
Minutes of a special meeting of the Central Coast Council held in the Council Chamber at the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 30 May 2016 commencing at 6.00pm.

Councillors attendance

Cr Jan Bonde (Mayor)
Cr Shane Broad
Cr Rowen Tongs
Cr Philip Viney

Cr John Bloomfield
Cr Gerry Howard
Cr Tony van Rooyen

Councillors apologies

Cr Kathleen Downie (Deputy Mayor) Cr Garry Carpenter

Employees attendance

General Manager (Ms Sandra Ayton)
Director Community Services (Mr Cor Vander Vlist)
Director Infrastructure Services (Mr John Kersnovski)
Director Organisational Services (Mr Vernon Lawrence)
Assets & Facilities Group Leader (Mr Greg Osborne)
Engineering Group Leader (Mr Paul Breaden)
Executive Services Officer (Miss Lisa Mackrill)

Media attendance

The media was not represented.

Public attendance

Forty-four members of the public attended during the course of the meeting.

Prayer

The meeting opened in prayer.

MAYOR'S COMMUNICATIONS

148/2016 Authority for special meeting

The Mayor reported as follows:

“This special meeting of the Council has been convened at my direction. Only the items on the agenda may be discussed.”

- Cr Viney moved and Cr Tonge seconded, “That the Mayor's report be received.”

Carried unanimously

149/2016 Pecuniary interest declarations

The Mayor reported as follows:

“Councillors are requested to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.”

The Executive Services Officer reported as follows:

“The *Local Government Act 1993* provides that a councillor must not participate at any meeting of a council in any discussion, nor vote on any matter, in respect of which the councillor has an interest or is aware or ought to be aware that a close associate has an interest.

Councillors are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted that a councillor must declare any interest in a matter before any discussion on that matter commences.

No interests were declared at this time.

DEPARTMENTAL BUSINESS

GENERAL MANAGEMENT

150/2016 TasWater – External Funding proposal

The General Manager reported as follows:

“PURPOSE

The purpose of this report is to seek a commitment from TasWater owner councils to extend the moratorium on increases in distributions to owner councils for a further seven years.

BACKGROUND

The following information has been provided by TasWater from its General Meeting agenda on 12 May 2016.

‘...Much of Tasmania’s sewage infrastructure is in a poor state with only 33% of the Sewage Treatment Plants (STPs) meeting their environmental licence conditions, many of which are not contemporary. Many small towns also continue to be subject to Boil Water Alerts or Do Not Consume Notices.

TasWater also has a disproportionate number of assets for the population served. TasWater estimates that to address all of the major rationalisations (in the major population centres of Hobart, Launceston and Devonport), environmental improvements for the sector and upgrades to drinking water systems, an investment of \$1.8 billion is required over the next 10 years.

This level of investment would enable rationalisation of a number of major STPs thus avoiding significant expenditure in upgrading outdated plants, the provision of safe drinking water to all serviced towns and material improvements in the health of a number of Tasmania’s key rivers.

The implications of not progressing these major projects over the next 10 years is that TasWater could be forced to upgrade existing outdated infrastructure thereby perpetuating inefficiencies that arise from having too many assets and hindering economic growth.

TasWater, through Tasmanian water and sewerage customers is unable to fully fund these projects in addition to a capital program of approximately \$110 million per annum

without unaffordable price increases, meaning that external funding is needed from all levels of government.

It is TasWater's view that funding from the State and Federal Governments is unlikely to be forthcoming if they are unable to show that the Owner Councils are not prepared to share some of the financial burden.

With respect to the contribution from owner councils, TasWater's modelling indicates that extending the current freeze on increases in distributions for a further seven years, beyond that already agreed to, would equate to a contribution of \$82 million to the major strategic projects.

The modelling also suggests that through average annual price increases of 4.5% customers would contribute approximately \$155 million to funding the major strategic projects.

TasWater will be able to fund a portion of the required expenditure in addition to its planned capital expenditure program of \$1.1 billion over the next 10 years through increased borrowings and productivity improvements.

External contributions from the Commonwealth and State Governments are also needed and would leverage TasWater's planned capital expenditure program from \$1.1 billion to \$1.8 billion.

TasWater's expectation is that detailed business cases could be developed for each of the major projects, confirming the economic and social benefits and providing an opportunity for reassessment at each major milestone to ensure the envisaged benefits are delivered...'

There is currently a three year freeze on increases in TasWater distributions in place. This caps owner council distributions at \$30m. per annum for the 2016, 2017 and 2018 financial years which gives the Central Coast Council an annual share of \$1.431m.

DISCUSSION

The increase in the freeze on distributions to the owner councils has been proposed by TasWater based on the estimated funding needed to bring water and sewerage infrastructure up to an acceptable standard over the next 10 years. It is estimated that this will require a spend of \$1.8 billion.

TasWater can fund \$1.2 billion of the total funding required and has proposed that the shortfall of \$600m. be funded by:

- . TasWater finding further savings of \$10m. per annum or \$100m. over 10 years;
- . the State and Federal Governments contributing \$400m. over the next 10 years;
- . the current freeze on distributions to owner councils being extended for a further seven years.

Further correspondence from TasWater following the Owners' Representatives meeting held on 12 May 2016 included the following information:

'...TasWater can fund \$1.2 billion and we have put together a proposal that the \$600 million shortfall be funded by TasWater finding further savings of \$10 million pa or \$100 million, that the State and Federal Governments contributed \$400 million over the next 10 years and that the current freeze on distributions to Owner Councils be extended for a further seven years, which in effect means that Councils will have forgone \$82 million.

It is TasWater's view that in the absence of councils being prepared to share some of the financial pain with State and Federal Governments it is highly unlikely that we will be able to secure the additional funding needed to address the shortcomings in our infrastructure on a timely basis...'

This Council is in effect being asked to forego \$3.893m. in distributions over the 10 year period, but we will still receive \$14.310m. over that same period. TasWater has advised that they could not fund the \$1.8 billion capital program without external funding as the resulting level of gearing would unlikely be acceptable to Tascorp, and indeed the Board and owner councils.

The question for owner councils is whether they are prepared to accept reduction in projected distributions in order that TasWater has the opportunity to seek to persuade the State and Federal Governments to assist them in funding the \$1.8 billion investment in much needed upgrades to the State's water and sewerage infrastructure.

At the Owners' Representatives meeting on 12 May 2016, the representatives requested further information about the implications for individual councils. TasWater has provided an analysis on the implications for the Central Coast Council.

CONSULTATION

Consultation with the owner councils was undertaken at the Owners’ Representatives meeting held on 12 May 2016, with further information being provided to allow for full consideration with individual councils.

RESOURCE, FINANCIAL AND RISK IMPACTS

The effect of extending the current freeze on distributions means that owner councils will have foregone \$82m. As mentioned above, the effect for the Central Coast Council will be that it foregoes \$3.893m. in distributions over the 10 year period, but will still receive \$14.310m. over that same period.

The impact of the 10 year freeze on Central Coast’s distribution has been provided by TasWater. If agreed, the Council would forego any increase in distributions until the financial year commencing 1 July 2026.

Central Coast’s distribution percentage is 4.77%.

Assuming distributions were to grow each (financial) year at the same rate as revenue, being 4% per annum (2016–2018), then 5% (2019–2021) and 4% per annum (2022 onwards), the following would be the impact of the freeze:

	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Estimate (no moratorium)	1,488	1,548	1,610	1,690	1,775	1,863	1,938	2,015	2,096	2,180
Moratorium	1,431	1,431	1,431	1,431	1,431	1,431	1,431	1,431	1,431	1,431
Impact	(57)	(117)	(179)	(259)	(344)	(432)	(507)	(584)	(665)	(749)

Summary -

Total original distribution profile	\$18,203,000
10 year freeze distribution profile	\$14,310,000
Shortfall in distribution income	\$3,893,000

It should be noted that the current freeze and the proposed extension will have no impact on the Council’s Long-term Financial Plan (LTFP). The LTFP does not assume any growth in TasWater distributions and assumes only the distribution of \$1.431m. per annum.

There is a case for significant capital expenditure on the water and sewerage treatment assets managed by TasWater. Relying on increases in the water and sewerage charges to consumers to fund the capital works, but at the same time increasing distributions to the owner councils may create some concerns in the community.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure

Council Sustainability and Governance

- Improve corporate governance
- Improve service provision.

CONCLUSION

It is recommended that the Council commit to extending the current moratorium on increases in distributions until 2024–2025 in the event that TasWater secures commitments of no less than \$400 million from the State and Federal Governments over a 10 year period to upgrade the State’s water and sewerage infrastructure.”

- Cr van Rooyen moved and Cr Howard seconded, “That the Council commit to extending the current moratorium on increases in distributions until 2024–2025 in the event that TasWater secures commitments of no less than \$400 million from the State and Federal Governments over a 10 year period to upgrade the State’s water and sewerage infrastructure.”

Carried unanimously

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151/2016 Council acting as a planning authority

The Mayor reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2015* provide that if a council intends to act at a meeting as a planning authority under the *Land Use Planning and Approvals Act 1993*, the chairperson is to advise the meeting accordingly.

The Director Community Services has submitted the following report:

‘If any such actions arise out of Minute No’s 152/2016 and 153/2016, they are to be dealt with by the Council acting as a planning authority under the *Land Use Planning and Approvals Act 1993*.’”

The Executive Services Officer reported as follows:

“Councillors are reminded that the *Local Government (Meeting Procedures) Regulations 2015* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

- Cr Viney moved and Cr Tongs seconded, “That the Mayor’s report be received.”

