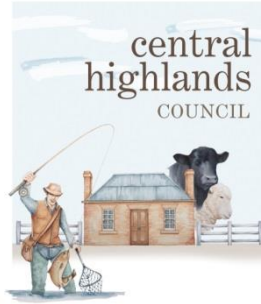




PLANNING COMMITTEE MEETING

AGENDA

Tuesday 9th March 2021



NOTICE OF MEETING

Council Representatives:

Clr Allwright (Chairperson); Mayor Triffitt, Clr Poore & Clr Cassidy
(Clr Bailey – Proxy)

Dear Councillors,

Notice is hereby given that the next Planning Committee Meeting will be held at the Council Chambers, 19 Alexander Street, Bothwell at 9.00 a.m. on Tuesday, 9th March 2021, to discuss business as printed below.

I certify that the contents of the reports have been provided in accordance with section 65 of the Local Government Act 1993.

Lyn Eyles
GENERAL MANAGER

PLANNING COMMITTEE AGENDA

1.0 PRESENT

2.0 APOLOGIES

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.

4.0 CONFIRMATION OF MINUTES

Moved **Clr**

Seconded **Clr**

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 12th January 2021 to be confirmed.

Carried

5.0 QUESTION TIME & DEPUTATIONS

6.0 DA 2020/95 : SUBDIVISION – REORGANISATION OF BOUNDARIES : 289 Rotherwood Road, Lower Marshes

Report by

Louisa Brown (Planning Officer)

Applicant

James McShane

Owner

McShane Rotherwood Pty Ltd

Discretions

26.5.2 (A1) Reorganisation of boundaries

Proposal

The proposal is to reorganise the boundaries of two existing lots in separate ownership, McShane Rotherwood Pty Ltd and Sam Woodward.

The existing titles have areas of 211.0ha (CT167018/1) and 20.49ha (CT167017/1). Both lots are parallel to Rotherwood Road and have separate access from this road.

Under the proposal, 63ha of the 211ha (CT167018/1) owned by McShane Rotherwood Pty Ltd will be transferred to the neighbouring property owned by Sam Woodward 20.49ha (CT167017/1). Both properties will continue under the current use, livestock grazing and small scale farming. A sale agreement has been signed by both parties, subject to Council approval of this Reorganisation of Boundaries.

After the reorganisation of the boundaries, the 211ha (CT167018/1) owned by McShane Rotherwood Pty Ltd will become 148ha (CT167018/1) and Sam Woodward's (CT167017/1) 83.49ha.

There are no easements and the proposed sale area does not contain any structures. The existing title owned by Sam Woodward 20.49ha (CT167017/1) includes a farm house and outbuildings. A private access road for Parks & Wildlife into the adjacent Ironpot Gully Reserve will remain within the McShane Rotherwood Pty Ltd title (CT167018/1). The new boundary follows existing fence lines, no earthworks or new infrastructure are required.

The proposal is discretionary owing to being a subdivision and is assessed against the subdivision standards for the Rural Resource Zone pursuant to section 26.0 of the Central Highlands Interim Planning Scheme 2015.

Subject site and Locality.

The subject land is located to the North East of Bothwell and north of the Jordan River at Lower Marshes and consists of two adjoining titles CT167018/1 and CT167017/1. The lots current sizes are 211ha and 20.49ha respectively.

The locality is characterised by medium to large lots of productive farm land close to the Jordan River, to the south and east. Situated to the northwest boundary is The Ironpot Gully Reserve, which is Crown Land. Land in the area is predominantly zoned Rural Resource.

