

MINUTES OF A MEETING OF THE CLARENCE CITY COUNCIL (PLANNING AUTHORITY) HELD AT THE COUNCIL CHAMBERS, BLIGH STREET, ROSNY PARK, ON MONDAY 15 APRIL 2019

HOURL CALLED: 7.00pm

PRESENT: The meeting commenced at 7.00pm with the Mayor (Ald D C Chipman) in the Chair and with Aldermen:

B A Blomeley
H Chong
L Edmunds
D Ewington
R H James
W Kennedy
T Mulder
S von Bertouch
J Walker
B Warren; present.

1. APOLOGIES Nil

ORDER OF BUSINESS Items 1 –3

IN ATTENDANCE

General Manager
(Mr A Paul)

Corporate Secretary
(Mr I Nelson)

Acting Group Manager Engineering Services
(Mr R Grierson)

Manager City Planning
(Mr R Lovell)

Chief Financial Officer|
(Ms M Coleman)

The Meeting closed at 8.30pm.

Prior to the commencement of the meeting, the Mayor made the following declaration:

“I acknowledge the Tasmanian Aboriginal Community as the traditional custodians of the land on which we meet today, and pay respect to elders, past and present”.

The Mayor also advised the Meeting and members of the public that Council Meetings, not including Closed Meeting, are audio-visually recorded and published to Council’s website.

CLARENCE CITY COUNCIL (PLANNING AUTHORITY) MEETING**MONDAY 15 APRIL 2019****TABLE OF CONTENTS**

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1. APOLOGIES

Nil

2. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE

(File No 10-03-09)

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 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.

INTEREST DECLARED

Nil.

3. REPORTS OF OFFICERS**PART A DEPUTATIONS**

Ms Linda Luther (representor))
Mrs Cheryl Lockley (representor))
Mr Paul Gray (representor)) addressed the Meeting and answered questions from
Mr James Lockley (representor))Aldermen

Mr Richard Gilmour (proponent) addressed the Meeting and answered questions from Aldermen.

PART B – FORMAL PROCEEDINGS

3.1 DEVELOPMENT APPLICATION D-2019/75 - 18 WENTWORTH STREET, BELLERIVE (INCLUDING WIRKSWORTH HOUSE AND ASSOCIATED GROUNDS) - RESIDENTIAL AGED CARE FACILITY (INCLUDING RESPITE CENTRE AND INDEPENDENT LIVING UNITS), DEMOLITION OF GARAGE, USE OF HERITAGE LISTED BUILDINGS AS OFFICES AND REMOVAL OF HERITAGE LISTED TREES

(File No D-2019/75)

EXECUTIVE SUMMARY**PURPOSE**

The purpose of this report is to consider the application made for a residential aged care facility (including respite centre and independent living units), demolition of garage, use of heritage listed buildings as offices and removal of heritage listed trees at 18 Wentworth Street, Bellerive (including Wirksworth House and associated grounds).

RELATION TO PLANNING PROVISIONS

The land is zoned Community Purpose and is subject to the Potentially Contaminated Land Code, Road and Rail Assets Code, Parking and Access Code, Stormwater Management Code, Historic Heritage Code and Inundation Prone Areas Code under the Clarence Interim Planning Scheme 2015 (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 2015*.

Note: References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 17 April 2019 as agreed with the applicant.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 88 representations were received. Of the 88 representations, 7 were in support of the proposal. The representations have raised the following issues:

- support application;
- incorrect advertising description;
- potentially Contaminated Land Code;
- compliance with the *National Environment Protection (Assessment of Site Contamination) Measure 1999*;
- developer details unknown;

- lack of public consultation;
- loss of heritage values;
- overlooking and loss of privacy;
- future use of site and further expansion;
- absence of shadow diagrams;
- impacts on groundwater;
- adequacy of reticulated sewer system to cater for proposed development;
- stormwater management;
- impact of fill upon surface water run-off;
- density of development;
- compliance with Discretionary Use Standard;
- compliance with previous permits;
- compliance with Heritage Works Guidelines;
- non-compliance with recommendations of Heritage and Landscape Reports;
- lack of supporting Heritage Reports;
- creation of wind tunnel effect;
- access for fire fighting vehicles;
- impact on natural values;
- location of development;
- loss of public land;
- anti-social behaviour of occupants;
- lack of parking and impact upon surrounding traffic network;
- safe intersecting sight distance;
- loss of property values;
- suggested alternative uses for the site;
- lack of transparency;
- lack of provision for emergency vehicles;
- inappropriate use of Wirksworth House;
- noise impact upon surrounding residences;
- concern over facility provider;
- eviction of Department of Education;
- tree safety concerns;
- proximity to Bottle Shop and High School;
- future access from South Street;
- lack of bicycle facilities; and
- up-keep of Wirksworth House.

