



LAUNCESTON CITY COUNCIL

COUNCIL AGENDA

**COUNCIL MEETING
MONDAY 8 JULY 2013**

LAUNCESTON CITY COUNCIL

COUNCIL AGENDA

Monday 8 July 2013

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

Date: 8 July 2013

Time: 1.00 pm

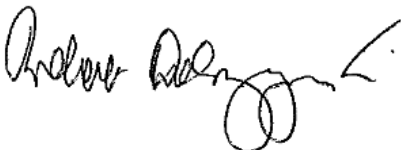
Section 65 Certificate of Qualified Advice

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.



Robert Dobrzynski
General Manager

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1 OPENING OF MEETING - IN ATTENDANCE AND APOLOGIES

Acknowledgement of Country - Aunty Gloria Templar

"In the spirit of reconciliation, we the citizens of Launceston recognise that Launceston is situated on country of which the Tasmanian Aboriginal people have been owners for over 35,000 years and on which they have performed age-old ceremonies of celebration, initiation, and renewal. We acknowledge the Aboriginal Community of today, their living culture, and unique role in the life of this region and offer our deep appreciation of their on-going contribution to the community."

2 DECLARATION OF PECUNIARY INTERESTS

3 CONFIRMATION OF MINUTES

RECOMMENDATION:

1. That the Minutes of the meeting of the Launceston City Council held on 24 June 2013 be confirmed as a true and correct record.
 2. That the Minutes of the meeting of the Launceston City Council held on 24 June 2013 in closed session be confirmed as a true and correct record.
 3. That the Minutes of the meeting of the Launceston City Council held on 27 May 2013 in closed session be confirmed as a true and correct record.
 4. That the Minutes of the meeting of the Launceston City Council held on 11 June 2013 in closed session be confirmed as a true and correct record.
-

4 DEPUTATION**4.1 Report from the Independent Chair of the Launceston City Council Audit Committee****FILE NO:** SF3611**GENERAL MANAGER:** Robert Dobrzynski

DECISION STATEMENT:

To receive a report from the independent Chair of the Launceston City Council Audit Committee.

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That the Council receive the report presented by the independent Chair of the Launceston City Council Audit Committee, Mr Mark Scanlon.

REPORT:

It is considered appropriate that there is a strong governance connection between the Council's Audit Committee and the elected Council of Aldermen. The probity and due diligence role of the Council's Audit Committee has been enhanced by the introduction of an independent member and independent Chair position.

As part of these governance arrangements it is proposed that the independent Chair undertake periodical reports to the Council on the role, function and activities of the Audit Committee.

ECONOMIC IMPACT:N/A

4.1 Report from the Independent Chair of the Launceston City Council Audit Committee...(Cont'd)

ENVIRONMENTAL IMPACT:

N/A

SOCIAL IMPACT:

N/A

STRATEGIC DOCUMENT REFERENCE:

Priority Area: 5 Governance Services


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

5 ANSWERS FROM PREVIOUS PUBLIC AND ALDERMEN'S QUESTION TIME

Meeting Date & Item No.	File No.	Question	Answer	Officer Responsible
24 June 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>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
		<p>Aldermen's Question: Alderman R J Sands asked:</p> <p>Why are TasWater pumping a combined sewer and stormwater outlet at the junction of Esplanade and Tamar Street into the Tamar River?</p>	<p>This question was taken on notice</p> <p>Reply by Harry Galea (Director Infrastructure Services)</p> <p>Ben Lomond Water (BLW) has provided the following comments to the Aldermen's question raised at the 24 June meeting.</p> <p>BLW are currently upgrading the Tamar Street pump station which was originally constructed in the 1960's. Tamar Street is one of three stormwater pump stations along the Esplanade that discharge into the North Esk River. Initially programmed for replacement by Launceston City Council in 2006, the project was put on hold pending the formation of the new Water Authorities (the project reached preliminary design stage before being deferred).</p>	Harry Galea

Meeting Date & Item No.	File No.	Question	Answer	Officer Responsible
			<p>Works were programmed due to a number of station defects including:</p> <ul style="list-style-type: none"> • Lack of pump redundancy (only one pump). • Shearing of the impeller shaft due to ragging. • Issues with access for maintenance. • Tidal infiltration during high tides from poor sealing of tide flaps. • The pump motor tripping out on overload. <p>The new design addresses these issues by:</p> <ul style="list-style-type: none"> • Providing two submersible pumps in the wet well. • Installing rising mains over the top of the levee (thereby preventing tidal inflow). • Installation of a sump pump to pump any low flows back into the trunk sewer. <p>Ben Lomond Water are currently mid-way through the construction period of the project with the works being undertaken by Shaw Contracting Pty Ltd. As the existing wet well is being utilised the construction works involve keeping the station operational throughout the construction period. You may have been noted a flexible discharge hose is currently placed over the top of the levee and into the river.</p>	

Meeting Date & Item No.	File No.	Question	Answer	Officer Responsible
			<p>This pipeline is connected to a submersible pump that dewateres the pump well due to infiltration during high tides (river water entering the wet well). As noted above one of the issues of the old outlet pipeline was the recirculation of the river during high tides when the tide flaps did not seal correctly. This is shortly to be abandoned thereby preventing this point of infiltration. The temporary discharge pump is not pumping sullage water but ground water which is highly coloured due to alluvial clays.</p>	

6 PUBLIC QUESTION TIME

7 ANNOUNCEMENTS BY THE MAYOR**7.1 Mayor's Announcements****FILE NO: SF2375**

Tuesday 25 June

- Attended Employee Recognition Event - Length of Service Milestones and Significant Achievement
- Attended Southern Cross TV Telethon for Give me 5 for Kids

Wednesday 26 June

- Attended Friends of the Library Book Launch
- Attended Launceston College Opening Night Performance of Hairspray

Friday 28 June

- Officiated at launch of Road Safety Signage at Aurora Stadium
- Officiated at LCC and Business Events Tas function for Interstate Professional Conference Organisers & Associates
- Officially opened Relbia Lodge
- Attended Tamar Valley Wine Route Annual Awards at Design Centre

Sunday 30 June

- Attended Round 14 Hawthorn Football Match at Aurora

Monday 1 July

- Officiated at Civic Reception for Tim Coyle - Town Hall

Wednesday 3 July

- Presentation to Year 11 Students at Scotch Oakburn College

Thursday 4 July

- Officially opened "*Earth Sea & Sky*" Art Exhibition at Ravenswood Neighbourhood House

Saturday 6 July

- Attended South Launceston Football Club Match

Sunday 7 July

- Attended National Reserve Forces Day Parade and Review with Lord Mayor of Hobart at Kings Park Launceston
-

8 ALDERMEN'S/DELEGATES' REPORTS

9 QUESTIONS BY ALDERMEN

10 COMMITTEE REPORTS**10.1 Street Tree Advisory Committee 14 May 2013****FILE NO:** SF5726**AUTHOR:** Andrew Smith (Manager, Parks and Recreation)**DIRECTOR:** Harry Galea (Director Infrastructure Services)

DECISION STATEMENT:

To receive and consider a report from the Street Tree Advisory Committee.

RECOMMENDATION:

That the report from the Street Tree Advisory Committee meeting held on 14 May 2013 be received.

REPORT:

The Street Tree Advisory Committee held a meeting on the 14 May 2013 and discussed the following items:

1. Report on street tree strategy projects for 2013-2014
The proposed tree planting for 2013-2014 is 744 trees and the cost is estimated at \$180,000.
 2. Works completed to date
 - Charles Street (1-2 trees to go)
 - Silverdome Entrance (47 trees planted)
 - The Avenue (waiting for traffic management approval)
-

10.1 Street Tree Advisory Committee 14 May 2013...(Cont'd)

- Bathurst Street trees are to replace the damaged trees (Liquid Amber trees have been received and are in the nursery for planting)
- Northern Outlet consultation commencing
- Frankland Street tree planting consultation has commenced and will go ahead with no modifications

3. Northern Outlet - tree planting update

The Northern Outlet consultations have commenced with local residents and including the Launceston Church Grammar School. The plans were presented to the committee.

4. Wellington Street - bollard colour

Committee considered exchanging the yellow bollards with white bollards for both aesthetic and safety reasons. The white bollards are cheaper and the yellow ones will progressively be changed over for white bollards, one section at a time.

5. Report on the Rotary Club presentations

A number of presentations have been made to different clubs and others that are programmed for future dates. The presentations have been well received and there is considerable enthusiasm for the overall tree strategy.

ECONOMIC IMPACT:

N/A

ENVIRONMENTAL IMPACT:

N/A

SOCIAL IMPACT:

N/A

10.1 Street Tree Advisory Committee 14 May 2013...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

N/A

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.



Harry Galea: Director Infrastructure Services

10.2 Heritage Forest Advisory Committee Report 12 June 2013**FILE NO:** SF0830**AUTHOR:** Andrew Smith (Manager Parks and Recreation)**DIRECTOR:** Harry Galea (Director Infrastructure Services)

DECISION STATEMENT:

To receive and consider a report from the Heritage Forest Advisory Committee.

RECOMMENDATION:

That the report from the Heritage Forest Advisory Committee meeting held on the 12 June 2013 be noted.

REPORT:

The Heritage Forest Advisory Committee discussed the following items.

1. Pending Playground Upgrade
 - Currently geotechnical work happening with a view to tender out construction work early in the new financial year.
 2. Heritage Forest 25th Anniversary - 7 November 2013
 - Special meeting to be held shortly to plan the event in detail.
 3. Community Garden
 - Subject to funding approval aiming to get the area fenced early in the new financial year with a working bee planned for August.
 4. Lamont Street Depot
 - Relocation of fence to reduce the size of the existing depot with the balance of land being returned to Heritage Forest. Some buildings to be removed via tender.
 5. Ski Tube Run Proposal
 - Work to start sometime in July.
-

10.2 Heritage Forest Advisory Committee Report 12 June 2013...(Cont'd)

ECONOMIC IMPACT:

N/A

ENVIRONMENTAL IMPACT:

N/A

SOCIAL IMPACT:

N/A

STRATEGIC DOCUMENT REFERENCE:

N/A

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.



Harry Galea: Director Infrastructure Services

10.3 Strategic Planning and Policy Committee Meeting - 1 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 1 July 2013 be received.

REPORT:

The following items were discussed at the meeting:

1. Deputation - RADAR
2. Sandhill Lane
3. Council Consultation - Draft Northern Integrated Transport Plan
4. Local Government Act 1993, Section 72B, Annual General Meeting
5. Rating and Valuation Review Process
6. Information / matters requiring further action

ECONOMIC IMPACT:

There is no economic impact on the community.

