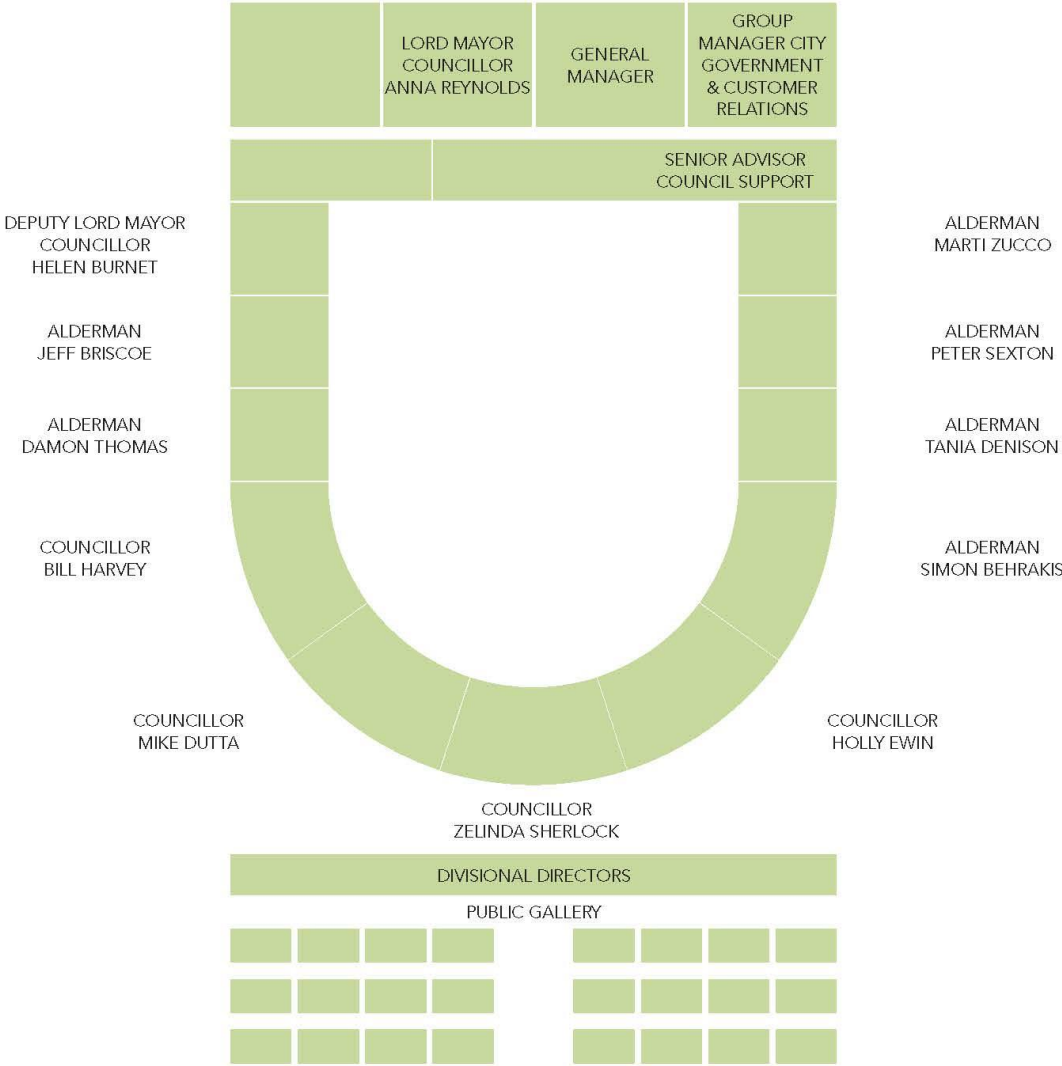




CITY OF HOBART

AGENDA
OPEN PORTION OF THE COUNCIL MEETING
MONDAY, 21 OCTOBER 2019
AT 5:00 PM





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**A MEETING OF THE OPEN PORTION OF THE COUNCIL WILL BE HELD IN THE
COUNCIL CHAMBER, TOWN HALL ON MONDAY, 21 OCTOBER 2019 AT
5:00 PM.**

**N D Heath
General Manager**

ELECTED MEMBERS:

Lord Mayor A M Reynolds
Deputy Lord Mayor H Burnet
Alderman M Zucco
Alderman J R Briscoe
Alderman Dr P T Sexton
Alderman D C Thomas
Alderman T M Denison
Councillor W F Harvey
Alderman S Behrakis
Councillor M S C Dutta
Councillor H A Ewin
Councillor Z E Sherlock

APOLOGIES:

LEAVE OF ABSENCE: Nil.

1. CONFIRMATION OF MINUTES

The Chairman reports that she has perused the minutes of the meeting of the Open Portion of the Council meeting held on [Monday, 7 October 2019](#), finds them to be a true record and recommends that they be taken as read and signed as a correct record.

2. TRANSFER OF AGENDA ITEMS

Are there any items, which the meeting believes, should be transferred from this agenda to the closed agenda or from the closed agenda to the open agenda, in accordance with the procedures allowed under Section 15 of the *Local Government (Meeting Procedures) Regulations 2015*?

3. COMMUNICATION FROM THE CHAIRMAN

4. NOTIFICATION OF COUNCIL WORKSHOPS

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2015*, the General Manager reports that no Council workshops have been conducted since the last ordinary meeting of the Council.

5. PUBLIC QUESTION TIME

6. PETITIONS

7. CONSIDERATION OF SUPPLEMENTARY ITEMS

Ref: Part 2, Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*.

RECOMMENDATION

That the Council resolve to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the *Local Government (Meeting Procedures) Regulations 2015*.

8. INDICATIONS OF PECUNIARY AND CONFLICTS OF INTEREST

Ref: Part 2, Regulation 8(7) of the *Local Government (Meeting Procedures) Regulations 2015*.

Elected Members are requested to indicate where they may have any pecuniary or conflict of interest in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with.

REPORTS OF COMMITTEES

CITY PLANNING COMMITTEE

9. COUNCIL ACTING AS PLANNING AUTHORITY

In accordance with the provisions of Part 2 Regulation 25 of the *Local Government (Meeting Procedures) Regulations 2015*, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted.

In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under this heading on the agenda, inclusive of any supplementary items.

The Council is reminded that in order to comply with Regulation 25(2), the General Manager is to ensure that the reasons for a decision by a Council or Council Committee acting as a planning authority are recorded in the minutes.

9.1 2 / 12 Ascot Avenue Sandy Bay - Two Multiple Dwellings (One Existing, One New) Partial Demolition, Alterations, Deck and New Parking Space PLN-19-513 - File Ref: F19/131595

Ref: Open [CPC 7.1.1](#), 14/10/2019
Application Expiry Date: 24 October 2019

That pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve the application for two multiple dwellings (one existing, one new), partial demolition, alterations, deck and new parking space at 2/12 Ascot Avenue Sandy Bay & common land of parent title for the reason that the proposed development achieves an acceptable density and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-19-513 - 2/12 ASCOT AVENUE SANDY BAY TAS 7005 & COMMON LAND OF PARENT TITLE - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

TW

The use and/or development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2019/01238-HCC dated 10 September 2019 as attached to the permit.

Reason for condition

To clarify the scope of the permit.

ENG 3a

The proposed parking module (parking spaces, aisles and manoeuvring area) must be designed and constructed in accordance with Australian Standard AS/NZS2890.1:2004 (including the requirement for vehicle safety barriers where required).

Advice:

- *It is advised that designers consider the detailed design of the access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.*

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's website for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. [Click here for more information.](#)

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. [Click here for more information.](#)

WASTE DISPOSAL

It is recommended that the developer liaise with the Council's Cleansing and Solid Waste Unit regarding reducing, reusing and recycling materials associated with demolition on the site to minimise solid waste being directed to landfill.

Further information regarding waste disposal can also be found on the Council's website.

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click [here](#) for dial before you dig information.

9.2 604 Sandy Bay Road, Sandy Bay - Dwelling - Deferral - PLN-19-643 **File Ref: F19/132157**

Ref: Open [CPC 7.1.2](#), 14/10/2019
Application Expiry Date: 26 November 2019

That pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve the application for a dwelling at 604 Sandy Bay Road, Sandy Bay for the reasons that the proposal would not cause any unreasonable loss of amenity to adjacent properties or heritage values within Heritage Precinct SB14, and satisfies relevant performance criteria within the *Hobart Interim Planning Scheme 2015*, and that accordingly, a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise 604 SANDY BAY ROAD SANDY BAY TAS 7005 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

PLN 8

The front fence along the Sandy Bay Road front boundary must be reduced in height to be no more than 1.8 metres in height above the adjacent footpath level of Sandy Bay Road.

Reason for condition

To provide reasonable opportunity for privacy for dwellings and to maintain the streetscape.

PLN s1

A Landscaping Plan must be submitted and approved by the Council's Manager Development Appraisal prior to the issue of any consent under the *Building Act 2016*, excluding for demolition and excavation.

The Landscaping Plan must include:

1. Planting to reduce the possible visual impact upon neighboring properties and to maximise privacy between the proposed dwelling and neighbouring properties;
2. Details of the species and number of plants to be planted;
3. A statement indicating that all planting will be maintained by the owners of 604 Sandy Bay Road;
4. The location of all planting, the new dwelling, site boundaries and neighbouring dwellings.

All landscaping must be planted and installed in accordance with the approved Landscaping Plan to the satisfaction of the Council's Manager Development Appraisal prior to commencement of use.

The landscaping must be maintained, and replacement trees and landscaping in accordance with the approved Landscaping Plan must be planted if any is lost.

Reason for condition

To soften the appearance of the new dwelling and to assist in reducing its impact upon the amenity of adjacent properties.

ENG sw1

All stormwater from the proposed development (including but not limited to: roofed areas, ag drains, retaining wall ag drains and impervious surfaces such as driveways and paved areas) must be drained to the Council's stormwater infrastructure prior to first occupation or commencement of use (whichever occurs first).

Advice: Under section 23 of the Urban Drainage Act 2013 it is an offence for a property owner to direct stormwater onto a neighbouring property.

Reason for condition

To ensure that stormwater from the site will be discharged to a suitable Council approved outlet.

ENG sw6

All stormwater from the proposed development (including hardstand runoff) must be discharged to the Council's stormwater infrastructure with sufficient receiving capacity prior to first occupation. All stormwater which is practicable to drain to the Council's stormwater drainage infrastructure via gravity must do so. All costs associated with works required by this condition are to be met by the owner.

Design drawings and calculations of the proposed stormwater drainage and connections to the Council's stormwater infrastructure must be submitted and approved prior to the commencement of work. The design drawings and calculations must:

1. prepared by a suitably qualified person;
2. include long section(s)/levels and grades to the point of discharge;
3. meet the requirements of Australian Standard A3500 (including pumped system) or a Council approved alternative;
4. include gravity discharge (via dispersion pit) to Council's public infrastructure; and
5. clearly distinguish between public and private infrastructure.

All work required by this condition must be undertaken in accordance with the approved design drawings and calculations.

Advice:

The applicant is advised to submit detailed design drawings and calculations as part of their Plumbing Permit Application. If detailed design to satisfy this condition is submitted via the planning condition endorsement process there may be fees associated with the assessment, and once approved the applicant will still need to obtain a plumbing permit for the works.

Reason for condition

To ensure that stormwater from the site will be discharged to a suitable Council approved outlet.

ENG 2b

Prior to the issue of any approval under the *Building Act 2016* or the commencement of works on site (whichever occurs first), a certified vehicle barrier design (including site plan with proposed location(s) of installation) prepared by a suitably qualified engineer, compliant with Australian Standard AS/NZS1170.1:2002, must be submitted to Council.

Advice:

- *If the development's building approval includes the need for a Building Permit from Council, the applicant is advised to submit detailed design of vehicular barrier as part of the Building Application.*
If the development's building approval is covered under Notifiable Work the applicant is advised to submit detailed design of vehicular barrier as a condition endorsement of the planning permit condition. Once the certification has been accepted, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2c

Prior to the first occupation, vehicular barriers must be inspected by a qualified engineer and certification submitted to the Council confirming that the installed vehicular barriers comply with the certified design and Australian Standard AS/NZS1170.1:2002.

Advice:

- *Certification may be submitted to the Council as part of the Building Act 2016 approval process or via condition endorsement (see general advice on how to obtain condition endorsement)*

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the relevant standards.

ENG 3a

Prior to first occupation, the access driveway, and parking module (parking spaces, aisles and manoeuvring area) must be designed and constructed in accordance with Australian Standard AS/NZS2890.1:2004 (including the requirement for vehicle safety barriers where required), or a Council approved alternate design certified by a suitably qualified engineer to provide a safe and efficient access, and enable safe, easy and efficient use.

Advice:

- *It is advised that designers consider the detailed design of the access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.*

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 4

The access driveway and parking module (car parking spaces, aisles and manoeuvring area) approved by this permit must be constructed to a sealed standard (spray seal, asphalt, concrete, pavers or equivalent Council approved) and surface drained to the Council's stormwater infrastructure prior to the first occupation.

