there is minimal impact on the amenity of the adjoining lot including unreasonable overshadowing of any landscaped buffer strips.

- (3) Delete Clause F15.7.2.4 relating to Landscaping in the Cambridge Industrial Estate Specific Area Plan and replace with the following:

F15.7.2.4 Landscaping

Objective: That landscaping enhances the amenity and appearance of the streetscape where buildings are setback from the frontage.	
Acceptable Solutions	Performance Criteria
A1 If a building is set back from a road, landscaping treatment must be provided along the frontage of the site: (a) to a depth of not less than 5.5m; or (b) not less than the frontage of an existing building if it is a lesser distance.	P1 If a building is setback from a road, landscaping treatment must be provided along the frontage of the site, having regard to: (a) the width of the setback; (b) the width of the frontage; (c) the topography of the site; (d) existing vegetation on the site; (e) the location, type and growth of the proposed vegetation; and (f) any relevant local area objectives contained within the relevant Local Provisions Schedule.
A2 Along the eastern boundary of the development plan area (adjacent to Backhouse Lane), landscaping must be provided for a depth no less than 10 m in accordance with a landscaping plan approved by Council.	P2 Along the eastern boundary of the development plan area, landscaping or a design solution must be provided to avoid unreasonable adverse impact on the visual amenity of adjoining dwellings, having regard to the characteristics of the site and the characteristics of the adjoining land.

**THE COMMON SEAL OF THE CLARENCE CITY
COUNCIL HAS BEEN HERE UNTO AFFIXED
THIS 3 OCTOBER 2019, PURSUANT TO A
RESOLUTION OF THE COUNCIL PASSED THE
30 SEPTEMBER 2019, IN THE PRESENCE OF:**

CDea

ACTING CORPORATE SECRETARY

11.3.2 DEVELOPMENT APPLICATION PDPLANPMTD-2019/001837 – 158 BICHENO STREET, CLIFTON BEACH - CHANGE OF USE TO VISITOR ACCOMMODATION AND NEW OUTBUILDING**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a Change of Use to Visitor Accommodation and new Outbuilding at 158 Bicheno Street, Clifton Beach.

RELATION TO PLANNING PROVISIONS

The land is zoned Rural Living and subject to the Bushfire Prone Area, Waterway & Coastal Protection, Inundation Prone Area, Coastal Erosion Hazard, On-site Wastewater Management, Stormwater Management and Parking & 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 20 January 2020.

CONSULTATION

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

- visitor accommodation use;
- fire risk;
- risk to wildlife;
- vegetation removal; and
- future use of visitor accommodation.

RECOMMENDATION:

- A. That the Development Application for Change of Use to Visitor Accommodation and new Outbuilding at 158 Bicheno Street, Clifton Beach (Cl Ref PDPLANPMTD-2019/001837) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. No vegetation shall be removed at the property without the prior consent of Council.
3. The visitor accommodation unit must not be used for residential purposes.

Advice

- (a) As the existing outbuilding has already been substantially converted for habitable use, without Building and Plumbing approvals, advice should be sought from a Building Surveyor regarding the potential need for a Certificate of Substantial Compliance.
 - (b) A Plumbing permit will be required before works are to commence.
 - (c) The proposed works are located within a bushfire prone mapped area, as such a BAL and bushfire assessment and report from a suitably qualified person must be provided as part of the certified documents for the building permit application.
 - (d) The premises must comply with the requirements of the Public Health Act 1997 – Division 3 - Supplier of water from private water source. Prior to commencing operations, the applicant is required to make application to Council as a supplier of water from a private water source. An application can be obtained from Council at such time.
- 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

Planning approval D-1998/039 was granted on 11 May 1998 for a new dwelling at the property, including decommissioning of the existing dwelling.

D-1998/039 provided that the existing dwelling on the site revert to being used for domestic storage and workshop purposes only and not be used for self-contained habitation purposes, after the new dwelling is granted Occupancy.

In 2017, Building and Plumbing Notices were issued for use of the former dwelling (which required decommissioning as described above) as a habitable building as well as installation of an associated unapproved on-site wastewater system.

Should planning approval be granted for the current proposal, Council's Building and Plumbing Group have recommended an advice note to ensure building and plumbing requirements are addressed.

In addition, a recent site inspection revealed an existing carport adjacent the former dwelling. Clarification was sought from the applicant who advised that the existing carport is to be demolished as part of the proposal.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Rural Living 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:

- Planning Directive No 6 – Exemptions and Standards for Visitor Accommodation;
- Section 8.10 – Determining Applications;
- Section 13.0 – Rural Living Zone;
- Section E1.0 – Bushfire-Prone Areas Code;
- Section E6.0 – Parking and Access Code;
- Section E7.0 – Stormwater Management Code;
- Section E15.0 – Inundation Prone Areas Code;
- Section E16.0 – Coastal Erosion Hazard Code;
- Section E23.0 – On-Site Wastewater Management Code; and
- Section E27.0 – Natural Assets 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 approximate 2.46Ha internal lot (CT Ref: 20589/10) located on the southern side of Bicheno Street and contains an existing two storey dwelling with associated decks. The site also contains the former dwelling (which is now an outbuilding that has been partially refurbished for habitation), a carport, a garage, a tennis court along with a garden shed and enclosed garden structure. The existing development at the site is located towards the centre of the property and accessible via an existing driveway and turning circle.

The north portion of the site is heavily vegetated while the southern portion adjoining the coastal reserve is more sparse and consists of coastal vegetation.

3.2. The Proposal

The proposal is for a change of use of the former dwelling to visitor accommodation and new replacement carport adjoining the visitor accommodation unit.

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”.

Reference to these principles is contained in the discussion below.

4.2. Compliance with Scheme

The proposed visitor accommodation is subject to the Planning Directive No 6 Exemption and Standards for Visitor Accommodation in Planning Schemes.

The proposal meets the Directive's relevant Acceptable Solutions with the exception of the following.

Planning Directive No 6

- **Clause 3.1 A1 (a)** – The proposal is for visitor accommodation in the former dwelling (existing refurbished outbuilding).

Performance Criteria	Proposal
<i>“Visitor Accommodation must be compatible with the character and use of the area and not cause an unreasonable loss of residential amenity, having regard to:</i> <i>(a) the privacy of adjoining properties;</i>	The visitor accommodation will not cause an unreasonable loss of residential amenity to the adjoining property owners as it is over 18m from the closest neighbouring property, the property to the east (160 Bicheno Street) and approximately 80m to the dwelling of that property. The new 18m² carport would be attached to the visitor accommodation unit and would accommodate one vehicle. There is additional parking available on-site for another vehicle if required adjacent to the unit.
<i>(b) any likely increase in noise to adjoining properties;</i>	The visitor accommodation is unlikely to cause an unreasonable loss of amenity to adjoining properties as a result of noise. However, any noise issues would be subject to the requirements of the Environmental Management and Pollution Control Act 1994 (EMPCA) and can be managed by Council's Environmental Health Department.
<i>(c) the scale of the use and its compatibility with the surrounding character and uses within the area;</i>	The visitor accommodation unit and carport would have a footprint of 93m². The existing residential footprint would be 230m², made up of the existing dwelling and garage. Accordingly, the scale of visitor accommodation would not dominate the residential use on-site or be incompatible with the character of the area. In this regard, it is noted that the adjoining property to the south (130 Bicheno Street) contains holiday cabins.
<i>(d) retaining the primary residential function of an area;</i>	As the proposal is for a conversion of the existing outbuilding, the primary residential function of the property is retained.

<i>(e) the impact on the safety and efficiency of the local road network; and</i>	The property is not subject to a shared access arrangement, has an existing driveway with a turning circle on-site. Owing to this and the low number of anticipated vehicle movements, the proposal will not have an unreasonable impact upon the safety and efficiency of traffic on Bicheno Street.
<i>(f) any impact on the owners and users rights-of-way”.</i>	Not applicable – as mentioned above, the property does not rely on a right of way for access.

The proposal meets the Scheme’s relevant Acceptable Solutions of the Rural Living Zone and relevant Codes with the exception of the following.

Rural Living Zone

- **Clause 13.4.2 A2** – The proposed carport for the visitor accommodation unit would be setback less than 20m from the eastern side boundary.

Performance Criteria	Proposal
<i>“Building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:</i>	The proposed carport would be attached to the proposed visitor accommodation unit, 18m from the eastern side boundary and in between the unit and the existing driveway. The property in this location is flat and clear of vegetation, therefore the carport will not be more prominent as a result of the site’s topography.
<i>(a) the topography of the site;</i>	
<i>(b) the size and shape of the site;</i>	As previously mentioned, the lot is over 2Ha and the proposed carport would be 18m from the eastern side boundary. The carport would be 18m ² and in a previously developed part of the site towards the centre of the rectangular internal lot. The reduced setback will still maintain the desirable characteristics of the surrounding landscape.

<i>(c) the location of existing buildings on the site;</i>	As stated above, the carport would be attached to the proposed visitor accommodation unit (existing refurbished outbuilding) which will ensure the desirable characteristics of the surrounding landscape and amenity of the adjoining lots is maintained. The carport would replace an existing unapproved carport which is located closer to the nearest boundary than the proposal.
<i>(d) the proposed colours and external materials of the building;</i>	The carport would consist of two posts attached to the visitor accommodation unit with a Colorbond Dune roof which will blend with the coastal landscape.
<i>(e) visual impact on skylines and prominent ridgelines;</i>	Not applicable – the carport would not be on a skyline or ridgeline.
<i>(f) impact on native vegetation;</i>	Not applicable - the applicant has not included vegetation removal in the proposal and would be located in an area clear of vegetation.
<i>(g) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:</i> <i>(i) overlooking and loss of privacy;</i> <i>(ii) visual impact, when viewed from adjoining lots, through building bulk and massing;</i>	The proposed setback is sufficient to prevent an unreasonable adverse impact upon residential amenity through overlooking and loss of privacy. The nearest neighbouring dwelling is as previously mentioned approximately 80m from carport. There are also no visual bulk issues raised by the proposal as the maximum height of the carport is 2.29m while the visitor accommodation unit is 5.8m. The vegetation noted during the site visit appears to currently provide appropriate screening. Refer photos in Attachment 3.
<i>(h) be no less than:</i> <i>(i) 10m; or</i> <i>(ii) 5m for lots below the minimum lot size specified in the acceptable solution; or</i> <i>(iii) the setback of an existing roofed building (other than an exempt building) from that boundary.</i> <i>unless the lot is narrower than 40m at the location of the proposed building site”.</i>	The proposed carport complies with (h) (i).

Natural Assets Code (High)

During the advertising period, concern was raised that vegetation at the property had been cleared without approval.

While the majority of the site is subject to the Natural Assets Code and accordingly may have required planning approval, the applicant has provided a site plan showing vegetation removed professionally in July 2018. The site plan lists the removed vegetation to have included dead eucalypts, old broken blackwoods and non-native oyster bay pines along with understorey in the area surrounding the proposed visitor accommodation unit.

Following a site inspection and due to a lack of any further evidence, it appears that the vegetation removed consisted of introduced species and dead natives that would not have triggered the need for planning approval. In addition, the owner has advised that significant trees at the property which provide pardalote habitat have been maintained.

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. Visitor Accommodation Use

Concern is raised that visitor accommodation has previously occurred at the property and the current proposal results in a commercial use and an additional dwelling at the property which has led to increased wastewater run-off and soil contamination. In addition, concern is raised regarding traffic and noise impacts that may be generated by the proposal.

- **Comment**

Previous activity at the property has been addressed through Building and Plumbing Notices issued as part of Enforcement Action in 2017.

Potential impacts arising from additional traffic and noise have been discussed in the Assessment Section of this Report. Council's Environmental Health Officers have assessed the proposal for compliance with the On-site Wastewater Management Code and are satisfied that the requirements under the planning scheme have been met.

The planning scheme allows for visitor accommodation in the Rural Living Zone and accordingly, an additional habitable building is possible for this use class.

5.2. Fire Risk

Concern is raised that the property will not be defensible in a bushfire scenario due to the driveway width and adequacy of existing on-site tanks. A neighbour has queried whether campfires will be permitted and states that they have had two fires on their property which migrated from the proposal property. Fire requirements applicable to the visitor accommodation unit have also been raised as an issue of concern.

- **Comment**

While fire risk is not a planning consideration, the visitor accommodation unit and carport will be reviewed for compliance with fire regulations and bushfire hazard management requirements as part of the building approval process.

5.3. Risk to Wildlife

The representor is concerned that the proposal will result in an increased risk to wildlife based on the properties proximity to the Cape Deslac Reserve and there being a wildlife corridor between properties.

Another representor has queried whether Council has a head of power to ensure the accommodation is no pets allowed.

- **Comment**

Other than the proposed replacement carport, no works or vegetation removal is proposed. Owing to this and as the owner lives on-site, it is not anticipated there will be an increased risk to wildlife resulting from the proposal and any issues may be subject to enforcement action through Council's Animal Management Group. There is no opportunity under the planning scheme to control pet keeping.

5.4. Vegetation Removal

Concern is raised that extensive native vegetation has been removed without Council consent. On this matter, another representor has provided photos of cleared areas and believes that the proposed carport is not supportable under the Performance Criteria due to visual impact and loss of privacy.

- **Comment**

As discussed in the Assessment Section of this Report, the applicant provided a site plan showing the non-native or dead native trees that were selectively removed. The trees with significant habitat value have been retained. The applicant and owner are aware that no further vegetation is to be removed without Council consent.

Existing vegetation remains on-site that provides a privacy screen and therefore the proposal can be supported under the Performance Criteria. Given that the existing carport to be demolished is closer to the shared boundary than the proposed carport, there will be no further loss of privacy as a result of the proposal.

5.5. Future use of Visitor Accommodation

Concern is raised that the proposed visitor accommodation unit may be used for residential purposes and there is nothing to prevent this from occurring.

- **Comment**

If granted, planning approval must be conditional to ensure the visitor accommodation unit is not tenanted out on a long-term basis.

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.

