

**MINUTES OF THE PLANNING COMMITTEE MEETING  
OF THE CENTRAL HIGHLANDS COUNCIL HELD  
IN THE BOTHWELL COUNCIL CHAMBERS  
AT 9.00AM ON TUESDAY 13<sup>th</sup> AUGUST 2019**

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**1.0 PRESENT**

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

**IN ATTENDANCE**

Mrs L Eyles (General Manager), Ms J Tyson (Senior Planning Officer) & Mrs K Bradburn (Minutes Secretary), Mr P Headlam

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**2.0 APOLOGIES**

Nil

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**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

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**4.0 CONFIRMATION OF MINUTES**

Moved **Clr Cassidy**

Seconded **Clr Poore**

**THAT** the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 9<sup>th</sup> July 2019 to be confirmed.

*Carried*

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

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**5.0 QUESTION TIME & DEPUTATIONS**

Nil

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**6.0 DA2019/13: SUBDIVISION (3 LOTS): 3 VICTORIA VALLEY ROAD, OUSE**

**Report by**

Jacqui Tyson (Senior Planning Officer)

**Applicant**

PDA Surveyors

**Owner**

Morgan Cooper Consulting Services Pty Ltd

**Discretions**

Village Zone - 16.5 Subdivision

**Proposal**

The proposal is for subdivision of an existing vacant title in Ouse into three (3) lots.

The existing title has an area of 6848m<sup>2</sup> and is located east of the intersection between Victoria Valley Road and the Lyell Highway, with partial frontage to both roads.

Under the proposal three (3) lots will be created as follows:

- Lot 1 – 1283m<sup>2</sup> with 18m frontage to Victoria Valley Road
- Lot 2 – 1626m<sup>2</sup> with 18m frontage to Victoria Valley Road
- Lot 3 – 3939m<sup>2</sup> with frontage to Victoria Valley Road and Lyell Highway

The lots can be serviced by reticulated water and sewerage services. Taswater have provided conditions to be attached to any permit issued.

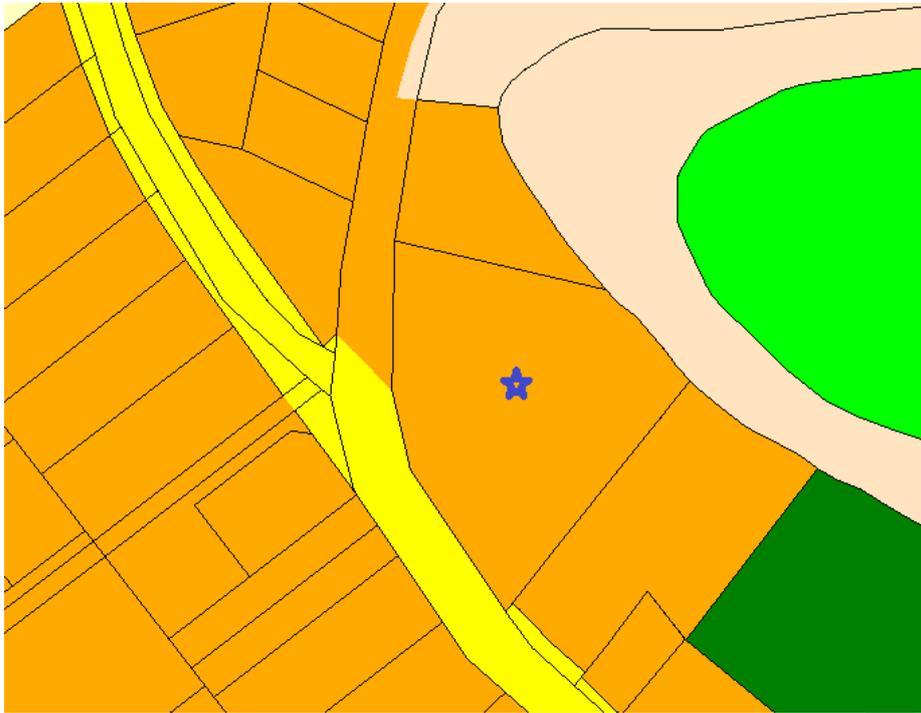
All three lots will be provided with new access crossovers to Victoria Valley Road.

Subdivision is a Discretionary use and development in the Village Zone.

**Subject site and Locality.**

The existing title is a vacant parcel of 6848m<sup>2</sup> with frontage to Victoria Valley Road and the Lyell Highway. A minor waterway and dam are present on the property and will be contained on Lot 3.

The site is adjoined by other Village zoned properties that are developed with dwellings and adjoins the River Ouse at the rear (north eastern) boundary. The Ouse township includes properties with a range of sizes and shapes and the proposed lots are generally in character with the surrounding area.



**Fig 1.** Location and zoning of the subject land (marked with star) in the Village zone (orange). Surrounding land includes the Rural Resource Zone (cream), Open Space Zone (dark green) and the Recreation zone (light green) and the highway is in the Utilities Zone (yellow). (Source: LISTmap)



**Fig 2.** Aerial photo of the subject land and surrounding area (Source: LISTmap)

### **Exemptions**

Nil

### **Special Provisions**

Nil

**Village Zone - Development standards for subdivision**

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

<p><b>16.5.1 Lot design</b> To provide for new lots that:</p> <p>(a) have appropriate area and dimensions to accommodate development consistent with the Zone Purpose and any relevant Local Area Objectives or Desired Future Character Statements;</p> <p>(b) contain building areas which are suitable for development, consistent with the Zone Purpose, located to avoid hazards and values;</p> <p>(c) are capable of providing for a high level of residential amenity including privacy, good solar access; and passive surveillance of public spaces;</p> <p>(d) are not internal lots, except if the only reasonable way to provide for efficient use of land;</p> <p>(e) are provided in a manner that provides for the efficient and ordered provision of infrastructure.</p>		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p><b>A1</b></p> <p>The size of each lot must be no less than as specified below, except if for public open space, a riparian or littoral reserve or utilities:</p> <p>(a) no less than 1,000 m<sup>2</sup>.</p>	<p><b>P1</b></p> <p>No Performance Criteria.</p>	<p>All of the proposed lots exceed 1000m<sup>2</sup>, complying with the Acceptable Solution.</p>
<p><b>A2</b></p> <p>The design of each lot must provide a minimum building area that is rectangular in shape and complies with all of the following, except if for public open space, a riparian or littoral reserve or utilities:</p> <p>(a) clear of the frontage, side and rear boundary setbacks;</p> <p>(b) not subject to any codes in this planning scheme;</p> <p>(c) clear of title restrictions such as easements and restrictive covenants;</p> <p>(d) has an average slope of no more than 1 in 5;</p> <p>(e) has the long axis of</p>	<p><b>P2</b></p> <p>The design of each lot must contain a building area able to satisfy all of the following:</p> <p>(a) be reasonably capable of accommodating residential use and development;</p> <p>(b) meets any applicable standards in codes in this planning scheme;</p> <p>(c) enables future development to achieve maximum solar access, given the slope and aspect of the land;</p> <p>(d) minimises the need for earth works, retaining walls, and fill and excavation associated with future development;</p>	<p>The proposed lots each contain a building area that complies with the design requirements of Acceptable Solution A2.</p>

<p>the developable area facing north or within 20 degrees west or 30 degrees east of north;</p> <p>(f) is a minimum of 10 m x 15 m in size.</p>	<p>(e) provides for sufficient useable area on the lot for both of the following;</p> <p>(i) on-site parking and manoeuvring;</p> <p>(ii) adequate private open space.</p>	
<p><b>A3</b></p> <p>The frontage for each lot must be no less than 15 m, except if for public open space, a riparian or littoral reserve or utilities or if an internal lot.</p>	<p><b>P3</b></p> <p>The frontage of each lot must satisfy all of the following:</p> <p>(a) provides opportunity for practical and safe vehicular and pedestrian access;</p> <p>(b) provides opportunity for passive surveillance between residential development on the lot and the public road,</p> <p>(c) is no less than 6m.</p>	<p>Each of the proposed lots is provided with more than 15m frontage, complying with Acceptable Solution A3.</p>
<p><b>A4</b></p> <p>No lot is an internal lot.</p>	<p><b>P4</b></p> <p>An internal lot must satisfy all of the following:</p> <p>(a) the lot gains access from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;</p> <p>(b) it is not reasonably possible to provide a new road to create a standard frontage lot;</p> <p>(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;</p> <p>(d) the lot will contribute to the more efficient utilisation of residential land and infrastructure;</p>	<p>There are no internal lots proposed, complying with Acceptable Solution A4.</p>

	<p>(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;</p> <p>(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;</p> <p>(g) passing bays are provided at appropriate distances to service the likely future use of the lot;</p> <p>(h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;</p> <p>(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.</p> <p>(j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.</p>	
<b>A5</b> Setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.	<b>P5</b> Setback from a new boundary for an existing building must satisfy the relevant Performance Criteria for setback.	The site does not have any existing buildings, so assessment against this clause is not required.