Reason for condition

To ensure the safety of users of the access driveway and parking module, and that it does not detract from the amenity of users, adjoining occupiers or the environment by preventing dust, mud and sediment transport.

ENG 11

Prior to the first occupation, the proposed crossover to the Sandy Bay Road highway reservation must be designed and constructed in general accordance with:

1. LGAT Standard Drawing - Urban - TSD-R09-v1 – Urban Roads Driveways and TSD R14-v1 Type KC vehicular crossing
2. LGAT Standard Drawing - Footpath - Urban Roads Footpaths TSD-R11-v1.
3. Or a Council City Infrastructure Division approved alternate design.

Advice:

- *Local Government Association (LGAT) Tasmanian Standard Drawings (TSD) can be viewed electronically via the LGAT Website.*
- *It is advised that designers consider the detailed design of the crossover, access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.*
- *Please note that your proposal does not include adjustment of footpath levels. Any adjustment to footpath levels necessary to suit the design of proposed floor, parking module or driveway levels will require separate agreement from Council's Road Services Engineer and may require further planning approvals. It is advised to place a note to this effect on construction drawings for the site and/or other relevant engineering drawings to ensure that contractors are made aware of this requirement.*
- *Please contact Council City Infrastructure Division to discuss approval of alternate designs. Based on a site specific assessment, Council City Infrastructure Division Road Engineer may permit extending non-approved concrete slab crossover, and where non-standard kerb and channel exists a concrete plinth to Council standards may be permitted for construction at the gutter.*
- *You are likely to require a Permit to Open Up and Temporarily Occupy a Highway (for work within the highway reservation). [Click here for more information.](#)*

Reason for condition

In the interests of vehicle user safety and the amenity of the development.

ENG 12

Prior to the first occupation, any redundant crossover located within the Sandy Bay Road frontage of the property must have the footpath and kerb reinstated in accordance with the Tasmanian Standard Drawings (IPWEA)-TSD-R14-v1 and TSD-R15-v1 Type KC and Urban Roads Footpaths TSD-R11-v1 to match existing footpath.

Advice:

- *Local Government Association (LGAT) Tasmanian Standard Drawings (TSD) can be viewed electronically via the LGAT Website.*
- *You are likely to require a Permit to Open Up and Temporarily Occupy a Highway (for work within the highway reservation). Click here for more information.*

Reason for condition

In the interests of vehicle user safety and the amenity of the development.

ENG 1

Any damage to council infrastructure resulting from the implementation of this permit, must, at the discretion of the Council:

1. Be met by the owner by way of reimbursement (cost of repair and reinstatement to be paid by the owner to the Council); or
2. Be repaired and reinstated by the owner to the satisfaction of the Council.

A photographic record of the Council's infrastructure adjacent to the subject site must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre-existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council's infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council's infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENV 1

Sediment and erosion control measures sufficient to prevent sediment from leaving the site must be installed prior to any disturbance of the site, and maintained until all areas of disturbance have been stabilized or re-vegetated.

Advice: For further guidance in preparing a Soil and Water Management Plan – in accordance with Fact sheet 3 Derwent Estuary Program click here.

Reason for condition

To avoid the sedimentation of roads, drains, natural watercourses, Council land that could be caused by erosion and runoff from the development, and to comply with relevant State legislation.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's website for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

CONDITION ENDORSEMENT ENGINEERING

All engineering drawings required to be submitted and approved by this planning permit must be submitted to the City of Hobart as a CEP (Condition Endorsement) via the City's Online Service Development Portal. When lodging a CEP, please reference the PLN number of the associated Planning Application. Each CEP must also include an estimation of the cost of works shown on the submitted engineering drawings. Once that estimation has been confirmed by the City's Engineer, the following fees are payable for each CEP submitted and must be paid prior to the City of Hobart commencing assessment of the engineering drawings in each CEP:

Value of Building Works Approved by Planning Permit Fee:

- Up to \$20,000: \$150 per application.
- Over \$20,000: 2% of the value of the works as assessed by the City's Engineer per assessment.

These fees are additional to building and plumbing fees charged under the Building and Plumbing Regulations.

Once the CEP is lodged via the Online Service Development Portal, if the value of building works approved by your planning permit is over \$20,000, please contact the City's Development Engineer on 6238 2715 to confirm the estimation of the cost of works shown on the submitted engineering drawings has been accepted.

Once confirmed, please call one of the City's Customer Service Officers on 6238 2190 to make payment, quoting the reference number (ie. CEP number) of the Condition Endorsement you have lodged. Once payment is made, your engineering drawings will be assessed.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. [Click here for more information.](#)

OCCUPATION OF THE PUBLIC HIGHWAY

You may require a Permit to Open Up and Temporarily Occupy a Highway (for work in the road reserve). [Click here for more information.](#)

NEW SERVICE CONNECTION

Please contact the Hobart City Council's City Infrastructure Division to initiate the application process for any new stormwater connection.

STORM WATER

Please note that in addition to a building and/or plumbing permit, development must be in accordance with the Hobart City Council's Hydraulic Services By law. [Click here for more information.](#)

WORK WITHIN THE HIGHWAY RESERVATION

Please note development must be in accordance with the Hobart City Council's Highways By law. [Click here for more information.](#)

DRIVEWAY SURFACING OVER HIGHWAY RESERVATION

If a coloured or textured surface is used for the driveway access within the Highway Reservation, the Council or other service provider will not match this on any reinstatement of the driveway access within the Highway Reservation required in the future.

REDUNDANT CROSSTOVERS

Redundant crossovers are required to be reinstated under the Hobart City Council's Highways By law. [Click here for more information.](#)

ACCESS

Designed in accordance with LGAT- IPWEA – Tasmanian standard drawings. [Click here for more information.](#)

CROSS OVER CONSTRUCTION

The construction of the crossover can be undertaken by the Council or by a private contractor, subject to Council approval of the design. [Click here for more information.](#)

FEES AND CHARGES

Click here for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click here for dial before you dig information.

9.3 11 Denison Street, South Hobart - Partial Demolition, Extension, Alterations and Fencing PLN-19-567 - File Ref: F19/132180

Ref: Open [CPC 7.1.3](#), 14/10/2019

Application Expiry Date: 21 October 2019

That pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve the application for a partial demolition, extension, alterations and fencing at 11 Denison Street, South Hobart TAS 7004 for the reasons outlined in the officer's report attached to item 7.1.3 of the Open City Planning Committee agenda of 14 October 2019 and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-19-567 - 11 DENISON STREET SOUTH HOBART TAS 7004 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

ENG sw1

All stormwater from the proposed development (including but not limited to: roofed areas, ag drains, retaining wall ag drains and impervious surfaces such as driveways and paved areas) must be drained to the Council's stormwater infrastructure prior to first occupation or commencement of use (whichever occurs first).

Advice: Under section 23 of the Urban Drainage Act 2013 it is an offence for a property owner to direct stormwater onto a neighbouring property.

Reason for condition

To ensure that stormwater from the site will be discharged to a suitable Council approved outlet.

ENG 2a

Prior to first occupation or commencement of use (whichever occurs first), vehicular barriers compliant with the Australian Standard AS/NZS1170.1:2002 must be installed to prevent vehicles running off the edge of an access driveway or parking module (parking spaces, aisles and manoeuvring area) where the drop from the edge of the trafficable area to a lower level is 600mm or greater, and wheel stops (kerb) must be installed for drops between 150mm and 600mm. Barriers must not limit the width of the driveway access or parking and turning areas approved under the permit.

Advice:

The Council does not consider a slope greater than 1 in 4 to constitute a lower level as described in AS/NZS 2890.1:2004 Section 2.4.5.3. Slopes greater than 1 in 4 will require a vehicular barrier or wheel stop.

Designers are advised to consult the National Construction Code 2016 to determine if pedestrian handrails or safety barriers compliant with the NCC2016 are also required in the parking module this area may be considered as a path of access to a building.

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2b

Prior to the issue of any approval under the *Building Act 2016* or the commencement of works on site (whichever occurs first), a certified vehicle barrier design (including site plan with proposed location(s) of installation) prepared by a suitably qualified engineer, compliant with Australian Standard AS/NZS1170.1:2002, must be submitted to Council.

Advice:

If the development's building approval includes the need for a building permit from the Council, the applicant is advised to submit detailed design of vehicular barrier as part of the building application.

If the development's building approval is covered under Notifiable Work the applicant is advised to submit detailed design of vehicular barrier as a condition endorsement of the planning permit condition. Once the certification has been accepted, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2c

Prior to the commencement of use, vehicular barriers must be inspected by a qualified engineer and certification submitted to the Council confirming that the installed vehicular barriers comply with the certified design and Australian Standard AS/NZS1170.1:2002.

Advice:

Certification may be submitted to the Council as part of the Building Act 2016 approval process or via condition endorsement (see general advice on how to obtain condition endorsement)

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the relevant standards.

ENG 3a

The access driveway and parking module (parking spaces, aisles and manoeuvring area) must be designed and constructed in accordance with Australian Standard AS/NZS2890.1:2004 (including the requirement for vehicle safety barriers where required), or a Council approved alternate design certified by a suitably qualified engineer to provide a safe and efficient access, and enable safe, easy and efficient use.

Advice:

It is advised that designers consider the detailed design of the access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 4

The access driveway and parking module (car parking spaces, aisles and manoeuvring area) approved by this permit must be constructed to a sealed standard (spray seal, asphalt, concrete, pavers or equivalent Council approved) and surface drained to the Council's stormwater infrastructure prior to the commencement of use.

Reason for condition

To ensure the safety of users of the access driveway and parking module, and that it does not detract from the amenity of users, adjoining occupiers or the environment by preventing dust, mud and sediment transport.

ENG 1

Any damage to council infrastructure resulting from the implementation of this permit, must, at the discretion of the Council:

1. Be met by the owner by way of reimbursement (cost of repair and reinstatement to be paid by the owner to the Council); or
2. Be repaired and reinstated by the owner to the satisfaction of the Council.

A photographic record of the Council's infrastructure adjacent to the subject site must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre-existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council's infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council's infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENGR 3

Prior to the commencement of use, the proposed driveway crossover within the Hennebry Street highway reservation must be designed and constructed in accordance with:

- Urban - TSD-R09-v1 – Urban Roads Driveways and TSD R14-v1 Type KC vehicular crossing;
- Non-standard K&C- a concrete plinth to Councils standards shall be constructed at the gutter, contact Council's Road Services Engineer for details ;
- Footpath - Urban Roads Footpaths TSD-R11-v1.

Design drawings must be submitted and approved prior to the commencement of work. The design drawing must:

1. Show the cross and long section of the driveway crossover within the highway reservation and onto the property;
2. Detail any services or infrastructure (ie light poles, pits, awnings) at or near the proposed driveway crossover;
3. Be designed for the expected vehicle loadings. A structural certificate to note that driveway is suitable for heavy vehicle loadings;
4. If the design deviates from the requirements of the TSD then the drawings must demonstrate that a B85 vehicle or B99 depending on use (AS/NZS 2890.1 2004, section 2.6.2) can access the driveway from the road pavement into the property without scraping the cars underside; and
5. Show the existing redundant crossover within the Hennebry Street highway reservation reinstated to footpath, kerb and gutter in general accordance with LGAT Standard Drawing - Urban - TSD-R09-v1 – Urban Roads Driveways and TSD R14-v1 Kerb and Channel Profiles, LGAT Standard Drawing - Footpath - Urban Roads Footpaths TSD-R11-v1 or a Council City Infrastructure Division approved alternate design.
6. Be prepared and certified by a suitable qualified person, to satisfy the above requirement.

All work required by this condition must be undertaken in accordance with the approved drawings.

Advice:

Please contact Council City Infrastructure Division to discuss approval of alternate designs. Based on a site specific assessment, Council City Infrastructure Division Road Engineer may permit extending non-approved concrete slab crossover, and where non-standard kerb and channel exists a concrete plinth to Council standards may be permitted for construction at the gutter.

Grated wedge, asphalt wedge and the standard open wedge driveway crossover may be considered. A drawing of a standard concrete plinth can be obtained from Council's Road Services Engineer. Note that the agreement of Council is required to adjust footpath levels.

The applicant is required submit detailed design documentation to satisfy this condition via Council's planning condition endorsement process (noting there is a fee associated with condition endorsement approval of engineering drawings [see general advice on how to obtain condition endorsement and for fees and charges]). This is a separate process to any building approval under the Building Act 2016.

Please note that your proposal does not include adjustment of footpath levels. Any adjustment to footpath levels necessary to suit the design of proposed floor, parking module or driveway levels will require separate agreement from the Council's Road Services Engineer and may require further planning approvals. It is advised to place a note to this affect on construction drawings for the site and/or other relevant engineering drawings to ensure that contractors are made aware of this requirement.

Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure that works will comply with the Council's standard requirements.

ENG s1

Any fencing within 2.0 metres of the driveway entrance (3.5m wide) must be less than or equal to 1.2m in height in order to provide adequate sight distance between user vehicles, cyclists and pedestrians.

Reason for condition

To ensure the safety of vehicles entering and leaving the development and of pedestrians and traffic in the vicinity.

