



COUNCIL MEETING MINUTES

20 March 2023

These Minutes are provided for the assistance and information of members of the public, and are a draft until confirmed as a true record at the next Ordinary Meeting of Council.

Kingborough Councillors 2022 - 2026



Mayor
Councillor Paula Wriedt



Deputy Mayor
Councillor Clare Glade-Wright



Councillor Aldo Antolli



Councillor David Bain



Councillor Gideon Cordover



Councillor Kaspar Deane



Councillor Flora Fox



Councillor Amanda Midgley



Councillor Mark Richardson



Councillor Christian Street

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Public Copy

MINUTES of an Ordinary Meeting of Council
Kingborough Civic Centre, 15 Channel Highway, Kingston
Monday, 20 March 2023 at 5.30pm

1 AUDIO RECORDING

The Chairperson declared the meeting open, welcomed all in attendance and advised that Council meetings are recorded and made publicly available on its website. In accordance with Council's policy the Chairperson received confirmation that the audio recording had commenced.

2 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The Chairperson acknowledged the traditional custodians of this land, paid respects to elders past and present, and acknowledged today's Tasmanian Aboriginal community.

3 ATTENDEES

Councillors:

Mayor Councillor P Wriedt	✓
Deputy Mayor Councillor C Glade-Wright	✓
Councillor A Antolli	✓
Councillor D Bain	✓
Councillor G Cordover	✓
Councillor K Deane	✓
Councillor F Fox	✓
Councillor A Midgley	✓
Councillor M Richardson	✓
Councillor C Street	✓

Staff:

General Manager	Mr Gary Arnold
Chief Financial Officer	Mr John Breen
Director Engineering Services	Mr David Reeve
Director Governance, Recreation & Property Services	Mr Daniel Smee
Director Environment, Development & Community Services	Dr Samantha Fox
Manager Environmental Services	Ms Liz Quinn
Manager Development Services	Ms Tasha Tyler-Moore
Coordinator Environmental Planning	Ms Nikki denExter
Media & Communications Advisor	Ms Sam Adams
Communications & Engagement Support Officer	Ms Bianca Kleine
Executive Assistant	Mrs Amanda Morton

4 APOLOGIES

There were no apologies.

C81/5-2023**5 CONFIRMATION OF MINUTES**

Moved: Cr Flora Fox
Seconded: Cr David Bain

That the Minutes of the open session of the Council Meeting No.4 held on 6 March 2023 be confirmed as a true record.

CARRIED**6 WORKSHOPS HELD SINCE LAST COUNCIL MEETING**

Date	Topic	Detail
14 March 2023	Roadside Bushfire Risk Assessment	Presentation on recently developed GIS modelling tool to inform prioritisation of Council's roadside bushfire management in Kingborough
	Emergency Management	Overview of Emergency Management arrangements in Kingborough, including establishing evacuation centres when required

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

8 TRANSFER OF AGENDA ITEMS

There were no agenda items transferred.

C82/5-2023**9 QUESTIONS WITHOUT NOTICE FROM THE PUBLIC**

Mr Charles Biggins asked the following questions without notice:

9.1 Biodiversity Overlay

*Is the Council in the business of assessing the biodiversity value of private property in house?
Does Council have the qualifications and professional indemnity insurance to be providing that kind of information or environmental service?*

Manager Development Services responds:

I would like to take it on notice.

9.2 Environmental Assessments

In the instance that a DA requires an environmental assessment, an independent assessment is commissioned by the landowner. Does Council seek a second opinion from another independent agency or do they challenge the findings of the commissioned report from their own in-house environmental assessment?

Manager Development Services responds:

Yes, applicants are required to provide a report with their value cited on site and the planning scheme has a requirement for it. The report needs to be written by a suitably qualified person. We do a review of that report and we have the professionalism within the team to be able to do the review. If we think it's something that's contentious or out of the reach of the knowledge of the officers, then we can seek to get an independent report done where we deem that it's appropriate.

Mr Biggins:

So the Council doesn't challenge it in-house or do they always use an external a third party or second opinion?

Manager Development Services responds:

You're using the word challenge. Yes, we may raise concern with content of a report or observations in a report or assumptions that are made. So yes, we do that directly. We do not always seek independent review of that report.

Mr Biggins:

I'm often told by clients that Council had ignored or overruled their Commission report. How is this conflict resolved?

Manager Development Services responds:

We would probably need to quantify what you mean by often, and some examples would be useful to be able to provide a response to the question. I wouldn't think that it's often. We need to consider the quality of the report and the content and whether it's meeting the needs of the planning scheme.

9.3 Landscape Conservation Zone Values

As discussed at the last Council meeting, there was some discussion as to what those values would be and examples were given that open paddocks may have been characteristic of the area, or bushland might have been characteristic of the area, and these were the landscape values that are attached to this zoning. I'd like a little bit more light shed on those values. The landscape in Kingborough predominantly is a mixture of grasslands and bushlands. This is an ever changing environment. Are we pinning the landscape values on what we what is presented today or for example 20 years ago, 50 years ago, 100 years ago, completely changing environment. If somebody's property is going to be zoned for landscape conservation, is that based on what we see today? In other words, if our new tree grows, then that's changing the environment.

