



City of  
**LAUNCESTON**

# **COUNCIL AGENDA**

**COUNCIL MEETING  
THURSDAY 24 MARCH 2022  
1.00pm**

Notice is hereby given that the Ordinary Meeting of the City of Launceston Council will be held at the Council Chambers, Town Hall, St John Street, Launceston:

Date: 24 March 2022

Time: 1.00pm

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### Certificate of Qualified Advice

#### Background

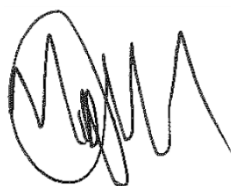
To comply with section 65 of the *Local Government Act 1993* (Tas):

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) 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.

#### Certification

I certify that:

- (i) the advice of a qualified person has been sought where required;
- (ii) this advice was taken into account in providing general advice to the council or council committee; and
- (iii) a copy of the advice, or a written transcript or summary of advice provided orally, is included with the agenda item.



**Michael Stretton**  
Chief Executive Officer

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## AUDIO of COUNCIL MEETINGS

An audio recording of this Council Meeting, except for any part held in Closed Session, will be made in accordance with our Council Meetings - Audio Recording Policy - 14-Plx-008.

This Council Meeting will be streamed live to and can be accessed at:  
[www.launceston.tas.gov.au/Council/Meetings/Listen](http://www.launceston.tas.gov.au/Council/Meetings/Listen) .

## PUBLIC ATTENDANCE AT THE COUNCIL MEETING

At the Council Meeting, please take care to follow signage and the directions of Council Officers to ensure that physical distancing and other COVID-19 safe behaviour is observed.

## PUBLIC QUESTION TIME - AGENDA ITEM 8

Questions received in writing by close of business Wednesday of the week prior to the Council Meeting are treated as Questions on Notice. Your question and an answer will be published in the Agenda of the Council Meeting. Questions may be submitted to the Chief Executive Officer at [contactus@launceston.tas.gov.au](mailto:contactus@launceston.tas.gov.au), PO Box 396, Launceston TAS 7250, or Town Hall, St John Street, Launceston.

If attending the Council Meeting in person, you may ask up to three questions during Public Question Time. If accepted, your questions will be either answered at the Meeting, or Taken on Notice and answered at a later Council Meeting.

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## PUBLIC COMMENT ON AGENDA ITEMS

When attending the Council Meeting, you will be asked if you wish to comment on an item in the Agenda. Prior to debate on that Agenda Item, you will be invited by the Chair to move to the public microphone at the doors to the Council Chambers and state your name and address.

Please note the following important information:

- Each item on the Agenda includes a Recommendation prepared by a Council Officer.
- You may speak for up to two minutes, either for or against the Recommendation.
- You may not ask questions or enter into debate with Councillors or Council Officers.
- Your statement is not to be defamatory, inappropriate or abusive, or be intended to embarrass any person, including Councillors or Council Officers.
- The Chair may direct you to stop speaking if you do not follow these rules, or if your statement repeats points that have already been made.
- Audio from our Council Meetings is streamed live via YouTube.

Your respectful contribution is welcome and appreciated.

## LEGISLATIVE TERMINOLOGY - GENERAL MANAGER

At the City of Launceston, the positions of General Manager Community and Place, General Manager Organisational Services, General Manager Infrastructure and Assets and General Manager Creative Arts and Cultural Services do not assume the functions and powers of the term *general manager* in a legislative sense: any legislative functions and powers to be delegated to these roles will be made by Council or the Chief Executive Officer. At the City of Launceston, the title Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993 (Tas)*. For the avoidance of doubt, *Chief Executive Officer* means *General Manager* for the purposes of the *Local Government Act 1993 (Tas)* and all other legislation administered by or concerning Council.

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10 January 2022

Mr Michael Stretton  
Chief Executive Officer  
City of Launceston  
P O Box 396  
**LAUNCESTON TAS 7250**

Dear Michael

In accordance with regulation 4 of the *Local Government (Meeting Procedures) Regulations 2015* which states:

4. *Convening council meetings*  
(1) *The mayor of a council may convene -*  
*(a) an ordinary meeting of council; and*  
*(b) a special meeting of council.*

I request that you make necessary arrangements for the Ordinary Meetings of Council to be convened on the following dates for 2022:

27 January	10 February	24 February	10 March	24 March
7 April	21 April	5 May	19 May	2 June
16 June	30 June	14 July	28 July	11 August
25 August	8 September	22 September	5 October	20 October
3 November	17 November	1 December	15 December	

Commencing at 1.00pm in the City of Launceston Council Chambers, Town Hall, St John Street, Launceston.

Yours sincerely



Councillor A M van Zetten  
MAYOR

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# City of Launceston

## COUNCIL AGENDA

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COUNCIL AGENDA

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**1 OPENING OF MEETING - ATTENDANCE AND APOLOGIES**

**2 MAYORAL ACKNOWLEDGEMENTS**

**3 DECLARATIONS OF INTEREST**

*Local Government Act 1993 (Tas) - section 48*

*(A councillor must declare any interest that the councillor has in a matter before any discussion on that matter commences.)*

**4 CONFIRMATION OF MINUTES**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 35(1)(b)*

**RECOMMENDATION:**

That the Minutes of the Ordinary Meeting of the City of Launceston Council held on 10 March 2022 be confirmed as a true and correct record.

**5 DEPUTATIONS**

**No Deputations have been identified as part of this Agenda**

**6 PETITIONS**

*Local Government Act 1993 (Tas) - sections 57 and 58*

**No Petitions have been identified as part of this Agenda**

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**7 COMMUNITY REPORTS**

*(Community Reports allow an opportunity for Community Groups to provide Council with a three minute verbal presentation detailing activities of the group. This report is not intended to be used as the time to speak on Agenda Items; that opportunity exists when that Agenda Item is about to be considered. Speakers are not to request funding or ask questions of Council. Printed documentation may be left for Councillors.)*

**No Community Reports have been registered with Council as part of this Agenda**

**8 PUBLIC QUESTION TIME**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 31*

**8.1 Public Questions on Notice**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 31(1)*

*(Questions on Notice must be in writing and should be received by the General Manager at least seven days before the relevant Council Meeting. Questions on Notice will be researched by Council Officers and both the Question on Notice (as received) and the response will be provided at the Council Meeting and a reply in writing will also be provided.)*

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**8.1.1 Public Questions on Notice - Mr Ray Norman - 16 March 2022****FILE NO:** SF6381**AUTHOR:** Anthea Rooney (Council and Committees Officer)**CHIEF EXECUTIVE OFFICER:** Michael Stretton

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**QUESTIONS and RESPONSES:**

The following questions, submitted in writing to the Council on 16 March 2022 by Mr Ray Norman, have been answered by Mr Dan Ryan (General Manager Community and Place Network).

**Questions:**

1. Is there a *legitimate authority* above/outside Council from whom a *licence* of some/any kind is required in the case of Council determining to place graphic expressions of any kind, on Council property, in support of the Ukraine population in their devastating and catastrophic circumstances or in other like circumstance?
  2. If so, what authority where and in what jurisdiction?
  3. If such an initiative was instigated by a group of the City's citizens outside Council, would there be a fee or payment of any kind involved in such a case and if so, a fee to whom, for what purpose and what might the likely cost be?
  4. Furthermore, if such an initiative was instigated by a group of the City's citizens outside Council, would this require a Councillor to initiate/sponsor such an initiative, when and within what kind of timeframe would that be and in what context?
  5. If Councillor sponsorship is required by either Council or management, what information would be required by management to facilitate such an initiative and in what timeframe?
  6. Moreover, can a Launceston citizen independently initiate such projects and if so what information would they need to provide before such an initiative could be accepted, contemplated and indeed ultimately implemented?
  7. Furthermore, does Council have the resources to support such initiatives and/or does Council have the staff with the requisite skills, sensitivities and equipment to carry such projects through to a satisfactory conclusion?
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**8.1.1 Public Questions on Notice - Mr Ray Norman - 16 March 2022 ...(Cont'd)**

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8. Finally, is it actually the case, as I have been advised informally, that Council has devolved/delegated its *policy determination* and its *strategic planning functions* to management and if so, when did this happen and how might this determination meet the provisions of the *Local Government Act 1993 (Tas)*?

**Response:**

*In response to questions 1-7, the City of Launceston acknowledges significant events or people through its Flying of Flags Policy and the Town Hall Floodlighting Policy. These policies are available at [www.launceston.tas.gov.au](http://www.launceston.tas.gov.au) and copies will be provided to Mr Norman under cover of this response to his question.*

*In relation to flying the Ukrainian flag, the Council sought advice from the Australian Government and the Tasmanian Government to ensure relevant protocols and any cultural sensitivities were respected. This is in keeping with the Flying of Flags Policy. This advice identified that the Council must seek permission from the Ukrainian Consulate in order to fly their flag.*

*The Council does not charge a fee in relation to flying flags or floodlighting Town Hall. Neither policy requires initiation or sponsorship by a Councillor. Requests from citizens are assessed against the Policy and relevant context. The Council is resourced to support these policies.*

*At the time of writing, the Town Hall and Seaport Bridge are illuminated yellow and blue in support of the Ukrainian people, around other scheduled illumination bookings.*

*Requests for graphic expressions that take other forms are assessed on their merits, with consideration to community sentiment, cost, the Council's capacity to support the initiative and any other relevant matters.*

*In response to question 8, it is advised that the Council has not delegated its policy determination and its strategic planning functions to management. A copy of the Council's delegations register is available at [www.launceston.tas.gov.au](http://www.launceston.tas.gov.au). Policy is determined by the Council when legislatively required and when delegation is not appropriate or permitted. The functions and powers in the Local Government Act 1993 (Tas) in relation to the Council's strategic plan, long term financial management plans and strategic asset management plan are not delegated.*

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**ATTACHMENTS:**

1. Public Questions on Notice - Mr Ray Norman - 16 March 2022
-



*Attachment 1 - Public Questions on Notice - Mr Ray Norman - 16 March 2022**CONTEXT IMAGE*

Cognisant of the backgrounding of the erroneous advice offered to Councillors in **OPEN COUNCIL March 10 last**, given that advice, erroneous as it was, and unapologetically as it now is, it indicates that Council management is clearly disinclined to fly the **UKRAINE FLAG** in solidarity with the people of Ukraine under any circumstance. Thus these questions demand answers:

1. Is there a *'legitimate authority'* above/outside Council from whom a *'licence'* of some/any kind is required in the case of Council determining to place graphic expressions of any kind, on Council property, in support of the Ukraine population in their devastating and catastrophic circumstances or in other like circumstance?
1. If so, what authority where and in what jurisdiction?
1. If such an initiative was instigated by a group of the city's citizens outside Council, would there be a fee or payment of any kind involved in such a case and if so, a fee to whom, for what purpose and what might the likely cost be?
1. Furthermore, if such an initiative was instigated by a group of the city's citizens outside Council, would this require a Councillor to initiate/sponsor such an initiative, when and within what kind of timeframe would that be and in what context?
1. If Councillor sponsorship is required by either Council or management, what information would be required by management to facilitate such an initiative and in what timeframe?
1. Moreover, can a Launceston citizen independently initiate such projects and if so what information would they need to provide before such an initiative could be accepted, contemplated and indeed ultimately implemented?
1. Furthermore, does Council have the resources to support such initiatives and/or does Council have the staff with the requisite skills, sensitivities and equipment to carry such projects through to a satisfactory conclusion?
1. Finally, is it actually the case, as I have been advised informally, that Council has devolved/delegated its *'policy determination'* and its *'strategic planning functions'* to management and if so, when did this happen and how might this determination meet the provisions of the Tasmanian Local Government Act 1993?

Ray Norman

**8.1.2 Public Questions on Notice - Mr Ray Norman - 16 March 2022****FILE NO:** SF6381**AUTHOR:** Anthea Rooney (Council and Committees Officer)**CHIEF EXECUTIVE OFFICER:** Michael Stretton

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**QUESTIONS and RESPONSES:**

The following questions, submitted to the Council in writing on 16 March 2022 by Mr Ray Norman, have been answered by Dan Ryan (General Manager Community and Place Network).

**Questions:**

1. Are Councillors aware of this *palawa* meeting place [near Royal Park] (Aunty Lola Greeno's authorship), and if so, how can its current condition be justified in context with its reconciliatory significance and public funding, notwithstanding moral rights concerns?
  2. Further to that, who in the Council's operational network has been tasked with consulting with Tasmania's Aboriginal community to ensure that appropriate protocols are observed and given due respect?
  3. Moreover, are Councillors committed to honouring and respecting Aboriginal placedness in the context of the City's cultural landscaping and especially so in the context of Council being a Planning Authority?
  4. Furthermore, are Councillors and the Council's Officers aware of, and respectful of, the Tasmanian Aboriginal community's cultural sensitivities and sensibilities in regard to placemaking and placescaping in their jurisdiction?
  5. Moreover, is there any factor here that inhibits Council in regard to paying the appropriate respect to cultural landscaping in the municipality?
  6. Finally, will Council now undertake to pay appropriate respect to the Tasmanian Aboriginal committee's reconciliatory aspirations when and where required, and dedicate the required resources to enable appropriate outcomes?
-

## 8.1.2 Public Questions on Notice - Mr Ray Norman - 16 March 2022 ...(Cont'd)

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### **Response:**

*The Council will undertake enquiries in respect to the matters raised in these questions and will provide a response at a later Council Meeting.*

*It should be noted that the Council is currently in the early stages of developing an Aboriginal Partnership Plan, which will involve an engagement process and which will more formally document the Council's ongoing commitment to meaningful engagement with the aboriginal community.*

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### **ATTACHMENTS:**

1. Public Questions on Notice - Mr Ray Norman - 16 March 2022
-

*Attachment 1 - Public Questions on Notice - Mr Ray Norman - 16 March 2022*

**CONTEXT:** Respected *palawa* Elder, Aunty Lola Greeno, has contacted me somewhat in distress at Council's tardiness in regard to the appropriate maintenance and care afforded by Council's management relative to a reconciliatory *palawa* **MEETING** place and consequently the following questions arise for Councillors' careful consideration on the public record:

- 1 ...Are Councillors aware of this *palawa* **MEETING** place, Aunty Lola Greeno's authorship, and if so, how can its current condition be justified in context with its reconciliatory significance and public funding, notwithstanding moral rights concerns?
- 2 ...Further to that, who in Council's operational network has been tasked with consulting with Tasmania's Aboriginal community to ensure that appropriate protocols are observed and given due respect?
- 3 ...Moreover, are Councillors committed to honouring and respecting Aboriginal '**placedness**' in the context of the city's **CULTURAL** landscaping and especially so in the context of Council being a Planning Authority?
- 4 ...Furthermore, are Councillors and Council Officers aware of, and respectful of, the Tasmanian Aboriginal community's cultural sensitivities and sensibilities in regard to **PLACE** making and **PLACE**scaping in their jurisdiction?
- 5 ...Moreover, is there any factor here that inhibits Council in regard to paying the appropriate respect to **CULTURAL** landscaping in the municipality? and
- 6 ...Finally, will Council now undertake to pay appropriate respect to the Tasmanian Aboriginal committee's reconciliatory aspirations when and where required, and dedicate the required resources to enable appropriate outcomes?

Ray Norman

**8.1.3 Public Questions on Notice - Mrs Susan Rafferty - 7 March 2022****FILE NO:** SF6381**AUTHOR:** Anthea Rooney (Council and Committees Officer)**CHIEF EXECUTIVE OFFICER:** Michael Stretton

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**QUESTIONS and RESPONSES:**

The following questions, submitted in writing to the Council on 7 March 2022 by Mrs Susan Rafferty, have been answered by Mr Shane Eberhardt (General Manager Infrastructure and Assets Network).

**Questions:**

1. In light of the disaster which has unfolded in the Northern Rivers area over the past two weeks and given that the recycling site proposed for Launceston is within the known flood area, will the Council review the siting for this vital infrastructure by relocating it to high ground so that it would be operational in a flooding event?

**Response:**

*No. The Interim Launceston Planning Scheme has provisions that deal with flood risk in Invermay which the proposed development satisfied.*

*It should be noted that the Council has recently undertaken consultation with residents and business that are protected by flood levees and is due to undertake further community engagement around potential amendments to the planning scheme, in which we encourage Mrs Rafferty to participate.*

2. What procedures are in place to effectively co-ordinate emergency cleaning up given a flooding event occurring?

**Response:**

*The Tasmania Emergency Management Arrangements outlines governance for response and recovery. The City of Launceston has a number of processes to support response to flood. The lead agency to manage flood response is the State Emergency Service (SES).*

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## 8.1.3 Public Questions on Notice - Mrs Susan Rafferty - 7 March 2022 ...(Cont'd)

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3. What is the expert opinion of SES and other emergency groups regarding the proposed siting of the recycling facility?

**Response:**

*This question would need to be posed to the SES and other relevant emergency management groups.*

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### ATTACHMENTS:

1. Public Questions on Notice - Mrs Susan Rafferty - 7 March 2022
-

*Attachment 1 - Public Questions on Notice - Mrs Susan Rafferty - 7 March 2022*

**From:** "Susan Rafferty" <suse.rafferty@gmail.com>  
**Sent:** Mon, 7 Mar 2022 16:27:20 +1100  
**To:** "Contact Us" <contactus@launceston.tas.gov.au>  
**Subject:** Questions on notice

Question on notice:

Question 1:

In light of the disaster which has unfolded in the Northern Rivers area over the past two weeks, and given that the recycling site proposed for Launceston is within the known flood area, will council review the siting for this vital infrastructure by relocating it to high ground so that it would be operational in a flooding event?

Question 2:

What procedures are in place to effectively co ordinate emergency cleaning up given a flooding event occurring?

Question 3:

What is the expert opinion of SES and other emergency groups regard the proposed siting of the recycling facility?

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**8.2 Public Questions Without Notice**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 31(2)(b)*

*(Members of the public who ask Questions without Notice at a meeting will have both the question and any answer provided recorded in the Minutes. Council Officers will endeavour to answer the question asked at the meeting, however, that is not always possible and more research may be required. If an answer cannot be provided at the Meeting, the question will be treated as a Question on Notice. A response will be provided at the next Council Meeting.)*

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Under the provisions of the *Land Use Planning and Approvals Act 1993*, Council acts as a Planning Authority in regard to items included in Agenda Item 9 - Planning Authority.

## **9 PLANNING AUTHORITY**

### **9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs**

**FILE NO:** DA0695/2021

**AUTHOR:** Maria Lasso (Town Planner)

**GENERAL MANAGER:** Dan Ryan (Community and Place Network)

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#### **DECISION STATEMENT:**

To consider and determine a development application pursuant to the *Land Use Planning and Approvals Act 1993*.

#### **PLANNING APPLICATION INFORMATION:**

Applicant:	Freestyle Fx Signs
Property:	119 St John Street, Launceston
Zoning:	Central Business
Receipt Date:	18/11/2021
Validity Date:	25/11/2021
Further Information Request:	26/11/2021
Further Information Received:	14/02/2022
Deemed Approval:	26/03/2022
Representations:	Five

#### **STANDARDS REQUIRING COUNCIL DISCRETION**

E13.6.13 Signage

#### **RECOMMENDATION:**

That, in accordance with sections 51 and 57 of the *Land Use Planning and Approvals Act 1993* and the Launceston Interim Planning Scheme 2015, a permit be granted for DA0695/2021 - Signage - Installation of illuminated signs at 119 St John Street, Launceston subject to the following conditions:

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## 9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)

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### 1. ENDORSED PLANS AND DOCUMENTS

The use and development must be carried out in accordance with the endorsed plans and documents to the satisfaction of the Manager City Development unless modified by a condition of the Permit:

- a. Sign Locations, Prepared by Freestyle Fx, Undated.
- b. Sign One - York Street Entrance, Prepared by Freestyle Fx, Undated.
- c. Sign Two - St John Street Entrance sign, Prepared by Freestyle Fx, Undated.
- d. Sign Three - CNR York and St John St, Prepared by Freestyle Fx, Undated. Plan to be amended.
- e. Photomontage, Prepared by Freestyle Fx, Undated. Plan to be amended.

### 2. AMENDED PLANS REQUIRED

Prior to the commencement of any work and/or use, amended plans must be submitted to the satisfaction of the Manager City Development to replace plans annotated as *Amended Plans Required* and attached to the Permit. Once approved, these amended plans will be endorsed by the Council and will then form part of the Permit. The amended plans must show:

- a. A revised photomontage showing Sign No. 3 entirely contained within the top of the door recess and the bottom of the window sill.
- b. Subsequent to (a), technical drawings for Sign No. 3 with amended dimensions.

Amended plans should include identification information such as updated revision numbers, revision date and revision description. The changes are to be highlighted in red clouds or a format agreed with the planning officer.

### 3. ILLUMINATION OF SIGNS

To ensure the sign illumination does not impact on traffic safety, illumination levels should be no more than 1,000cd/m<sup>2</sup>.

### 4. LEGAL TITLE

All development and use associated with the proposal must be confined to the legal title of the subject land except for overhanging signs.

### 5. HOURS OF CONSTRUCTION

Construction works must only be carried out between the hours of:

Monday to Friday - 7am to 6pm

Saturday - 8am to 5pm

No works on Sunday or Public Holidays

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**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

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**6. SIGNAGE CONTENT**

Content of the sign may be updated or changed without separate approval of the Council, subject to:

- a. the structure, location, size and illumination levels of the signage not changing.
- b. the content of the signage relating to the site.
- c. compliance with the requirements of the planning scheme.

**7. SIGN MAINTENANCE**

The signs must be constructed and maintained in good condition to the satisfaction of the Council.

**8. DAMAGE TO THE COUNCIL'S INFRASTRUCTURE**

The developer is liable for all costs associated with the repair of damage to the Council's infrastructure resulting from non-compliance with the conditions of the Planning Permit and any by-law or legislation relevant to the development activity on the site. Damage may also include the undertaking of unauthorised works to the Council's infrastructure such as driveways, footpaths and stormwater infrastructure. The developer will also be liable for all reasonable costs associated with the enforcement of compliance with the conditions, by-laws and legislation relevant to the development activity on the site.

**9. WORKS WITHIN/OCCUPATION OF THE ROAD RESERVE**

All works in (or requiring the occupation of) the road reserve must be carried out in accordance with a detailed Traffic Management Plan prepared by a qualified person in accordance with the requirements of Australian Standard AS1742. A copy of such plan is to be maintained on site and available for inspection upon request by an Authorised Officer.

The explicit permission of Infrastructure Services is required prior to undertaking works where the works:

- a. require a road or lane closure;
- b. require occupation of the road reserve for more than one week at a particular location;
- c. are in nominated high traffic locations; or
- d. involve opening or breaking trafficable surfaces.

Where the work is associated with the installation, removal or modification of a driveway or a stormwater connection, the approval of a permit for such works shall form the explicit approval.

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## 9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)

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### 10. OCCUPATION OF ROAD RESERVE (METERED PARKING BAYS)

Prior to the commencement of the occupation of any metered parking spaces associated with the development (including the placement of skips or materials, or the installation of scaffolding) the applicant must obtain the Consent of the General Manager Infrastructure and Assets Network. The applicant must pay the prescribed daily fee for each occupied metered space for the duration of the occupation, except where the Council's Manager Parking permits a variation.

#### Notes

##### A. General

*This permit was issued based on the proposal documents submitted for DA0695/2021. You should contact the Council with any other use or developments, as they may require the separate approval of Council. The Council's planning staff can be contacted on 6323 3000.*

*This permit takes effect after:*

- a. The 14 day appeal period expires; or*
- b. Any appeal to the Resource Management and Planning Appeal Tribunal is withdrawn or determined; or*
- c. Any agreement that is required by this permit pursuant to Part V of the Land Use Planning and Approvals Act 1993 is executed; or*
- d. Any other required approvals under this or any other Act are granted.*

*The permit lapses after a period of two years if the development or use has not substantially commenced within that period. An extension may be granted subject to the provisions of the Land Use Planning and Approvals Act 1993 as amended, by request to the Council.*

##### B. Restrictive Covenants

*The granting of this permit takes no account of any covenants applicable to the land. The permit holder and any other interested party, should make their own enquiries as to whether the proposed development is affected, restricted or prohibited by any such covenant.*

*If the proposal is non-compliant with any restrictive covenants, those restrictive covenants should be removed from the title prior to construction commencing or the owner will carry the liability of potential legal action in the future.*

##### C. Appeal Provisions

*A planning appeal may be instituted by lodging a notice of appeal with the Registrar of the Resource Management and Planning Appeal Tribunal.*

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**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

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*A planning appeal may be instituted within 14 days of the date the Corporation serves notice of the decision on the applicant.*

*For more information see the Resource Management and Planning Appeal Tribunal website [www.rmpat.tas.gov.au](http://www.rmpat.tas.gov.au) <<http://www.rmpat.tas.gov.au>>*

**D. Permit Commencement**

*If an applicant is the only person with a right of appeal pursuant to section 61 of the Land Use Planning and Approvals Act 1993 and wishes to commence the use or development for which the permit has been granted within that 14 day period, the Council must be so notified in writing. A copy of the Council's Notice to Waive Right of Appeal is attached.*

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**REPORT:****1. THE PROPOSAL**

The proposal is for the installation of three illuminated signs. One circular sign with a diameter of 1m located at the frontage facing York Street. The second sign is a rectangular sign of 600mm by 350mm located at the frontage facing St John Street. The third sign is a circular sign with a diameter of 1.2m located at the corner of the building facing the intersection of York and St John Streets.