ENV 1

Sediment and erosion control measures sufficient to prevent sediment from leaving the site must be installed prior to any disturbance of the site, and maintained until all areas of disturbance have been stabilized or re-vegetated.

Advice: For further guidance in preparing a Soil and Water Management Plan – in accordance with Fact sheet 3 Derwent Estuary Program click [here](#).

Reason for condition

To avoid the sedimentation of roads, drains, natural watercourses, Council land that could be caused by erosion and runoff from the development, and to comply with relevant State legislation.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's [website](#) for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

CONDITION ENDORSEMENT ENGINEERING

All engineering drawings required to be submitted and approved by this planning permit must be submitted to the City of Hobart as a CEP (Condition Endorsement) via the City's [Online Service Development Portal](#). When lodging a CEP, please reference the PLN number of the associated Planning Application. Each CEP must also include an estimation of the cost of works shown on the submitted engineering drawings. Once that estimation has been confirmed by the City's Engineer, the following fees are payable for each CEP submitted and must be paid prior to the City of Hobart commencing assessment of the engineering drawings in each CEP:

Value of Building Works Approved by Planning Permit Fee:

Up to \$20,000: \$150 per application.

Over \$20,000: 2% of the value of the works as assessed by the City's Engineer per assessment.

These fees are additional to building and plumbing fees charged under the Building and Plumbing Regulations.

Once the CEP is lodged via the [Online Service Development Portal](#), if the value of building works approved by your planning permit is over \$20,000, please contact the City's Development Engineer on 6238 2715 to confirm the estimation of the cost of works shown on the submitted engineering drawings has been accepted.

Once confirmed, please call one of the City's Customer Service Officers on 6238 2190 to make payment, quoting the reference number (ie. CEP number) of the Condition Endorsement you have lodged. Once payment is made, your engineering drawings will be assessed.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. Click [here](#) for more information.

OCCUPATION OF THE PUBLIC HIGHWAY

You may require a permit for the occupation of the public highway for construction or special event (e.g. placement of skip bin, crane, scissor lift etc). Click [here](#) for more information.

You may require a road closure permit for construction. Click [here](#) for more information.

You may require a Permit to Open Up and Temporarily Occupy a Highway (for work in the road reserve). Click [here](#) for more information.

WORK WITHIN THE HIGHWAY RESERVATION

Please note development must be in accordance with the Hobart City Council's Infrastructure By law. Click [here](#) for more information.

DRIVEWAY SURFACING OVER HIGHWAY RESERVATION

If a coloured or textured surface is used for the driveway access within the Highway Reservation, the Council or other service provider will not match this on any reinstatement of the driveway access within the Highway Reservation required in the future.

REDUNDANT CROSSOVERS

Redundant crossovers are required to be reinstated under the Hobart City Council's Infrastructure By law. Click [here](#) for more information.

ACCESS

Designed in accordance with LGAT- IPWEA – Tasmanian standard drawings. Click [here](#) for more information.

CROSS OVER CONSTRUCTION

The construction of the crossover can be undertaken by the Council or by a private contractor, subject to Council approval of the design. Click [here](#) for more information.

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click [here](#) for dial before you dig information.

9.4 2 Davies Avenue, Hobart - Partial Demolition, Alterations and Extension PLN-19-446 - File Ref: F19/133323

Ref: Open [CPC 7.1.5](#), 14/10/2019
Application Expiry Date: 10 November 2019

That pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve the application for partial demolition, alterations and extension at 2 Davies Avenue Hobart, Queens Domain for the reasons outlined in the officer's report attached to item 7.1.5 of the Open City Planning Committee agenda of 14 October 2019 and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-19-446 2 DAVIES AVENUE HOBART TAS 7000 - Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

HER 8

Documentation must be submitted demonstrating that work will be undertaken in a manner that will retain in situ and reuse heritage fabric.

Prior to the issue of any approval under the *Building Act 2016*, revised plans must be submitted and approved showing the in situ retention and reuse of heritage fabric in accordance with the above requirement.

The plans must include the retention in situ or reuse of the following heritage fabric:

- weatherboards
- windows
- doors including door furniture
- skirting boards and architraves
- any other joinery items

All work required by this condition must be undertaken in accordance with the approved documents.

Reason for condition

To ensure that demolition in whole or part of a place within the cultural landscape precinct does not result in the loss of historic cultural heritage values unless there are exceptional circumstance.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's [website](#) for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. Click [here](#) for more information.

WASTE DISPOSAL

It is recommended that the developer liaise with the Council's Cleansing and Solid Waste Unit regarding reducing, reusing and recycling materials associated with demolition on the site to minimise solid waste being directed to landfill.

Further information regarding waste disposal can also be found on the Council's [website](#).

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

9.5 306a, 300, 270a and 269 Lenah Valley Road and Adjacent Road Reserve, Lenah Valley - Subdivision (21 Lots) and Associated Works - Conciliation - PLN-18-82

File Ref: F19/133868

Ref: Supplementary Open [CPC 13](#), 14/10/2019
Application Expiry Date: 18 April 2019
Extension of Time: 14 November 2019

That pursuant to the *Hobart Interim Planning Scheme 2015*, the Council approve planning application PLN-18-82 for subdivision (21 Lots) and associated works at 306A, 300, 270A and 269 Lenah Valley Road and adjacent road reserve, Lenah Valley for the reasons outlined in the officer's report (marked as Attachment A to supplementary item 13 of the Open City Planning Committee agenda of 14 October 2019) and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-18-82 - 269, 270A, 300, AND 306A LENA VALLEY ROAD LENA VALLEY TAS 7008, AND ADJACENT ROAD RESERVE - Final Planning Documents, except where modified below.

Reason for condition

To clarify the scope of the permit.

TW

The use and/or development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2018/00228-HCC dated 20 Feb 2019 as attached to the permit.

Reason for condition

To clarify the scope of the permit.

ENG sw1

All stormwater runoff from the proposed development (including but not limited to: roofed areas, ag drains, retaining wall ag drains and impervious surfaces such as roads, footpaths, driveways and paved areas) must be drained to the Council's stormwater infrastructure prior to sealing of the final plan of survey for each stage.

Advice: This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20)

Reason for condition

To ensure that stormwater from the site will be discharged to a suitable Council approved outlet.

ENG sw2.1

A pre-construction CCTV recording of the Council stormwater main in Lenah Valley Road adjacent to the proposed intersection, along with photos of any drainage structures to be connected to or modified, must be submitted to Council prior to the commencement of work.

The post-construction CCTV will be relied upon to establish the extent of any damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council pre-construction CCTV video of the Council's infrastructure, then any damage to the Council infrastructure identified in the post-construction CCTV will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any Council infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG sw2.2

A post-construction CCTV recording of the Council stormwater main in Lenah Valley Road adjacent to the proposed intersection, along with photos of any existing drainage structures connected to or modified as part of the development, must be submitted to Council upon completion of all work.

The post-construction CCTV & photos will be relied upon to establish the extent of any damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to Council the pre-construction CCTV, then any damage to Council's infrastructure identified in the post-construction CCTV will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any Council infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG sw3

Construction of the proposed drainage must not adversely impact the Newtown Rivulet.

A Construction Management Plan for works adjacent to the Rivulet must be submitted and approved prior to commencement of works. The plan must:

1. Be prepared by a suitably qualified and experienced engineer.
2. Detail the proposed construction methodology and identify all potential risks to the Rivulet during construction including but not limited to construction loading, traffic loading, excavation works, footing construction, vibrations, undermining, flood, and environmental harm.
3. Provide treatment measures to eliminate or otherwise mitigate to as low as reasonably practicable all identified risks.
4. Include a monitoring regime.

All work required by this condition must be undertaken in accordance with the approved plan.

Advice:

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20). A single Construction Management Plan may be submitted which covers both stages, or two plans submitted (one for each stage) which address issues relevant to each stage.

Reason for condition

To ensure the protection of the Council's hydraulic infrastructure.

ENG sw4

The new storm water connections for each stage must be constructed, and all redundant existing infrastructure/connections sealed and/or removed as appropriate prior to sealing of the final plan of survey for the relevant stage.

Detailed engineering drawings must be submitted and approved, prior to commencement of work of the relevant stage. The detailed engineering drawings must include:

1. The location of the proposed connections.
2. The size of the connections appropriate to satisfy the needs of the development.
3. Include longitudinal section(s)/levels with pipe size, class and grade clearly labelled.

All work required by this condition must be undertaken in accordance with the approved detailed engineering drawings.

Advice:

Where building / plumbing approval is also required, it is recommended that documentation to satisfy this condition is submitted well before submitting documentation for building/plumbing approval. Failure to address planning condition requirements prior to submitting for building/plumbing approval may result in unexpected delays.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20)

Reason for condition

To ensure the site is drained adequately.

ENG sw5

The new stormwater infrastructure must be designed and constructed for each stage prior to sealing of the final plan of survey for the relevant stage.

Engineering drawings must be submitted and approved, prior to commencement of work for the relevant stage. The engineering drawings must:

1. Be certified by a qualified and experienced civil engineer.
2. Include layout plans and longitudinal sections of the proposed stormwater mains and associated infrastructure. These should include, but not be limited to: connections, flows, velocities, clearances, cover, gradients, sizing, material, pipe class, easements and inspection openings.
3. Include all relevant calculations and catchment area plans. The stormwater system (including defined overland flow paths) must cater for all 1% AEP flows as at 2100 (i.e including climate change loading) from a fully developed catchment. The main itself must be sized to accommodate at least the 5% AEP flows from a fully-developed catchment.

4. Include provision for future development within the catchment to be adequately and efficiently serviced, i.e via appropriate easements.
5. Include clear, notated delineations between public and private infrastructure.
6. Be substantially in accordance with the LGAT drawings.
7. Include a construction management plan.

All work required by this condition must be undertaken in accordance with the approved engineering drawings.

Advice:

Once the engineered drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement). Please note that once the condition endorsement has been issued you will need to contact Council's City Infrastructure Division to obtain a Permit to Construct Public Infrastructure.

Please note that any stormwater main proposed as part of the 270A Lenah Valley Road subdivision which is relied upon for this planning permit will need to (a) have been handed over to Council as their asset prior to detailed design of proposed stormwater mains associated with this planning permit being approved, or (b) be included in the detailed design of proposed stormwater mains associated with this planning permit.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20)

Reason for condition

To ensure Council's hydraulic infrastructure meets acceptable standards.

ENG sw6

Overland flow paths for the 1% AEP as at 2100 (including climate change loading) storm event must be maintained through the site such that flows are wholly contained within the proposed road reserve and/or drainage easements. Plans certified by a suitably qualified and experienced engineer must be submitted and approved prior to commencement of work. The plans must:

1. Show the location and extent of overland flow paths including supporting cross sections and flow calculations.
2. Be designed to accommodate a storm with a 1% AEP plus climate change loading.
3. Demonstrate no diversion of the overland flows onto third-party property unless wholly contained within an appropriately sized easement.

All work required by this condition must be undertaken and maintained in accordance with the approved design drawings.

Reason for condition

To ensure that the risks associated with inundation are adequately managed.

ENG sw7

Stormwater pre-treatment for stormwater discharges from the development must be installed prior to sealing of the final plan of survey for Stage 1. The stormwater treatment system must be designed to achieve the "Best Practice Environmental Guidelines" stormwater quality (Victorian Stormwater Committee, 1999) and be constructed in accordance with plans and specifications to the satisfaction of the Council.

A stormwater management plan and design must be submitted and approved, prior to commencement of work on the site for Stage 1. The stormwater management plan and design must:

1. Be prepared by a suitably qualified person.
2. Be sized to accommodate ultimate construction of the subdivision.
3. Include detailed design of the proposed treatment train, including final estimations of contaminant removal.
4. Include a Stormwater Management Summary Plan that outlines the obligations for future property owners to stormwater management.
5. Include a Maintenance Plan which describes the operational and maintenance requirements to ensure the ongoing effective operation of all systems, such as: inspection frequency; clean-out procedures; descriptions and diagrams of how the installed systems operate; details of the life of assets and replacement requirements.

All work required by this condition must be undertaken in accordance with the approved plans.

Advice:

Once the design and plan has been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement). Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To avoid the possible pollution of drainage systems and natural watercourses, and to comply with relevant State legislation.

ENG tr1

Traffic management within the proposed roadway must be installed prior to the commencement of the use.

Traffic management design drawing(s) (including signage and line marking plan), must be submitted and approved, prior to commencement of work for each stage. The design drawing(s) must be in accordance with AS1742.2 2009, AS1742.11 1999, IPWEA LGAT Tasmanian Standard Drawings and Subdivision Guidelines 2013, or any other relevant standard.

All work required by this condition must be undertaken in accordance with the approved traffic management design drawings.

Advice:

Once the traffic management design drawings have been approved Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Reason for condition

In the interests of user safety and the amenity of the occupiers of the development.

ENG tr2

A construction traffic and parking management plan must be implemented prior to the commencement of work on the site (including demolition) for each stage.