Manager Development Services responds:

The comments that were provided at the last Council meeting with respect to character and neighbourhood character or area character was a general comment about how it would be ascertain for each site. The explanation was for the purpose of explaining to people that landscape conservation or landscape doesn't necessarily just mean a treed area because some people believe that we mean tree zone and we don't. Those values that we're lucky enough to have here in Kingborough, we have the combination of the types of vegetation or not native vegetation that you referred to, and it's often a combination. Many properties have some bushland

and that other areas that are clear that are more your paddock form or grasslands. We also acknowledge that there's modified bushland throughout the municipality, which is typical for any area where there is people moving into an area and it does change overtime. The question about what is the character that we're talking about? We're talking about 50 years, 100 years ago? No, because we certainly acknowledge that it changes over time. It would be unrealistic to go back all the way to the turn of time, otherwise, we're only going to have native grasslands and bush areas. It's more to do with what's present in the area at the time. But in saying that there are also opportunities within the planning scheme to look at a preferred character and many of the councillors would be aware and the public would be aware that for many of our areas, whether it be Kettering or Margate or Kingston, any of those, sometimes there's a preferred character and it's moving towards trying to improve areas. If you can appreciate in an urban environment as an example, we might say that in suburbs like this there's no trees, there's no street trees, it's the characteristic that nobody has trees or established gardens, but it might be a preferred character to move more towards a character like Kingston Beach if you like, which is fortunate enough to have very nice established gardens, which is a mix of native and non-native tree species. There is a great big variety in what character means, and it depends on each application. The explanation to people really was around that you can't read the words too literally and assume what it means in each of those. We have the experience and we have the training to be able to interpret that for the different areas. The question was, are we talking about the past or current or the future? I would say it's a combination between current and the future and vegetation values and landscape values aren't just limited to the aesthetics, although that is a huge asset that Kingborough has. We have beautiful areas, we have a great combination of areas, but obviously that vegetation offers habitat for fauna in the area well, including a number of endangered species. Certainly if we were to develop specific area plans for some of our areas, which is part of the new planning scheme, they do exist in the current scheme as well, but if are talking about moving to the new scheme, we can have specific area plans that may include things like what we prefer to see as character in areas, and that may be revegetation or it might be density or setbacks or density or setbacks that achieve some of those preferred outcomes for space.

Mr Biggins:

And again, if that body of knowledge or those criteria which you are working towards, I gathered from the last meeting that there was nothing actually written on that, that you're drawing on your extensive experience. The scenario that somebody might have a federation home on a, what is now predominantly a bush block, the case might be put forward that the landscape aesthetic that would be most conducive to this property, in a similar way that heritage zones work, that the clearing of land may be returning it to more of the aesthetic, the landscape conservation values associated with the other assets on the property. Is that a consideration?

Manager Development Services:

Certainly if there is a property that has heritage values, it should be heritage listed. And it's not uncommon for heritage listings to incorporate the whole site, not just the building. There are many examples where properties may have the gardens or the grounds listed, or the stables and the sheds listed on them as well, and that would be incorporated in consideration of future development of that site.

Mr Biggins:

If we have a 1970's house, do we look at 1970's landscape because Kingborough has literally changed 360 degrees since 1967. We had a vegetation cover here, predominantly grasslands, with 10 to 15% woodlands, now it's completely reversed.

Mayor:

Thank you. I think I've got the gist of your question about the 1970s structure. Miss Tyler-Moore?

Manager Development Services responds:

No, there is no requirement in the planning scheme that the presentation of property needs to match the era of the house. So if it's a 1970's house, we don't ask for 1970's garden or landscape. You would only look at those sort of parameters if it was a heritage property or significant heritage around that, whether it's in the precinct or a neighbouring property, possibly. But no, we don't couple era of house with what the landscape appeared at the time.

Mr Biggins:

I'm quite concerned that the application of landscape conservation values is something completely discretionary and that it's just completely made-up. There is such a wide range of landscape types that.

Mayor:

I hope you're going to frame this into a question very shortly, please, Mr Biggins.

Mr Biggins:

Yes. Can you please point to some sort of reference material that we're going to be using when considering these values?

Manager Development Services:

It's certainly not made-up, it's not just applied as we choose on the day, there is a methodology around that. There will be a supporting report that goes to the Planning Commission that explains and describes how that's been applied. We're required by legislation to have that supporting report and information about how it's applied and that will be available to the public during the public exhibition.

C83/5-2023**10 QUESTIONS ON NOTICE FROM THE PUBLIC**

10.1 Residential Development in a Landscape Conservation Zone

At the Council meeting on 6 March 2023, **Ms Mel O'Keefe** asked the following question without notice to the General Manager, with a response that the question would be taken on notice:

In the new Tasmanian Planning Scheme, for residential development, no permit is required in the residential zone, the inner residential, the low density residential, the rural living village and even the local business and general business don't require a permit if it's associated with a home based business. Is Council aware that of all the zones listed, LCZ is the only zone that does not have residential development as no permit required? In fact, it's not even permitted unless it's on a building envelope and it's discretionary and therefore at Council's sole discretion?

Officer's Response:

The framing of the questions is a little misleading if not read in the full context of the Scheme, so the response provided includes additional information that may assist people in qualifying the notion that permits are not required in the zones that are listed.

Use class tables for 'residential' use and associated 'qualifications'

The table below lists the zones mentioned in the question, limiting the detail to the 'Residential' Use Class only. The 'qualification' that is listed on the right means that to keep that status (No Permit Required or Permitted) the proposal must satisfy the qualification. The qualifications for the

use classes in each zone has been set by the State Government and is the same for every Council using the Tasmanian Planning Scheme.

The comment in the question about the listed zones, excluding the Landscape Conversation and the two business zones all sharing a 'No Permit Required' status is correct, which is an appropriate approach for residential development in urban areas that are serviced and in proximity to activity centres, where those said zones typically exist.

Notes: 1) The table is not exhaustive of all zones in the scheme, it has been limited to the context of the question. 2) The definition of what 'No Permit required', 'Permitted', 'Discretionary' and 'Prohibited' is included in Clauses 6.6, 6.7, 6.8 and 6.9 of the SPPs in the Tasmanian Planning Scheme. 3) 'No Permit Required' is not the same as 'Exempt'; there are exemptions listed in the Scheme and are included in Clause 4 and referenced in Clause 6.5 of the SPPs in the Tasmanian Planning Scheme. 4) refer to the third section of this response to understand the meaning of 'home-based business'.

