



SORELL PLANNING AUTHORITY (SPA) AGENDA

14 NOVEMBER 2023

COUNCIL CHAMBERS

COMMUNITY ADMINISTRATION CENTRE (CAC)

NOTICE OF MEETING

Notice is hereby given that the next meeting of the Sorell Planning Authority (SPA) will be held at the Community Administration Centre (CAC), 47 Cole Street, Sorell on Tuesday, 14 November 2023 commencing at 4:30 pm.

C E R T I F I C A T I O N

I, Robert Higgins, General Manager of the Sorell Council, hereby certify that in accordance with Section 65 of the *Local Government Act 1993*, the reports in this Agenda have been prepared by persons who have the qualifications and experience necessary to give such advice. Information and recommendations or such advice was obtained and taken into account in providing general advice contained within the Agenda.

ROBERT HIGGINS
GENERAL MANAGER
9 NOVEMBER 2023



AGENDA

FOR THE SORELL PLANNING AUTHORITY (SPA) MEETING TO BE HELD AT THE COMMUNITY ADMINISTRATION CENTRE (CAC), 47 COLE STREET, SORELL ON TUESDAY 14 NOVEMBER 2023

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1.0 ATTENDANCE

^

Chairperson Mayor Vincent
Deputy Mayor C Wooley
Councillor M Brown
Councillor S Campbell
Councillor J Gatehouse
Councillor M Miro Quesada Le Roux
Councillor M Reed
Councillor N Reynolds
Councillor C Torenus
Robert Higgins, General Manager

2.0 APOLOGIES

3.0 CONFIRMATION OF THE MINUTES OF 7 NOVEMBER 2023

RECOMMENDATION

“That the Minutes of the Sorell Planning Authority (SPA) Meeting held on 7 November 2023 be confirmed.”

4.0 DECLARATIONS OF PECUNIARY INTEREST



In considering the following land use planning matters the Sorell Planning Authority intends to act as a planning authority under the *Land Use Planning and Approvals Act 1993*.

5.0 LAND USE PLANNING

5.1 DEVELOPMENT APPLICATION NO. DA 2023 / 207 - 1

Applicant:	Matt Kennedy Drafting And Design
Proposal:	Two Multiple Dwellings
Site Address:	10 Vancouver Street, Midway Point (CT76148/44)
Planning Scheme:	<i>Tasmanian Planning Scheme (Sorell LPS)</i>
Application Status	Discretionary
Relevant Legislation:	Section 57 of the <i>Land Use Planning and Approvals Act 1993 (LUPAA)</i>
Reason for SPA meeting:	More than one representation received.

Relevant Zone:	General Residential Zone
Proposed Use:	Multiple Dwellings
Applicable Overlay(s):	C16.0 Safeguarding of Airports Code (Obstacle Limitation Area)
Applicable Codes(s):	C2.0 Parking and Sustainable Transport Code C3.0 Road and Railway Assets Code
Applicable SAP(s)	SOR-S1.0 Dispersive Soils SAP
Valid Application Date:	09 August 2023
Decision Due:	17 November 2023
Discretion(s):	1 Frontage Setback 2 Building Envelope 3 Privacy 4 Dispersive Soils
Representation(s):	Three

RECOMMENDATION

That pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* Council resolve that Planning Application 5.2023.207.1 for Two Multiple Dwellings at 10 Vancouver Street, Midway Point (CT76148/44) be approved, subject to the following conditions:

1. Development shall generally be in accordance with the endorsed plans submitted on 1 & 9 August 2023 & 27 September 2023 except as may be amended by the conditions of this permit.
2. Prior to commencement of any works onsite for the Multiple Dwelling development, the Boundary Adjustment under SA7.2023.1.1 and all required conditions of that permit must be completed. CT76148/44 must have an area no less than 650m².



3. Prior to commencement of any works onsite for the Multiple Dwelling development a Dispersive Soils Report is to be undertaken and if dispersive soils are found onsite any recommendations must be implemented.
4. Landscape plan through a combination of trees, shrubs and lawn, must:
 - a) be provided and maintained on the land to improve the appearance of areas used for car parking and vehicular access & soften the appearance of, and partially screen, the bulk of buildings;
 - b) be described in a landscape plan submitted to the General Manager prior to the commencement of the works. If satisfactory, the landscape plan will be endorsed and will form part of the permit; and
 - c) be implemented in accordance with the landscape plan no later than one month after the completion of works unless otherwise agreed to in writing by the General Manager.
5. The north facing kitchen window of dwelling unit 2 must have a minimum sill height of 1.7m above finished upper floor level or be of obscure glass. This change must be reflected in drawings submitted to Council for compliance with the Building Act 2016.
6. Common water, stormwater, sewer, electrical and communication services must be installed in one location and be in the common area on any strata plan.
7. Prior to first use, each unit must be provided with private open space that consists of:
 - a) an area no less than 24m² in size that is:
 - (i) formed with a gradient of no more than 1 in 10;
 - (ii) provided, where required, with steps or other means of access to the adjoining habitable room located outside the 24m² area;
 - (iii) grassed, paved or decked and may include bbq, seating or play equipment;
 - (iv) free of any infrastructure pits, clothes lines, garden equipment storage or
 - (v) equivalent infrastructure or amenities not directly related to recreation purpose; and
 - b) a total area of no less than 60m² (which is inclusive of the 24m²) required by (a) that is:
 - (i) enclosed by a 1.5m high fence (excluding the frontage);
 - (ii) provided with an external clothes line accessible by a minimum 1m wide uninterrupted path from the external door that is the shortest route from the laundry to the clothes line;
 - (iii) free of pits for common water, stormwater, sewer, electrical and communication services;

Engineering Conditions:

8. Prior to any works commencing within the road reservation, a Vehicular Crossing and Associated Works Application (available on Council's website) must be submitted with an associated permit granted for the works.
9. Prior to commencement of Use, the approved parking area including areas set aside for vehicle parking and manoeuvring must:
 - a) be constructed in accordance with the plans (19 sheets, including cover page) prepared by Matt Kennedy Drafting & Design titled 10 Vancouver St, Midway Point Job No. 2308 last dated 27/09/2023;
 - b) be constructed to the approved pavement design(s);
 - c) have a formed concrete kerb along the length of the circulation roadway's edge to contain stormwater runoff, where required;
 - d) have all infrastructure located within (such as meter lids, grated pits, trench/strip drains and pipe trenches) constructed to the appropriate trafficable standard; and
 - e) have stormwater infrastructure installed where required to drain all run-off generated to a legal point of discharge such that flows are not concentrated onto adjoining properties.
10. Prior to commencement of Use, at least Five (5) off-street car parking spaces must be provided on site and must be available for car parking at all times, with:
 - a) one (1) car parking space dedicated for visitors;
 - b) Bay dimensions no less than 2.4m wide and 5.4m long, with an additional 0.3m clearance from any nearby wall, fence, or other structure;
 - c) a maximum bay gradient of 1 in 20 (5%) measured parallel to the angle of parking, and 1 in 16 (6.25%) in any other direction;
 - d) be delineated by line marking or other clear physical means; and
 - e) have appropriate signposting for the reservation of the visitor car parking space.
11. Prior to commencement of Use, all stormwater from the developed site must be collected via the private stormwater system approved by this permit and discharged via gravity to the Public Stormwater System.
12. Prior to commencement of Use, the private stormwater system designed by Matt Kennedy Drafting & Design must be constructed as detailed in the plan titled Site Plumbing Plan Job No. 2308 DWG A.04 last dated 27/09/2023, and maintained thereafter by future owners.
13. Prior to Council sealing any strata plan for the subject site, all Development Engineering conditions in this permit must be satisfied.

14. All works determined as required by this permit, shall be performed and completed by the developer, at the developer's cost and expense, to a standard that is to the absolute satisfaction of Council's General Manager.

TasWater Conditions:

15. All requirements of TasWater Submission to Planning Authority Notice Referenced TWDA 2023/01034-SOR dated 16/08/2023.

NOTE: THE FOLLOWING ADVICE APPLIES TO THIS PERMIT

- Requirements for works or other outcomes to the satisfaction of the General Manager will be delegated to the appropriate officer for determination.
- All engineering related queries should be directed to the Development Engineer. The Council General Manager has delegated functions relevant to the permit to the Development Engineer.
- A Vehicular Crossing Permit can be obtained by completing the Vehicular Crossing and Associated Works Application form available at www.sorell.tas.gov.au/services/engineering
- The permit does not take effect until 15 days after the date that this permit was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the *Land Use Planning and Approvals Act 1993*.
- This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- This planning approval shall lapse at the expiration of two (2) years from the date on which this permit became valid, if the permit is not substantially commenced. At the discretion of the Planning Authority, the expiration date may be extended for a further two (2) years on two separate occasions for a total of six (6) years. Once lapsed, a new application will be required.
- Any changes to the use or development approved, may be deemed as substantially in accordance with the permit or may first require either a formal amendment to this permit or a new permit.

You may appeal against the above conditions, any such appeal must be lodged within fourteen (14) days of service of this notice to TASCAT, 38 Barrack Street Hobart 7000 Ph: (03) 6165 6790 or email resourceplanning@tascat.tas.gov.au



Executive Summary

Application is made for Two Multiple Dwellings at 10 Vancouver Street, Midway Point. This property is zoned General Residential and is located near the centre of Midway Point with Vancouver Street adjacent to Flyway Park.

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

Relevance to Council Plans & Policies

Strategic Plan 2019-2029	Objective 1: To Facilitate Regional Growth Objective 2: Responsible Stewardship and a Sustainable Organisation Objective 3: To Ensure a Liveable and Inclusive Community
Asset Management Strategy 2018	The proposal has no significant implications for asset management.
Risk Management Strategy 2018	In its capacity as a Planning Authority, Council must determine this application. Due diligence has been exercised in preparing this report and there are no predicted risks from a determination of this application.
Financial Implications	No financial implications are anticipated unless the decision is appealed to TASCAT. In such instances, legal counsel is typically required.
Open Space Strategy 2020 and Public Open Space Policy	The proposal has no significant implications for open space management.
Enforcement Policy	Not applicable.
Environmental Sustainability Policy	There are no environmental implications associated with the proposal.

Legislation

- This report details the reasons for the officer recommendation.
- Broadly, the planning authority can either adopt or change the recommendation by adding, modifying or removing conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.

- The planning authority has a specific role in LUPAA. As noted by the Tribunal:

The role of the Council in relation to planning matters is, in very broad terms, to uphold its planning scheme. In that context it is in a sense, blind to everything but the terms of the Scheme. It cannot put economic advantage or perceived community benefits over the terms of the Scheme. And in the context of enforcement proceedings unless expressly authorised to do so, it may not take any approach which is inconsistent with the terms of its Scheme.

Planning Scheme Operation – for Zones, Codes and site specific provisions

- Clause 5.6.1 requires that each applicable standard is complied with if an application is to be approved.
- Clause 5.6.2, in turn, outlines that an applicable standard is any standard that deals with a matter that could affect, or could be affected by, the proposal.
- A standard can be met by either complying with an acceptable solution or satisfying the performance criteria, which are equally valid ways to comply with the standard.
- An acceptable solution will specify a measurable outcome. Performance criteria require judgement as to whether or not the proposal reasonably satisfies the criteria.
- Clause 6.10 outlines the matters that must be considered by a planning authority in determining applications. Clause 6.11 outlines the type of conditions and restrictions that can be specified in a conditional approval.

Referrals

Agency / Dept.	Referred?	Response?	Conditions?	Comments
Development Engineering	Yes	Yes	Yes	Nil
Environmental Health	Yes	Yes	Nil	Nil
Plumbing	Yes	Yes	Nil	Nil
NRM	No			
TasWater	Yes	Yes	Yes	Nil
TasNetworks	Yes	Yes	Nil	Nil
State Growth	No			

Report

Description of Proposal

Application is made for two multiple dwellings. Each dwelling is two storeys and contains a double garage, two bedrooms, bathroom, laundry and entry on the lower level with master bedroom, study, kitchen, living and dining area on the upper level.

Unit 1 has a footprint of 102.2m² whilst Unit 2 is 110.7m². The height of Unit 1 is 6.8m measured from natural ground level to peak of roof. Unit 2 measures 7.191m from natural ground level to peak of roof. A mixture of cladding textures is used for both dwelling units with the lower floor areas being Island Block brick "Pearl Eco" with the upper storey in James Hardie Lightweight cladding oblique and Colorbond roof in Surfmist.

It is also noted that both dwelling units have garden boxes at the front of each building with timber screens either at the front or side to provide for visual screening and added feature.

Description of Site

The site area (once the boundary adjustment is formalized) will consist of approximately 651m². The property is located near the centre of Midway Point with the end of Vancouver Street which is adjacent to Flyway Park.

The site falls to the south therefore requiring a cut (of approximately 1m+) to the rear of the buildings along the eastern boundary. This will set the buildings down on the lot. The site is vacant and fenced on both sides and rear boundaries. Adjoining land consists of developed residential lots with a mixture of single, double and split level dwellings situated along both Vancouver Street and adjacent Honolulu Street.

The site is fully serviced. Vancouver Street is a sealed public road with a footpath on the road verge which leads to Flyway Park. The site has an existing access on the lower side of the lot which will require as part of the development a new widened access point. Culverts, drainage, sewer, water and other infrastructure (NBN & Power) is available to the site.



Figure 1. Subject site aerial imagery – source: Council’s SSA Imagery Oct 2023.



Figure 2 – Subject site street view – source: Google Street View Imagery 2023

Planning Assessment

Zone 8.0 General Residential

Applicable zone standards		
Clause	Matter	Complies with acceptable solution
8.4.1 A1	Density	Yes, the site area per dwelling is 325.5m ²
8.4.2 A1	Frontage setback	No, bedroom 2 of dwelling unit 1 setback 3.612m from frontage boundary, below the 4.5m acceptable solution.
8.4.2 A2	Garage setback	Yes, garage of Dwelling Unit 1 is the closest to the frontage boundary and meets the setback.
8.4.2 A3	Building envelope and setback	No, the roof line of dwelling unit 2 is outside of the building envelope as shown on the west elevation. The side setback of 1.5m is complied with and height of both buildings is complied with.
8.4.3 A1	Site coverage and private open space	Yes, as the site coverage of 32% which is less than the 50% requirement (roof area excluding eaves) and each dwelling has the required minimum 60m ² of private open space area.
8.4.3 A2	Private open space	Yes, each dwelling unit has the required minimum 24m ² private open space with a minimum 4m width and is not located in the frontage.
8.4.4 A1	Sunlight to Private Open Spaces	Yes, private open space areas receive adequate sunlight.
8.4.5 A1	Garage Openings	Yes, garage openings face internally and not to primary frontage.
8.4.6 A1	Privacy – Balcony, deck, roof terrace etc.	Yes, Dwelling Unit 1 upper deck is setback from west side boundary 5.506m. Dwelling Unit 2 upper deck is setback 4m from rear boundary and 4m from west side boundary.
8.4.6 A2	Privacy – Windows or glazed doors	Dwelling Unit 1 upper floor level is setback from both side boundaries greater than 3m. Dwelling Unit 2 setback from east side boundary 2.056m however there are no windows in the upper story (kitchen or WIP) facing to the east boundary. Upper story windows for the ensuite and study have been setback greater than 3m from east side boundary, therefore complies. Dwelling Unit 2 setback from northern rear boundary 2.012m with highlight windows shown in living/dining area which have the sill height of 1.7m from finished floor level which complies. A window in upper floor kitchen area is full length window, this window is setback between than 3.1m to 3.308m from rear boundary as the dwelling unit has been orientated on the lot to achieve a larger separation therefore requires assessment under performance criteria.

		Internally, dwelling unit 2 upper storey does not have any windows facing to dwelling unit 1, it is noted dwelling unit 1 windows face to a blank wall.
8.4.6 A3	Shared Driveway, separation	Yes, shared driveway and parking spaces have separation distances from glazed doors and windows.
8.4.7 A1	Front Fences	No front fence proposed
8.4.8 A1	Waste Storage	Waste storage common area has been allocate.

Performance Criteria Assessment 1 – Clause 8.4.2 P1 – Frontage Setback

P1 A dwelling must have a setback from a frontage that is compatible with the streetscape, having regard to any topographical constraints.

Unit 1 is setback 3.612m from frontage. The property has in effect two frontage boundaries with only a slight corner of dwelling unit 1 protruding into the frontage setback by approximately .800mm+-. This protrusion is not considered excessive as there is sufficient separation between the frontage boundary and building line providing access and manoeuvring within the site. It is noted that protrusions that extend not more than 0.9m into the frontage setback are considered acceptable. Separation is also achieved by a visitor car space between frontage and dwelling unit 1 building. This is compatible with the streetscape as noted by others within the street, in particular number 2 Vancouver where the building is setback 2m+ from Vancouver Street boundary and number 9 Vancouver where the frontage of the dwelling is setback 1.8m from frontage boundary. It is considered that the performance criteria is satisfied.

Performance Criteria Assessment 2 – Clause 8.4.2 P3 – Building Envelope

P3 The siting and scale of a dwelling must:

- (a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:*
 - (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;*
 - (ii) overshadowing the private open space of a dwelling on an adjoining property;*
 - (iii) overshadowing of an adjoining vacant property; and*
 - (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;*
- (b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and*
- (c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:*
 - (i) an adjoining property; or*
 - (ii) another dwelling on the same site*

The performance criteria is applicable as the building envelope for Unit 2 from rear boundary is not achieved. There is a drainage easement 1.52m wide existing along the rear boundary. However, the scale of the intrusion is not excessive as the location of the building has been orientated on the lot to achieve maximum setback possible with the front of the building roofed area of dwelling unit 2 only as the protrusion into the envelope.

It is considered that there is sufficient separation between the building and rear and side boundaries. The main impact if any, would be overshadowing however shadow diagrams clearly show minimal impact to either private open space areas or adjoining dwellings or solar installations. The separation distance to rear boundary is compatible with those within the surrounding area as noted by others within the street, in particular rear setback of buildings already established on 8, 14, 9 & 21 Honolulu Street & 6 Vancouver Street. It is considered that the performance criteria is satisfied.

Performance Criteria Assessment 3 – Clause 8.4.6 A2 – Privacy - Windows

The performance criteria is applicable as the kitchen window in upper floor area of dwelling unit 2 is full length window, this window is setback between than 3.1m to 3.308m from rear boundary as the dwelling unit has been orientated on the lot to achieve maximum separation from the boundary. To achieve privacy requirements of overlooking into the adjoining property, a condition has been placed on the permit for this window to have a minimum sill height of 1.7m above finished floor level or alternatively, obscure glass. It is considered that the performance criteria is satisfied.

Code

Parking and Sustainable Transport Code

Applicable Code standards		
Clause	Matter	Complies with acceptable solution?
C2.5.1 A1	Numbers	Yes, as five car parking spaces and one visitor space is provided.
C2.6.1 A1	Construction	Yes, as car parking areas are sealed and drained.
C2.6.2 A1	Design	Yes, as car parking areas have compliant gradients and dimensions to achieve forward entry and exit and to comply with Australian Standard AS 2890.
C2.6.3 A1	Access	Yes, as one access is provided.

Road and Railway Assets Code

Applicable Code standards		
Clause	Matter	Complies with acceptable solution?
C3.5.1 A1.4	Traffic generation	Yes, as traffic generation does not exceed 40 vehicle movements per day.

Safeguarding of Airports Code

The development does not exceed the airport obstacle limitation area and is therefore exempt.

Dispersive Soils Specific Area Plan

Applicable Code standards		
Clause	Matter	Complies with acceptable solution?
SOR-S1.7.1 A1	Dispersive soils	No, as works exceed 100m ² .

Performance Criteria Assessment 4 – Clause SOR-S1.7.1 P1 Dispersive soils

Buildings and works must be designed, sited and constructed to minimise the risks associated with dispersive soil to property and the environment, having regard to:

- (a) the dispersive potential of soils in the vicinity of proposed buildings, driveways, services and the development area generally;*
- (b) the potential of the development to affect or be affected by erosion, including gully and tunnel erosion;*
- (c) the dispersive potential of soils in the vicinity of water drainage lines, infiltration areas and trenches, water storages, ponds, dams and disposal areas;*
- (d) the level of risk and potential consequences for property and the environment from potential erosion, including gully and tunnel erosion;*
- (e) management measures that would reduce risk to an acceptable level; and*
- (f) the advice contained in a dispersive soil management plan*

As the property is subject to dispersive soils code, a condition has been placed on the permit for a Dispersive Soils Report to be undertaken and if found to be dispersive soils onsite a management plan must be implemented.

Representations

Clause 6.10.1 of the planning scheme requires the consideration of any representation received but ‘only insofar as each such matter is relevant to the particular discretion being exercised’.



Three representations have been received, which are addressed in the following table.

