KENTISH COUNCIL

NOTICE OF SPECIAL MEETING AND AGENDA

4 DECEMBER 2018

SPECIAL MEETING OF COUNCIL

7.00 PM

Venue: Council Office
       SHEFFIELD
NOTICE OF MEETING

Notice is hereby given of a Special Meeting of the Kentish Council to be held on Tuesday 4 December 2018 commencing at 7.00 pm in the Kentish Council Office, Sheffield.

Gerald Monson
General Manager
29/11/2018

QUALIFIED PERSONS ADVICE

The Local Government Act 1993 provides (in part) as follows:

• A General Manager must ensure that any advice, information or recommendation given to the Council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

• A Council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the General Manager certifies in writing that such advice was obtained and taken into account in providing general advice to the Council.

I therefore certify that with respect to all advice, information or recommendation provided to the Council in or with this agenda:

1. The advice, information or recommendation is given by a person who has the qualification or experience necessary to give such advice, information or recommendation; and

2. Where any advice is directly given by a person who does not have the required qualifications or experience that person has obtained and taken into account in that person’s general advice the advice from an appropriately qualified or experienced person.

Gerald Monson
GENERAL MANAGER
PRESENT

Mayor T Wilson in the Chair
Deputy Mayor D Thwaites
Cr K Haberle
Cr P Lane
Cr S Mawer
Cr P Richards
Cr L Cassidy
Cr R Blenkhorn
Cr N Meijer

COUNCIL OFFICERS

Gerald Monson  General Manager
Andrew Cock  Corporate Services & Finance Manager
Jonathan Magor  Manager Engineering Services
Jan Febey  Development & Regulatory Services
Ashley Brook  Consultant Planner
Sharon Holland  Strategic Planner
Bronie Furley  Executive Officer

APOLOGIES

DECLARATION OF INTEREST
1. PLANNING MATTERS

**RECOMMENDATION**

That Council adjourn and proceed into session as the Planning Authority pursuant to Section 6 of the Land Use Planning Approvals Act 1993.

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**DA 2018/012 - PROPOSED 17 UNIT DEVELOPMENT 41A MAIN STREET, SHEFFIELD**

Report Author: Ashley Brook - Consultant Planner

File reference: Land Use & Planning/Planning

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**RECOMMENDATION**

That the report by the Consultant Planning Officer dated 29 November 2018 concerning Development Application DA 2018/012 be received and that Council approve the proposed development at 41a Main Street, Sheffield subject to the following conditions:

1. Consent is for the use and development of 17 multiple dwelling units substantially in accordance with the endorsed plans, Kentish Unit Development – Sheffield Tasmania, Drwg No. SK01 (12/10/18), SK02 & SK 03 (25/10/18) and A00 to A20 (17/10/2018) and Project No. 18.029, Drwg No. CP01 (Rev. A) prepared by rare.

2. The developer shall comply with the conditions, which TasWater has required the planning authority to include in the permit in accordance with Section 56P(1) of the Water and Sewerage Industry Act 2008. These conditions are specified in TasWater’s submission to Council, Reference (TWDA 2018/00312-KC), a copy of which is attached and endorsed to be a document forming part of this permit.

3. The permit does not provide consent for any signage.

4. Prior to the commencement of any works, amended plans must be submitted to show:
   a. The installation of appropriate signage facing at the northern end of the 3.64m wide access strip adjacent to Main Street, to advise that the driveway within the access strip is not to be used as a vehicular access by residents of the proposed use and development except in the event of an emergency.
      Once accepted, these amended plans will be endorsed and will form part of the permit.

5. Areas set aside for driveways and parking vehicles must be:
   a. Set out to comply with the requirements of Australian Standard 2890.1-2004 (Parking Facilities, Part 1: Off-street car parking);
   b. Be formed and constructed with compacted sub-base and surfaced with an all-weather dustless surface, such as bitumen, concrete, or brick or permeable paving blocks; and
   c. Drained and connected to the stormwater system.
6. Unless shown otherwise on a site plan approved by Council a single 6.0 metre wide driveway is to be located in the High Street road reservation from the edge of existing roadway to the property boundary in conformance with Council Standards and used as the primary means of accessing the property. New driveways are to be constructed to ensure adequate drainage is maintained, in accordance with Standard Drawing TSD-R09-v1 and are to be located to ensure minimum sight distance requirements are met for the relevant speed zone in accordance with TSD-RF01-v1.

Prior to commencing any works including the construction or modification of the road access/crossover within the road reservation an application must be lodged and a permit obtained from Council.

7. Stormwater detention is to be provided to limit the peak rate of piped discharge from the property to that generated by the complete title developed to a level of 30% impervious or by the site at its current level of development, whichever is greater. The detention storage system is to be designed by a professional engineer with experience in hydraulic design, for storm events in the range of 1/5AEP to 1/20AEP with overflows from events exceeding the 1/20AEP storm event connected downstream of the detention system orifice to minimize the potential to generate overland flows leaving the site.

The design plans are to include surface levels, pipe invert levels, orifice location, pit or tank cross section showing orifice, storage area, overland flow path and separate calculations are to be submitted with the plumbing application to the Manager Engineering Services for approval.

On completion an "as constructed" plan complete with levels, is to be submitted with a certification that the storage has been constructed in accordance with the approved design.

8. Any required connection to Council’s stormwater system is to be undertaken by Council at the developers cost. It is likely the site will need to drain via a piped network to the Council underground stormwater system via the 3.6m access onto Main Street.

9. Council will endorse any strata plan when all permit conditions applicable to the development, including any staging of the development, are completed to Council’s satisfaction. Alternatively, a bond is to be lodged with Council to cover uncompleted works. All bonded works to be completed within 6 months of the strata plan being endorsed.

Notes:

- This permit is issued under Section 57 of the Land Use Planning Approvals Act 1993 as the proposal has discretionary status under the Kentish Interim Planning Scheme 2013.
- During construction and use of the proposed road all measures are to be taken to prevent environmental harm or environmental nuisance as per the provisions of the Environmental Management and Pollution Control Act 1994 and associated Regulations.
- No advertising signage is to be placed without Council planning approval, unless it is demonstrated to be exempt in accordance with Clause E7.4 of the Kentish Interim Planning Scheme 2013 prior to installation.
- A High Street address and unit numbers will be allocated for the proposed development.
RECOMMENDATION
That the Planning Authority session is closed and Council recommence its ordinary meeting under the provisions of the Local Government Act 1993.

Meeting Declared Closed.
DISCUSSION REPORTS
AND ATTACHMENTS
REPORT ON DEVELOPMENT PROPOSAL

GENERAL INFORMATION

<table>
<thead>
<tr>
<th>Development Application Number:</th>
<th>DA 2018/012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>Building Consultancy Services on behalf of Bellroy Developments Pty Ltd</td>
</tr>
<tr>
<td>Development Proposal:</td>
<td>17 unit development</td>
</tr>
<tr>
<td>Address of Development:</td>
<td>41a Main Street, Sheffield</td>
</tr>
<tr>
<td>Property Identification Number:</td>
<td>3549402</td>
</tr>
<tr>
<td>Certificate of Title:</td>
<td>CT 173540/2</td>
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<td>Zoning:</td>
<td>General Business</td>
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<tr>
<td>Use Status of Proposed Development:</td>
<td>Discretionary</td>
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<tr>
<td>Recommendation:</td>
<td>Approval with conditions</td>
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<td>Discretions Invoked:</td>
<td>Discretionary Use</td>
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<tr>
<td>Clause 21.3.1 (P1) – Discretionary Permit Use</td>
<td></td>
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<tr>
<td>Clause 21.4.1 (P1) – Suitability of a Site or Lot for Use or Development</td>
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<td>Clause 21.4.2 (P2) – Location and Configuration of Development</td>
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<td>Clause 21.4.3 (P1) – Visual and Acoustic Privacy for Residential Use</td>
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<td>Clause 21.4.4 (P2) – Private Open Space for Residential Use</td>
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<tr>
<td>Clause 21.4.5 (P1) – Setback from Zone Boundaries</td>
<td></td>
</tr>
<tr>
<td>Clause E9.5.1 (P1) – Provision for Parking</td>
<td></td>
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</table>

PROPOSAL DESCRIPTION

Council is in receipt of an application made under Section 57 of the Land Use Planning and Approvals Act 1993 for the proposed use and development of 17 multiple dwelling units at 41a Main Street, Sheffield.

The proposed units will be developed on a 7540m² internal lot, which has a 3.64m wide frontage to Main Street provided by an access strip 50.51m in length and a 6m wide frontage to High Street provided by an access strip 33m in length. The access strip adjacent to Main Street is subject to a right of way benefitting an adjoining lot to the south-east. The main body of the 41a Main Street (excluding its access strips) is
located to the rear of a relatively large number of other lots in Main Street, High Street and Duff Drive which are mostly developed with business premises or residential dwellings.

**Proposed Dwelling Details**

The proposal includes 5x 2-bedroom detached dwellings (Units 1-4 & 17), 4x 3-bedroom detached dwellings (Units 5-8) and 8x 2-bedroom conjoined dwellings within 4 separate buildings (Units 9-16). The proposed dwellings will be single-storey and will have a combination of hip and gable roof forms.

Units 1-4 will be located adjacent the western side boundary in the southern portion of the site. They will be orientated at an oblique angle toward the boundary, with minimum setbacks of either 2m (Units 2 & 3) or 2.5m (Units 1 & 4). Unit 1 will have a minimum setback of 1.8m from the southern side boundary.

Units 5-8 will be located adjacent to the eastern side boundary in the southern portion of the site. Units 5-7 will be orientated at an oblique angle towards the boundary, with minimum setbacks of either 2.1m (Unit 5) or 2.5m (Units 6 & 7). The rear wall of Unit 8 will be orientated parallel to the eastern side boundary and will have a minimum setback of 2.2m.

Units 9-17 will be located along to the northern boundary of the site. Their rear walls will be orientated parallel to the boundary and will have a setback of 4m. The external side wall of Unit 9 will be setback 2.1m from the western side boundary. The external side wall of Unit 17 will be setback 7.8m from the eastern side boundary in the northern portion of the site.

Units 1 and 5 each will have an individual floor plan and maximum (roof apex) heights of 5.02m and 5 m respectively. Groups of other dwellings will have a common floor plan. This includes Units 2-4 (maximum building height of 4.7m), Units 6-8 (maximum building height of 4.8m), Units 9, 11, 13, 15 & 17 (maximum building height of 5.1m) and Units 10, 12, 14 & 16 (maximum building height of 5.1m).

The proposed dwellings will each be constructed with a combination of face brick and timber wall cladding and a metal clad roof. A variety of colours will be used.

**Private Open Space**

The size of the total private open space area associated with each proposed dwelling will be variable. The areas surrounding Units 1-8 will be relatively larger than those for Units 9-17, which will be located to the rear of the dwellings. Each area will include a combination of paved areas, directly accessible from a living area within each dwelling, and lawn areas. Each area will include a minimum 25m² space with a minimum dimension of 4 m and will be located to the north of the dwelling that it serves.