The construction traffic (including cars, public transport vehicles, service vehicles, pedestrians and cyclists) and parking management plan must be submitted and approved, prior to commencement work or any approval under the *Building Act 2016* (including demolition) for each stage. The construction traffic and parking management plan must:

1. Be prepared by a suitably qualified person.
2. Develop a communications plan to advise the wider community of the traffic and parking impacts during construction.
3. Include a start date and finish dates of various stages of works.
4. Include times that trucks and other traffic associated with the works will be allowed to operate.
5. Nominate a superintendent, or the like, to advise the Council of the progress of works in relation to the traffic and parking management with regular meetings during the works.

All work required by this condition must be undertaken in accordance with the approved construction traffic and parking management plan.

Advice:

Once the construction traffic and parking management plan has been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20). A construction traffic management plan may be submitted that covers both stages, or a separate plan for each stage as required.

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure the safety of vehicles entering and leaving the development and the safety and access around the development site for the general public and adjacent businesses.

ENG 2a

Prior to sealing of the final plan of subdivision, vehicular barriers compliant with the Australian Standard AS/NZS1170.1:2002 must be installed to prevent vehicles running off the edge of an access driveway or parking module (parking spaces, aisles and manoeuvring area) where the drop from the edge of the trafficable area to a lower level is 600mm or greater, and wheel stops (kerb) must be installed for drops between 150mm and 600mm. Barriers must not limit the width of the driveway access or parking and turning areas approved under the permit.

Advice:

The Council does not consider a slope greater than 1 in 4 to constitute a lower level as described in AS/NZS 2890.1:2004 Section 2.4.5.3. Slopes greater than 1 in 4 will require a vehicular barrier or wheel stop.

Designers are advised to consult the [National Construction Code 2016](#) to determine if pedestrian handrails or safety barriers compliant with the NCC2016 are also required in the parking module this area may be considered as a path of access to a building.

Please note that any vehicular barriers, retaining walls or other building works (private or public) are likely to require approval under the Building Act 2016. This is an entirely separate process to any endorsement by Council for the proposed works.

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2b

Prior to the issue of any approval under the *Building Act 2016* or the commencement of works on site (whichever occurs first) for the relevant stage, a certified vehicle barrier design (including site plan with proposed location(s) of installation for each lot access) prepared by a suitably qualified engineer, compliant with Australian Standard AS/NZS1170.1:2002, must be submitted to Council.

Advice:

If the development's building approval includes the need for a Building Permit from Council, the applicant is advised to submit detailed design of vehicular barrier as part of the Building Application.

If the development's building approval is covered under Notifiable Work the applicant is advised to submit detailed design of vehicular barrier as a condition endorsement of the planning permit condition. Once the certification has been accepted, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Please note that any vehicular barriers, retaining walls or other building works (private or public) are likely to require approval under the Building Act 2016. This is an entirely separate process to any endorsement by Council for the proposed works.

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the standard.

ENG 2c

Prior to the sealing of the final plan of subdivision for each stage, vehicular barriers must be inspected by a qualified engineer and certification submitted to the Council confirming that the installed vehicular barriers comply with the certified design and Australian Standard AS/NZS1170.1:2002.

Advice:

Certification may be submitted to the Council as part of the Building Act 2016 approval process or via condition endorsement (see general advice on how to obtain condition endorsement).

Please note that any vehicular barriers, retaining walls or other building works (private or public) are likely to require approval under the Building Act 2016. This is an entirely separate process to any endorsement by Council for the proposed works.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Reason for condition

To ensure the safety of users of the access driveway and parking module and compliance with the relevant standards.

ENG 3a

Prior to the sealing of the final plan of subdivision for each Stage, the access and circulation roadways for Lot 1, 2 and 4, and Lot 3 and 5, and the access, driveway and parking module for Lot 17 must be designed and constructed in accordance with Australian Standard AS/NZS2890.1:2004 (including the requirement for vehicle safety barriers where required) with the following exception:

1. Gradients within the highway reservation must comply with IPWEA LGAT Tasmanian Standard Drawing TSD-R09.

Advice:

It is advised that designers consider the detailed design of the access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.

Please note that any private plumbing works associated with the circulation roadway, driveway or parking module will require plumbing approvals under the Building Act 2016. This is separate to any endorsement of planning conditions.

Please note that any vehicular barriers, retaining walls or other building works (private or public) are likely to require approval under the Building Act 2016. This is an entirely separate process to any endorsement by Council for the proposed works.

The circulation roadway (driveway) must be constructed along the Right of Way (access strip) to the lot proper as part of this condition.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 3b

The access and circulation roadways design for Lot 1, 2 and 4, and Lot 3 and 5, and the access, driveway and parking module design for Lot 17 must be submitted and approved, prior to the commencement of work on the relevant stage.

The access driveway, circulation roadways, ramps and parking module (parking spaces, aisles and manoeuvring area) design must:

1. Be prepared and certified by a suitably qualified engineer.
2. Be in accordance with the Australian Standard AS/NZS2890.1:2004 (except where permitted by Condition ENG 3a).
3. Where the access design deviates from AS/NZS2890.1:2004 the designer must demonstrate that the design will comply with IPWEA LGAT TSD-09-v1.
4. Show dimensions, levels, gradients, transitions, and other details as Council deems necessary to satisfy the above requirement.

Advice:

It is advised that designers consider the detailed design of the access and parking module prior to finalising the Finished Floor Level (FFL) of the parking spaces (especially if located within a garage incorporated into the dwelling), as failure to do so may result in difficulty complying with this condition.

Once the design has been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 4

The access, driveway / circulation roadway and parking module (car parking spaces, aisles and manoeuvring area) approved by this permit must be constructed to a sealed standard (spray seal, asphalt, concrete, pavers or equivalent Council approved) and surface drained to the Council's stormwater infrastructure prior to the commencement of use.

Advice:

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Please note that any private plumbing works associated with private driveway and/or parking module will require plumbing approvals under the Building Act 2016. This is separate to any endorsement of planning conditions.

Reason for condition

To ensure the safety of users of the access driveway and parking module, and that it does not detract from the amenity of users, adjoining occupiers or the environment by preventing dust, mud and sediment transport.

ENG 11

Prior to the sealing of the final plan of subdivision for the relevant Stage, the proposed access to Lot 1, 2 and 4, Lot 3 and 5, and Lots 14 to 21 inclusive must be designed and constructed in accordance with:

1. LGAT Standard Drawing - Urban - TSD-R09-v1 – Urban Roads Driveways and TSD R14-v1 Type KC vehicular crossing.
2. LGAT Standard Drawing - Footpath - Urban Roads Footpaths TSD-R11-v1.
3. Or a Council City Infrastructure Division approved alternate design.

Advice:

Local Government Association (LGAT) Tasmanian Standard Drawings (TSD) can be viewed electronically via the [LGAT Website](#).

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20).

Reason for condition

In the interests of vehicle user safety and the amenity of the development.

ENG 1

Any damage to council infrastructure resulting from the implementation of this permit, must, at the discretion of the Council:

1. Be met by the owner by way of reimbursement (cost of repair and reinstatement to be paid by the owner to the Council); or
2. Be repaired and reinstated by the owner to the satisfaction of the Council.

A photographic record of the Council's infrastructure adjacent to the subject site must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre-existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council's infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council's infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG R1

The subdivision must provide adequate services to meet future development.

Engineering drawings must be submitted and approved prior to commencement of work on the site (for any stage). The engineering drawings must:

1. Be prepared and certified by a suitable qualified person and experienced engineer.
2. Be in accordance with LGAT -Tasmanian Standard Drawings and Subdivision Guidelines 2013 and include the following:

Road Infrastructure:

1. Design driveway access onto the lots with gradients that comply with AS2890 and LGAT drawings.
2. Long and cross sections of the road, footpaths, walkways and driveways onto each lot and concept landscaping plan.
3. Clearly show that there is 2m behind the retaining wall either by road reservation or embankment easement.
4. Include designs of any excavation and/or any earth-retaining structures (e.g. embankments, cuttings, retaining walls) and associated structural certificates for any structures.

The design must:

1. Be in accordance with AS4678, with a design life in accordance with table 3.1 typical application major public infrastructure works.

2. Take into account any additional surcharge loadings as required by relevant Australian Standards.
3. Take into account and reference accordingly any Geotechnical findings.
4. Detail any mitigation measures required.
5. The structure certificated and/or design should note accordingly the above.
6. Include design and certification of pedestrian and vehicle barriers in accordance with the Department of State Growth Specifications Guidelines and procedures, Australian/New Zealand Standard AS / NZS 1170.1 and/or the (IPWEA) LGAT –Tasmanian Standard Drawings. Upon completion the barriers must be inspected by a qualified engineer and a certification submitted to the Council, confirming that the installed barriers comply with the above requirement.
7. Be in accordance with the Department of State Growth Specifications and all other relevant Standards, Guidelines and procedures.
8. Include a safe design of structures assessment in accordance with the Safe Design of Structures Code of Practice (as adopted under section 274 of the Work Health and Safety Act 2012) and supply to the Council any documentation from the norm for the ongoing maintenance and replacement of any structures within the Highway Reservation.

All work required by this condition must be constructed undertaken in accordance with the approved engineering drawings.

Advice:

Once the engineering construction drawings have been approved the Council will issue a condition endorsement.

A minimum of 2m needs to be maintained behind the retaining wall for the City to undertake maintenance of the wall. Thus where the road reservation distance between the wall and property boundary is less than 2m then an embankment is required. The other option is to adjust the road reservation to align with the wall with a consistent 2m embankment easement behind it or extend the road reservation to 2m behind the wall.

Please note that any vehicular barriers, retaining walls or other building works (private or public) are likely to require approval under the Building Act 2016. This is an entirely separate process to any endorsement by the Council for the proposed works.

Please note that Council road engineers are supportive of a staged development, but that the detailed design for the entire proposed road is required prior to commencement of stage 1 works. If staged, the applicant is required to demonstrate how temporary turning area will operate once Stage 1 has had the final plan of subdivision sealed.

Construction joints for the retaining wall must be positioned to facilitate the cutout of accesses to Lot 8-12. This will require the ability for a four (4) metre section of wall to be removed in order to construct accesses to these lots (including sight distance). The applicant is required to indicate the likely location for the accesses and ensure construction joints marry up with the accesses. As future purchasers may wish to construct accesses in alternate locations the applicant is required to indicate how the retaining wall can be cut and demonstrate how small sections of the wall will remain structurally adequate as a vehicular barrier.

LGAT guidelines and standards are available [here](#).

Reason for condition

To ensure that the subdivision of land provides adequate services to meet the projected needs of future development.

ENG R3

Residential underground power and fibre ready facilities (pit and pipe that can hold optical telecommunication fibre line) to each lot and street lighting must be installed prior to the sealing of the final plan.

A street lighting design for all roads and footways must be submitted and approved, prior to sealing of the final plan. The street lighting design must be:

1. In accordance with AS/NZS 1158 series to the requirements of Tas Network and Council.
2. Include Tas Networks standard supplied poles and energy-efficient road light fittings.
3. Be certified by a suitably qualified person.

All work required by this condition must be undertaken in accordance with the approved street lighting design.

Advice:

Once the street lighting design has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Engineering approvals and inspections fees will apply and are required to be paid prior to the issue of condition endorsement. Please refer to the general advice for a link to the fees and charges.

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure that the subdivision of land provides adequate services to meet the projected needs of future development.

ENG R4

Vehicle crash barriers with the proposed highway reservation compliant with the Australian/New Zealand Standard AS / NZS 1170.1 and/or the (IPWEA) LGAT – Tasmanian Standard Drawings must be installed prior to the sealing of the final plan of subdivision for each stage.

A certified design/report prepared by a suitably qualified engineer, to satisfy the above requirements, must be provided to the Council prior to the commencement of work.

All works, required by this condition must be undertaken in accordance with certified design/report. Upon completion the barriers must be inspected by a qualified engineer and a certification submitted to the Council, confirming that the installed barriers comply with the above requirement.

Advice:

Once the engineering construction drawings have been approved the Council will issue a condition endorsement.

Separate to Council public infrastructure approval, approvals under the Building Act 2016 will be required and completion documentation required prior to Council taking ownership of this infrastructure.

This condition permits the staging of the development into two stages, Stage 1 (Lot 1-6 & 21) and Stage 2 (Lot 7-20). Vehicular barriers will be required for the relevant stages.

Reason for condition

To ensure that the safety of users of the driveway/parking and compliance with the standard.

ENG s1

Prior to the sealing of the final plan for Stage 2, private sewer, stormwater and water services/connections are to be entirely separate to each lot and contained entirely within the lots served.

The developer must verify compliance of the separation of services by supplying the Council with an as-built services plan, clearly indicating the location and details of all relevant services, prior to the sealing of the final plan for Stage 2.

The services plan must be accompanied by certification from a suitably qualified person that any engineering work required by this permit has been completed.

Advice:

Any final plan submitted for sealing will not be processed unless it is accompanied by documentation by a qualified person that clearly certifies that this condition has been satisfied and that any work required by this condition has been completed.

A "qualified person" must be a professional engineer or professional surveyor or other persons acceptable to Council.

Council's main concern are the existing services for the existing house and how these will be abandoned or re-purposed for use by Lot 17.

Reason for condition

To ensure that each lot is serviced separately.

