

**COUNCIL MEETING**  
**MONDAY 2 FEBRUARY 2015**

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**BUSINESS TO BE CONDUCTED AT THIS MEETING IS TO BE CONDUCTED IN THE ORDER IN WHICH IT IS SET OUT IN THIS AGENDA UNLESS THE COUNCIL BY ABSOLUTE MAJORITY DETERMINES OTHERWISE**

**1. APOLOGIES**

Ald Peers (Leave of Absence)

**2. CONFIRMATION OF MINUTES**

(File No. 10/03/01)

**RECOMMENDATION:**

That the Minutes of the Council Meeting held on 12 January 2015, as circulated, be taken as read and confirmed.

**3. MAYOR'S COMMUNICATION****4. COUNCIL WORKSHOPS**

In addition to the Aldermen's Meeting Briefing (workshop) conducted on Friday immediately preceding the Council Meeting the following workshops were conducted by Council since its last ordinary Council Meeting:

**PURPOSE****DATE**

Clarence Street Safety Review  
Simmons Park additional equipment  
Educational Bike Track

19 January

Subdivision Application – Public Open Space Issue  
Simmons Park Toddlers' Play Equipment  
Regional Meeting Local Government Reform

27 January

**RECOMMENDATION:**

That Council notes the workshops conducted.



**5. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE**

File No

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2005 and Council's adopted Code of Conduct, the Mayor requests Aldermen to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in any item on the Agenda.

**6. TABLING OF PETITIONS**

File No. 10/03/12

(Petitions received by Aldermen may be tabled at the next ordinary Meeting of the Council or forwarded to the General Manager within seven (7) days after receiving the petition.

Petitions are not to be tabled if they do not comply with Section 57(2) of the Local Government Act, or are defamatory, or the proposed actions are unlawful.

**7. PUBLIC QUESTION TIME**

Public question time at ordinary Council meetings will not exceed 15 minutes. An individual may ask questions at the meeting. Questions may be submitted to Council in writing on the Friday 10 days before the meeting or may be raised from the Public Gallery during this segment of the meeting.

The Chairman may request an Alderman or Council officer to answer a question. No debate is permitted on any questions or answers. Questions and answers are to be kept as brief as possible.

**7.1 PUBLIC QUESTIONS ON NOTICE**

(Seven days before an ordinary Meeting, a member of the public may give written notice to the General Manager of a question to be asked at the meeting). A maximum of two questions may be submitted in writing before the meeting.

Nil

**7.2 ANSWERS TO QUESTIONS ON NOTICE**

The Mayor may address Questions on Notice submitted by members of the public.

Nil

**7.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

Nil

**7.4 QUESTIONS WITHOUT NOTICE**

The Chairperson may invite members of the public present to ask questions without notice.

Questions are to relate to the activities of the Council. Questions without notice will be dependent on available time at the meeting.

When dealing with Questions without Notice that require research and a more detailed response the Chairman may require that the question be put on notice and in writing. Wherever possible, answers will be provided at the next ordinary Council Meeting.

Questions without notice and their answers will not be recorded.

**8. DEPUTATIONS BY MEMBERS OF THE PUBLIC**

(File No.10/03/04)

(In accordance with Regulation 38 of the Local Government (Meeting Procedures) Regulations 2005 and in accordance with Council Policy, deputation requests are invited to address the Meeting and make statements or deliver reports to Council)

**9. MOTIONS ON NOTICE****9.1 MOTION ON NOTICE – ALD HULME  
CLARENCE ECONOMIC DEVELOPMENT PLAN**

In accordance with Notice given Ald Hulme intends to move the following Motion

“That a report be presented to Council as soon as practicable on progress against the actions contained in the Clarence City Council Economic Development Plan 2005-07”.

**EXPLANATORY NOTES**

Clarence City Council’s Economic Development Plan covered a three year timeframe from 2005-2007. It also includes the proviso that “The timeframes shown for each action are indicative and are subject to the priorities for implementation identified each year during the formulation and adoption of Council annual estimates and budget.”

Some of the actions in the plan have taken longer than the three year timeframe. For example, funding has only recently been secured for the Kangaroo Bay Precinct development.

Council’s 2010-2015 Strategic Plan under the strategy heading ‘Economic Development’ includes the action “Review and implement an economic development plan for the City”. It is timely to examine the 2005-2007 Plan for currency, and consider whether the actions in that Plan should be the primary focus for economic development strategies in Clarence City, or whether there is a need to review the Plan and develop some new strategies.

New economic development strategies could form a new Economic Development Plan, or be incorporated into Council’s next Strategic Plan.

There are some emerging business opportunities that have been identified in Clarence City Council’s Business Opportunities Prospectus that were either not considered in the 2005-2007 Plan or afforded the same significance, for example the rollout of the National Broadband Network, and the growth in biotechnology industries and aged care services.

**MOTION ON NOTICE – ALD HULME  
CLARENCE ECONOMIC DEVELOPMENT PLAN /contd...**

It is worth noting that it is 10 years since the development of the 2005-2007 Plan. Below are some examples for the horizons of current economic development plans for other councils:

- Pittwater City Council 2012-2016 (4 years)
- Hobart City Council 2009-2014 (5 years)
- Parramatta City Council 2011-2016 (5 years)
- Bundaberg Regional Council 2014-2024 (10 years)
- Melton City Council 2014-2030 (16 years)
- Brisbane City Council 2012-2031 (19 years)

It is also worth noting that the next Council Strategic Plan is to be for at least a 10 year period under the Local Government Act.

D Hulme

**ALDERMAN**

***GENERAL MANAGER'S COMMENTS***

*A mater for Council determination*

**10. REPORTS FROM OUTSIDE BODIES**

This agenda item is listed to facilitate the receipt of both informal and formal reporting from various outside bodies upon which Council has a representative involvement.

**10.1 REPORTS FROM SINGLE AND JOINT AUTHORITIES**

Provision is made for reports from Single and Joint Authorities if required

Council is a participant in the following Single and Joint Authorities. These Authorities are required to provide quarterly reports to participating Councils, and these will be listed under this segment as and when received.

- **SOUTHERN TASMANIAN COUNCILS AUTHORITY**

Representative: Ald Doug Chipman, Mayor or nominee

**Quarterly Reports**

September and December Quarterly Reports pending.

**Representative Reporting**

- **COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY**

Representatives: Ald Jock Campbell  
(Ald Peter Cusick, Deputy Representative)

**Quarterly Reports**

September and December Quarterly Reports pending

**Representative Reporting**

- **SOUTHERN WASTE STRATEGY AUTHORITY**

Representative: Ald Richard James  
(Ald Sharyn von Bertouch, Proxy)

**Quarterly Reports**

December Quarterly Reports pending.

**Representative Reporting**

- **TASWATER CORPORATION**

TasWater Corporation has distributed its Quarterly Report to 31 December 2014



# QUARTERLY REPORT TO OWNERS' REPRESENTATIVES

Progress update to 31 December 2014



**QUARTERLY REPORT TO OWNERS' REPRESENTATIVES  
PROGRESS UPDATE TO 31 DECEMBER 2014**

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**QUARTERLY REPORT TO OWNERS' REPRESENTATIVES**  
**PROGRESS UPDATE TO 31 DECEMBER 2014**

**Introduction**

This report is the sixth TasWater Quarterly Report to owners in accordance with the requirements of the Shareholders Letter of Expectations.

The report includes an update from the CEO followed by reports on key aspects of the company's operations.

## CEO Update

At the end of Quarter 2 the business is \$0.2M ahead of our budgeted YTD Net Profit after Tax (NPAT) of \$15.0M.

The Office of The Tasmanian Economic Regulator (OTTER) recently released its price determination investigation draft report in response to our Draft Price and Services Plan (PSP2). While there were many areas where the regulator has supported our proposal, there are also some material departures. We are concerned at the potential impact of these departures and will therefore be formally responding to their draft report prior by the cut-off date of 27 February 2014.

The proposed enterprise agreements voted on in November were not supported by the majority of employees.

One of the unions is now seeking to revert back to three regional agreements.

We are unable to advance the negotiation process whilst this matter is dealt with by Fair Work. There has been no industrial action since late November.

Our LTIFR rate has dropped to 7.1 representing a 45% improvement year to date.

We anticipate that arbitration of the dispute with the Launceston City Council over the cost of accepting stormwater into the combined system will occur in the March quarter.

The number of recorded odour complaints is at levels lower than last year. We have a summer odour mitigation plan in place and we are achieving considerably better performance compared to the previous year.

The incidence of dry weather sewage surcharges are also on an improving trend, although it is important to note the risks of tree root growth in systems is high as a by-product of drier weather. A statewide CCTV program is underway to assist in proactively managing blockages within the system and treating the cause before a surcharge occurs.



Michael Brewster  
Chief Executive Officer

## Financial Performance

### Income Statement

The Net Profit after Tax for the first half of the 2015 financial year was \$15.256M compared to a budget result of \$15.011M. First half revenue was \$143.213M, which was \$0.781M above the budget of \$142.432M. The most significant area of favourable variance is headworks revenue, which is \$0.394M above budget due to receipts from developments which did not qualify for the state government headworks moratorium.

Expenses (excluding interest, tax and depreciation) at 31 December 2014 were \$81.149M, being \$1.064M higher than budget. The key driver of this adverse variance is lower than budgeted capitalised salaries (\$1.606M unfavourable) although this partially is offset by lower than budgeted power expense (\$0.350M favourable) and lower insurance expense (\$0.336M favourable).

Depreciation expense of \$31.058M is materially in line with budget.

Interest expense (including loan guarantee fees) was \$9.212M, which is \$0.545M below the budget of \$9.757M due to lower than budgeted interest rates.

### Balance Sheet

Other Receivables have increased from \$11.780M at 1 July to \$18.366M at 31 December primarily due to a \$3.669M increase in accrued income. Current Unearned Income has increased from \$3.048M at 1 July 2014 to \$7.042M at 31 December 2014 largely as a result of a developer contribution of \$2.413M paid by Lion Dairy & Drinks to the Burnie Wastewater Treatment Plant upgrade.

The value of Property, Plant and Equipment has increased by \$7.287M in the first six months of the financial year. Capital spend has been budgeted to be weighted to the second half of the financial year.

As at 31 December 2014 TasWater was compliant with its loan covenants as outlined in the Tascorp Master Loan Facility Agreement.

### Cash Flow

The cash balance as at 31 December 2014 was \$2.915M, which was higher than the budget of \$2.250M. TasWater is aiming to hold between \$2.0M and \$3.0M of cash to meet day to day working capital requirements. Surplus cash is used to pay off overnight borrowings where possible and hence reduce interest expense.

Cash receipts from customers are \$5.780M below budget, which is consistent with the increase in other receivables and trade receivables. Strong cash receipts are forecast for January, with receipts averaging \$1.291M per day for the first half of January.

Net borrowings have decreased by \$4.991M from 1 July to 31 December. TasWater remains in a position to generate enough cash to meet its financial obligations.

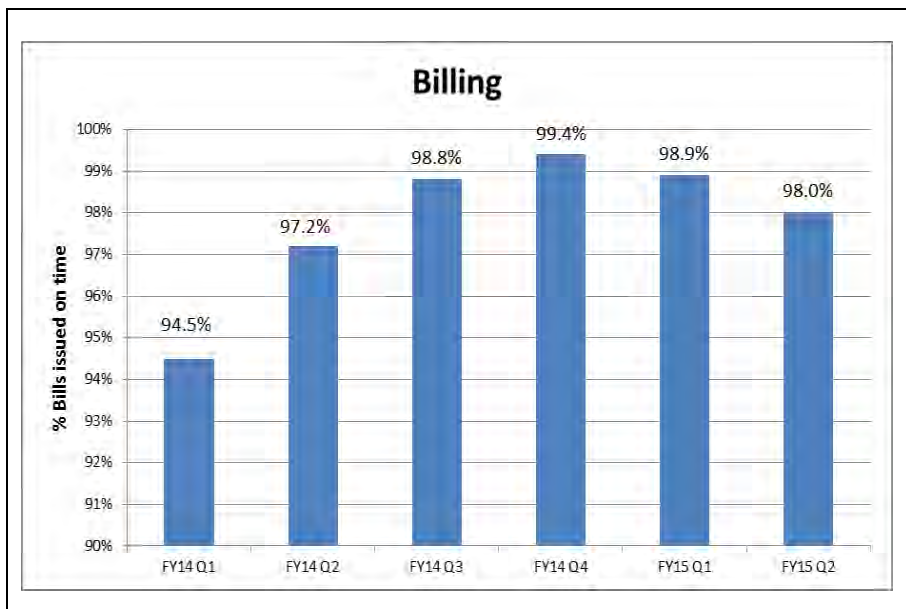
Refer to Appendix A for the year to date financial statements.

## Customer Services

### Billing Performance

Billing for the second quarter of 2014/2015 concluded with 98.0% of customers having received their account by the due date.

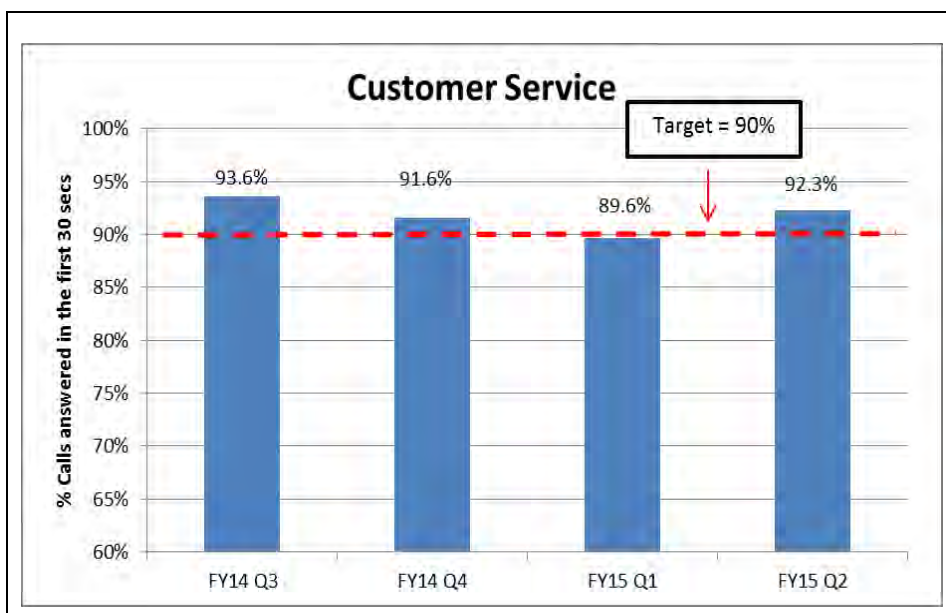
**Figure 1: Billing Performance Chart**



### Customer Services

The Call Centre target of 90% of calls being answered within the first 30 seconds was exceeded being 92.3% for the quarter. This result has improved from quarter one. During this time there was a slight drop in performance being a result of the new telephony system implementation into the Customer Service Contact Centre in August providing an integrated state wide service.

**Figure 2: Customer Service Performance Chart**



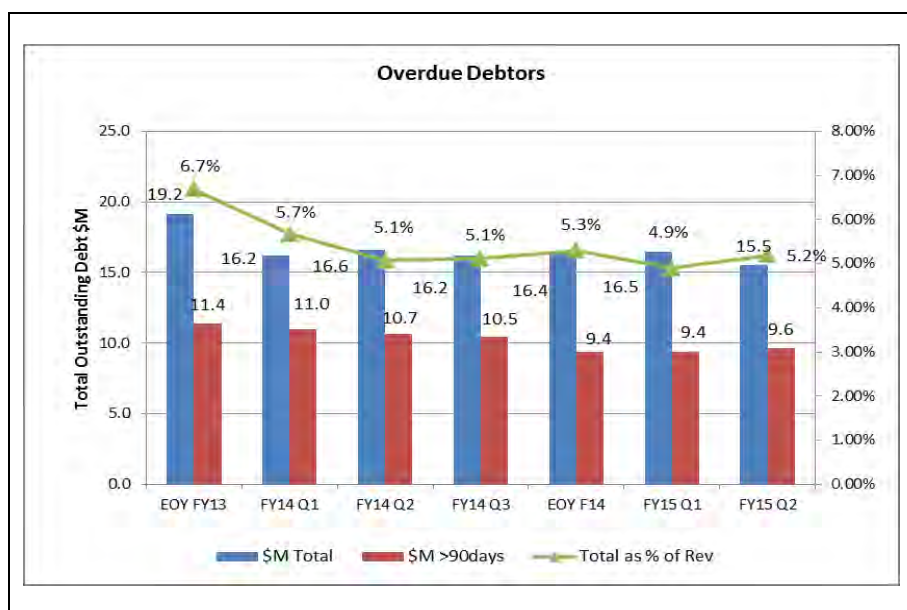
### Complaint Management

Complaints per 1,000 property connections at the end of the quarter were 1.72, and below the regulatory benchmark of 2.25 per quarter (or 9 per 1000 properties per annum). The definition of a 'complaint' now includes odour (from 1 July 2014), aligned to the TasWater Complaints, Disputes and Customer Enquiries Policy.

### Debt management

Figure 3 illustrates the overall change in debtor position over the past 12 months expressed as a percentage of total revenue. The target for the current financial year is 5% and whilst reached in quarter one (4.90%) has increased slightly to 5.2% (from 5.30% achieved at 30 June 2014 and from 6.7% in July 2013).

Figure 3: Overdue Debtors



### Service Standards

Service standards were generally in accordance with expectations and targets.

Table 1: Water Breaks and Sewer Main Breaks/Chokes by Region

Priority 11 Water Breaks	South (*Target 43 minutes)		North (*Target 50 minutes)		North West (*Target 30 minutes)	
October 2014	40 min (4 Breaks)	●	58 min (1 Break)	●	71 min (2 Breaks)	●
November 2014	35 min (9 Breaks)	●	42 min (4 Breaks)	●	38 min (3 Breaks)	●
December 2014	20 min (6 Breaks)	●	43 min (2 Breaks)	●	9 min (2 Breaks) **	●
Priority 2 <sup>2</sup> Water Breaks	South (Target 120 minutes)		North (Target 120 minutes)		North West (Target 120 minutes)	
October 2014	107 min (87 Breaks)	●	72 min (36 Breaks)	●	91 min (14 Breaks)	●
November 2014	109 min (81 Breaks)	●	80 min (23 Breaks)	●	35 min (14 Breaks)	●
December 2014	103 min (109 Breaks)	●	60 min (44 Breaks)	●	21 min (15 Breaks)	●
Priority 3 <sup>3</sup> Water	South		North		North West	

<sup>1</sup> Causes or has potential to cause substantial damage or harm to customer, property, environment, water quality, or flow rate

<sup>2</sup> Causes or has potential to cause minor damage or harm to customer, property, environment, water quality, or flow rate

Breaks	(Target 4320 minutes)		(Target 1440 minutes)		(Target 1440 minutes)	
October 2014	2068 min (158 Breaks)	●	1541 min (115 Breaks)	●	1099 min (63 Breaks)	●
November 2014	1996 min (160 Breaks)	●	791 min (153 Breaks)	●	158 min (38 Breaks)	●
December 2014	1576 min (141 Breaks)	●	497 min (133 Breaks)	●	552 min (67 Breaks)	●
Sewer Breaks/Chokes	South (Target 60 Minutes)		North (Target 60 minutes)		North West (Target 60 minutes)	
October 2014	45 min (177 Breaks)	●	59 min (103 Breaks)	●	34 min (42 Breaks)	●
November 2014	48 min (138 Breaks)	●	48 min (73 Breaks)	●	32 min (19 Breaks)	●
December 2014	64 min (179 Breaks)	●	42 min (67 Breaks)	●	38 min (20 Breaks)	●

\*Values represent the average minutes required to attend site from notification

\*\* Data unreliable

● >25% above target value    ● ≤25 above target value    ● achieving target value

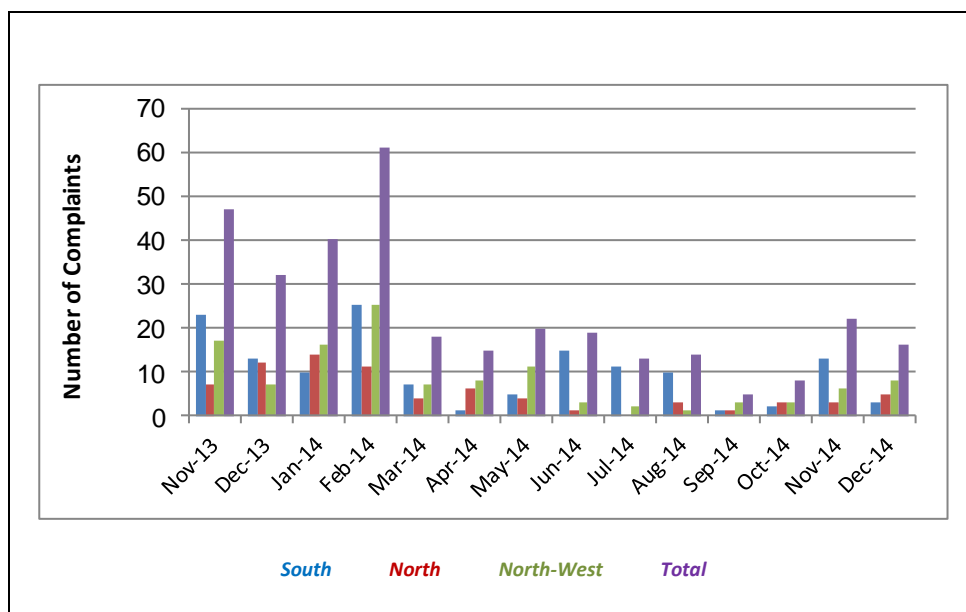
### Odour Complaints

There were 47 registered odour complaints for the Quarter. This compares favourably with 79 for November and December 2013.

The installation of a carbon odour treatment facility at Rosny is complete and substantial progress is being made with Wynyard.

Progress with other problem sites is being dealt with through our summer odours program that aims to manage and mitigate odour risk sites across the state.

Figure 4: Odour Complaints by Region



<sup>3</sup> Causes no discernible impact on customer, water quality, flow rate, property or environment

**Table 2: Odour Complaints by Region**

Location	Qty	Region
Blackmans Bay WWTP	8	South
Boat Harbour WWTP	1	North West
Burnie WWTP	3	North West
Campbell Town WWTP	3	North
Devonport WWTP	2	North West
George Town WWTP	2	North
Green Point WWTP	3	South
Hoblers Bridge WWTP	3	North
Latrobe WWTP	2	North
Longford WWTP	1	North
Macquarie Point WWTP	2	South

Location	Qty	Region
Margate WWTP	1	South
Norwood WWTP	1	North
Riverside WWTP	1	North
Rokeby WWTP	3	South
Sisters Beach WWTP	2	North West
Stanley WWTP	2	North West
Swansea WWTP	1	South
Ti Tree Bend WWTP	1	North
Ulverstone WWTP	3	North West
Wynyard WWTP	2	North West

## Environment and Public Health

### Water Quality Asset Performance

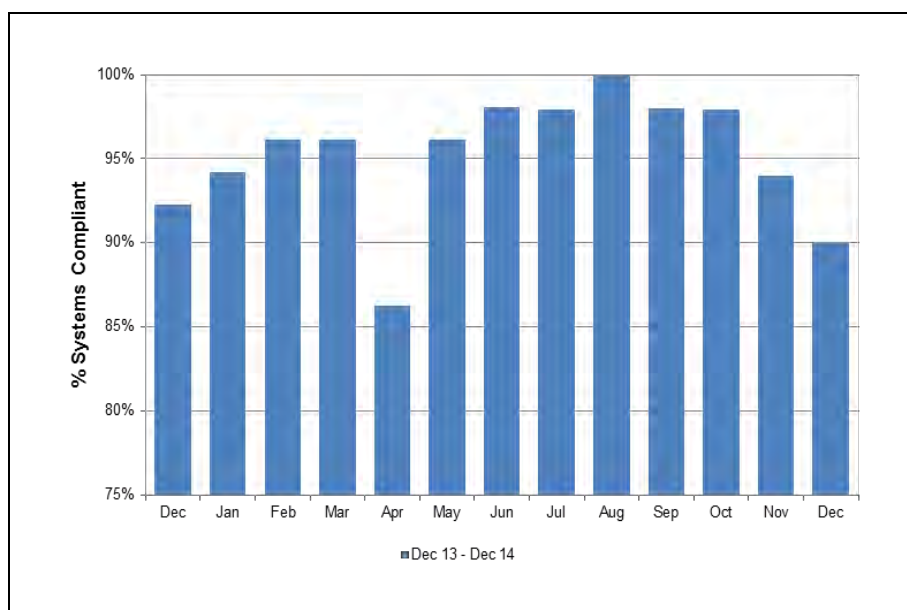
The average microbiological performance for potable systems in Quarter 2 was 94%. Individual monthly compliance figures were 98% for October, 94% for November, and 90% for December. See Figure 6 below.

At the end of December 2014, 26 drinking water systems were classified as being non-potable. This is defined by systems being subject to Boil Water Notices (BWN) or Public Health Alerts (PHA).

This figure represents 30%, or 26 out of 50 of all drinking water supply systems, but equates to less than 2% of the supplied population.

All non-potable systems are currently small regional towns generally comprising of less than 100 connections. We are targeting significant improvement over the second Price and Service Plan.

**Figure 6: Drinking Water Systems Meeting Regulatory Requirements**



A number of projects were progressed throughout the quarter to improve water quality and address health alerts in several small towns. Projects currently at an advanced stage include:

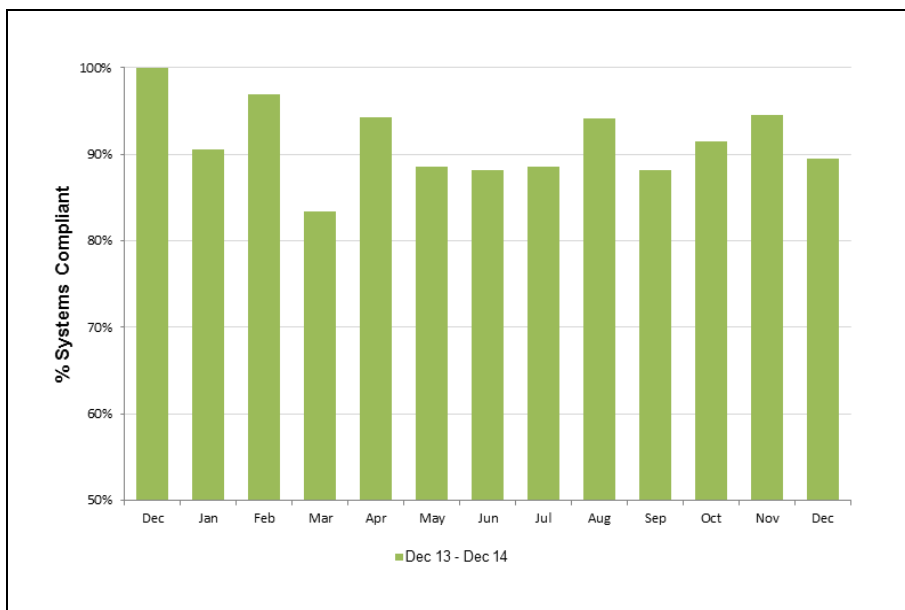
- The commencement of construction of 2 new treatment plants, supplying safe drinking water to the townships of Ouse, Hamilton and Tunbridge. These projects will allow for the removal of the BWN from Tunbridge, and are scheduled for completion in Q4 2014 - 2015.



- Verification of the Ellendale WTP is underway to gather data to allow for the request to DHHS to remove the BWN. It is anticipated this will be completed by Q3 2014-15.
- The new treatment facility at Fingal has now been commissioned. A program to assess microbiological performance, and request the removal of the current BWN is scheduled to commence by February 2015.

Fluoride performance for Quarter 2 was generally in line with long term averages, see Figure 7. Optimisation of fluoride dosing stations state-wide continued throughout the quarter.

**Figure 7: Percentage of Compliant fluoridation Systems**

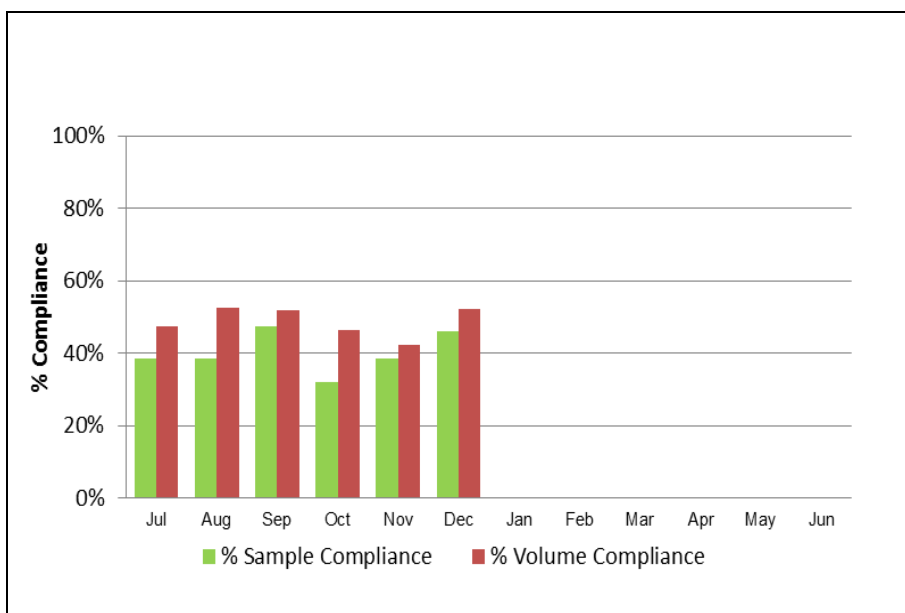


### Environmental and Sewage Services

The percentage of compliant Sewage Treatment Plants (STP) dropped from 47% in September to 32% in October; due to the poor performance of some smaller STPs. The performance of these smaller STPs did not significantly impact on the volume of compliant effluent in October, due to their relatively small discharge volumes. The percentage of compliant STPs recovered in November and December, with the quarter finishing only 2% down on the previous quarter. Year to date the percentage of compliant STPs is 3% lower than the same period last year.

The percentage of compliant effluent volume for the quarter was 47% - 7% lower than the same quarter last year. Year to date the percentage compliant effluent volume is 49%, up 3% on the same period last year but well short of the 58% KPI set for 2014/15. This metric remains heavily influenced by compliance of the 10 key large STPs operated by TW.

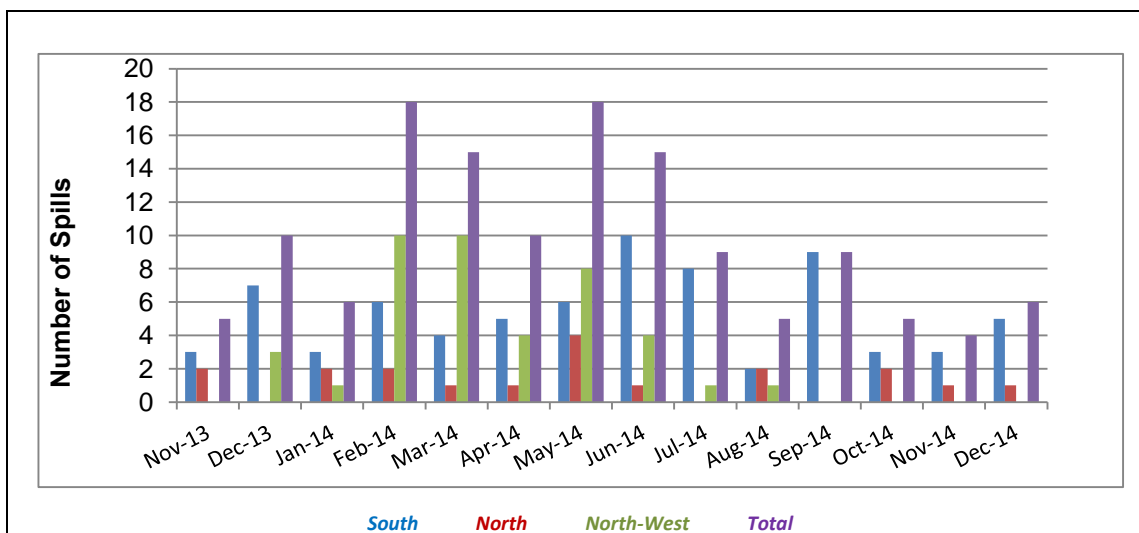
**Figure 8: Percentage of Sample and Volume of Effluent Treated that was Fully Compliant with EPA Licence Discharge Requirements. (NWI E5 and E4 Requirements)**



#### Reportable Dry Weather Surcharges

Dry weather spills are lower than previous comparable seasons and showing a positive reducing trend. We remain above our long term objective. The introduction of a CCTV program will be instrumental in developing longer term fixes to network failure and ingress. This will deliver tangible reductions as it progresses into 2015 and beyond.

**Figure 5: Reportable Dry Weather Surcharges**



## **Capital Program**

### Business Case Approvals

The following major business cases<sup>4</sup> were approved during the quarter.

<sup>4</sup> Major equals business cases greater than \$1M

**Table 3: Business Cases approved in Quarter 2 >\$1 mil**

Business Cases (including tenders) submitted and approved by the Board in the First Quarter	FY13/14 Budget (\$M) where greater than \$1M
King Island Water Infrastructure Upgrade Program	\$15.8
Longford to MacKinnons Hill Reservoir Water Rising Main	\$3.36
Glen Dhu Street Area Combined Sewer Improvements	\$1.05
Ti Tree Bend STP Digester Upgrade	\$3.99
Conglomerate Dam Upgrade	\$4.19
Statewide Sewer CCTV Inspection Program <sup>5</sup>	\$5.75
Parker Street SPS Upgrade	\$1.86
Rosebery WWTP and Scheme Upgrade – Additional Funding <sup>6</sup>	\$1.076
<b>TOTAL</b>	<b>\$35.02</b>

### Capital Expenditure

Capital expenditure to the end of December 2014 is \$36M. This is in line with forecast, with expenditure expected to rise significantly in quarters 3 and 4 to achieve an end of year target of \$90M.

The acceleration of the program is progressing well with significant contracts awarded or placed in the market. The following tables show the status of significant projects.

**Table 4: Projects in Design and Tendering Phase >\$1M**

WORKS DELIVERY DIVISION PROJECTS FY14	Region	Budget (\$M)*	Target Completion
Projects in design and tendering phase			
Ridgeway Dam Anchor Replacement – Investigation and Design	South	1.6	FY15
Kingborough Sewerage Strategy	South	44.0	FY17
Tolosa Dam Infrastructure	South	23.9	FY17
Brighton Sewerage Treatment Upgrade	South	9	FY17
Greater Launceston Sewerage Strategy	North	1.9	FY16
Ringarooma Valley Water Scheme	North	9.6	FY16
Legana Sewage Treatment Plant Upgrade	North	8.8	FY17
Mole Creek Water Treatment Plant	North	2.8	FY16
Flinders Island Water Supply	North	11.0	FY16
Bridport Reuse Scheme	North	5.4	FY16
Burnie Sewer Upgrade (Lion)	North West	5.7	FY16
King Island Water Upgrade	North West	15.8	FY16
Parker Street SPS Upgrade	North West	1.9	Q4
Sludge Handling Upgrades	North West	1.5	FY16
Rosebery Water Supply	North West	4.0	FY16

<sup>5</sup> Approved budget increase of \$3.7M, from \$2.0M to \$5.7M

<sup>6</sup> Approved budget increase of \$1.07M, from \$9.38M to \$10.45M

**Table 5: Projects in Construction Phase >\$1M**

WORKS DELIVERY DIVISION PROJECTS FY14	Region	Budget (\$M)*	Target Completion
Projects in construction phase			
Bulk Water and Sewage Pumping Station Switchboard Renewals	South	4.5	Q4
Margate Water Main (Stage 1A and 1B)	South	3.75	Q4
Ouse Hamilton Water Supply Upgrade	South	4.3	Q4
Tunbridge Water Supply Upgrade	South	1.7	Q4
Huon Valley Regional Water Projects	South	1.2	Q4
Kangaroo Sewer Rising Main	South	1.1	Q3
Sewerage Treatment Inlet Works Program	South	5.5	FY16
St Helens Sewage Treatment Plant and Esplanade Pump Station Upgrade	North	1.3	FY16
Rosebery Sewerage Scheme	North West	10.5	Q4
Switchboard Renewal Program	North West	1.5	Q4

**Table 6: Completed Projects >\$1M**

WORKS DELIVERY DIVISION PROJECTS FY14	Region	Budget (\$M)*	Target Completion
Completed projects			
No relevant projects were completed in Q2.			

**Table 7: Annual Programs >\$1M**

WORKS DELIVERY DIVISION PROJECTS FY14	Region	Budget (\$M)*	Target Completion
Annual programs			
Statewide Planned Safety Programs	Statewide	2.0	FY16
Statewide SCADA Program	Statewide	5.0	FY16
Electrical Assets Condition Assessment	Statewide	4.0	FY16
Statewide Asset Safety Rectification Program – unplanned	Statewide	4.0	FY16
Statewide Miscellaneous Minor Works Program – O&M	Statewide	4.0	FY16
Statewide Switchboard Renewals	Statewide	3.2	FY17
Statewide condemned Switchboard Replacement Program	Statewide	3.4	FY17
STP Electrical Equipment Safety Program	Statewide	2.25	FY17
Statewide CCTV Inspections	Statewide	9.5	FY18
Statewide Water Mains Renewal	Statewide	13.3	FY18
Statewide Sewer Mains Renewal	Statewide	16.85	FY18
Statewide Reservoir Renewal/Updated Program	Statewide	5.7	FY18
Statewide Metering Program	Statewide	17	FY18
Statewide Environmental Management and Sustainability	Statewide	3.2	FY18
Inflow and Filtration Rectification Program – unplanned	Statewide	3.0	FY18
Water Pump Station Switchboard Renewals	Statewide	1.68	Ongoing
Statewide SPS Renewals Program	Statewide	15.5	Ongoing
Sewerage Pump Station Fall Prevention and Lightweight Lids	Southern	2.2	FY16
AS4024 Machine Safety Audit of Southern STPs	Southern	1.75	FY16
SPS Switchboard Renewals Program	Southern	9.3	Ongoing

## People & Safety Performance

### Enterprise Agreement update

Two proposed agreements, one for general employees and one for senior technical and managerial employees below Department Manager level, were put to vote in early November 2014. Unfortunately both agreements were voted down by a majority of employees. Following this the business conducted a survey of employees to understand the key issues. We re-commenced negotiations with the Single Bargaining Unit (SBU) in December with a revised package aimed at addressing the priority issues for employees whilst still remaining within our overall budget parameters.

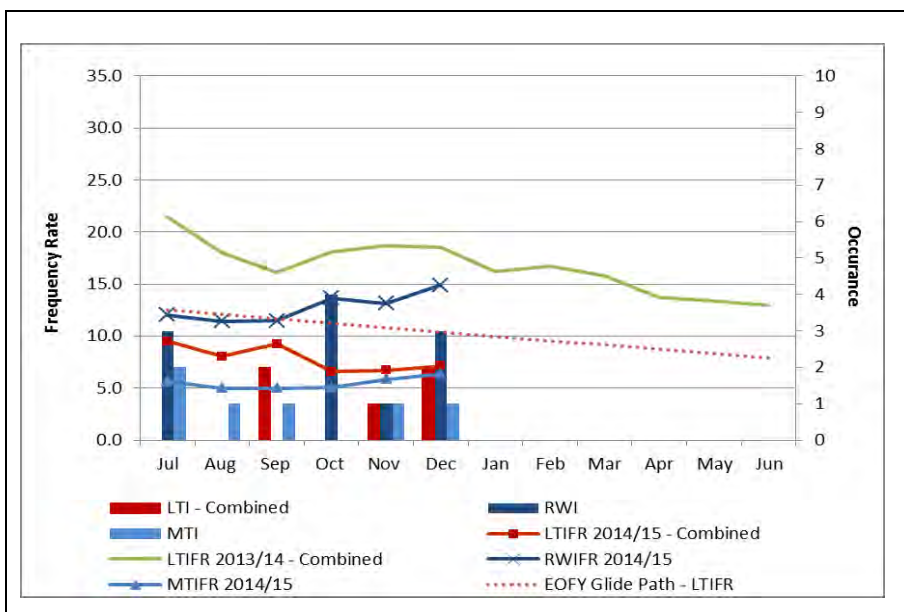
The SBU has not been willing to negotiate on the revised package offer and are now seeking to revert to the three regional agreements. Having a single agreement for the general workforce is a non-

negotiable for us. One of the unions has taken the step of formally lodging a scope order application with the Fair Work Commission, which we will be opposing. This latest move will delay negotiations and our ability to take any revised offer out to a vote of employees.

Some work stoppages occurred in late November but there has been no further industrial action since that time.

### Safety Performance

Figure 10: TasWater Lag Indicator Safety Trend Graph



#### Definitions

**LTI – Combined** – (Lost Time Injury) is a work-related injury or illness resulting in an absence from rostered work of at least one full day or shift any time after the day or shift on which the injury occurred. Inclusive of TasWater employees and contractors.

**RWI** – (Restricted Work Injury) is a workplace related injury or illness which results in the employee being unable to perform one or more of their routine functions for a full working day, from the day after the injury/illness

**MTI** – (Medical Treatment Injury) is a work related injury or illness resulting in the medical management and care of an employee to combat the injury, disease or disorder, including any loss of consciousness which does not result in lost time or restricted work.

**Frequency Rates** – (FR) are the number of occurrences of required indicator x 1,000,000/Hours worked in the period. Frequency rates are a rolling 12 month average.

The Total Recordable Injury Frequency Rate (TRIFR) as at the end of Q2 was 30.5, representing an increase of 7% from the end of Q1, however, an overall decrease of 16% Financial Year to Date (FYTD).

Three Lost Time Injuries (LTI) were recorded in the quarter resulting in a combined Lost Time Injury Frequency Rate (LTIFR) of 7.1, representing a decrease of 23% since the end of Q1 and an overall decrease of 45% FYTD.

One regulatory notifiable incident was recorded in Q2 bringing the total number of regulatory reportable incident FYTD to 6 as at the end of December.

Progress continued on a number of major initiatives including the Major Hazard Study, Chemical Management and Electrical Safety improvement projects, which are all targeted at addressing the key safety risks for TasWater.

### **Other Matters**

#### Communications and Stakeholder Engagement

Community engagement activity continued to build across the state in line with the capital program. In particular engagement continued on the development of the Launceston Sewerage Improvement

options and business case. Communications activity also continued to support projects in Gretna, Rosebery, King Island, Flinders Island, Rosny and Blackmans Bay.

Media coverage peaked late in the quarter in relation to sewerage overflows impacting shellfish farming operations. Other issues raised include continued coverage of the Enterprise Agreement negotiations and TasWater's appearance at GBE Scrutiny hearings in December.

#### Regulation and Pricing

Work continued with OTTER over the quarter, in particular significant effort was required to work with OTTER's consultant Jacobs on TasWater's capital and operating expenditures. It should be noted that OTTER has released its price determination investigation draft report, in response to our Draft Price and Services Plan (PSP2), which was summited in August last year. The report, a copy of which is available on OTTER's website at [www.economicregulator.tas.gov.au](http://www.economicregulator.tas.gov.au), is currently out for public consultation.

It is positive that the Regulator recognises the difficulty in managing the complex price transition for customers to a level playing field, while balancing the need to invest in aging and non-performing infrastructure across the State.

Although the Regulator's report proposes to accept a number of the proposals we put forward in our draft PSP2, there are some material departures. These are specifically around TasWater's revenues, headworks and the speed at which customers currently paying more than target tariff transition to target.

We will now work through the proposal in detail, as some of these issues may have the potential to negatively impact our ability to balance the transition to pricing equity with the infrastructure investment required for the long term benefit of Tasmania.

Unfortunately media reports following the release of the report and the Regulator's comments have confused issues such as revenue and profitability. We have responded where appropriate to correct the record and help various media outlets better understand the issues being managed through the Price Determination.

All parts of the business will be carefully working through the Regulator's proposals over the coming weeks to prepare a response to OTTER by February 27.

The State Government has also released its discussion paper on future reforms of OTTER. There are a number of proposals that will impact TasWater and we will prepare a response to Government articulating our position.

However, as discussed by the Chairman at GBE Scrutiny in December, we do have a number of concerns more broadly with the appropriateness of the regulatory framework for in the Tasmanian context. Discussions have commenced with Government on this matter and we look forward to further constructive discussions around frameworks that will balance the needs and cost expectations of the community with the requirements for regulation as a monopoly business operating in Tasmania.

#### Launceston City Council Dispute

The parties have made discovery and, in accordance with directions set by the arbitrator, are undertaking further pre-hearing steps to (where possible) reach agreement as to undisputed facts and clearly delineate the areas of dispute. It is anticipated that arbitration will commence in the first quarter of 2015.

Governance

Following the local government elections in October 2014, there have been a number of new Owners Representatives appointed by Owner Councils. This has also created a number of vacancies on the Board Selection Committee and a process has been initiated to fill those positions.

The Owners Representatives noted and received the Annual Financial Report, Directors' Report and Auditor's Report for the year ending 30 June 2014 at the General Meeting held in November 2014. Other matters resolved at the General Meeting included the initiation of a review of the Shareholders' Letter of Expectations and an amendment to the arrangements for Quarterly Briefings.

## Income Statement

1 July 2014 to 31 December 2014	Year to Date Actual	Year to Date Budget	2014-15 Corporate Plan
	\$ '000	\$ '000	\$ '000
Revenue			
Service and Usage Charges	132,107	131,657	266,995
Grants & Contributions	6,046	7,028	14,055
Irrigation	351	170	438
Other Revenue	4,708	3,577	5,688
Total Revenue	143,213	142,432	287,176
Expenses			
Operations & Maintenance Cost - Water	(10,782)	(11,160)	(23,100)
Operations & Maintenance Cost - Sewerage	(14,515)	(15,768)	(32,214)
Operations & Maintenance Cost - Other	(98)	(12)	(26)
Employee Costs	(38,115)	(35,499)	(70,085)
Administration Costs	(4,223)	(4,521)	(8,948)
Governance	(603)	(618)	(1,207)
Other Expenses	(12,814)	(12,507)	(24,742)
Total Expenditure	(81,149)	(80,085)	(160,322)
Earnings Before Interest, Taxes and Depreciation	62,064	62,347	126,854
Depreciation	(31,058)	(31,146)	(63,793)
Earnings before Interest and Taxes	31,006	31,201	63,061
Interest Expense	(8,025)	(8,300)	(16,663)
Loan Guarantee Fees	(1,187)	(1,457)	(2,920)
Profit before Income Tax Equivalent	21,794	21,444	43,478
Income Tax Equivalent Expense	(6,538)	(6,433)	(13,043)
Net Profit	15,256	15,011	30,435



## Balance Sheet

As At 30 September 2014	Closing Position at 31 Dec 14	Opening Position at 1 Jul 14	2014-15 Corporate Plan
	\$ '000	\$ '000	\$ '000
<b>CURRENT ASSETS</b>			
Cash & Cash Equivalents	3,027	3,021	2,514
Trade Receivables	37,173	34,882	36,236
Other Receivables	18,366	11,780	14,233
Inventories	5,260	5,290	6,637
Prepayments	3,839	1,149	2,251
Current Tax Assets	2,219	(51)	5
Other Current Assets	0	(19)	-
<b>TOTAL CURRENT ASSETS</b>	<b>69,885</b>	<b>56,053</b>	<b>61,876</b>
<b>NON-CURRENT ASSETS</b>			
Property, Plant & Equipment	1,845,358	1,838,071	1,856,366
Net Deferred Tax Assets	64,813	64,813	67,474
Investment in Associate	-	-	4
<b>TOTAL NON-CURRENT ASSETS</b>	<b>1,910,171</b>	<b>1,902,884</b>	<b>1,923,844</b>
<b>TOTAL ASSETS</b>	<b>1,980,056</b>	<b>1,958,937</b>	<b>1,985,720</b>
<b>CURRENT LIABILITIES</b>			
Loans and Borrowings	(91,300)	(86,135)	(95,876)
Employee Benefits	(14,512)	(14,349)	(13,645)
Payables	(21,426)	(19,838)	(20,858)
Unearned Income	(7,042)	(3,048)	(1,594)
Current Tax Liability	-	-	(1,826)
Other	(1,501)	(2,021)	(275)
<b>TOTAL CURRENT LIABILITIES</b>	<b>(135,780)</b>	<b>(125,392)</b>	<b>(134,074)</b>
<b>NON-CURRENT LIABILITIES</b>			
Loans and Borrowings	(236,325)	(246,521)	(249,182)
Employee Benefits	(10,344)	(10,194)	(10,211)
Unearned Income	(35,647)	(36,380)	(34,461)
Other	(4,143)	(4,427)	(3,218)
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>(286,459)</b>	<b>(297,522)</b>	<b>(297,072)</b>
<b>TOTAL LIABILITIES</b>	<b>(422,239)</b>	<b>(422,914)</b>	<b>(431,146)</b>
<b>NET ASSETS</b>	<b>1,557,817</b>	<b>1,536,024</b>	<b>1,554,574</b>
<b>MEMBERS FUNDS</b>			
Retained Profits	30,003	8,210	21,916
Contributed Equity	1,527,814	1,527,814	1,532,658
<b>TOTAL MEMBERS FUNDS</b>	<b>1,557,817</b>	<b>1,536,024</b>	<b>1,554,574</b>

**Cash Flow Statement**

1 July 2014 to 31 December 2014	Year to Date Actual	Year to Date Budget	2014-15 Corporate Plan
	\$ '000	\$ '000	\$ '000
Cash Flows from Operating Activities			
Inflow			
Receipts	130,076	135,857	271,713
Grants & Contributions	8,775	8,803	12,605
Interest Received	36	64	133
Other	6,958	9,480	19,790
Outflow			
Payments to Suppliers and Employees	(96,674)	(92,985)	(183,428)
Interest Expense	(8,405)	(9,099)	(18,431)
Loan Guarantee Fees	(181)	(236)	(2,834)
Income Tax Equivalents	(2,270)	(3,026)	(12,231)
Net Cash from Operating Activities	38,314	48,857	87,317
Cash Flows from Investing Activity			
Inflow			
Sales - Property Plant & Equipment	296	225	450
Outflow			
Payments - Property Plant & Equipment	(33,790)	(31,507)	(90,068)
Net Cash from Investing Activities	(33,494)	(31,282)	(89,618)
Cash Flows from Financing Activities			
Inflow			
New Loans	80,574	49,253	104,972
Outflow			
Loan Repayments	(85,565)	(59,417)	(87,529)
Dividend Payment	-	(7,468)	(14,935)
Net Cash from Financing Activities	(4,991)	(17,632)	2,508
Net increase (decrease) in cash held	(171)	(57)	207
Cash at the beginning of the reporting period	3,086	2,250	2,307
Cash at the end of the Reporting Period	2,915	2,193	2,514

**10.2 REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER  
REPRESENTATIVE BODIES**

## **11. REPORTS OF OFFICERS**

### **11.1 WEEKLY BRIEFING REPORTS**

(File No. 10/02/02)

The Weekly Briefing Reports of 12, 19 and 26 January 2015 have been circulated to Aldermen.

#### **RECOMMENDATION:**

That the information contained in the Weekly Briefing Reports of 12, 19 and 26 January 2015 be noted.

**11.2 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS****11.2.1 PETITION – FIREWORKS IN SANDFORD**

(File No 12-03-02)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the petition presented at Council's Meeting on 12 January 2015, relating to fireworks in Sandford.

**RELATION TO EXISTING POLICY/PLANS**

Not applicable.

**LEGISLATIVE REQUIREMENTS**

Section 60 of the Local Government Act, 1993 requires Council to formally consider petitions within 42 days of receipt.

**CONSULTATION**

Not applicable.

**FINANCIAL IMPLICATIONS**

Not applicable.

**RECOMMENDATION:**

That Council acknowledges the concerns expressed by the petitioners in respect to the distress and potential harm to horses and other animals that may be caused by fireworks.

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**ASSOCIATED REPORT****1. BACKGROUND**

**1.1.** Council received a petition on 17 December 2014, which was tabled at Council's meeting on 12 January 2015.

**1.2.** The petition was also addressed to Worksafe Tasmania and State politicians.

**2. REPORT IN DETAIL**

**2.1.** A petition signed by 59 people relating to "Fireworks in Sandford" was tabled at Council's Meeting on 12 January 2014.

- 2.2.** An extract from the petition, setting out its concerns with fireworks in Sandford, is attached (refer Attachment 1).
- 2.3.** Permits for fireworks are administered by Worksafe Tasmania under the Explosives Act, 2012 and the Explosive Regulations 2012. There is no provision to refuse an application if the applicant is an adult, a fit and proper person to hold a fireworks display and the Standard Conditions are complied with (as listed under Schedule 7 of the Explosive Regulations 2012).
- 2.4.** Council does not have any authority in respect to this matter. Council's only involvement under the Act is that it is required to be notified when a permit has been issued and there is no provision for Council to make a representation.
- 2.5.** Council has no head of power to declare an area in the municipality a "fireworks free zone".
- 2.6.** The petitioner has also sent the petition to Worksafe Tasmania and State politicians.

**3. CONSULTATION**

Nil.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Not applicable.

**5. EXTERNAL IMPACTS**

Not applicable.

**6. RISK AND LEGAL IMPLICATIONS**

Not applicable.

**7. FINANCIAL IMPLICATIONS**

Not applicable.

**8. ANY OTHER UNIQUE ISSUES**

Not applicable.

**9. CONCLUSION**

**9.1.** The petition was received in response to a fireworks display in Sandford.

**9.2.** Council does not have any authority to act in respect of this matter.

Attachments: 1. Extract from Petition (2)  
2. Copy of Application for Type 2 Fireworks Permit (7)

Frank Barta  
**ACTING GENERAL MANAGER**

## ATTACHMENT 1

To: The General Manager, WorkSafe Tasmania  
The Minister for WorkSafe Tasmania  
Members of Parliament  
Clarence City Council

### RE FIREWORKS IN SANDFORD

The residents, horse owners, dog owners, animal owners and concerned members of the community of Sandford present the attached petition to alert you of our concerns.

WorkSafe Tasmania (WST) is currently allowing fireworks displays to occur in our community. Objections have been made to WST requesting that permits are not provided to applicants due to horses being in the vicinity of fireworks. However WST has ignored formal objections from neighbours and adjacent properties, and has issued fireworks permits anyway.

This puts horses and their handler's at risk. It is well documented that horses can panic in such conditions, injuring people around them, going through fences, and escaping on to roads. WST has acknowledged that they are aware of instances of horses being injured in the vicinity of fireworks, but still choose to issue permits.

Also WST has acknowledged that concerns have been raised previously by other residents in the Sandford area, and claim that "The Explosives Act 2012" does not provide for the concerns to be considered when approving a fireworks permit. If this is the case, then obviously the legislation governing the issuing of fireworks permits needs to be urgently addressed in the interest of safety.

Due to the number of residents in the community who have expressed their concern about fireworks in the Sandford area, it is requested that Sandford be made a "Fireworks Free Zone". This is due to the fact that Sandford has now become well-settled, with many horses and other animals in the area.

Most of the other states of Australia do not allow the general public to have possession of fireworks. Currently in Tasmania a fireworks permit will allow the holder to have up to 20kg of explosives in their possession. This is without having any prior training, compliance or accreditation in explosives. This is at odds with other areas of hazards and safety concerns that WST administers.

When canvassing residents of Sandford, it was found that many people commented that fireworks are often let off in their areas at random times of the year – outside the two periods allowed under the Act. This indicates that there is substantial illegal use of fireworks in our area, as these users of



fireworks have obviously not been issued with a WST fireworks permit, but have obtained them anyway. Also one person commented that he always makes his own fireworks, which is also of concern.

The last reported illegal use of fireworks was on 4<sup>th</sup> November 2014 in the Rifle Range Road area.

Most residents also expressed concern about the current fire safety issue in having sky rockets falling about the area in a declared fire permit period. The next permitted fireworks time is New Year's Eve – from 12:00 – 12:30 am, and WST has issued at least one permit in Sandford for this time, although formal objections have been made by nearby residents.

WST's Service Charter and Strategic Objectives state:

- targeting high consequence activities
- engaging with the community
- being a responsive regulator
- WS Key Message states: "Safety is good business"

So it seems that WST has a Duty Of Care and also has special skills in the area of safety and risk, which may also leave the Department at risk of civil claims.

It is therefore requested that the Minister, other politicians, and the Clarence City Council address this issue as a matter of urgency to safeguard the community of Sandford.

PETITION ATTACHED.

## IMPORTANT INFORMATION - Read Carefully

*Explosives Regulations 2012, Part 11 (Type 2) Fireworks*

**'Type 2' firework displays are intended for small family groups having little or no effect outside the display site.**

**Strict requirements apply to the issuing of any fireworks permit.  
Your application for a Type 2 fireworks display may be refused.**

Submitting an application via Service Tasmania with the required fee, does not mean you will automatically be issued with a Fireworks Display Permit from WorkSafe Tasmania.

An application may be refused or special conditions applied where WorkSafe Tasmania has identified particular safety concerns.

If an application is refused by WorkSafe Tasmania the applicant will be formally notified. A refund may be offered at the discretion of WorkSafe Tasmania.

It is a responsibility and obligation of the applicant to notify all affected neighbours and manage any related safety issues.

WorkSafe Tasmania will not arbitrate in neighbourhood disputes.

**Complaints received as a result of a fireworks display may result in future applications for a fireworks permits being refused.**

### **Offences**

- It is an offence for a person to use Type 2 fireworks without the authority of a fireworks display permit - (A fine up to 50 penalty units).
- It is an offence for the holder of a fireworks permit to contravene any conditions placed on that fireworks permit - (A fine up to 50 penalty units).

**1 penalty unit = \$130.00**

## APPLICATION FOR TYPE 2 FIREWORKS PERMIT

Explosives Act 2012

Explosives Regulations 2012

### Part I

#### Applicant Details

Applicant Name (if Corporation Responsible Adult)

NOTE: Applicant is the person/entity permitted to purchase Type 2 fireworks and in charge of the proposed display and handling of the fireworks

Postal Address

Post Code

Phone

Mobile Phone

Alternate Responsible Adult

Phone

Mobile Phone

Name of Fireworks Supplier

#### Display Details

Approved Purposes Conducting Fireworks Display

- ☐ New Year's Eve celebration ☐ Traditional cultural occasion (e.g Chinese New Year)
- ☐ A school or community fair ☐ The opening or anniversary of a major commercial enterprise
- ☐ Finale to a major agricultural show ☐ 'Cracker Night' 24th May (if falls on a Saturday, if not the following Saturday)
- ☐ Finale to a major recreational event ☐ The testing/classification of fireworks, or related purposes, typically by a manufacturer/supplier
- ☐ Celebration of a major anniversary or milestone like Australia Day, Tasmania Day or a city centenary
- ☐ The performance of an artistic work that incorporates or is associated with the use of explosives (like Handel's "Music for the Royal Fireworks"); a military tattoo

Event Name

Date of Display

Start Time

Maximum  
30 Minutes

End Time

Displays must not commence before 6pm or continue after 10pm  
(Except New Years Eve displays)

Display Address

Post Code

Council

#### Landowners Consent

I, Owner of the display location, hereby consent to the proposed fireworks display being conducted

(Where the applicant is not the landowner, consent must be obtained and provided below)

Land Owners Name

Signed

Date

Applications MUST be submitted by the Applicant to a Service Tasmania Shop, 21 days prior to display date

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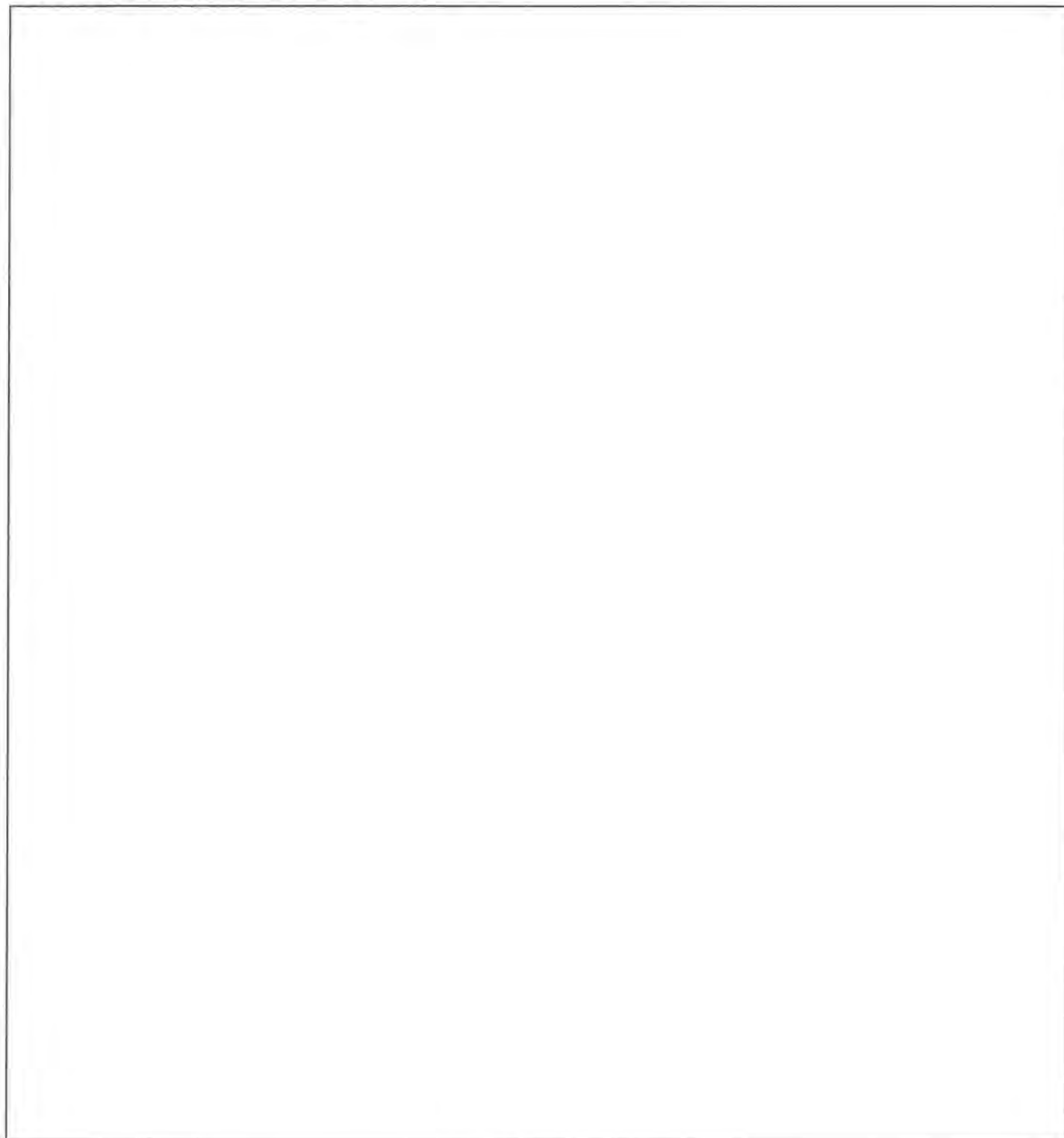
## Location Sketch

Must include the following:

- Property Size (Hectares)
- Firing locations
- Location of spectators and car parking area
- All adjacent roads, buildings and possible fire hazards within 200 metres
- Above ground infrastructure such as: power and communication poles and lines
- Tall trees

**Please provide additional attachments if required**

**SITE PLAN - See part 2 for additional guidance**



---

## Clearance Distances

Is the display site within 500 metres of the following?

