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**Minutes of an ordinary meeting of the Development Support Special Committee  
held in the Council Chamber of the Administration Centre, 19 King Edward Street,  
Ulverstone on Monday, 29 June 2020 commencing at 6.00pm**

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**Members attendance**

Cr Jan Bonde (Mayor)  
Cr Cheryl Fuller  
Ms Sandra Ayton

Cr Garry Carpenter  
Cr Philip Viney

**Members apologies**

Cr Tony van Rooyen

**Employees attendance**

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

**Public attendance**

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

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## CONFIRMATION OF MINUTES OF THE COMMITTEE

### 15/2020 Confirmation of minutes

The Strategic Projects and Planning Consultant reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 9 June 2020 have already been circulated. The minutes are required to be confirmed for their accuracy.

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

- Cr Viney moved and Cr Fuller seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 9 June 2020 be confirmed.”

Carried unanimously

## MAYOR’S COMMUNICATIONS

### 16/2020 Mayor’s communications

The Mayor reported as follows:

“Under the terms of appointment of the Development Support Special Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members 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.

In the event that items listed for consideration are referred, under the terms of the Committee’s appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision.”

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

Carried unanimously

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## DECLARATIONS OF INTEREST

### 17/2020      **Declarations of interest**

The Mayor reported as follows:

“Members 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 Strategic Projects and Planning Consultant reported as follows:

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

Members 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 member 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.

## ADJOURNMENT OF MEETING

### 18/2020      **Adjournment of meeting**

The Mayor reported as follows:

“In order to effectively consider the reports before this meeting of the Committee it is appropriate that I adjourn the meeting to enable the related documents to be workshopped prior to resumption of the meeting and formal resolution of the agenda items.”

The workshop commenced at 6.03pm. The workshop having been concluded, the Mayor resumed the meeting at 6.11pm.

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## DEPUTATIONS

19/2020      Deputations

The Strategic Projects and Planning Consultant reported as follows:

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

## OPEN REPORTS

20/2020      Residential (outbuilding – shed and building envelope for a non-required dwelling) – discretionary use and development in a Rural Resource zone, variation to lot size and side boundary setback standards and proximity of sensitive use to agricultural land at CT174636/5, Forth Road, Forth – Application No. DA2020114

The Strategic Projects and Planning Consultant reported as follows:

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

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA2020114
<i>PROPOSAL:</i>	Residential (outbuilding – shed and building envelope for a non-required dwelling) – discretionary use and development in a Rural Resource zone, variation to lot size and side boundary setback standards and proximity of sensitive use to agricultural land
<i>APPLICANT:</i>	J & N Cornell
<i>LOCATION:</i>	CT174636/5, Forth Road, Forth (accessed via William Street, Forth)
<i>ZONE:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	27 May 2020
<i>REPRESENTATIONS EXPIRY DATE:</i>	11 June 2020
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	3 July 2020
<i>DECISION DUE:</i>	29 June 2020

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### *PURPOSE*

The purpose of this report is to consider an application for a building envelope to construct a non-required residential dwelling and an ancillary shed in the Rural Resource zone. The development is proposed for vacant land that is accessed via William Street, Forth. Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representation;
- . Annexure 4 – photographs;
- . Annexure 5 – TasWater’s Submission to Planning Authority Notice TWDA 2020/00703-CC; and
- . Annexure 6 – Statement of Compliance from the Road Authority and the Stormwater Authority.

### *BACKGROUND*

#### *Development description –*

The applicant seeks approval for a 500m<sup>2</sup> building envelope for a non-required residential dwelling and an associated 156m<sup>2</sup> shed on rural land adjacent the village of Forth.

Application documentation includes a site plan showing the location of the proposed building envelope, accessed off William Street, a wastewater management design and the location of a suitable stormwater overflow area. The application is also accompanied by a Land Capability Report by an agricultural consultant.

The land is able to connect to TasWater’s water supply network. Stormwater collection and overflow and wastewater treatment and disposal would be required on-site.

The proposed building envelope and shed do not satisfy side boundary setback standards for the Rural Resource zone, nor does the proposal satisfy Planning Scheme standards for the proximity of a “sensitive” use to agricultural land.

#### *Site description and surrounding area –*

The land has an area of 4,225m<sup>2</sup> and is identified as CT174636, Lot 5.

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The site is located at the far eastern end of William Street, Forth and is one lot, in a remnant cluster of five titles, that were surveyed and formed during the subdivision of land that now defines the Forth village. Land directly opposite and to the west and south (on the southern side of Forth Road) of the subject rural cluster are zoned Low Density Residential and fall under the Forth Specific Area Plan (Forth SAP).

The vacant site has a slope of approximately 1:10 and is identified as Class 4 land that is cleared of native vegetation. Currently, the land is harvested for hay with the occasional grazing of animals.

A 16m wide strip of Crown land, that is marked on the title as unmade "Dalrymple Street", is located to the immediate east of the site. A 20.16m wide strip of Crown land, marked "Short Street", is located to the immediate south of the allotment.

Adjoining the eastern strip of Crown land is an agricultural enterprise owned and operated by Botanical Resources Australia who grow, harvest and process (at a separate industrial site) pyrethrum daisies to produce a natural insecticide.

#### *History -*

The subject allotment is Lot 5 in a cluster of five remnant titles that were surveyed and formed during the subdivision of land that now defines the Forth village. The land was held under a single entity (appeared to be one) until application was made directly to the Recorder of Titles to "release" each parcel. No application for subdivision was required to be made to the Planning Authority for the release of Titles.

The Council, under delegation in 2019, approved a building envelope on adjoining land to the west (Lot 4 of the cluster of remnant titles). To date, the land has not been developed.

Under the draft Central Coast Local Provisions Schedule (LPS), the owner of the land has, in association with the other four remnant lots in the area, requested that the Tasmanian Planning Commission (TPC) approve a rezoning of the land to Low Density Residential and that it be included in the Forth Specific Area Plan overlay. This matter is yet to be determined by the TPC.

#### *Future under draft Central Coast LPS -*

The land and other Titles in this cluster were proposed to be rezoned from Rural Resource to Rural under the draft Central Coast LPS (the LPS). The owner of all five titles made representation to the draft LPS that the land be rezoned

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Low Density Residential and be included in the Forth Specific Area Plan. The Planning Authority has supported the representation.

*DISCUSSION*

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

## 26.0 Rural Resource Zone

CLAUSE	COMMENT
<b>26.1.2 Local Area Objectives</b>	
<p>(a) The priority purpose for rural land is primary industry dependent upon access to a naturally occurring resource;</p> <p>(b) Air, land and water resources are of importance for current and potential primary industry and other permitted use;</p> <p>(c) Air, land and water resources are protected against –</p> <p style="padding-left: 20px;">(i) permanent loss to a use or development that has no need or reason to locate on land containing such a resource; and</p> <p style="padding-left: 20px;">(ii) use or development that has potential to exclude or unduly conflict, constraint, or interfere with the practice of primary industry or any other use dependent on access to a naturally occurring resource;</p> <p>(d) Primary industry is diverse, dynamic, and innovative; and may occur on a range of lot sizes and at different levels of intensity;</p>	<p>“Residential” use is a “Discretionary” use of land in the Rural Resource zone.</p> <p>(a) Proposal does not satisfy the Objective. The proposed use is not a primary industry use of the site, would not be dependent upon access to a naturally occurring resource and would not augment ongoing farm operations.</p> <p>(b) Proposal does not satisfy the Objective. The proposed development is not a “Permitted” use and is not reliant on air, land or water resources for primary industry production.</p> <p>(c)(i) Proposal does not satisfy the Objective. The proposal is for use and development that has no need to locate on the land to access a rural resource.</p> <p>(c)(ii) Proposal does not satisfy the Objective. The proposal is for the use and development of land that has the potential to unduly conflict, constrain or interfere with the practice of primary industry.</p>



<p>(e) All agricultural land is a valuable resource to be protected for sustainable agricultural production;</p> <p>(f) Rural land may be used and developed for economic, community, and utility activity that cannot reasonably be accommodated on land within a settlement or nature conservation area;</p> <p>(g) Rural land may be used and developed for tourism and recreation use dependent upon a rural location or undertaken in association with primary industry;</p> <p>(h) Residential use and development on rural land is appropriate only if –</p> <p>(i) required by a primary industry or a resource based activity; or</p> <p>(ii) without permanent loss of land significant for primary industry use and without constraint or interference to existing and potential use of land for primary industry purposes.</p>	<p>(d) Proposal does not satisfy the Objective. Proposed Use Class is not associated with primary industry.</p> <p>(e) Proposal does not satisfy the Objective. Proposed Use Class is not associated with agricultural land.</p> <p>(f) Proposal does not satisfy the Objective. Proposed use could be located in other zones such as Residential, Low Density Residential or Rural Living.</p> <p>(g) Proposal does not satisfy the Objective. Land would not be used for tourism for recreation dependent on a rural location.</p> <p>(h)(i) Proposal does not satisfy the Objective. Proposed Residential use and development is not required by a primary industry or resourced based activity.</p> <p>(h)(ii) Proposal satisfies the Objective. Proposed Residential use and development would result in the permanent loss of land for primary industry and/or constraint and/or interference with primary industry activity.</p>
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### 26.1.3 Desired Future Character Statements

