

**MINUTES OF THE PLANNING COMMITTEE MEETING
OF THE CENTRAL HIGHLANDS COUNCIL HELD
IN THE BOTHWELL COUNCIL CHAMBERS
AT 9.00AM ON TUESDAY 14th JANUARY 2020**

1.0 PRESENT

Clr Allwright (Chairperson), Mayor Triffitt, Clr Poore & Clr Cassidy

IN ATTENDANCE

Clr Bailey, Clr Honner, Clr Campbell, Ms J Tyson (Senior Planning Officer), Ms N Ruff, Mr A Adams & Mrs K Bradburn (Minutes Secretary)

2.0 APOLOGIES

Lyn Eyles (General Manager) & Adam Wilson (Deputy General Manager)

3.0 PECUNIARY INTEREST DECLARATIONS

In accordance with Regulation 8 (7) of the Local Government (Meeting Procedures) Regulations 2015, the Chairman requests Councillors to indicate whether they or a close associate have, or are likely to have a pecuniary interest (any pecuniary or pecuniary detriment) in any item of the Agenda.

Nil

4.0 CONFIRMATION OF MINUTES

Moved **Clr Poore**

Seconded **Clr Cassidy**

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 26th November 2019 to be confirmed.

Carried

For the Motion: Clr Allwright, Mayor Triffitt, Clr Poore & Clr Cassidy

5.0 QUESTION TIME & DEPUTATIONS

Ms N Ruff (Applicant) & Mr A Adams (Representor) to speak to Item 6.0 following the presentation of the application by Ms J Tyson (Senior Planning Officer).

6.0 DA2019/75 : OUTBUILDING (CONTAINER): LOT 9 INTERLAKEN ROAD, INTERLAKEN

Report by

Jacqui Tyson (Contract Planner)

Applicant

N D Ruff

Owner

As above

Proposal

The proposal is for use and development of an outbuilding in the form of a shipping container on a property known as Lot 9 Interlaken Road, Interlaken. This is a retrospective application as the container is already on the property. A dwelling approved in DA2017/46 is currently under construction on the property.

The outbuilding is a 40 foot shipping container, which is approximately 12m long, 2.5m wide and 2.8m high. The outbuilding is placed on concrete footing pads.

The building is sited 1m from the northern property boundary and against the eastern side boundary, beside two firefighting water tanks.

The outbuilding is to be painted in "Monument" (dark grey) to match the dwelling under construction.

Access to the site is via a private road off Interlaken Road, located to the south of Dago Point Road. The road provides access to six small lots developed with dwellings. The first section of the access road extends east off Interlaken Road, within a road lot, before turning south and extending along the rear of the private properties, via a Right of Way.

Residential use for a single dwelling has 'No Permit Required' status in the Low Density Residential Zone of the Central Highlands Interim Planning Scheme 2015. The proposal is discretionary due to the proposed boundary setbacks.

Subject site and Locality.

The subject site is a 1149m² property located east of Interlaken Road and west of Lake Sorell. The property is accessed off Interlaken Road via a shared road and Right of Way.

The property adjoins another dwelling/shack on the northern side and vacant private property on the western side. The eastern and southern boundaries of the site adjoin Crown land, managed by DPIPW around the lake foreshore. The site is developed with a dwelling that is under construction, which replaced a previous dwelling that was demolished.

The locality characterised by a mix of small dwelling/shack sites in clusters around the lake shore, public land and larger rural titles surrounding them.