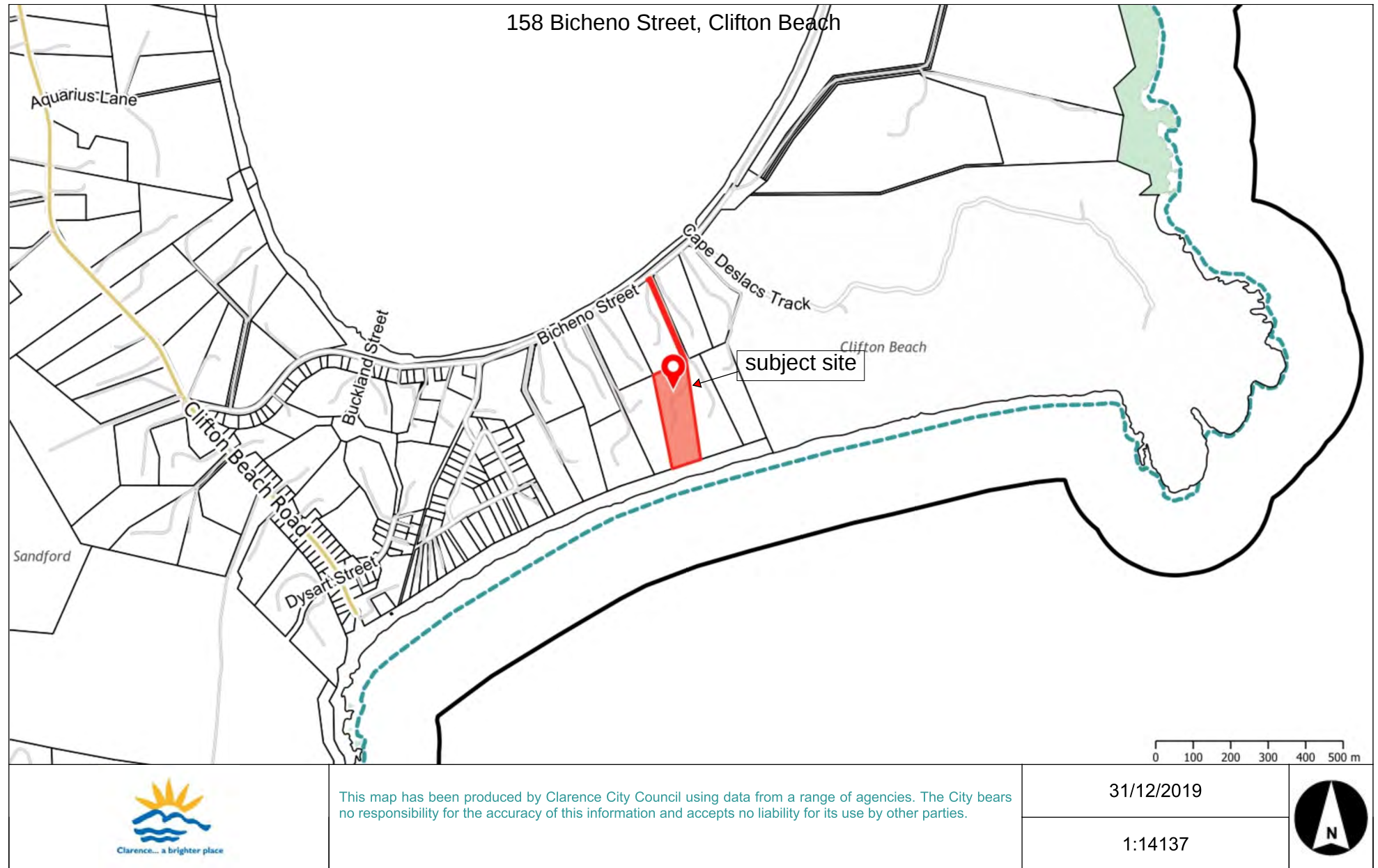
9. CONCLUSION

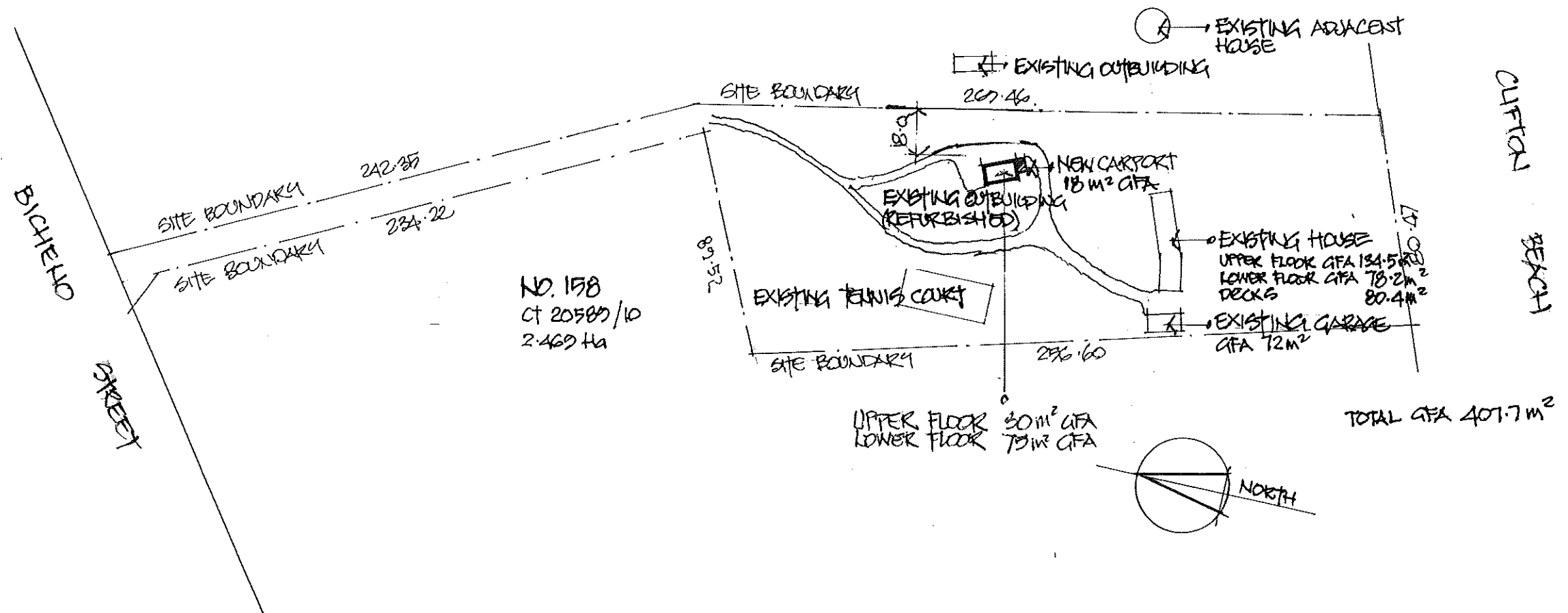
The proposal is for a Change of Use to Visitor Accommodation and a new Carport for the Visitor Accommodation unit. The proposal satisfies the requirements of the Scheme and is recommended for conditional approval.

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

Ross Lovell
MANAGER CITY PLANNING

Attachment 1





gary reed building design

103 Bayview Road, Lauderdale
tasmania 7021

residential, commercial and industrial building design,
plumbing and drainage design, construction management,
housing energy rating, thermal performance efficiency
accreditation no. CC841f

abn 56 498 752021

mob 0418526785

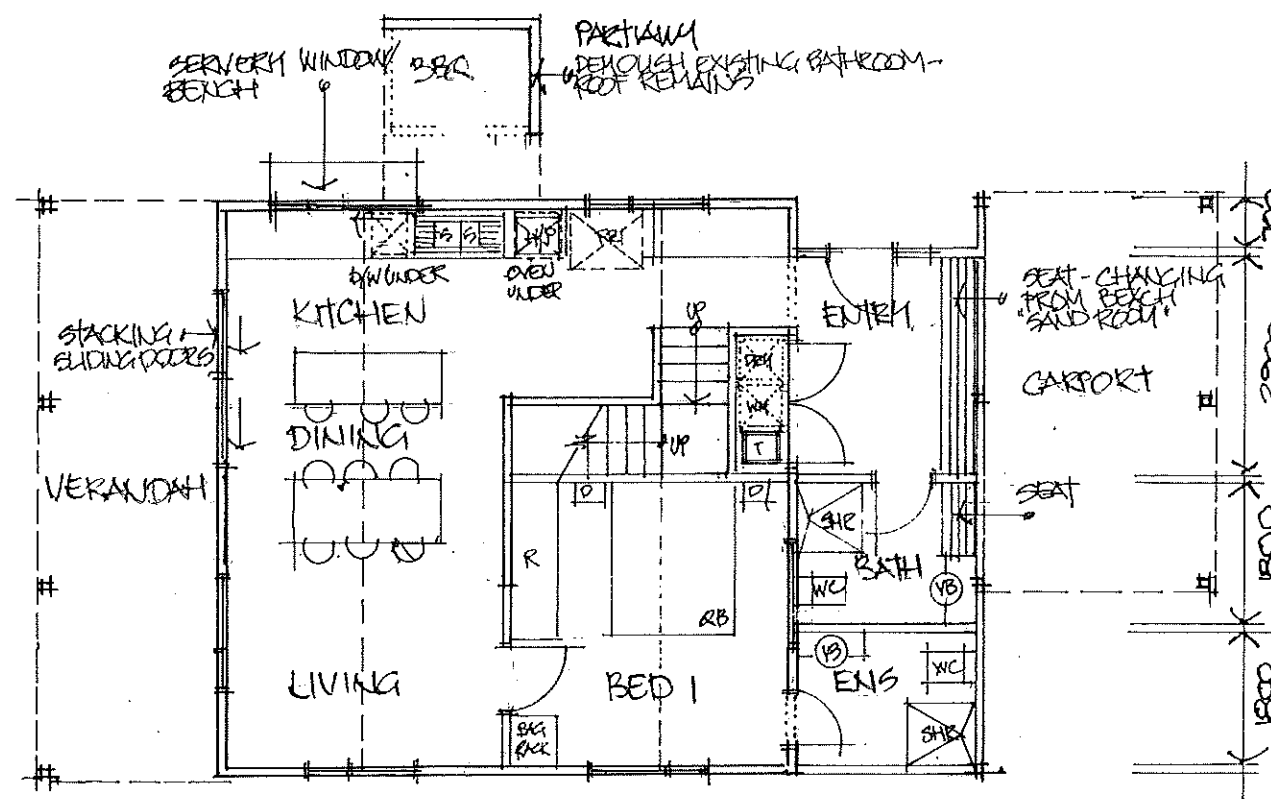
greedesign@bigpond.com

Ricketts Carport
158 Bicheno Street
Clifton Beach

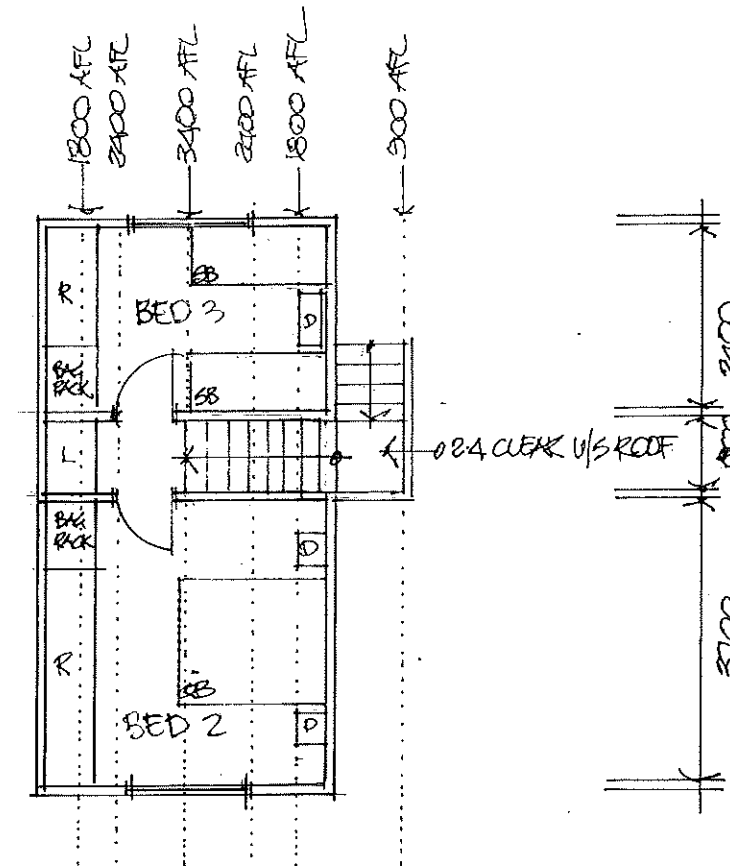
Site Plan

DRAWN: G.Reed DATE: June 2019 SCALE: 2000 at A3 PROJECT NO 19.007

DRAWING NO: **Sk.01 of 3**



3650 3650 2400 3000
LOWER FLOOR PLAN



3000 1500 1500
UPPER FLOOR PLAN

gary reed building design

103 Bayview Road, Lauderdale
 tasmania 7021

residential, commercial and industrial building design,
 plumbing and drainage design, construction management,
 housing energy rating, thermal performance efficiency
 accreditation no. CC841f