## Codes

### ***E1.0 Bushfire Prone Areas Code***

The site is located in a bushfire prone area in accordance with the definitions of the Code. A Bushfire Hazard Report including a Bushfire Hazard Management Plan has been prepared by an accredited person to support the application and address the requirements of the Code.

#### **E1.6.1 Subdivision: Provision of hazard management areas**

Objective: Subdivision provides for hazard management areas that:

- a) facilitate an integrated approach between subdivision and subsequent building on a lot;
- b) provide for sufficient separation of building areas from bushfire-prone vegetation to reduce the radiant heat levels, direct flame attack and ember attack at the building area; and

c) provide protection for lots at any stage of a staged subdivision.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p><b>A1</b></p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of hazard management areas as part of a subdivision; or</p> <p>(b) The proposed plan of subdivision:</p> <p>(i) shows all lots that are within or partly within a bushfire-prone area, including those developed at each stage of a staged subdivision;</p> <p>(ii) shows the building area for each lot;</p> <p>(iii) shows hazard management areas between bushfire-prone vegetation and each building area that have dimensions equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of Australian Standard AS 3959 – 2009 Construction of buildings in bushfire-prone areas; and</p> <p>(iv) is accompanied by a bushfire hazard management plan that addresses all the individual lots and that is certified by the TFS or accredited person, showing hazard management areas equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of Australian Standard AS 3959 – 2009 Construction of buildings in bushfire-prone areas; and</p> <p>(c) If hazard management areas are to be located on land external to the proposed subdivision the application is accompanied by the written consent of the owner of that land to enter into an agreement under</p>	<p><b>P1</b></p> <p>A proposed plan of subdivision shows adequate hazard management areas in relation to the building areas shown on lots within a bushfire-prone area, having regard to:</p> <p>(a) the dimensions of hazard management areas;</p> <p>(b) a bushfire risk assessment of each lot at any stage of staged subdivision;</p> <p>(c) the nature of the bushfire-prone vegetation including the type, fuel load, structure and flammability;</p> <p>(d) the topography, including site slope;</p> <p>(e) any other potential forms of fuel and ignition sources;</p> <p>(f) separation distances from the bushfire-prone vegetation not unreasonably restricting subsequent development;</p> <p>(g) an instrument that will facilitate management of fuels located on land external to the subdivision; and</p> <p>(h) any advice from the TFS.</p>	<p>A Bushfire Hazard Report (BHR) including a Bushfire Hazard Management Plan (BHMP) by an accredited person has been completed for the subdivision.</p> <p>The BHMP identifies building areas on each lot that can meet the required BAL 19, complying with A1 (b).</p> <p>All hazard management area are contained on the subject land so no agreements are required under (c).</p> <p>The proposal complies with the Acceptable Solution.</p>

section 71 of the Act that will be registered on the title of the neighbouring property providing for the affected land to be managed in accordance with the bushfire hazard management plan.		
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**E1.6.2 Subdivision: Public and fire fighting access**  
Objective: Access roads to, and the layout of roads, tracks and trails, in a subdivision:

- a) allow safe access and egress for residents, firefighters and emergency service personnel;
- b) provide access to the bushfire-prone vegetation that enables both property to be defended when under bushfire attack and for hazard management works to be undertaken;
- c) are designed and constructed to allow for fire appliances to be manoeuvred;
- d) provide access to water supplies for fire appliances; and
- e) are designed to allow connectivity, and where needed, offering multiple evacuation points.

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<p><b>A1</b>  (a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant specific measures for public access in the subdivision for the purposes of fire fighting; or  (b) A proposed plan of subdivision showing the layout of roads, fire trails and the location of property access to building areas is included in a bushfire hazard management plan that:  (i) demonstrates proposed roads will comply with Table E1, proposed private accesses will comply with Table E2 and proposed fire trails will comply with Table E3; and  (ii) is certified by the TFS or an accredited person.</p>	<p><b>P1</b>  A proposed plan of subdivision shows access and egress for residents, fire-fighting vehicles and emergency service personnel to enable protection from bushfires, having regard to:  (a) appropriate design measures, including:  (i) two way traffic;  (ii) all weather surfaces;  (iii) height and width of any vegetation clearances;  (iv) load capacity;  (v) provision of passing bays;  (vi) traffic control devices;  (vii) geometry, alignment and slope of roads, tracks and trails;  (viii) use of through roads to provide for connectivity;  (ix) limits on the length of cul-de-sacs and dead-end roads;  (x) provision of turning areas;</p>	<p>A Bushfire Hazard Report (BHR) including a Bushfire Hazard Management Plan (BHMP) by an accredited person has been completed for the subdivision.  The BHR and BHMP certify that access will be provided to meet the requirements of A1 (b).  The proposal complies with the Acceptable Solution.</p>

	<p>(xi) provision for parking areas;</p> <p>(xii) perimeter access; and</p> <p>(xiii) fire trails;</p> <p>(b) the provision of access to:</p> <p>(i) bushfire-prone vegetation to permit the undertaking of hazard management works; and</p> <p>(ii) fire fighting water supplies; and</p> <p>(c) any advice from the TFS.</p>	
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**E1.6.3 Subdivision: Provision of water supply for fire fighting purposes**

Objective: Adequate, accessible and reliable water supply for the purposes of fire fighting can be demonstrated at the subdivision stage and allow for the protection of life and property associated with the subsequent use and development of bushfire-prone areas.

a)

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<p><b>A1</b></p> <p>In areas serviced with reticulated water by the water corporation:</p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of a water supply for fire fighting purposes;</p> <p>(b) A proposed plan of subdivision showing the layout of fire hydrants, and building areas, is included in a bushfire hazard management plan approved by the TFS or accredited person as being compliant with Table E4; or</p> <p>(c) A bushfire hazard management plan certified by the TFS or an accredited person demonstrates that the</p>	<p><b>P1</b></p> <p>No Performance Criterion.</p>	<p>A Bushfire Hazard Report (BHR) including a Bushfire Hazard Management Plan (BHMP) by an accredited person has been completed for the subdivision.</p> <p>The property is serviced by reticulated water.</p> <p>The BHR certifies that reticulated water supply is available to meet the requirements of A1 (b).</p> <p>The proposal complies with the Acceptable Solution.</p>

provision of water supply for fire fighting purposes is sufficient to manage the risks to property and lives in the event of a bushfire.		
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**E5.0 Road and Railway Assets Code:**

This Code applies to use and development that involves changes to access arrangements.

The proposed subdivision will require construction of three new access points to Victoria Valley Road, one for each lot.

The design and location of the proposed accesses complies with the requirements of the Code and conditions are recommended in regard to this.

**E7.0 Stormwater Management Code:**

This Code applies to all use and development.

In this case the proposed subdivision is located in an area with no reticulated stormwater system.

Stormwater drainage for any future development on the lots will need to be managed onsite and will be assessed at the time of application.

**E11.0 Waterway and Coastal Protection Code:**

Part of the land is subject to a Waterway Protection Area under this Code due to the proximity to the Ouse River.

The building envelopes for each lot will be located near the frontage to Victoria Valley Road, as far from the river bank as possible. It is expected that future development of the lots can be undertaken without impacting the river or riparian area and in accordance with the requirements of this Code.

**Representations**

The proposal was advertised for the statutory 14 days period from 21<sup>st</sup> June 2019 until 14<sup>th</sup> July 2019.

No representations were received.

**Conclusion**

The proposal is for subdivision of an existing vacant title in Victoria Valley Road, Ouse into three (3) lots is assessed to comply with the applicable standards of the Village 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 and no representations were received.

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 21<sup>st</sup> August 2019, 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 DA2019/17 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 DA2019/13 for subdivision (3 lots) at 2 Victoria Valley Road, Ouse, 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 DA2019/13 for subdivision (3 lots) at 2 Victoria Valley Road, Ouse, 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 DA2019/13 for subdivision (3 lots) at 2 Victoria Valley Road, Ouse, 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 FROM PLANNING COMMITTEE**

Moved **Clr Poore**

Seconded **Clr Cassidy**

**THAT** the Planning Committee recommends approval in accordance with Option 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 DA2019/13 for subdivision (3 lots) at 2 Victoria Valley Road, Ouse, subject to conditions as specified below.

## Alteration to Conditions:-

### *Public Open Space*

- As insufficient provision has been made for recreational space, and having formed the opinion that such a provision should be made in respect of the proposal, Council requires that an amount equal to five percent (5%) of the unimproved value of Lots 1 and 2 must be provided as cash-in-lieu of public open space in accordance with the provisions of Section 117 of the Local Government (Building & Miscellaneous Provisions) Act 1993. The subdivider must obtain a valuation for the unimproved value of the subdivision from a registered Valuer in order to determine the amount payable.

### **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.

#### *Subdivision*

- 4) Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

#### *Final plan*

- 5) 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.
- 6) 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.
- 7) 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.
- 8) 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.

