
Minutes of an ordinary meeting of the Central Coast Council held in the Council Chamber at the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 16 September 2019 commencing at 6.00pm.

Councillors attendance

Cr Jan Bonde (Mayor)
Cr John Beswick
Cr Cheryl Fuller
Cr Annette Overton

Cr Garry Carpenter (Deputy Mayor)
Cr Amanda Diprose
Cr Casey Hiscutt

Councillors apologies

Cr Tony van Rooyen
Cr Philip Viney

Employees attendance

General Manager (Ms Sandra Ayton)
Director Community Services (Mr Barry Omundson)
Acting Director Organisational Services (Mrs Yvonne Edwards)
Executive Services Officer (Mrs Lou Brooke)
Land Use Planning Group Leader (Ms Mary-Ann Edwards)
Town Planner (Mrs Carolyn Harris)

Media attendance

The media was not represented.

Public attendance

Eight members of the public attended during the course of the meeting.

Prayer

The meeting opened in prayer.

CONFIRMATION OF MINUTES OF THE COUNCIL

256/2019 Confirmation of minutes

The Executive Services Officer reported as follows:

“The minutes of the previous ordinary meeting of the Council held on 19 August 2019 have already been circulated. The minutes are required to be confirmed for their accuracy.

The *Local Government (Meeting Procedures) Regulations 2015* provide that in confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.”

- Cr Diprose moved and Cr Hiscutt seconded, “That the minutes of the previous ordinary meeting of the Council held on 19 August 2019 be confirmed.”

Carried unanimously

COUNCIL WORKSHOPS

257/2019 Council workshops

The Executive Services Officer reported as follows:

“The following council workshops have been held since the last ordinary meeting of the Council.

- . 26.08.2019 – Review of Tasmania’s Local Government Legislation Framework – Reform Directions Paper | Phase Two
- . 02.09.2019 – Land Use Planning re LPS submissions and Land for Commercial Use and Wharf Precinct EOI update
- . 09.09.2019 – Monthly review; Merit; Wharf Precinct EOI presentations.

This information is provided for the purpose of record only.”

- Cr Overton moved and Cr Beswick seconded, “That the Officer’s report be received.”

Carried unanimously

MAYOR'S COMMUNICATIONS

258/2019 Mayor's communications

The Mayor reported as follows:

"I would like to acknowledge the passing of former Councillor, Mr Max Johnston on Saturday. Max served as Councillor between March 1993 – October 1996 and then again from October 1998 – March 1999. Max was a valued member of the community, Lions Club of Ulverstone, and the Salvation Army. Max was renowned for bringing the waterslide to Ulverstone. Max will be sadly missed by his family and the community."

259/2019 Mayor's diary

The Mayor reported as follows:

"I have attended the following events and functions on behalf of the Council:

- . Caves to Canyon Tourism Association – Annual General Meeting
- . Meeting with Chief Executive and Co-Chair of Reconciliation Tasmania
- . Cradle Coast Authority Representatives – meeting (Devonport)
- . Luncheon with Deputy Prime Minister, Hon Michael McCormack MP (Devonport)
- . Food Organics Garden Organics (FOGO) Sessions – Forth, Turners Beach, Penguin and Heybridge
- . Anita Dow MP – general meeting (Devonport)
- . Funeral of Ted Howe
- . Business visitation program – Status Awareness Systems
- . Switch Board Meeting
- . Connecting Care Program – meeting
- . Tourism Industry Council Tasmania (TICT) Leadership Luncheon – North West in Focus (Burnie)
- . Slipstream Circus Master Plan discussion – Joan Rylah MP
- . Central Coast Chamber of Commerce and Industry (CCCCI) Awards Dinner
- . Ulverstone Repertory Theatre Production "Get Smart"
- . Nietta Representatives Group – meeting
- . UTAS Science & Engineering Investigation Awards (Burnie)
- . Ulverstone Baptist Church – Seniors Group discussion
- . Mersey-Leven Emergency Management Committee – meeting (Sheffield)
- . Don College visit – discuss the Trade Training and University Centre (with Councillors)
- . North Motton/Gawler Community Cuppa

-
- . Local Government Association of Tasmania – General Meeting (Launceston)
 - . Government House Tasmania – Investiture for recipients of the Queen’s Birthday Honours and Bravery Medals (Hobart)
 - . Radio community reports
 - . UTAS Rural Week Year 2 medical students – welcome to Central Coast
 - . Official opening of Fairway Park’s Pump n Jump.”

The Deputy Mayor reported as follows:

“I have attended the following events and functions on behalf of the Council:

- . North West Football Association – Grand Final breakfast.”
- . Ulverstone Soccer Club – end of season dinner.”

■ Cr Carpenter moved and Cr Overton seconded, “That the Mayor’s and Deputy Mayor’s reports be received.”

Carried unanimously

260/2019 Declarations of interest

The Mayor reported as follows:

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

The Executive Services Officer reports 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.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

Cr Carpenter reported as follows:

“I am declaring an interest in respect of Section 35F Report on Representations to the

Draft Central Coast Local Provisions Schedule (98/2018 – 16.07.2018) (Minute No. 279/2019) – Annexure 3.”

Cr Hiscutt reported as follows:

“I am declaring an interest in respect of Section 35F Report on Representations to the Draft Central Coast Local Provisions Schedule (98/2018 – 16.07.2018) (Minute No. 279/2019) – Annexure 2.”

COUNCILLOR REPORTS

261/2019 Councillor reports

The Executive Services Officer reported as follows:

“Councillors who have been appointed by the Council to community and other organisations are invited at this time to report on actions or provide information arising out of meetings of those organisations.

Any matters for decision by the Council which might arise out of these reports should be placed on a subsequent agenda and made the subject of a considered resolution.”

Cr Overton reported on a recent meeting of the Central Coast Chamber of Commerce and Industry.

Cr Carpenter reported on the recent Annual General Meeting of the Caves to Canyon Tourism Association.

APPLICATIONS FOR LEAVE OF ABSENCE

262/2019 Leave of absence

The Executive Services Officer reported as follows:

“The *Local Government Act 1993* provides that the office of a councillor becomes vacant if the councillor is absent without leave from three consecutive ordinary meetings of the council.

The Act also provides that applications by councillors for leave of absence may be discussed in a meeting or part of a meeting that is closed to the public.

There are no applications for consideration at this meeting.”

DEPUTATIONS

263/2019 Deputations

The Executive Services Officer reported as follows:

“No requests for deputations to address the meeting or to make statements or deliver reports have been made.”

PETITIONS

264/2019 Petitions

The Executive Services Officer reported as follows:

“No petitions under the provisions of the *Local Government Act 1993* have been presented.”

COUNCILLORS' QUESTIONS

265/2019 Councillors' questions without notice

The Executive Services Officer reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2015* provide as follows:

'29 (1) A councillor at a meeting may ask a question without notice –

(a) of the chairperson; or

(b) through the chairperson, of –

(i) another councillor; or

(ii) the general manager.

(2) In putting a question without notice at a meeting, a councillor must not –

(a) offer an argument or opinion; or

-
- (b) draw any inferences or make any imputations –
except so far as may be necessary to explain the question.
 - (3) The chairperson of a meeting must not permit any debate of a question without notice or its answer.
 - (4) The chairperson, councillor or general manager who is asked a question without notice at a meeting may decline to answer the question.
 - (5) The chairperson of a meeting may refuse to accept a question without notice if it does not relate to the activities of the council.
 - (6) Questions without notice, and any answers to those questions, are not required to be recorded in the minutes of the meeting.
 - (7) The chairperson may require a councillor to put a question without notice in writing.'

If a question gives rise to a proposed matter for discussion and that matter is not listed on the agenda, Councillors are reminded of the following requirements of the Regulations:

- '8 (5) Subject to subregulation (6), a matter may only be discussed at a meeting if it is specifically listed on the agenda of that meeting.
- (6) A council by absolute majority at an ordinary council meeting, ..., may decide to deal with a matter that is not on the agenda if –
 - (a) the general manager has reported the reason it was not possible to include the matter on the agenda; and
 - (b) the general manager has reported that the matter is urgent; and
 - (c) in a case where the matter requires the advice of a qualified person, the general manager has certified under section 65 of the Act that the advice has been obtained and taken into account in providing general advice to the council.'

Councillors who have questions without notice are requested at this time to give an indication of what their questions are about so that the questions can be allocated to their appropriate Departmental Business section of the agenda."

The allocation of topics ensued.

266/2019 Councillors' questions on notice

The Executive Services Officer reported as follows:

"The *Local Government (Meeting Procedures) Regulations 2015* provide as follows:

'30 (1) A councillor, at least 7 days before an ordinary council meeting or a council committee meeting, may give written notice to the general manager of a question in respect of which the councillor seeks an answer at that meeting.

(2) An answer to a question on notice must be in writing.'

It is to be noted that any question on notice and the written answer to the question will be recorded in the minutes of the meeting as provided by the Regulations.

Any questions on notice are to be allocated to their appropriate Departmental Business section of the agenda.

No questions on notice have been received."

PUBLIC QUESTION TIME

267/2019 Public question time

The Mayor reported as follows:

"At 6.40pm or as soon as practicable thereafter, a period of not more than 30 minutes is to be set aside for public question time during which any member of the public may ask questions relating to the activities of the Council.

Public question time will be conducted as provided by the *Local Government (Meeting Procedures) Regulations 2015* and the supporting procedures adopted by the Council on 19 May 2014 (Minute No. 133/2014)."

268/2019 Public questions taken on notice

The Executive Services Officer reported as follows:

"No public questions were taken on notice from the 19 August 2019 meeting."

DEPARTMENTAL BUSINESS

GENERAL MANAGEMENT

269/2019 Minutes and notes of committees of the Council and other organisations

The General Manager reported as follows:

“The following (non-confidential) minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

- . East Ulverstone Swimming Pool Management Committee – meeting held 8 August 2019
- . Central Coast Council Audit Panel Committee – meeting held 14 August 2019
- . Turners Beach Community Committee – meeting held 22 August 2019
- . Central Coast Community Safety Partnership Committee – meeting held 28 August 2019
- . Central Coast Youth Engaged Steering Committee – meeting held 29 August 2019
- . Central Coast Community Shed – meeting held 2 September 2019
- . Dial Park Management Committee – meeting held 3 September 2019.

Copies of the minutes and notes have been circulated to all Councillors.”

■ Cr Fuller moved and Cr Carpenter seconded, “That the (non-confidential) minutes and notes of committees of the Council be received.”

Carried unanimously

270/2019 Outdoor Dining Policy

The General Manager reported as follows:

“PURPOSE

The purpose of this report is to consider the adoption by the Council of an Outdoor Dining Policy (the Policy).

BACKGROUND

The Central Coast has a temperate climate which allows for varied outdoor activities and is considered a great location for day visitors with the many eateries, coffee shops

and outdoor facilities including the Leven River waterfront, Penguin foreshore, Turners Beach and Sulphur Creek beach areas and the CBDs of Ulverstone and Penguin.

The Council has seen an increase in unregulated outdoor dining occurring in the CBDs of Ulverstone and Penguin, i.e. food outlets are setting up tables and chairs on footpaths adjacent to their premises. To manage the competing needs and interests of pedestrians and business owners by allowing outdoor dining in a manner that supports the business, the adoption of the Policy ensures that it is safe and hygienic and does not promote the creation of nuisance or adversely affect pedestrian traffic.

DISCUSSION

Outdoor dining is defined as the use of the public footpath and road reserve for the purpose of extending the services of premises whose main function is for the provision of food and beverages to the public. Outdoor dining should relate to, be sensitive towards and enhance existing urban character, heritage and street values.

In order to facilitate and regulate outdoor dining, the Policy will enable the Council to implement a permit process, allowing businesses to use of part of the space in front of their premises for outdoor dining purposes. The issuing of a permit does not grant exclusive rights over the relevant public space and cannot exclude the general public from using it.

Outdoor dining is only permissible when associated with existing or proposed premises whose core function is to provide food and beverages for the public, such as cafes, restaurants, hotels and delicatessens. An outdoor dining area must generally be located along the kerb and allow a clear movement path along the building frontage and set back from intersections of streets.

The Policy contains all general principles that must be applied in order to satisfy the Council's requirements, ensuring public safety.

CONSULTATION

The Policy has been developed in conjunction with the General Manager and Senior Leadership Team and presented at a Councillor workshop in July 2019.

RESOURCE, FINANCIAL AND RISK IMPACTS

There will be limited impact on Council resources.

CORPORATE COMPLIANCE

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

A Connected Central Coast

- Provide for a diverse range of movement patterns
- Connect the people with services.

Community Capacity and Creativity

- Facilitate entrepreneurship in the business community.

Council Sustainability and Governance

- Improve service provision.

CONCLUSION

It is recommended that the Outdoor Dining Policy dated September 2019 be endorsed and further, that the associated Permit fee of \$100 be adopted and included in the Council's 2019–2020 Fees and Charges."

The Executive Services Officer reported as follows:

"A copy of the Outdoor Dining Policy dated September 2019 has been circulated to all Councillors."

■ Cr Carpenter moved and Cr Beswick seconded, "That the Outdoor Dining Policy dated September 2019 be endorsed and further, that the associated Permit fee of \$100 be adopted and included in the Council's 2019–2020 Fees and Charges."

Carried unanimously

271/2019 Correspondence addressed to the Mayor and Councillors

The General Manager reported as follows:

"A Schedule of Correspondence addressed to the Mayor and Councillors for the period 20 August 2019 to 16 September 2019 and which was addressed to the 'Mayor and Councillors' is appended. Reporting of this correspondence is required in accordance with Council policy.

Where a matter requires a Council decision based on a professionally developed report the matter will be referred to the Council. Matters other than those requiring a report

will be administered on the same basis as other correspondence received by the Council and managed as part of the day-to-day operations.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr Hiscutt moved and Cr Beswick seconded, “That the Schedule of Correspondence addressed to the Mayor and Councillors (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

272/2019 Common seal

The General Manager reported as follows:

“A Schedule of Documents for Affixing of the Common Seal for the period 20 August 2019 to 16 September 2019 is submitted for the authority of the Council to be given. Use of the common seal must first be authorised by a resolution of the Council.

The Schedule also includes for information advice of final plans of subdivision sealed in accordance with approved delegation and responsibilities.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr Diprose moved and Cr Beswick seconded, “That the common seal (a copy of the Schedule of Documents for Affixing of the Common Seal being appended to and forming part of the minutes) be affixed subject to compliance with all conditions of approval in respect of each document, and that the advice of final plans of subdivision sealed in accordance with approved delegation and responsibilities be received.”

Carried unanimously

273/2019 Contracts and agreements

The General Manager reported as follows:

“A Schedule of Contracts and Agreements (other than those approved under the common seal) entered into for the period 20 August 2019 to 16 September 2019 is

submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities."

The Executive Services Officer reported as follows:

"A copy of the Schedule has been circulated to all Councillors."

■ Cr Beswick moved and Cr Hiscutt seconded, "That the Schedule of Contracts and Agreements (a copy being appended to and forming part of the minutes) be received."

Carried unanimously

COMMUNITY SERVICES

274/2019 Statutory determinations

The Director Community Services reported as follows:

“A Schedule of Statutory Determinations made during the month of August 2019 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr Carpenter moved and Cr Fuller seconded, “That the Schedule of Statutory Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

275/2019 Request to remove Civic Guide signs

The Director Community Services reported as follows:

“The Community Development Group Leader has prepared the following report:

‘PURPOSE

The purpose of this report is to seek the approval of the Council for the removal of the Civic Guide signs located in Central Coast.

BACKGROUND

The Council’s records management system indicates that a number of years ago, the Council entered into an agreement with Civic Media for the supply and installation of five Civic Guide signs within the municipal area, namely two in Ulverstone, West Ulverstone, Penguin and Turners Beach.

Civic Guides were installed in many towns across Australia to promote local businesses and provided visitors with a street directory of the local area. The business model relied on Civic Media selling advertising space on the signs to local businesses.

The records management system further indicates that in 2009, the Council gave approval to Civic Media to update information on the signs. A further 10 years later, the signs have deteriorated or been damaged requiring extensive repair. Many of the businesses shown on the signs no longer exist, images have faded, and one sign shows a map of Scottsdale rather than Ulverstone. The sign located at the Penguin Visitor Centre has been converted into a local information board that community members can use to display posters (a series of images of the signs and their condition, is appended to this report).

Council staff have been in contact with Civic Media on numerous occasions to request that the signs be updated and repaired, without success. In late 2018, Council staff provided updated street directory information, as Civic Media advised they were about to replace the signs, again after more than eight months, the signs remain in their deteriorated state.

Following on from this, Council staff again contacted Civic Media to determine when the signs would be updated and were advised the company were having difficulty selling advertising space. Most recently, Council staff contacted Civic Media, suggesting that the signs be removed. In an email late-August 2019, Civic Media agreed to the suggestion and to terminate the agreement.

DISCUSSION

The signs are located in prominent locations within Central Coast, as the information they contained was promoted to visitors. Since their installation the information displayed has been updated on two occasions, however the signs are now at the point where the frames need replacing altogether.

The original agreement approving installation and supply of the signs, is unable to be located through the Council's records management system or archival records. There is little value in replacing the signs with new information, as local businesses have many more avenues to promote themselves and with advancement in technology, visitors to the area can easily navigate towns using a mobile device. The Council's Visitor Information Centres also provide up to date information contained on the signs with its brochure range.

CONSULTATION

Council staff consulted with Civic Media on this matter.

RESOURCES, FINANCIAL AND RISK

There is a reputational risk if the signs are not removed, as despite featuring Civic Media branding, feedback received over years has been directed towards the Council, on the perception the signs are Council property.

Removal of the signs will require resource and plant costs, which can be accommodated within the 2019–2020 budget.

CORPORATE COMPLIANCE

Not applicable.

CONCLUSION

It is recommended that the Council authorise the removal of the four Civic Guide signs located at Ulverstone (2), West Ulverstone and Turners Beach, and that the sign at Penguin be retained for use as a community information board.'

The Community Development Group Leader's report is supported."

■ Cr Fuller moved and Cr Carpenter seconded, "That the Council authorise the removal of the four Civic Guide signs located at Ulverstone (2), West Ulverstone and Turners Beach, and that the sign at Penguin be retained for use as a community information board."

Carried unanimously

276/2019 Enforcement Policy (260/2015 – 21.09.2015)

The Director Community Services reported as follows:

"PURPOSE

The purpose of this report is to consider the review of the Council's Enforcement Policy (the Policy), which provides guidance and instruction to Council officers who enforce legislation and to inform the community regarding the Council's approach to enforcement.

BACKGROUND

At the Council meeting held on 21 September 2015 (Minute No. 206/2015), the Council adopted the Enforcement Policy. This Policy required a cyclic revision to be

undertaken to reflect any changes in practices, legislation etc., since it's original adoption. A copy of the Policy is appended to this report.

DISCUSSION

Local government is charged with legislative responsibility for a wide range of matters and is consequently responsible for protecting both individuals and the broader community. Customers of the Central Coast Council include both those on whom the law places a duty and those whom the law protects. The Policy seeks to balance those expectations.

Council officers are required to enforce or encourage compliance with its legislative responsibilities. The purpose of the Policy is to provide a framework to work within and communicate the Council's approach to enforcement. A broad interpretation of the term 'enforcement' is used which includes educative approaches to encourage compliance.

The Policy:

- (a) encourages use of an enforcement hierarchy;
- (b) provides consistency in enforcement action where non-compliance exists;
- (c) ensures transparency, procedural fairness and natural justice principles are applied; and
- (d) ensures that enforcement actions taken are proportionate to the offence.

CONSULTATION

Consultation with the Operational Leadership Team was undertaken in the review of the Policy.

From the review, the Policy is effectively still current but required the following changes:

- . update title of *Building Act* from 2000 to 2016;
- . clarify that conflicts of interest are to be documented.

RESOURCE, FINANCIAL AND RISK IMPACTS

Implementation of this reviewed Policy will have no impact on the resources of the Council. The Policy reduces risks associated with legal action and loss of reputation.

CORPORATE COMPLIANCE

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

A Connected Central Coast

- Improve community well-being.

Council Sustainability and Governance

- Improve corporate governance
- Improve service provision
- Effective communication and engagement.

CONCLUSION

It is recommended that the Council adopt the reviewed Enforcement Policy dated September 2019.”

The Executive Services Officer reported as follows:

“A copy of the Enforcement Policy dated September 2019 has been circulated to all Councillors.”

- Cr Beswick moved and Cr Diprose seconded, “That the Council adopt the reviewed Enforcement Policy dated September 2019 (a copy being appended to and forming part of the minutes).”

Carried unanimously

277/2019 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 278/2019, 279/2019, 280/2019, 282/2019 and 283/2019, 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 Fuller moved and Cr Hiscutt seconded, “That the Mayor’s report be received.”

Carried unanimously

278/2019 Ulverstone Cultural Precinct Development – Community meeting and entertainment, Food Services, General Retail and Hire – variation to building height, location of car parking area and building from Reibey Street, setback to General Residential zone and variation to car parking standard – 109 Reibey Street, Ulverstone – Application No. DA2019024

The Director Community Services reported as follows:

“The Planning Consultant, Theresia Williams of PlanPlace consulting has prepared the following assessment report:

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA2019024
<i>PROPOSAL:</i>	Community meeting and entertainment, Food Services, General Retail and Hire
<i>APPLICANT:</i>	Central Coast Council
<i>LOCATION:</i>	109 Reibey Street, Ulverstone
<i>ZONE:</i>	General Business Zone
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	3 August 2019
<i>REPRESENTATIONS EXPIRY DATE:</i>	19 August 2019
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	7 September 2019. Extension of time granted until 19 September 2019
<i>DECISION DUE:</i>	16 September 2019
<i>PURPOSE</i>	

The purpose of this report is to consider an application for a new cultural precinct development on land known as 109 Reibey Street, Ulverstone.

Theresia Williams of PlanPlace was engaged by Central Coast Council to provide this assessment against the planning scheme. Theresia Williams held

the position of Senior Planner at Central Coast Council prior to entering consulting.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representation;
- . Annexure 4 – photographs;
- . Annexure 5 – Taswater Submission to Planning Authority;
- . Annexure 6 – Tasrail letter;
- . Annexure 7– Statement of Compliance from Road Authority and Stormwater Authority;
- . Annexure 8 – Extension of Time signed letter.

BACKGROUND

Development description –

Application is made for the approval of the new cultural precinct development at 109 Reibey Street, Ulverstone. The development application includes the demolition of the existing buildings on site. The cultural precinct would incorporate a new information centre and complementary uses, and the subsequent development would comprise the following:

- Ground floor:
 - Visitor information centre;
 - Retail space;
 - Café;
 - Workshop and studio spaces;
 - Relation of the existing woodworking space into the new “machine room”; and
 - Back of house requirements such as the loading dock and storage spaces.
- Second storey:
 - Exhibition space;
 - Gallery;
 - Office; and
 - Archives.

- Third storey:
 - Planetarium;
 - Science display and store; and
 - Storage.
- The development will also incorporate 30 car parking spaces and 6 RV spaces, outdoor landscaping and open space
- Opening hours are proposed to be as follows:
 - 9am–5pm 7 days a week (Visitor centre / museum and science centre);
 - 8am – 4pm 7 days a week (Café);
 - Machine room 3 hours a day for 3 days a week;
 - Science room during school hours; and
 - Workshops and studios a maximum of 3 days per week with 15 people for 3 hours at a time.

The site is able to be fully serviced.

Vehicle access would be upgraded to include separate entry and egress points. Additional access would provide connection through to Reibey Street.

Site description and surrounding area –

The site is located within the Business Zone. Vehicle access is via a single access drive onto Main Street. Additional pedestrian access is provided from Reibey Street. There is a third, unformed access point from Little Quadrant Street.

The site is bordered by Main Street to the north east and the rail line (Utilities Zone) and a car wash to the south east. The General Business zone continues to the south west, with a retail shop situated on the boundary.

The property forms part of the eastern border of the General Business zone within Ulverstone, with General Residential zoning sitting along the north western boundary, and containing a single dwelling.

The site contains a number of buildings associated with the current use, as well as parking and landscaping.

History -

The site has a history of use for cultural and community purposes. Current use includes the Ulverstone History Museum and the Northwest Woodcraft Guild.

The site was previously subject to a development application for the removal of old fuel tanks (2018). These tanks have been removed in accordance with the relevant environmental standards.

DISCUSSION

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

General Business

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.</p> <p>Community meeting and entertainment, Food Services and General Retail and Hire are all Permitted uses in General Business zone.</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> <p>(i) clear of any applicable setback from a frontage, side or rear boundary;</p> <p>(ii) clear of any applicable setback from a zone boundary;</p> <p>(iii) clear of any registered easement;</p> <p>(iv) clear of any registered right-of-way benefiting other land;</p> <p>(v) not including land required as part of access to the site;</p> <p>(vi) accessible from a frontage or access strip; and</p> <p>(vii) clear of any area required for the on-site disposal of sewage or stormwater.</p>	<p>(a) Complies.</p> <p>(b) (i) Complies. Building area is greater than 45m² and is clear of front, side and rear setbacks.</p> <p>(ii) Complies. Building is clear of zone boundary setbacks. Note that this Clause deals with <i>buildings</i> only. Clause 21.4.2 A3 discusses setback of <i>development</i> from the zone boundary.</p> <p>(iii) Relies on Performance Criteria.</p> <p>A number of easements are registered on the land title.</p> <p>Refer to “Issues” section of this report.</p> <p>(iv) Not applicable. No right-of-ways are registered on the land title.</p> <p>(v) Complies.</p> <p>(vi) Complies. Separate access and egress points to be located off Main Street.</p> <p>(vii) Complies. Site to be serviced.</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> <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 (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 3.6m; and (e) the relevant road authority in accordance with the Local Government (Highways) Act 1982 or the Roads and Jetties Act 1935 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. 	<ul style="list-style-type: none"> (a) Complies. Separate access is provided from Main Street. (b) Not applicable. Not an internal lot. (c) Not applicable. Access is not via a right of way. (d) Complies. Frontage is greater than 3.6m. (e) Complies. Statement of Compliance has been provided with the application documentation.
---	---

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>Complies.</p> <p>The site is connected to the reticulated water system. The Council's Planning Permit would require compliance with TasWater's approval, included as an attachment to the Planning Permit.</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>Complies.</p> <p>The site is connected to the reticulated sewerage system. The Council's Planning Permit would require compliance with TasWater's approval, included as an attachment to the Planning Permit.</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>Complies.</p> <p>The site is connected to the reticulated stormwater system. The Council's Planning Permit would require compliance with its approval as a Stormwater Authority issued as a Statement of Compliance.</p>
21.4.2 Location and configuration of development	
21.4.2–(A1) Building height must not be more than 10.0m.	<p>Relies on performance criteria.</p> <p>The proposal is for a structure of 15.5m in height and is reliant upon assessment under the Performance Criteria.</p> <p>Refer to "Issues" section of this report.</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>Relies on performance criteria.</p> <p>The carparking and loading areas are located between the building and Main Street.</p> <p>“Frontage” is defined as a boundary of a lot which abuts a road. The site has three frontages, Main Street, Reibey Street and Little Quadrant.</p> <p>The primary frontage is defined as “the frontage with the shortest dimensions measured parallel to the road, irrespective of minor deviations and corner truncations”.</p> <p>The Reibey Street frontage has the shortest dimensions of these three frontages.</p> <p>The application documentation lists the Main Street boundary as the primary frontage. Main Street <i>operates</i> as the primary frontage despite the definition in the Scheme. For the purposes of this assessment, and in the interests of effectively assessing the impacts of the development as a true reflection of the operation of the site, the application is being assessed as having two primary frontages, these being Main Street and Reibey Street.</p> <p>Refer to “Issues” section of this report.</p>
--	--

COMMUNITY SERVICES

21.4.2–(A3) Buildings in Reibey Street must have zero set back from the frontage.	Relies on performance criteria. The development is to be set back from the Reibey Street frontage. Refer to “Issues” section of this report.
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.	Not applicable.
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.	Not applicable.
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.	Not applicable.

<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>Complies.</p> <p>The proposed building includes a number of sides in excess of 20m length. These are all broken up by design features, in the form of staggering of the building, entranceways, windows and other design features.</p>
<p>21.4.3 Acoustic and Visual privacy for residential development</p>	
<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; 	<p>Not applicable.</p> <p>The development does not propose any habitable rooms.</p>

<p>(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</p> <p>(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>	
<p>21.4.4 Private open space for residential use</p>	
<p>21.4.4–(A1) Each dwelling must provide:</p> <p>(a) external private open space that:</p> <p>(i) is accessible from the dwelling;</p> <p>(ii) comprises an area of not less than 25m² for each dwelling;</p> <p>(iii) has a gradient of not more than 1 in 10; and</p> <p>(iv) has a minimum dimension of 4.0m; or</p> <p>(b) private open space provided as a private balcony, deck or terrace:</p>	<p>Not applicable.</p> <p>The development does not include a dwelling.</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>21.4.4–(A2) The required minimum private open space area must be capable of receiving at least 3 hours of sunlight between 9.00am and 3.00pm on 21st June</p>	<p>Not applicable.</p> <p>The development does not include a dwelling with a private open space requirement.</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> <ul style="list-style-type: none"> (a) be set back 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; (b) not include within the setback area required from a boundary to land in a zone shown in the Table to this Clause: <ul style="list-style-type: none"> (i) a building or work; (ii) vehicular or pedestrian access from a road if the boundary is not a frontage; 	<p>Relies on performance criteria.</p> <ul style="list-style-type: none"> (a) Relies on performance criteria. <p>The walkway to the northern boundary with the General Residential zone is within the 4m setback for development.</p> <p>Refer to “Issues” section of this report.</p> (b) (i) complies.

<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>(v) an area for the gathering of people, including for entertainment, community event, performance, sport or for a spectator facility;</p> <p>(vi) a sign orientated to view from land in another zone; or</p> <p>(vii) external lighting for operational or security purposes; and</p> <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> <p>(i) the setback distance from the zone boundary as shown in the Table to this Clause; and</p> <p>(ii) projecting upward and away from the zone boundary at an angle of 45° above the horizontal from a wall</p>	<p>(ii) relies on performance criteria. Pedestrian access is provided within the setback to the General Residential zone.</p> <p>(iii) Complies.</p> <p>(iv) Complies.</p> <p>(v) Complies.</p> <p>(vi) Relies on performance criteria.</p> <p>The signage is all orientated to be viewed from the General Residential zone (albeit from the road).</p> <p>Refer to “Issues” section of this report.</p> <p>(vii) Complies.</p> <p>(c) Complies.</p> <p>(d) Relies on performance criteria.</p> <p>The elevation of the building facing to the zone boundary contains a number of doorways and windows. This</p>
--	--

<p>height of 3.0m at the setback distance from the zone boundary; and</p> <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>	<p>requirement is not dependent on the distance from the zone boundary.</p> <p>Refer to “Issues” section of this report.</p>
21.4.6 Subdivision	
<p>21.4.6–(A1) 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.</p>	Not applicable.
<p>21.4.6–(P1) Each new lot on a plan of subdivision must be –</p> <p>(a) for a purpose permissible in the zone.</p>	Not applicable.
21.4.7 Reticulation of an electricity supply	
<p>21.4.7–(A1) Electricity reticulation and site connections must be installed underground.</p>	<p>Complies.</p> <p>Standard conditions are to be applied to any permit issued.</p>

CODES	
E1 Bushfire-Prone Areas Code	Not applicable. The site is not bushfire prone.
E2 Airport Impact Management Code	Not applicable. This Code is not in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. The Code does not apply to this site or development.
E4 Change in Ground Level Code	Not applicable. There is no proposed change in ground level.
E5 Local Heritage Code	Not applicable. The Code does not apply to this site or development.
E6 Hazard Management Code	
E6.2 Application of Code	Code applies. The site is identified as at risk of potential contamination as a result of a previous use for an activity listed in Table E6.1.
E6.4 Exemption	The proposal is not exempt.
E6.5.1 – (A1) Use must not occur on land potentially contaminated by a previous use for an activity listed in Table E6.1 unless– (a) soil disturbance and development is carried out in accordance with requirements in a hazard risk assessment for	Complies. The site has previously contained fuel tanks. There is additional known history of potential site contamination from nearby land uses. There are no vulnerable uses proposed on the site.

