
**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 March 2021 commencing at 6.00pm**

Members attendance

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

Cr John Beswick (Proxy)
Cr Philip Viney
Cr Tony van Rooyen

Members apologies

Cr Garry Carpenter

Employees attendance

Strategic Projects and Planning Consultant (Mr Paul West)
Town Planner (Mrs Carolyn Harris)
Executive Services Officer (Mrs Lou Brooke)

Public attendance

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

Acknowledgement of Country

The Council acknowledges and pays respect to the Tasmanian Aboriginal community as the traditional owners and custodians of this land on which we live.

CONFIRMATION OF MINUTES OF THE COMMITTEE

1/2021 Confirmation of minutes

The Executive Services Officer reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 30 November 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 30 November 2020 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

2/2021 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 Beswick moved and Cr Fuller seconded, “That the Mayor’s report be received.”

Carried unanimously

DECLARATIONS OF INTEREST

3/2021 **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 Executive Services Officer 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

4/2021 **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 meeting was adjourned during the following times to enable the related documents to be workshopped:

- Minute No. 6/2021 6:01pm – 6:05pm
- Minute No. 7/2021 6:06pm – 6:09pm

DEPUTATIONS

5/2021 **Deputations**

The Executive Services Officer reported as follows:

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

OPEN REPORTS

6/2021 **Residential (multiple dwellings x three) – variation to building envelope and car parking standard for multiple dwellings at 69 Main Street, Ulverstone – Application No. DA2019083**

The Strategic Projects and Planning Consultant reported as follows:

“The Planning Officer prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA2019083
<i>PROPOSAL:</i>	Residential (multiple dwellings x three) – variation to building envelope and car parking standard for multiple dwellings
<i>APPLICANT:</i>	Paul Johnston Paul Johnston Architects
<i>LOCATION:</i>	69 Main Street, Ulverstone
<i>ZONE:</i>	General Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Planning Scheme)
<i>ADVERTISED:</i>	13 February 2021
<i>REPRESENTATIONS EXPIRY DATE:</i>	1 March 2021
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	22 March 2021 – extension of time granted until 19 April 2021
<i>DECISION DUE:</i>	29 March 2020
<i>PURPOSE</i>	

The purpose of this report is to consider an application for the construction of two multiple dwellings behind an existing dwelling at 69 Main Street, Ulverstone, resulting in three dwellings on the lot.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representations;
- . Annexure 4 – photographs;
- . Annexure 5 – TasWater Submission to Planning Authority Notice; and
- . Annexure 6 – Statement of Compliance from Road Authority and Stormwater Authority.

BACKGROUND

Development description –

Application is made for the construction of two multiple dwellings behind an existing dwelling at 69 Main Street, Ulverstone.

The construction would comprise the following:

- . Dwelling 1 (Unit 1) would be a two-storey, three-bedroom dwelling with ensuite, communal bathroom, open plan kitchen/dining/living area, laundry and a single carport.
- . Dwelling 2 (Unit 2) would be a single-storey, two-bedroom dwelling with ensuite, bathroom, open plan kitchen/dining/living area, laundry and a single carport.

The proposal includes the demolition of two outbuildings to accommodate the construction of the new dwellings.

The proposal includes a shared driveway on the western side of the existing dwelling to service Unit 1 and Unit 2 of the proposed development. This would require an additional crossover onto Main Street. The existing dwelling would be access via an existing crossover to Main Street.

Site description and surrounding area –

The 1,012m² lot is zoned General Residential and fronts Main Street, Ulverstone.

The subject site is surrounded by General Residential zoned properties, all developed for residential purpose. The property to the immediate north/north-western boundary of the subject site contains a dwelling and two units.

The site has a sewer main that runs along the entire eastern rear boundary of the lot. Development would be clear of the sewer infrastructure.

The lot is connected to reticulated stormwater, sewerage, and water systems.

History -

The application remained on hold whilst a suitable design for stormwater disposal was achieved to the satisfaction of the Council, in its capacity as the Stormwater Authority.

DISCUSSION

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

General Residential

CLAUSE	COMMENT
10.3.1 Discretionary Permit Use	
10.3.1-(P1) Discretionary permit use must: (a) be consistent with local area objectives; (b) be consistent with any applicable desired future character statement; and (c) minimise likelihood for adverse impact on amenity for use on adjacent land in the zone.	Not applicable. Residential use for multiple dwellings is Permitted.
10.3.2 Impact of Use	
10.3.2-(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage.	Not applicable. Use is residential.
10.3.2-(A2) Permitted non-residential use must not generate more than 40 average daily vehicle movements.	Not applicable. Use is residential.

<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>10.4.1 Residential density for multiple dwellings</p>	
<p>10.4.1-(A1) Multiple dwellings must have a site area per dwelling of not less than:</p> <p>(a) 325m²; or</p> <p>(b) if within a density area specified in Table 10.4.1 below and shown on the planning scheme maps, that specified for the density area.</p>	<p>(a) Compliant. Site area per dwelling would be 337m².</p> <p>(b) Not applicable. Site not subject to Table to this clause.</p>
<p>10.4.2 Setbacks and building envelope for all dwellings</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>(a) Compliant. The existing dwelling would be setback 8.8m from Main Street.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Not applicable. Land does not abut the Bass Highway.</p>

<p>(b) if the frontage is not a primary frontage, at least 3.0m, or, if the setback from the frontage is less than 3.0m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site; or</p> <p>(c) if for a vacant site with existing dwellings on adjoining sites on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p> <p>(d) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road.</p>	
<p>10.4.2-(A2) A garage or carport must have a setback from a primary frontage of at least:</p> <p>(a) 5.5m, or alternatively 1.0m behind the façade of the dwelling; or</p> <p>(b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> <p>(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. There is no garage or carport proposed within 5.5m of the 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, 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> <p>(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</p> <p>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at the side boundaries and a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level; and</p> <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary or the adjoining lot; or</p>	<p>(a)(i) Compliant. The existing dwelling would be setback 8.8m from the frontage setback.</p> <p>(a)(ii) Non-compliant. The proposed ground floor pergola of Unit 1 would be setback 3.4m from the rear boundary.</p> <p>Refer to the “Issues” section of this report.</p> <p>(b)(i) Compliant. There is no existing building built on or within 0.2m of the boundary or on the adjoining lot.</p> <p>(b)(ii) Non-compliant. Proposed Unit 2 would be setback 1 m from the north-west boundary and would have a total wall length of 13m.</p> <p>Refer to the “Issues” section of this report.</p>
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<p>(ii) does not exceed a total length of 9.0m or one-third the length of the side boundary (whichever is the lesser).</p>	
<p>10.4.3 Site coverage and private open space for all dwellings</p>	
<p>10.4.3-(A1) Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60.0m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) a site area of which at least 25% of the site area is free from impervious surfaces.</p>	<p>(a) Compliant. Site coverage would be 41%.</p> <p>(b) Compliant. Each multiple dwelling would have greater than 60m² of private open space.</p> <p>(c) Compliant. Total land area available free from impervious surfaces would be 373m², this equates to 37% free from impervious surfaces.</p>
<p>10.4.3-(A2) A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p> <p>(i) 24.0m²; or</p> <p>(ii) 12.0m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m</p>	<p>(a)(i) Compliant.</p> <p>Existing dwelling private open space = 64.6m².</p> <p>Unit 1 private open space = 63.9m².</p> <p>Unit 2 private open space = 66.5m².</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p>

<p>above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(b) has a minimum horizontal dimension of:</p> <p>(i) 4.0m; or</p> <p>(ii) 2.0m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least three hours of sunlight to 50% of the area between 9.00am and 3.00pm on 21 June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p>	<p>(b)(i) Compliant.</p> <p>Existing dwelling would have 6m horizontal dimension.</p> <p>Unit 1 would have 6m horizontal dimension.</p> <p>Unit 2 would have 11m horizontal dimension.</p> <p>(b)(ii) Not applicable. Satisfied by (b)(i).</p> <p>(c) Compliant. All private open space areas would be directly accessible from a habitable room of each dwelling (either dining/living area, dining room or lounge room).</p> <p>(d) Compliant. Private open space for each dwelling would be located to the north and north-east of each dwelling.</p> <p>(e) Compliant. No private open space would be located between the dwelling or frontage.</p> <p>(f) Compliant. The site has a slight slope to the rear of the lot.</p> <p>(g) Compliant. No private open space would be used for vehicle access or parking.</p>
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10.4.4 Sunlight and overshadowing for all dwellings	
10.4.4–(A1) A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).	Compliant. All three dwellings would have at least one habitable room (other than a bedroom) with a window that faces 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>(a)(i) Compliant. Proposed Unit 2 is north of the existing dwelling. The distance between the two buildings is more than 5m.</p> <p>(a)(ii) Compliant. Satisfied by (a)(i).</p> <p>(b) Compliant. Proposed Unit 2 would not result in a loss of sunlight to a habitable room of the existing dwelling.</p> <p>(c) Not applicable.</p>

