



LAUNCESTON CITY COUNCIL

COUNCIL AGENDA

**COUNCIL MEETING
MONDAY 22 JULY 2013**

LAUNCESTON CITY COUNCIL

COUNCIL AGENDA

Monday 22 July 2013

Notice is hereby given that the Ordinary Meeting of the Launceston City Council will be held at the Council Chambers -

Date: 22 July 2013

Time: 1.00 pm

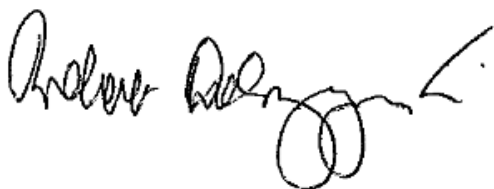
Section 65 Certificate of Qualified Advice

Background

Section 65 of the Local Government Act 1993 requires the General Manager to certify that any advice, information or recommendation given to council is provided by a person with appropriate qualifications or experience.

Declaration

I certify that persons with appropriate qualifications and experience have provided the advice, information and recommendations given to Council in the agenda items for this meeting.

A handwritten signature in black ink, appearing to read 'Robert Dobrzynski', with a stylized flourish at the end.

Robert Dobrzynski
General Manager

LAUNCESTON CITY COUNCIL

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1 OPENING OF MEETING - IN ATTENDANCE AND APOLOGIES

2 DECLARATION OF PECUNIARY INTERESTS

3 CONFIRMATION OF MINUTES

RECOMMENDATION:

1. That the Minutes of the meeting of the Launceston City Council held on 8 July 2013 be confirmed as a true and correct record.
2. That the Minutes of the meeting of the Launceston City Council held on 8 July 2013 in closed session be confirmed as a true and correct record.

4 DEPUTATION

Nil

5 ANSWERS FROM PREVIOUS PUBLIC AND ALDERMEN'S QUESTION TIME

Meeting Date	Item No.	Question	Answer	Officer Responsible
8 July 2013	6.1	<p>Mr Paul Bullock asked:</p> <p>Would Council review the position of the Island outside of 110 Talbot Road, South Launceston?</p>	<p>The question was taken on notice.</p> <p>Reply by Harry Galea, Director Infrastructure Services: The matter raised, that has not been previously addressed concerns the long interruption to traffic while the kerbside contractor collects a significant number of wheelie bins at the grouped housing development.</p> <p>Mr Bullock indicated that delayed traffic back-up to 5 Ways and understandingly frustrates drivers.</p> <p>ISD are coordinating with the contractor to observe and measure the traffic effects. ISD will inform Mr Bullock and Aldermen (via the Bulletin) of the results and consequential action.</p>	Harry Galea
8 July 2013	9.1	<p>Aldermen's Question: Alderman R L Armitage asked:</p> <p>Regarding the Cimitiere/Cameron Street Car park and the markets that take place there, are there any plans to put toilets in that area since there are some in City Park located within 100m from this car park? Given toilets at City Park could be used, does the Market still need to provide toilets?</p>	<p>This question was taken on notice</p> <p>Further Reply: There are no plans to construct toilets at the Cimitiere/Cameron Street car park. It is a requirement under the Building Code of Australia (BCA) that accessible toilets be provided within 50m of a public event, such as the Harvest Market. Following acceptable paths of travel the distance from the market site to the existing toilets are approximately: City Park Toilets = 215 metres Clarion Toilets = 170 metres Leisure living access toilet = 145 metres.</p> <p>Accordingly, it is a requirement under the BCA that accessible toilets be provided for the market. Council officers are currently liaising with the market operators to determine a mutually acceptable means of achieving compliance.</p>	Michael Stretton

Meeting Date	Item No.	Question	Answer	Officer Responsible
24 July 2013	9.1	<p>Aldermen's Question: Alderman J D Ball asked:</p> <p>As part of Meet the Neighbours campaign, is it envisaged that we move to allow Meet The Streets and can we investigate what insurance cover is needed to implement that?</p>	<p>Response provided at meeting - this question was taken on notice</p> <p>Further Reply: A street party kit is being developed and will be released later this year. The Street Party Kit and the Meet the Neighbours Projects are both elements of the Connected Communities (community resilience) Initiative that has been developed by the Community, Tourism and Events Department. The availability of suitable insurance options for organisers of street parties is being investigated as part of development of the street party kits.</p>	Michael Stretton

6 PUBLIC QUESTION TIME

7 ANNOUNCEMENTS BY THE MAYOR

7.1 Acting Mayor's Announcements

FILE NO: SF2375

Monday 8 July

- Officiated at NBN Media Launch at Town Hall
- Officiated at NAIDOC Flag Raising Ceremony

Wednesday 10 July

- Attended Tasmanian State Government Newnham Community Forum

Thursday 11 July

- Officiated at Launceston Competitions - Dance Section

Friday 12 July

- Officiated at Design Centre's Information and Network event and launch of "*Winter in Design*" Program

Saturday 13 July

- Attended Rocherlea Football Club Indigenous Day Celebrations and football match
- Attended Family Night celebration of the 2nd Anniversary of the Independence of the Republic of South Sudan

Wednesday 17 July

- Attended Opening Performance of Fawlty Towers 2 at Princess Theatre

Thursday 18 July

- Attended Northern Police District Annual Performance Review

Friday 19 July

- Attended Boags Brewery VIP Event with Premier Lara Giddings MP; Hon Scott Bacon MP and Christopher Zhang
 - Attended ABC Giving Tree Sports Night Fundraising Event
-

8 ALDERMEN'S/DELEGATES' REPORTS

9 QUESTIONS BY ALDERMEN

10 COMMITTEE REPORTS**10.1 Northern Youth Coordinating Committee 4 July 2013****FILE NO:** SF0136**AUTHOR:** Wendy Newton (Youth and Community Officer)**DIRECTOR:** Michael Stretton (Director Development Services)

DECISION STATEMENT:

To consider a report from the Northern Youth Coordinating Committee's meeting held on 4 July 2013..

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That further to the meeting of the Northern Youth Coordinating Committee held on 4 July 2013, the Council:

- 1) Note the Committee's response to the Department of Health and Human Services Discussion Paper *A Continuum of Care to Prevent Youth Offending and Re Offending*; and
 - 2) Receive the meeting report.
-

REPORT:

The meeting of the Northern Youth Coordinating Committee held on 4 July 2013 agreed that:

1. The Committee's response to the Department of Health and Human Services Discussion Paper *A Continuum of Care to Prevent Youth Offending and Re Offending* to be placed on the Council Agenda for noting;
 2. A representative from Tasmanian Police to be invited to join the Committee; and
 3. Elizabeth Daly, the interim Commissioner for Children, to be invited to attend the next Committee meeting on 5 September.
-

10.1 Northern Youth Coordinating Committee 4 July 2013...(Cont'd)

Northern Youth Coordinating Committee's response to the Department of Health and Human Services Discussion Paper, *A Continuum of Care to Prevent Youth Offending and Re Offending*

In April 2013, the Department of Health and Human Services through the Department of Children and Youth Services released its Discussion Paper, *A Continuum of Care to Prevent Youth Offending and Re Offending*, asking for written submissions by 1 July 2013.

The Discussion Paper includes the following key areas for comment:

- The increase in offending by young women;
- The higher proportion of young people in Tasmania under Youth Justice supervision compared with other Australian states and territories;
- The over-representation of Indigenous young people in the Tasmanian Youth Justice system;
- Primary intervention and prevention strategies;
- Secondary intervention and prevention strategies; and
- Tertiary intervention and prevention strategies.

The attached report is a summary of responses collated from Northern Youth Coordinating Committee (NYCC) members who attended a special meeting on 6 June or who provided written comment for inclusion. This report has been endorsed by NYCC, including the following endorsement by Jane Douglas, Area Manager, Community Youth Justice Services North:

"This feedback is great. A good analysis of the issues and sensible strategies for improving intervention with at risk young people. Thank you!"

NYCC is a Special Committee of Launceston City Council as defined in the *Local Government Act (Tas)* 1993, s.24, and was established as a result of the Burdekin Report 1991.

10.1 Northern Youth Coordinating Committee 4 July 2013...(Cont'd)

The primary purpose of NYCC is to provide an opportunity for federal, state, local government and non-government youth service providers to share information, develop partnerships and collaborate in order to improve the coordination of the northern Tasmanian youth sector. NYCC's aim is to provide a way for services to work cooperatively on youth issues. By working together, agencies can share resources to provide the best range of appropriate services to young people. There are currently over 100 members from a wide range of agencies and departments who represent a range of youth services.

Under the Terms of Reference, NYCC has a role in providing advice to State and Federal Governments on specific matters relating to youth. The Committee also has authority to make decisions on responding to industry consultations and providing advice to State and Federal Governments on specific matters relating to youth.

ECONOMIC IMPACT:

A state/region that can demonstrate sound Youth Justice strategies will enable a reduction in youth offending and re-offending, minimising the cost to Council and the community in repairing the social, physical and economic damage caused by disaffected youth.

ENVIRONMENTAL IMPACT:

N/A

SOCIAL IMPACT:

A state/region that can demonstrate sound Youth Justice strategies will enable a reduction in youth offending and re-offending, creating a safer, more inclusive community with greater opportunities for young people to participate in the social and economic benefits of the region.

STRATEGIC DOCUMENT REFERENCE:

Launceston Community Plan:

PF2.2 STRATEGY TWO: Foster the capacity of young people

PF2.3 STRATEGY THREE: Improve access that young people have to services

10.1 Northern Youth Coordinating Committee 4 July 2013...(Cont'd)

BUDGET & FINANCIAL ASPECTS:

N/A

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.


Michael Stretton: Director Development Services

ATTACHMENTS:

1. A Continuum of Care to Prevent Youth Offending and Re Offending Discussion Paper - Comments provided by the Northern Youth Coordinating Committee.
-

A CONTINUUM OF CARE TO PREVENT YOUTH OFFENDING AND RE-OFFENDING

Section 1: Personal Details

Name Wendy Newton, Northern Youth Coordinating Committee

Postal address PO Box 396
Launceston TAS 7250

Contact details Phone: (03) 6323 3327
Email: Wendy.Newton@launceston.tas.gov.au

Section 2: Additional Details

Postcode 7250

What is your interest in youth offending?

The Northern Youth Coordinating Committee is a Special Committee of Launceston City Council as defined in the *Local Government Act (TAS) 1993*, s. 24.

The primary purpose of the Northern Youth Coordinating Committee is to provide an opportunity for Federal, State and Local Government and non-government youth service providers to come together to achieve a more coordinated approach to youth issues across Northern Tasmania.

Do you work or volunteer with an organisation that promotes pro social pathways for young people? Please specify.

Yes. The Northern Youth Coordinating Committee currently has over 100 members from various youth service providers in northern Tasmania, including Youth Justice North, Whitelion, Fusion, Meenah Mienne, Youth on Paterson, Relationships Australia, Cornerstone Youth Services, Anglicare's Supported Youth Program, Launceston College and five northern council youth development officers, to name a few. All members would either work or volunteer with an organisation that promotes pro social pathways for young people.

What is the name of this organisation?

The Northern Youth Coordinating Committee

What is your role?

Convenor

What types of activities do you perform for this organisation?

Convening meetings, drafting Agendas, writing Minutes, collating and drafting Council reports, responding to State and Federal Government discussion papers on youth issues.

If you are a volunteer, approximately how many hours would you volunteer per month?

N/A

RESPONSE FROM THE NORTHERN YOUTH COORDINATING COMMITTEE

AN OVERVIEW OF YOUTH OFFENDING IN TASMANIA

Question 1.1.

What insights do you have into the increase in offending by young women?

- Overall there is an increase in risk factors and a decrease in protective factors (as listed in the discussion paper) for this cohort
- May be causally attributed to increase in drug and alcohol use in young women
- There is a general increasing trend in high risk-taking activities in young women (not just offending)
- There have been funding cuts for many programs that address young female offending e.g. Salvation Army's Break-free program which was very successful
- Existing mental health services are stretched and there is a link between mental health, self-harming and offending behaviours

Question 1.2

What factors may account for a higher proportion of young people in Tasmania being under youth justice supervision (community-based) than other states and territories?

All the listed risk factors are present in Tasmanian youth population, particularly:

- A lack of activities, particularly ones that are accessible, safe and free
- A lack of relevant services - and long waiting lists - particularly in regional and rural Tasmania
- Poor, non-sustainable funding, with many existing services under threat or vulnerable to funding cuts or changing funding priorities as state and federal governments change
- Poor employment opportunities with a high youth unemployment rate
- Poorer educational standards compared to national average, particularly poor retention rates post Grade 10

- Relatively few Indigenous-specific programs, particularly those linking young people to culture and heritage - and often these programs are vulnerable to changing funding priorities

Question 1.3

What do you believe is contributing to the over-representation of Indigenous young people in the Tasmanian Youth Justice system?

- Relatively few Indigenous-specific programs, particularly those linking young people to culture and heritage - and often these programs are vulnerable to changing funding priorities
- Indigenous population, in general, scores high on all risk factors
- Can often be a difficult cohort to engage with, with Councils, services and community groups having poor inclusion strategies; it can be difficult understanding how to connect with the 'right' people in order to engage with them
- It can be seen by some members of this cohort as a financial disadvantage to engage in pro-social activities

The extent of over-representation appears to increase as you move from diversionary youth justice to community youth justice to custodial youth justice, how would you account for this?

- Because they're not getting the relevant primary interventions

PRIMARY INTERVENTION AND PREVENTION STRATEGIES

Question 2.1

What observations have you made about the current options in Tasmania for primary intervention and prevention?

What's working well:

- Some Councils are implementing early intervention and education programs that aim to increase protective factors in young people
- School interventions, where available, such as having on-site counsellors, social workers, pathway planners, guidance counsellors, student support counsellors, etc - particularly the latter which includes attendance and retention focus
- Pro-active, rather than reactive strategies
- School holiday programs, after school activities, youth centres that are linked to services
- Whole-of-community partnerships that include multi-agency responses
- Specific programs with track records dealing with this cohort: e.g. RADAR, Youth on Paterson, Meenah Mienne, Whitelion

What isn't working well:

- Lack of sustainable funding, with specific services vulnerable to changing priorities within changing governments e.g. each of the services mentioned above are either currently under threat from lack of funding support, are at-risk, or have been in the past
- General lack of services with existing services stretched to capacity e.g. waiting lists can be up to 3 weeks for some services dealing in primary interventions. This is particularly difficult for rural and regional centres, where they may be reliant on outreach programs to service this cohort
- Councils are generally not funded for early intervention and education, however could be utilised more fully as a resource in this stage of the continuum
- Generally reactive strategies

Why do you think that's so?:

- Lack of long-term sustainable funding
- Lack of coordination of services

Question 2.2

What other best practice primary crime prevention strategies could be introduced in Tasmania for young people?

- Early intervention and education around antisocial behaviour i.e increasing protective factors and decreasing risk factors in Grades 5 -7.
- 'On the street' youth services
- Proactive, rather than reactive, strategies
- Multi-agency collaboration - an attitude that it's everyone's role to play in early intervention and prevention

Question 2.3

If you could only focus on one or two primary intervention or prevention strategies what would they be and why?

- We greatly need long term sustainably funded resilience programs in every Grade 5 - 7 class across Tasmania to increase protective factors. There is so much international research in this area that shows how resilience work connects young people peers, teachers, the school environment, resulting in better relationships, greater educational outcomes and a reduction in antisocial behaviour and crime.
- We greatly need sustainable and consistent funding to enable every school in Tasmania to have onsite school supports e.g. counsellors, social workers, pathway planners, guidance counsellors, student support counsellors, etc - particularly the latter which includes attendance and retention focus. If young people are not getting the support they need at home (which is often the case within this cohort), then they need it within the school system.

SECONDARY INTERVENTION AND PREVENTION STRATEGIES

Question 3.1

What observations have you made about the current options in Tasmania for secondary intervention and prevention?

- As before - lack of long-term sustainable funding, services being reduced, too many young people for the services available

Question 3.2

What other best practice secondary intervention and prevention strategies could be introduced in Tasmania for young people?

- School interventions, where available, such as having on-site counsellors, social workers, pathway planners, guidance counsellors, student support counsellors, etc - particularly the latter which includes attendance and retention focus

Question 3.3

If you could only focus on one or two secondary interventions and prevention strategies what would they be and why?

- We greatly need sustainable and consistent funding to enable every school in Tasmania to have onsite school supports e.g. counsellors, social workers, pathway planners, guidance counsellors, student support counsellors, etc - particularly the latter which includes attendance and retention focus. If young people are not getting the support they need at home (which is often the case within this cohort), then they need it within the school system.

TERTIARY INTERVENTION AND PREVENTION STRATEGIES

Question 4.1

What observations have you made about the current options in Tasmania for tertiary intervention and prevention?

What is working well:

- Community conferencing

What is not working well:

- Lack of bail options
- Lack of long-term transitioning programs
- Lack of resources within Youth Justice system, with increased need for community, rather than caseworker, supervision

Why do you think that's so?

- Young people need more options and longer-term support and mentoring systems, however there few services and continued funding cuts within existing services

Question 4.2

What other best practice tertiary intervention or prevention strategies could be introduced in Tasmania for young people?

- Long-term transitioning programs e.g U-turn participants are released with a two-year mentoring program
- Halfway houses
- Bail options
- Practical employment programs e.g Two Hands Coffee

Question 4.3

If you could only focus on one tertiary or prevention strategy under each of the following categories, what would they be and why?

Post release is the most critical strategy with two-year case management plans with mentors, etc

Question 5.2

How might we as a community best work out what proportion of funding to allocate to the different parts of the continuum i.e primary, secondary and tertiary?

The highest proportion of funding should be allocated to primary interventions (early intervention and education) in order to prevent offending in the first place, with the second highest funding allocated to tertiary strategies (post release) to enable effective transitioning.

10.2 Strategic Planning and Policy Committee Meeting - 15 July 2013**FILE NO:** SF4401**AUTHOR:** Daniel Gray (Committee Clerk / Administration Officer)**GENERAL MANAGER:** Robert Dobrzynski (General Manager)

DECISION STATEMENT:

To receive and consider a report from the Strategic Planning and Policy Committee.

RECOMMENDATION:

That the report from the Strategic Planning and Policy Committee Meeting held on 15 July 2013 be received.

REPORT:

The following item(s) were discussed at the meeting:

1. Deputation - South Launceston Football Club
2. Budget Allocation for Love Launceston City of Learning
3. Introduction of Health & Fitness Programs at Launceston Aquatic
4. Resource Recovery Centre and Resale Shop Progress Report
5. Aldermen's Bus Trip
6. Information / matters requiring further action

The following closed item(s) were discussed at the meeting:

7. AFL Football in Tasmania

ECONOMIC IMPACT:

There is no economic impact on the community.

ENVIRONMENTAL IMPACT:

There is no environmental impact on the community.

10.2 Strategic Planning and Policy Committee Meeting - 15 July 2013...(Cont'd)

SOCIAL IMPACT:

There is no social impact on the community.

STRATEGIC DOCUMENT REFERENCE:

Launceston City Council Strategic Plan - 2008-2013

5.5 Implement enhanced community engagement


BUDGET & FINANCIAL ASPECTS:

N/A

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.


Robert Dobrzynski: General Manager

10.3 Tender Review Committee Meeting - 15 July 2013**FILE NO:** SF0100**AUTHOR:** Raj Pakiarajah (Manager Projects)**DIRECTOR:** Harry Galea (Director Infrastructure Services)

DECISION STATEMENT:

To consider a report from the Tender Review Committee (a delegated authority committee).

RECOMMENDATION:

That the report from the Tender Review Committee meeting held on 15 July 2013 be received.

REPORT:

The Committee held a meeting on 15 July 2013 and determined to award the following contract:

Aurora Stadium Construction of new light tower and associated civil works - CD.041/2012

- The Tender Review Committee accepted the tender submitted by Darcon Constructions Pty Ltd for the construction of a new light tower and associated civil works at Aurora Stadium at a cost of \$774,989.85 (Exc. GST).

ECONOMIC IMPACT:

The economic impact has been considered in the development of each project.

ENVIRONMENTAL IMPACT:

The environmental impact has been considered in the development of each project.

SOCIAL IMPACT:

The social impact is considered in the development of each project.

10.3 Tender Review Committee Meeting - 15 July 2013...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

Launceston City Council Budget 2012/2013/2014

BUDGET & FINANCIAL ASPECTS:

The project is funded in accordance with the approved 2012/2013/2014 Budget

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.



Harry Galea: Director Infrastructure Services

11 PETITIONS

Nil

Under the provisions of the Land Use Planning and Approvals Act 1993, Council acts as a Planning Authority in regard to items 12.1 - 12.3.

12 PLANNING AUTHORITY

12.1 266 Charles Street, Launceston - Proposed Mural

FILE NO: DA0206/2013

AUTHOR: Stalley Briton (Urban Designer)

DIRECTOR: Michael Stretton (Director Development Services)

DECISION STATEMENT:

To consider a proposal for a mural on a block work retaining wall at 266 Charles Street, Launceston (Animal Medical Centre).

PLANNING APPLICATION INFORMATION:

Applicant: Animal Medical Centre
Property: 266 Charles Street, Launceston
Area of site: 692m² (Lot 1)
Zone: Local Business
Existing use: Medical Centre
Classification: Signage
Date received: 30 May 2013
Deemed approval: 10 July 2013 extension granted to 22 July 2013
Representations: One petition signed by 11 people

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That Council refuse application DA0206/2013 for a mural at 266 Charles Street, Launceston on the following grounds:

1. That the artwork will have a detrimental impact on the heritage values of the local area; and
 2. The animated style of the artwork and its placement on the street frontage is in conflict with the conservative streetscape tones and heritage character of the surrounding development.
-

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

REPORT:

1. PROPOSAL

The proposal is for a painted mural to be applied to the existing retaining wall to the front and side entry of the Animal Medical Centre in Charles Street Launceston. The Medical Centre is a modern building which sits above, and set back from a retaining wall along the frontage.

The wall is 18m long across the front and returns by 5m along the side entry. As the street falls towards the north, the wall increases in height from 0.9m to 1.7m but remains level at the top. The wall is currently bare Besser brick and has been marred by graffiti. The intent of applying a mural to the wall is to prevent further graffiti from occurring.

The mural will portray a series of framed cartoon animals in various poses.

2. LOCATION AND NEIGHBOURHOOD CHARACTER

The site, located in Upper Charles Street, is approximately 10 minutes walk southward from the CBD, and just north of the Launceston General Hospital. The southern section of the street is home to cafes, specialty shops and medical practitioners. The street is heavily populated by pedestrian traffic and is characterised by buildings of heritage significance and trees on both sides.

The section of Charles Street (from Elizabeth to Frankland) opposite the proposed mural is heritage listed.

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

20.1.1	<i>To provide for business, professional and retail services which meet the convenience needs of a local area.</i> Consistent. The business provides professional animal medical services to the local area.
20.1.3	<i>To limit use and development that would have the effect of elevating a centre to a higher level in the retail and business hierarchy. Limits are imposed on the sizes of premises to ensure that the established hierarchy is not distorted.</i> Consistent. The existing business will not change as a result of the development.

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

20.1.3	<p><i>To maintain or improve the function, character, appearance and distinctive qualities of each of the identified local business centres and to ensure that the design of development is sympathetic to the setting and compatible with the character of each of the local business centres in terms of building scale, height and density.</i></p> <p>Inconsistent. The comical animated style of the wall mural is in conflict with the heritage character and conservative tones of the local area.</p>
20.1.4	<p><i>To minimise conflict between adjoining commercial and residential activities.</i></p> <p>Consistent. The development will not affect the adjoining commercial and residential activities.</p>
20.1.5	<p><i>To ensure that vehicular access and parking is designed so that the environmental quality of the local area is protected and enhanced.</i></p> <p>N/A No changes to the vehicular access are proposed.</p>
20.1.6	<p><i>To provide for community interaction by encouraging developments such as cafes, restaurants, parks and community meeting places.</i></p> <p>N/A. the use (animal medical centre) is existing.</p>
20.1.7	<p><i>Local Area Objectives</i></p> <p>There are not local area objectives</p>
20.1.6	<p><i>Desired Future Character Statements</i></p> <p>There are no desired future character statements.</p>

3.2 Use

3.21 Use Table

The proposal is associated with a medical centre within the Business and Professional Services class which has a permitted (permit required) status.

