SPECIAL MEETING
OF COUNCIL

AGENDA
OPEN MEETING

29 January 2018
TO: Mayor Walsh  
Deputy Mayor Duniam  
Cr Bradley  
Cr Bramich  
Cr Fairbrother  
Cr Friedersdorff  
Cr Hyland  
Cr Wright

Notice of Meeting – Special Meeting of Council

Notice is given that a Special Meeting of the Waratah-Wynyard Council will be held at the Waratah-Wynyard Council Chambers, 21 Saunders Street, Wynyard on Monday 29 January 2018, commencing at 6:00 pm.

“I certify that with respect to all advice, information or recommendation provided to Council with this agenda:

1. The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation, and

2. Where any advice is given directly to Council by a person who does not have the required qualifications or experience, that person has obtained and taken into account in that person’s general advice the advice from an appropriately qualified or experienced person.”

Dated at Wynyard this 25th day of January 2018

Shane Crawford  
GENERAL MANAGER

Legislative Reference  
Local Government Act 1993  
Section 65(1) requires the General Manager to ensure that any advice, information or recommendation given to the Council (or a Council committee) is given by a person who has the qualification or experience necessary to give such advice, information or recommendation.  
Section 65(2) precludes the Council from deciding any matter which requires that advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council or council committee.
25 January 2018

Mr Shane Crawford
General Manager
Waratah-Wynyard Council
PO Box 168
WYNYARD   TAS   7325

Dear Shane,

COUNCIL MEETING

In accordance with regulation 4 of the Local Government (Meeting Regulations) 2015 which states:

4. Convening meetings of council
   (1) The mayor of a council may convene a special meeting of Council.

I request that you make the necessary arrangements for a Special meeting of Council to be convened on Monday 29 January 2018 commencing at 6:00 pm in the Waratah-Wynyard Council Chamber, 21 Saunders Street, Wynyard.

Yours sincerely,

Robby Walsh
MAYOR
Council discloses the following policy that relates to Audio Recording of Ordinary and Special Council Meetings:

**AUDIO RECORDING OF COUNCIL MEETINGS POLICY**

<table>
<thead>
<tr>
<th>CONTROLLER:</th>
<th>APPROVED BY:</th>
<th>REVIEW DATE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL MANAGER</td>
<td>COUNCIL</td>
<td>November 2011</td>
</tr>
</tbody>
</table>

**DOC NO: GOV. 017**

**VERSION 1**

**DATE 18 July 2011**

1.0 **Purpose**

1.1 This policy provides for digital audio recording of meetings of Council to assist in the preparation of minutes and to ensure that a true and accurate account of debate and discussion at meetings is available.

2.0 **Objective**

2.1 to record meetings of Council to assist in the preparation of minutes and ensure a true and accurate account of debate and discussion at meetings is available.

3.0 **Scope**

3.1 This policy applies to all Council Meetings Council of Waratah-Wynyard Council.

4.0 **Policy**

4.1 All meetings of the Council and its standing committees shall be digitally recorded as provided for by Regulation 33 of the *Local Government (Meeting Procedures) Regulations 2015* except for the proceedings of meetings or parts of meetings closed to the public in accordance with Regulation 15 (2).

4.2 The Council may, by resolution, determine to digitally record the proceedings of a specific meeting or part thereof that is closed to the public in accordance with Regulation 15 (2) of the *Local Government (Meeting Procedures) Regulations 2015*.

4.3 The Chairman is to ensure that no recording is made of the proceedings of a meeting or part of a meeting closed to the public in accordance with Regulation 15 (2) except where the Council has specifically resolved to record the proceedings of that meeting or part thereof.

**Access**

4.4 The General Manager is to retain the digital files of meeting recordings for 6 months in accordance with Regulation 33 and to dispose of the files promptly following the expiry of that period. The General Manager is authorised, pursuant to section 64 of the *Local Government Act 2009*, to delegate these functions to a council officer.

4.5 The digital files of meeting proceedings closed to the public will only be available for listening, upon written request, by one or more councillors entitled to be present during the proceedings in question.

4.6 The digital files of all other meeting proceedings will be accessible on the Council’s website for listening by any person for the period they are retained by the Council. The Council makes this information available as a routine disclosure under the *Right to Information Act 2009*, the objectives of which are to:

(a) Increase the accountability of the government to the people of Tasmania;
(b) Increase the ability of the people of Tasmania to participate in their governance; and
(c) Acknowledge that information collected by public authorities is collected for and on behalf of the people of Tasmania and is the property of the State.
Disclosure Of Policy

4.7 This policy is to be printed on the agenda of all Council and Special Council meetings to inform the public that the proceedings are recorded.

4.8 A notice to inform the public that meeting proceedings are recorded is to be displayed at the entrance to a room in which a meeting, the proceedings of which are to be recorded, is to be held.

4.9 At the time of declaring the meeting open, the Chairman is to inform all councillors and any public present that the meeting is being recorded.

5.0 Legislation

5.1 Regulation 33 of the Local Government (Meeting Procedures) Regulations 2015 provides as follows:

33. Audio recording of meetings
   (1) A council may determine that an audio recording is to be made of any meeting or part of a meeting.
   (2) If the council so determines, the audio recording of a meeting or part of a meeting that is not closed to the public is to be:—
       (a) retained by the council for at least 6 months; and
       (b) made available free of charge for listening on written request by any person.
   (3) If after the minutes of a Council Meeting have been confirmed as a true record a discrepancy between the minutes and the audio recording of that meeting or part of that meeting is noticed the council, at the next appropriate meeting, is to review the audio recording sand either confirm that the minutes are a true record or amend the records to reflect the audio recording and then confirm the minutes as amended to be a true record.
   (4) A council may determine any other procedures relating to audio recording of meetings it considers appropriate.

6.0 Responsibility

6.1 The General Manager has the overall responsibility for this policy.

7.0 Minute Reference

Minute No. 12.3

8.0 Council Meeting Date

Amended 14 July 2015 (pending overall Review).
**TABLE OF CONTENTS**

1.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED .......................... 8

1.1 ATTENDANCE ................................................................................................................................. 8

1.2 APOLOGIES ................................................................................................................................. 8

1.3 LEAVE OF ABSENCE PREVIOUSLY APPROVED ...................................................................... 8

2.0 DECLARATIONS OF INTEREST .................................................................................................... 9

3.0 PLANNING AUTHORITY ............................................................................................................. 10

3.1 PUBLIC QUESTIONS WITHOUT NOTICE – RELATING TO PLANNING MATTER ON THE AGENDA ..... 10

3.2 PUBLIC STATEMENTS RELATING TO PLANNING MATTER ON THE AGENDA ....................... 10

3.3 SUBDIVISION (4 INTO 20 Lots) LOCATED AT 293, 305 AND 307 PORT ROAD, AND LOT 26 ON SP61107, BOAT HARBOUR BEACH – SD 2048 .................................................................................. 11
The Public is advised that it is Council policy to record the proceedings of meetings of Council on digital media to assist in the preparation of minutes and to ensure that a true and accurate account of debate and discussion of meetings is available. This audio recording is authorised by the Local Government (Meeting Procedures) Regulations 2015.