ENVIRONMENTAL IMPACT:

There is no environmental impact on the community.

SOCIAL IMPACT:

There is no social impact on the community.

10.3 Strategic Planning and Policy Committee Meeting - 1 July 2013...(Cont'd)

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

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 - 12.2

12 PLANNING AUTHORITY

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012

FILE NO: 6, 5069

AUTHOR: Catherine Mainsbridge (Senior Town Planner)

DIRECTOR: Michael Stretton (Director Development Services)

DECISION STATEMENT:

To provide comments to the Tasmanian Planning Commission on an application for dispensation from a local provision of the Launceston Interim Planning Scheme under Section 30P of the Land Use Planning and Approvals Act 1993 to:

1. Set aside the provisions of the General Residential zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683) and
2. Apply the provisions of the Local Business zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683.)

PLANNING APPLICATION INFORMATION:

Applicant	Suzi Burge
Property	15 Abbott Street, East Launceston (D41683)
Land Area	440m ²
Zone	Inner Residential
Received	13 May 2013
TPC Deadline	8 July 2013

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That the Council advise the Tasmanian Planning Commission that it does not support the application for dispensation from a local provision of the Launceston Interim Planning Scheme under Section 30P of the Land Use Planning and Approvals Act 1993 to:

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

1. Set aside the provisions of the General Residential zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683); and
2. Apply the provisions of the Local Business zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683);

because the proposal does not accord with the Launceston Retail Strategy and would unnecessarily detract from an established residential area.

REPORT:

1 The Proposal

The proposal involves an application to the Tasmanian Planning Commission for a dispensation from a local provision of the Launceston Interim Planning Scheme 2012 under section 30P(1) of the Land Use Planning and Approvals Act 1993 (the Act) to

- 1 Set aside the provisions of the General Residential zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683); and
2. Apply the provisions of the Local Business zone contained in the Interim Planning Scheme 2012 as they relate to 15 Abbott Street, East Launceston (title D41683).

2 Dispensation Process

The dispensation process allows for a local provision of the Interim Launceston Planning Scheme 2012, including the zoning of the land, to be altered, or set aside, thereby providing for an application to be lodged for a use and/or development that would otherwise be restricted, limited or prohibited, before the Interim Planning Scheme becomes approved as a new Planning Scheme under 30N of the Act.

Sections 30P, 30Q and 30R of the Act set out the process and requirements for applying for a dispensation.

Once the Tasmanian Planning Commission (TPC) receives an application, it must, within 14 days, notify the Planning Authority. The Planning Authority, may within 28 days, notify the TPC of its opinion on the application.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

If the Planning Authority's opinion is to reject the application, then the TPC must also reject the application. Where the Planning Authority is either silent, or supports the application, the TPC must decide whether to reject or exhibit the application. Where the application is exhibited, the TPC requests the Planning Authority to exhibit the application for up to 2 months.

Following the exhibition period, the Planning Authority must, within 35 days, report to the TPC any representations received as well as a statement of the Planning Authority's opinion on those representations.

If no representations are received, the Planning Authority must notify the TPC within that timeframe to that effect.

The TPC may hold a hearing, where representations have been received. Following that, the TPC will decide whether to grant or refuse the dispensation. Where the dispensation is granted, the planning authority must consider applications against the dispensation to the extent that the dispensation applies.

Once the Interim Planning Scheme is declared as a planning scheme, dispensations can no longer be sought.

3.0 Site Context

The subject property is 15 Abbott Street, East Launceston (D41683) with an area of 440m².

The site is relatively flat and contains a 1900 construction brick clad dwelling with a floor area of approximately 115m².

The surrounding land is predominantly developed and used for residential purposes. While to the south of the site, and on the opposite side of the road, there are approximately five multiple dwelling sites, development is primarily in the form of single dwellings. There is a local shop and small three commercial properties adjacent the corner of Abbott and Arthur Streets and next door to the south a service station was redeveloped into complex of seven shops and a cafe/restaurant.

The subject site is zoned General Residential, as is the land on the eastern side of Abbott Street other than for the adjoining property. The western side of the road is zoned Inner Residential other than for the neighbourhood supermarket on the corner of Abbott and Arthur Streets and a property on other the southern side of Arthur Street.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

The adjoining land at 17-19 Abbott Street is zoned Local Business. The zoning has applied to the site since at least the Area 1 Launceston Planning Scheme 1983 where the site previously supported a Service Station. The current development was approved in 2011.

4.0 Necessary Considerations

4.1 Schedule 1 Objectives

The Resource Management and Planning System of Tasmania, as set out in Schedule 1 of the Land Use Planning and Approvals Act 1993.

Part 1 Objectives of the Resource Management and Planning System of Tasmania

a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;

The proposal does not have any direct impact on the natural values of the area.

b) To provide for the fair, orderly and sustainable use and development of air, land and water;

The proposal is not considered warranted. While the current owner states the intended use is to operate a small craft shop within the existing dwelling, the adoption of a Local Business Zoning for this site would allow for re-development into a number of uses in the event that a future owner should wish to do so. Such a redevelopment has the potential to impact the areas residential amenity. Additionally, the lot is part of a wider established inner-city residential area and the loss of a dwelling is not considered to be sustainable from a character or environmental perspective.

c) To encourage public involvement in resource management and planning;

The procedure to consider the subject application includes public exhibition period.

d) To facilitate economic development in accordance with the objectives set out in paragraphs a, b and c;

While the zone change would allow for further economic development it would be contrary to the retail strategy and residential amenity of the area. (Refer discussion under Launceston Retail Strategy)

e) To promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

The ability for Council to have the opportunity to comment on the proposal allows a sharing of responsibility between tiers of government.

Statutory assessment processes include adequate public consultation.

Part 2 Objectives of the Planning Process Established by the Act

a) *To require sound strategic planning and co-ordinated action by State and local government; and*

Existing strategies and statutory processes support a sound and co-ordinated strategic approach to planning.

b) *To establish a system of planning instruments to be the principle way of setting objectives, policies and controls for the use, development and protection of land; and*

The Interim Launceston Planning Scheme 2012 provides control of use and development in the municipality.

c) *To ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;*

Approval of a change in zoning has the potential to increase the commercial use in the vicinity beyond an acceptable level. A number of residential amenity complaints have been received about the adjoining complex since development commenced. As a result of these complaints remedial works have been undertaken on the complex to address odour and noise nuisance problems.

d) *To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and*

The proposal is not inconsistent with relevant broader strategies.

e) *To provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and*

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

Not relevant to this proposal.

- f) To secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania; and*

The proposal would not contradict this objective.

- g) To conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and*

While the property is not heritage listed the retention of the General Residential zone would provide greater protection for the 1900 home.

- h) To protect infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and*

The proposed zone change will not have a direct impact the provision of infrastructure.

- i) To provide a planning framework which fully considers land capability.*

Not applicable in this case.

4.2 State Policies

4.2.1 Protection of Agricultural Land Policy

The Tasmanian Land Classification system identifies this site as white land (urban land) and of no agricultural value.

4.2.2 State Coastal Policy

Does not apply as the land is outside of the defined area.

4.2.3 Water Quality Management Policy

The proposal will not impact on water quality.

4.2.4 National Environmental Protection Measures

National Environmental Protection Measures (NEPMs) are automatically adopted as state policies. They outline common environmental objectives for managing the environment.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

Current NEPMs are:

- National Environmental Protection (Used Packaging Materials) Measure
- National Environmental Protection (Ambient Air Quality) Measure
- National Environmental Protection (Movement of Controlled Waste Between States and Territories) Measure
- National Environmental Protection (National Pollutant Inventory) Measure
- National Environmental Protection (Assessment of Site Contamination) Measure
- National Environmental Protection (Diesel Vehicle Emissions) Measure
- National Environmental Protection (Air Toxics) Measure

These are not applicable.

4.3 Regional Land Use Strategy - Northern Tasmania 2011

The strategy provides a broad level strategic direction for land use and development within the Northern Region. The strategy defines land use into three well defined categories being Rural, Urban and Environmental. It states:

'The region's three key land uses can clearly define the extent of urban development, and specifically encourage the containment of growth to established urban areas to increase the sustainability of these settlements in terms of population, but also the level of services and infrastructure they provide to the community.'

The site is consistent with the strategy insofar that falls within the existing urban limits of the main regional centre and by its nature is best described as infill development. In that regard, it is considered the preferred option for urban expansion.

4.4 Launceston Retail Strategy

The report details the preferred areas within the city to meet the retail and service needs of residents of the city and greater northern area. The report establishes a hierarchy of retail centres, the main centre being the Central Business area.

The Strategy stipulates that **"future retail premises should be restricted to the established centres"**. While there are spot Local Business zoned areas throughout the municipality these are reflective of historic uses of land, when corner stores and neighbourhood service stations were a viable business concerns.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

The existing Local Business Zoned site in Abbott Street which adjoins the subject site does not constitute an established centre and therefore, it is concluded that the proposal is contrary to the Retail Strategy and should be rejected on this basis.

Further, the Interim Launceston Planning Scheme Objective 3.3.2, which is aimed at maintaining Launceston as the business and commercial heart of the region provides that:

"The regional activity centre network hierarchy as it relates to Launceston City is as follows:

- the Principal Activity Centre of the Launceston City central business district;
- the Major Activity Centres of Kings Meadows and Mowbray;
- the Suburban Activity Centre of Launceston (Kmart) Plaza;
- the Neighbourhood Centres of Newstead, Ravenswood, Newnham, Trevallyn, St Leonards and Youngtown;
- Bulky Goods precincts; and
- Specialist Centres (such as Launceston General Hospital precinct and similar health facilities, and Tertiary Education and Research precincts such as UTAS, etc.)

The new planning scheme will seek to ensure that each level of the hierarchy operates to provide the appropriate mix of retail and service provision to its catchment area and to support the region of Northern Tasmania. Council considers it socially and economically essential that the Launceston CBD continues in its role as the key regional centre and at the primacy of the Northern Tasmania regional hierarchy.

Location of significant new retail development outside of the hierarchy will lead to loss of viability, lower rents, loss of investment and poor outcomes for both the Launceston community and the wider region".

It is considered that the proposal is contrary to this objective.

4.5. Launceston Residential Strategy 2009

The strategy provides a detailed assessment of housing needs and current land stocks. The strategy provides a priority ranking of types (tiers) of housing development which would best meet the needs of the community and also represent good planning outcomes.

