

**MINUTES OF THE PLANNING COMMITTEE MEETING
OF THE CENTRAL HIGHLANDS COUNCIL HELD
IN THE BOTHWELL COUNCIL CHAMBERS
AT 9.00AM ON TUESDAY 13th OCTOBER 2020**

1.0 PRESENT

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

IN ATTENDANCE

Mrs L Eyles (General Manager), Mr G Rogers (Manager DES), Mr D Cundall (Southern Midlands Council), Ms L Brown (Planning Officer) & Mrs K Bradburn (Minutes Secretary)

2.0 APOLOGIES

Mayor Triffitt

Mr D Cundall introduced Ms Louisa Brown to the Committee. Ms Brown will be covering for Ms J Tyson while she is on maternity leave.

3.0 PECUNIARY INTEREST DECLARATIONS

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

Nil

4.0 CONFIRMATION OF MINUTES

Moved **Clr Poore**

Seconded **Clr Cassidy**

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 14th July 2020 to be confirmed.

Carried

For the Motion: Clr Allwright, Clr Poore, Clr Cassidy & Clr Bailey

5.0 QUESTION TIME & DEPUTATIONS

Nil

6.0 DA2020/55: SUBDIVISION (2 LOTS INTO 4 LOTS) – 67 & 69 ARTHURS LAKE ROAD, WILBURVILLE

Report by

Jacqui Tyson (Senior Planning Officer)

Applicant

Artas Architects

Owner

T M Brady

Discretions

12.5.1 Subdivision

Proposal

The application is for a subdivision of two (2) existing adjoining titles to create a total of four (4) lots.

The existing two existing titles are located on the southern side of Arthurs Lake Road and are currently undeveloped.

Under the proposal, the two lots will be converted to four (4) lots as follows:

- Lot 1 – 1617m², with approximately 24m frontage to Arthurs Lake Road,
- Lot 2 – 2309m², internal lot with 6m frontage to Arthurs Lake Road,
- Lot 3 - 2040m², internal lot with 6m frontage to Arthurs Lake Road, and
- Lot 4 – 1637m², with approximately 25m frontage to Arthurs Lake Road.

The land is not serviced with reticulated water, sewer or stormwater services. All lots will need to be independently serviced onsite.

Each lot will require a separate vehicle crossover to be provided from Arthurs Lake Road.

The application has been prepared by a consultant and is supported by a statement addressing the planning scheme requirements, a Geotechnical assessment considering requirements for onsite wastewater and stormwater disposal and a Bushfire Hazard Management Report.

The proposal is discretionary owing to being a subdivision and is assessed against the subdivision standards for the Low Density Residential Zone pursuant to section 12.0 of the Central Highlands Interim Planning Scheme 2015.

Subject site and Locality.

The proposal relates to two existing titles on the southern side of Arthurs Lake Road which are adjoining. The existing lots are relatively long and narrow in shape and are undeveloped.

67 Arthurs Lake Road has an area of 3926m² and 69 Arthurs Lake Road has an area of 3679m².

There is some remnant vegetation remaining on the site.

Wilburville is a settlement at the southern end of Arthurs Lake, accessed from Arthurs Lake Road. The area consists of Low Density Residential lots, many of which are developed with dwellings and shacks, while others remain vacant.

The land surrounding the settlement area is mostly vegetated with forest.



Fig 1. Location and zoning of the subject properties (marked by blue stars) in the Low Density Residential Zone. (Source: LISTmap)



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

Exemptions

Nil

Special Provisions

Nil

Use standards

There are no applicable use standards for subdivision.

Low Density Zone - Development standards for subdivision

The subject land is located in the Low Density Residential Zone. The proposal must satisfy the requirements of the following development standards, 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
A1 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: as specified in Table 12.1.	P1 No Performance Criteria.	<i>Table 12.1 specifies that the minimum lot size in the Low Density Residential Zone is 1500m². The proposed lots all exceed 1500m² in compliance with the Acceptable Solution.</i>
A2 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; (a) clear of the frontage, side and rear boundary setbacks;	P2 The design of each lot must contain a building area able to satisfy all of the following: (a) is reasonably capable of accommodating residential use and development; (b) meets any applicable standards in codes in this planning scheme;	<i>The design and layout of the proposed lots can accommodate a minimum building area that complies with the requirements of Acceptable Solution A2.</i>

