

COUNCIL MEETING
MONDAY 28 AUGUST 2023

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- THREE MULTIPLE DWELLINGS

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

COUNCIL MEETINGS, NOT INCLUDING CLOSED MEETING, ARE AUDIO-VISUALLY RECORDED AND PUBLISHED TO COUNCIL’S WEBSITE

1. ACKNOWLEDGEMENT OF COUNTRY

The Mayor will:

- make the following statement:

“Before proceeding, I pay my respects to the Mumirimina people as the traditional and original custodians of the lands on which we meet, and I acknowledge the continuing connection of the Tasmanian Aboriginal people to the skies, land and waterways.

I pay respect to Elders past and present.”

- invite those present to pause for a moment of quiet reflection and respect before commencing the council meeting.
- advise the Meeting and members of the public that Council Meetings, not including Closed Meeting, are livestreamed, audio-visually recorded and published to Council’s website. The meeting is not protected by privilege. A link to the Agenda is available via Council’s website.

2. APOLOGIES

Nil.

3. DECLARATIONS OF INTERESTS OF COUNCILLORS OR CLOSE ASSOCIATE

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 and Council’s adopted Code of Conduct, the Mayor requests Councillors 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.

4. OMNIBUS ITEMS**4.1 CONFIRMATION OF MINUTES****RECOMMENDATION:**

That the Minutes of the Council Meeting held on 7 August 2023, as circulated, be taken as read and confirmed.

4.2 MAYOR'S COMMUNICATION**4.3 COUNCIL WORKSHOPS**

In addition to the Councillor'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

City Heart Project Update
Proposed Pass Road Consultation

DATE

14 August

RECOMMENDATION:

That Council notes the workshops conducted.

4.4. TABLING OF PETITIONS

(Note: Petitions received by Councillors are to be forwarded to the Chief Executive Officer within seven 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.

4.5 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.

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.

- **COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY**
Representative: Cr James Walker

Quarterly Reports

The Copping Refuse Disposal Site Joint Authority has distributed its Quarterly Summary of its Meetings for the period ending 11 August 2023 (refer Attachment 1).

The Copping Refuse Disposal Site Joint Authority has also distributed its Quarterly Report for the period ending 30 June 2023.

In accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 the Report will be tabled in Closed Meeting.

Representative Reporting

- **SOUTHERN TASMANIAN REGIONAL WASTE AUTHORITY**
Representative: Cr Warren (Mayor's nominee)
Cr Hunter (Proxy)
- **TASWATER CORPORATION**
- **GREATER HOBART COMMITTEE**

REPORTS FROM COUNCIL AND SPECIAL COMMITTEES AND OTHER REPRESENTATIVE BODIES



Copping Refuse Disposal Site Joint Authority

11 August 2023

Mr Ian Nelson
General Manager
Clarence City Council
PO Box 96
ROSNY PARK 7018

Mr Robert Higgins
General Manager
Sorell Council
P O Box 126
SORELL 7072

Mr Gary Arnold
General Manager
Kingborough Council
Locked Bag 1
KINGSTON 7050

Mr Blake Repine
General Manager
Tasman Council
1713 Main Road
NUBEENA 7184

Dear General Manager

COPPING REFUSE DISPOSAL SITE JOINT AUTHORITY REPORT: June 2023 Quarter

Participating Councils and the Director, Local Government agreed to establish consistent reporting arrangements for the Authority. The following advice regarding matters discussed at recent Authority and Board meetings is now provided for inclusion in your routine report to your Council.

Authority meeting held on 10 August 2023

Material matters addressed in the open meeting:

- Endorsed the June 2023 Quarterly Report (attached) for distribution to Participating Councils
- Approved repayment of Clarence City Council's overpaid gate fees for \$121,769 for the June 2023 quarter
- Reviewed and approved the Dividend Policy, with only minor, administrative amendments to the original version (attached)
- Adopted a policy to formalise the role of the Deputy Authority Chair (attached)
- Considered a report on the status of the review of the governance structure of the C cell
- Received an update on the Southern Tasmanian Regional Waste Authority
- Received an update on major operational matters from the CEO
- Received an update on activities of the Boards of Southern Waste Solutions and C Cell Pty Ltd from the Board Chair

Material matters addressed in the closed meeting:

- Three agenda items relating to personnel matters were considered in closed meeting. One of those items related to the formal evaluation of the Board's performance in 2022-23.

Matters considered by the Boards of Southern Waste Solutions and C Cell Pty Ltd as Trustee

- Summaries of the material matters considered by both Boards are attached.

Note: As minutes of meetings of the Southern Waste Solutions Board and C Cell Pty Ltd Board are commercial in confidence, it is requested that these be held on file for perusal by Aldermen/Councillors but not tabled at Council meetings.

Professional Development Activity Undertaken

The Authority did not receive any requests from Representatives for professional development activities in the quarter.

Yours sincerely



Carolyn Pillans
Secretary

Attachment 1: Quarterly Report to the Authority June 2023

Attachment 2: Summary of SWS Board meetings

Attachment 3: Summary of C Cell Board meetings

Attachment 4: Dividend Policy (revised August 2023)

Attachment 5: Deputy Authority Chair Policy (approved August 2023)

4.6 WEEKLY BRIEFING REPORTS

The Weekly Briefing Reports of 7, 14 and 21 August 2023 have been circulated to Councillors.

RECOMMENDATION:

That the information contained in the Weekly Briefing Reports of 7, 14 and 21 August 2023 be noted.

5. 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 a Councillor 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.

5.1 PUBLIC QUESTIONS ON NOTICE

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

Questions on notice and their answers will be included in the minutes.

Mr Bradley Walker of Howrah has given notice of the following questions:

1. INFRINGEMENT NOTICES

At council's meeting 17th July 2023. Ian Nelson is recorded at 15.55 on the recorded meeting video saying that council have 6 months to decide whether to progress or withdraw an infringement notice. What section of which act, or policy governs this 6-month timeframe stated?

2. PUBLIC QUESTION TIME

It has become very apparent in recent meetings that there is confusion between the public wanting to ask questions at meetings and the chairperson around what preamble can be given before a question. There is no time restraint on the question itself and an allotted 15 minutes for public question time which has not been recently exceeded, could the chairperson please give an estimate to what they see as acceptable time for introductory information on the actual question?

5.2 ANSWERS TO QUESTIONS ON NOTICE

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

5.3 ANSWERS TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

5.4 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.

Council Policy provides that the Chairperson may refuse to allow a question on notice to be listed or refuse to respond to a question put at a meeting without notice that relates to any item listed on the agenda for the Council meeting (note: this ground for refusal is in order to avoid any procedural fairness concerns arising in respect to any matter to be determined on the Council Meeting Agenda).

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.

Council's Public Question Time Policy can be found on Council's website at [Public Question Time - City of Clarence : City of Clarence \(ccc.tas.gov.au\)](https://www.ccc.tas.gov.au/Public-Question-Time)

6. DEPUTATIONS BY MEMBERS OF THE PUBLIC
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(In accordance with Regulation 38 of the Local Government (Meeting Procedures) Regulations 2015 and in accordance with Council Policy, deputation requests are invited to address the Meeting and make statements or deliver reports to Council)

7 PLANNING AUTHORITY MATTERS

In accordance with Regulation 25 (1) of the Local Government (Meeting Procedures) Regulations 2015, 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:

7.1 APPLICATION PDPSPAMEND-2023/034393 – 923 AND 1015 GRASSTREE HILL ROAD, GRASSTREE HILL - COMBINED SCHEME AMENDMENT AND PERMIT APPLICATION - BOUNDARY ADJUSTMENT**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to review Council's decision of 26 June 2023 in response to representations received during the public exhibition period in accordance with the requirements of Section 40G and Section 40Z of the *Land Use Planning and Approvals Act, 1993* (LUPAA).

The proposal relates to a request to amend the Clarence Local Provision Schedule (LPS) under Section 37 of LUPAA and combined planning permit application under Section 40T of LUPAA for the rezoning of 4404m² of 923 Grasstree Hill Road, Grasstree Hill to enable a boundary adjustment involving 923 and 1015 Grasstree Hill Road, Grasstree Hill.

The Planning Authority's assessment of the proposal and any representations received must be provided to the Commission under Section 40K and Section 42 of LUPAA.

RELATION TO PLANNING PROVISIONS

The land is zoned Landscape Conservation Zone and Rural Zone, and is subject to the Parking and Sustainable Transport, Natural Assets, Flood-Prone Hazard Area, Bushfire-Prone Areas, Landslip Hazard and Safeguarding of Airports Codes under the Tasmanian Planning Scheme - Clarence (the Scheme).

The proposed boundary adjustment is currently Prohibited under the Scheme because it would create a lot where multiple zones apply.

LEGISLATIVE REQUIREMENTS

The proposal was submitted to the Planning Authority for a decision in accordance with Section 38 (2) and Section 40Y of LUPAA for a combined amendment to the LPS and planning permit application. The certified amendment and draft permit were advertised in accordance with the statutory requirements of Section 40G and Section 40Z. Council is now required to consider the merits of any representation received.

The report on this item details the basis and reasons for the recommendations. 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 2000* and the Local Government (Meeting Procedures) Regulations 2015.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and no representations were received.

RECOMMENDATION:

- A. That Council, sitting as the relevant Planning Authority, after concluding the public exhibition process, resolves that:
1. Pursuant to section 40K(1) of the *Land use Planning and Approvals Act 1993*, it advises the Tasmanian Planning Commission that no representations were received during the exhibition of draft amendment PDPSPAMEND-2023/034393 and permit application that related to the draft amendment.
 2. Pursuant to section 42(a) of the *Land use Planning and Approvals Act 1993*, it advises the Tasmanian Planning Commission that no representations were received during the exhibition of the draft amendment PDPSPAMEND-2023/034393 and permit application that related to the permit application.
 3. Pursuant to section 40K(2)(d) of the *Land use Planning and Approvals Act 1993*, it advises the Tasmanian Planning Commission that the draft amendment of the LPS meets the LPS criteria and pursuant to section 40K(2) (e) recommends approval of the certified draft amendment as attached to the Associated Report.
 4. Pursuant to section 42(c) of the *Land use Planning and Approvals Act 1993*, it recommends to the Tasmanian Planning Commission that the draft permit as attached to the Associated Report (Attachment 2) be approved.
 5. Pursuant to Section 40K (1) and Section 42 of the *Land use Planning and Approvals Act 1993* this report and relevant attachments, including the TasWater response to the TasWater section 56S referral, be provided to the Tasmanian Planning Commission.
- 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**

The issue of buildings and works on 923 Grasstree Hill Road, used by the occupants of, and associated with the property at 1015 Grasstree Hill Road, was investigated by Council in 2016, Enforcement Notice EN-2016/69. The matter was resolved with no further action, on the basis that the building works were compliant with “repair and maintenance” under the then building legislation, and as the outbuildings had existed for more than two years, no further action could be undertaken.

With regard to the trespass (the construction of outbuildings on the neighbouring property), the landowners were advised that this was a civil matter on which independent legal advice should be sought.

2. PROPOSAL IN DETAIL

2.1. The site

The Subject land is shown in Figure 1.



Figure 1 Aerial image of subject site outlined in red and yellow (source LIST map)

The site of 923 Grasstree Hill Road has an area of 15.13ha, while 1015 Grasstree Hill Road has an area of 50.55ha. The land ranges in elevation from approximately 150m in the east to a height of 190m at the common boundary before dropping to 150m in the north and rising to 200m in the south. The area of land to be rezoned is located at the 190m elevation. It is noted that the 923 Grasstree Hill Road lot is at a lower elevation than Grasstree Hill Road.

2.2. The Draft LPS Amendment and Boundary Adjustment

On 26 June 2023, the Planning Authority resolved to certify an amendment that:

- Rezoned 4404m² of 923 Grasstree Hill Road, Grasstree Hill from Landscape Conservation Zone to Rural Zone;
- The draft amendment meets the requirements of the *Land Use Planning Approvals Act 1993*, including the section 34 LPS criteria;

- Prepare a draft planning permit for a boundary adjustment at 923 Grasstree Hill Road, Grasstree Hill and 1015 Grasstree Hill Road, Grasstree Hill subject to conditions; and
- Place the draft amendment and permit on public exhibition for a period of 28 days.

A copy of the certified amendment and planning permit documents are included in Attachment 1 and Attachment 2 respectively.

3. STATUTORY IMPLICATIONS

Section 40K(2) of LUPAA requires a Planning Authority to provide a report to the Commission comprising:

- “(a) a copy of each representation made under section 40J in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and*
- (b) a copy of each representation, made under section 40J in relation to the draft amendment after the end of the exhibition period in relation to the draft amendment, that the planning authority, in its discretion, includes in the report; and*
- (c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –*
 - (i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and*
 - (ii) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and*
- (d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and*
- (e) any recommendations in relation to the draft amendment that the planning authority thinks fit.”*

Where the LPS amendment request has been combined with a planning permit application, the Planning Authority must also provide the Commission a report under s42 of LUPAA that indicates whether the representation justifies modification to the Planning Authority's decision on the application for the planning permit.

The Planning Authority has thirty-five days from the close of the public exhibition period to submit a report on the merits of any representations to the Commission. This timeframe closes on Monday 11 September 2023.

In considering the merits of any representations, the Planning Authority can make recommendations to the Commission that the amendment should be modified, abandoned, or remain unchanged. The Planning Authority can also make recommendations to the Commission that the permit is not granted, or to modify, include or remove conditions.

The Commission will take the Planning Authority's recommendations into account when making its decision.

4. CONSULTATION

The certified draft LPS amendment and draft planning permit were publicly notified from Monday 10 July 2023 to Monday 7 August 2023.

The public notification involved; advertisements in "The Mercury" on Saturday 8 July 2023, and Saturday 22 July 2023, a mailout of letters to landholders and occupants adjoining the subject site; and notification signs on the site.

No representations were received.

5. DISCUSSION ON THE MERITS OF THE REPRESENTATIONS

The proposal was advertised in accordance with statutory requirements and no representations were received.

Accordingly, no new information requiring further consideration has materialised. It is therefore considered that the previous Planning Authority decision of 26 June 2023 in relation to this matter remains unchanged.

The draft certified amendment complies with the LPS criteria, and it is concluded that it is appropriate to recommend to the Tasmanian Planning Commission, the approval of both the draft certified amendment and the planning permit for the boundary adjustment, as attached to this report.

6. EXTERNAL REFERRALS

The land is not within a TasWater serviced area; however, in accordance with section 56S of the *Water and Sewerage Industry Act 2008* the draft amendment was referred to TasWater.

TasWater advised it has no formal comments to make to the Commission and do not wish to make a representation for the amendment. The TasWater response is provided in Attachment 3.

7. STATE POLICIES AND ACT OBJECTIVES

7.1. The proposal is consistent with the State Policies, including those of the State Coastal Policy.

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

7.3. The proposal is consistent with Section 34 of LUPAA LPS requirements.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

The proposal is consistent with Council's adopted Strategic Plan. There are no Council policies relevant to this proposal.

9. CONCLUSION

The amendment is considered to meet the LPS criteria as required under Section 34 of LUPAA and it is recommended that it is submitted to the Commission in the form in which it was publicly notified, including the combined planning permit for the boundary adjustment.

Subject to Planning Authority approval, as set out in the recommendations in this report, the report and attachments will be forwarded to the Commission.

