

TASMANIAN PLANNING COMMISSION

Reference: PDPSAMEND-2025-054641

CLARENCE CITY COUNCIL

PLANNING AUTHORITY

BETWEEN: -AND-

LIVADI INVESTMENTS PTY LTD

APPLICANT

-AND-

BRETT MCKAY

REPRESENTOR

SUBMISSIONS OF CLARENCE CITY COUNCIL**1. The Application**

- 1.1 On 5 August 2025, the consultancy firm All Urban Planning made an application on behalf of the Applicant to the Planning Authority under s 37(1) of the *Land Use Planning and Approvals Act 1993* (Tas) (the **Act**) to amend the *Clarence Local Provisions Schedule (LPS)* concerning land situated at 113-119 East Derwent Highway, Lindisfarne in Tasmania, being four separate titles more particularly described in certificates of title 75763/1, 75763/2, 75763/3 and 75763/4 (the **Site**).

(Collectively, "the **Application**").

- 1.2 The Application proposes to rezone the Site from the General Residential Zone to the Local Business Zone.
- 1.3 The Application is accompanied by a proof-of-concept design for a mixed-use development on the Site, and supported by a Traffic Impact Assessment by Midson Traffic. The concept plans which does not form part of a combined application under s 40T of the Act and accordingly was not assessed as such by the Planning Authority.

2. Background to Hearing

- 2.1 On 20 October 2025:
- a. the Council prepared a report in response to the Application recommending that the Planning Authority could be satisfied that the draft amendment will meet the LPS criteria (**s 38 Report**); and
 - b. the Planning Authority accepted the recommendation contained in the s 38 Report and resolved to prepare and certify the draft amendment of the LPS (PDPSAMEND-2025/054641) pursuant to ss 38, 40D and 40F of the Act (**Draft Amendment**).
- 2.2 On or about 27 October 2025, the Council provided to the Commission, copies of the Draft Amendment and the certificate pursuant to s 40F of the Act.

Filed on behalf of the **Planning Authority**, by:

DOBSON MITCHELL ALLPORT

59 Harrington Street

HOBART TAS 7000

Tel: (03) 6210 0000

Email: jack.tammens@doma.com.au

Ref: Jack Tammens

- 2.3 The Draft Amendment was publicly exhibited for the statutory 28 days from 29 October 2025 to 26 November 2026 in accordance with ss 40G and 40H of the Act. Whilst s 40G of the Act only requires two advertisements in a newspaper that is published in Tasmania and circulates generally in the area to which the draft amendment of an LPS relates, additional notification occurred in relation to the Application to landholders and occupants adjoining the Site and notification signs on the Site.
- 2.4 19 representations were received by Council during the public exhibition period in accordance with s 40J of the Act, including one being a petition signed by 197 people (framed as a petition in accordance with Part 6 of the *Local Government Act 1993* (Tas)) received from representor Mr Andrew McKay.
- 2.5 Whilst those representations are to be treated as 19 single representations, and the views of the community toward the Draft Amendment are not determinative, it is relevant to note the large volume of objections from the local community on related issues. The issues raised were in the following categories:
- a. concerns for Traffic volume and congestion, with consequential concerns for:
 - i. road safety;
 - ii. availability of off-street parking; and
 - iii. pedestrian safety;
 - b. concerns with the strategic basis for the Draft Amendment, including several concerns expressed for the impact on Lindisfarne Village;
 - c. concerns for residential amenity; and
 - d. criticisms of the proof-of-concept design, which don't properly arise for assessment before the Commission.
- 2.6 Of the representors, Mr Brett McKay has pursued an objection to the Draft Amendment. Mr McKay's representation cuts across the majority of the concerns raised by the other represents. Lodged on his behalf is a planning submission by consultancy firm 6ty^o and a Traffic Impact Assessment by Hubble Traffic. He is legally represented by Billet Legal.
- 2.7 On 2 March 2026:
- a. the Council prepared a report on the representations and delivered a copy to the Commission pursuant to s 40K of the Act (**s 40K Report**), after the statutory period of 35 days to deliver the report was extend by the Commission to 11 March 2026. The s 40K report recommended that the Planning Authority is satisfied that the Planning Authority is satisfied that the Draft Amendment meets the LPS criteria and no other recommendations to the Draft Amendment are warranted; and
 - b. the Planning Authority reviewed the s 40K Report and after considering the content of the representations, resolved to no longer support the Draft Amendment on the basis that:
 - i. the rezoning of the Site has the potential for an increase in commercial traffic to and from the Site and in the surrounding streets;