Aged home ☐ Yes ☐ No School ☐ Yes ☐ No

Church ☐ Yes ☐ No Hospital ☐ Yes ☐ No

If 'Yes' to any of the above, written approval is required from the organisation,

Approval Attached ☐ Yes ☐ No

Are livestock (e.g. horse/cattle) within a 1 kilometre radius of the display? ☐ Yes ☐ No

Is the display within 1 kilometre of a State forest or a wildlife reserve/park? ☐ Yes ☐ No

Is the display site on the sea shore and involves aerials/rockets? ☐ Yes ☐ No

---

## Minimum Fire Fighting Equipment

☐ 1 x Hose connected to a water supply

☐ 2 x Sand buckets (or equivalent)

☐ 2 x Suitable fire extinguishers

List additional Resources

## Declaration by applicant

I the applicant, hereby state that I have read the conditions for the issue of a fireworks permit. By accepting a fireworks permit I agree to be bound by the conditions specified in Part 2 of this application relating to setting up and holding a fireworks display, and any conditions that may be included in the Fireworks Permit.

A person shall not purchase or obtain fireworks, without a fireworks permit issued by the Secretary of the Department (WorkSafe Tasmania).

The information I have detailed in this application, to the best of my ability, is true and correct in relation to the proposed fireworks display.

---

Signature of Applicant (To be signed in front of a Service Tasmania officer)

Date

---

Witness Signature of Service Tasmania Officer

Date

(Photo I.D of Applicant to be sighted)

## Department of Justice

WorkSafe Tasmania

PO Box 56, Rosny Park, TAS 7018

Phone: (in Tasmania) 1300 366 322; (outside Tasmania) - 03 6166 4600; Fax 03 6233 8338

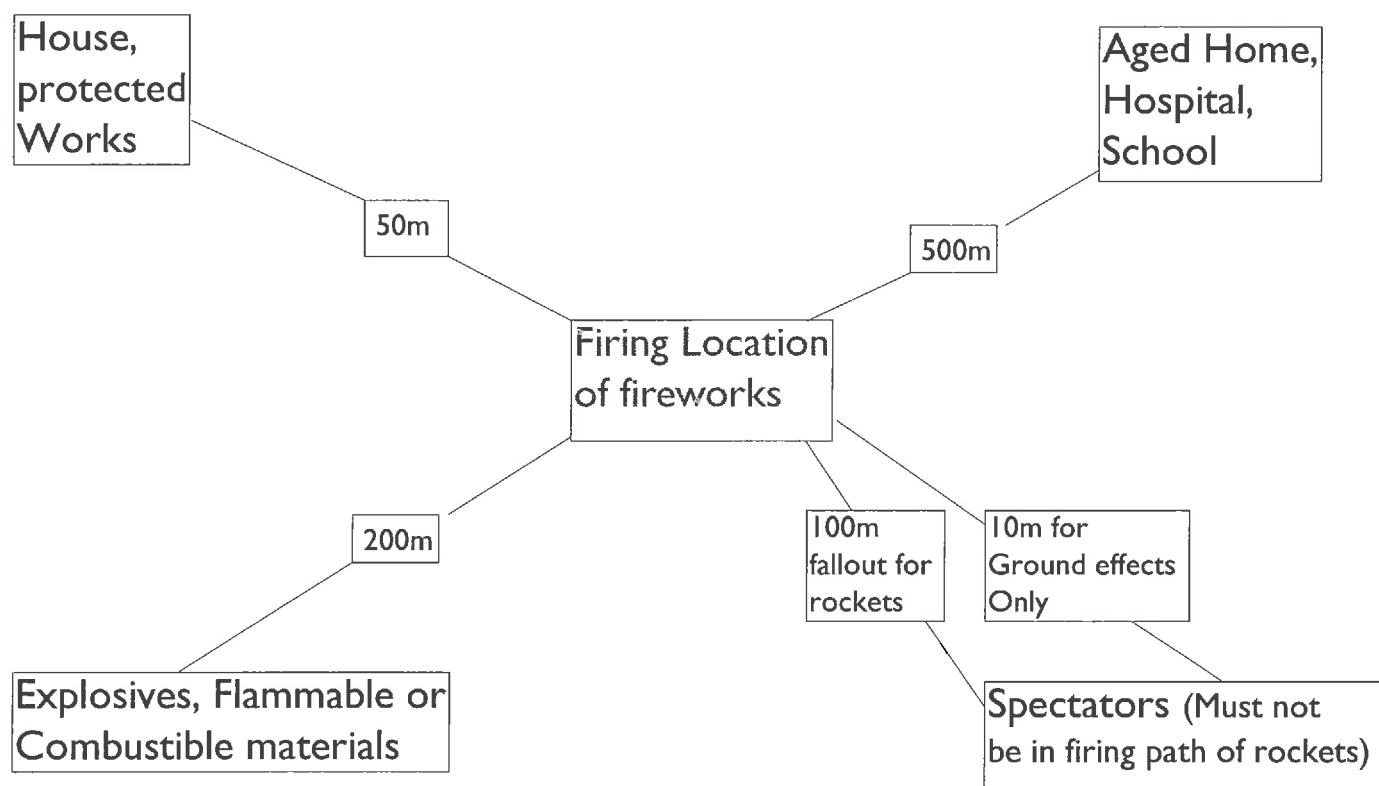
Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au) Website [www.worksafe.tas.gov.au](http://www.worksafe.tas.gov.au)



Personal information we collect from you will be used by the Regulator (WorkSafe Tasmania) for dangerous goods/explosives licensing purposes and may be used for other purposes permitted by the *Explosives Act 2012* and associated laws. Failure to provide this information may result in your application being denied or records not being properly maintained. Your personal information may be disclosed to contractors and agents of WorkSafe Tasmania, law enforcement agencies, courts and other public sector bodies or organisations authorised to collect it. This information will be managed in accordance with the Personal Information Protection Act 2004 and may be accessed by you on request to this Department. You may be charged a fee for this service.

## Type 2 Firework Displays – Guide for Minimum Clearance Distances

Part 2



**Applicant to Retain****1. Interpretation**

"display" means the relevant fireworks display;

"display equipment" includes mortars, stakes and frames;

"fireworks" means Type 2 fireworks;

"firing area" means any area in which fireworks are made ready for firing or from which they are fired;

"permit" means the relevant fireworks display permit;

"site" means the immediate site of the display.

**2. Supervision and control**

(1) The following persons must be on site throughout the display:

(a) the holder of the permit (if the permit is held by a natural person);

(b) the responsible adult (if the permit is held by a body of persons);

(2) An authorised officer may cancel or temporarily halt the display if he or she reasonably believes that –

(a) the conditions of the permit have been, are being or are likely to be contravened in a serious way; or

(b) there is a genuine danger to any persons or property.

**3. Notifications and publicity**

(1) The holder of the permit must ensure that the following persons are given at least 7 clear days' notice of the display:

(a) the Tasmania Fire Service;

(b) Tasmania Police;

(c) the general manager of the municipal area in which the proposed site is located;

(d) the owner or occupier of each property adjoining the proposed site;

(e) the owner or occupier of each property, within a one-kilometre radius of the proposed site, used for commercial livestock operations;

(f) if the proposed site is within one kilometre of any reserved land within the meaning of the Nature Conservation Act 2002, the Director of National Parks and Wildlife;

(g) if the proposed site is within one kilometre of a State forest within the meaning of the Forestry Act 1920, Forestry Tasmania;

(h) if the proposed site is on the seashore and the display will involve any aerial display of fireworks, the Marine and Safety Authority established under the Marine and Safety Authority Act 1997 ("MAST").

(2) A person is taken to have complied with subclause (1) if the person –

(a) gives the required notices individually; or

(b) gives public notice of the display by means of a notice in a daily newspaper published and circulating generally in the region in which the display is to be held.

**4. Timing and duration**

(1) The display must not last, in total, longer than 30 minutes (from the first to the last firing, inclusive of breaks).

(2) Unless the permit provides otherwise, the display must not –

(a) in the case of a New Year's Eve fireworks display, commence before midnight on New Year's eve or continue after 12.30 a.m. of the following day; or

(b) in the case of any other fireworks display, commence before 6 p.m. or continue after 10 p.m. on the day it is authorised to be held.

(3) Despite any other condition of the permit, the display must not commence or, if it has commenced, proceed –

(a) in contravention of a total fire ban declaration; or

(b) in high winds or a lightning storm or other unsafe weather conditions.

(4) In this clause –

"high winds" means winds stronger than force 5 (fresh breeze/17-21 knots wind speed) on the Beaufort scale.

**5. Fire-fighting equipment**

(1) Adequate fire-fighting equipment must be provided on site throughout the display.

(2) In this clause –

"adequate", fire-fighting equipment, means at least 2 suitable fire extinguishers, 2 sand buckets (or equivalent) and one hose connected to a water supply

**6. Safe firing distances – aerial fireworks**

(1) Fireworks in the form of projectiles designed to attain, or ordinarily capable of attaining, heights greater than 60 metres must not be fired within 5 kilometres of an aerodrome.

(2) Fireworks consisting of or including aerial fireworks must be so placed and fired that their trajectory is at least 10 metres distant from any –

(a) above-ground power lines; or

(b) above-ground communications cables; or

(c) streetlamp poles or flagpoles; or

(d) gantries, cranes or similar high structures; or

(e) tall trees.

**7. Safe firing distances – protected works, &c.**

(1) Fireworks must not be fired within 200 metres of any place where other explosives or flammable or combustible materials are stored.

(2) Fireworks must not be fired within 50 metres of any –

- (a) protected works (outside the immediate venue for the display); or
- (b) major infrastructure; or
- (c) tent, marquee or similar shelter; or
- (d) motor vehicle.
- (3) Not applicable
- (4) Despite subclauses (2) and (3), fireworks must not be fired within 500 metres of protected works of the following kind without the approval of the owner of, or an authority responsible for, those protected works:
  - (a) a school or other educational institution;
  - (b) a hospital or other medical institution;
  - (c) a retirement home, aged respite centre or other aged care facility;
  - (d) a church or other place of public worship.

#### **8. Spectator safety**

- (1) The holder of the permit is responsible for crowd control and ensuring that spectators do not gain access to any fireworks or firing areas.
- (2) Aerial fireworks or shells must not be fired so as to cross over or burst over any designated spectator or parking area.
- (3) Any area set apart for the landing of aerial fireworks or associated debris (or any area in which such fireworks or debris may reasonably be expected to land) must be –
  - (a) free of flammable or combustible material; and
  - (b) be at least 100 metres from any designated spectator area.
- (4) Fireworks must not be fired within the prescribed distance of any designated spectator area.
- (5) In this clause –
  - "prescribed distance" means –
    - (a) for Type 2 fireworks, 10 metres; and

#### **9. Fireworks precautions**

- (1) Before being taken on site –
- (b) Type 2 fireworks must be securely held away from any ignition source or from other dangerous substances with which they could explosively interact.
- (2) Once any fireworks have been taken on site, they –
  - (a) must be kept in closed containers, at least 25 metres away from the firing area, until they need to be positioned and made ready for firing; and
  - (b) must not, before being fired, be left unattended at any time.
- (3) All fireworks must be checked for damage or defects before the display and any found to be damaged or defective (or suspected of being so) must be put aside and not used.
- (4) Fireworks that do not have the manufacturer's instructions printed on their casing must not be fired unless the manufacturer is responsible for their firing.
- (5) Misfires must be destroyed or safely removed from the site in an approved portable magazine, preferably by soaking with water for at least 10 hours and then burying, but under no circumstances may misfires be burned.

#### **10. Not applicable**

#### **11. Follow-up measures**

- (1) Immediately after the display, all necessary follow-up measures must be taken.
- (2) Any misfires found must be treated in accordance with clause 9(5).

#### **12. Incidents and accidents**

- (1) Any incident or accident attributable in any way to the display fireworks (whether or not resulting from their actual firing and whether or not causing damage or injury) must be promptly reported to an authorised officer

#### **ADDITIONAL NOTES**

**Artistic/Theatrical Performances** The guidance note outlining 'precautions/conditions' applicable to artistic performances must be applied in respect to this type of display.

Acknowledgment must be provided to the Dangerous Substances Unit of WorkSafe Tasmania that these 'precautions/conditions' will be observed for all performances



**11.2.2 PETITION – FOOTPATH FROM BARILLA HOLIDAY PARK TO CAMBRIDGE PRIMARY SCHOOL**  
(File No. )**EXECUTIVE SUMMARY****PURPOSE**

To consider the petition tabled at the Council Meeting of 12 January 2015 requesting Council construct a footpath from Barilla Holiday Park to Cambridge Primary School.

**RELATION TO EXISTING POLICY/PLANS**

Council's Strategic Plan 2010-2015 is relevant.

**LEGISLATIVE REQUIREMENTS**

Section 60 of the Local Government Act, 1993 requires Council to formally consider petitions within 42 days of receipt.

**CONSULTATION**

No consultation has been undertaken with the local community in regards to the provision of a footpath.

**FINANCIAL IMPLICATIONS**

No funds have been allocated within the 2014/2015 Annual Plan to construct a footpath from Barilla Holiday Park to Cambridge Primary School.

**RECOMMENDATION:**

- A. That Council notes the intent of the petition.
- B. That:
  - Council authorises the Mayor to write to the Minister for Infrastructure seeking advice as to how the Government will address the community's road safety concerns with access from the Barilla Holiday Park to Cambridge;
  - Council authorises the General Manager to consider the suggested footpath in the Cambridge master planning exercise when presenting the draft master plan outcomes to a future Council Workshop.
- C. That the petitioners be advised of Council's decision.

**PETITION – FOOTPATH FROM BARILLA HOLIDAY PARK TO CAMBRIDGE PRIMARY SCHOOL /contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1** A petition signed by 366 signatures was tabled at the Council meeting held on Monday 12 January 2015 requesting the following:

*“A proposed footpath to be constructed from Barilla Holiday Park to Cambridge Primary School.”*

A copy of the covering letter, background information and an aerial photo showing the proposed alignment of the footpath is Attachment 1.

- 1.2** The background information explains the owners of the Barilla Caravan Park are prepared to make available, subject to negotiation, a strip of their private property wide enough to allow a footpath to be constructed.

**2. REPORT IN DETAIL**

- 2.1.** The responsibility for the provision of a footpath from Barilla Holiday Park and Cambridge Primary School is the Department of State Growth (DSG) as it controls this section of Richmond Road which links the area.
- 2.2.** There has been a long history of unsuccessful requests to both DIER and the responsible Minister seeking a commitment to undertake the footpath works in the DIER controlled section of Cambridge Road. Council’s latest position in relation to the footpath involves a submission to the Legislative Council. In July 2012 Council responded to a request to make a submission to the Legislative Council Government Administration Committee “B” in relation to the integrated transport options for Southern Tasmania. In particular the document sought submissions on both public transport systems and any other appropriate and innovative transport systems.

From a Council operations perspective the Roads and Jetties Act is a barrier to the effective implementation of active transport alternatives such as walking and cycling. The provisions of the Roads and Jetties Act allow DIER to not provide or maintain footpaths in State Road reservations. It is believed that this approach is a hangover from the past and reflects when roads were the focus rather than transport outcomes. A more transparent and responsible approach would be to amend the Roads and Jetties Act and make Councils responsible for Council road reserves and DIER responsible for State Road reserves. Council considered the matter and at its meeting on 6 August 2012 and resolved to authorise the General Manager to make a submission on a number of issues including;

*“Amend the Roads and Jetties Act to make Councils responsible for Council road reserves and DIER responsible for state road reserves. In that way the responsibilities and accountabilities are aligned and the barrier to deal with active transport strategies is removed.”*

Council has submitted the documentation and the Mayor and General Manager attended a hearing to present Council’s case.

- 2.3.** The final report from the Legislative Council was presented in 2013. The recommendations do not address Council’s submission on amending the Roads and Jetties Act.
- 2.4.** Following undertaking of road safety infrastructure upgrade works in 2013 at the intersection of Richmond and Cambridge Road, of which the Department of Infrastructure, Energy and Resources (DIER), now DSG, assisted with funding, Council received community feedback on extending the footpath works to the Barilla Holiday Park.
- 2.5.** On 29 November 2013 the Mayor wrote to the Hon. David O’Byrne, the Minister for Infrastructure, seeking advice on what the State Government and DIER can do to address this important road safety problem.
- 2.6.** To date Council has not received a response.

- 2.7.** At the 10 December 2012 Council Meeting, Council authorised the General Manager to implement a master planning exercise on the future development of Cambridge in terms of streetscape, the Cambridge Road/Richmond Road intersection, future intentions for the Cambridge Primary School, public transport opportunities, stormwater issues, cycleway/footpaths, tracks and trails network connectivity, public open space, Council's Strategic land holdings and inclusion of the Southern Tasmanian Council Authority Southern Region Industrial Strategy.
- 2.8.** While the owners have offered some private land adjacent to Richmond Road for the footpath, the alignment of a footpath should be incorporated in the master planning exercise when reviewing the linkage of footpaths/cycleways/multi-user pathways in the extent of the study area. This is especially so when it is likely a footbridge will be required at some point to cross the Barilla Rivulet.
- 2.9.** The outcomes of the master planning exercise will be reported to a future Council Workshop.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

No consultation has been undertaken with the local community in regards to the provision of a footpath from Barilla Holiday Park to Cambridge Primary School.

#### **3.2 State/Local Government Protocol**

Nil

#### **3.3. Other**

Nil.

#### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

**4.1.** Council's Strategic Plan 2010/2015 within the Goal Area Social Inclusion contains the following Community Safety and Well-being Strategy to:

*"Provide essential infrastructure to support, sustain and enhance community safety and social well-being."*

**4.2.** Council's Strategic Plan 2010-2015 under the Goal Area Social Inclusion has the following Public Spaces and Amenity Strategy to:

*"Develop Plans to improve the amenity of public spaces, including:*

- *Implementation of Tracks and Trails Plan and Cycle Plan."*

#### **5. EXTERNAL IMPACTS**

Nil.

#### **6. RISK AND LEGAL IMPLICATIONS**

Section 60 of the Local Government Act, 1993 requires Council to formally consider petitions within 42 days of receipt.

#### **7. FINANCE**

No funds have been allocated within the 2014/2015 Annual Plan to construct a footpath from Barilla Holiday Park to Cambridge Primary School.

#### **8. ANY OTHER UNIQUE ISSUES**

Not applicable.

#### **9. CONCLUSION**

**9.1** The Mayor wrote to the previous State Government's Minister for Infrastructure seeking advice on what can be done to address the road safety problem at Cambridge between Barilla Holiday Park and Cambridge Primary School.

**9.2** As a change of Government has come about since writing the letter, it is worth seeking advice from the now Minister for Infrastructure.

- 9.3** The interest of a footpath from the Barilla Holiday Park to Cambridge Primary School can be considered in the tracks/pathway linkages in Council's master planning exercise for Cambridge.

Attachments: 1. Covering letter, background information and aerial photo (3)

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**

366 signatures



Pos.



HOLIDAY PARK

ABN 73 076 828 674

75 Richmond Road  
Cambridge TAS 7170

P: 03 6248 5869

F: 03 6248 5945

E: [stay@barilla.com.au](mailto:stay@barilla.com.au)

W: [www.barilla.com.au](http://www.barilla.com.au)

Friday 19<sup>th</sup> December,

Dear Sharyn,

I have enclosed our petition of names for a proposed footpath to be constructed from Barilla Holiday Park to Cambridge Primary School. We have been compiling these names over a couple of months with the help of the local shop and school.

There are 335 names and if you need more we can continue with the petition through the holidays. I have also enclosed the background letter that we sent with the original correspondence.

Could you present this letter etc. to the next council committee meeting?

Look forward to hearing from you in the New Year.

Yours Sincerely,

Jan McConnon.

## **Background paper supporting request to CCC for a footpath from Cambridge School to The Barilla Holiday Park Park.**

History of Caravan Park: John and Jan McConnon have owned the Barilla Caravan Park and Restaurant for the last 20 years.

The Management of the park has largely been handled by their son Martin McConnon for the last seven years.

Martin has gradually upgraded and increased the size of the Caravan Park as well as expanding the restaurant/function centre facility.

The Barilla licenced function centre is currently leased to Nate's Gourmet Pizzas.

There is also a thermal pool and a mini golf course available to tourists and the public alike within the facility.

The Barilla Holiday Park as it is now known is popular with travelling tourists and in the peak season can have as many as 100 to 150 campers staying per night.

Many tourists once they have settled in and hooked up their vans/motorhomes find the need to walk to Cambridge for basic supplies.

The new residential development currently underway will potentially see up to a hundred more residents in Cambridge.

There has also been a big increase in the number of business houses built in nearby Cambridge Park

Locals as well as people who work in the area and the patrons of the Barilla Holiday Park who choose to walk along the Richmond Rd from or to the Caravan Park and its other facilities are faced with a road verge which is narrow and uneven

Pedestrians are at serious risk of being run over by the passing traffic which has increased in volume dramatically over the last decade.

John and Jan their son Martin and Nate as well as other residents who live along the Richmond Rd have lobbied for a footpath to be established beside the highway but to no avail.

In an effort to solve the problem and look out for the safety of tourists and locals alike John and Jan being the owners of the Barilla Caravan Park are prepared to make available (subject to negotiation) a strip of their private property wide enough to allow a footpath to be built.

Potentially this footpath once constructed could allow pedestrians to safely walk from the new path near the Cambridge school over the Barilla Rivulet to finish at the nature strip in front of the Caravan Park.



# Clarence City Council - GDA DATUM

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### **11.3 PLANNING AUTHORITY MATTERS**

In accordance with Regulation 25 (1) of the Local Government (Meeting Procedures) Regulations 2005, the Mayor advises that the Council intends to act as a Planning Authority under the Land Use Planning and Approvals Act 1993, to deal with the following items:

**11.3.1 DEVELOPMENT APPLICATION D-2014/430 - 25 WENTWORTH STREET, BELLERIVE (CLARENCE HIGH SCHOOL) – CONSTRUCTION OF A CAGE STRUCTURE OVER THE LONG JUMP PIT (ACTIVE RECREATION)**

(File No D-2014/430)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for the construction of a cage structure over a previously approved long jump pit (Active Recreation) associated with the development of the athletics facilities at the Clarence High School.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Special Use (SU7 – Educational or Cultural Centre) under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme, the proposal is a discretionary development as the use is classified as Active Recreation and it involves the construction of a new building.

**LEGISLATIVE REQUIREMENTS**

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise a discretion within the statutory 42 day period which expires on 2 February 2015.

**CONSULTATION**

The proposal was advertised in accordance with the statutory requirements and 4 representations were received (2 of which were from the same representor). Additionally, one late submission was received. The following issues were raised by the representors:

- background leading up to this application;
- solid cladding;
- bulk, scale and impact on views;
- location of long jump facility, noise generation and impact on privacy;
- windblown sand;
- drainage;
- functionality of long jump facility; and
- potential conditions of approval (hours of use and landscaping).

**RECOMMENDATION:**

A. That the Development application for the construction of a cage structure over the long jump pit at 25 Wentworth Street, Bellerive (C1 Ref D-2014/430) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.

2. The structure cannot be clad in alternative materials without further approval.
3. A landscape plan must be submitted to and approved by Council's Manager City Planning prior to the completion of the structure. The landscaping must assist in the amelioration of building bulk and reduce potential overlooking from the long jump area into the surrounding properties. The plan must be to scale and show:
  - the location of the long jump facilities, the fencing associated with the adjoining tennis/netball courts, the eastern property boundary and the rear of each of the immediately adjoining residential properties; and
  - location and details of proposed plantings including botanical names, and the height and spread of canopy at maturity.

The landscaping works must be completed within 3 months of the approval of the plan and appropriately maintained thereafter.

- B. That the details and conclusions included in the associated report be recorded as the reasons for Council's decision in respect of this matter.

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## **ASSOCIATED REPORT**

### **1. BACKGROUND**

- 1.1.** At its meeting of 11 November 2013, Council approved an application (D-2013/297) for the development of athletics facilities on the Clarence High School northern oval abutting Clarence Street. The approval provided for the construction of a pavilion building, barrier fence and development of areas for track and field events.
- 1.2.** On 2 April 2014, Council approved an application for a minor amendment to the D-2013/297 Permit pursuant to S.56 of LUPAA. The minor amendment provided for the relocation of the pavilion building approximately 14m south-west of the previously approved location. The rationale behind the amendment was to reduce the amount of earthmoving works required to facilitate the construction of the building. While this resulted in the shortening of the access road to the building and the associated turning circle, the design of the building remained the same and did not alter the locations of the previously approved track and field areas.



- 1.3.** At the time of this report, the works associated with the pavilion building and track and field areas are nearing completion but not finalised. During the construction of the pavilion building, it was evident that the location of several of the field areas required modification (notably the shot put and long jump areas). Although approvals were not in place,, works on the field areas commenced including the construction of a structure over the long jump landing pit.
- 1.4.** Following representations from neighbouring properties relating to the works, a “Permitted” application (D-2014/395) was submitted seeking approval for the relocation of the eastern field areas including the long jump area. The application was approved on 2 December 2014. The approval of D-2014/395 enabled the Clarence Little Athletics Club to use the long jump area upon their relocation from Kangaroo Bay in January 2015.
- 1.5.** A second “Discretionary” application (D-2014/430) was submitted seeking retrospective approval to complete the partially constructed structure over the approved long jump pit. This application is the subject of this report.

## **2. STATUTORY IMPLICATIONS**

- 2.1.** The land is zoned Special Use (SU7- Educational or Cultural Centre) and Development associated with the existing school is a Permitted development under the Scheme. However, the development of the athletics facilities are not directly associated with the school and therefore classified as Active Recreation. Active Recreation is a Permitted use in the Special Use zone provided that does not involve the construction of new buildings. Active Recreation that does involve the construction of new buildings is a Discretionary use in the Special Use zone. Accordingly, the proposal the subject of this report is a Discretionary Development.

**2.2.** The relevant parts of the Planning Scheme are:

- Section 2 – Planning Policy Framework;
- Section 3 – General Provisions;
- Section 6.12 – Special Use (SU7) Zone.

**2.3.** Council's assessment of this proposal should also consider the issues raised in any representations, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act 1993 (LUPAA).

### **3. PROPOSAL IN DETAIL**

#### **3.1. The Site**

The site comprises of several titles with an aggregate area of approximately 8.9ha. The site is relatively flat and has road frontages to Clarence Street (to the north), Wentworth Street (to the west) and Silwood Avenue (to the South) as shown in the attachments. The land has been developed with the Clarence High School and the recently approved little athletics facilities are currently being constructed and nearing completion.

The portion of the site subject to this application is limited to the area surrounding the recently approved long jump pit located approximately 8.5 metres from the eastern boundary, just north of the existing Clarence High School tennis and netball courts as shown in the attachments.

#### **3.2. The Proposal**

The proposal is for the approval and completion of the partially constructed structure over the long jump pit as shown in the attachments.

The proposal consists of an open framed steel structure clad with black cyclone chainwire mesh enclosing the long jump sand pit. The structure is oriented east-west across the long jump pit, has two sets of bi-fold doors on the northern elevation, is 10.5m wide by 14.9m long and has a maximum overall height of 4.9m. The applicant advises that the structure is necessary to keep cats and dogs out of the sand pit and to prevent unauthorised access.

#### **4. PLANNING ASSESSMENT**

##### **4.1. Planning Policy Framework – Section 2**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3 (d) (iv) – Recreational and Community Facilities. In particular, the key issue includes:

- “• *The need to integrate recreational and community facilities into residential neighbourhoods*”.

In this context the proposal is consistent with the Planning Policy Framework and represents a relatively minor addition to the previously approved athletics facilities.

##### **4.2. General Decision Requirements - Section 3.3.1**

The relevant General Decision Requirements of this part are:

- “(a) *General Requirements:*
  - (iii) *The Planning Policy Framework.* (addressed at Section 4.1 above).
  - (vii) *Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*
- (b) *Amenity Requirements:*
  - (i) *The character of the locality, the existing and future amenities of the neighbourhood*”.

Further reference to these assessment considerations are contained in the discussion below.

##### **4.3. Special Use Zone**

The purpose of the Special Use Zone is to provide for the use and development of land for specific purposes.

There are no Use and Development Standards relevant to the proposed Active Recreation use or specifically for the proposed structure. On this basis, the assessment of the proposal can only be considered against the relevant Specific Decision Requirements outlined as follows:

*“(a) A variety of styles, material and colours is encouraged for development within the zone. Architectural expression is preferred to ensure the zone reflects currency with modern design and construction techniques”.*

While clearly visible (as evidenced in the site photographs attached), the proposal is for a transparent steel framed structure that presents similarly in terms of bulk, scale and materials to the adjoining fence surrounding the school’s tennis and netball courts.

It is considered that the design of the structure is appropriate within its setting. Further, its massing will be reduced by the incorporation of a black powder coated and black PVC coated finishes.

*“(b) Development should be compatible with the existing uses on site and not cause unreasonable impacts on the adjacent land uses”.*

The proposal is compatible with the existing and recently approved uses and is necessary to ensure that the long jump sand pit will remain fit for purpose, safe and hygienic.

The proposal represents a relatively minor addition to the previously approved athletics facilities. Importantly, the location of long jump run-up and associated sand pit has been established through the approval of development application D-2014/395. Given the open nature of the structure, use of largely transparent materials and recessive coloured finishes the structure is unlikely result in an unreasonable impact on the adjacent residential properties.

#### **4.4. Off Street Car Parking & Loading**

The proposed structure over the previously approved long jump pit does not generate the need for additional carparking considerations under the scheme.



#### **4.5. External Referrals**

No external referrals were required or undertaken as part of this application.

### **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 4 representations were received (2 of which were from the same representor). The following issues were raised by the representors: Additionally, one late submission was received.

#### **5.1. Background**

One of the representations included a detailed background of the events/applications leading up to the submission of this proposal.

- **Comment**

The background outlined in the representation is generally accepted and reflects the background previously outlined in this report. However, it is not accepted that previous approvals showed a single runway to the long jump pit as submitted. The previous approvals have all shown multiple runways to the long jump.

#### **5.2. Solid Cladding**

One of the representations states, *“I am advised by Clarence City Council officers that should the cladding of the walls be changed to solid cladding at a future date there would be no requirement to seek further permits. This application should therefore be considered as essentially approving a solid structure, not a wire mesh clad, steel shed”*.

- **Comment**

The representor's statement is incorrect. The proposal is for an open framed structure clad in wire mesh as previously described. The application must be assessed and determined as submitted. Under the Scheme, to clad the structure in a solid material would require further approval (as it would differ from the approved plan). Notwithstanding, the project manager advises that he sees is no reason to install solid cladding and is happy for a condition of approval to explicitly require any future cladding to be the subject of further approvals. Accordingly, it is recommended that an appropriate condition to this effect form part of any approval.

### **5.3. Bulk & Scale**

Representors were concerned with the proposal's height/bulk and scale in proximity to their rear (residential) boundaries. Specifically, the concerns related to the impact on views to Mt Wellington and the "imposing" nature of the structure.

Additionally, one of the representors was particularly concerned that the impact would be exacerbated if the structure were clad in a solid material.

- **Comment**

The concern relating to solid cladding is addressed above. Unlike most applications, the true impact of this proposal can readily be assessed given the structure has already been substantially constructed (albeit without approval). Included in the attachments are several photographs of the structure, taken from the site and from adjoining residential properties (the latter of which are courtesy of one of the representors).

It is considered that, while clearly visible, the transparent nature of the structure presents similarly in terms of bulk, scale and materials to the adjoining fence surrounding the school's tennis and netball courts and is appropriate within its setting.

Even so, its impact will be reduced by the requirement to provide landscaping as discussed below.

#### **5.4. Location of long jump facility**

One of the representor's concerns is that the long jump facility is too close to the adjoining residential neighbours given the size of the site. Other representors submitted that the location will adversely impact adjoining residential amenity through noise generation and impact on privacy.

- **Comment**

This proposal is limited to the construction of the structure over and surrounding the long jump sand pit. The location of the long jump landing pit and associated run-up was previously approved (under D-2014/395) and not relevant to the determination of this proposal. The determination of this proposal will have no impact on noise generation or privacy as it is the use of the long jump area rather than the structure itself that would be responsible for any noise/privacy impacts.

In this context, it is noted that the new long jump sand pit is in the same location as the previous Clarence High School long jump sand pit.

Notwithstanding, each application must be assessed and determined on its merits. The size of the site and its capacity to offer alternative, potentially more suitable locations is not relevant to the determination of this proposal.

#### **5.5. Windblown Sand**

The representors concern is that there was no attempt to contain/maintain the sand in the previous Clarence High School long jump pit (in the same location) and that windblown sand was dispersed into adjoining properties and blocked up the stormwater drains.

- **Comment**

This proposal is limited to the construction of the structure over and surrounding the long jump sand pit. Notwithstanding, the project manager advises that the sand used is a coarse grained sand and not as susceptible to wind dispersal.

Additionally, Council has engaged a contractor to maintain the new facility, which includes maintenance of the stormwater drains.

## **5.6. Drainage**

The representors concern is that *“any building constructed must have adequate drainage of roof catchment otherwise the existing drain will not handle runoff”*.

- **Comment**

The proposal is for an open framed structure with no roof and on this basis will have no impact on predevelopment stormwater discharge rates.

## **5.7. Functionality of long jump facility**

The representors concern is that irrespective of what type of cover is used the design of the long jump pit and run-up needs to be re-assessed. According to one representor *“the construction does not comply with any code or standard. Each run-up track should have a separate sand pit area with a workable solid area around it for officials to be able to use for measuring and raking.*

*Given that there are four tracks side by side with one sandpit and no provision for a solid area between them, it is most obvious that the two inside lanes cannot be used.”*

Additionally the representor submits *“Also the proposed cage with wire mesh leaves the sandpit exposed to glass and syringes to be thrown into it and will no doubt be an attraction to males for urinating competitions. Other more suitable covers are available”*.

- **Comment**

As previously stated this proposal is limited to the construction of the structure over and surrounding the long jump sand pit. The design of the long jump landing pit and associated run-up was previously approved (under D-2014/395) and not relevant to the determination of this proposal.

With respect to the proposed structure, each application must be assessed and determined on its merits. While other types of cover may be available they are not relevant to the determination of this proposal.

Notwithstanding, the project manager advises that the Clarence Little Athletics Club has had substantial input in the design and development of the entire athletics facility including the long jump area. In this instance, the project manager advises that it is not possible to accommodate a low movable cover in the available space.

#### **5.8. Potential conditions of approval (hours of use and landscaping)**

While the representor submits that the proposal ought to be refused, they also submit that should Council resolve to approve the proposal, it should be subject to the following conditions:

- “1. Restricting hours of use to after 9.00am –6.00pm on weekends and public holidays to afford privacy and quiet enjoyment to neighbours. The information supplied in the original application gave Little Athletics activities commencing "around 9am". I have observed Little Athletics setting up shortly after 7am. Their newsletter advises that track events commence at 8.30am on Saturday.*
- 2. Landscaping through planting of suitable screening trees, in consultation with adjoining properties. This is a solution of last resort as it will severely impinge upon light to the main and only living area of 14 Silwood Avenue”.*

- **Comment**

The approval of the Little Athletics redevelopment and specially the use of the land for this purpose was granted through D-2013/297 and D-2014/395. Neither of these permits conditioned the hours of use and it is not appropriate to condition this permit which is limited only to the construction of a structure. The use has been approved and can operate in accordance with the relevant permits irrespective of the determination of this proposal.

It is agreed that suitable landscaping would assist to soften the visual impact of the structure and to reduce any overlooking into the adjoining residential properties. For this reason, it is recommended that an appropriate landscaping condition form part of any approval.

## **6. STATE POLICIES AND ACT OBJECTIVES**

**6.1.** The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

**6.2.** The proposal is consistent with the objectives of Schedule 1 of LUPAA.

## **7. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

There are no inconsistencies with Council's adopted Strategic Plan or any other relevant Council policy.

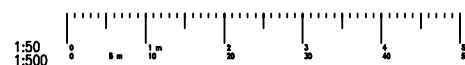
**8. CONCLUSION**

The proposal is for the construction of an open framed structure over the previously approved long jump sand pit. The structure has been partially constructed without any approvals and on this basis requires approval prior to completion. For the reasons outlined in this report the proposal is recommended for conditional approval. However, should Council resolve to refuse the proposal, it follows that the structure as it is should be removed.

Attachments: 1. Proposal Plan (3)  
2. Site Photo (3)  
3. Photos from 14 Silwood Avenue, Howrah (2)

Ross Lovell  
**MANAGER CITY PLANNING**

# Attachment 1



**Note.**  
EXISTING SPRINKLERS

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SCALES — PLAN <i>As Shown</i> HORIZONTALLY <i>As Shown</i> VERTICALLY <i>As Shown</i>				DATUM <i>GDA94/AHD</i>		DATE	
POINT OF INTEREST — EAST NORTH ROTATION —				REC. REF.		SCANNED	
COMPUTER FILE REFERENCE				DRAWN			
				DETAILED			
				DESIGNED		<i>JMN 2013</i>	
				CHECKED			
2. FOR DESIGN APPROVAL				<i>JMN 03:12:14</i>			
1. TENDER ISSUE.				<i>JMN 27:6:14</i>		EXAMINED	
				APPROVED			
No.		REVISIONS		INITIAL DATE		SCANNED	
						ENGINEER	



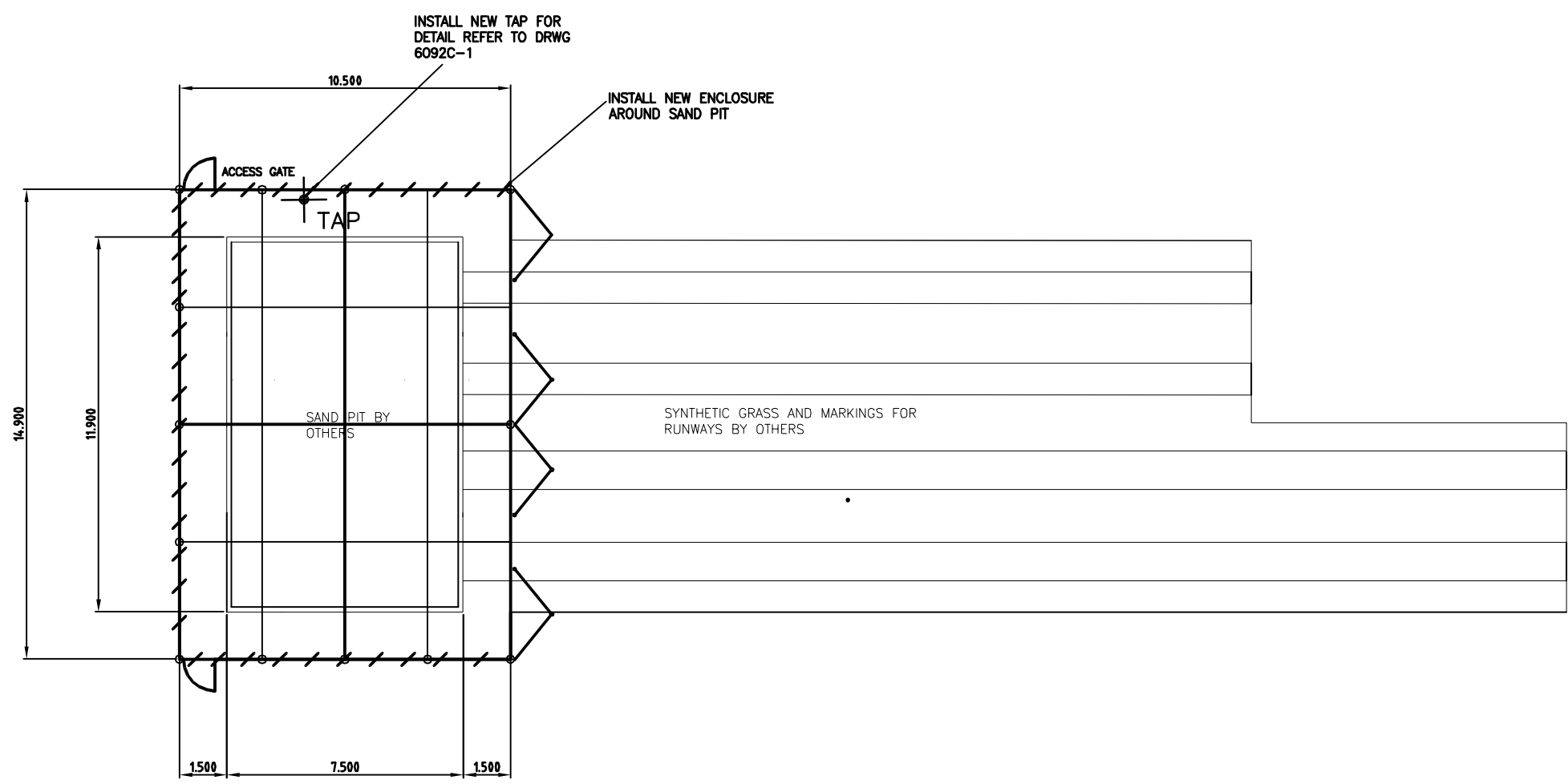
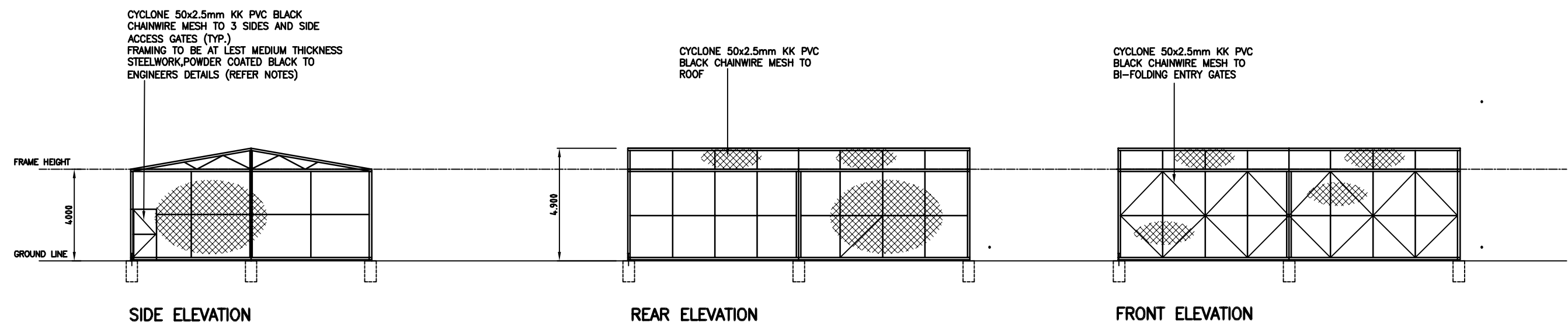
P.O. BOX 96, ROSNY PARK, 7016  
TELEPHONE: (03) 62 458 600  
FACSIMILE: (03) 62 458 700

**CLARENCE HIGH SCHOOL OVAL ATHLETIC FIELD FACILITIES**  
**Clarence Street, Bellerive**  
**LAYOUT PLAN**

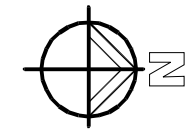
REFERENCE DRAWINGS	CONTRACT NUMBER
Attachments - 25 Wentworth Street	Page 1 of 8
PLAN No. <b>6092C-1</b>	PROJECT No. <b>2582-14.0</b>



PLAN No. 6092C-2



PLAN OF LONG JUMP PIT  
Scale 1:100



NOTES

1. LONG JUMP ENCLOSURE SHALL BE DESIGNED IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS CODE AS1170 AND AS4100. DESIGN SHALL INCLUDE STRUCTURAL CERTIFICATE BY SUITABLY QUALIFIED PROFESSIONAL ENGINEER WITH THE REQUIRED BUILDING LEGISLATION ACCREDITATION.
2. ENCLOSURE DETAILS OF THE LONG JUMP ENCLOSURE SHOWN ON DRWG 6092C-02 ARE DIAGRAMATIC ONLY. FINAL DESIGN SHALL COMPLY WITH NOTE 1.
3. SITE CLASSIFICATION FOR FOOTING ADOPT CLASS M.

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SCALES — PLAN				As Shown		HORIZONTALLY		As Shown		VERTICALLY		As Shown		DATUM		GDA94/AHD		DATE	
POINT OF INTEREST — EAST				NORTH				ROTATION				—		REC. REF.		SCANNED			
COMPUTER FILE REFERENCE														DRAWN					
														DETAILED					
														DESIGNED		JMN		2013	
														CHECKED					
2.		FOR DESIGN APPROVAL						JMN		03:12:14				EXAMINED					
1.		TENDER ISSUE.						JMN		27:6:14				APPROVED					
No.		REVISIONS						INITIAL		DATE		SCANNED				ENGINEER			



## CLARENCE HIGH SCHOOL SITE PLAN





## Attachment 2







# Attachment 3

14 SILWOOD AVENUE, HOWRAH



## PHOTOGRAPH No. 1

Photograph depicts imposing steel framed long jump pit cage erected at the rear of 14 Silwood Avenue, Howrah. As viewed from the main and only living area of house.



## 14 SILWOOD AVENUE, HOWRAH



### **PHOTOGRAPH No. 2**

Photograph depicts male person working on elevated land to be used by Little Athletics Long Jump participants. Please note that a serious privacy issue exists as participants and spectators can look directly into the back yard and lounge-room of 14 Silwood Avenue, Howrah.

**11.3.2 DEVELOPMENT APPLICATION D-2014/408 - 272 CLARENCE STREET, HOWRAH - CHANGE OF USE TO CONSULTING ROOMS (DOCTORS SURGERY)**

(File No. C025-272)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a change of use to Consulting Rooms (doctors surgery), which includes alterations and signage, at 272 Clarence Street, Howrah.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Residential under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme the proposal is a discretionary development.

**LEGISLATIVE REQUIREMENTS**

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise a discretion within the statutory 42 day period which was extended with consent of the applicant until 4 February 2015.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 1 representation with 20 signatures was received raising the following issues:

- loss of amenity;
- increase in traffic in Clarence Street and car park too small;
- potential need to prune conifer tree near property boundary;
- devaluation of property; and
- suggestions of possible conditions if the application is approved.

**RECOMMENDATION:**

A. That the Development application for change of use to Consulting Rooms (doctors surgery) at 272 Clarence Street, Howrah (Cl Ref D-2014/408) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. Only 2 medical practitioners may operate from the site at any one time.
3. The height of the existing fence between 272 Clarence Street and 270 Clarence Street must be increased to 2.1m prior to the commencement of the use.



4. GEN AM5 - TRADING HOURS – replace “trading’ with “operating”, [Monday to Friday 7am – 6pm] Delete remainder.
  5. GEN AM1 – NUISANCE.
  6. GEN S7 –SIGN MAINTENANCE.
  7. A sign, 0.2 square metres in area, advising of clients of car parking at the rear of the property must be erected at the entrance to the property to the satisfaction of Manager City Planning.
  8. ENG A5 – SEALED CARPARKING.
  9. ENG S1 – INFRASTRUCTURE REPAIR.
  10. ENG S2 – SERVICES.
  11. ENG M1 – DESIGNS DA.
  12. LAND 1A – LANDSCAPE PLAN.
  13. LAND 3 –LANDSCAPE BOND (COMMERCIAL)
  14. The development must meet all required Conditions of Approval specified by Taswater notice, dated 2 December 2014 (TWDA 2014/01353-CCC).
- B. That the details and conclusions included in the associated report be recorded as the reasons for Council’s decision in respect of this matter.

---

## **ASSOCIATED REPORT**

### **1. BACKGROUND**

No relevant background.

### **2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned Residential under the Scheme.

**2.2.** The proposal is a discretionary development, because Consulting Rooms are a discretionary use in the Residential Zone. The proposed signage is also discretionary.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 2 – Planning Policy Framework;
- Section 3 – General Provisions;
- Section 6 – Residential Zones;
- Section 8 –Off Street Car Parking and Loading & Advertising Signs.

**2.4.** Council’s assessment of this proposal should also consider the issues raised in any representations, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act 1993 (LUPAA).

### **3. PROPOSAL IN DETAIL**

#### **3.1. The Site**

The site is a 726m<sup>2</sup> residential lot with access from Clarence Street. The site is generally flat and contains a single storey dwelling and a garage and sheds located at the rear of the site. The site is bound to the south by Clarence Street and residential properties to the north, east and west. The surrounding area is generally residential, however there are a number of shops and service stations along its length and many previous dwellings are now being used for non-residential purposes, including dentists, doctors and physiotherapists. For example, previous dwellings in the immediate vicinity at 1a Ninabah Street and 250 Clarence Street are now being used for Consulting Rooms.

Following the advertising of the application, a timber fence has been erected on the shared boundary on the front part of the site between 270 and 272 Clarence Street.

#### **3.2. The Proposal**

The proposal is for a change of use to Consulting Rooms (Doctors Surgery) which includes alterations to the dwelling, carpark and signage. One full time and two part time medical practitioners, which are the equivalent of 2 full time practitioners, will be employed at any one time. The opening hours are proposed to be 7am to 6pm Monday – Friday.

10 car parking spaces are proposed on site with 8 spaces located at the rear of the building, including one disabled space, and 2 spaces located in front.

Changes to the building consist of the following:

- a new ramp and entrance from the car park at the rear of the site,
- fully enclosing the existing semi enclosed room located on the northwest corner of the dwelling with new rendered walls in a colour to match the existing dwelling;
- A minor extension to existing bathroom wall on the eastern elevation to 2.8m from the eastern boundary;
- Relocate the existing front door; and
- Internal alterations to the existing kitchen and bathrooms.

Signage is proposed as follows:

- One 3m wide x 1m high sign on the eastern elevation; and
- One 2m wide x 1.75m high on a 2m high pole located on the southern boundary.

#### **4. PLANNING ASSESSMENT**

##### **4.1. Planning Policy Framework [Section 2]**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3 (a)(ii) Residential Land Use. In particular, the key objectives and strategies include:

##### **2.2.3(ii) Residential Land Use**

##### **Objectives:**

*“To protect the safety and amenity of residential areas adjacent to sensitive or conflicting land uses and environments”.*

References to these principles are also contained in the discussion below.

**4.2. General Decision Requirements {Section 3.3.1}**

The relevant General Decision Requirements of this part are:

- “(a) General requirements:*
  - (iv) The Purposes of the Zone.*
  - (v) The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
  - (vii) Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*
- (b) Amenity requirements:*
  - (i) The character of the locality, the existing and future amenities of the neighbourhood.*
- (c) Infrastructure requirements:*
  - (v) The capacity of the existing streets and roads in the locality and the effect of the development on such capacity; and*
  - (vi) The provision of access, loading, parking and, and manoeuvring of vehicles.*
- (d) Design suitability requirements:*
  - (ii) The position and scale of buildings in relation to boundaries or to other buildings, their density, character, height and harmony in design of facades.*
- (e) Environmental requirements:*
  - (iii) The compatibility of the development on surrounding land uses”.*

**4.3. Zone**

The subject property is located within the Residential Zone, the relevant parts of the Purpose are:

- “(c) To allow for a limited range of community and other non-residential uses to serve local community needs”.*

The proposal is required to comply with the Use and Development Standards of the Zone which are detailed in the following table.

**Table 1: Assessment against the Zone use and Development Standards (Variation to a Permitted Standard requires Exercise of Discretion)**

	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
<b>Setbacks</b>			
<b>Front</b>	4.5m	8.5m (existing)	Yes
<b>Rear</b>	2.5m	18m	Yes
<b>Side (E)</b>	2.5m	2.8m	Yes
<b>Side (W)</b>	2.5m	3.4m (to existing dwelling  5.7m to new wall	Yes
<b>Height</b>	7.5m	4.5m (existing)	Yes
<b>Site coverage</b>	40% (290m <sup>2</sup> )	140m <sup>2</sup>	Yes

The proposal complies with all Use and Development Standards.

The proposal must also be assessed against the relevant Specific Decision Requirements of the Zone as follows:

*“(i) Development should be of domestic scale and maintain existing significant views from surrounding area”.*

The proposed change of use and minor additions to the existing dwelling will not have a detrimental impact on views from the surrounding area. The location of the majority of the car parking at the rear of the site maintains the domestic appearance of the development although the use becomes non-residential.

*“(k) Non-residential use and development should respect the residential amenity of the area”.*

The area is generally residential, however as Clarence Street is a main collector road between Bellerive and Howrah there are a number of sites containing similar businesses shops, and service stations along its length. Many dwellings are now being used for purposes other than residential as has been described previously.

The business is proposed to operate only on weekdays which will assist in protecting the residential amenity of the area. While the proposed operating hours are from 7am to 6pm, the applicant has advised that the bulk of the patients will be visiting the site from 8.30 to 5pm. It is considered that the operating hours are not unreasonable and will not have a significant detrimental impact on the amenity of the neighbouring properties.

*“(l) Sufficient car parking should be provided on site to meet differing levels of residential, service and recreational needs. Safe and convenient access is to be provided to all parking areas”.*

Car parking is discussed at 3.4 of this report.

*“(m) Signage should be orderly, of good design and not detract from the appearance of the building on which a sign is displayed or the surrounding area”.*

The proposed signs are considered to be appropriate to the site and a condition should be included to require the developer to maintain the signage in a good condition. However, it is considered appropriate that an additional advisory sign be provided to direct clients to the rear parking area.

- **Landscaping**

The site has existing landscaping which consists of mainly grass with some shrubs in front of the dwelling and grass and garden beds at the rear. However it is considered appropriate to require a landscaping plan for the site and particularly for the front of the site, to ensure that the appearance of the site is improved to offset the change of use.

#### **4.4. Specific Provision**

- **Car Parking**

Section 8.1.5 of the Scheme provides that car parking for Health Centre and Consulting Rooms be provided at a rate of 5 spaces to each practitioner with which the layout complies.

In order for the development to comply with the minimum parking requirements, it is recommended that a condition be included limiting the number of medical practitioners operating from the site, at any one time, to 2.

The car parking layout has been assessed by Council's development engineers and is considered to comply with the relevant Australian Standard. There were concerns from the applicants that the newly erected fence would cause safety issues for pedestrian and vehicles. Council's engineers have inspected the site and determined that the access, taking into account the new fence, complies with the relevant Australian Standards and therefore is satisfactory.

#### **4.5. Specific Provision**

- **Signage**

The proposed signs are subject to Section 8.2.7: Class 3 (High Amenity Areas) of the Scheme. The signs are defined as Business Identification Signs and Pole signs which are discretionary in these areas.

It is considered that the proposed sign on the wall complies with the Specific Decision requirements of Section 8.2 of the Scheme as they are appropriate for the site and will not have a detrimental impact on the amenity of the surrounding area or on traffic safety.

Although the pole sign is reasonably high at 3.175m above natural ground level, it is not considered to have a detrimental effect on the amenity of the area, given its location on a busy main road with other commercial properties in the vicinity. There are other pole signs or larger signs along Clarence Street.

#### **4.6. External Referrals**

The proposal was referred to TasWater who have provided permit conditions (TSDA 2014/01353-CCC).

## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 1 representation was received. The following issues were raised by the representor:

### **5.1. Loss of amenity**

Concern was raised that the proposed Consulting Rooms would result in a loss of amenity due to increased noise from cars and clients, and overlooking into the representor's property.

- **Comment**

The site is located on Clarence Street which is a busy collector road between Bellerive and Howrah. It is considered that the increase noise from the development will have a negligible impact on the amenity of the neighbouring property, given its location on Clarence Street, the background traffic noise and the mixed use character of the locality.

The shared boundary between the representors property and the subject site currently has a low timber fence on the northern half of the boundary. Since the advertising of the application, the representor has constructed a higher, timber fence on the first part of the boundary. The applicant has advised that they will increase the height of the fence to 2.1m to provide privacy to the neighbouring property, however, they would like the newer part of the fence tapered to allow for better sight distances.

Generally, issues between neighbours regarding boundary fences are a civil matter and property owners are advised to obtain their own legal advice. In this case, it is considered that as the proposal development is located within a residential area, the low height of the existing fence may result in a loss of amenity due to overlooking the neighbouring property from a commercial premise. Therefore, a condition to increase the height of the fence would be appropriate and is accepted by the applicant. It is recommended that a condition be imposed that a 2.1m high fence be constructed on the shared boundary to protect the privacy and amenity of the representor's property.



As discussed previously, the new fence does not affect sight distance for entering and exiting the site, although the respective neighbours would remain free to modify that part of the fence, referred to above, if they wish.

**5.2. Increase in traffic in Clarence Street and car park too small;**

Concern was raised that the proposal will increase traffic in the immediate area and that the car park is too small, causing congestion in the area.

- **Comment**

Taking into account existing traffic volumes in Clarence Street, the proposal will have negligible impact. As discussed above, there is adequate site distance and the car park complies with the Scheme.

**5.3. Potential need to prune conifer tree near property boundary**

Concern was raised that the proposal will result in the applicant wanting to prune the tall conifer tree planted near the boundary which will damage the appearance of the tree.

- **Comment**

The representors property contains a tall conifer tree located at the rear of the property. The applicant has advised that the tree will not be affected by the development, however, overhanging branches will be pruned if impeding the use of the carpark. In this case, as the tree is located on the representor's property the issue is not relevant to the application and is a civil matter between the neighbours, regardless of the change of use.

**5.4. Devaluation of property**

Concern was raised that approval of the proposal will result in the devaluation of the representors property

- **Comment**

This issue is not a relevant planning consideration under the Scheme.

**5.5. Suggestions of possible conditions if the application is approved**

The representor has requested that if the proposal is approved then the developer be made to increase the height of the boundary fence to 7 feet (2.1m), the conifer tree is to be left intact, a yellow no parking line be painted outside the dwelling and that the operating hours be adjusted to more suitable times.

- **Comment**

The maintenance of the tree is a civil matter and appropriate fencing can be conditioned. However, it is considered inappropriate to paint a yellow line denoting no parking outside the representor's dwelling. The roadside allows for public parking and is not allocated to the abutting property. In this case, it is considered that the development provides adequate parking to comply with the Scheme requirements, however, people would also be entitled to park safely on the roadside.

**6. STATE POLICIES AND ACT OBJECTIVES**

**6.1.** The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

**6.2.** The proposal is consistent with the objectives of Schedule 1 of LUPAA.

**7. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

There are no inconsistencies with Council's adopted Strategic Plan or any other relevant Council policy.