The strategy includes:

- 2. Increased density in existing residential areas where opportunities exist or where capacity for change has been identified, primarily through unit developments or redevelopment.*
-

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

The loss of a dwelling in the inner city area is not considered warranted in an area where housing is in demand.

4.6 Zone Suitability

The intent of the Local Business zone states:

20.1.1 To provide for business, professional and retail services which meet the convenience needs of a local area.

20.1.2 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.

20.1.3 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.

20.1.4 To minimise conflict between adjoining commercial and residential activities.

20.1.5 To ensure that vehicular access and parking is designed so that the environmental quality of the local area is protected and enhanced.

20.1.6 To provide for community interaction by encouraging developments such as cafes, restaurants, parks and community meeting places.

The intent of the Local Business Zone is to 'limit use and development that would have the effect of elevating a centre to a higher level in the retail and business hierarchy'... and to 'minimise conflict between adjoining commercial and residential activities'. The proposed change would be contrary to these intents as it would serve to elevate an existing 'spot' local business zone by increasing the potential for commercial use to spread beyond the existing site. Further, given that the prevailing use around the site is residential, the proposal would not serve to minimise conflict between adjoining commercial and residential activities and may actually exacerbate the existing conflicts.

The loss of the use of the property as a dwelling is a concern, especially as it is likely that the dwelling will be demolished to make way for further development.

4.7 Environmental, economic, social and heritage impact

4.7.1 Environmental Impact

The site is not known to have any other hazards or values that would limit use or development.

The property is not in an area of potential landslip, nor in a scenic protection area.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

4.7.2 Economic Impact

A change in the provisions of the zone would be contrary to the retail strategy. In addition, the site would not necessarily increase its viability given that commercial use of the site has carparking requirements which are not likely to be able to be satisfied.

4.7.3 Social Impact

As noted the impact on the local residential amenity is likely to be impacted upon by a proposed zoning change.

4.7.4 Heritage Significance

The site is not locally or state heritage listed. The dwelling was constructed in an era similar to a number of other properties that are acknowledged as having heritage significance.

5 Conclusion

It is considered that the request to set aside the provisions of the General Residential zone and apply the provisions of the Local Business Zone is contrary to the Council's Retail Strategy and would unnecessarily detract from an established residential area. Therefore, it is recommended that the proposal be rejected and the Tasmanian Planning Commission advised accordingly.

ECONOMIC IMPACT:

The proposal is inconsistent with the Council's retail strategy which seeks to protect the City's economic viability.

ENVIRONMENTAL IMPACT:

Not relevant for this proposal.

SOCIAL IMPACT:

The social impacts of this proposal have been considered through the assessment against the objectives of the Resource Management Planning System.

12.1 15 Abbott Street, East Launceston - Application for Dispensation from a Local Provision of the Launceston Interim Planning Scheme 2012...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

Launceston Interim Planning Scheme 2012
Regional Land Use Strategy - Northern Tasmania 2011
Launceston Industrial Strategy 2009
Launceston Residential Strategy 2009
Open Space Strategy 2007
Protection of Agricultural Land Policy
State Coastal Policy
Water Quality Management Policy
National Environmental Protection Measures

BUDGET & FINANCIAL ASPECTS:

Not relevant for this proposal.

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 (distributed separately)
 2. Zoning Map (distributed separately)
 3. Notice of Dispensation from the Tasmanian Planning Commission (distributed separately)
 4. Request for Dispensation from the applicant (distributed separately)
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12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes**FILE NO:** DA0168/2013**AUTHOR:** Leon Murray (Town Planner)**DIRECTOR:** Michael Stretton (Development Services)

DECISION STATEMENT:

To consider a development application to construct a shed for storage purposes associated with the existing bulky goods sales use and ancillary showroom.

PLANNING APPLICATION INFORMATION:

Applicant: Engineering Edge Pty Ltd
Property: 80-82 Invermay Road, 1 Taylor Street
Area of Site: 1682m²
Zoning: Local Business
Existing Uses: Storage and ancillary bulky goods sales
Classification: Storage; construction of a building
Date Received: Validity date - 21 May 2013
Deemed Approval: 1 July 2013 (Extension of time granted until 8 July 2013)
Representations: Three

PREVIOUS COUNCIL CONSIDERATION:

N/A.

RECOMMENDATION:

That Council approves DA0168/2013 for construction of a shed for storage purposes at 80-82 Invermay Road and 1 Taylor Street 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. Use of any land parcel for any use associated with the use (e.g. storage purposes, car parking etc.) other than Volume 101334 Folios 1 & 2 & Volume 24631 Folio 4 is not permitted.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

2. AMENDED PLANS REQUIRED

Prior to the commencement of the works, amended plans must be submitted to and approved by the Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided.

The plans must show:

- a. Relocation of car parks 6, 7 and 8 to be adjacent to car park 9.

3. ACCESS OVER COUNCIL LAND

Access over Council owned land other than the road reserve (e.g. Caledonian Square) for construction purposes will not be permitted.

4. BUSINESS HOURS

The operation of activities external to buildings such as deliveries, use of forklifts, waste receptacle servicing etc. must be confined to:

- a. 6:00am and 10:00pm Monday to Friday
- b. 7:00am and 5:00pm Saturdays and Sundays

5. 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.

6. NOISE LEVELS AND SURROUNDING SENSITIVE USES

- a. 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.

7. 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.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

8. 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.

9. SOIL AND WATER MANAGEMENT WORKS

Prior to the commencement of the development works the applicant must install all necessary silt fences and cut-off drains to prevent the soil, gravel and other debris from escaping the site. Additional works may be required on complex sites.

No material or debris is to be transported onto the road reserve (including the nature strip, footpath and road pavement). Any material that is deposited on the road reserve as a result of the development activity is to be removed by the applicant.

The silt fencing, cut off drains and other works to minimise erosion are to be maintained on the site until such time as the site has revegetated sufficiently to mitigate erosion and sediment transport.

10. WORKS WITHIN/OCCUPATION OF THE ROAD RESERVE

All works in (or requiring the occupation of) the road reserve must be undertaken by, or under the supervision of a tradesman/contractor who is registered with Council as a "Registered Contractor".

Prior to the commencement of the works, the developer must prepare a detailed Traffic Management Plan specifying the following:

- a. The nature and the duration of the occupation and must include the placement of skips, building materials or scaffolding in the road reserve and time restrictions for the works.
 - b. The traffic management works that are to be employed to provide for the continued safe use of the road reserve by pedestrians and vehicles.
 - c. Any temporary works required to maintain the serviceability of the road or footpath.
 - d. Any remedial works required to repair damage to the road reserve resulting from the occupation.
-

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

The traffic management plan must be prepared in accordance with the relevant Australian Standard, codes of practice and guidelines. A copy of the Traffic Management Plan must be maintained on the site. No works must commence until the traffic management plan has been approved.

11. CAR PARKING CONSTRUCTION

Prior to the commencement of the use, areas set aside for parking vehicles and access lanes as shown on the endorsed plans must;

- a. Comply with Australian Standard AS 2890.1, Off-street car parking and AS 2890.2 Off-street Commercial Vehicle Facilities;
- b. Be properly constructed to such levels that they can be used in accordance with the plans;
- c. Be surfaced with a fully sealed, debris free surface of concrete, asphalt or square edged pavers;
- d. Be drained to Councils requirements;
- e. Be line-marked or otherwise delineated to indicate each car space and access lanes;
- f. Be provided with a concrete kerb of a minimum height of 150mm or such other form of barrier as the Council may approve, of sufficient height to prevent the passage of vehicles other than from approved crossovers, and to prevent vehicles causing damage to landscape areas;
- g. Have exterior lights installed in such positions as to effectively illuminate all pathways, car parking areas and porch areas. Such lighting must be controlled by a time clock or sensor unit and shielded to prevent direct light being emitted outside the site; and
- h. Have a directional sign of not more than 0.3m² must be provided at the entrance to the site indicating the availability of off-street visitor parking.

Parking areas and access lanes must be kept available for these purposes at all times.

12. ADHESION OF TITLES

Prior to the issuing of the Occupancy Certificate, all lots being Volume 101334 Folios 1 & 2 & Volume 24631 Folio 4 must be adhered into a single lot under the *Local Government (Building and Miscellaneous Provisions) Act 1993*. The plan must be certified by the Council and lodged with the Land Titles Office for approval.

13. 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.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

Notes

Other 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*

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.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

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

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. THE PROPOSAL

The applicant seeks Council's approval to construct a 120m² shed to store tile products for Rosetto Tiles (Attachment 2). The items stored would be for sale at the ancillary sales floor and for distribution to its Hobart Store after the goods are transported from Devonport. The building would be constructed of Custom Orb roof sheeting, Trimdek wall cladding and Hebel wall panels. It would be constructed to the rear boundary with the walls being 200mm off the eastern and western boundary. The guttering of these walls would be on the boundary.

The application requires discretionary consideration as the storage use is described as such in the Use Table in Clause 20 of the Launceston Interim Planning Scheme 2012 (the Scheme).

During the assessment process, it has come to the Planning Authority's attention that Volume 24631 Folio 4 and Volume 101334 Folio 2 have never been adhered which should have been undertaken as the warehouse is built over the boundaries. This matter is not covered by any use or development provisions in the Launceston Interim Planning Scheme (the Scheme) but it is recommended that all lots subject to this application are adhered as they function as one lot.

2. LOCATION AND NEIGHBOURHOOD CHARACTER

The site is located on the corner of Invermay Road and Taylor Street, Invermay (Attachment 1). The 1650m² site currently contains a warehouse and associated showroom floor, external storage and car parking area.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

It is relatively flat and is located above the 1 in 100 year flood level. To the south of the site is another property in the Local Business zone, Caledonian Square and residential uses. Residential properties abut the site's eastern boundary and are located on the other side of Taylor Street. On the other side of Invermay Road lie retail uses. The neighbourhood is characterised by a mix of retail, commercial open space and residential uses. In the wider context, the site is approximately 1.8km from the city centre.