<ul style="list-style-type: none"> (i) an outbuilding with a building height no more than 2.4m; or (ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m horizontally from the multiple dwelling. 	
<p>10.4.4-(A3) A multiple dwelling, that is to the north of the private open space, of another dwelling on the same site, required in accordance with A2 or P2 of subclause 10.4.3, must be in accordance with (a) or (b), unless excluded by (c):</p> <ul style="list-style-type: none"> (a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4C): <ul style="list-style-type: none"> (i) at a distance of 3.0m from the northern edge of the private open space; and (ii) vertically to a height of 3.0m above natural ground level and then at an angle of 45 degrees from the horizontal. (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. (c) That part, of a multiple dwelling, consisting of: 	<ul style="list-style-type: none"> (a) Not applicable. Excluded by (c). (b) Not applicable. Excluded by (c). (c)(i) Compliant. The carport would have a building height of not more than 2.4m. (c)(ii) Not applicable. The carport satisfies (c)(i).

<ul style="list-style-type: none"> (i) an outbuilding with a building height no more than 2.4m; or (ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m from the multiple dwelling. 	
<p>10.4.5 Width of openings for garages and carports for all dwellings</p>	
<p>10.4.5-(A1) A garage or carport within 12.0m of a primary frontage (whether the garage or carport is free-standing or part of the dwelling) must have a total width of openings facing the primary frontage of not more than 6.0m or half the width of the frontage (whichever is the lesser).</p>	<p>Not applicable.</p> <p>The existing dwelling fronts Main Street and does not include a garage or carport within 12m of the frontage.</p>
<p>10.4.6 Privacy for all dwellings</p>	
<p>10.4.6-(A1) A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1.0m above natural ground level must have a permanently fixed screen to a height of at least 1.7m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:</p> <ul style="list-style-type: none"> (a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3.0m from the side boundary; and 	<p>Not applicable.</p> <p>The proposed dwellings do not have a balcony, deck, roof terrace, parking space or carport that has a finished floor level of 1 m above natural ground level.</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</p>	<p>(a) Compliant. The proposed Unit 1 would have windows with a floor level more than 1m above natural ground level, setback 3.5m from the southern side boundary.</p> <p>(b) Compliant. The proposed Unit 1 would have windows with a floor level more than 1m above natural ground level, setback 4.9m from the north-eastern rear boundary.</p>

<p>habitable room, of another dwelling on the same site; and</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>	
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<p>10.4.6–(A3) A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of at least:</p> <p>(a) 2.5m; or</p> <p>(b) 1.0m if:</p> <p>(i) it is separated by a screen of at least 1.7m in height; or</p> <p>(ii) the window, or glazed door, to a habitable room has a sill height of at least 1.7m above the shared driveway or parking space or has fixed obscure glazing extending to a height of at least 1.7m above the floor level.</p>	<p>(a) Not applicable. Addressed by (b).</p> <p>(b) Compliant. The existing dwelling would have windows within 1m of the shared driveway. However, all windows would be screened with 1.8m timber screens along the shared driveway.</p>
<p>10.4.7 Frontage fences for all dwellings</p>	
<p>10.4.7–(A1) A fence (including a free-standing wall) within 4.5m of a frontage must have a height above natural ground level of not more than:</p> <p>(a) 1.2m if the fence is solid; or</p>	<p>Not applicable.</p> <p>No frontage fence proposed.</p>

<p>(b) 1.8m, if any part of the fence that is within 4.5m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).</p>	
<p>10.4.8 Waste storage for multiple dwellings</p>	
<p>10.4.8-(A1) A multiple dwelling must have a storage area, for waste and recycling bins, that is an area of at least 1.5m² per dwelling and is within one of the following locations:</p> <p>(a) in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</p> <p>(b) in a communal storage area with an impervious surface that:</p> <p>(i) has a setback of at least 4.5m from a frontage; and</p> <p>(ii) is at least 5.5m from any dwelling; and</p> <p>(a) is screened from the frontage and any dwelling by a wall to a height of at least 1.2m above the finished surface level of the storage area.</p>	<p>(a) Compliant. Plans show a 1.5m² storage area for each dwelling.</p> <p>(b) Not applicable. Satisfied by (a).</p>

10.4.9 Suitability of a site or lot for use or development

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

- (a) have an area of not less than 330m² excluding any access strip; and
- (b) if intended for a building, contain a building area of not less than 10.0m x 15.0m:
 - (i) clear of any applicable setback from a frontage, side or rear boundary;
 - (ii) clear of any applicable setback from a zone boundary;
 - (iii) clear of any registered easement;
 - (iv) clear of any registered right of way benefiting other land;
 - (v) clear of any restriction imposed by a Utility;
 - (vi) not including an access strip;
 - (vii) accessible from a frontage or access strip; and
 - (viii) if a new residential lot, with a long axis within the range 30 degrees east of north and 20 degrees west of north.

- (a) Compliant. Combined site would be 1,011m².
- (b)(i) Non-compliant. The proposal triggers a discretion in relation to the rear and side boundary setbacks.

Refer to the "Issues" section of this report.
- (b)(ii) Not applicable. The site does not adjoin a zone boundary.
- (b)(iii) Not applicable. No registered easements.
- (b)(iv) Not applicable. No registered right of way.
- (b)(v) Not applicable. No restriction imposed by a Utility; the development would be clear of the TasWater sewer infrastructure.
- (b)(vi) Not applicable. No access strip.
- (b)(vii) Compliant. Land is accessible from Main Street.
- (b)(viii) Not applicable. Not a new residential lot.

<p>10.4.9–(A2) A site or each lot on a subdivision plan must have a separate access from a road –</p> <p>(a) across a frontage over which no other land has a right of access; and</p> <p>(b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or</p> <p>(c) by a right of way connecting to a road –</p> <p style="padding-left: 20px;">(i) over land not required as the means of access to any other land; and</p> <p style="padding-left: 20px;">(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than –</p> <p style="padding-left: 20px;">(i) 3.6m for a single dwelling development; or</p> <p style="padding-left: 20px;">(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</i></p>	<p>(a) Compliant. Existing and proposed new access to Main Street frontage.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c)(i) Not applicable. Satisfied by (a).</p> <p>(c)(ii) Not applicable. Satisfied by (a).</p> <p>(d)(i) Not applicable. Not a single dwelling.</p> <p>(d)(ii) Compliant. Access width would be 6m.</p> <p>(e) Compliant. Site has existing legal access to Main Road. A Statement of Compliance for Vehicular Access has been issued by the Council, acting in its capacity as the Road Authority.</p>
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<p><i>Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan.</p>	
<p>10.4.9-(A3) A site or each lot on a plan of subdivision must be capable of connecting to a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p>	<p>Compliant.</p> <p>The site is connected to the reticulated water system.</p> <p>Application was referred to TasWater who have provided a Submission to Planning Authority Notice (refer to Annexure 5).</p>
<p>10.4.9-(A4) A site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and wastewater to a sewage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p>	<p>Compliant.</p> <p>The site is connected to the reticulated sewerage system.</p> <p>Application was referred to TasWater who have provided a Submission to Planning Authority Notice (refer to Annexure 5).</p>
<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>

10.4.10 Dwelling density for single dwelling development	
10.4.10-(A1)	Not applicable.
(a) The site area per dwelling for a single dwelling must – (i) be not less than 325m ² .	Development is residential.
10.4.11 Development other than a single or multiple dwelling	
10.4.11.1 Location and configuration of development	
10.4.11.1-(A1) The wall of a building must be set back from a frontage – (a) not less than 4.5m from a primary frontage; and (b) not less than 3.0m from any secondary frontage; or (c) not less than and not more than the setbacks for any existing building on adjoining sites; (d) not less than for any building retained on the site; (e) in accordance with any building area shown on a sealed plan; or (f) not less than 50.0m if the site abuts the Bass Highway.	Not applicable. Development is residential.