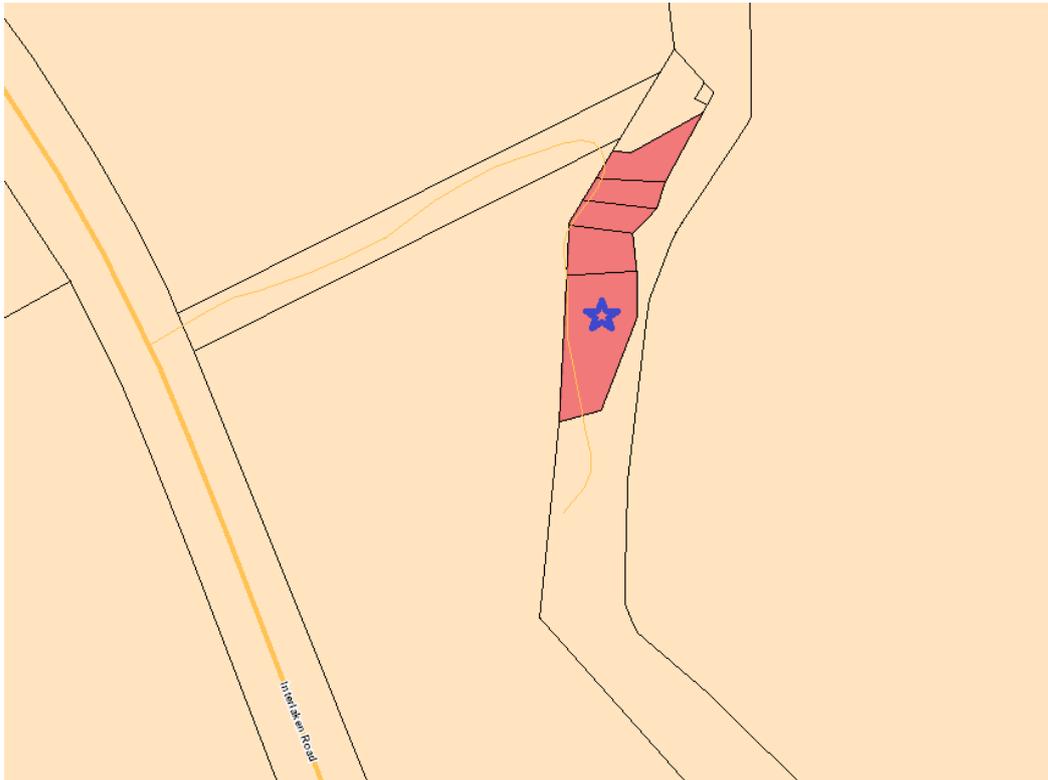


Fig 1. Location and zoning of the subject land (marked by a blue star) in the Low Density Residential Zone (pink). Surrounding land is also in the Low Density Residential Zone or the Rural Resource Zone (Cream).
(Source: LISTmap).



Fig 2. Aerial photo of the subject land and surrounding area, subject land marked with red star (Source: LISTmap).

Exemptions

Nil

Special Provisions

Nil

Low Density Zone – Development standards

The proposal must satisfy the requirements of the relevant development standards of the Low Density Residential Zone as follows:

12.4.2 Setbacks and building envelope		
<p>To control the siting and scale of dwellings to:</p> <p>(a) provide reasonably consistent separation between dwellings on adjacent sites and a dwelling and its frontage; and</p> <p>(b) provide consistency in the apparent scale, bulk, massing and proportion of dwellings; and</p> <p>(c) provide separation between dwellings on adjacent sites to provide reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space.</p>		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A2 A garage or carport must have a setback from a frontage of at least:</p> <p>(a) 5.5 m, or alternatively 1m behind the façade of the dwelling; or</p> <p>(b) the same as the dwelling façade, if a portion of the dwelling gross floor area is located above the garage or carport; or</p> <p>(c) 1m, if the natural ground level slopes up or down at a gradient steeper than 1 in 5 for a distance of 10 m from the frontage.</p>	<p>P2 The setback of a garage or carport from a frontage must:</p> <p>(a) provide separation from the frontage that complements or enhances the existing streetscape, taking into account the specific constraints and topography of the site; and</p> <p>(b) allow for passive surveillance between the dwelling and the street.</p>	<p>Determining the front boundary of this site is complicated by the access arrangements via a Right of Way.</p> <p>However, it is considered reasonable to treat the northern boundary as the frontage in this case as it is where the shared access meets the property.</p> <p>The proposed outbuilding is sited 1m from the northern boundary. The site is relatively flat, so A1 (c) does not apply and the setback must be assessed against the performance criteria.</p> <p>With regard to (a), the siting of the properties in the area does not really create a streetscape. However the prevailing pattern of development in this small cluster is of buildings quite close to boundaries and each other. The proposed outbuilding is considered to be consistent with this.</p> <p>With regard to (b), the siting of the container does reduce the view lines between the subject property and the neighbouring dwellings, however it is not completely</p>