The private open space surrounding Units 1-8, and the proposed garden beds adjacent to the driveways adjacent to the dwellings, will include landscape plantings. The areas surrounding the dwellings will be divided from each other, and from the driveways, by fencing ranging from 900mm to 1.8m in height.

**Access and Car Parking**

The proposal includes a two-way driveway which will extend from High Street through the northern portion of the site alongside Units 9-17. This section of the driveway will have a width of 5.5m within the access strip adjacent to High Street and a minimum of 6m adjacent to Units 9-17. The proposed driveway in the southern portion of the site, adjacent to Units 1-8, will provide for one-way traffic. This section of the driveway will have a minimum width of 4.7m and a circular alignment with separate entry and exit points from the two-way driveway within the site. Both driveway sections will be constructed with an asphalt surface.
The application identifies that the 3.64m wide access strip adjacent to Main Street will provide right of way access for vehicles and a walkway access for pedestrians. It is identified as comprising compacted gravel. Removable bollards are proposed to be installed at the northern end of the access strip (where it opens into the main body of the site) to restrict / control vehicular movement through to Main Street.

Units 1-17 will each have a single garage. Units 1-4 & 6-8 will have a second external parking space located alongside their garage. The application also identifies a tandem parking space adjacent to the garage doors associated with Units 2-4 & 6-8. The space that will be created on the inside of the one-way driveway section will include 6 parking spaces orientated at an angle of 30° relative to the driveway alignment. 3 parking spaces will be provided at the end of the two-way driveway section. 1 parking space will be provided to the south of Unit 12 (designated for Units 11 & 12), 1 parking space will be provided to the south of Unit 14 (designated for Units 14 & 15) and 2 parking spaces will be provided to the south of Unit 17 (designated for Units 16 & 17).

The parking spaces associated with Units 1 & 5 will be orientated generally perpendicular to the one-way driveway. The spaces associated with Units 2-4 & 6-7 will be orientated at an angle of no greater than 20° relative to the one-way driveway. The spaces associated with Units 8-17 will be orientated perpendicular (90°) to the two-way driveway.

The car parking supply associated with the proposal includes 24 spaces designated to an individual dwelling (2 spaces for Units 1-4 & 6-8 and 1 space for Units 5 & 9-17) and 13 formal spaces that will be available for overflow and visitor parking (including the 4 designated shared spaces associated with Units 11-12 & 14-17). This gives a total of 37 formal spaces, plus the 6 tandem spaces associated with Units 2-4 & 6-8.

Servicing

The concept servicing plan for the proposed development provides for the installation water pipes which will connect to the reticulated system in High Street, sewer pipes which will discharge to an existing connection to the reticulated system in Main Street and stormwater pipes which discharge to a new connection to the reticulated system in Main Street.

A copy of the site plan, location plan, floor plans and elevation plans for the proposed development are shown in Figures 1 – 15.
Figure 1: Site Plan
Figure 2: Location Plan
Figure 4: Elevation Plan

SOUTH EASTERN ELEVATION
UNIT 1 ELEVATION 1

NORTH EASTERN ELEVATION
UNIT 1 ELEVATION 2

NORTH WESTERN ELEVATION
UNIT 1 ELEVATION 3

SOUTH WESTERN ELEVATION
UNIT 1 ELEVATION 4

Scale: 1:100

KENTISH UNIT DEVELOPMENT - SHEFFIELD TASMANIA
LUKE DAVIES 4TH STREET, SHEFFIELD TAS - DEVELOPMENT APPLICATION AMENDMENT

DAVIES

A03

UNIT 1 ELEVATIONS
1:100

AMM: DA10 17.10.18
Figure 6: Units 2-4 Elevation Plan
Figure 7: Unit 5 Floor Plan
Figure 10: Units 6-8 Elevation Plan
Figure 11: Units 9-16 Floor Plan
Figure 15: Unit 17 Elevation Plan
SITE LOCALITY AND CHARACTERISTICS

The site is comprised of a single lot (CT 173540/2) with an area of 7540m² internal lot that is currently undeveloped. It was created following the issuing of subdivision permit SA 2016/005 by Council in 2017. The subdivision involved reconfiguration of lot boundaries also including the land associated with the Sheffield Country Motor Inn (49-53 Main Street) and a dwelling to the east at 49 High Street.

The subdivision enlarged the land area within 41a Main Street and provided a means access from High Street by way of a 6m wide access strip. Permit SA 2016/005 required primary access to the site to be provided over a driveway within that access strip. A right of way over the 3.64m wide access strip within 41a Main Street was carried forward to the current title for the site. It benefits an adjoining lot to the south-east (43 Main Street), and provides a means of access to Main Street.

The adjoining lots to the north, north-east and north-west of the site contain single and multiple dwellings, including associated outbuildings, with frontage to High Street and Duff Drive. The adjoining lots to the south-and east contain a mix of business premises and residential dwellings. Business premises fronting onto Main Street are located at 39 Main Street, 43 Main Street (Apple Tree Café), 47 Main Street (Fudge’n’Good Coffee) and 49-53 Main Street (Sheffield Motor Inn and Basilico). Bossimis Sheffield Bakehouse is located at 55 Main Street (at the junction with High Street).

Other uses in the surrounding area include the Sheffield Police Station on an adjoining lot at 37 Main Street and Sheffield Bible Chapel at 45 High Street.

An aerial view of the existing use and development on both the subject site and surrounding area is shown in Figure 16.
PLANNING SCHEME CONSIDERATIONS

The site is located within the General Business zone under the Kentish Interim Planning Scheme 2013 as shown in the zoning map in Figure 17. The adjoining lots to the north-east and north-west are zoned General Residential. The adjoining lots to the south, south-east and south-west are zoned General Business.

Figure 17: Zoning Map

Overlays and Specific Areas

The site is not affected by any overlays or Specific Areas under the Planning Scheme.
The application was referred to TasWater. The following response was received:

**Amended Submission to Planning Authority Notice**

<table>
<thead>
<tr>
<th>Council Planning Permit No.</th>
<th>DA 2018/12</th>
<th>Council notice date</th>
<th>5/03/2018</th>
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**TasWater details**

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<th>TasWater Reference No.</th>
<th>TWDA 2018/00312-KC</th>
<th>Date of response</th>
<th>21/06/2018 Amended 20/10/2018</th>
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**TasWater Contact**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone No.</th>
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<tbody>
<tr>
<td>David Boyle</td>
<td>6345 6323</td>
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**Response issued to**

<table>
<thead>
<tr>
<th>Council name</th>
<th>KENTISH COUNCIL</th>
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</table>

**Contact details**

| council@kentish.tas.gov.au |

**Development details**

<table>
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<th>Address</th>
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<tr>
<td>41A MAIN ST, SHEFFIELD</td>
<td>146765</td>
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**Description of development**

Multiple dwellings - 14 units 17 Units

**Schedule of drawings/documents**

<table>
<thead>
<tr>
<th>Drawing/document No.</th>
<th>Revision No.</th>
<th>Date of issue</th>
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<tbody>
<tr>
<td>18.029 CP01</td>
<td>A</td>
<td>7/06/2018</td>
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**Conditions**

Pursuant to the Water and Sewerage Industry Act 2008 (TAS) Section 56P(1) TasWater imposes the following conditions on the permit for this application:

**CONNECTIONS, METERING & BACKFLOW**

1. A suitably sized water supply with metered connection / sewerage system and connection for this unit development must be designed and constructed to TasWater’s satisfaction and be in accordance with any other conditions in this permit.

2. Any removal/supply and installation of water meters and/or the removal of redundant and/or installation of new and modified property service connections must be carried out by TasWater at the developer’s cost.

3. Prior to the development, any water connection utilised for construction must have a backflow prevention device and water meter installed, to the satisfaction of TasWater.

**DEVELOPMENT ASSESSMENT FEES**

4. The applicant or landowner as the case may be, must pay a development assessment fee to TasWater, as approved by the Economic Regulator and the fees will be indexed, until the date they are paid to TasWater, as follows:

   a. $660.84 for development assessment.

The payment is required within 30 days of the issue of an invoice by TasWater.
INTERNAL REFERRALS

The application was referred to Council’s Engineering, Environmental Health and Building departments and the following responses were received.

Engineer’s report and recommended conditions

Comments:

Addressed in proposed conditioning.

Conditions:

Areas set aside for driveways and parking vehicles must be:

- Set out to comply with the requirements of Australian Standard 2890.1-2004 (Parking Facilities, Part 1: Off-street car parking).
- Be formed and constructed with compacted sub-base and surfaced with an all-weather dustless surface, such as bitumen, concrete, or brick or permeable paving blocks;
- Drained and connected to the stormwater system.

Unless shown otherwise on a site plan approved by Council a single 6.0 metre wide driveway is to be located in the High Street road reservation from the edge of existing roadway to the property boundary in conformance with Council Standards and used as the primary means of accessing the property. New driveways are to be constructed to ensure adequate drainage is maintained, in accordance with Standard Drawing TSD-R09-v1 and are to be located to ensure minimum sight distance requirements are met for the relevant speed zone in accordance with TSD-RF01-v1.

Prior to commencing any works including the construction or modification of the road access/crossover within the road reservation an application must be lodged and a permit obtained from Council.

Stormwater detention is to be provided to limit the peak rate of piped discharge from the property to that generated by the complete title developed to a level of 30%
impervious or by the site at its current level of development, whichever is greater. The
detention storage system is to be designed by a professional engineer with experience
in hydraulic design, for storm events in the range of 1/5AEP to 1/20AEP with overflows
from events exceeding the 1/20AEP storm event connected downstream of the
detention system orifice to minimize the potential to generate overland flows leaving
the site.

The design plans are to include surface levels, pipe invert levels, orifice location, pit or
tank cross section showing orifice, storage area, overland flow path and separate
calculations are to be submitted with the plumbing application to the Manager
Engineering Services for approval.

On completion an "as constructed" plan complete with levels, is to be submitted with a
certification that the storage has been constructed in accordance with the approved
design.

Any required connection to Council’s stormwater system is to be undertaken by
Council at the developers cost. It is likely the site will need to drain via a piped network
to the Council underground stormwater system via the 3.6m access onto Main Street.

Environmental Health Officer’s report and recommended conditions

Comments:
The proposed dwellings will be serviced by reticulated water and sewer systems.

Conditions: Nil.

Notes:
During construction and use of the proposed road all measures are to be taken to
prevent environmental harm or environmental nuisance as per the provisions of the
*Environmental Management and Pollution Control Act 1994* and associated
Regulations.

Building Department’s report and recommended conditions

Comments: Relevant approvals must be sought under the *Building Act 2016* for
all building and plumbing works

Conditions: Nil.

**PROVISION OF SERVICES**

The site has access to a fully constructed Council maintained road (High Street)
and a fully constructed Department of State Growth maintained road (Main
Street). There are existing connections to TasWater’s reticulated water supply
and sewerage systems. The site is capable of connecting to reticulated
stormwater, electricity and telecommunications infrastructure.