<p>10.4.11.1–(A2) All buildings must be contained within a building envelope determined by –</p> <ul style="list-style-type: none"> (a) the applicable frontage setback; (b) a distance of not less than 4.0m from the rear boundary or if an internal lot, a distance of 4.5m from the boundary abutting the rear boundary of the adjoining frontage site; (c) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at each side boundary and at a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level if walls are setback – <ul style="list-style-type: none"> (i) not less than 1.5m from each side boundary; or (ii) less than 1.5m from a side boundary if – <ul style="list-style-type: none"> a. built against an existing wall of an adjoining building; or b. the wall or walls – <ul style="list-style-type: none"> i. have the lesser of a total length of 9.0m or one-third of the boundary with the adjoining land; 	<p>Not applicable.</p> <p>Development is residential.</p>
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<ul style="list-style-type: none"> ii. there is no door or window in the wall of the building; and iii. overshadowing does not result in 50% of the private open space of an adjoining dwelling receiving less than 3 hours of sunlight between 9.00am and 3.00pm on 21 June. <p>(d) in accordance with any building envelope shown on a sealed plan of subdivision.</p>	
<p>10.4.11.1-(A3) Site coverage must:</p> <ul style="list-style-type: none"> (a) not be more than 50%; or (b) not be more than any building area shown on a sealed plan. 	<p>Not applicable. Development is residential.</p>
<p>10.4.11.1-(A4) A garage, carport or external parking area and any area for the display, handling, or storage of goods, 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>Not applicable. Development is residential.</p>

<p>(a) 6.0m; or</p> <p>(b) half the width of the frontage.</p>	
<p>10.4.11.2 Visual and acoustic privacy for residential development</p>	
<p>10.4.11.2-(A1) A door or window to a habitable room or any part of a balcony, deck, roof garden, parking space or carport of a building must:</p> <p>(a) if the finished floor level is more than 1.0m above natural ground level:</p> <ul style="list-style-type: none"> (i) be not less than 6.0m from any door, window, balcony, deck, or roof garden in a dwelling on the same site; (ii) be not less than 3.0m from a side boundary; (iii) be not less than 4.0m from a rear boundary; and (iv) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary of an adjacent frontage site; or <p>(b) if less than the setbacks in clause A1(a):</p> <ul style="list-style-type: none"> (i) be off-set by not less than 1.5m from the edge of any door or window of another dwelling; 	<p>Not applicable.</p> <p>Development is residential.</p>

<ul style="list-style-type: none"> (ii) have a window sill height of not less than 1.8m above floor level; (iii) have fixed glazing or screening with a uniform transparency of not more than 25% in that part of a door or window less than 1.7m above floor level; or (iv) have a fixed and durable external screen other than vegetation of not less than 1.8m height above the floor level with a uniform transparency of not more than 25% for the full width of the door, window, balcony, deck, roof garden, parking space, or carport. 	
<p>10.4.11.2–(A2) An access strip or shared driveway, including any pedestrian pathway and parking area, must be separated by a distance of not less than 1.5m horizontally and 1.5m vertically from the door or window to a dwelling or any balcony, deck, or roof garden in a dwelling.</p>	<p>Not applicable. Development is residential.</p>
<p>10.4.11.3 Frontage fences</p>	
<p>10.4.11.3–(A1) The height of a fence, including any supporting retaining wall, on or within a frontage setback must be:</p> <ul style="list-style-type: none"> (a) not more than 1.2m if the fence is solid; or (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>Not applicable. Development is residential.</p>

10.4.12 Setback of development for sensitive use	
<p>10.4.12–(A1) A building containing a sensitive use must be contained within a building envelope determined by:</p> <p>(a) the setback distance from the zone boundary as shown in the Table to this clause; and</p> <p>(b) projecting upward and away from the zone boundary at an angle of 45 degrees above the horizontal from a wall height of 3.0m at the required setback distance from the zone boundary.</p>	<p>(a) Not applicable. No zone boundary setback applicable.</p> <p>(b) Not applicable. No zone boundary setback applicable.</p>
<p>10.4.12–(A2) Development for a sensitive use must be not less than 50.0m from:</p> <p>(a) Bass Highway;</p> <p>(b) a railway;</p> <p>(c) land designated in the planning scheme for future road or rail purposes; or</p> <p>(d) a proclaimed wharf area.</p>	<p>(a) Compliant. Development would be approximately 1.5km from the Bass Highway.</p> <p>(b) Compliant. Development would be approximately 105m 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>

10.4.13 Subdivision	
10.4.13-(A1) Each new lot on a plan of subdivision must be – (a) intended for residential use; (b) a lot required for public use by the State government, a Council, a Statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a Statutory authority.	Not applicable. No subdivision proposed.
10.4.13-(A2) A lot, other than a lot to which A1(b) applies, must not be an internal lot	Not applicable. No subdivision proposed.
10.4.14 Reticulation of an electricity supply to new lots on a plan of subdivision	
10.4.14-(A1) Electricity reticulation and site connections must be installed underground.	Not applicable. No subdivision proposed.
CODES	
E1 Bushfire-Prone Areas Code	Not applicable. Not a subdivision, hazardous or vulnerable use.
E2 Airport Impact Management Code	Not applicable. No Code in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of vegetation.

E4 Change in Ground Level Code	Not applicable. No change in ground level greater than 1m or retaining walls closer than 1m and higher than 0.5m.
E5 Local Heritage Code	Not applicable. No Local Heritage Code in the Scheme.
E6 Hazard Management Code	Not applicable. Not within a hazard mapped area.
E7 Sign Code	Not applicable. No signage proposed.
E8 Telecommunication Code	Not applicable. No telecommunications proposed.
E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Code applies to all development.
E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme applies to the site.
E9.5 Use Standards	
E9.5.1 Provision for parking	
E9.5.1-(A1) Provision for parking must be: (a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;	(a) Non-compliant. Table E9A requires two car parking spaces per dwelling and one additional car parking space per three dwellings or part thereof.

	<p>Parking plan shows six car parking spaces. Each dwelling/ unit requires two car parking spaces with the development requiring an additional carparking space of one for visitor car parking.</p> <p>The development falls short of the visitor car parking space.</p> <p>Refer to the “Issues” section of this report.</p>
<p>E9.5.2 Provision for loading and unloading of vehicles</p>	
<p>E9.5.2-(A1) There must be provision within a site for:</p> <p>(a) on-site loading area in accordance with the requirement in the Table to this Code; and</p> <p>(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.</p>	<p>Not applicable for residential use.</p>
<p>E9.6 Development Standards</p>	
<p>E9.6.2 Design of vehicle parking and loading areas</p>	
<p>E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and</p>	<p>Compliant by a Condition to be placed on the Permit.</p>

<p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p> <p>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;</p> <p>(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) Non-compliant. The proposed development does not meet the Acceptable Solution due to the reduced aisle width of spaces 2 and 3 and the reversing requirement for spaces 5 and 6.</p> <p>The application included a Traffic Impact Assessment report by Midson Traffic Pty Ltd dated August 2019.</p> <p>Refer to the “Issues” section of this report.</p> <p>(b) Not applicable. The development is not for commercial vehicles.</p> <p>(c) Not applicable. The development does not require parking facilities for bicycle parking.</p> <p>(d) Not applicable. The development does not require parking facilities for People with Disabilities.</p> <p>(e) Compliant. Each new car parking space can be separately accessed from the internal circulation aisle within the site.</p> <p>(f) Compliant. All vehicles can enter and leave the site in a forward motion other than car parking spaces 4 and 5 which, in order to enter or leave the space, would require a reverse maneuver, in accordance with the Traffic Impact Assessment report prepared by Midson Traffic Pty Ltd dated August 2019.</p>
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	(g) Compliant. The proposed car parking area would require an all-weather surface treatment, as per the Traffic Impact Assessment report prepared by Midson Traffic Pty Ltd dated August 2019.
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.	Not applicable. Land is zoned General Residential.
E10 Water and Waterways Code	Not applicable. There are no water and waterways within 30m of the development site.
Specific Area Plans	No Specific Area Plans apply to this location.

Issues –

1 Variation to the building envelope –

Clause 10.4.2–(A3)(a) and (b) of the Planning Scheme states that a dwelling must have a setback from a rear boundary of 4m and only have a setback of less than 1.5m from a side boundary if the total length of development on the side boundary does not exceed 9m or one third of the side boundary (whichever is lesser).

The proposed development would encroach into the rear boundary setback and the northern, side boundary setback requirements.

The pergola of Unit 1 would be within 3.4m of the rear eastern boundary and Unit 2 would have a wall length greater than 9m, located within 1.5m of the northern side boundary.