- ii. the rezoning of the Site has the potential to generate more traffic within the surrounding streets and likely to impact on pedestrian safety and the safety of school children using Ballawinnie Road and crossing at the traffic lights on the East Derwent Highway;
- iii. representors were not provided an opportunity to consider the Midson Traffic Impact Assessment; and
- iv. rezoning has the potential to attract new commercial/residential development and likely to generate an increase in commercial traffic demand to the Site.

3. Council's Position

- 3.1 Council's position at hearing before the Commission is that it no longer supports the Draft Amendment, having considered the representations made.
- 3.2 Whilst the Planning Authority initially agreed to prepare the Draft Amendment on satisfaction of the LPS criteria based on the content of the s 38 Report, it later resolved to withdraw its support after taking into account the content of the representations and s 40K Report.
- 3.3 The Planning Authority is not bound by the recommendations contained in the s 38 Report, nor in the s 40K Report. The Planning Authority takes that advice into consideration but is not bound to follow the recommendations.
- 3.4 Ultimately the Planning Authority is a political entity comprised of elected officials representative of the community who elected them. It may be expected that they will support particular views as to what is in the best interests of the community they represent and that often they will have strong personal views as to what ought to occur in the community, including how they would wish their community to develop.¹
- 3.5 Part 3B of the Act no longer enables the Planning Authority to consider representations prior to certifying the Draft Amendment.² The public exhibition period now occurs after Council has provided to the Commission a copy of the certified Draft Amendment under s 40F(4) of the Act.
- 3.6 Once the Planning Authority determines to prepare a Draft Amendment under s 38(2) of the Act, it has exhausted its statutory discretion. From that point onward, the matter must progress to certification the draft, with or without modification,³ give notice of and subsequently publicly exhibit the draft amendment,⁴ and then report to the Commission on the representation received.⁵ Thereafter, the draft amendment is referred to the

¹ *R v West Coast Council; Ex parte Strahan Motor Inn* (1995) 4 Tas R 411 per Zeeman J at 418.

² c.f. previous procedure referred to by Underwood CJ in *Clarence City Council v South Hobart Investments* (2007) 16 Tas R 201 at [25] and the now repealed s 33(2B) which required that before making a decision as to whether or not to initiate an amendment of the planning scheme, the planning authority must consider any representation made.

³ *Land Use Planning and Approvals Act 1993* (Tas) s 40F(2) (**LUPAA**).

⁴ LUPAA s 40G-H.

⁵ LUPAA 40K.

Commission who has the discretion to modify, approve or refuse to approve the draft amendment.⁶

- 3.7 There is no statutory obligation for Council to maintain its position, or uphold the previous recommendations in the s 38 of 40K Reports, and it is submitted that it is improper to expect it to, or to place any additional importance on the opinions expressed in either the s 38 report or the s 40K Report. Whilst the Commission is required to take the s 40K report into account, it should not give it any more weight than any other opinion of the planning experts called at hearing by the parties. The ultimate task for the Commission remains to determine for itself whether the Draft Amendment meets the LPS Criteria.⁷
- 3.8 Council has subsequently engaged an external planning consultant, Mr Boardman, whose opinion is that the Draft Amendment should not be endorsed. Council now adopts the opinion of Mr Boardman (which closely aligns with the opinion of Mr Walker called by Mr McKay) in favour of those expressed in the s 38 and s 40K Reports for the purposes of this hearing.