<p>Use or development on rural land -</p> <p>(a) may create a dynamic, extensively cultivated, highly modified, and relatively sparsely settled working landscape featuring -</p> <ul style="list-style-type: none"> <li>(i) expansive areas for agriculture and forestry;</li> <li>(ii) mining and extraction sites;</li> <li>(iii) utility and transport sites and extended corridors; and</li> <li>(iv) service and support buildings and work areas of substantial size, utilitarian character, and visual prominence that are sited and managed with priority for operational efficiency</li> </ul> <p>(b) may be interspersed with -</p> <ul style="list-style-type: none"> <li>(i) small-scale residential settlement nodes;</li> <li>(ii) places of ecological, scientific, cultural, or aesthetic value; and</li> <li>(iii) pockets of remnant native vegetation</li> </ul>	<p>(a)(i) Proposal is not consistent with Desired Future Character Statement. The proposed use and development is not associated with agriculture or forestry.</p> <p>(a)(ii) Proposal is not consistent with Desired Future Character Statement. The proposed use is not associated with mining and extraction.</p> <p>(a)(iii) Proposal is not consistent with Desired Future Character Statement. The proposed use is not associated with utility and transportation sites or corridors.</p> <p>(a)(iv) Proposal is not consistent with Desired Future Character Statement. The proposal would not result in service and/or support buildings for agriculture, forestry, mining, extraction, utility or transport corridors.</p> <p>(b)(i) Proposal is consistent with Desired Future Character Statement. Use and development would be adjoining a small scale residential settlement node.</p> <p>(b)(ii) Proposal is consistent with Desired Future Character Statement. The subject and surrounding land is identified as places of cultural and aesthetic value.</p>
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<p>(c) will seek to minimise disturbance to –</p> <ul style="list-style-type: none"> <li>(i) physical terrain;</li> <li>(ii) natural biodiversity and ecological systems;</li> <li>(iii) scenic attributes; and</li> <li>(iv) rural residential and visitor amenity;</li> </ul> <p>(d) may involve sites of varying size –</p> <ul style="list-style-type: none"> <li>(i) in accordance with the type, scale and intensity of primary industry; and</li> <li>(ii) to reduce loss and constraint on use of land important for sustainable commercial production based on naturally occurring resources;</li> </ul> <p>(e) is significantly influenced in temporal nature, character, scale, frequency, and intensity by external factors, including changes in technology, production techniques, and in economic, management, and marketing systems.</p>	<p>(b)(iii) Proposal is not consistent with Desired Future Character Statement. The land does not support an area of remnant native vegetation.</p> <p>(c)(i) Proposal is consistent with Desired Future Character Statements. The proposal would not unduly disturb the underlying physical terrain of the site.</p> <p>(c)(ii) Proposal is consistent with Desired Future Character Statements. The proposal would not unduly disturb biodiversity or ecological systems on the site.</p> <p>(c)(iii) Proposal is consistent with Desired Future Character Statements. The proposed use would not unduly disturb existing scenic attributes of the site and surrounding land.</p> <p>(c)(iv) Proposal is consistent with Desired Future Character Statement. The proposed use would not disturb residential or visitor amenity in this area.</p> <p>(d)(i) Proposal is not consistent with Desired Future Character Statement. The proposed use would not be associated with primary industry.</p> <p>(d)(ii) Proposal is not consistent with Desired Future Character Statement. Proposal is not sustainable commercial production based on a naturally occurring resource.</p>
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	(e) Proposal is not consistent with Desired Future Character Statement. The proposed use is not significantly influenced by changes in technology, production techniques or economic management and marketing systems.
<b>26.3 Use Standards</b>	
<b>26.3.1 Requirement for discretionary non-residential use to locate on rural resource land</b>	
<p>26.3.1-(P1) Other than for residential use, 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;</p> <p>(c) be required to locate on rural resource land for operational efficiency:</p> <p>(i) to access a specific naturally occurring resource on the site or on adjacent land in the zone;</p> <p>(ii) to access infrastructure only available on the site or on adjacent land in the zone;</p> <p>(iii) to access a product of primary industry from a use on the site or on adjacent land in the zone;</p>	<p>Not applicable.</p> <p>Use would be Residential.</p>

<ul style="list-style-type: none"> <li>(iv) to service or support a primary industry or other permitted use on the site or on adjacent land in the zone;</li> <li>(v) if required – <ul style="list-style-type: none"> <li>a. to acquire access to a mandatory site area not otherwise available in a zone intended for that purpose;</li> <li>b. for security;</li> <li>c. for public health or safety if all measures to minimise impact could create an unacceptable level of risk to human health, life or property if located on land in a zone intended for that purpose;</li> </ul> </li> <li>(vi) to provide opportunity for diversification, innovation, and value-adding to secure existing or potential primary industry use of the site or of adjacent land;</li> <li>(vii) to provide an essential utility or community service infrastructure for the municipal or regional community or that is of significance for Tasmania; or</li> <li>(viii) if a cost-benefit analysis in economic, environmental, and social terms indicates significant benefits to the region; and</li> </ul>	
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<p>(d) minimise likelihood for:</p> <ul style="list-style-type: none"> <li>(i) permanent loss of land for existing and potential primary industry use;</li> <li>(ii) constraint or interference to existing and potential primary industry use on the site and on adjacent land; and</li> <li>(iii) loss of land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i> or land that may benefit from the application of broad-scale irrigation development.</li> </ul>	
<p><b>26.3.2 Required Residential Use</b></p>	
<p>26.3.2-(A1) Residential use required as part of a use must:</p> <ul style="list-style-type: none"> <li>(a) be an alteration or addition to an existing lawful and structurally sound residential building;</li> <li>(b) be an ancillary dwelling to an existing lawful and structurally sound single dwelling;</li> <li>(c) not intensify an existing lawful residential use;</li> <li>(d) replace a lawful existing residential use;</li> </ul>	<p>Not applicable.</p> <p>Not a required Residential use.</p>

<p>(e) not create a new residential use through conversion of an existing building; or</p> <p>(f) be home based business in association with occupation of an existing lawful and structurally sound residential building; and</p> <p>(g) there is no change in the title description of the site on which the residential use is located.</p>	
<p><b>26.3.3 Residential use</b></p>	
<p>26.3.3-(A1) Residential use that is not required as part of an other use must:</p> <p>(a) be an alteration or addition to an existing lawful and structurally sound residential building;</p> <p>(b) be an ancillary dwelling to an existing lawful and structurally sound single dwelling;</p> <p>(c) not intensify an existing lawful residential use;</p> <p>(d) not replace an existing residential use;</p> <p>(e) not create a new residential use through conversion of an existing building;</p>	<p>(a) Non-compliant. Not an alteration or addition to an existing lawful and structurally sound residential building.</p> <p>(b) Non-compliant. Not an ancillary dwelling to an existing lawful and structurally sound single dwelling.</p> <p>(c) Non-compliant. Not intensification of an existing lawful residential use.</p> <p>(d) Non-compliant. Development will not replace an existing residential use.</p> <p>(e) Non-compliant. Not a new residential use through conversion of an existing building.</p>

<p>(f) be an outbuilding with a floor area of not more than 100m<sup>2</sup> appurtenant to an existing lawful and structurally sound residential building; or</p> <p>(g) be home based business in association with occupation of an existing lawful and structurally sound residential building; and</p> <p>(h) there is no change in the title description of the site on which the residential use is located.</p>	<p>(f) Non-compliant. Not an outbuilding appurtenant to an existing lawful and structurally sound residential building.</p> <p>(g) Non-compliant. Not a home based business.</p> <p>(h) Compliant. There would be no change to the title description on which the use is located.</p>
<p><b>26.4 Development Standards</b></p>	
<p><b>26.4.1 Suitability of a site or lot on a plan of subdivision for use or development</b></p>	
<p>26.4.1-(A1) A site or each lot on a plan of subdivision must:</p> <p>(a) unless for agricultural use, have an area of not less than 1.0 hectare not including any access strip; and</p> <p>(b) if intended for a building, contain a building area</p> <p style="padding-left: 20px;">(i) of not more than 2,000m<sup>2</sup> or 20% of the area of the site, whichever is the greater unless a crop protection structure for an agricultural use;</p> <p style="padding-left: 20px;">(ii) clear of any applicable setback from a frontage, side or rear boundary;</p>	<p>(a) Non-compliant. Land area is 4,225m<sup>2</sup>. Refer to the “Issues” section of this report.</p> <p>(b)(i) Compliant. Proposed building area would be 656m<sup>2</sup>.</p> <p>(b)(ii) Non-compliant. Development would be clear of applicable front and rear boundaries. However, shed development would be setback 5m from the eastern side boundary and the dwelling envelope would be setback 5m from the western side boundary.  Refer to the “Issues” section of this report.</p>