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

Clause 10.4.3–(P3) of the Planning Scheme states that the siting a dwelling must:

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

Compliant. The proposed development adjoins three properties; 2 George Street (rear boundary), 67 Main Street and 71 Main Street (side boundaries). The dwellings at both 71 Main Street and 2 George Street are located more than 10m from the proposed dwellings. It is unlikely that there would be a loss of sunlight to a habitable room of either dwellings located at 2 George Street and 71 Main Street. It is unlikely there would be a reduction in sunlight to a habitable room of adjoining units located to the west of the lot, at 67 Main Street. The adjoining units are setback 3m from proposed Unit 2. The orientation of the existing units at 67 Main Street would result in an unlikely loss of sunlight to the habitable rooms. Refer to shadow pattern diagram that forms part of the application at Annexure 2.

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

Compliant. The shadow diagrams provided with the application demonstrate that the private open space of both 2 George Street and 67 Main Street would receive minimum shadow from the proposed development based on the orientation of the lots.

The development also adjoins the side boundary of 71 Main Street. A portion of the private open space at 71 Main Street would be affected by an increase in shadow in the late afternoon. The increase in shadow to the private open space would be marginally more as detailed in the shadow diagram provided illustrating the existing and proposed shadow patterns. The minor increase in the late afternoon would not be considered unreasonable.

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

Not applicable. Adjoining lots are not vacant.

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

Compliant. The bulk and scale of the proposed development would be somewhat similar to surrounding properties, with the adjoining lot at 67 Main Street consisting of two multiple dwellings, and surrounding lots, in Main and George Streets, consisting of federation style dwellings with high pitched rooves, increasing the overall height of dwellings in the immediate area.

The first-floor portion of Unit 1 is well within the acceptable building height of 8.5m, with the actual overall building height being 6.3m. This is somewhat similar to the height of the adjoining federation dwellings, the difference being, the pitch of the roof of the proposed dwellings would be of a modern, flat roof design.

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

Compliant. The proposed development would be consistent with the separation of dwellings on adjoining lots, with the units at 67 Main Street located approximately 2m from the boundary and an outbuilding located at 71 Main Street, located on the boundary of the development site. The location of the proposed dwellings would be considered compatible with that prevailing in the surrounding area.

2 *E9 Traffic Generating Use and Parking Code –*

Clause E9.5.1 of the Traffic Generating Use and Parking Code requires that multiple dwellings have two car parking spaces per dwelling and one visitor car parking space per every four dwellings. The proposed development provides for six on-site car parking spaces, resulting in a shortfall of the required visitor car parking space.

The application includes a Traffic Impact Assessment report prepared by Midson Traffic Pty Ltd dated August 2019. The report addresses car parking requirements and car park layout.

The report has assessed the proposal, identifying that the provision of six on-site car parking spaces satisfies the residential component of the site. The report states that the visitor car parking requirement can be met off site, which is typically normal in a residential environment.

The report also assessed internal layout and vehicle manoeuvring, the local transport network, and the road safety performance of the development, concluding that the development satisfied the requirements for medium density residential development in accordance with the Roads and Maritime Services NSW guidelines and based on the findings of the report, the proposed development is supported by Misdon Traffic Pty Ltd on traffic impact and management grounds.

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 and Stormwater Authorities (refer to Annexure 6).
Building Services	Building Note to be included as a note on the Planning Permit.
TasWater	Submission to Planning Authority Notice, TWDA 2021 00194-CC dated 17 February 2021 (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 -

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

The representations are summarised and responded to as follows:

MATTER RAISED	RESPONSE
REPRESENTATION 1	
<p>1 Concerns have been raised about the loss of privacy to the dwellings in George Street, based on the location of Dwelling No. 1 which is a proposed two-storey building.</p>	<p>It is acknowledged that the first-floor bedroom window of Unit 1 would overlook the rear of the properties located in George Street.</p> <p>The subject site is zoned General Residential under the Planning Scheme. Privacy provisions set out under Clause 10.4.6 of the Planning Scheme requires a development setback of 4m from the rear boundary of a lot.</p> <p>The first floor of proposed Unit 1 would be setback 4.9m from the rear boundary of the lot.</p> <p>In line with the assessment comments made in this report, the proposed development satisfies the Acceptable Solution in relation to privacy provisions, with a setback of 4.9m from the rear boundary.</p>
REPRESENTATION 2	
<p>1 Concerns have been raised about the loss of privacy to their dwelling and the private open space area of their property, located in George Street, adjoining the rear boundary of the development site.</p>	<p>It is acknowledged that the first-floor bedroom window of Unit 1 would overlook the rear of the properties located in George Street.</p> <p>The subject site is zoned General Residential under the Planning Scheme. Privacy provisions set out under Clause 10.4.6 of the Planning Scheme requires a development setback of 4m from the rear boundary of a lot.</p>

	<p>The first floor of proposed Unit 1 would be setback 4.9m from the rear boundary of the lot.</p> <p>In line with the comments made in this report, the proposed development satisfies the Acceptable Solution in relation to privacy provisions, with a setback of 4.9m from the rear boundary.</p>
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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 representations do 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 a variation to the building envelope and car parking standards. The proposed development, as discussed in the “Issues” section of this report, is considered to have satisfied the Planning Scheme’s applicable Performance Criteria.

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

Recommendation –

It is recommended that the application for Residential (multiple dwellings x three) – variation to building envelope and car parking standards at 69 Main Street, Ulverstone – Application No. DA2019083 be approved subject to the following conditions and notes:

- 1 The development must be substantially in accordance with the plans by Paul Johnston Architects, Drawing Nos. DA-01, Revision No. 2 dated 9 December 2019 and PR-02 (9 plans), Revision 01, Amendment No. 2 dated 4 October 2019 and Report and Civil Works Plan by Coordinated Engineering Services, Project and Drawing No. CES196133-C01, Issue A1 dated 31 January 2021.
- 2 The development must be in accordance with the conditions of TasWater’s Submission to the Planning Authority TWDA 2021 00194-CC dated 17 February 2021.
- 3 The development must be in accordance with the Traffic Impact Assessment prepared by Midson Traffic Pty Ltd dated August 2020.
- 4 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 12 March 2021 issued by the Council acting in its capacity as the Road Authority and Stormwater Authority.
- 5 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and all-weather surface.

Please note:

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

to the Council's Building Permit Authority, and an application for a Plumbing Permit is to be made to the Council's Plumbing Permit Authority.

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

The Town Planner's report is supported."

The Executive Services Officer reported as follows:

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

■ Cr Viney moved and Cr Beswick seconded, "That the application for Residential (multiple dwellings x three) – variation to building envelope and car parking standards at 69 Main Street, Ulverstone – Application No. DA2019083 be approved subject to the following conditions and notes.

- 1 The development must be substantially in accordance with the plans by Paul Johnston Architects, Drawing Nos. DA-01, Revision No. 2 dated 9 December 2019 and PR-02 (9 plans), Revision 01, Amendment No. 2 dated 4 October 2019 and Report and Civil Works Plan by Coordinated Engineering Services, Project and Drawing No. CES196133-C01, Issue A1 dated 31 January 2021.
- 2 The development must be in accordance with the conditions of TasWater's Submission to the Planning Authority TWDA 2021 00194-CC dated 17 February 2021.
- 3 The development must be in accordance with the Traffic Impact Assessment prepared by Midson Traffic Pty Ltd dated August 2020.
- 4 The development must be in accordance with the conditions of the Statement of Compliance for Vehicular Access and Drainage Access dated 12 March 2021 issued by the Council acting in its capacity as the Road Authority and Stormwater Authority.
- 5 Driveways and vehicle parking and manoeuvring areas must be formed and constructed with a compacted sub-base and all-weather surface.

Please note:

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

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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 bank guarantee to undertake such works.
 - 3 The proposed development fits within the criteria of Category 4 – Building Permit Work and Category 4 – Plumbing Permit Work when assessed against the Determinations issued under the *Building Act 2016*. Accordingly, an application for a Building Permit is to be made to the Council's Building Permit Authority, and an application for a Plumbing Permit is to be made to the Council's Plumbing Permit Authority.
 - 4 Fencing to the frontage of the property to a height of 1.2m is "exempt" and does not require planning approval. Front fencing that is 30% transparent above 1.2m, to a maximum height of 1.8m, requires that the fence be assessed for compliance and a "No Permit Required" Certificate be issued by the Planning Authority."

