
Minutes of a special meeting of the Central Coast Council held via Zoom (electronic conferencing) on Monday, 25 May 2020 commencing at 6.00pm.

Councillors attendance

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| Cr Jan Bonde (Mayor) | Cr John Beswick |
| Cr Garry Carpenter (Deputy Mayor) | Cr Cheryl Fuller |
| Cr Casey Hiscutt | Cr Tony van Rooyen |
| Cr Philip Viney | |

Councillors apologies

Cr Amanda Diprose
Cr Annette Overton

Employees attendance

General Manager (Ms Sandra Ayton)
Director Infrastructure Services (Mr Paul Breaden)
Director Organisational Services (Mr Ian Stoneman)
Strategic Projects and Planning Consultant (Mr Paul West)
Land Use Planning Group Leader (Ms Mary-Ann Edwards)
Executive Services Officer (Mrs Lou Brooke)

Media attendance

Due to COVID-19 restrictions, media representatives were not able to attend the meeting.

Public attendance

Due to COVID-19 restrictions, the public were not able to attend the meeting.

Prayer

The meeting opened in prayer.

MAYOR'S COMMUNICATIONS

162/2020 Authority for special meeting

The Mayor reported as follows:

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

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

Carried unanimously

163/2020 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 reported as follows:

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

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

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

No interests were declared at this time.

DEPARTMENTAL BUSINESS

COMMUNITY SERVICES

164/2020 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 165,166,167, 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 Hiscutt moved and Cr Carpenter seconded, “That the Mayor’s report be received.”

Carried unanimously

165/2020 Residential (demolition of an outbuilding and covered outdoor area and construction of multiple dwellings x eight – 10 dwellings in total) – variation to the rear boundary setback standard, location of waste storage area for Unit 1 and reliant on access over a right-of-way over land as the means of access to other land at 24 & 26 William Street, Ulverstone – Application No. DA2019142

The Strategic Projects and Planning Consultant reported as follows:

“The Town Planner has prepared the following report:

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| <i>‘DEVELOPMENT APPLICATION No.:’</i> | DA2019142 |
| <i>PROPOSAL:</i> | Residential (demolition of an outbuilding and covered outdoor area and construction of multiple dwellings x eight – 10 dwellings in total) – variation to the rear boundary setback standard, location of waste storage area for Unit 1 and reliant on access over a right-of-way over land as the means of access to other land |
| <i>APPLICANT:</i> | Malbey Mendoza Pty Ltd as trustee for Malbey Mendoza Trust |
| <i>LOCATION:</i> | 24 & 26 William Street, Ulverstone |
| <i>ZONE:</i> | General Residential |
| <i>PLANNING INSTRUMENT:</i> | <i>Central Coast Interim Planning Scheme 2013</i> (the Planning Scheme) |
| <i>ADVERTISED:</i> | 22 April 2020 |
| <i>REPRESENTATIONS EXPIRY DATE:</i> | 6 May 2020 |
| <i>REPRESENTATIONS RECEIVED:</i> | Six |
| <i>42-DAY EXPIRY DATE:</i> | 28 May 2020 |
| <i>DECISION DUE:</i> | 25 May 2020 |

PURPOSE

The purpose of this report is to consider an application for the demolition of an outbuilding and covered outdoor area at 24 William Street, Ulverstone to allow the construction of four multiple dwellings combined with another four multiple dwellings at 26 William Street. Eight new dwellings are to be constructed with a total of 10 multiple dwellings across 24 & 26 William Street, Ulverstone (both existing dwellings are to remain).

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representations;
- . Annexure 4 – photographs;
- . Annexure 5 – TasWater Submission to Planning Authority Notice; and
- . Annexure 6 – Statement of Compliance for Vehicular Access and Drainage Access.

BACKGROUND

Development description –

Application is made for the demolition of an outbuilding and covered outdoor area and construction of multiple dwellings x eight – resulting in 10 dwellings in total over two parcels of land, known as 24 & 26 William Street, Ulverstone.

24 William Street, Ulverstone –

- . Demolish outbuilding attached to existing dwelling.
- . Demolish covered outdoor area to the rear of the existing dwelling.
- . Construct four multiple dwellings on the site (shown as Units 1, 2, 3 and 4 on the site plan), one to the front and three to the rear of the existing dwelling.
- . All dwellings on this property to comprise three bedrooms (main with ensuite), open plan kitchen/dining/living area, bathroom and an attached single garage.
- . Unit 1 would have a paved patio to the front of the dwelling with Units 2, 3 and 4 to have an attached north facing deck.
- . Each dwelling would have a dedicated car parking space directly adjoining the unit.
- . Existing dwelling would have provision for two car parking spaces directly adjoining the dwelling.

26 William Street, Ulverstone –

- . Construct four multiple dwellings on the site (shown as Units 5, 6, 7 and 8 on the site plan), one to the front and three to the rear of the existing dwelling.
- . All dwellings on this property to comprise two bedrooms (main with ensuite), open plan kitchen/dining/living area, bathroom and an attached single garage.
- . Unit 5 would have a paved patio to the front of the dwelling with Units 6, 7 and 8 to have an attached north facing deck.

- . Each dwelling has a dedicated car parking space directly adjoining the unit.
- . Existing dwelling has the provision for two car parking spaces directly adjoining the dwelling.

Overall site –

- . The proposal allows for the provision for four visitor car parking spaces across both sites.
- . The existing dwelling at 24 William Street and the additional four dwellings will be accessed off William Street.
- . The existing dwelling at 26 William Street and the additional four dwellings will be accessed via the creation of a right-of-way over 24 William Street. This would result with the creation of a shared driveway to serve all dwellings across both sites.
- . Some retaining walls are proposed across both sites.
- . Two firefighting tanks are proposed to the rear of both properties.

Site description and surrounding area –

The subject site is zoned General Residential and is across two parcels of land. Both sites have existing access off William Street. The existing access to 26 William Street will be removed, with the existing access to 24 William Street upgraded and widened to serve all dwellings across both sites.

Both sites have an existing dwelling. Both existing dwellings would remain and form part of the multiple dwelling development. Both lots are large residential lots, with both parcels being 1,935m².

The subject site is surrounded by General Residential zoned land and Environmental Living zone to the south. Surrounding development consists of single dwellings with associated outbuildings and multiple dwellings.

The land is connected to reticulated stormwater, sewer and water systems.

History –

There is no history regarding both properties that relate to the proposal.

DISCUSSION

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

General Residential

| CLAUSE | COMMENT |
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| 10.3.1 Discretionary Permit Use | |
| 10.3.1–(P1) Discretionary permit use must: (a) be consistent with local area objectives; (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. | Not applicable. Residential use for multiple dwellings is Permitted. |
| 10.3.2 Impact of Use | |
| 10.3.2–(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage. | Not applicable. Use is residential. |
| 10.3.2–(A2) Permitted non-residential use must not generate more than 40 average daily vehicle movements. | Not applicable. Use is residential. |

COMMUNITY SERVICES

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| 10.3.2–(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. |
| 10.4.1 Residential density for multiple dwellings | |
| <p>10.4.1–(A1) Multiple dwellings must have a site area per dwelling of not less than:</p> <p>(a) 325m²; or</p> <p>(b) if within a density area specified in Table 10.4.1 below and shown on the planning scheme maps, that specified for the density area.</p> | <p>(a) Compliant. Combined site area would be 3,870m² divided by 325m² that would allow a total of 11 dwellings permissible on the site.</p> <p>(b) Not applicable. Site not subject to Table of this clause.</p> |
| 10.4.2 Setbacks and building envelope for all dwellings | |
| <p>10.4.2–(A1) Unless within a building area, a dwelling, excluding protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m into the frontage setback, must have a setback from a frontage that is:</p> <p>(a) if the frontage is a primary frontage, at least 4.5m, or, if the setback from the primary frontage is less than 4.5m, not less than the setback, from the primary frontage, of any existing dwelling on the site; or</p> | <p>(a) Compliant. Unit 1 would be setback 6.8m from the frontage, Unit 5 would be setback 4.5m from the frontage. Both units have a paved patio area to the front of the dwelling which is not considered a building structure.</p> <p>(b) Not applicable. No secondary frontage.</p> <p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Not applicable. Land does not abut the Bass Highway.</p> |

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| <p>(b) if the frontage is not a primary frontage, at least 3.0m, or, if the setback from the frontage is less than 3.0m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site; or</p> <p>(c) if for a vacant site with existing dwellings on adjoining sites on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p> <p>(d) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road.</p> | |
| <p>10.4.2–(A2) A garage or carport must have a setback from a primary frontage of at least:</p> <p>(a) 5.5m, or alternatively 1.0m behind the façade of the dwelling; or</p> <p>(b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> <p>(c) 1.0m, if the natural ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10.0m from the frontage.</p> | <p>(a) Compliant. The garage attached to Unit 1 would be setback 9m from the primary frontage. Unit 5's attached garage would be setback 7m from the frontage. These are the two closest garages to the frontage setback.</p> <p>(b) Not applicable. Addressed in (a).</p> <p>(c) Not applicable. Addressed in (a).</p> |
| <p>10.4.2–(A3) A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions (such as eaves,</p> | <p>(a)(i) Compliant. As discussed above, the development satisfies the setback to the frontage.</p> |

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| <p>steps, porches, and awnings) that extend not more than 0.6m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Diagrams 10.4.2A, 10.4.2B, 10.4.2C and 10.4.2D) determined by:</p> <ul style="list-style-type: none"> (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a lot with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at the side boundaries and a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level; and <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> <ul style="list-style-type: none"> (i) does not extend beyond an existing building built on or within 0.2m of the boundary or the adjoining lot; or (ii) does not exceed a total length of 9.0m or one-third the length of the side boundary (whichever is the lesser). | <p>(a)(ii) Non-compliant. All dwellings fit within the required building envelope. The proposal includes two water tanks for firefighting purposes. These tanks would be setback 1.2m from the rear boundary.</p> <p>Refer to the “Issues” section of this report.</p> <p>(b)(i) Not applicable. No dwelling would be closer than 1.5m to side boundaries.</p> <p>(b)(ii) Not applicable. No dwelling would be closer than 1.5m to side boundaries.</p> |
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| 10.4.3 Site coverage and private open space for all dwellings | |
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| <p>10.4.3–(A1) Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60.0m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) a site area of which at least 25% of the site area is free from impervious surfaces.</p> | <p>(a) Compliant. Site coverage would be 38% for 24 William Street and would be 38.9% for 26 William Street.</p> <p>(b) Compliant. Each multiple dwelling would have an area greater than 60m² of private open space.</p> <p>(c) Compliant. Site area of which is free from impervious surfaces would be 28%.</p> |
| <p>10.4.3–(A2) A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p> <p>(i) 24.0m²; or</p> <p>(ii) 12.0m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(b) has a minimum horizontal dimension of:</p> <p>(i) 4.0m; or</p> | <p>(a)(i) Compliant.</p> <p><u>24 William Street</u></p> <p>Unit 1 – 93m²</p> <p>Unit 2 – 78m²</p> <p>Unit 3 – 68m²</p> <p>Unit 4 – 133m²</p> <p>Existing – 152m²</p> |

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| <p>(ii) 2.0m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least three hours of sunlight to 50% of the area between 9.00am and 3.00pm on 21 June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p> | <p><u>26 William Street</u></p> <p>Unit 1 – 182m²</p> <p>Unit 2 – 79m²</p> <p>Unit 3 – 79m²</p> <p>Unit 4 – 179m²</p> <p>Existing – 116m²</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p> <p>(b)(i) Compliant.</p> <p><u>24 William Street</u></p> <p>Unit 1 – 11m</p> <p>Unit 2 – 9.4m</p> <p>Unit 3 – 10.2m</p> <p>Unit 4 – 14m</p> <p>Existing – 16m</p> <p><u>26 William Street</u></p> <p>Unit 1 – 15m</p> <p>Unit 2 – 10m</p> <p>Unit 3 – 10m</p> |
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| | <p>Unit 4 – 16m</p> <p>Existing – 11m</p> <p>(b)(ii) Not applicable. Satisfied by (b)(i).</p> <p>(c) Compliant. All private open space will be directly accessible from each units' habitable room.</p> <p>(d) Compliant. All dwellings have an aspect of their private open space located to the south of the dwelling, however not all private open space is located in this location. Shadow plans show that each private open space area would not be unreasonably impacted by overshadow.</p> <p>(e) Compliant. Both units located to the front of the site have private open space located between the dwelling and the frontage. Both private open space areas are oriented between 30 degrees west of north and 30 degrees east of north.</p> <p>(f) Compliant. The site slopes upwards and away from William Street. The private open space has been designed to ensure it does not have a gradient steeper than 1 in 10.</p> <p>(g) Compliant. No private open space would be used for vehicle access or parking.</p> |
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| 10.4.4 Sunlight and overshadowing for all dwellings | |
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| 10.4.4-(A1) A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A). | Compliant. All proposed dwellings would have the open plan lounge/dining/kitchen located within the northern elevation of the dwelling and all have windows located along the northern elevation. |
| <p>10.4.4-(A2) A multiple dwelling that is to the north of a window of a habitable room (other than a bedroom) of another dwelling on the same site, which window faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A), must be in accordance with (a) or (b), unless excluded by (c):</p> <p>(a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4B):</p> <ul style="list-style-type: none"> (i) at a distance of 3.0m from the window; and (ii) vertically to a height of 3.0m above natural ground level and then at an angle of 45 degrees from the horizontal. <p>(b) The multiple dwelling does not cause the habitable room to receive less than three hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(c) That part, of a multiple dwelling, consisting of:</p> <ul style="list-style-type: none"> (i) an outbuilding with a building height no more than 2.4m; or | <p>(a)(i) Compliant. Proposed and existing dwellings (excluding the most rear dwellings) would be located to the north of a window to a habitable dwelling on the site. All would be located at least 3m apart.</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p> <p>(b) Not applicable. Satisfied by (a)(i).</p> <p>(c) Not applicable. Satisfied by (a)(i).</p> |

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| <p>(ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m horizontally from the multiple dwelling.</p> | |
| <p>10.4.4–(A3) A multiple dwelling, that is to the north of the private open space, of another dwelling on the same site, required in accordance with A2 or P2 of subclause 10.4.3, must be in accordance with (a) or (b), unless excluded by (c):</p> <p>(a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4C):</p> <p>(i) at a distance of 3.0m from the northern edge of the private open space; and</p> <p>(ii) vertically to a height of 3.0m above natural ground level and then at an angle of 45 degrees from the horizontal.</p> <p>(b) The multiple dwelling does not cause 50% of the private open space to receive less than three hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(c) That part, of a multiple dwelling, consisting of:</p> <p>(i) an outbuilding with a building height no more than 2.4m; or</p> | <p>(a) Not applicable. Satisfied by (b).</p> <p>(b) Compliant. Shadow plans provided show that each private open space for each dwelling would not be unreasonably impacted by overshadow.</p> <p>(c) Not applicable. Satisfied by (b).</p> |

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| <p>(ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m from the multiple dwelling.</p> | |
| <p>10.4.5 Width of openings for garages and carports for all dwellings</p> | |
| <p>10.4.5-(A1) A garage or carport within 12.0m of a primary frontage (whether the garage or carport is free-standing or part of the dwelling) must have a total width of openings facing the primary frontage of not more than 6.0m or half the width of the frontage (whichever is the lesser).</p> | <p>Compliant. Both Units 1 and 5 have a single garage within 12m to the primary frontage, but the openings face the internal driveway and not to the primary frontage.</p> |
| <p>10.4.6 Privacy for all dwellings</p> | |
| <p>10.4.6-(A1) A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1.0m above natural ground level must have a permanently fixed screen to a height of at least 1.7m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:</p> <p>(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3.0m from the side boundary; and</p> | <p>Not applicable. The proposed dwellings would not have a balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above natural ground level.</p> |

