



# SPECIAL COUNCIL MEETING AGENDA

Monday 2 October 2023  
Council Chambers, St Helens

John Brown, General Manager  
Break O'Day Council  
27 September 2023

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## NOTICE OF MEETING

Notice is hereby given that a Special meeting of the Break O' Day Council will be held at the St Helens Council Chambers on Monday 2 October 2023 commencing at 10.00am.

### CERTIFICATION

Pursuant to the provisions of Section 65 of the *Local Government Act 1993*, I hereby certify that the advice, information and recommendations contained within this Agenda have been given by a person who has the qualifications and / or experience necessary to give such advice, information and recommendations or such advice was obtained and taken into account in providing the general advice contained within the Agenda.



**JOHN BROWN**  
**GENERAL MANAGER**

Date: 27 September 2023

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## AUDIO RECORDING OF ORDINARY MEETINGS OF COUNCIL

As determined by Break O’Day Council in March 2019 all Ordinary, Special and Annual General Meetings of Council are to be audio recorded and a link will be available on the Break O’Day Council website where the public can listen to audio recordings of previous Council Meetings.

*In accordance with the Local Government Act 1993 and Regulation 33 of the Local Government (Meeting Procedures) Regulations 2015, these audio files will be retained by Council for at least six (6) months and made available for listening online within seven (7) days of the scheduled meeting. The written minutes of a meeting, once confirmed, prevail over the audio recording of the meeting and a transcript of the recording will not be prepared.*

## OPENING

*The Mayor to welcome Councillors and staff and declare the meeting open at 10.00am.*

## ACKNOWLEDGEMENT OF COUNTRY

*We acknowledge the Traditional Custodians of the land on which we work and live, the Palawa people of this land Tasmania, and recognise their continuing connection to the lands, skies and waters. We pay respects to the Elders Past, present and future.*

### 10/23.1.0 ATTENDANCE

#### 10/23.1.1 Present

Mayor Mick Tucker  
Deputy Mayor Kristi Chapple  
Councillor Gary Barnes  
Councillor Ian Carter  
Councillor Janet Drummond  
Councillor Liz Johnstone  
Councillor Barry LeFevre  
Councillor Vaughan Oldham  
Councillor Kylie Wright

#### 10/23.1.2 Apologies

Nil

### **10/23.1.3 Leave of Absence**

Nil

### **10/23.1.4 Staff in Attendance**

General Manager, John Brown  
Corporate Services Officer, Rebecca Wood

### **10/23.2.0 PUBLIC QUESTION TIME**

### **10/23.3.0 DECLARATION OF INTERESTS OF A COUNCILLOR OR CLOSE ASSOCIATE**

*Section 48 or 55 of the Local Government Act 1993 requires that a Councillor or Officer who has an interest in any matter to be discussed at a Council Meeting that will be attended by the Councillor or Officer must disclose the nature of the interest in a written notice given to the General Manager before the meeting; or at the meeting before the matter is discussed.*

*A Councillor or Officer who makes a disclosure under Section 48 or 55 must not preside at the part of the meeting relating to the matter; or participate in; or be present during any discussion or decision making procedure relating to the matter, unless allowed by the Council.*

## 10/23.9.0 NOTICES OF MOTION

### 10/23.9.1 Rescission Motion – DA 276-22

#### RECOMMENDED MOTION:

That Council rescind the following Council Decision:

#### 18 September 2023 Council Meeting

**09/23.6.4.211** Moved: Clr B LeFevre/ Seconded: Clr V Oldham

After due consideration of the application received and Pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O’Day Interim Planning Scheme 2013* that the application for RESIDENTIAL - CONSTRUCTION OF DWELLING ADDITIONS & ALTERATIONS, GARAGE, DECK AND ADDITIONAL CROSSOVER on land situated at 5 BAYVIEW AVENUE, BINALONG BAY described in Certificate of Title 60263/35 be APPROVED subject to the following conditions:

1. Development must be carried out in accordance with the approved plans and documents listed as follows, except as varied by conditions on this Planning Permit.

Approved Plans / Documents			
Plan / Document Name	Reference Number	Prepared By	Dated
Site Plan	A001-Sk01	Zuri Creative Studio	16/03/2023
Ground Floor Plan	DA710 - DA02	Zuri Creative Studio	06/10/2022
First Floor Plan	DA711 - DA03	Zuri Creative Studio	05/07/2023
Roof Plan	DA712 - DA02	Zuri Creative Studio	06/10/2022
Elevations 01	DA720 - DA02	Zuri Creative Studio	06/10/2022
Elevations 02	DA721 - DA02	Zuri Creative Studio	06/10/2022
Solar Study	DA731 - DA03	Zuri Creative Studio	05/07/2023
5 Bay View Avenue Stormwater Report	Project Number 22.196	6ty <sup>o</sup>	05/07/2023
On-Site Wastewater Disposal Assessment and Design	Reference No. GL23090Ab	GEOTON	08/03/2023

2. The garage is approved for non-habitable residential use only.
3. The areas shown to be set aside for vehicle access and car parking must be:
  - a. completed before the use of the development;
  - b. provided with space for access turning and manoeuvring of vehicles on-site to enable them to enter and leave the site in a forward direction;
  - c. drained in a manner that will not cause stormwater nuisance.
4. All roof drainage must be connected to existing water storage tanks and overflow directed to the kerb which requires a new connection to be made in accordance with standard drawing TSD-SW29-v3.
5. The new crossover must be constructed in accordance with standard drawing TSD-R09-v3.



6. An application must be submitted to obtain a Works Permit prior to undertaking any work on the stormwater connection and/or the crossover.
7. During the period of construction, works on the site must not result in a concentration of flow onto other property, or cause ponding or other stormwater nuisance.
8. All runoff from the proposed driveway must be disposed of within the confines of the property by means that will not result in soil erosion or other stormwater nuisance. Soakage drains must be of sufficient size to absorb stormwater runoff.
9. The driveway must be constructed in a manner that ensures sediment is neither tracked nor eroded across the property boundary.
10. Effluent disposal is subject to a technical assessment and issue of a Plumbing Permit by Council's *Plumbing Permit Authority*.
11. The location of the absorption area, specifically the boundary setbacks, is consistent with AS 1547 appendix R or, is determined on the basis of a rigorous risk assessment in accordance with AS 1547 – 2012; and, the designer inspect the construction of the absorption area and provide to Council certification that the absorption area has been designed in accordance with AS1547 – 2012, and constructed strictly in accordance with the approved design plan and boundary setbacks.
12. The existing septic tank and trench system must be demolished, treated with lime and backfilled. A report by a suitably qualified practitioner in relation to the required work is to be obtained before the issue of an Occupancy Permit.
13. Use of the development must not create a nuisance as defined by the *Environmental Management and Pollution Control Act 1994*.
14. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.
15. All underground infrastructure including all forms of water, storm water, power, gas and telecommunication systems must be located prior to the commencement of any on-site excavation and / or construction works. Any works to be undertaken within 2 metres of any Council owned infrastructure must be done in consultation with Council's Works Operations Manager.
16. All building wastes are to be removed to the appropriate waste disposal facility to prevent an environmental nuisance being caused outside of the works site.

**FOR** Councillor B LeFevre, Councillor V Oldham, Councillor K Chapple, Councillor M Tucker  
**AGAINST** Councillor L Johnstone, Councillor Janet Drummond, Councillor I Carter, Councillor K Wright

**TIED VOTE – MOTION LOST**

**SUBMISSION IN SUPPORT OF MOTION:**

At the Council Meeting on 18 September 2023 the General Manager explained that Council had failed to determine the Application as a Lost Motion which in this case did not provide a refusal of the Development Application it had simply failed to determine the Application. The General Manager then explained that given this that a Motion to Refuse the application was required and that the grounds for refusal needed to be included in the Motion.

Mayor Tucker asked if any Councillors who voted against the motion would like to bring another motion, he asked that they please put this forward with the planning grounds on which they wish to refuse the motion.

No further motion was provided

The General Manager advises that this matter of a Rescission Motion relates to a decision which was made by the Council since the last Election at its meeting of 18 September 2023 and an Absolute Majority is required

In accordance with the Local Government (Meeting Procedures) Regulations 2015, Regulation 18(3) the General Manager reports as follows:

- (a) The General Manager advises that should the proposed motion be resolved in the affirmative it would overturn the previous decision in its entirety.

The proposed motion if resolved in the affirmative by an Absolute Majority would overturn the previous decision in its entirety.

- (b) The Decision made by Council at its meeting on 18 September 2023 is as follows

**18 September 2023 Council Meeting**

**09/23.6.4.211** Moved: Clr B LeFevre/ Seconded: Clr V Oldham

After due consideration of the application received and Pursuant to Section 57 of the Land Use Planning & Approvals Act 1993 and the Break O’Day Interim Planning Scheme 2013 that the application for RESIDENTIAL - CONSTRUCTION OF DWELLING ADDITIONS & ALTERATIONS, GARAGE, DECK AND ADDITIONAL CROSSOVER on land situated at 5 BAYVIEW AVENUE, BINALONG BAY described in Certificate of Title 60263/35 be APPROVED subject to the following conditions:

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Elevations 01	DA720 - DA02 Zuri Creative Studio	06/10/2022
Elevations 02	DA721 - DA02 Zuri Creative Studio	06/10/2022
Solar Study	DA731 - DA03 Zuri Creative Studio	05/07/2023
5 Bay View Avenue Stormwater Report	Project Number 22.196	6tyo 05/07/2023
On-Site Wastewater Disposal Assessment and Design	Reference No. GL23090Ab	GEOTON 08/03/2023

2. The garage is approved for non-habitable residential use only.
3. The areas shown to be set aside for vehicle access and car parking must be:
  - a. completed before the use of the development;
  - b. provided with space for access turning and manoeuvring of vehicles on-site to enable them to enter and leave the site in a forward direction;
  - c. drained in a manner that will not cause stormwater nuisance.
4. All roof drainage must be connected to existing water storage tanks and overflow directed to the kerb which requires a new connection to be made in accordance with standard drawing TSD-SW29-v3.
5. The new crossover must be constructed in accordance with standard drawing TSD-R09-v3.
6. An application must be submitted to obtain a Works Permit prior to undertaking any work on the stormwater connection and/or the crossover.
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8. All runoff from the proposed driveway must be disposed of within the confines of the property by means that will not result in soil erosion or other stormwater nuisance. Soakage drains must be of sufficient size to absorb stormwater runoff.
9. The driveway must be constructed in a manner that ensures sediment is neither tracked nor eroded across the property boundary.
10. Effluent disposal is subject to a technical assessment and issue of a Plumbing Permit by Council's Plumbing Permit Authority.
11. The location of the absorption area, specifically the boundary setbacks, is consistent with AS 1547 appendix R or, is determined on the basis of a rigorous risk assessment in accordance with AS 1547 – 2012; and, the designer inspect the construction of the absorption area and provide to Council certification that the absorption area has been designed in accordance with AS1547 – 2012, and constructed strictly in accordance with the approved design plan and boundary setbacks.
12. The existing septic tank and trench system must be demolished, treated with lime and backfilled. A report by a suitably qualified practitioner in relation to the required work is to be obtained before the issue of an Occupancy Permit.
13. Use of the development must not create a nuisance as defined by the Environmental Management and Pollution Control Act 1994.
14. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.