<p>contamination;</p> <p>(b) a hazard risk assessment for potential contamination establishes the site can be remediated to provide a tolerable level of risk for the use; or</p> <p>(c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk.</p>	<p>The application is accompanied by certification that the risk is tolerable for the proposed use, meeting the Acceptable solution.</p>
<p>E6.5.2– (A1) If a use is on land within an area of risk from exposure to a natural hazard as shown on a map forming part of this planning scheme –</p> <p>(a) use must not be for a critical use, a hazardous use, or a vulnerable use;</p> <p>(b) use must not be residential use if the level of risk is medium or higher; and</p> <p>(c) a hazard risk assessment must demonstrate a tolerable level of risk can be achieved and maintained for the nature and duration of the use.</p>	<p>Not applicable.</p> <p>The site is not identified as being at risk from a natural hazard.</p>
<p>E6.6.1– (A1) Development must not occur on land potentially contaminated by a previous use for an activity listed in the Table E6.1 to this clause unless –</p> <p>(a) soil disturbance and development is carried out in</p>	<p>Complies.</p> <p>The application is accompanied by certification that the risk is tolerable for the proposed development.</p>

<p>accordance with requirements in a hazard risk assessment for contamination;</p> <p>(b) a hazard risk assessment establishes the site can be remediated to provide a tolerable level of risk for the use; or</p> <p>(c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk; and</p> <p>(d) if a hazard risk assessment establishes need to involve land on another title to manage risk consistent with the objective, the consent in writing of the owner of that land must be provided to enter into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for contamination management.</p>	
<p>E6.6.2– (A1) – If the site is within an area of risk shown on a natural hazard map forming part of this planning scheme –</p> <p>(a) a hazard risk assessment must determine –</p> <p>(i) there is an insufficient increase in risk to warrant any specific hazard reduction or protection measure; or</p> <p>(ii) a tolerable level of risk can be achieved for the type, form, scale and duration of the development; and</p>	<p>Not applicable.</p> <p>The site is not identified as being at risk from a natural hazard.</p>

<p>(b) if a hazard risk assessment established need to involve land on another title for hazard management consistent with the objective, the consent in writing of the owner of that land must be provided to enter into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for hazard management.</p>	
<p>E7 Sign Code</p>	
<p>E7.2 Application of the Code</p>	<p>Code applies.</p>
<p>E7.4 Exemptions</p>	<p>The proposal is not exempt.</p>
<p>E7.6 (A1) – Signs must–</p> <p>(a) identify an activity, product, or service provided on the site;</p> <p>(b) if on a site in a General Residential, Low Density Residential, Rural Living or Environmental Living zone, must –</p> <p>(i) comprise not more than 2 display panels;</p> <p>(ii) be fixed flat to the surface of a building below the eave line; and</p>	<p>(a) The sign identifies the Cultural precinct to operate on the site.</p> <p>(b) N/A. Site is within the General Business zone.</p> <p>(c) Applicable (“any other zone”).</p> <p>(i) Fewer than 5 panels are proposed.</p> <p>(ii) Total area is less than 50m².</p>

<p>(iii) have a total combined area of not more than 5.0m²;</p> <p>(c) if on a site in any other zone, must –</p> <p>(i) comprise not more than 5 display panels;</p> <p>(ii) have a total combined area of not more than 50m²;</p> <p>(iii) be separated from any other freestanding or projecting sign by not less than 10m;</p> <p>(iv) be fully contained within the applicable building envelope and–</p> <p>a. not extend above the parapet or the ridge of a roof; or</p> <p>b. if a free-standing sign, have a height above natural ground level of not more than 5.0m;</p> <p>(v) not involve a corporate livery, colour scheme, insignia or logo applied to more than 25% of the external wall surface of each elevation of a building;</p> <p>(vi) not be located in an access strip, loading area, or car park;</p>	<p>(iii) No freestanding or projecting signs are proposed.</p> <p>(iv) Signs are to be attached to the building, within the building envelope.</p> <p>(v) Signage is less than 25% of the wall surface and does not display any of the listed items.</p> <p>(vi) Signage is not to be located in the access strip, loading area or car park.</p> <p>(vii) Signage is not to be animated, scrolling or otherwise continually changing.</p> <p>(viii) Signage does not resemble the listed items.</p> <p>(ix) Signage does not obscure any other items.</p> <p>(x) Signage will not cause illumination overspill.</p> <p>(d) No Local Heritage Code is applicable to the land.</p> <p>The signage proposed is fully compliant with the Acceptable Solution.</p>
---	---

<p>(vii) not be animated, scrolling or otherwise continuously or intermittently changing, flashing or rotating as a part of the operation of the sign unless providing advisory or safety information;</p> <p>(viii) not resemble any air or marine navigation device, or railway or road traffic control or directional device or sign;</p> <p>(ix) not visually obscure any sign or device required for the convenience and safety of air or marine navigation or for use of a railway or a road; and</p> <p>(x) not cause illumination that overflows the boundaries of the site; and</p> <p>(d) not be on land for which a Local Heritage Code forming part of this planning scheme applies.</p>	
E8 Telecommunication Code	Not applicable. No telecommunications are proposed. _
E9 Traffic Generating Use and Parking Code	
E9.2 Application of the Code	Code applies to all development.

E9.4 Exemptions	The proposal is not exempt.
<p>E9.5.1 (A1) – Provision for parking must be –</p> <p>(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</p>	<p>Relies on performance criteria.</p> <p>Table E9.1 requires that “if a development contains multiple uses, the parking and loading requirement must be calculated for each component use, added together, and rounded upwards to the nearest whole number”.</p> <p>It is clear that the development does not provide parking spaces in accordance with the Acceptable Solution, and is reliant upon assessment against the Performance Criteria in order to determine compliance.</p> <p>Refer to “Issues” section of this report.</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 1 space for every 50 parking spaces.</p>	<p>Relies on performance criteria.</p> <p>The three combined use classes would result in a requirement for three small rigid truck spaces.</p> <p>Refer to “Issues” section of this report.</p>

<p>E9.6.1 (A1.1) – All development must provide for the collection, drainage and disposal of stormwater; and</p> <p>E9.6.1 (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> <ul style="list-style-type: none"> (a) Be in accordance with AS/NZ 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 2890.6 (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; and 	<p>Complies.</p> <p>Design is in accordance with the applicable standards, as per the Statement of Compliance from Council’s Infrastructure Services.</p>
---	---

COMMUNITY SERVICES

(g) Be formed and constructed with compacted sub-base and an all-weather surface.	
E9.6.1 (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 APRB.	N/A.
E10 Water and Waterways Code	Not applicable. The site is not within 30m of a watercourse.
SPECIFIC AREA PLANS	
F1.0 Forth Specific Area Plan	Not applicable. This Specific Area Plan does not apply to the site.
F2.0 Ulverstone Wharf Specific Area Plan	Not applicable. This Specific Area Plan does not apply to the site.
F3.0 Penguin Specific Area Plan	Not applicable. This Specific Area Plan does not apply to the site.
F4.0 Turners Beach Specific Area Plan	Not applicable. This Specific Area Plan does not apply to the site.

Issues –

1 Development over easements

Clause 21.4.1 A1(b)(iii) can be interpreted to require that the building area is clear of any registered easement. There are a number of historic easements registered on this property, allowing passage over the site for various persons as well as their “servants and workmen”. The development is to be located over a number of these easements, thus the application is seeking a variation to this standard.

Cl.21.4.1 P1 A site or each lot on a plan of subdivision must be of sufficient area for the intended use or development without likely constraint or interference for –

- (a) erection of a building if required by the intended use;*
- (b) access to the site;*
- (c) use or development of adjacent land;*
- (d) a utility; and*
- (e) any easement or lawful entitlement for access to other land.*

Whether the site is of sufficient area for the intended use is best assessed by the development standards in the Scheme, which are addressed individually in this report. The main issue is whether the development constrains or interferes with any easement or lawful entitlement for access to other land. Usually an easement is designed to provide access over one property to another, where access is limited or otherwise difficult to obtain. In this scenario, the easements are outdated; the land title(s) referred to are historic and no longer exist. Pedestrian access will be retained across the site.

No constraint or interference for any lawful easement will result from the proposed development. The proposal is assessed as complying with cl. 21.4.1 P1.

2 *Building height*

Clause 21.4.2 A1 sets a height limit within the Acceptable Solution for 10m. Any building to be proposed as higher than this must be assessed under the performance criteria.

Cl. 21.4.2 P1 Building height must –

- (a) minimise likelihood for overshadowing of a habitable room or a required minimum area of private open space in any adjacent dwelling;*
- (b) minimise the apparent scale, bulk, massing and proportion relative to any adjacent building;*
- (c) be consistent with the streetscape;*
- (d) respond to the effect of the slope and orientation of the site.*

The proposal is to be set into the south western portion of the lot. Adjoining residential land uses include 46 Main Street and 9 The Quadrant. These two adjoining residential land uses are located to the north and east of the proposed building limiting potential for overshadowing to early morning. This orientation in itself, combined with the distance separating these uses, protects these residences and their open space from any significant overshadowing, with the open space of both properties as well as the habitable rooms of 46 Main Street free from overshadowing.

The remaining concern is that of remaining overshadowing of habitable rooms within 9 The Quadrant. Floor plans are not available to identify the location of habitable rooms. If these are located along the south-eastern side of the building, the setback proposed for the new development will minimise any remaining potential early morning overshadowing to these rooms. The overshadowing of the rail line is not considered under the performance criteria.

The building has been designed with maximum bulk and scale along the elevation shared with the rail line. The building will be visible above the surrounding buildings, however the visual impact is minimised due to setbacks combined with design features intended to reduce the bulk, scale and massing to the residential properties as well as to the entry points from Main Street, The Quadrant and Reibey Street.

The building will be set back from the streetscape. The supporting report states “the proposed use of this building was always going to result in a structure which makes a statement in the landscape..... The whole intention of the project is to create a “precinct” – a building, walkways; and areas where people can relax.....it will not impact on adjoining buildings – but it will be noticed – the whole point of a cultural centre.”. The assessment is generally in agreeance with these statements. The new building is to be set within gardens and a new landscape created. The property will retain the current large setbacks to the streetscape.

The site is flat, and as such the design had little to respond to, other than that of the orientation, for which the design has clearly considered the impact on access to sunlight for adjoining residential use.

The proposal is considered to comply with cl.21.4.2 A1 P1.

3 *Location of car parking and loading area*

Clause 21.4.2 A2 requires parking and loading areas to be located behind the primary frontage elevation of a building. As discussed, the proposal has a unique situation in regard to the primary frontage.

The application documentation lists the Main Street boundary as the primary frontage. Main Street *operates* as the primary frontage despite the definition in the Scheme. For the purposes of this assessment, and in the interests of effectively assessing the impacts of the development as a true reflection of the operation of the site, the application is being assessed as having two primary frontages, these being Main Street and Reibey Street.

21.4.2 P2 An external car parking and loading area, and any area for the display, handling, or storage of goods, materials or water, must –

- (a) not dominate the architectural or visual frontage of the site;*
- (b) be consistent with the streetscape;*
- (c) be required by a constraint imposed by size, shape, slope, orientation, and topography on development of the site; and*

- (d) *provide durable screening to attenuate appearance of the parking or loading area from a frontage and adjacent land.*

The design incorporates landscaping to soften the visual impact of the parking to Main Street. The loading areas are to be located in the corner of the property, behind the property containing the car wash.

The site itself does not facilitate the locating of the car parking and loading areas off Reibey Street, as there is currently no practical vehicle access from this frontage. The inclusion of such an access would be questionable, due to interaction with the existing intersection(s) at that point.

The building itself will be sufficient to act as the main feature on the site, regardless of it being set behind the car park.



The streetscape at this point in Main Street is transitioning from a working, commercial streetscape, to a residential streetscape. The proposal would act as an effective transition between the two, providing landscaping and a greater setback than that of the General Business zone.

The proposal is considered to be in keeping with cl.21.4.2 P2.

4 *Set back from Reibey Street*

The General Business zone requires that building in Reibey Street have zero setback in order to meet the Acceptable Solution. The proposal will be set back from Reibey Street, thus must be assessed under the Performance Criteria.

21.4.2 P3 Buildings must be the dominant feature of the frontage.

The building will be set back from Reibey Street, with Reibey Street providing a pedestrian linkage between the town centre and this site.

Whilst the building will be set back, the height will ensure that the building remains the dominant feature from this frontage.

The proposal is considered to be in keeping with cl.21.4.2 P3.

5 *Setback from the General Residential zone*

The proposed development includes works and walkways within the setback to the General Residential zone. The proposal also includes openings in the building's façade facing the zone boundary, and signage which will be orientated to be viewed from the General Residential zone (Including from Main Street).

As such, the proposal must be assessed under cl.21.4.5 P1.

Cl.21.4.5 P1 The location of development must –

- (a) minimise likelihood for conflict, constraint or interference from sensitive use on land in an adjoining zone; and*
- (b) minimised likely impact on the amenity of the sensitive use on land in an adjoining zone.*

The design of the entire proposal has been focused around locating the greatest impacts on the site in closest proximity to the existing rail line and car wash. The sections of the property closest to the General Residential zone are to be dedicated to landscaping and recreational spaces.

The property already contains signage. The adjoining car wash contains significant signage. All of this signage is visible from the General Residential zone.

It is considered that the proposal has been designed to minimise likelihood for conflict, constraint or interference in accordance with cl.21.4.5 P1(a), as well as to minimise impact on the amenity of sensitive use within the General Residential zone in accordance with cl.21.4.5 P1(b).

6 *Supply of car parking and loading areas*

E9.0 Traffic Generating Use and Parking Code specifies a number of parking spaces and loading areas for each land use in order to meet

the Acceptable Solution. The proposal does not provide this number of spaces or loading areas. It is therefore necessary to assess the application under the performance criteria.

- E9.5.1 P1*
- (a) It must be unnecessary or unreasonable to require arrangements for the provision of vehicle parking; or*
 - (b) Adequate and appropriate provision must be made for vehicle parking to meet –*
 - (i) anticipated requirement for the type, scale and intensity of the use;*
 - (ii) likely needs and requirements of site users; and*
 - (iii) likely type, number, frequency and duration of vehicle parking demand.*
- E9.5.2 P1*
- (a) it must be unnecessary or unreasonable to require arrangements for loading and unloading of vehicles; or*
 - (b) adequate and appropriate provision must be made for the loading and unloading of vehicles to meet –*
 - (i) likely volume, type and frequency of vehicles associated with the delivery and collection of goods and passengers; and*
 - (ii) likely frequency and duration of requirements for delivery and collection of goods or people.*

These performance criteria switch the requirement from that of the generic requirement listed in the acceptable solution to a requirement based on development specific demand. The application is accompanied by a traffic impact assessment by a qualified traffic engineer, and analyses the operation of the site, the uses, overlap between uses and parking / loading demand and concludes that the proposed parking and loading spaces are sufficient for the site.

The proposal is considered to meet E9.5.1 P1 and E9.5.2 P1.

Referral advice –

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

SERVICE	COMMENTS/CONDITIONS
Environmental Health	Nil. The proposal will require permits for the operation of the café etc.
Infrastructure Services	A Statement of Compliance for Vehicular access and Drainage Access was issued on 13 August 2019, stating that Infrastructure Services requirements can be met, subject to conditions. Refer Appendices.
TasWater	TWDA2019-01098-CC provides TasWater requirements.
Department of State Growth	Not applicable.
Environment Protection Authority	Not applicable.
TasRail	The proposal was referred to TasRail. Their response centres around ensuring vegetation does not interfere with rail operations or safety, as well as a requirement for additional fencing to delineate between the development and the rail line.
Heritage Tasmania	Not applicable.
Crown Land Services	Not applicable.
Other	Nil.

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, a copy of which are provided at Annexure 3.

The representation is summarised and responded to as follows:

MATTER RAISED		RESPONSE
REPRESENTATION 1		
1	Praise for Council for instigating the project.	Noted.
2	Assumes that the TIA reference to “two off street public carparks in the vicinity of the site” includes the representor’s private car park.	There are also two Council owned properties on the Quadrant and Little Quadrant providing public parking.
3	Potential use of representor’s carpark by users of the Cultural Precinct.	The representor’s property is signed as Public Carpark.
4	Negotiations regarding use of representor’s carpark are being undertaken with Council.	<p>Noted.</p> <p>The assessment of this application is not dependent upon these negotiations.</p> <p>Council is acting as planning authority in the determining of this application. Council also has a role to fulfil in the resolution of these negotiations.</p>

RESOURCE, FINANCIAL AND RISK IMPACTS

The proposal has the standard likely impacts on Council resources including those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council's determination should one be instituted. In this scenario, the costs associated with the development also apply. It is important to separate the impacts on Council acting as Planning Authority from those potential impacts in Council's other roles.

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 application relies on the application of discretion for a number of factors.

The impact of the discretionary aspects on the adjoining residential uses is mitigated by the design and setbacks. The design will modify the visual impression of the area, providing a new feature in the surrounding streets, however this is considered to be in keeping with the relevant performance criteria, and not to be reducing amenity or other values protected by the Scheme.

It is considered that the proposal satisfies the relevant performance criteria, and the proposal is recommended for conditional approval.

Recommendation –

It is recommended that the application for the Cultural Precinct (Community Meeting and Entertainment, Food Services, General Retail and Hire) at 109 Reibey Street or Cultural Precinct (Community Meeting and Entertainment, Food Services, General Retail and Hire) at 109 Reibey Street, Ulverstone be approved subject to the following conditions and notes:

General

- 1 The development must be substantially in accordance with the endorsed plans and documents 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 2019/01098-CC dated 20 August 2019 (copy attached).
- 3 The development must be in accordance with the Statement of Compliance for Vehicular Access and Drainage Access dated 13 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached).

Notes:

General

- 1 A Planning Permit remains valid for two years. If the use or development has not been substantially commenced within this period, an extension of time may be granted if a request is made before this period expires. If a Permit lapses, a new application must be made.
- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site, or an arrangement of a Private Works Authority or bank guarantee to undertake such works.
- 3 Please contact Council’s Environmental Health Officer on 6429 8900 to discuss the required permits for the food services on the site.
- 4 This permit does not imply that any other approval required under any other by-law or legislation has been granted.

All enquiries should be directed to Council’s Permit Authority on 6429 8900.

Tasrail

- 5 The rail boundary is to be fenced with a 1.8m high chain mesh to separate the development from railway operations.
- 6 Landscaping along the boundary of the rail corridor must ensure compliance with AS1742 sighting distances.
- 7 No obstruction or installation is permitted inside railway land for any purpose including for structures, unauthorised vehicles, drainage, water pipes, stormwater discharge, electrical or service infrastructure.

- 8 Should there be a requirement for a service or asset to be installed on rail land, a separate TasRail Permit is required and will only be approved subject to terms and conditions (costs apply). A Permit Application Form is available by contacting property@tasrail.com.au.
- 9 As per the *Rail Infrastructure Act 2007*, the Rail Infrastructure Manager (TasRail) may remove and dispose of unauthorised or unlawful service infrastructure and take such other action as it sees fit. Where this occurs, TasRail may recover its costs of doing so as a debt due to TasRail from that person and retain if applicable any proceeds of disposal. No action lies against TasRail for removing or disposing of the unauthorised or unlawful service infrastructure.
- 10 Access to railway land is not permitted without formal authorisation from TasRail. In certain circumstances a Permit for Access may be issued by contacting property@tasrail.com.au.
- 11 Using or creating an unauthorised railway crossing is unsafe and strictly prohibited.
- 12 No works are permitted on rail land without formal authorisation under a Permit. For further information please contact property@tasrail.com.au.
- 13 Parking of vehicles within rail land is not permitted.
- 14 As railway land is Crown Land, the Rail Infrastructure Manager is not required to contribute to the cost of boundary fencing.

Building

- 15 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council’s Building Permit Authority, and an application for a Plumbing permit is to be made to the Council’s Plumbing Permit Authority.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the report by Theresia Williams of PlanPlace Pty Ltd have been circulated to all Councillors.”

■ Cr Beswick moved and Cr Hiscutt seconded, “That the application for the Ulverstone Cultural Precinct Development – Community meeting and entertainment, Food Services, General Retail and Hire – variation to building height, location of car parking area and building from Reibey Street, setback to General Residential zone and variation to car parking standard – 109 Reibey Street, Ulverstone – Application No. DA2019024:

- 1 The development must be substantially in accordance with the endorsed plans and documents 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 2019/01098-CC dated 20 August 2019 (copy attached).
- 3 The development must be in accordance with the Statement of Compliance for Vehicular Access and Drainage Access dated 13 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached).

Notes:

General

- 1 A Planning Permit remains valid for two years. If the use or development has not been substantially commenced within this period, an extension of time may be granted if a request is made before this period expires. If a Permit lapses, a new application must be made.
- 2 ‘Substantial commencement’ is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site, or an arrangement of a Private Works Authority or bank guarantee to undertake such works.
- 3 Please contact Council’s Environmental Health Officer on 6429 8900 to discuss the required permits for the food services on the site.
- 4 This permit does not imply that any other approval required under any other by-law or legislation has been granted.

All enquiries should be directed to Council’s Permit Authority on 6429 8900.

Tasrail

- 5 The rail boundary is to be fenced with a 1.8m high chain mesh to separate the development from railway operations.

- 6 Landscaping along the boundary of the rail corridor must ensure compliance with AS1742 sighting distances.
- 7 No obstruction or installation is permitted inside railway land for any purpose including for structures, unauthorised vehicles, drainage, water pipes, stormwater discharge, electrical or service infrastructure.
- 8 Should there be a requirement for a service or asset to be installed on rail land, a separate TasRail Permit is required and will only be approved subject to terms and conditions (costs apply). A Permit Application Form is available by contacting property@tasrail.com.au.
- 9 As per the *Rail Infrastructure Act 2007*, the Rail Infrastructure Manager (TasRail) may remove and dispose of unauthorised or unlawful service infrastructure and take such other action as it sees fit. Where this occurs, TasRail may recover its costs of doing so as a debt due to TasRail from that person and retain if applicable any proceeds of disposal. No action lies against TasRail for removing or disposing of the unauthorised or unlawful service infrastructure.
- 10 Access to railway land is not permitted without formal authorisation from TasRail. In certain circumstances a Permit for Access may be issued by contacting property@tasrail.com.au.
- 11 Using or creating an unauthorised railway crossing is unsafe and strictly prohibited.
- 12 No works are permitted on rail land without formal authorisation under a Permit. For further information please contact property@tasrail.com.au.
- 13 Parking of vehicles within rail land is not permitted.
- 14 As railway land is Crown Land, the Rail Infrastructure Manager is not required to contribute to the cost of boundary fencing.

Building

- 15 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council's Building Permit Authority, and an application for a Plumbing permit is to be made to the Council's Plumbing Permit Authority."

Carried unanimously

279/2019 Section 35F Report on Representations to the Draft Central Coast Local Provisions Schedule (98/2018 – 16.07.2018)

The Director Community Services reported as follows:

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

<i>PLANNING INSTRUMENT:</i>	<i>Land Use Planning and Approvals Act 1993 (the Act) and Draft Central Coast Local Provisions Schedule (the Central Coast LPS)</i>
<i>PUBLIC NOTIFICATION:</i>	11 June 2019 to 9 August 2019
<i>REPRESENTATIONS RECEIVED:</i>	109
<i>ANNEXURES 1, 2 AND 3:</i>	<i>Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft Central Coast Local Provisions Schedule</i>
<i>ANNEXURE 4:</i>	Representations

PURPOSE

The purpose of this report is to consider representations received from the Central Coast community to the Central Coast LPS and to provide recommendations to the Tasmanian Planning Commission (TPC) pursuant to Sections 35F and 35G of the Act.

Accompanying this report is a review by the Planning Authority under Section 35F of the Act, giving consideration of representations received to the Central Coast LPS and a copy of all representations.

BACKGROUND

The Tasmanian Parliament enacted amendments to the Act in December 2015 to provide for a single planning scheme for Tasmania, to be known as the *Tasmanian Planning Scheme* (the TPS). The TPS consists of State Planning Provisions (SPP's) and Local Provision Schedules (LPS's) that are to be specific to each municipal area.

Ratified by the State Parliament in February 2017, the TPS has no practical effect until an LPS is in effect in a municipal area.

The Central Coast LPS was endorsed by the Council in its role as the Planning Authority in July 2018. The Central Coast LPS will facilitate the replacement of

the current *Central Coast Interim Planning Scheme 2013* by the TPS within the Central Coast area.

DISCUSSION

The TPS has been introduced by the State Government to ensure consistency between municipal areas and across regions.

Combined with specific Zones and Code Overlays, the Central Coast LPS includes Specific Area Plans for Penguin, Turners Beach, Leith, Forth and Revell Lane Precinct.

The Central Coast LPS also includes an expansion of the Light Industrial zone in South Road, Penguin. Further consideration will need to be given to the future allocation of Light Industrial and Commercial zoned land, following the adoption of the Central Coast LPS and the TPS.

Properties that are currently zoned Environmental Management or Environmental Living are to be rezoned to be Landscape Conservation, as the Environmental Management zone under the TPS primarily relates to State owned reserves and parks, coastal foreshores and riparian land. The Environmental Living zone is not available under the TPS.

In accordance with mapping provided by the State Government, land that is currently zoned Rural Resource is to be zoned either Rural or Agriculture.

The draft Central Coast LPS was submitted to the TPC who checked the documentation for consistency with submission requirements, prior to the TPC directing Council to public exhibit the Central Coast LPS.

The Central Coast LPS was placed on public exhibition on 11 June 2019 until 9 August 2019.

Following public exhibition of the Draft LPS, Section 35F of the Act requires the planning authority to prepare a report containing:

- . a copy of each representation made under s.35E(1);
- . a statement of the planning authority's opinion as to the merit of each representation made, in particular as to:
 - whether the draft LPS should be modified; and

- if recommended to be modified, the effect on the draft LPS as a whole;
- . a statement as to whether the planning authority is satisfied that the draft LPS meets the LPS criteria; and
- . the recommendation of the planning authority in relation to the draft LPS.

The Council, acting as the Planning Authority, now has opportunity to review all representations received during the exhibition period and make comment and recommendations, before sending all representations to the Tasmanian Planning Commission for consideration.

Following submission of the Section 35F report to the TPC, the TPC will hold a public hearing as soon as is practicable, to examine the merits of each representation and the Planning Authority's response.

The TPC will then seek the agreement of the Minister for Planning for the final form of the Central Coast LPS, before it is approved and commences operation.

To view all representations received and review comments and recommendations, refer to Annexures 1, 2 and 3 – *Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft Central Coast Local Provisions Schedule* and Annexure 4 – copies of representations received.

CONSULTATION

The draft Central Coast LPS was developed by planning consultant Mr Geoff Davis of Korlan Pty Ltd in consultation with Council planners, other Departments of Council, neighbouring Councils and, where appropriate, workshops with Councillors.

At the TPC's direction, and in accordance with the requirements of the Act, the draft Central Coast LPS was placed on public exhibition from 11 June 2019 to 9 August 2019.

The TPC issued a schedule of State agencies and authorities that were to be directly notified of the exhibition of the draft LPS. Each of the agencies and authorities were notified in accordance with the direction. Representations were received from TasWater, TasNetworks and State Growth and are addressed in the s.35F report – Refer to Annexure 1.

Two community information sessions were held during the public exhibition period, at the Riana Community Centre and at the Ulverstone Wharf.

REPRESENTATIONS

A total of 109 representations, not including Council's own submissions, were received. Copies of the representations are provided at Annexure 4.

The representations are summarised with a recommendation to each submission – refer to Annexures 1, 2 and 3 to this report.

Representations submitted generally relate to the following matters:

- . the zoning of land to Agriculture and Rural;
- . the zoning of land to Landscape Conservation;
- . zoning of land to General Residential, Low Density Residential and Rural Living;
- . the need for a Scenic Protection Code (the Code is not in the draft LPS);
- . the Natural Assets Code overlay and the application of the Environmental Management zone to State owned land;
- . the application of the Flood Hazard Prone overlay; and
- . expansion of the Commercial zone and application of the car parking precinct.

RESOURCE, FINANCIAL AND RISK IMPACTS

The preparation of the draft LPS has to date incurred a significant cost. There will be an additional cost in examination of the draft LPS before the TPC public hearings. The 2019–2020 budget has made provision for this event.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 (reviewed 2019) includes the following strategies and key actions:

The Shape of the Place

- . Improve the value and use of open space
- . Encourage a creative approach to new development.

A Connected Central Coast

- . Provide for a diverse range of movement patterns
- . Improve community well-being.

Community Capacity and Creativity

- . Facilitate entrepreneurship in the business community.

The Environment and Sustainable Infrastructure

- . Invest in and leverage opportunities from our natural environment
- . Contribute to a safe and healthy environment
- . Develop and manage sustainable built infrastructure
- . Contribute to the preservation of the natural environment.

Council Sustainability and Governance

- . Improve corporate governance
- . Improve service provision
- . Efficient communication and engagement
- . Strengthen local-regional connections.

Recommendation –

It is recommended that the Planning Authority:

- 1 Endorse Annexures 1, 2 and 3 *Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft Central Coast Local Provisions Schedule* as the report to the Tasmanian Planning Commission pursuant to Section 35F of the *Land Use Planning and Approvals Act 1993*.
- 2 Delegate the General Manager its powers and functions to represent the Planning Authority at hearings, pursuant to Section 35H of the *Land Use Planning and Approvals Act 1993*.

The Land Use Planning Group Leader's 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 Carpenter moved and Cr Beswick seconded, "That the Planning Authority:

- 1A Endorses Annexure 1 *Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft*

Central Coast Local Provisions Schedule as the report to the Tasmanian Planning Commission pursuant to Section 35F of the Land Use Planning and Approvals Act 1993.

- 1B Delegates the General Manager its powers and functions to represent the Planning Authority at hearings, pursuant to Section 35H of the *Land Use Planning and Approvals Act 1993*.”

Carried unanimously and by absolute majority

Cr Hiscutt having declared an interest, retired from the meeting and left the Chamber for that part of the meeting relating to the consideration, discussion and voting on the matter of Section 35F Report on Representations to the Draft Central Coast Local Provisions Schedule (98/2018 – 16.07.2018) – Annexure 2.

Cr Hiscutt left the meeting at 6.31pm

- Cr Fuller moved and Cr Beswick seconded, “That the Planning Authority:

- 2A Endorses Annexure 2 *Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft Central Coast Local Provisions Schedule* as the report to the Tasmanian Planning Commission pursuant to Section 35F of the *Land Use Planning and Approvals Act 1993*.

- 2B Delegates the General Manager its powers and functions to represent the Planning Authority at hearings, pursuant to Section 35H of the *Land Use Planning and Approvals Act 1993*.”

Carried unanimously and by absolute majority

Cr Hiscutt returned to the meeting at 6.32pm.

Cr Carpenter, having declared an interest, retired from the meeting and left the Chamber for that part of the meeting relating to the consideration, discussion and voting on the matter of Section 35F Report on Representations to the Draft Central Coast Local Provisions Schedule (98/2018 – 16.07.2018) – Annexure 3.

Cr Carpenter left the meeting at 6.32pm

- Cr Hiscutt moved and Cr Fuller seconded, “That the Planning Authority:

- 3A Endorses Annexure 3 *Planning Authority Report under Section 35F of the Land Use Planning and Approvals Act 1993 – Consideration of Representations to the Draft*

Central Coast Local Provisions Schedule as the report to the Tasmanian Planning Commission pursuant to Section 35F of the *Land Use Planning and Approvals Act 1993*.

- 3B Delegates the General Manager its powers and functions to represent the Planning Authority at hearings, pursuant to Section 35H of the *Land Use Planning and Approvals Act 1993*.”

Carried unanimously and by absolute majority

Cr Carpenter returned to the meeting at 6.33pm.

280/2019 Residential (subdivision x two lots and dwelling and shed on Lot 1) – internal allotment with variation to lot size, dwelling density, setback from Rural Resource zone, overhead electrical supply and reliance on E6 Hazard Management Code at 257 Penguin Road, West Ulverstone – Application No. DA2018294

The Director Community Services reported as follows:

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

<i>‘DEVELOPMENT APPLICATION NO.:’</i>	DA2018294
<i>PROPOSAL:</i>	Residential (subdivision x two lots and dwelling on Lot 1) – internal allotment with variation to lot size, dwelling density, setback from Rural Resource zone, overhead electrical supply and reliance on E6 Hazard Management Code
<i>APPLICANT:</i>	PDA Surveyors
<i>LOCATION:</i>	257 Penguin Road, West Ulverstone
<i>ZONE:</i>	Rural Living
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	14 August 2019
<i>REPRESENTATIONS EXPIRY DATE:</i>	28 August 2019
<i>REPRESENTATIONS RECEIVED:</i>	Nil
<i>42-DAY EXPIRY DATE:</i>	19 September 2019
<i>DECISION DUE:</i>	16 September 2019

PURPOSE

The purpose of this report is to consider an application for the subdivision of land that is zoned Rural Living to form two lots at 257 Penguin Road, West Ulverstone and to construct a dwelling and shed on proposed Lot 1.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – photographs; and
- . Annexure 4 – Statement of Compliance from Road Authority and Stormwater Authority.

BACKGROUND

Development description –

(a) Subdivision –

Lot 1 would be an internal allotment comprising 8,624m² (6,394m² excluding access strip). Application is also made to construct a dwelling and shed on Lot 1.

Lot 2 would comprise 1.43ha and would accommodate an existing dwelling and sheds with associated ancillary wastewater and stormwater collection and disposal systems.

Both lots would be accessed off Penguin Road.