abn 56 498 752021
 mob 0418526785
 greedesign@bigpond.com

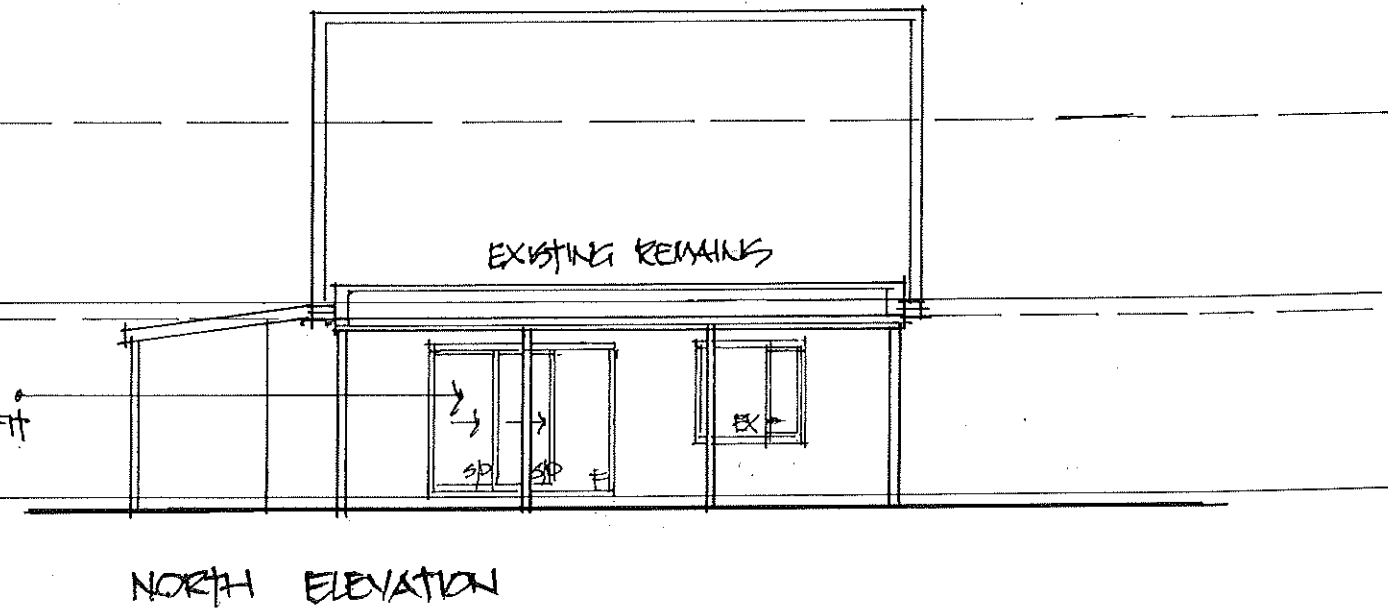
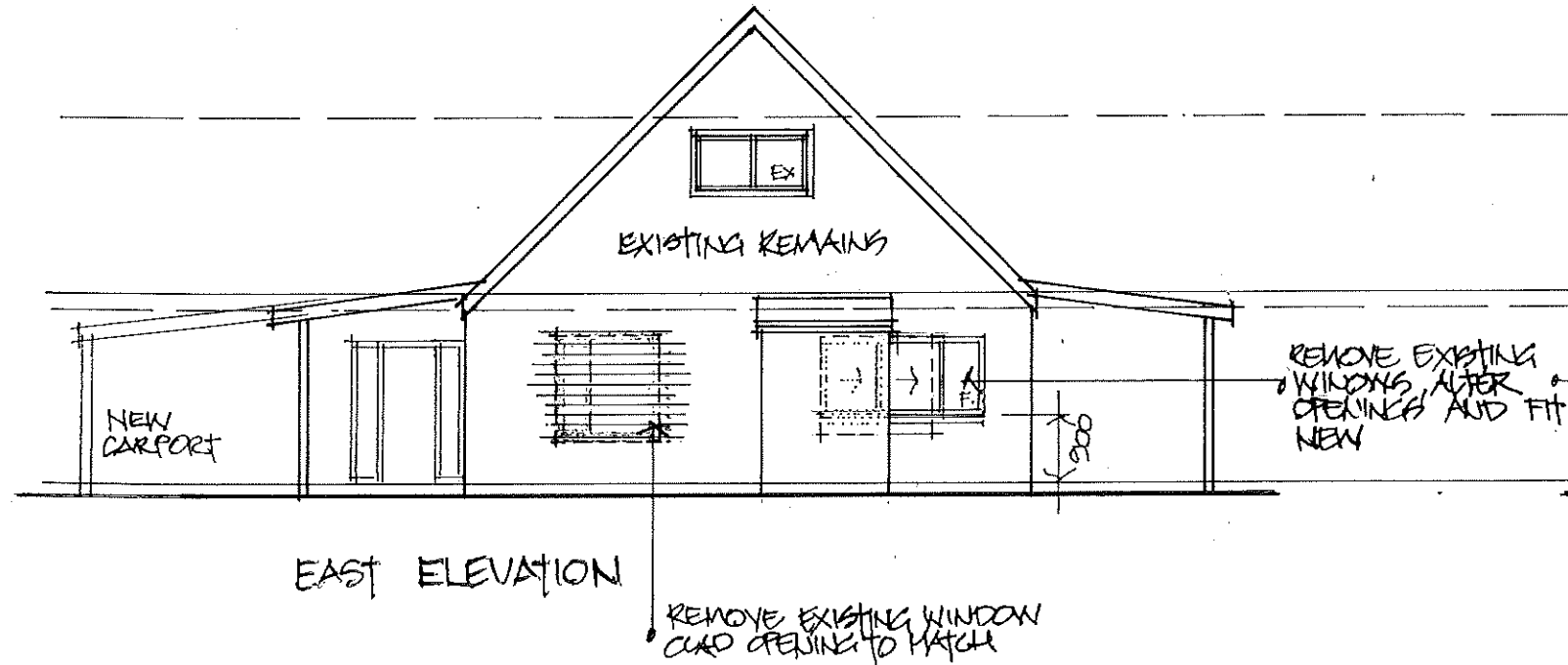
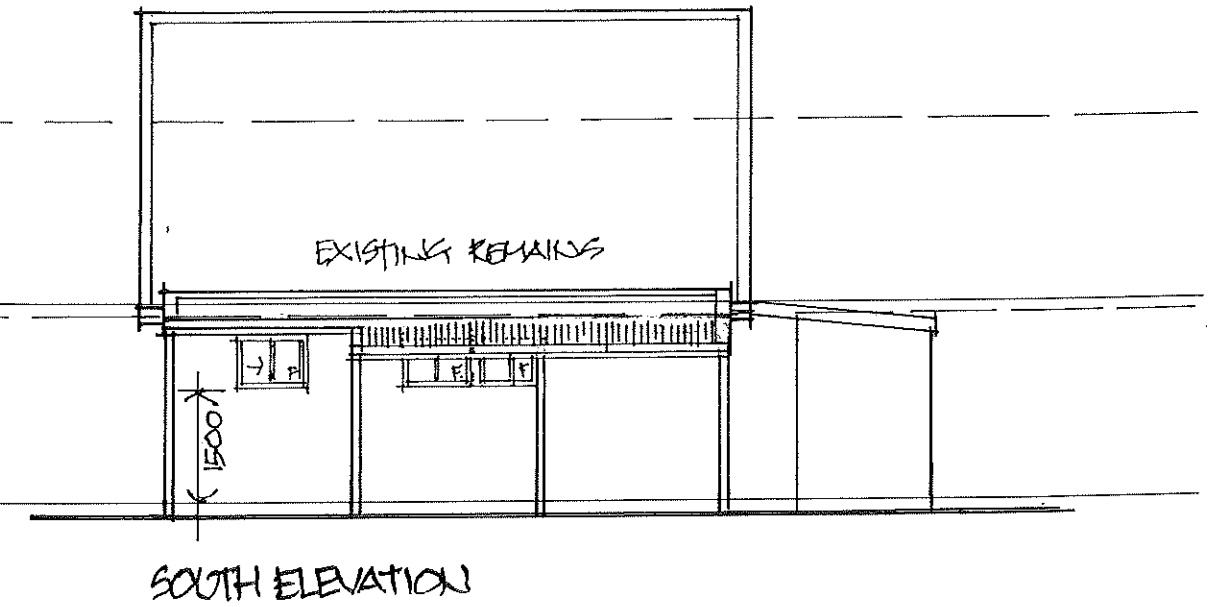
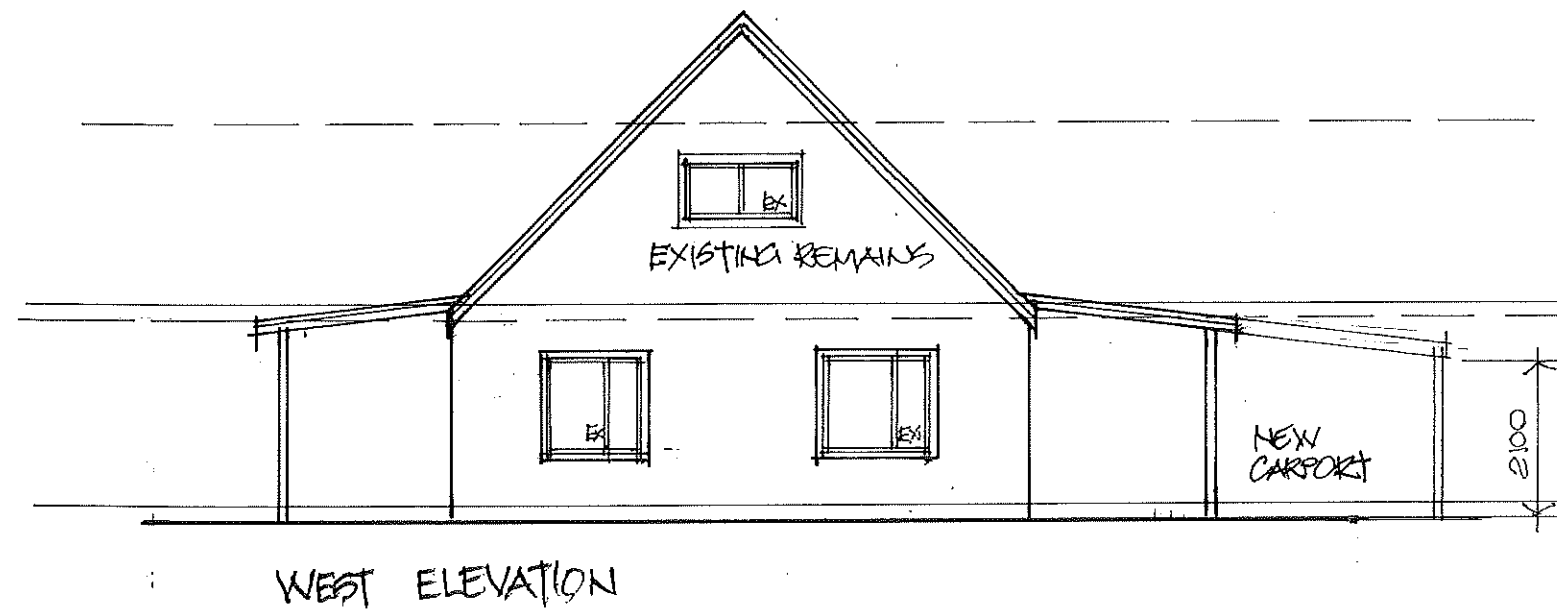
Ricketts Carport
158 Bicheno Street
Clifton Beach

DRAWN: G.Reed DATE: June 2019 SCALE: 1:100 at A3 PROJECT NO 19.007

Floor Plans

Sk.02 of 3

DRAWING NO:



gary reed building design

residential, commercial and industrial building design,
plumbing and drainage design, construction management,
housing energy rating, thermal performance efficiency
accreditation no. CC841f

103 Bayview Road, Lauderdale
tasmania 7021

abn 56 498 752021

mob 0418526785

greedesign@bigpond.com

Ricketts Carport
158 Bicheno Street
Clifton Beach

DRAWN: G.Reed DATE: June 2019 SCALE: 1:100 at A3 PROJECT NO 19.007

Elevations

DRAWING NO: **Sk.03 of 3**

Attachment 3

158 Bicheno Street, Clifton Beach



Proposed visitor accommodation unit and existing carport to be demolished



Existing dwelling and garage



Significant pardalote habitat tree adjacent visitor accommodation



Clearing around existing carport to be demolished



Looking east towards closest building (not the dwelling) on adjoining property



Existing vegetation along the eastern side boundary provides a privacy screen

11.3.3 DEVELOPMENT APPLICATION SD-2018/57 – 12 AQUA PLACE, SEVEN MILE BEACH - 15 LOT SUBDIVISION**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 15 Lot Subdivision at 12 Aqua Place, Seven Mile Beach.

RELATION TO PLANNING PROVISIONS

The land is zoned Village and subject to the Bushfire Prone Areas, Inundation Prone Areas, Airport Buffer and Road 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 15 January 2020.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 39 representations were received (37 in support and 2 against) raising the following issues:

- pedestrian access to beach/firetrail;
- flooding;
- underground services; and
- traffic management.

RECOMMENDATION:

A. That the Development Application for 15 Lot Subdivision at 12 Aqua Place, Seven Mile Beach (CI Ref SD-2018/57) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. GEN POS 4 [5%] [1-14].
3. ENG A1 – NEW CROSSOVER [TSD-R09].

4. A constructed gravel access path must be provided from the newly constructed section of Woodhurst Road, for both vehicles and pedestrians, to the constructed trail on the land at the rear of Lots 7 - 11. Details are to be included with detailed engineering drawings to the satisfaction of Council's Group Manager Engineering Services.
 5. ENG M2 – DESIGNS SD.
 6. ENG M8 – EASEMENTS.
 7. ENG R2 – URBAN ROAD.
 8. ENG R5 – ROAD EXTENSION.
 9. ENG S4 – STORMWATER CONNECTION.
 10. All stormwater for the development must be designed and constructed to include Water Sensitive Urban Design principles to achieve stormwater quality and quantity targets in accordance with the State Stormwater Strategy 2010 and consistent with the Stormwater System Management Plan for the relevant catchment. Detailed engineering designs accompanied with a report on all stormwater design parameters and assumptions (or the MUSIC model) must be submitted to Council for approval by the relevant/delegated officer for approval prior to the issue of the approved engineering drawings. This report is to include the maintenance management regime/replacement requirements for any treatment facilities.
 11. ENG S1 – INFRASTRUCTURE REPAIR.
 12. ENG S10 – UNDERGROUND SERVICES.
 13. The development must meet all required Conditions of Approval specified by TasWater notice dated 7 May 2019 (TWDA 2018/02034-CCC).
- 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.

2. STATUTORY IMPLICATIONS

2.1. The land is zoned Village 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 – Village Zones;
- Section E1.0 – Bushfire-Prone Areas Codes;
- Section E15.0 – Inundation Prone Areas Code;
- Section E23.0 – On-site Wastewater Management Code; and
- Section E25.0 – Airport Buffer 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 contained within CT 138559/100 and has an area of 1.76Ha. The site is currently used as a caravan park which includes self-contained accommodation, powered and unpowered caravan/tent sites and associated infrastructure and buildings. Access to the site is from Aqua Place. The site is bounded by residential development to the south and east, an unmade road to the north and forested Council land to the east which contains a walkway which is part of the Tangara Trail and provides pedestrian access to Surf Road.

3.2. The Proposal

The proposal is to subdivide the lot into 15 residential lots, each having a minimum lot size of 1000m². Aqua Place will be extended into the site and will connect to a proposed extension to Woodhurst Road. The proposal includes a gravel pedestrian access from the end of Woodhurst Road which will connect to the Council land located to the east of the site.

The proposal includes the removal of all buildings and infrastructure from the site.

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”.

Reference to these principles is 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 Bushfire-Prone Areas, Inundation Prone Areas, On-site Wastewater Management and Airport Buffer Codes with the exception of the following.

Village Zone

- Clause 16.5 A2 as the site is subject to a number of Codes under the Scheme and Lots 7 – 10 contain building envelopes that have the long axis of the developable area facing north or within 20 degrees west or 30 degrees east of north.

Performance Criteria	Proposal
<i>“The design of each lot must contain a building area able to satisfy all of the following:</i>	
<i>(a) be reasonably capable of accommodating residential use and development;</i>	Due to the lots all having a minimum area of 1000m ² and the topography of the site being generally flat, the lots are reasonably capable of accommodating future residential development.
<i>(b) meets any applicable standards in codes in this planning scheme;</i>	The proposal is considered to meet the requirements of the Codes.

<i>(c) enables future development to achieve maximum solar access, given the slope and aspect of the land;</i>	The lots are generally flat and future development will be able to achieve maximum solar access.
<i>(d) minimises the need for earth works, retaining walls, and fill and excavation associated with future development;</i>	The land has an AHD of approximately 3m. The minimum floor level required by the Inundation Prone Areas Code is 3.2m AHD. Therefore, development of dwellings on these lots will require minimal fill, if any is required for the construction of a future dwelling.
<i>(e) provides for sufficient useable area on the lot for both of the following:</i> <i>(i) on-site parking and manoeuvring;</i> <i>(ii) adequate private open space”.</i>	The lots have sufficient area to provide for adequate private open space and adequate manoeuvring areas for future dwellings.

Village Zone

- Clause 16.5 A3 as Lots 11 – 13 have a frontage of less than 15m.

Performance Criteria	Proposal
<i>“The frontage of each lot must satisfy all of the following:</i> <i>(a) provides opportunity for practical and safe vehicular and pedestrian access;</i>	Council’s Engineers are satisfied that the frontage to each lot provides practical and safe access due to the topography of the site and the road alignment.
<i>(b) provides opportunity for passive surveillance between residential development on the lot and the public road,</i>	The lots will provide for direct views from the lot to the road.
<i>(c) is no less than 6m”.</i>	complies

Village Zone

- Clause 16.5.2 A1 as the subdivision includes a new road.

Performance Criteria	Proposal
<i>“The arrangement and construction of roads within a subdivision must satisfy all of the following:</i>	

<i>(a) the route and standard of roads accords with any relevant road network plan adopted by the Planning Authority;</i>	Council's Engineer advises that the proposed road arrangement complies with the Council's standards for design.
<i>(b) the appropriate and reasonable future subdivision of the entirety of any balance lot is not compromised;</i>	Not applicable as there is no balance lot.
<i>(c) the future subdivision of any neighbouring or nearby land with subdivision potential is facilitated through the provision of connector roads and pedestrian lanes, where appropriate, to common boundaries;</i>	not applicable
<i>(d) an acceptable level of access, safety, convenience and legibility is provided through a consistent road function hierarchy;</i>	Council's Engineer is satisfied that the proposal network will provide an acceptable level for future users due to topography and road alignments.
<i>(e) cul-de-sac and other terminated roads are not created, or their use in road layout design is kept to an absolute minimum;</i>	Cul-de-sacs or terminated roads are not created.
<i>(f) connectivity with the neighbourhood road network is maximised;</i>	The proposal provides a connecting road from Woodhurst Road to Aqua Place. Neighbourhood connectivity is also enhanced by the continuation of a gravel path from Woodhurst Road/Aqua Place intersection, to the Council land to the east and to the Tangara Trail.
<i>(g) the travel distance between key destinations such as shops and services is minimised;</i>	The site is located within the Seven Mile Beach township and is within a short travel distance to the local shop on Lewis Avenue.
<i>(h) walking, cycling and the efficient movement of public transport is facilitated;</i>	The proposal provides for a pedestrian and cycling route through and around the site and is located within a short distance from a public bus stop.
<i>(i) provision is made for bicycle infrastructure on new arterial and collector roads in accordance with Austroads Guide to Road Design Part 6A;</i>	not applicable
<i>(j) any adjacent existing grid pattern of streets is extended, where there are no significant topographical constraints".</i>	complies

Village Zone

- Clause 16.5.3 A1 as there is no Acceptable Solution.