3.2.2 Use Standards

20.3.1	<p>AMENITY</p> <p><i>To ensure that the use of the land is not detrimental to the amenity of the surrounding area in terms of noise, emissions, operating hours or transport.</i></p>
--------	--

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A1	<p><i>Commercial vehicles (except for visitor accommodation and recreation) must</i></p> <p><i>a) only operate between 6.00am and 10.00pm Monday to Friday and 7.00am to 5.00pm Saturday and Sunday; and</i></p> <p><i>b) Operating hours for retail, business and entertainment uses must be between 6.00am to 10.00pm; and</i></p> <p><i>c) signage is not illuminated or floodlit outside the hours of 6.00am to 10.00pm.</i></p>
	<p>Complies</p> <p>a) No commercial vehicles operate from the site</p> <p>b) The business hours are during normal business hours</p> <p>c) The proposed mural will not be illuminated or floodlit.</p>
A2.1	<p><i>Noise levels at the boundary of the site with any adjoining land must not exceed:</i></p> <p><i>a) 50dB(A) day time; and</i></p> <p><i>b) 40dB(A) night time; and</i></p>
	<p>Complies. No noise is generated on site.</p>
20.3.2 A1 P1	<p>RETAIL IMPACT - FOR DISCRETIONARY GENERAL RETAIL AND HIRE USES</p> <p><i>To ensure that the economic, social and environmental impact of significant new retail use and development is appropriate</i></p> <p><i>No acceptable solution</i></p> <p>Assessment against the Objectives of the Standard and the Performance Criteria is required.</p> <p><i>Discretionary general retail and hire sales uses must:</i></p> <p><i>a) improve and broaden commercial or retail choice or broaden the range of activities present within the area; and</i></p> <p><i>b) Improve the urban design outcome for a retail centre including attractiveness, amenity and environment for pedestrians; and</i></p> <p><i>c) Contribute to street based activity or externally focussed pedestrian environments; and</i></p> <p><i>d) Have acceptable impacts on the economic viability of activity centres or Councils retail hierarchy; and</i></p> <p><i>e) Not contribute to loss of investment, blight or disinvestment for a particular centre; and</i></p> <p><i>f) Encapsulate environmentally sustainable design principles including the extent to which the development is accessible by public transport.</i></p> <p>N/A No new buildings are proposed.</p>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

3.3 Development Standards

21.4.1	<i>SITING, DESIGN AND BUILT FORM</i> <i>To ensure that development is visually compatible with surrounding area.</i>
A1	<i>The entrance of a building must:</i> a) <i>Be clearly visible from the road or publically accessible areas on the site; and</i> b) <i>Provide a safe access for pedestrians; and</i> c) <i>All buildings are to be orientated to face a road, mall, laneway or arcade, except where the development is not visible from these locations.</i>
A2	N/A No new buildings are proposed. <i>Building height must not exceed:</i> a) <i>7.0m; or</i> b) <i>1m greater than the average of the building heights on immediately adjoining lots.</i>
A3	N/A No new buildings are proposed. <i>Buildings must be</i> a) <i>built to the front, rear and side boundaries of the lot; or</i> b) <i>the same as or less than the setback of an immediately adjoining building.</i>
A4	N/A No new buildings are proposed. <i>Car parking must be located:</i> a) <i>Within the building structure or located behind the building line; and</i> b) <i>Ground level car parking must not be sited in a location visible to a road, laneway, mall or arcade.</i>
20.4.2	N/A No new buildings are proposed. <i>ACTIVE GROUND FLOORS</i> <i>To ensure that building facades promote and maintain high levels of pedestrian interaction and amenity</i>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A1	<p><i>New buildings with non residential uses on ground floors must:</i></p> <ul style="list-style-type: none"> <i>a) have clear glazing, display windows or glass doorways for a minimum of 80% of all ground floor facades to, malls, laneways or arcades; and</i> <i>b) Not have security grills or screens that obscure the ground floor facades to frontages malls, laneways or arcades; and</i> <i>c) Not have mechanical plant or equipments such as air conditioning units or heat pumps visible from ground level public viewpoints; and</i> <i>d) Not have blank walls, signage panels or blocked out windows on the ground floor facades to frontages, malls, laneways or arcades that are wider than 2.0m.</i> <p><i>N/A No new buildings are proposed.</i></p>
A2	<p><i>Alterations to ground level facades of non residential buildings must not:</i></p> <ul style="list-style-type: none"> <i>a) Reduce the level of glazing on a façade to a frontage, mall, laneway or arcade that is present prior to alterations; and</i> <i>b) Have security grills or screens that obscure the ground floor façade; and</i> <i>c) Introduce new or additional mechanical plant or equipments such as air conditioning units or heat pumps visible from ground level public viewpoints; and</i> <i>d) Contain blank walls or signage that is wider than 2.0m on a façade to a frontage, mall, laneway or arcade.</i> <p><i>N/A. No alterations to ground level facades of non residential buildings are proposed.</i></p>
20.4.3.1	<p>DAYLIGHT TO WINDOWS</p> <p><i>To allow adequate daylight into existing and new habitable room windows.</i></p>
A1.1	<p><i>Where the distance between:</i></p> <ul style="list-style-type: none"> <i>a) A new window in a habitable room and an existing building; or</i> <i>b) A new building constructed opposite an existing habitable room window is less than 3.0m, a light court with a minimum area of 3m² square metres and minimum dimension of 1m clear to the sky must be provided. The calculation of the area may include land on the abutting lot; and</i>
A1.2	<p><i>New walls within a 55 degree arc from the centre of an existing window should be set back at least 50% of the height of the new wall. Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window as demonstrated in Figure 20.4.3.2 or</i></p>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A1.3	<i>There must be no changes proposed to the location of existing windows.</i> N/A. No new windows or buildings are proposed.
20.4.3.3	PRIVATE OPEN SPACE <i>To provide adequate private open space for the reasonable recreation and service needs of residents.</i>
A1	<i>Dwellings must have private open space comprising:</i> a) <i>An area of 24m² with a minimum dimension of 3m with direct access from a habitable room other than a bedroom ; or</i> b) <i>For dwellings wholly above ground floor a balcony of 8m² with a minimum width of 1.6m and direct access from a habitable room other than a bedroom; or</i> c) <i>A roof top area of 10m² with a minimum width of 2m.</i> N/A. The development is not residential.
A2	<i>Private open space must received a minimum of 4 hours of direct sunlight on 21 June to 50% of the designated private open space area</i> N/A. The development is not residential.
20.4.3.4	OVERSHADOWING OF PRIVATE OPEN SPACE <i>To ensure new buildings do not unreasonably overshadow existing private open space.</i>
A1.1	<i>Where new buildings reduce sunlight to the private open space of an existing dwelling at least 75% or 18m² with minimum dimension of 3m whichever is the lesser area, of the private open space should receive a minimum of 4 hours of sunlight on 21 June.</i>
A1.2	<i>If existing sunlight to the private open space of an existing dwelling is less than the requirements of this standard, new buildings must not further reduce the amount of sunlight.</i> N/A. No new buildings are proposed.
20.4.3.5	LOCATION OF CAR PARKING a) <i>To avoid parking and traffic difficulties in the development and the neighbourhood; and</i> b) <i>To ensure that parking does not detract from the streetscape</i>
A1	<i>Car parking for residential development must be located within the building structure or located behind the building line.</i> N/A. The development is not residential.
A2	<i>The layout of car parking for residential development must provide the ability for cars to enter and leave the site in a forward direction, except that a car may reverse onto a road if it has a dedicated direct access or driveway no greater than 10m from the parking space to the road.</i> N/A. The development is not residential.

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A3	<p><i>The total width of the door or doors on a garage facing a frontage must be not more than 6m.</i></p>
20.4.3.6	<p>N/A. The development is not residential. STORAGE <i>To provide adequate storage facilities for each dwelling.</i></p>
A1	<p><i>Each dwelling must have direct access to at least 6 cubic metres of secure storage space.</i></p>
20.4.3.7	<p>N/A. The development is not residential. COMMON PROPERTY a) <i>To ensure that private open space, car parking, access areas and site facilities are practical and easily maintained.</i> b) <i>To avoid future management difficulties in areas of common ownership.</i></p>
A1	<p><i>Developments must clearly delineate public, communal and private areas.</i></p>
20.5	<p>N/A. The development is not residential. SUBDIVISION a) <i>Maintenance of the complexity and diversity of the built environment and pedestrian connectivity; and</i> b) <i>that new lots have sufficient land area for the physical demands of allowable uses; and</i> c) <i>The development of local business centres for retailing and other complementary commercial, entertainment, residential and community uses; and</i> d) <i>Each lot has appropriate frontage, access and services; and</i> e) <i>Appropriate transition to adjoining zones, especially residential areas.</i></p>
A1	<p><i>Each lot must:</i> a) <i>Have a minimum area of at least 200m²; and</i> b) <i>Be able to contain a 10.0m diameter circle with the centre of the circle not more than 5.0m from the frontage; or</i> c) <i>Required for public use by the Crown, an agency, or a corporation all the shares of which are held by Councils or a municipality; or</i> d) <i>For the consolidation of a lot with another lot with no additional titles created; or</i> e) <i>To align existing titles with zone boundaries and no additional lots are created; or</i> f) <i>Be for the provision of public utilities.</i> N/A. The development is not residential.</p>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A2	<i>Each lot must have a frontage of at least 5 metres.</i> N/A. The development is not residential.
A3	<i>Each lot must be connected to a:</i> a) <i>Reticulated water supply; and</i> b) <i>Reticulated sewer system; and</i> c) <i>Reticulated stormwater system</i> N/A. The development is not residential.
A4	<i>Each lot must be connected to a reticulated stormwater system.</i> N/A. The development is not residential.
A5	<i>Subdivision must not be located on the boundary of the General Residential Zone, Inner Residential Zone or Urban Mixed Use Zone.</i> N/A. The development is not residential.

3.4 Overlays and Codes

3.4.1 Car parking and Sustainable Transport Code

Although this code applies to all development, it will not be addressed in this report as the application for a mural only.

E13.1.1	<i>The purpose of this provision is to:</i> a) <i>Protect and enhance the historic cultural heritage significance of local heritage places and heritage precincts; and</i> b) <i>Encourage and facilitate the continued use of these items for beneficial purposes; and</i> c) <i>Discourage the deterioration, demolition or removal of buildings and items of assessed heritage significance; and</i> d) <i>ensure that new use and development is undertaken in a manner that is sympathetic to, and does not detract from, the cultural significance of the land, buildings and items and their settings; and</i> e) <i>Conserve specifically identified heritage places by allowing a use that otherwise may be prohibited if this will demonstratively assist in conserving that place.</i>
	Not consistent. The proposed mural is not considered to be sympathetic to 'the cultural significance of the land, buildings and items and their settings', and on the scale proposed 'will detract from' the same.
E13.5	USE STANDARDS

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

E13.5.1	<i>ALTERNATIVE USE OF HERITAGE BUILDINGS To ensure that the use of heritage buildings provides for their conservation</i>
A1	<i>No acceptable solution</i>
	<i>N/A The proposal does not require a change of use.</i>
E13.6	<i>DEVELOPMENT STANDARDS</i>
13.6.1	<i>DEMOLITION To ensure that the demolition or removal of buildings and structures does not impact on the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>No acceptable solution</i>
	<i>N/A The proposal does not include demolition.</i>
E13.6.2	<i>SUBDIVISION AND DEVELOPMENT DENSITY To ensure that the demolition or removal of buildings and structures does not impact on the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>No acceptable solution</i>
	<i>N/A The proposal does not include demolition.</i>
E13.6.2	<i>SUBDIVISION AND DEVELOPMENT DENSITY To ensure that subdivision and development density does not impact on the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>No acceptable solution</i>
	<i>N/A The proposal does not include demolition.</i>
E13.6.3	<i>SITE COVER To ensure that site coverage is consistent with historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts, if any.</i>
A1	<i>Site coverage must be in accordance with the acceptable development criterion for site coverage within a precinct identified in Table E13.1 Heritage Precincts, if any.</i>
	<i>N/A The proposal does not alter the site coverage.</i>
E13.6.4	<i>HEIGHT AND BULK OF BUILDINGS To ensure that the height and bulk of buildings are consistent with historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A1	<i>New building must be in accordance with the acceptable development criteria for heights of buildings or structures within a precinct in Table E13.1: Heritage Precincts, if any.</i>
	N/A The proposal does not alter the height or bulk of buildings.
E13.6.5	FENCES <i>To ensure that fences are designed to be sympathetic to, and not detract from the historic heritage significance of, local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>New fences must be in accordance with the acceptable Development criteria for fence type and materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A The proposal does not include any new fences..
E13.6.6	ROOF FORM AND MATERIALS <i>To ensure that roof form and materials are designed to be sympathetic to, and not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>Roof form and materials must be in accordance with the acceptable development criteria for roof form and materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A The proposal does not include any new roofs or alterations to existing roofs.
E13.6.7	WALL MATERIALS <i>To ensure that wall materials are designed to be sympathetic to, and not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>Wall materials must be in accordance with the acceptable development criteria for wall materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no new wall materials proposed to the exterior of the building.
E13.6.8	SITING OF BUILDING AND STRUCTURES <i>To ensure that the siting of buildings does not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A1	<i>New buildings and structures must be in accordance with the acceptable development criteria for setbacks of buildings and structures to the road within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A The proposal does not include new buildings or structures.
E13.6.9	OUTBUILDINGS AND STRUCTURES <i>To ensure that the siting of outbuildings and structures does not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>Outbuildings and structures must be:</i> a) <i>Set back an equal greater distance from principal frontage than principal buildings on site; and</i> b) <i>In accordance with the acceptable development criteria for roof form, wall material and site coverage within a precinct identified in Table E13.1 Heritage Precincts, if any</i>
	N/A the proposal does not include new outbuildings or structures.
E13.6.10	ACCESS STRIPS AND PARKING <i>To ensure that access and parking does not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>Car parking areas for non-residential purposes must be:</i> a) <i>Located behind the primary buildings on the site; or</i> b) <i>In accordance with the acceptable development criteria for access and parking as within a precinct identified in Table 1: Heritage Precincts, if any.</i>
	N/A The proposal does not include or require any changes to access or parking on the site.
E13.6.11	PLACES OF ARCHAEOLOGICAL SIGNIFICANCE <i>To ensure that places identified in table E13.3 as having archaeological significance are appropriately managed.</i>
A1	<i>No acceptable solution</i>
	N/A The site is not included in Table E13.3
E13.6.12	TREE AND VEGETATION REMOVAL <i>To ensure that the removal, destruction or lopping of trees or the removal of vegetation does not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>No acceptable solution.</i>
	N/A the proposal does not include vegetation removal.

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

E13.6.12	<p>SIGNAGE <i>To ensure that signage is appropriate to conserve the historic heritage significance of local heritage places and precincts.</i></p>
A1	<p>Must be a sign identifying the number, use, heritage significance, name or occupation of the owners of the property not greater than 0.2m².</p>
	<p>Does not comply. The proposal is for a mural associated with a business in excess of 0.2m². Further Assessment against the Performance Criteria and the Intent of the Code Purpose is required.</p>
P1	<p><i>New signs must be of a size and location to ensure that:</i></p> <ul style="list-style-type: none"> a) <i>Period details, windows, doors and other architectural details are not covered or removed; and</i> b) <i>Heritage fabric is not removed or destroyed through attaching signage; and</i> c) <i>the signage does not detract from the setting of a heritage place or does not reasonably impact on the view of the place from public viewpoints; and</i> d) <i>Signage does not detract from meeting the management objectives of a precinct identified in Table E13.1:Heritage Precincts, if any.</i>
	<p>Does not comply.</p> <ul style="list-style-type: none"> a) Complies. Period details, windows, doors and other architectural details are not covered or removed. b) Complies. Heritage fabric is not removed or destroyed through attaching signage. c) Does not comply. The proposed mural is clearly associated with a business and is of a scale and character which is considered to 'detract from the setting of a heritage place' and to 'impact on the view of the place from public viewpoints'. Despite full colour images (or an indicative colour scheme) not being provided, either as part of the original application, or when requested, it is clear that the graphic is not intended to blend in with the valued heritage character of the surrounding site or streetscape. d) N/A - The site is not included in Table E13.1.
	<p>It is concluded that the proposed murals to be applied to the front boundary wall of 266 Charles Street are considered to have a detrimental impact on the historic cultural significance of the place, and the surrounding area. It is considered possible, and even desirable, to improve the appearance of this retaining wall with the addition of a graphic of an appropriate scale and more subdued character. However, the proposal as it stands does not fit this description. Refusal of the application is recommended on heritage character and urban design grounds due to the high visual impact on the site and surrounding area.</p>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

3.4.3 Signs Code

E18.1	<i>CODE PURPOSE</i>
E18.1.1	<i>To provide opportunities for appropriate business advertising and information essential to support and encourage business activity;</i> <i>a) Promote the use of well designed signs that complement and enhance the streetscape and the City and do not contribute to visual clutter and detract from the visual amenity of the locality;</i> <i>b) Ensure signs on places of cultural significance are responsive to the cultural heritage values and the significance of the building or place, both in terms of impact and by means of attachment, by protecting and enhancing those values; and</i> <i>c) Ensure that signage does not disrupt or compromise safety and efficiency of vehicular or pedestrian movement.</i>
E18.5	<i>DEVELOPMENT STANDARDS</i>
E18.5.1	<i>INAPPROPRIATE SIGNAGE</i> <i>To prevent inappropriate signage</i>
A1	<i>Must not be a:</i> <i>a) Third Party Sign</i> <i>b) Roof Sign</i> <i>c) Sky Sign</i> <i>d) Bunting (Flag and Decorative Elements)</i> <i>e) Flashing Lights</i>
	<i>Complies. The proposal is not of the items listed above.</i>
E18.5.2	<i>DESIGN AND SITING OF SIGNAGE</i> <i>To ensure that the design and siting of signs complement or enhance the characteristics of the natural and built environment in which they are located.</i>
A1	<i>A sign must:</i> <i>a) Meet the requirements for the relevant sign type set out in E.18.6; and</i> <i>b) Be located within the applicable zone set out in E18.6.</i>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

	<p>a) <i>Requirements for a Wall Mural:</i></p> <p>i) <i>Maximum area of 9m²</i></p> <p>ii) <i>Must not extend laterally beyond the or above the top of the wall to which it is attached.</i></p> <p>iii) <i>Must not occupy more than 50% of the wall area.</i></p>
	<p>a) Does not comply.</p> <p>i) Does not comply. The mural has an area of approximately 27m²</p> <p>ii) Complies. The mural will not extend beyond the extent of the wall.</p> <p>iii) Does not comply. The mural will occupy most of the wall area.</p> <p>b) Complies. The Mural is located within the applicable zone (Local Business) for the sign type (Wall Mural). Further Assessment against the Performance Criteria and the intent of the code purpose is required.</p>
P1	<p><i>A sign must</i></p> <p>a) <i>Be within an applicable zone for the sign type as set out in table E18.6;</i></p> <p>b) <i>Be sympathetic to the architectural character and detailing of the building;</i></p> <p>c) <i>Be of appropriate dimensions so as not to dominate the streetscape or premises on which it is located;</i></p> <p>d) <i>Not result in loss of amenity to neighbouring properties;</i></p> <p>e) <i>Not involve the repetition of messages or information on the same frontage;</i></p> <p>f) <i>Not contribute to or exacerbate visual clutter; and</i></p> <p>g) <i>Not cause a safety hazard or obstruct movement of pedestrians on a footpath</i></p>
	<p>Does not comply.</p> <p>a) Complies. The Mural is located within the applicable zone (Local Business) for the sign type (Wall Mural).</p> <p>b) Complies. The building is a modern pink building.</p> <p>c) Does not comply. The mural being 1.7m at the highest point and 18m long is quite large. It will overlook and dominate the streetscape as it runs along side the pedestrian footpath of Charles Street.</p> <p>d) The mural may affect the visual amenity of the residential properties opposite if the occupants do not find it pleasing or desirable.</p> <p>e) Complies. The mural does not involve repetition of information on the same frontage.</p> <p>f) Does not comply. Neighbouring properties to the left and opposite feature stone walls on their front boundaries to the footpath. A mural in the cartoon like style as the one proposed is not sympathetic to the conservative tones of the neighbouring walls.</p> <p>g) Complies. The mural will not obstruct the movement of pedestrians.</p>

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

A2	<i>A sign must be a minimum distance of 2m from the boundary of any lot in the Residential Zone.</i>
	Complies. If approved, the permit can be conditioned that the mural begins 2m from the neighbouring property which lies in the Inner Residential zone.
A3	<i>A maximum of one of each sign type per building or tenancy unless otherwise stated in E18.6</i>
	Complies. One Wall Mural is proposed
A4	<i>A sign must not be illuminated or contain; flashing lights, animation, moving parts and moving or changing messages or graphics.</i>
	Complies. The Wall Mural will not be illuminated

4.0 REFERRALS

The proposal was referred to the following departments and their responses are included below:

Infrastructure Assets

Recommended two standard conditions relating to damage to Council infrastructure and works within/occupation of the road reserve.

Heritage Planner

Heritage Planner comments are contained in the assessment against the Heritage Code in this report. The recommendation for refusal is supported by the Heritage Planner.

Heritage Tasmania

Heritage Tasmania's current LIST location records that the heritage listed place is in fact located at 266A Charles Street, behind the rendered building at 266 Charles Street. The proposed mural on the concrete block retaining wall is within the common driveway access to 266A Charles Street, however it will have no appreciable impact on the historic cultural heritage values of the registered place.

5.0 REPRESENTATIONS

Pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993*, the application was advertised for a 14 day period from 8 June 2013 to 24 June 2013. One representation was received with eleven signatories. The table below represents a summary of the major issues contained on their representations. This should be read in conjunction with the full representations.

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

Issue	Comments
Impact on the streetscape - the design devalues the important characteristics of the area and is out of place.	Agreed. Generally, a mural of this nature would be suited to a laneway or side street. An example being the mural beside Red Herring Surf shop and near the Birchalls car park in the CBD.
Safety - the mural will cause a distraction to traffic and pedestrians.	This is not a matter to consider under the Launceston Interim Planning Scheme.
The mural will provoke an increase in vandalism.	The intent of the mural is to prevent vandalism
Not in keeping with heritage values of the area.	Agreed. The mural is out of character with the surrounding development. This is further explained in the report.

6.0 CONCLUSION

It is considered that the proposal does not comply with the provisions of the Launceston Interim Planning Scheme 2012 and therefore the application is recommended for refusal.

ECONOMIC IMPACT:

The Launceston Interim Planning Scheme 2012 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 2012 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 2012 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.

12.1 266 Charles Street, Launceston - Proposed Mural...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

Launceston Interim Planning Scheme 2012

BUDGET & FINANCIAL ASPECTS:

N/A

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.


Michael Stretton: Director Development Services

ATTACHMENTS:

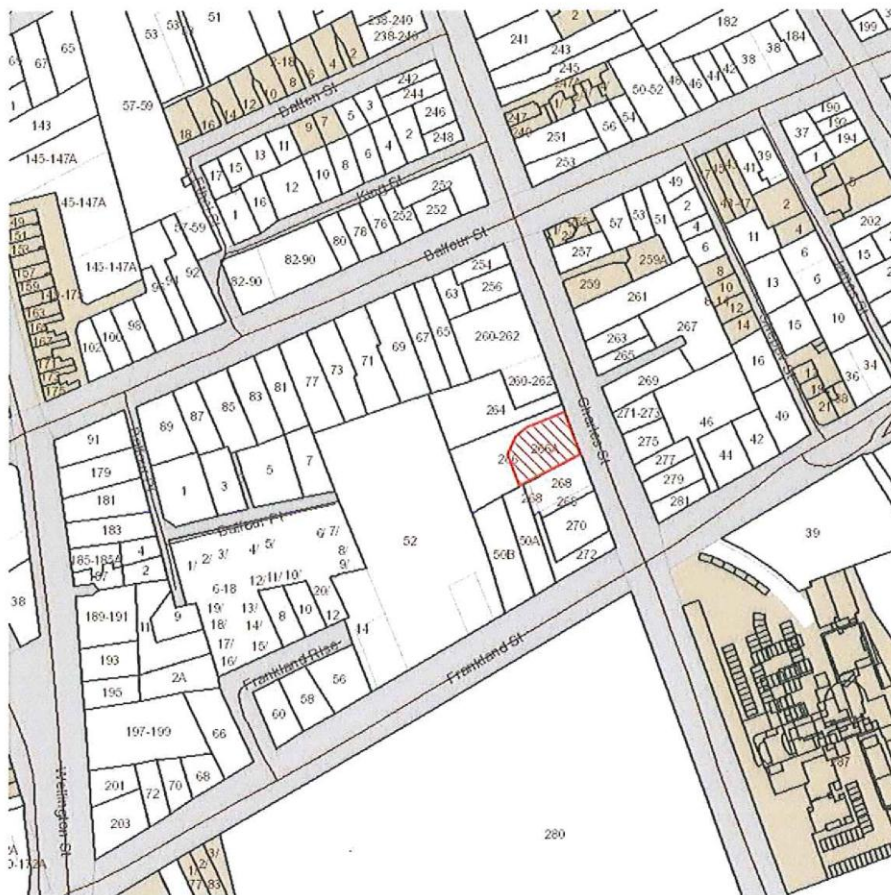
1. Locality Map
 2. Artist Drawings
 3. Site Plan
 4. Representation
-



Launceston City Council
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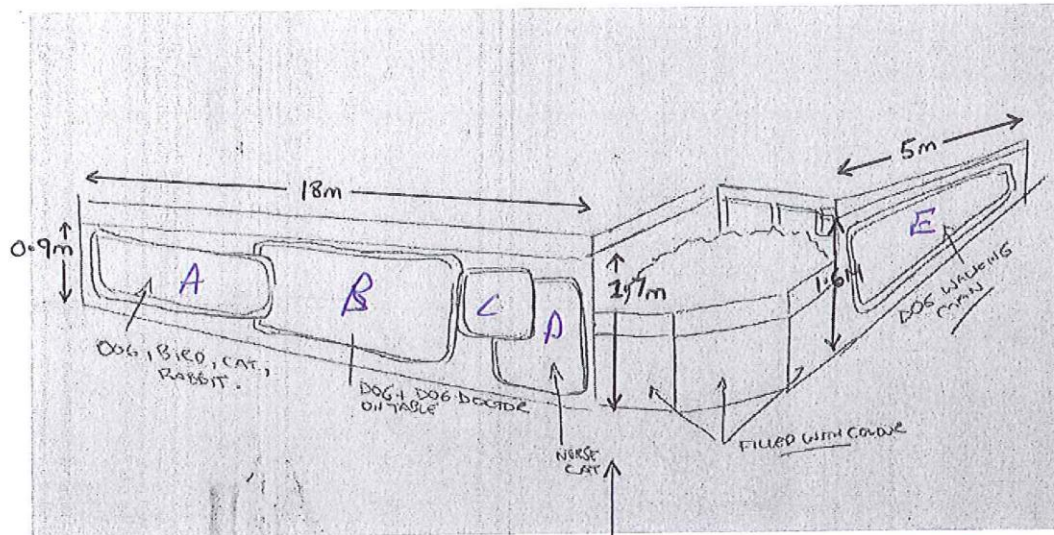
LOCALITY MAP - DA0206/2013 266A CHARLES STREET, LAUNCESTON