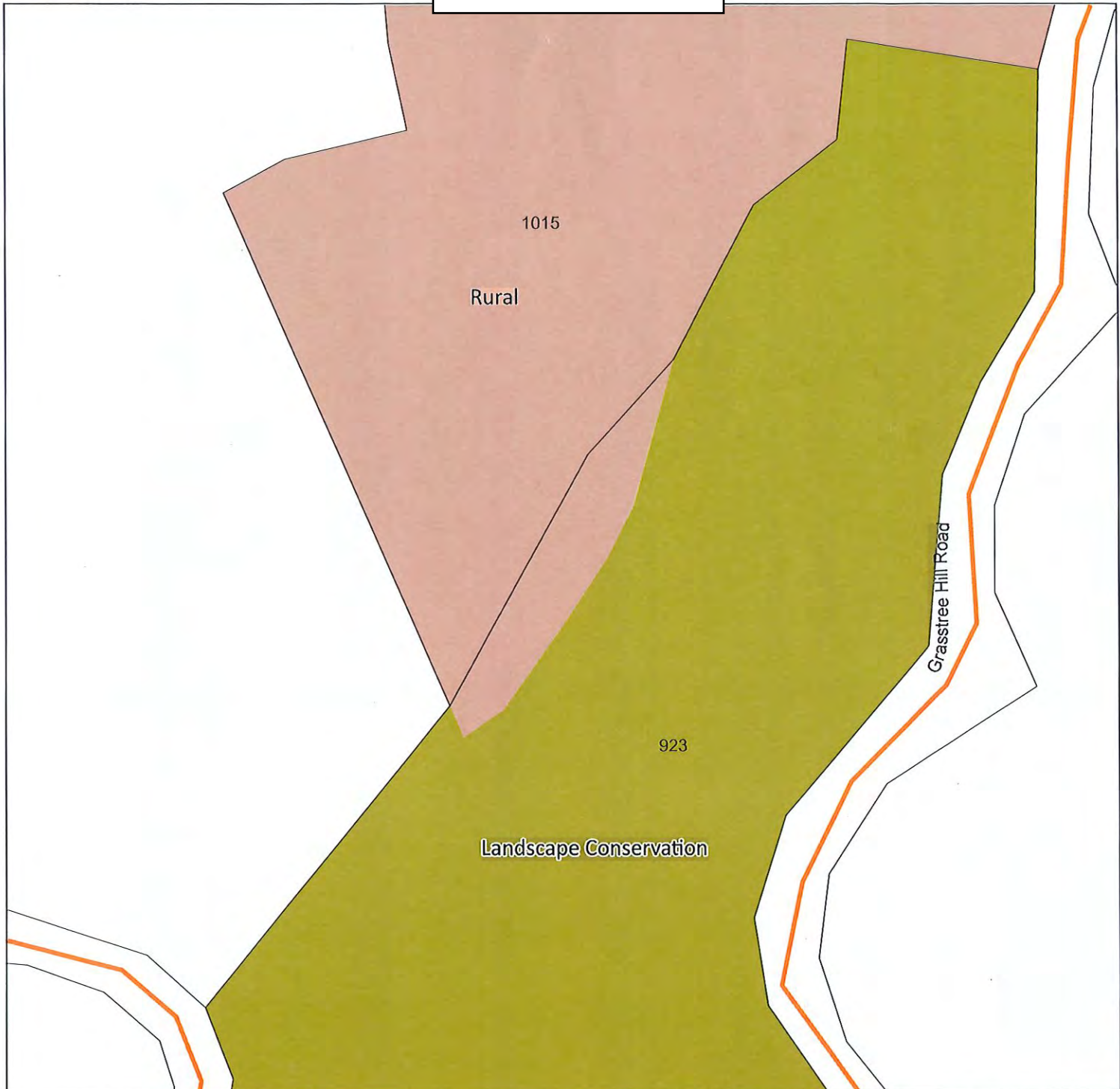
The Commission may hold a public hearing prior to deciding on the certified draft amendment and the draft planning permit.

- Attachments:
1. Certified LPS Rezoning Amendment (1)
 2. Draft Planning Permit and Endorsed Plans (4)
 3. TasWater Referral Correspondence (1)

Robyn Olsen
ACTING HEAD OF CITY PLANNING



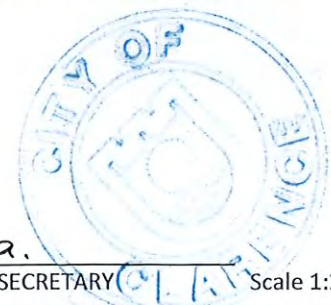
Attachment 1



AMENDMENT TO LOCAL PROVISION SCHEDULE MAPPING PDPSPAMEND-2023/034393

To amend the Tasmanian Planning Scheme - Clarence Local Provision Map by rezoning a 4404 m2 portion of 923 Grasstree Hill Road, from Landscape Conservation Zone to Rural Zone.

THE COMMON SEAL OF THE CLARENCE CITY COUNCIL HAS BEEN HEREUNTO AFFIXED THIS 28th DAY OF JUNE 2023, PURSUANT TO A RESOLUTION OF THE COUNCIL PASSED THE 26th DAY OF JUNE 2023 IN THE PRESENCE OF:



CORPORATE SECRETARY Scale 1:2,500 (at A4)



DRAFT PLANNING PERMIT

LAND USE PLANNING AND APPROVALS ACT 1993

Development No: PDPSPAMEND-2023/034393

Approval Date: 26 June 2023

Description: Boundary Adjustment

Address: 923 & 1015 Grasstree Hill Road, Grasstree Hill

This permit is granted, subject to the following conditions:

General Conditions:

- 1 The use or development must only be undertaken in accordance with the endorsed plans and any permit conditions and must not be altered without the consent of Council.
 - 2 Prior to sealing, the Final Plan and accompanying Schedule of Easements must describe all existing easements and any additional easements required in respect of all utilities' infrastructure required to service the lots in a form to the satisfaction of the relevant utility service provider.
-

The following advice is also provided:

- a. This permit will lapse after 2 years from the date on which it is granted in accordance with Section 42C (2) (a) of the Act unless the development / use has been substantially commenced.

In accordance with Section 42C (3) an application may be made to the Planning Authority for an extension in accordance with Section 42C (2) (b) or (c), any time before the period of 6 months from the day on which the permit has lapsed.

- b. This is a planning permit only. Please be aware that a building and/or plumbing certificate of likely compliance or plumbing permit may be required before the development can proceed. It is recommended that you contact Council's Building Department on (03) 6217 9580 to discuss the requirements for any additional permits or certification.

- c. Aerial imagery indicates that the gravel drive in the south-west corner of 1015 Grasstree Hill Road, providing a second access to Grasstree Hill Road, relies on the land associated with 923 Grasstree Hill Road and 831 Grasstree Hill Road.

The owner/developer should seek independent legal advice on how to formalize this road access via a Right of Carriageway, or other means.

- d. Based on the information provided, the development is not likely to adversely affect TasNetworks' operations. It is recommended that the customer or their electrician contact TasNetworks on 1300 137008 if they have any questions regarding any upgrades they may require to their electricity supply due to this development.
- e. Non-compliance with this permit is an offence under Section 63 of the Land Use Planning and Approvals Act 1993 and may result in enforcement action under Division 4A of the Land Use Planning and Approvals Act 1993 which provides for substantial fines and daily penalties.

Robyn Olsen

ACTING MANAGER CITY PLANNING

THIS APPROVAL IS GIVEN UNDER DELEGATION GRANTED BY COUNCIL ON 14 DECEMBER 2020

LOT 1
50.99 ha
1015 GRASSTREE HILL ROAD

PAUL JENKINS, OWNER
(CT 145172/1)

B. DOWNHAM
(OWNER)

~~4367m²~~
Part of
(CT 76133/8)
BALANCE
14.69 ha

4404m²

BOUNDARY
ADJUSTMENT

as per detailed plans
Drawing No 7070 PoSub
Sheet 1 of 1
Dated 2/6/2023

923 GRASSTREE HILL ROAD

KERRY BROWN
(OWNER)
(CT 76133/8)
HOUSE

PDPSPAMEND-2023-034393
Boundary Adjustment plans
granted in accordance with Section
40W(1) & 40Y of the Land Use
Planning and Approvals Act 1993,
by Clarence City Council acting as
Planning Authority at its meeting
on 26 June 2023

1
50.99 ha
(CT 145172/1)
PAUL JENKINS, owner.
1015 GRASSTREE HILL ROAD

POWER POLE x

TOE OF BANK

FILL AREA

TOP OF BANK

SHED

GRAVEL DRIVE

EXISTING TITLE BOUNDARY

(4404m²)

GALVANISED IRON SHED

FENCE LINE
PROPOSED NEW BOUNDARY

PDPSPAMEND-2023-034393

Boundary Adjustment plans granted in
accordance with Section 40W(1) & 40Y of the
Land Use Planning and Approvals Act 1993, by
Clarence City Council acting as Planning
Authority at its meeting on 26 June 2023

W. B. HOUSE

CARPORT AND SHED

x COMMS PIT

GARDEN
SHED

GRAVEL DRIVE

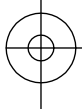
FENCE LINE
PROPOSED NEW BOUNDARY

Balance

14.69 ha

(BALANCE OF CT 180788/1)

A. NEWMAN & J. REID owner.
923 GRASSTREE HILL ROAD



JOHN BAMFORD & ASSOCIATES
LAND & ENGINEERING SURVEYORS

1 Aberdeen Street GLEBE 7000
Telephone 0408 128 682
Email: john.bamford@a1.com.au

SCALE: 1:500(A3)

DATE: 2/6/23

DATUM: Azimuth: MGA

Drawn: jmb
Checked: jmb

Contour Int.

Level: AHD

PLAN OF SUBDIVISION
BOUNDARY ADJUSTMENT
1015 GRASSTREE HILL ROAD, AND
923 GRASSTREE HILL ROAD, GRASSSTREE HILL

DRAWING NO.

7070 PoSub

SHEET 1 of 1

Attachment 3

From: "TasWater Development Mailbox" <Development@taswater.com.au>
Sent: Wed, 19 Jul 2023 15:08:08 +1000
To: "City Planning" <cityplanning@ccc.tas.gov.au>
Cc: "Indra Boss" <iboss@ccc.tas.gov.au>
Subject: RE: Urgent - Notification of LPS Amendment - PDPSPAMEND-2023-034393 923 & 1015 Grasstree Hill Road, Grasstree Hill

This Message Is From an External Sender

This message came from outside your organization.

Hi Indra,

No issues from our end and as you've mentioned the land isn't serviced land (for either water or sewerage services).

We do not have any formal comments to make to the commission and we do not wish to make a representation for the amendment.

Regards,

Anthony Cengia

Development Engineering Technical Specialist



M 0474 933 293
F 1300 862 066
A GPO Box 1393, Hobart TAS 7001
169 Main Road, Moonah, TAS 7009
E anthony.cengia@taswater.com.au
W <http://www.taswater.com.au/>

Please note that I am working from both home and the office on a 9 day fortnight, every second Monday is my non-work day.

From: City Planning <cityplanning@ccc.tas.gov.au>
Sent: Monday, July 17, 2023 9:42 AM
To: TasWater Development Mailbox <Development@taswater.com.au>
Subject: Urgent - Notification of LPS Amendment - PDPSPAMEND-2023-034393 923 & 1015 Grasstree Hill Road, Grasstree Hill
Importance: High

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Dear TasWater,

7.2 DEVELOPMENT APPLICATION PDPLANPMTD-2023/036093 – 74 BANGALEE STREET, LAUDERDALE - ADDITIONS AND ALTERATIONS AND CARPORT (RETROSPECTIVE)**EXECUTIVE SUMMARY****PURPOSE**

The purpose of this report is to consider the application made for a carport (retrospective), as well as an extension to the existing dwelling at 74 Bangalee Street, Lauderdale.

RELATION TO PLANNING PROVISIONS

The land is zoned General Residential, and subject to the Parking and Sustainable Transport Code, Coastal Inundation Hazard Code, Flood-prone Hazard Areas Code, Safeguarding of Airports Code under the Tasmanian Planning Scheme - Clarence (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.

Council is required to exercise a discretion within the statutory 42-day period which expires on 29 August 2023 as agreed with the applicant.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and no representations were received.

RECOMMENDATION:

- A. That the Planning Application for additions and alterations and carport (Retrospective) at 74 Bangalee Street, Lauderdale (Cl Ref PDPLANPMTD-2023/036093) be refused as the proposal is contrary to the provisions of the Tasmanian Planning Scheme - Clarence for the following reason:
 - 1. The proposal does not comply with clause 8.4.2 Setbacks Performance Criterion P2 in that the proposed frontage setback is not compatible with the setbacks of existing garages or carports in the street.
- 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.

DEVELOPMENT APPLICATION PDPLANPMTD-2023/036093 – 74 BANGALEE STREET, LAUDERDALE - ADDITIONS AND ALTERATIONS AND CARPORT (RETROSPECTIVE) /contd...

ASSOCIATED REPORT**1. BACKGROUND**

The site is developed with a single dwelling approved by building permit application B-1968/647.

The site was subdivided under permit number SD-2014/17, resulting in an additional lot being created to the west of 74 Bangalee Street at 5 Epping Road. When the property was subdivided in 2014, the Epping Road frontage of the subject site became the shortest of the road boundaries. This became the “primary frontage” under the definitions of the Tasmanian Planning Scheme – Clarence. This change in primary frontage is central to the refusal recommendation and is explained further below.

2. STATUTORY IMPLICATIONS

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

2.2. The proposal is discretionary because it does not meet an applicable Acceptable Solutions under the Scheme.

2.3. The relevant parts of the Planning Scheme are:

- Section 5.6 – Compliance with Applicable Standards;
- Section 6.10 – Determining Applications;
- Section 8.4 – General Residential Zone;
- Section C2.0 – Parking and Sustainable Transport Code;
- Section C11.0 – Coastal Inundation Hazard Code;
- Section C12.0 – Flood-prone Hazard Areas Code; and
- Section C16.0 – Safeguarding of Airports Code.

- 2.4.** The proposal will require authorisation under the *Building Act 2016* and is therefore exempt from the Coastal Inundation Hazard Code in accordance with clause C11.4.1(a) of the Code.
- 2.5.** The Flood-prone Hazard Areas Code does not apply to land subject to the Coastal Inundation Hazard Code, in accordance with clause C12.2.5 of the Code.
- 2.6.** The site is covered by the Safeguarding of Airports Code and is within the identified 147m obstacle limitation area. However, the site is at 3m AHD and therefore exempt from the provisions of the Code by Clause C16.4.1(a), in that the development would not exceed the prescribed obstacle limitation area.
- 2.7.** Council's assessment of this proposal should also consider the issues raised in any representations received, 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 450m² and forms a low lying, level site. The site has a dual frontage to Bangalee Street and Epping Road. The Scheme defines the primary frontage as the frontage with the shortest dimension. The Epping Road frontage is shorter in length than the frontage facing Bangalee Street, making Epping Road the primary frontage.

The site is developed with a single-storey dwelling. A 36m² carport is integrated with the south elevation of the dwelling, with a minimum setback to Epping Road of approximately 0.1m.

The area surrounding the site is primarily zoned General Residential, with the dwelling typology being dominated by single dwellings. The properties at 74 Bangalee Street, and 5 Epping Road are the only sites with *primary* frontages to Epping Road. All other sites address Epping Road with a secondary frontage.

The setbacks of dwellings, garages, and carports along Epping Road range from 1 - 5m. The characteristics of the site and surrounding area is shown in Attachment 4.

It is relevant to discuss the features of Epping Road, as alluded to above. Epping Road is very short (less than 300m in total with less than 100m constructed). At one end there is public open space connecting Bangalee Street to Roches Beach. At the other end is Council land (Roscommon Reserve). There is no possibility of further significant development at either end of the street. Noting that properties with secondary frontage on Epping Road have structures located between 1m and 5m from the relevant boundary, the property subject to this report (74 Bangalee Street) is caught by a technicality of the planning scheme as a consequence of its earlier subdivision.

3.2. The Proposal

The proposal is for additions to the existing dwelling and retrospective approval for a carport.

The proposed addition to the dwelling extends 2.2m south of the existing dwelling under the roofline of the carport and retains the same width of the existing dwelling of approximately 7.7m. This gives a proposed additional footprint to the dwelling of 16.9m². The proposed addition is setback 7m from the primary frontage, and 6.1m from the secondary frontage.

The carport addition extends approximately 6m south of the eaves of the existing dwelling and retains the same roof width of the existing dwelling of approximately 8.7m. This gives a carport roof area of approximately 52m². The setback from the primary frontage to Epping Road varies from approximately 0.1 - 0.3m. Access to the carport is via the existing crossover on Bangalee Street, to the north-west of the site.

It should be noted that Building approval may also be required for the proposed additions and carport and would be considered under the requirements of separate legislation.

4. PLANNING ASSESSMENT

4.1. Compliance with Applicable Standards [Section 5.6]

“5.6.1 A use or development must comply with each applicable standard in the State Planning Provisions and the Local Provisions Schedules.

Applicable standard means in any zone, code or specific area plan, the objective for a particular planning issue and the means for satisfying that objective through either an acceptable solution or performance criterion presented as the tests to meet the objective.”

To assist with deciding whether the proposal complies with the two tests of each applicable standard, the scheme defines technical terms and unless the contrary intention appears, the scheme uses ordinary meanings.

Streetscape is defined by the scheme to mean *“the visual quality of a street depicted by road width, street planning, characteristics and features, public utilities constructed within the road reserve, the setback of buildings and structures fronting the road reserve. For the purposes of determining streetscape for a particular site, the above matters are relevant when viewed from either side of the same street within 100m of each side boundary of the site.”*

4.2. Determining Applications [Section 6.10]

“6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.”*

References to these principles are contained in the discussion below.