Carried unanimously

152/2016 Residential (dwelling and outbuilding – garage) – variation to side boundaries at 193 Allport Street East, Leith – Application No. DA215176

The Director Community Services reported as follows:

“The Land Use Planning Group Leader has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA215176
<i>PROPOSAL:</i>	Dwelling and outbuilding (garage)
<i>APPLICANT:</i>	Todd Wilkin
<i>LOCATION:</i>	193 Allport Street East, Leith
<i>ZONE:</i>	Rural Living
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	20 April 2016
<i>REPRESENTATIONS EXPIRY DATE:</i>	5 May 2016

<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	30 May 2016
<i>DECISION DUE:</i>	30 May 2016

PURPOSE

The purpose of this report is to consider an application for a dwelling and outbuilding (garage) at 193 Allport Street East, Leith.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representation;
- . Annexure 4 – Submission to Planning Authority Notice from TasWater, Reference No. TWDA 2016/00490-CC.

BACKGROUND

Development description –

It is proposed to erect a new dwelling and shed (garage) on a vacant internal lot off Allport Street East, Leith. Access to the site is by access strip to a small cul-de-sac.

The dwelling would be 303m² in area, single storey and contain three or four bedrooms. It would be constructed with dark coloured brick walls and a dark grey “Colorbond” roof.

The proposed garage outbuilding would be 135m² in area and stand 4.2m high. It would be constructed of steel and clad in grey coloured “Colorbond” metal sheeting.

Site description and surrounding area –

The site slopes gently downwards from south to the north before sloping upwards to the eastern boundary. Approximately one-third of the eastern portion of the site contains native forest vegetation. There is evidence of some recent clearing of the lot.

The cul-de-sac that serves the site also provides access to four other lots. A drainage easement runs along the proposed driveway/access strip providing a right of drainage for stormwater over the lot directly to the west of the site (SP160390).

The title indicates an approximately 8m wide strip parallel to the northern boundary which is dedicated for vegetation protection, and requires the owners not to permit or allow to be carried out, any clearance of native vegetation within that area. This would apply to erection of a building and prevent such construction on the basis that such building is likely to cause the clearance of some native vegetation.

History -

In 2007, the Council approved subdivision of a parent lot, including the subject lot, into eight lots. The decision was appealed. The judgement, which was reached through mediation, included incorporation of a 10m wide native vegetation retention strip along the northern boundary of the land, including the subject lot, and parallel with the Hill Street road reserve. This was implemented as a covenant on the Title to the land.

On 27 January 2015, the Council approved a three lot subdivision at 195 Allport Street East. The subject site is Lot 1 on the approved plan (DA214098).

The current application was preceded by a similar proposal which was withdrawn because it did not meet a setback requirement imposed by the Resource Management and Planning Appeal Tribunal. The requirement was for a 10m wide strip parallel with the northern boundary over the subject lot, within which there is to be no native vegetation removal.

The current plan shows the shed moved to meet the Tribunal's required setback, but also includes a resiting of the dwelling 2m closer to the southern boundary of the lot, i.e. now a 1m setback.

DISCUSSION

The following table is an assessment of the relevant Scheme provisions:

13.0 Rural Living Zone

CLAUSE	COMMENT
13.3 Use Standards	
13.3.1 Discretionary permit use	
<p>13.3.2-(P1) Discretionary permit use must:</p> <p>(a) be consistent with local area objectives;</p> <p>(b) be consistent with any applicable desired future character statement; and</p> <p>(c) minimise likelihood for unreasonable impact on amenity for residential use on adjacent land in the zone.</p>	Not applicable. Residential use is permitted.
13.3.2 Impact of use	
13.3.2-(A1) Use that is not a residential use must not occur on more than two adjoining sites.	Not applicable. The use is residential.
13.3.2-(A2) The site for a use that is not a residential use must not require pedestrian or vehicular access from a no-through road.	Not applicable. The use is residential.

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<p>13.3.2-(A3) Other than for emergency services, residential, and visitor accommodation, hours of operation must be between 6.00am and 9.00pm.</p>	<p>Not applicable. The use is residential.</p>
<p>13.4.1 Suitability of a site or lot for use or development</p>	
<p>13.4.1-(A1) Each site or each lot on a plan of subdivision must:</p> <p>(a) have an area not less than:</p> <p style="padding-left: 20px;">(i) 1.0 hectares excluding any access strip; or</p> <p style="padding-left: 20px;">(ii) if in a locality shown in the Table to this clause, not less than the site area shown for that locality; and</p> <p>(b) if intended for a building, contain a building area:</p> <p style="padding-left: 20px;">(i) of not more than 1,000m²;</p> <p style="padding-left: 20px;">(ii) clear of any applicable setback from a frontage, side or rear boundary;</p> <p style="padding-left: 20px;">(iii) clear of any applicable setback from a zone boundary;</p> <p style="padding-left: 20px;">(iv) clear of any registered easement;</p>	<p>(a) Non-compliant. Lot is 5,815m².</p> <p>(b) Compliant. Proposed building area is 545m².</p> <p>See “Issues” section below.</p>

<ul style="list-style-type: none"> (v) clear of any registered right-of-way benefiting other land; (vi) clear of any restriction imposed by a utility; (vii) not including any access strip; and (viii) clear of any area required for the on-site disposal of sewage or stormwater; and (ix) accessible from a frontage or access strip. 	
<p>13.4.1-(A2) A site or each lot on a subdivision plan must have a separate access from a road:</p> <ul style="list-style-type: none"> (a) across a frontage over which no other land has a right of access; and (b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or (c) by a right of way connecting to a road: <ul style="list-style-type: none"> (i) over land not required as the means of access to any other land; and 	<ul style="list-style-type: none"> (a) Compliant. No other land has right of access over the frontage. (b) Compliant. Internal lot – access strip provides for no other lot access. (c) Not applicable. No right of way connection. (d) Compliant. Width of frontage/access strip is 6m. (e) Compliant. Existing access previously approved.

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<ul style="list-style-type: none"> (ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and (d) with a width of frontage and any access strip or right of way of not less than 6.0m; and (e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan. 	
<p>13.4.1-(A3) A site or each lot on a plan of subdivision must be capable of connecting to a water supply:</p> <ul style="list-style-type: none"> (a) from a connection to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or (b) from a rechargeable drinking water system ^{R6} with a storage capacity of not less than 10,000 litres if: <ul style="list-style-type: none"> (i) there is not a reticulated water supply; and (ii) development is for: 	<p>Compliant. The site is connected to the reticulated water system.</p>

<ul style="list-style-type: none"> a. a single dwelling; or b. a use with an equivalent population of not more than 10 people per day. 	
<p>13.4.1-(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and trade waste:</p> <ul style="list-style-type: none"> (a) to a reticulated sewer system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or (b) by on-site disposal if: <ul style="list-style-type: none"> (i) sewage or trade waste cannot be drained to a reticulated sewer system; and (ii) the development: <ul style="list-style-type: none"> a. is for a single dwelling; or b. provides for an equivalent population of not more than 10 people per day; or c. creates a total sewage and waste water flow of not more than 1,000 litres per day; and 	<ul style="list-style-type: none"> (a) Compliant. The site is not connected to the reticulated sewerage system. (b) Compliant. On-site disposal proposed - for a single dwelling with capacity for on-site disposal.

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<p>(iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS1547:2012 On-site domestic-wastewater management clear of any defined building area or access strip.</p>	
<p>13.4.1-(A5) A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater:</p> <p>(a) for discharge to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>; or</p> <p>(b) if stormwater cannot be drained to a stormwater system:</p> <p>(i) for discharge to a natural drainage line, water body, or watercourse; or</p> <p>(ii) for disposal within the site if:</p> <p>a. the site has an area of not less than 5,000m²;</p> <p>b. the disposal area is not within any defined building area;</p> <p>c. the disposal area is not within any area required for the disposal of sewage;</p>	<p>(a) Compliant. The site is connected to the reticulated stormwater system.</p> <p>(b)(i) Compliant. The lot is to drain stormwater to the registered drainage easement.</p> <p>(b)(ii) Not applicable.</p> <p>(b)(iii) Compliant. Proposal is for a single dwelling.</p>

<p>d. the disposal area is not within any access strip; and</p> <p>e. not more than 50% of the site is impervious surface; and</p> <p>(iii) the development is for a single dwelling.</p>	
<p>13.4.2 Dwelling density</p>	
<p>13.4.2-(A1) The site area per dwelling must:</p> <p>(a) be not less than 1.0 hectare; or</p> <p>(b) if the site is in a locality shown in the Table to this clause, the site area for that locality.</p>	<p>(a) Non-compliant. Site area per dwelling being is 5,815m².</p> <p>(b) Not applicable. No Table to clause.</p> <p>See "Issues" section below.</p>
<p>13.4.3 Location and configuration of development</p>	
<p>13.4.3-(A1) A building, utility structure, garage, carport or an external car parking area and any area for the display, handling, or storage of goods, materials or waste, must be set back from a frontage:</p> <p>(a) not less than 20.0m;</p> <p>(b) not less or not more than the setbacks for any existing building on each of the immediate adjoining sites;</p>	<p>(a) Compliant. The frontage setback of the dwelling is approx. 57m.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Not applicable. Satisfied by (a).</p>

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<p>(c) not less than for any building retained on the site;</p> <p>(d) in accordance with any building area shown on a sealed plan of subdivision; or</p> <p>(e) not less than 50.0m if the site abuts the Bass Highway.</p>	<p>(e) Not applicable. Site does not abut Bass Highway.</p>
<p>13.4.3-(A2) All buildings must be contained within a building envelope determined by:</p> <p>(a) the applicable frontage setback;</p> <p>(b) a setback of not less than 10.0m from each side boundary;</p> <p>(c) a setback of not less than 10.0m from the rear boundary;</p> <p>(d) a setback of not less than 20.0m from any designated building area on each adjacent site; or</p> <p>(e) any building area shown on a sealed plan; and</p> <p>(f) building height of not more than 8.5m.</p>	<p>The proposed building setbacks are as follows:</p> <p>(a) Compliant. 65m from frontage.</p> <p>(b) Non-compliant. Garage setback 6m from western and 10m from northern boundaries. Dwelling setback 1m from southern boundary.</p> <p>See "Issues" section below.</p> <p>(c) Compliant. Rear setback – 75m.</p> <p>(d) Not applicable. No designated building area on adjacent site.</p> <p>(e) Not applicable. No building area on a sealed plan.</p> <p>(f) Compliant. Building height – 4.6m.</p>