Locality Map
Scale: This Map Is Not to Scale

1: overall plan.jpg - Gmail

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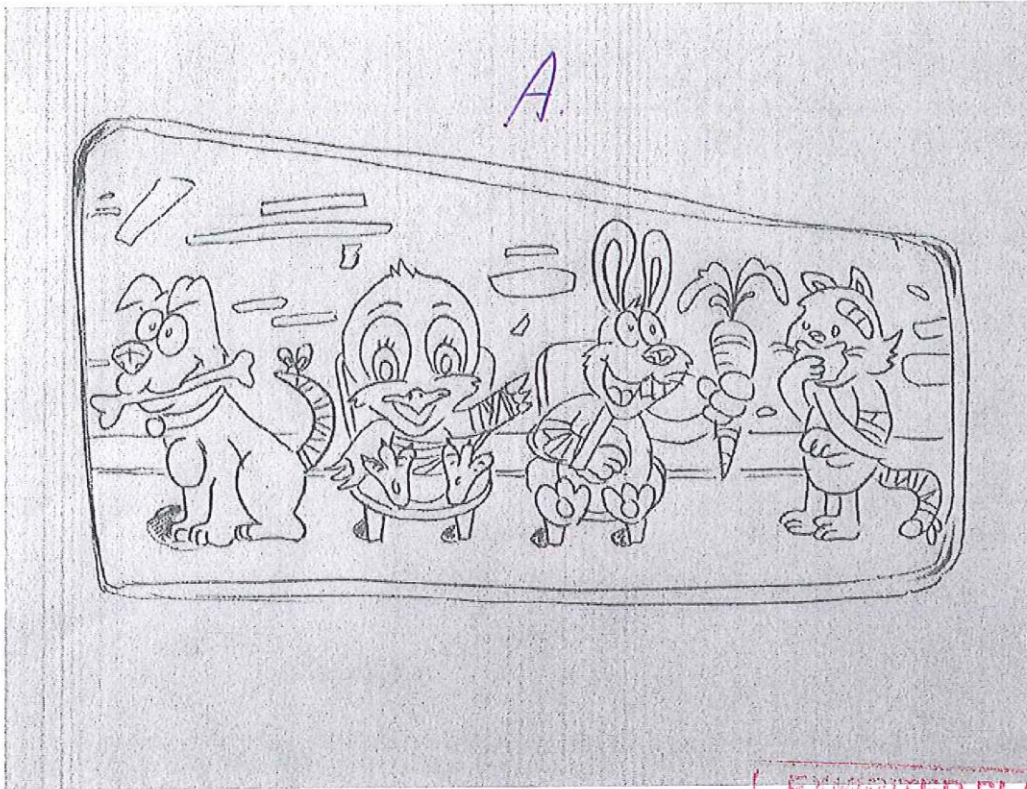


HIGHEST PART
OF WALL 1.7M

EXHIBITED PLAN	
FILE REF:	DA0006/2013
PLAN NO:	1 of 6
DATE EXHIBITED:	11 / 6 / 13
SIGNED:	AO

2. dog,bird, cat, rabbit.jpg - Gmail

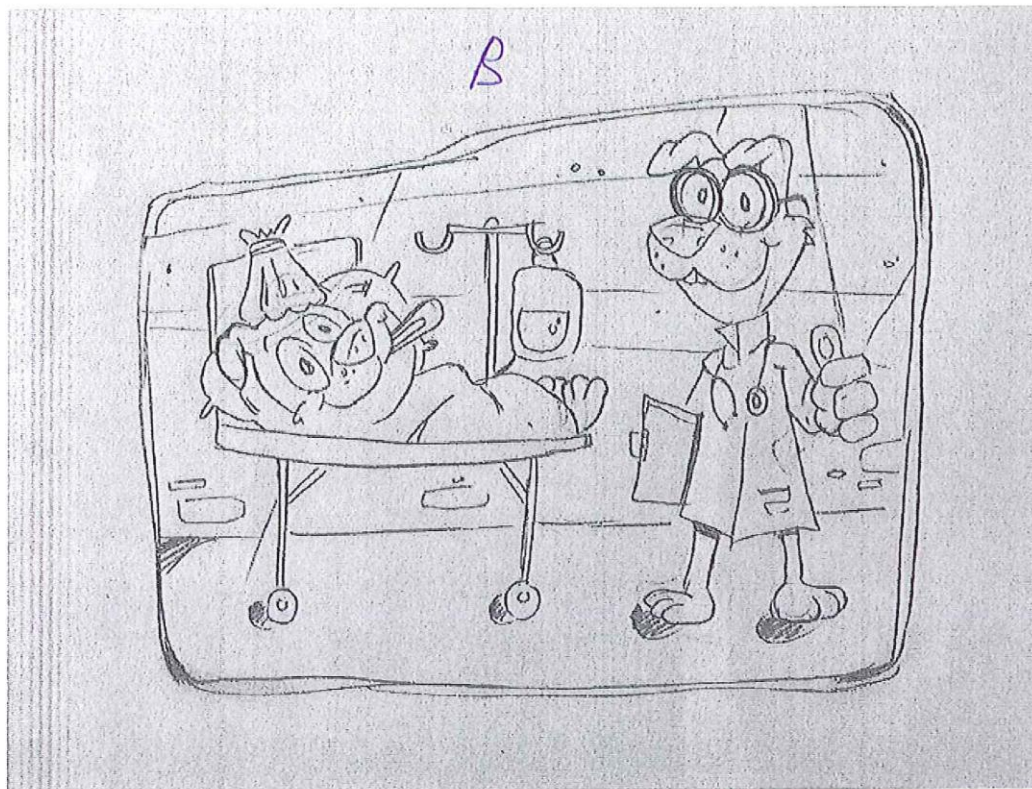
Page 1 of 1



EXHIBITED PLAN	
FILE REF.	DP00006/2013
PLAN NO.	2 of 6
DATE EXHIBITED	11 / 6 / 13
SIGNED:	AO

3. dog on table + dog doctor.jpg - Gmail

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EXHIBITED PLAN	
FILE REF:	PA0206/2013
PLAN NO:	3 of 6
DATE EXHIBITED:	11/6/13
SIGNED:	AO

4. nurse cat.jpg - Gmail

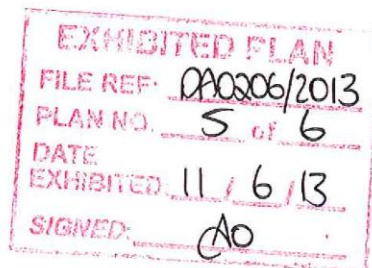
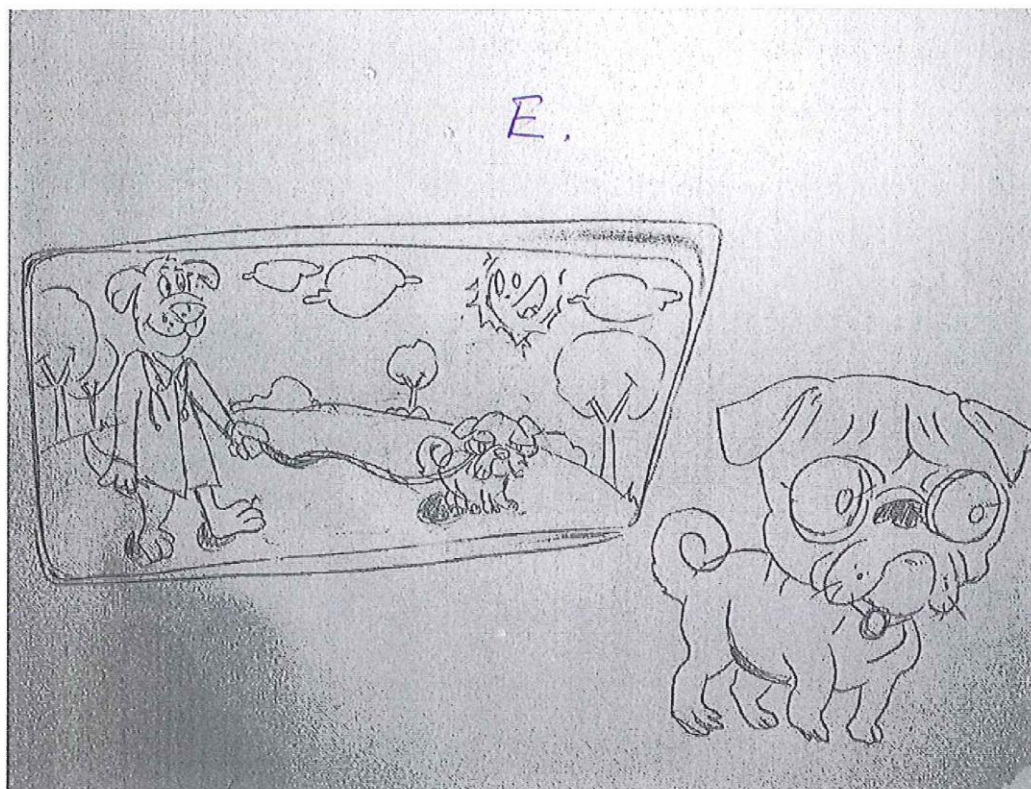
Page 1 of 1

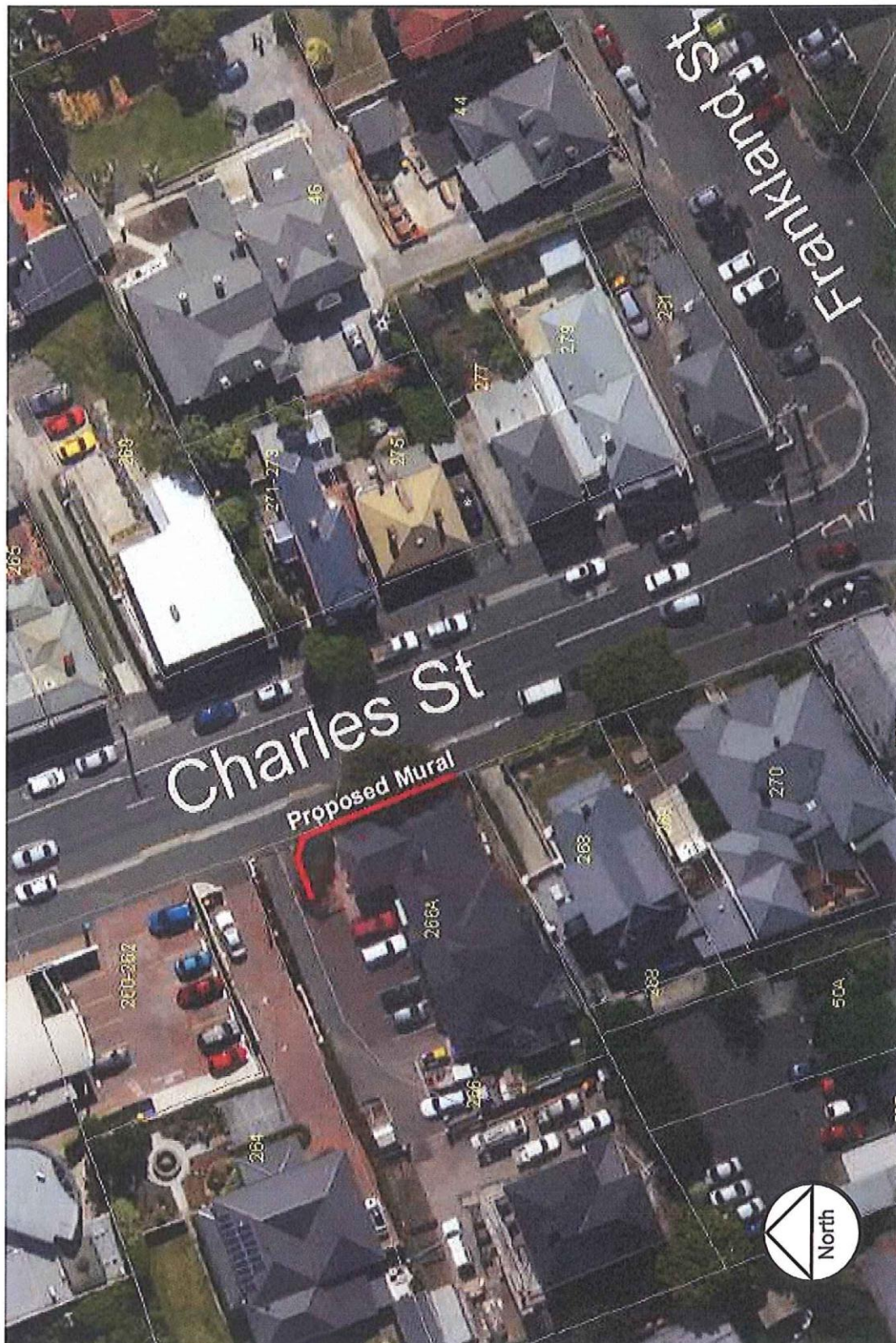


EXHIBITED PLAN	
FILE REF:	DA0006/2013
PLAN NO:	4 of 6
DATE EXHIBITED:	11/6/13
SIGNED:	AO

5. driveway.jpg - Gmail

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Spurr Wing Incorporated

President: Pam Watkins

Secretary: Bev Perkins

Manager: Lynne Loftus

21 June 2013

The General Manager – Launceston City Council

PO Box 396

LAUNCESTON

Tas

7250

re - Application No.

DA 0206/2013

Applicant

Animal Medical Centre

Proposal

Application of a Mural to the front and side of the existing block work walls

Location

266 Charles Street, Launceston

FILE No.	DA 0206/2013			
EO		OD	<input checked="" type="checkbox"/>	Box <input checked="" type="checkbox"/>
RCVD		24 JUN 2013		LCC
Doc No.				
Action Officer		Noted	Replied	
C. WRANKINS				

E-COPY S BRITON

Dear Mr Dobrzynski

The Board of Spurr Wing Inc, wish to raise their objection to the above development.

As citizens of Launceston, Australia's third oldest city with a widely recognised and envied rich built history of which Spurr Wing is just one small part, we strongly object to the proposed development at 266 Charles Street as it would have a dramatic impact on our immediate streetscape and is completely out of character with our area.

- The area of Charles Street in which the proposed development (by the placing of a mural along the entire block wall of 18 metres fronting on to Charles Street) would occur is of recognised, historic significance to both residents, administrators and visitors who value a precinct in which many of the dwellings and streetscapes are already on our city's heritage register.
- The LCC has a history of recognising, supporting and protecting the streetscape of Launceston, in particular the streetscape in this area, and such practise should, and must continue.
- The proposed mural would have a significant impact on this important streetscape. Its design does little, if anything, to enhance the attractiveness of the area and simply does not have any place in the Charles Street streetscape.
- This mural/signage/advertising, and any similar mural/signage/advertising has the potential to interfere with the social capital of Launceston in that it fails to recognise the significance of built heritage and the need to conserve the visual impact that this area has on the social values of our city.
- The current signage/advertising for 266 Charles Street is already adequate for both day and night business and is in keeping with the signage of other nearby businesses.
- The proposed mural/signage/advertising will cause significant disruption to the streetscape and interpretive experiences that are currently available to residents and visitors as they journey up Charles Street.
- The proposed mural/signage/advertising is unsightly and completely out of character with the Charles Street area and is insensitive to the Charles Street precinct in particular. The submitted images are bad enough when presented in black and white – we believe that colour images will offend even further.
- The proposed mural/signage/advertising is not desirable and is inappropriate when compared with other signage in the immediate area. We also believe that the presence of murals will invite increased vandalism and devalue the importance and significance of our area.

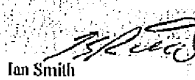
- If we regard the proposed mural as adverting the usage of the premises situated immediately behind the block wall, and one can hardly argue that it doesn't, then it is contrary to regulations in that:-
 - The sign has the potential to cause a loss of amenity and will have an adverse affect on the built environment of Launceston;
 - The sign is designed to attract attention and, thus, has obvious potential to create increased disruption to traffic flow in the area;
 - The sign, because of its very nature, has the potential to considerably add to an already unsafe environment in a very busy pedestrian and vehicular traffic thoroughfare by distracting drivers and pedestrians alike, many of whom are already tense because of the area's immediate proximity to the LGH, Launceston Eye Hospital and consulting rooms; and
 - The area of the proposed signage is excessive.
- Given that the proposed mural/signage/advertising/development has the potential to have a significant impact in an historically sensitive area of Launceston we could find no evidence in the application that
 - A residential impact assessment or basis been undertaken or considered?
 - A cultural impact assessment or basis been undertaken or considered?

We trust that The Mayor and all aldermen will have understanding of and support for this objection based on the many reasons outlined above.

Yours sincerely




Pam Watkins
President Spurr Wing Board
Kings Meadows Inner Wheel Rep



Ian Smith
Vice Pres. Spurr Wing Board
Youngtown Rotary Rep



Bev Perkins
Secretary Spurr Wing Board
CWA in Tas Rep



Helen Finn
Treasurer Spurr Wing Board
Soroptimists Int. of L'ton Rep



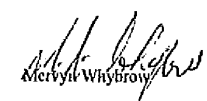
Lisa McCormack
Spurr Wing Board
LGH Central Aux Rep



Kevin Watkins
Spurr Wing Board
Launceston West Rotary Rep



Judy McTiggart
Spurr Wing Board
Launceston Inner Wheel Rep



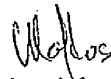
Mervyn Whybrow
Spurr Wing Board
City of L'ton Lions Rep



Kerry Colless
Spurr Wing Board
Apex Club of Tamar Rep



Geoff Billett
Spurr Wing Board
Riverside Lions Rep



Lynne Loftus
Manager Spurr Wing

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign.**FILE NO:** DA0197/2013**AUTHOR:** Stalley Briton (Urban Designer)**DIRECTOR:** Michael Stretton (Director Development Services)

DECISION STATEMENT:

To consider a proposal for two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign at 113-115 Cimitiere Street and 34 George Street, Launceston

PLANNING APPLICATION INFORMATION:

Applicant:	Edwards & Simpson Pty Ltd
Property:	113-115 Cimitiere Street and 34 George Street, Launceston
Site area:	3255 m ²
Zone:	Urban Mixed Use
Existing use:	Business and Professional Services
Classification:	Signage
Date received:	30 May 2013
Further information request:	No
Deemed approval:	7 July 2013. An extension was granted to 22 July 2013
Representations:	None

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That Council refuse the application DA0197/2013 for two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign on the following grounds:

1. That the size of the proposed Illuminated Multi Tenancy Blade sign is unnecessarily large for the purpose of advertising the businesses; and
 2. The bulk and the illumination of the Multi Tenancy Blade sign will have a detrimental impact on the historic cultural significance of the place.
-

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

REPORT:

1. PROPOSAL

The application is for advertising signage for Cimitiere House in Launceston. Cimitiere House has two ground floor tenancies and multiple tenancies above ground floor.

An Illuminated Multi Tenancy Blade sign is proposed to address the need to identify each individual business within the building. The freestanding sign is 6 metres in height by 2.03 metres wide. The eight (8) tenancy blades, or light boxes, are vertically aligned in an off centre position against the green background colour of the main sign structure. At the top of the sign are the words 'Cimitiere House'. A digital clock is positioned beneath the words, which will measure 1m wide by 0.4m high. The sign will be located in the adjoining car park at 34 George Street which is heritage listed. Whilst this sign has been approved by the Tasmanian Heritage Council, their advice to the applicant is as follows:

- a) That the overall size of the new sign be reduced to the minimum that is practicable to read the tenancy information,
- b) That the sign not have internal illumination,
- c) That the illuminated clock be removed from the sign panel, and
- d) That the background colour of the blade wall be grey, or a similarly recessive colour to match the colour palette of Cimitiere House.

There is an existing multi tenancy sign on the site which serves the same purpose as the proposed sign. See attachment 6 - Revised Photo Montage, sign on the left. It measures 1.2m wide by 3.7m high and has a black steel frame and black sign blades that complement the architectural features of Cimitiere House. This sign has been approved as it stands by the Tasmanian Heritage Council. It is intended that the proposed sign replace the existing sign.

Two (2) Illuminated Projecting Wall signs are proposed for the front of Cimitiere House and will advertise the two ground floor tenancies - MyState Tasmanian Perpetual Trustees and Retirement Benefits Fund. One of the signs has been previously erected without council approval. The sign currently sits so that it prevents the window shutters of the building from opening. This sign will be relocated in order to rectify the problem. Both projecting signs are square in proportion and measure 1.25 metres by 1.25 metres. The signs will be attached by steel brackets horizontally from the wall. Both signs are to be located above the footpath and near the entry to each tenancy.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

2. LOCATION AND NEIGHBOURHOOD CHARACTER

The site location is three blocks north of the central city mall. Surrounding development is characterised by a mix of uses. There are a number of offices and pubs in the same street and many retail outlets.

Heritage buildings are a feature of the area with the large Spotlight department store opposite, Johnstone and Wilmot adjacent to the right, and Town House (now Masonic Club) adjacent to the left of the subject site.

Cimitiere House was built in 2009. It comprises a five-storey office building with a lettable floor area of 4600m². Systems were incorporated into the design to ensure that it would achieve a 5 Star Green Rating. Exterior concrete walls are designed to absorb the suns heat and warm the interior spaces. Moveable timber blinds on the north and east side of the building, and large amounts of glass, are designed to make the most of natural light. The associated car park to the left of the building where the Blade sign is located (34 George Street) is heritage listed.

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

15.1.1	<p><i>To provide for integration of residential, retail, community services and commercial activities in urban locations.</i></p> <p>Consistent. The proposed signage will support the tenancies in the buildings which are commercial in nature.</p>
15.1.2	<p><i>To provide a diverse range of urban uses that support the role of activity centres by creating demand, vitality and viability within adjacent activity centres.</i></p> <p>Consistent. The signs will advertise the commercial activities within the premises which in turn support the role of the CBD by creating demand, vitality and viability.</p>
15.1.3	<p><i>To facilitate increased intensity of development including increased residential densities in locations close to major activity centres.</i></p> <p>Consistent. The multi tenancy sign will support the role of the building as a multi storey intensive development.</p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

15.1.4	<i>To encourage residential and tourist accommodation uses as a means of increasing activity outside normal business hours whilst recognising that the amenity of such uses may be reduced.</i>
	N/A the development is not for residential or tourist accommodation.
15.1.5	<i>To encourage intense activity at pedestrian levels with shop windows offering interest and activity to pedestrians. It is not intended that retail entertainment and hospitality uses should be replaced by business premises at road level.</i> Consistent. Windows at ground level are not obscured. They offer interest and activity to pedestrians The development is not for change of use.
15.1.6	<i>Local Area Objective</i> There are no local area objective
15.1.7	<i>Desired Future Character Statement</i> There are no desired future character statements.
20.1.8	<i>Local Area Objectives</i> There are not local area objectives

3.2 Use

3.21 Use Table

The proposal is associated with Business and Professional Services class which has a no permit status if above ground level and a discretionary status at ground level.