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

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**6.1 DA2019/17: SUBDIVISION (REORGANISATION OF BOUNDARIES): 6 & 8 TARLETON, HAMILTON**

**Report by**

Jacqui Tyson (Senior Planning Officer)

**Applicant**

Brooks, Lark and Carrick Surveyors

**Owner**

Central Highlands Council & Taswater

**Discretions**

**Village Zone -16.5** Subdivision

**Utilities Zone - 28.5** Subdivision

**Proposal**

The proposal is for a reorganisation of boundaries and consolidation of existing titles that contain the Central Highlands Council office and depot and the sewerage treatment ponds in Tarleton Street, Hamilton.

There are currently three titles covering these properties and the boundaries do not align with the management/ownership of the assets. Under the proposal, the three titles will be consolidated into two to achieve a separation of Council and Taswater assets.

The proposed Lot 1 will be 7631m<sup>2</sup> and contain all the Council assets. Lot 2 will have an area of 1.061ha and contain the sewerage lagoons, owned by Taswater.

Lot 2 is located to the rear of Lot 1 and will have a Right of Way over the existing access from Tarleton Street to provide legal access.

No works for access or other services will be required to carry out this subdivision.

Some of the Council buildings are listed on the Tasmanian Heritage Register. An exemption has been issued by Heritage Tasmania for the proposed boundary reorganisation.

Subdivision, including boundary reorganisation, is a Discretionary use and development in the Village and Utilities Zones.

**Subject site and Locality.**

The existing CT157052/2 and CT30123/1 contain the existing Council buildings and depot yard and part of the sewerage lagoons. These titles have a split zoning, with part of them zoned Village and part Utilities. CT32989/1 is located to the rear and contains a sewerage lagoon. This title is zoned Utilities.

The properties are located on the western side of the Hamilton township, with access from Tarleton Street. The Clyde River adjoins the site with farm land beyond.



**Fig 1.** Location and zoning of the subject land (marked with stars) in the Village zone (orange) and Utilities Zone (yellow). Surrounding land includes the Rural Resource Zone (cream), Environmental Management Zone (teal green) and the Open Space Zone (dark green). (Source: LISTmap)



**Fig 2.** Aerial photo of the subject land and surrounding area (Source: LISTmap)

## **Exemptions**

Nil

### **Special Provisions**

Nil

### **Village Zone - Development standards for subdivision**

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

<b>16.5.1 Lot design</b> To provide for new lots that:		
<p>(a) have appropriate area and dimensions to accommodate development consistent with the Zone Purpose and any relevant Local Area Objectives or Desired Future Character Statements;</p> <p>(b) contain building areas which are suitable for development, consistent with the Zone Purpose, located to avoid hazards and values;</p> <p>(c) are capable of providing for a high level of residential amenity including privacy, good solar access; and passive surveillance of public spaces;</p> <p>(d) are not internal lots, except if the only reasonable way to provide for efficient use of land;</p> <p>(e) are provided in a manner that provides for the efficient and ordered provision of infrastructure.</p>	<p><b>Acceptable Solutions</b></p> <p><b>A1</b></p> <p>The size of each lot must be no less than as specified below, except if for public open space, a riparian or littoral reserve or utilities:</p> <p>(a) no less than 1,000 m<sup>2</sup>.</p>	<p><b>Performance Criteria</b></p> <p><b>P1</b></p> <p>No Performance Criteria.</p> <p><b>OFFICER COMMENT</b></p> <p>Lot 1 will contain all of the land in the Village Zone.</p> <p>Lot 1 will have an area of 7631m<sup>2</sup>, easily complying with the Acceptable Solution.</p>
<p><b>A2</b></p> <p>The design of each lot must provide a minimum building area that is rectangular in shape and complies with all of the following, except if for public open space, a riparian or littoral reserve or utilities:</p> <p>(a) clear of the frontage, side and rear boundary setbacks;</p> <p>(b) not subject to any codes in this planning scheme;</p> <p>(c) clear of title restrictions such as easements and restrictive covenants;</p> <p>(d) has an average slope of no more than 1 in 5;</p>	<p><b>P2</b></p> <p>The design of each lot must contain a building area able to satisfy all of the following:</p> <p>(a) be reasonably capable of accommodating residential use and development;</p> <p>(b) meets any applicable standards in codes in this planning scheme;</p> <p>(c) enables future development to achieve maximum solar access, given the slope and aspect of the land;</p> <p>(d) minimises the need for earth works, retaining walls, and fill</p>	<p>The proposed lots are already developed or partly developed.</p> <p>In any case, Lot 1 will comply with the design requirements of Acceptable Solution A2.</p>

<p>(e) has the long axis of the developable area facing north or within 20 degrees west or 30 degrees east of north;</p> <p>(f) is a minimum of 10 m x 15 m in size.</p>	<p>and excavation associated with future development;</p> <p>(e) provides for sufficient useable area on the lot for both of the following;</p> <p>(i) on-site parking and manoeuvring;</p> <p>(ii) adequate private open space.</p>	
<p><b>A3</b></p> <p>The frontage for each lot must be no less than 15 m, except if for public open space, a riparian or littoral reserve or utilities or if an internal lot.</p>	<p><b>P3</b></p> <p>The frontage of each lot must satisfy all of the following:</p> <p>(a) provides opportunity for practical and safe vehicular and pedestrian access;</p> <p>(b) provides opportunity for passive surveillance between residential development on the lot and the public road,</p> <p>(c) is no less than 6m.</p>	<p>Lot 1 will have frontage over 15m to a Council maintained road (Tarleton Street), complying with Acceptable Solution A3.</p>
<p><b>A4</b></p> <p>No lot is an internal lot.</p>	<p><b>P4</b></p> <p>An internal lot must satisfy all of the following:</p> <p>(a) the lot gains access from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;</p> <p>(b) it is not reasonably possible to provide a new road to create a standard frontage lot;</p> <p>(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;</p> <p>(d) the lot will contribute to the more efficient utilisation of residential land and</p>	<p>There are no internal lots proposed in the Village Zone (as Lot 2 is in the Utilities Zone – see assessment below), complying with Acceptable Solution A4.</p>

	<p>infrastructure;</p> <p>(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;</p> <p>(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;</p> <p>(g) passing bays are provided at appropriate distances to service the likely future use of the lot;</p> <p>(h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;</p> <p>(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.</p> <p>(j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.</p>	
<p><b>A5</b></p> <p>Setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.</p>	<p><b>P5</b></p> <p>Setback from a new boundary for an existing building must satisfy the relevant Performance Criteria for setback.</p>	<p>The setback to all existing buildings will comply with the relevant development standard for setback.</p> <p>Acceptable Solution A5 is met.</p>

**Utilities Zone - Development standards for subdivision**

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

**28.5.1 Lot design**

To provide for lots appropriate to accommodate development consistent with the Zone Purpose and any relevant Local Area Objectives or Desired Future Character Statements.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
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<p><b>A1</b></p> <p>Subdivision is for the purpose of providing lots for public open space, a riparian or littoral reserve or utilities.</p>	<p><b>P1</b></p> <p>Subdivision is for the purpose of providing a lot for an allowable use.</p>	<p>All of the land in the Utilities Zone will be consolidated into Lot 2. This land contains the sewerage lagoons which is a utilities use that is owned and operated by a public authority.</p> <p>The Acceptable Solution is satisfied.</p>
<p><b>A2</b></p> <p>The frontage for each lot must be no less than 15 m.</p>	<p><b>P2</b></p> <p>The frontage of each lot must be capable of adequately serving the intended purpose.</p>	<p>Lot 2 will not have direct frontage to a road. It will be provided with access via a Right of Way over Lot 1. This arrangement provides adequate access to meet the needs of the established use and formalises the existing access pattern, complying with P2.</p>
<p><b>A3</b></p> <p>Services capable of adequately serving the intended purpose must be connected to each lot.</p>	<p><b>P3</b></p> <p>Where reticulated services are unavailable but needed for the intended purpose, the lots must be capable of:</p> <p>(a) being self sufficient for potable water adequate for the intended purpose;</p> <p>(b) accommodating an wastewater management system adequate for the intended purpose;</p> <p>(c) accommodating an on-site stormwater management system adequate for the intended purpose,</p> <p>as the case may be.</p>	<p>Each lot already has services connected as required, complying with A3.</p>

### **Codes**

#### ***E6.0 Parking and Access Code:***

This Code applies to all use and development.

The proposed boundary adjustment will not change any existing access or parking arrangements, which are all satisfactory. No further assessment against the Code is required.

#### ***E7.0 Stormwater Management Code:***

This Code applies to all use and development.

In this case the proposed boundary adjustment will not change any existing stormwater drainage so further assessment against the Code is not required.

### **Representations**

The proposal was advertised for the statutory 14 days period from 3<sup>rd</sup> July 2019 until 16<sup>th</sup> July 2019.

No representations were received.

### **Conclusion**

The proposal is for boundary adjustments to consolidate the Council and Taswater properties in Tarleton Street, Hamilton to align with the current use and management. The proposal is assessed to comply with the applicable standards of the Village Zone, Utilities 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 and no representations were received.

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 DA2019/17 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.

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 DA2019/17 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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, 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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, 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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, 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 FROM PLANNING COMMITTEE**

Moved **Mayor Triffitt**

Seconded **Clr Poore**

**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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, subject to conditions in accordance with the Recommendation.

