



Central Highlands Council

AGENDA

PLANNING COMMITTEE MEETING – 11TH JULY 2023

Council Representatives:

Deputy Mayor J Allwright (Chairperson); Mayor L Triffitt, Cr R Cassidy & Cr J Hall
(Cr A Bailey – Proxy)

Agenda of a **Planning Committee Meeting** (Special Committee of Central Highlands Council) scheduled to be held in the Council Chamber, **Bothwell** on **Tuesday 11th July 2023**, commencing at **9.00am**.

I certify under Section 65 of the *Local Government Act 1993*, that the matters to be discussed under this Agenda have been, where necessary, subject of advice from a suitably qualified person and that such advice has been taken into account in providing advice to the Council.

Dated at Hamilton this **5th day of July 2023**.

Kim Hossack
General Manager

1.0 PRESENT

2.0 APOLOGIES

3.0 PECUNIARY INTEREST DECLARATIONS

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

4.0 PERCEIVED INTEREST DECLARATIONS

Under the **Model Code of Conduct** made by Order of the Minister responsible for Local Government the following will apply to a Councillor –

PART 2 – Conflict of Interest that are not Pecuniary

(6) A Councillor who has an actual, potential or perceived conflict of interest in a matter before the Council must –

- (a) Declare the conflict of interest and the nature of the interest before discussion on the matter begins; and
 - (b) Act in good faith and exercise reasonable judgement to determine whether a reasonable person would consider that the conflict of interest requires the Councillor to remove himself or herself physically from any Council discussion and remain out of the room until the matter is decided by the Council.
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5.0 CONFIRMATION OF DRAFT MINUTES OF THE PLANNING COMMITTEE MEETING HELD 9 MAY 2023

RECOMMENDATION 01/07.2023/PC

Moved: Cr

Seconded: Cr

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 9th May 2023 to be confirmed.

6.0 PUBLIC QUESTION TIME

In accordance with the *Local Government (Meeting Procedures) Regulations 2015*, the Council conducts a Public Question Time Forum to enable members of the public to ask question on Council related matters.

A period of 15 minutes, if required, will be set aside at the beginning of each Ordinary Council Meeting to conduct Public Question Time. If a response to a question cannot be provided at the meeting a written response will be provided as soon as practicable.

A member of the public may give written notice to the General Manager, 7 days before a meeting of a question to be put to the Meeting.

The Chairman may invite any member of the public present at a meeting to ask questions, without notice, relating to activities of the Council, subject to the provisions of Clause 2 below.

1. Once Question Time commences the Chairman will determine the order in which questions are heard.
2. Questions may relate to any business of the Council capable of being discussed in the open portion of the meeting, and which is not listed as an item for consideration on the Agenda for the Council Meeting.
3. Members of the public proposing a question are required to be present at the Council Meeting at which their question is to be read. Where a person submits a question for Public Question Time but fails to attend the meeting, the question will be treated as general correspondence and a written response will be provided at the earliest opportunity.
4. A person asking a question, when called upon by the Chairman is requested to:
 - Stand
 - State their name and address
 - Read out their question
5. The Chairman retains the right to accept or decline questions and to determine if the question is to be answered at the meeting by the appropriate Councillor or employee or written down and taken on notice. The decision to take the question on notice may also be taken by the Councillor or employee to whom the question is directed. Questions taken on notice will be answered at a later meeting.
6. The Chairman may rule a question inappropriate, and thus inadmissible if in his or her opinion it has already been asked, is unclear, irrelevant, insulting, improper or relates to any matter which would normally be discussed in the closed portion of the meeting as defined in the *Local Government (Meeting Procedures) Regulations 2015*.
7. Public Question Time forum will be limited to a maximum of 15 minutes in duration and will be declared closed following the expiration of the allocated time period, or where all valid questions have been dealt with, whichever is the sooner.
8. Each question is to be asked by the proponent who will be allowed a maximum of three minutes in which to put the question.
9. The Chairman will **not allow** any discussion or debate on either the question or the response.
10. Where a person proposes more than one question at any one forum, and there are a number of persons wishing to lodge questions, the Chairman may take the questions in such order so as to hear as many members of the public as practical during the time allocated.
11. The minutes of the Council Meeting will contain a summary of each question asked by members of the public and the response given.
12. Public Statements (as opposed to questions) **will not** be accepted for the reason that statements could be considered a form of participation.

Pertaining to any Planning Authority agenda item within this agenda, Council will do so in accordance with Council's Policy 2017-49.

Both the Public Question Time Procedure above and Council's Policy 2017-49 'Public Comment on Planning Agenda Items' will be available for the public to view at the meeting.

7.0 PLANNING REPORTS

7.1 DA 2023/27: CHANGE OF USE TO VISITOR ACCOMMODATION AT LAND DESCRIBED AS 73A JONES ROAD, MIENA

Report by:

Senior Planning Officer (Louisa Brown)

Attachments:

- Development Application
- Representations (4)
- Applicant Correspondence

Applicant:

N Gore

Owner:

N Gore & C Buisson

Discretions**Proposal**

An application for a Planning Permit for a change of use outbuilding to Visitor Accommodation at the property described as 73A Jones Road, Miena has been made to Council. An outbuilding containing a sauna and an outside spa exist on the property which has a Planning Permit (DA2018/36). The Building Permit for the outbuilding and spa are currently in progress.

The application seeks to change the existing use of the outbuilding and spa and proposes new structure of a 5m geodesic dome tent for Visitor Accommodation.

The proposal includes:

Change of use of existing outbuilding and spa to Visitor Accommodation. The existing outbuilding includes dressing area, bath/shower, toilet facilities, sauna and timber deck to the southern and western elevations. In addition, an outdoor spa is currently located to the north of the outbuilding, overlooking Yingina (the Great Lake).

A new 5m semi-permanent geodesic dome tent will be constructed on a timber deck for sleeping accommodation. The accommodation will be for up to 2 people and is located to the west of the outbuilding, a window in the structure will also look out across Yingina.

The property is zoned Low Density Residential under the Tasmanian Planning Scheme – Central Highlands, within which Visitor Accommodation is a Permitted Use within existing habitable buildings. The current outbuilding is not classed as a habitable building and as a new habitable structure is proposed for accommodation, the Development Application is considered Discretionary.

The proposal is to be assessed against the development standards of the zone and the development standards of the applicable Codes. These matters are discussed and assessed in this report.

Council gave notice of the application for public comment for 14 days. During the notification period four (4) representations were received.