3.2.2 Use Standards

15.3.1	AMENITY <i>To ensure that the use of the land is not detrimental to the amenity of the surrounding area in terms of noise, emissions, operating hours or transport.</i>
A1	<i>Operating hours for commercial vehicles for non residential uses must be between 6.00am and 10.00pm</i>
	N/A the use of the premises for business and professional services is existing. The application is for signage.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

A2	<i>Signage must not be illuminated or floodlit outside the hours of 6.00am to 10.00pm.</i>
	Does not comply. All signs will be illuminated 24 hours.
P2	<i>Noise levels at the boundary of the site with any adjoining land must not exceed:</i> <i>a) 50dB(A) day time; and</i> <i>b) 40dB(A) night time; and</i> <i>c) 5dB(A) above background for intrusive noise.</i>
	N/A the use of the premises for business and professional services is existing. The application is for signage.
15.3.2	RETAIL IMPACT - FOR DISCRETIONAY GENERAL RETAIL AND HIRE USES <i>To ensure that the economic, social and environmental impact of significant new retail use and development is appropriate.</i>
A1	<i>No acceptable solution</i>
	Assessment against the Performance Criteria is required.
P1	<i>Discretionary general retail and hire sales uses must:</i> <i>a) improve and broaden commercial or retail choice or broaden the range of activities present within the area; and</i> <i>b) Improve the urban design outcome for a retail centre including attractiveness, amenity and environment for pedestrians; and</i> <i>c) Contribute to street based activity or externally focussed pedestrian environments; and</i> <i>d) Have acceptable impacts o the economic viability of activity centres or Councils retail hierarchy; and</i> <i>e) Not contribute to loss of investment, blight or disinvestment for a particular centre; and</i> <i>f) Encapsulate environmentally sustainable design principles including the extent to which the development is accessible by public transport.</i>
	N/A the use is not general retail and hire nor bulky goods sales.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

3.3 Development Standards

21.4.1	<p><i>SITING, DESIGN AND BUILT FORM</i> <i>To ensure that the site and layout, building design and form is visually compatible with surrounding development.</i></p>
A1	<p><i>The entrance of a building must:</i></p> <ul style="list-style-type: none"> a) <i>Be clearly visible from the road or publically accessible areas on the site; and</i> b) <i>Provide a direct access for pedestrians; and</i> c) <i>All buildings are to be orientated to face a road, mall, laneway or arcade, except where the development is not visible from these locations.</i>
A2	<p>N/A The existing use of the premises is for business and professional services. The application is for signage only. <i>Building height must not exceed:</i></p> <ul style="list-style-type: none"> a) <i>12.0m; or</i> b) <i>the average of the on immediately adjoining titles.</i> c) <i>whichever is greater</i>
A3.1	<p>N/A No new buildings are proposed. <i>Buildings must be</i></p> <ul style="list-style-type: none"> a) <i>built to the front, rear and side boundaries of the lot; or</i> b) <i>the same as or less than the setback of an immediately adjoining building; or</i>
A3.1.2	<p><i>Extensions or alterations to existing buildings must not reduce the existing setback.</i></p>
A4	<p>N/A No new buildings are proposed. <i>Car parking must be located:</i></p> <ul style="list-style-type: none"> a) <i>Within the building structure or located behind the building line; and</i> b) <i>So that ground level car parking is not visible to a road, laneway, mall or arcade.</i>
20.4.2	<p>N/A No new buildings are proposed. <i>ACTIVE GROUND FLOORS</i> <i>To ensure that building facades promote and maintain high levels of pedestrian interaction and amenity</i></p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

A1	<p><i>New buildings with non residential uses on ground floors must:</i></p> <ul style="list-style-type: none"> a) <i>have clear glazing, display windows or glass doorways for a minimum of 80% of all ground floor facades to, malls, laneways or arcades; and</i> b) <i>Not have security grills or screens that obscure the ground floor facades to frontages malls, laneways or arcades; and</i> c) <i>Not have mechanical plant or equipments such as air conditioning units or heat pumps visible from ground level public viewpoints; and</i> d) <i>Not have blank walls, signage panels or blocked out windows on the ground floor facades to frontages, malls, laneways or arcades that are wider than 2.0m.</i> <p>N/A No new buildings are proposed.</p>
A2	<p><i>Alterations to ground level facades of non residential buildings must not:</i></p> <ul style="list-style-type: none"> a) <i>Reduce the level of glazing on a façade to a frontage, mall, laneway or arcade that is present prior to alterations; and</i> b) <i>Have security grills or screens that obscure the ground floor façade; and</i> c) <i>Introduce new or additional mechanical plant or equipments such as air conditioning units or heat pumps visible from ground level public viewpoints; and</i> d) <i>Contain blank walls or signage that is wider than 2.0m on a façade to a frontage, mall, laneway or arcade.</i> <p>N/A. The ground level façade is not to be altered.</p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

3.4 Overlays and Codes

3.4.1 Car parking and Sustainable Transport Code

3.4.2 E13.0 Local Historic Heritage Code

The code applies only to the illuminated Multi Tenancy Blade sign, located at 34 George Street.

E13.1	<i>PURPOSE</i>
E13.1.1	<i>The purpose of this provision is to:</i> <ul style="list-style-type: none"> a) <i>Protect and enhance the historic cultural heritage significance of local heritage places and heritage precincts; and</i> b) <i>Encourage and facilitate the continued use of these items for beneficial purposes; and</i> c) <i>Discourage the deterioration, demolition or removal of buildings and items of assessed heritage significance; and</i> d) <i>ensure that new use and development is undertaken in a manner that is sympathetic to, and does not detract from, the cultural significance of the land, buildings and items and their settings; and</i> e) <i>Conserve specifically identified heritage places by allowing a use that otherwise may be prohibited if this will demonstratively assist in conserving that place.</i>
E13.5	<i>USE STANDARDS</i>
E13.5.1	<i>ALTERNATIVE USE OF HERITAGE BUILDINGS</i>
P1	<i>Notwithstanding Clause 8.9, a permit may be granted subject to clause 8.8 for any use of a locally listed heritage place where;</i> <ul style="list-style-type: none"> a) <i>It can be demonstrated that the proposed use will not adversely impact on the significance of a heritage place; and</i> b) <i>The amenity impacts of both the proposed use on the surrounding areas and from the surround area on the proposed use are considered acceptable; and</i> c) <i>A report by heritage professional states that it is necessary for conservation purposes or the continued maintenance of the building or where there is an overriding public benefit.</i>
N/A The proposal does not require a change of use.	

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

E13.6	<i>DEVELOPMENT STANDARDS</i>
E16.6.1	<i>DEMOLITION</i>
P1	<p><i>Existing buildings, parts of buildings and structures must be retained except:</i></p> <ul style="list-style-type: none"> <i>a) Where the physical condition of place makes restoration inconsistent with maintaining the cultural significance of a place in the long term; or</i> <i>b) The demolition is necessary to secure the long-term future of a building or structure through renovation, reconstruction or rebuilding; or</i> <i>c) There are overriding environmental, economic considerations in terms of the building or practical considerations for its removal, either wholly or in part; or</i> <i>d) The building is identified as non- contributory within a precinct identified in Table E13.1: Heritage Precincts, if any; and</i> <i>e) Demolition must not detract from meeting the management objectives of a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	<p>N/A The proposal does not include demolition, however removal of the existing (unapproved) directory sign on the site will be required by a condition to any permit issued.</p>
E16.6.2	<i>SUBDIVISION AND DEVELOPMENT DENISTY</i>
P1	<p><i>Subdivision must:</i></p> <ul style="list-style-type: none"> <i>a) Be consistent with and reflect the historic development pattern of the precinct or area; and</i> <i>b) Not facilitate buildings or a building pattern unsympathetic to the character or layout of buildings and lots in the area; and</i> <i>c) Not result in the separation of building or structures from their original context where this leads to a loss of historic heritage significance; and</i> <i>d) Not require the removal of vegetation, significant trees of garden settings where this is assessed as detrimental to conserving the historic heritage significance of a place or heritage precinct; and</i> <i>e) Not detract from meeting the management objectives of a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	<p>N/A There is no subdivision proposed as part of this application.</p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

E13.6.3	<i>SITE COVER</i> <i>Site coverage must be in accordance with the acceptable development criterion for site coverage within a precinct identified in Table E13.1 Heritage Precincts, if any.</i>
	N/A The proposed signage will not alter the existing site coverage.
E13.6.4	<i>HEIGHT AND BULK OF BUILDINGS</i>
A1	<i>New building must be in accordance with the acceptable development criteria for heights of buildings or structures within a precinct in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no buildings proposed on the site.
E13.6.5	<i>FENCES</i>
A1	<i>New fences must be in accordance with the acceptable Development criteria for fence type and materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no fences proposed on the site.
E13.6.6	<i>ROOF FORM AND MATERIALS</i>
A1	<i>Roof form and materials must be in accordance with the acceptable development criteria for roof form and materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no changes to existing roofs or new roofs proposed on the site.
E13.6.7	<i>WALL MATERIALS</i>
A1	<i>Wall materials must be in accordance with the acceptable development criteria for wall materials within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no changes to existing walls or new walls proposed on the site.
E13.6.8	<i>SITING OF BUILDING AND STRUCTURES</i>
A1.1	<i>New buildings and structures must be in accordance with the acceptable development criteria for setbacks of buildings and structures to the road within a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There are no buildings or structures other than signs proposed on the site.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

E13.6.9	OUTBUILDINGS AND STRUCTURES <i>To ensure that the siting of outbuildings and structures does not detract from the historic heritage significance of local heritage places and the ability to achieve management objectives within identified heritage precincts.</i>
A1	<i>Outbuildings and structures must be:</i> a) <i>Set back an equal greater distance from principal frontage than principal buildings on site; and</i> b) <i>In accordance with the acceptable development criteria for roof form, wall material and site coverage within a precinct identified in Table E13.1 Heritage Precincts, if any</i>
	N/A There are no buildings or structures other than signs proposed on the site.
E13.6.10	ACCESS STRIPS AND PARKING
A1	<i>Car parking areas for non-residential purposes must be:</i> a) <i>Located behind the primary buildings on the site; or</i> b) <i>In accordance with the acceptable development criteria for access and parking as within a precinct identified in Table 1: Heritage Precincts, if any.</i>
	N/A There are no changes proposed to parking on the site.
E13.6.11	PLACES OF ARCHAEOLOGICAL SIGNIFICANCE
P1	<i>For works impacting on places listed in table E13.3:</i> a) <i>It must be demonstrated that all identified archaeological remains will be identified, recorded and conserved; and</i> b) <i>Details of survey, sampling and recording techniques technique be provided; and</i> c) <i>That places of identified heritage significance will not be destroyed unless there is no prudent and feasible alternative</i>
	N/A The site is not included in Table E13.3
E13.6.12	TREE AND VEGETATION REMOVAL
P1	<i>The removal of vegetation must not:</i> a) <i>Unreasonably impact on the historic cultural significance of the place; and</i> b) <i>Detract from meeting the management objectives of a precinct identified in Table E13.1: Heritage Precincts, if any.</i>
	N/A There is no vegetation removal proposed as part of this application.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

E13.6.12	<i>SIGNAGE</i>
A1	Must be a sign identifying the number, use, heritage significance, name or occupation of the owners of the property not greater than 0.2m ² .
	Does not comply. The sign is a large directory sign which is greater than 0.2m ² and is intended to draw the attention of passers by.
P1	<p><i>New signs must be of a size and location to ensure that:</i></p> <ul style="list-style-type: none"> a) <i>Period details, windows, doors and other architectural details are not covered or removed; and</i> b) <i>Heritage fabric is not removed or destroyed through attaching signage; and</i> c) <i>the signage does not detract from the setting of a heritage place or does not reasonably impact on the view of the place from public viewpoints; and</i> d) <i>Signage does not detract from meeting the management objectives of a precinct identified in Table E13.1:Heritage Precincts, if any.</i>
	<ul style="list-style-type: none"> a) Complies. Period details, windows, doors and other architectural details are not covered or removed. b) Complies. Heritage fabric is not removed or destroyed through attaching signage. c) The directory sign and clock as proposed are considered to detract from the setting of a heritage place and the view of the place from public viewpoints. The question which remains is whether it 'unreasonably impacts' on this setting and the relevant views. The scale and aesthetic of the sign structure (whilst in conflict with the heritage architecture on the site and that of the surrounding area) is also in conflict with the clean and sophisticated lines and colour scheme of the original signage scheme for Cimitiere House. The digital clock is considered to be unnecessary and its aesthetic is also in clear conflict with the heritage architecture on the site and around the surrounding area. The existing directory sign is considered appropriate and fitting the original signage scheme of Cimitiere House. The justification for the new sign is not accepted, as the existing blades are above the line of the fence, not obscured as described, and when the individual blades are applied they will have visual prominence. This is demonstrated by the photo montage on the left of Attachment 6 - Revised Photo Montage. The mounting structure is not important in regard to promotion/location of each individual business, but it will have a more detrimental effect on the views across the heritage listed site. The applicant/owner should have made these details clear to the tenants rather than pursuing this alternate structure. d) N/A - The site is not included in Table E13.1.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

It is concluded that the proposed replacement of the existing directory sign would have a detrimental impact on the historic cultural significance of the place.

The location is an improvement on the existing directory sign, but in all other aspects it is considered more detrimental.

Refusal of the application is recommended based on heritage character and urban design grounds as the proposal is considered to be:

- An unnecessary addition as there is an existing directory sign on the site which has not been utilised; and
- An overly bold and inappropriately scaled addition to the high quality buildings on the site and the larger area.

It is considered that the sign would be more suitable if:

- The height be reduced to that of the existing directory sign;
- The width be reduced from to that of the existing directory sign; and
- The digital clock removed from the sign.

3.4.3 Signs Code

E18.1	<i>CODE PURPOSE</i>
E18.1.1	<p><i>To provide opportunities for appropriate business advertising and information essential to support and encourage business activity;</i></p> <p><i>a) Promote the use of well designed signs that complement and enhance the streetscape and the City and do not contribute to visual clutter and detract from the visual amenity of the locality;</i></p> <p><i>b) Ensure signs on places of cultural significance are responsive to the cultural heritage values and the significance of the building or place, both in terms of impact and by means of attachment, by protecting and enhancing those values; and</i></p> <p><i>c) Ensure that signage does not disrupt or compromise safety and efficiency of vehicular or pedestrian movement.</i></p>
	<p>The Multi Tenancy Blade sign is considered inconsistent with the intent of the code purpose as it is unnecessarily large for its function and will dominate the streetscape.</p> <p>The existing well designed black Multi Tenancy Blade sign should be approved as an alternative. This existing sign is of appropriate size, complements the design of Cimitiere House and does not detract from the heritage values of the site.</p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

E18.5	<i>DEVELOPMENT STANDARDS</i>
E18.5.1	<i>INAPPROPRIATE SIGNAGE</i> <i>To prevent inappropriate signage</i>
A1	<p><i>Must not be a:</i></p> <ul style="list-style-type: none"> <i>a) Third Party Sign</i> <i>b) Roof Sign</i> <i>c) Sky Sign</i> <i>d) Bunting (Flag and Decorative Elements)</i> <i>e) Flashing Lights</i>
	<i>Complies. The proposed signs are none of the items described above.</i>
E18.5.2	<i>DESIGN AND SITING OF SIGNAGE</i> <i>To ensure that the design and siting of signs complement or enhance the characteristics of the natural and built environment in which they are located.</i>
A1	<p><i>A sign must:</i></p> <ul style="list-style-type: none"> <i>a) Meet the requirements for the relevant sign type set out in E.18.6; and</i> <i>b) Be located within the applicable zone set out in E18.6.</i>
	<p><i>Requirements for a Projection Wall sign:</i></p> <ul style="list-style-type: none"> <i>a) Maximum length of 2.5m - Complies.</i> <i>b) Maximum depth of 0.5m. Does not comply. Exceeds this amount by 0.75m,</i> <i>c) Maximum width of 0.3m - Complies</i> <i>d) Must not project beyond a point within 0.45m of the vertical projection of the kerb alignment of the street - Complies.</i> <i>e) Minimum clearance of 2.4m above natural ground level - Complies.</i> <p><i>Requirements for a Blade sign</i></p> <ul style="list-style-type: none"> <i>a) maximum height of 2.4m - Does not comply. Exceeds this amount by 3.6m.</i> <i>b) maximum area of each side of sign 1.5m² does not comply. Exceeds this amount by 10.68m².</i> <p><i>Further assessment against the Performance Criteria is required for all signs.</i></p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

	<p>a) Does not comply.</p> <p>i) Does not comply. The mural has an area of approximately 27m²</p> <p>ii) Complies. The mural will not extend beyond the extent of the wall.</p> <p>iii) Does not comply. The mural will occupy most of the wall area.</p> <p>b) Complies. The Mural is located within the applicable zone (Local Business) for the sign type (Wall Mural).</p> <p>Further Assessment against the Performance Criteria and the intent of the code purpose is required.</p>
<p>P1</p>	<p><i>A sign must</i></p> <p>a) <i>Be within an applicable zone for the sign type as set out in table E18.6;</i></p> <p>b) <i>Be sympathetic to the architectural character and detailing of the building;</i></p> <p>c) <i>Be of appropriate dimensions so as not to dominate the streetscape or premises on which it is located;</i></p> <p>d) <i>Not result in loss of amenity to neighbouring properties;</i></p> <p>e) <i>Not involve the repetition of messages or information on the same frontage;</i></p> <p>f) <i>Not contribute to or exacerbate visual clutter; and</i></p> <p>g) <i>Not cause a safety hazard or obstruct movement of pedestrians on a footpath.</i></p>
	<p>Horizontal Projecting Wall signs :</p> <p>a) Are in the applicable zone (Urban Mixed Use) for the sign type (Horizontal Projecting Wall).</p> <p>b) The square shape of the signs are similar to the existing 'street number' sign on the building façade. The black metal trims around the sign panels blend with the use of black colourbond steel on the building façade.</p> <p>c) The projecting signs are of a similar size to other signs of the same type within the streetscape.</p> <p>d) Though the signs are to be illuminated, they will be suitably baffled.</p> <p>e) The advertising message on the signs will not be repeated on the same façade.</p> <p>f) The signs are to be displayed in an orderly way so as not to cause visual clutter.</p> <p>g) The base of the signs will be 2.4m above ground level, allowing pedestrians to freely pass underneath</p> <p>The Horizontal Projecting Wall signs are consistent with the</p>

	<p>Performance Criteria.</p> <p>Multi Tenancy Blade sign:</p> <ul style="list-style-type: none"> a) Is in the applicable zone (Urban Mixed Use) for the sign type (Blade) b) The design of the Multi Tenancy sign has little relation to the architectural detailing of Cimitiere House. The clean lines and natural finishes of Cimitiere House evoke environmental sustainability - wood and concrete panels with black trim, whereas the ultra modern coloured blade sign with off centre illuminated boxes and a 1m wide digital clock stands alone. c) There are inconsistencies in the drawings that were provided. See Attachment 3 - Photo Montage of Multi Tenancy Blade sign. The photomontage of the proposed blade sign shows that the sign is the same height as the existing blade sign at 3.7m. Whereas the proposed sign is in fact almost twice the height at 6m. A revised photomontage was prepared. It shows the height of the proposed sign in proportion to Cimitiere House and the existing sign. See attachment 6 - Revised Photo Montage. d) There are no sensitive uses nearby. e) There will be no repetition of message on each side of the sign. If the sign is approved, the existing sign should be removed to avoid repetition. f) The Multi Tenancy Blade sign will provide a solution to advertising for all the tenancies in the building at the one location. The sign will negate the alternative of many signs on the one façade. g) The sign is located off the footpath and behind the fence to the car park and will not restrict the movement of pedestrians. <p>The Multi Tenancy Blade sign are not consistent with the Performance Criteria.</p>
A2	<p><i>A sign must be a minimum distance of 2m from the boundary of any lot in the Residential Zone.</i></p> <p>N/A The signs are not near the boundary of a Residential Zone.</p>
A3	<p><i>A maximum of one of each sign type per building or tenancy unless otherwise stated in E18.6</i></p> <p>Complies. One Horizontal Projecting Wall sign is proposed for each of the two ground floor tenancies and one Blade sign for all the tenancies.</p>
A4	<p><i>A sign must not be illuminated or contain; flashing lights, animation, moving parts and moving or changing messages or graphics.</i></p> <p>Does not comply. Further assessment against the Performance Criteria is required.</p>

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

P4	<i>A sign must not result in loss of amenity to neighbouring properties or cause undue distraction to drivers of motor vehicles.</i>
	Does not comply. All the signs are proposed to be illuminated. The largeness of the Blade sign and the large area to be illuminated will cause loss of amenity to neighbouring properties by emitting an inappropriate amount of light. If the sign were reduced in size to that of the existing blade sign, the illumination would be reduced to a more appropriate level. Projecting Wall signs will not cause loss of amenity to the surrounding area. The proposal is not considered appropriate by the Tasmanian Heritage Council.

4.0 REFERRALS

The proposal was referred to the following departments and their responses are included below:

Infrastructure Assets

No objection to the proposal on the basis of three conditions relating to:

- a) Damage to Council Infrastructure.
- b) Works within/occupation of the road reserve.
- c) Parking space to comply with AS2890.1.

Environmental Services

Consent was given on the basis of two conditions relating to:

- a) Amenity.
- b) Burning of waste materials.

Heritage Planner

Heritage Planner comments are contained in the assessment against the Heritage Code in this report. The recommendation for refusal is supported by the Heritage Planner.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

Tasmanian Heritage Council

To mitigate the impact of the new sign on the historic townscape and streetscape character of the Launceston City Centre Precinct, as identified in the Launceston Heritage Study 2007, the Tasmanian Heritage Council makes the following recommendations;

- a) That the overall size of the new sign be reduced to the minimum that is practicable to read the tenancy information,
- b) That the sign not have internal illumination,
- c) That the illuminated clock be removed from the sign panel, and
- d) That the background colour of the blade wall be grey, or a similarly recessive colour to match the colour palette of Cimitiere House.

5.0 REPRESENTATIONS

Pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993*, the application was advertised for a 14 day period from 8 June 2013 to 24 June 2013.

No representations were received.

6.0 CONCLUSION

It is considered that the proposal does not comply with the provisions of the Launceston Interim Planning Scheme 2012. The application is recommended for refusal

ECONOMIC IMPACT:

The Launceston Interim Planning Scheme 2012 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 2012 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 2012 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.

12.2 113-115 Cimitiere Street and 34 George Street, Launceston - two Illuminated Projecting Wall signs and one Illuminated Multi Tenancy Blade sign....(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

Launceston Interim Planning Scheme 2012

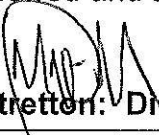
BUDGET & FINANCIAL ASPECTS:

N/A

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.


Michael Stretton: Director Development Services

ATTACHMENTS:

1. Locality Map
 2. Site Plan
 3. Photo Montage of Multi Tenancy Blade sign
 4. MyState Projecting sign
 5. Perpetual Trustees Projecting sign
 6. Revised Photo Montage
-

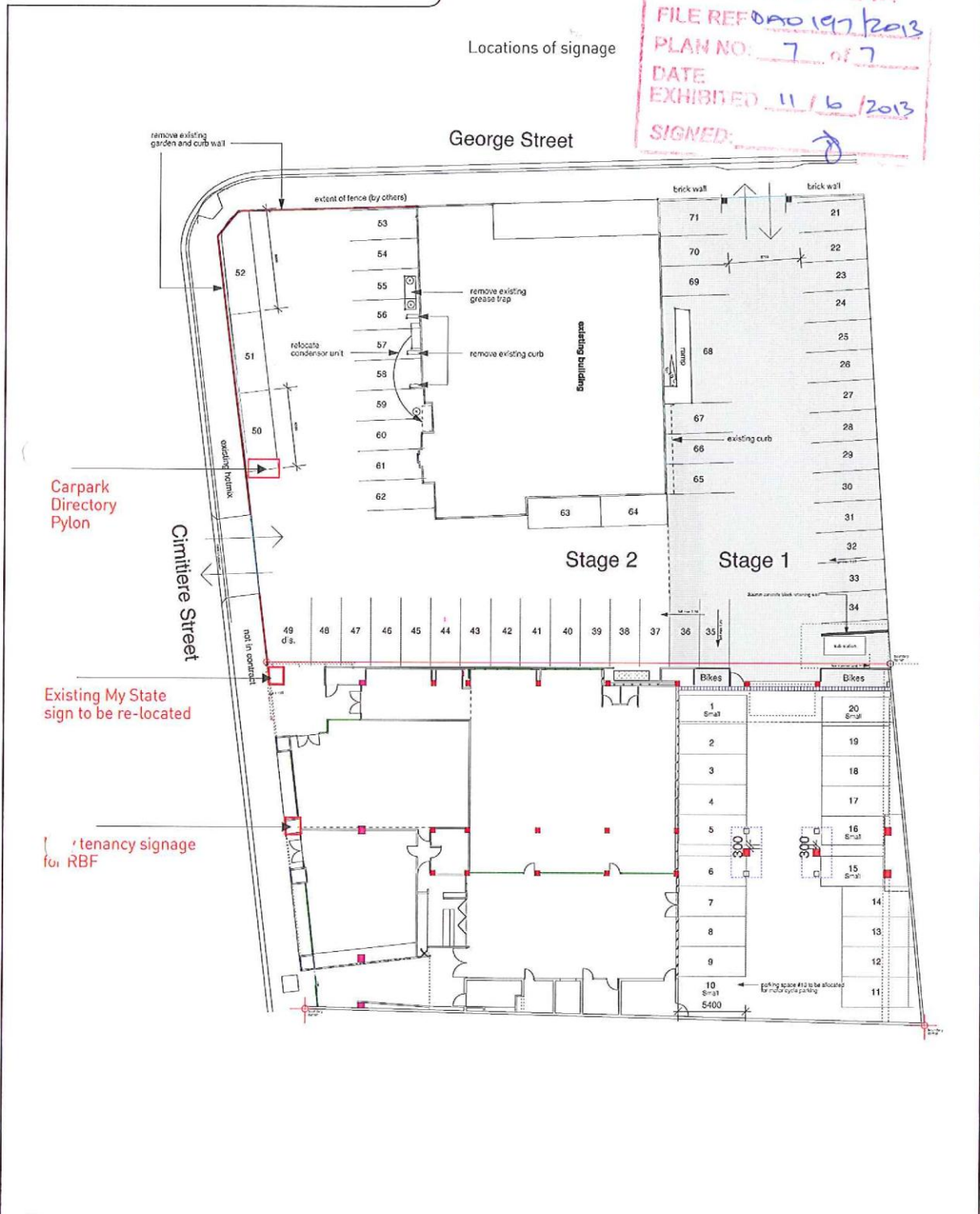


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 Mulgrave NSW 2756
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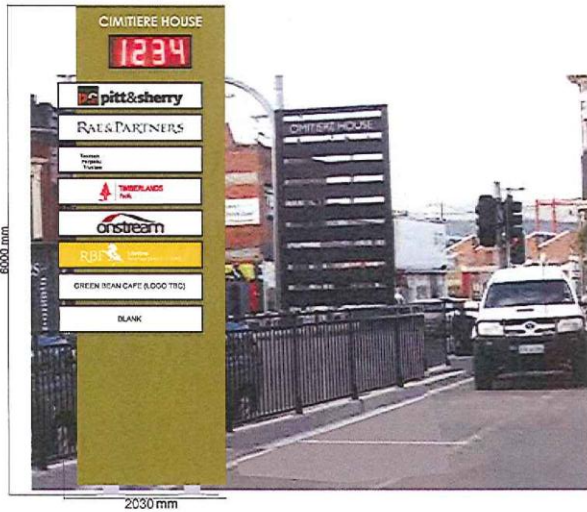
EXHIBITED PLAN
 FILE REF: DA0197/2013
 PLAN NO: 7 of 7
 DATE EXHIBITED: 11/6/2013
 SIGNED:

Locations of signage



ARTWORK APPROVAL FORM		Client: ITM Nominees	Job Name: Cimitiere House
Please indicate any changes clearly by replying to email and new artwork will be sent. Two artwork changes are allowed for. Additional charges apply for further changes at \$45 + gst (minimum charge) or \$90 + gst per hour. Once artwork is correct please reply to email with confirmation. This will commence works.			
Art Date:	Art By:	Rev:	Comments:
10/05/13	CB	1	change to pylon positioning
06/06/13	CB	2	
		3	
		4	
Although all care is taken, it is your responsibility to check the following: spelling, colours, layouts, sizes, materials, quantities etc. ComCut will not be responsible for costs involved in reproducing work that has been incorrectly approved.			Please note: the colours shown in this proof may not necessarily be a true representation of the final colours to be used in the manufacturing process.