**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.

*Subdivision*

- 4) Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

*Final plan*

- 5) 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.

- 6) 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.
- 7) 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.
- 8) 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.

**Carried**

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

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**6.2 DA 2019/45: SUBDIVISION (BOUNDARY REORGANISATION) OF 2 TITLES: 7561A & CT130056/1 HIGHLAND LAKES ROAD, MIENA**

**Report by**

Jacqui Tyson (Senior Planning Officer)

**Applicant**

Peter Thiessen

**Owner**

Peter Thiessen Family Super Pty Ltd & P J Downie

**Discretions**

**Low Density Residential Zone -  
Rural Resource Zone - 26.5.2** Reorganisation of boundaries

**Proposal**

The proposal is for the reorganisation of the boundaries of two large existing titles located on the south western edge of the Miena settlement.

The existing titles are both dual zoned, with an area of Low Density Residential Zone land at the northern edge and the remainder of each title in the Rural Resource Zone. Both titles are undeveloped.

Under the proposal the boundary of the two titles will be altered to create Lot 1 with an area of 2110ha and Lot 2 with an area of 58.2ha. Lot 2 will encompass the area closest to the Miena settlement and contain all of the Low Density Residential zoned land (approximately 10.5ha). Lot 1 will absorb the remainder of the land into the larger title.

Subdivision is a Discretionary use and development in the Low Density Residential Zone and Rural Resource Zone.

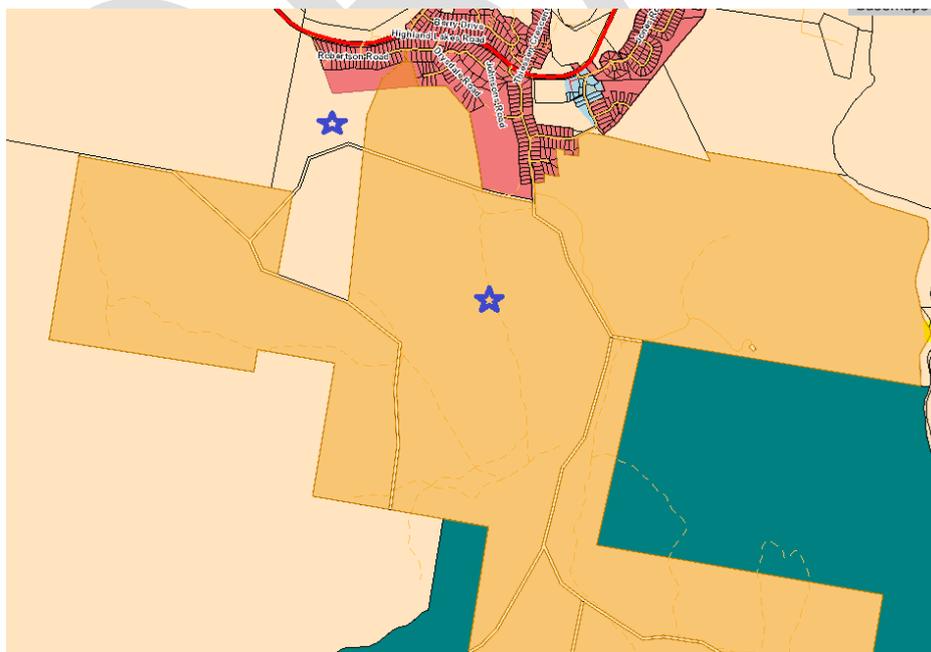
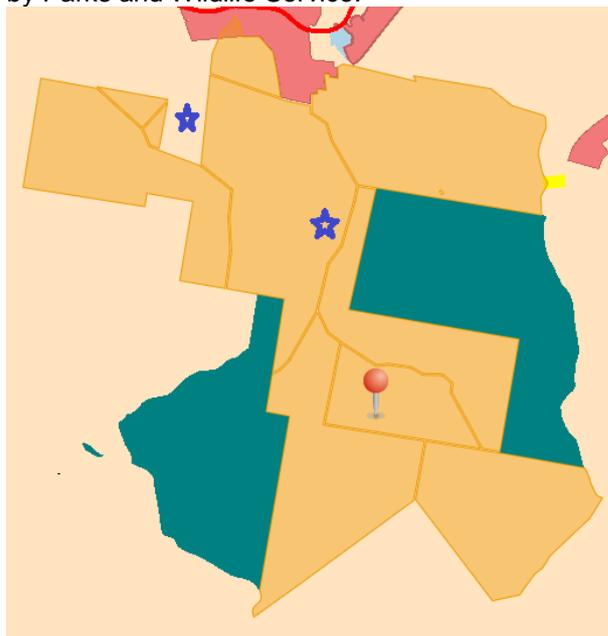
**Subject site and Locality.**

7561A Highland Lakes Road (CT134100/1) is a 2034ha parcel extending south and south west of Miena towards Shannon River and Lagoon and the Shannon settlement and southwest towards the River Ouse.

The second title (CT130056/1) is 100ha in area, extending south of Miena.

The land is undeveloped and is generally covered by a mix of highland forest and open scrubland, with patches of marsh and watercourses throughout. There are some cleared areas on the larger title.

The land adjoins the Miena township to the north and other large properties to the south, east and west. Adjoining land includes permanent forest reserves and two conservation reserves (Five Mile Pinnacles Conservation Area and Remarkable Rock Conservation Area) managed by Parks and Wildlife Service.



**Fig 1 and 2.** Location and zoning of the subject land (marked with stars) in the Rural Resource Zone (cream) and the Low Density Residential Zone (pink). Other land in the area includes Environmental Management Zone (dark green), Local Business Zone (light blue) and the Utilities Zone (yellow). (Source: LISTmap)



**Fig 2.** Aerial photo of the subject land and surrounding area (Source: LISTmap)

**Exemptions**

Nil

**Special Provisions**

Nil

**Low Density Residential Zone - Development standards for subdivision**

Part of the subject land is located in the Low Density Residential Zone. The proposal must satisfy the requirements of the following development standards for Lot 2, relevant to subdivisions:

**12.5.1 Lot design**

To provide for new lots that:

- (a) have appropriate area and dimensions to accommodate development consistent with the Zone Purpose and any relevant Local Area Objectives or Desired Future Character Statements;
- (b) contain building areas which are suitable for residential development, located to avoid hazards and values and will not lead to land use conflict and fettering of resource development use on adjoining rural land;
- (c) are not internal lots, except if the only reasonable way to provide for desired residential density.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p><b>A1</b></p> <p>The size of each lot must be in accordance with the following, except if for public open space, a riparian or littoral reserve or utilities:</p> <p>as specified in Table 12.1. (Lot size is 1500m<sup>2</sup>)</p>	<p><b>P1</b></p> <p>No Performance Criteria.</p>	<p>Lot 2 will contain all of the Low Density Residential Zone and has an overall area of 58.2ha, complying with the Acceptable Solution.</p>
<p><b>A2</b></p>	<p><b>P2</b></p>	<p>The proposed lot contains a</p>

<p>The design of each lot must provide a minimum building area that is rectangular in shape and complies with all of the following, except if for public open space, a riparian or littoral reserve or utilities;</p> <p>(a) clear of the frontage, side and rear boundary setbacks;</p> <p>(b) not subject to any codes in this planning scheme;</p> <p>(c) clear of title restrictions such as easements and restrictive covenants;</p> <p>(d) has an average slope of no more than 1 in 5;</p> <p>(e) is a minimum of 10 m x 15 m in size.</p>	<p>The design of each lot must contain a building area able to satisfy all of the following:</p> <p>(a) is reasonably capable of accommodating residential use and development;</p> <p>(b) meets any applicable standards in codes in this planning scheme;</p> <p>(c) enables future development to achieve reasonable solar access, given the slope and aspect of the land;</p> <p>(d) minimises the requirement for earth works, retaining walls, and cut &amp; dill associated with future development;</p>	<p>building area that complies with the design requirements of Acceptable Solution A2.</p>
<p><b>A3</b></p> <p>The frontage for each lot must be no less than the following, except if for public open space, a riparian or littoral reserve or utilities and except if an internal lot:</p> <p>30m.</p>	<p><b>P3</b></p> <p>The frontage of each lot must provide opportunity for reasonable vehicular and pedestrian access and must be no less than:</p> <p>6 m.</p>	<p>Lot 2 will have two frontages to Robertson Road and over 30m of frontage to the Highland Lakes Road, complying with Acceptable Solution A3.</p>
<p><b>A4</b></p> <p>No lot is an internal lot.</p>	<p><b>P4</b></p> <p>An internal lot must satisfy all of the following:</p> <p>(a) access is from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;</p> <p>(b) it is not reasonably possible to provide a new road to create a standard frontage lot;</p> <p>(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;</p> <p>(d) the lot will contribute to the</p>	<p>There are no internal lots proposed, complying with Acceptable Solution A4.</p>

	<p>more efficient utilisation of living land;</p> <p>(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;</p> <p>(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;</p> <p>(g) passing bays are provided at appropriate distances along the access strip to service the likely future use of the lot;</p> <p>(h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;</p> <p>(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.</p> <p>(j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.</p>	
<b>A5</b>  Setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.	<b>P5</b>  Setback from a new boundary for an existing building must satisfy the relevant Performance Criteria for setback.	The site does not have any existing buildings, so assessment against this clause is not required.