ENV 2

Sediment and erosion control measures, in accordance with an approved soil and water management plan (SWMP), must be installed prior to the commencement of work and maintained until such time as all disturbed areas have been stabilised and/or restored or sealed to the Council's satisfaction.

A SWMP, addressing all areas of ground disturbance other than that within Council's New Town Rivulet linear park, must be submitted prior to the issue of any approval under the *Building Act 2016* or the commencement of work, whichever occurs first. The SWMP must be prepared in accordance with the Soil and Water Management on Building and Construction Sites fact sheets (Derwent Estuary Program, 2008), available [here](#).

All work required by this condition must be undertaken in accordance with the approved SWMP.

Advice:

Once the SWMP has been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To avoid the pollution and sedimentation of roads, drains and natural watercourses that could be caused by erosion and runoff from the development.

ENV 3

The public road, private accesses and firefighting water supply system must be designed and constructed in accordance with the prescriptions of the bushfire report by Lark & Creese P/L dated December 2018 (document number 16631-05) and the bushfire hazard management plan by Lark & Creese P/L dated 12 December 2018 (document number 16331-05), including:

1. The cul-de-sac carriageway must have a minimum outer radius of 9m;
2. The cul-de-sac must have a mountable kerb and 1.8m wide (minimum) footpath with a minimum load rating of 20 tonnes;
3. No signage or other road furniture is to be installed within the trafficable turning area or within 1m of the back of the footpath; and
4. No standing line markings must be installed within the cul-de-sac.

Reason for condition

To reduce the risk to life and property, and the cost to the community, caused by bushfires

ENV 4

Prior to sealing of the final plan, certification from a suitably qualified person must be submitted confirming that the public road, constructed private accesses and the firefighting water supply system have been designed and constructed in accordance with the prescriptions of the bushfire report by Lark & Creese P/L dated December 2018 (document number 16631-05) and the bushfire hazard management plan by Lark & Creese P/L dated 12 December 2018 (document number 16331-05).

Reason for condition

To reduce the risk to life and property, and the cost to the community, caused by bushfires

ENV 5

Compliance with the the prescriptions of the bushfire report by Lark & Creese P/L dated December 2018 (document number 16631-05) and the bushfire hazard management plan by Lark & Creese P/L dated 12 December 2018 (document number 16331-05) must be required via a Part 5 Agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993*. The Agreement must be registered on the Titles of lots 1 to 21 at the time of issue. The Agreement must require the BHMP to be implemented prior to occupation of the first new habitable building on the lots, and to be maintained for the life of all habitable buildings on the lots.

The Council will have its solicitors prepare the Agreement for signing by property owner(s). The Council will then lodge the Agreement with the Lands Titles Office. The cost of preparing the Agreement and registration with the Land Titles Office is to be met by the developer.

Advice: Please contact Council's Environmental Development Planner (6238 2715) to initiate preparation of the Agreement when required.

Reason for condition

To reduce the risk to life and property, and the cost to the community, caused by bushfires

OPS s1

The owner must pay a cash contribution to the Council for contribution to public open space, prior to sealing of the final plan.

The open space contribution is equal to 5% of the undeveloped value of Lots 1 to 21, excluding Lot 17, comprised in the Subdivision Proposal Plan: Proposed Lot Layout: Ref 9446 Rev F, Dated 24/5/2018, in lieu of the provision of public open space within the subdivision.

Advice: The value is to be determined by a registered valuer commissioned by the Council at the developer's cost. To initiate the valuation process please contact the Council's Development Appraisal Planner (6238 2715).

Reason for condition

Approval of the subdivision will create further demand upon Hobart's public open space system. The funds obtained will be used for future expenditure on the purchase or improvement of land for public open space in Hobart.

OPS s2

All works within New Town Rivulet Linear Park must be undertaken in accordance with an Environmental Management and Communications Plan, prepared by the developer to the satisfaction of the Director Parks and City Amenity. This plan must be in accordance with the Recommendations in the Lark & Creese Flora Assessment Proposed Stormwater Outlet - New Town Rivulet Linear Park, Lenah Valley dated 6th December 2018.

Advice:

A template for the Environmental Management and Communications Plan can be provided by the Open Space Planning Team (6238 2488). This plan must be made specific for the stormwater outfall works that will occur within the reserve.

Reason for condition

The new stormwater outfall will be located in a public reserve in a sensitive environment. Works must be planned so that environmental impacts can be minimised, public safety is ensured and the site is rehabilitated on completion of works.

OPS s3

A landscaping plan detailing the planting of street trees within the approved road reservation must be submitted and approved by the Council's Director City Amenity prior to the sealing of the final plan of subdivision for Stage 1.

The Landscaping Plan must include:

- Street trees planted within the road reservation on a 1 tree per new lot basis;
- The species and size at planting of each tree to the satisfaction of the Council's Director City Amenity;
- The location of footpaths, crossovers, street lighting and any proposed or existing underground infrastructure.

All trees and landscaping must be planted and installed in accordance with the approved Landscaping Plan to the satisfaction of the Council's Director City Amenity prior to commencement of use.

Upon completion of planting of all street trees on the approved Landscaping Plan, the subdivider must arrange for an Installation Inspection by the Council. Once all trees shown on the approved landscaping plan have been planted in accordance with the approved plan to the satisfaction of the Council's Director City Amenity, the Council will issue a statement confirming satisfactory planting of all street trees.

All street trees must then be watered and maintained in a healthy state by the subdivider for a period of 2 years from the date of that statement.

Advice:

For further information regarding satisfaction of this condition, and to arrange an Installation Inspection by the Council, please liaise with the Council's Program Leader Arboriculture and Nursery by phoning 6238 2807.

Reason for condition

To ensure that the subdivision provides a high standard of residential amenity and provides road reservations with shade and optimal environmental performance

OPS s4

Prior to the sealing of the final plan of subdivision for Stage 1, a bond to the amount of \$400 for every street tree on the Landscaping Plan approved in accordance with condition OPS s3 must be paid to the Council.

The bond will be released following a Final Inspection by the Council that confirms to the satisfaction of the Council's Director City Amenity that all street trees have been watered and maintained in a healthy state by the subdivider. The Final Inspection will be conducted by the Council's Director City Amenity or their delegate, and must be conducted a minimum of 2 years from the date the Council issued a statement confirming satisfactory planting of all street trees in accordance with condition OPS s3.

Advice:

For further information regarding satisfaction of this condition, and to arrange a Final Inspection by the Council, please liaise with the Council's Program Leader Arboriculture and Nursery by phoning 6238 2807.

Reason for condition

To ensure that the subdivision provides a high standard of residential amenity and provides road reservations with shade and optimal environmental performance

SURV 1

The applicant must submit to the Council a copy of the surveyor's survey notes at the time of lodging the final plan.

Reason for condition

To enable the Council to accurately update cadastral layers on the corporate Geographic Information System.

SURV 3

The final plan and schedule of easements must be submitted and approved under section 89 of the *Local Government (Building & Miscellaneous Provisions) Act 1993*.

The final plan and schedule of easements must provide easements to the satisfaction of the Council:

1. Over any proposed or existing storm water, water or sewer mains passing through the lots on the final plan, in favour of the Hobart City Council and/or TasWater (minimum width of 2m, or 3m if they cover two pipes).

2. Over any existing or proposed private rights of way, drainage and/or service easements in favour of the lots they are required to serve.
3. Over any existing, proposed or required road embankments or road batters in favour of the Hobart City Council.

Reason for condition

To ensure that there are no impediments to the provision of public and private services and access to the lots.

SURV 5

The proposed Road lot is to be transferred in fee simple to the Council at nominal consideration.

Prior to the sealing of the final plan an executed and stamp duty assessed Land Titles Office transfer instrument, Partial Discharge of Mortgage and completed Notice of Sale for the Road lot is to be forwarded to the Council together with a cheque made payable to the Land Titles Office for the associated Land Titles Office registration fees.

Reason for condition

To ensure that title to the proposed Road lot issues in the Council.

SUB s1

The proposed stormwater main passing through Lot 1 on SP 175675 (No. 7 Ancanthe Road) must be located within the 2.00 wide Drainage Easement adjacent to the western boundary of this property. Alternatively a wider Drainage Easement containing the stormwater main over Lot 1 on SP 175675 is to be created on the final plan of survey to the satisfaction of the Council.

Reason for condition

To ensure that the stormwater main is contained within a drainage easement that is to the favour of Hobart City Council.

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you may need to obtain an approval. Visit the Council's [website](#) for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

CONDITION ENDORSEMENT ENGINEERING

All engineering drawings required to be submitted and approved by this planning permit must be submitted to the City of Hobart as a CEP (Condition Endorsement) via the City's [Online Service Development Portal](#). When lodging a CEP, please reference the PLN number of the associated Planning Application. Each CEP must also include an estimation of the cost of works shown on the submitted engineering drawings. Once that estimation has been confirmed by the City's Engineer, the following fees are payable for each CEP submitted and must be paid prior to the City of Hobart commencing assessment of the engineering drawings in each CEP:

Value of Building Works Approved by Planning Permit Fee:

- Up to \$20,000: \$150 per application.
- Over \$20,000: 2% of the value of the works as assessed by the City's Engineer per assessment.

These fees are additional to building and plumbing fees charged under the Building and Plumbing Regulations.

Once the CEP is lodged via the [Online Service Development Portal](#), if the value of building works approved by your planning permit is over \$20,000, please contact the City's Development Engineer on 6238 2715 to confirm the estimation of the cost of works shown on the submitted engineering drawings has been accepted.

Once confirmed, please call one of the City's Customer Service Officers on 6238 2190 to make payment, quoting the reference number (ie. CEP number) of the Condition Endorsement you have lodged. Once payment is made, your engineering drawings will be assessed.

It is strongly advised that the developer discuss plumbing and building approval requirements for the proposed works under the Building Act 2016 with a building surveyor, as these are separate approvals to planning condition endorsement.

BUILDING PERMIT

You may need building approval in accordance with the *Building Act 2016*. Click [here](#) for more information.

Building approvals are separate to any condition endorsement of engineering planning conditions.

This is a Discretionary Planning Permit issued in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PLUMBING PERMIT

You may need plumbing approval in accordance with the *Building Act 2016*, *Building Regulations 2016* and the National Construction Code. Click [here](#) for more information.

Plumbing approvals are separate to any condition endorsement of engineering planning conditions.

PERMIT TO CONSTRUCT PUBLIC INFRASTRUCTURE

You may require a permit to construct public infrastructure, with a 12 month maintenance period and bond (please contact the Hobart City Council's City Infrastructure Division to initiate the permit process).

Obtaining a permit to construct public infrastructure does not preclude/negate the need for plumbing or building approvals under the Building Act 2016. It is strongly advised to consult an building surveyor to determine what approvals under the *Building Act 2016* will be required.

NEW SERVICE CONNECTION

Please contact the Hobart City Council's City Infrastructure Division to initiate the application process for your [new stormwater connection](#).

STORM WATER

Please note that in addition to a building and/or plumbing permit, development must be in accordance with the Hobart City Council's Hydraulic Services By law. Click [here](#) for more information.

ACCESS

Designed in accordance with LGAT- IPWEA – Tasmanian standard drawings. Click [here](#) for more information.

CROSS OVER CONSTRUCTION

The construction of the crossover can be undertaken by the Council or by a private contractor, subject to Council approval of the design. Click [here](#) for more information.

STORMWATER / ROADS / ACCESS

Services to be designed and constructed in accordance with the (IPWEA) LGAT – standard drawings. Click [here](#) for more information.

WEED CONTROL

Effective measures are detailed in the Tasmanian Washdown Guidelines for Weed and Disease Control: Machinery, Vehicles and Equipment (Edition 1, 2004). The guidelines can be obtained from the Department of Primary Industries, Parks, Water and Environment [website](#).

PROTECTING THE ENVIRONMENT

In accordance with the *Environmental Management and Pollution Control Act 1994*, local government has an obligation to "use its best endeavours to prevent or control acts or omissions which cause or are capable of causing pollution." Click [here](#) for more information.

LEVEL 1 ACTIVITIES

The activity conducted at the property is an environmentally relevant activity and a Level 1 Activity as defined under s.3 of the *Environmental Management and Pollution Control Act 1994*. For further information on what your responsibilities are, click [here](#).

NOISE REGULATIONS

Click [here](#) for information with respect to noise nuisances in residential areas.

WASTE DISPOSAL

It is recommended that the developer liaise with the Council's Cleansing and Solid Waste Unit regarding reducing, reusing and recycling materials associated with demolition on the site to minimise solid waste being directed to landfill.

Further information regarding waste disposal can also be found on the Council's [website](#).

FEES AND CHARGES

Click [here](#) for information on the Council's fees and charges.

DIAL BEFORE YOU DIG

Click [here](#) for dial before you dig information.

COUNCIL RESERVES

This permit does not authorise any works on nearby Council land. Any act that causes, or is likely to cause, damage to Council's land may be in breach of Council's Public Spaces By-law and penalties may apply. A permit under this by-law will be required for the new stormwater outfall within New Town Rivulet Linear Park. You can apply [here](#) for a permit.

SUBDIVISION ADVICE

For information regarding standards and guidelines for subdivision works click [here](#).

