

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Tasmanian Planning Scheme – Clarence
Amendment	PDPSPAMEND- 2025-054641 – rezone land at 113, 115, 117, and 119 East Derwent Highway, Lindisfarne from General Residential to Local Business
Planning authority	Clarence City Council
Applicant	All Urban Planning for Livaldi Investments Pty Ltd
Date of decision	13 August 2026

Decision

The draft amendment is rejected under section 40N(1)(e) of the *Land Use Planning and Approvals Act 1993*.

Michael Hogan
Delegate (Chair)

Katrena Stephenson
Delegate

REASONS FOR DECISION

Background

Amendment

The draft amendment proposes to rezone the land at 113, 115, 117 and 119 East Derwent Highway, Lindisfarne (folios of the Register 75763/4, 75763/3, 75763/2, and 75763/1) from the General Residential Zone to the Local Business Zone.

Site information

The 4 properties subject to the draft amendment are situated at the intersection of East Derwent Highway and Ballawinnie Road, comprising a combined land area of 2,948m². A drainage easement runs along the western boundary of the site. The site is covered by the Safeguarding of Airports, Potentially Contaminated Land, Flood-prone Hazard Areas and Road and Railway Assets codes.

To the south, 109 East Derwent Highway (adjoining 113 East Derwent Highway), currently occupied by a service station/vehicle services centre, is zoned Local Business and identified as a potentially contaminated site. Across Ballawinnie Road, the land is also zoned Local Business and is used for general retail and hire activities. The remainder of the surrounding land on the western side of East Derwent Highway is zoned General Residential and predominantly developed with single dwellings. Opposite the site, on the eastern side of the East Derwent Highway, is the Lindisfarne Primary School oval, located within the Community Purpose Zone.

Continuing northward, East Derwent Highway is classified as a State Road within the Utilities Zone (although the section immediately adjoining the site is a separate title in the name of Clarence City Council). Further north along East Derwent Highway, there are several small clusters of Local Business-zoned lots, the closest being approximately 400m away near Beach Road. This cluster includes a hairdresser, café, service station, and pizza store.

Issues raised in representations

The representors raised the following issues:

- support for the draft amendment
- lack of strategic justification
- negative impact on Lindisfarne Village
- potential negative effect on traffic, parking and safety
- negative impact on residential amenity
- negative impact on streetscape and front setback
- lack of consultation
- concerns regarding the concept plan provided with the request, and
- the traffic impact assessment (the TIA) was inadequate.

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating it had no objection to the draft amendment and that it did not wish to attend any hearing.

Planning authority's response to the representations

The planning authority considered the representations and resolved to make the following recommendations:

- That the draft amendment should no longer be supported, and
- That the draft amendment could not be suitably modified and therefore did not meet the LPS criteria.

Specifically, the planning authority's decision identified the potential for the Local Business Zone to lead to an increase in traffic impacting pedestrians, as the reason for its recommendations.

Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart, on 1-2 June 2026 and 20 July 2026.

Appearances at the hearing

Planning authority: Mr Evan Boardman, Director - E3 Planning
Mr Jack Tammer, Senior Associate - Dobson Mitchell Allport
Ms Robyn Olsen, Lead Strategic Planner, City of Clarence
Ms Natalie Waters, Senior Planner, City of Clarence

Applicant: Mr Frazer Read, Principal - All Urban Planning Pty Ltd
Mr Keith Midson, Director - Midson Traffic Pty Ltd
Mr Steve Yannarakis

Representors: Ms Naomi Billett, Principal - Billett Legal, for Mr Brett Mackay
Mr George Walker, Director/Planning Consultant - 6ty°, for Mr Brett Mackay
Mr Peter Hubble, Director/Traffic Engineer- Hubble Traffic, for Mr Brett Mackay
Mr Brett Mackay
Mr Andrew Mackay
Ms Denise Cox
Mr Mark Iles

Consideration of the draft amendment

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the Clarence Local Provisions Schedule (LPS) and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. A hearing was convened to assist the Commission to consider the issues in the representations.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out in section 34(2) of the Act as follows:
 - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
 - (b) is in accordance with section 32; and
 - (c) furthers the objectives set out in Schedule 1; and
 - (d) is consistent with each State policy; and
 - (da) satisfies the relevant criteria in relation to the TPPs; and
 - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
 - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
 - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
 - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

Regional land use strategy

4. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010–2035, 19 May 2025 (regional strategy).

Activity Centre policies

5. The applicant considered the activity centre policies (AC 1.1, AC 1.2, AC 1.3, AC 1.4, AC 1.10 and AC 10.11), which seek land use planning responses to manage retail and activity centre hierarchy. The applicant submitted that the draft amendment supports the Activity Centre Network by expanding an existing Local Business Zone at Lindisfarne, consolidating nearby commercial sites rather than creating a new isolated development.
6. The applicant further submitted that the draft amendment:

- supports a vibrant mixed-use neighbourhood node
 - is located on an existing public transport corridor
 - is situated within a walkable, well-serviced residential area
 - provides food and beverage, retail, and professional services
 - potentially incorporates upper-level residential apartments
 - encourages social interaction and local convenience
 - reinforces a consolidated, well-located activity centre.
7. The evidence of Mr Walker and Mr Boardman stated that the draft amendment was contrary to activity centre policies and sub-policies. This included that the proposal was for an 'out of centre' development, that it was not consistent with the current retail strategy for the Council area, nor was it supported by the formal strategic analysis and planning required by the regional strategy.