**Rural Resource Zone - Development standards for subdivision**

Part of the subject land is located 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.

<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<b>A1</b>	<b>P1</b>	The proposal must be assessed against the

<p>A lot is for public open space, a riparian or littoral reserve or utilities.</p>	<p>The reorganisation of boundaries must satisfy all of the following:</p> <p>(a) all existing lots are adjoining or separated only by a road;</p> <p>(b) no existing lot was formally a crown reserved road or other reserved land;</p> <p>(c) provide for the sustainable commercial operation of the land by either:</p> <p>(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,</p> <p>(ii) encompassing an existing or proposed non-agricultural rural resource use in one lot;</p> <p>(d) if a lot contains an existing 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>(i) contain land surplus to rural resource requirements of the primary agricultural lot;</p> <p>(ii) contain a building area capable of accommodating residential development satisfying clauses 26.4.2 and 26.4.3.</p>	<p>Performance Criteria P1 as the subdivision is not for public open space, utilities or a reserve.</p> <p>(a) Complies – the existing lots are adjoining.</p> <p>(b) Complies – none of the lots were a crown reserved road or other reserved land.</p> <p>(c) Complies The proposal will largely consolidate the rural portion of the land that is suitable for primary production into Lot 1.</p> <p>(d) There are no existing dwellings on the land.</p> <p>(e) The land is vacant.</p> <p>(f) If required, both lots contain suitable building areas complying with setbacks.</p>
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	<p>(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>(i) be no less than 1ha in size;</p> <p>(ii) have a frontage of no less than 6m;</p> <p>(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>	<p>There will be no significant increase in demand for public infrastructure or services created by the proposal.</p> <p>(g) (i) Complies - The lots are well over 1ha.</p> <p>(ii) Both lots will have frontages of more than 6m.</p> <p>(iii) Both lots have suitable existing accesses.</p> <p>(h) There are no Local Area Objectives or Desired Future Character Statements in the Rural Resource zone.</p>
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## Codes

### ***E1.0 Bushfire Prone Areas Code:***

The Bushfire Prone Areas Code applies to development for subdivision.

A Bushfire Management Report has been provided with the application to demonstrate compliance with the applicable standards of the Code.

### ***E7.0 Stormwater Management Code:***

This Code applies to all use and development.

In this case the proposed subdivision will not change the existing conditions on the ground and does not require stormwater infrastructure.

## Codes

### ***E1.0 Bushfire Prone Areas Code***

The site is located in a bushfire prone area. The proposed boundary reorganisation does not include any development or changes to existing conditions that require assessment under the Code.

### ***E11.0 Waterway and Coastal Protection Code:***

Parts of the land are subject to a Waterway Protection Area under this Code around waterways and waterbodies.

The proposal does not include any works that could impact waterways, so further assessment is not required.

## Representations

The proposal was advertised for the statutory 14 days period from 9<sup>th</sup> July 2019 until 2<sup>nd</sup> July 2019.

No representations were received.

### **Conclusion**

The proposal is for a boundary reorganisation between two large titles south of the Miena township. The application is assessed to comply with the applicable standards of the Low Density Residential and Rural Resource Zones 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 and no representations were received.

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 DA2019/45 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 21<sup>st</sup> August 2019, 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 DA2019/17 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 DA2019/45 for subdivision (boundary reorganisation) of 2 titles at 7561A & CT130056/1 Highland Lakes Road, Miena, 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 DA2019/45 for subdivision (boundary reorganisation) of 2 titles at 7561A & CT130056/1 Highland Lakes Road, Miena, 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 DA2019/45 for subdivision (boundary reorganisation) of 2 titles at 7561A & CT130056/1 Highland Lakes Road, Miena, 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 FROM PLANNING COMMITTEE**

Moved **Clr Cassidy**

Seconded **Clr Poore**

**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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, subject to conditions in accordance with the Recommendation.

### **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.

#### *Subdivision*

- 4) Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

#### *Final plan*

- 5) 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.
- 6) 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.

- 7) 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.
- 8) 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.

**Carried**

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

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**6.3 DA2019/43: NEW DWELLING & CHANGE OF USE (EXISTING DWELLING TO VISITOR ACCOMMODATION): 5987 LYELL HIGHWAY, HAMILTON**

**Report by**

Jacqui Tyson (Senior Planning Officer)

**Applicant**

E3 Planning Pty Ltd

**Owner**

P J Headlam

**Discretions**

**26.2** Use table (Visitor accommodation)

**26.3.** Use standards

**Proposal**

The proposal is for the construction of a new dwelling and change of use of an existing dwelling to Visitor accommodation on a rural property at 5967 Lyell Highway, Hamilton.

The proposed new dwelling is a single storey family home with a floor area of approximately 300m<sup>2</sup>. The dwelling will contain five bedrooms, two bathrooms, study, bathroom, laundry, living spaces, outdoor courtyard and decks. The dwelling will be clad in proprietary panel wall cladding with a Colorbond roof.

The new dwelling is to be located approximately 260m north west of the existing dwelling, with setbacks of 185m to the Lyell Highway frontage and 146m to the north western side boundary. Access to the dwelling will be via the existing entry from the Lyell Highway, with the internal gravel driveway to be extended to the new dwelling site.

Following construction of the proposed new dwelling, the use of the existing dwelling will change to Visitor accommodation, allowing it to be used for a commercial short stay accommodation facility. The building contains four bedrooms, one bathroom, laundry and storage and open plan living spaces. It also has an attached carport and a deck. No physical changes to this building are proposed.

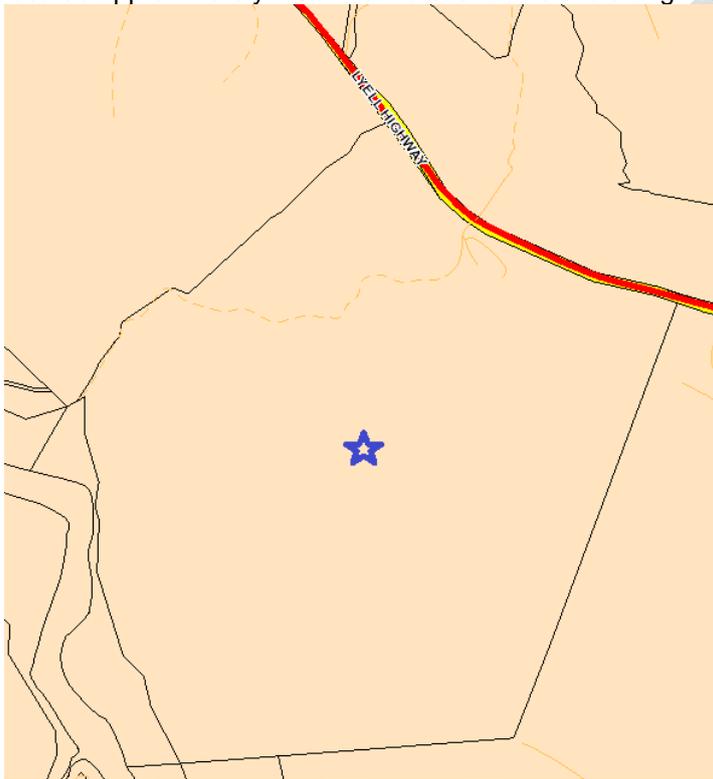
The proposal is Discretionary and is assessed against the relevant standards for the Rural Resource Zone pursuant to section 26.0 of the Central Highlands Interim Planning Scheme 2015.

**Subject site and Locality.**

The subject title has an area of 215.6ha and is used for farming purposes. The property is located on the southern side of the Lyell Highway, extending to Meadowbank Lake to the south west.

The northern part of the land nearest the road is relatively flat, before rising to the Sendace Hills and then falling away to Meadowbank Lake. The north western boundary of the property follows a low point in the land between the Sendace Hills and Tent Hill on the neighbouring property.

The locality is largely characterised by farm land, much of which is irrigated. Hamilton is located approximately 4.5km to the east of the site along the Lyell Highway.