(b) Single dwelling and shed on Lot 2

The application includes the construction of a 302.97m² brick veneer, single-storey, three bedroom dwelling and 60m² shed on Lot 1. The application is accompanied by documentation that details the design and location of on-site sewerage and stormwater collection and disposal systems.

Site description and surrounding area –

The 2.293ha Rural Living parcel of land is accessed via Penguin Road, West Ulverstone.

The land is elevated, with steep to moderate slopes and expansive views over Bass Strait.

The land comprises a large swathe of “Medium” landslide hazard and is part of a larger area of “Medium” and “Active Medium” landslide hazard.

Land to the south is zoned Rural Resource and comprises Class 5 and 6 land, due to landslide characteristics, and areas of Class 3 prime agricultural land. Land to the east and west is also zoned Rural Living.

History –

No history relevant to this application.

DISCUSSION

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

13.0 Rural Living Zone

CLAUSE	COMMENT
13.1.1. Zone Purpose Statements	
13.1.1.1 To provide for residential use or development on large lots in a rural setting where services are limited.	Satisfies Zone Purpose. Use would be residential.
13.1.1.2 To provide for compatible use and development that does not adversely impact on residential amenity.	Satisfies Zone Purpose. Use would be residential.
13.1.2 Local Area Objectives	
<p>13.1.2.1</p> <p>(a) Use and development retains a rural setting</p> <p>(b) Rural living areas make efficient use of land and optimise available infrastructure through a balance between infill and redevelopment of established rural living areas and release of new land</p> <p>(c) The type, scale and intensity of use or development is consistent with the capacity of infrastructure services, land capability, the level of risk from exposure to natural</p>	<p>(a) Satisfies Objective. Use would be within a rural setting.</p> <p>(b) Not applicable. Established Rural Living area. Not the release of new land for Rural Living purpose.</p> <p>(c) Does not satisfy Objective. Proposed division of land is not consistent with scale, type and intensity of development in this area, which is determined by a larger lot size, due to identified medium landslip hazard characteristics.</p> <p>(d) Satisfies Objective. Proposal is for a single dwelling.</p>

<p>hazards, and the protection of land significant for primary production;</p> <p>(d) Rural living areas provide opportunity for housing in single and multiple dwellings for individual, shared, and supported accommodation through private, public, and social investment;</p> <p>(e) Rural living areas enable small-scale employment opportunities in home occupation and home based-business;</p> <p>(f) New or intensified use or development is restricted if the limit of a constraint on residential use is unknown or uncertain.</p> <p>(g) Rural living areas have no priority purpose for primary industry use</p> <p>(h) The amenity and character of residential use is commensurate with the location of housing and support activity within a rural setting and is to take into account –</p> <p>(i) likely compromise as a result of factors arising from –</p>	<p>(e) Not applicable. Not an application for home occupation or home-based business.</p> <p>(f) Not applicable. Proposed use would be Residential.</p> <p>(g) Satisfies Objective. Proposed use would be Residential.</p> <p>(h)(i)a. Does not satisfy Objective. Application does not demonstrate that occupation and operational practices of primary industry on adjacent land would not compromise the amenity and character of residential use.</p> <p>(h)(i)b. Satisfies Objective. Transport infrastructure and electrical connections able to be provided.</p> <p>(h)(i)c. Satisfies Objective. Retail, education, health, social support, sports and recreation facilities in the locality of West Ulverstone.</p> <p>(h)(i)d. Does not adequately satisfy Objective. Land is subject to landslide characteristics.</p> <p>(h)(i)e. Satisfies Objective. Site is not remote.</p> <p>(h)(ii)a. Satisfies Objective. Proposal is for a single-story dwelling with low bulk and scale.</p>
---	---

<ul style="list-style-type: none"> a. occupational and operational practices of primary industry and other use on adjacent rural land; b. possible absence or under-provision of transport infrastructure and utilities; c. possible absence of facilities for convenience retail, education, entertainment, health and social support, and for sports and recreation; d. likelihood for exposure to a natural hazard; and e. relative remoteness from an urban centre <p>(ii) the effect of location and configuration of buildings within a site on –</p> <ul style="list-style-type: none"> a. apparent bulk and scale of buildings and structures within the rural setting; b. opportunity for on-site provision of private open space and facilities for parking of vehicles; 	<p>(h)(ii)b. Satisfies Objective. Ample areas for private open space and parking of vehicles.</p> <p>(h)(ii)c. Satisfies Objective. Proposed development would be north facing.</p> <p>(h)(ii)d. Satisfies Objective. Proposed development would provide for ample visual and acoustic privacy between dwellings.</p> <p>(h)(ii)e. Does not satisfy Objective. Proposed development would result in a higher dwelling density in this area.</p>
---	---

<ul style="list-style-type: none"> c. opportunity for access to daylight and sunlight; d. visual and acoustic privacy between adjacent dwellings; and e. consistency of the streetscape 	
13.1.3 Desired Future Character Statements	
<p>13.1.3.1</p> <ul style="list-style-type: none"> (a) occur as discrete, contiguous, and ordered clusters of dwellings and associated buildings embedded in a rural setting; (b) provide sites that are larger than suburban lots, although size is dependent on availability of utilities, land capability, and retention of a rural setting; (c) provide housing as a predominant but not exclusive use; (d) provide choice and diversity in the type and form of buildings for housing and non-housing development; (e) provide buildings that are typically of one or two storeys; 	<ul style="list-style-type: none"> (a) Does not satisfy Future Character Statement. Development would increase pattern and intensity of dwelling density in this area. (b) Does not satisfy Future Character Statement. Land capability and suitability of a lot for development is not adequately satisfied. (c) Satisfies Future Character Statement. Development is the division of land for a dwelling. (d) Satisfies Future Character Statement. Development is the division of land for a dwelling. (e) Satisfies Future Character Statement. Development is the division of land for a single-storey dwelling.

<p>(f) provide a landscape in which buildings are set well apart from buildings on adjacent sites and from the frontage road;</p> <p>(g) have very low site coverage and sufficient unbuilt area to accommodate any requirement for on-site disposal or sewage or stormwater; and</p> <p>(h) may be self-sufficient with respect to water supply and arrangements for the treatment and disposal of sewage and stormwater</p>	<p>(f) Does not satisfy Future Character Statement. Buildings would be in relatively close proximity for development in the Rural Living zone.</p> <p>(g) Satisfies Future Character Statement. Low site coverage is proposed.</p> <p>(h) Satisfies Future Character Statement. Development would be self-sufficient.</p>
13.3 Use Standards	
13.3.1 Discretionary permit use	
<p>13.3.2-(A1) 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>	<p>Not applicable.</p> <p>Residential use class is Permitted.</p>

13.3.2 Impact of use	
13.3.2-(A1) Permitted non-residential use must adjoin at last one residential use on the same street frontage.	Not applicable. Use would be Residential.
13.3.2-(A2) Permitted non-residential use must not generate more than 40 average daily vehicle movements.	Not applicable. Use would be Residential.
13.3.2-(A3) Other than for emergency services, residential, and visitor accommodation, hours of operation must be between 6.00am and 9.00pm.	Compliant. Use would be Residential.
13.4.1 Suitability of a site or lot for use or development	
13.4.1-(A1) Each site or each lot on a plan of subdivision must:	<u>Subdivision to form two lots</u>
(a) have an area not less than:	(a)(i) Non-compliant. Lot 2 would comprise 1.43ha, however Lot 1 would comprise 8,624m ² (6,394m ² excluding access strip). Refer to the "Issues" section of this report.
(i) 1.0 hectares excluding any access strip; or	
(ii) if in a locality shown in the Table to this clause, not less than the site area shown for that locality.	
(b) If intended for a building, contain a building area of:	(a)(ii) Not applicable. Locality not shown in the Table to this Clause.

<ul style="list-style-type: none"> (i) not more than 1,000m²; (ii) clear of any applicable setback from a frontage, side, or rear boundary; (iii) clear of any applicable setback from a zone boundary; (iv) clear of any registered easement; (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. 	<ul style="list-style-type: none"> (b)(i) Compliant. Both lots would be able to accommodate a building area of not more than 1,000m². (b)(ii) Compliant. Building envelope would be able to be accommodated with Scheme setbacks from front, rear and side boundaries. (b)(iii) Non-compliant. Building envelope on the new Lot 1 would be approximately 10m from Rural Resource zone boundary. Refer to the "Issues" section of this report. (b)(iv) Not applicable. No easements. (b)(v) Not applicable. No right-of-way. (b)(vi) Not applicable. No utility on the land. (b)(vii) Compliant. Would be clear of proposed access strip. (b)(viii) Compliant. Building envelope on Lot 1 would be clear of the area required for sewerage and stormwater disposal. (b)(ix) Compliant. Lots would be accessible from Penguin Road.
---	--

	<p><u>Single dwelling on Lot 1</u></p> <p>(a)(i) Non-compliant. Land area of Lot 1 would be 8,624m². Refer to the “Issues” section of this report.</p> <p>(a)(ii) Not applicable. Locality not shown in Table to this Clause.</p> <p>(b)(i) Compliant. Dwelling would be setback greater than 20m from front boundary to Penguin Road.</p> <p>(b)(ii) Lot 1 would be able to accommodate a building area of not more than 1,000m².</p> <p>(b)(iii) Compliant. Dwelling on the new Lot 1 would be greater than 10m from Rural Resource zone boundary.</p> <p>(b)(iv) Not applicable. No easements.</p> <p>(b)(v) Not applicable. No right-of-way.</p> <p>(b)(vi) Not applicable. No restrictions imposed by a Utility.</p> <p>(b)(vii) Compliant. It is proposed the development of the on-site stormwater disposal system be in the access strip area, due to the vulnerability of the land adjoining the dwelling</p>
--	---

	<p>and location of proposed wastewater system. The access strip has been widened to accommodate the disposal area.</p> <p>(b)(viii) Compliant. Dwelling would be clear of area required for sewerage and stormwater disposal.</p> <p>(b)(ix) Compliant. Dwelling would be accessible from Penguin Road.</p>
<p>13.4.1 –(A2) Each site or a 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>(i) over land not required as the means of access to any other land; and</p> <p>(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance</p>	<p><u>Subdivision to form two lots</u></p> <p>(a) Compliant. Lots would have access off Penguin Road.</p> <p>(b) Compliant. Lot 1 would be an internal allotment with a dedicated 8m wide frontage to Penguin Road.</p> <p>(c) Not applicable. No right-of-way proposed.</p> <p>(d) Compliant. Frontage for Lot 1 would be 8m wide. Frontage for Lot 2 would be 71.36m wide.</p> <p>Development would require a Statement of Compliance from the Road Authority.</p>

<p>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 6.0m; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1992</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>	<p><u>Single dwelling on Lot 1</u></p> <p>(a) Compliant. Land would have access via Penguin Road.</p> <p>(b) Compliant. Lot 1 would be an internal allotment with a dedicated 8m wide frontage to Penguin Road.</p> <p>(c) Not applicable. No right-of-way.</p> <p>(d) Compliant. Frontage would be 8m wide.</p> <p>(e) Development would require a Statement of Compliance from the Road Authority.</p>
<p>13.4.1–(A3) A site or each lot on a plan of subdivision must have a water supply:</p> <p>(a) from a connection to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2009</i>; or</p> <p>(b) from a rechargeable drinking water system ^{R6} with a storage capacity of not less than 10,000 litres if:</p> <p>(i) there is not a reticulated water supply; and</p>	<p><u>Subdivision and single dwelling on Lot 1</u></p> <p>(a) Not applicable. Satisfied by (b).</p> <p>(b) Compliant by Condition. Lots would be able to collect, store and dispose of stormwater. Lot 1 would need to construct a stormwater absorption area aside the proposed access strip.</p>

<p>(ii) development is for:</p> <p>a. a single dwelling; or</p> <p>b. a use with an equivalent population of not more than 10 people per day.</p>	
<p>13.4.1–(A4) A site or each lot on a plan of subdivision must drain sewage and trade waste:</p> <p>(a) to a reticulated sewer system provided in accordance with the <i>Water and Sewerage Industry Act 2009</i>; or</p> <p>(b) by on-site disposal if:</p> <p>(i) sewage or trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p> <p>a. is for a single dwelling; or</p> <p>b. provides for an equivalent population of not more than 10 people per day; or</p> <p>c. creates a total sewage and waste water flow of not more than 1,000 litres per</p>	<p><u>Subdivision and single dwelling on Lot 1</u></p> <p>(a) Not applicable. Satisfied by (b).</p> <p>(b)(i) Compliant.</p> <p>(b)(ii) Compliant. Lot 2 has existing wastewater system. No changes proposed.</p> <p>Proposed Lot 1 of 6,394m² (excluding access strip area) and proposed single dwelling on Lot 1 are accompanied by a “Geotechnical Investigations and Landslide Risk Assessment” report by GeoTon Pty Ltd. Section 11 of the report makes recommendation that an aerated wastewater treatment system (AWTS) with subsurface irrigation be installed for the treatment of wastewater.</p>

day; and	(b)(iii) Compliant. Lot 2 has existing wastewater system. No changes proposed.
(iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS1547:2000 On-site domestic wastewater management, clear of any defined building area or access strip.	Proposed Lot 1 of 6,394m ² (excluding access strip) and dwelling for Lot 1 are accompanied by a "Geotechnical Investigations and Landslide Risk Assessment" report by GeoTon Pty Ltd. Section 11 of the report makes recommendation that an aerated wastewater treatment system (AWTS) with subsurface irrigation be installed for the treatment of wastewater.
<p>13.4.1–(A5) A site or each lot on a plan of subdivision must drain stormwater:</p> <p>(a) or discharge to a stormwater system provided in accordance with the <i>Drains Act 1954</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</p>	<p><u>Subdivision and single dwelling on Lot 1</u></p> <p>(a) Not applicable. Satisfied by (b).</p> <p>Lot 2 has existing provisions for on-site stormwater disposal. No changes proposed.</p> <p>(b)(ii)a. Compliant. Lot 1 and dwelling proposal will have land area of 6,394m² (excluding access strip).</p> <p>(b)(ii)b. Compliant. Disposal is clear of defined building area.</p> <p>(b)(ii)c. Compliant. Disposal of stormwater is clear of area required for disposal of wastewater.</p>

<p>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>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>(b)(ii)d. Compliant. Disposal area is within but aside of access strip.</p> <p>(b)(ii)e. Compliant. More than 50% of the site is of a pervious surface.</p> <p>(b)(iii) Compliant. 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><u>Dwelling on Lot 1</u></p> <p>(a) Non-compliant. Lot 1 site area would be 6,394m² (excluding access strip). Refer to the “Issues” section of this report.</p> <p>(b) Not applicable. No locality in Table to this Clause.</p>

13.4.3 Location and configuration of development	
<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>(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) if the site abuts a road shown in the Table to this clause, the setback specified for that road; or</p> <p>(f) if the site is in a locality shown in the Table to this clause, the setback for that locality.</p>	<p><u>Dwelling on Lot 1</u></p> <p>(a) Compliant. Dwelling would be setback more than 50m from Penguin Road frontage.</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> <p>(e) Not applicable. Site does not abut the Bass Highway.</p> <p>(f) Not applicable. Locality not shown in Table to this Clause.</p>

<p>13.4.3–(A2) All buildings must be contained within a building envelope determined by:</p> <ul style="list-style-type: none"> (a) the applicable frontage setback; (b) a setback of not less than 10.0m from each side boundary; (c) a setback of not less than 10.0m from the rear boundary; (d) a setback of not less than 20.0m from any designated building area on each adjacent site; or (e) if the site is in a locality shown in the Table to this clause, the setback for that locality; or (f) any building area shown on a sealed plan of subdivision; and (g) building height of not more than 8.5m. 	<p><u>Dwelling on Lot 1</u></p> <ul style="list-style-type: none"> (a) Compliant. Dwelling would be greater than 50m from the Penguin Road frontage. (b) Compliant. Dwelling would be 32.6m from eastern side boundary and approximately 21.9m from western side boundary. (c) Compliant. Dwelling would be approximately 15.62m from proposed rear boundary. (d) Compliant. Dwelling would be setback greater than 25m from the building area on proposed adjacent site. (e) Not applicable. (f) Not applicable. No sealed area on a plan of subdivision. (g) Compliant. Building height would be 4.5m above natural ground level.
<p>13.4.3–(A3) Site coverage must:</p> <ul style="list-style-type: none"> (a) be not more than 500m²; and (b) not include any part of a site required for the disposal 	<p><u>Dwelling on Lot 1</u></p> <ul style="list-style-type: none"> (a) Compliant. Proposed site coverage would be 397m².

<p>and drainage of sewage or stormwater; or</p> <p>(c) be not more than any building area shown on a sealed plan of subdivision.</p>	<p>(b) Compliant. Development would be clear of stormwater and wastewater disposal areas.</p> <p>(c) Not applicable. No building area shown on a sealed plan of subdivision.</p>
<p>13.4.3-(A4)</p> <p>(a) A utility structure must be a power pole, antenna or a single domestic-scale turbine to a maximum of 10m in height which is –</p> <p>(i) not part of a wind farm;</p> <p>(ii) not sited on a skyline; and</p> <p>(iii) if a wind turbine, not located within 60m a dwelling in other ownership not within 30m of a public road.</p>	<p><u>Dwelling on Lot 1</u></p> <p>(a) Not applicable. No utility structure proposed.</p> <p>(b)(i) Compliant. Dwelling would be located approximately 20m below nearest ridgeline.</p> <p>(b)(ii) Compliant. Bass Strait is approximately 300m to the north.</p> <p>(b)(iii) Compliant by Condition to a Permit.</p>
<p>(b) A building, except a utility structure must be –</p> <p>(i) located not less than 15m below the level of any adjoining ridgeline;</p> <p>(ii) not less than 30m from any shoreline to a</p>	

<p>marine or aquatic water body, water course, or wetland; and</p> <p>(iii) clad and roofed with materials with a light reflectance value of less than 40%</p>	
13.4.4 Acoustic and visual privacy for residential development	
<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) 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><u>Dwelling on Lot 1</u></p> <p>(a) Compliant. Proposed dwelling would be 32.6m from the eastern side boundary and 21.9m from western side boundary.</p> <p>(b) Compliant. No adjoining dwelling would be within 10m of the proposed development.</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. Access strip would be greater than 20m from existing dwelling.</p>

13.4.5 Private open space for multiple dwelling residential use	
<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.</p> <p>Not multiple dwelling development.</p>
<p>13.4.5-(A2) The required minimum private open space area must receive not less than two hours of continuous sunlight between 9.00am and 5.00pm on 21 June.</p>	<p>Not applicable.</p> <p>Not multiple dwelling development.</p>
13.4.6 Setback of sensitive use development	
<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><u>Dwelling on Lot 1</u></p> <p>(a) Non-compliant. Proposed dwelling would be approximately 30m from Rural Resource zone to the south.</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>(b) Non-compliant. Proposed building area would be approximately 30m from Rural Resource zone to the south. Refer to the “Issues” section of this report.</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><u>Dwelling on Lot 1</u></p> <p>(a) Compliant. Proposed dwelling building area would be setback approximately 1.4km from Bass Highway.</p> <p>(b) Compliant. No railway within 200m of the site.</p> <p>(c) Not applicable. No land designated for future road or rail purposes.</p> <p>(d) Compliant. The closest proclaimed wharf is located at Devonport approximately 20km to the east.</p>
<p>13.4.7 Subdivision</p>	
<p>13.4.7–(P1) Each new lot on a plan of subdivision must be:</p> <p>(a) intended for residential use;</p> <p>(b) a lot required for public use by the State Government, a Council, a statutory authority, or a corporation, all the</p>	<p><u>Subdivision to form two lots</u></p> <p>(a) Compliant. Lot 1 is intended for residential use.</p> <p>(b) Not applicable. Satisfied by (a).</p>

COMMUNITY SERVICES

shares of which are held by or on behalf of the State, a Council, or by a statutory authority.	
<p>13.4.7–(A2)</p> <p>A lot other than a lot to which A1(b) applies, must not be an internal lot.</p>	Non-compliant. A new internal lot is proposed.
13.4.8 Reticulation of an electricity supply to new lots on a plan of subdivision	
13.4.8–(A1) Electricity reticulation and site connections must be installed underground.	<p>Non-compliant. Overhead electrical supply is proposed.</p> <p>Refer to the “Issues” section of this report.</p>
CODES	
E1 Bushfire-Prone Areas Code	
E1.2 Application of Code	<p>Code applies. Site is identified as a bushfire-prone area.</p> <p>The application is supported by a Bushfire Hazard Management Report by Bruce Harpley of Environmental Service and Design (ES&D), Accreditation No. BFP-140 dated 4 April 2019.</p>
E1.4 Exemption	Not exempt. ATFS accredited person Bruce Harpley, Accreditation No. BFP-140, has issued Certification No. 6661-1 dated 4 April 2019 and reports that a Bushfire Hazard Management Plan

	(Section 4 of the Certificate) is in accordance with the Chief Officer's requirements.
E1.5.1 Vulnerable Uses	Not applicable. Subdivision not classified as a vulnerable use.
E1.5.2 Hazardous Uses	Not applicable. Subdivision not classified as a hazardous use.
E1.6 Development Standards	
E1.6.1 Subdivision: Provision of hazard management areas	
<p>E1.6.1-(A1)</p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of hazard management areas as part of a subdivision; or</p> <p>(b) the proposed plan of subdivision:</p> <p>(i) shows all lots that are within or partly within a bushfire-prone area, including those developed at each stage of a staged subdivision;</p> <p>(ii) shows the building area for each lot;</p> <p>(iii) shows hazard management areas between</p>	<p>(a) Not applicable. Application relies on E1.6.1-(A1)(b)</p> <p>(b)(i) Compliant. The application is supported by a Bushfire Hazard Management Report by Bruce Harpley of Environmental Service and Design (ES&D), Accreditation No. BFP-140 dated 4 April 2019. A Bushfire Hazard Management Plan (Section 4 of the Certificate) shows all lots that are within a bushfire-prone area.</p> <p>(b)(ii) Compliant. Plan of subdivision shows building areas for both lots.</p> <p>(b)(iii) Compliant. Plan of subdivision shows hazard management areas and building areas.</p> <p>(b)(iv) Compliant. The application is accompanied by a Bushfire Hazard Management Report by Bruce Harpley of</p>

<p>bushfire-prone vegetation and each building area that have dimensions equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959 – 2009 Construction of buildings in bushfire prone areas</i>; and</p> <p>(iv) is accompanied by a bushfire hazard management plan that addresses all the individual lots and that is certified by the TFS or accredited person, showing hazard management areas equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959 – 2009 Construction of buildings in bushfire prone areas</i>; and</p> <p>(c) If hazard management areas are to be located on land external to the proposed subdivision the application is accompanied by the written consent of the owner of that land to enter into an agreement under section 71 of the Act that will be registered on the title of the neighbouring property providing for the affected land to be managed in accordance with the bushfire hazard management plan.</p>	<p>Environmental Service and Design (ES&D), Accreditation No. BFP-140 dated 4 April 2019. Bruce Harpley, Accreditation No. BFP-140, has issued Certification No. 6661-1 dated 4 April 2019 and reports that a Bushfire Hazard Management Plan (Section 4 of the Certificate) is in accordance with the Chief Officer's requirements and as such can deliver a compliant outcome for use and development on the land.</p> <p>(c) Not applicable. Hazard management area is not to be located on an area that is external to the proposed subdivision.</p>
--	--

E1.6.2 Subdivision: Public and fire fighting access	
<p>E1.6.2-(A1)</p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant specific measures for public access in the subdivision for the purposes of fire fighting; or</p> <p>(b) a proposed plan of subdivision showing the layout of roads, fire trails and the location of property access to building areas is included in a bushfire hazard management plan that:</p> <p>(i) demonstrates proposed roads will comply with Table E1, proposed private accesses will comply with Table E2 and proposed fire trails will comply with Table E3; and</p> <p>(ii) is certified by the TFS or an accredited person.</p>	<p>(a) Not applicable. Application relies on E1.6.2-(A1)(b).</p> <p>(b)(i) Compliant. Proposed plan of subdivision shows the layout of roads and the location of private access strip to building area and is included in a bushfire hazard management plan approved by an accredited person.</p> <p>(b)(ii) Compliant. The application is accompanied by a Bushfire Hazard Management Report by Bruce Harpley of Environmental Service and Design (ES&D), Accreditation No. BFP-140 dated 4 April 2019. Proposed plan of subdivision shows the layout of roads and the location of private access strip and satisfies Tables E1, E2, and E3. The Bushfire report makes recommendation in relation to the construction of access to be constructed in accordance with Table E2 element C. The proposed 8m wide access strip allows for passing bays every 200m.</p>
E1.6.3 Subdivision: Provision of water supply for fire fighting purposes	
<p>E1.6.3-(A1) In areas serviced with reticulated water by the water corporation:</p> <p>(a) TFS or an accredited person certifies that there is an</p>	<p>Not applicable. No reticulated water supply.</p>

<p>insufficient increase in risk from bushfire to warrant the provision of a water supply for fire fighting purposes;</p> <p>(b) a proposed plan of subdivision showing the layout of fire hydrants, and building areas, is included in a bushfire hazard management plan approved by the TFS or accredited person as being compliant with Table E4; or</p> <p>(c) a bushfire hazard management plan certified by the TFS or an accredited person demonstrates that the provision of water supply for fire fighting purposes is sufficient to manage the risks to property and lives in the event of a bushfire.</p>	
<p>E1.6.3–(A2) In areas that are not serviced by reticulated water by the water corporation:</p> <p>(a) The TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of a water supply for fire fighting purposes;</p> <p>(b) The TFS or an accredited person certifies that a proposed plan of subdivision demonstrates that a static water supply, dedicated to fire fighting, will be provided and located compliant with Table E5; or</p> <p>(c) A bushfire hazard management plan certified by the</p>	<p>(a) Not applicable. Compliant with E1.6.3–(A2)(b)</p> <p>(b) Compliant. The plan of subdivision demonstrates a static water supply will provided for both lots.</p> <p>(c) Compliant. The application is supported by a Bushfire Hazard Management Report by Bruce Harpley of Environmental Service and Design (ES&D), Accreditation No. BFP–140 dated 4 April 2019 and reports that a Bushfire Hazard Management Plan (Section 4 of the Certificate) is in accordance with the Chief Officer’s</p>

TFS or an accredited person demonstrates that the provision of water supply for fire fighting purposes is sufficient to manage the risks to property and lives in the event of a bushfire.	requirements and as such can deliver a compliant outcome for use and development on the land.
E2 Airport Impact Management Code	Not applicable. No Code in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of vegetation.
E4 Change in Ground Level Code	Not applicable. Development does not propose any change in ground level. Any change in ground level over 1m would require a new development application.
E5 Local Heritage Code	Not applicable. No Local Heritage Code in the Scheme.
E6 Hazard Management Code	
E6.2 Application of the Code	Applicable. The site is located within an area subject to “Medium” landslide hazard.
E6.4 Use or Development Exempt from this Code	Not exempt as the site is located within an area subject to landslide hazard.

E6.5 Use Standards	
E6.5.1 Use on potentially contaminated land	
<p>E6.5.1–(A1) Use must not occur on land potentially contaminated by a previous use for an activity listed in Table E6.1 unless:</p> <p>(a) soil disturbance and development is carried out in accordance with requirements in a hazard risk assessment for contamination;</p> <p>(b) a hazard risk assessment for potential contamination establishes the site can be remediated to provide a tolerable level of risk for the use; or</p> <p>(c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk.</p>	<p>Not applicable.</p> <p>The proposed land is not land that has potentially contaminated soil by a previous use or activity listed in Table E6.1.</p>
E6.5.2 Use likely to be exposed to a natural hazard	
<p>E6.5.2–(A1) If a use is on land within an area of risk from exposure to a natural hazard as shown on a map forming part of this planning scheme:</p> <p>(a) use must not be for a critical use, a hazardous use,</p>	<p>(a) Compliant. Residential use is not a critical, hazardous or a vulnerable use.</p> <p>(b) Non-compliant. Land is subject to Medium landslide hazard and is proposed for residential use.</p>

<p>or a vulnerable use;</p> <p>(b) use must not be residential use if the level of risk is medium or higher; and</p> <p>(c) a hazard risk assessment must demonstrate a tolerable level of risk can be achieved and maintained for the nature and duration of the use.</p>	<p>Refer to the “Issues” section of this report.</p> <p>(c) Compliant. The application is accompanied by a report by GeoTon Pty Ltd titled “Geotechnical investigations and Landslide Risk Assessment”, Reference No. GKL 18602Ab dated 4 February 2019. The report states that a tolerable level of risk can be achieved and maintained for residential development, if recommended design criteria are adhered to. The report does not examine the brick veneer and “Colorbond” clad dwelling design proposed.</p>
E6.6 Development Standards	
E6.6.1 Development on potentially contaminated land	
<p>E6.6.1–(A1) Development must not occur on land potentially contaminated by a previous use for an activity listed in the Table E6.1 to this clause unless:</p> <p>(a) soil disturbance and development is carried out in accordance with the requirements of a hazard risk assessment for contamination;</p> <p>(b) a hazard risk assessment establishes the site can be remediated to provide a tolerable level of risk from the development; or</p>	<p>Not applicable.</p> <p>The land is not potentially contaminated by a previous use or activity listed in Table E6.1.</p>

<p>(c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk from the development; and</p> <p>(d) if a hazard risk assessment establishes need to involve land on another title to manage risk consistent with the objective, the consent in writing of the owner of that land must be provided to enter into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for contamination management.</p>	
<p>E6.6.2 Development on land exposed to a natural hazard</p>	
<p>E6.6.2–(A1) If the site is within an area of risk shown on a natural hazard map forming part of this planning scheme:</p> <p>(a) a hazard risk assessment must determine:</p> <p>(i) there is an insufficient increase in risk to warrant any specific hazard reduction or protection measure; or</p> <p>(ii) a tolerable level of risk can be achieved for the type, form, scale and duration of the</p>	<p>(a)(i) Not applicable. The development satisfies (a)(ii).</p> <p>(a)(ii) Compliant. The application is accompanied by a report by GeoTon Pty Ltd titled “Geotechnical investigations and Landslide Risk Assessment”, Reference No. GKL 18602Ab dated 4 February 2019. The report states that a tolerable level of risk can be achieved and maintained for residential development, if recommended design criteria are adhered to. A series of recommendations form part of the report.</p>

development; and (b) if a hazard risk assessment established need to involve land on another title for hazard management consistent with the objective, the consent in writing of the owner of that land must be provided to enter into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for hazard management.	(b) Compliant. The hazard risk assessment does not require other land to be used for hazard management purposes.
E7 Sign Code	Not applicable. No signage 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	
<p>E9.5.1–(A1) Provision for parking must be:</p> <p>(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;</p>	<p>(a) Compliant. Table E9A requires two car parking spaces for a residential dwelling. The site has ample land area to accommodate this requirement.</p>
E9.5.2 Provision for loading and unloading of vehicles	
<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>Not applicable to residential development.</p>
E9.6 Development Standards	
E9.6.2 Design of vehicle parking and loading areas	
<p>E9.6.2 A1.1 All development must provide for the collection,</p>	<p>Compliant by a Condition on a Permit.</p>

drainage and disposal of stormwater; and	
<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 maneuvering area must –</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; and 	<p>(a) Compliant. The site has ample land area to accommodate vehicle maneuverability in accordance with Australian Standards.</p>

COMMUNITY SERVICES

(g) Be formed and constructed with compacted sub-base and an all-weather surface.	
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.	Compliant by Condition to a Permit.
E10 Water and Waterways Code	Not applicable. Site is approximately 300m from Bass Strait.
Specific Area Plans	No Specific Area Plans apply to this location.

Issues –

1 Suitability of a site or lot for use or development – lot size, pattern of development and dwelling density –

The Scheme's Acceptable Solutions 13.4.1–(A1) and 13.4.2–(A1) require that a lot on a plan of subdivision and a site subject to further development in the "Rural Living" zone have a land area not less than 1 ha.

The proposal is to subdivide a 2.29ha parcel of land to form two lots. Lot 1 would be an internal subminimal parcel of 8,624m² (6,394m² excluding access trip).

Lot 2 would have a land area of 1.43ha and as such satisfies the Scheme's standard for lot size and density.

A discretion is required to allow the proposed subdivision to form Lot 1. It follows, that approval to subdivide the land is a pre-requisite to subsequently assess and permit the development of the proposed dwelling and shed on Lot 1.

The Scheme's Performance Criteria 13.4.1–(P1) and 13.4.2–(P1) similarly state the following mandatory criteria under Clause 13.4.1–(P1)(a) and 13.4.2–(P1)(a) and under additional criteria 13.4.4–(P1)(b) and 13.4.2–(P1)(b). The criteria relate to both the subdivision of land and dwelling development.