A 100mm diameter sewer rising main extends through the southern portion of
the site and is located within a 3m wide easement in favour of TasWater. The
proposed dwellings, including Units 2-3 & 6-7 in particular, will be sited clear of
the sewer main and easement.

**ADVERTISING**

The application was advertised in accordance with the *Land Use Planning and
Approvals Act 1993* on 10 November 2018 and 4 representations were received.

The application had previously been advertised on 3 March 2018 in its original
form and on 19 October 2018 in its amended form. It was readvertised in its
amended form on 10 November 2018 to include corrected title information.
4 representations were also received when the application was advertised in its amended form on 19 October 2018. However, the persons who lodged one of those representations did not lodge a representation when the application was readvertised on 10 November 2018. Notwithstanding, the issues raised in that representation are considered in the summary of issues later in this report.

**USE AND DEVELOPMENT STANDARDS AND RELEVANT ASSESSMENT**

The application was received as a Section 57 application under the *Land Use Planning and Approvals Act* 1993. It is required to be assessed under the Kentish Interim Planning Scheme 2013.

**The Kentish Interim Planning Scheme 2013**

The application will be considered as per the requirements of Clause 8.10, which sets out the matters that Council shall take into consideration when assessing an application. Clause 8.10 reads as follows:

**8.10 Determining Applications**

8.10.1 In determining an application for any permit the planning authority must, in addition to the matters required by ss51(2) of the Act, take into consideration:

a) all applicable standards and requirements in this planning scheme; and

b) any representations received pursuant to and in conformity with ss57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

8.10.2 In determining an application for a permit for a discretionary use the planning authority must, in addition to the matters referred to in subclause 8.10.1, have regard to:

a) the purpose of the applicable zone;

b) Any relevant local area objective or desired future character statement for the applicable zone;

c) the purpose of any applicable code; and

d) the purpose of any applicable specific area plan.

but only insofar as each such purpose, local area objective or desired future character statement is relevant to the particular discretion being exercised.

8.10.3 In determining an application for any permit the planning authority must not take into consideration matters referred to in Clauses 2.0 and 3.0 of the planning scheme.

**General Business Zone**

The subject site is located within the General Business zone.

The proposal is assessed under the relevant use and development standards for the General Business zone as follows.

Clause 8.2 of the Planning Scheme requires use or uses of land for which use and development is proposed to be categorized in accordance with the definitions contained in Table 8.2. The proposal has been categorized as *Residential*.

Under Table 8.2: Use Classes, *Residential* means:
Under Clause 21.2: Use Table, a use categorised as Residential has a discretionary status in the General Business zone if it satisfies a qualification requiring it to be “located on a floor above road or pedestrian level or to the rear of active frontage premises”. Otherwise, the use has a prohibited status in the zone.

There are 2 tests embedded within the qualification, however only 1 needs to be satisfied. The proposed use and development involves single-storey dwellings which will be located at ground level. The dwellings therefore will not be located on a floor above road or pedestrian level. The second test is therefore relevant to the application.

The term “active frontage premises” is not defined in the Planning Scheme. However, it is understood to describe the situation where the ground floor of a building directly facing the street is used for business premises. The site is an internal lot which lies behind other lots located in Main Street, High Street and Duff Street. It has 2 frontages provided by 3.6m and 6m wide access strips adjacent to Main Street and High Street. This significantly restricts the ability to develop an active frontage premises within the site. However, there are active frontage premises on several lots which adjoin the site, including 39, 43, 47 and 49-53 Main Street. The site, and therefore the proposed residential use and development, will be located to the rear of these premises. The proposal therefore satisfies the qualification.

Additionally, it is noted that the proposal is consistent with the objective that is sought to be achieved by the qualification. Business premises that open directly onto a footpath within a road are encouraged to enhance pedestrian activity, amenity and passive surveillance in the public realm within activity centres. There is effectively no opportunity to establish an active frontage premises given that it is an internal lot with narrow road frontages, and the proposal will not detract on existing active frontage premises on adjoining lots. However, the proposal broadly supports the enhancement of pedestrian activity in the commercial centre of Sheffield by increasing the number of permanent residents in close proximity to existing business premises.

In addition to the use being identified as discretionary in the Use Table for the General Business Zone, the proposal invokes discretion by relying on the following performance criteria:

- Performance Criteria P1 of Clause 21.3.1 – Discretionary Permit Use
- Performance Criteria P1 of Clause 21.4.1 – Suitability of a Site or Lot for Use or Development
- Performance Criteria P2 of Clause 21.4.2 – Location and Configuration of Development
- Performance Criteria P1 of Clause 21.4.3 – Visual and Acoustic Privacy for Residential Use
- Performance Criteria P2 of Clause 21.4.4 – Private Open Space for Residential Use
- Performance Criteria P1 of Clause 21.4.5 – Setback from Zone Boundaries
- Performance Criteria P1 of Clause E9.5.1 – Provision for Parking

21.3.1 Discretionary permit use

| Objective: |
| Use in this zone that is a discretionary permit use is to service and support the local and surrounding district or municipal resident and visitor population |
Acceptable Solutions | Performance Criteria
---|---
A1 | P1
There is no acceptable solution | Discretionary permit use must –
(a) be consistent with local area objectives;
(b) be consistent with any applicable desired future character statement for the zone; and
(c) be required to service requirements of the local district resident and visitor population;
(d) minimise potential to –
   (i) service a population beyond the local, district, or municipal community;
   (ii) have immediate, incremental or cumulative adverse effect on the regional pattern of retail and service provision; and
   (iii) displace retail, business, and professional use

The proposal does not involve a business use, however the ability to develop a business use at the site is constrained by the existing lot configuration. The site comprises an internal lot with narrow road frontages provided by 2 access strips, which restricts the ability to develop business premises having visibility from the street. The width of the access strips would also constrain the ability to provide a safe and efficient driveway associated with a business use. The access strip which provides for vehicular access directly from Main Street has a width of 3.64m, which is insufficient to provide for a desirable driveway width associated with a business use. The High Street access strip provides for indirect vehicular access into the site from the main arterial road (Main Street) which extends through the Sheffield activity centre. The likelihood that the site would be developed for a business use is therefore considered to be minimal. The only exception would be visitor accommodation, and should there be demand for such a use it would be open for future dwelling owners to apply for a change of use permit in the future. Therefore, having regard to the constraints imposed by the lot configuration, the proposal therefore does not unreasonably detract from the ability to provide for a mix of services within the activity centre.

The proposal represents infill development within an established urban area which will provide for a more efficient use of land and utilisation of available infrastructure. No significant constraints in connecting the proposed development to reticulated sewerage, water supply, stormwater, electricity and telecommunications infrastructure have been identified.

Local Area Objective (c) in Clause 21.1.2 identifies that the zone is intended to provide opportunity for residential use as an integrated and subordinate component of activity within a business district centre. The proposal will increase the number of permanent residents in close proximity of the activity centre, in a location is to the rear of active business premises. It is therefore considered to represent an integrated and subordinate component that will support the operation of business premises within the activity centre.
The proposal is consistent with the Local Area Objectives.

The Desired Future Character Statements identify that development in General Business areas typically comprises a cluster of attached and detached buildings typically orientated onto a frontage or plaza. This type of development is typically required to make convenient arrangements for pedestrian circulation, vehicular access (including delivery vehicles) and parking. Signage is intended as an integral element of the streetscape. For the reasons identified above, the site has limited ability to be developed in the manner described by the Desired Future Character Statements. Business premises would be located in the main body of the site and therefore would have limited visibility from the road. The ability to extend a road or suitable driveway into the site is constrained by the width and location of the access strips.

The proposal involves a residential use and development on a site that has limited ability to be developed for a business use. It is therefore considered to be consistent with the Desired Future Character Statements.

P1(c) should be read in the context of the full objective of the standard in Clause 21.3.1, which states:

*Use in this zone that is a discretionary permit use is to service and support the local and surrounding district or municipal resident and visitor population*

The proposal involves a residential use and will therefore assist in accommodating, or servicing, the local population. Further, given the central location of the proposal, it will be beneficial to the operation of business premises within the Sheffield activity centre. The proposal therefore broadly supports the servicing of the local, district and municipal resident and visitor population by uses within the activity centre.

In relation to P1(c), given that the proposal involves a residential use in Sheffield it will not service a population beyond the municipal community and will not have an adverse effect on the regional pattern of retail and service provision. Given that the site is undeveloped, and has limited ability to be developed for a business use, it will not displace a retail, business and professional use.

The proposal satisfies P1 for this Standard.

### 21.4.1 Suitability of a site or lot for use or development

<table>
<thead>
<tr>
<th>Objective:</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>The minimum properties of a site and of each lot on a plan of subdivision are to –</td>
<td>A site or each lot on a plan of subdivision must be of sufficient area for the intended use or development without likely constraint or interference for –</td>
</tr>
<tr>
<td>(a) Provide a suitable development area for the intended use;</td>
<td>(a) Erection of a building if required by the intended use;</td>
</tr>
<tr>
<td>(b) Provide access from a road; and</td>
<td>(b) Access to the site</td>
</tr>
<tr>
<td>(c) Make adequate provision for connection to a water supply and for the drainage of sewage and stormwater</td>
<td>(c) Use or development of adjacent land;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1</strong></td>
<td><strong>P1</strong></td>
</tr>
<tr>
<td>Each use or development site or each lot on a plan of subdivision must –</td>
<td>A site or each lot on a plan of subdivision must be of sufficient area for the intended use or development without likely constraint or interference for –</td>
</tr>
<tr>
<td>(a) Have a site area of not less than 45m²; and</td>
<td>(a) Erection of a building if required by the intended use;</td>
</tr>
<tr>
<td>(b) If intended for a building, contain a building area of not less than 45m² -</td>
<td>(b) Access to the site</td>
</tr>
<tr>
<td>(i) Clear of any applicable setback from a frontage, side or rear boundary;</td>
<td>(c) Use or development of adjacent land;</td>
</tr>
</tbody>
</table>
A site or each lot on a subdivision plan must have a separate access from a road –

(a) across a frontage over which no other land has a right of access; and

(b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or

(c) by a right of way connecting to a road –
   i. over land not required as the means of access to any other land; and
   ii. not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and

(d) with a width of frontage and any access strip or right of way of not less than 3.6m; and

(e) the relevant road authority in accordance with the Local Government (Highways) Act 1982 or the Roads and Jetties Act 1935 must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan.