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| <p>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 4.0m from the rear boundary; and</p> <p>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is at least 6.0m:</p> <ul style="list-style-type: none"> (i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or (ii) from a balcony, deck, roof terrace or the private open space, of the other dwelling on the same site. | |
| <p>10.4.6–(A2) A window or glazed door, to a habitable room, of a dwelling, that has a floor level more than 1.0m above the natural ground level, must be in accordance with (a), unless it is in accordance with (b):</p> <p>(a) The window or glazed door:</p> <ul style="list-style-type: none"> (i) is to have a setback of at least 3.0m from a side boundary; and (ii) is to have a setback of at least 4.0m from a rear boundary; and (iii) if the dwelling is a multiple dwelling, is to be at least 6.0m from a window or glazed door, to a habitable room, of another dwelling on the same site; and | <p>Not applicable. The dwellings would not have a window or glazed door, to a habitable room, of a dwelling, that has a floor level more than 1m above the natural ground level.</p> |

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| <p>(iv) if the dwelling is a multiple dwelling, is to be at least 6.0m from the private open space of another dwelling on the same site.</p> <p>(b) The window or glazed door:</p> <p>(i) is to be offset, in the horizontal plane, at least 1.5m from the edge of a window or glazed door, to a habitable room of another dwelling; or</p> <p>(ii) is to have a sill height of at least 1.7m above the floor level or has fixed obscure glazing extending to a height of at least 1.7 m above the floor level; or</p> <p>(iii) is to have a permanently fixed external screen for the full length of the window or glazed door, to a height of at least 1.7m above floor level, with a uniform transparency of not more than 25%.</p> | |
| <p>10.4.6–(A3) A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of at least:</p> <p>(a) 2.5m; or</p> <p>(b) 1.0m if:</p> <p>(i) it is separated by a screen of at least 1.7m in height; or</p> | <p>(a) Compliant for Units 5, 6, 7 and 8. All setback greater than 2.5m from the shared driveway.</p> <p>(b)(i) Not applicable. Compliant by (ii).</p> <p>(b)(ii) Compliant for Units 1, 2, 3 and which all have a window sill height to 1.7m for windows for the lounge room within 1m to the shared driveway.</p> |

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| <p>(ii) the window, or glazed door, to a habitable room has a sill height of at least 1.7m above the shared driveway or parking space or has fixed obscure glazing extending to a height of at least 1.7m above the floor level.</p> | <p>Both existing dwellings do not have habitable room windows facing the shared driveway.</p> |
| <p>10.4.7 Frontage fences for all dwellings</p> | |
| <p>10.4.7-(A1) A fence (including a free-standing wall) within 4.5m of a frontage must have a height above natural ground level of not more than:</p> <p>(a) 1.2m if the fence is solid; or</p> <p>(b) 1.8m, if any part of the fence that is within 4.5m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).</p> | <p>Not applicable.</p> <p>No frontage fence proposed. Will place a condition on the Permit in relation to front fences.</p> |
| <p>10.4.8 Waste storage for multiple dwellings</p> | |
| <p>10.4.8-(A1) A multiple dwelling must have a storage area, for waste and recycling bins, that is an area of at least 1.5m² per dwelling and is within one of the following locations:</p> <p>(a) in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</p> <p>(b) in a communal storage area with an impervious surface</p> | <p>(a) Non-compliant for Unit 1 only. The storage area for this unit is proposed in an area in front of the dwelling. All other dwellings on-site comply with (a) regarding location and size of the storage area.</p> <p>Refer to the "Issues" section of this report.</p> |

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| <p>that:</p> <ul style="list-style-type: none"> (i) has a setback of at least 4.5m from a frontage; and (ii) is at least 5.5m from any dwelling; and (iii) is screened from the frontage and any dwelling by a wall to a height of at least 1.2m above the finished surface level of the storage area. | <p>(b) Not applicable. Satisfied by (a).</p> |
| <p>10.4.9 Suitability of a site or lot for use or development</p> | |
| <p>10.4.9-(A1) A site or each lot on a plan of subdivision must:</p> <ul style="list-style-type: none"> (a) have an area of not less than 330m² excluding any access strip; and (b) if intended for a building, contain a building area of not less than 10.0m x 15.0m: <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; | <ul style="list-style-type: none"> (a) Compliant. Each lot is 1,935m². (b)(i) Non-compliant. The proposal triggers a discretion in relation to the rear setback. This matter is addressed under Clause 10.4.2-(A3) above and in the “Issues” section of this report against the Performance Criteria for Clause 10.4.2-(P3). Refer to the “Issues” section of this report. (b)(ii) Not applicable. The site does not adjoin a zone boundary. (b)(iii) Not applicable. No registered easements. (b)(iv) Not applicable. No registered right-of-way. (b)(v) Not applicable. No restriction imposed by a Utility. (b)(vi) Not applicable. No access strip. (b)(vii) Compliant. Land is accessible from William Street. |

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| <ul style="list-style-type: none"> (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. | <p>(b)(viii) Not applicable. Not a new residential lot.</p> |
| <p>10.4.9–(A2) A site or each lot on a subdivision plan must have a separate access from a road –</p> <ul style="list-style-type: none"> (a) across a frontage over which no other land has a right of access; and (b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or (c) by a right of way connecting to a road – <ul style="list-style-type: none"> (i) over land not required as the means of access to any other land; and (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 – <ul style="list-style-type: none"> (i) 3.6m for a single dwelling development; or | <ul style="list-style-type: none"> (a) Non-compliant. Access to 26 William Street will be over a right-of-way which would also provide access to 24 William Street. Refer to the “Issues” section of this report. (b) Not applicable. Addressed by (a). (c)(i) Non-compliant. Access to 26 William Street will be over a right-of-way which would also provide access to 24 William Street. Refer to the “Issues” section of this report. (c)(ii) Not applicable. Addressed by (a). (d)(i) Not applicable. Not a single dwelling. (d)(ii) Compliant. Access width would be 6.09m. (e) Compliant. Site has existing legal access to William Street. Statement of Compliance for Vehicular Access has been issued by the Council, acting as a Road Authority. |

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| <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 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>10.4.9-(A3) A site or each lot on a plan of subdivision must be capable of connecting to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p> | <p>Compliant.</p> <p>The site is connected to the reticulated water system.</p> <p>Application was referred to TasWater who have provided a Submission to Planning Authority Notice (refer to Annexure 5).</p> |
| <p>10.4.9-(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and wastewater to a sewage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p> | <p>Compliant.</p> <p>The site is connected to the reticulated sewerage system.</p> <p>Application was referred to TasWater who have provided a Submission to Planning Authority Notice (refer to Annexure 5).</p> |

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| 10.4.9–(A5) A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i> . | <p>Compliant.</p> <p>The site is connected to the reticulated stormwater system.</p> <p>A Statement of Compliance for Drainage Access has been issued by the Council, acting as a Stormwater Authority.</p> |
| 10.4.10 Dwelling density for single dwelling development | |
| <p>10.4.10–(A1)</p> <p>(a) The site area per dwelling for a single dwelling must –</p> <p>(i) be not less than 325m².</p> | <p>Not applicable.</p> <p>Development is residential.</p> |
| 10.4.11 Development other than a single or multiple dwelling | |
| 10.4.11.1 Location and configuration of development | |
| <p>10.4.11.1–(A1) The wall of a building must be set back from a frontage –</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 adjoining sites;</p> | <p>Not applicable.</p> <p>Development is residential.</p> |

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| <ul style="list-style-type: none"> (d) not less than for any building retained on the site; (e) in accordance with any building area shown on a sealed plan; or (f) not less than 50.0m if the site abuts the Bass Highway. | |
| <p>10.4.11.1 –(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 distance of not less than 4.0m from the rear boundary or if an internal lot, a distance of 4.5m from the boundary abutting the rear boundary of the adjoining frontage site; (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 – <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 – <ul style="list-style-type: none"> a. built against an existing wall of an adjoining building; or b. the wall or walls – | <p>Not applicable.</p> <p>Development is residential.</p> |

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| <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 50% of the private open space of an adjoining dwelling receiving less than 3 hours of sunlight between 9.00am and 3.00pm on 21 June. <p>(d) in accordance with any building envelope shown on a sealed plan of subdivision.</p> | |
| <p>10.4.11.1 –(A3) Site coverage must:</p> <ul style="list-style-type: none"> (a) not be more than 50%; or (b) not be more than any building area shown on a sealed plan. | <p>Not applicable.</p> <p>Development is residential.</p> |
| <p>10.4.11.1 –(A4) A garage, carport or external 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>Not applicable.</p> <p>Development is residential.</p> |

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| <p>10.4.11.1–(A5) Other than for a dwelling, the 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.</p> <p>Development is residential.</p> |
| <p>10.4.11.2 Visual and acoustic privacy for residential development</p> | |
| <p>10.4.11.2–(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> <ul style="list-style-type: none"> (i) be not less than 6.0m from any door, window, balcony, deck, or roof garden in a dwelling on the same site; (ii) be not less than 3.0m from a side boundary; (iii) be not less than 4.0m from a rear boundary; and (iv) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary of an adjacent frontage site; or <p>(b) if less than the setbacks in clause A1(a):</p> | <p>Not applicable.</p> <p>Development is residential.</p> |

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| <ul style="list-style-type: none"> (i) be off-set by not less than 1.5m from the edge of any door or window of another dwelling; (ii) have a window sill height of not less than 1.8m above floor level; (iii) have fixed 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 floor level; or (iv) have a fixed and durable external screen other than vegetation of not less than 1.8m height above the 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>10.4.11.2–(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>Development is residential.</p> |
| <p>10.4.11.3 Frontage fences</p> | |
| <p>10.4.11.3–(A1) The height of a fence, including any supporting retaining wall, on or within a frontage setback must be:</p> | <p>Not applicable.</p> |

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| <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>Development is residential.</p> |
| <p>10.4.12 Setback of development for sensitive use</p> | |
| <p>10.4.12–(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 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>(a) Not applicable. Site does not abut a zone boundary.</p> <p>(b) Not applicable. Site does not abut a zone boundary.</p> |
| <p>10.4.12–(A2) Development for a sensitive use must be not less than 50.0m from:</p> <p>(a) 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. Development would be approximately 500m from the Bass Highway.</p> <p>(b) Compliant. Development would be approximately 600m from a railway line.</p> <p>(c) Not applicable. No land designated for future road or rail.</p> <p>(d) Not applicable. The nearest proclaimed wharf area is in Devonport, approximately 15km to the east.</p> |

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| 10.4.13 Subdivision | |
| 10.4.13–(A1) Each new lot on a plan of subdivision must be – (a) intended for residential use; (b) a lot required for public use by the State government, a Council, a Statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a Statutory authority. | Not applicable. No subdivision proposed. |
| 10.4.13–(A2) A lot, other than a lot to which A1(b) applies, must not be an internal lot | Not applicable. No subdivision proposed. |
| 10.4.14 Reticulation of an electricity supply to new lots on a plan of subdivision | |
| 10.4.14–(A1) Electricity reticulation and site connections must be installed underground. | Not applicable. No subdivision proposed. |
| CODES | |
| E1 Bushfire-Prone Areas Code | Not applicable. Not a subdivision, hazardous or vulnerable use. |
| 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. |

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| E4 Change in Ground Level Code | Not applicable. No change in ground level greater than 1m or retaining walls closer than 1m and higher than 0.5m. |
| E4.2 Application of this Code | Code applies. |
| E4.4 Development exempt from this Code | Not exempt. There would be cut greater than 1m and associated retaining walls. |
| E4.6 Development Standards | |
| E4.6.1 Change in existing ground level or natural ground level | |
| <p>E4.6.1–(A1) Cut or fill must:</p> <p>(a) not be on land within the Environmental Living zone or the Environmental Management zone;</p> <p>(b) be required to:</p> <p>(i) provide a construction site for buildings and structures;</p> <p>(ii) facilitate vehicular access;</p> <p>(iii) mitigate exposure to a natural or environmental hazard;</p> <p>(iv) facilitate provision of a utility;</p> | <p>(a) Compliant. Land is zoned General Residential.</p> <p>(b)(i) Compliant. Land is for multiple dwellings.</p> <p>(b)(ii) Not applicable. Satisfied by (i) and (ii).</p> <p>(b)(iii) Not applicable. Satisfied by (i) and (ii).</p> <p>(b)(iv) Not applicable. Satisfied by (i) and (ii).</p> <p>(b)(v) Not applicable. Satisfied by (i) and (ii).</p> <p>(b)(vi) Not applicable. Satisfied by (i) and (ii).</p> |

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| <p>(v) assist the consolidation or intensification of development; or</p> <p>(vi) assist stormwater management;</p> <p>(c) not result in a modification of surface stormwater water flow to increase:</p> <p>(i) surface water drainage onto adjacent land;</p> <p>(ii) pooling of water on the site or on adjacent land; or</p> <p>(iii) the nature or capacity of discharge from land upstream in a natural or artificial drainage channel;</p> <p>(d) not destabilise any existing building or increase the requirements for construction of any potential building on adjacent land;</p> <p>(e) manage disposal of intersected ground water;</p> <p>(f) safeguard the quality of receiving waters through measures to minimise erosion and release of sediments and other contaminants during each of the site preparation, construction and rehabilitation phase in accordance with Soil and Water Management on Building and Construction Sites 2009;</p> <p>(g) not require a retaining or support structure that would result in a 'line of influence' of more than 450mm into any adjacent land unless the owner of adjacent land has provided written consent to enter into an agreement under</p> | <p>(c) Compliant. Retaining walls and cut/fill would incorporate drainage infrastructure. Condition of Permit in relation to Stormwater Management.</p> <p>(d) Compliant. Retaining walls and cut would be of engineered design.</p> <p>(e) Compliant via condition of Permit in relation to Stormwater Management.</p> <p>(f) Compliant via condition of Permit in relation to Stormwater Management.</p> <p>(g) Compliant. Plans show that no retaining wall or support structure would result in a line of influence into adjoining land.</p> <p>(h) Compliant. No cut or fill would encroach upon or expose, disturb, or reduce cover over an underground utility.</p> |
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| <p>Part 5 <i>Land Use Planning and Approvals Act 1993</i> registered on the title of adjacent land to provide for the level of constraint; and</p> <p>(h) not encroach upon or expose, disturb, or reduce cover over an underground utility to less than 1.0m unless the relevant regulatory entity has advised:</p> <p>(i) it is satisfied the cut or fill will not result in harm to the utility; and</p> <p>(ii) any condition or requirement it determines are appropriate to protect the utility.</p> | |
| E5 Local Heritage Code | Not applicable. No Local Heritage Code in the Scheme. |
| E6 Hazard Management Code | Not applicable. Not within a hazard mapped area. Site does have low landslide across the rear of the site. All development in low landslide area is exempt from assessment against this Code. The smallest portion of medium landslip is located in the far south-eastern corner of 26 William Street. All development is clear of the medium landslide and therefore exempt from assessment against this Code. |
| E7 Sign Code | Not applicable. No signage proposed. |
| E8 Telecommunication Code | Not applicable. No telecommunications proposed. |
| E9 Traffic Generating Use and Parking Code | |

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| 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 per dwelling and one additional car parking space per three dwellings or part thereof.</p> <p>Proposal is for 10 dwellings. Proposal would therefore require 20 car parking spaces (two for each dwelling) plus an additional four car parking spaces for visitor/overflow car parking spaces.</p> <p>A total of 24 car parking spaces would be required. The proposal shows the provisions for 24 car parking spaces.</p> <p>The proposal satisfies the Planning Scheme requirements for car parking.</p> |

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| 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> | Not applicable for residential use. |
| E9.6 Development Standards | |
| E9.6.2 Design of vehicle parking and loading areas | |
| E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and | Compliant by a Condition to be placed on the Permit. |
| <p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p> <p>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking</p> | Not applicable for residential use. |

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| <p>Facilities – Off-Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;</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>Land is zoned General Residential.</p> |

COMMUNITY SERVICES

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| E10 Water and Waterways Code | Not applicable. The site is not within 30m to any watercourse. |
| Specific Area Plans | No Specific Area Plans apply to this location. |

Issues –

1 Variation to rear boundary setback –

Clause 10.4.2–(A3)(a)(ii) of the Planning Scheme states that a dwelling must be setback from rear boundary not less than 4m.