15. All underground infrastructure including all forms of water, storm water, power, gas and telecommunication systems must be located prior to the commencement of any on-site excavation and / or construction works. Any works to be undertaken within 2 metres of any Council owned infrastructure must be done in consultation with Council's Works Operations Manager.

16. All building wastes are to be removed to the appropriate waste disposal facility to prevent an environmental nuisance being caused outside of the works site.

**FOR** Councillor B LeFevre, Councillor V Oldham, Councillor K Chapple, Councillor M Tucker  
**AGAINST** Councillor L Johnstone, Councillor Janet Drummond, Councillor I Carter, Councillor K Wright

**TIED VOTE – MOTION LOST**

- (c) advice as to whether or not that previous decision, or that part of that previous decision, directed that certain action be taken; and

*The General Manager advises that the failure of Council to make a determination in relation to the Development Application DA 276-22 resulted in no direction that a certain action be taken.*

- (d) if that previous decision, or that part of that previous decision, directed that certain action be taken, advice as to whether or not that action has been wholly or substantially carried out.

The General Manager advises that there has been no action has been wholly or substantially carried out

## LEGISLATION/STRATEGIC PLAN & POLICIES

The *Local Government (Meeting Procedures) Regulations 2015* are the applicable legislation in this case and state:

### **18. Motion to overturn decision**

- (1) For the purposes of this regulation, a decision may be overturned, wholly or partly, by –
- (a) a motion directly rescinding or otherwise overturning the decision or part of the decision; or
  - (b) a motion that conflicts with, or is contrary to, the decision or part of the decision.
- (2) A council or council committee may only overturn a decision passed at a previous meeting held since the last ordinary election –
- (a) by an absolute majority, in the case of a council; or
  - (b) by a simple majority, in the case of a council committee.
- (3) Any report given by the general manager to a council in respect of a proposed motion to overturn a decision of the council, or that will result in the overturning of a decision of the council, wholly or partly, is to include –
- (a) a statement that the proposed motion, if resolved in the affirmative, would overturn that previous decision or part of that previous decision; and
  - (b) the details of that previous decision, or the part of that previous decision, that would be overturned; and
  - (c) advice as to whether or not that previous decision, or that part of that previous decision, directed that certain action be taken; and

*(d) if that previous decision, or that part of that previous decision, directed that certain action be taken, advice as to whether or not that action has been wholly or substantially carried out.*

**BUDGET; FUNDING AND FINANCIAL IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS:**

Absolute Majority

## 10/23.4.0 PLANNING AUTHORITY

Pursuant to Section 25 of the Local Government (Meeting Procedures) Regulations 2015 the Mayor informed the Council that it was now acting as a Planning Authority under the Land Use Planning and Approvals Act 1993.

### 10/23.4.1 DA 276-22 Residential - Construction of Dwelling Additions & Alterations, Garage, Deck and Additional Crossover

ACTION	DECISION
PROPONENT	Zuri Creative Studio Pty Ltd
OFFICER	Alex McKinlay, Planning Officer
FILE REFERENCE	DA 276-22
ASSOCIATED REPORTS AND DOCUMENTS	<ol style="list-style-type: none"> <li>1. Draft Approved Plans and associated documents</li> <li>2. Completed Planning Scheme Assessment</li> <li>3. Copy of the representation received (x4)</li> </ol>

#### OFFICER'S RECOMMENDATION:

After due consideration of the application received and Pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Interim Planning Scheme 2013* that the application for RESIDENTIAL - CONSTRUCTION OF DWELLING ADDITIONS & ALTERATIONS, GARAGE, DECK AND ADDITIONAL CROSSOVER on land situated at 5 BAYVIEW AVENUE, BINALONG BAY described in Certificate of Title 60263/35 be APPROVED subject to the following conditions:

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5 Bay View Avenue Stormwater Report	Project Number 22.196	6ty <sup>o</sup>	05/07/2023
On-Site Wastewater Disposal Assessment and Design	Reference No. GL23090Ab	GEOTON	08/03/2023

2. The garage is approved for non-habitable residential use only.
3. The areas shown to be set aside for vehicle access and car parking must be:
  - a. completed before the use of the development;
  - b. provided with space for access turning and manoeuvring of vehicles on-site to enable them to enter and leave the site in a forward direction;

- c. drained in a manner that will not cause stormwater nuisance.
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16. All building wastes are to be removed to the appropriate waste disposal facility to prevent an environmental nuisance being caused outside of the works site.

## ADVICE

1. Use or development which may impact on Aboriginal cultural heritage is subject to the *Aboriginal Relics Act 1975*. If Aboriginal relics are uncovered during works then an Aboriginal site survey is required to determine the level of impact and the appropriate mitigation procedures.
2. Activities associated with construction works are not to be performed outside the permissible time frames listed:

Mon-Friday 7 am to 6 pm

Saturday 9 am to 6 pm

Sunday and public holidays 10 am to 6 pm

## INTRODUCTION:

The applicant is seeking approval for the development of dwelling additions & alterations, garage, deck and additional crossover for residential purposes on the subject site at 5 Bay View Avenue, Binalong Bay. Submitted plans demonstrate that the proposed development is further intended to be serviced by the provision of an internal driveway in conjunction with an additional crossover and the installation of an Aerated Wastewater Treatment System (AWTS). Stormwater generated by the roofed areas of both the existing dwelling and the proposed development will be directed to three 14,000L tanks with subsequent overflow being disposed into a new kerb connection point via a charged line. Additionally, a fourth tank/5500L garden water tank located along the western side boundary will be installed to capture stormwater generated by the forecourt and driveway areas with subsequent overflow then being discharged into a 20m long and 0.4m wide dispersion trench.

## PREVIOUS COUNCIL CONSIDERATION:

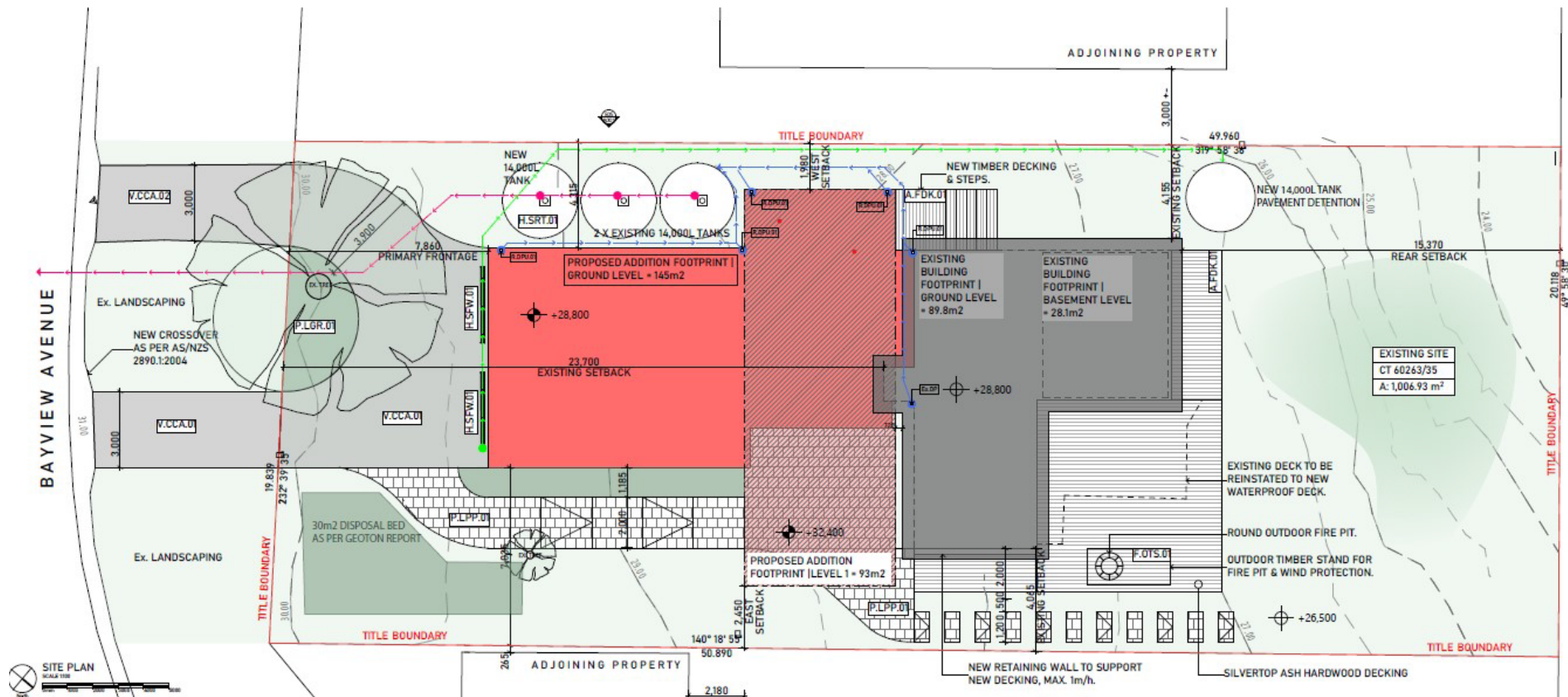
Nil prior Council considerations associated with the subject site.