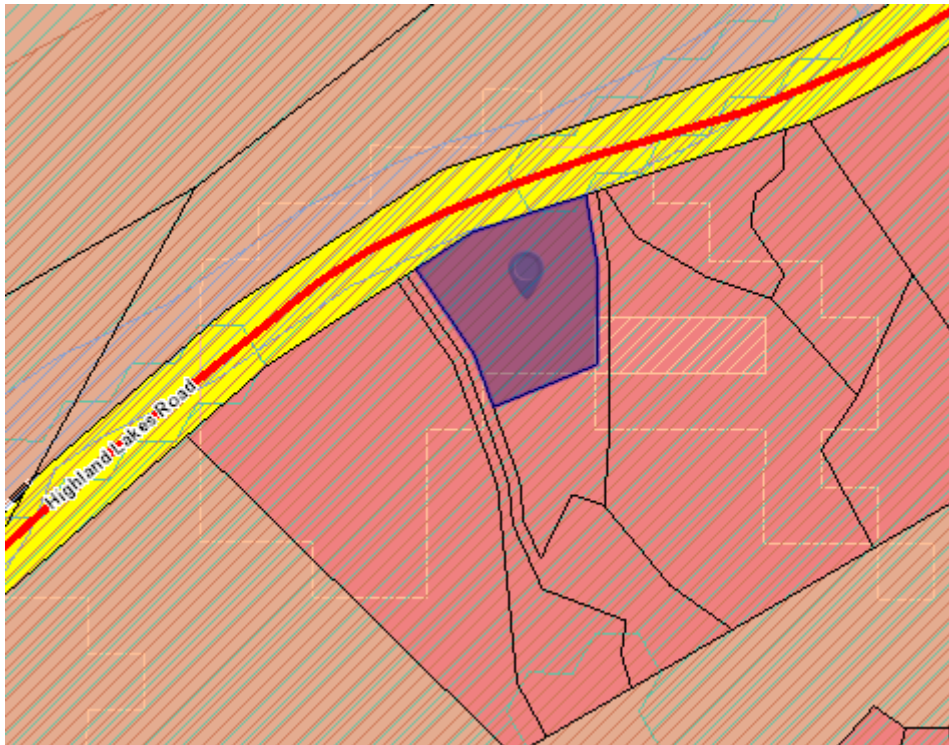
This report will assess the proposal against the relevant provisions of the Act and the Planning Scheme. It is recommended that Council grant a permit for the visitor accommodation subject to conditions.

The Site

The property is situated between Jones Road and Highland Lakes Road, Miena. Shannon Lagoon is 1.5km to the east and Yingina less than 100m from the property boundary to the west. The boundary to Highland Lakes Road is unsuitable for vehicle access due to the steep levels of the land.

Properties within the close vicinity include some holiday/second homes and also main residences.

The land rises from Jones Road, up to the top of the ridge, the proposed Visitor Accommodation is down slope of the ridge, adjacent to Highland Lakes Road.



Map 1_ The site is in the Low Density Residential Zone, as shown by the red colour on the map. The site boundary is highlighted in blue. Green lines represents areas of Priority Vegetation Overlay and orange lines indicate the Low landslide Hazard Areas. Source: The List 04/07/2023



Map 2_ Ariel Photograph. The site boundary is highlighted in blue. Source: The List 04/07/2023



Map 3_ Hillshade Ariel Photograph. The site boundary is highlighted in blue. Darker grey areas on the image represent higher elevations (hills). Source: The List 04/07/2023

The Application

The Applicant has submitted the attached Plans and information to accompany the Development Application form.

In addition, the attached Applicant Correspondence responds to representations received during the advertising period.

Use / Development Definition

The proposed use and development is defined, under the Planning Scheme, as Discretionary in accordance with the Tasmanian Planning Scheme – Central Highlands.

Use/Development Status under the Planning Scheme

As a discretionary development, the application was advertised in accordance with Section 57 of the Act.

Council has the discretion to grant a permit for this proposal with or without conditions or refuse to grant a permit.

Public Notification and Representations

The application was advertised on the 24 May 2023 for fourteen (14) days. During this period Council received four (4) representations, a representation was received twice from the same house hold, therefore it is considered as 1 representation as the issues raised were duplicated. A full copy of the representations received are within the attachments to this report.

Representation Received	Planning Officer Response
Representation 1 I am concerned about the impact Visitor Accommodation will have on neighbouring properties. The unique location currently grants us privacy and serenity, due to it being off a private road which is only accessed by three other owners. We can enjoy the remoteness and tranquillity, which is the beauty of being in the Central Highlands area. As per the covenants on our Title, we are not allowed to fence our boundaries (and nor would we wish to). If the proposed Visitor Accommodation was approved on 73A Jones Road, guests would not be aware of the	<i>Visitor Accommodation is a Permitted Use in the Low density Residential Zone which the property and surrounds are located within.</i> <i>Council acknowledges the concern raised; however covenants do not form part of the Planning Process and cannot be taken into consideration when assess Development Applications.</i> <i>Defining the boundaries of the Visitor Accommodation could be managed with appropriate signage, which the applicant has stated they are willing to consider.</i>

<p>boundaries of the property and would likely trespass.</p> <p>The building of the proposed application is already under construction, without any approvals (Planning, Building or Plumbing).</p> <p>The existing driveway to 73A Jones Road is extremely steep and would not accommodate construction vehicles, and rental cars from proposed future guests. I therefore have concerns about other vehicles being manoeuvred and parked on nearby property, as there are no turning or parking areas available along the private road. This would have an impact on the privacy of nearby property.</p>	<p><i>A Planning Permit was issued for the development of an outbuilding in 2018, these works relate to the construction on site, Building and Plumbing Permits are also being issued.</i></p> <p><i>The access road will be required to meet the standards for off street carparking, this is conditioned in the Planning Permit, should Council grant one. The use cannot commence until Council is satisfied that this condition has been met.</i></p> <p><i>Passing bays are only required for vehicle access greater than 200m in length. The access is less than 200m.</i></p>
<p>Representation 2</p> <p>Please accept my representation against the above application, on the following grounds:</p> <ol style="list-style-type: none"> 1. The application is referred to as an amendment to planning permit DA2018-36. Is it possible under the Act to amend a 5-year-old application with a change of use and additional building? 2. The application refers to non-compliance with D.12.3.2 A1(a)... This appears to be the wrong code and refers to the Village Zone. This may have previously been zoned Village but is now Low Density Residential (reinforcing point 1 that an amendment to an existing approval could not be permitted). What I think the applicant is referring to is 10.3.2 Visitor Accommodation, and the application fails to address the Performance Criteria. 73A Jones Road is accessed via a Right of Way that passes by 3 other properties on a private road. When considering the visitors to this property will be tourists, unaccustomed to the area and weather patterns, it becomes clear to understand this proposal does not comply with (a), (b), (c), (d), (e) or (f) of the P1 Performance Criteria. 3. The application refers to the Central Highlands Interim Planning Scheme 2015, which is no longer applicable. 4. The application does not outline how it complies with the requirements of the Priority Vegetation Area Code Overlay. 5. The site is designated as being within a Bushfire-Prone Areas. While this cannot always be enforced at a planning level, the 	<p><i>To clarify, the application is a new Development Application for a Change of Use to the existing outbuilding to Visitor Accommodation and includes an additional dome tent structure. The application is not considered nor has been assessed as an amendment to DA 2018/36.</i></p> <p><i>Council confirms that the property is zoned within the Low Density Residential Zone of the Tasmanian Planning Scheme – Central Highlands.</i></p> <p><i>Within this zone, Visitor Accommodation is a Permitted Use.</i></p> <p><i>The proposed change of use to visitor accommodation has been assessed against the Performance Criteria P1 below and does meet the Standards.</i></p> <p><i>Council confirms that the Tasmanian Planning Scheme – Central Highlands is the current scheme used to assess the development.</i></p> <p><i>The Priority Vegetation Code Overlay (Natural Assets Code) only applies to Subdivision within the Low Density Residential Zone. The proposed development is therefore exempt from the Code.</i></p>