<table>
<thead>
<tr>
<th>A2</th>
<th>P2</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) Clear of any applicable setback from a zone boundary; (iii) Clear of any registered easement; (iv) Clear of any registered right of way benefitting other land; (v) Not including land required as part of access to the site; (vi) Accessible from a frontage or access strip; and (vii) Clear of any area required for the on-site disposal of sewage or stormwater</td>
<td>(d) A utility; and (e) Any easement or lawful entitlement for access to other land</td>
</tr>
</tbody>
</table>

(a) a site must have a reasonable and secure access from a road provided –
   i. across a frontage; or
   ii. by an access strip connecting to a frontage, if for an internal lot; or
   iii. by a right of way connecting to a road over land not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and
   iv. the dimensions of the frontage and any access strip or right of way must be adequate for the type and volume of traffic likely to be generated by –
      a. the intended use; and
      b. the existing or potential use of any other land which requires use of the access as the means of access for the land; and
   v. the relevant road authority in accordance with the Local Government (Highways) Act 1982 or the Roads and Jetties Act 1935 must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan; or
It must be unnecessary for the development to require access to the site or to a lot on a subdivision plan.

<table>
<thead>
<tr>
<th>A3</th>
<th>A site or each lot on a plan of subdivision must have a water supply provided in accordance with the Water and Sewerage Industry Act 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>P3</td>
<td>It must be unnecessary to require a water supply</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A4</th>
<th>A site or each lot on a plan of subdivision must drain sewage and waste water to a sewerage system provided in accordance with the Water and Sewerage Industry Act 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>P4</td>
<td>It must be unnecessary to require the drainage and disposal of sewage or waste water</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A5</th>
<th>A site or each lot on a plan of subdivision must drain storm water to a storm water system provided in accordance with the Urban Drainage Act 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>P5</td>
<td>It must be unnecessary to require the drainage of storm water</td>
</tr>
</tbody>
</table>

The proposal relies on P1 because the proposed Units 1-4 & 9-17 will encroach within the applicable setback from the General Residential Zone boundary described in Clause 21.4.5 A1. The site is of a sufficient area for the proposed use and development, including the erection of the proposed buildings, provision of access, connection to utility services and clearance from the TasWater sewer rising main and associated easement. Having regard to the assessment of Clause E9.6.1 P1, the proposed use and development will not unreasonably impact the right of way access benefitting the adjoining land at 43 Main Street. As demonstrated in the assessment of Clause 21.4.5 P1 proposed residential use and development is compatible with, and will not cause an unreasonable loss of amenity to, the residential dwellings in the adjoining General Residential Zone.

The proposal complies with P1 for this standard.

The access strip adjacent to High Street provides the site with separate access from a road across a frontage over which no other land has a right of access.

The proposal complies with A2 for this standard.

The proposed use and development will be serviced by existing, modified or new site connections to the reticulated water supply, sewerage and stormwater systems. The proposal complies with A3, A4 and A5 for this standard.

21.4.2 Location and configuration of development

<table>
<thead>
<tr>
<th>Objective:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The location and configuration of development is to –</td>
</tr>
<tr>
<td>(a) Provide for buildings, service activity and vehicle parking to accommodate business use;</td>
</tr>
<tr>
<td>(b) Provide for the façade of a building to remain the dominant architectural or visual element to the frontage; and</td>
</tr>
<tr>
<td>(c) Assist to attenuate likely impact on amenity of use on adjacent land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>P1</td>
</tr>
</tbody>
</table>
Building height must not be more than 10.0m

Building height must –
(a) Minimise likelihood for overshadowing of a habitable room or a required minimum area of private open space in any adjacent dwelling;
(b) Minimise the apparent scale, bulk, massing and proportion relative to any adjacent building;
(c) Be consistent with the streetscape;
(d) Respond to the effect of the slope and orientation of the site

A2
An external car parking and loading area, and any area for the display, handling, or storage of goods, materials or waste, must be located behind the primary frontage elevation of a building

P2
An external car parking and loading area, and any area for the display, handling, or storage of goods, materials or waste, must –
(a) Not dominate the architectural or visual frontage of the site
(b) Be consistent with the streetscape;
(c) Be required by a constraint imposed by size, shape, slope, orientation, and topography on development of the site; and
(d) Provide durable screening to attenuate appearance of the parking or loading area from a frontage and adjacent land

The maximum height of the proposed dwellings varies between 4.7m and 5.1m

The proposal complies with A1 for this standard.

In accordance with the Planning Scheme definition, the 3.64m wide frontage to Main Street is the primary frontage of the site because it has a narrower width than the 6m frontage to High Street. The relevant primary frontage elevation are the southern side elevations of Units 1 & 5, which face towards High Street. The second external parking space associated with Unit 1 will not be located behind the southern elevation of that dwelling and the proposal therefore relies on the P2.

Given that the site is an internal lot, the external parking will be screened by surrounding development when viewed from the street. Therefore, it will not dominate the architectural or visual frontage of the site, will be consistent with the streetscape and will be sufficiently screened. The location of external parking is constrained by the orientation of the site and the alignment of the driveway. It seeks to minimise intrusion into the area to the north of the dwellings (including Unit 1), where the primary private open space areas will be located.

The proposal complies with P2 for this standard.

21.4.3 Visual and acoustic privacy for residential use

<table>
<thead>
<tr>
<th>Objective:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The location and configuration of development is to minimise likelihood for overlooking a habitable room, balcony, deck, or roof garden in an adjacent dwelling</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### A1
A door or window to a habitable room, or any part of a balcony, deck, roof garden, parking space or carport must –

(a) Be not less than 3.0m from a side boundary and 4.0m from a rear boundary to land in a zone for residential purposes;

(b) Be not less than 6.0m from any door, window, balcony deck or roof garden in an adjacent dwelling;

(c) Be off-set by not less than 1.5m from the edge of any door or window in an adjacent dwelling;

(d) Have a window sill height of not less than 1.8m above finished floor level;

(e) Have fixed and durable glazing or screening with a uniform transparency of not more than 25% in that part of a door or window less than 1.8m above finished floor level; or

(f) Have fixed and durable external screen other than vegetation of not less than 1.8m height above the finished floor level with a uniform transparency of not more than 25% for the full width of the door, window, balcony, deck, roof garden, parking space or carport

### P1
Likelihood for overlooking from a door or window in a habitable room or from any part of a balcony, deck, roof garden, parking space, or carport must be minimised by –

(a) Physical separation from the door, window balcony, deck, or roof garden in an adjacent dwelling;

(b) Off-set from a door or window to a habitable room in an adjacent dwelling;

(c) Effective use of screening other than vegetation; or

(d) Effect of topography and natural features

The proposal is not required to comply with all of the requirements in A1. The north facing habitable room windows in Units 9-17 will be setback 4m from the rear boundary of the lots within the General Residential zone to the north of the site. On the other hand, the west facing habitable room windows in Units 2-4 & 9 will be setback less than 4 m from the rear boundary of the lots within the General Residential Zone to the west. The habitable room windows in Units 2-4 will be separated by a distance of more than 6m from the adjoining dwellings to the west, and therefore comply. A 600mm wide window in the western elevation of Unit 9 (associated with a living/dining area) will be setback less than 6m to, and will be offset less than 1.5m horizontally from, a bedroom window in the eastern elevation of the adjoining dwelling at 8 Duff Drive. The proposed window will not include any of the screening mechanisms described in A1 (d) to (f), and the application therefore relies on P1.

The proposed living/dining window in Unit 9 is located within a corner of the room adjacent to the doorway into a bedroom. The placement of the window relative to the room layout, together with fencing along the shared boundary, minimises the potential for overlooking between the dwellings.

The proposal complies with P1 for this standard.

### 21.4.4 Private open space for residential use

<table>
<thead>
<tr>
<th>Objective:</th>
</tr>
</thead>
<tbody>
<tr>
<td>External area is to be available in residential developments to meet the reasonable private and communal needs of residents for garden, recreation, service and storage purposes</td>
</tr>
<tr>
<td>Acceptable Solutions</td>
</tr>
<tr>
<td>----------------------</td>
</tr>
<tr>
<td><strong>A1</strong> Each dwelling must provide –</td>
</tr>
<tr>
<td>(a) External private open space that –</td>
</tr>
<tr>
<td>(i) Is accessible from the dwelling;</td>
</tr>
<tr>
<td>(ii) Comprises an area of not less than 25m² for each dwelling;</td>
</tr>
<tr>
<td>(iii) Has a gradient of not more than 1 in 10; and</td>
</tr>
<tr>
<td>(iv) Has a minimum dimension of 4.0m; or</td>
</tr>
<tr>
<td>(b) Private open space provided as a private balcony, deck or terrace –</td>
</tr>
<tr>
<td>(i) Of area not less than 25m²;</td>
</tr>
<tr>
<td>(ii) Minimum dimension of 2.0m; and</td>
</tr>
<tr>
<td>(iii) Accessible from the dwelling</td>
</tr>
<tr>
<td>A2 The required minimum private open space area must be capable of receiving at least 3 hours of sunlight between 9.00am and 3.00pm on 21st June</td>
</tr>
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<td></td>
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</tbody>
</table>

Each dwelling will include private open space of varying sizes, however each area will include a minimum 25m² external space accessible from the dwelling with a gradient of less than 1:10 and a minimum dimension of 4 m.

The proposal complies with P1 for this standard.

The application does not include any shadow diagrams demonstrating that the required minimum private open spaces will receive adequate sunlight in accordance with A2.

Each area of private open space, which exceeds the minimum requirement, will be located to the north of the dwelling that it serves. It is considered that the proposal maximises the potential for sunlight access to these areas. The location of the private open space areas takes advantage of the northerly orientation and aspect associated with the site. The areas will not be impacted by any existing vegetation within the site. They will not be unreasonably overshadowed by existing development on adjoining land, given the available building setbacks. One of the multiple dwellings within the adjoining lot at 53A Main Street is setback in close proximity of the shared boundary adjacent to the proposed Units 15 & 16. However, the minimum area of private open space associated with these proposed dwellings will have an outlook to either side of the adjoining dwelling and therefore will not be significantly impacted by overshadowing.

The proposal complies with P2 for this standard.
# 21.4.5 Setback from zone boundaries

**Objective:**

Use or development of land adjoining land in another zone is to minimise –

(a) Likelihood for conflict, interference, and constraint between the use or development of land in the zone and sensitive use of land in an adjoining zone; and

(b) Unreasonable impact on the amenity of use on land beyond the boundaries of the zone

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>P1</td>
</tr>
</tbody>
</table>

Development of land with a boundary to a zone must –

(a) Be setback from the boundary of land in an adjoining zone by not less than the distance for that zone shown in the Table to this Clause;

(b) Not include within the setback area required from a boundary to land in a zone shown in the Table to this Clause –

(i) A building or work;

(ii) Vehicular or pedestrian access from a road if the boundary is not a frontage;

(iii) Vehicle loading or parking area;

(iv) An area for the display, handling, operation, manufacturing, processing, servicing, repair, or storage of any animal, equipment, goods, plant, materials, vehicle, or waste;

(v) An area for the gathering of people, including for entertainment, community event, performance, sport or for a spectator facility;

(vi) A sign orientated to view from land in another zone; or

(vii) External lighting for operational or security purposes; and

(c) A building with an elevation to a zone boundary to which this clause applies must be contained within a building envelope determined by –

(i) The setback distance from the zone boundary as shown in the Table to this clause; and

(ii) Projecting upward and away from the zone boundary at an angle of 45° above the horizontal from a wall height of 3.0m at the setback

The location of development must –

(a) Minimise likelihood for conflict, constraint or interference from sensitive use on land in an adjoining zone; and

(b) Minimise likely impact on the amenity of the sensitive use on land in an adjoining zone
distance from the zone boundary; and

(d) The elevation of a building to a zone boundary must not contain an external opening other than an emergency exit, including a door, window to a habitable room, loading bay, or vehicle entry

<table>
<thead>
<tr>
<th>Table to Clause 21.4.5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Adjoining Zone</strong></td>
</tr>
<tr>
<td>General Residential</td>
</tr>
<tr>
<td>Rural Living</td>
</tr>
<tr>
<td>Environmental Living</td>
</tr>
<tr>
<td>Village</td>
</tr>
<tr>
<td>Community Purpose</td>
</tr>
</tbody>
</table>

Note: If the zone boundary is a road, the setback is from the frontage of the site to the road containing the zone boundary.