4. Applicable Law on Commission Hearings

- 4.1 Both the Supreme Court,⁸ and more explicitly, Part 3 of the *Tasmanian Planning Commission Act 1997* (Tas) make clear that the Commission:
- a. can determine its own hearing procedure;
 - b. must observe the rules of natural justice and procedural fairness;
 - c. may inform itself about any matter in any way it thinks fit;
 - d. is not bound to act in a formal manner; and
 - e. is not bound by the rules of evidence.
- 4.2 Hearings before the Commission are a hearing of the representations. The Commission's function is inquisitorial but involves adversarial components in circumstances where there is a direct conflict between the interest of the Applicant, who seeks the amendment in the promotion of its own interests, and the Representor, who is opposed to it in defence of his own interests.⁹
- 4.3 To extent any burden of proof exists in proceedings of this kind, such burden rests with the Applicant, being the proponent of change to the existing zoning.¹⁰

5. Status of Concept Plans

- 5.1 Council's position is that the proof-of-concept plans are of no relevance. Any future development will require separate assessment against the Planning Scheme.

⁶ LUPAA Part 3B, Division 3, subdivision 3.

⁷ LUPAA s 40Q(1).

⁸ See, eg, *R v Davis* (1999) 102 LGERA 88; [1999] TASSC 22.

⁹ *R v Davis* [1999] TASSC 22 at [22], [27] – [29]

¹⁰ *R v Land Use Planning Review Panel; ex parte M F Cas Pty Ltd* [1998] TASSC 131 per Wright J.

- 5.2 The Commission must consider the most intensive or impactful development that could reasonably occur if the Draft Amendment were approved.
- 5.3 Mr Read states that the proof-of-concept is intended to demonstrate the site's capacity to accommodate a typical mixed-use outcome consistent with the zone purpose of the Local Business Zone.¹¹ Council doesn't quarrel with that point, but says that it to be given little weight in the assessment which the Commission is to make, in the absence of a combined application under s 40T of the Act.
- 5.4 Mr Midson says that the proof-of-concept plans represent a reasonable worst-case traffic scenario.¹² It's not immediately clear why that is, or whether Mr Midson has considered the maximum development potential to the extent which Mr Boardman has.¹³

6. Potential Impacts on Traffic Parking and Safety

- 6.1 Potential impacts on traffic, Parking and pedestrian safety dominate the issues raised in the representations. Council says these are relevant but the extent of them is difficult to gauge in a vacuum when the Draft Amendment only proposes a rezoning to the Site. It largely adopts Mr Hubble's views as to the risk of increased local congestion on a junction already under strain and consequential risks to road safety, pedestrian safety and a lack of off-street parking.
- 6.2 Greater consideration to each of these issues is throughout these submissions through the lens of the LPS criteria assessment below.

7. Traffic Impact Assessment(s)

- 7.1 Again, Council's overarching position is that the extent of any traffic impact is difficult to assess in a vacuum. Any future development which will intensify the use or development on the Site will require discretionary planning approval, and be assessed against the relevant standards dealing with parking and traffic impacts, including those of the Parking and Sustainable Transport Code (C2.0) which overlay the Site.
- 7.2 Two traffic engineers have been called by each of the Applicant and Mr McKay. Council has elected not to undertake or engage a traffic engineer of its own to provide a further opinion.
- 7.3 Mr Midson and Mr Hubble hold opposing views. On balance, Council prefers the evidence of Mr Hubble which accords with the concerns held by the majority of the Representors and influenced Council's position to withdraw its support for the Draft Amendment after it had been certified.

8. Strategic Basis of Amendment

- 8.1 Council considers that the Draft Amendment lacks a strategic basis. In this respect, Council adopts the opinion of Mr Boardman (and largely, of Mr Walker) before the Commission, in

¹¹ *Tasmanian Planning Scheme – Clarence* cl 14.

¹² Midson TIA January 2026, [3.1].

¹³ Evan Boardman Statement 25 May 2026, [7].

favour of the assessment undertaken by the internal planning officers who authored the s 38 and s 40K Reports.

- 8.2 Overarchingly, Council considers that the Draft Amendment has the potential to contradict the purpose of the Activity Centre Network as stated in clause 18.1 of the Southern Tasmania Regional Land Use Strategy 2010-2035 (**STRLUS**), being the relevant regional land use strategy declared by the Minister on 17 May 2023 by Gazette in accordance with s 5A of the Act:

An 'Activity Centre Network' is proposed in order to provide for a regionally planned and defined hierarchy to ensure complementarities and efficiencies, rather than creating unnecessary competition, between centres...