4.3. General Provisions

The Scheme contains a range of General Provisions relating to specific circumstances not controlled through the application of Zone, Code or Specific Area Plan provisions. There are no General Provisions relevant to the assessment of this proposal.

4.4. Compliance with Zone and Codes

The proposed addition to the dwelling and carport is associated with the existing Residential (Single dwelling) use which has a No Permit Required status in the General Residential Zone. The proposed 16.9m² addition to the existing dwelling proposed on the south elevation of the dwelling satisfies all applicable acceptable solutions of the Scheme and therefore retains a No Permit Required status. This aspect of the application is uncontroversial.

The carport meets the Scheme's applicable Acceptable Solutions of the General Residential Zone with the exception of the following.

General Residential Zone

- **Clause 8.4.2 A2 in relation to setbacks.** This standard relates to the primary frontage setback which is Epping Road. Specifically, the carport is setback 0.1 - 0.3m from the primary frontage, as opposed to the prescribed 5.5m primary frontage setback required by the applicable acceptable solution.

The proposal relies on Performance Criteria (P2) of Clause 8.4.2 as follows.

Clause	Performance Criteria	Assessment
8.4.2 P2	<i>"A garage or carport for a dwelling must have a setback from a primary frontage that is compatible with the setbacks of existing garages or carports in the street, having regard to any topographical constraints."</i>	An on-site inspection and analysis of aerial photographs of the area has revealed the prevailing setbacks of existing garage and carports for the northern side of the street is between 2.0 - 4.5m. The prevailing setbacks to the southern side on Epping Road are between 1.0 - 4.5m.

		<p>The carport setback of 0.1 - 0.3m results in a significant departure from the established building line and for this reason is not considered compatible with the setbacks of existing garages or carports in the street, and the performance criteria is not met.</p> <p>Sub-clause 5.6.4 of the Scheme provides that the planning authority may consider the relevant objective of a standard, which in this case is sub-clause “(a) provides reasonably consistent separation between dwellings and their frontage within a street.”</p> <p>The proposal does not provide consistent separation between the dwellings and the frontage within the street. Further, the proposal seeks to create a significantly reduced setback precedent of 0.1m.</p> <p>The site is level with no identified topographical constraints that would restrict the siting and design of the proposed garage.</p> <p>In conclusion, the proposed development is unable to satisfy the performance criteria and does not comply with the standard.</p>
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It is appropriate to consider the point raised by the applicant that only two primary frontages abut Epping Road (74 Bangalee Street and 5 Epping Road). All other frontages are secondary frontages. While this was provided as justification to support the retrospective approval of the carport, it equally highlights the potential repercussions of supporting a precedent of a 0.1m frontage setback.

Any subsequent development application along Epping Road could justifiably submit an application for a 0.1m carport setback, with the carport at 74 Bangalee Street serving as evidence of compatibility for proposals with primary frontage setbacks of up to 0.1m. Any future subdivision of lots on Epping Road would also likely create additional primary frontages along Epping Road.

There are no minimum frontage setback requirements for garages or carports on a secondary frontage under the acceptable solutions for 8.4.2 A1 and A2. A building associated with a dwelling that is over 2.4m or protrudes more than 0.9m into the secondary frontage setback would not meet the acceptable solution under 8.4.2 A3. This would therefore trigger an assessment against the corresponding performance criteria P3.

In determining the compatibility of a proposal, the standard directs regard be given to the siting and scale of dwellings being:

- “(a) *reasonably consistent separation between dwellings and their frontage within a street;*
- (b) *provides consistency in the apparent scale, bulk, massing and proportion of dwellings.*”

This is because buildings in the frontage have visual primacy and should address the street, engaging with it to create a legible and somewhat active frontage, located and designed to complement the existing pattern of development in the area. The uniqueness of a corner lot presents the valuable opportunity for buildings and associated infrastructure to be designed to work with two frontages.

For this assessment, the applicant was made aware of the pending recommendation to refuse the application based on the location and design of the carport relative to the primary frontage and was given the opportunity to explore alternative options, including:

- (a) demolition of carport to allow the addition to the dwelling to proceed on a permitted basis, and

- (b) to amend the carport design to comply with exemption clause 4.3.11 for garden structures, which requires:

- “(a) the total area is no greater than 20m²;
- (b) the height is no more than 3m above ground level;
and
- (c) it is uncovered or covered by an open-weave permeable material that allows water through.”

The above alternatives were not pursued.

General Residential Zone

- **Clause 8.4.2 A3(a)(i) in relation to building envelope.** Specifically, the existing unapproved carport is setback 0.1 - 0.3m from the primary frontage, as opposed to the prescribed 4.5m primary frontage setback required by the applicable acceptable solution.

The proposal relies on Performance Criteria (P2) of Clause 8.4.2 as follows.

Clause	Performance Criteria	Assessment
8.4.2 P3	<p>“(8) The siting and scale of a dwelling must:</p> <p>a. not cause an unreasonable loss of amenity to adjoining properties, having regard to</p> <p>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;</p> <p>(ii) overshadowing the private open space of a dwelling on an adjoining property;</p>	<p>See below assessment.</p> <p>The habitable rooms to adjoining properties at 76 Bangalee Street, and 5 Epping Road are to the north-west and north-east of the existing carport and proposed addition. Consequently, no reduction in sunlight is possible.</p> <p>The private open space to adjoining properties at 76 Bangalee Street, and 5 Epping Road are to the north-west and north-east of the existing carport and proposed addition. Consequently, no overshadowing is possible.</p>

	<p>(iii) <i>overshadowing of an adjoining vacant property; or</i></p> <p>(iv) <i>visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;”</i></p>	<p>The site does not adjoin a vacant property.</p> <p>The existing carport has a minimal visual impact due to being an open walled structure, no greater than 3m in height, and with a modest footprint. The proposed addition is similarly modest in scale being single-storey, and beneath the existing roofline.</p> <p>In conclusion, the proposed development satisfies the performance criteria and complies with this standard.</p>
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General Residential Zone

- Clause 8.4.5 A1 in relation to the width of openings for garages and carports. Specifically, the opening width of the carport facing the primary frontage is approximately 6.8m. This is greater than the prescribed 6m opening width required by the acceptable solution.

The proposal relies on Performance Criteria (P1) of Clause 8.4.5 as follows.

Clause	Performance Criteria	Assessment
8.4.5 P1	<i>“A garage or carport for a dwelling must be designed to minimise the width of its openings that are visible from the street, so as to reduce the potential for the openings of a garage or carport to dominate the primary frontage.”</i>	The carport is screened by an obscure paling fence of approximately 1.8m height to the primary frontage of Epping Road. Access from the carport to the crossover is provided to Bangalee Street. The height of the carport opening at the boundary is approximately 2.4m. This presents a portion of the carport opening measuring approximately 0.6m x 8.7m that projects above the paling fence. This equates to an area of approximately 5.2m ² .

		<p>The paling fence is approximately 1.8m x 11.84m, which equates to an area of approximately 21.3m². The carport opening therefore represents a small proportion of the development addressing Epping Road. For this reason, it can be said that the carport opening does not dominate the primary frontage.</p> <p>The proposal is assessed as satisfying the performance criteria and complies with the standard.</p>
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5. REPRESENTATION ISSUES

The proposal was advertised in accordance with statutory requirements and no representations were received.

6. EXTERNAL REFERRALS

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

7. STATE POLICIES AND ACT OBJECTIVES

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

7.2. The failure to comply with the relevant performance criteria for front setback results in a development inherently inconsistent with the objectives of Schedule 1 of LUPAA.

8. COUNCIL STRATEGIC PLAN/POLICY IMPLICATIONS

There are no inconsistencies with Council's adopted Strategic Plan 2021-2031 or any other relevant Council Policy.

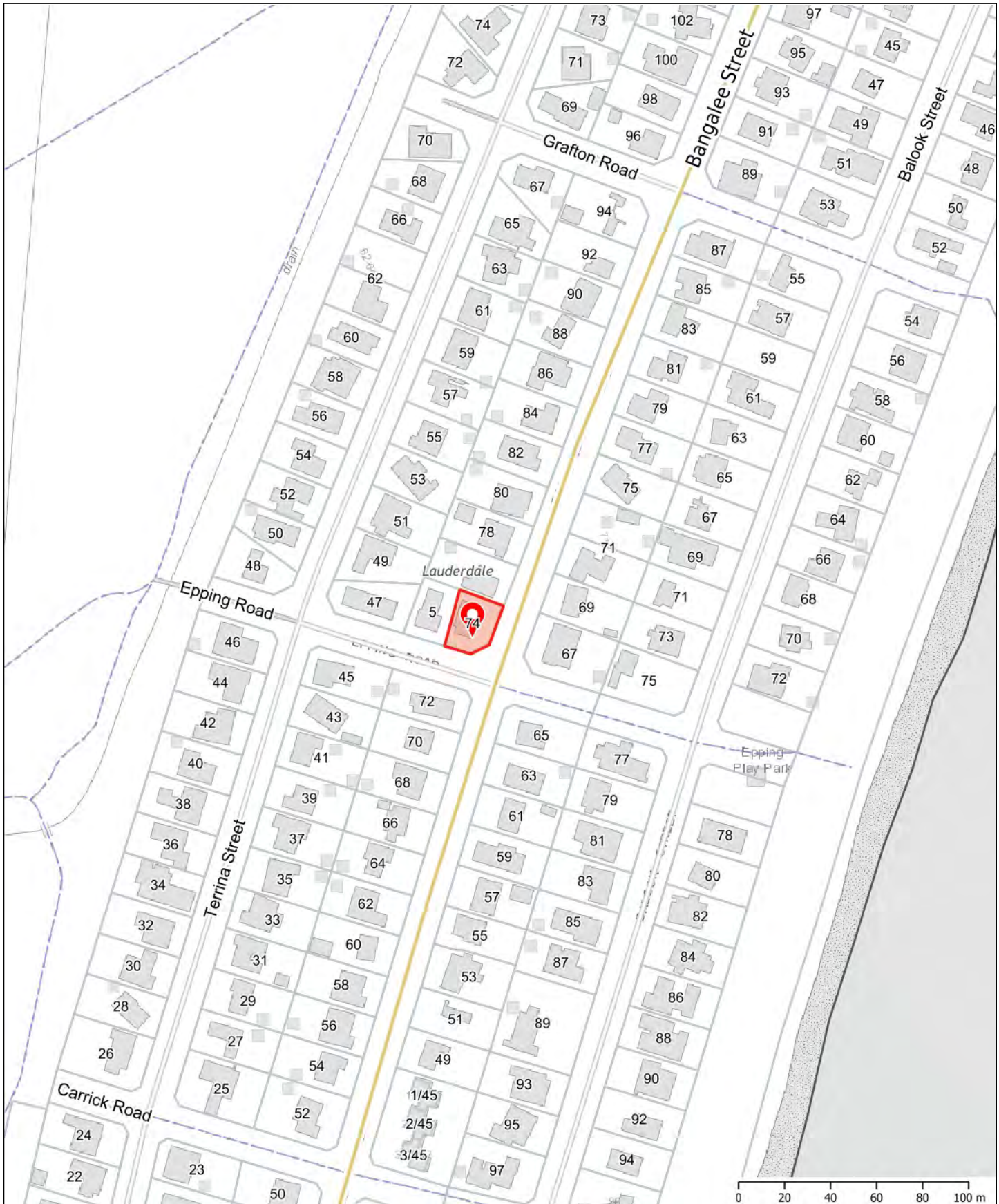
9. CONCLUSION

The proposal seeks retrospective approval for a carport, as well as approval for an addition to the existing dwelling at 74 Bangalee Street. The proposed addition is considered to have no permit required, hence is an uncontroversial component of this application. The carport has been assessed as failing to satisfy both the applicable acceptable solution and Performance Criteria of Clause 8.4.2 and does not comply with the standard, insofar as the proposal is not compatible with the prevailing frontage setback of existing garages and carports within the street (Epping Road).

Attachments: 1. Location Plan (1)
2. Proposal Plan (6)
3. Site Photos (2)
4. Plan Showing Existing Building Line (1)

Robyn Olsen
ACTING HEAD OF CITY PLANNING

Council now concludes its deliberations as a Planning Authority under the Land Use Planning and Approvals Act, 1993.



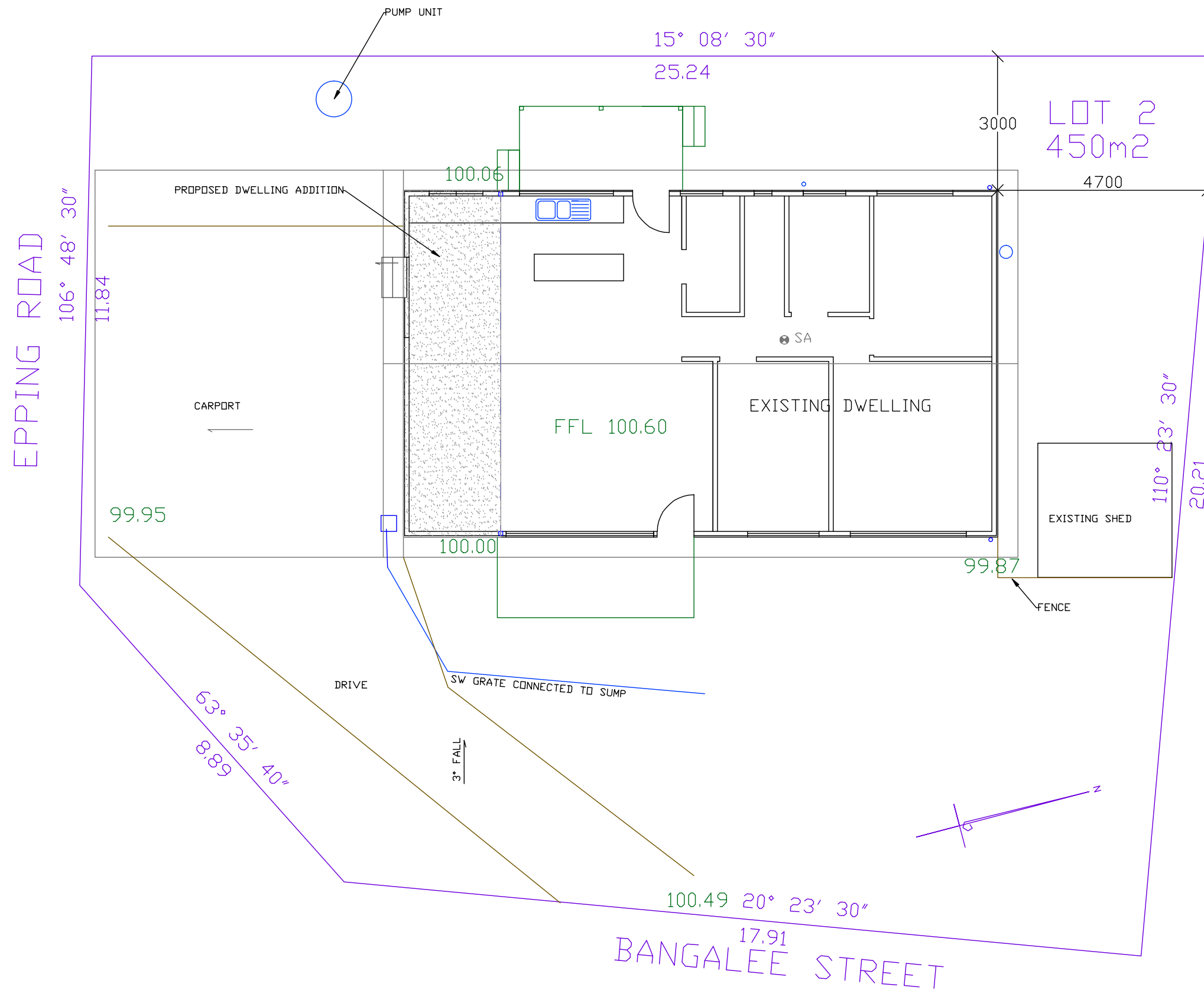
This map has been produced by Clarence City Council using data from a range of agencies. The City bears no responsibility for the accuracy of this information and accepts no liability for its use by other parties.