Land Use and Transport Integration policies (LUTI)

8. The applicant responded to the Land Use and Transport Integration policy (LUTI 1) by stating:
- The site is located on a key transit corridor, serviced by high-frequency Metro Tasmania routes, and directly opposite a signalised pedestrian crossing. The integration of residential dwellings above commercial premises:
- Encourages non-car-based transport;
 - Supports compact urban form;
 - Provides transport options for both residents and workers consistent with regional strategy transport objectives.
9. With respect to the Land Use and Transport Integration policies, the Commission notes that the regional strategy classifies the East Derwent Highway as a regional transport corridor and recognises the key role the road has within the regional transport system.
10. Ms Billett submitted in closing that the draft amendment could not be regarded as consistent with the transport-related sub-policies of the regional strategy. In particular, she argued that the proposed expansion of Local Business zoning at the site did not appropriately direct growth towards areas with available infrastructure capacity. In addition, Ms Billett considered the proposed zone would not adequately protect the existing transport corridor, namely the East Derwent Highway.
11. The Commission further notes that the site is surrounded on both sides by commercial uses. IGA X-Press Lindisfarne is located on the southern side of the site, and the U-GO Lindisfarne is located on the northern side of the site. These prevailing commercial uses already generate significant commercial traffic patterns.
12. The Commission considers that the draft amendment has the potential to lead to an intensification of land use and different transport use patterns. For instance, residential land use typically generates dispersed travel patterns

associated with commuting and personal errands. In contrast, commercial developments generate higher volumes of travel demand, characterised by employee commuting, customer access, and service vehicle movements.

Settlement and Residential Development policies

13. On the Settlement and Residential Development policies, the applicant submitted that the proposed Local Business Zone would support compact, mixed-use development within an established urban area, efficiently using existing serviced land. The draft amendment would reduce reliance on greenfield expansion and strengthen a walkable, transit-accessible neighbourhood centre, promoting sustainable urban consolidation in Hobart.

14. The applicant further submitted:

The inclusion of 12 upper-level residential apartments within the mixed-use concept constitutes infill development within an existing serviced residential and commercial area. The site is surrounded by established residential uses, schools, community infrastructure, and commercial services.

This development will contribute to the target of 50% infill housing within the Greater Hobart region, in line with the regional strategy growth strategy.

This sort of development represents a diversification of housing stock in an area largely characterised by detached single dwellings. The inclusion of accessible, medium-density apartments above commercial tenancies supports housing choices suited to:

- Downsizers and older residents;
- Small households; and
- People seeking housing close to shops, transport, and health services.

It is considered that the proposed Local Business Zone promotes housing diversity and supports demographic transition.

15. The Commission agrees with the applicant that the draft amendment has the potential to provide compact, mixed-use development within an established urban area. However, the Commission notes that the application of the Local Business Zone does not ensure that residential use will occur on the site.

Tasmanian Planning Policies

16. Mr Read's evidence on consistency with the Tasmanian Planning Policies (TPPs) emphasised that the amendment achieved this overall requirement and specifically that:

- The amendment does not seek to establish a new or competing activity centre. Rather, it provides for the logical expansion and consolidation of an existing local business node that already comprises Local Business-zoned land immediately adjoining the site. The proposal therefore represents the natural progression of an existing local commercial cluster, rather than the creation of a new standalone activity centre.

- The proposal does not introduce incompatible land use that would compromise the operation of this corridor. Rather, the Local Business Zone provides for uses that are generally compatible with an arterial road environment and capable of being designed to maintain the safe and efficient operation of the road network.
17. Mr Boardman's evidence stated that the LPS criteria relating the TPPs was not achieved for a range of reasons including that the proposed amendment:
- Would not support the redevelopment of commercial or business opportunities in existing activity centres but rather it would do the opposite by negatively impacting the commercial viability of the existing Lindisfarne Village.
 - Does not represent strategic planning; it is an ad hoc developer-driven approach intended to maximise the development potential....

Suitability of the site

Suitability of the zone

18. The applicant considered that the proposed rezoning is consistent with the objectives of the zone, facilitating a mixed-use development that integrates retail, commercial, and residential uses at an appropriate scale for the local catchment. The draft amendment would promote active street frontages along East Derwent Highway and incorporate upper-level residential apartments, contributing to the overall vitality, functionality, and economic viability of the centre.
19. With respect to the suitability of the zone, the Commission notes that mixed-use areas with land use that aligns with the intent of the Local Business Zone, operate at their best when they have an interactive and responsive relationship with the surrounding pedestrian-friendly environment. Mixed-use areas, in general, benefit from having an 'interactive environment', such as public spaces or retail uses, around them. The East Derwent Highway corridor includes the road pavement and narrow pedestrian paths, and is bordered by residential and commercial uses. The Commission considers that the site does not have an interactive or engaging environment around it, which may lead to pedestrian isolation, and diminish the walkability outcomes associated with mixed-use development.