Activity Centres that have regional and sub-regional functions are specifically recommended in the Activity Centre's Network, however as with all Activity Centres, appropriate planning at the local level should be undertaken.

- 8.3 Within the locality of the Site, the Lindisfarne Village serves as the designated Neighbourhood Centre. It is approximately 1km from the Site. The Draft Amendment would facilitate future development with the likelihood to create a new Local Centre, or undesignated business node along the East Derwent Highway which the Council considers has the potential to compete with the Lindisfarne Village, thereby compromising or distorting the activity centre hierarchy.
- 8.4 The maintenance of commercial centre hierarchies has a recognised planning purpose; the achievement of a sustainable and effective centre hierarchy should be recognised as a good town planning principle for reasons of orderly development, increased accessibility and convenience, greater economic efficiency and investment opportunities.¹⁴
- 8.5 Greater consideration is given to this issue throughout these submissions as part of the LPS criteria assessment set out below.

9. Impact on Lindisfarne village

- 9.1 Council considers that the Draft Amendment has the potential to negatively impact the vitality of the Lindisfarne Village, being the designated Neighbourhood Activity Centre in the locality.
- 9.2 Again, in this respect, Council adopts the opinion of Mr Boardman (and largely, of Mr Walker) before the Commission, in favour of the assessment undertaken by the internal planning officers who authored the s 38 and s 40K Reports.
- 9.3 This issue is also considered in greater detail throughout these submissions against the LPS criteria assessment below.

¹⁴ *Carthew-Wakefield v Sorell Council (No 2)* [2024] TASCAT 188 at [26], citing Newton DCJ at [15] in *Lewiac Pty Ltd & ING Real Estate Joondalup BV v Gold Coast City Council & Ors* [2002] QPEC 80.

10. Impacts on Residential Amenity

- 10.1 Residential amenity is not an issue which is raised explicitly in the LPS Criteria. It is; however, an issue raised in the representations, and the hearing before the Commission is a hearing in relation to those representations.¹⁵
- 10.2 Council accepts that the Draft Amendment has the potential to impact residential amenity, though the extent of that impact, and whether it would be unreasonable, is difficult to assess without any certainty as to the future development proposed on the Site.
- 10.3 It's submitted that the Commission must turn its mind to the maximum development potential of the Site if the Draft Amendment is approved and compare that outcome with its current maximum development potential whilst zoned General Residential.
- 10.4 In his statement of evidence, Mr Boardman undertakes an analysis and comparison of the use and development standards under the General Residential Zone and the Local Business Zone which shows that the Local Business Zone provides significantly less protection of adjacent residential amenity.¹⁶
- 10.5 The permissible uses have the potential to create a substantially greater (negative) impact upon surrounding residential amenity and create ongoing land use conflict particularly as the entirety of the rear of the Properties share a common property boundary with Derwent Views Retirement and Aged Care Facility, which accommodates up to 300 residents.¹⁷ Many of those residents have signed a petition submitted by representor Andrew McKay (who has played an active role in the hearing) referred to in paragraph 2.4 above.
- 10.6 The Zone Purpose of the General Residential Zone states that it is a purpose of the Zone to provide for non-residential uses that does not cause an unreasonable loss of amenity. Residential amenity does not feature in the Local Business Zone purpose statements, though it is accepted that residential amenity is addressed in the use and development objectives and performance criterion in both the General Residential and Local Business Zones. Residential amenity is ultimately a matter for assessment under the Planning Scheme.

11. Design and Streetscape

- 11.1 Council submits that design and streetscape are not directly relevant considerations to the Commissions assessment of the Draft Amendment. Whilst building height and other development standards differ between the zones, and the Local Business Zone permits mixed-use development beyond that contemplated in the General Residential Zone, it is not possible at this stage to determine with any certainty the nature or extent of any likely change. Again, this is a matter for future development assessment.

¹⁵ LUPAA s 40L.