It is also proposed to paint the ground level facade of the building in black and white strips following the articulated banding with slim golden lines in between.

**2. LOCATION AND NEIGHBOURHOOD CHARACTER**

The subject site is located on the south eastern side of the intersection between St John and York Streets. It is rectangular in shape and has a site area of approximately 375m<sup>2</sup>. The site is developed with a local heritage place to all boundaries. The ground floor façade of the building is currently painted in beige and the existing signage above the main entrance and on the window sills is to be retained.

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9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

22.0 Central Business Zone

<p>22.1.1 Zone Purpose Statements</p> <p>22.1.1.1 To provide for business, civic and cultural, community, food, hotel, professional, retail and tourist functions within a major centre serving the region or sub-region.</p> <p>22.1.1.2 To enhance the role of Launceston's central city area by encouraging intensive development of the central business district as the major retail, commercial and entertainment centre and the principal activity centre within the Northern Tasmania region.</p> <p>22.1.1.3 To create:</p> <p>(a) activity at pedestrian levels, with active road frontages offering interest and engagement to shoppers; and</p> <p>(b) appropriate provision for car parking, pedestrian access and traffic circulation.</p> <p>22.1.1.4 To encourage a diversity of residential developments, including shop-top housing and tourist accommodation, which support the functions of the central business district.</p>
<p><b>Consistent</b></p> <p>The proposal is associated with an existing Food Services use which is a <i>no permit required</i> use under the Central Business Zone.</p>

22.4 Development Standards

22.4.1 Building height, setback and siting

<p>Objective:</p> <p>To ensure that building bulk and form, and siting:</p> <p>(a) is compatible with the streetscape and character of the surrounding area;</p> <p>(b) protects the amenity of adjoining lots; and</p> <p>(c) promotes and maintains high levels of public interaction and amenity.</p>
<p><b>Consistent</b></p> <p>The proposal does not alter the existing levels of public interaction. The façade and entrance of the building, continues to be clearly visible and accessible from a road, for pedestrians and persons with a disability.</p>
<p>A4 The facade and entrance of the primary building, must be clearly visible and accessible from a road, for pedestrians and persons with a disability.</p>
<p><b>Complies</b></p> <p>The proposed signage and painting of the building does not alter the existing access to the building. The façade and entrance of the building continue to be visible and accessible for pedestrians.</p>

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

22.4.3 Active ground floors

Objective: To ensure that building facades promote and maintain high levels of pedestrian interaction and amenity.
<b>Consistent</b> The proposal is not considered to alter the existing levels of pedestrian interaction and amenity.
A2 Alterations to ground floor facades of non-residential buildings must not: (a) reduce the level of glazing on a facade to a road, mall, laneway or arcade that is present prior to alterations; (b) have security grilles or screens that obscure the ground floor facade; (c) introduce new or additional mechanical plant or equipment such as air-conditioning units or heat pumps located on the facade; and (d) increase blank walls, signage panels or blocked out windows, wider than 2m on ground floor facades to roads, malls, laneways or arcades.
<b>Complies</b> (a) The proposed signage does not reduce the existing levels of glazing on the facades of the building. (b) No security grilles or screens are proposed. (c) No mechanical plant or equipment is proposed as part of this application. (d) No blank walls, signage panes or blocked out windows are proposed wider than 2m.

E13.0 Local Historic Cultural Heritage Code

E13.1 The purpose of this provision is to: (a) protect and enhance the historic cultural heritage significance of local heritage places and heritage precincts; (b) encourage and facilitate the continued use of these places; (c) encourage the maintenance and retention of buildings and places of assessed historic cultural heritage significance; and (d) ensure that development is undertaken in a manner that is sympathetic to, and does not detract from, the historic cultural heritage significance of the places and their settings.
<b>Consistent</b> The subject site is developed with a two-storey hotel built around 1865. Council's data sheet describes the building as:  <i>A well detailed and confident two storey corner hotel building with rendered and detailed façade featuring characteristic design elements such as strong coursing to the lower level and simple massing with capped parapet to the upper level. The building is a strong and significant streetscape element in the locality.</i>

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**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

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*Highly significant as a single building presenting to the street corner which contributes significantly to the streetscape, but, also highly significant as one of a group of similar buildings in a pattern of early commercial development.*

The significant elements of the building are described as follows:

*This place is of historic heritage significance because of its ability to demonstrate the significant characteristics of an early hotel and significant in that it has continued generally in this function. Elements to be excluded from significance include: 20<sup>th</sup> Century alterations including glazed shopfronts and windows; shutters; pavement bollards; and, infill panels.*

(...)

*The place is significant in that it has a strong meaning for the community because of its social associations and as part of a group of similar corner hotels throughout Launceston.*

In 1996 planning approval was granted for the construction of alterations to the façade which included changes to the window frames, introduction of louvre shutters and wrought iron patterns to the doors and windows (DA.01.96.275). Approval under the same DA was granted for the alterations of the ground floor façade and introduction of a *recessed v-jointed course banding* at the ground level which is currently painted beige.

The Council's datasheet acknowledges the ground level coursing as a characteristic design element of the building, however, this is not an original element of the place. The 20<sup>th</sup> Century alterations mentioned in the statement are also not considered significant elements of the building, these alterations were part of the same planning approval in 1996. The photograph below shows face brick and tiles at the ground level of the subject place around 1940s:

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9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)



1VM:1986:P:0145 - View of St John Street and York Street Launceston looking southeast (up St John Street)

The application has been referred to the Council's Place and Heritage Officer. The concerns raised by the Place and Heritage Officer have been considered in the assessment of this application, however, the proposal is assessed as meeting the relevant requirements of the Local Historic Cultural Heritage Code without significant modifications.

### E13.6 Development Standards

#### E13.6.2 Maintenance and repair

**Objective:**

To ensure that maintenance and repair of heritage buildings are constructed and undertaken to be sympathetic to, and not detract from the historic cultural heritage significance of local heritage places.

**Consistent**

A1 New materials and finishes match or are similar to the materials and finishes that are being replaced.

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

**Complies**

The proposed re-painting of the ground level cannot be exempt under Clause E13.4.1 as the colours proposed are not similar to that existing. The proposal, therefore, must be assessed against Clause E13.6.2.

The proposed stripes will be painted in acrylic with a low sheen finish which is consistent with the existing painting finishes of the ground level façade in accordance with the acceptable solution.

Whilst the performance criteria does not directly address colours proposed, it is considered that the intention of the clause is to have regard to the colour scheme, particularly given that there are no other relevant clauses that address this. The proposed re-painting is considered sympathetic to the historic cultural heritage significance of the building for the following reasons:

- It is not proposed to re-paint an original element of the heritage place, the ground level facade is not original and has been significantly altered. The works approved in 1996 introduced the course banding which is to be re-painted. Considering that this is not a heritage element of the place, its repainting is not considered to alter the individual significance of the place.
- The heritage place is not registered in the Tasmanian Heritage Register, however, the Tasmanian Heritage Council Works guidelines provide useful recommendations for the assessment of the painting of previously painted surfaces. These are:
  - the colour schemes are compatible with the character of the place
  - the surfaces are repainted using the original materials and methods and
  - the work does not involve applying new texture coatings.

The proposed stripes will be painted in acrylic with a low sheen finish. No new or different textures will be introduced. Black and white stripes are proposed following the articulated banding (or course banding). Black and white are neutral colours and are not considered to impact on the significance of the place. Whilst the golden lines are a bolder statement, they can be justified given that they will be recessed from the wall and are approximately less than 10cm in width. It is, therefore, considered that the acceptable solution is met.

**E13.6.13 Signage**

**Objective:**

To ensure that signage is compatible with the historic cultural heritage significance of local heritage places and their settings.

**Consistent**

A1 No more than one sign, not greater than 0.2m<sup>2</sup>, identifying the use, heritage significance, and the name and occupation of the owners of the property.

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

<p><b>Relies on Performance Criteria</b>                  More than one sign is proposed. Reliance on the performance criteria is required.</p>
<p>P1 New signs must be compatible with the historic cultural heritage of the local heritage place and its setting, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the cultural heritage values of the local heritage place and setting;</li> <li>(b) the size and location of the proposed sign;</li> <li>(c) the area and location of existing signage on the site;</li> <li>(d) the period details, windows, doors and other architectural details of the building;</li> <li>(e) any destruction, removal or concealment of heritage fabric through attaching signage; and</li> <li>(f) the streetscape.</li> </ul>
<p><b>Complies</b>                  The three signs proposed are considered compatible with the historic cultural heritage of the local heritage place.</p> <ul style="list-style-type: none"> <li>(a) As established previously, the ground level facade has been altered and is not a heritage element of the place. The signs proposed will be generally located at the ground level.</li> <li>(b)(c) The proposed sizes are generally modest. The circular signs have a diameter of 1m and 1.2m and the rectangular sign is approximately 600mm by 350mm.</li> <li>(d) The existing signs under the window sills are to be retained.</li> <li>(e) The signs will be made from translucent Perspex supported by a metal frame and are not considered to result in significant removal of the fabric of the ground level. As mentioned previously, the fabric of the building at the ground level is not original.</li> <li>(f) The signs are considered sympathetic to the existing and emerging character of the streetscape. The subject site is a corner lot and therefore, the installation of signs to each facade is appropriate. Whilst not directly mentioned in the performance criteria of the above standard, the illumination of the signs has been considered. To ensure sign illumination does not impact on traffic safety, the illumination should be no more than 1,000 cd/m<sup>2</sup>. The illumination levels proposed are significantly lower as follows:                      Sign 1 = 4,320 lumens = 432 cd/m<sup>2</sup>                      Sign 2 = 1,080 lumens = 108 cd/m<sup>2</sup>                      Sign 3 = 3,000 lumens = 300 cd/m<sup>2</sup></li> </ul> <p><u>Amended Plans Required Condition</u>                  Sign No. 3 is proposed to have a diameter of 1.2m and is proposed to be located between the bottom of the window sill and the top of the door recess. This area is estimated to have a length of approximately 1m. An amended plans required condition has been included to ensure Sign No. 3 can be installed in the proposed location without crossing over the building features (the window sill and the door recess). Subject to this condition, the shape and form of the windows and doors, which are significant architectural features, will remain recognisable from the streetscape.</p>

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

For the reasons above, the three signs proposed are considered compatible with the historic cultural heritage of the local heritage place and its setting.

**4. REFERRALS**

REFERRAL	COMMENTS
<b>INTERNAL</b>	
Infrastructure and Assets Network	Conditions are recommended.
Environmental Health	N/A
Heritage/Urban Design	<p>The application has been referred to the Council's Place and Heritage Officer. A number of concerns were raised which are summarised and addressed below:</p> <p><i>Issue 1. The painting of the ground level is effectively a sign which is not considered to meet the performance criteria set out in Clause E13.6.13 (Signage).</i></p> <p>The proposed painting of the wall is not a sign, it does not include lettering or representation for the purposes of advertising, announcement or display. It is considered that the re-painting of walls should be assessed against Clause 13.6.2 (Maintenance and repair).</p> <p><i>Issue 2. The circular shape of sign No. 3 does not fit in the location proposed.</i></p> <p>A condition has been included to address this issue.</p> <p><i>Issue 3. The combination of the existing and proposed signage is considered to be excessive as it results in an unacceptable degree of repetition of messaging.</i></p> <p>Clause E13.6.9 (Signage) does not require consideration of message repetition like the Signs Code E18 does.</p> <p>The Council's Place and Heritage Officer is generally supportive of the three illuminated signs subject to conditions.</p>
Building and Plumbing	N/A
<b>EXTERNAL</b>	
TasWater	N/A
State Growth	N/A
TasFire	N/A
Tas Heritage Council	N/A
Crown Land	N/A
TasRail	N/A
EPA	N/A
Aurora	N/A

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

**5. REPRESENTATIONS**

Pursuant to section 57 of the *Land Use Planning and Approvals Act 1993*, the application was advertised for a 14 day period from 16 February to 2 March 2022. Five representations were received. One additional representation was received after the advertising period finished. The issues raised are summarised in the following table. Whilst the summary attempts to capture the essence of each issue raised it should be read in conjunction with the representations received which are attached to this report.

<p><b>Issue 1</b>  <b>The proposed signs would detract significantly from the heritage exterior of the building and will result in unnecessary damage. The signs will also impact negatively on the streetscape.</b></p>
<p><i>Response 2</i>  <i>The proposal has been assessed as meeting the relevant performance criteria at Clause E13.6.13 (Signage). The assessment of these provisions is available in the relevant sections of the report.</i></p>
<p><b>Issue 2</b>  <b>The re-painting of the building is not compatible with the building heritage nature.</b></p>
<p><i>Response 2</i>  <i>The proposal has been assessed as meeting the acceptable solution at Clause E13.6.2 (Maintenance and repair). The assessment of these provisions is available in the relevant sections of the report.</i></p>

**6. CONCLUSION**

Subject to the recommended conditions, it is considered that the proposal complies with the Scheme and it is appropriate to recommend for approval.

**ECONOMIC IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such economic impacts have been considered.

**ENVIRONMENTAL IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such environmental impacts have been considered.

**9.1 DA0695/2021 - 119 St John Street, Launceston - Signage - Installation of Illuminated Signs ...(Cont'd)**

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**SOCIAL IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such social impacts have been considered.

**STRATEGIC DOCUMENT REFERENCE:**

Launceston Interim Planning Scheme 2015

**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Dan Ryan (General Manager Community and Place Network)**

**ATTACHMENTS:**

1. Locality Map - 119 St John Street, Launceston (*electronically distributed*)
  2. Plans to be Amended - 119 St John Street, Launceston (*electronically distributed*)
  3. Representations - 119 St John Street, Launceston (*electronically distributed*)
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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings****FILE NO:** DA0574/2021**AUTHOR:** Duncan Payton (Town Planner)**GENERAL MANAGER:** Dan Ryan (Community and Place Network)

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**DECISION STATEMENT:**

To consider and determine a development application pursuant to the *Land Use Planning and Approvals Act 1993*.

**PLANNING APPLICATION INFORMATION:**

Applicant:	Kabracco Builders Pty Ltd
Property:	6 Binalong Avenue, St Leonards
Zoning:	General Residential
Receipt Date:	8/10/2021
Validity Date:	7/02/2022
Further Information Request:	20/10/2021
Further Information Received:	07/02/2022
Deemed Approval:	30/03/2022
Representations:	Four

**STANDARDS REQUIRING COUNCIL DISCRETION**

10.4.2 Setbacks and building envelope for all dwellings  
10.4.4 Sunlight to private open space of multiple dwellings  
10.4.6 Privacy for all dwellings  
10.4.8 Waste storage for multiple dwellings  
E2.5 Use Standards  
E2.6.2 Excavation  
E4.6.2 Road accesses and junctions  
E4.6.4 Sight distance at accesses, junctions and level crossings  
E6.5.1 Car parking numbers

**RECOMMENDATION:**

That, in accordance with sections 51 and 57 of the *Land Use Planning and Approvals Act 1993* and the Launceston Interim Planning Scheme 2015, a permit be granted for DA0574/2021 - Residential - demolition of outbuildings and construction of three additional dwellings at 6 Binalong Avenue, St Leonards, subject to the following conditions:

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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**1. ENDORSED PLANS AND DOCUMENTS**

The use and development must be carried out in accordance with the endorsed plans and documents to the satisfaction of the Council unless modified by a condition of the Permit:

- a. Cover sheet, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A00, dated 14/01/2022.
- b. Site plan - existing, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A01, dated 14/01/2022.
- c. Site plan - proposed, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A02, dated 14/01/2022.
- d. Landscape plan, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A03, dated 14/01/2022.
- e. Area plan, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A04, dated 14/01/2022.
- f. Plumbing plan, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A05, dated 14/01/2022.
- g. Shadow diagrams (1), prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A06, dated 14/01/2022.
- h. Shadow diagrams (2), prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A07, dated 14/01/2022.
- i. Shadow diagrams (3), prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A08, dated 14/01/2022.
- j. Floor plans, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A09, dated 14/01/2022.
- k. Elevations, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A10, dated 14/01/2022.
- l. 3D views, prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A11, dated 14/01/2022.
- m. Swept path (1), prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A12, dated 14/01/2022.
- n. Swept path (2), prepared by Kabracco Builders, Multiple dwellings at 6 Binalong Avenue, St Leonards, revision C, page A13, dated 14/01/2022.
- o. Environmental Site Assessment, prepared by ES&D, 6 Binalong Avenue, St Leonards, version 2, dated December 2021.

**2. AMENDED PLANS REQUIRED**

Prior to the commencement of any work and/or use, amended plans must be submitted to the satisfaction of the Manager City Development to replace plans annotated as *Amended Plans Required* and attached to the Permit. Once approved, these amended plans will be endorsed by the Council and will then form part of the Permit. The amended plans must show:

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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- a. the extent of earthworks (ie. cut and fill).
- b. any retaining walls and their height.
- c. finished floor level of each unit.
- d. Unit 3 must have a bench height such that the completed dwelling complies with building envelope at clause 10.4.2 A3 (a)(ii).

Amended plans should include identification information such as updated revision numbers, revision date and revision description. The changes are to be highlighted in red clouds or a format agreed with the planning officer.

**3. LEGAL TITLE**

All development and use associated with the proposal must be confined to the legal title of the subject land except construction of access from the street.

**4. HOURS OF CONSTRUCTION**

Construction works must only be carried out between the hours of:

Monday to Friday - 7am to 6pm

Saturday - 8am to 5pm

No works on Sunday or Public Holidays

**5. TASWATER**

The development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2021/01773-LCC, 26/10/2021 and attached to the Permit.

**6. SITE LANDSCAPING**

The landscaping must be:

- a. installed in accordance with the endorsed plan; and
- b. completed prior to the use commencing; and
- c. maintained as part of the development and not be removed, destroyed or lopped without the written consent of the Council.

**7. FENCING**

Prior to the commencement of the use, all internal side and rear and strata boundaries must be provided with a solid (ie. no gaps) fence to provide full privacy between each dwelling and adjoining neighbours. The fence must be constructed at the developer's cost and to a height of:

- a. 1.2m within 4.5m of the frontage; and
- b. 1.8m - 2.1m elsewhere when measured from the highest finished level on either side of the common boundaries.

The boundary fences to Binalong Avenue and Mercer Street must comply with the exemption contained at clause 5.6.3 of the planning scheme.

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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**8. PRIVACY SCREEN**

A 1.7m high privacy screen, of not greater than 25% even transparency, to ensure reasonable privacy for the adjoining property must be erected:

- a. along the south-western side of the first floor deck at Unit 2;
- b. along the north-east and north-west sides of the first floor deck at Unit 3; and
- c. in front of the first floor window (W12) on the north-west facade of Unit 3.

**9. MULTIPLE DWELLINGS - SERVICE FACILITIES**

Prior to the commencement of the use, the following site facilities for multiple dwellings must be installed:

- a. mail receptacles must be provided and appropriately numbered for each dwelling unit.
- b. each multiple dwelling must be provided with a minimum 6m<sup>3</sup> exterior waterproof, lockable storage area or similar easily accessible area within the dwelling.
- c. either internal or external clothes drying facility to be provided for each dwelling to the satisfaction of the Council.

**10. FENCING - CORNER OF BINALONG AVENUE AND MERCER STREET**

The proposed boundary fence is to be erected at the back of the existing public footpath along Binalong Avenue and Mercer Street frontages, notwithstanding that the title boundary extends into the public footpath.

The boundary fences must comply with exemption 5.6.3 of the planning scheme.

**11. FACILITIES AND HIGHWAYS BY-LAW**

Prior to the placement of any skip bin, security fencing, hoarding, shipping containers, site offices or amenities within a local highway, the person, corporation or other legal entity must seek and have issued a permit pursuant to the Facilities and Highways By-Law (No. 1 of 2021). No such items are to be placed within the road reserve without approval.

**12. DRIVEWAY AND PARKING AREA CONSTRUCTION**

Before the use commences, areas set aside for parking vehicles and access lanes as shown on the endorsed plans must:

- a. be properly constructed to such levels that they can be used in accordance with the plans;
- b. be surfaced with an impervious all weather seal;
- c. be adequately drained to prevent stormwater being discharged to neighbouring property;
- d. be line-marked or otherwise delineated to indicate each car space and access lanes.

Parking areas and access lanes must be kept available for these purposes at all times and maintained for the life of the development.

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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**13. DAMAGE TO THE COUNCIL'S INFRASTRUCTURE**

The developer is liable for all costs associated with the repair of damage to the Council's infrastructure resulting from non-compliance with the conditions of the Planning Permit and any by-law or legislation relevant to the development activity on the site. Damage may also include the undertaking of unauthorised works to the Council's infrastructure such as driveways, footpaths and stormwater infrastructure. The developer will also be liable for all reasonable costs associated with the enforcement of compliance with the conditions, by-laws and legislation relevant to the development activity on the site.

**14. WORKS WITHIN/OCCUPATION OF THE ROAD RESERVE**

All works in (or requiring the occupation of) the road reserve must be carried out in accordance with a detailed Traffic Management Plan prepared by a qualified person in accordance with the requirements of Australian Standard AS1742. A copy of such plan is to be maintained on site and available for inspection upon request by an Authorised Officer.

The explicit permission of Infrastructure and Engineering is required prior to undertaking works where the works:

- a. require a road or lane closure;
- b. require occupation of the road reserve for more than one week at a particular location;
- c. are in nominated high traffic locations; or
- d. involve opening or breaking trafficable surfaces.

Where the work is associated with the installation, removal or modification of a driveway or a stormwater connection, the approval of a permit for such works shall form the explicit approval.

**15. TRENCH REINSTATEMENT FOR NEW/ALTERED CONNECTIONS**

Where a service connection to a public main or utility is to be relocated/upsized or removed then the trench within the road pavement is to be reinstated in accordance with LGAT-IPWEA Tasmanian Standard Drawing TSD-G01 Trench Reinstatement Flexible Pavements and Council policy 27-Rfx-012 Standards for Surface Reinstatement of Works in the Road Service. The asphalt patch is to be placed to ensure a water tight seal against the existing asphalt surface. Any defect in the trench reinstatement that becomes apparent within 12 months of the works is to be repaired at the cost of the applicant.

**16. VEHICULAR CROSSINGS (AND ASSOCIATED FOOTPATH WORKS)**

No works to install, remove or modify a vehicular crossing, are to be undertaken without the issue of a Vehicular Crossing Permit for the works. Modification of a vehicular crossing includes any widening of the kerb layback or the driveway apron, in any form whatsoever.

An application for such work must be lodged electronically via the Council eServices web portal or on the approved hard copy form.

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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All new works must be constructed to the Council's standards and include all necessary alterations to other services including lowering/raising pit levels, upgrading trenches non trafficable trenches to trafficable standard and/or relocation of services. Permission to alter such services must be obtained from the relevant authority (eg. TasWater, Telstra and TasNetworks, etc). All redundant crossovers and driveways must be removed prior to the occupation of the development. The construction of the new crossover and driveway and removal of the unused crossover and driveway will be at the applicant's expense.

**17. SOIL AND WATER MANAGEMENT PLAN**

Prior to the commencement of the development works the applicant must install all necessary silt fences and cut-off drains to prevent the soil, gravel and other debris from escaping the site. Additional works may be required on complex sites. No material or debris is to be transported onto the road reserve (including the nature strip, footpath and road pavement). Any material that is deposited on the road reserve as a result of the development activity is to be removed by the applicant. The silt fencing, cut off drains and other works to minimise erosion are to be maintained on the site until such time as the site has revegetated sufficiently to mitigate erosion and sediment transport.

