

## C1/3-2022

### 13.4 DAS-2021-3 DEVELOPMENT APPLICATION FOR SUBDIVISION CREATING 2 NEW LOTS AND BALANCE AT 2125 BRUNY ISLAND MAIN ROAD, GREAT BAY, BRUNY ISLAND

Moved: Cr Clare Glade-Wright

Seconded: Cr Jo Westwood

That the Planning Authority resolves that the development application for subdivision creating 2 new lots and balance at 2015 Bruny Island Main Road, Great Bay for PDA Surveyors be approved subject to the following conditions:

1. Except as otherwise required by this Permit, use and development of the land must be substantially in accordance with Development Application No. DAS-2021-3 and Council Plan Reference No. P3 submitted on 11 November 2021.

This Permit relates to the use of land or buildings irrespective of the applicant or subsequent occupants, and whoever acts on it must comply with all conditions in this Permit. Any amendment, variation or extension of this Permit requires further planning consent of Council.

2. Prior to the permit coming into the effect, the owner must enter into a Part 5 Agreement with and to the satisfaction of Council to the effect that the measures contained within the certified subdivision Bushfire Hazard Report and associated Bushfire Hazard Management Plan (BHMP) v1.1 (Jim Mulcahy, 21 September 2021) must be implemented in relation to any future development on Lots 1 and 2, unless superseded by an alternative BHMP certified by an accredited person or the Tasmania Fire Service (TFS), and only if this alternative BHMP demonstrates that the hazard management areas:

- (a) are contained within the lot boundaries; and
- (b) do not rely upon management of vegetation communities meeting the descriptions in: Kitchener, A. and Harris, S. (revised January 2016), '*From Forest to Fjaeldmark: Descriptions of Tasmania's Vegetation*', Edition 2. Department of Primary Industries, Water and Environment, excluding those vegetation communities within the categories of modified land or other natural environments.

All costs associated with drafting and registering the Part 5 Agreement on the title must be borne by the developer. All terms of this Agreement must be complied with once executed.

This Part 5 Agreement must use Council's template Part 5 Agreement and be lodged at the Land Titles Office together with the Final Plan of Survey and registered on the title to Lots 1 and 2.

*Please note, planning permits containing a requirement for a Part 5 Agreement are not effective until such time as the Agreement is executed, as specified in s53(6) of the Land Use Planning and Approvals Act 1993. Therefore the above Agreement must be signed and sealed, prior to the Permit coming into effect and commencement of works. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.*

3. Prior to the permit coming into effect, the landowner must enter into a Part 5 Agreement under the *Land Use Planning and Approvals Act 1993* with and to the satisfaction of Kingborough Council to retain and protect the native vegetation communities and habitat values on the balance lot. This Part 5 Agreement must:
- (a) verify the extent of the conservation zone, which must encompass all native vegetation outside the bushfire hazard management area as shown in the certified Bushfire Hazard Management Plan (Jim Mulcahy, Enviro-dynamics, 21 September 2021) and outside the cleared land utilised for the existing hobby farm;
  - (b) provide for the protection for all native vegetation and habitat values within the conservation zone;
  - (c) identify management prescriptions including but not limited to fencing of the conservation zone where necessary, stock exclusion, firewood harvesting for domestic use, a weed management plan for the whole site and monitoring and reporting, to ensure that environmental values are managed for their long-term survival. These management prescriptions are to be drafted by a suitably qualified environmental consultant and include a schedule of works with timeframes, details and costings for each action;
  - (d) prevent further subdivision;
  - (e) be drafted using Council's template Part 5 Agreement for subdivision in the Environmental Living zone;
  - (f) be signed and sealed prior to commencement of works; and,
  - (g) be submitted to the Land Titles Office with the final plan of survey and registered on the title.

All costs associated with drafting and registering the Part 5 Agreement on the title are to be borne by the developer. All terms of this Agreement must be complied with and ongoing management of the site must be in accordance with this Agreement once executed.