The proposed Units 1-4 & 9 include walls that will be setback less than 4 m from the boundary with the General Residential Zone to the west, and therefore will extend beyond the building envelope described in A1 (c). Units 9-17 will be setback 4 m from the boundary with the General Residential Zone to the north, however include roof areas that will partly extend beyond the building envelope described in A1 (c). Units 1-4 & 9-17 will include external door or window openings that will be located in the relevant elevations facing the General Residential Zone boundaries to the west and north. The application therefore relies on P1.

The proposed use and development is for residential purposes and is therefore compatible with the residential dwellings in the adjoining General Residential Zone. At face value, the proposal therefore minimises the likelihood for conflict, constraint or interference with the residential uses within the adjoining General Residential Zone. Given the orientation of the site the proposed development will not overshadow the adjoining residential lots to the north and will not significantly overshadow, or cause an unreasonable loss of amenity to, the adjoining residential lots to the west. The separation between the proposed dwellings and the existing dwellings in the adjoining General Residential Zone is adequate to minimise potential overlooking impacts and ensure there is no unreasonable loss of amenity. The proposed single-storey dwellings will be compatible with the scale, bulk and proportions of existing dwellings in the surrounding area and therefore will not cause an unreasonable loss of amenity when viewed from the adjoining lots within the General Residential Zone.

The proposal complies with P1 for this standard.

### 21.4.7 Reticulation of an electricity supply

**Objective:**

Distribution and connection of reticulated electricity supply is to be without visual intrusion on the streetscape

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>P1</td>
</tr>
</tbody>
</table>

Electricity reticulation and site connections must be installed underground

It must not be impractical, unreasonable, or unnecessary to install electricity reticulation and site connections underground

Permit SA 2016/005 required the existing connection to the electricity reticulation system associated with the site to be underground.
The proposal complies with A1 for this standard.

### E9.5.1 Provision for parking

**Objective:**
Provision is to be made for convenient, accessible, and usable vehicle parking to satisfy requirements for use or development without impact for use or development of other land or for the safety and operation of any road.

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1</strong></td>
<td><strong>P1</strong></td>
</tr>
<tr>
<td>Provision for parking must be -</td>
<td>(a) It must be unnecessary or unreasonable to require arrangements for the provision of vehicle parking; or</td>
</tr>
<tr>
<td>(a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table E9A;</td>
<td>(b) Adequate and appropriate provision must be made for vehicle parking to meet -</td>
</tr>
<tr>
<td></td>
<td>(i) anticipated requirement for the type, scale, and intensity of the use;</td>
</tr>
<tr>
<td></td>
<td>(ii) likely needs and requirements of site users; and</td>
</tr>
<tr>
<td></td>
<td>(iii) likely type, number, frequency, and duration of vehicle parking demand</td>
</tr>
</tbody>
</table>

Table E9.1 requires the provision of:

- (a) 2 x spaces / dwelling; and
- (b) 1 x space / 3 dwellings for over-flow and visitor parking.

These ratios result in a requirement of 34 car parking spaces plus 6 spaces for overflow and visitor parking, or a total requirement for 40 spaces.

The car parking supply associated with the proposal includes 24 spaces designated to an individual dwelling (2 spaces for Units 1-4 & 6-8 and 1 space for Units 5 & 9-17) and 13 formal spaces that will be available for overflow and visitor parking. This gives a total of 37 formal spaces. The proposal also involves 6 tandem spaces associated with Units 2-4 & 6-8, however Table E9.1 requires that access driveways and internal circulation aisles are not able to qualify as vehicle parking spaces. The tandem spaces are therefore unable to be counted as part of the parking supply for the purposes of determining compliance with the acceptable solution. The proposal relies in P1.

The proposal is not required to comply with both the requirements in P1. It is necessary and reasonable to require arrangements for the provision of vehicle parking, and the requirement in P1 (b) therefore applies.

The RMS Guide to Traffic Generating Developments is a nationally recognised reference for determining parking demands associated with use and development. It recommends the following minimum off-street parking rates for medium density residential dwellings:

- 1 space per each unit; plus
- 1 space per each 5x 2-bedroom units (or part thereof);
- 1 space per each 2x 3-bedroom units (or part thereof); and
- 1 space per each 5 units (or part thereof).
Given that the proposal involves 17 units, including 13x 2-bedroom units and 4x3-bedroom units, this generates a requirement for 26 spaces (including 4 visitor spaces). Noting that the ratios in the RMS guide are based on surveys undertaken in NSW, the requirement for 26 spaces represents the minimum that should reasonably be required.

The proposal will be located directly adjacent to the Sheffield activity centre although it is anticipated that residents will rely on vehicles to varying degrees to access higher-order centres and employment locations. The proposal will provide variety in terms of the number of parking spaces that will be provided for each dwelling and others that will be available in close proximity. Further, whilst the tandem spaces associated with Units 2-4 & 6-8 are unable to be counted as formal spaces, it is likely that these areas will assist in satisfying the parking demands associated with these dwellings. The proposed parking supply will suit a range of preferences.

On that basis, it is considered that the proposal includes an adequate and appropriate provision for car parking that will meet the reasonable parking demands of the use and the needs residents.

The proposal complies with P2 for this standard.

**E9.6.2 Design of vehicle parking and loading areas**

<table>
<thead>
<tr>
<th>Objective:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle circulation, loading, and parking areas–</td>
<td></td>
</tr>
<tr>
<td>(a) protect the efficient operation and safety of the road from which access is provided;</td>
<td></td>
</tr>
<tr>
<td>(b) promote efficiency, convenience, safety, and security for vehicles and users; and</td>
<td></td>
</tr>
<tr>
<td>(c) provide an appropriate layout and adequate dimension to accommodate passenger or freight vehicle associated with use of the site</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Acceptable Solutions</th>
<th>Performance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1.1</strong></td>
<td><strong>P1</strong></td>
</tr>
<tr>
<td>All development must provide for the collection, drainage and disposal of stormwater; and</td>
<td>The layout and construction of a vehicle parking area, loading area, circulation aisle, and manoeuvring area must be adequate and appropriate for –</td>
</tr>
<tr>
<td><strong>A1.2</strong></td>
<td>(a) the nature and intensity of the use;</td>
</tr>
<tr>
<td>Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</td>
<td>(b) effect of size, slope and other physical characteristics and conditions of the site;</td>
</tr>
<tr>
<td>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities - Off Street Car Parking;</td>
<td>(c) likely volume, type, and frequency of vehicles accessing the site;</td>
</tr>
<tr>
<td>(b) Be in accordance with AS/NZS 2890.2 (2002) – Parking Facilities – Off Street Commercial Vehicles;</td>
<td>(d) likely demand and turnover for parking;</td>
</tr>
<tr>
<td>(c) Be in accordance with AS/NZS 2890.3 (1993) – Parking Facilities – Bicycle Parking Facilities;</td>
<td>(e) delivery and collection vehicles;</td>
</tr>
<tr>
<td></td>
<td>(f) familiarity of users with the vehicle loading and vehicle parking area;</td>
</tr>
<tr>
<td></td>
<td>(g) convenience and safety of access to the site from a road;</td>
</tr>
<tr>
<td></td>
<td>(h) safety and convenience of internal vehicle and pedestrian movement;</td>
</tr>
<tr>
<td></td>
<td>(i) safety and security of site users; and</td>
</tr>
</tbody>
</table>
The parking spaces and driveways will be sealed and provided with drainage infrastructure associated with the wider proposed development.

The proposal complies with A1.1 for this standard.

The Australian Standards requirements relevant to the proposed development are contained in AS/NZS 2890.1 (2004) – Parking Facilities - Off Street Car Parking. The dimension of the car parking spaces and garage door openings satisfies the requirements in the standard. Additionally, the width of the two-way driveway section that will extend through the northern portion of the site, and the one-way section adjacent to Units 1-8, satisfies the relevant requirements. This includes the circulation aisle width requirements adjacent to the garages and external parking spaces. The minimum 6m driveway width available adjacent to Units 8-17 is compliant, noting that the garages and parking spaces are setback from the driveway further increasing the available circulation space. The driveway width adjacent to Units 1-7 also provides adequate circulation space for the garages and parking spaces adjacent to these dwellings.

The formal car parking spaces that will be provided in conjunction with the proposed development will be separately accessed from the relevant driveway areas within the site. The dimension of the parking spaces and associated circulation aisles ensures that vehicles will be capable of entering and exiting the site in a forward direction. The parking spaces and driveways will be constructed with an asphalt surface.

The application identifies that removable bollards will be installed at the northern end of the 3.64m wide access strip adjacent to Main Street to restrict / control vehicular movement associated with the proposal. The use of this access strip for two-way traffic associated with the proposal would not satisfy AS/NZS 2890.1 because a 6m wide driveway would be required. The application has not sought to demonstrate compliance with the performance criteria, which would require the use of the access strip for vehicular traffic to be adequate and appropriate having particular regard to the intensity of the use and safety considerations. However, the requirements in the standard would not restrict the use of the access strip by emergency vehicles and pedestrians. On that basis, it is recommended that the permit be conditioned to require the installation of appropriate signage at the northern end of the access strip to advise that the driveway within the access strip is not to be used as a vehicular access by residents of the proposed use and development except in the event of an emergency.

The proposal complies with A1.2 for this standard.

**DISCUSSION**

Four (4) representations were received during the public exhibition of the application commencing 10 November 2018.
The application was previously advertised in its original form on 3 March 2018. It was advertised in an amended form on 19 October 2018, and again on 10 November 2018 to include corrected title information.

4 representations were also received during the public exhibition commencing 19 October 2018. However, the persons who lodged one of those representations did not lodge a representation when the application was readvertised on 10 November 2018. Notwithstanding, the issues raised in that representation are considered in the summary of issues below.