<ul style="list-style-type: none"> <li>(iii) clear of any applicable setback from a zone boundary;</li> <li>(iv) clear of any registered easement;</li> <li>(v) clear of any registered right of way benefiting other land;</li> <li>(vi) clear of any restriction imposed by a utility;</li> <li>(vii) not including an access strip;</li> <li>(viii) accessible from a frontage or access strip.</li> </ul>	<ul style="list-style-type: none"> <li>(b)(iii) Not applicable. No zone boundary</li> <li>(b)(iv) Compliant. Development would be clear of registered easements.</li> <li>(b)(v) Not applicable. No right of way.</li> <li>(b)(vi) Not applicable. No restriction imposed by a utility.</li> <li>(b)(vii) Not applicable. No access strip.</li> <li>(b)(viii) Compliant. Land is accessible from a frontage to William Street. A Statement of Compliance is to be issued by the Council, acting in its capacity as the Road Authority.</li> </ul>
<p>26.4.1–(A2) A site or each lot on a subdivision plan must have a separate access from a road:</p> <ul style="list-style-type: none"> <li>(a) across a frontage over which no other land has a right of access; and</li> <li>(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</li> <li>(c) by a right of way connecting to a road – <ul style="list-style-type: none"> <li>(i) over land not required as the means of access to any other land; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) Compliant. The property has frontage to William Street, Forth.</li> <li>(b) Not applicable. Not an internal lot.</li> <li>(c) Not applicable. No legal access to a right of way connecting to a road.</li> <li>(d) Compliant. The land has approximately 41.25m of frontage to William Street.</li> <li>(e) Compliant by a condition to a permit. A Statement of Compliance is to be issued by the Council, acting in its capacity as the Road Authority.</li> </ul>

<p>(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than 6.0m; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan.</p>	
<p>26.4.1–(A3) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, 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>(b) from a rechargeable drinking water system <sup>R31</sup> with a storage capacity of not less than 10,000 litres if:</p> <p>(i) there is not a reticulated water supply; and</p>	<p>(a) Compliant. The land is able to connect to TasWater’s water supply network in William Street.</p> <p>(b)(i) Not applicable. Satisfied by (a).</p> <p>(b)(ii) Not applicable. Satisfied by (a).</p>

<p>(ii) development is for:</p> <p>a. a single dwelling; or</p> <p>b. a use with an equivalent population of not more than 10 people per day.</p>	
<p>26.4.1–(A4) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and liquid trade waste:</p> <p>(a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) by on-site disposal if:</p> <p>(i) sewage or liquid trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p> <p>a. is for a single dwelling; or</p> <p>b. provides for an equivalent population of not more than 10 people per day; or</p>	<p>(a) Not applicable. Satisfied by (b).</p> <p>(b)(i) Compliant. Satisfied by (b)(iii).</p> <p>(b)(ii)a. Compliant. Development is for a single dwelling.</p> <p>(b)(ii)b. Compliant. Satisfied by (b)(ii).</p> <p>(b)(iii) Compliant by condition to a permit. Development is to comply with “Water, On-site Wastewater and Stormwater Disposal” assessment by Environmental Service &amp; Design Pty Ltd (ES&amp;D) dated 24 April 2020 that has been provided as part of the application. The assessment states the land has the capacity for a four-bedroom dwelling with on-site wastewater management in accordance with AS/NZS 1547:2000, clear of any access or building area.</p>

<p>(iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS 1547:2000 On-site domestic-wastewater management clear of any defined building area or access strip.</p>	
<p>26.4.1-(A5) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, 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 5,000m<sup>2</sup>;</p> <p>b. the disposal area is not within any defined building area;</p> <p>c. the disposal area is not within any area required for the disposal of sewage;</p>	<p>(a) Not applicable. Satisfied by (b)(i).</p> <p>(b)(i) Not applicable. Satisfied by (b)(ii).</p> <p>(b)(ii)a. Non-compliant. Site has an area of 4,225m<sup>2</sup>. Refer to the "Issues" section of this report.</p> <p>(b)(ii)b. Compliant. Disposal would be clear of defined building area.</p> <p>(b)(ii)c. Compliant. Disposal would be clear of wastewater disposal area.</p> <p>(b)(ii)d. Not applicable. No access strip.</p> <p>(b)(ii)e. Compliant. Not more than 50% of the site would be impervious of surface.</p>

<p>d. the disposal area is not within any access strip; and</p> <p>e. not more than 50% of the site is impervious surface.</p>	
<p><b>26.4.2 Location and configuration of development</b></p>	
<p>26.4.2-(A1) A building or a utility structure, other than a crop protection structure for an agriculture use, must be setback:</p> <p>(a) not less than 20.0m from the frontage; or</p> <p>(b) if the development is for sensitive use on land that adjoins a road specified in the Table to this Clause, not less than the setback specified from that road;</p> <p>(c) not less than 10.0m from each side boundary; and</p> <p>(d) not less than 10.0m from the rear boundary; or</p> <p>(e) in accordance with any applicable building area shown on a sealed plan.</p>	<p>(a) Compliant. Building envelope for non-required dwelling would be setback 20m from William Street.</p> <p>(b) Not applicable. Land does not adjoin the Bass Highway.</p> <p>(c) Non-compliant. The proposed shed would be setback 5m from the eastern side boundary and the building envelope for the proposed dwelling would be setback 5m from the western side boundary.</p> <p>Refer to the “Issues” section of this report.</p> <p>(d) Compliant. Development would be setback greater than 10m from the southern rear boundary.</p> <p>(e) Not applicable. No building area on a Sealed Plan.</p>
<p>26.4.2-(A2) Building height must be not more than 8.5m.</p>	<p>Compliant.</p> <p>The dwelling would be permitted to a height of 8.5m.</p>

<p>26.4.2 A3.1</p> <p>A building or utility structure, other than a crop protection structure for an agricultural use or wind power turbines or wind power pumps, must –</p> <p>(a) not project above an elevation 15m below the closest ridgeline;</p> <p>(b) be not less than 30m from any shoreline to a marine or aquatic water body, water course, or wetland;</p> <p>(c) be 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>A3.2</p> <p>Wind power turbines and wind power pumps must not exceed 20m in height.</p>	<p>A3.1</p> <p>(a) Compliant. Site is 35m below closest ridgeline.</p> <p>(b) Compliant. No watercourse within 30m of the site.</p> <p>(c) Compliant. Proposed development would be 1.2km from nearest woodland area.</p> <p>(d) Compliant by a condition to a permit. Building to be roofed and clad with materials with a light reflectance value of less than 40%.</p> <p>A3.2</p> <p>Not applicable. No wind turbine or wind power pumps.</p>
<p><b>26.4.3 Location of development for sensitive uses</b></p>	
<p>26.4.3–(A1) New development, except for extensions to existing sensitive use where the extension is no greater than 30% of the existing gross floor area of the sensitive use, must –</p>	<p>(a)(i) Non-compliant. Proposed dwelling would be setback approximately 30m from adjoining agricultural land to the east.</p>

<p>(a) be located not less than:</p> <ul style="list-style-type: none"> <li>(i) 200m from any agricultural land;</li> <li>(ii) 200m from aquaculture, or controlled environment agriculture;</li> <li>(iii) 500m from the operational area boundary established by a mining lease issued in accordance with the <i>Mineral Resources Development Act 1995</i> if blasting does not occur; or</li> <li>(iv) 1000m from the operational area boundary established by a mining lease issued in accordance with the <i>Mineral Resources Development Act 1995</i> if blasting does occur; or</li> <li>(v) 500m from intensive animal husbandry;</li> <li>(vi) 100m from land under a reserve management plan;</li> <li>(vii) 100m from land designated for production forestry;</li> <li>(viii) 50.0m from a boundary of the land to the Bass Highway, or to a railway line; and</li> <li>(ix) clear of any restriction imposed by a utility; and</li> </ul>	<p>Refer to the “Issues” section of this report.</p> <ul style="list-style-type: none"> <li>(a)(ii) Compliant. No aquaculture, or controlled environment agriculture.</li> <li>(a)(iii) Compliant. No non-blasting extractive industry in surrounding area.</li> <li>(a)(iv) Compliant. No blasting extractive industry in surrounding area.</li> <li>(a)(v) Compliant. No intensive animal husbandry within 500m.</li> <li>(a)(vi) Compliant. Development is not within 100m of land under a reserve management plan.</li> <li>(a)(vii) Compliant. No private timber reserve in this locality.</li> <li>(a)(viii) Compliant. Land is approximately 3kms to the Bass Highway and 8.2kms to the Western Rail Line.</li> <li>(a)(ix) Compliant. Land is not located within a proclaimed irrigation district.</li> </ul>
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<p>(b) not be on land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i>, or land that may benefit from the application of broad-scale irrigation development.</p>	
<p><b>26.4.4 Subdivision</b></p>	
<p>26.4.4-(A1) Each new lot on a plan of subdivision must be –</p> <p>(a) a lot required for public use either 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><b>26.4.5 Buildings for Controlled Environment Agriculture</b></p>	
<p>26.4.5-(A1)</p> <p>A building for controlled environment agriculture use must be a crop protection structure and the agricultural use inside the building must satisfy one of the following:</p> <p>(a) rely on the soil as a growth medium into which plants are directly sown;</p> <p>(b) not alter, disturb or damage the existing soil profile if conducted in a manner which does not rely on the soil as a growth medium.</p>	<p>Not applicable.</p> <p>No controlled environment agriculture proposed.</p>



CODES	
<b>E1 Bushfire-Prone Areas Code</b>	Not applicable. Not a subdivision or vulnerable or hazardous use.
<b>E2 Airport Impact Management Code</b>	Not applicable. No Code in this Scheme.
<b>E3 Clearing and Conversion of Vegetation Code</b>	Not applicable. No clearing or conversion of native threatened vegetation.
<b>E4 Change in Ground Level Code</b>	Compliant by a condition to be placed on a permit.
<b>E5 Local Heritage Code</b>	Not applicable. No places of local significance listed in this Scheme.
<b>E6 Hazard Management Code</b>	Not applicable. No landslip hazard identified.
<b>E7 Sign Code</b>	Not applicable. No signs proposed.
<b>E8 Telecommunication Code</b>	Not applicable. No telecommunications proposed.
<b>E9 Traffic Generating Use and Parking Code</b>	
<b>E9.2 Application of this Code</b>	Applicable. Applies to all use and development.
<b>E9.4 Use or development exempt from this Code</b>	Not exempt. No Local Area Parking Scheme.