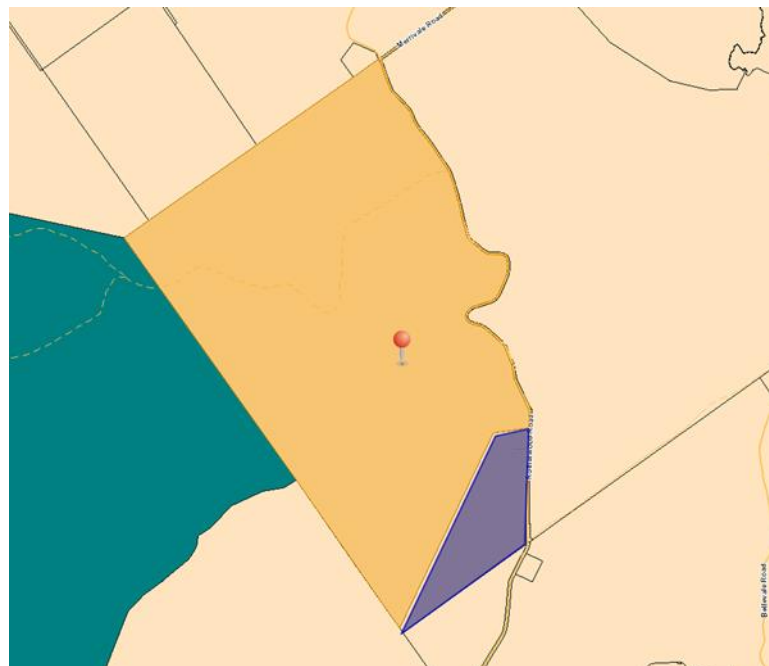


Fig 1. Location and zoning of the existing two titles (red pin and blue shaded), indicating the Rural Resource zone (Cream) and adjoining Environmental Management zone (Dark green).
(Source: LISTmap, accessed 13/9/2017)

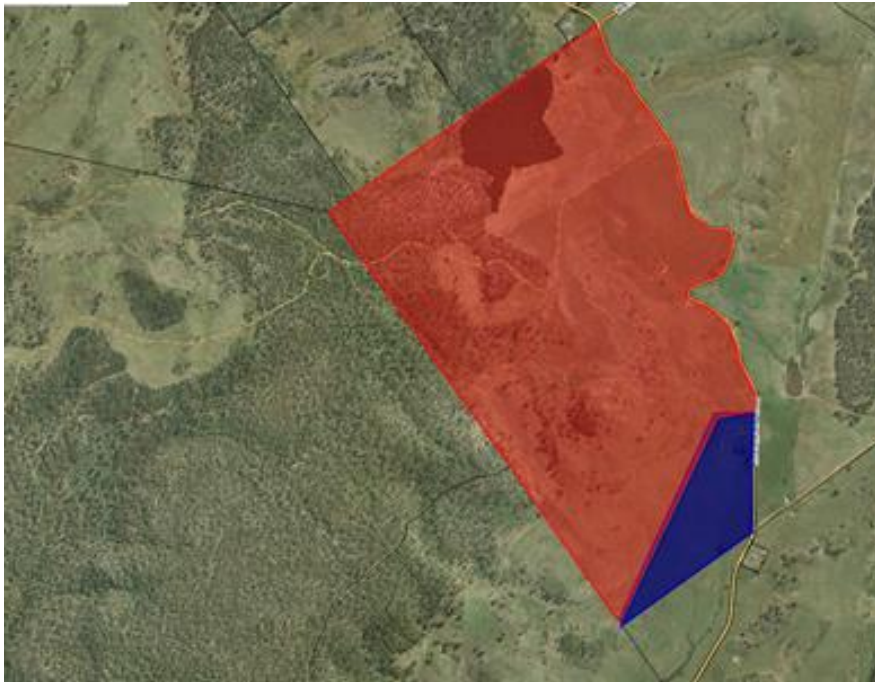


Fig 2. Aerial photo of the subject land and surrounding area, title marked blue and red shaded
(Source: LISTmap, accessed 13/9/2017)