<table>
<thead>
<tr>
<th>Issue</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposal does not satisfy the Residential use class qualification in the table in Clause 21.2 of the Planning Scheme. There are no active frontage premises within the site, or which are included in the application, that would be located in front of the proposal.</td>
<td>The proposal has been assessed as compliant with the qualification. There is effectively no opportunity to establish an active frontage premises within the site given that it has road frontage provided by 2 narrow access strips. The site is an internal lot which lies behind other lots located in Main Street, High Street and Duff Drive. There are active frontage premises on several lots which adjoin the site, including 39, 43, 47 and 49-53 Main Street. The proposal will be located to the rear of these premises.</td>
</tr>
<tr>
<td>Legal arrangements relating to the right of way over the 3.64m wide access strip adjacent to Main Street which benefits an adjoining property to the south-east of the site.</td>
<td>This is not a relevant matter to the assessment of the proposal against the Planning Scheme.</td>
</tr>
<tr>
<td>Traffic safety and efficiency concerns relating to the use of the 3.64m access strip / right of way by vehicles and pedestrians associated with the proposal. It should either be widened, or its use should be restricted.</td>
<td>The proposed development would involve the installation of removable bollards at the northern end of the 3.64m wide access strip adjacent to Main Street to restrict / control vehicular movement associated with the multiple dwellings. Having regard to the requirements in Clause E9.6.2 – Design of Vehicle Parking and Loading Areas, it is further recommended that the permit be conditioned to require the installation of appropriate signage at the northern end of the access strip to advise that the driveway within the access strip is not to be used as a vehicular access by residents of</td>
</tr>
<tr>
<td><strong>The site should be given a High Street address to reflect the location of the primary access to the site.</strong></td>
<td><strong>This is not a relevant matter to the assessment of the proposal against the Planning Scheme however a note has been included on the permit advising that a High Street address and unit numbers will be allocated.</strong></td>
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<tr>
<td><strong>Absence of a traffic impact assessment within the application.</strong></td>
<td><strong>There is no specific requirement for a traffic impact assessment in order to assess the relevant standards in Clause 21.4.1 A2/P2 and Clause E9 Traffic Generating Use and Parking Code in the Planning Scheme.</strong></td>
</tr>
<tr>
<td><strong>The proposal is inconsistent with the Zone Purpose because it does not provide a business, community, food, professional or retail facility.</strong></td>
<td><strong>Council is required to have regard to the Zone Purpose in determining the application, however there is no specific requirement for the proposal to demonstrate consistency. The site is an internal lot which imposes a significant constraint on developing a business use. The proposal involves a residential use which is able to be considered as a discretionary permit use within the zone. The application has been assessed as compliant with the specific use standards within the zone provisions.</strong></td>
</tr>
<tr>
<td><strong>The proposal is inconsistent with a relevant Local Area Objective for the Zone because it is not an integrated and subordinate component of activity with the Sheffield business centre.</strong></td>
<td><strong>The proposal has been assessed as consistent with the Local Area Objectives in Clause 21.1.2.</strong></td>
</tr>
<tr>
<td><strong>The application does not address the Desired Future Character Statements for the Zone, and in particular does not give priority for retail and direct service uses to</strong></td>
<td><strong>The proposal has been assessed as consistent with the Desired Future Character Statements in Clause 21.1.3.</strong></td>
</tr>
<tr>
<td>Maximise occupation of a road and pedestrian frontage.</td>
<td>The application does not demonstrate that it is required to service requirements of the local and district resident and visitor population, and therefore does not comply with Clause 21.3.1 P1 (c).</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>The application does not demonstrate that it is required to service requirements of the local and district resident and visitor population, and therefore does not comply with Clause 21.3.1 P1 (c).</td>
<td>The proposal will have an adverse effect on the regional pattern of retail and service provision and will displace retail, business and professional use of the land and therefore does not comply with Clause 21.3.1 P1 (d).</td>
</tr>
<tr>
<td>The application does not demonstrate that it minimises overlooking of adjacent dwellings in accordance with Clause 21.4.3 P1.</td>
<td>The application does not demonstrate that Units 9-17 will have adequate privacy relative to the shared driveway in accordance with Clause 21.4.3 P1.</td>
</tr>
<tr>
<td>The application does not demonstrate that it minimises overlooking of adjacent dwellings in accordance with Clause 21.4.3 P1.</td>
<td>The application does not include shadow diagrams demonstrating that the Unit 9 private open space areas will receive sufficient sunlight in accordance with Clause 21.4.4 A2 having regard to large trees which exist on an adjoining lot to the north.</td>
</tr>
<tr>
<td>The application does not demonstrate that Units 9-17 will have adequate privacy relative to the shared driveway in accordance with Clause 21.4.3 P1.</td>
<td>The proposed Units 9-12 &amp; 15-16 will extend beyond building envelope described in Clause 21.4.5 A1 (c) to a significant degree.</td>
</tr>
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<td>The proposed Units 9-12 &amp; 15-16 will extend beyond building envelope described in Clause 21.4.5 A1 (c) to a significant degree.</td>
<td>Impact upon views from an adjoining property as a result of the non-compliance with the Clause 21.4.5 A1 (c) building envelope.</td>
</tr>
<tr>
<td>Impact upon views from an adjoining property as a result of the non-compliance with the Clause 21.4.5 A1 (c) building envelope.</td>
<td>The application does not demonstrate how the proposal minimises likelihood for conflict, constraint or interference from sensitive uses on adjoining land within the General Residential Zone, as required by Clause 21.4.5 P1.</td>
</tr>
<tr>
<td>The setback between the proposed Unit 9 and 8 Duff Street is less than the 4 m required by Clause 21.4.5 - Setback from Zone Boundaries’ in the Planning Scheme.</td>
<td>The proposal has been assessed as compliant with the relevant requirements in Clause 21.4.3 P1 and Clause 21.4.5 P1.</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>The application does not demonstrate whether an underground connection to the electricity reticulation system is proposed, as required by Clause 21.4.7 A1.</td>
<td>Permit SA 2016/005 required the existing connection to the electricity reticulation system associated with the site to be underground.</td>
</tr>
<tr>
<td>The mural signs identified in the application constitutes signage however no details have been provided enabling a consideration against Clause E7 – Signs Code.</td>
<td>The mural signs would be treated as exempt if it can be demonstrated they will not be visible from any land outside the boundaries of the site, and that the other relevant requirements in Clause E7.4.1 will be satisfied. An appropriate note is recommended for inclusion within the permit.</td>
</tr>
<tr>
<td>The application does not address either the acceptable solution or performance criteria relevant to the proposed car parking numbers (Clause E9.5.1)</td>
<td>The proposal has been assessed as compliant with the relevant requirements in Clause E9.5.1 P1.</td>
</tr>
<tr>
<td>The application does not demonstrate that cars will be able to adequately manoeuvre within the site to gain forward entry and exit (Clause E9.6.1 A1.2)</td>
<td>The proposal has been assessed as compliant with the relevant requirements in Clause E9.6.1 A1.</td>
</tr>
<tr>
<td>Potential for stormwater to flow into adjacent properties as a result of the proposed development.</td>
<td>The proposal complies with the relevant requirement in Clause 21.4.1 A5, which requires the site to be drained to Council’s stormwater system.</td>
</tr>
</tbody>
</table>
13 November 2018

The General Manager
Kentish Council
P.O. Box 63
SHEFFIELD TAS 7306

Dear Sir,

REPRESENTATION – DA 2018/12 (AMENDED) – PROPOSED 17 UNIT DEVELOPMENT – 41A MAIN STREET, SHEFFIELD

I act for Mr Hussein Tas, the registered proprietor of the land at 43 Main Street, Sheffield.

This correspondence constitutes a representation made for and on behalf of my client pursuant to s.57(3) of the Land Use Planning and Approvals Act 1993 (Act).

My client objects to the proposed use and development set out in DA 2018/12 (Amended) (the DA) as publicly re-notified by the Kentish Council (Council) on 10 November 2018.

The DA proposes the use and development of 17 residential units on the land situated at 41A High Street, Sheffield (Site). The Site is comprised of a single certificate of title; CT 173540/2.

Proposed use of Access Strip

My client’s understanding is that:

1. the DA seeks approval to use the 3.5 metre wide and approximately 50 metre long alleyway that connects the main body of the Site to Main Street, Sheffield (Alleyway) as an entry and exit point for users and guests of the proposed 17 units; and

2. this use includes both vehicles and pedestrians.

The DA’s proposed use of the Alleyway by both pedestrians and vehicles gives rise to significant safety issues that cannot be satisfactorily mitigated and result in non-compliance with development standards in Code E9 of the Scheme that apply to the assessment of the DA.

The Scheme contains the following provisions of relevance to this issue:

1. Code E9.2 provides that Code E9 applies to the DA;

2. the definition of ‘parking area’ in E9.3 of the Scheme includes access strips associated with areas used for parking;

3. the Alleyway is an ‘access strip’ as that term is defined in cl.4.1 of the Scheme, and falls to be assessed as part of the ‘parking area’ proposed by the DA;
4. Development Standard E9.6.1, Acceptable Solution A1.2., provides that the layout of vehicle parking areas (including the Alleyway) must be in accordance with various Australian Standards, including most relevantly AS/NZS 2890.1 (2004) – Parking Facilities - Off Street Car Parking; and

5. If Acceptable Solution A1.2 cannot be met, regard must be had to Performance Criteria P1 which relevantly provides that the layout and construction of vehicle parking areas (including the Alleyway) must be adequate and appropriate for, amongst other things:

... 

(a) the nature and intensity of the use;

... 

(g) convenience and safety of access to the site from a road;

(h) safety and convenience of internal vehicle and pedestrian movement;

(i) safety and security of site users; and

...

My client has engaged an experienced traffic engineer to review the proposed use of the Alleyway against Development Standard E9.6.1, including Acceptable Solution A1.2 and corresponding Performance Criteria P1.

As part of that assessment, account was taken of the existing use (both pedestrian and vehicular) of the Alleyway by the occupants of 43 Main Street, Sheffield. Such use is permitted by virtue of private rights of carriage way that subsist over the entire Alleyway in favour of 43 Main Street, Sheffield.

I note that the DA does not include any form of Traffic Impact Assessment. Given the scale and location of the proposal, this omission is difficult to understand and Council ought to require the production of such a report using its powers in s.54 of the Act. Indeed, in the absence of such a report it is difficult to see how Council is able to assess the DA against the applicable standards in Code E9.

With respect to Acceptable Solution A1.2 in E9.6.1, my client’s traffic engineer has concluded that the proposed use of the Alleyway, being part of the DA’s vehicle parking area, is not in accordance with AS/NZS 2890.1 (2004) – Parking Facilities - Off Street Car Parking because:

(a) the Alleyway is proposed to be used as a class 1A access (residential and domestic) connecting to an arterial road (i.e. Main Street) and providing access and egress for more than 25 vehicle parking spaces, therefore it must have a minimum width of 6.0 metres (Ref section 3.2.1 – Access Driveway Widths); and

(b) the Alleyway, being 3.5 metres in width for its entire length and 50 metres in length, does not satisfy the applicable vehicle passing requirements, i.e.:

(i) the first 6 metres of the Alleyway from Main Street does not meet the minimum width requirement of 5.5 metres to allow for vehicles to pass one another; and
(ii) there is no capacity for vehicles to pass one another within the Alleyway (this requires a minimum width of 5.5 metres).