All conditions imposed by this permit are in accordance with the *Local Government Building & Miscellaneous Provisions) Act 1993* and the *Conveyancing and Law of Property Act 1884*.

CONTRACTOR MANAGEMENT PLAN

The Proponent is strongly encouraged to develop a Contractor Management Plan that is distributed to property owners in the vicinity of the development, providing the contact phone numbers of persons undertaking construction works associated with the subdivision as points of contact to discuss any issues that may arise.

TREE RETENTION PROGRAM

The Proponent is strongly encouraged to retain the maximum number of trees possible within the development within reason.

10. Monthly Building Statistics and Graphs
File Ref: F19/132966

Ref: Open [CPC 8.1](#), 14/10/2019

That the information be received and noted.

The Acting Director City Planning reports:

1. During the period 1 September 2019 to 30 September 2019, 42 permits were issued to the value of \$13,543,595 which included:
 - (i) 22 for Extensions/Alterations to Dwellings to the value of \$4,453,986;
 - (ii) 4 New Dwellings to the value of \$773,209; and
 - (iii) 2 Major Projects:
 - (a) 93 Elizabeth Street, Hobart - Alterations and Change of Use - \$1,500,000; 160-162 Elizabeth Street, Hobart - New Building and Alterations - \$6,600,000.
2. During the period 1 September 2018 to 30 September 2018, 50 permits were issued to the value of 15,430,289 which included:
 - (i) 23 Extensions/Alterations to Dwellings to the value of \$1,893,789;
 - (ii) 15 New Dwellings to the value of \$5,722,000 and
 - (iii) 4 Major Projects:
 - (a) 2 Elizabeth Street - Commercial Internal Alterations (Restaurant & Visitor Accommodation) - \$2,500,000; 45-71 Bathurst Street - Change of Use to Commercial Premises (Consulting Rooms & Pharmacy) - \$1,980,000; 39 Hillcrest Road – House - \$1,250,000; Level 4, 39-41 Davey Street, Hobart - Commercial Internal Alterations - \$1,200,000.
1. In the twelve months ending 30 September 2019, 635 permits were issued to the value of \$318,201,388; and
2. In the twelve months ending 30 September 2018, 659 permits were issued to the value of \$423,914,810.

11. Climate Youth Support Conference of Parties No. 25, Santiago, Chile, 29 November to 13 December 2019
File Ref: F19/133347

Ref: Supplementary Open [CPC 14](#), 14/10/2019

That the Council decline the request for funding from the Tasmanian youth delegation to attend the United Nations Conference of Youth and Conference of Parties climate negotiations meeting number 25, to be held in Santiago Chile from 29 November to 13 December 2019.

MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

**IN ACCORDANCE WITH REGULATION 16(5) OF THE LOCAL GOVERNMENT
(MEETING PROCEDURES) REGULATIONS 2015**

That in accordance with Council's policy, the following Notice of Motion which was adopted by the Finance and Governance Committee of 15 October 2019, be considered by the Council.

12. Elected Members - Random Illicit Drug and Alcohol Testing
File Ref: F19/129656;

Ref: Open [FGC 7.1](#), 15/10/2019

Aldermen Briscoe / Denison

Motion:

"That a report be prepared addressing the following:

- The Elected Members (All Aldermen, Councillors, Deputy Lord Mayor and Lord Mayor) be included in the City of Hobart staff random illicit drug and alcohol testing program.
- The results (including nil results) of the Elected Members drug and alcohol testing be published on the City of Hobart webpage regularly as part of the monthly reporting.
- The consequences if an Elected Member fails the drug or alcohol test, including not participating in any meetings for that day, and appropriate counselling be offered (similar to the City of Hobart staff policy)"

Rationale:

"Elected Members are held to the highest standard of behaviour, as the decisions they make involve, at times, spending high sums of money and making important strategic and planning decisions.

Impaired judgment through illicit drug or alcohol use prior to meetings would affect the quality of decisions made. Only zero tolerance is acceptable.

The absence of testing of the Elected Members of HCC is an anomaly that can be readily corrected by this motion.

It is also arguable that the Council Chamber and meeting rooms are a workplace under the Work Health and Safety legislation and that the elected members are workers under the legislation and that similar rules should apply to elected members as they do to employees. All City of Hobart employees are subject to random drug and alcohol testing.

The Unions in the past have called for the testing of Elected Members in line with the City of Hobart staff."

The General Manager reports:

“In line with the Council’s policy in relation to Notices of Motion, I advise that the matter is considered to be within the jurisdiction of the Hobart City Council as it relates to safety in the Council workplace.”

QUESTION ON NOTICE

That pursuant to Regulation 30 (1) of the *Local Government (Meeting Procedures) Regulation 2015*, written notice was given to the General Manager of the following question in respect of which an answer is sought at this meeting.

13. Cost of Code of Conduct Complaint Process
File Ref: F19/135509; 13-1-10

Councillor Holly Ewin

Question: Can you please advise us on the average cost of a Code of Conduct complaint process; and also who bears that cost?

Answer: The cost for making a code of conduct complaint is fifty fee units (in the current financial year this is equal to \$81.00) which is paid to the Council and is borne by the complainant.

From 1 July 2016 to 30 June 2019 the Council two code of conduct complaints were made relating to City of Hobart elected members.

The costs for the investigation and determination of complaints by the Code of Conduct Panel are borne by the relevant council pursuant to section 28O of the *Local Government Act 1993* (Tas). The average cost of a complaint received during the period noted above for the City of Hobart was \$3386.20.

COMMUNITY, CULTURE AND EVENTS COMMITTEE

14. Aboriginal Commitment and Action Plan

File Ref: F19/123735

Ref: Open [CCEC 6.2](#), 9/10/2019

- That:
1. The Council endorse the draft Aboriginal Commitment and Action Plan, marked as Attachment A to item 6.2 of the Open Community Culture and Events Committee agenda of 9 October 2019, to be released for broad community engagement.
 2. A further report to be provided detailing the outcome of the community engagement, endorsement from Reconciliation Australia and the final document for Council approval.

15. Town Hall Lunch Time Concert Program 2019-20

File Ref: F19/128560

Ref: Open [CCEC 6.3](#), 9/10/2019

- That:
1. The Council approve the 2019-20 program of ten (10) lunch time Hobart Town Hall concerts featuring local, interstate and international performers to be presented and curated by the Van Dieman's Band to activate the Hobart Town Hall and organ.
 2. The Council approve the cost to the City of Hobart of which \$10,000 is attributed to the Halls function and \$5,000 is attributed to the Events and Activation function, in addition to the waiver of the Town Hall booking fee valued at \$3,815 in the 2019-20 financial year budget.
 3. The total cost of \$18,815 be recorded in the 'Grants, Assistance and Benefits provided' section of the City of Hobart's Annual Report.

FINANCE AND GOVERNANCE COMMITTEE

16. Southern Tasmania Netball Association - Request to Amend (Increase) Loan Guarantee
File Ref: F18/107405; 18/17

Ref: Open [FGC 6.1](#), 15/10/2019

- That:
1. The Council guarantee a loan to Southern Tasmanian Netball Association (STNA) from Westpac Banking Corporation for \$505,000, subject to the General Manager being satisfied following further information to be provided by the STNA in regard to:
 - Electricity usage and expected savings;
 - Capacity to meet repayments in changed economic circumstances; and
 - Opportunities for combining the loans and refinancing.
 2. The General Manager be delegated authority to negotiate and finalise the terms of the loan guarantee.
 3. Council receive quarterly loan updates from STNA and/or Westpac Banking Corporation, and other financial information such as financial statements, and year to date performance information, at Council's discretion.
 4. STNA immediately notify Council in the event of any default in loan payments.
 5. STNA notify Council of any legal actions that they enter or are joined to, and any intention to take out further borrowings.
 6. Any future changes to loan arrangements be subject to Council approval.

17. Charitable Rates Exemptions - Rates Remission Request from Uniting Agewell
File Ref: F19/130524

Ref: Open [FGC 6.2](#), 15/10/2019

That the Council approve a remission of general rates paid by Uniting Agewell for 3 Peel Street, Sandy Bay and 51 Cross Street, New Town for the period 1 July 2016 to 30 June 2019 pursuant to section 129 of the *Local Government Act 1993 (Tas)*.

18. Proposed 2020 Council and Committee Meeting Schedule and Temporary City Planning Committee Delegation
File Ref: F19/131963

Ref: Open [FGC 6.3](#), 15/10/2019

- That:
1. The Council adopt Option B, marked as Attachment B to item 6.3 of the Open Finance and Governance Committee agenda of 15 October 2019, for a 2020 Council and Council Committee meeting schedule with the Economic Development and Communications Committee to precede the Community Culture and Events Committee.
 2. In the event that any urgent matters arise which cannot be accommodated within the preferred 2020 meeting schedule option, special meetings be convened as required.
 3. The City Planning Committee be provided with the following delegation in order to facilitate the processing of planning permit applications during the Christmas period:
 - (i) To determine all planning permit applications which would otherwise be determined by the Council, between 10 December 2019 and the first ordinary scheduled Council meeting in January 2020, in circumstances where it would not otherwise be possible to determine the application within the statutory time period required under Sections 57(6), 57(6A), 58(2) or 58(2A) of the *Land Use Planning and Approvals Act 1993*, and an extension of time cannot be obtained, unless an Elected Member has requested the convening of a special meeting or meetings to determine the application.
 4. A calendar of workshops be developed to include the following topics:
 - Budget estimates; and
 - Good governance

19. Mawson Place - Matilda
File Ref: F19/132749

Ref: Open [FGC 6.4](#), 15/10/2019

- That:
1. The Council authorise the General Manager to formally approach the Port Arthur Historic Site with regard to the return of the Matilda.
 2. If the Port Arthur Historic Site is not interested in the return, an Expression of Interest be called to identify possible options for the future of The Matilda.

**20. Update of Customer Service Charter and Annual Complaint Report
2018/19**

File Ref: F19/119268; 11-15-9

Ref: Open [FGC 6.5](#), 15/10/2019

That the Council endorse the updated Customer Service Charter marked as Attachment B to item 6.5 of the Open Finance and Governance Committee agenda of 15 October 2019, and the General Manager be delegated the authority to make editorial amendments to the Charter.

PARKS AND RECREATION COMMITTEE

21. Girrabong Park, Lenah Valley - Potential Redevelopment - Update
File Ref: F19/118502

Ref: Open [PRC 6.1](#), 10/10/2019

- That: 1. The Council endorse the revised concept plan for Girrabong Park, Lenah Valley, marked as Attachment A to item 6.1 of the Open Parks and Recreation Committee agenda of 10 October 2019.
2. Feedback be sought from the local community on the revised concept plan for the Park, noting the Council's recent determination of the Park as a shared-use area (being an off-lead dog exercise area between 9am and 7pm, but with dogs prohibited outside those hours) to inform the finer detailed design of the Park as part of the implementation.
3. Subject to positive feedback from the community, funding for the staged implementation of the Girrabong Park revised concept plan be considered when the Council determines the 2020-21 and 2021-22 Capital Works Programs and Annual Budgets at an estimated cost of \$160,000 over two years, with an estimated increased annual operational expense of \$10,000 per annum.
4. In respect to TasNetworks' proposed upgrade of the substation located within the Park, the General Manager be delegated the authority to negotiate and finalise the terms of a subsequent new easement, including seeking from TasNetworks any costs in relation to works required to accommodate the new substation and its impact on other Park infrastructure.

22. Tolmans Hill Park - Review of Park and Facilities
File Ref: F19/125641

Ref: Open [PRC 6.2](#), 10/10/2019

- That: 1. The review of the usage of the new Tolmans Hill Park over its first 12-months since opening, dated September 2019, be noted.
2. The Council's allocation of \$450,000 towards the development of public toilets and BBQs at the Park in its 2020-21 Capital Works Program, be increased to \$460,000 in order to fund the minor capital works to improve drainage and mountain bike track infrastructure on the site, with an estimated additional annual operational expense of \$45,000 per annum, to also be funded from the 2020-21 Capital Works Program.

**23. Edge Avenue Park, Lenah Valley - Immaculate Heart of Mary School -
Licence Renewal**
File Ref: F19/125748

Ref: Open [PRC 6.3](#), 10/10/2019

- That: 1. The Council authorise the General Manager to negotiate the annual renewal of the Immaculate Heart of Mary School's licence for the use of Edge Avenue Park, Lenah Valley, subject to the City receiving no notable concern from the local community.
2. An annual licence fee of \$2,000 (ex gst) be applied, with an annual CPI increase.

**24. Queens Walk, New Town - Request for Lease Renewal - The Friends
School**
File Ref: F19/111276

Ref: Open [PRC 6.4](#), 10/10/2019

- That: 1. Approval be granted for The Friends School to renew its lease over 3,217m² of City-owned land, located adjacent to the Brooker Highway within the Queens Walk precinct, New Town for a period of five (5) years, at a nominal annual rental.
- (i) Should a new lease be approved, the value of the reduced rental to the Friends School be recorded in the City's Annual Report in accordance with the Council Policy 'Grants and Benefits Disclosure'.
2. The General Manager be authorised to negotiate and finalise the terms of the lease including addressing weed management of the site.