<b>E9.5 Use Standards</b>	
<b>E9.5.1 Provision for parking</b>	
E9.5.1-(A1) Provision for parking must be:	Compliant by condition.
(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;	The E9 Traffic and Parking Code of the Scheme requires two car parking spaces be provided for a residential dwelling. The land has ample area to accommodate this provision.
<b>E9.5.2 Provision for loading and unloading of vehicles</b>	
E9.5.2-(A1) There must be provision within a site for:	(a) Not applicable. Table E9A does not require on-site loading provision for residential development.
(a) on-site loading area in accordance with the requirement in the Table to this Code; and	(b) Not applicable. Provision does not apply to residential development.
(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.	
<b>E9.6 Development Standards</b>	
<b>E9.6.2 Design of vehicle parking and loading areas</b>	
E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and	Compliant by condition to be placed on a permit. The site would be able to drain, collect and dispose of stormwater on-site, clear of building sites, wastewater site and access road.

<p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p> <p>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;</p> <p>(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>(a) Compliant by Condition. The site has ample area to make provision for circulation and parking areas and vehicle manoeuvring areas in accordance with AS/NZS 2890.1 (2004).</p> <p>(b) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(c) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(d) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(e) Compliant by condition. The site has sufficient area to accommodate this requirement.</p> <p>(f) Compliant by condition. The site has sufficient area to accommodate this requirement.</p> <p>(g) Compliant by condition. Internal roadway and car parking areas would be constructed with a compacted sub-base and an all-weather surface.</p>
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<p>E9.6.2-(A2) Design and construction of an access strip and vehicle circulation, movement and standing areas for use or development on land within the Rural Living, Environmental Living, Open Space, Rural Resource, or Environmental Management zones must be in accordance with the principles and requirements for in the current edition of Unsealed Roads Manual – Guideline for Good Practice ARRB.</p>	<p>Compliant by Condition. Design and construction of access, vehicle circulation, movement and standing areas would be in accordance with the principles and requirements of the <i>Unsealed Roads Manual – Guideline for Good Practice</i> ARRB. A Permit should require compliance with the Standard.</p>
<p><b>E10 Water and Waterways Code</b></p>	<p>Not applicable. No waterway within 30m of the development site.</p>
<p><b>Specific Area Plans</b></p>	<p>Not applicable. No Specific Area Plan applies to the site.</p>



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*Issues –*

*1 Non-required residential use in Rural Resource zone –*

The Planning Scheme's Performance Criteria for Clause 26.3.3-(P1) states that "Residential use that is not required as a part of other use must –

(a) be consistent with Local Area Objectives" –

The purpose of the Rural Resource zone is to provide for the sustainable use and development of air, land and water resources for agriculture, aquaculture, forestry, mining and other primary industries, including quarrying.

The Rural Resource zones' Local Area Objectives and Desired Future Character Statements together seek to promote use and development that is for primary industry purpose.

The Local Area Objectives seek to protect all agricultural land for sustainable agricultural production and collectively demonstrate that the primary intent of use and development in the Rural Resource zone is to minimise the loss of land for primary industry. Most particularly, minimise the loss of prime agricultural land, protect land that is located within a proclaimed irrigation district and to provide for uses that do not constrain, fetter or conflict with current or future primary industry activity.

The subject proposal is not a use that is associated with primary industry. The proposal is for Residential (non-required dwelling). The use is discretionary in the Rural Resource zone and has the potential to result in the constraint, fettering or interference with resource development activity. Adjoining land to the immediate east is a strip of Crown land that separates the lot from an area of highly productive agricultural land. The adjoining land to the east is used for agriculture, principally the cropping of pyrethrum, employing irrigation in farm management and spraying for weed eradication.

However, in contrast, adjoining land to the north and south (and to the west of the five title cluster in this location) of the subject land is zoned Low Density Residential and forms part of the Forth village.

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The proposal, to establish a dwelling on the land, satisfies Local Area Objective (h)(ii) which states that residential use and development on rural land is appropriate only if without permanent loss of land significant for primary industry use and without constraint or interference to existing and potential use of land for primary industry purpose. The accompanying Land Capability Report by Senior Consulting Agronomist, Iain Bruce of TP Jones & Co, states that the subject land is located within an area of significant residential development and is small in size (4,225m<sup>2</sup>) and thus constrained by inefficiencies for primary industry use. The report states that given the characteristics of the land, the site cannot practically support an agricultural use and is not suitable for inclusion with other land for agricultural use, given its physical separation by unmade roadway and the proximity of the Forth village and surrounding Low Density Residential zoning to the north, south and west.

Whilst the subject parcel of land may be lost to primary industry, measures to mitigate any conflict with the eastern adjoining land, such as screen planting along the eastern boundary of the land and the construct of a Part 5 Agreement that acknowledges the rural activities on adjoining agricultural land, have been raised in a representation to the proposed development, and are to be considered as a condition to a permit.

- (b) be consistent with any applicable Desired Future Character Statement –

The proposal satisfies Desired Future Character Statement (b)(i) which allows use and development on rural land to be interspersed with small-scale residential settlement nodes. Desired Future Character Statements (c)(i), (c)(ii) (c)(iii) & (c)(iv) require maintenance of scenic attributes, rural residential amenity and the physical terrain are also to be satisfied by the proposed development.

The proposed dwelling would be located in an already cleared section on the site which would minimise the need to remove vegetation.

As stated above, the accompanying Land Capability Report states that the land is situated within an area of significant

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residential development and, due to its small land area, has noted inefficiencies for resource development activity. The Land Capability Report states that given the land characteristics, the site cannot practically support an agricultural use and not suitable for inclusion with other land for agricultural use given its physical separation by unmade roadways, the proximity of the Forth village and the surrounding Low Density Residential zoning further to the north, south and west.

(c) be on a site within which the existing or proposed development area –

(i) “is not capable by reason of one or more of the factors of topography, resource capability, size or shape of being utilised for resource development or extractive industry use; and”

The development is compliant in this regard, due to the land size and subsequent inefficiencies for financially sustainable resource development.

(ii) “is not capable of utilization in the operations of a resource development or extractive industry enterprise, regardless of ownership; and”

Refer to comments above.

(iii) “does not constrain or interfere with existing or potential resource development or extractive industry use of land including the balance area on the site; and”

The land is within close proximity to land that is zoned Low Density Residential and, as such, is not suitable for extractive industry use.

Land to the east is used for resource development by Botanical Resources Australia. Measures to mitigate potential conflict with the eastern parcel of land, such as screen/buffer planting along the eastern boundary of the land, and the construct of a Part 5 Agreement that acknowledges the activities on adjoining rural agricultural land, have been raised in a representation to the proposed development, and are to be considered as condition to a permit.



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- (d) “not be likely to impose an immediate demand or contribute to a cumulative requirement for public provision or improvement in reticulated or alternate arrangements for utilities, road access, or community service.”

Not applicable. The development would not result in a cumulative requirement for public provision or improvement in a utility, road access or community service.

2 *Suitability of a site or lot on a plan of subdivision for use or development –*

The Planning Scheme’s Acceptable Solution 26.4.1–(A1)(a) states that a site or each lot on a plan of subdivision must, unless for agricultural use, have an area of not less than 1 hectare not including any access strip.

The subject site has a land area of 4,225m<sup>2</sup> and therefore does not satisfy the Acceptable Solution and relies on assessment against the Performance Criteria.

The Planning Schemes’ Performance Criteria for Clause 26.4.1–(P1) states that “a site or each lot on a plan of subdivision must be of sufficient area for the intended use or development without likely constraint or interference for –

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

The proposed development is for a 500m<sup>2</sup> building envelope and shed. Documentation details the location of an access off William Street, Forth and would not result in any constraint or interference of a utility and would be clear of the unmade strips of Crown land.

3 *The development of a sensitive use on rural resource land –*

Residential (non–required use) development is defined as a “sensitive use” under the Planning Scheme. The Planning Scheme’s Acceptable

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Solution 26.4.3 requires that a sensitive use be setback a minimum of 200m from agricultural land. This is to minimise the proximity of a sensitive use to resource development activities. Closer proximity may result in the conflict, interference or fettering of primary industry activity on adjoining agricultural land.

Primary industry activity, in this case to the east of the site, includes the planting, spraying, irrigation and harvesting of pyrethrum crops. Conflict may arise due to differing expectations of property owners and may result in a nuisance complaint by occupants of an adjoining sensitive use. Complaints must then be addressed under the *Environmental Management and Pollution Control Act 1994* (EMPCA).

It is worthwhile noting that the regulations and requirements of EMPCA in relation to noise, dust, odour and general nuisance etc., would need to be argued against any right to farm legislation under the *Primary Industry Activities Protection Act 1995*. At this stage, the history of enforcement of this legislation shows that EMPCA would prevail.

The Scheme's Performance Criteria 26.4.3-(P1) requires that a new sensitive use must minimise the following:

- "(a) permanent loss of land for existing and potential primary industry use;
- (b) likely constraint or interference to existing and potential primary industry use on the site and on adjacent land;
- (c) permanent loss of land within a proclaimed irrigation district under Part 9 of the Water Management Act 1999 or land that may benefit from the application of broad-scale irrigation development; and
- (d) adverse effect on the operations and safety of a major road, a railway or a utility".