3. PLANNING SCHEME REQUIREMENTS

3.1 Zone Purpose

Local Business

LOCAL BUSINESS ZONE	
ZONE PURPOSE	
20.1.1	<p><i>To provide for business, professional and retail services which meet the convenience needs of a local area.</i></p> <p>The proposal would provide a covered area for the existing storage area. This would not conflict with the zone purpose.</p>
20.1.2	<p><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></p> <p>The proposal would not increase the intensity of the sales component of the existing use. Therefore, it would not threaten the established retail hierarchy of the city.</p>
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>The proposed development meets the acceptable solutions of the zone. Moreover, it would be located as far back from the street as possible to minimise the visual impact on the streetscape and be consistent with this zone purpose.</p>
20.1.4	<p><i>To minimise conflict between adjoining commercial and residential activities.</i></p> <p>The warehouse and bulky goods sales use already exists on site. The storage building would ensure the externally stored tile products would be internalised and would help minimise the conflict between the business and the surrounding residential development.</p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

20.1.5	<i>To ensure that vehicular access and parking is designed so that the environmental quality of the local area is protected and enhanced.</i> The vehicular access and parking would alter to what already lawfully exists. The alterations would not decrease the environmental quality of the locality.
20.1.6	<i>To provide for community interaction by encouraging developments such as cafes, restaurants, parks and community meeting places.</i> N/A. The application is not for any of the abovementioned uses.
20.1.7	<i>Local Area Objectives</i> There are no local area objectives
20.1.8	<i>Desired Future Character Statements</i> There are no desired future character statements

3.2 Use Standards

USE STANDARDS	
20.3.1	AMENITY <i>To ensure that the use of land is not detrimental to the amenity of the surrounding area in terms of noise, emissions, operating hours or transport.</i>
A1	<i>Commercial vehicles (except for visitor accommodation and recreation) must</i> a) <i>only operate between 6.00am and 10.00pm Monday to Friday and 7.00am to 5pm Saturday and Sunday; and</i> b) <i>operating hours for retail, business and entertainment uses must be between 6.00am to 10.00pm; and</i> c) <i>signage is not illuminated or floodlit outside the hours of 6.00am to 10.00pm.</i> Complies by Condition. A condition is recommended to ensure hours of operation are limited to the hours outlined above.
A2.1	<i>Noise levels at the boundary of the site with any adjoining land must not exceed:</i> a) <i>50dB(A) day time; and</i> b) <i>40dB(A) night time; and</i>
A2.2	<i>Noise levels in habitable rooms of nearby sensitive uses must not exceed 5dB(A) above background.</i> Complies by Condition. A condition is recommended to ensure noise levels do not exceed this limit.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

20.3.2	<i>RETAIL IMPACT - FOR DISCRETIONARY GENERAL RETAIL AND HIRE USES</i> <i>To ensure that the economic, social and environmental impact of significant new retail use and development is appropriate</i>
A1	No acceptable solution N/A. The use is not general retail and hire.

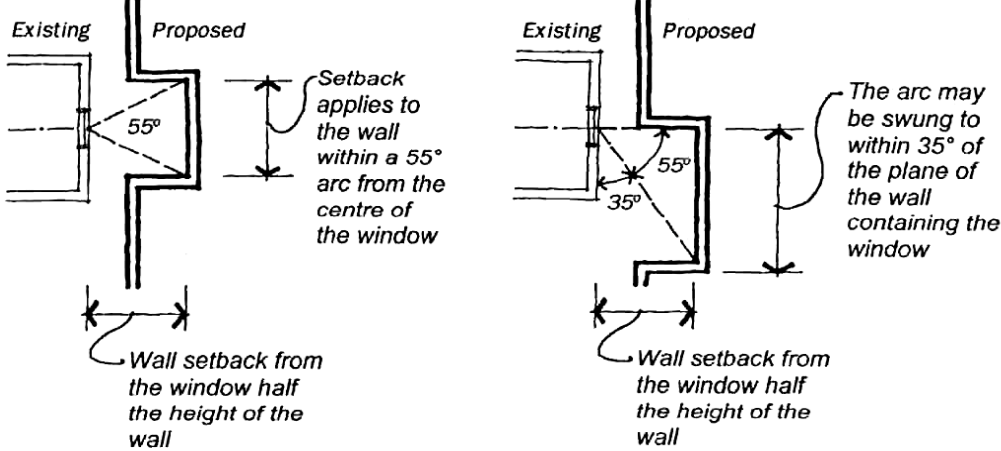
3.3 Development Standards

DEVELOPMENT STANDARDS	
20.4.1	<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> <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 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> Complies. The entrance to the building is clearly visible from the street, albeit it is not designed to be used for public interaction.
A2	<i>Building height must not exceed:</i> <ul style="list-style-type: none"> a) <i>7.0m; or</i> b) <i>1m greater than the average of the building heights on immediately adjoining lots.</i> Complies. The overall building height would be 6.6m.
A3	<i>Buildings must be:</i> <i>built to the front, rear and side boundaries of the lot; or</i> <i>the same as or less than the setback of an immediately adjoining building.</i> Complies. The wall of the building would be built to the rear boundary. The guttering of the eastern and western side of the building would be located on the boundaries.
A4	<i>Car parking must be located:</i> <ul style="list-style-type: none"> 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> N/A. Whilst this provision relates to the location of car parking, Clause 7.3.3 c) of the Scheme states "Where there is a conflict between a provision in a code and a provision in the zone, the code provision prevails. As the Car Parking and Sustainable Transport Code has provisions in terms of parking location, Clause 20.4.1 A1 is overridden.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

20.4.2	<p>ACTIVE GROUND FLOORS <i>To ensure that building facades promote and maintain high levels of pedestrian interaction and amenity</i></p>
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>Does not comply. Further assessment against the Objectives of the Standard and the Performance Criteria is required.</p>
P1	<p><i>New buildings must be designed to maximise interaction between the use of the building and pedestrians and other users of the road. Buildings should be designed to:</i></p> <ul style="list-style-type: none"> <i>a) maximise the level of glazing, openness and transparency on all ground floor facades to frontages, malls, laneways or arcades; and</i> <i>b) minimise the potential for intrusive security devices to reduce the amenity of the building or reduce levels of interaction with the public; and</i> <i>c) screen, obscure all mechanical plant or equipments such as air conditioning units or heat pumps so as they are not recognisable or visible from ground level public view points; and</i> <i>d) minimise all blank walls and signage on a facade to a frontage, mall, laneway or arcade.</i> <p>As the building would be located approximately 34m from the frontage (and behind a solid fence) it doe not have a façade to the frontage. The construction materials would create a higher standard of built form to what already exists closest to Taylor Street (Colorbond shed). There would be no mechanical plant exposed and intrusive security devices. Therefore, the performance criteria is met.</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 facade 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 facade; 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 facade to a frontage, mall, laneway or arcade.</i>
	<p>N/A. There would be no alterations to ground level facades.</p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

20.4.3	<i>Additional standards for Residential Development and Residential components of Mixed Use Development</i>
20.4.3.1	DWELLING DIVERSITY <i>To encourage a range of dwelling sizes and types in developments of ten or more dwellings.</i>
A1	<i>Developments of 10 or more dwellings must provide a minimum of 1 x 1 bedroom, 1 x 2 bedroom and 1 x 3 bedroom floor layouts.</i>
	N/A. The use is not residential.
20.4.3.1	DAYLIGHT TO WINDOWS <i>To allow adequate daylight into existing and new habitable room windows.</i>
A1.1	Where the distance between: a) a new window in a habitable room and an existing building; or b) a new building constructed opposite an existing habitable room window, is less than 3.0m, a light court with a minimum area of 3m ² 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
A1.2	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 
A1.3	Figure 20.4.3.2 - Daylight to existing windows <i>The must be no changes proposed to the location of existing windows.</i> N/A. The use is not residential.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

20.4.3.3	<p>PRIVATE OPEN SPACE <i>To provide adequate private open space for the reasonable recreation and service needs of residents.</i></p>
A1	<p><i>Dwellings must have private open space comprising</i></p> <ul style="list-style-type: none"> 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>
	<p>N/A. The use is not residential.</p>
A2	<p><i>Private open space must receive a minimum of 4 hours of direct sunlight on 21 June to 50% of the designated private open space area</i></p>
	<p>N/A. The use is not residential.</p>
20.4.3.4	<p>OVERSHADOWING OF PRIVATE OPEN SPACE <i>To ensure new buildings do not unreasonably overshadow existing private open space.</i></p>
A1.1	<p><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></p>
A1.2	<p><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></p>
	<p>N/A. The use is not residential.</p>
20.4.3.5	<p>LOCATION OF CAR PARKING <i>To avoid parking and traffic difficulties in the development and the neighbourhood; and</i> <i>To ensure that parking does not detract from the streetscape.</i></p>
A1	<p><i>Car parking for residential development must be located within the building structure or located behind the building line.</i></p>
	<p>N/A. The use is not residential.</p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

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 use is not residential.
A3	<i>The total width of the door or doors on a garage facing a frontage must be not more than 6m.</i>
	N/A. The use is not residential.
20.4.3.6	STORAGE <i>To provide adequate storage facilities for each dwelling.</i>
A1	<i>Each dwelling must have direct access to at least 6 cubic metres of secure storage space.</i>
	N/A. The use is not residential.
20.4.3.7	COMMON PROPERTY <i>To ensure that private open space, car parking, access areas and site facilities are practical and easily maintained.</i> <i>To avoid future management difficulties in areas of common ownership.</i>
A1	<i>Developments must clearly delineate public, communal and private areas.</i>
	N/A. There would be no public, communal or private areas.
20.5	SUBDIVISION <i>Subdivision must ensure:</i> 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>
A1	<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, a 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. No subdivision is proposed.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

A2	<i>Each lot must have a frontage of at least 5 metres.</i> N/A. No subdivision is proposed.
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. No subdivision is proposed.
A4	<i>Each lot must be connected to a reticulated stormwater system.</i> N/A. No subdivision is proposed.
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. No subdivision is proposed.

3.5 Overlays and Codes

3.5.1 Car Parking and Sustainable Transport Code

E6.2	APPLICATION OF CODE
E6.2.1	This code applies to all use or development of land.
E6.6	USE STANDARDS
E6.6.1	CAR PARKING NUMBERS <i>To ensure that an appropriate level of car parking is provided to service use.</i>
A1	<i>The number of car parking spaces:</i> a) <i>will not be less than 90% of the requirements of Table E6.1; or</i> b) <i>will not exceed the requirements of Table E6.1 by more than 2 spaces or 5% whichever is the greater; or</i> c) <i>will be in accordance with an acceptable solution contained within a parking precinct plan contained in Table E6.6: Precinct Parking Plans.</i>
N/A. There are already 13 parking spaces that accord with the previous approval (DA0225/2006). As the storage shed would be located in an area already used for storage and there is no increase in intensity of use the existing parking numbers are sufficient.	
E6.6.2	BICYCLE PARKING NUMBERS <i>To encourage cycling as a mode of transport within areas subject to urban speed zones by ensuring safe, secure and convenient parking for bicycles.</i>
A1.1	<i>Permanently accessible bicycle parking or storage spaces must be provided either on the site or within 50m of the site in accordance with the requirements of Table E6.1; or</i>
A1.2	<i>The number of spaces must be in accordance with a parking precinct plan that has been incorporated into the planning scheme for a particular area.</i>
N/A. There is no requirement for bicycles.	