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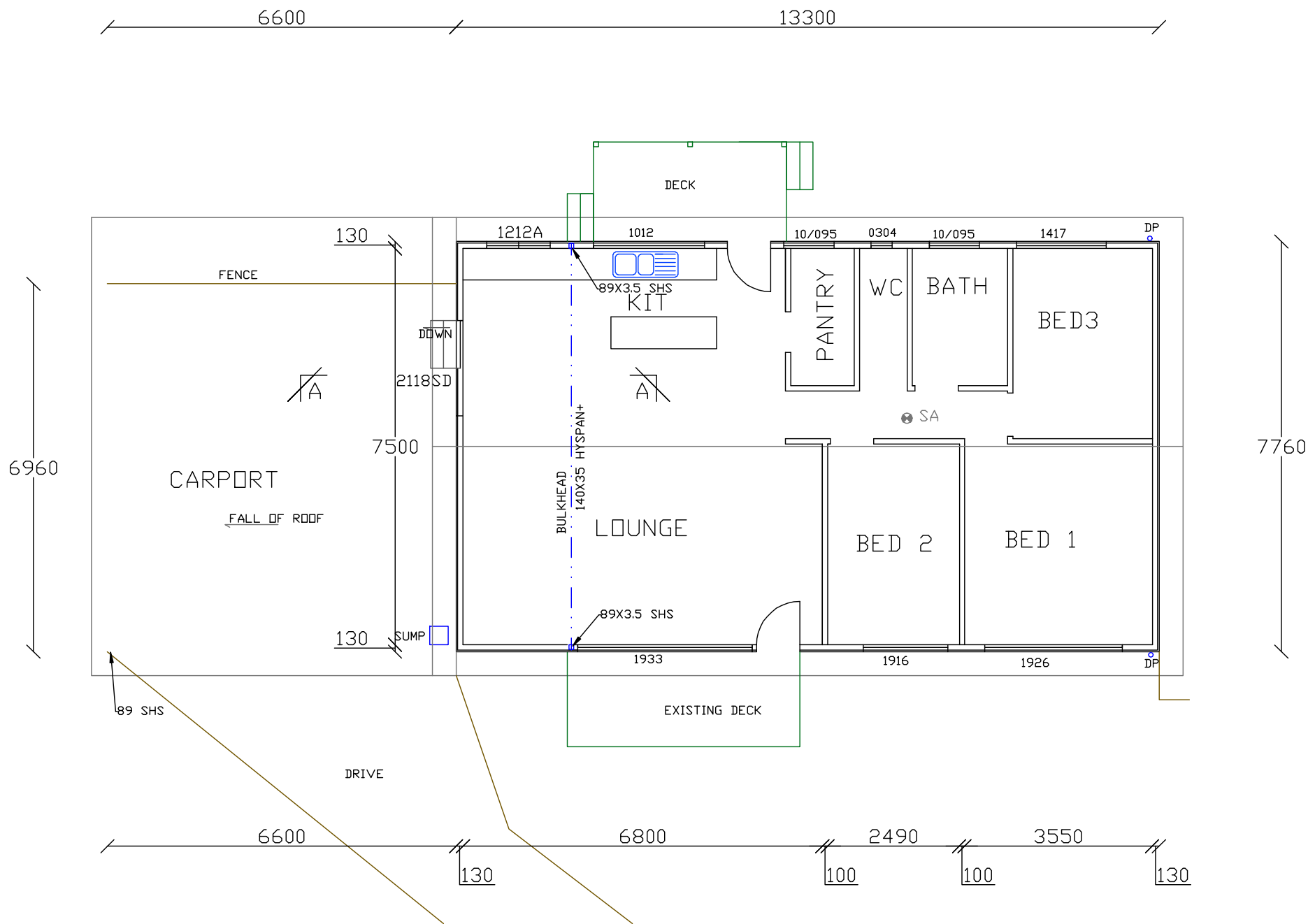
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18 OCTOBER 2022
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DWELLING ADDITION
 DM & RL CROW
 LOT2 No74
 BANGALEE STREET
 LAUDERDALE 7021
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SITE PLAN

WILLBUILT
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 T WILLIAMS
 9 EUMATALLA ST
 LAUDERDALE
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SCALE: 1:100
SHEET 2 OF 10
DWG CRO0122
18 OCTOBER 2022
DRAWN BY WILLBUILT
RTN CC1911 P
DWELLING ADDITION
DM & RL CROW
LOT2 No74
BANGALEE STREET
LAUDERDALE 7021
V 169587 F 2



GENERAL NOTES
THESE DRAWINGS ARE TO BE READ
IN CONJUNCTION WITH THE BUILDING SPECIFICATIONS,
GEOTECHNICAL & STRUCTURAL ENGINEERING
SPECIFICATIONS & PLANS WHERE REQUIRED.
USE FIGURED DIMENSIONS ONLY. DO NOT SCALE THE
DRAWING
ALL WORK SHALL BE IN ACCORDANCE WITH THE
BUILDING CODE OF AUSTRALIA (BCA) & RELEVANT
STANDARDS.
THE BUILDER IS TO CHECK ALL SITE BOUNDARIES,
SITE DIMENSIONS, DIMENSIONS OF ANY EXISTING
BUILDING IN RELATIONSHIP TO THE PROPOSED WORKS
LEVELS, BEARINGS, EXISTING SEWER & STORMWATER
DRAINS & OUTLETS & THE LOCATION OF ANY
EASEMENT BOUNDARIES PRIOR TO THE COMMENCEMENT
OF ANY WORKS.

FLOOR AREA DWELLING 103.2m²
FLOOR AREA DECKS 14.8m²
AREA OF CARPORT 59.7m²

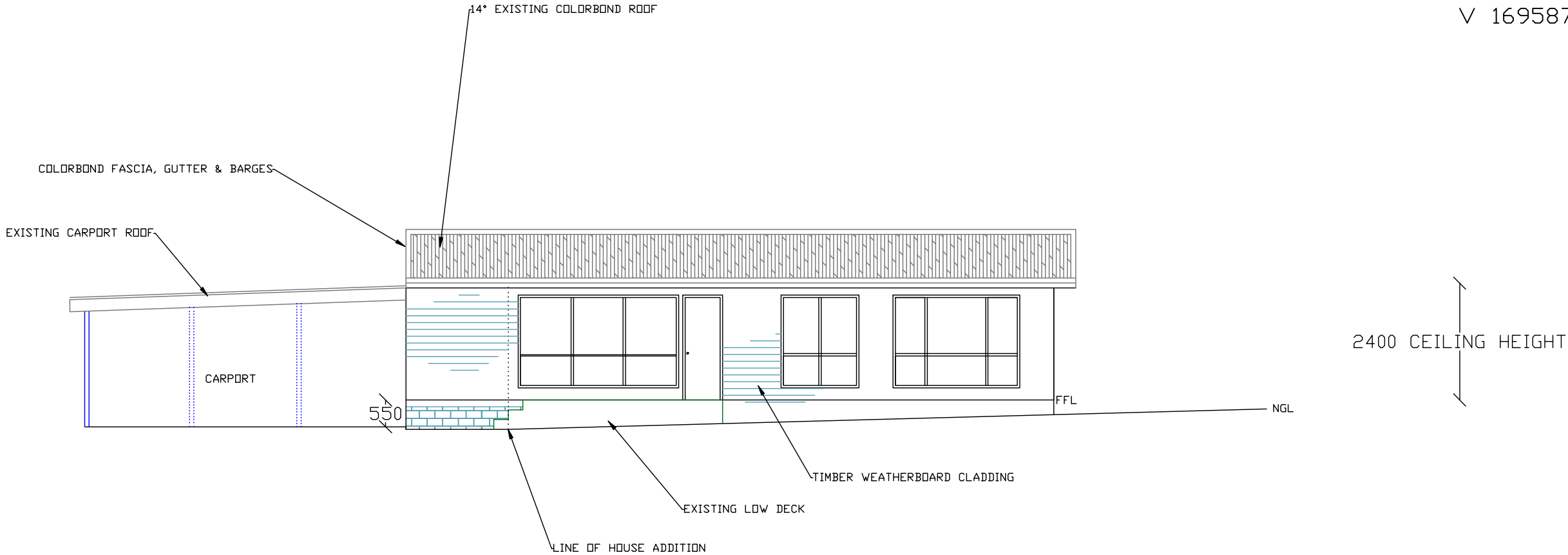
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183 RISE 240 TREAD
240 STRINGER
P3 NON SLIP

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T WILLIAMS
9 EUMATALLA ST
LAUDERDALE
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FLOOR PLAN

R5 INSULATION TO CEILINGS
R2.8 INSULATION TO EXT WALLS
EXT DOORS & WINDOWS FITTED WITH FOAM OR RUBBER COMPRESSED STRIP
TO RESTRICT AIR INFILTRATION
THE HOT WATER PIPEWORK TO BE INSULATED FOR THE FIRST 500mm FROM THE CYLINDER AS3500.5

SCALE: 1:100
SHEET 3 OF 10
DWG CRO0122
18 OCTOBER 2022
DRAWN BY WILLBUILT
RTN CC1911 P
DWELLING ADDITION
DM & RL CROW
LOT2 No74
BANGALEE STREET
LAUDERDALE 7021
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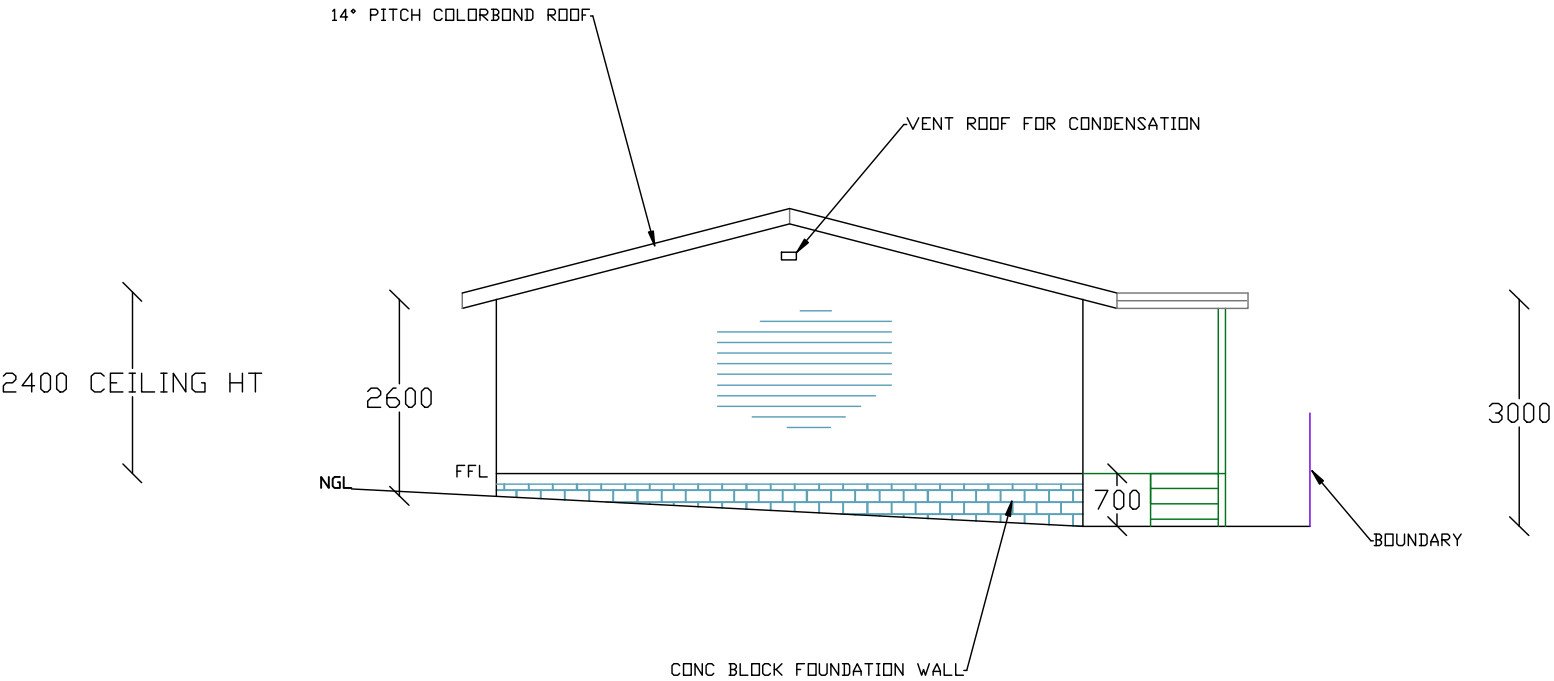


LIFESAVER LIF5800
INTERCONNECTING PHOTOELECTRIC SMOKE ALARMS
TO TFS & BCA REQUIREMENTS AS 3786
ALL GLAZING TO AS 1288
WINDOWS TO COMPLY WITH AS 2047-1999
TIMBER FRAMING TO AS 1684
STUDS/ PLATES MGP10
GUTTER 130X65 COLORBOND
DOWNPIPES 90Ø PVC

EAST ELEVATION

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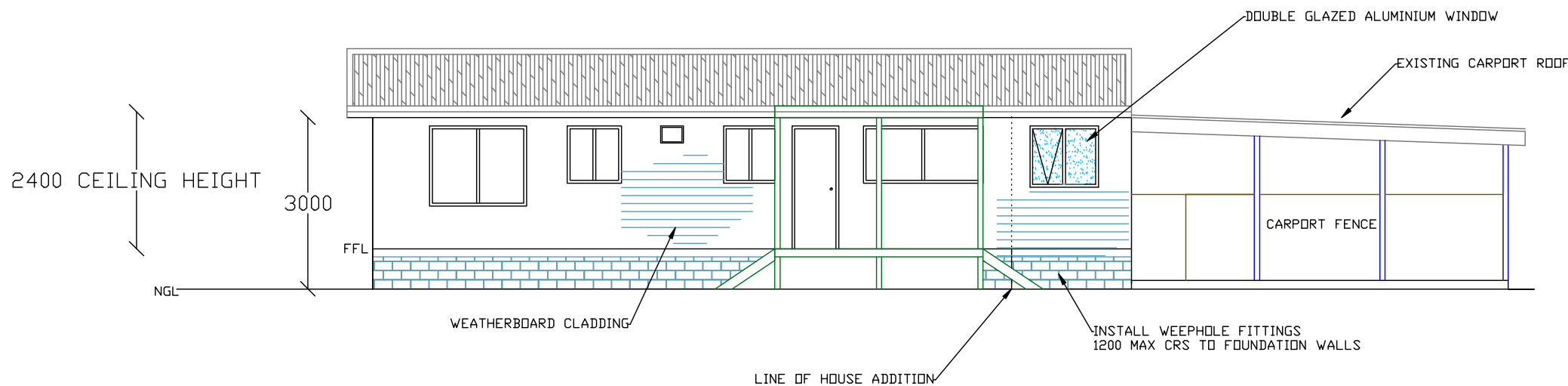
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DM & RL CROW
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BANGALEE STREET
LAUDERDALE 7021
V 169587 F 2



NORTH ELEVATION

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SHEET 5 OF 10
DWG CRO0122
18 OCTOBER 2022
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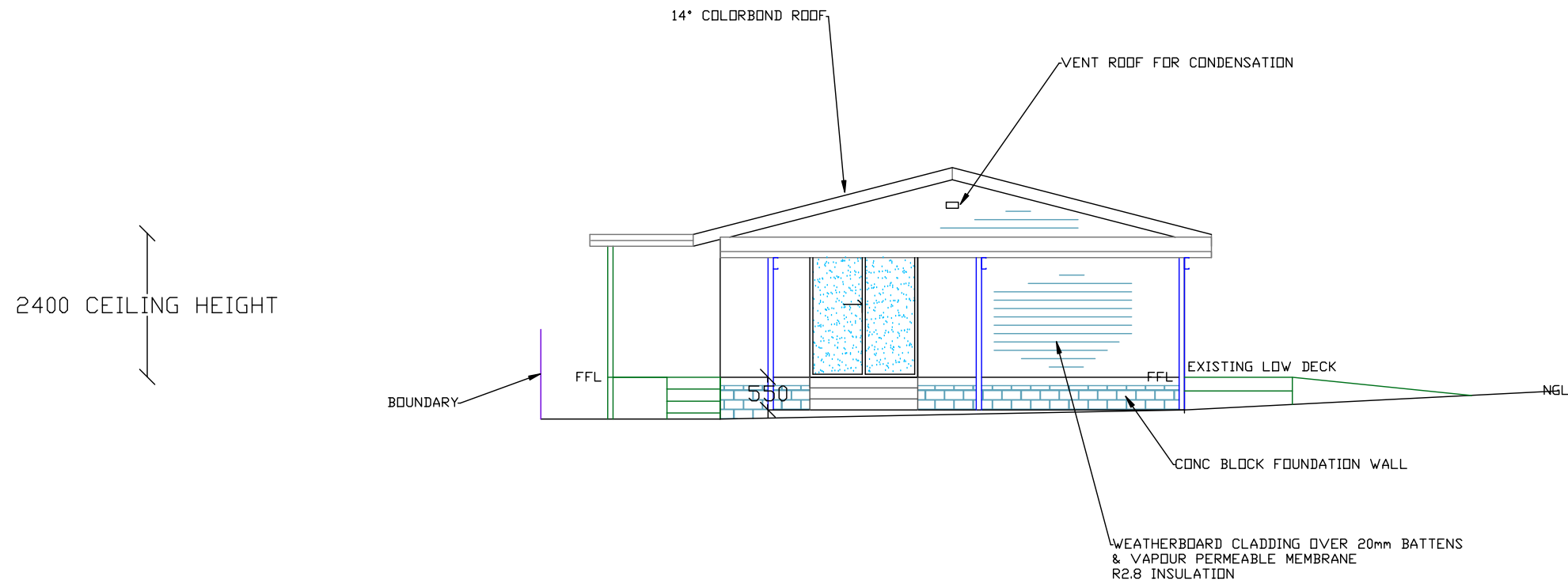