Carpark Directory Pylon



ARTWORK APPROVAL FORM

Client: ITM Nominees
Job Name: Cimitiere House

Please indicate any changes clearly by replying to email and new artwork will be sent. Two artwork changes are allowed for. Additional charges apply for further changes at \$45 + gst (minimum charge) or \$90 + gst per hour. Once artwork is correct please reply to email with confirmation. This will commence works.

Art Date:	Art By:	Rev:	Comments:
10/05/13	CB	1	pylon signage reversed to other side
16/05/13	CB	2	pylon design change to option 3
06/06/13	CB	3	pylon design changed to go straight & olive green
06/06/13	CB	4	

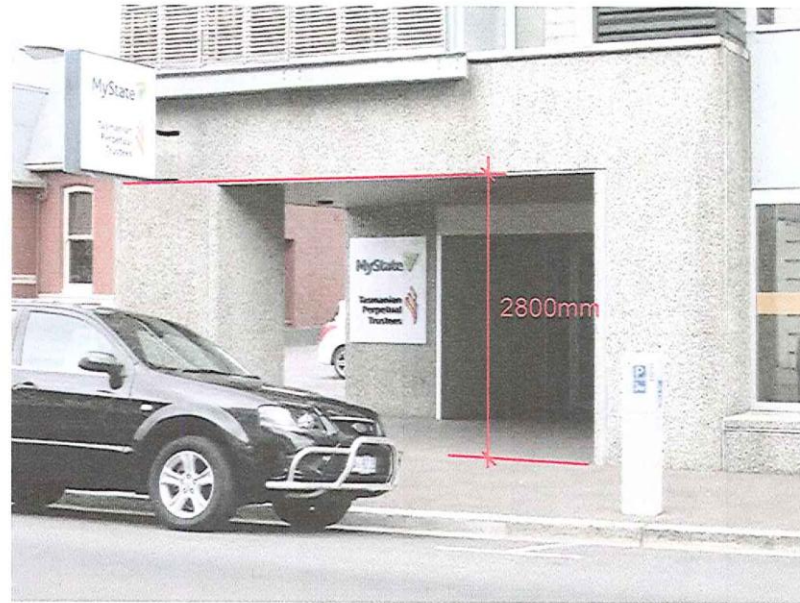
Although all care is taken, it is your responsibility to check the following: spelling, colours, layouts, sizes, materials, quantities etc.
ComCut will not be responsible for costs involved in reproducing work that has been incorrectly approved.
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Existing My State sign to be re-located

Current location



New location



Notes:

- Footpath width (from face of kerb) = 2760mm
- Sign width (horizontal projection) = 1595mm
- Distance from sign to face of kerb = 1165mm

ARTWORK APPROVAL FORM

Client: ITM Nominees
 Job Name: Cimitiere House

Please indicate any changes clearly by replying to email and new artwork will be sent. Two artwork changes are allowed for. Additional charges apply for further changes at \$45 + gst (minimum charge) or \$90 + gst per hour. Once artwork is correct please reply to email with confirmation. This will commence works.

Art Date:	Art By:	Rev:	Comments:
10/05/13	CB	1	
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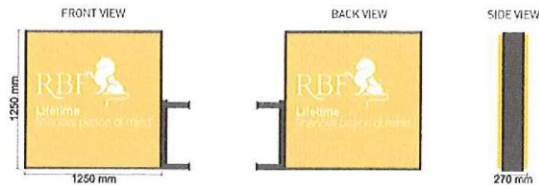
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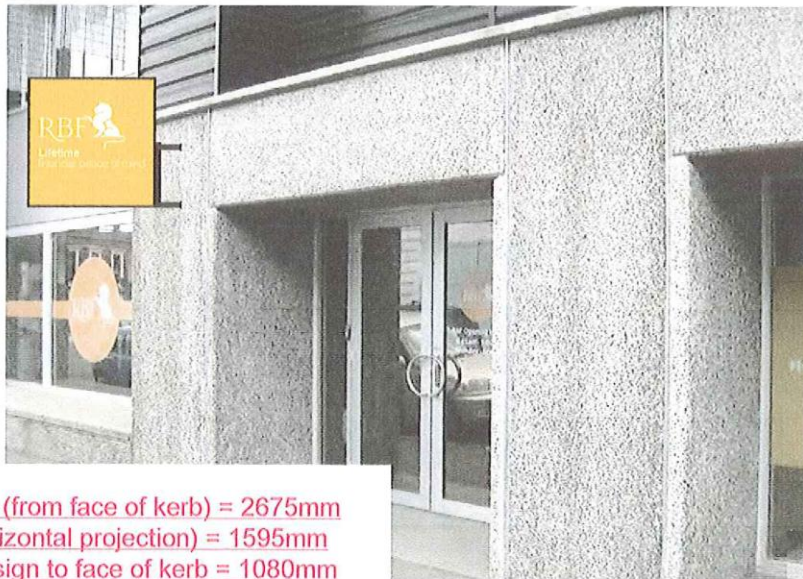
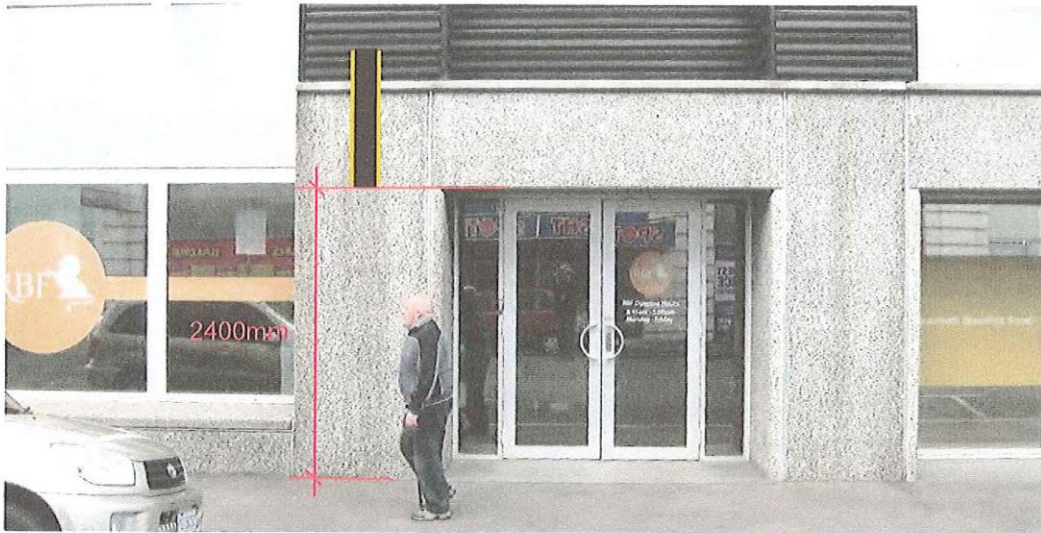
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pg 3 of 4.

New tenancy illuminated signage for RBF



Examples of positioning & scale of signage on site



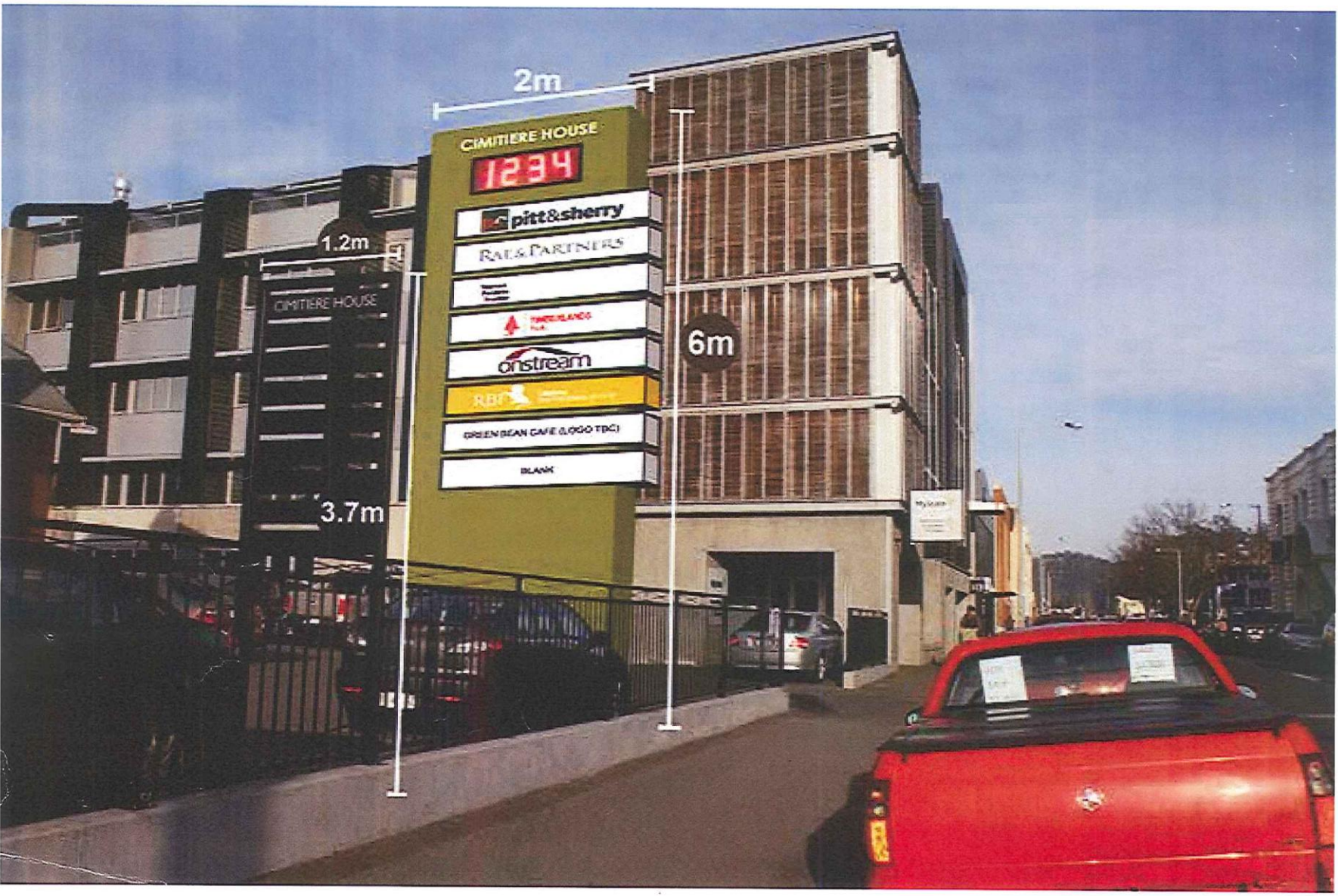
Notes:
 Footpath width (from face of kerb) = 2675mm
 Sign width (horizontal projection) = 1595mm
 Distance from sign to face of kerb = 1080mm

ARTWORK APPROVAL FORM Client: XXXXXXXXXXXXXXXXXXXX Job Name: XXXXXXXXXXXXXXXXXXXX

Please indicate any changes clearly by replying to email and new artwork will be sent. Two artwork changes are allowed for. Additional charges apply for further changes at \$45 + gst (minimum charge) or \$90 + gst per hour. Once artwork is correct please reply to email with confirmation. This will commence works.

Art Date:	Art By:	Rev:	Comments:
XX/XX/13	CB	1	
		2	
		3	
		4	

Although all care is taken, it is your responsibility to check the following: spelling, colours, layouts, sizes, materials, quantities etc.
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12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area**FILE NO: DA0221/2013****AUTHOR:** Claire Fawdry (Consultant Planner)**DIRECTOR:** Michael Stretton (Director Development Services)

DECISION STATEMENT:

To consider a development application for demolition of kiosk and construction of clubrooms and covered dog training area associated with the Tasmanian Dog Training Club Inc. at 50 Lamont Street, Invermay.

PLANNING APPLICATION INFORMATION:

Applicant: Tasmanian Dog Training Club Inc.
Property: 50 Lamont Street, Invermay
Site Area: 16.46 ha
Zoning: Recreation
Existing use: Sports and Recreation (permitted)
Classification: Construction of a building
Date Received: Validity Date - 11 June 2013
Deemed Approval: 22 July 2013
Representations: One

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That Council approves DA0221/2013 for demolition of kiosk and construction of clubrooms and covered dog training area at 50 Lamont Street, Invermay subject to the following:

1. ENDORSED PLANS

The use and development must be carried out as shown on the endorsed plans to the satisfaction of the Planning Authority.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

2. NOISE LEVELS AT BOUNDARY

Noise levels at the boundary of the site with any adjoining land must not exceed:

- (a) 50dB(A) day time; and
- (b) 40dB(A) night time.

3. HOURS OF OPERATION

The hours of operation of the clubroom are to be between 8.00 am and 10.00 pm.

4. NOISE LEVELS AND SURROUNDING SENSITIVE USES

Noise levels generated by the use and development must not exceed 5dB(A) above background noise in habitable rooms of sensitive uses on properties surrounding the development site.

5. HOURS OF CONSTRUCTION

Construction works must only be carried out between the hours of 7am to 6pm Monday to Friday and 8am to 5pm Saturday and no works on Sunday or Public Holidays.

6. DAMAGE TO COUNCIL INFRASTRUCTURE

The developer is liable for all costs associated with damage to Council infrastructure resulting from non-compliance with the conditions of the planning permit and any bylaw or legislation relevant to the development activity on the site. The developer will also be liable for all reasonable costs associated with the enforcement of compliance with the conditions, bylaws and legislation relevant to the development activity on the site.

7. EXTERNAL LIGHTING

Any external security lighting installed must be contained within the boundaries of the site.

8. RELOCATION OF SHIPPING CONTAINER

The relocated shipping container must be located to the southwest of the proposed clubrooms and setback 10 metres from the title boundary.

9. FOOD PREMISES

All Food Businesses must be registered and licensed with council. Food Premises must comply with BCA TAS Part H102 and AS 4674 "Design, Construction and Fit-out of Food Premises".

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

10. FLOOD WARNING RESPONSE PLAN

A site management plan is to be submitted detailing what steps are to be taken in the event that a major flood warning is announced for the Tamar or Esk Rivers system. The management plan is to include the following:

- (i) The cessation of use until the flood has passed;
- (ii) The steps to be taken to minimise damage to the development before the site is inundated (e.g. Removal of vehicles, valuable goods and records from the site, relocation of furniture and fittings to a higher level within the site; deferral of events);
- (iii) Current contact details of the proprietor or operators of the development to be included and kept current; and
- (iv) That the management plan is to be made available to staff and operators of the event

Works must not begin prior to the approval of the Flood Warning Response Plan.

11. NUISANCE

During operation of this use, the best practicable means shall be taken to prevent nuisance or annoyance to any person not associated with the use, in spite of the fact that air, noise and water pollution matters may be subject to provisions of the Environmental Management & Pollution Control Act 1994 and regulations there under.

12. LAPSING OF PERMIT

This permit lapses after a period of two years from the date of granting of this permit if the use or development has not substantially commenced within that period.

NotesOther Approvals

- A. *This permit does not imply that any other approval required under any other by-law or legislation has been granted. At least the following additional approvals are required before construction commences:*
- (a) *Building permit*
 - (b) *Plumbing permit*
-

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

Restrictive Covenants

- B. *The granting of this permit takes no account of any covenants applicable to the land that contradict the Launceston Planning Scheme. The permit holder and any other interested party, should make their own enquires as to whether the proposed development is effected, 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.

Access for People with a Disability

- C. *This permit does not ensure compliance with the Disability Discrimination Act, furthermore the developer may be liable to complaints under the said Act. The applicant is directed to Australian Standard 1428 Parts 1 - 4 for technical direction on how to cater for people with disabilities.*

Objections to Proposal

- D. *This permit has no effect until the expiry of the period for the lodgement of an appeal against the granting of the permit or, if an appeal is lodged, until ten days after the appeal has been determined by the Resource Management and Planning Appeal Tribunal.*

Appeal Provisions

- E. *Attention is directed to Sections 61 and 62 of the Land Use Planning and Approvals Act 1993 (as amended) which relate to appeals. These provisions should be consulted directly, but the following provides a guide as to their content:*

A planning appeal may be instituted by lodging a notice of appeal with the Clerk 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.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

Permit Commencement

F. *This permit takes effect 14 days after the date of Council's notice of determination or at such time as any appeal to the Resource Management and Planning Appeal Tribunal is abandoned or determined. 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.*

REPORT:

1. PROPOSAL

The applicant seeks Council's approval for demolition of an existing kiosk and construction of clubrooms and a covered dog training area at 50 Lamont Street, Invermay (CT 154196/1). The land is owned by Launceston City Council. Permission was granted for the lodgement of the Development Application pursuant to Section 52 of the *Land Use Planning and Approvals Act 1993* by letter on 29 May 2013.

The application requires discretionary consideration as the site is located in the Invermay/Inveresk Flood Inundation Area.

The Tasmanian Dog Training Club has an existing dog training facility adjacent to the Churchill Park Sports Complex at 50 Lamont Street, Invermay (Heritage Forest). The proposal includes the removal of the existing portable kiosk and meeting room and the construction of a new clubroom. The new clubrooms will contain a small kitchen, meeting room, accessible toilet, storage and two undercover training areas.

The roof of the building will be 'cottage green' and the walls 'wilderness'. The proposed clubroom will be clad in Colorbond with aluminium sliding windows. Two Colorbond roller doors are proposed on the western elevation (colour to be advised). The roofline of the building will cover a land area of 158.3 m². The building footprint is 87 m² and has two undercover training areas of 44.9 m² and 26.4 m² respectively. The building will have a maximum building height of approximately 3 metres.

Landscaping is proposed around the new building to provide shade and to make the area more visually attractive to users of the Tasmanian Dog Training Club and the general public.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

The existing toilet block will be retained on-site and upgraded. It is also proposed that the two temporary shipping containers on the site are relocated. One of the shipping containers is to be relocated to southwest of the proposed clubrooms. The other shipping container is to be sold and removed from the site.

2. LOCATION AND NEIGHBOURHOOD CHARACTER

The site is located in the Recreation zone adjacent to the Open Space zoning of the balance area of Heritage Forest to the northwest. Heritage Forest represents a remarkable transformation from a tip site to a recreation and living environment close to the city centre.

Its features include multi-use trails, picnic area, barbeque area, playground and an off-leash dog exercise area. The park has introduced vegetation featuring an arboretum of all 27 of the Tasmanian Eucalyptus species. It is situated next to the Churchill Park Sporting Complex to the north east. Launceston parkrun travels through Heritage Forest as part of the 5km loop that starts behind Aurora Stadium.

The site shares common boundaries with properties in the Open Space zone (to the northwest, north and northeast), Commercial zone (south and southwest) and General Residential zone (south).

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

RECREATION ZONE	
<i>ZONE PURPOSE</i>	
18.1.1	<p><i>To provide for a range of active and organised recreational use or development and complementary uses that do not impact adversely on the recreational use of the land.</i></p> <p>The proposed clubrooms and undercover dog training area represents a redevelopment of the existing kiosk which is used by the Tasmanian Dog Training Club Inc. The proposed facilities will enhance the existing recreational use of the land by the Applicant, and will not adversely impact the adjacent Churchill Park Sporting Complex nor the surrounding residential and commercial uses in their respective zones.</p>

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

3.2 Use

The proposal is best defined as Sports and Recreation:

"use of land for organised or competitive recreation or sporting purposes including associated clubrooms. Examples include a bowling alley, fitness centre, firing range, golf course or driving range, gymnasium, outdoor recreation facility, public swimming pool, race course and sports ground".

The use has permitted status in the zone.

3.2 Use Standards

18.3.1	<i>AMENITY To ensure that uses do not adversely impact upon the occupiers of adjoining and nearby uses.</i>
A1	<i>Operating hours must be between a) 8.00am and 10.00 pm where adjoining residential use; and b) 6.00am and 12.00am midnight where not adjoining residential use.</i>
Complies Operating hours of the clubrooms will be between 8.00am and 10.00pm as the site adjoins the General Residential zone to the south. A permit condition stipulating this is recommended.	
A2.1	<i>The proposal must not include flood lighting where it adjoins the General Residential, Inner Residential, low density residential or urban mixed use, and</i>
Not applicable Flood lighting is not proposed.	
A2.2	<i>External security lighting must be contained within the boundaries of the site.</i>
Complies Although external security lighting is not proposed, a condition is to be imposed to control external lighting which may be installed.	
A3	<i>If for permitted or no permit required uses</i>

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

Complies	
The proposal is for Sports and Recreation which is a permitted use in the zone.	
18.3.2	<i>RECREATION ZONE CHARACTER To ensure that discretionary uses are of an appropriate scale and type for the zone, and to support the local area objectives, if any.</i>
A1	<i>Commercial vehicles for discretionary uses must be parked within the boundary of the property in locations that are not visible from the road or public land.</i>
Not applicable	
The proposal is for Sports and Recreation which is a permitted use in the zone.	

3.3 Development Standards

18.4.1	<i>BUILDING DESIGN AND SITING To ensure that the design and siting of buildings: a) conserves the recreation character of the area; and b) minimises disturbance to adjoining uses.</i>
A1	<i>Building height must not exceed 7.0m</i>
Complies	
The proposed building height of the clubroom is approximately 3 metres..	
A2	<i>Buildings must be set back 10m from all boundaries.</i>
Complies	
The siting of the proposed clubroom is closest to the southern title boundary and is setback in excess of 13 metres. The building is set back in excess of 100 metres from all other title boundaries.	
The existing two shipping containers on the site will be relocated from their current location. One shipping container will be relocated to the southwest of the new clubrooms location. The other will be sold and removed from the site.	
The exact location of the relocated shipping container on the site is not specified and therefore a condition is to be imposed to specify that it is to be located to the southwest of the proposed clubrooms and setback 10 metres from the site boundary.	
18.4.2	<i>LANDSCAPING To ensure that the recreation values of the site are retained in a manner that contributes to the broader landscape of the area.</i>
A1	<i>If for permitted or no permit required uses.</i>

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

Complies	
The proposal is for Sports and Recreation which is a permitted use in the zone.	
18.4.2	<i>SUBDIVISION To ensure that subdivision is appropriate for the intended use of the lots.</i>
A1	<i>Subdivision must be: a) to provide for development in the Utilities Use Class; or b) required for public use by the Crown, an agency, or a corporation all the shares of which are held by Councils or a Council; or c) for the consolidation of a lot with another lot with no additional titles created, or d) to align existing titles with zone boundaries and no additional lots are created.</i>
Not applicable Subdivision is not proposed.	
A2	<i>If for utilities uses.</i>
Not applicable Subdivision is not proposed.	
A3	<i>The lot must have a minimum frontage of 4.0m.</i>
Not applicable Subdivision is not proposed.	
A4	<i>Each lot must be connected to a: a) reticulated water supply; and b) reticulated sewerage system; and c) reticulated stormwater system.</i>
Not applicable Subdivision is not proposed.	

3.4 Overlays and Codes

3.4.1 Car Parking and Sustainable Transport Code

Although the Code applies to all use and development, there is no requirement for car parking spaces for the Sports and Recreation (race course, firing range and other outdoor recreation) use class in Table E6.1. An existing car park is located to the south of the site in association with the soccer grounds.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

3.4.2 Invermay/Inveresk Flood Inundation Area Code

The site is located within Precinct 6 - Recreational. This includes the open space areas including Heritage Forest and Churchill Park recreational areas. Informal and formal recreational facilities. The management objectives of the precinct are as follows:

- *Maintain the largely open space character of the area;*
- *Buildings only to support recreational use of land;*
- *No new commercial or industrial uses;*
- *Prohibit new residential use;*
- *Prohibit significant community infrastructure.*

The proposal is for new clubrooms and an undercover dog training area which will enhance the existing use. The Tasmanian Dog Training Club Inc. has an existing lease agreement with the Council over the land and the proposal will provide new clubrooms and undercover training facilities for use during inclement weather. The existing kiosk will be demolished.