**8. CONCLUSION**

The proposal is for a change of use to Consulting Rooms (Doctors Surgery), which involves alterations and signage. The proposal is recommended for approval with conditions.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (5)  
3. Site Photo (1)






Ross Lovell  
**MANAGER CITY PLANNING**

# Attachment 1

Date: Thursday, 22 January 2015

## Location Plan - 272 Clarence Street

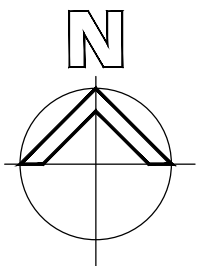
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	<b>Property</b>
	<b>Title</b>
	<b>Waterbodies</b>
	<b>Map Extents</b>



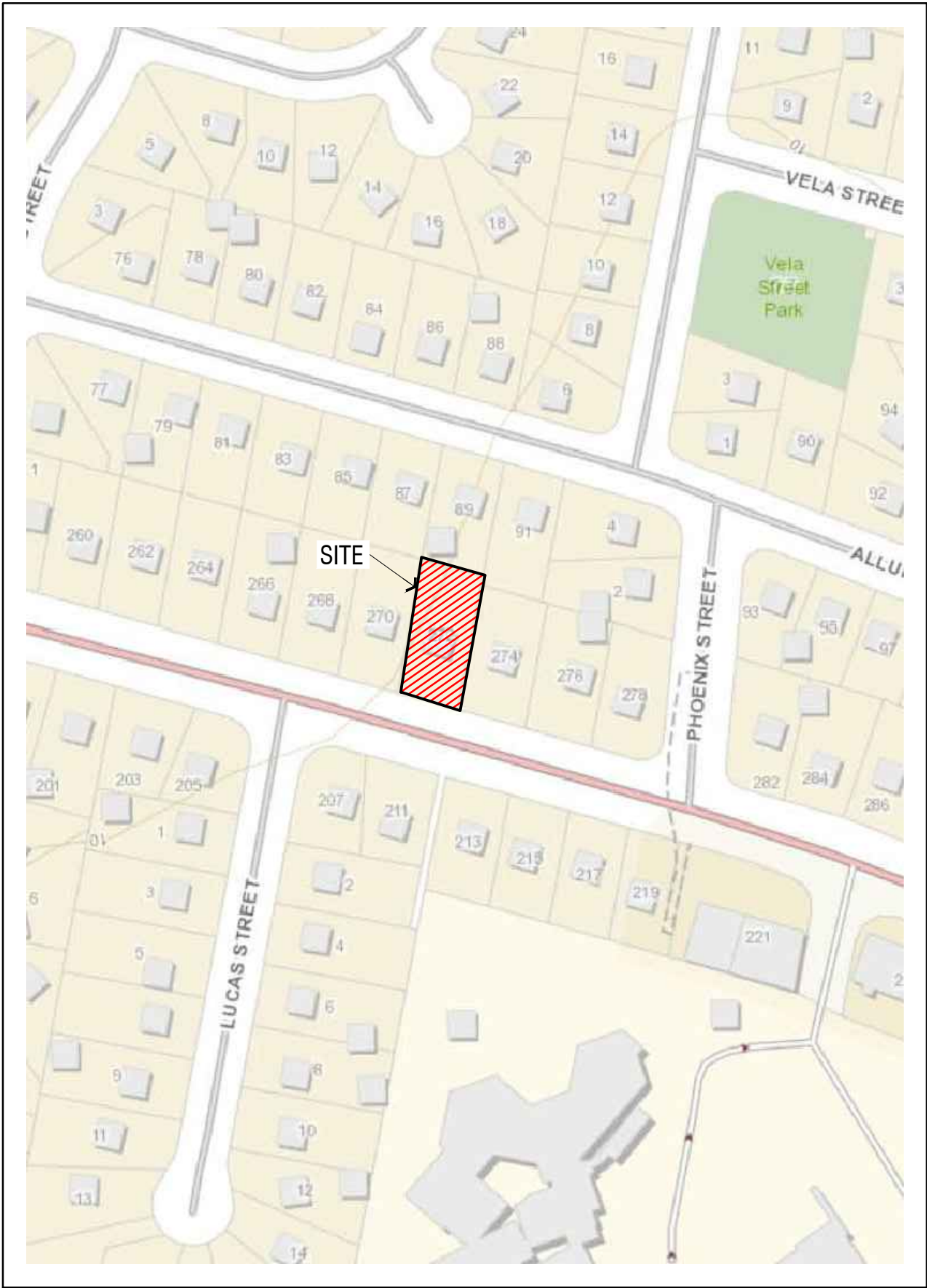
### Disclaimer:

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PROPOSED CONVERSION OF EXISTING RESIDENCE  
TO DOCTORS SURGERY  
AT 272 CLARENCE STREET, BELLERIVE

DRAWING NUMBER	DRAWING TITLE
214095-01	Existing Site Plan & Elevations
214095-02	Existing Floor Plan
214095-03	Existing & Proposed Site Plans
214095-04	Proposed Floor Plan
214095-05	Proposed Enlarged Floor Plan
214095-06	Proposed Elevations



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No.	Revision
A	DA Issue - 1/12/14

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ACN 115 998 724

Unit 1/ 2 Kennedy Drive  
Cambridge 7170 TAS  
Ph (03) 6248 5195

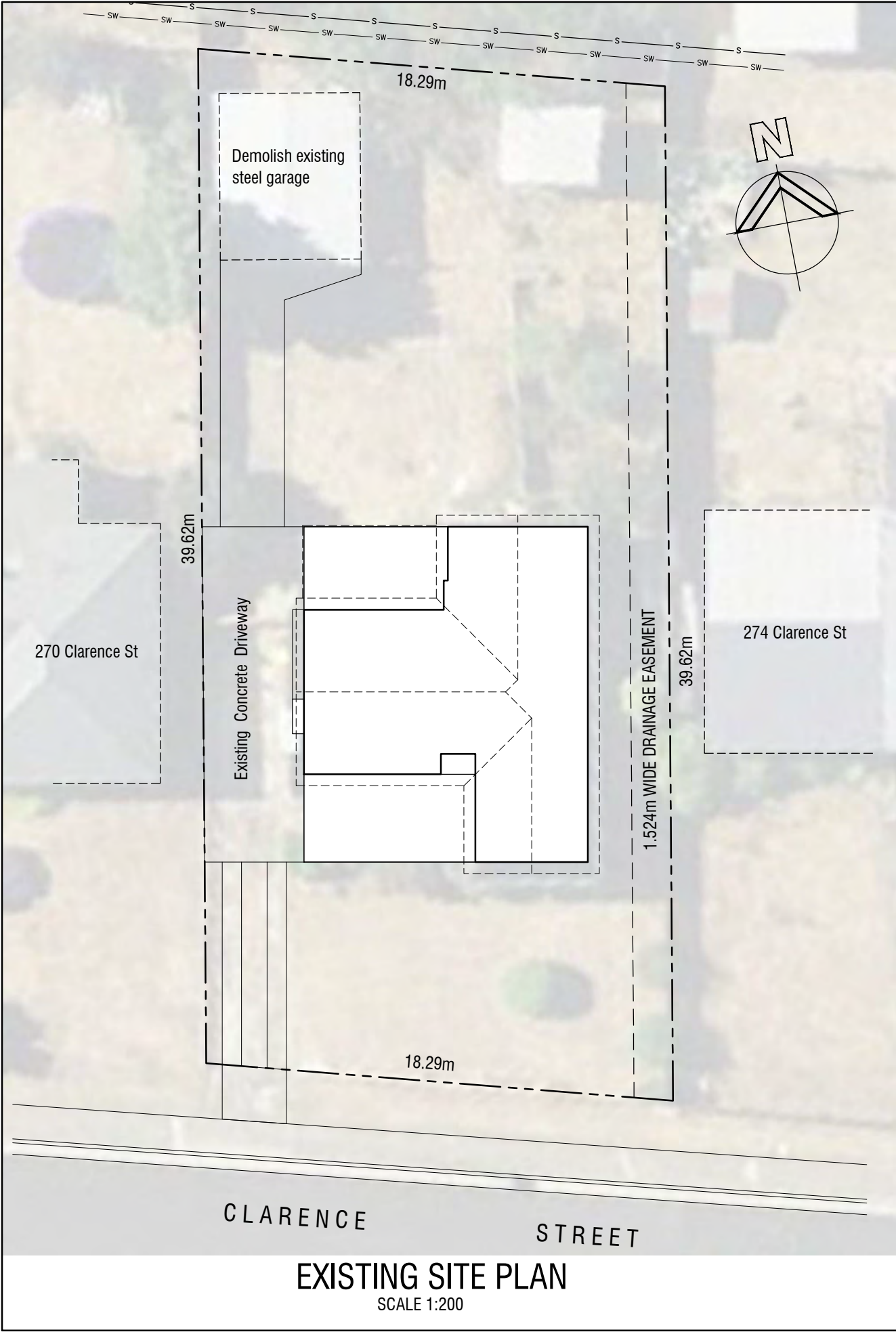
Building Practitioner  
Accreditation No.: CC2703F

PROJECT  
272 Clarence St, Bellerive  
Proposed Conversion of  
Existing Residence to  
Doctors Surgery  
SEA Assets Pty Ltd

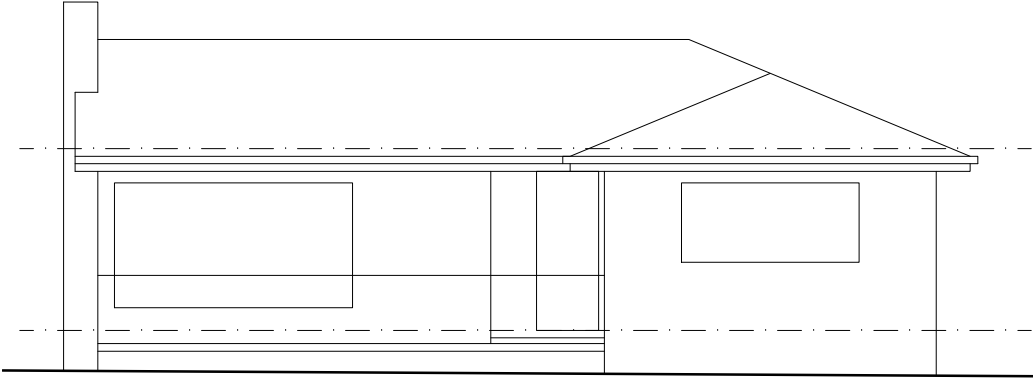
LOCALITY PLAN

SCALE NTS	
DRAWN PAH	CHECKED
DATE: DEC 2014	
DRG NO. 214095-00	REV A
SHEET OF A3	

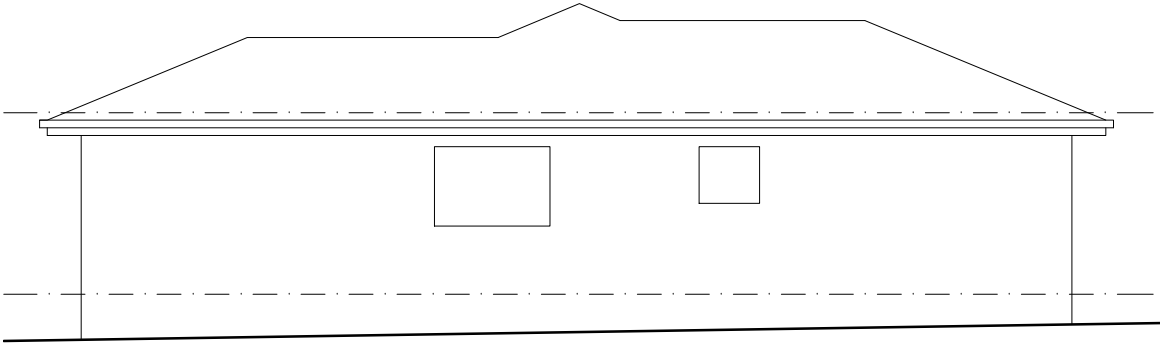




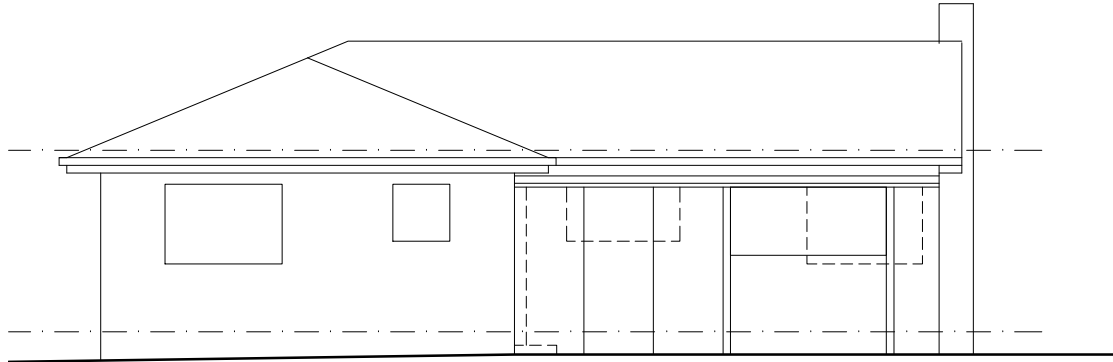
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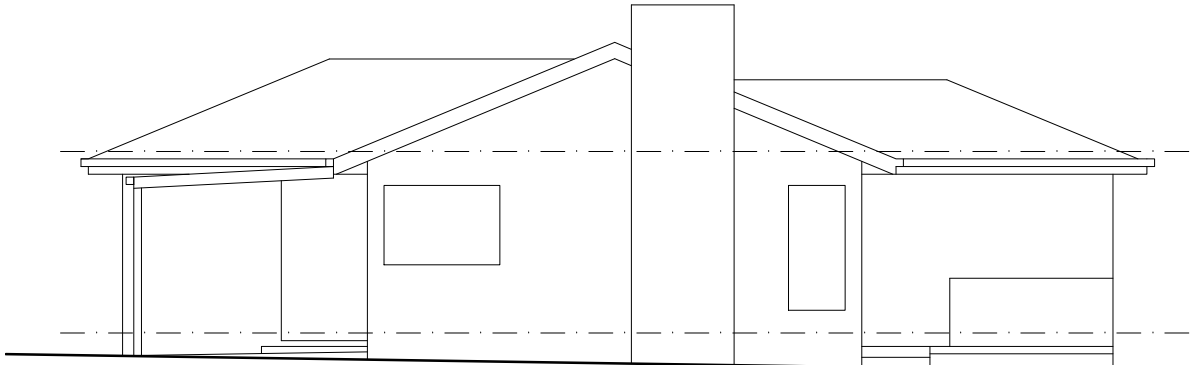
**South Elevation**  
SCALE 1:100



**East Elevation**  
SCALE 1:100



**North Elevation**  
SCALE 1:100



**West Elevation**  
SCALE 1:100

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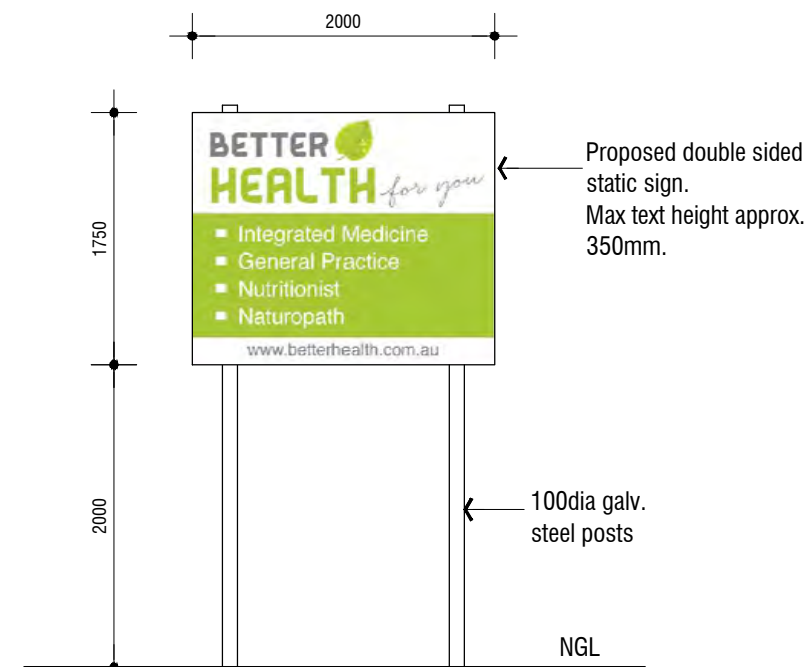
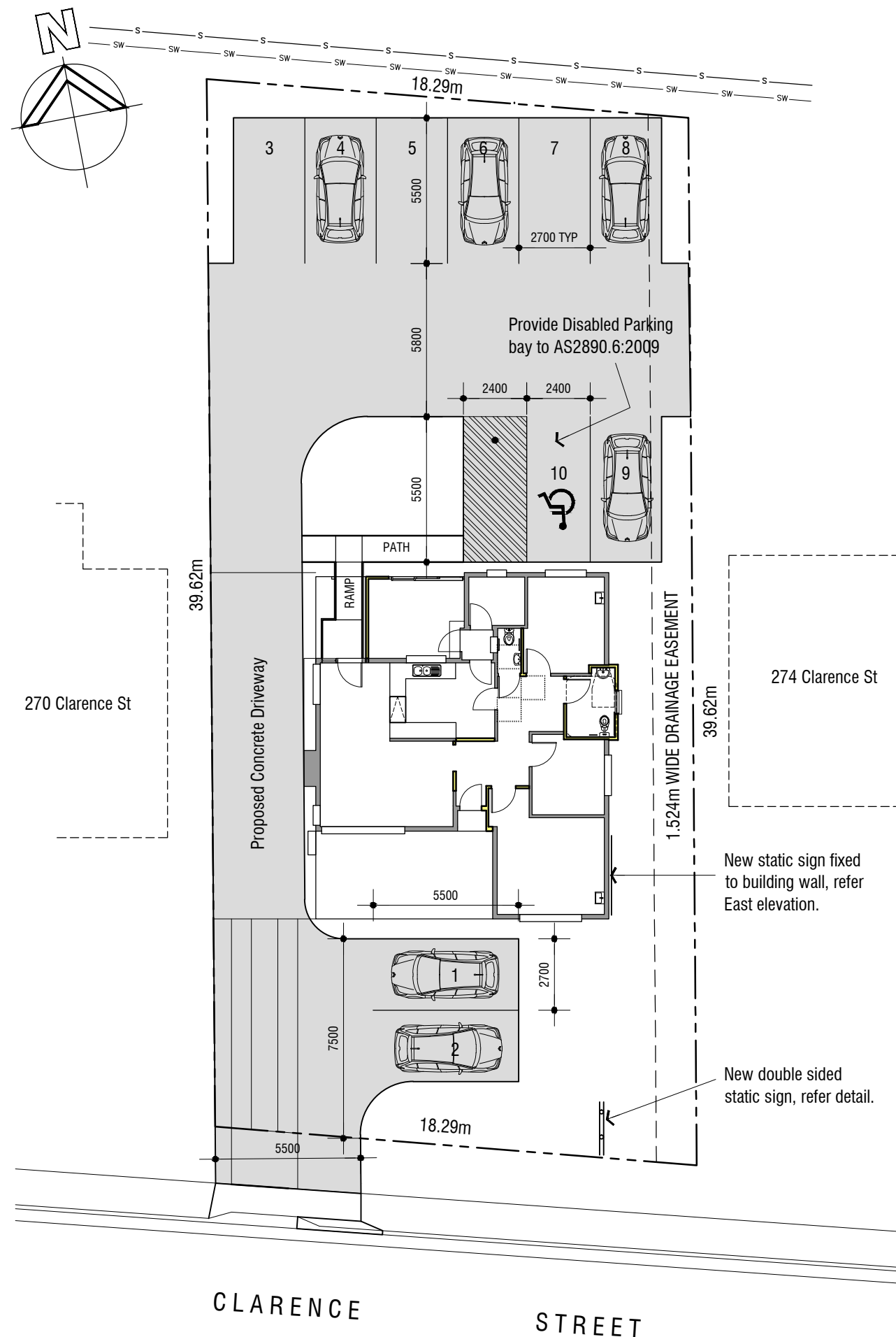
Unit 1/ 2 Kennedy Drive  
Cambridge 7170 TAS  
Ph (03) 6248 5195

Building Practitioner  
Accreditation No.: CC2703F

**PROJECT**  
272 Clarence St, Bellerive  
Proposed Conversion of  
Existing Residence to  
Doctors Surgery  
SEA Assets Pty Ltd

**Existing Site Plan &  
Elevations**

SCALE 1:200 & 1:100	
DRAWN PAH	CHECKED
DATE: DEC 2014	
DRG NO. 214095-01	REV A
SHEET Agenda Attachments - 272 Clarence Street - Page 3 of 7	OF A3



PROPOSED SIGN  
SCALE 1:50

TABLE 1. - Development Summary Table

SITE ADDRESS	272 CLARENCE ST, BELLERIVE
TITLE REFERENCE	CT55912/15
TOTAL SITE AREA	721 m <sup>2</sup>
PROPOSED USE	GENERAL HEALTH CENTRE DOCTORS SURGERY
CONSULTANTS	1 FULL TIME, 2 PART TIME
OPENING HOURS	7am to 6pm WEEKDAYS
PARKING SPACES PROVIDED	10 No.

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No.	Revision
A	DA Issue - 1/12/14

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Cambridge 7170 TAS  
Ph (03) 6248 5195

Building Practitioner  
Accreditation No.: CC2703F

PROJECT  
272 Clarence St, Bellerive  
Proposed Conversion of  
Existing Residence to  
Doctors Surgery  
SEA Assets Pty Ltd

Existing & Proposed  
Site Plans

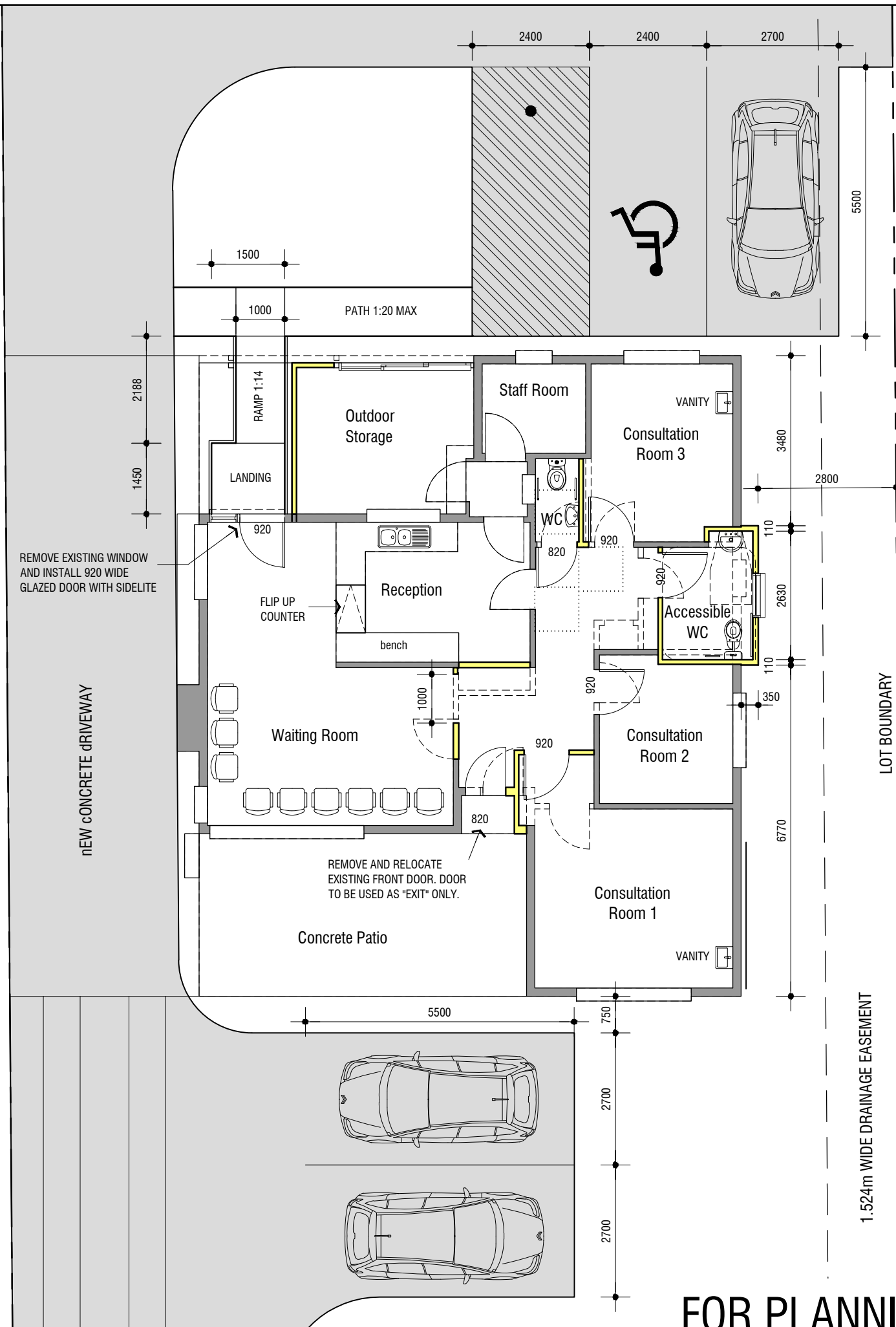
SCALE  
1:200

DRAWN	CHECKED
PAH	

DATE:  
DEC 2014

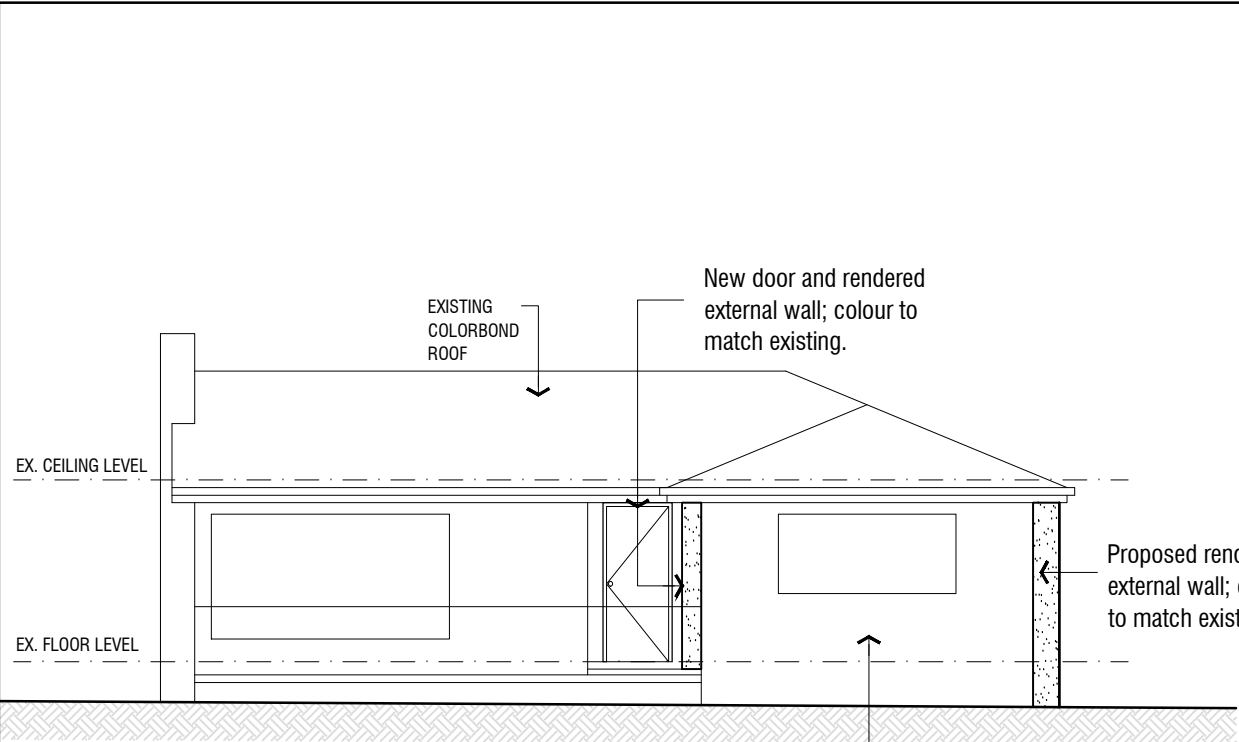
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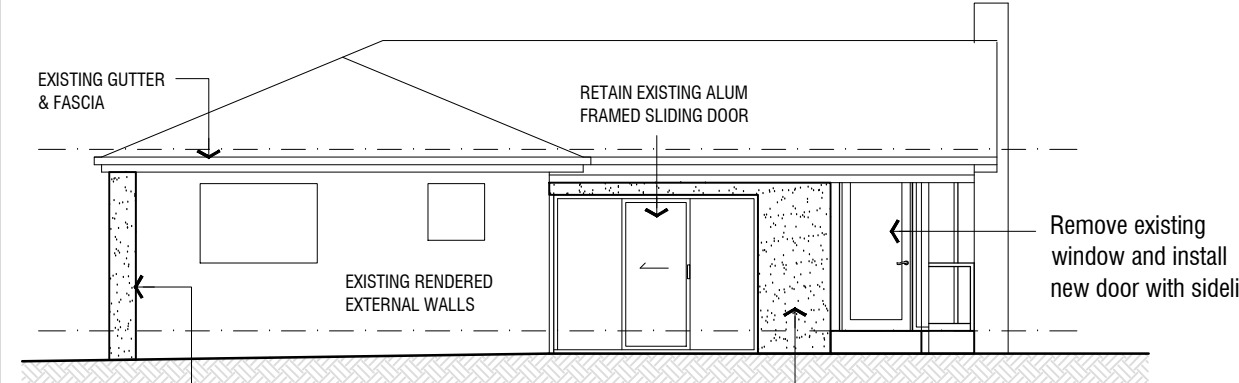


Agenda Attachments - 272 Clarence Street - Page 5 of 7

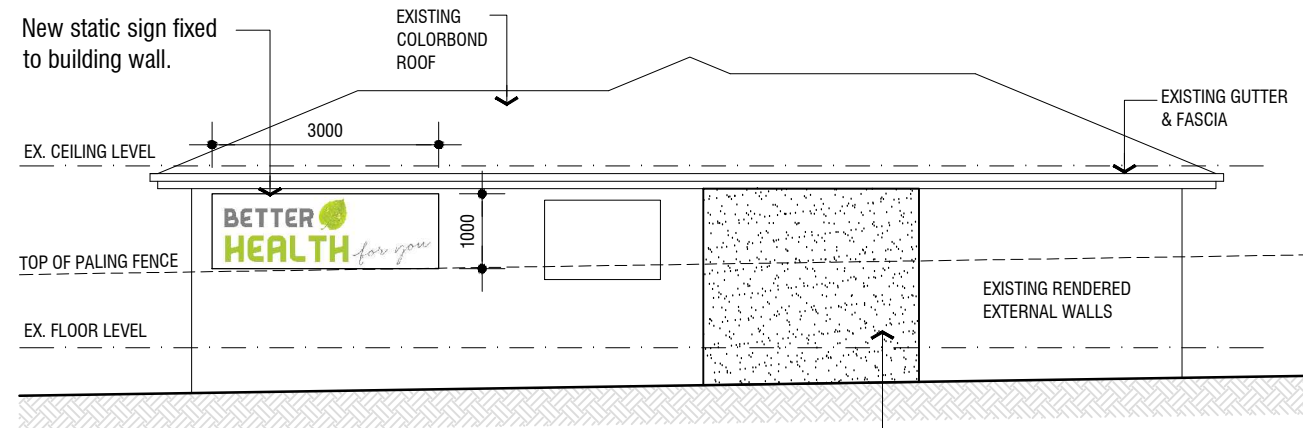
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ts - 272 Clarence Street - Page 5 of 7



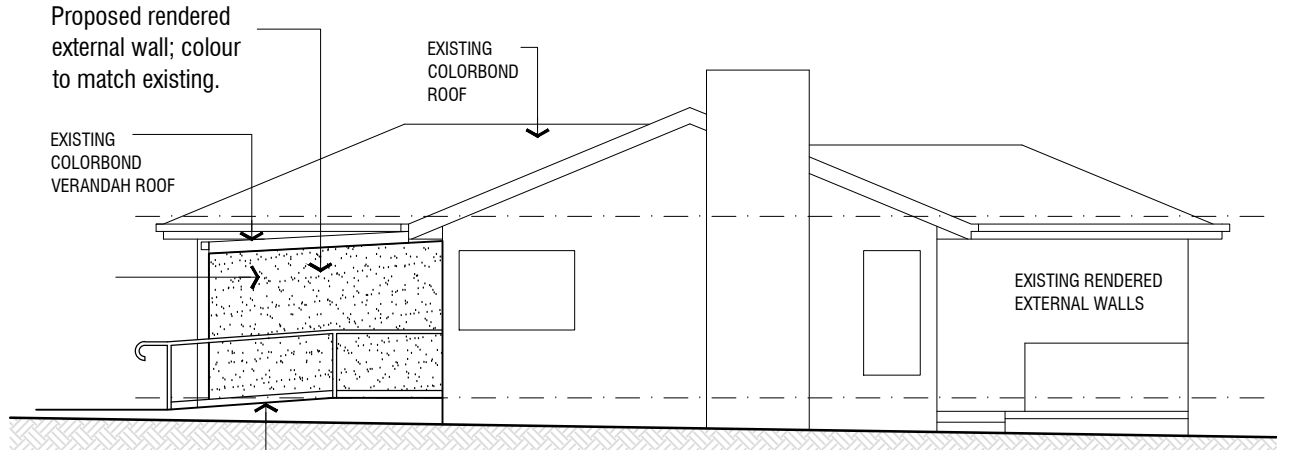
**South Elevation**  
SCALE 1:100



**North Elevation**  
SCALE 1:100



**East Elevation**  
SCALE 1:100



**West Elevation**  
SCALE 1:100

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No.	Revision
A	DA Issue - 1/12/14
B	New window deleted-12/12/14

**Henry Carr**  
design • Consulting  
ABN 91 115 998 724  
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Unit 1/ 2 Kennedy Drive  
Cambridge 7170 TAS  
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Building Practitioner  
Accreditation No.: CC2703F

PROJECT  
272 Clarence St, Bellerive  
Proposed Conversion of  
Existing Residence to  
Doctors Surgery  
SEA Assets Pty Ltd

Proposed Elevations

SCALE  
1:100

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PAH

CHECKED

DATE:  
DEC 2014

DRG NO.  
214095-06

REV  
B

FOR PLANNING APPROVAL ONLY



# Attachment 3

**272 Clarence Street, HOWRAH**



**Site viewed from Clarence Street.**

**11.3.3 SUBDIVISION APPLICATION SD-2014/33 - 26 MANNATA STREET, LAUDERDALE - 7 LOT PLUS BALANCE SUBDIVISION AND ASSOCIATED FILL**  
(File No. SD-2014/33)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 7 lot plus balance subdivision and associated fill at 26 Mannata Street, Lauderdale.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Residential and Rural Residential and subject to the Subject to Inundation overlay under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme the proposal is a discretionary development.

**LEGISLATIVE REQUIREMENTS**

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise discretion within the statutory 42 day period which has been extended to expire on 4 February 2014.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and one representation was received raising the following issues:

- timing of advertising; and
- stormwater.

The proposal was considered by the Clarence Tracks and Trails Committee who have requested a trail connection through the property to the adjacent Council owned land at 8b Bangalee Street.

**RECOMMENDATION:**

A. That the Subdivision application for 7 lot plus balance subdivision and associated fill at 26 Mannata Street, Lauderdale (Cl Ref SD-2014/33) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. GEN AP – AMENDED PLANS [decrease in the width of the proposed lot 2 by 3m, with the land between lots 2 and 3 provided to Council as a drainage reserve].
3. The proposed fill must not exceed a height of 2.7m AHD. The applicant is to provide a written certification, from a registered land surveyor, that the fill level does not exceed this height.

4. GEN POS4 – POS CONTRIBUTION [5%] [1-7].
5. Prior to the sealing of the final plan, all lots must be provided with a connection to a reticulated sewerage system.
6. PROP 3 – TRANSFER.
7. ENG A1 – NEW CROSSOVER [TSD-09] replace ‘3.0m wide’ with ‘3.6m wide’.
8. ENG M2 – DESIGNS SD.
9. ENG M5 – EROSION CONTROL.
10. ENG M7 – WEED MANAGEMENT PLAN.
11. ENG M8 – EASEMENTS.
12. ENG M9 – FILLING OF LAND.
13. ENG S1 – INFRASTRUCTURE.
14. ENG S4 – STORMWATER CONNECTION.
15. ENG S10 – UNDERGROUND SERVICES.
16. EHO 4 – NO BURNING.
17. The development must meet all required Conditions of Approval specified by TasWater notice, dated 26/09/2014 (TWDA 2014/00910-CCC).

- B. That the details and conclusions included in the associated report be recorded as the reasons for Council’s decision in respect of this matter.

**SUBDIVISION APPLICATION SD-2014/33 - 26 MANNATA STREET,  
LAUDERDALE - 7 LOT PLUS BALANCE SUBDIVISION AND ASSOCIATED  
FILL/contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

In May 2012 the Scheme was amended to implement the Lauderdale Structure Plan 2011 by rezoning land along the Mannata Street frontage from Rural Residential to Residential to accommodate the lineal infill of residential development between the established residential and commercial areas.

**2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned Residential and Rural Residential and subject to the Subject to Inundation overlay under the Scheme.

**2.2.** The proposal is for subdivision and land fill, which are discretionary within the zones. Subdivision of land along a zone boundary is also discretionary development under Cl. 3.1.4 and Cl. 3.6.1 of the Scheme.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 2 – Planning Policy Framework;
- Section 3.3 – General Provisions;
- Section 3.6 – Subdivision on Lots in more than one zone;
- Section 6 – Residential and Rural Residential Zones; and
- Section 7 – Subject to Inundation Overlay.

**2.4.** Council's assessment of this proposal should also consider the issues raised in any representations, the outcomes of the State Policies and the objectives of Schedule 1 of the Land Use Planning and Approvals Act 1993 (LUPAA).

### **3. PROPOSAL IN DETAIL**

#### **3.1. The Site**

The site is a 2.205ha lot on the southern side of Mannata Street, Lauderdale. The site is generally level and low lying, and is quite swampy in the north eastern corner following high rainfall events. There is no significant vegetation on the site, with the exception of several large gum trees adjacent to the eastern boundary, within the Rural Residential zoned portion of the site. The site has an open drain running at an angle through the western side. The drain is fed by a similar Council owned drain on the north side of Mannata Street.

#### **3.2. The Proposal**

Application is made for a 7 lot subdivision plus associated filling of the whole of the site.

The subdivision will see the creation of 7 residential zoned lots, the southern boundary of which correlates to the zone boundary. These lots will range in size from 651m<sup>2</sup> to 975m<sup>2</sup>. The balance of the site will be a 1.58ha lot, with 2 small residential zoned sections (one of which being the drainage easement for the existing open drain, and the other being the lot access).

It is also proposed to fill the site between 1.2m and 1.3m to a consistent level of 2.7m AHD. This fill level has been determined by engineering assessment of the site by the applicants.

### **4. PLANNING ASSESSMENT**

#### **4.1. Planning Policy Framework [Section 2]**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3 (a) (ii) – Residential Land Use. In particular, the strategies include:

- *“Promote good urban design for new residential areas, ensuring:*
  - *Higher densities can be supported where the character and amenity of the neighbourhood is not prejudiced and where the capacity of existing infrastructure allows.*

- *Ensure only appropriate forms of residential development in coastal areas that may be affected by climate change.*
- *Implementation of the Lauderdale Structure Plan 2011.”*

The Lauderdale Structure Plan is a long term spatial plan for the use and development of Lauderdale which amongst other things provides for the expansion of the residential area connecting South Arm Highway to Bayview Road; to coordinate development with the supply and connection of reticulated services; and to improve movement systems including public transport, bicycles and pedestrian access.

This proposal is consistent with the Lauderdale Structure Plan by providing for residential development along Mannata Street and references to these principles are also contained in the discussion below.

#### **4.2. General Decision Requirements {Section 3.3.1}**

The relevant General Decision Requirements of this part are:

*“(a) General Requirements*

- (iv) The Purposes of the Zone.*
- (v) The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
- (vii) Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*

*(d) Design suitability requirements:*

- (i) The size and shape of the parcel of land and whether it is subject to potential hazards.*

*(f) Subdivision requirements*

- (i) The suitability of the land for subdivision.*
- (ii) The existing use and potential for future development of the land and its surrounds.*
- (iii) The subdivision pattern having regard to the physical characteristics of the land including existing vegetation, natural drainage paths and significant stormwater catchment areas.*
- (iv) The density of the proposed development.*
- (v) The size and shape of each lot in the subdivision.*
- (vi) The layout of roads having regard to their function and relationship to existing roads.*
- (vii) The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.*
- (xi) The availability and provision of utility services.*

The proposed subdivision is within an area identified in the Lauderdale Structure Plan as suitable for residential expansion. Like the bulk of Lauderdale, there are physical constraints, but the key issues of inundation and drainage can be resolved with appropriate engineering designs. Whilst the capacity of the existing stormwater drainage system and the lack of a reticulated sewerage system has previously limited housing opportunities in the area, Council has prepared a stormwater development plan based on the JMG Lauderdale Stormwater Drainage Assessment Report and TasWater has advised that a pressure sewer service can now be constructed to service the proposed residential lots.

References to the above principles are also contained in the discussion below.

#### **4.3. Zoning**

The site is subject to multiple zoning as the boundary of the Residential and Rural Residential zones runs parallel to Mannata Street, ranging between 37m - 40m into the depth of the lot.

Clause 3.6.1 of the Scheme provides that land may be subdivided along the zone boundaries however any sub minimal lot so created may not be the subject of residential development. The proposed sub-minimal balance lot will contain an existing dwelling, however as discussed below, the subdivision may be considered as Cl. 6.3.3(b)(i) specifically provides for residential development on sub minimal Rural Residential lots abutting Ringwood Road and Mannata Street which are identified in the Lauderdale Structure Plan.

#### **Residential**

The purpose of the Residential zone is to provide for a variety of accommodation types to meet the needs of all households.

Section 6.1 provides Use and Development Standards for subdivision in the Residential Zone. Assessment of the proposal indicates that the development complies with all relevant standards as summarised in the table below.

	<b>Required</b>	<b>Proposed</b>	<b>Comments</b>
Lot size	400m <sup>2</sup>	Lots range in size from 651m <sup>2</sup> to 975m <sup>2</sup>	complies
Dimensions of lots	Minimum 3.6m frontage.  Lots greater than 550m <sup>2</sup> to contain an 18m diameter circle clear of easements, the front setback and any title restrictions.	Each lot provides a minimum frontage between 12.59m and 29.18m  All lots are able to contain the requisite circle clear of the front setback and title restrictions.	complies
Services	All lots must be connected to reticulated water and sewerage services, or capable of providing on site water supply and waste water system.	TasWater has provided conditions, requiring that the lots be provided with a water and sewer connection.	complies

In summary, the proposal complies with the Use and Development Standards for the Zone. The following Specific Decision Requirements under Cl. 6.1.5 are relevant for consideration:

*(e) Lot sizes should be varied to suit differing levels of residential, service and recreational needs.*

The proposed residential lots range in size from 651m<sup>2</sup> to 975m<sup>2</sup> in area and are relatively regular shapes, suitable for a variety of residential and service needs.

*(f) Street construction and design is to provide safe and convenient movement for traffic and pedestrians.*

The Lauderdale Structure Plan recommends that to improve networks for cyclists and pedestrians moving around Lauderdale, a shared pedestrian/cycle way should be provided along the northern side of Mannata Street in order to provide a connecting bike route between the South Arm Highway and Bangalee Street (which currently exists, but will require upgrading at some stage in the future to a width better suited to higher volumes of users). The Structure Plan further recommends that, in addition to this multi-user path, a footpath is provided on the southern side of the road.



The location is also identified within the Tracks and Trails Register as a possible future trail link. Council's engineers have identified that it is appropriate to require a continuation of the curb and gutter and the footpath which extends from the junction of Bangalee and Mannata Streets to terminate near the eastern property boundary of the subject site. This proposal is discrete from the other approved subdivision on the southern side of Mannata Street in that it will provide a logical, sequential continuation of this infrastructure, ensuring connectivity and functionality for users of the footpath extension, as well as appropriate stormwater drainage given its proximity to the open drain through the subject site.

*(u) Subdivision should ensure that based on a 1 in 100 year event natural drainage paths and significant stormwater catchment areas are protected from inappropriate development. This relates to development within drainage lines which may impede, restrict or adversely affect natural drainage flows.*

A report was provided in accordance with Cl. 3.2.1(e) of the Scheme identifying the engineering measures necessary to ensure that the natural drainage of the catchment is not compromised by the proposal. Council engineers have reviewed the report and are satisfied that the proposed works adequately protect the catchment based on a 1 in 100 year event.

### **Rural Residential**

Section 6.3 provides Use and Development Standards for subdivision in the Rural Residential Zone. Assessment of the proposal indicates that the development complies with all relevant standards as summarised in the table below.

	<b>Required</b>	<b>Proposed</b>	<b>Comments</b>
Lot size	The minimum lot size of 2ha is overridden by Cl. 3.1.6 which permits subdivision along a zone boundary. Cl. 6.3.3(b) provides that sub-minimal lots abutting Mannata Road and identified on the Structure Plan may be developed for residential purposes.	A balance lot with an area of 1.58ha, of which approximately 1.53ha is zoned Rural Residential.	complies
Dimensions of lots	All lots including the balance must have a minimum frontage of 6m	The balance lot has a minimum frontage of 7m.	complies
Services	All lots must be connected to reticulated services, or capable of providing on site treatment for waste water.	TasWater has provided conditions, requiring that the lot be provided with a water and sewer connection.	complies

In summary, the proposal complies with the Use and Development Standards for the Zone.

#### **4.4. Subject to Inundation Overlay**

The purpose of the Subject to Inundation Overlay is to promote sustainable catchment management practices and preclude development that will affect flood flow or be affected by flood water in a way detrimental to other property.

The site is predominately within the SI(S2050) mapping of the Lauderdale: Ralphs Bay area, with a portion along the north-eastern side boundary within the SI(S2100) area. Subdivision is not development which is exempt from the permit requirements of the overlay. An engineer's report was provided addressing the relevant Specific Decision Requirements under Cl. 7.2.5 of the overlay, which are as follows:

*(a) Mitigation measures should be sufficient to ensure habitable buildings will be protected from flooding, and in the case of coastal flooding, will be able to adapt as sea levels rise.*

The permitted minimum finished floor level for the habitable rooms of new dwellings under the overlay is 3.2m AHD. In accordance with the recommendations of the Lauderdale Structure plan, the applicant has proposed to fill the entire application site to a ground level of 2.7m AHD. This will enable any future dwelling development of the created lots to achieve the minimum finished floor levels for the area with minimal site works or building elevation.

*(b) Any mitigation measures should also protect any protected environmental values and use of the coast, water body or catchment.*

The proposal will not impact any protected environmental values or the use of the coast as the development proposes to direct site drainage to an upgraded drain in accordance with the recommendations of the JMG Lauderdale Drainage Assessment.

*(c) Any land fill must not adversely affect flood flow over any other property through displacement of overland flows; the rate of stormwater discharge from the property must not increase; and stormwater quality must not be reduced from the pre-development levels.*

The engineers report identifies it would be appropriate to fill the entire application site, increasing the surface level be up to 1.5m above that which currently exists, resulting in an average surface level of 2.7m AHD. A permit condition should require any landfill to be undertaken in accordance with the endorsed plans and to be completed prior to the sealing of the final survey plans, with written confirmation of the levels from a registered surveyor.

*(e) All development within the areas shown as SI(S2050) and SI(S2100) where a discretionary development application is required must demonstrate the following;*

*(i) Any habitable areas of a dwelling or non-residential development will not be subject to inundation whether achieved by the elevation of the floor levels, form of construction, ability of the building to be raised as sea levels rise over a period or other substantiated means.*

The application is for subdivision to create 7 vacant residential lots only. Any subsequent proposal for development will need to demonstrate they comply with the Overlay.

*(iv) That access to the site or development will not cause an unreasonable risk to the life of the users of the site or damage to property.*

Access points to all lots will be via Mannata Street and will not cause unreasonable risk to the life of users of the site or damage to property.

In summary the application satisfies all requirements of the Subject to Inundation Overlay.

#### **4.5. External Referrals**

The proposal was referred to TasWater, who have provided conditions to be added to a permit, should one be granted.

#### **4.6. Clarence Tracks and Trails Committee Recommendations**

The Clarence Tracks and Trails Committee has provided feedback on the proposal indicating a desire for a trail network through the application site (see attachment 4 for desired location). It has proposed a preferred location which would bi-sect the Rural Residential zoned balance lot.

- **Comment**

The feedback received from the Tracks and Trails Committee does not accord with the adopted Tracks and Trails Strategy, or with the Lauderdale Structure Plan. As such, it is not explicitly identified in any of Council strategies. Notwithstanding this, subject to a merits based assessment, relating to demand and trail suitability, it could potentially be supported through the principles established in the Public Open Space (POS) Policy.

Both the Tracks and Trails Strategy and the Lauderdale Structure Plan recognise the need for a trail connection from Ringwood Road, along Mannata Street, to Bangalee Street. This has led to the provision of road widening, as appropriate, along Mannata Street to ensure adequate width in the road reservation to accommodate a safe and useable trail.

However, either of the Tracks and Trails Committee's proposed alignments poses problems for both the future use of the requested trail, and that of the created Rural Residential lots they will encroach upon.

The Committee's first preference would see the Rural Residential lot bisected by a public walkway. This would severely reduce the useability of the space, and the amenity for the future lot owners in relation to privacy and noise once a house has been constructed on the lot. It could also prejudice any future development potential.

The Committee's second preference would follow the rear of the created Residential lots to the north eastern corner of the site, then turn south and continue to the boundary with 8b Bangalee Street. This would likely result in high fencing to either side of the trail, contrary to CPTED guidelines, to ensure adequate privacy and amenity for the surrounding residences. In turn, this would result in an unsafe corridor, with too many bends to enable passive surveillance from surrounding dwellings and streets. Due to the bends in the trail, it would also appear as a private pathway to users, and therefore unlikely to be adequately utilised to justify its creation.

As such, the request of the Tracks and Trails Committee is not considered supportable through the general principles established in councils POS policy.

The Lauderdale Structure plan also identifies a ‘green belt’ which follows the drainage reserve. As there is uncertainty regarding the future development of the balance of the land, it is not appropriate for council to obtain the full length of the ‘green belt’ through the property at this time. However, it is appropriate to acquire the portion of the identified ‘green belt’ which is within the Residential zoned portion of the subject site at this time. Accordingly, to ensure maximum versatility for creation of a ‘green space’ at a later date, and an appropriate maintenance corridor for the drainage reserve (as it is currently proposed to be as wide as the constructed drain, with no capacity to access the drain without entering it) it is necessary to increase the width of the drainage reserve by an additional 3m to accommodate service vehicles and equipment should they be required. It is also considered appropriate to require this portion of the site to be transferred to Council as a drainage reservation through this application, rather than allowing it to be retained as part of the balance lot.

This proposal will facilitate a connection to the existing footpath which extends from the Council owned land at 8b Bangalee Street, around the corner into Mannata Street, and terminates at the eastern end of the subject site, which is considered to provide adequate safety and amenity for trail users.

Accordingly, engineering requirements have been included in the proposed permit conditions which will require the footpath that already exists to be extended, with curb and gutter and urban vehicle crossovers for the entire width of the frontage of the subject site.

## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and one representation was received. The following issues were raised by the representor:

### **5.1. Timing of Advertising**

The representor has indicated their belief that the advertising deliberately occurred over the Christmas period to limit or restrict the capacity to review all of the documentation available in relation to the proposal.

- **Comment**

Advertising, and indeed the determination of a proposal, are governed by the statutory timeframes imposed by LUPAA. Accordingly, Council has an obligation to advertise a proposal as soon as practicable once all of the necessary information has been received. As such, the application was advertised over the Christmas period. However, rather than a deliberate ploy, it is an unfortunate necessity to ensure that Council's statutory obligations are met.

### **5.2. Stormwater**

The representor is concerned that the proposed filling of the land will result in damming of water to the northern side of the application site, resulting in flow on effects of flooding for adjacent properties. The representor has sought confirmation that sufficient modelling and study of the stormwater implications from this proposal have been undertaken and provided to Council for assessment. They further seek confirmation that the proposed filling will not cause detriment to their property which is nearby, on the other side of the road.

- **Comment**

The application was accompanied by an engineering report which indicated that there will be no measurable effect on nearby properties from changes to overland flows in storm events resulting from the filling of the application site. Council engineers have reviewed this report and are satisfied that the methodology in reaching this finding is sound, and therefore accept the finding of the report.

**6. STATE POLICIES AND ACT OBJECTIVES**

**6.1.** The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

**6.2.** The proposal is consistent with the objectives of Schedule 1 of LUPAA.

**7. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

There are no inconsistencies with Council's adopted Strategic Plan or any other relevant Council policy, including the Tracks and Trails Strategy which is discussed above.

The subject site will form an extension of an existing urban area and will be afforded the highest level of access to both local and regional recreational opportunities. It is considered that the development resulting from an approval of this application will, or is likely to, increase residential density creating further demand on Council's POS network and associated facilities.

No POS land is proposed to be provided to Council as part of this application and, for the reasons previously stated, nor is it considered desirable to require it on this occasion. Notwithstanding, it is appropriate that the proposal contributes to the enhancement of Council's POS network and associated facilities. In this instance there are no discounting factors that ought to be taken into account that would warrant a reduction of the maximum POS contribution.

While Section 117 of the Local Government Building and Miscellaneous Provision Act 1993 (LGBMP) provides for a maximum of up to 5% of the value the entire site to be taken as cash in lieu of POS, it is considered appropriate to limit the contribution only to each additional lot created, representing the increased demand for POS generated by the proposal and not the entire site the subject of the application.



**8. CONCLUSION**

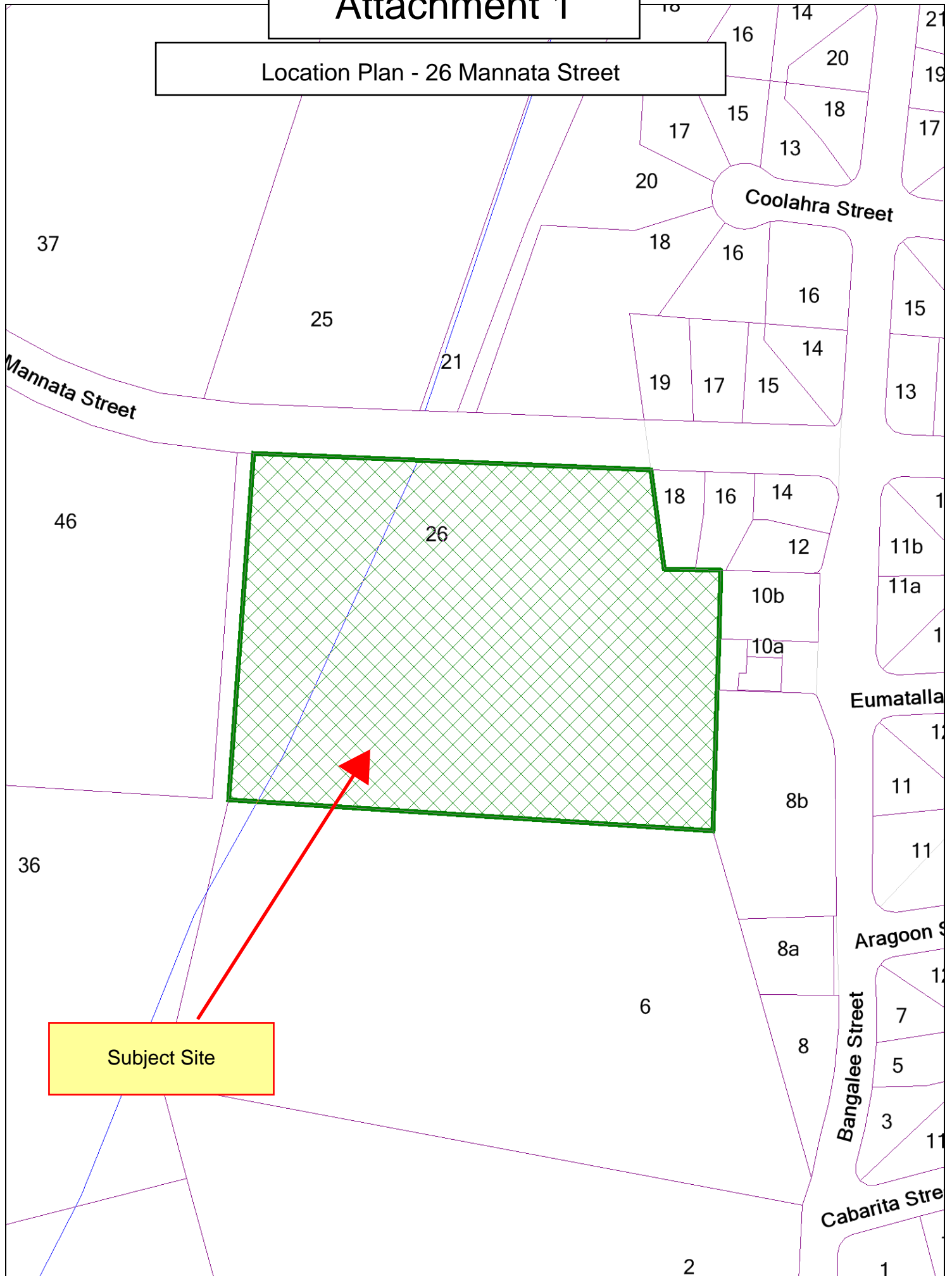
The proposal is for a 7 lot subdivision, plus balance and associated filling of the land to facilitate future residential development. The proposal is consistent with Scheme requirements and is therefore recommended for conditional approval.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (1)  
3. Site Photo (1)  
4. Tacks & Trails Committee Desired Trail Connection (1)

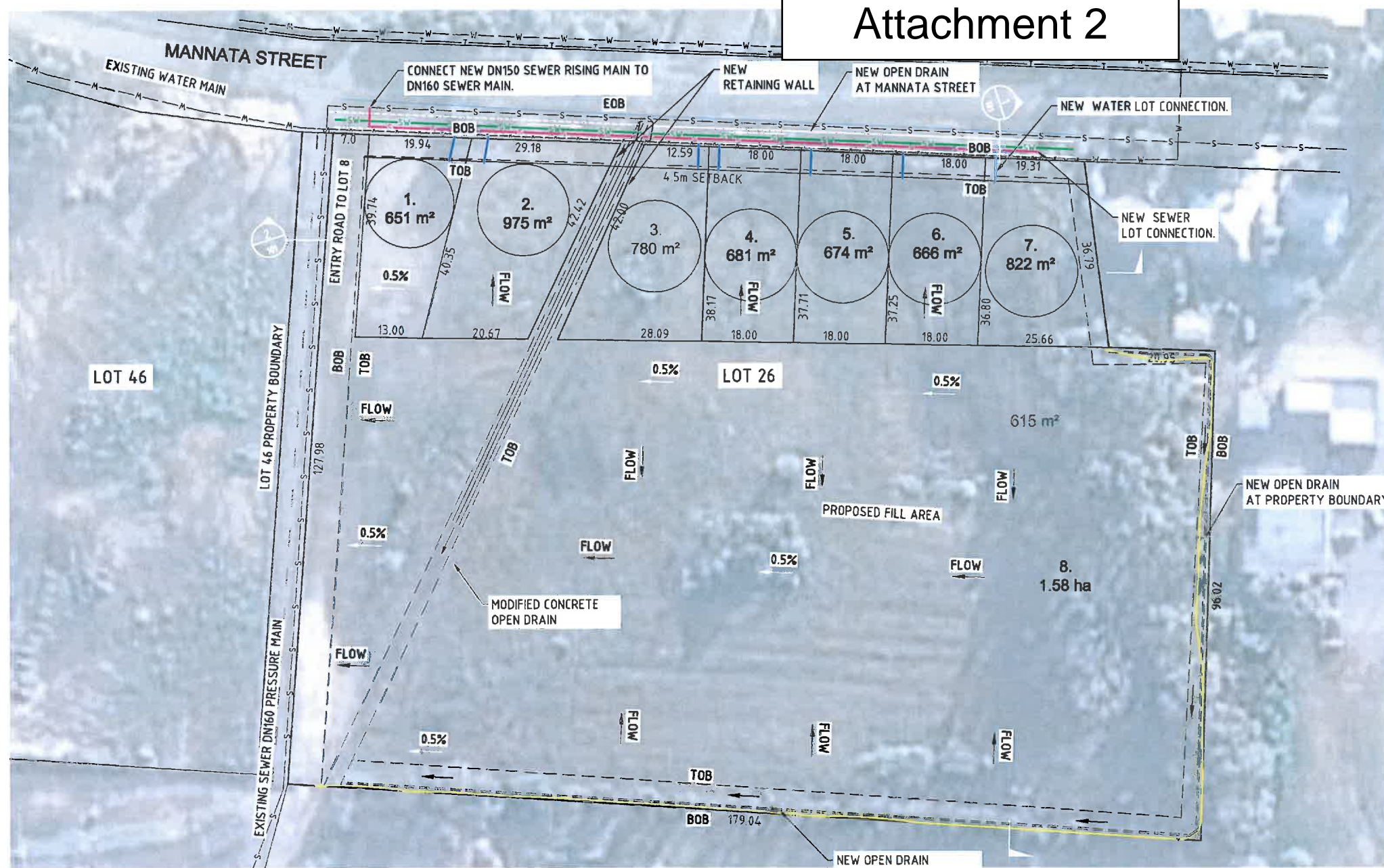
Ross Lovell  
**MANAGER CITY PLANNING**

Attachment 1

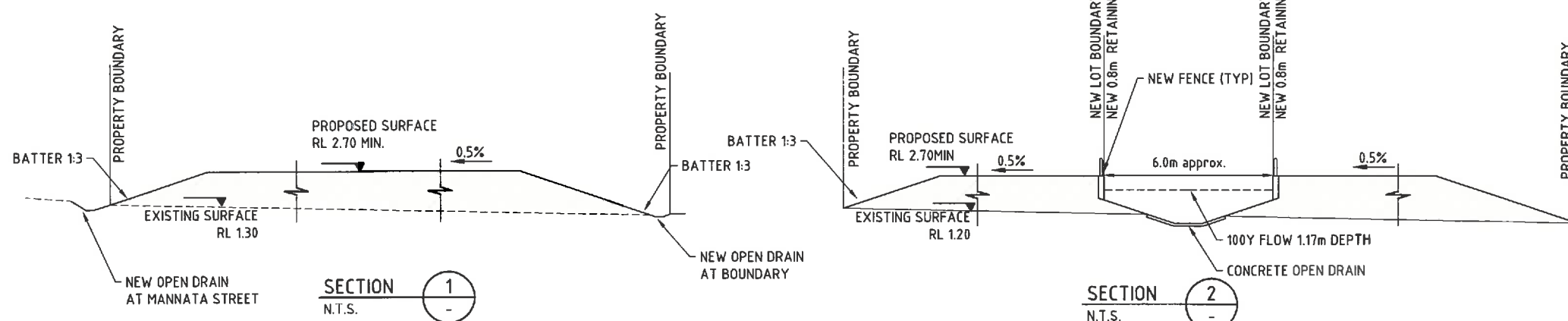
Location Plan - 26 Mannata Street



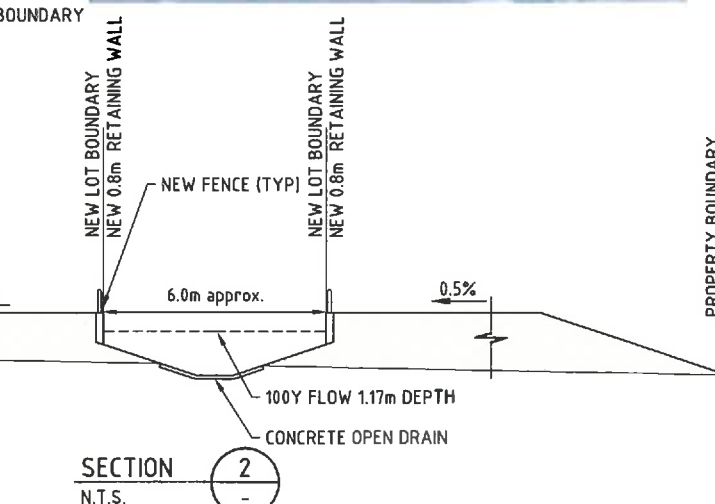
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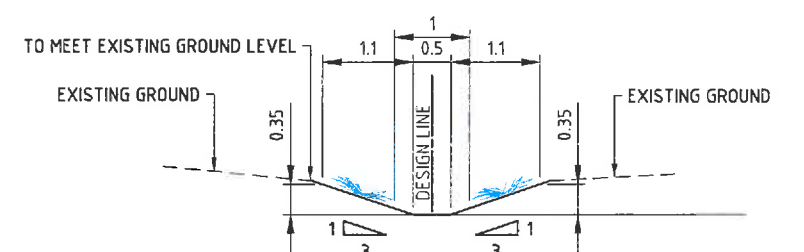
PLAN VIEW  
SCALE 1:1000



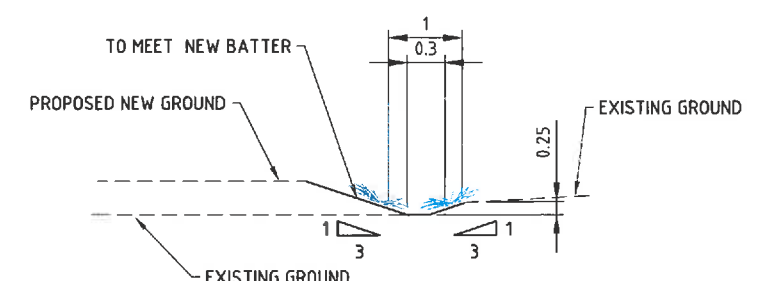
TYPICAL CROSS SECTION OF FILL



TYPICAL CROSS SECTION OF FILL



TYPICAL CROSS SECTION OF OPEN STORMWATER DRAIN  
AT MANNATA STREET  
SCALE 1:100



TYPICAL CROSS SECTION OF OPEN STORMWATER DRAIN  
AT PROPERTY BOUNDARY  
SCALE 1:100

REFERENCE FILES ATTACHED: HB13200-X900

DRAWING REVISION HISTORY		DRAWN	DESIGNED	REVIEWED	DATE
No.	DESCRIPTION				
F	CHANGES AS PER CLIENT REQUEST	M. MOLLER	M. MOLLER	R. CASSIDY	13.06.2014
E	CHANGES AS PER CLIENT REQUEST	M. MOLLER	M. MOLLER	R. CASSIDY	06.06.2014
D	ENTRY ROAD DIMENSION TO LOT 8 <b>CHANGED</b>	M. MOLLER	M. MOLLER	R. CASSIDY	02.06.2014
C	CHANGES AS PER CLIENT REQUEST	M. MOLLER	M. MOLLER	R. CASSIDY	29.05.2014
B	CHANGES AS PER CLIENT REQUEST	M. MOLLER	M. MOLLER	R. CASSIDY	27.05.2014
A	CHANGES AS PER CLIENT REQUEST	M. MOLLER	M. MOLLER	R. CASSIDY	20.05.2014
		M. MOLLER	M. MOLLER	R. CASSIDY	30.04.2014

SCALE  
(PLOTTED FULL SIZE)

AS SHOWN (A3)

**SHEET SIZE**  
**A3**



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CLIENT	
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SUI TAN HOLDINGS PTY LTD

PROJE	
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26 MANNATA STREET  
LAND DEVELOPMENT

STAT

## PRELIMINARY

DRAWING TITLE
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## PROPOSED SERVICES AND LAND FILL PLAN LAYOUT

DATUMS: AHD / MGA PLANE

CLIENT No.	—
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DRAWING No.	HB14132-C1
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REVISION	
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Sep. 16, 14 - 1933-32 Name: HB 1123 City: Upton County, Mo. Mar. 1938



# Attachment 3

**26 Mannata Street, LAUDERDALE**



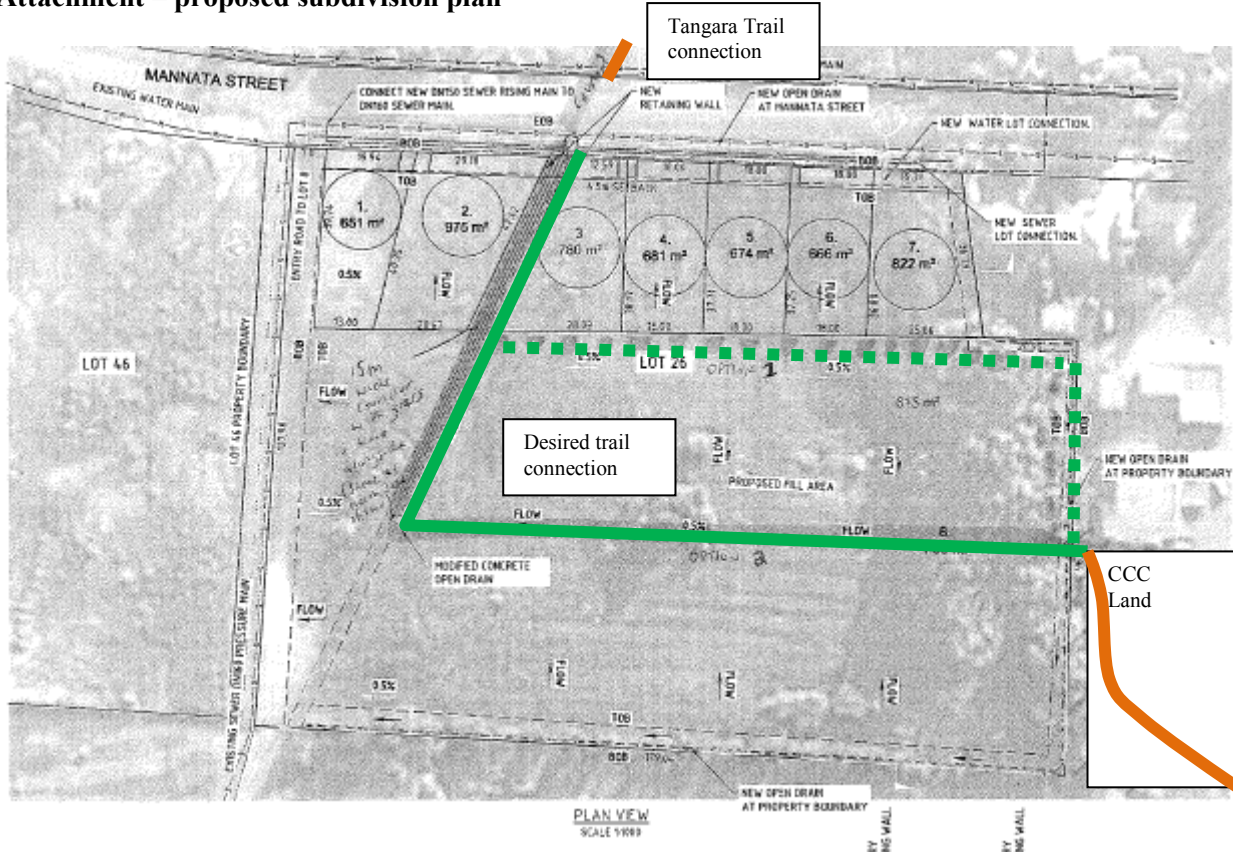
**Site viewed from Mannata Street**



**Open drain in site viewed from Mannata Street**

# Attachment 4

Attachment – proposed subdivision plan



**11.3.4 SUBDIVISION APPLICATION SD-2014/41 - 1 KENNEDY DRIVE & 30 BACKHOUSE LANE, CAMBRIDGE - 40 INDUSTRIAL LOT SUBDIVISION**  
(File No. SD-2014/41)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a 40 lot industrial subdivision at 1 Kennedy Drive and 30 Backhouse Lane, Cambridge.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Industry, Recreation and Special Use and subject to the Mount Canopus and Development Plan Overlays under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme the proposal is a discretionary development.