Issue	Relevant Clause	Response
Concerned about privacy (overlooking)	8.4.6 A1 & A2	As noted, the deck/s are compliant with the acceptable solution standards. Windows are compliant with the acceptable solution standards with the exception of a condition to increase in sill height of kitchen window in dwelling unit 2 for sill height to be 1.7m or installation of obscure glass which has been recommended for any permit granted.
The size is too large and outside the building footprint on the ground and in height.	8.4.2	The proposed scale and design is considered typical of dwelling developments of both the general residential zone and within the surrounding midway point area. Similar dwelling buildings around the site are either two storey or split level. The proposed buildings comply with acceptable solution for height requirements, density and site coverage of the standards.
Reduction in sunlight to habitable rooms		Shadow diagrams provided indicate shadowing which will occur on the shortest day of the year being 21 June and have been provided for the duration of the day from 9am to 3pm. The impact of the shadowing to the dwelling (habitable rooms) to the west will occur for 1 hour between 9am and 10am with shadowing to only the side of the dwelling gone by 12 mid-day as the sun will be at its highest/central point. It is noted that the side of the dwelling contains a shed and driveway area with the rear (northern) end of the property used for open space activities. There will be no impact of shadowing to neighbouring properties to the north or east of the site.
Overlooking/Lack of privacy	8.4.6 A1 & A2	Development standards require setbacks requirements for decks and windows from boundaries. Setbacks for the deck/s for both dwelling units comply and meet the acceptable solution, windows comply with the acceptable solution with the exception of the kitchen window in dwelling unit 2 which will be conditioned to comply with the acceptable solution.
Car Parking/ Traffic	2.5.1 A1	Table C2.1 of the Parking and sustainable transport code requires 2 x parking spaces per 2 or more bedroom dwelling with one visitor space

		which has also been provided, therefore satisfies the acceptable solution.
Noise		Not a planning matter or consideration under the Tasmanian Planning Scheme.
Unit 1 and 2 do not fit within the required building envelope. They both grossly exceed the already generous building parcel from every view in height and length.....	8.4.2 A3	Both buildings comply with building envelope setback with the exception of Dwelling Unit 2 which relies on performance criteria for building envelope. There is no designated rear boundary setback requirement with the development standard allowing a setback of 1.5m or less than 1.5m, however, given the easement to rear boundary, dwelling unit 2 has been positioned 2.012m from rear boundary.
Dwelling Unit 1 does not meet setback from frontage boundary	8.4.2 A1	As outlined above the setback from frontage boundary of 3.612m is considered acceptable. Setback from frontage boundary less than the required 4.5m is already established with surrounding properties, together with allowable protrusions of .900mm.
Overshadowing	8.4.2 A3	Shadow diagrams have been provided.
No turn-around point at the end of Vancouver Street	N/A	Not relevant to this proposal. Onsite parking spaces and access have been provided.
Dwellings do not meet building envelope....., development is too big for the lot.....	8.4.2 A3	Building envelope setback, site coverage and development standards have been addressed. The development of double storey buildings is compatible with surrounding dwellings in the street and adjoining streets being either split level or double storey.
A1 8.4.2 – Front setback. The proposed dwelling is not compatible with current streetscape on Vancouver Street. The majority of existing dwellings comply with frontage setback.	8.4.2 A1	As outlined above. Established dwellings in the area have setback from frontage boundary less than 4.5m in which the character of the area has already been established.
8.4.2 A3	8.4.3	Already addressed above

8.4.3 A1	8.4.3 A1	<ul style="list-style-type: none"> Both dwelling unit areas have POS at ground level which meets the acceptable solution and exceeds 60m² requirement. Dwelling Unit 1 POS area of 128.53m² Dwelling Unit 2 POS area of 115.49m². <p>Each unit also has an allocated 24m² area which is primarily located for open space activities which meets the acceptable solution of the standard.</p>
8.4.6 A3	8.4.6 A3	The visitor parking space allocated adjacent to dwelling unit 1 is acceptable as the lower level of dwelling unit 1 habitable bedroom 1 and bedroom 2 do not have windows or glazed doors adjacent to this parking space, therefore acceptable solution is met.
Drainage Easement		The drainage easement to the rear of the property contains TasWater Infrastructure, not for Council consideration.

Conclusion

The application is considered to comply or address each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

Jenny Richmond
PLANNING OFFICER

Attachments:
 Proposal plans
 Representations x 3

SITE INFORMATION

Title Reference: 76148/143 & 76148/144
 Property ID: 3138478
 Council: Sorrell
 Planning Zone: General Residential
 Covenants: N/A

General Overlays: Dispersive Soils Specific Area Plan
 Code Overlays: Safeguarding of Airports Code
 Soil Classification: **Class P**
 Bushfire Attack Level (BAL): N/A

Wind Classification: N3
 Topography: T2
 Shielding: FS
 Climate zone: 7

NCC Building Class: 1a
 Land area: 651m²

Proposed Unit 1 Building Area (incl.Garage): 183.94m²
 Proposed Unit 1 Deck Area: 12.11m²
 Proposed Unit 2 Building Area (incl.Garage): 182.26m²
 Proposed Unit 2 Deck Area: 10.20m²

Sorell Council
 Development Application Response to Request for Information - 10 Vancouver Street, Midway Point.pdf
 Plans Reference: P4
 Date Received: 27/09/2023

WIND ROSE
 Wind Rose
 Annual (5 Year Average)

All dimensions in millimetres unless noted otherwise.
PRINT ALL DRAWINGS IN COLOUR

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bdaa
BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA

CLIENT: **JACKSON**
 ADDRESS: **10 VANCOUVER ST, MIDWAY POINT**

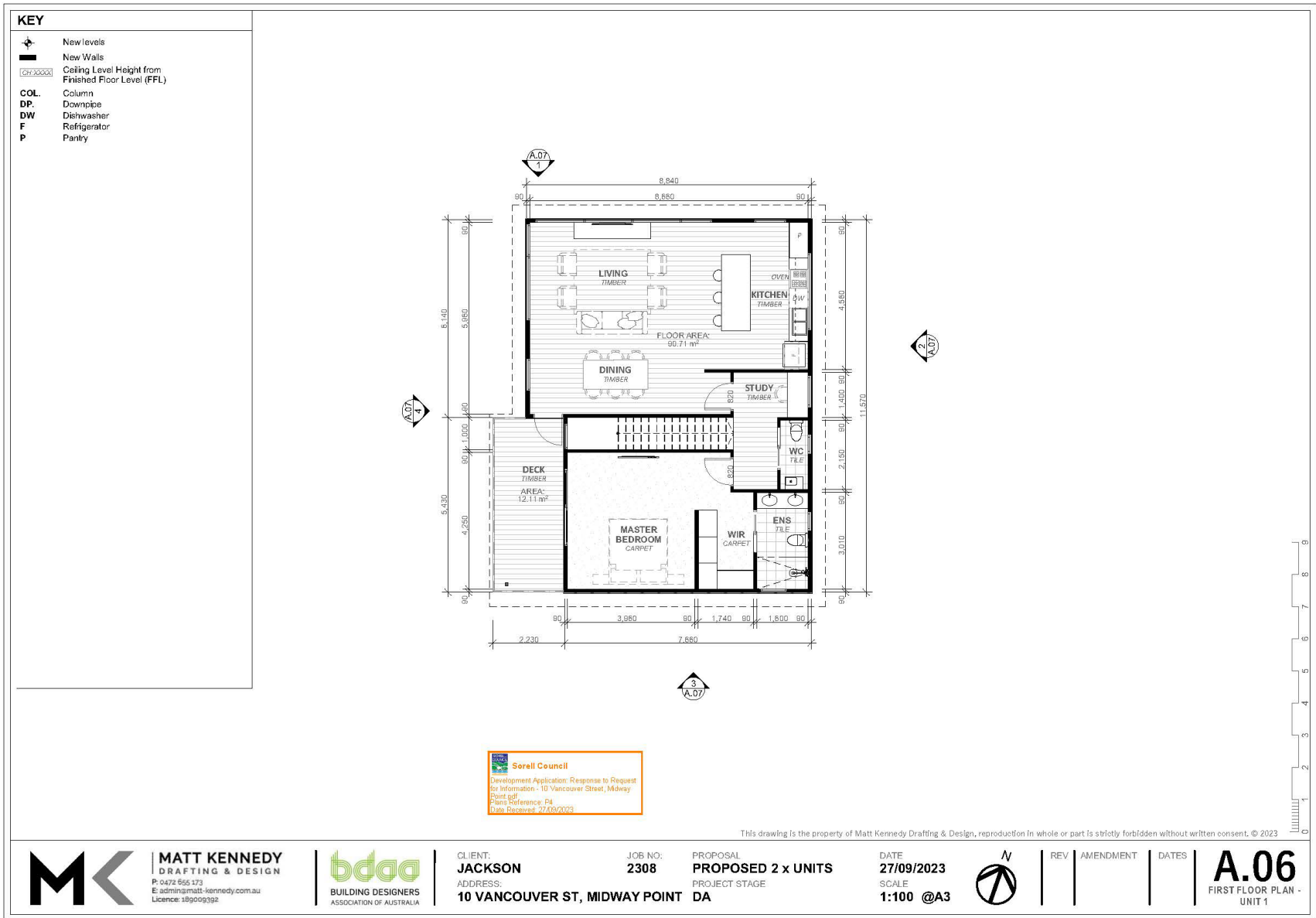
JOB NO: **2308**
 PROPOSAL: **PROPOSED 2 x UNITS**
 PROJECT STAGE: **DA**

DATE: **27/09/2023**
 SCALE: **1:500 @A3**

REV | AMENDMENT | DATES

A.01
LOCATION PLAN





AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

1 North Elevation

2 East Elevation

3 South Elevation

4 West Elevation

Sorell Council
 Development Application - Response to Request for Information - 10 Vancouver Street, Midway Point
 Plans Reference: P4
 Date Received: 17/09/2023

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MK	MATT KENNEDY DRAFTING & DESIGN	bdaa BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA	CLIENT: JACKSON	JOB NO: 2308	PROPOSAL PROPOSED 2 x UNITS	DATE 27/09/2023	REV	AMENDMENT	DATES	A.07
	P: 0472 555 173 E: admin@matt-kennedy.com.au Licence: 189009392		ADDRESS: 10 VANCOUVER ST, MIDWAY POINT		PROJECT STAGE DA	SCALE 1:100 @A3				ELEVATIONS - UNIT 1



KEY

- New Levels
- New Walls
- Ceiling Level Height from Finished Floor Level (FFL)
- COL.** Column
- DP.** Downpipe
- DR.** Dryer
- HWS.** Hot Water System
- MB.** Meter Box
- WM.** Washing Machine
- PB.** Planter Box

Outline of deck above shown dashed

Retaining wall, maximum height - 1100mm.

Sorell Council

Development Application: Response to Request for Information - 10 Vancouver Street, Midway
 Client: gdi
 Plans Reference: P4
 Date Received: 27/09/2023

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A.08
GROUND FLOOR PLAN - UNIT 2

MATT KENNEDY
DRAFTING & DESIGN
P: 0472 565 173
E: admin@matt-kennedy.com.au
Licence: 189009392

BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA

CLIENT:
JACKSON
ADDRESS:
10 VANCOUVER ST, MIDWAY POINT

JOB NO:
2308

PROPOSAL
PROPOSED 2 x UNITS
PROJECT STAGE
DA

DATE
27/09/2023
SCALE
1:100 @A3

REV	AMENDMENT	DATES



Sorell Council
 Development Application: Response to Request
 for Information - 10 Vancouver Street, Midway
 Point (off
 Plans Reference: P4
 Date Received: 27/09/2023

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 Licence: 189009392



CLIENT:
JACKSON
 ADDRESS:
10 VANCOUVER ST, MIDWAY POINT

JOB NO:
2308

PROPOSAL
PROPOSED 2 x UNITS
 PROJECT STAGE
DA

DATE
27/09/2023
 SCALE

REV	AMENDMENT	DATES

A.11
 3D VISUALISATION



AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023



Sorell Council
 Development Application: Response to Request
 for Information - 10 Vancouver Street, Midway
 Point (tj)
 Plans Reference: PA
 Date Received: 27/09/2023

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 DRAFTING & DESIGN
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 Licence: 189009392



CLIENT: **JACKSON**
 ADDRESS: **10 VANCOUVER ST, MIDWAY POINT**

JOB NO: **2308**

PROPOSAL: **PROPOSED 2 x UNITS**
 PROJECT STAGE: **DA**

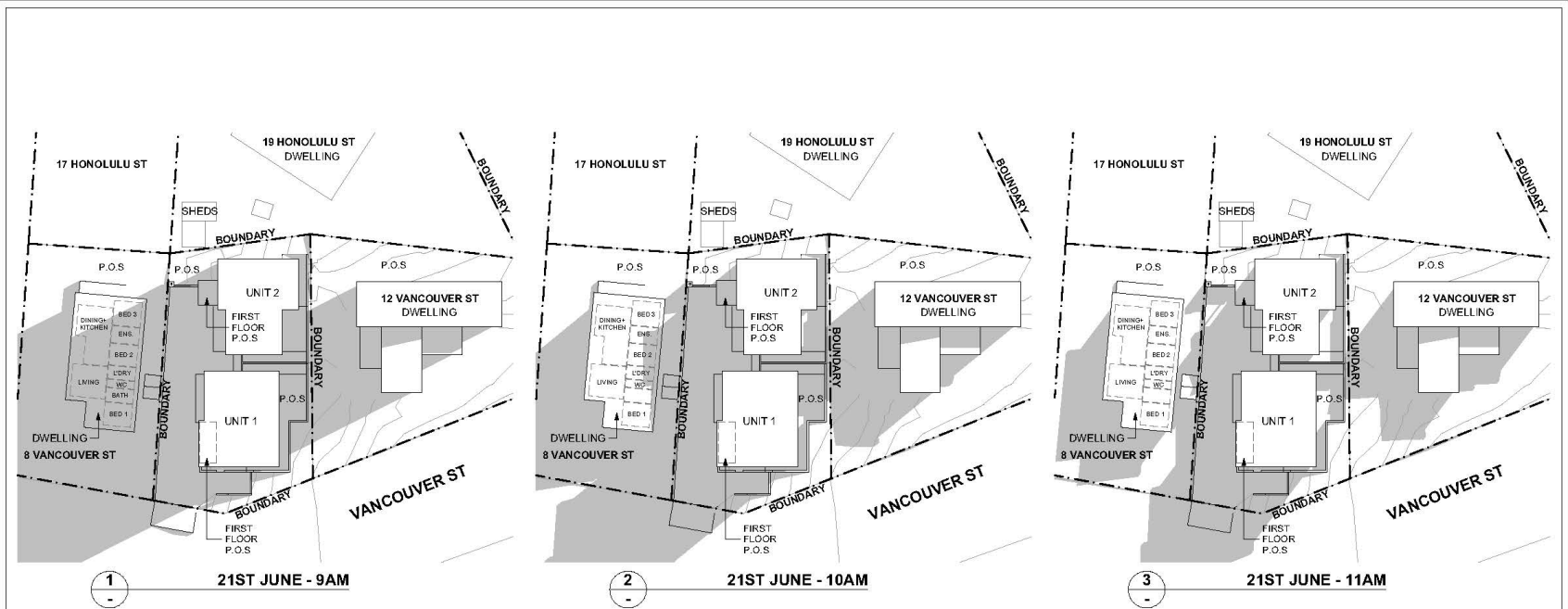
DATE: **27/09/2023**
 SCALE:

REV	AMENDMENT	DATES

A.12
 3D VISUALISATION



AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023



COUNCIL Planning RE:

Provide a building envelope diagram for Unit 2 to rear boundary. If Unit 2 does not meet the building envelope, provide a written submission, prepared by a suitably qualified and experienced planner, building designer, architect or similar setting out how the proposal is said to satisfy clause 8.4.2 A3 (a) in terms of:

- The potential loss of amenity due to overshadowing of private open space or reduction in sunlight to a habitable room and include shadow diagrams;
- The visual impact caused by apparent scale, bulk or proportions of the proposed development;
- Consistency with the separation between dwellings that is established in the area;

Performance Solution- P3

- (a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:
 - (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;
 - (ii) overshadowing the private open space of a dwelling on an adjoining property;
 - (iii) overshadowing of an adjoining vacant property; and
 - (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;

Response:

Please see the site plan above showing the neighbouring properties that have a similar rear setback to the proposed development-illustrating that the proposed units are consistent with existing on established properties in the area.

Sorell Council
 Development Application Response to Request for Information - 10 Vancouver Street, Midway Point
 Plans Reference: P4
 Date Received: 27/09/2023

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	MATT KENNEDY DRAFTING & DESIGN P: 0472 656 173 E: admin@matt-kennedy.com.au Licence: 18909332	BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA	CLIENT: JACKSON	JOB NO: 2308	PROPOSAL: PROPOSED 2 x UNITS	DATE: 27/09/2023		REV AMENDMENT DATES	A.13
			ADDRESS: 10 VANCOUVER ST, MIDWAY POINT	PROJECT STAGE: DA	SCALE	SHADOW DIAGRAMS			



AGENDA
 SORELL PLANNING AUTHORITY (SPA) MEETING
 7 NOVEMBER 2023



<p>GENERAL NOTES:</p> <p>1. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CONTACT THE SERVICES AUTHORITY AND LOCATE EXISTING UNDERGROUND SERVICES PRIOR TO ANY EXCAVATION WORKS COMMENCING ON SITE.</p> <p>2. AREAS DISTURBED BY EARTHWORKS ARE TO BE STRIPPED OF TOPSOIL TO A DEPTH OF 100mm (OR AS DIRECTED BY THE SUPERINTENDENT.) TOPSOIL IS TO BE STOCKPILED ON SITE AND RE-SPREAD AFTER EARTHWORKS ARE COMPLETE.</p> <p>3. ALL NEW AND/OR ALTERED SERVICE CONNECTIONS SHALL BE UNDERTAKEN BY COUNCIL AT THE DEVELOPER'S EXPENSE.</p> <p>DRIVEWAY NOTES:</p> <p>1. FILL MATERIAL SHALL BE WELL GRADED AND FREE OF BOULDERS OR COBBLES EXCEEDING 150mm IN DIAMETER UNLESS APPROVED OTHERWISE.</p> <p>2. FILL REQUIRED TO SUPPORT DRIVEWAYS INCLUDING FILL IN EMBANKMENTS THAT SUPPORT DRIVEWAYS SHALL BE INSTALLED IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:</p> <ul style="list-style-type: none"> a. TOP SOIL AND ORGANIC MATTER SHALL BE STRIPPED TO A MINIMUM OF 100mm. b. THE SUB GRADE SHALL BE KEYED 150mm INTO NATURAL GROUND. c. THE FILL SHALL BE COMPACTED TO A MINIMUM DENSITY RATIO OF 95%, IT IS THE BUILDERS RESPONSIBILITY TO ENSURE THAT THIS IS ACHIEVED. <p>3. UNREINFORCED CONCRETE KERBS AND CHANNELS SHALL HAVE TROWELED JOINT AT NOT MORE THAN 3.0m CENTRES.</p> <p>4. 40x3 SAW CUTS AT MAX 5m CENTRES ALONG DRIVEWAY SLAB, CONTROL JOINTS AT MAX 15m.</p> <p>5. CURE ALL EXPOSED CONCRETE SURFACES BY KEEPING MOIST FOR 7 DAYS, I.E COVER WITH PLASTIC SHEETS.</p>	<p>VEHICLE MOVEMENT NOTES:</p> <p>1. MOVEMENT TEMPLATES DEMONSTRATE ABILITY OF VEHICLES TO ENTER INTERSECTION IN A FORWARDS DIRECTION AND LEAVE IN A FORWARD DIRECTION.</p> <p>2. THE BASE DIMENSIONS OF THE CAR TEMPLATE REPRESENT THE B85 (85th PERCENTILE) VEHICLE.</p> <p>3. THE SWEEP PATH OF THE VEHICLE REPRESENT THE OUTER EXTENT OF THE VEHICLE BODY.</p> <p>4. THE PATHS WERE GENERATED WITH A TURNING SPEED OF 5km/hr FROM THE STREET.</p>	<div style="margin-top: 10px;"> <p>B85</p> <p>Width: 1870mm Track: 1770mm Lock to Lock Time: 6.0 Steering Angle: 34.0</p> </div>					
		<p><small>This drawing is the property of Matt Kennedy Drafting & Design, reproduction in whole or part is strictly forbidden without written consent. © 2023</small></p>					
	<p>MATT KENNEDY DRAFTING & DESIGN P: 0472 656 173 E: admin@matt.kennedy.com.au Licence: 189009392</p>	<p>bdaa BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA</p>	<p>CLIENT: JACKSON</p> <p>ADDRESS: 10 VANCOUVER ST, MIDWAY POINT</p>	<p>JOB NO: 2308</p> <p>PROPOSAL PROPOSED 2 x UNITS</p> <p>PROJECT STAGE DA</p>	<p>DATE 27/09/2023</p> <p>SCALE 1:200 @A3</p>	<p>REV AMENDMENT DATES</p>	<p>A.17</p> <p>TURNPATH PLAN</p>



To: [Sorell Council](#)
Subject: 10 Vancouver General Manager
Date: Monday, 23 October 2023 4:16:15 PM

Dear General Manager,

I am writing in response to the letter received for the proposed development plan for 10 Vancouver Street Midway Point.

I have several serious concerns regarding this development and oppose it continuing as it is currently presented.