<p>13.4.3-(A3) Site coverage must:</p> <p>(a) be not more than 500m²; and</p> <p>(b) not include any part of a site required for the disposal and drainage of sewage or stormwater; or</p> <p>(c) be not more than any building area shown on a sealed plan.</p>	<p>(a) Compliant. Site coverage is 440m².</p> <p>(b) Compliant. Does not include areas required for disposal or drainage of sewage or stormwater.</p> <p>(c) Not applicable. No building area shown on a sealed plan.</p>
<p>13.4.3-(A4) A building or utility structure must be:</p> <p>(a) not less than 15.0m below the level of any adjoining ridgeline;</p> <p>(b) not less than 30.0m from any shoreline to a marine or aquatic water body, watercourse, or wetland; and</p> <p>(c) clad and roofed in non-reflective materials.</p>	<p>(a) Compliant. The proposed buildings are not sited on a ridgeline.</p> <p>(b) Compliant. The proposed buildings are not sited within 50m of a shoreline or aquatic water body, watercourse or wetland.</p> <p>(c) Compliant. External walls of the dwelling would be brown coloured brick while roof would be dark grey coloured corrugated Colorbond.</p>
<p>13.4.4 Acoustic and visual privacy for residential development</p>	
<p>13.4.4-(A1) A door or window to a habitable room or any part of a balcony, deck, roof garden, parking space or carport of a building must:</p>	<p>(a) Compliant. Loungeroom windows on western side, approximately 25m from side (western) boundary and bedroom windows setback 75m from rear (eastern) boundary.</p>

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<p>(a) be not less than 10.0m from a side boundary and 10.0m from a rear boundary to adjoining land in any zone for residential purposes; or</p> <p>(b) be not less than 10.0m from a door or window to a habitable room or any part of a balcony, deck, or roof garden in an adjacent dwelling.</p>	<p>(b) Compliant. Dwelling would be setback approximately 70m from closest dwelling (191 Allport Street East).</p>
<p>13.4.4-(A2) An access strip or shared driveway, including any pedestrian pathway and parking area, must be separated by a distance of not less than 5.0m horizontally from the door or window to a dwelling or any balcony, deck, or roof garden in a dwelling.</p>	<p>Compliant. Closest dwelling (191 Allport Street East) is approximately 15m away from access strip.</p>
<p>13.4.5 Private open space for multiple dwelling residential use</p>	
<p>13.4.5-(A1) Each dwelling in a multiple dwelling must have external private open space that:</p> <p>(a) is accessible from the dwelling;</p> <p>(b) comprises an area of not less than 50.0m²;</p> <p>(c) has a minimum dimension of 5.0m;</p> <p>(d) has a gradient of not more than 1 in 10.</p>	<p>Not applicable. No multiple dwellings proposed.</p>

<p>13.4.5–(A2) The required minimum private open space area must be capable of receiving at least three hours of sunlight between 9.00am and 3.00pm on 21 June.</p>	<p>Not applicable. No multiple dwellings proposed.</p>
<p>13.4.6 Setback of development for sensitive use</p>	
<p>13.4.6–(A1) A building containing a sensitive use must be contained within a building envelope determined by:</p> <p>(a) the setback distance from the zone boundary as shown on the Table to this clause; and</p> <p>(b) projecting upward and away from the zone boundary at an angle of 45 degrees above the horizontal from a wall height of 3.0m at the setback distance from the zone boundary.</p>	<p>(a) Compliant. The Table to this clause requires a setback of 10m from the Rural Resource zone boundary. Proposed dwelling would be 75m from the zone boundary.</p> <p>(b) Compliant. Proposed development would fit within the stipulated building envelope.</p>
<p>13.4.6–(A2) Development for a sensitive use must be not less than 50.0m from:</p> <p>(a) the Bass Highway;</p> <p>(b) a railway;</p> <p>(c) land designated in the planning scheme for future road or rail purposes; or</p> <p>(d) a proclaimed wharf area.</p>	<p>(a) Compliant. Distance to Bass Highway – 430m.</p> <p>(b) Compliant. Distance to Western Rail Line – 530m.</p> <p>(c) Compliant. No land designated for future road or rail purposes.</p> <p>(d) Compliant. Distance to Devonport Wharf – approximately 10km.</p>

13.4.7 Subdivision	
<p>13.4.7-(P1) Each new lot on a plan of subdivision must be:</p> <ul style="list-style-type: none"> (a) intended for residential use; (b) a lot required for public use by the State Government, a Council, a statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a statutory authority; or (c) for a purpose permissible in the zone. 	<p>Not applicable. No subdivision proposed.</p>
<p>13.4.7-(P2)</p> <ul style="list-style-type: none"> (a) A lot must have a frontage to a road; or (b) An internal lot on a plan of subdivision must be: <ul style="list-style-type: none"> (i) reasonably required for the efficient use of land as a result of a restriction on the layout of lots with a frontage imposed by: <ul style="list-style-type: none"> a. slope, shape, orientation and topography of land; b. an established pattern of lots and development; 	<p>Not applicable. No subdivision proposed.</p>

<ul style="list-style-type: none"> c. connection to the road network; d. connection to available or planned utilities; e. a requirement to protect ecological, scientific, historic, cultural or aesthetic values, including vegetation or a watercourse; or f. exposure to an unacceptable level of risk from a natural hazard; and <p>(ii) without likely impact on the amenity of adjacent land.</p>	
<p>13.4.8 Reticulation of an electricity supply to new lots on a plan of subdivision</p>	
<p>13.4.8-(A1) Electricity reticulation and site connections must be installed underground.</p>	<p>Not applicable. No subdivision proposed.</p>
<p style="text-align: center;">CODES</p>	
<p>E1 Bushfire-Prone Areas Code</p>	<p>Not applicable. Code does not apply to single dwellings.</p>
<p>E2 Airport Impact Management Code</p>	<p>Not applicable. No Code in this Scheme.</p>

E3 Clearing and Conversion of Vegetation Code	
E3.2 Application of the Code	Code applies - to land in the Rural Living zone and requires a permit. Some mature Eucalyptus trees would require removal to make way for the proposed dwelling and outbuilding.
E3.4 Use or development exempt from this Code	Development not exempt because not all the land has been previously cleared and no reserve management plan applies.
E3.6 Development Standards	
E3.6.1 Protection of a threatened native vegetation community or native vegetation providing habitat for a threatened species	
<p>E3.6.1-(A1) Vegetation must not be:</p> <ul style="list-style-type: none"> (a) a threatened native vegetation community; (b) a threatened species habitat; or (c) within 30.0m of a water body, watercourse, wetland, or coastal shoreline. 	<p>Compliant. Site of proposed building is not a threatened native vegetation community or a threatened species habitat, and is not within 30m of a watercourse or water body.</p> <p>A section of the lot alongside and parallel with the Hill Street Reserved Road is a dedicated native vegetation retention area. The area was required by the Resource Management and Planning Appeal Tribunal in response to an appeal against subdivision of the land in August 2007.</p>

E3.6.2 Clearing of vegetation on land of scenic or landscape value	
<p>E3.6.2-(P1)</p> <p>(a) The harvesting of timber or the clearing and conversion of vegetation must:</p> <ul style="list-style-type: none"> (i) be necessary to deliver an overriding social, economic, or environmental benefit to the community; or (ii) be justified by exceptional circumstances; and (iii) there is no suitable alternative site; or <p>(b) be consistent with the objectives and outcomes for any scenic or landscape management plan incorporated as a document forming part of this planning scheme; and</p> <p>(c) the extent of clearing and conversion must:</p> <ul style="list-style-type: none"> (i) retain a sufficient intensity and distribution of vegetation to screen cleared and converted areas; (ii) not impact on the visual qualities of a shoreline, skyline, ridge, or other prominent landform feature; (iii) not be exposed to view from a road, public place, or settlement area; and 	<ul style="list-style-type: none"> (a) Compliant. Removal of trees outside the vegetation retention area is considered an exceptional circumstance in the context of the lot size and location, its zoning for residential use and the absence of a suitable alternative site. (b) Not applicable. No scenic or landscape management plan incorporated into the Scheme. (c) Compliant. Tree removal combined with retention of native vegetation retention area would constitute a sufficient intensity and distribution of vegetation to screen cleared and converted areas, would not adversely impact on the visual qualities of the ridgeline, would not be unreasonably exposed to the surrounding road network, and does not require additional measures to minimise impact on landscape value.

<p>(iv) include measures to minimise likely adverse impact for scenic or landscape value.</p>	
<p>E3.6.3 Clearing of vegetation on land susceptible to landslide</p>	
<p>E3.6.2-(A1) The site must be within an area:</p> <p>(a) exposed to a low level of likely risk from landslide; and</p> <p>(b) a landslide hazard risk assessment ^{L1} must indicate clearing of native vegetation:</p> <p>(i) can achieve and maintain a tolerable level of risk; or</p> <p>(ii) there is an insufficient increase in the level of risk to warrant any specific hazard reduction or protection measures; or</p> <p>(iii) any condition or requirement for specific hazard reduction or protection measures.</p>	<p>(a) Compliant. Land is located within an area of low risk of landslide.</p> <p>(b) Not applicable. No landslide risk assessment required.</p>
<p>E4 Change in Ground Level Code</p>	<p>Not applicable. Changes in ground level would not exceed 1m.</p>

E5 Local Heritage Code	Not applicable. No places of local heritage value listed in Code.
E6 Hazard Management Code	Not applicable. No hazards indicated in any hazard map.
E7 Sign Code	Not applicable. No signs proposed.
E8 Telecommunication Code	Not applicable. No telecommunications proposed.
E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Code applies to all development.
E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme applies to the land.
E9.5 Use Standards	
E9.5.1 Provision for parking	
E9.5.1-(A1) Provision for parking must be: (a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;	(a) Compliant. The Table to the Code requires two on-site car parking spaces. The development proposes four spaces. (b) Not applicable. Parking only triggered where 20 or more car parking spaces are required or provided.