		<p>obscured and there is still opportunities for passive surveillance, particularly given the shared access arrangement.</p> <p>Overall, it is considered that the proposal meets the requirements of Performance Criteria P2.</p>
<p>A3 A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to diagrams 12.4.2A, 12.4.2B, 12.4.2C and 12.4.2D) determined by:</p> <p>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a lot with an adjoining frontage; and</p> <p>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above natural ground level at the side boundaries and a distance of 4m from the rear boundary to a building height of not more than 8.5m above natural ground level; and</p> <p>(b) only have a setback within 1.5m of a side boundary if the dwelling:</p> <p>(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining lot; or</p> <p>(ii) does not exceed a total length of 9m or one-third the length of the side boundary (whichever is the lesser).</p>	<p>P3 The siting and scale of a dwelling must:</p> <p>(a) not cause unreasonable loss of amenity by:</p> <p>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or</p> <p>(ii) overshadowing the private open space of a dwelling on an adjoining lot; or</p> <p>(iii) overshadowing of an adjoining vacant lot; or</p> <p>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and</p> <p>(b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.</p>	<p>As discussed above, if the northern boundary is taken to be the frontage of the site, the outbuilding is not located within the applicable building envelope (12.4.2A – copied below table) as the front setback is less than 4.5m.</p> <p>Assessment against the Performance Criteria is therefore required.</p> <p>(a) (i) (ii) (iii) The outbuilding is located close to the northern boundary of the subject site. Shadows from the building will fall within the property, rather than the neighbouring residential property. Therefore there will not be a loss of amenity by way of reduction in sunlight to any other property, complying with this part of the standard.</p> <p>(a) (iv) The outbuilding has been sited against the northern boundary, essentially parallel to the adjoining dwelling and approximately 2-3m away from it. While the container is therefore very visible from this property, it is less than 3m high and the container does not appear to restrict the main views to the lake. The separation distance is partly due to the small setback of the existing dwelling, and is considered to be enough to maintain a</p>

		<p>reasonable level of solar/light access.</p> <p>(b) As discussed above, the prevailing setbacks and separation between buildings in this area is relatively small. It is considered that the proposed siting is consistent and compatible with the surrounding area.</p>
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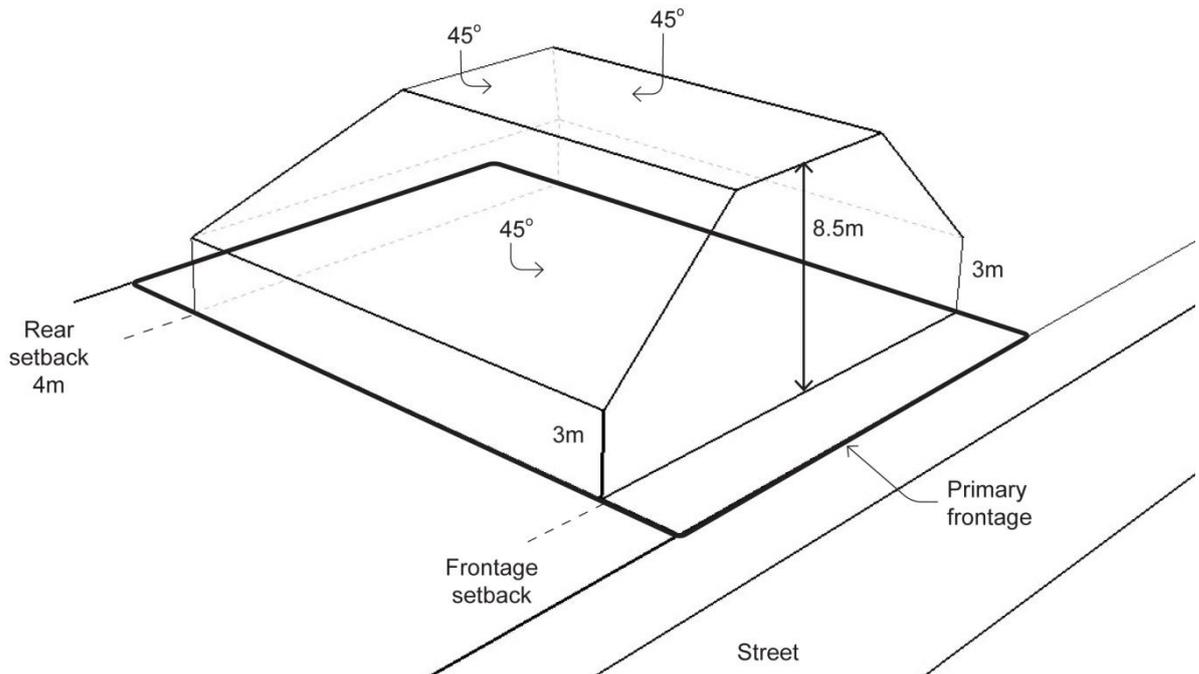