**LEGISLATIVE REQUIREMENTS**

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise discretion within the statutory 42 day period which expires on 3 February 2015.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 3 representations were received which all raise issues related to anticipated conflict between future industrial land use and adjacent residential land use. The specific issues raised by the representors in relation to amenity are:

- management of landscaping buffer adjacent Backhouse Lane;
- timing of required landscaping works;
- nature of screening landscaping;
- treatment of the existing flowering gums on Kennedy Drive;
- height and nature of future development adjacent Backhouse Lane;
- creation and enforcement of easements; and
- demolition of significant dwelling.

**RECOMMENDATION:**

A. That the Subdivision application for 40 Industrial lot subdivision at 1 Kennedy Drive & 30 Backhouse Lane, Cambridge (CI Ref SD-2014/41) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.
2. GEN AP3 – AMENDED PLAN [a reduction in the number of access points to Kennedy Drive to provide for a total of 3, and a service road arrangement providing for cul de sac access to the east and west of the main road intersection with Kennedy Drive].
3. The design of the Kennedy Drive intersection with the industrial road is to be approved for the ultimate development usage with the first stage design drawing approval. Construction of the intersection (in its ultimate format) must be completed before lots from stage two are released (survey plans sealed). Specific attention must be given to not impacting on existing property accesses or intersections on Kennedy Drive.

All lots must have frontage and access to the industrial road as part of any staging of the development.

4. GEN F2 – COVENANTS [The prohibition of vehicular access and egress from Backhouse Lane to Lots 6 to 10 inclusive].
5. GEN F5 – PART 5 AGREEMENT [makes subsequent landowners aware of the special area provisions relating to the Mount Canopus Observatory].
6. PROP 3 – TRANSFER.
7. ENG A1 – NEW CROSSOVER [TSD- R09] Delete '3.0m' and replace with '8.0m'.
8. ENG A3 – COMBINED ACCESSES [TSD] Delete '5.5m wide sealed access' and replace with '8.0m wide sealed access'.
9. ENG A5 – SEALED CARPARKING.
10. ENG A7 – REDUNDANT CROSSOVER.
11. ENG M6 – CONSTRUCTION FENCING.
12. ENG S1 – INFRASTRUCTURE.
13. ENG S2 – SERVICES.
14. ENG S15 – SERVICES ACROSS ROADS.

15. ENG S4 – STORMWATER CONNECTION.
16. ENG S5 – STORMWATER PRINCIPLES. Add ‘Designs shall identify and include details of overland flow paths for stormwater flows associated with up to 100year ARI rainfall events. These designs shall ensure that down-stream quality and quantity is consistent with or an improvement over pre-development parameters.’
17. ENG S6 – GROSS POLLUTANT TRAP. Delete ‘the stormwater outfall’ and replace with ‘on all stormwater outlet pipes’.
18. ENG S10 – UNDERGROUND SERVICES.
19. ENG M2 – DESIGNS SD.
20. ENG M4 – POS ACCESS.
21. ENG M5 – EROSION CONTROL.
22. ENG M7 – WEED MANAGEMENT PLAN.
23. ENG M8 – EASEMENTS.
24. ENG R1 – ROAD NAMES.
25. ENG R2 – URBAN ROAD. Insert “Temporary sealed turning facilities may be required as part of staged construction”.
26. Footpaths are to be constructed on both sides of all industrial roads. A single footpath along the service roads on Kennedy Drive shall be provided and connected with the industrial road footpaths.
27. Bicycle lanes are to be provided on the collector road section of the development from Kennedy Drive to the first roundabout
28. ENG R6 – VEHICLE BARRIERS.
29. Any filling of existing dams or waterholes within the development must be identified as part of the engineering drawings to be submitted for Council approval. Details of the filling must be provided including the removal of all silt and sediment from the area before filling commences. The location of all filled areas is to be annotated as such on the Sealed Plans.
30. EHO 4 – NO BURNING.
31. LAND 4 – LANDSCAPE BOND (SUBDIVISION).
32. LAND 5 – SUBDIVISION LANDSCAPING. Insert “amended” before “landscape plan” in first sentence.



33. The landowner must enter into an agreement with Council under Part 5 of the Land Use Planning and Approvals Act, 1993 in such form as Council may require and which provides for the following:

- The owners of Lots 7 to 10 inclusive to maintain the 10m landscaped buffer adjacent the northeastern property boundaries in perpetuity.

The agreement will be prepared and registered by Council. The landowner is responsible for all Council and Land Titles Office fees and charges. Upon written request from the landowner and payment of relevant fees, Council will prepare the Part 5 Agreement.

34. The development must meet all required Conditions of Approval specified by Taswater notice, dated 12 January 2015 (TWDA 2014/01367-CCC).

35. ADVICE 14 – BUILDING ADVICE.

36. ADVICE - The future requirement for Condition 5 is unlikely to be required under a future planning Scheme. In this case the removal of this condition may be considered through the submission of an application for a minor amendment at the appropriate time.

- B. That the details and conclusions included in the associated report be recorded as the reasons for Council's decision in respect of this matter.

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## **ASSOCIATED REPORT**

### **1. BACKGROUND**

The site has been the subject of a number of planning scheme amendment, use and development applications. The most recent application was A-2012/7, which re-zoned the site to Industry and Recreation, and necessitated an amendment to the Scheme's Urban Growth Boundary. The application covers both lots the subject of this development.

## **2. STATUTORY IMPLICATIONS**

**2.1.** The land is zoned Industry, Recreation and Special Use and subject to the Mount Canopus and Development Plan Overlays under the Scheme.

**2.2.** The proposed subdivision is a discretionary development.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 2 – Planning Policy Framework;
- Section 3 – General Provisions;
- Section 6 – Industry, Recreation and Special Use Zones; and
- Section 7 – Mount Canopus and Development Plan Overlays.

**2.4.** Council's assessment of this proposal should also consider the issues raised in any representations, the outcomes of the State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act 1993* (LUPAA).

## **3. PROPOSAL IN DETAIL**

### **3.1. The Site**

The subject land is a 16.6ha site comprised of 1 Kennedy Drive (CT 131145/1) and 30 Backhouse Lane, Cambridge (CT 30614/1) being 14.5ha and 2.1ha in area respectively.

The land is undulating and is free of any significant vegetation. The northern boundary of the site abuts the Barilla Rivulet and a disused rail line crosses the site. The property has approximately 652 metres of road frontage to Kennedy Drive and a 230 metre frontage to Backhouse Lane. The site is connected to reticulated services including water, sewerage and the Clarence Water Reuse Scheme and both properties are currently developed with single dwellings.

The site is surrounded by Industry and Intensive Agriculture zoned land. Several properties on Backhouse Lane adjacent to the site are developed with Single Dwellings which although zoned Intensive Agriculture could be described as being rural residential in nature. A location plan is included in the attachments.

### **3.2. The Proposal**

The proposal is for a 40 lot subdivision, the creation of a public open space (POS) lot adjacent the Barilla Rivulet and Backhouse Lane, an internal road network and two service roads to provide access to the proposed lots fronting Kennedy Drive. Also proposed is the demolition of 2 dwellings and associated outbuildings, part of a disused railway formation on the subject property, and the filling of a small dam and gully approximately in the centre of the property.

The industrial lots would range in size from 2162m<sup>2</sup> to 3500m<sup>2</sup>, and the open space lot would be 1.861ha and would incorporate a proposed stormwater detention basin on the northeastern part of the site. The POS lot represents approximately 11 percent of the area of the site. Road access to the site would be from Kennedy Drive from a central road network, with service road access from Kennedy Drive to those lots with frontage also proposed.

An additional road lot of 1.347 hectares adjacent the western property boundary is also proposed, to align with the proposed future Cambridge Bypass.

#### **4. PLANNING ASSESSMENT**

##### **4.1. Planning Policy Framework [Section 2]**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3 (c) (ii) – Industry. In particular, the key objectives include:

- *Ensure that there continues to be sufficient land for future industrial growth*
- *Ensure industrial development is well designed and maintained, creating an amenity which is attractive to future industrial development and which protects any nearby residential uses from conflict.*

This proposal will enable the division of the subject land into a number of readily developable industrial lots. The lots will range in shape and size to suit a variety of industrial uses, which is consistent with the above objectives.

References to these principles are also contained in the discussion below.

##### **4.2. General Decision Requirements {Section 3.3.1}**

The relevant General Decision Requirements of this part are:

*(a) General Requirements*

- (iv) The Purposes of the Zone.*
- (v) The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
- (vii) Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*

*(b) Amenity requirements:*

- (i) The character of the locality, the existing and future amenities of the neighbourhood*
- (iii) Landscaping, illumination and treatment of the site generally.*

*(d) Design suitability requirements:*

- (i) The size and shape of the parcel of land and whether it is subject to potential hazards*
- (iv) The existing character of the site and the buildings and vegetation it contains.*

*(e) Environmental requirements:*

- (iii) The compatibility of the development on the surrounding land uses*
- (xi) The protection of watercourses and adjoining riparian vegetation.*

*(f) Subdivision requirements*

- (i) *The suitability of the land for subdivision.*
- (ii) *The existing use and potential for future development of the land and its surrounds.*
- (v) *The size and shape of each lot in the subdivision.*
- (vi) *The layout of roads having regard to their function and relationship to existing roads.*

References to these principles are also contained in the discussion below.

#### **4.3. Industry Zone**

The stated Purpose of the Industry Zone is:

- a) *To implement the Planning Policy Framework; and*
- b) *To provide a range of industrial activities that promote economic development within the City, in a manner that does not affect the safety and amenity of the local community.*

Section 6.5 provides Use and Development Standards for the Industry Zone, however the provisions of the zone are overridden by the site specific provisions of the Development Plan Overlay (DPO 18) which are addressed below.

#### **4.4. Recreation Zone**

A portion of the site with an area of 1.51ha adjacent the Barilla Rivulet and Backhouse Lane is within the Recreation Zone. The zoning of this portion of the site was changed to Recreation through approval of the Scheme amendment A-2012/7, and this development is consistent with the previous decision.

The land within this zone would be set aside for recreation purposes and landscaping, and is thus consistent with the applicable Use and Development Standards and Specific Decision Requirements of the zone.

#### **4.5. Special Use Zone**

A portion of the subject property with an area of 1.45ha adjacent the western property boundary is within the Special Use Zone, with the Map Code SU2 being set aside for Future Road.

This proposal is to create a “future road” lot to reflect this zoning and ensure provision is retained for a future Cambridge Bypass should it be pursued in the future.

#### **4.6. Mount Canopus Overlay**

The purpose of the Mount Canopus Overlay is to control impacts on the Mount Canopus Observatory, which is no longer in operation from the site the basis of this overlay.

The proposal does not include any street networks which will result in headlights aiming directly towards the observatory. No street lighting is proposed specifically as part of this application, though it can and will be designed to comply with the requirements of the Overlay, and will be assessed at the engineering designs phase of the development. As such, the provisions are not relevant in the assessment of this proposal.

Notwithstanding this, Clause 7.9.6 (a) requires that a Part 5 agreement be placed any lot within a subdivision which is subject to this overlay to ensure that future lot developers are aware of the Mount Canopus overlay requirements under the Scheme.

The University has advised that the observatory will be decommissioned and the overlay will not be required in the future. For this reason the provisions were not translated into the Draft Planning Scheme submitted to the Minister. Accordingly, the Part 5 Agreement must be required as part of any approval of this application but could potentially be removed in the future.

#### **4.7. Development Plan Overlay**

The development site is subject to the Cambridge Industrial Estate Development Plan (DPO) 18, the provisions of which override any other development or use standard of the Scheme should inconsistency arise.

Clause 1.4.1 of the DPO requires that an application for use or development be accompanied by a landscaping plan, showing the location of existing trees, proposed buildings or works, and proposed plantings indicating the details of the species and sizes, and how a contribution to screening of industrial use from dwellings in Backhouse Lane would be achieved.

A landscaping plan was submitted as required by the applicant as part of the application, which included a description of the proposed species and information regarding the location of future landscaping.

The plan shows the creation of a 10m wide visual/sound buffer along Backhouse Lane from the intersection with Kennedy Drive. The plan provides a section showing a combination of tall trunked species and smaller screen species.

It is considered that the plans, in consultation with Council's Landscape Architect, form an appropriate basis for the landscaping for the site. Appropriate conditions should be included requiring the preparation of a further detailed landscaping plan for the site, noting that the specific areas for additional landscaping include the proposed roundabout, detailed sections of the landscaping proposed for the stormwater detention area and treatment.

The ongoing maintenance of the landscaped areas, and in particular the land to the west of Backhouse Lane adjacent the residential development in that area is a significant issue that must be managed appropriately, and it is considered that a Part 5 Agreement between the landowners and Council is the most appropriate means of doing so. A condition has been developed in consultation with the applicant, requiring that the owners of Lots 7, 8, 9 and 10 being those adjacent the residential properties in Backhouse Lane maintain the landscaped buffer in accordance with the approved plan, in perpetuity.

The Development Standards for Subdivision of land within Areas A and B as defined by the DPO are provided by Clause 1.12 and are addressed by the following table:

Acceptable Solution	Response	Complies
A1 – The size of each lot must be between 1000m <sup>2</sup> to 3500m <sup>2</sup> , except if a balance lot or for public open space, a riparian reserve or utilities.	The proposed lots range in size from 2162m <sup>2</sup> to 3500m <sup>2</sup> , with additional road lots and POS lots.	Yes
A2 – The design of each lot, except for public open space, a riparian reserve or utilities, must provide a building area that complies with all of the following: a) Clear of front boundary, side and rear boundary setbacks; b) Clear of easements; c) Clear of title restrictions that would limit or restrict the development of a commercial building; d) Has a slope no more than 1 in 10; e) Has an area a minimum of 20m x 20m in size.	The proposed lots are each capable of containing the required envelope, in an area clear of easements or other title restrictions.	Yes
A3 – The frontage for each lot, except for public open space, a riparian reserve or utilities, must be no less than 25m.	Each proposed industrial lot would have in excess of 30m frontage to a public road.	Yes
A4 – The arrangement of roads and accesses within a subdivision must satisfy all of the following: a) The subdivision does not have access or create a road on the future Cambridge Bypass road; and b) Provide one road access and no individual lot access onto Kennedy Drive.	The proposal satisfies part (a) of this acceptable solution, however a total of 5 access points to Kennedy Drive are proposed meaning that the performance criteria must be considered.	No – discretionary.
A5 – Access by road or to any lot must not be provided from Backhouse Lane, except if for public open space, a riparian reserve or utilities.	The proposed development does not propose access to Backhouse Lane for industrial purposes, however to ensure future owners of Lots 6 to 10 inclusive are aware of this requirement a suitably worded covenant must be included on the title.	Yes



A6 – Each lot must be connected to services adequate to support the likely future use and development of the site.	Each of the proposed industrial lots would be, as part of the construction of the development, provided with the necessary service connections.	Yes
A7 – As part of the subdivision works, a landscaped buffer is to be provided, along the eastern boundary of the development plan area (adjacent to Backhouse Lane) to a minimum depth of 10m incorporating earth mounding to a minimum 3m high.	The proposed development incorporates a landscaping buffer of 10m as required.	Yes

It is noted that subdivision of land within Area C will occur as provided for by the DPO to provide for future road, as required.

The proposal relies upon the Performance Criteria P4 in terms of the number of access points to Kennedy Drive. The relevant criteria require that the arrangement of roads and accesses within a subdivision must:

- a) *Accord with any relevant road network plan adopted by the Planning Authority;*
- b) *Provide for an acceptable level of access, safety, convenience and legibility through a road function hierarchy.*

A traffic impact assessment was submitted in respect of the proposal, which concludes that based on traffic generation from the future development of the subdivision there would not be an adverse impact on the performance of the Kennedy Drive/Cambridge Road networks, and that the proposed intersection arrangements with Kennedy Drive are considered appropriate.

Council engineers have, however, considered the proposal and in consultation with the applicant have formed the view that an alternative access arrangement with Kennedy Drive would be more appropriate to limit the number of new access points. Specifically and as an alternative to the two proposed service roads providing access to Lots 16-20 and Lots 1-6, 2 cul de sacs are preferred.

On this basis it is reasonable to include a condition requiring that amended plan to show a reduction in the total number of access points to Kennedy Drive to 3, and a service road arrangement providing for cul de sac access to the east and west of the main road intersection with Kennedy Drive.

#### **4.8. External Referrals**

The application was referred to TasWater, which provided conditions of approval to be included in any permit granted by Council.

Given that the Mount Canopus Observatory has been decommissioned the application was not referred to the University of Tasmania. The proposal was also referred to the Tasmanian Heritage Council which provided no comment in respect of the matter.

### **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 3 representations were received. The following issues were raised by the representors:

#### **5.1. Management of landscaping buffer adjacent Backhouse Lane**

The representations raised concerns regarding the treatment of the landscaped buffer adjacent Backhouse Lane, in that the plans do not indicate that there would be an easement over this area. The belief of one representor is that Council should be responsible for the maintenance and upkeep of this area.

- **Comment**

The ongoing maintenance of the landscaped area is a significant issue, in terms of addressing conflict between the future industrial use of the subject land, and the adjacent residential land use in Backhouse Lane.

To address this and through consultation with the applicant, it is proposed that Part 5 Agreements be created over Lots 7, 8, 9 and 10 of the subdivision to require that the landscaped area be maintained in perpetuity in accordance with the approved (amended) landscaping plans.

## **5.2. Timing of required landscaping works**

An issue raised by the representations is the timing of the landscaping works, with concern raised that the works would not be undertaken prior to the sale of the lots.

- **Comment**

The proposed permit would require that the landscaping be undertaken in accordance with the approved landscaping plan prior to the sealing of the Final Plan of Survey, or alternatively a bond taken and held by Council until such time as the works are completed. This approach is consistent with Council's usual approach for landscaping.

## **5.3. Nature of screening landscaping**

The representations raised concern regarding the specific species to be used as part of the landscaped buffer adjacent Backhouse Lane, and the selection of those species.

- **Comment**

The advertised plans include details of the proposed species, which incorporate a combination of taller trees, lower buffer planting trees and grasses.

As discussed above, it is proposed that there would be an amended plan required as part of the development to show additional landscaping of the earth mound within the buffer. The appropriate species would be considered by Council, and their maintenance (in accordance with the required Part 5 Agreement) undertaken by the owner/s of each lot. Council's involvement would be limited to enforcement should the necessary landscaping works not be undertaken as required.

#### **5.4. Treatment of existing flowering gums on Kennedy Drive**

A question was raised by a representor regarding the treatment of a series of existing flowering gums adjacent Kennedy Drive.

- **Comment**

There are a series of eucalypts located within Kennedy Drive in the vicinity of the southern boundary of subject property, and near to and surrounding the dwelling within the boundaries of the site.

Those within the road reserve are not a matter relevant to the determination of this application, and it is likely that several trees in the vicinity of the dwelling (to be demolished) will also be removed as part of the proposal. This is reasonable and appropriate given that the lots will be developed for industrial purposes, and that the trees are not covered by the Scheme's Vegetation Management Overlay or identified as significant by Council's Natural Assets Information Manual.

#### **5.5. Height and nature of future development adjacent Backhouse Lane**

The representations raised concerns regarding the height of future development of the proposed lots, and suggestions are made that the height should be limited to 2 storeys. It is also suggested that the types of use possible on those lots adjacent Backhouse Lane be restricted to those that have limited risk of conflict with adjacent residential use.

- **Comment**

The DPO relevant to the site developed as part of the recently approved Scheme amendment provides a series of use classes for each of the areas, with Area A being the landscaped buffer adjacent Backhouse Lane and prohibiting all use and development other than passive recreation and minor utility.

Area B, being the majority of the site, allows for a range of uses subject to consistency with the amenity and other use standards provided at Clause 1.9 of the DPO. Applications for each site will be considered on their merits and should discretion be relied upon, publicly advertised as required enabling comment by interested parties.

#### **5.6. Creation and enforcement of easements**

The representors raised concerns regarding the responsibility for the creation of easements, both in terms of landscaping and infrastructure, and maintenance of such areas.

- **Comment**

The landscaping and treatment of the buffer area adjacent Backhouse Lane has been discussed in detail above. In respect of other easements to provide for infrastructure works, the detailed engineering designs for the subdivision will be separately considered by Council and the necessary easements created as part of the Final Plan of Survey to reflect their location and ensure access for maintenance.

#### **5.7. Demolition of significant dwelling**

An issue raised by one representation is the proposed demolition of the dwelling on the southern part of the site, known as “Abernant house” which according to the representor has significance and is well known within the Cambridge community.

- **Comment**

Despite several nominations to the Tasmanian Heritage Council for listing, the subject building is not heritage listed by either the Tasmanian Heritage Register or identified as significant by the Heritage Overlay under the Scheme. Its demolition is therefore reasonable and appropriate given the nature of the proposed industrial development of the subject land.

## **6. STATE POLICIES AND ACT OBJECTIVES**

**6.1.** The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

**6.2.** The proposal is consistent with the objectives of Schedule 1 of LUPAA.

## **7. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

There are no inconsistencies with Council's adopted Strategic Plan or any other relevant Council policy.

A developer POS contribution is not required to comply with Council's Public Open Space Policy, in that the provision of the 1.861ha POS lot, Lot 101, represents an area in excess of 5 percent of the total land area.

## **8. CONCLUSION**

The proposal for the subdivision of 40 industrial lots, associated road lots and POS is consistent with the relevant zone, development plan and overlay standards of the Scheme and as such is recommended for conditional approval as detailed above.

Attachments: 1. Location Plan (1)  
2. Proposal Plan (3)  
3. Site Photo (2)

Ross Lovell  
**MANAGER CITY PLANNING**






# Attachment 1

Kennedy Drive & 30 Backhouse Lane

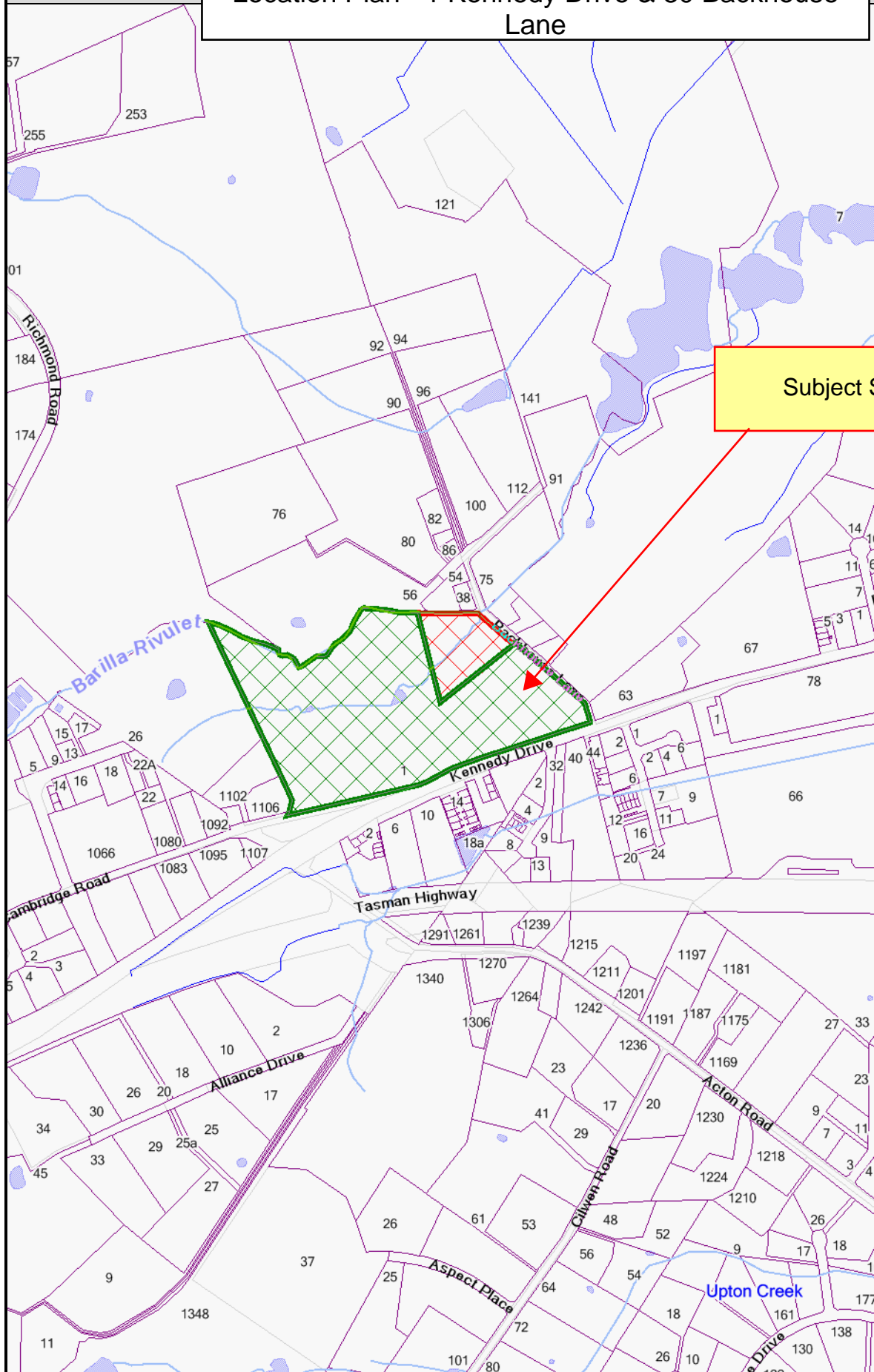
**Date:**  
Thursday, 22 January 2015

## Location Plan - 1 Kennedy Drive & 30 Backhouse Lane

### Legend

-  **Waterways**
-  **Property**
-  **Title**
-  **Waterbodies**
-  **Map Extents**

**Subject Site**

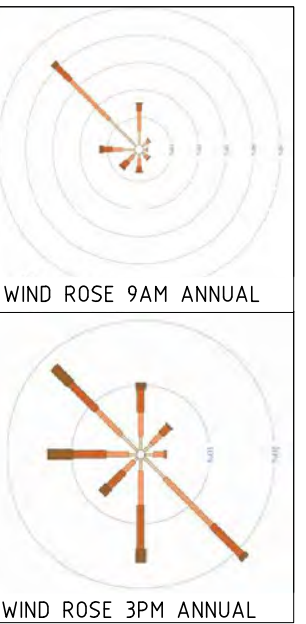
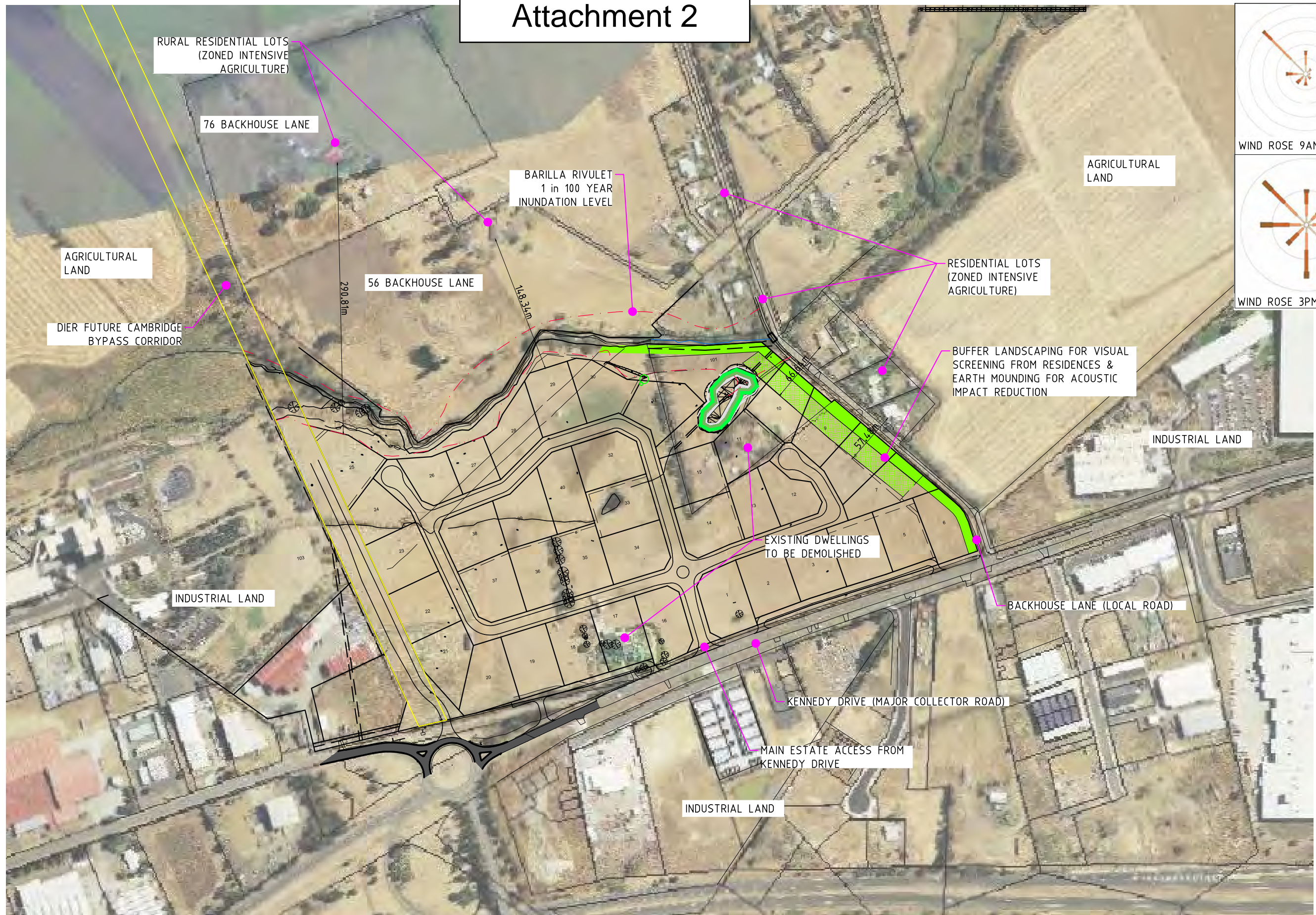


### Disclaimer:

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# Attachment 2



REV	DATE	REMARK
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Accepted Grant Atherton (Discipline Head)		
Accepted Chris Males (Team Leader)		
Approved (Group Manager)		
This document must be signed "Approved" by JMG to authorise it for use. JMG accept no liability whatsoever for unauthorised or unlicensed use.		

DATE	DESIGNED BY	DRAWN BY
04/12/2014	TIO	TIO
PLOT DATE	04/12/2014	

DO NOT SCALE. Use only figured dimensions. Locations of structure, fittings, services etc on this drawing are indicative only. CONTRACTOR to check Architects & other project drawings for co-ordination between structure, fabric, fixtures, fittings, services etc. CONTRACTOR to site check all dimensions and exact locations of all items. JMG accepts no responsibility for dimensional information scaled or digitally derived from this document.



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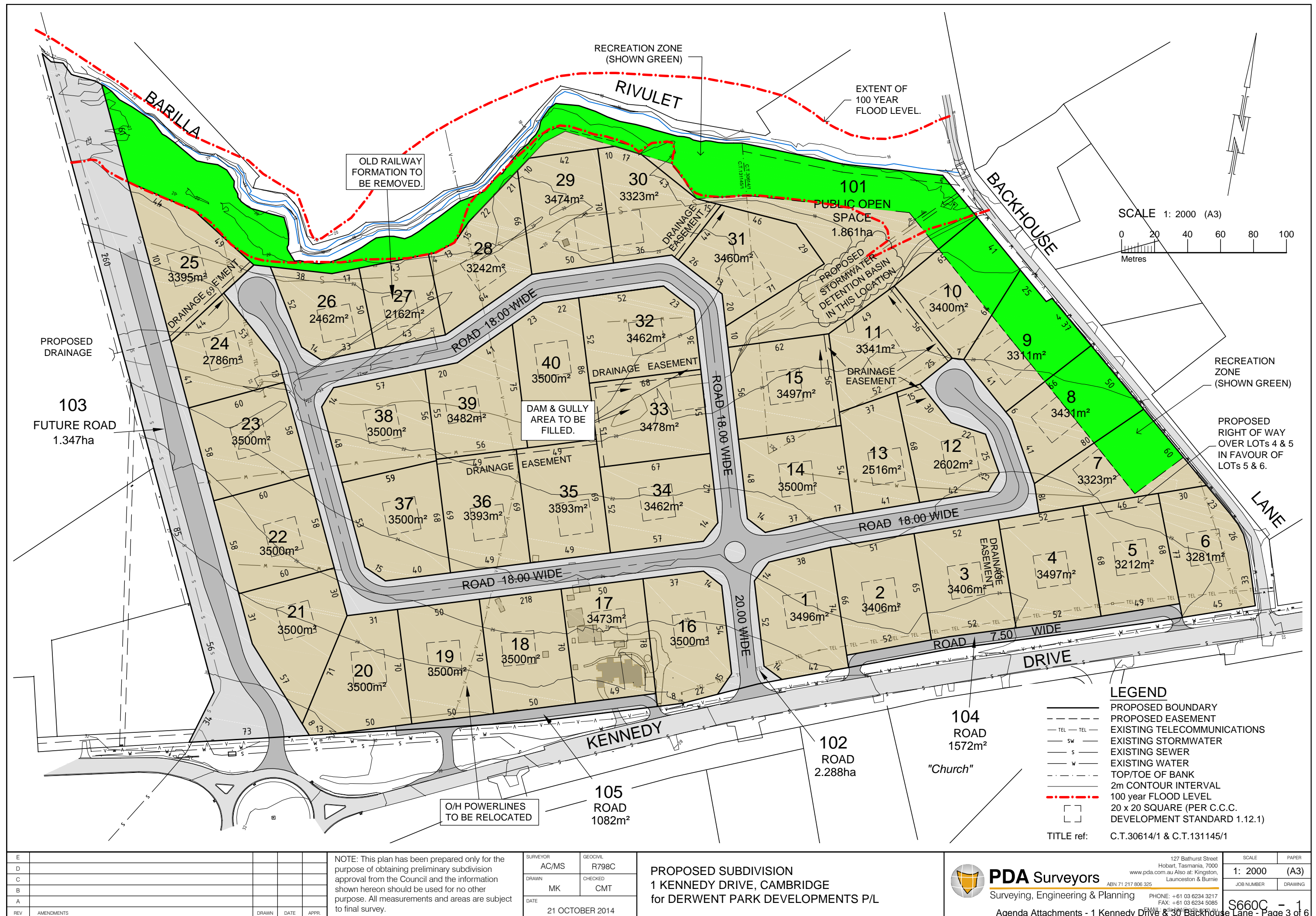
PROJECT  
**1 KENNEDY DRIVE  
CAMBRIDGE, PROPOSED  
SUBDIVISION**

TITLE  
**SITE ANALYSIS PLAN**

PROJECT NO. **J123021PH**

DWG NO. **P02** REVISION





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D				
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REV	AMENDMENTS	DRAWN	DATE	APPR.

NOTE: This plan has been prepared only for the purpose of obtaining preliminary subdivision approval from the Council and the information shown hereon should be used for no other purpose. All measurements and areas are subject to final survey.

SURVEYOR	AC/MS	GEOCIVIL	R798C
DRAWN	MK	CHECKED	CMT
DATE	21 OCTOBER 2014		

PROPOSED SUBDIVISION  
1 KENNEDY DRIVE, CAMBRIDGE  
for DERWENT PARK DEVELOPMENTS P/L



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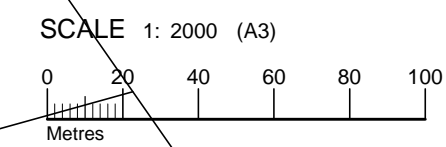
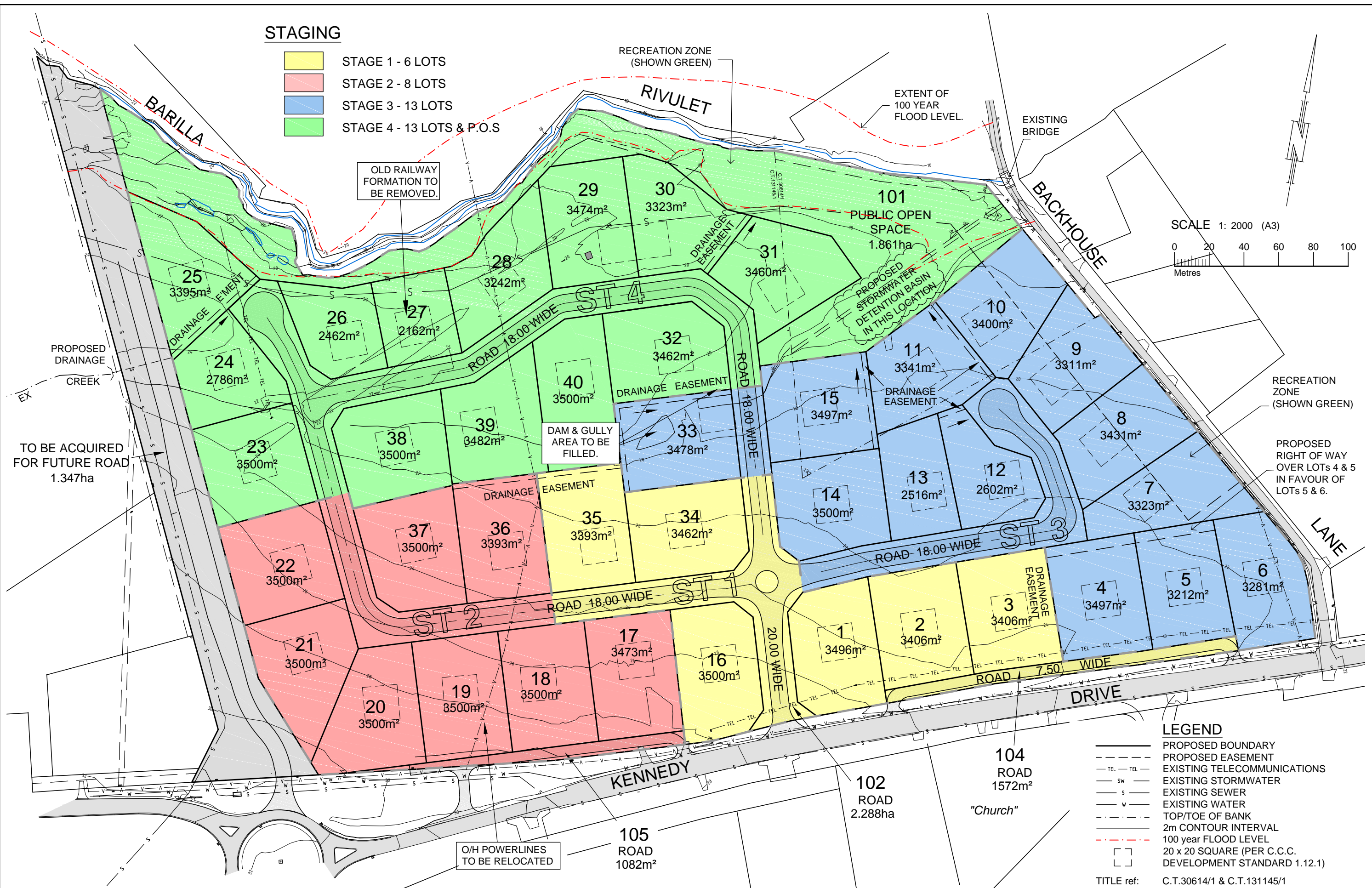
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S660C - 1	

Agenda Attachments - 1 Kennedy Drive & 30 Backhouse Lane - Page 3 of 6



STAGING

- STAGE 1 - 6 LOTS
- STAGE 2 - 8 LOTS
- STAGE 3 - 13 LOTS
- STAGE 4 - 13 LOTS & P.O.S



- LEGEND
- PROPOSED BOUNDARY
  - PROPOSED EASEMENT
  - EXISTING TELECOMMUNICATIONS
  - EXISTING STORMWATER
  - EXISTING SEWER
  - EXISTING WATER
  - TOP/TOE OF BANK
  - 2m CONTOUR INTERVAL
  - 100 year FLOOD LEVEL
  - 20 x 20 SQUARE (PER C.C.C. DEVELOPMENT STANDARD 1.12.1)
- TITLE ref: C.T.30614/1 & C.T.131145/1

E				NOTE: This plan has been prepared only for the purpose of obtaining preliminary subdivision approval from the Council and the information shown hereon should be used for no other purpose. All measurements and areas are subject to final survey.				SURVEYOR AC/MS GEO/CIVIL R798C		PROPOSED SUBDIVISION STAGING PLAN 1 KENNEDY DRIVE, CAMBRIDGE for DERWENT PARK DEVELOPMENTS P/L		127 Bathurst Street Hobart, Tasmania, 7000 www.pda.com.au Also at: Kingston, Launceston & Burnie		SCALE 1: 2000	PAPER (A3)
D								DRAWN KK CHECKED CMT				PHONE: +61 03 6234 3217 FAX: +61 03 6234 5085 EMAIL: pda@pda.com.au		JOB NUMBER	DRAWING
C								DATE 12 NOV 2014						S660C - 2A	
B														Agenda Attachments - 1 Kennedy Drive & 30 Backhouse Lane - Page 4 of 6	
A				STAGING AMENDED	MK	3/12/14	CMT								
REV				AMENDMENTS	DRAWN	DATE	APPR.								



# Attachment 3

**1 Kennedy Drive & 30 Backhouse Lane, CAMBRIDGE**



**Site viewed from Backhouse Lane, looking west**



**Site viewed from Kennedy Drive, looking northeast towards Backhouse Lane**





**Site viewed from corner of Kennedy Drive and Backhouse Lane looking west**



**Site viewed from southwestern corner of property, looking north along western boundary**

**11.3.5 SUBDIVISION APPLICATION SD-2014/40 - 51 SOUTH STREET,  
BELLERIVE - 8 LOT SUBDIVISION**  
(File No. SD-2014/40)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for an 8 lot subdivision at 51 South Street, Bellerive.

**RELATION TO PLANNING PROVISIONS**

The land is zoned Residential and subject to the Inundation Overlay under the Clarence Planning Scheme 2007 (the Scheme). In accordance with the Scheme the proposal is a discretionary development.

**LEGISLATIVE REQUIREMENTS**

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2005.

Council is required to exercise a discretion within the statutory 42 day period which has been extended to 4 February 2015 with the written agreement of the applicant.

**CONSULTATION**

The proposal was advertised in accordance with statutory requirements and 4 representations were received raising the following issues:

- ownership of land;
- loss of existing public open space – Beachside Community Park;
- tree removal;
- impact on native birds and animals;
- dwelling density of the area;
- inundation;
- traffic impact;
- loss of views;
- use of the land for public housing;
- application advertising; and
- cultural significance.

**RECOMMENDATION:**

- A. That the application for an 8 lot subdivision at 51 South Street, Bellerive be refused in accordance with Section 85(d)(iii) of the *Local Government (Building & Miscellaneous Provisions) Act 1993* in that the layout of the subdivision should be altered to include public open space.

- B. That the application for an 8 lot subdivision at 51 South Street, Bellerive (Ref SD-2014/40) be refused for the following reasons:
1. The proposal is contrary to the provisions of the Clarence Planning Scheme 2007 with regard to the provision and location of reserves for public open space in that the proposal does not provide reasonable public open space within the boundaries of the property.
  2. The proposal has been refused under 85(d)(iii) of the *Local Government (Building & Miscellaneous Provisions) Act 1993* because the to layout of the subdivision should be altered to include Public Open Space .
- C. That the applicant be advised that they should contact Council's Manager City Planning to discuss Council's public open space requirement, which can broadly be described as follows:
- The southern portion of the subject lot containing part of the existing Beachside Reserve.
  - Compensation above 5% of the value of the area of the land will be paid in accordance with Section 116 of the LGBMPA.
- D. That the details and conclusions included in the associated report be recorded as the reasons for Council's decision in respect of this matter.

---

## **ASSOCIATED REPORT**

### **1. BACKGROUND**

No relevant background.

### **2. STATUTORY IMPLICATIONS**

- 2.1.** The land is zoned Residential and covered by the Subject to Inundation Overlay under the Scheme.
- 2.2.** Subdivision is a discretionary development under Clause 3.1.4 of the Scheme and the Subject to Inundation Overlay.

**2.3.** The relevant parts of the Planning Scheme are:

- Section 2 – Planning Policy Framework;
- Section 3 – General Provisions;
- Section 6 – Residential Zone; and
- Section 7 – Subject to inundation Overlay.

**2.4.** Council's assessment of this proposal should also consider the issues raised in any representations, the outcomes of the State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act 1993* (LUPAA).

### **3. PROPOSAL IN DETAIL**

#### **3.1. The Site**

The site has an area of 6093m<sup>2</sup> with frontages to South Street, Lower River Street and Alexandra Esplanade, Bellerive. The site contains an existing kindergarten (Beachside Kindergarten) constructed in the 1960s and accessed from South Street. A covering letter submitted with the application explains that the kindergarten has now closed and that students will be moved to a new facility at the Howrah Primary School. The kindergarten contains a large weatherboard building and 2 associated outbuildings. The kindergarten also contains a playground on the northern side of the property.

The southern half of the site contains a small park, which the owner (the Education Department) has previously developed for public use. The reserve was established in association with the kindergarten in the 1960s. The reserve contains a number of park benches, information boards and a pathway; and is in a minor state of disrepair. A number of native and introduced species of trees are located in the reserve, however it has natural and aesthetic values which add to the amenity of the locality.

The surrounding area is an established residential area containing a mixture of Single Dwelling and Multiple Dwelling developments. The land immediately adjacent the site on its east contains the Eastern Shore Croquet Club. A large public open space (POS) is located diagonally opposite the site in South Street and contains the Eastern Shore Dog Club. Bellerive beach is located approximately 70m to the south of the site.

### **3.2. The Proposal**

The proposal is for an 8 lot subdivision plus the balance lot as shown in the attachments. The proposed lots would range in area from 534m<sup>2</sup> (Lot 3) to 776m<sup>2</sup> (Lot 5). Lot 4 would be an internal lot. The remainder of the lots would be rectangular shaped. Lot 2 would have frontage and vehicle access to South Street, while Lot 9 would have frontage and vehicle access to Alexandra Esplanade. The remaining lots would all have frontage and vehicle access to Lower River Street. The application proposes to demolish the existing kindergarten buildings. The applicant has also advised that no trees are intended to be removed as part of the subdivision. The proposal plan does not make provision for POS.

## **4. PLANNING ASSESSMENT**

### **4.1. Planning Policy Framework [Section 2]**

The relevant elements of the Planning Policy Framework are contained in Section 2.2.3(a)(ii) – Residential Land Use and Section 2.2.3(d)(iv) – Recreational and Community Facilities.

In particular, the Objectives concerning Residential Land Use include:

- *To provide for a wide range of housing types to meet the changing housing needs of the community.*
- *To promote residential consolidation around activity centres and transport nodes to maximise accessibility to services and facilities, and the efficient use of infrastructure.*



Residential Land Use strategies include:

- *Promote good urban design for new residential areas, ensuring:  
New residential development incorporates high standards of open space.*

The Objectives concerning Recreational and Community Facilities include:

- *To provide for a system of accessible recreational and community facilities to meet the needs of people from a range of ages, health, interest and socio-economic backgrounds.*
- *To integrate recreational and community facilities into residential and activity centres.*

Strategies include:

- *Ensure adequate and appropriate open spaces are provided as part of subdivision approvals.*

The proposed subdivision would provide a range of lot sizes and shapes, which would encourage a range of housing types as part of the future development of the land. The existing infrastructure network has appropriate capacity to cater for the proposed development, in the format proposed. However, it is considered that the proposal is inconsistent with the above strategies in that the proposal does not make provision for adequate POS.

References to these principles are also contained in the discussion below.

#### **4.2. General Decision Requirements {Section 3.3.1}**

The relevant General Decision Requirements of this part are:

(a) *General requirements:*

- (v) *The Specific Decision Requirements of the Zone, Overlay or Specific Provision.*
- (vii) *Any representation made in accordance with Section 43F(5) or Section 57(5) of the Act.*

(f) *Subdivision requirements:*

- (i) *The suitability of the land for subdivision.*
- (ii) *The existing use and potential for future development of the land and its surrounds.*

- (iii) The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- (iv) The density of the proposed development.*
- (v) The size and shape of each lot in the subdivision.*
- (x) The design and siting of existing and future buildings.*
- (xi) The availability and provision of utility services.*
- (viii) The provision and location of reserves for public open space and other community facilities.*

The northern section of the proposal is generally consistent with the above requirements. The lot sizes are compliant with the development standards of the zone and would be sympathetic with the subdivision pattern of the surrounding area. The lots are large, would be able to accommodate a range of types and styles of buildings, and the necessary services can be provided to the development. However, no POS is proposed, and in this instance, the provision of POS is warranted.

In this instance it is considered that much of the existing park should be retained to satisfy *(f)(viii)* above, as the area provides specific type of open space function not provided by other reserves in the locality.

#### **4.3. Zone**

The site is zoned Residential under the Scheme. The proposal is consistent with the Purpose of the Zone in that it would provide for a variety of residential development.

Clause 6.1.3 provides use and development standards for the Residential Zone. The proposal has been assessed and is compliant with all relevant standards, as summarised in Table 1 below.

**Table 1: Assessment against the Use and Development Standards of the Zone.**

	<b>Required</b>	<b>Provided</b>	<b>Comments</b>
<b>Lot Size</b>	400m <sup>2</sup>	534m <sup>2</sup> to 776m <sup>2</sup>	Complies
	550m <sup>2</sup> – Internal Lot	748m <sup>2</sup> (Lot 4 – Internal Lot)	Complies
<b>Frontage</b>	3.6m	17.4m – 31.5m	Complies
	4m – Internal Lot	6m (Lot 4 – Internal Lot)	Complies
<b>Dimensions</b>	Lots must be able to contain a circle of 18m diameter clear of any easements or any other title restrictions.	Plan indicates compliance	Complies

#### **4.4. Specific Decision Requirements**

Clause 6.1.5 provides the Specific Decision Requirements of the zone. The relevant requirements are addressed as follows:

- (e) *Lot sizes should be varied to suit differing levels of residential, service and recreational needs.*

The development proposes varied lot sizes and shapes that are consistent with the nature of the surrounding residential area. Lot 5 would provide opportunity for a Multiple Dwelling development.

- (r) *An internal lot access strip should include adequate width to accommodate a suitable passing bay and a visitor car parking space which is visible from the street.*

The proposed access strip to Lot 4 would be 6m wide - a width suitable to incorporate a passing bay and visitor parking space visible from the street.

- (s) *An internal lot should have adequate frontage to ensure appropriate provision for wheelie bin collection, without inconvenience to neighbouring properties.*

The proposed access width to Lot 4 is 6m, which exceeds the Scheme frontage requirement of 4m, which is considered sufficiently wide to enable appropriate provision for wheelie bin collection.

- (t) *An internal lot should include adequate width to provide a landscaped strip between the driveway and the abutting fence lines, except where there is to be a shared driveway with an adjoining lot.*

The proposal plan indicates that the access strip to Lot 4 would be wide enough to contain a landscaped strip between the driveway and the abutting fence lines.

- (u) *Subdivision should ensure that based on a 1 in 100 year event natural drainage paths and significant stormwater catchment areas are protected from inappropriate development. This relates to development within drainage lines which may impede, restrict or adversely affect natural drainage flows.*

The proposal plan includes contours and a plan of proposed services, which demonstrate how water would drain from the site in the event of rain. It is considered that there are appropriate dwelling sites within the boundaries of each lot that could be developed without compromising natural flow paths. Council's Development Engineer has assessed the proposal and is satisfied that stormwater could be disposed of appropriately from the site.

#### **4.5. Overlays**

The subject site is partially located within the Subject to Inundation Overlay (2050 and 2100). The Overlay applies to areas of land, which is potentially subject to inundation. The majority of lots 8 and 9 would be within the Overlay, while a small area of Lot 7 (approximately 45m<sup>2</sup>) would also be located within the Overlay. The relevant Purposes of the Overlay are:

- (b) *To identify areas which may be subject to periodic inundation whether by rain or from the sea, and control pollution and undesirable changes in stream hydrology or coastal processes.*
- (c) *To preclude development that will affect flood flow or be affected by flood water, or change coastal dynamics in a way detrimental to other property.*
- (d) *To promote sustainable catchment management practices.*

Clause 7.2.5 provides the Specific Decision Requirements of the Overlay. The relevant of these requirements being:

- (a) Mitigation measures should be sufficient to ensure habitable buildings will be protected from flooding, and in the case of coastal flooding, will be able to adapt as sea levels rise.*
- (e) All development within the areas shown as SI(S2050) and SI(S2100) where a discretionary development application is required must demonstrate the following;*
  - (iv) That access to the site or development will not cause an unreasonable risk to the life of the users of the site or damage to property.*

The applicant has submitted documentation from a suitably qualified engineer which advises that the inundation risk to buildings on the land would be low; however new development on lots 8 and 9 should be designed to ensure that finished floor levels are situated above the inundation level - 3m Australian Height Datum (AHD).

Council's Development Engineer has assessed the engineering report and has advised that the proposal is consistent with the Specific Decision Requirements of the Overlay specified above, particularly as the proposal does not propose the construction of development, which may affect overland water flows.

The applicant proposes that a covenant be included on the land titles of lots 8 and 9, which would require the floor levels of buildings to be a minimum of 3m AHD.

#### **4.6. External Referrals**

The proposal was referred to TasWater, which has provided a number of conditions to be included on the planning permit if granted.

## **5. REPRESENTATION ISSUES**

The proposal was advertised in accordance with statutory requirements and 4 representations were received. The following issues were raised by the representors:

### **5.1. Ownership of land.**

One representation has queried whether Council has previously owned the reserve on the southern side of the subject site.

- **Comment**

There is no record that Council has owned or maintained the subject property. It is understood that the property has been owned by the Education Department since the kindergarten was established in the early 1960s.

### **5.2. Loss of existing public open space – Beachside Community Park.**

All 4 representors have raised concern that the proposed subdivision would result in the loss of the POS on the southern site of the site. One representor has questioned whether Council could acquire the land for use as a public park.

- **Comment**

It is understood that the reserve was established by the Education Department in conjunction with the construction of the kindergarten in the early 1960s and was provided for the use of the local community. The reserve has never been maintained by Council and is not recognised by Council as a formal public reserve. There is also no evidence that the land is protected as a POS (such as through reservation status, land title, or formal agreement). However as discussed above, the park offers amenity qualities and passive activity that are enjoyed by the local community that are not provided in other reserves in the locality.

Accordingly, there does not appear to be any mechanism by which the land is protected as POS. Council officers contacted the Education Department with the view to deferring consideration of this application in order to negotiate a revised proposal that included, in part, the reserve as POS on the plan of subdivision (with appropriate financial compensation from Council); however this request was denied.

### **5.3. Tree removal**

One representor has raised concern that trees will need to be removed for the construction of future dwellings.

- **Comment**

The applicant has advised that they do not intend to remove trees as part of the subdivision. Should the proposal be approved, tree removal is inevitable as part of future development of the lots. Notwithstanding this, the vegetation is not protected by the Scheme and there is no control over the removal of such vegetation as the property is not located within a Vegetation Management Overlay. Residential development of the site will result in the loss of much of the amenity and natural values that the property offers.

### **5.4. Impact on native birds and animals.**

Three of the representations raised concern that the reserve provides habitat for native birds, including the swift parrot and endangered ground species such as the Southern Brown Bandicoot and the Eastern Barred Bandicoot.

- **Comment**

As discussed above, the vegetation on the land, which may provide habitat for animals is not protected by the Scheme or legislation. The subject property is zoned Residential under the Scheme, meaning that the land has been predetermined as available for residential use and development. To protect these values, much of the park would need to be retained as POS.

### **5.5. Dwelling density of the area.**

One representor raised concern that Multiple Dwellings could be constructed on each lot, which would cause a density of dwellings not commensurate with the surrounding area.

- **Comment**

As discussed above, the proposed lot sizes and shapes are varied and consistent with the nature of the surrounding residential area. The proposal meets the development standards concerning subdivision, which are designed to ensure that new lots can provide for a variety of accommodation types.

It is noted that under the Scheme only Lot 5 would provide opportunity for a Multiple Dwelling development. However, it is also noted that PD4.1 states that the density requirement for Multiple Dwellings would be one dwelling per 325m<sup>2</sup> of lot area. Accordingly, under the draft Interim Scheme, lots 5, 6, 7, 8 and 9 may become suitable for Multiple Dwelling development.

### **5.6. Inundation.**

One representor has questioned whether it is appropriate for dwellings to be constructed on land which may potentially be subject to inundation.



- **Comment**

As discussed above, lots 8 and 9 (and a minor area of Lot 7) are located within the Subject to Inundation Overlay. The Purpose of the Overlay is to ensure that development is protected from overland waterflows. The Overlay requires development to incorporate appropriate measures to mitigate the impacts of inundation. In this case, future dwellings on lots 8 and 9 would be required to have a minimum floor level of 3m AHD.

#### **5.7. Traffic Impact.**

One representor has raised concern that the subdivision would increase traffic congestion.

- **Comment**

Council's Development Engineer has assessed the proposal and has advised that the capacity of the surrounding road network is more than adequate to cater for the expected amount of traffic movements generated by the proposed subdivision. It is considered that the proposal is consistent with the use and development standards of Clause 8.1.3 - Off Street Car Parking and Loading. Notwithstanding, it is likely that the residential traffic generation would be less than that of the kindergarten.

#### **5.8. Loss of Views.**

One representor raised concern that future development of the proposed lots would result in a loss of views to the Derwent River.

- **Comment**

The Scheme does not provide for Council to consider potential loss of views caused by future development. The current application is for subdivision of the land and does not propose the development of buildings.

Notwithstanding this, the Scheme/Planning Directive 4 (Standards for Single Dwelling in the Residential Zone) allows Council, under some circumstances, to consider the impact of development on views from surrounding properties where a building is proposed that does not meet the normal development standards of the Scheme.

**5.9. Use of the land for public housing.**

One representor has raised concern that the lots would be used to develop public housing, which may provide homes for tenants who may engage in anti-social behaviour.

- **Comment**

The Scheme does not control any aspect of land ownership or tenancy. In any event, the representor's concern is unsubstantiated.

**5.10. Application advertising.**

One representor has raised concern that the public advertisement was misleading in that the description of the proposal referred to 8 lots rather than 9.

- **Comment**

It is common practice to describe a subdivision as the number of new lots proposed to be created. At present there is 1 lot existing – the creation of a further 8 lots on the site would bring the total number of lots to 9.

**5.11. Cultural significance.**

One representor has raised concern that the existing kindergarten has significant cultural and sentimental value for some members of the local community.

- **Comment**

Although the kindergarten may be of significant personal value to members of the local community, it is not protected as a place of cultural heritage significance under the Scheme or listed on the Tasmanian Heritage Register.

## **6. STATE POLICIES AND ACT OBJECTIVES**

**6.1.** The proposal is consistent with the outcomes of the State Policies, including those of the State Coastal Policy.

**6.2.** The proposal is consistent with the objectives of Schedule 1 of LUPAA.

## **7. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS**

The proposal is generally in accordance with Council's adopted Strategic Plan and other relevant Council policies, except the Public Open Space Policy as discussed below:

### **Public Open Space**

The primary purpose of Council's Public Open Space Policy (2013) is to ensure the delivery of adequate and appropriate POS to serve the needs of the existing and future population of Clarence. The Policy is used to assist Council to exercise its discretion and provide a framework to deliver a consistent approach to the consideration of POS, or alternatively the payment of cash in lieu of it.

Clarence has developed a comprehensive suite of strategies that either deliver or rely on POS related outcomes including but not limited to:

- Clarence Tracks & Trails Strategy 2012;
- Positive Aging Plan 2012-2016;
- Clarence Coast & Bushland Strategy (August 2011);
- Community Health and Wellbeing Plan 2013-2018; and
- Draft Sport and Active Recreation Strategy

Together these strategies assist Council to deliver a range of active and passive recreational opportunities at both local and regional level.

Although the subject site has not been identified in any specific Council Strategy as containing land required for POS, the proposal provides opportunity to secure POS consistent with general principles outlined in Section 6.1. of Council's POS Policy. The land is fit for purpose and would complement the local residential area as evidenced by its previous use.

The *Local Government (Building and Miscellaneous Provisions) Act 1993* provides for Council to require POS to be provided as part of a subdivision up to a maximum 5% of the total land area of the subject property. The proposal plan does not make provision for POS. Section 116 provides for Council to take above 5% of the land area provided appropriate financial compensation is given to the owner for the additional land and section 85(d)(ii) enables Council to refuse to approve a plan if it is of the opinion that the layout should be altered to include POS. As mentioned above, Council officers had hoped to negotiate with the Education Department to include part or all of the existing reserve as public open space on the plan of subdivision; however this request was rejected by the relevant Department officer.

It is therefore considered that the proposal is contrary to Council's POS Policy and the provisions of the *Local Government (Building & Miscellaneous Provisions) Act 1993* and that the layout of the subdivision should be altered to provide POS in substantially the same location as the existing reserve, with an area totalling around 25% of the site, subject to a detailed survey of the natural values on the site to be undertaken by the relevant Council officer.