AGENDA OF A SPECIAL MEETING OF THE WARATAH-WYNYARD COUNCIL TO BE HELD AT THE COUNCIL CHAMBERS, 21 SAUNDERS STREET, WYNYARD ON MONDAY 29 JANUARY 2018 COMMENCING AT 6:00 PM

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Time Occupied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL TIME OCCUPIED</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Audio Recording of Council Meetings Policy

The Chairman is to declare the meeting open (time), welcome those present in attendance and advise that the meeting will be recorded, in accordance with the Council Policy titled ‘Audio Recording of Council Meetings’ to “record meetings of Council to assist in the preparation of minutes and ensure a true and accurate account of debate and discussion at meetings is available”. 
1.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED

Legislative Reference:
Local Government (Meeting Procedures) Regulations 2015; Regulation 8(2)(a)
The agenda of an ordinary meeting of a council is to provide for, but is not limited to, the following items:
(a) attendance and apologies.

1.1 ATTENDANCE

1.2 APOLOGIES

Cr Alwyn Friedersdorff

1.3 LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil
2.0 DECLARATIONS OF INTEREST

Legislative Reference:
Local Government (Meeting Procedures) Regulations 2015, Regulation 8(7)

(7) The chairperson is to request Councillors to indicate whether they have, or are likely to have, a pecuniary (or conflict of) interest in any item on the agenda.

Councillor and Agenda Item Number

Staff and Agenda Item Number
3.0 PLANNING AUTHORITY

Legislative Reference:

The Chairperson is to advise the meeting if a Council intends to act at a meeting as a Planning Authority under the Land Use Planning and Approvals Act 1993.

25(2) The general manager is to ensure that the reasons for a decision by a Council acting as a Planning Authority are recorded in the minutes.

Any alternative decision the Council may make to a recommendation appearing on the Agenda, requires a full statement of reasons in order to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act.

3.1 PUBLIC QUESTIONS WITHOUT NOTICE – RELATING TO PLANNING MATTER ON THE AGENDA

Legislative Reference:
Local Government (Meeting Procedures) Regulations 2015 Regulation 31(2)(5)
(2) The Chairperson of an ordinary council meeting may –
   (b) invite any members of the public present at the meeting to ask questions relating to the activities of the council.

When dealing with questions that require research or a detailed response –
(5) The Chairperson may –
   (b) require a question to be put on notice and in writing to be answered at a later ordinary council meeting.

A summary of questions without notice and response(s) and the name of the person asking the question will be recorded in the minutes.

3.2 PUBLIC STATEMENTS RELATING TO PLANNING MATTER ON THE AGENDA

A summary that includes the name of the person making a public statement and subject title of that statement will be recorded in the minutes
3.3 SUBDIVISION (4 INTO 20 LOTS) LOCATED AT 293, 305 AND 307 PORT ROAD, AND LOT 26 ON SP61107, BOAT HARBOUR BEACH – SD 2048

To: Council
Reporting Officer: Acting Manager Development and Regulatory Services
Report Date: 24 January 2018
File Reference: 3010845
Supporting Documents: Development Application Form x 4 pages
Location Map x 1 page
Title documents x 26 pages
Proposed Subdivision Plan by CSPP x 1 page
Dwelling envelopes plan by PDA Surveyors x 1 page
Traffic Impact Assessment by Midson Traffic x 18 pages
Bushfire Protection Report by Castellan Consulting x 35 pages
Risk Assessment by GHD x 83 pages
Supporting Documentation x 13 pages
Road Access and Stormwater Drainage Assessment x 12 pages
TasWater Submission x 3 pages
Information Request x 2 pages
Information Response x 3 pages
Representation 1 – Daniel Bye x 1 page
Representation 2 – Peter Gaylard x 2 pages
Representation 3 – Mineral Resources Tasmania x 2 pages
Extension of time x 1 page

RECOMMENDATION

It is recommended that in accordance with Section 51 and Section 57 of the Land Use Planning and Approvals Act 1993 and the Waratah-Wynyard Interim Planning Scheme 2013, that approval be granted for a Subdivision (4 into 19 lots) at 293, 305 and 307 Port Road, and Lot 26 on SP61107, Boat Harbour Beach subject to the following conditions:

PART A CONDITIONS:

(1) The development is to be generally in accordance with the application as submitted and endorsed documents as listed:
   a. Subdivision plan with Job Number L17099-D03 as prepared by Campbell, Smith, Phelps and Pedley and dated 12 September 2017.

(2) The development is to be in accordance with the submitted Bushfire Hazard Management Plan as prepared by Ross Murphy of Castellan Consulting and dated 11 October 2017.

(3) Before a final survey plan is submitted for sealing by the Council, the applicant is to submit to the Manager Development and Regulatory Services two copies of plans drawn to scale generally in accordance with the plans accompanying the application but amended to show:
   (a) the removal of lot 4, with the land absorbed within the adjoining lots, particularly lot 5 in order to provide a larger building area. The amended plans will become the endorsed plans of this permit at such time as they meet the reasonable requirements of the Manager Development and Regulatory Services and have been approved.

(4) New kerb crossovers for lots 1 to 10 are to be constructed off the internal subdivision road in accordance with Tasmanian Standard Drawing TSD-R09-v1, Urban Roads Driveway, TSD-R16-v1 Concrete kerbs and Channels Vehicular Crossings and the conditions in an “Activity in Road Reservation Permit”.

(5) Reinforced concrete driveway slabs for lots 1 to 10 are to be constructed between the kerb crossover and the property boundary in accordance with Tasmanian Standard Drawing TSD-R09-v1, Urban Roads Driveways and the conditions in an “Activity in Road Reservation Permit”.

(6) A 40mm asphalt overlay is to be provided on Port Road for the full pavement width, 15m either side of the subdivision road.

(7) A 15m wide road reservation, with lot boundaries splayed where necessary is to be provided and shown as “Road” on the final survey plan lodged for sealing.

(8) The road reservation is to be widened to a minimum of 25m in accordance with Tasmanian Standard Drawing TSD-R07-v1, Urban Roads Cul-De-Sac Turning Heads with lot boundaries splayed where required to accommodate a vehicular turning area and shown as “Road” on the final survey plan lodged for sealing.

(9) Power is to be provided underground to each lot in the development in accordance of the requirements of Aurora Energy and IPWEA standard drawings and specifications.