Zone	Use Class	Qualification
General Residential & Inner Residential	No Permit Required	If for a single dwelling
	Permitted	If not listed as No Permit Required
Low Density Residential & Rural Living	No Permit Required	If for a single dwelling
	Permitted	If for a home-based business
Village	No Permit Required	If for a single dwelling or a home-based business
	Permitted	If not listed as No Permit Required
Local Business & General Business	No Permit Required	If for a home-based business
	Permitted	If: (a) located above ground floor level (excluding pedestrian or vehicular access) or to the rear of a premises; and (b) not listed as No Permit Required
Landscape Conservation	No Permit Required	<i>Not listed in the table, therefore there is no 'No Permit Required' status.</i>
	Permitted	If for a: (a) home-based business; or (b) single dwelling located within a building area, if shown on a sealed plan.
	Discretionary	If for a single dwelling

No Permit Required/Permitted/Discretionary statuses

In the Tasmanian Planning Scheme there are different requirements for residential use with a variety of qualifications. It is important to understand, that a proposal only maintains its 'No Permit Required' status (or 'Permitted' status) defined in the 'Use Table' if it meets all the Acceptable Solutions of the applicable tables including:

- Use standards;
- Development Standards for dwellings;
- Development Standards for non-dwellings;
- Development Standards for subdivision; and
- any applicable Code Overlay.

Two practical examples to explain how the point above works:

- a) If the proposal (new dwelling) did not meet the Acceptable Solution of Clause 8.4.3 (A1) in the development standards for dwelling, which requires a maximum site coverage of 50% in General Residential, then the proposal would move from 'No Permitted Required' to 'Discretionary', which means a Planning Permit would be required. That does not mean that it will not be allowed, it means that an assessment needs to be made against the correlating 'Performance Criteria' to determine if the proposal satisfies the requirement of that Clause.
- b) If the proposal (new dwelling) had a Code Overlay, such as the Flood-Prone Areas Hazard Code, which 'no Acceptable Solution' listed for Clause C12.6.1, then it would lose its status as 'No Permit Required' and become a 'Discretionary' application.

Note: to understand the section above more clearly, it is recommended that the reader refer to Clause 8.0 'General Residential Zone' for example a) and Clause C12.0 for example b) of the SPP's in the Tasmanian Planning Scheme at the same time. PDF copies of each clause, zone and overlay/code for the Tasmanian Planning Scheme are available on the Council website under 'Incoming Tasmanian Planning Scheme'.

What 'Unless for home-based business' really means

This qualification, which is referred to in the table above and other parts of the Tasmanian Planning Scheme, does not mean that building a dwelling is 'No Permit Required' or 'Permitted'. What it means is that you can have a 'home-based business' which is within the 'residential' use class, provided that there is a dwelling that already exists or the home based business is part of a proposed dwelling. *Note: 'home-based business' is defined in Clause 3.1 of the SPP's in the Tasmanian Planning Scheme.*

Summary

The answers provided only give commentary on the questions asked. They do not include what the differences or similarities are to existing zones, such as Environmental Living. It is possible for that to be provided, but it is not a simple task to explain all parts or working of a Planning Scheme without having to divert into other areas or explanations of how the scheme operates in a practical sense. This is why we have a strong commitment to having staff available to provide this information in person, as often it assists to explain the parts that the interested party wants to know.

Tasha Tyler-Moore, Manager Development Services

10.2 Landscape Conservation Zone

Ms Angela Hanly submitted the following question on notice:

Of the properties set to go to LCZ per the draft LPS:

1. *How many Environmental Living Zone properties are greater than 20ha and how many are greater than 40ha?*
2. *How many Rural Living properties are greater than 20ha and how many are greater than 40ha?*
3. *How many Rural Resource properties are greater than 20ha and how many are greater than 40ha?*
4. *How many Low Density Residential properties are greater than 20ha and how many are greater than 40ha?*

Officer's Response:

The numbers provided below are based on the Kingborough Draft LPS mapping that was submitted to the Tasmanian Planning Commission in 2019. It is expected that the numbers will change prior to the formal exhibition of the Kingborough Draft LPS later this year. It should also be noted that the numbers are approximate as it includes properties with split zonings (i.e properties with 2 or more different zones where the LCZ covers more than 90% of a lot).

Of the properties proposed to go to LCZ:

1. There are 207 lots in the Environmental Living Zone greater than 20ha in size of which 96 are greater than 40ha.
2. There are no properties in the Rural Living Zone greater than 20ha in size.
3. There are 9 lots in the Rural Resource Zone greater than 20ha in size of which 4 are greater than 40ha.
4. There are no properties in The Low Density Residential Zone greater than 20ha in size.

Adriaan Stander, Strategic Planner

10.3 Public Parking for the Kingborough Community Hub

Ms Nathalie Leonard submitted the following question on notice:

The Council has built a community hub that hosts some fantastic events and brings the community together. However, as these events are incredibly popular, the surrounding car parks on Goshawk Way and John Street fill up quickly. You might recall that on the Night of Lights community members were parking at Shiploads and walking over. What is the Council's plan for car parking during these community events at the hub, once John St and Goshawk Way carparks cease to exist?

Officer's Response:

It is intended to undertake an update of the Central Kingston Parking Strategy to identify options to replace the public carparking in John Street and Goshawk Way that will be lost as Kingston Park is further developed.

Daniel Smee, Director Governance, Recreation & Property Services

C84/5-2023

11 QUESTIONS WITHOUT NOTICE FROM COUNCILLORS

Cr Cordover asked the following question without notice:

11.1 Assisting Community Groups to Lobby the State Government

I attended the Kingborough Community Forum on the weekend and there was some very useful discussion around a number of things, but what I wanted to raise in this question around the Community Hub fees for community groups being lowered and also the idea of community groups receiving help with their public liability insurance. Specifically there were some areas of discussion where it was clearly the purview of the State Government, specifically when community groups want the speed limit around that area changed and it's a State Growth road. So, my question is, when community groups want something changed that falls within the purview of the State

Government, what can Council do to help those community groups effectively lobby the State Government? For example, could we help by coaching community groups on making effective submissions or are there other strategies that we have in place to make sure that the voice of community groups is actually being heard beyond the reaches of our municipality and into the State Government.