Performance Criteria	Proposal
<i>“The arrangement of ways and public open space within a subdivision must satisfy all of the following:</i> <i>(a) connections with any adjoining ways are provided through the provision of ways to the common boundary, as appropriate;</i>	Public Open Space or connections within the subdivision are not proposed.
<i>(b) connections with any neighbouring land with subdivision potential is provided through the provision of ways to the common boundary, as appropriate;</i>	There are no neighbouring properties with subdivision potential.
<i>(c) connections with the neighbourhood road network are provided through the provision of ways to those roads, as appropriate;</i>	as above
<i>(d) convenient access to local shops, community facilities, public open space and public transport routes is provided;</i>	The proposal provides a convenient access to local shops, public open space to the east and public transport.
<i>(e) new ways are designed so that adequate passive surveillance will be provided from development on neighbouring land and public roads as appropriate;</i>	not applicable
<i>(f) provides for a legible movement network;</i>	The proposal extends and connects the road network making it a legible movement network.
<i>(g) the route of new ways has regard to any pedestrian & cycle way or public open space plan adopted by the Planning Authority;</i>	not applicable
<i>(h) Public Open Space must be provided as land or cash-in-lieu, in accordance with the relevant Council Policy.</i>	The subject site is located within the existing residential area and will be afforded the highest level of access to both local and regional recreational opportunities. It is considered that the development will, or is likely to, increase residential density creating further demand on Council’s POS network and associated facilities.

	Sections 116 and 117 of the Local Government Building and Miscellaneous Provision Act 1993 (LGBMP) provides for a maximum of up to 5% of the value of the entire site to be taken as either public open space land or cash-in-lieu. In this instance it is appropriate that the proposal contributes to the enhancement of Council's POS network and associated facilities and it is recommended that a cash contribution in-lieu of POS representing 5% of each additional lot be conditioned as part of any approval. This contribution represents the increased demand for POS generated by the proposal and not the entire site the subject of the application.
(i) <i>new ways or extensions to existing ways must be designed to minimise opportunities for entrapment or other criminal behaviour including, but not limited to, having regard to the following:</i> (i) <i>the width of the way;</i> (ii) <i>the length of the way;</i> (iii) <i>landscaping within the way;</i> (iv) <i>lighting;</i> (v) <i>provision of opportunities for 'loitering';</i> (vi) <i>the shape of the way (avoiding bends, corners or other opportunities for concealment)".</i>	not applicable

Inundation Prone Areas Code

- Clause E15.8.1 A1 as there is no Acceptable Solution.

Performance Criteria	Proposal
<i>"Subdivision of a lot, all or part of which is within a Medium or High Inundation Hazard Area must be for the purpose of one or more of the following:</i>	

<i>(a) separation of existing dwellings;</i>	The subdivision is not for this purpose.
<i>(b) creation of a lot for the purposes of public open space, public reserve or utilities;</i>	not applicable
<i>(c) creation of a lot in which the building area, access and services are outside the hazard area, with the exception of stormwater;</i>	The proposal does not meet (c) as the entire development site is covered by the Code.
<i>(d) creation of a lot in which the building area or access or services are inside the hazard area, provided that it can be demonstrated that subsequent development will not adversely affect flood flow or be affected by flood water or change coastal dynamics in a way detrimental to the subject property or any other property;</i>	The site will be subject to localised stormwater flood flow only and Council's Engineers are satisfied that the future development on the proposed lots will not have an adverse effect on the subject or neighbouring properties.
<i>(e) stormwater, mitigation and/or developer contributions applicable to any lot/s created under (c) or (d) are as follows:</i> <i>(i) on-site stormwater and/or mitigations works must be consistent with any adopted Council Policy, prior to the commencement of works. In the absence of such a strategy, demonstration that Council's stormwater system has the capacity and the proposal will not adversely impact any other properties in terms of increased water levels, flow or diverted overland flow;</i> <i>(ii) provision of developer contributions for required off site stormwater and/or mitigation works consistent with any adopted Council Policy, prior to the commencement of works".</i>	There is no Council policy that would apply to this site and therefore no developer contributions are considered necessary. As above, Council's Engineers are satisfied that the proposal will not adversely affect the adjoining properties in terms of increased water levels, or overland flow.

On-site Wastewater Code

- Clause E23.9.1 A1 as the proposed lots all have an area of less than 5000m².

Performance Criteria	Proposal
<i>“The area of a new lot must be adequate to accommodate a land application area of sufficient size to comply with the requirements of AS/NZ1547 for a dwelling containing a minimum of 3 bedrooms”.</i>	The applicant submitted an On-site Wastewater Assessment (GES, April 2019) which concludes that all lots are suitable for an on-site wastewater system. Notwithstanding the above, any future development of the lots will be required to provide an on-site wastewater assessment specific to the development and in compliance with the requirements of the Code.

Stormwater Management Code

- Clause E7.7.1 A1 as the proposed lots require on-site stormwater disposal.

Performance Criteria	Proposal
<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>	Council’s Engineer is satisfied that all lots are capable of on-site stormwater disposal including on-site soakage.
<i>(b) collected for re-use on the site;</i>	not applicable
<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

5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and 39 representations (37 in support and 2 against) were received. The following issues were raised by the representors.

5.1. Pedestrian Access to Beach/Firetrail

Concern was raised regarding a possible connection from the site to the firetrail to the east, and that it should be located adjacent to proposed Lot 11.

- **Comment**

The proposal includes a gravel extension to the end of Woodhurst Road which will provide for a connection to the Council land abutting the site to the east. It is considered that this will provide a reasonable connection to the adjoining Council land and given the short length of Aqua Place, a second connection to the Council land, adjacent to proposed Lot 11, is not considered necessary.

5.2. Flooding

Concern was raised regarding the effect of the development on the exiting water table and flooding of the on-site waste disposal systems when a flooding event occurs.

- **Comment**

As previously discussed, the proposed lots are considered suitable for residential development. Any future development of the lots will be required to comply with Clause E15.7.5 A3 of the Inundation Prone Areas Code which requires that the vertical separation from the water gradient must be no less than 1.5m and future dwellings on these lots will be required to provide a Wastewater report which demonstrates compliance with this Code.

5.3. Underground Services

Concern was raised regarding the future services being located underground.

- **Comment**

Underground services are a standard requirement for residential subdivisions and a permit condition requiring this is recommended for inclusion in the permit.

5.4. Traffic Management

Concern was raised regarding the changes in traffic management required along Leyden Avenue and that there will be an increase in traffic on roads that are not of an adequate standard.

- **Comment**

Council's Engineer advises that the proposed road arrangement complies with Council's standards for design. Given that the proposal is to redevelop the site for 15 residential lots, which replaces the existing caravan park, the proposal is considered likely to reduce the traffic generated by the existing development.

5.5. Strategic Plan

Concern was raised that a strategic plan for the future development of Seven Mile Beach should be implemented prior to future development in Seven Mile Beach.

- **Comment**

The application must be assessed against the provisions of the Scheme. The proposal is located on appropriately zoned land and is considered to meet all relevant standards. There is no requirement in the Scheme to prevent subdivision unless in accordance with a structure plan.

The representation relates to Council refusal of a subdivision application at 20 Regal Court, Seven Mile Beach (SD-2019/10) at its Meeting on 2 December 2019. Refusal reason 6 was:

“that due to various current and projected geotechnical, flora/fauna, traffic, social and sporting/recreation facilities and stormwater/drainage/inundation issues, a long term structure plan for the Seven Mile Beach Township should be developed to guide the delivery of a quality urban environment before any further residential development is approved”.

This decision has been appealed to the Resource Management and Planning Appeals Tribunal and therefore a legal determination on the validity of the refusal reason 6 can be expected, in so far as it purports to put a hold on all development in the village until a structure plan is completed.

However, until the Tribunal has ruled on the above, it would be inappropriate to assess the current application other than in accordance with Section 8.10 - Determining Applications. This section limits the consideration of applications to the requirements of the Act and the Scheme's applicable standards and requirements; zone, code and specific area plan purposes; and relevant local area objectives or desired future character statements.

5.6. Support

Thirty seven representations were received in support of the subdivision on the basis that the proposal will improve local amenity, reduce traffic, reduce noise, and improve housing supply in Clarence and the greater Hobart area.

- **Comment**

The issues raised in the representations are noted.

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.

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

- Public Open Space Policy.

9. CONCLUSION

The proposal represents a well-considered approach to neighbourhood design particularly having regard to the connection of Woodhurst Road and Aqua Place, together with appropriate walkway linkages. The proposal is therefore recommended for approval.

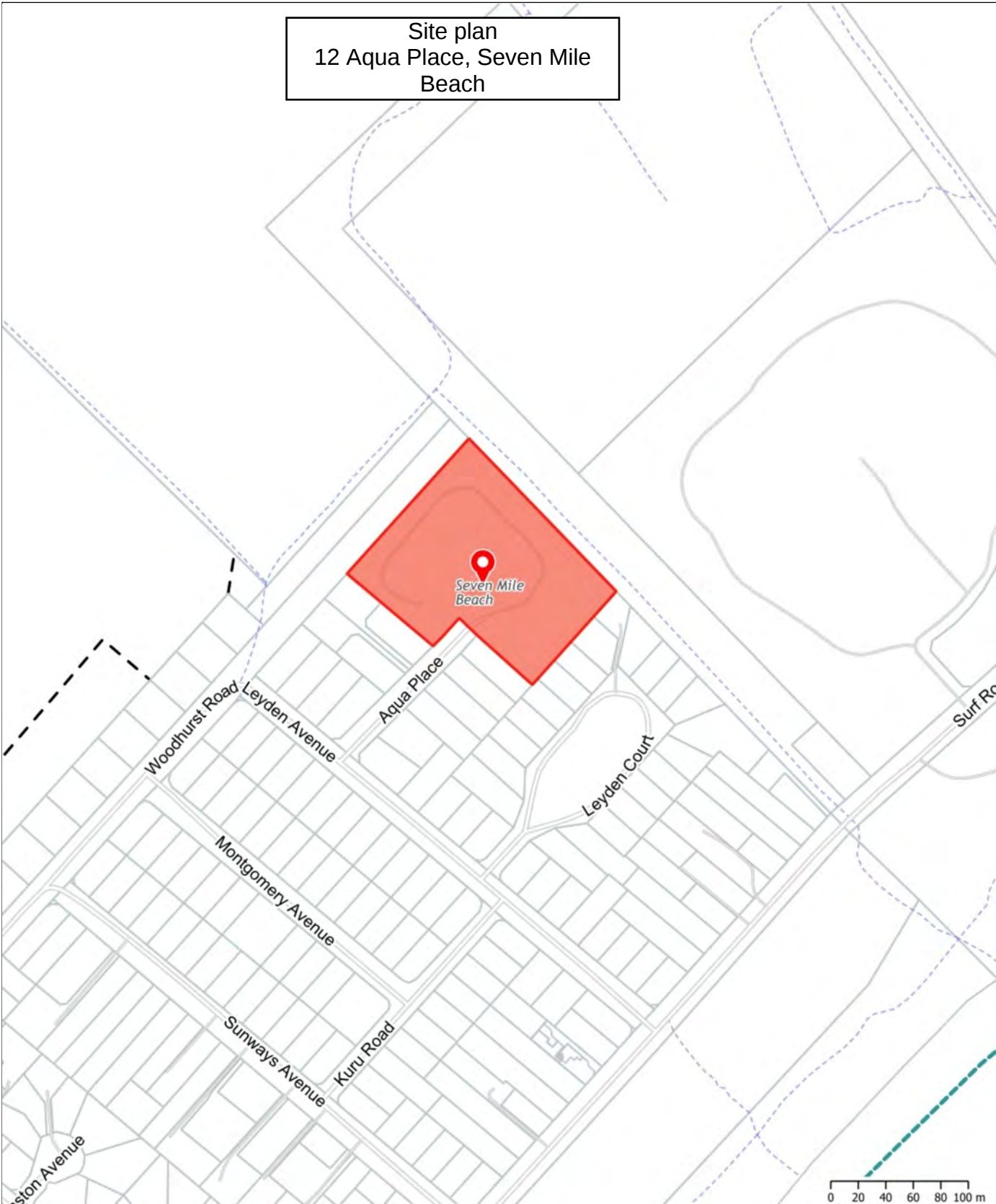
Attachments: 1. Location Plan (1)
2. Proposal Plan (2)
3. Site Photo (2)

Ross Lovell
MANAGER CITY PLANNING

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

Attachment 1

Site plan
12 Aqua Place, Seven Mile
Beach

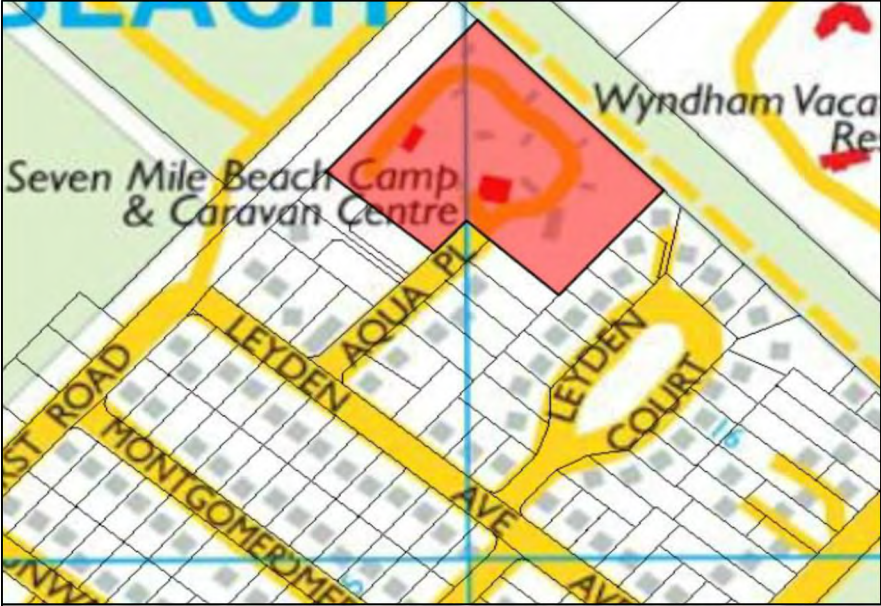


This map has been produced by Clarence City Council using data from a range of agencies. The City bears no responsibility for the accuracy of this information and accepts no liability for its use by other parties.

3/01/2020

1:3851





LOCATION PLAN

This plan has been prepared only for the purpose of obtaining preliminary subdivisional approval from the local authority and is subject to that approval.

All measurements and areas are subject to the final survey.