3.4.2.1 Use Standards

E16.6.1	TO PREVENT INAPPROPRIATE USE To prevent inappropriate uses from establishing in areas subject to, or seriously affected by flood inundation.
A1	Must not be: a) Education and occasional care; or b) Emergency services; or c) Hospital services. Not applicable The proposed use is best defined as Sports and Recreation
A2	Must not be Residential unless: a) Single dwelling in the Invermay Residential or Inveresk Residential precincts; or b) Multiple dwelling in the Invermay Residential Precinct; or c) Residential associated with and supporting the educational activities within the Inveresk Cultural precincts. Not applicable The proposed use is best defined as Sports and Recreation
A3	Must not be Community Meeting and Entertainment in the Riverside Industrial or Inveresk Residential precincts. Not applicable The proposed use is located in the Recreational Precinct.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

3.4.2.2 Development Standards

E16.6.1	<p>INTENSIFICATION OF RESIDENTIAL DEVELOPMENT To limit the intensification of residential development in areas subject to, or seriously affected by, flood inundation.</p>
A1	<p>New residential development or extensions of existing buildings: a) must not increase the floor area of individual dwellings or total floor area on the title to more than 110% of that existing or approved on the 1st January 2008; or b) must not result in more than 200m² of residential floor area on a single title; or c) must be for residential uses associated with and supporting the educational activities within the Inveresk Cultural Precinct Not applicable Residential development is not proposed.</p>
A2	<p>Subdivision or division of land by strata plan must not create any additional lots capable for any future residential development. Not applicable Subdivision or division of land by strata plan is not proposed.</p>

E16.7.2	<p>FLOOD IMPACT To ensure that new buildings and infrastructure are sited and designed to avoid or mitigate the risk and minimise the impact of flooding.</p>
A1	<p>Floor levels of all habitable rooms within the residential use class must be at least 3.7m AHD. Not applicable The proposal is not within the residential use class</p>
A2	<p>No acceptable solution Assessment against the Performance Criteria is required.</p>

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

P2	<p>Buildings for residential purposes within the Inveresk Cultural Precinct must be sited and designed in accordance with a hydrological report and an emergency management plan prepared by a suitably qualified engineer. The report and plan must detail the risks and likely impacts of a 1:20 year, 1:50 year, and 1:100 year annual exceedance probability flood event on the site, the building and its occupants and how the development will be designed and how the use will be managed to avoid, mitigate or remedy the impacts to take account of:</p> <ul style="list-style-type: none">a) the risk of levee failure in the vicinity of the site;b) the likely velocity of flood waters and depth of inundation;c) the need to locate electrical equipment and other fittings above the 1:100 year annual exceedance probability flood level'd) the likely affect of the use or development on flood characteristics;e) the safety of the occupants of the development, potential evacuation routes and whether there is a flood free access to the land;f) the ability of the use or development to withstand flood inundation and debris damage and the necessity for the incorporation of any flood proofing or protection measures in the development. <p>Not applicable</p> <p>The proposal is not within the residential use class nor is the site located in the Inveresk Cultural Precinct.</p>
A3	<p>Floor levels of all buildings not in the residential use class must be at least 3.4m AHD</p> <p>Floor levels of the proposed clubrooms have not been provided with the application. A condition is to be imposed requiring a Floor Warning Response Plan be prepared and submitted to Council prior to the commencement of works.</p>

4. REFERRALS

The proposal was referred to the following departments and their responses are included below:

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

INTERNAL	
Environmental Services	Consent was given on the basis of two conditions relating to: a) Food Premises; and b) Nuisance
Infrastructure Services	The standard condition for damage to Council infrastructure was recommended.
EXTERNAL	
Ben Lomond Water	Certificate of Consent

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 19 June 2013 to 2 July 2013. One representation was received during that period. The issues raised are set out below.

Issue Raised	Response
Vehicles are parked adjacent to the boundary with the General Residential zone to the south	The adjacent car park has sufficient car spaces to accommodate visitor parking for dog training. Additional car parking spaces are not required for the current application pursuant to Table E6.1 of the Car Parking and Sustainable Transport Code.
Barking dogs	Given the existing use of the site by the Tasmanian Dog Training Club Inc, it is not anticipated that there would be any additional dog noise generated by barking dogs. Permit conditions have been recommended to address potential noise nuisance.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

Issue Raised	Response
Banging metal posts into the ground at 6am in the morning on Sunday's	<p>The hours of operation are stipulated in clause 18.3.1 of the Recreation Zone to between 8.00am and 10.00pm where adjoining residential use.</p> <p>A permit condition stipulating that use of the clubrooms is to be between these hours has been recommended.</p>
The dog training club should be moved out of the park.	Not a valid planning consideration for the current application.
Drinking and partying at the existing kiosk will only be exacerbated at new clubroom.	<p>The hours of operation are stipulated in clause 18.3.1 of the Recreation Zone to between 8.00am and 10.00pm where adjoining residential use.</p> <p>A permit condition stipulating that use of the clubrooms is to be between these hours has been recommended.</p>
Construction of another shed would lead to more problems.	The proposal is for demolition of the existing kiosk and construction of new clubrooms will be relocated. Therefore the proposal will to alter the intensity of the existing use.

6. CONCLUSION

The proposal will provide a more comprehensive clubroom and undercover dog training area for the Tasmanian Dog Training Club Inc. The intensity of the use would not change, and the new clubroom complies with the development standards of the zone. On this basis, the application is recommended for approval.

ECONOMIC IMPACT:

The Launceston Interim Planning Scheme 2012 contains provisions intended to implement the objectives of the Resource Management and Planning System. The application has been assessed using these provisions and as such economic impacts have been considered.

12.3 50 Lamont Street, Invermay - Demolition of kiosk and construction of clubrooms and covered dog training area...(Cont'd)

ENVIRONMENTAL IMPACT:

The Launceston Interim Planning Scheme 2012 contains provisions intended to implement the objectives of the Resource Management and 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 2012 contains provisions intended to implement the objectives of the Resource Management and 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 2012

BUDGET & FINANCIAL ASPECTS:

Not applicable..

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.


Michael Stretton: Director Development Services

ATTACHMENTS:

1. Location Map (Distributed separately)
 2. Proposal plans (Distributed separately)
 3. Copy of representation (Distributed separately)
-

DIRECTORATE AGENDA ITEMS

14 DEVELOPMENT SERVICES

14.1 Community Grants (Round 1) 2013/2014

FILE NO: SF5954

AUTHOR: Angie Walsh (Grants & Sponsorship Officer)

DIRECTOR: Michael Stretton (Director Development Services)

DECISION STATEMENT:

To respond to requests for Community Grants.

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That the following recipients receive the recommended grant amounts:

No	Request	Details	Score	Requested	Recommend	Page #
1	Interweave Arts Association	Remade 2013 - Wearable Art Fashion Show and Ball (July - August 2013)	98%	\$3,500	Approval \$3,500	3 - 14
2	Sudanese Community of Northern Tasmania	Community Engagement Project (November 2013 - February 2014)	87%	\$4,850	Approval \$4,850	15 - 26
3	Stompin	'MY HEART IS A HALL' (1 August 2013 - 14 March 2014)	74%	\$5,000	Approval \$3,750	27 - 40

14.1 Community Grants (Round 1) 2013/2014...(Cont'd)

That the following grant applications not be funded by Council:

No	Request	Details	Score	Requested	Recommend	Page #
4	On Stage Tasmania	"Music Is..." (July - September 2013)	45%	\$5,000	Not Supported	41 - 51
5	1 ST Tamar Sea Scouts	1st Tamar Sea Scouts 50th Anniversary - Book Publication (October - November 2013)	41%	\$3,000	Not Supported	52 - 61
6	Ravenswood Neighbourhood House	'Creative Play' Program (July - September 2013)	39%	\$0	Not Supported	62 - 71

REPORT:

The total requests received for Community Grants Round 1 2013/2014 (including individuals/teams/groups) is \$24,550.

Based on the assessment results, the recommended allocation of funds for Round 1 2013/2014 is \$12,800 (including \$700 for individuals/teams/groups).

The Assessment Panel has assessed each application against the assessment criteria (detailed below). The full details of each request are set out in a separate report which has been distributed to Aldermen together with an analysis of the projects/activities and their respective scores.

The normal distribution of funds (according to score) is as follows:

81 - 100%	=	100% of requested funds
61 - 80%	=	75% of requested funds
50- 60%	=	50% of requested funds
< 50%	=	No funding provided

All applications have been assessed using the following criteria:

14.1 Community Grants (Round 1) 2013/2014...(Cont'd)

Individual/Team/Group Applications

Individual/team/group grants will be provided if you are a young person 18 years or under living in the Launceston Municipal area, who have been selected to represent Australia, Tasmania or Northern Tasmania.

In accordance with the Community Grants (Individual/Team/Group) Policy the following individuals/teams/groups have been approved for funding:

Jacob Fleming - School Sports Australia Swimming Championships	\$100
NTJSA U14 Boys Representative Team (6 members)	\$300
Launceston Bhutanese Soccer Team (7 members)	\$300
Total	\$700

Organisation Applications

Mandatory Requirements:

- Community benefit must be the primary purpose of the project/activity
- Project/activity is held within the Launceston Municipal area
- Must respond to one or more priorities identified in the Launceston's Vision 20/20 and/or Preferred Futures and Action Plans in the Launceston Community Plan
- A detailed budget must be included with the application
- A risk management plan (for the project/activity) must be included with the application

Assessment Points

- Aims and outcomes that benefit the Launceston community and are achievable
- Project plan demonstrates good organisational planning for the project/activity
- Budget for project/activity is realistic and includes evidence of self-support (i.e. fundraising, sponsorship, use of volunteers, in-kind support, etc)
- Merits of the project/activity for the Launceston community

ECONOMIC IMPACT:

Approval of the recommended grants will result in a positive economic impact to those individuals/teams/groups and organisations by providing funds that will enable them to undertake their project or activity.

14.1 Community Grants (Round 1) 2013/2014...(Cont'd)

ENVIRONMENTAL IMPACT:

Approval of the recommended grants will have minimal impact on the environment.

SOCIAL IMPACT:

Approval of the recommended grants will provide a number of valuable social impacts for our community. It will encourage physical activity for young people, community arts and personal development programs as well as providing educational opportunities.

STRATEGIC DOCUMENT REFERENCE:

Community Plan
Vision 2020

BUDGET & FINANCIAL ASPECTS:

Available Funds	\$60,000
Amount recommended this Round	
• Individuals/Teams/Groups - \$700	
• Organisations - \$12,100	\$12,800
Balance	\$47,200
Remaining Rounds 2013/2014	2

DISCLOSURE OF INTERESTS:

The author has no conflict of interest in this item.

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


Michael Stretton: Director Development Services

17 INFRASTRUCTURE SERVICES**17.1 Rocherlea Hall Lease****FILE NO:** SF0376**AUTHOR:** Andrew Smith (Manager Parks & Recreation)**DIRECTOR:** Harry Galea (Director Infrastructure Services)

DECISION STATEMENT:

To consider a proposal from the Northern Suburbs Community Centre to lease the Rocherlea Hall.

PREVIOUS COUNCIL CONSIDERATION:

Nil

RECOMMENDATION:

That Council agree to lease the Rocherlea Hall to the Northern Suburbs Community Centre Incorporation (NSCC) for two years subject to:

- a) the other regular hirer having continued access to the hall for their normal time slots,
 - b) user fees for both regular and casual users not to exceed Council's Community Hall fees and charges unless otherwise agreed to by the hirer,
 - c) user fees for both regular and casual hirers to be paid to NSCC,
 - d) the terms of the lease to include that NSCC be responsible for paying for all power and water charges and an annual lease fee of one dollar if demanded; and
 - e) that land owner approval be given for the placement of a shipping container adjacent to the hall subject to planning.
-

REPORT:

The Northern Suburbs Community Centre Inc (NSCC) wrote to Council recently seeking to expand their current use of the Rocherlea Hall to facilitate a men's group who wish to establish a base in the area. The proposal includes placing one large or two smaller shipping containers adjacent to the Hall for storage and for some minor improvements to the hall over time. The shipping containers will require planning approval and/or a building permit.

17.1 Rocherlea Hall Lease...(Cont'd)

In addition to the NSCC the hall currently has one other regular tenant who uses the hall for a combined period of 104 hours a year. The activities of all users need to be considered as part of the future management of the hall. The other regular hirer has been consulted with and they are not opposed to the NSCC leasing the hall provided their current booking time slots and fees for access are maintained.

The long term leasing of halls to one particular user group can disadvantage other groups and restrict the ability of Council to ensure that the hall is being used to its full potential. However in this case the proposed lessee is a broad based community group with a holistic and inclusive approach to the community and a group held in the highest regard by the local community.

The short term nature of the lease also offers both parties the opportunity to review the arrangements and assess the success of the arrangements or otherwise after a relatively short period of time.

ECONOMIC IMPACT:

This project will not have a significant economic impact.

ENVIRONMENTAL IMPACT:

This project will have minimal environmental impact.

SOCIAL IMPACT:

This project will have a positive social impact through improved facilities for use by the northern suburbs community and the opportunity for new programs to commence in the area.

STRATEGIC DOCUMENT REFERENCE:

Launceston Community Plan, Preferred Future Eight: Excellent Infrastructure and Quality Living, Strategy Three - Maintain quality community facilities

BUDGET & FINANCIAL ASPECTS:

Implementation of this recommendation will have a minor effect on the future Capital and Operational budgets.

17.1 Rocherlea Hall Lease...(Cont'd)

The following provides information on budget and financial aspects.

- Preparation of report (including attachments)
 - Staff resources - half hour

- Project implementation
 - Capital - Improvement projects (\$19,500)
 - \$10,000 listed for a heating upgrade in 2014 budget
 - \$5,000 kitchen upgrade to be listed for consideration in the 2015 budget,
 - \$4,500 to address drainage, fencing and storage improvements to be funded from Hall Operations budget 2014
 - Additional annual depreciation cost - \$3,775 per annum
 - Additional annual maintenance cost - \$800 per annum

All of the above projects other than storage and new fencing will be required over the next two years regardless of the NSCC increased use of the hall. The increased utilisation will make the investment more worth while.

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.



Harry Galea: Director Infrastructure Services

ATTACHMENTS:

1. Letter from Northern Suburbs Community Centre
 2. Map of leased area
-

ALL VENUES

Postal Address:
P.O. Box 143
Mowbray 7248



ABN 95 017 450 530
Phone: (03) 63 265506
Fax: (03) 63 262713

Dear Mayor and Alderman,

MENS BIZZ

The Northern Suburbs Community Centre Inc have formed a new partnership with the Mens Bizz volunteer group and are working together towards starting up a community workshop at Northern Suburbs Community Centre at Rocherlea.

We are also looking for community members with Trade Skills who would like to volunteer their time teaching and helping others in the Community.

The Mens Bizz group are currently meeting every Friday from 10am to 2pm at the Rocherlea Community Hall in Archer Street Rocherlea. Gold coin donation, morning tea provided, BYO lunch

PROPOSAL:

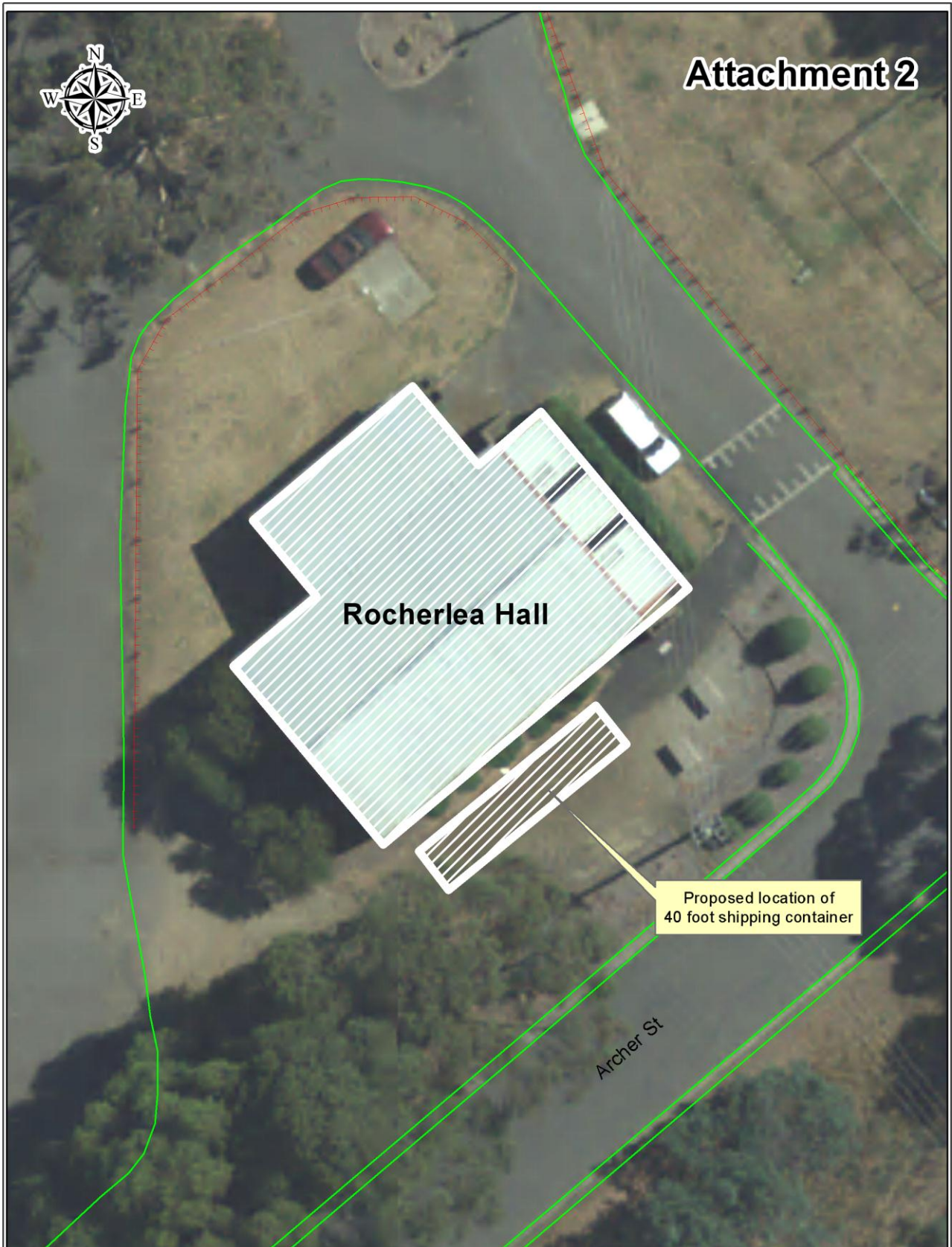
The Mayor Albert Van Zetten was invited up to the Rocherlea Hall to discuss the vision for the Mens Bizz group and the Mayor voiced support of initiative.

Andrew Smith, Manager Parks and Recreation was also invited to visit with the Mens Bizz group and the following requests were discussed to move forward the development of the community workshop.

- Temporary placement of 1 x 40ft or 2 x 20ft shipping containers on the southern side of the Rocherlea Community Hall as a storage space ([NSCC to support the purchase of the container](#))
- The shipping containers to be re-located at a point in time to the Northern Suburbs Community Centre site
- Suggested 2 year placement timeframe – to be reviewed
- Rocherlea Hall lease for 2 years to Northern Suburbs Community Centre
- To allow for placement of the shipping containers the 2 picnic tables to be re-located to the north-west corner of the hall
- Request for a 15amp power point to be installed in the current power box

SUGGESTIONS FOR HALL AND SURROUNDS:

- Heating, power points and kitchen upgrade
- Flyscreen door needed for kitchen
- Additional hall storage space required
- Water that lays in front of ladies toilet causes access problems
- Shot put area needs to be re-located
- Road access/fencing for children required for safety
- Tree safety



Attachment 2

Rocherlea Hall

Proposed location of 40 foot shipping container

Archer St

Created: 8/7/2013 CRM

NOTE:

While all reasonable care has been taken to ensure the accuracy of the information portrayed on this plan its purpose is to provide a general indication of the location of Council services. The information provided may contain errors or omissions and the accuracy may not suit all users. A site inspection and investigation is recommended before commencement of any project based on this data. This note forms an integral part of this plan. Launceston City Council 2013

Rocherlea Hall

Scale : 1:250 (at A4)



Parks & Recreation



19 GENERAL MANAGER**19.1 LGAT General Meeting and Annual General Meeting - Form View on Motions Submitted****FILE NO:** SF2217 / SF2218**AUTHOR:** Megan Brown (Acting Manager Corporate Strategy)**GENERAL MANAGER:** Robert Dobrzynski (General Manager)

DECISION STATEMENT:

To consider and form a view on the Local Government Association of Tasmania Agenda items for the Association's Annual General Meeting and General Meeting scheduled for 24 July 2013.

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

1. That, other than the motions listed in the attached tables, Council accepts that the decisions sought, in respect of the motions listed to be considered at the LGAT General Meeting and Annual General Meeting of 24 July 2013 respectively, are effectively to note the situation relevant to each topic and requests the Mayor or Council's representative to the General Meeting to vote accordingly.
 2. That in respect of the motions listed in the attached tables, Council adopts the motions as presented with Council's view to be conveyed through the Mayor or representative to the General Meeting and Annual General Meeting respectively.
-

REPORT:

The LGAT agenda for the Association's Annual General Meeting and General Meeting to be held in Hobart on 24 July 2013 have been circulated to all Aldermen and Directors.

The purpose of the report is to ensure Aldermen are aware of the motions to be considered by the association and to enable Council to consider and provide direction to the Mayor or representative in voting on the respective motions.

19.1 LGAT General Meeting and Annual General Meeting - Form View on Motions Submitted...(Cont'd)

The Executive Management Committee (General Manager and Directors) have reviewed the LGAT agendas and provided their comments in the attached tables.

ECONOMIC IMPACT:

Not applicable to this report.

ENVIRONMENTAL IMPACT:

Not applicable to this report.

SOCIAL IMPACT:

Not applicable to this report.

STRATEGIC DOCUMENT REFERENCE:

Area 5 - Governance Services - Strategic Plan 2008/13 - engaging our community and delivering responsible management.


BUDGET & FINANCIAL ASPECTS:

N/A

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.