- Unit 1 and 2 do not fit within the required building envelope. They both grossly exceed the already generous building parcel from every view in both height and length despite the significant cut down into the block.
- The dwellings do not satisfy the development standards set out in A3. It is not set back 4.5m from rear boundary.
- Unit 1 is not set far enough back from the street (primary frontage setback) which exceeds the building envelope on the south border of the footprint.
- The demonstration of overshadowing in the proposal appears to have edges cut and needs to be completed independently. These projections do not seem accurate.
- There is no turn around point at the end of Vancouver for residents to turn and the street is too narrow to facilitate on street parking. Considering these are 3-bedroom houses plus a study, there could be 12 adults living in these dwellings and the parking and infrastructure is inadequate. With increased traffic and unusable on-site parking facilities for medium to large vehicles this will increase local traffic and cause unsafe and dangerous usable roadway. The multiple dwellings pose the high risk of a large increase in local traffic.

The proposed dwellings do not meet the minimum frontage setback, they are being built outside of the building envelope on nearly every aspect would be by far the largest development in the area and impact all dwellings and residents in the area in their scale, bulk and image. This clearly highlights this development is too big for the block and the existing area and is not fair for the current residents of the area. This development would reduce the quality of life of residents and adjoining properties.

A1: 8. 4. 2

The proposed development does not meet the acceptable solutions outlined in 8. 4. 2 A1 as the dwelling does not have a minimum setback from the frontage of 4.5meters. The adjoining properties comply with the current planning scheme and have a setback from frontage of greater than 4.5 meters.

The proposed dwelling does not meet performance criteria outlined in 8. 4. 2 P1 as the proposed dwelling is not compatible with the current street scape on Vancouver St. The majority of the existing dwellings comply with the current planning scheme and have adequate frontage setback. This proposed dwelling would be a standalone difference on the street. As this proposed dwelling does not satisfy P1 or A1 in 8. 4. 2 and despite not meeting the minimum frontage setback it still sits outside the building envelope in all aspects, this demonstrates how large in scale and size this development is. This proposed

dwelling is not consistent in apparent scale, bulk massing and proportions to existing dwellings on the same street and does not comply with the current planning scheme.

There is also a large tree stump on the frontage which has been cut very recently and will require removal of vegetation prior to construction works. The removal of this large tree is not mentioned in the plan.

8. 4. 2 A3

The proposed development does not meet acceptable solutions for A3 8. 4. 2. This proposed dwelling is not contained within the building envelope on multiple sides/plains. This proposed dwelling does not meet performance criteria P3. This dwelling causes an unreasonable loss of amenity to all adjoining properties. Regarding overshadowing, separation and it causes a reduction in sunlight to adjoining properties habitable rooms. As the scale, bulk and extreme size of this development is not in line with the street scape it causes negative visual impacts when viewed from adjoining properties on all sides and does not fit in with the areas aesthetic or character. The proposed dwelling does not provide separation between dwellings on adjoining properties that is consistent with established existing properties in the area. This can be measured and presented upon (I am assuming the council will do their own independent review on this as what is presented in plan is incorrect by designer). This property may have potential to impact existing solar amenities on my roof at 12 Vancouver. The dwellings completely overshadow my private outdoor deck and private open space. There is significant loss of sunlight in my kitchen, dining, living room and study and the visual impacts of these excessively bulky buildings will be significant.

8. 4. 3 A1

The proposed dwellings do not meet acceptable solutions for 8. 4. 3 A1 as there is not 60m² of private open space per dwelling equating to 120m² required (only 24m² per dwelling equating to only 48m²) well under the planning scheme benchmarks. The dwellings have a finished floor level as per plans that is clearly less than 1.8m with 2 bedrooms and bathroom on ground level in each dwelling.

The private open space for these multiple dwellings would have to accommodate that of residence of 6 bedrooms in total. The private open space presented on the plan is only 24m² per dwelling this would be deemed insufficient in line with 8. 4. 3 P1

The proposed dwellings do not have site coverage consistent with that of existing established properties in the area.

8. 4. 6 A3

The visitor car space outlined on the plan is for both dwellings. This does not meet 8. 4. 6 A3 as it does not provide a minimum of 2.5m from a habitual room.

In addition, as shown on the plan the car spaces and driveway modelling show that with standard vehicle measurements the space is inadequate for turn around. On both the red and blue examples the 'swept path' of the vehicle collides with the fence. This raises concerns as Vancouver street is a dead end street with no adequate turn around infrastructure on street or appropriate on street parking.

I also have concerns for unit 2 and its proximity to the drainage easement. The sewerage drain from 10 Vancouver flooded just a couple of months ago into mine and the north adjoining property and I am concerned with its ability to cope with any increased burden in

its current state.

In summary, this proposed development on 10 Vancouver Street midway point does not meet multiple acceptable solutions and does not meet multiple performance criteria. This development is not in line with the current planning scheme, the street scape and infrastructure in the area of Vancouver Street Midway point. We ask this development be held to the standard set in the planning scheme and before approved be modified to comply with the scheme and current streetscape and surrounding area and or local road and parking infrastructure be improved to adequately accommodate for a multi-dwelling large scale development which does not comply with the current planning scheme or street scape.

We ask that the council review and conduct their own independent review of this development and do not approve this current development as it is currently presented. Single storey buildings and or a single dwelling would be far more appropriate for this area and the restrictions on building envelope and other essential requirements in the Tasmanian Planning Scheme should be upheld.

We hope the concerns of multiple current residents of Sorrell City Council in opposition to this development will be taken seriously and their concerns be represented by Sorrell City Council in a fair, professional and just manner. The residents of this area are and will continue to take this matter very seriously. Thank you for taking the time to review and action these concerns.

Kindest regards,



Planning Management

Sorell Council

47 Cole Sreet

Sorell

Tasmania 7172

23rd October 2023

Dear Sir/Madam

SORELL COUNCIL
23 OCT 2023
RECEIVED

OBJECTION TO:

Planning Application No: 5.2023.207.1 Site: 10 Vancouver Street, Midway Point. Applicant: Matt Kennedy Drafting and Design

I wish to object to the above planning application as follows:

1. Unreasonable reduction in sunlight to habitable rooms:

Page A.13 of the Proposal highlights the predicted impact of sunlight to my dwelling. As you can see, most of my home is completely covered in shadow from the two proposed units. This includes my living room, dining room/kitchen, three bedrooms, 1 bathroom and 1 ensuite. These shadow diagrams only begin from 9am. According to the Sept 22 equinox the sun rises around 6:01am, leaving my home in the dark for over four hours, not the misguided 1 hour between 9am and 10am as seen in proposal. This length of time and lack of sunlight will have many negative impacts on myself and my pregnant daughter. This includes the increased risk of mould and other harmful bacteria growing in my house, lower levels of natural Vitamin D, weakened immune systems, and higher risk of Seasonal Affective Disorder – all of which can come from a lack of natural sunlight on a daily basis. Unit One also overlooks the clothesline which is situated outside of our laundry (seen on Page A.13). This reduction in sunlight will reduce our ability to air dry our clothing. The increased costs associated with heating our home and drying our clothes is a serious concern to my daughter and I.

2. Overlooking/Lack of Privacy:

Page A.01 of the Proposal shows the location plan of the two units. Being multi-level dwellings, Unit One will look directly into my daughter's bedroom (as seen on Page A.13) and our clothesline as mentioned, where we hang our delicates. Unit Two will have an entire overview of my secluded backyard and the private deck I relax on in my down time from work. This backyard was also set to be a play area for my grandchild when born. This invasion of privacy and the fear of being constantly watched will impact the security my daughter and I feel in our home, especially where a child is concerned. Page A.12 shows that decks will be a part of this plan and will directly encourage



occupants to sit outside and look directly over my backyard and daughter's bedroom. This proposal has not shown any consideration in regard to surrounding residents and the impact this encroachment will have on our livelihood.

3. Car Parking/Traffic Congestion:

A.05 and A.06 show that there will be two car spaces per unit. Each unit is to be equipped with 3 bedrooms. Reasonably estimating there are 4 occupants of each unit who all drive, there will be 8 extra cars congesting the traffic flow, with at least four of these being required to park on the narrow street. This will create issues with double parking, entering and exiting our driveways safely, pedestrian safety, increased air pollution, and increased travel time to outgoing destinations.

4. Noise:

As previously mentioned, the proposed units will contain three bedrooms each. With the reasonable number for each unit being at 4, that adds an extra 8 everyday occupants who will be living directly behind me. The increased noise from traffic, conversations on the deck, music, televisions, celebratory occasions or weekend activities will all dramatically affect our quality of life. These types of noise issues cause increased anxiety, reduced sleep quality and increased irritation and agitation. With a newborn baby due in the new year, this will be far from ideal.

As you have read above, there have been a number of legitimate concerns raised in relation to this development. I implore you to seriously consider my objections, not only for mine and my daughters' wellbeing, but for the wellbeing of our quiet and tranquil neighbourhood. I thank you for taking the time to read this and appreciate your assistance with this matter.

To: [Sorell Council](#)
Subject: 10 Vancouver Street development representation
Date: Saturday, 21 October 2023 6:31:26 PM

Dear General Manager,

I am writing in response to the proposed planning application for 10 Vancouver Street Midway Point.

I am concerned about the privacy in my backyard. The building will look into my private open space and bedroom. The deck on unit 2 will look straight into my yard and bedroom. The size is too large and is outside the limits of the building standards in the area. It is outside the building footprint on the ground and in height.

I don't have a problem with a single storey. But this is too big.



5.2

BOUNDARY ADJUSTMENT APPLICATION SA 2023 / 20 - 1

Applicant:	Denis Wall (Sorell Council)
Proposal:	Boundary Adjustment
Site Address:	U6 12 Tarbook Court, Sorell (CT 183920/6) and adjoining footway
Planning Scheme:	<i>Tasmanian Planning Scheme - Sorell</i>
Application Status	Permitted
Relevant Legislation:	Section 56 of the <i>Land Use Planning and Approvals Act 1993 (LUPAA)</i>
Reason for SPA meeting:	Council land

Relevant Zone:	General Residential Zone
Proposed Use:	Nil
Applicable Overlay(s):	Nil
Applicable Codes(s):	Nil
Valid Application Date:	19 October 2023
Decision Due:	17 November 2023
Discretion(s):	1 Nil
	2
Representation(s):	N/A

RECOMMENDATION

That pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* Council resolve that Planning Application 7.2023.20.1 for a Boundary Adjustment at U6 12 Tarbook Court, Sorell and adjoining footway be approved, subject to the following conditions:

1. Development shall generally be in accordance with the endorsed plans submitted on 5 September 2022 except as may be amended by the conditions of this permit.

NOTE: THE FOLLOWING ADVICE APPLIES TO THIS PERMIT

- The permit does not take effect until 15 days after the date that this permit was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the *Land Use Planning and Approvals Act 1993*.
- This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- This planning approval shall lapse at the expiration of two (2) years from the date on which this permit became valid, if the permit is not substantially commenced. At the discretion of the Planning Authority, the expiration date may be extended for a further two (2) years on two separate occasions for a total of six (6) years. Once lapsed, a new application will be required.



- Any changes to the use or development approved, may be deemed as substantially in accordance with the permit or may first require either a formal amendment to this permit or a new permit.

You may appeal against the above conditions, any such appeal must be lodged within fourteen (14) days of service of this notice to TASCAT, 38 Barrack Street Hobart 7000 Ph: ☎(03) 6165 6790 or email resourceplanning@tascat.tas.gov.au

Executive Summary

Application is made for a Boundary Adjustment at U6 12 Tarbook Court, Sorell and adjoining footway. This property is zoned General Residential.

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme - Sorell* and is recommended for conditional approval.

Relevance to Council Plans & Policies

Strategic Plan 2019-2029	Objective 1: To Facilitate Regional Growth Objective 2: Responsible Stewardship and a Sustainable Organisation Objective 3: To Ensure a Liveable and Inclusive Community
Asset Management Strategy 2018	The proposal rectifies an existing issue and improves maintenance access.
Risk Management Strategy 2018	In its capacity as a Planning Authority, Council must determine this application. Due diligence has been exercised in preparing this report and there are no predicted risks from a determination of this application.
Financial Implications	No financial implications are anticipated unless the decision is appealed to TASCAT. In such instances, legal counsel is typically required.
Open Space Strategy 2020 and Public Open Space Policy	The proposal has no significant implications for open space management.
Enforcement Policy	Not applicable.
Environmental Sustainability Policy	There are no environmental implications associated with the proposal.

Legislation

- This report details the reasons for the officer recommendation.



- Broadly, the planning authority can either adopt or change the recommendation by adding, modifying or removing conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- The planning authority has a specific role in LUPAA. As noted by the Tribunal:

The role of the Council in relation to planning matters is, in very broad terms, to uphold its planning scheme. In that context it is in a sense, blind to everything but the terms of the Scheme. It cannot put economic advantage or perceived community benefits over the terms of the Scheme. And in the context of enforcement proceedings unless expressly authorised to do so, it may not take any approach which is inconsistent with the terms of its Scheme.

Planning Scheme Operation – for Zones, Codes and site specific provisions

- Clause 5.6.1 requires that each applicable standard is complied with if an application is to be approved.
- Clause 5.6.2, in turn, outlines that an applicable standard is any standard that deals with a matter that could affect, or could be affected by, the proposal.
- A standard can be met by either complying with an acceptable solution or satisfying the performance criteria, which are equally valid ways to comply with the standard.
- An acceptable solution will specify a measurable outcome. Performance criteria require judgement as to whether or not the proposal reasonably satisfies the criteria.
- Clause 6.10 outlines the matters that must be considered by a planning authority in determining applications. Clause 6.11 outlines the type of conditions and restrictions that can be specified in a conditional approval.

Referrals

Agency / Dept.	Referred?	Response?	Conditions?	Comments
Development Engineering	No			
Environmental Health	No			
Plumbing	No			
NRM	No			
TasWater	No			
TasNetworks	No			
State Growth	No			

Report

Description of Proposal

Application is made for a minor boundary adjustment to transfer 45m² of land from unit 6 to add to the footway.

The proposal was instigated by Council staff due to a fence of unit 6 being placed over a stormwater pit preventing access to the pit. The owner of unit 6, in turn, requested that a greater area of land be added to the footway than strictly necessary to correct the issue in order to improve the management of the property given the triangle area is somewhat unusable.

The larger footway area is desirable from a safety and usability perspective as it reduces the confined right angle bend in the path.

Description of Site

The footway connects to Valley View Drive and is unformed. Unit 6 is part of a newly constructed strata complex.



Figure 1. Subject site.

Planning Assessment

The application is made under clause 7.3 which provides:

7.3 Adjustment of a Boundary

7.3.1 An application for a boundary adjustment is Permitted and a permit must be granted if:

- (a) no additional lots are created;
- (b) there is only minor change to the relative size, shape and orientation of the existing lots;
- (c) no setback from an existing building will be reduced below the relevant Acceptable Solution setback requirement;
- (d) no frontage is reduced below the relevant Acceptable Solution minimum frontage requirement;
- (e) no lot is reduced below the relevant Acceptable Solution minimum lot size unless already below the minimum lot size; and
- (f) no lot boundary that aligns with a zone boundary will be changed.

The boundary adjustment is compliance with each of the above clauses and a permit must therefore be issued.

Applications compliant with clause 7.3 are not subject to public notification.

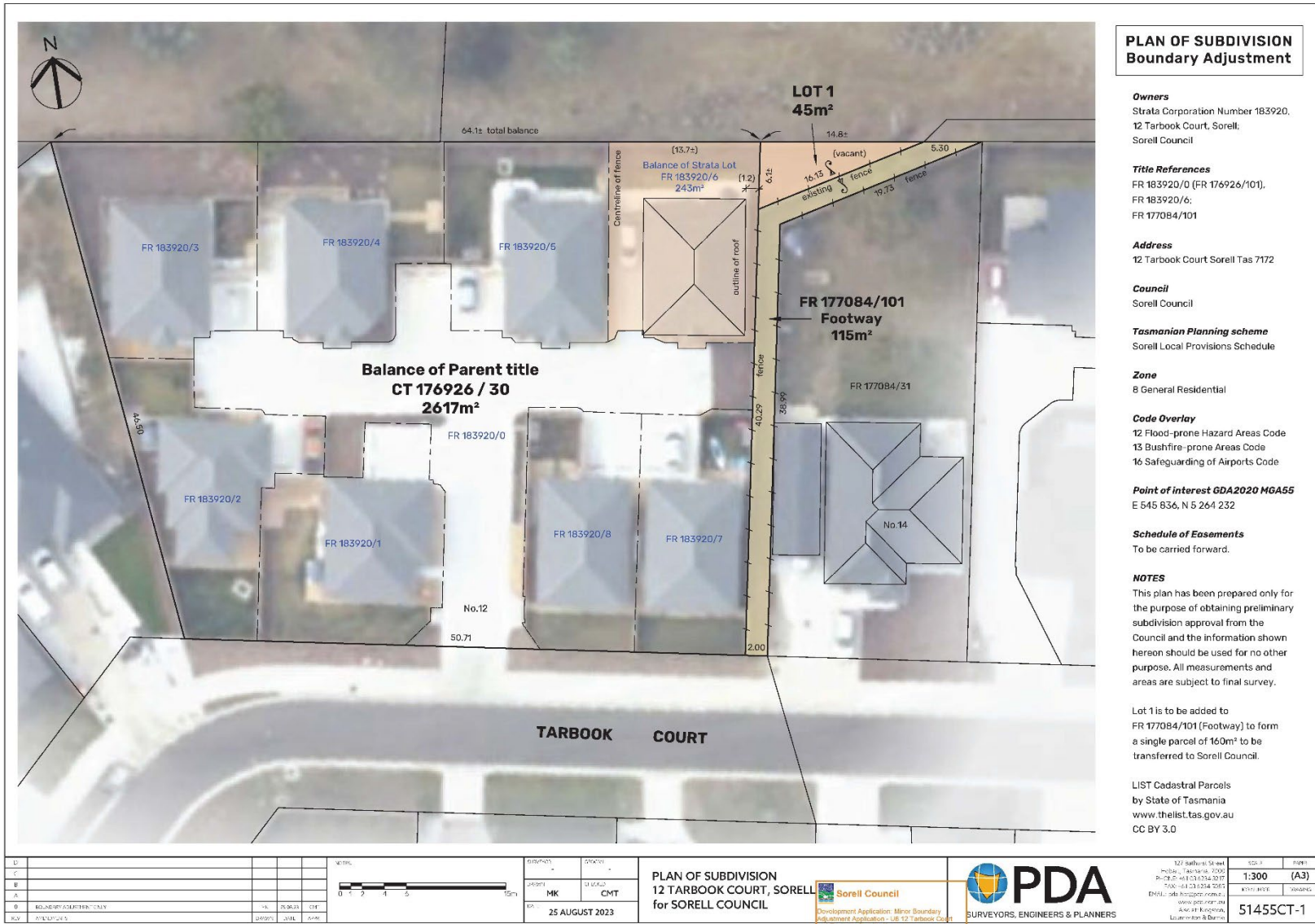
Conclusion

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme - Sorell* and is recommended for conditional approval.

Shane Wells
MANAGER PLANNER

Attachments:
Proposal Plan





**PLAN OF SUBDIVISION
Boundary Adjustment**

Owners
Strata Corporation Number 183920,
12 Tarbook Court, Sorell,
Sorell Council

Title References
FR 183920/0 (FR 176926/101),
FR 183920/6;
FR 177084/101

Address
12 Tarbook Court Sorell Tas 7172

Council
Sorell Council

Tasmanian Planning scheme
Sorell Local Provisions Schedule

Zone
B General Residential

Code Overlay
12 Flood-prone Hazard Areas Code
13 Bushfire-prone Areas Code
16 Safeguarding of Airports Code

Point of interest GDA2020 MGA55
E 545 636, N 5 264 232

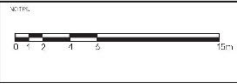
Schedule of Easements
To be carried forward.

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

Lot 1 is to be added to
FR 177084/101 (Footway) to form
a single parcel of 160m² to be
transferred to Sorell Council.