25. Kayak Wash-Down Facilities at Long Beach, Sandy Bay - Proposal for Site Improvement Works
File Ref: F19/113018

Ref: Open [PRC 6.7](#), 10/10/2019

- That:
1. The report on the proposed formalisation of the Kayak Wash-down area at Long Beach, Sandy Bay located adjacent to the Sandy Bay Bathing Pavilion, be received and noted.
 2. Funding for site improvement works in relation to the kayak wash-down area at Long Beach, Sandy Bay (located adjacent to the Sandy Bay Bathing Pavilion) be considered when the Council determines the 2020-21 Capital Works Program and Annual Budget at an estimated cost of \$18,000 with an estimated annual operational expense of \$1,600 per annum.
 3. The General Manager be authorised to seek to secure any planning or heritage approvals for the works, should they be required.

SPECIAL REPORT – GENERAL MANAGER

26. Code of Conduct Determination Report
File Ref: F19/135579; 15/130-003

Memorandum of the General Manager of 16 October 2019 and attachment.

Delegation: Council

City of **HOBART****MEMORANDUM: COUNCIL****Code of Conduct Determination Report**

Pursuant to section 28ZK(2) of the *Local Government Act 1993* I have been provided with a copy of a determination report from the Code of Conduct Panel in respect to a complaint lodged by Ms MacGregor and Ms Williams of Women Speak Tasmania against Councillor Ewin.

The Act requires that I table this at the first meeting of the Council which is practicable to do so and which is open to the public. As such, a copy of the determination report is included as **Attachment A** to this report.

RECOMMENDATION

That the Council receive and note the Code of Conduct Determination Report shown as Attachment A to this report.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

N D Heath
GENERAL MANAGER

Date: 16 October 2019
File Reference: F19/135579; 15/130-003

Attachment A: Code of Conduct Determination Report - 15 October 2019 ↓

Local Government Code of Conduct Panel

Executive Building, 15 Murray Street, HOBART TAS 7000 Australia
GPO Box 123, HOBART TAS 7001 Australia
Ph: (03) 6232 7013 Email: lgconduct@dpac.tas.gov.au

PRIVATE AND CONFIDENTIAL

Mr Nick Heath
General Manager
Hobart City Council
generalmanager@hobartcity.com.au

Dear Mr Heath

**Code of Conduct Panel Determination Report –
Local Government Act 1993 (Section 28ZJ)**

In accordance with section 28ZK of the *Local Government Act 1993* (the Act) the Code of Conduct Panel has made its determination in relation to the complaint lodged on 10 July 2019 by Ms MacGregor and Ms Williams of Women Speak Tasmania against Cr Holly Ewin. A copy of the Determination Report is enclosed.

As per section 28ZK (2) of the Act, copies have also been provided today to Ms MacGregor and Ms Williams, Cr Ewin, and to the Director of Local Government.

Section 28ZK (7) of the *Local Government Act 1993* requires that any person who receives a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of the relevant council. Failure to do so may result in a fine of up to fifty penalty units.

In accordance with section 28ZK (4) of the Act, you are to ensure that the Report is tabled at the first meeting of the Council at which it is practicable to do so and which is open to the public.

As the code of conduct complaint has been upheld in part, Ms MacGregor and Ms Williams are entitled, under section 28ZO of the Act, to a full refund of the lodgement fee. Please arrange a refund of this fee within 28 days of the date of this letter.

I may be contacted on (03) 6232 7013 or by email at lgconduct@dpac.tas.gov.au if you have any queries.

Yours sincerely



Helen Medhurst
Executive Officer
Code of Conduct Panel

15 October 2019

Encl. Determination Report

Local Government Act 1993**HOBART CITY COUNCIL CODE OF CONDUCT****Complaint by Ms Isla MacGregor and Ms Bronwyn Williams against Councillor Holly Ewin****(Ref C16268)****Determination made on 15 October 2019****Code of Conduct Panel:**

Jill Taylor (Chairperson), Sam Thompson (Legal Member) and Penny Cocker (Member).

1. Summary of the complaint

On 6 July 2019 a Code of Conduct Complaint (the complaint) was received by the Code of Conduct Panel from Ms Isla MacGregor and Ms Bronwyn Williams against Councillor (Cr) Holly Ewin through the General Manager of the Hobart City Council, Mr Nick Heath. Mr Heath confirmed that the joint complaint met the requirements of Section 28V of the Act.

The complaint alleged that Cr Ewin had breached Part 7.1(a), (b) and (c) and Parts 8.4, 8.5, 8.6 and 8.7 of Schedule 1 of the City of Hobart Elected Member Code of Conduct that was adopted by Council on 18 February 2019 (the Code). It is against that version of the Code that the complaint is to be assessed.

Specifically, the complaint alleged that Cr Ewin breached Part 7.1 (a), (b) and (c) by posting several derogatory comments about the organisation Women Speak Tasmania (WST) on the councillor's Facebook page between 20 May 2019 and 14 June 2019. Ms MacGregor and Ms Williams are spokespeople for WST.

The complaint further alleged that Cr Ewin had breached Parts 8.4, 8.5, 8.6 and 8.7 in relation to the Facebook posts and because Cr Ewin had made false and defamatory remarks about members of WST at a Hobart City Council meeting held on 17 June 2019.

The relevant Parts of the Code of Conduct are as follows: -

PART 7 – Relationships with community, Councillors and Council employees***1. A Councillor –***

- (a) must treat all persons with courtesy, fairness, dignity and respect; and*
- (b) must not cause any reasonable person offence or embarrassment; and*
- (c) must not bully or harass any person*

PART 8 – Representation

- 4. An Elected Member must clearly indicate when they are putting forward their personal views.*
- 5. An Elected Member's personal views must not be expressed publicly in such a way as to undermine the decisions of the Council or bring the Council into disrepute.*
- 6. An Elected Member must show respect when expressing personal views publicly.*
- 7. The personal conduct of an Elected Member must not reflect, or have the potential to reflect, adversely on the reputation of the Council.*

Section 28ZK (7) of the *Local Government Act 1993* requires that any person who receives a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of the relevant council. Failure to do so may result in a fine of up to 50 penalty units.

The Chairperson undertook an initial assessment and advised on 17 July 2019 that further investigation was warranted in relation to the complaint against Cr Ewin.

A Code of Conduct Panel was formed to investigate the complaint made by Ms MacGregor and Ms Williams. On 30 July 2019 Cr Ewin was provided with a copy of the complaint and invited to provide a response. Cr Ewin submitted a response addressed "To whom it may concern" dated 10 August 2019. However, in accordance with the requirements of Section 28ZE(3), Cr Ewin was requested to make the response under cover of a Statutory Declaration. Cr Ewin provided a statutory declaration dated 14 August 2019, which was non-compliant, in that it had a strike-out that had not been initialled by the deponent and the witness. This was drawn to Cr Ewin's attention. In its place, the councillor submitted a compliant statutory declaration dated 9 September 2019. The Panel has therefore not taken into account the statutory declaration dated 14 August 2019.

2. Investigation

The Panel met on 3 September 2019 to review the evidence before it. The Panel formed the preliminary view that in accordance with Section 28ZG (2) a hearing was not required as neither party would be disadvantaged, and the parties' written submissions adequately covered the complaint. On 13 September 2019, Cr Ewin and the complainants were advised of the Panel's preliminary view. They were also provided with details of the written evidence before the Panel and asked to confirm that they had received all the written material (listed below). The parties were also invited, in the event that they wanted to request a hearing, to put their reasons in writing within 7 days for the Panel's consideration. The complainants responded saying that they did not require a hearing but would attend if Cr Ewin wanted to proceed to a hearing. Cr Ewin did not request a hearing. In accordance with Section 28ZG(2), the Panel determined to investigate the complaint without a hearing.

The Panel met on 18 September 2019 to consider the written evidence and determine whether Cr Ewin had breached the relevant Parts of the Hobart City Council's Code of Conduct. The complaint was signed jointly by Ms McGregor and Ms Williams, a course permitted by Section 28V (5).

The Panel considered the following written evidence in determining the complaint:

- Complaint by Ms MacGregor and Ms Williams dated 6 July 2019 with the following nine PDF documents:
 - Eight screenshots of relevant Facebook posts on the page titled "Holly Ewin, Hobart City Councillor"
 - Transcript of Hobart City Council meeting held on Monday 17 June 2019 related to discussion of agenda item 25
- Statutory Declaration of Isla MacGregor dated 6 July 2019
- Statutory Declaration of Bronwyn Williams dated 6 July 2019
- An email dated 10 August 2019 from Cr Holly Ewin addressed to "To whom it may concern"
- An email dated 27 August 2019 from Ms MacGregor and Ms Williams containing a response to Cr Ewin's email of 10 August 2019
- Statutory Declaration of Cr Holly Ewin dated 9 September 2019

Ms MacGregor and Ms Williams made the following allegations in relation to a series of Facebook posts made by Cr Ewin between 20 May 2019 and 14 June 2019. Their complaint states that:

1. On 20 May 2019, Cr Ewin accused Women Speak Tasmania of 'equating trans people to sex-crazed predators'.

2. An undated post made by Cr Ewin compares the members of Women Speak Tasmania to 'Nazis'.
3. On 21 May 2019, Cr Ewin referred to the members of Women Speak Tasmania as 'terfs'. The Panel understands this to be an acronym for a 'trans-exclusionary radical feminist'.
4. An undated post made by Cr Ewin suggests the members of Women Speak Tasmania are 'full of fear, anger and hate' and have 'unresolved trauma' that requires 'counselling'.
5. On 8 June 2019, in a Facebook post, Cr Ewin compares the members of Women Speak Tasmania with the 'Tassie nanas'. The complainants found this comment offensive as they interpreted it as being a reference to their older age. The Panel presumes Cr Ewin was referring to the pro-refugees group 'Tassie Nannas'. After considering all of the text in Cr Ewin's comment, provided by the complainants in Screenshot #5, the Panel disagrees with the complainants' interpretation.
6. On 11 June 2019, Cr Ewin refers to 'a small group of people whose only public work focuses on excluding trans people'.
7. In an undated post Cr Ewin refers to the members of Women Speak Tasmania as 'transphobes'.

In their complaint, Ms MacGregor and Ms Williams stated that the comments made by Cr Ewin were false, defamatory, offensive and unsubstantiated. They said that there was no evidence to support Cr Ewin's claim that they were a "hate group focused on excluding trans people". They added that they advocate for a society where the rights of female people and trans people are both respected.

In addition to the Facebook posts, Ms MacGregor and Ms Williams referred to the transcript of part of a Hobart City Council meeting held on 17 June 2019, where, they claim, Cr Ewin again made false and derogatory statements about WST. The transcript was apparently prepared by or at the request of the complainants. Its accuracy was not challenged by Cr Ewin. The Panel proceeded to determine the complaint on the basis that the transcript was accurate.

According to the complainants, Cr Ewin said that WST "were hell bent on excluding transwomen at any cost..." and in their communications "WST equate trans identity with predatory behaviour". Cr Ewin concluded that this communication was "at best misinformed, or at worst, hate speech". The complainants stated that Cr Tanya Denison raised a point of order, during Council discussions, about this remark, suggesting that Cr Ewin withdraw the accusation that WST were a "hate group". Cr Ewin was also asked by the Lord Mayor "to be careful about her language" and avoid being offensive. However, Ms MacGregor and Ms Williams submitted that Cr Ewin did not comply with this request and went on to conclude that WST should not be viewed as a relevant stakeholder in a poster design (the subject of the debate), adding that "It gives hateful Individuals a licence to hold on to their discriminatory beliefs and increases violence in our community".

Ms MacGregor and Ms Williams' complaint also refers to comments made by Cr Ewin in relation to Cr Thomas, Cr Behrakis and Cr Briscoe. The complaint notes those as being "[o]n an unrelated matter". The complaint does not allege a breach of the Code. The Panel therefore makes no findings with respect to that allegation.

In a response addressed "To whom it may concern" dated 10 August 2019, Cr Ewin claims that WST have misgendered the councillor in their public and private communications causing harassment. Cr Ewin further claimed that WST have actively discriminated against trans people, particularly trans women. This is a claim that Ms MacGregor and Ms Williams deny and add that any harassment on social media against Cr Ewin is not undertaken by any members of WST.

In the statutory declaration dated on 9 September 2019, Cr Ewin did not deny that comments made by the councillor would constitute a breach in the Code of Conduct for elected representatives and did not deny making such comments.

The Panel must still consider whether the comments were made and, if they were, whether they breached the Code. The applicable standard of proof is the balance of probabilities. The Panel accepts that Cr Ewin made the comments alleged in the complaint and particularised in this document. Cr Ewin

further added that any apology sought by the complainants would not be forthcoming on the part of the councillor. Cr Ewin did undertake to be “more diligent and explicit” in making distinctions between comments as a councillor and otherwise when providing comments and statements publicly.

3. Determination

Whilst the Panel accepts that some derogatory and unsubstantiated comments were made by Cr Ewin at the Hobart City Council meeting held on 17 June 2019, they were part and parcel of lively debate which occurs at many council meetings where wide-ranging opinions on issues are debated. It is the Panel’s view that these matters are properly dealt with by the chair of those meetings and this had happened at the Council meeting of 17 June 2019.