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<p>(b) motor bike parking at a rate of one space for every 20 vehicle parking spaces;</p> <p>(c) parking spaces for people with disabilities at the rate of one space for every 20 parking spaces or part thereof; and</p> <p>(d) bicycle parking at the rate of one space for every 20 vehicle parking spaces or part thereof.</p>	<p>(c) Not applicable. Parking only triggered where 20 or more car parking spaces are required or provided.</p> <p>(d) Not applicable. Parking only triggered where 20 or more car parking spaces are required or provided.</p>
<p>E9.5.2 Provision for loading and unloading of vehicles</p>	
<p>E9.5.2-(A1) There must be provision within a site for:</p> <p>(a) on-site loading area in accordance with the requirement in the Table to this Code; and</p> <p>(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.</p>	<p>(a) Not applicable. Table to the Code does not require loading or unloading provision.</p> <p>(b) Not applicable. Provision does not apply to residential use.</p>
<p>E9.6 Development Standards</p>	
<p>E9.6.1 Road access</p>	
<p>E9.6.1-(A1) There must be an access to the site from a carriageway of a road ^{R36};</p>	<p>(a) Compliant. Access to Allport Street East approved at previous subdivision stage.</p>

<p>(a) permitted in accordance with the <i>Local Government (Highways) Act 1982</i>;</p> <p>(b) permitted in accordance with the <i>Roads and Jetties Act 1935</i>; or</p> <p>(c) permitted by a license granted for access to a limited access road under the <i>Roads and Jetties Act 1935</i>.</p>	<p>(b) Not applicable. Not a State road.</p> <p>(c) Not applicable. Not a Limited Access road.</p>
<p>E9.6.2 Design of vehicle parking and loading areas</p>	
<p>E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and</p>	<p>Compliant. The plans indicate that stormwater from development would be drained to the reticulated system.</p>
<p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p> <p>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;</p>	<p>(a) Compliant. Accepted that off-street car parking and manoeuvring areas are consistent with AS 2890.1 (2004).</p> <p>(b) Not applicable. Parking types not proposed or required.</p> <p>(c) Not applicable. Parking types not proposed or required.</p> <p>(d) Not applicable. Parking types not proposed or required.</p>

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<p>(d) Be in accordance with AS/NZS 2890.6 Parking Facilities – Off-Street Parking for People with Disabilities;</p> <p>(e) Each parking space must be separately accessed from the internal circulation aisle within the site;</p> <p>(f) Provide for the forward movement and passing of all vehicles within the site other than if entering or leaving a loading or parking space;</p> <p>(g) Be formed and constructed with compacted sub-base and an all-weather surface.</p>	<p>(e) Compliant. All parking spaces accessible from internal driveway.</p> <p>(f) Compliant. Sufficient vehicle manoeuvring area to allow for on-site turning.</p> <p>(g) Compliant. Driveway surface not indicated on plans. Include as a condition of approval.</p>
<p>E9.6.2-(A2) Design and construction of an access strip and vehicle circulation, movement and standing areas for use or development on land within the Rural Living, Environmental Living, Open Space, Rural Resource, or Environmental Management zones must be in accordance with the principles and requirements for in the current edition of Unsealed Roads Manual – Guideline for Good Practice ARRB.</p>	<p>Compliant. Guidelines apply to unsealed rural roads. Would only be applicable if access and driveway are not sealed.</p>
<p>E10 Water and Waterways Code</p>	<p>Not applicable.</p>
<p>Specific Area Plans</p>	<p>Not applicable. No Specific Area Plans apply to this location.</p>

*Issues –**1 Lot size –*

The subject lot is 5,815m² in size: Section 13.4.1 A1 of the Scheme requires a lot to be a minimum of 1ha. The application therefore requires assessment against the associated Performance Criteria which require that the site is of sufficient area for the intended use without constraint or interference caused.

Under the former Central Coast Planning Scheme 2005 the area was zoned Low Density Residential which carried with it a minimum lot size of 4,000m² and setbacks of 10m from the front and 5m from side and rear boundaries. Much of the Leith area has been developed in accordance with those standards.

With the introduction of Interim Planning Schemes, the Tasmanian Planning Commission (the Commission) directed that Leith and other Low Density Residential zoned areas be zoned Rural Living with the 1ha minimum lot size. The Council made representations to amend the standards as they apply to places like Leith – including the 4,000m² minimum lot size. The Council was concerned that the standards were not appropriate and would cause most applications to invoke discretion unnecessarily. The advice of the Commission on the changes sought is still awaited.

However, the current proposal needs to be assessed under the current Scheme provisions and specifically whether the development is consistent with the Performance Criteria. The Performance Criteria require the lot be of adequate size and dimension to accommodate the proposed development without any adverse effect on the design of the buildings, access, development on adjacent lots, a utility or easements.

The only matter which is at issue under the Performance Criteria is in relation to easements. The Title contains two burdening provisions. First is the 10m wide native vegetation retention area which runs along and parallel with the northern boundary. The second is a 3m wide drainage easement which runs for 80m along the access strip, for the carriage of stormwater from the cul-de-sac to a stormwater pit.

The proposed garage has been redesigned so it is sited at the edge of the 10m native vegetation retention area. The covenant requires an owner not to permit or allow to be carried out any clearance of native vegetation. In this case it is unlikely that the proposed garage would

destroy any native vegetation within the covenanted area. This would be consistent with the covenant and for this reason is considered acceptable.

Generally it is considered that the proposal is of an appropriate scale and form for the site and would be consistent with that of the surrounding area. It is also consistent with the Council's preferred form and density for the area as evidenced by the pattern and form of development in the area. On this alone an exercise of discretion on lot size would be appropriate.

However the proposal must demonstrate that the development is capable of satisfying the stated requirements for having no adverse effect on the design of the buildings, access, development on adjacent lots, a utility and any easements.

The development adequately satisfies these Criteria, and on this basis it is considered that an exercise of discretion on the lot size standard would be justified.

2 *Dwelling density* -

Section 13.4.2 of the Scheme requires a dwelling density of one dwelling per hectare. In this case the density would be one dwelling per 5,815m². An assessment against the Performance Criteria involving an exercise of discretion is therefore required.

The background circumstances regarding density are similar to those discussed above under "Lot size", specifically as they relate to development provisions of the Rural Living zone and the Commission's decision on zoning.

As indicated above, the current proposal must be assessed against the current Scheme provisions. The relevant Performance Criteria for density are similar to those for lot size, i.e. land is to be capable of containing a suitable building area, have road access, have a water supply, can dispose of sewage and can dispose of stormwater. The development is capable of satisfying each of these Criteria, as discussed under "Lot size" above.

The Performance Criteria also require that the development has a tolerable level of risk from a natural hazard. The subject land does not show on hazard maps as being at risk of landslide, acid sulphate soils

or coastal erosion or inundation and on this basis it is considered that the remaining Criteria is also satisfied.

An exercise of discretion on the dwelling density standard is also considered justified.

3 *Side boundary setbacks –*

Section 13.4.3 of the Scheme contains standards for, inter alia, building setbacks. The proposed development is required to be setback 10m from side and rear boundaries. Proposed minimum setbacks are:

- . Dwelling – 1m from southern boundary; and
- . Garage – 7m from western boundary.

The Performance Criteria against which the proposed setbacks need to be assessed are:

- (a) to minimise over-shadowing of a habitable room on an adjacent site;
- (b) to take account of the relationship between proposed development and surrounding buildings;
- (c) to minimise apparent scale, bulk, massing and proportion relative to adjacent buildings;
- (d) consistency with rural landscape and streetscape; and
- (e) respond to slope and orientation to attenuate impact on adjacent land.

Firstly, regarding the 1m setback of the dwelling from the southern boundary, there is not yet a dwelling on the adjacent southern lot so it is appropriate to consider the shading impact as though there was a dwelling on the land – of a type and form that could be reasonably expected. Such a dwelling would be single storey with a northern boundary setback of between 3m and 5m, and sited in a similar position on the lot to that proposed in this case.

Shading diagrams submitted with the application show that some shadowing of the adjacent lot would occur in winter as a consequence of the proposed development. The shading impact would be greatest

in the morning, up to 11.00am after which the shading would be only a little more than would be caused by a 1.5m high boundary fence.

It is also likely that shading caused by the dwelling would be less than that caused by existing substantial vegetation in the Hill Street Road Reserve and covenanted vegetation retention area on the subject lot. The shading effect of the proposed buildings and the siting of the dwelling 1m from the southern boundary is not likely to be unreasonable.

The designer of a future dwelling on the adjacent lot would also have the opportunity to plan the site in a manner that mitigates any adverse impacts associated with the development now proposed.

The first test is deemed to be satisfied.

The second test is that the relationship between proposed development and surrounding buildings are taken into account. In this case the proposed buildings are large lot residential in character, domestic in scale and traditional in form and materials. Such characteristics are commonly found in the area and can be expected with future development.

A 1m side setback is an unusual setback distance in Rural Living areas. A 5m setback would be more common.

In this case the lot is linear in shape and with a 10m covenanted area on the northern side. These factors combine to constrain development and in that context a lesser setback could be expected.

The site and two other lots from the parent title are most visible from the adjoining cul-de-sac and the end section of Allport Street East. From these points development would appear close due to the foreshortening effect of viewing three buildings in a line. In this context whether the setback was 1m or 5m would make little noticeable difference in a streetscape sense.

The applicant gives as the reason for the lesser setback that a greater setback would push the dwelling northwards so that the outlook of an alfresco area would be to the end of the shed, which would undermine the amenity of that space as a consequence.