In allowing the proposed development, there may arise a conflict or interference of adjoining uses (resource development versus residential). Whilst there would be no potential primary industry use on the subject site, there may be a future loss of potential on adjoining land, due to conflict or perceived nuisance.

In considering the options for the subject site, it is clear that the 4,225m<sup>2</sup> land area severely constrains any future, financially sustainable primary industry use of the land. Further, the surrounding

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land to the north, west and south of the cluster of subminimal land allotments, is zoned for residential use and development under the Low Density Residential zone and the Forth Specific Area Plan.

The writer of this report is cognisant that adjoining agricultural use requires the confidence that no conflict would arise that limits long standing agricultural operations.

In making representation on the proposed development, Botanical Resources Australia has advised the Planning Authority that there are measures that could be implemented to ameliorate any future land use conflict. These include that a vegetation screen be planted along the eastern boundary of the subject parcel of land (not on the strip of Crown land) and that a Part 5 Agreement, enabled under s.71 of the *Land Use Planning and Approvals Act 1993*, be entered into whereby the owner of the land identified as CT174636/5 acknowledges the resource production activity on adjoining land and the intent and purpose of the right to farm legislation under the *Primary Industry Activities Protection Act 1995*.

#### 4 *Location and Configuration of development –*

The Planning Scheme's Acceptable Solution 26.4.2-(A1)(a) states that a building must be setback not less than 10m from each side boundary.

The proposed building envelope for the dwelling would be setback 5m from the western side boundary and the proposed shed would be setback 5m from the site's eastern boundary. The proposed development does not satisfy the Planning Scheme's Acceptable Solution and relies on assessment against the Performance Criteria.

The Scheme's Performance Criteria 26.4.2-(P1) states that the setback of building must be –

- (a) “Consistent with the rural setting and streetscape; and”

the proposed building envelope would be in keeping with the setback of an adjoining lot to the west and consistent with setbacks within the surrounding Low Density Residential zone.

- (b) “required by a constraint imposed by –

- (i) size and shape of the site;

The subject site is relatively small.

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- (ii) orientation and topography of land;  
The size of the lot constrains development on site.
  - (iii) arrangements for water supply and for drainage and disposal of sewage and stormwater;  
Proposed development would not impact on the existing arrangements for water supply and for drainage and disposal of sewage and stormwater in this area.
  - (iv) arrangements for vehicular or pedestrian access;  
The proposed development would not impact on the existing arrangements for vehicular or pedestrian access.
  - (v) any requirement of a conservation nor urban design outcome detailed in a provision in this planning scheme;  
Not applicable to this Planning Scheme.
  - (vi) a utility; or  
Not applicable. No utility on the subject site.
  - (vii) any lawful and binding requirement –
    - a. by the State or a council or by an entity owned or regulated by the State or a council to acquire or occupy part of the site; or
    - b. an interest protected by law by an easement or other regulation”.Not applicable to this site.

*Referral advice –*

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

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No comment.
Infrastructure Services	Statement of Compliance to be issued by Council, in its role as the Road Authority and the Stormwater Authority. Refer to Annexure 6.
TasWater	Submission to Planning Authority Notice TWDA 20230/00703-CC. Refer to Annexure 5.
Department of State Growth	Not applicable.
Environment Protection Authority	Not applicable.
TasRail	Not applicable.
Heritage Tasmania	Not applicable.
Crown Land Services	Not applicable.
Other	Not applicable.

#### *CONSULTATION*

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

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

#### *Representations –*

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

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
<p>1 We have no objections to the development providing our normal farming activity is not going to be restricted and that we are not required to make any adjustments to our boundaries. As agricultural operators on the eastern side of the proposed development we request that a Part 5 Agreement be attached to the property titles that offer a covenant that would stipulate a tree/hedge buffer zone on the eastern side of the property be established.</p> <p>Please note that the existing fence on the eastern side runs directly down the middle of a future road (Dalrymple Street) and doesn't represent the boundary of the title.</p>	<p>Conflicting, adjoining land uses can give rise to concern and conflict between landowners.</p> <p>It is agreed that if a dwelling were to be established on the land, a screen/buffer hedge would be required along the eastern boundary of the land. This can be applied as a condition to a permit or may be required under a Part 5 Agreement, under s.71 of the <i>Land Use Planning and Approvals Act 1993</i>.</p> <p>A Part 5 Agreement would be between the subject landowner and the Central Coast Council and would be 'stapled' to the Title of the subject parcel of land so that future owners would also be aware of responsibilities when residential land use adjoins an intensive agricultural use.</p>
<p>2 A centre pivot irrigator will be in operation in the adjacent paddock and farming operations are routinely conducted 24 hours a day, 365 days a year.</p> <p>We would insist that a caveat acknowledging Tasmania's "right to farm" <i>Primary Industry Activities Protection Act 1995</i> also be included.</p>	<p>As discussed above, a Part 5 Agreement could advise that a 24 hours a day, 365 days of the year resource development activity adjoins the land.</p> <p>The matter of the fettering of productive primary industry land to Residential use is further discussed in the "Issues" section of this report.</p> <p>Any nuisance complaint, such as noise, dust, odour etc. would need to be addressed with reference to the <i>Environmental Management and Pollution Control Act 1994</i> (EMPCA).</p>

	The regulations and requirements of EMPCA in relation to noise, dust odour and nuisance etc. would override any “right to farm” issues.
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*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 received is deemed to have merit as the proposed sensitive use of the subject parcel of land may result in the fettering of agricultural activity to the east.

However, given the subdivision history, size, location and other surrounding zones to the allotment, residential development may be allowed if future conflicts between adjoining landowners can be mitigated. In this regard, a Part 5 Agreement established under s.71 of the *Land Use Planning & Approvals Act 1993*, would be required as a condition to any permit issued.

*Recommendation –*

It is recommended that Residential (outbuilding – shed and building envelope for a non-required dwelling) – discretionary use and development in a Rural Resource zone, variation to lot size and side boundary setback standards and proximity of sensitive use to agricultural land at CT174636/5, Forth Road, Forth (accessed via William Street, Forth) be approved subject to the following conditions and restrictions:

- 1 The development must be substantially in accordance with the Site Plan by Overtone, Project 20.005, Drawing A01 dated 23 April 2020 and Floor Plan and Elevations by Ranbuild, Drawing No. BURN04-0165, Pages 1 to 3 date stamped 30 April 2020, unless modified by a condition of this Permit.

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- 2 The on-site disposal of domestic wastewater must be in accordance with the Water, On-Site Wastewater and Stormwater Disposal Assessment report by Environmental Service & Design Pty Ltd dated 24 April 2020 and clear of any defined building area or access driveway.
  - 3 The development must be in accordance with TasWater's Submission to Planning Authority Notice TWDA 2020/00703-CC dated 4 June 2020.
  - 4 Prior to the issue of a Building Permit, the owner of the land must submit and enter into a Part 5 Agreement with the Central Coast Council under section 71 of the *Land Use Planning and Approvals Act 1993*. The Part 5 Agreement is to set out the following matters to the satisfaction of the General Manager:
    - (a) A vegetation buffer and screen must be established along the eastern boundary of CT174636/5. The buffer and screen must be of vegetation with a final growth height not less than 4 metres.
    - (b) All vegetation must be located wholly inside the property boundary CT174636/5 and must make allowance for the final width of the vegetation so as not to impede on Crown land to the east and south.
    - (c) The buffer must be planted prior to issue of any other permits relative to this application.
    - (d) The Part 5 Agreement must list and acknowledge the 24 hours a day, 365 days a year resource development activities and operations that occur on adjoining land to the east (CT49011/3) and make reference to matters contained in the *Primary Industry Activities Protection Act 1995*;
    - (e) Execution of the Part 5 Agreement, including drafting and registration of the Agreement against CT174636/5, must be at the developers expense.
  - 5 The development must have a maximum height of 8.5m above natural ground level.
  - 6 The development must be roofed and clad with materials with a light reflectance value of less than 40%.



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- 7 The development must not result in a change in ground level greater than 1m in depth.
  - 8 Stormwater, including from vehicle parking and manoeuvring areas, must be collected, drained and disposed of to an approved stormwater system.
  - 9 A minimum of two car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
  - 10 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and an all-weather surface.
  - 11 The development must minimise erosion and release of sediments during site preparation and construction in accordance with Soil and Water Management on Building and Construction Sites 2009.
  - 12 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 22 June 2020 issued by the Council, acting in its capacity as the Road Authority and the Stormwater Authority.

Please note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension 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 an arrangement of a Private Works Authority 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.

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- 4 The outbuilding is a Class 10 outbuilding approved for use ancillary to Residential use of the land. If the outbuilding is intended to be used for a purpose other, such as ancillary dwelling or home based business, than this, then a further Permit for a change of use would be required.'

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 Land Use Planning Group Leader's report having been circulated to all Councillors, a suggested resolution is submitted for consideration."