The proposal includes two water tanks for firefighting purposes to the rear of the development site. These tanks would be setback 1.2m from the rear boundary. The actual dwellings (Unit 4 and Unit 8) would be setback 10.4m and 10m respectively from the rear boundary. The water tanks are structures associated with the dwellings and therefore need to be assessed. Due to the variation to the rear boundary, the proposal relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 10.4.2–(P3) of the Planning Scheme states that the siting and scale of a dwelling must:

- (a) not cause unreasonable loss of amenity by:
 - (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or

Compliant. The adjoining southern property would be approximately 80m from the rear boundary of the development site. No shadow would be cast to any habitable rooms of the adjoining dwelling from the water tanks.

- (ii) overshadowing the private open space of a dwelling on an adjoining lot; or

Compliant. As mentioned, the adjoining southern property would be approximately 80m from the rear boundary of the development site. No unreasonable amount of shadow would be cast to any private open space of the adjoining dwelling from the water tanks.

- (iii) overshadowing of an adjoining vacant lot; or

Not applicable. Adjoining land is not vacant.

- (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and

Compliant. Due to the slope of the land behind the development site (upwards and away), the water tanks would not cause any visual impacts in terms of apparent scale, bulk or proportion when viewed from an adjoining lot.

- (b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.

Compliant. Even though the development would be visually different to what is currently a vast grassed area and some vegetation, the water tanks would not be different to other development within the surrounding area, which comprises outbuildings located closer to rear boundaries.

2 *Location of waste storage area -*

Clause 10.4.8-(A1) of the Planning Scheme states that a multiple dwelling must have a storage area, for waste and recycling bins, that is an area of at least 1.5m² per dwelling and is within either an area for the exclusive use of each dwelling and not located to the front of the dwelling, or in a communal storage area.

The proposal has been designed such that each dwelling would have its own storage area. Unit 1 would be located to the front of the dwelling and therefore the proposal relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 10.4.8-(P1) of the Planning Scheme states that a multiple dwelling development must provide storage, for waste and recycling bins, that is:

- (a) capable of storing the number of bins required for the site; and

Compliant. Each dwelling has the provisions for 1.5m² of storage area, for waste and recycling bins, as shown on the plans.

- (b) screened from the frontage and dwellings; and

Compliant by condition. Condition of the Permit to be applied requiring a minimum of 1.2m high screen to be erected between the storage area for Unit 1 and William Street.

- (c) if the storage area is a communal storage area, separated from dwellings on the site to minimise impacts caused by odours and noise.

Not applicable. Design is not for a communal storage area.

3 *Creation of a right-of-way -*

Clause 10.4.9–(A2)(a) and (c) of the Planning 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 and over land not required as the means of access to any other land.

The proposal includes the creation of a right-of-way to allow dwellings on 26 William Street to be accessed over a right-of-way on 24 William Street. The proposal therefore relies on the Performance Criteria for this Clause and is a discretionary element of the application.

Clause 10.4.9–(P2) of the Planning Scheme states that –

- (a) a site must have a reasonable and secure access from a road provided –

- (i) across a frontage; or

Compliant. The site has a combined 40m wide frontage to William Street.

- (ii) by an access strip connecting to a frontage, if for an internal lot; or

Not applicable. Satisfied by (i).

- (iii) by a right of way connecting to a road over land 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

Compliant. Each lot contains 1,935m² which allows adequate development area in accordance with the

Acceptable Solution, excluding the proposed right-of-way area. Where an Acceptable Solution has not been satisfied, the application has satisfied the applicable Performance Criteria.

- (iv) the dimensions of the frontage and any access strip or right of way must be adequate for the type and volume of traffic likely to be generated by –

- a. the intended use; and

Compliant. The right-of-way would be 6.09m wide which is considered adequate for multiple dwelling development, being residential use.

- b. the existing or potential use of any other land which requires use of the access as the means of access for that land; and

Compliant. The right-of-way would be 6.09m wide which is considered adequate for multiple dwelling development, being residential use.

- (v) 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 subdivision plan; or

Compliant. The Road Authority have stated that they have no issues with this application. A Statement of Compliance for Vehicular Access has been issued by the Council, acting as a Road and Stormwater Authority (refer to Annexure 6).

- (b) it must be unnecessary for the development to require access to the site or to a lot on a subdivision plan.

Not applicable. Satisfied by (a).

Referral advice –

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

| SERVICE | COMMENTS/CONDITIONS |
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| Environmental Health | Referral not required. |
| Infrastructure Services | Statement of Compliance for Vehicular Access and Drainage Access has been issued by the Council, acting as a Road and Stormwater Authority (refer to Annexure 6). |
| Building Services | Building Note to be included as a note on the Permit. |
| TasWater | Submission to Planning Authority Notice TWDA 2020/00494-CC (refer to Annexure 5). |
| 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;
- . The Council received an electronic petition on 10 May 2020 (outside

the representation period). This petition was received at the Council meeting held 18 May 2020.

- . an advertisement was placed in the Public Notices section of The Advocate.

Representations –

Six 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 |
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| REPRESENTATION 1 | |
| 1 Units too small and not enough room for families. | <p>The proposal is for multiple dwelling development. Dwellings have either two or three bedrooms. Each dwelling has the required private open space requirement as required by the Planning Scheme.</p> <p>The development has complied with the requirements for private open space and site area per dwelling.</p> |
| 2 Increase in traffic and cars parked in William Street. | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority have stated that the proposed development only represents a nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over and above what is expected in a built-up residential area.</p> |
| 3 This development, on top of other development in | The Road Authority have stated that the proposed development only represents a |

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| <p>the area, will increase traffic and parking congestion on William Street.</p> | <p>nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over and above what is expected in a built-up residential area.</p> <p>Furthermore, as discussed in the Traffic Generating Use and Parking Code section, the proposal has been designed to ensure adequate car parking is provided on the site. The proposed development satisfies the Planning Scheme's Acceptable Solution in relation to the provision of car parking spaces.</p> <p>In relation to parking along William Street, vehicles can legally park on either side of the road in a parallel arrangement as long as they are not parked in a manner to cause hazard to other traffic or pedestrians.</p> <p>To date, the Council have no formal complaints regarding traffic issues in William Street.</p> |
| <p>4 Concerned that the large number of these high density, housing projects in the area is significantly changing the feel and appearance of the area. The development won't be keeping with the relaxed spacious character of the town.</p> | <p>The development site and adjoining areas to the west, east and north are zoned General Residential under the Planning Scheme. The General Residential zone allows for mixed residential development, including single dwellings and multiple dwellings.</p> <p>The development site is a large area, with the design of the multiple dwellings satisfying most of the required Acceptable Solutions in the Planning Scheme.</p> <p>Where it has not satisfied the Acceptable Solution, the application has</p> |

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| | <p>demonstrated compliance with the applicable Performance Criteria.</p> <p>It is acknowledged that the view to the site from the properties located behind (south) may change as the sites are large with mainly grass and some vegetation located across the site (apart from existing single dwellings on each site).</p> <p>The proposed multiple dwelling is a residential use and is Permitted in this zone. The application was deemed to be discretionary due to the variation to the rear boundary (water tanks), creation of a right-of-way and the location of storage area for Unit 1 only.</p> <p>The proposal satisfies the setback from William Street and will be keeping within the existing streetscape characteristics.</p> |
| REPRESENTATION 2 | |
| 1 Increased traffic in William Street. | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority has stated that the proposed development only represents a nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over what is expected in a built up residential area.</p> |
| 2 Increased load on services such as sewage. | <p>The application was referred to TasWater regarding sewage disposal. TasWater are happy with the proposal and have issued their Submission to Planning Authority Notice TWDA 2020/00494-CC (refer to Annexure 5).</p> |

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| 3 | Is the development for 'affordable housing'? | This is not a planning matter. |
| REPRESENTATION 3 | | |
| 1 | Increase in traffic volume in William Street. | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority has stated that the proposed development only represents a nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over what is expected in a built up residential area.</p> |
| 2 | Development only has provision for two visitor car parks forcing parking in William Street. | <p>As discussed in the Traffic Generating Use and Parking Code section, the proposal has been designed to ensure adequate car parking is provided on the site. The proposed development satisfies the Planning Scheme's Acceptable Solution in relation to car parking spaces.</p> <p>This includes two per dwelling and four visitor car parking spaces.</p> |
| 3 | Increase in number of rubbish bins along William Street on collection day. | This is not a planning matter. However, the site has a 40m wide frontage to William Street which will allow for the occupants of the units to leave their bins along this frontage on collection day. |
| 4 | Visibility along William Street difficult due to too many cars parked along both sides of the street. | As discussed in the Traffic Generating Use and Parking Code section, the proposal has been designed to ensure adequate car parking is provided on the site. The proposed development satisfies the Planning Scheme's Acceptable Solution in relation to car parking spaces. |

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| | <p>In relation to parking along William Street, vehicles can legally park on either side of the road in a parallel arrangement as long as they are not parked in a manner to cause hazard to other traffic or pedestrians.</p> <p>To date, the Council have no formal complaints regarding traffic issues in William Street.</p> |
| <p>5 Problems with the development will be compounded by a previously approved application for a similar development close by.</p> | <p>The proposed multiple dwelling is a residential use and is Permitted in this zone. The application was deemed to be discretionary due to the variation to the rear boundary (water tanks), creation of a right-of-way and the location of storage area for Unit 1 only.</p> <p>An application for 18, 18a and 20 William Street was granted in May 2019 (DA2018191) for a total of 10 dwellings across the three sites. As with this application, the proposed multiple dwelling is a residential use and is Permitted in this zone. The prior application was deemed to be discretionary due to the variation to the side setback standard, access over a right-of-way and Change in Ground Level Code.</p> |
| REPRESENTATION 4 | |
| <p>1 Need a traffic management plan for the area due to this development and previously approved similar development in William Street.</p> | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority has stated that the proposed development only represents a</p> |

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| | <p>nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over what is expected in a built up residential area.</p> |
| 2 Drainage issues from units at 10 William Street. | <p>This matter has been referred to the Council's Plumbing Inspector to follow up and see whether there is a nuisance regarding stormwater disposal.</p> |
| 3 Noise impacts, damage to children's play equipment and potential security breaches. | <p>This is not a planning matter. It would be a police matter.</p> |
| 4 Visibility along William Street difficult due to too many cars parked along both sides of the street. | <p>In relation to parking along William Street, vehicles can legally park on either side of the road in a parallel arrangement as long as they are not parked in a manner to cause hazard to other traffic or pedestrians.</p> <p>To date, the Council have no formal complaints regarding traffic issues in William Street.</p> |
| 5 Traffic issues in William Street. | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority has stated that the proposed development only represents a nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over what is expected in a built up residential area.</p> |

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| <p>6 Street parking, garbage collection and volume of cars.</p> | <p>In relation to parking along William Street, vehicles can legally park on either side of the road in a parallel arrangement as long as they are not parked in a manner to cause hazard to other traffic or pedestrians.</p> <p>To date, the Council have no formal complaints regarding traffic issues in William Street.</p> <p>In relation to garbage collection, this is not a planning matter. However, the site has a 40m wide frontage to William Street which will allow for the occupants of the units to leave their bins along this frontage on collection day.</p> |
| <p>7 Volume of units.</p> | <p>The proposal satisfies the dwelling density requirement in the Planning Scheme. The combined site area would be 3,870m² divided by 325m² that would allow a total of 11 dwellings permissible on the site.</p> |
| <p>8 Consider reducing the number of units proposed.</p> | <p>This is not a matter to be considered. The Planning Authority must assess the proposal which includes for the construction of eight dwellings to create a total of 10.</p> <p>As discussed, the proposal satisfies the dwelling density requirement in the Planning Scheme. The combined site area would be 3,870m² divided by 325m² that would allow a total of 11 dwellings permissible on the site.</p> |
| <p>REPRESENTATION 5</p> | |
| <p>1 Will the stormwater system cope with this development?</p> | <p>The stormwater Authority have stated they have no issues with this application.</p> |

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| | <p>A Statement of Compliance for Drainage Access has been issued by the Council, acting as a Stormwater Authority (refer to Annexure 6).</p> <p>It is anticipated that with the installation of on-site detention systems to accommodate the multiple dwelling development, it would actually limit rapid discharge into the stormwater system.</p> |
| 2 Will the sewage system cope with this development? | The application was referred to TasWater regarding sewage disposal. TasWater are happy with the proposal and have issued their Submission to Planning Authority Notice TWDA 2020/00494-CC (refer to Annexure 5). |
| 3 New power poles? Would this be required? Who is responsible for the cost of this? | This is not a planning matter. Any new installation of power poles would be at the developer's cost. |
| 4 Excavation within the site and potential for damage with type of clay found in the area and site. | The site has a low landslide across the rear section of the site. The Hazard Management Code is only applicable if the development is within a medium landslide area. |
| 5 Only four visitor car parking spaces provided. Where will other visitors park? On the Street? | <p>As discussed in the Traffic Generating Use and Parking Code section, the proposal has been designed to ensure adequate car parking is provided on site. The proposed development satisfies the Planning Scheme's Acceptable Solution in relation to car parking spaces.</p> <p>This includes two car parking spaces per dwelling and four visitor car parking spaces.</p> |

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| | <p>In relation to parking along William Street, vehicles can legally park on either side of the road in a parallel arrangement as long as they are not parked in a manner to cause hazard to other traffic or pedestrians.</p> <p>To date, the Council have no formal complaints regarding traffic issues in William Street.</p> |
| 6 Increase in rubbish bin collection. | <p>This is not a planning matter. However, the site has a 40m wide frontage to William Street which will allow for the occupants of the units to leave their bins along this frontage on collection day.</p> |
| 7 Natural environment to be removed. Habitat destroyed? | <p>This is not a planning matter.</p> <p>The development site has a small amount of vegetation to the rear of the site as can be seen in the image below. Removal of vegetation is not a planning matter to be considered in General Residential zone land.</p> <p>Furthermore, there are no restrictions on the title documentation regarding vegetation clearance.</p> |



REPRESENTATION 6

1 Loss of green space.

The development site and adjoining areas to the west, east and north are zoned General Residential under the Planning Scheme. General Residential allows for a mixed type of residential development including single dwellings and multiple dwellings.

The development site is a large area, with the design of the multiple dwellings satisfying nearly all the required Acceptable Solutions in the Planning Scheme. Where it has not satisfied the Acceptable Solution, the application has demonstrated compliance with the applicable Performance Criteria.

It is acknowledged that the view to the site from the properties located behind (south) may change as the sites are large with mainly grass and some vegetation located across the site (apart from existing single dwellings on each site).