*Please note, planning permits containing a requirement for a Part 5 Agreement are not effective until such time as the Agreement is executed, as specified in s53(6) of the Land Use Planning and Approvals Act 1993. Therefore the above Agreement must be executed prior to commencement of works and sealing of the final plan of survey. The template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.*

4. Vegetation removal is limited to that required to construct a compliant cross-over and access to Lots 1 and 2 subject to the following restrictions:
- (a) This vegetation must not be removed prior to issue of a 'Start of Works Notice'.
  - (b) No further felling, lopping, ringbarking or otherwise injuring or destroying of native vegetation or individual trees is to take place without the prior written permission of Council.

5. Prior to the commencement of access works, all adjacent native vegetation must be retained and appropriately protected during construction through the installation of temporary fencing between any on-site works and adjacent native vegetation in accordance with AS 4970-2009 to exclude:
- (a) machine excavation including trenching;
  - (b) excavation for silt fencing;
  - (c) cultivation;
  - (d) storage;
  - (e) preparation of chemicals, including preparation of cement products;
  - (f) parking of vehicles and plant;
  - (g) refuelling;
  - (h) dumping of waste;
  - (i) wash down and cleaning of equipment;
  - (j) placement of fill;
  - (k) lighting of fires;
  - (l) soil level changes;
  - (m) temporary or permanent installation of utilities and signs; and
  - (n) physical damage to the tree(s).

Evidence of satisfactory installation of this fencing must be obtained prior to the commencement of on-site works and made available to Council upon request.

6. A declared weed under the *Weed Management Act 1999* (Spanish heath) is present within the footprint of the access works.

Prior to commencement of access works, primary treatment of all weeds within the area to be traversed and disturbed during construction must be undertaken. This treatment must be undertaken in a targeted way to avoid residual impact on native species and current guidelines as to the appropriate methodology (see Department of Natural Resources and Environment website).

During construction, to ensure these weeds are not spread from the site:

- (a) declared weed plant material or soil containing their seed must not be removed from the site, unless undertaken in accordance with that weed's Statutory Weed Management Plan where such a plan exists;
- (b) weed plant material and topsoil containing their seed must not be stored or moved into areas containing weed-free native vegetation;
- (c) appropriate hygiene measures must be undertaken prior to any machinery entering and leaving the site as per the Tasmanian Washdown Guidelines for

Weed and Disease Control produced by the Department of Primary Industries, Parks, Water and Environment; and

- (d) any imported fill materials must be sourced from quarries able to provide documentation as to the weeds present on the source site in order to minimise introduction of new weeds and pathogens to the area.
7. Prior to the commencement of on-site works, including vegetation removal or modification, construction, excavations, placement of fill and/or delivery of building/construction materials, a “start works” notice must be lodged with Council.
- This notice must be lodged a minimum of 14 days prior to commencement of on-site works and works must not commence until this notice has been approved by the Manager Development Services.
8. Erosion/siltation infiltration control measures must be applied during construction works to the satisfaction of the Director Engineering Services.
9. Prior to sealing of the Final Plan of Survey, a bond must be paid to Council for the cost of five years of monitoring and implementation of the conservation Part 5 Agreement required under condition 3, excluding any initial actions already undertaken. Reporting to Council on compliance with and implementation of the Agreement must be undertaken by a suitably qualified consultant and not less than once annually for a minimum period of 5 years. The bond will be repaid to the payer in stages on an annual basis once each annual report is received and satisfactory implementation of works demonstrated, in accordance with the cost schedule identified in the Agreement.
10. Prior to sealing of the Final Plan of Survey, the vehicular access to all lots as indicated on the submitted plans must be constructed in accordance with the requirements of the Department of State Growth and be sealed to match the existing road surface from the edge of the carriageway to the lot boundary. A permit to carry out works within the Department of State Growth road reservation must be obtained prior to any works commencing and a copy provided to Council.
11. The Final Plan of Survey and Schedule of Easements must include a Covenant on the title of Lots 1 and 2 to the effect that:
- (a) future development, including buildings, bushfire and on-site wastewater, but excluding access, must not encroach into or impact on vegetation communities meeting the descriptions in: Kitchener, A. and Harris, S. (revised January 2016), *‘From Forest to Fjaeldmark: Descriptions of Tasmania’s Vegetation’*, Edition 2. Department of Primary Industries, Water and Environment, excluding those vegetation communities within the categories of modified land or other natural environments.
  - (b) buildings and structures must not pose an unacceptable risk of bird collision by incorporating design elements and strategies in accordance with the document “Minimising the swift parrot collision threat – Guidelines and recommendations for parrot-safe building design”.