**8. CONCLUSION**

The proposal seeks approval for an 8 lot subdivision at 51 South Street, Bellerive. Although the proposal is consistent with the Use and Development Standards and Specific Decision Requirements of the Residential zone, the proposal does not make adequate provision for POS. It is therefore considered that the proposal as intended to be implemented by the applicant should be refused in accordance with Section 85(d)(iii) of the *Local Government (Building & Miscellaneous Provisions) Act 1993* as the layout of the subdivision should be altered to provide reasonable POS. It follows that the subdivision application should also be refused under LUPAA.






Attachments: 1. Location Plan (1)  
2. Proposal Plan (2)  
3. Site Photo (2)

Ross Lovell  
**MANAGER CITY PLANNING**

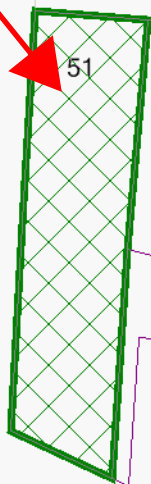
Council now concludes its deliberations as a Planning Authority under the Land Use Planning and Approvals Act, 1993.

## Location Plan - 51 South Street

### Legend

-  **Waterways**
-  **Property**
-  **Title**
-  **Waterbodies**
-  **Map Extents**

Subject Site



### Disclaimer:

This map is a representation of the information currently held by Clarence City Council. While every effort has been made to ensure the accuracy of the product, Clarence City Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated. Copying or reproduction, without written consent is prohibited.



PLAN OF SUBD

Attachment 2

Surveyors

7000

PHONE: + 61 03 6234 3217  
FAX: + 61 03 6234 5085  
aunceston & Burnie EMAIL: pda.hbt@pda.com.au

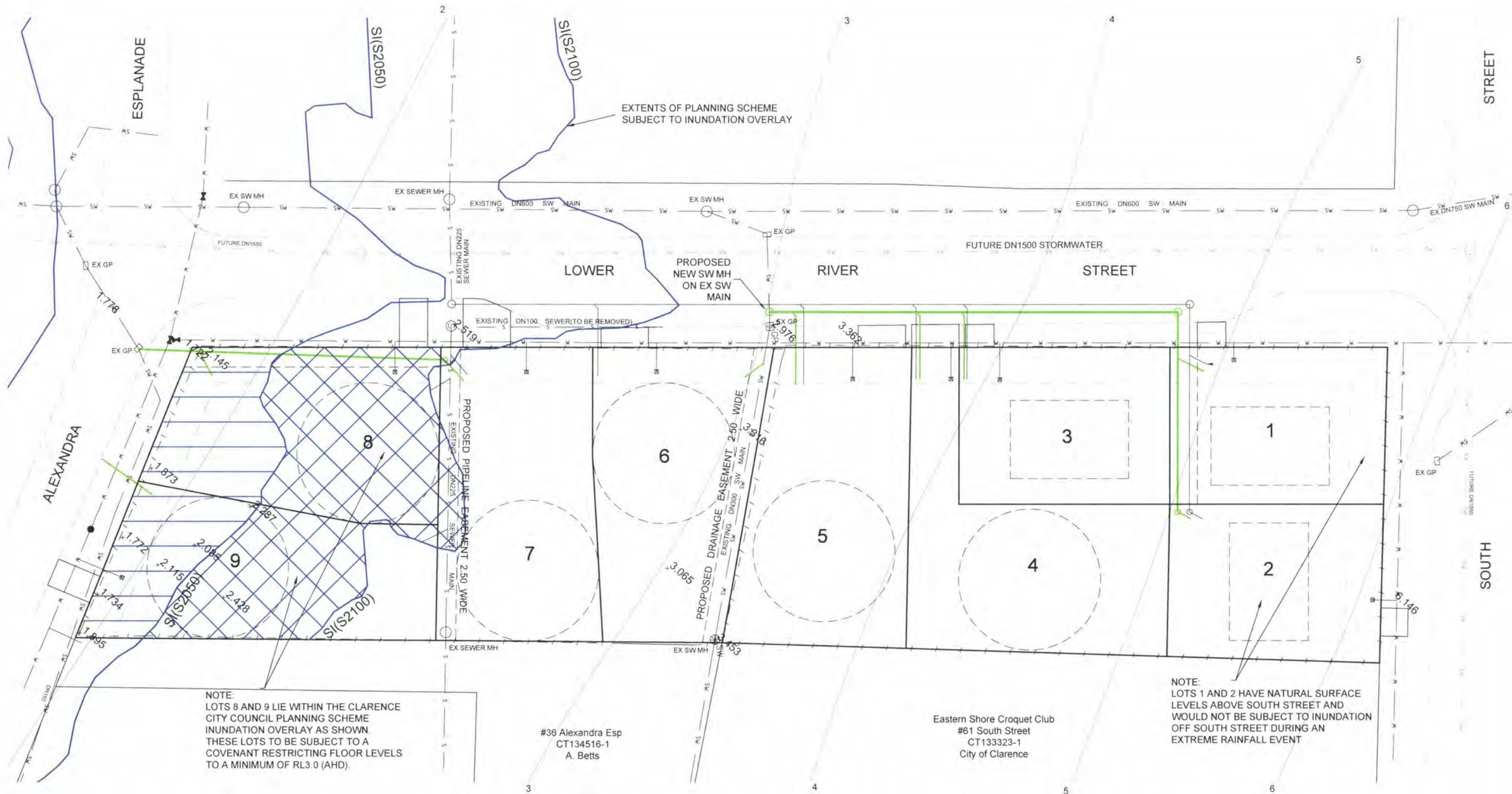
Owner	The Department of Education	Location	51 South Street, Bellerive	This plan has been prepared only for the purpose of obtaining preliminary subdivision approval from the Council and the information shown hereon should be used for no other purpose. All measurements and areas are subject to final survey.
PID.	7176201	Council	Clarence City Council	
		Planning Scheme:	Clarence Planning Scheme 2007	

Schedule Of Easements As Shown

Scale 1:500	Date 16.12.14	Our Ref. S719M-1B	Map ref: 5225	GDA94 Centroid: E 531 276 N 5 252 672	LISTMAP Image
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NOTE:  
LOTS 8 AND 9 LIE WITHIN THE CLARENCE CITY COUNCIL PLANNING SCHEME INUNDATION OVERLAY AS SHOWN. THESE LOTS TO BE SUBJECT TO A COVENANT RESTRICTING FLOOR LEVELS TO A MINIMUM OF RL3.0 (AHD).

#36 Alexandra Esp  
CT134516-1  
A. Betts

Eastern Shore Croquet Club  
#61 South Street  
CT133323-1  
City of Clarence

NOTE:  
LOTS 1 AND 2 HAVE NATURAL SURFACE LEVELS ABOVE SOUTH STREET AND WOULD NOT BE SUBJECT TO INUNDATION OFF SOUTH STREET DURING AN EXTREME RAINFALL EVENT

#### STORMWATER AND INUNDATION NOTES:

1. FROM REVIEW OF MAPPING CONTOURS AND INSPECTION ON SITE, THE LAND IS IN A GENTLY SLOPING AREA WITH NO NATURAL DRAINAGE PATHS.
2. THERE ARE NO OBVIOUS OVERLAND DRAINAGE PATHS WHICH WOULD CROSS THE SITE DURING AN EXTREME RAINFALL EVENT.
3. LOTS 1 AND 2 LIE ABOVE THE ROAD LEVELS IN SOUTH STREET.
4. LOTS 8 AND 9 LIE WITHIN AREAS SHOWN AS SI(S2050) AND SI(S2100) ON THE PLANNING SCHEME INUNDATION OVERLAY DUE TO PROJECTED HIGH SEA LEVEL RISE.
5. LOTS 8 AND 9 TO HAVE A COVENANT RESTRICTING FLOOR LEVELS TO A MINIMUM OF RL3.0 (AHD).
6. THE PROJECTED INUNDATION IN LOTS 8 AND 9 IS AS A RESULT OF HIGH SEA LEVELS AND IS NOT IN A FLOOD PATH OF HIGH FLOW RATE. THEREFORE THE RISK TO USERS OF THE SITE IS EXPECTED TO BE LOW.
7. THE PROPOSAL DOES NOT INCLUDE PLACEMENT OF SIGNIFICANT LANDFILL WITHIN LOTS 8 AND 9. THEREFORE THE PROPOSAL WILL NOT HAVE A SIGNIFICANT EFFECT ON EXTENTS OF INUNDATION.

#### Legend:

- PROPOSED STORMWATER SERVICES
- 1.873 EXISTING SPOT LEVEL (AHD)
- / EXTENTS OF PLANNING SCHEME INUNDATION OVERLAY

NOTE - CONTOURS SHOWN ARE FROM MAPPING - APPROXIMATE ONLY



REV	AMENDMENTS	DRAWN	DATE	APPR

NOTES

SURVEYOR	GEODCOMP
AMP	415001
DRAWN	CHECKED
LK	MM
DATE	15 DEC 2014

DEPARTMENT OF EDUCATION  
LOWER RIVER STREET, BELLERIVE  
9 LOT RESIDENTIAL SUBDIVISION  
STORMWATER AND INUNDATION DRAWING



**PDA Surveyors**  
Surveying, Engineering & Planning

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www.pda.com.au Also at: Kingston, Launceston & Burnie  
ABN 71 217 806 325  
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FAX: +61 03 6234 5085  
EMAIL: pda@pda.com.au

SCALE	PAPER
1 : 250	(A1)
JOB NUMBER	DRAWING
S719M - 3	



# Attachment 3

**51 South Street, BELLERIVE**



**Site viewed from Alexandra Esplanade showing Little River Street and Alexandra Esplanade frontages**



**View from the centre of the site looking south across the existing reserve**





**Site viewed from South Street showing Little River Street and South Street frontages**



**Site viewed from South Street showing the former kindergarten**

<b>11.4 CUSTOMER SERVICE</b>
------------------------------

Nil Items.

**11.5 ASSET MANAGEMENT****11.5.1 CLARENCE STREET – SAFETY ASSESSMENT PROJECT**

(File No. 04-03-01)(A898216)

**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the next phase of the Clarence Street Safety Assessment Project.

**RELATION TO EXISTING POLICY/PLANS**

Council's Strategic Plan 2010-2015 and Community Participation Policy are relevant.

**LEGISLATIVE REQUIREMENTS**

There are no specific legislative requirements.

**CONSULTATION**

There has been consultation in relation to the Clarence Street Safety Assessment Report through the Clarence Street Collaborative Reference Group.

Engagement with the community will be in accordance with the Council's Community Participation Policy.

**FINANCIAL IMPLICATIONS**

Council's Annual Plan provided funding of \$20,000 for this project. Until a recommendation is made on the preferred outcome resulting from the stakeholder group consultation there is no financial impact.

**RECOMMENDATION:**

- A. That Council receive the consultant's report on the collaborative process in relation to safety for all road users of Clarence Street.
- B. That Council authorise the General Manager to acknowledge, by letter, the valuable contributions made by all members of the Clarence Street Collaborative Reference Group.
- C. That Council authorise the General Manager to arrange for the assessment of feasibility and desirability of design options for Clarence Street with key interest and technical groups based on the 8 recommendations of the consultant's report.
- D. The outcomes from the assessment of feasibility and desirability of design options for Clarence Street to be presented at a future Council Workshop.

**CLARENCE STREET – SAFETY ASSESSMENT PROJECT /contd...****ASSOCIATED REPORT****1. BACKGROUND**

- 1.1.** At its meeting of 14 January 2008 Council adopted the *Clarence Bicycle Action Plan – 2007*; in which Clarence Street was identified as a key commuter cyclist route that required safety improvements for cyclists.
- 1.2.** At its meeting of 30 November 2009 Council endorsed the *Hobart Regional Arterial Bicycle Network Plan – 2009* which also identified Clarence Street as an important arterial route for commuter cyclists.
- 1.3.** SKM provided the final Clarence Street Safety Assessment report to Council in January 2011. A CD-ROM copy of the report was forwarded to all Aldermen on 7 February 2011. The author of the report, Dr Cameron Munro, Traffic Engineer SKM, presented his findings at a Council Workshop held on Monday 20 June 2011. There was no clear direction provided by Council as a result of this presentation.
- 1.4.** A review was undertaken of the *Clarence Bicycle Action Plan – 2007* during late 2012 and early 2013. The *Clarence Bicycle Strategy and Action Plan – 2013-2017* was endorsed by Council at its meeting held 29 July 2013; the Clarence Street project remains a key project in the revised document.
- 1.5.** Council approved funding of \$10,000 in the 2012/2013 Annual Operating Plan to conduct public consultation relating to the Clarence Street Safety Assessment Report. DIER has committed \$10,000, making a total of \$20,000, towards the public consultation.

- 1.6.** At its meeting of 2 December 2013 Council authorised the General Manager to arrange a Council Workshop presentation relating to the collaborative process by a representative from Twyfords Consulting.
- 1.7.** Max Hardy, Director Twyfords Consulting, presented the collaborative process of public consulting to the Aldermen at the workshop held Monday 20 January 2014.
- 1.8.** At its meeting of 3 February 2014 Council adopted:
- A. The Council authorises the General Manager to arrange community participation by following the Collaborative Process presented by Twyfords Consulting in relation to Clarence Street Safety Assessment Report prepared by Sinclair, Knight and Merz.*
  - B. The outcomes from the stakeholder group deliberations to be presented at a future Council Workshop.*
- 1.9.** The Clarence Street Collaborative Reference Group presented the outcomes of their deliberations at the Council Workshop held on Monday 19 January 2015.

## **2. REPORT IN DETAIL**

- 2.1.** A letter was sent to residents in and around Clarence Street inviting them to attend a public meeting held at St Marks Church on Monday 12 May 2014. 49 people attended the public meeting after which Council received 20 expressions of interest to be a member of the Clarence Street Collaborative Reference Group (CSCRG). This list was reduced to a more manageable number of 14 people who represented a range of criteria such as age, sex, primary transport mode and interest groups from within the community.
- 2.2.** The CSCRG met on 5 occasions over the past 6 months, working together through the collaborative process with a focus on the safety issues associated with Clarence Street and its user groups.

**2.3.** The CSCRG identified 8 key landing points/recommendations to improve the safe use of Clarence Street for all road users, they are:

- Traffic Lanes – clearly defined;
- Bus Stops – provide consistent spacing and align with pedestrian movements;
- Turning Lanes – provide discreet turning lanes at all intersections;
- Bike Lanes – provide safe designated bike lanes;
- Speed Limit – reduce speed limit to 50km/h;
- Traffic Lights – investigate relocating pedestrian signals to Scott Street intersection;
- Pinch Points – rationalise frequency and location of standouts and islands; and
- Landscaping – develop a consistent theme incorporating heritage values.

**2.4.** The CSCRG are not technical experts in traffic management and have therefore contained the landing points/recommendations to broad actions.

**2.5.** The following suggested actions were presented at the Council Workshop 19 January 2015:

- Consultant to complete written report on the collaborative process;
- Council to consider adopting the report at the Council Meeting on 2 February 2015;
- Council to thank the Clarence Street Collaborative Reference Group members for their contributions;
- General Manager to arrange for the preparation of design concept options for Clarence Street based on the recommendations of the Clarence Street Collaborative Reference Group;

- These design concept options and community feedback to be presented at a future Council Workshop;
- The broader community invited to provide feedback on these design concept options;
- Council adopt the preferred option at a future Council Meeting following the Workshop.

**2.6.** A copy of the consultant's report on the collaborative process is included in the Attachment.

**2.7.** Council considered the recommendations at the Workshop and expressed interest in assessing the feasibility and desirability of design options based on the 8 recommendations. There is a need to engage technical experts and representatives from key interest/technical groups, i.e. the Road Safety Council, Metro, RACT, Department of State Growth and Bicycle Tasmania to assist with the design options.

**2.8.** Following the completion of the design options a further Council Workshop is to be held to consider these options. Following the Workshop Council is to consider the next phase of this project which may include public consultation with the community inviting feedback based on the design options.

**2.9.** At the completion of the public consultation the results are to be presented to a Council Workshop for consideration and implementation of agreed components.

### **3. CONSULTATION**

**3.1.** There has been consultation in relation to the Clarence Street Safety Assessment Report through the Clarence Street Collaborative Reference Group.



- 3.2.** Future engagement with the community will be in accordance with the Council's Community Participation Policy.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

Council's Strategic Plan is applicable, part of the Public Spaces and Amenity strategy:

*Develop plans to improve the amenity of public spaces, including:*

- *implementation of Tracks and Trails Plan and Cycle Plan.*

**5. EXTERNAL IMPACTS**

Nil at this stage of the process.

**6. RISK AND LEGAL IMPLICATIONS**

Not applicable at this stage of the process.

**7. FINANCIAL IMPLICATIONS**

There are no immediate financial implications until Council has considered the feedback following the public consultation of the design options.

**8. ANY OTHER UNIQUE ISSUES**

The collaborative consultation process has been discussed with the Clarence Bicycle Steering Committee which indicated that it is supportive of the approach.

**9. CONCLUSION**

- 9.1.** There have been valuable contributions made by all members of the Clarence Street Collaborative Reference Group through engaging in a complex issue to provide Council with recommendations to improve safety for all road users of Clarence Street.

- 9.2.** Consultation with key interest and technical groups such as the Road Safety Council, Metro, RACT, Department of State Growth and Bicycle Tasmania to assist with the feasibility and desirability for the design options is an essential component to further progress this matter.

Attachments: 1. Consultant's Report (8)

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**

# Clarence Street Safety Project

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## Consultant report on using a collaborative governance approach

Clarence City Council officers, Ian Preece and Lyndall Edwards, invited me to present a different approach to working with the community with regard to a safety project. Various community groups and road safety consultants had identified Clarence Street as being problematic, poorly designed and in need of Council's attention.

I gave a presentation to the Aldermen of Clarence City Council on 20<sup>th</sup> January 2014.

### Summary of main points of collaborative governance approach

Most conventional approaches to consulting or engaging the broader community on complex or controversial matters are neither effective nor helpful to Councils with their decision-making. Councils usually rely on experts, internal and external, before presenting a plan or proposal for community feedback. Among the concerns with this conventional approach are as follows:

- Invariably there is little understanding of the rationale for the plan, the options considered or how the preferred option was arrived at.
- Council, having done a great deal of work, is often defensive about criticism of the plan, and focuses much attention on marketing the merit of the plan.
- While having concern with options presented, there is often confusion about what problems it is attempting to solve, or questions it is trying to answer.

The difference between conventional and a collaborative approach (see Figure 1) were talked through along with some examples. Several questions were asked about how the approach being outlined differed from Sandy Bay, and there was also interest expressed in the approach used for The Queensland Plan.

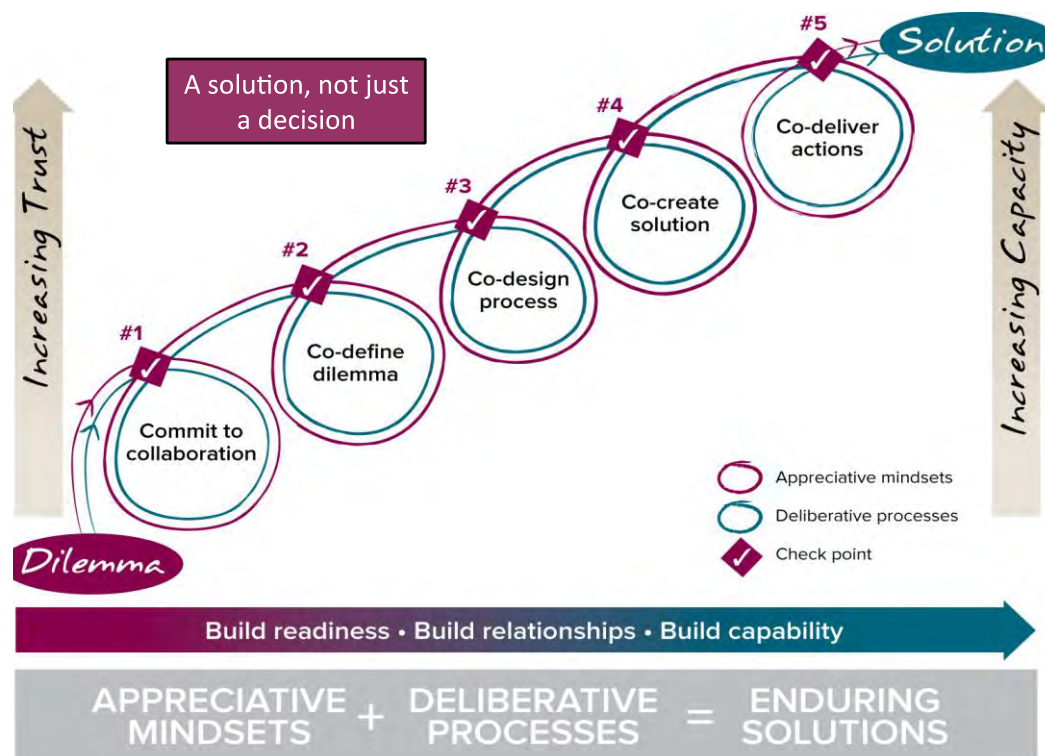
The Twyfords Collaborative Governance Pathway approach was also explained, which invites a cross section of the community to work with the sponsoring organisation (in this case Council) to co-define the dilemma, or question, together first, co-design the process for working together, before attempting to co-create a solution. The illustration for this approach can be found at Figure 2.

Following the presentation (workshop) Council committed to this approach with regard to the Clarence Street Safety Project.

Figure 1 - Conventional versus Collaborative approach

Conventional	Collaborative
...Deciding what can be influenced by the community and what can't	...Determining the scope of the collaboration collectively
...Assessing risks that certain interest groups pose to our plan	...Identifying who has an interest in this plan so we can invite their contribution
...Providing reasonable opportunities for people to provide feedback or input	...Co-designing how we will work with the 'community of interest' on this challenge
...Trying to obtain feedback on the merit of various options we are considering	...Co-creating possible solutions together
...Considering feedback provided by the community & possibly making changes	...Deliberating over possible solutions taking into account agreed criteria

Figure 2 - Twyfords Collaborative Governance Pathway



### Mayor's invitation and Information Night

Following Council's decision to commit to a collaborative governance approach a letter, dated 14<sup>th</sup> April 2014, from the Mayor, was broadly circulated to Clarence St residents, other nearby local residents, businesses, schools, churches and sporting associations, inviting them to attend an information evening about the Clarence St Safety Project.

These excerpts of the letter showed Council's intent and it's request for the community's assistance.

"To get the best outcome for Clarence Street, we need a group to represent a broad range of views from schools, businesses, local residents, church groups, cyclists, pedestrians, motorists and public transport users. We hope you will be part of this group.

"You will have an impact on current conditions for:

- **Driving** - dangers include undefined lanes and squeeze points when cars park opposite pedestrian refuges;
- **Parking** - dangers include no defined parking spaces, limited clearance from passing cars);
- **Walking** (dangers include very wide crossing distances and 19% - 27% of vehicles travelling in excess of the speed limit;
- **Cycling** - dangers include squeeze points created by parked cars and kerb outstands, no defined space for cyclists or vehicles.

"Council thinks that safety is the big issue, but we are keen to understand other perspectives so that together we make sure we are solving the right issues."

The Information Evening was held at the St Marks, Clarence St, on the evening of the 12<sup>th</sup> May 2014. Over 40 people attended the evening, during which I explained the collaborative process. Clarence City Council's Environmental & Sustainability Program Manager, Mr Ian Preece also presented some of the safety issues. The meeting was concluded with some discussion about the intention to form a Clarence Street Collaborative Reference Group (CSCRG), and application forms to participate in the group were distributed.

Twenty applications were received and assessed against the criteria for the group. Thirteen of the applicants were then invited to participate in the CSCRG.

### Selection Process and composition of the CSCRG

Applicants were assessed against criteria. Essentially the criteria was as follows:

- Overall, the group needs to represent a mix of different people with different interests.
- Individuals need to be interested in and potentially affected by a plan (ie, residents, business owners, clubs, churches in the local area).
- A reasonable geographic spread of residents.

- Be well-connected to the broader community to help with information dissemination and to provide feedback/input.
- Be able to participate in evening meetings, once per month on average, until solid recommendations/directions could be provided to Council, with the intention to arrive at conclusions before Christmas 2014.

The thirteen selected, upon consultant advice, ensured that a suitable mix of residents were selected in terms of:

- Mode of primary means of transport
- Age spread
- Geographic spread
- Gender
- Points of view.

This photo was taken of the group meeting the criteria at its first meeting, on 7<sup>th</sup> July, 2014.



### Term of Reference

The first meeting of the CSCRG was held on 9<sup>th</sup> July. The Terms of Reference for the group, with regard to the Clarence Street Safety Plan, were confirmed as:

- to frame the specific dilemma for which a plan is to be developed
- to make recommendations and set priorities for Council
- not to provide highly technical solutions
- to consider how to engage the wider community with regard to the outcomes, especially groups who are not represented
- to have a big say in what should be done
- to develop a succinct list of ideals that make the street safer, user friendly, and attractive for everyone to be proud of.

## Meetings and Field Trip

At the first meeting the CSCRG identified the wide range of interests as they related different stakeholders. They were then invited to start developing a ‘dilemma statement’, which involved clarifying what this plan was essentially about, and what everyone in the group would be happy to respond to by the end of the year.

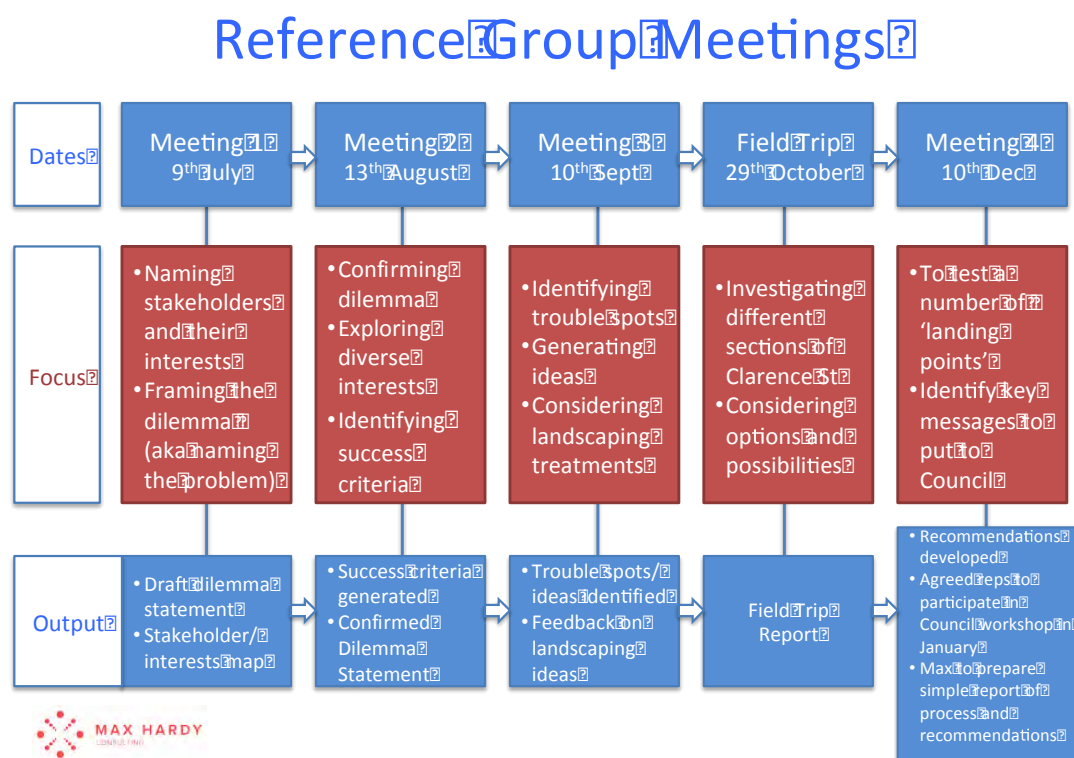
By the second meeting the CSCRG had agreed that their dilemma was:

*How to ensure Clarence Street meets current usage requirements and allows for future growth in a way that:*

- *facilitates traffic flow*
  - *improves safety for all user groups*
  - *continues to provide (improves) access for services and businesses*
  - *meets local residential access and parking needs*
  - *encourages growth in active transport (for example walking, cycling and public transport*
  - *provides a pleasant streetscape*
- (taken from minutes of 2<sup>nd</sup> meeting, August ‘14)

The focus of all the meetings and the field trip are represented in Figure 3 below.

Figure 3 - Overview of CSCRG meetings and focus



## Landing Points/Conclusions

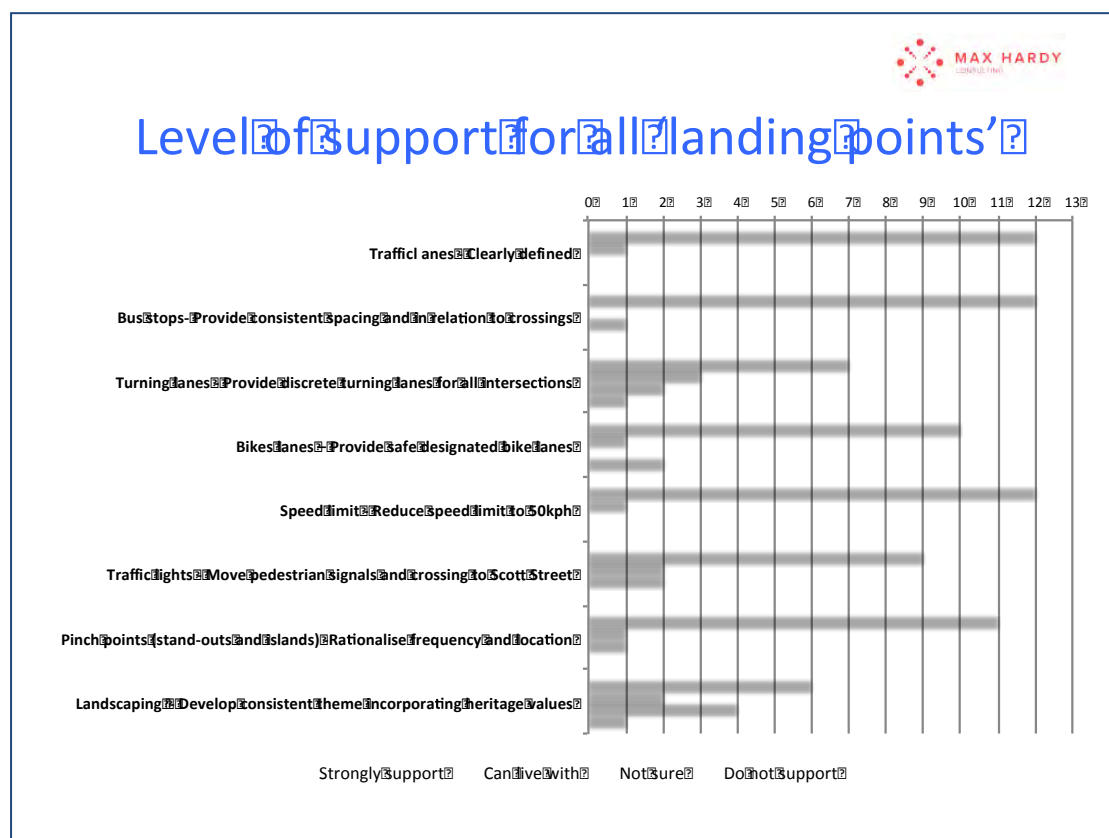
Following the field trip a number of ‘landing points’ or conclusions were tested as a

way to consolidate on all the work the group had undertaken. Some of the landing points were very obviously supported by all members, whereas others were less clear.

1. **Traffic lanes** – Clearly defined
2. **Bus Stops** – Provide consistent spacing and in relation to pedestrian crossings;
3. **Turning lanes** – Provide discrete turning lanes for all intersections;
4. **Bikes lanes** – Provide safe designated bike lanes
5. **Speed limit** – Reduce speed limit to 50kph;
6. **Traffic lights** – Move pedestrian signals and crossing to Scott Street;
7. **Pinch points** – Rationalise frequency and location (stand-outs and islands);
8. **Landscaping** – Develop consistent theme incorporating heritage values.

Members of the group were then invited to indicate the extent which they supported each landing point; did they strongly support it, could they live with it, were they unsure, and or did they NOT support it. They also were invited to identify their highest priority landing point, and to make comments to support their selections.

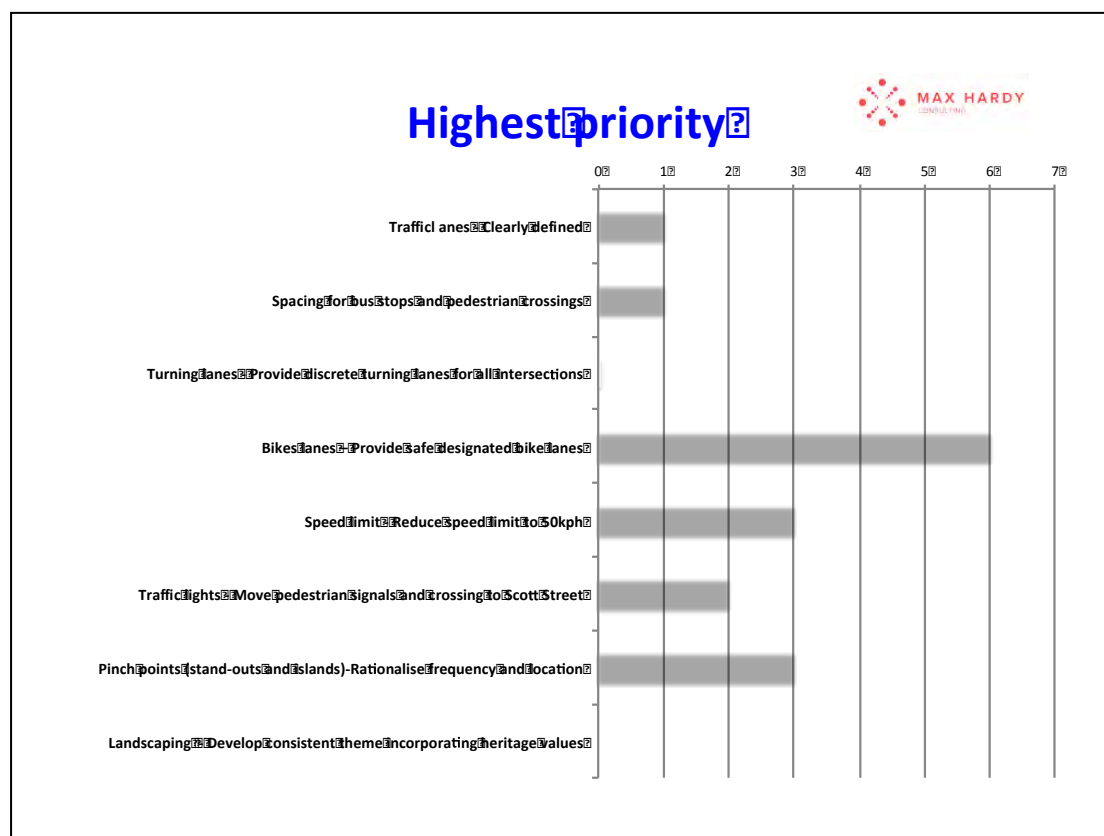
Figure 4 - Level of support for each landing point



In terms of the main priorities of the group, the main priority to emerge was bike lanes, although two members indicated they did not support them at this stage, as per the previous figure.



Figure 5 - Highest priorities



### Suggested Actions

In consultation with council officers and the smaller delegation of the CSCRG who presented to the Council workshop 19<sup>th</sup> January 2015, the following suggested actions were put forward.

- Consultant to complete written report on the collaborative process (*this report*);
- Council to consider adopting the report at the Council Meeting 2<sup>nd</sup> February 2015;
- Council to thank the Clarence Street Collaborative Reference Group members for their contributions;
- General Manager to arrange for the preparation of design concept options for Clarence Street based on the recommendations of the Clarence Street Collaborative Reference Group;
- These design concept options and community feedback to be presented at a future Council Workshop;
- The broader community invited to provide feedback on these design concept options;
- Council adopt the preferred option at a future Council Meeting following the Workshop.

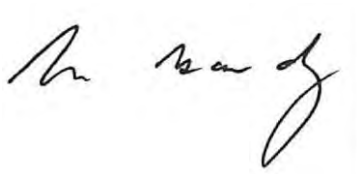
The workshop session with Council was well received with some excellent questions asked by Aldermen. Council will now formally determine their response to these suggested actions at its meeting 2<sup>nd</sup> February, 2015.

### Observations of the process

As the consultant who proposed this approach, and facilitated all the meetings of the group (with the exception of the field trip) I make the following observations.

- Members of the CSCRG rose to the occasion and invested a great deal of time and thought into their task.
- All members indicated that they learned a lot from each other and from technical experts who provided information to them throughout.
- A great deal of respect for the needs and aspirations of each other was built, as well as for those in the broader community.
- Members enjoyed the opportunity being given to them and appreciated that Council would take this new approach.
- Members appreciate that more work needs to be done to explore the concepts, but are confident that Clarence Street will be safer as a result of their work.
- Some members expressed interest in continuing to work with Council during the next phase of the project; others are happy to now step back to see what concept designs are developed.
- All members support broader community engagement with regard to concept designs, and believe that it is very important to report back to the wider community about progress made to date.

It has been a pleasure to work on this project with Council and the CSCRG and I wish you well as you move into the next phase. I would be thrilled to continue offering guidance and support as required.

A handwritten signature in black ink, appearing to read 'Max Hardy', written over a light blue horizontal line.

Max Hardy  
Director, Max Hardy Consulting  
22<sup>nd</sup> January, 2015.

**11.5.2 EDUCATIONAL BIKE TRACK FROM MOTION ON NOTICE**

(File No 04-15-01)

**EXECUTIVE SUMMARY****PURPOSE**

To report back to Council on a Motion on Notice adopted by Council at its meeting on 1 December 2014 relating to Council endorsing the principle of constructing an educational bike track.

**RELATION TO EXISTING POLICY/PLANS**

Council's Strategic Plan 2010-2015 is relevant.

**LEGISLATIVE REQUIREMENTS**

Nil.

**CONSULTATION**

No community consultation has occurred in relation to this report back to Council.

**FINANCIAL IMPLICATIONS**

The implementation of establishing an Educational Bike Track within the City will require additional capital funds and be subject to Council approval of a future Annual Plan.

**RECOMMENDATION:**

- A. That Council:
- determines that Wentworth Park/Salacia Avenue is the optimum location for the establishment of an Educational Bike Track; and
  - authorises the General Manager to commence the Wentworth Park/Salacia Avenue Master Plan exercise presenting options to a future Council Workshop before consulting with the community on the management and development of the area.
- B. That funding of the Educational Bike Track at Wentworth Park be considered as part of Council's consideration of the 2015/2016 Capital Works Program.

**EDUCATIONAL BIKE TRACK FROM MOTION ON NOTICE /contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1.** Council at its meeting held 1 December 2014 approved the following:

*“That Council endorse in principle the construction of an ‘educational bike track’ and request Council staff as a priority to identify suitable locations and to provide a cost estimate for such a facility.”*

- 1.2.** As part of the Council Workshop Session on 19 January 2015 Council staff presented advice and costings back on the Motion on Notice. This Agenda Item reports on the findings and views from that Council Workshop Session.

**2. REPORT IN DETAIL**

- 2.1.** Within the greater Hobart area there are a number of Educational Bike Tracks and the location, scale and scope of some of these are detailed below:

- Seymour Street Park Brighton:
  - 2,750 m<sup>2</sup> footprint;
  - Concrete bike path, 2.5 metres wide, 250 metres long;
  - Line marking, traffic signs, roundabout and 4 way signalised intersection and
  - Surrounded by open space, picnic and playground facilities.
- Tolosa Park Glenorchy:
  - 2,400 m<sup>2</sup> footprint;
  - Concrete path connected to skate park and
  - Surrounded by open space, picnic and playground facilities.

- Dru Point Margate:
  - 1,250 m<sup>2</sup> footprint;
  - Concrete bike path, 2.5 metres wide, 180 metres long;
  - Line marking, traffic signs and 4 way signalised intersection and
  - Surrounded by open space, picnic and playground facilities.
- Tynwald Park New Norfolk:
  - 4,500 m<sup>2</sup> footprint;
  - Concrete bike path, 2.5 metres wide, 555 metres long;
  - Line marking, traffic signs and 4 way signalised intersection and
  - Surrounded by open space, picnic and playground facilities.

**2.2.** The Educational Bike Track Motion on Notice required Council staff to identify suitable locations for such a facility. Suitable locations should meet some basic criteria which have been reflected in the above facilities:

- Reasonably flat and level site;
- Minimum area of 2,500 m<sup>2</sup> to accommodate a track comparable in size to Seymour Street Park, Brighton;
- Area of track and location should not compromise passive open space adjacent to and complimenting existing playgrounds;
- Located adjacent to family-friendly facilities such as public toilets, BBQs and shelter pavilions;
- Adequate parking for drop off and pick up of bicycles;
- Close proximity to Clarence Foreshore Trail to encourage use; and
- Located a safe distance from busy roads and high traffic use areas.

**2.3.** The estimated cost to construct a facility with following elements is \$120,000:

- Area of approximately 2,500 m<sup>2</sup>;
- 300 metres of concrete track, 2.5 metres wide;
- Signalised intersection with traffic lights;
- Areas of raised kerb/gutter adjacent path;
- Road signage and line marking and
- Associated seating, bike racks and landscaping.

**2.4.** There are potentially 4 sites in the City that meet the criteria set out in section 2.2 above:

- Geilston Bay Reserve;
- Montagu Bay Park;
- Simmons Park; and
- Wentworth Park/Salacia Avenue.

Attachment 2 is a photomontage of these sites with the red box representing the 50 metres by 50 metres site to give an indication of how such a facility would sit within the existing landscape.

**2.5.** The assessment summary for the sites follows:

- All sites are reasonably flat and level.
- Montagu Bay Park and Geilston Bay Reserve have limited space available to accommodate a minimum 2,500 m<sup>2</sup> for a track comparable in size to Seymour Street Park, Brighton.
- Note that the Simmons Park area is the same area identified for a possible playground expansion and to a certain extent these 2 recreational facilities are mutually exclusive at this site. Regardless of that only the Wentworth Park/Salacia Avenue area has sufficient additional passive open space available next to a proposed bike track site so that other passive recreation functions of the parks are not compromised.

The Eastern site of Wentworth Park is close to the Southern Support School/Timsbury School and linkage to their learning program may be worth investigating.

- All sites are located adjacent to family-friendly facilities such as public toilets, BBQs and shelter pavilions.
- Simmons Park has limited parking facilities whereas all the other sites have off-road parking available.
- All sites are close to the Clarence Foreshore Trail.
- Simmons Park is surrounded by the Lindisfarne Esplanade and Montagu Bay has a road on 3 frontages whereas all the other sites are generally located on no through roads at the end of cul-de-sacs.

On the basis of the criteria set out in section 2.2 the table below summarises the fit of the identified sites with the criteria.

<b>Description</b>	<b>Geilston Bay Reserve</b>	<b>Montagu Bay Park</b>	<b>Simmons Park</b>	<b>Wentworth Park/Salacia Avenue</b>
<b>Level</b>	Yes	Yes	Yes	Yes
<b>Area</b>	No	No	Yes	Yes
<b>Compatible with Passive Space</b>	No	No	No	Yes
<b>Family friendly facilities</b>	Yes	Yes	Yes	Yes
<b>Parking</b>	Yes	Yes	No	Yes
<b>Clarence Foreshore Trail</b>	Yes	Yes	Yes	Yes
<b>Remote from high traffic areas</b>	Yes	No	No	Yes

- 2.6.** On the basis of the above table it is recommended that further investigation be undertaken into the development of an Educational Bike Track at the Wentworth Park/Salacia Avenue site as part of an overall Master Plan process for the area.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

No consultation has been undertaken for the Educational Bike Track project.

#### **3.2. State/Local Government Protocol**

Nil.

#### **3.3. Other**

Nil.

#### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

- 4.1.** Council's Strategic Plan 2010/2015 under the Goal Area Social Inclusion has the following Access and Social Inclusion Strategies;

*“Facilitate the provision of needed public facilities”; and*

*“Provide a range of family, youth and age-friendly programs and facilities including child care services, playgrounds, youth services, senior citizens' centres and community volunteer program.”*

- 4.2.** Council's Strategic Plan 2010/2015 under the Goal Area Social Inclusion has the following Public Spaces and Amenity strategy;

*“Develop plans to improve the amenity of public spaces, including*

- *Future needs for public open space and recreational facilities”*

- 4.3.** Council's Strategic Plan 2010-2015 within the Goal Area Social Inclusion contains the following Community Safety and Well-being strategy:

*“Provide essential infrastructure to support, sustain and enhance community safety and social well-being”.*

- 4.4.** Council's Strategic Plan 2010-2015 within the Goal Area Governance contains the following Internal Operating Systems strategy:

*“Ensure appropriate management of risk associated with Council's operations and activities.”*

#### **5. EXTERNAL IMPACTS**

Nil.

#### **6. RISK AND LEGAL IMPLICATIONS**

Nil.

#### **7. FINANCIAL IMPLICATIONS**

The estimated total cost for the installation of an Educational Bike Track is \$120,000 and is subject to Council approval as part of a future Annual Plans.

#### **8. ANY OTHER UNIQUE ISSUES**

It may be possible, if the Educational Bike Track is located in Wentworth Park, for the track to have some educational linkages with the nearby Southern Support School.



## **9. CONCLUSION**

The estimated cost to construct an Educational Bike Track along the same scale and scope as the Seymour Street Park in Brighton would be \$120,000. On the basis of the site selection criteria addressed in this report it is recommended that further investigation be undertaken into the development of an Educational Bike Track at the Wentworth Park/Salacia Avenue site as part of the overall development of a Master Plan for this site. Design concept of the Master Plan can be developed incorporating the bike track for presentation at a future Council Workshop.

Attachments: 1. Possible Educational Bike Track Sites (4)

John Stevens

**GROUP MANAGER ASSET MANAGEMENT**











**11.6 FINANCIAL MANAGEMENT**

Nil Items.

## **11.7 GOVERNANCE**

### **11.7.1 QUARTERLY REPORT TO 31 DECEMBER 2014**

(File No. 10/02/05)

#### **EXECUTIVE SUMMARY**

##### **PURPOSE**

To consider the General Manager's Quarterly Report covering the period 1 October to 31 December 2014.

##### **RELATION TO EXISTING POLICY/PLANS**

The Report uses as its base the Annual Plan adopted by Council and is consistent with Council's previously adopted Strategic Plan 2010-2015.

##### **LEGISLATIVE REQUIREMENTS**

There is no specific legislative requirement associated with regular internal reporting.

##### **CONSULTATION**

Not applicable.

##### **FINANCIAL IMPLICATIONS**

The Quarterly Report provides details of Council's financial performance for the period.

##### **RECOMMENDATION:**

That the Quarterly Report to 31 December 2014 be received.

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#### **ASSOCIATED REPORT**

The Quarterly Report to 31 December 2014 has been provided under separate cover.

Frank Barta  
**ACTING GENERAL MANAGER**

**11.7.2 BUILDING REGULATORY FRAMEWORK REVIEW**

(File No 20-13-01)

**EXECUTIVE SUMMARY****PURPOSE**

To formally consider and endorse a response to be submitted by Council to the Director of Building Control (Department of Justice) on the Building Regulatory Framework Review.

**RELATION TO EXISTING POLICY/PLANS**

Not applicable.

**LEGISLATIVE REQUIREMENTS**

Not applicable.

**CONSULTATION**

The Department of Justice has invited comment from Local Government, building interest groups and the public.

**FINANCIAL IMPLICATIONS**

Not applicable.

**RECOMMENDATION:**

That the response document included as Attachment 2 to the Associated Report be endorsed as Council's formal response to the Position Paper on the Building Regulatory Framework Review issued by the Director of Building Control in November 2014.

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**ASSOCIATED REPORT****1. BACKGROUND**

**1.1.** The Director of Building Control is undertaking a comprehensive review of the State's building regulatory framework. As part of that review, a Consultation Paper was released in July 2014 and Council submitted a response in September 2014.

**1.2.** In November 2014, the Director of Building Control issued a further Position Paper which contains recommendations and options based on the feedback received in relation to the Issues Paper.



- 1.3.** As the submissions on the Position Paper closed on 31 January 2015, a response document was submitted to the Director of Building Control on an interim basis with the advice that Council was to formally consider the matter at its meeting of 2 February 2015. The response document was distributed to Aldermen on 31 December 2014 for consideration.
- 1.4.** After the feedback on the Position Paper is received, it is expected legislation will be drafted and available for comment in March 2015, before being tabled in Parliament in April 2015.

## **2. REPORT IN DETAIL**

- 2.1.** The existing building regulatory framework incorporates the Building Act 2000, the Building Regulations 2004 and the Plumbing Regulations 2004, the Housing Indemnity Act, 1992 and the Occupational Licensing Act, 2005.
- 2.2.** The purpose of the review is to identify issues with the current building regulatory framework and propose solutions to improve the building regulatory framework.
- 2.3.** In July 2014, an Issues Paper was released by the Director of Building Control which posed questions surrounding the objectives of the Building Act, building certification, building standards, compliance and enforcement, consumer protection, professional education, accreditation, the overlaps between planning, building and plumbing, and the appeals process.
- 2.4.** Council responded to the Issues Paper by submitting a detailed response to the Director of Building Control in September 2014.
- 2.5.** Following on from the Issues Paper and related consultation period, the Director of Building Control released a Position Paper in November 2014, which sets out the key recommendations and options proposed to be introduced into the building regulatory framework. The Position Paper sought feedback to various issues and aspects of building regulation raised by different building industry interest groups.

**2.6.** The key recommendations proposed in the Position Paper that may affect Council include:

- establishing new reporting framework for permit authorities to report to the Director of Building Control;
- allowing building surveyors to certify specified low-risk building work without the need for a building permit;
- allowing certain low risk work and other specified building work which is already subject to other regulatory or certification processes;
- introducing a Building Directive which allows for a standard pre-approved residential design;
- clarifying the role and responsibilities of building surveyors;
- reducing the need for plumbing permits and in turn increase risk-based auditing on plumbing work;
- the consideration of either:
  - retaining the current system of permit authorities issuing certifications and permits; or
  - reducing the number of permit authorities with a focus on improving auditing and documentation requirements and clarifying the roles of the permit authority and the building surveyor; or
  - introducing fully contestable building certification;
- requiring every council to appoint a Municipal Building Surveyor;
- implementing regular reporting and targeted audits of permit authority operations;
- reviewing what further penalties the General Manager and permit authority can issue;
- adopting a risk-based approach to auditing and identify particular areas of concerns and undertake 100% inspections;

- more clearly specifying the powers available to a Building Surveyor, Council officers or Delegate of the Director; and
- seeking a streamlining of building appeal and review processes.

**2.7.** The recommendations and options outlined above will, if accepted, be included in the new Building Act and may have an impact on Council's service delivery in the areas of building and plumbing. There may also be significant changes to the role of Council as a permit authority and the possibility that Council will have more onerous obligations. However, until the legislation is drafted and released for comment, it is unknown what the full impact of the new Act will be on Council.

**2.8.** Council's response document has responded to all the recommendations and options in the Position Paper that will possibly have an effect on Council. The response document sets out Council's position as being:

- the current system of permit authorities issuing certifications and permits should be maintained with a focus on streamlining and improving the existing processes;
- the permit authority's existing role of record keeping in relation to permits is important and should be retained; and
- there should be an emphasis on the accountability of building practitioners in the interest of protecting the underlying interest of the broader public.

### **3. CONSULTATION**

#### **3.1. Community Consultation**

The review process undertaken by the Director of Building Control has involved community consultation.

#### **3.2. State/Local Government Protocol**

The Position Paper has been released to all Councils for comment.

**3.3. Other**

Discussions on the review and Council's response document have occurred at officer level.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

There are no direct implications for Council's Strategic Plan or policies.

**5. EXTERNAL IMPACTS**

The recommendations and options proposed in the Position Paper may have external impacts on the areas building and plumbing, however, until the Act is drafted, the extent of these impacts is unknown.

**6. RISK AND LEGAL IMPLICATIONS**

The recommendations and options proposed by the Director of Building Control may have direct risk and legal implications for Council. These implications, if any, will not be known until the new Act is drafted.

**7. FINANCIAL IMPLICATIONS**

Depending on the recommendations and options adopted within the new building regulatory framework, there may be financial implications if Council is required to provide more permit authority services to the community.

**8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

**9.1.** The Director of Building Control is undertaking a comprehensive review of the State's building regulatory framework and released a Position Paper in November 2014, which sets out the key recommendations and options proposed to be introduced into the building regulatory framework.

- 9.2.** The recommendations and options outlined in the Position Paper, if accepted, may have legal, risk, service delivery and financial implications for Council in the areas of building and plumbing. However, until the legislation is drafted, it is unknown what the full impact will be on Council.
- 9.3.** A response document responding to the recommendations and options that affect Council has been forwarded to the Director of Building Control on an interim basis, with the advice that the matter was to be formally considered by Council at its Meeting of 2 February. The response document provides Council's view on the recommendations and options proposed by the Director of Building Control.

Attachments: 1. Position Paper (94)  
2. Response Document (13)

Frank Barta  
**ACTING GENERAL MANAGER**

# Tasmanian Building Regulatory Framework Review

## Position paper

Version 1.1 28 November 2014

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# I Director's Overview

The Treasurer, Peter Gutwein MP, on behalf of the Tasmanian Government has requested that I, as the Director of Building Control, undertake a comprehensive review of the building regulatory framework to ensure that only the regulation which is still relevant to Tasmania today and into the future remains part of the framework.

This includes a review of the interactions between legislation and policies affecting the building industry.

This Paper is the second step in the consultation process for the Review of the Building Regulatory Framework endorsed by the Treasurer as the Minister responsible for the Building Act.

In the detail of this paper I outline a series of recommendations and options for the future of the Building Regulatory Framework in Tasmania. These have been formed from the feedback on the Issues Paper released earlier this year, the information garnered from the work the reference groups undertook in relation to the issues paper, on the feedback I received in a number of different fora over the last few months and based on research undertaken in this office.

I am seeking community and industry feedback on the recommendations and this feedback will inform the advice I give to the Treasurer and ultimately will be considered in the Tasmanian Government's decisions in relation to each of the recommendations and on any other matters which come to light.

In broad terms the feedback and research undertaken by my staff indicate that the key features of the Building Regulatory Framework in 2015 and beyond need to include:

## **1) Clear Objectives**

Part of providing certainty to industry and consumers is to have a set of criteria (objectives) which are used as a barometer whenever change is considered. Indeed if a proposal for change would not further the objectives then it may be a basis for not going ahead with the change.

Hence, the core objectives of any construction industry legislative regime need to be clearly articulated and need to form the basis of assessing the elements of the regulatory framework. Having consulted with industry and consumers and decided on the objectives

each change which is suggested should be judged against those objectives before it is considered.

I have recommended that Tasmania adopt objectives in its Building Legislation. These should be clearly stated in the legislation and be the basis for deciding on what is included in the response to this review and for the adoption of regulation and legislative amendments in the future.

## **2) Coherent Policy Development and Consultation with the Community**

The building sector is vital not only in terms of the economy but also in providing safe and healthy environments for people to live, work and play.

Because of this, the current Tasmanian Government has a single Minister for Building, Planning and Local Government and has a single area responsible for overall building regulation.

The role of the Director of Building Control is to benchmark regulation against national and international standards and work with the industry and consumers to address failings (including implementing timely and sensible corrective action where systematic failure occurs).

I have been being aided in the work on this Review by Industry, Practitioner, Consumer and Local Government Advisory Groups. This level of consultation is both essential in this process and essential in any future regulatory framework.

## **3) A Practitioner Registration System**

Tasmania adopted a process of accreditation or licensing of Building practitioners in 2004. Via the Occupational Licensing regime we also licence contractors and practitioners in identified high risk occupations of Electrician, Plumber and Gasfitter.

This provides Tasmanians with the ability to know that they are dealing with qualified people who meet a minimum standard of competency. This certainty is enhanced via continuing professional development.

## **4) Quality Assurance**

In the current framework a large number of investigations into building practices happen only when a complaint is made or building failure occurs and even then, these take place only after the event.

In the last 12 to 18 months my office has made a concerted effort around a performance audit regime within the existing resources provided by the Building Levy.

This more proactive approach involves subjecting practitioners to a compulsory system of random audits, which should continue in the new framework.

I agree with the feedback that the number and frequency of these audits should be increased as they are a means of identifying and rectifying emerging problems before damage occurs.

## **5) A strong regime for building surveyors**

Whether employed by the council or in the private sector, the importance of building surveyors to the general public cannot be understated and as such these practitioners should be subject to strong regulatory oversight.

## **6) A strong building approval process**

Broadly a strong process has two basic rules:

- Building approvals cannot be granted until –
  - planning permits are issued and
  - the designs are considered compliant with the relevant technical codes and standards
- Occupation cannot be sanctioned until the building is fit for occupation.

Ensuring that the processes in council are as easy to follow as these basic rules is essential to simplifying the regulatory framework and ensuring that “red tape” is not standing in the way of an important economic driver.

## **7) A simple to use Building Permit Appeals Process**

Throughout the Building process regulators are making decisions that affect owners and in some cases affect the livelihood of practitioners, to ensure that the rights of those affected are honoured all Australian Jurisdictions appeal process.

The essential element, arising from the feedback to this review, is that the building consent appeal process needs to be responsive, quick and cost effective.

Ideally, the process of appeal should be non-legalistic in the first instance and is enhanced by the use of experts and lawyers along with a complement of consumer representatives within an appeal body.

## **8) Equal protection for Practitioners and Consumer (Property Owners)**

If you work in the building industry and have a client who is not paying the debt that they owe you, you have a means to recover that debt through the *Building and Construction Industry Security of Payments Act 2009*. This provides a relatively cheap and easy means of recovering the debt without resorting to lengthy and expensive actions in the Courts.

On the other hand if you are a property owner and you discover that the Builder has not undertaken work s/he contracted to do or the quality of the work is poor and the Builder refuses to rectify the work then your only recourse is to seek redress in the Courts.

This is not balanced and any future framework must provide for cheap and easy consumer recourse, particularly for residential and small commercial owners.

## **9) Clear contractual relationships**

Establishing a minimum standard for the details which must be in residential building contracts, and for documenting variations to the contract, will reduce uncertainty as to what has been agreed by the owner and the builder and will in turn result in less disputes arising

from misunderstandings as to the scope and, in some cases, required elements of the contract.

These principles are consistent with the principles for best practice building legislation outlined in a recent article in [sourceable.net](http://sourceable.net) by Professor Kim Lovegrove FAIB, Conjoint Professor in Building Regulation and Certification at University of Newcastle NSW and Chair of the Centre for Best Practice Building Control.

Dale Webster  
Director of Building Control

# 2 Director's Recommendations

The Director of Building Control makes the following recommendations for the improvement and strengthening of the Tasmanian Building Regulatory Framework:

- |                          |   |
|--------------------------|---|
| <b>Recommendation 1</b>  | <b>Update objectives and include in legislation</b>   |
| <b>Recommendation 2</b>  | <b>Legislation provides for Director Building Control to make determinations in areas of innovation and emerging technologies</b>                                     |
| <b>Recommendation 3</b>  | <b>Legislation be separated into its components, namely undertaking building work, licensing, warranties and disputes including contracts and security of payment</b> |
| <b>Recommendation 4</b>  | <b>Introduce reporting requirements for Building Surveyors</b>  |
| <b>Recommendation 5</b>  | <b>Introduce reporting requirements for Permit Authorities</b>  |
| <b>Recommendation 6</b>  | <b>The Director Building Control to report annually to Parliament on regulatory cost and regulatory timeliness by municipal area</b>                                  |
| <b>Recommendation 7</b>  | <b>Increase penalties for illegal building works including additional fees for certificates of substantial compliance and certificate to proceed</b>                  |
| <b>Recommendation 8</b>  | <b>Allow for Builder certification of certain low risk building work</b>  |
| <b>Recommendation 9</b>  | <b>Define Building Work in such a way as to exclude low risk work and exclude work which is subject to other regulatory or certification processes.</b>               |
| <b>Recommendation 10</b> | <b>Allow for builder certification for a range of non-inhabited farm buildings</b>  |

<b>Option 11a</b>	<b>Increase the threshold for minor alterations or minor repairs not subject to the building permit process to \$20,000 and index the threshold</b>
<b>Option 11b</b>	<b>Remove the threshold for minor alterations or minor repairs and introduce clear determination for scope of the exemption</b>
<b>Recommendation 12</b>	<b>Increase awareness of Planning Directive 4</b>
<b>Option 13</b>	<b>Introduce a Building Directive which allows for a standard pre-approved residential design</b>
<b>Option 14</b>	<b>Reduce need for plumbing permits, increase risk-based auditing, replace with notification process</b>
<b>Recommendation 15</b>	<b>Promote awareness of the scope of the certifiable works provision.</b>
<b>Recommendation 16</b>	<b>Remove requirement for most on-site waste water treatment systems to be approved for sale by the Director</b>
<b>Option 17a</b>	<b>Retain the current system of certification and separate permits with improvements</b>
<b>Option 17b</b>	<b>Reduce the number of permit authorities, improve auditing, documentation requirements, clarification of roles</b>
<b>Option 17c</b>	<b>Introduce fully contestable building certification (including permits)</b>
<b>Option 18</b>	<b>The Director set minimum schedule of fees for building surveying services</b>
<b>Recommendation 19</b>	<b>Clarify the essential maintenance requirements for Class 2–9 Buildings</b>
<b>Recommendation 20</b>	<b>Clarify role and responsibilities of Building Surveyors and protections for Building Surveyors through the Building Act</b>
<b>Recommendation 21</b>	<b>Strengthen provisions allowing for the property owners to appoint Building Surveyors and excluding the certifying Building Surveyor from having contractual relationship with builders</b>
<b>Option 22</b>	<b>Performance-based solutions are outside the scope of work of Building Surveyors unless the Building Surveyor undertakes additional specific qualifications in performance-based solutions</b>
<b>Recommendation 23</b>	<b>Makemandatory building notifications mandatory inspection points</b>

<b>Option 24</b>	<b>Every council must appoint a Municipal Building Surveyor</b>
<b>Option 25</b>	<b>Introduce a new “inspector” level of building surveyor</b>
<b>Recommendation 26</b>	<b>Use regular reporting and targeted audits to drive compliance</b>
<b>Recommendation 27</b>	<b>Mandatory component of Continuing Professional Development for Building Surveyors</b>
<b>Recommendation 28</b>	<b>Include strengthened code of conduct for Building Surveyors in legislation</b>
<b>Recommendation 29</b>	<b>Allow for corporations/partnerships to obtain contracting licence</b>
<b>Recommendation 30</b>	<b>Licensing scheme (formerly Accreditation scheme) be modified to ensure that every practitioner licensed meet the requirements of the industry</b>
<b>Option 31a</b>	<b>Set time limit for “grandfathered” practitioners to bring their skills up to scratch</b>
<b>Option 31b</b>	<b>Set once-off mandatory CPD for grandfathered practitioners to bring their skills up to scratch</b>
<b>Option 32</b>	<b>Explore licensing process for Engineers which is similar to current process for Architects in the Building Act.</b>
<b>Recommendation 33</b>	<b>Clarify role of roof plumber</b>
<b>Recommendation 34</b>	<b>No owner builder status for class 2 to 9 buildings</b>
<b>Recommendation 35</b>	<b>An owner builder can register but not self-certify</b>
<b>Option 36</b>	<b>Replace the number of projects rule by specifying the length of time before an owner builder can sell</b>
<b>Recommendation 37</b>	<b>Statutory warranties given to future owners and a compulsory inspection prior to sale</b>
<b>Recommendation 38</b>	<b>Definition of project is limited to one building permit per owner builder licence</b>
<b>Recommendation 39</b>	<b>Owner builders will be subject to increased inspections</b>
<b>Option 40</b>	<b>Add “owner builder” to title</b>
<b>Recommendation 41</b>	<b>Owner Builder to pay licence fees and have correct insurances</b>
<b>Recommendation 42</b>	<b>Introduce CPD for plumbers, electricians and other occupations under the Occupational Licensing Act</b>
<b>Recommendation 43</b>	<b>Limit CPD to genuine learning activities pre-approved by Director Building Control or Administrator of Occupational Licensing</b>



- Recommendation 44** The Director Building Control may mandate certain activities
- Recommendation 45** Strengthen code of conduct for building practitioners
- Recommendation 46** Move building practitioners to the occupational licensing regime therefore adopting sanctions of that regime
- Recommendation 47** Infringement regime if builder does not comply with Rectification Order
- Recommendation 48** Director Building Control to provide a sample best practice contract and guide for residential building projects
- Recommendation 49** Mandate clauses that must be included in a contract for residential building projects over the value of <\$15,000>
- Recommendation 50** Variations to a contract must be in writing and signed by both parties
- Recommendation 51** Introduce mediation as first step in dispute resolution
- Recommendation 52** Establish Disputes Process by Director's Determination
- Recommendation 53** Review penalties and who should have the power to order them
- Recommendation 54** Adopt a risk-based approach to auditing
- Recommendation 55** Identify particular categories and do 100% inspections
- Recommendation 56** Implement a user-pays auditing regime for repeat inspections
- Recommendation 57** Specify the powers available to a Building Surveyor, Council officers or Delegate of the Director
- Recommendation 58** A party may seek review of a Rectification Order within specified time
- Recommendation 59** Streamline Appeal and Review Processes

# 3 About this Position Paper

In July 2014 we released an Issues Paper identifying some of the problems around the current Tasmanian Building Regulatory Framework and asked for your comments.