The Scheme states that for each lot on a plan of subdivision or for a dwelling on a site must –

- (a) if intended for residential use be of sufficient size to be consistent with Clauses 13.1.1, 13.1.2 and 13.1.3 having regard to –*
 - (i) the number, size and distribution of existing and approved lots on land in the vicinity;*
 - (ii) the pattern, intensity and character of established use and development on other lots in the vicinity;*
 - (iii) the capacity of any available or planned utilities; and*

- (iv) capability of the land to accommodate residential use; and*
- (b) be of sufficient size for the intended use having regard to the effect of one or more of the following as are relevant to the size of a site or lot –*
 - (i) topography of the land and land in the vicinity;*
 - (ii) natural drainage of the land and land in the vicinity;*
 - (iii) the desirability of protecting native vegetation, landscape features, natural and cultural values;*
 - (iv) provision for management of exposure to natural hazards;*
 - (v) provision of an accessible building area;*
 - (vi) compliance to the acceptable solution criteria in any applicable standard for location and separation of a building;*
 - (vii) arrangements for the convenient provision of roads and access to the land;*
 - (viii) arrangements for the provision of a water supply and for the drainage and disposal of sewage and stormwater;*
 - (ix) any restriction or requirement of a lawful easement or statutory interest in the land; and*
 - (x) opportunity for solar access to a building area.*

The following is comment in relation to the relevant Performance Criteria.

The proposal meets a number of Zone Purpose Statements, Local Area Objectives and Future Desired Character Statements, except in relation to key matters such a topography of the land, management of exposure to a natural hazard, lot size, dwelling density and the associated impacts.

The proposed Lot 1 is not consistent in its pattern of land size or distribution with other Rural Living lots in the vicinity of Penguin Road, West Ulverstone. See Map A below.

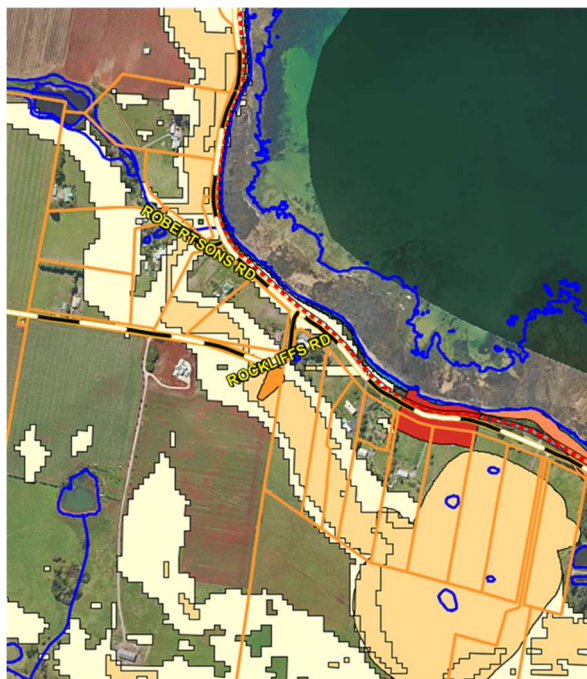
All other rural residential allotments in this area are of a consistent size and pattern and exceed 1 ha in land area, with the exception of a single lot, some 200m to the west, located at 281 Penguin Road, being less than 1 ha.

The primary reason for the existing and sustained lot size in this area is the presence of “Medium” and “Medium Active” landslide hazard bands. Refer to landslide Map B reproduced below.

It cannot be stated that the subject proposal for the division of land is consistent with the pattern, intensity and character of development in this area.



Map A – Pattern, intensity, size and distribution of Rural Living allotments Penguin Road, West Ulverstone



Map B – Distribution of Low, Medium and Medium Active landslip hazard areas – Penguin Road, West Ulverstone

In relation to Performance Criteria 13.4.1–(P1)(b), the proposal includes supporting documentation that addresses several of the criteria, including adequate arrangements for access to a road, provision of a building area, the ability to make provision of a water supply and the drainage and disposal of sewerage and stormwater.

However, the proposal does not satisfy Performance Criteria 13.4.1–(P1)(b)(iv) and (vi) being of sufficient size for the intended use having regard to “*compliance to Acceptable Solution criteria in any applicable standard for location of a building*” – due to the proximity of the proposed to a Rural Resource zone boundary.

2 *Proximity of development of a sensitive use (dwelling) from Rural Resource land –*

The Scheme’s Acceptable Solution 13.4.6–(A1) requires that sensitive use buildings, such as dwellings, be contained within a building envelope that is setback 50m from a Rural Resource zone. The subject application seeks approval for a dwelling that would be setback approximately 30m from an adjoining Rural Resource zone that

comprises a strip of Class 5 and 6 land (due to low hazard landslip and slope) and Class 3 prime agricultural land.

Performance Criteria 13.4.6–(P1) states that the location of a sensitive use must –

- (a) *minimise likelihood for conflict, constraint or interference by the sensitive use on existing and potential use of land in the adjoining zone; and*
- (b) *minimise likely impacts from existing and potential use of the land in the adjoin zone on the amenity of the sensitive use.*

The application is accompanied by a report by agricultural consultant Macquarie Franklin. The report examines the potential impact of the development on neighbouring agricultural activity, and vice versa. The report concludes that the proposed development offers sufficient separation distance and existing buffer vegetation to mitigate and alleviate conflict with adjoining agricultural activity; and as such satisfies the Scheme’s relevant Performance Criteria.

3 *Electricity reticulation and site connections must be installed underground –*

The proposed subdivision would supply an electricity connection to Lot 1 via the existing overhead infrastructure in the area. The Scheme requires that electricity reticulation and site connections must be provided underground. An exercise of discretion is required.

Performance Criteria 13.4.8–(P1) states:

“It must be impractical, unreasonable or unnecessary to install electricity reticulation and site connections underground.”

Penguin Road accommodates existing overhead electricity reticulation. Adjoining properties are serviced by overhead reticulation. It would be unreasonable to require the developer to provide a connection underground to the frontage of Lot 1, given overhead reticulation is common in this area.

4 *Reliance on E6 Hazard Management Code –*

The land comprises a large swathe of “Medium” land slide hazard and is part of a larger area of “Medium” and “Active Medium” landslide hazard area.

The application is reliant upon assessment as to the level of risk exposure residential use and development would have.

The application is accompanied by a report by GeoTon Pty Ltd titled "Geotechnical Investigations and Landslide Risk Assessment", Reference No. GKL 18602Ab dated 4 February 2019. The report states that a tolerable level of risk can be achieved and maintained for residential development, if recommended design criteria are adhered to. A series of recommendations form part of the report.

Whilst the accompanying geotechnical report advises that a building envelope may be formed on Lot 1, and the risk to proceed with development would be Low, if in accordance with the recommendations of the report, the report also qualifies with a statement of "limitation", stating that "the site is within an area of inherent doubtful slope stability and landslides are a natural ongoing geological process in the area". The report states "there will always be some level of landslide risk within an area of doubtful slope stability".

It is noted that the proposal includes the clearance of some existing trees to make way for construction of the dwelling. This does not appear to be in accordance with "Good Hillside Practice". Also, wastewater will need to be disposed of using an Aerated Wastewater Treatment System (AWTS) and stormwater disposal will need to be in the access strip and include an on-site detention system so that water is released slowly, due to the inability of the "Medium" landslip area of Lot 1 to accept on-site trenching.

5 *Local Government (Building and Miscellaneous Provisions) Act 1993* –

The *Local Government (Building and Miscellaneous Provisions) Act 1993* (LGBMP) provides that the Council may refuse to approve a plan of subdivision if it is of the opinion that the road and likely pedestrian network is unsuitable, the lot cannot be satisfactorily serviced or that the lots by reason of their shape, size or contours are unsuitable for accommodation of a building envelope.

The proposal is to create a subminimal lot in an area characterised by landslide hazard. The subdivision is considered to be unsuitable development of the land.

6 *Public Open Space Contributions Policy 2019 –*

Central Coast Council, in January 2019, ratified the Public Open Space Contributions Policy 2019.

The Policy was developed with consideration to the contemporary legislative requirements to do with the approval of subdivisions under LGBMP and for the approval of permits for development, including subdivision, under the Scheme.

There is a clear statutory basis for a Council to require open space to be created in the course of approving a subdivision where a Council has formed a view that open space would be desirable. Similarly, a Council can, where it has formed the view that the mandatory provision of open space is not warranted, instead require the subdivider to make a mandatory cash contribution to the Council in lieu of the provision of open space land.

LGBMP Section 117 provides that instead of requiring the provision of public open space, a Council can require the payment of a cash sum. It is specially provided that this amount is to be held by the Council "for the acquisition or improvement of land for public open space for the benefit of the inhabitants of the Municipal area". The cash in lieu contribution does not need to be locality specific. This is because an increased density of lots for dwellings would create a greater demand for new and improved public areas, including both District and Regional areas, and thus these areas can be part funded by a cash in lieu contribution.

No requirement for the dedication of open space land has been identified by the Council in the assessment of the division of land at 257 Penguin Road, West Ulverstone. Consequently, if the subdivision is approved by the Planning Authority, a cash in lieu amount is to be paid for the acquisition or improvement of land for District and Regional public open space for the benefit of the inhabitants of the Municipal area.

The methodology for determining the value of the contribution, for a subdivision of five lots or less in the Rural Living zone, is that a 3% contribution is to be determined based on the current value of the land as determined by the Valuer General.

The public open space contribution for the proposed new Lot 1, if approved, would be \$3,251.00. The Policy sets a limit of \$3,000.00 per new lot. This amount will be applicable to Lot 1.

Referral advice –

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

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No comment.
Infrastructure Services	Refer to Statement of Compliance from the Council in its capacity as the Road Authority and Stormwater Authority at Annexure 4.
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 –

No representations were received within the prescribed time.

RESOURCE, FINANCIAL AND RISK IMPACTS

The development application may be appealed by the applicant. An appeal would impact on Council resources outside those usually required for assessment and reporting and would involve legal costs associated with an appeal against the Council's determination, should one be instituted.

There is a risk to the Council in approving development in an area identified as a "Medium" and "Medium Active" landslide hazard area.

The "State Framework for Mitigation of Natural Hazards" released in 2013 reports that over 150 buildings have been destroyed or damaged by landslide since 1950's. The Framework advises that Medium landslide areas should be zoned for open space, rural or environmental proposes.

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 subdivision of land in this location, to form a subminimal allotment less than 1 ha in land area, does not reflect the pattern and intensity of development in this area. No substantive or conclusive documentation is placed before the Planning Authority demonstrating why the Planning Authority should permit a deviation from the existing pattern and intensity of development that was set in place with due consideration to the hazard on the land.

The landforms along Penguin Road are identified as comprising "Medium" and "Medium Active" landslide hazard. Whilst an accompanying geotechnical report advises that a building envelope may be formed on Lot 1, and the risk to proceed with development would be Low, if in accordance with the recommendations of the report, the report also qualifies with a statement of "limitation", stating that "*the site is within an area of inherit doubtful slope stability and landslides are a natural ongoing geological process in the area*".

The report states “*there will always be some level of landslide risk within an area of doubtful slope stability*”.

Recommendation –

It is recommended that the application for Residential (subdivision x two lots and dwelling and shed on Lot 1) – internal allotment with variation to lot size, dwelling density, setback from Rural Resource zone, overhead electrical supply and reliance on E6 Hazard Management Code at 257 Penguin Road, West Ulverstone be refused on the following grounds:

- 1 The development is not able to satisfy Performance Criteria 13.4.1–(P1) (a) & (b)(iv) in relation to the suitability of the land for the subminimal division of land in this area of Penguin Road, West Ulverstone.
- 2 The development is not able to satisfy criteria related to the construction of a dwelling on land that is exposed to a natural hazard. In this regard the consultant’s reports qualifies assessment and recommendations with advice that the site has inherit doubtful slope stability and landslides are a natural ongoing geological process in the area. The accompanying report states there would be a level of risk in an area of doubtful stability.’

The Land Use Planning Group Leader’s report is supported.”

The Executive Services Officer reported as follows:

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

■ Cr Beswick moved and Cr Carpenter seconded, “That in line with the recommendations contained within the Geotechnical Report and having regard for the existing Pattern of Development, the application for Residential (subdivision x two lots and dwelling and shed on Lot 1) – internal allotment with variation to lot size, dwelling density, setback from Rural Resource zone, overhead electrical supply and reliance on E6 Hazard Management Code at 257 Penguin Road, West Ulverstone – Application No. DA2018294 be approved subject to the following conditions and notes:

SUBDIVISION

- 1 The development must be substantially in accordance with the draft plan of subdivision by PDA Surveyors, Reference No. 41542–1A dated 16 July 2019.

- 2 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 15 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached).
- 3 A cash-in-lieu of public open space contribution payment of \$3,000.00 representing the maximum amount to be applied at 3% of the unimproved value of Lot 2. The cash-in-lieu contribution must be paid prior to the sealing of the Final Survey Plan.
- 4 The subdivision works must be in accordance with the recommendations contained in the Geotechnical Investigation and Landslide Risk Assessment report by GeoTon Pty Ltd, Reference No. GL18602Ab dated 4 February 2019.
- 5 At the completion of the subdivision works a statement must be provided by the author of the geotechnical report certifying the works have been completed in accordance with the Discussion and Recommendations contained in the Geotechnical Investigation and Landslide Risk Assessment report prepared by GeoTon Pty Ltd, Reference No. GL18602Ab dated 4 February 2019.
- 6 The development must be in accordance with the Bushfire Hazard Management Report and Bushfire Hazard Management Plan by Bruce Harpley, Accreditation No. BFP-140 dated 4 April 2019.

DWELLING

- 7 The development must be substantially in accordance with the plans by Alan Lawler Design & Drafting, Drawing Nos. 01/08 to 08/08 dated 15 October 2018.
- 8 Dwelling development must be in accordance with the recommendations contained in the Geotechnical Investigation and Landslide Risk Assessment report prepared by GeoTon Pty Ltd, Reference No. GL18602Ab dated 4 February 2019.
- 9 Stormwater disposal must be in accordance with the Stormwater Disposal report by GeoTon Pty Ltd, Reference No. GL18602Ac dated 2 August 2019 and be clear of the wastewater disposal system, building envelope and vehicle access, parking and manoeuvring areas.
- 10 Effluent disposal must be in accordance with the recommendations contained in Section 11 Geotechnical Investigation and Landslide Risk Assessment report prepared by GeoTon Pty Ltd, Reference No. GL18602Ab dated 4 February 2019.
- 11 At the completion of the development, a statement must be provided by the author of the geotechnical report certifying the works have been completed in accordance with the Discussion and Recommendations contained in the Geotechnical

Investigation and Landslide Risk Assessment report prepared by GeoTon Pty Ltd, Reference No. GL18602Ab dated 4 February 2019.

- 12 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 15 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached).
- 13 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and an all-weather surface.
- 14 The development must be in accordance with the Bushfire Hazard Management Report and Bushfire Hazard Management Plan by Bruce Harpley, Accreditation No. BFP-140 dated 4 April 2019.

Please note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 3 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit Work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council’s Building Permit Authority, and an application for a Plumbing Permit is to be made to the Council’s Plumbing Permit Authority.”

Carried unanimously

281/2019 Public question time

The Mayor introduced public question time at 6.40pm.

Ms Rena Henderson – Chairperson – Ulverstone Secondary College School Association – Ulverstone

Question 1 –

“Parents are becoming increasingly anxious about the pick-up and drop-off area in James Street, for cars and buses with one section constrained by the dental clinic that is adjacent. The College’s population is growing, and parents are concerned about the possible danger to students due to impatient behaviour and the potential for accidents causing injury or potentially a fatality. Please will the Council record this matter as urgent for consideration, and start consultation with senior staff and the Student Association as soon as possible to plan changes to avoid potential accidents?”

Response –

The Mayor referred the matter to the General Manager, who advised that the matter had only been brought to her attention on Friday and the matter will be followed up to get some actions and discussions happening.

Mr Darryl Barker – Penguin

Question 1 –

“In relation to the Capeweed, the Council has had a couple of goes at spraying it, but has the program finished? If not, have they sprayed all of the area that used to be the old football ground, the block opposite the south end of the football ground, 12 King Edward Street and Johnsons Beach around the Scout Hall, the Penguin Miniature Train Depot and the Council subdivision on Dial Road?”

Response –

The Mayor referred the matter to the General Manager, who advised that the matter would be followed up and a response provided.

Question 2 –

“I asked the Council in June if a No Through Road sign could be installed at Johnsons Beach Drive. A reply was from Mr Kersnovski saying that no complaints have been received from drivers of vehicles encountering turning difficulties on this road and therefore is no need for it. If there aren’t any complaints, where would you complain in Penguin, if the Council and the Visitor Centre is closed? And how many signatures do you want before you take action?”

Response –

The Mayor referred the matter to the General Manager, who advised that the matter would be followed up and a response provided.

Questions and replies concluded at 6.44pm.

282/2019 Residential (subdivision x three lots) – suitability of site for use and development involving variation to land areas, three internal allotments, overhead electrical supply and reliance on E6 Hazard Management Code at CT252413/1 Clara Street, West Ulverstone – Application No. DA2019030

The Director Community Services reported as follows:

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

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA2019030
<i>PROPOSAL:</i>	Residential (subdivision x three lots) – suitability of site for use and development involving variation to land areas, three internal allotments, overhead electrical supply and reliance on E6 Hazard Management Code
<i>APPLICANT:</i>	PDA Surveyors
<i>LOCATION:</i>	CT252413/1 Clara Street, West Ulverstone
<i>ZONE:</i>	Environmental Living
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	14 August 2019
<i>REPRESENTATIONS EXPIRY DATE:</i>	28 August 2019
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	20 September 2019
<i>DECISION DUE:</i>	16 September 2019
<i>PURPOSE</i>	

The purpose of this report is to consider an application to subdivide a 3.8ha parcel of land that has frontages to Clara Street, Amy Street and Upper Maud Street, West Ulverstone. The proposal is to divide the land into three large internal residential allotments, each to be accessed via private access strips off Clara Street. The three allotments will have an electric power supply and services delivered to the lot frontages.

Accompanying the report are the following documents:

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

- . Annexure 4 – photographs;
- . Annexure 5 – TasWater’s Submission to Planning Authority Notice – TWDA 2019/01161–CC;
- . Annexure 6 – Statement of Compliance by the Road Authority and Stormwater Authority.

BACKGROUND

Development description –

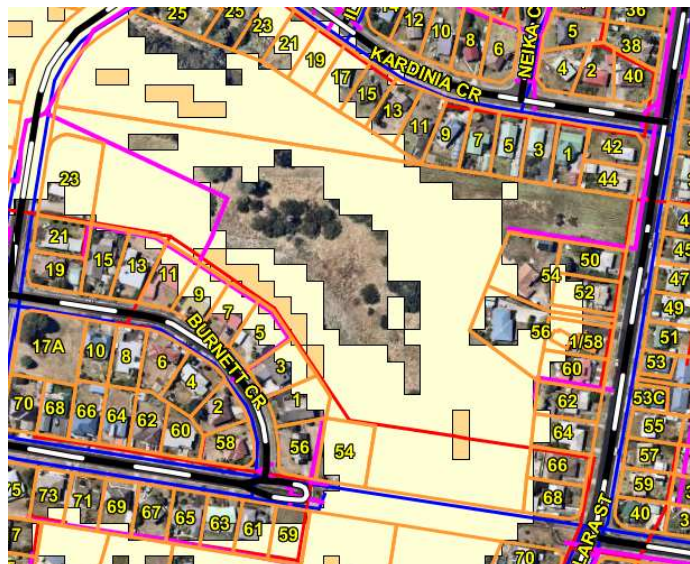
Application is made to subdivide an existing 3.8ha parcel of land in the centre of West Ulverstone to form three residential allotments.

Lot 1 would be an internal allotment comprising 1.653ha (1.498ha without access strip). The allotment would be accessed off Clara Street via a 20.4m wide access strip that would be 77m long.

Lot 2 would be an internal allotment comprising 1.003ha (9,622m² without access strip). The allotment would be accessed off Clara Street via a 6m wide access strip that would be 77m long.

Lot 3 would be an internal allotment comprising 1.146ha (9,335m² without access strip). The allotment would be accessed off Clara Street via a 6m wide access strip that would be 144m long.

All lots would contain a prohibitive building envelope that would be applied over areas that have “Medium” landslide characteristics and restrictive building envelopes to areas that may accommodate a dwelling, where the land is identified as comprising “Low” landslip characteristics. Refer to landslip hazard map below (Low landslide designated by pale yellow bands):



Site description and surrounding area –

The land is an elongated, gently sloped escarpment area located in West Ulverstone. Vistas from the land extend to Bass Strait.

The land primarily comprises areas of “Low” landslide hazard bands, with some areas of “Medium” landslide hazard. The land is zoned “Environmental Living” due to these characteristics.

The site abuts “General Residential” zones to the east, west and south and overlooks low lying residential land to the north.

The land is primarily cleared of natural vegetation and is maintained as grassland, with a scattering of large trees across the site.

The land is able to connect to reticulated sewer, water and stormwater networks.

History –

No history relevant to this application however, the site has been the subject of annual abatement notices, due to the lack of maintenance of the vegetation on site.

DISCUSSION

The following table is an assessment of the relevant Scheme provisions for the Environmental Living zone:

14.0 Environmental Living Zone

CLAUSE	COMMENT
14.3.1 Discretionary Permit Use	
14.3.1–(P1) Discretionary permit use must:	Not applicable.
(a) be likely to further the purpose and objectives for the zone;	The development is not for a discretionary use.
(b) be consistent with any applicable desired future character statement; and	
(c) minimise likelihood for adverse impact on amenity for use on adjacent land in the zone.	
14.3.2 Impact of Use	
14.3.2–(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage.	Not applicable. The development is for residential development.
14.3.2–(A2) Permitted non-residential use must not generate more than 40 average daily vehicle movements.	Not applicable. The development is for residential development.

14.3.2–(A3) Other than for emergency services, residential, and visitor accommodation, hours of operation must be between 6.00am and 9.00pm.	<p>Not applicable.</p> <p>The development is for residential development.</p>
14.4.1 Suitability of a site or lot for use or development	
<p>14.4.1–(A1) Each site or each lot on a plan of subdivision must:</p> <p>(a) have an area of not less than:</p> <p>(i) 1.0 hectare excluding any access strip; or</p> <p>(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>(i) of not more than 500m²;</p> <p>(ii) clear of any applicable setback from a frontage, side, or rear boundary;</p> <p>(iii) clear of any applicable setback from a zone</p>	<p>(a)(i) Non-compliant.</p> <p>Lot 1 comprising 1.653ha would have an area of 1.498ha, not including the access strip.</p> <p>Lot 2 comprising 1.003ha would have an area of 9,622m², not including the access strip.</p> <p>Lot 3 comprising 1.146ha would have an area of 9335m², not including the access strip.</p> <p>Refer to the “Issues” section of this report.</p> <p>(a)(ii) Not applicable. The development site is not shown in a Table subject to this Clause.</p> <p>(b)(i) Compliant. The layout plan shows building areas of approximately 499m².</p>

<p>boundary;</p> <p>(iv) clear of any registered easement;</p> <p>(v) clear of any registered right-of-way benefiting other land;</p> <p>(vi) clear of any restriction imposed by a utility;</p> <p>(vii) not including an access strip;</p> <p>(viii) clear of any area required for the on-site disposal of sewage and stormwater; and</p> <p>(ix) accessible from a frontage, or access strip.</p>	<p>(b)(ii) Compliant. The layout plan shows building areas clear of setbacks.</p> <p>(b)(iii) Compliant. No zone boundary setback applicable to the development site.</p> <p>(b)(iv) Compliant. Building areas clear of registered easements.</p> <p>(b)(v) Compliant. No registered right-of-way.</p> <p>(b)(vi) Compliant. Building areas clear of utility.</p> <p>(b)(vii) Compliant. No access strip proposed.</p> <p>(b)(viii) Compliant. No on-site disposal areas required.</p> <p>(b)(ix) Compliant. Existing access to the site from Clara Street.</p>
<p>14.4.1–(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</p>	<p>(a) Compliant. Access is available off Clara Street.</p> <p>(b) Compliant. Each internal allotment would have a dedicated access strip.</p> <p>(c) Not applicable. No right-of-way required.</p>

<p>access to any other land; or</p> <p>(c) by a right-of-way connecting to a road</p> <p>(i) over land not required as the means of access to any other land; and</p> <p>(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 6.0m; 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 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>(d) Compliant. All frontage and access widths are minimum of 6m in width.</p> <p>(e) Compliant. Access to the site to be in accordance with the Statement of Compliance issued by the Road Authority.</p>
<p>14.4.1-(A3) A site or each lot on a plan of subdivision must be capable of connecting to a water supply:</p>	<p>Compliant. The site is able to connect to the reticulated water system.</p>

<p>(a) provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) from a rechargeable drinking water system ^{R9} with a storage capacity of not less than 10,000 litres if:</p> <p>(i) there is not a reticulated water supply; and</p> <p>(ii) development is for:</p> <p>a. a single dwelling; or</p> <p>b. a use with an equivalent population of not more than 10 people per day.</p>	
<p>14.4.1 –(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and liquid trade waste:</p> <p>(a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) by on-site disposal if:</p> <p>(i) sewage or trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p>	<p>Compliant. The site is able to connect to the reticulated sewerage system.</p>

COMMUNITY SERVICES

<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 <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>14.4.1–(A5) A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater:</p> <ul style="list-style-type: none"> (a) to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>; or (b) if stormwater cannot be drained to a stormwater system: <ul style="list-style-type: none"> (i) for discharge to a natural drainage line, water body, or watercourse; or (ii) for disposal within the site if: 	<p>Compliant. The site is able to connect to the reticulated stormwater system.</p>

<ul style="list-style-type: none"> a. the site has an area of not less than 5,000m²; b. the disposal area is not within any defined building area; c. the disposal area is not within any area required for the disposal of sewage; d. the disposal area is not within any access strip; and e. not more than 50% of the site is impervious surface; and <p>(iii) the development is for a single dwelling.</p>	
14.4.2 Dwelling density	
<p>14.4.2–(A1) The site area per dwelling must:</p> <ul style="list-style-type: none"> (a) be not less than 1.0 hectare; or (b) if the site is in a locality shown in the Table to this Clause, the site area for that locality. 	<p>Not applicable.</p> <p>No dwelling development.</p>

14.4.3 Location and configuration of development	
<p>14.4.3-(A1) A building, utility structure, garage or carport must be set back from a frontage –</p> <ul style="list-style-type: none"> (a) not less than 20.0m; (b) not less than or not more than the setback for any existing building on each of the immediate adjoining sites; (c) not less than for any building retained on the site; (d) in accordance with any building area shown on a sealed plan of subdivision; or (e) not less than 50.0m if the site abuts the Bass Highway. 	<p>Not applicable.</p> <p>No development of a building, utility structure, garage or carport.</p>
<p>14.4.3-(A2) A building or utility structure must be contained within a building envelope determined by:</p> <ul style="list-style-type: none"> (a) the applicable frontage setback; (b) a setback of not less than 10.0m from each side boundary; 	<p>Not applicable.</p> <p>No development of a building or utility structure.</p>

<p>(c) a setback of not less than 10.0m from the rear boundary; or</p> <p>(d) a setback of not less than 20.0m from a 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>14.4.3–(A3) Site coverage must:</p> <p>(a) not be more than 500m²; and</p> <p>(b) not include any part of a site required for the drainage and disposal of sewage and stormwater; or</p> <p>(c) not be more than any building area shown on a sealed plan.</p>	<p>Not applicable.</p> <p>No development of a building or utility structure.</p>
<p>14.4.3–(A4)</p> <p>(a) a utility structure must be a power pole, antenna or a single domestic-scale turbine to a maximum of 10m in height which is –</p>	<p>(a) Not applicable. No development of a utility structure.</p> <p>(b) Not applicable. No building is proposed.</p>

<ul style="list-style-type: none"> (i) not part of a wind farm; (ii) not sighted on a skyline; and (iii) if a wind turbine, not located within 60m of a dwelling in other ownership or within 30m of a public road. <p>(b) a building, except a utility structure must be –</p> <ul style="list-style-type: none"> (i) located not less than 15m below the level of any adjoining ridgeline; and (ii) not less than 30m from any shoreline to a marine or aquatic water body, water course, or wetland; and (iii) clad and roofed with materials with a light reflectance value of less than 40%. 	
<p>14.4.3–(A5)</p> <p>(a) Development must be located on land where the native vegetation cover has been removed.</p>	<p>(a) Compliant. Land is primarily cleared, apart from some trees scattered across the site. Building envelopes are shown where vegetation has been removed.</p> <p>(b) Not applicable. Replanting not required.</p>

(b) Any replanting must use vegetation of a type consistent with the native vegetation of the locality.	
14.4.3-(A6) Area for the display, handling of goods, storage or waste must not be located in front of the building line.	Not applicable. No building proposed.
14.4.4 Acoustic and visual privacy for residential development	
<p>14.4.4-(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>(i) 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>(ii) 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>	Not applicable. No residential building proposed.
14.4.4-(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	<p>Non-compliant. Access strips will be approximately 3.5m from habitable rooms of adjoining dwellings located at 44 Clara Street and 50 Clara Street.</p> <p>Refer to the "Issues" section of this report.</p>

door or window to a habitable room or any balcony, deck, or roof garden in a dwelling.	
14.4.5 Private open space for multiple dwelling residential use	
14.4.5-(A1) Each dwelling in a multiple dwelling must have external private open space that: (a) is accessible from the dwelling; (b) comprises an area of not less than 50.0m ² ; (c) has a minimum dimension of 5.0m; and (d) has a gradient of not more than 1 in 10.	Not applicable. No multiple dwellings proposed.
14.4.5-(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.	Not applicable. No multiple dwellings proposed.
14.4.6 Setback of development for sensitive use	
14.4.6-(A1) A building containing a sensitive use must be contained within a building envelope determined by:	Not applicable. No building containing a sensitive use proposed.

<p>(a) the setback distance from the zone boundary as shown in 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 required setback distance from the zone boundary.</p>	
<p>14.4.6–(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. The proposed subdivision would be setback approximately 1.18km from the Bass Highway.</p> <p>(b) Compliant. The proposed subdivision would be setback approximately 650m from the nearest railway line.</p> <p>(c) Compliant. No land is designated in the Scheme for future road or rail.</p> <p>(d) Compliant. The closest proclaimed wharf is in Devonport, approximately 15km to the East.</p>
<p>14.4.7 Subdivision</p>	
<p>14.4.7–(A1) Each new lot on a plan of subdivision must be –</p> <p>(a) intended for residential use; or</p>	<p>(a) Compliant. Residential use is proposed.</p> <p>(b) Not applicable. No lots required for public use by the State government, a Council, a Statutory authority or a corporation</p>

(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.	all the shares of which are held by or on behalf of the State, a Council or by a statutory authority.
14.4.7- (A2) A lot, other than a lot to which A1 b applies, must not be an internal lot.	Non-compliant. All three allotments would be internal allotments. Refer to the "Issues" section of this report.
14.4.8 Reticulation of an electricity supply to new lots on a plan of subdivision	
14.4.8-(A1) Electricity reticulation and site connections must be installed underground.	Non-compliant. Overhead electrical connections to Clara Street frontage are proposed. Refer to the "Issues" section of this report.
CODES	
E1 Bushfire-Prone Areas Code	
E1.2 Application of Code	Code does not apply. The site is not identified as a bushfire-prone area.

	Nevertheless, the application is supported by a “Bushfire Hazard Management Report” by Scott Livingston, Accreditation No. BFP-105 dated 17 July 2018.
E2 Airport Impact Management Code	Not applicable. No Airport Impact Management Code in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing proposed
E4 Change in Ground Level Code	Not applicable. No change in ground level greater than 1m for subdivision works.
E5 Local Heritage Code	Not applicable. No local heritage listings applicable.
E6 Hazard Management Code	Applicable. Lot is shown on the map having Medium and Low landslide hazard. Application is accompanied by a report by EWA Geo Solutions.
E6.2 Application of the Code	Applicable. The site is located within an area subject to Medium and Low landslide hazard.
E6.4 Use or Development Exempt from this Code	Not exempt as the site is located within an area subject to landslide hazard and is a proposed subdivision.