<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>(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 & dill associated with future development;</p>	
<p>A3</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>P3</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><i>The proposed frontage for all the 4 lots is less than 30m, so assessment against the Performance Criteria is necessary.</i></p> <p><i>Lots 1 and 4 are each provided with around 24-25m of frontage to Arthurs Lake Road and Lots 2 and 3 are each provided with 6m of frontage to Arthurs Lake Road.</i></p> <p><i>This complies with the requirements of Performance Criteria P3.</i></p>
<p>A4</p> <p>No lot is an internal lot.</p>	<p>P4</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</p>	<p><i>Lots 2 and 3 are internal lots and require assessment against the Performance Criteria.</i></p> <p>(a) <i>The lots access from Arthurs Lake Road, which existed prior to the planning scheme coming into effect.</i></p> <p>(b) <i>It is not reasonably possible to provide a new road to service only two lots.</i></p> <p>(c) <i>The proposed lot</i></p>

	<p>reasonable way to subdivide the rear of an existing lot;</p> <p>(d) the lot will contribute to the 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>	<p><i>arrangement is the most efficient and reasonable way to further subdivide the land.</i></p> <p><i>(d) The proposal contributed to more efficient utilisation of the existing zoned land.</i></p> <p><i>(e) Any future development on the proposed lots will need to comply with the applicable standards which include consideration of amenity.</i></p> <p><i>(f) Lots 2 and 3 are each provided with an access strip and frontage that is 6m wide.</i></p> <p><i>(g) The access strips are around 65m long and are not considered to require passing bays (as demonstrated by the bushfire management plan).</i></p> <p><i>(h) The proposal includes only 2 adjoining access strips.</i></p> <p><i>(i) A condition is included to require the accesses for lots 2 and 3 to be sealed in accordance with this standard.</i></p> <p><i>(j) This clause is not applicable in this case.</i></p>
<p>A5</p> <p>Setback from a new boundary for an existing building must comply with the relevant Acceptable</p>	<p>P5</p> <p>Setback from a new boundary for an existing building must satisfy the relevant Performance</p>	<p><i>The land is vacant so this clause is not applicable in this case.</i></p>

Solution for setback.	Criteria for setback.	
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Codes

E1.0 Bushfire Prone Areas Code

The land is located in a bushfire prone area and the Bushfire Prone Areas Code is therefore applicable to the proposed subdivision.

A report by a suitably qualified person (*Bushfire Hazard Management Report: Subdivision - 67 & 69 Arthurs Lake Road, Wilburville*, Scott Livingston, 14th August 2020) has been provided with the application documents.

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>A1</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</p>	<p>P1</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>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>

<p>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 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.</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>	
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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.

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
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<p>A1</p> <p>(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</p> <p>(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:</p> <p>(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</p> <p>(ii) is certified by the TFS or an accredited person.</p>	<p>P1</p> <p>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:</p> <p>(a) appropriate design measures, including:</p> <p>(i) two way traffic;</p> <p>(ii) all weather surfaces;</p> <p>(iii) height and width of any vegetation clearances;</p> <p>(iv) load capacity;</p> <p>(v) provision of passing bays;</p> <p>(vi) traffic control devices;</p> <p>(vii) geometry, alignment and slope of roads, tracks and trails;</p> <p>(viii) use of through roads to provide for connectivity;</p> <p>(ix) limits on the length of cul-de-sacs and dead-end roads;</p> <p>(x) provision of turning areas;</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>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 BHR and BHMP certify that access will be provided to meet the requirements of A1 (b).</p> <p>The proposal complies with the Acceptable Solution.</p>
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	<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)

Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A1</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 provision of water supply for fire fighting purposes is sufficient to manage the risks</p>	<p>P1</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 not serviced by reticulated water.</p> <p>The BHR certifies that onsite water supply can be made available when the lots are developed to meet the requirements of A1 (c).</p> <p>The proposal complies with the Acceptable Solution.</p>

to property and lives in the event of a bushfire.		
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E4.0 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 new access points to Arthurs Lake Road to service each lot.

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

E11.0 Waterway and Coastal Protection Code:

Part of the subject land at the southern extremity is covered by Waterway Protection Areas under the Waterway and Coastal Protection Code.

The Code applies to all development including subdivision; however this proposal meets the exemptions of the code owing to there being no works required within a Waterway Protection Area.

Representations

The proposal was advertised for the statutory 14 days period from 7th September 2020 until 21st September 2020. No representations were received within the advertising period.