¹⁶ Boardman at [6.2].

¹⁷ Boardman at [6.1]; [5.3].

12. Assessment – LPS Criteria

12.1 Critical to the preparation, certification and, ultimately, approval of an amendment to the LPS by the Commission, is satisfaction of the LPS Criteria, being the matters specified in s 34 of Act.¹⁸

12.2 Subparagraphs 34(g) and (h) are not applicable to the Draft Amendment.

Section 34(2)(a)

12.3 The Draft Amendment must contain all the provisions that the SPPs specify must be contained in an LPS.

12.4 The Draft Amendment proposes only to modify the LPS zone map to apply the Local Business Zone to the Site without any other change to the written provisions or overlays, or imposition of any PPZ, SAP or SSQ (save for that SAP suggested by the Commission which has been separately addressed).

12.5 Relevant to this Draft Amendment, LP1.2.1 of the SPPs requires only that each LPS contain a map that provides for the spatial application of the zones to land in the municipal area. Accordingly, the Draft Amendment meets this LPS criterion.

Section 34(2)(b) – TPPs

12.6 The Draft Amendment must be in accordance with s 32 of the Act, which specifies the required contents of LPSs. Again, because the Draft Amendment only relates to a proposed rezoning of the Site, only ss 32(2)(b) and (c) are applicable.

12.7 To the extent that and SAP has been proposed by the Commission which requires assessment under s 32(3) – (4), Council has addressed the suitability of a SAP in its submissions dated 30 June 2026. In short, Council does not consider that s 32(4) is met such as to include a SAP at the Site.

Section 34(2)(c)

12.8 The Draft Amendment must further the objectives of the Resource Management and Planning System of Tasmania set out in Schedule 1 of the Act.

12.9 Council's position in relation to this requirement is that certain of the objectives are met by the Draft Amendment, whereas it is non-compliant with others.

12.10 Council is satisfied that Draft Amendment seeks to further the following objectives in Schedule 1, of that they are otherwise inapplicable: Part 1, clause (c) – (e) and Part 2, clause (a) – (g).

12.11 Council does not consider that the balance of the objectives are met for the following reasons:

¹⁸ As defined in s 3(1) of the LUPAA.

- a. Part 1, clause 1(a) – the only strategic, or Sustainable Development¹⁹ benefit identified by the Draft Amendment is to consolidate and connect what are currently two isolated Local Business zoned titles, being a service station and a local supermarket. The Draft Amendment has the potential to create out-of-centre development which is contrary to the STRLUS Activity Centre Regional Policies. The Site has not been designated for such expansion, and it is not considered an appropriate location for continued expansion into a Local Centre.
- b. Part 1, clause 1(b) – similarly, it is not considered that the Draft Amendment provides for sustainable use and development of land. STRLUS directs future retail growth to occur within existing activity centres and to avoid out-of-centre development.
- c. Part 2, clause 2(h) – Council is concerned by the risk of overburdening public infrastructure, being the East Derwent Highway and associated road network. A significant number of representations were received which speak to this concern, indicating that the objective of benefitting the community may be undermined. Mr Hubble’s Statement dated 26 May 2026 echoes those concerns.
- d. Part 2, clause 2(i) – similarly, Council is concerned by the capability of the East Derwent Highway and associated road network to handle the intensification of use and development which is enabled by the Draft Amendment.

Section 34(2)(d)

12.12 The Draft Amendment must be consistent with each State policy.

12.13 Council is satisfied that it is for the reasons set out in the report prepared for the purposes of s 38 of the Act and considered by Council at the meeting on 20 October 2025.

Section 34(2)(da)

12.14 The Draft Amendment must satisfy the relevant criteria in relation to the TPPs.

12.15 Council adopts the submissions of Mr Boardman lodged with the Commission on 16 July 2026 to the effect that the Draft Amendment does not satisfy all of the relevant criteria in relation to the TPPs and his conclusion being that: “[T]he proposed Amendment does not represent strategic planning; it is an ad hoc developer driven approach intended to maximise the development potential of what are currently General Residential zoned properties providing for four residential dwellings”.