Mayor responds:

Yes, it was an interesting discussion at the Community Forum on Saturday and certainly I know there is a sense of frustration from a range of different community groups, particularly when it comes to their knowledge of local roads and wanting to change the speed limit. That's certainly been something that has caused concern when the State Government refuses those requests because ultimately, if they're on any roads, they have to have the final decision. You may be aware and we discussed it at the Forum on Saturday, that we've recently put together an information sheet that is available on our website which outlines the process for how you can lobby effectively to get a speed limit changed and certainly we would recommend that community organisations have a look at the. Ultimately, the final say does rest with the Transport Commissioner in the Department of State Growth, but I do think it's also useful for community groups to directly lobby their local members of parliament who are in government and who could advocate on their behalf. In that case, and whether they be ministers or backbenchers, they're the people who have got the direct line into government departments and we should be encouraging people and groups to do that. I know that Mr Reeve has been actively involved over many years with so many different requests for speed limit changes and we go through the community consultation, we provide the evidence from this with the speed data and the other information we have, and quite often we can check all the boxes, but there is a refusal by the government to consider. That is very frustrating for many groups and for us as well, but I would just encourage them to contact those people in State Government that they think could be of use. But also then check in with Councillors if we can provide any assistance as well.

Cr Midgley asked the following questions without notice:

11.2 Dru Point Cycling Signs

I was sent an e-mail regarding the dog exercise area. There are signs on some of the entry gates to say no cyclists, but unfortunately families with several bikes quite often go into the dog park to cycle on its track, and this can be distressing for some of the dogs. Can no cycling signs be put on all of the gates in the dog exercise area to ensure that everybody is safe?

Director Governance, Recreation & Property Services responds:

Yes.

11.3 Blackmans Bay Beach Water Quality

Can we have an update regarding the poor water quality results, and I've also been informed regarding a sewage spill close to the beach, if I could please have more information about this?

Manager Environmental Services responds:

Yes, unfortunately we have had some poor results again at Blackman's Bay, it's been really good across most of the summer but over the last few weeks, Blackman's Bay has failed a couple of the recreation water sampling events. In the middle of the beach it failed just before the recent long weekend and the retest failed as well and signs were then put up across the middle of the beach to advise people that the water quality wasn't good for swimming, and across social media and our website etc. After the long weekend, the signs were taken down and the retest was good again. Last week the southern end of the beach failed, which hadn't failed for a very, very long time. That had a failure of around 500, which means we needed to retest again. We retested it again and it came in just under needing to advise. It still had a moderate result but would be better if it was much lower than that. Ongoing all through summer, our storm Water Investigations Officer is in the catchment and he's probably in Blackman's Bay most days and knows that catchment very well. He is looking through our stormwater system to look for any leaks, he's talking to TasWater, so in all of those situations, he's on the phone to TasWater trying to find out what has happened. For the first one, at the middle of the beach, we couldn't find anything, so there were no TasWater alerts, no sewer spills that they were aware of, nothing in the system, nothing in the stormwater pipes. Sometimes it just fails and there is cross contamination. In the southern end, there has been some issues up on Wells Parade that TasWater have now dealt with. It's a known issue that occurs and if there are blockages they come and unblock it and flush water through the system. That may have accounted for the second failure. There was a sewer spill reported to council today on Roslyn Avenue, and quite a long way from the beach, but could have made its way to the. TasWater came to that within half an hour of it being called in and dealt with it. It was a spill, they think, of up to about 5000 litres that went into the system. Unfortunately, before TasWater got there it had gone the footpath and into a side entry pit on the road but TasWater flushed that out with thousands of litres of water. TasWater again said it was a blockage caused by the things that we know cause blockages in the sewer system, wipes and all of those type things and so they cleared it and didn't need to do any other maintenance. I think most of the failures that are occurring are related to sewer spills that TasWater does come to but there is also often low grade sewer spills happening, potentially down at the back of people's backyards that they don't even know about that eventually make their way into the groundwater and into our sewer system through cracks or whatever it might be.

11.4 Abatement Notices

What department issues abatement notices at Council and what support do people get to understand them and act?

Director Governance, Recreation & Property Services responds:

Depending on the nature of the issue, they're either issued by our compliance unit or they are issued through environmental health. Is the question what support are staff given in terms of issuing the notice or what support are the receivers of the notice given?

Cr Midgley:

The receivers.

Director Governance, Recreation & Property Services:

Generally the notices are reasonably straight forward in terms of the requirements to abate the hazard. The notices themselves do provide a level of instruction in relation to what is required, but our staff are certainly more than happy to provide further support and information if that's required in terms of interpreting the requirements of the notice.

11.5 Dru Point Playground

Could we have an update about the Dru Point playground? There was \$450,000 in the budget for 2022 and then some extra to replace the team Ranger, which was removed in 2020. There was excellent feedback about the flying fox and the climbing dome. People are wondering if there is going to be any further community consultation, noting that the master plan was done I think in 2017?

Director Governance, Recreation & Property Services responds:

As we progress with the implementation of that plan, there would be further consultation on the various elements that we are going to be progressing with. In terms of the work done to date and that's planned in the immediate future, that has been through a consultation phase, but yes, more generally, the implementation of the plan will be associated with more general communication and consultation.

Cr Antolli asked the following questions without notice:

11.6 Toilets at Kingston Park

The toilets at the Kingston Play Park near the exercise track, I believe it's the one that's halfway between the park and the actual exercise area, I've received a few messages on the weekend saying that it was locked and one gentleman had two young kids and had an accident and was a bit distressed that they couldn't get access to the park ...

Mayor interjects

Those toilets have not been fully completed yet. They are three quarters of the way through installation and certainly when we were down there week before last, they were still building them so they might look complete from the outside.

Cr Antolli:

So they is it possible that they look complete from the outside and the person didn't know that?

Director Governance, Recreation & Property Services:

They are open. We had them open in time for the Day in the Park. They shouldn't be locked so whether there is some commissioning issues in terms of the locking mechanism, I'd need to check.