**18. CONTAMINATED SOIL REMOVAL**

After demolition of the workshop and concrete slab, soil at the location of SB1 and SB7 (see Figure 13: Sampling Points of attached Environmental Site Assessment report) must be removed to a sufficient depth to remove contaminated soils, and the walls and base of the pits must be validated to show that remaining soils comply with the National Environment Protection (Assessment of Site Contamination) Measure Residential A Health Investigation Levels for lead. In addition, validation samples should be collected across the former building footprint to ensure that remaining soils comply with the Residential A Health Investigation Levels.

**19. STORAGE OF CONTAMINATED SOILS**

Any excavated contaminated or potentially contaminated soils must be stockpiled onsite and a suitably qualified environmental consultant must be engaged to sample soils and complete soil classification under Environment Protection Authority Tasmania Information Bulletin No. 105 - Classification and Management of Contaminated Soil for Disposal. Where soil does not meet Level 1 classification and Residential A land use criteria, approval must be sought from Environment Protection Authority Tasmania for removal and disposal of contaminated soil to an approved landfill.

**20. REMEDIATION AND VALIDATION REPORT**

At the conclusion of demolition and soil removal works, a Remediation and Validation Report prepared by a suitably qualified environmental consultant must be submitted to Council to provide evidence that remaining soils comply with the National Environment Protection (Assessment of Site Contamination) Measure Residential A Health Investigation Levels and Health Screening Levels.

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**21. DEMOLITION**

The Developer must:

- a. carry out all demolition work in accordance with Safe Work Australia *Demolition Work Code of Practice* or any subsequent versions of the document;
- b. protect property and services which are to either remain on or adjacent to the site from interference or damage and erect dust screens as necessary;
- c. not undertake any burning of waste materials on site;
- d. remove all rubbish from the site for disposal at a licensed refuse disposal site;
- e. dispose of any asbestos found during demolition in accordance with the Safe Work Australia *How to Safely Remove Asbestos Code of Practice* or any subsequent versions of the document.

**Notes****A. General**

*This permit was issued based on the proposal documents submitted for DA0574/2021. You should contact the Council with any other use or developments, as they may require the separate approval of Council. The Council's planning staff can be contacted on 6323 3000.*

*This permit takes effect after:*

- a. *The 14 day appeal period expires; or*
- b. *Any appeal to the Resource Management and Planning Appeal Tribunal is withdrawn or determined; or*
- c. *Any agreement that is required by this permit pursuant to Part V of the Land Use Planning and Approvals Act 1993 is executed; or*
- d. *Any other required approvals under this or any other Act are granted.*

*The permit lapses after a period of two years if the development or use has not substantially commenced within that period. An extension may be granted subject to the provisions of the Land Use Planning and Approvals Act 1993 as amended, by request to the Council.*

**B. Restrictive Covenants**

*The granting of this permit takes no account of any covenants applicable to the land. The permit holder and any other interested party, should make their own enquiries as to whether the proposed development is affected, restricted or prohibited by any such covenant.*

*If the proposal is non-compliant with any restrictive covenants, those restrictive covenants should be removed from the title prior to construction commencing or the owner will carry the liability of potential legal action in the future.*

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**C. Appeal Provisions**

*A planning appeal may be instituted by lodging a notice of appeal with the Registrar of the Resource Management and Planning Appeal Tribunal.*

*A planning appeal may be instituted within 14 days of the date the Corporation serves notice of the decision on the applicant.*

*For more information see the Resource Management and Planning Appeal Tribunal website [www.rmpat.tas.gov.au](http://www.rmpat.tas.gov.au) <<http://www.rmpat.tas.gov.au>>*

**D. Permit Commencement**

*If an applicant is the only person with a right of appeal pursuant to section 61 of the Land Use Planning and Approvals Act 1993 and wishes to commence the use or development for which the permit has been granted within that 14 day period, the Council must be so notified in writing. A copy of the Council's Notice to Waive Right of Appeal is attached.*

**E. Street Addresses for Multiple Dwellings**

*Residential addressing is undertaken in accordance with Australian Standard AS4819. The development has been assessed according to the standard and the following addresses allocated:*

<i>Dwelling No.</i>	<i>Strata Lot No.</i>	<i>Street Address</i>
<i>1</i>	<i>1</i>	<i>1/2 Mercer Street, St Leonards</i>
<i>2</i>	<i>2</i>	<i>2/2 Mercer Street, St Leonards</i>
<i>3</i>	<i>3</i>	<i>3/2 Mercer Street, St Leonards</i>
<i>4</i>	<i>4</i>	<i>6 Binalong Avenue, St Leonards</i>

*The above addresses are to be adhered to when identifying the dwellings and their associated letterboxes.*

**REPORT:**

**1. THE PROPOSAL**

It is proposed to demolish the existing outbuildings at the southern side of the site and to construct three additional dwellings. Each of the new dwellings is to be two storey and contain two bedrooms, noting that each has a study capable of use as a third bedroom.

## **9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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Each new dwelling will have a 3.6m x 3.0m first floor deck accessed from bedroom 1 and the open plan living, dining, kitchen area. A double garage is provided at ground level and within the footprint of each of the new dwellings.

The existing dwelling is to be retained, along with the outbuilding at the end of the driveway and the provision of tandem parking within the driveway.

All dwellings will be connected to the public stormwater, water and sewer services.

### **2. LOCATION AND NEIGHBOURHOOD CHARACTER**

The subject site is a 1,348m<sup>2</sup>, irregular shaped, lot located at the south-western corner of the Binalong Avenue and Mercer Street junction. The lot climbs west to east with a gradient of around 7%.

The land to the north is vacant and comprises part of the rear yard of the St Leonards Hotel and the Council's parkland between Binalong and Benvenue Avenues.

Otherwise the site is surrounded by residential development, mainly single dwellings and adjoining land to the west developed for two multiple dwellings. It is noted that a number of the lots in the surrounding area are large suburban lots with clear potential for future multiple development.

The character of the area is suburban residential.

### **3. PLANNING SCHEME REQUIREMENTS**

#### **3.1 Zone Purpose**

##### 10.0 General Residential Zone

##### 10.1.1 Zone Purpose Statements

10.1.1.1 To provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided.

10.1.1.2 To provide for compatible non-residential uses that primarily serve the local community.

10.1.1.3 Non-residential uses are not to adversely affect residential amenity, through noise, activity outside of business hours, traffic generation and movement, or other off site impacts.

10.1.1.4 To encourage residential development that respects the existing and desired neighbourhood character.

10.1.1.5 To encourage residential use and development that facilitates solar access, integrated urban landscapes, and utilisation of public transport, walking and cycling networks.

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**Consistent**  
 The proposal to construct three, two storey, two bedroom, dwellings is consistent with the purpose of the zone to provide for residential use or development that accommodates a range of dwelling types at suburban densities.

**10.4 Development Standards for Dwellings**

**10.4.1 Residential density for multiple dwellings**

Objective:  
 That the density of multiple dwellings:  
 (a) makes efficient use of land for housing; and  
 (b) optimises the use of infrastructure and community services.

**Consistent**  
 The proposal complies with the acceptable solution.

A1 Multiple dwellings must have a site area per dwelling of not less than 325m<sup>2</sup>.

**Complies**  
 The scheme defines site area per dwelling as the area of the land (1,348m<sup>2</sup>) divided by the number of dwellings - four. The area per dwelling is thus 337m<sup>2</sup>.

**10.4.2 Setbacks and building envelope for all dwellings**

Objective:  
 The siting and scale of dwellings:  
 (a) provides reasonably consistent separation between dwellings and their frontage within a street;  
 (b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings;  
 (c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and  
 (d) provides reasonable access to sunlight for existing solar energy installations.

**Consistent**  
 The proposal satisfies the performance criteria.

A1 Unless within a building area on a sealed plan, a dwelling, excluding garages, carports and protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage that is:  
 (a) if the frontage is a primary frontage, not less than 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;  
 (b) if the frontage is not a primary frontage, not less than 3m, or, if the setback from the frontage is less than 3m, not less than the setback, from a frontage that is not a primary frontage, of any existing dwelling on the site;



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- (c) if for a vacant site and there are existing dwellings on adjoining properties 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;
- (d) if located above a non-residential use at ground floor level, not less than the setback from the frontage of the ground floor level; or
- (e) if the development is on land that abuts a road specified in Table 10.4.2, at least that specified for the road.

**Relies on Performance Criteria**

Primary frontage is defined in the scheme as the shortest frontage. The site has a frontage to Binalong Avenue of 38.02m and to Mercer Street of 40.29m. Binalong Avenue is, therefore, the primary frontage.

Whilst the proposed secondary frontage is the requisite 3m, Unit 1 is proposed to be setback only 4m, rather than the prescribed 4.5m from the primary frontage and performance criteria are relied upon.

P1 A dwelling must:

- (a) have a setback from a frontage that is compatible with the streetscape, having regard to any topographical constraints; and
- (b) if abutting a road identified in Table 10.4.2, include additional design elements that assist in attenuating traffic noise or any other detrimental impacts associated with proximity to the road.

**Complies**

Clause 8.10 of the scheme limits the application of discretion to the extent to which it is relevant to the discretion being applied. In this instance the discretion being exercised is limited to consideration of the impact of the reduced primary frontage setback to 4m.

Binalong Avenue rises from St Leonards Road around 5m to the site of Unit 1 and a further 2.5m to the site of the dwelling (with foundations at that point around 1.5m high) at 12 Binalong Avenue. The dwelling at the junction of St Leonards Road and Binalong Avenue is setback around 2m from this frontage and the existing dwelling at 6 Binalong Avenue is setback around 2.7m as the enclosed front porch extends 1.7m into the 4.5m setback of the acceptable solution. With a 4m setback, Unit 1 will be behind the existing porch. When viewed from Binalong Avenue, opposite numbers 2 and 4, Unit 1 will present as a similar height to no. 12. It will be set against the backdrop of the mature trees at no. 12 and the distant hills to the east and south-east.

Views from Benvenue Road, some 60m across the rear yard of the hotel, will be mitigated by distance and similarly set against the backdrop of hills.

A2 A garage or carport for a dwelling must have a setback from a primary frontage of not less than:

- (a) 5.5m, or alternatively 1m behind the building line;
- (b) the same as the building line, if a portion of the dwelling gross floor area is located above the garage or carport; or

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<p>(c) 1m, if the existing ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10m from the frontage.</p>
<p><b>Complies</b> The proposed garages present to the secondary frontage and are all setback more than the prescribed 5.5m from the primary setback and are located within the footprint of the proposed units.</p>
<p>A3 A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Figures 10.1, 10.2 and 10.3) determined by:</p> <ul style="list-style-type: none"> <li>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a property with an adjoining frontage; and</li> <li>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of not more than 8.5m above existing ground level; and</li> </ul> <p>(b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling:</p> <ul style="list-style-type: none"> <li>(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or</li> <li>(ii) does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</li> </ul>
<p><b>Relies on Performance Criteria</b> As the proposal has a setback of 4m to the primary frontage with Binalong Avenue, it does not comply with A3 (a) (i) and relies upon performance criteria. Otherwise the proposal is contained within the prescribed building envelope and complies with A3 (a) (ii). At no point does the proposal have a setback of less than 1.5m.</p>
<p>P3 The siting and scale of a dwelling must:</p> <p>(a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:</p> <ul style="list-style-type: none"> <li>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;</li> <li>(ii) overshadowing the private open space of a dwelling on an adjoining property;</li> <li>(iii) overshadowing of an adjoining vacant property; or</li> <li>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</li> </ul> <p>(b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:</p> <ul style="list-style-type: none"> <li>(i) an adjoining property; or</li> <li>(ii) another dwelling on the same site.</li> </ul>

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**Complies**

The siting of Unit 1 in relation to Binalong Avenue does not cause an unreasonable loss of amenity to adjoining properties, having regard to:

- (a) (i) Unit 1 does not reduce sunlight to habitable rooms of a dwelling on an adjoining property.
- (a) (ii) and (iii) Unit 1 does not cast a shadow onto adjoining land.
- (a) (iv) views of Unit 1 from the south and west will be obscured by other dwellings. Views from the east will be largely obscured or mitigated by the existing vegetation at 12 Binalong Avenue. Views from the north (rear of the hotel and council land) will see a prominent dwelling set against a backdrop of other dwellings and distant hills. The building will not be sky-lined and a two storey dwelling is not unusual in a residential setting.

The construction of Unit 1 on this corner site is consistent with the established provision of separation between dwellings on adjoining properties in the area. There will be no reduction in sunlight to any existing solar energy installation on the site or on adjoining properties.

The performance criteria are considered to be satisfied.

**10.4.3 Site coverage and private open space for all dwellings**

**Objective:**

That dwellings are compatible with the amenity and character of the area and provide:

- (a) for outdoor recreation and the operational needs of the residents;
- (b) opportunities for the planting of gardens and landscaping; and
- (c) private open space that is conveniently located and has access to sunlight.

**Consistent**

The proposal complies with the acceptable solution.

A1 Dwellings must have:

- (a) a site coverage of not more than 50% (excluding eaves up to 0.6m wide); and
- (b) for multiple dwellings, a total area of private open space of not less than 60m<sup>2</sup> associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer).

**Complies**

The combined footprint of the existing dwelling and outbuilding and the proposed three dwellings and outbuildings is around 457m<sup>2</sup> or 32% of the 1,348m<sup>2</sup> lot.

Private open space is defined in the scheme as *an outdoor area of the land or dwelling for the exclusive use of the occupants*. Each unit, including the existing dwelling, has more than 60m<sup>2</sup> of such outdoor area.

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<p>A2 A dwelling must have private open space that:</p> <ul style="list-style-type: none"> <li>(a) is in one location and is not less than:             <ul style="list-style-type: none"> <li>(i) 24m<sup>2</sup>; or</li> <li>(ii) 12m<sup>2</sup>, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer);</li> </ul> </li> <li>(b) has a minimum horizontal dimension of not less than:             <ul style="list-style-type: none"> <li>(i) 4m; or</li> <li>(ii) 2m, 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);</li> </ul> </li> <li>(c) is located between the dwelling and the frontage only if the frontage is orientated between 30 degrees west of true north and 30 degrees east of true north; and</li> <li>(d) has a gradient not steeper than 1 in 10; and</li> <li>(e) is not used for vehicle access or parking.</li> </ul>
<p><b>Complies</b>                  Whilst not clearly shown on the proposal plans, each unit has an area of not less than 24m<sup>2</sup> of private open space that has a minimum horizontal dimension of 4m, with a gradient of less than 10% and not located in the frontage or in an area used for vehicle access or parking.</p>

10.4.4 Sunlight to private open space of multiple dwellings

<p><b>Objective:</b>                  That the separation between multiple dwellings provides reasonable opportunity for sunlight to private open space for dwellings on the same site.</p>
<p><b>Consistent</b>                  The proposal satisfies the performance criteria.</p>
<p>A1 A multiple dwelling, that is to the north of the private open space of another dwelling on the same site, required to satisfy A2 or P2 of clause 10.4.3, must satisfy</p> <ul style="list-style-type: none"> <li>(a) or (b), unless excluded by (c):             <ul style="list-style-type: none"> <li>(a) the multiple dwelling is contained within a line projecting (see Figure 10.4):                 <ul style="list-style-type: none"> <li>(i) at a distance of 3m from the northern edge of the private open space; and</li> <li>(ii) vertically to a height of 3m above existing ground level and then at an angle of 45 degrees from the horizontal;</li> </ul> </li> <li>(b) the multiple dwelling does not cause 50% of the private open space to receive less than three hours of sunlight between 9am and 3.00pm on 21 June; and</li> </ul> </li> <li>(c) this Acceptable Solution excludes that part of a multiple dwelling consisting of:             <ul style="list-style-type: none"> <li>(i) an outbuilding with a building height not more than 2.4m; or</li> <li>(ii) protrusions that extend not more than 0.9m horizontally from the multiple dwelling.</li> </ul> </li> </ul>

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<p><b>Relies on Performance Criteria</b>                  The shadow plans provided indicate that, on 21 June, Unit 2 is not sufficiently separated from Unit 1 to be contained within the line described at A1 (a) and will receive less than three hours of sunlight between 9am and 3pm. Performance criteria are relied upon. Unit 3 is separated from the existing dwelling to comply with A1(a).</p>
<p>P1 A multiple dwelling must be designed and sited to not cause an unreasonable loss of amenity by overshadowing the private open space, of another dwelling on the same site, which is required to satisfy A2 or P2 of clause 10.4.3 of this planning scheme.</p>
<p><b>Complies</b>                  Whilst much of the private open space for Unit 2 will be shadowed by Unit 1 such that more than 50% receives less than three hours of sunlight on 21 June. Nevertheless, the private open space of Unit 2 includes over 50m<sup>2</sup> adjacent to the Mercer Street frontage that will receive almost all available sunlight until 3pm and offer a suitable area for outdoor recreation.</p> <p>The performance criteria are satisfied.</p>

10.4.6 Privacy for all dwellings

<p><b>Objective:</b>                  To provide reasonable opportunity for privacy for dwellings.</p>
<p><b>Consistent</b>                  The proposal satisfies the performance criteria.</p>
<p>A1 A balcony, deck, roof terrace, parking space, or carport for a dwelling (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above existing ground level must have a permanently fixed screen to a height of not less than 1.7m above the finished surface or floor level, with a uniform transparency of not more than 25%, along the sides facing a:</p> <ul style="list-style-type: none"> <li>(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 3m from the side boundary;</li> <li>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 4m from the rear boundary; and</li> <li>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is not less than 6m:                         <ul style="list-style-type: none"> <li>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</li> <li>(ii) from a balcony, deck, roof terrace or the private open space of the other dwelling on the same site.</li> </ul> </li> </ul>
<p><b>Relies on Performance Criteria</b>                  Unit 2 has a first floor deck located within 6m of the private open space of Unit 3. Unit 3 has a first floor deck located within 6m of the private open space of Unit 4 (the existing dwelling) and within 4m of the rear boundary with 4 Binalong Avenue. Performance criteria are relied upon.</p>

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<p>P1 A balcony, deck, roof terrace, parking space or carport for a dwelling (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above existing ground level, must be screened, or otherwise designed, to minimise overlooking of:</p> <ul style="list-style-type: none"> <li>(a) a dwelling on an adjoining property or its private open space; or</li> <li>(b) another dwelling on the same site or its private open space.</li> </ul>
<p><b>Complies</b></p> <p>A condition is proposed to require screening of the south-western side of the deck at Unit 2 to a height of 1.7m and to provide similar screening to the north-eastern and north-western sides of the deck at Unit 3. The performance criteria are satisfied.</p>
<p>A2 A window or glazed door to a habitable room of a dwelling, that has a floor level more than 1m above existing ground level, must satisfy (a), unless it satisfies (b):</p> <ul style="list-style-type: none"> <li>(a) the window or glazed door:             <ul style="list-style-type: none"> <li>(i) is to have a setback of not less than 3m from a side boundary;</li> <li>(ii) is to have a setback of not less than 4m from a rear boundary;</li> <li>(iii) if the dwelling is a multiple dwelling, is to be not less than 6m from a window or glazed door, to a habitable room, of another dwelling on the same site; and</li> <li>(iv) if the dwelling is a multiple dwelling, is to be not less than 6m from the private open space of another dwelling on the same site.</li> </ul> </li> <li>(b) the window or glazed door:             <ul style="list-style-type: none"> <li>(i) is to be offset, in the horizontal plane, not less than 1.5m from the edge of a window or glazed door, to a habitable room of another dwelling;</li> <li>(ii) is to have a sill height of not less than 1.7m above the floor level or have fixed obscure glazing extending to a height of not less than 1.7m above the floor level; or</li> <li>(iii) is to have a permanently fixed external screen for the full length of the window or glazed door, to a height of not less than 1.7m above floor level, with a uniform transparency of not more than 25%.</li> </ul> </li> </ul>
<p><b>Relies on Performance Criteria</b></p> <p>Unit 1 has a first floor window within 6m of the private open space and windows on the north-western facade of Unit 2. As that window has a sill height of 1.7 it complies with A2 (b) (ii).</p> <p>Unit 2 has a first floor window within 6m of windows and private open space on the south-east side of Unit 1 and the north-east side of Unit 3. As that window has a sill height of 1.7 it complies with A2 (b) (ii).</p> <p>Unit 3 has a window within 6m of the window on the south-western facade of Unit 2. As those windows are offset, in the horizontal plane, by more than 1.5m they comply with A2 (b) (i). Unit 3 also has a window (W12) within 4m of the rear boundary with 4 Binalong Avenue and with a sill height of less than 1.7m. This window overlooks the alfresco area and living room of the adjoining single storey dwelling and performance criteria are relied upon.</p>

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<p>P2 A window or glazed door, to a habitable room of a dwelling that has a floor level more than 1m above existing ground level, must be screened, or otherwise located or designed, to minimise direct views to:</p> <ul style="list-style-type: none"> <li>(a) a window or glazed door, to a habitable room of another dwelling; and</li> <li>(b) the private open space of another dwelling.</li> </ul>
<p><b>Complies</b>                  Similar to the first floor deck, a condition is proposed to require screening or obscure glazing to the first floor window of Unit 3 and the performance criteria are satisfied.</p>
<p>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 not less than:</p> <ul style="list-style-type: none"> <li>(a) 2.5m; or</li> <li>(b) 1m if:                         <ul style="list-style-type: none"> <li>(i) it is separated by a screen of not less than 1.7m in height; or</li> <li>(ii) the window, or glazed door, to a habitable room has a sill height of not less than 1.7m above the shared driveway or parking space, or has fixed obscure glazing extending to a height of not less than 1.7m above the floor level.</li> </ul> </li> </ul>
<p><b>Complies</b>                  The proposed shared driveway for Units 2 and 3 is separated from windows and glazed doors by more than the prescribed 2.5m.</p>

10.4.8 Waste storage for multiple dwellings

<p>Objective:                  To provide for the storage of waste and recycling bins for multiple dwellings.</p>
<p><b>Consistent</b>                  The proposal satisfies the performance criteria.</p>
<p>A1 A multiple dwelling must have a storage area, for waste and recycling bins, that is not less than 1.5m<sup>2</sup> per dwelling and is within one of the following locations:</p> <ul style="list-style-type: none"> <li>(a) an area for the exclusive use of each dwelling, excluding the area in front of the dwelling; or</li> <li>(b) a common storage area with an impervious surface that:                         <ul style="list-style-type: none"> <li>(i) has a setback of not less than 4.5m from a frontage;</li> <li>(ii) is not less than 5.5m from any dwelling; and</li> <li>(iii) is screened from the frontage and any dwelling by a wall to a height not less than 1.2m above the finished surface level of the storage area.</li> </ul> </li> </ul>
<p><b>Relies on Performance Criteria</b>                  The proposal includes areas for the storage of waste and recycling bins. However, the storage area for Unit 1 is within 5.5m of Unit 2. Similarly, the storage area for Unit 2 is within 5.5m of Unit 3 and performance criteria are relied upon.</p>
<p>P1 A multiple dwelling must have storage for waste and recycling bins that is:</p> <ul style="list-style-type: none"> <li>(a) capable of storing the number of bins required for the site;</li> <li>(b) screened from the frontage and dwellings; and</li> <li>(c) if the storage area is a common storage area, separated from dwellings on the site to minimise impacts caused by odours and noise.</li> </ul>

**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

**Complies**  
 The proposal plans show a 1.8m fence between the units. This fence will provide ground level privacy and will both screen the bins and minimise potential impact from odours and noise.

A standard fencing condition will be included to require the 1.8m fence to be solid (eg. lapped palings or colorbond). The performance criteria are satisfied.

10.4.9 Site facilities for multiple dwellings

Objective:  
 To provide adequate site and storage facilities for multiple dwellings.

**Consistent**  
 The proposal complies with the acceptable solutions.

A1 Each multiple dwelling must have access to 6m<sup>3</sup> of secure storage space not located between the primary frontage and the facade of a dwelling.

**Complies**  
 Each unit is provided with a minimum of 6m<sup>3</sup> of secure storage.

A2 Mailboxes must be provided at the frontage.

**Complies**  
 Mail boxes are provided at the frontage of each unit.

10.4.10 Common property for multiple dwellings

Objective:  
 To ensure that common areas are easily identified.