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

E6.6.3	TAXI DROP-OFF AND PICK UP <i>To ensure that taxis can adequately access developments.</i>
A1	<i>One dedicated taxi drop-off and pickup space must be provided for every 50 car spaces required by Table E6.1 or part thereof.</i>
N/A. There would be no increase in demand above the 13 spaces on site. In any case, less than 50 spaces are required and this standard does not apply.	
E6.6.4	MOTORBIKE PARKING PROVISIONS <i>To ensure that motorbikes are adequately provided for in parking considerations.</i>
A1	<i>One motorbike parking space must be provided for each 20 car spaces required by Table E6.1 or part thereof.</i>
N/A. There would be no increase in demand above the 13 spaces on site. In any case, less than 20 spaces are required and this standard does not apply.	
E6.7	DEVELOPMENT STANDARDS
E6.7.1	CONSTRUCTION OF CAR PARKING SPACES AND ACCESS STRIPS <i>To ensure that car parking spaces and access strips are constructed to an appropriate standard.</i>
A1	<i>All car parking, access strips manoeuvring and circulation spaces must be:</i> a) <i>formed to an adequate level and drained; and</i> b) <i>except for a single dwelling, provided with and impervious all weather seal; and</i> c) <i>except for a single dwelling, line marked or provided with other clear physical means to delineate car spaces.</i>
Complies by condition. The altered parking layout would be required to be line marked by the recommended condition.	
E6.7.2	DESIGN AND LAYOUT OF CAR PARKING <i>To ensure that car parking and manoeuvring space are designed and laid out to an appropriate standard.</i>
A1.1	<i>Where providing for 4 or more spaces, parking areas must be located behind the building line; and</i>
A1.2	<i>Within the general residential zone, provision for turning must not be located within the front setback for residential buildings or multiple dwellings.</i>
Does not comply. Assessment against the Zone Intent, Objective of the Standard and Performance Criteria is required.	

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

<p>P1</p>	<p><i>The location of car parking and manoeuvring spaces must not be detrimental to the streetscape or the amenity of the surrounding areas, having regard to:</i></p> <ul style="list-style-type: none"> a) <i>the layout of the site and the location of existing buildings; and</i> b) <i>views into the site from the road and adjoining public spaces; and</i> c) <i>the ability to access the site and the rear of buildings; and</i> d) <i>the layout of car parking in the vicinity; and</i> e) <i>the level of landscaping proposed for the car parking.</i>
<p>The applicant seeks to relocate three parking spaces to be in front of the wall of the existing shed that faces Taylor Street. In the context of the surrounding development the three spaces would not have a detrimental impact on the streetscape and amenity of the surrounding area. This is because the parking area would be partially screened by the street trees and any vehicles parking on the street. However, previous approval DA0225/2006 approved 8 parking spaces along the eastern boundary of 1 Taylor Street and this parking arrangement appears to have been changed to allow access to 3 Taylor Street and use of this residential zoned land for storage purposes associated with the tile business. As such a use is prohibited in the General Residential zone; it is recommended the plans are amended to move parking spaces 6-8 to be located adjacent to parking space 9. This would allow the company's truck to remain parked at the front of the site and restrict access to 3 Taylor Street from the subject site.</p>	
<p>A2.1</p>	<p><i>The location of car parking and manoeuvring spaces must not be detrimental to the streetscape or the amenity of the surrounding areas, having regard to:</i></p> <p><i>Car parking and manoeuvring space must:</i></p> <ul style="list-style-type: none"> a) <i>have a gradient of 10% or less; and</i> b) <i>where providing for more than 4 cars, provide for vehicles to enter and exit the site in a forward direction; and</i> c) <i>have a width of vehicular access no less than prescribed in Table E6.2, and not more than 10% greater than prescribed in Table E6.2; and</i> d) <i>have a combined width of access and manoeuvring space adjacent to parking spaces not less than as prescribed in Table E6.3 where any of the following apply:</i> <ul style="list-style-type: none"> <i>i) there are three or more car parking spaces; and</i> <i>ii) where parking is more than 30m driving distance from the road; or</i> <i>iii) where the sole vehicle access is to a category I, II, III or IV road;</i>
<p>A2.2</p>	<p><i>The layout of car spaces and access ways must be designed in accordance with Australian Standards AS 2890.1 – 2004 Parking Facilities, Part 1: Off Road Car Parking.</i></p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

Complies by condition. If approved, the permit could condition compliance with AS2890.1. The access areas would not change in terms of their widths would not differ to what already exists.	
E6.7.3	CAR PARKING ACCESS, SAFETY AND SECURITY <i>To ensure adequate access, safety and security for car parking and for deliveries.</i>
A1	<i>Car parking areas with greater than 20 parking spaces must be:</i> a) <i>secured and lit unauthorized cannot enter or;</i> b) <i>lit and visible from buildings on or adjacent to the site during the times when parking occurs.</i>
N/A. Less than 20 spaces are on site.	
E6.7.4	PARKING FOR PERSONS WITH A DISABILITY <i>To ensure adequate parking for persons with a disability.</i>
A1	<i>All spaces designated for use by persons with a disability must be located closest to the main entry point to the building.</i>
N/A. There are no disabled parking spaces provided.	
A2	<i>One of every 20 parking spaces or part thereof must be constructed and designated for use by persons with disabilities in accordance with Australian Standards AS/NZ 2890.6 2009.</i>
N/A. As less than 20 spaces are on site this provision does not apply	
E6.7.6	LOADING AND UNLOADING OF VEHICLES – DROP-OFF AND PICK UP <i>To ensure adequate access for people and goods delivery and collection and to prevent loss of amenity and adverse impacts on traffic flows.</i>
A1	<i>For retail, commercial, industrial, service industry or warehouse or storage uses:</i> a) <i>least one loading bay at must be provided in accordance with Table E6.4; and</i> b) <i>loading and bus bays and access strips must be designed in accordance with Australian Standard AS/NZS 2890.3 2002 for the type of vehicles that will use the site.</i>
N/A. The intensity of the use is not changing. Therefore, the requirement for a loading bay is not applicable.	
E6.8	PROVISIONS FOR SUSTAINABLE TRANSPORT
E6.8.1	BICYCLE END OF TRIP FACILITIES <i>To ensure that cyclists are provided with adequate end of trip facilities.</i>
A1	<i>For all development where (in accordance with Table E6.1) over 5 bicycle spaces are required, 1 shower and change room facility must be provided, plus 1 additional shower for each 10 additional employee bicycles spaces thereafter.</i>
N/A. No bicycle spaces are required.	

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

E6.8.2	BICYCLE PARKING ACCESS, SAFETY AND SECURITY <i>To ensure that parking and storage facilities for bicycles are safe, secure and convenient.</i>
A1.1	<i>Bicycle parking spaces for customers and visitors must:</i> a) <i>be accessible from a road, footpath or cycle track; and</i> b) <i>include a rail or hoop to lock a bicycle to that meets Australian Standard AS 2890.3 1993; and</i> c) <i>be located within 50m of and visible or signposted from the entrance to the activity they serve; and be</i> d) <i>available and adequately lit in accordance with Australian Standard AS/NZS 1158 2005 Lighting Category C2 during the times they will be used; and</i>
A1.2	<i>Parking space for residents' and employees' bicycles must be under cover and capable of being secured by lock or bicycle lock.</i>
N/A. No bicycle spaces are required.	
A2	<i>Bicycle parking spaces must have:</i> a) <i>minimum dimensions of:</i> i) <i>1.7m in length; and</i> ii) <i>1.2m in height; and</i> iii) <i>0.7m in width at the handlebars; and</i> b) <i>unobstructed access with a width of at least 2m and a gradient of no more 5% from a public area where cycling is allowed.</i>
N/A. No bicycle spaces are required.	
E6.8.5	PEDESTRIAN WALKWAYS <i>To ensure pedestrian safety is considered in development</i>
A1	<i>Pedestrian access must be provided for in accordance with Table E6.5.</i>
Does not comply - Assessment against zone intent, objective of standard and performance criteria is required.	
P1	<i>Safe pedestrian access must be provided within car park and between the entrances to buildings and the road.</i>
Whilst there are 13 spaces on site (which are proposed to be partially relocated) they would be located in two different locations on the site (subject to the recommended plan amendments). As less than 10 spaces would be located in each area and the likelihood of the spaces nearest Invermay Road being higher turnover for customers of the showroom, separated pedestrian footpaths are not required and the performance criteria is met.	
E6.6.1	PRECINCT 1 – LAUNCESTON CBD PARKING EXEMPTION AREA
E6.6.4	LOCAL AREAS PROVISIONS <i>To remove the need for new use or development to provide onsite car parking within the exemption area.</i> <i>To establish parking maximums within the exemption area</i>
A1	<i>No onsite parking provision.</i>
N/A. The site is not located within the Launceston CBD Parking Exemption Area.	