WEST ELEVATION

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9 EUMATALLA ST
LAUDERDALE
Ph0418122582

- MASONRY:
- 1. ALL MASONRY TO CONFORM TO AS 3700 & BCA REQUIREMENTS
 - 2. MASONRY LINTELS TO ENGINEERS SPECIFICATION
 - 3. PROVIDE BRICK TIES AT MIN 600mm VERTICAL & HORIZONTAL CENTRES
 - 4. PROVIDE ARTICULATION JOINTS AT 6000mm MAX CENTRES
 - 5. PROVIDE DAMP PROOF COURSE AROUND ALL WINDOWS & FLOOR LEVEL.
 - 6. PROVIDE WEEP HOLES BETWEEN EACH ALTERNATE BRICK & CLEAN ALL MORTAR FROM THE 25mm MIN WIDTH CAVITIES.
 - 7. RETAINING WALLS TO BE CONSTRUCTED AS PER ENGINEER APPROVED DRAWINGS
 - 8. DPC 15mm ABOVE CONCRETED AREAS
 - 9. MORTAR TO BE MIN ONE PART CEMENT TO 5 PARTS SAND
 - 10. FACE JOINTS NEATLY FINISHED WITH STEEL ROD JOINTING TOOL

SCALE: 1:100
SHEET 6 OF 10
DWG CRO0122
18 OCTOBER 2022
DRAWN BY WILLBUILT
RTN CC1911 P
DWELLING ADDITION
DM & RL CROW
LOT2 No74
BANGALEE STREET
LAUDERDALE 7021
V 169587 F 2



ALUMINIUM FRAMED SLIDING DOOR TO
AS 2047 & AS 1288
4mm MIN GRADE A SAFETY GLASS.
ALLOW FOR HUMAN IMPACT AS PER
NCC PART 3.6.4 MARKED WITH AN
OPAQUE BAND

WILLBUILT
CC1911P
T WILLIAMS
9 EUMATALLA ST
LAUDERDALE
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SOUTH ELEVATION

SITE PHOTOS – 74 BANGALEE STREET, LAUDERDALE



Figure 1: The site when viewed from the opposite corner at 72 Bangalee Street.



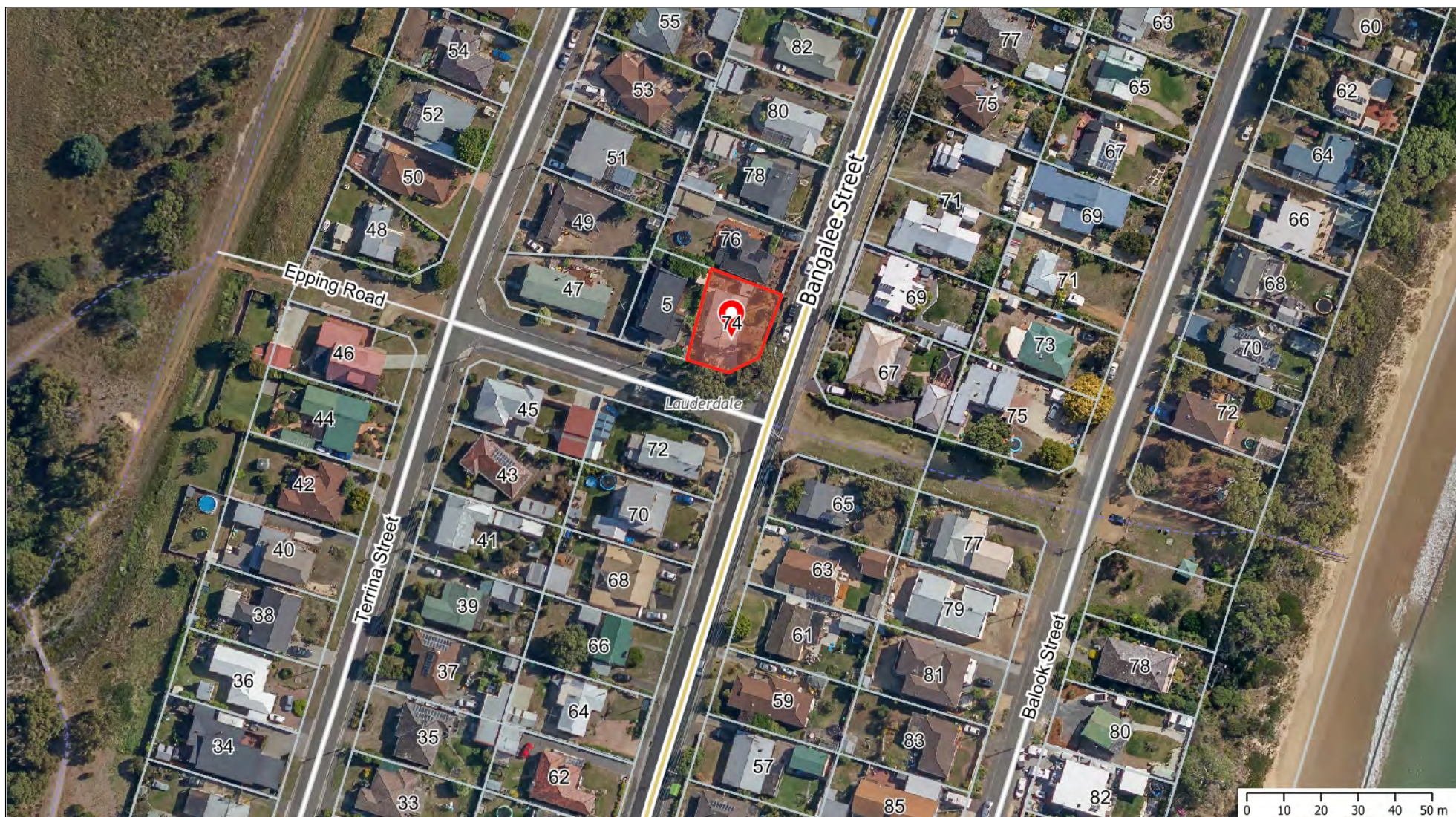
Figure 2: A closer view of the site when viewed from the opposite corner at 72 Bangalee Street. The carport structure is concealed behind the front fence consisting of a combination of solid palings and lattice.



Figure 3: View of the western side of Bangalee Street to the north of the subject site. Solid fencing and mature plantings dominate the streetscape.



Figure 4: View of Bangalee Street to the south of the subject site. Solid fencing and mature plantings dominate the streetscape.



This map has been produced by Clarence City Council using data from a range of agencies. The City bears no responsibility for the accuracy of this information and accepts no liability for its use by other parties.

15/08/2023

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8. REPORTS OF OFFICERS

8.1 DETERMINATION ON PETITIONS TABLED AT PREVIOUS COUNCIL MEETINGS

Nil.

8.2 ASSET MANAGEMENT**8.2.1 CONSULTATION ON FUTURE UPGRADE AND WIDENING OF PASS ROAD BETWEEN GLEBE HILL ROAD AND CONNOR PLACE****EXECUTIVE SUMMARY****PURPOSE**

To endorse the commencement of consultation with property owners in Pass Road (between Glebe Hill Road and Connor Place) on the future Pass Road upgrade and widening project.

RELATION TO EXISTING POLICY/PLANS

The Clarence City Council's Strategic Plan 2021-2031 has the goal of being a well-planned and liveable city where: Clarence will be *"...a well-planned liveable city with services and infrastructure to meet current and future needs of our growing and vibrant community."*

The above goal is particularly relevant to this matter as the function of Pass Road has changed from a minor rural road to a sub-arterial urban road due to significant subdivision development and population growth in the Clarence Plains area.

LEGISLATIVE REQUIREMENTS

The Local Government Act 1993 (Tas) and the Land Acquisition Act 1993 (Tas) are relevant.

CONSULTATION

This report seeks Council approval to proceed with consultation on the proposed road upgrade and widening with property owners on Pass Road between Glebe Hill Road and Connor Place.

The Pass Road upgrade and widening project has been noted in Council reports, online, social and legacy media along with correspondence with local residents. There is a public expectation that Pass Road will be upgraded and widened.

FINANCIAL IMPLICATIONS

Council has allocated \$1.5 million within the Roads Program of the 2020/21 Annual Plan with additional funds of \$6.1 million in the 2023/24 capital expenditure program for the Pass Road upgrade and widening project.

On 30 November 2021, headworks charges were obtained by Council from the developer of 163 Pass Road, Rokeby for the purpose of upgrading the section of Pass Road between Glebe Hill Road and Winterborne Road. This amount is included in the 2023/24 budget allocation for this project.

RECOMMENDATION:

That Council:

- A. Authorises the commencement of consultation with property owners in Pass Road (between Glebe Hill Road and Connor Place) on the future upgrade and widening project for Pass Road, including consultation on the concept design plan and any additional land likely to be required to ensure that the road corridor is sufficient to accommodate the upgrade and widening.
- B. Requests the Chief Executive Officer to provide an update to Council within three months of commencement of the consultation with property owners on the progress of the consultation process.

ASSOCIATED REPORT**1. BACKGROUND**

- 1.1.** Pass Road was originally constructed as a minor rural road serving as a connection between Rokeby and Cambridge. Pass Road has been subject to significant subdivision development and increased use due to population increases at each end of Pass Road, together with the recent development of the Glebe Hill Shopping Centre. Pass Road is nearing end of life, and the current road geometry is not suited to the type and volume of traffic using the road.
- 1.2.** Pass Road is now classed as a sub-arterial road and must be designed to meet the requirements of the Institute of Public Works Engineering Australia (IPWEA) Standard Drawings and provide for the current and future traffic requirements of the road.
- 1.3.** Council proposes to upgrade and widen Pass Road to meet the changing needs of the community as the area transforms from rural to urban and to ensure that Pass Road complies with the requirements of the IPWEA Standard Drawings and Local Highways Standard Requirements By-Law No. 2 of 2014 (“the By-Law”).

- 1.4.** Any upgrade of Pass Road will involve widening the road and road reservation to allow for the existing infrastructure (including drainage and stormwater, electricity, water, and sewer) to be improved and create an allowance for the future addition of a multi-user pathway. This will impact on properties that border Pass Road and it is necessary for Council to consult with those property owners to discuss Council's proposed upgrade.
- 1.5.** Design plans have been prepared for Pass Road (between Glebe Hill Road and Connor Place) based on upgrading the road to include two 3m traffic lanes, 1 to 1.5m sealed shoulders and drainage (including kerb and channel in some locations). A 3m multi-user pathway has been included in the design plans for Pass Road between Glebe Hill Road and Winterborne Road. Allowance for a future shared path connection has also been included in the design for Pass Road between Winterborne Road and Connor Place.
- 1.6.** The proposed upgrade and consultation for Pass Road has been discussed with Council at workshops on 17 April 2023, 29 May 2023, and 14 August 2023.

2. REPORT IN DETAIL

- 2.1.** The residential population around Pass Road has increased significantly in the last 20 years due to residential growth in the surrounding area. This, along with significant subdivision developments off Pass Road and the development of the Glebe Hill Shopping Centre has led to a significant increase in the use of Pass Road, and increased demands on Council's road network in the area.
- 2.2.** Based on the road hierarchy set out in the By-Law and the IPWEA Standard Drawings, Pass Road is classified as a sub-arterial road and must now be redesigned to provide for the current and future traffic requirements of the road.
- 2.3.** The road is also due for full reconstruction of the road pavement and design plans have been prepared for the section of Pass Road between Glebe Hill Road and Connor Place based on upgrading and widening the road to include:
 - two 3m traffic lanes plus sealed road shoulders (between 1 and 1.5m wide).

- improved stormwater system including open drains, kerb and channel, pits and pipes and upgraded culvert for Clarence Plains Rivulet road crossing.

2.4. A 3m multi-user pathway has been included in the design plans for Pass Road between Glebe Hill Road and Winterborne Road. Allowance for a future multi-user pathway connection has also been included in the design for Pass Road between Winterborne Road and Connor Place.

2.5. Council has identified private properties that border Pass Road which, through the planned upgrade and widening of Pass Road, may be affected by Council's proposed reconstruction plans. This could result in Council requiring land from these private properties to enable the upgrades and widening to take place. At this stage of the project, Council officers intend to write to all property owners along Pass Road between Glebe Hill Road and Connor Place and consult on Council's proposed upgrade and widening (as shown in design plans included at Attachment 2). Property owners will be invited to provide comment and feedback on the proposed plans before Council finalises the plans and proceeds further with the project. Council officers will meet with any property owners likely to be impacted by the proposed road widening and upgrade to discuss the project, whether land will be required from the property owner to enable the road widening and upgrade, and the process Council will adopt to purchase the land to enable the road upgrade and widening plans to occur in a timely manner, with a view to mitigating any inherent risks for Council and to ensure the safety of Pass Road for all road users.

3. CONSULTATION

3.1. Community Consultation Undertaken

As part of the Recommendation, Council officers intend to commence consultation with property owners along Pass Road between Glebe Hill Road and Connor Place.

The Pass Road upgrade and widening project has been noted in Council reports, online, social and legacy media along with correspondence with local residents.

There is a public expectation that Pass Road will be upgraded.

A petition signed by 287 people was tabled at the Council meeting held on Monday, 5 September 2022 requesting Council:

“Urgently upgrade Pass Road, including works to mitigate flooding and enhance safety for all road users – motorists, cyclists and pedestrians.

In light of the significant resident development occurring along Pass Road and the corresponding increase in vehicular and other movements, these works must be prioritized and actioned as a priority of Council.”

The petition was considered by Council at its meeting of 26 September 2022 where it was unanimously resolved that Council:

- “A. Notes the petition.*
- B. Notes the General Manager’s advice that the petition complies with Section 57 of the Local Government Act 1993 (Tas.).*
- C. Notes that design is well underway for the Pass Road reconstruction from Glebe Hill Road to Connor Place and the design and cost estimates are to be presented to a future council workshop prior to 2023-2024 budget consideration.*
- D. Authorises the General Manager to request the Transport Commissioner to reduce the existing 80 km/h Pass Road sections to 60 km/h, until the Pass Road upgrade works are complete.*
- E. Authorises the General Manager to write to petitioners acknowledging their concerns and advising of council’s decision.”*

The speed limit was changed to 70km/h in March 2023 following approval by the Transport Commissioner.

3.2. State/Local Government Protocol

Nil.

3.3. Other

Consultation will be undertaken with all property owners with properties bordering Pass Road between Glebe Hill Road and Connor Place regarding Council's proposed upgrade and widening including any possible land required, the scheduling of construction works and any associated traffic disruption.

3.4. Further Community Consultation

This report seeks Council approval to proceed with the consultation as follows:

1. Write to all property owners who own property immediately adjacent to the Pass Road corridor between Glebe Hill Road and Connor Place to inform them of the concept design plans; and
2. Meet with any property owners that may be impacted by road widening and actively engage those owners to discuss the concept design plans and seek their specific feedback.

A draft consultation plan is included as **Attachment 1**.

A copy of the concept design plans for the road upgrade (to form the basis of the discussion with property owners) is included at **Attachment 2**.

4. STRATEGIC PLAN/POLICY IMPLICATIONS

- 4.1.** The Clarence City Council's Strategic Plan 2021-2031 has the goal of being a well-planned and liveable city where:

“Clarence will be a well-planned liveable city with services and infrastructure to meet current and future needs of our growing and vibrant community.”