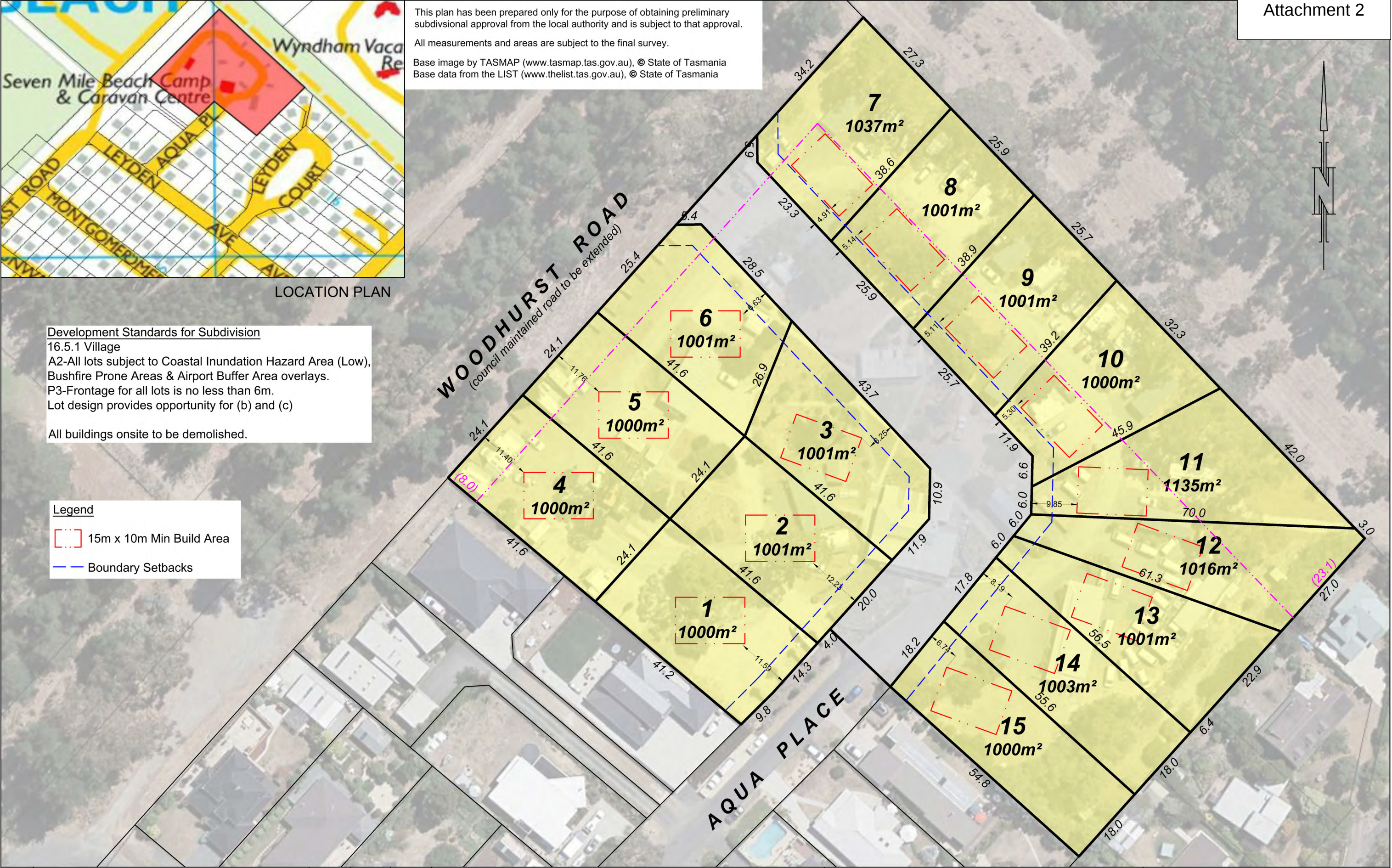
Base image by TASMAP (www.tasmap.tas.gov.au), © State of Tasmania
Base data from the LIST (www.thelist.tas.gov.au), © State of Tasmania

Development Standards for Subdivision
16.5.1 Village
A2-All lots subject to Coastal Inundation Hazard Area (Low), Bushfire Prone Areas & Airport Buffer Area overlays.
P3-Frontage for all lots is no less than 6m.
Lot design provides opportunity for (b) and (c)

All buildings onsite to be demolished.

Legend

- 15m x 10m Min Build Area
- Boundary Setbacks



E				
D				
C	front offset dimensions added	AB	27-11-19	AB
B	modifications to NE bushfire setback	AB	29-10-19	AB
A	modifications to bushfire setbacks (surrounding fire trail)	AB	27-9-19	AB
REV	AMENDMENTS	DRAWN	DATE	APPR.



UNIT 1, 2 KENNEDY DRIVE
CAMBRIDGE 7170
PHONE: (03)6248 5898
EMAIL: admin@rbsurveyors.com
WEB: www.rbsurveyors.com

OWNER: D.A & C.R Chandler, R.J Moore
& Polo Fishing Pty Ltd & Clarence City Council
TITLE REFERENCE: C.T.138559/100
LOCATION: 12 Aqua Place
SEVEN MILE BEACH

Proposed Subdivision			
Date:	27-11-2019	Reference:	CHAND12 11314-08
Scale:	1:750 (A3)	Municipality:	Clarence

Attachment 3



View of the site from Aqua Place.



View from within the site looking northwards.



View taken from the end of Woodhurst Road looking north east.



Aerial photo of site and surrounds.

11.4 CUSTOMER SERVICE

Nil Items.

11.5 ASSET MANAGEMENT**11.5.1 ROSNY HILL ROAD MULTIPLE-USER PATH FUNDING – AMENDMENTS TO 2019/2020 ROADS CAPITAL BUDGET**

(ECM: 3727531)

EXECUTIVE SUMMARY**PURPOSE**

To approve an amendment to the 2019/2020 Roads Capital Budget by reallocating funds from the “Howrah Road, Caltex to Beach Access” multiple-user path project to the “Rosny Hill Road Bike Path” multiple-user path project.

RELATION TO EXISTING POLICY/PLANS

Council’s Strategic Plan 2016/2026 is relevant.

LEGISLATIVE REQUIREMENTS

Approval of the reallocation of funds requires a simple majority of Council in accordance with the Local Government Act 1993, s.82(5).

CONSULTATION

No public consultation has occurred on either of these projects to date.

Internal consultation has been undertaken with Council’s Bicycle Advisory Committee and the Committee is supportive of the proposed reallocation of funds.

FINANCIAL IMPLICATIONS

The proposed reallocation of funds will not result in any substantive change to the Roads Capital Budget. Funding for the deferred “Howrah Road, Caltex to Beach Access” project will be considered in future capital budget estimates.

RECOMMENDATION:

That Council reallocate funds within the 2019/2020 Roads Capital Budget as follows:

Defer the following project and reallocate funds:

- Howrah Road, Caltex to Beach Access \$106,000

Re-allocate these funds to:

- Rosny Hill Road Bike Path (current funding) \$420,000

ROSNY HILL ROAD MULTIPLE-USER PATH FUNDING – AMENDMENTS TO 2019/2020 ROADS CAPITAL BUDGET /contd...

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** Council approved in the 2019/2020 Roads Capital Budget an amount of \$106,000 to the “Howrah Road, Caltex to Beach Access” multiple-user path project and \$420,000 to the “Rosny Hill Road Bike Path” multiple-user path project.
- 1.2.** The detailed design for the “Rosny Hill Road Bike Path” multiple-user path project was completed by Council’s design team and tenders were called in late October 2019, closing on 20 November 2019.
- 1.3.** The tender documents included the requirement that the works be undertaken in January 2020, being the school holiday period, when traffic volumes are lower. Hours of work limitations were also imposed, in consultation with the Department of State Growth (DSG), to minimise the impact of traffic flows in the afternoon peak, when eastbound traffic is highest.
- 1.4.** A tender was received from a single contractor and the tender offer was well outside Council’s allocated budget. As explained in a Memo to Aldermen, the tender amount was not considered value for money and therefore not recommended to Council for approval.
- 1.5.** It is proposed to re-tender the “Rosny Hill Road Bike Path” multiple-user path project, with revised requirements on the timing of works and working hours. Council officers will liaise with DSG on appropriate working hours and redraft the tender document accordingly.

- 1.6.** It is expected that, with more flexible traffic management and construction timing requirements, the project is likely to be of interest to a broader range of contractors.

2. REPORT IN DETAIL

- 2.1.** Upon completing the detailed design for the “Rosny Hill Road Bike Path” multiple-user path, a revised estimate based on the detailed design is \$500,000, against the current budget of \$420,000. While it is proposed to re-tender the project to attract more tender offers, it is considered necessary to increase the existing budget to reflect the value of work and dealing with a busy road.
- 2.2.** The “Howrah Road, Caltex to Beach Access” multiple-user path project has a budget of \$106,000 and involves improvements to the existing footpath between the Clarence Foreshore Trail, where it meets Howrah Road near the Primary School, and the informal foreshore parking area opposite Bingley Street.
- 2.3.** Both of these multiple-user path projects were initially put forward for funding in 2019/2020 by Council’s Bicycle Advisory Committee, and the potential need for additional funds for the “Rosny Hill Road Bike Path” project was discussed at the recent Bicycle Advisory Committee Meeting held on 2 December 2019.
- 2.4.** At this Meeting the Committee noted that the Sports and Recreation Committee has proposed a master plan be developed for the Little Howrah Beach area. This area will likely consider footpath linkages on Howrah Road to be improved under the “Howrah Road, Caltex to Beach Access” multiple-user path project. In view of this, the Bicycle Advisory Committee considered that it is appropriate for this project to be deferred pending the possible master plan development and the funds reallocated to the “Rosny Hill Road Bike Path” project, which the Committee considered to be a higher priority.

3. CONSULTATION

3.1. Community Consultation

No community consultation has been undertaken to date for either the “Howrah Road, Caltex to Beach Access” or the “Rosny Hill Road Bike Path” multiple-user path project.

Internal consultation has been undertaken with Council’s Bicycle Advisory Committee and the Committee is supportive of the proposed reallocation of funds.

Council officers will consult further with DSG on traffic management requirements for the “Rosny Hill Road Bike Path” project and how best to manage the contractor’s working hours.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Nil.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Council’s Strategic Plan 2016 - 2026 within the Goal Areas *A People City* and *A Well-Planned Liveable City* contains the following Strategies to:

“Develop and implement a public open space network including quality public open spaces, parks, reserves and tracks and trails”, and

“Implement and review a cycle plan, and a tracks and trails plan for the City”.

The project is consistent with the strategic plan strategies.

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

The existing path along Rosny Hill Road is relatively narrow, at approximately 1.5m wide and does not provide effectively for cyclists. To the west of the Rosny Hill Road overpass, over the Tasman Highway, the shared path has been upgraded to provide a new concrete surface of 2.5 – 3m width, however to the east of the overpass the path is gravel and crosses an on-ramp, with no kerb ramps at the crossing point. There are also existing light poles at the edge of the existing path which present a hazard to cyclists.

7. FINANCIAL IMPLICATIONS

- 7.1.** The proposal is to reallocate budget funds of \$106,000 from the “Howrah Road, Caltex to Beach Access” multiple-user path project, to the “Rosny Hill Road Bike Path” multiple-user path project.
- 7.2.** The proposed reallocation of funds will not result in any substantive change to the Roads Capital Budget. Funding for the deferred “Howrah Road, Caltex to Beach Access” project can be considered in future capital budget estimates.
- 7.3.** Adjustment to Council’s estimates, where the total amount of the estimate is not altered, requires a simple majority vote in accordance with the *Local Government Act 1993*, s.82(5).

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

- 9.1.** The existing \$420,000 budget for the “Rosny Hill Road Bike Path” multiple-user path project, is considered to be insufficient to deliver the project. The updated estimate, based on the completed detail design, is \$500,000 and a recent tender process attracted limited tenders. It is proposed to defer works on the \$106,000, “Howrah Road, Caltex to Beach Access” multiple-user path project and reallocate the funds to the Rosny Hill Road project.

- 9.2. The deferral of the “Howrah Road, Caltex to Beach Access” multiple-user path project will involve Council considering funding this item in future Council estimates.
- 9.3. It is proposed to re-tender the Rosny Hill Road project with changed parameters on working hours and construction timing.
- 9.4. Council’s Bicycle Advisory Committee are supportive of this proposed approach.

Attachments: Nil.

Ross Graham
GROUP MANAGER ENGINEERING SERVICES

11.5.2 TASMAN HIGHWAY – HOBART AIRPORT TO MIDWAY POINT CAUSEWAY, REVISED CONCEPT
(ECM: 3727808)**EXECUTIVE SUMMARY****PURPOSE**

To consider the Department of State Growth's (DSG) revised concept for the South East Traffic Solution Project, Tasman Highway – Hobart Airport to Midway Point causeway following a period of further consultation with affected parties.

RELATION TO EXISTING POLICY/PLANS

Council's Strategic Plan 2016/2026 is relevant.

LEGISLATIVE REQUIREMENTS

While final assessment and decisions relating to the project will be made by DSG, it is likely the project will require Development Approval under the Land Use Planning and Approvals Act 1993.

CONSULTATION

DSG consulted on two alternative designs for this project in June 2019. Both options provided two highway standard lanes in either direction, separated by either barrier or median. Both options provided connection to Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road via a large diameter roundabout. Concerns were raised regarding each design and following a period of further consultation and design consideration, a revised option has been provided for consideration and feedback.

FINANCIAL IMPLICATIONS

There are no known financial implications in relation to this matter.

RECOMMENDATION:

A. That Council notes the Department of State Growth's revised South East Traffic Solution concept design for the Tasman Highway, from the Hobart Airport Interchange to the Midway Point causeway.

B. That Council authorises the General Manager to prepare a revised submission to the Department of State Growth covering the following points:

In principle Council supports:

- the use of dual lanes in each direction to reduce local traffic congestion;
- the use of traffic signals at the intersection of the Tasman Highway and Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road to provide safe means of access from the side roads; and

- the alignment of the proposed intersection has been designed to mitigate impact on adjacent land, noting that the new design encroaches upon Commonwealth land which is considered appropriate in the circumstances.

Council further notes:

- the preferred alignment will also provide continuous walkway and cycling connections from the Airport Interchange to Sorell as part of a long-term aim of providing an active transport linkage between the eastern and western shores; and
- officers from the Department of State Growth inform Council, at a future Workshop, of the final design including any changes, should the design differ significantly from that currently subject to consultation.

ASSOCIATED REPORT

1. BACKGROUND

- 1.1.** The Tasmanian Government commissioned a planning study to look at ways of reducing congestion and improve travel time reliability on the Tasman Highway between Sorell and Hobart.
- 1.2.** The study complemented a number of other projects that are part of DSG's South East Traffic Solution which includes replacing the Midway Point roundabout, Sorell southern bypass, Arthur Highway overtaking lane, widening both causeways, duplicating the McGees Bridge and, in the Clarence municipality, the Hobart Airport interchange upgrade and duplication of the Tasman Highway between the Hobart Airport and Midway Point causeway.
- 1.3.** The Tasman Highway/Hobart International Airport Interchange obtained Development Approval at Council's Meeting of 17 December 2018. The tender for works has been awarded and it is expected that works on-site will commence in early 2020.