The Panel accepts that the councillor and complainants each had strongly held views regarding the issues and matters in question. In determining the complaint, it is unnecessary for the Panel to consider those issues and matters in detail. It suffices to note that:

- At some stage prior to 20 May 2019, Cr Ewin had proposed that trans and gender diverse posters be displayed at Council’s public convenience facilities or bathrooms (‘the matter’).
- From 20 May 2019 onwards, Cr Ewin made a number of Facebook posts or comments. These are referred to earlier in this determination.
- On 6 June 2019, Council’s Parks and Recreation Committee met. One of the complainants – Ms MacGregor – delivered a presentation on behalf of WST regarding the matter. Cr Ewin was present at that committee meeting.
- With respect to the complaint, the matter culminated in the discussion at the Council meeting of 17 June 2019 when Council was considering an agenda item (according to the transcript, Agenda Item 25) relating to, in Cr Briscoe’s words, the installation of “trans and gender diverse posters in public convenience facilities”.

It is unnecessary to consider the matter further. The Panel’s task is to investigate (Sections 28ZE and 28ZH) and determine (Sections 28ZI) the complaint. In particular, the Panel must consider whether, on the basis of the evidence provided by the parties, Cr Ewin breached the Code.

As has been noted, Cr Ewin alleged that the councillor had been harassed by members of WST. The complainants denied that they themselves harassed Cr Ewin. It is unnecessary for the Panel to make a finding as to this. The Code is concerned with conduct by a councillor. Those circumstances, if found proven by the Panel, could not be relevant in determining whether Cr Ewin breached the Code. Similarly, any allegation of WST’s members breaching the *Anti-Discrimination Act 1988* is not relevant to the Panel’s task, which is confined by the *Local Government Act 1993* and the Code to the councillor’s conduct. Nor is the conduct of Cr Ewin’s supporters relevant.

In relation to the purpose of Part 7 of the Code, the Panel acknowledges that it is beholden of an elected member to maintain a high standard of behaviour as a representative of Council. To this extent, a councillor must avoid making negative public comment or promulgating negative views about any member or groups within the community. This applies not only to a councillor’s conduct in a council meeting or at council events, but also to a councillor’s public commentary such as Facebook posts. Councillors may hold strongly held views. They are elected representatives and, as councillors, have political functions (see Section 28). However, the Code of Conduct adopted by the Council imposes limits and requirements on councillors.

The Panel determined that the complaint in respect of Part 7.1(a) be dismissed. That clause in the Code relates to the manner in which a councillor treats a particular person or persons. Whilst Cr Ewin’s comments could be taken as derogatory and unnecessary for the most part, they were not specifically directed personally at either of the complainants. As such, the Panel was not satisfied that there was any direct treatment of any individual that breached Part 7.1(a).

The Panel upholds the complaint in respect of 7.1(b). A relevant distinction between Parts 7.1(a) and 7.1(b) is that the former relates to a councillor’s *treatment of* a specific person or persons, whereas the latter relates to whether a councillor’s conduct causes *any reasonable person* offence or embarrassment.

Whilst Cr Ewin had not named any person in the Facebook posts or in the councillor's contribution to the debate at the Hobart City Council meeting on 17 June 2019, the councillor did make mention of WST. WST is a relatively small group and the complainants are known spokespersons for the group. Therefore, it is reasonable to assume that comments made by Cr Ewin could reasonably be seen to cause them offence or embarrassment. The Panel finds that Ms MacGregor and Ms Williams were reasonably offended and embarrassed by the comments made by Cr Ewin.

The Panel determined that the complaint in respect of Part 7.1(c) be dismissed. It was the Panel's view that harassment and/or bullying in that part of the Code requires unwarranted and unacceptable behaviour towards an individual over a sustained period. As Cr Ewin's commentary on Facebook and in the course of the Council meeting of 17 June 2019 was not attributed personally against the complainants this part of the complaint could not be sustained.

The Panel determined that the complaint in respect of Part 8.4 be dismissed. The heading on Cr Ewin's Facebook page is "Holly Ewin, Hobart City Councillor" which enables viewers to see that the councillor is a member of the Hobart City Council. Although Cr Ewin did not expressly say that they were expressing a personal view rather than speaking on behalf of Council, the Panel concluded that a reasonable person would assume that the comments posted by Cr Ewin are personal views. Cr Ewin has not suggested in any way that the postings are the views of Council. Relevantly, Cr Ewin's Facebook page refers to Cr Ewin as "Councillor", singular. There is nothing to suggest that the page purports to represent or speak on behalf of the Council as an institution.¹ This part of the complaint is dismissed.

The Panel determined that the complaint in respect of Part 8.5 be dismissed. This clause in the Code has two discrete limbs, relating (respectively) to Council's decision and bringing Council into disrepute. The Panel considers the limbs to be disjunctive. In relation to the matter discussed at the Hobart City Council meetings of May and June 2019, no decision was made by Council in regarding the wording of the poster, which was the council matter in question and the matter about which Cr Ewin expressed personal views. On both occasions the matter was referred to committee for further investigation. Therefore, Cr Ewin was not speaking out about a decision of Council. Cr Ewin's commentary did not undermine the decisions to refer the matter to committee. This part of the complaint is dismissed. In terms of bringing the Council into disrepute, the same considerations apply. Commenting on an issue before Council does not, in and of itself, bring Council into disrepute. Council is a deliberative polity. There are political functions to a councillor's functions. Robust debate and commentary is to be expected. Cr Ewin's Facebook posts were commentary and, in the Panel's view, did not bring Council into disrepute. The Panel concluded that this aspect of the complaint was not made out.

The Panel upholds the complaint in respect of Part 8.6. Whilst it could be argued that Cr Ewin was expressing personal views, this part of the Code requires Councillors to show respect when expressing personal views. The Facebook posts made by Cr Ewin were critical and unsubstantiated, showing the councillor's lack of respect to the group WST and its spokespersons, Ms MacGregor and Ms Williams. The Panel considers that Cr Ewin could be perceived as showing a negative bias towards the complainants. Section 28 of the Act requires councillors to represent their community, which implies that all groups within the community should be afforded the same level of treatment and respect. The Panel finds that Cr Ewin's Facebook posts failed to show respect towards the complainants.

The Panel dismisses the complaint in respect of Part 8.7. The Panel acknowledges that Cr Ewin has strongly held views in relation to transgender issues and has the right to express those views. As the Panel has stated above in relation to Part 8.5 of the Code, Council is a deliberative polity. Cr Ewin's role had political functions. Robust debate and commentary are to be expected. The effect, or potential effect, of a councillor's conduct on Council's reputation must be considered in light of those principles. Given that, the Panel determined that a reasonable person would accept that the comments made by

¹ Council is a body corporate (Section 19(1)), with prescribed functions and powers (Section 20), and constituted by councillors, mayors and deputy mayors (Part 4 of the Act). In contrast, councillors are elected representatives with both individual (Section 28(1)) and collective (Section 28(2)) functions. The mayor is the spokesperson: Section 27(1)(e). Part 8 of the Code must be read in light of those, and other, provisions of the Act.

Cr Ewin were the councillor's opinion and not those of Council.² Whilst even by Cr Ewin's own admission, the comments need to be more "diligent and explicit", the Panel concluded that Cr Ewin's comments have not reflected adversely on the reputation of Council, nor do they have the potential to do so (see Part 8.7 of the Code).

For these reasons, pursuant to Section 28ZI(1)(c), the Panel upholds part of the complaint and dismisses the remainder of it. Specifically, the Panel finds that Cr Ewin breached Parts 7.1(b) and 8.6 of the Code. The remainder of the complaint is dismissed.

4. Sanction

On 3 October 2019, the Panel wrote to Cr Ewin and the complainants advising that part of the complaint was to be upheld and attached a copy of the draft determination.³ All parties were invited to comment on the appropriateness of sanctions, if any, to be imposed. Cr Ewin replied that no sanctions should be imposed and advised that no apology would be forthcoming. The complainants had requested a public apology at the time of lodging the complaint and confirmed that this was still appropriate from their perspective. The Panel considered the evidence before it and the parties' responses. The Panel has only considered the complaint as it relates to Cr Ewin's Facebook posts and comments and did not consider any posts or comments by others on the councillor's Facebook page for the reason that such material is not the product of Cr Ewin's conduct. The conduct of Cr Ewin's supporters or the councillor's detractors is not relevant to the Panel's task.

Section 28ZI (2) prescribes a descending hierarchy in terms of severity of sanction. The starting point is whether any sanction should be imposed.

The Panel took into account that Cr Ewin was a first-time councillor of less than 12 months' experience at the time of the complaint and that this was the first complaint against Cr Ewin.

In the Statutory Declaration dated 9 September 2019, Cr Ewin stated "I need to be more diligent and explicit in making distinctions between comments that are my own, versus those made in my official capacity as a councillor." However, in that same Statutory Declaration, Cr Ewin still suggests that Women Speak Tasmania is a "hate group". The Panel acknowledges that elected members need a greater awareness of their responsibilities as councillors and the onus is on them to comply fully with the requirements of the Code of Conduct. Imposing a sanction is important in reminding all elected members of their responsibilities.

The Panel takes into account the heated political issue involving supporters of both the councillor and the complainants. Although robust debate is to be expected, the panel found that Cr Ewin's conduct went beyond the limits imposed by the Code.

On the other hand, the complainants' request for a public apology was also considered by the Panel.

Based on the evidence before it, the Panel determined that a public apology would be too severe a penalty, given the relative inexperience of Cr Ewin and the first-time nature of the complaint.

The Panel noted Cr Ewin's position of not providing an apology. Given that the Panel could have determined that an apology was appropriate in this matter, it is relevant to point out that in accordance with Section 28ZM(2) of the Act, a councillor must comply with any sanction imposed by the Panel within the period specified by the Panel in its determination report. A failure to do so is an offence punishable

² The Panel accepts that a councillor's expression of a personal opinion may, in certain circumstances, breach Part 8.7 of the Code.

³ A copy of this determination was provided in draft. The Panel made amendments to the draft determination prior to finalisation, but in the Panel's view these were immaterial to the question of what sanction, if any, the Panel should impose.

by a fine not exceeding 50 penalty units. Further consequences may arise under Section 339E by virtue of Section 28ZM (4) and (5).

The Panel concluded a sanction, albeit one towards the lower end of the scale in Section 28ZI (2), was required in this instance. Pursuant to Section 28ZI(2)(a), the Panel imposes a caution on Cr Ewin.

5. Further complaints

Pursuant to Section 28ZI (3), the Panel determines that the complainants may not make a further complaint in relation to the conduct of Cr Ewin that has been the subject of this determination for a period of 12 months. This determination applies only to the subject of this complaint. That is, to use the language used in Council's meeting of 17 June 2019, Council's consideration of "trans and gender diverse posters in public convenience facilities" and Council's consultation with Women Speak Tasmania.

This determination does not affect the rights of the complainants, or of any other person, to make a complaint about a new matter.

6. Right to Review

A person aggrieved by the determination of the Code of Conduct Panel is entitled under section 28ZP of the Act to apply to the Magistrates Court (Administrative Appeals Division) for a review of that determination on the grounds that the Code of Conduct Panel has failed to comply with the rules of natural justice.

7. Final Observation

The Panel considers it appropriate to mention Section 28ZK (7), which provides:

'Any person who receives a determination report must keep the determination report confidential until the report is included within an item on the agenda for a meeting of the relevant council.

Penalty: Fine not exceeding 50 penalty units.'

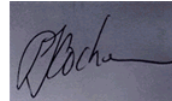
The Panel reminds the parties that the provision extends beyond a person disclosing the determination report itself. In the Panel's view, the provision applies also to publication of information that discloses any part of a determination report, such as the fact that a panel has upheld a complaint in whole or in part.



Jill Taylor
Chairperson



Sam Thompson
Legal Member



Penny Cocker
Member

27. CLOSED PORTION OF THE MEETING

RECOMMENDATION

That the Council resolve by absolute majority that the meeting be closed to the public pursuant to regulation 15(1) of the *Local Government (Meeting Procedures) Regulations 2015* because the items included on the closed agenda contain the following matters:

- Leave of Absence;
- Renewal of a contract including details of the terms and conditions of renewal; and
- The sale of land for unpaid rates.

The following items are listed for discussion:-

- | | |
|------------|--|
| Item No. 1 | Minutes of the last meeting of the Closed Portion of the Council Meeting |
| Item No. 2 | Communication from the Chairman |
| Item No. 3 | Leave of Absence |
| Item No. 4 | Consideration of supplementary Items to the agenda |
| Item No. 5 | Indications of pecuniary and conflicts of interest |
| Item No. 6 | Contract Extension - Contract No. 5798 - Provision of Mobile Phone Services
LG(MP)R 15(2)(d) |
| Item No. 7 | Request to Waive Requirement to Tender - Australia Post PostBillPay Services
LG(MP)R 15(2)(d) |
| Item No. 8 | Sale of Land for Unpaid Rates
LG(MP)R 15(2)(f), (g), (i) and (j) |