This goal is particularly relevant to this matter as the function of Pass Road has changed from a minor rural road to a sub-arterial urban road due to subdivision development and population growth in the Clarence Plains area.

- 4.2.** The following strategic plan objectives are relevant:

“Roads and Transport:

- *2.2 Developing and implementing a comprehensive transport strategy for the city.*

- 2.3 *Developing and implementing traffic management plans to enhance and improve road safety.*
- 2.4 *Reviewing and continuing to implement our Bicycle Plan and the Tracks and Trails Strategy for the city.*
- 2.5 *Providing and prioritising a safe, reliable, and accessible pedestrian network.”*

4.3. Council’s Asset Management Plan 2018 – Roads & Transport is also relevant. Table 3.4.1 of the Asset Management Plan 2018 – Roads & Transport sets out requirements for sub-arterial roads with traffic volumes over 3,000 vehicles per day including lane widths, target maximum travel speeds and provision for vulnerable road users (like people walking and riding bicycles).

5. EXTERNAL IMPACTS

Nil.

6. RISK AND LEGAL IMPLICATIONS

- 6.1.** The project objective is to upgrade and widen Pass Road to improve road safety, quality, visibility and camber of the road to reduce risk to drivers, vehicles, cyclists and pedestrians and to include improved pavement drainage and stormwater management as part of the project.
- 6.2.** Council has received 12 claims for compensation due to damage caused to vehicles on Pass Road and 60 requests relating to safety and infrastructure concerns with Pass Road since 2020.
- 6.3.** At its meeting on 26 September 2022, Council approved the recommendation authorising the Chief Executive Officer to request the Transport Commissioner reduce the speed limit from 80km/h to 60km/h in various sections of Pass Road until the widening and upgrade plans are complete, due to safety concerns around the condition of the road. From 1 March 2023, the speed limit was reduced to 70km/h on the section of Pass Road between Houston Drive, Cambridge and Winterborne Road, Rokeby.

- 6.4.** Pass Road carries more than 3,000 vehicles per day and is continuing to grow due to residential development in the Clarence Plains area. As discussed in Section 4 (above), Pass Road is no longer a rural road but is now considered a sub-arterial road. In order to safely carry the higher traffic volumes, Pass Road needs to be upgraded and widened to meet the sub-arterial road specifications.
- 6.5.** Council has powers under the Local Government Act 1993 (Tas) and the Land Acquisition Act 1993 (Tas) to purchase land. Under section 175 of the Local Government Act 1993 (Tas), Council may purchase property for any purpose which it considers to be of benefit to the Council or the community. Under section 176 of the Local Government Act 1993 (Tas), Council may acquire land for prescribed purposes in accordance with the Land Acquisition Act 1993 (Tas). The Local Government (General) Regulations 2015 (Tas) further prescribes that Council may acquire land for the establishment or realignment of a highway, or local highway, as defined by section 3 of the Local Government (Highways) Act 1982 (Tas).
- 6.6.** As part of approving the planning permit for the subdivision of 163 Pass Road (approved on 1 October 2018), Council, acting as the Planning Authority approved a condition that:

“[i]n accordance with the Headworks Levy Policy, a headworks charge for the upgrading of Pass Road, from the junction of Road Lot 300 to Glebe Hill Road ... is applicable for the following works, associated with the upgrading of Pass Road;

- pavement strengthening and widening to a minimum of 8m;*
- drainage in the form of kerb and channel with all associated pits and pipes; and*
- a 3m wide multi-user path on one side with associated road crossings.*

The headworks charge is payable prior to sealing the final plan; ... ”

A headworks payment applicable to this permit was received on 30 November 2021.

7. FINANCIAL IMPLICATIONS

7.1. Council has allocated \$1.5 million within the Roads Program of the 2020/21 Annual Plan with additional funds of \$6.1 million in the 2023/24 capital expenditure program for the Pass Road upgrade and widening project.

7.2. On 30 November 2021, headworks charges were obtained by Council from the developer of 163 Pass Road, Rokeby for the purpose of upgrading this section of Pass Road between Glebe Hill Road and Winterborne Road. This amount is included in the 2023/24 budget allocation for this project.

8. ANY OTHER UNIQUE ISSUES

None identified.

9. CONCLUSION

It is recommended that Council authorise Council officers to commence consultation with property owners that own property immediately adjacent to Pass Road (between Glebe Hill Road and Connor Place), to discuss Council's proposed road upgrade and to invite feedback from those property owners, with a report back to Council on the outcome of the consultation within three months of the commencement of the consultation process.

Attachments: 1. Consultation Plan (2)
2. Design Plans for Pass Road Upgrade [for use in consultation] (4)

Ian Nelson
CHIEF EXECUTIVE OFFICER

Upgrade & Widening of Pass Road

Engagement & Consultation Plan

Overall Background

Purpose

Clarence City Council has grown and is anticipated to continue growing. The suburbs within and surrounding Clarence Plains are part of this change. The recent Clarence Plains Master Plan work and community consultation was looking at how to respond to the growth that has already happened and plan for future needs. A critical connecting road in this area is Pass Road and the concern in the community is that it is no longer fit for purpose and the increased use is now causing safety and maintenance concerns. The community have shared their thoughts regularly on social media, through a petition and during the Clarence Plains consultation.

As well as the perception that the road was not designed for the current volume of cars there are also additional community needs in an increasingly residential area. These other needs are for pedestrian and bike paths and places to safely cross the road. The Glebe Hill shopping centre is a catalyst for the additional considerations. These active passive connective tracks are a key feature of the Clarence Plains Master Plan and an element that was particularly well received across the community.

Response to community concerns to date with Pass Road have included reducing the speed limit, regular monitoring of the road surface to fix recurring potholes and a significant budget (in 2021-22 and 2023-24) to upgrade Pass Road.

Upgrading Pass Road into a safer road for all road users (including people walking and riding bicycles) will require road widening at key locations along Pass Road (between Glebe Hill Road and Connor Place). Previous conversations with property owners were originally initiated as part of development applications and were not well documented. The design of these road widening and upgrade plans was being undertaken by consultants but this is now being progressed by council's internal designers. Updated concept designs for each section have been drafted, which will allow the opportunity for a "fresh start" in relation to the consultation. There is an opportunity to better understand the perspectives and concerns of property owners as this critical project progresses.

Timings

Key milestones include a letter and meeting with property owners who have properties immediately adjacent to Pass Road between Connor Place and Glebe Hill Road. This may include:

- Letter to all property owners with properties between Connor Place and Glebe Hill Road. This is to inform them of the intent, process and the planned conversations. This will provide a clear overview with as much detail as possible, for example, early design plans and what a future conversation will and will not cover.

Meeting with all the property owners likely to be impacted by proposed road widening, either face-to-face or in an online meeting (if the owner prefers or lives elsewhere). Preliminary design plans indicate six properties may be impacted by road widening as part of the Pass Road upgrade. A consultative meeting would follow a standard stakeholder interview guide, including documenting the meeting. The documented discussion will be shared with each property owner to confirm the discussion between them and council and a copy retained on council records. The interview guide could be shared with stakeholders ahead of the meeting to allow them to prepare.

A project website will be created to inform the broader community regarding the project. More active communication on the project will also occur as part of the usual pre-tender and project delivery process.

Documents

Relevant documents to provide to the property owners alongside the meetings, for example:

- Relevant policies or documents;
- Concept design plans; and
- Council decisions.

Providing enough relevant background information helps increase confidence and transparency. Providing clear information will assist in having good conversations where the boundaries of the meeting are known ahead of time.

Engagement/Consultation Plan

This is a plan with a high level of complexity and involves several property owners and the potential need to require private land from the property owners to meet the road upgrade and widening requirements. There is a need for every element of this project to be tightly project managed and well documented.

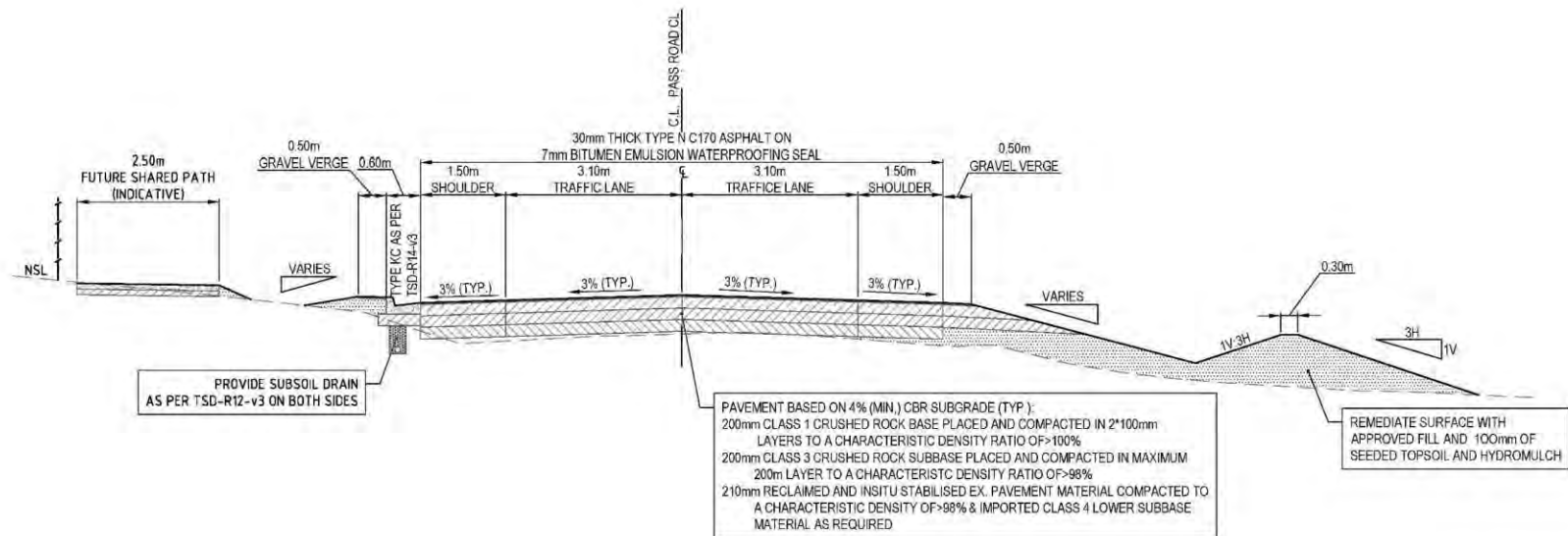
Key elements

There are three key elements to this engagement:

- A) Letter to all property owners.
- B) Property owner interviews. A structured standard stakeholder interview guide will be used for any face-to-face meetings.
- C) Any other activities.

Proposed Road Upgrade

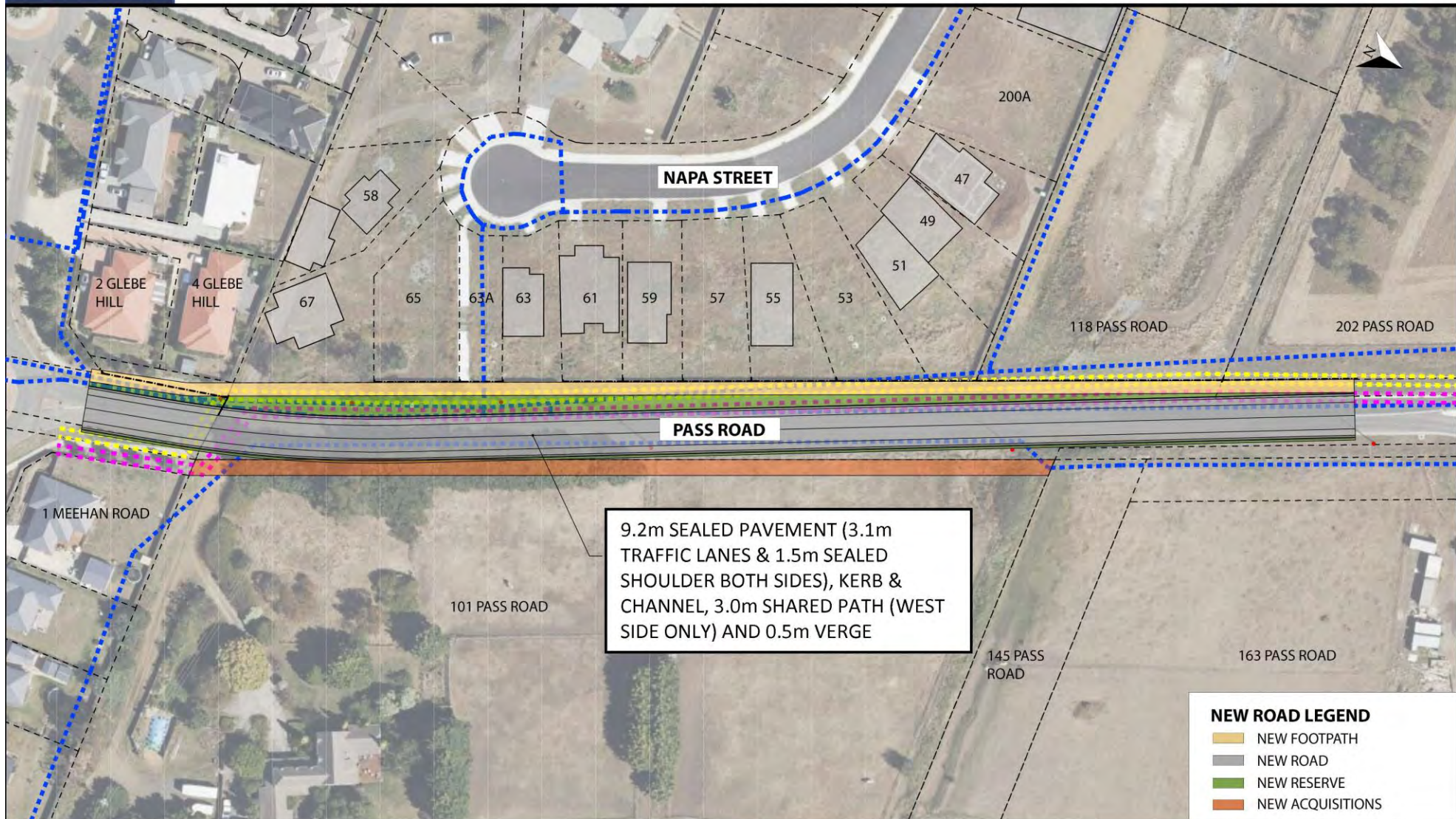
Typical Road Cross Section



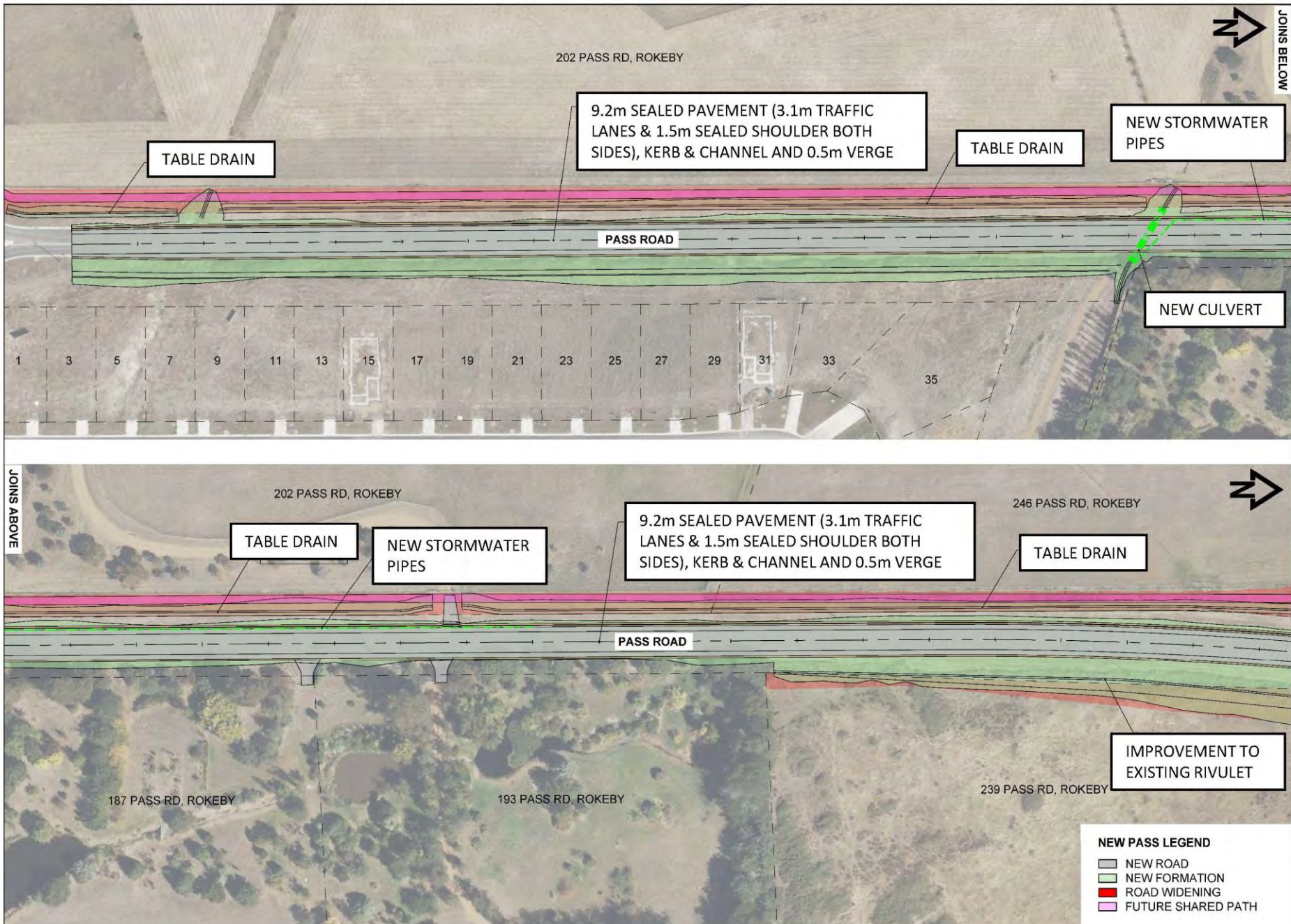
TYPICAL SECTION - PASS ROAD
WINTERBORNE ROAD TO CONNOR PLACE SECTION
SCALE: 1:50(A1)