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| | <p>The proposed multiple dwelling is a residential use and is Permitted in this zone. The application was deemed to be discretionary due to the variation to the rear boundary (water tanks), creation of a right-of-way and the location of storage area for Unit 1 only.</p> <p>The proposal satisfies the setback from William Street and will be keeping within the existing streetscape characteristics.</p> |
| 2 Increase traffic in William Street and potential damage to the road. | <p>The Road Authority has stated that they have no issues with the application in relation to access and traffic volume in William Street.</p> <p>The Road Authority has stated that the proposed development only represents a nominal increase in the number of dwellings utilising William Street.</p> <p>It is not considered that the development would increase the traffic in William Street over what is expected in a built up residential area.</p> |
| 3 Stormwater issues are existing in William Street. Will Council be upgrading stormwater and sewage system to accommodate the development? | <p>The Stormwater Authority have stated they have no issues with this application.</p> <p>A Statement of Compliance for Drainage Access has been issued by the Council, acting as the Stormwater Authority (refer to Annexure 6).</p> <p>It is anticipated that with the installation of on-site detention systems to accommodate the multiple dwelling development, the design would limit rapid discharge into the stormwater system.</p> |

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| | Furthermore, the application was referred to TasWater regarding sewage disposal. TasWater are happy with the proposal and have issued their Submission to Planning Authority Notice TWDA 2020/00494-CC (refer to Annexure 5). |
| 4 Increase in rubbish bin collection. | This is not a planning matter. However, the site has a 40m wide frontage to William Street which will allow for the occupants of the units to leave their bins along this frontage on collection day. |

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.

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

The development sites are large General Residential zoned lots with each lot containing a single dwelling. The development sites do not have any planning overlays that would protect or maintain or compromise the development of the multiple dwellings, nor require a vast amount of vegetation to be retained.

The proposed development has been designed to satisfy the majority of the Acceptable Solutions in the Planning Scheme. The design of the units has taken into account the existing streetscape along William Street. All buildings facing William Street on the southern side are setback 4.5m, or greater, from William Street. Proposed Unit 5 would be setback 4.5m from William Street and proposed Unit 1 would be setback 6.7m from William Street. Therefore,

the proposal has taken into account the existing streetscape along the southern side of William Street.

Furthermore, the design of the units has taken into account privacy, overshadowing, car parking and separation between all dwellings. The application was discretionary due to the variation to the rear boundary setback (though the actual dwellings would satisfy the rear setback standard), the creation of a right-of-way to enable access to all dwellings and the location of the waste storage area for Unit 1 only.

Multiple dwelling development is Permitted in the General Residential zone. The proposed development as discussed in the “Issues” section of this report is considered to have satisfied the applicable Planning Scheme’s Performance Criteria.

The proposed multiple dwelling development is considered to be reasonable development on the General Residential zoned land and would be in keeping within the characteristics of the surrounding area which consist of single and multiple dwellings. It is considered appropriate that the proposed multiple dwelling development be approved, subject to conditions.

Recommendation –

It is recommended that the application for Residential (demolition of an outbuilding and covered outdoor area and construction of multiple dwellings x eight – 10 dwellings in total) – variation to the rear boundary setback standard, location of waste storage area for Unit 1 and reliant on access over a right-of-way over land as the means of access to other land at 24 & 26 William Street, Ulverstone be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by Arplan Home Design, Project No. 02518, Drawing Nos. SK01 (Revision G), SK02 (Revision D), SK03 (Revision A), SK04, SK05 (Revision A), SK06 (Revision D), SK07, SK08, SK09, SK10, SK11 (Revision A), SK12 (Revision A), SK13 (Revision A), SK14 (Revision A), SK15 (Revision A), SK16 (Revision A), SK17 (Revision A), SK18 (Revision A), SK19 (Revision A), SK20, SK21 (Revision A) dated 30 March 2020 and plans by K Moore and Associates (four pages) received 17 April 2020.
- 2 The development must be in accordance with the conditions of TasWater’s Submission to Planning Authority Notice, Reference No. TWDA 2020/00494–CC dated 22 April 2020.

- 3 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 20 April 2020 issued by the Council acting in its capacity as the Road Authority and Stormwater Authority.
- 4 A minimum of a 1.2m high screen is to be erected between the storage area for Unit 1 and William Street.
- 5 A minimum of 24 car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
- 6 Stormwater, including from vehicle parking and manoeuvring areas, must be collected, drained and disposed of to an approved stormwater system.
- 7 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and 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 Prior to the commencement of work the applicant is to ensure that the category of work for any proposed building, plumbing and/or demolition work is defined using the Determinations issued under the *Building Act 2016* by the Director of Building Control. Any notifications or permits required in accordance with the defined category of work must be attained prior to the commencement of work. It is recommended the Council's Building Permit Authority, or a Building Surveyor be contacted should clarification be required.
- 4 Fencing to the frontage of the property to a height of 1.2m is "exempt" and does not require planning approval. Front fencing that is 30% transparent above 1.2m, to a maximum height of 1.8m, requires that

the fence be assessed for compliance and a "No Permit Required" Certificate be issued by the Planning Authority.'

The Town Planner's report is supported."

The Executive Services Officer reported as follows:

"A copy of the Annexures referred to in the Town Planner's report have been circulated to all Councillors."

■ Cr Hiscutt moved and Cr Viney seconded, "It is recommended that the application for Residential (demolition of an outbuilding and covered outdoor area and construction of multiple dwellings x eight – 10 dwellings in total) – variation to the rear boundary setback standard, location of waste storage area for Unit 1 and reliant on access over a right-of-way over land as the means of access to other land at 24 & 26 William Street, Ulverstone be approved subject to the following conditions and notes.

- 1 The development must be substantially in accordance with the plans by Arplan Home Design, Project No. 02518, Drawing Nos. SK01 (Revision G), SK02 (Revision D), SK03 (Revision A), SK04, SK05 (Revision A), SK06 (Revision D), SK07, SK08, SK09, SK10, SK11 (Revision A), SK12 (Revision A), SK13 (Revision A), SK14 (Revision A), SK15 (Revision A), SK16 (Revision A), SK17 (Revision A), SK18 (Revision A), SK19 (Revision A), SK20, SK21 (Revision A) dated 30 March 2020 and plans by K Moore and Associates (four pages) received 17 April 2020.
- 2 The development must be in accordance with the conditions of TasWater's Submission to Planning Authority Notice, Reference No. TWDA 2020/00494-CC dated 22 April 2020.
- 3 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 20 April 2020 issued by the Council acting in its capacity as the Road Authority and Stormwater Authority.
- 4 A minimum of a 1.2m high screen is to be erected between the storage area for Unit 1 and William Street.
- 5 A minimum of 24 car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
- 6 Stormwater, including from vehicle parking and manoeuvring areas, must be collected, drained and disposed of to an approved stormwater system.
- 7 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and 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 Prior to the commencement of work the applicant is to ensure that the category of work for any proposed building, plumbing and/or demolition work is defined using the Determinations issued under the *Building Act 2016* by the Director of Building Control. Any notifications or permits required in accordance with the defined category of work must be attained prior to the commencement of work. It is recommended the Council's Building Permit Authority, or a Building Surveyor be contacted should clarification be required.
- 4 Fencing to the frontage of the property to a height of 1.2m is "exempt" and does not require planning approval. Front fencing that is 30% transparent above 1.2m, to a maximum height of 1.8m, requires that the fence be assessed for compliance and a "No Permit Required" Certificate be issued by the Planning Authority."

Carried unanimously

166/2020 Residential (dwelling) – variation to setback of sensitive use at 41 Bowman Drive, Penguin – Application No. DA2020091

The Strategic Projects and Planning Consultant reported as follows:

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

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| <i>DEVELOPMENT APPLICATION NO.:</i> | DA2020091 |
| <i>PROPOSAL:</i> | Residential (dwelling) – variation to setback of sensitive use |
| <i>APPLICANT:</i> | ECLO Designs |
| <i>LOCATION:</i> | 41 Bowman Drive, Penguin |
| <i>ZONE:</i> | General Residential |
| <i>PLANNING INSTRUMENT:</i> | <i>Central Coast Interim Planning Scheme 2013</i> (the Planning Scheme) |
| <i>ADVERTISED:</i> | 18 April 2020 |
| <i>REPRESENTATIONS EXPIRY DATE:</i> | 4 May 2020 |

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| <i>REPRESENTATIONS RECEIVED:</i> | One |
| <i>42-DAY EXPIRY DATE:</i> | 28 May 2020 |
| <i>DECISION DUE:</i> | 18 May 2020 |

PURPOSE

The purpose of this report is to consider an application for a single dwelling at 41 Bowman Drive, Penguin.

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 is made for construction of a 262m² single-storey dwelling at 41 Bowman Drive, Penguin. The dwelling would comprise three bedrooms, one with an ensuite, an open plan kitchen/living/dining area with a separate lounge room, alfresco deck and patio and an internal two car garage.

The application satisfies all Planning Scheme Acceptable Solution standards, other than the dwelling would be setback less than 50m from a Rural Resource zone boundary.

Site description and surrounding area –

The subject site has a land area of 879m² and is zoned General Residential. The allotment is located in a well established residential area of Penguin that is characterised by single and double-storey dwellings.

The land is connected to reticulated stormwater, sewer and water systems.

History –

The subdivision of land in this area of Bowman Drive and Hales Street, Penguin was approved by the Planning Authority in 2003. Titles in this area have been released in stages. The title for 41 Bowman Drive was accepted by the Recorder of Titles in September 2019 and, due to this most recent date for the

release of the sealed plan, has evoked a discretion under the Planning Scheme in relation to the proximity of a sensitive use to a Rural Resource zone boundary.

DISCUSSION

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

General Residential

| CLAUSE | COMMENT |
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| 10.3.1 Discretionary Permit Use | |
| <p>10.3.1–(P1) Discretionary permit use must:</p> <p>(a) be consistent with local area objectives;</p> <p>(b) be consistent with any applicable desired future character statement; and</p> <p>(c) minimise likelihood for adverse impact on amenity for use on adjacent land in the zone.</p> | <p>Not applicable.</p> <p>Residential use (single dwelling) is No Permit Required.</p> |
| 10.3.2 Impact of Use | |
| <p>10.3.2–(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage.</p> | <p>Not applicable.</p> <p>Use is Residential.</p> |
| <p>10.3.2–(A2) Permitted non-residential use must not generate more than 40 average daily vehicle movements.</p> | <p>Not applicable.</p> <p>Use is Residential.</p> |

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| 10.3.2–(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. |
| 10.4.1 Residential density for multiple dwellings | |
| 10.4.1–(A1) Multiple dwellings must have a site area per dwelling of not less than: (a) 325m ² ; or (b) if within a density area specified in Table 10.4.1 below and shown on the planning scheme maps, that specified for the density area. | Not applicable. Not multiple dwelling development. |
| 10.4.2 Setbacks and building envelope for all dwellings | |
| 10.4.2–(A1) Unless within a building area, a dwelling, excluding protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m into the frontage setback, must have a setback from a frontage that is: (a) if the frontage is a primary frontage, at least 4.5m, or, if the setback from the primary frontage is less than 4.5m, not less than the setback, from the | (a) Compliant. Development setback would be 5.5m from the frontage. (b) Not applicable. Satisfied by (a). (c) Not applicable. Satisfied by (a). (d) Not applicable. Land does not abut the Bass Highway. |

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| <p>primary frontage, of any existing dwelling on the site; or</p> <p>(b) if the frontage is not a primary frontage, at least 3.0m, or, if the setback from the frontage is less than 3.0m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site; or</p> <p>(c) if for a vacant site with existing dwellings on adjoining sites on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p> <p>(d) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road.</p> | |
| <p>10.4.2-(A2) A garage or carport must have a setback from a primary frontage of at least:</p> <p>(a) 5.5m, or alternatively 1.0m behind the façade of the dwelling; or</p> <p>(b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> | <p>(a) Compliant. Garage would be setback 5.5m from the primary frontage.</p> <p>(b) Not applicable. Addressed in (a).</p> <p>(c) Not applicable. Addressed in (a).</p> |

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| <p>(c) 1.0m, if the natural ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10.0m from the frontage.</p> | |
| <p>10.4.2–(A3) A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Diagrams 10.4.2A, 10.4.2B, 10.4.2C and 10.4.2D) determined by:</p> <ul style="list-style-type: none"> (i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a lot with an adjoining frontage; and (ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at the side boundaries and a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level; and <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> | <p>(a)(i) Compliant. Development would be setback 7.62m from the rear boundary.</p> <p>(a)(ii) Compliant. Development would be within the required building envelope and setback 7.62m from the rear boundary.</p> <p>(b)(i) Not applicable. Addressed in (b)(ii).</p> <p>(b)(ii) Compliant. Development would be setback 1.5m from the south-eastern side boundary and 5.6m from the north-western side boundary.</p> |

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| <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary or the adjoining lot; or</p> <p>(ii) does not exceed a total length of 9.0m or one-third the length of the side boundary (whichever is the lesser).</p> | |
| <p>10.4.3 Site coverage and private open space for all dwellings</p> | |
| <p>10.4.3-(A1) Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60.0m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) a site area of which at least 25% of the site area is free from impervious surfaces.</p> | <p>(a) Compliant. Site coverage would be approximately 44.3%.</p> <p>(b) Not applicable. Not multiple dwelling development.</p> <p>(c) Compliant. Approximately 50% of the site area is free from impervious surfaces.</p> |
| <p>10.4.3-(A2) A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p> | <p>(a)(i) Compliant. Dwelling would have private open space greater than 24m² in one location.</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p> |

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| <ul style="list-style-type: none"> (i) 24.0m²; or (ii) 12.0m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and <p>(b) has a minimum horizontal dimension of:</p> <ul style="list-style-type: none"> (i) 4.0m; or (ii) 2.0m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least three hours of sunlight to 50% of the area between 9.00am and 3.00pm on 21 June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north,</p> | <ul style="list-style-type: none"> (b)(i) Compliant. Dwelling private open space would have a minimum horizontal dimension greater than 4m. (b)(ii) Not applicable. Satisfied by (b)(i). (c) Compliant. Dwelling private open space would be accessible from habitable rooms. (d) Compliant. Private open space would be located north, east and west. (e) Compliant. Private open space is not located between the dwelling and the primary frontage. (f) Compliant. The site has a slight rise, less than 1 in 10, to the north. (g) Compliant. Private open space areas would be clear of vehicle access and parking areas. |
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| <p>excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p> | |
| 10.4.4 Sunlight and overshadowing for all dwellings | |
| <p>10.4.4-(A1) A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).</p> | <p>Compliant.</p> <p>Habitable rooms would be located between 30 degrees west of north and 30 degrees east of north.</p> |
| <p>10.4.4-(A2) A multiple dwelling that is to the north of a window of a habitable room (other than a bedroom) of another dwelling on the same site, which window faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A), must be in accordance with (a) or (b), unless excluded by (c):</p> <p>(a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4B):</p> <p>(i) at a distance of 3.0m from the window; and</p> <p>(ii) vertically to a height of 3.0m above natural ground level and then at an angle of 45 degrees from the horizontal.</p> | <p>Not applicable. Not multiple dwelling development.</p> |

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| <p>(b) The multiple dwelling does not cause the habitable room to receive less than three hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(c) That part, of a multiple dwelling, consisting of:</p> <ul style="list-style-type: none"> (i) an outbuilding with a building height no more than 2.4m; or (ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m horizontally from the multiple dwelling. | |
| <p>10.4.4–(A3) A multiple dwelling, that is to the north of the private open space, of another dwelling on the same site, required in accordance with A2 or P2 of subclause 10.4.3, must be in accordance with (a) or (b), unless excluded by (c):</p> <p>(a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4C):</p> <ul style="list-style-type: none"> (iii) at a distance of 3.0m from the northern edge of the private open space; and (iv) vertically to a height of 3.0m above natural ground level and then at an angle of 45 degrees from the horizontal. | <p>Not applicable. Not multiple dwelling development.</p> |