Conclusion

The proposed subdivision is assessed to comply with the requirements of the Low Density Residential 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 DA2020/55 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 DA2020/55 in accordance with one of the following options:

1. Approve in accordance with the Recommendation:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2020/55 for subdivision (2 lots into 4 lots) at 67 & 69 Arthurs Lake Road, Wilburville, subject to conditions in accordance with the Recommendation.

2. Approve with altered conditions:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2020/55 for subdivision (2 lots into 4 lots) at 67 & 69 Arthurs Lake Road, Wilburville, subject to conditions as specified below.

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

Alteration to Conditions:-

3. Refuse to grant a permit:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Refuse** the Development Application DA2020/55 for subdivision (2 lots into 4 lots) at 67 & 69 Arthurs Lake Road, Wilburville, for the reasons detailed below.

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

Reasons :-

Recommendation

Moved **Clr Poore**

Seconded **Clr Cassidy**

The proposal is assessed to substantially comply with the requirements of the Central Highlands Interim Planning Scheme 2015 and so in accordance with section 57 of the Land Use Planning and Approvals Act 1993, the Planning Authority is recommended to approve the application for Development Application DA2020/55 for subdivision (2 lots into 4 lots) at 67 & 69 Arthurs Lake Road, Wilburville subject to the conditions below.

Recommended Conditions

General

- 1) The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.
- 3) The subdivision must be carried out in accordance with the *Bushfire Hazard Management Report: Subdivision - 67 & 69 Arthurs Lake Road, Wilburville, Scott Livingston, 14th August 2020* (Bushfire Assessment Report).

Public open space

- 4) 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 2 and 3 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 and pay the applicable amount for lots in each stage prior to sealing of that stage.

Easements

- 5) 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.

Endorsements

- 6) The final plan of survey must be noted that Council cannot or will not provide a means of drainage to all lots shown on the plan of survey.

Covenants

- 7) Covenants or other similar restrictive controls that conflict with any provisions or seek to prohibit any use provided within the planning scheme must not be included or otherwise imposed on the titles to the lots created by this permit, either by transfer, inclusion of such covenants in a Schedule of Easements or registration of any instrument creating such covenants with the Recorder of Titles, unless such covenants or controls are expressly authorised by the terms of this permit or the consent in writing of the Council's General Manager.

Services

- 8) 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.
- 9) Wastewater and storm water disposal systems for each lot must be designed and provided in accordance with the recommendations of the On-site Wastewater & Stormwater Assessment, 67-69 Arthurs Lake Road, Arthurs Lake prepared by GES, dated July 2020.

Access

- 10) A vehicle access, with a minimum carriageway width of 4.0m, must be provided from the road carriageway to each Lot.
- 11) The vehicle accesses must be constructed in accordance with the standards shown on standard drawings TSD-R03-v1 Rural Roads Typical Property Access and TSD-R04-v1 Rural Roads Typical Driveway Profile prepared by the IPWE Aust. (Tasmania Division) and to the satisfaction of Council's General Manager.
- 12) The vehicular access for all internal lots must be constructed for the full length of the access strip, to the lot proper, and include:
 - a. 4.0 metre minimum width carriageway
 - b. Constructed with a durable all weather pavement
 - c. Stormwater drainage; and
 - d. In accordance with the endorsed Bushfire Management Planning Report.

Final plan

- 13) 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.
- 14) A fee of \$285.00, 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.
- 15) 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.
- 16) 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.

Soil and Water Management

- 17) A soil and water management plan (here referred to as a '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 General Manager before development of the land commences.
- 18) Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's General Manager until the land is effectively rehabilitated and stabilised after completion of the development.
- 19) The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's General Manager.

- 20) All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with top soil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's General Manager.

Construction

- 21) The developer must provide not less than forty eight (48) hours written notice to Council's General Manager before commencing construction works on-site or within a council roadway.
- 22) The developer must provide not less than forty eight (48) hours written notice to Council's General Manager before reaching any stage of works requiring inspection by Council unless otherwise agreed by the Council's General Manager.

Construction amenity

- 23) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Environment and Development Services:
- | | |
|---|---------------------|
| • Monday to Friday | 7:00 AM to 6:00 PM |
| • Saturday | 8:00 AM to 6:00 PM |
| • Sunday and State-wide public holidays | 10:00 AM to 6:00 PM |
- 24) All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably 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 -
- Emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property.
 - Transport of materials, goods or commodities to or from the land.
 - Appearance of any building, works or materials.
- 25) 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 Municipal Engineer.
- 26) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.