Carried unanimously

7/2021 Residential – shed – variation to the building envelope and side boundary setback standards at 15 Dial Road, Penguin – Application No. DA2020343

The Strategic Projects and Planning Consultant reported as follows:

“The Planning Officer prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	DA2020343
<i>PROPOSAL:</i>	Residential – shed – variation to the building envelope and side boundary setback standards
<i>APPLICANT:</i>	Renee Wilson
<i>LOCATION:</i>	15 Dial Road, Penguin
<i>ZONE:</i>	General Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Planning Scheme)
<i>ADVERTISED:</i>	17 February 2021
<i>REPRESENTATIONS EXPIRY DATE:</i>	3 March 2021
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	25 March 2021
<i>EXTENSION OF TIME DATE:</i>	19 April 2021
<i>DECISION DUE:</i>	29 March 2021
<i>PURPOSE:</i>	

The purpose of this report is to consider an application for a 16m x 9m x 5.3m high shed at 15 Dial Road, Penguin. The shed would be located in the south-

western corner of the lot and would be positioned 1m from the property's internal western front boundary and 1m from the southern side boundary. The shed would be outside the building envelope for an internal frontage boundary and a side boundary based on the height and wall length. The application was discretionary due to the proposed variation to the building envelope and side setback standard.

The variations mentioned above include:

- . The proposed shed would be setback 1m from the internal frontage boundary. The Planning Scheme's Acceptable Solution stipulates that a building be setback 4.5m from an internal frontage boundary.
- . The shed would also be outside the building envelope diagram along the internal frontage boundary with a 5.3m (apex) wall height proposed.
- . The shed would be positioned 1m from the southern side boundary, would have a total wall length of 16m and would have a total wall height of 4.49m. The Planning Scheme's Acceptable Solution stipulates that a building only be setback closer than 1.5m to a side boundary providing the total wall length is not greater than 9m and the total wall height is no higher than 3m.

Accompanying the report are the following documents:

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

BACKGROUND

Development description –

Application is made for a residential shed. The shed would have a solid wall, 16m in total length with a total height of 4.49m along the southern side boundary and a solid 9m wall length along with western internal frontage boundary with a wall height of up to 5.3m at the centre apex.

Site description and surrounding area –

The subject site is zoned General Residential and contains a single dwelling, garage, carport and two small garden sheds.

Existing development on the subject site is similar to the existing development within the vicinity, all of which are zoned General Residential and contain primarily single dwellings and outbuildings.

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

History -

No history relevant to this development.

DISCUSSION

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

General Residential

CLAUSE	COMMENT
10.3.1 Discretionary Permit Use	
<p>10.3.1-(P1) Discretionary permit use must:</p> <p>(a) be consistent with local area objectives;</p> <p>(b) be consistent with any applicable desired future character statement; and</p> <p>(c) minimise likelihood for adverse impact on amenity for use on adjacent land in the zone.</p>	<p>Not applicable.</p> <p>Residential use is No Permit Required.</p>
10.3.2 Impact of Use	
<p>10.3.2-(A1) Permitted non-residential use must adjoin at least one residential use on the same street frontage.</p>	<p>Not applicable.</p> <p>Residential use is No Permit Required.</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>10.4.1 Residential density for multiple dwellings</p>	
<p>10.4.1–(A1) Multiple dwellings must have a site area per dwelling of not less than:</p> <p>(a) 325m²; or</p> <p>(b) if within a density area specified in Table 10.4.1 below and shown on the planning scheme maps, that specified for the density area.</p>	<p>Not applicable. Not multiple dwelling development.</p>
<p>10.4.2 Setbacks and building envelope for all dwellings</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>(a) Compliant. The shed would be setback approximately 60m from the front boundary to Dial Road.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c) Not applicable. Satisfied by (a).</p> <p>(d) Not applicable. Land does not abut the Bass Highway.</p>

<p>(b) if the frontage is not a primary frontage, at least 3.0m, or, if the setback from the frontage is less than 3.0m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site; or</p> <p>(c) if for a vacant site with existing dwellings on adjoining sites on the same street, not more than the greater, or less than the lesser, setback for the equivalent frontage of the dwellings on the adjoining sites on the same street; or</p> <p>(d) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road.</p>	
<p>10.4.2-(A2) A garage or carport must have a setback from a primary frontage of at least:</p> <p>(a) 5.5m, or alternatively 1.0m behind the façade of the dwelling; or</p> <p>(b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> <p>(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 shed would be setback approximately 60m from the front boundary to Dial Road.</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, 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> <p>(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</p> <p>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at the side boundaries and a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level; and</p> <p>(b) only have a setback within 1.5m of a side and rear boundary if the dwelling:</p> <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary or the adjoining lot; or</p>	<p>(a)(i) Non-compliant. The shed would be outside the required building envelope as shown on the plans provided. The outbuilding, with a wall height of 5.3m, would be located 1 m from the western internal frontage boundary adjoining 17 Dial Road.</p> <p>Refer to the “Issues” section of this report.</p> <p>(a)(ii) Non-compliant. The shed would be outside the required building envelope as shown on the plans provided. The shed, with a wall height of 4.49m, would be located 1 m from the southern side boundary.</p> <p>Refer to the “Issues” section of this report.</p> <p>(b)(i) Not applicable. Addressed in (b)(ii).</p> <p>(b)(ii) Non-compliant. The shed would have a length of 16m on the southern side boundary.</p> <p>Refer to the “Issues” section of this report.</p>
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<p>(ii) does not exceed a total length of 9.0m or one-third the length of the side boundary (whichever is the lesser).</p>	
<p>10.4.3 Site coverage and private open space for all dwellings</p>	
<p>10.4.3-(A1) Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60.0m² associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) a site area of which at least 25% of the site area is free from impervious surfaces.</p>	<p>(a) Compliant. Site coverage would be 34% of the area not including the access strip.</p> <p>Existing dwelling & deck = approximately 221m².</p> <p>Existing garage and carport = approximately 95m².</p> <p>Garden sheds = approximately 25m².</p> <p>Total existing = 341m².</p> <p>Total including proposed shed 144m² = 485m².</p> <p>(b) Not applicable. Not multiple dwelling development.</p> <p>(c) Compliant. More than 25% of the site area would be free from impervious surfaces.</p>
<p>10.4.3-(A2) A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p>	<p>(a)(i) Compliant. The existing dwelling would have private open space greater than 24m² in one location.</p> <p>(a)(ii) Not applicable. Satisfied by (a)(i).</p>

<p>(i) 24.0m²; or</p> <p>(ii) 12.0m², if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(b) has a minimum horizontal dimension of:</p> <p>(i) 4.0m; or</p> <p>(ii) 2.0m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least three hours of sunlight to 50% of the area between 9.00am and 3.00pm on 21 June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p>	<p>(b)(i) Compliant. The existing dwelling would have minimum dimension of private open space greater than 4m.</p> <p>(b)(ii) Not applicable. Satisfied by (b)(i).</p> <p>(c) Compliant. The existing dwelling's private open space would be accessible from existing living areas.</p> <p>(d) Compliant. Existing private open space located mainly to the east of the existing dwelling.</p> <p>(e) Compliant. Existing private open space is not located between the dwelling and the primary frontage.</p> <p>(f) Compliant. Site is reasonably flat.</p> <p>(g) Compliant. Existing private open space areas are clear of vehicle access and parking areas.</p>
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<p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p>	
<p>10.4.4 Sunlight and overshadowing for all dwellings</p>	
<p>10.4.4-(A1) A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).</p>	<p>Compliant.</p> <p>Existing dwelling.</p>
<p>10.4.4-(A2) A multiple dwelling that is to the north of a window of a habitable room (other than a bedroom) of another dwelling on the same site, which window faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A), must be in accordance with (a) or (b), unless excluded by (c):</p> <p>(a) The multiple dwelling is contained within a line projecting (see Diagram 10.4.4B):</p> <p 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>Not applicable. Not multiple dwelling development.</p>

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

<ul style="list-style-type: none"> (i) an outbuilding with a building height no more than 2.4m; or (ii) protrusions (such as eaves, steps, and awnings) that extend no more than 0.6m from the multiple dwelling. 	
<p>10.4.5 Width of openings for garages and carports for all dwellings</p>	
<p>10.4.5-(A1) A garage or carport within 12.0m of a primary frontage (whether the garage or carport is free-standing or part of the dwelling) must have a total width of openings facing the primary frontage of not more than 6.0m or half the width of the frontage (whichever is the lesser).</p>	<p>Compliant. The proposed shed would be setback approximately 60m from the frontage.</p>
<p>10.4.6 Privacy for all dwellings</p>	
<p>10.4.6-(A1) A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1.0m above natural ground level must have a permanently fixed screen to a height of at least 1.7m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:</p> <ul style="list-style-type: none"> (a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3.0m from the side boundary; and 	<p>Not applicable.</p> <p>Application is for a shed.</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</p>	<p>Not applicable.</p> <p>Application is for a shed.</p>