<p>construction requirements of the National Construction Code will have implications on the finished building / site layout, and I believe the current proposal will have to be significantly modified due to:</p> <ol style="list-style-type: none"> a. Material s c. Tanker access and passing bays <p>6. The application does not comply with the requirements of the Tasmanian Interim Planning Directive No.5.1 Bushfire-Prone Areas Code,</p> <p>7. How will the wastewater be treated, and will the land application area result in more priority vegetation being removed?</p> <p>8. The existing driveway gradient is not compliant with AS2890.1 Part 2.6 Design of Domestic Driveways. I don't know how (or if) this was previously approved by Council. As the owner has applied for a Change of Use, I believe the access to the property should be investigated further as an approved access to a Class 1 dwelling. It is certainly only accessible by the best of 4x4 vehicles in it's current state.</p> <p>9. As the site shares a private access with other owners, could we request if the DA is approved, Council add a condition to the permit that a Visitor Management Plan be supplied and enforced (similar to how Hobart City Council operates, see attached example).</p>	<p><i>The Bushfire Prone Area Code of The Scheme does not apply to this development, as it is not a Subdivision or a Hazardous Use.</i></p> <p><i>The consideration of Bushfire Risk and any required assessments will be part of the Building Permit Process, which is separate to the Planning Process.</i></p> <p><i>Waste water will be subject to a Plumbing Permit issued by Council as the Permit Authority. This is currently in the final stages of assessment as it forms a part of the previous Development Application DA2018/36 which is under construction.</i></p> <p><i>Conditions of the Planning Permit require the access to be constructed to Standards, additionally the use may not commence until Council is satisfied with the standard of construction for the access, turning and parking area.</i></p> <p><i>There is no requirement in the Planning Scheme for Council to Condition a Visitor Management Plan, nor is it considered necessary for the proposed development.</i></p>
<p>Representation 3</p> <p>This proposal for visitor accommodation attached to an existing "Outbuilding"?? will have a significant impact on the privacy of properties.</p> <p>Construction of this deck is well underway, despite no consultation being undertaken with the other owners. Nor has council approval been secured.</p> <p>The application does not properly address the State Planning Provisions, section 10.3.2 Visitor Accommodation Performance Criteria, see following:</p> <ol style="list-style-type: none"> 1. The privacy of adjoining properties <ul style="list-style-type: none"> • The proposal shares access with other owners, on a private road behind a locked gate. The gate system currently operates on a single shared padlock to secure all land holdings beyond the gate. The sharing of keys with visitors negates the security currently enjoyed by the owners. 	<p><i>The Outbuilding and associated works do have a Planning Permit, DA2028/36 and approval from Council.</i></p> <p><i>Construction of a deck for the base of the tent has subsequently ceased after the applicant was asked to stop work until all Permits are in Place.</i></p> <p><i>Lot 1 has a legal Right Of Way (private) to access the property through Lots 4 and 5. This Right Of way for Lot 1 and also Lot 3, should not be restricted by locked gates. This is a Legal Right of Access which must be accessible at all times.</i></p> <p><i>A legal Right Of Way provides a legal right for the property owners and visitors to access the</i></p>

<ul style="list-style-type: none"> • The subject site is the furthest from the road (Jones Road), meaning visitors and their guests will be driving past all the other properties. • As per the title deed covenants, there are no fences to indicate the boundaries of 73A Jones Road. Being Visitor Accommodation, guests are likely to explore across other boundaries for the better photo opportunities offered by the higher blocks with superior views (75, 73B and 73C), impacting the privacy of those owners. <p>2. Any likely increase in noise to adjoining properties</p> <ul style="list-style-type: none"> • Additional vehicle movements from the guests, including the cleaner/manager (to prepare and clean the property for each booking) will increase the noise to all adjoining properties. The proposed building has an outside spa and we are concerned guests may invite friends around for gatherings and create unwanted noise. • The additional road usage by guests with less respect for the common road will lead to additional maintenance costs for all land owners. <p>3. The scale of the use and its compatibility with the surrounding character and uses within the area</p> <ul style="list-style-type: none"> • The proposal is not compatible with the surrounding character and uses which are predominantly fishing cabins / permanent residences. This looks more like a commercial glamping experience better suited to the outskirts of towns. <p>4. Retaining the primary residential function of an area</p> <ul style="list-style-type: none"> • Being Visitor Accommodation, there could be different guests at the property every night of the week. This does not retain the primary residential function of the Low Density Residential Zone. <p>5. The impact on the safety and efficiency of the local road network; and</p> <ul style="list-style-type: none"> • 73A Jones Road does not have any viable parking or turning circle for high cars or any vehicles that are not 4WD. Even the owner of 73A Jones Road rarely drives to the bottom of the road. • Guests at the Visitor Accommodation are likely to be in rental cars, and unfamiliar with driving in inclement conditions. Access to the site is very narrow and limited, which inexperienced drivers will find it difficult to navigate and put other road users (including pedestrians) at risk. Particularly during winter 	<p><i>property, regardless of the use of the property, be it a residential dwelling or visitor accommodation.</i></p> <p><i>Given the rugged land, it is unlikely that guests using the accommodation will venture onto neighbouring properties. However, appropriate signage could be used to clearly define the boundaries of the property, and/or adjacent properties.</i></p> <p><i>As addressed in previous comments, the accommodation is relatively small in scale being for two persons. It is unlikely that a significant increase in noise to adjoining properties will occur.</i></p> <p><i>The scale of the one bedroomed accommodation and facilities are considered compatible with the surrounding character and uses within the area.</i></p> <p><i>The closest structure to the Outbuilding from adjacent properties is over 65m away and there is no direct overlooking or over shadowing from the visitor accommodation into neighbouring dwellings.</i></p> <p><i>The surrounding properties of the area are predominantly shacks used for second homes/holiday homes and some places of main residence. A one bedroomed visitor accommodation facility will not affect the ability for residential function of the area.</i></p> <p><i>As addressed in previous comments, the access, turning and parking for the property will be conditioned to meet the relevant standards and conditioned that the use cannot commence until Council is satisfied with the work.</i></p> <p><i>The improvement in the standard of the access track and car parking will make the property more accessible for all visitors.</i></p>
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<p>months.</p> <ul style="list-style-type: none"> This is likely to result in the use of other land for parking and turning vehicles and inevitably requests to assistance from visitors when their vehicles become stuck at the bottom of the road. <p>6. Any impact on the owners and users rights of way • The site is accessed via a right of way with other owners. All owners will be impacted by the volume of traffic, at all times of the day and night. Guests will unlikely be able to access the site due to the steep driveway, and will most likely park on the right of way – which will prohibit access to the other owners.</p>	<p><i>Adequate signage directing visitors to the accommodation will address this, along with the required access improvements.</i></p>
<p>Representation 4 The reasons for my concerns are identified below.</p> <p>ZONING: I have concerns that the area is currently zoned Low Density Residential, however, this proposal intends to amend usage to tourism visitor accommodation based on an existing outbuilding only.</p> <p>PARKING: The site is the further-most block accessed via a right-of-way shared by three other owners through a locked gate. The current driveway leading into the site is extremely steep and unsuitable for conventional vehicles. Furthermore, site access is impassible during inclement weather events. The proposal identifies on-site parking, however, this is difficult for visitors to access.</p> <p>a. Poor direct access to the site will necessitate off-site visitor parking in other nearby neighbouring areas. However, there are no areas available for off-site parking in the immediate area. Unintended parking on the narrow right-of-way will directly impact and inconvenience other residents.</p> <p>TRAFFIC: As noted previously, the furthestmost section of driveway which leads directly into the site is problematic.</p> <p>a. Increased tourism usage will result in unwanted increased traffic through a private block which directly impacts three other residents.</p> <p>b. The topography, and/or adverse weather conditions, In combination with inexperienced tourist drivers, will lead to unforeseen traffic incidents.</p>	<p>The application seeks a change of use for the current outbuilding to Visitor Accommodation, which is a Permitted Use in the Low density Residential Zone.</p> <p>Lot 1 has a legal Right Of Way to access the property through Lots 4 and 5, this access should not be restricted by locked gates.</p> <p>The access road will be improved to meet standard and as previously raised, passing bays may not be required.</p> <p>Parking on the access road and the standard of the access road have been addressed in the comments above.</p> <p>Council acknowledges that there will be an increase in traffic to the property, this is mainly due to the fact that the property has been previously vacant. It is not considered that a 1 bedroomed visitor accommodation will create significant increase in traffic volumes.</p>