Activity centre hierarchy and impact on Lindisfarne centre

20. The applicant, in their supporting report, submitted that the population in the area has increased substantially over the past 25 years, while the commercial development along the highway has remained unchanged. The draft amendment responds to the needs of the growing population in the area.
21. On the Lindisfarne shopping centre, the applicant submitted:
- The Lindisfarne Village Neighbourhood Activity Centre has experienced negligible growth in commercial floor area over the past 25 years. The centre is effectively operating at capacity, with only one identified vacant tenancy (the former Baker's Delight premises) and no properties currently advertised for lease. Opportunities for meaningful expansion of the centre

have been limited, with no suitably zoned land available. Previous attempts at incremental expansion have occurred in a fragmented and ad hoc manner, often resulting in minor encroachment into adjacent residentially-zoned areas, rather than delivering coordinated or strategic growth. This lack of commercial land supply is increasingly out of step with the area's growing population base and the rising demand for local services and employment opportunities.

22. Regarding the catchment size, the applicant noted that the suburbs that would directly benefit from the rezoning, include Rose Bay, Lindisfarne, Geilston Bay, and Risdon Vale. The draft amendment would also generate benefits for the northern catchment, including Otago, Old Beach, and Grasstree Hill.
23. The applicant concluded that the draft amendment would not compromise higher-order centres in the retail hierarchy, such as Rosny Park or the Hobart CBD, and would be appropriate for a neighbourhood-scale commercial centre.
24. At the hearing, the commercial role of the site within the activity centre was discussed with the parties. The applicant submitted that the site would function as a local centre serving the surrounding residential catchment.
25. The Commission considers that the size of the primary and secondary catchment is a central factor in determining whether the centre can be considered a local activity centre, as characterised by the regional strategy. The planning authority and the representor submitted that the size of the secondary catchment would be large due to the site's location along East Derwent Highway, meaning that the site would capture a significant amount of passing trade along East Derwent Highway.

Residential use and amenity

26. Multiple representors submitted that the draft amendment would have a negative impact on the surrounding residential amenity.
27. The applicant, in their supporting report, noted that the site concept plan provided with the draft amendment illustrates that the development can meet the standards in the Local Business Zone relating to building height, setbacks, design quality, privacy, and amenity. The provisions of the Local Business Zone, such as clause 14.4.3 (building design), would ensure that residential amenity and streetscape design quality would be appropriately managed.
28. The applicant further noted that the site currently has a poor residential quality due to high traffic volumes, vehicle noise, and arterial road conditions. In addition, the site is surrounded by non-residential uses and, therefore, it behaves more like a transitional commercial interface.
29. The Commission notes that the site is located adjacent to the Respect Aged Care retirement living community. The siting of the retirement living facilities on the adjoining land shows that the communal facilities are facing the petrol station next to the subject site, and the residential living units are facing the subject lots, most likely due to their residential zoning. The Commission considers that the arrangement of the residential living units adjacent to the proposed commercial development can have adverse effects on the residential amenity of the residential units. The Commission also notes that the Local

Business Zone allows for a higher-density development than the General Residential Zone, which may have further negative implications on the surrounding residential amenity.

Transport and traffic

30. The Traffic Impact Assessment (TIA), prepared by Midson Traffic Pty Ltd, submitted that:
 - the draft amendment supports a mixed-use development consistent with the area's commercial character, improving road safety, access, parking, and connectivity
 - traffic impacts are considered to be acceptable and can be managed within the existing network, and
 - the indicative plan shows that worst-case impacts can be accommodated without significant adverse effects, with any detailed mitigation to be addressed at the development application stage.
31. Various representors raised concerns about pedestrian safety and traffic flow in the area. The representors considered the proposed rezoning would increase traffic in the area, which would contribute to increased accident risk, congestion, and noise.
32. Mr Midson, in the TIA, submitted that the consolidated access arrangement, entry-only access from the East Derwent Highway and elimination of reversing movements would improve road safety conditions, reduce conflict points, and improve traffic flow.
33. Mr Peter Hubble, for the representor (Mackay), provided a further submission, dated 25 May 2026, on traffic prior to the hearing. Mr Hubble submitted that the East Derwent Highway carries ~22,000 vehicles per day and functions as a critical commuter and freight corridor, which already operates under high demand with complex driving conditions, including signals, turning traffic, pedestrians, and limited sight distance.
34. The further submission noted that the road network was already constrained, as evidenced by vehicle queuing and traffic delays near the Ballawinnie Road intersection. These delays were caused by restricted sight distance at the intersection, the road geometry, and pedestrian activity.
35. Mr Hubble submitted that the main transport issues associated with the draft amendment were:
 - Queuing onto the highway - increased traffic could cause queues extending onto the highway, disrupting flow and creating safety risks.
 - Increase in delays at the Ballawinnie Road intersection - queues backing up onto the highway, and reduced intersection efficiency.
 - New commercial direct access from the highway - creates unsafe queuing if parking areas fill, introduces unexpected braking and congestion, and increases driver confusion and risk.
 - Parking impacts - reduces usable road width and creates conflicts with moving traffic.