We received 53 submissions from a range of stakeholders including private citizens, people working in the industry, industry association groups and councils. In addition the earlier work of the Industry Reference Groups and consultation conducted across the state by the Director have been fed into the preparation of this paper.

This Position paper puts forward a number of proposals for improving the Framework, based on those submissions and discussions with other interested parties.

## Background

The current Building Regulatory Framework was introduced in 2004 following over 20 years of consultation and development beginning with the Development Review Working Group (1983) and the Model Building Act developed nationally in 1991 by the Australian Uniform Building Regulations Co-ordinating Council.

The *Building Act 2000* introduced significant reforms including:

- Accreditation of all responsible Building Practitioners (designers, builders and building surveyors) with a requirement for mandatory insurance and continuing professional development,
- Private certification of building compliance, with permits issued by council Permit Authorities,

- Liability reforms and specified duties for all participants,
- The binding of the Crown,
- Maintenance of essential safety and health features in buildings,
- Establishment of a Director of Building Control, a Building Regulation Advisory Committee and continuation of the Building Appeal Board.

These reforms addressed a number of significant issues with the previous regulation of the industry, but ten years on, it's appropriate to review whether these reforms are working as intended.

This Review provides an opportunity to consult with all those affected by the industry to find out what's working well, and what needs further consideration.

Discussions began in April 2014 with advisory groups representing the following sectors:

- Consumers
- Industry
- Building practitioners
- Local Government

This helped us identify some of the issues with the current framework. Further workshops were held with managers at Building Standards and Occupational Licensing, and the Building Regulation Advisory Committee (BRAC).

We summarised the issues in an Issues Paper which we released for public comment in July 2014. We allowed a 6 week period for people to respond and received 53 submissions with the following breakdown:

Category	Submissions
Council	15
Government	1
Independent	2
Industry	13
Industry Association	12
Private	10
<b>Grand Total</b>	<b>53</b>

We have used these submissions to develop a number of recommendations for improving the Framework. In a limited number of areas, where no one recommendation was apparent, we have put forward an option for consideration or in some cases alternative options for your feedback.

This Position Paper considers the recommendations and options, weighs up the pros and cons of each, and gives you the opportunity to comment or in some cases nominate your preferred option.

We also include research regarding the approach taken in other States, what has worked and what hasn't, to inform our position. However, given the number and extent of the recommendations we have kept each background section deliberately brief. If you require further information we recommend you look at the issues paper and the submissions available on our website.

Your responses to this Paper will help us to establish a position which the Director can then submit to the Treasurer.

## **Context**

The Building Regulatory Framework was introduced to help ensure all building works in Tasmania conform to national standards in terms of safety, amenity and quality.

However, concerns have been raised that existing regulation does not necessarily meet the test of necessity, benefit and ease of use.

The aim of this Review is to ensure that we have sufficient regulation to deliver the objectives without placing an unnecessary regulatory burden on people wishing to undertake building works.

The reduction of unnecessary “red tape” is a key election commitment of the current state government.

## **Scope of the review**

The Review has the following Terms of Reference:

The Director of Building Control is to investigate and report to the Treasurer following a systematic and complete Review of the Tasmanian Building Regulatory Framework (the Review). The Review will be managed and conducted by the Director of Building Control in conjunction with the Building Regulatory Advisory Committee.

The Review will include a review of the interactions between legislation and policies affecting the building industry including:

- The Building Act 2000
- The Building Regulations 2014 and the Plumbing Regulations 2014
- The Housing Indemnity Act 1992
- The Occupational Licensing Act 2005
- The Architects Act 1929
- The Building and Construction Industry Security of Payments Act 2009
- The Resource Management and Planning Appeals Tribunal Act 1993
- The Fire Service Act 1979

The review will also address the issues in relation to the Residential Building Work Quality (Warranties and Disputes) Bill 52 of 2012.

The Review will also consider the relationship of the Framework with planning, environmental, heritage and any other legislation which intersects with the Framework.

The Review will determine whether the current Building Regulatory Framework meets the needs and expectations (including safety, quality, performance, efficiency and sustainability) of the community, consumers and the industry and recommend any changes to improve the framework.

The Review will be informed by contemporary building regulatory frameworks in other jurisdictions, recent reviews and any proposed changes in other similar jurisdictions.

The Director of Building Control is to establish and consult with:

- A Local Government Technical Advisory Group;
- A Building Practitioner Technical Advisory Group;
- An Industry Reference Group formed from representatives of the Industry Associations; and
- A Consumer Advisory Group

The Review outcomes are to be implemented by the end of 2015.

## Framework

From the feedback we received, from an analysis of the 1990's model building legislation and the more recent interstate legislative reviews it became apparent that there were certain key elements which must feature in the outcomes of the review.

The elements are explored in the Director's overview and in summary are:

1. Clear objectives
2. Coherent policy development and consultation with the community
3. A practitioner registration system
4. Quality assurance
5. A strong regime for building surveyors
6. A strong building approval process
7. A simple to use building permits appeal process
8. Equal protection for practitioners and consumers
9. Clear contractual relationships

As you can see this is supported by a not dissimilar list from a recent article for sourceable.net by Professor Kim Lovegrove FAIB, Conjoint Professor in Building Regulation and Certification at University of Newcastle NSW and Chair of the Centre for Best Practice Building Control. Professor Lovegrove suggests that there are eight key elements which form the basics of effectively functioning building legislation that delivers positive outcomes for all stakeholders.

He suggests that a best practice Australian Building Act should have the following elements:

1. Clear objectives
2. A Minister and Ministry of Construction
3. A practitioner registration system
4. A user-pays auditing regime
5. A strong regime for building surveyors
6. A strong building approval process
7. A building permit appeals board

#### 8. Clear and fair liability laws

You will see all of these elements explored in this position paper.

# 4 Objectives

We asked whether the objectives of the Building Act were still relevant.

Generally people agreed the objectives were still important and should be included in the legislation.

Some modifications, updates and improvements to wording were suggested.

## Background

When developing the Tasmanian Building Regulatory Framework for the next ten years (given that's how long the last one has been in place), it's important to know what we're trying to achieve.

Then, at each stage of the process when we are faced with options, we can refer back to the objectives, and say "Which of these options is most likely to meet the objectives of the Framework?"

Having clear objectives and identified outcomes also allows us to measure whether we are meeting our objectives and delivering those outcomes.

Although not actually included in the *Building Act 2000*, the Objectives of the Building Act were developed during the consultation process for the Act and included in the legislative scheme by being read into Hansard in the Legislative Council by the Government Leader, as follows:

1. to establish, maintain and improve standards for the construction and maintenance of sustainably designed buildings;
2. to facilitate-
  - i. the adoption and efficient application of national uniform building and plumbing standards;

- ii. national accreditation of building and plumbing products, construction methods, building designs, building components and building and plumbing systems;
  - iii. the adoption and efficient use of performance-based technical standards;
3. to enhance the amenity of buildings, to meet the social needs of people who use buildings, and to protect the safety and health of people who use buildings;
  4. to facilitate and promote the cost effective construction of buildings and the construction of environmentally and energy efficient buildings;
  5. to provide an efficient and effective system for issuing building, plumbing and occupancy permits and administering and enforcing related building, plumbing and safety matters and resolving disputes;
  6. to protect consumers who use building practitioners;
  7. to reform aspects of the law relating to legal liability in relation to building and plumbing matters;
  8. to aid the achievement of an efficient, innovative, competitive and sustainable building and plumbing industry;
  9. to promote the consolidation of building legislation;
  10. to promote the sustainable development of existing buildings and their maintenance;
  11. to provide for the fair, orderly and sustainable use of buildings;
  12. to establish, maintain and improve standards for the construction and maintenance of sustainably designed buildings.

## Issues

Some of these, such as Objectives 7 and 9, were more about the process of reviewing the legislation, so have no place in the objectives of the new framework.

Others, such as objectives 3, 4, 10 and 12 appear to overlap, and some words relating to sustainability and “environmentally efficient” are used inconsistently and without clear definitions.

The concepts of buildings that are safe, high-quality, healthy, accessible, sustainable, cost-effective, energy-efficient and with enhanced amenity still apply, whilst the idea of building a workforce of skilled and professional practitioners who are accountable for their work should also be reflected in our objectives.

Although the protection of consumers is mentioned, there is no counterbalancing reference to protection of practitioners.

Some important objectives – highlighted during the feedback to this review so far – are missing, such as affordable and timely dispute resolution and clear and fair liability.

There is no mention of applying the test of “necessity, benefit and ease of use” to regulation. This is important, because it means when faced with a choice between two options that deliver the same or similar outcome, we can apply this test to decide which is least likely to impose a regulatory burden.



## **Recommendation I      Update objectives and include in legislation**

The Director Building Control recommends that the following objectives be included in the building legislation:

The objectives of this Act are to:

1. ensure the design and building work for the construction and maintenance of domestic, commercial and industrial buildings meets or exceeds the minimum national construction standards
2. ensure the health and safety of people in and around buildings
3. provide for the creation of energy and water efficient buildings that are sustainable and minimise impact on the environment
4. provide for access and facilities for people with disabilities
5. facilitate and promote cost effective construction of buildings
6. encourage an efficient, innovative and competitive building industry
7. provide for adequate protection for practitioners and owners
8. ensure the accountability of owners, practitioners and councils who have responsibilities for ensuring that building work complies with the National Construction Code
9. ensure the accountability of owners for the ongoing essential maintenance elements of buildings

### **4.1 Guiding principles for development of legislation**

The *Building Act 2000* is an important instruction manual for people working in the industry which tells them what they can and can't do. The new legislative framework needs to be drafted so that it can be easily read and understood by practitioners.

It's also important that it be drafted in a way that makes it easy to maintain.

The following principles should be followed when developing the legislative package for the new Framework:

- Plain English so that it is easily understood by practitioners and consumers
- Flexible – make use of Director's Determinations so standards can be adjusted as required
- Separate out major components into separate pieces of legislation to avoid an "all or nothing" legislative package.

## **Recommendation 2      Legislation provides for Director Building Control to make determinations in areas of innovation and emerging technologies**

We need to ensure that the legislation is flexible enough to allow for the inclusion of new technologies as they emerge, without having to redraft the legislation.

For instance, the Act should not be structured in such a way as to exclude the emergence of Building Information Modelling (BIM) technology which emerge as an alternative to current forms of design and design documentation and change the method of assessing compliance.

It's likely the new Framework will remain in place for a number of years. By using Director's Determinations for specifying processes, accreditation requirements and specifications we can ensure the Framework can be updated as required without having to amend the legislation. This allows us to be more adaptable and responsive to community needs.

This of course does not replace the need for determinations to be based on evidence and of course determinations cannot be at outside the general framework created by the legislation and National Construction Code, they must supplement or explain.

## **Recommendation 3      Legislation be separated into its components, namely undertaking building work, licensing, warranties and disputes including contracts and security of payment**

By separating the new Framework into logical components, it makes each Act more cohesive and easy to read in isolation. For example, if you need to check on something to do with Licensing, you don't need to read through the entire Building Act.

If all the changes are built into a single Bill, there's a risk the community will lose confidence in the entire framework if there is one section that causes concern. By separating out major components such as technical standards and behavioural standards, there's an opportunity to have smaller chunks of legislation assessed. This also allows us to adopt a staged approach to implementing new legislation.

The Building Act is designed to only deal with regulatory requirements and technical standards so it's not the appropriate piece of legislation to deal with all behavioural aspects involving disputes, payments, unprofessional conduct and misconduct issues. The Building Act could incorporate some areas of unprofessional misconduct where councils and/or the Director have involvement, however, issues relating to disputes and payments should be placed in other pieces of dedicated legislation.

The elements of the legislative package should include:

- Building – defining the process of building approvals, the roles of practitioners and the roles of the regulatory bodies
- Licensing – defining requirement for licensing, codes of conduct, rectification and professional development (the current *Occupational Licensing Act 2005* could be extended to include Building Practitioner Licensing)

- Practitioner Protections (the current *Building and Construction Industry Security of Payments Act 2009*)
- Residential Consumer Protections (the current *Housing Indemnity Act 1992* has proven inadequate and should be replaced with a Residential Building Work Contracts, Warranties and Dispute Resolution legislation)

# 5 Measuring success

How do we know if the regulatory framework is meeting our objectives?

Once we've identified what we're trying to achieve, we need a way of measuring how we're going. This doesn't just mean measuring how busy we are, but whether we're actually making a difference.

Are we building safer, more cost-effective, more sustainable buildings? Are we reducing the time taken to obtain permits? Are there less disputes, and are we resolving disputes more quickly? Are our practitioners appropriately skilled?

## **Background**

To identify what we should be measuring, we need to look at the issues we are trying to address.

We need to choose measures that provide real information about our performance, but are not overly onerous to collect. These measures should not only tell us how we're going but allow us to plan for the future.

## **Issues**

One of the issues with measuring the performance of the building industry is the lack of information available.

The lack of quality and consistency of information about current building projects also makes it difficult to track performance of practitioners within the industry.

By requiring building surveyors to submit quarterly or monthly reports regarding commenced or completed projects, we can start to build a picture of how the industry is performing, as well as track issues relating to the performance of individual building

surveyors such as the fees charged, the value and class of the project, the number of inspections performed and whether any alternate solutions have been approved.

Building Surveyors already have this information, but it's not currently available to the Director of Building Control so isn't being used for the benefit of the industry.

Similarly, reports from Permit Authorities would allow us to better understand the building approval process and assess where more support or training may be required.

Increased reporting obligations need to be balanced against making onerous demands on practitioners, but baseline information about building projects is something that practitioners should be providing anyway, and the trade-off is reduced regulation. It allows us to shift the emphasis from regulatory compliance to informed, risk-based targeted auditing.

We can also make it easier for practitioners to submit regular reports by providing online forms to a central database, accessible through mobile technology such as tablets which are increasing in popularity for on-site visits.

To measure how safe our buildings are, we could track the number of reported defects, or – heaven forbid – catastrophic failures.

To measure the competence of our workforce, we could look at the number of times we receive notification of work that does not comply with the national standards, as well as measuring the attendance and participation in professional development opportunities. This may also correlate with the number of enquiries on particular topics and whether that changes following training and information communication strategies.

To measure how well our approval processes are working, we could look at the time taken to reach various stages of the approval process – for example: planning permit, building permit, Occupancy Permit and so on.

To measure how sustainable and energy-efficient our buildings are, we could track the number of installations of solar panels, and the number of 6 star buildings (or greater?)

## **Illegal building works**

The prevalence and nature of illegal building works can be an indicator of the effectiveness of the regulatory framework.

There will always be people who flout the law, and those who are ignorant of the law.

If there are a significant number of cases of building works where people say “it's all too hard/expensive/slow – I'm just going to build it”, or “It's easier just to build it and then get permission” it doesn't necessarily mean the legislation is at fault.

There may be other parts of the framework that are not working correctly – such as processes, guidelines, support.

By working to improve these areas, we may be able to reduce the number of illegal building works.

But it's certainly worth investigating the reasons why people do not comply with the legislation and using that to inform future directions.

## **Recommendation 4      Introduce reporting requirements for Building Surveyors**

Building Surveyors will be required to submit a regular report including the following information for each project they are involved in:

- Activity
- Class
- Value
- Discretionary items
- Performance-based solutions
- Staffing levels

**Table 1 - Introduce reporting requirements for Building Surveyors**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Provides information about the industry in terms of the type of building projects being undertaken</li><li>• Provides information about the Building Surveyor's practice</li><li>• Building surveyors should already be recording this information</li></ul>	<ul style="list-style-type: none"><li>• Additional work for Building Surveyors to record and report information</li><li>• Additional work and cost for Building Standards to manage and analyse information</li></ul>

## **Recommendation 5      Introduce reporting requirements for Permit Authorities**

Permit Authorities will be required to submit a regular report on building approvals. This will allow the Director of Building Control to acquire valuable information including the type of projects being approved, the rate of rejection and the time taken to complete the process. It will allow some benchmarking of the performance of Permit Authorities and inform the Director of additional training or support needs of Permit Authorities.

**Table 2 - Introduce reporting requirements for Permit Authorities**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Provides information about the performance of Permit Authorities</li><li>• Provides information about the effectiveness of the approval process</li><li>• Permit authorities are already required to maintain registers of this information</li></ul>	<ul style="list-style-type: none"><li>• Additional work for Permit Authorities which do not already have appropriate reporting systems in place</li><li>• Additional work and cost for Building Standards to manage and analyse information</li></ul>

## **Recommendation 6      The Director Building Control to report annually to Parliament on regulatory cost and regulatory timeliness by municipal area**

The information submitted to the Director Building Control by Permit Authorities and Building Surveyors will allow us to create and maintain a picture of how the industry and its components are performing.

As a significant sector of the economy, it's important to be aware of any fluctuations or trends.

**Table 3 – Director Building Control to report annually**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Provides feedback on comparative state of the industry</li><li>• Allows for better planning and use of resources</li><li>• Allows direct comparison of performance between players in the industry</li></ul>	<ul style="list-style-type: none"><li>• Requires consistent and high quality data from a number of sources</li></ul>

## **Recommendation 7      Increase penalties for illegal building works including additional fees for certificates of substantial compliance and certificate to proceed**

Making it cheaper to do the right thing is one way we can discourage people from undertaking building works without going through the correct processes. This should be accompanied by an education and awareness program, which proved to be an effective strategy when encouraging people to pay motor vehicle offence fines.

A Certificate of Substantial Compliance may be obtained if a building has been completed without going through the approval process.

A Certificate to Proceed may be obtained if incomplete building works have not been subject to the proper approval process.

If these incur a substantially higher fee than would be incurred by complying with the legislated approval process, and people are aware of this, they will be more likely to comply.

Additionally a minimum requirement of any application for a Certificate of Substantial Compliance or Certificate to proceed should be a detailed building report from a third party, who is not the Building Surveyor certifying the work; such report to be prepared at the owner's expense.

Additionally, to ensure that owners don't hide the work being done it is important that the regular compliance role of Councils and the Director are effective in identifying this work and then regularising it through these processes.

It is not envisaged that penalties would or could be applied to future owners, just to the person undertaking the illegal work.

**Table 4 – Increase penalties for illegal building works**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Reduces the number of illegal building works</li><li>• Contributes to the cost of oversight of rectification</li><li>• Less cost of compliance activities as they can be more targeted</li></ul>	<ul style="list-style-type: none"><li>• Cost of awareness campaign</li><li>• May be seen as increase in red tape</li></ul>



# 6 Building approval process

We asked whether the current process of getting approval to build was working.

Many people expressed concerns that it was cumbersome, time-consuming and expensive, without necessarily bringing the benefits that it was designed to deliver.

## 6.1 Background

The purpose of the building approval process is to ensure that building works have been completed in accordance with the required standards. So the required outcome is safe and appropriate buildings, rather than a full set of arbitrary certificates.

In order for building works to proceed under the current legislation, a number of permits and certificates must be granted. This can be a lengthy and expensive process, in some cases costing more than the actual works.

Certificates may be issued by the Permit Authority, the Building Surveyor or by the practitioner, depending on the area being assessed.

Self-certification hands responsibility to practitioners to certify that the work they have done meets the required standard.

Third-party certification requires an independent practitioner to sign off that work has been completed by another practitioner. This may be a private Building Surveyor, or one working for a Council.

There is an opportunity to make greater use of self-certification with a strengthened audit regime.

## 6.2 Issues

There are a number of parts of the process which contribute to making the permit process harder than it needs to be.

Refining the definition of the type of work that poses a safety risk if not subject to the building permit process will result in a number of smaller projects being able to proceed without onerous and expensive permit processes, as long as they are undertaken by an accredited builder.

Improving the level of documentation provided by practitioners and the record keeping requirements will help reduce the time taken to issue a permit for a project.

Greater use can be made of Planning Directive 4, allowing buildings that fall within parameters on a property to effectively gain “automatic planning approval”. This will require more accessible information that is easier to understand and an education campaign to raise community awareness.

The role of building surveyors also makes a significant contribution, as well as the role of Permit Authorities. A council’s approach to the certification process can add significantly to the timeline, if they are re-doing tasks for which the building surveyor is responsible, or can detract from the quality of the building works if they are not giving sufficient attention to tasks for which they should be responsible, such as inspection of plumbing works.

## 6.3 Current Building and Plumbing approval process

Currently, if you want apply to your local council for a Building Permit and a Plumbing Permit, this is generally what may happen:

1. Your building design is assessed by a Building Surveyor to see if it complies with the Building Code of Australia and Building Act 2000 and a Certificate of Likely Compliance is then issued.
2. Application for a building permit is then given to the Permit Authority Building; it checks if your application is consistent with the local planning scheme and Planning Permit, water supply, roads, landslip prone area, etc. are to be provided.
3. You may also need to apply for a Plumbing Permit, which involves having your plumbing design assessed by the Permit Authority Plumbing against the Plumbing Code of Australia.
4. You may need to contact TasWater for a Certificate stating how your building works/ plumbing works might impact on existing infrastructure or impose an extra load when you to connect to the infrastructure. (There are also Reporting Authorities for Fire Safety and Food Premises issues, and for certain types Special Use Buildings such as Child Care, dangerous substances storage etc. The relevant Function Control Authority may review and comment on proposals).

5. The Permit Authority Building will now issue you with a Building Permit.
6. The Permit Authority Plumbing will now issue you with a Plumbing Permit and/ or a Special Plumbing Permit.
7. The Building Surveyor will receive a Start Work Notice and issue a Start Work Authorisation which gives permission for your Builder to start work.
8. The Permit Authority will receive a Start Work Notice and issue a Start Work Authorisation which gives permission for your Plumber to start work.
9. During the building process, there are a number of prescribed notification stages (to be advised by the Building Surveyor which are mandatory for that project) including for Occupancy Permit and Final Inspection.
10. Inspections may also be undertaken for the plumbing work by the Permit Authority Plumbing at pre-determined stages, as prescribed in regulations.
11. When the building is suitable for occupancy the Building Surveyor will issue an Occupancy Permit.
12. When all the plumbing work is complete, the Permit Authority Plumbing will issue a Certificate of Completion Plumbing Work.
13. When all the building work is complete, and your Building Surveyor has made a final inspection, the Permit Authority will issue a Certificate of Completion Building Work.

We may be able to reduce this number of certificates by doing the following:

- Remove the number of plumbing permits required. Replace with a risk-based audit regime
- Remove the need for a certificate from TasWater unless TasWater assets are affected (ie connected to or built over)
- Allow the Building Surveyor to issue both the occupancy permit and the certificate of completion, and file these with the Permit Authority
- Make the permit authority role a contestable activity

## **6.4 The way forward**

We need to take the following steps to reduce regulation while still delivering the objectives of the building control process:

1. Identify works that don't need a building permit
2. Encourage greater use of the automatic permit procedures
3. Streamline the building certification and permit processes

4. Increase the efficiency and effectiveness of Permit Authorities
5. Increase the efficiency and effectiveness of Building Surveyors
6. Provide an affordable and accessible appeal mechanism

## 6.5 Works that don't need a building permit

What's in? What's out? What does the Building Act apply to, and what can you build without a permit?

Is a kitchen refit just replacing like for like, or is it new work?

Who decides?

When the *Building Act 2000* was brought in an exemption from the permit process was created for certain structures and for minor alterations or minor repairs. This was widely abused with fairly large commercial projects progressing without permit on the basis that they were 'minor'. As a result a threshold of \$5000 was set as the determination of whether building work required a permit or not for this category

The threshold here is less than that applying to the building levy (\$12,000) and is not subject to indexation and now represents an inappropriate level at which the building permits process kicks in. It may cost more to apply for permission to build a shed than it does to build the shed itself.

The purpose of this definition is to ensure that work which has the potential to be unsafe is subject to proper processes. Some respondents argue that we should be looking more at the type or scope of work than the value of it.

So a low deck, shed or outhouse on a rural property, as long as it is within the defined boundaries for building work and is installed by an accredited builder, should not require a building permit. It should be sufficient to let Council know about the addition to your property.

Replacing a kitchen or bathroom – without changes to the plumbing – should also not be considered as “new work”. Moving the kitchen to the other side of the house and installing new plumbing should be subject to a more rigorous approval process.

Many of the refinements to the definition of what is building work are contained in a series of exemptions in the regulations. These exemptions have come into existence over time to address certain emerging issues, such as the recent exemption for grow tunnels on farm properties, and generally are shaped around risk.

Most of the current exemptions are seen as valid however the current method of responding to emerging issues through changes to the regulations is not quick or responsive to immediate needs of Industry.

## **Recommendation 8      Allow for Builder certification of certain low risk building work**

## **Recommendation 9      Define Building Work in such a way as to exclude low risk work and exclude work which is subject to other regulatory or certification processes.**

Certain types of building work do not represent a significant risk, provided they are constructed by an accredited builder. This might include pergolas, sheds and decks.

We should develop clear guidelines for compliance. This may include the need to employ an accredited builder who self-certifies the work, and provides a certificate to the local Permit Authority. This would still save the applicant significant fees and time.

For instance this could include allowing an accredited Builder/Designer to be able to provide a certificate of compliance for buildings which are classified as Class 10a, are designed and prefabricated for assembly and are associated with a residential use.

This might include sheds, carports, garages and other outbuildings commonly found on residential properties.

This would save the owner needing to employ a building surveyor and go through an expensive and lengthy permit process.

In addition we need to look closely at the definition of building work and make sure we are including only those things that need to be included as they present risk.

A redefinition can be achieved either by specifying exclusions directly in the definition (for example you may wish to exclude retaining walls from the definition if they are built for the sole purpose of providing a public road) or by providing exemptions, as we currently do in Regulation 4 for jetties.

**Table 5 - Refine the definition of building work to exclude low risk or otherwise regulated building work**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Significant cost and time savings for both consumer and practitioner</li><li>• Decreases likelihood of illegal building works</li><li>• Increase skill levels of builders</li><li>• Potentially makes building business more viable by increasing amount of work due to costs savings</li></ul>	<ul style="list-style-type: none"><li>• May reduce available resources in Councils</li><li>• Potential increase in level of risk as more building work not subject to approval process</li><li>• Reduces the market for building surveyor</li></ul>

## **Recommendation 10     Allow for builder certification for a range of non-inhabited farm buildings**

Under the current legislation, a *farm building* means a building which has low human occupancy and –

(a) is associated with and located on land devoted to the practice of farming; and

(b) is used essentially for –

(i) housing machinery and equipment; or

(ii) livestock; or

(iii) the production, storage or processing of agricultural and horticultural produce or feed; and

(c) may include, but is not limited to, a hayshed, implement shed, grain and fertiliser store, cool store for vegetables and fruit, piggery, poultry shed, shearing shed, grain silo and silage bunker, greenhouse, farm workshop, fruit-packing shed, egg-grading room and garage not attached to a farm residence;

If these types of buildings are certified by an accredited builder and the council notified, a formal approval process is not required.

Caution is needed to ensure the process matches risk in some farming situations as a range of farm buildings can also be fairly significant workplaces, such as fruit packing sheds or shearing sheds.

**Table 6 – Builder certification of certain farm buildings**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Decreases the time and cost for owners</li><li>• Decreases the likelihood of illegal buildings</li><li>• Increases the council's knowledge of municipal building works</li><li>• Increases the likelihood that safe buildings will be constructed</li><li>• Increase skill levels of builders</li><li>• Potentially makes building business more viable by increasing amount of work due to costs savings</li></ul>	<ul style="list-style-type: none"><li>• Decreases the market for building surveyors</li><li>• Potential increase in level of risk as more building work not subject to approval process</li><li>• Reduction in revenue for Permit Authority</li></ul>

The following options should be considered:

- **Option 11a – Increase the threshold for minor alterations or minor repairs not subject to the building permit process to \$20,000 and index the threshold; OR**
- **Option 11b - Remove the threshold for minor alterations or minor repairs and introduce clear determination for scope of the exemption**

### **Option 11a**

### **Increase the threshold for minor alterations or minor repairs not subject to the building permit process to \$20,000 and index the threshold**

By setting a realistic threshold for the value of this type of building work, and ensuring this threshold stays up to date by introducing some form of indexation, an additional sector of the market would not be subject to the building approval process.

This is likely to stimulate the market.

The work would still need to be undertaken by an accredited practitioner.

Other states have adopted a threshold of between \$15,000 and \$25,000.

**Table 7 - Raise the threshold for minor alterations and minor repairs to \$20,000 and introduce indexation**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Significant cost and time savings for both consumer and practitioner</li><li>• Indexation ensures threshold remains appropriate</li><li>• Clear “cutoff” point at which building permit process kicks in</li><li>• Decreases likelihood of illegal building works</li><li>• Stimulate the building market</li></ul>	<ul style="list-style-type: none"><li>• No discretion available where works may not impact on safety or amenity but costs are slightly higher than the threshold</li><li>• Potential increase in level of risk as more building work not subject to approval process</li><li>• Can lead to deliberate underestimating of costs in order to avoid building approval process</li><li>• Reduction in fees paid to permit authority</li></ul>

## Option 11b

### Remove the threshold for minor alterations or minor repairs and introduce clear determination for scope of the exemption

Rather than having a monetary value which determines whether alterations or repairs are minor or not, the Director Building Control could produce a clear determination as to what constitutes minor alterations or repairs.

This approach would encourage new and innovative approaches to building elements and processes.

**Table 8 - Remove the threshold for minor works and introduce clear guidelines for scope**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Significant cost and time saving for consumer and practitioner</li><li>• More likely to capture the type of building works that should be subject to approval</li><li>• Reduces unnecessary red tape for minor works</li><li>• No artificial threshold that may not keep pace with market</li></ul>	<ul style="list-style-type: none"><li>• Potential increase in level of risk as more building work not subject to approval process</li><li>• May require greater auditing</li><li>• Correct interpretation depends on the quality of the guidelines and whether they are correctly applied</li><li>• Not clear who should make the decision about whether works are “minor”</li><li>• Reduction in fees paid to permit authority</li></ul>



## 6.6 Works that can be permitted

Planning Directive 4 – Standards for Single Dwellings in Current Planning Schemes, came into effect on 2 October 2013. A modified version – Planning Directive 4.1 – Standards for Residential Development in the General Residential Zone, came into effect on 18 June 2014.

These planning directives set out the conditions under which a single residential dwelling can be erected on a block of land. It includes information like height, the distance from boundaries, siting of garages or carports, location and height of balconies and decks, position of windows and other factors that may impact on immediate neighbours.

Providing the building plans comply with these conditions, no separate planning approval process is required.

By increasing awareness of the advantages of complying with Planning Directive 4.1, a high percentage of residential dwellings could receive automatic planning approval, thus significantly reducing the time required for the approval process for a new dwelling.

Although this legislation is already in place, a plain-English guide and awareness campaign would increase the uptake.

### Recommendation 12 Increase awareness of Planning Directive 4

Planning Directive 4.1 (PD 4) is designed to assist home owners to avoid a lengthy planning approval process, by setting out the conditions under which planning permit is not required or is effectively ‘automatically’ approved as the building is permitted.

But it appears to be underutilised, probably due to a lack of awareness of its existence and the impact on time and costs of going outside the prescribed “building envelope”.

Responses received as part of this review suggest that PD4.1 needs to be simplified. The Director Building Control recommends that the Tasmanian Planning Commission review PD4.1 with a view to simplifying it and making it more readily useable by home owners and practitioners.

**Table 9 - Increase awareness of Planning Directive 4**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• No legislative change required</li><li>• Reduces time required for planning approval</li><li>• Less likely to incur statutory objections from neighbours</li></ul>	<ul style="list-style-type: none"><li>•</li></ul>

## Option 13

### Introduce a Building Directive which allows for a standard pre-approved residential design

Like PD 4.1, which says “if you build in this position according to these specifications we’ll automatically give you a planning permit”, we could introduce a Building Directive which says “If you build to a standard preapproved design we’ll fast track your approval.”

This could significantly streamline the approval process by eliminating the amount of time currently required to prove compliance. Essentially only the site-specific elements would need to be approved, and then this might be reduced by allowing for certain standard design to be approved for certain soil and wind classifications.

This would need to be accompanied by an appropriate education and awareness campaign for the community.

**Table 10 – Introduce a Building Directive**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Significantly increase the number of building applications that could be automatically approved</li><li>• Significant cost and time saving for consumer and practitioner</li><li>• Increased certainty about approval process for consumer and practitioners</li></ul>	<ul style="list-style-type: none"><li>• May reduce innovation as it discourages alternative solutions</li></ul>

## 6.7 Streamline the plumbing permit process

### Plumbing Permits

Assessment of plumbing plans and site inspection of plumbing work is currently done by the council's plumbing permit authority.

However because a plumber can self-certify their work, historically some councils neither checked the plans for compliance nor carried out inspections. An amendment to the Building Act in November 2012 introduced a requirement that councils ensure inspection of at least 20% of self-certified work.

A number of councils, however, which recognise the high level of risk to their communities from non-compliant plumbing work, inspect nearly 100% inspections or have much higher than 20% levels of audit.

Those councils who do the minimum 20% of inspections do not necessarily take a risk-based approach to selecting work to audit. This can result in over-representation of the “easy” inspections, such as carports and sheds, at the expense of those where there may be a potential threat to public health and safety.

Currently there is unnecessary duplication of forms and the information required in them (for example different application forms for building permit, plumbing permit and special plumbing permits). This could/should be simplified into one application form and subsequently one permit is issued for building and plumbing permits either in combination or separately as per an application. Upon completion a single form could be used that provides for plumbing and building completion.

The plumbing permit process undertaken by council can take up to two weeks for major works. In addition the plumber applies to the permit authority for a start of work authorisation and usually interacts as to if and when council inspectors will attend site to inspect the work.

If the objective of a plumbing permit is to ensure that public health and safety and public infrastructure is being protected, then it is important to focus attention on those areas where there is the greatest risk.

This should take into account the complexity of the work, the expertise of the practitioner and the track record of the practitioner.

So certain types of work should always be inspected. Newly qualified plumbers should attract a higher level of inspections. Significant numbers of defects or complaints reported against a practitioner should result in a higher level of inspections.

This system is used for electrical inspections.

The current regime for plumbing includes a category of Special Plumbing Permits, which are associated with high risk work such as the installation of on-site waste water treatment systems and backflow prevention plumbing. Some councils give priority to inspection of these on-site however others see them as a part of the 20% regime or choose not to inspect at all.

Better management and use of information regarding the outcomes of a practitioner's work will assist the industry to improve standards and will help the Administrator of Occupational Licensing to identify those who should no longer be licensed.

Those practitioners who are working at the appropriate standard should attract a far lower rate of inspection.

Removal of Plumbing Permits for low risk work and monitoring by way of councils receiving Start Work Notices and making a judgement about whether an inspection and recording of the work is required, could significantly reduce the time taken for the approval process.

## **Option 14                      Reduce need for plumbing permits, increase risk-based auditing, replace with notification process**

As explained above (Option 13) on a risk basis certain types of work should always be inspected and recorded. Newly qualified plumbers should attract a higher level of inspections. Significant numbers of defects or complaints reported against a practitioner should result in a higher level of inspections.

This system is used for gas and electrical inspections.

By introducing the amount of information provided by Councils, as recommended earlier in the paper, the Director of Building Control should be in a position to provide guidance to Councils and Councils should be able to better direct the level of plumbing inspections required.

Better management and use of information regarding practitioners will assist the industry to improve standards or will help the Director to identify those who should no longer be licensed.

Those practitioners who are working at the appropriate standard will attract a far lower rate of inspection.

This could be implemented either by councils receiving Start Work Notices and making a judgement about whether an inspection is required, or a state wide auditing regime could be implemented. As constructed drawings would still be required on completion of the work.

High Risk Plumbing installations, for example effects on hospital infection control, and current categories of special plumbing permits (for example on on-site waste water management) would remain in place.

**Table 11 – Reduce plumbing permits, increase risk-based auditing**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Significant cost and time saving for consumer and practitioner</li><li>• Cost saving to some councils</li><li>• Focus on inspecting higher risk work</li><li>• Better target inspection instead of current one in five approach</li><li>• Improve quality of practitioners</li></ul>	<ul style="list-style-type: none"><li>• Not all work is inspected, so still a level of risk</li><li>• Reduction in number of inspections in some council areas</li><li>• Requires Director Building Control and Council to work together on audit regime</li><li>• Relies on self-certification</li></ul>

## TasWater certificates

Since TasWater took over responsibility for water and sewerage assets from Council, TasWater has required owners to seek and receive a certificate of certifiable works for all building work prior to a building and/or plumbing permit being issued by Council. This seemed to be occurring irrespective of whether or not the assets owned by TasWater were affected or even nearby.

This blanket certification process is not the requirement of legislation, but a business practice which has developed between TasWater and Councils as an added protection for the water assets. *The Water and Sewerage Industry Act 2008* only requires this certificate to be issued when demands on the TasWater Assets will be affected or there is likely interference with those assets.

### **Recommendation 15      Promote awareness of the scope of the certifiable works provision.**

An accredited Designer should be able to determine at the design stage whether TasWater assets are likely to be affected, and should have the discussion with TasWater at that point.

At the stage where Likely Compliance is being assessed, a Building Surveyor can determine from the design whether the owner needs to obtain a certificate prior to applying for a building permit. According to section 56TB of the *Water and Sewerage Industry Act 2008*, there is no obligation for an owner to obtain a certificate for work that is exempt under the Act.

This decision is made at the likely compliance stage and the decision is documented.

The position outlined here has been confirmed by TasWater as their position and therefore this issue is one of education of Council Permit Authorities.

TasWater have also advised that they will make greater use of spatial technologies to map their assets and therefore make it easier to make the decision on a need for a certificate. This will also greatly reduce the number of referrals to TasWater.

**Table 12 – Building Surveyors determine if work is exempt from TasWater process**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Significant cost and time saving for consumer and practitioner</li><li>• Significant time saving for TasWater</li></ul>	<ul style="list-style-type: none"><li>• Requires agreement from TasWater</li><li>• Current water assets are not correctly mapped in some councils so difficult to know location of existing assets</li><li>• Reduction in revenue for TasWater</li></ul>

## Speed up the approval process

We may be able to reduce the number of steps in the approval process – and therefore the number of permits – by rethinking the way we use Permit Authorities, and whether we use government or private certification.

Apart from reducing the number of steps by rationalising the way we handle plumbing and TasWater, there may be opportunities to combine some steps, such as allowing the Building Surveyor to issue a building permit. This could then be combined with the Certificate of Likely Compliance.

The Certificate of Occupancy could be combined with the Final Inspection and Certificate of Completion if a Building Surveyor was responsible.

It may also be possible to have some steps in the process carried out concurrently. For example, heritage and bushfire approval could be processed at the same time as TasWater certification (if such certification is required).

### **Recommendation 16     Remove requirement for most on-site waste water treatment systems to be approved for sale by the Director**

Remove the requirement for individual on-site wastewater treatment systems to be approved by the Director of Building Control. Instead, approve only types of systems. The types of systems the Director recommends for general approval are:

- primary treatment (septic tanks);
- secondary treatment (aerobic wastewater treatment);
- composting toilets;
- grey water treatment; and
- reed bed treatment.

This list would be subject to revision from time to time as technology evolves. If an on-site wastewater treatment system is one of the above types and is accredited in accordance with the Australian Standard then the treatment system would be eligible to be sold for use in Tasmania, subject to any special plumbing permit issued by the relevant Council.

**Table 13 – Remove approval process for most On-site Wastewater Treatment Systems**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Significant cost and time saving for manufacturers</li><li>• Significant time saving for Building Standards</li><li>• Dual risk assessment/approval process is removed</li></ul>	<ul style="list-style-type: none"><li>• Lose ability to condition approvals, such as to require testing</li><li>• Tasmanian conditions not necessarily part of national AS process</li></ul>

## 6.8 Increase the efficiency and effectiveness of Permit Authorities

Tasmania currently operates under a system of Permit Authorities as part of local government. Although much of the certification process is outsourced to private building surveyors, the final approval is the responsibility of the Permit Authority.

In most other states, even this role may be performed in the private sector.

Tasmania has 29 councils and therefore operates 29 permit authorities. In some councils this role is seen as purely administrative – collecting the required certificates before issuing a building permit, while in others, in-house building surveyors are known to duplicate the steps taken by the private building surveyors before granting approval.

The number of permit authorities and the scarce resources in some smaller, regional and rural councils almost certainly means the processes are inconsistent and often under-resourced.

It can be argued that a link between awareness of what is occurring in the built environment of a municipal area and the logical development and impacts on a local community are intrinsic to the local municipal authority's role.

If the objective is to improve the Permit Authority role so that the same processes apply across the State, with a similar turnaround and cost for applications, there are a number of options:

- Consider making the Permit Authority a fully-contestable role – one that could be performed privately rather than within council.
- Reduce the number of Permit Authorities across the State, to make the most of available resources, reduce costs and increase the likelihood of consistent processes (with stronger guidance from the Director of Building Control).
- Work with existing Permit Authorities to improve the way they do business under the new legislation.
- Implement a combination of these approaches – for example, a reduced number of Permit Authorities and increased contestability.

Increased reporting requirements should be applied regardless of the model chosen.

Most other jurisdictions use a system of private certification though a number of states still have some involved by local government.



**Table 14 – How other States handle certification**

State/Territory	Private Certification (NCC compliance) introduced <i>and</i> building approval?	Building approval/ permit required from Local Government?
<b>Tasmania</b>	Yes - Private certification only	Yes - Council permit authority issues building permit
<b>Australian Capital Territory</b>	Yes - Private certification and building approval	No
<b>New South Wales</b>	Yes - Private certification and building approval by certifier	Yes
<b>Northern Territory</b>	Yes - Private certification and building approval by certifier	No
<b>Queensland</b>	Yes - Private certification and building approval by certifier	No
<b>South Australia</b>	Yes - Private certification only	Yes - Building Rules Consent from Council (or Development Commission for large projects)
<b>Victoria</b>	Yes - Private certification and building approval by certifier	No
<b>Western Australia</b>	Yes - Private certification only	Yes - Council permit authority issues building permit

## 6.9 Improvements

A number of respondents raised concerns about the differing levels of fees being charged by Councils and private Building Surveyors.

There was a perception that some Councils which still provide building surveyor services might be “undercutting” private building surveyors by subsidising fees from other council revenue. There was also a concern that some of the low fees being charged either by Council or private firms would not allow full cost recovery and may indicate that not all the required services were being provided.

There was also a concern that Councils were not maintaining the required separation between building surveyor services and the Permit Authority leading to inappropriate or biased approval processes.

To address concerns about the “race to the bottom” and the level of service being delivered, there are a number of approaches that could be taken:

### Set a minimum fee

To avoid Councils or private building surveyors offering a fee that is judged to be below what it would reasonably cost to deliver the services, a minimum fee could be set. This would ensure that Councils were not undercutting private operators and would reduce the likelihood of subsidising costs with other council activities.

This is not an approach taken in any other State, though South Australia sets a maximum fee.

## Set a minimum number of inspections

Rather than set a minimum fee, the number of inspections to take place could be mandated. This would ensure that the appropriate level of oversight was being applied and would encourage Councils and private operators to charge an appropriate fee.

## Clarify roles and responsibilities and increase auditing

By clearly identifying the role of a building surveyor and the duties for which a building surveyor is responsible, mandating the documentation required to support activities, providing appropriate training and support, then undertaking regular audits to ensure compliance, the standard of the industry could be lifted and the likelihood of delivering the objectives of the Act increased.

Reporting requirements should also be specified so that the Director Building Control receives sufficient information to monitor the industry and make appropriate risk-based judgements about level of auditing, and so that records of work done are retained for the benefit of future owners or other works projects.

We've identified three options for addressing the concerns regarding certification:

- **Option 17a - Retain the current system with improvements, or**
- **Option 17b - Reduce the number of permit authorities, with improvements, or**
- **Option 17c - Introduce fully contestable certification**

These options are explored below:

### **Option 17a**                      **Retain the current system of certification and separate permits with improvements**

To address the concerns around the level of service being delivered, the following improvements are suggested:

1. Clarify role and responsibilities of Building Surveyor
2. Mandate inspections and the documentation to accompany inspections, including reporting requirements and record keeping responsibilities
3. Identify information to be provided on request for auditing purposes
4. Introduce accreditation for permit authorities
5. Mandate separation of Building surveying role and permit authority roles in Councils where an in-house building surveying service exists

**Table 15 - Retain the current system of certification and permits with improved auditing, documentation requirements, clarification of roles**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>• Private certification increases competition, which can result in improved timelines and reduced costs</li> <li>• Increased clarity of roles and responsibilities sets basis for service levels to avoid “race to the bottom”</li> <li>• Improved documentation and reporting requirements addresses concerns about building surveyors resigning mid-project or otherwise becoming unavailable. Knowledge of past and present work can be retained for future</li> <li>• Improved training for permit authorities and standard processes and procedures improves consistency between Councils</li> <li>• Government retains oversight of building permit process</li> <li>• Local councils have a greater understanding of their municipality and also have oversight of planning</li> </ul>	<ul style="list-style-type: none"> <li>• Additional resources needed to perform audits</li> <li>• Increased “alternate solutions” and no peer-review of performance-based solutions</li> <li>• Can result in conflict of interest with builder as employer</li> <li>• No guidelines for documentation required so knowledge of past and present work often not retained for future</li> </ul>

## Option 17b

### **Reduce the number of permit authorities, improve auditing, documentation requirements, clarification of roles**

Smaller councils do not always have the resources to perform the role required of them. These councils could be encouraged to share services, particularly where expertise is not readily available in some regional areas.

The number of permit authorities could be reduced to 4-5 regional bodies, with a separate permit authority for King and Flinders Islands.

In this model, the regulatory burden on Building Surveyors is reduced. Their role would require them to ensure relevant paperwork is in place and compliance with the National Construction Code and Building Act has been met.

There would be increased career options for Building Surveyors, either working for a Permit Authority or in the private sector. This may assist in attracting people to the profession.

The other component to this model is that the Permit Authority would assume the entire regulatory compliance burden. That is, they would be responsible for ensuring that illegal building, defective work, incomplete projects and a range of other infractions were dealt with. The only area of compliance that would reside with the Director of Building Control would be conduct matters.

The Permit Authority should have clear, fair, simple Key Performance Indicators and be required to regularly report on them to help ensure accountability and efficiency as it is expected that they would only have a cursory role in the permit issuance area, much like Councils currently have. Again, their role as permit authority would be controlled by

legislation so that they did not delve into the applications themselves, rather that they just ensured that the correct processes had been followed, appropriate levies were paid and that the development wasn't being built inappropriately as is the case with S.71 under the current Act. Because of the Permit Authority's suggested role, it is not anticipated that the Permit Authority would need any longer than is currently the case under the legislation to issue a Building permit (7 days).

**Table 16 - Reduce the number of permit authorities with improved auditing, documentation requirements, clarification of roles**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>• Greater likelihood of consistency of processes between Permit Authorities</li> <li>• Encourages smaller councils to share resources resulting in greater availability of expertise across the State</li> <li>• Greater savings to councils</li> <li>• Smaller number of better resourced authorities</li> <li>• Regulatory burden of compliance rests with Permit Authority</li> </ul>	<ul style="list-style-type: none"> <li>• Permit authorities' loss of autonomy</li> <li>• May still find it difficult to resource in remote areas</li> </ul>

## Option 17c

### Introduce fully contestable building certification (including permits)

Fully contestable building certification currently operates in Queensland, New South Wales, the ACT and Victoria.

Although private building surveyors in Tasmania are permitted to undertake certain steps in the approval and inspection stage, they must still defer to the local council to issue final certification of both design and construction.

Full privatisation of building certification would see the role of Permit Authority become fully contestable, performed in whole by either a private building surveyor or a local government building surveyor. This would mean that the permit authority would have the current functions to issue a certificate of likely compliance in respect to building standards and the associated building permit. In this regard, two steps should be merged into the one, being the issue of a building permit.

To facilitate this outcome, the current scheme for accredited persons would also be reviewed and the same rules for private building surveyors should be applied to all local government building surveyors performing the same functions.

The current good faith protections afforded permit authorities should also be extended to building surveyors.

A fully contestable certification system would also make it possible to combine the current three stages in the certification process for completed building work into a single step.

**Table 17 - Introduce fully privatised building certification**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Reduces the number of permits required</li><li>• Has the potential to reduce time and costs of approval</li></ul>	<ul style="list-style-type: none"><li>• May make Permit Authority role unviable in some councils</li><li>• Does not address the issue of bias where a building surveyor has an ongoing relationship with a builder</li><li>• May result in decrease in oversight and quality of building works</li><li>• May result in loss of municipal records regarding building developments</li><li>• Must maintain separation between certification process and building surveyor</li></ul>

## **Option 18**

### **The Director set minimum schedule of fees for building surveying services**

The Building Act as established had an unintended consequence providing for an anti-competitive environment for Building Surveying services. The private and public sector (Councils) Building Surveyors compete for work in very different environments.

Some Council providers offer a low fee service where the staffing and operating overheads are subsidised via the general rate revenue. Private sector building surveyors on the other hand recover their service costs by attributing full cost recovery for the individual service to the client.

There is also evidence that some private surveyors are also practicing high volume low fee service models against other private sector Building Surveyors where there is no council within the market resulting in similar failures. This is a high risk approach and may lead to market failure in terms of services concentrating in too few practitioners.

**Table 18 – Minimum Schedule of fees for Building Surveying**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Addresses inequitable practices between councils and private sector</li><li>• Makes private certification more sustainable</li></ul>	<ul style="list-style-type: none"><li>• Will increase costs in some areas</li><li>• Is an additional compliance obligation and therefore compliance cost</li></ul>

## **Recommendation 19    Clarify the essential maintenance requirements for Class 2–9 Buildings**

The requirements for the production of essential services maintenance schedules on commercial buildings are generally not well understood. There can be a lack of clarity where schedules are required for existing commercial buildings and where new building work is undertaken. To enable the full integration of ongoing essential service maintenance within commercial buildings requires a minimum of a once yearly check.

Auditing of the existence of these schedules and its currency in the market is undertaken randomly by the fire service and building standards but there is no genuine programme of audit.

It is commonly found that some owners play a significant role in essential services maintenance and routinely undertake maintenance at the required frequency whilst others may miss this. With this in mind, those that genuinely maintain their services will pay a premium cost on a maintenance item compared to those that don't, for instance the checking and testing of a fire extinguisher that has a shelf life of say three years (Owner 'A' may pay service fees and check an extinguisher six times over three years, whilst owner 'B' may only check it once and pay a once off fee. In both cases, safety may be maintained with the extinguisher as it has a shelf life of three years. In this case, the first owner has paid a greater sum of money than the other owner for no gain in safety).

The Director suggests that:

- Essential maintenance schedules be prepared by Accredited Building Surveyors
- Essential maintenance schedules are issued for a maximum 5 or 10 year period and are then required to be renewed
- Essential maintenance schedules should be documented to a minimum standard (issued as a determination by the Director)
- Essential maintenance schedules include a checking frequency on individual items as determined by the Building Surveyor (e.g. electronic fire doors should be tested 6 monthly, fire extinguishers must be replaced on expiry and like for like within 24 hours of use) and the skill need for such checks (e.g. sprinkler systems need to be checked by a specialist in such systems)
- The schedule would provide the basis for any essential maintenance contract for larger buildings and for smaller buildings would allow for building owners to monitor and ensure checks are done.
- The Schedule prepared for high risk buildings (places of public assembly etc) should be filed with Local Councils
- The Schedule should be available for inspection on demand by authorised officers (TFS, Councils and the Director) to undertake a random but regular audit, based on risk
- A current schedule is required to be handed to new owners on transfer of ownership or leasehold.

**Table 19 – Clarify Essential maintenance Requirements**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Increased confidence in the essential maintenance elements of buildings</li><li>• Clarity of requirements for owners</li><li>• Reduced cost for some owners</li></ul>	<ul style="list-style-type: none"><li>• Will increase costs for some owners</li></ul>

# 7 A strong regime for Building Surveyors

We asked whether the current system of Building Surveyors was working.

Whether employed by the council or in the private sector, the importance of building surveyors to the general public cannot be overstated and as such these practitioners should be subject to a strong regulatory regime.

## 7.1 Background

The Building Surveyor is the “gatekeeper” for regulatory compliance on building projects. Their role is to ensure that all work complies with national and state-based requirements. They may do this through on-site inspection or by accepting certificates from other specialist practitioners.

It is a professional role, and as such, professional standards apply, including skill levels, code of conduct standards, continuing professional development and administrative requirements.

Although the majority of building surveyors perform their duties in accordance with these standards, there is room for improvement.

## 7.2 Issues

Some of the issues that have been raised during this Review include:

- Lack of clarity on the role and responsibilities of the building surveyor leading to disputes about who is responsible for faulty work
- Perceived bias and lack of objectivity when a building surveyor is employed by a builder
- Lack of appropriate documentation leading to difficulties if a building surveyor chooses to resign from a project, or becomes unavailable due to unforeseen circumstances



- Some building surveyors (including those employed by councils) do not appear to be charging the appropriate fee for services leading to concerns about either a lack of genuine contestability, or a reduction in services actually being delivered.
- Scope exists for an “entry-level” grade of building surveyor with limited responsibilities
- Alternate solution assessment should only be undertaken by building surveyors who have undertaken appropriate training

## 7.3 The way forward

There are a number of components that contribute to the quality of the industry. We need to get these right:

1. Clarify the roles and responsibilities of a building surveyor
2. Set appropriate accreditation levels
3. Audit for compliance
4. Set appropriate reporting requirements
5. Implement appropriate Continuing Professional Development requirements to ensure practitioners stay up to date
6. Set requirements for professional indemnity insurance
7. Develop a Code of Conduct

Together with suggestions from Professor Lovegrove we recommend adopting the following practices to ensure a strong regime for Building Surveyors:

- Building Surveyors should be appointed by property owners only, not by building practitioners
- Private surveyors should be limited to assessing approvals on the basis of compliance with prescriptive regulations (no room for discretion) and prohibiting them from sanctioning performance based designs
- Set a minimum schedule of fees chargeable by in-house council building surveying practices
- Ethical requirements should be codified in the act of parliament (New South Wales already does this, other states should follow)
- Mandatory inspection junctures should be implemented following the issuance of permits
- Building Surveyors should have appropriate powers to issue compliance notices and enforcement orders – copied to the relevant council where non-compliance with such orders occurs
- Every council must appoint a Municipal Building Surveyor to oversee compliance activity; the Municipal Building Surveyor must not be involved in the certification processes within the relevant Council Area

## **Recommendation 20      Clarify role and responsibilities of Building Surveyors and protections for Building Surveyors through the Building Act**

The Director Building Control recommends that the Duties of Building Surveyors section of the Act is expanded to clarify the role and responsibilities of a Building Surveyor, including responsibility to clients, responsibility for documentation, code of conduct and mandatory inspections.

Part of the issue around the crafting of the role is to ensure that the Building Surveyor can rely on work undertaken by others by way of receiving certification from those other specialists and also ensuring that the provisions which provide for protection from liability extend to activities of the Building Surveyor, acting within role, responsibility and within area of competence. Such protection should not extend to negligence.

**Table 20 - Clarify role and responsibilities of Building Surveyors through the Building Act**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Create consistency across the industry</li><li>• Remove doubt about liability</li><li>• Highlight recordkeeping responsibilities</li></ul>	<ul style="list-style-type: none"><li>• May deter some from entering industry.</li></ul>

## **Recommendation 21      Strengthen provisions allowing for the property owners to appoint Building Surveyors and excluding the certifying Building Surveyor from having contractual relationship with builders**

The certifying Building Surveyor is required to report on whether building works comply with regulatory standards. Their role is to protect the interests of the home owner. If the Building Surveyor is employed by the builder, there is an obvious conflict of interest.

**Table 21 – Strengthen provisions on appointment of Building Surveyor**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Avoids conflict of interest and increases protection for consumer</li><li>• Increases consumer interaction with regulatory role</li><li>• Increases consumer knowledge of the Building Surveyor role</li></ul>	<ul style="list-style-type: none"><li>• Potentially severs mentoring style relationship between Building Surveyor and builders that have developed over many years</li><li>• Consumer may see this as an additional burden and therefore as red tape</li></ul>

## Option 22

### **Performance-based solutions are outside the scope of work of Building Surveyors unless the Building Surveyor undertakes additional specific qualifications in performance-based solutions**

Although the Building Code of Australia is a performance-based code, and performance-based solutions encourage innovation, appropriate expertise is required to assess and sign off a performance based solution.

In Victoria, in addition to a qualified person doing the assessment, a recognised option for getting such sign off is to seek a peer review. This may not be a suitable option for Tasmania where the number of practitioners is small and there is an apparent risk of bias or conflict of interest. Peer review may be a role that can be undertaken centrally by the Director of Building Control.

The Director of Building Control recommends that performance-based solutions be certified by a Building Surveyor who has undertaken additional specific qualifications in assessing performance-based solutions, with further exploration of a peer review process.

**Table 22 – Performance based solutions to be assessed by Building Surveyor who has undertaken additional specific qualifications in performance-based solutions**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>Increases likelihood of positive outcome by having solution assessed by someone with appropriate expertise</li><li>Ensures quality of performance based solutions</li><li>Reduces likelihood of bias or conflict of interest</li></ul>	<ul style="list-style-type: none"><li>Increases cost which may discourage designers from proposing alternative solutions</li><li>May reduce innovation</li><li>May increase the steps in obtaining certificate of likely compliance</li></ul>

## **Recommendation 23      Make mandatory building notifications mandatory inspection points**

The following stages in the building process, where the builder is required to notify the Building Surveyor, should trigger a mandatory inspection:

- Covering in the foundations
- Pouring structural concrete
- Cladding or building-in structural frame
- Completing the building work

These are the stages where there is the greatest risk to the structural safety of the building if they are not completed in accordance with the standards.

**Table 23 - Make current mandatory building notifications mandatory inspection points**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>Increases likelihood of safely constructed buildings</li> <li>Decreases uncertainty about when inspection is required</li> <li>Allows any defects to be identified at an early stage</li> </ul>	<ul style="list-style-type: none"> <li>Increased resources required for those not currently carrying out all inspections</li> </ul>

## Option 24 **Every council must appoint a Municipal Building Surveyor**

In Victoria, every council must appoint a Municipal Building Surveyor (MBS). The MBS, and his or her council, administers the compliance elements of the building control responsibilities of Local Government and Building Legislation. Usually council's building control responsibilities are carried out under the office and management of a Municipal Building Surveyor (MBS).

To avoid conflict of interest, the MBS cannot practise inside the municipal area. Their role is to oversee the permit authority and ensure compliance with the Building Act; of course they do so from a position of significant professional experience.

It is anticipated that smaller councils may share an MBS.

The MBS should be a natural person rather than a company.

**Table 24 - Every council must appoint a municipal building surveyor**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>Ensures council has required expertise to administer building control responsibilities</li> <li>Avoids conflict of interest when municipal building surveyor also acts as permit authority on projects where he/she has been a private contractor</li> <li>Improves career opportunities for Building Surveyors</li> </ul>	<ul style="list-style-type: none"> <li>Smaller councils may not have the resources to appoint an MBS</li> <li>This may reduce the availability of Building Surveyors in the market place</li> </ul>

## Option 25

## Introduce a new “inspector” level of building surveyor

Some other states have an “entry-level” category of building surveyor/certifier who is authorised to inspect Class 1 and Class 10 buildings under the supervision of a Level 1 or Level 2 Building Surveyor.

**Table 25 - Interstate comparison of levels of certifiers in other jurisdictions**

State/Territory	Main levels of licences for certifiers	Additional “inspector” level of certifier?
Australian Capital Territory	Two	No
New South Wales	Three	Yes
Northern Territory	Two	No
Queensland		
South Australia	No levels, only certain conditions placed in licences	Inspections performed only by local authorities.
Tasmania	Two	No
Victoria	Two	Yes—two categories.
Western Australia	Three	No—no mandatory inspections.

Including a Level 3 Assistant Building Surveyor within the Act would accommodate those practitioners currently working mostly within Local Government with Diploma Qualifications.

A Level 3 Assistant Building Surveyor would not be permitted to function as a standalone operator.

Consideration should also be given to establishing additional accreditation levels and/or scope for the following;

- Certification of Performance/Alternative Solutions – as a prerequisite Building Surveyors (Building Surveyor and Building Surveyor Limited only) must have completed the Graduate Certificate in Performance-based Building and Fire Codes.
- Building Inspector – where experience and/or qualification satisfies a level to undertake inspections of building work for and on behalf of a Building Surveyor. These practitioners should be required to maintain insurance and CPD similarly to other classes of practitioner.\*
- Property Sale Inspector – An area of practitioner that has been constantly missed from the system but an area that needs some form of regulatory control and requirement for insurance and possible CPD.\*

The following categories are in accordance with the National Accreditations Framework:

Level	Title	Scope	Qualifications	Generic Functions
Level 1	Building Surveyor (Unlimited)	Unrestricted. Can work on all classes and size of buildings	Degree in Building Surveying, or RPL within 5 years 3 years relevant experience	<ul style="list-style-type: none"> <li>Assess and approve plans</li> <li>Undertake inspections</li> <li>Approve building occupation/use</li> </ul>
Level 2	Building Surveyor (Limited)	3 storeys and maximum floor area 2000m <sup>2</sup> all classes	Advanced diploma 2 years relevant experience	<ul style="list-style-type: none"> <li>Assess and approve plans</li> <li>Undertake inspections</li> <li>Approve building occupation/use</li> </ul>
Level 3	Assistant Building Surveyor	Inspection of Buildings on behalf of Building Surveyor  After qualification achieved: Class 10 buildings as defined by the BCA.	Diploma in Building Surveying and 1 year relevant experience  Cadet, or otherwise progressing towards qualification with 3 years relevant experience before commencing	<ul style="list-style-type: none"> <li>Undertake Inspections</li> <li>After completion of qualification assess and approve plans and approve building occupation use for Class 10 Buildings</li> </ul>

**Table 26 - Introduce a new “inspector” level of building certifier**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>Would increase the number of building certifiers available for inspections.</li> <li>Create a lower entry level to the profession.</li> <li>May reduce workloads of existing building certifiers.</li> <li>Individuals undertaking inspections would be more accountable to the Commission.</li> <li>May encourage uptake of building surveying as a profession, leading to higher level licensing.</li> <li>Increased employment opportunities for mature aged workers from building and construction related fields.</li> </ul>	<ul style="list-style-type: none"> <li>Does not align with the National Accreditation Framework (NAF) for building certifiers.</li> <li>Administrative changes required to reflect new level.</li> <li></li> </ul>

## **Recommendation 26      Use regular reporting and targeted audits to drive compliance**

See the section Measuring success for suggested reporting requirements for Building Surveyors.