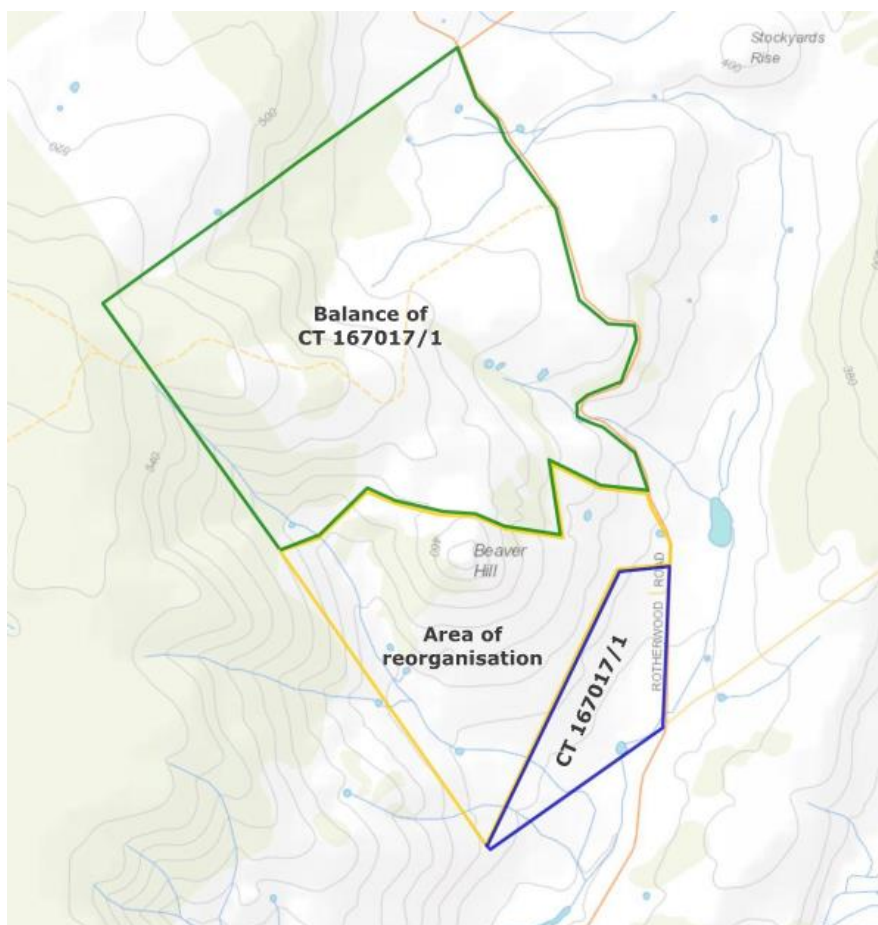


Fig 3. Plan of land for reorganisation
(Source: LISTmap, accessed 13/9/2017)

Exemptions

Nil

Special Provisions

Nil

Use standards

There are no applicable use standards for subdivision.

Development standards for Reorganisation of Boundaries

The subject land is in the Rural Resource Zone. The proposal must satisfy the requirements of the following development standards, relevant to subdivisions:

26.5.2 Reorganisation of Boundaries		
To promote the consolidation of rural resource land and to allow for the rearrangement of existing titles, where appropriate, to provide for a better division of land.		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
A1 A lot is for <u>public open space</u> , a riparian or littoral reserve or <u>utilities</u> .	P1 The reorganisation of boundaries must satisfy all of the following: (a) all existing lots are adjoining or separated only by a road; (b) no existing lot was formally a crown reserved road or other reserved land; (c) provide for the sustainable commercial operation of the land by either: (i) encompassing all or most of the agricultural land and key agricultural infrastructure (including the primary dwelling) in one lot, the 'primary agricultural lot', as demonstrated by a whole farm management plan, (ii) encompassing an existing or proposed non-agricultural rural resource use in one lot; (d) if a lot contains an existing	The proposal does not comply with the Acceptable Solution and must be assessed against the Performance Criteria. (a) Complies – both lots are adjoining. (b) Complies – no lot was formerly a crown reserved road or reserved land. (c) Complies – dwelling and additional agricultural land in one lot. (d) Complies – existing dwelling complies with setbacks of 26.4.2. (e) Complies – existing dwelling is primary dwelling of lot CT167017/1. (f) No new vacant lot created. (g) Complies – both lots over 1ha, both lots have frontage greater than 6m and both lots serviced by existing access. (h) There are no Local Area Objectives or Desired Future Character Statements in the Rural Resource zone.