<p>habitable room, of another dwelling on the same site; and</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>Not applicable. No shared driveway.</p>

<p>(a) 2.5m; or</p> <p>(b) 1.0m if:</p> <p>(i) it is separated by a screen of at least 1.7m in height; or</p> <p>(ii) the window, or glazed door, to a habitable room has a sill height of at least 1.7m above the shared driveway or parking space or has fixed obscure glazing extending to a height of at least 1.7m above the floor level.</p>	
<p>10.4.7 Frontage fences for all dwellings</p>	
<p>10.4.7-(A1) A fence (including a free-standing wall) within 4.5m of a frontage must have a height above natural ground level of not more than:</p> <p>(a) 1.2m if the fence is solid; or</p> <p>(b) 1.8m, if any part of the fence that is within 4.5m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).</p>	<p>Not applicable. No frontage fence proposed.</p>

10.4.8 Waste storage for multiple dwellings	
<p>10.4.8-(A1) A multiple dwelling must have a storage area, for waste and recycling bins, that is an area of at least 1.5m² per dwelling and is within one of the following locations:</p> <p>(a) in an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</p> <p>(b) in a communal storage area with an impervious surface that:</p> <p>(i) has a setback of at least 4.5m from a frontage; and</p> <p>(ii) is at least 5.5m from any dwelling; and</p> <p>(iii) is screened from the frontage and any dwelling by a wall to a height of at least 1.2m above the finished surface level of the storage area.</p>	<p>Not applicable. No multiple dwelling proposed.</p>
10.4.9 Suitability of a site or lot for use or development	
<p>10.4.9-(A1) A site or each lot on a plan of subdivision must:</p> <p>(a) have an area of not less than 330m² excluding any access strip; and</p>	<p>(a) Compliant. Site area is 1,400m² excluding the access strip.</p> <p>(b)(i) Non-compliant. The development requires an exercise of discretion in relation to the building envelope standard. These matters are addressed under Clause 10.4.2-(A3)</p>

<p>(b) if intended for a building, contain a building area of not less than 10.0m x 15.0m:</p> <ul style="list-style-type: none"> (i) clear of any applicable setback from a frontage, side or rear boundary; (ii) clear of any applicable setback from a zone boundary; (iii) clear of any registered easement; (iv) clear of any registered right of way benefiting other land; (v) clear of any restriction imposed by a Utility; (vi) not including an access strip; (vii) accessible from a frontage or access strip; and (viii) if a new residential lot, with a long axis within the range 30 degrees east of north and 20 degrees west of north. 	<p>above and in the “Issues” section of this report, against the Performance Criteria for Clause 10.4.2–(P3).</p> <p>Refer to the “Issues” section of this report.</p> <p>(b)(ii) Not applicable. No zone boundary.</p> <p>(b)(iii) Not applicable. No registered easements.</p> <p>(b)(iv) Not applicable. No registered right of way.</p> <p>(b)(v) Compliant. No restriction imposed by a utility.</p> <p>(b)(vi) Not applicable. No access strip.</p> <p>(b)(vii) Compliant. Land is accessible from Dial Road.</p> <p>(b)(viii) Not applicable. Not a new residential lot.</p>
<p>10.4.9–(A2) A site or each lot on a subdivision plan must have a separate access from a road –</p> <p>(a) across a frontage over which no other land has a right of access; and</p>	<p>(a) Compliant. Existing access and frontage to Dial Road.</p> <p>(b) Not applicable. Satisfied by (a).</p> <p>(c)(i) Not applicable. Satisfied by (a).</p>

<p>(b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or</p> <p>(c) by a right of way connecting to a road –</p> <p style="padding-left: 20px;">(i) over land not required as the means of access to any other land; and</p> <p style="padding-left: 20px;">(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than –</p> <p style="padding-left: 20px;">(i) 3.6m for a single dwelling development; or</p> <p style="padding-left: 20px;">(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>(c)(ii) Not applicable. Satisfied by (a).</p> <p>(d)(i) Compliant. Width of frontage 25m.</p> <p>(d)(ii) Not applicable. Not multiple dwelling or non-residential development.</p> <p>(e) Compliant. Site has existing legal access to Dial Road. No changes are proposed to this access. Council, acting as the Road Authority, has no issues.</p>
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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> .	Compliant. The site is connected to the reticulated water system.
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> .	Compliant. The site is connected to the reticulated sewerage system.
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> .	Compliant. The site is connected to the reticulated stormwater system.
10.4.10 Dwelling density for single dwelling development	
10.4.10–(A1) (a) The site area per dwelling for a single dwelling must – (i) be not less than 325m ² .	(a)(i) Compliant. Site area is 1,844m ² .
10.4.11 Development other than a single or multiple dwelling	
10.4.11.1 Location and configuration of development	
10.4.11.1–(A1) The wall of a building must be set back from a frontage –	Not applicable.

<ul style="list-style-type: none"> (a) not less than 4.5m from a primary frontage; and (b) not less than 3.0m from any secondary frontage; or (c) not less than and not more than the setbacks for any existing building on adjoining sites; (d) not less than for any building retained on the site; (e) in accordance with any building area shown on a sealed plan; or (f) not less than 50.0m if the site abuts the Bass Highway. 	<p>Development is residential.</p>
<p>10.4.11.1-(A2) All buildings must be contained within a building envelope determined by –</p> <ul style="list-style-type: none"> (a) the applicable frontage setback; (b) a distance of not less than 4.0m from the rear boundary or if an internal lot, a distance of 4.5m from the boundary abutting the rear boundary of the adjoining frontage site; (c) projecting a line at an angle of 45 degrees from the horizontal at a height of 3.0m above natural ground level at each side boundary and at a distance of 4.0m from the rear boundary to a building height of not more than 8.5m above natural ground level if walls are setback – 	<p>Not applicable.</p> <p>Development is residential.</p>

<p>(i) not less than 1.5m from each side boundary; or</p> <p>(ii) less than 1.5m from a side boundary if –</p> <p style="padding-left: 20px;">a. built against an existing wall of an adjoining building; or</p> <p style="padding-left: 20px;">b. the wall or walls –</p> <p style="padding-left: 40px;">i. have the lesser of a total length of 9.0m or one-third of the boundary with the adjoining land;</p> <p style="padding-left: 40px;">ii. there is no door or window in the wall of the building; and</p> <p style="padding-left: 40px;">iii. overshadowing does not result in 50% of the private open space of an adjoining dwelling receiving less than 3 hours of sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(d) in accordance with any building envelope shown on a sealed plan of subdivision.</p>	
<p>10.4.11.1–(A3) Site coverage must:</p> <p>(a) not be more than 50%; or</p>	<p>Not applicable.</p> <p>Development is residential.</p>

(b) not be more than any building area shown on a sealed plan.	
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.	Not applicable. Development is residential.
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: (a) 6.0m; or (b) half the width of the frontage.	Not applicable. Development is residential.
10.4.11.2 Visual and acoustic privacy for residential development	
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: (a) if the finished floor level is more than 1.0m above natural ground level: (i) be not less than 6.0m from any door, window, balcony, deck, or roof garden in a dwelling on the same site;	Not applicable. Development is residential.

<ul style="list-style-type: none"> (ii) be not less than 3.0m from a side boundary; (iii) be not less than 4.0m from a rear boundary; and (iv) if an internal lot, be not less than 4.5m from the boundary abutting a rear boundary of an adjacent frontage site; or <p>(b) if less than the setbacks in clause A1(a):</p> <ul style="list-style-type: none"> (i) be off-set by not less than 1.5m from the edge of any door or window of another dwelling; (ii) have a window sill height of not less than 1.8m above floor level; (iii) have fixed glazing or screening with a uniform transparency of not more than 25% in that part of a door or window less than 1.7m above floor level; or (iv) have a fixed and durable external screen other than vegetation of not less than 1.8m height above the floor level with a uniform transparency of not more than 25% for the full width of the door, window, balcony, deck, roof garden, parking space, or carport. 	
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<p>10.4.11.2–(A2) An access strip or shared driveway, including any pedestrian pathway and parking area, must be separated by a distance of not less than 1.5m horizontally and 1.5m vertically from the door or window to a dwelling or any balcony, deck, or roof garden in a dwelling.</p>	<p>Not applicable. Development is residential.</p>
<p>10.4.11.3 Frontage fences</p>	
<p>10.4.11.3–(A1) The height of a fence, including any supporting retaining wall, on or within a frontage setback must be:</p> <p>(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. Development is residential.</p>
<p>10.4.12 Setback of development for sensitive use</p>	
<p>10.4.12–(A1) A building containing a sensitive use must be contained within a building envelope determined by:</p> <p>(a) the setback distance from the zone boundary as shown in the Table to this clause; and</p> <p>(b) projecting upward and away from the zone boundary at an angle of 45 degrees above the horizontal from a wall height of 3.0m at the required setback distance from the zone boundary.</p>	<p>(a) Not applicable. No zone boundary.</p> <p>(b) Not applicable. No zone boundary.</p>