**Consistent**  
 The proposal complies with the acceptable solution.

A1 Site drawings must clearly delineate private and common areas, including:

- (a) driveways;
- (b) parking spaces, including visitor parking spaces;
- (c) landscaping and gardens;
- (d) mailboxes; and
- (e) storage for waste and recycling bins.

**Complies**  
 The site drawings, to be endorsed, show the prescribed features.

10.4.11 Outbuildings, swimming pools and fences

Objective:  
 To ensure that:

- (a) outbuildings, swimming pools and fences:
  - (i) do not detract from the character of the surrounding area; and
  - (ii) are appropriate to the site and respect the amenity of neighbouring lots;
- (b) dwellings remain the dominant built form.



**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

<p><b>Consistent</b> The proposal complies with the acceptable solution.</p>
<p>A1.1 The combined gross floor area of outbuildings must be no greater than 45m<sup>2</sup>; and A1.2 Outbuildings (other than for single or multiple dwellings) must meet the setback and building envelope acceptable solutions of Clause 10.4.2, as if the development were for a dwelling.</p>
<p><b>Complies</b> The existing shed, to be retained, at the end of the driveway to the existing dwelling, plus the three proposed storage sheds have a combined floor area of 28m<sup>2</sup>.</p>

10.4.12 Earthworks and retaining walls

<p>Objective: To ensure that earthworks and retaining walls are appropriate to the site and respect the amenity of adjoining lots.</p>
<p><b>Consistent</b> A1 Earthworks and retaining walls requiring cut or fill more than 600mm below or above existing ground level must: (a) be located no less than 900mm from each lot boundary; (b) be no higher than 1m (including the height of any batters) above existing ground level; (c) not require cut or fill more than 1m below or above existing ground level; (d) not concentrate the flow of surface water onto an adjoining lot; and (e) be located no less than 1m from any registered easement, sewer main or water main or stormwater drain.</p>
<p><b>Complies</b> A condition is proposed requiring the provision of an amended plan showing all cut, fill and retaining walls to be within the prescribed heights. The contours on the plan demonstrate that this is achievable.</p>

10.4.13 Location of car parking

<p>Objective: To: (a) provide convenient car parking for residents and visitors; (b) protect residents from vehicular noise within sites; and (c) minimise visual impact on the streetscape.</p>
<p><b>Consistent</b> The proposal complies with the acceptable solution.</p>
<p>A1 Shared driveways or car parks of residential buildings (other than for single dwellings) must be located no less than 1.5m from the windows of habitable rooms.</p>
<p><b>Complies</b> The shared driveway for Units 2 and 3 is located more than 1.5m from any windows.</p>
<p>A2.1 Car parking must not be located in the primary front setback, unless it is a tandem car parking space in a driveway located within the setback from the frontage.</p>

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A2.2 Turning areas for vehicles must not be located within the primary front setback.
<b>Complies</b> Car parking is not located in the primary front setback. Similarly, turning areas are not located in the primary front setback.

**E2.0 Potentially Contaminated Land Code**

E2.1 The purpose of this provision is to: (a) ensure that use or development of potentially contaminated land does not adversely impact on human health or the environment.
<b>Consistent</b> The application includes and Environmental Site Assessment (ESA) prepared by a suitably qualified person. The ESA prescribes management measures to be undertaken to ensure the site is suitable for the proposed use and is consistent with the purpose of the code to protect human health and the environment.

**E2.5 Use Standards**

Objective: To ensure that potentially contaminated land is suitable for the intended use.
<b>Consistent</b> The proposal satisfies the performance criteria.
A1 The Director, or a person approved by the Director for the purpose of this Code: (a) certifies that the land is suitable for the intended use; or (b) approves a plan to manage contamination and associated risk to human health or the environment that will ensure the land is suitable for the intended use.
<b>Relies on Performance Criteria</b> Such certification has not been granted.
P1 Land is suitable for the intended use, having regard to: (a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; or (b) an environmental site assessment that demonstrates that the level of contamination does not present a risk to human health or the environment; or (c) a plan to manage contamination and associated risk to human health or the environment that includes: (i) an environmental site assessment; (ii) any specific remediation and protection measures required to be implemented before any use commences; and (iii) a statement that the land is suitable for the intended use.
<b>Complies</b> The ESA provides appropriate management measures and states that once these measures have been undertaken, the site will be suitable for the intended use.

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**E2.6 Development Standards**

**E2.6.2 Excavation**

<p><b>Objective:</b> To ensure that works involving excavation of potentially contaminated land does not adversely impact on human health or the environment.</p>
<p><b>Consistent</b> The proposal satisfies the performance criteria.</p>
<p>A1 No acceptable solution</p>
<p><b>Relies on Performance Criteria</b> P1 Excavation does not adversely impact on health and the environment, having regard to: (a) an environmental site assessment that demonstrates there is no evidence the land is contaminated; or (b) an environmental site assessment that demonstrates that the level of contamination does not present a risk to human health or the environment; or (c) a plan to manage contamination and associated risk to human health and the environment that includes: (i) an environmental site assessment; (ii) any specific remediation and protection measures required to be implemented before excavation commences; and (iii) a statement that the excavation does not adversely impact on human health or the environment.</p>
<p><b>Complies</b> The ESA provides appropriate management measures and states that once these measures have been undertaken, the excavation will not adversely impact on human health or the environment.</p>

**E4.0 Road and Railway Assets Code**

<p><b>E4.1</b> The purpose of this provision is to: (a) protect the safety and efficiency of the road and railway networks; and (b) reduce conflicts between sensitive uses and major roads and the rail network.</p>
<p><b>Consistent</b> The proposal is consistent with the purpose of the code to protect the safety and efficiency of the road network.</p>

**E4.5 Use Standards**

**E4.5.1 Existing road accesses and junctions**

<p><b>Objective:</b> To ensure that the safety and efficiency of roads is not reduced by increased use of existing accesses and junctions.</p>
<p><b>Consistent</b> The proposal complies with the acceptable solution.</p>

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<p>A3 The annual average daily traffic (AADT) of vehicle movements, to and from a site, using an existing access or junction, in an area subject to a speed limit of 60km/h or less, must not increase by more than 20% or 40 vehicle movements per day, whichever is the greater.</p>
<p><b>Complies</b>                  The existing access to Mercer Street currently provides access to the large sheds that are to be removed. It will then provide access to Units 2 and 3. With an accepted industry average of eight vehicle movements per day per dwelling, this will result in an AADT of 16 vehicle movements for the existing access.</p>

**E4.6 Development Standards**

**E4.6.2 Road accesses and junctions**

<p><b>Objective:</b>                  To ensure that the safety and efficiency of roads is not reduced by the creation of new accesses and junctions.</p>
<p><b>Consistent</b>                  The proposal satisfies the performance criteria.</p>
<p>A2 No more than one access providing both entry and exit, or two accesses providing separate entry and exit, to roads in an area subject to a speed limit of 60km/h or less.</p>
<p><b>Relies on Performance Criteria</b>                  The subject site has two street frontages and two existing accesses, each providing entry and exit. In addition, a new access is proposed to Mercer Street to service Unit 1. Performance criteria are relied upon.</p>
<p>P2 For roads in an area subject to a speed limit of 60km/h or less, accesses and junctions must be safe and not unreasonably impact on the efficiency of the road, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the nature and frequency of the traffic generated by the use;</li> <li>(b) the nature of the road;</li> <li>(c) the speed limit and traffic flow of the road;</li> <li>(d) any alternative access to a road;</li> <li>(e) the need for the access or junction;</li> <li>(f) any traffic impact assessment; and</li> <li>(g) any written advice received from the road authority.</li> </ul>
<p><b>Complies</b>                  The proposed new crossover is expected to generate an average of only around eight vehicle movements per day onto what is currently a relatively short length of suburban street with low traffic volumes. The speed limit of the road is 50kp/h, however, with the location close to the junction with Binalong Avenue, the average speed is likely to be less.</p>

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The proposed design does not allow for a practicable alternative solution other than a new access to Binalong Avenue, which offers no benefit over the proposed access to Mercer Street.

Given the predicted low traffic volumes, a traffic impact assessment was not required. The Council's traffic engineers are satisfied that the use of the proposed new access is safe and will not unreasonably impact on the efficiency of the road. The performance criteria are considered to be met.

**E4.6.4 Sight distance at accesses, junctions and level crossings**

<p><b>Objective:</b> To ensure that accesses, junctions and level crossings provide sufficient sight distance between vehicles and between vehicles and trains to enable safe movement of traffic.</p>
<p><b>Consistent</b> The proposal satisfies the performance criteria.</p>
<p><b>A1 Sight distances at:</b> (a) an access or junction must comply with the Safe Intersection Sight Distance shown in Table E4.6.4; and (b) rail level crossings must comply with AS1742.7 Manual of uniform traffic control devices - Railway crossings, Standards Association of Australia.</p>
<p><b>Relies on Performance Criteria</b> The proposed location of the access crossover for Unit 1 does not comply with the sight distances contained in the Table and relies upon performance criteria.</p>
<p><b>P1</b> The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles, having regard to: (a) the nature and frequency of the traffic generated by the use; (b) the frequency of use of the road or rail network; (c) any alternative access; (d) the need for the access, junction or level crossing; (e) any traffic impact assessment; (f) any measures to improve or maintain sight distance; and (g) any written advice received from the road or rail authority.</p>
<p><b>Complies</b> Whilst the proposed crossover to service Unit 1 is relatively close to the junction with Binalong Avenue, it is noted that it is expected to generate only low movement numbers and those are into a street with a low traffic volume.</p> <p>It is further noted that the proposed access arrangement for the proposal is the result of discussion and review by the Council's traffic engineers and is considered to be adequate to ensure the safe movement of vehicles and satisfies the performance criteria.</p>

**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

**E6.0 Parking and Sustainable Transport Code**

<p>E6.1 The purpose of this provision is to:</p> <ul style="list-style-type: none"> <li>(a) ensure that an appropriate level of parking facilities is provided to service use and development;</li> <li>(b) ensure that cycling, walking and public transport are supported as a means of transport in urban areas;</li> <li>(c) ensure access for cars and cyclists and delivery of people and goods is safe and adequate;</li> <li>(d) ensure that parking does not adversely impact on the amenity of a locality;</li> <li>(e) ensure that parking spaces and accesses meet appropriate standards; and</li> <li>(f) provide for the implementation of parking precinct plans.</li> </ul>
<p><b>Consistent</b> The proposal provides appropriate parking and manoeuvring areas consistent with the purpose of the code.</p>

**E6.5 Use Standards**

**E65.1 Car parking numbers**

<p>Objective: To ensure that an appropriate level of car parking is provided to meet the needs of the use.</p>
<p><b>Consistent</b> The proposal satisfies the performance criteria.</p>
<p>A1 The number of car parking spaces must:</p> <ul style="list-style-type: none"> <li>(a) not be less than 90% of the requirements of Table E6.1 (except for dwellings in the General Residential Zone); or</li> <li>(b) not be less than 100% of the requirements of Table E6.1 for dwellings in the General Residential Zone; or</li> <li>(c) not exceed the requirements of Table E6.1 by more than two spaces or 5% whichever is the greater, except for dwellings in the General Residential Zone; or</li> <li>(d) be in accordance with an acceptable solution contained within a parking precinct plan.</li> </ul>
<p><b>Relies on Performance Criteria</b> The table requires the provision of two car parking spaces per dwelling and one visitor car parking space. The proposal demonstrates the provision of two car parking spaces per dwelling, however a visitor car parking space is not provided and performance criteria are relied upon.</p>
<p>P1.1 The number of car parking spaces for other than residential uses, must be provided to meet the reasonable needs of the use, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the availability of off-road public car parking spaces within reasonable walking distance;</li> <li>(b) the ability of multiple users to share spaces because of:             <ul style="list-style-type: none"> <li>(i) variations in car parking demand over time; or</li> <li>(ii) efficiencies gained by consolidation of car parking spaces;</li> </ul> </li> </ul>

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- (c) the availability and frequency of public transport within reasonable walking distance of the site;
  - (d) any site constraints such as existing buildings, slope, drainage, vegetation and landscaping;
  - (e) the availability, accessibility and safety of on-road parking, having regard to the nature of the roads, traffic management and other uses in the vicinity;
  - (f) an assessment of the actual car parking demand determined in light of the nature of the use and development;
  - (g) the effect on streetscape; and
  - (h) the recommendations of any traffic impact assessment prepared for the proposal; or
- P1.2 The number of car parking spaces for residential uses must be provided to meet the reasonable needs of the use, having regard to:
- (a) the intensity of the use and car parking required;
  - (b) the size of the dwelling and the number of bedrooms; and
  - (c) the pattern of parking in the locality; or
- P1.3 The number of car parking spaces complies with any relevant parking precinct plan.

**Complies**  
 The proposal plans demonstrate the provision of two car parking spaces per dwelling. Given the proposed configuration of the dwellings, with three separate accesses to Binalong Avenue and Mercer Street, it is impracticable to provide a single on-site visitor car park that might reasonably be considered to serve all four units. In discussion with Council's traffic engineers, the most effective and efficient access and parking solutions were identified and the provision of visitor parking on-street was considered to be the preferred option. Having regard to the low traffic volumes and parking demand, notwithstanding the potential for some increased demand during the relatively brief school pick-up times, visitor parking on-street is considered to be a safe and efficient outcome that satisfies the performance criteria.

**E6.6 Development Standards**

**E6.6.1 Construction of parking areas**

**Objective:**  
 To ensure that parking areas are constructed to an appropriate standard.

**Consistent**  
 The proposal complies with the acceptable solution.

- A1 All parking, access ways, manoeuvring and circulation spaces must:
- (a) have a gradient of 10% or less;
  - (b) be formed and paved;
  - (c) be drained to the public stormwater system, or contain stormwater on the site;
  - (d) except for a single dwelling, and all uses in the Rural Resource, Environmental Management and Open Space zones, be provided with an impervious all weather seal; and
  - (e) except for a single dwelling, be line marked or provided with other clear physical means to delineate parking spaces.

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**Complies**  
 All parking, access ways and manoeuvring areas have a gradient of less than 10% and are to be formed, paved and drained to the public stormwater system.

**E6.6.2 Design and layout of parking areas**

**Objective:**  
 To ensure that parking areas are designed and laid out to provide convenient, safe and efficient parking.

**Consistent**  
 The proposal complies with the acceptable solution.

A1.1 Car parking, access ways, manoeuvring and circulation spaces must:  
 (a) provide for vehicles to enter and exit the site in a forward direction where providing for more than four parking spaces;  
 (b) have a width of vehicular access no less than the requirements in Table E6.2, and no more than 10% greater than the requirements in Table E6.2;  
 (c) have parking space dimensions in accordance with the requirements in Table E6.3;  
 (d) have a combined access and manoeuvring width adjacent to parking spaces not less than the requirements in Table E6.3 where there are three or more car parking spaces; and  
 (e) have a vertical clearance of not less than 2.1m above the parking surface level.  
 A1.2 All accessible spaces for use by persons with a disability must be located closest to the main entry point to the building.  
 A1.3 Accessible spaces for people with disability must be designated and signed as accessible spaces where there are six spaces or more.  
 A1.4 Accessible car parking spaces for use by persons with disabilities must be designed and constructed in accordance with AS/NZ2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities.

**Complies**  
 None of the access ways provide for more than four car parking spaces. All parking spaces comply with the requirements of tables E6.2 and E6.3.

**4. REFERRALS**

REFERRAL	COMMENTS
<b>INTERNAL</b>	
Infrastructure Services	Recommended conditions provided.
Environmental Health	Recommended conditions provided.
Heritage/Urban Design	N/A
Building and Plumbing	Standard notes recommended for the permit.



**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

REFERRAL	COMMENTS
<b>EXTERNAL</b>	
TasWater	Application referred to TasWater and conditional consent provided by Submission to Planning Authority Notice TWDA 2021/01773-LCC, 26/10/2021.
State Growth	N/A
TasFire	N/A
Tas Heritage Council	N/A
Crown Land	N/A
TasRail	N/A
EPA	N/A
Aurora	N/A

**5. REPRESENTATIONS**

Pursuant to section 57 of the *Land Use Planning and Approvals Act 1993*, the application was advertised for a 14 day period from 12 February to 28 February 2022. Four representations, plus one late submission, were received. The issues raised are summarised in the following table. Whilst the summary attempts to capture the essence of each issue raised it should be read in conjunction with the representations received which are attached to this report.

<p><b>Issue1</b>  <b>The proposal will cause overshadowing and potential overlooking of the adjoining properties to the south and west with an unreasonable and adverse impact upon their amenity. The application should be amended to reduce the impact of overshadowing.</b></p>
<p><i>Response 1</i>  <i>Units 2 and 3 fit within the building envelope prescribed by clause 10.4.2 A3 of the scheme. As such, the performance criteria are not called upon and there is no capacity for consideration of overshadowing of the adjacent dwellings.</i></p>
<p><b>Issue 2</b>  <b>The shadow drawings do not accurately represent the extent of the dwelling at 6 Mercer Street and therefore do not clearly or accurately show the impact.</b></p>
<p><i>Response 2</i>  <i>The representor has raised concerns regarding the accuracy of the shadow drawings as they do not clearly show the correct footprint of the dwelling at 6 Mercer Street and do not clarify that they are drawn for 21 June. Whilst the shadow drawings are for 21 June, as noted in Response 1, as the proposed units relevantly comply with the acceptable solution the impact of overshadowing does not raise a matter of discretion.</i></p>

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<p><b>Issue 3</b>  <b>Binalong Avenue and Mercer Street are too small to cope with the increased traffic from these units. There are already parking and traffic difficulties at school drop off and pick up times.</b></p>
<p><i>Response 3</i>  <i>The Council's traffic engineers are satisfied that both Binalong Avenue and Mercer Streets are low volume streets with ample capacity to absorb the increase in traffic (nominally 24-30 vehicle movements per day). School drop off and pick up times contribute to minor traffic and parking issues in areas surrounding schools. However, this is for a relatively short time each school day.</i></p>
<p><b>Issue 4</b>  <b>This concentrated unit development is out of character with the area and the village feeling is being lost. The height of the proposed buildings, at 7.48m, is much higher than others in the area and will ruin the streetscape and allow overlooking of neighbours.</b></p>
<p><i>Response 4</i>  <i>The surrounding area is dominated by single dwellings of various sizes and form and is located to the east and behind the village centre of St Leonards, itself perhaps dominated by the two storey hotel. The immediately surrounding dwellings, whilst mainly small cottages, includes examples of dwellings with high foundations or one and a half stories, reflecting the rising topography from St Leonards Road. Whilst the impact on the village feel is subjective, it is relevant to note that the scheme contains no existing or desired future character statements and none of the buildings in Binalong Avenue and Mercer Street are heritage listed at local or State level. Granted that the proposed buildings are taller than the surrounding dwellings and as a result will stand out, other than the small reduction in primary setback for Unit 1, the proposed buildings are all within the prescribed height limit of 8.5m permitted by the acceptable solution. The proposal is consistent with the purpose of the zone.</i></p>
<p><b>Issue 5</b>  <b>The crossover and driveway of Unit 1 is very close to a relatively blind intersection.</b></p>
<p><i>Response 5</i>  <i>The proposed crossover for Unit 1 is located further from the intersection than the existing crossover across the road at 12 Binalong Avenue. The streets in this area have a relatively low traffic volume and are speed limited to 50kp/h and the average speed is likely to be lower. The Council's traffic engineers are satisfied that the location of the proposed access for Unit 1 is safe and efficient.</i></p>
<p><b>Issue 6</b>  <b>The lot sizes for the units are too small and do not comply with the scheme. The street would be better served with two single storey dwellings in keeping with the streetscape and not impacting upon the neighbours.</b></p>

**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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*Response 6*

*The proposed multiple dwelling development is likely to be subject to strata title, as depicted in the Area Plan (plan A04 in the plans to be endorsed). That plan nominates the area to be allocated to each of the proposed units. The scheme does not prescribe a minimum area per unit. Rather, at clause 10.4.1, it seeks a density of 325m<sup>2</sup> and defines that this is calculated by dividing the lot area by the number of dwellings. In this case the lot has an area of 1348m<sup>2</sup> and with four dwellings (the existing dwelling plus the three proposed), the density is 337m<sup>2</sup> and complies with the acceptable solution.*

**6. CONCLUSION**

Subject to the recommended conditions, it is considered that the proposal complies with the Scheme and it is appropriate to recommend for approval.

**ECONOMIC IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such economic impacts have been considered.

**ENVIRONMENTAL IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such environmental impacts have been considered.

**SOCIAL IMPACT:**

The Launceston Interim Planning Scheme 2015 contains provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such social impacts have been considered.

**STRATEGIC DOCUMENT REFERENCE:**

Launceston Interim Planning Scheme 2015.

**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

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**9.2 DA0574/2021 - 6 Binalong Avenue, St Leonards - Residential - Demolition of Outbuildings and Construction of Three Additional Dwellings ...(Cont'd)**

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**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Dan Ryan (General Manager Community and Place Network)**

**ATTACHMENTS:**

1. Locality Map - 6 Binalong Avenue, St Leonards (*electronically distributed*)
  2. Plans to be Endorsed - 6 Binalong Avenue, St Leonards (*electronically distributed*)
  3. TasWater SPAN - 6 Binalong Avenue, St Leonards (*electronically distributed*)
  4. Representations - 6 Binalong Avenue, St Leonards (*electronically distributed*)
  5. Applicant's response to Representations - 6 Binalong Avenue, St Leonards (*electronically distributed*)
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## 10 ANNOUNCEMENTS BY THE MAYOR

### 10.1 Mayor's Announcements

FILE NO: SF2375

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#### Mayor Albert van Zetten

##### **Saturday 12 March 2022**

- Attended Encore Theatre Company's *Chicago* performance at the Princess Theatre

##### **Sunday 13 March 2022**

- Spoke at the launch of *Harmony Week 2022* in Civic Square

#### Acting Mayor Councillor Danny Gibson

##### **Wednesday 16 March 2022**

- Attended *Conversations with Friends of Theatre North* at the Princess Theatre
- Attended the *Tasmania National Book Council* event with Vicki Madden at the Launceston Library
- Spoke at the *Launceston Place Brand* stakeholder event at Peppers Silo Hotel

##### **Thursday 17 March 2022**

- Attended the Migrant Resource Centre's *Harmony Day* community lunch at the Migrant Resource Centre, Mowbray
- Attended the Rotary Club of West Launceston *End Polio Now* film fundraiser at the Star Theatre

##### **Friday 18 March 2022**

- Attended the Local Government Association of Tasmania's General Meeting at the Tramsheds
  - Attended the Local Government Association of Tasmania's General Management Committee Meeting at the Tramsheds
  - Spoke at the Migrant Resource Centre's Harmony Week film *Scattered People, A Song Can Take You Home* at the University of Tasmania
  - Attended the official opening of *The House of Guidance* in Kings Meadows (Represented by Councillor Andrea Dawkins)
  - Attended the Northern Tasmania Football Association's 2022 season launch at UTAS Stadium (Represented by Councillor Paul Spencer)
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## 10.1 Mayor's Announcements ...(Cont'd)

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### Saturday 19 March 2022

- Attended the Launceston Chamber of Commerce's *Business Excellence Awards* and presented the City of Launceston *Exception Event Award* at the Grand Chancellor Hotel
- Attended the Jack Jumpers Game Night at the Launceston Silverdome  
(Represented by Councillor Alan Harris)

### Wednesday 23 March 2022

- Attended the screening of *S Word* at the Star Theatre
-

**11 COUNCILLORS' REPORTS**

*(This item provides an opportunity for Councillors to briefly report on the activities that have been undertaken in their capacity as a representative of the Council. It is not necessary to list social functions that have been attended.)*

**12 QUESTIONS BY COUNCILLORS****12.1 Questions on Notice**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 30*

*(A councillor, at least seven days before an ordinary Council Meeting or a Council Committee Meeting, may give written notice to the General Manager of a question in respect of which the councillor seeks an answer at that Meeting. An answer to a Question on Notice will be in writing.)*

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**12.1.1 Councillors' Question on Notice - Councillor D C Gibson - Anti-Social Behaviour in Kings Meadows - Council Meeting - 10 March 2022****FILE NO:** SF2375**AUTHOR:** Anthea Rooney (Council and Committees Officer)**CHIEF EXECUTIVE OFFICER:** Michael Stretton

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**QUESTIONS and RESPONSES:**

The following question, asked at the Council Meeting on 10 March 2022 by Councillor D C Gibson, has been answered by Mr Shane Eberhardt (General Manager Infrastructure and Assets Network).