<p>PRIVACY: The site is accessed by a private right-of-way through a locked gate. Adjacent properties comprise three other permanent and semi permanent residents, and fishing cabins.</p> <p>a. Visitor exploration of the area or their unintended navigation errors will lead to unintended trespass into neighbours properties.</p> <p>b. Increased visitor use is incompatible with the current character of the immediate area.</p> <p>SAFETY As noted previously, site topography is difficult and is exacerbated by environment and weather. Increased visitor access will increase the numbers of inexperienced drivers to the site.</p> <p>a. Inexperienced tourist drivers in combination with topography and environmental conditions, will lead to unforeseen traffic incidents and potentially put others at risk.</p> <p>b. Access to the site is impossible or extremely difficult for emergency service vehicles.</p>	<p>Comments regarding privacy have been addressed in comments above.</p> <p>As previously address, the standard of the access, turning and parking areas will be improved to meet the required standard, which may have to include emergency fire fighting vehicles, depending upon the requirements of the Building Permit.</p>
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ASSESSMENT - THE TASMANIAN PLANNING SCHEME – CENTRAL HIGHLAND

Low Density Residential

The property is in the 10.0 Low Density Residential Zone of the Tasmanian Planning Scheme – Central Highlands. The proposal must satisfy the requirements of the following relevant provisions of this zone:

10.3.2 Visitor Accommodation		
Objective: That Visitor Accommodation:		
(a) is compatible with the character and use of the area;		
(b) does not cause an unreasonable loss of residential amenity; and		
(c) does not impact the safety and efficiency of local roads or rights of way.		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A1 Visitor Accommodation must:</p> <p>(a) accommodate guests in existing habitable buildings; and</p> <p>(d) have a gross floor area of not more than 200m² per lot.</p>	<p>P1 Visitor Accommodation must be compatible with the character and use of the area and not cause an unreasonable loss of residential amenity, having regard to:</p> <p>(a) the privacy of adjoining properties;</p> <p>(b) any likely increase in noise to adjoining properties;</p> <p>(c) the scale of the use and its compatibility with the surrounding character and uses within the area;</p> <p>(d) retaining the primary residential function of an area;</p> <p>(e) the impact on the safety and efficiency of the local road</p>	<p><i>As the proposed visitor accommodation will be within an existing non-habitable building and an additional habitable building is proposed, the proposal must be assessed against the Performance Criteria P1.</i></p> <p><i>The proposed use is visitor accommodation which is compatible with the surrounding existing residential use. Adjacent properties are used as main residences and second homes/holiday homes by owners.</i></p> <p><i>The elevations of the existing outbuilding and proposed dome tent are blank to</i></p>

	<p>network; and</p> <p>(f) any impact on the owners and users' rights of way.</p>	<p><i>surrounding properties, windows are directed to Yingina and therefore windows do not directly overlook adjacent properties. In addition, the nearest structure to the outbuilding is over 65m away.</i></p> <p><i>The Visitor accommodation is limited to a single dome tent, for an occupancy of two people. The scale of the use is therefore limited to singles and couples. Noise levels would be similar to that of a dwelling.</i></p> <p><i>Similarly, the number of vehicle movements on the Right Of Way would be similar if not less to that of a dwelling.</i></p> <p><i>The proposal meets the Performance Criteria P1.</i></p>
<p>A1</p> <p>Visitor Accommodation is not for a strata lot that is part of a strata scheme where another strata lot within that strata scheme is used for a residential use.</p>	<p>P2</p> <p>Visitor Accommodation within a strata scheme must not cause an unreasonable loss of residential amenity to long term residents occupying other strata lots within the strata scheme, having regard to:</p> <ul style="list-style-type: none"> (a) the privacy of residents; (b) any likely increase in noise; (c) the residential function of the strata scheme; (d) the location and layout of the strata lots; (e) the extent and nature of any other non-residential uses; and (f) any impact on shared access and common property. 	<p><i>Not Applicable.</i></p>

C2.0 Parking and Sustainable Transport Code

The purpose of the Parking and Sustainable Transport Code is:

- To ensure that an appropriate level of parking facilities is provided to service use and development.
- To ensure that cycling, walking and public transport are encouraged as a means of transport in urban areas.
- To ensure that access for pedestrians, vehicles and cyclists is safe and adequate.
- To ensure that parking does not cause an unreasonable loss of amenity to the surrounding area.
- To ensure that parking spaces and accesses meet appropriate standards.
- To provide for parking precincts and pedestrian priority streets.

C2.6.1 Construction of parking areas		
Objective: That parking areas are constructed to an appropriate standard		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A1</p> <p>All parking, access ways, manoeuvring and circulation spaces must:</p> <p>(a) be constructed with a durable all weather pavement;</p> <p>(b) be drained to the public stormwater system, or contain stormwater on the site; and</p> <p>(c) excluding all uses in the Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Recreation Zone and Open Space Zone, be surfaced by a spray seal, asphalt, concrete, pavers or equivalent material to restrict abrasion from traffic and minimise entry of water to the pavement.</p>	<p>P1</p> <p>All parking, access ways, manoeuvring and circulation spaces must be readily identifiable and constructed so that they are useable in all weather conditions, having regard to:</p> <p>(a) the nature of the use;</p> <p>(b) the topography of the land;</p> <p>(c) the drainage system available;</p> <p>(d) the likelihood of transporting sediment or debris from the site onto a road or public place;</p> <p>(e) the likelihood of generating dust; and</p> <p>(f) the nature of the proposed surfacing.</p>	<p><i>The proposal complies with the Acceptable Solution A1 the existing vehicle access has been constructed from gravel and is drained in line with the Planning Permit Conditions for the Outbuilding DA2018/36.</i></p>

C2.6.2 Design and layout of parking areas		
Objective: That parking areas are designed and laid out to provide convenient, safe and efficient parking		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
<p>A1</p> <p>Parking, access ways, manoeuvring and circulation spaces must either:</p> <p>(a) comply with the following:</p> <p>(i) have a gradient in accordance with Australian Standard AS 2890 - Parking facilities, Parts 1-6;</p> <p>(ii) provide for vehicles to enter and exit the site in a forward direction where providing for more than 4 parking spaces;</p> <p>(iii) have an access width not less than the requirements in Table C2.2;</p> <p>(iv) have car parking space dimensions which satisfy the requirements in Table C2.3;</p> <p>(v) have a combined access and manoeuvring width adjacent to parking spaces not less</p>	<p>P1</p> <p>All parking, access ways, manoeuvring and circulation spaces must be designed and readily identifiable to provide convenient, safe and efficient parking, having regard to:</p> <p>(a) the characteristics of the site;</p> <p>(b) the proposed slope, dimensions and layout;</p> <p>(c) useability in all weather conditions;</p> <p>(d) vehicle and pedestrian traffic safety;</p> <p>(e) the nature and use of the development;</p> <p>(f) the expected number and type of vehicles;</p> <p>(g) the likely use of the parking areas by persons with a disability;</p> <p>(h) the nature of traffic in the surrounding area</p> <p>(i) the proposed means of parking delineation; and</p>	<p><i>Due to the gradient of the property, the proposal must be assessed against the Performance Criteria P1.</i></p> <p><i>The characteristics of the property and surrounding properties is steep and rocky ground. It is acknowledged that the applicants have improved the access, turning and car parking to the property in line with the conditions of the Planning Permit DA2028/36.</i></p> <p><i>It is also acknowledged that the access, manoeuvring space and car parking space are currently useable. However the useability in all weather conditions especially with regard to the gradient is not satisfied, given the potential for cold weather and the effects this may have on</i></p>