(10) The road is to be of compacted crushed rock pavement, designed in accordance with the Austroads Pavement Design Guidelines, with a pavement width of 6m measured lip of kerb to lip of kerb and a minimum total pavement thickness of 300mm plus a 40mm asphalt seal, concrete kerb and channel and footpaths all in accordance with the Tasmanian Standard Drawing TSD-R06-v1, Urban Roads Typical Sections and Pavement Widths, and is to be constructed
to the reasonable requirements of the Director Infrastructure & Development Services.

(11) Road intersections, both internally and within the Council road network are to be assessed in regard to the various requirements of the Austroads Guide to Traffic Management set. All upgrade and works required to achieve compliance with the Austroads Guide to Traffic Management set are to be addressed as part of the road design process.

(12) The applicant is to supply and install traffic management devices that include, but are not limited to, signage and line marking in accordance with the suite of AS 1742 standards and which meet the requirements of Department of State Growth. Before a Construction Certificate may be issued, the applicant or his designer is to prepare a set of traffic management drawings that are to be submitted to and approved by Department of State Growth.

(13) A court bowl of radius 9m and otherwise in accordance with Tasmanian Standard Drawing TSD-R07-v1, Urban Roads Cul-De-Sac Turning Heads is to be provided at the termination of the internal road to facilitate the turning movement of large service vehicles. Construction is to be of equivalent standard to the internal road.

(14) Concrete kerb and Channel type KC is to be constructed in accordance with Tasmanian Standard Drawing TSD-R14-v1, approved Concrete Kerbs and Channels Profile Dimensions on both sides of internal roads.

(15) Street lighting is to be provided in accordance with AS 1158 and the requirements of Aurora Energy Pty Ltd and the Director Infrastructure & Development Services. The street lighting is to be designed to minimise off site glare and reflected light. The use of non-standard lighting poles is not permitted in the development.

(16) Connection of stormwater drains to Council’s drainage network is to occur only in accordance with the requirements and approval of the Director Infrastructure and Development Services.

(17) A stormwater connection point including an accessible inspection opening at ground level is to be constructed at the lowest point of the lot to permit connection to Council’s stormwater drainage reticulation network. The connection point is to be inspected and approved by the Director Infrastructure & Development Services before backfilling.

(18) A Stormwater Management Plan is to be provided, including the construction of a reticulated stormwater drainage system with individual lot connections, road drainage and method of discharge in accordance with the reasonable requirements of the Director Infrastructure and Development Services. The design return interval for the reticulation network is to be 1 in 10 year ARI for property only, 1 in 20 Year ARI for road drainage and provision is to be made
to contain a 1 in 100 year ARI major overland flow-path. The major overland flow-path is also to be designed to consider a modelled dam break scenario.

(19) The use of underground service trenches is to be minimised, with all trenches to be designed in conjunction with a practising engineer so that they do not introduce water into the ground, but assist with drainage of the ground.

(20) The developer is to construct a 1.2m high rock catch fence comprising propped posts, wire and mesh along the rear boundaries of lots 4 to 7, prior to the signing and sealing of the Final Survey Plan for stage 3 of the subdivision.

(21) Relevant engineering plans, specifications, calculations and computations are to be prepared or certified by a Chartered Professional Engineer and submitted to the Director Infrastructure and Development Services for approval. No work is to commence until a Construction Certificate has been issued by the Director Infrastructure and Development Services.

(22) Construction of civil engineering work associated with the Development is to comply with the requirements of Council’s Policy PR003 Standard requirements for construction of new infrastructure assets and the replacement of existing infrastructure assets.

(23) In the course of undertaking the development/use there is to be no damage caused to any Council owned infrastructure or property.

(24) On completion of work covered by a Construction Certificate a Chartered Professional Engineer is to certify by declaration that all work has been carried out fully in accordance with the approved plans, specifications, calculations, and computations. “Works as Constructed” drawings that comply with the requirements of Council’s “Submission of digital –as-constructed information” template are to be supplied. Template can be obtained from Council’s website.

(25) The Final Survey Plan submitted for sealing by the Council is to show all easements required for powerlines, sewerage, water, drainage purposes and legal access.

(26) A twelve (12) month maintenance period is to apply to all works within the development which are to become Council infrastructure. A maintenance bond of 5% of the cost of the civil works as approved by the Director Infrastructure and Development Services is to be lodged with Council prior to:
   (a) the issue of the Maintenance Period Commencement document; or
   (b) prior to sealing of the Final Survey Plan.

(27) All costs associated with the proposed development including those related to infrastructure extensions or upgrades to Council assets are to be met by the Developer.

(28) Loading and unloading of vehicles is to be confined to within the boundaries of the property.

(29) Erosion and sediment control measures that meet the reasonable requirements of the Director Infrastructure and Development Services are to
be implemented and maintained during the course of the development to minimise downstream sediment transfer, particularly with respect to water courses, stormwater outlets and disturbed ground.

(30) Before site disturbance or construction commences an environmental management plan is to be prepared and submitted for approval by the Director Infrastructure & Development Services, the plan is to outline proposed practices in relation to:

1. Temporary run-off and erosion controls, which are to be installed before the development commences. Controls are to include, but are not limited to:
   - Minimisation of site disturbance and vegetation removal;
   - Diversion of up-slope run-off around cleared and/or disturbed areas, areas to be cleared and/or disturbed or filled providing such diverted run-off does not cause erosion and is directed to a legal discharge point;
   - Installation of sediment retention traps (e.g. sediment fences, etc.) at the down slope perimeter of a disturbed area or stockpile to prevent unwanted sediment and other debris escaping from the land;
   - Rehabilitation of all disturbed areas as soon as possible.

2. Weed management
3. Storage facilities for fuels, oils, greases, chemicals and the like
4. Litter management

Erosion control measures are to be maintained at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development.

(31) Before site disturbance or construction commences, a plan of management is to be prepared and submitted for approval by the Director Infrastructure & Development Services. The plan is to provide relevant project management information and outline proposed construction practices, including, but not limited to:

1. Contact details for principal, consultants and contractors including after hours numbers;
2. Traffic management plan including road works signage;
3. Proposed hours of work (including volume and timing of heavy vehicles entering and leaving the site, and works undertaken on site);
4. Identification of potentially noisy construction phases, such as operation of rock-breakers, explosives or pile drivers, and proposed means to minimise impact on the amenity of neighbouring buildings;
5. Site facilities to be provided; and
6. Procedures for washing down vehicles to prevent soil and debris being carried onto the street.
PART B CONDITIONS:

(1) The person responsible for the activity must comply with the conditions contained in Schedule 2 of Permit Part B which the Regulated Entity (trading as TasWater) has required the planning authority to include in the permit, pursuant to section 56Q of the Water and Sewerage Industry Act 2008, reference 2017/01701 WWC (attached).