## OFFICER'S REPORT:

### 1. Proposal

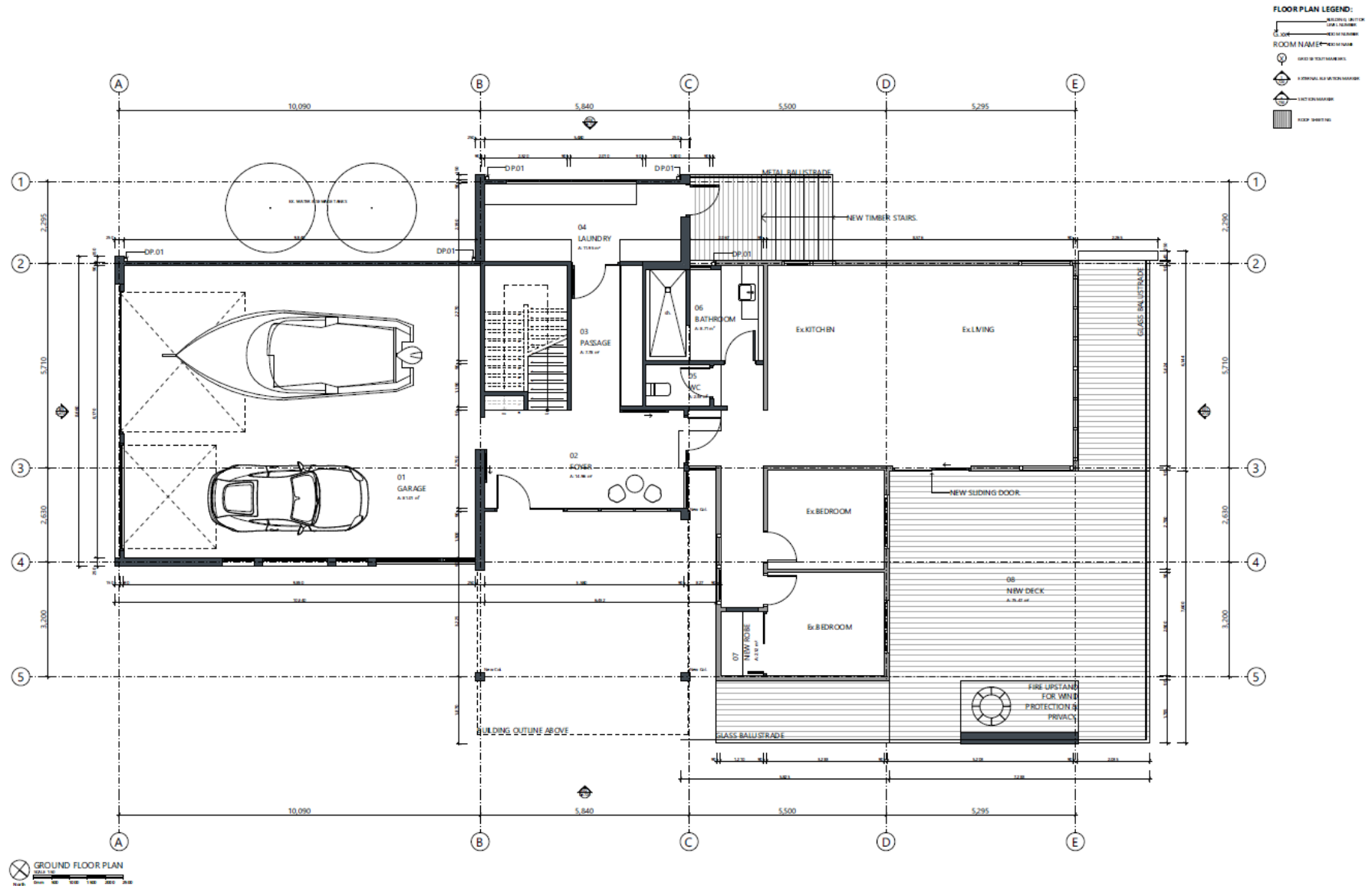
An application was submitted by Mia Marelja-Williams (Zuri Creative Studio PTY LTD) on behalf of the land owners Mrs. Felicity Grant and Mr Ian Grant on the 31 October 2022, as the owners of the land situated at 5 Bay View Avenue, Binalong Bay, for dwelling additions & alterations, garage, deck and additional crossover. Elevations included within the submitted plans demonstrate that the proposed dwelling addition will have a total building height to the apex of approximately 7.64m as measured from the western elevation. Notably, the proposed development will contribute to an approximate site coverage of 266m<sup>2</sup> or 26.41693067045376% of the approximately 1006.93m<sup>2</sup> subject site.





Site Plan Drawn by Zuri Creative Studio  
 Drawing No: DA04  
 Date: 05/07/2023

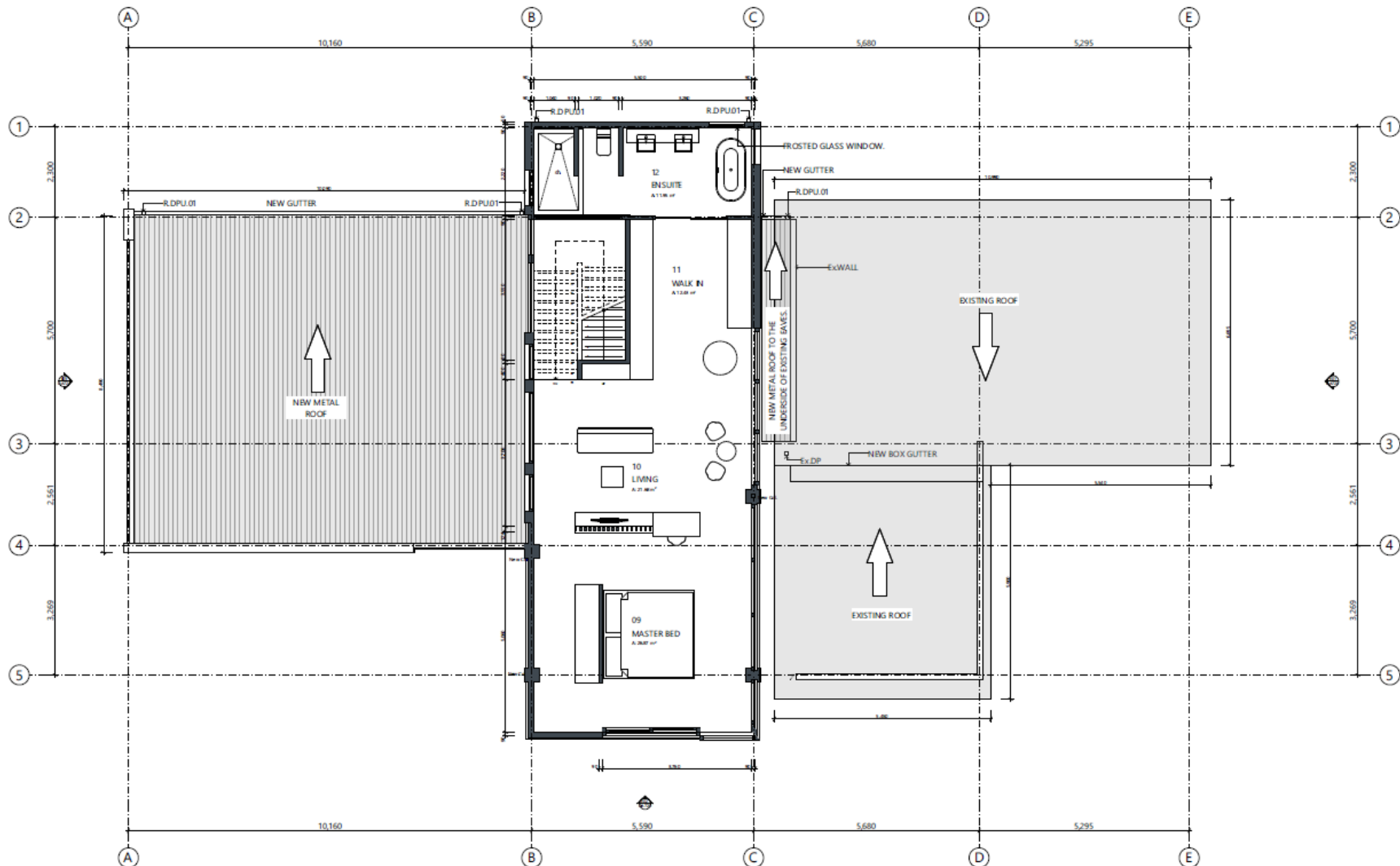
Provided floor plan for the proposed dwelling addition demonstrates that the ground floor is intended to comprise the following room layout: Garage, Foyer, Laundry, Bath Room and a New Deck (note: there are two existing Bedrooms, existing Kitchen and Living Room). The second storey of the dwelling addition, demonstrates the following room layout: Master Bedroom including Living Space Walk-in Wardrobe and Ensuite. Additionally, it is worth noting that the basement level of the existing dwelling structure is intended to include an entertainment room and utilise an existing storage space.



Ground floor Plan Drawn by Zuri Creative Studio  
 Drawing No: DA02  
 Date: 06/10/2022

**FLOOR PLAN LEGEND:**

- ORIGINAL SECTION
- NEW SECTION
- ROOM NAME - AREA IN M<sup>2</sup>
- USED BY TEST MEMBERS
- ORIGINAL AIR WATER METER
- EXISTING METER
- ROOF SHEDDING