It is considered that the relationship between the proposed development and surrounding buildings has been adequately

considered, and therein the Performance Criteria are deemed to be satisfied.

For similar reasons it is considered that the three remaining Performance Criteria have also been satisfied.

In respect of the proposed 7m setback of the proposed garage to the western boundary, the same Criteria regarding setback of the dwelling must be satisfied in the case of the garage.

The first requirement is that over-shadowing is minimised.

The adjacent western lot (191 Allport Street East) already contains a dwelling and is sited at the southern end of the lot, approximately 40m away from the proposed garage.

At a 40m separation it is unlikely that the proposed garage would cause any shading of the neighbouring dwelling or a habitable room within it. The proposed garage would be consistent with the first test.

The second requirement is that the building must take account of the relationship between proposed development and surrounding buildings.

The garage would be 40m from the dwelling at 191 Allport Street East and approximately 40m from a future dwelling on the southern neighbouring lot. It would read as a separate building spaced apart from those around it. Also, sheds of the type proposed are common in suburban and rural living areas and in this case would be consistent with reasonable expectations.

It is considered that the proposed garage would be consistent with the second requirement.

The third requirement is that the apparent scale, bulk, massing and proportion of the building is minimised relative to adjacent buildings.

The proposed garage would be of a scale and proportion commonly found in residential and rural living areas and is consistent with reasonable development expectations.

The fourth requirement is that the structure be consistent with the rural landscape and streetscape. For the same reasons as those stated for the second and third tests, this requirement is deemed to be satisfied.

In addition, the darker tones of proposed building materials of the dwelling and garage would help to down-play the presence of the buildings in the landscape.

The fifth requirement is that the development is to attenuate its impact on adjacent land by responding to slope and orientation. In this case the land is reasonably level and does not require any particular design measures to attenuate its impact. The fifth test is deemed to have been satisfied.

It is considered that the Performance Criteria have been satisfied in relation to the siting of the proposed garage and that an exercise of discretion on the western boundary setback would be justified.

4 *Stormwater management –*

Management of stormwater in the immediate area was addressed at the subdivision approval stage. The principal piece of infrastructure was a pit and drain from the cul-de-sac to an intermittent watercourse approximately 100m to the north-west of the cul-de-sac.

A Council stormwater connection point has been provided to the subject property at its low point. Collection of run-off from roofs and hard surfaces will be required under the Building/Plumbing Permit. This and development of remaining lots in the area will increase the amount of stormwater collected from hard surfaces and disposed of through the reticulated system and correspondingly reduce the overland flow of stormwater, which has been an issue for some residents in recent years.

The Council's Infrastructure Services Department requires that the location of the stormwater connection point, and the suitability of this to service the proposed development, should be confirmed and be shown on the plans submitted with the Building Permit application. This will be included as a condition of approval.

Referral advice –

Referral advice from the various Departments of the Council and other service providers was provided as follows:

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No conditions.
Infrastructure Services	Condition provided.
TasWater	No referral required.
Department of State Growth	No referral required.
Environment Protection Authority	No referral required.
TasRail	No referral required.
Heritage Tasmania	No referral required.
Crown Land Services	No referral required.
Other	No referral required.

CONSULTATION

In accordance with s.57(3) of the *Land Use Planning and Approvals Act 1993*:

- . a site notice was posted;
- . letters to adjoining owners were sent; and
- . an advertisement was placed in the Public Notices section of The Advocate.

Representations –

One representation was received within the prescribed time, which referred to the concern about stormwater raised in response to the previous similar application which was later withdrawn. A copy of both documents is provided at Annexure 3.

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
<p>1 Concerned about stormwater run-off. Representor was required to collect and dispose of driveway run-off on his property and requests consideration of storm-water effects of proposed development on his property. Photographs provided.</p>	<p>Concern is with natural run-off which is outside the Council’s control.</p> <p>A Council stormwater drainage system is in place and a connection point has been provided to 193 Allport Street East at the low point of the property. Collection of run-off from roofs and hard surfaces would be required under the Building/ Plumbing Permit. In effect this lessens the area of the property that generates natural run-off and so this situation should improve.</p> <p>The remainder of the property will likely be vegetated/grassed in time. The relatively clean natural run-off from these areas could be controlled and directed to the low point on the property and into the drainage system by the installation of a small height plinth under the boundary fence between 191 and 193 Allport Street East. However this would be at the discretion of the property owners.</p>

RESOURCE, FINANCIAL AND RISK IMPACTS

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council’s determination should one be instituted.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

CONCLUSION

The proposed residential use of the land is Permitted in the Rural Living zone and deemed to satisfy the Local Area Objectives listed in the Scheme.

There are exercises of discretion required in relation to the minimum lot size, dwelling density and side boundary setbacks. There are two points about the lot size and density standard. First is that the lot is less than 1ha in area. Requiring the lot to be 1ha would mean consolidation with an adjacent lot, which would not be reasonable.

Second is that the lot size and density matters arise as a result of the Commission's zoning of the land Rural Living and the associated lot size standards.

In the context of the 4,000m² lot size and density standards of previous Planning Schemes and the pattern of development that has occurred in accordance with that lot size, it is considered it would be unreasonable to insist on development meeting the 1ha lot size and density provision.

On these matters it is considered that exercises of discretion would be justified.

It has been demonstrated that the lesser setbacks to the southern and western boundaries would satisfy the relevant Performance Criteria, and on this basis exercises of discretion would be justified. Because the lesser setbacks satisfy the Performance Criteria they are also deemed to be consistent with the Statements of Desired Future Character.

Recommendation –

It is recommended that the application for a dwelling and outbuilding (garage) – variation to side boundaries at 193 Allport Street East, Leith, be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the application for this Permit, unless modified by a condition of this Permit.

- 2 The development must be in accordance with the conditions of the Submission to Planning Authority Notice from TasWater, Reference No. TWDA 2016/00490-CC (copy attached).
- 3 Vehicle parking and manoeuvring areas must be formed and constructed with compacted sub-base and an all-weather surface, satisfactorily drained.

Please note:

- 1 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 The location of the stormwater connection point, and the suitability of this to service the proposed development, should be confirmed and be shown on the plans submitted with the Building Permit application.
- 3 Building and Plumbing Permits are required for the proposed development. A copy of this Planning Permit should be given to your building surveyor.'

The report is supported.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Land Use Planning Group Leader's report have been circulated to all Councillors.”

■ Cr Bloomfield moved and Cr van Rooyen seconded, “That the application for a dwelling and outbuilding (garage) – variation to side boundaries at 193 Allport Street East, Leith, be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the application for this Permit, unless modified by a condition of this Permit.
- 2 The development must be in accordance with the conditions of the Submission to Planning Authority Notice from TasWater, Reference No. TWDA 2016/00490-CC (copy attached) (a copy being appended to and forming part of the minutes).
- 3 Vehicle parking and manoeuvring areas must be formed and constructed with compacted sub-base and an all-weather surface, satisfactorily drained.

Please note:

- 1 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 The location of the stormwater connection point, and the suitability of this to service the proposed development, should be confirmed and be shown on the plans submitted with the Building Permit application.
- 3 Building and Plumbing Permits are required for the proposed development. A copy of this Planning Permit should be given to your building surveyor.”

Carried unanimously

153/2016 General retail and hire (adult clothing, adult interior design items and adult novelties) – variation to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall at 21 Reibey Street, Ulverstone – Application No. DA215189

The Director Community Services reported as follows:

“The Land Use Planning Group Leader has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA215189
<i>PROPOSAL:</i>	General retail and hire (adult clothing, adult interior design items and adult novelties) – variation to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall
<i>APPLICANT:</i>	Marcia Goldsworthy
<i>LOCATION:</i>	21 Reibey Street, Ulverstone
<i>ZONE:</i>	General Business
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	23 April 2016
<i>REPRESENTATIONS EXPIRY DATE:</i>	8 May 2016
<i>REPRESENTATIONS RECEIVED:</i>	23
<i>42-DAY EXPIRY DATE:</i>	2 June 2016
<i>DECISION DUE:</i>	30 May 2016

PURPOSE

The purpose of this report is to consider an application for General retail and hire (adult clothing, adult interior design items and adult novelties) – variation to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall at 21 Reibey Street, Ulverstone.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representations;
- . Annexure 4 – photographs.

BACKGROUND

Development description –

The applicant proposes to sell adult goods from the existing commercial premises and lists as the nature of goods sold to include clothing, jewellery, tourist oriented merchandise and a large range of adult novelties.

The business would operate between 10.00am and 6.00pm Monday to Friday and 10.00am to 4.00pm on Saturdays. Projected customer numbers are claimed to be between one and three per hour, depending on time of year and tourist numbers.

Staffing is proposed to be the operator and a casual employee or family member, when required.

There is no on-site car parking provided. An area at the rear of the shop, accessed from Car Park Lane, is a dedicated loading zone which would be available to the the owner for deliveries and stock unloading.

Site description and surrounding area –

The property is located in the central area of the Ulverstone shopping centre which comprises numerous commercial uses including specialty shops, cafes and restaurants, offices (banks and travel agents), hotels and supermarkets.

Many of the premises in the shopping area have no or very limited on-site car parking. Two larger size car parks near Furner's/Coles and the Woolworths supermarket and on-street car parking seem to provide for the bulk of

customer car parking for the town centre while all day parking, e.g. for staff, is provided by other car parks and on-street parking at the edge of the shopping centre.

History -

The previous approved use of the subject premises was by Perpetual Trustees for banking and office purposes. The use was approved as a Business and Professional Services use in January 2010. The parking requirement for the use was 12 spaces. These were waived by the Council.