E6.5 Use Standards	
E6.5.1 Use on potentially contaminated land	
<p>E6.5.1–(A1) Use must not occur on land potentially contaminated by a previous use for an activity listed in Table E6.1 unless:</p> <ul style="list-style-type: none"> (a) soil disturbance and development is carried out in accordance with requirements in a hazard risk assessment for contamination; (b) a hazard risk assessment for potential contamination establishes the site can be remediated to provide a tolerable level of risk for the use; or (c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk. 	<p>Not applicable.</p> <p>The proposed land is not land that has potentially contaminated soil by a previous use or activity listed in table E6.1.</p>
E6.5.2 Use likely to be exposed to a natural hazard	
<p>E6.5.2–(A1) If a use is on land within an area of risk from exposure to a natural hazard as shown on a map forming part of this planning scheme:</p> <ul style="list-style-type: none"> (a) use must not be for a critical use, a hazardous use, or a vulnerable use; 	<ul style="list-style-type: none"> (a) Compliant. Residential use is not a critical, hazardous or a vulnerable use. (b) Non-compliant. Land is subject to Medium and Low landslide hazard and is proposed for residential use. <p>Refer to the “Issues” section of this report.</p>

<p>(b) use must not be residential use if the level of risk is medium or higher; and</p> <p>(c) a hazard risk assessment must demonstrate a tolerable level of risk can be achieved and maintained for the nature and duration of the use.</p>	<p>(c) Compliant. The application is accompanied by a report by EAW Geo Services titled "Landslide Risk Assessment and Engineering Recommendations", dated July 2019. The report states that a tolerable level of risk can be achieved and maintained for the nature and duration of residential use.</p>
E6.6 Development Standards	
E6.6.1 Development on potentially contaminated land	
<p>E6.6.1–(A1) Development must not occur on land potentially contaminated by a previous use for an activity listed in the Table E6.1 to this clause unless:</p> <p>(a) soil disturbance and development is carried out in accordance with the requirements of a hazard risk assessment for contamination;</p> <p>(b) a hazard risk assessment establishes the site can be remediated to provide a tolerable level of risk from the development; or</p> <p>(c) a hazard risk assessment establishes the site has been remediated to provide a tolerable level of risk from the development; and</p> <p>(d) if a hazard risk assessment establishes need to</p>	<p>Not applicable.</p> <p>The land is not potentially contaminated by a previous use or activity listed in Table E6.1.</p>

<p>involve land on another title to manage risk consistent with the objective, the consent in writing of the owner of that land must be provided to enter into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for contamination management.</p>	
<p>E6.6.2 Development on land exposed to a natural hazard</p>	
<p>E6.6.2–(A1) If the site is within an area of risk shown on a natural hazard map forming part of this planning scheme:</p> <p>(a) a hazard risk assessment must determine:</p> <p style="padding-left: 40px;">(i) there is an insufficient increase in risk to warrant any specific hazard reduction or protection measure; or</p> <p style="padding-left: 40px;">(ii) a tolerable level of risk can be achieved for the type, form, scale and duration of the development; and</p> <p>(b) if a hazard risk assessment established need to involve land on another title for hazard management consistent with the objective, the consent in writing of the owner of that land must be provided to enter</p>	<p>(a)(i) Not applicable. The development satisfies (a)(ii).</p> <p>(a)(ii) Compliant. A hazard risk assessment by EAW Geo Services titled “Landslide Risk Assessment and Engineering Recommendations” accompanies the application. The hazard risk assessment concludes that the site has been identified as having a tolerable level of risk for the type, form, scale and duration of future development. A series of recommendations, including the application of location specific building envelopes to the Titles form part of the report.</p> <p>(b) Compliant. The hazard risk assessment does not require other land to be used for hazard management purposes.</p>

into a Part 5 agreement to be registered on the title of the land and providing for the affected land to be managed in accordance with recommendations for hazard management.	
E7 Sign Code	Not applicable. No signage proposed.
E8 Telecommunication Code	Not applicable. No telecommunications facilities proposed.
E9 Traffic Generating Use and Parking Code	Applicable to all development. The land has sufficient area for the future provision of car parking associated with residential development.
E10 Water and Waterways Code	Not applicable.
Specific Area Plans	No Specific Area Plans apply to this location.

Issues –

1 Local Government (Building and Miscellaneous Provisions) Act 1993

The *Local Government (Building and Miscellaneous Provisions) Act 1993 (LGBMP)* provides that the Council may refuse to approve a plan of subdivision if it is of the opinion that the road and likely pedestrian network is unsuitable, the lots cannot be satisfactorily serviced by water, sewer or stormwater or that the lots by reason of their shape, size or contours are unsuitable for the accommodation of a building envelope.

The proposed subdivision has demonstrated that it is able to satisfy the land characteristic matters required under LGBMP.

2 Public Open Space Contributions Policy 2019 –

Central Coast Council, in January 2019, ratified the Public Open Space Contributions Policy 2019.

The Policy was developed with consideration to the contemporary legislative requirements to do with the approval of subdivisions under LGBMP and for the approval of permits for development, including subdivision, under the Scheme.

There is a clear statutory basis for a Council to require open space to be created in the course of approving a subdivision where a Council has formed a view that open space would be desirable. Similarly, a Council can, where it has formed the view that the mandatory provision of open space is not warranted, instead require the developer to make a mandatory cash contribution to the Council in lieu of the provision of open space land.

The Council's requirement is empowered under Section 117 of LGBMP and provides that instead of requiring the provision of public open space, a Council can require the payment of a cash sum. It is specially provided that this amount is to be held by the Council "for the acquisition or improvement of land for public open space for the benefit of the inhabitants of the Municipal area". The cash in lieu contribution does not need to be locality specific. This is because an increased density of lots for dwellings would create a greater demand for new and improved public areas, including both District and Regional areas, and thus these areas can be part funded by a cash-in-lieu contribution.

No requirement for the dedication of open space land has been identified by the Council in the assessment of the division of land identified as CT252413/1 Clara Street, West Ulverstone. It is proposed that a cash-in-lieu contribution be applied for the additional Lots 2 and 3.

3 Land area of allotments –

The Scheme's Acceptable Solution 14.4.1–(A1) requires that each lot on a plan of subdivision in the “Environmental Living” zone have an area of not less than 1ha, excluding access strips.

The proposed subdivision would result in three internal residential lots with land areas as detailed below:

Lot 1 comprising 1.653ha would have an area of 1.498ha, not including the access strip;

Lot 2 comprising 1.003ha would have an area of 9,622m² not including the access strip; and

Lot 3 comprising 1.146ha would have an area of 9,335m², not including the access strip.

Lot Nos. 2 and 3 do meet the Scheme's Acceptable Solutions standards.

Performance Criteria 14.4.1–(P1) requires that for variations to lot size a plan of subdivision must be of an area sufficient for intended development and the erection of a building, have access to the site, take into account use and development on adjoining land and make provision for a utility. The proposed subdivision satisfies the relevant performance Criteria.

4 Three internal allotments –

The Scheme's Acceptable Solution 14.4.7–(A2) requires that lots intended for Residential use not be internal lots.

The proposed subdivision would result in three internal residential lots, accessed via three private access strips off Clara Street.

The Scheme's Performance Criteria 14.4.7–(P2) requires that:

- (a) *An internal lot on a plan of subdivision must be:*
 - (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:*
 - a. *slope, shape, orientation, and topography of land;*
 - b. *an established pattern of lots and development;*
 - 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*
 - (ii) *without likely impact on the amenity of adjacent land.*

The relevant Performance Criteria are addressed below:

The layout, shape and topography of the 3.8ha site restricts options for safe vehicular access to the land from Amy Street and Upper Maud Street, resulting in the need to establish access strips to the three internal allotments, off Clara Street. The land has an existing 17m wide frontage to Amy Street and an existing 100m wide frontage to Upper Maud Street. However, the topography of the land and the steep roadway characteristics of Amy Street severely limit safe access to the land from that frontage. The development of the “Zig Zag” Gardens between Clara Street and Upper Maud Street has further limited site access and internal road formation options from the Upper Maud Street frontage.

Further, the long established pattern of residential subdivision and development in this area has resulted in the subject parcel of land being a ‘left-over’ undeveloped portion of land that is surrounded by standard residential allotments, further restricting access options.

5 *Electricity reticulation and site connections must be installed underground –*

The proposed subdivision would supply electricity connections to Lots 1, 2 and 3 via the existing overhead infrastructure in Clara Street. The Scheme requires that electricity reticulation and site connections must be provided underground. An exercise of discretion is required.

Performance Criteria 14.4.8–(P1) states:

“It must be impractical, unreasonable of unnecessary to install electricity reticulation and site connections underground.”

Clara Street accommodates overhead electricity reticulation. Adjoining properties are serviced by overhead reticulation. It would be unreasonable to require the developer to provide a connection underground to the frontage of each lot, given that the overhead infrastructure servicing adjoining lots. It would be best practice however to require that future internal electrical connects be underground reticulations. A note is to be applied to the Permit, advising that this would be a requirement of future development.

6 *E6 Hazard Management Code –*

The land is characterised by the presence of “Low” and “Medium” landslip hazard bands across the site. This means that standard residential development densities are not an option for the land. An assessment of the site landslip hazard risks by EAW Geo Services accompanies the application. The report, titled “Landslide Risk Assessment and Engineering Recommendations” dated July 2019, determines that the exposure of low density residential development to the landslide hazard area would not result in a tolerable level of risk for the type, form, scale and duration of future development, considering the landslide hazard is primarily “low”, land areas would be approximately 1ha in area and future dwelling development would be fully serviced. A series of construction and land maintenance recommendations form part of the report, including the recommendation that location specific building envelopes be applied to each of the Titles.

7 *Setback of adjoining dwellings from access strips –*

The Scheme’s Acceptable Solution 14.4.4–(A2) requires that an access strip or shared driveway, including any pedestrian pathway and

parking area, must be separated by a distance of not less than 5m horizontally from the door or window to a habitable room or any balcony, deck, or roof garden in a dwelling.

The proposed access strips to Lots 1 and 3 would be approximately 3.5m from habitable rooms of adjoining dwellings located at 44 Clara Street and 50 Clara Street.

The development must minimise any impact the access strips may cause, from noise disturbance or overlooking to adjoining property. There would not be any overlooking from the access strips. There would be noise associated with vehicles entering and exiting the lots. However, development on each lot would be restricted to a defined building envelope and vehicle movements would most likely be associated with single dwelling use.

Referral advice –

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

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No comment.
Infrastructure Services	Refer to the Statement of Compliance from the Council in its capacity as the Road Authority and Stormwater Authority at Annexure 6.
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 –

Two representations were received within the prescribed time, copies of which are provided at Annexure 3.

The representations are summarised and responded to as follows:

MATTER RAISED	RESPONSE
REPRESENTATION NO. 1	
<p>1 Stormwater Issues</p> <p>(a) The plan of subdivision does not allow for improved stormwater drainage within the subdivision.</p> <p>(b) The land is drained via a concrete spoon drain that runs along the back of 62, 64, 66, and 68 Clara Street. The drain is blocked/buried allowing stormwater to pour into neighbouring properties. The drain was last cleared by Council in 2011–2012, however it has since been the responsibility of the landowner who does not keep it maintained.</p>	<p>(a) The Statement of Compliance issued by the Council in its capacity as the Stormwater Authority requires a stormwater connection point to be provided to each lot, for the disposal of stormwater from buildings and hard surfaces. Refer to Annexure No.6. The future development of a dwelling on each of the allotments will further address stormwater drainage at that time, depending on the form of the development.</p> <p>(b) Natural run-off (overland flow) from part of the land drains to the south-east area of the property, adjacent to some Clara Street properties. This is an</p>

	<p>existing situation that will not change due to the subdivision.</p> <p>The control of natural run-off is a matter between relevant property owners, including the maintenance of any private infrastructure. A point is available for the collected natural run-off to discharge into a Council stormwater system.</p>
<p>2 Fire Hazard</p> <p>The Bushfire Assessment report submitted with the application gives new buildings a fire BAL rating of 12.5. This rating needs to be applied to the perimeter of the land, near existing homes. Currently 6m wide fire breaks are cut by Council after an abatement notice is issued and not acted upon. The fire BAL rating should be applied to the perimeter of the subdivision.</p> <p>New fire hydrants should be installed on the land so the 120m long hoses will reach into the new subdivision.</p> <p>The Bushfire Report – page 97 of 156 – shows the incorrect address as 35 Fleetwood Drive, Spreyton. The application should be readvertised.</p>	<p>Whilst a bushfire management plan has been submitted with the development application, it is not technically a requirement for subdivision in this location. This is because the land is not identified by the Tasmania Fire Service as a bushfire-prone area. Nevertheless, the application is supported by a “Bushfire Hazard Management Report” by Scott Livingston, Accreditation No. BFP-105 dated 17 July 2018.</p> <p>The Council has issued an annual abatement notice in relation to this land. A majority of the time, the Council engages a contractor to undertake abatement works (at the landowner’s expense), although recently the landowner has undertaken this work. The Council will continue to issue abatement notices on the property, if required, and follow up on any action not undertaken by the owner.</p> <p>It is anticipated that, upon the subdivision of the land and the issue of new Titles, the land will be better managed.</p>

	<p>It is true that the Form 55 Certificate that accompanies and is part of the “Bushfire Hazard Management Report” by Scott Livingston has an incorrect reference to Fleetwood Drive, Spreyton. This is not considered to be material to the content and assessments contained within the body of the report. This error will be communicated to the applicant. Regardless, the Scheme’s <i>E1 Bushfire Prone Areas Code</i> does not actually apply to this parcel of land. The site is not identified by the Tasmania Fire Service as bushfire-prone area and the subdivision application is not required to address the Code. The report can be considered as “information only” and is not a statutory requirement.</p>
<p>3 Fencing</p> <p>Currently the property owner does not have to share the cost of boundary fencing.</p>	<p>It is not clear how or where this matter applies, as there is no applicable Part 5 Agreement under section 71 of the Act, or covenant notated on the Title, in relation to the construction of boundary fences.</p> <p>Upon the issue of new Titles, the <i>Boundary Fences Act 1908</i> would apply to the repair and erection of boundary fences. This requires that adjoining, private property owners have a joint responsibility for the maintenance and replacement of boundary fences.</p>
<p>4 Weeds</p> <p>The land has weeds such as blackberries, thistles and docks.</p>	<p>Weeds are controlled and eradicated under the <i>Weed Management Act 1999</i> and are a separate matter to the assessment and approval of a subdivision.</p>

<p>Weed control should be undertaken prior to a Planning Permit issued for earthworks on the site as this will further spread the weeds.</p>	<p>It is doubtful any on-site extensive excavation works will be required to progress the subdivision, as works will primarily involve the construction of access crossovers and delivery of services to the lot frontages on Clara Street. Very little internal works will be required, other than site maintenance.</p>
<p>5 Powerlines</p> <p>The subdivision should provide for underground power lines.</p>	<p>Clara Street has existing overhead powerlines. It is acceptable that overhead power be delivered to the boundary of each lot. It is also desirable and acceptable that the future internal development of each lot be through the provision of underground power supplies.</p>
<p>REPRESENTATION NO. 2</p>	
<p>1 There are issues with stormwater due to a blocked/buried spoon drain that runs along the back of our fence (62 Clara Street). Should construction be undertaken, runoff could be a major issue for our property.</p>	<p>Refer to response to Representation No. 1.</p>
<p>2 Given the subdivision is in West Ulverstone, power supply should be underground.</p>	<p>Refer to response to Representation No. 1.</p>
<p>3 What fencing (of boundaries) ruling would apply if land is subdivided and purchased (by others).</p>	<p>Refer to response to Representation No. 1.</p>

<p>4 Fire hazard and weed control is an issue. There have been fires on the land in early 2018, October 2017 and in 2009. Weeds and fire hazards should be addressed before subdivision permission is granted.</p>	<p>Refer to responses to Representation No. 1.</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.

As detail in this report, the land is subject to, primarily, "Low" and some small areas of "Medium" landslip hazard. There is a risk to the Council in approving a subdivision on land that is subject to landslip hazard. Prior to the sealing of a Final Plan of Survey, the applicant will be required to apply a Part 5 Agreement under Section 71 of the *Land Use Planning and Approval Act 1993* to each of the lots. The Part 5 Agreement will limit the extent of development on each lot to a single dwelling and will require that further geotechnical investigations be undertaken on each lot, prior to or in association with, application to develop the land.

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

A Statement of Compliance, issued by Council in its capacity as the Stormwater Authority, addresses requirements in relation to the collection and disposal of stormwater from the land. The representations do not contain sufficient merit to justify the addition of any restrictive conditions in relation to stormwater, other than the Statement of Compliance, or refusal of the development.

The proposal is considered to satisfy the Scheme's relevant Performance Criteria. Development of the site will primarily be at the Clara Street road

frontage, with minimal internal works required to progress the subdivision. The future development of the allotment may address some long-term maintenance issues associated with the land. However, to manage any long-term impacts from the landslip characteristics of the land, it will be necessary for Part 5 Agreements to be applied to each lot, detailing future lot development requirements and further investigations.

It is recommended that the application for Residential (subdivision x three lots) – suitability of site for use and development involving variation to land areas, three internal allotments, overhead electrical supply and reliance on E6 Hazard Management Code at CT25413/1 Clara Street, West Ulverstone be approved subject to the following conditions and notes:

- 1 Development must be substantially in accordance with the subdivision layout plan by PDA Surveyors, Job No. 40104 dated 13 May 2018, unless modified by a condition of this Permit.
- 2 Development must be in accordance with the recommendations contained in the “Landslide Risk Assessment and Engineering Recommendations” report by EAW Geo Services, Job No. 489 issued 10 July 2019.
- 3 A Part 5 Agreement made under Section 71 of the *Land Use Planning and Approvals Act 1993* must be registered on all three titles providing for –
 - (a) building envelopes to be identified on the Final Plan of Survey, prohibiting development in the landslide hazard area along the southern boundary of the land, other than any works required for stabilisation of the land, and restricting development to those building areas identified within each allotment. Restricted building envelopes are to be in accordance with locations identified on the layout plan by PDA Surveying dated 13 May 2018 and in accordance with those areas identified by EAW Geo Services, Job No. 489 issued 10 July 2019;
 - (b) development on each lot to be restricted to a single dwelling with outbuildings;
 - (c) development, including retaining walls, to be restricted to the defined building envelope on each lot as identified by EAW Geo Services, Job No. 489 issued 10 July 2019, other than for the delivery of internal roads; and underground water, sewer, stormwater, electrical and telecommunication services;

- (d) on-site construction and the delivery of infrastructure to be in accordance with the recommendations by EAW Geo Services, Job No. 489 issued 10 July 2019;
 - (e) the development of each lot to be accompanied by further geotechnical investigations and recommendations in relation to the engineering works required to maintain the stability of the land, including works that may be required to maintain the stability of the upper “Medium” landslip hazard areas; and
 - (f) site electricity connections are to be underground.
- 4 The development must be in accordance with the conditions of TasWater’s “Submission to Planning Authority Notice” TWDA 2019/01161-CC dated 18 July 2019 (copy attached).
 - 5 The development must be in accordance with the conditions of the 'Statement of Compliance for Vehicular Access and Drainage Access' dated 12 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached).
 - 6 Prior to the sealing of a Final Plan of Survey, TasNetworks is to advise that an existing electricity service is available to the boundary of Lots 1, 2 and 3 and no additional installations are required by the developer.
 - 7 A cash-in-lieu of public open space contribution of 5% of the unimproved value of Lots 2 and 3 must be paid prior to the sealing of the Final Plan of Survey. The value of the lots must be determined by a registered valuer.

Please note:

- 4 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period, an extension of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 5 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 6 Further development on each allotment will require the delivery of an internal underground electricity supply.’

The Land Use Planning Group Leader's 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 Beswick moved and Cr Hiscutt seconded, "That the application for Residential (subdivision x three lots) – suitability of site for use and development involving variation to land areas, three internal allotments, overhead electrical supply and reliance on E6 Hazard Management Code at CT25413/1 Clara Street, West Ulverstone be approved subject to the following conditions and notes:

- 1 Development must be substantially in accordance with the subdivision layout plan by PDA Surveyors, Job No. 40104 dated 13 May 2018, unless modified by a condition of this Permit.
- 2 Development must be in accordance with the recommendations contained in the "Landslide Risk Assessment and Engineering Recommendations" report by EAW Geo Services, Job No. 489 issued 10 July 2019.
- 3 A Part 5 Agreement made under Section 71 of the *Land Use Planning and Approvals Act 1993* must be registered on all three titles providing for –
 - (a) building envelopes to be identified on the Final Plan of Survey, prohibiting development in the landslide hazard area along the southern boundary of the land, other than any works required for stabilisation of the land, and restricting development to those building areas identified within each allotment. Restricted building envelopes are to be in accordance with locations identified on the layout plan by PDA Surveying dated 13 May 2018 and in accordance with those areas identified by EAW Geo Services, Job No. 489 issued 10 July 2019;
 - (b) development on each lot to be restricted to a single dwelling with outbuildings;
 - (c) development, including retaining walls, to be restricted to the defined building envelope on each lot as identified by EAW Geo Services, Job No. 489 issued 10 July 2019, other than for the delivery of internal roads; and underground water, sewer, stormwater, electrical and telecommunication services;
 - (d) on-site construction and the delivery of infrastructure to be in accordance with the recommendations by EAW Geo Services, Job No. 489 issued 10 July 2019;

- (e) the development of each lot to be accompanied by further geotechnical investigations and recommendations in relation to the engineering works required to maintain the stability of the land, including works that may be required to maintain the stability of the upper “Medium” landslip hazard areas; and
 - (f) site electricity connections are to be underground.
- 4 The development must be in accordance with the conditions of TasWater’s “Submission to Planning Authority Notice” TWDA 2019/01161–CC dated 18 July 2019 (copy attached) (a copy being appended to and forming part of these minutes).
- 5 The development must be in accordance with the conditions of the 'Statement of Compliance for Vehicular Access and Drainage Access' dated 12 August 2019 issued by the Council acting in its capacity as the Road Authority and the Stormwater Authority (copy attached) (a copy being appended to and forming part of these minutes).
- 6 Prior to the sealing of a Final Plan of Survey, TasNetworks is to advise that an existing electricity service is available to the boundary of Lots 1, 2 and 3 and no additional installations are required by the developer.
- 7 A cash-in-lieu of public open space contribution of 5% of the unimproved value of Lots 2 and 3 must be paid prior to the sealing of the Final Plan of Survey. The value of the lots must be determined by a registered valuer.

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 of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 3 Further development on each allotment will require the delivery of an internal underground electricity supply.”

Carried unanimously

283/2019 Residential (dwelling and studio) – access over Crown land, variation to disposal of stormwater, building envelope and garage location standards at 2A Gilbert Street, Forth – Application No. DA2018318

The Director Community Services reported as follows:

“The Town Planner has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:’</i>	DA2018318
<i>PROPOSAL:</i>	Residential (dwelling and studio) – access over Crown land, variation to disposal of stormwater, building envelope and garage location standards
<i>APPLICANT:</i>	Andrew Smith Architects
<i>LOCATION:</i>	2A Gilbert Street, Forth
<i>ZONE:</i>	Rural Living Zone
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	10 August 2019
<i>REPRESENTATIONS EXPIRY DATE:</i>	26 August 2019
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	17 September 2019
<i>DECISION DUE:</i>	16 September 2019

PURPOSE

The purpose of this report is to consider an application for Residential (dwelling and studio) at 2A Gilbert Street, Forth.

Accompanying the report are the following documents:

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

BACKGROUND

Development description –

Application has been made for the construction of a single dwelling on vacant Low Density Residential zoned land. The land is known as 2A Gilbert Street as described in CT167836/1.

The proposed north orientated dwelling would be located to the south of the site with the single dwelling to appear as a double-storey due to the topography of the land.

The proposed dwelling would consist of the following:

- . four bedrooms, master with an ensuite and walk-in robe;
- . bathroom;
- . family room;
- . open plan lounge/dining and kitchen;
- . pantry;
- . foyer;
- . laundry;
- . attached double garage; and
- . north facing deck that runs the entire north elevation of the proposed dwelling.

The proposal includes a 6m x 2.5m non-habitable studio, to include a north facing timber deck. The proposed studio is designed similar to the proposed dwelling and would be located to the western side of the subject site, 8m from the western side boundary.

Site description and surrounding area –

The 3,500m² irregular shaped allotment is located within the residential area of Gilbert Street, Forth. The site is accessed via a portion of Crown owned land. The site is very steep, falling away and down from Gilbert/James. The location of the proposed dwelling would be positioned on the flattest portion of the site. The proposed studio would be located on a small flat portion and separate to the dwelling.

A Crown Land Licence has been included with this application as well as the signature and consent letter from Crown Land Services.

History –

The site was created in 2015 via a subdivision between land now known as 2 and 2A Gilbert Street, Forth

DISCUSSION

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

12.0 Low Density Residential

CLAUSE	COMMENT
12.3 Use Standards	
12.3.1 Discretionary Permit Use	
12.3.1–(P1) Discretionary permit use must:	Not applicable.
(a) be consistent with local area objectives;	Residential use is Permitted.
(b) be consistent with any applicable desired future character statement; and	
(c) minimise likelihood for adverse impact on amenity for use on adjacent land in the zone.	
12.3.2 Impact of Use	
12.3.2–(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage.	Not applicable. Use is residential.

12.3.2–(A2) Permitted non–residential use must not generate more than 40 average daily vehicle movements.	Not applicable. Use is residential.
12.3.2–(A3) Other than for emergency services, residential, and visitor accommodation, hours of operation must be between 6.00am and 9.00pm.	Not applicable. Use is residential.
12.4 Development Standards	
12.4.1 Suitability of a site or lot for use or development	
<p>12.4.1–(A1) A site or each lot on a plan of subdivision must:</p> <p>(a) have an area of:</p> <p style="padding-left: 40px;">(i) not less than 500m² excluding any access strip; or</p> <p style="padding-left: 40px;">(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) contain a building area of not less than 10.0m x 15.0m:</p>	<p>(a)(i) Compliant. Site area is 3,500m².</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p> <p>(b)(i) Compliant. Proposed dwelling would be setback clear of all applicable setbacks.</p> <p>(b)(ii) Not applicable. No zone boundary.</p> <p>(b)(iii) Not applicable. No registered easement.</p> <p>(b)(iv) Not applicable. No right of way.</p> <p>(b)(v) Not applicable. No restriction imposed by a utility.</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) clear of any restriction imposed by a utility; (vi) not including an access strip; (vii) accessible from a frontage or access strip; and (viii) if a new residential lot, with a long axis within the range 30 degrees east of north and 20 degrees west of north. 	<ul style="list-style-type: none"> (b)(vi) Not applicable. No access strip. (b)(vii) Compliant. Site is accessed over Gilbert Street (Crown Land). (b)(viii) Not applicable. Not a new lot.
<p>12.4.1–(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 	<ul style="list-style-type: none"> (a) Non-compliant. Site has frontage to Gilbert Street. Site is accessed via land owned by Crown Land Services. Refer to the “Issues” section of this report.

<p>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>(i) over land not required as the means of access to any other land; and</p> <p>(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:</p> <p>(i) 3.6m for a single dwelling development; or</p> <p>(ii) 6.0m for multiple dwelling development or development for a non-residential use; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and</i></p>	<p>(b) Not applicable. Not an internal lot.</p> <p>(c) Not applicable. Not accessed via a right of way.</p> <p>(d) Compliant. Frontage to Gilbert Street is approximately 30m wide.</p> <p>(e) Compliant. Crown consent has been submitted as part of this application in the form of a signature on the application form and letter of consent.</p>
---	--

<p><i>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>	
<p>12.4.1–(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) provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or (b) from a rechargeable drinking water system ^{R4} 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: <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. 	<ul style="list-style-type: none"> (a) Compliant. The site is connected to the reticulated water system. (b) Not applicable. Satisfied by (a).

<p>12.4.1–(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and liquid trade waste:</p> <p>(a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) by on-site disposal if:</p> <p>(i) sewage or liquid trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p> <p>a. is for a single dwelling; or</p> <p>b. provides for an equivalent population of not more than 10 people per day; or</p> <p>c. creates a total sewage and waste water flow of not more than 1,000 litres per day; and</p> <p>(iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS1547:2012 On-site domestic–wastewater</p>	<p>(a) Not applicable. Satisfied by (b)(ii) & (iii).</p> <p>(b)(i) Not applicable. Satisfied by (i) & (ii).</p> <p>(b)(ii) Compliant. Proposal is for a single dwelling.</p> <p>(b)(iii) Compliant. Application included report/assessment and certificates from GeoTon Pty Ltd. Due to landslide susceptibility, the site is considered not suitable for a septic system. An Aerated Wastewater Treatment System and sub–surface/surface irrigation is proposed.</p>
---	---

management, clear of any defined building area or access strip.	
<p>12.4.1 –(A5) A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater:</p> <p>(a) 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>d. the disposal area is not within any access</p>	<p>(a) Not applicable. Satisfied by (b)(ii).</p> <p>(b)(i) Not applicable. Satisfied by (b)(ii).</p> <p>(b)(ii) Disposal would be within the site via a Rainstore3 (or similar) soakage trench.</p> <p>a. Non-compliant. Site is 3,500m². Refer to the “Issues” section of this report.</p> <p>b. Compliant. Disposal area is clear of building area.</p> <p>c. Compliant. Disposal area is not within any area required for the disposal of sewage.</p> <p>d. Not applicable. No access strip.</p> <p>e. Compliant. Not more than 50% of the site is impervious surface.</p> <p>(b)(iii) Compliant. Single dwelling only.</p>

<p>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>	
12.4.2 Dwelling density	
<p>12.4.2–(A1) The site area per dwelling must:</p> <p>(a) be not less than 500m² if the site has:</p> <p>(i) connection to a reticulated water supply;</p> <p>(ii) connection to a reticulated sewer system; and</p> <p>(iii) connection to a stormwater system; or</p> <p>(b) if the site is in a locality shown in the Table to this clause, not less than the site area for that locality.</p>	<p>(a) Compliant. Site has an area is 3,500m².</p> <p>(a)(i) Compliant. As discussed above.</p> <p>(a)(ii) Compliant. As discussed above.</p> <p>(a)(iii) Compliant. As discussed above.</p> <p>(b) Not applicable. No Table to this Clause.</p>
12.4.3 Location and configuration of development	
<p>12.4.3–(A1) The wall of a building must be setback from a frontage:</p>	<p>(a) Complaint. Primary frontage setback would be 4.5m.</p> <p>(b) Not applicable. Satisfied by (a).</p>

<p>(a) not less than 4.5m from a primary frontage; and</p> <p>(b) not less than 3.0m from any secondary frontage; or</p> <p>(c) not less than and not more than the setbacks for any existing building on each of the immediate adjoining sites;</p> <p>(d) not less than for any building retained on the site;</p> <p>(e) in accordance with any building area shown on a sealed plan; or</p> <p>(f) not less than 50.0m if the site abuts the Bass Highway.</p>	<p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Not applicable. Satisfied by (a).</p> <p>(e) Not applicable. No building area on a sealed plan.</p> <p>(f) Not applicable. Site does not abut the Bass Highway.</p>
<p>12.4.3–(A2) All buildings must be contained within a building envelope determined by:</p> <p>(a) the applicable frontage setback;</p> <p>(b) if the site is in a locality shown in the Table to this Clause, not less than the setback distance specific from the feature specified;</p>	<p>(a) Compliant. Frontage setback would be 4.5m.</p> <p>(b) Not applicable. No Table to this Clause.</p> <p>(c) Compliant. Building envelope plans indicate that the dwelling would be within the required building envelope apart from two minor protrusions.</p> <p>(c)(i) Compliant. Satisfied by (ii).</p>

<p>(c) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at each side boundary and at a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level if walls are setback:</p> <ul style="list-style-type: none"> (i) not less than 1.5m from each side boundary; or (ii) less than 1.5m from a side boundary if wall height is not more than 3.0m; and: <ul style="list-style-type: none"> a. built against an existing wall of an adjoining building; or b. the wall or walls: <ul style="list-style-type: none"> i. have the lesser of a total length of 9.0m or one-third of the boundary with the adjoining land; ii. there is no door or window in the wall of the building; and iii. overshadowing does not result in: 	<p>(c)(ii) Non-compliant. The proposed dwelling is setback 1.5m from all side boundaries, except for a small portion of the western bedroom wall. The wall height would be greater than 3m.</p> <p>Refer to the “Issues” section of this report.</p> <p>(d) Not applicable. No building envelope on a sealed plan.</p>
--	--

<p>a. less than two hours of continuous sunlight to a required minimum private open space area in an adjacent dwelling between 9.00am and 3.00pm on 21 June; or</p> <p>b. a further reduction in continuous sunlight to a required minimum private open space area in an adjacent dwelling if already less than two hours between 9.00am and 3.00pm on 21 June; or</p> <p>(d) in accordance with any building envelope shown on a sealed plan.</p>	
<p>12.4.3–(A3) Site coverage must:</p> <p>(a) not be more than 50%; or</p>	<p>(a) Compliant. Site coverage would be 9%.</p> <p>(b) Not applicable. Site not on Table.</p>

<p>(b) if the site is in a locality shown on Table 3, not more than the site coverage for that locality; and</p> <p>(c) not include any part of a site required for the disposal of sewage or stormwater; or</p> <p>(d) not be more than any building area shown on a sealed plan.</p>	<p>(c) Compliant. Site coverage does not include any part of the site required for the disposal of sewage and stormwater.</p> <p>(d) Not applicable. No building area shown on a sealed plan of subdivision.</p>
<p>12.4.3–(A4) A garage, carport or an external car parking area and any area for the display, handling, or storage of goods, materials or waste, must be located behind the primary frontage of a building.</p>	<p>Non-complaint. The garage is proposed to be in front of the dwelling.</p> <p>Refer to the “Issues” section of this report.</p>
<p>12.4.3–(A5) Total width of openings in the frontage elevation of a garage or carport (whether freestanding or part of any other building) must be the lesser of:</p> <p>(a) 6.0m; or</p> <p>(b) half the width of the frontage.</p>	<p>Not applicable. Garage openings would face the western elevation and not towards the frontage elevation.</p>

12.4.4 Visual and acoustic privacy for residential development	
<p>12.4.4-(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) if the finished floor level is more than 1.0m above natural ground level:</p> <p>(iii) be not less than 6.0m from any door, window, balcony, deck, or roof garden in a dwelling on the same site;</p> <p>(iv) be not less than 3.0m from a side boundary;</p> <p>(v) be not less than 4.0m from a rear boundary;</p> <p>(vi) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary of a lot of an adjacent frontage site; or</p> <p>(b) if less than the setbacks in clause A1(a):</p> <p>(i) be off-set by not less than 1.5m from the edge of any door or window in another dwelling;</p>	<p>(a)(i) Not applicable. No other dwelling on site.</p> <p>(a)(ii) Satisfied by (b)(ii).</p> <p>(a)(iii) Compliant. Dwelling would be setback approximately 40m from the rear boundary.</p> <p>(a)(iv) Compliant. Dwelling would be greater than 4m from this internal boundary.</p> <p>(b)(i) Bedroom located on the far western side of the side would be setback closer than 3m to the western side boundary. Satisfied by (b)(ii).</p> <p>(b)(ii) Compliant. Windows located in western bedroom have a sill height greater than 1.8m.</p> <p>(b)(iii) Bedroom located on the far western side of the side would be setback closer than 3m to the western side boundary. Satisfied by (b)(ii).</p>

<ul style="list-style-type: none"> (ii) have a window sill height of not less than 1.8m above finished floor level; (iii) 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 1.7m above finished floor level; or (iv) have fixed and durable external screen other than vegetation of not less than 1.8m height above the finished floor level and with a uniform transparency of not more than 25% located for the full width of the door, window, balcony, deck, roof garden, parking space, or carport. 	<p>(b)(iv) Bedroom located on the far western side of the side would be setback closer than 3m to the western side boundary. Satisfied by (b)(ii).</p>
<p>12.4.4–(A2) An access strip or shared driveway, including any pedestrian pathway and parking area, must be separated by a distance of not less than 1.5m horizontally and 1.5m vertically from the door or window to a dwelling or any balcony, deck, or roof garden in a dwelling.</p>	<p>Not applicable.</p> <p>No access trip or shared driveway.</p>

12.4.5 Private open space for residential use	
<p>12.4.5–(A1) Each dwelling must provide private open space:</p> <p>(a) if a dwelling with a floor level of not more than 2.5m above finished ground level, a ground level area:</p> <ul style="list-style-type: none"> (i) located adjoining the rear or side of the dwelling; (ii) accessible from the dwelling; (iii) of not less than 25.0m²; (iv) with a minimum dimension of 4.0m; (v) on a single level; and (vi) with a gradient of not more than 1 in 10; and <p>(b) if a dwelling with a floor level of more than 2.5m above finished ground level, as an alternative to a ground level area, a private balcony, deck, terrace or roof garden:</p> <ul style="list-style-type: none"> (i) of not less than 25.0m²; (ii) with a minimum dimension of 4.0m; and 	<p>(a) Compliant. Satisfied by (b).</p> <p>(b) Compliant. Dwelling would have an attached north facing deck.</p> <p>(b)(i) Deck would be 60.90m².</p> <p>(b)(ii) Minimum dimension greater than 4m.</p> <p>(b)(iii) Compliant. Deck would be accessible from the master bedroom, living/dining/kitchen rooms.</p>

(iii) accessible from the dwelling.	
12.4.5–(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.	Compliant. Deck is north facing and runs along the entire northern elevation of the dwelling to ensure maximum sunlight can be received.
12.4.5–(A3) Unless there is a ground level private open space area directly accessible at grade to a shared driveway or pedestrian pathway, each dwelling in a multiple dwelling development must have access to a waste storage area: (a) located behind the applicable frontage setback; (b) of not less than 1.5m ² per dwelling; (c) screened to view from the frontage and any dwelling by a wall of height not less than 1.2m above finished ground level; and (d) not less than 6.0 from a window, door, balcony, deck, roof garden or private open space area of a dwelling.	Not applicable. Not a multiple dwelling.
12.4.6 Frontage fences	
12.4.6–(A1) The height of a fence, including any supporting retaining wall, on a frontage or within a frontage setback	Not applicable.

