

11. PLANNING AUTHORITY

Under the provisions of the *Land Use Planning and Approvals Act 1993*, Council acts as a Planning Authority in regard to items included in Agenda Item 11 - Planning Authority.

11.1. DA0140/2024 - 40768 Tasman Highway, Waverley - 40K Combined Scheme Amendment - Change of Zone from Rural to Rural Living A; Subdivision - Subdivide Land into 23 Lots and a New Road - PSA-LLP0021

FILE NO: DA0140/2024

AUTHOR: Iain More (Senior Town Planner Policy and Projects)

APPROVER: Chelsea van Riet (Executive Leader Community Assets and Design)

DECISION STATEMENT:

To make a recommendation to the Tasmanian Planning Commission subsequent to the public exhibition period for a draft planning scheme amendment to the Launceston Local Provisions Schedule.

PLANNING APPLICATION INFORMATION:

Applicant: 6ty° Pty Ltd
Address: 40768 Tasman Highway, Waverley
Existing Zone: Rural
Existing Use: Residential

RELEVANT LEGISLATION:

Land Use Planning and Approvals Act 1993
Tasmanian Planning Scheme - Launceston

PREVIOUS COUNCIL CONSIDERATION:

Council Meeting - Thursday 30 July 2025 - Agenda Item 11.2

Initiated Draft Scheme Amendment PSA-LLP0021, to change the zoning from Rural to Rural Living A at 40768 Tasman Highway, Waverley, and unaddressed lot CT104384/4; and approve DA0140/2024 - Subdivision - Subdivide land into 23 lots and a new road.

RECOMMENDATION:

That Council:

1. in accordance with sections 40K of the *Land Use Planning and Approvals Act 1993*, considers the merit of any representation received during public exhibition of Draft Amendment DA0140/2024 and PSA-LLP0021 and,

2. amend Permit DA0140/2024 to include the following condition;

PART 5 (SECTION 71) AGREEMENTS

Prior to the final plan being sealed, a Section 71 agreement must be executed, that provides for the following:

- a. A 40m 'no build zone' from the top of the bank from Distillery Creek. The buffer must be placed onto the folio plan for lots 8, 9, 12, 13, and 14 of the endorsed plans, once registered.
- b. Sediment barriers must be used downslope of any construction on 8, 9, 12, 13, and 14.
- c. The 'no build zone' includes no buildings (habitable or non-habitable), no earthworks, no native vegetation removal, and no fencing.
- d. Declared weeds within the 'no build area' must be actively managed.
- e. The exception to the 'no build area' is future lot 9, which is permitted to remove vegetation, other than within the eastern riparian scrub (SRE) community identified on TASVEG 4.0 mapping, to undertake earthworks for the access purposes.

Once executed, the agreement must be lodged and registered in accordance with Section 78 of the *Land Use Planning and Approvals Act 1993*.

All cost associated with preparing and registering the Agreement must be borne by the applicant.

3. Recommends to the Tasmanian Planning Commission that Draft Amendment PSA-LLP00330 and permit DA0124/2023 be approved as exhibited.

REPORT:

1. BACKGROUND

At its meeting on 30 July 2025 Council considered an application under section 40T of the *Land Use Planning and Approvals Act 1993*, for a combined Draft Scheme Amendment and Permit Application to change the zoning from Rural to Rural Living A at 40768 Tasman Highway, Waverley, and unaddressed lot CT104384/4; and approve DA0140/2024 - Subdivision - Subdivide land into 23 lots and a new road.

Council resolved to initiate the rezoning.

As required by the Act, Council then advertised the rezoning for 28 days between Monday 18 August 2025 and Monday 15 September 2025.

2. REPRESENTATION ASSESSMENT

Six (6) representations were received during the exhibition period. A discussion on the concerns raised follows.