Fig 3. Building envelope 12.4.2 A

12.4.3 Site coverage and private open space

To provide:

- (a) for outdoor recreation and the operational needs of the residents; and
- (b) opportunities for the planting of gardens and landscaping; and
- (c) private open space that is integrated with the living areas of the dwelling; and
- (d) private open space that has access to sunlight; and
- (e) for development that is compatible with the existing built and natural environment of the area.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A1 Dwellings must have:</p> <ul style="list-style-type: none">(a) a site coverage of not more than 25% (excluding eaves up to 0.6m); and(b) a site area of which at least 25% of the site area is free from impervious surfaces;	<p>P1 Dwellings must have:</p> <ul style="list-style-type: none">(a) private open space that is of a size and dimensions that are appropriate for the size of the dwelling and is able to accommodate:<ul style="list-style-type: none">(i) outdoor recreational space consistent with the projected requirements of the occupants; and(ii) operational needs, such as clothes drying and storage; and(b) have reasonable space for the planting of gardens and landscaping.(c) not be out of character with the pattern of development in the surrounding area; and(d) not result in an unreasonable loss of natural or landscape values.	<p>The site coverage does not exceed 25%.</p> <p>The proposal complies with the Acceptable Solution A1.</p>
<p>A2 A dwelling must have an area of private open space that:</p> <ul style="list-style-type: none">(a) is in one location and is at least:<ul style="list-style-type: none">(i) 24 m²; or(ii) 12 m², if the dwelling has a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and(b) has a minimum horizontal dimension of:	<p>P3 A dwelling must have private open space that:</p> <ul style="list-style-type: none">(a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and that is:<ul style="list-style-type: none">(i) conveniently located in relation to a living area of the dwelling; and(ii) orientated to take advantage of sunlight.	<p>The dwelling retains private open space that complies with the requirements of A2.</p>

<p>(i) 4 m; or</p> <p>(ii) 2 m, if the dwelling has a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least 3 hours of sunlight to 50% of the area between 9.00am and 3.00pm on the 21st June; and</p> <p>(e) is located between the dwelling and the frontage only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p>		
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Codes

Parking and Access Code

This Code applies to all use and development.

In this case the subject property has sufficient existing access and parking suitable for a single dwelling and complies with the relevant standards of the Code.

Stormwater Management Code

Stormwater will be contained and managed on the site in accordance with the requirements of the Code.

Waterway and Coastal Protection Code

The property is subject to a Waterway Protection Area, due to the proximity to Lake Sorell. In this case the proposed outbuilding is a shipping container and any risk of sediment runoff or other impacts to the waterway are limited. The proposal complies with the relevant standards of the Code.

Representations

The proposal was advertised for the statutory 14 days period from 8th November 2019 until 22nd November 2019. A total of one (1) representation was received. The issues raised in the representation are presented in the table below.

Representation 1	
Issues	Officer comments
<p>It is hard to be specific as the use for the outbuilding (container) is not stated. e.g. studio, boat shed, garage, shed, storage (possibly with materials which could be hazardous close to a neighbouring structure in a bush fire prone area) etc.</p> <p>I had no issues with the original submission for the rebuild of the shack next door on the original footprint or the final submission which placed the rebuild on the far side of the original footprint with no outbuildings and the water / firefighting tanks located within the original structure footprint. In fact I welcomed this as it opened the area up and promoted “a vibrant, liveable and attractive region” as stated in 2.2.1 the Southern Tasmania Regional Vision.</p>	<p>The building is identified as an outbuilding for general storage. It is not necessary to further detail the use of the buildings.</p> <p>The Bushfire Prone Areas Code does not apply to single dwellings and related outbuildings. Bushfire concerns are dealt with at the building stage for these developments in accordance with the National Construction Code.</p> <p>Part A of the planning scheme, including the Regional Vision section 2.2.1, scheme is a general statement. It is not intended to be relied upon for assessment of development applications, as detailed in section 7 – Planning Scheme Operation.</p>
<p>I was asked to move some timber I had stacked so a picket fence could be built where I was told the boundary was (and most probably is). To this I complied without hesitation as it would add to the residential character and use of the area, not adversely impact residential amenity and privacy of adjoining properties and be of an intensity that respects the character and use of the area (as stated in 12.3.2 visitor accommodation objective and performance criteria P1 (a) and (c)).</p> <p>I believe this is relevant as I have been told the new structure will be rented out to fishers, hunters etc. Which again I have no objection to.</p>	<p>The proposal is not for Visitor accommodation so Clause 12.3.2 Visitor accommodation is not relevant to this assessment.</p> <p>If the building is to be rented out in future, a Development Application for change of use would be necessary, as well as upgrades to make it a habitable building.</p>
<p>On viewing the Application For Development Permit Plans (DA2019/00075), as a career firefighter with the Tasmania Fire Service since 1985 and having worked in the Southern Tasmania Districts, including the Midlands District as a field works officer I had concerns with the relocation of the water / firefighting tanks to the boundary adjacent to my shed (the rear wall of which is a substantial 60 plus year old tree trunk some 5 feet in diameter).</p> <p>If the tree and shed were to catch fire the prevailing winds would push the flames and embers to impinge on the tanks thus compromising them and the brigade would not be able to access them to protect the structure they were designed to protect.</p>	<p>The concerns in relation to bushfire risks are noted, however as explained above, this is not a relevant consideration for this assessment.</p>