LIST Cadastral Parcels
by State of Tasmania
www.theist.tas.gov.au
CC BY 3.0

10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					



DATE	25 AUGUST 2023
BY	MK CMT

**PLAN OF SUBDIVISION
12 TARBOOK COURT, SORELL
for SORELL COUNCIL**

Sorell Council
Development Application: Minor Boundary
Adjustment Application - Lot 12 Tarbook Court
and Footway, Sorell.ppt
Plans Reference: P1
Date Received: 18/10/2023

PDA
SURVEYORS, ENGINEERS & PLANNERS

122 Saffron Street Melba, Tasmania 7502 Ph: 081-413 076 3075 Fax: 081 413 074 565 Email: sales@pda.com.au www.pda.com.au Attn: H. KENNEDY, Licencee & Brnch	1:300 (A3)	15/10/2023
	51455CT-1	



AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

5.3 DEVELOPMENT APPLICATION DA 2023 / 113 - 1

Applicant:	D Bastin
Proposal:	Dwelling
Site Address:	638 Carlton River Road, Carlton River (CT23789/10)
Planning Scheme:	<i>Tasmanian Planning Scheme (Sorell LPS)</i>
Application Status	Discretionary
Relevant Legislation:	Section 57 of the <i>Land Use Planning and Approvals Act 1993 (LUPAA)</i>
Reason for SPA meeting:	More than one representation received

Relevant Zone:	Low Density Residential								
Proposed Use:	Single dwelling								
Applicable Overlay(s):	C7.0 Natural Assets Code (Waterway & Coastal Protection), C16.0 Safeguarding of Airports Code (Obstacle Limitation Area)								
Applicable Codes(s):	C2.0 Parking and Sustainable Transport Code, C3.0 Road and Railway Assets Code								
Applicable SAP(s)	SOR-S2.0 Southern Beaches Onsite Wastewater & Stormwater								
Valid Application Date:	12 May 2023								
Decision Due:	28 November 2023								
Discretion(s):	<table border="1"> <tr> <td>1</td> <td>10.4.3 Setback front boundary</td> </tr> <tr> <td>2</td> <td>10.4.3 Setback side boundaries</td> </tr> <tr> <td>3</td> <td>SAP-Southern Beaches Onsite Wastewater & Stormwater</td> </tr> <tr> <td>4</td> <td>Natural Assets (Waterway & Coastal Protection)</td> </tr> </table>	1	10.4.3 Setback front boundary	2	10.4.3 Setback side boundaries	3	SAP-Southern Beaches Onsite Wastewater & Stormwater	4	Natural Assets (Waterway & Coastal Protection)
1	10.4.3 Setback front boundary								
2	10.4.3 Setback side boundaries								
3	SAP-Southern Beaches Onsite Wastewater & Stormwater								
4	Natural Assets (Waterway & Coastal Protection)								
Representation(s):	Two								

RECOMMENDATION

That pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* Council resolve that Planning Application 5.2023.113.1 for a Dwelling at 638 Carlton River Road, Carlton River (CT23789/10) be approved, subject to the following conditions:

1. Development shall generally be in accordance with the endorsed plans submitted on 9, 22 May 2023, 5 July & 6 October 2023 except as may be amended by the conditions of this permit.
2. Prior to commencement of any works onsite a Soil and Water Management Plan (SWMP) must be implemented to ensure that soil and sediment does not leave the site during the construction.

Engineering Conditions:

3. Prior to any works commencing within the road reservation, a Vehicular Crossing and Associated Works Application (available on Council's website) must be submitted with an associated permit granted for the works.
4. Prior to first use, the existing vehicular access must be upgraded to compliant width, surface treatment, drainage, and sight distance as specified in a Vehicular Crossing Permit issued by Sorell Council.
5. The internal driveway including areas set aside for vehicle parking and manoeuvring must:
 - a) be fully complete within six months of first use;
 - b) be constructed with a durable all-weather pavement;
 - c) be drained to a legal point of discharge or retain runoff onsite such that stormwater is not concentrated onto adjoining properties; and
 - d) have a sealed surface of either concrete, asphalt, two-coat spray seal, pavers, or similar.
6. Prior to first use, at least One (1) car parking space must be provided on site and must be available for car parking at all time. The approved parking space must:
 - a) be at least 5.4m long and 2.6m wide with an additional 0.3m clearance from any nearby wall, fence or other structure;
 - b) have a maximum gradient of 1 in 9 (11.11%) measured parallel to the angle of parking and 1 in 16 (6.25%) in any other direction; and
 - c) have appropriate physical controls installed (e.g., wheel stops in accordance with AS/NZS 2890.1:2004) where the maximum gradient exceeds 1 in 20 (5%) measured parallel to the angle of parking.

Environmental Health Conditions:*On-site wastewater*

7. At least 135m² of land must be reserved on-site for wastewater treatment which is located at least 25m from the downslope boundary and 1.5m from all other boundaries.
8. Driveways, parking areas, impervious sealing and buildings are not permitted in the area reserved for wastewater treatment.
9. An aerated wastewater treatment system must be used for wastewater treatment, which discharges into a modified subsurface irrigation area.
10. The subsurface irrigation area shall be at least 133m² and consist of at least 350mm deep sandy loam soil classified in accordance with AS/NZS1547:2012

– *On-site Domestic Wastewater Management*. All works must be completed to the satisfaction of the Environmental Health Officer.

Environmental

11. All civil and building construction work associated with the development must be within the following hours:

- a) 7.00. a.m. to 7.00. p.m. from Monday to Friday;
- b) 8.00 a.m. to 6.00 p.m on Saturdays; and
- c) No works are permitted on Sundays or public holidays.

Approval must be obtained from the Manager Regulatory Services for any works outside of these hours.

12. Signage shall be erected on the boundary of the work site which includes the contact phone number for residents to seek information or report issues associated with the construction works.

NOTE: THE FOLLOWING ADVICE APPLIES TO THIS PERMIT

- Requirements for works or other outcomes to the satisfaction of the General Manager will be delegated to the appropriate officer for determination.
- All engineering related queries should be directed to the Development Engineer. The Council General Manager has delegated functions relevant to the permit to the Development Engineer.
- A Vehicular Crossing Permit can be obtained by completing the Vehicular Crossing and Associated Works Application form available at www.sorell.tas.gov.au/services/engineering
- The permit does not take effect until 15 days after the date that this permit was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the *Land Use Planning and Approvals Act 1993*.
- This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- This planning approval shall lapse at the expiration of two (2) years from the date on which this permit became valid, if the permit is not substantially commenced. At the discretion of the Planning Authority, the expiration date may be extended for a further two (2) years on two separate occasions for a total of six (6) years. Once lapsed, a new application will be required.

- Any changes to the use or development approved, may be deemed as substantially in accordance with the permit or may first require either a formal amendment to this permit or a new permit.

You may appeal against the above conditions, any such appeal must be lodged within fourteen (14) days of service of this notice to TASCAT, 38 Barrack Street Hobart 7000 Ph: (03) 6165 6790 or email resourceplanning@tascat.tas.gov.au

Executive Summary

Application is made for a Dwelling at 638 Carlton River Road, Carlton River (CT23789/10). This property is zoned Low Density Residential and is located on the lower side of Carlton River Road and has a gently slope from the north to south from Carlton River Road to the foreshore reserve and the Carlton River.

The key planning consideration relate to the onsite wastewater and stormwater systems and design and front and side setbacks.

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

Relevance to Council Plans & Policies

Strategic Plan 2019-2029	Objective 1: To Facilitate Regional Growth Objective 2: Responsible Stewardship and a Sustainable Organisation Objective 3: To Ensure a Liveable and Inclusive Community
Asset Management Strategy 2018	The proposal has no significant implications for asset management
Risk Management Strategy 2018	In its capacity as a Planning Authority, Council must determine this application. Due diligence has been exercised in preparing this report and there are no predicted risks from a determination of this application.
Financial Implications	No financial implications are anticipated unless the decision is appealed to TASCAT. In such instances, legal counsel is typically required.
Open Space Strategy 2020 and Public Open Space Policy	The proposal has no significant implications for open space management
Enforcement Policy	Not applicable
Environmental Sustainability Policy	There are no environmental implications associated with the proposal

Legislation

- This report details the reasons for the officer recommendation.
- Broadly, the planning authority can either adopt or change the recommendation by adding, modifying or removing conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- The planning authority has a specific role in LUPAA. As noted by the Tribunal:

The role of the Council in relation to planning matters is, in very broad terms, to uphold its planning scheme. In that context it is in a sense, blind to everything but the terms of the Scheme. It cannot put economic advantage or perceived community benefits over the terms of the Scheme. And in the context of enforcement proceedings unless expressly authorised to do so, it may not take any approach which is inconsistent with the terms of its Scheme.

Planning Scheme Operation – for Zones, Codes and site specific provisions

- Clause 5.6.1 requires that each applicable standard is complied with if an application is to be approved.
- Clause 5.6.2, in turn, outlines that an applicable standard is any standard that deals with a matter that could affect, or could be affected by, the proposal.
- A standard can be met by either complying with an acceptable solution or satisfying the performance criteria, which are equally valid ways to comply with the standard.
- An acceptable solution will specify a measurable outcome. Performance criteria require judgement as to whether or not the proposal reasonably satisfies the criteria.
- Clause 6.10 outlines the matters that must be considered by a planning authority in determining applications. Clause 6.11 outlines the type of conditions and restrictions that can be specified in a conditional approval.

Referrals

Agency / Dept.	Referred?	Response?	Conditions?	Comments
Development Engineering	Yes	Yes	Yes	Nil
Environmental Health	Yes	Yes	Yes	Nil
Plumbing	Yes	Yes	No	



NRM	Yes	Yes	No	
TasWater	No			
State Growth	No			

Report

Description of Proposal

Application is made for a single dwelling. The building overall is 119m² measuring 8.4m wide and 2 x pods type buildings approximately 13m long with combined textures of Axon cladding, Colorbond roof and timber features. To mitigate extensive cut and fill the build has been designed on posts therefore requiring an understory, clad with timber which will be used for storage.

The carport and entry to the building is located at the top side at ground level to enable direct vehicle and personal access. The southern section (rear) is approximately 2m above natural ground level with storage underneath.

Maximum building height is 6.240m above natural ground level. The building contains three (3) bedrooms, one with en-suite, open plan kitchen/dining and living areas, bathroom and laundry with the balcony enclosed on both sides. Windows for the kitchen/living area have been designed as highlight windows 1.5m from finished floor level together with privacy film added. Windows along the east boundary are non-habitable rooms with the exception of Bedroom 3 which also has highlight windows, however, this part of the building is close to ground level having a finished floor level of approximately .500mm above the natural ground level at this point. The east side of the building also contains a landing and access door to the laundry room.

The application is supported by:

- Onsite Wastewater System Design by Strata Geoscience & Environmental
- A Bushfire Hazard Report & Hazard Management Plan by North Barker Ecosystem Services
- Stormwater Specification & Management Plan including Site Classification by Strata Geoscience & Environmental
- Natural Values Assessment by North Barker Ecosystem Services

Description of Site

This property is located on the lower side of Carlton River Road and slopes from the north to south from Carlton River Road down to the foreshore reserve area to the Carlton River. The lot consists of approximately 530m² and was formerly part of the adjoining property at 636 Carlton River Road. The site previously contained garden areas, entertaining area-fire pit (which has been relocated and seems to now be located on the Crown Reserve) water tanks, and a large shed. These structures have been removed and the site is now a vacant grassed lot with fencing along the west boundary only. Adjoining land directly to the east is a footway 2.35



to 2.45m wide. The adjoining property further to the east of the footway contains the previously occupied Carlton River Post Office Building which is located central on the lot some distance (13m+/-) from the footway and subsequent boundary of 638 Carlton River Road.



Figure 1 – The site, source: google imagery Oct 2023 – looking down the site from Carlton River Road, Carlton. As shown the site is grassed with minimal vegetation, fencing along the right (west) of the site and vegetation but no evident fencing to the east. The trees visible may be within the adjoining lot area. One tree remains at the lower part of the lot which looks to be on the crown coastal reserve area.



Figure 2 - Previous conditions – source: SSA imagery February 2022 site contained buildings and structures , gardens & fire pit



Figure 3 - Current conditions – source: SSA imagery October 23 vacant site

Surrounding land consists of residential properties/zonings to the east and west, foreshore area to the south and Carlton River Road on the topside to the north. Agricultural zoned land is adjacent to Carlton River Road to the far north.

The surrounding residential dwellings along Carlton River Road to the east and west are a mixture of single storey, split level or double story. 634 Carlton River Road the dwelling constructed in 2000 consists of timber cladding with Colorbond roof and a similar design being split level dwelling on posts with a lower level understory infill. 626 Carlton River Road dwelling constructed in 2006 is texture coated exterior with Colorbond roof, two story dwelling with garage and living areas on the lower level and bedroom area above on the upper level. 610 Carlton River Road dwelling constructed in 2000 is weatherboard with Colorbond flat roof, two story dwelling.

The site is unserviced. Carlton River Road is a sealed public road and the speed limit is set at 80km /hr.

Planning Assessment

Zone – 10.0 Low Density Residential

Applicable zone standards		
Clause	Matter	Complies with acceptable solution?
10.4.2 A1	Height	Yes, 6.24m meets the acceptable solution.
10.4.3 A1	Frontage setback	No, as frontage setback of 5.4m is less than eight metres
10.4.3 A2	Side and Rear setback	No, as the east and west setback to side boundary is less than five metres, rear boundary yes complies
10.4.4 A1	Site Coverage	Yes, site coverage of 24.5% is less than 30%

Performance Criteria Assessment 1 – Clause 10.4.3 P1 Front Setback

The siting of a dwelling must be compatible with the streetscape and character of development existing on established properties in the area, having regard to:

- (a) *the topography of the site;*
- (b) *the setbacks of surrounding buildings;*
- (c) *the height, bulk and form of existing and proposed buildings;*
- (d) *the appearance when viewed from roads and public open space adjacent to the site; and*
- (e) *the safety of road users.*

Setbacks of outbuildings and dwellings along this stretch of Carlton River Road have setback from frontage of less than the standard 8m. 618 & 634 Carlton River Road



both have an outbuilding setback within 3m of frontage boundary whilst 620 Carlton River Road has a dwelling setback approximately 5m. An open carport when viewed from Carlton River Road will not be intrusive and forms part of the dwelling. When viewed from Carlton River the south elevation shows timber understory, enclosed deck, living room sliding doors and bedroom one window with the width of the building 8.4m wide, far less in width than buildings on the adjoining sites.

The building has been located within the centre of the site to enable access, onsite wastewater and stormwater and onsite parking and onsite private open space. The height of the building meets the acceptable solution and is not considered bulky and is considered compatible with the existing split level and two story buildings within the immediate Carlton River Road area.

Performance Criteria Assessment 2 – Clause 10.4.3 P2 Side setbacks

The siting of a dwelling must not cause an unreasonable loss of amenity to adjoining properties, having regard to:

- (a) the topography of the site;*
- (b) the size, shape and orientation of the site;*
- (c) the setbacks of surrounding buildings;*
- (d) the height, bulk and form of existing and proposed buildings;*
- (e) the existing buildings and private open space areas on the site;*
- (f) sunlight to private open space and windows of habitable rooms on adjoining properties; and*
- (g) the character of development existing on established properties in the area.*

The performance criteria is applicable as setback from both side boundaries of 1.5m and 1.956m. The topography of the site which slopes down the Carlton River from north to south has a slight fall. As stated above, the building is not considered bulky and is compatible with those in the surrounding area. The siting and design of the building has considered privacy with highlight windows along both sides with privacy film added.

Most buildings in the area have been design to have living areas facing to the south for views to Carlton River which is also similar to this design.

The proposal will cause early morning overshadowing to the adjoining 636 Carlton River Road but the overshadowing will not be extensive or be for any extended period of time with the building located close to the rear boundary and to the adjoining the coastal reserve. That dwelling has no north-facing windows that will be impacted by the proposal. The building located at 636 Carlton River Road is also noted to be approximately 1m from the shared side boundary and 634 Carlton River Road approximately 2.5m from their west boundary so the compatibility has

already been established. This build is split level and compatible with those existing buildings on adjoining lots within the immediate area of Carlton River Road.

Codes

Parking & Sustainable Transport Code

Applicable Code standards		
Clause	Matter	Complies with acceptable solution?
C2.5.1	Numbers	Yes, two parking spaces onsite have been provided
C2.6.1	Construction	Yes, car parking areas are to be sealed and drained
C2.6.2	Design	Yes, car parking areas have compliant gradients
C2.6.3	Access	Yes, one access is provided

Road and Railway Assets Code

Applicable Code standards		
Clause	Matter	Complies with acceptable solution?
C3.5.1 A1	Traffic generation	Yes, as a new vehicle crossing application is required

Natural Assets Code

Applicable SAP standards		
Clause	Matter	Complies with acceptable solution?
C7.6.1 A1	Works in waterway overlay	The acceptable solution relates only to buildings in a building envelope on a sealed plan of survey.

Buildings and works within a waterway and coastal protection area must avoid or minimise adverse impacts on natural assets, having regard to:

- (a) impacts caused by erosion, siltation, sedimentation and runoff;*
- (b) impacts on riparian or littoral vegetation;*
- (c) maintaining natural streambank and streambed condition, where it exists;*
- (d) impacts on in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;*
- (e) the need to avoid significantly impeding natural flow and drainage;*
- (f) the need to maintain fish passage, where known to exist;*
- (g) the need to avoid land filling of wetlands;*
- (h) the need to group new facilities with existing facilities, where reasonably practical;*
- (i) minimising cut and fill;*
- (j) building design that responds to the particular size, shape, contours or slope of the land;*
- (k) minimising impacts on coastal processes, including sand movement and wave action;*

- (l) *minimising the need for future works for the protection of natural assets, infrastructure and property;*
- (m) *the environmental best practice guidelines in the Wetlands and Waterways Works Manual; and*
- (n) *the guidelines in the Tasmanian Coastal Works Manual.*

The development is accompanied by a Natural Values Report by North Barker Ecosystem Services with the following recommendation with respect to the Waterway & Coastal Protection Area.

“The proposed development has considered and minimised potential impact in the WWCPA through a design that will minimise erosion through reduced need for cut and fill actions. A specific erosion control plan should be created to reduce sedimentation and erosion during construction.”

Safeguarding of Airports Code (Obstacle Limitation)

The development does not exceed the airport obstacle limitation area and is therefore exempt.

Southern Beaches Onsite Wastewater and Stormwater Specific Area Plan

Applicable SAP standards		
Clause	Matter	Complies with acceptable solution?
SOR-S2.7.1 A1	Onsite wastewater	No, as more than 20% of the site is covered by buildings, vehicle access and other development and is located on land within a landslip hazard area and a waterway and coastal protection area. Refer to performance criteria assessment below.
SOR-S2.7.2	Stormwater management	No, as the site is not capable of connecting by gravity to a public stormwater system. Refer to performance criteria assessment below.

Performance Criteria Assessment 2 –SOR-S2.7.1 P1 Onsite wastewater

The site must provide sufficient area for management of on-site waste water, having regard to:

- (a) *the topography of the site;*
- (b) *the capacity of the site to absorb wastewater;*
- (c) *the size and shape of the site*
- (d) *the existing buildings and any constraints imposed by existing development;*
- (e) *the area of the site to be covered by the proposed development;*
- (f) *the provision for landscaping, vehicle parking, driveways and private open space;*
- (g) *any adverse impacts on the quality of ground, surface and coastal waters;*

- (h) *any adverse environmental impact on surrounding properties and the locality; and*
- (i) *any written advice from a suitably qualified person (onsite waste water management) about the adequacy of the on-site waste water management system.*

Council's Manager Health and Compliance has reviewed the application and is satisfied that the proposal can adequately provide for onsite wastewater management. The following conditions are recommended to be included in any permit granted:

- (1) *At least 30m² of land must be reserved on-site for wastewater treatment which is located at least 5 m from the downslope boundary and 1.5m from all other boundaries.*
- (2) *Driveways, parking areas, impervious sealing and buildings are not permitted in the area reserved for wastewater treatment.*
- (3) *An aerated wastewater treatment system (or equivalent) must be used for wastewater treatment, which discharges into an absorption bed.*

Performance Criteria Assessment 3 –SOR-S2.7.2 P1 Onsite stormwater

Development must be capable of accommodating an on-site stormwater management system adequate for the development, having regard to:

- (a) *topography of the site;*
- (b) *the size and shape of the site;*
- (c) *soil conditions;*
- (d) *any existing buildings and any constraints imposed by existing development on the site;*
- (e) *any area of the site covered by impervious surfaces*
- (f) *any watercourses on the land;*
- (g) *stormwater quality and quantity management targets identified in the State Stormwater Strategy 2010; and*
- (h) *any advice from a suitably qualified person on the seasonal water table at the site, risks of inundation, land instability or coastal erosion*

The development is accompanied by an Onsite Wastewater System Design and Stormwater design by Strata Geoscience and Environmental with the appropriate system design and assessment and recommendations.

Representations

Clause 6.10.1 of the planning scheme requires the consideration of any representation received but 'only insofar as each such matter is relevant to the particular discretion being exercised'.

Two representations have been received, which are addressed in the following table.

Issue	Relevant Clause	Response
Building Height	10.4.2	The building measures 6.240m from natural ground level which meets the acceptable solution of the standard.
Frontage Setback	10.4.3	The building (carport) is located 5.4m from frontage boundary which is compatible with buildings located to frontage boundaries within the immediate area.
Side Setback	10.4.3	The building is located 1.956m from east and 1.5m from west side boundaries. Privacy and appearance when viewed from public spaces has been considered in the design. The building is split level, storage for understory and 6.240m in height. The building is not considered a bulk form with surrounding dwellings all either split level or double storey buildings which is therefore compatible with the surrounds.
Side Setback overshadowing	10.4.3	Minor overshadowing may occur, however, habitable rooms of buildings within the area have been located to face south for views of Carlton River with the building not being over height. The location of buildings on adjoining lots have been situated close to their side boundaries, therefore the location of this building is considered compatible with those on surrounding lots.
Privacy	10.4.3	Privacy highlight windows and screens have been designed within the build.
Height	10.4.3	The building measures 6.240m from natural ground level which meets the acceptable solution of the standard.
Setback from (river side) differs	SAP	Onsite wastewater and stormwater reports show the stormwater and wastewater locations which differ slightly from the design plans. The applicant was requested to move the dwelling 1.5m further up the lot toward the northern boundary to provide for separation between onsite overflow trenches and rear boundary. The exact location of the onsite wastewater and stormwater services will be determined at plumbing stage.
Shadow Diagrams	10.4.3	Shadow diagrams have been provided post advertising and are attached. They were not required for advertising as the development was assessed as having minimal impact.