2.1 Representation Assessment

#	
1.	Concern: Environmental and Wildlife Impact The area is home to a rich array of native wildlife, including wombats, echidnas, pademelons, bandicoots, possums, wallabies and native hens, and a variety of bird species such as wedge-tailed eagles, lorikeets, owls and superb fairy-wrens. Subdivision will lead to habitat fragmentation, increased roadkill, light and noise pollution, runoff and contamination. Distillery Creek is protected by a Waterway and Coastal Protection overlay and the area includes Riparian Scrub, a threatened native community under the <i>Nature Conservation Act 2002</i>. The risk of erosion, sedimentation, and pollution from construction and residential activities is significant and unacceptable. The proposed subdivision threatens the natural environment and wildlife habitat that currently characterises this area. The property in question is home to: • Platypus, populations within the river system that forms the boundary of the proposed subdivision • Tasmanian native hens, nesting area • Lapwing plover, nesting area • Native ducks, several species nest in the trees on the property and by the waterways • Wedge-tailed eagles, which regularly hunt in the area The clearing of vegetation and increased human presence will have detrimental impacts on these species. There are no planned communal spaces or avenues to allow native species to live and move through this area. Response: <i>The applicant provided a Flora and Fauna Report, prepared by a qualified person, that identified the threatened flora and fauna on site. The report has provided recommendations to ensure the biodiversity of the site is retained. These recommendations include sediment control and weed management, which have been incorporated into conditions on the permit.</i> <i>Distillery Creek is protected through an existing overlay, and the flora and fauna report acknowledges the need for its protection. The new Part 5 condition with the no build zone will ensure that the unique biodiversity characteristics of the waterway will be protected.</i> <i>All lots are required to retain and treat stormwater on site, with the new road directing stormwater to an existing discharge point, which is considered to be suitable.</i>

2	Concern: Community and Character Concerns - Residents have chosen this area for its quiet, rural character. Urban sprawl undermines the very qualities that attract people to Launceston — open space, clean air and natural beauty. The proposed development would lead to increased traffic, emissions and noise, removal of mature gum trees, displace horses and other rural activities. - Waverley is currently a semi-rural, low-density residential area with strong community ties and significant natural value. This subdivision represents a shift toward urban-style development, which is inconsistent with the existing character of the area due to the smaller proposed block sizes for this development. - The proposal threatens to permanently alter the visual landscape, increase traffic, and place unsustainable pressure on local infrastructure, without providing corresponding benefits to the existing community.
	Response: <i>The change of zone is a continuous and contiguous expansion of existing rural living land to the east. Rural living offers rural style residential use, and is not considered to be urban-style development. The change of zoning is considered to retain the existing character of the area.</i> <i>The provided agriculture report has determined that the site has limited agricultural use. The provided traffic report acknowledges that the road, with the proposed upgrades, has sufficient capacity to cater for increased vehicle use.</i> <i>The land use pattern of the area east of the Tasman Highway has changed over the past 20 years. The current proposal is in line with expected growth and residential use within this area.</i>
3	Concern: Demand There is no demonstrated urgent need for this subdivision. A subdivision has already been recently approved in nearby Waverley, and another subdivision on Abel's Hill Road has been for sale for quite some time but only one block has been sold. This suggests that further subdivision is premature and unnecessary. Response: <i>A rural living market assessment was prepared by a suitably qualified person that provided detail on the demand for such housing stock. The report concluded there is sufficient demand for such lots.</i>
4	Concern: Adjoining uses The site is surrounded by larger rural living lots that utilise their land for recreational purposes, such as riding motorbikes and buggies. The creation of new residential lots may result in noise concerns from new residents. Response: <i>The subdivision will also be rural living in nature, albeit smaller (1ha) than the adjoining counterparts (2ha). Recreational activities that have the potential to create emissions, such as noise, are governed by the Environmental Management and Pollution control Act 1994, separate to the planning process.</i>

- 5 **Concern: Water Servicing**
- A notable concern is our water pressure. Contrary to what TasWater advised and have tested, we often struggle with water pressure, especially during the summer months. We believe this to be because we are at the end of the water line, have had to run our water access pipe the length of our block and in Summer there are a lot more people using water for their gardens. TasWater has tested our pressure and have advised us there is nothing wrong with it, however we beg to differ. We have had our plumber come and inspect our water connections, have installed a new Pressure Reducing Valve on our property recently, but the highest pressure we have been able to get is 400kpa (this is during a weekday when many dwellings on the reticulated water supply are not home). Most dwellings should be able to achieve a minimum of 500kpa.
 - We note in the documentation, and particularly the Rural Living Assessment document on page 5, that it states: "Lots are proposed to be serviced by extension of a reticulated pressure water supply network. This will be subject to advice relating to the capacity of the existing system to service the subdivision. In the event that there are any issues, the lots will be serviced by water tanks, as was the case with the nearby Hillside development."

Can you please advise what the issues were with the Hillside development and why they were required to install water tanks?

- As per the Proposed Plan document, there is a notation down the bottom which states: "Water Mains: Proposed water mains are likely to be DN100 with road crossings servicing lots on opposite side of road, subject to results of epanet modelling demonstrating pipe system can meet supply requirements."