Notes:
- The following is provided for information only and does not constitute condition(s) of permit.
  - This project must be substantially commenced within two years of the issue of this permit.
  - An “Activity in Road Reservation” permit must be obtained from Council for all activity within the Road Reservation.
  - The applicant is advised to include a note on the titles for lots 8, 12, 13 and 14 to inform future owners that development of the lots will require further geotechnical investigations and reporting.
  - The development/use is not to result in the generation of environmental harm or nuisance as defined in the Environmental Management and Pollution Control Act 1994.
  - The development is to comply with the Road Access and Stormwater Drainage Assessment dated 23 August 2017.
  - This permit is based on information and particulars set out in Subdivision 2048. Any variation requires an application for further planning approval of Council.
  - This permit is limited to use and development within the boundaries of the site, being land at 293, 305 and 307 Port Road, and Lot 26 on SP61107, Boat Harbour Beach. Any use and development outside of the site boundaries may require further approvals or consent from the land owner.
  - Attention is drawn to existing or proposed electricity infrastructure, please be sure to contact Aurora Energy on 1300 132 003 to ensure these works do not impede on existing electricity easements and are at a safe distance from power lines. Failure to do so could result in the relocation of electricity assets at your cost.
  - For letterbox placement please contact ‘Australia Post 64345580’ for correct guidelines.
  - Under Section 61 (4) of the Land Use Planning and Approvals Act 1993, the applicant has the right to lodge an appeal against Council’s decision. Notice of appeal should be lodged on the prescribed form together with the required fee within fourteen days after the date on which notice of the decision was served on that person, to the Resource Management and Planning Appeal Tribunal, GPO Box 2036, Hobart, 7001.
PURPOSE

The purpose of this report is for Council to consider the merits of subdivision application SD2048 against the requirements of the Waratah-Wynyard Interim Planning Scheme 2013 (Planning Scheme).

The Planning Authority previously considered this planning permit application at the Council meeting of 22 January 2018. The vote was evenly split. The result of the split vote was that the resolution was lost, and in effect there was no determination of the application.

The planning assessment is therefore re-submitted for determination, but has been amended to consider the matters raised during discussion at the January Council meeting.

BACKGROUND

The subject site is contained within a total of five lots. The principle portion of the site is within the property at 293 Port Road (lot 1 on SP156080) has an area of 9739m², and has two current accesses to Port Road. The site is currently vacant.

Three lots make up the second portion of the site, being 305 Port Road (lot 2 on SP30609, and two lots described as 307 Port Road (lot 1 on SP197957 and lot 10 on SP12138). The combined area of these titles is 4032m². This site did contain an existing dwelling and motel, but these buildings are in the process of being demolished.

A fifth lot is included within the proposal, being lot 26 on SP61107. This lot contains a spring, and may supplement the water supply to the proposed lots. The lot is not included within the subdivision, as there is no proposal to change its boundaries.

A locality plan identifying the subject site is provided in Figure 1 below.
All sites are within the coastal township of Boat Harbour Beach and are zoned Low Density Residential. Land to the west of the site is zoned Rural Resource. Land to the north is zoned Environmental Management.

DETAILS

The applicant is seeking approval for a subdivision of the properties described as 293, 305 and 307 Port Road, Boat Harbour Beach (CT168041/2). The proposal is seeking approval for the 4 lots to become 20 lots, with 14 of the proposed lots located on 293 Port Road. The first stage of the development is located on 305 and 307 Port Road, encompassing six lots.

A breakdown of the lots is provided below.

<table>
<thead>
<tr>
<th>Lot number</th>
<th>Lot Size (m²)</th>
<th>Frontage (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>692</td>
<td>19.5</td>
</tr>
<tr>
<td>2</td>
<td>524</td>
<td>13.7</td>
</tr>
<tr>
<td>3</td>
<td>556</td>
<td>13.7</td>
</tr>
<tr>
<td>4</td>
<td>656</td>
<td>5.8</td>
</tr>
<tr>
<td>5</td>
<td>669</td>
<td>7.5</td>
</tr>
<tr>
<td>6</td>
<td>719</td>
<td>8.0</td>
</tr>
<tr>
<td>7</td>
<td>795</td>
<td>8.4</td>
</tr>
<tr>
<td>8</td>
<td>774</td>
<td>4.3</td>
</tr>
<tr>
<td>9</td>
<td>523</td>
<td>14.4</td>
</tr>
</tbody>
</table>
An additional lot included in this application is Lot 26 on SP61107. This lot does not form part of the subdivision, but has been included within the application as it may be used as a supplementary water source to the development. The boundaries of this lot are not proposed for change.

This report assesses the proposal against the Planning Scheme and takes into account the representation received during the public exhibition period. The proposal is defined as a Residential Use Class, a Permitted Use under the Planning Scheme. The applicant is applying for discretion under the following clauses:
- Suitability of a site or lot for use or development (12.4.1 P1),
- Subdivision (12.4.8 P2),
- Reticulation of an electricity supply to new lots on a plan of subdivision (12.4.9 P1) and
- Use Likely to be exposed to a natural hazard (E6.5.2)

CONSULTATION PROCESS

The consultation process was the public exhibition period set out in the Land Use Planning and Approvals Act 1993 (LUPAA) and involved notification of adjoining land owners, public notices onsite and advertising in a daily newspaper. The application was placed on public exhibition for a period of 14 days as required under LUPAA. The period for representations closed on 29 November 2017. Three (3) representations were received. However, the third representation from Mineral Resources Tasmania was submitted late, after an earlier submission was deemed to be invalid. In accordance with 57(5) of LUPAA, the late representation was received within 14 days of the notification period, and is therefore accepted as a valid representation.

The representations and planning responses to the issues raised are provided below. While every effort has been made to include all issues raised, this summary should be read in conjunction with the representations which are included as an enclosure to this report.
Representer – Daniel Bye

Issues Raised

The representors’ issues raised have been summarised as the following:

1. Insufficient detail has been provided regarding the design of the proposed cul-de-sac. What impact will it have upon the road reserve and the property at 303 Port Road?
2. The Bushfire Protection Report states that Lot 15 will require a small area of hardstand suitable for fire appliances be constructed on the road reserve. It is not clear where within the road reserve this is to be located.

Planning Response:

1. The new road will be required to be designed and constructed in accordance with the Tasmanian Standard Drawings. The permit has been conditioned accordingly. The new road will be required to fit within the site and road reserve, thus not impacting on the adjoining property boundaries.
2. The Bushfire Hazard Management Plan locates the Water Supply remote Access Point on the driveway to lot 15. It is understood that the driveway will act as the hard stand area.

Representer – Peter Gaylard

Issues Raised

The representors’ issues raised have been summarised as the following:

1. The proposed development should improve stormwater drainage in the area, and replace currently inadequate culverts.
2. The Landslide and Dam Hazard Assessment does not accurately describe the path of the creek flowing through 315, 317 and 307 Port Road. The report states that it is piped through the properties and discharges at the shore. This is not the case.
3. The Dam Hazard Assessment, and risk of flooding, does not consider impacts on proposed lots 15-20, as the report is based on a previous report relating to 293 Port Road.
4. The works associated with the proposed development might damage the responder’s driveway.
5. Does all the vegetation within the road reserve need to be removed to provide for adequate sight lines distances for the driveways to lots 15 to 20?