<p>10.4.12–(A2) Development for a sensitive use must be not less than 50.0m from:</p> <p>(a) Bass Highway;</p> <p>(b) a railway;</p> <p>(c) land designated in the planning scheme for future road or rail purposes; or</p> <p>(d) a proclaimed wharf area.</p>	<p>(a) Compliant. Development would be approximately 400m from the Bass Highway.</p> <p>(b) Compliant. Development would not be in the vicinity of a railway.</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>10.4.13 Subdivision</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>

10.4.14 Reticulation of an electricity supply to new lots on a plan of subdivision	
10.4.14-(A1) Electricity reticulation and site connections must be installed underground.	Not applicable. No subdivision proposed.
CODES	
E1 Bushfire-Prone Areas Code	Not applicable. Not a subdivision, hazardous or vulnerable use.
E2 Airport Impact Management Code	Not applicable. No Code in the Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of vegetation.
E4 Change in Ground Level Code	Not applicable. No change in ground level greater than 1m or retaining walls closer than 1m and higher than 0.5m.
E5 Local Heritage Code	Not applicable. No Local Heritage Code in the Scheme.
E6 Hazard Management Code	Not applicable. Not within a hazard mapped area.
E7 Sign Code	Not applicable. No signage proposed.
E8 Telecommunication Code	Not applicable. No telecommunications proposed.
E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Code applies to all development.

E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme applies to the site.
E9.5 Use Standards	
E9.5.1 Provision for parking	
<p>E9.5.1-(A1) Provision for parking must be:</p> <p>(a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;</p>	<p>(a) Compliant. Table E9A requires two car parking spaces for a residential dwelling. Site has existing provision for two car parking spaces.</p>
E9.5.2 Provision for loading and unloading of vehicles	
<p>E9.5.2-(A1) There must be provision within a site for:</p> <p>(a) on-site loading area in accordance with the requirement in the Table to this Code; and</p> <p>(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.</p>	Not applicable for residential use.

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

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

Issues –

1 Variation to the building envelope and development along a side boundary –

The Planning Scheme's Acceptable Solution for Clause 10.4.2–(A3)(a)(i)(ii) and (b)(ii) states that a dwelling (which includes an outbuilding) must be 4.5m from a rear boundary of a property with an adjoining frontage, fit within the prescribed building envelope and, if within 1.5m to a side boundary, have a total wall length no longer than 9m.

The proposed shed would be positioned 1 m from the rear boundary of a property with an adjoining frontage (17 Dial Road) and would have a wall height of 5.3m and wall length of 9m. The proposed shed would also adjoin the northern side boundary of (21 Dial Road) and be setback 1 m with a wall length of 16m and a wall height of 4.49m. The proposed shed does not satisfy the Acceptable Solution. The development relies upon assessment against the Planning Scheme's relevant Performance Criteria and an exercise of discretion is required.

The Planning Scheme's Performance Criteria 10.4.2–(P3) states that the siting and scale of a dwelling (which includes an outbuilding) must not cause unreasonable loss of amenity by –

- (a)(i) reduction in sunlight to a habitable room of a dwelling on an adjoining lot; or

Compliant. The dwellings located on both adjoining lots to the west (17 Dial Road) and south (21 Dial Road) are located more than 40m from the proposed shed. It is unlikely that there would be an unreasonable loss of amenity caused by the proposed outbuilding in terms of overshadow of habitable rooms of dwellings on adjoining lots.

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

Compliant. No overshadowing of private open space areas associated directly with the adjoining dwellings would occur.

-
- (a)(iii) overshadowing on an adjoining vacant lot; or

Compliant. Shadow plans provided demonstrate that between 9.00am and 11.00am on June 22, the shed would cast a shadow into the adjoining vacant portion of the lot located at 21 Dial Road, to the south of the development site. This may be considered to be unreasonable should this portion of the site be developed in the future as the said land would be in shadow for a majority of the day.

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

Non-compliant. Currently, 15 Dial Road accommodates a dwelling and garage with an attached double carport (90m²) with a standard wall height of 3m and overall height of 3.9m. The existing garage and carport are located within 1m of the north-eastern boundaries of the site.

The proposed shed would adjoin the eastern rear boundary of 17 Dial Road and the northern side boundary of 21 Dial Road. There are no buildings on the boundary of the adjoining properties. Refer to Annexure 5 of this report.

Performance Criteria 10.4.2-(P3)(a)(iv) of the Planning Scheme requires the siting and scale of the proposed outbuilding to not cause an unreasonable loss of amenity by visual impacts caused by the apparent scale, bulk or proportions of the outbuilding when viewed from an adjoining property. In this case, the adjoining properties at both 17 and 21 Dial Road would be impacted by the proposed development.

With regards to the criteria above, "apparent" is defined in the Macquarie Dictionary as "*capable of being clearly perceived or understood; plain or clear*".

Amenity is defined by the Planning Scheme as "*in relation to a locality, place or building, any quality, condition or factor that makes or contributes to making the locality, place or building harmonious, pleasant or enjoyable*."

The lot at 21 Dial Road, Penguin currently has a site area of 8,304m² and contains a single dwelling with an outbuilding situated to the street frontage of Dial Road. The location of the

existing buildings on the lot allows for future development or subdivision of the lot.

The Lot at 17 Dial Road, Penguin has a site area of 1,300m² and contains a single dwelling and outbuildings situated closer to the street frontage of Dial Road. Both TasWater and Council stormwater infrastructure intersect through the eastern rear area of the lot which restricts this area to development.

The proposed shed at 15 Dial Road would be positioned in the development sites far south-western corner 1m from the rear boundary of 17 Dial Road.

The internal frontage boundary adjoining 17 Dial Road has a length of 22m. The 9m long 5.3m high wall of the proposed outbuilding would occupy more than a third of the total boundary length, approximately 40%. The aerial photo below shows the approximate building footprint of the proposed shed on the lot.



The proposed shed would also adjoin the side northern boundary of 21 Dial Road and would have a solid 16m wall length with a wall height of 4.49m.

The applicants have made reference to a number of outbuildings in the vicinity including:

-
- (i) 13 Dial Road – garage approximately 65m² standard wall height;
 - (ii) 18 Dial Road – a number of outbuildings with an approximate cover of 150m² standard wall heights;
 - (iii) 20 Dial Road – garage approximately 70m² with a standard wall height; and
 - (iv) 8 Berkshire Parade – approximately 100m² with a standard wall height.

All the outbuildings referenced vary in floor area however all maintain a standard wall height that assists to reduce the bulk and scale of the overall size.

The proposed shed would have a solid 4.49m high wall and depending on the extent of the change in ground level to accommodate the concrete slab/footings would extend above 5m in height at the centre apex. The wall and roof height when viewed from both 17 and 21 Dial Road, Penguin would appear to be bulky and of a large scale in comparison to what is existing in this area.

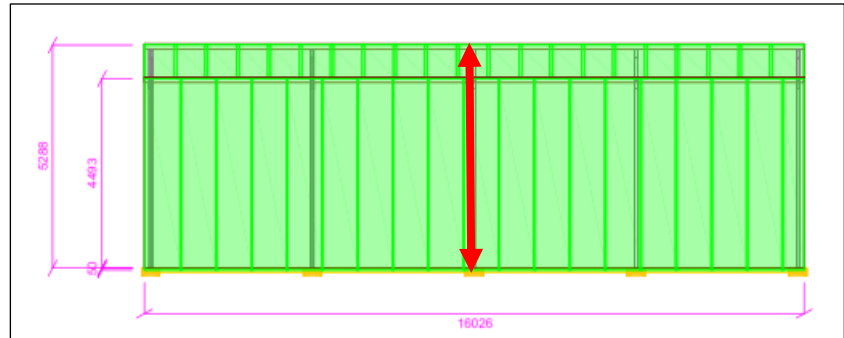
The height of the proposed shed is considerably higher than most outbuildings in the vicinity.

The amenity when viewed from 21 Dial Road, Penguin would go from being a relative open area along this portion of the boundary, to a large scale shed with a solid, blank façade, with no articulation or modulation.