Conclusion

The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme (Sorell LPS)* and is recommended for conditional approval.

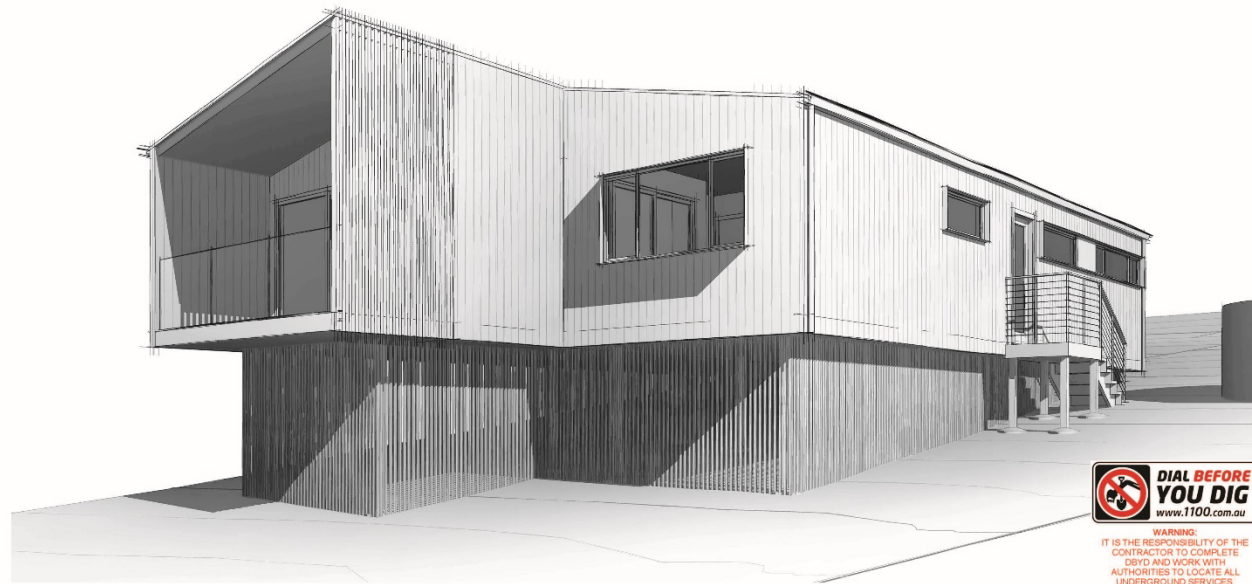
Jenny Richmond
PLANNING OFFICER

Attachments:
Proposal Plans
Shadow diagrams
Representations x 2

ISSUE

Sheet List				
Sheet Number	Sheet Name	Project Status	Current Revision	Revision Date
1 G-01	COVER	DA	R17	19/09/2023
1 G-02	GENERAL NOTES	DA	R17	19/09/2023
1 G-03	BAL 29	DA	R17	19/09/2023
1 G-04	BAL 29	DA	R17	19/09/2023
2 A-00	SITE SURVEY	DA	R17	19/09/2023
2 A-01	SITE PLAN	DA	R17	19/09/2023
2 A-02	FLOOR PLAN	DA	R17	19/09/2023
2 A-03	ELEVATIONS	DA	R17	19/09/2023
2 A-03.1	ELEVATIONS	DA	R17	19/09/2023
2 A-04	ROOF PLAN	DA	R17	19/09/2023

Sorell Council
 Development Application: Response to Request for Information - 638 Carlton River Road, Carlton River.pdf
 Plans Reference: P5
 Date Received: 05/10/2023



General Information
 Designer: Daniel Bastin CC6836
 Classification: 1a
 Title Reference: 23789/10
 Design Wind Speed: N2
 Soil Classification: P
 Climate Zone: 7
 BAL: 29
 Corrosion Environment: Severe
 Known Hazards: N/A
 Floor Area: 111m²
 Deck: 8m²



WARNING:
 IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COMPLETE DSD AND WORK WITH AUTHORITIES TO LOCATE ALL UNDERGROUND SERVICES.

General Notes
 Do not scale plans, use written dimensions only. The owner/builder/subcontractor shall verify all dimensions, levels, setbacks and specifications prior to commencing works or ordering materials and shall be responsible for ensuring that all building works conform to the current NCC and Australian standards, building regulations and town planning requirements.
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Denholm Residence
 638 Carlton River Road, Carlton River
 Richard Denholm

COVER

Project number	2303.95
Drawing Status	DA
Current Revision	19/09/2023 R17

1 G-01

Scale on A3

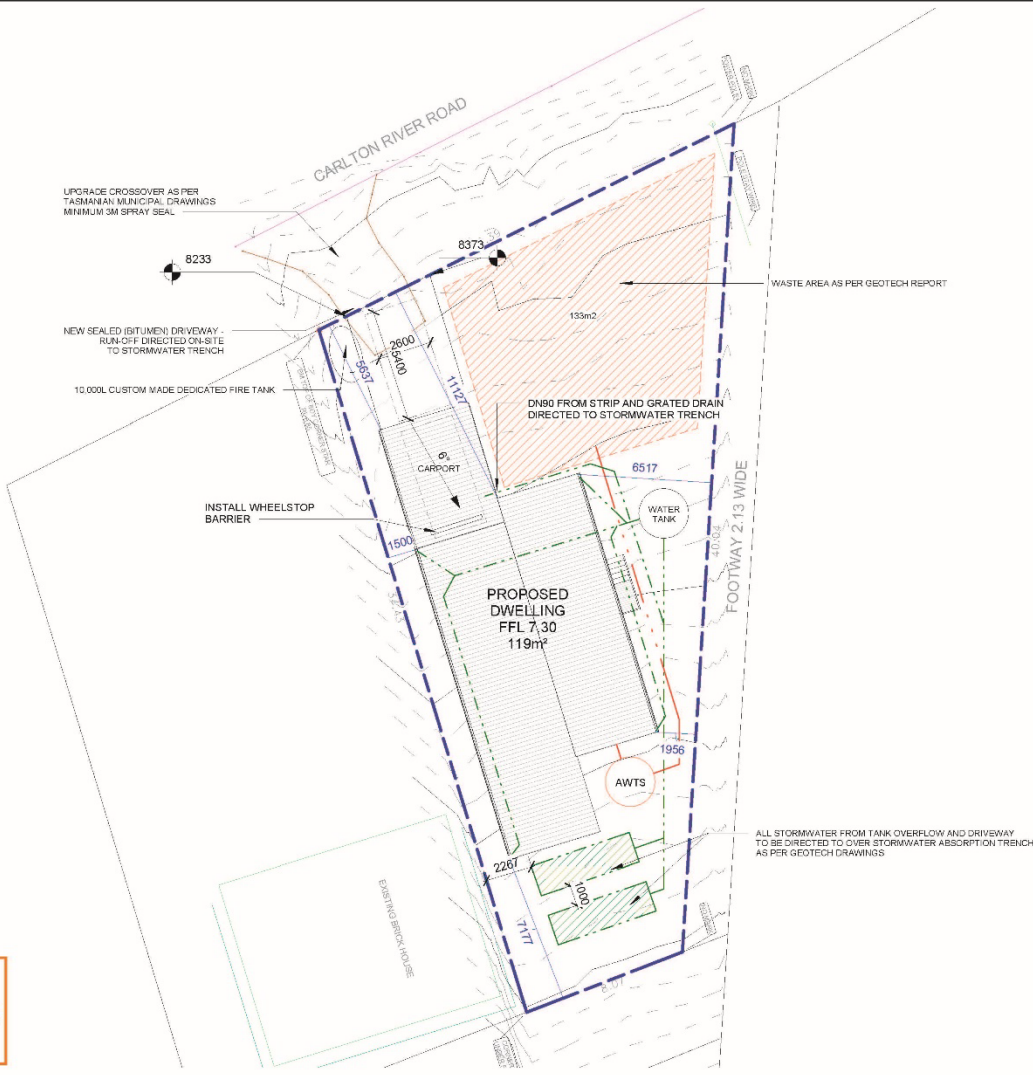
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AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

ISSUE

Construction and materials in accordance with current NCC requirements and all relevant Australian Standards - See General Notes
Construction in accordance with AS3959 = BAL 29



Sorell Council
Development Application: Response to Request for Information - 638 Carlton River Road, Carlton River.pdf
Plans Reference: P5
Date Received: 05/10/2023



General Notes:
Do not scale plans, use written dimensions only. The owner/builder/subcontractor shall verify all dimensions, levels, setbacks and specifications prior to commencing works or ordering materials and shall be responsible for ensuring that all building works conform to the current NCC and Australian standards, building regulations and town planning requirements.
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Denholm Residence
638 Carlton River Road, Carlton River
Richard Denholm



SITE PLAN		2 A-01
Project number	2303.95	
Drawing Status	DA	
Current Revision	19/09/2023 R17	Scale on A3 1 : 200

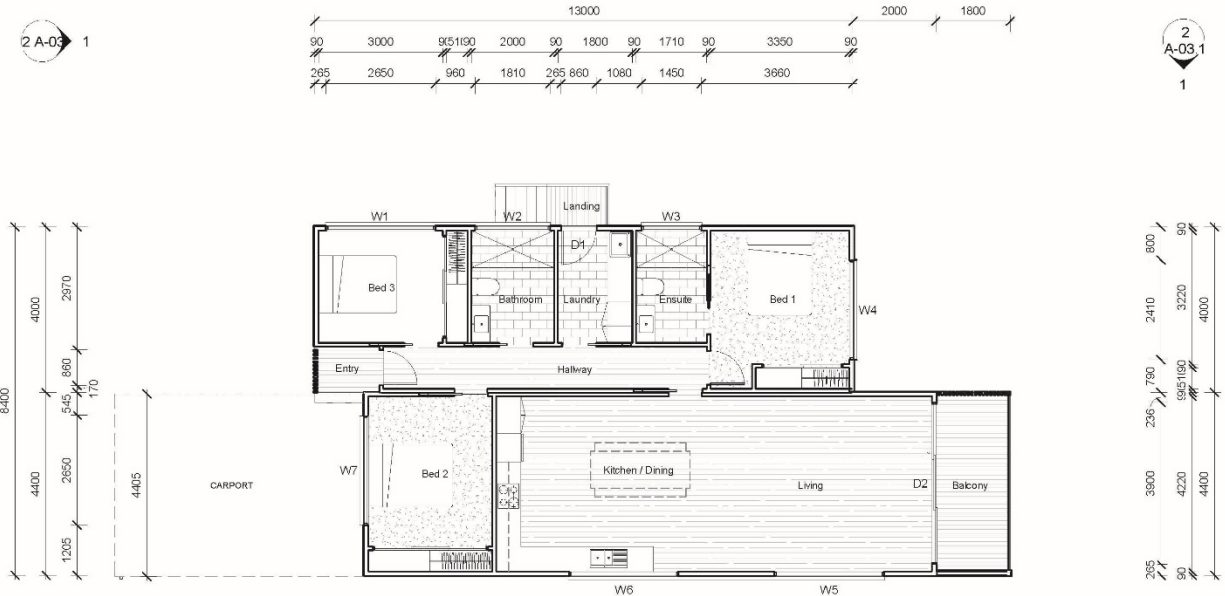
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AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

ISSUE

Construction and materials in accordance with current NCC requirements and all relevant Australian Standards - See General Notes
Construction in accordance with AS3959 = BAL 29



Sorell Council
Development Application: Response to Request for Information - 638 Carlton River Road, Carlton River.pdf
Plans Reference: P5
Date Received: 05/10/2023

Area Schedule	
House	111 m ²
Balcony	8 m ²
Landings	3 m ²

Glazing Schedule - Single/Double - Colour - BAL TBA						
Mark	Height	Width	Head Height	Description	Comments	Count
D1	2100	820	2100	Hinged Door	Clear	1
D2	2100	3900	2100	Stacking Door	Clear	1
D3	2100	820	2100	Hinged Door	White Trans	1
W1	600	2650	2100	Awning Window	Clear	1
W2	600	1810	2100	Awning Window	White Trans	1
W3	600	1450	2100	Awning Window	White Trans	1
W4	1200	2410	2100	Awning Window	Clear	1
W5	857	2650	2100	Awning Window	Clear	1
W6	857	2650	2100	Awning Window	Clear	1
W7	600	2650	2100	Awning Window	Clear	1

General Notes
Do not scale plans, use written dimensions only. The owner/builder subcontractor shall verify all dimensions, levels, setbacks and specifications prior to commencing works or ordering materials and shall be responsible for ensuring that all building works conform to the current NCC and Australian standards, building regulations and town planning requirements.
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Richard Denholm



FLOOR PLAN		2 A-02
Project number	2303.95	
Drawing Status	DA	
Current Revision	19/09/2023 R17	Scale on A3 1 : 100

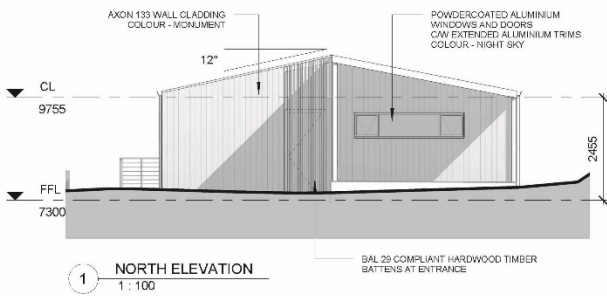
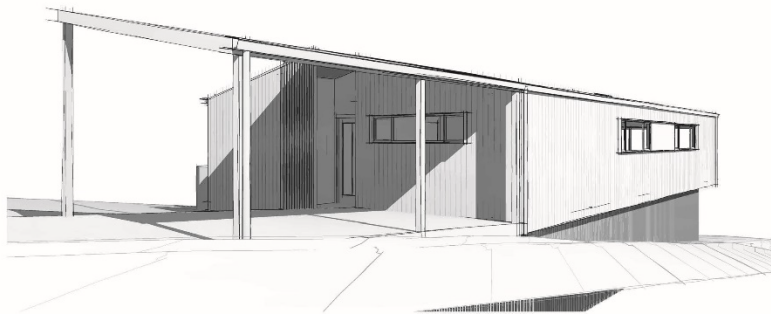
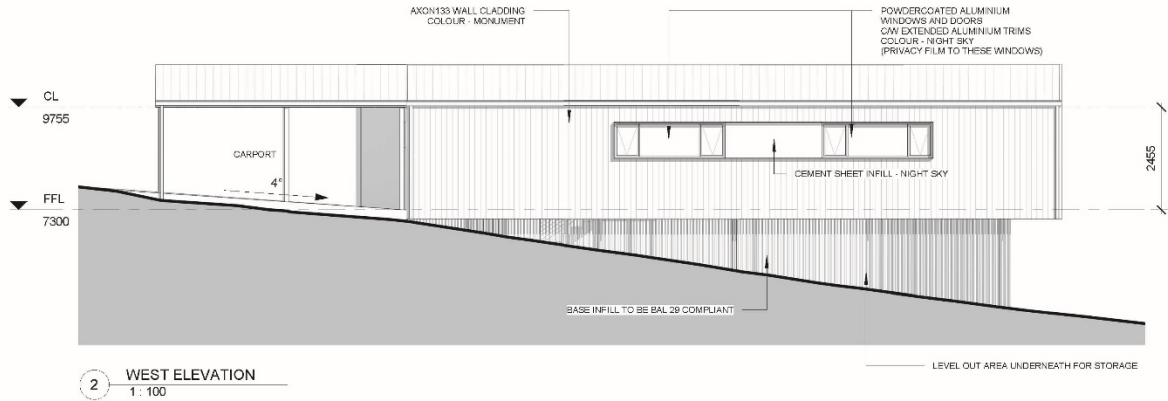
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AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

ISSUE

Construction and materials in accordance with current NCC requirements and all relevant Australian Standards - See General Notes
Construction in accordance with AS3959 = BAL 29



Sorell Council
Development Application: Response to Request for Information - 638 Carlton River Road, Carlton River.pdf
Plans Reference: P5
Date Received: 05/10/2023

General Notes
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638 Carlton River Road, Carlton River
Richard Denholm

ELEVATIONS	
Project number	2303.95
Drawing Status	DA
Current Revision	19/09/2023 R17

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Scale on A3 1:100

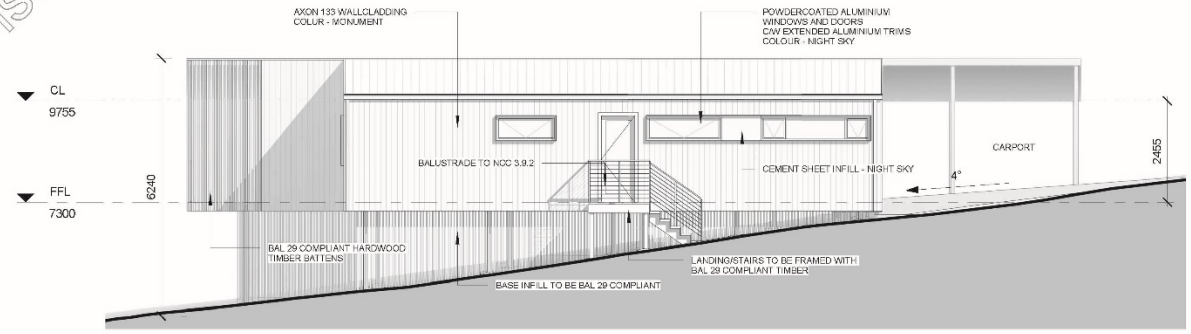
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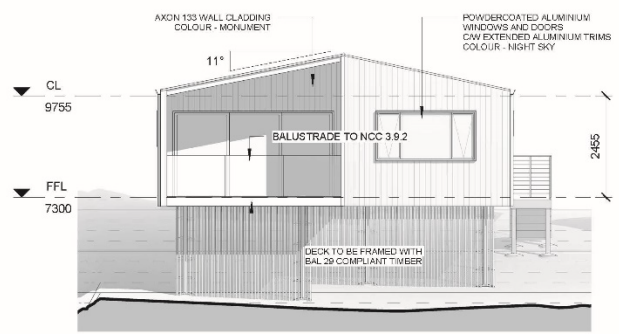
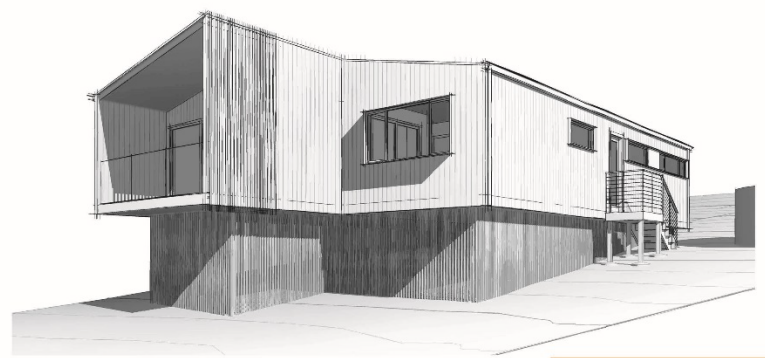
AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

ISSUE

Construction and materials in accordance with current NCC requirements and all relevant Australian Standards - See General Notes
Construction in accordance with AS3959 = BAL 29