**Questions:**

1. Will the Council provide more lighting or additional infrastructure in Kings Meadows Park in order to curb anti-social behaviour in the area?

**Response:**

*The Kings Meadows Park is a short linear park backing onto private residences within close proximity to a pathway. The City of Launceston recently conducted the ABCDE Learning Site Initiative in Kings Meadows and specific issues were not listed for this area.*

*There is no record of ongoing antisocial issues in the Council's customer request system, however, there has been one recent request which it is understood that Tasmania Police are considering a response.*

*Based on other projects, provision of lighting could be expected to be in the order \$20,000 to \$30,000 and there is no capital budget allocation for lighting upgrades/additions in the draft budget for the 2022/2023 financial year.*

*It is not appropriate nor desirable to light all open spaces as many parks and reserves are located in quiet residential areas or adjoining natural areas where the Council may not want to encourage night time activity. It is important, however, that appropriate night time options are considered and where appropriate, provided. It should be noted that not all parks can be used for night time activities.*

*'In terms of safety, the correlation between lighting and crime is inconclusive. Although it is a common perception, there is little significant data to support that lighting reduces criminal activity' (Crime Prevention Unit Paper No. 29, Better Street Lighting on Crime and Fear: a Review. Ramsay, M and Newton, R., London Home Office, London).*

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**12.2 Questions Without Notice**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 29*

*(Questions Without Notice, and any answers to those questions, are not required to be recorded in the Minutes of the Meeting.)*

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**13 COMMITTEE REPORTS****13.1 Tender Review Committee Meeting Agenda - 17 March 2022****FILE NO:** SF0100/CD.003/2022/CD.002/2022/CD.034/2020**AUTHOR:** Anthea Rooney (Council and Committees Officer)**GENERAL MANAGER:** Louise Foster (Organisational Services Network)

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**DECISION STATEMENT:**

To receive a report from the Tender Review Committee (a delegated Authority Committee).

**RECOMMENDATION:**

That Council notes the decision of the Tender Review Committee to accept the tenders submitted by:

1. Crossroads Civil Contracting Pty Ltd for the Lawrence Vale Road (High Street to Powena Street) Roadworks, Contract Number CD.003/2022 for \$649,502.45 (exclusive of GST).
  2. Crossroads Civil Contracting Pty Ltd for the Warring Street Pavement Rehabilitation (Chainage 300 to Chainage 920), Contract Number CD.002/2022 for \$728,225.60 (exclusive of GST).
  3. Crossroads Civil Contracting Pty Ltd for the West Tamar Trail Car Park Remediation, Contract Number CD.034/2020 for \$303,481.66 (exclusive of GST).
- 

**REPORT:**

The Tender Review Committee Meeting, held on 17 March 2022, determined the following:

That the sums submitted by:

1. Crossroads Civil Contracting Pty Ltd for the Lawrence Vale Road (High Street to Powena Street) Roadworks, Contract Number CD.003/2022 for \$649,502.45 (exclusive of GST);
  2. Crossroads Civil Contracting Pty Ltd for the Warring Street Pavement Rehabilitation (Chainage 300 to Chainage 920), Contract Number CD.002/2022 for \$728,225.60 (exclusive of GST); and
-

**13.1 Tender Review Committee Meeting Agenda - 17 March 2022 ...(Cont'd)**

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3. Crossroads Civil Contracting Pty Ltd for the West Tamar Trail Car Park Remediation, Contract Number CD.034/2020 for \$303,481.66 (exclusive of GST)

be accepted.

**ECONOMIC IMPACT:**

Not considered relevant to this report.

**ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

**SOCIAL IMPACT:**

Not considered relevant to this report.

**STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Corporate Strategic Plan 2014-2024

Strategic Priority 3: We are a progressive leader that is accountable to our governance obligations and responsive to our community.

10-Year Goal: To ensure decisions are made in a transparent and accountable way, that effectively meet our statutory obligations, support quality services and underpin the long-term sustainability of our organisation.

Focus Areas:

3. To ensure decisions are made on the basis of accurate and relevant information.
5. To maintain a financially sustainable organisation.

**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

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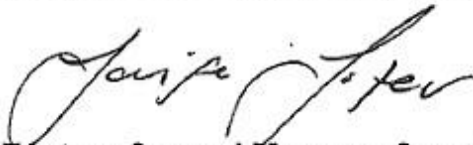
13.1 Tender Review Committee Meeting Agenda - 17 March 2022 ...(Cont'd)

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**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Louise Foster - General Manager Organisational Services Network**

**14 COUNCIL WORKSHOPS**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 8(2)(c)*

**14.1 Council Workshop Report**

**FILE NO:** SF4401

**AUTHOR:** Anthea Rooney (Council and Committees Officer)

**GENERAL MANAGER:** Louise Foster (Organisational Services Network)

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**DECISION STATEMENT:**

To consider Council Workshops conducted since the last Council Meeting.

**RECOMMENDATION:**

That, pursuant to Regulation 8(2)(c) of the *Local Government (Meeting Procedures) Regulations 2015*, Council notes the Council Workshops conducted since the last Council Meeting, for the purposes described:

Workshops conducted on 17 March 2022:

**2022/2023 City of Launceston Annual Plan and Budget**

*Councillors discussed the 2022/2023 Draft Annual Plan and Budget documents.*

**Queen Victoria Museum and Art Gallery Observations and Directions Update**

*Councillors received a report regarding observations and future directions of the QVMAG.*

**Albert Hall Plaque Request**

*Councillors discussed a request for a memorial plaque placement at the Albert Hall.*

**Greater Launceston Plan Review**

*Councillors received an update on the progress of the project to review the Greater Launceston Plan.*

**Local Government Association of Tasmania Voting Discussion**

*Councillors provided feedback for voting directions for the Local Government Association of Tasmania's General Meeting to be held on 18 March 2022.*

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**REPORT:**

Regulation 8(2)(c) of the *Local Government (Meeting Procedures) Regulations 2015* says that the Agenda of an Ordinary Council Meeting is to include the date and purpose of any Council Workshop held since the last Meeting.

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14.1 Council Workshop Report ...(Cont'd)

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**ECONOMIC IMPACT:**

Not considered relevant to this report.

**ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

**SOCIAL IMPACT:**

Not considered relevant to this report.

**STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Corporate Strategic Plan 2014-2024

Strategic Priority 3: We are a progressive leader that is accountable to our governance obligations and responsive to our community.

10-Year Goal: To ensure decisions are made in a transparent and accountable way, that effectively meet our statutory obligations, support quality services and underpin the long-term sustainability of our organisation.

Focus Areas:

2. To fairly and equitably discharge our statutory and governance obligations.

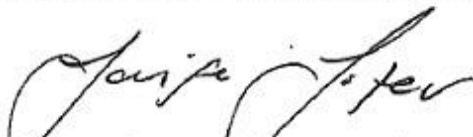
**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



Louise Foster - General Manager Organisational Services Network

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**15 NOTICES OF MOTION**

*Local Government (Meeting Procedures) Regulations 2015 - Regulation 16(5)*

**No Notices of Motion have been identified as part of this Agenda**

**16 COMMUNITY AND PLACE NETWORK ITEMS**

**No Items have been identified as part of this Agenda**

**17 CREATIVE ARTS AND CULTURAL SERVICES NETWORK ITEMS**

**No Items have been identified as part of this Agenda**

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**18 INFRASTRUCTURE AND ASSETS NETWORK ITEMS****18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn****FILE NO:** SF2002**AUTHOR:** Robert Bujnowski (Properties and Legal Officer)**GENERAL MANAGER:** Shane Eberhardt (Infrastructure and Assets Network)

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**DECISION STATEMENT:**

To consider closing a section of a highway located within the road verge adjoining 29 South Esk Road, Trevallyn due to the lack of use of that section as a highway and selling that section of the Council's land to the owners of 29 South Esk Road, Trevallyn in order to rectify a boundary encroachment.

*Recommendations 1. and 3. require a decision of Council by absolute majority.*

**PREVIOUS COUNCIL CONSIDERATION:**

Council - 16 December 2021 - Agenda Item 18.2 - Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn

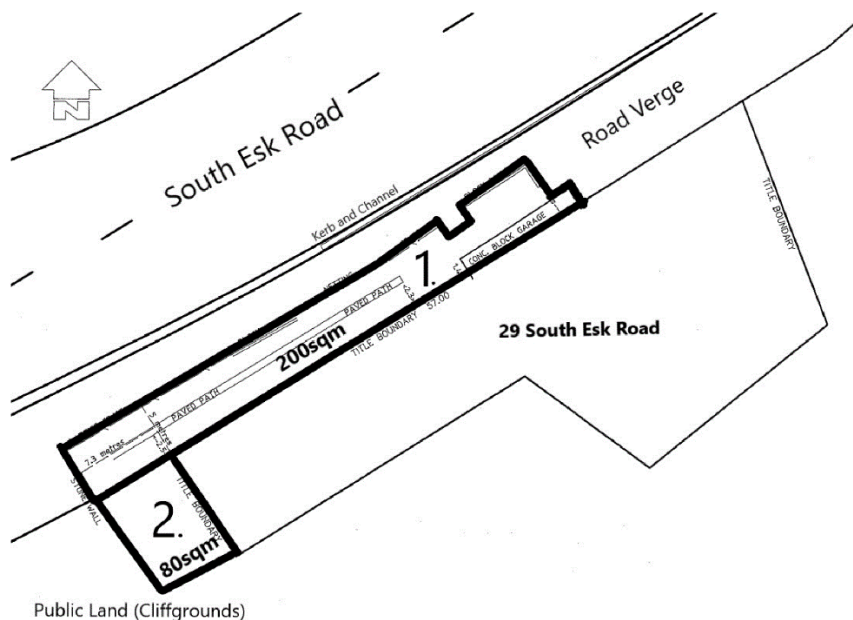
**RECOMMENDATION:**

That Council:

1. with reference to regulation 18(1) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas) and by absolute majority, rescinds the decision of Council made during the open session of Council on 16 December 2021 in respect of Agenda Item 18.2 - Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn, to the extent that that decision did not support the closure of the encroached portion of the road lot as a highway, and the subsequent sale of the encroached portion of the road lot to the owners of 29 South Esk Road, Trevallyn.
  2. decides, pursuant to section 14 of the *Local Government (Highways) Act 1982* (Tas), to close a portion of a highway totalling up to 200m<sup>2</sup> located within the road verge at the front of 29 South Esk Road, Trevallyn due to the lack of use of that portion of land as a highway, the relevant approximate area shown in the sketch below marked 1.
-



## 18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)



3. decides, by absolute majority, pursuant to section 177 of the *Local Government Act 1993 (Tas)*, to sell up to 200m<sup>2</sup> of the encroached road lot comprised in Certificate of Title Volume 167409 Folio 1 to the owners of 29 South Esk Road, Trevallyn to rectify a boundary encroachment, the approximate area shown in the sketch above marked 1, subject to the owners removing the existing fencing that encroaches onto the adjoining public land known as the Cliffgrounds.
4. notes the valuation advice at Attachment 1 (Doc Set ID No 4613752).
5. requests the Chief Executive Officer to do all things and exercise all functions and/or powers necessary with respect to Recommendations 2. and 3. in order to:
  - (a) provide public notice of the highway closure pursuant to section 14 of the *Local Government (Highways) Act 1982 (Tas)*;
  - (b) make any prospective contract of sale subject to the owners of 29 South Esk Road:
    - (i) submitting to the Council a development application and obtaining the necessary approval for subdivision;
    - (ii) removing the existing fencing that encroaches onto the adjoining public land known as the Cliffgrounds;
  - (c) make the contracted price the total sum of:
    - (i) the valuation amount in accordance with independent valuation advice obtained by the Council;

**18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

- (ii) \$550.00 plus GST for the costs associated with the Council obtaining a valuation report to comply with section 177 of the *Local Government Act 1993* (Tas);
- (iii) \$1,200.00 plus GST for the costs associated with publicly advertising the local highway closure as referred to in Recommendation 2. above;
- (v) \$2,700.00 plus GST as the Council's fee for officer time involved in the disposal of an interest in land; and
- (vi) the Council's reasonable out-of-pocket costs associated with the sale of the Council's land.

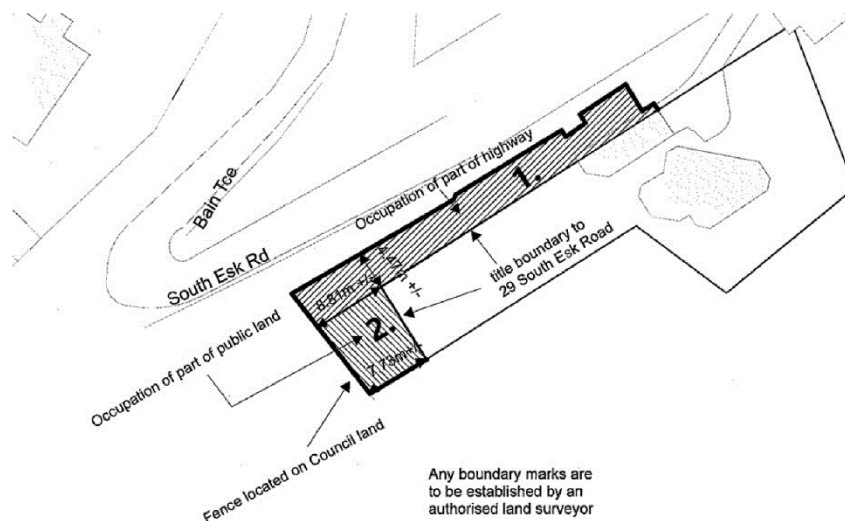
6. notes, for the avoidance of doubt, Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993* (Tas).

**REPORT:**

The current owners of 29 South Esk Road, Trevallyn have approached the Council seeking to rectify a boundary encroachment existing from their property onto adjoining Council-owned land.

The encroached land is in two parts:

1. an approximate 200m<sup>2</sup> encroachment onto the road lot (5m in width and 40m in length); and
2. an approximate 80m<sup>2</sup> encroachment onto public land known as the Cataract Gorge Reserve Cliffgrounds (7.3m in width and 11m in length).



**18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

The current owners of 29 South Esk Road, Trevallyn have resided at that property since 1965. They advise that the two encroachments existed at the time that they purchased the property, and that those encroachments have been fenced off from the public since that time. The Council was not the owner of the encroached land in 1965, with the Cliffgrounds being transferred to the Council in 1982 and the adjoining road lot being transferred to the Council in 2004. Both encroachments remain fenced-off from the public and are only accessible to the residents of 29 South Esk Road, Trevallyn. The owners have approached the Council seeking to purchase the encroached portion of the road lot from the Council in order to consolidate it with their existing residential lot.

An aerial view of the encroached land is shown below:



**Road Lot Encroachment**

The 200m<sup>2</sup> encroachment onto the road lot has a moderate to steep slope and is zoned as Subdivision Road as per the Launceston Interim Planning Scheme 2015. The encroachment is entirely within part of the road verge and does not affect any part of the made road. The Council's Infrastructure and Assets department see no intended future use for that encroached land as a made road.

Given that the encroachment has reportedly existed since 1965, it is envisaged that the sale of the encroached land will not cause any obstruction or detriment to road users, pedestrians, cyclists or any other members of the public using South Esk Road, Trevallyn.

## **18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

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The owners of 29 South Esk Road, Trevallyn have more recently indicated that if they cannot purchase the encroached portion of the Cliffgrounds land, they will not purchase the encroached portion of the road lot that is attached to the Cliffgrounds. This will likely reduce the area of road lot that is being purchased from approximately 200m<sup>2</sup> to approximately 165m<sup>2</sup>.

### **Public Land Encroachment**

The proposed sale of the road lot portion is made conditional upon the current owners of 29 South Esk Road, Trevallyn removing the fencing that is causing the encroachment on the adjoining Cliffgrounds land. The Council's officers are assessing the encroached portion of the Cliffgrounds in order to arrive at an appropriate solution for the restoration of the affected area once the fences have been removed.

Once the Council's officers have completed their assessment, the Council's officers will notify the current owners of an acceptable solution to restore and protect the land for conservation and ecological purposes.

### **Highway Closure Process**

South Esk Road, Trevallyn currently exists as a highway on the Council's Section 208 *Local Government Act 1993* (Tas) map. Although the encroached portion of the road lot exists outside of the made road, section 9 of the *Highways Act 1951* (Tas) defines the boundary of highway to extend to a distance of 2.5m on both sides of the made way, including the earthworks thereof. Therefore, the encroached road lot will require a highway closure prior to being sold.

To comply with the relevant legislative requirements for a highway closure contained within section 14 of the *Local Government (Highways) Act 1982* (Tas), written notice of the Council's intention to close the portion of the highway must be:

- (a) served on each of the owners and occupiers affected;
- (b) served on the Transport Commission;
- (c) displayed in a prominent position at each end of the highway; and
- (e) published twice in separate issues of a local newspaper circulating in the municipality in which the highway is situated.

Council may affect a highway closure pursuant to section 14 of the *Local Government (Highways) Act 1982* (Tas) if the Council forms an opinion that a part of a local highway should be closed for the public benefit because of lack of use. Recommendation 2. meets the requirement of forming an intention to close the effected portion of the road lot. If there are no objections during the relevant notice period referred to above, the encroached portion of the road lot will be closed as a highway.

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**18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

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The proposed sale will only be able to take place if the highway closure is affected by Council in accordance with section 14 of the *Local Government (Highways) Act 1982* (Tas).

**Disposal Process - Council Land**

The sale of the portion of the road lot must meet the requirements of section 177 of the *Local Government Act 1993* (Tas) which provides that Council may sell Council land by any method it approves so long as Council:

- (a) obtains a valuation; and
- (b) decides by an absolute majority.

There are no registered caveats preventing the sale, nor is there any hindrance to the Council selling the land under the *Local Government Act 1993* (Tas).

**Special Considerations in Respect of Recommendation 1.**

The following is provided as required by regulation 18(1) of the *Local Government (Meeting Procedures) Regulations 2015* (Tas), an extract of which appears below:

**18. Motion to overturn decision**

- (3) *Any report given by the general manager to a council in respect of a proposed motion to overturn a decision of the council, or that will result in the overturning of a decision of the council, wholly or partly, is to include -*
  - (a) *a statement that the proposed motion, if resolved in the affirmative, would overturn that previous decision or part of that previous decision; and*
  - (b) *the details of that previous decision, or the part of that previous decision, that would be overturned; and*
  - (c) *advice as to whether or not that previous decision, or that part of that previous decision, directed that certain action be taken; and*
  - (d) *if that previous decision, or that part of that previous decision, directed that certain action be taken, advice as to whether or not that action has been wholly or substantially carried out.*

If the proposed motion to rescind at Recommendation 1. is resolved in the affirmative, the decision of Council on 16 December 2021 in respect of Agenda Item 18.2 - Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn (prior decision) will be partly overturned.

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**18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

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The relevant part of the prior decision relates to the decision that the Council would not support the partial highway closure of the encroached portion of the road lot and the subsequent sale of the encroached portion of the road lot to the owners of 29 South Esk Road, Trevallyn.

The prior decision did not specifically direct that certain action be taken. However, to the extent that the decision is construed as a direction not to close a portion of the highway and/or not to sell an encroached portion of the road lot, such a direction will be overturned by the proposed motion to rescind at Recommendation 1.

The powers exercisable by the Chief Executive Officer in respect of the recommendations may include but are not limited to those powers existing under:

1. *Local Government Act 1993* (Tas); and
2. *Local Government (Highways) Act 1982* (Tas).

**ECONOMIC IMPACT:**

Not considered relevant to this report.

**ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

**SOCIAL IMPACT:**

Not considered relevant to this report.

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**18.1 Part Closure of a Highway and a Disposal of an Interest in Council Land - 29 South Esk Road, Trevallyn ...(Cont'd)**

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**STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Corporate Strategic Plan 2014-2024

Strategic Priority 7: We are a City planning for our future by ensuring our approach to strategic land-use, development and infrastructure is coordinated, progressive and sustainable.

10-Year Goal: To facilitate appropriate development via integrated land-use planning, infrastructure investment and transport solutions within our municipality and region.

Focus Areas:

1. To ensure that our application of the land-use planning system at a local and regional level is effective and efficient.
2. To take a strategic approach to development sites and infrastructure investment within the municipality to maximise public benefit and encourage development and investment.
3. To improve and maintain accessibility, transport options and infrastructure within the Launceston area, including its rural areas.
4. To ensure our suite of strategic planning initiatives are coordinated and representative of our community's needs and aspirations.

**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Shane Eberhardt - General Manager Infrastructure and Assets Network**

**ATTACHMENTS:**

1. Valuation Report - LG Valuation Services
-

Attachment 1 - Valuation Report - LG Valuation Services



VALUATION REPORT

**Property Address:** Land located between 29 South Esk Road, Trevallyn TAS 7250

**Our Reference:** LG21/1517

**Date of Valuation:** 24 August 2021



Aerial Photograph



Location Map

**Title:**

The land which forms the subject of this valuation advice is a

TASMANIA  
t: +61 (03) 6334 0950  
f: +61 (03) 6334 2180  
e: info@lgvals.com.au

LAUNCESTON  
PO Box 1470  
28b Brisbane Street  
Launceston TAS 7250

HOBART  
PO Box 356  
South Hobart TAS 7004  
Suite 21 – 23  
114 Bathurst Street  
Hobart TAS 7000

www.lgvals.com.au

Part of the HMC Property

LG Valuation Services Pty Ltd  
ABN 77 095 763 625



City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250	LG Valuation Services Pty Ltd LG21/1517
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**Location:**

The property is situated in close proximity to Cataract Gorge Reserve in the established residential area of Trevallyn, approximately 3.5 kilometres to the north west of Launceston's Central Business District (CBD).

**Subject Land Area:**

Council has advised that a land area of 280 square metres (sqm) should be adopted for the purpose of this valuation.

A copy of the current Title Plan, Survey Plan and an Aerial map has been provided by Council and are appended to this report.

We reserve the right to review our assessment of value should a formal survey of the respective land areas indicate areas that differ significantly from the assessed land area/s as outlined above.

**Land Description:**

The subject land is in two parts as identified in the attached Survey plan provided by Council.

City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250	LG Valuation Services Pty Ltd LG21/1517
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South Esk Road Images

**Planning:**

The subject land is currently designated as Subdivision Road and Open Space as illustrated in attached plan provided by Council. The surrounding land is zoned as “10.0 General Residential” and “19.0 Open Space” under the prevailing Launceston Interim Planning Scheme 2015.

**Market Sales:**

In establishing applicable valuation parameters for the subject property, we have examined market activity within the locality over recent years and have analysed relevant sales for comparison purposes.

A selection of market sales transactions which are considered relevant in determining market parameters for the subject land are summarised in the table below:

Address	Sale Date	Sale Price	Land Area (sqm)	Rate\$/sqm
27 Broadview Crescent, Trevallyn	17/02/2021	\$200,000	837	\$238.95
29 Riverview Road, Riverside	8/02/2021	\$165,000	624	\$264.42
19 Quarry Road, West Launceston	11/09/2020	\$165,000	794	\$207.81
11 Thrower Street West Launceston	8/09/2020	\$130,000	863	\$150.63

**Valuation Considerations:**

Having regard to the available sales evidence, prevailing market conditions, we consider an appropriate range of value for land at this location to be between \$220 and \$260 per square metre. The encroachment onto the highway being higher in value at \$260 per square metre and the value of the public land at \$220 per square metre. However, due to the attributes, characteristics and potential use we have applied a discounted of 40%. Our valuation calculations are set out in the table below –

City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250	LG Valuation Services Pty Ltd LG21/1517
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Land Description	Land Area	\$/sqm Land	Rate per sqm with 40% discount applied	Total Value \$
<b>CT 167409/1</b>				
Subject Land (area to be acquired only)	200	\$260	\$156	\$31,200
	80	\$220	\$132	\$10,560
<b>Value of Subject land</b>				<b>\$41,760</b>
Rounded for the Valuation Purposes				<b>\$41,800</b>

**Valuation Conclusion:**

Our assessment of the value of the subject land for potential disposal purposes is:

**FOURTY ONE THOUSAND, EIGHT HUNDRED DOLLARS  
(\$41,800)**

The above valuation is net or exclusive of any GST which may be payable.