<p>Furthermore the placement of the 40 foot container so close to my shack will not only block all the view from my kitchen window, it will also block all the light from the only window on this side of my shack requiring me to have the light on of a day time to see the dishes are clean when washing etc.</p> <p>What is a beautiful open area to sit and have a barbeque beside my shack will now be like a dark alleyway. It will even prevent the breeze flowing through the open window in the summer to cool the shack down.</p> <p>The water / firefighting tanks and the 40 foot container will place a massive steel wall the complete length of my boundary. It will be like a ten plus foot high steel fence. (surely not in keeping with other boundaries in the area).</p> <p>This is contradictory to 2.2.1 The Southern Tasmania Regional Vision which states “a vibrant, liveable and attractive region, providing sustainable growth opportunities that build upon our unique natural and heritage assets and advantages as Australia’s Southern Most region.”</p> <p>Although the steel wall of tanks and container will certainly be unique it does not promote a vibrant / liveable and attractive region or natural heritage assets and advantages.</p>	<p>The container/outbuilding is sited south of the representors property, so it will not overshadow it. While there will be less separation than has been the case in the past, the buildings are at least 2m apart, allowing for some light to the windows.</p> <p>The proposed siting complies with the relevant standards, as detailed in the assessment above.</p>
<p>Nor does it conform to Performance Criteria P1 (a) and (c) which states “not adversely impact residential amenity and privacy of adjoining properties and be of an intensity that respects the character and use of the area” if indeed it is to be rented out.</p>	<p>The standard referred to is part of Clause 12.3.2 Visitor accommodation, which is not relevant to this assessment.</p> <p>The proposal complies with the relevant standards, as detailed in the assessment above.</p>
<p>Not only is this proposal a massive, out of character, eyesore, it will also devalue my property as well as severely compromise my light, view and amenity.</p>	<p>Property value is not a consideration made relevant by the planning scheme or Land Use Planning and Approvals Act 1993.</p>
<p>The tanks and container could be placed anywhere on the 1149 m2 block. Placing them the entire length of my boundary from my shed to the lake of my 390 m2 block is surely not acceptable and must contravene 12.4.21 setbacks and building envelope at an absolute minimum.</p>	<p>Council must assess the application before it.</p> <p>The proposal is found to comply with the building envelope, detailed above.</p> <p>While alternatives may be available, the proposal is found to comply with the standards and can be approved.</p>

Conclusion

The proposal for an outbuilding at Lot 9 Interlaken Road, Interlaken is assessed to comply with the applicable standards of the Low Density Residential Zone and relevant Codes of the *Central Highlands Interim Planning Scheme 2015* as outlined in the body of this report.

The proposal was advertised for public comment and one (1) representation was received. The concerns of the representor have been addressed in the report above.

Overall, it is considered that the proposed structure is acceptable and the proposal is recommended for approval.

Legislative Context

The purpose of the report is to enable the Planning Authority to determine the Development Application DA2019/75 in accordance with the requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA require a Planning Authority to take all reasonable steps to ensure compliance with the Planning Scheme.

This report details the reasons for the officers Recommendation. The Planning Authority must consider the report but is not bound to adopt the Recommendation. Broadly, the Planning Authority can either: (1) adopt the Recommendation, (2) vary the Recommendation by adding, modifying or removing recommended conditions or (3) replacing an approval with a refusal.

This determination has to be made no later than 15th January 2019, which has been extended beyond the usual 42 day statutory time frame with the consent of the applicant.