1 EAST ELEVATION
1 : 100



2 SOUTH ELEVATION
1 : 100

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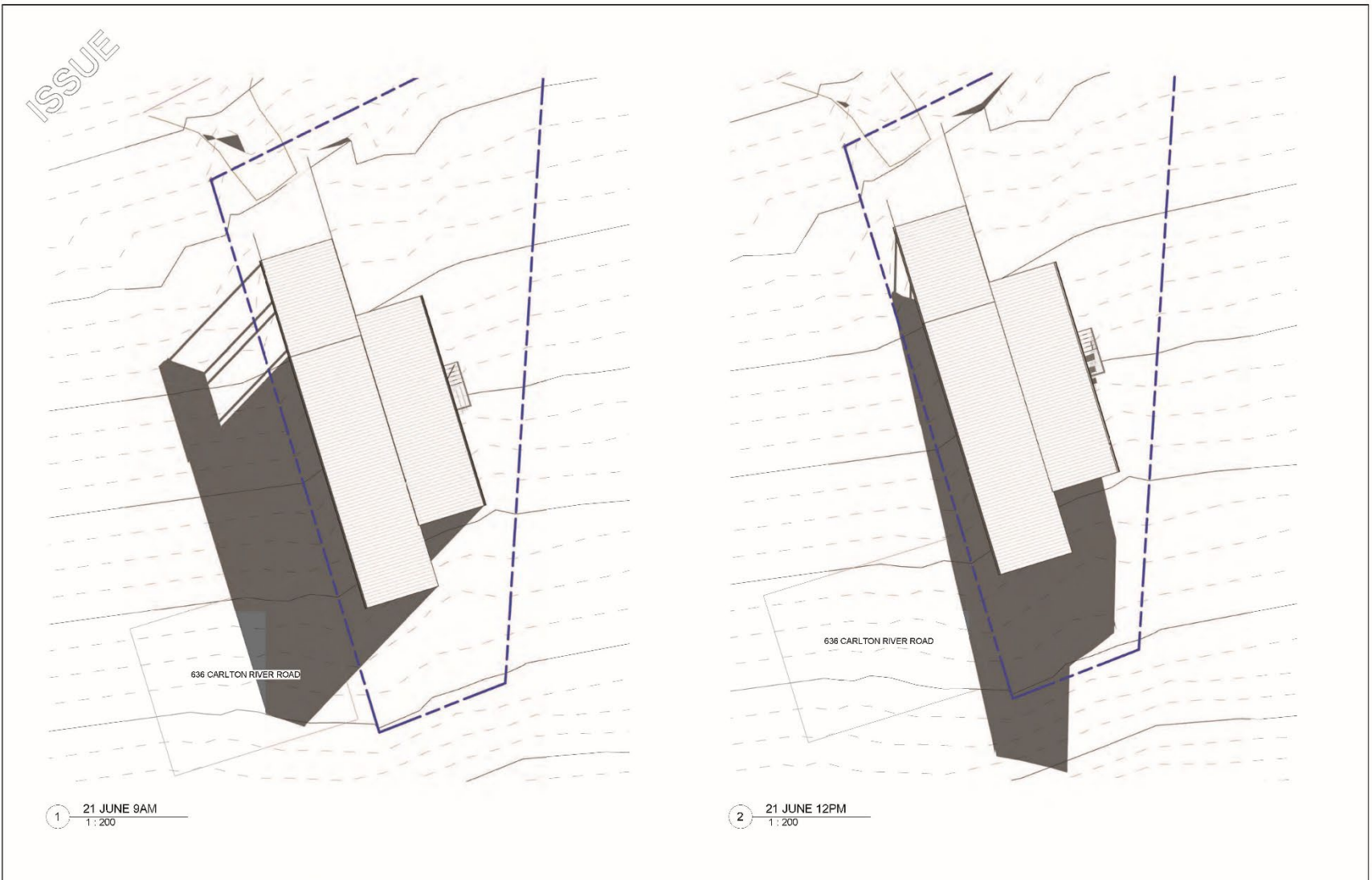
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ELEVATIONS			
Project number	2303.95	2 A-03.1	
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SHADOWS JUNE

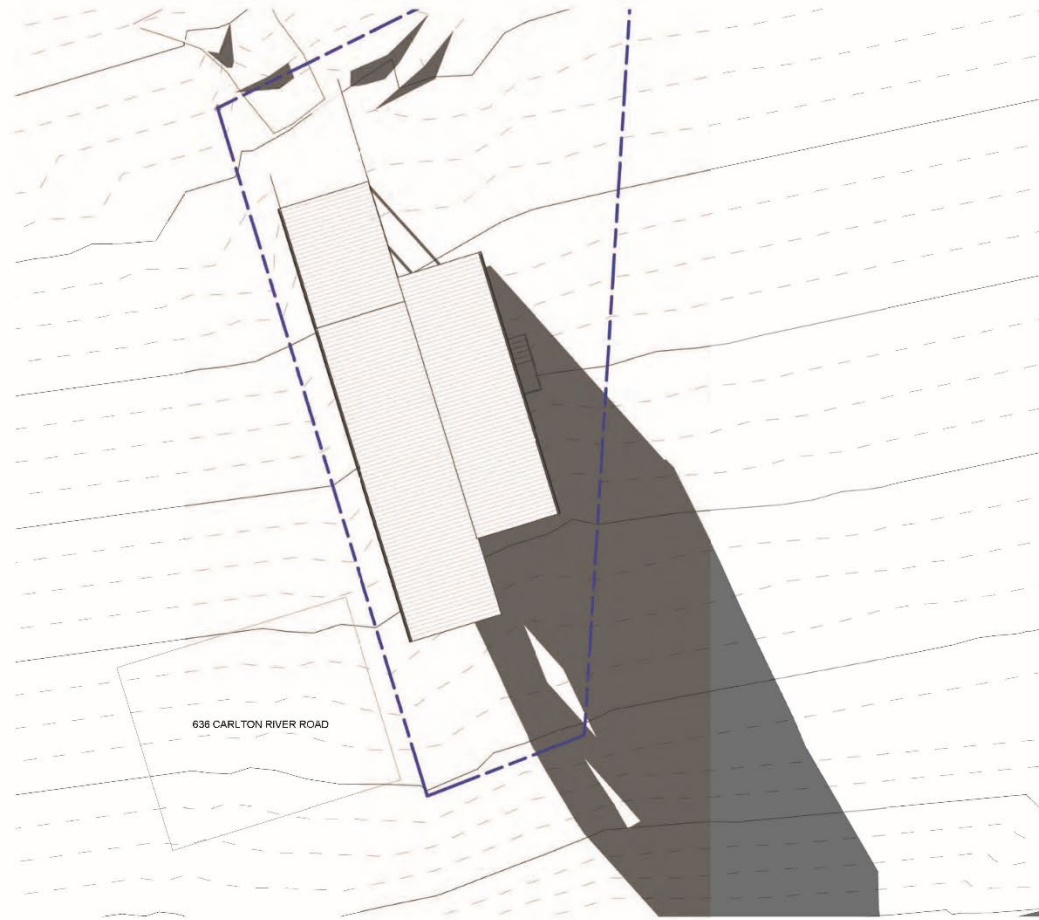
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Current Revision	07/11/2023 R19

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ISSUE



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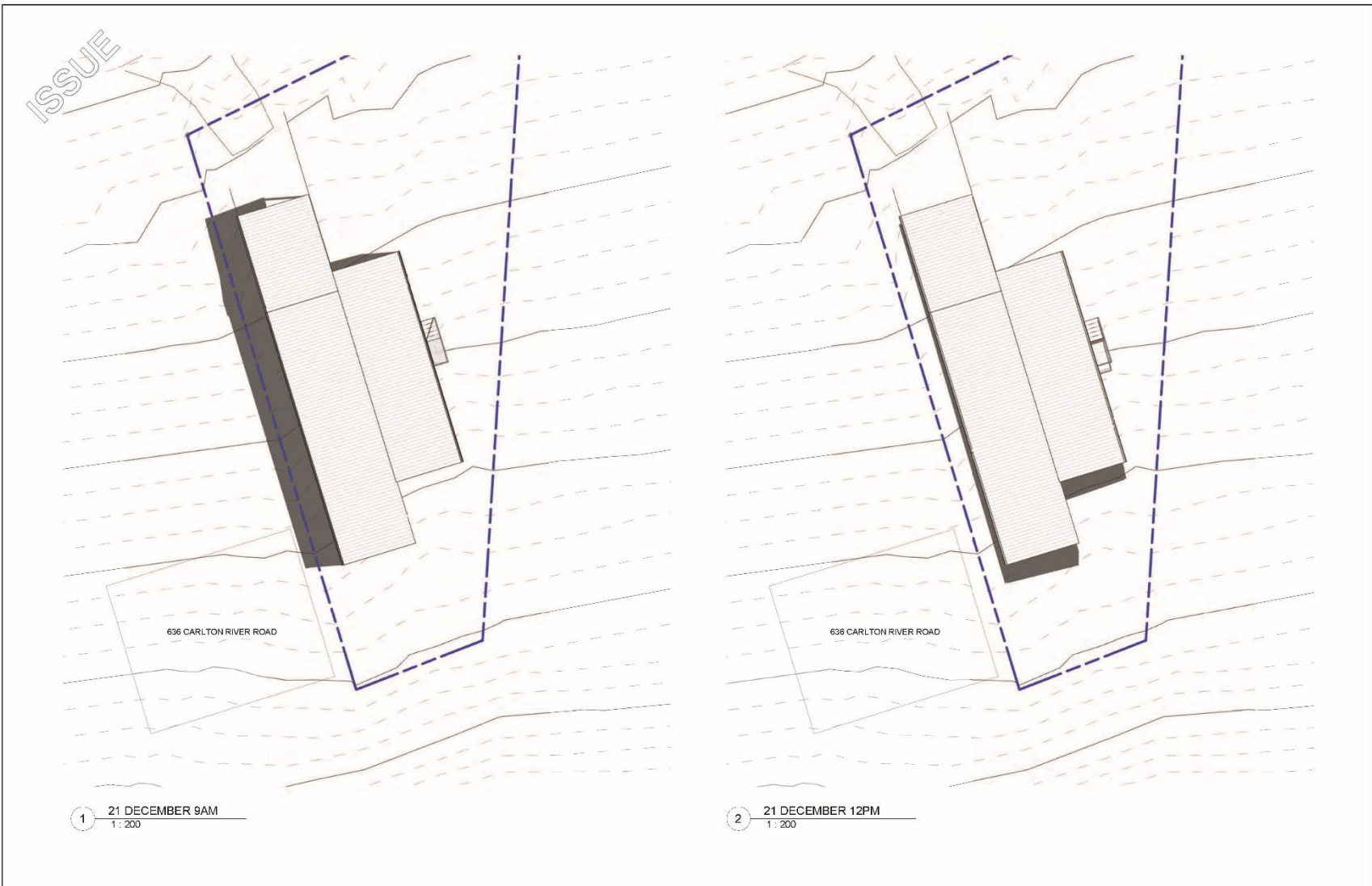
SHADOWS JUNE

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Drawing Status	BA	
Current Revision	07/11/2023 R19	Scale on A3 1 : 200

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AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023



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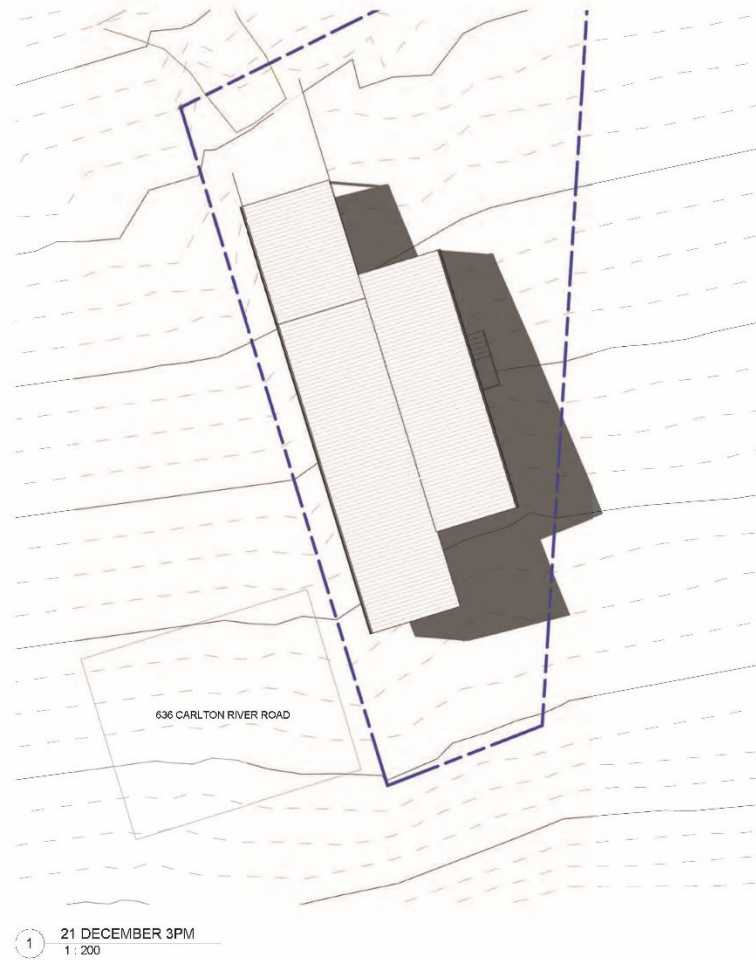
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Project number	2303.95
Drawing Status	BA
Current Revision	07/11/2023 R19

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 Scale on A3 1:200

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ISSUE



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SHADOWS DECEMBER

Project number	2303.95	2 A-01.4
Drawing Status	BA	
Current Revision	07/11/2023 R19	Scale on A3 1 : 200

7/11/2023 10:17:25 AM



AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

From:
To: [Sorell Council](#)
Subject: 5.2023.113.1 AT 638 Carlton River Road, Carlton River (CT23789/10) for - D Bastin
Date: Tuesday, 17 October 2023 7:01:42 PM

Good afternoon,

With regard to the above planning application.

I have great concern with regard to the distance the proposed residence is from my house and the proposed height from ground level. That based on the distance and height, it will block the sun from my kitchen and living space, as this is the only area of my house that receives direct sunlight during the course of the day.

I would like to discuss this matter further.

Kind regards



From:
To: [Sorell Council](#)
Subject: Re: Email Received: 5.2023.113.1 AT 638 Carlton River Road, Carlton River (CT23789/10) for - D Bastin
Date: Wednesday, 18 October 2023 9:08:12 AM
Attachments: [Sunlight into kitchen 636 CRR 2.jpg](#)
[Sunlight into kitchen 636 CRR 3.jpg](#)
[Sunlight into kitchen 636 CRR 1.jpg](#)

Good morning,

In addition to my previous email, I would like to stress further my concerns with the proposed dwelling at 638 Carlton River Road.

The set back from the side boundary adjoining my property is 1500mm. And the height of the dwelling from ground level (which will be next to my kitchen) is 6240mm. I have attached images that show how the sunlight enters my kitchen and dining room in the morning.

My kitchen and dining room are the only rooms that get direct sunlight during the day. And I believe the distance and height of the proposed dwelling at 638 Carlton River Road will block the minimal sunlight that I have.

The proximity of the proposed dwelling will also impact my privacy and have likely have a negative impact on the resale value of my property.

I am also concerned that the height of the dwelling does not fit the surroundings, that being low density housing, including the heritage listed post office at 640 Carlton River Road.

The distance from the setback (river side) also differs in the documentation, in one section it is 5573mm, then further in the document is 7177mm.

Question if I may, are shadow drawings are requirement of the proposed dwelling.

I look forward to your response.

Kind regards







From:
To: [Sorell Council](#)
Subject: 638 Carlton River Rd Planning Application
Date: Thursday, 26 October 2023 1:52:27 PM

Dear Sir/Madam,

I refer to the letter from Sorell Council dated 12th October regarding planning application for 638 Carlton River Rd.

I have reviewed this application in some detail and discussed shadowing projections and other specifics with reference to the Standards for Dwellings in the relevant Planning Scheme with our project Draftsman. We are currently planning to restore and improve our heritage listed property to function as a short stay accommodation destination. We would like to raise several concerns about the proposal on the neighbouring block. Below I have highlighted in italics the specific standards that I believe the proposal does not meet.

10.4.2 Building height

Objective: That the height of dwellings is compatible with the streetscape and do not cause an unreasonable loss of amenity for adjoining properties.

A1

A dwelling must have a building height not more than 8.5m.

P1

The height of dwellings must be compatible with the streetscape and not cause an unreasonable loss of amenity to adjoining properties having regard to:

- (a) the topography of the site;
- (b) *the height of buildings on the site and adjacent properties;*
- (c) *the bulk and form of existing and proposed buildings;*
- (d) *sunlight to habitable rooms and private open space of dwellings; and*
- (e) *any overshadowing of adjoining properties.*

Objective: That the siting of dwellings is compatible with the streetscape and does not cause an unreasonable loss of amenity for adjoining properties.

A1

Dwellings, excluding protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage not less than 8m.

A2

Dwellings, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally from the building, must have a setback from *side and rear boundaries of not less than 5m.*

P1

The siting of a dwelling must be compatible with the streetscape and character of development existing on established properties in the area, having regard to:

- (a) the topography of the site;
- (b) the setbacks of surrounding buildings;
- (c) *the height, bulk and form of existing and proposed buildings;*
- (d) *the appearance when viewed from roads and public open space adjacent to the site; and*
- (e) the safety of road users.



P2

The siting of a dwelling must not cause an unreasonable loss of amenity to adjoining properties, having regard to:

- (a) the topography of the site;
- (b) the size, shape and orientation of the site;
- (c) the setbacks of surrounding buildings;
- (d) the *height*, bulk and form of existing and proposed buildings;

Specifically, we feel that the proposed elevation for a single level building is unnecessary and not in keeping with the other dwellings in the area, particularly the humble single level cottages on either side. This unnecessary elevation results in shadowing of our outdoor entertaining areas in autumn, spring and summer.

Our property is highly significant in the history of the region and we would hate for it to be overshadowed by a building that has been unnecessarily elevated due to a breach of the planning process. We feel this would directly lead to loss of amenity for us given the commercial intentions for our property (which will be necessary in order for us to afford to restore and preserve our special building). We feel it may also compromise the character of both our property and the area to have an imposing dwelling built right next door.

I would also like to draw council's attentions to the proximity of the proposed dwelling to the side boundary - 1.8m setback, falling well short of the recommended 5m.

I hope that council can consider these issues in making recommendations.

Best Wishes,

5.4 DEVELOPMENT ASSESSMENT PANEL FRAMEWORK – POSITION PAPER SUBMISSION

RECOMMENDATION

- A. That Council, acting as a Planning Authority, resolves that the General Manager provide a submission to the position paper on the Development Assessment Panel (DAP) framework that includes the suggested response in the report.

Background

The expanded use of Development Assessment Panels (“DAPs”) in the Tasmanian planning system has been a discussion point in the local government sector and development industry for some time. Recently, DAPs were discussed in stage one of the local government reform project until removed during stage 2. The Tasmanian Government has now announced that it intends to introduce legislation to introduce DAPs.

The Future of Local Government Review Stage 2 Interim Report stated (emphasis added):

The Board’s December 2022 Options Paper included several potential changes to councillors’ role in the development approval process. Planning-related changes can be highly contentious, both across the sector and in the general community. A significant number of councils have said they stridently oppose removing the planning authority status from councils, while others indicated they would welcome it.

There is a strong division between those who believe councillors have a legitimate role in directly making planning decisions, and those who believe the role of elected representatives is to shape local planning schemes and represent community views in the planning process but that decisions should be made by local professional planners or, in the case of complex applications, by independent planning panels.

While the Board believes there is a tension between councillors’ role as community advocates and their role as a member of a planning authority, it has heard mixed and conflicting evidence about whether this is a significant problem, or if the tension is being appropriately managed in most cases.

The Future of Local Government Review Stage 2 Interim Report further presented a reform option to ‘de-conflict the role of Councillors and planning authorities’ through referring complex applications to independent panels or removing Councillors altogether from the planning process.

The Future of Local Government report also noted issues of resourcing, consistency of regulation in the absence of State guidance and greater regional collaboration as key planning issues.

The policy consideration is one of expanding the use of DAPs. DAP equivalent mechanisms exist for major infrastructure developments, major projects, projects of State significance, marine farming, level 2 environmental projects, State heritage and scheme amendments. The EPA also utilises 'call-in' provisions for proposals that have complex environment implications for assessment or compliance that are reasonably beyond the scope of normal Council functions.

The author's professional view is that some form of DAP is appropriate so that Councillors can freely represent their community without the constraints of the planning system.

The Position Paper

This report provides an overview of the position paper and outlines a suggested response from Council.

Inside Scope

The position paper outlines the following six consultation issues:

1. The type of application suitable for referral to a DAP, including who should be able to refer and when;
2. The ability for the Minister to direct a Council to initiate a planning scheme amendment;
3. Integration with existing processes and incorporation of local knowledge;
4. Additional information requests;
5. Appeal rights and assessment timeframes; and
6. Role of local planning authority post approval.

Outside Scope

The critical issues of how much a DAP will cost, who pays and where will the planners come from are not discussed in any way. Further, there is no analysis on how many DAP assessments could take place for the given referral scenarios discussed.

One could assume that the DAP would operate on a cost recovery basis equivalent to the Environment Protection Agency (EPA). Council development charges attempt to approximate cost recovery for statutory planning across all applicants but cannot recoup at an hourly rate and thus rely on assumptions of actual cost being reflective of the value of work. An EPA model would likely be more costly to applicants and could be a point of leverage in the framework. Moreover, Council projects referred to a DAP would likely be subject to cost rather than the existing in-kind approach.

Suggested response: The following key practical considerations are significant to understanding how a DAP may work and should have been included in the position paper:

- *whether a DAP would be within an agency or independent statutory authority or have an independent governing structure, along with the strengths and weaknesses of different options;*
- *where the planning resources would come from given the shortage of qualified and experienced planners;*
- *how much may the system cost and how many assessments are likely for the referral scenarios discussed;*
- *whether Council's in fact do lack the resources to assess complex or large developments given the ability to use consultants along with advice from agencies;*
- *whether existing LUPAA referral provisions should be broadened and strengthened to improve the quality and efficiency of decision-making generally and ensure that the State's interests are reflected irrespective of the authority making the decision;*
- *whether complex proposals requiring ongoing compliance should, in all cases, be subject to a licence fee, similar to scheduled premises regulated by the EPA; and*
- *how the costs are funded or recouped, particularly given the proposed process relies heavily on existing Council resources, including the ability of a cost recovery fee model similar to the EPA.*

The Draft DAP Framework

The Draft DAP Framework would use existing functions administered by Council staff, including application lodgement, additional information requests, determination of validity, public exhibition, undertaking a planning assessment including reporting on submissions received and determining whether a non-mandatory referral should be referred to a DAP or not (within 7 days).