The subject property was inspected by Rachel Thompson and the report prepared in conjunction with Marcus Hann AAPI, Certified Practising Valuer, LG Valuation Services Pty Ltd.



Marcus Hann AAPI  
Certified Practising Valuer  
LG Valuation Services Pty Ltd



Rachel Thompson SMAPI  
Cadet Valuer  
LG Valuation Services Pty Ltd

City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250
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LG Valuation Services Pty Ltd LG21/1517
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## Definitions

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### **Compliance:**

Our valuation has been prepared in accordance with the Australian Property Institute Practice Standards and Guidance Notes.

### **Market Change:**

Due to the possible changes in market forces and circumstances in relation to the subject property, the report can only be regarded as representing our opinion of the value of the property as at the Date of Valuation.

### **Currency of Valuation:**

This valuation is current as at the Date of Valuation only.

### **Reliance on Valuation:**

We do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of the Period of Valuation Reliance identified below, from the Date of Valuation, or such earlier date if you become aware of any factors that have any effect on the valuation. We recommend the valuation be reviewed at regular intervals.

### **Period of Valuation Reliance:**

The Period of Valuation Reliance for this report is 3 months. Without limiting the generality of the above, we do not assume responsibility or accept any liability where the valuation is relied upon after the expiration of three months from the date of the valuation.

### **Environmental Issues:**

This valuation has been assessed on the assumption that the property is free from elevated levels of contaminants and is not impacted by any environmental issues that may affect the marketability and/or value of the property. It should be noted that such environmental matters are outside our area of expertise and that the valuation contained herein has been prepared without the benefit of soil tests or external environmental impact reports.

Should any environmental issues subsequently become apparent that may impact on the marketability and/or value of the property then this valuation is not to be relied upon and the report should be returned to the valuer for review and potential revision.

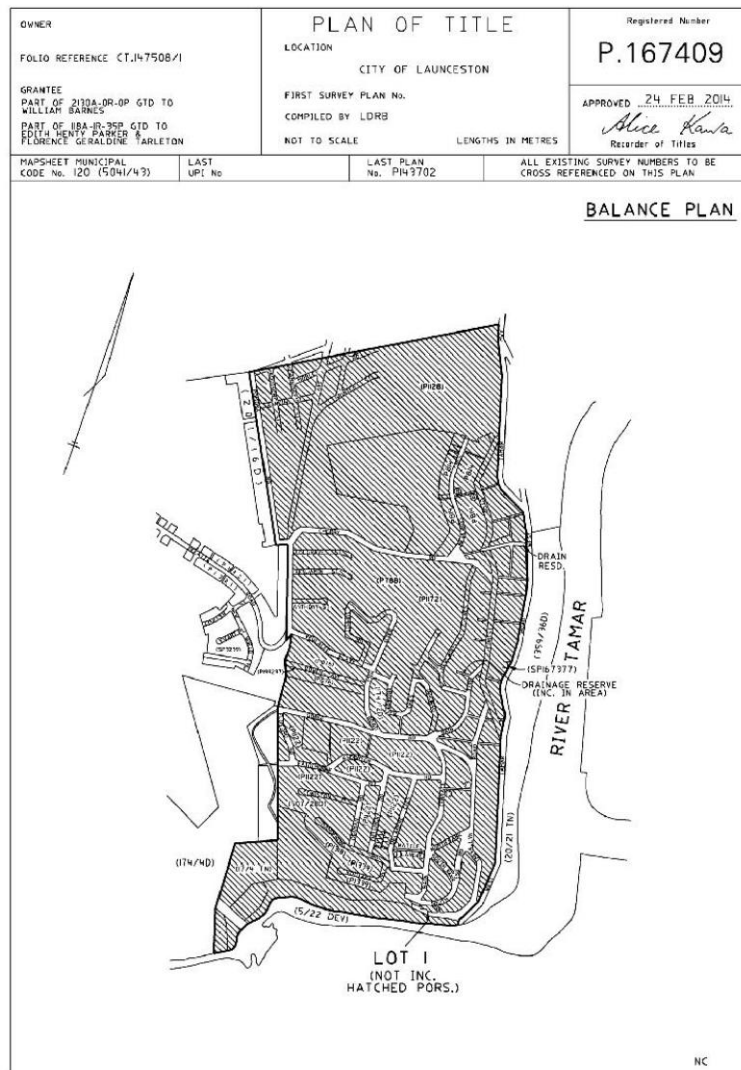
City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250	LG Valuation Services Pty Ltd LG21/1517
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**Appendix:**



**FOLIO PLAN**  
RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980



City of Launceston Land adjoining 29 South Esk Road, Trevallyn TAS 7250	LG Valuation Services Pty Ltd LG21/1517
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**RESULT OF SEARCH**

RECORDER OF TITLES  
*Issued Pursuant to the Land Titles Act 1980*



SEARCH OF TORRENS TITLE

VOLUME <b>167409</b>	FOLIO <b>1</b>
EDITION <b>1</b>	DATE OF ISSUE <b>12-Mar-2014</b>

SEARCH DATE : 30-Jul-2020  
SEARCH TIME : 09.54 AM

DESCRIPTION OF LAND

City of LAUNCESTON  
Lot 1 on Plan 167409  
Derivation : Part of 2130 Acres Gtd. to W. Barnes and Part of  
118A-1R-35P Gtd. to E.H. Parker and anor.  
Prior CT 147508/1

SCHEDULE 1

C529913 TRANSFER to LAUNCESTON CITY COUNCIL Registered  
27-Jan-2004 at noon

SCHEDULE 2

Reservations and conditions in the Crown Grant if any  
BURDENING EASEMENT the right for the lands adjoining the land  
in Certificate of Title Volume 487 Folio 69 to drain  
through part or parts of the said land within  
described as such drainage easement are set forth in  
the respective Certificates of Title to the said  
adjoining lands  
BURDENING EASEMENT rights of carriageway over such portions of  
the roads shown on Plan No.s 689, 775, 814 and  
Diagram No.s 21/1, 21/24 64/18, 82/14 and 121/34 as  
comprised herein (if any) for the purchasers of the  
lots shown on the said Plans and Diagrams as such  
rights are set out in the respective Certificate of  
Title  
BURDENING EASEMENT a Right of Carriageway for The Mayor  
Aldermen and Citizens of the City of Launceston over  
the roads or ways marked CD and EF on Plan 167409  
BURDENING EASEMENT the Pipeline Right for the Mayor Aldermen  
and Citizens of the City of Launceston over the land  
or way 30 links wide and the pipe track or way 10  
feet wide shown on the diagram on certificate of  
Title Volume 240 Folio 56  
BURDENING EASEMENT the Right of Carriageway (appurtenant to  
Certificate of Title Volume 469 Folio 145) over the  
roads shown on Plan No. 1122



City of Launceston  
Land adjoining 29 South Esk Road, Trevallyn TAS 7250

LG Valuation Services Pty Ltd  
LG21/1517



### RESULT OF SEARCH

RECORDER OF TITLES

*Issued Pursuant to the Land Titles Act 1980*



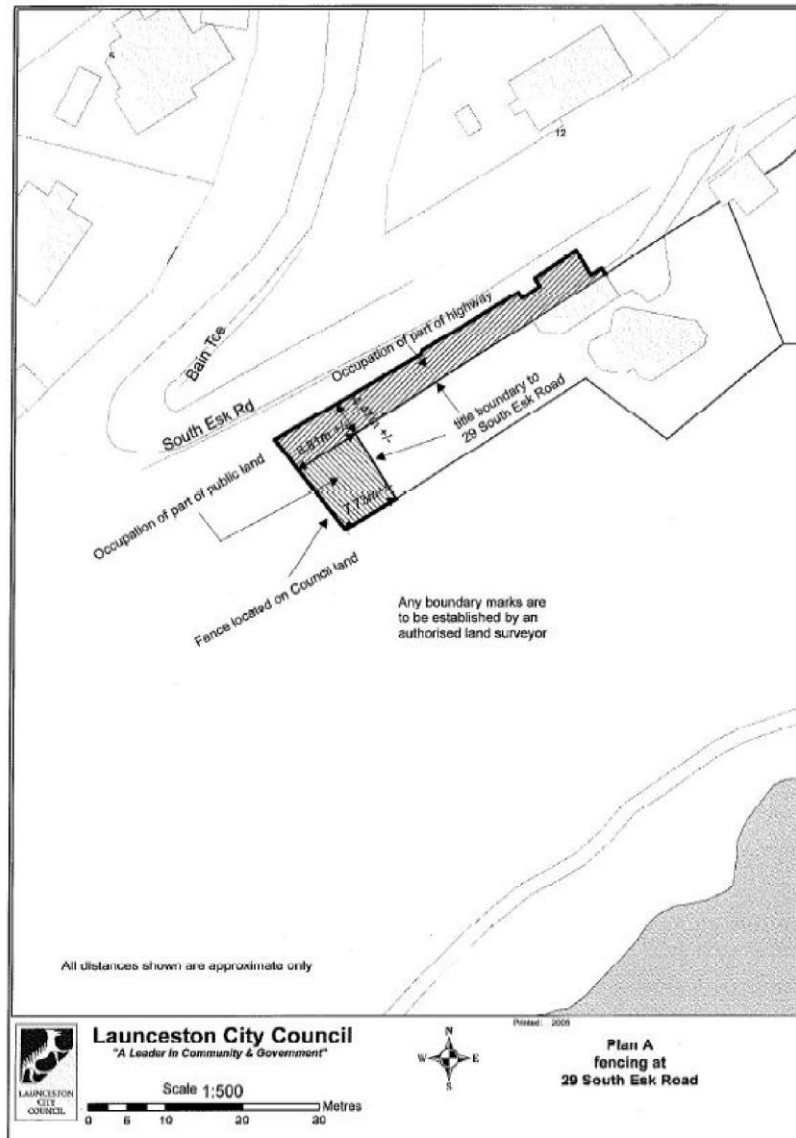
BURDENING EASEMENT the right to pass and repass (appurtenant to the land in Certificate of Title Volume 817 Folio 44) over the Road or Way marked AB on Plan 167409

### UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations

City of Launceston  
Land adjoining 29 South Esk Road, Trevallyn TAS 7250

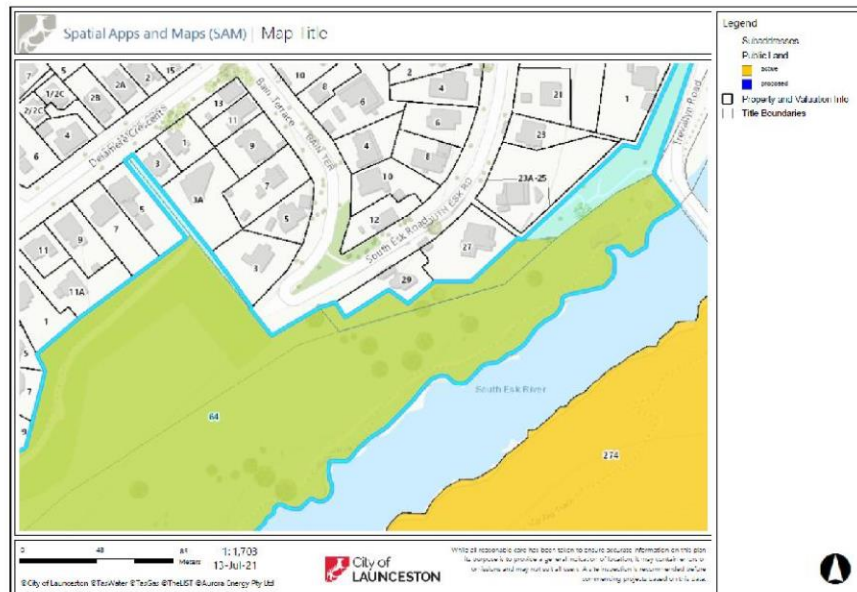
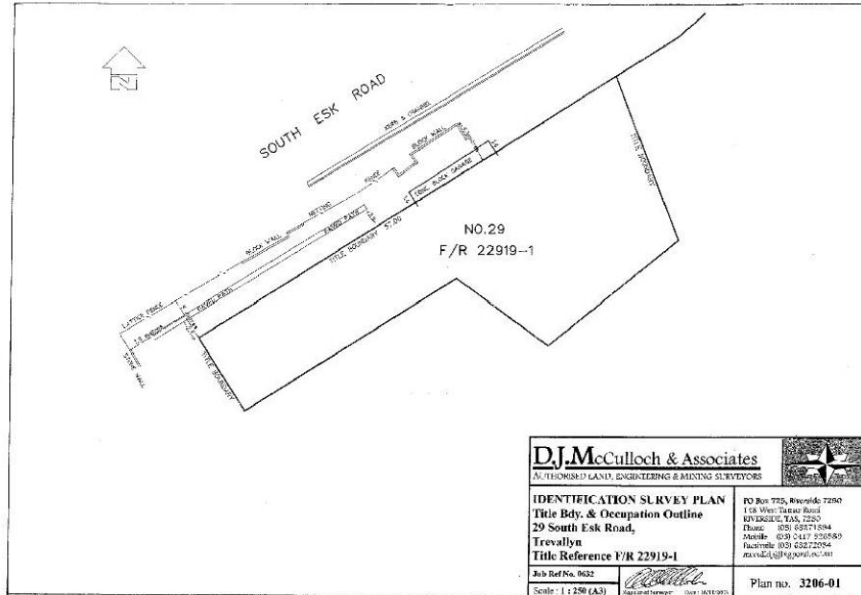
LG Valuation Services Pty Ltd  
LG21/1517





City of Launceston  
Land adjoining 29 South Esk Road, Trevallyn TAS 7250

LG Valuation Services Pty Ltd  
LG21/1517



**18.2 Launceston Flood Authority Quarterly Report - October to December 2021****FILE NO:** SF4493**AUTHOR:** Debbie Pickett (Infrastructure and Assets Network)**GENERAL MANAGER:** Shane Eberhardt (Infrastructure and Assets Network)

---

**DECISION STATEMENT:**

To receive the Launceston Flood Authority Quarterly Report - October to December 2021.

**RECOMMENDATION:**

That Council, in accordance with Rule 26 of the *Launceston Flood Authority Rules, April 2020*, receives the Launceston Flood Authority Quarterly Report, October to December 2021 (ECM Document Set ID 4691507).

---

**REPORT:**

In accordance with the Rule 26 of the *Launceston Flood Authority Rules, April 2020*, the Authority must submit a quarterly report to the Council for the periods ending March, June, September and December.

The report for the period ending September 2021 provides an overview of the Launceston Flood Authority's operational activities, financial position and key priorities for the next quarter (Attachment 1).

**ECONOMIC IMPACT:**

Not considered relevant to this report.

**ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

**SOCIAL IMPACT:**

Not considered relevant to this report.

---

**18.2 Launceston Flood Authority Quarterly Report - October to December 2021  
...(Cont'd)**

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**STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Corporate Strategic Plan 2014-2024

Strategic Priority 3: We are a progressive leader that is accountable to our governance obligations and responsive to our community.

10-Year Goal: To ensure decisions are made in a transparent and accountable way, that effectively meet our statutory obligations, support quality services and underpin the long-term sustainability of our organisation.

Focus Areas:

2. To fairly and equitably discharge our statutory and governance obligations.
3. To ensure decisions are made on the basis of accurate and relevant information.

**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Shane Eberhardt - General Manager Infrastructure and Assets Network**

**ATTACHMENTS:**

1. Launceston Flood Authority Quarterly Report - October to December 2021
-

---

*Attachment 1 Launceston Flood Authority Quarterly Report - October to December 2021***Quarterly Report - October to December 2021**

In accordance with the Rule 26 of the *Launceston Flood Authority Rules, April 2020* the Authority must submit a quarterly report to Council for the periods ending March, June, September and December. This report is for the period ending December 2021.

***Key priorities for the coming quarter***

- Development of Budget forecasts for the next three years
- Develop a Flood Protection Asset Management Plan and Long-Term Financial Plan over the next calendar year.
- Development of a flood levee protection system risk assessment
- Land Use Planning in Levee Protected Areas - Draft Specific Area Plan to be reviewed and presented to a Council Workshop in April 2022.

***Operational and Compliance Activities***

All required monitoring, inspection and testing regimes progressed as scheduled.

***Current Works*****Launceston Levee Risk Assessment Project 2021**

The second stage of the Launceston Levee Risk Assessment Project 2021 was completed in September 2021, with site inspections conducted by external consultants from WSP. A breakdown of the project is shown below:

- Stage 1: Data collection and review
- Stage 2: Visual inspection and condition assessment

As part of the project, CCTV surveys of 41 penetrations were conducted through all the flood levees. Internal pipe imagery showed the penetrations are in good condition overall, with a couple of third party owned penetrations and a squashed pipe on the Mowbray levee under further investigation.

The information gathered as part of this project will be used to prioritise additional investigations and develop the budget forecasts for the next few years.

**Invermay Levee**

An identified defect at the concrete and earth levee interface was rectified. Optimum timing of topping up of the settlement section between the bridges (Tamar/Charles Streets) formed part of the recommendations for the Launceston Levee Risk Assessment Project.

***Flood Emergency Preparedness Planning*****Mobile High Volume Pumps**

The area around Churchill Park Drive suffers from internal flooding when tideflaps and penstocks are closed in a flood emergency. An elevated, sealed working platform has been constructed for placing one of the high volume pumps. A test and train exercise will be scheduled to mobilise the pump at this location.

---



## Quarterly Report - October to December 2021

### *Financial Position*

#### **For the six months ended 31 December 2021:**

- Grant revenue was \$16,000 higher than budget.
- Labour and materials were \$48,000 less than budget.
- Depreciation was \$5,000 over budget as a result of the revaluation completed 30 June 2021 which was after the 2021/2022 budget was finalised.
- Overall the Launceston Flood Authority result for the six months to 31 December 2021 was a \$59,000 favourable variance.

### ***Summary of performance***

The Authority held three Board Meetings in 2021 to consider operational and financial reports as at 31 December 2021. The Board Meeting scheduled for 30 November 2021 was postponed with agenda items to be included on the first Board meeting in 2022. The Launceston Flood Authority Annual Report as at 30 June 2021 was presented to the 21 October 2021 Council meeting. The report is available on the City of Launceston website.

A handwritten signature in black ink, appearing to read "Greg Preece", with a long horizontal flourish extending to the right.

***Greg Preece, Chair - Launceston Flood Authority***

---

## 19 ORGANISATIONAL SERVICES NETWORK ITEMS

### 19.1 Petition to Amend Sealed Plan - 304 and 308 Penquite Road, Norwood

**FILE NO:** SF1862

**AUTHOR:** Robert Bujnowski (Properties and Legal Officer)

**GENERAL MANAGER:** Louise Foster (Organisational Services Network)

---

#### **DECISION STATEMENT:**

To consider appointing a Committee to conduct a hearing in relation to a Petition to Amend Sealed Plan.

#### **PREVIOUS COUNCIL CONSIDERATION:**

Development Permit DA0148/2014 - Residential - multiple dwellings; amalgamation of two titles, demolition of two sheds, two dwellings and former church building; construction and use of 24 multiple dwellings; site works; vegetation removal

#### **RECOMMENDATION:**

That Council, pursuant to:

1. section 23 of the *Local Government Act 1993* (Tas), establishes a Council Committee of four Councillors, comprising Councillors J G Cox, N D Daking, P S Spencer and A G Harris to conduct a hearing and exercise related powers under section 104 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas) in respect of the Petition to Amend Sealed Plans 16325 and 19533 for 304 and 308 Penquite Road, Norwood.
  2. section 22 of the *Local Government Act 1993* (Tas), delegates Council's functions and powers under section 104 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas) to the Council Committee established at Recommendation 1.
  3. section 23AA(2)(b) of the *Acts Interpretation Act 1931* (Tas), authorises the Mayor to evidence the delegation at Recommendation 2. by signing an instrument of delegation replicating the terms of the delegation.
-

**19.1 Petition to Amend Sealed Plan - 304 and 308 Penquite Road, Norwood  
...(Cont'd)**

---

**REPORT:**

The Council has received a request from Ireneinc Planning and Urban Design on behalf of John Ernest Tchappat, Alistair James Knight, Peter Geoffrey Woolston, Rodney Mark Glenn and Grant Daniel Rose to amend Sealed Plans 16325 and 19533 under section 103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas).

The petition seeks to amend covenants lettered (b), (d), (f) and (h) in the schedule of easements for Sealed Plans 16325 and 19533 to construct multiple dwellings. The petitioner has planning approval (DA0148/2014) to build 24 dwellings on the property.

Five representations asking to be heard have been received against the petition to amend the covenant.

Persons, together with the petitioners, have the right to be heard in front of a Council Committee. After all issues have been heard, the Committee makes a decision to support the petition, provide conditional approval or refuse the petition.

It is proposed to hold the Committee hearing at 11.00am on Thursday, 21 April 2022 prior to the scheduled Council Meeting.

**Authority to delegate**

In respect of Recommendation 2., section 22 of the *Local Government Act 1993* (Tas) permits Council to delegate its functions or powers under the *Local Government (Building and Miscellaneous Provisions) Act 1993* (Tas) to the Council Committee established at Recommendation 1.

The functions and powers to be delegated to the Council Committee established at Recommendation 1. are reproduced here for convenience:

***Local Government (Building and Miscellaneous Provisions) Act 1993******104. Hearing in respect of amendment of plans:***

- (1) *At the end of 28 days after the last notice is served or the last petition is served as required by section 103 (2) or (3), the council –*
    - (a) *may, if no person has asked to be heard in opposition, cause the amendment to be made; or*
    - (b) *if a person has asked to be heard, is to appoint a day for hearing any petitioner and those persons who have asked to be heard.*
-

**19.1 Petition to Amend Sealed Plan - 304 and 308 Penquite Road, Norwood  
...(Cont'd)**

---

- (2) *A hearing is to be by the council or a council committee who may –
  - (a) hear persons who have asked to be heard after the period referred to in subsection (1); and
  - (b) obtain the assistance of legal practitioners, architects, engineers and surveyors.*
  
- (3) *On the conclusion of the hearing, the council may –
  - (a) cause the amendment to be made with or without modification; and
  - (b) require as a condition of so doing that any person who benefits the amendment is to make compensation in money or land to a person who is injured by it.*
  
- (4) *The council may, with the consent of all persons concerned, act as provided in subsection (3).*
  
- (5) *The Recorder of Titles may call in and cancel or correct any certificate of title affected by amendments.*

**ECONOMIC IMPACT:**

Not considered relevant to this report.

**ENVIRONMENTAL IMPACT:**

Not considered relevant to this report.

**SOCIAL IMPACT:**

Not considered relevant to this report.

**STRATEGIC DOCUMENT REFERENCE:**

City of Launceston Strategic Plan 2014-2024

Priority Area 6 - A city building its future Ten-year goal - To drive appropriate development opportunities as well as infrastructure, land use planning and transport solutions

Key Direction -

- 2. To develop and take a strategic approach to development sites to maximise public benefits of development
-



**19.1 Petition to Amend Sealed Plan - 304 and 308 Penquite Road, Norwood  
...(Cont'd)**

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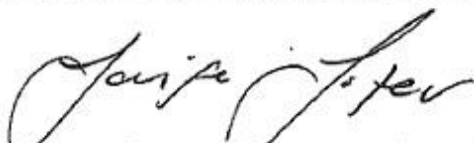
**BUDGET & FINANCIAL ASPECTS:**

Not considered relevant to this report.

**DISCLOSURE OF INTERESTS:**

The officer has no conflict of interest in this item.

I certify that I have reviewed and approved this advice and recommendation.



**Louise Foster - General Manager Organisational Services Network**

**ATTACHMENTS:**

1. Petition to Amend Sealed Plan 16325 and 19533
  2. Sections 103, 104 and 105 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*
  3. Planning Permit DA0148/2014
-

### *Attachment 1 - Petition to Amend Sealed Plan 16325 and 19533*

PETITION TO AMEND SEALED PLANS 16325 AND 19533

---

#### **APPLICATION BY PETITION TO AMEND SEALED PLANS 16325 AND 19533**

Section 103 Local Government (Building and Miscellaneous Provisions) Act 1993

To: LAUNCESTON CITY COUNCIL

#### **1. Your petitioner**

- 1.1 John Ernest Tchappat, Alistair James Knight, Peter Geoffrey Woolston, Rodney Mark Glenn and Grant Daniel Rose as trustees for the Tamar Properties Gospel Trust all care of 13 Fawkner Avenue, Kings Meadows in Tasmania being the registered proprietors of the land comprised in Certificates of Title Volume 19533 Folio 3 and Volume 165249 Folio 1.