11.7 Planning Scheme

There is a discussion behind the scenes about communicating to the residents of Kingborough about the move to the planning scheme. There's a lot of people concerned that we won't contact them in a proper manner so that they can all receive notice. Are we able to share any preliminary high level information to the public?

Mayor responds:

I've previously indicated that we will be endeavouring to send something out to all members of the community, alerting them to the fact that there will be some public consultation. The timing of it is the issue as we know, we are waiting on the TPC to get back to us as to let us know when that consultation can start. We can't go to more consultation before that because we want to make

sure that we're actually giving the correct information. We just have to keep a watching brief, but I've made a firm commitment that we would communicate. If it doesn't align with the dates of the insert into the rates brochure, which goes out in late June, early July, then obviously we need to work out in what other way we will do that. And it may be that we come back to Council for a decision on how that occurs?

Cr Antolli:

And the intention being, if we're not able to communicate directly for the rates notice, we'll find some other direct method of communication to those affected.

Mayor:

Correct.

Cr Richardson asked the following question without notice

11.8 Dru Point

I've been contacted about people having dogs off lead in a couple of areas, one on the foreshore and the other in the big grassy area. That is a no dog area. Is that correct or not off lead area?

Mayor responds:

I believe so. Yes.

Cr Richardson:

Is there signage up there saying as much?

Mayor:

Mr Smee, can you recall if there is signage there?

Director Governance, Recreation & Property Services responds:

Not off the top of my head.. It's a public place so the default position is that dogs must be on a lead unless it's a declared exercise area, which it's not. Any area that doesn't have a declaration and is a public place, the requirement is dog on a lead and we are not required to sign that, it's the default position under the Act.

Cr Richardson:

If members of the public had concerns about dogs off leave, what action should they take?

Mayor:

Certainly I'm aware that there is some discussion on social media at the moment around a particular individual who walks their dog on Blackmans Bay Beach, which is a dog prohibited area. I know that that's an issue of concern likewise there. A simple phone call in to our customer service team to alert them to where the activity is taking place and then the compliance team can look into the matter. I think if we are particularly getting it in certain areas repeatedly, then obviously we do need to consider whether there's some sort of indication there to remind people that this is not an area where you're allowed to walk your dog either on the lead or off the lead in some cases.

C85/5-2023

12 QUESTIONS ON NOTICE FROM COUNCILLORS

12.1 Proceeds of Crime

Cr Cordover submitted the following question on notice:

In the law of equity, there is a natural justice principle that prohibits making a profit from malfeasance, sometimes codified as the Clean Hands Maxim ("one who comes into equity must come with clean hands").

1. *When exercising its discretion in relation to a development application, can a Planning Authority consider this principle (i.e. whether granting or denying the permit would cause the applicant, or someone working in concert with the applicant, to receive a benefit from their malfeasance)?*
2. *Does the answer to Question 1 change if the matter is raised by a conforming representation made in respect of the application, in accordance with clause 8.10.1(b) of the Kingborough Interim Planning Scheme 2015?*
3. *When granting a discretionary permit, what limits exist on the Planning Authority's power to impose conditions relating to prior illegal use or development of the land?*
4. *Where it has been determined that a property has been illegally altered to facilitate development, can the Council, in enforcement proceedings or otherwise outside of a planning process, seek an injunction or some other order to prevent that owner from taking advantage of or profiting from the new state of the land?*
5. *Will the Council seek the advice of Senior Counsel to settle these questions to minimise the risk of properties in Kingborough being used to generate profits from illegal activity?*

Officer's Response:

Legal advice was sought to prepare the responses to the questions.

Question 1: The 'clean hands' doctrine is one which may be applied by a court when it is exercising its jurisdiction in equity (for example, when someone has applied for equitable relief). Equity is a particular body of law which has developed over a long period of time to address inequities which arise when the common law is applied strictly.

Council, as a statutory corporation (including in its role as 'planning authority'), is given powers by legislation, which includes the *Land Use Planning and Approvals Act 1993* (Tas) (**LUPAA**) and delegated legislation, such as planning schemes. Its powers are subject to that legislation. Within that legislation Council will be able to exercise a number of discretions, and the breadth of that discretion will depend on an interpretation of the statutory power.

Equitable doctrines – such as the 'clean hands' doctrine – do not apply to Council's discretions under the LUPAA or the Scheme. Equitable jurisdiction is exercised by Courts vested with that jurisdiction. Council, as a decision-maker, is not vested with that jurisdiction. Analogous principles do not apply to its decision-making powers under the LUPAA.

Question 2: In short, no, for the reasons stated above.

Section 57(5) of the LUPAA invites representations 'relating to the application'. Clause 8.10.1(b) of the Scheme, which requires a Council to take into consideration any representations received and in conformity with s 57(5), is also qualified by the words 'but in the case of the exercise of

*discretion, only insofar as each such matter is **relevant** to the particular discretion being exercised*.

Again, the 'clean hands' doctrine, being a doctrine applying in equity, is not relevant to the planning authority's '*particular discretion being exercised*'.

Question 3: Under s 51(3A) of the LUPAA, a permit to which s 57 applies (ie, a discretionary permit) may be subject to such conditions or restrictions as the planning authority may impose. Though that may appear to be an unfettered discretion, it is not: *Northern Midlands Council v Smith* [2021] TASSC 8 at [10]-[12].

The outer limits of a planning condition are set out in *Western Australian Planning Commission v Temwood Holdings Pty Ltd* (2004) 221 CLR 30. The conditions must be for a proper planning purpose; they must reasonably and fairly relate to the development and must not be so unreasonable that no planning authority would impose those conditions. Relatedly, a condition cannot be used as a vehicle for permitting an otherwise unlawful purpose: *Re a Referral by RPAT; ex parte Arkless* [2003] TASSC 93 at [22].

If there is a prior illegal use or development on land, the planning authority may take enforcement action, eg under Div 4A of the LUPAA or prosecute an offence for breach of s 63 of the LUPAA. It may, by a condition, require remedial works to bring a non-conforming development to a conforming development, so long as that condition meets the test in *Temwood*.