This approach is understood to be similar to that in other jurisdictions and is similar to the combined planning scheme amendment and permit process.

There may be instances where a DAP is not satisfied by the level of assessment undertaken by local government, such as forming a view that additional information should have been provided or whether the information was adequate. This is more likely in Tasmania than in other jurisdictions as there is an unwillingness or inability by the State to prepare guidance material on planning provisions that would inform proponents and local government planners and assist in consistency.

Consultation Issue 1 - The type of application suitable for referral to a DAP, including who should be able to refer and when.

The position paper outlines eight application types that may be perceived as problematic for Council's to determine and should be considered by a DAP. These include social and affordable housing, critical infrastructure, Council as applicant, Councillor conflict of interests, contentious applications, applicant is concerned by bias or perceived bias, complex applications and applications over a certain value. Further, options for referral to a DAP could be the applicant, the applicant with the consent of the planning authority, the planning authority, the planning authority with the consent of the applicant or the Minister.

Finally, there is the option of whether a referral to a DAP should be prior to lodgement, following consultation or at the assessment stage in the event of a Councillor conflict of interest.

It is difficult to envisage a future process where there is uncertainty about what may be eligible for a DAP and who or when a referral would take place. This appears messy for planning staff, developers, community, Councillors and the DAP.

This is particularly the case in a system where the statutory timeframes for further information and final decision are minimal, where there is no notice of intent type process that the EPA uses and where there is no ability to stop the clock in order to fully consider the matter.

Suggested response: The process for referring an application to a DAP should:

(a) Be in prescribed circumstances or called-in by the Minister either of their own motion or in response to a call-in request from the applicant or Council;

- i. Prescribed circumstances should be limited tailored by scale of development and scale of Council;*
- ii. Prescribed circumstances could be negotiated with each Council;*
- iii. Prescribed circumstances should be limited to potential conflicts between Council as regulator and Council as developer, such as developments at Kangaroo Bay, Rosny Hill or the former Kingston High School site;*
- iv. Prescribed circumstances could be for very large development or complex developments.....*
- v. A call-in request should be made by the applicant prior to lodgement or by Councils within 7 days and if made by Council should stop the clock for 14 days while awaiting the decision.*

(b) Should be for applications or scenarios set by regulation that include:

- i. Council as applicant, owner or lease holder if the application is discretionary or is of a value greater than \$100,000 for a Council the size of Sorell;*
- ii. State agencies as the applicant, owner or lease holder if the application is discretionary or is of a value greater than say \$5,000,000 (our recent experience with DSG not complying with*



permit conditions is a clear example that the State may not be a good applicant or proponent);

- iii. *Applications over a value of say \$10,000,000 for a Council the size of Sorell; and*
- iv. *Where a quorum may not be possible due to perceived or actual pecuniary or other biases among multiple Councillors.*

There are robust meeting procedures and judicial review processes in place to deal with perceived or actual conflict of interests with individual Councillors and this does not require any new mechanism. In the unlikely scenario that a quorum does not exist due to perceived or actual conflict of interest, the application could be determined by a DAP rather than TASCAT.

Situation in which an applicant considers that there is a bias on the part of Council or Councillors may arise but are very difficult to demonstrate or for that to become clear at an initial stage of a planning application. This does not appear to be a reasonable basis for referral and does not appear to be a criteria in other jurisdictions.

Consultation Issue 2 - the ability for the Minister to direct a Council to initiate a planning scheme amendment

There are a number of inherent flaws in the existing processes for planning scheme amendment. The initial task for Council is to initiate and certify a planning scheme amendment is consistent with the relevant legislation. That legislation is informed by the Resource Management and Planning System principles, in which community engagement and consultation is critical. The difficulty lies in that the initial initiation and certification occurs prior to consultation. In other words, Council must certify a planning scheme amendment is in the community interest before it gets feedback from its community.

While there are no particular issues with a Minister directing the initiation of a scheme amendment, the process for initiation requires revision. An alternative to Ministerial intervention could be a TASCAT review should a planning authority refuse to initiate an amendment.

Suggested response: The existing mechanisms should be reviewed so that a Council does not have to certify an amendment as being in the community interest without first asking the community for input (which is the current circumstance). A TASCAT review of an initiation refusal could be an alternative to Ministerial intervention. Broadly, however, the Tasmanian system should align with other Australian states and provide greater Ministerial powers.

Consultation Issue 3 - Integration with existing processes and incorporation of local knowledge



This issue considers whether Councils should be the primary contact for applicants, engage in pre-lodgement discussions, determine validity, request additional information or assess the application. In other words, should the section 43A/40T process for combined planning scheme amendments and planning applications be adopted.

Suggested response: The use of existing Council administrative functions in a DAP framework requires careful consideration if the community is to fully understand respective roles and responsibilities. Moreover, the framework must enable the direct costs to Council to be recouped both at the assessment stage and for ongoing compliance functions. A framework is necessary for how local government can impose a licence fee for all use and development scenario's to reflect the actual cost of monitoring and compliance.

Consultation Issue 4 - Additional information requests

This issue considers whether an additional information request (presumably from Council given the above) should be able to be reviewed.

The position paper refers to additional information processes being used to delay or frustrate the assessment process and to the existing mechanism to appeal such requests to TASCAT.

Suggested response: the real issue with additional information requests is that the planning system has evolved over time from a conceptual approval to a final approval. There is no longer the ability to use conditions to control the detail of stormwater management or environmental impacts. Planning approval for a multiple dwelling in today's system is based on a greater than P80 design and this comes at significant financial costs to proponents as well as project uncertainty and time delays.

Whether or not the DAP framework enables review of additional information requests will have no bearing on the existing problem.

Consultation Issue 5 - appeal rights and assessment timeframes

This issue is whether there should be a right of appeal on decisions made by a DAP and what the timeframe should be. There is no right of appeal on the merits of a decision made by the TPC.

Consultation Issue 6 - role of local planning authority post approval.

This considers whether responsibility for permit compliance and minor amendments should be the responsibility of Council.

Suggested response. Councils cannot be financially sustainable and accountable to their communities if they are forced to do the work of State bodies.

Conclusion

A Development Assessment Panel (DAP) is an appropriate additional element in the Tasmanian planning system and can resolve existing issues of conflicting roles between applicant and decision-making and better match the resources available for assessment to the complexities of the matters at hand. The proposed mechanism is to be bolted on to existing resources and processes and includes too many subjective elements in order to deliver adequate and trusted assessment of more complex planning applications. A number of suggestions are made for consideration.

Shane Wells
MANAGER PLANNING

Attachments:

Development Assessment Panel (DAP) Framework Position Paper



Development Assessment Panel (DAP) Framework

Position Paper



State Planning Office
Department of Premier and Cabinet



AGENDA
SORELL PLANNING AUTHORITY (SPA) MEETING
7 NOVEMBER 2023

Author:
State Planning Officer

Publisher:
Department of Premier and Cabinet

Date:
October 2023

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ATTACHMENT I - Draft DAP Framework



1. Introduction

The Tasmanian Government has announced the preparation of new legislation to introduce independent Development Assessment Panels (DAPs) to take over some of councils' decision-making functions on certain development applications.

The stated intent for introducing DAPs is 'to take the politics out of planning' by providing an alternate approval pathway for more complex or contentious development applications.

Any DAP determined applications will still be assessed against the current planning rules and use and development standards in existing planning schemes. It is intended that, where possible, the DAP framework will utilise existing processes and incorporate local knowledge into the decision-making process.

The project also consider whether there should be an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances.

The purpose of this Position Paper is to explore these matters by providing some background context on the role of council, identifying the current issues associated with determining development applications, seeking input on what applications might be suitable to be determined by a DAP, options for what a DAP framework might look like and how it might be integrated into the planning system.

Throughout the Position Paper 'Consultation issues' are identified and followed by text boxes containing specific questions that are intended initiate conversations for the purpose of consultation. In addition, to help explain what a DAP framework might look like, an outline of a draft framework is provided in **Attachment I** for comment.

2. Background

2.1 Role of planning authorities

In Tasmania, councils are 'planning authorities' with defined responsibilities to determine development applications in accordance with the *Land Use Planning and Approvals Act 1993* (LUPAA). Section 48 of the LUPAA requires that:

'where a planning scheme is in force, the planning authority must, within the ambit of its power, observe, and enforce the observance of, that planning scheme in respect of all use and development undertaken within the areas to which the planning scheme relates.'

A council is required to act as a planning authority when it is determining development applications, irrespective of the personal or political views of individual Councillors and the constituents they represent. This presents a degree of conflict for those elected to represent their constituents under the *Local Government Act 1993* and perform the planning authority function. This conflicted role of Councillors has been identified in the Future of Local Government Review Stage 2 Interim Report (the Interim Report) (released in May 2023).

The Interim Report identified that there was strong division between those who believe Councillors have a legitimate role in making planning decisions on development applications,



and those who believe the role should relate primarily to strategic land use planning where they can legitimately represent community views in planning processes leaving decisions on applications to local professional planners, or in the case of complex applications, by independent planning panels. Indeed, some councils specifically requested that planning decisions be totally removed from elected councils.

Following the publication of the Interim Report, the Minister for Local Government amended the terms of reference for the Future of Local Government Review by removing councils' development assessment role, and referred this to the Minister for Planning for further consideration.

The Interim Report identified eight reform outcomes with some applicable reform options to consider. Of relevance to the Planning portfolio, Reform outcome 5 – "Regulatory frameworks, systems and processes are streamlined, simplified, and standardised" identifies the following options:

- *Deconflict the role of councillors and planning authorities*
 - *Refer complex planning development applications to independent assessment panels appointed by the Tasmanian Government*
 - *Remove councillors' responsibility for determining development applications*
 - *Develop guidelines for the consistent delegation of development applications to council staff.*

Typically, planning authorities don't consider many amendments to planning schemes, however they still have the potential to raise similar issues of conflict between planning considerations and the preferences of some constituents, to those experienced when determining development applications. Although the initiation process only signifies the commencement of the assessment of the planning scheme amendment, refusing to initiate is effectively a refusal of the application to amend the planning scheme and it does not progress to exhibition and assessment by the Council and final determination by the Commission.

As part of seeking feedback on a legislative framework for DAPs, the scope of this Position Paper has been broadened so that where Councillors are, or perceived to be, conflicted or compromised, or making a decision based not on planning considerations, whether it may be appropriate for the Minister to have the power to direct a Council to initiate in certain circumstances.

If there is support for an alternate planning scheme amendment initiation pathway, it would seem logical to include it as part of this project and incorporate any amendments to the Act in a single draft Bill. Any recommendations to include an alternate initiation pathway that is informed by the outcomes of this consultation process will be further consulted on early next year.

2.2 Planning system

Since 2014, the Government has been implementing significant reforms to the Tasmanian planning system, including delivery of the Tasmanian Planning Scheme, the development of



the Tasmanian Planning Policies and a comprehensive review of the three regional land use strategies.

The results of these reforms are now becoming apparent. The Tasmanian Planning Scheme is in effect in 23 local government areas and the most recent consolidated data from 2021-22 shows that discretionary applications are being determined in a median timeframe of 38 days (40 average) and permitted in 21 days (21 average). Where the 'clock is stopped' to request further information, discretionary applications are being determined across the State in a median of 46 days (53 average) including those 'clock stopped' days.

By way of comparison, noting the differences in assessment processes and classifications, in the June 2023 'Improving the Performance of Land Zoning, Planning and Land Release System' report prepared for the Australian Government Treasury, average approval times in South Australia were around 46 days, Northern Territory 55 days, Australian Capital Territory 61 days, New South Wales 83 days, Queensland 86 days and Victoria a median of 81 days and an average of 129 days. There were no figures for Western Australia, but the statutory time frame for the equivalent of permitted developments is 60 days and for discretionary is 90 days (as opposed to 28 days and 42 days in Tasmania).

Tasmanian councils are also determining more applications than ever before, with annual totals rising from around 6,500 in 2016-17 to over 12,000 in 2021-22. In 2021-22 there were also over 1,750 single dwellings signed off in a matter of days as no permit required.

These statistics indicate that overall, our planning system is already among the fastest, if not the fastest, in the country when it comes to determining development applications.

However, the broad rights of appeal provided under Tasmanian legislation mean that these very timely outcomes are sometimes extended by an appeal process by many months resulting in an overall approval timeframe of perhaps 9-12 months. The appeal process provides a very important check and review of the initial decision of the planning authority by an independent panel of experts with the opportunity for all parties including those that made representations, to speak to their issues and test the evidence of other parties.

A review of the use of panels to determine development applications in other planning jurisdiction reveals that most States have an alternate pathway to local councils for determining certain developments. Although the nature of each DAP framework differs according to the underlying planning system, typically each model relies on meeting certain application criteria to be suitable for referring an application to a panel for determination with the assessment and determination functions of other development applications remaining with local government. Additionally, many of these other jurisdictions do not have the broad third party appeal rights that apply in Tasmania, meaning the DAP process and decision is more aligned to the appeal or review process.

Development Assessment Panels, or their equivalent, are already used in the determination of certain developments in the Tasmanian planning system including major and state significant projects and those which are dependent on a concurrent planning scheme amendment.



The Tasmanian Planning Commission (the Commission) is an independent statutory authority that reviews, advises on, and determines a range of land use planning matters. In performing these functions, it delegates tasks to expert panels.

The current proposal to develop a DAP framework is based on the principle of utilising existing parts of the planning system that are working well, including the existing and highly regarded independence and expertise of the Commission, in establishing DAPs to determine applications.

With respect to the proposal to introduce a role for the Minister to direct that a planning scheme amendment should be initiated, this too will retain the current process with Panels established by the Commission determining planning scheme amendments.

The table below identifies where Panels are currently used to determine development applications in the State's planning system¹. While these types of developments are not determined by the planning authority, they are informed by, and rely heavily on, the information and understanding of local issues received from it through submission, reporting or recommendations including a draft permit and conditions.

Legislation	Type of Assessment	Panel established by:
LUPAA	Major Project	Tasmanian Planning Commission
LUPAA	Combined planning scheme amendment and permit application	Tasmanian Planning Commission
<i>Major Infrastructure Development Approval Act 1999</i>	Linear infrastructure proposals across multiple municipalities	Tasmanian Planning Commission or decision made by a Combined Planning Authority
<i>State Policies and Projects Act 1993 -</i>	Projects of State Significance	Tasmanian Planning Commission

Table 1. Types of applications determined by independent expert panels.

The types of developments that are currently determined by a Panel are often complex, large in scale, time consuming, expensive and resource intensive assessment processes or involve changes to the planning scheme rules. To be eligible for these alternate assessment pathways, applications are required to meet eligibility requirements specified in the respective Acts.

¹ Expert DAPs are also used to determine discretionary development applications where the decision has been appealed to TasCAT



3. Identification of Issues

3.1 Conflicting role of Councillors

Despite the statistical evidence, there remains a perception that some Councils are less supportive of new development than others and that on occasion the personal views of elected councillors in relation to a proposed development, such as large-scale apartments, or social housing, may influence their decision-making despite being outside of the relevant planning scheme considerations they are bound to administer as part of the obligations of a planning authority.

The State Government has committed to delivering 10,000 new social and affordable houses by 2032. As identified in the Interim Report, where a development is controversial, there can be a tension between councillors' role as community advocates and as members of a statutory planning authority. The proposed DAP framework is intended to remove this tension and to deliver appropriate and timely assessments of housing projects undertaken by Homes Tasmania and registered Community Housing Providers.

Currently, only a small proportion of all development applications actually come before the elected members for decision with between 85 and 90 percent being routinely determined under delegation by council officers. These development applications are assessed by council planners against the requirements of the relevant planning scheme in accordance with the established processes defined in LUPAA. Many planning authorities delegate the determination of development applications to senior officers, and to sub committees. While only a small percentage of applications are determined by the full elected council, these applications typically involve a significant number of representations and are therefore subject to higher levels of local political interest. In some circumstances the full elected council will determine any application that has been recommended by council planners for refusal or where the application is actually proposed by council.

Because the evidence is that the inappropriate political determination of applications is limited to isolated, but well publicised, cases, the response should be proportional, so it does not undermine the integrity and success of the existing reforms, or the planning system itself. Changes should only be proposed where an issue has been identified. Additionally, any proposed changes should seek to utilise those parts of the assessment process that are operating efficiently.

Based on the discussion so far the following issues have been identified for feedback:



Consultation issue I – Types of development applications suitable for referral to a DAP for determination

- a) What types of development applications are problematic, or perceived to be problematic, for Councils to determine and would therefore benefit from being determined by a DAP?

Options

- i. Applications for social and affordable housing which often attract considerable opposition within the local community based on social stigma rather than planning matters;
- ii. Critical infrastructure;
- iii. Applications where the Council is the applicant and the decision maker;
- iv. Applications where Councillors express a conflict of interest in a matter and a quorum to make a decision cannot be reached;
- v. Contentious applications where Councillors may wish to act as elected representatives supporting the views of their constituents which might be at odds with their role as a member of a planning authority;
- vi. Where an applicant considers there is bias, or perceived bias, on the part of a Council or Councillors;
- vii. Complex applications where the Council may not have access to appropriate skills or resources;
- viii. Application over a certain value;
- ix. Other?

- b) Who should be allowed to nominate referral of a development application to a DAP for determination?

Options

- i. Applicant
- ii. Applicant with consent of the planning authority;
- iii. Planning authority
- iv. Planning authority with consent of the applicant
- v. Minister

- c) Given the need for a referral of an application to a DAP might not be known until an application has progressed through certain stages of consideration (such as those set out in a) above) have been carried out, is it reasonable to have a range of referral points?

Options

- i. At the beginning for prescribed proposals;
- ii. Following consultation where it is identified that the proposal is especially contentious;
- iii. At the approval stage, where it is identified that Councillors are conflicted.



Consultation issue 2 – Provision of an enhanced role for the Minister to direct a council to initiate a planning scheme amendment under certain circumstances.

- a) Under what circumstances should the Minister have a power to direct the initiation of a planning scheme amendment by a Council?
- b) Is it appropriate for the Minister to exercise that power where the Council has refused a request from an applicant and its decision has been reviewed by the Tasmanian Planning Commission?

For example:

Section 40B allows for the Commission to review the planning authority's decision to refuse to initiate a planning scheme amendment and can direct the planning authority to reconsider the request. Where that has occurred, and the planning authority still does not agree to initiate an amendment, is that sufficient reason to allow Ministerial intervention to direct the planning authority to initiate the planning scheme amendment, subject to the Minister being satisfied that the LPS criteria is met?

- c) Are there other threshold tests or criteria that might justify a direction being given, such as it aligns to a changed regional land use strategy, it is identified to support a key growth strategy, or it would maximise available or planned infrastructure provision?

3.2 Retaining local input

One of the concerns of a DAP framework is that it relies on decisions being made by experts that do not necessarily have the local knowledge that would otherwise be available within a local council and considered and applied when determining a development application.

The proposed DAP framework can utilise and benefit from this local knowledge. By way of example the current assessment process for a combined planning scheme amendment and permit application (s. 40T of LUPAA or s.43A under the former provisions of LUPAA) is undertaken by both the planning authority and the Commission, with the Commission being the final decision maker. For the development application component of a s43A or s40T application, it is the planning authority that assesses the proposal against the amended provisions of the planning scheme, issues a draft permit, undertakes the notification procedures in accordance with the LUPAA, it receives representations and addresses the issues raised by the representations. All these matters are presented in a report prepared by the council officers and provided to the Commission. Then all parties including those that made representations are invited to attend a hearing and present their issues before the final determination is made by the panel.



This is a tried and tested process that ensures valuable local input into the assessment and allows all parties to present their case and be heard directly by the decision maker. Being an established process that is understood by planners it has been identified as the preferred basis for the preliminary draft DAP framework as presented in Attachment 1.

Consultation issue 3 –

- i. **Incorporating local knowledge in DAP decision making.**
- ii. **DAP framework to complement existing processes and avoid duplication of administrative processes.**

- a) To allow DAP determined applications to be informed by local knowledge, should a Council continue to be:
 - the primary contact for applicants;
 - engage in pre-lodgement discussions;
 - receive applications and check for validity;
 - review application and request additional information if required;
 - assess the application against the planning scheme requirements and make recommendations to the DAP.
- b) Is the current s43A (former provisions of the Act) and s40T of the Act processes for referral of a development application to the Commission, initial assessment by Council and hearing procedures suitable for being adapted and used in the proposed DAP framework?

3.3 Request for further information

There have also been concerns raised by both Council and the development industry regarding request for further information stalling the determination of development applications.

Application requirements are specified under clause 6.1 of the State Planning Provisions. The application requirements are intended to give applicants certainty as to the range of matters and level of detail needed in their application to allow the planning authority to undertake its assessment against the provisions of the planning scheme.