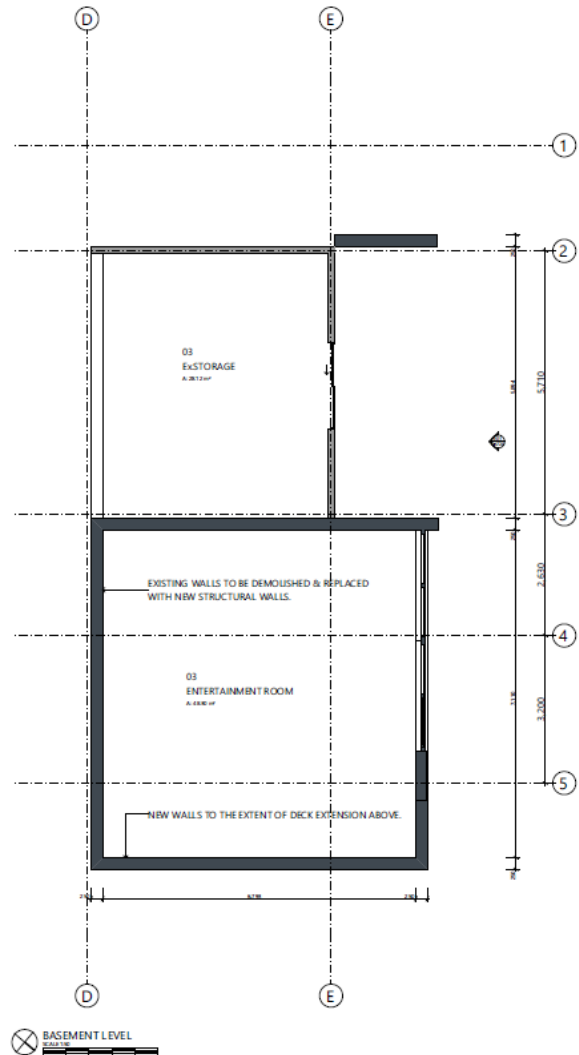
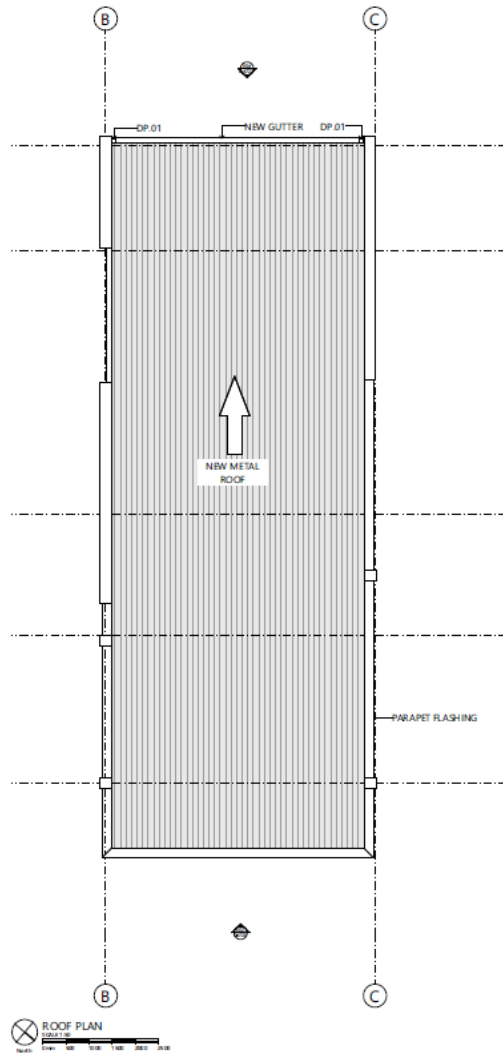


FIRST FLOOR PLAN  
 10/23.4.1DA  
 Scale: 1:100

First floor Plan Drawn by Zuri Creative Studio  
 Drawing No: DA03  
 Date: 05/07/2023

**FLOOR PLAN LEGEND:**

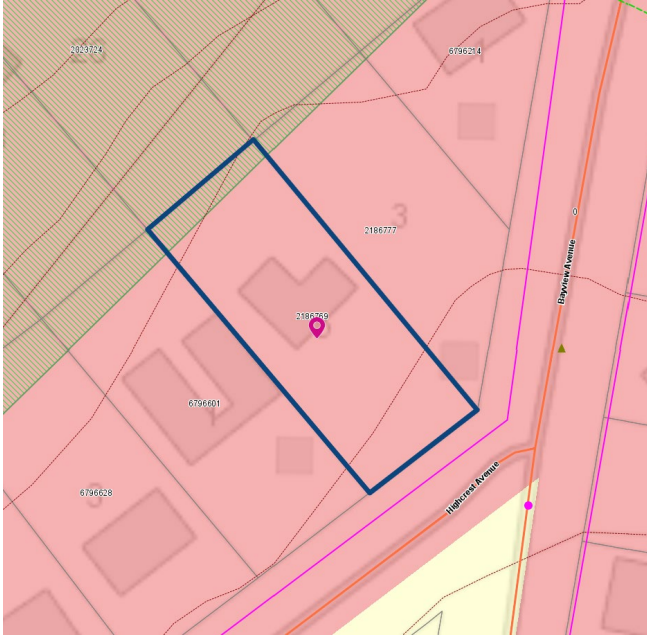
- NEW METAL ROOF
- NEW GLASS GLAZING
- ROOM NAME - ROOM NUMBER
- EXISTING WALLS
- EXISTING DOOR
- EXISTING WINDOW
- EXISTING WALL
- NEW WALL
- NEW DOOR
- NEW WINDOW
- NEW GLAZING
- NEW ROOF



Roof Plan Drawn by Zuri Creative Studio  
 Drawing No: DA02  
 Date: 06/10/2022

### 1.1. Site Characteristics and Background

The development site at 5 Bay View Avenue, Binalong Bay, has an approximate area of 1006.93m<sup>2</sup> and is subject to the 12.0 Low Density Residential Zone, contains some vegetation coverage, situated on slightly sloping land, not impacted by the flooding overlay and a section along the northern boundary is subject to the priority habitat overlay.



Locality Plan



Aerial Imagery

## 2. Applicable Planning Assessment

- **12.0 Low Density Residential Zone:** Assessment is required for the Development Standards *12.4.1.2 Site Coverage (P1)*, *12.4.1.5 Rear and Side Setbacks (P2)*, *12.4.1.6 Location of Car Parking (P1)* and *12.4.4.2 Stormwater Disposal (P1)*.
- **E4.0 Road and Railway Assets Code:** Assessment is required for the Development Standards *E4.7.2 Management of Road Accesses and Junctions (P3)* and *E4.7.4 Sight Distance at Accesses, Junctions and Level Crossings (P1)*.
- **E6.0 Car Parking and Sustainable Transport Code:** The proposed development has been determined to satisfy all relevant acceptable solutions outlined within the use and development standards of the code.
- **E8.0 Biodiversity Code:** Assessment is required for the Development Standards *E8.6.1 Habitat and Vegetation Management (P2.1)*.
- **E16.0 Onsite Wastewater Management Code:** Assessment is required for the Use Standard *E16.6.1 Use and lot size (P1)*. Assessment is also required for the Development Standards *E16.7.1 Onsite Wastewater Management (P2)* & *E16.7.2 Surface and ground water impacts (P4)*.

### 3. Referrals

- Referral to Council's Works Department: A referral was issued to the Works Department on the 25/11/2022 with regards to stormwater and the proposed additional crossover. The Works Department responded with the following:
  - *All roof drainage must be connected to existing water storage tanks and overflow pumped to the kerb which requires a new connection to be made in accordance with standard drawing TSD-SW29-v3. See below for permit condition.*
  - *There's no need for a TIA based on the "new" crossover being closer to the east and having better sight distance to the east than the existing crossover.*
- Referral to Councils Environmental Health Officer: An initial referral was issued to the EHO Officer on the 03/04/2023 and further comments were provided on the 06/09/2023 (TRIM 23/20268) regarding the Onsite Wastewater Report submitted by the applicant. The EHO Officer responded with the following:
  - *'I am able to provide consent to the installation subject to the following conditions: The location of the absorption area, specifically the boundary setbacks, is consistent with AS 1547 appendix R or, is determined on the basis of a rigorous risk assessment in accordance with AS 1547 – 2012; and, the designer inspect the construction of the absorption area and provide to Council certification that the absorption area has been designed in accordance with AS1547 – 2012, and constructed strictly in accordance with the approved design plan and boundary setbacks'.*
- Referral to Council's Development Services Coordinator: A referral was issued to the Development Services Coordinator on the 05/07/2023 to review the calculations and design details to support onsite stormwater disposal of overflow from the fourth tank/5500L Garden Water Tank into a 20m long by 0.4m wide dispersion trench. The Development Services Coordinator responded with the following, *'The onsite stormwater report is suitable for planning approval purposes'.*

### 4. Assessment

The application met the acceptable solutions for all issues except for reliance upon the performance criteria detailed below:

*Break O'Day Interim Planning Scheme 2013 Version 22:*

- 12.0 Low Density Residential Zone: *12.4.1.2 Site Coverage (P1), 12.4.1.5 Rear and Side Setbacks (P2), 12.4.1.6 Location of Car Parking (P1) and 12.4.4.2 Stormwater Disposal (P1).*
- E4.0 Road and Railway Assets Code: *E4.7.2 Management of Road Accesses and Junctions (P3) and E4.7.4 Sight Distance at Accesses, Junctions and Level Crossings (P1).*
- E8.0 Biodiversity Code: *E8.6.1 Habitat and Vegetation Management (P2.1).*
- E16.0 Onsite Wastewater Management Code: *E16.6.1 Use and lot size (P1).* Assessment is also required for the Development Standards *E16.7.1 Onsite Wastewater Management (P2) & E16.7.2 Surface and ground water impacts (P4).*

Detailed assessment against the provisions of the *Break O’Day Interim Planning Scheme 2013* version 22 where the proposal was reliant on satisfying the performance criteria, is provided below. **The proposal is deemed to comply with the performance criteria applicable.**

**Planning Assessment**

*12.4.1.2 Site Coverage (P1)*

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
A1 The site coverage must not exceed 20%, unless the existing lot is less than 1000m <sup>2</sup> , in which case maximum site coverage is 30%.	P1 The site coverage must have regard to the: <ul style="list-style-type: none"> <li>a) size and shape of the site; and</li> <li>b) existing buildings and any constraints imposed by existing development or the features of the site; and</li> <li>c) site coverage of adjacent properties; and</li> <li>d) effect of the visual bulk of the building and whether it respects the neighbourhood character; and</li> <li>e) capacity of the site to absorb runoff; and</li> <li>f) landscape character of the area and the need to remove vegetation to accommodate development.</li> </ul>

***Assessment against the Performance Criteria is required.***

***Performance Criteria Assessment***

Proposed development for the construction of dwelling additions & alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.

Site coverage of the proposed development in conjunction with the existing dwelling will equate to approximately 266m<sup>2</sup> or 26.41693067045376% of the approximately 1006.93m<sup>2</sup> subject site. However, the performance criteria can be considered appropriately satisfied as evident in the completed assessment below:

- (a) Subject site is rectangular in shape and has an approximate area of 1006.93m<sup>2</sup> and is able to accommodate the proposed development.
- (b) Proposed development which includes dwelling additions will contribute towards an additional floor area of 145m<sup>2</sup> to the existing dwelling which has a current floor area of 121m<sup>2</sup>. The existing dwelling nor the features of the site pose constraints which would adversely impact upon the site coverage of the subject site.
- (c) It is evident from the current available aerial imagery that the site coverage of the proposed development will likely be consistent with both the adjacent properties in addition to other properties within the surrounding area.
- (d) Visual bulk of the proposed development will be predominantly screened by existing vegetation located along the front boundary in addition to the side and rear boundaries as well. It is also worth noting that there are a number of dwellings within the surrounding area that are of a similar scale and as such the proposed development can be considered consistent with the established neighbourhood character.