<p>than the requirements in Table C2.3 where there are 3 or more car parking spaces;</p> <p>(vi) have a vertical clearance of not less than 2.1m above the parking surface level; and</p> <p>(vii) excluding a single dwelling, be delineated by line marking or other clear physical means; or</p> <p>(b) comply with Australian Standard AS 2890- Parking facilities, Parts 1-6.</p> <p>A1.2 Parking spaces provided for use by persons with a disability must satisfy the following:</p> <p>(a) be located as close as practicable to the main entry point to the building;</p> <p>(b) be incorporated into the overall car park design; and</p> <p>(c) be designed and constructed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009 Parking facilities, Off-street parking for people with disabilities</p>	<p>(j) the provisions of Australian Standard AS 2890.1:2004 - Parking facilities, Part 1: Off-street car parking and AS 2890.2 -2002 Parking facilities, Part 2: Off-street commercial vehicle facilities</p>	<p><i>the access. It is therefore recommended that Planning Permit Conditions further work to bring the access up to standard and to the satisfaction of Council. The standard will also include that of Bushfire requirements, if applicable.</i></p> <p><i>As a part of this condition, Council must be satisfied with the standard of the access before the Use commences.</i></p>
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Conclusion

The proposed change of use from outbuilding to visitor accommodation and additional dome tent has been assessed to comply with the applicable standards of the Low Density Residential Zone and the relevant codes of the *Tasmanian Planning Scheme – Central Highlands* as outlined in the body of this report.

The proposal was advertised for public comment and four (4) representations were received which have been addressed in this report.

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

Legislative Context

The purpose of the report is to enable the Planning Authority to determine the Development Application DA2023/27 Change of Use to Visitor Accommodation at land described as 73A Jones Road, Miena 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 for approval. The Planning Authority must consider the report but is not bound to adopt the Recommendation for approval. 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 18 July 2023.

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 DA2023/27 Change of Use to Visitor Accommodation at as 73A Jones Road, Miena 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 DA2023/27 Change of Use to Visitor Accommodation at as 73A Jones 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 DA2023/27 Change of Use to Visitor Accommodation at as 73A Jones 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 DA2023/27 Change of Use to Visitor Accommodation at as 73A Jones 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 :-

Recommended Conditions

General

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

Approved Use

- 3) The development is approved for use as *Visitor Accommodation* only and must not be used for any other purpose unless in accordance with a permit issued by Council or as otherwise permitted by Council's Planning Scheme.

Amenity

- 4) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Council's DES Manager.
- 5) External lighting must be designed and baffled to ensure no light spill to surrounding properties to the satisfaction of the Council's DES Manager.

Parking & Access

- 6) At least one (1) parking spaces must be provided on the land at all times for the use of the occupiers in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- 7) The internal driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and Tasmanian Municipal Standard Specifications and Drawings to the satisfaction of Council's General Manager, and must include all of the following:
 - a. Constructed with a durable all weather gravel pavement;
 - b. Appropriately drained, avoiding concentrated flows to the road;
 - c. Minimum carriageway width of 4 metres;
 - d. Drained to an approved stormwater system; and
 - e. Vehicular passing areas 6 metres wide (total) x 20 metres long every 200 metres.
 or as otherwise required by an approved Bushfire Plan.
- 8) The internal driveway and areas set-aside for parking and associated access and turning must be designed, constructed and maintained to avoid dust or mud generation, erosion and sediment transfer off site or de-stabilisation of the soil on site or on adjacent properties to the standard required by Council's DES Manager.

Services

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

Stormwater

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

Wastewater

- 11) Wastewater from the development must discharge to an on-site waste disposal system in accordance with a Plumbing permit issued by the Permit Authority in accordance with the Building Act 2016.

Soil and Water Management

- 12) Before any work commences install temporary run-off, erosion and sediment controls and maintain these 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 DES Manager.

Construction Amenity

- 13) 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.
- 14) 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.
- 15) The transportation of materials, goods and commodities to and from the land.
 - a. Obstruction of any public roadway or highway.
 - b. Appearance of any building, works or materials.

- c. 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.
- 16) 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 DES Manager.

The following advice applies to this permit:

- A. This Planning Permit is in addition to the requirements of the Building Act 2016. Approval in accordance with the Building Act 2016 may be required prior to works commencing. A copy of the Directors Determination – categories of Building Work and Demolition Work is available via the Customer Building and Occupational Services (CBOS) website.
- B. This Planning Permit does not imply that any other approval required under any other legislation has been granted.
- C. 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.
- D. The proposed works are located within a mapped bushfire prone area and as such a bushfire assessment and BAL must be provided by a suitably qualified person and form part of the certified documents for the building approval.
- E. A separate permit maybe required for any signs unless otherwise exempt under Council's planning scheme.
- F. Appropriate temporary erosion and sedimentation control measures during construction include, but are not limited to, the following -
 - a) Minimise site disturbance and vegetation removal;
 - b) Diversion of up-slope run-off around cleared and/or disturbed areas, or areas to be cleared and/or disturbed, provided that such diverted water will not cause erosion and is directed to a legal discharge point (e.g. temporarily connected to Council's storm water system, a watercourse or road drain);
 - c) Sediment retention traps (e.g. sediment fences, straw bales, grass turf filter strips, etc.) at the down slope perimeter of the disturbed area to prevent unwanted sediment and other debris escaping from the land;
 - d) Sediment retention traps (e.g. sediment fences, straw bales, etc.) around the inlets to the stormwater system to prevent unwanted sediment and other debris blocking the drains; and
 - e) Rehabilitation of all disturbed areas as soon as possible.

RECOMMENDATION 02/07.2023/PC

Moved: Cr

Seconded: Cr

THAT the Planning Committee make the following recommendation to the Planning Authority:

7.2 DA 2023/26: FOUR LOT AND BALANCE SUBDIVISION - 197 ELLENDALE ROAD, FENTONBURY

Report By:

Senior Planning Officer (Louisa Brown)

Attachments:

- Development Application
- SPAN TasWater

Applicant:

Brooke, Lark & Carrick

Owner:

A Helsloot

Discretions:

11.5.1 Lot Design, P1, P2 & P3

11.5.3 Services P2

C2.6.3 Number of accesses for vehicles, P1

C7.7.1 Subdivision within a waterway and coastal protection area, P1

Proposal:

An application for planning approval for a 4 Lot and balance subdivision at 197 Ellendale Road, Fentonbury has been received by Council.

The proposal includes the following:

Lot 1 – 4.95ha, 216m of frontage to a Council Road (McCallums Road), proposed water connection to existing Taswater service within 30m of the property and two proposed vehicular access;

Lot 2 – 3.82ha, 170m of frontage to a Council Road (McCallums Road) and a proposed vehicular access;

Lot 3 – 6.04ha, 20m of frontage to a Council Road (McCallums Road), includes existing dwelling and maintain existing vehicular access from a proposed ROW via Ellendale Road;

Lot 4 – 1.66ha, 10m of frontage to a Council Road (McCallums Road) and a proposed vehicular access; and

Balance Lot – 8.20ha 10m frontage (via Reserve Road) to Ellendale Road (Council Road) and proposed water connection to Tawater services within 30m of property access.