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

3.5.2 Invermay/Inveresk Flood Inundation Area Code

E16.0 INVERMAY/INVERESK FLOOD INUNDATION AREA CODE	
E16.1.1	CODE PURPOSE <i>To reduce risks and hazards from flooding in the Invermay/Inveresk flood inundation area and in particular:</i> a) <i>to limit development that increases the potential flood damage to residential property subject to inundation;</i> i) <i>to limit land uses that create unacceptable levels of risk for residents in the event of inundation; and</i> ii) <i>to ensure that consideration is given to community, infrastructure and environmental impacts of development on land subject to flood inundation.</i>
E16.6	USE STANDARDS
E16.6.1	TO PREVENT INAPPROPRIATE USE <i>To prevent inappropriate uses from establishing in areas subject to, or seriously affected by, flood inundation.</i>
A1	<i>Must not be:</i> a) <i>Education and occasional care; or</i> b) <i>Emergency services; or</i> c) <i>Hospital Services.</i> Complies. The use is storage.
A2	<i>Must not be Residential unless:</i> a) <i>Single dwelling in the Invermay Residential or Inveresk Residential precincts; or</i> b) <i>Multiple dwelling in the Invermay Residential Precinct; or</i> c) <i>Residential associated with and supporting the educational activities within the Inveresk Cultural precincts.</i> Complies. The use is not residential.
A3	<i>Must not be Community Meeting and Entertainment in the Riverside Industrial or Inveresk Residential precincts.</i> Complies. The use is defined as storage.
E16.6	DEVELOPMENT STANDARDS
E16.6.1	INTENSIFICATION OF RESIDENTIAL DEVELOPMENT <i>To limit the intensification of residential development in areas subject to, or seriously affected by, flood inundation.</i>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

A1	<p><i>New residential development or extensions of existing buildings:</i></p> <ul style="list-style-type: none"> <i>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</i> <i>b) must not result in more than 200m² of residential floor area on a single title; or</i> <i>c) must be for residential uses associated with and supporting the educational activities within the Inveresk Cultural Precinct</i>
	<p>N/A. The use is not residential.</p>
	<p>Assessment</p>
A2	<p><i>Subdivision or division of land by strata plan must not create any additional lots capable for any future residential development.</i></p>
	<p>N/A. No subdivision is proposed.</p>
E16.7.2	<p>FLOOD IMPACT</p>
	<p><i>To ensure that new buildings and infrastructure are sited and designed to avoid or mitigate the risk and minimise the impact of flooding.</i></p>
A1	<p><i>Floor levels of all habitable rooms within the residential use class must be at least 3.7m AHD.</i></p>
	<p>N/A. The use is not residential.</p>
A2	<p><i>No Acceptable solution.</i></p>
	<p>Assessment against the Performance Criteria is required</p>
P2	<p><i>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.</i></p> <p><i>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:</i></p> <ul style="list-style-type: none"> <i>a) the risk of levee failure in the vicinity of the site;</i> <i>b) the likely velocity of flood waters and depth of inundation;</i> <i>c) the need to locate electrical equipment and other fittings above the 1:100 year annual exceedance probability flood level;</i> <i>d) the likely affect of the use or development on flood characteristics;</i> <i>e) the safety of the occupants of the development, potential evacuation routes and whether there is a flood free access to the land;</i> <i>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.</i>
	<p>N/A. The building would not be used for residential purposes.</p>
A3	<p><i>Floor levels of all buildings not in the residential use class must be at least 3.4m AHD</i></p>
	<p>Complies. The floor level of the building would be between 5-5.5m AHD.</p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

4. REFERRALS

INTERNAL	
Infrastructure Assets	The standard condition for damage to Council infrastructure was recommended. The issue of construction of the shed and the impacts on traffic were raised with the Infrastructure Assets Department. It was stated that a traffic management plan would be required if the road reserve were occupied during construction. However, as the site potential area of road occupation would not be on an arterial road or in an 'activities district'. Therefore, the traffic management plan would not need to be lodged with Council.
Environmental Health	N/A.
Building Control	N/A.
Parks and Recreation	The Parks and Recreation Department advised that access over Caledonian Square would not be allowed to facilitate the construction.
Heritage/Urban Design	N/A.
Strategic Planning	N/A.
EXTERNAL	
BLW	N/A.
Heritage Tasmania	N/A.
EPA	N/A.
DIER	N/A.

5. REPRESENTATIONS

Pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993*, the application was advertised for a 14 day period from 25 May 2013 to 7 June 2013. Three representations were received (Attachment 3).

The issues raised in the table below are a summary of the matters raised within the representation attached to this report.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

ISSUE	COMMENTS
<p>The business started as a showroom and warehouse and now intends to be an intrastate storage depot.</p>	<p>The applicant's has stated the application is to provide a covered area for the existing stock which includes items to be moved to their Hobart store.</p>
<p>The proposed expansion of the site would bring more heavy traffic to a quiet residential area which is already heavily congested.</p>	<p>The applicant has stated that the business would not expand and there would not be an increase in vehicle movements, deliveries etc. The application seeks to provide a shed to store stock out of the weather and securely.</p>
<p>The parking in Taylor Street is very limited already. Any more heavy vehicles would only increase the dangers that exist.</p>	<p>The applicant has stated there would be no expansion of the business and no increase in heavy vehicles visiting the site.</p>
<p>The delivery of containers involves the use of heavy vehicles, winches etc. at early hours of the morning.</p>	<p>The acceptable solution for uses in the Local Business zone is for hours of operation to be restricted from 6:00am - 10:00pm Monday to Friday and 7:00am - 5:00pm Saturday and Sunday. The applicant has stated that the business would operate between these hours.</p>
<p>The increase in storage will bring an increase in the noise associated with the collection of waste materials and delivery of stock. This has already occurred early in the morning.</p>	<p>The applicant's supporting document states the business would operate between the hours recommended in the acceptable solution which is:</p> <ul style="list-style-type: none"> • 6:00am - 10:00pm Monday to Friday; and • 7:00am to 5:00pm Saturday and Sunday. <p>It is recommended that, if approved, the permit is conditioned to restrict the hours of operation to accord with the acceptable solution.</p> <p>The applicant's supporting document also states the business would operate within the noise limits which is a maximum of:</p> <ul style="list-style-type: none"> • 50dB(A) day time; • 40 dB(A) night time; and • Noise levels in habitable rooms in nearby sensitive uses must be no greater than 5dB(A) above background noise levels. <p>It is recommended that, if approved, the permit is conditioned to restrict noise levels to accord with the acceptable solution.</p>

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

ISSUE	COMMENTS
The proposed building would be clearly visible from my home and impinge on my view and property value.	Loss of views and devaluation of property are not matters dealt with by the Scheme.
Whist the shed may be for storage additional heavy traffic must increase the need for more space for turning of trucks and forklifts and delivery and removal of containers.	The applicant has stated there would be no intensification of use of the site. Therefore, there would be no increase in the intensity of vehicle deliveries, forklifts etc.
On some occasions the applicant's truck has been parked on nearby streets due to a lack of parking on site.	The applicant has stated there have been occasions where the truck has been parked off site. This is generally during sales events where more parking is required on site for customers.
We do not wish to be looking at a huge shed when looking out our window. This would devalue our property.	The proposed shed would be located at the rear of the site and would be partially screened by the existing fence on the site. Devaluation of property is not a matter dealt with by the Scheme.

6. CONCLUSION

The proposal would allow the applicant to store their stock under a covered area to increase security and protect the stock from the elements. The intensity of the use would not change, the impacts on the streetscape are considered to be acceptable and the noise impacts can be managed by way of condition. 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 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.

12.2 80-82 Invermay Road & 1 Taylor Street, construct a shed for storage purposes...(Cont'd)

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

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 - (distributed separately)
 2. Plans - (distributed separately)
 3. Representations - (distributed separately)
-

13 NOTICES OF MOTION - FOR CONSIDERATION**13.1 Alderman Peck - Notice of Motion - Review of Economic Development Committee****FILE NO:** SF5547, SF0804**AUTHOR:** Alderman Peck**GENERAL MANAGER:** Robert Dobrzynski (General Manager)

DECISION STATEMENT:

To consider a Notice of Motion from Alderman Peck regarding the review of the Economic Development Committee

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

N/A

NOTICE OF MOTION:

Recommend a review of the Economic Development Committee Role and support a discussion paper to be prepared by Alderman Hugh McKenzie.

REPORT:

Alderman Peck will speak to the Notice of Motion.

Background as provided by Alderman Peck

The role, function and membership of the Economic Development Committee has been under discussion within the Committee since October 2012.

13.1 Alderman Peck - Notice of Motion - Review of Economic Development Committee...(Cont'd)

Part of this discussion is embedded in the concern that no one appears to be driving opportunities in the north to progress the Northern Tasmanian story. Council has an opportunity to elevate the economic development agenda, and to facilitate and enable economic development action. The economic development story for Northern Tasmania could encapsulate mining, agriculture, forestry, business and tourism. To support this discussion, Alderman Hugh McKenzie prepared a draft proposal "Launceston City Council - Economic Development Role". This was tabled for discussion at the Economic Development Committee Meeting 4th June 2013. The Committee have endorsed the further development of this paper for presentation to Council.

Officer Comments - Robert Dobrzynski (General Manager)

The Launceston City Council, in concert with other Council's within the greater Launceston area, is currently undertaking the most extensive and comprehensive data gathering, analysis and strategic planning process ever undertaken in northern Tasmania. The purpose of the Greater Launceston Plan (GLP) is to establish a clear unity of purpose for the development of the City and region, establishing priorities which are evidence based and take into consideration an analysis of trends impacting upon the social, economic and environmental prosperity of the City and region.

It is proposed that the Greater Launceston Plan will provide the clear strategic direction required to influence both the Council's policy and operational processes. The GLP will provide an unambiguous articulation of the areas where the Council should be focusing in order to deliver upon the community's expectations.

Importantly, the Greater Launceston Plan strategic framework will make clear to the State Government, Federal Government and private sector investors in the region how the Council will work with these major stakeholders to provide for the future prosperity of the City and region.

The purpose of Committees of Council should be directed to delivering on the Greater Launceston Plan objectives.

In particular, the Greater Launceston Plan will provide clear direction for a revised terms of reference relating to the Economic Development Committee function and importantly membership.

13.1 Alderman Peck - Notice of Motion - Review of Economic Development Committee...(Cont'd)

A broader range of key stakeholders who influence economic activity within the City and region should be represented on any future Economic Development Committee. A greater degree of collaboration with these agencies is imperative to ensure that the key drivers of economic activity within the City and region are collaborating to develop mutually supportive strategies which deliver on positive economic outcomes. The absence of effective dialogue on a regular basis with these major stakeholders in coordinating integrated strategies has impeded a sound approach which maximises the benefits of outcomes from various stakeholder public and private investment.

It would be anticipated that following the development of the Greater Launceston Plan a more broadly based Economic Development Committee would establish a work plan derived from the specific strategies and actions relating to economic development which are included within the GLP. It will be important to ensure that there is a consistency in not deviating from the GLP priority strategies, as this will fragment the use of the Council's scarce resources and compromise achieving key GLP economic targets.

The major work that is being undertaken with the Development Services area to reflect the Council is "open for business" should also be indicated. The Digital Local Government Program is proposed to be completed by September this year, and will provide a sophisticated online development application process with the following features:

Digital Local Government Program: Dream eDA

- *Perform the services and engagement process of the Planning and Development department of Council.*
 - *Develop a video conferencing system to engage with the community for business, health and wellbeing.*
 - *Utilise the capacity of the NBN to allow data sharing and enhance communication (e.g 3D imagery of the City).*
 - *Improve access to information.*
 - *Ability to expand on line capacity into other areas - rates, fees and charges, environmental health, booking events, etc.*
 - *9-day reduction estimated in time to approve Development Applications.*
 - *Has fundamentally changed our internal processes by responding to our external customers digitally.*
-

13.1 Alderman Peck - Notice of Motion - Review of Economic Development Committee...(Cont'd)

- *By September 2013:*

- *Lodgement*
- *Payment*
- *Tracking*
- *Internal processes*

will all be fully electronic on line.