Planning Response:

1. A site inspection has identified five culverts that would require upgrading. The permit has been conditioned for the developer to provide a stormwater management plan that caters for 1 in 20 and 1 in 100 year rain events.
2. The consultants are familiar with the site, are aware of the location of the watercourse/drain, and have walked the site with the author of this report. The watercourse/drain is piped at several locations, and is an open channel between these pipes/culverts. The watercourse/drain is piped under Port Road and discharges to the shore. Drainage is to be upgraded as part of the development.
3. The improvements previously highlighted for the stormwater system will be required to adequately deal with a potential flooding event from the above dam failing. This is to be demonstrated within the Stormwater Management Plan.
This is a civil matter between the property owners. The developer would be required to make good any impacts on adjoining properties.

The sight lines have been assessed by Council’s Engineering Services Department, and the development of the access to lots 15-20 have been conditioned to remove and maintain vegetation planting back to the property boundary line.

Representor – Brett Stewart, Mineral Resources Tasmania

Issues Raised

1. It would appear that the assessment is predominantly desktop, with limited time spent on-site. This may be inadequate to sufficiently understand the landslide risks.

2. A good geomorphological understanding of the site has not been demonstrated. The report does not sufficiently discuss the alluvial fan, located on the eastern side of the subdivision (lots 8, 12, 13 and 14).

3. There was no discussion of site history, therefore this information may not have been considered.

4. Rockfall is considered to be a potential danger to the site, and no mitigation measures are considered by the risk assessment.

5. It is best practice to provide regional landslide maps at a sufficiently detailed scale.

6. The report refers to previous reports that were not supplied with the application.

Planning Response:

1. An informal meditation process was held between the representor and applicant, including the applicant’s geotechnical consultant. The consultant stated that he had spent many days on-site, with multiple visits.

2. The consultant has advised that no sign of movement has been identified on-site. Construction in accordance with good hillside practices has been recommended for future development. This includes special consideration given to footings, and no excavation deeper than 500mm. The proposed lots are designated as medium landslide, therefore any future development would require a geotechnical assessment specific to the development. The applicant has offered to advise prospective purchasers of this requirement. It is suggested that the applicant include a note on the titles for lots 8, 12, 13 and 14 to inform future owners that development of the lots will require further geotechnical investigations and reporting.

3. The applicant’s demonstrated good site knowledge during informal meditation discussions, which eased the concerns of the representor.

4. Rockfall has been considered by the report, which recommends that rock catch fence be constructed along the rear boundaries of proposed lots 4, 5, 6 and 7.

5. Council does require hard copy reports and plans to be provided at a scale of no greater than A3. The applicant was constrained by this requirement.

6. Copies of the previous reports were provided to the representor.

As part of the mediation discussions, MRT raised additional concerns regarding the development. These related to the Dam Assessment, within the Risk Assessment. MRT were concerned that the risk associated with a dam wall failure had not been sufficiently considered. There is a dam located above the development site, approximately 450m to the south of the site.
Technically, there is no requirement within the planning scheme to consider such a risk. However, the proposed and subsequently conditioned upgrades to the stormwater infrastructure running through the site are an adequate measure to mitigate flood waters emanating from upstream of the site. MRT have advised that they are satisfied with this treatment, provided that the stormwater infrastructure is designed to cater for such an event.

**INTERNAL REFERRALS**

**Manager Engineering & Projects**

Construction of civil engineering work associated with the Development is to comply with the requirements of Council’s Policy PR003 Standard requirements for construction of new infrastructure assets and the replacement of existing infrastructure assets.

Relevant engineering plans, specifications, calculations and computations are to be prepared or certified by a Chartered Professional Engineer and submitted to the Director Infrastructure and Development Services for approval. No work is to commence until a Construction Certificate has been issued by the Director Infrastructure and Development Services.

Connection of stormwater drains to Council’s drainage network is to occur only in accordance with the requirements and approval of the Director Infrastructure and Development Services.

A twelve (12) month maintenance period is to apply to all works within the development which are to become Council infrastructure. A maintenance bond of 5% of the cost of the civil works as approved by the Director Infrastructure and Development Services is to be lodged with Council prior to:

- the issue of the Maintenance Period Commencement document; or
- prior to sealing of the Final Survey Plan.

New kerb crossovers for lots 1 to 10 are to be constructed off the internal subdivision road in accordance with Tasmanian Standard Drawing TSD-R09-v1, Urban Roads Driveway, TSD-R16-v1 Concrete kerbs and Channels Vehicular Crossings and the conditions in a “Activity in Road Reservation Permit”.

Reinforced concrete driveway slabs for lots 1 to 10 are to be constructed between the kerb crossover and the property boundary in accordance with Tasmanian Standard Drawing TSD-R09-v1, Urban Roads Driveways and the conditions in a “Activity in Road Reservation Permit”.

Loading and unloading of vehicles is to be confined to within the boundaries of the property.
A stormwater connection point including an accessible inspection opening at ground level is to be constructed at the lowest point of the lot to permit connection to Council’s stormwater drainage reticulation network. The connection point is to be inspected and approved by the Director Infrastructure & Development Services before backfilling.

A Stormwater Management Plan is to be provided, including the construction of a reticulated stormwater drainage system with individual lot connections, road drainage and method of discharge in accordance with the reasonable requirements of the Director Infrastructure and Development Services. The design return interval for the reticulation network is to be 1 in 10 year ARI for property only, 1 in 20 Year ARI for road drainage and provision is to be made to contain a 1 in 100 year ARI major overland flow-path. The major overland flow-path is also to be designed to consider a modelled dam break scenario.

Erosion and sediment control measures that meet the reasonable requirements of the Director Infrastructure and Development Services are to be implemented and maintained during the course of the development to minimise downstream sediment transfer, particularly with respect to water courses, stormwater outlets and disturbed ground.

Before site disturbance or construction commences an environmental management plan is to be prepared and submitted for approval by the Director Infrastructure & Development Services. The plan is to outline proposed practices in relation to:

1. Temporary run-off and erosion controls, which are to be installed before the development commences. Controls are to include, but are not limited to:
   i. Minimisation of site disturbance and vegetation removal;
   ii. Diversion of up-slope run-off around cleared and/or disturbed areas, areas to be cleared and/or disturbed or filled providing such diverted run-off does not cause erosion and is directed to a legal discharge point;
   iii. Installation of sediment retention traps (e.g. sediment fences, etc.) at the down slope perimeter of a disturbed area or stockpile to prevent unwanted sediment and other debris escaping from the land;
   iv. Rehabilitation of all disturbed areas as soon as possible.
2. Weed management
3. Storage facilities for fuels, oils, greases, chemicals and the like
4. Litter management

Erosion control measures are to be maintained at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development.