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| <p>(b) The multiple dwelling does not cause 50% of the private open space to receive less than three hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(c) That part, of a multiple dwelling, consisting of:</p> <p>(iii) an outbuilding with a building height no more than 2.4m; or</p> <p>(iv) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m from the multiple dwelling.</p> | |
| <p>10.4.5 Width of openings for garages and carports for all dwellings</p> | |
| <p>10.4.5-(A1) A garage or carport within 12.0m of a primary frontage (whether the garage or carport is free-standing or part of the dwelling) must have a total width of openings facing the primary frontage of not more than 6.0m or half the width of the frontage (whichever is the lesser).</p> | <p>Compliant. Garage would be setback 5.5m from the frontage.</p> |
| <p>10.4.6 Privacy for all dwellings</p> | |
| <p>10.4.6-(A1) A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1.0m above natural ground level must have a permanently fixed screen to a height of at least 1.7m above the finished surface or</p> | <p>Not applicable.</p> <p>No balcony, deck, roof terrace, parking space or carport with a finished surface or floor level more than 1m above natural ground level.</p> |

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| <p>floor level, with a uniform transparency of no more than 25%, along the sides facing a:</p> <ul style="list-style-type: none"> (a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3.0m from the side boundary; and (b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 4.0m from the rear boundary; and (c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is at least 6.0m: <ul style="list-style-type: none"> (iii) from a window or glazed door, to a habitable room of the other dwelling on the same site; or (iv) from a balcony, deck, roof terrace or the private open space, of the other dwelling on the same site. | |
| <p>10.4.6–(A2) A window or glazed door, to a habitable room, of a dwelling, that has a floor level more than 1.0m above the natural ground level, must be in accordance with (a), unless it is in accordance with (b):</p> <ul style="list-style-type: none"> (a) The window or glazed door: | <p>Not applicable.</p> <p>No window or glazed door to a habitable room that has a floor level more than 1m above the natural ground level.</p> |

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| <ul style="list-style-type: none"> (i) is to have a setback of at least 3.0m from a side boundary; and (ii) is to have a setback of at least 4.0m from a rear boundary; and (iii) if the dwelling is a multiple dwelling, is to be at least 6.0m from a window or glazed door, to a habitable room, of another dwelling on the same site; and (iv) if the dwelling is a multiple dwelling, is to be at least 6.0m from the private open space of another dwelling on the same site. <p>(b) The window or glazed door:</p> <ul style="list-style-type: none"> (i) is to be offset, in the horizontal plane, at least 1.5m from the edge of a window or glazed door, to a habitable room of another dwelling; or (ii) is to have a sill height of at least 1.7m above the floor level or has fixed obscure glazing extending to a height of at least 1.7 m above the floor level; or (iii) (iii) is to have a permanently fixed external screen for the full length of the | |
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| <p>window or glazed door, to a height of at least 1.7m above floor level, with a uniform transparency of not more than 25%.</p> | |
| <p>10.4.6–(A3) A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of at least:</p> <p>(a) 2.5m; or</p> <p>(b) 1.0m if:</p> <p>(iv) it is separated by a screen of at least 1.7m in height; or</p> <p>(v) the window, or glazed door, to a habitable room has a sill height of at least 1.7m above the shared driveway or parking space or has fixed obscure glazing extending to a height of at least 1.7m above the floor level.</p> | <p>Not applicable.</p> <p>No shared driveway.</p> |
| <p>10.4.7 Frontage fences for all dwellings</p> | |
| <p>10.4.7–(A1) A fence (including a free-standing wall) within 4.5m of a frontage must have a height above natural ground level of not more than:</p> <p>(a) 1.2m if the fence is solid; or</p> | <p>Not applicable.</p> <p>No frontage fence proposed.</p> |

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| <p>(b) 1.8m, if any part of the fence that is within 4.5m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).</p> | |
| <p>10.4.8 Waste storage for multiple dwellings</p> | |
| <p>10.4.8-(A1) A multiple dwelling must have a storage area, for waste and recycling bins, that is an area of at least 1.5m² per dwelling and is within one of the following locations:</p> <p>(a) in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</p> <p>(b) in a communal storage area with an impervious surface that:</p> <ul style="list-style-type: none"> (i) has a setback of at least 4.5m from a frontage; and (ii) is at least 5.5m from any dwelling; and (iii) is screened from the frontage and any dwelling by a wall to a height of at least 1.2m above the finished surface level of the storage area. | <p>Not applicable.</p> <p>No multiple dwelling proposed.</p> |

10.4.9 Suitability of a site or lot for use or development

10.4.9–(A1) A site or each lot on a plan of subdivision must:

- (a) have an area of not less than 330m² excluding any access strip; and
- (b) if intended for a building, contain a building area of not less than 10.0m x 15.0m:
 - (i) clear of any applicable setback from a frontage, side or rear boundary;
 - (ii) clear of any applicable setback from a zone boundary;
 - (ix) clear of any registered easement;
 - (x) clear of any registered right of way benefiting other land;
 - (xi) clear of any restriction imposed by a Utility;
 - (xii) not including an access strip;
 - (xiii) accessible from a frontage or access strip; and
 - (xiv) if a new residential lot, with a long axis within the range 30 degrees east of north

- (a) Compliant. Overall site area is 879m².
- (b)(i) Compliant. Development would be clear of any applicable setback from a frontage, side or rear boundary.
- (b)(ii) Non-compliant. Development would be 17m from Rural Resource zone boundary.
Refer to the “Issues” section of this report.
- (b)(iii) Not applicable. No registered easements.
- (b)(iv) Not applicable. No registered right of way.
- (b)(v) Not applicable. No restriction imposed by a Utility.
- (b)(vi) Not applicable. No access strip.
- (b)(vii) Compliant. Land is accessible from Bowman Drive.
- (b)(viii) Not applicable. Not a new residential lot.

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| and 20 degrees west of north. | |
| <p>10.4.9-(A2) A site or each lot on a subdivision plan 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 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</p> | <p>(a) Compliant. Existing access to a frontage to Bowman Drive.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c)(i) Not applicable. Satisfied by (a).</p> <p>(c)(ii) Not applicable. Satisfied by (a).</p> <p>(d)(i) Compliant. Width of frontage 20.56m.</p> <p>(d)(ii) Not applicable. Not multiple dwelling or non-residential development.</p> <p>(e) Compliant. Site has existing legal access to Bowman Drive. No changes proposed to this access. The Council, acting as a Road Authority, have no issues.</p> |

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| <p><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>10.4.9–(A3) A site or each lot on a plan of subdivision must be capable of connecting to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p> | <p>Compliant.</p> <p>The site is connected to the reticulated water system.</p> |
| <p>10.4.9–(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and wastewater to a sewage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p> | <p>Compliant.</p> <p>The site is connected to the reticulated sewerage system.</p> |
| <p>10.4.9–(A5) A site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>.</p> | <p>Compliant.</p> <p>The site is connected to the reticulated stormwater system.</p> |

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| 10.4.10 Dwelling density for single dwelling development | |
| <p>10.4.10-(A1)</p> <p>(a) The site area per dwelling for a single dwelling must –</p> <p>(i) be not less than 325m².</p> | <p>(a)(i) Compliant. Site area is 879m².</p> |
| 10.4.11 Development other than a single or multiple dwelling | |
| 10.4.11.1 Location and configuration of development | |
| <p>10.4.11.1-(A1) The wall of a building must be set back from a frontage –</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 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>Not applicable.</p> <p>Development is residential.</p> |

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| <p>(f) not less than 50.0m if the site abuts the Bass Highway.</p> | |
| <p>10.4.11.1–(A2) All buildings must be contained within a building envelope determined by –</p> <p>(a) the applicable frontage setback;</p> <p>(b) a distance of not less than 4.0m from the rear boundary or if an internal lot, a distance of 4.5m from the boundary abutting the rear boundary of the adjoining frontage site;</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> <p>(iii) not less than 1.5m from each side boundary; or</p> <p>(iv) less than 1.5m from a side boundary if –</p> <p>a. built against an existing wall of an adjoining building; or</p> | <p>Not applicable.</p> <p>Development is residential.</p> |

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| <p>b. the wall or walls –</p> <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 50% of the private open space of an adjoining dwelling receiving less than 3 hours of sunlight between 9.00am and 3.00pm on 21 June. <p>(d) in accordance with any building envelope shown on a sealed plan of subdivision.</p> | |
| <p>10.4.11.1–(A3) Site coverage must:</p> <ul style="list-style-type: none"> (a) not be more than 50%; or (b) not be more than any building area shown on a sealed plan. | <p>Not applicable. Development is residential.</p> |
| <p>10.4.11.1–(A4) A garage, carport or external parking area and any area for the display, handling, or storage of goods,</p> | <p>Not applicable.</p> |

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| materials or waste, must be located behind the primary frontage of a building. | Development is residential. |
| <p>10.4.11.1–(A5) Other than for a dwelling, the 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.</p> <p>Development is residential.</p> |
| 10.4.11.2 Visual and acoustic privacy for residential development | |
| <p>10.4.11.2–(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>(i) be not less than 6.0m from any door, window, balcony, deck, or roof garden in a dwelling on the same site;</p> <p>(ii) be not less than 3.0m from a side boundary;</p> <p>(iii) be not less than 4.0m from a rear boundary; and</p> | <p>Not applicable.</p> <p>Development is residential.</p> |

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| <p>(iv) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary 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 of another dwelling;</p> <p>(ii) have a window sill height of not less than 1.8m above floor level;</p> <p>(iii) have fixed 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 floor level; or</p> <p>(iv) have a fixed and durable external screen other than vegetation of not less than 1.8m height above the 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>10.4.11.2-(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</p> | <p>Not applicable.</p> <p>Development is residential.</p> |

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| and 1.5m vertically from the door or window to a dwelling or any balcony, deck, or roof garden in a dwelling. | |
| 10.4.11.3 Frontage fences | |
| <p>10.4.11.3–(A1) The height of a fence, including any supporting retaining wall, on or within a frontage setback 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>Not applicable.</p> <p>Development is residential.</p> |
| 10.4.12 Setback of development for sensitive use | |
| <p>10.4.12–(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 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>(a) Non-compliant. Table to this Clause requires that a sensitive use (dwelling) be setback 50m from a Rural Resource zone boundary, if the site is a lot approved for residential use on a plan of subdivision sealed before the Planning Scheme came into effect (2013). The subject allotment was sealed and accepted by the Recorder of Titles in 2019. This means the development must be setback 50m from a Rural Resource zone. The subject dwelling is to be located 17m from a Rural Resource zone boundary that is to the east of Bowman Drive.</p> |

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| | (b) Non-compliant. As described above. Refer to the "Issues" section of this report. |
| <p>10.4.12-(A2) Development for a sensitive use must be not less than 50.0m from:</p> <p>(a) 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. Development would be approximately 400m from the Bass Highway.</p> <p>(b) Compliant. Development would be approximately 575m from a railway line.</p> <p>(c) Not applicable. No land designated for future road or rail.</p> <p>(d) Not applicable. The nearest proclaimed wharf area is in Burnie approximately 20km to the west.</p> |
| 10.4.13 Subdivision | |
| <p>10.4.13-(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>10.4.13-(A2) A lot, other than a lot to which A1(b) applies, must not be an internal lot</p> | <p>Not applicable.</p> <p>No subdivision proposed.</p> |

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| 10.4.14 Reticulation of an electricity supply to new lots on a plan of subdivision | |
| 10.4.14–(A1) Electricity reticulation and site connections must be installed underground. | Not applicable. No subdivision proposed. |
| CODES | |
| E1 Bushfire-Prone Areas Code | Not applicable. Not a subdivision, hazardous or vulnerable use. |
| 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. No change in ground level greater than 1m or retaining walls closer than 1m and higher than 0.5m. |
| E5 Local Heritage Code | Not applicable. No Local Heritage Code in the Scheme. |
| E6 Hazard Management Code | Not applicable. Not within a hazard mapped area. |
| E7 Sign Code | Not applicable. No signage proposed. |
| E8 Telecommunication Code | Not applicable. No telecommunications proposed. |
| E9 Traffic Generating Use and Parking Code | |

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| E9.2 Application of this Code | Code applies to all development. |
| E9.4 Use or development exempt from this Code | Not exempt. No Local Area Parking Scheme applies to the site. |
| E9.5 Use Standards | |
| E9.5.1 Provision for parking | |
| E9.5.1–(A1) Provision for parking must be: (a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code; | (a) Compliant. Table E9A requires two car parking spaces for a residential dwelling. The proposed development incorporates a two car internal 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 the Table to this Code; and (b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at | Not applicable for residential use. |

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| the rate of one space for every 50 parking spaces. | |
| E9.6 Development Standards | |
| E9.6.2 Design of vehicle parking and loading areas | |
| E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and | Compliant by a Condition to be placed on the Permit. |
| <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> <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; | Not applicable for single dwelling development in General Residential zone. |

COMMUNITY SERVICES

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| <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> | |
| 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>Not applicable.</p> <p>Land is zoned General Residential.</p> |
| E10 Water and Waterways Code | Not applicable. Subject site is situated more than 30m from a watercourse. |
| Specific Area Plans | No Specific Area Plans apply to this location. |

Issues –

1 Proximity of sensitive use to Rural Resource zone boundary –

The subdivision of land in this area of Bowman Drive and Hales Street, Penguin was approved by the Planning Authority in 2003. Titles in this area have been released in stages. The title for 41 Bowman Drive was accepted by the Recorder of Titles in September 2019 and, due to this most recent date for the release of the sealed plan, a discretion has been evoked under the Planning Scheme in relation to the proximity of a sensitive use to a Rural Resource zone boundary.

The Planning Scheme's Acceptable Solution for Clause 10.4.12–(A1)(a) states that a building containing a sensitive use (a dwelling) must be contained within a building envelope determined by the setback distance from the zone boundary as shown in the Table to this Clause. Table to Clause 10.4.12–(A1) states that a setback of 50m is required (4m would have been required if the sealed plan was accepted before the Planning Scheme came into effect in 2013). The subject development would be located 17m from the Rural Resource zone boundary.

The Planning Scheme's Performance Criteria for Clause 10.4.12–(P1) states that the location of a building containing 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

Able to satisfy this Performance Criteria. The residential subdivision that forms Bowman Drive and Hales Street, Penguin is located at the eastern edge of the Penguin township. Refer to the aerial view at Annexure 4. The allotment at 41 Bowman Drive is the last of several residential lots in this area that are located within 50m of a Rural Resource zone. Although unable to meet the required 50m setback, the subject allotment does not physically adjoin the Rural Resource zone boundary, being separated by another residential lot and a small area of Environmental Living zone. It is considered most unlikely that the construction of the proposed dwelling would result in any conflict, constraint or interference in the activities and uses of the Rural Resource zone.

- (b) minimise likely impact from existing and potential use of land in the adjoining zone on amenity of the sensitive use.

Able to satisfy this Performance Criteria. As outlined in comments above, it is considered most unlikely that the proximity of the Rural Resource zone would result in negative impacts on the residential use of land in Bowman Drive due to the history of residential development in this area. The rural resource land also has an established vegetation buffer along the western boundary of the land.