It is crucial that the Council is strategic in the manner in which it applies its limited resources to achieve priority outcomes in the economic, social and environmental areas for its community. The Council's obligations extend more broadly than its constituency within the Launceston City Council area. Activities of Launceston City Council have a profound influence within the greater City area and within the northern Tasmanian region.

Much has been done within the Launceston City Council to engage more directly with the community, the business sector, private sector investors, the Federal Government and the State Government in a strategic manner. Some of these initiatives include:

- *The Retail Audit and Activity Centre Analysis document*
- *The first Council in the State to gain approval for its Interim Planning Scheme.*
- *The Digital Local Government Program.*
- *Remote video conferencing.*
- *Your Voice Your Launceston community engagement framework.*
- *Form and Function Review covering all aspects of the organisation which will lead to the development of Future Directions Plans as part of a corporate continuous improvement program for Launceston City Council.*
- *A review of the major program areas of service delivery across the organisation through engagement with the community seeking their input on satisfaction levels of current services and priority areas for future attention.*

The foregoing comments apply equally to both Notices of Motion on the Council agenda and demonstrate that the Council organisation is actively already undertaking major work in these areas to the capacity of available resources. It would be counterproductive to deviate off in another direction while we are still working to complete major projects such as the GLP and DLGP

13.1 Alderman Peck - Notice of Motion - Review of Economic Development Committee...(Cont'd)


STRATEGIC DOCUMENT REFERENCE:

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. Notice of Motion - Alderman Peck
-

LAUNCESTON CITY COUNCIL

MEMORANDUM

FILE NO: SF5547 : SF0804
TP
DATE: 17 June 2013

TO: Robert Dobrzynski General Manager
Cc Committee Clerks

FROM: Tony Peck Alderman

SUBJECT: Notice of Motion - Review of Economic Development Committee

In accordance with Clause 16 (5) of the Local Government Regulations 2005 (Meeting Procedures) please accept this Notice of Motion for placement on the agenda of the Meeting of Council to be held on 8 July 2013.

Motion


Recommend a review of the Economic Development Committee Role and support a discussion paper to be prepared by Alderman Hugh McKenzie.

Background

The role, function and membership of the Economic Development Committee has been under discussion within the Committee since October 2012. Part of this discussion is embedded in the concern that no one appears to be driving opportunities in the north to progress the Northern Tasmanian story. Council has an opportunity to elevate the economic development agenda, and to facilitate and enable economic development action. The economic development story for Northern Tasmania could encapsulate mining, agriculture, forestry, business and tourism. To support this discussion, Alderman Hugh McKenzie prepared a draft proposal "Launceston City Council - Economic Development Role". This was tabled for discussion at the Economic Development Committee Meeting 4th June 2013. The Committee have endorsed the further development of this paper for presentation to Council.

Attachments

Nil



Alderman Tony Peck

13.2 Alderman Peck - Notice of Motion - Launceston as a City Profile**FILE NO:** SF5547, SF0804, SF0015**AUTHOR:** Alderman Peck**GENERAL MANAGER:** Robert Dobrzynski (General Manager)

DECISION STATEMENT:

To consider a Notice of Motion from Alderman Peck regarding the concept of Launceston being "Open for Business".

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

N/A

NOTICE OF MOTION:

Put forward a promotional concept that Launceston is "Open for Business", utilising the existing information adapted for the most appropriate mediums.

REPORT:

Alderman Peck will speak to the Notice of Motion.

Background as provided by Alderman Peck

The Economic Development Committee seeks to raise the profile of Launceston as City for business development and investment. To do this, we have an opportunity to crystallize a coherent story and a strong case for business development. We need to identify and understand our point of difference and business opportunity [which could include air access, cost of premises, NBN (online business opportunities), family friendly / lifestyle, Council commitment and support for development etc.]. Once the point of difference is clearer we can adopt a principle of "Open for Business".

13.2 Alderman Peck - Notice of Motion - Launceston as a City Profile...(Cont'd)

We would seek to become:

- (a) open for business,
- (b) outward looking,
- (c) focused on growth opportunities and
- (d) focused on growth based on the assets we have.

This concept can be established and promoted utilising a range of mediums which could include the website, mobile phone apps, tourism strategies etc. The principle can be adopted by Council and become the driving feature in our plans to develop and grow the City through the strategy that will ultimately underpin the Greater Launceston Plan.

General Manager comments

Please refer to General Manager's comments in the Notice of Motion regarding the review of the Economic Development Committee which apply equally in regard to this Notice of Motion.

Officer comments - Michael Stretton (Director Development Services)

Launceston City is in competition with Cities throughout the world for business and accordingly, more could be done to better position ourselves to be more competitive.

In order to be able to present a concept such as this, there is a body of work which would have to be completed. It will be important to identify and agree on Launceston's competitive advantages and points of difference and it will be equally important to link a program such as this to a sound strategic framework (i.e. why do people do business in Launceston? and what sort of businesses might be part of a growth industry here?). The Greater Launceston Plan, once completed, will provide a sound strategic and evidence based framework on which to identify these competitive advantages and points of difference which can then be crystallised into a "story to tell". It will then be necessary to develop an effective marketing and communications strategy for the 'open for business concept'.

The motion does not address either the financial or staff resources that would be required to deliver the concept, and it will require both. It is suggested that the initial approach should be to undertake scoping work to better understand and identify the process and resources that would be required to deliver an 'open for business' campaign and refer the matter to SPPC for further discussion. It is considered important that a campaign such as this should not simply be about selling a message, but should strive to achieve actual cultural change within the city to be more open for business.

13.2 Alderman Peck - Notice of Motion - Launceston as a City Profile...(Cont'd)

STRATEGIC DOCUMENT REFERENCE:

N/A

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. Notice of Motion - Alderman Peck
-

LAUNCESTON CITY COUNCIL

MEMORANDUM

FILE NO: SF5547 : SF0804 : SF0015
TP
DATE: 17 June 2013

TO: Robert Dobrzynski General Manager
Cc Committee Clerks

FROM: Tony Peck Alderman

SUBJECT: Notice of Motion - Launceston as a City Profile

In accordance with Clause 16 (5) of the Local Government Regulations 2005 (Meeting Procedures) please accept this Notice of Motion for placement on the agenda of the Meeting of Council to be held on 8 July 2013.

Motion

Put forward a promotional concept that Launceston is "open for business", utilizing the existing information, adapted for the most appropriate mediums.

Background

The Economic Development Committee seeks to raise the profile of Launceston as City for business development and investment. To do this, we have an opportunity to crystalize a coherent story and a strong case for business development. We need to identify and understand our point of difference and business opportunity [which could include air access, cost of premises, NBN [online business opportunities], family friendly/ lifestyle, Council commitment and support for development etc.]. Once the point of difference is clearer we can adopt a principle, of "open for business".

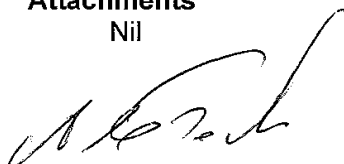
We would seek to become :-

- a. open for business,
- b. outward looking,
- c. focused on growth opportunities,
- d. focused on growth based on the assets we have

This concept can be established and promoted utilizing a range of mediums which could include the website, mobile phone apps, tourism strategies etc. The principle can be adopted by Council and become the driving feature in our plans to develop and grow the City through the strategy that will ultimately underpin the Greater Launceston Plan.

Attachments

Nil



— Alderman Tony Peck

DIRECTORATE AGENDA ITEMS

14 DEVELOPMENT SERVICES

14.1 Event Sponsorship - Round 1 2013/2014

FILE NO: SF5898

AUTHOR: Angie Walsh (Grants & Sponsorship Officer)

DIRECTOR: Michael Stretton (Director Development Services)

DECISION STATEMENT:

To respond to requests for event sponsorship.

PREVIOUS COUNCIL CONSIDERATION:

N/A

RECOMMENDATION:

That the following event sponsorship applications receive the recommended sponsorship amounts:

No	Request	Details	Score	Requested	Recommend	SPL	Page
1	Launceston Players	David Williamson's "Emerald City" - 9-17 August	98%	\$5,000	\$5,000	1	3 - 13
2	Make-A-Wish@Australia	Run For A Wish Fun Run/Walk - 19 October	98%	\$5,000	\$5,000	1	14 - 26
3	DanceSport Tasmania	2013 anderson morgan Tasmanian Open DanceSport Championships - 9-10 August	97%	\$10,000	\$10,000	2	27 - 41
4	Zions Hill Church	CultureFest - 5 December	96%	\$5,000	\$5,000	1	42 - 52
5	Launceston Cataract Challenge	Launceston Cataract Challenge - 27 October	92%	\$10,000	\$10,000	2	53 - 66
6	Encore Theatre Company Inc.	'ANNIE' - 8-16 November	92%	\$15,000	\$10,000	2	67 - 78

14.1 Event Sponsorship - Round 1 2013/2014...(Cont'd)

No	Request	Details	Score	Requested	Recommend	SPL	Page
7	Launceston Environment Centre	Sustainable Living Festival Mobile Phone Film Finale - 3 November	90%	\$5,000	\$5,000	1	79 - 88
8	BOFA	The Tasmanian Breath of Fresh Air film Festival - 7-10 November	87%	\$20,000	\$15,000	3	89 - 102
9	Simons Prostate Cancer Ball	Simons Prostate Cancer Ball - 16 November	84%	\$5,000	\$5,000	1	103-111
10	The Rotary Club of Central Launceston	"Sally's Ride Tamar Valley Cycle Challenge" - 17 November	84%	\$10,000	\$10,000	2	112-124
11	Anglicare Tasmania	Communities for Children Expo 2013 - 19 October	82%	\$10,000	\$2,437	1	125-134
12	Fusion Australia	Launceston Advent Pageant - 29 November	82%	\$5,000	\$2,437	1	135-146

That the following event sponsorship applications not be funded by Council:

No	Request	Details	Score	Requested	Recommend	Page #
13	Blue Sky Ball Inc.	Blue Sky Ball - 5 October	80%	\$5,000	Not Supported \$0	147-157
14	St Giles Society	Walk With Me/Kidfest 2012 - 1 September	72%	\$5,000	Not Supported \$0	158-167
15	Launceston Scale Model Club Inc.	2013 Scale Model Expo - 26 October	72%	\$2,500	Not Supported \$0	168-177
16	Tasmanian Poetry Festival	2013 Tasmanian Poetry Festival - 4-6 October	65%	\$4,800	Not Supported \$0	178-187
17	Tasmanian Centre for Global Learning (TCGL)	A Fairer World Festival - 2-3 September	55%	\$5,000	Not Supported \$0	188-198
18	Octagon	Launceston Adventure Run - 24 November	26%	\$10,000	Not Supported \$0	199-208

REPORT:

- The total requests received for Event Sponsorship Round 1 2013/2014 is \$137,300.
- The available event sponsorship budget for the 2013/2014 financial year is \$169,750 with funds generally being distributed evenly across Rounds 1 & 2 (i.e. \$84,875 per round).
- Based on the scores received the recommended allocation of funds for Round 1 2013/2014 is \$84,874.