- Increased U-turns - increased traffic will likely lead to additional U-turns at Nietta Road/East Derwent Highway intersection and informal median openings.
 - Pedestrian safety - nearby signalised crossing (used by school children) already requires high driver attention, and additional access points would increase driver workload and crash risk.
 - Local roads capacity - roads like Ballawinnie Road and the Esplanade are narrow and constrained and are already affected by parking pressure.
36. The Department of State Growth (State Growth) noted in its representation that the East Derwent Highway was a 'Category 3' road. It stated the Highway was a 'key access road' and that it was important its function was maintained. State Growth noted that any increase in commercial activity in the area was likely to increase the demand for on-street parking, particularly if no parking was visible from the road. It raised further concern that vehicles would be parked along the Highway as the on-street parking lane appeared narrow.
37. Furthermore, State Growth emphasised safety concerns at the pedestrian crossing because pedestrian signals were not very visible to approaching drivers and were infrequently used. It noted the adjoining crossing had a history of crashes, and considered an increase in on-street parking make pedestrian safety worse.
38. State Growth concluded that the Local Business Zone would allow for higher-density development than the General Residential Zone. It added it supported higher-density residential development near high frequency public transport corridors and in accessible locations but considered the Inner Residential Zone may be a more appropriate zone for the site given the road safety concerns.
39. Mr Keith Midson, for the applicant, provided a further submission, dated 29 May 2026, noting that the additional traffic generated by the draft amendment would be modest relative to the existing highway traffic volumes. He also considered Ballawinnie Road had the capacity to accommodate additional traffic as it could 'carry' approximately 1000 vehicles a day.
40. Mr Midson noted that the draft amendment would replace four existing residential driveways with one single entry-only access from the Highway, which would reduce conflict points on the Highway by eliminating exit movements to it. Mr Midson considered that the lack of gates or barriers and traffic splitting across two access points reduced the probability of queues reaching the Highway.
41. Mr Midson acknowledged that the draft amendment may lead to an increase in U-turns; however, considered U-turns to be part of normal driver behaviour, which were already occurring. With respect to parking, Mr Midson noted that the draft amendment provided sufficient on-site parking and did not rely on Highway parking.
42. On pedestrian safety, Mr Midson considered that the existing pedestrian signals functioned effectively and that the proposed entry-only access to the site would ensure conflict with vehicles exiting near signals would be avoided. Mr Midson concluded that most traffic associated with the site would remain on the

Highway, and even if the traffic increased, the effects were expected to be minor.

43. Following the hearing, the Commission issued a direction to all parties requesting the traffic experts confer and prepare and file a joint statement. The statement was required to address vehicle turning movements in and out of East Derwent Highway, corner clearance capacity, and turning movements out of the site to Ballawinnie Road.
44. In response, a traffic analysis clarifying operational issues on the East Derwent Highway between Ballawinnie Road and Nietta Road, Lindisfarne (traffic analysis), July 2026, was provided by the representor. With respect to traffic risks associated with Ballawinnie Road and Nietta Road, the traffic analysis noted that left turns into Ballawinnie Road and right turns/U-turns at Nietta Road had reached levels where dedicated turning facilities should be considered.
45. The traffic analysis noted that a future commercial development at 113–119 East Derwent Highway could increase turning movements and therefore increase the risk that traffic entering or exiting the site could conflict with 'through traffic'.
46. The traffic analysis noted traffic issues could potentially be managed through infrastructure upgrades.
47. The traffic analysis noted there were a range of potential changes to the road network that may address adverse effects caused by potential use and development of the land including:
 - a dedicated left-turn lane into the site
 - improved right-turn facilities at Nietta Road
 - better space for U-turns
 - intersection improvements near Ballawinnie Road, and
 - enhanced warning signs at the pedestrian crossing.
48. A joint statement addressing matters for traffic engineers was provided by the proponent on 15 July 2026. The traffic experts agreed that the East Derwent Highway is a major four-lane State road carrying high traffic volumes requiring careful access management. The traffic experts also agreed that Ballawinnie Road is a local road serving residential properties and the existing shopping centre, and that the existing shopping centre access on Ballawinnie Road onto the Highway already experienced some localised queuing. The traffic experts also agreed that existing pedestrian signals on East Derwent Highway could create traffic platooning (clusters of vehicles).
49. The traffic experts disagreed on:
 - whether traffic from future development would materially worsen existing queuing on Ballawinnie Road, and
 - whether the proposed access arrangements would create unacceptable safety or operational impacts.

50. The baseline dataset, including daily and peak hour traffic, established by Mr Midson was 19,901 vehicles per day. Mr Hubble referred to 22,000 vehicles per day. The variance was explained as being about the use of weekday/weekend counts in the averaging.
51. Mr Midson further submitted:
- In my opinion, provision of a left-turn exit from the site onto East Derwent Highway is unlikely to be appropriate for anything other than a low-volume domestic driveway access.
- The proximity of the existing pedestrian-operated signals significantly constrains the available spacing for a commercial left-turn exit arrangement. While domestic driveway access currently exists along the frontage, I do not consider that a commercial access serving a future mixed-use development could realistically achieve appropriate separation from the pedestrian crossing.
52. On corner clearance, Mr Midson submitted the relevant consideration was sight distance along Ballawinnie Road rather than East Derwent Highway given the proposed access from Ballawinnie Road was a private driveway. He added that while the driveway had clear visibility to the eastern end of Ballawinnie Road, there was no requirement to achieve sight distance along East Derwent Highway.
53. With respect to the right-turn exit from the site onto Ballawinnie Road, Mr Midson submitted that:
- the proposed access to the rezoned land would be a private driveway to Ballawinnie Road. Accordingly, the relevant design consideration is whether the driveway can be located outside the prohibited driveway area identified in AS2890.1 and whether it can provide appropriate sight distance and geometry for the expected traffic movements.
54. Mr Midson concluded that the proposed private driveway can be located and designed to achieve appropriate separation, sight distance, and access geometry, such that right-turn movements onto Ballawinnie Road would not present a traffic safety constraint.
55. On traffic generation, Mr Midson noted that the site's size, access, parking, and servicing constraints mean future development was likely to be limited to small neighbourhood-scale commercial uses, with high-intensity developments unlikely to be feasible. Accordingly, the indicative concept generating approximately 141 vehicle movements in the afternoon peak hour represents a realistic upper-end estimate of future traffic generation.