DISCUSSION

The following table is an assessment of the relevant Scheme provisions:

21.0 General Business Zone

CLAUSE	COMMENT
21.3.1 Discretionary Permit Use	
<p>21.3.1-(P1) Discretionary permit use must:</p> <ul style="list-style-type: none"> (a) be consistent with local area objectives; (b) be consistent with any applicable desired future character statement for the zone; and (c) be required to service requirements of the local and district resident and visitor population; (d) minimise potential to: <ul style="list-style-type: none"> (i) service a population beyond the local, district, or municipal community; (ii) have immediate, incremental or cumulative adverse effect on the regional pattern of retail and service provision; and (iii) displace retail, business, and professional use. 	<p>Not applicable. Use would be Permitted.</p>

21.4.1 Suitability of a site for use or development	
<p>21.4.1-(A1) Each use or development site or each lot on a plan of subdivision must:</p> <p>(a) have a site area of not less than 45m²; and</p> <p>(b) if intended for a building, contain a building area of not less than 45m²:</p> <ul style="list-style-type: none"> (i) clear of any applicable setback from a frontage, side or rear boundary; (ii) clear of any applicable setback from a zone boundary; (iii) clear of any registered easement; (iv) clear of any registered right of way benefiting other land; (v) not including land required as part of access to the site; (vi) accessible from a frontage or access strip; and (vii) clear of any area required for the on-site disposal of sewage or stormwater. 	<p>(a) Compliant. Site area is 190m².</p> <p>(b) Compliant. Building area of 190m² satisfies listed requirements.</p>

<p>21.4.1–(A2) A site or each lot on a plan of subdivision must have a separate access from a road:</p> <p>(a) across a frontage over which no other land has a right of access; and</p> <p>(b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or</p> <p>(c) by a right of way connecting to a road:</p> <p style="padding-left: 20px;">(i) over land not required as the means of access to any other land; and</p> <p style="padding-left: 20px;">(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than 3.6m; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the</p>	<p>(a) Compliant. Access to the site from Car Park Lane for vehicles and from Reibey Street for light deliveries and foot traffic.</p> <p>(b) Not applicable. Not an internal lot.</p> <p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Compliant. Frontage width to Reibey Street is 6.27m.</p> <p>(e) Compliant. The Road Authority (Council) will need to advise it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage.</p>
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<p>carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan.</p>	
<p>21.4.1–(A3) A site or each lot on a plan of subdivision must have a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p>	<p>Compliant. The site is connected to the reticulated water system.</p>
<p>21.4.1–(A4) A site or each lot on a plan of subdivision must drain sewage and waste water to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p>	<p>Compliant. The site is connected to the reticulated sewerage system.</p>
<p>21.4.1–(A5) A site or each lot on a plan of subdivision must drain stormwater to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>.</p>	<p>Compliant. The site is connected to the reticulated stormwater system.</p>
<p>21.4.2 Location and configuration of development</p>	
<p>21.4.2–(A1) Building height must not be more than 10.0m.</p>	<p>Compliant. No change in height to existing building proposed (approximately 6m.).</p>
<p>21.4.2–(A2) An external car parking and loading area, and any area for the display, handling, or storage of goods, materials or waste, must be located behind the primary frontage elevation of a building.</p>	<p>Compliant. Area at the rear of the store, off Car Park Lane, would be used for limited parking and loading/unloading of goods.</p>
<p>21.4.2–(A3) Buildings in Reibey Street must have zero set back from the frontage.</p>	<p>Compliant. Zero setback to Reibey Street currently provided and no change to the building is proposed.</p>

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<p>21.4.2-(A4) Buildings in Victoria Street between Wongi Lane and Patrick Street and in King Edward Street between Grove and Patrick Streets must have zero set back from the frontage.</p>	<p>Not applicable. Not situated in identified location.</p>
<p>21.4.2-(A5) Buildings in Victoria Street between Wongi Place and Patrick Street and in King Edward Street between Grove and Patrick Streets must have the main pedestrian entrance located onto the frontage.</p>	<p>Not applicable. Not situated in identified location.</p>
<p>21.4.2-(A6) A building constructed to the street frontage must have an awning of not less than 3.0m width cantilevered or suspended over the adjoining footway within a road or car park for the full width of the frontage of the building.</p>	<p>Compliant. Premises currently provides an awning across the footpath for full width of frontage. No change to awning proposed.</p>
<p>21.4.2-(A7) A building must not have a continuous wall of more than 20.0 metres measured parallel to the boundaries.</p>	<p>Non-compliant.</p> <p>The longest wall to the street is 6.27m. Streetscape considerations should discount side boundary length - they are not seen from the street. But literal interpretation of this provision would mean side walls are longer than 20m and would involve an assessment against Performance Criteria, involving an exercise of discretion.</p> <p>See "Issues" section below.</p>

21.4.3 Visual and acoustic privacy for residential use	
<p>21.4.3-(A1) A door or window to a habitable room, or any part of a balcony, deck, roof garden, parking space or carport must:</p> <ul style="list-style-type: none"> (a) be not less than 3.0m from a side boundary and 4.0 m from a rear boundary to land in a zone for residential purposes; (b) be not less than 6.0m from any door, window, balcony deck or roof garden in an adjacent dwelling; (c) be off-set by not less than 1.5m from the edge of any door or window in an adjacent dwelling; (d) have a window sill height of not less than 1.8m above finished floor level; (e) have fixed and durable glazing or screening with a uniform transparency of not more than 25% in that part of a door or window less than 1.8m above finished floor level; or (f) have fixed and durable external screen other than vegetation of not less than 1.8m height above the finished floor level with a uniform transparency of not more than 25% for the full width of the door, window, balcony, deck, roof garden, parking space, or carport. 	<p>Not applicable. Proposed use is not residential.</p>

21.4.4 Private open space for residential use	
<p>21.4.4-(A1) Each dwelling must provide:</p> <p>(a) external private open space that:</p> <ul style="list-style-type: none">(i) is accessible from the dwelling;(ii) comprises an area of not less than 25m² for each dwelling;(iii) has a gradient of not more than 1 in 10; and(iv) has a minimum dimension of 4.0m; or <p>(b) private open space provided as a private balcony, deck or terrace:</p> <ul style="list-style-type: none">(i) of area not less than 25m²;(ii) minimum dimension of 2.0m; and(iii) accessible from the dwelling.	<p>Not applicable. Proposed use is not residential.</p>

<p>21.4.4–(A2) The required minimum private open space area must be capable of receiving at least three hours of sunlight between 9.00am and 3.00pm on 21 June.</p>	<p>Not applicable. Proposed use is not residential.</p>
<p>21.4.5 Setback from zone boundaries</p>	
<p>21.4.5–(A1) Development of land with a boundary to a zone must:</p> <p>(a) be setback from the boundary of land in an adjoining zone by not less than the distance for that zone shown in the Table to this Clause;</p> <p>(b) not include within the setback area required from a boundary to land in a zone shown in the Table to this Clause:</p> <p>(i) a building or work;</p> <p>(ii) vehicular or pedestrian access from a road if the boundary is not a frontage;</p> <p>(iii) vehicle loading or parking area;</p> <p>(iv) an area for the display, handling, operation, manufacturing, processing, servicing, repair, or storage of any animal, equipment, goods, plant, materials, vehicle, or waste;</p>	<p>(a) Compliant. No boundary with another zone.</p> <p>(b) Compliant. No setback area to another zone.</p> <p>(c) Compliant. No setback area to another zone.</p> <p>(d) Compliant. No setback area to another zone.</p>

<ul style="list-style-type: none">(v) an area for the gathering of people, including for entertainment, community event, performance, sport or for a spectator facility;(vi) a sign orientated to view from land in another zone; or(vii) external lighting for operational or security purposes; and <p>(c) a building with an elevation to a zone boundary to which this clause applies must be contained within a building envelope determined by:</p> <ul style="list-style-type: none">(i) the setback distance from the zone boundary as shown in the Table to this Clause; and(ii) projecting upward and away from the zone boundary at an angle of 45° above the horizontal from a wall height of 3.0m at the setback distance from the zone boundary; and <p>(d) the elevation of a building to a zone boundary must not contain an external opening other than an emergency exit, including a door, window to a habitable room, loading bay, or vehicle entry.</p>	
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21.4.6 Subdivision	
<p>21.4.6-(P1) Each new lot on a plan of subdivision must be:</p> <p>(a) a lot required for public use by the State government, a Council, a statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a statutory authority; or</p> <p>(b) for a purpose permissible in the zone.</p>	Not applicable. No subdivision proposed.
21.4.7 Reticulation of an electricity supply	
21.4.7-(A1) Electricity reticulation and site connections must be installed underground.	Compliant. Existing electricity supply is underground.
CODES	
E1 Bushfire-Prone Areas Code	Not applicable. No subdivision or vulnerable or hazardous uses.
E2 Airport Impact Management Code	Not applicable. No Code in this Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of native vegetation.

E4 Change in Ground Level Code	Not applicable. No cut or fill proposed.
E5 Local Heritage Code	Not applicable. No places of local heritage listed in Code.
E6 Hazard Management Code	Not applicable. Site not included in a mapped hazard area.
E7 Sign Code	Not applicable. No signs proposed.
E8 Telecommunication Code	Not applicable. No telecommunications proposed.
E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Code applies to all development.
E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme applies to the site.
E9.5 Use Standards	
E9.5.1 Provision for parking	
E9.5.1-(A1) Provision for parking must be: (a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;	(a) Non-compliant. Table requires seven on-site car parking spaces. None are provided. (b) Not applicable. Requirement only triggered where 20 spaces are required or proposed.