A 15m wide road reservation, with lot boundaries splayed where necessary is to be provided and shown as “Road” on the final survey plan lodged for sealing.
The road reservation is to be widened to a minimum of 25m in accordance with Tasmanian Standard Drawing TSD-R07-v1, Urban Roads Cul-De-Sac Turning Heads with lot boundaries splayed where required to accommodate a vehicular turning area and shown as “Road” on the final survey plan lodged for sealing.

The road is to be of compacted crushed rock pavement, designed in accordance with the Austroads Pavement Design Guidelines, with a pavement width of 6m measured lip of kerb to lip of kerb and a minimum total pavement thickness of 300mm plus a 40mm asphalt seal, concrete kerb and channel and footpaths all in accordance with the Tasmanian Standard Drawing TSD-R06-v1, Urban Roads Typical Sections and Pavement Widths, and is to be constructed to the reasonable requirements of the Director Infrastructure & Development Services.

A 40mm asphalt overlay is to be provided on Port Road for the full pavement width, 15m either side of the subdivision road.

Road intersections, both internally and within the Council road network are to be assessed in regard to the various requirements of the Austroads Guide to Traffic Management set. All upgrade and works required to achieve compliance with the Austroads Guide to Traffic Management set are to be addressed. The applicant is to supply and install traffic management devices that include, but are not limited to, signage and line marking in accordance with the suite of AS 1742 standards and which meet the requirements of Department of State Growth. Before a Construction Certificate may be issued, the applicant or his designer is to prepare a set of traffic management drawings that are to be submitted to and approved by Department of State Growth.

Concrete kerb and Channel type KC is to be constructed in accordance with Tasmanian Standard Drawing TSD-R14-v1, approved Concrete Kerbs and Channels Profile Dimensions on both sides of internal roads.

A court bowl of radius 9m and otherwise in accordance with Tasmanian Standard Drawing TSD-R07-v1, Urban Roads Cul-De-Sac Turning Heads is to be provided at the termination of the internal road to facilitate the turning movement of large service vehicles. Construction is to be of equivalent standard to the internal road.

Street lighting is to be provided in accordance with AS 1158 and the requirements of Aurora Energy Pty Ltd and the Director Infrastructure & Development Services. The street lighting is to be designed to minimise off site glare and reflected light. The use of non-standard lighting poles is not permitted in the development.

Power is to be provided to each lot in the development in accordance of the requirements of Aurora Energy and IPWEA standard drawings and specifications.
Before site disturbance or construction commences, a plan of management is to be prepared and submitted for approval by the Director Infrastructure & Development Services. The plan is to provide relevant project management information and outline proposed construction practices, including, but not limited to:

a. Contact details for principal, consultants and contractors including after-hours numbers;
b. Traffic management plan including road works signage;
c. Proposed hours of work (including volume and timing of heavy vehicles entering and leaving the site, and works undertaken on site);
d. Identification of potentially noisy construction phases, such as operation of rock-breakers, explosives or pile drivers, and proposed means to minimise impact on the amenity of neighbouring buildings;
e. Site facilities to be provided; and 
f. Procedures for washing down vehicles to prevent soil and debris being carried onto the street.

Notes:
The development is to comply with the Road Access and Stormwater Drainage Assessment dated 23 August 2017.

An “Activity in Road Reservation” permit must be obtained from Council for all activity within the Road Reservation.

**Environmental Health Officer**

Control measures are to be installed for the duration of the construction phase so as to limit the loss of soils and other debris from the site.

Note: This development/use is not to result in the generation of environmental harm or nuisance as defined in the *Environmental Management and Pollution Control Act 1994*.

**EXTERNAL REFERRALS**

The application was referred to TasWater on 25 October 2017. The response was received on 1 November 2017 and forms Part B of this permit.

**PLANNING ASSESSMENT**

The subject site is zoned Low Density Residential under the *Waratah-Wynyard Interim Planning Scheme 2013*. 
The application does not meet all of the acceptable solutions. The application is therefore submitted as a discretionary application under Section 57 of the Land Use Planning & Approvals Act 1993 (LUPAA) and assessed under the Waratah-Wynyard Interim Planning Scheme 2013 and relevant State Policies and Acts. Section 57(1) (b) of LUPAA allows Council to relax or waive the provisions of its Planning Scheme under a discretionary status.

An assessment of the proposal against the relevant provisions for the Low Density Residential Zone Code and relevant Codes is provided below.

Suitability of a site or lot for use or development (12.4.1 P1)

<table>
<thead>
<tr>
<th>A1</th>
<th>P1</th>
</tr>
</thead>
<tbody>
<tr>
<td>A site or each lot on a plan of subdivision must –</td>
<td>A site or each lot on a plan of subdivision must</td>
</tr>
<tr>
<td>(a) have an area of -</td>
<td>(a) be of sufficient area for the intended use or development without likely constraint or interference for –</td>
</tr>
<tr>
<td>(i) not less than 500m² excluding any access strip; or</td>
<td>(i) erection of a building if required by the intended use;</td>
</tr>
<tr>
<td>(ii) if in a locality shown in the Table to this clause, not less than the site area shown for that locality; and</td>
<td>(ii) access to the site;</td>
</tr>
<tr>
<td>(b) contain a building area of not less than 10.0m x 15.0m -</td>
<td>(iii) use or development of adjacent land;</td>
</tr>
<tr>
<td>(i) clear of any applicable setback from a frontage, side or rear boundary;</td>
<td>(iv) a utility; and</td>
</tr>
<tr>
<td>(ii) clear of any applicable setback from a zone boundary;</td>
<td>(v) any easement or lawful entitlement for access to other land; and</td>
</tr>
<tr>
<td>(iii) clear of any registered easement;</td>
<td>(b) if a new residential lot, be orientated to maximise opportunity for solar access to a building area</td>
</tr>
<tr>
<td>(iv) clear of any registered right of way benefitting other land;</td>
<td></td>
</tr>
<tr>
<td>(v) clear of any restriction imposed by a utility;</td>
<td></td>
</tr>
<tr>
<td>(vi) not including an access strip;</td>
<td></td>
</tr>
<tr>
<td>(vii) accessible from a frontage or access strip; and</td>
<td></td>
</tr>
<tr>
<td>(viii) if a new residential lot, with a long axis within the range 30° east of north and 20° west of north</td>
<td></td>
</tr>
</tbody>
</table>

Planning Comment:

Proposed lots 4 to 6 do not have sufficient building envelopes to comply with A2(b). Additionally, lots 1 to 6, 9, and 13 to 15 do not comply with A2(b)(viii). Therefore, the subdivision is to be assessed against the performance criteria.