Referral advice –

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

| SERVICE | COMMENTS/CONDITIONS |
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| Environmental Health | No comment. |
| Infrastructure Services | Statement of Compliance from the Road Authority & the Stormwater Authority to be issued. |
| 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 –

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 |
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| 1 The dwelling would take away a long held sea view and any remaining view would be compromised by a clothes line that is proposed in the back corner of the lot. | The established, adjoining dwelling to the east was constructed in 2009. The proposed dwelling at 41 Bowman Drive may result in an impaired outlook for the occupiers of the adjoining dwelling, obscuring somewhat the view towards Bass Strait. However, this is not a discretionary matter. The proposed dwelling satisfies all front, rear and side setbacks and would be of single-storey construction, also satisfying the required height criteria. |
| 2 The dwelling is planned to start 1.5m from the adjoining side fence line and may compromise sunlight into living and outdoor area(s). | The proposed 1.5m setback from the side boundary satisfies the Planning Scheme's development standards. The dwelling would have a skillion roof design that is lower on the south-eastern side of the dwelling, rising towards the north-western side of the building. This would reduce any overshadowing effect. |

RESOURCE, FINANCIAL AND RISK IMPACTS

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

CORPORATE COMPLIANCE

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

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

CONCLUSION

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

The proposed development had the possibility of being a “No Permit Required” development in the General Residential zone. The application was discretionary due to the proximity of the dwelling to a Rural Resource zone boundary. The proposed development, as discussed in the “Issues” section of this report, is considered to have satisfied the applicable Planning Scheme’s Performance Criteria and issue of a permit is justified.

Recommendation –

It is recommended that the application for Residential (dwelling) – variation to setback of sensitive use at 41 Bowman Drive, Penguin be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by ECLO Designs, Project No. 2004, Drawing Nos. A00 to A08 dated 25 February 2020.
- 2 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 21 April 2020, issued by the Council, acting in its capacity as the Road Authority and the Stormwater Authority.
- 3 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and all-weather surface.
- 4 Stormwater, including from vehicle parking and manoeuvring areas, must be collected, drained and disposed of to an approved stormwater system.

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 Fencing to the frontage of the property to a height of 1.2m is "exempt" and does not require planning approval. Front fencing that is 30% transparent above 1.2m, to a maximum height of 1.8m, requires that the fence be assessed for compliance and a "No Permit Required" Certificate be issued by the Planning Authority.'

The Land Use Planning Group Leader's report is supported."

The Executive Services Officer reported as follows:

"A copy of the Annexures referred to in the Town Planner's report have been circulated to all Councillors."

■ Cr van Rooyen moved and Cr Beswick seconded, "That it is recommended that the application for Residential (dwelling) – variation to setback of sensitive use at 41 Bowman Drive, Penguin be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by ECLO Designs, Project No. 2004, Drawing Nos. A00 to A08 dated 25 February 2020.
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Carried unanimously

167/2020 **Natural and cultural values (upgrades and new retaining walls, rock walls, ramps and stairs), Utilities (minor – upgrades and new shared pathways and widening of Lions Park access road) and Passive recreation (upgrade of car parking area) at Main Road, Penguin (Penguin foreshore – from Penguin Creek, Stubbs Point to Lions Park at Surf Club Point, Penguin) – Application No. DA2020116**

The Strategic Projects and Planning Consultant reported as follows:

"The Planning Consultant, Theresia Williams of PlanPlace Consulting has prepared the following assessment report:

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| <i>'DEVELOPMENT APPLICATION NO.:</i> | DA2020116 |
| <i>PROPOSAL:</i> | Natural and Cultural Values, Utilities (Minor) and Passive Recreation |
| <i>APPLICANT:</i> | Central Coast Council |
| <i>LOCATION:</i> | Penguin Foreshore – Main Road, Penguin |
| <i>ZONE:</i> | Open Space Zone |
| <i>PLANNING INSTRUMENT:</i> | <i>Central Coast Interim Planning Scheme 2013</i> (the Scheme) |
| <i>ADVERTISED:</i> | 6 May 2020 |
| <i>REPRESENTATIONS EXPIRY DATE:</i> | 20 May 2020 |

REPRESENTATIONS RECEIVED: Five
42-DAY EXPIRY DATE: 12 June 2020
DECISION DUE: 25 May 2020

PURPOSE

The purpose of this report is to consider an application for the proposed works for the Penguin foreshore.

Accompanying the report are the following documents:

- . Annexure 1 – application documentation;
- . Annexure 2 – representations (including TasRail submission);
- . Annexure 3 – photographs

BACKGROUND

Development description –

Application is made for works along the Penguin foreshore, from Lions Park through to the mouth of the Penguin creek.

The works cover three use classes:

- . Natural and Cultural Values
Upgrades and new retaining walls, rock walls, ramps and stairs
- . Utilities
Minor Utilities – upgrade and new coastal pathways and widening of Lions Park access road
- . Passive Recreation
Upgrade of car parking area within the Open Space zone, which extends some way over the beach itself.

Much of this work would be Permitted, or No Permit Required were it not for certain interpretations within the Scheme, namely the proximity to the shoreline clauses within the Open Space zone and the E10 Water and Waterways Code. This reliance upon performance criteria tips the development into the discretionary assessment process.

The application is accompanied by extensive supporting reports and research, which provide significant details on the proposal, the impacts and how these are to be managed.

Site description and surrounding area –

The site runs along the foreshore of the Penguin township, and includes public spaces, walkways, parking and other infrastructure, including erosion mitigation infrastructure, which has been a defining aspect of the Penguin foreshore for many years.

The works span from Lions Park in the east to the mouth of the Penguin Creek at the north western end of the foreshore.

History –

The area was the subject of a previous application for similar works which was withdrawn. Members of the community who submitted a representation to that application were also advised of this current application, in addition to the statutory notifications required by the *Land Use Planning and Approvals Act 1993* (the Act).

DISCUSSION

The Penguin foreshore has an established history of natural erosion and accretion cycles. The proximity of the township to the waterfront and these natural cycles result in the need to manage these cycles through coastal infrastructure (eg retaining walls and other mechanisms). The only other alternative would be to retreat from the coastline in this location, which would essentially require relocation of the Penguin township.

The proposal is for upgrades and extension of services which have been in place for many years.

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

Open Space Zone

| CLAUSE | COMMENT |
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| 19.3 Use Standards | |
| 19.3.1 Discretionary Permit Use | |
| 19.3.1 Discretionary permit use A1 There are no acceptable solutions. | Not applicable. The proposal is for a range of uses which fall within the Permitted and No Permit Required Use Classes. |
| 19.4 Development Standards | |
| 19.4.1 Suitability of a site or lot for use or development | |
| 19.4.1 A1 Each site or each lot on a plan of subdivision must– (a) have an area of not less than 1000m ² excluding any access strip; and | The site exceeds 1000m ² in size. No building is intended. Complies. |

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| <p>(b) If intended for a building, have a building area –</p> <ul style="list-style-type: none"> (i) not less than 300m²; (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 an access strip; (viii) clear of any area required for the on-site disposal of sewage or stormwater; and (ix) accessible from a frontage or access strip. | |
| <p>19.4.1 A2 A site or each lot on a subdivision plan must have separate access from a road–</p> <p>(a) across a frontage over which no other land has right of access with a width of not less than 10.0m; and</p> | <p>The site is accessible from multiple points.</p> <p>Complies.</p> |

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| <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 with a width of not less than 6.0m; 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;</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>(iii) with a width of not less than 6.0m; and</p> <p>(d) 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>19.4.1</p> <p>A3 A site or each lot on a plan of subdivision must be capable of connecting to a water supply –</p> <p>(a) provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> | <p>Complies.</p> <p>The site is capable of connection.</p> |

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| <p>(b) from a rechargeable drinking water system with a storage capacity of not less than 10,000 litres if –</p> <ul style="list-style-type: none"> (i) there is not a reticulated water supply; and (ii) development is for a use with an equivalent population of not more than 10 people per day. | |
| <p>19.4.1</p> <p>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> <ul style="list-style-type: none"> (a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2009</i>; or (b) by onsite disposal if: <ul style="list-style-type: none"> (i) sewage or liquid trade waste cannot be drained to a reticulated sewer system; and (ii) the development: <ul style="list-style-type: none"> a. provides for an equivalent population of not more than 10 people per day; or b. creates a total sewage and waste water flow of not more than 1,000l per day; and (iii) the site has capacity for onsite disposal of domestic | <p>Complies.</p> <p>The site is capable of connection.</p> |

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| waste water in accordance with AS/NZS1547:2000 Onsite domestic wastewater management, clear of any defined building area or access strip. | |
| <p>19.4.1</p> <p>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> | Complies. |

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| <p>strip; and</p> <p>e. not more than 50% of the site is impervious surface.</p> | |
| 19.4.2 Location and configuration of development | |
| <p>19.4.2</p> <p>A1 Site coverage must –</p> <p>(a) be not more than 20%; and</p> <p>(b) not include any part of a site required for the disposal and drainage of sewage or stormwater; or</p> <p>(c) be not more than any building area shown on a sealed plan.</p> | <p>Complies.</p> <p>Site coverage considers the percentage of a site covered by roofed buildings. No new roofed buildings are proposed. Existing site coverage is well below 20%.</p> |
| <p>19.4.2</p> <p>A2 A building or utility structure must be setback –</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;</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>Complies.</p> <p>The site does not have a frontage as defined by the Scheme and no buildings are proposed. The proposal meets the setback for (f).</p> |

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| <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) if the site abuts a road shown in the Table to this clause, not less than the setback specified for that road.</p> | |
| <p>19.4.2</p> <p>A3 Building height or the height of a utility structure must not be more than 10.0m.</p> | <p>Complies.</p> <p>This clause has been deemed as applicable due to the definition of minor utilities within the scheme:</p> <p><i>“utilities for local distribution or reticulation of services and associated infrastructure such as a footpath, cycle path, stormwater channel, water pipes, retarding basin.....”</i></p> <p>and as such includes the proposed wall(s) which are less than 10m in height.</p> |
| <p>19.4.2</p> <p>A4 A building or utility structure must be –</p> <p>(a) not less than 15m below the level of any adjoining ridgeline;</p> <p>(b) not less than 30m from any shoreline to a marine or</p> | <p>Relies on Performance Criteria</p> <p>The proposed works (including utility structures) do not comply with (b).</p> <p>Refer to “Issues” section of report for assessment under 19.4.2 P4.</p> |

COMMUNITY SERVICES

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| <p>aquatic water body, water course or wetland;</p> <p>(c) below the canopy level of any adjacent forest or woodland vegetation and</p> <p>(d) clad and roofed with materials with a light reflectance value of less than 40%.</p> | |
| <p>19.4.2</p> <p>A5 The harvesting of timber, the clearing of vegetation and any change in natural ground level must not occur on any part of a site outside the required maximum building area or the access strip.</p> | Complies |
| <p>19.4.2</p> <p>A6 An external 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>Not applicable.</p> <p>There is no primary frontage, and there are no buildings behind which the parking area may sit.</p> |
| 19.4.3 Setback from zone boundaries | |
| <p>19.4.3</p> <p>A1 Development of land with a boundary to another zone must –</p> <p>(a) be setback from the boundary of land in an adjoining zone by not less than the distance for that zone shown</p> | Complies. |

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| <p>in the Table to this Clause:</p> <p>(b) not include within the setback area required from a boundary to land in a zone shown in the Table to this Clause:</p> <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; (iii) vehicle loading or parking area; (iv) an area for the display, handling, operation, manufacturing, processing, servicing, repair, or storage of any animal, equipment, goods, plant, materials, vehicle, or waste; (v) an area for the gathering of people, including for entertainment, community event, performance, sport, or for a spectator facility; (vi) a sign orientated to view from land in another zone; or (vii) external lighting for operational or security purposes; and <p>(c) a building with an elevation to a zone boundary must be contained within a building envelope determined by:</p> | |
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| <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 degrees above the horizontal from a wall 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> | |
| 19.4.4 Subdivision | |
| <p>19.4.4</p> <p>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. |
| CODES | |
| E1 Bushfire-Prone Areas Code | Not applicable. |

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| | The use is neither vulnerable or hazardous. _ |
| E2 Airport Impact Management Code | Not applicable. This Code is not in the Scheme. |
| E3 Clearing and Conversion of Vegetation Code | Code applies. Works proposed are exempt under E3.4.1 (a) as they are on previously cleared land. |
| E4 Change in Ground Level Code | |
| E4.2 Application of Code | Cut and fill is proposed. The Code is applicable. |
| E4.4 Exemptions | The proposed cut and fill is not exempt. |
| E4.6.1 Change in existing ground level or natural ground level | |
| <p>A1</p> <p>Cut or fill must –</p> <p>(a) Not be on land within the Environmental Living Zone or the Environmental Management zone;</p> <p>(b) Be required to –</p> <p>(i) Provide a construction site for buildings and</p> | <p>Complies.</p> <p>Cut and fill is required in order to mitigate exposure to a natural hazard and facilitate provision of a utility.</p> |

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| <p>structures;</p> <ul style="list-style-type: none"> (ii) Facilitate vehicular access; (iii) Mitigate exposure to a natural or environmental hazard; (iv) Facilitate provision of a utility; (v) Assist the consolidation or intensification of development; or (vi) Assist stormwater management. <p>(c) Not result in a modification of surface stormwater water flow to increase –</p> <ul style="list-style-type: none"> (i) Surface water drainage onto adjacent land; (ii) Pooling of water on the site or on adjacent land; or (iii) The nature or capacity of discharge from land upstream in a natural or artificial drainage channel; <p>(d) Not destabilise any existing building or increase the requirements for construction of any potential building on adjacent land;</p> <p>(e) Manage disposal of intersected ground water;</p> <p>(f) Safeguard the quality of receiving waters through measures to minimise erosion and release of sediments</p> | |
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| <p>and other contaminants during each of the site preparation, construction and rehabilitation phase in accordance with Soil and Water Management on Building and Construction Sites 2009;</p> <p>(g) Not require a retaining or support structure that would result in an area of influence within the boundary of adjacent land; and</p> <p>(h) Not encroach upon or expose, disturb or reduce cover over an underground utility to less than 1m unless the relevant regulatory entity has advised –</p> <p>(i) It is satisfied the cut or fill will not result in harm to the utility; and</p> <p>(ii) Any condition or requirement it determines are appropriate to protect the utility.</p> | |
| E5 Local Heritage Code | <p>Not applicable.</p> <p>It is noted that the works have been issued with an exemption in regard to the adjacent Memorial Library which is listed on the Tasmanian Heritage Register.</p> |

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| E6 Hazard Management Code | |
| E6.2 Application of Code | Code applies. The site is identified as at risk of coastal inundation and erosion. |
| E6.4 Exemption | The proposal is not exempt. |
| <p>E6.5.1</p> <p>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 | Not applicable. Site is not identified as potentially contaminated. |
| <p>E6.5.2</p> <p>A1 If 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>Complies.</p> <p>The proposed use is neither critical, hazardous nor vulnerable as defined by the Scheme. There is no residential use proposed. The</p> |

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| <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>application is accompanied by supporting reports which satisfy A1 (c).</p> |
| <p>E6.6.1</p> <p>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 involve land on another title to manage risk consistent with the</p> | <p>Not applicable.</p> <p>Site is not identified as potentially contaminated</p> |

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| <p>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</p> <p>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>(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 tile of the land and providing for the effected land to be managed in accordance with recommendations for hazard management</p> | <p>Complies.</p> <p>The specialist reports accompanying the application indicate that the level of risk for the proposed development is tolerable for the intended lifetime of the investment.</p> <p>The proposed works will also protect the existing uses for an extensive portion of this waterfront.</p> |

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| E7 Sign Code | The Code is not applicable. No signage is proposed. |
| 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 use and development. |
| E9.4 Exemptions | The proposal is not exempt. |
| E9.5.1 A1 Provision for parking must be – (a) The minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code. | Complies. The Scheme specifies that Natural and Cultural Values management and Utilities land uses provide enough spaces to service the workforce and use of the land. There is no specific requirement for Passive Recreation. The site provides multiple options for parking, all of which are constructed within the applicable standards (including the upgrades proposed as part of these works). |
| E9.5.2 A1 There must be provision within a site for – | Complies. |

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| <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>E9.6.1</p> <p>A1.1 All development must provide for the collection, drainage and disposal of stormwater; and</p> <p>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/NZ 2890.1 (2004) – Parking Facilities – Off Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.6 (1993) Parking Facilities – Bicycle Parking Facilities;</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</p> | <p>Complies.</p> |

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| <p>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>E9.6.1</p> <p>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.</p> | <p>Complies.</p> |
| <p>E10 Water and Waterways Code</p> | |
| <p>E10.2 Application of the Code</p> | <p>Development is within 30m of a watercourse / high tide mark.</p> <p>The Code is applicable.</p> |
| <p>E10.4 Exemptions</p> | <p>The proposal is not exempt.</p> |
| <p>E10.6.1 Development in proximity to a water body, watercourse</p> | <p>Not applicable.</p> |

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| or wetland A1 No acceptable solution. | The Penguin Creek is within the definition of shoreline as per the <i>Tasmanian State Coastal Policy 1996</i> . |
| E10.6.2 Development in a shoreline area A1 No acceptable solution. | Relies on Performance Criteria. Refer to “Issues” section of report for assessment under E10.6.2 P1. |
| 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 development site. |
| F5.0 Not used in this Scheme | |
| F6.0 Revell Lane Precinct Specific Area Plan | Not applicable. This Specific Area Plan does not apply to the site. |

Issues –

OPEN SPACE

1 Location and configuration of development

Clause 19.4.2 A4 includes provision that utility structures within 30m of the shoreline or water course be considered under the performance criteria, providing the planning authority with greater discretion and detail for assessment of the visual impact of such a development within these locations.