<p>(b) motor bike parking at a rate of one space for every 20 vehicle parking spaces;</p> <p>(c) parking spaces for people with disabilities at the rate of one space for every 20 parking spaces or part thereof; and</p> <p>(d) bicycle parking at the rate of one space for every 20 vehicle parking spaces or part thereof.</p>	<p>(c) Not applicable. Requirement only triggered where 20 spaces are required or proposed.</p> <p>(d) Not applicable. Requirement only triggered where 20 spaces are required or proposed.</p> <p>See “Issues” section below.</p>
<p>E9.5.2 Provision for loading and unloading of vehicles</p>	
<p>E9.5.2-(A1) There must be provision within a site for:</p> <p>(a) on-site loading area in accordance with the requirement in the Table to this Code; and</p> <p>(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.</p>	<p>(a) Non-compliant. Table requires one small rigid truck space. Space not provided.</p> <p>(b) Non-compliant. Passenger vehicle pick-up and set-down facilities not provided on-site.</p> <p>See “Issues” section below.</p>

E9.6 Development Standards	
E9.6.1 Road access	
<p>E9.6.1-(A1) There must be an access to the site from a carriageway of a road ^{R36}:</p> <p>(a) permitted in accordance with the <i>Local Government (Highways) Act 1982</i>;</p> <p>(b) permitted in accordance with the <i>Roads and Jetties Act 1935</i>; or</p> <p>(c) permitted by a license granted for access to a limited access road under the <i>Roads and Jetties Act 1935</i>.</p>	<p>(a) Compliant. Existing access to Car Park Lane and Reibey Street previously approved. No change proposed.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c) Not applicable. Satisfied by (a).</p>
E9.6.2 Design of vehicle parking and loading areas	
<p>E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and</p>	<p>Not applicable. No vehicle parking or loading proposed above that which is currently provided.</p>
<p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village Zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p>	<p>Not applicable. No vehicle parking or manoeuvring areas or facilities proposed above that which is currently provided.</p>

<ul style="list-style-type: none"> (a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking; (b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles; (c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities; (d) Be in accordance with AS/NZS 2890.6 Parking Facilities – Off-Street Parking for People with Disabilities; (e) Each parking space must be separately accessed from the internal circulation aisle within the site; (f) Provide for the forward movement and passing of all vehicles within the site other than if entering or leaving a loading or parking space; (g) Be formed and constructed with compacted sub-base and an all-weather surface. 	
<p>E9.6.2-(A2) Design and construction of an access strip and vehicle circulation, movement and standing areas for use or development on land within the Rural Living, Environmental Living, Open Space, Rural Resource, or Environmental Management zones must be in accordance</p>	<p>Not applicable. Does not apply in the General Business zone.</p>

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with the principles and requirements for in the current edition of Unsealed Roads Manual – Guideline for Good Practice ARRB.	
E10 Water and Waterways Code	Not applicable. Site not within 30m of a watercourse or water body.
Specific Area Plans	Not applicable. No Specific Area Plans apply to this location.

*Issues –**1 Length of side wall –*

Section 21.4.2 A7 of the General Business zone requires that a continuous wall parallel to the boundary not be longer than 20m. In the case of the proposed change of use, side walls of the building are 23m and 37m long. The building would have been built to confirm with a previous Planning Scheme's provisions.

A sensible interpretation of the purpose of the current provision is that it seeks to conserve the character of narrow shop frontages in the town centre. This being the purpose then it would make sense for the 20m limit to apply to street frontages only, not side walls that face or are shared with adjoining premises. Such walls are not normally seen.

Weight can be given to this interpretation of the purpose of the provision by its inclusion within streetscape character provisions of Acceptable Solutions A1 to A7.

While the suggested interpretation might be a logical one, it is not what the provision actually says. It is likely that a legal opinion would confirm that a literal interpretation is the one that should apply in the circumstances, and in this respect the provision should apply to side boundary walls not adjoining a street.

An assessment against the associated Performance Criteria is therefore required. The associated Performance Criteria requires that a continuous wall contain architectural features and colour to provide visual relief in a manner that complements characteristics of adjacent buildings.

In this case the internal walls of the shop are broken down in area by the creation of three rooms – the front room selling clothing, middle room selling adult products and the rear storage room. These would constitute architectural features and would reasonably also be interpreted as providing visual relief to the extent that it would be seen from a public space.

Colours used in the subject building are subdued and not particularly visible from adjoining shops or the street. On this basis it is considered that the colours used are complementary to the adjacent buildings.

2 *On-site car parking –*

Table E9.1 of the Traffic Generating Use and Parking Code requires provision of seven on-site car parking spaces. Most of the property is covered by the existing shop building and while it is possible to accommodate a single car park inside the building, it is intended to use that space for storage. Land behind the shop is a roadway and is a dedicated loading zone.

Table E9.1 also contains a list of six guiding rules regarding the provision of on-site vehicle parking. Clause (d) of this list states that calculation of the number of spaces to be provided shall be the difference between the required parking for the changed use, and that of an existing parking requirement.

In the case of 21 Reibey Street the former Perpetual Trustees use was granted an exercise of discretion on the provision of 12 spaces. Only seven spaces are required for the proposed adult products shop. Therefore, there is in effect a 'credit' of five spaces.

On this basis the use satisfies the Acceptable Solution for the required number of on-site car parking spaces.

Another consideration in assessing whether the provision of on-site parking should be required, is whether the surrounding area has the capacity to cope with the increased car parking demand. In the area around the subject premises there are numerous car parks – Furner's/Coles, North Reibey Street, the Ulverstone Wharf car park, Bannons car park, Quadrant car park and the Victoria Street car park which are available for public use. These facilities, plus available on-street car parking, are currently capable of accommodating the current needs and demands of users. In the case of the current application where the requirement is less than the previous use, it could be reasonably concluded that demand would be satisfactorily accommodated.

3 *Small rigid truck space –*

The Traffic Generating Use and Parking Code also requires provision of one small rigid truck space. As indicated in the above discussion on car parking, space for on-site parking, including for a small rigid truck, is not available.

An assessment for parking must therefore be made against the associated Performance Criteria, which require:

- (a) it is unnecessary or unreasonable to require provision; or
- (b) parking is provided to meet the needs of the use, likely users and parking demand.

A small rigid truck space would typically be required for the delivery to or collection of goods from the premises. In this case there is a loading zone at the rear of the shop which would be available for use by the shop (refer to Photograph 1 in Annexure 4). The zone is approximately 30m long and does not appear to be heavily used.

The applicant advises that a typical delivery pattern would be three times per week between 6.00am and 10.00am. Delivery vehicles are also likely to be short stay. This level of demand is small and it is likely that the loading zone would have sufficient capacity to accommodate the proposed use and other neighbouring premises.

Consequently it is considered that provision of an additional small rigid truck space would be unnecessary and unreasonable.

4 *Passenger vehicle pick-up and set-down -*

The Traffic Generating Use and Parking Code also requires provision of one passenger vehicle pick-up and set-down facility per 50 parking spaces (or part thereof).

An assessment must therefore be made against the associated Performance Criteria, which require:

- (a) it is unnecessary or unreasonable to require provision; or
- (b) parking is provided to meet the needs of the use, likely users and parking demand.

A passenger vehicle pick-up and set-down facility cannot be provided on the site, a situation common to most other properties in the town centre. Passenger pick-up and set-down typically occurs in Reibey Street or other streets nearby, or public car parks. A significant proportion of on-street parking in Reibey Street is limited to 30 minutes. Such "short term" parking should be suitable to accommodate the passenger vehicle pick-up and set-down demand

generated by the development and that of other premises in the town centre.

In this context it is considered that provision of a separate and additional passenger vehicle pick-up and set-down facility would be unnecessary and unreasonable.

Referral advice -

Referral advice from the various Departments of the Council and other service providers is as follows:

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No conditions required.
Infrastructure Services	No conditions required.
TasWater	Referral not required.
Department of State Growth	Referral not required.
Environment Protection Authority	Referral not required.
TasRail	Referral not required.
Heritage Tasmania	Referral not required.
Crown Land Services	Referral not required.
Other	Referral not required.

CONSULTATION

In accordance with s.57(3) of the *Land Use Planning and Approvals Act 1993*:

- . a site notice was posted;
- . letters to adjoining owners were sent; and
- . an advertisement was placed in the Public Notices section of The Advocate.

Representations –

There were 25 representations received overall with 23 within the prescribed time and two after the prescribed date. Copies of the 23 representations are provided at Annexure 3.

The majority of representations were based on a philosophical objection to the nature of the goods sold and the impact of the sale of such goods on the morals of our society. Such matters are determined by the State Government and are not the domain of planning schemes.

None of the representations raised issues that related directly to the provisions of the Scheme.

The representations are summarised and responded to as follows:

MATTER RAISED	RESPONSE
REPRESENTATION 1	
1 Ulverstone should allow any type of retail business in the central business district.	The Scheme does allow for retail activities in the General Business zone as permitted uses.
REPRESENTATION 2	
1 Use could detrimentally affect community, particularly children and young adults and result in earlier sexualisation and mental health issues.	Not a matter that can be considered under the Scheme.
2 Use may devalue other businesses and decrease trade.	Not a matter that can be considered under the Scheme.
3 Use encourages disrespectful behavior and is not consistent with “Violence against Women: Let’s stop it at the start” program.	Not a matter that can be considered under the Scheme.

REPRESENTATION 3	
1 Shop not appropriate for children or town's image.	Not a matter that can be considered under the Scheme.
REPRESENTATION 4	
1 Not consistent with family friendly image of the town.	Not a matter that can be considered under the Scheme.
2 Shop would not contribute a positive experience in shopping area.	Not a matter that can be considered under the Scheme.
3 Should not be in the busy main street. People should shop on-line for such goods.	Not a matter that can be considered under the Scheme.
REPRESENTATION 5	
1 Shop will attract the wrong people.	Not a matter that can be considered under the Scheme.
2 Shop will place children and youth at greater risk.	Not a matter that can be considered under the Scheme.
REPRESENTATION 6	
1 Use depicts women as sex objects which is offensive.	Not a matter that can be considered under the Scheme.
2 Products for sale are degrading and demeaning.	Not a matter that can be considered under the Scheme.
3 Business does not reflect the Council's stated values of 'Community spirit' and 'Respectful'.	Not a matter that can be considered under the Scheme.
4 Ulverstone will become known as the sex shop town.	Not a matter that can be considered under the Scheme.