- 1.4.** The proposed duplication of the Tasman Highway between the Hobart Airport and Midway Point causeway was put forward in June 2019 for community consultation, on the basis of two options for a roundabout connection at Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road. These options are shown in Attachment 1.
- 1.5.** Both options put to the community in June 2019 were opposed by key stakeholders, particularly landowners adjacent to the proposed roundabout site; “Option 1” for the impact on privately owned bushland at “Milford” on the east side of Pittwater Road, which contains threatened native vegetation, and “Option 2” for impacts on the Tasmania Golf Club land, including fairways. The Tasmania Golf Club opposed “Option 2” on the basis that such loss of land would affect the viability of the Club.
- 1.6.** At its Meeting of 17 June 2019, Council resolved:
- “A. That Council notes the Department of State Growth’s South East Traffic Solution options from the Hobart Airport Interchange to the Midway Point causeway.*
- B. That Council authorises the General Manager to prepare a submission to the Department of State Growth covering the following points:*
- In principle Council supports:*
- *The use of dual lanes in each direction to reduce local traffic congestion.*
 - *The use of a roundabout at the intersection of the Tasman Highway and Pittwater Road to provide priority to the highway traffic and safe means of access from the side roads.*
- Council does not support:*
- *The loss of land at the Tasmanian Golf Club for the purposes of road widening and access.*
- Council further notes:*
- *The preferred alignment is to provide continuous walkway and cycling connections from the Airport Interchange to Sorell.*

- *The Department of State Growth needs to investigate methods to ensure the sustainability of threatened species related to this project and inform key stakeholders.*
 - *Officers from the Department of State Growth inform Council at a future workshop of the outcome of the consultation and decision of a preferred alignment prior to detailed design commencing.*
- C. *That Council authorises the General Manager to write to the Department of State Growth to explain their proposed traffic congestion solutions to improve travel time reliability for vehicles in the Clarence municipality approaching the Tasman Bridge.*
- D. *That Council authorises the General Manager to write to the Department of State Growth requesting officers from Department of State Growth inform Council at a future workshop on their proposed traffic congestion solutions to improve travel time reliability within the Hobart to Sorell region”.*

1.7. Since Council’s 17 June 2019 decision, extensive consultation has occurred. That consultation has resulted in a revised option being put forward by DSG for consultation. The consultation outcomes are summarised by Attachments 2 and 3, with the revised design shown at Attachment 4.

2. REPORT IN DETAIL

2.1. The proposed South East Traffic Solution aims to help maintain the liveability of Sorell and the Southern Beaches by improving travel time reliability through a more efficient and safer road network. Ultimately this will provide benefit to the Clarence community, however, Council has asked DSG to advise on its traffic solutions for the approaches to Hobart, particularly at the Tasman Bridge, otherwise greater queuing will eventuate on the Tasman Highway in the Clarence municipality. It is understood DSG officers will update Council at a Workshop in early 2020.

2.2. For information, DSG’s summary of the outcomes for the consultation on the South East Traffic Solution is included at Attachment 2.

- 2.3.** Since the June 2019 community consultation on “the roundabout” options, DSG have instigated two group meetings with the four directly affected landowners (Hobart Airport, Barilla Oysters, Milford and Tasmania Golf Club). These meetings were also attended by representatives of DSG, Clarence City Council and Sorell Council. Discussions have also been held individually with each of these four directly affected landowners.
- 2.4.** Effective traffic control is necessary at Pittwater Road to ensure that traffic, particularly right turning traffic, can enter and leave the Highway. It is noted these movements are already quite difficult, due to limited gaps in the Highway traffic stream.
- 2.5.** Discussions have focussed on mitigating the potential impacts on adjacent property and the associated recreational and botanical values. Essentially this has focussed on reducing the footprint of the connection to Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road, via the use of a traffic signal arrangement – refer Attachments 3 and 4.
- 2.6.** DSG have carried out traffic analysis for the proposed signals which has shown that the signal arrangement will satisfactorily cater for predicted 20-year traffic volumes, with average delays on the Highway of less than 20 seconds predicted by 2042. Traffic volumes entering and leaving the highway at Pittwater will be relatively low, however, the Hobart Airport have flagged the potential for development on the land west of Pittwater Road. It is noted that the Highway operating speed will be 80 km/h at the traffic signals.
- 2.7.** As a road project in our municipality, Council is interested in safe and efficient traffic solutions and in minimising any negative property impacts associated with development. In relation to this project, points of note are:
- When the Hobart Airport interchange is complete, the dual lanes each way will improve travel time through this specific local area, which is a positive outcome.

- Options for the Tasman Highway/Pittwater Road intersection have been considered and tested through community consultation. While a full interchange would provide the optimal traffic outcome, the property impacts are considered unacceptable and this solution would also substantially increase the project cost.
- A roundabout was the solution initially proposed by DSG, however, the property impacts were again considered to be unacceptable by key stakeholders. Council is also opposed to significant impacts on property and environmental values.
- While traffic signals will interrupt flows on the Highway to allow traffic from the connecting roads to access, DSG's traffic modelling shows that average delays of less than 20 seconds are expected for predicted 2042 traffic volumes. This is considered to be a high level of service for traffic signals.

2.8. DSG's revised consultation plan notes that a 2.5m wide shared path is to be provided on the north side of the Highway. Currently the shared path at the first causeway is on the southern side of the Highway. Unless the causeway is duplicated at the same time as the upgrading of this section of Highway, a safe facility will need to be provided for cyclists and pedestrians to access the shared path on the existing causeway. Overall the shared pathways need to be planned with the aim of providing active transport linkages between the eastern and western shores, as implied in the State Government's Tasmanian Walking and Cycling for Active Transport Strategy.

3. CONSULTATION

3.1. Community Consultation

DSG have undertaken a fresh round of community consultation on the revised proposal. Consultation commenced on 25 November and closed on 9 December 2019.

3.2. State/Local Government Protocol

The South East Transport Solution Projects are an initiative of the State Government through DSG. DSG has been advised Council is unable to comment on the proposal until 13 January 2020 Council Meeting.

3.3. Other

Not applicable.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Council's Strategic Plan 2016/2026 within the Goal Area *A Prosperous City* contains the following Strategy to: *"Facilitate and/or directly invest in foundation projects and infrastructure aimed at driving further investment and growth"*.

The project is consistent with Council's strategic plan and strategy.

5. EXTERNAL IMPACTS

5.1. While the revised option significantly reduces property impacts, as compared to previous options, there remains the need for significant property acquisition to accommodate the Highway widening and associated infrastructure. This includes obtaining Australian Government agreement to utilise a small part of the Hobart Airport land.

5.2. The revised design minimises the impact on the Tasmania Golf Club and Barilla Bay Oysters. Management of those impacts, should the project proceed, will be a matter for negotiation between the parties. Similarly, the environmental impact of the project on the Milford property is reduced, and any ongoing arrangements in respect to environmental considerations are a matter for negotiation between the parties should the project proceed.

6. RISK AND LEGAL IMPLICATIONS

Nil.

7. FINANCIAL IMPLICATIONS

There are no known direct financial implications to Council in the proposed duplication of the Tasman Highway between the Hobart Airport and Midway Point causeway.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

9.1. The Hobart Airport to Midway Point causeway project aims to improve safety and reduce congestion by upgrading the Tasman Highway to two lanes each way. When the Hobart Airport interchange is complete, this will improve travel time through this specific local area.

9.2. Following meetings with directly affected stakeholders, particularly adjacent landowners, DSG have provided a revised design which includes traffic signals at the connection to Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road. The traffic signals have significantly reduced footprint in terms of land impacts as compared to the previous roundabout proposals. The design also includes a re-alignment of Pittwater Road, which will reduce the environmental impact of the previous designs and also assist to minimise the impact of the service roads (to Barilla Bay Oysters and Tasmania Golf Club) on the opposite side of the highway.

9.3. DSG's traffic modelling shows that average delays at the traffic signals for future (year 2042) traffic volumes are expected to be less than 20 seconds, which is considered to be a relatively high level of service for traffic signals.

It is recommended Council note its in-principle support of:

- the use of dual lanes in each direction to reduce local traffic congestion.
- the use of traffic signals at the intersection of the Tasman Highway and Barilla Bay Oysters/Tasmania Golf Club and Pittwater Road to provide safe means of access from the side roads; and

- the alignment of the proposed intersection has been designed to mitigate impact on adjacent land, noting that the new design encroaches upon Commonwealth land which is considered appropriate in the circumstances;

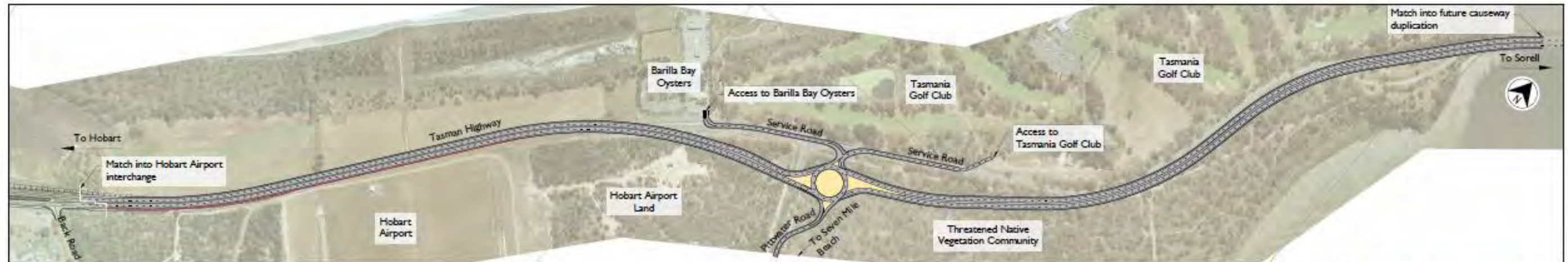
and that Council further notes:

- the preferred alignment is to provide continuous walkway and cycling connections from the Airport Interchange to Sorell, as part of a long-term aim of providing an active transport linkage between the eastern and western shores;
- officers from DSG inform Council at a future Workshop of the outcome of the consultation and decision of a preferred alignment prior to detailed design commencing.

Attachments: 1. Previous Consultation Plans for Options 1 and 2 (1)
2. South East Traffic Solution Consultation Summary (2)
3. DSG's Consultation Notes for the Revised Concept (1)
4. Tasman Highway Hobart Airport at Midway Point Causeway Revised Concept (1)

Ross Graham
GROUP MANAGER ENGINEERING SERVICES

South East Traffic Solution Hobart Airport to Midway Point Causeway



Option 1 - Southern Roundabout



Option 2 - Northern Roundabout

South East Traffic Solution Consultation Summary

September 2019

About the Study

The Tasmanian Government (with the support of the Australian Government) are committed to improving the liveability of Sorell and the Southern Beaches area by investing in the road corridor to improve travel times, reliability and increasing safety between Sorell and the Hobart International Airport. The project has multiple elements which include:

- Sorell to Hobart Planning Study;
- Hobart Airport to Midway Point Causeway duplication;
- Midway Point Intersection Solution;
- Sorell Southern Bypass;
- Arthur Highway Overtaking Lane;
- Planning for causeway duplication between Sorell and Hobart.

As part of these studies, a number of consultation projects occurred. This factsheet summaries the feedback received during the consultation on the Hobart Airport to Midway Point Causeway duplication, the Midway Point Intersection Solution and the Sorell Southern Bypass.



Attachment 2

South East Traffic Solution Consultation Summary

South East Traffic Solution Consultation Summary

Consultation on preliminary designs

From late May to the end of June 2019 we consulted with the community, land owners, industry, local government and organisations in relation to preliminary designs for the three of the projects: Hobart Airport to Midway Point causeway; Midway Point intersection; and Sorell bypass.

The consultation process included online feedback, such as Social Pinpoint and the use of Facebook, written submissions via email and in letter form, as well as 5 drop in sessions and one presentation. The process was notified through the Department's facebook page and website, letters to adjoining land owners, public notices in local newspapers, hard copy posters across the Sorell and Clarence municipal areas and information stands at three separate locations (Ingham Chickens, Sorell Council and Tasmania Golf Club).

Who Participated?

Through Social Pinpoint 296 individual stakeholders were engaged with 281 comments and 329 surveys completed. In addition, 63 email submissions were received with 25 written submissions left at the information stands. Over 250 people attended drop in sessions with 108 written comments and 115 comments were made on Facebook.

What did we hear?

Alternative alignment		Hobart Airport to Midway Causeway	
The most frequently received comment was that an alternative crossing point should be considered at either Seven Mile Beach to connect with the Southern Beaches, or from Cambridge to connect with the western end of Shark Point Road.		Neither the loss of the 16 th fairway at the Tasmania Golf Club nor the impact on the threatened vegetation values at Milford were considered acceptable outcomes. The community felt that consideration of development on the Airport land must occur.	
Causeway duplication		Public Transport	
There was a sense that without the causeway's being duplicated at the same time, that the other projects would be of limited benefit.		The community was strong in their views that improved public transport both in terms of frequency and affordability was a priority now, and that this would alleviate congestion immediately.	
Midway Point Intersection		Sorell Bypass	
There was no clear preference on the two options proposed. Flyovers were often suggested as an alternative solution		There was general support and acceptance of the Sorell Bypass.	

Next steps

Further detailed options are being designed, having regard to your feedback and the outcomes of initial studies.

It is anticipated that the preferred option for each location will be made available to the community in early 2020. Keep an eye out on our website www.transport.tas.gov.au or email info@stategrowth.tas.gov.au if you have any further queries.

Contact details

Pitt & Sherry
PO Box 94
HOBART TAS Australia 7001

Attachment 3

DSG's Consultation Notes for the Revised Concept

South East Traffic Solution – Hobart Airport to Midway Point Causeway

South East Traffic Solution

The South East Traffic Solution aims to help maintain the liveability of Sorell and the southern beaches by reducing travel times through a more efficient and safer road network.

The South East Traffic Solution is a multi-level short and medium term Tasmanian Government vision that recognises the need to preserve the lifestyle attractions of Sorell and the southern beaches as commuter satellite communities.

The South East Traffic Solution projects have been designed to increase the capacity of the Tasman Highway and improve travel time reliability for all users during peak commuter periods.

This project will improve safety and reduce congestion by increasing the Tasman Highway to two lanes each way between the Airport roundabout and the Midway Point Causeway.

The project also provides safe access to Pittwater Road, the Tasmania Golf Club and Barilla Bay Oysters.

The number of road users entering the highway at Pittwater Road and from the properties on the northern side of the highway is quite small and is unlikely to increase significantly. Because of this, traffic lights will allow for a consistent flow of highway traffic while providing safe access to and from the side roads.

Construction of the first South East Traffic Solution projects will start in 2020/21.

Further Information

Phone: (03) 6105 0443

Email: enquiries@eraplanning.com.au

Web: www.transport.tas.gov.au

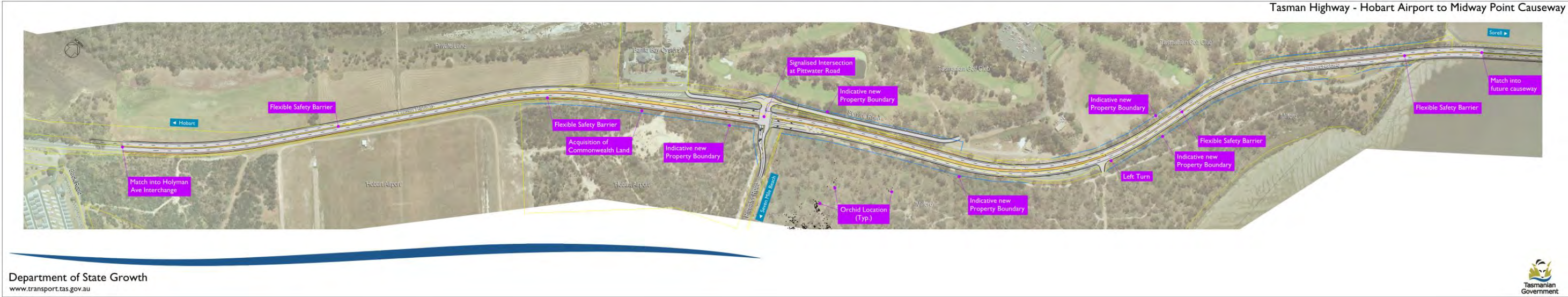
What have we done?