Question 4: An enforcement notice may, for example, require a person to stop carrying out a development or a use of the kind specified in the notice, or require that a person demolish or remove a building or structure (see eg, s 65D(2), LUPAA). Those powers are akin to 'prohibitive' and 'mandatory' injunctions.

However, those powers do not prevent an 'advantage' or a 'profit' coming to a person, though that might be the ultimate effect if a use or a development has to stop. Council has no power to, for example, obtain an account of profit or a net gain made as a result of an illegal development. It can only exercise its enforcement powers.

Question 5: This is not intended

Tasha Tyler-Moore, Manager Development Services

OPEN SESSION ADJOURNS

PLANNING AUTHORITY IN SESSION

Planning Authority commenced at 6.03pm

13 OFFICERS REPORTS TO PLANNING AUTHORITY

C86/5-2023

13.1 DAS-2022-7 - DEVELOPMENT APPLICATION FOR SUBDIVISION CREATING TEN LOTS AND ONE ROAD LOT AT 37 NEBRASKA ROAD, DENNES POINT

Moved: Cr Clare Glade-Wright

Seconded: Cr David Bain

That the Planning Authority resolves that the development application for subdivision creating ten lots and one road lot at 37 Nebraska Road, Dennes Point and Lot 100 Nebraska Road, Dennes Point for Brooks Lark and Carrick Surveyors be approved subject to the following conditions:

1. Before the approved development commences, amended plans to the satisfaction and approval of the Manager Development Services must be submitted to and approved.

When approved, the plans will be endorsed and will then form part of this permit.

The plans must be generally in accordance with the plans Council Plan Reference No. P5 submitted on 20/12/2022, Council Plan Reference No. P6 submitted on 10/01/2023, and Council Plan Reference No. P7 submitted on 25/01/2023 but modified to:

- a) show the final location of the electricity infrastructure and easement as required in Condition 2.
- b) be consistent with the building areas and associated bushfire hazard management areas identified in the revised Bushfire Hazard Report and Bushfire Hazard Management Plan endorsed under Condition 3.
- c) be consistent with any recommendations in the revised Landslide Hazard Assessment endorsed under Condition 4.
- d) show the Rehabilitation Areas consistent with the Rehabilitation Plan endorsed under Condition 5.
- e) The amended road and stormwater infrastructure as required in Condition 11.

Except as otherwise required by this Permit, use and development of the land must be substantially in accordance with the endorsed plans (and/or reports).

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. The notation on the plan of subdivision (Council Plan Reference P6, received on 10 January 2023) for the "Footway" on Lot 101 is to be removed from the Plan of Subdivision and Lot 101 and the Electricity Easement and associated infrastructure is to be moved to an alternative location, to the satisfaction of the Manager Development Services and TasNetworks, which avoids and minimises impacts on priority biodiversity values through locating the infrastructure outside the Biodiversity Protection Area and outside the tree protection zones of trees show in Council Plan Reference P6, received on 10 January 2023.

The amended plan of subdivision required under Condition 1 and the engineering drawings required under Condition 11 must be submitted for endorsement achieving this outcome.

3. Prior to the endorsement of the amended plans required under Condition 1, a revised Bushfire Hazard Report, Bushfire Hazard Management Plan (BHMP) and accompanying s51 certificate must be submitted for endorsement. This Bushfire Hazard Report and BHMP must be generally in accordance with the subdivision Bushfire Hazard Report and accompanying Bushfire Management Plan submitted with the application (ERA, 17 December 2021), but modified to demonstrate that future building areas and the associated bushfire hazard management areas:
 - (a) are the minimum necessary to achieve BAL-19 separation distances;
 - (b) do not rely upon ongoing management or modification of native vegetation within the Biodiversity Protection Area;
 - (c) provides for the retention, natural regeneration of and revegetation of native vegetation outside the Biodiversity Protection Area and outside the hazard management areas to the extent feasible; and
 - (d) are capable of meeting any the recommendations in the revised Landslide Hazard Assessment required under Condition 4.
4. Prior to the endorsement of the amended plans required under Condition 1, a revised Landslide Assessment Report by a suitably qualified person and to the satisfaction of the Manager Development Services must be submitted for endorsement. This Landslide Assessment must:
 - (a) address the existing landslide in Lot 7;
 - (b) consider the location and failure mechanism of this feature and any recommended mitigation measures in relation to requirements for on-site wastewater assessment and bushfire hazard management, including revegetation where required;
 - (c) provide advice on the appropriate siting and design of future buildings and wastewater systems; and
 - (d) follow the recommendations of the Australian Geomechanics Society Landslide Risk Management Guidelines 2007. and that the recommendations of the report be required to be complied with during and after construction.

When endorsed, this Plan will form part of the Permit.

5. To mitigate the impacts of the unauthorised vegetation removal (including four (4) native trees >25cm and approximately 2464m² of native vegetation) and offset the loss of three (3) very high conservation value trees (all *E. viminalis* >25cm), the following measures must be implemented:
 - (a) Prior to the endorsement of the amended plans required under Condition 1, a Rehabilitation Plan to the satisfaction of the Manager Development Services and which:
 - (i) identifies the vegetation retention and rehabilitation areas, which must include:
 - a. the Biodiversity Protection Area and areas previously or currently containing native vegetation and located outside the hazard management areas identified in the revised Bushfire Hazard Report and BHMP endorsed under Condition 3; and
 - b. any areas requiring revegetation to meet the recommendations in the revised Landslide Hazard Assessment required under Condition 4.

- (ii) provides for the retention and natural regeneration all native vegetation within the rehabilitation areas, including revegetation where required;
- (iii) provides for replacement plantings for the loss of four (4) native trees at a ratio of 3:1 within areas identified under (a) (i);
- (iv) details how these areas will be regenerated, including facilitation of natural regeneration, replanting with a mix of local provenance species where required, site preparation, weed management, protection of plantings and ongoing maintenance;
- (v) specifies the species, density and number of plantings, including but not limited to the replacement plantings;
- (vi) specifies appropriate timeframes for all recommended measures;
- (vii) excludes the following activities within the rehabilitation area:
 - a. vehicular access;
 - b. stockpiling or placement of fill;
 - c. excavation works;
 - d. storing of materials, contaminants or other material;
 - e. grazing by domestic animals; and
 - f. slashing;
- (viii) is prepared by a suitably qualified person; and

When endorsed, this Plan will form part of the Permit.