Any decision that is an alternative to the Recommendation requires a full statement of reasons to ensure compliance with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*. Section 25 (2) of the *Local Government (Meeting Procedures) Regulations 2015* states:

25 (2): *The general manager is to ensure that the reasons for a decision by a council or council committee acting as a planning authority are recorded in the minutes of the meeting.*

Options

The Planning Authority must determine the Development Application DA2019/75 in accordance with one of the following options:

1. Approve in accordance with the Recommendation:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2019/75 - Outbuilding (container) at Lot 9 Interlaken Road, Interlaken, subject to conditions in accordance with the Recommendation.

2. Approve with altered conditions:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2019/75 - Outbuilding (container) at Lot 9 Interlaken Road, Interlaken, subject to conditions as specified below.

Should Council opt to approve the Development Application subject to conditions that are different to the Recommendation the modifications should be recorded below, as required by Section 25(2) of the Local Government (Meeting Procedures) Regulations 2015:

Alteration to Conditions:-

3. Refuse to grant a permit:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Refuse** the Development Application DA2019/75 - Outbuilding (container) at Lot 9 Interlaken Road, Interlaken, for the reasons detailed below.

Should the Planning Authority opt to refuse to grant a permit contrary to the officers Recommendation, the reasons for the decision should be recorded below, as required by Section 25(2) of the Local Government (Meeting Procedures) Regulations 2015:

Reasons :-

DEPUTATIONS

Ms N Ruff (Applicant)

Ms Ruff thanked Council for providing the opportunity to speak and advised as follows:

- Mistakenly classed the Western boundary as the frontage which meant no planning permit was required.
- Container provides a visual barrier to neighbouring property.
- Container creates privacy and a wind break.
- Container will only be used as an outbuilding.
- Overshadowing is not an issue.
- Container will be primed and painted to fit in with the surrounding area.

Mr A Adams (Representor)

Mr Adams thanked Council for their time in considering his representation and advised as follows:

- Concerned about fire risk to container due to the proximity to his shack if his shack was to catch fire.
- Lighting through window is significantly reduced.
- View along the edge of the lake from widow has gone.
- Disputes visual amenity of his block is an issue.
- Container is effectively creating a 2.8m high fence when a fencing covenant is applicable to the lots.
- Container is out of character for the area.
- Devalues his property.

RECOMMENDATION FROM PLANNING COMMITTEE

Moved **Clr Poore**

Seconded **Clr Cassidy**

THAT the Planning Committee recommends approval in accordance with Option 1:

Approve in accordance with the Recommendation:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2019/75 - Outbuilding (container) at Lot 9 Interlaken Road, Interlaken, subject to conditions in accordance with the Recommendation.

Conditions

General

- 1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, which ever is later, in accordance with section 53 of the land Use Planning And Approvals Act 1993.

Approved Use

- 3) The outbuilding is approved as ancillary to the Residential use only and must not be used for any other purpose unless in accordance with a permit issued by Council or as otherwise permitted by Council's planning scheme.

External finishes

- 4) The outbuilding must be painted in the colour 'Monument' within three (3) months of the date of this permit and evidence that the painting has been completed must be provided to Council by this date.
- 5) All exposed metal surfaces are to be pre-coloured, or alternatively suitably painted if the item is not available in such a finish.

Services

- 6) The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.

Stormwater

- 7) Drainage from the proposed development must be retained on site or drain to a legal discharge point to the satisfaction of Council's General Manager and in accordance with any requirements of the Building Act 2016.

Construction Amenity

- 8) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager of Development and Environmental Services:

Monday to Friday 7:00 a.m. to 6:00 p.m.

Saturday 8:00 a.m. to 6:00 p.m.

Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.

- 9) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
 - a. Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - b. The transportation of materials, goods and commodities to and from the land.
 - c. Obstruction of any public roadway or highway.
 - d. Appearance of any building, works or materials.
 - e. Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager of Development and Environmental Services.
- 10) The developer must make good and/or clean any road surface or other element damaged or soiled by the development to the satisfaction of the Council's Manger of Works and Technical Services.

The following advice applies to this permit:

- a) This permit does not imply that any other approval required under any other legislation has been granted.

Carried

For the Motion: Clr Allwright, Mayor Triffitt, Clr Poore & Clr Cassidy

7.0 OTHER BUSINESS

Nil

8.0 CLOSURE

There being no further business the meeting closed at 9.25am

DRAFT