<p>must be:</p> <p>(a) not more than 1.2m if the fence is solid; or</p> <p>(b) not more than 1.8m provided that part of the fence above 1.2m has openings that provide a uniform transparency of not less than 30%.</p>	<p>No fencing proposed.</p>
<p>12.4.7 Setback of development for sensitive use</p>	
<p>12.4.7–(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) Not applicable. No zone boundary.</p> <p>(b) Not applicable. No zone boundary.</p>
<p>12.4.7–(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>(a) Compliant. Development would be 3km from the Bass Highway.</p> <p>(b) Compliant. Development would be 3km from a railway.</p> <p>(c) Not applicable. No land designated for road or rail purpose.</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>(d) Not applicable. Nearest Proclaimed Wharf Area is in Devonport, some 15km to the east.</p>
12.4.8 Subdivision	
<p>12.4.8–(A1) Each new lot on a plan of subdivision must be –</p> <p>(a) intended for residential use;</p> <p>(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.</p>	<p>Not applicable.</p> <p>No subdivision proposed.</p>
<p>12.4.8–(A1) Each new lot on a plan of subdivision must be –</p> <p>(a) intended for residential use;</p> <p>(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</p>	<p>Not applicable.</p> <p>No subdivision proposed.</p>

COMMUNITY SERVICES

12.4.8–(A2) A lot, other than a lot to which A1(b) applies, must not be an internal lot	Not applicable. No subdivision proposed.
12.4.9 Reticulation of an electricity supply to new lots on a plan of subdivision	
12.4.9–(A1) Electricity reticulation and site connections must be installed underground.	Not applicable. No subdivision proposed.
CODES	
E1 Bushfire-Prone Areas Code	Not applicable. Site is not a subdivision or vulnerable or hazardous use.
E2 Airport Impact Management Code	Not applicable. No Airport Impact Management Code in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of vegetation proposed.
E4 Change in Ground Level Code	Not applicable. No change in ground level greater than 1m. Design of dwelling to compliment slope of site.
E5 Local Heritage Code	Not applicable. No local heritage listings in this Scheme.
E6 Hazard Management Code	Not applicable. Site has low landslide overlay only. Low landslide overlay is exempt.

E7 Sign Code	Not applicable. No signage proposed.
E8 Telecommunication Code	Not applicable. No telecommunication facilities proposed.
E9 Traffic Generating Use and Parking Code	Applicable.
E9.4 Exemption	Not exempt. Code applies to all development.
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 E9A.	Compliant. Two car parking spaces are required and accommodated by the proposed attached double garage.
E9.5.2 Provision for loading and unloading of vehicles	
E9.5.2–(A1) There must be provision within a site for: (a) On-site loading area in accordance with the requirement in Table E9A; and	(a) Compliant. An on-site loading area is not required by Table E9A. (b) Not applicable. In Low Density Residential zone.

(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.	
E9.6 Development Standards	
E9.6.1 Design of vehicle parking and loading areas	
E9.6.1–(A1.1) All development must provide for the collection, drainage and disposal of stormwater; and	
<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/NZS2890.2 (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>Not applicable.</p> <p>Site is zoned Low Density Residential.</p>

<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; and</p> <p>(g) Be formed and constructed with compacted sub-base and an all-weather surface.</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>Not applicable.</p> <p>Site is zoned Low Density Residential.</p>
<p>E10 Water and Waterways Code</p>	<p>Not applicable. The site is approximately 100m from Forth River.</p>

SPECIFIC AREA PLANS	
F1.0 Forth Specific Area Plan	
FI Application of Specific Area Plan	Applicable. Site falls within the Forth Specific Area Plan overlay.
F1.7 Development Standards	
F1.7.1 Design and location of development	
<p>A1</p> <p>An addition to a building must be –</p> <p>(a) located to the rear of the existing building; and</p> <p>(b) not exceed the height of the existing building.</p>	<p>(a) Not applicable. Not an addition to a building. Proposal is for new dwelling.</p> <p>(b) Not applicable. Not an addition to a building. Proposal is for new dwelling.</p>
<p>A2</p> <p>Building height must not be more than 5.5 metres.</p>	Compliant. The height is 5.1 m.

F1.7.2 Subdivision	
<p>A1</p> <p>The minimum site area must be –</p> <p>(a) 4,000m² if on land in the area marked with a cross hatch on the planning scheme map for the Forth Specific Area Plan; or</p> <p>(b) 2,000m² if on land marked with a diagonal stripe on the planning scheme map for the Forth Specific Area Plan.</p>	<p>Not applicable. The development does not involve subdivision.</p>

Issues –

1 Access over Crown land –

Clause 12.4.1–(A2)(a) of the Scheme states that a site or each lot on a subdivision plan must have a separate access from a road across a frontage over which no other land has a right of access.

The property at 2A Gilbert Street, Forth has access from Gilbert Street over a section of Crown land of which also provides access for 2 Gilbert Street, Forth.

The proposal therefore relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 12.4.1–(P1)(i) states that a site must have a reasonable and secure access from a road provided across a frontage.

The property at 2A Gilbert has a legal means of access over Crown land. A copy of the Access Licence from Crown Land Services was provided as part of the application. Crown Land Services also signed the declaration section in the application form and provided a letter of consent to lodging this application.

It is considered that the site has a reasonable and secure access from Gilbert Street and all appropriate documentation has been provided from Crown Land Services regarding access over their land.

2 Variation to disposal of stormwater –

Clause 12.4.1–(A5)(b)(ii) states that a site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater on-site if the site has an area of not less than 5,000m².

The subject site has a land area of 3,500m². The proposal therefore relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 12.4.1–(P5)(a) states that a site must drain and dispose of stormwater to accommodate the anticipated stormwater from the proposed development without likelihood for concentration on adjacent land, without creating an unacceptable level of risk from the safety of life or for use or development on the land and on adjacent land, manage the quantity and rate of discharge of stormwater to

receiving waters, manage the quality of stormwater discharged to receiving waters and to provide positive drainage away from any sewer pipe, on-site sewage disposal system or building area.

The application was supported with a Site Classification, Onsite Stormwater Design and Onsite Wastewater Disposal Assessment and Design report as prepared by Geoton Pty Ltd.

The report acknowledges that there is no Council stormwater system connected to 2A Gilbert Street, Forth. In addition, the report stated that the site cannot support overland flow and that a stormwater detention and disposal has been designed to accommodate a 10% AEP storm event.

The report concluded that the soil within the proposed stormwater drainage area as having sufficient depth, structure and permeability for the sub-surface disposal of on-site stormwater via a Rainstore3 (or similar) soakage trench. It is recommended in this report that a stackable stormwater retention system is used to accommodate up to the 1 in 10 year ARI, 5-minute event.

This report will form part of the documents to be approved for this Permit.

3 *Outside required building envelope –*

Clause 12.4.3–(A2)(c)(ii) states that all buildings must be contained within a building envelope that includes a setback of less than 1.5m from a side boundary if wall height is not more than 3m.

A small portion of the furthest positioned western bedroom would have a wall height greater than 3m.

The proposal therefore relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 12.4.3–(P2) states that a building height and location in relation to a frontage and side boundaries must minimise likelihood of overshadowing of a habitable room or required minimum area of private open space in any adjacent dwelling, minimise the apparent bulk, massing and proportion relative to any adjacent building, be consistent with the streetscape, respond to the effect of the slope and orientation of the site and provide separation between buildings to attenuate impact.

Due to the shape of the subject site and the proposed location of the dwelling in relation to the adjoining western property's dwelling, minimal overshadowing (if any) would occur. The proposed dwelling would be positioned slightly higher and behind the adjoining western dwelling. There is ample mature vegetation between the proposed dwelling and the adjoining western dwelling to provide sufficient physical and distance separation. The proposed dwelling would be positioned in excess of 55m to any other adjoining dwellings.

4 Location of garage –

Clause 12.4.3–(A4) states that a garage must be located behind the primary frontage of a building.

The proposed attached garage would be positioned forward of the primary frontage of the dwelling. The proposal therefore relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 12.4.3–(P4) states that a garage must not dominate the architectural or visual frontage of the site, be consistent with the streetscape, be required by constraint imposed by size, shape, slope, orientation, and topography on development of the site and provide durable physical screening to attenuate appearance of the parking or loading area from a frontage and adjacent land.

Due to the slope of the subject site, the proposed attached garage would be cut into the ground which would minimise visual intrusion when viewed from the primary frontage. Furthermore, the position of the proposed garage in relation to other dwellings would result with very minimal visual impact when viewed. The proposed attached garage and associated driveway access would be built on the less steep portion of the subject site.

Referral advice –

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

SERVICE	COMMENTS/CONDITIONS
Environmental Health	Approved for planning subject to standard conditions for AWTs and sub-surface irrigation effluent disposal.

Infrastructure Services	<p><u>Stormwater</u></p> <p>No issues with on-site disposal if considered appropriate by Consultants. Note that there is a drainage easement that benefits 2A Gilbert Street from the north-west corner of this property through to Hamilton Rivulet, that may contain a pipe.</p> <p><u>Road Authority</u></p> <p>No issues provided licence granted by Crown and the access to the neighbouring property 2 Gilbert Street is not compromised. This is due to this property using the same Crown Road Reservation.</p>
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	<p>Application was referred as an adjoining property owner. No comments received.</p> <p>Application form has been signed and letter of consent has been provided by Crown Land Services due to access to the subject site over Crown land.</p>
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 –

One representation was received within the prescribed time, a copy of which is provided at Annexure 3.

The issues raised in the representation are all in relation to the proposed on-site wastewater system proposed, being an Aerated Wastewater Treatment System (AWTS) and sub-surface/surface irrigation.

This is the recommendation by a suitably qualified person, as per the Site Classification, Onsite Stormwater Design and Onsite Wastewater Disposal Assessment and Design report by Geoton Pty Ltd.

The on-site wastewater disposal was not a discretionary element of the proposal.

The below responses to the matters raised are in conjunction with the Council's Environmental Health Officer and Town Planner.

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
1 What is the rating of water entering irrigation area?	<p>The sewage effluent being distributed on the property is secondary treated effluent. This means sewage is treated to a much higher standard than septic tank/trench system before it is disinfected and related to the environment.</p> <p>After installation the owner must engage a licenced service agent to</p>

	service this sewage system including the effluent disposal area. Any issues are reported to the Council for follow up and enforcement action if required.
2 Is there an emergency weather plan for the system?	The system is designed to manage an equivalent of seven people on-site. Effluent will be discharged to the effluent disposal area during all weather events. The area of the effluent disposal area has been designed in accordance with the AS/NZS1547:2012. Cut-off drains' upslope of the effluent disposal area will divert any surface flow stormwater away from this area.
3 How much water is released at a time from the flush point?	There is a float switch inside the sewage system which will activate once effluent levels in the final effluent chamber reaches a certain height inside the tank. Volume of effluent discharged varies between the different types/models of sewage systems.
4 Natural depressions – referred to a particular section of the report outlining designs around natural depressions.	The report outlined generic conditions/design mechanisms. The installer will locate the effluent disposal area as near as practical to the plan, however site variations occur and subject to a final Council inspection.
5 Any base lines established?	<p>It is unclear what the representor is referring to with this matter.</p> <p>The proposed on-site wastewater system has been recommended by a suitably qualified person after assessing the site and determining the best system for the conditions on this site.</p>

	The Permit would include a condition that the system is installed as per recommendations made in the report prepared by Geoton.
6 Location of borehole 3 and soil type.	The irrigation method is drip irrigation or sub-surface irrigation so does not require a lot of topsoil to work effectively. The rate of effluent infiltration into the underlying soil has been determined to be 3.5mm per day. There are no limited layers underneath to inhibit effluent going downwards.
7 Will the system be installed as per diagrams in the on-site assessment report or would water be running over the surface?	The installation is subject to a final Council inspection. It is expected the pipes distributing treated effluent are to be placed below ground surface with effluent directed downwards not upwards or sideways. There is no reason to expect effluent to sit on top of the ground and not infiltrate the ground.

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. However, there may be an impact on Council resources in relation to ensuring compliance with Permit conditions.

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 representation does not contain sufficient merit to justify the addition of any restrictive condition to a Permit issued, or refusal of the development.

The proposed dwelling is Permitted in the Low Density Residential zone. The application was discretionary due to access to the site, variation to stormwater disposal size area, outside the building envelope and the location of the attached garage. The proposed development is considered to have satisfied the applicable Scheme's Performance Criteria.

The proposed development is considered to be a reasonable development on the Low Density Residential zoned land and would be keeping within the characteristics of the surrounding area. It is considered appropriate that the proposed dwelling and studio be approved, subject to conditions.

Recommendation –

It is recommended that the application for Residential (dwelling and studio) – access over Crown land, variation to disposal of stormwater, building envelope and garage location standards at 2A Gilbert Street, Forth be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by Andrew Smith Architects, Project No. 00642, Drawing Nos. DA.01, DA.02, DA.03, DA.04, DA.05, DA.06, DA.07, DA.08, DA.09, DA.10, DA.11, DA.12, DA.13 and DA.14, Revision No. D dated 13 June 2019.
- 2 The development must be in accordance with the recommendations in the Site Classification, Onsite Storm Water Design & Onsite Wastewater Disposal Assessment and Design as prepared by Geoton Pty Ltd, Reference No. GL17442Ab dated 5 February 2019.
- 3 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and an all-weather surface.

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 of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.

- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 3 The studio is approved for use ancillary to Residential use of the land. If the studio is intended to be used for a purpose other than this, then a further Permit for a change of use would be required.
- 4 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit Work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council’s Building Permit Authority, and an application for a Plumbing Permit is to be made to the Council’s Plumbing Permit Authority.’

The Town Planner’s report is supported.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Town Planner’s report have been circulated to all Councillors.”

■ Cr Carpenter moved and Cr Fuller seconded, “That the application for Residential (dwelling and studio) – access over Crown land, variation to disposal of stormwater, building envelope and garage location standards at 2A Gilbert Street, Forth be approved subject to the following conditions and notes.

- 1 The development must be substantially in accordance with the plans by Andrew Smith Architects, Project No. 00642, Drawing Nos. DA.01, DA.02, DA.03, DA.04, DA.05, DA.06, DA.07, DA.08, DA.09, DA.10, DA.11, DA.12, DA.13 and DA.14, Revision No. D dated 13 June 2019.
- 2 The development must be in accordance with the recommendations in the Site Classification, Onsite Storm Water Design & Onsite Wastewater Disposal Assessment and Design as prepared by Geoton Pty Ltd, Reference No. GL17442Ab dated 5 February 2019.
- 3 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and an all-weather surface.

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 of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 3 The studio is approved for use ancillary to Residential use of the land. If the studio is intended to be used for a purpose other than this, then a further Permit for a change of use would be required.
- 4 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit Work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council’s Building Permit Authority, and an application for a Plumbing Permit is to be made to the Council’s Plumbing Permit Authority.”

Carried unanimously

INFRASTRUCTURE SERVICES

284/2019 Tenders for CBD Area Street Bin Waste Collection Service

The General Manager reported as follows:

“The Engineering Group Leader has prepared the following report:

PURPOSE

The purpose of this report is to make recommendation on tenders received for the provision of the CBD Area Street Bin Waste Collection Service through to the end of the 2021–2022 financial year.

BACKGROUND

The Council arranges for the collection and disposal of waste from street bins generally within the CBD areas of Ulverstone and Penguin, and the Forth, Turners Beach, Sulphur Creek and Heybridge urban environments.

JJ Richards & Sons Pty Ltd is the current contractor providing the CBD Area Street Bin Waste Collection Service. The contract expired at the end of June and was extended to 30 September 2019.

Public tenders for the CBD Area Street Bin Waste Collection Service were called on Saturday 6 July 2019 and closed on Friday 26 July 2019.

DISCUSSION

Tenderers were requested to provide an annual price through a schedule of rates tender based on the daily collection and disposal of waste from 60 street bins in nominated locations.

Three tenders were received as follows:

TENDERER	RATE PER BIN \$ (EXC. GST)	ANNUAL TOTAL \$ (INC. GST)
<i>Veolia Environmental Services (Aust) Pty Ltd</i>		175,375.20
Weekday collection and disposal	6.80	
Weekend day collection and disposal	8.55	

<i>JJ Richards & Sons Pty Ltd</i>		185,328.00
Weekday collection and disposal	6.00	
Weekend day collection and disposal	12.00	
<i>TJ Contracting</i>		81,407.00
Weekday collection and disposal	3.32	
Weekend day collection and disposal	3.56	
<i>ESTIMATE</i>		<i>90,000.00</i>

Veolia Environmental and JJ Richards have successfully undertaken work of the same or similar nature for the Council and numerous other Local Government authorities in Tasmania. TJ Contracting indicate that they have previously undertaken slashing, block maintenance and rubbish removal work for the Council, State Government and private entities.

The Council uses a weighted tender assessment method based on:

- . compliance with tender documents;
- . previous experience;
- . personnel (field);
- . personnel (management)
- . vehicle fleet/backup capacity;
- . Work Health & Safety; and
- . tender price.

Veolia Environmental Services (Australia) Pty Ltd achieved the highest rating based on this method (a copy of the confidential tender assessment is appended to the report).

CONSULTATION

This item has followed a public tendering process.

RESOURCE, FINANCIAL AND RISK IMPACTS

The total amount to be expended under this contract based on the rates tendered is \$159,432, excluding GST and is above the allocated budget of \$90,000.

Reallocation of funds from other operational budgets is required to address the shortfall.

The following budget changes are recommended:

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
E-waste collection	15,000	Nil	15,000
Gravel raising	61,500	16,500	45,000
Off street parking	20,000	10,000	10,000
<i>TOTAL</i>			<i>70,000</i>

CORPORATE COMPLIANCE

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

The Shape of the Place

- Improve the value and use of open space
- Conserve the physical environment in a way that ensures we have a healthy and attractive community.

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure
- Contribute to the preservation of the natural environment.

Council Sustainability and Governance

- Improve service provision.

CONCLUSION

It is recommended that the tender from Veolia Environmental Services (Australia) Pty Ltd for the rate of \$6.80 (exc. GST) [\$7.48 (incl. GST)] per street bin serviced for weekday collection and disposal, and for the rate of \$8.55 (exc. GST) [\$9.405 (incl. GST)] per bin serviced for weekend day collection and disposal and the following proposed budget reallocations be approved by the Council:

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
E-waste collection	15,000	Nil	15,000
Gravel raising	61,500	16,500	45,000
Off street parking	20,000	10,000	10,000
<i>TOTAL</i>			<i>70,000.'</i>

The Engineering Group Leader's report is supported."

The Executive Services Officer reported as follows:

"A copy of the confidential tender assessment has been circulated to all Councillors."

■ Cr Carpenter moved and Cr Diprose seconded, "That the tender from Veolia Environmental Services (Australia) Pty Ltd for the CBD Area Street Bin Waste Collection Service for the rate of \$7.48 (incl. GST) per street bin serviced for weekday collection and disposal, and for the rate of \$9.405 (incl. GST) per bin serviced for weekend day collection and disposal and the following proposed budget reallocations be approved:

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
E-waste collection	15,000	Nil	15,000
Gravel raising	61,500	16,500	45,000
Off street parking	20,000	10,000	10,000
<i>TOTAL</i>			<i>70,000."</i>

Carried unanimously and by absolute majority

285/2019 Tenders for Public Area Waste Collection Service

The General Manager reported as follows:

"The Engineering Group Leader has prepared the following report:

PURPOSE

The purpose of this report is to make recommendation on tenders received for the provision of the Public Area Waste Collection Service through to the end of the 2021–2022 financial year.

BACKGROUND

The Council arranges for the collection and disposal of waste from a number of Public Areas (parks, open spaces etc.) within the Ulverstone, Penguin, Forth, Turners Beach and Heybridge urban environments.

JJ Richards & Sons Pty Ltd is the current contractor providing the Public Area Waste Collection Service. The contract expired at the end of June and was extended to 30 September 2019.

Public tenders for the Public Area Waste Collection Service were called on Saturday 6 July 2019 and closed on Friday 26 July 2019.

DISCUSSION

Tenderers were requested to provide an annual price through a schedule of rates tender based on the collection and disposal of waste from 126 mobile garbage bins (MGBs) on a combination of once and twice weekly collection.

Four tenders were received as follows:

TENDERER	RATE PER BIN \$ (EXC. GST)	ANNUAL TOTAL \$ (INC. GST)
T J Contracting	5.00	66,352.00
Veolia Environmental Services (Aust) Pty Ltd	5.41	71,792.86
JJ Richards & Sons Pty Ltd	6.00	79,622.40
Cleanaway Pty Ltd	6.70	88,911.68
<i>ESTIMATE</i>		<i>50,000.00</i>

All tenders are above the budgeted price estimate.

Veolia Environmental and JJ Richards have successfully undertaken work of the same or similar nature for the Council and numerous other Local Government authorities in Tasmania. Cleanaway are relatively new to Tasmania but have a significant presence in Australia and provide a range of waste management services to many Council across Australia. TJ Contracting indicate that they

have previously undertaken slashing, block maintenance and rubbish removal work for the Council, State Government and private entities.

The Council uses a weighted tender assessment method based on:

- . compliance with tender documents;
- . previous experience;
- . personnel (field);
- . personnel (management)
- . vehicle fleet/backup capacity;
- . Work Health & Safety; and
- . tender price.

Veolia Environmental Services (Australia) Pty Ltd achieved the highest rating based on this method (a copy of the confidential tender assessment is appended to this report).

CONSULTATION

This item has followed a public tendering process.

RESOURCE, FINANCIAL AND RISK IMPACTS

The total amount to be expended under this contract based on the rates tendered is \$65,266, excluding GST and is above the allocated budget of \$50,000.

Reallocation of funds from other operational budgets is required to address the shortfall.

The following budget changes are recommended.

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
Landfill After Care Monitoring	58,000	50,000	8,000
Tip Shop	20,000	12,000	8,000
<i>TOTAL</i>			<i>16,000</i>

CORPORATE COMPLIANCE

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

The Shape of the Place

- Improve the value and use of open space
- Conserve the physical environment in a way that ensures we have a healthy and attractive community

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure
- Contribute to the preservation of the natural environment

Council Sustainability and Governance

- Improve service provision.

CONCLUSION

It is recommended that the tender from Veolia Environmental Services (Australia) Pty Ltd for the rate of \$5.41 (exc. GST) [\$5.951 (incl. GST)] per bin serviced for waste collection and disposal and the following proposed budget reallocations be approved by the Council.

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
Landfill After Care Monitoring	58,000	50,000	8,000
Tip Shop	20,000	12,000	8,000
<i>TOTAL</i>			<i>16,000.'</i>

The Engineering Group Leader's report is supported."

The Executive Services Officer reported as follows:

"A copy of the confidential tender assessment has been circulated to all Councillors."

■ Cr Carpenter moved and Cr Hiscutt seconded, "That the tender from Veolia Environmental Services (Australia) Pty Ltd for the Public Area Waste Collection Service for the rate of \$5.951 (incl. GST) per bin serviced for waste collection and disposal and the following budget reallocations be approved:

FUNDING SOURCE	CURRENT BUDGET \$	PROPOSED BUDGET \$	DIFFERENCE \$
Landfill After Care Monitoring	58,000	50,000	8,000
Tip Shop	20,000	12,000	8,000
<i>TOTAL</i>			<i>16,000."</i>

Carried unanimously and by absolute majority

286/2019 Provision of Buildings and Facilities Waste Collection Service

The General Manager reported as follows:

"The Engineering Group Leader has prepared the following report:

PURPOSE

The purpose of this report is to make recommendation on tenders received for the provision of the Buildings and Facilities Waste Collection Service through to the end of the 2021–2022 financial year.

BACKGROUND

The Council arranges for the collection and disposal of waste from a number of Council buildings and facilities within the Central Coast area.

JJ Richards & Sons Pty Ltd is the current contractor providing the Buildings and Facilities Waste Collection Service. The contract expired at the end of June and was extended to 30 September 2019.

Public tenders for the Buildings and Facilities Waste Collection Service were called on Saturday 6 July 2019 and closed on Friday 26 July 2019.

DISCUSSION

Tenderers were requested to provide an annual price through a schedule of rates tender based on the supply of 19 skip bins, and the collection and disposal of waste from these on a weekly, monthly or as required basis.

Three tenders were received as follows:

Tenderer	Rate per Bin \$ (exc. GST)	Annual Total \$ (inc. GST)
<i>Cleanaway Pty Ltd</i>		37,257.44
Collection and disposal of waste	36.00	
Weekly Rental	2.80	
<i>Veolia Environmental Services (Aust) Pty Ltd</i>		49,253.60
Collection and disposal of waste	47.25	
Weekly Rental	4.00	
<i>JJ Richards & Sons Pty Ltd</i>		52,951.00
Collection and disposal of waste	54.00	
Weekly Rental	1.50	
<i>Estimate</i>		<i>52,000.00</i>

Veolia and JJ Richards have successfully undertaken work of the same or similar nature for the Council and numerous other Local Government authorities in Tasmania. Cleanaway are relatively new to Tasmania but have a significant presence in Australia and provide a range of waste management services to many councils across Australia.

The Council uses a weighted tender assessment method based on:

- . compliance with tender documents;
- . previous experience;
- . personnel (field);
- . personnel (management)
- . vehicle fleet/backup capacity;
- . WHS system and record; and
- . tender price.

Cleanaway achieved the highest rating based on this method (a copy of the confidential tender assessment is appended to this report).

CONSULTATION

This item has followed a public tendering process.

RESOURCE, FINANCIAL AND RISK IMPACTS

The amount total based on the rates tendered can be accommodated within the budget allocations.

CORPORATE COMPLIANCE

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

Council Sustainability and Governance

- Improve service provision

CONCLUSION

It is recommended that the tender from Cleanaway Pty Ltd for the rate of \$36.00 (exc. GST) [\$39.60 (incl. GST)] per skip bin serviced for collection and disposal, and for the rate of \$2.80 (exc. GST) [\$3.08 (incl. GST)] per week for the rental of each skip bin be accepted and approved by the Council.'

The Engineering Group Leader's report is supported."

The Executive Services Officer reported as follows:

"A copy of the confidential tender assessment has been circulated to all Councillors."

■ Cr Hiscutt moved and Cr Fuller seconded, "That the tender from Cleanaway Pty Ltd for the Buildings and Facilities Waste Collection Service for the rate of \$39.60 (incl. GST) per skip bin serviced for collection and disposal, and for the rate of \$3.08 (incl. GST) per week for the rental of each skip bin be accepted."

Carried unanimously

ORGANISATIONAL SERVICES

ORGANISATIONAL SERVICES

287/2019 Organisational Services

“There are no matters from the Organisational Service Department for a decision at this meeting.”

11 CLOSURE OF MEETING TO THE PUBLIC

288/2019 Meeting closed to the public

The Executive Services Officer reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2015* provide that a meeting of a council is to be open to the public unless the council, by absolute majority, decides to close part of the meeting because one or more of the following matters are being, or are to be, discussed at the meeting.

Moving into a closed meeting is to be by procedural motion. Once a meeting is closed, meeting procedures are not relaxed unless the council so decides.

It is considered desirable that the following matters be discussed in a closed meeting:

Matter	<i>Local Government (Meeting Procedures) Regulations 2015</i> reference
Confirmation of Closed Session Minutes	15(2)(g) Information of a personal and confidential nature or information provided to the council on the condition it is kept confidential
Minutes and notes of other organisations and committees of the Council Central Coast Council Audit Panel – meeting held 14 August 2019 – Audit Panel Assessment Report – Chair’s 2018 Audit Panel Performance Evaluation Report submitted for noting along with Chair’s 2018 Summary of Comments.	15(2)(g) Information of a personal and confidential nature or information provided to the council on the condition it is kept confidential.
Expressions of Interest – Tenancy Lease – Ulverstone Wharf Precinct	15(2)(c)(i) commercial information of a confidential nature that, if disclosed, is likely to prejudice the commercial position of the person who supplied it.”

■ Cr Fuller moved and Cr Beswick seconded, “That the Council close the meeting to the public to consider the following matters, they being matters relating to:

Matter	<i>Local Government (Meeting Procedures) Regulations 2015</i> reference
Confirmation of Closed Session Minutes	15(2)(g) Information of a personal and confidential nature or information provided to the council on the condition it is kept confidential
Minutes and notes of other organisations and committees of the Council Central Coast Council Audit Panel – meeting held 14 August 2019 – Audit Panel Assessment Report – Chair’s 2018 Audit Panel Performance Evaluation Report submitted for noting along with Chair’s 2018 Summary of Comments.	15(2)(g) Information of a personal and confidential nature or information provided to the council on the condition it is kept confidential.
Expressions of Interest – Tenancy Lease – Ulverstone Wharf Precinct	15(2)(c)(i) commercial information of a confidential nature that, if disclosed, is likely to prejudice the commercial position of the person who supplied it.”