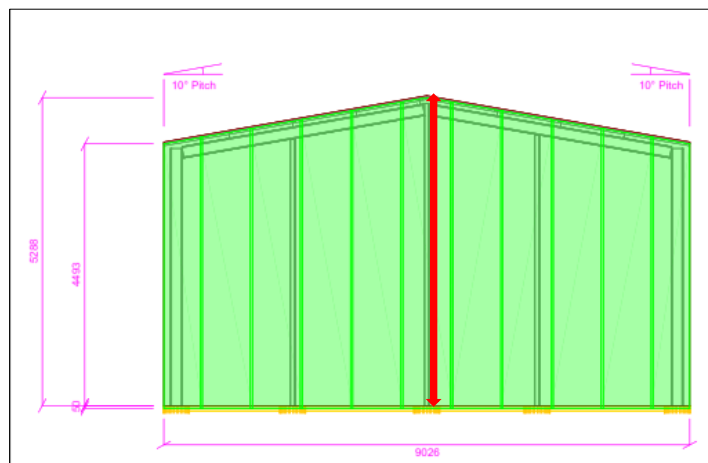
Existing view looking towards 21 Dial Road, Penguin from the development site.



Proposed elevation when viewed from 21 Dial Road, Penguin – red arrow below indicating the 4.5m wall height.



Proposed elevation when viewed from 17 Dial Road, Penguin – red arrow indicating the overall height of 5.3m.



The proposed shed would be visually prominent along the southern and western boundaries when viewed from the lot at 21 Dial Road and would have a negative impact on future residential development of the lot at 21 Dial Road. Currently, the proposed shed would be partially screened from 17 Dial Road due to the existing vegetation however once removed for construction would increase the visual bulk, scale and height of the shed when viewed from 17 Dial Road.

It is considered that the proposed shed would dominate the development site and would have an unreasonable impact for the adjoining lots being 17 and 21 Dial Road, Penguin.

The Resource Management Planning and Appeals Tribunal state that if there is a loss in amenity to adjoining lots, whether the loss would be so unreasonable as to qualify as “immoderate” or “exorbitant”.

The proposed shed, due to reasons outlined above, would result with an unreasonable loss of amenity in terms of apparent scale, bulk and proportions. The visual impact from the proposed outbuilding would be immoderate for reasons explained above, mainly that the shed would dominate the southern boundary, due to its bulk and height and would be of scale that is not consistent with residential outbuildings in the area.

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

Compliant. The proposed outbuilding would be positioned on the front internal boundary for 9m and the southern side boundary for 16m.

An analysis of outbuildings located on internal allotments in the vicinity indicates that most, if not all, properties have outbuildings within the internal frontage setback area.

It is considered that the siting of the proposed outbuilding is compatible with that of prevailing in the surrounding area.

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	No issues. Comments regarding stormwater disposal attached.
Building	Building Note.
TasWater	Referral not required.

Department of State Growth	Referral not required.
Environment Protection Authority	Referral not required.
TasRail	Referral not required.
Heritage Tasmania	Referral not required.
Crown Land Services	Referral not required.
Other	Referral not required.

CONSULTATION

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

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

Representation -

One representation was received within the prescribed time, a copy of which is provided at Annexure 4.

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
1 Large commercial shed in a residential area.	It is agreed that the visual impact of the proposed shed, as a result of the apparent scale, bulk, lack of fenestrations and proportions of the outbuilding, would cause an unreasonable loss of amenity when viewed from the adjoining lot at 17 Dial Road, especially if the existing vegetation that separates the two properties is removed.

	<p>Refer to comments made in the “Issues” section above in relation to apparent scale, bulk and proportions of the building.</p>
<p>2 Use. The representation raises an issue regarding the use and its potential to change over time.</p>	<p>The application form and supporting documentation does reference that the proposed shed would be for domestic storage used for motor vehicles, gardening equipment and residential items, however the documentation goes on to mention the vehicles to be stored in the shed which include a Hino 500 FC1124 tipper truck which is used by the resident as transportation to and from work (as stated by the applicant) the vehicle will not be used for any commercial application on the site. Storage would also include a business car used for works associated with the services of Building Surveying Services which is used for business activities throughout Tasmania.</p> <p>Based on the definition of “dwelling” under the Planning Scheme:</p> <p><i>Dwelling means a building, or part of a building, use as a self-contained residence and which includes food preparation facilities, a bath or shower, laundry facilities, a toilet and sink, and any outbuilding and works normally forming part of a dwelling.</i></p> <p>The storage of both commercial vehicles is not directly associated with the residential use of the dwelling.</p>

<p>3 Stormwater.</p> <p>(a) The water run-off from the large, currently vacant block of land, all naturally runs to join the open stormwater easement on 21 Dial Road.</p> <p>(b) The shadow from the proposed size of the shed, would increase an already area that is prone to being wet, even when there has been no rain for lengthy periods of time.</p> <p>(c) Shadow existing fruit trees, this will affect fruiting and health.</p> <p>(d) The proximity to Stormwater pipe on 17 Dial Road, which is only 3.4m to the boundary fence.</p> <p>(e) The proximity to the open - (prone to) - Flooding Stormwater Easement, which has now been partially filled in with dirt, on 21 Dial Road. This easement has in past winters flooded our yard, with approximately 8-10 cms of stagnant water. This took quite a few weeks to dissipate.</p> <p>(f) The natural lay of the land, and water naturally flows downhill, the corner of land already becomes very boggy in winter - the concern of a large slab in that area will indeed act like a dam pushing even more water towards this area.</p>	<p>(a) The representation raises issues with stormwater. Comments obtained from Council's Stormwater Authority addressing the concerns have been provided.</p> <p>(b) The recently installed drainage system on Dial Road is able to capture a lot of overland flow and divert it to the south of Dial Road. The shed on 15 Dial Road will be connected into existing stormwater main along the eastern boundary therefore not adding to surface run-off.</p> <p>(c) Shadow diagrams provided with the application demonstrate that the area in question would have minimal impact due to shadow from the proposed shed.</p> <p>(d) The stormwater pipe is more than 1.5m away from the structure which is considered satisfactory.</p> <p>(e) As mentioned above the recently installed drainage system on Dial Road is able to capture a lot of overland flow and divert it to the south of Dial Road. The shed on 15 Dial Road will be connected into the existing stormwater main along the eastern boundary therefore not adding to surface run-off.</p>
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	(f) As mentioned above the recently installed drainage system on Dial Road is able to capture a lot of overland flow and divert it to the south of Dial Road. The shed on 15 Dial Road will be connected into existing stormwater main along the eastern boundary therefore not adding to surface run-off.
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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 Scheme provides two pathways for assessing development. If the development has satisfied the applicable Acceptable Solution, then the development is considered to satisfy the standard and approval is granted. If the development does not satisfy the Acceptable Solution, the development needs to demonstrate compliance with the applicable Performance Criteria. Compliance with the applicable Performance Criteria is mandatory. If this cannot be achieved, then the development must be refused.

As discussed above, the proposed shed cannot satisfy the applicable Performance Criteria, in that the shed would result in a negative visual impact. The apparent scale, bulk, lack of fenestrations and the proportions of the shed would cause an unreasonable loss of amenity when viewed from adjoining land. Further, the use for a storage shed would not be directly associated with works normally forming part of a residential dwelling.

It is considered the proposal has not satisfied the mandatory Performance Criteria.

The representation contains merit and it is considered appropriate the proposed development be refused.

Recommendation –

It is recommended that the application for Residential – shed – variation to the building envelope and side boundary setback standards at 15 Dial Road, Penguin – Application No. DA2020343 be refused for the following reason:

- (a) The proposal does not satisfy Performance Criteria 10.4.3–(P3) in that the development would cause an unreasonable loss of amenity by apparent scale, bulk and proportions when viewed from both 17 and 21 Dial Road, Penguin.’

The Planning Officer’s report is supported.”

The Executive Services Officer reported as follows:

“A copy of the Annexures referred to in the Planning Officer’s report having been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr Viney seconded, “That the application for Residential – shed – variation to the building envelope and side boundary setback standards at 15 Dial Road, Penguin – Application No. DA2020343 be refused for the following reason:

- (a) The proposal does not satisfy Performance Criteria 10.4.3–(P3) in that the development would cause an unreasonable loss of amenity by apparent scale, bulk and proportions when viewed from both 17 and 21 Dial Road, Penguin.”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.10pm.

CONFIRMED THIS DAY OF , 2021.

Chairperson

(lb:lb)

Appendices

Nil.


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