Section 34(2)(e)

12.16 The Draft Amendment must, *as far as practicable*, be consistent with the applicable regional land use strategy, which in this case, is the STRLUS.

12.17 Council’s position is that compliance with the STRLUS should be given substantial weight by the Commission when assessing the Draft Amendment. In the absence of a combined development application proposal for assessment, the STRLUS Strategic Directions and Regional Policy provide the strategic guide for assessment the Draft Amendment.

¹⁹ As defined in Schedule 1, clause 2 of the LUPAA.

12.18 Council considers the following Regional Policies or Sub-Policies are applicable to the assessment of the Draft Amendment and militate against its approval:

Social Infrastructure Regional Policy (SI 1.6)

- a. The Draft Amendment has the capacity to fragment rather than integrate community facilities and services, by directing future growth away from the designed activity centre in the locality, the Lindisfarne Village, to a Site which does not presently form part of a recognised or strategically planned activity centre under the STRLUS activity centre policy framework.

Council considers that this policy reflects a strategic intention to avoid out-of-centre commercial or business nodes with the potential to conflict with established activity centres, particularly where there is an absence of strategic justification for doing so, as referred to in LBZ 4(b) of the Section 8A Guidelines.

Land Use Transport and Integration Regional Policies (LUT 1.1)

- b. East Derwent Highway is a key urban and regional transport corridor. It is a busy urban arterial road services a number of residential suburbs along the eastern shore and is the primary road network supporting the Activity Centre Network that spans from Bridgewater to Lindisfarne.

Whilst the Draft Amendment has the potential to encourage urban expansion in physical proximity of the existing transport corridor, it is urban expansion of an out-of-centre activity node along that road corridor in preference to the existing higher order Activity Centres which the East Derwent Highway already connects; namely, Lindisfarne Village neighbourhood centre to other higher order Activity Centres in Great Hobart.

Land Use Transport and Integration Regional Policies (LUT 1.5)

- c. The Draft Amendment raises a strategic consideration regarding the extent to which additional Local Business zoning along the road corridor supports or disperses activity away from the established Neighbourhood Centre, Lindisfarne Village.

The maximum development potential of the Local Business Zone, demonstrates that the Draft Amendment has the potential to generate additional trips to the Site, intensifying the use of the East Derwent Highway in the vicinity of the Site, and away from higher-order activity centres.

Land Use Transport and Integration Regional Policies (LUT 1.7)

- d. Noting that any future development of the land would be subject to a separate approval process, including compliance with the Road and Railway Assets Code attenuation provisions, consideration at this stage must be given to the existing layout and capacity of the junction at the Site.

In this regard, the opinions of Mr Midson and Mr Hubble divulge.

Whilst the mere rezoning proposed by the Draft Amendment does not itself does undermine the policy, Council accepts that the proof-of-concept plans, and the

maximum development potential of the Local Business Zone, demonstrate that the Draft Amendment has the potential to generate additional trips to the Site, intensifying the use of the East Derwent Highway and Ballawinnie Road.

Like concerns were expressed by the Department of State Growth in its representation dated 28 October 2025 and by a number of other representors.

Mr Hubbles evidence, which the Council submits the Commission should accept, is that the existing junction at Ballawinnie Road is already strained by a series of conflict points, causing local congestion and queuing. The Draft Amendment has the potential, in Mr Hubble's view, to exacerbate that issue. If that occurs, his opinion is that there will be a safety risk to road users and possibly pedestrians.

Activity Centre Regional Policies (AC 1.1)

- e. The Draft Amendment would extend Local Business zoned land between existing business zoned sites along the East Derwent Highway road corridor.

No evidence has been advanced by the Applicant demonstrating that this section of the corridor forms part of a designated Local Centre or planned activity centre expansion area.

Lindisfarne Village and Rosny Park are the established Activity Centres in the surrounding area and employment, retail and commercial uses, community services and opportunities for social interaction should be focused on these Activity Centres.

In the absence of a supporting strategic planning framework, the Draft Amendment does not clearly implement the Activity Centre Network.