Proposed Road Upgrade

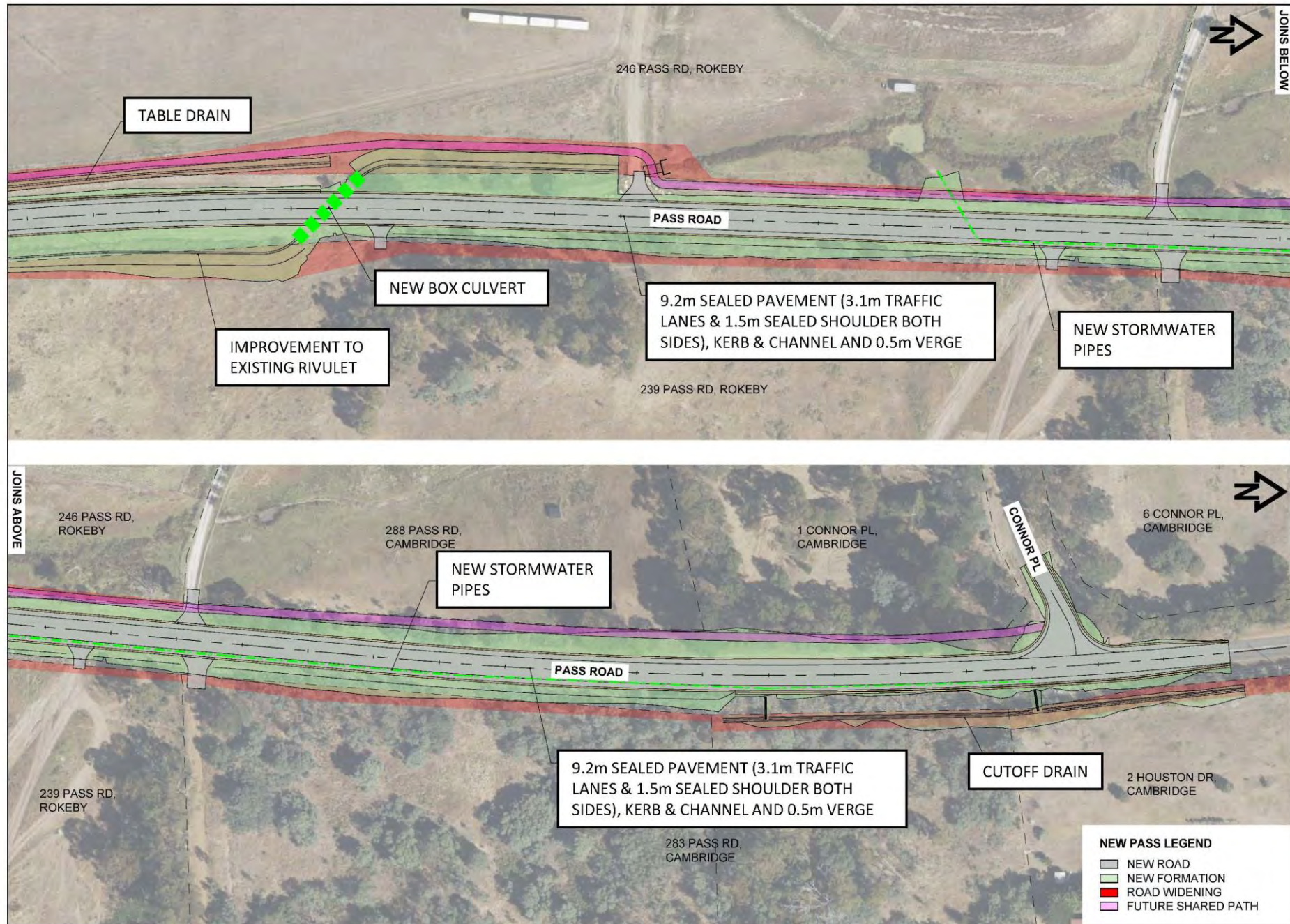
Pass Rd (Glebe Hill Rd to Winterborne Rd)



Pass Rd (Winterborne Rd to Connor Pl)



Pass Rd (Winterborne Rd to Connor Pl)



8.3 FINANCIAL MANAGEMENT

Nil Items.

8.4 GOVERNANCE**8.4.1 QUARTERLY REPORT TO 30 JUNE 2023****EXECUTIVE SUMMARY****PURPOSE**

To consider the General Manager's Quarterly Report covering the period 1 April to 30 June 2023.

RELATION TO EXISTING POLICY/PLANS

The Report uses as its base the Annual Plan adopted by Council and is consistent with Council's adopted Strategic Plan 2021-2031.

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 30 June 2023 be received.

ASSOCIATED REPORT

The Quarterly Report to 30 June 2023 has been provided under separate cover.

Ian Nelson

CHIEF EXECUTIVE OFFICER

9. MOTIONS ON NOTICE**9.1 NOTICE OF MOTION – COUNCILLOR RITCHIE
REVIEW OF 42-DAY DEVELOPMENT APPLICATION TIMEFRAME**

In accordance with Notice given, Cr Ritchie intends to move the following motion:

“That Council:

- (A) Acknowledges the consequences for not meeting the 42-day Statutory Timeframe (42-day rule) are too harsh, including that it can deny representors objecting to a development application the right to be fairly heard and deny elected Councillors the opportunity to represent community concerns in respect to the operation of the planning scheme.
- (B) Authorises the Chief Executive Officer to write to the Local Government Association of Tasmania (LGAT) to request that LGAT convene a reference group from member Councils to develop options and recommendations for the sector to:
 - (i) Assess the impact of the 42-day rule on planning outcomes across local Councils in Tasmania (including both qualitative and quantitative data).
 - (ii) Identify what practices and delegations councils currently utilise to manage the 42-day rule, including the impact of those practices and delegations on representor objections.
 - (iii) Review equivalent ‘deemed approval’ and timeframe extension mechanisms of other jurisdictions to compare with Tasmania’s arrangements.
 - (iv) Based on the findings of points (i), (ii) and (iii) above, identify whether the 42-day rule operates in a manner that is fair and equitable to all parties to a development application; that is both applicants and representors.
 - (v) Recommend changes be implemented to ensure development applications are not required to be resolved under delegation because an applicant refuses to grant an extension of time for an application to be considered at a Council meeting.”

EXPLANATORY NOTES

1. This Notice of Motion follows from the motion passed by Council on 17 July 2023.
2. Council has seen an increasing number of instances that have involved the requirement to finalise development applications under delegation because applicants have refused an extension of time to allow an application to be determined by Council.

3. The operation of the 42-day rule in this circumstance denies representors objecting to a development application the right to be fairly heard and denies elected Councillors the opportunity to represent community concerns in respect to the operation of the planning scheme, particularly where there are a number of objections.
4. The 42-day rule places the entire right to grant an extension of time with the applicant and does not give any other party to the application (Council or representors) any rights at all.
5. There is a clear interest from the community in having contentious development applications debated in a Council forum by elected members, which is not recognised by LUPAA in its current form.
6. The 42-day rule is the shortest timeframe for determination of a development application of any Australian planning jurisdiction. The 42-day rule can be maintained, but consideration needs to be given to options such as allowing for a Development Application to be referred to the next Council meeting after the 42 days expires. This type of provision would negate the need to request time extensions and make the system fair to all participants.
7. It should also be noted that the request for an extension of time is also used in other circumstances, such as when critical referral authorities are taking longer than anticipated or relevant information is outstanding. It means that if applicants are not willing to extend, they will get a deemed approval if Council does not make a decision prior. It puts pressure on the entire system, operates contrary to natural justice principles and significantly adds to the potential for a matter to be appealed at TASCAT.
8. The repeated nature of this delegation and that the provision has the capacity to be misused means that the consequences for not meeting the 42-day timeframe are too harsh.

Land Use Planning and Approvals Act 1993

- 1) The statutory timeframes commence for a **discretionary (s57) or permitted (s58)** planning application once an application is made “valid”. A valid application contains the completed application form (including landowner consent if required), a current copy of titles and plans; and the fees must be paid (there are other steps around the fees that can affect the validity).
 - a) **S51** for what is a valid application; and **s52** for landowner consent.
- 2) When a permit takes effect is described in **s53**.
- 3) Additional information (**s54**) is requested on or before 21 days for a discretionary application, and on or before 14 days for a permitted planning application. The statutory clock pauses until the information is satisfactorily received by the planning authority. There are other timeframe requirements for additional information, but those timeframes do not alter the “clock”. Except, the 21- or 14-day timeframes may be extended if the office is closed on regular business days, eg Council closure over Christmas. If this is extended, the 42-day or 28-day timeframes are not extended without agreement.
- 4) For discretionary planning applications, **s57(3) to s57(5B)** outlines the public exhibition/advertising requirements and the representation requirements. The 14-day public exhibition/advertising timeframe may be extended under certain circumstances, but this must be disclosed on the first day of public exhibition/advertising and cannot be changed once this timeframe has commenced. Importantly, the public exhibition/advertising must be within the 42-day timeframe or the agreed extended timeframe.

The Land Use Planning and Approvals Regulations 2014 set out requirements for advertising discretionary applications but does not include timeframes.
- 5) **S57(6)** outlines the 42-day timeframe, and **s58(2)** outlines the 28-day timeframe for permitted planning application.

- 6) **S57(6A)** allows the planning authority to request an extension of the 42-day timeframe via agreement with the applicant. The applicant reserves the right to not agree to this extension, at which time the application must be determined within the 42-day timeframe (delegation becomes relevant).
- 7) **S58(2A)** is the equivalent section for permitted applications to request an agreement to extend the 28-day timeframe.
- 8) **S57(7) and s58(3)** are the relevant sections that require the planning authority to notify the applicant and any representors (if applicable) of the decision to approve or refuse (if applicable) the application within seven days of that decision.
- 9) **S59** is for the failure to determine an application for a permit. Essentially, if the application is not decided within the required timeframe, **s59** directs the planning authority to notify the applicant and representors within seven days of the end of the required timeframe that the application is deemed approved subject to conditions to be determined by the tribunal. The applicant may then lodge an appeal with the tribunal. This is when the tribunal becomes aware of the failure to determine the application within the required timeframe. If an appeal is lodged, costs can be awarded against the planning authority.
- 10) **S60** is for the timing of determination of compliance with certain permit conditions. This section is quite lengthy and concerns “condition satisfied” process, where the applicant lodges documentation to show how they comply with particular conditions, such as landscape plan condition that requires approval from the relevant department head or manager.
- 11) **S56** sets out the timeframes for minor amendments.

A Ritchie
COUNCILLOR & DEPUTY MAYOR

/ contd on Page 71...

**NOTICE OF MOTION – COUNCILLOR RITCHIE
REVIEW OF 42-DAY DEVELOPMENT APPLICATION TIMEFRAME /contd...**

CHIEF EXECUTIVE OFFICER’S COMMENTS

The operation of the 42-day rule is open to misuse in its current form. It is arguably procedurally unfair in several circumstances.

The requirement to exercise the delegation defaulting approval/refusal decisions to Council Officers, in circumstances where a development application would ordinarily be referred to a Council meeting for decision, appear to be increasing.

Council Officers would prefer development applications with two or more deputations to be referred to elected members for debate and determination in all circumstances. The 42-day rule, as it stands, lacks nuance; it is a blunt legislative tool.

Council Officers would welcome the opportunity to further engage on this issue with Councillors and LGAT.

**9.2 NOTICE OF MOTION – COUNCILLOR GOYNE
REVIEW OF OPTIONS FOR CAT REGISTRATION SYSTEM**

In accordance with Notice given, Cr Goyne intends to move the following motion:

“That Council:

- (A) Authorises the CEO to develop a scoping document that details options for a Clarence Cat Management Policy, based on the Southern Tasmanian Cat Management Strategy, including options for a cat registration system, funding models, by-laws and declared areas associated with protection of natural areas and/or specific area plans;
- (B) Requests that the scoping document be presented to a Council workshop for consideration within the next six months; and
- (C) Authorise the CEO to seek an up-to-date position from the Tasmanian Government on any future reform planned for the catching/rehoming or humane destruction of unclaimed and feral cats in Tasmania, in accordance with the *Cat Management Act 2009* (Tas) and any other applicable legislation.”

EXPLANATORY NOTES

1. The *Cat Management Act 2009* (Tas) and its supporting regulations provide a broad framework for cat management within Tasmania, including requirements related to microchipping, provisions related to authorised persons and cat management facilities.
2. Cats, including feral cats and cats at large are not currently actively managed within Clarence. This is in contrast to dogs, which are subject to legislation requirements, council policies and a registration process that includes payment of fees.
3. There is an opportunity for Clarence City Council to become a proactive leader in cat management within Tasmania. This could have a positive impact on our community through more effective management, reduced stray and feral cats and reduced impact on native wildlife.

4. A scoping document outlining the legislative requirements, opportunities and costs would assist councillors to determine appropriate next steps.

E Goyne
COUNCILLOR

CHIEF EXECUTIVE OFFICER'S COMMENT

There is a carry-over of \$25k at present to fund policy development.

**9.3 NOTICE OF MOTION – COUNCILLOR MULDER
MAYOR’S COMMUNICATION**

In accordance with Notice given, Cr Mulder intends to move the following motion:

“That the *Mayors Communication* provide a record of each Mayoral meeting since the last report and that such a record includes the persons present at that meeting, the topics discussed and the outcomes, if any; limited only to the extent necessary to meet any privacy and/or confidentiality requirements that may apply.”

EXPLANATORY NOTES

1. Since 2020, Council has adopted a practice of disclosing the Mayoral diary.
2. The *Good Governance Guide for Local Government in Tasmania* issued by The Department of Premier and Cabinet identifies, inter alia, that transparency and accountability are key elements of good governance, viz at page 8
 - a. Accountability is a fundamental requirement of good governance. Local Government has an obligation to report, to explain and to be answerable for the consequences of decisions it has made on behalf of the community it represents and serves.
 - b. Good governance is transparent.
3. People should be able to follow and understand the decision-making process. This means that they are clearly able to see how and why a decision was made – what information, advice, and consultation a Council considered and which legislative requirements (when relevant) it followed.
4. At a recent meeting with the Premier, Minister Barnett and the CEO, the Mayor chose to distribute notes of that meeting in addition to mentioning it in his Mayoral Communication of August 7, 2023.

5. The same level of transparency and disclosure was patently absent for a meeting with a major developer, TIPALEA (developers of Glebe Hill) which appeared in the same Mayoral communication without any transparency as to the purpose, agenda, attendees, or outcomes of that meeting.