■ Cr Carpenter moved and Cr Viney seconded, "That the application for Residential (outbuilding – shed and building envelope for a non-required dwelling) – discretionary use and development in a Rural Resource zone, variation to lot size and side boundary setback standards and proximity of sensitive use to agricultural land at CT174636/5, Forth Road, Forth (accessed via William Street, Forth) be approved subject to the following conditions and restrictions:

- 1 The development must be substantially in accordance with the Site Plan by Overtone, Project 20.005, Drawing A01 dated 23 April 2020 and Floor Plan and Elevations by Ranbuild, Drawing No. BURN04-0165, Pages 1 to 3 date stamped 30 April 2020, unless modified by a condition of this Permit.
- 2 The on-site disposal of domestic wastewater must be in accordance with the Water, On-Site Wastewater and Stormwater Disposal Assessment report by Environmental Service & Design Pty Ltd dated 24 April 2020 and clear of any defined building area or access driveway.
- 3 The development must be in accordance with TasWater's Submission to Planning Authority Notice TWDA 2020/00703-CC dated 4 June 2020.
- 4 Prior to the issue of a Building Permit, the owner of the land must submit and enter into a Part 5 Agreement with the Central Coast Council under section 71 of the *Land Use Planning and Approvals Act 1993*. The Part 5 Agreement is to set out the following matters to the satisfaction of the General Manager:
  - (a) A vegetation buffer and screen must be established along the eastern boundary of CT174636/5. The buffer and screen must be of vegetation with a final growth height not less than 4 metres.
  - (b) All vegetation must be located wholly inside the property boundary CT174636/5 and must make allowance for the final width of the vegetation so as not to impede on Crown land to the east and south.

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- (c) The buffer must be planted prior to issue of any other permits relative to this application.
  - (d) The Part 5 Agreement must list and acknowledge the 24 hours a day, 365 days a year resource development activities and operations that occur on adjoining land to the east (CT49011/3) and make reference to matters contained in the *Primary Industry Activities Protection Act 1995*;
  - (e) Execution of the Part 5 Agreement, including drafting and registration of the Agreement against CT174636/5, must be at the developers expense.
- 5 The development must have a maximum height of 8.5m above natural ground level.
  - 6 The development must be roofed and clad with materials with a light reflectance value of less than 40%.
  - 7 The development must not result in a change in ground level greater than 1m in depth.
  - 8 Stormwater, including from vehicle parking and manoeuvring areas, must be collected, drained and disposed of to an approved stormwater system.
  - 9 A minimum of two car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
  - 10 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and an all-weather surface.
  - 11 The development must minimise erosion and release of sediments during site preparation and construction in accordance with Soil and Water Management on Building and Construction Sites 2009.
  - 12 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 22 June 2020 issued by the Council, acting in its capacity as the Road Authority and the Stormwater Authority.

Please note:

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

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- 2 “Substantial commencement” is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site, or an arrangement of a Private Works Authority or bank guarantee to undertake such works.
  - 3 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 The outbuilding is a Class 10 outbuilding approved for use ancillary to Residential use of the land. If the outbuilding is intended to be used for a purpose other, such as ancillary dwelling or home based business, than this, then a further Permit for a change of use would be required.”

Carried unanimously

**21/2020 Residential (multiple dwellings x two) – variation to the rear boundary of a lot with an adjoining frontage and width of frontage for multiple dwellings at 18 Hales Street, Penguin – Application No. DA2020096**

The Strategic Projects and Planning Consultant reported as follows:

“The Town Planner has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA2020096
<i>PROPOSAL:</i>	Residential (multiple dwellings x two) – variation to the rear boundary of a lot with an adjoining frontage and width of frontage for multiple dwellings
<i>APPLICANT:</i>	PLA Designs
<i>LOCATION:</i>	18 Hales Street, Penguin
<i>ZONE:</i>	General Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Planning Scheme)
<i>ADVERTISED:</i>	27 May 2020
<i>REPRESENTATIONS EXPIRY DATE:</i>	11 June 2020
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	3 July 2020 – extension of time granted until 20 July 2020
<i>DECISION DUE:</i>	29 June 2020

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*PURPOSE*

The purpose of this report is to consider an application for the construction of two multiple dwellings, including a shared driveway and visitor car parking space at 18 Hales Street, Penguin.

Accompanying the report are the following documents:

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

*BACKGROUND*

*Development description –*

Application is made for the construction of two multiple dwellings on land known as 18 Hales Street, Penguin.

Both dwellings would comprise of two bedrooms (main with an ensuite), shared bathroom, open plan kitchen/dining/living area and a single attached garage. Each unit would have a second allocated car parking space. Unit 1 would have an attached deck off the living area.

The proposal includes the construction of a shared driveway with access from Hales Street, a visitor car parking space and associated retaining walls.

*Site description and surrounding area –*

The subject site is zoned General Residential within the Pengana Heights subdivision and is an internal allotment with access off Hales Street, Penguin.

The site has a 5m rise upwards and away from Hales Street within the internal driveway access. The actual site itself is not as steep.

The subject site is surrounded by General Residential zoned properties, all developed for residential purposes, excepting the property to the south which is the North West Christian School.

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

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*History -*

Allotment was created in 2019 as part of the Pengana Heights subdivision.

*DISCUSSION*

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

**General Residential**

CLAUSE	COMMENT
<b>10.3.1 Discretionary Permit Use</b>	
<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 for multiple dwellings is Permitted.</p>
<b>10.3.2 Impact of Use</b>	
<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>

<p>10.3.2-(A3) Other than for emergency services, residential, and visitor accommodation, hours of operation must be between 6.00am and 9.00pm.</p>	<p>Not applicable. Use is residential.</p>
<p><b>10.4.1 Residential density for multiple dwellings</b></p>	
<p>10.4.1-(A1) Multiple dwellings must have a site area per dwelling of not less than:</p> <p>(a) 325m<sup>2</sup>; 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. Site area is 1,121m<sup>2</sup> divided by 325m<sup>2</sup> that would allow a total of three dwellings permissible on the site.</p> <p>(b) Not applicable. Site not subject to Table of this clause.</p>
<p><b>10.4.2 Setbacks and building envelope for all dwellings</b></p>	
<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>(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</p>	<p>(a) Compliant. Site is an internal allotment with the closest unit approximately 42m from Hales Street.</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>



<p>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 approximately 60m from Hales Street (primary frontage).</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) Non-compliant. Development would not satisfy the distance of 4.5m from the rear boundary of a lot within an adjoining frontage for an internal lot.</p>

<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"> <li>(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</li> <li>(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</li> </ul> <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> <ul style="list-style-type: none"> <li>(i) does not extend beyond an existing building built on or within 0.2m of the boundary or the adjoining lot; or</li> <li>(ii) does not exceed a total length of 9.0m or one-third the length of the side boundary (whichever is the lesser).</li> </ul>	<p>Refer to the “Issues” section of this report.</p> <p>(a)(ii) Compliant. All dwellings would be within the required building envelope and would be setback 4m from the rear boundary.</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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<b>10.4.3 Site coverage and private open space for all dwellings</b>	
<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 60.0m<sup>2</sup> 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 26%.</p> <p>(b) Compliant. Each multiple dwelling would have greater than 60m<sup>2</sup> of private open space.</p> <p>(c) Compliant. Site area of which is free from impervious surfaces would be 38%.</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) 24.0m<sup>2</sup>; or</p> <p>(ii) 12.0m<sup>2</sup>, 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>(a)(i) Compliant. Unit 1 would have 183m<sup>2</sup> of private open space of which at least 24m<sup>2</sup> of this space in one location. Unit 2 would have 196m<sup>2</sup> of private open space of which at least 24m<sup>2</sup> of this space in one location.</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p> <p>(b)(i) Compliant for both dwellings. Unit 1 would have 17m and Unit 2 would have 21m.</p> <p>(b)(ii) Not applicable. Satisfied by (b)(i).</p> <p>(c) Compliant. All private open space will be directly accessible from each unit's habitable room (living area).</p>

<ul style="list-style-type: none"> <li>(i) 4.0m; or</li> <li>(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</li> <li>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</li> <li>(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</li> <li>(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</li> <li>(f) has a gradient not steeper than 1 in 10; and</li> <li>(g) is not used for vehicle access or parking.</li> </ul>	<ul style="list-style-type: none"> <li>(d) Compliant. Private open space for each dwelling would be primarily located to the north, north-west and north-east of the dwelling.</li> <li>(e) Not applicable. The site is an internal allotment.</li> <li>(f) Compliant. Area for private open space would not exceed 1 in 10 gradients.</li> <li>(g) Compliant. No private open space would be used for vehicle access or parking.</li> </ul>
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<b>10.4.4 Sunlight and overshadowing for all dwellings</b>	
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. Both dwellings would have a living room window that faces between 30 degrees west of north and 30 degrees east of north.
<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 style="padding-left: 40px;">(i) at a distance of 3.0m from the window; and</p> <p style="padding-left: 40px;">(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 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> <p style="padding-left: 40px;">(i) an outbuilding with a building height no more than 2.4m; or</p>	<p>(a)(i) Compliant. Dwellings would be separated by a distance of 10.6m.</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>

<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)(i) Compliant. Unit 1 would be setback 8m from Unit 2 private open space area.</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>

<p>(ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m from the multiple dwelling.</p>	
<p><b>10.4.5 Width of openings for garages and carports for all dwellings</b></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. Unit 1 has a single garage that would be setback greater than 12m from the frontage.</p>
<p><b>10.4.6 Privacy for all dwellings</b></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>(a) Compliant. Unit 1 deck would be 1.2m high and setback 6.9m from the eastern side boundary and approximately 12m from the western side boundary.</p> <p>(b) Compliant. Unit 1 deck would be 1.2m high and setback approximately 35m from the rear boundary.</p> <p>(c) Compliant. Unit 1 deck would be 1.2m high and setback approximately 23m from Unit 2.</p>