The development will be staged as identified on the proposed plan of subdivision, into 4 stages. The application has been lodged under the Tasmanian Planning Scheme – Central Highlands (“the Planning Scheme”).

Under the Planning Scheme subdivision is defined as development. The proposal is to be assessed against the development standards of the zone and the development standards of the applicable Codes. These matters are described and assessed in this report. This is a discretionary application under the Planning Scheme.

Council gave notice of the application for public comment for 14 days. During the notification period no representations were received.

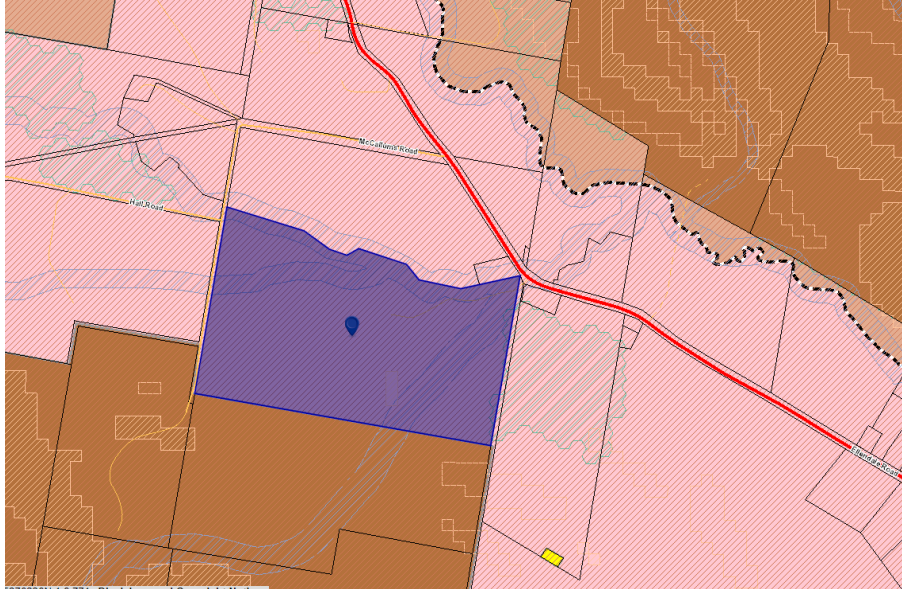
This report will assess the proposal against the relevant provisions of the Act and the Scheme. It is recommended that Council grant a permit for the subdivision subject to conditions.

The Site

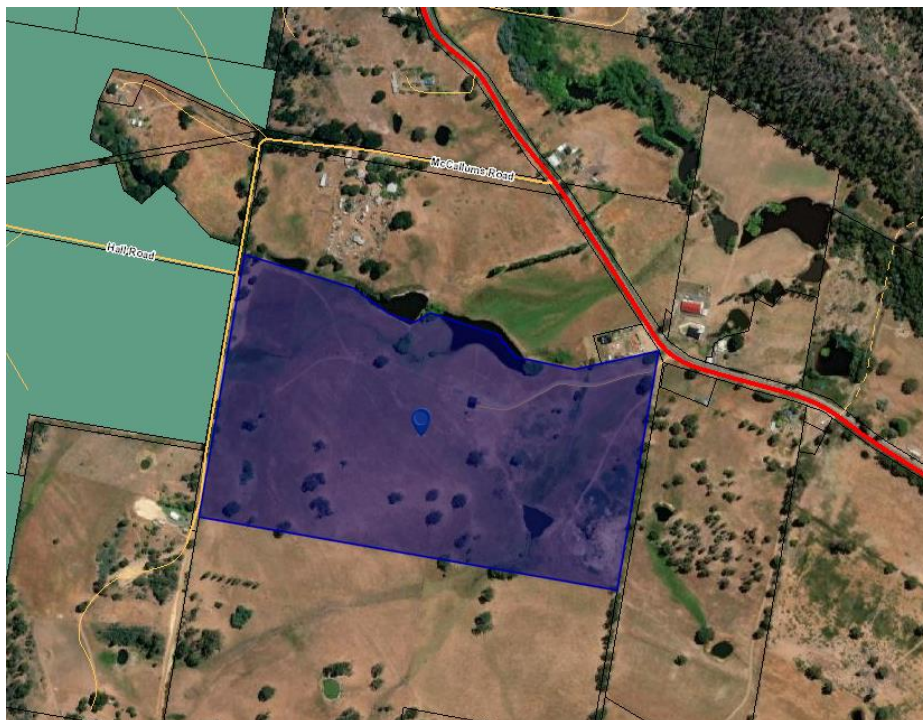
The property is located 7km south east from Ellendale and 2km north west of the junction with Gordon River Road, Westerway. Situated in a rural setting, surrounding land comprises of pasture, with a significant number of Private Timber reserves located to adjacent to the western property boundary.

Sections of the property are within the Waterway & Coastal Protection area of the Natural Assets Code.

There are three dams on the property, two dams are on the boundary with the adjacent property to the northern boundary. A third dam is located to south east corner of the property.



Map 1_ The land is in the Rural Living Zone A, as shown by the pink colour on the map. The site boundary is highlighted in blue. Blue lines represents areas of Waterway & Coastal Protection. Source: The List 30/06/2023



Map 2_ Ariel Photograph. The site boundary is highlighted in blue. Source: The List 30/06/2023

The Application

The Applicant has submitted the attached Plans and information to accompany the Development Application form.

The proposal has been referred to TasWater and conditions have been provided to be attached to the planning permit should approval be granted by Council.

Use / Development Definition

The proposed use and development is defined, under the Planning Scheme, as development for Subdivision, which is Discretionary in accordance with the Tasmanian Planning Scheme – Central Highlands.

Use/Development Status under the Planning Scheme

As a discretionary development, the application was advertised in accordance with Section 57 of the Act.

Council has the discretion to grant a permit for this proposal with or without conditions or refuse to grant a permit.

Public Notification and Representations

The application was advertised on the 15 June 2023 for fourteen (14) days. During this period Council received no representations.

ASSESSMENT - THE TASMANIAN PLANNING SCHEME – CENTRAL HIGHLAND

Rural Living Zone 'A'

The land is in the Rural Living Zone A. The proposal is a discretionary land use and development in this zone. The proposal must satisfy the requirements of the following relevant provisions of this zone:

11.5 Development Standards for Subdivision		
11.5.1 Lot design		
That each lot:		
(a) has an area and dimensions appropriate for use and development in the zone;		
(b) is provided with appropriate access to a road; and		
(c) contains areas which are suitable for residential development.		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
A1 Each lot, or a lot proposed in a plan of subdivision, must: <ul style="list-style-type: none"> (a) have an area not less than 1ha; (i) be able to contain a minimum area of 15m x 20m clear of: <ul style="list-style-type: none"> a. all setbacks required by clause 11.4.2 A2 and A3; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by clause 11.4.2 A2 and A3; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with 	P1 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have sufficient useable area and dimensions suitable for its intended use, having regard to: <ul style="list-style-type: none"> (a) the relevant requirements for development of existing buildings on the lots; (b) the intended location of buildings on the lots; (c) the topography of the site; (d) any natural or landscape values; (e) adequate provision of private open space; and (f) the pattern of development existing on established properties in the 	<i>The proposed subdivision does not meet the Acceptable Solution (a), i, a, due to the adjacent property being zoned Rural and must therefore be assessed against the Performance Criteria P1.</i> <i>All lots are in excess of the minimum lot size of 1ha and contain a minimum building area of 15mx20m.</i> <i>Lots are generous in size and contain more than adequate provision for open space.</i> <i>The future location of new dwellings for the lots will be determined at the Development Application stage, however, the generous size and regular shaped lots with no constraints means the</i>

another lot provided each lot is within the same zone.	area, and must be no more than 20% smaller than the applicable lot size required by clause 11.5.1 A1.	<i>requirements of The Scheme can be met.</i>
A2 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 40m.	P2 Each lot, or a lot proposed in a plan of subdivision, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to: (a) the width of frontage proposed, if any; (b) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access; (c) the topography of the site; (d) the functionality and useability of the frontage; (e) the ability to manoeuvre vehicles on the site; and (f) the pattern of development existing on established properties in the area, and is not less than 3.6m wide.	<i>Lots 1 & 2 meet the Acceptable Solution.</i> <i>The remaining lots and balance lot are assessed against the Performance Criteria P2.</i> <i>Lots 3 and 4 will be provided with frontage to McCallums Road. The frontages to the road are 20m and 10m respectively.</i> <i>A Right Of Way will be provided over the existing access from Ellendale Road for the Balance lot and for Lot 3.</i> <i>Both McCallums Road and Ellendale Road are Council Maintained Roads.</i> <i>In summary, three new vehicular access onto McCallums Road will be functional.</i> <i>The Performance Criteria is met.</i>
A3 Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.	P3 Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable vehicular access to a boundary of a lot or building area on the lot, if any, having regard to: (a) the topography of the site; (b) the length of the access; (c) the distance between the lot or building area and the carriageway; (d) the nature of the road and the traffic; (e) the anticipated nature of vehicles likely to access the site; and (f) the ability for emergency services to access the site.	<i>Lots 1, 2 and 4 will be provided with a vehicle access onto McCallums Road, a Council Maintained Road.</i> <i>The proposed plan of subdivision indicates two vehicle access points for Lot 1, this is due to TasWater's requirements to locate water connections adjacent to vehicle access points.</i> <i>A Right Of Way will be provided over the existing access from Ellendale Road for the Balance lot and for Lot 3.</i> <i>The Performance Criteria P3 is met.</i>

11.5.2 Roads That the arrangement of new roads with a subdivision provides: <ul style="list-style-type: none"> (a) safe, convenient and efficient connections to assist accessibility and mobility of the community; (b) adequate accommodation of vehicular, pedestrian, cycling and public transport traffic; and (c) the efficient ultimate subdivision of the entirety of the land and of surrounding land. 		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
A1 The subdivision includes no new roads.	P1 The arrangement and construction of roads within a subdivision must provide an appropriate level of access, connectivity, safety, convenience and legibility for vehicles, having regard to: <ul style="list-style-type: none"> (a) any relevant road network plan adopted by the council; (b) the existing and proposed road hierarchy; (c) maximising connectivity with the surrounding road network; (d) appropriate access to public transport; and (e) access for pedestrians and cyclists. 	<i>Acceptable solution A1 is met as no new roads are proposed as a part of this subdivision.</i>

11.5.3 Services That the subdivision of land provides services for the future use and development of the land.		
Acceptable Solutions	Performance Criteria	Officer Comment
A1 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must: <ul style="list-style-type: none"> (a) be connected to a full water supply service if the frontage of the lot is within 30m of a full water supply service; or (b) be connected to a limited water supply service if the frontage of the lot is within 30m of a limited water supply service, unless a regulated entity advises that the lot is unable to be connected to the relevant water supply service. 	P1 No Performance Criterion.	<i>Lot 1 and the Balance Lot will be provided with Water connections as these are within 30m of an existing service.</i> <i>The remaining Lots 2,3 and 4 are unable to be connected to a full water supply service, as stated in correspondence with the water provider. A limited water supply service will be used.</i> <i>The proposal meets the acceptable solution A1.</i>
A2 Each lot, or a lot proposed in a plan of subdivision, excluding within Rural Living Zone C or Rural Living Zone D or for public open space, a riparian	P2 Each lot, or a lot proposed in a plan of subdivision, excluding within Rural Living Zone C or Rural Living Zone D or for public open space, a riparian	<i>The Performance Criteria P2 is met for all lots, as there is no reticulated sewerage systems available in the area. The size of the lots are more</i>

or littoral reserve or Utilities, must: (a) be connected to a reticulated sewerage system; or (b) be connected to a reticulated sewerage system if the frontage of each lot is within 30m of a reticulated sewerage system and can be connected by gravity feed.	or littoral reserve or Utilities, must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.	<i>than adequate to accommodate the requirements of a wastewater treatment system.</i>
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C2.0 Parking and Sustainable Transport Code

The purpose of the Parking and Sustainable Transport Code is:

- To ensure that an appropriate level of parking facilities is provided to service use and development.
- To ensure that cycling, walking and public transport are encouraged as a means of transport in urban areas.
- To ensure that access for pedestrians, vehicles and cyclists is safe and adequate.
- To ensure that parking does not cause an unreasonable loss of amenity to the surrounding area.
- To ensure that parking spaces and accesses meet appropriate standards.
- To provide for parking precincts and pedestrian priority streets.

C2.6.3 Number of accesses for vehicles		
That:		
(a) access to land is provided which is safe and efficient for users of the land and all road network users, including but not limited to drivers, passengers, pedestrians and cyclists by minimising the number of vehicle accesses;		
(b) accesses do not cause an unreasonable loss of amenity of adjoining uses; and		
(c) the number of accesses minimise impacts on the streetscape.		
Acceptable Solutions	Performance Criteria	OFFICER COMMENT
A1 The number of accesses provided for each frontage must: (a) be no more than 1; or (b) no more than the existing number of accesses, whichever is the greater.	P1 The number of accesses for each frontage must be minimised, having regard to: (a) any loss of on-street parking; and (b) pedestrian safety and amenity; (c) traffic safety; (d) residential amenity on adjoining land; and (e) the impact on the streetscape.	<i>The proposal must be assessed against the Performance Criteria P1 because two vehicle access points for Lot 1 are proposed, this is due to TasWater's requirements to locate water connections adjacent to vehicle access.</i> <i>Due to the low traffic volumes of McCallums Road and low density of the surrounding dwellings, the proposed plan of subdivision meets the Performance Criteria.</i>
A2 Within the Central Business Zone or in a pedestrian priority street no new access is provided unless an existing access is removed.	P2 Within the Central Business Zone or in a pedestrian priority street, any new accesses must: (a) not have an adverse impact on: (i) pedestrian safety and	<i>Not applicable.</i>

	amenity; or	
	(ii) traffic safety; and	
	(b) be compatible with the streetscape.	

C7.0 Natural Assets Code

The application of this Code applies to development on land within a waterway & Coastal Protection Area and a Priority Vegetation within the Rural Living Zone.

C7.7.1 Subdivision within a waterway and coastal protection area or a future coastal refugia area

That:

- (a) works associated with subdivision within a waterway and coastal protection area or a future coastal refugia area will not have an unnecessary or unacceptable impact on natural assets; and
- (b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on natural assets.