The result is that the DA’s proposed use of the Alleyway does not satisfy Acceptable Solution A1.2 (a) therefore regard must be had to Performance Criteria P1.

With respect to Performance Criteria P1, my client’s traffic engineer has concluded that:

(i) the likely use of the Alleyway will attract a moderate amount of vehicular and pedestrian traffic due to its connectivity with Main Street and the current width is not sufficient to ensure the safety of new users or the existing users of the Alleyway; and

(ii) due to the consistent width of 3.5 metres along the full 50 metre length of the Alleyway, a vehicle turning into the access will not have clear vision of other users of the Alleyway until they have entered from the road. Because the access will be shared by both vehicles and pedestrians travelling to and from the Site, as well as existing users of the Alleyway as a result of the existing right of carriage way (vehicular and pedestrian, including commercial deliveries, etc), the intensification of the use of the Alleyway proposed by the DA will create an unsafe and inconvenient environment for all users of it.

The result is that the DA’s proposed use of the Alleyway does not satisfy Performance Criteria P1. Unless this issue is addressed in a manner that satisfies Performance Criteria P1, Council must refuse to grant a planning permit for the DA.

My client’s traffic engineer has concluded that the safety issues identified above can only be overcome by either:

(A) widening the Alleyway to provide sufficient width for two-way vehicular traffic flow and separate pedestrian movements (which does not form part of the DA and would require the acquisition of adjoining property); or

(B) restricting the use of the Alleyway as a means of vehicular and pedestrian access to the proposed units (an outcome that could be achieved via a suitably drafted permit condition).

Assuming that the DA meets all other applicable standards under the Scheme, the DA can only be approved subject to a permit condition that restricts the use of the Alleyway as a mean of access (by both pedestrians and vehicles) to and from the body of the Site. This condition should require the erection of appropriate signage and/or a physical barrier to ensure that the condition is complied with.

Please acknowledge receipt of this representation by return.

Yours faithfully,

Marc Edwards
Senior Associate
Direct Line: (03) 6235 5198
E-mail: medwards@pageea.com.au
14/11/2018

The General Manager
Mr Gerald Monson
Kentish Council
P O Box 63
Sheffield, 7306

E: council@kentish.tas.gov.au

Dear Sir,

Reference: 41a Main street Sheffield 7306 (c/t 173540/2) D A closing 23/11/2018

In response to the advertised development application for 17 units proposed to be built at the above referenced address Mr and Mrs Balestrieri, the owners of number 41 Main street Sheffield, wish to make the following representation addressing the indicated use of the access easement that exists between their property and number 43 Main st.

This area of concern is clearly marked “right of way acess (VEHICLE) / walkway” on the site master plan –dwg SK02.

The principle use of the land was established as an easement for existing beneficiaries and access to infrastructure as detailed on the ‘schedule of easements’. We note also that the easements and profits described on page 1 of the schedule of easements that relate to the land between #41 and #43 Main street (‘the laneway’) appears to be in conflict with the survey plan. The schedule notes the land as being appurtenant to c/t 40978/3 but SP173540 shows it as being part #41a Main st.

A. SAFETY

Should it be contemplated that this ROW be used as a joint walkway and vehicle access there is:-

1. insufficient width to have designated and safe walking and vehicle lanes.
2. The entry and exit point to and from Main street is adjacent to a busy restaurant and between operating businesses that attract tourists who are unfamiliar with local conditions. CI 10.4.1, A2(b) requires 6m width for multiple dwellings access.
3. The current address of the property is 41a Main street. This will be used as the entry point by people using map directions and GPS directions. The narrow entry point will cause congestion on Main street as drivers slow to confirm that they are at the correct address.
4. The ROW can only be a one way vehicle access and the potential for two vehicles entering from either end is real and could lead to a vehicle having to reverse out on to Main street further exacerbating the safety of both pedestrians and motor vehicles at the exit.
5. The potential for injury to pedestrians must therefore be considered as possible and/or probable.

6. We respectfully suggest that the address be changed to 49a High street where the letter boxes are situated and where there is a legal 6000 wide dual lane entry to the complex. The current address could well be embedded in the GPS database and may not be updated for some years.

7. The increased use of the Laneway by vehicles or pedestrians would be detrimental to the amenity of both users of the restaurant and the adjacent residence which has two bedrooms within 1mtr of the laneway boundary. The laneway is approximately 50mtrs long and will undoubtedly cause vehicles to accelerate creating more noise and unsafe conditions for pedestrians – day or night.

B. FUTURE USE.

1. We recognise that it is reasonable to maintain the easement as an emergency exit and of course for access to the water and sewerage infrastructure.

2. The site master plan indicates the installation of bollards at the internal end of the laneway. This poses two issues.
   a. It will not prevent vehicles mistakenly entering from Main street, and, finding a dead end, require them to reverse out. So to be effective bollards must be installed either end of the laneway.
   b. Inevitably bollards must be locked in place to prevent theft and in an emergency who knows where the keys are kept?

3. It is easier to prevent vehicle access than it is to prevent pedestrians. It will be a short cut to the pub and therefore makes sense to provide controlled free access for residents. It would be more practical to ensure that the laneway is not advertised as a vehicle access in any documentation but instead note it as a pedestrian access only.

C. STORMWATER CONTROL (Planning scheme Cl. 4.6.1, (A1)(c))

1. We note that according to Dwg CP01 provided by “RARE” and also on the ‘site master plan’ the contours indicate that the fall of the paved area is from north to south.

2. There is in excess of 4000m2 of hardstand/paved driveway.

3. There is no indication or detail showing how/where any overland flow of excess stormwater will be directed and if it will be contained.

4. It is logical that it will flow downhill.

5. There is no indication on the plan of any mitigating structure at the southern end of the driveway to prevent such an event from flooding into number 41?

6. The original site master plan indicated by way of the colour coded drawing legend that the asphalt driveway continued all the way down the laneway, however this has now been amended to “compacted gravel”. A kerbed asphalt ROW as indicated on the siteplan legend would mitigate any impact on #41 in the event of an overflow.
7. The driveway is approximately 200mm higher than finished ground level at #41 and any further stormwater loading of the laneway would most certainly cause a modification of the natural surface stormwater flow to increase and cause inundation of the property at #41 Main street.

8. A concrete kerb on the low side (west) of the laneway would address the requirement to contain stormwater to prevent it from flowing on to adjacent properties.

In light of the forgoing and in the interests of safety and amenity we respectfully request the council to limit the use of the laneway and designate it as pedestrian access and emergency egress only.

C D Campbell          Mario Balestrieri          Lorraine Balestrieri
14 November 2018

General Manager
PO Box 63,
Sheffield, TAS 7306

Via Email – council@kENTISH.tas.gov.au

Dear General Manager,

**REPRESENTATION – DA2018/12 – 17 UNIT DEVELOPMENT – 41A MAIN STREET SHEFFIELD**

I have been commissioned by Jim Crowley to prepare a representation against Kentish Council DA 2018/012 – Proposed 17 Unit Development as 41a Main Street, Sheffield which is zoned as General Business.

1. "Residential" use is described in Table 21.2 of the Kentish Interim Planning Scheme 2013. "Residential" use has a mandatory qualification associated with that use and places a requirement to comply with the qualification of "if located on a floor above road or pedestrian level or to the rear of active frontage premises".

The application makes assumptions that as it is an internal block that surrounding land use on Main Street satisfy the qualification, however, a planning permit runs with the land subject to the application and it cannot rely on development of adjacent lands to validate non compliances to the scheme provisions.

The purpose of the General Business zone is to provide for business, community, food, professional and retail facilities serving a town or group of suburbs. This application is a residential use of land only and contains no active frontage premises on the allotment and therefore does not provide for businesses, professional services and nor does it serve the town or a group of suburbs; merely places a residential use of land on the allotment neglecting the purpose of the zone.

The planning scheme places a qualification for residential use of land and this qualification was not applied to this proposal rather the proposal relies on existing development of adjacent land to validate the use on the subject lot.

2. The proposal is not located to the rear of an active frontage (i.e. shop front) nor does not provide an "active frontage premises" on the subject allotment. Further, it is not "located on a floor above a road or pedestrian level" and as such it fails to meet the mandatory requirement for a residential use and is therefore a prohibited use;

3. "Frontage" means a boundary of a lot which abuts a road as described by the planning scheme. The frontage of the subject allotment is located at 41a Main Road Sheffield and the site currently contains no buildings. Therefore there is no building to construct residential uses to the rear of.
4. The proposal is inconsistent with section 21.1.1 Zone Purpose Statements as it does not provide a business, community, food, professional or retail facility that services the town or group of suburbs;

5. The proposal is inconsistent with section 21.1.2 (c) where it is a residential use that is not an integrated and subordinate component of the activity within a district business centre and therefore fails 21.3.1 P1(a)

6. The proposal does not address or observe any of section 21.1.3 Desired Future Character Statements and in particular does not "give priority for retail and direct service uses to maximise occupation of a road and pedestrian frontage" and therefore fails 21.3.1 P1(b).

7. The proposal does not demonstrate that it is required to service requirements of the local and district resident and visitor population as it is a residential use with no commercial active frontage proposed and therefore fails 21.3.1 P1(c);

8. The proposal is inconsistent with 21.3.1 P1(d) where it has an adverse effect on the regional pattern of retail and service provision and where it displaces retail, business and professional use of the land within the zone favouring an exclusive residential use on the land without a commercial aspect associated with that use.

9. The application states that the setbacks are consistent with a residential scale 'village' development and the adjoining General Residential zoning but fails to evidence how it performs to the scheme provisions in addressing setbacks in relation to site and zone.

10. The proposal does not provide any evidence that it minimises overlooking adjacent dwellings and provides no evidence in addressing 21.4.3 P1.

11. The proposal does not evidence privacy for units 9 -17 where a bedroom window to each unit is within 1500mm of the communal driveway (the manoeuvring space) and the sill height of the window is 1500mm high and therefore fails the Acceptable Solutions. However the application makes no address to the Performance Criteria for screening to prevent overlooking and therefore fails 21.4.3 P1.

12. The application clearly states that all units have a POS that is orientated north and that the effects of any "overshadowing will not be detrimental to the resident or have very minimal impact during winter". However unit 9 abuts large trees to the north which are located on adjacent land and no shadow diagrams evidence the amenity issue at hand nor provide evidence of compliance to 21.4.4 A2 for the winter solstice.

13. It merely provides a statement and does not address the development standards in particular 21.4.5 P1 on how the development minimises likelihood for conflict, constraint or interference from sensitive uses on land in an adjoining zone and how it minimises likely impact on the amenity of the sensitive use on land in an adjoining zone.