CI 19.4.2 P4

- (a) The location, height and visual appearance of a building or structure must have regard to –*
 - (i) minimising the visual impact on the skyline;*
 - (ii) minimising height above the adjacent vegetation canopy;*
 - (iii) minimising visual impact on the shoreline or a marine or aquatic water body, water course, or wetland where possible; and*
 - (iv) minimising excessive reflection of light from an external surface; or*
- (b) the location of a visually apparent building or structure must –*
 - (i) be essential and unavoidable in order to provide an overriding community benefit; or*
 - (ii) incapable of change due to an exceptional circumstance.*

The proposed location of works has a long-standing history of development and works as well as implementation of protection measures. The area (in its existing state as well as the proposed works) forms a prominent visual aspect within the Penguin township, and must be considered to be 'visually apparent', despite minimising reflection of light and not extending above the vegetation canopy. It does form a dominant feature along this shoreline, and within the character of the Penguin township.

We therefore move to 19.4.2 P4 (b). Ongoing maintenance and upgrades of the Penguin foreshore are certainly considered to be “essential and unavoidable in order to provide an overriding community benefit”, as the only alternative would be retreat from the coastline.

As stated in the supporting documentation provided with the application:

“Council recognises that Australia’s climate has and will continue to change.....Extreme high sea-level events are very likely to become more common because of increases in regional sea levels together with changes in other events.... The repair and remediation of existing structures along Penguin Beach, the improved protection of the escarpment and the public open space above it, and the remediation of the area at Surf Club Point, have all been identified by Council and by the Penguin community as a high priority project.”

The community benefit is recognised both politically, and by the supporting reports within the application. The community have also made it clear that they understand the need for such works to remain part of their township.

It is also able to be argued that the proposal meets both 19.4.2P4(b)(ii) as well as (19.4.2P4(b)(i), given the impossibility of relocating the Penguin township as the only alternative.

The proposal is assessed as complying with cl. 19.4.2 P4.

CODES

2 *Water and Waterways Code – Development in a shoreline area*

The works will be within 30m of two water bodies – the ocean, and the Penguin Creek, both of which fall within the shoreline area as defined by the *Tasmanian State Coastal Policy 1996*. As such, we turn to the performance criteria to determine compliance with the Code.

E10.6.2 P1 Development must –

- (a) be required to locate in, over, on or under the shoreline, sea or tidal waters for operational efficiency;***
- (b) avoid unreasonably or unnecessarily impact on existing or potential access by the public to shoreline land or waters;***

- (c) *minimise impact on scenic quality of the sea-shore area;*
- (d) *minimise impact on amenity or aesthetic appearance of the sea-shore area as a result of–*
 - (i) *nature and operational characteristics of the development;*
 - (ii) *location;*
 - (iii) *bulk, size and overall built form of any building or work;*
 - (iv) *overshadowing; or*
 - (v) *obstruction of views from a public place; and*
- (e) *minimise immediate or cumulative adverse effect for –*
 - (i) *tidal, wave, current, or sediment movement processes;*
 - (ii) *coastal landforms, seabed and other geomorphic features, including sand dunes and mobile landforms;*
 - (iii) *vulnerability to erosion and recession;*
 - (iv) *natural cycles of deposition and erosion;*
 - (v) *conservation of biodiversity and marine habitat, including during critical lifecycle stages of individual and migratory species;*
 - (vi) *drainage from a water course, wetland, ground water, flood, stormwater or tidal water;*
 - (vii) *coastal water quality;*
 - (viii) *likely interference or constraint on use of public areas;*
 - (ix) *any scientific, architectural, aesthetic, historic or special cultural values;*
 - (x) *exposure to or increased risk from a natural hazard, including sea level rise, storm surge, or inundation as a result of climate change;*
 - (xi) *coastal protection and rehabilitation works required to address erosion, instability, regression, or inundation;*
 - (xii) *collection, treatment, and disposal of waste, including bilge water and excavate or dredged sediment;*
 - (xiii) *economic activity dependent for operational efficiency on a sea-shore location;*

- (xiv) public safety and emergency services;*
- (xv) marine navigation and communication systems;*
- (xvi) safety of recreational boating;*
- (xvii) be consistent with the current edition of Tasmanian Coastal Works Manual DPIPWE 2011.*

Ideally, coastline would be left unaltered. Where coastline has already been altered, in cases such as this, it is necessary to ensure ongoing maintenance in order to comply with this clause. If the site were left as it currently is, a number of factors listed in this clause would be impacted, resulting in increased erosion, impact on the scenic quality of the sea-shore area and amenity, decrease in water quality due to increased sediment load, constraint of public spaces and access to the coastline, economic activity and public safety. A smaller intervention approach, as has been taken in the past, would also result in ongoing erosion, and the need for additional works within a short timeframe.

The proposal (referencing specific sub-clauses):

- (a) is required to locate here;
- (b) will ensure ongoing access to the public to shoreline land and waters;
- (c) will positively impact on the scenic quality of the area;
- (d) will not create overshadowing or obstruction of views. It is designed to minimise the impact on the amenity of the area, whilst performing the necessary function(s);
- (e) has been designed with sensitivity to the natural processes and will reduce the immediate and cumulative adverse effect for the matters listed.

The application includes the supporting reports and studies necessary to provide evidence to these points.

The proposal is assessed as complying with E10.6.2 P1.

Referral advice –

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

| SERVICE | COMMENTS/CONDITIONS |
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| Environmental Health | Nil. |
| Infrastructure Services | <p>Road authority – no issues.</p> <p>Stormwater authority – Developer to liaise with Council’s Director of Infrastructure Services in respect to stormwater outlets / outfalls.</p> <p>Additional comments and responses provided in the body of this report, as applicable.</p> |
| NRM | Nil. |
| TasWater | Submission to Planning Authority Notice issued 7 May 2020. |
| Department of State Growth | Not applicable. |
| Environment Protection Authority | Not applicable. |
| TasRail | <p>TasRail provided a written response, which has been included as a Representation, and actioned accordingly.</p> <p>The applicant has been in continuing communication with TasRail. This is to continue.</p> |
| Heritage Tasmania | The Tasmanian Heritage Council granted a Certificate of Exemption. |
| Crown Land Services | Application form signed, letter of consent provided. |
| Other | Nil. |

CONSULTATION

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

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

Representations –

Five representations were received within the prescribed time, a copy of which are provided at Annexure 2.

The representations are summarised and responded to in the following table. Where appropriate and practicable, where the same issue has been raised multiple times, it has been discussed once.

| MATTER RAISED | RESPONSE |
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| <p>1 The importance of the Penguin Beach to the township (amenity and recreation)</p> | <p>Noted.</p> <p>It is agreed that this site has high amenity value to the local area. Both of the applicable performance criteria provide consideration of this matter in the assessment of the proposal.</p> <p><i>Engineering comments:</i></p> <p>The value of the Penguin foreshore and beach to the Community (both locals and visitors) is acknowledged and agreed.</p> |
| <p>2 Will the rock wall structure proposed for the Lions Park Area / old Surf Club area result in the loss of up to 8m (or more) of foreshore?</p> | <p>The proposal will result in the loss of some of the beach. The application documentation mentions this a number of times, and the need to manage public access with the engineering outcomes.</p> <p><i>Engineering comment:</i></p> <p>Generally the rock revetment wall extends from a top level of 6.5 (section J near the top of the existing</p> |

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| | <p>ramp), 7.5 (section K between the library and the bakery) and 7.8 down to 7.2 (sections L,M,N,P from the bakery car park to the Lions Park end). The revetment wall has a bottom, or toe level located in the harder natural material (material assessed as being resistant to erosion) ranging from 0.8 up to 1.8. the highest wall is at section M and has a vertical rise of 6.8 m. The wall slope is 1 in 1 so the horizontal or plan extent of the wall is also a maximum of 6.8 m. For the western end of the proposed wall there is minimal encroachment of the proposed wall beyond the toe of the embankment (ie onto the flatter beach area) – this is typical for sections J to L. For the area adjacent to the access road to Lions Park, there is some encroachment due to the need to widen the access road and construct a pathway – a maximum of 8 m beyond the toe of the existing embankment at section M and 4 m at section N. At Lions Park the pedestrian access and emergency vehicle ramp will encroach by approximately the ramp width plus 2m.</p> |
| <p>3 Will the structure in this area result in the loss of the beach (inaccessible and unusable) on high tides?</p> | <p><i>Engineering comment:</i></p> <p>At high tide the sea level plus waves will be at the toe of the existing embankment. Hence under these conditions there is currently very little accessible beach. This condition won't change for the western half of the revetment wall, but there will be some loss at the eastern section.</p> |

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| <p>4 Concerns regarding scouring at the rock wall base and further unforeseen erosion as a result</p> | <p>The design provides for consideration of this issue, in as far as it is possible, given the ongoing changing nature of a beach. Works are proposed to be continued under current beach level in order to attempt to minimise this effect. In addition, the rock revetment wall results in a different relationship with wave energy to the existing straight wall, reducing such scouring.</p> <p><i>Engineering comments:</i></p> <p>A feature of the rock revetment wall is its ability to dissipate wave energy. Hence the construction of the wall will reduce the current scouring.</p> |
| <p>5 Impact of the wall on back wash, tidal rips, swimming and other recreational sports, as well as 'migratory flow of sand along the beach'</p> | <p>Any coastal foreshore works have the potential to impact upon the movement of energy through the surrounding area.</p> <p><i>Engineering comments:</i></p> <p>Because the wall will dissipate wave energy, it reduces backwash. However, it will have minimal impact on tidal rips and "migratory" sand flow.</p> |
| <p>6 Support some kind of structure for this area. Concerned that the proposal will be too high, too wide and permanent visual 'scarring' for this area</p> | <p>Noted.</p> <p>Both of the discretionary aspects of the proposal provide for consideration of the impact on the amenity of the area and are discussed above.</p> <p><i>Engineering comments:</i></p> <p>It is difficult to construct protection structures that do not have a visual impact. The truth is that over the</p> |

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| | decades the use and development of the foreshore has encroached into close proximity to the beach and now means that the natural erosion and dune building processes require some intervention. |
| 7 Enquires re a potential reduction in size of the rock wall, or continuation of the block structure, as proposed for Area 2 would be better (amenity and cost) | <p>Noted. The planning process provides for assessment of the proposal currently before the planning authority.</p> <p><i>Engineering comments:</i></p> <p>Engineering wise it would be feasible to “drop off” the top 1 m of rock wall, stabilize the fill under the footpath area, still construct the partial barrier fence and increase the area for planting. This would not change the horizontal alignment if the remaining section of wall. A block wall structure would have the same visual impact when viewed from the beach. It would have less of a horizontal impact. However the cost for a block wall structure would be considerably more – based on previous estimates a block structure would be approximately twice the cost of the revetment rock structure.</p> |
| 8 If the wall goes ahead, is it possible to incorporate garden beds into the wall to improve amenity | <p>Noted.</p> <p>The application includes provision for plantings.</p> <p>Additional landscaping of the entire site may occur after construction, without planning permit(s) being required.</p> <p>Likely that natural revegetation will occur to some extent, and some revegetation may be able to be discussed into the future between</p> |

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| | <p>the local community and the Council, separate to the Council's role as planning authority.</p> <p><i>Engineering comments:</i></p> <p>The Little Penguin Report supports this wall as future habitat for burrows with the provision for a narrow planting area at the top of the wall with native climbing species as the New Zealand/Bower Spinach.</p> |
| 9 | <p>Request for Council engineer to provide some on site demonstration(s) of the extent of the works prior to tendering for works</p> <p>Noted.</p> <p><i>Engineering comments:</i></p> <p>This request is possible.</p> |
| 10 | <p>Commendable including the relocating of the effluent dumping point and relocation of sewer overflow point</p> <p>The dump point relocation does not form part of this application.</p> <p>It is noted that this was part of the previous application before Council, which was withdrawn.</p> <p><i>Engineering comments:</i></p> <p>Agreed but this is not in the current permit application. Recommend that Council consider this under a separate permit.</p> |
| 11 | <p>Commendable to include 15 carparking spaces at Stubbs Point, as well as the step ramp.</p> <p>Noted.</p> <p><i>Engineering comments:</i></p> <p>The proposal is for 9 standard car park spaces plus one accessible space plus the 4 longer vehicle parking spaces on the north side of Johnsons Beach Road.</p> |
| 12 | <p>Recommends modifications, including:</p> <p>Noted.</p> <p>Infrastructure is to be provided up to current applicable standards. The</p> |

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| <p>(a) Extension of parking area toward Penguin Creek (additional 8–10 spaces)</p> <p>(b) Sealing and kerbing of the existing gravel area</p> <p>(c) Provision of 2 accessible parking spaces, including necessary bollards</p> | <p>proposal as submitted is being assessed.</p> <p><i>Engineering comments:</i></p> <p>(a) This is quite feasible. Basically a Council call plus budget considerations.</p> <p>(b) Agree. Is included.</p> <p>(c) Only one provided at Penguin Creek area – Council call.</p> |
| <p>13 Lions Park ramp is not compliant with access standards. Recommended that a compliant ramp be provided at Penguin Creek end instead of the proposed steps.</p> | <p>Noted. The planning process provides for assessment of the proposal currently before the planning authority.</p> <p>The grading of the ramp is compliant. Landings, which are usually provided for such a ramp, are not provided here as it is a roadway. The Scheme provides that the access to a road must comply with the requirements of the road authority. The proposal was referred to the Engineering Department, who form the Road Authority in this case, and determined to comply.</p> <p><i>Engineering comments:</i></p> <p>The project identifies the Eastern end of Lions Park and the suitable area for the emergency / disability beach access ramp and will be constructed to be compliance to access standards.</p> |
| <p>14 Lack of detail regarding handrail design</p> | <p><i>Engineering comments:</i></p> <p>Not usually detailed at DA stage. However the proposal is adopt a handrail along the edge of the reconstructed pathway at the western end. It is envisaged (due to</p> |