Acceptable Solutions	Performance Criteria	Officer Comment
A1 Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must: <ul style="list-style-type: none"> (a) be for the creation of separate lots for existing buildings; (b) be required for public use by the Crown, a council, or a State authority; (c) be required for the provision of Utilities; (d) be for the consolidation of a lot; or (e) not include any works (excluding boundary fencing), building area, services, bushfire hazard management area or vehicular access within a waterway and coastal protection area or future coastal refugia area. 	P1 Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must minimise adverse impacts on natural assets, having regard to: <ul style="list-style-type: none"> (a) the need to locate building areas and any associated bushfire hazard management area to be outside a waterway and coastal protection area or a future coastal refugia area; and (b) future development likely to be facilitated by the subdivision. 	<i>A small section of the Right Of Way will be within the Waterway & Coastal Protection Area (WCPA) and therefore the proposal must be assessed against P1.</i> <i>Bushfire Hazard Management Areas are located outside of the WCPA.</i> <i>Generous lot sizes could accommodate future development outside of the WCPA.</i> <i>The Performance Criteria is met.</i>

C13.0 Bushfire Prone Area Code

This code applies to subdivision of land that is located within a bushfire-prone area, which the property is located within.

A Bushfire Hazard Assessment Report and Bushfire Hazard Management Plan for the proposed 4 Lot and balance Subdivision at 197 Ellendale Road, has been prepared by Rebecca Green Associates, Version 1 and dated 27 March 2023.

This report makes several recommendations which form a part of the planning conditions of the permit and which must be completed prior to Council sealing the final plan of survey.

Conclusion

The 4 lot and balance subdivision at 197 Ellendale Road, Fentonbury has been assessed to comply with the applicable standards of the Rural Living Zone and the relevant codes of the *Tasmanian Planning Scheme – Central Highlands* 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 DA2023/26 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 for approval. The Planning Authority must consider the report but is not bound to adopt the Recommendation for approval. 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 July 2023.

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 DA2023/26 4 Lot and Balance subdivision at 197 Ellendale Road, Fentonbury 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 DA2023/26 4 Lot and Balance subdivision at 197 Ellendale Road, Fentonbury 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 DA2023/26 4 Lot and Balance subdivision at 197 Ellendale Road, Fentonbury 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 DA2023/26 4 Lot and Balance subdivision at 197 Ellendale Road, Fentonbury 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 :-

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*.

Staged Development

3. The subdivision development must not be carried out in stages except in accordance with a staged development plan submitted to and approved by Council's Manager Environment and Development Services.

Easements

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.

Endorsements

5. 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

6. 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 Manager Environment and Development Services.

Bushfire

7. The development and works must be carried out in accordance with the Bushfire Hazard Assessment Report and Bushfire Hazard Management Plan prepared by Rebecca Green Associates, Version 1 and dated 27 March 2023.
8. Prior to Council sealing the final plan of survey for any stage the developer must provide certification from a suitably qualified person that all works required by the approved Bushfire Hazard Management Plan has been complied with.

Agreements

9. Agreements made pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993* must be prepared by the applicant on a blank instrument form to the satisfaction of the Council and registered with the Recorder of Titles. The subdivider must meet all costs associated with the preparation and registration of the Part 5 Agreement.

Final Plan

10. A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. 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 \$225.00, 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 for each stage.
12. Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Central Highlands Council. The security must be in accordance with section 86(3) of the

Local Government (Building & Miscellaneous Provisions) Council 1993. The amount of the security shall be determined by the Council's Municipal Engineer.

13. 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. 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.
14. The subdivider must pay any Titles Office lodgment fees direct to the Recorder of Titles.

Water Quality

15. Where a development exceeds a total of 250 square metres of ground disturbance 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 Municipal Engineer before development of the land commences.
16. 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 Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
17. 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 Municipal Engineer.
18. 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 Municipal Engineer.

Property Services

19. Property services must be contained wholly within each lots served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.

Existing services

20. 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.

TasWater

21. The use and/or development must comply with the requirements of TasWater, as detailed in the form Submission to Planning Authority Notice, Reference No TWDA2023/00632-CHL dated 01/06/2023, as attached to this permit.

Rural Access

22. A separate vehicle access must be provided from the road carriageway to Lots 1,2 and 4. New and existing access must be sealed with a minimum width of 3 metres at the property boundary and located and constructed in accordance with the standards shown on standard drawings SD-1009 *Rural Roads - Typical Standard Access* and SD-1012 *Intersection and Domestic Access Sight Distance Requirements* prepared by the IPWE Aust. (Tasmania Division) (attached) and the satisfaction of Council's Manager of Infrastructure & Works.

Access to Ellendale Road

23. Unless approved otherwise by Council's Manager Works & Services the existing vehicular access, from Ellendale Road to the property boundary, must be upgraded (including a minimum 2 coat seal) to comply with Standard Drawings TSD-R03-v1 Rural Roads Typical Property Access, TSD-R04-v1 Rural Roads Typical Driveway Profile and TSD-RF01-v1 Guide To Intersection And Domestic Access Sight Distance or as otherwise required by an approved Bushfire Plan.

Construction Amenity

24. 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

25. 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 -
 - (a) 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.
 - (b) Transport of materials, goods or commodities to or from the land.
 - (c) Appearance of any building, works or materials.
26. 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.
27. 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.

Construction

28. The subdivider must provide not less than 48 hours written notice to Council's Municipal Engineer before commencing construction works on site or within a council roadway. The written notice must be accompanied by evidence of payment of the Building and Construction Industry Training Levy where the cost of the works exceeds \$12,000.
29. The subdivider must provide not less than 48 hours written notice to Council's Municipal Engineer before reaching any stage of works requiring inspection by Council unless otherwise agreed by the Council's Manager Engineering Services.
30. A fee for supervision of any works to which Section 10 of the *Local Government (Highways) Council 1982* applies must be paid to the Central Highlands Council unless carried out under the direct supervision of an approved practising professional civil engineer engaged by the owner and approved by the Council's Municipal Engineer. The fee must equal not less than three percent (3%) of the cost of the works.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT: -

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The issue of this permit does not ensure compliance with the provisions of the *Aboriginal Relics Act 1975*. If any aboriginal sites or relics are discovered on the land, stop work and immediately contact the Tasmanian Aboriginal Land Council and Aboriginal Heritage Unit of the Department of Tourism, Arts and the Environment. Further work may not be permitted until a permit is issued in accordance with the *Aboriginal Relics Act 1975*.
- D. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval unless the development for which the approval was given has been substantially commenced or extension of time has been granted. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development may be treated as a new application.
- E. Appropriate temporary erosion and sedimentation control measures during construction include, but are not limited to, the following -
 - a) Minimise site disturbance and vegetation removal;

- b) Diversion of up-slope run-off around cleared and/or disturbed areas, or areas to be cleared and/or disturbed, provided that such diverted water will not cause erosion and is directed to a legal discharge point (e.g. temporarily connected to Council's storm water system, a watercourse or road drain);
- c) Sediment retention traps (e.g. sediment fences, straw bales, grass turf filter strips, etc.) at the down slope perimeter of the disturbed area to prevent unwanted sediment and other debris escaping from the land;
- d) Sediment retention traps (e.g. sediment fences, straw bales, etc.) around the inlets to the stormwater system to prevent unwanted sediment and other debris blocking the drains; and
- e) Rehabilitation of all disturbed areas as soon as possible.

RECOMMENDATION 03/07.2023/PC

Moved: Cr

Seconded: Cr

THAT the Planning Committee make the following recommendation to the Planning Authority:

8.0 OTHER BUSINESS

9.0 CLOSURE

The Chairperson thanked everyone for their contribution and declared the meeting closed at _____.