By using this information to tell us more about the industry and the part Building Surveyors are playing in it, we can target audits and random inspections where they are most likely to highlight areas of non-compliance.

This will allow us to assist surveyors to improve the quality of their performance.

It also allows us to take a step back from looking over the shoulder of those surveyors who are consistently performing their duties at a high level.

**Table 27 - Use regular reporting and targeted audits to drive compliance**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Allows Director of Building Control to maintain an overview of the industry</li><li>• Ensures resources are directed where they are most needed</li><li>• Encourages compliance and high-performing industry</li></ul>	<ul style="list-style-type: none"><li>• Time required for administration and analysis of reports</li><li>• Audit can be time-consuming and negatively impact on limited resources</li></ul>

## **Recommendation 27     Mandatory component of Continuing Professional Development for Building Surveyors**

Under the current occupational licensing regime, Building Surveyors are required to undertake 30 points of Continuing Professional Development (CPD) each year.

There are no guidelines about the sort of course or activity that is appropriate, and anecdotal evidence suggests that some practitioners are either claiming points for activities that don't contribute to their continuing education or struggling to find relevant activities.

One option is to give the Director the power to require that all building surveyors attend certain training within a given period. For example, "hot topics" such as bushfire hazard assessment, condensation or 6 star energy efficiency might be areas where the Director would mandate that all building surveyors improve their knowledge.

Mandating a proportion of the CPD ensures the profession stays up to date. The onus is of course on the Director of Building Control to work with training bodies to ensure that high quality, relevant training opportunities are available when such a direction is made.

The proposal is that CPD is comprised of 15 points worth of training determined by the Director of Building Control, and 15 points determined by the practitioner.

**Table 28 - Mandatory component of Continuing Professional Development for Building Surveyors**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Ensures building surveyors are abreast of current topics</li><li>• Increases relevance of CPD activities</li></ul>	<ul style="list-style-type: none"><li>• Administrative overhead in tracking whether individuals have attended, and making arrangements for catch up if they haven't.</li><li>• Increased workload in making sure suitable activities are offered</li></ul>



## **Recommendation 28     Include strengthened code of conduct for Building Surveyors in legislation**

The existing Code of Conduct has no teeth – it is very hard to use it to enforce standards and behaviour.

By strengthening the Code of Conduct, increasing penalties and referencing it in legislation, we can lift standards of professionalism in the Building Surveyor industry.

The Code of Conduct would address issues such as perceived bias if building surveyors are employed directly by builders, concerns about the level of service being delivered, and responsibilities for keeping documentation in case a project needs to be handed over to another building surveyor.

The table below (Table 16) summarises the extent to which other jurisdictions have a code of conduct.

**Table 29 - Codes of Conduct in other jurisdictions**

State/Territory	Code of Conduct?
Australian Capital Territory	No—although legislation does provide for a code of practice to be made.
New South Wales	Yes
Northern Territory	No—although some definition of “professional misconduct” is being considered.
Queensland	
South Australia	Yes—mandatory code of practice that is referenced in legislation.
Tasmania	Yes
Victoria	No—but looking at a potential code of practice.
Western Australia	No

**Table 30 – Include strengthened code of conduct for Building Surveyors in legislation**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Clarifies what is expected of building surveyors, leading to more effective prosecutions for breaches</li><li>• Clearly defines penalties for non-compliance, leading to reduced breaches</li></ul>	<ul style="list-style-type: none"><li>• Needs administration</li></ul>

# 8 Practitioner registration and licensing

The building industry and practices within it are undergoing change at a greater rate than before. This makes it essential for practitioners within the industry to stay up to date with changes, new technologies and new approaches.

How do we ensure our practitioners have the appropriate skills and conduct to work in the Building Industry?

The quality of our practitioners will determine the quality of buildings.

## 8.1 Background

Licensing, registration and accreditation requirements differ between professions, but mostly share some common threads.

Before a practitioner can work in the industry, they need to demonstrate that they:

- Are a genuine person (ID etc) operating in Tasmania
- Have the skills and qualifications to do the job
- Are a “fit and proper person”

Most of the occupations accredited or licensed to operate in Tasmania’s building industry have some form of compulsory Continuing Professional Development requirement as part of their accreditation or licensing conditions.

Currently plumbers are not required to complete any continuing professional development activities.

As the Building Code of Australia is updated and new issues emerge, it would be useful for the Director Building Control to have the power to mandate that certain courses or online learning are included in a practitioner's CPD.

This could also be used as a tool for addressing compliance issues. A practitioner whose work is not meeting the required standard could be required to attend a specific course.

Industry Associations and Registered Training Organisations could work together to determine the most useful topics to cover in any given year, and the Director Building Control may choose to provide subsidies for attendance, travel and accommodation to ensure practitioners from rural and regional areas are not disadvantaged.

## 8.2 Issues

CPD schemes allow practitioners to keep their skills up to date but are sometimes viewed as an unnecessary burden rather than a valuable opportunity to develop.

There are concerns that there are limited opportunities for CPD and the quality and relevance varies. The “sausage sizzle” at the local hardware store should not be a valid CPD activity.

An education strategy should be part of the legislation.

There is considerable concern that the role of owner builder is being used to circumvent some of the requirements of the Act.

Introduction of mandatory training for Owner Builders has helped alleviate this, but there are still concerns about the number of projects an Owner Builder may work on, and what responsibilities may apply when the Owner Builder later sells the property.

The following occupations should be licensed under the Occupational Licensing Regime:

- Building officials – Building surveyors and inspectors
- Building designers
- Builders
- Plumbers
- Electricians
- Gas fitters

Engineers and Architects, whilst accredited under Tasmania's *Building Act 2000*, are also registered by their professional bodies. Accreditation with the Tasmanian Board of Architects is considered to be sufficient evidence of suitability for registration of Architects under the *Building Act*, but Engineers' registration with Engineers Australia is not considered sufficient for Engineers registration. This inconsistency (and duplication of effort) should be resolved.

## 8.3 The way forward

The elements that make up a robust system of registration, practitioner oversight and discipline include:

1. Ensuring only suitably qualified people are given registration
2. Ensuring that registered or licensed practitioners maintain their skill level
3. Establish a code of conduct for professional behaviour
4. Have an appropriate auditing and sanction regime to ensure continued compliance and rectification of defective work
5. Have appropriate powers to prosecute where necessary
6. Allow for Company Licensing

## 8.4 Ensuring only suitably qualified people are given registration

A strong licensing system means that only people with the appropriate skills, experience and character are able to work in the industry.

When the accreditation and licensing regime was introduced, a number of people already working in the industry were “grandfathered” into the new scheme. This means they were able to apply for a licence without the qualifications expected of new applicants. The intention was that these people would upgrade their skills over time, whilst still being able to earn a living in their chosen trade.

Anecdotal evidence suggests this transition has not necessarily occurred and that it may be time to target these individuals to upgrade their skills.

This will require proof of qualifications, proof of the application of those qualifications within the building sector (usually evidenced by specific experience relevant to the licence) and good character, and for some licences, membership of professional bodies.

Knowledge of the Tasmanian regulatory framework is also essential, which may be an issue for interstate practitioners (though anecdotal evidence suggests this may also be an issue for some Tasmanian practitioners!)

### **Recommendation 29      Allow for corporations/partnerships to obtain contracting licence**

Corporations/ partnerships contracting with owners for building work should also be licensed as contractors with a requirement that they have employed a practitioner within the scope of the services they are offering or that a practitioner is a director within the scope of the services they are offering.

This is similar to the structure in the Occupational Licensing Act for Plumbing, Electrical and Gasfitting work.

Penalties, audits and complaints may be made against those bodies and their controlling entities/ directors as well as the individual practitioners.

But the work the corporation can contract for reflects the same scope of work of the most senior accredited practitioner engaged by that company

**Recommendation 30      Licensing scheme (formerly Accreditation scheme) be modified to ensure that every practitioner licensed meet the requirements of the industry**

The current mix of accreditation, registration and licensing should be brought together under one licensing regime, to be legislated in the *Occupational Licensing Act 2005*, rather than have some occupations and professions managed through the *Building Act 2000*.

Licensing requirements including identity checks, evidence of skills and qualifications, code of conduct and CPD requirements should be managed through this one Act, as would any sanctions or penalties.

**Table 31 – Licensing scheme modified to include all practitioners**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Simpler, more consistent legislation</li><li>• Reduced regulation and duplication of processes</li></ul>	<ul style="list-style-type: none"><li>• Some resistance from particular professions to being “licensed” rather than “accredited”</li></ul>

## 8.5 Addressing “grandfathered” licensees

We’ve identified two options for ensuring that those grandfathered into the new licensing regime have the appropriate skills to operate in today’s building industry:

- **Option 3 I a - Set time limit for “grandfathered” practitioners to bring their skills up to scratch, or**
- **Option 3 I b - Set once-off mandatory CPD for grandfathered practitioners to bring their skills up to scratch**

### Option 3 I a

#### **Set time limit for “grandfathered” practitioners to bring their skills up to scratch**

To ensure that those practitioners in the industry who have not yet updated their skills make a concerted effort to do so, a time limit of three years should be set and their re-accreditation dependent of evidence of qualifications.

**Table 32 - Set time limit for “grandfathered” practitioners to bring their skills up to scratch**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Increases the likelihood that all practitioners in the industry have the appropriate skills</li></ul>	<ul style="list-style-type: none"><li>• Imposes a time and cost burden on older practitioners who may not be able to meet this commitment and thus would jeopardise their income-earning capacity</li><li>• Still three years before practitioners’ skills can be considered up to date</li></ul>

### Option 3 I b

#### **Set once-off mandatory CPD for grandfathered practitioners to bring their skills up to scratch**

This approach would see the Director of Building Control mandating attendance at a particular course aimed at bringing skills up to scratch. It may involve the Director of Building Control creating a course which could be tailored to cover the important elements of each occupation.

**Table 33 - Set once-off mandatory CPD for grandfathered practitioners to bring their skills up to scratch**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Likely to achieve the upgrade of the profession in a shorter timeframe</li><li>• Provides consistency in content and delivery</li></ul>	<ul style="list-style-type: none"><li>• Administrative burden of organising course and ensuring attendance, skills acquisition</li></ul>

## Option 32

### Explore licensing process for Engineers which is similar to current process for Architects in the Building Act.

For the engineering profession, national registers of engineering professionals, engineering technologists and engineering associates exist, and these registers are administered by the National Engineering Registration Board (see [www.engineersaustralia.org.au/nerb](http://www.engineersaustralia.org.au/nerb)). To remain on these registers, practitioners are required to undergo continuous professional development to remain competent and current in their area of expertise.

This is similar to the process administered in Tasmania for Architects and the current accreditation scheme allows the Director to use the Architects process as the basis for accreditation – a similar process is sensible in respect of engineers and should be explored.

Both Architects and Engineers would still be required to comply with the relevant Tasmanian legislation and complaints could still be made to the Director in relation to the practitioner, but joint processes of investigation should be developed.

This is not allowing either Architects or Engineers to be licensed outside of the framework, but using their professional registration as a basis of obtaining a licence in Tasmania.

**Table 34 – Engineers and Architects have a dual registration/licensing process**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Likely to achieve the upgrade of the profession</li><li>• Provides consistency across jurisdictions</li></ul>	<ul style="list-style-type: none"><li>• May lead to Architects and Engineers being seen as separate to other practitioners and not subject to legislation</li><li>• Engineers Australia is a private body and not regulatory in nature</li></ul>

### Recommendation 33 Clarify role of roof plumber

Feedback strongly supports removing the requirement roof plumbing as prescribed plumbing work and therefore work which must be undertaken by a licensed plumber. This task has historically been part of a builders' trade in many parts of the State.

Prior to the licensing of plumbers being moved to the *Occupational Licensing Act 2005* this function was required to be undertaken by a plumber, however there was an exemption outside of the major metropolitan areas. This effectively created a system where in Southern Tasmania mainly plumbers undertook roof plumbing and in the rest of the State mainly builders undertook the tasks.

Since 2010 only roof plumbers have been legally able to undertake the elements of roofing drainage which are seen as plumbing. This has been a continual frustration to sections of the industry.

While this does not actually form part of the building approval process, it's a common complaint from respondents. Builders point out that they used to be able to do roof plumbing but Tasmania is now one of only two states (NSW being the other) that requires a specialist roof plumber to be brought in. The statement in relation to other states is not entirely correct as this type of plumbing is drawn in in other ways. For instance, Victoria requires that both roofing and roof plumbing are required to be carried out by a specialist trade.

Anecdotal evidence suggests that making this change is just legalising what is happening already (which is not necessarily a reason to do it!) but it does seem to be common sense.

On the other hand getting roof plumbing right is essential to ensuring the ongoing integrity of the structural components of our buildings.

In suggesting that we need to clarify the role the Director recommends:

- Roof plumbing continue as a prescribed plumbing work
- Builders with trade qualifications be allowed to apply to undertake residential roof plumbing under a restricted licence category
- The requirements for the restricted licence be competency based
- An initial period of 6 months be provided to allow builders with trade qualifications who have undertaken the work under past exemptions to apply for the restricted licence on the base of recognition of their current competency

**Table 35 - Clarify role of roof plumber**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Cost and time saving for consumer and practitioner</li><li>• Allow for existing builders undertaking work to use their current skills</li></ul>	<ul style="list-style-type: none"><li>• Design and specification will need to include roof plumbing</li></ul>



## 8.6 Automatic Mutual Recognition

Accreditation and licensing requirements differ between States, but the Council for Australian Federation (CAF) is working towards establishing Automatic Mutual Recognition agreements between states. This would mean that someone who is qualified to work in one state would be automatically allowed to work in another state, without the need to be licensed in that state, where an agreement exists between the two states.

Currently the scheme is only being considered for plumbers and electricians.

A particular area of concern under this scheme is that interstate practitioners will not have knowledge of the local regulatory framework.

There are also concerns about defect rectification if an interstate worker has not submitted appropriate paperwork and cannot be traced.

These are issues that will be worked through by CAF as discussions progress.

## 8.7 Owner builders

Significant auditing of owner builders in the second half of 2014 provided useful information on the level of compliance in this category.

While this did not support the theory that registered building practitioners are using this registration to “rort” the system, nor did it support the counter theory that Owner Builders produced buildings of inferior quality.

However a number of issues were apparent and both the feedback and other recent issues raised with the Director indicate a need to improve the process and even out the process so it is not used to compete against the accredited practitioners.

Respondents suggested that requiring Owner builders to pay the same licensing fees as accredited builders would also decrease the likelihood of rorting and provide a level playing field.

Suggestions included:

- Owner builders should pay a fee for registration and bond until proof of insurance is obtained and submitted prior to Start Work notice.
- Owner builders should be required to disclose that a home has been “owner built” in any contract of sale and this should be noted on the title.
- Owner builder has to take insurance to cover the property at the same level as it would be covered if a registered builder had constructed it (as per other states). In addition, parts of property on which owner builder work was performed must be inspected for defects and/or regulatory breaches.
- The concept of owner builders should not be available for commercial builders.
- Owner Builder project should be limited to a single building process not to ongoing projects on the same property.

- It is suggested that certain types of work, for example smaller class 10 and decks, could and should not be subject to such controls and drawings able to be prepared by the owner builder – perhaps strengthening of definitions, outlining clearly responsibility of the owner builder, recording on the title the work that is undertaken by an owner builder for future purchases to know and limiting future owners action against other parties who have worked for the owner builder or provided approvals on workmanship matters.

### **Recommendation 34      No owner builder status for class 2 to 9 buildings**

The literature justifying allowing owner builders all points to a need to allow an owner to provide for their own accommodation needs. The majority of applications for owner builder registration are in this category, however the current legislation is not limited to residential properties as is the case in other States.

Owner builder status should only be available for owners planning to build, alter or extend their own dwelling. It is not appropriate for this to be extended to commercial buildings. Of particular concern is that the current provisions have been used by owners building for large public buildings and for conversion of properties to accommodation, where the consequences of the risk are high.

Minor class 7 buildings such as a non-habitable farm building to store hay, may be exempt, but workplaces such as shearing sheds would still require a builder.

**Table 36 - No owner builder status for class 2 to 9 buildings**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>• Ensures Owner Building status is used as originally intended</li> <li>• Reduces the likelihood of sub-standard commercial building stock</li> <li>• Reduces risk of harm to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Increases cost for some commercial building owners</li> </ul>

## **Recommendation 35      An owner builder can register but not self-certify**

If other recommendations are adopted around builder certification these should not extend to the owner builder.

To protect current and future residents of an owner builder property, all work must be certified by an independent appropriately licensed practitioner. An owner builder cannot certify their own work.

**Table 37 - An owner builder can register but not self-certify**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>Increases likelihood of work meeting the required standard</li><li>Reduces risk for future owners</li></ul>	<ul style="list-style-type: none"><li>May impose an unfair burden on owner builder</li></ul>

## **Option 36                      Replace the number of projects rule by specifying the length of time before an owner builder can sell**

It would be expected that the genuine owner builder would build their own houses and live in them for a period of years, so placing a restriction on selling the house is not unreasonable (unless circumstances change, in which case application to Director Building Control might be considered).

The current legislation allows an Owner Builder to build no more than two houses in a ten year period. However there is evidence of roll over for profit creating competition with the commercial sector with an advantage on pricing to the owner builder. In some cases the two project rule is worked around by having multiple family members register.

Replacing the cap on the number of projects and placing a period on ownership, of say six years, would not prevent owner building but would ensure it is not being done as a means of competing against the commercial sector.

**Table 38 – Place restrictions on time before selling and number of projects**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>Decreases rorting</li></ul>	<ul style="list-style-type: none"><li>May have genuine reason to sell</li></ul>

## **Recommendation 37     Statutory warranties given to future owners and a compulsory inspection prior to sale**

A statutory warranty should be available to all future owners and the owner builder should be accountable in the same way as an accredited building practitioner. In addition a building inspection must be undertaken prior to sale and the inspection report made available to any and all prospective purchasers – but only for the first sale.

**Table 39 - Statutory warranties given to all future owners**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Same level of protection provided as by an accredited builder</li><li>• Defects may not become apparent until after subsequent sales</li></ul>	<ul style="list-style-type: none"><li>• May unfairly disadvantage owner builder</li></ul>

## **Recommendation 38      Definition of project is limited to one building permit per owner builder licence**

Presently Owner Builder Registration applies to a property, and continues until the property is sold, therefore a registration for a two bedroom house could be used to extend that house a number of times over many years.

The Director recommends that Owner builder registration is only valid for the specified project. If the applicant wants to build an extension, they will need to apply a second time.

**Table 40 - Definition of project is limited to one building permit per owner builder licence**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>Decreases sorting and ensures owner builder still has the appropriate qualifications for each project</li></ul>	<ul style="list-style-type: none"><li>Additional paperwork/regulation for owner builder</li></ul>

## **Recommendation 39      Owner builders will be subject to increased inspections**

Owner builders will be subject to the same mandatory inspections as accredited builders but will also be required to have additional inspections, for example flashings and damp proofing, wet areas, insulation installation.

**Table 41 - Owner builders will be subject to increased inspections**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>Provides increased protection for current and future residents of the house</li><li>Potentially improves the standard of the work</li></ul>	<ul style="list-style-type: none"><li>Places an additional burden on owner builders</li></ul>

## **Option 40      Add “owner builder” to title**

This means that future purchasers are fully informed that the house was not built by an accredited builder.

**Table 42 – Add “owner builder” to title**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>Future purchasers are fully informed</li></ul>	<ul style="list-style-type: none"><li>May unfairly disadvantage seller</li></ul>

## **Recommendation 4I     Owner Builder to pay licence fees and have correct insurances**

This will ensure that the owner builder is paying for the registration service in the same way as the accredited builder and contributes to the audit and investigation regime which applies. This will ensure that future purchasers have same level of cover as if the property was built by an accredited builder.

**Table 43 - Owner Builder to pay a licence and have correct insurances**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Greater protection for owners during building works and for future owners</li><li>• Ensures BSOL is funded to carry out appropriate inspections, admin of compliance and enforcement etc</li></ul>	<ul style="list-style-type: none"><li>• May deter some genuine owner builders</li></ul>

## 8.8 Ensuring practitioners maintain their skill level

There are a number of ways we can ensure that practitioners maintain their skill levels. These include Continuing Professional Development (CPD), auditing and reaccreditation at regular intervals.

All licensed trades (including electricians, plumbers, gas-fitters and automotive gas-fitters) are encouraged to continue to develop their skills through ongoing professional development; however it is not a condition of having their licence renewed, as it is with builders, designers and architects.

Who should be subject to CPD requirements? How much should they be required to do? Should it be self-selected or directed?

### **Recommendation 42 Introduce CPD for plumbers, electricians and other occupations under the Occupational Licensing Act**

The *Occupational Licencing Act 2005* already has provision for CPD for the occupations it administers. All that is required is a Directive from the Administrator of Occupational Licensing to switch this requirement on.

This will ensure that all occupations involved in the building industry are subject to the same requirements to keep their skills up to date.

Plumbers and electricians don't currently have CPD as part of their licensing requirements. This means there is less opportunity to ensure the plumbing industry are keeping up to date with changes to the plumbing standards, new products and new technologies in the plumbing industry.

**Table 44 - Introduce CPD for all occupations under the Occupational Licensing Act**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>Increases the skill level of the industry</li><li>Increase the safety qualities of buildings</li><li>Increase compliance with national standards</li><li>Decrease defects, disputes</li><li>Increased awareness of changes in the standards</li><li>All occupations treated equally</li><li>Provides a tool for the Director to use as a sanction where skills not up to standard</li></ul>	<ul style="list-style-type: none"><li>Likely resistance from some sectors</li><li>Administrative burden</li></ul>

### **Recommendation 43      Limit CPD to genuine learning activities pre-approved by Director Building Control or Administrator of Occupational Licensing**

Only activities that genuinely contribute to a practitioner's professional development will be counted towards CPD. So a practitioner is welcome to attend the sausage sizzle at the local hardware store, but not to count it towards CPD.

**Table 45 - Limit CPD to genuine learning activities pre-approved by DBC or Administrator of Occupational Licensing**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• CPD has real value</li><li>• Increased skill level in the industry</li><li>• Increase the quality of buildings and decrease incidence of building errors</li><li>• Ensure current knowledge practitioners</li></ul>	<ul style="list-style-type: none"><li>• Increased administrative burden to assess and communicate acceptable activities</li></ul>

### **Recommendation 44      The Director Building Control may mandate certain activities**

To ensure that topics that are new or significant are included in a practitioner's CPD, the Director Building Control may make certain CPD activities mandatory for all practitioners.

**Table 46 - The Director Building Control may mandate certain activities**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Increase skills of workforce</li><li>• Ensure areas of greatest need are being addressed</li><li>• Greater cost of ensuring PD opportunities available to all practitioners in State</li><li>• Provides a tool for the Director to use as a sanction where skills not up to standard</li></ul>	<ul style="list-style-type: none"><li>• Seen as imposition</li></ul>



## 8.9 Establish a code of conduct for professional behaviour

There's already a code of conduct for building surveyors and we have suggested strengthening this as part of this review. (see section 5)

Do we need a similar scheme for other practitioners?

### **Recommendation 45     Strengthen code of conduct for building practitioners**

Require building practitioners to be responsible for the rectification of faulty building work.

**Table 47 – Common code of conduct for all building practitioners**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Sets out clear expectations and consequences for failing to meet standards</li><li>• Raise the standard of conduct in the industry</li></ul>	<ul style="list-style-type: none"><li>• Administrative burden</li></ul>

## 8.10 Have appropriate auditing and sanction regime to ensure continued compliance

Victorian legislation currently being considered proposes including the following recommendations:

Introducing new disciplinary sanctions in the Building Act, which will give the VBA ability to:

- impose demerit points;
- direct a registered person or body to do or not do something;
- require the registered person or body to give an undertaking; and
- impose a condition on registration.

Broadening the grounds for disciplinary action to include:

- failure to pay a fee or other amount required to be paid under specified laws, orders or regulations;
- failure to comply with an order or direction of a disciplinary body;
- registration obtained through false or misleading information;
- contravention of a condition of registration or an undertaking given to the VBA;
- failure to adhere to insurance requirements; and
- failure to carry out the direction of an insurer, including reimbursement of insurers claim costs.

Grounds for immediate suspension will be specified. These will include insolvency, contravention of a relevant law, misappropriation of funds held on trust and charge or conviction for certain offences prescribed under the regulations.

A 'show cause' disciplinary process will be adopted. This process will be faster than the process of investigation and disciplinary inquiry currently provided for under the Building Act.

Under the new process a registered building practitioner will be given at least 14 days to show cause why the discipline proposed should not be taken. A decision on whether there is a valid reason to discipline the registered building practitioner will be required by the VBA within 28 days after the show cause period ends.

Unlike disciplinary decisions under the Building Act, decisions taken by the VBA will not be stayed pending the expiration of the appeal period. They will take effect on the day the notice of decision is given to the registered building practitioner or on any later date specified in the notice.

Registered building practitioners will have a right to internal review of disciplinary decisions, followed by a right of appeal to VCAT.

Some of these approaches may be appropriate to adopt in Tasmania.

#### **Recommendation 46      Move building practitioners to the occupational licensing regime therefore adopting sanctions of that regime**

The *Occupational Licensing Act 2005* already contains sanctions for failing to meet the expected standards.

By moving all practitioners in the building industry to this scheme, and undertaking an appropriate communication strategy, we can ensure that all practitioners are aware of these sanctions, and use this to drive improvement in the standard of the industry.

**Table 48 - Move building practitioners to the occupational licensing regime therefore adopting sanctions of that regime**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Improve the standard of the industry</li></ul>	<ul style="list-style-type: none"><li>• Administrative burden</li><li>• Some resistance from some professions to the change in licensing scheme</li></ul>

## Breach of Rectification Orders

In Victoria, if a builder fails to comply with a Rectification Order (and does not seek, or is unsuccessful in any VCAT review), the builder will be subject to discipline under the “show cause” process.

The policy of the VBA will be that the builder will face disciplinary consequences such as demerit points or partial suspension depending on the circumstances. Partial suspension means that the builder will not be able to enter contracts or commence new work until the remedy is provided. However, the builder will be able to continue to fulfil existing contracts. If a remedy is not provided in a reasonable time, the VBA may decide to initiate further disciplinary action.

A remedy may include:

- rectification of the defective work as specified in the Rectification Order;
- payment of compensation in relation to the defective work or an agreement satisfactory to the consumer to pay such compensation;
- insurance rectification of the defective work and reimbursement of the cost of rectification to the insurer by the original builder, or an agreement satisfactory to the insurer to make such reimbursement; or
- compliance with any VCAT order in respect of the defective work.

The builder will be required to show cause why conditions should not be attached to the registration, or directions made, to prevent new work or new contracts, pending a remedy in relation to the defect that was the subject of the Rectification Order.

The scope of inquiry in any show cause process considering failure to comply with or seek review of a Rectification Order will be specific. The merits of the Rectification Order will not be subject to challenge through the show cause process. This is because if the builder wants to challenge the merits of a Rectification Order the builder is able to seek a review of the Rectification Order before VCAT. The format of the Rectification Order will make this clear.

Breaching a Rectification Order will be grounds for disciplinary action, separate to any disciplinary grounds that might arise as a direct consequence of defective or incomplete work.

This may be an appropriate approach to take in Tasmania, to ensure that Rectification Orders are given priority over other work.

## **Recommendation 47     Infringement regime if builder does not comply with Rectification Order**

This will ensure that builders give appropriate priority to any rectification order. The main objective in issuing such an order is to ensure that the work is done to a satisfactory standard in a timely manner. Introducing disciplinary action as a consequence of failure to act will encourage builders to comply.

**Table 49 - Introduce disciplinary action if builder does not comply with Rectification Order**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Increase the number of rectification orders being completed</li><li>• Decrease the number of rectification orders being issued</li></ul>	<ul style="list-style-type: none"><li>• Administrative burden</li><li>• May impact on builder's ability to continue to generate income whilst making rectification</li></ul>

### **Consumer access to builder's disciplinary history**

Victorian legislation also proposes that consumers have access to a building practitioner's disciplinary history, aliases, address, etc.

We are not sure this is a path we want to follow. Qld and NSW both have public registers. They are planning to keep the information on the Register for 5 years after disciplinary action is taken.

## **8.11 Have appropriate powers to prosecute where necessary**

The role of Director Building Control is already established in legislation as having the power to commence proceedings for an offence against the Building Act, within 2 years after the date on which evidence first came to the attention of the "authorised person".

An authorised person is either the Director, or the relevant building surveyor, permit authority or general manager.

These powers are infrequently exercised by anyone other than the Director.

No legislative changes are required here.

# 9 Protecting consumers and practitioners

We need to ensure that the rights of both consumers and building practitioners are protected.

If something does go wrong, we need a cost-effective, timely way to resolve it which respects the rights of both parties. The cost to seek rectification should not be greater than the cost of the rectification itself.

We need to put measures in place that will help parties avoid disputes, resolve them if they do occur, and receive recompense if no resolution is available.

## 9.1 Background

Contracts for building works are mandatory in Tasmania.

Some building firms and industry associations have their own standard contract that they provide to consumers. However some contracts are not sufficiently detailed or balanced to prevent disputes arising.

The contract should detail all the work to be done and if a dispute arises, reference to the contract should help to settle it.

However, in the event that disputes cannot be resolved by reference to a contract, we need to have processes in place for resolving the dispute that are accessible and affordable to both parties.

Currently, disputes are managed through the Resource Management and Planning Appeals Tribunal (RMPAT).

Tasmania's *Building and Construction Industry Security of Payment Act 2009* provides security of payments for practitioners. A person who does building or construction work, or supplies goods or services for building or construction work, has a legal right to recover progress payments for work done and goods and services supplied.

The *Housing Indemnity Act 1992* protects consumers by:

- Providing that work must be at a minimum applicable standard
- Providing for timeframes for the completion of work
- Limiting the amount that can be asked for as a deposit or progress payment.

There is no requirement for owners to take out insurance for building in Tasmania. Prior to July 2008 this Act also provided that Builders hold housing indemnity insurance which would allow for the homeowner to claim against the insurance policy in the event that the work was defective or unable to be completed due to death or insolvency of the builder.

Under the Ministerial Insurance Order applying to accreditation, builders are required to have contract insurance in place which covers the builder and owner in the event of loss or damage to materials for a particular contract.

In 2013, the Residential Building Work Quality (Warranties and Disputes) Bill was debated in the House of Assembly. It was intended to provide additional consumer protection legislation, and provide consumers with accessible alternative dispute resolution. Currently the only building dispute resolution process is under the contract provisions or through the Courts. Neither process is particularly consumer friendly.

## **9.2 The way forward**

A robust framework that protects consumers and practitioners has a number of elements:

1. Fair and balanced contracts to reduce the number of disputes over the work to be completed
2. Affordable and efficient dispute resolution mechanisms that allow parties to quickly and effectively resolve disputes that do arise
3. An effective compliance and enforcement regime that helps ensure practitioners are meeting their obligation to comply with standards
4. Appropriate insurance schemes to protect consumers from unforeseen events

# Residential Contracts

The cause of many disputes is a disagreement between the client and contractor as to the exact terms of the contract.

Much of this could be avoided by ensuring that a decent and balanced contract is in place before work starts. It's also important that the client and contractor understand the contract, and the responsibilities contained therein.

Contracts such as the industry developed residential contract may appear to be leaning in favour of the builder. Most owners do not have sufficient knowledge to understand this unless they seek advice from an appropriately experienced lawyer. The Royal Australian Institute of Architects contracts make the architect the 'umpire', with a duty to ensure that the rights and obligations of both owner and builder are met.

The Queensland government contract, which is balanced between builders and consumers, is used more than any other contract in that state. The government also provides a useful checklist explaining what consumers should look for in a contract. The written contract must comply with the *Domestic Building Contracts Act 2000*.

## 9.3 Issues

Overly legalistic contracts make it difficult for consumers to know exactly what they are signing.

Problems often arise when variations are made to the project and these are not reflected in the contract. This could be avoided by ensuring all variations are in writing and signed by both parties, regardless of the cost.

"Cost plus" contracts sometimes result in consumers being subject to significant unexpected costs. Contractors "estimate" low to get job, then once an owner has signed up add significant costs.

"Prime cost items" and "provisional sum estimates" are legitimately used where the builder doesn't know what the actual cost is going to be, for example, a TasWater connection.

## 9.4 Improvements to contracts (residential)

We propose the following conditions around contracts for residential building works:

1. Must have a contract for any work subject to the building levy (ie for work > \$12K)
2. Director Building Control Approved Contract Guide must be provided to consumer and receipt signed by the owner
3. Director Building Control can, by Determination, require minimum mandatory details in contract
4. Variations must be in writing and accepted in writing (including Building Surveyor certificate if appropriate)
5. Contract subject to 7 day cooling off period
6. If guide not provided then cooling off period runs from when the guide is supplied to the owner (and the receipt is signed)

7. Disputes are subject to “Dispute Resolution”
8. Outcome of dispute resolution must be accepted by Director Building Control
9. Accepted outcome of dispute resolution has the same standing as a Supreme Court Order
10. Director Building Control can issue guide to Standards and Tolerances.

#### **Recommendation 48     Director Building Control to provide a sample best practice contract and guide for residential building projects**

A best-practice sample contract should be made available for use in all building projects above a certain threshold in value (see Defining Building Work).

This contract would be developed following consultation with industry bodies, consumers and the Director of Building Control.

The contract should be in plain English and make both the home owner and contractor aware of their rights and responsibilities.

The guide will outline the role and responsibilities of the parties signing the contract.

**Table 50 – Provide sample best practice contract and guide**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Level playing field for consumers and contractors</li><li>• Can be written in language that assists the consumer to understand what they are agreeing to</li></ul>	<ul style="list-style-type: none"><li>• Industry bodies prefer their own contracts</li><li>• Some minor works under this threshold may still proceed without a contract</li></ul>



## **Recommendation 49     Mandate clauses that must be included in a contract for residential building projects over the value of <\$15,000>**

Rather than have a mandatory contract, the Director Building Control should mandate clauses that must be included in a contract, such as payment schedule, termination, occupancy etc.

This would allow industry bodies to continue to use their own contracts but would introduce a degree of protection and balance for consumers.

**Table 51 - Mandate clauses that must be included in a contract for domestic building projects over the value of <\$15,000>**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Increased protection for consumers</li><li>• Industry bodies can provide their own contracts</li></ul>	<ul style="list-style-type: none"><li>• Reduced control over language of contract</li><li>• Reduced control over other clauses that may be inserted</li><li>• Some minor works under this threshold may also benefit from a contract</li></ul>

## **Recommendation 50     Variations to a contract must be in writing and signed by both parties**

To avoid the misunderstandings that may arise from verbal variations to the contract, all such variations must be documented and signed by both parties.

**Table 52 - Variations to a contract must be in writing and signed by both parties**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Contract continues to reflect the work being done</li><li>• Reduced likelihood of a dispute over contract</li></ul>	<ul style="list-style-type: none"><li>• Additional time and paperwork</li></ul>

## 9.5 Prevention and management of disputes

Parties involved in disputes arising from large commercial developments are well served by the existing court process. Problems arise for disputes regarding residential or small-scale commercial projects, where the cost of seeking compensation can be more than the recompense available.

Unlike in Victoria, Tasmania's Security of Payments legislation applies to residential contracts. So if a builder is owed money for work done there is a legal framework available to seek payment.

The Security of Payments Act could be refined to allow for parties involved in Security of Payment residential disputes of less than \$5000 or so in value to first attempt dispute resolution through a mechanism set up by the Director Building Control prior to entering the formal Security of Payment process.

However for consumers there is no such protection if a builder defaults on a job or does not deliver a quality product, with an expensive and time-consuming legal process being the only recourse available.

By making early dispute resolution services available to both parties, we should be able to resolve the majority of disputes before lengthy and expensive action through the courts is necessary.

Dispute resolution must be seen as separate to compliance or enforcement – it is between the parties with assistance from a third party (the Director) rather than a process driven by the Director.

To ensure a level playing field it is important that at least the initial steps are kept at the lowest possible cost and dealt with in a quick and effective manner.

### Dispute process for matters regarding payment

The Director Building Control recommends the following broad framework for resolving disputes where the builder is seeking payment:

- |        |   |
|--------|---|
| Step 1 | Parties should attempt to reach an agreement  |
| Step 2 | If parties still fail to reach an agreement, the Security of Payments legislation can be called upon. |

This is the current system.

### Dispute process for matters regarding work (residential)

A strong audit and inspection regime, that makes rectification orders if faulty work is found, is the first step to resolving disputes over work.

However if parties disagree over work, the Director Building Control recommends the following Disputes Process:

1. Disputes to be lodged with Director Building Control
2. Dispute to be received in writing and other party given 14 days to respond.
3. Director Building Control may not accept if:

- No prior effort to resolve
  - Prime facie no dispute
  - Frivolous or vexatious
  - More readily able to be resolved under more appropriate jurisdictions – e.g. “minor claims jurisdiction” of Magistrates Court (ie <\$5000) or Security of Payments
4. Director Building Control to direct dispute resolution by appropriately qualified person/panel by:
- Early intervention to seek an agreed outcome:
    - Conciliation
    - Mediation
  - Refer for Arbitration:
    - Arbitration (Security of Payment method)
    - Orders may include costs (eg drilling concrete slab)
5. Director Building Control can “add” parties to dispute resolution (eg designer, tiler)
6. Outcome of dispute resolution to be accepted by Director Building Control and have Supreme Court Order status
7. Information gained in Early Intervention or Arbitration cannot be used in any other process administered by the Director of Building Control
7. Maximum period for resolution is 6 months unless all parties agree to an extension

## **Recommendation 5 | Introduce mediation as first step in dispute resolution**

Mediation can be a cost-effective way of getting two parties in dispute to talk and attempt to settle their issues at an early stage.

**Table 53 - Introduce mediation as first step in dispute resolution**

Benefits	Disadvantages
<ul style="list-style-type: none"> <li>• Low cost</li> <li>• May avoid expensive, lengthy court proceedings</li> <li>• Allows greater exploration of compromise</li> <li>• May lead to early resolution</li> </ul>	<ul style="list-style-type: none"> <li>• May not produce durable agreement</li> <li>• Requires willingness of parties to take part</li> <li>• Requires trained mediators</li> </ul>

## Recommendation 52 Establish Disputes Process by Director's Determination

By using a Director's Determination to establish the Disputes Process, we can be flexible and adjust to changing needs and legislation without having to amend legislation.

The initial recommended Disputes Process is described above

**Table 54 - Establish Disputes Process by Director's Determination**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Establishes a clear process referenced by legislation</li><li>• Can be changed without amending legislation</li></ul>	<ul style="list-style-type: none"><li>• Will require education within the industry and the legal profession to raise awareness</li><li>• Requires direct involvement by the Director</li></ul>

## 9.6 Compliance and enforcement

It would be nice if everyone in the industry did the right thing. Most contractors do and we can safely leave them to get on with the job, knowing they will complete all work to a high standard.

That allows us to focus our attention on those practitioners who may not be meeting the required standard, so that we can identify how to assist them in improving their practice.

Regulation has been seen as necessary to ensure that certain conditions are met during building works.

An alternative is to reduce regulation but increase auditing using a risk-based algorithm that allows us to target those most likely to be producing sub-standard work. This may be as a result of poor skills, poor time management or other external pressures, or a poor attitude.

By monitoring a practitioner's level of experience, number of defects and complaints attracted, we could ensure that those practitioners at greater risk of doing the wrong thing were audited more frequently.

The permit authority and the General Manager should have the power to issue small on the spot fines for minor breaches. The current infringement notices do not effectively work and are cumbersome. This leads to infringement notices not being used as it was intended and therefore a valuable arm of the compliance process is redundant.

### Issues

The objective should be to deliver a positive outcome for the owner who is looking for faulty works to be put right, not a legal win or fines or de-accreditation of the practitioner. The current process is too litigious which leads to expense and time spent on a complex process. For many consumers it may result in being 'not worth the effort'.

Should the Director Building Control have the power to order rectification, additional training, or penalties (financial, demerit system, licence conditions, suspension or cancellation) or should the Director maintain an independent and unbiased position in any dispute between any organisations including local government organisations? By taking a

position during a discussion, or dispute, the Director's authority is compromised and one or the other party may not be provided with acceptable level of natural or legislative justice.

The Housing Industry Association (HIA) does not support the Queensland type model under which conciliation, mediation and arbitration are merged into a form of compulsory expert determination, all conducted by the regulator.

HIA strongly disagrees with process of dispute resolution that allows the government body carrying out executive function to also have power to impose a decision or determination of a civil claim or dispute. This process must be independent of government.

### **Recommendation 53      Review penalties and who should have the power to order them**

The new Framework should include a clear system of penalties and escalation measures for non-compliance by practitioners, including:

- Rectification orders
- Additional training
- Fines
- Demerit points
- Licence conditions
- Licence suspended
- Licence cancelled

The Director should have the power to order sanctions and penalties. This may include financial penalties, or a direction to complete further training, since the objective is to increase the skill level of the workforce rather than take punitive measures.

**Table 55 - Review penalties and who should have the power to order them**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Increases understanding of consequences of non-compliance</li><li>• Focus on rectification in the first instance</li><li>• Improves the standard of the industry</li></ul>	<ul style="list-style-type: none"><li>• Director not seen as independent</li></ul>

## **Recommendation 54    Adopt a risk-based approach to auditing**

It's neither practical nor desirable to inspect or audit every step of the building process. We need a better way of identifying the things we should be checking.

By taking into account the likelihood and the consequence of a defect at a particular stage of the building process, as well as the experience of the practitioner and any history of defects or complaints against the practitioner, we can concentrate resources on those areas of greatest risk.

**Table 56 - Adopt a risk-based approach to auditing**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Focuses attention on those practitioners or categories of work most likely to cause a problem</li><li>• Makes smarter use of limited resources</li></ul>	<ul style="list-style-type: none"><li>• May miss some areas of non-compliance if not auditing everything</li></ul>

## **Recommendation 55    Identify particular categories and do 100% inspections**

By adopting a risk-based inspection regime, we can make better use of resources and increase the likelihood that building work is meeting the required standard.

We know which parts of the building process are most likely to cause problems – the footings, the slab, etc. There should be mandatory inspections in these areas.

**Table 57 – Identify particular categories and do 100% inspections**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Will catch all instances of non-compliance in these areas</li></ul>	<ul style="list-style-type: none"><li>• Greater resources needed</li><li>• Inspecting practitioners with good track record does not deliver any great benefit</li><li>• Reduces resources available for other inspections</li></ul>

## **Recommendation 56    Implement a user-pays auditing regime for repeat inspections**

Building Standards and Occupational Licensing is funded via the building levy to take the necessary steps to ensure that building works comply with the standards.

However, if during an inspection a defect is identified, a repeat inspection will be required to confirm rectification has taken place.

This repeat inspection should be at the expense of the practitioner.

**Table 58 - Implement a user-pays auditing regime for repeat inspections**

<b>Benefits</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"><li>• Encourages practitioners to “get it right the first time”</li><li>• Offsets the cost of additional inspections</li></ul>	<ul style="list-style-type: none"><li>• Could be seen as revenue raising</li></ul>

## Rectification Orders

In most cases the ultimate outcome required is to have faulty work rectified. This is the focus of the Occupational Licensing regimes.

In Victoria a party will retain the right to seek review by VCAT of a Rectification Order made against that party, but the Rectification Order will be binding unless, and until, a VCAT review is sought within the specified time limit.

As with all administrative decisions, judicial review will remain available in the limited circumstance where a party considers the VBA acted unlawfully (for example, if a party believes irrelevant considerations were taken into account, the decision is manifestly unreasonable or discriminatory, or the decision was beyond the power of the VBA to make).

In Tasmania, we could implement a similar system with Magistrates Court (Administrative Appeals Division) providing the review.

### **Recommendation 57**      **Specify the powers available to a Building Surveyor, Council officers or Delegate of the Director**

Building Surveyors, Council Officers or Staff of the Office of the Director of Building Control should have the ability to issue rectification orders as they are the people who are likely to be on-site as part of their roles. The power to issue a rectification order should be accompanied by the ability to issue infringement notices. As in Victoria both would be reviewable by referral.

**Table 59 - Specify the powers available**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>Increases efficiency of the process thus may decrease time taken to achieve rectification</li></ul>	<ul style="list-style-type: none"><li>May cause Officers to become a target.</li></ul>

### **Recommendation 58**      **A party may seek review of a Rectification Order within specified time**

A party may seek a review of a Rectification Order made against that party, within a specified time limit. If the review is not sought in this time period, the Rectification Order will be binding.

**Table 60 - A party may seek review of a Rectification Order within specified time**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>Preserves the rights of the individual</li><li>Ensures the process is not subject to legal uncertainty</li></ul>	<ul style="list-style-type: none"><li></li></ul>



## Recommendation 59 Streamline Appeal and Review Processes

The Building Appeals Board in Tasmania was wound up in November 2012 and replaced by the Resource Management and Planning Appeals Tribunal (RMPAT). RMPAT have jurisdiction on all Building Act issues including accreditation and disciplinary. Appeal from RMPAT on Building Act issues is to the Magistrates Court (Administrative Appeals Division). Appeal from RMPAT in respect of planning matters is to the Supreme Court.

Occupational (electricians, plumbers and gasfitters) licensing and discipline, including rectification orders and infringements, reviews are dealt with by the Magistrates Court (Administrative Appeals Division).

The Director recommends that Occupational matters in respect of building practitioners become a jurisdiction of the Magistrates Court and that other Building Act issues be the jurisdiction of RMPAT, with appeal on those jurisdictions being to the Supreme Court.

**Table 6I – Streamline Appeals**

Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Panel of experts on Building act issues</li><li>• Less workload at RMPAT</li><li>• RMPAT dealing with matters that are specific to expertise of their members</li><li>• Final decision with legal standing</li><li>• Two stage appeal, instead of three stages</li></ul>	<ul style="list-style-type: none"><li>• Not one stop shop as current</li><li>• May be expensive to access</li></ul>

# References

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# Clarence City Council Response Document to Tasmanian Building Regulatory Framework Review Position Paper

## **Recommendation 1- Update objectives and include in legislation**

The proposed objectives are noted and it is agreed that these objectives are relevant.

## **Recommendation 2 - Legislation provides for Director Building Control to make determinations in areas of innovation and emerging technologies**

The legislation should be drafted so that the Director Building Control has the power to make determinations in the ever-changing areas of innovation and technology. Director's Determinations would enable the Director to update the Framework as processes and specifications change over the lifetime of the legislation.

## **Recommendation 3 - Legislation be separated into its components, namely undertaking building work, licensing, warranties and disputes including contracts and security of payment**

It is common sense to separate the Building Act into separate components so that the legislation, which is lengthy and detailed, can be easily read, particularly by the public, who may not have an understanding of the legislation.

## **Recommendation 4 - Introduce reporting requirements for Building Surveyors**

It is reasonable to require building surveyors to report to the Director of Building Control on a monthly or quarterly basis to allow for important statistics to be collated and used to evaluate the performance of the building surveying industry. Whilst reporting requirements would increase administration time and costs for both building surveyors and the Director, the benefits would outweigh the burden of reporting. Technology could allow for a simple and accessible database to be used to input and collate the data.

The information received from the mandatory reporting requirements would have the positive effect of enabling the Director to focus on problem areas as they are identified by the data provided by the building surveyors.

## **Recommendation 5 - Introduce reporting requirements for Permit Authorities**

Likewise, it is reasonable to require permit authorities to report to the Director of Building Control on building approvals. The information provided by permit authorities could then be compared to the information provided by building surveyors to help identify problems in the building approvals process. Council already keeps a register of building applications and this information could be easily transferred to the Director as required.

**Recommendation 6 - The Director Building Control to report annually to Parliament on regulatory cost and regulatory timeliness by municipal area**

The data received from the building surveyors and the permit authorities should be recorded and analysed by the Director and presented to Parliament on an annual basis. This would allow public access to performance indicators of building approvals.

**Recommendation 7 - Increase penalties for illegal building works including additional fees for certificates of substantial compliance and certificate to proceed**

It is Council's experience that a current owner of a building who had no involvement in the illegal building works can be unfairly penalised. A recent example of this is an apartment complex built by a developer for the obvious purpose of selling to new owners. After several apartments had been sold, it came to Council's attention that an apartment failed to include appropriate parking as required under the relevant building and planning permits. Whilst the current owner had no involvement in the building process, any enforcement action Council takes may involve the current owner.

It needs to be clarified that the penalties will only apply to the person responsible for the illegal building work and not future owners.

Penalties for illegal building works should increase instead of increasing fees for certificates of substantial completion and certificates to process. An increase in fees would generally be regarded as an increase in red tape. An increase in penalties could encourage people to seek the appropriate permits before starting building work to avoid increased penalties.

**Recommendation 8 - Allow for Builder certification of certain low risk building work**

**Recommendation 9 – Define building work in such a way as to exclude low risk work and exclude work which is subject to other regulatory or certification processes**

There still needs to be some parameters that the builder or owner must meet for example, consideration of onsite waste water management systems. It also needs to be expressly stated that urban drainage and planning requirements are to be considered in any low-risk building work. Consideration needs to be given as to how open the category of low-risk building work will be. It is agreed that some work such as pergolas, low decks and pre-fabricated sheds can be construed as low-risk building work. If a pre-fabricated shed has engineering certification it should be able to be submitted to Council for approval without needing certification from a building surveyor.

Builder certification of low-risk building work would significantly reduce the time and cost associated with making a building permit application and would probably encourage people to seek certification with the knowledge it is not as expensive. However, very clear guidelines and education strategies would be needed to educate and assist building practitioners in their duties and responsibilities.

### **Recommendation 10 - Allow for builder certification for a range of non-inhabited farm buildings**

Allowing builder certification for non-inhabited farm buildings could simplify the building process and reduce application costs. There are a range of non-inhabitable farm buildings, for example, a pre-fabricated shed with engineering approval that probably does not require certification from a building surveyor. However, the building practitioner would still need to take in account other factors such as plumbing and onsite waste water management systems. Guidelines and education for building practitioners would be essential.

### **Option 11a - Increase the threshold for minor alterations or minor repairs not subject to the building permit process to \$20,000 and index the threshold**

### **Option 11b - Remove the threshold for minor alterations or minor repairs and introduce clear determination for scope of the exemption**

There should not be a dollar value on minor alterations and repairs. The cost of works is not always a reasonable basis for determining if it is a minor alteration or addition; it is about the scope of works. The focus should be on the scope of the work proposed to be undertaken for example, non-structural building work such as office and shop fit-outs involving light fittings, painting, shelving and carpeting etc should be considered as minor additions or alterations regardless of the amount. Setting the scope of works that are considered minor alterations or repairs would provide clear determination on what is minor. It would be helpful if the Director published a list of works such as certain shop fit-outs that are not subject to the building permit process.

### **Recommendation 12 - Increase awareness of Planning Directive 4**

It is agreed that an increased awareness of Planning Directive 4 would be appropriate.

### **Option 13 - Introduce a Building Directive which allows for a standard pre-approved residential design**

There is an enormous list of factors to consider when designing a house and it is difficult to imagine that a standard residential design could encompass all the factors involved in designing and building a house.

The introduction of a standard pre-approved residential design could lead to the process being abused and other considerations such as the location of onsite waste water management systems being ignored. It would also lead to a glut in 'stock standard' houses with little thought to innovation or design.

### **Option 14 - Reduce need for plumbing permits, increase risk-based auditing, replace with notification process**

It is logical to keep plumbing and building permits separate as not every application requires both a building and a plumbing permit. The current plumbing permit process works well in Council's experience and is quick, simple and inexpensive. It is Council's experience that relying solely on start work notices does not work.

In the past start work notices have not been received which means Council and any future owner have no record or knowledge of the plumbing work undertaken. Relying solely on start work notices will not work.

There could be some discretion granted to permit authorities as to when plumbing permit is required, for example, plumbing in relation to farm buildings. Alternatively, the introduction of a minor works for plumbing could act to exempt minor plumbing works and reduce the need for plumbing permits.

There should be mandatory notification to a permit authority of plumbing work. It should not be a permit authority's responsibility to undertake as constructed plans because plumbers have failed to do so.

#### **Recommendation 15 - Promote awareness of the scope of the certifiable works provision**

It has now been agreed between Council and TasWater that TasWater will only be notified of a permit if a certificate of certifiable works is needed. The most cost effective system to ensure accurate determinations are made as to when a certificate of certifiable work is required would only eventuate if TasWater data was provided to councils. Permit authorities would then have access to relevant data and be able to determine if applications need to be referred to TasWater. This would also reduce the time and cost for applicants and reduce administrative time for both TasWater and permit authorities.

It is agreed that an accredited designer should be able to determine at the design stage whether TasWater assets are likely to be affected. Similarly, a building surveyor can determine at the certificate of likely compliance stage whether the owner needs to obtain certification from TasWater before applying for a building permit.

#### **Recommendation 16 - Remove requirement for most on-site waste water treatment systems to be approved for sale by the Director**

The requirement that the Director approve for sale on-site waste water treatment systems should be retained. If this requirement is removed, it may lead to permits favouring a particular system without the independent decision-making of the Director. The removal of the requirement would also result in each of the 29 councils doing something different. This will lead to inconsistency.

In addition, many of the councils may not have staff experienced in assessing whether a particular system is suitable in Tasmanian conditions. Should such an on-site wastewater treatment system be installed this could result in a risk to public health and the environment.

The current system of the Director approving systems works well and maintains consistency across the State. It also gives manufacturers and suppliers one authority to deal with in gaining approval rather than potentially 29 authorities.

**Option 17a - Retain the current system of certification and separate permits with improvements;**

**Option 17b - Reduce the number of permit authorities, improve auditing, documentation requirements, clarification of roles;**

**Option 17c - Introduce fully contestable building certification (including permits)**

Council's position is that the current system of certification and separate permits should remain with the focus on making improvements to the current system. The suggestion of removing permit authorities or decreasing their responsibilities and moving to private certification is a huge step and requires more research and consultation than has been conducted under this framework review. The current system of mixed private certification and council certification is sufficient.

Permit authorities should remain a local government function. Councils have the relevant experience, knowledge, resources and accessibility to undertake the duties and functions of a permit authority. Importantly, councils are local authorities placed within communities unlike the state government which does not have bases in all localities across the state. There is also considerable overlap between the functions of a permit authority and the other functions of a council, for example, environmental health, engineering, planning.

There is a great reliance by consumers on councils to continue to act as a record-keeper, as a provider and holder of information. It is a permit authority that is the most appropriate body to act as a record-keeper as a permit authority has the requisite skill base and resources. It is crucial that accurate records are obtained and kept.

Council does not have any concerns with its processes in acting as a permit authority and believes it has the requisite skilled and experienced staff. However, smaller councils may suffer staffing and resourcing problems in acting as a permit authority. The simplest solution to combat any concerns about a council acting as a permit authority would be for the council to appoint another council to act as its permit authority. This would allow a smaller or less resourced council to still provide permit authority services through the service of another council. It could also be beneficial to encourage smaller councils to share staff and resources to provide consistent permit authority services and ensure the council is undertaking its duties as a permit authority appropriately. This in time may result in smaller councils deciding to share the role of permit authority; however, the first step should be to work with the existing permit authorities to improve the way they work. The permit authority role is intrinsic to a local council and to take that role away from councils would have a detrimental impact on the business of the council and its community.

It is agreed that no matter what decision is made in relation to permit authorities, the focus should be on improved reporting requirements so that the Director of Building Control can monitor the efficiency of permit authorities.

**Option 18 - The Director set minimum schedule of fees for building surveying services**

The introduction of a minimum schedule of fees for building surveyor services will address issues associated with some building surveyors undercutting other building surveyors and also possibly providing inferior services.



### **Recommendation 19 - Clarify the essential maintenance requirements for Class 2–9 Buildings**

The changes proposed under this recommendation are reasonable.

### **Recommendation 20 - Clarify role and responsibilities of Building Surveyors and protections for Building Surveyors through the Building Act**

The roles and responsibilities of building surveyors need to be clarified to create consistency across the industry. The current legislation does not ensure that building surveyors perform their duties consistently. Building surveyors have the ability to walk away from a job without any notice to a client. This should be restricted to at least requiring a building surveyor to give a client notice of their intention to stop work and provide the customer with the documentation the building surveyor holds or arrange for another building surveyor to be given the documentation. There should be a mandated handover upon a building surveyor exiting from a particular job and from the industry itself. The ability for a building surveyor to walk away from a job creates problems with accountability.

The areas of a building surveyor's accountability and reporting duties need more clarification. The building surveyor should be accountable and be seen by the public as being accountable to the owner. Generally the public has little understanding of the role and duties of a building surveyor unless they have had to engage a building surveyor. It would be worthwhile to have more emphasis on educating the public on the role of a building surveyor in constructing a new building and in altering or adding to an existing building.

A permit authority's role would also be enhanced by building surveyors being required to keep records and provide all relevant documents to permit authorities.

### **Recommendation 21 - Strengthen provisions allowing for the property owners to appoint Building Surveyors and excluding the Building Surveyor from having contractual relationship with builders**

It is agreed that building surveyors should only be appointed by the property owner and not by building practitioners. There are considerable issues with accountability and responsibility on the part of the building surveyor if they are appointed by the builder and not the owner. The role of the building surveyor should be clarified so that the building surveyor works for the individual owner not the builder. The building surveyor should be advising the owner of issues, providing mandatory notifications and performing their duties for the owner independent of the builder.

### **Option 22 - Performance-based solutions are outside the scope of work of Building Surveyors unless the Building Surveyor undertakes additional specific qualifications in performance-based solutions**

This is not an issue in Council's experience.

**Recommendation 23 - Make current mandatory building notifications mandatory inspection points**

It is agreed that current mandatory building notifications should become mandatory inspection points. This would allow for defects to be identified in the early stages of building work and would increase the likelihood of building being built to a safe condition.

There are mandatory inspection points but it appears that not all building surveyors inspect building works at the mandatory inspection points. This is a compliance matter that should be the matter for further consideration.

**Option 24 - Every council must appoint a Municipal Building Surveyor**

There is a limited pool of building surveyors in Tasmania and it is questionable whether every council would have the resources, capacity and need to appoint a municipal building surveyor. The Position Paper does not give enough reasoning or justification to explain why every council should have a municipal building surveyor. In Council's experience, building surveyor services are readily obtainable from the private building surveyor market and there is not enough need to employ a municipal building surveyor within Council.

If building surveyors employed as a municipal building surveyor are restricted from practicing within that municipal area, it is unlikely that building surveyors will be interested in working as a municipal building surveyor and therefore restricting their client base.

**Option 25 - Introduce a new "inspector" level of building certifier**

It would be practical to introduce a new inspector level of building surveyor as it would allow for certification of low-risk buildings. This would increase the number of building surveyors for higher-risk work and possibly encourage people to seek the services of a building surveyor for low-risk building work.

**Recommendation 26 - Use regular reporting and targeted audits to drive compliance**

As already discussed under Option 14, it would be beneficial to have regular reporting and targeted audits. However, it is Council's opinion that while performance audit provide a useful tool, it would be unsound to rely upon these to solely deliver compliance outcomes.

**Recommendation 27 - Mandatory component of Continuing Professional Development for Building Surveyors**

It is agreed that building surveyors should be required to undertake mandatory units under the Continuing Professional Development for Building Surveyors. This will ensure that building practitioners attend CPD that is relevant as determined by the Director of Building Control.

**Recommendation 28 - Include strengthened code of conduct for Building Surveyors in legislation**

It is agreed that a strengthened code of conduct for building surveyors is required. It is Council's experience that the existing code of conduct is ineffective and does not provide resolution to conduct complaints or concerns. Council is supportive of the code of conduct being strengthened to address issues concerning perceived bias, service delivery and responsibilities of building surveyors.

**Recommendation 29 - Allow for corporations/partnerships to obtain contracting licence**

It is practical for corporations and partnerships that contract with owners for building work to be able to obtain a contracting licence.

**Recommendation 30 - Licensing scheme (formerly Accreditation scheme) be modified to ensure that every practitioner licensed meet the requirements of the industry**

There is an occupational licencing regime for most practitioners so it would be practical for building practitioners to be absorbed into the Occupational Licencing Regime. The *Occupational Licensing Act 2005* requirement that the trades of Electrical, Plumbing and Gas-fitting are licensed for prescribed work is an efficient system and should be amended to include building practitioners.

The accreditation process needs to be more stringent. Currently, most practitioners only have to pay a registration fee to receive accreditation. The accreditation granted does not reflect any requisite skills or knowledge. The process whereby not all builders, building designers, engineers and architects need accreditation is flawed as it can lead to a lack of sufficient protection for consumers as to the quality of practitioners.

**Option 31a - Set time limit for "grandfathered" practitioners to bring their skills up to scratch;**

**Option 31b - Set once-off mandatory CPD for grandfathered practitioners to bring their skills up to scratch**

It is not unreasonable for grandfathered practitioners to be given a timeframe to bring their skills up to a set standard or for the Director to mandate CPD for grandfathered practitioners to bring their skills to that set standard.

**Option 32 - Explore licensing process for Engineers which is similar to current process for Architects in the Building Act.**

The licensing and accreditation processes for engineers should be consistent across the jurisdictions.

**Recommendation 33 - Clarify role of roof plumber**

Council agrees that in clarifying the role of a roof plumber, roof plumbing should continue as prescribed plumbing work. Builders with trade qualifications should be allowed to apply to undertake residential roof plumbing under a restricted licence category which is based on demonstrated competency.

**Recommendation 34 - No owner builder status for class 2 to 9 buildings**

It is appropriate that owner builders are restricted from building commercial buildings.

**Recommendation 35 - An owner builder can register but not self-certify**

It is agreed that owner-builders should not be able to self-certify their work. Any work undertaken by an owner-builder should be certified by an independent and licensed practitioner.

**Option 36 - Replace the number of projects rule by specifying the length of time before an owner builder can sell**

It is unfair and unreasonable to restrict an owner-builder from selling their property. There are many reasons why an owner-builder would want or need to sell their property and again, the nature of owner-builder generally includes owners who have chosen to be owner-builder in an attempt to save money. If there are concerns with owner-builders rorting the system, other checks can be put into place.

**Recommendation 37 - Statutory warranties given to future owners and a compulsory inspection prior to sale**

It is agreed that statutory warranties should be given to future owners and a prospective purchasers encouraged to undertake a builders inspection prior to purchase. It needs to be clarified how statutory warranties will be provided and the length of time a statutory warranty will last.

**Recommendation 38 - Definition of project is limited to one building permit per owner builder licence**

There is no need to change the definition of project. The nature of owner-builder work generally means that the building work is done in stages and only one building permit should be required.

**Recommendation 39 - Owner builders will be subject to increased inspections**

Council does not have any increased concerns in relation to owner-builders that would justify the need for increased inspections. It is fair that owner-builders should be subject to the same amount of inspections as accredited builders and not be imposed with further inspections.

**Option 40 - Add “owner builder” to title**

It is not appropriate to use a certificate of title to record that a building built within that title was constructed by an owner-builder. It is acknowledged that prospective purchasers should be informed that a building was built by an owner-builder; however, it would be more appropriate that this information is discoverable through the section 337 certificate processes.

**Recommendation 41 - Owner Builder to pay licence fees and have correct insurances**

Council does not a position on this recommendation and considers it to be a matter relating to the Director.

**Recommendation 42 - Introduce CPD for plumbers, electricians and other occupations under the Occupational Licensing Act**

It is agreed that CPD should be introduced for plumbers, electricians and other occupations under the Occupational Licensing Act. It should be a condition of licence that a licensed tradesperson must undergo CPD each year before their licence can be renewed. This will enable the Director of Building Control to direct tradespersons to undertake CPD and ensure that the skill levels of the industries are up-to-date.