Robert Dobrzynski: General Manager

ATTACHMENTS:

1. General Meeting - Form View on Motions Submitted
 2. Annual General Meeting - Form View on Motions Submitted
-

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
10	16	<p>DECISION SOUGHT</p> <p>That Members discuss the proposal to amend the format of future meetings and provide the opportunity for enhanced debate on matters of topical interest to the sector or issues that have key policy and/or resourcing implications for the sector</p>	LGAT	<p>Recommendation</p> <p>General Manager The proposal is supported. It would appear logical that on occasions where Councils come together, matters of common interest which are key policy issues to the sector or have resource implications for the sector are canvassed.</p>
11	17	<p>DECISION SOUGHT</p> <p>That the Meeting note that with the passing of the above legislation elections will now be held each four years on an all in all out basis, that compulsory voting will not apply to Local Government elections, that postal voting will continue and that members of Parliament will not be able to serve as elected members of a local council.</p> <p>That the meeting consider the implications of the qualification period for mayors with elections moving from a two year to a four year cycle.</p>	LGAT	<p>Recommendation</p> <p>General Manager The decision is vague on the definition of term "qualification period for Mayors". However it only requires that the meeting consider the implications rather than the decision seeking any specific course of action. As a consequence, the Mayor should be guided by the debate.</p>
13	20	<p>DECISION SOUGHT</p> <p>That the Meeting agree that all member councils use the Australian Taxation Office rate for travel allowances to ensure consistency across the sector.</p>	LGAT	<p>Recommendation</p> <p>Mike Tidey Agree, an appropriate external reference</p>

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
14	21	<p>DECISION SOUGHT</p> <p>That the Meeting agree that the Local Government Association of Tasmania should liaise with the regional waste bodies to progress the commissioning of container deposit scheme research for Tasmania.</p>		<p>Recommendation</p> <p>Harry Galea This motion is supported. Refer to LCC Comment on Agenda Item 21.1</p>
15.1	22	<p>DECISION SOUGHT</p> <p>That there be a requirement for all current and future candidates for Local Government to undertake National Police Checks in their current name and any previous names as well as whether any candidate has been discharges or bankrupt.</p>	Break O'Day	<p>Recommendation</p> <p>General Manager The proposal is not supported. Legislation relating to these matters generally indicates that individuals cannot hold the office of elected member if they have been convicted of a summary offence. The proposal in its current wording would almost certainly be a an infringement on privacy legislation requirements. At the least, the Council would need to be satisfied, following enquiry by LGAT, that the motion did not result in breaches of existing legislation relating to the privacy of an individual's information.</p>
15.2	23	<p>DECISION SOUGHT</p>	Break O'Day	<p>Recommendation</p>

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That LGAT work in partnership with Councils and the Local Government Division to update the Regulations in relation to the Councillors Code of Conduct.		<p>General Manager It was understood that LGAT were in fact working with the Local Government Division to undertake a revision of the Councilor Code of Conduct Provisions. If this is not occurring, or has been deferred, then the Council should support the motion.</p> <p>It would be expected that LGAT staff would provide and update on the status of this matter which should serve to guide the way the Mayor votes.</p>
15.3	24	<p>DECISION SOUGHT</p> <p>That the Local Government Association of Tasmania be requested to establish a panel to review the existing anomalies within the current legislation in respect to the Code of Conduct Panel and request that the Hobart City Council be included in the review process.</p>	Hobart	<p>Recommendation</p> <p>General Manager Again, similar to 15.2, it was understood that LGAT were undertaking this review in conjunction with the Local Government Division. If this is not occurring, then the Council should support the motion, with the exception that the Hobart City Council should not be given any greater status than any other Council in the State regarding engagement in the review process.</p>
15.4	25	DECISION SOUGHT	Derwent Valley	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That all Councilors, as a requirement of being elected to Council are to within 6 months of being elected undertake training courses in the following areas: 1. Meeting Procedure 2. Planning		General Manager That the motion be supported.
15.5	26	DECISION SOUGHT That the Local Government Association of Tasmania pursue on behalf of Local Government the option that the role of the Legislative Council (House of Review) be undertaken by the Mayors of the 29 Council in Tasmania.	Derwent Valley	Recommendation General Manager That the motion not be supported. It is unlikely in the extreme that the situation would be practical from a legislative, democratic or workload perspective. The rationale for the change has also not been established, in moving from current arrangements to the proposed arrangements. Lastly, it would be interesting to ascertain if Mayors voting on the matter would have a conflict of interest.
15.6	27	DECISION SOUGHT That the Minister for Local Government be available at future LGAT Annual General Meetings to participate in a question and answer session in which the Minister will receive and respond to questions from the floor.	Dorset	Recommendation General Manager The proposal should be supported. Greater interaction with the Minister for Local Government at LGAT Annual General Meetings can only be productive for local - state relation, particularly as the State and Local Government are dealing with complex economic and social matters within their jurisdiction.
17.1	28	DECISION SOUGHT	Derwent	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That the Local Government Association of Tasmania consider changes to the Rules of the Association to allow for General Meetings by Skype video conferencing to the three regional locations.		<p>General Manager The proposal is supported. As technology allows improved access to remote video conferencing, the Local Government Association of Tasmania should work to engage this technology in order to promote greater participation and reduce inefficiencies brought about by a tyranny of travel distance.</p>
18.1	29	<p>DECISION SOUGHT</p> <p>That LGAT seek funding assistance of the State Government for a consultant to assist Local Government with the transition to capital value rating and to resource a significant education and community campaign with the wider community.</p>	Burnie City	<p>Recommendation</p> <p>Mike Tidey The most important assistance that can be provided is in the resolution of legislative and regulatory issues and the provision up to date and complete information through the valuation process. Assistance with a public education and community campaign would also be beneficial.</p>
18.2	29	DECISION SOUGHT	Burnie City	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That LGAT approach the State Government to set up a loan scheme that will allow Local Government to receive concessional funding through TASCORP to assist in increasing capital works to stimulate the economy.		<p>Mike Tidey There was similar motion to the ALGA that we did not support. Loan schemes with concessional arrangements existed some time ago. These can become administratively cumbersome (set criteria and then check they are met etc) and expensive. Strong preference is for grant funding (that could equate to the concessional funding) rather than concessional loans but not opposed to the request.</p>
18.3	31	<p>DECISION SOUGHT</p> <p>That the Local Government Association request the State Government under its current review of the role of Local Government, undertake a review of the financial relationship between State and Local Government.</p>	Derwent	<p>Recommendation</p> <p>Mike Tidey A review of the relationship may be useful in updating the overall understanding. Given the current overall financial position of the State it is difficult to envisage changes to the arrangement that would be of financial benefit to Local Government. It may also carry some risk where rates paid by the State Government have increased in some Councils.</p>
18.4	32	DECISION SOUGHT	Waratah Wynyard	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That Council request the Local Government Association of Tasmania (LGAT) to review the potential loss of rate revenue as a result of the Forestry Agreement and failed Managed Investment Schemes and, that LGAT request compensation to Councils impacted by this loss be part of the Forestry Agreement.		<p>Mike Tidey A review of the situation would be useful in updating the overall effect of the Agreement.</p>
19.1	34	<p>DECISION SOUGHT</p> <p>The LGAT write to the Federal Minister for Telecommunications and to the regional managers for Telstra, Vodaphone and Optus expressing concern about the lack of mobile phone coverage in rural areas within Tasmania particularly in light of the need for these communications during periods of catastrophic fire conditions.</p> <p>The LGAT seek advice as to what action the Commonwealth is taking with Telstra in order to progress the initiative of installing transportable mobile phone towers in areas of highest bushfire risk during the bushfire season.</p>	Launceston City	<p>Recommendation</p> <p>General Manager That the Council strongly support the excellent motion put forward.</p>
19.2	36	DECISION SOUGHT	Northern Midlands	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That LGAT lobby the minister responsible for DIER to have all unapproved signage removed from state roads.		Harry Galea In theory this is supported but in practice those signs which may have an adverse impact on driving safety should be removed as a priority and others signs as DIER resources permit
19.3	37	DECISION SOUGHT That the Local Government Association of Tasmania lobby the Minister responsible for the Department of Infrastructure, Energy and Resources to ensure that speed restrictions of road works and the like are not erected prematurely, left in place beyond the completion of works or between work periods, unless required due to the condition of the road surface.	Northern Midlands	Recommendation Harry Galea The motion is supported. Road works signage has greatest impact when used responsibly. Drivers become frustrated and more likely to disobey road works signage generally when faced with un-necessary erection.
19.4	39	DECISION SOUGHT That LGAT request the State Government to confirm who has responsibility for roads that were previously owned by Forestry Tasmania or Gunns and requests an outline of the future actions government is considering for these roads.	Glamorgan Spring Bay	Recommendation Harry Galea The motion is supported. In time the roads will deteriorate where some roads will be impassable to passenger vehicles. It is necessary for a responsible authority to undertake assessments so that the roads are maintained on a as needs basis.
20.1	40	DECISION SOUGHT	Derwent Valley	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		<p>That the Local Government Association request the State Government to amend the Land Use Planning and Approvals Act 1993 by providing a scale of fees based on the value of the development for the lodgment of an appeal.</p>		<p>Michael Stretton</p> <p>This motion is not supported.</p> <p>There is a need to review the third party planning appeals process within the State, however, it would be inappropriate to simply increase fees in an attempt to rectify the current system failings.</p>
20.2	41	<p>DECISION SOUGHT</p> <p>The Local Government Association of Tasmania request the Minister for Planning to review and repeal Part 3 of the <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> in relation to subdivision provisions and make necessary amendments to the <i>Land Use Planning and Approvals Act 1993</i> and other consequential amendments such as the <i>Land Titles Act 1980</i> and have all relevant provisions associated with subdivisions contained in the relevant legislation.</p> <p>That this review of the provisions ensure that the new provisions are drafted in plain English.</p>	Huon Valley	<p>Recommendation</p> <p>Michael Stretton</p> <p>The existing legislative framework for assessing subdivisions is unnecessarily complex and confusing. The motion represents a logical approach to addressing the current complexities and is supported on this basis.</p>
20.3	43	<p>DECISION SOUGHT</p>	Huon Valley	<p>Recommendation</p>

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		<p>That the Local Government Association of Tasmania request the Minister of Planning to amend the <i>Land Use Planning and Approvals Act 1993</i> to provide legislative certainty for application of headworks charges and capital contributions toward Council infrastructure impacted upon by development proposals.</p>		<p>Michael Stretton</p> <p>Not supported.</p> <p>Councils have successfully used planning permit conditions for requiring developer infrastructure contributions for many years with great success and there is no real need for change. The comment from the State Government is very apt here:</p> <p>“... The system is transparent and equitable. It provides Councils with flexibility to plan and manage infrastructure and tailor contributions to particular developments while appeal rights provide developers with the ability to test the application of the Council’s infrastructure policies”.</p>
20.4	44	DECISION SOUGHT	Hobart	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That the Local Government Association of Tasmania lobby the State Government to commit appropriate funds to enable regional planning to continue beyond the end of the current financial year.		<p>Michael Stretton This motion is supported.</p> <p>The Northern Regional Planning Management Committee has developed a work program for 2013/14 to include matters such as an initial review of the regional land use strategy (RLUS) and this includes a financial contribution from the State Government. However, following the GLP there will be a need for a substantial review of the RLUS and there will need to be a continued financial contribution from the State Government.</p>
20.5	45	<p>DECISION SOUGHT</p> <p>That the Local Government Association of Tasmania request the State Government to make legislative change, if necessary, and confirm that representations made pursuant to sections 26, 30 I or 57 of the Land Use Planning and Approvals Act 1993 shall not be made public to the extent that they contain specific reference to individual councilors or staff.</p>	Northern Midlands	<p>Recommendation</p> <p>Michael Stretton Disagree with this motion.</p> <p>It is a matter for the General Manager to determine if irrelevant, or potentially defamatory, comments are included in agenda papers. It is a common practice to de-identify representations and also to remove potentially defamatory comments from representations published in agenda papers. There is no need for additional legislative controls as internal Council procedures are sufficient.</p>
21.1	47	DECISION SOUGHT	Kentish	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		<p>That the Local Government Association of Tasmania lobby the State and Federal Governments for research to be undertaken on the potential effect on overall recycling that a container deposit scheme would have prior to the implementation of any such legislation.</p>		<p>Harry Galea Discussions have been held between the 3 regional waste management authorities and LGAT. Agreement was reached that a report on the effect of CDL is warranted but conducted by Local Government so that a narrow brief on the effects on Local Government's recycling schemes can be determined. If the proponent of the report was the state government then in all likelihood the report will concentrate on means to implement a CDL scheme and be silent on adverse effects on Local Government kerbside recycling scheme. In the current form the motion is not supported however a Local Government sponsored report is warranted.</p>
21.2	50	DECISION SOUGHT	Hobart	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		<p>That:</p> <ol style="list-style-type: none"> 1. The Local Government Association of Tasmania support a request to the relevant Minister to have the State Government liaise with Local Government and other key stakeholders through the facilitation of statewide workshops, in order to clarify the role and responsibilities of local councils in managing Level 1 Activities. 2. Following the completion of the workshops, the State Government, as a matter of priority, update and complete the 1996 Environmental Assessment Manual to provide clear guidance to councils in assessing Level 1 Activities. 		<p>Michael Stretton</p> <p>Motion 1 – I do not believe there is any real need for a statewide workshop on this issue as Level 1 Activities have been in existence since the introduction of the Environmental Management and Pollution Control Act 1994 and are well understood.</p> <p>Motion 2- Supported. The Environmental Assessment Manual is a valuable resources for Councils and is badly in need of review and updating.</p>
21.3	52	<p>DECISION SOUGHT</p> <p>That the Local Government Association of Tasmania lobby the State Government, specifically Department of Economic Development and the Environmental Protection Authority to address the pending environmental impacts resulting from excessive storage of used tyres in the absence of a suitable recycling facility or other appropriate means of disposal.</p>	Northern Midlands	<p>Recommendation</p> <p>Michael Stretton Supported. This is a matter that the Waste Advisory Committee (WAC) is dealing with and it is important that a sustainable waste management option for tyres is achieved for the State. As it currently stands Council's are routinely having to deal with complaints concerning excessive tyre storage (or disposal) on local properties.</p>
22.1	53	<p>DECISION SOUGHT</p>	Derwent Valley	<p>Recommendation</p>

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		<p>1. That the Local Government Association include food security and building food resilience in communities as a key priority for action in its next strategic plan.</p> <p>2. That the Local Government Association works to build capacity and improve the understanding of how Local Government can facilitate and play a key role in strengthening food resilience and food security in local communities</p>		<p>Michael Stretton Local Government places a strong focus on building resilient and healthy communities and this motion is supported on this basis. Tasmania has a Food Security Strategy and many Councils are becoming involved with food security.</p>
24.1	56	<p>DECISION SOUGHT</p> <p>That LGAT seek an amendment to the Pension Rebate Concession under the Water and Sewerage Industry (Community Service Obligations) Regulation 2009 to broaden the eligibility to those holding a Seniors Health Care Card.</p>	Burnie City	<p>Recommendation</p> <p>Mike Tidey The agenda item notes the basis for access to a Seniors Health Care Card is determined by an income test. There isn't any information available to me on which to recommend whether the holders of this group are in financial need such that the concession should be extended. The advice of the State Government is that those in most need are covered by the existing arrangement. The risk in extending concessions is that the amount individuals receive is reduced so that total funding remains the same. A matter for the Council to determine.</p>
24.2	57	<p>DECISION SOUGHT</p>	Burnie City	<p>Recommendation</p>

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That LGAT seek an amendment to the Pensioner Rate Rebate under the Local Government (Rates and Charges Remissions) Act 1991 to broaden the eligibility to those holding a Seniors Health Care Card.		Mike Tidey As per previous item.
24.3	59	DECISION SOUGHT 1. That the Local Government Association of Tasmania lobbies the Federal Government to identify social enterprise as an investment priority and fund it as such through the Regional Australia Development Fund and other such funds as appropriate. 2. That the Local Government association of Tasmania further lobby for any changes required to the guidelines of such funds to allow social enterprise to be funded by various Federal Government funds and that this be a long term project in the period 2015 – 2020.	Derwent Valley	Recommendation Michael Stretton/Leanne Hurst This motion is supported. Whilst acknowledging LGATs comments that the motion might more appropriately have been raised at the ALGA level, the social and economic benefits of social enterprises to local communities is significant and potentially more sustainable than other limited tenure funded projects.
24.4	61	DECISION SOUGHT That the Local Government Association of Tasmania lobby for the reinstatement of funding to Tasmanian Regional Arts.	Hobart	Recommendation Richard Mulvaney Supported. Tasmanian Regional Arts provided coordination to arts programs on a State basis with particular emphasis on regional support.
24.5	62	DECISION SOUGHT	Hobart	Recommendation

LGAT General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
		That the Local Government Association of Tasmania lobby the Tasmanian Heritage Council for greater coordination of heritage initiatives.		<p>Michael Stretton Partially supported. This is a very broad motion which includes both land use planning and tourism related matters. There is certainly a role for Heritage Tas in the coordination of land use planning controls for heritage throughout the State, however, I agree with the State Government comment that Tourism Tasmania and the new Regional Tourism Organisations' should have more of a coordinating role for heritage related tourism initiatives.</p>
24.6	63	<p>DECISION SOUGHT</p> <p>That the Local Government Association of Tasmania lobby for the reinstatement of the ABC Tasmanian Production Unit and its subsequent funding.</p>	Hobart	<p>Recommendation</p> <p>Richard Mulvaney Supported. There has been a significant drop in Tasmanian representation by the ABC since the state Production Unit was closed. In addition ABC reporting beyond Hobart has decreased.</p>

LGAT Annual General Meeting

Agenda Item	Page No.	Motion	Submitting Council	LCC Comment
7.1	10	<p>DECISION SOUGHT</p> <p>That the Rules of the Association be amended by deleting Section 18(a)(ii) thereby removing the Lord Mayor or proxy from the General Management Committee as Hobart City Council will no longer be a member of the Association.</p>	Meander Valley	<p>Recommendation</p> <p>General Manager The proposed amendment is an appropriate consequential change to the rules of the Association necessitated by Hobart City Council withdrawing membership of LGAT. In the circumstances it would be illogical for Hobart City Council to continue to be on the General Management Committee of the Association when they are no longer members of the Association. The decision should be supported.</p>
7.2	11	<p>DECISION SOUGHT</p> <p>That the Local Government Association of Tasmania Rules regarding Conduct of General Meeting be amended by deleting from rule 16 voting by population categories and replacing it with one (1) vote per Council.</p>	Derwent Valley	<p>Recommendation</p> <p>General Manager The Council should strenuously oppose this initiative. It has the potential to split the Local Government Association of Tasmania by resulting in a situation where the greater numbers of small populated Council outvote the major population base of the State, as represented in the larger Councils. This runs a risk that the agenda of the Local Government association will become of less relevance to larger Councils. If this situation did in fact eventuate, Launceston City Council may be forced to review its continuing membership of LGAT. The decision should be opposed.</p>

19.2 Closure of part of walkway adjacent to 25 South Esk Road, Trevallyn**FILE NO:** 20446 / 20447**AUTHOR:** Darryl Wright (Legal Advisor)**GENERAL MANAGER:** Robert Dobrzynski (General Manager)

DECISION STATEMENT:

To consider available alternatives and to determine appropriate course of action following decision of the Magistrates Court and subsequent developments.

PREVIOUS COUNCIL CONSIDERATION:

On 21 September, 2009 in closed session, Council determined to close part of the walkway leading from and adjacent to South Esk Road. On 8 July, 2013, in considering this same question, Council adjourned the matter, requesting the General Manager to explore further options which may be open.

RECOMMENDATION:

1. That Council, at the cost of Council, obtain Senior Counsel's opinion as to whether the walkway in issue is a local highway within the meaning of The Local Government (Highways) Act, 1982 ("the Act"), and given the opinion the walkway is a local highway, whether any and what options apart from forced removal of the encroachment on to the walkway is open to Council.
 2. On receipt of such advice, this matter be referred back to Council for the information of Council or alternatively for further decision.
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REPORT:

Aldermen will find attached a copy of the previous report to Council on 8 July, 2013 relating to this matter. At this Council meeting a recommendation was put in the following terms:

19.2 Closure of part of walkway adjacent to 25 South Esk Road, Trevallyn...(Cont'd)

- 1. That the General Manager, absent any declaration by the Supreme Court that the walkway adjacent to 25 South Esk Road, Trevallyn is not a local highway within the meaning of The Local Government (Highways) Act 1982, take necessary action to enforce effective compliance with the decision of the Magistrates Court of 21 September, 2009.**
- 2. That the General Manager invite the neighbouring landowners to the walkway, Mr and Mrs Smart, to make the necessary application to the Supreme Court, seeking a declaration from the Court that the walkway is not a local highway.**
- 3. That Council not initiate any action to seek any declaration or order from the Supreme Court on the matter.**
- 4. That Mr and Mrs Smart be given 3 months to bring such application, and in the event that Mr and Mrs Smart fail to obtain the declaration referred to in paragraph 1, then time allowed to Mr and Mrs Smart to remove the fence and other material from the walkway, be a matter for the discretion of the General Manager.**

At its meeting of 8 July, 2013 Council requested the General Manager to gather further information regarding Council's options for dealing with the matter.

Essentially Council had referred the matter of proposed closure of part of the walkway to the Magistrates Court as it was bound to do following receipt of objections. The matter was referred to the Court pursuant to Section 14 of the Act. The Court made a local highway order pursuant to that Section, upholding each of the objections.

Mrs Smart suggests the order of the Magistrates Court is of no effect because it was made on the incorrect premise that the walkway was a local highway. Mr and Mrs Smart, wish to challenge the effect of that decision of the Magistrates Court, the appropriate course, it was suggested, is for Mr and Mrs Smart to bring an appropriate application to the Supreme Court.

At issue is whether the walkway is a local highway as that term is used in the Act. Council has regarded it as a local highway. The issue was not raised in the Magistrates Court and that Court proceeded and made its decision on the basis that the walkway was a local highway.

The Supreme Court would determine the issue on what is termed the "balance of probabilities". This is often referred to as the civil standard of proof. The essential question is: Is it more likely than not that this is a local highway?

19.2 Closure of part of walkway adjacent to 25 South Esk Road, Trevallyn...(Cont'd)

The author cannot say with certainty that this is a local highway. Certainly it is accepted that on the relevant test, the balance of probabilities, it is. It is a difficult question. There is no record of any decision of any authority making this a public thoroughfare. That is because it is likely no such decision was ever made. It is suggested that it is a highway through dedication by the original owner of the land as such, and acceptance by the public, such acceptance evidenced by continuous use by the public. The walkway has existed since at least the 1890's. The determination of the issue involves an examination of the likely facts as they existed at and following that time, and an examination of the relevant statute law from that time.

The advantage of the recommended approach over Council's application to the Court would be that it is likely much less expensive and the opinion will be to hand far earlier than a decision of the Court. Council could take additional comfort in acting on the advice. The disadvantage is of course that it remains the opinion of an individual, and given the opinion was confirmation that this was a local highway, an opinion not likely finding favour with Mr and Mrs Smart.

Alternatively Council could bring an application for a declaration to the Supreme Court. A decision of the Supreme Court would finally determine the issue. Council bringing the application would ensure that a decision was made.

At any stage in a proceeding before the Supreme Court, a Judge may order that the matter be referred for mediation. A party may request such an order. At a mediation the matters in issue are fully discussed. The mediator may express a view as to the prospects of success of a particular argument.

The down side of Council bringing such an application to the Supreme Court is the potential cost, bearing in mind there is no requirement on Council to bring any application. Given that the application was successful, Council might seek an order for costs against any party opposing the application. That should be pursued as there is no incentive for Mr and Mrs Smart to accept at any time the likelihood that the declaration will be granted (if that turns out to be the case) and discontinue any objection to the granting of the declaration, unless there is some incentive for doing so.

19.2 Closure of part of walkway adjacent to 25 South Esk Road, Trevallyn...(Cont'd)

For completeness there must be added the possibility of referring the matter to mediation now, that is, given that Mr and Mrs Smart agree, Council and Mr and Mrs Smart mediating the question outside of the Court process. That is not seen as a reasonable course to take. As the matter stands there is a current order of the Magistrates Court, the effect of which is, the author believes, that the walkway be opened to its full width. If the result of the mediation was that Mr and Mrs Smart withdrew their objection to the removal of the encroachment, the issue would be resolved. Absent that outcome no advantage would be achieved.

The question of whether a street was or was not a local highway came before the Supreme Court recently in the matter of Clarence City Council and Howlin. That case is referred to in the earlier report. It has now come to notice that that decision is the subject of an appeal to the Full Court of the Supreme Court. The appeal has been heard and a decision is pending. In that case Mr. Justice Evans found in favour of Clarence City Council, that the street in question was not a local highway. Mr. Howlin has appealed the decision. Each case turns on its own facts. The facts in this case are different leading the author to a different conclusion.

Howlin's case is important because it set out in detail the relevant law. The grounds of the appeal are not known. It may be that if the recommendation to Council is adopted, Counsel would wish to await the decision prior to giving the opinion. It seems however that if on the facts of this matter, the walkway is a local highway, then a successful appeal with the effect of making what was in effect a private right of way a local highway would be unlikely to effect the determination in this matter.

ECONOMIC IMPACT:

See financial aspects

ENVIRONMENTAL IMPACT:

N/A

SOCIAL IMPACT:

Impact on either Mr and Mrs Smart, or, to the extent outlined in the decision of Magistrate Hill, on the residents of Trevallyn.

19.2 Closure of part of walkway adjacent to 25 South Esk Road, Trevallyn...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

N/A

BUDGET & FINANCIAL ASPECTS:

If recommendation adopted: About \$10,000.00.

If Council brings the application to the Supreme Court: Difficult to say. This depends on firstly whether the application is opposed, the course the action takes, the result, and whether the Judge awards costs against the unsuccessful party. Say \$10,000.00 to \$30,000.00. If Council enforces removal of the encroachment: Likely negligible. Costs of removal of the fence are recoverable from Mr and Mrs Smart.


Comment by Director Corporate Services

There is no specific budget provision for this expenditure. It will need to be offset by savings in other areas.

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.


Robert Dobrzynski: General Manager

ATTACHMENTS:

1. Decision of Magistrate Hill 20 September, 2010.
 2. Letter of Mrs Smart to General Manager of 10 May, 2013 enclosing letter of advice of Mr McElwaine.
 3. Advice of Darryl Wright to the General Manager 28 June, 2013 (Distributed separately)
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Citation: LAUNCESTON CITY COUNCIL & WRIGHT,
WRIGHT, MILLER, MILLER,
BLACKWOOD, BLACKWOOD, KELLY ,
FOX, PUGH, LAUNCESTON CATARACT
GORGE PROTECTION ASSOCIATION,
McCAUSLAND, CHANDLER & POVEY

Parties: LAUNCESTON CITY COUNCIL
WRIGHT, William J
WRIGHT, Johana
MILLER, Sue
MILLER, Robert
BLACKWOOD, D M
BLACKWOOD, L D
KELLY, Paul
FOX, Susan
PUGH, Benjamin
LAUNCESTON CATARACT GORGE PROTECTION
ASSOCIATION
McCAUSLAND, John
CHANDLER, Naomi
POVEY, Anne

Title of Court: Magistrates Court (Administrative Appeals Division)
Tasmania

File No: L40344/2010

Delivered on: 20 September 2010

Decision of: Magistrate T J Hill

Reference Pursuant to the *Local Government (Highway) Act* section
14(6): closure of part of walkway at South Esk Road,
Trevallyn

Catchwords:

Representation:

Counsel :

Applicant: Mr Brown

Respondent :

Solicitors :

Applicant: Simon Brown

Respondent :

Decision Number : [2010] TASAAD

Reasons for Decision

1. Introduction

This is a reference to the Magistrates Court of Tasmania sitting in its Administrative Appeals Division pursuant to the Magistrates Court (Administrative Appeals Division) Act 2001. That Reference arises pursuant to the *Local Government (Highways) Act 1982* (the Act) s.14(6) in that objections to the proposed partial closure of a walkway between South Esk Road, Trevallyn and the Gorge have been referred to the court for determination.

2. A brief history of the proposal

The walkway in question runs from South Esk Road down to the Gorge. The upper section of the walkway is relevant to this Reference. That section is adjacent to roughly the southwestern boundary of 25 South Esk Road. In the mid 1990's the then owner of 25 South Esk Road, Mr Fahey, enclosed a portion of the walkway with a fence along the full portion of the common boundary. This was done without council consent. Evidence from Council indicates that the area enclosed is approximately 1 metre wide by 31.5 metres long. A copy of a plan of the area in question is annexed hereto and marked "A".

The property at 25 South Esk Road has since been sold. The current owners are Mr and Mrs Smart. Mr and Mrs Smart are apparently desirous of purchasing the area of land now enclosed by the fence.

A decision was made by Council in 2007 requiring the current owners to remove the fence and reinstate the original width of the walkway. This was not done and for some reason that was not adequately explained no effort has been made to enforce Council's decision.

Council again considered the matter and a decision was made on the 21st September 2009 to take the necessary steps to close that part of the highway (walkway) to enable the sale of the land to the Smarts. Ten objections were received and were referred to this court.