14. The application does not address the reticulation of an electricity supply where the distribution and connection of the supply is to be without visual intrusion on the streetscape. No evidence has been provided on how the proposal intends to be connected – either underground or via overhead reticulation as seen in 21.4.7 of the scheme.

15. The application documentation features two locations for mural sign / fence which constitutes signage and is assessable under Code E7. The application does not
provide sizes or content of the mural signage and therefore it cannot be determined that if it is exempted under E7.4 of the Signage Code or whether a Permit is required for the proposed signage. Further the public notification did not include any signage as part of its notification.

16. The application states car parking volumes but does not address how it complies with internal manoeuvring of vehicles within the circulation aisle (other than a rigid truck on the main driveway) and in particular how vehicle swept paths for small cars entering and leaving car parking spaces comply with AS/NZS 2890.1 to units 8, 9, 13, 14, 15, 16 & 17.

17. The application provides for 43 car parking spaces however it fails to address the acceptable solutions or the performance criteria provisions and also fails to address how each parking space is separately accessed from the internal circulation aisle or the convenience and safety factors for internal movement within the site as units 1 to 8 contain tandem parking.

The entire application makes statements but does not provide any evidence on how it achieves compliances with scheme provisions which is a mandatory function of a "performance based scheme". It is difficult to understand how this development was supported by the Council planning department in the first instance and it is clearly a prohibited use.

Kind Regards

Micheal Wells
GradDipl(UdC)/BAppPlm.BEnvDes(Arch)
Town Planning & Development Consultant
Bushfire Accreditation No: BFP:138

71a Bass Highway, Somerset TAS 7322
PO Box 546
P: 6411 1931
E: admin@enviroplanaustralia.com.au
I: www.enviroplanaustralia.com.au

EnviroPlan
"making it easy..."
To: General Manager  
PO Box 63,  
Sheffield TAS 7306  

From: Susan Crowley  

Re: DA2018/012 – 17 Unit Development – 41A Main St, Sheffield.

This representation is in response to an amended Development Application [DA 2018/012] received by Council on 19th October 2018 for a 17 Unit Development at 41A Main Street, Sheffield.

The approval of this proposal is reliant on Performance Criteria under the General Business Zone provisions being satisfactorily addressed.

The reason for this representation is to bring to Councillors attention the examples of failure in this DA to comply with the stated Performance Criteria required by Law under the Kentish Interim Planning Scheme 2013.

Areas that concern me, namely:

1. **General Business Zone 21.2 Use Table, Discretionary, Use Class.** This lays out the qualifications to be met by a residential development in a Business Zone, namely, *'if located on a floor above road or pedestrian level or to the rear of active frontage premises'*

2. **DA2018/012 [amended]** changes dramatically the spirit and intent of this qualification by stating that the *proposed development is to be located at pedestrian level and roadway level and will also adjoin a large area of General residential zoning. The development sits in behind current General Business within the current zoning and ...'* This appears to be a deliberate misrepresentation of the spirit and intent of the qualification.

3. **There are no commercial premises proposed as part of DA2018/012 [amended].**

4. **General Business Zone 21.4.5 Setback from zone boundaries.** Whilst DA2018/012 [amended] states that *'... setbacks are consistent to that of a residential scale 'village' development and the adjoining General residential zone',* drawings SK02 and SK03 show that the boundary between proposed Unit 9 and No 8 Duff Drive appears to be an unacceptable 'reduction' in the legally required distance of 4m [setback indicated on SK02 = cm rather than metres].

5. The main issue for me is the lack of accurate information regarding, and the stated use for, the access from Main St to the DA property at 41A Main Street, Sheffield. This access is shown on site drawings SK01, SK02, SK03, SK04 and SK05. This access is described on SK01 as *'EX RIGHT OF WAY ACCESS'* and on SK02 as *'[ASPHALT SEALED] RIGHT OF WAY ACCESS [VEHICLE]/WALKWAY'*

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*Representations: Sue Crowley  DA2018/012 [amended]  20th November 2018  Page 1*
6. The 'right of way' does **NOT** refer to the proposed development **[DA2018/012 amended]**. The subject land on which the unit development is proposed extends to Main Street. Therefore, the owner of that land owns that land, and 'right of way' for that owner is not applicable or an issue in relation to the ownership of the land.

7. The "right of way" is referring to the property at 43 Main Street, currently operating as The Apple Tree Café and owned by my son Hussen Tas. Council Planning is aware of this fact and I quote from a letter from Sharon Holland, Manager Planning Services, Kentish Council to my son on 26 February 2016. "**Council is aware of the access arrangements for both your title at 43 Main St [CT40978/3] and the adjoining internal lot at 41 Main St [CT40978/4]. As you correctly state, you have the BENEFIT [emphasis is mine] of a right of carriage over a designated portion of the access strip of CT40978/4 and no-one can deny you that access.**"

8. There are no Performance Criteria that the applicant has to address in relation to this Right of Way.

9. This means that points made in relation to this Right of Way can be ignored by Planning. This is due to the fact that Planning has not required the applicant to address clauses which would force him to state how he is addressing this legal impost on part of the land under the proposed development **[DA2018/012, amended]**. By chance or design? I think, by design!

10. This application also has to satisfy **21.4.2 Location and configuration of development, Performance Criteria P2.** The Objective states that: ‘**the location and configuration of development is to – [c] assist to attenuate likely impact on amenity of use on adjacent land**’.

11. The Benefiting Easement/Right of Carriageway/Right-of-Way to access 43 Main Street [CT40978/3], is in accordance with Right of Carriage Way/Right of Foot Way, The Conveyancing and Law of Property Act 1884, Section 34A, Schedule B. This is the area designated **‘ASPHALT SEALED] RIGHT OF WAY ACCESS [VEHICLE]/WALKWAY’** on drawing SK02.

12. This Benefiting Easement/Right of Carriageway/Right-of-Way gives the only access [vehicle and pedestrian] to the rear of the Apple Tree café and the residence to the rear of the Café.

13. 43 Main Street is known as the **dominant tenement property**

14. According to the **Land Titles Act 1980, 138G “Dominant tenement”** means land that is claimed to have the **BENEFIT** of rights amounting to an easement.

15. "**Servient tenement**” means land that is claimed to have the **BURDEN** of rights amounting to an easement.

16. According to the **Tasmanian Law Reform Institute, Law of Easements in Tasmania, Final Report No 12, March 2010, Section 1.2, at common law, a positive easement [right of way] must accommodate the dominant tenement, i.e. must confer a real and practicable benefit on the dominant tenement. The easement must relate to the needs of the dominant tenement.**

17. So, the land on which **DA2018/012 [amended]** proposes a 17 unit development is the **Servient Tenement**.

18. This development will severely impact on the use of access for 43 Main Street if passed by Councillors as written in the DA. The driveway is too narrow to legally
allow vehicle/pedestrian access to both the 17 units and 43 Main Street. As 43 Main Street has the legal benefit under the law, the requirements of access have to benefit users to 43 Main Street, not to the development.

19. To further clarify, this DA2018/012 [amended] to refer to 'right of way, etc' is misleading. The owner does not have a right of way, as pointed out [see 5, above], so any statements written to that effect in the DA are erroneous. 'Right of Way can only be claimed in relation to 43 Main St. Whilst I can understand why this existing, legal relationship between a 'dominant' and a 'servient' has not been included in this DA, nevertheless, the fact of this relationship does have critical implications that have to be considered. Claiming 'Right of Way' and indicating such [refer: drawings SK01 and SK02] leaves the way for Councillors to make assumptions. Assumptions would not seem to be a valid way of approaching scrutiny of a Development Application.

20. I hope this is clear as it is an important piece of information. There is no reference in DA2018/012 [amended], or the original version, to the fact that there is a lawful right of way to 43 Main St which the owner, being the servient tenement, is required under law to recognise and consider as 43 Main Street is the dominant tenement. So, all rights on a right of way are in favour of the dominant tenement, not the servient tenement.

21. Apart from it being against the law, I have been advised by former and current users of the access that it would be dangerous and irresponsible to allow EITHER vehicle or pedestrian use of this access as part of the proposed 41A Main Street, 17 unit development.

22. There has been NO traffic Impact Study undertaken.

23. According to the Department of Infrastructure, Energy and Resources, Roads and Traffic Division, Traffic Impact Assessment [TIA], all developments result in changes to vehicle and/or pedestrian movements. If a development accesses/abuts an arterial road [in this case, Main Street, Sheffield], these movements can disrupt through traffic, resulting in reduced levels of safety and efficiency.

24. So, given 22 [above], any development proposal on the servient tenements land will create changes to vehicle and pedestrian movements and has the potential to disrupt through traffic and pedestrians using Main Street. This would result in reduced levels of safety and efficiency.

25. 17 units, as proposed = potential for 38 x 2 = at least 76 pedestrian movements on this right-of-way per day.

26. 17 units, as proposed = potential for 43 x 2 = at least 86 vehicle movements on this right-of-way per day.

27. This potential movement would be in addition to the existing legitimate movement associated with 43 Main Street, the Apple Tree Café and residence, and all this movement on a piece of land 3.64 metres wide.

28. This is a major development for Sheffield, and it seems to me that it requires a more in depth DA than the one presented, especially in relation to the impact the large increase of people and vehicles will have.

29. This development does not need the driveway to Main Street. It has a 5 metre wide driveway to High Street which will lawfully cope with the traffic and
people passage. It is only causing trouble and stress to all those affected by this proposal and is totally unnecessary.

30. I finish this representation with this concern.

31. It was pointed out in a representation to the first DA that the address was incorrect. In this present DA the correct address has been given which indicates this as the official address for this development which would mean that any construction vehicles, building material supplies, visitors, postal, delivery, etc. would come to Sheffield looking for access from Main Street rather than High Street where the intended access is.

32. There was an approach by phone to my son re this proposed development. He was informed that 'we are going to stuff you up for years' by 'building work [that] will take years to be completed. During this time, starting early in the morning, continuing all day, every day, all construction required materials will be delivered by trucks, using driveway for exiting as well as entering, i.e. up and down. They will create pollution – dust, noise – for Café occupants ....'

A development such as proposed in this DA is, ordinarily, to be supported.

However, DA2018/012 [amended] is of concern for the scant regard being given to it by all those in the ‘chain’ that have allowed it to get through to this stage in the approval process. In presentation it is frighteningly lacking in content and detail!

The proposed development will have many benefits for Sheffield, least of all being the 17 x rates per annum into Council coffers!

I see that Councillors, to avoid being caught in a compromising situation, have no choice but to insist that the following be included on any Permit issued in relation to DA2018/012 ...

- that no vehicle or pedestrian can use the Main Street entrance at any time to access this development;
- that to reinforce this point, a solid barrier be constructed at the development end of the Right-of-Way to 43 Main Street;
- that the postal address be changed before any development work commences.

Susan Crowley

Representation: Sue Crowley    DA2018/012 [amended]    20th November 2018    Page 4