**Fig 1.** Location and zoning of the subject land (marked by a star) in the Rural Resource zone. (Source: LISTmap)



**Fig 2.** Aerial photo of the subject land and surrounding area (Source: LISTmap)

## Exemptions

Nil

## Special Provisions

Nil

## Rural Resource Zone - Use standards

<b>26.3.1 Sensitive Use (including residential use)</b> To ensure sensitive use does not unreasonably convert agricultural land or conflict with or fetter non-sensitive use.		
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<b>A1</b>  A sensitive use is for a home based business or an extension or replacement of an existing dwelling or existing ancillary dwelling, or for home-based child care in accordance with a licence under the Child Care Act 2001.	<b>P1</b>  A sensitive use must not unreasonably convert agricultural land or conflict with or fetter non-sensitive use on adjoining land having regard to all of the following:  (a) the characteristics of the proposed sensitive use;  (b) the characteristics of the existing or likely non-sensitive use on adjoining land;  (c) setback to site boundaries and separation distance between the proposed sensitive use and existing or likely non-sensitive use on adjoining land;  (d) any characteristics of the site and adjoining land that would buffer the proposed sensitive use from the adverse impacts on residential amenity from existing or likely non-sensitive use.	<p>The proposal includes a new dwelling and visitor accommodation which are both sensitive uses. The proposal is assessed against the Performance Criteria.</p> <p>The Visitor accommodation will use an existing building and as such it does not convert agricultural land for another purpose.</p> <p>The proposed new dwelling has been sited on land with low productive value, being a hillock that is currently occupied by some non-native trees. The property is relatively large and the small area of land to be used to support the new dwelling will not impact the overall productive value of the property through conversion of agricultural land.</p> <p>The new dwelling will be setback at least 146m from the boundary with the neighbouring property and the existing dwelling/proposed Visitor accommodation is setback further. It is considered that the proposed siting is sufficient to provide protection of residential amenity from non-sensitive uses on the neighbouring land and surrounding area.</p> <p>In regard to (b), it is noted that Council have been advised by the EPA that a 'Notice of Intent' has been lodged for development of an aquaculture facility on land adjoining the subject site. A</p>

		<p>'Notice of Intent' is the first step for a level 2 development application, where basic information is provided to the EPA so that guidelines for assessment can be provided to the applicant to assist them in preparing comprehensive application documents. If/when the proponent decides to proceed with a proposal they must then lodge a detailed application with EPA and Council for assessment. In this case the NOI document is 'Commercial in Confidence' and is not available to the public and the project has not progressed to a Development Application at this time.</p> <p>Generally the planning scheme provides limited opportunity to consider future or proposed uses before they are approved, but it is considered relevant to this clause to give some consideration to the impact an aquaculture facility may have on the proposed dwelling and Visitor accommodation. The Attenuation Code of the planning scheme designates attenuation areas for uses that have a higher potential to create emissions that conflict with sensitive uses. The most relevant Activity listed in Table E19.1 of the current planning scheme is Fish processing (primary) with an attenuation distance of 100m. For reference, Table C9.1 in the Tasmanian Planning Scheme also lists an attenuation distance of 100m for land based aquaculture operations.</p> <p>The sensitive uses proposed in this development application are sited more than 100m from the boundary to the adjoining land subject to the potential aquaculture application. The separation distance between any future aquaculture facility and the proposed dwelling is likely to be over 200m, double the attenuation area.</p>
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		This provides a good indication that the proposed sensitive uses can be protected from any adverse impacts from future use of the neighbouring property for aquaculture.
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**26.3.2 Visitor accommodation**

To ensure visitor accommodation is of a scale that accords with the rural character and use of the area.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p><b>A1</b></p> <p>Visitor accommodation must comply with all of the following:</p> <p>(a) is accommodated in existing buildings;</p> <p>(b) provides for any parking and manoeuvring spaces required pursuant to the Parking and Access Code on-site;</p> <p>(c) has a floor area of no more than 160m<sup>2</sup>.</p>	<p><b>P1</b></p> <p>Visitor accommodation must satisfy all of the following:</p> <p>(a) not adversely impact residential amenity and privacy of adjoining properties;</p> <p>(b) provide for any parking and manoeuvring spaces required pursuant to the Parking and Access Code on-site;</p> <p>(c) be of an intensity that respects the character of use of the area;</p> <p>(d) not adversely impact the safety and efficiency of the local road network or disadvantage owners and users of private rights of way;</p> <p>(e) be located on the property's poorer quality agricultural land or within the farm homestead buildings precinct;</p> <p>(f) not fetter the rural resource use of the property or adjoining land.</p>	<p>The proposal includes conversion of an existing dwelling to farm stay style Visitor accommodation after the new dwelling is constructed.</p> <p>The building to be used for Visitor accommodation has a floor area of approximately 185m<sup>2</sup>. Assessment against the Performance Criteria is therefore required.</p> <p>(a) The Visitor accommodation is sited over 90m from the nearest property boundary (Lyell Highway) and is separated from the nearest dwellings by 270m (north), 800m+ (east) and over 1km (west). The Visitor accommodation is not expected to impact the amenity or privacy of adjoining properties.</p> <p>(b) The Visitor accommodation exists as a dwelling and has sufficient access, parking and manoeuvring space to meet the needs of the proposed use without any physical changes.</p> <p>(c) The proposed Visitor accommodation will be one building only that could accommodate a family or several couples at a time. The intensity of the proposed use is considered to respect the character of the area.</p> <p>(d)</p>

		<p>The Visitor accommodation will continue to use the existing access from the Lyell Highway, which will be shared with the proposed new dwelling. The increase in traffic can easily be accommodated safely and efficiently by the access and the road network.</p> <p>(e) The Visitor accommodation will utilise an existing building/dwelling located near the farm yard area with outbuildings and other improvements.</p> <p>(f) The proposed Visitor accommodation will use an existing building, is described as a 'farm stay' style and is sited with generous setbacks to avoid fettering of rural resource uses on the land and surrounds.</p>
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### 26.3.3 Discretionary Use

To ensure discretionary non-agricultural uses do not unreasonably confine or restrain the agricultural use of agricultural land.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p><b>A1</b></p> <p>No acceptable solution.</p>	<p><b>P1</b></p> <p>A discretionary non-agricultural use must not conflict with or fetter agricultural use on the site or adjoining land having regard to all of the following:</p> <p>(a) the characteristics of the proposed non-agricultural use;</p> <p>(b) the characteristics of the existing or likely agricultural use;</p> <p>(c) setback to site boundaries and separation distance between the proposed non-agricultural use and existing or likely agricultural use;</p> <p>(d) any characteristics of the site and adjoining land that would</p>	<p>Visitor accommodation is a discretionary non-agricultural use which is assessed against the Performance Criteria.</p> <p>As discussed above, the proposed Visitor accommodation will be accommodated in the existing dwelling after the proposed new dwelling is constructed.</p> <p>The building is sited with generous setbacks to boundaries and neighbouring dwellings.</p> <p>The building is screened from the road by mature vegetation and further surrounded by mature trees and gardens, providing some visual and amenity screening from rural resource uses on the site and surrounds.</p> <p>Overall it is considered that the proposed use and</p>

	buffer the proposed non-agricultural use from the adverse impacts on amenity from existing or likely agricultural use.	development is appropriate for the site and any impacts to uses on adjoining land will be manageable.
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**Rural Resource Zone - Development standards**

The subject land is located in the Rural Resource Zone. The proposal must satisfy the requirements of the following development standards:

<b>26.4.1 Building Height</b>		
To ensure that building height contributes positively to the rural landscape and does not result in unreasonable impact on residential amenity of land.		
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<b>A1</b> Building height must be no more than:  8.5 m if for a residential use.  10 m otherwise.	<b>P2</b> Building height must satisfy all of the following:  (a) be consistent with any Desired Future Character Statements provided for the area;  (b) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by overlooking and loss of privacy;  (c) if for a non-residential use, the height is necessary for that use.	The height of the new dwelling is less than 8.5m, complying with the Acceptable Solution.

<b>26.4.2 Setback</b>		
To minimise land use conflict and fettering of use of rural land from residential use, maintain desirable characteristics of the rural landscape and protect environmental values in adjoining land zoned Environmental Management.		
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<b>A1</b> Building setback from frontage must be no less than:  20 m.	<b>P2</b> Building setback from frontages must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:  (a) the topography of the site;  (b) the size and shape of the site;  (c) the prevailing setbacks of existing buildings on nearby lots;	The new dwelling will be setback more than 20m from the frontage to the Lyell Highway, complying with the Acceptable Solution.

	<p>(d) the location of existing buildings on the site;</p> <p>(e) the proposed colours and external materials of the building;</p> <p>(f) the visual impact of the building when viewed from an adjoining road;</p> <p>(g) retention of vegetation.</p>	
<p><b>A2</b> Building setback from side and rear boundaries must be no less than:</p> <p>50 m.</p>	<p><b>P2</b> Building setback from side and rear boundaries must maintain the character of the surrounding rural landscape, having regard to all of the following:</p> <p>(a) the topography of the site;</p> <p>(b) the size and shape of the site;</p> <p>(c) the location of existing buildings on the site;</p> <p>(d) the proposed colours and external materials of the building;</p> <p>(e) visual impact on skylines and prominent ridgelines;</p> <p>(f) impact on native vegetation.</p>	<p>The new dwelling will be setback over 100m from the new boundary, easily complying with the Acceptable Solution.</p>
<p><b>A3</b> Building setback for buildings for sensitive use must comply with all of the following:</p> <p>(a) be sufficient to provide a separation distance from a plantation forest, Private Timber Reserve or State Forest of 100 m;</p> <p>(b) be sufficient to provide a separation distance from land zoned Significant Agriculture of 200 m.</p>	<p><b>P3</b> Building setback for buildings for sensitive use (including residential use) must prevent conflict or fettering of primary industry uses on adjoining land, having regard to all of the following:</p> <p>(a) the topography of the site;</p> <p>(b) the prevailing setbacks of existing buildings on nearby lots;</p> <p>(c) the location of existing buildings on the site;</p> <p>(d) retention of vegetation;</p>	<p>Not Applicable.</p> <p>The site does not adjoin a Private Timber Reserve, State Forest or land zoned Significant Agriculture.</p>