	<p>dwelling, setbacks to new boundaries satisfy clause 26.4.2;</p> <p>(e) if containing a dwelling, other than the primary dwelling, the dwelling is surplus to rural resource requirements of the primary agricultural lot;</p> <p>(f) a new vacant lot must:</p> <p style="padding-left: 20px;">(i) contain land surplus to rural resource requirements of the primary agricultural lot;</p> <p style="padding-left: 20px;">(ii) contain a building area capable of accommodating residential development satisfying clauses 26.4.2 and 26.4.3.</p> <p style="padding-left: 20px;">(iii) not result in a significant increase in demand for public infrastructure or services;</p> <p>(g) all new lots must comply the following:</p> <p style="padding-left: 20px;">(i) be no less than 1ha in size;</p> <p style="padding-left: 20px;">(ii) have a frontage of no less than 6m;</p> <p style="padding-left: 20px;">(iii) be serviced by safe vehicular access arrangements;</p> <p>(h) be consistent with any Local Area Objectives or Desired Future Character Statements provided for the area.</p>	
--	---	--

Codes

E1 Bushfire-Prone Areas Code

The Bushfire-Prone Code applies to subdivision of land that is located within a bushfire-prone area. E1.6 Development Standards, E1.6.1 Subdivision: Provision of Hazard Management Areas requires that a Bushfire Risk and Hazard Management Plan be prepared by TFS or an accredited person.

A Bushfire Hazard Report has been submitted as a part of the application, by Enviro-Dynamics in February 2021. This report includes a Certificate confirming that both lots Provides BAL-19, access complies with requirements and static water supply complies requirements. The report has been certified by an accredited Bushfire Assessor.

The report makes two recommendations for the property owned by Sam Woodward (CT167017/1), these are;

- Maintain existing access and driveway and turning: and
- Install a compliant water tank dedicated for fire-fighting purposes.

E3.0 Landslide Code

Some parts of the subject land are identified as Low Landslide Risk Areas. As the areas are small and no works will be required for the subdivision further assessment is not required.

E11.0 Waterway and Coastal Protection Code:

Parts of the site include minor creeks/drainage lines are covered by Waterway Protection Areas under the Waterway and Coastal Protection Code. The Code applies to all development including subdivision however this proposal meets the exemptions of the code owing to there being no works required within a Waterway Protection Area.

Representations

The proposal was advertised for the statutory 14 days period from 15 December 2020 until 11 January 2021. One representation was received from Tasmania Fire Service (TFS).

Summary of Matter Raised by Representors	Officer Response
<p>The subject site is within a bush-prone area, the development requires a Bushfire Hazard Management Plan (BHMP) to comply with Planning Directive 5 – Bushfire-Prone Areas Code.</p> <p>TFS recommends that Council does not approve the application without a certified BHMP being provided.</p>	<p>A Bushfire Hazard Report has subsequently been submitted as a part of the application, by Enviro-Dynamics. This report includes a Certificate confirming that both lots Provides BAL-19 solutions, access complies with requirements and static water supply complies requirements.</p> <p>The report has been certified by an accredited Bushfire Assessor.</p>

Conclusion

The proposal for the reorganisation of boundaries of CT167018/1 and CT167017/1 is assessed to comply with the applicable standards of the Rural Resource Zone and the 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 one representations was received, which has been addressed in this report.

It is recommended that the application be approved, subject to conditions.

Legislative Context

The purpose of the report is to enable the Planning Authority to determine the Development Application DA2019/13 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 19th March 2021, which has been extended beyond the usual 42 day statutory time frame with the consent of the application.

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 DA2020/95 Reorganisation of Boundaries, 289 Rotherwood Road, Lower Marshes CT167018/1 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 DA2020/95 Reorganisation of Boundaries, 289 Rotherwood Road, Lower Marshes CT167018/1, 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 DA2020/95 Reorganisation of Boundaries, 289 Rotherwood Road, Lower Marshes CT167018/1, 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 DA2020/95 Reorganisation of Boundaries, 289 Rotherwood Road, Lower Marshes CT167018/1, 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 :-

Recommendation

Moved Clr

Seconded Clr

The proposal is assessed to substantially comply with the requirements of the Central Highlands Interim Planning Scheme 2015 and so in accordance with section 57 of the Land Use Planning and Approvals Act 1993, the Planning Authority is recommended to approve the application for Development Application DA2020/95 Reorganisation of Boundaries, 289 Rotherwood Road, Lower Marshes CT167018/1 subject to the conditions below.