Has the epanet modelling been done yet? What were the results?

Can council require a full water network capacity assessment in consultation with TasWater, and that no development be approved unless the infrastructure can be demonstrably upgraded to support additional demand?

Response:

Water servicing of the site is proposed, and TasWater, the regulated entity that monitors and controls such servicing, have provided a Submission to Planning Authority Notice as part of a referral of the proposal. The response requires an upgrade to the trunk water main to service the new lots. When determining water connections, clause 11.5.3 of the scheme requires that each lot be connected to a full water supply, which is what is proposed to meet the provision.

The Hillside subdivision development was a separate application with separate constraints. Within the planning scheme, there is a pathway that allows no water reticulation and on-site water retention instead. In that instance, with the support of TasWater, that was the option that was ultimately supported for Hillside.

	<i>Expanet modelling will occur during detailed engineering design, should the application ultimately be approved.</i> <i>Council cannot require a full water network capacity assessment. TasWater are the regulated entity that determine the appropriateness of water connections.</i>
6	Concern: Easements - On our Certificate of Title we have a registered Easement. This pipeline easement provides us with access to that section of land to lay pipes (on or under the easement), run electricity, inspection manholes, install and maintain a pump and pump house. Reading the note in the Application Documents Planning Report, it states on page 26: "The existing 3-metre-wide pipeline easement along the north-eastern boundary of the site will be largely incorporated into proposed Lot 101 (Road). The remaining section of the easement will be carried over the relevant portion of proposed Lot 9." Looking further at the Proposed Planning document, the size of the easement seems to be halved. And if the easement is incorporated into Lot 101 (the road), how are we meant to run pipes or electricity over/under the road? - The easement provides legal access and rights to Distillery Creek for several properties. The current proposal appears to remove this easement, which is unacceptable without consultation, financial reparations and legal agreement. - Any modification, removal, or redirection of this easement could adversely affect my access to water and infringe on established property rights. I request formal confirmation that: i. The easement will remain intact and unaltered. Should my easement require any relocation or adjustment, this needs to occur through formal agreement with adjustments being formally made to my property title at no cost to myself or other property owners affected. ii. No new connections will be made via this easement without the express consent of affected landowners. Response: <i>The proposal does not remove the pipeline easement from adjoining properties. This easement will remain, and it is intended that it be carried over to newly created lot 9 and includes the road lot.</i>
7	Concern: Lot Size Review We request that the number of blocks which are being proposed potentially be reduced and have a minimum size of 2-Hectares like other properties zoned Rural Living Zone B and directly opposite. This will provide bigger blocks which could potentially have larger building envelopes and bigger setbacks. By reducing the number of blocks, it will also give more space for the people purchasing the land to be able to install their septic systems and water tanks which will alleviate the concerns regarding the water pressure.

	Response: <i>The lot size, being Rural Living A, is considered to be appropriate. Lots 1ha in size are large enough to be classified as rural living, and are large enough in size to accommodate septic systems and water tanks. Lot sizes do not change setback requirements.</i>
8	Concern: Flood Risk • Several of the proposed lots appear to be located on known floodplains along Distillery Creek. This area has a history of flooding during periods of high rainfall. • Residential development on this flood plane is likely to result in increased insurance premiums for neighbouring landowners, or even render some properties uninsurable, given the heightened risk profile introduced by this subdivision as it is currently proposed. Response: <i>The northern section of the site is identified as having potential for flood risk, notably an area which shows the extent of a 1% Annual Exceedance Probability (AEP) flood event. The proposed no build area will assist in reducing flood risk for future development. Further, the properties within the subdivision are large enough to ensure development is possible without risk of flood.</i>
9	Concern: Stormwater • Please provide clarification on how stormwater from the development will be treated or filtered before it enters the river. • Consider or enforce the use of sustainable stormwater management solutions (e.g., wetlands, retention basins, or biofiltration systems). • Conduct or provide the results of an environmental impact assessment that evaluates the risks to downstream water users. • In the absence of a reticulated sewage system and the proposed use of Bio Cycles, advise if a water quality monitoring program for Distillery Creek will be implemented to monitor the impact and ongoing suitability of water for domestic use. • Reassess the discharge plan in light of community reliance on the river for water supply. Response: <i>The new road will drain stormwater to Distillery Creek via an existing discharge point, whilst all residential lots will contain and treat stormwater on site.</i> <i>While the design of the drain is subject to detailed engineering, it is envisaged that the drain will take the form of a vegetated grassed swale. This type of system is consistent with water sensitive urban design principles, and will attenuate peak flows, promote infiltration, and improve water quality by filtering sediment, nutrients, and hydrocarbons, an appropriate solution for the rural residential context of the site.</i> <i>The planning process cannot articulate the type of on-site sewerage system to be used, and it will be up to the owners at time of future development.</i> <i>Water quality monitoring for Distillery Creek occurs bi-annually by the City of Launceston water scientists.</i>