The relevant statutory provision is section 14 of the Act.

14. Closure and diversion of highways

- (1) If, in the opinion of the corporation, a local highway or part of a local highway should be diverted or closed for the public benefit, in the interests of public safety or because of lack of use, it may –
 - (a) if it is satisfied, in the case of a diversion of a highway, that standard requirements, if applicable, have been complied with; and

(b) not less than 28 days after a written notice of its intention to do so –

(i) has been served on each of the owners and occupiers affected;

(ii) has been served on the Transport Commission;

(iii) has been displayed in a prominent position at each end of the highway;
and

(iv) has been published twice in separate issues of a local newspaper circulating in the municipality in which the highway is situated –

close or divert the highway in respect of all traffic or particular types of traffic or subject to the reservation of a footpath or some other highway that may be used only for limited purposes.

(2) A notice under subsection (1) may apply to 2 or more highways that are connected with one another.

(3) Subject to subsection (4), a notice under subsection (1) shall contain a map or plan showing the proposed closure or diversion to which it relates.

(4) A notice under subsection (1) that is required to be published in a newspaper may, instead of containing such a map or plan as is referred to in subsection (3), contain a statement of a place in the municipality in which the highway is situated where the plan may be inspected free of charge at all reasonable hours.

(5) An interested person may, before the expiration of a notice under subsection (1), give written notice to the corporation of his objection to the proposed closure or diversion.

(6) The corporation is to refer each objection that it is notified of under subsection (5) to the Magistrates Court (Administrative Appeals Division).

(7) The Magistrates Court (Administrative Appeals Division) has power to receive and determine the objection as if it were an application to review the decision relating to the proposed closure or diversion and, in addition to its powers under the Magistrates Court (Administrative Appeals Division) Act 2001, the Court may make a local highway order –

(a) upholding the objection; or

(b) authorizing the proposed closure or diversion.

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(8) An order under subsection (7)(b) may prohibit, in whole or in part, the closure or diversion authorized by the order until such conditions as may be specified in the order have been fulfilled, being conditions that the Magistrates Court (Administrative Appeals Division) considers proper to impose for the provision or preservation of the means of communication by highway or the means of access to a highway.

(9) Where the Magistrates Court (Administrative Appeals Division) makes an order under subsection (7)(b), the Minister shall, as soon as possible after the making of the order, cause a notice containing particulars of the order to be published in the *Gazette*.

(10) A diversion of a highway that is opened under this section by a corporation is maintainable by the corporation.

This matter was heard on the 3rd August 2010. Mr Brown of counsel represented the Launceston City Council. A number of objectors appeared but were not represented. Mrs Smart, a part owner of 25 South Esk Road, attended the hearing and also gave evidence.

The Council Property Co-ordinator Mr Robert Holmes gave evidence, as did a number of the Objectors.

Mr Holmes has been employed by the Launceston City Council for 23 years. He gave evidence that the Council decided to close the walkway on the 21st September 2009. A copy of the Council agenda for this date is annexed hereto and marked "B".

He gave evidence that he thereafter followed the requirements of the Act in relation to notices. Mr Holmes said that a survey of this area in 2003 revealed the existence of the fence which, at that time, was estimated to be approximately five years old. The fence had not been evident on a previous survey done in 1993.

For the purposes of this decision I have assumed that the fence was erected in or about 1998.

Mr Holmes gave evidence that prior to the fence being erected the extra metre of walkway was a natural dirt surface. He said it was rough terrain. He agreed that council had not given a permit for the fence to be erected. Given that the fence is above the height permitted under the building regulations it would also have required a permit.

Mr Holmes was cross-examined by a number of the Objectors. He agreed that Council decided against the closure in 2003 and again in 2007. He agreed that in 2007 Council directed that the encroachment be removed. He said that the owners had been given six months to comply with that notice and that they had not complied.

Under cross-examination from Mr Kelly he agreed that Council did not have any data to support a claim that the walkway was not used. Indeed in answer to a question from

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Mrs Blackwood he agreed that it was well used and that the extra width would make it safer for walking.

Mr Holmes was also cross-examined by Mrs Smart. He agreed with her that the trees on the opposite side of the walkway could be causing some of the shading of the walkway. He agreed that Mrs Smart had been trying to resolve the problem for some time and that she had told him she had received a quote for \$36,300 to remove the fence. He said the reason the matter was referred back to the Council in 2009 was because Mrs Smart had requested it.

Mr John McCausland gave evidence and produced and tendered a detailed written submission. Parts of the submission were inadmissible but in general the submission presented a helpful summary of the overall position of the objectors. He addressed the history and what he termed the "illegality" of the encroachment. I note that it is not disputed that the fence was originally erected without any authorisation. In this sense I refer to both the paling fence on the walkway and a portion of the concrete block wall fronting on to South Esk Road.

Mr McCausland's evidence was to the effect that the laneway is well used. At page 13 of his submission he says:-

The steps and laneway are used by many, many people. These include workers on their daily commute, young people walking to and from school, families and individuals accessing the parklands and cafes, shoppers strolling in to town, and tourists exploring the city, etc. Also football clubs, "bootcamps" and individuals regularly use the steps and laneway for fitness training.

This was echoed by other witnesses. He adverted to a number of other issues such as safety and maintenance and the general amenity of the area. I find it unnecessary to dwell on these issues in any detail.

In Reference pursuant to the *Local Government (Highways) Act 1982* section 14: Strickland Road at Porky Creek Bridge Road, King Island, Tasmania at paragraph 6 the former Chief Magistrate said:

"In Reference pursuant to the *Local Government (Highways) Act 1982* section 14: Listers Lane and Golconda Road, Scottsdale, Tasmania [2006] TASAAD 003, I stated,

A threshold question is whether the *Local Government (Highways) Act 1982* section 14(1) envisages three or only two circumstances in which the diversion or closure of a local highway may be authorised by the relevant corporation or by the Court.

In that case, the submission had been made that section 14(1),

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..... envisaged three separate (but potentially overlapping) circumstances that could justify diversion or closure, that is, that closure is:

- (a) for the public benefit,
- (b) in the interests of public safety,
- (c) because of lack of use.

After a detailed analysis of that provision and its history, I stated,

In my view, when one has regard to the words of section 14(1) when read in context, the legislative history and the extrinsic material to which I have referred, it contains only two grounds, both qualified by a concept of 'public benefit'

I apply that view to the facts of this Reference."

Mr Brown submitted that section 14(1) should be interpreted differently and that on its proper construction the highway could be closed on one of three separate bases. That submission did not find favour with His Honour in the Lister's Lane case and having read that decision and His Honour's "detailed analysis of the provision and its history" I find that I prefer His Honour's approach. That is the interpretation that I apply to my decision on the matter now before me.

Mr Brown submitted that all the Council needed to establish was "lack of use" of the part of the walkway in question and that my general discretion thus activated was thereafter to be exercised and governed by the general tenor, nature and extent of the Act. This is, Mr Brown submitted, the efficient and safe management of the roadway and the orderly development and closure.

He submitted that the circumstances whereby the lack of use comes about are irrelevant and that these circumstances are, at best, relevant only to the exercise of the discretion. It was further submitted that one of the perceived problems with the walkway in its current state namely shading was an amenity issue which could be ameliorated by the lowering of the height of the fence and/or the removal of vegetation. These matters are, of course, matters for the Council to address in its ongoing maintenance of the area.

It is clear on the evidence of the objectors that this walkway is widely used. As I understand the evidence it is used recreationally as well as for its practical function as a thoroughfare. There is no direct evidence of how long the walkway has been in existence but it would seem that it has been there for over a hundred years and most probably dates to when the suburb itself was developed.

The current navigable width of the pathway at the point in issue is approximately 2 metres. There is some divergence in the evidence as to the area of the original path

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enclosed by the fence. Mrs Smart gave evidence that it is an area .84 metres wide at the top narrowing to a slither at the bottom. Her evidence on that point was not challenged although the plan produced by Council (Annexure A) gives a different impression. I am prepared to accept Mrs Smart's evidence on this point but, in my view, it has little bearing on the ultimate decision.

Evidence was given by Mr William Wright that the walkway formerly had a metal railing down the middle roughly where the fence has been erected. He said that the path on both sides of that railing was capable of being used. He had lived in the area and he and his wife had used the walkway regularly before the fence was erected. Mr Wright's evidence as to the existence of this railing was unshaken and I accept it. What happened to this railing when the fence was arbitrarily erected is unknown.

The fact that members of the public have not used the area of the walkway enclosed by the fence since the fence was built is incontrovertible. It has not been capable of being lawfully accessed by anyone other than the occupiers of the property at 25 South Esk Road. This was not a choice made by those people who use this walkway. It was a blatant usurpation of their right to use and enjoy the totality of this public thoroughfare.

I am not satisfied that there is any public benefit in sanctioning what was in effect an unlawful closure of this walkway in the manner such as I have described.

Pursuant to S14 (7) I make a local highway order upholding each of the objections.

25 South Esk Road
TREVALLYN 7250

09 MAY 2013

10th May, 2013

General Manager
Launceston City Council
Civic Square
LAUNCESTON 7250

FILE No.	20446 / 2447		
EO	<input checked="" type="checkbox"/>	OD	Box <input checked="" type="checkbox"/>
RCVD 09 MAY 2013 LCC			
Doc No.			
Action Officer	Noted	Replied	
B. DOBRZYNSKI			

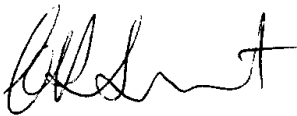
Dear Mr Dobrzynski,

Enclosed is a letter from my solicitor, Mr McElwaine, outlining his conclusions from the research that I have performed in the last three weeks.

I am seeking an extension of time to allow Launceston City Council time to examine Mr McElwaine's letter and the facts contained therein.

Could you please advise a timeframe and whether there needs to be a meeting to discuss the outcome of this matter.

Yours faithfully,



Christine Smart

The logo consists of the letters 'S', 'M', and 'A' in a large, thin, sans-serif font. A small '+' sign is positioned between the 'M' and the 'A'.

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McELWAINÉ
+ ASSOCIATES

09 MAY 2012

9 May 2013

Ms Christine Smart
25 South Esk Laneway
TREVALLYN TAS 7250

Dear Ms Smart

LANEWAY – 25 SOUTH ESK ROAD

I refer to our conference on 6 May 2013.

I confirm that I spoke with Mr Robert Dobryznski, the General Manager of the Launceston City Council, albeit briefly by telephone last week. I informed him that I intended to have a further conference with you and if as a result of that conference I formed the view that there are sufficient facts to doubt the proposition that the laneway has the status of a highway, then I would correspond with you to that effect and that you would then disclose my correspondence to Mr Dobryznski in support of an application that an extension of time be granted so that the position may be fully investigated.

It is clear that you have undertaken very detailed and very useful research at the Land Titles Office in Hobart, on the internet and amongst the various archive records maintained at the Queen Victoria Museum and Art Gallery.

What follows is an abbreviated summary of the facts which you have unearthed and the law which in my opinion is to be applied.

Simply because various officers of the Launceston City Council have formed the view that the laneway is a highway, does not mean that it has that status. Simply because an application was made pursuant to section 14 of the Local Government (Highways) Act 1982 to close a portion of the laneway as a highway, does not mean that it is a highway. And simply because a Magistrate, sitting as the Magistrates Court of Tasmania, refused to make an order under section 14, does not mean that the laneway is a highway. The reason for that may be simply stated: administrative operation is not the measure of legal effect. What this means is that an inferior court of statutory jurisdiction, such as the Magistrates Court, has no power to make a binding declaration as to the status of this land. It is only the Supreme Court of

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Tasmania which has that jurisdiction. And, very clearly, no council officer has power to determine the legal status of the laneway. All of this was made tolerably clear, I do not think it ever was unclear, by Evans J in the recent decision of *Clarence City Council –v- Howlin* [2012] TASSC 26, particularly at [121-125]. A perception held by officers of council that the road does or does not have status as a highway has no ultimate bearing on its legal status.

Various mechanisms have, over a very long period of time, regulated the creation of highways in Tasmania. They are dealt with in some detail in the Clarence City Council decision. I appeared in that case and hence I am very familiar with them.

Land may acquire the status of a highway at common law or pursuant to a statutory provision. Absent an inconsistent statutory provision, land may become a highway at common law through the doctrine of dedication and acceptance. Dedication may be express, but that is unusual. It is more usual that dedication and acceptance is implied (inferred) through long and unobstructed use by the public. However, and this is important, the implication is incapable of being drawn where it is inconsistent with an actual intention to the contrary: *Clarence City Council –v- Howlin* at [58-60]. In that case Evans J found that the disputed land known as Marsh Street Opossum Bay is not a highway despite a long period of, apparently, unobstructed public use. The reason is that when the land was first divided into separate allotments, access was granted by express rights of carriageway. Granting a right of carriageway is conduct inconsistent with an intention to dedicate land to the public as a highway. Hence the inference was not drawn in that case.

The starting point is the plan dated 17 February 1886. It was registered as plan 88359. It is a plan of survey for the purposes of the Real Property Act 1866. It depicts lots 53, 54 and 55 in detail. It shows a 'new road' as 'South Esk Road'. It then depicts the laneway and uses the words 'right of way'.

The use of the words 'right of way' is plainly consistent with the intention to create private rights of passage and is inconsistent with any intention on the part of the original subdivider to dedicate the laneway for public use.

Next, there is the original plan of subdivision dated 9 November 1886. This plan is registered as 89524. It is described as: plan of suburb of Trevallyn, showing portion proposed to be brought under the Town Boards Act. That plan plainly distinguishes between land intended to be developed and dedicated as a highway and other land where that intention is not manifested. For example the plan clearly depicts Trevallyn Road, South Esk Road, South Esk Bank, North Bank, Trevallyn Terrace and West Tamar Road. Each of these is drawn, as one would expect, to the dimensions of a highway suitable for the subdivision and each is named. The disputed laneway is shown on this plan between lots 55 and 55A. It does not have the dimensions of a highway. It is not named as a highway, a roadway or a footway.

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On a later plan of survey, dated 28 August 1929 and registered as 69396 the laneway is noted as 'roadway 10ft wide'. The change in nomenclature from 'right of way' to 'roadway', at present, remains unexplained. Plainly it needs to be further researched.

However, and as I have pointed out to you, the use of the word 'roadway' does not mean that the laneway was subsequently expressly dedicated to the public for use as a highway. That is because at that time section 27 of the Real Property Act 1886 required that the creation of a right of way be described by reference to a plan 'specifying or describing the road or roads over which the easement is created'. This too is explained in the *Clarence City Council* case at [41-42]. Thus the change in description between 1886 and 1929, whilst it must be further researched, is not dispositive as to the legal status of the laneway

You inform me that your research has not disclosed any instrument registered with the Land Titles Office, or its predecessors, which describes the content of the right of way by reference to the servient and dominant tenements. But it does not follow that the absence of such a document defeats the intention to create a right of way and transforms the status of the land to that of a highway. Rather, it is simply another piece of evidence which must be considered in this puzzle.

I note from your more recent research that you have provided me with copies of the following documents:

- a letter of 22 June 1972 from the council's solicitor, DJ Peters, to the Hobart legal firm Lovibond, Valentine, Roach & Thiessen. The right of way is referred to in the letter by reference to a plan. The letter requests the solicitors to investigate the 'boundaries and ownership' of the right of way. It requests the solicitors for the particulars of any easements which affect the right of way. This correspondence suggests that the council did not consider, in 1972, that the laneway was a highway;
- the solicitors responded by letter of 3 July 1972. The response discloses that a search had been undertaken at the Land Titles Office which disclosed that Samuel Bruce Freeland is the registered proprietor of the right of way in question, by reference to CT volume 3112 folio 95 and the plan referred to in it. The letter did not however disclose any documents as to the content of the right of way;
- the solicitors corresponded with the council again on 26 July 1972. The letter in part reads: 'The Land Titles Office are quite sure the area you are concerned with is still owned by Samuel Bruce Freeland. They were not aware of any of this land including the "roadway" being vested in any other person or corporation.';
- there is a memorandum, an internal one, from the acting city engineer dated 15 March 1972. The subject is 3-5 Trevallyn Road and a parking complaint received from Mrs Orchard. The memorandum notes that the property of Mrs Orchard 'is served by a right of way which runs across the

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front of her property, number 3 Trevallyn Road, and a portion of number 5. Checks to establish the ownership of this right of way have proved fruitless. That rather suggests that the records maintained by the City of Launceston at that time did not contain evidence that the right of way had acquired the status of a highway;

- there is a certificate of title for volume 437, the folio of which I am not able to read. It refers to a memorandum of transfer dated 19 October 1945. The transfer was from Edith Henry Parker to Samuel Bruce Freeland. He received a transfer of 2,241 acres. The land is referred to in an attached diagram. The diagram is undated, but is interesting because it depicts the subdivided and developed portion of Trevallyn including your land and the disputed laneway. All highways are shown with words such as 'Trevallyn Road', 'South Esk Road', 'South Bank' and 'North Bank'. Notably the laneway is not so described. It is not even referred to as a 'roadway' or a 'right of way'.

Apart from dedication and acceptance of land as a highway at common law, various statutory provisions have applied since 1900 in Tasmania. Most are dealt with by Evans J in the *Clarence City Council* case. No evidence has been unearthed to date that the laneway was formally created, transferred or dedicated or recorded as a highway pursuant to any of the following statutes:

- the Towns Act 1934;
- the Local Government Act 1962;
- the Launceston Corporation Act 1963;
- the Local Government (Highways) Act 1982; or
- the Local Government Act 1993.

There has, since 1962, been an obligation to keep a municipal map which map must depict, amongst other things, all known highways. That obligation was contained at section 695 of the Local Government Act 1962 and is now contained at section 208 of the Local Government Act 1993. Each map is only evidence of the status of land. If as a matter of fact or law land shown on a map is not a highway, then the fact that it is depicted on the map does not automatically confer that status. In other words one is entitled to look behind and dispute the content of the municipal map.

There are two other statutes which seem to be more particularly relevant. They are the Town Boards Act 1896 and the Greater Launceston Act 1907.

I deal first with the Town Boards Act 1896. Section 184 was concerned with private streets. It read:

The Board of any Town may, after first passing a Special Resolution, cause any private street within such Town, or any portion thereof, to be constructed in such manner as the Board may from time to time determine; and the whole of the expense incurred by the Board in the construction of

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any such Private Street shall be repaid in the manner hereafter mentioned by the owner or owners of the land or lands fronting or rebutting any such Private Street or any portion thereof so constructed as aforesaid; and any such Private Street shall thereafter be maintained and kept in good repair by the Board out of any moneys at their disposal.'

The section did not provide that if this power was exercised the private street would become a highway, but I think it must be inferred that this was the intended legal effect. That is to say passing the maintenance obligation from private persons to a Town Board is generally strong evidence of the dedication and acceptance of that land as a highway.

You tell me that you have undertaken extensive searches of all of the minutes maintained by the Trevallyn Town Board, to the extent those minutes may now be located. You have found no reference to any resolution passed by the Board to take over the laneway pursuant to this provision. I note, however, that for a period the records are missing: from 1898 until 1905. However for that period you have noted that the Examiner Newspaper would always publish the proceedings of the Trevallyn Town Board in its newspaper and you have searched the records of the newspaper for that period and still there is no reference to the exercise of this power in respect of the laneway.

A further provision in the Town Boards Act is relevant. Section 194 read:

'It shall not be lawful, after the passing of this Act for any person to lay out or dispose of, or cause to be laid out or disposed of, any land for building purposes on which it is proposed to open any private street without first submitting a plan showing the proposed disposition of such land, and setting forth the width and direction of such private street, and a sketch showing the proposed drainage of such land, to the Board, and obtaining their approval thereto: provided, that if no disapproval be expressed by the Board within 6 weeks after such plan and sketch as aforesaid shall have been submitted to the Board, the intended disposition may be proceeded with.'

Section 4 of the Act defined private street as:

'Means any highway laid out on private property but intended for the use of the public generally.'

In other words upon commencement of the Act, no person could create a highway within the Town of Trevallyn absent the express approval of the Trevallyn Town Board. Once again your researches have not located any such approval as having been granted in respect of this laneway.

Thus and in accordance with the extent of your research, there is no evidence that this laneway was:

- dedicated as a highway by the original subdivider under the Town Boards Act 1896; or
- taken over and maintained as a highway under that Act.

I deal next with the Greater Launceston Act 1907. This Act incorporated, as part of the City of Launceston, the Town of Trevallyn. It abolished the Town Board of Trevallyn. Section 15 provided:

'For the purposes of the Principal Act and the Acts amending the same, only those streets which have been recognised by the Town Board of Invermay or the Town Board of Trevallyn as public streets shall be considered and taken to be public streets.'

There being no evidence that the Town Board of Trevallyn ever recognised this laneway as a public street, it is plain that it did not acquire that character under the 1907 Act.

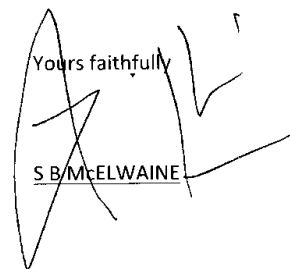
The information that you have provided to me as a consequence of your research raises real doubt, in my mind, that the laneway has the status of a highway (albeit a footway) despite a belief to that effect recently held by officers of the Launceston City Council. Unless there is evidence that the land was dedicated and accepted as a highway either at common law or by statute, it would appear to have the status of a right of way only as depicted on the earliest plans of subdivision.

One point which does rather suggest that it is not a highway is that only a portion of the laneway may be traversed. The first portion descends down a set of formed stairs and then heads into the Gorge. The actual right of way turns left and heads towards the river. There is no evidence that persons have traversed that portion of the right of way for a considerable period of time and this is somewhat contrary to the proposition that the entire right of way has the status of a highway.

In any event the evidence that you have unearthed to date strongly supports the proposition that the laneway does not have status as a highway. If that is confirmed by other evidence, or ultimately accepted by the Launceston City Council, then one can put aside as a difficulty in your case the determination of the Magistrates Court which did not support the decision of the council to partially close the highway so as to enable the encroached area of land to be sold to you.

It may well be that if this is confirmed as the position, that you will then be able to negotiate with the Launceston City Council so as to acquire the encroachment at fair market value.

If you have more queries please contact me

Yours faithfully

S B MCELWAINE

20 URGENT BUSINESS

Nil

21 WORKSHOP REPORT(S)

Nil

22 INFORMATION / MATTERS REQUIRING FURTHER ACTION**22.1 Information / matters requiring further action****FILE NO:** SF3168**AUTHOR:** Daniel Gray (Committee Clerk / Administration Officer)

This report outlines requests for information by Aldermen when a report or agenda item will be put before Council or a memorandum circulated to Aldermen.

It will be updated each Agenda, with items removed when a report has been given.

ATTACHMENTS:

1. Information / matters requiring further action - 22 July 2013
-

MATTERS ARISING FROM COUNCIL - REQUIRING FURTHER ACTION - AT 22 JULY 2013

Meeting Date, Item # & File No.	Outstanding Items & Action Requested	Officer Responsible & Officer Comment	Due Date
<p>13 March 2012 Council 14.1 SF0841</p>	<p>Duck Reach Redevelopment</p> <p><u>Resolution at Council Meeting 13/03/2012: additional point 4</u></p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Consider the report outlining recent investigation into a redevelopment of the Duck Reach site. 2. Endorse the investigation of third-party investment opportunities for the redevelopment of the Duck Reach Site. 3. On finalisation of the business case analysis outlined in the report, and identification of potential third party development opportunities, Council review the redevelopment options for the Duck Reach site based on a future report. 4. Agree that further investigation by Council is predicated upon Hydro Tasmania formally committing to a minimum base flow of 2.5 cumecs which is the current voluntary release by Hydro Tasmania. 	<p>Rod Sweetnam</p> <p>Correspondence has been received from Hydro Tasmania indicating their agreement to enter into a MoU with Council. The MoU is being drafted in consultation with Hydro.</p> <p>The MoU will be presented to Council for consideration.</p> <p>Finalisation of the MOU will allow the business case analysis to proceed.</p> <p>The draft MoU has been sent to Hydro Tasmania for review and comment prior to report to Council.</p> <p>Awaiting formal response to the draft MoU as presented. This includes a binding agreement on water supply.</p> <p>A response has been received from Hydro Tasmania with changes to the document that was presented by Council. Council Officers are reviewing the proposed changes to the draft MoU made by Hydro Tasmania. Further information will be provided to Aldermen, when the review has been completed.</p> <p>Report to be presented to SPPC in August 2013.</p>	<p>Nov 2012</p> <p>Dec 2012</p> <p>July 2013</p> <p>August 2013</p>

23 **ADVICE OF FUTURE NOTICES OF MOTION**

24 **REPORTS BY THE MAYOR**

25 **REPORTS BY THE GENERAL MANAGER**

26 CLOSED COUNCIL ITEM(S)

RECOMMENDATION:

That pursuant to the provisions of Regulation 15(2) of the Local Government (Meeting Procedures) Regulations 2005, Council move into Closed Session to discuss those items nominated as Closed Session items, for the following reasons:

26.1 Annual Remission Rates and Charges - 30 June 2013

15(2)(j) as it concerns the personal affairs of a person/company.

26.2 Rate Debt (Rescission Motion)

15(2)(j) as it concerns the personal affairs of a person/company.

26.3 Rate Debt

15(2)(j) as it concerns the personal affairs of a person/company.

26.4 Leave of Absence Application - Alderman

15(2)(i) as it concerns, application by an elected member for leave of absence.

27 MEETING CLOSURE