**Recommendation 43 - Limit CPD to genuine learning activities pre-approved by Director Building Control or Administrator of Occupational Licensing**

Continuing Professional Development needs to be value based to ensure that only genuine learning activities are counted towards a practitioner's CPD. CPD points should only be earned for training not just attending meetings. The Director should be able to set standards to ensure the quality and purpose of the CPD.

**Recommendation 44 - The Director Building Control may mandate certain activities**

It is considered that the Director Building Control should be given the power to mandate certain CPD activities. This will ensure that CPD is kept current as the building industry develops and changes.

**Recommendation 45 - Strengthen code of conduct for building practitioners**

It is agreed that the code of conduct should be strengthened for building practitioners. However, it is a pointless exercise if the code is not enforced. A component of the code should be the expectation that not only will a building practitioner be fined for faulty building work but they will also be required to rectify the faulty work.

Building practitioners should be required to take greater responsibility with regard to not commencing or undertaking works without approval. As accredited building practitioners they should be aware of what works require permits and approval. Often owners are unaware and it should be expected that the building practitioner will advise owners when permits are required.

Building practitioners should also be aware to ask for stamped approved plans and copies of permits. Owners should be able to rely on their practitioners with regard to compliance and choice of materials and finishes etc.

The role of the Director should be enhanced in the area of requiring rectification or suspending or cancelling building practitioners. If after appropriate investigation, works are found to be deficient it would be extremely beneficial to the compliance process if the Director and councils had the power to issue rectification direction for faulty work. Currently, the compliance process seems more focused on a legal approach against the practitioner where the owner gains very little result from the process. In general, the owner is looking for a positive outcome where the faulty works are put right, not a legal win or fines or de-accreditation of the practitioner. The current process is too litigious which leads to expense and time spent on a complex process. For many consumers it may result in being 'not worth the effort'.

**Recommendation 46 - Move building practitioners to the occupational licensing regime therefore adopting sanctions of that regime**

It is agreed that building practitioners should be moved to the occupational licensing regime. As discussed under Recommendation 45, there needs to be more scrutiny of building practitioners and consequences for faulty work and wrongful acts. The proposals considered under the Victorian legislation are appropriate to be considered under the Tasmanian building framework. There should be a focus on the issue and treatment of rectification orders so that a building practitioner is penalised and faces disciplinary action if a rectification order is not appealed and not complied with.

**Recommendation 47 - Infringement regime if builder does not comply with Rectification Order**

As already discussed under Recommendation 45, there should be consequences if a building practitioner does not comply with a rectification order.

**Recommendation 48 - Director Building Control to provide a sample best practice contract and guide for residential building projects**

It is agreed that it would be beneficial if the Director of Building Control issued a sample best practice contract and guide for residential building projects.

**Recommendation 49 - Mandate clauses that must be included in a contract for residential building projects over the value of <\$15,000>**

**Recommendation 50 - Variations to a contract must be in writing and signed by both parties**

Whilst these are matters for the Director of Building Control to determine, it is agreed that variations to a building contract should be in writing and signed by both parties.

**Recommendation 51 - Introduce mediation as first step in dispute resolution**

It is an appropriate suggestion that mediation should be the first step in dispute resolution. The inexpensive and informal nature of mediation may enable some disputes to be resolved before going through the further stages of dispute resolution.

**Recommendation 52 - Establish Disputes Process by Director's Determination**

It is agreed that it is reasonable to establish a disputes process by Director's Determination so that the disputes process remains current.

**Recommendation 53 - Review penalties and who should have the power to order them**

It is agreed that penalties and who can order penalties needs to be the focus of review. The Director, the permit authority, the General Manager and building surveyors should have the power to issue small on the spot fines for minor breaches.

The General Manager and his/her delegated officers are the most appropriate persons to undertake compliance matters. There is significant public expectation that councils are responsible for such matters within its municipal boundaries. Councils are also accountable to the public via its elected representatives.

**Recommendation 54 - Adopt a risk-based approach to auditing**

It needs to be clarified whether it is the Director of Building Control or the permit authorities that will be responsible for adopting a risk-based approach to auditing. A risk based approach is subject to abuse and may result in key areas of non-compliance being ignored in favour of other areas which have deemed to be high-risk.

**Recommendation 55 - Identify particular categories and do 100% inspections**

It needs to be clarified which authority, the Director of Building Control or permit authorities, will identify the particular categories that justify 100% inspections. By enforcing 100% inspections on some areas, other areas of audit will be affected.

**Recommendation 56 - Implement a user-pays auditing regime for repeat inspections**

It is reasonable to require practitioners to pay for repeat inspections undertaken to inspect rectification of an identified default.

**Recommendation 57 - Specify the powers available to a Building Surveyor, Council officers or Delegate of the Director**

Building surveyors, permit authorities and Director of Building Control should have the power to issue rectification orders. It is then reasonable to enable building surveyors, permit authorities and the Director Building Control to issue infringement notices for failure to comply with a rectification order.

The complaint process should be widened to the performance of building practitioners. The current restrictions, at times, limit the enforcement and compliance process. The current model is driven by the regulatory process rather than performance which often results in detriment to the owner who is looking for a positive outcome rather than whether something simply complies with the BCA or the Act and Regulations.

The current compliance and enforcement regime does not effectively deliver rectification. It is a significant failing in the current model that rectification does not seem to be the key outcome. Whilst it is important that practitioners comply and penalties are applied or sanctions imposed, the rectification of the problem should be a major component of any compliance model to protect consumers. In addition, consumers' views should be adequately represented by the Director. An advisory body focusing on consumers to give quarterly or half-yearly input to the Director could be a solution.

The permit authority and the General Manager should have the power to issue small on the spot fines for minor breaches. The current infringement notices do not effectively work and are cumbersome. This leads to infringement notices not being used as it was intended and therefore a valuable arm of the compliance process is redundant.

#### **Recommendation 58 - A party make seek review of a Rectification Order within specified time**

It is agreed that it is reasonable for a party to have the right to seek the review of a Rectification Order within a specified time.

#### **Recommendation 59 - Streamline Appeal and Review Processes**

The current system of building appeals or review is too litigious, cumbersome, time consuming and expensive. It is Council's opinion that the previous appeal process should be restored with an emphasis on making any appeal process less litigious and less formal. It is a fair comment that most potential appellants are unaware of their rights as there is a lack of community education about the appeals process.

A single appeal body to deal with all types of administrative decision making would likely fail. The changeover from the Building Appeal Board to RMPAT appears to have led to delays and costs incurred for all parties involved. The suggestion of occupational matters becoming a jurisdiction of the Magistrates Court and all other Building Act issues being referred to RMPAT is practicable.

It would also be appropriate for the Director of Building Control to have some role in mediating appeals or intervene in disputes instead of the matter being referred to an appeal body. As already discussed, the Director and councils could play a role in minor disputes by being given the power to issue low-cost rectification notices.



**11.7.3 REQUEST FOR CONSENT TO CREATION OF SERVICES EASEMENTS THROUGH COUNCIL OWNED LAND**

(File No SD-2011/29)

**EXECUTIVE SUMMARY****PURPOSE:**

To request Council's consent to the creation of service infrastructure easements through Council owned land for the benefit of a private subdivision development.

**RELATION TO EXISTING POLICY/PLANS**

Not applicable.

**LEGISLATIVE REQUIREMENTS****Local Government Act, 1993**

Section 177 – power of Council to sell "...or otherwise dispose" of land.

Section 177(6) – decisions of Council to sell or otherwise dispose of land must be made by an absolute majority.

**Acts Interpretation Act, 1931**

Section 46 – (definitions of certain common phrases) "land...shall include any estate or interest therein". This means that disposing of an interest in specific land by granting an easement over it triggers the same statutory requirements as would apply to the actual sale of the land.

**CONSULTATION**

There has been no public consultation in respect of this matter nor is any required because the affected Council land is not classified as public land unlike park areas or public open space).

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council. All costs associated with the grant of any easements will be borne by the developer who will also pay compensation as assessed for the value of any rights granted.

**RECOMMENDATION:**

That Council consents to the grant of easements over part of its land at 196 Flagstaff Gully Road as detailed in Attachment 2 to the Associated Report to enable the installation of water, sewer and storm water infrastructure to service the subdivision subject of SD-2011/29.

**NB A Decision on this matter requires an Absolute Majority of Council**

**REQUEST FOR CONSENT TO CREATION OF SERVICES EASEMENTS THROUGH COUNCIL OWNED LAND /contd...**

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1.** The subject Council land is 1 of 17 residential lots owned by Council which lie between Flagstaff Gully Road and the development land. An area plan is attached (refer Attachment 1). The land is generally in the area where Flagstaff Gully Road joins the Flagstaff Gully Link Road. The lots are presently un-cleared bush land and are not classified as public land in the same way as parkland or public open space.
- 1.2.** The 17 lots were acquired by Council many years ago. It is understood that not long after the subdivision of the lots was approved it was found that they were exposed to inundation in the event of failure of the nearby Flagstaff Gully dam.
- 1.3.** It is understood that the Flagstaff Gully dam may be now surplus to the requirements of TasWater and may at some future time be decommissioned. At that point the inundation risk to the Council owned lots may be removed and Council may wish to offer them for sale on the open market.
- 1.4.** In the event of a later sale, the value of the 1 lot through which the easements have been requested may be devalued by having services infrastructure within it. As part of the process of granting an easement over the lot in question, the effect of the easements on the value of the lot will be assessed by a professional valuer and the developer will be required to pay that assessed value. In that way, Council will be receiving appropriate compensation now for any future reduction in value of the subject lot.

**2. REPORT IN DETAIL**

- 2.1.** A subdivision approval is in place in respect of property address. However, the developer has subsequently sought engineering advice in relation to providing infrastructure services to the subdivision. Based on this advice, the developer has made application to Council to grant easements over Council land at 196 Flagstaff Gully Road in respect of water and sewerage infrastructure.
- 2.2.** Council engineering officers have consulted at length with representatives of the developer and TasWater about the need for and location of sewer and water supply infrastructure for the development. Council officers are of the view that the location of the requested easement to accommodate sewer and reticulated water infrastructure represents the best engineering outcome for the development and is reasonable in the circumstances. Any other possible locations would require a pumped sewer line.
- 2.3.** Council engineering officers have also identified the lot in questions as the best location for the installation of Council's stormwater infrastructure to service the development.
- 2.4.** The easements will be located as close as possible to the side boundary of the lot in question to minimise interference with the future use and development of the lot.
- 2.5.** The developer has made formal application for Council to grant the required easements and has agreed that if Council agrees to the grant, compensation for value of the easements will be determined by a registered valuer engaged by Council and will be paid by the developer.

**3. CONSULTATION****3.1. Community Consultation**

Not applicable.

**3.2. State/Local Government Protocol**

Not applicable.

**3.3. Other**

Not applicable.

**4. STRATEGIC PLAN/POLICY IMPLICATIONS**

None.

**5. EXTERNAL IMPACTS**

None apparent.

**6. RISK AND LEGAL IMPLICATIONS**

None apparent.

**7. FINANCIAL IMPLICATIONS**

None for Council, all costs associated with the creation of the easements and compensation for the value of them will be paid by the developer.

**8. ANY OTHER UNIQUE ISSUES**

None.

**9. CONCLUSION**

**9.1.** Based on the advice of Council's engineering officers, the request for the necessary easements is considered to be reasonable and there is no apparent detriment to the interest of Council in agreeing to the request.

**9.2.** It should be noted that an absolute majority decision of Council is required in this matter.

Attachments: 1. Plan of Development Land showing adjoining Council Owned Land and Location of Desired Easement Corridor (1)

Frank Barta  
**ACTING GENERAL MANAGER**

NOTES  
 1. DATUM FOR HEIGHTS IS A.M.D.  
 2. CONTOUR INTERVAL IS 1 METRE

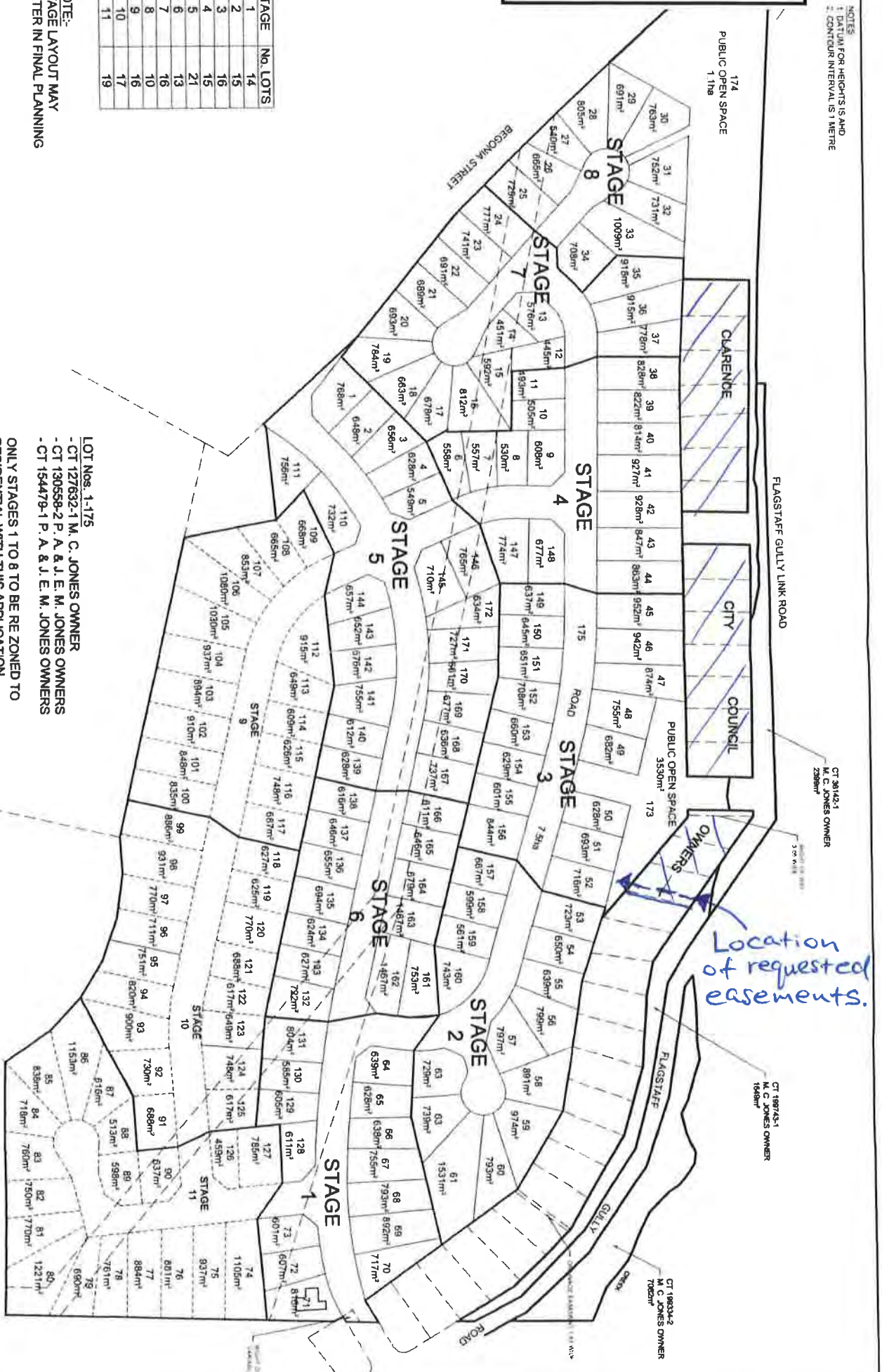
# ATTACHMENT 1

STAGE	NO. LOTS
1	14
2	15
3	16
4	15
5	21
6	13
7	16
8	10
9	16
10	17
11	19

NOTE:  
 STAGE LAYOUT MAY  
 ALTER IN FINAL PLANNING

LOT NOS. 1-175  
 -CT 127632-1 M. C. JONES OWNER  
 -CT 130558-2 P. A. & J. E. M. JONES OWNERS  
 -CT 154479-1 P. A. & J. E. M. JONES OWNERS

ONLY STAGES 1 TO 8 TO BE RE ZONED TO  
 RESIDENTIAL WITH THIS APPLICATION.



This plan is prepared from a combination of field survey and planning records for the purpose of designing new subdivisions on the land and should not be used for any other purpose. The State Government, when it is not a party to the plan, does not warrant the accuracy of the information contained in the plan. The plan is not a guarantee of title and should not be used as such. The plan is not a guarantee of title and should not be used as such. The plan is not a guarantee of title and should not be used as such.

T. N. WOOLFORD & ASSOC.  
 72 GRAHAM'S RD, MT. RUMNEY  
 PHONE (03) 6246 5224  
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PROPOSED SUBDIVISION  
 FLAGSTAFF GULLY ROAD, LINDISFARNE  
 FOR P. A. J. E. M. & M. C. JONES

SCALE 1:2000 (A3) DATE 11/02/2011 DRAWN: JOSTWY DWG NO: B0076-4

**1.7.4 PARTNERSHIP GRANTS – ROSE BAY HIGH SCHOOL ASSOCIATION**  
(09-17-06A)**EXECUTIVE SUMMARY****PURPOSE**

To consider the Partnership Grants Panel's recommendations for the allocation of financial assistance in respect of the Rose Bay High School Association's application.

**RELATION TO EXISTING POLICY/PLANS**

- Strategic Plan
- Community Grants Policy
- Social Plans including Health & Wellbeing Plan, Youth Plan, and Access Plan

**LEGISLATIVE REQUIREMENTS**

Nil.

**CONSULTATION**

Nil

**FINANCIAL IMPLICATIONS**

The Partnership Grant Program has an annual budget of \$25,000. Rose Bay High School Association has requested a Grant of \$15,000 over 3 years (\$7,000 in the first year and \$4,000 each for the 2<sup>nd</sup> and 3<sup>rd</sup> year).

**RECOMMENDATION:**

That Council approves the Partnership Grant application from the Rose Bay High School Association for \$15,000, to be paid in 3 instalments over 3 years, to implement the "Lets Get Together – Diversity Education Program" in Rose Bay High School.

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**ASSOCIATED REPORT****1. BACKGROUND**

- 1.1** Council has approved a budget of \$25,000 for Partnership Grants for the 2014/15 financial year and to date \$12,500 has been allocated.
- 1.2** An application was received from the Rose Bay High School Association, who as representative parents, want to implement an enrichment program "Lets Get Together – Diversity Education Program" in to the school.

- 1.3** The Grants Assessment Panel met and assessed the application and agreed to recommend to Council a Grant of \$15,000 over 3 years.

## **2. REPORT IN DETAIL**

- 2.1** Council has annual budget of \$25,000 for Partnership Grants for the 2014/15 financial and funds are available for this application.
- 2.2** A grant application for funding of \$15,000 over 3 years was received on 12 December 2014 from Rose Bay High School Parent Association consistent with the guidelines adopted.
- 2.3** Rose Bay High School is the largest public high school on the Eastern Shore and almost all students reside in Clarence. The school's level of socio-economic disadvantage and migrant families are increasing. There has been an increase in incidents of cyber related bullying and discrimination that has affected the mental health and attendance of some students. The school see the "Lets Get Together" program as a positive step toward the reduction and prevention of antisocial behaviour, cyber bullying and discrimination. Many of the causes of antisocial behaviour begin outside the school so the involvement of community organisations and individuals to explain the impacts these can have on society, as well as provide information on avenues of support is essential to initiating changes in behaviours.
- 2.4** The Rose Bay High School Association supports the need for a program to address these community issues that are on the rise. The program will see the school working in partnership with outside organisations to change community attitudes towards anti-social and discriminatory behaviours. The school setting provides an efficient and effective setting to tackle these social issues through the development and delivery of relevant programs and activities.

- 2.5** The project aims to achieve a more inclusive and respectful school community where more students can achieve their full potential and adapt their knowledge, awareness and skills to become active citizens in the wider community.
- 2.6** The beneficiaries of the program will be the students and staff of Rose Bay High School and the Clarence community. Students will learn skills, gain knowledge, acquire values and make contacts that are also useful for citizenship, employment and life.
- 2.7** The Clarence community will benefit from more caring, empathetic and inclusive young people.
- 2.8** The “Lets Get Together” diversity education program has been developed by A Fairer World in partnership with the Office of the Anti-Discrimination Commissioner and input from a wide range of community organisations. These organisations will also participate in the delivery of the program as well as community stakeholders from Clarence.
- 2.9** This enrichment program is an activity that would not be funded by the Education Department as it is not considered to be the core business of schools.
- 2.10** A Fairer World has a proven track record of setting up programs that are self-sustaining.
- 2.11** The Partnership Grant Assessment Panel agreed that this enrichment program can have clear benefits for the wider community and accords with several objectives of Council’s Social Plans. It also ties in with Clarence being declared a “*Refugee Welcome Zone*” and the “*Racism – It Stops with Me*” campaign.



**2.12** School Associations are eligible to apply for a Partnership Grant as long as the project or activity is not the core responsibility of the school.

**2.13** The application meets the Grants Guidelines.

### **3. CONSULTATION**

#### **3.1 Community Consultation**

Nil.

#### **3.2 State/Local Government Protocol**

Not applicable.

#### **3.3 Other**

Nil.

### **4. STRATEGIC PLAN/POLICY IMPLICATIONS**

**4.1** The application is consistent with goals in the Strategic Plan 2010 – 2015:

#### **GOAL AREA: SOCIAL INCLUSION**

*Goal: To support local communities to build on existing capacity and progress their health and well-being*

#### **Strategy: Access and Social Inclusion**

*Work constructively with community groups and other organisation on areas of mutual interest.*

**4.2** The application is consistent with strategies in the Youth Plan (2008-2012)

#### **Strategy: Shaping Our Future**

*Ensure positive futures*

**4.3** The application is consistent with actions in the Access Plan (2014-2018)

#### **Strategy: Working with others to enhance personal and community support**

Work partnership with other organisations, groups and schools by sharing information and connecting on possible projects.

- 4.4** The application is consistent with strategies in the Community Health and Wellbeing Plan (2013-2018)

**GOAL AREA: ENHANCING CONNECTIVITY, COMMUNITY PARTICIPATION AND LIFELONG LEARNING**

*Goal: for all members of the Clarence community to have opportunities to be involved in and access to activities that contribute to good health and engage in lifelong learning*

**Objectives**

- people participate in the life of their community;
- people have opportunity to positively contribute to their community and to learn new skills and ideas;
- people feel connected to their neighbours and their community

**5. EXTERNAL IMPACTS**

Working with the community to achieve better outcomes.

**6. RISK AND LEGAL IMPLICATIONS**

Not applicable.

**7. FINANCIAL IMPLICATIONS**

Council has an annual budget of \$25,000 for each financial year and funds are available to meet the grant application.

**8. ANY OTHER UNIQUE ISSUES**

Nil.

**9. CONCLUSION**

- 9.1** The Partnership Grants Assessment Panel has assessed the application and has recommended it to be put forward to Council for approval.

- 9.2** It is recommended that Council approve the application and that the funds are distributed to begin the implementation of the enrichment program.

Attachments: 1. Application Assessment Summary (2)  
2. “Lets Get Together” program overview (14)

Frank Barta  
**ACTING GENERAL MANAGER**

# PARTNERSHIP GRANTS

## Application Assessment

**NAME OF APPLICANT:** Rose Bay High School Association **ID Number:** PG0006

**TITLE OF PROJECT:** Lets Get Together – Diversity Education Program

**DATE OF ASSESSMENT:** 20 January 2015

### PROJECT OUTCOMES:

Does the project :	Does not meet	Meets	Strongly meets
Address a genuine community need?		✓	
Achieve significant outcomes over extended periods of time?			✓
Benefit the people or environment of the Clarence region?		✓	
Align closely with Council's goals and strategies?			✓
Involve working in partnership with other organisations?			✓
TOTAL		2	3

**Please note any relevant details (e.g. specific demographics that benefit from project, details of community partnerships, links to current key priorities of Council)**

- School Associations are eligible to apply for Grants for projects/activities that are not the core responsibility of the school. The school principal is a member of the school association.
- All in agreement that this is an enrichment program with clear benefits for the students, staff and the wider community. Accords with Council's Social Plans and ties in with Clarence being declared a "Refugee Welcome Zone" and the "Racism – It Stops with Me" campaign.
- All in agreement that this is an activity that the Education Department is not going to fund as it is not considered to be the core business of schools.
- Conforms with Grants Policy and Guidelines.
- A Fairer World has a proven track record with setting up programs that are self-sustaining.
- Aligns with the Health & Wellbeing Plan, Youth Plan, Access Plan and Strategic Plan and Clarence being declared a "Refugee Welcome Zone" and the "Racism – It Stops with Me" campaign.

## APPLICANT

Does the applicant :	Does not meet	Meets	Strongly meets
Have the relevant people to manage the project?		✓	
Provide a detailed and achievable timeline / plan?		✓	
Provide a complete and realistic budget for the whole project?		✓	
Make a significant contribution to the project (financial or in-kind), or source other funding for the project?			✓
Identify appropriate ways to acknowledge Council?		✓	
TOTAL		4	1

**Please note any suggestions about improving the applicant's ability to manage the project.**

**AMOUNT REQUESTED:**     \$15,000 (over 3 years)

**TYPE OF FUNDING:**     ☐ One-off  
                                     ☒ Other

**FUNDING AREA:**     ☒ Community Development  
                                     ☐ Economic Prosperity  
                                     ☐ Environmental Sustainability

### COMMENTS:

The panel supports the application and agreed to recommend that Council approve the grant.

**RECOMMENDATION TO COUNCIL:**                     **SUPPORT**                     NOT SUPPORT

Janet Reinkowsky  
.....  
Signed by Community Grants Officer

21 January 2015  
.....  
Date

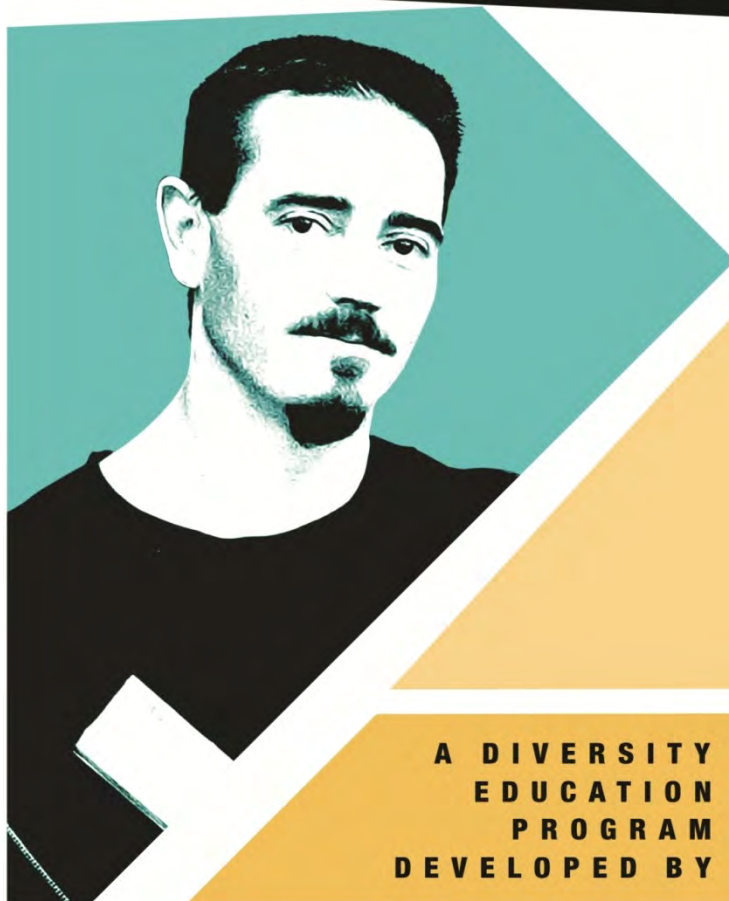
**Please consider the above recommendations and advise a final decision**

☒ Application supported                                     ☐ Application NOT supported

CREATING RESPECTFUL SCHOOLS



LET'S GET  
**Together**  
AN OVERVIEW



A DIVERSITY  
EDUCATION  
PROGRAM  
DEVELOPED BY

**A FAIRER  
WORLD**

A social justice hub comprising the Tasmanian Centre  
for Global Learning, Global Learning Resource Library,  
[www.afairerworld.org](http://www.afairerworld.org) and [youth.afairerworld.org](http://youth.afairerworld.org)



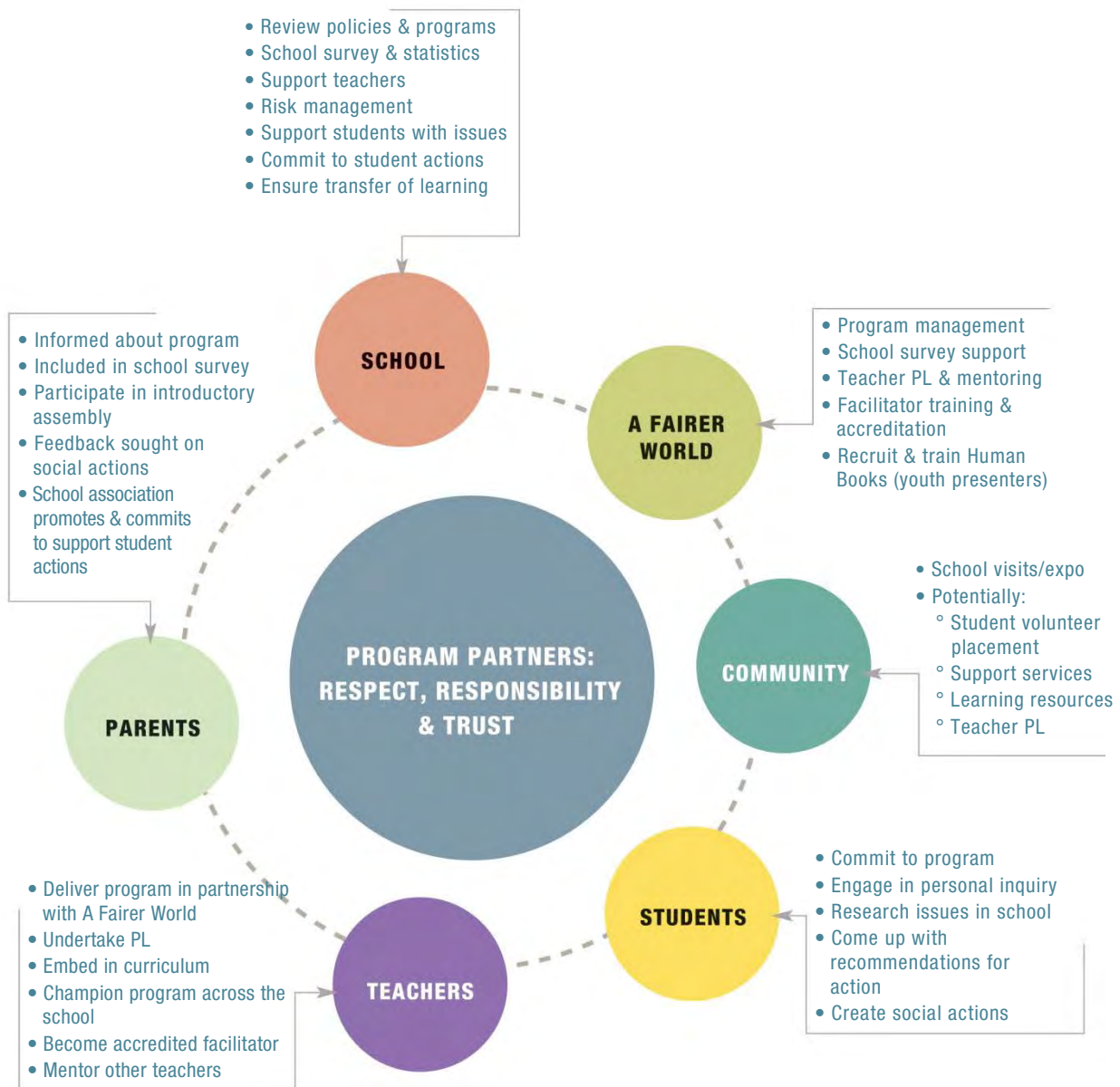
In partnership with the Office of the  
Anti-Discrimination Commissioner

# Dear teacher

The *Let's Get Together* program is designed for schools wanting to partner with their students and the wider community to create a more respectful school environment.

It does this by addressing discrimination and by building diversity competence in students so that they are motivated to address bullying behaviours and become agents for change.

Changing behaviours for a respectful school community does not happen overnight. What is different about this program is that it uses an integral approach and teachers are supported on the journey by a skilled facilitator and people from the Tasmanian community: the program is written specifically for Tasmanian schools and the support is available locally.





# Elements that make the program unique

## Diversity competence

This is more than an anti-bullying program. Its aim is to develop diversity competence – the knowledge, skills and dispositions that contribute to a respectful school culture and a more equitable and peaceful world.

Equity (social justice) requires the full and equal participation of all groups in a society that is mutually shaped to meet their needs. An equitable society allows every person to achieve their full potential by providing an environment in which all members are physically and psychologically safe and secure (Adams, Bell & Griffin, 2010).

Diversity competence does not, of itself, create equity - this requires action to eliminate barriers to full participation. However, when diversity is valued, each person will see it as their responsibility to take action for a more equitable community and world.

A person with diversity competence will appreciate the value of a diverse community - the contribution that a variety of people (with varying characteristics, ideas, cultural practices, belief systems, worldviews, identities, experiences, and demographic differences) will bring to the life of the community.

Diversity competence is necessary to the creation of an inclusive, welcoming, and respectful community. Its connection to the aims of the Respectful Schools and Workplaces framework is clear in the following extract:

*“Regardless of a school community’s needs, research indicates that the development of strong relationships in a respectful environment where all members feel safe and supported is critical to learner wellbeing and success. While schools may expect to see some immediate improvement, as Zbar*

*has found, it can take five to seven years to create significant change.*

*Masters (2012) indicates in the National School Improvement Tool, that a whole school approach to behaviour is created by setting high expectations, using data to guide continuous improvement and building positive relationships between all school community members. These strategies underpin our mission to provide every Tasmanian with the opportunity to continue to learn and reach their potential, to lead fulfilling and productive lives and to contribute positively to our community.”*

(Learners First - Respectful Schools: Respectful Behaviours, Department of Education, 2014, p.2)

## Human books

Research in empathy education shows that “one of the best ways to create an empathetic bond is to get two people to speak with each other and have a conversation that moves beyond superficial talk and addresses real issues of importance in their lives.” (Krzmaric, 2008). We have trained a group of diverse Tasmanians, who have stories to tell of discrimination and difference, to be “human books” and we will organise for them to work with your class as part of the program.

## Professional development

Two possible levels of professional development are available: become an accredited facilitator for the program (see more below) or undertake the 4 hour introductory professional learning and be supported to run the program with your class.



## 8 Keys to Harmony Booklet

A teaching sequence and suggested activities for each of the 8 Keys (program steps) are provided that link to a diverse range of curriculum areas so that elements of the program can be taught in different subject areas. These resources also include learning strategies, planning considerations and teacher tips to support your teaching practice.

### Student voice

The program is student-centred and puts student action at the core of a whole school approach. We've used transformative education principles in designing the 8 Keys learning process. By challenging assumptions or values and offering an opportunity to explore new identities/roles, students can undergo a change in perspective, beliefs, behaviour or understanding - of themselves and their place in the world.

There's also a constructivist underpinning where teachers support students to develop capacities and understanding through action, reflection, dialogue, and problem solving, making powerful connections with their prior knowledge and experiences.

### Global perspectives

Diversity competence and a willingness to take social action in support of equity are key citizenship competencies, in both a local and a global context. Whilst the activities in this program are targeted at the local (school and community), we have included teaching resources that will allow teachers to broaden these to the global level.

## Community support

As part of the program we organise a Diversity Expo that works like a 'speed dating' session between your students and community organisations that are working in different areas of discrimination:

- Gender and sexuality, including lesbian, gay, bisexual, transgender and intersex (LGBTI);
- Cultural and linguistic diversity (CALD), including refugees and migrants;
- Disability (people with differing mental and physical abilities);
- Tasmanian Aboriginal people; and
- Women (violence and other forms of sexual harassment).

A number of community organisations have been consulted in the development of this program. They include:

- Office of the Anti-Discrimination Commissioner
- Working It Out
- Association for Children with Disabilities
- Aspire
- Headspace
- Flourish
- Hobart Women's Shelter
- Migrant Resource Centre/Phoenix Centre
- Rainbow Communities Tasmania
- Speak Out

### Mentoring

An accredited facilitator and other staff are always a phone call or email away to help with resources and advice. They will also visit the school regularly to deliver aspects of the program and check how things are progressing.

# Educational links

## Australian Curriculum

The program links directly to the Learning Area content and the General Capabilities of the Australian Curriculum.

While undertaking the program, students will build knowledge, skills, behaviours and dispositions that will assist them to live and work successfully as tolerant, ethical, respectful and supportive human beings in the 21st Century.

The program is closely linked to the development of *Personal and social capability*, *Ethical understanding*, and *Intercultural understanding*. However, there is also scope for them to build capacity with *Critical and creative thinking* and *Literacy*.

There are direct links to learning area content through the *Health and Physical Education* curriculum especially through the *Mental health and wellbeing*, *Relationships and sexuality* and *Safety* focus areas.

There are also opportunities to engage with

other curriculum areas, especially in *English*, *Civics and Citizenship*, *History* and the *Arts*.

## Education priorities

The priorities of the LEARNERS FIRST Respectful Schools and Workplaces Framework seeks to: ensure that schools and workplaces are inclusive; foster respectful school cultures; provide innovative learning opportunities; develop inclusive skills and dispositions in students; and work in partnership with communities. A Fairer World, and this program in particular, contributes to the outcomes of the Framework, identified as care and compassion; effective communications; a culture of respect; positive behaviour; success and achievement; and safe and inclusive learning and work environments.

The program also helps schools to meet obligations under the National Human Rights Framework and Anti-Discrimination legislation.

### Teacher comments from the pilot program

- **Awareness:** “The students are more mindful of discrimination, the behaviours of discrimination and the impact of discrimination on personal well being.”
- **Language:** “Students are using the terms linked to diversity and naming up behaviours and actions of others with more confidence.”
- **Thinking and empathy:** “The personal stories really allowed for students to connect and think deeply about some issues. I really enjoyed seeing students being intellectually and emotionally moved by the content of the course.”
- **Connectedness:** “...greater comradery in class, better teacher-student relationships, more interactions between the girls and boys.”
- **Behaviour:** “...some are still name calling without registering they are doing it. However, others are calling them on it.”
- **Student voice:** “[A]lthough students might whinge about some aspects it is truly amazing when you hear student voice.”

# How does it run in a school?

**Grade level:** Materials are provided so that the program can be run with grades 5 to 10.

**Time commitment:** It is recommended to run for around 20 hours of class time. However, the activities, their timing and sequence are indicative only. Once teachers feel comfortable with the principles and scaffolding of knowledge underpinning the approach they may wish to adapt and modify the program for the needs of different timetables and students. These decisions will form part of the planning process for the staff involved in delivering the program.

**Delivery:** The program can be run by teachers within their normal classes (home groups and subject classes) supported by accredited facilitators.

## Components:

- Review of school readiness for program;
- Professional development for teachers to become accredited facilitators;
- Core units to be delivered by accredited facilitators;
- External resources (trained youth presenters and community organisations); and
- Teacher resources that can be used across the curriculum and support other learning outcomes under the Australian Curriculum.

## Toolkit comprises:

- **Let's Get Together An Overview:** This document, which describes the objectives, intentions and core features of the program for those new to it.
- **8 Keys to Harmony Booklet:** For Key 1, the Booklet provides an extended checklist of school readiness for the program. For each of the other 7 Keys the Booklet provides:
  - a rationale and learning intent;
  - a suggested teaching sequence with lesson times;
  - notes on the “Big Ideas” and diversity competencies;
  - ideas for student personal inquiry and a global perspective activity; and
  - teacher planning considerations and tips.

There are also some general teacher notes and a checklist for creating a safe and supportive classroom.

- **Teacher/Facilitator Manual:** Detailed lesson plans for each activity listed in the Booklet and a list of community resources available in Tasmania.

## Facilitator accreditation:

- 12 hours of Professional Development during program delivery;
- 12 hours of co-facilitation of core units; and
- experience supporting other teachers delivering units from the program.

# Program intent

The **Let's Get Together** program provides an 8 step learning process for students to explore the underlying causes of bullying and other discriminatory behaviours and to create tangible outcomes for themselves and the school in terms of improving the school environment. Through this they experience the power of being active citizens who can make a difference.

The program taps into student issues, their need to explore their identity, their need for greater agency and thirst for greater meaning in their learning. It is designed to:

- Empower students in their own learning and help them to develop collective agency;
- Enable students to use their school environment as a social learning opportunity to explore what it means to try to make a difference;
- Enable students to work on their issues of concern while deepening their understanding of key concepts such as discrimination, identity, stereotypes, change, bystanders and conflict;
- Provide opportunities for student personal inquiry so that they become more mindful of their interactions and develop social and emotional learning competencies; and
- Provide opportunities for students to collaboratively create social actions. These actions are designed to generate conversations in the school, provide students with authentic feedback and help them to develop their skills in changing cultural “norms”.

## Reportable student outcomes

- Engagement in the learning process.
- Actions to create change.
- Understanding of the knowledge (“Big Ideas”) and values for diversity competence.
- Improvement in social and emotional skills for diversity competence.



# Knowledge, competencies and values

These are some of the knowledge, competencies and values embedded in this program that are designed to provide a positive foundation towards developing diversity competent citizens.

Knowledge (“Big ideas”)	Competencies	Values
Identity and belonging.	<b><u>Key diversity competencies</u></b>	Respect
How stereotypes are created, perpetuated and create harm.	Self-awareness	Responsibility
Diversity and the importance of human difference.	Empathy	Equity
Discrimination and bullying.	Perspective	Inclusion
How everyday interactions affect others and create cultural ‘norms’.	Critical thinking	Compassion
Human and legal rights and responsibilities.	Curiosity	Perseverance
Being an active bystander: how to break-down barriers, show empathy and contribute to a safer, more peaceful community.	Self-confidence	Teamwork
Support services available in the community.	Courage	Diversity
Dimensions of sustainable change.	Interaction	Relationships
Support, education and advocacy.	Reflection	Community
How to plan a project and get what you need to complete it.	<b><u>Other competencies</u></b>	Peace
	Gratitude	Altruism
	Cooperative learning	Motivation
	Visioning	Leadership
	Hope	Learning
	Creativity	
	Conflict management	
	Persuasive argument	
	Resilience	
	Personal inquiry	
	Persistence	
	Initiative	
	Problem-solving	
	Decision-making	
	Agency	
	Communication	
	Reflective learning	



# The 8 Keys to Harmony

HOW CAN WE CREATE A RESPECTFUL  
SCHOOL ENVIRONMENT?



# Program Outline

Key	Intent	Big Ideas	Key questions
<b>1</b> <b>School commitment</b> <i>How can we work together?</i>	<p>The program aims to make fundamental cultural change through changing the ways we behave and work together. Partnership and agency are at the core, and need to be fostered throughout the school community.</p> <p><i>A checklist in KEY 1 provides guidance for the school to ensure readiness for the program.</i></p> <p><i>This will include an assessment of the school against the nine elements of the National Safe Schools Framework.</i></p>	<p>Respectful school environment</p> <p>Partnership</p>	<p>What issues are staff and students most concerned about?</p> <p>What are the school's goals, frameworks and processes that support a respectful school environment and student voice?</p> <p>Is the program a best fit for the school's needs?</p> <p>How is school community support to be enlisted?</p> <p>What are the program risks?</p> <p>What teaching resources are to be provided?</p> <p>What are the logistics of running the program and how will it be linked across the curriculum?</p> <p>How will learning be transferred beyond the program?</p> <p>How will the program be evaluated?</p> <p>How will students be involved as authentic partners in the process?</p>
<b>2</b> <b>Tune in to the issues</b> <i>What are we mad, sad or worried about?</i>	<p>For students to name their issues of concern and begin to frame the key questions that will drive their journey through the rest of the program.</p> <p>To establish a community of inquiry and a vision for a classroom environment that models what students hope to achieve on a larger scale.</p> <p><i>This KEY is critical in getting student buy-in by tuning in to their issues of concern related to discrimination, bullying and negative environments. It helps to build language around the issues and to engage students in further exploration.</i></p>	<p>Discrimination</p> <p>Bullying</p> <p>Conflict</p> <p>Social norms &amp; school culture</p>	<p>What are bullying, conflict and discrimination?</p> <p>What is the culture of our school/community?</p> <p>What issues are we most concerned about?</p> <p>How will we explore this to create change through action?</p>
<b>3</b> <b>Widen perspectives</b> <i>Who is affected and what are the impacts?</i>	<p>To explore the components of identity and better appreciate diversity.</p> <p>To widen understanding of how the issues are more pervasive throughout society and learn first-hand the consequences of stereotyped thinking.</p> <p><i>This KEY aims to connect students to people that are often seen as "different" and who experience discrimination. The activities are designed to help students to move from empathic listening to perspective-taking.</i></p>	<p>Identity</p> <p>Difference</p> <p>Inclusion &amp; exclusion</p>	<p>How does it feel to be excluded?</p> <p>Who am I? How did I become who I am? What can I learn from others?</p> <p>What are my values? What values do we share?</p> <p>What are the impacts of discrimination and bullying? (On individuals? The school or community? On international peace?)</p> <p>How can I show I care?</p>

<p><b>4</b></p> <p><b>Challenge assumptions</b></p> <p><i>What are the causes?</i></p>	<p>To understand the rights and responsibilities related to discrimination.</p> <p>To research the causes of discrimination, conflict and bullying.</p> <p>To build thinking skills that challenge prejudice and stereotypes.</p> <p><i>This KEY aims to give students a model for asking broader questions about the causes of issues and help them to develop the skills to go deeper.</i></p>	<p>Stereotypes</p> <p>Prejudice</p> <p>Power</p>	<p>What are the causes behind my issue?</p> <p>How are stereotypes created?</p> <p>How do stereotypes limit my view or ambitions?</p> <p>What is the relationship between stereotypes, prejudice and discrimination?</p> <p>What are my responsibilities to myself? To others?</p>
<p><b>5</b></p> <p><b>Vision for change</b></p> <p><i>What do we hope for?</i></p>	<p>To help students to create a larger vision for their school that draws on their experiences and research.</p> <p>To deepen students' understanding of the challenges of creating sustainable change – short and long-term solutions.</p> <p>To give the students an opportunity to reframe their problem.</p> <p><i>This KEY aims to help students integrate individual hopes and values through a shared visioning process.</i></p>	<p>Sustainable change</p>	<p>Who or what do I care about?</p> <p>What does a positive environment look like?</p> <p>What is our vision for our school/community/world?</p> <p>How do we create change?</p>
<p><b>6</b></p> <p><b>Explore solutions</b></p> <p><i>What are possible approaches?</i></p>	<p>For students to have the opportunity to learn what others are doing and think creatively about solutions to their issues.</p> <p>For students to explore the power of bystanders in taking action and to build their own confidence in doing so.</p> <p><i>This KEY aims to expose students to a range of practical approaches to creating change and look at how these might be applied to their own issues in the context of a bigger picture.</i></p>	<p>Bystanders</p> <p>Support, education and advocacy</p>	<p>What are others doing about these issues?</p> <p>What are the problems, causes &amp; solutions? What are local community organisations doing?</p> <p>What can I do? Where will it impact (quick fix, short term, long term?)</p>
<p><b>7</b></p> <p><b>Make a difference</b></p> <p><i>What will we do and how will we make it happen?</i></p>	<p>For student teams to take a strategy through stages of planning, pitching it to others, getting feedback, modifying it, getting approval and resources, and then making it happen.</p> <p>For students to rub up against roadblocks, ethical dilemmas and conflict, and through this process to develop negotiation and conflict management skills.</p> <p><i>This KEY provides the opportunity for students to put their learning into action.</i></p>	<p>Persuasive argument</p> <p>Conflict management</p>	<p>What resources do I have to contribute? What do we need?</p> <p>How do I recognise situations that may lead to conflict?</p> <p>When is conflict constructive? Destructive?</p> <p>How can I manage conflict?</p>
<p><b>8</b></p> <p><b>Reflect and celebrate</b></p> <p><i>What have we learnt and how can we share this with others?</i></p>	<p>For students to reflect on what they have learnt and how they may have changed.</p> <p>To collate learnings for assessment across core curriculum areas.</p> <p>For students to share and celebrate their achievements.</p> <p><i>This KEY allows students to spiral up in understanding through a reflective process.</i></p>	<p>Reflection</p> <p>Celebration</p>	<p>What have I learned?</p> <p>Have I made a difference?</p> <p>What would I do differently next time?</p> <p>How can I share what I've learned and achieved with others?</p> <p>How will I continue to make a difference?</p>



# Other elements of the program

## Learning resources

For each of the **8 Keys** a number of teaching and learning resources are available. We have selected them from the best programs available and sometimes written them ourselves. While they support the key competencies of the program, they can be used in different subject areas and can support other learning outcomes under the Australian Curriculum.

We will continue to add to these (and so can you) and make them available on-line. When not available on-line they can be borrowed from our library.

## Learning approaches

The learning resources use a number of best practice learning strategies such as:

- cooperative learning;
- differentiated learning (personalised and inclusive);
- assessment for learning (authentic feedback, strategic questioning, student reflection);
- student-centred learning (engagement, empowerment, action);
- multi-intelligences (social, emotional, cognitive, physical);
- appreciative learning;
- ethical dilemmas; and
- conflict resolution and active bystander skills.

## Community resources

We have built up a comprehensive list of community resources available in Tasmania. These provide information on organisations that provide:

- counselling and support;
- information on issues;
- guest speakers;
- teacher training;
- student workshops; and
- teaching resources.

These are included in the Teacher/Facilitator Manual and will be updated as required. Further advice can be sought from A Fairer World.

## Sensitive and contentious issues

Some of the issues covered in this program are contentious and teachers may not be fully aware of the current context.

Students and teachers may hold strongly divergent opinions that relate to deeply held values and beliefs. This is not a reason to avoid these issues; on the contrary, schools are the best place for students to explore and openly discuss the issues facing our society, to learn how to challenge prejudices and misconceptions, and to form their own opinions.

By working with community organisations directly involved with the issues, we are able to provide guidance and regular updates on appropriate language and approaches. Tips will also be found where appropriate throughout the program.







Teachers will need to be aware that there may be people in the school community who have experienced or are currently experiencing (either directly themselves or through a friend or family member) issues that are raised. This may be an experience of being a refugee or asylum seeker, having depression or other mental health concerns, having a physical disability, or being a bullying target or a perpetrator.

Teachers need to be sensitive to what may arise during this study in terms of emotions, memories, reactions and insights, and watch for unusual behaviours.

The **8 Keys to Harmony Booklet** contains a checklist for creating a safe and supportive school classroom.

## Format for each Key

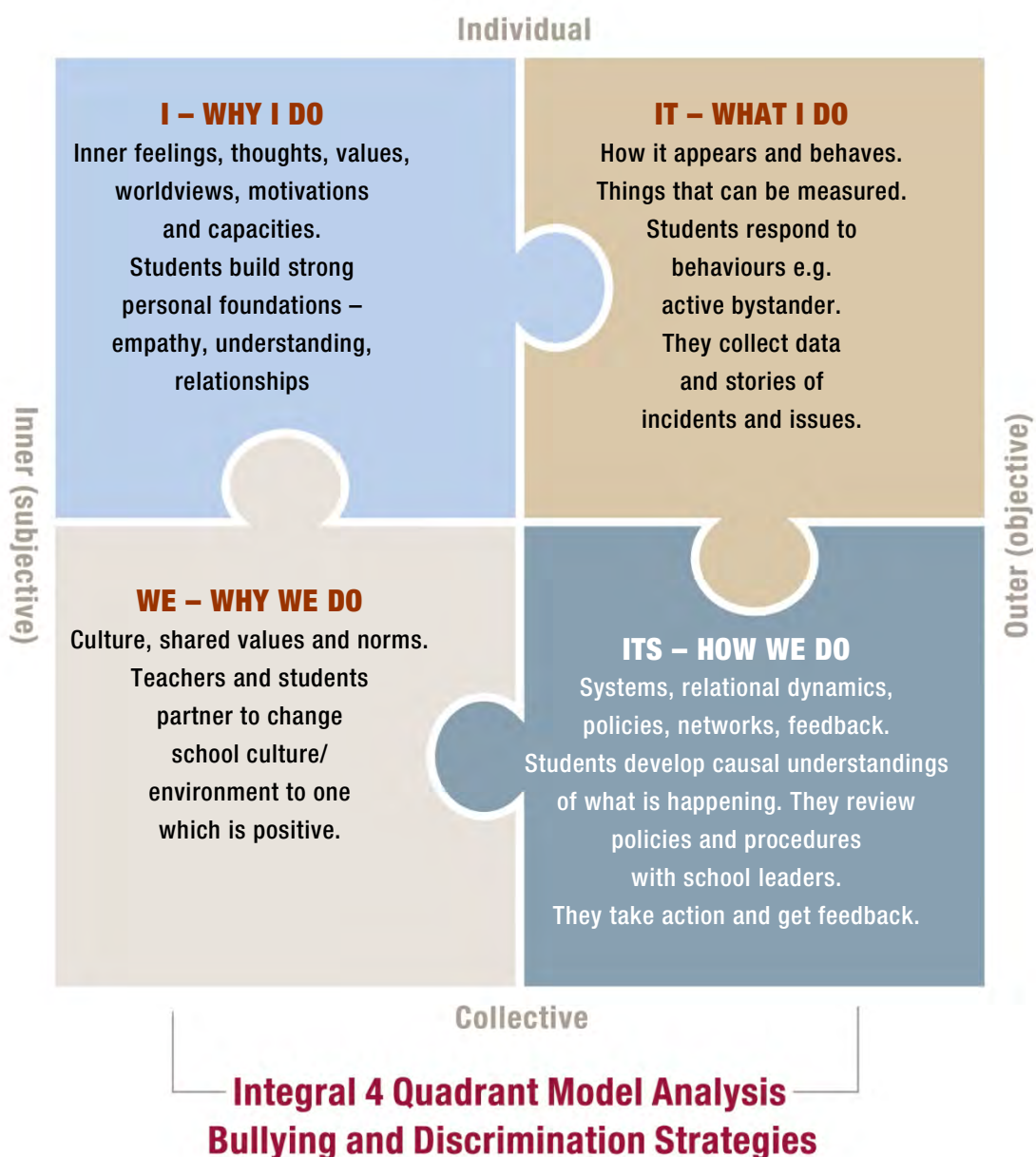
As well as providing learning objectives, key concepts, competency focuses, planning considerations, teacher tips and teaching activities, each key also provides:

 <b>HOOK:</b> Helps students tune in to the intent and core concept for the KEY. It might include a video, a facilitated activity or guest 'experts'.	 <b>GO DEEPER:</b> A suite of activities that enable students to gain a deeper understanding of a big idea.	 <b>SOCIAL ACTION:</b> Visible outcomes and feedback along the way to a bigger goal are important to keep students motivated. These quick actions or 'POP-UP campaigns' using student artefacts from the program (such as posters) will provide a chance for students to gather authentic feedback on their ideas as well as helping them to feel that they are making progress towards positive school cultural change.	 <b>STUDENT PERSONAL INQUIRY:</b> A commitment students make to practise their new skills/ behaviours, observe the results and report back at the next session.
 <b>STUDENT BUY-IN:</b> An opportunity to strongly engage students by connecting with others or with issues that they are personally concerned about.	 <b>STUDENT ACTION:</b> An opportunity for students to draw on what they have learned so far to do something that advances their exploration of their own issue, such as further research or possible strategies.		

## An integral approach

There are programs available that target bullying, or discrimination on specific attributes (for example race or gender); some aim to build strong personal foundations, helping students to be more caring and resilient; and some expose students to different cultures and help them to develop a greater appreciation of difference. However, few programs challenge students to change their social environment and the prevailing “norms”.

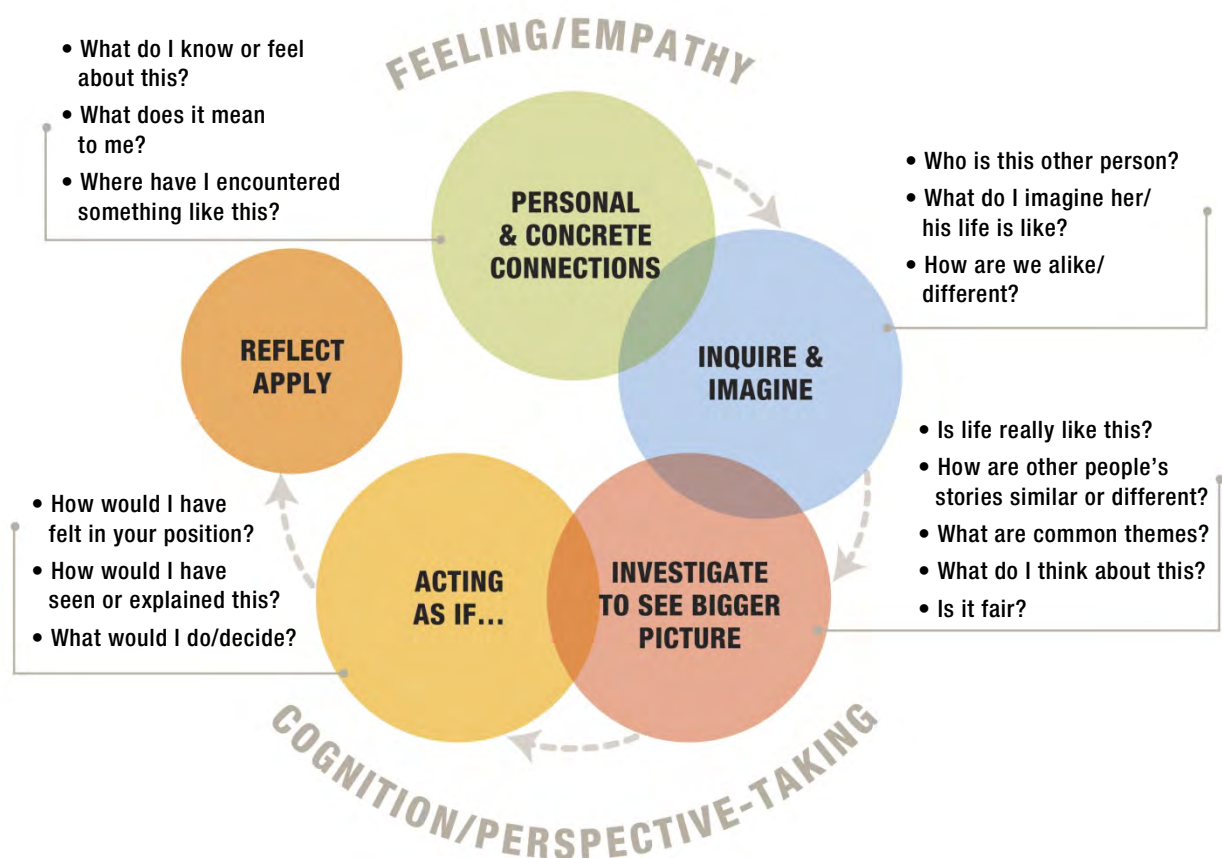
This program draws on an integral approach to help students to build strong personal foundations, try out new behaviours, meet people from different cultures or perspectives and work collectively to change school culture and systems.



## Empathy and perspective-taking model

The *Let's Get Together* program aims to foster empathy and perspective-taking using the *Thinking-Feeling Spiral* (Skolnick, Dulberg, Maestre, 2004). The spiral draws on Kolb and McCarthy *Learning Cycles*, to move students from personal/concrete experiences (their own issues) in which their feelings are engaged, through to consideration and understanding of the lives of others (perspective-taking). They move through this process:

- by listening to individual stories and imagining what it is like to be another person;
- by taking on bigger picture perspectives through consideration of a range of stories, information and reasons why;
- by acting as if they were the person or people through simulations, acting, dialogue, writing or drawing; and
- they are then able to reflect and apply their learning by coming up with actions that will positively impact on others.



# Acknowledgements

## Sources

This program owes much to the experience of our organisation over nearly 30 years as a global educator, supporting schools in the areas of social justice, human rights and diversity. However, more recent research specifically for the development of the program led us to a number of invaluable resources. These include *Cultural Comprehension* (Department of Education & Early Childhood Development, 2011) which contributed significantly to the knowledge list, and *Difference Differently* (Together for Humanity) from which the key diversity competencies are drawn. The CASEL model for social and emotional learning has also informed the program. The influence of the *ruMAD? Program* (Foundation for Young Australians), which we have been delivering in Tasmania for 10 years, is seen in the transformative education principles underpinning the program and the relationship is made apparent in the use of the 8 Keys approach. Indeed the *ruMAD? Program*, with its 8 Keys to MADness, would be an excellent adjunct or follow-on education program. Other sources are referenced in the 8 Keys to Harmony Booklet and Teacher/Facilitator Resource where appropriate.

## Program development

The development of this program would not have been possible without the assistance of a grant from the Tasmanian Community Fund

and a partnership with the Office of the Anti-Discrimination Commissioner.

We are also indebted to: Rose Bay High School teachers and students who assisted us in piloting the program with two classes of grade 8 students and contributed to the evaluation and revisions to the program; Dr Sue Stack, who undertook the evaluation and contributed significantly to the final version of the program including all the diagrams; our community partners listed on page four and the Department of Education who all freely provided advice and assistance; the human books who are part of the Hobart Human Library; Deb Osorio the graphic designer; and all the team at A Fairer World.

## Colophon

This document was created with Adobe InDesign, Adobe Illustrator, Adobe Photoshop, and Microsoft Word.

The type was digitally set using free typefaces:

- Source Sans Pro, under the SIL Open Font License;
- Warnock Pro, at Fontpalace Royal collection of free fonts; and
- Helvetica Neue LT Pro, at Logotype, [www.logotype.lt](http://www.logotype.lt)



**12. ALDERMEN'S QUESTION TIME**

An Alderman may ask a question with or without notice at Council Meetings. No debate is permitted on any questions or answers.

**12.1 QUESTIONS ON NOTICE**

(Seven days before an ordinary Meeting, an Alderman may give written notice to the General Manager of a question in respect of which the Alderman seeks an answer at the meeting).

Nil

**12.2 ANSWERS TO QUESTIONS ON NOTICE**

Nil

**12.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

Nil

**12.4 QUESTIONS WITHOUT NOTICE**

An Alderman may ask a Question without Notice of the Chairman or another Alderman or the General Manager. Note: the Chairman may refuse to accept a Question without Notice if it does not relate to the activities of the Council. A person who is asked a Question without Notice may decline to answer the question.

Questions without notice and their answers will not be recorded in the minutes.

The Chairman may refuse to accept a question if it does not relate to Council's activities.

The Chairman may require a question without notice to be put in writing. The Chairman, an Alderman or the General Manager may decline to answer a question without notice.

**13. CLOSED MEETING**

Regulation 15 of the Local Government (Meetings Procedures) Regulations 2005 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matters have been listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2005.

13.1 APPLICATIONS FOR LEAVE OF ABSENCE

13.2 PROPERTY MATTER RICHMOND

13.3 PROPERTY MATTER ROSNY

13.4 APPOINTMENT OF ACTING GENERAL MANAGER

The grounds for listing these reports in Closed Meeting are that the detail covered in the reports relates to:

- proposals for the acquisition of land or an interest in the land or for the disposal of land;
- information provided to the Council on the condition it is kept confidential;
- matters relating to actual or possible litigation taken by or involving the Council or an employee of the Council;
- applications by Aldermen for Leave of Absence;
- personnel matters including complaints against an employee of the Council;

**Note: The decision to move into Closed Meeting requires an absolute majority of Council.**

**PROCEDURAL MOTION**

“That the Meeting be closed to the public to consider Regulation 15 matters, and that members of the public be required to leave the meeting room”.