Glazing on buildings and structures will be deemed to pose such a risk unless the glazed surfaces do not result in corner windows or sightlines through buildings from window to window and comply with any of the following:

- (i) the glazed surface does not have a total surface area of greater than 2m<sup>2</sup>; or
- (ii) the glazed surface is treated to include visual markers or muted reflections, the purpose of which must give them the appearance of an impenetrable surface. Such surfaces may include any one of the following types of treatments: the use of low-reflectivity glass (0-10%); films; coatings; fritted glass; or screens; or
- (iii) the glazed surface is installed at a minimum of 20 degrees from vertical, angled in at its base to reflect the ground; and
- (iv) there are no sight lines through the glazing surfaces, such as corner windows.

Fencing will be deemed to pose such a risk where it includes chain-link fencing.

12. As no provision has been made for recreation space or improvements thereto, and having formed the opinion that such a provision should be made, Council invokes the provisions of Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* and requires security equivalent of 5% of the unimproved value of Lots 1 and 2. This should be in the form of a direct payment made before the sealing of the Final Plan, or alternatively, in the form of security provided under Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

The subdivider is to obtain a valuation from a registered Valuer for the purposes of determining the unimproved value of Lots 1 and 2.

#### **ADVICE**

- A. A Final Plan of Survey must be submitted to Council for sealing, together with a Schedule of Easements, a copy of the survey notes, and a copy of the balance plan (where applicable). Payment of Council's fee for sealing the Final Plan of Survey and Schedule of Easements must be made upon submission of plans.
- B. In accordance with section 53(5) of the *Land Use Planning and Approvals Act 1993* this permit lapses after a period of two years from the date on which it is granted if the use or development in respect of which it is granted is not substantially commenced within that period.
- C. The Developer should not allocate any property address numbers for the proposed lots.

New property addresses have been allocated as follows:

<b>Lot No.</b>	<b>Allocated Property Address</b>
1	2151 Bruny Island Main Road
2	2149 Bruny Island Main Road

- D. Aboriginal Heritage Tasmania (AHT) have advised that there may be Aboriginal heritage sites at the site. All works personnel should be made aware that all Aboriginal heritage in Tasmania is protected under the *Aboriginal Heritage Act 1975* (the Act), regardless of whether it is in situ or previously disturbed and they should be suitably briefed about and understand the process outlined in the Unanticipated Discovery Plan. It is recommended that a copy of the Unanticipated Discovery Plan is kept on hand during any ground disturbing works relating to the subdivision. If at any time

during works Aboriginal heritage is suspected, the process outlined in the Unanticipated Discovery Plan should be immediately implemented. Under the Act there is a requirement to report Aboriginal heritage, and not to impact Aboriginal heritage without a permit granted by the Minister. Any further development of the lots will require a detailed Aboriginal Heritage Assessment to be conducted and relevant advice/endorsements sought from Aboriginal Heritage Tasmania.

In Favour: Crs Paula Wriedt, Jo Westwood, Gideon Cordover, Flora Fox, Clare Glade-Wright, Christian Street and Steve Wass

Against: Crs Sue Bastone, David Grace and Amanda Midgley

**CARRIED 7/3**