#### **2. The subject land**

- 2.1 Lot 1 on Sealed Plan No. 16325 and being the land now wholly comprised in Certificate of Title Volume 165249 Folio 1 and Lots 3 and 4 on Sealed Plan No. 19533 and being the land now wholly comprised in Certificate of Title Volume 19533 Folio 3 and partly comprised in Certificate of Title Volume 165249 Folio 1.

#### **3. Background**

- 3.1 The Schedule of Easements in both Sealed Plan Numbers 16325 and 19533 created restrictive covenants which burdened Lot 1 on Sealed Plan No. 16325 and each lot on Sealed Plan No. 19533.
- 3.2 The covenants included the following:
- (b) That the main building erected on such Lot shall not be used for any purpose other than a private dwelling house;
  - (d) That not more than one main building shall be erected on such Lot;
  - (f) That there shall not be erected any building or outbuilding (excluding carport) on such Lot with outer walls other than of masonry brick or brick veneer construction;
  - (h) Not to subdivide the said Lot into smaller lots nor alter nor amend the subdivision plan as it relates to such Lot in any way without the Vendor's consent first had and obtained.

#### **4. The proposed amendments**

- 4.1 It is proposed that the Schedules of Easements to both Sealed Plans Number 16325 and 19533 be amended by deleting covenants lettered (b), (d), (f) and (h).

### PETITION TO AMEND SEALED PLANS 16325 AND 19533

---

#### **5. Section 103 amendment**

- 5.1 Section 103 is a legal mechanism enabling the amendment of a sealed plan including the deletion of a covenant contained in the Schedule of Easements of a sealed plan.
- 5.2 Division 5 in the legislation provides for a section 103 Request to Amend document to be lodged with the Recorder of Titles to effect an amendment

#### **6. Application to Council**

- 6.1 Application is made to the Launceston City Council for an amendment to both Sealed Plan No. 16325 and Sealed Plan No. 19533 as set out in this petition.
- 6.2 Should the Council cause the amendments proposed in this petition to be made please execute, seal and return the Request to Amend document.

#### **7. Service of Petition on Interested Parties**

- 7.1 It is intended to serve this petition only on the persons named in the Schedule hereto as being the only other persons appearing on the registers under the Land Titles Act 1980 and the Registration of Deeds Act 1935 to have any estate or interest at law in the said lands affected by the proposed amendments.

### THE SCHEDULE

Roger James Daly and Roslyn Ann Daly of 302 Penquite Road, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 19533 Folio 2.

Shane Thomas Gibbons and Kate Gibbons of 300 Penquite Road, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 19533 Folio 1.

Commonwealth Bank of Australia, 105 Brisbane Street, Launceston in Tasmania, as mortgagee pursuant to Mortgage Registered No. E30938 (Shane Thomas Gibbons and Kate Gibbons) Certificate of Title Volume 19533 Folio 1.

Alexander David Neil Bigham and Nicole Alison Bigham of 22 Rajee Place, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 102610 Folio 47

Australia and New Zealand Banking Group Limited, 69 Brisbane Street, Launceston in Tasmania, as mortgagee pursuant to Mortgage Registered No. E112793 (Alexander David Neil Bigham and Nicole Alison Bigham) Certificate of Title Volume 102610 Folio 47

Douglas Stuart James and Lisa Jane James of 24 Rajee Place, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 102610 Folio 48

Commonwealth Bank of Australia, 105 Brisbane Street, Launceston in Tasmania, as mortgagee pursuant to Mortgage Registered No. E157104 (Douglas Stuart James and Lis Jane James) Certificate of Title Volume 102610 Folio 48

PETITION TO AMEND SEALED PLANS 16325 AND 19533

Robert Gordon Schaeche of 316 Penquite Road, Norwood, being the registered proprietor of the land comprised in Certificate of Title Volume 129464 Folio 1

Australia & New Zealand Banking Group Limited, 69 Brisbane Street, Launceston in Tasmania as mortgagee pursuant to Mortgage Registered No. E33835 (Robert Gordon Schaeche) Certificate of Title Volume 129464 Folio 1

Geoffrey William Smith and Margaret Joyce Smith of 165 Quarantine Road, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 129463 Folio 1

Andrew Thomas Souter of 111 Station Road, Norwood, being the registered proprietors of the land comprised in Certificate of Title Volume 77303 Folio 7

Commonwealth Bank of Australia, 105 Brisbane Street, Launceston in Tasmania, as mortgagee pursuant to Mortgage Registered No. E81882 (Andrew Thomas Souter) Certificate of Title Volume 77303 Folio 7

Steven Douglas Challis of 114 Station Road, Norwood, being the registered proprietor of the land comprised in Certificate of Title Volume 17826 Folio 5

Pepper Finance Corporation Limited, Level 27, 177 Pacific Highway, North Sydney in New South Wales, as mortgagee pursuant to Mortgage Registered No. E190239 (Steven Douglas Challis) Certificate of Title Volume 17826 Folio 5

Hugh Dowling McKay of 305 Penquite Road, Norwood, being the registered proprietor of the land comprised in Certificate of Title Volume 17826 Folio 4

National Australia Bank Limited, Level 1, 130 Brisbane Street, Launceston in Tasmania as mortgagee pursuant to Mortgage Registered No. D65838 (Hugh Dowling McKay) Certificate of Title Volume 17826 Folio 4

Steven Anthony Kerry Minchin and Laura Jayne Bassett of 303 Penquite Road, Norwood, being the registered proprietor of the land comprised in Certificate of Title Volume 17826 Folio 3

Commonwealth Bank of Australia, 105 Brisbane Street, Launceston in Tasmania, as mortgagee pursuant to Mortgage Registered No. E81895 (Steven Anthony Kerry Minchin and Laura Jayne Bassett) Certificate of Title Volume 17826 Folio 3.

Dated this 27<sup>th</sup> day of October 2021

SIGNED by JOHN ERNEST TCHAPPAT in the presence of:

.....  
Witness to sign

..... James Woolston .....

Full name of witness  
..... Printes .....

Occupation of witness  
..... S17 Hobart Rd, Yangtown .....

PETITION TO AMEND SEALED PLANS 16325 AND 19533

Address of Witness

SIGNED by ALISTAIR JAMES KNIGHT in the presence of:



.....  
Witness to sign

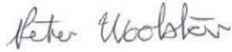
*James Woolston*  
.....  
James Woolston

Full name of witness  
.....  
Printer

Occupation of witness  
.....  
517 Hobart Rd, Youngtown

Address of Witness

SIGNED by PETER GEOFFREY WOOLSTON in the presence of:



.....  
Witness to sign

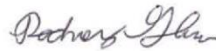
*Reuben Woolston*  
.....  
Reuben Woolston

Full name of witness  
.....  
Finance Manager

Occupation of witness  
.....  
44 Landsborough Avenue, Newstead, TAS, T250

Address of Witness

SIGNED by RODNEY MARK GLENN in the presence of:



.....  
Witness to sign

*James Woolston*  
.....  
James Woolston

Full name of witness  
.....  
Printer

Occupation of witness  
.....  
517 Hobart Rd, Youngtown

Address of Witness



PETITION TO AMEND SEALED PLANS 16325 AND 19533

SIGNED by GRANT DANIEL ROSE in the presence of:

*Rose*

*Wolston*  
.....

Witness to sign *James Wolston*  
.....

Full name of witness  
*Printer*  
.....

Occupation of witness  
*517 Hobart Rd, Youngtown*  
.....

Address of Witness

**TASMANIAN LAND TITLES OFFICE**

**Blank Instrument Form**  
Land Titles Act 1980



DESCRIPTION OF LAND			
Folio of the Register			
Volume	Folio	Volume	Folio
<b>165249</b>	<b>1</b>	<b>19533</b>	<b>3</b>

Land Titles Act 1980 (as amended)

Request to Amend Sealed Plan Numbers 16325 and 19533

In the matter of Section 103 of the Local Government (Building & Miscellaneous Provisions) Act 1993

To: The Recorder of Titles

The Launceston City Council hereby requests that Sealed Plan Numbers 16325 and 19533 be amended in the following manner:

1. By deleting from the Covenants, covenants lettered (b), (d), (f) and (h) in the Schedules of Easement for both Sealed Plans 16325 and 19533 and that the Folios of the Register issued pursuant to Sealed Plans 16325 and 19533 be amended accordingly and that all consequential amendments necessary to give effect to these amendments be made.

The COMMON SEAL of the Launceston City Council was hereunto affixed this            day of            2021 in the presence of:

Land Titles Office Use Only	
Version 1	

**THE BACK OF THIS FORM MUST NOT BE USED**

304 & 308 PENQUITE ROAD



ireneinc & smithstreetstudio  
PLANNING & URBAN DESIGN



## 304 & 308 PENQUITE RD, NORWOOD

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### Petition to Amend Sealed Plan - Planning Report

Last Updated - October 2021

Author - Irene Duckett

Reviewed - Irene Duckett

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**Tel** (03) 6234 9281

**Fax** (03) 6231 4727

**Mob** 0418 346 283

**Email** [planning@ireneinc.com.au](mailto:planning@ireneinc.com.au)

---

**ireneinc** PLANNING & URBAN DESIGN

## CONTENTS

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## 1. INTRODUCTION

Ireneinc Planning & Urban Design has been engaged to prepare a planning report to accompany a petition to amend sealed plan. The application is made pursuant to Section 103 of Local Government (Building and Miscellaneous Provisions) Act, which allows for a petition to be made to a) ii) bring the plan into conformity with any change in the rights and duties of land owners made under a statutory power or b) on the application of a person having an interest in land subject to the plan.

The purpose of this report is to outline the rights of the land owners under the statutory power of the planning scheme.

The petition is to amend Sealed Plans 16325 and 19533, in relation to 304 and 308 Penquite Road Norwood. The sealed plan includes a number of covenants which restrict the use and development of the land. Those which are sought to be removed include:

- b) That the main building erected on such lot shall not be used for any purpose other than a private dwelling house;*
- d) That not more than one main building shall be erected on such a Lot;*
- f) That there shall not be erected any building or outbuilding (excluding carport) on such lot with outer walls other than of masonry brick or brick veneer construction;*
- g) That no hoarding or other structure for the purpose of exhibiting any advertisement or sign shall be erected or placed or suffered to be upon any part of such Lot other than shall relate to the letting of such Lot;*
- h) Not to subdivide such lot into smaller lots nor alter nor amend the subdivision plan as it relates to such lot in any way without the Vendor's consent first had and obtained;*
- i) That other than domestic animals approved by the vendor no animals or birds of any kind shall be kept or permitted or suffered to be kept upon such lot.*

### 1.1 THE SITE

The subject site is comprised of the following titles:

- CT 19533/3 – 304 Penquite Rd
- CT 165249/1 - 308 Penquite Rd

The sealed plan also includes two other parcels of land:

- CT 19533/1 – 300 Penquite Rd
- CT 19533/2 – 302 Penquite Rd

The following figure describes the location of the site.



**Figure 1: Site location - shaded blue lots are the subject sites, outline blue are the two other lots within the same sealed plan (source: [www.theLIST.tas.gov.au](http://www.theLIST.tas.gov.au) © the State of Tasmania)**

The site has a combined area of approximately 1.16 ha, with frontage to Penquite Road, Norwood, on the outer north eastern edge of the Launceston urban area. Land to the east of the site is largely undeveloped and constrained by the North Esk River and its flood plains.

The site itself is substantially modified and disturbed from previous development. The site at 308 Penquite Rd was previously occupied by a church, and site works included large areas which have been levelled and sealed for car parking and circulation around the site.

The south west corner of the site was occupied by a large building housing a church, which has since been demolished.

304 Penquite Road was occupied by a single dwelling, which has also since been demolished.

There is no significant vegetation on the site, and a moderately steep grade runs from west to east.



Figure 2 images before and after demolition of church and dwelling (source The LIST)

The site is well serviced by both arterial roads, and local service centres. The site sits on the junction of Quarantine Road, Johnston Road, and Penquite Road. It is located 1.6km from St Leonards, 3 km from Kings Meadows activity centre, and 3.2 km from Newstead activity centre. It is fully serviced, close to parks and open space, and in close proximity to schools.





Figure 3 subject site, looking south-west



Figure 4 Subject site looking south east



Figure 5 Subject site looking north east

Given the substantial modifications to the site, it is not suitable for a single dwelling. The land is vast, and would require substantial site works to remove asphalt and other infrastructure, which would then require extensive landscaping to create a setting for a single dwelling. The site has no natural values, significant landscape values, or heritage landscape values. There is no benefit to the community in retaining the site in its present form or in an underutilised state.

### 1.2 BACKGROUND

In June 2014, a planning application was lodged with the Launceston City Council for *multiple dwellings, amalgamation of 2 titles, demolition of 2 sheds, 2 dwellings and former church building; construction and use of 24 multiple dwellings; site works; and vegetation removal.*

The application was approved by council (DA0148/2014) and substantially commenced with the demolition of buildings. The site currently sits vacant, and the permit remains valid.

In July 2016 a petition was lodged with council to amend the sealed plans numbered 16325 and 19533, as outlined in the introduction. Council passed a motion to approve the covenants limiting exterior cladding (f) and pets (i), but rejected the removal of the other clauses. The reasoning for this is not documented in the council minutes.



## 2. PLANNING SCHEME PROVISIONS

The area is within the *Launceston Interim Planning Scheme 2015*, and zoned General Residential (red), whilst the immediately adjoining land to the south is zoned Low Density Residential. The site is unencumbered by overlays.

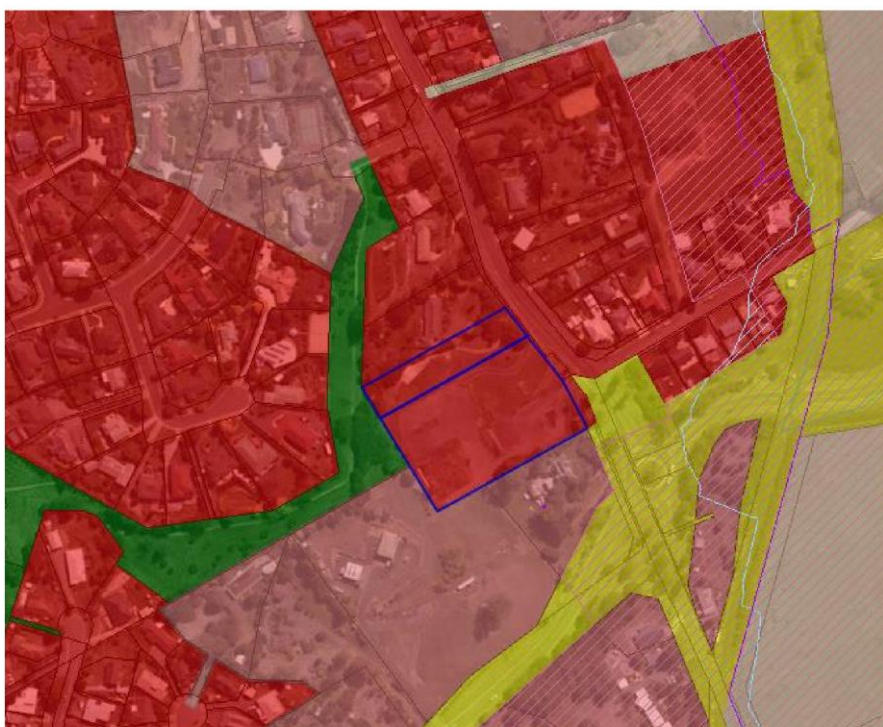


Figure 6: Zone plan and site location (source: [www.theLIST.tas.gov.au](http://www.theLIST.tas.gov.au) © the State of Tasmania)

### 2.1.1 ZONE PURPOSE

The Purpose Statements for the zone are:

#### 10.1.1 Zone Purpose Statements

*10.1.1.1 To provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided.*

*10.1.1.2 To provide for compatible non-residential uses that primarily serve the local community.*

*10.1.1.3 Non-residential uses are not to adversely affect residential amenity, through noise, activity outside of business hours, traffic generation and movement, or other off site impacts.*

*10.1.1.4 To encourage residential development that respects the existing and desired neighbourhood character.*

**10.1.1.5 To encourage residential use and development that facilitates solar access, integrated urban landscapes, and utilisation of public transport, walking and cycling networks.**

The dwelling density for the General Residential zone is 325m2 per dwelling (10.4.2 A1), yielding a potential of 49 dwellings for the site area of 1.6 ha. The site has constraints such as the slope, and a more realistic yield, ensuring that buildings are efficiently designed, and of a scale which minimises impact on neighbouring properties is demonstrated in the approved plans for 24 dwellings. Nonetheless, the site presents an important opportunity to help realise the residential supply strategy for Launceston.

The site is also zoned General Residential under the draft Local Provisions Schedule, within which the capacity, yield and suitability of the land zoning has been thoroughly reviewed. In the supporting policy documents, Appendix 2, Residential Zones Project Report, the Regional Settlement Network Policy is referenced, which finds that

*Policy RSN-P5 states that a higher proportion of development should be at high and medium densities to maximise infrastructure capacity. This will include an increased proportion of multiple dwellings at infill and redevelopment locations across the regions Urban Growth Areas to meet residential demand. The corresponding Action RSN-A 10 requires zoning provisions to provide for a higher proportion of the region’s growth to occur in suitably zoned and serviced areas. The application of Urban Mixed Use, Inner Residential and General Residential zones should specifically support diversity in dwelling types and sizes in appropriate locations. <sup>1</sup>*

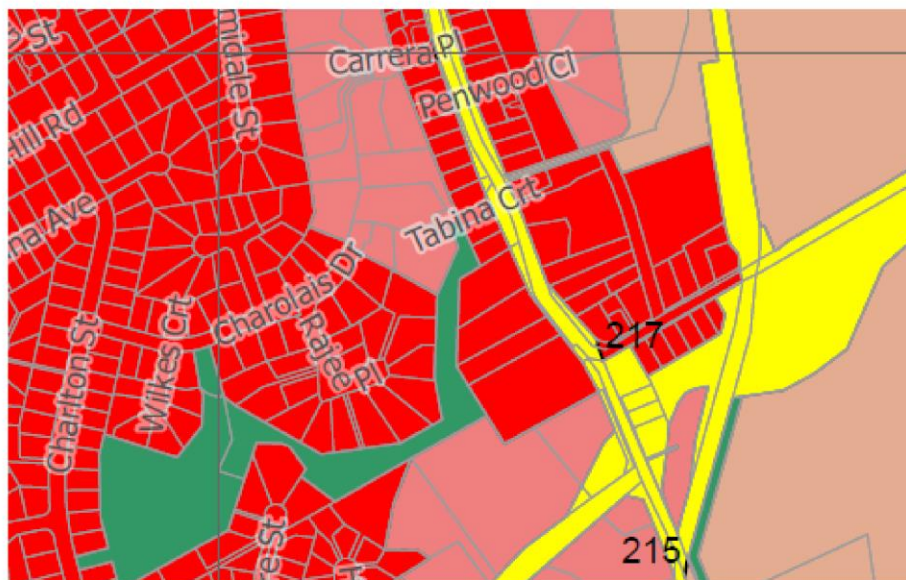


Figure 7 Launceston Draft LPS

The Greater Launceston Plan also advocates the use of suitable land for medium density development

<sup>1</sup> Appendix 2, Residential Zones Project Report P5

*The analysis of development change over the past 30 years indicates that approximately two-thirds of residential development in this period was in low density and rural residential development. The Greater Launceston Plan through its policy framework and its supporting physical plans, advocate strongly for standard density residential and for a mix of multiple units at closer densities where there were opportunities to provide new strategic directions for future residential development.<sup>2</sup>*

And further,

*In summary, the residential development policies provided by the GLP place an emphasis on urban consolidation and the delivery of an efficient and compact city form.<sup>3</sup>*

The potential of this site to help realise the strategic goal of housing infill has been established. The site has planning approval for 24 dwellings. There is no strategic reasoning, or community benefit in limiting the use of 1.16 ha to two single dwellings.

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<sup>2</sup> Greater Launceston Plan, P 60

<sup>3</sup> Ibid P 63

### 3. CONCLUSION

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The Clause 103 of the Local Government (Building and Miscellaneous Provisions) Act, 1993, makes provision for council to amend a selected plan to bring it into conformity with rights and duties made under a statutory power, or b) on the application of a person having an interest in land subject to the plan.

Whilst this application is made under subclause b) on behalf of the owners of the land, there is a strong argument that the proposed amendments bring the site into greater conformity with the provisions of the planning scheme, and strategies of residential land supply on serviced land.

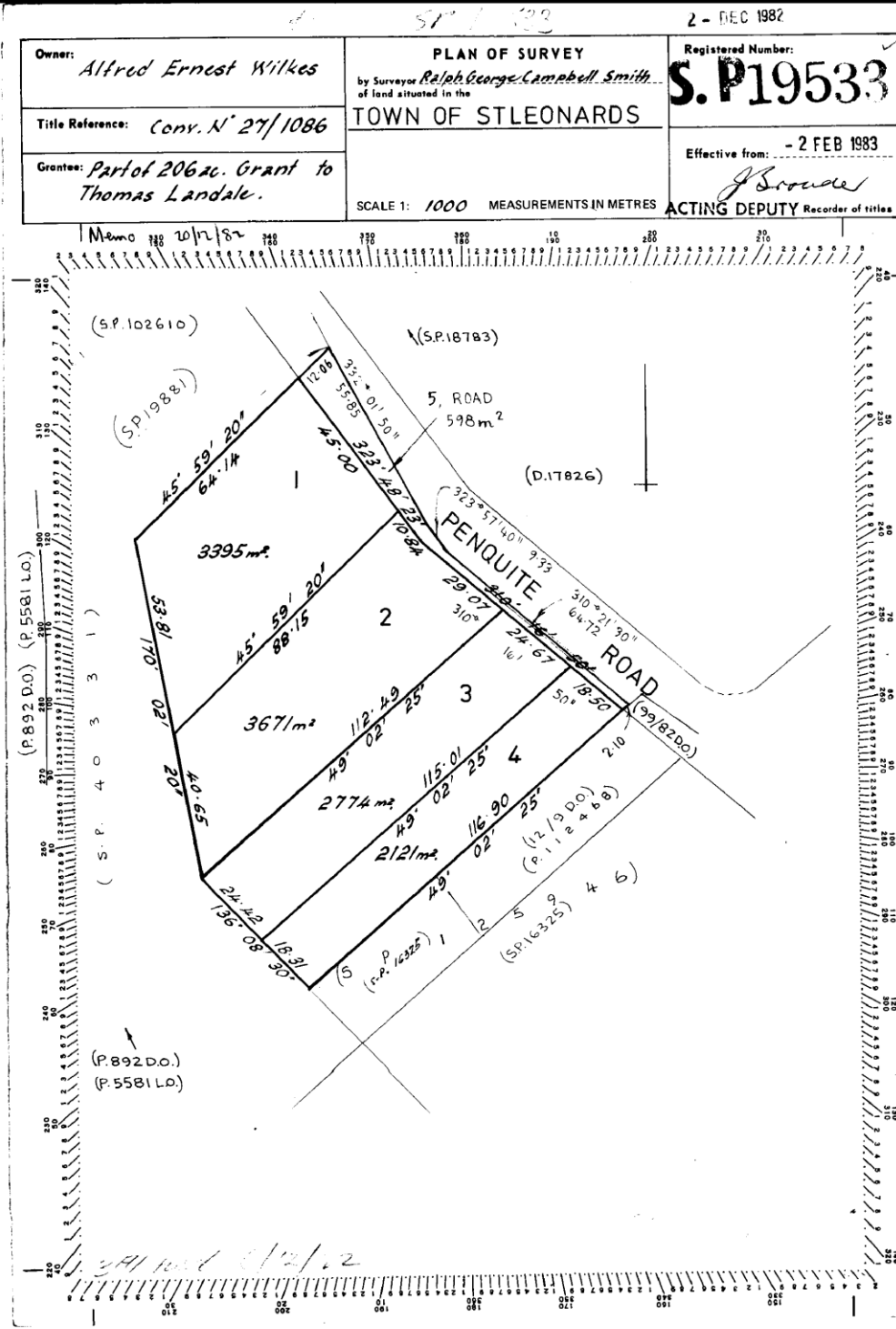
There is no apparent purpose to the unreasonable impediments placed on the reasonable development potential of the site.