2.2 Riparian Zone

Discussions with Council's Infrastructure and Engineering team were undertaken during the exhibition period relating to the protection of Distillery Creek, the creek line running along the northern section of the site, and adjoining future lots 9, 12, 13, and 14.

The bi-annual monitoring of urban waterway health undertaken by City of Launceston each year shows that Distillery Creek is in the best health of all of the urban creeks monitored and contains significant natural values. The strip of riparian vegetation along the creek line acts as a wildlife corridor, so development should not impede on wildlife movement along the creek and riparian vegetation.

The greatest threats to the waterway from development is the removal of riparian vegetation, increased suspended sediment and pollutants from runoff and increased runoff flow velocity and volume from new impervious areas (hard surfaces such as roofs, roads, etc).

Condition 8 of the draft permit requires a Soil and Water Management Control Plan to be submitted and approved by Council's Executive Leader Community Assets and Design prior to the commencement of subdivision works. This will ensure that erosion and sedimentation are effectively controlled and managed during construction.

The application proposes to construct a surface drain within a new drainage easement on Lot 14, to convey stormwater from the subdivision road to the creek. Condition 11(a) of the draft permit requires an engineering design for this drainage system to be submitted for approval by Council's Executive Leader Community Assets and Design. While the design is subject to detailed engineering, it is envisaged that the drain will take the form of a vegetated grassed swale. This type of system is consistent with water sensitive urban design principles, and will attenuate peak flows, promote infiltration, and improve water quality by filtering sediment, nutrients, and hydrocarbons - an appropriate solution for the rural residential context of the site. The application also proposes that each lot will incorporate its own on-site stormwater disposal system, thereby avoiding direct discharge from individual lots into the creek.

2.2.1 Riparian Options

There are two pathways available to ensure the protection of the creek.

The first option is to allow the planning scheme to continue its operation with existing overlays. Code C7.0 Natural Assets Code applies to future development (such as dwelling development) within a waterway area. This code requires that buildings and works within a waterway will not have an unnecessary impact on the natural asset. In short, any development within the identified area would need to offer supporting documentation that the waterway will be protected. The findings of the bushfire report, which identifies buildings areas outside of this area, as well as the findings of the flora and fauna report, which also supports the nominated buildings envelopes outside of the native vegetation community.

In short, this option would leave it up to future development to meet the requirements of the scheme.

The second would be the following agreement be placed on relevant lots:

PART 5 (SECTION 71) AGREEMENTS

Prior to the final plan being sealed, a Section 71 agreement must be executed, that provides for the following:

- a. A 40m 'no build zone' from the top of the bank from Distillery Creek. The buffer must be placed onto the folio plan for lots 8, 9, 12, 13, and 14 of the endorsed plans, once registered.
- b. Sediment barriers must be used downslope of any construction on 8, 9, 12, 13, and 14.
- c. The 'no build zone' includes no buildings (habitable or non-habitable), no earthworks, no native vegetation removal, and no fencing.
- d. Declared weeds within the 'no build area' must be actively managed.
- e. The exception to the 'no build area' is future lot 9, which is permitted to remove vegetation, other than within the eastern riparian scrub (SRE) community identified on TASVEG 4.0 mapping, to undertake earthworks for the access purposes.

Once executed, the agreement must be lodged and registered in accordance with Section 78 of the *Land Use Planning and Approvals Act 1993*.

All cost associated with preparing and registering the Agreement must be borne by the applicant.

The above protections are further supported by:

- a. Bushfire Hazard Management Report - The report considers safe construction distances for bushfire safety through build areas, all of which exceed 40m from Distillery Creek.
- b. Flora and Fauna Report - The report addresses the biodiversity of the property. The at risk vegetation was found to be along the creek line. Whilst this vegetation does not extend 40m into the site, the provision of the no-build area will ensure future protections for the vegetation.
- c. C7.0 Natural Assets Code - Waterway Protection - There is an existing waterway protection area that extends 40m from the creek line. Providing a 40m no-build area from the creek is in line with the protections offered by the code.