(e) It is evident from the submitted site plan that the majority of the stormwater generated by the proposed development will be discharged to a new connection point to the kerb. However, stormwater generated by the driveway will be directed into a water adjoining the western side of the dwelling with subsequent overflow being discharged into a 20m long and 0.4m wide dispersion trench. Please refer to the planning assessment completed for 12.4.4.2 Stormwater Disposal for confirmation regarding the subject site's capacity to dispose of stormwater runoff.

(f) The proposed development only includes minimal removal and in particular clearance will be limited to a portion of the front boundary. It is evident from aerial imagery that the landscape character of the surrounding area includes a mix of properties that are either mostly cleared or moderately vegetated.

**12.4.1.5 Rear and Side Setbacks (P2)**

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p>A2 Buildings must be set back from side boundaries 3m.</p>	<p>P2 Building setback to the side boundary must be appropriate to the location, having regard to the:</p> <ul style="list-style-type: none"> <li>a) ability to provide adequate private open space for the dwelling; and</li> <li>b) character of the area and location of dwellings on lots in the surrounding area; and</li> <li>c) impact on the amenity and privacy of habitable room windows and private open space of existing and adjoining dwellings; and</li> <li>d) impact on the solar access of habitable room windows and private open space of adjoining dwellings; and</li> <li>e) locations of existing buildings and private open space areas; and</li> <li>f) size and proportions of the lot; and</li> <li>g) extent to which the slope and retaining walls or fences reduce or increase the impact of the proposed variation.</li> </ul>
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.</p> <p>Submitted site plan demonstrates that the proposed dwelling add will have a setback of 1.98m to the western side boundary and 2.45m to the eastern side boundary. Additionally, the three 14,000L water tanks intended to be located on the western side of the proposed garage will have an approximate setback of 0.8m to the western side boundary and the fourth tank (5,500L) located on the western side of the existing dwelling will have an approximate setback of 0.2m to the western side boundary. However, the performance criteria can be considered appropriately satisfied as evident in the completed assessment below:</p>	



- (a) Private open space is predominately provided towards the rear of the existing dwelling.
- (b) Current available aerial imagery demonstrates that the majority of dwellings within the surrounding area have side boundary setbacks less than 3m and is therefore considered consistent with the established character of the area.
- (c) Proposed dwelling addition will be within immediate view from the Kitchen, Living Room and Deck of the adjoining property at 1 Highcrest Avenue (note: representation 01) and there is a boat shed on the adjoining property at 3 Bay View Avenue. Due to the existing tree line along the western side boundary which provides a visual screen between the properties in addition to the frosted glass window within the ensuite (review the first floor plan) for the proposed development, it is reasonable to conclude that the amenity and privacy of both habitable room windows and private open space of the adjoining property at 1 Highcrest Avenue is unlikely to be impacted upon in a detrimental manner.
- (d) The provided shadow diagrams demonstrate that the proposed development will have some overshadowing impacts on the adjoining dwelling at 1 Highcrest Avenue but will be fairly minor in nature. This is especially evident when considering the existing tree line located along the western side boundary that likely contributes to existing overshadowing of the abovementioned property.
- (e) Existing dwelling on the subject site has side boundary setbacks exceeding the minimum 3m and the private open will remain available for use (note: private open space located towards the rear of existing dwelling).
- (g) Similar to the assessment completed above for 12.4.1.2 Site Coverage, the subject site is rectangular in shape and has an approximate area of 1006.93m<sup>2</sup> and is able to accommodate the proposed development.
- (f) It is evident that the subject site slightly slopes towards the adjoining property at 1 Highcrest Avenue but this neither significantly reduces nor increases the impact of the proposed variation (i.e. subject site does not contain steep slopes).

**12.4.1.6 Location of Car Parking (P1)**

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p>A1 A garage or carport must be located:</p> <ul style="list-style-type: none"> <li>a) within 20 metres of the dwelling it serves; and</li> <li>b) with a setback equal to or greater than the setback of the dwelling from the primary road frontage.</li> </ul>	<p>P1 Car parking facilities must be:</p> <ul style="list-style-type: none"> <li>a) close and convenient to dwellings and residential buildings; and</li> <li>b) located to minimise visual impact to the streetscape; and</li> <li>c) provided in a form that is appropriate to the area and development.</li> </ul>
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to</p>	

satisfy the acceptable solution and as such assessment against the performance criteria is required.

However, the performance criteria can be considered appropriately satisfied as evident in the completed below:

(a) The garage will form part of the proposed dwelling addition and therefore is able to effectively service the residential use associated with the existing dwelling.

(b) The section of the dwelling addition which includes the garage is intended to be constructed in front of the existing dwelling and will have a 7.860m setback to the front boundary. Notably, existing vegetation that is intended to remain along the front boundary (note: some vegetation clearance required for the new crossover and driveway) will reduce the visual impact of the proposed development.

(c) Provision of car parking within a garage is consistent with how car parking is provided within the surrounding area and dwellings.

#### 12.4.4.2 Stormwater Disposal – P1

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
A1 All run off from buildings must be directed into on-site water storage tanks and the overflow from the tanks disposed of into the Council maintained roadside drain or the reticulated stormwater system.	P1 Run off must be managed through integrated stormwater management techniques by means that will not cause soil erosion or flooding nuisance to adjoining lots.

**Assessment against the Performance Criteria is required.**

#### **Performance Criteria Assessment**

Proposed development for the construction of dwelling additions & alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.

Submitted site plan in conjunction with the Stormwater Report prepared by 6ty<sup>o</sup> demonstrates that the stormwater generated by the roofed areas of both the existing dwelling and the proposed development will be directed to three 14,000L tanks with subsequent overflow being disposed into a new kerb connection point via a charged line. The documents also demonstrate that there will be a fourth tank/5500L garden water tank located along the western side boundary (note: located within proximity to the existing dwelling) which will capture stormwater generated by the forecourt and driveway with subsequent overflow then being discharged into a 20m long by 0.4m wide dispersion trench within the rear section of the subject site.

Referral to the Works Department regarding the proposed stormwater disposal via a charged line to the kerb resulted in the following conditions required to accompany a planning permit (review TRIM ref. 23/23722 for the Works Referral):

- *All roof drainage must be connected to existing water storage tanks and overflow directed to the kerb which requires a new connection to be made in accordance with standard drawing TSD-SW29-v3.*

- *An application must be submitted to obtain a Works Permit prior to undertaking any work on the stormwater connection and/or the crossover.*

Additionally, with regards to the onsite stormwater disposal method proposed for the fourth tank as detailed above, the amended stormwater report was referred to Development Services Coordinator & Building Surveyor and resulted in the following comments being provided:

- *'The onsite stormwater report is suitable for planning approval purposes'*

Therefore, the performance criteria can be considered appropriately satisfied.

#### *E4.7.2 Management of Road Accesses and Junctions (P3)*

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
A3 Accesses must not be located closer than 6m from an intersection, nor within 6m of a break in a median strip.	P3 Accesses must not be located so as to reduce the safety or efficiency of the road.
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required. The additional crossover is located less than 6m from the intersection between Bay View Avenue and Highcrest Avenue. However, the performance criteria can be considered appropriately satisfied as the additional crossover is unlikely to reduce the safety or efficiency of the road as the crossover will be utilised for the purposes of servicing an existing residential use occurring on the subject site. It worth noting that within the current available aerial imagery that the property at 14 Bay View Avenue has an existing crossover which is located less than 6m from the abovementioned intersection.</p>	

#### *E4.7.4 Sight Distance at Accesses, Junctions and Level Crossings (P1)*

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
A1 Sight distances at a) an access or junction must comply with the Safe Intersection Sight Distance shown in Table E4.7.4; and b) rail level crossings must comply with AS1742.7 Manual of uniform traffic control devices - Railway crossings, Standards Association of Australia; or c) If the access is a temporary access, the written consent of the relevant authority has been obtained.	P1 The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles.
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required. Specifically, an 80m sight distance cannot be achieved from the proposed access point</p>	

to the east of the subject site. However, in response to the referral of this application, the Works Department confirmed the following (review TRIM ref. 22/23722 for the Works Referral):

*‘There’s no need for a TIA based on the “new” crossover being closer to the east and having better sight distance to the east than the existing crossover’.*

Therefore, the performance criteria can be considered appropriately satisfied.

**E8.6.1 Habitat and Vegetation Management (P2.1)**

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p>A2 Clearance or disturbance of native vegetation is in accordance with a certified Forest Practices Plan.</p>	<p>P2.1 Clearance or disturbance of native vegetation must be consistent with the purpose of this Code and not unduly compromise the representation of species or vegetation communities of significance in the bioregion having regard to the:</p> <ul style="list-style-type: none"> <li>a) quality and extent of the vegetation or habitat affected by the proposal, including the maintenance of species diversity and its value as a wildlife corridor; and</li> <li>b) means of removal; and</li> <li>c) value of riparian vegetation in protecting habitat values; and</li> <li>d) impacts of siting of development (including effluent disposal) and vegetation clearance or excavations, , in proximity to habitat or vegetation; and</li> <li>e) need for and adequacy of proposed vegetation or habitat management; and</li> <li>f) conservation outcomes and long-term security of any offset in accordance with the General Offset Principles for the RMPS, Department of Primary Industries, Parks, Water and Environment.</li> </ul>

**Assessment against the Performance Criteria is required.**

**Performance Criteria Assessment**

Proposed development for the construction of dwelling additions & alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.