Once the planning authority receives a valid application the assessment 'clock' commences against either the timeframe of 28 days for the assessment of a permitted application or 42 days for a discretionary application. Section 54 of LUPAA allows the planning authority to request additional information from the applicant where the application lacks the necessary information for the planning authority to undertake an assessment. The time taken for the



applicant to respond to the planning authority's request does not count towards the assessment timeframe as the 'clock is stopped'. The assessment clock recommences once the planning authority is satisfied that the information provided addresses the matters raised in the request for additional information.

There is anecdotal evidence that with some contentious proposals (particularly social housing) the additional information process is being used to delay or frustrate the timely assessment of a proposal. While a request for further information can be appealed to the Tasmanian Civil and Administrative Tribunal (TasCAT) the associated costs and uncertainty regarding the timeframe for resolution is a deterrent.

Sections 40A and 40V allows an applicant to request the Commission to review the planning authority's request for additional information for an amendment to an LPS and a combined amendment and planning permit (respectively). Similar provisions, sections 33B and 43EA, apply under the former provisions of LUPAA.

These sections of LUPAA provide an opportunity for the applicant to test the requirement for, and content of, requests for further information from the planning authority. The Commission can direct the planning authority to revoke the request for additional information, issue a new notice requesting additional information or determine that the request for additional information was appropriate.

This raises questions around what the appropriate process is for resolving contended additional information requests where the proposed DAP process is being used.

Consultation issue 4 – Resolving issues associated with requests for, and responses to, further information.

- a) Should a framework for DAP determined development applications adopt a process to review further information requests similar to the requirements of section 40A and 40V of LUPAA?
- b) Are there any changes that could be made to the Act or planning scheme to improve requests for, and responses to, additional information?

3.4 Timeframes for assessment and appeal rights

The proposed DAP framework incorporates both the review of the application by the council (in forming advice) and the DAP (as the decision-maker) and the coordination of hearings into representations to provide representors with the opportunity to address the panel and final determination by a DAP. This, in effect, combines the initial stage of the current process (consideration by the Planning Authority) and a possible subsequent appeals process (currently unconstrained by time). The existing statutory 42 day timeframe for determining discretionary applications is, therefore, not adequate for this process.



A DAP framework, utilising the Commission to establish the panel, would be subject to the requirements of the *Tasmanian Planning Commission Act 1997*. A panel established by the Commission is required to determine matters following the rules of natural justice and providing for procedural fairness similar to other LUPAA processes that are undertaken by the Commission. This involves hearings where the parties can make submissions and be heard by the decision maker in much the same way as a TasCAT appeal hearing.

The purpose of appealing a planning authority's decision to TasCAT is to provide for an independent review of the process, in a public forum and without political interference. By using the Commission to establish the DAP, the independent review function will be built into the DAP framework. This removes uncertainty, delays and costs associated with determining contested applications through TasCAT.

Legislation	Type of Assessment	Decision maker	Subject to merit Review	Judicial Review
LUPAA	S 58 development application (permitted)	Planning authority	Yes (applicant on permit conditions only)	Yes
LUPAA	S 57 development application (discretionary)	Planning authority	Yes	Yes
LUPAA	Major Project	TPC	No	Yes
LUPAA	Combined planning scheme amendment and permit application	TPC	No	Yes
<i>Major Infrastructure Development Approval Act 1999</i>	Linear infrastructure proposals across multiple municipalities	Combined Planning Authority or TPC panel	Yes	Yes
<i>State Policies and Projects Act 1993 -</i>	Projects of State Significance	TPC	No	Yes

Table 2. Development application processes that are subject to appeal

Table 2 shows that the only process that allows a TPC decision to be subject to a merit appeal to TasCAT is under the *Major Infrastructure Development Approval Act 1999* (MIDA). An application under MIDA is considered a section 57 application under LUPAA. The application is determined by a panel established by the TPC or a Combined Planning Authority. In determining the application there is no requirement under MIDA for the decision maker to hold a public hearing before making a decision. The appeal rights for



MIDA applications are a consequence of not being guaranteed a public hearing in the initial determination of the application.

Consultation issue 5 – Appeal rights and assessment timeframes for DAP determined applications.

- a) Is it reasonable that decisions on DAP determined applications are not subject to TasCAT appeals where the TPC holds hearings and provides all parties the opportunity to make submissions and test evidence?
- b) Given the integrated nature of the assessment, what are reasonable timeframes for DAP determined applications?

OPTIONS

Lodging and referrals, including referral to DAP	7 days	Running total
DAP confirms referral	7	14
Further information period (can occur within the timeframes above, commencing from time of lodgement)	7	21
Council assesses development application and makes recommendation whether or not to grant a permit	14	35
Development application, draft assessment report and recommendation on permit exhibited for consultation	14	49
Council provide documents to DAP, including a statement of its opinion on the merits of representations and whether there are any modifications to its original recommendation	14	63
DAP hold hearing, determine application and give notice to Council of decision	35	98
If directed by the DAP, Council to issue a permit to the applicant	7	105 max

3.5 Post determination roles of Council

Planning authorities are responsible for enforcing permit conditions and considering any proposed amendments to permits that have been issued by them.

It is necessary to explore how these roles and functions might be impacted by the development application being determined by a DAP.



It is anticipated that the DAP will engage extensively with the planning authority in preparing the permit and conditions of approval. Any legislative framework for a DAP model will be required to establish the post determination functions of the planning authority.

Under both State significant and major project processes, there is a role for the planning authority as the normal compliance body for administering the permit. Consistent with the principle of the DAP framework utilising current parts of the planning system that are operating effectively, it is proposed to parallel the process of TasCAT determinations whereby the planning authority is required to administer the planning permit.

Consultation issue 6 – Roles of the planning authority post DAP determination of a development application.

- a) Should the planning authority remain the custodian of planning permits and be required to issue permits in accordance with a direction from a DAP?
- b) Is it appropriate for planning permits associated with a DAP determined application to be enforced the Council?
- c) Is it appropriate for minor amendments (in accordance with s56 of LUPAA) to DAP determined permits to be made by the planning authority?

4. Draft DAP framework

Based on initial consultation with key stakeholders, commitments made in the Premier's announcement and the identification of issues as discussed above, the following DAP framework has been drafted as a starting point for discussion.

The draft DAP framework is provided in **Attachment I**. The draft framework is cross referenced with the Consultation Issues that have been raised in the text boxes in the body of this Position Paper. Comments are invited on any other matter that the draft DAP framework raises.

5. Next Steps

Following the consultation period on the Position Paper the submissions received will be reviewed and inform modifications to the DAP framework. Based on the revised framework, the Government will prepare a draft amendment to the Act which will be further consulted early next year.

It is proposed that the Bill will be tabled in Parliament in early 2024.



ATTACHMENT I - Draft DAP Framework



Draft Development Assessment Panel (DAP) Framework

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comments and additional Questions for consultation
1	Pre-lodgement discussion between applicant and planning authority	Planning Authority and applicant	No change to current process.	Existing informal processes undertaken on an as needs basis. Discussions may include whether or not the development application is eligible for DAP referral.
2	Lodge Development Application	Applicant lodges with Planning Authority	No change to current process	Existing process for the lodgement of development applications.
3	Determination of valid application and referral to other entities	Planning Authority	Planning Authority reviews application and determines if the application is valid in accordance with the existing provisions of the Act. Refers application to TasWater, Tasmanian Heritage Council or EPA as required.	Existing process for determining that a development application is valid ² . See section 24 and 25 of this section for information regarding application fees.

² must comply with 51(IAC) and (IAB) and 51A;

(IAC) For the purpose of subsection (IAB), a valid application is an application that contains all relevant information required by the planning scheme applying to the land that is the subject of the application.

(IAB) A planning authority must not refuse to accept a valid application for a permit, unless the application does not include a declaration that the applicant has-

- a) notified the owner of the intention to make the application; or*
- b) obtained the written permission of the owner under section 52.*

Section 51A refers to the payment of application fee.

<p>4A</p>	<p>Planning Authority reviews Development Application and decides if it is to be determined by a DAP.</p> <p>Discretionary referral</p>	<p>Planning Authority</p>	<p>Planning Authority to determine if the Development Application should be referred to a DAP for determination.</p> <p>The Planning Authority may determine that the development application meets the criteria for DAP referral and, if so, notifies, and seeks endorsement from the applicant, to refer the development application to the DAP for determination, within 7 days of the Planning Authority receiving a valid application.</p> <p>The applicant may also make a request to the Planning Authority for it to consider referring the application to a DAP for determination subject to the Planning Authority being satisfied that the application meets the criteria for DAP referral.</p> <p>DAP Criteria An application may be suitable for referring to a DAP if it is a discretionary application and the referral is endorsed by both the Planning Authority and the applicant, provided one or more of the following criteria for DAP referral is satisfied:</p> <ul style="list-style-type: none"> • where the council is the proponent and the planning authority; • the application is for a development over \$10 million in value, or \$5 million in value and proposed in a non-metropolitan municipality; 	<p>Refer to Consultation issue 1 in the Position Paper.</p> <p>Additional considerations:</p> <p><i>Is 7 days a reasonable timeframe for this function to be undertaken by the Planning Authority? Could it be delegated to senior planning staff?</i></p> <p><i>Where a dispute arises between the Applicant and the Planning Authority over a development application being referred to a DAP for determination, is it appropriate for the Minister to have a role in resolving, subject to being satisfied that the development application meets the DAP criteria?</i></p> <p><i>If not the Minister, who should be responsible for resolving the matter?</i></p> <p><i>Is it appropriate to consider the value of a development as a criteria for referral to a DAP for determination? If so, what should the stated value be?</i></p> <p>Note: See sections 21 and 22 of this table which provides options for development applications to be referred at later stages of the assessment process as issues become apparent, such as after exhibition.</p>
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			<ul style="list-style-type: none"> the application is of a complex nature and council supports the application being determined by a DAP; the application is potentially contentious, where Councillors may wish to act politically, representing the views of their constituents, rather than as a planning authority; or Where there is a case of bias, or perceived bias, established on the part of the Planning Authority. 	
4B	Planning Authority reviews Development Application and decides if it is to be referred to DAP Mandatory Referral		<p>The Planning Authority must determine to refer the development application to a DAP for determination, within 7 days of the Planning Authority receiving a valid application, if the development application is a discretionary application and for a prescribed purpose:</p> <p>Prescribed purpose:</p> <ul style="list-style-type: none"> An application over \$1 million where the council is the proponent and the planning authority; An application from Homes Tas for subdivision for social or affordable housing or development of dwellings for social and affordable; An application for critical infrastructure; Other(?) 	<p>Refer to Consultation issue 1 in the Position Paper.</p> <p>Additional considerations:</p> <p><i>Is 7 days a reasonable timeframe for this function to be undertaken by the Planning Authority? Could it be delegated to senior planning staff?</i></p> <p><i>Are there any other examples of development applications under the prescribed purposes that might be suitable for referral to a DAP for determination?</i></p> <p><i>Is it appropriate to consider the value of a development for DAP referral where council is the applicant? If so, what value is reasonable?</i></p> <p><i>What might be considered as 'critical infrastructure'?</i></p>



5	PA requests referral of DA to DAP for determination.	Planning Authority and DAP	<p>Planning Authority requests referral of the development application to the DAP within 7 days of the Planning Authority determining that the development application is suitable for DAP referral in accordance with section 4A and 4B above.</p> <p>The Planning Authority’s written referral request includes all the material that comprises the development application (at this stage).</p> <p>If the DAP does not agree that the development application meets the DAP criteria or is for a prescribed purpose, the DAP must give notice to the Planning Authority and applicant of its decision.</p> <p>If the DAP does not agree that the development application meets the DAP criteria, the assessment of the development application continues in accordance with the existing LUPAA provisions.</p> <p>If the DAP accepts the Planning Authority’s request that the development application meets the criteria for DAP referral or is for a prescribed purpose, the DAP must give notice, within 7 days of receiving the Planning Authority’s request, to the Planning Authority and applicant of its decision.</p>	<p><i>Should the time taken for an application that has been referred to a DAP for determination that, in the opinion of the DAP, does not satisfy the relevant referral criteria or is not for a prescribed purpose, count towards the relevant period referred to in s57(6)(b) of the Act given the assessment will continue in accordance with a s57 application if it is not eligible for DAP referral?</i></p>
6	Review of DA to determine if further information is required to	Planning Authority	<p>Where the DAP has accepted the Planning Authority’s request to refer the development application to the DAP for determination, the Planning Authority reviews the development application to determine if additional information is</p>	<p>Additional information request can occur simultaneously with the Planning Authority’s request for DAP determination. Regardless of the outcome of the request to refer the development application to the DAP, the Planning Authority is required to ensure it has the</p>



	undertake the assessment		<p>required and, if so, must make a request within 21 days of receiving a valid application.</p> <p>Clock stops while waiting for the applicant to provide additional information to the satisfaction of the Planning Authority.</p>	<p>necessary information it needs to undertake the assessment.</p> <p>The 21 day timeframe and 'stopping the clock' is consistent with section 54 of the Act.</p>
7	Review of further information requests	Applicant	<p>Within 14 days after being served a request for further information in accordance with 6 above, the applicant may request the DAP to review the Planning Authority's additional information request.</p> <p>The DAP, within 14 days of receiving a request to review the PA's additional information requirement must:</p> <ul style="list-style-type: none"> • Support the Planning Authority's request for additional information; • Revoke the Planning Authority's request for additional information; or • Issue a new notice to the applicant requesting additional information. <p>The DAP must give notice of its decision to the Planning Authority and applicant.</p>	<p>Refer to Consultation issue 4 in the Position Paper.</p> <p>Because the DAP has agreed that the DA will be DAP determined, it already has a copy of the development application.</p> <p>The review of a Planning Authority's request for additional information is similar to the existing provisions under s40V of the Act.</p>
8	Provision and review of additional information.	Applicant and Planning Authority	<p>Once the applicant provides the additional information and, in the opinion of the planning authority, it satisfies either the original request or one that has been modified by the DAP, the assessment clock recommences.</p> <p>If the additional information does not satisfy the original request or one that has been modified by</p>	<p>This part of the framework is similar to existing processes.</p>

			the DAP, the Planning Authority advises the applicant of the outstanding matters and the clock remains stopped.	
9	Planning Authority assesses DA	Planning Authority	<p>Planning Authority assesses the application against the requirements of the planning scheme and recommends either:</p> <ul style="list-style-type: none"> • granting a permit; or • refusing to grant a permit. 	<p>Refer to Consultation Issue 3 in the Position Paper.</p> <p>Note: The proposed framework has adopted a process that is similar to the section 40T of the Act process where council assesses the application and then places the application and the Planning Authority's report on exhibition (as below).</p>
10	Public notification of application and Planning Authority recommendations	Planning Authority	<p>Planning Authority to advertise the development application, its assessment report and recommendations, including a draft permit (if recommended for approval), for a period of 14 days (and in accordance with section 9 of the LUPAA Regulations) during which time representations are received.</p>	
11	Planning Authority to review representations	Planning Authority	<p>Planning Authority to review representations and prepare a statement of its opinion as to the merits of each representation and the need for any modification to its recommendation on the development application, including the draft permit and conditions.</p>	<p>This part of the proposed framework is similar to the existing provisions of section 42 of the Act.</p>
12	Provision of all documents to the DAP	Planning Authority	<p>The Planning Authority provides DAP with:</p> <ul style="list-style-type: none"> • a copy of the application (although they should already have it) and any further information received; • a copy of the recommendation report and any draft permit; 	<p>This part of the proposed framework is similar to existing processes for a section 40T(1) application</p>

			<ul style="list-style-type: none"> • a copy of all the representations; and • a statement of its opinion as to the merits of each representation and any modifications to its original recommendations on the DA as a consequence of reviewing the representations; • DAP fee (refer to section 25) <p>within 14 days of the completion of the exhibition period.</p>	
13	DAP review and publication of information and hearing determination	DAP	<p>DAP reviews and publishes all the information provided by the Planning Authority (as listed in 12 above) and notifies all parties advising that they have received the relevant documents from the Planning Authority, where those documents can be viewed and requesting advice regarding which parties would like to attend a hearing.</p> <p>If there are no representations or no parties that wish to attend a hearing, the DAP may dispense with the requirement to hold a hearing.</p> <p>The DAP must notify the Planning Authority, applicant and representors of their determination to hold, or dispense with holding, a hearing.</p>	An option is given to dispense with the requirement for a DAP to hold a hearing in situation where there are no representations, all representations are in support, representations have been revoked or there are no representations that want to attend a hearing.
14	DAP hearing into representations	DAP	<p>Representors, applicant and Planning Authority invited to attend hearing and make submissions to the DAP on the development application.</p> <p>Parties to the proceedings must be given at least one weeks' notice before the hearing is scheduled.</p>	The draft permit conditions are subject to contemplation by the parties at the hearing. It is anticipated that this will resolve issues around the future enforcement of those conditions by council or other issues that would otherwise arise and be subject to appeal through TasCAT.



			<p>Natural justice and procedural fairness for conduct of hearings consistent with <i>Tasmanian Planning Commission Act 1997</i>.</p> <p>DAP hearings are encouraged to be held locally.</p>	
15	DAP determination	DAP	<p>DAP undertakes the assessment considering all the information and evidence presented at the hearing and determines the development application.</p> <p>DAP must determine application within 35 days from receiving documents from Planning Authority (under section 12 above)</p> <p>DAP may request an extension of time from the Minister.</p>	Refer to Consultation Issue 5 in the Position Paper for questions regarding assessment timeframes.
16	Notification of DAP decision	DAP	<p>Within 7 days of the DAP determining the development application it must give notice of its decision to the Planning Authority, applicant and representors.</p>	Similar to existing notification provisions under section 57(7).
17	Issuing of Permit	DAP/ Planning Authority	<p>If the decision of the DAP is to grant a permit, the DAP must, in its notice to the Planning Authority (under section 16 above), direct it to issue a permit in accordance with its decision within 7 days from receiving the notice from the DAP.</p> <p>The permit becomes effective 1 week from the day it is issued by the Planning Authority.</p>	
18	Enforcement	Planning Authority	<p>The Planning Authority is responsible for enforcing the permit.</p>	Refer to Consultation Issue 6 in the Position Paper. This is the same process for permits issued by TasCAT.

19	Appeal rights	All parties	There is no right of appeal on the grounds of planning merit as the decision has been made by an independent panel with all parties engaged in the process.	Refer to Consultation Issue 5 in the Position Paper for questions regarding appeal rights. While the draft framework proposes that DAP determined development applications are not subject to a merit appeal, the decision of the DAP is subject to judicial review by virtue of the <i>Judicial Review Act 1997</i> .
20	Minor amendment to permits	Planning Authority	A Planning Authority can receive a request for a minor amendment to a permit involving an application that has been determined by a DAP.	Refer to Consultation Issue 6 in the Position Paper. Minor amendments to permits are assessed by the Planning Authority against the existing provisions of section 56 of the Act.

Other opportunities for a development application to be referred to a DAP

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comment
21	Ministerial Call in Powers	Planning Authority or applicant	At any stage of the assessment process the applicant or Planning Authority may make a request to the Minister that a development application be referred to a DAP for determination. The Minister may refer the application to a DAP provided the Minister is satisfied that the development application meets the DAP criteria.	This provides an opportunity for referral when issues only become apparent at the later stages of the assessment process. <i>Is it appropriate for the Minister to have the power to call in a development application in these circumstances?</i> <i>In this scenario, is it necessary for the applicant and Planning Authority to agree to the request?</i>
22	Ministerial referral of DA to DAP	Minister	Where the Minister refers the DA to a DAP for determination (in accordance with 21 above), the Minister must, by notice to the DAP and Planning Authority (if required), direct the DAP and Planning Authority (if required) to	Because this type of referral can occur at any stage, there needs to be a direction to specify those parts of the assessment process that still needs to be completed. These processes will include elements that need to be undertaken by the DAP and may include

			undertake an assessment of the development application and specify the process and timeframes for the DAP and Planning Authority (if required) to follow. The Minister can also specify that the Planning Authority must provide all relevant documents relating to the application and its assessment to the DAP within a timeframe.	elements that need to be undertaken by the Planning Authority. The Planning Authority is required to provide all relevant documents to the DAP
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DAP membership

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comment
23	Establishment of Panel	Tasmanian Planning Commission (Commission)	No change to existing Commission processes.	The framework adopts the Commission's well established processes for delegating assessment functions to panels.

Development application fees

Ref	Stage of assessment process	Responsible person/ authority	Proposed Framework	Comment
24	Lodging DA	Planning Authority	Planning Authority charges applicant normal application fees.	Planning Authority doing the same amount of work, just not making the determination so is entitled to the application fee.
25	DAs referred to DAP for determination	Planning Authority and DAP	A DAP determined development application will incur an additional application fee. The Planning Authority is to charge the applicant an additional fee at the time the DAP	Additional fee is to cover some of the costs incurred by the Commission.

			<p>notifies the Planning Authority that they have accepted the Planning Authority's request to refer the development application.</p> <p>The DAP application fee is to be included in the information provided to the DAP following the exhibition of the development application (section 12 above).</p> <p>No order for costs can be awarded by the DAP.</p>	<p>The additional application fee is going to be cheaper than the cost of going to a full tribunal hearing.</p>
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