LPS criteria

Schedule 1 Objectives

Consideration

56. The Schedule 1 Objectives of the LUPA Act seek in part to manage the use of land to enable communities to provide for their social, economic and cultural

needs. The planning system provides for commercial and community services that cater for daily and weekly needs to be located across residential areas, local centres, and neighbourhood centres.

57. At the hearing, the applicant outlined that there had been substantial population growth in the area extending from Rose Bay to Risdon Vale over the past 25 years. In response, the Commission noted that there was approximately 50ha of Future Urban-zoned land off Sugarloaf Road in Risdon Vale and future housing was likely in this area. Further residential use in this area would therefore expand the population further.

58. The applicant submitted that the proposed Local Business Zone was required in part because the Lindisfarne Village is not likely to be developed in a manner that caters for this growing demand. In part Mr Read's report states:

Previous attempts at incremental expansion have occurred in a fragmented and ad hoc manner, often resulting in minor encroachment into adjacent residentially-zoned areas, rather than delivering coordinated or strategic growth.

59. In the targeted catchment for the land identified by the applicant, there appears to be at least two activity centres:

- the Lindisfarne Village that is recognised as a neighbourhood centre, and
- the area zoned Local Business at Risdon Vale that contains a supermarket and a range of other services, and functions as a Local Centre.

60. The Commission does not have evidence that either the neighbourhood centre at Lindisfarne or the local centre at Risdon Vale are incapable of accommodating further growth, noting that this may involve extending the area of the current business/commercial zones. Nor does it have evidence that there is a community demand for services to be provided to meet the needs of the local area.

61. Regardless of this, to the extent that a new local activity centre is required to meet either the needs of a growing community or an existing community, the Commission considers that the location and extent of that centre should be planned to enable the objectives of the zone to be achieved. This includes ensuring that the range of uses anticipated by the zone can be established, intensified, and potentially expanded over time. A key requirement for this is a road network that can support a high-level of access for vehicles and people.

62. The evidence of Mr. Read outlined that strategic land use considerations are somewhat separate to traffic, transport and access issues, submitting that:

- the zone does not approve specific use or development, and
- traffic-related issues must demonstrate compliance with the planning scheme when an application for a planning permit is made and can therefore be managed.

63. The Commission considers that this viewpoint conflates the role of strategic planning with development control. At a general level, where significant traffic generation and access requirements are a core characteristic of how the uses intended by a zone function and operate, the strategic-level decision on the

suitability of that zone ought to consider the degree to which that land can accommodate those characteristics. The strategic decision as to the intended use of land, made at the stage land is zoned, ought to be capable of being realised through the planning system.

64. This consideration is part of furthering objectives for sound and orderly planning, and is consistent with the decision referred to in Ms Billett's closing submission, McClennan CJ in *BMG Properties Pty Ltd v Lake Macquarie City Council* [2004] NSWLEC 399 at 117.
65. In that decision, his Honour observed that planning decisions generally proceed on the assumption that development consistent with the zoning will be permitted in some form, and that failure to give appropriate weight to zoning would undermine the integrity of the planning process. The Commission considers that this assumes a strategic planning judgment as to land use suitability that is reasonably capable of practical implementation through the planning system.
66. Mr Midson's evidence, in response to Mr Hubble's evidence in part states:
- I do not disagree that East Derwent Highway is a busy urban arterial road, nor that the surrounding network includes existing operational constraints.
- The key question from a traffic engineering perspective is whether the proposed rezoning can reasonably support future development without unacceptable traffic, parking, or road safety impacts.
- In my opinion, those existing characteristics do not demonstrate that the proposed rezoning would result in an unacceptable traffic, parking or road safety impact.
67. The Commission considers that the absence of evidence that a threshold of unacceptable impacts would be met is not determinative of whether the amendment furthers the Schedule 1 objectives relating to fair and orderly development and the efficient use and protection of infrastructure. Factors relating to the long-term function of the Highway as part of the region's overall transport network, its capacity to accommodate increased peak and daily traffic levels over time, and the potential for adverse cumulative impacts, are all relevant matters.
68. In part, Mr Midson's opinions appear to relate to the 'concept plan' for the site. In his response statement to Mr Hubble's evidence, Mr Midson in part states:
- The proposed access would only accommodate left-turn entry movements from the northbound carriageway.This is a significant distinction. The primary safety concerns normally associated with commercial accesses on busy roads relate to vehicles exiting into traffic, vehicles turning across opposing traffic, or vehicles waiting in the traffic lane to turn right. None of those movements would occur at the proposed East Derwent Highway access.
69. The amendment applies to three existing titles with frontage only to the East Derwent Highway, each of which may be used independently. The planning

scheme does not require or secure the coordinated access arrangement referred to in Mr Midson's traffic assessment. The Commission is required to consider the amendment based on the outcomes it enables rather than outcomes that it does not secure.