The Rehabilitation Plan must be implemented by the developer in accordance with specified timeframes to the satisfaction of the Manager Development Services.

Ongoing management of the site must be in accordance with this Plan unless otherwise approved in writing by Council.

In addition, an environmental works bond equivalent to the costs of implementing, monitoring and reporting actions required as part of the Rehabilitation Plan must be bonded to Council prior to issue of building approval and the commencement of onsite works.

Reporting on the progress with respect to the Rehabilitation Plan outcomes for the site must be to Council no less than once a year for a minimum of 5 years.

- (b) a financial contribution to offset the loss of three (3) very high conservation values trees, at a rate of \$500/ tree must be paid into Council's Environmental Fund, to be used to manage and conserve the habitat of the forty-spotted pardalote on Bruny Island. This offset, totalling \$1500, must be paid prior to approval of an 'Application for Approval of Planning Start of Works Notice'.
6. Unless otherwise approved in writing, the development must only proceed in accordance with the approved stages as set out below:
- Stage 1 – Lots 1 to 5, 9, Lot 100 (Road Lot), Lot 101 (footway and TasNetworks easement) and Lot 102 (Road lot).
 - Stage 2 – Lot 10

- Stage 3 – Lots 6, 7 and 8.
 - Stage 5 – Lots 5 and 6
7. Prior to the permit coming into the effect, the landowner must enter into a Part 5 Agreement with and to the satisfaction of Council to the effect that the measures contained within the revised certified subdivision Bushfire Hazard Report and associated Bushfire Hazard Management Plan required under Condition 3 must be implemented in relation to any future development on the lots, unless superseded by an alternative BHMP certified by an accredited person or TFS, and only if this alternative BHMP demonstrates that the hazard management areas:
- (a) are no greater than that shown in the subdivision BHMP;
 - (b) are consistent with the vegetation classifications in the subdivision BHMP;
 - (c) do not impact upon individual native trees with a diameter >25cm at 1.4m from natural ground level; and
 - (d) 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.

This Part 5 Agreement must use Council's template Part 5 Agreement and be executed by all parties prior to commencement of works. The Agreement must then be lodged at the Land Titles Office together with the Final Plan of Survey and registered on the title to the lots.

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.

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. Registration of the Agreement on the titles can be done at the time of the registration of the Final Plan of Survey. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

8. Prior to the permit coming into the effect, the landowner must enter into a Part 5 Agreement with and to the satisfaction of Council to the effect that the measures contained within the revised Landslide Hazard Assessment required under Condition 4 must be implemented in relation to any future development on the lots.

This Part 5 Agreement must use Council's template Part 5 Agreement and be executed by all parties prior to commencement of works. The Agreement must then be lodged at the Land Titles Office together with the Final Plan of Survey and registered on the title to the lots.

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.

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. Registration of the Agreement on the titles can be done at the time of the registration of the Final Plan of Survey. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

9. Prior to the permit coming into effect and the commencement of any on-site works, the owner must enter into a Part 5 Agreement under the *Land Use Planning and Approvals Act 1993* with and to the satisfaction of Kingborough Council. This Part 5 Agreement must:
- (a) specify that future development of the lots is limited to a single dwelling or other single habitable building only, including but not limited to the provision of services, on-site wastewater, utilities, bushfire hazard management;
 - (b) provide for the protection for natural values through the establishment of conservation zones;
 - (c) verify the extent of conservation zones, which must encompass all native vegetation within the Biodiversity Protection Area and areas previously or currently containing native vegetation but located outside the hazard management areas identified in the revised Bushfire Hazard Report and BHMP endorsed under Condition 3;
 - (d) identify management prescriptions to ensure that natural values in the conservation zone are managed for their long term survival, including but not limited to weed management in accordance with the Weed Management Plan required under Condition 17; rehabilitation in accordance with the Rehabilitation Plan required under Condition 5; prohibiting firewood collection; managing and limiting recreational uses; limiting vehicular access and track construction; fire management and monitoring and reporting,. These management prescriptions are to be drafted by a suitably qualified environmental consultant and include a schedule of works with timeframes and details for each action;
 - (e) require the following to be located entirely outside the conservation zones:
 - (i) all development, including buildings, structures, services, on-site wastewater, utilities, bushfire hazard management and any other works, but excluding boundary fencing;
 - (ii) cut, fill or other works;
 - (iii) slashing or removal of native vegetation; and
 - (iv) grazing by domestic and stock animals including but not limited to horses, cattle, sheep, pigs and alpacas.
 - (f) require boundary fences to be designed, located and constructed to:
 - (i) ensure individual trees with a dbh >25cm are able to be retained and any impacts are tolerable;
 - (ii) minimise encroachment into the tree protection zone through the design and location of fencing; and
 - (iii) ensure there is no cut, fill or placement of materials within the tree protection zones.
 - (g) require development, including buildings, structures, services and utilities, boundary fences and any other works outside the Conservation Zones, to be designed, located and constructed to:
 - (i) ensure individual trees with a dbh >25cm are able to be retained and any impacts are tolerable;
 - (ii) minimise encroachment into the tree protection zone through the design and location of development; and

- (iii) ensure there is no cut, fill or placement of materials within the tree protection zones.
- (h) specify that no felling, lopping, ringbarking or otherwise injuring or destroying of native trees with a diameter >25 cm at 1.4m from natural ground level can take place without the prior written consent of Council;
- (i) specify that Council will only approve impacts on native trees with a diameter >25 cm at 1.5m from natural ground level, including encroachment into the tree protection zone or lopping, where it can be demonstrated that the trees are located outside the Conservation Zones and, based on the advice of a suitably qualified arborist (Cert V Arboriculture and qualified in QTR Assessment), the impacts are tolerable, the trees are capable of retention within the context of the development and the development will not compromise the long-term viability or expected life of the trees;
- (j) specify that Council will only approve removal on native trees with a diameter >25 cm at 1.5m from natural ground level where:
 - (i) it can be demonstrated that, based on the advice of a suitably qualified arborist (Cert V Arboriculture and qualified in QTR Assessment), the trees are unable to be retained because the health and viability of the trees is such that they represent a danger or are unfeasible for retention in the landscape, irrespective of the development;
 - (ii) the written consent of the landowner has been obtained; and
 - (iii) loss of these trees is offset to the satisfaction of Council.
- (k) specify that 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 2m²; 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.