It is considered that there is insufficient area within lots 4 and 5 of the subdivision. These lots are constrained, as they have minimal frontages (lot 4 is an internal lot), have steeply sloping land over the rear half of each lot, are designated as high and medium landslide areas, and more than half of each lot is constrained by the Bushfire Hazard Management Plan. The separation distance required by the BAL rating of these lots is 16m from the rear boundary. As such, it will be conditioned that lot 4 be removed from the subdivision plan, and absorbed within the remaining lots, particularly lot 5, to provide it with a larger building area.
With regards to the remaining lots, the design of future dwellings can be considerate of solar access. As the lots are of sufficient size, future dwellings can be orientated to meet the relevant solar requirements of the Building Act 2016 and the National Construction Code. The lot sizes will also allow for adequate separation from adjoining buildings.

The proposal is considered to comply with the performance criteria, subject to conditions.

**Location and Configuration of development (12.4.3 A3/P3)**

<table>
<thead>
<tr>
<th>A3</th>
<th>P3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage must -</td>
<td>Site coverage must –</td>
</tr>
<tr>
<td>(a) not be more than 50%; or</td>
<td>(a) provide a usable area for private open space, landscaping, and vehicle parking and service activity;</td>
</tr>
<tr>
<td>(b) if the site is in a locality shown in the Table to this Clause, not more than the site coverage for that locality; and</td>
<td>(b) retain capacity in any area required for disposal of sewage or stormwater; and</td>
</tr>
<tr>
<td>(c) not include any part of a site required for the disposal of sewage or stormwater; or</td>
<td>(c) be consistent with the streetscape</td>
</tr>
<tr>
<td>(d) be not more than any building area shown on a sealed plan</td>
<td></td>
</tr>
</tbody>
</table>

**Planning Comment:**

It should be noted that the table to this clause (below) sets maximum site coverage of 30% within the acceptable solution.

Density was considered and issue given the size of the lots, with five of the lots having site area of just over 500m$^2$, a maximum 30% site coverage provides a constrained building envelope of 150m$^2$. This site coverage is insufficient for development, and subsequently the subdivision will be too dense.

The proposal is for a subdivision, and does not propose any buildings over any of the lots. Future development of these lots would require demonstration of compliance with this clause.

Density is considered under clause 12.4.2 Dwelling Density. The minimum lot size for the Low Density Residential Zone is 500m$^2$. All of the proposed lots comply with the minimum lot size, with lot sizes ranging from 502m$^2$ to 950m$^2$, also complying with the acceptable solution.

The proposal complies with the acceptable solution. It is important to note that a planning permit application can only be refused on matters that require discretion under the relevant provisions of the planning scheme. In accordance with clause 8.8.1 of the planning scheme an application cannot be refused on grounds where the development complies with an acceptable solution.

**Table to Clause 12.4.3 A3**

<table>
<thead>
<tr>
<th>Locality</th>
<th>Site coverage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boat Harbour</td>
<td>30</td>
</tr>
<tr>
<td>Sisters Beach</td>
<td>40</td>
</tr>
</tbody>
</table>

**Subdivision (12.4.8 P2)**
A2
A lot, other than a lot to which A1(b) applies, must not be an internal lot

P2
(a) An internal lot on a plan of subdivision must be –
   (i) reasonably required for the efficient use of land as a result of a restriction on the layout of lots imposed by –
      a. slope, shape, orientation and topography of land;
      b. an established pattern of lots and development;
      c. connection to the road network;
      d. connection to available or planned utilities;
      e. a requirement to protect ecological, scientific, historic, cultural or aesthetic values, including vegetation or a water course; or
      f. exposure to an unacceptable level of risk from a natural hazard; and
   (ii) without likely impact on the amenity of adjacent land

Planning Comment:

Four internal lots are proposed. Therefore, assessment against the performance criteria is required.

A cul-de-sac is proposed to service one side of the subdivision. It is common practice to have internal lots at the end of a cul-de-sac to maximise lot yield.

In this instance, lot 4 is to be amalgamated into the surrounding lots, removing this internal lot. Lot 8 has access to the road network and all utilities. Setbacks and separation distances will be similar to the surrounding Low Density Residential zoned lots. The lot is designated with medium landslide, but development could be located outside of the landslide area. The Residential lot will not constrain the adjoining Residential uses.

On the western side of the subdivision, lots 15 and 18 are also internal lots. The internal lots are required due to the existing lot shapes, and are required for the efficient use of land. Each lot will have adequate access to the road network and utilities. Lot 18 will be impacted by the future stormwater improvements, but is of sufficient size for development to be located clear of this constraint. The Residential lots will not constrain the adjoining Residential uses.

The proposal is considered to comply with the performance criteria, subject to conditions.

Reticulation of an electricity supply to new lots on a plan of subdivision (12.4.9 P1)

<table>
<thead>
<tr>
<th>A1</th>
<th>P1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity reticulation and site connections must be installed underground</td>
<td>It must be impractical, unreasonable, or unnecessary to install electricity reticulation and site connections underground</td>
</tr>
</tbody>
</table>
**Planning Comment:**

The proposal is for lots 2-9 to be connected underground. However, discretion is sought for all other lots to be connected to existing overhead services. Therefore, the proposal is to be considered against the performance criteria.

The lots seeking discretion generally have frontage to the existing street network, and therefore are within close proximity to the existing overhead electricity reticulation lines. The applicant’s planning response states that it is unreasonable to request new electricity reticulation be installed underground, as overhead connections are consistent with the area, and already contribute visual obstructions within Boat Harbour Beach.

The planning Authority passed an amendment to the recommendation at the previous consideration of this application, requiring that all lots be connected underground to power services, as additional connections will add to the existing visual amenity caused by overhead powerlines. Therefore, it has been deemed necessary that electricity reticulation and site connections be provided underground. The planning permit has been conditioned accordingly.

**Part E Codes**

**Bushfire-Prone Areas Code**

E1 The proposal included a Bushfire Hazard Management Plan by Castellan Consulting and details the proposal as compliant with the Code. The proposal complies with the acceptable solution.

A member of the planning authority raised that the Bushfire Protection Report mentioned that a hardstand area for fire appliances was required to be constructed within the road reserve. This is mentioned under 3.5.4 of the Bushfire Protection Report.

While mentioned within the body of the report, this requirement was not mentioned within the recommendations, and more importantly to assessment against the planning scheme, was not mentioned within the Bushfire Hazard Management Plan. The Bushfire Hazard Management Plan is the required document under clauses E1.6.1 and E1.6.3.

The planning permit application has clearly stated the land to which the application complies. This does not include Council or crown owned land. It can be noted that any future development or works within the Crown reserve may require consent and permits or licences from Crown Land Services. An additional note on the permit is recommended to clarify this.

**Airport Impact Management Code**

E2 Not applicable to this application.

**Clearing and Conversion of Vegetation Code**

E3 Not applicable to this application. The development is exempt from the code as the clearing of vegetation is on previously cleared land.
Change in Ground Level Code
E4 The proposal complies with the exemptions from the Code.