Activity Centre Regional Policies (AC 1.2)

- f. The Draft Amendment would effectively create a new Activity Centre, or encourage out-of-centre development in close proximity to established Activity Centres within the established Activity Centre Network.

LBZ 1 of the s 8A Guidelines states that the Local Business Zone should be applied to existing local shopping strips and town centres. LBZ 3 states that it may be used for groups of local shops where there is a strategic intention to maintain such uses.

No such strategic intention is identifiable in relation to the Site. Whilst clusters of Local Business zoned land exist along the East Derwent Highway, those sites are best viewed as legacy settlements which do not themselves provide a strategic basis for approving the Draft Amendment or centre expansion generally.

Strategic intention should be directed by the Council, not by individual developers in isolation. That creates a raft of strategic planning and creeping development issues. In the view of Council, the Draft Amendment principally serves to maximise the capital value of the land, rather than serve a strategic benefit for the locality.

Activity Centre Regional Policies (AC 1.3)

- g. The Site is not within the established Activity Centre Network. If approved, the Draft Amendment would facilitate out-of-centre development.

STRLUS does not include a definition of out-of-centre development, however, the Council adopts Mr Boardman's definition at paragraph 8.6 of his Statement that "it can generally be considered to be a cluster of retail, commercial or service uses located outside a planned activity centre, not identified in the activity centre hierarchy, and not supported by strategic planning policy".

Out-of-centre development is discouraged because it provides the opportunity for the planned Activity Centre Hierarchy — designed to concentrate retail, commercial and community services in designated centres — to be undermined. Allowing retail or commercial uses to establish outside these centres fragments the network, weakens existing centres, and leads to inefficient, development patterns. It also, increases the potential for land-use conflict in neighbouring residential zones, and makes it harder for councils and the State to plan infrastructure, public transport, and walkable neighbourhoods

The Draft Amendment would facilitate expansion of Local Business zoned land outside of Lindisfarne Village, being the established Neighbourhood Centre in the locality within the Activity Centre Network. No economic assessment was undertaken in support of the Draft Amendment which demonstrates that it will not affect economic viability of Lindisfarne Village as the principal centre servicing the locality. Council considers that a real risk created by the future development potential of the Draft Amendment.

As Mr Walker states at page 30 of his Statement"

"the Draft Amendment would create a contiguous Local Business zoned landholding of approximately 4,457m². This materially changes the planning outcome... the rezoning has the potential to facilitate a retail node which displays characteristics more aligned with a Local or lower-order Neighbourhood Activity Centre despite no such designation being identified within the STRLUS hierarchy or supporting strategic planning framework".

The Draft Amendment is not supported by evidence that this Site or this section of the East Derwent Highway is recognised or has been identified as a planned activity centre. In that respect, it encourages out-of-centre development contrary to the AC 1.3 policy objective.

Activity Centre Regional Policies (AC 1.4)

- h. The stated policy intention in AC 1.4 is to strengthen and promote Neighbourhood Centres. Council considers that the Draft Amendment presents a real risk of undermining that objective by directing activity away from the Lindisfarne Village to a new out-of-centre activity node.

No economic analysis was provided in support of the Draft Amendment to demonstrate that the Draft Amendment would complement the Lindisfarne Village as posited by Mr Read. Relatedly, no economic assessment was done demonstrating

that the Lindisfarne Village would not be negatively affected by Local Business Zone permitted development on the Site.

Activity Centre Regional Policies (AC 1.8)

- i. Council's position is that the principal urban character of the locality surrounding the Site is a confluence of the opinions posited by Mr Boardman and Mr Walker, being a well-established residential neighbourhood characterised by domestic-scale-built form interspersed with clusters of legacy local convenience or road corridor service nodes.

As above, Council considers that the Draft Amendment is likely to extend the Local Business zoning within the road corridor absent any identified strategic planning framework justifying that change.

The strategic intent for this part of Lindisfarne is residential consolidation, not commercial expansion. In that respect, the Draft Amendment is contrary to the stated policy objective. Instead, it would detract from the existing urban character.