As part of the proposed development, removal of some existing vegetation to accommodate the proposed development including the additional crossover that has been proposed (note: this includes the removal of one tree along the western side boundary). However, review of the property with regards to the location of the approximate 7 trees that are proposed to be removed, it is evident on the LIST with both the ‘TASVEG 4.0’ and ‘TASVEG Live’ overlays applied, that this section of the subject site has been attributed the following vegetation group and description:

1. *TASVEG 4.0 = Modified Land (Vegetation Community Group), FUR Urban Areas (Vegetation Community Group Description).*
2. *TASVEG Live = same as above.*

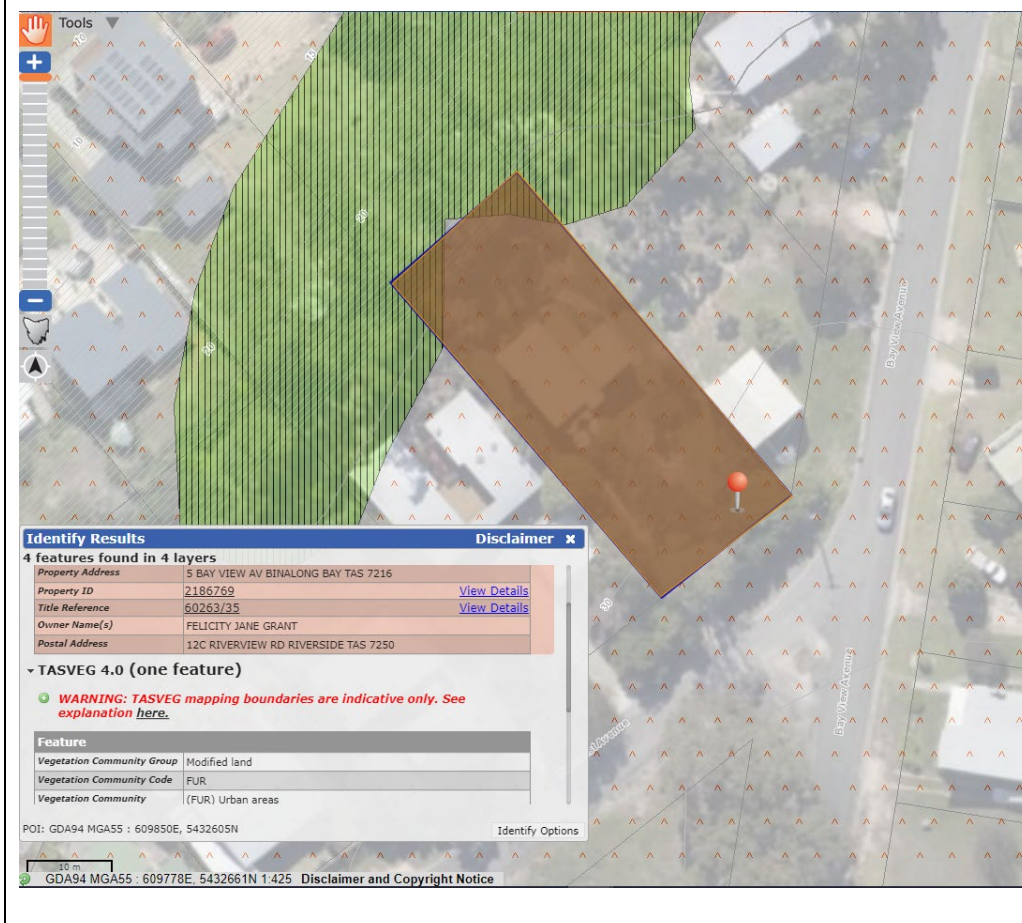
Consequently, the TASVEG layers from the LIST reveal that this section of the property does not contain native vegetation that could be identified as either environmentally significant or as an important habitat for local fauna species (note: further confirmed through the application of Threatened Fauna Point, Non-Threatened Fauna Point and Conservation Significance Fauna Point). Therefore, with regards to the above, removal of approximately 7 trees to accommodate the proposed development is able satisfy the performance criteria.



Advertising/ Site Visit Photos

Date: 05/05/2023

Taken by: Planning Officer (Alex McKinlay)



E16.6.1 Use and lot size (P1)

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p>A1 Residential uses that rely on onsite wastewater management must:</p> <p>a) be on a site with minimum area of 2,000m<sup>2</sup>; and</p> <p>b) have four bedrooms or less.</p>	<p>P1 Residential use on sites less than 2,000m<sup>2</sup> or with more than four bedrooms that rely on onsite wastewater management must be able to accommodate:</p> <p>a) the proposed residence and associated buildings and structures;</p> <p>b) private open space;</p> <p>c) vehicle manoeuvring and car parking;</p> <p>d) hardstand and paved areas; and</p> <p>e) onsite wastewater management infrastructure</p>
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.</p>	

The subject site has an area of 1006.93 m<sup>2</sup> and the proposed development will result in the provision of three bedrooms and includes the installation of an Aerated Wastewater Treatment System (AWTS). However, the subject site is able to accommodate the proposed development, existing private open space that currently serves the existing dwelling, car parking and associated vehicle manoeuvring spaces in addition to hardstand and paved areas.

The response provided by Council’s EHO (Chris Wicks) regarding the referral of the onsite wastewater report prepared by Geoton, resulted in the following comments (TRIM 23/20268):

- *‘I am able to provide consent to the installation subject to the following conditions: The location of the absorption area, specifically the boundary setbacks, is consistent with AS 1547 appendix R or, is determined on the basis of a rigorous risk assessment in accordance with AS 1547 – 2012; and, the designer inspect the construction of the absorption area and provide to Council certification that the absorption area has been designed in accordance with AS1547 – 2012, and constructed strictly in accordance with the approved design plan and boundary setbacks’.*

Inclusion of the recommend conditions as advised by the EHO (Chris Wicks), has been included within the recommended conditions for this application. Therefore, the performance criteria can be considered appropriately satisfied.

**E16.7.1 Onsite Wastewater Management (P2)**

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p>A2 A minimum horizontal separation of 3m must be provided between onsite wastewater management infrastructure and the following:</p> <p>a) hardstand and paved areas;</p> <p>b) car parking and vehicle manoeuvring areas; and</p> <p>c) title or lot boundaries;</p>	<p>P2 Hardstand, paved areas car parking and vehicle manoeuvring areas must:</p> <p>a) not be located above or below each other; and</p> <p>b) have no detrimental impact on the operation or integrity of the onsite waste water management infrastructure.</p>
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.</p> <p>Specifically, the site plan included within Geoton’s report illustrates that the disposal bed for the proposed Aerated Wastewater Treatment System (AWTS) will be located less than 3m from eastern side boundary and the permeable eco pavers that form part of the development as well. However, the performance criteria can be considered appropriately satisfied as evident in the completed assessment below:</p> <p>(a) The raised disposal bed is not located above or below hardstand, paved areas, car parking and vehicle manoeuvring areas.</p> <p>(b) A written scheme response prepared by the suitably qualified person that prepared Geoton’s onsite wastewater report confirmed that, <i>‘The operation of the raised disposal</i></p>	

*bed will not be impacted by the adjacent paved area' (review written scheme response provided by Geoton under TRIM Ref. 23/9888).*

#### E16.7.2 Surface and ground water impacts – P4

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
A4 Vertical separation between a limiting layer and the land used to apply effluent, including reserved areas, must be no less than 1.5m.	P4 Onsite wastewater management infrastructure separated from the limiting layer by less than 1.5m must have no detrimental impacts on groundwater.
<p><b>Assessment against the Performance Criteria is required.</b></p> <p><b>Performance Criteria Assessment</b></p> <p>Proposed development for the construction of dwelling additions &amp; alterations, garage, deck and additional crossover for the subject site at 5 Bay View Avenue, Binalong Bay, is unable to satisfy the acceptable solution and as such assessment against the performance criteria will be required.</p> <p>Within the onsite wastewater report prepared by Geoton, the Borehole logs illustrate that neither Borehole 1 nor 2 met refusal as both borehole were terminated at a depth of 1.8m thereby indicating a vertical separation of more than 1.5m from a limiting layer could be achieved.</p> <p>However, in response to the referral of the onsite wastewater report, Council's EHO (Chris Wicks) expressed the following concerns and subsequent conditions that will be required to accompany the planning permit (TRIM 23/20268):</p> <ul style="list-style-type: none"> <li><i>'I am able to provide consent to the installation subject to the following conditions: The location of the absorption area, specifically the boundary setbacks, is consistent with AS 1547 appendix R or, is determined on the basis of a rigorous risk assessment in accordance with AS 1547 – 2012; and, the designer inspect the construction of the absorption area and provide to Council certification that the absorption area has been designed in accordance with AS1547 – 2012, and constructed strictly in accordance with the approved design plan and boundary setbacks'.</i></li> </ul> <p>Inclusion of the recommend conditions as advised by the EHO (Chris Wicks) for the proposed Aerated Wastewater Treatment System (AWTS), will be included within the planning permit for this application. Therefore, the performance criteria can be considered appropriately satisfied.</p>	

## 5. Representations

The application was advertised 6<sup>th</sup> May 2023 to 19<sup>th</sup> May 2023 in the Examiner Newspaper, notices on-site and at the Council Chambers and notification by mail to all adjoining landowners. Four (4) representations were received prior to the closing date and time. The issues raised within the representations are as follows:-

### Representation 01

<b>Issue</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Acceptable Solution of 12.4.1.5: Rear and Side Setbacks requires a 3m setback but the proposed dwelling addition will have a setback of 1.98m to the western side</li> </ul>	<ul style="list-style-type: none"> <li>One of the discretionary items associated with this application is <i>12.4.1.5 Rear and Side Setbacks (P2)</i> as the site plan demonstrates</li> </ul>



boundary. Particularly, the location of laundry, and bathroom on the second storey addition as well as the relocation/placement of the stormwater tanks contravene the Planning Scheme. All the water tanks, including the new 14,000 litre tanks encroach even closer to the boundary. As these tanks will need a pressure pump to operate, their proximity to the boundary will be intrusive.

- In relation to the Performance Criteria: (c) impact on the amenity and privacy of habitable room windows and private open space of existing and adjoining dwellings. Reference to the first site plan drawing submitted in the application, indicate that the new 2 storey extension is located over the rear third of 1 Highcrest Ave.

The height of the extension with the location of the window in the upstairs bathroom will significantly impact on the amenity and privacy of our property. As the proposed development is on higher ground sloping down towards our property, this intrusion is amplified (performance criteria: (g) extent to which slope increase the impact of the proposed variation.

The unroofed central, open deck design of our building, which has been in place for approximately 30 years, will be in full view from this window.

- (d) impact on the solar access of habitable rooms windows and private open space of adjoining dwellings:  
The solar equinox diagrams in the proposal, due to the height of the proposed development will clearly affect solar access to our property. The diagrams of the shadows cast in the proposal stop at the boundary. It is obvious that the shadows cast will have a significant effect on sun in our kitchen and living areas in the mornings in Summer, Autumn Winter and Spring and block sunlight at noon in Autumn and Winter. As the setback from the boundary

a 1.98m setback to the western side boundary and 2.450m to the eastern side boundary for the dwelling addition. Please refer to the Responsible Officer's Completed Planning Scheme Assessment for reference regarding how the Performance Criteria for clause 12.4.1.5 Rear and Side Setbacks (P2) under the 12.0 Low Density Residential Zone can be considered appropriately satisfied.