	<p>(e) the zoning of adjoining and immediately opposite land;</p> <p>(f) the existing use on adjoining and immediately opposite sites;</p> <p>(g) the nature, frequency and intensity of emissions produced by primary industry uses on adjoining and immediately opposite lots;</p> <p>(h) any proposed attenuation measures;</p> <p>(i) any buffers created by natural or other features.</p>	
<p><b>A4</b> Buildings and works must be setback from land zoned Environmental Management no less than:</p> <p>100 m.</p>	<p><b>P4</b> Buildings and works must be setback from land zoned Environmental Management to minimise unreasonable impact from development on environmental values, having regard to all of the following:</p> <p>(a) the size of the site;</p> <p>(b) the potential for the spread of weeds or soil pathogens;</p> <p>(c) the potential for contamination or sedimentation from water runoff;</p> <p>(d) any alternatives for development.</p>	<p>Not Applicable.</p> <p>The site does not adjoin land in the Environmental Management Zone.</p>

## Codes

### ***E5.0 Road and Railway Assets Code:***

The proposed dwelling and Visitor accommodation will continue to use the existing access point from the Lyell Highway. The sight distances of the existing access are adequate.

The increase in traffic movements will be minimal and will not increase more than 10% or 10 vehicle movements above the existing level in accordance with the requirements of the Code.

### ***E6.0 Parking and Access Code:***

This Code applies to all use and development.

The proposal includes parking for the dwelling and Visitor accommodation and construction of a suitable internal access, complying with all applicable standards.

### ***E7.0 Stormwater Management Code:***

This Code applies to all use and development.

Stormwater from the proposed development can be disposed of onsite to satisfy the Code standards.

## Representations

The proposal was advertised for the statutory 14 days period from 9<sup>th</sup> July 2019 until 22<sup>nd</sup> July 2019.

A total of one (1) representation was received. The issues raised in the representation are presented in the table below.

The representation was referred to the applicant for response, which have been incorporated into the officer comments below where relevant.

<b>Representation 1</b>	
<b>Issues</b>	<b>Officer comments</b>
<p>I understand from Council's notice that E3 Planning has made an application on behalf of P J Headlam for construction of a new dwelling and change of use of an existing dwelling on the site to visitor accommodation. The subject land is an agricultural property. The new house is to be setback 146m from the north western side boundary and 185m from the front boundary with the Lyell Highway to the north. I understand that there is an existing dwelling and outbuildings on the site further to the east. There are two floor plans included in the application. The first, an illegible hand drawn floor plan in blue pen. The second, a floor plan prepared by Leon Jenkins of a 5 bedroom dwelling including separate rumpus room, family room, dining room, study, decks and outdoor living areas. The dimensions of the floor plan are not legible.</p> <p>The application documentation provided to you by Council, 9 July 2019 is of very poor quality and in my assessment lacks critical detail to satisfy the minimum requirements for an application for a planning permit under Clause 8.1 of the planning scheme. In particular, the proposal does not include the following mandatory information:</p> <ul style="list-style-type: none"> <li>• A full description of the proposed use and development (Clause 8.1.2(c));</li> <li>• A description of the manner in which the proposed use and development will operate (Clause 8.1(d))</li> </ul> <p>In that absence of this descriptive information and the very poor quality of the plans provided, in my assessment the application does not meet the minimum requirements of 8.1.2 and is therefore invalid.</p> <p>Notwithstanding this fundamental flaw, in my assessment the following additional information is necessary and desirable and should have been requested by Council under Clause 8.1.3 of the planning scheme:</p> <ul style="list-style-type: none"> <li>• A site analysis and site plan at an acceptable scale showing existing and proposed uses on the site,</li> </ul>	<p>While the application documents may not be of the highest quality, it is considered that sufficient information is provided for Council to understand the intent of the proposal and make an assessment under the planning scheme.</p> <p>Applicant response:  <i>The application includes a floor plan for the proposed new dwelling depicting its size and scale. The size of the dwelling and individual features are specified on the plans. The external appearance of the dwelling is detailed in the elevations provided. The location of the proposed dwelling is detailed through both a location and site plan.</i></p> <p><i>The site plan also shows the location of the existing dwelling. The floor plan of the existing dwelling is depicted by sketch plans. No development is sought in this regard, only a change of use.</i></p> <p><i>The application details the nature of the proposed use and provides further detail as to the manner in which the proposed residential and visitor accommodation uses will operate.</i></p> <p><i>It is unreasonable to suggest that the application is invalid. It was of course open to Council to request further information if it took the view that such information was required to complete its assessment.</i></p> <p><i>I have assumed, in the absence of such a request, the Council considers that it holds adequate information in order to determine whether the relevant standards are satisfied. The application is for a single residential dwelling and for a change of use to visitor accommodation for the existing dwelling. This change of use would provide a further revenue stream to the existing agricultural use of the property and enhance the visitor experience within the Municipality. The proposed use and development is minor, with almost no potential to impact the amenity of the</i></p>

<p>topography including contours showing AHD levels and major site features, an assessment of soil type and drainage, the location and use of existing buildings on the site, the location of existing adjoining properties, adjacent buildings and their uses, proposed car parking areas and the dimensions of proposed driveway (Clause 8.1.3(a));</p> <ul style="list-style-type: none"> <li>• Floor plans, elevations of proposed buildings at a scale of 1:100 or 1:200 with dimensions and natural ground levels (Clause 8.1.3(b));</li> <li>• Other critical information discussed below that is necessary to determine whether applicable standards and purpose statements of the Zone and Codes are satisfied (Clause 7.5)</li> </ul> <p>Without this information it is not possible to demonstrate that the use and development complies with the relevant standards and purpose statements in the zone and codes.</p>	<p><i>surrounding area. The information sought would be commensurate with that of some major proposal. Council can be confident that the detail in the application is more than sufficient to meet the requirements of its planning scheme.</i></p>
<p>The site and surrounding land is zoned Rural Resource. The Purpose of the Zone (26.1.1) is:</p> <p>26.1.1.1 <b><u>To provide for the sustainable use or development of resources for agriculture, aquaculture,</u></b> forestry, mining and other primary industries, including opportunities for resource processing.</p> <p>26.1.1.2 <b><u>To provide for other use or development that does not constrain or conflict with resource development uses.</u></b></p> <p>26.1.1.3 To provide for non-agricultural use or development, such as recreation, conservation, tourism and retailing, <b><u>where it supports existing agriculture, aquaculture,</u></b> forestry, mining and other primary industries.</p> <p>26.1.1.4 To allow for residential and other uses not necessary to support agriculture, aquaculture and other primary industries provided that such uses do not:</p> <p>(a) <b><u>fetter existing or potential rural resource use and development on other land:</u></b></p> <p>(b) add to the need to provide services or infrastructure or to upgrade existing infrastructure;</p> <p>(c) <b><u>contribute to the incremental loss of productive rural resources.</u></b></p> <p>26.1.1.5 <b><u>To provide for protection of rural land so future resource</u></b></p>	<p>Zone purpose statements are useful for understanding what the main objective of the zone is and where it should be applied.</p> <p>Part 7.5 of the planning scheme does not allow for reference to the Purpose statements when considering whether a Development Application complies with the applicable Use and Development standards of a zone. This is because the use and development standards should be written to effectively express the Purpose of the zone.</p> <p>The matters highlighted in the zone Purpose statements by the representor are well addressed in the Use and Development standards of the zone.</p> <p>The assessment against the Use standards provided above details why the proposal is considered to comply with the Use standards, and therefore by extension the Purpose statements of the Rural Resource Zone.</p>