T Mulder
COUNCILLOR

CHIEF EXECUTIVE OFFICER'S COMMENTS

The confidentiality provisions of the Local Government Act do not specifically apply to the Mayor's Communication. However, it is important to take into consideration confidentiality in a broad sense. There will be occasions where confidentiality must be required or should be applied. For example, confidentiality may be required as part of a contractual undertaking. In this example the Mayor cannot divulge the topic and outcomes of the meeting. There will also be circumstances where confidentiality should be applied; for example, the Mayor meets with a ratepayer to discuss a matter that involves a child. In such a situation the Mayor should apply confidentiality and not divulge the details of the meeting.

The role of the Mayor includes acting as Council's spokesperson and communicating with the community. This needs to be balanced with the general duty to maintain confidentiality and privacy depending on the situation. If the Mayor's diary was made publicly available with meeting attendance and notes included, this may have an impact on the Mayor's ability to have frank and open communications with the community and other stakeholders. Arguably, Council's Privacy Policy and the *Personal Information Protection Act 2004* (Tas) (the PIP Act) also apply to Mayoral communications. Council's Privacy Policy (based on the PIP Act Principles) provides in part that "Sensitive information will be treated with the upmost security and confidentiality and only used for the purpose for which it was collected." The PIP Act applies to local government so by extension, it also applies to councillors. Regard should therefore be given to ensuring that the Mayor does not potentially breach this by publishing sensitive information through the Mayor's Communication. Councillors would be required to adopt the same approach.

There is no statutory requirement for the Mayor to release records of meetings and communications, however, these considerations also apply to any councillor. Any decision, policy or practice related to the "Mayor's Communication" should also consider whether it applies to all councillors and specifically provide that the Mayoral Communications and any other councillor communications must not breach confidentiality and privacy requirements in accordance with legal and policy obligations.

10. COUNCILLORS' QUESTION TIME

A Councillor may ask a question with or without notice at Council Meetings. No debate is permitted on any questions or answers.

10.1 QUESTIONS ON NOTICE

(Seven days before an ordinary Meeting, a Councillor may give written notice to the Chief Executive Officer of a question in respect of which the Councillor seeks an answer at the meeting).

Nil

10.2 ANSWERS TO QUESTIONS ON NOTICE

Nil

10.3 ANSWERS TO QUESTIONS WITHOUT NOTICE – PREVIOUS COUNCIL MEETING

Cr Ritchie

I note on the East Derwent Highway we have quite a number of power poles or Telstra poles that are right in the middle of the footpath. I have taken some photos and received some constituent enquiries because there are actually some sections where the footpath has a pole in the middle of it. It is very difficult for people with a disability or who have mobility issues and are required to have a wheelchair or scooter or even just physically walking, it is very narrow. My question is, is Council aware of this situation and is it anywhere on Council's footpath replacement and maintenance schedule?

ANSWER

(Head of Infrastructure and Natural Assets) We certainly know of the infrastructure, it is our responsibility under the Roads and Jetties Act for the footpath. We are looking in the longer term at replacing some of the bitumen footpath with concrete. Removing or moving services would be very expensive but we would look at that at the time. There are certainly no plans this financial year for the work.

(Further information) When officers are investigating the footpath replacement program for East Derwent Highway, both TasNetworks and TasWater will be liaised with in relation to future plans and initiatives for their infrastructure.

Cr Mulder

1. In regard to the million dollar headworks charge for the Pass Road development could I have some idea of how that is calculated? Is it per block or per resident status which would indicate the number of cars that would be using it and that in comparison I have been informed is the \$8000 per lot headworks charge that we levied on School Road?

ANSWER

(Head of Infrastructure and Natural Assets) Certainly School Road was done looking at the staged development that would occur and contributing certain responsibility to the developer for the usage of that road. In terms of the million dollars, it has already been paid to Council and that was part of the original permit conditions but I will come back to Council through a Weekly Briefing Report on how the working of that was undertaken at that time.

(Further information) The Headworks charge was calculated in accordance with Council's Headworks Policy and included a figure/cost estimate for the pavement upgrade, construction of a new roundabout at Pass Road/ Winterbourne Road and a shared path on one side of the Pass Road. The figure calculated at the time of the permit was \$950,000 and a condition included payment of the sum with applicable CPI Index for the years from the issue of the permit to the payment or carrying out the works. The developer constructed the new roundabout however could not proceed with the remainder of the southern road upgrade works due to the issue with the road widening. Hence the developer paid the headworks rather than undertaking the construction.

2. My question relates to the junction of Shoreline Drive, Clarence Street and Howrah Road. By way of context this Council, about 3 years ago, moved a motion put by Ald Edmunds to arrange for traffic signals at this location. About two years ago we were advised that it qualified for the black spot program and today again I was nearly a head on because I could not see cars coming through that intersection. Could we please be advised what progress has been made on a road that qualifies as a black spot hence it is as a danger. Are we sitting on our hands and when will that situation be resolved?

ANSWER

Taken on notice.

(Further information) At the council meeting on 23 November 2020, Ald Edmunds asked a question without notice asking "...*Since those lights have been put in has there been any review of their operation and if not would council consider putting a red arrow on Clarence Street?*".

The Australian Government provided funds to improve the left-turn slip lane from Howrah Road into Clarence Street slip lane under the 2016-17 blackspot program. The work included:

- Modification of the slip lane from Howrah Road to Clarence Street;
- Footpath and kerb and gutter alterations;
- Relocation of traffic signals with the slip lane;
- Modification of the through traffic lane on Howrah Road into Shoreline Drive; and
- Extension of traffic storage length on the slip lane into Clarence Street from Howrah Road.

In August 2021 Council received a Traffic Assessment and Concept Design Report for the Clarence Street, Shoreline Drive, Howrah Road traffic signals that reviewed the intersection and identified opportunities to resolve pedestrian and vehicle safety for users of this signalised intersection. The report recommended some geometric modifications at the intersection along with some changes to the traffic signal operation. These changes were nominated for funding consideration in the 2022-23 Black Spot program. The request was for \$200,000 through the grant program but this project was not funded due to a poor benefit-cost ratio compared to other nominated projects.

Alternative funding opportunities are being explored, including the project being fully funded by Council.

Cr Hunter

1. Could we have an update on negotiations regarding Skylands? Have these occurred yet and if not are there some scheduled?

ANSWER

(Acting Head of City Planning) I can confirm that we have had the very beginnings of a meeting, we are just trying to clarify all of the issues that need to be considered, so we are at the beginning of the negotiation process.

2. My question relates to traffic assessments in the development application process. Looking back at the traffic assessment that was done for the 22 lot subdivision at 145 Bayview Road I learned that you cannot account for any other future developments that are being planned unless a development application has been submitted. That was news to me so knowing that a traffic assessment can be undertaken a year or two before the development application is lodged other plans might be underway in that time frame and my concerns are that there is a gap when a development application might be lodged when there are other subdivisions being planned but the traffic cannot be accounted for or assessed until that development application is lodged.

ANSWER

Taken on notice.

(Further Information) A TIA considers traffic on the existing road network, as well as the generation from the proposed development. However, it is difficult to justify the inclusion of traffic from a future development as the timing and impact of new developments may not be foreseeable. It is usual practice to consider all potential traffic generation and use when developing structure plans or master plans that consider a broader area.

Cr Hulme

Are we planning at some time in the future to have any update to our website where residents and ratepayers have their own online profiles that they can log into and through which we can have consultation processes where know for certain that the people responding are residents or ratepayers and where they live?

ANSWER

Taken on notice

(Further information) Residents and ratepayers registering for consultation will be considered as part of Council's Engagement Strategy, which will come to council in the new year. Discussions with Councillors will inform this strategy, as will the recently undertaken community research project.

Cr James

1. I refer to the Councillor Statement of Expectations and Issues Resolution Procedures adopted by this Council that relate to conduct towards each other, council employees and community members. In the event that a complaint was made against our Mayor would he have to stand aside from the implementation of the Issues Resolution Procedures?

ANSWER

Taken on notice.

(Further information) The Issues Resolution Procedure provides an informal process that includes three types of process for resolving issues related to elected members. These are 'self-management', 'indirect approach' and 'direct complaint'. The 'indirect approach' procedure includes the following: 'Issues in relation to the Mayor should be raised with the Deputy Mayor'. The 'direct complaint' procedure requires lodgment of an Issues Resolution Form with the Mayor. While the Mayor is required to make an initial assessment of the complaint detailed in the form, if the issue is deemed serious it can be referred to a Responsible Conduct Officer to conduct the determination process outlined in the procedure. There is no provision in the procedure to reallocate the initial assessment of a direct complaint to another person if the complaint is about the Mayor.

2. My question is regarding the current situation with the lease arrangement on Rosny Hill, how far are we advanced in relation to that?

ANSWER

(Chief Executive Officer) We are working on some drafting at the moment. I received an update just today and once that has been finalised through legal review we will bring that to a Council workshop and I anticipate that would be in the next couple of months.

(Question contd) Is it intended that there will be a substantial change in the monetary value associated with the sub lease?

(Mayor) That will form part of the briefing to Council.

Cr Walker

During my time on Council there has been significant investment in the Clarence Aquatic Centre. In light of where Glenorchy City Council finds itself I wonder if you could advise if any significant upgrades are anticipated in the next 5 years?

ANSWER

(Head of Infrastructure and Natural Assets) Certainly we are planning to come to Council with a budget proposal for lifecycle analysis in the next year or two so we can fully inform Council of the likely future of this significant facility but we will take the question on notice to provide a detailed response.

(Further information) Council recently completed the mechanical plant upgrade which has achieved beneficial results with reduced power and water supply costs. The hot water supply line is under investigation. This pipe is within the concrete floor of the pool and some corrosion is evident on the surface. There are no known significant cost elements however in the coming years it is recommended to undertake a life cycle review of the pool to understand the likely future expenditure, with the pool usage.

Cr Goyne

1. On 15 September Council is planning to have a Cultural Awareness training session delivered through Reconciliation Tasmania. Could I ask what cost that is to ratepayers?

ANSWER

(Acting Head of Community and Culture) It is my understanding that the training is run by volunteers so there will be no cost to Council. I will confirm that though.

(Further information) This Cultural Awareness session is being delivered at a cost of \$88 per person and will be covered by the Reconciliation Action Plan budget. It is the fifth session which has been delivered this year by Reconciliation Tasmania to staff (a total of 100 staff have already participated in the training), as we develop our first Reflect Reconciliation Action Plan. Staff have also participated in free 'Understanding the Voice' sessions, delivered by Reconciliation Tasmania Volunteers.

2. As there are over 61,000 residents of Clarence and only just over 2000 of those are recorded as indigenous are we planning to have any cultural awareness to do with the other cultures in Clarence?

ANSWER

Taken on notice.

(Further information) It is planned to test and trial various Multicultural Awareness training options before rolling out to front-line staff as council develops its first Multicultural Plan. An officer from the Community Development team has participated in a Migrant Resource Centre training module, and there is the *Intercultural Communication Training* module delivered by Sherlock and Dutta Consulting which was rolled out to specific teams on 22 August through our People, Safety and Culture work group.

Cr Warren

Yesterday I became aware of a family in Gordons Hill Road that has been suffering racial vilification and vandalism for two years, they have been unable to receive assistance from police as they were unable to provide evidence of who was carrying out the vandalism. Is there anything that Council can do to help because this family has had to spend considerable time and money removing graffiti from their driveway, I know we have a graffiti removal team, I just wonder if there is any way we can provide support as this should not be happening in a civilised society and anything we can do to make that family feel that not everybody in the world is against them would be a good thing to do?

ANSWER

(Mayor) The family wrote to me about a week ago with some photographs of what you have just described. Their correspondence came to me on a Sunday and first thing on the Monday morning we engaged with Inspector Keane's office [at Bellerive Police Station]. My understanding is we did not have any record here because they had been engaging with the police. The response from Tas Police has been very good from a community liaison perspective and I have written to the family. That sort of behaviour is not tolerated in Clarence, it is an inclusive community as you rightly say, we have zero tolerance of that sort of behaviour. We are working closely with the police but unless there is someone caught in the act there is not much the police are able to do. We are aware of the situation, we are doing all that we can and Tas Police is genuinely committed to protecting this family and let everyone know they are welcome here in Clarence.

(Chief Executive Officer) That aligns with what my understanding is. The police reached out last week and are seeking to meet with the family directly but I have not had an update as yet.

(Question contd) That is good to hear but is there anything that Council can do to assist with the removal of graffiti and the damage?

ANSWER

Taken on notice.

(Further information) It is understood that the offensive graffiti has been removed but Council officers are investigating whether there is scope to develop guidelines to facilitate the prompt removal of graffiti from privately owned property, within the Clarence Municipality, where the graffiti falls within the definition of *hate speech**, and is visible to the general public (e.g. Public facing fence, wall or other infrastructure), with owner consent.

TasPol have spoken with the residents concerned and taken a report in relation to other matters that have occurred and have generated an intelligence report outlining what has been happening. They will give the area some increased attention. It has also been noted that there have been other random incidents of racist graffiti in and around the Bellerive/Rosny/Warrane area. These do not appear to be targeted to any particular persons but are of a similar nature to that the has occurred at the property in Gordons Hill Road. Reports have been submitted in relation to these matters also.

Council officers are also working on longer term development of some programs such as presenting a 'Clarence Talks' session on multiculturalism – possibly at the Warrane Mornington Neighbourhood Centre, in response to these particular incidences being within that area, as well contacting the Migrant Resource Centre and Multicultural Council of Tasmania to determine if there are education programs that can be delivered in schools.

Through Council's events program we deliver the highly successful Story Festival annually. The Story Festival aims to facilitate meaningful cultural exchange and skill sharing in a format that allows for true interpersonal connection. Story Festival-goers form an integral part of the festival experience by actively participating with and engaging in intercultural skill sharing, cultural exchange, and story-telling via small workshops, communal meals, and intimate events.

**UN definition: In common language, "hate speech" refers to offensive discourse targeting a group or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace*

Cr Chong

Do we have an update on Stadiums Tas?

ANSWER

(Mayor) We had one meeting with the Chair Mr Michael Malouf AM before he had a board appointed, he now has a board but we are yet to meet with them. When that does happen I will certainly keep colleagues and the community informed.

Cr Kennedy

I have a question for public record more than anything else, can we have an explanation as to why Harmony Market has ceased operation at the moment?

ANSWER

(Acting Head of City Planning) The Harmony Market was provided with a [temporary] permit in 2019, since that time that permit has expired. We have been contacted by Harmony Market operators in order to extend that permit but unfortunately it is so far expired it is not able to be extended. We are yet to receive an application for a new permit.

(Question contd) Are there any other markets operating in our city that might be in a similar situation?

ANSWER

(Acting Head of City Planning) I believe there may be markets in that situation that are yet to come to our attention. I think there may be an issue with the Kangaroo Bay market, I do not have the detail on that at this point.

(Chief Executive Officer) The Kangaroo Bay Produce Market has a development permit to operate from Kangaroo Bay. They have been discussing for some time now to relocate to the Bellerive boardwalk. Those negotiations are ongoing but have not been able to be successfully resolved as there is a range of issues that are being raised by the market operator and I have been updating the Mayor on that.

10.4 QUESTIONS WITHOUT NOTICE

A Councillor may ask a Question without Notice of the Chairman or another Councillor or the Chief Executive Officer. 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 be recorded in the following Agenda.

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, a Councillor or the Chief Executive Officer may decline to answer a question without notice.

11. CLOSED MEETING

Regulation 15 of the Local Government (Meetings Procedures) Regulations 2015 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 2015.

11.1 APPLICATIONS FOR LEAVE OF ABSENCE

11.2 JOINT AUTHORITY MATTER

11.3 LEGAL ACTION – AUTHORITY FOR CHIEF EXECUTIVE OFFICER

11.4 CONFIDENTIAL LEGAL MATTER

11.5 CONSENT AGREEMENT - PDPLANPMTD-2022/029919 – 4 LINCOLN STREET, LINDISFARNE – THREE MULTIPLE DWELLINGS

These reports have been listed in the Closed Meeting section of the Council agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulation 2015 as the detail covered in the report relates to:

- information of a personal and confidential nature or information provided to the council on the condition it is kept confidential;
- applications by Councillors for a Leave of Absence; and
- matters relating to actual or possible litigation taken, or to be taken, by or involving the council.

Note: The decision to move into Closed Meeting requires an absolute majority of Council.

The content of reports and details of the Council decisions in respect to items listed in “Closed Meeting” are to be kept “confidential” and are not to be communicated, reproduced or published unless authorised by the 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”.