70. To be satisfied that the amendment is consistent with the objectives of Schedule 1 of the Act, the Commission should have a reasonable level of confidence that the uses intended by the zone are:
- capable of being accommodated on the land, and
 - would further other relevant objectives, including the orderly planning of land and the efficient use of infrastructure that enables communities to provide for their wellbeing.
71. In this case, the three sites that have frontage only to the East Derwent Highway can be used independently. Each site would rely on direct access to the East Derwent Highway, which performs a strategic movement function. The proposed Local Business Zone does not require or secure any coordinated access arrangements between the sites, and it is therefore appropriate to consider the use of the land as individual lots.
72. On vehicles turning left from the site onto the Highway, Mr Midson's evidence dated 14 July 2025 in part states:
- In my opinion provision of a left-turn exit from the site is unlikely to be appropriate for anything other than low-volume domestic driveway access.
73. Having regard to the nature of uses intended by the Local Business Zone, their establishment on these sites would be expected to generate additional vehicle movements, including turning movements into and out of the Highway during periods of peak use. Based on the evidence available, the Commission is not satisfied that the sites that comprise the subject land have the capacity to support the access demands and operational characteristics of the uses anticipated by the Local Business Zone.
74. Secondly, the Commission should be satisfied that the amendment furthers other relevant objectives, specifically that it represents sound, strategic, and orderly planning of land, and that the use and provision of infrastructure provides for the wellbeing of the community.
75. The representation from State Growth in part states:
- The East Derwent Highway is a 'Category 3' road under the Tasmanian State Road Hierarchy and has strategic importance as a key access road. It is important that the function of the highway is maintained.
76. State Growth's road hierarchy guidance emphasises that:
- the hierarchy provides the basis for matching land use with road function in a way that maximises network efficiency and safety outcomes, while reasonably meeting the access needs of the land use.

...land use can have a direct impact on the efficiency, safety and function of the strategic road network. It is important to:

- ensure that arterial roads serve their purpose as transport corridors and do not have their strategic role undermined by inappropriate access or development
- ensure that development and access do not compromise the movement and free flow of traffic or the safe use of roads by others.

77. The East Derwent Highway is zoned Utilities in the Clarence LPS. The purpose of the Utilities Zone is to provide land for major utilities including transport networks. The Utilities Zone provides for land to be used for a long-term strategic transport function that enables the efficient movement of people and goods.
78. The Local Business Zone however, intends the land, including those existing sites with frontage and access to the Highway, to be used for activities that depend upon customer and servicing access. Such activities create a demand for direct interaction with the adjoining road network.
79. Given the evidence as to the existing operating characteristics of this section of the Highway and its long-term strategic function, the Commission considers that the draft amendment would introduce a land use conflict that is not compatible with the role and function of the East Derwent Highway within the broader road network.

Finding

80. The Commission accepts that there may be demand from the community to provide for additional land to be included within activity centres. It also accepts there may be community demand for a new local activity centre if existing areas are unable to suitably cater for this local demand.
81. However, the Commission considers that:
- the draft amendment does not demonstrate that it would promote the efficient use and protection of infrastructure, or support the orderly and coordinated planning of land, and
 - the Local Business Zone is not compatible with the function of the Highway.
82. More broadly, the Commission considers that the draft amendment would not contribute to the use and development of physical resources, including urban land and transport infrastructure, in a manner that protects public infrastructure and enables the community to provide for its present and future wellbeing.
83. Based on the evidence available, the Commission is not satisfied that three of the four lots comprising the subject land have the capacity to accommodate the access demands and traffic movements associated with the uses anticipated by the draft amendment. The proposed zoning is therefore not considered to be reasonably capable of being realised on those lots. Zoning land for a purpose that is not reasonably capable of being achieved is considered contrary to Parts 1 and 2 of the Schedule 1 objectives of the Act.

84. The Commission finds that it is not satisfied the draft amendment meets the LPS Criteria that relate to the Schedule 1 objectives of the Act.

Tasmanian Planning Policies

Consideration

85. Under the TPPs, objectives set out the aim of the policies, and strategies identify the ways in which objectives may be achieved. The strategies are not exhaustive and may not all be relevant to a particular matter. However, where a strategy is relevant, the TPPs require that it be considered and implemented in the context of the objective that it is seeking to achieve. In this regard, relevant strategies set out the means by which the objective may be achieved, including the outcomes to be promoted or avoided in implementing the policy.
86. Accordingly, the Commission considers it necessary to have regard to the extent to which the draft amendment is consistent with, or departs from, the relevant strategies, as this informs whether the objective is being achieved. This, in turn, informs the Commission's consideration of the TPPs as a whole under the LPS criteria.
87. The policy objective for the Business and Commercial policies is to promote such activities at a scale and intensity that is suited to the location. The suitability of a location is informed by a range of strategies relating to factors such as demand for and supply of business and commercial land, accessibility, and the activity centre hierarchy.
88. Strategy 4.7.3(5) establishes a clear preference for the redevelopment of commercial and business uses within existing activity centres. That preference may be set aside where the specified circumstances apply, including where a proposal represents a natural progression of an existing activity centre. The existing activities on the adjacent sites consist of a service station, and a supermarket and small bottle shop on the opposite side of Ballawinnie Road. The Commission considers that these activities do not reasonably constitute an activity centre for the purposes of the TPPs.
89. Consequently, the Commission is not satisfied that the proposal represents a natural progression of an existing activity centre.
90. In these circumstances, the strategy requires consideration of whether the LPS as amended, would support the redevelopment of existing activity centres. This includes whether the proposal would support the role, function, and potential redevelopment of the existing centres within the relevant catchment.
- In relation to the Lindisfarne Village Mr Read's evidence in part states "The centre is effectively operating at capacity, with only one identified vacant tenancy (the former Baker's Delight premises) and no properties currently advertised for lease."
91. The Commission considers that in a mature urban area, it is reasonably likely that commercial areas will operate 'at capacity' prior to being redeveloped, to increase either the intensity or floor area of commercial and business activities. The pressure of operating at capacity is likely to provide part of the commercial catalyst for such intensification.