<p><b><u>development opportunities are no lost.</u></b> I have underlined key aspects of the Zone purpose statements above. Having regard to these the underlying intent of the zone is to prevent the incremental loss or fettering of productive rural land for resource development including agriculture and aquaculture.</p>	
<p>Proposals for likely future use of adjoining land at 56 Woodmoor Road As Council is aware, Tassal Group Limited lodged a Notice of Intent with the EPA in April 2019 for the use and development of 56 Woodmoor Road, directly adjoining the site to the north west for a recirculated aquaculture hatchery. The application for 5987 Lyell Highway should include sufficient information to assess the impact of the proposal on this likely future Resource Development Use of the adjoining land.</p>	<p>This matter is addressed in the assessment of Clause 26.3.1 above.</p> <p>As discussed there, the NOI documentation for the project is 'Commercial in Confidence' so details cannot be presented. However, considering the setbacks of the proposed development of sensitive uses under consideration will exceed the attenuation area identified for aquaculture the risk of land use conflict is considered to be adequately addressed sufficiently given the early stage that proposal is at and the information available.</p> <p>Applicant response: <i>It may be fact that TASSAL Group Limited have lodged a Notice of Intent with the EPA, however no information is publicly available, no development application has been lodged with Council and there is no information available on the EPA website other than that listed in the <b>Assessments in Progress as at May 2019</b> document referable to "documentation in preparation" obtained from the EPA Website. The status of any application, including whether it is capable of approval, is unknown such that it cannot be concluded that any proposal by Tassal is a "likely" agricultural or non-sensitive use. Indeed, as "aquaculture" any such proposal would not meet the definition of agricultural use. It is impossible for Council or the applicant to make any assessment of impact of the proposal against a hypothetical proposal. (the representor) would appear to expect Council to refuse my Client's application on the basis that his client TASSAL 'may want' to do something fish farm related on the adjacent property.</i></p>
<p>Use I understand that the proposal is to change the use of an existing dwelling on the site to visitor accommodation and construct a new dwelling. I note multiple dwellings are a prohibited use in the zone. <i>Visitor Accommodation is defined under Planning Directive No. 6 Exemption and Standards for <u>Visitor Accommodation in Planning Schemes</u> as:</i> use of land for providing short or medium</p>	<p>While it is accepted that 'holiday cabin' may not be the best description for a house converted to Visitor accommodation, this is the only example term used in the definition of Visitor accommodation that can be applied to this very common circumstance.</p> <p><i>Holiday cabin</i> is not further defined in part 4 of the scheme as <i>bed and breakfast establishment</i> is. It is considered to be the 'best fit'.</p>

term accommodation, for persons away from their normal place of residence, on a commercial basis or otherwise available to the general public at no cost. Examples include a backpackers hostel, bed and breakfast establishment, camping and caravan park, holiday cabin, holiday unit, motel, overnight camping area, residential hotel and serviced apartment.

*The Use Class is relatively broad and includes a nonexclusive list of examples including a backpackers hostel, bed and breakfast establishment, camping and caravan park, holiday cabin, holiday unit, motel, overnight camping area, residential hotel and serviced apartment. There may be other uses in an addition to these examples.*

The test of the Visitor Accommodation Use Class is that it be for short or medium term accommodation, for persons away from their normal place of residence. This use Class however is overlaid by the following Use Qualification in the Use Table (26.2):

Only if backpackers hostel, bed and breakfast establishment, camping and caravan park, holiday cabin, overnight camping area or seasonal workers accommodation.

The proposed conversion of the existing single dwelling to visitor accommodation must therefore meet one of these use descriptions if it is to be able to be considered as a discretionary application. The proposal is clearly not a backpackers hostel, camping and caravan park or overnight camping area.

It is also not a bed and breakfast establishment, a defined term under the planning scheme meaning:

**part of a dwelling used by its resident to provide,** on a short-term commercial basis, accommodation and breakfast for persons away from their normal place of residence.

In the absence of adequate plans it is not possible to characterise the proposal as a *holiday cabin*.

No information is provided with the application that confirms that proposal is to be used as seasonal workers accommodation.

On the basis that the application does not include sufficient information to demonstrate that the proposed use would be appropriately categorised as one of these descriptions, the use is prohibited and must be refused.

It is considered that the use qualification in the Rural Resource Zone does not seek to prohibit the use of a dwelling (part time or full time) as *Visitor accommodation*. This has become a very common application type in all zones, including Rural Resource

**Use Standards (26.3)**

In the absence of adequate floor plans for the existing dwelling on the site it is not possible to assess the proposal under the Use Standards for Sensitive Use, Visitor Accommodation or Discretionary Use under Clause 26.3.1 - 26.3.3.

- In particular the application does not provide adequate information to demonstrate that: The proposal will not unreasonably convert agricultural land or conflict with or fetter non sensitive use on or adjoining the site;
- The uses are located on the property's poorer quality agricultural land; and

The proposal will not impact on the existing or likely non-sensitive use on adjoining land.

It is considered that sufficient information is provided in the application for assessment of the Use standards (see above).

**Applicants response:**

*It is suggested that it is not possible to assess the proposal against the relevant use standards contained in cl.26.3.1, 26.3.2 and 26.3.3 and goes on to identify particular issues. The relevant information is outlined the supporting letter dated 19 June 2019 which contains responses to all relevant acceptable solutions and performance criteria.*

*The proposal is assessed differently against the different standards and care needs to be taken to ensure that each standard is applied to the specific use under consideration. For example, (the representor) contends that there has been a failure to demonstrate that "the uses are located on the property's poorer quality agricultural land". Such a requirement arises under cl.26.3.2, PI (e) which applies only to the proposed visitor accommodation use. This use is proposed to replace the existing residential use of the existing dwelling. It is reasonable to conclude that the existing dwelling represents the poorer quality agricultural land as it is not available for agricultural use, and in any event it is within the area of the existing farm buildings as to meet the alternate limb of the criterion.*

*At its core, the representation contends that the proposed dwelling may fetter the underlying agricultural use, which is a non-sensitive use, of the adjoining property. The existing and likely agricultural use of the land is best understood as productive grazing land. The setback proposed together with the fact that the dwelling here proposed is intended to support farming operations on the subject land, support the conclusion that the use will not conflict with or fetter agricultural use.*

**Conclusion**

The proposal for the construction of a new dwelling and change of use of an existing dwelling to Visitor accommodation at 5967 Lyell Highway, Hamilton 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 and one representation was received. The concerns raised in the representation are considered above.

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 DA2019/43 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 21<sup>st</sup> August 2019, 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 DA2019/43 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 DA2019/43 for a new dwelling and change of use of an existing dwelling to Visitor accommodation at 5967 Lyell Highway, Hamilton, 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 DA2019/43 for a new dwelling and change of use of an existing dwelling to Visitor accommodation at 5967 Lyell Highway, Hamilton, 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 DA2019/43 for a new dwelling and change of use of an existing dwelling to Visitor accommodation at 5967 Lyell Highway, Hamilton, 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 FROM PLANNING COMMITTEE**

**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 DA2019/17 for subdivision (reorganisation of boundaries) at 6 & 8 Tarleton Street, Hamilton, subject to conditions in accordance with the Recommendation.

**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.

*Approved Use*

- 3) Once the new dwelling is occupied the approved *Visitor accommodation* must be used for that purpose only. It must not be used for any other purpose, including as a residential dwelling, or be extended or intensified without prior Council approval.

*Exterior finishes*

- 4) All external metal building surfaces of the new dwelling must be clad in non-reflective pre-coated metal sheeting or painted in a colour with a light reflectance value not exceeding 40% and to the satisfaction of the General Manager.

*Stormwater*

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

*Services*

- 6) 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.

*Access*

- 7) The areas set-aside for parking, access and vehicle manoeuvring:
  - a. Must provide for a vehicle to enter and leave the site in a forward direction.
  - b. The driveway access must be located over existing tracks or along natural contours to reduce visual impact through excavation and filling and erosion from water run-off.
  - c. Have an all-weather pavement constructed and surfaced to the satisfaction of Council's Works Manager.
  - d. Incorporate suitable drainage to avoid erosion and run-off.

*Protection of Water Quality*

- 8) Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's Planning Officer before development of the land commences (refer to advice below). The SWMP shall form part of this permit when approved.

- 9) Before any work commences install temporary run-off, erosion and sediment controls in accordance with the recommendations of the approved SWMP and maintain these controls at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's Planning Officer.
- 10) Wastewater from the development must discharge to an on-site waste disposal system in accordance with a Plumbing Permit issued by the Permit Authority.

*Construction Amenity*

- 11) 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.
- 12) 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.
- 13) 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 Manager 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.
- 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.

**Carried**

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

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Mr Headlam advised that he did not have anything further to contribute and thanked Councillors and left the meeting at 9.10am

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**6.4 DA2019/06: SUBDIVISION – 16 LOTS IN 6 STAGES: CT 27874/1 AND 6 BANNISTER ROAD, TODS CORNER**

Council's Senior Planning Officer, Jacqui Tyson, advised that the Tasmania Fire Service endorsed Bushfire Report has not yet been received. As such this application will need to be deferred until the Ordinary Meeting of Council to be held on the 20<sup>th</sup> August 2019.

Clr Allwright enquired about road construction standards. Ms J Tyson advised that this application falls under the Bushfire Code and therefore the road standards are taken from the Code which are different to the standards specified in the Central Highlands Council Subdivision Guidelines 2015.

**RECOMMENDATION FROM PLANNING COMMITTEE**

Moved **Clr Poore**

Seconded **Clr Cassidy**

**THAT** Development Application DA2019/06 for subdivision of sixteen (16) lots in 6 stages at CT27874/1 & 6 Bannister Road, Tods Corner be deferred until the endorsed Bushfire Report has been received.

**Carried**

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

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**7.0 OTHER BUSINESS**

- Clr Allright advised that he has had some discussions with Damian Mackey about flood zone mapping and that some Councils have this mapping separate from the Planning Scheme. Damian Mackey will be attending the August Council Meeting and will discuss this further.
  - Ms J Tyson advised that the report on Enforcements will be placed on next months agenda.
  - Clr Poore advised that he will be absent for the September Planning Committee Meeting.
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**8.0 CLOSURE**

There being no further business the meeting closed at 9.25am

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