FOLIO PLAN

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980

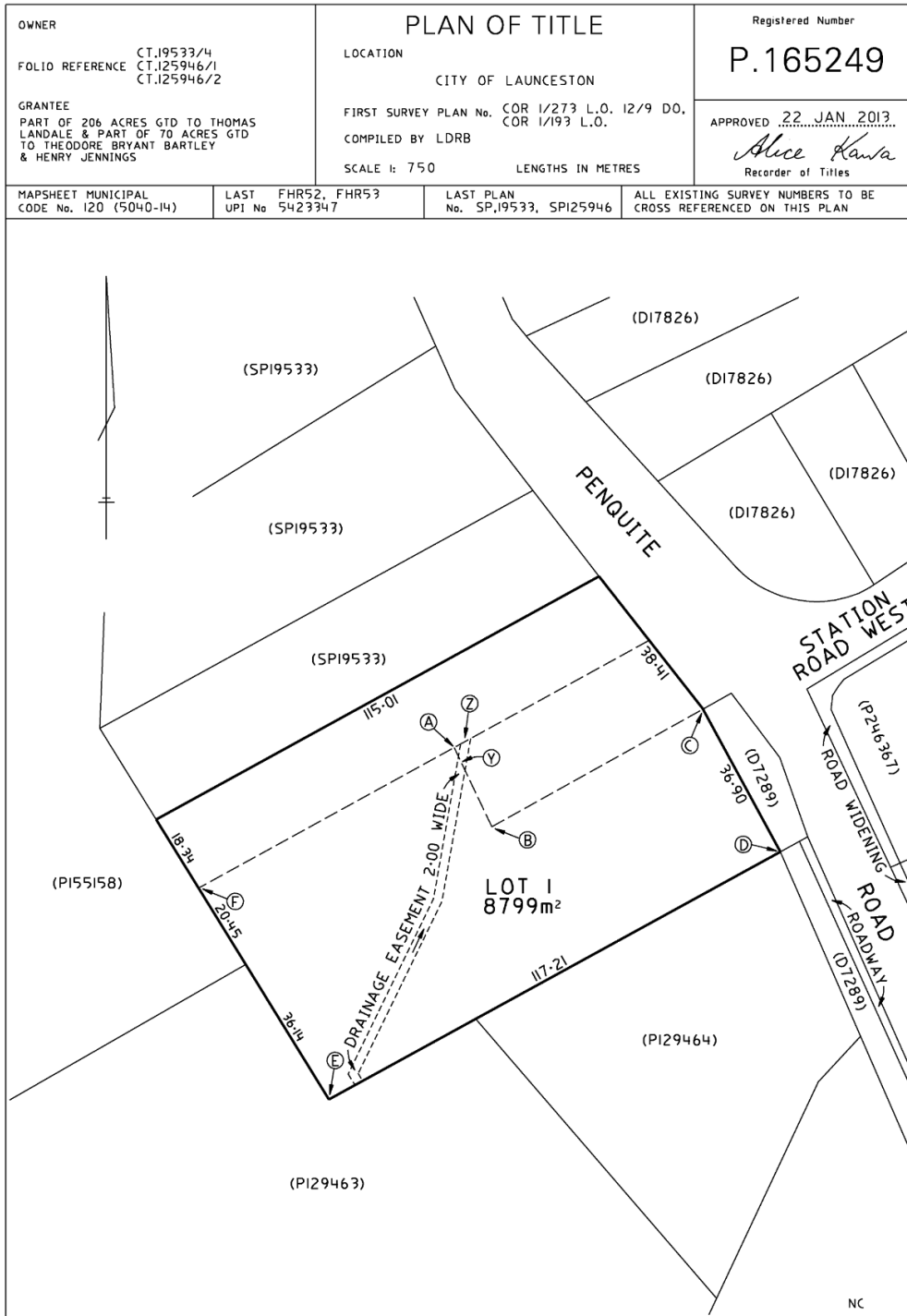






**FOLIO PLAN**  
RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980





## RESULT OF SEARCH

RECORDER OF TITLES

*Issued Pursuant to the Land Titles Act 1980***SEARCH OF TORRENS TITLE**

VOLUME 19533	FOLIO 3
EDITION 5	DATE OF ISSUE 24-Sep-2020

SEARCH DATE : 24-Nov-2021

SEARCH TIME : 12.43 PM

DESCRIPTION OF LAND

City of LAUNCESTON

Lot 3 on Sealed Plan 19533

Derivation : Part of 206 Acres Gtd. to T. Landale

Prior CT 4002/48

SCHEDULE 1

E195891 TRANSFER to JOHN ERNEST TCHAPPAT, ALISTAIR JAMES  
KNIGHT, PETER GEOFFREY WOOLSTON, RODNEY MARK GLENN  
and GRANT DANIEL ROSE Registered 24-Sep-2020 at noon

SCHEDULE 2

Reservations and conditions in the Crown Grant if any

SP 19533 COVENANTS in Schedule of Easements (if any)

SP 19533 FENCING COVENANT in Schedule of Easements

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



## RESULT OF SEARCH

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980



### SEARCH OF TORRENS TITLE

VOLUME 165249	FOLIO 1
EDITION 2	DATE OF ISSUE 24-Sep-2020

SEARCH DATE : 24-Nov-2021

SEARCH TIME : 12.44 PM

### DESCRIPTION OF LAND

City of LAUNCESTON

Lot 1 on Plan 165249

Derivation : Part of 206 Acres Gtd. to T. Landale and Part of  
70 Acres Gtd. to T.B. Bartley & Anor

Prior CTs 19533/4, 125946/1 and 125946/2

### SCHEDULE 1

E195891 TRANSFER to JOHN ERNEST TCHAPPAT, ALISTAIR JAMES  
KNIGHT, PETER GEOFFREY WOOLSTON, RODNEY MARK GLENN  
and GRANT DANIEL ROSE Registered 24-Sep-2020 at noon

### SCHEDULE 2

Reservations and conditions in the Crown Grant if any

SP16325 & SP19533 COVENANTS in Schedule of Easements

SP16325, SP19533 & SP125946 FENCING COVENANT in Schedule of  
Easements

SP125946 BURDENING EASEMENT: A Right of Drainage in favour of  
the Launceston City Council over the Drainage  
Easement 2.00 wide on P165249

SP125946 BENEFITING EASEMENT: (appurtenant to the land marked  
ABCDEF on P165249) a Right of Drainage over the  
Drainage Easement 2.00 wide marked YZ on P165249

D34937 ADHESION ORDER under Section 110 of the Local  
Government (Building and Miscellaneous Provisions)  
Act 1993 Registered 24-Jan-2013 at noon

### UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations





**SCHEDULE OF EASEMENTS**

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980



**SCHEDULE OF EASEMENTS**

PLAN NO. **S.P19533**

NOTE:—The Town Clerk or Council Clerk must sign the certificate on the back page for the purpose of identification.

The Schedule must be signed by the owners and mortgagees of the land affected. Signatures should be attested.

EASEMENTS AND PROFITS

Each lot on the plan is together with:—

- (1) such rights of drainage over the drainage easements shewn on the plan (if any) as may be necessary to drain the stormwater and other surplus water from such lot; and
- (2) any easements or profits à prendre described hereunder.

Each lot on the plan is subject to:—

- (1) such rights of drainage over the drainage easements shewn on the plan (if any) as passing through such lot as may be necessary to drain the stormwater and other surplus water from any other lot on the plan; and
- (2) any easements or profits à prendre described hereunder.

The direction of the flow of water through the drainage easements shewn on the plan is indicated by arrows.

COVENANTS:

The Owner of each Lot shown on the Plan covenants with the Vendor (Alfred Ernest Wilkes) that the Vendor shall not be required to fence.

The Owner of each Lot shown on the Plan covenants with the said Alfred Ernest Wilkes and the Owners for the time being of the balance or any part thereof to the intent that the burden of these covenants may run with and bind the Covenantor's Lot and every part thereof and that the benefit thereof may be annexed to and devolve with the balance and each and every part thereof to observe the following stipulations namely:—

- (a) That there shall not be erected on <sup>such</sup> ~~any~~ Lot any buildings (exclusive of outbuildings) of a less value than Fifteen thousand dollars such value to be the actual cost of labour and materials only and any question as to value shall be settled by the Vendor or the Vendor's agent to whom all necessary vouchers shall be produced;
- (b) That the main building erected on <sup>such</sup> ~~any~~ Lot shall not be used for any purpose other than a private dwelling house;
- (c) That no engine or machinery worked or driven by steam gas electricity or other mechanical power and used for <sup>such</sup> ~~any~~ trade operations shall be erected affixed or placed on any part of <sup>such</sup> ~~any~~ Lot and no trade <sup>such</sup> ~~any~~ manufactory or business whatsoever shall be carried on on any part of <sup>such</sup> ~~any~~ Lot (but the letting of residential flats shall be deemed to be a trade or business within the meaning of these covenants;)
- (d) That not more than one main building shall be erected on <sup>such</sup> ~~any~~ Lot.
- (e) That no dwelling house or outbuilding with outer walls of asbestos sheeting or any other similar materials shall be erected on <sup>such</sup> ~~any~~ Lot;
- (f) That there shall not be erected any building or outbuilding (excluding carport) on <sup>such</sup> ~~any~~ lot with outer walls other than of masonry brick or brick veneer construction;

THIS COPY SCHEDULE CONSISTS OF 2 PAGE.



SCHEDULE OF EASEMENTS

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980



S.P.

- (g) That no hoarding or other structure for the purpose of exhibiting any advertisement or sign shall be erected or placed or suffered to be upon any part of ~~any~~ Lot other than shall relate to the letting of any Lot;
- (h) Not to subdivide the ~~Lot~~ <sup>said</sup> Lot into ~~smaller~~ <sup>smaller</sup> lots nor alter nor amend the subdivision plan as it relates to ~~each~~ <sup>such</sup> Lot in any way without the Vendor's consent first had and obtained;
- (i) That other than domestic animals approved of by the Vendor no animals or birds of any kind shall be kept or permitted or suffered to be kept upon ~~any~~ <sup>such</sup> Lot;

AND the Vendor (the said Alfred Ernest Wilkes) reserves the right for himself and his heirs personal representatives and assigns to sell lease or otherwise deal with the balance or any part thereof subject to the above conditions and restrictive covenants or any one of them or not and subject to such modifications or amendments or full release thereof as he thinks fit.

The exercise of the said right in relation to the balance or any part thereof shall not release the Owner of any Lot from any of the conditions or covenants effected or imposed upon the balance or any part thereof or give to the Owner of the balance or any part thereof any right of action against the said Alfred Ernest Wilkes or any other person or persons.

INTERPRETATION:

Balance means the balance of the land remaining in Indenture of Conveyance No. 27/1086 vested in the Vendor at this date of acceptance hereof after excluding the Lots in the Plan.

SIGNED by the said ALFRED ERNEST )  
 )  
 WILKES the Beneficial Owner of the )  
 )  
 land in Indenture of Conveyance No. )  
 )  
 27/1086 in the presence of:- )

*A E Wilkes*

*David Russell*  
Solicitor  
Launceston



SCHEDULE OF EASEMENTS

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980



This is the schedule of easements attached to the plan of Alfred Ernest WILKES  
*(Insert Subdivider's Full Name)*

..... affecting land in

CONV. No. 27/1086

*(Insert Title Reference)*

Sealed by ..... 25th ..... on OCTOBER 19 82

Solicitor's Reference ..... *Shirley Wilson* .....

60905

*Shirley Wilson*  
Council Clerk/~~Town Clerk~~

### **Attachment 2 - Sections 103 104 and 105 Local Government (Building and Miscellaneous Provisions) Act 1993**

3/11/22, 4:06 PM LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 103 Amendment of sealed pl...



**Australasian Legal Information Institute**

Tasmanian Consolidated Acts

### **LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 103 Amendment of sealed plans**

**LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT  
1993 - SECT 103**

**Division 5 - Amendments of sealed plans Amendment of sealed plans**

(1) When a plan has taken effect, it may be amended by the council –

(a) of its own motion –

(i) to do anything that the council could do under any other power subject to any conditions precedent to the exercise of the power relied on; or

(ii) to bring the plan into conformity with any change in the rights and duties of land owners made under a statutory power; or

3/11/22, 4:06 PM

LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 103 Amendment of sealed pl...

(b) on the application of any person having an interest in land subject to the plan.

(2) If a council acts on its own motion, it is to serve a notice in writing to all persons appearing by the registers under the [Land Titles Act 1980](#) and the [Registration of Deeds Act 1935](#) to have an estate or interest at law affected by the proposed amendment.

(3) A person is to –

(a) make an application under subsection (1) by petition; and

(b) serve a copy of the petition on all persons appearing by the registers under the [Land Titles Act 1980](#) and the [Registration of Deeds Act 1935](#) to have an estate or interest at law affected by the proposed amendment.

(4) Any person affected by the proposed amendment may ask to be heard in support or opposition.

(5) If a notice is not given or a petition is not served as required by this section, subsequent proceedings are not void.

3/11/22, 4:07 PM

LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 104 Hearing in respect of a...

**Australasian Legal Information Institute****Tasmanian Consolidated Acts****LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 104  
Hearing in respect of amendment of plans****LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT  
1993 - SECT 104****Hearing in respect of amendment of plans**

(1) At the end of 28 days after the last notice is served or the last petition is served as required by [section 103](#) (2) or (3) , the council

–

(a) may, if no person has asked to be heard in opposition, cause the amendment to be made; or

(b) if a person has asked to be heard, is to appoint a day for hearing any petitioner and those persons who have asked to be heard.

(2) A hearing is to be by the council or a council committee who may –

(a) hear persons who have asked to be heard after the period referred to in subsection (1) ; and

(b) obtain the assistance of legal practitioners, architects, engineers and surveyors.

(3) On the conclusion of the hearing, the council may –

(a) cause the amendment to be made with or without modification; and

3/11/22, 4:07 PM

LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 104 Hearing in respect of a...

(b) require as a condition of so doing that any person who benefits the amendment is to make compensation in money or land to a person who is injured by it.

(4) The council may, with the consent of all persons concerned, act as provided in subsection (3) .

(5) The Recorder of Titles may call in and cancel or correct any certificate of title affected by amendments.

3/11/22, 4:07 PM

LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 105 Compensation in respec...

**Australasian Legal Information Institute****Tasmanian Consolidated Acts****LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 - SECT 105  
Compensation in respect of amendments****LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT  
1993 - SECT 105****Compensation in respect of amendments**

(1) Subject to subsection (2) , a person adversely affected by an amendment is entitled to compensation by the council if –

(a) having asked to be heard under [section 103 \(4\)](#) , the person gave the council notice of the claim at or before the hearing; or

(b) within 60 days of having been served a notice or petition under [section 103 \(2\)](#) or [\(3\)](#) , the person gave the council notice of the claim; or

(c) not having been given notice or served a petition, the person gave the council notice of the claim within 60 days of learning that he or she was affected by the amendment.

(2) If compensation is payable under subsection (1) , the council may recover against the petitioner and any person heard or asking to be heard in support of the amendment to the extent to which they benefited by the amendment.



**DELEGATED REPORT**  
**Discretionary Development Application CERTIFICATION OF PLANS**  
**REQUIRED BY CONDITIONS**

**APPLICATION DETAILS**

<b>File Number</b>	DA0148/2014
<b>Original Assessment Officer</b>	George Walker
<b>Responsible Officer</b>	Catherine Mainsbridge
<b>Description of Application</b>	Residential - multiple dwellings; amalgamation of 2 titles, demolition of 2 sheds, 2 dwellings and former church building; construction and use of 24 multiple dwellings; site works; vegetation removal
<b>Permit Issued</b>	30/05/2018

**SITE DETAILS**

<b>Property Address</b>	304 Penquite Road and 308 Penquite Road, Norwood
<b>Zone</b>	General Residential

**1. AMENDMENT PROPOSAL**

**1.1 Background**

Development Permit DA0148/2014 was issued on the 30/05/2018 for Residential - multiple dwellings; amalgamation of 2 titles, demolition of 2 sheds, 2 dwellings and former church building; construction and use of 24 multiple dwellings; site works; vegetation removal at 304 Penquite Road and 308 Penquite Road, Norwood subject to the provisions of the Launceston Interim Planning Scheme 2015.

The approval required lodgement of endorsed plans:

**2. AMENDED PLAN REQUIRED**

Prior to the commencement of the development and use, amended plans must be submitted for approval by the Manager Planning Services Department. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided.

The plans must show:

Pedestrian Access and Internal Road

- (a) A continuous footpath from the pedestrian gate on the frontage around one side of the internal loop road which is:

- a minimum of 1.5 metre wide between townhouses 6 and 12,
  - provided with a concrete kerb with a minimum height of 150mm to provide vertical separation,
  - visually differentiated from the loop road and the driveways from the loop road to the parking areas/garages i.e. contrasting pavement colours or surface treatment or material type,
  - handrails where retaining walls create differences in level exceeding 1.00 metre
- (b) Provision of hand rails and wheel stops in parking areas where retaining walls create differences in level exceed 1.00 metre or pose a hazard to vehicles or people,
- (c) Provision of signage to indicate the direction of traffic flow around the loop road.

#### Private Open Space - Townhouses 6 and 7

- (a) The identification of the boundary and fence between Townhouses 6 and 7 on all plans shall be as it is shown on Drawing No. PD13202-01, Revision 3.

#### Parking

- (a) Deletion of the taxi parking space.
- (b) Provision of one (1) additional car parking space, to increase the overall provision to 54 spaces.
- (c) Provision of one (1) addition parking space for persons with a disability, to increase the overall supply to three (3) disability spaces.

The amended plans must be drawn to scale with dimensions and four copies must be provided. When approved by the Manager Planning Services Department the plans will be endorsed and will then form part of the permit and shall supersede the original endorsed plans.

Note:

The titles have a covenant over some of the land to prohibit multiple dwellings. The covenant was not removed following a request, followed by appropriate hearings. While this restriction applies the planning permit under the Act remains valid. The applicant has provided the following statement:

"The intent of the site owners is to construct the development approved under the current permit to the limit the covenant will allow. The first step is to commence demolition on the site to ensure substantial commencement is

achieved by the 10<sup>th</sup> June. A contractor has been booked in for Tuesday next week to start works and we have applied for a start works notice for this. Detailed architectural and civil design is also underway. There is no intention to sell a vacant site."

## 1.2 Amendment Proposal

Amended plans have been lodged to address the concerns. The plans have also been referred to Infrastructure Services and following a request appropriate plans have further been lodged.

The permit does not list the plans to be endorsed individually but refers to an Annexure A. Annexure A is amended in relation to the following amended plans:

Site Plan	PD13202	01	03	18/05/2018
Private Open Space Plan	PD13202	04	03	18/05/2018
Site Set Out Plan	PD13202	05	04	18/05/2018
Landscaping Plan	PD13202	06	04	18/05/2018
Private and Communal Spaces	PD13202	07	03	18/05/2018
Privacy Protection Plan	PD13202	08	03	18/05/2018

Annexure A states:

Annexure A

Endorsed plans and documents for planning permit DA0148/2014

1. The following plans prepared by Prime Design:

Title	Project No.	Sheet No.	Revision	Date
TH1	PD13202	01-07	01	28/02/2014
TH2	PD13202	01-06	01	03/03/2014
TH3	PD13202	01-06	01	28/02/2014
TH4	PD13202	01-06	01	28/02/2014
TH5	PD13202	01-06	01	28/02/2014
TH6	PD13202	01-06	01	03/03/2014
TH7	PD13202	01-06	01	28/02/2014
TH9	PD13202	01-07	01	03/03/2014
TH10	PD13202	01-06	01	03/03/2014
TH11	PD13202	01-07	01	03/03/2014
TH12	PD13202	01-07	01	03/03/2014
TH13	PD13202	01-07	01	03/03/2014
TH14	PD13202	01-06	01	03/03/2014
TH15	PD13202	01-07	01	27/03/2014

TH16	PD13202	01-06	01	03/03/2014
TH17	PD13202	01-06	01	03/03/2014
TH18	PD13202	01-07	01	28/02/2014
TH19	PD13202	01-06	01	28/02/2014
TH20	PD13202	01-07	01	28/02/2014
TH21	PD13202	01-07	01	03/03/2014
TH22	PD13202	01-06	01	28/02/2014
TH23	PD13202	01-06	02	20/03/2014
TH24	PD13202	01-07	02	20/03/2014
TH25	PD13202	01-07	02	20/03/2014
Site Analysis Plan	PD13202	02	04	27/03/2014
Demolition Plan	PD13202	03	04	27/03/2014
Existing/Untouched Units	PD13202	09	03	27/03/2014
Cut and Fill Volumes	PD13202	10	03	27/03/2014
Site Sections	PD13202	11	03	27/03/2014
Site Section	PD13202	12	03	27/03/2014
3D Building Envelope	PD13202	13	03	27/03/2014
Civil Services	J1430054CL	C01	P1	14/04/2014
Road 1 Long Section	J143005PH	C02	P1	14/04/2014
Road 2 Long Section	J143005PH	C03	P1	14/04/2014
X Sections Road 1 Chainage 0.00 to 50	J143005PH	C04	P1	14/04/2014
X Sections Road 1 Chainage 60 to 104	J143005PH	C05	P1	14/04/2014
X Sections Road 1 Chainage 85 to 105	J143005PH	C06	P1	14/04/2014
X Sections Road 2 Chainage 0 to 120	J143005PH	C07	P1	14/04/2014
X Sections Road 2 Chainage 130 to 136	J143005PH	C08	P1	14/04/2014
Shadow Diagram 9am June 21st	PD13202	SD01	03	27/03/2014
Shadow Diagram 10am June 21st	PD13202	SD02	03	27/03/2014
Shadow Diagram 11am June 21st	PD13202	SD03	03	27/03/2014
Shadow Diagram 12pm June 21st	PD13202	SD04	03	27/03/2014
Shadow Diagram 1pm June 21st	PD13202	SD05	03	27/03/2014
Shadow Diagram 2pm June 21st	PD13202	SD06	03	27/03/2014
Shadow Diagram 3pm June 21st	PD13202	SD07	03	27/03/2014
Shadow Diagram 4pm June 21st	PD13202	SD08	03	27/03/2014
Shadow Diagram 5pm June 21st	PD13202	SD09	03	27/03/2014

Site Plan	PD13202	01	03	18/05/2018
Private Open Space Plan	PD13202	04	03	18/05/2018
Site Set Out Plan	PD13202	05	04	18/05/2018
Landscaping Plan	PD13202	06	04	18/05/2018
Private and Communal Spaces	PD13202	07	03	18/05/2018
Privacy Protection Plan	PD13202	08	03	18/05/2018

2. Development Application Planning Report Project No. J143005PH prepared by JMG Engineers & Planners dated 7 May 2014;
3. Services Report Project No. J143005PH prepared by JMG Engineers & Planners dated 11 April 2014;
4. Geotechnical Investigation Project No. GL090129b prepared by Geoton Pty Ltd dated 31 July 2009;
5. Traffic Impact Assessment prepared by Milan Prodanovic Traffic Engineering and Safety dated April 2010 inclusive of the cover letter dated 26 February 2014;
6. Addendum to the Traffic Impact Assessment prepared by Milan Prodanovic Traffic Engineering and Safety dated May 2014;

## 2. CONCLUSION AND RECOMMENDATION

### 3.1 Recommendation

It is recommended the plans be endorsed and form part of permit DA0148/2014

<b>Catherine Mainsbridge</b>	<b>Richard Jamieson</b>
<b>Senior Town Planner</b>	<b>MANAGER CITY DEVELOPMENT</b>
Date: 31 May 2018	Date: 31/05/2018

**20 CHIEF EXECUTIVE OFFICER NETWORK ITEMS**

No Items have been identified as part of this Agenda

**21 CLOSED COUNCIL**

*This decision requires an absolute majority of Council*

**RECOMMENDATION:**

That Council moves into Closed Session to consider the following matters:

**21.1 Confirmation of the Minutes**

Regulation 35(6) of the *Local Government (Meeting Procedures) Regulations 2015* states that at the next closed meeting, the minutes of a closed meeting, after any necessary correction, are to be confirmed as the true record by the council or council committee and signed by the chairperson of the closed meeting.

**21.2 End of Closed Session**

*To be determined in Closed Council.*

**22 MEETING CLOSURE**

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