The Department undertook a community engagement process in June this year to gain feedback from the community about two road design options for this section of the Highway. Both options included a roundabout, with Option 1 located on the southern side of the existing road, and Option 2, on the northern side of the existing road.

We heard from the community that neither of these options were considered acceptable due to the potential impact on the Tasmania Golf Club or the special values found in Milford Forest. The project team has been working with key stakeholders to come up with a revised option that minimises the footprint and property and environmental impacts, while meeting the objectives of increasing capacity and safety and improving travel time reliability.

The revised option provides four lanes that closely follow the existing highway with traffic signals at Pittwater Road.

Attachment 4 –
Tasman Highway Hobart Airport to Midway Point Causeway Revised Concept



11.5.3 WELLINGTON STREET, RICHMOND ROADWORKS UPGRADE - AMENDMENTS TO 2019/2020 ROADS AND STORMWATER CAPITAL BUDGETS

(ECM: 3731378)

EXECUTIVE SUMMARY**PURPOSE**

To approve an amendment to the 2019/2020 Roads and Stormwater Capital Budgets by reallocating funds to the “Wellington Street Roadworks on the Eastern Approach of the Richmond Bridge” Budget Estimate.

RELATION TO EXISTING POLICY/PLANS

Council’s Strategic Plan 2016/2026 is relevant.

LEGISLATIVE REQUIREMENTS

Approval of the reallocation of funds requires a simple majority of Council in accordance with the Local Government Act 1993, s.82(5).

CONSULTATION

Consultation has occurred with the residents adjacent to the roadworks, the bus operator and the Richmond Advisory Committee.

FINANCIAL IMPLICATIONS

The proposed reallocation of funds will not result in any substantive change to the Roads and Stormwater Capital Budget.

RECOMMENDATION:

That Council reallocate funds within the 2019/2020 Roads and Stormwater Capital Budgets as follows:

- allocate funds to the Wellington Street, Richmond road upgrade from savings in the Bangalee Street Stormwater Project: \$60,000;
- allocate funds from Roads Major Digout programme to Wellington Street, Richmond upgrade: \$100,000.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** Council approved in the 2019/2020 Roads Capital Budget an amount of \$300,000 for the “Wellington Street Roadworks on the Eastern Approach of the Richmond Bridge”.

- 1.2. This project arose following concerns raised by residents in relation to the safety of children and adults using St Johns Circle Primary School crossing at Wellington Street, Richmond.
- 1.3. The project includes three pedestrian refuges, some realignment of the Wellington Street road to suit new kerb and gutter, stormwater pits and pipeline, vehicle parking, bus stop on the north side, concrete footpath and pedestrian ramps. A copy of the General Arrangement Plan is included at Attachment 1.
- 1.4. The detailed design for the Wellington Street safety upgrade project was completed by Council's design team and is in accordance with Council's approved Richmond Townscape Study.

2. REPORT IN DETAIL

- 2.1. Upon completing the detailed design for the "Wellington Street Roadworks on the Eastern Approach of the Richmond Bridge" project, a revised estimate based on the detailed design is \$460,000; against the current budget of \$300,000. While the actual cost will not be known until Tenders are received, it is considered appropriate to increase the existing budget to reflect the estimated value of work.
- 2.2. The detailed design has identified that significantly more stormwater work is necessary than initially estimated and an upgrade to the existing road pavement is also required. The reflected costs of these additional works are estimated to be \$60,000 and \$100,000 respectively.
- 2.3. The additional \$60,000 to fund the stormwater works is available from the "Bangalee Street, Lauderdale stormwater gravity pipeline" project which had a budget of \$320,000 and was completed for below \$200,000.

- 2.4.** Council approved \$2,650,000 for the 2019/2020 roads major digout programme and there are sufficient funds available to fund the additional \$100,000 road reconstruction works for the Wellington Road, Richmond project.
- 2.5.** It is proposed that the works commence in April/May 2020, after the peak of the summer/autumn tourist season.

3. CONSULTATION

3.1. Community Consultation

The residents immediately adjacent to the proposed works have been consulted and positive feedback received.

The Richmond Advisory Committee (RAC) have been consulted several times through the development of the design drawings. At their Meeting of 11 December 2019, RAC provided the following feedback:

- Their preference was for no car parking on the north side of Wellington Street adjacent to the St Johns Circle intersection. This was to ensure line of sight was not affected for vehicles leaving St Johns Circle.
- They would like some parking on the opposite side of the road but understood there was no space on the road reservation.
- They supported the continuation of the project through to construction.

The bus operator has also been consulted on the best location for the bus stop on the north side of Wellington Street.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Nil.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Council's Strategic Plan 2016 - 2026 within the Goal Areas *A Well-Planned Liveable City* contains the following Strategy to: *“Develop and implement traffic management plans to enhance connectivity and improve road safety”*.

The project is consistent with Council's Strategy.

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

A key aim of this project is to improve the safety for children and adults crossing Wellington Street, Richmond while on their journey to/from St Johns Primary School. The proposal includes a concrete footpath and three pedestrian refuges and associated pedestrian ramps to provide improved access and safety.

7. FINANCIAL IMPLICATIONS

7.1. Council has approved, in the 2019/2020 Roads Capital Budget, an amount of \$300,000 to the “Wellington Street Roadworks on the Eastern Approach of the Richmond Bridge”. The revised budget estimate to complete the project is \$460,000.

7.2. The proposal is to reallocate stormwater budget funds of \$60,000 from the “Bangalee Street, Lauderdale stormwater gravity pipeline” project. This had a budget of \$320,000 and was completed for below \$200,000.

7.3. The proposal is to also allocate \$100,000 from 2019/2020 roads major digout programme. Council approved \$2,650,000 for this programme and there are sufficient funds available.

7.4. Adjustment to Council's estimates where the total amount of the estimate is not altered requires a simple majority vote in accordance with the *Local Government Act 1993*, s.82(5).

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

9.1. The existing \$300,000 budget for the “Wellington Street Roadworks on the Eastern Approach of the Richmond Bridge” project is considered insufficient to deliver the full scope of the project. Road reconstruction is required to assist with some realignment of the road and additional stormwater infrastructure is necessary to drain the flat area. The updated estimate, based on the completed detail design, is \$460,000.

9.2. Funds are available from the roads major digout programme and savings from the Bangalee Street stormwater project to fund the shortfall. The final cost of the construction will not be known until competitive Tenders are received.

9.3. It is recommended the funding variation be approved so the works can be tendered.

Attachments: 1. Wellington Street, Richmond Road Safety Upgrade (1)

Ross Graham

GROUP MANAGER ENGINEERING SERVICES

ATTACHMENT 1



11.6 FINANCIAL MANAGEMENT

Nil Items.

11.7 GOVERNANCE**11.7.1 CODE OF CONDUCT DETERMINATION REPORT**

(File No 10-01-07)

EXECUTIVE SUMMARY**PURPOSE**

To list a determination report received from the Code of Conduct Panel on 18 December 2019.

RELATION TO EXISTING POLICY/PLANS

Nil.

LEGISLATIVE REQUIREMENTS

Section 28ZK(4) of the Local Government Act 1993 (Tas) provides that the General Manager must ensure a copy of a determination report is included within an item on the agenda at the first Council Meeting which is practicable to do so and is open to the public.

CONSULTATION

Nil.

FINANCIAL IMPLICATIONS

The complainant, Alderman Brendan Blomeley, is entitled to a full refund of the lodgement fee (\$81.00) in accordance with Section 28ZO of the Local Government Act 1993.

RECOMMENDATION:

That the Council receives and notes the Code of Conduct Determination Report attached to the Associated Report as Attachment 1.

ASSOCIATED REPORT**1. BACKGROUND**

On 14 October 2019, Alderman Brendan Blomeley lodged a Code of Conduct complaint against Alderman Tony Mulder.

2. REPORT IN DETAIL

2.1. On 14 October 2019, Alderman Brendan Blomeley lodged a Code of Conduct complaint against Alderman Tony Mulder alleging breaches of Part 3.1, Part 7.1(a), (b), (c) and Part 8.7 of the Clarence City Council Code of Conduct.

2.2. The General Manager confirmed that the complaint met all the requirements of Section 28V of the Local Government Act and as required by Section 28Z of the Local Government Act, referred the complaint to the Code of Conduct Panel.

2.3. The Code of Conduct Panel has investigated the complaint and made its determination as set out in Attachment 1.

3. CONSULTATION

3.1. Community Consultation

Nil.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Nil.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

Nil.

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

Nil.

7. FINANCIAL IMPLICATIONS

Alderman Blomeley is entitled to a full refund of the lodgement fee in accordance with Section 28ZO of the Local Government Act 1993.

8. ANY OTHER UNIQUE ISSUES

Nil.

9. CONCLUSION

Section 28ZK(4) of the Local Government Act 1993 (Tas) provides that the General Manager must ensure a copy of a determination report is included within an item on the agenda at the first Council Meeting which is practicable to do so and is open to the public.

Attachments: 1. Code of Conduct Panel Determination Report (5)

Ian Nelson
GENERAL MANAGER

ATTACHMENT 1

Local Government Act 1993

CLARENCE CITY COUNCIL CODE OF CONDUCT DETERMINATION REPORT *

Complaint by Alderman (Ald) Brendan Blomeley against Alderman (Ald) Tony Mulder

(Ref : C19472)

Determination made on 13 December 2019

Code of Conduct Panel:

Jill Taylor (Chairperson), Rob Winter (Legal Member) and Penny Cocker (Member).

1. Summary of the complaint

Ald Brendan Blomeley lodged a Code of Conduct Complaint (the Complaint) dated 14 October 2019, against Ald Tony Mulder. The General Manager of the Clarence City Council, Mr Ian Nelson, confirmed that the Complaint met all requirements of Section 28V of the Local Government Act 1959.

Ald Blomeley alleged that Ald Mulder breached Part 3.1, Part 7 1 (a), (b) and (c) and Part 8.7 of the Clarence City Council Code of Conduct (the Code) which was updated on 15 February 2019.

Specifically, Ald Blomeley alleged that on 1 October 2019, Ald Mulder posted a statement on his social media platform, Facebook, which Ald Blomeley indicated was directed at him. The post at 3.58 am followed a Council meeting the previous evening where Ald Blomeley and others voted against a motion submitted by Ald Mulder. Furthermore, Ald Blomeley alleged that Ald Mulder sent an offensive private message on 10 October 2019 to one of his friends, Mr Harrison Grafanakis, which he claims was highly inappropriate and designed to bully him (Mr Grafanakis).

Relevant Parts of the Code are listed below:

PART 3 – Use of Office

3.1 *The actions of a councillor must not bring the Council or the office of a councillor into disrepute.*

PART 7 – Relationships with community, Councillors and Council employees

1. A Councillor –

- (a) must treat all persons fairly; and*
- (b) must not cause any reasonable person offence or embarrassment; and*
- (c) must not bully or harass any person*

PART 8 – Representation

8.7 *The personal conduct of a councillor must not reflect, or have the potential to reflect, adversely on the reputation of the Council.*

An initial assessment was undertaken by the Chairperson who determined on 28 October 2019 that further investigation was warranted in relation to Ald Blomeley's complaint.

A Code of Conduct Panel was formed to investigate the complaint made by Ald Blomeley. On 29 October 2019 Ald Mulder was provided with a copy of the Complaint and invited to provide a response. Ald Mulder submitted a response by way of a statutory declaration dated 20 November 2019.

* Section 28ZK (7) of the *Local Government Act 1993* requires that any person who receives a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of the relevant council. Failure to do so may result in a fine of up to 50 penalty units.

2. Investigation

On 28 November 2019 the Panel met to consider the complaint and determined in accordance with Section 28ZG (2) (a) and (b) that the complaint could be investigated without a hearing as neither the complainant nor the respondent would be disadvantaged. Furthermore, having regard to the statutory declarations submitted by the complainant and the respondent, there was no dispute about the facts of the events which occurred on 1 October 2019 and 10 October 2019. Both Ald Blomeley and Ald Mulder submitted additional documentation that did not necessarily relate to the events that were alleged to have occurred on 1 and 10 October 2019. The Panel concluded that the presentation of this material pointed to a long history of antipathy between the two Aldermen.

In considering Ald Blomeley's complaint in relation to the message from Ald Mulder to Mr Harrison Grafanakis on 10 October 2019, the Panel referred to S28V (1) of the Act which states "**A person may make a complaint against one councillor in relation to the contravention by the councillor of the relevant council's code of conduct**". The Act does not define "complainant" nor does it say that there has to be a specific impact or effect on the complainant. The Panel therefore was satisfied that Ald Blomeley had the ability or standing to bring his complaint in relation to the private message from Ald Mulder to Mr Grafanakis.

The Panel first considered the complaint relating to the event of 1 October 2019. Ald Blomeley stated that Ald Mulder posted the following message on his Facebook page:

"Remind you of anyone???"

Narcistic Personality Disorder (NPD) What are the Key Symptoms of NPD?

A person with NPD often has an inflated sense of self-importance. This is combined with a lack of empathy, as they see things only from their perspective. It can be difficult for them to understand the importance of social norms, ethics and laws, rather interpreting them as limitations in their own lives. They expect life to work according to their understanding. Underneath, they can be quite fragile because of the confusion their misperceptions brings. The sense of being "wounded" can result in extreme rage in some people with NPD. Others may project problems in their lives onto others, especially spouses and children"

In his statutory declaration, Ald Mulder stated that the above post was made by him in his capacity as a private individual and that he did not use the term "councillor". Ald Mulder advised he has a business Facebook page on which he represents himself as a councillor. Ald Mulder also asserted that his Facebook post was a re-post of a widely circulating Facebook post relating to the behaviour of US President Donald Trump, and in relation to press reporting of a domestic incident concerning the behaviours of the UK Prime Minister at his London flat. He stated that he had in mind the behaviour of some Federal and State politicians. He said he did not name anyone, nor suggest he was acting in his role as a Councillor.

Ald Mulder contended that by using his private Facebook page, he had not brought the office of councillor into disrepute, nor did it reflect adversely on the Council.

As indicated by Ald Mulder in his statutory declaration, the content of the post of 1 October 2019 did not identify any particular person or councillor, and no evidence was put forward by Ald Blomeley pointing to him being the subject of Ald Mulder's Facebook post.

The Panel next considered the alleged breach of 10 October 2019 where Ald Mulder sent a personal message by Facebook Messenger to Mr Harrison Grafanakis. Mr Grafanakis' statutory declaration dated 15 October 2019 was submitted as an attachment to Ald Blomeley's complaint.

Ald Blomeley submitted that the chain of events that occurred on 10 October 2019 was as follows:

5.33pm	Mr Harrison Grafanakis posted a photo of himself with Ald Blomeley on his Instagram page
--------	--

5.33pm	Ald Blomeley posted the same photo with the following caption on his Aldermanic Facebook page: "It was great to spend some time on the hustings today with my friend Harrison Grafanakis. With guys like Harrison, the future is in good hands".
10.41pm	Mr Grafanakis received a Facebook Messenger message from a "Tony Mulder"
11.46pm	Mr Grafanakis sent a copy of the message from Ald Mulder to Ald Blomeley

The private Messenger post from Ald Mulder to Mr Grafanakis stated:

"Really Harri (sic). Google this narcissistic (sic), wife abusing, misogynist (sic) turkey b4 backing him".