<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> <p>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</p> <p>(ii) from a balcony, deck, roof terrace or the private open space, of the other dwelling on the same site.</p>	
<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> <p>(i) is to have a setback of at least 3.0m from a side boundary; and</p> <p>(ii) is to have a setback of at least 4.0m from a rear boundary; and</p> <p>(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>	<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>



<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>(a) Compliant. Unit 1 would be 6m from the shared driveway. Unit 2 would be 5m from the shared driveway.</p> <p>(b)(i) Not applicable. Satisfied by (a).</p>

<ul style="list-style-type: none"> <li>(i) it is separated by a screen of at least 1.7m in height; or</li> <li>(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.</li> </ul>	
<p><b>10.4.7 Frontage fences for all dwellings</b></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> <ul style="list-style-type: none"> <li>(a) 1.2m if the fence is solid; or</li> <li>(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).</li> </ul>	<p>Not applicable. Internal lot.</p> <p>Will place a note on the permit suggesting a fence be erected between the subject site and the adjoining northern site (16 Hales Street) due to the position of the lots and slope of the land. A fence may assist with privacy between both properties.</p>
<p><b>10.4.8 Waste storage for multiple dwellings</b></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 1.5m<sup>2</sup> per dwelling and is within one of the following locations:</p>	<ul style="list-style-type: none"> <li>(a) Compliant. Plans show a 1.5m storage area for each dwelling.</li> <li>(b) Not applicable. Satisfied by (a).</li> </ul>

<ul style="list-style-type: none"> <li>(a) in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</li> <li>(b) in a communal storage area with an impervious surface that: <ul style="list-style-type: none"> <li>(i) has a setback of at least 4.5m from a frontage; and</li> <li>(ii) is at least 5.5m from any dwelling; and</li> <li>(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.</li> </ul> </li> </ul>	
<p><b>10.4.9 Suitability of a site or lot for use or development</b></p>	
<p>10.4.9-(A1) A site or each lot on a plan of subdivision must:</p> <ul style="list-style-type: none"> <li>(a) have an area of not less than 330m<sup>2</sup> excluding any access strip; and</li> <li>(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"> <li>(i) clear of any applicable setback from a frontage, side or rear boundary;</li> <li>(ii) clear of any applicable setback from a zone boundary;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) Compliant. Combined site would be 1,121m<sup>2</sup>.</li> <li>(b)(i) Non-compliant. The proposal triggers a discretion in relation to the internal frontage boundary. 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.</li> <li>(b)(ii) Not applicable. Site does not adjoin a zone boundary.</li> </ul>

<ul style="list-style-type: none"> <li>(iii) clear of any registered easement;</li> <li>(iv) clear of any registered right of way benefiting other land;</li> <li>(v) clear of any restriction imposed by a Utility;</li> <li>(vi) not including an access strip;</li> <li>(vii) accessible from a frontage or access strip; and</li> <li>(viii) if a new residential lot, with a long axis within the range 30 degrees east of north and 20 degrees west of north.</li> </ul>	<ul style="list-style-type: none"> <li>(b)(iii) Not applicable. No registered easements.</li> <li>(b)(iv) Not applicable. No registered right of way.</li> <li>(b)(v) Not applicable. No restriction imposed by a Utility.</li> <li>(b)(vi) Compliant. Proposed dwellings are clear of the access strip.</li> <li>(b)(vii) Compliant. Land is accessible from Hales Street.</li> <li>(b)(viii) Not applicable. Not a new residential lot.</li> </ul>
<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"> <li>(a) across a frontage over which no other land has a right of access; and</li> <li>(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</li> <li>(c) by a right of way connecting to a road – <ul style="list-style-type: none"> <li>(i) over land not required as the means of access to any other land; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) Compliant. Existing access to a frontage to Hales Street.</li> <li>(b) Compliant. Site is an internal lot and is accessed via an access strip off Hales Street.</li> <li>(c)(i) Not applicable. Not access via a right of way.</li> <li>(c)(ii) Not applicable. Not access via a right of way.</li> <li>(d)(i) Not applicable. Not a single dwelling.</li> <li>(d)(ii) Non-compliant. Site access width is 3.7m.</li> </ul> <p>Refer to the “Issues” section of this report.</p>

<p>(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than –</p> <p>(i) 3.6m for a single dwelling development; or</p> <p>(ii) 6.0m for multiple dwelling development or development for a non-residential use; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and 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>(e) Compliant. Site has existing legal access to Hales Street.</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>
<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> <p>Statement of Compliance for Drainage Access has been issued by the Council, acting as the Stormwater Authority.</p>
<p><b>10.4.10 Dwelling density for single dwelling development</b></p>	
<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 325m<sup>2</sup>.</p>	<p>Not applicable.</p> <p>Development is residential.</p>
<p><b>10.4.11 Development other than a single or multiple dwelling</b></p>	
<p><b>10.4.11.1 Location and configuration of development</b></p>	
<p>10.4.11.1–(A1) The wall of a building must be set back from a frontage –</p>	<p>Not applicable.</p> <p>Development is residential.</p>

<ul style="list-style-type: none"> <li>(f) not less than 4.5m from a primary frontage; and</li> <li>(g) not less than 3.0m from any secondary frontage; or</li> <li>(h) not less than and not more than the setbacks for any existing building on adjoining sites;</li> <li>(i) not less than for any building retained on the site;</li> <li>(j) in accordance with any building area shown on a sealed plan; or</li> <li>(k) not less than 50.0m if the site abuts the Bass Highway.</li> </ul>	
<p>10.4.11.1-(A2) All buildings must be contained within a building envelope determined by –</p> <ul style="list-style-type: none"> <li>(a) the applicable frontage setback;</li> <li>(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;</li> <li>(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 –</li> </ul>	<p>Not applicable.</p> <p>Development is residential.</p>

<ul style="list-style-type: none"> <li>(i) not less than 1.5m from each side boundary; or</li> <li>(ii) less than 1.5m from a side boundary if – <ul style="list-style-type: none"> <li>a. built against an existing wall of an adjoining building; or</li> <li>b. the wall or walls – <ul style="list-style-type: none"> <li>i. have the lesser of a total length of 9.0m or one-third of the boundary with the adjoining land;</li> <li>ii. there is no door or window in the wall of the building; and</li> <li>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.</li> </ul> </li> </ul> </li> <li>(d) in accordance with any building envelope shown on a sealed plan of subdivision.</li> </ul>	
<p>10.4.11.1-(A3) Site coverage must:</p> <ul style="list-style-type: none"> <li>(a) not be more than 50%; or</li> </ul>	<p>Not applicable.</p> <p>Development is residential.</p>



<p>(b) not be more than any building area shown on a sealed plan.</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. Development is residential.</p>
<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. Development is residential.</p>
<p><b>10.4.11.2 Visual and acoustic privacy for residential development</b></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> <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>Not applicable. Development is residential.</p>

<ul style="list-style-type: none"> <li>(ii) be not less than 3.0m from a side boundary;</li> <li>(iii) be not less than 4.0m from a rear boundary; and</li> <li>(iv) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary of an adjacent frontage site; or</li> </ul> <p>(b) if less than the setbacks in clause A1(a):</p> <ul style="list-style-type: none"> <li>(i) be off-set by not less than 1.5m from the edge of any door or window of another dwelling;</li> <li>(ii) have a window sill height of not less than 1.8m above floor level;</li> <li>(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</li> <li>(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.</li> </ul>	
<p>10.4.11.2-(A2) An access strip or shared driveway, including any pedestrian pathway and parking area, must be separated by a</p>	<p>Not applicable.</p>

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.	Development is residential.
<b>10.4.11.3 Frontage fences</b>	
<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>
<b>10.4.12 Setback of development for sensitive use</b>	
<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. No zone boundary.</p> <p>(b) Not applicable. No zone boundary.</p>
10.4.12-(A2) Development for a sensitive use must be not less than 50.0m from:	(a) Compliant. Development would be approximately 240m from the Bass Highway.

<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>(b) Compliant. Development would be approximately 790m 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>
<p><b>10.4.13 Subdivision</b></p>	
<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>

<b>10.4.14 Reticulation of an electricity supply to new lots on a plan of subdivision</b>	
10.4.14-(A1) Electricity reticulation and site connections must be installed underground.	Not applicable. No subdivision proposed.
CODES	
<b>E1 Bushfire-Prone Areas Code</b>	Not applicable. Not a subdivision, hazardous or vulnerable use.
<b>E2 Airport Impact Management Code</b>	Not applicable. No Code in the Scheme.
<b>E3 Clearing and Conversion of Vegetation Code</b>	Not applicable. No clearing or conversion of vegetation.
<b>E4 Change in Ground Level Code</b>	Not applicable. No change in ground level greater than 1m or retaining walls closer than 1.5m.  Condition will apply regarding retaining walls and that no area of influence is to occur into adjoining land.
<b>E5 Local Heritage Code</b>	Not applicable. No Local Heritage Code in the Scheme.
<b>E6 Hazard Management Code</b>	Not applicable. Not within a hazard mapped area.
<b>E7 Sign Code</b>	Not applicable. No signage proposed.
<b>E8 Telecommunication Code</b>	Not applicable. No telecommunications proposed.