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| | the fall height and activities along this area) that this will be a stainless steel post and rails construction. At the playground area the fall height will be close to, or exceed the BCA requirement for a balustrade (depending on the beach sand level). It is envisaged that for this area a stainless steel balustrade will be adopted. For the eastern area adjacent to the pathway a partial barrier fence has been adopted for the Ausroads standard for cycleways. It is envisaged that this will be a galvanized steel construction. |
| 15 | <p>Potential to raise the stone revetment to achieve the safety benefits of a handrail in some locations as a potential alternative.</p> <p><i>Engineering comments:</i></p> <p>Other major concerns for this area has been that the wall is too big – hence increasing the wall height is counter to this and would not comply with edging to a cycleway.</p> |
| 16 | <p>‘Western area – typical section’:</p> <p>(a) Significant spalling, rate and impact on effectiveness and visual amenity</p> <p>(b) Sheet 132 provides no discussion around the protection provided under the proposed rocks and immediately behind the ‘existing retaining wall’. Concerns re the scouring to the rear of the existing retaining</p> <p><i>Engineering comments:</i></p> <p>(a) Spalling is actually not significant. The works will include treatment to reduce the corrosion rate of existing exposed bars and to improve the appearance.</p> <p>(b) The drawing does contain a note detailing the treatment to this area.</p> <p>(c) Not part of the current proposal. Possibly the removal of the existing retaining walls would have a negative impact on the “sounds of the sea” feature.</p> |

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| | wall, undermining the area behind the wall (c) As a result of (b), this existing retaining wall should be removed and the rock revetment treatment continued | |
| 17 | Impact of works on the visual role of the landmark sound waves sculpture and garden. | <i>Engineering comments:</i> No construction immediately adjacent to this. |
| 18 | Coastal Engineering Report provided only in summary. Main points raised: (a) Design life and recurrence intervals; (b) Discussion of the range of potential outcomes would be appropriate; (c) General understating of the impact(s); (d) Risk of overtopping and interaction between the proposed wall and the wall to be left behind. | <i>Engineering response:</i> It is true that there is a risk of overtopping of the wall, particularly at the Penguin Creek end. The current design evolved in response to criticism and representations made following the earlier public consultation phase. The earlier design comprised a “wave shield” wall 1.5 m high at the western end but this was not well received. Irrespective of this, the works will include signage warning of possible dangers during extreme weather events. |
| 19 | Loss of amenity within and surrounding Lions Park. References the Central Coast Open Space and Recreation Plan 2012–2022. | Noted. The Central Coast Open Space and Recreation Plan 2012–2022 does not form part of the planning scheme. |
| 20 | Performance Criteria state the “the location, height and visual appearance of a building or structure must have regard to – (a) Minimising visual impact on the shoreline or a | Compliance with this clause has been assessed above. |

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| | marine or aquatic water body, water course, or wetland where possible”. | |
| 21 | E10.6.2P1 (d), and states that exemption does not apply. | Agreed. Proposal has been assessed without the exemption, as these are not immediate emergency works intended for short term outcomes as this exemption clause proposes. E10.6.2 P1(d) is addressed above. |
| 22 | Penguin Urban Design Guidelines | The area covered by the Overlay to which the Penguin Urban Design Guidelines can be applied is clearly defined within the mapping. The works requiring planning approval do not occur within this overlay area. The history of the Guidelines was such that they were intended to guide the development of the built environment, separate from the coastal management of the foreshore. This is a slight distinction, however it is pertinent to consider, despite the fact that the overlay is not applicable. |
| 23 | “Continued sea level rise and increasing severe weather events will inevitably decrease access to and use of the beach over time and any protective measures to prevent further erosion should not unduly expedite this process through excessive encroachment into this space. Already there are sections of the beach that are inaccessible during high tides, however, the beach | This is an interesting point to discuss. The matter is one of interpretation of the best path forward – to minimise erosion and long term damage with some degree of loss of foreshore as a result; or to reduce the amount of interference in the short term in order to retain beach access for as long as possible, whilst accepting permanent loss and erosion. The foreshore area and the ongoing erosion has been managed in many |

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| <p>adjacent to Lions Park remains generally accessible and usable.”</p> | <p>different ways over the history of the township. Many steps have been taken which have been down the path of the second option – minimising interference as far as is possible, whilst accepting ongoing damage to the foreshore.</p> <p>The proposal before the planning authority indicates that the land manager proposes to move towards the first option instead – to take major steps now, and minimise the erosion and long term damage, with some changes to foreshore look and functionality as a cost of this.</p> <p>This will be an ongoing discussion for the community to have, now and into the future.</p> |
| <p>24 Disputes that the proposal meets CI 19.4.2 P4(b), namely that the location of the vehicle and wheelchair access does not meet this clause, and could be located elsewhere.</p> | <p>The location of the ramp has been taken into account in the calculations of the entire design. The ramp location forms part of the whole – the access relationship between the community and the beach, as well as the design and functionality of the entire foreshore area.</p> <p>Every aspect of the works proposed are to function as a unified entity, rather than as isolated features. This is particularly the case with wave impact and energy transfer along the entire foreshore. Moving or modifying one aspect impacts upon this whole.</p> <p>As such, the proposed location is assessed as being part of the essential and unavoidable infrastructure required in order to</p> |

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| | | provide an overriding community benefit. |
| 25 | Importance of large trees to the functionality and amenity of the foreshore | Revegetation is proposed as part of the application. The inclusion of large trees should be incorporated where this is practical and possible along the development area. |
| 26 | Lack of construction management plan will be required prior to commencement of works. | Noted. The applicant and developer have been in continuing communication with TasRail regarding their requirements. Communication and actions required to meet TasRail requirements are continuing. |
| 27 | Absence of land survey creates potential for works to encroach upon TasRail land. | Noted. The developer is aware of this risk and the need to manage this carefully during construction. Communication with TasRail is ongoing. |
| 28 | Requests conditions on any permit issued | Noted. These comments are able to be noted on any permit issued and the applicant advised to contact TasRail. As these points are not able to be enforced by Council, given the applicable legislation, it is not possible for the planning authority to include them as conditions on any permit issued. |
| 29 | Requests standard notes on any permit issued | Noted. TasRail standard notes are generally provided to the applicant where a permit is issued in proximity to TasRail land. |

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.

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 Natural and cultural values (upgrades and new retaining walls, rock walls, ramps and stairs), Utilities (minor – upgrades and new shared pathways and widening of Lions Park access road) and Passive recreation (upgrade of car parking area) at Main Road, Penguin (Penguin foreshore – from Penguin Creek, Stubbs Point to Lions Park at Surf Club Point, Penguin) – Application No. DA2020116 be approved subject to the following conditions and notes:

Conditions

- 1 The development must be substantially in accordance with the Supporting Information for Development Approval as prepared by Tasmanian Consulting Service, reference No. 8848-w-200305-1 v4 DA Supporting Info.docx, Revision 4 dated 29 April 2020; and Plans prepared by Tasmanian Consulting Service, Drawing No. 8848, Sheet Nos. 100–110 and 120 – 151 dated 29 April 2020.

- 2 The development must be in accordance with the conditions of TasWater's Submission to Planning Authority Notice, Reference No. TWDA 2020/00601-CC dated 7 May 2020.
- 3 Works must comply with the Tasmanian Coastal Works Manual DPIPWE 2011.
- 4 The developer to liaise with Council's Director Infrastructure Services in respect to stormwater outlets/outfalls.
- 5 The developer is responsible for all costs associated with the works.

Notes:

- 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 physical commencement of infrastructure works on the site, or an arrangement of a Private Works Authority or bank guarantee to undertake such works.
- 3 Prior to the commencement of works the applicant is to ensure that the category of work for any proposed building, plumbing and/or demolition work is defined using the Determinations issued under the *Building Act 2016* by the Director of Building Control. Any notifications or permits required in accordance with the defined category of work must be attained prior to the commencement of work. It is recommended the Council's Building Permit Authority or a Building Surveyor be contacted should clarification be required.

TasRail

- 1 Where a building other development is proposed to be located at a setback distance less than 50 metres from the boundary of the rail corridor, the occupants are likely to be exposed to train horn noise and vibration, noting that TasRail Freight Rail Services operate 24/7 and the configuration, frequency and time of these services is subject to change at any time. Landowners and prospective landowners should undertake appropriate due diligence to ensure they are aware of train noise and vibration, particularly train horn noise.

- 2 The train horn is a safety device that is required to be sounded twice per level crossing being on approach and on entry. The minimum duration of each train horn blow is one second. The train driver also has the discretion to sound the horn at any time he/she perceives a risk.
- 3 Stormwater or effluent is not permitted to be discharged onto rail land or into the rail drainage system. Should there be a requirement for a service or asset to be installed on rail land in order to connect into an authorised stormwater or other outlet, 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
- 4 No obstruction, installation or works of any kind are permitted inside railway land for any purpose including for structures, unauthorised vehicles, drainage, water pipes, stormwater discharge, electrical or service infrastructure, storage of materials, vegetation clearing, inspections etc.
- 5 No persons should enter rail land without formal authorisation.
- 6 Rail land is not for private use and should not be encroached for any purpose including for gardens, storage, keeping of animals etc. Dumping of rubbish including green waste into the rail corridor is not permitted.
- 7 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.
- 8 Using or creating an unauthorised railway crossing or stock crossing is unsafe and strictly prohibited.
- 9 All access and rail land enquiries should be directed to property@TasRail.com.au
- 10 As railway land is Crown Land, the Rail Infrastructure Manager is not required to contribute to the cost of boundary fencing.

- 11 It is recommended that the applicant contact TasRail on property@TasRail.com.au to discuss the following points:
- (a) Prior to works commencing, a qualified surveyor is to be engaged to confirm and peg the actual boundary line separating Council Land and State Rail Network land to ensure that all works are limited to wholly within Council land. TasRail to be supplied with a copy of the survey report.
 - (b) In accordance with section 44 of the Rail Infrastructure Act 2007 (Tas), no excavations are to occur within 3 metres of the confirmed rail corridor boundary without prior consultation with TasRail (minimum of 7 working days notice) and the approval of TasRail.
 - (c) The proposed site signage to be erected well away from the rail corridor so as not to obscure the required sight lines for the nearby railway level crossing – refer AS1742 for required sight distances.’

The Planning Consultant’s report is supported.”

The Executive Services Officer reported as follows:

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

■ Cr van Rooyen moved and Cr Fuller seconded, “It is recommended that the application for Natural and cultural values (upgrades and new retaining walls, rock walls, ramps and stairs), Utilities (minor – upgrades and new shared pathways and widening of Lions Park access road) and Passive recreation (upgrade of car parking area) at Main Road, Penguin (Penguin foreshore – from Penguin Creek, Stubbs Point to Lions Park at Surf Club Point, Penguin) – Application No. DA2020116 be approved subject to the following conditions and notes:

Conditions

- 1 The development must be substantially in accordance with the Supporting Information for Development Approval as prepared by Tasmanian Consulting Service, reference No. 8848-w-200305-1 v4 DA Supporting Info.docx, Revision 4 dated 29 April 2020; and Plans prepared by Tasmanian Consulting Service, Drawing No. 8848, Sheet Nos. 100–110 and 120 – 151 dated 29 April 2020.
- 2 The development must be in accordance with the conditions of TasWater’s Submission to Planning Authority Notice, Reference No. TWDA 2020/00601-CC dated 7 May 2020.

- 3 Works must comply with the Tasmanian Coastal Works Manual DPIPWE 2011.
- 4 The developer to liaise with Council's Director Infrastructure Services in respect to stormwater outlets/outfalls.
- 5 The developer is responsible for all costs associated with the works.

Notes:

- 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 physical commencement of infrastructure works on the site, or an arrangement of a Private Works Authority or bank guarantee to undertake such works.
- 3 Prior to the commencement of works the applicant is to ensure that the category of work for any proposed building, plumbing and/or demolition work is defined using the Determinations issued under the *Building Act 2016* by the Director of Building Control. Any notifications or permits required in accordance with the defined category of work must be attained prior to the commencement of work. It is recommended the Council's Building Permit Authority or a Building Surveyor be contacted should clarification be required.

TasRail

- 1 Where a building other development is proposed to be located at a setback distance less than 50 metres from the boundary of the rail corridor, the occupants are likely to be exposed to train horn noise and vibration, noting that TasRail Freight Rail Services operate 24/7 and the configuration, frequency and time of these services is subject to change at any time. Landowners and prospective landowners should undertake appropriate due diligence to ensure they are aware of train noise and vibration, particularly train horn noise.
- 2 The train horn is a safety device that is required to be sounded twice per level crossing being on approach and on entry. The minimum duration of each train horn blow is one second. The train driver also has the discretion to sound the horn at any time he/she perceives a risk.
- 3 Stormwater or effluent is not permitted to be discharged onto rail land or into the rail drainage system. Should there be a requirement for a service or asset to be installed on rail land in order to connect into an authorised stormwater or other outlet, 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

- 4 No obstruction, installation or works of any kind are permitted inside railway land for any purpose including for structures, unauthorised vehicles, drainage, water pipes, stormwater discharge, electrical or service infrastructure, storage of materials, vegetation clearing, inspections etc.
- 5 No persons should enter rail land without formal authorisation.
- 6 Rail land is not for private use and should not be encroached for any purpose including for gardens, storage, keeping of animals etc. Dumping of rubbish including green waste into the rail corridor is not permitted.
- 7 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.
- 8 Using or creating an unauthorised railway crossing or stock crossing is unsafe and strictly prohibited.
- 9 All access and rail land enquiries should be directed to property@TasRail.com.au
- 10 As railway land is Crown Land, the Rail Infrastructure Manager is not required to contribute to the cost of boundary fencing.
- 11 It is recommended that the applicant contact TasRail on property@TasRail.com.au to discuss the following points:
 - (a) Prior to works commencing, a qualified surveyor is to be engaged to confirm and peg the actual boundary line separating Council Land and State Rail Network land to ensure that all works are limited to wholly within Council land. TasRail to be supplied with a copy of the survey report.
 - (b) In accordance with section 44 of the Rail Infrastructure Act 2007 (Tas), no excavations are to occur within 3 metres of the confirmed rail corridor boundary without prior consultation with TasRail (minimum of 7 working days notice) and the approval of TasRail.

- (c) The proposed site signage to be erected well away from the rail corridor so as not to obscure the required sight lines for the nearby railway level crossing – refer AS1742 for required sight distances.”

Carried unanimously

168/2020 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 |
|---|---|
| Ulverstone Cultural Precinct Design – Additional professional service fees (19/2019 – 29.01.2019) | 15(2)(d) Contracts, and tenders, for the supply of goods and services and their terms, conditions, approval and renewal.” |

■ Cr Hiscutt 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 |
|---|---|
| Ulverstone Cultural Precinct Design – Additional professional service fees (19/2019 – 29.01.2019) | 15(2)(d) Contracts, and tenders, for the supply of goods and services and their terms, conditions, approval and renewal.” |

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 6.21 pm.

GENERAL MANAGEMENT

169/2020 Ulverstone Cultural Precinct Design – Additional professional service fees (19/2019 – 29.01.2019)

The General Manager reported as follows:

“PURPOSE

A report was provided to the Council to consider and seek approval for additional professional service fees that relate to the detailed design of the Ulverstone Cultural Precinct (the Precinct) building.

...

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.”

Closure

There being no further business, the Mayor declared the meeting closed at 6.39pm.

CONFIRMED THIS 22ND DAY OF JUNE, 2020.

Chairperson

(lc:lb)

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 this agenda 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