Activity Centre Regional Policies AC (1.12)

- j. No strategic basis has been advanced in support of the Draft Amendment demonstrating that the Site or the area in the vicinity of the Site along the East Derwent Highway road corridor forms part of a strategically planned activity centre expansion established under STRLUS.

Activity Centre Regional Policies (AC 2.4)

- k. As identified above, no economic assessment was undertaken demonstrating that the Draft Amendment that it will not affect economic vitality of the Lindisfarne Village. Emphasis in accordance with policy AC 2.4 must be given to encouraging that existing designated Neighbourhood Centre rather than creating an opportunity to establish a new out-of-centre development with capacity to undermine it, in the absence of a local strategy, structure plan, activity centre study or equivalent planning analysis demonstrating that the Site forms part of a planned activity centre.

Section 34(2)(f)

12.19 The Draft Amendment must have regard to the strategic plan, prepared under s 66 of the *Local Government Act 1993* (Tas), that applies to the Site, which in this case, is the City of Clarence Strategic Plan 2021-2031.

12.20 The Draft Amendment is generally consistent with the City of Clarence Strategic Plan 2021-2031 which sets overarching strategic goals for a people friendly, well-planned liveable, prosperous and creative, and an environmentally responsible city.

12.21 The Draft Amendment does not propose a change to an extent that would alter this consistency. The Council's view is that the Strategic Plan is of minimal application to the Draft Amendment.

12.22 It should be noted, however, that a component of the "well-planned liveable city" goal is Road and Transport objectives, being:

- 2.2 *Developing and implementing a comprehensive transport strategy for the city.*
- 2.3 *Developing and implementing traffic management plans to enhance connectivity and improve road safety.*
- 2.4 *Reviewing and continuing to implement our Bicycle Plan and the Tracks and Trails Strategy for the city.*
- 2.5 *Providing and prioritising a safe, reliable, and accessible pedestrian network.*
- 2.6 *Developing and implementing a parking infrastructure development plan to guide capital investment in public parking facilities.*

12.23 Traffic and parking impact are a central concern raised in the representations. Council's position in relation to issues of both traffic and parking is, generally, that these are considerations for future development which aren't explicitly raised by the Draft Amendment.

12.24 It is acknowledged by all parties that the rezoning has the potential to generate an increase in traffic though without a combined development application there is nothing which can be adjudged with any precision to identify the measure of the perceived increase in traffic, impact on on-street parking, and consequential pedestrian safety.

12.25 The Council agrees with and adopts Mr Boardman's opinion set out at paragraphs 4.1. – 4.4 of his Report dated 25 May 2026, that the only way of assessing the potential impact in the context of this draft Application is to assess the maximum development potential under the General Residential Zone, and again under the proposed Local Business Zone.

12.26 Consistent with Mr Boardman's analysis at paragraphs 5.1. – 7.6., it can be concluded that the development potential of the Site is substantially greater under the Local Business Zone than under the General Residential Zone, because:

- a. It enables a far wider range of commercial and mixed-use activities, larger building envelopes, greater building height, and higher-intensity land use outcomes;
- b. The General Residential Zone restricts development to domestic-scale housing with modest height, bulk, traffic generation and operating hours;
- c. The Local Business Zone permits retail, food services, offices, community services, and other commercial uses that can operate for extended hours, attract higher visitation, and require more substantial built form; and
- d. It also supports larger floorplates, increased parking demand, service vehicle access, illuminated signage and more active frontages, all of which significantly expand the scale and intensity of development that could occur on the site.

12.27 As a result, the potential impacts on traffic, amenity, infrastructure, and the surrounding urban environment are materially greater under the Local Business Zone than under the General Residential Zone.

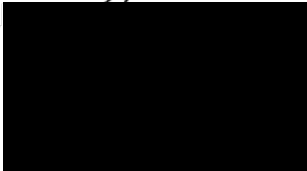
13. Disposition

- 13.1 In the circumstances of the above, Council submits that the Commission should reject the Draft Amendment pursuant to s 40N(1)(a) of the Act on satisfaction that it does not meet the LPS criteria, and there are no modifications which can be made.

DATED: 20 July 2026

DOBSON MITCHELL ALLPORT

Per:



Practitioners for the Planning Authority