Carried unanimously and by absolute majority

The Executive Services Officer further reported as follows:

- “1 The *Local Government (Meeting Procedures) Regulations 2015* provide in respect of any matter discussed at a closed meeting that the general manager is to record in the minutes of the open meeting, in a manner that protects confidentiality, the fact that the matter was discussed and a brief description of the matter so discussed, and is not to record in the minutes of the open meeting the details of the outcome unless the council determines otherwise.
- 2 While in a closed meeting, the council is to consider whether any discussions, decisions, reports or documents relating to that closed meeting are to be kept

confidential or released to the public, taking into account privacy and confidentiality issues.

- 3 The *Local Government Act 1993* provides that a councillor must not disclose information seen or heard at a meeting or part of a meeting that is closed to the public that is not authorised by the council to be disclosed.

Similarly, an employee of a council must not disclose information acquired as such an employee on the condition that it be kept confidential.

- 4 In the event that additional business is required to be conducted by a council after the matter(s) for which the meeting has been closed to the public have been conducted, the Regulations provide that a council may, by simple majority, re-open a closed meeting to the public.”

The meeting moved into Closed session at 7.01pm.

289/2019 Confirmation of Closed session minutes

The Executive Services Officer reported as follows:

“The Closed session minutes of the previous ordinary meeting of the Council held on 19 August 2019 have already been circulated. The minutes are required to be confirmed for their accuracy.

...

The *Local Government (Meeting Procedures) Regulations 2015* provide in respect of a matter discussed at a closed meeting –

‘34(1)(b) in relation to a matter discussed at the closed meeting –

(i) the fact that the matter was discussed at the closed meeting; and

(ii) a brief description of the matter so discussed –

are to be recorded in the minutes of that part of the meeting that is open to the public, but are to be recorded in a manner that does not disclose any confidential information and protects confidentiality; and

(c) in relation to a matter discussed at the closed meeting, the details of the discussion of the matter, and the outcome of the discussion, are not to be recorded in the minutes of that part of the meeting that is open to the public unless the council, or council committee, determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

GENERAL MANAGEMENT

290/2019 Minutes and notes of other organisations and committees of the Council

The General Manager reported as follows:

“The following minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

- . Central Coast Council Audit Panel – meeting held 14 August 2019 – Audit Panel Assessment Report – Chair’s 2018 Audit Panel Performance Evaluation Report submitted for noting along with Chair’s 2018 Summary of Comments.

The minutes and notes have been provided to the Council on the condition they are kept confidential.

...

The *Local Government (Meeting Procedures) Regulations 2015* provide in respect of a matter discussed at a closed meeting –

‘34(1)(b) in relation to a matter discussed at the closed meeting –

- (i) the fact that the matter was discussed at the closed meeting; and
- (ii) a brief description of the matter so discussed –

are to be recorded in the minutes of that part of the meeting that is open to the public, but are to be recorded in a manner that does not disclose any confidential information and protects confidentiality; and

- (c) in relation to a matter discussed at the closed meeting, the details of the discussion of the matter, and the outcome of the discussion, are not to be recorded in the minutes of that part of the meeting that is open to the public unless the council, or council committee, determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

291/2019 Expressions of Interest – Tenancy Lease – Ulverstone Wharf Precinct

The General Manager reported as follows:

“A verbal report in relation to the Expressions of Interest – Tenancy Lease – Ulverstone Wharf Precinct was provided at the meeting, this was to provide Councillors with an update as to the current status of the process and clarify the next stages.

...

The *Local Government (Meeting Procedures) Regulations 2015* provide in respect of a matter discussed at a closed meeting –

- ‘34(1)(b) in relation to a matter discussed at the closed meeting –
 - (i) the fact that the matter was discussed at the closed meeting; and
 - (ii) a brief description of the matter so discussed –

are to be recorded in the minutes of that part of the meeting that is open to the public, but are to be recorded in a manner that does not disclose any confidential information and protects confidentiality; and
- (c) in relation to a matter discussed at the closed meeting, the details of the discussion of the matter, and the outcome of the discussion, are not to be recorded in the minutes of that part of the meeting that is open to the public unless the council, or council committee, determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

There being no further business, the Mayor declared the meeting closed at 7.17pm.

CONFIRMED THIS 21ST DAY OF OCTOBER 2019.

Chairperson

(lb:Imm)

Appendices

- Minute No. 270/2019 – Outdoor Dining Policy – September 2019
- Minute No. 271/2019 – Schedule of Correspondence addressed to the Mayor and Councillors
- Minute No. 272/2019 – Schedule of Documents for Affixing of the Common Seal
- Minute No. 273/2019 – Schedule of Contracts & Agreements
- Minute No. 274/2019 – Schedule of Statutory Determinations
- Minute No. 276/2019 – Enforcement Policy – September 2019
- Minute No. 278/2019 – TasWater Submission to Planning Authority;
Statement of Compliance
109 Reibey Street, Ulverstone
Application No. DA2019024
- Minute No. 280/2019 – Statement of Compliance (subdivision); Statement of Compliance (dwelling)
257 Penguin Road, West Ulverstone
Application No. DA2018294
- Minute No. 282/2019 – TasWater Submission to Planning Authority;
Statement of Compliance
CT252413/1 Clara Street, West Ulverstone
Application No. DA2019030

QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* (the Act), Section 65 provides as follows:

- “(1) A general manager must ensure that any advice, information or recommendation given to the council or a council committee is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.
- (2) A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless –
 - (a) the general manager certifies, in writing –
 - (i) that such advice was obtained; and
 - (ii) that the general manager took the advice into account in providing general advice to the council or council committee; and
 - (b) a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council or council committee with the general manager's certificate.”

In accordance with Section 65 of the Act, I certify:

- (i) that the reports within the Council minutes contain advice, information and recommendations given by persons who have the qualifications and experience necessary to give such advice, information or recommendation;
- (ii) where any advice is directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account another person's general advice who is appropriately qualified or experienced; and
- (iii) that copies of advice received from an appropriately qualified or experienced professional have been provided to the Council.



Sandra Ayton
GENERAL MANAGER

Associated Reports And Documents



Central Coast Council

Outdoor Dining Policy

September 2019

Table of Contents

POLICY	3
PURPOSE	3
STRATEGIC ALIGNMENT	3
STANDARD (INCLUDING RELEVANT LEGISLATION)	3
REVIEW	4
RESPONSIBILITIES	4
SCOPE	4
GENERAL PRINCIPLES	5
SAFETY	5
LOCATION	5
ENCLOSURES AND PERMANENT STRUCTURES	6
REMOVABLE UMBRELLAS	6
CIRCULATION, SAFETY & CONVENIENCE	6
ENERGY ABSORBING BOLLARDS	7
GAS HEATERS	7
CLEANING	7
LIGHTING	7
DEVELOPMENT APPROVAL	7
CHANGES TO THE ROAD RESERVE	7
HOW TO APPLY FOR A PERMIT	8
APPROVAL PROCESS	8
FEES	8
PERMIT PERIOD, RENEWAL AND CANCELLATION	8
REVIEW	8

PUBLIC LIABILITY INSURANCE	8
INDEMNITY	9
SITE PLAN/SEATING LAYOUT	9
SECTIONS/ELEVATIONS	9
OUTDOOR FURNITURE	9
ENFORCEMENT	11

POLICY

The Outdoor Dining Policy applies to all Council Highways including both roadway and footpath reserves under the ownership or management of the Council, which would ordinarily be used by the public for pedestrian movements or recreation across the Central Coast Council municipal area.

PURPOSE

To manage the competing needs and interests of pedestrians and business owners by allowing outdoor dining in a manner that supports the business, is safe and hygienic, and does not promote the creation of nuisance or adversely affect pedestrian traffic.

This Policy governs:

- . the location, size, materials and colour of furniture placed for the purpose of outdoor dining;
- . advertising logos or signs allowable on furniture used for outdoor dining;
- . the use of umbrellas in conjunction with outdoor dining; and
- . risk management procedures to be adopted by the owners of commercial premises who are granted Outdoor Dining Permits.

STRATEGIC ALIGNMENT

The Outdoor Dining Policy is aligned with the following objectives that are included within the Central Coast Strategic Plan 2014 – 2024:

- . Provide for a diverse range of movement patterns, by developing a sense of place within our central business districts;
- . Connect the people with services by identifying opportunities to improve social outcomes/community benefit through the Council's policy/processes;
- . Facilitate entrepreneurship in the business community by identifying opportunities to attract highway traffic into towns and rural areas; and
- . Improve service provision, by continuing program of business unit service and process reviews.

STANDARD (INCLUDING RELEVANT LEGISLATION)

The Outdoor Dining Policy is developed in accordance with organisational, legislative and other related documents, specifically:

- . Local Government (Highways) Act 1982;
- . Work Health and Safety Regulations 2012,
- . Public Health Act 1997,

- . Food Act 2003,
- . Building Act 2016,
- . Disability Discrimination Act 1992, and
- . Relevant Australian Standards

REVIEW

This Policy will be reviewed every three years by the Council, unless organisational and legislative changes require more frequent modifications.

RESPONSIBILITIES

Monitoring adherence to this Policy is the responsibility of the Director Community Services.

The registering of premises under the *Food Act 2003* is the responsibility of the Environmental Health Officer.

SCOPE

Outdoor dining is defined as the use of the public footpath and road reserve for the purpose of extending the services of premises whose main function is for the provision of food and beverages to the public. Such premises include restaurants, cafes, hotels, delicatessens and other food outlets. Outdoor dining should be directly associated with the business and should only operate when those premises are open for business.

Outdoor dining should relate to, be sensitive towards; and enhance existing urban character, heritage and street values.

To facilitate outdoor dining, the Council has a process of issuing Permits to such businesses to use part of the public space in front of their premises. The Council must however; also consider other competing uses of footpaths which are primarily the property, refuge and transit lanes of pedestrians. The issuing of a Permit for private use, such as outdoor dining, does not grant exclusive rights over the relevant public space and cannot exclude the general public from it.

The most important local conditions to be considered in locating outdoor dining are pedestrian and vehicular circulation, convenience and safety of patrons and the general public, existing streetscape elements and amenity in residential areas.

Outdoor dining may be allowed when the Council does not require space for public street furniture such as seats, bins etc. Outdoor dining applications will be considered on their individual merits and assessed against the Policy. Proposed outdoor dining locations may require the installation of Energy Absorbing Bollards (EABs) if the site is deemed to be an unsuitable (unsafe) location without them.

The ground surface must be suitably constructed and sufficiently level to support a proper layout and safe use of the required furniture and associated circulation areas. To achieve this, only minor structures or changes in the footpath will be Permitted such as fixing of umbrellas and markers for dining areas.

Only that part of the footpath/roadway directly in front of the ground floor of a business may be used for outdoor dining. The area may not normally extend to the area in front of neighbouring properties, unless permission from the adjoining landowner or tenant has been provided.

GENERAL PRINCIPLES

SAFETY

As safety is of major importance for both pedestrians and patrons, outdoor dining is required to:

- be located in an area that is considered safe for patrons and avoid locations that are deemed unsuitable;
- meet the clearances and setbacks specified in this Policy;
- ensure wheelchair access to pedestrian ramps (pram ramps) is not compromised;
- ensure the safety of adjoining buildings is not compromised by restricting access or adding unreasonably to fire potential;
- not obstruct pedestrian flow; and
- clean up any spills immediately to prevent any risk to patrons or other pedestrians.

For outdoor dining areas to be approved, applicants will need to meet requirements for public access and circulation including for people with disabilities and diner safety.

EABs may be required at outdoor dining locations that would otherwise be considered unsuitable for the purpose based on local traffic conditions. Requirements for EABs in outdoor dining locations are to be assessed on a case by case basis but are likely to be required at sites which:

- have been associated with loss-of-control crashes, i.e. where vehicles have had an historical tendency to leave the roadway; or
- have inherent or special risk factors for crashes, e.g. unusual cross-fall, steep longitudinal grade, or sites situated on the outside of road curves of radius less than 40 metres.

LOCATION

Outdoor dining is only permissible when associated with existing or proposed premises whose core function is to provide food and beverages for the public, such as cafes, restaurants, hotels and delicatessens. An outdoor dining area must generally be located along the kerb and allow a clear movement path along the building frontage and set back from intersections of streets.

ENCLOSURES AND PERMANENT STRUCTURES

For the purpose of this Policy, enclosures are defined as vertical structures positioned to enclose an outdoor dining area and include plastic, canvas or glass screens. Permanent structures include fixed umbrellas, sails, awnings, or structures such as gazebos and permanent canopies.

Complete enclosure of an outdoor dining area is not Permitted. Permanent structures and enclosure on three sides, with the side facing the footpath left open, will only be considered where appropriate shelter cannot be ensured by other means such as verandas, street trees or removable umbrellas.

REMOVABLE UMBRELLAS

Removable umbrellas may be used to provide shade from sun, and shelter from wind and rain. They should be used only where existing shelter (such as verandas, canopies or trees) is inadequate. Umbrellas must be removable but properly secured to prevent blowing over in strong winds etc. Footings for umbrellas must be designed and constructed so as not to pose a hazard in the footpath after removal of the umbrella.

CIRCULATION, SAFETY & CONVENIENCE

Due to disability access requirements, where practical, the preferred location for footpath seating is away from the building edge, that is close to the kerb. This allows for continuous easy movement of pedestrians along the footpath, and browsing in shop windows, entry into shops, and ease of movement for people with vision impairment or other disabilities. All seating located close to the kerb must be at least 0.8 metres from the kerb edge to provide a safety buffer from vehicles.

It is recognised, however, that within the Central Coast municipal area, the width of certain streets within the central business districts of Ulverstone and Penguin (refer Appendix 1) and the current placement of signage and trade goods on the footpath does not allow for the placement of dining tables and chairs against the kerb.

In all locations, a clear distance of at least 1.8 metres must be maintained adjacent to the seating area for pedestrian circulation, exclusive of any obstruction or street fixture, e.g. bench, tree, rubbish bin, pole. In otherwise favourable locations minor modifications of the nominated clearances may be appropriate with written approval from the Council.

At street intersections, a setback of at least 2 metres must be maintained adjacent to the seating area for pedestrian circulation, exclusive of any obstruction or street fixture.

Seating may not be located next to building edge and kerbside at the same time. Seating may not be located in the middle of the footpath.

If the business or premises is located adjacent to a defined disabled parking space, a clearance of 1.5 metres from the kerb must be maintained to allow access for wheelchairs.

Services such as sewers, electricity and road signs/signals should not be obstructed by permanent structures such as umbrellas. Removable tables and chairs are Permitted on top of underground services

ENERGY ABSORBING BOLLARDS

If it is determined that additional safety protection is required for an outdoor dining area, the Council will nominate specific EABs that are designed to have a maximum crumpling force of 30G at 60km/h on decelerating vehicles (and their occupants). The spacing of bollards should provide adequate protection of outdoor dining areas from out-of control vehicles. Spacing of 1.2 metres is considered to provide adequate protection. The Permit holder will arrange and pay the cost of the supply and installation of the bollards.

GAS HEATERS

Gas heaters may be located within the outdoor dining area, to provide additional comfort for patrons, but must not be placed where they may pose a safety or fire hazard and must be removed outside trading hours.

CLEANING

Permit holders are required to take full responsibility for the care, appearance and maintenance of the Permitted outdoor dining area. Hygiene is essential, including the clearing and cleaning of tables quickly after patrons have departed and cleaning up of any litter. Permit holders are responsible for cleaning furniture, and the footpath in the Permitted area. Regular sweeping is required and no waste material, including sweepings, are to be disposed of into the gutter.

LIGHTING

Adequate lighting must be provided where outdoor dining occurs outside daylight hours. It is the Permit holder's responsibility to provide additional lighting to that already on the street, if necessary and to relevant Council and legislative requirements.

DEVELOPMENT APPROVAL

In some instances, outdoor dining may represent “development” under the Council’s Planning Scheme or the *Building Act 2016*, and thereby in addition to the Permit, require Development Approval. Items that require Development Approval are those defined as “building work” including fixed screens, full height enclosures e.g. plastic screens, permanent structures e.g. shade structures, and signage. If Development Approval is required additional fees and timelines apply.

CHANGES TO THE ROAD RESERVE

In some instances, an applicant may want to propose changes to the road reserve to accommodate or improve outdoor dining activity, such as widening of the footpath or relocation of existing public infrastructure. The Policy generally supports such changes for outdoor dining purposes, and any such application will be considered on its merits. All costs associated with changes to the road reserve by request of the applicant are to be borne by the applicant.

HOW TO APPLY FOR A PERMIT

Applications must be submitted in writing and provide all details of the proposed outdoor dining area necessary to show compliance with this Policy. This is to include a sketch showing all of the necessary clearances relevant to the outdoor dining site.

APPROVAL PROCESS

The power to issue an Outdoor Dining Permit is delegated to the General Manager, however, applications at major variance to the Policy require a Council decision, prior to the issuance of a Permit. At the General Manager's discretion, the proposal including the application and supporting details provided, may be publicised and made available for public comment. Should adverse written comment be received then the Council may make a decision on the application after consideration of all comments received.

Approval is required for any alterations to an existing Outdoor Dining Permit. Minor changes will be added to the existing Permit. Where significant changes are proposed, a new application is required.

FEES

The use of a public footpath or road reserve as an outdoor dining area attracts an annual Permit fee of \$100.00 as set out in the Council's Fees and Charges. The Council reviews the Fees and Charges on an annual basis. Where development approval is required other application fees may also apply.

PERMIT PERIOD, RENEWAL AND CANCELLATION

An Outdoor Dining Permit is valid for up to five years subject to timely payment of the annual fee and production at the same time of evidence of adequate public risk insurance cover. A Permit may be renewed for a further term at the discretion of the Council depending upon the level of compliance with Permit conditions during the initial period of the Permit.

REVIEW

A Permit may be cancelled or amended if:

- The proprietor fails to comply with the Permit conditions;
- There are changed conditions affecting the outdoor dining area in its particular location, such as increased risk to health or safety; or
- Other valid reasons such as streetscape upgrades or refurbishment.

PUBLIC LIABILITY INSURANCE

Permit holders must take out and keep current, a public risk insurance policy noting specifically the interest of the Council as an insured party. The Policy must insure for the amount of at least \$20,000,000.00 and must cover injury, loss or damage to persons or property arising out of the activity carried out under this Permit or the granting of this

Permit by the Council. A Certificate of Currency for the policy must accompany payment of the annual fee for the Outdoor Dining Permit.

INDEMNITY

The Permit holder agrees to indemnify and keep indemnified and to hold harmless the Council, its servants and agents and each of them from and against all actions, cost, claims, charges, expenses and damages whatsoever which may be brought or made or claimed against the Council or the Permit holder or both arising out of or in relation to the granting of the Permit.

SUPPORTING DOCUMENTATION AND PLANS

The following information is required for all applications.

SITE PLAN/SEATING LAYOUT

- Where the outdoor dining area is situated on the site in relation to all site boundaries and adjoining buildings or businesses;
- Location of surrounding buildings and their uses;
- Any existing and/or proposed car parking spaces or driveways within the immediate area, including any on-street parking in front of the dining area;
- The boundaries of the proposed dining area and distances from the building frontage as well as the kerb line of the street;
- Building line of the business and buildings/businesses on either side, together with distances to any existing street furniture, litter bins, street trees, light poles or any other permanent structure within 2 metres either side of the building line of the business; and
- Proposed size and position of all tables, chairs, umbrellas (or shade structures), or bollards.

SECTIONS/ELEVATIONS

- A section/elevation through the site including heights of any proposed shade structures, bollards etc in relation to business frontage and awnings; and
- A section of the proposed system to secure any shade proposed umbrellas/apparatus etc.

OUTDOOR FURNITURE

- Manufacturer's details/specifications of the proposed furniture to be used, i.e. tables, chairs, umbrellas, bollards etc.;
- Full details of the size and colour/finishes, etc.; and

- Proposed shop names or logos which are to be included on any furniture or as part of the umbrella design.

No outdoor dining use in the public right-of-way may be approved unless all of the following development and operational standards are met:

- 1 No outdoor dining use, other than that authorised by the Council, may be approved for a proposed use in a street or public area.
- 2 To provide for adequate pedestrian circulation, outdoor dining uses in the public right-of-way shall maintain a minimum of 1.8 metres of clearance between dining furnishings and any kerb line, street furniture or above ground utilities. A minimum of four radial metres of clearance, shall be maintained between dining furnishings and merchandise displays and the centre line of intersecting perpendicular driveways, alleys or streets to provide for adequate vehicle sight, unless a lesser distance is determined by the Director Infrastructure Services, to be adequate for the protection of public safety.
- 3 Outdoor dining uses in the public right-of-way shall not be required to provide any additional parking spaces for their outdoor area.
- 4 Tables and chairs used for outdoor dining shall be of substantial materials. Low grade plastic tables and chairs intended for domestic use are not Permitted. All such furnishings shall be stored indoors after hours of operation.
- 5 In addition to whatever signage may be permitted for the dining establishment use, and notwithstanding any provisions of the Planning Scheme to the contrary, one portable sign (no more than one square metre in area), such as a menu board/chalk board or a board sign shall be permitted provided that the sign is attractively designed, maintains adequate pedestrian and vehicle sight clearance per Item 2 of this section, does not block the visibility of display windows or signage of any adjacent business, is stored indoors after hours of operation. Additional signage on umbrellas may also be Permitted. The Director Community Services shall have design review authority for signs used in conjunction with outdoor dining uses and shall carry out such design review authority in conjunction with the overall review of the outdoor dining use.
- 6 No outdoor dining use in the public right-of-way, including furnishings and signs, shall block visibility of display windows or signage of adjacent businesses, unless written consent of any affected adjacent business owner to block visibility is obtained by the applicant and provided to the Director Community Services.
- 7 The outdoor dining use operator shall maintain the outdoor dining or merchandise area in a clean and safe condition at all times, including properly disposing of all rubbish generated by the operation.
- 8 The outdoor dining use operator shall provide an executed hold harmless waiver and proof of liability insurance to the satisfaction of the Council.

- 9 Applications for an outdoor dining use in the public right-of-way shall be filed by the operator of the use, or by an agent, trustee or attorney for the operator.
- 10 Smoking is not Permitted in outdoor dining areas.
- 11 Appropriate noise levels are contained by any background or piped music played via speakers located outside of the premises.

ENFORCEMENT

The following enforcement procedures will be adopted by the Council should a Permit holder/operator of an outdoor dining area on public land –

- . breach the Permit conditions and/or operate an outdoor dining area with an expired Permit; or
- . operate a new outdoor dining area without a Permit being issued; or
- . continually breach the Permit conditions relating to the operation of the outdoor dining area.

The basic enforcement procedures adopted by the Council include:

- 1 issue of a verbal warning. Details are documented in the relevant file and/or action request;
- 2 failing compliance with the verbal warning, a written “Notice to Comply” will be issued requiring the person to stop the contravention either by –
 - (a) taking specified action within a specified time to remedy the contravention; or
 - (b) undertaking immediate action to remedy a contravention if it is necessary to avoid risks to public safety.
- 3 Failing compliance with the “Notice to Comply”, a “Notice to Remove within 14 days” will be issued in accordance with Section 52 of the Local Government (Highways) Act 1982.
- 4 Failing compliance with the “Notice to Remove”, the Council will arrange for the removal of all those items involved that remain within the public right-of-way, at the expense of the Permit holder.

APPENDIX 1
CBD FOOTPATH WIDTHS

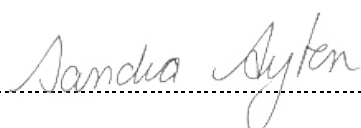
STREET	FROM	TO	LOCATION	L PATH WIDTH	R PATH WIDTH
REIBEY STREET	0.01	0.08	CRESCENT STREET END	3.5	3.5
REIBEY STREET	0.08	0.11	FOOTPATH EXTENSIONS	6.5	6.5
REIBEY STREET	0.11	0.20	JUST WEST OF KING EDWARD ST	3.5	3.5
REIBEY STREET	0.20	0.22	KING EDWARD STREET	3.6	3.4
REIBEY STREET	0.22	0.32	KING EDWARD TO VICTORIA ST	3.7	3.4
REIBEY STREET	0.32	0.33	VICTORIA STREET	3.4	3.5
REIBEY STREET	0.33	0.34	VICTORIA STREET	3.4	3.8
REIBEY STREET	0.34	0.52	VICTORIA ST TO TOWN CLOCK	3.4	3.5

STREET	FROM	TO	LOCATION	L PATH WIDTH	R PATH WIDTH
MAIN ROAD	1.50	1.52	KENTISH STREET	2.5	3.5
MAIN ROAD	1.52	1.57	KENTISH TO DOOLEY ST	3.5	3.5
MAIN ROAD	1.57	1.59	DOOLEY STREET	3	4
MAIN ROAD	1.59	1.74	DOOLEY TO ARNOLD ST	3	4
MAIN ROAD	1.74	1.75	ARNOLD ST	3	3
MAIN ROAD	1.75	1.79	ARNOLD TO CRESCENT ST	3	3
MAIN ROAD	1.79	1.83	CRESCENT STREET	3	3
MAIN ROAD	1.83	1.87	JUST WEST OF CRESCENT ST	3	1.5
MAIN ROAD	1.87	1.89	CN LEFT PB RIGHT	3	1.5
MAIN ROAD	1.89	1.90	CN LEFT CN RIGHT	3	1.5
MAIN ROAD	1.90	1.94	PC LEFT CN RIGHT	3	1.5
MAIN ROAD	1.94	1.96	END FP RIGHT	3	1.5
MAIN ROAD	1.96	2.00	CN LEFT	3	1.5
MAIN ROAD	2.00	2.03	PC LEFT	3	1.5
MAIN ROAD	2.03	2.05	HM LEFT	2.5	1.5

Date of approval:

16/09/2019

Approved by:



Sandra Ayton
GENERAL MANAGER
September 2019

**SCHEDULE OF CORRESPONDENCE RECEIVED ADDRESSED TO
MAYOR AND COUNCILLORS**

Period: 20 August to 16 September 2019

- . Letter from the Department of Education seeking meeting to discuss the possibility of a multi court facility in Penguin
- . Invitation to Don College in relation to the Trade Training and Manufacturing Hub as proposed by University of Tasmania
- . A letter of concern regarding the ponding issues in Coles Furners car park
- . Letter requesting a response in relation to the letter that was sent in 2018, regarding the dangerous intersection at Seabreeze Avenue and Creamery Road, Sulphur Creek
- . Email regarding the Central Coast Council break free from fossil fuels campaign, asking Council to sign the petition to address the climate crisis
- . Letter requesting that the Council put forward a resolution regarding illicit drug use
- . Letter proposing that the Mayor and Councillors reconsider the rate payment process
- . Letter requesting the Council declares a climate emergency
- . Email regarding the Tasmanian Freight Equalisation Scheme – Southbound Extension announcement



Sandra Ayton
GENERAL MANAGER

**SCHEDULE OF DOCUMENTS FOR AFFIXING OF
THE COMMON SEAL**

Period: 20 August to 16 September 2019

Documents for affixing of the common seal under delegation

- . Lease Agreement
Derek and Carolyn Winzenberg and Central Coast Council
Part 10 Industrial Drive, Ulverstone – Volume 138142 Folio 1
Term of agreement: Three years from 1 August 2019
- . Adhesion Order
764 Cuprona Road, Cuprona – subdivision – two lots
Application No. DA2018316
- . Amendment to Sealed Plan
10 Export Drive, Ulverstone
Removal of sewerage easement from CT162041/2
Application No. DA2018253
- . Final Plan of Survey
Overall Street, Sulphur Creek – subdivision – two lots
Application No. DA2018123-1
- . Final Plan of Survey
Pengana Heights, Penguin – subdivision – lots 10,21,44,57,58 and 59
SUB2003.20
- . Part 5 Agreement under s.71 of Land Use Planning and Approvals Act 1993
10 Southern Cross Drive, Ulverstone
Application No. DA2018193



Sandra Ayton
GENERAL MANAGER

SCHEDULE OF CONTRACTS AND AGREEMENTS

(Other than those approved under the Common Seal)

Period: 20 August to 16 September 2019

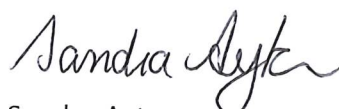
Contracts

- . Contract No. 1/2019–2020
Irrigation Tasmania
Design and construction of underground irrigation system at Ulverstone Recreation Ground
Net Price \$163,800.00 (incl. contingency and GST)
- . Contract No. 3/2019–2020
Allight Sykes
Manufacture and supply to Ulverstone of standby generating set as per quotation documents dated 19 August 2019 (QUO-11436-K9F747-0)
Net Price \$43,505.00 (incl. GST)
- . Inspiring Place
Ulverstone Showground Master Plan Project Brief
Net Price \$24,995.00 (plus GST)

Agreements

- . Event Agreement
Central Coast Council and the National Basketball League
Play two games of the 2019 NBL Blitz at the Ulverstone Sports & Leisure Centre
- . Deed of Variation to Grant Agreement
Department of Industry, Innovation and Science and Central Coast Council
Building Better Regions Fund Infrastructure Projects Stream Round 2
BBRF65633
Construction of the Ulverstone Museum and Art Gallery complex
Variations to Clauses C and E – duration of the grant and reporting
Variation to supplementary terms ST2.1 and ST2.2 – activity budget table and annual capped amounts
- . Master Rental Agreement
Commonwealth Bank of Australia and Central Coast Council
Schedule No. CTLCC01
Supply and maintenance of Ricoh Multifunctional Devices
Term of Agreement – 15 August 2019 to 15 August 2023

- . Residence Agreement
Unit 2 Ganesway, 51–55 Queen Street, West Ulverstone
- . Lease Agreement
Central Coast Council and Lions Club of Ulverstone Inc.
Clubrooms – Ulverstone Showground
Agreement for five years commencing 1 July 2019
- . Licence Agreement
Ulverstone Rodeo Committee and Central Coast Council
Use of Batten Park
Licence for one year commencing 1 July 2019
- . Agreement
Central Coast Council and Aurora Energy Pty Ltd
Contestable Unmetered Public Street Lighting
Agreement period: 1 July 2019 to 30 June 2022
- . Lease Agreement
Rear building at 10 Industrial Drive, Ulverstone
\$20,500.00 per annum
Agreement for three years commencing on 1 August 2019
- . APH Tenancy Agreement
Unit 9 Cooida
35–37 Main Street, Ulverstone
- . Lease Agreement
Central Coast Council and AFL Tasmania
Meeting area and offices – Ulverstone Recreation Ground (part) –
29 Water Street, Ulverstone
Agreement for two years commencing on 1 July 2019
- . Deed of Agreement
Central Coast Council and Legislative Council
Option to extend lease agreement for period 1 July 2019 to 30 June 2025
and increase in market gross rent



Sandra Ayton
GENERAL MANAGER

Central Coast Council
List of Development Applications Determined
Period from: 1 August to 31 August 2019

Application Number Display	Address	DA Type	Proposed use	Application Date	Decision Date	Day determined	Cost of Works
DA2018037 - 1	49 Allegra Drive HEYBRIDGE,TAS,7316	Minor amendment of a Permit.	Minor Amendment – Residential (demolition of existing outbuilding and construction of a dwelling)	5/08/2019	13/08/2019	7	\$500,000.00
DA2018319	8–10 Trevor Street ULVERSTONE,TAS,7315	Discretionary	Storage (new warehouse, internal alterations, office and car parking area)	6/06/2019	8/08/2019	37	\$250,000.00
DA2018336	22 Bowman Drive PENGUIN,TAS,7316	Discretionary	Residential (dwelling and outbuilding)	19/06/2019	19/08/2019	53	\$291,000.00
DA2018339	314 Stubbs Road FORTH,TAS,7310	Discretionary	Residential (non–required dwelling)	27/06/2019	8/08/2019	31	\$200,000.00
DA2019001	19 Chamberlain Street ULVERSTONE,TAS,7315	Discretionary	Residential (retaining wall)	28/06/2019	1/08/2019	22	\$10,000.00
DA2019003	11 Wadecliff Rise ULVERSTONE,TAS,7315	Discretionary	Residential (dwelling)	1/07/2019	8/08/2019	28	\$300,000.00
DA2019006	190 Tongs Road PRESTON,TAS,7315	Discretionary	Manufacturing and processing (part of	3/07/2019	8/08/2019	28	\$500.00

Central Coast Council
List of Development Applications Determined
Period from: 1 August to 31 August 2019

			existing outbuilding) and Signage				
DA2019007	8 Ozanne Drive GAWLER,TAS,7315	Discretionary	Residential (Multiple Dwellings x two)	5/07/2019	15/08/2019	23	\$50,000.00
DA2019012	102 Eastland Drive ULVERSTONE,TAS,7315	Discretionary	Bulky Goods Sales (pylon sign)	17/07/2019	15/08/2019	21	\$10,000.00
DA2019013	10 Jesamel Place WEST ULVERSTONE,TAS,7315	Permitted	Residential (dwelling)	18/07/2019	15/08/2019	20	\$380,000.00
DA2019015	27 Overall Street SULPHUR CREEK,TAS,7316	Discretionary	Residential (dwelling and outbuilding – shed)	18/07/2019	15/08/2019	23	\$250,000.00
DA2019017	20 Stephen Street FORTH,TAS,7310	Discretionary	Residential (dwelling alterations) and retaining wall	23/07/2019	23/08/2019	24	\$50,000.00
DA2019018	20 Ozanne Drive GAWLER,TAS,7315	Permitted	Residential (outbuilding – carport)	23/07/2019	1/08/2019	3	\$4,000.00
DA2019023	516 Bass Highway HEYBRIDGE,TAS,7316	Discretionary	Residential (dwelling)	24/07/2019	22/08/2019	22	\$350,000.00
DA2019028	149 West Pine Road PENGUIN,TAS,7316	Permitted	Storage (warehouse)	26/07/2019	19/08/2019	10	\$200,000.00

Central Coast Council
List of Development Applications Determined
Period from: 1 August to 31 August 2019

DA2019032 – 1	1140 Kindred Road Kindred,TAS,7310	Minor amendment of a Permit.	Dwelling & shed	1/08/2019	13/08/2019	7	\$0.00
DA2019033	106 Hardys Road PENGUIN,TAS,7316	Permitted	Residential (outbuilding – shed)	1/08/2019	15/08/2019	2	\$10,800.00
DA2019041	20 Stephen Street FORTH,TAS,7310	Permitted	Residential (outbuilding – shed)	9/08/2019	15/08/2019	2	\$10,000.00

**SCHEDULE OF STATUTORY DETERMINATIONS
MADE UNDER DELEGATION**

Period: 1 August 2019 to 31 August 2019

Building Permits – 8

• New dwellings	5	\$1,480,086
• Outbuildings	0	\$0.00
• Additions/Alterations	1	\$756.000
• Other	2	\$2,998,000.00
• Units	0	\$0.00

Demolition Permit – 0

Permit of Substantial Compliance – Building – 1

Notifiable Work – Building – 9

• New dwellings	1	\$190,000.00
• Outbuildings	2	\$261,557.00
• Additions/Alterations	6	\$101,000.00
• Other	0	\$0.00

Building Low Risk Work – 1

Certificate of Likely Compliance – Plumbing – 9

No Permit Required – Plumbing – 7

Food Business registrations (renewals) – 15

Food Business registrations – 1

Temporary Food Business registrations – 1

Temporary 12 month Statewide Food Business Registrations – 0

Public Health Risk Activity Premises Registration – 1

Public Health Risk Activity Operator Licences – 1

Temporary Place of Assembly licences – 0



Barry Omundson
DIRECTOR COMMUNITY SERVICES

**SCHEDULE OF CORPORATE & COMMUNITY SERVICES DETERMINATIONS
MADE UNDER DELEGATION**

Period: 1 to 31 August 2019

Abatement notices issued

ADDRESS	PROPERTY ID
2 River Road, West Ulverstone	101470-0040

Kennel Licence issued

ADDRESS	OWNER
12 Finch Street, Ulverstone	Cherie Portlock

Permits issued under Animal By-law 1 – 2018

ADDRESS	PERMIT ISSUED FOR
Nil	



Barry Omundson
DIRECTOR COMMUNITY SERVICES



Central Coast Council

Enforcement Policy

September 2019

Table of Contents

<i>PREAMBLE</i>	2
<i>PURPOSE</i>	2
<i>DEFINING ENFORCEMENT</i>	2
<i>APPLICATION</i>	3
<i>PRINCIPLES OF GOOD ENFORCEMENT</i>	3
<i>AUTHORISATION OF OFFICERS</i>	4
<i>DECISION MAKING</i>	4
<i>ENFORCEMENT OPTIONS</i>	6
<i>REVIEW</i>	13

PREAMBLE

Local government is charged with legislative responsibilities which protect individuals and the community as a whole. The Central Coast Council's customers include both those on whom the law places a duty and those whom the law protects. While it is ultimately the responsibility of individuals and other bodies to comply with the law, Council staff are required to carry out activities which enforce compliance.