Ald Blomeley stated in his complaint that Mr Grafanakis was a "friend and political supporter". In his statutory declaration, Mr Grafanakis stated that he "provides volunteer assistance to Ald Blomeley with management and strategic advice of his online and social media profile".

Ald Mulder, in his statutory declaration in response to this complaint, stated that he was using Messenger as a private citizen, and not a councillor and that he had "mistakenly" sent the message to Harrison instead of his father Mr Aris Grafanakis. The Panel finds this explanation difficult to accept as the photo of Alderman and Mr Harrison Grafanakis, which apparently prompted Ald Mulder's message, clearly showed Harrison as a young person, and Ald Mulder conceded he has received and accepted a Facebook friend request from Mr Harrison Grafanakis in September 2019.

The Panel took into account that Mr Harrison Grafanakis is a 16-year-old young man. Given his relative youth and inexperience, the Panel accepts that it would not be unreasonable for him have been upset and concerned for his friend, Ald Blomeley, when he received the message through Facebook Messenger from Ald Mulder. Whilst Ald Mulder states that he used his private Messenger service, the Panel accepts that it would be reasonable for someone of Mr Grafanakis' young age, to not distinguish between Mr Mulder, private citizen and Ald Mulder, Clarence City Councillor. In fact, in his statutory declaration Mr Grafanakis describes Ald Mulder as a colleague of Ald Blomeley and noted Ald Mulder's previous public service. Mr Grafanakis went on to say that he was deeply concerned that Ald Mulder would conduct himself in such a manner.

3. Determination

In relation to Ald Blomeley's complaint that Ald Mulder had breached Part 3.1, Part 7 1 (a), (b) and (c) and Part 8.7 in relation to the Facebook post of 1 October 2019, the Panel determined that the complaint be dismissed in relation to all nominated Parts of the Code.

In relation to Part 3.1, the Panel determined that there was no evidence put forward that Ald Mulder brought the Council or the office of councillor into disrepute. The Panel accepts Ald Mulder's statement that he uses two Facebook accounts, one for his official business as a Councillor and the other for his personal use. In relation to the post that was dated 1 October, Ald Mulder stated that the statement he posted was only "viewed by 11 people and it attracted 1 'comment' and 3 'shares'". From this the Panel concluded that the post was not widely viewed.

In relation to Part 7 1 (a), (b) and (c), the Panel determined that the Facebook post made by Ald Mulder did not identify any of his colleagues, specifically Ald Blomeley. Ald Blomeley did not provide any evidence to the Panel which clearly demonstrated that he was the subject of Ald Mulder's post. Therefore, the Panel is satisfied that Ald Mulder did not treat Ald Blomeley unfairly, nor could his actions reasonably cause offence or embarrassment to Ald Blomeley. Further, there was no evidence provided that this behaviour constituted bullying or harassment of Ald Blomeley. Whilst Ald Blomeley may have assumed that he was one of the targets of Ald Mulder's post there was no evidence to suggest this was the case.

In relation to Part 8 which deals with representation, the Panel determined that Ald Mulder's behaviour did not reflect adversely on the Council. The Panel acknowledged that the Facebook post made by Ald Mulder on 1 October 2019 was sent from his private Facebook page and he did not make reference to his role as a councillor. As mentioned previously, the message itself was only accessed by a small number of people.

In relation to the allegation of a Code of Conduct breach which occurred on 10 October 2019, the Panel determined as follows:

Part 3.1 -	upheld
Part 7.1 (a)	dismissed
Part 7.1 (b)	upheld
Part 7.1. (c)	dismissed
Part 8.7	dismissed

Whilst the Panel acknowledges that Ald Mulder was using his private social media platforms, it also accepts that Mr Harrison Grafanakis, a sixteen-year-old, did not necessarily understand that Ald Mulder had disassociated himself from his public official role. Mr Grafanakis' statutory declaration conveys that he understood the private Messenger post as coming from Tony Mulder who he knows to be a councillor with the City of Clarence along with Ald Blomeley.

The purpose of the Code of Conduct for councillors is to set out expectations of how elected members should behave. The Panel acknowledges that in some instances, elected members may act differently to how they act in their official role. However, elected members are usually known by their communities as their representatives and any actions, unless specifically stated as acting in a private capacity, can be interpreted as those of an elected member. The Panel determined that this was the case with Mr Grafanakis when he received the Messenger posting from Tony Mulder.

The Panel considers that it is beholden of an elected member to maintain a high standard of behaviour as a representative of Council. To this extent, a councillor must understand that it is not only the intent of the communication they initiate but also how it can be interpreted by the recipient. In this case, Mr Grafanakis reacted to the message as being sent by Ald Mulder.

In relation to Part 3.1, the Panel determined that Ald Mulder's action did not bring the Council into disrepute, but it did bring the office of councillor into disrepute.

In relation to Part 7.1 (a), the Panel determined that Ald Mulder did not treat Mr Harrison Grafanakis unfairly in relation to the message he sent on his private Messenger service. However, in respect to Part 7.1 (b), having regard to the statutory declaration made by Mr Grafanakis, the message did cause him offence and he was embarrassed by the statement made by Ald Mulder about his friend, Ald Blomeley. The Panel determined that as there was no long-standing communication between Ald Mulder and Mr Grafanakis, it did not constitute bullying or harassment and therefore Ald Mulder did not breach Part 7.1 (c).

In relation to Part 8.7 no evidence was submitted to the Panel that supported Ald Blomeley's assertion that Ald Mulder had represented the Council in such a manner as to adversely impact on the reputation of Council.

4. Sanction

Subsequent to its determination, both Ald Mulder and Ald Blomeley were contacted by the Chair of the Panel and asked if they wished to make any submissions as to the imposition of any, or an appropriate sanction, in respect of parts of the complaint which the Panel found proven. A copy of the draft determination was also forwarded to them.

Ald Blomeley provided a response dated 6 December 2019 and Ald Mulder provided a response dated 7 December 2019. The Panel considered these responses in its determinations in relation to sanction.

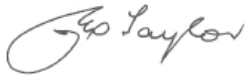
As a consequence of a consideration of the material before the Panel, the Panel determined that Ald Mulder be cautioned in respect of breaches of Part 3.1 and Part 7.1 (b) in relation to the matter of complaint, based on the events which occurred on 10 October 2019.

The Panel considered that although this was the first complaint against Ald Mulder, given his experience in public office over a number of years, a caution was the appropriate sanction.

During its consideration of matters relating to sanction, the Panel noted Ald Mulder's indicated intention to apologise in person to Mr Harrison Grafinakis. The panel, without ordering such action, commends Ald Mulder's indications in this regard and encourages him to follow through with that apology.

5. Right to Review

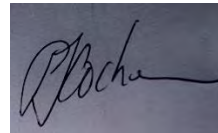
A person aggrieved by the determination of the Code of Conduct Panel is entitled under section 28ZP of the Act to apply to the Magistrates Court (Administrative Appeals Division) for a review of that determination on the grounds that the Code of Conduct Panel has failed to comply with the rules of natural justice.



Jill Taylor
Chairperson



Rob Winter
Legal Member



Penny Cocker
Member

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 PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

12.4 ANSWERS TO QUESTIONS WITHOUT NOTICE – PREVIOUS COUNCIL MEETING**Ald James**

When representors submit representations following advertising of a development application is there any means by which the representors can be advised that the item is coming up for consideration at a Council Meeting because at the moment a lot of them do not know about the issue, there is no contact between Council staff and the representor. Is there a means by which either in writing or a telephone call that they can be advised that the item is coming up for Council consideration following lodgement of their representation in accordance with the statutory process?

Answer

In responding to this question, it should be noted that there is in fact contact between staff and representors about the status of an application.

Once a representation is received, a response letter is sent to the representor confirming the representation has been received; that they will be informed of Council's decision; and that if they have any queries, the name of the relevant contact officer for the application. Using this information, representors are free to contact the relevant officer about progress and Council Meetings (if applicable).

While it would be possible to notify representors of the meeting date, it is considered that such a system would need to be implemented efficiently and consistently, in order to avoid reputational damage resulting from any unsatisfied representor expectations.

It is considered currently impossible to consistently and efficiently implement such an

arrangement, due to logistical factors. These include:

- It is usually unknown whether an application will be submitted to Council for decision, until the advertising period closes, and the number of representations are known.
- There is no guarantee that an item will go on a particular agenda, until the agenda is finalised for printing (the Wednesday prior to the meeting). This is because even though a report may be prepared with the intention of meeting a particular meeting, it may not actually be published if it is deferred for some reason – such as the applicant requesting delay in order to submit more information; respond to representations; talk to Aldermen etc). This does not leave adequate time to prepare/ post letters and for representors to receive those letters in time for them to make plans to come to a meeting. It is likely that often such letters would actually be received after the meeting date, which would cause unnecessary annoyance.
- Although representors may provide email or phone numbers, this is not always the case, which would lead to inconsistencies with those who provide a physical address only.
- Meeting current level of service obligations for statutory planning functions is currently stressed due to the volume and growing complexity of planning applications and processes. Additional non statutory processes will have work output ramifications.

In considering the implications of this matter, the following aspects are also relevant:

- The Act does not require representors to be notified of the meeting date – only the decision.
- Representors may choose to monitor the Council website to see if the item they are interested in is listed on the Council agenda.

Ald Edmunds

1. I am aware that there has been a delay with the All-abilities swing because of issues with the delivery company, could we please be provided with an update?

Answer

The All-abilities swing was installed on 3 December 2019.

2. I have some concerns that some small businesses that rely on the passing traffic, the communication they got from our contractor was very vague about how the interruptions would work and these businesses basically had no passing traffic and no business between 9.00 and 3.30 so perhaps when these roadworks have concluded there could be a review about how that happened and specifically if we could find out if there will be a full road closure again and if there is we could pass it on and I would reiterate my appreciation and support for Mr Graham's feedback and support to date.

Answer

An investigation on the consultation undertaken with the recent Clarence Street road works has been reported through a Memo to the Aldermen.

Ald Blomeley

1. Has Council taken steps to identify what port infrastructure is required on the Eastern Shore to support a Sullivan's Cove to Bellerive Ferry Service?

Answer

Preliminary work has been carried out by the State Government and that has included Tas Ports in terms of ferry terminal infrastructure, Department of State Growth in terms of the strategic planning for those assets and involvement from Metro in terms of public transport. While Council has been consulted and informed progress is still at a conceptual stage. We are not aware of any firm commitments at this point in time. We expect further consultation and more detail to emerge through the City Deal Implementation Plan processes.

2. Has Council considered if the expanded Bellerive Marina will impact on wharf access for a commuter ferry service?

Answer

The commuter ferry service that is being considered by DSG is proposed to use the Kangaroo Bay Hotel site as a terminal point. MAST have indicated they are satisfied with the conceptual proposal, at least at this preliminary stage. There is certainly no detail regarding size of vessel but certainly MAST are comfortable with the Bellerive Yacht Club development application, and Council's proposed wave attenuator development in terms of where they are located and the entry points for ferry operations. There has been some discussion with the operators of the MONA ferry because they periodically come into the marina but they deliver passengers to a different area. We expect to have on-going consultation with the ferry operator in order to maximise the benefits and use of the proposed developments within Kangaroo Bay.

Ald Peers

1. We heard earlier tonight that there is to be another rubbish bin on Rosny Hill could it be placed further away from the existing one because it is a mess up there at times?

Answer

The additional bin installed at the Rosny Hill lookout was a recycling bin and as with current practice this was installed adjacent the existing general bin.

2. Because it looks like we will get some development around the Kangaroo Bay area the fence around the sports oval still worries me, cricket balls can go onto the road they can injure a person and if there is some development then there will be a lot more traffic. I have raised this before and I fear that a cricket ball is going to be hit out of that ground at Kangaroo Bay and really hurt somebody. Could fencing of the area be investigated?

Answer

Council in the 2019/2020 budget process did not approve fencing of Kangaroo Bay Oval to manage the risk of errant cricket balls. We have written to Clarence District Cricket Club and Cricket Tasmania in relation to this risk and will advise Council in due course on the joint discussion and management options of this risk. One option may include a fence which will require budget approval.

Ald Walker

1. Victoria Esplanade – Bellerive Bluff Foreshore Plan - Are we on track to be looking at actually discussing budget items for the upcoming budget to be doing some actual enhancements and improvements in the area?

Answer

Council officers have considered options in delivering the Bellerive Bluff Foreshore Master Plan and will discuss with Aldermen at a workshop early next year.

2. Could I have the complete cost to date of the South Arm Skate Park project including tender/construction costs, legal, consultation costs and itemising these costs and other costs that have been involved to date? This matters because we have got a lot of conjecture in the area about the project in general, coupled with the fact that we have seen what we can spend for around one million dollars and I am fearing that this project is going to exceed these costs, given that we have a brilliant skate park in Rosny.

Answer

The costs for the South Arm Oval skate park including the skate park design, construction, tree removals, landscaping, consultation, consultants and legal fees are \$445,605.

Ald Ewington

1. When was the last time we reviewed our land clearing policies in relation to bushfire prone areas?

Answer

Further to the verbal answer provided at the meeting, these matters were reviewed as part of the 2016-2021 Clarence Fire Management Strategy.

2. Have we had any situations where residents have made complaints about not being able to clear around their properties, their own private land or Council land that has not been cleared to a standard that they thought was appropriate to protect their properties?

Answer

Council receives complaints about vegetation fuel, however this is mostly in relation to neighbouring houses. Inspections are undertaken and where necessary our rangers issue an abatement notice advising of a fire risk which needs to be addressed.

Council advises residents to create and manage a defensible space on their property in accordance with TasFire service standards. There may be situations where a permit condition applies to a previous development application and specifies for vegetation on the property to be retained. Residents can contact Council if they have queries in relation to their property.

At times we receive queries about vegetation on our land in relation to a possible fire risk. We manage vegetation fuel on Council land by inspections, planned burning and clearing in accordance with the 2016-2021 Clarence Fire Management Strategy. This strategy was endorsed by TasFire.

Ald Mulder

1. Regarding the ferry which has often been touted by the State Government for some time now as a park and ride solution to our traffic problems, in terms of the parking component of that park and ride where is that parking to be located and what measures will be taken to deal with the expected high level traffic problems in both Clarence Street and Cambridge Road?
If we are talking about alternatives such as buses, are people going to get on a bus to go to the ferry terminal and then get on a ferry when they could have stayed on the bus and been in town earlier.

Answer

It is understood that the State Government are not considering park and ride scenarios for the proposed Bellerive ferry service as its approach is to capture commuters that will walk or ride a bicycle to the ferry terminal. However, we are still waiting for the State Government to provide further detail beyond initial concept planning.

2. In the Closed Meeting Agenda under a “sporting project” at the last Council meeting a decision was made to inform interested parties of the decision. In the absence of any community consultation around this issue when if ever, will the community be advised of our decision.

Answer

The Closed Meeting item specified that when the transaction was complete there would be a report to Council and that the decision relating to that report would be publicly disclosed. At the time of the Council Meeting of 2 December the transaction was not complete.

12.5 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 not be recorded in the minutes.

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 APPOINTMENT OF COMMITTEE MEMBER

These reports have 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:

- personnel matters; and
- 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”.