- Regarding the three 14,000 Litre tanks, the overflow from the proposed tanks will be disposed into a new stormwater kerb connection point via a charged line (note: subject to conditions provided by the Works Department). In this instance a pressure pump will not be utilised to direct stormwater overflow from the abovementioned tanks to the new kerb connection. Please note that with reference to the applicants submitted stormwater report, a pressure pump does not form part of the proposed stormwater disposal methods.
- Review of the submitted site plan demonstrates that only 1 tree along the western side boundary is intended to be removed to accommodate the proposed development. Remaining vegetation along the western side boundary will continue to provide screening between the subject site and 1 Highcrest Avenue.
- The white brick wall which is located along the western side of the proposed deck (note: refer to the western elevation for context) has been utilised in place of a glass balustrade. The applicant on behalf of the owners has developed the

<p>does not comply with the 3m provision of the planning scheme, and the upward sloping ground between our properties, this solar access is further restricted.</p> <ul style="list-style-type: none"> <li>Concerns about potential removal of vegetation along the western boundary as this currently provides good screening between both properties (i.e. privacy).</li> <li>Question the purpose of the white brick wall at the end of the balcony along the northern end of the structure/deck along the western boundary. Particularly, the necessity and purpose of the wall has been questioned and if it is a requirement of the current planning scheme as a solid feature.</li> </ul>	<p>design of the proposed development and the inclusion of the white brick wall forms part of that design. It is not a requirement under the current interim planning scheme but please note that the white brick wall has a total height of 3.4m which is less than the 8m building height requirement under acceptable solution A1 of <i>12.4.1.3 Building Height</i> and has a side boundary setback exceeding the 3m requirement of the acceptable solution A2 for <i>12.4.1.5 Rear and Side Setbacks</i>.</p>
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Representation 02

Issue	Response
<ul style="list-style-type: none"> <li>Understands having the overflow pipes charged so the waste water flows to the streetside gutter, but there is a tank immediately adjoining 26 Binalong bay road. Unsure of where the water goes from this tank once the tank is full. The area along the rear boundary is solid sheet rock and there is little soil absorption and the Geoton report does not show anything on that part of the block at all.</li> <li>Can't see where all three boreholes were drilled on the site plan from Geoton's report. Can only see hole 3 was drilled in front of the house in the fill area and 2 at the back of the house, but I can see where hole 1 was bored.</li> <li>Concerned that concentrating water from behind the house down to there as well as the runoff from all the paths will potentially cause a problem for 26. Runoff from 5 Bayview as it exists currently causes washouts now as the soil/rocks can't absorb it.</li> <li><i>'The surrounds of the house contain sections of paths, an outside deck and a vehicle forecourt area, with little of these being provided with a direct stormwater connection. Care should be taken to ensure</i></li> </ul>	<ul style="list-style-type: none"> <li>In the first version of the stormwater report prepared by 6ty°, a fourth 14,000L tank was shown to be located in the corner of the western boundary adjoining 1 Highcrest Avenue and 26 Main Road, Binalong Bay. However, in response to the submitted representations, the applicant has supplied a revised stormwater report and site plan which now demonstrates that the fourth tank will be located along the western end of the existing dwelling structure, will have a 5,500L capacity and subsequent overflow is intended to be disposed into a 20m long by 0.4m Wide dispersion trench. Please note that the Geoton report was completed for the proposed Aerated Wastewater Treatment System (AWTS) and not for stormwater purposes.</li> <li>Representor locates the boreholes from the Geoton report as outlined in Representation 04 below.</li> <li>Stormwater from the existing dwelling structure will also be</li> </ul>

*that stormwater from these areas is not concentrated so as to create a potential problem to properties downslope of the land' - How is this proposed?*

- *'Collected stormwater can be directed to a dispersion trench along the contour or to a garden watering tank. The flows collected from the forecourt area are minor, totally some 3 l/s for the 1 % AEP and 1600 litres for a 10-minute burst event (a thunderstorm)' - Where is such a trench proposed and a flow rate of 3ls in a storm for all the area is way below what we see now, before adding paths and roadways preventing soil absorption. This report only talks about the forecourt area, what about the driveways paths etc., are they accounted for?*
- 12.4.1.5 Setbacks. Interpretation is that the setback is required to be 3 metres, but the existing setback is 2510. If the Representor wanted to build an 8 metre high building on 3 Bayview Avenue would shading preclude the Representor from being 3 metres from their boundary because the setback on the plan is proposed to be 2510. Will the Representor have to build half a metre further away from the boundary due to shading?
- Geoton report section 4.5, it talks about 3.0 metres from cross slope buildings for waste water disposal. Can't see any plans for where the Waste water treatment area is going on the plans. The Representor notes that they know when they built the boatshed on 3 Bayview it was extremely heavy impermeable clay, hence the concern over the 3 metre cross slope if the waste water treatment area is going to be in that area. Can't see the boreholes marked from Geoton report to know what and where. The soil changes rapidly on 3 Bayview from heavy clay to solid granite in decaying granite sands with completely different drainage properties.
- Is the existing septic tank structure being removed?

directed into three 14,000L tanks along the western side boundary as seen within the site plan with overflow being discharged to a new kerb connection point via a charged line (note: Proposed development does include outdoor permeable eco pavers to provide pathways for the proposed development).

- The fourth tank/5500L garden water tank located along the western side boundary (note: located within proximity to the existing dwelling) will capture stormwater generated by the forecourt and driveway with subsequent overflow then being discharged into a 20m long and 0.4m wide dispersion trench within the rear section of the subject site. The revised stormwater report on pg. 09 of the report further states, *'The surrounds of the house contain sections of paths, an outside stairwell and the water storage tanks, with these having no direct stormwater connection. Care should be taken to ensure that stormwater from these areas is not concentrated so as to create a potential problem to properties downslope of the land. This may be achieved by landscaping or the interception of any surface flows by the installed dispersion trench'.*
- The application is discretionary on 12.4.1.5 Rear and Side Setbacks (P2) as the site plan demonstrates a 1.98m setback to the western side boundary and 2.450m to the eastern side boundary for the dwelling addition. Accordingly, assessment against the performance criteria was required (Please refer to the Responsible Officer's Completed Planning Scheme Assessment) but if the Representor wishes to construct a

	<p>structure on 3 Bay View Avenue, the 2.450m setback to the eastern boundary of the proposed dwelling addition will not impact upon the ability for the Representor to site a structure 3m from the adjoining side boundary. The setback requirements apply to individual properties within their respective boundaries.</p> <ul style="list-style-type: none"> <li>• Similar to the point above, Representor locates the boreholes from the Geoton report as outlined in Representation 04 below.</li> <li>• Existing septic system is intended to be replaced with a new Aerated Wastewater Treatment System (AWTS). However, the following condition will be included on the planning permit:</li> </ul> <p><i>12. The existing septic tank and trench system serving 5 Bay View Avenue, Binalong Bay must be demolished, treated with lime and backfilled. A report by a suitably qualified practitioner in relation to the required work is to be obtained before the issue of an Occupancy Permit.</i></p>
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**Representation 03** (Another representation submitted by Representor 02 above)

<b>Issue</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>• Observations regarding the tank above the boundary of 26 and 28 Binalong Bay Road and the proposed. There is the area marked above where that tank for a paved area and deck area, but no plans on where the runoff will be managed from those areas. Does that go into the tank in the corner of the block or run down the representor’s blocks? It is solid granite less than 2 metres inside 26 Boundary which would mean the concentrated water movement would all run across the top of the rocks and down the hill. In an east Coast storm this has the potential to cause washing due to the speed the water will</li> </ul>	<ul style="list-style-type: none"> <li>• Similar to the response provided for representation 02 above: <ul style="list-style-type: none"> <li>- The fourth tank/5500L garden water tank located along the western side boundary (note: located within proximity to the existing dwelling) will capture stormwater generated by the forecourt and driveway with subsequent overflow then being discharged into a 20m long and 0.4m wide dispersion trench within the rear section of the subject site. The revised stormwater report on pg. 09 of the report further states,</li> </ul> </li> </ul>

<p>travel from pavers to rock and beyond. Has this been addressed in a report?</p> <ul style="list-style-type: none"> <li>• Interpretation of the reports is that if the Representor wanted to build up high on those blocks 26 and 28 and install a bore due to the lack of town water at Binalong Bay, the Representor believes that they would be restricted because the waste water above will be filtering down preventing them from potentially doing this. Is that a correct assumption? Representor further asks if they wanted to put a bore on 3 Bayview would they be permitted to use it.</li> </ul>	<p><i>‘The surrounds of the house contain sections of paths, an outside stairwell and the water storage tanks, with these having no direct stormwater connection. Care should be taken to ensure that stormwater from these areas is not concentrated so as to create a potential problem to properties downslope of the land. This may be achieved by landscaping or the interception of any surface flows by the installed dispersion trench’.</i></p> <ul style="list-style-type: none"> <li>• The proposed disposal bed for the new Aerated Wastewater Treatment System (AWTS) has been shown within Geoton’s report to be located within the front section of the subject site. Potential construction of structures up high on blocks 26 Main Road &amp; 28 Main Road and the hypothetical installation of a bore on adjoining properties will be for the Representor to consider.</li> <li>• Please refer to the Responsible Officer’s Completed Planning Scheme Assessment for reference regarding how the relevant Performance Criteria from the E16.0 Onsite Wastewater Management Code can be considered appropriately satisfied.</li> </ul>
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**Representation 04** (Another representation submitted by Representor 02 above)

Issue	Response
<ul style="list-style-type: none"> <li>• Found the bore holes within the Geoton report, but challenges their validity doing a soil water test in the driest month of the year 22<sup>nd</sup> February to see if it can cope with 600 Litres per day. Representor asserts that stating that minimum water depth is &gt; than 1.8 metres, would be accurate for that time of year, but consideration should be given to the water table on the 1<sup>st</sup> September for example, water table will be a lot less than this and could be possibly be</li> </ul>	<ul style="list-style-type: none"> <li>• The submitted onsite wastewater report by Geoton to support the installation of a new Aerated Wastewater Treatment System was prepared by a qualified wastewater system designer and was reviewed by Council’s EHO (Chris Wicks).</li> <li>• The outlined section of the stormwater report that the Representor makes reference to, is with regards to the existing site</li> </ul>