<b>E9 Traffic Generating Use and Parking Code</b>	
<b>E9.2 Application of this Code</b>	Code applies to all development.
<b>E9.4 Use or development exempt from this Code</b>	Not exempt.  No Local Area Parking Scheme applies to the site.
<b>E9.5 Use Standards</b>	
<b>E9.5.1 Provision for parking</b>	
<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 two dwellings. Proposal would therefore require five 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 five car parking spaces would be required. The proposal shows the provisions for five car parking spaces.</p> <p>The proposal satisfies the Planning Scheme requirements for car parking.</p>

<b>E9.5.2 Provision for loading and unloading of vehicles</b>	
E9.5.2-(A1) There must be provision within a site for:	Not applicable for residential use.
(c) on-site loading area in accordance with the requirement in the Table to this Code; and	
(d) 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.	
<b>E9.6 Development Standards</b>	
<b>E9.6.2 Design of vehicle parking and loading areas</b>	
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.
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 –	Not applicable for residential use.
(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;	

<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>
<p><b>E10 Water and Waterways Code</b></p>	<p>Not applicable. There is no watercourse within 30m of the site.</p>
<p><b>Specific Area Plans</b></p>	<p>No Specific Area Plans apply to this location.</p>



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*Issues –*

*1 Variation to the rear boundary of a lot with an adjoining frontage –*

The Planning Scheme's Acceptable Solution for Clause 10.4.2–(A3)(a)(i) states that a dwelling must be contained within a building envelope that includes for an internal lot a distance of 4.5m from the rear boundary of a lot with an adjoining frontage.

The proposal would result with a portion of Unit 1 (primarily the attached deck) to be 4.2m from the site's northern internal boundary. It is noted that the plans provided state that the dwelling would be setback 4.5m, however, due to the slight angle of the northern boundary and the position of the dwelling, the dwelling in its entirety will not satisfy the 4.5m required setback. Therefore, a variation to this standard is required and an exercise of discretion is needed for the proposal.

The Planning Scheme's Performance Criteria for Clause 10.4.2–(P3) states that the siting of a dwelling must:

- (a) not cause 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 boundary in question adjoins developed residential land with a single dwelling, associated outbuildings and extensive gardening/entertaining area. Due to the land orientation of the adjoining northern boundary, with the development site to the south and slightly uphill from this adjoining lot, no reduction in sunlight would occur to a habitable room of this adjoining lot.

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

Compliant. As per comments above, the orientation of lots and the development site being to the south and slightly uphill, no overshadowing to the private open space of the dwelling on the adjoining lot would occur.

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

Not applicable. The adjoining lot 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. The proposed multiple dwellings would be visible from the adjoining lots (including the lot to the north with the shared boundary in question). However, the proposed setbacks for the multiple dwellings would be similar to the existing developed patterns within the area. In fact, most properties within the near vicinity to the development site have outbuildings and some dwellings built closer to the boundaries than what is proposed for the multiple dwellings.

As there will not be any physical separation between proposed Unit 1 and the adjoining property at 16 Hales Street, a note will be included on the permit that a fence is suggested along this boundary to assist with some privacy between both properties and to assist with the reduction of any visual impacts.

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

Compliant. The surrounding area is built for residential purpose with many dwellings and outbuildings built closer to their respective boundaries. The proposed multiple dwellings would be setback greater than some of the development within the area. Therefore, the proposed multiple dwelling development is considered compatible with that prevailing in the surrounding area.

## 2 *Variation to width of frontage for multiple dwellings -*

The Planning Scheme's Acceptable Solution for Clause 10.4.9-(A2)(d)(ii) states that a site must have a separate access from a road with a width of frontage and any access strip or right of way of not less than 6m if for multiple dwelling development or development.

The site has an access strip with road frontage to Hales Street of 3.7m. Therefore, a variation to this standard is required and an exercise of discretion is needed for the proposal.

The Planning Scheme's Performance Criteria for Clause 10.4.9-(P2) of the Planning Scheme states that -

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

(i) across a frontage; or

Not applicable. Satisfied by (ii).

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

Compliant. The site has an access strip connecting to a frontage which is off Hales Street.

(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

Not applicable. The site is not accessed via a right of way. Satisfied by (ii) above.

(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 access strip is 3.7m wide and considered adequate for multiple dwelling development, being residential use. This is not a dissimilar access strip width to other approved multiple dwelling development within the municipal area. No issues have been raised by the Council's Road Authority officer.

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 access strip is only intended to be used by the occupants of 18 Hales Street. The development is residential and a 3.7m wide access strip is considered adequate.

(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 the Road and the 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
Environmental Health	Referral not required.
Infrastructure Services	Statement of Compliance for Vehicular Access and Drainage Access has been issued by the Council, acting as the Road Authority and the 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 2020/00702-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; and
- . an advertisement was placed in the Public Notices section of The Advocate.

*Representations –*

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

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
1 Concern regarding Unit 1 deck and ability for unobstructed view into the kitchen, dining and living area of dwelling at 20 Hales Street.	<p>Unit 1 deck would be setback 6.9m from the eastern side boundary (boundary shared with 20 Hales Street).</p> <p>The dwelling at 20 Hales Street would be located approximately 17m diagonally south-west and slightly uphill from the proposed deck.</p> <p>The Planning Scheme considers potential privacy issues if a deck is within 3m of a side boundary.</p>

In this case, the deck would be setback 6.9m from the side boundary and has satisfied the Acceptable Solution test in the Planning Scheme.

Furthermore, it is considered that a separation of approximately 17m is adequate, particularly in a built up residential area.



Image above shows the approximate location of the deck (black line) and the approximate 17m separation between the deck and the adjoining eastern dwelling (blue line).

*RESOURCE, FINANCIAL AND RISK IMPACTS*

The proposal has no likely impact on Council’s 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:

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The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

*CONCLUSION*

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

The proposed multiple dwelling development is Permitted in the General Residential zone. The application was discretionary due to the variation to the rear boundary of a lot with an adjoining frontage and the width of a frontage for multiple dwellings. 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. It is considered appropriate that the proposed multiple dwelling development be approved, subject to conditions.

*Recommendation –*

It is recommended that the application for Residential (multiple dwellings x two) – variation to the rear boundary of a lot with an adjoining frontage and width of frontage for multiple dwelling at 18 Hales Street, Penguin be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by PLA Designs, Drawing No. 2006, Sheet Nos. 01 (Revision C) and 02B (Revision B) dated 22 May 2020, Sheet Nos. 02 (Revision B), 03 (Revision B), 04 (Revision A), 05 (Revision B) and 06 (Revision A) dated 27 March 2020 and Sheet No. 07 (Revision A) dated 3 April 2020.
- 2 The development must be in accordance with the conditions of TasWater’s Submission to Planning Authority Notice, Reference No. TWDA 2020/00702–CC dated 4 June 2020.
- 3 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 22 June 2020 issued by the Council, acting in its capacity as the Road Authority and the Stormwater Authority.

- 
- 4 A minimum of five car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
  - 5 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and all-weather surface.
  - 6 No retaining wall is to result with an area of influence within the boundary of adjacent land.

Please note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension 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 an arrangement of a Private Works Authority 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 It is suggested that a lightweight fence to a maximum 2.1m is constructed along the northern boundary to assist with privacy and potential visual impacts for the occupants of the subject site and occupants at 16 Hales Street.'

The Town Planners report is supported."

The Executive Services Officer reported as follows:

"A copy of the Annexures referred to in the Town Planner's report having been circulated to all Councillors, a suggested resolution is submitted for consideration."



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■ Cr Fuller moved and Cr Viney seconded, “That the application for Residential (multiple dwellings x two) – variation to the rear boundary of a lot with an adjoining frontage and width of frontage for multiple dwelling at 18 Hales Street, Penguin be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by PLA Designs, Drawing No. 2006, Sheet Nos. 01 (Revision C) and 02B (Revision B) dated 22 May 2020, Sheet Nos. 02 (Revision B), 03 (Revision B), 04 (Revision A), 05 (Revision B) and 06 (Revision A) dated 27 March 2020 and Sheet No. 07 (Revision A) dated 3 April 2020.
- 2 The development must be in accordance with the conditions of TasWater’s Submission to Planning Authority Notice, Reference No. TWDA 2020/00702-CC dated 4 June 2020.
- 3 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 22 June 2020 issued by the Council, acting in its capacity as the Road Authority and the Stormwater Authority.
- 4 A minimum of five car parking spaces must be provided on-site and enable the forward movement of vehicles entering and egressing the site.
- 5 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and all-weather surface.
- 6 No retaining wall is to result with an area of influence within the boundary of adjacent land.

Please note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension 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 an arrangement of a Private Works Authority 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.

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It is recommended the Council's Building Permit Authority, or a Building Surveyor be contacted should clarification be required.

- 4 It is suggested that a lightweight fence to a maximum 2.1 m is constructed along the northern boundary to assist with privacy and potential visual impacts for the occupants of the subject site and occupants at 16 Hales Street.”

Carried unanimously

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### **Closure**

There being no further business, the Mayor declared the meeting closed at 6.13pm.

CONFIRMED THIS                      DAY OF                      , 2020.

### **Chairperson**

(lb:km)

### **Appendices**

Nil.

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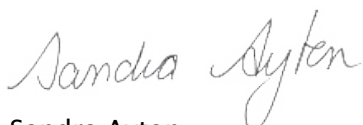
*QUALIFIED PERSON'S ADVICE*

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



Sandra Ayton  
GENERAL MANAGER