92. The Commission considers that zoning approximately 3,000m² of land for commercial and business purposes on the East Derwent Highway is likely to displace or dilute demand, rather than support the redevelopment of existing activity centres.
93. The Commission has had regard to the implementation principles of the TPPs, including that strategies should not be applied in a manner that would exclude alternative approaches to achieving the strategy. However, in this case the Commission considers the draft amendment does not represent an alternative means of achieving the relevant strategy but rather does not achieve the outcome sought by the strategy.
94. The policy objective for '*Roads*' is for an integrated road network to be planned and managed to support efficiency, connectivity, travel reliability, and safety.
95. The Commission considers that 'integration' refers to a coordinated relationship between the function and capacity of the road network and how that is aligned with land use and development.
96. Relevant strategies include promoting the protection of key corridors, including key urban passenger transport corridors from encroachment by incompatible uses. The key corridors referred to in the strategy are those where the primary function is provision for movement.
97. Both traffic experts generally agreed that the existing road network in this area is operating within a constrained environment affecting safety and efficient performance.
98. These factors include:
 - multiple access points and turning movements in close proximity
 - the presence of pedestrian-operated signals within the carriageway
 - constrained geometry and limited approach sight distances
 - platoon-based traffic flows resulting in clustered vehicle arrivals and contributing to short-term on-highway queuing, and
 - limited intersection and median storage capacity, requiring turning vehicles to wait at times within or close to traffic lanes.
99. The traffic experts did not agree on what the consequence of any additional effect on transport that would arise from the proposed rezoning would be. Mr Hubble in part stated that given the strategic role of the road, any reduction in safety, operational performance, or network reliability would be inconsistent with the intended function of the corridor. Conversely, Mr Midson's opinion was that generally the operating characteristics could be considered normal and that any additional effect resulting from the draft amendment can be accommodated without unacceptable impacts.
100. The relevant strategy of the TPPs is not related to whether land use or development has no adverse effects on key roads, nor is it limited to a direct impact resulting in traffic or safety outcomes that is unacceptable.
101. In light of the policy objective, the Commission considers that 'encroachment by incompatible land use and development' includes gradual adverse changes to the movement function of key roads within the network, including their

efficiency, travel reliability, and safety, and is not limited to circumstances where a key road is immediately unable to perform its function.

102. Under the proposed zone, the activities intended for the land are directed to attract people and goods and would introduce additional slowing and turning movements on the Highway, particularly during the afternoon peak hour, as motorists access the site and potentially park on the street.
103. Given the spatially confined and constrained existing operating environment for Highway users, the Commission considers that the proposed zone is not compatible with protecting the qualities of the road associated with safe, efficient, and reliable urban movement.
104. The Commission considers that Strategy 1.2.3.8 under the Liveability Objective, which aims to improve neighbourhood amenity through managing incompatible land uses, is relevant to the amendment. The amendment has the potential to improve access to commercial services at a subregional level and may result in a level and intensity of commercial activity that adversely affects the amenity adjacent existing residential uses. Having regard to the policy objective, the characteristics of the site, and the nature of the uses anticipated within the Local Business Zone, the Commission's consideration of this strategy is not determinative of the amendment.

Finding

105. Following its consideration of the draft amendment on the TPPs as a whole, and having regard to the manner in which the TPPs are to be implemented, the Commission finds that it is not satisfied that the draft amendment meets the LPS criteria associated with the TPPs.
106. The Commission's consideration of objectives and strategies had a significant weighting in its decision outlined above.

Regional Land Use Strategy

Consideration

107. The roles of *policies* are contained in Section 1 of the regional strategy. In summary, this section outlines that:
 - policies – are the mechanism by which strategic directions will be achieved
 - sub-policies – support the primary policies and highlight important matters to be addressed in the near term, and
 - compliance with a sub-policy is not intended to imply achievement of the overall policy.
108. While the activity centre network of the regional strategy is represented as a hierarchy of importance, it is more appropriately understood as a continuum of size and function. The hierarchy aims for people in urban areas to be provided services through a series of local, minor, major, principle, and primary centres.
109. The Commission considers the existing retail activities in the area do not constitute an activity centre and the proposal would create a new activity centre which corresponds to:

- a local activity centre, in terms of its role, and
 - a minor/neighbourhood centre, in terms of its catchment.
110. Generally, the Commission also considers that where a new local activity centre has been identified by a local or regional level strategy as being needed to serve a community demand that is unmet by an equivalent centre, it may, for the purposes of the regional strategy, be considered as being 'in-centre'.
111. Furthermore, the Commission considers that the spatial catchment of the proposed new activity centre off the East Derwent Highway, would largely overlap the two existing activity centres at Lindisfarne and Risdon Vale.
112. While the proposal may provide services at a local level as well as at a broader catchment level, for the purpose of the activity centre sub-policies, the proposed amendment would create a new activity centre that would be substantially 'out-of-centre'. This would diminish the capacity of the two existing centres in the catchment to cater for growth in demand and contribute to revitalising and strengthening the local community.
113. The regional strategy:
- policies aim for land use and transport to be developed and maintained as a single integrated system that supports growth in a safe and efficient manner across modes, and
 - sub-policies identify the East Derwent Highway as a key regional and urban transport corridor that is to be protected in planning schemes.
114. The Commission considers that 'integration' in this context refers to two-way coordination between land use and transport so that they are aligned in supporting growth and accessibility across transport modes, ultimately resulting in safe and efficient outcomes.
115. The Commission notes that the existing activity centres within the catchment are located in parts of the transport network that are intended to accommodate a high-level of direct access. The proposed amendment would facilitate the establishment of an activity centre in a location that is likely to require a similar level of direct access to a corridor that is intended to serve an ongoing transport movement function.
116. The Commission considers that this represents a misalignment between the scale and function of the intended use of land under the Local Business Zone and the role of the transport network, and does not directly support the integrated transport and land use policy of the regional strategy.
117. The Commission considers that this view is aligned to the evidence of Mr Midson, who in part states that the use of the site for non-domestic purposes where traffic exits the site and turns left onto the Highway is not appropriate.
118. The Commission notes that much of the expert evidence referred to the sub-policies of the regional strategy not being achieved, as there was no local strategy, study, or plan that supported the draft amendment. Mr Walker in assessing the regional strategy in part states:
- No strategic planning framework, local strategy, structure plan or activity centre analysis has been deduced demonstrating that

the site of the draft amendment forms part of a recognised activity centre or planned centre expansion area. In this respect, the strategic basis for expansion of the Local Business Zone at this location is not clearly established within the draft amendment material and on this basis, the draft amendment does not appear to accord with the activity centre network policy framework prescribed by the regional strategy.

119. The Commission considers that on this draft amendment, the absence of such a document is not a determinative matter under the regional strategy. However, the Commission does note that a report of this type is likely to provide locally relevant guidance and direction on a range of relevant matters.

Finding

120. Following its consideration of the draft amendment, on the regional strategy, the Commission finds that it is not satisfied that the draft amendment is consistent, as far as practicable, with the regional strategy. Specifically, as outlined above, the draft amendment provides for land use that is not aligned to the function of the East Derwent Highway, and the intended use of the land would diminish, rather than strengthen, the existing network of activity centres in the area.

State Policies and Council strategic plan

121. The subject land is within 1km of the coast, and the State Coastal Policy 1996 applies to the land.
122. The City of Clarence Strategic Plan 2025-2035, is the applicable strategic plan for the Council area.
123. The Commission has considered relevant matters associated with State Coastal Policy and the Strategic Plan and finds that it is satisfied that the draft amendment meets the relevant LPS criteria for both matters.

Consideration of modifications to the draft amendment

124. Section 40M of the Act requires the Commission to consider a range of matters, including whether modifications ought to be made to the draft amendment.
125. On 9 June 2026, the Commission requested parties to provide a submission on matters that may be addressed in a potential specific area plan to assist its consideration.
126. At the hearing the Commission asked parties whether the site and proposed use had a potential quality that may require unique provisions. This was especially related to the proximity of the subject land to a supermarket, that may form the basis of a local activity centre, if the scale of use at the site catered to the needs of the local area rather than a catchment of multiple suburbs as outlined in the evidence of Mr Read. Parties' responses to this included a view that this may form the partial basis for a modification while other parties stated that this should not or could not form the basis of a modification, for a range of different reasons.

127. Some parties considered that a modification to the amendment to address 'particular qualities' of the area related to transport and traffic matters could have merit.
128. Where a modification to draft amendment is being considered to overcome a specific risk or achieve a particular objective, the Commission needs to be satisfied that the amendment, as modified, is reasonably capable of achieving that outcome.
129. The Commission's written direction to parties requested consideration of whether an amalgamated site would be capable of containing an access to the local side road (Ballawinnie Road) under Austroads guidance relating to the interaction of intersections and nearby property accesses.
130. The Commission notes that the information sought was consistent with the DSG's Traffic Impact Assessment Guidelines for land use development proposals, which require assessment of the adequacy and safety of access arrangements by reference to relevant Austroads guidance. In the Commission's view, a preliminary assessment also assists in understanding whether the subject land is capable of accommodating the operational characteristics of the uses anticipated by the proposed zoning.
131. While the evidence demonstrated that a potential access location is not prohibited under AS 2890.2, it did not address whether an amalgamated site is capable of accommodating a side road access that is suitable or appropriate having regard to the characteristics, function and operation of the road network, existing accesses, and the acknowledged risks associated with existing queuing onto the Highway during the afternoon peak hour period.
132. Based on the evidence available, the Commission is not satisfied that the amendment is capable of being modified so as to adequately address the transport and traffic characteristics of the land and locality associated with the uses anticipated in the Local Business Zone.
133. Parties' responses to relevant matters put forward by the Commission contributed to its consideration of potential modifications under section 40M of the Act.

Decision on draft amendment

134. For the above reasons, the Commission finds that the draft amendment does not meet the LPS criteria and is rejected.