The following advice applies to this permit:

- This permit does not imply that any other approval required under any other legislation has been granted.
- This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

For the Motion: Clr Allwright, Clr Poore, Clr Cassidy & Clr Bailey

6.1 DA2020/13: SUBDIVISION (2 LOTS): 28 FRANKLIN PLACE, HAMILTON

Report by

Jacqui Tyson (Senior Planning Officer)

Applicant

PDA Surveyors

Owner

W J Ried

Discretions

Village Zone - 16.5 Subdivision

Proposal

The proposal is for subdivision of an existing title at 28 Franklin Place, Hamilton into two (2) lots.

The land is developed with a dwelling and associated outbuilding and improvements. The dwelling is situated towards the front boundary to Franklin Place.

The property has two frontages, extending from Franklin Place west to River Street. Existing water and sewer service mains cross the property, as depicted on the subdivision plan.

Under the proposal two lots will be created as follows:

- Lot 1 – 2338m² vacant lot with frontage to River Street; and
- Lot 2 / balance – 1481m² lot around the existing dwelling, with frontage to Franklin Place.

A new crossover from River Street and water and sewer connections will be required for Lot 1. Taswater have provided conditions to be attached to any permit issued.

The balance lot will continue to use the existing access and service connections. Easements will be created around the water and sewer pipes that cross the land.

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

Subject site and Locality.

The existing title is 3819m² and is developed with the existing dwelling, outbuilding and associated improvements. The western part of the title is undeveloped and clear of vegetation.

The property is located near the middle of the Hamilton settlement. Adjoining land to the north, south and east of the site is zoned Village and used primarily for residential purposes and/or local businesses.

Land to the west of the site on the opposite side of River Street is undeveloped and adjoins the Clyde River reserve area.

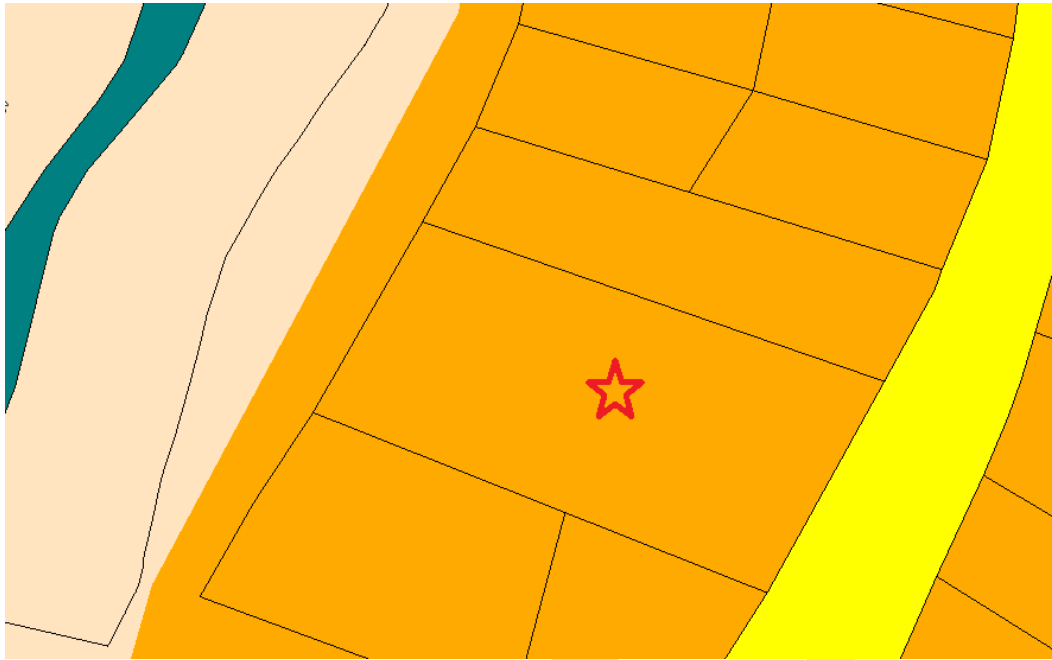


Fig 1. Location and zoning of the subject land (marked with a red star) in the Village zone (orange). Surrounding land includes the Rural Resource Zone (cream), Environmental Management Zone (green) and Utilities Zone (yellow). (Source: LISTmap)



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:

16.5.1 Lot design To provide for new lots that: <ul style="list-style-type: none">(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 development, consistent with the Zone Purpose, located to avoid hazards and values;(c) are capable of providing for a high level of residential amenity including privacy, good solar access; and passive surveillance of public spaces;(d) are not internal lots, except if the only reasonable way to provide for efficient use of land;(e) are provided in a manner that provides for the efficient and ordered provision of infrastructure.		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
A1 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: <ul style="list-style-type: none">(a) no less than 1,000 m².	P1 No Performance Criteria.	All of the proposed lots exceed 1000m ² , complying with the Acceptable Solution A1.
A2 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: <ul style="list-style-type: none">(a) clear of the frontage, side and rear boundary setbacks;(b) not subject to any codes in this planning scheme;(c) clear of title restrictions such as easements and restrictive covenants;(d) has an average slope of no more than 1 in 5;(e) has the long axis of the developable area facing	P2 The design of each lot must contain a building area able to satisfy all of the following: <ul style="list-style-type: none">(a) be reasonably capable of accommodating residential use and development;(b) meets any applicable standards in codes in this planning scheme;(c) enables future development to achieve maximum solar access, given the slope and aspect of the land;(d) minimises the need for earth works, retaining walls, and fill and excavation associated with future development;	The proposed lots each contain a building area that complies with the design requirements of Acceptable Solution A2.

<p>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>A3</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>P3</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 to a road, complying with Acceptable Solution A3.</p>
<p>A4</p> <p>No lot is an internal lot.</p>	<p>P4</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>(e) the amenity of neighbouring land is unlikely to be</p>	<p>There are no internal lots proposed, complying with Acceptable Solution A4.</p>

	<p>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>	
A5	P5	
Setback from a new boundary for an existing building must comply with the relevant Acceptable Solution for setback.	Setback from a new boundary for an existing building must satisfy the relevant Performance Criteria for setback.	The setback of the proposed boundary to the existing dwelling exceeds the setback requirements, complying with Acceptable Solution A4.

Codes

E5.0 Road and Railway Assets Code:

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

Lot 1 will require a new access from River Street.

The design of the new access will need to be in accordance with the standard drawings and conditions are recommended in regard to this.

E6.0 Parking and Access Code

This Code applies to all use and development.

In this case the proposed subdivision will retain sufficient space on the balance lot to serve the parking and access needs of the existing dwelling and there is sufficient space on the new lot for parking to serve a future use.

Representations

The proposal was advertised for the statutory 14 days period from 9th July 2020 until 23rd July 2020

No representations were received.

Conclusion

The proposal is for subdivision 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 DA2020/22 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 DA2020/22 in accordance with one of the following options:

1. Approve in accordance with the Recommendation:-

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2020/22 for subdivision (2 lots) at 28 Franklin Place, 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 DA2020/22 for subdivision (2 lots) at 28 Franklin Place, 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 DA2020/22 for subdivision (2 lots) at 28 Franklin Place, 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

Moved **Clr Cassidy**

Seconded **Clr Poore**

The proposal is assessed to substantially comply with the requirements of the Central Highlands Interim Planning Scheme 2015 and so in accordance with section 57 of the Land Use Planning and Approvals Act 1993, the Planning Authority is recommended to approve the application for Development Application DA 2020/13 for subdivision (2 Lots) at 28 Franklin Place, Hamilton subject to the conditions below.

Recommended Conditions

General

- 1) The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.

Public Open Space Contribution

- 3) Council requires that an amount equal to five percent (5%) of the unimproved value of Lot 1 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.
- 4) The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey.

Services

- 5) 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.
- 6) Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and the satisfaction of Council's Senior Planner.

Access to Lot 1

- 7) A separate access for Lot 1 from the carriageway of the road onto the subject land must be provided prior to sealing the final plan. The access must have a minimum width of 3.6 metres at the property boundary and be located and constructed in

accordance with the standards shown on standard drawings SD 1003 and SD 1012 prepared by the IPWE Aust. (Tasmania Division), to the satisfaction of Council's Works Manager.

Easements

- 8) 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.

TasWater

- 9) Pursuant to the Water and Sewerage Industry Act 2008 (TAS) Section 56P (2) (b) TasWater impose conditions on the permit as per Form PL05P (attached).

Final plan

- 10) 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.
- 11) A fee of \$205.00, 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.
- 12) 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.
- 13) 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, Clr Poore, Clr Cassidy & Clr Bailey

7.0 OTHER BUSINESS

Nil

8.0 CLOSURE

There being no further business the meeting closed at 9.15am