RECOMMENDATION:

- A. That the Development Application for a residential aged care facility (including respite centre and independent living units), demolition of garage, use of heritage listed buildings as offices and removal of heritage listed trees at 18 Wentworth Street, Bellerive (including Wirksworth House and associated grounds) (CI Ref D-2019/75) be approved subject to the following conditions and advice.

1. GEN AP1 – ENDORSED PLANS.

2. The “Residential” use (Residential aged care, respite centre and independent living units) must only occur in conjunction with the “Business and professional services” (Offices for community-based organisations) use conducted within “Wirksworth House” unless otherwise permitted by the Planning Scheme.
3. GEN AM1 – NUISANCE.
4. All external surfaces must be finished in non-reflective, muted, earthy colours. Prior to the issue of a building permit or a certificate of likely compliance (CLC) for building works a schedule of colours must be submitted and approved by Council’s Manager City Planning.
5. GEN M14 – STORAGE AREAS.
6. GEN AM7 – OUTDOOR LIGHTING.
7. All new side boundary fencing located within 4.5m of a road frontage must not exceed 1.5m in height and the section of fencing above 1.2m in height must be at least 50% transparent.
8. GEN S1 – SIGN CONSENT.
9. A tree replanting plan for the trees identified for removal and staged replacement as shown on the Tree Management Plan Drawing No 1746_02 prepared by HBV Architects and dated February 2019, must be submitted to and approved by Council’s Manager City Planning prior to the removal of any trees on the property. The replanting plan must provide for the staged replacement of those trees identified for removal with advanced species in accordance with the recommendations made within the Wirksworth Estate Landscape Report prepared by P Barwick and dated August 2018. Replanting must occur in accordance with the approved tree replanting plan.
10. No trees are to be removed from the site other than those stipulated on the Tree Management Plan Drawing No 1746_02 prepared by HBV Architects and dated February 2019, unless exempt by the planning scheme.
11. A Landscape Plan must be submitted to and approved by Council’s Manager City Planning prior to the issue of a building permit or a certificate of likely compliance (CLC) for building works. The plan must be to scale and show:
 - a north point;
 - proposed driveways, paths, buildings, car parking, retaining walls and fencing;
 - any proposed rearrangement of ground levels;
 - the landscaping of the car parking and circulation areas to an amount of no less than 5% of the area of the carparks;

- details of proposed plantings including botanical names and the height and spread of canopy at maturity; and
- estimated cost of the landscaping works.

All landscaping works must be completed and verified as being completed by Council prior to the commencement of the use.

All landscape works must be maintained:

- in perpetuity by the existing and future owners/occupiers of the property;
- in a healthy state; and
- in accordance with the approved landscape plan.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or which was removed.

12. LAND 3 – LANDSCAPE BOND (COMMERCIAL).
13. Prior to the commencement of the development, a Construction Management Plan must be submitted and approved by Council's Group Manager Engineering Services. The Construction Management Plan must include the following:
 - public safety, amenity and site security;
 - air and dust management;
 - operating hours, noise and vibration controls;
 - stormwater and sediment control;
 - the management of waste collection;
 - car parking and traffic management during the construction stage;
 - measures to protect trees to be retained as part of the landscaping; and
 - measures to minimise the impact of construction vehicles arriving and departing from the site.
14. The design of bicycle parking spaces must be to the class specified in table 1.1 of AS2890.3-1993 Parking facilities Part 3: Bicycle parking facilities in compliance with Section 2 "Design of Parking Facilities" and Clauses 3.1 "Security" and 3.3 "Ease of Use" of the same and be located within 30m of the main building entrance. Plans demonstrating compliance with this condition must be submitted to and approved by Council's Group Manager Engineering Services prior to the issue of a building permit or a certificate of likely compliance (CLC) for building works.
15. ENG A1 – NEW CROSSOVER [TSD-R09 (Urban) 6m wide].
16. ENG A5 – SEALED CAR PARKING.