14.1 Event Sponsorship - Round 1 2013/2014...(Cont'd)

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

81 - 100%	=	100% of requested funds	or agreed SPL if different
61 - 80%	=	75% of requested funds	or agreed SPL if different
50- 60%	=	50% of requested funds	or agreed SPL if different
< 50%	=	No funding provided	or agreed SPL if different

- **Items 11 & 12 (Communities for Children Expo and Launceston Advent Pageant)**
It is recommended that both events receive funding proportionate to the deemed sponsorship package level for the event and to fairly distribute the remaining event sponsorship funds across 2 events that received the same assessment result (score).
- Whilst it is acknowledged that several worthwhile events will not receive funding (under the above recommendation), in order to maintain an even distribution of funds for Event Sponsorship for the 2013/2014 financial year, it is considered by the Assessment Panel to be a fair and equitable distribution.

All applications for funding have been assessed against the sponsorship package level (SPL) unanimously agreed upon by the Assessment Panel for the particular event and using 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 events and their respective scores.

Mandatory Criteria

- Community benefit must be the primary purpose of the event
- Event is held within the Launceston Municipal area
- Responds to one or more priorities identified in the Launceston City Council Events Strategy
- A detailed budget must be included with the application
- A risk management plan (for the event) must be included with the application

Assessment Criteria

- Alignment with Launceston brand (only applies to SPL 2 - 4)
 - Event compliments, diversifies and does not clash or conflict with the events calendar
 - Project plan for the event demonstrates planning relevant to scale of event
 - Budget for the event is realistic and includes evidence of other support? (i.e. fundraising, sponsorship, use of volunteers, in-kind support, etc)
 - Environmentally sustainable practices for the event have been adequately addressed
 - Do the aims and outcomes benefit (social and/or economic) the Launceston community and are they achievable?
-

14.1 Event Sponsorship - Round 1 2013/2014...(Cont'd)

Sponsorship Package Levels

SPL1 - up to \$5,000.00

Would typically be an event, held in the Launceston Municipal Area, that is primarily for the local community and attracting predominately local or regional audience and/or has a relatively small budget, or where a smaller contribution from LCC is sought.

SPL2 - up to \$10,000.00

Would typically be an event, held in the Launceston Municipal Area, that attracts a larger audience, including from outside the region, and/or would have a demonstrable economic benefit to the community, for example by increasing visitor numbers and accommodation bookings.

It may also include significant events that have a community benefit and that may attract additional infrastructure or venue hire costs.

SPL3 - up to \$15,000.00

Would typically be an event, held in the Launceston Municipal Area, that would have state or national appeal, attracting larger audiences and accommodation nights sold, and potentially significant exposure. It may also include significant events that have a positive economic or tourism impact and may attract additional infrastructure or venue hire costs.

SPL4 - up to \$20,000.00

Would typically be an event, held in the Launceston Municipal Area, for the region and/or state, attracting significant numbers of patrons from intra and interstate, providing demonstrable economic and tourism benefits for Launceston and the region. Sponsorship at this level would be restricted to existing proven events that are able to demonstrate attendance figures and impact on the local economy.

ECONOMIC IMPACT:

Approval of the recommended event sponsorship will result in a positive economic impact to the Launceston community.

ENVIRONMENTAL IMPACT:

Approval of the recommended event sponsorship will have minimal impact on the environment.

14.1 Event Sponsorship - Round 1 2013/2014...(Cont'd)

SOCIAL IMPACT:

Approval of the recommended event sponsorship will provide a number of valuable social impacts for our community.

STRATEGIC DOCUMENT REFERENCE:

Launceston City Council Events Strategy

BUDGET & FINANCIAL ASPECTS:

Available Funds	\$169,750
Amount recommended this Round	\$84,874
Balance	\$84,876
Remaining Rounds 2013/2014	1

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

19 GENERAL MANAGER**19.1 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 determine appropriate course of action following decision of Magistrates Court and subsequent developments.

PREVIOUS COUNCIL CONSIDERATION:

On 21 September, 2009 in closed Council, Council determined to close part of the walkway leading from and adjacent to South Esk Road.

RECOMMENDATION:

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.
-

REPORT:

On 21 September, 2009 Council relevantly determined that subject to subdivision and planning requirements being met, Council forms the opinion that a part of South Esk Road (walkway) can be closed due to lack of use, and further that Council decides to close part of South Esk Road (walkway).

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

Objections were received from members of the public to the proposed closure, and pursuant to the requirements of the Act, the matter was referred to the Magistrates Court (Administrative Appeals Division) for decision. On 20 September, 2010, Magistrate Hill handed down his decision upholding each of the objections. The upshot of this decision is that Council is prevented from closing part of the walkway and prevented from selling that part to Mr and Mrs Smart. I believe it also follows that it is incumbent on Council to remove the encroachment, the fence and other material from the walkway.

There followed a long period of negotiation with Mrs Smart in an endeavour to have her and her husband voluntarily remove the encroachment. The encroachment has not been removed.

Recently Mrs Smart has forwarded to Council an advice received by her from her lawyer Mr McElwaine SC, questioning whether in fact the walkway is a public walkway. This issue was not raised by any party in the reference to the Magistrates Court, and the matter proceeded on the basis that the walkway was a local highway. In his advice Mr. McElwaine says: "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)", and later "In any event the evidence that you have unearthed to date strongly supports the proposition that the laneway does not have the status as a highway."

Mr. McElwaine states that if in fact the walkway is a private right of way, and not a local highway, then the Court had no power to make the order it did. I agree with that opinion, however of course such opinion is predicated on the assumption that the walkway is a private right of way, as opposed to a public right of way or walkway, dedicated to and accepted by the public as a highway.

If in fact the walkway is a private walkway and not a public walkway and a local highway as that term is used in the Local Government (Highways) Act 1982, then it follows that the order of the Magistrates Court of 20 September, 2010 is of no legal effect.

To obtain a definitive ruling it is necessary to make an application to the Supreme Court for a declaration that the walkway is, or alternatively is not, a local highway. It is open to either Council or Mr and Mrs Smart to bring such an application.

The Supreme Court determines the question on what is termed "the balance of probabilities"; is it more likely or not that the walkway is a local highway. I cannot be sure whether or not this walkway is a public walkway and a local highway. For the reasons I have set out in my advice to the General Manager, I am confident in the view that it is a public way and a highway within the meaning of the Act.

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

I would recommend against Council taking the matter to the Supreme Court because:

(a) in my opinion the chances of success are remote;

(b) significant costs are involved;

(c) Council should bear in mind that since it made its decision to commence the procedure to close part of the walkway, Magistrate Hill, hearing evidence from Mrs. Smart, Mr. Holmes of Council, and various local residents, found that the walkway was "widely used", and it was "a blatant usurpation of their (people who use the walkway) right to use and enjoy the totality of this public thoroughfare". He said "I am not satisfied that there is any public benefit in sanctioning what was in effect an unlawful closure of this walkway"

(d) there are some difficulties in arguing that the walkway is not a local highway when clearly Council was of the opposite view in commencing the process to close part of the walkway.

Similarly Mr and Mrs Smart are at liberty to seek such a declaration from the Supreme Court. Council would not take any action to remove the fence pending the outcome of the application.

ECONOMIC IMPACT:

In enforcing order of the Magistrates Court, likely negligible. If the fence is ultimately removed by Council, costs are recoverable from Mr and Mrs Smart.

As applicant to the Supreme Court, and chiefly dependent on whether the application is opposed, say \$10,000.00 to \$30,000.00.

ENVIRONMENTAL IMPACT:

Nil

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

SOCIAL IMPACT:

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

STRATEGIC DOCUMENT REFERENCE:

N/A

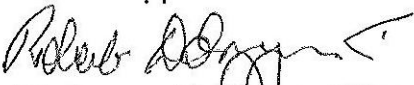
BUDGET & FINANCIAL ASPECTS:

See Economic impact

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. Decisions of Magistrate Hill - 20 September 2010
 2. Letter from Mrs Smart to the General Manager - 10 May 2013
 3. Advice from Darryl Wright to the General Manager - 28 June 2013 (Distributed separately)
-

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.

- (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

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),

..... 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

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

10th May, 2013

General Manager
Launceston City Council
Civic Square
LAUNCESTON 7250

09 MAY 2013

FILE No.	2446 / 2447		
EO	<input checked="" type="checkbox"/>	OD	Box <input checked="" type="checkbox"/>
RCVD 09 MAY 2013 LCC			
Doc No.			
Action Officer	Noted	Replied	
R. DOBRZYNSKI			

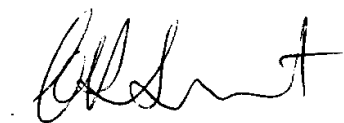
Dear Mr Dobrzynski,

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

SM⁺A

SHAUN
McELWAIN
+ 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.

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*

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

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.

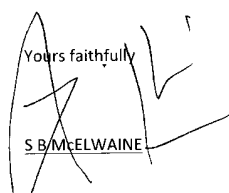
The information that you have provided to me as a consequence of your research raises real doubt, in my mind, that the laneway has the status of a highway (albeit a footway) despite a belief to that effect recently held by officers of the Launceston City Council. Unless there is evidence that the land 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 McELWAIN

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:** Leisa Hilkmann (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 - 8 July 2013
-

MATTERS ARISING FROM COUNCIL - REQUIRING FURTHER ACTION - AT 8 July 2013

Meeting Date, Item # & File No.	Outstanding Items & Action Requested	Officer Responsible & Officer Comment	Due Date
13 March 2012 Council 14.1 SF0841	<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 will 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 the item nominated as Closed Session item, for the following reason:

26.1 Acquisition of Embankment Easement

15(2)(e) as it concerns proposals for Council to acquire land or an interest in land, or for the disposal of land.

27 MEETING CLOSURE