Recommended Conditions

General

- 1) The subdivision layout 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 permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.

Services

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

Final plan

- 4) A final approved plan of survey and schedule of easements as necessary, together with one copy, must be submitted to Council for sealing. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
- 5) A fee of \$210.00, or as otherwise determined in accordance with Council's adopted fee schedule, must be paid to Council for the sealing of the final approved plan of survey.
- 6) All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage.
- 7) It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.

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.
- b) If you notify Council that you intend to commence the use or development before the date specified above you forfeit your right of appeal in relation to this permit.
- c) Council Officers note the recommendations to property CT167017/1 of the Bushfire Hazard Report. It is advised that the owner undertake the upgrades as per 4.0 Recommendations of the Bushfire Hazard Report.

6.1 DISCUSSION PAPER: DRAFT CENTRAL HIGHLANDS LOCAL PROVISIONS SCHEDULE – RESPONSE TO THE TASMANIAN PLANNING COMMISSION

Report By

Planning Consultant (SMC) Damian Mackey

Attachments

1. Correspondence – from Tasmanian Planning Commission, 23 December 2020, with Attachment 1 and Attachment 2.
2. Correspondence – to Tasmanian Planning Commission, 13 January 2021.
3. Correspondence – from Tasmanian Planning Commission, 27 January 2021.

Enclosures

Discussion Paper 1 – Extent of Local Heritage Places

Discussion Paper 2 – Mining Leases

Discussion Paper 3 – Rural & Agricultural Zone Allocation

Discussion Paper 4 – Lake Meadowbank Specific Area Plan

Discussion Paper 5 – Zoning of Land with Conservation Covenants

Purpose

The purpose of this report and attached discussion papers is to consider Council's response to the feedback from the Tasmanian Planning Commission (TPC) dated 23 December 2020 regarding Council's draft Local Provisions Schedule for the Tasmanian Planning Scheme.

Background

As Councillors are aware, the Tasmanian Planning Scheme will consist of the State Planning Provisions (SPPs) and the Local Provisions Schedules (LPSs) from individual Councils.

Council is currently working to get its draft LPS in to a form that the TPC is prepared to endorse as suitable for public exhibition. Throughout the second half of 2020 there were various correspondence and conferences between Council and the TPC.

As at the end of 2020 the issues had been narrowed down to those set out in the TPC's correspondence of 23 December, (attached). This raised a number of questions that were considered by Council in January 2021 that were put to the TPC in correspondence dated 13 January 2021, (attached). The TPC's response was received by way of the letter dated 27 January, (attached). Key outcomes of the TPC's latest correspondence are:

- Council can use the '*Decision Tree & Guidelines for Mapping the Agriculture and Rural Zones*' by AK Consultants to determine the allocation of these zones without having to engage external consultants when departing from the States' broad-brush map: *Land Potentially Suitable for the Agriculture Zone*, (the 'LPSAZ').

- Council cannot remove superfluous titles from its local heritage place listings to bring them into line with the Tasmanian Heritage Register. The rationale for heritage lists having to 'directly transition' exactly into councils' LPSs is that there is no opportunity for public comment. This is not correct as the draft LPSs, including the heritage lists contained therein, will be subject to formal public exhibition, providing the public with that very opportunity. Nevertheless, the TPC appears intent on not allowing any substantive modification to the heritage list.
- The TPC has still not provided an assessment of Council's previous points of justification for the modified Lake Meadowbank Specific Area Plan under section 32(4) of the Act, explaining why these points are considered by the TPC to be insufficient.

Discussion Papers

Information relating to the key issues are set out in the enclosed Discussion Papers regarding the spatial extent of local heritage places, the zoning of land with mining leases, the allocation of the Rural & Agricultural zones, the Lake Meadowbank Specific Area Plan and the zoning of land under Conservation Covenants.

These will be used as the basis for work-shopping these matters at the Planning Committee meeting. The outcomes will be formulated into a report for the coming Council meeting.

Recommendation

A recommendation to full Council to be determined at the Planning Committee meeting.

7.0 OTHER BUSINESS

8.0 CLOSURE