17. ENG A7 – REDUNDANT CROSSOVER.
18. ENG S1 – INFRASTRUCTURE REPAIR.
19. ENG M1 – DESIGNS DA [Access, car parking and driveways in accordance with AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking, service upgrades or relocations and carpark lighting in accordance with AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting].
20. ENG M5 – EROSION CONTROL.
21. On-site stormwater detention facilities must be included as part of the engineering design drawings required by Condition 21 that provides for a reduction in the instantaneous stormwater runoff from the development. This must include hydraulic design calculations demonstrating the appropriateness and efficiency of the proposed on-site stormwater detention facilities. The on-site stormwater detention facilities may include rain water tanks, WSUD areas and underground storage in oversized stormwater pipes.
22. All stormwater runoff from impervious surfaces within the site must be treated and discharged from site using Water Sensitive Urban Design principles to achieve stormwater quality and quantity targets in accordance with the State Stormwater Strategy 2010. Detailed engineering designs accompanied with a report on all stormwater design parameters and assumptions (or the MUSIC model) must be submitted to Council's Group Manager Engineering Services for approval prior to the issue of a building or plumbing permit. This report is to include the maintenance management regime/replacement requirements for the treatment facility.
23. The development must meet all required Conditions of Approval specified by TasWater notice dated 25 February 2019 (TWDA 2019/00171-CCC).
24. The development must meet all required Conditions of Approval specified by the Tasmanian Heritage Council Notice of Decision dated 8 April 2019 (THC Works Reference: 5854).

ADVICE 17 – ABORIGINAL RELICS ADVICE.

- 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.

/Refer to Page 10 for Decision...

DEVELOPMENT APPLICATION D-2019/75 - 18 WENTWORTH STREET, BELLERIVE /contd...

The General Manager advised the Meeting that a revised recommendation had been circulated, which incorporated an additional condition at No 23 regarding overland stormwater flow.

Decision:	<p>MOVED: Ald James SECONDED: Ald Mulder</p> <p>“A. That Development Application D-2019/75 -18 Wentworth Street, Bellerive (including Wirksworth House and associated grounds, Aged Care Facility) etc be refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal does not satisfy Performance Criteria 17.3.5 P1 as whole of the land at 18 Wentworth Street, including Wirksworth House, the grounds and Aged Care facility do not enhance the use of land for community purposes. 2. The proposal does not satisfy Performance Criteria 17.3.1 P1 as the residential aged care facility, respite centre and multiple dwellings would operate 24 hours, 7 days a week. 3. The proposal does not satisfy Performance Criteria 17.3.5 P1 as outreach services within Wirksworth House are ill defined and potentially unsuited to the area of public recreation, in close proximity to a High School and do not enhance the use of the land for community purposes. 4. The proposal does not adequately satisfy Performance Criteria 17.3.5 P1 for Community Purposes for this land in that it fails to address the community wide infrastructure issues: <ul style="list-style-type: none"> • Stormwater Inundation. On-site treatment of stormwater, however effective, fails to meet the wider community purpose of solving the community wide problem of frequent inundation. • Traffic Issues. Traffic impact assessments take no account of the future growth of traffic on Clarence and South Streets.
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/Decision contd on Page 11...

**DEVELOPMENT APPLICATION D-2019/75 - 18 WENTWORTH STREET,
BELLERIVE /Decision contd...**

B. That the reasons for Council's decision in respect to this matter are as follows.

- the residential aged care facility, respite centre and multiple dwellings would operate 24 hours, 7 days a week and outreach services are potentially unsuited to the area and do not enhance the use of land for community purposes; **and**
- **also** fails to address the community wide infrastructure issues of on-site stormwater inundation as reclaimed swamp land subject to increasingly frequent inundation from moderate rainfall event. As a model developer, the State Government should have included a proposal similar to that of Clarence Council which use community land for the purpose of solving a community problem; **and**
- **also** fails to address increasing future growth of traffic on nearby busy streets, namely Clarence and South Streets and increase of traffic to access the potential State Government Ferry Service at Kangaroo Bay.

The **MOTION** was **put** and **LOST**

FOR

Ald James
Ald Mulder

AGAINST

Ald Blomeley
Ald Chipman
Ald Chong
Ald Edmunds
Ald Ewington
Ald Kennedy
Ald Peers
Ald von Bertouch
Ald Walker
Ald Warren

/Decision contd on Page 12...

DEVELOPMENT APPLICATION D-2019/75 - 18 WENTWORTH STREET, BELLERIVE /Decision contd...

It was then:

MOVED: Ald Walker **SECONDED:** Ald Blomeley

“That the Officer’s Recommendation incorporating the additional condition 23 as follows:

‘23. *Overland stormwater flow entering and leaving the site must be managed to the satisfaction of Council’s Group Manager Engineering Services such that the risk of inundation, due to overland flow in extreme rainfall events, is not increased for properties adjoining the site*’:

be adopted”.

CARRIED

FOR

Ald Blomeley
Ald Chipman
Ald Chong
Ald Edmunds
Ald Ewington
Ald Kennedy
Ald Peers
Ald von Bertouch
Ald Walker
Ald Warren

AGAINST

Ald James
Ald Mulder

The Meeting closed at 8.30 pm