Local Heritage Code
E5 Not applicable to this application.

Hazard Management Code
E6 The site includes designated medium and high risk landslide areas, and therefore the code is applicable.

Use likely to be exposed to a natural hazard (E6.5.2)

<table>
<thead>
<tr>
<th>A1</th>
<th>P1</th>
</tr>
</thead>
<tbody>
<tr>
<td>If a use is on land within an area of risk from exposure to a natural hazard as shown on a map forming part of this planning scheme -</td>
<td>If use is on land within an area of risk from exposure to a natural hazard as shown on a map forming part of this planning scheme -</td>
</tr>
<tr>
<td>(a) use must not be for a critical use, a hazardous use, or a vulnerable use;</td>
<td>(a) a hazard risk assessment must demonstrate a tolerable level of risk can be achieved and maintained for the nature and duration of the use; and</td>
</tr>
<tr>
<td>(b) use must not be residential use if the level of risk is medium or higher; and</td>
<td>(b) if a critical use, a hazardous use, or a vulnerable use, a cost-benefit analysis in economic, environmental, and social terms must establish there is a significant benefit to the community and there is no alternate site</td>
</tr>
<tr>
<td>(c) a hazard risk assessment must demonstrate a tolerable level of risk can be achieved and maintained for the nature and duration of the use</td>
<td></td>
</tr>
</tbody>
</table>

Planning Comment:

The residential subdivision is located on land designated as medium and high risk landslide. Therefore the proposal must be assessed against the performance criteria.

A Hazard Risk Assessment has been submitted with the application, demonstrating that a tolerable level of risk can be achieved, subject to conditions. These conditions include:

- Management of stormwater coming into and through the site, and also generated by future development;
- Provision of a rockfall fence along the rear boundary of lots that include the high risk landslide area;
- Future development of lots 8, 12, 13 and 14 will need to engage good hillside construction practices, with special consideration given to footings, and no excavation deeper than 500mm;
- Lots 1 to 14 will require extensive subsoil drainage; and
- The minimisation of any underground service trenches, with all trenches to be designed in conjunction with a practising engineer so that they do not introduce water into the ground, but assist with drainage of the ground.

The proposal is not for a critical, hazardous or vulnerable use.

The proposal complies with the performance criteria.

The proposal complies with the relevant acceptable solutions within the development standard E6.6.2.
Signs Code
E7 Not applicable to this application.

Telecommunications Code
E8 Not applicable to this application.

Traffic Generating Use and Parking Code
E9 The proposal complies with the relevant acceptable solutions within the code.

Water and Waterways Code
E10 Not applicable. The proposal is not within 30m of the shoreline, watercourse or waterbody. It is noted that existing stormwater drainage runs through the site, including a drain down the western boundary of Stage 1.

Questions have been raised as to whether or not this drain should be considered as a watercourse under the planning scheme, and therefore the Water and Waterways Code would be applicable. A watercourse is defined under the planning scheme as “a defined channel with a natural or modified bed and banks that carries surface water flows”. This definition suits part of the channel.

A drain is not defined under the planning scheme or the Urban Drainage Act 2013, but is defined as “that by which anything is drained, as a pipe or conduit” by the Macquarie Dictionary. The literal meaning is relied upon when not defined by legislation.

It is noted that in this instance, the drain is piped in five locations over a length of approximately 100m, and is considered to be more in keeping with the drain definition, than that of a watercourse. The watercourse definition does not mention piping.

Irrespective of the definition, a condition requiring the preparation of a Stormwater Management Plan will ensure that the channel considers the impact of the development, as well as upstream activities, and will implement any upgrades required to ensure the safety of existing and future residents from storm events. Erosion and sediment control measures are also to be implemented during construction. Such requirements are relevant to drains and watercourses.

STATUTORY IMPLICATIONS

Land Use Planning and Approvals Act 1993
The Council is established as a Planning Authority by definition under Section 3(1) of the Land Use Planning and Approvals Act 1993 (the Act), and must enforce the Waratah-Wynyard Interim Planning Scheme 2013 (the Scheme) under S.48 of the Act.
In accordance with section 57 of this Act and Council’s Planning Scheme, this proposal is an application for a discretionary permit. Council may approve or refuse discretionary permit applications after considering both Council’s Planning Scheme and any public representations received. It is noted that three representations were received during the exhibition period, with two of the representations determined to be valid.

*Local Government (Building & Miscellaneous Provisions) Act 1993*

The application has been considered against the requirements of section 85 of the *Local Government (Building & Miscellaneous Provisions) Act 1993*. The application is generally consistent with these provisions. However, as previously stated, lot 4 is determined to be unduly constrained due to landslide risk, steep slopes and bushfire requirements. Lot 4 is recommended to be removed from the plan of subdivision, with the land to be absorbed into the adjoining lots. This recommendation is consistent with s85(f) of the *Local Government (Building & Miscellaneous Provisions) Act 1993*.

**STRATEGIC IMPLICATIONS**

There are no significant strategic implications identified.

**POLICY IMPLICATIONS**

No policies of Council were identified as being relevant to this matter.

**FINANCIAL IMPLICATIONS**

There are no financial implications to Council other than those ordinarily associated with administering the Planning Scheme.

**RISK IMPLICATIONS**

*The Council*

Acting as a Planning Authority there is limited risk, provided that decisions made are in accordance with the Planning Scheme.

Should the Planning Authority wish to make a decision against the professional advice provided, the reasons will need to be detailed.

The *Land Use Planning and Approvals Act 1993* provides for penalties against a Planning Authority that fails to enforce its planning scheme (ss. 63a & 64). Going against advice provided in the planning report, without seeking alternate qualified
advice, may create unnecessary risk for the Council in exercising its statutory functions as a Planning Authority.

Should a decision by the Planning Authority be contrary to professional advice provided and the matter is taken to the appeal tribunal, Council would need to obtain separate professional advice to represent Council through the appeal process.

**COMMENT**

This report is presented for Council’s consideration, together with the recommendations contained at the beginning of this report.

The proposal meets the performance criteria by demonstrating the proposed lots can contain suitable building envelopes and be adequately serviced for residential use. The subdivision application has been submitted with a Hazard Risk Assessment that demonstrates that the development will have a tolerable level of risk from landslide.

The application is considered to comply with the Low Density Residential Code, the Hazard Management Code, and all other applicable codes of the *Waratah-Wynyard Interim Planning Scheme 2013*.

It is therefore recommended that Council approve a planning permit for the proposed development.

Reviewed by

Rebecca Plapp
Town Planner
Date 24 January 2018

Ashley Thornton
Acting Manager Development and Regulatory Services
Date 24 January 2018

PID 3010845
THERE BEING NO FURTHER BUSINESS THE CHAIRPERSON DECLARED THE MEETING CLOSED AT ............pm.

Confirmed,

MAYOR
19 FEBRUARY