This Policy outlines the Council's approach to enforcement matters and provides staff with direction about the manner in which enforcement activities are to be undertaken.

In addition to enforcement, the Council carries out a range of activities to ensure compliance such as community education programs to encourage conformance.

Enforcement activities include:

- . patrolling streets and public places;
- . inspecting premises either on a routine programmed basis or on a random basis; and
- . responding to enquiries and complaints.

PURPOSE

- . To provide consistency in enforcement action in matters of non-compliance;
- . To ensure transparency, procedural fairness and natural justice principles are applied; and
- . To ensure that enforcement action is proportionate to the alleged offence in each case.

DEFINING ENFORCEMENT

The Council adopts a broad definition of "enforcement" which combines the provision of advice and assisting compliance with formal action where necessary. This is intended to encourage higher levels of voluntary compliance with legal requirements by individuals, businesses and other bodies.

Notwithstanding the above, the Council will take immediate action when required (for example to ensure public health and safety or to protect the environment) and take firm action against those who act unlawfully when circumstances warrant.

APPLICATION

This Policy applies to the Council's responsibility for administration and enforcement of legislation including, but not limited to:

- . *Local Government Act 1993*
- . *Building Act 2016*
- . *Dog Control Act 2000*
- . *Environmental Management and Pollution Control Act 1994*
- . *Food Act 2003*
- . *Land Use Planning and Approvals Act 1993*
- . *Local Government (Highways) Act 1982*
- . *Public Health Act 1997*
- . *Litter Act 2007*
- . *Road Rules 2009*
- . *Traffic Act 1925.*

PRINCIPLES OF GOOD ENFORCEMENT

Enforcement actions are taken within the context of both a legal and policy framework. Council staff will carry out their enforcement related work with due regard to the following principles.

1 Proportionality

A proportionate response means that the Council's actions will be scaled to the seriousness of the breach.

The Council recognises that most individuals want to comply with the law and will assist compliance by being open and helpful, offering informal advice and providing the chance to discuss compliance problems.

Attention will be focussed on those whose activities give rise to the most serious risks, or where potential hazards are least well controlled. Depending on the seriousness and persistence of the infringement, the Council will minimise the costs to the person or body infringing the law by enforcing the minimum action necessary to secure future compliance.

Prosecution will generally be used as a last resort, or for continuous serious offences.

2 Consistency

The Council will take a similar approach in similar cases to achieve similar outcomes.

While decisions on enforcement require the use of professional judgement and discretion to assess varying circumstances, officers will:

- . follow standard operating procedures wherever possible;
- . ensure fair, equitable and non-discriminatory treatment; and
- . record any deviation from standard operating procedures and the reasons.

3 Transparency

The Council will be open and transparent about the manner in which it undertakes enforcement activities and the laws it enforces. It will consult on and provide ready access to published standards and levels of service and performance that can be expected and be clear and open about what is expected from those on whom the law places a duty (duty holders).

In educating the community at large and dealing with duty holders, the Council will make a clear distinction between what is legally required and what is desirable but not compulsory.

Staff will be open to discussing potential and actual compliance failures, before, during, and after formal action has been taken.

When remedial action is needed the Council will explain clearly and in plain language why the action is necessary. Where practicable, it will give notice of its intent to commence formal action. Where it is not practical to give notice, the reasons why will be recorded in accordance with the Council's Records Management protocols.

4 Accountability

The Council will point out what action is required to achieve compliance and the timeframe for undertaking that action. Advice will be provided on the process for seeking a review of, or how to appeal against that decision.

AUTHORISATION OF OFFICERS

Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of the Council's policies and procedures to ensure a consistent approach to their duties. Any decision to act other than in accordance with this Policy must have approval from the relevant Director or Group Leader.

Officers are required to show their authorisations on demand or in accordance with any specific legislative requirement.

DECISION MAKING

Where non-compliance is discovered as a result of enforcement activities, options available to the Council to seek or promote compliance include:

- . explaining legal requirements and, where appropriate, the means to achieve compliance;
- . providing an opportunity to discuss points of issue where appropriate;
- . allowing reasonable timeframes to achieve compliance;
- . facilitating mediation between affected parties;
- . issuing a verbal or written warning; or
- . enforcement actions such as issuing an infringement notice, issuing an order/direction or prosecution or seizing items.

Enforcement decisions must be fair, consistent, balanced and relate to common standards that ensure the public is adequately protected. Where a decision is made not to investigate a complaint, the decision and reasons will be recorded in accordance with the Council's records management protocols and the complainant will be advised.

In coming to a decision on the most appropriate means of enforcement, the officer shall consider, amongst other relevant factors:

- . the seriousness of the offence;
- . the degree of wilfulness involved;
- . past history;
- . the consequences of non-compliance;
- . the likely effectiveness of the various enforcement options;
- . deterrence;
- . the effect on the community and other people;
- . consistency of approach to similar breaches/offences; and
- . any specific legislative requirement; for example s.200 of the *Local Government Act 1993* requires the issue of an Abatement Notice in particular circumstances.

The following factors are to be ignored when choosing an enforcement strategy:

- . any element of discrimination or bias against the person such as ethnicity, nationality, political association, religion, gender, sexuality or beliefs; and
- . possible political advantage or disadvantage to a government, person holding (or a candidate for) public office, or any political group or party.

Where a complainant is referred to an officer for investigation and he/she is aware of a personal association or relationship with the alleged offender, complainant or any other person involved:

- . an alternative person will investigate and make decisions where possible; and
- . the facts about any conflict/ relationship will be relayed to that officer's direct report by him/her and recorded in Council's record management system.

Written documentation will:

- . include all the information necessary to make clear what needs to be done to comply with legal requirements, the required time-frame, and if necessary, the reasons for these actions and potential penalties for failing to comply with the request;
- . include the legislation contravened, measures necessary to ensure compliance and the consequences of non-compliance; and
- . clearly differentiate between legal requirements and recommendations of good practice.

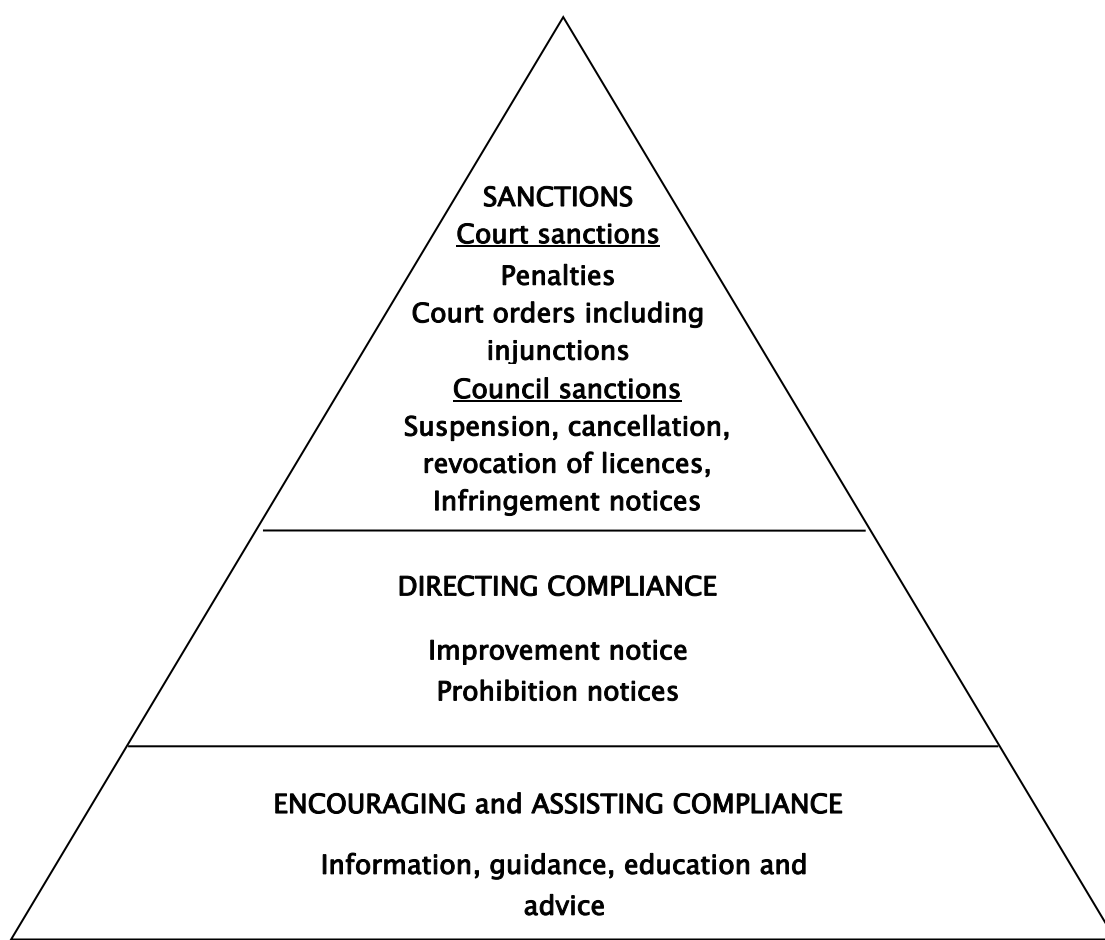
ENFORCEMENT OPTIONS

The following diagram represents, in the general sense, the relative volume or proportionate use of enforcement tools and the ability to escalate if an initial intervention does not achieve the desired outcome.

The lowest level of the pyramid involves an approach which is employed most frequently, often in combination with other tools, to assist duty holders achieve compliance. Sanctions (such as court actions) are at the top of the pyramid and are applied less frequently.

This does not mean that the Council will always commence with provision of information and advice, and only use other tools in an escalated manner.

The Council will commence their intervention using the tools that are most appropriate in the circumstances. Some tools are alternatives while others may be used in combination. Using a range of tools in the lower levels of the pyramid may often achieve compliance without needing to escalate to the more serious levels of sanctions.



1 No Action

No action will be taken when, after investigation, no breaches of the legislation are discovered.

It may also be appropriate to take no action when:

- . the complaint is frivolous, vexatious or trivial in nature;
- . there are insufficient prima facie grounds to commence an investigation;
- . another agency would be better suited to deal with the complaint;
- . the Council has no jurisdiction; or
- . taking action may prejudice other major investigations.

2 Informal Action and Warnings

Informal action to achieve compliance with legislation may include:

- . offering verbal or written advice;

- . verbal warnings and requests for action; or
- . written warnings.

Advice from officers will be put clearly and simply and will be confirmed in writing.

The circumstances in which informal action may be appropriate include:

- . the act or omission is not serious enough to warrant formal action;
- . the duty holder's past history reasonably suggests that informal action will secure compliance;
- . confidence in the individual/other body is high;
- . the consequences of non-compliance will not pose a significant risk; or
- . where informal action may prove more effective than a formal approach.

Where statutory action is not possible, but it would be beneficial in a wider public safety context to urge a particular outcome, such action will be taken by a senior officer of the Council and the reasons recorded in accordance with the Council's records management protocols. The recipient will be made aware that the requested actions are not legally enforceable.

3 Mediation

Where practical, the Council will make mediation available. Mediation is a possible alternative where, after investigation, an officer determines that the problems being complained of are incapable of resolution through other formal or informal means. The use of mediation services may also be appropriate where an aggrieved individual has no wish to pursue action to resolve a complaint by legal means.

4 Formal Action

4.1 Service of orders and directions

Various pieces of legislation specify the procedures which councils must follow, in order to:

- . advise of the intention to issue an Order;
- . invite submissions with respect to the matter;
- . order a person to do or refrain from doing a thing under specified circumstances; and/or
- . issue directions specifying how the Order may be complied with.

Orders include 'show cause' directions such as notices served under s.237 of the *Building Act 2016*. This would routinely be the first action taken for alleged offences under the *Building Act 2016*.

Other orders require persons to take action to resolve a breach, such as notices under s.200 of the *Local Government Act 1993*, orders under s.247 of the *Building Act 2016* or a notice under s.60 of the *Food Act 2003*. A notice under s.60 of the *Food Act 2003* is routinely the first formal action taken for breaches of that Act.

Council officers will use professional judgement and discretion to assess the variables relating to each matter under consideration, including the reasonableness of the actions required by an Order/direction and the timeframe to comply.

Only in circumstances such as a threat to life or immediate threat to public health or safety will an Order be made without giving notice of intention. In these circumstances immediate compliance to resolve a situation can be required.

In most cases the person receiving the Order has a right of appeal to the appropriate court if the Order is considered unreasonable. If an Order is served for which an appeal is possible, the Council will advise the recipient in writing of the right to appeal and the relevant legal provisions at the time of serving the Order.

Where there is evidence that an offence has been committed the Council may issue a notice or launch a prosecution in addition to serving an Order. This will only be done where it is determined that the conduct of the recipient justifies taking both steps.

4.2 Action in regard to a default

Failure to comply with Orders may incur further enforcement action such as service of an infringement notice or launch of a prosecution.

Where action regarding a default is provided for by legislation and the necessary work has not been carried out in the time allowed without good reason, the Council may undertake the required work. Before doing the work the Council will consider whether there is a realistic prospect that the person responsible will complete the work within a reasonable time. Where work in default is undertaken the Council will seek to recover all costs over a fair period, using all statutory means available.

The decision to carry out action in default will be made by the General Manager or delegate.

Where an offence has been committed the Council may issue a Notice or launch a prosecution in addition to taking action to fulfil an Order. This will only be done where the conduct of the recipient justifies taking such steps. Factors such as giving false information, the obstruction of Council staff and the harm or risk of harm caused by the recipient's delay will be considered in determining additional enforcement actions.

4.3 Service of an infringement notice

A person receiving a notice may be prosecuted for the alleged offence if the notice is not complied with. Hence there must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the alleged offence. In other words, there must be sufficient evidence on the face of it to enable a conclusion to be reached that there is a reasonable prospect of being able to prove an offence beyond reasonable doubt.

The following circumstances are likely to warrant a notice:

- . certain breaches of the legislation administered by the Council;
- . failure to correct an identified problem after having been given reasonable opportunity to do so by an authorised officer;
- . failure to comply with the requirements of an Order;
- . confidence in the individual/ other body is low; or
- . a warning has been given for a similar offence.

Infringement notices may be served under legislation including the *Building Act 2016*, the *Dog Control Act 2000*, the *Food Act 2003*, the *Traffic Act 1925*, the *Litter Act 2007* and the *Public Health Act 1997*. Offences under the Dog Control, Litter and Traffic Acts will routinely be dealt with initially by serving an infringement notice.

4.4 Prosecution

For the purposes of this Policy 'prosecution' includes actions in the Magistrates Court, Supreme Court or tribunals such as the Resource Management and Planning Appeals Tribunal.

A prosecution will only proceed where there is a reasonable prospect that an offence can be proved beyond reasonable doubt.

The following circumstances are likely to warrant a prosecution:

- . a flagrant breach of the law such that public health, safety and welfare have been put at risk;

- . the alleged breach is too serious or the risks too great to be dealt with by means of a notice;
- . a failure to correct an identified serious problem after having been given reasonable opportunity to do so;
- . a failure to comply with the requirements of an Order;
- . an established and recorded history of similar offences;
- . an unwillingness, on the part of the individual or other body, to prevent a recurrence of the problem; or
- . the recovery of the costs of the investigation or remedial work or financial compensation that are required by the Council or an aggrieved party.

Where circumstances warrant a prosecution all relevant evidence and information will be considered to enable a consistent, fair and objective decision to be made.

Before a prosecution is recommended there must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the offence.

A decision to prosecute must be in the public interest. In considering whether prosecution is in the public interest, the following additional factors will be considered:

- . whether the offence was premeditated;
- . the need to influence the offender's future behaviour;
- . the effect on the offender's or witness's physical or mental health, balanced against the seriousness of the offence;
- . the availability and efficacy of any alternatives to prosecution;
- . the prevalence of the alleged offence and the need for deterrence, both personal and general; and
- . the likely length, expense and outcome of a trial.

The final decision to prosecute will be made by the General Manager or delegate.

4.5 Withdrawal of action

A person who is served with formal action such as an infringement notice may apply in writing to have that action withdrawn or set aside. Any such request will be dealt with in accordance with any relevant legislative provisions. A report provided by the relevant Department will be provided to the General Manager whose decision it will be whether or not to grant the request.

5 Submitting Complaints

The Council becomes aware of unlawful activities in a variety of ways including proactive surveillance, regular patrols and complaints from members of the public.

Complaints from members of the public can be submitted to the Council in writing, verbally or electronically. In all cases the complaint will be recorded in the Council's records and/or request management systems, and referred to the relevant Council officer for any necessary investigation.

The name, address and contact details of the person submitting the complaint will be recorded. This information is critical as the Council may need to rely on evidence from the complainant to prove any offence. The complainant will be advised of any action taken or the reasons if no action is taken.

The Council will take all reasonable measures to protect the privacy of the person submitting a complaint and generally details will not be released. However, the Council may be required to disclose this information in circumstances including:

- . access to that information is permitted under relevant legislation;
- . the information is disclosed as part of legal proceedings;
- . the nature of the complaint makes it a necessity.

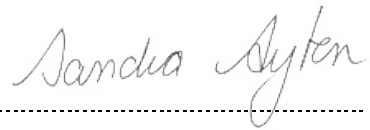
A complainant may be asked to submit a written, rather than verbal, complaint if it is necessary to establish sufficient grounds for an investigation. Anonymous complaints may not establish sufficient grounds for an investigation and will be dealt with at the discretion of the relevant Council officer.

REVIEW

This Policy will be reviewed every three years, unless organisational and legislative changes require more frequent modification.

Date of approval: 16/09/2019

Approved by:

A handwritten signature in cursive script, reading "Sandra Ayton", positioned above a horizontal dashed line.

Sandra Ayton
GENERAL MANAGER
September 2019

ANNEXURE 5



Submission to Planning Authority Notice

Council Planning Permit No.	DA2019024	Council notice date	31/07/2019
TasWater details			
TasWater Reference No.	TWDA 2019/01098-CC	Date of response	20/08/2019
TasWater Contact	Phil Papps Greg Cooper (Trade Waste)	Phone No.	(03) 6237 8246 (03) 6237 8280
Response issued to			
Council name	CENTRAL COAST COUNCIL		
Contact details	planning@centralcoast.tas.gov.au		
Development details			
Address	109 REIBEY ST, ULVERSTONE	Property ID (PID)	7520949
Description of development	Cultural Community Building		
Schedule of drawings/documents			
Prepared by	Drawing/document No.	Revision No.	Date of Issue
Artas	Site Plan / A7001-A03	A03	23/07/2019
Conditions			
<p>Pursuant to the <i>Water and Sewerage Industry Act 2008</i> (TAS) Section 56P(1) TasWater imposes the following conditions on the permit for this application:</p> <p>CONNECTIONS, METERING & BACKFLOW</p> <ol style="list-style-type: none"> 1. Prior to demolition works, water and sewer connections must be disconnected and capped on the property side of the connection to ensure contaminants do not enter TasWater's water and sewerage reticulation system. 2. A suitably sized metered water property connection must be provided to service the domestic and fire (if applicable) demands of the proposed development in accordance with TasWater standards. 3. A suitably sized sewer property connection must be utilised/provided to service the proposed development in accordance with TasWater standards. 4. Any removal/supply and installation of water meters and/or the removal of redundant and/or installation of new and modified property service connections must be carried out by TasWater at the developer's cost. <p>TRADE WASTE</p> <ol style="list-style-type: none"> 5. Prior to the commencement of operation the developer/property owner must obtain Consent to discharge Trade Waste from TasWater. 6. The developer must install appropriately sized and suitable pre-treatment devices prior to gaining Consent to discharge. 7. The Developer/property owner must comply with all TasWater conditions prescribed in the Trade Waste Consent. <p>DEVELOPMENT ASSESSMENT FEES</p> <ol style="list-style-type: none"> 8. The applicant or landowner as the case may be, must pay a development assessment fee of \$351.28 to TasWater, as approved by the Economic Regulator and the fees will be indexed, until the date paid to TasWater. The payment is required by the due date as noted on the statement when issued 			

by TasWater.

Advice

General

For information on TasWater development standards, please visit

<https://www.taswater.com.au/Development/Technical-Standards>

For application forms please visit <http://www.taswater.com.au/Development/Forms>

Service Locations

Please note that the developer is responsible for arranging to locate the existing TasWater infrastructure and clearly showing it on the drawings. Existing TasWater infrastructure may be located by a surveyor and/or a private contractor engaged at the developers cost to locate the infrastructure.

The location of TasWater infrastructure as shown on the GIS is indicative only.

- A permit is required to work within TasWater's easements or in the vicinity of its infrastructure. Further information can be obtained from TasWater
- TasWater has listed a number of service providers who can provide asset detection and location services should you require it. Visit www.taswater.com.au/Development/Service-location for a list of companies

Trade Waste

Prior to any Building and/or Plumbing work being undertaken, the applicant will need to make an application to TasWater for a Certificate for Certifiable Work (Building and/or Plumbing). The Certificate for Certifiable Work (Building and/or Plumbing) must accompany all documentation submitted to Council. Documentation must include a floor and site plan with:

- Location of all pre-treatment devices
- Schematic drawings and specification (including the size and type) of any proposed pre-treatment device and drainage design; and
- Location of an accessible sampling point in accordance with the TasWater Trade Waste Flow Meter and Sampling Specifications for sampling discharge.

At the time of submitting the Certificate for Certifiable Work (Building and/or Plumbing) a Trade Waste Application together with the General Supplement form is also required.

If the nature of the business changes or the business is sold, TasWater is required to be informed in order to review the pre-treatment assessment.

The application forms are available at <http://www.taswater.com.au/Customers/Liquid-Trade-Waste/Commercial>.

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			
Email	development@taswater.com.au	Web	www.taswater.com.au
Mail	GPO Box 1393 Hobart TAS 7001		

Annexure 4

15 August 2019

Our ref.: DA2018294, paa:kaa

Doc ID:

Mr T J Reilly
PDA Surveyors
63 Don Road
DEVONPORT TAS 7310

Dear Tom

LOCAL GOVERNMENT (HIGHWAYS) ACT 1982 AND URBAN DRAINAGE ACT 2013
STATEMENT OF COMPLIANCE FOR VEHICULAR ACCESS AND DRAINAGE ACCESS
SUBDIVISION (2 LOTS) AND DWELLING – 257 PENGUIN ROAD, WEST ULVERSTONE

I refer to your application DA2018294 for a two lot subdivision and a dwelling on Lot 1 at 257 Penguin Road, West Ulverstone and based on the information supplied with the application make the following determination in respect to vehicular access and stormwater disposal.

Access can be provided to the road network at 257 Penguin Road, West Ulverstone, subject to the following:

- R1 The existing access located on the Penguin Road frontage may be used as access to Lot 2 (existing house lot);
- R2 A new 3.6 metre wide access may be located at the western end of the Penguin Road frontage as access to Lot 1 (created vacant lot);
- R3 The existing access must be reconstructed (3.6 metres wide) and upgraded (sealed) in accordance with Tasmanian Standard Drawings TSD-R03-v1 Rural Roads – Typical Property Access and TSD-R04-v1 Rural Roads – Typical Driveway Profile (copies enclosed);
- R4 The new access must be constructed in accordance with Tasmanian Standard Drawings TSD-R03-v1 Rural Roads – Typical Property Access and TSD-R04-v1 Rural Roads – Typical Driveway Profile;
- R5 A separate conditioned approval (Road Reserve Permit) from the Council acting in its capacity as the Road Authority will be required for any works or activity in the road reservation, and must be arranged prior to any work associated with the development being undertaken. Please contact the Council's Public Safety Officer on tel. 0419 103 887;
- R6 The set-out of each access must be inspected by the Council's Public Safety Officer at least 24 hours prior to any asphalt or concrete placement;

- R7 The set-out of each access must be approved for construction by the Council's Public Safety Officer prior to asphalt or concrete placement;
- R8 A PDA representative, or suitably qualified person must certify that the access works have been completed in accordance with Tasmanian Standard Drawings TSD-R03-v1 Rural Roads – Typical Property Access and TSD-R04-v1 Rural Roads – Typical Driveway Profile;
- R9 Adequate sight lines must be maintained on either side of any access, which may involve the periodic attendance to roadside vegetation and verge;
- R10 Any work associated with roads, road verges, or roadside vegetation will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Infrastructure Services or his representative;
- R11 Any damage or disturbance to roads, roads, road verges, roadside vegetation or other services and infrastructure resulting from activity associated with the development must be rectified;
- R12 All works or activity listed above shall be completed to the satisfaction of the Council's Director Infrastructure Services or his representative;
- R13 All works or activity listed above shall be at the property owner's cost.

Access cannot be provided to a Council stormwater network for the development at 257 Penguin Road, West Ulverstone. The disposal of concentrated stormwater drainage from any buildings and hard surfaces on each lot should be contained on-site and be dealt with by in-ground absorption on each lot to the satisfaction of the Council's Regulatory Services Group Leader or his representative.

This 'Statement of Compliance' is not an approval to work on any access or work in the road reservation, nor is it a planning permit for the development. This 'Statement of Compliance' is valid for a period of 2 years from the date of this letter.

A copy of this 'Statement of Compliance' has been provided to the Council's Land Use Planning Group for consideration with planning permit application DA2018294.

Please contact Council's Environmental Engineer, Philip Adams, on tel. 6429 8977 should you have any further enquires.

Yours sincerely

John Kersnovski
DIRECTOR INFRASTRUCTURE SERVICES

Encl.

Administrative Assistant – Planning
Public Safety Officer
Services Group Leader

T Reid
PO Box 246
WEST ULVERSTONE TAS 7315
A COPY FOR YOUR INFORMATION

Submission to Planning Authority Notice

Council Planning Permit No.	DA2019030	Council notice date	12/08/2019
TasWater details			
TasWater Reference No.	TWDA 2019/01161-CC		Date of response
TasWater Contact	Phil Papps	Phone No.	(03) 6237 8246
Response issued to			
Council name	CENTRAL COAST COUNCIL		
Contact details	planning@centralcoast.tas.gov.au		
Development details			
Address	CLARA ST, WEST ULVERSTONE	Property ID (PID)	6958703
Description of development	Subdivision - 3 lots		
Schedule of drawings/documents			
Prepared by	Drawing/document No.	Revision No.	Date of Issue
PDA	Plan of Subdivision / 40104	A	18/07/2019
Conditions			
<p>Pursuant to the <i>Water and Sewerage Industry Act 2008 (TAS)</i> Section 56P(1) TasWater imposes the following conditions on the permit for this application:</p> <p>CONNECTIONS, METERING & BACKFLOW</p> <ol style="list-style-type: none"> 1. A suitably sized water supply with metered connections / sewerage system and connections to each lot of the development must be designed and constructed to TasWater's satisfaction and be in accordance with any other conditions in this permit. 2. Any removal/supply and installation of water meters and/or the removal of redundant and/or installation of new and modified property service connections must be carried out by TasWater at the developer's cost. <p>FINAL PLANS, EASEMENTS & ENDORSEMENTS</p> <ol style="list-style-type: none"> 3. Prior to the Sealing of the Final Plan of Survey, a Consent to Register a Legal Document must be obtained from TasWater as evidence of compliance with these conditions when application for sealing is made. <i>Advice: Council will refer the Final Plan of Survey to TasWater requesting Consent to Register a Legal Document be issued directly to them on behalf of the applicant.</i> <p>DEVELOPMENT ASSESSMENT FEES</p> <ol style="list-style-type: none"> 4. The applicant or landowner as the case may be, must pay a development assessment fee to TasWater, as approved by the Economic Regulator and the fees will be indexed, until the date they are paid to TasWater, as follows: <ol style="list-style-type: none"> a. \$351.28 for development assessment; and b. \$149.20 for Consent to Register a Legal Document <p>The payment is required by the due date as noted on the statement when issued by TasWater.</p> 			

Advice

General

For information on TasWater development standards, please visit

<https://www.taswater.com.au/Development/Technical-Standards>

For application forms please visit <http://www.taswater.com.au/Development/Forms>

Service Locations

Please note that the developer is responsible for arranging to locate the existing TasWater infrastructure and clearly showing it on the drawings. Existing TasWater infrastructure may be located by a surveyor and/or a private contractor engaged at the developers cost to locate the infrastructure.

The location of TasWater infrastructure as shown on the GIS is indicative only.

- A permit is required to work within TasWater's easements or in the vicinity of its infrastructure. Further information can be obtained from TasWater
- TasWater has listed a number of service providers who can provide asset detection and location services should you require it. Visit www.taswater.com.au/Development/Service-location for a list of companies
- TasWater will locate residential water stop taps free of charge
- Sewer drainage plans or Inspection Openings (IO) for residential properties are available from your local council.

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

Email	development@taswater.com.au	Web	www.taswater.com.au
Mail	GPO Box 1393 Hobart TAS 7001		