Option two is considered to be the most appropriate. The subdivision will ultimately remove some non-threatened vegetation over the existing land, however goes so far as to point out the requirement for protection of the threatened communities around the waterway. Whilst the subdivision itself does not propose to remove this identified vegetation, and has nominated envelopes outside of those areas, once the titles are sealed and sold, individual landowners would be able to lodge applications removing the vegetation, subject to appropriate justification. Based on the supporting reports for this application however, the placement of a Part 5 agreement is considered appropriate to retain the health of this ecosystem.

3. RECOMMENDED MODIFICATIONS

That the following condition be included in permit DA0140/2024:

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- d. Declared weeds within the 'no build area' must be actively managed.
- e. The exception to the 'no build area' is future lot 9, which is permitted to remove vegetation and undertake earthworks for the construction of a road.

Once executed, the agreement must be lodged and registered in accordance with Section 78 of the *Land Use Planning and Approvals Act 1993*.

All cost associated with preparing and registering the Agreement must be borne by the applicant.

4. CONCLUSION

The planning officer is supportive of the application with the recommended modifications.

ECONOMIC IMPACT:

The amendment to the Launceston Local Provisions Schedule has been assessed against the requirements of the Act. The Tasmanian Planning Scheme - Launceston, and the Launceston Local Provisions Schedule also contain provisions intended to implement the objectives of the Resource Management Planning System. The application has been assessed using these provisions and as such economic, environmental and social impacts have been considered.

STRATEGIC DOCUMENT REFERENCE:

Land Use Planning and Approvals Act 1993 (the Act)

Tasmanian Planning Scheme - Launceston & Launceston Local Provisions Schedule
Northern Tasmania Regional Land Use Strategy (NTRLUS) 2018

BUDGET & FINANCIAL ASPECTS:

Not considered relevant to this report.

DISCLOSURE OF INTERESTS:

The officer has no conflict of interest in this item.

ATTACHMENTS:

1. DA0140 2024 Amended Permit [**11.1.1** - 9 pages]
2. Response to Representations - Launceston Local Provisions Schedule - PS A- LL P 0021 & D A 0140-2024 [**11.1.2** - 3 pages]
3. CONFIDENTIAL REDACTED - D A 0140-2024 - 40768 Tasman Highway Waverley - Representations [**11.1.3** - 18 pages]

11.1. DA0140/2024 - 40768 Tasman Highway, Waverley - 40K Combined Scheme Amendment - Change of Zone from Rural to Rural Living A; Subdivision - Subdivide Land into 23 Lots and a New Road - PSA-LLP0021

FILE NO: DA0140/2024

AUTHOR: Iain More (Senior Town Planner Policy and Projects)

APPROVER: Chelsea van Riet (Executive Leader Community Assets and Design)

DECISION STATEMENT:

To make a recommendation to the Tasmanian Planning Commission subsequent to the public exhibition period for a draft planning scheme amendment to the Launceston Local Provisions Schedule.

PLANNING APPLICATION INFORMATION:

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RECOMMENDATION:

{recommendation-start}

That Council:

1. in accordance with sections 40K of the *Land Use Planning and Approvals Act 1993*, considers the merit of any representation received during public exhibition of Draft Amendment DA0140/2024 and PSA-LLP0021 and,
2. amend Permit DA0140/2024 to include the following condition;

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All cost associated with preparing and registering the Agreement must be borne by the applicant.

3. Recommends to the Tasmanian Planning Commission that Draft Amendment PSA-LLP00330 and permit DA0124/2023 be approved as exhibited.

{recommendation-end}

{remove-from-minutes-end}

Richard Jamieson (Senior Leader City Development) and Iain More (Senior Town Planner Policy and Projects) were in attendance to answer questions in respect of this item.

DECISION: 23 October 2025

MOTION

Moved Councillor A G Harris, seconded Councillor J J Pentridge.

That Council:

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3. Recommends to the Tasmanian Planning Commission that Draft Amendment PSA-LLP00330 and permit DA0124/2023 be approved as exhibited.

CARRIED 9:0

FOR VOTE: Mayor Councillor M K Garwood, Councillor D C Gibson, Councillor A G Harris, Councillor J J Pentridge, Councillor A J Palmer, Councillor S Cai, Councillor A J Britton, Councillor K M Preece and Councillor R A I Marsden

AGAINST VOTE: Nil