5	Business will destroy our family friendly atmosphere.	Not a matter that can be considered under the Scheme.
REPRESENTATION 7		
1	We do not need a sex shop in Ulverstone. The shop at Devonport is able to serve the region.	Not a matter that can be considered under the Scheme.
REPRESENTATION 8		
1	We do not need or want such a shop in Ulverstone. Not consistent with image of town as safe and friendly town.	Not a matter that can be considered under the Scheme.
REPRESENTATION 9		
1	Business would be detrimental to our society and especially harm the youth.	Not a matter that can be considered under the Scheme.
REPRESENTATION 10		
1	There is no door at the rear of the shop: any youth or child could walk through.	Inspection revealed that there is a lockable door at the rear of the shop, which accesses a storeroom, not the room where adult products are displayed and sold. Unlikely that anyone would 'walk through'.
2	Business will not be beneficial – already have highest rates of mental illness, domestic violence and family dysfunction.	Not a matter that can be considered under the Scheme.
REPRESENTATION 11		
1	Shop would not be consistent with the Annual Plan values of 'a sense of safety and belonging'.	Not a matter that can be considered under the Scheme.

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2	Ulverstone is free from degrading influences like adult shops.	Not a matter that can be considered under the Scheme.
3	Shop would be centrally located and passed by children and youth.	Not a matter that can be considered under the Scheme.
4	Shop would feed community concerns of family violence and degradation of people.	Not a matter that can be considered under the Scheme.
REPRESENTATION 12		
1	Proposed shop not appropriate in the main street. Other countries have designated areas. People can get adult products through the internet.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
2	Concerned that shop will victimise the less powerful members of society.	Not a matter that can be considered under the Scheme.
REPRESENTATION 13		
1	Shop would not contribute to Annual Plan goals of a 'safe and healthy environment' or 'improve community well-being'.	Not a matter that can be considered under the Scheme.
2	Use promotes portraying men and women as sex objects. Will not promote respect for people.	Not a matter that can be considered under the Scheme.
3	Those under 18 are able to access adult products now. Shop will increase circulation and availability of such products.	Not a matter that can be considered under the Scheme.
4	Proposed site is not appropriate being an area frequented by children.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.

	Child access to the room where adult products are displayed and sold would be controlled by a staff member.
5 Shop would negatively affect the image of the town.	Not a matter that can be considered under the Scheme.
6 Research shows pornography is a public health risk which should be sufficient to justify refusal.	Not a matter that can be considered under the Scheme.
REPRESENTATION 14	
1 Shop would lower the moral tone of our town and would be obvious to everyone who passes.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
REPRESENTATION 15	
1 Shop would lower the moral tone of our town.	Not a matter that can be considered under the Scheme.
2 Shop would be a catalyst to much negative behavior towards women.	Not a matter that can be considered under the Scheme.
REPRESENTATION 16	
1 Shop would have a detrimental effect on the community, particularly being in a public location. Groups of most concern are vulnerable and impressionable children, adolescents and young adults.	Not a matter that can be considered under the Scheme.
2 Shop may encourage sexualisation of children.	Not a matter that can be considered under the Scheme.

3	Neighbouring businesses may be devalued.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
4	Use may be offensive to many people including visitors.	Not a matter that can be considered under the Scheme.
REPRESENTATION 17		
1	Business would have a deleterious effect, particularly because of its public location.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
2	Shop may encourage sexualisation of children.	Not a matter that can be considered under the Scheme.
3	Neighbouring businesses may be devalued.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
4	Use may be offensive to many people including visitors.	Not a matter that can be considered under the Scheme.
REPRESENTATION 18		
1	Shop would depict women as sexual objects.	Not a matter that can be considered under the Scheme.
2	Business would not present a good image of the town.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
3	Shop should not be in the main street.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
REPRESENTATION 19		
1	Shop in town centre will be detrimental, offensive and inappropriate.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.

2	Development would not enhance the fine characteristics and qualities of the region.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
REPRESENTATION 20		
1	Development would not add to appeal of the town.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
2	Does not want children passing the shop.	Not a matter that can be considered under the Scheme.
3	Neighbouring businesses may suffer.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.
REPRESENTATIONS 21 AND 22		
1	Shop teaches young people lust over love.	Not a matter that can be considered under the Scheme.
REPRESENTATION 23		
1	Adult shop would be detrimental to the community and families and is not needed.	Not a matter that can be considered under the Scheme.
2	Location of adult shop on main street in Ulverstone is not appropriate.	The Scheme allows for the proposed development as a Permitted use in the General Business zone.

RESOURCE, FINANCIAL AND RISK IMPACTS

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council’s determination should one be instituted.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

CONCLUSION

The proposal for an adult products shop is essentially a retail shop in the General Business zone of Ulverstone. As such it is a Permitted use.

Matters raised by representors were, in the main, concerned with the moral nature of goods sold and the perceived impact that might have on people's enjoyment of the shopping centre or the development of young people. These views are based on strongly held beliefs and while they are legitimate in their own right, they are not matters which planning authorities can consider in their implementation of planning schemes. In this case the Scheme zones the land General Business, which allows for this particular retail development as a Permitted use.

In relation to the use, Section 8.7 of the Scheme requires that a Permitted use must be approved, i.e. the Council has no discretion in this regard.

The only matters upon which the Council can exercise its discretion are the non-provision of a small rigid truck space, non-provision of a passenger vehicle pick-up and set-down facility and the length of a continuous side wall.

The proposal satisfies the Acceptable Solution standard for provision of on-site car parking, i.e. no discretion is required on the car parking standard.

Provision of a small rigid truck space and passenger vehicle pick-up and set-down facility has been shown to be unnecessary and unreasonable and for this reason would satisfy the associated Performance Criteria. Exercises of discretion in relation to both vehicle parking provisions is considered to be justified.

The maximum 20m continuous wall standard is not considered appropriate for side walls between buildings in the Ulverstone town centre. There may even be an argument that in the absence of any work associated with the wall, the provision does not apply. However, if the provision does apply then it is appropriate to undertake an assessment against the associated Performance Criteria. That assessment showed that the proposal was able to satisfy the Performance Criteria. It is considered that an exercise on this standard would also be justified.

Recommendation –

It is recommended that the application for General retail and hire (adult clothing, adult interior design items and adult novelties) – variation

to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall at 21 Reibey Street, Ulverstone be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the application for this Permit.

Please note:

- 1 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.'

The report is supported.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Land Use Planning Group Leader's report have been circulated to all Councillors.”

■ Cr Broad moved and Cr Tongs seconded, “That the application for General retail and hire (adult clothing, adult interior design items and adult novelties) – variation to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall at 21 Reibey Street, Ulverstone be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the application for this Permit.

Please note:

- 1 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.”

Voting for the motion

Cr Bonde
Cr Broad
Cr Tongs

Voting against the motion

Cr Bloomfield
Cr Howard
Cr van Rooyen
Cr Viney

Motion

Lost

The Mayor advised as follows:

“I will adjourn the meeting for approximately 10 minutes to allow advice to be taken.”

The meeting adjourned at 6.41pm and resumed at 7.00pm.

■ Cr van Rooyen moved and Cr Bloomfield seconded, “That the application for General retail and hire (adult clothing, adult interior design items and adult novelties) – variation to standards for car parking, provision for one small rigid truck space, passenger vehicle pick-up and set-down facility, and length of building wall at 21 Reibey Street, Ulverstone be refused on the grounds that it fails to provide sufficient parking, truck space and passenger vehicle pick-up and set-down facilities.”

Voting for the motion

Cr Bloomfield

Cr Howard

Cr van Rooyen

Cr Viney

Voting against the motion

Cr Bonde

Cr Broad

Cr Tongs

Motion

Carried

Closure

There being no further business, the Mayor declared the meeting closed at 7.08pm.

CONFIRMED THIS 20TH DAY OF JUNE 2016.

Chairperson

(Imm:lb)

Appendices

Minute No. 152/2016 – Submission to Planning Authority Notice from TasWater, Reference No. TWDA 2016/00490-CC in respect of Residential (dwelling and outbuilding – garage) – variation to side boundaries at 193 Allport Street East, Leith – Application No. DA215176

QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* provides (in part) as follows:

. A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

. A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

I therefore certify that with respect to all advice, information or recommendation provided to the Council within these minutes:

(i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and

(ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.




Sandra Ayton
GENERAL MANAGER

Associated Reports And Documents

Submission to Planning Authority Notice

Council Planning Permit No.	DA215176	Council notice date	19/04/2016
TasWater details			
TasWater Reference No.	TWDA 2016/00490-CC	Date of response	26/04/2016
TasWater Contact	David Boyle	Phone No.	6345 6323
Response issued to			
Council name	CENTRAL COAST COUNCIL		
Contact details	planning.cmw@centralcoast.tas.gov.au		
Development details			
Address	193 ALLPORT ST E, LEITH	Property ID (PID)	3344896
Description of development	New dwelling and garage		
Schedule of drawings/documents			
Prepared by	Drawing/document No.	Revision No.	Date of Issue
Wilkin Design	DA-16992 01 to 07		29/03/2016
Conditions			
Pursuant to the <i>Water and Sewerage Industry Act 2008 (TAS)</i> Section 56P(1) TasWater does not object to the proposed development and no conditions are imposed.			
Advice			
Nil			
Declaration			
The drawings/documents and conditions stated above constitute TasWater's Submission to Planning Authority Notice.			

Authorised by



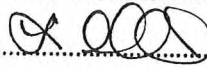
Jason Taylor
Development Assessment Manager

TasWater Contact Details			
Phone	13 6992	Email	development@taswater.com.au
Mail	GPO Box 1393 Hobart TAS 7001	Web	www.taswater.com.au

CENTRAL COAST COUNCIL

the Submission to Planning Authority Notice TWDA 2016/00490-CC

I certify that this is *in respect of Residential (dwelling and outbuilding - garage) - variation to side boundaries at 193 Allport Street East, Leith - Application No. DA215176* referred to in Minute No. *152/2016* of a meeting of the Council held on *30/05/2016*



Executive Services Officer