<p>&lt;200mm which would result different calculation.</p> <ul style="list-style-type: none"> <li>• Page 07 of the stormwater report prepared by 6ty<sup>o</sup> – “This equates to a total impervious fraction of 22% of the lot, with all of the site discharging to ground if the rainwater storage tanks are full” – Representor notes that in other parts of the report it is says water will be directed to the kerb through charged pipes and questions which one to believe.</li> <li>• Stormwater report only outlines 3 tanks, yet there are 4 on the plan and there is no comment on the tank adjoining 26 Binalong bay Road, what this tank does and where does the overflow go?</li> <li>• Attached pics 3808 you can see proposed pavement, yet in 3807 it is showing grass and as such unsure which one to believe, but if its pavement where is the concentrated water going?</li> </ul>	<p>prior to the proposed development. Stormwater generated by the roof areas of the proposed development will be directed into three 14,000L tanks with overflow being disposed into a new kerb connection point (note: subject to conditions required by the Works Department). As detailed in representation 03 above, the fourth tank/5500L garden water tank located along the western side boundary (note: located within proximity to the existing dwelling) will capture stormwater generated by the forecourt and driveway with subsequent overflow then being discharged into a 20m long and 0.4m wide dispersion trench within the rear section of the subject site.</p>
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**The recommendation for approval has been made following due consideration of the representation and comments.**

## 6. Mediations

As per the decision reached during the July Council meeting, this application was deferred to allow sufficient time to organise for a meeting between the representor (Representor 01 – George Cerchez accompanied by his wife), the applicant (Chester Bullock is the engineer who has been working on this application and has received authorisation from the owners to work on the application on their behalf) and the owners of the subject site. This meeting occurred on the 11 of August at 2:00pm and concluded at approximately 2:30pm. Please review notes below for a summary of the discussion and subsequent results of the meeting:

- Location of the tanks being less than 3m from the side boundary and the scheme response provided for clause 12.4.1.5 Rear and Side Setbacks from the interim planning scheme’s 12.0 Low Density Residential Zone;
- General commentary about the design of the addition which was largely focussed on the inclusion of vertical windows for the ensuite rather than being consistent with the laundry and having horizontal windows;
- Vegetation Removal;
- Noise concerns regarding the proposed stormwater system;
- Concerns and questions regarding the overshadowing that the proposed development may have on the representor’s property;

- It was confirmed to the representor that if they still have issues or concerns that appealing the application to address those concerns further is a course of action that can be pursued if desired;
- The representor was informed that the application will remain as originally recommended, that is for approval with conditions. They were advised of their rights to appeal Council decision to TASCAT (Tasmanian Civil and Administrative Tribunal) in the instance where the recommendation is approved by Council;
- Equally the applicants were advised of their right to appeal Councils decision to TASCAT in the event that the recommendation is refused by Council.
- As a result on the mediation process, no resolution to the matters discussed could be resolved and so as a result no design changes were made.

## 7. Conclusions

In accordance with 8.10 of the Break O' Day Interim Planning Scheme 2013, the application has been assessed against the objectives of the Scheme, in particular the Low Density Residential Zone, all relevant Codes and issues. The application has demonstrated compliance with the Acceptable Solutions and ten (10) Performance Criterion. The received representations has been considered.

**It is recommended for approval with conditions normally set to this type of development.**

### STRATEGIC PLAN & ANNUAL PLAN:

Break O' Day Strategic Plan 2017-2027 (Revised March 2022)

#### Goal

To balance our use of the natural environment to ensure that it is available for future generations to enjoy as we do.

#### *Key Focus Area:*

Appropriate Development - Encourage sensible and sustainable development through sound land use planning, building and design.

### LEGISLATION & POLICIES:

*Break O' Day Interim Planning Scheme 2013 Version 20*  
*Land Use Planning and Approvals Act 1993,*  
*Local Government (Building and Miscellaneous Provisions) Act 1993*

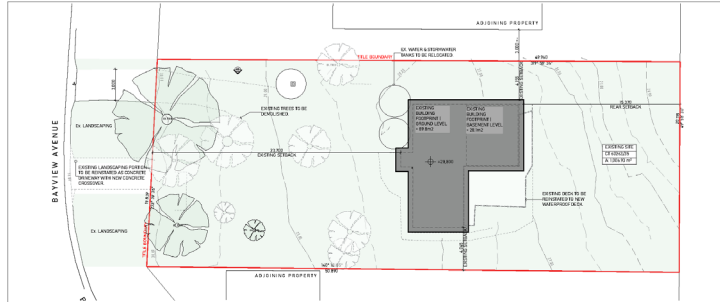
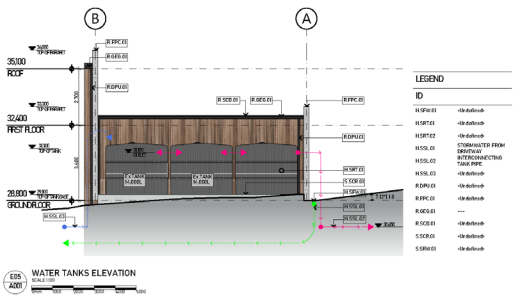
### BUDGET; FUNDING AND FINANCIAL IMPLICATIONS:

Not applicable, all costs of the development are the responsibility of the developer.

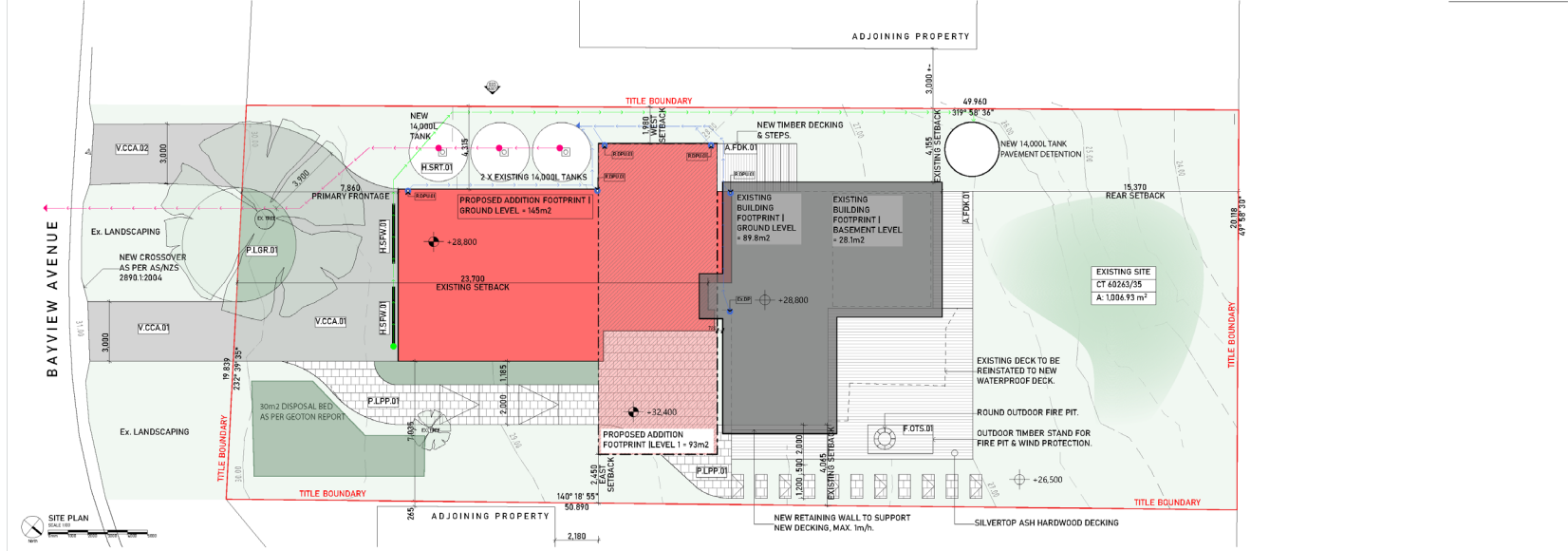
### VOTING REQUIREMENTS:

Simple Majority

Element ID	NOTES
A.FHW.01	GRASS OR ASPHALT DRIVEWAY
H.SRFD.01	TRENCH GRADE
H.SRFT.01	NEW H.SRFT. TANK
H.SRFT.02	NEW H.SRFT. TANK
H.SRFL.01	NEW H.SRFL. TANK
H.SRFL.02	NEW H.SRFL. TANK
H.SRFL.03	NEW H.SRFL. TANK
H.SRFL.04	NEW H.SRFL. TANK
H.SRFL.05	NEW H.SRFL. TANK
H.SRFL.06	NEW H.SRFL. TANK
H.SRFL.07	NEW H.SRFL. TANK
H.SRFL.08	NEW H.SRFL. TANK
H.SRFL.09	NEW H.SRFL. TANK
H.SRFL.10	NEW H.SRFL. TANK
H.SRFL.11	NEW H.SRFL. TANK
H.SRFL.12	NEW H.SRFL. TANK
H.SRFL.13	NEW H.SRFL. TANK
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H.SRFL.15	NEW H.SRFL. TANK
H.SRFL.16	NEW H.SRFL. TANK
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H.SRFL.97	NEW H.SRFL. TANK
H.SRFL.98	NEW H.SRFL. TANK
H.SRFL.99	NEW H.SRFL. TANK
H.SRFL.100	NEW H.SRFL. TANK



001 DEVELOPMENT DATA		
PROPOSED DATA	AREA	
SITE COVERAGE	100%	
002 BUILDING SITE COVERAGE		
ID	ITEM DESCRIPTION	AREA
EXISTING BUILDING FOOTPRINT	EXISTING BUILDING FOOTPRINT	89.8m <sup>2</sup>
PROPOSED ADDITION FOOTPRINT	PROPOSED ADDITION FOOTPRINT	149.2m <sup>2</sup>
VECAL1	NEW CONCRETE DRIVEWAY WITH ASPHALT LAYUP	29.1
VECAL2	EX. CONCRETE DRIVEWAY WITH ASPHALT LAYUP	29.3
TOTAL BUILDING AREA		239.0
SITE COVERAGE ALLOWANCE (30%)		321.1



PROJECT NAME: GRANT RESIDENCE

DRAWING TITLE: SITE PLAN

PROJECT ADDRESS: 5 BAYVIEW AVENUE, BRANDING BAY

REV: FELICITY & IAN GRANT

REV: DESCRIPTION: DATE

CONTACT: felicity@zuri.com.au

PHONE: 08 9438 1111

EMAIL: info@zuri.com.au

DATE: 14/03/2023

SCALE: SKETCH

NO: A001

REV: Sk01

FIG: 5.9A

SCALE: 1:1