- (l) specify that the owner or occupier agrees not to introduce and keep domestic cats. This is due to the presence of conservation significant species, including the forty-spotted pardalote, eastern barred bandicoots and the eastern quoll.

This Part 5 Agreement must use Council's template Part 5 Agreement and be executed by all parties prior to commencement of works. The Agreement must then be lodged at the Land Titles Office together with the Final Plan of Survey and registered on the title to all lots.

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 once executed.

Please note: planning permits containing a requirement for a Part 5 Agreement are not valid until such time as the Agreement is executed, as specified in the Land Use Planning and Approvals Act 1993. Therefore the above Agreement must be signed and sealed prior to commencement of works. The template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

10. Prior to the permit coming into effect and commencement of on site works, 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 in relation to the upgrading and maintenance of the existing swale drain at the rear of the proposed Lot 9 and Lot 10. This Part 5 Agreement must be to the satisfaction of Council's Director Engineering Services and Manager Development Services and provide for the swale drain on proposed Lot 9 and Lot 10 to be maintained by the owner/s at their cost.

This Part 5 Agreement must use Council's template Part 5 Agreement and be executed by all parties prior to commencement of works. The Agreement must then be lodged at the Land Titles Office together with the Final Plan of Survey and registered on the title to Lots 9 and 10.

All costs associated with drafting and registering the Part 5 Agreement on the title are to be borne by the developer. All terms of these Agreements must be complied with 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 signed and sealed, prior to the Permit coming into effect and commencement of works. Registration of the Agreement on the titles can be done at the time of the registration of the Final Plan of Survey. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

11. Prior to commencement of on-site works, engineering design drawings must be submitted to Council for approval. The engineering plans and specifications must be prepared and certified by a professional Civil Engineer, in consultation with a suitably qualified arborist. Plans must be to satisfaction of the Director Engineering Services and comply with the following:

- Tasmanian Standard construction drawings
- Austroads standards and Australian Standards
- Australian Rainfall and runoff guidelines
- The revised subdivision Bushfire Hazard Report and Management Plan endorsed under Condition 3
- The revised Landslide Assessment Report endorsed under Condition 4.

The Plans must include, but are not limited to:

- (a) Design of the internal road including
 - i. Longitudinal sections and cross- sections

- ii. Road designed in accordance with TSD-R06-v3 (no footpath)
 - iii. Kerb and channel for the road in accordance with TSD-R14-v3
 - iv. Reticulated stormwater drainage system for the road
 - v. Sealed road with no more than 16% grade
 - vi. Pavement design
 - vii. Intersection design
 - viii. The cul-de-sac at the end of the road in accordance with TSD-R08-v3 (Urban Type, as per note 5 for bushfire management)
 - ix. Vehicular accesses for all lots in accordance with the Tasmanian Standard Drawings (TSD-R09-v3, TSD-RF01-v3 and TSD-E01-v1)
 - x. Vehicular access to property 'lot 1 Bruny Island Main Road' must be reinstated at the same location or as required by the property owner
- (b) Design with hydraulic calculation and modelling of the stormwater infrastructure including:
- i. Long section details for the proposed stormwater infrastructure
 - ii. Water sensitive urban design system to achieve the acceptable stormwater quality and quantity targets required in Table E7.1 of the Kingborough Interim Planning Scheme 2015 including supporting documentation with associated hydraulic calculations and MUSIC modelling with revised stormwater report (as required)
 - iii. The reticulated stormwater system must be sized to accommodate at least the estimated 5% AEP flow based on a future fully-developed catchment. Hydraulic calculations and modelling with revised stormwater report (as required) must be submitted
 - iv. Overland flowpaths should be sized to accommodate the estimated 1% AEP (Annual Exceedance Probability) flow based on a future fully-developed catchment. Hydraulic calculations and modelling with revised stormwater report (as required) must be submitted
 - v. Demonstration the reticulated stormwater system upgrades the existing stormwater discharge point, provide necessary scour protection and minimise impacts on native vegetation
- (c) Drainage easements provided within the subject property boundaries and the stormwater main must be located centrally within the easement
- (d) Each Lot must be provided with 150mm diameter stormwater lot connection to stormwater reticulation system to enable future developments to discharge stormwater by gravity
- (e) The stormwater reticulation must be extended through proposed lot 5 to connect to the existing culvert under Bruny Island Main Road
- (f) The upgrading of the existing open drain at the rear of the proposed Lot 9 to Lot 10 up to the common boundary of Lots 8/9 only, to direct overland flow to new road stormwater reticulation
- (g) Consistent plans with Lot 5 building envelope located outside of drainage easement

- (h) Demonstrate the Electricity Easement and associated infrastructure is to be moved to an alternative location, consistent with Condition 2
- (i) Include a Vegetation Protection Plan developed in consultation with a suitably qualified arborist which:
 - (i) identifies the location, diameter at chest height and species of all trees with a DBH >25cm and all native vegetation within 15m of the proposed subdivision works, including road construction, services and utilities;
 - (ii) identifies which vegetation requires removal for the subdivision works;
 - (iii) demonstrates all trees identified for retention in Council Plan Reference P6 and received on 10 January 2023 are feasible for retention;
 - (iv) demonstrates the road, services and utilities are designed, located and constructed to minimise impacts on native vegetation and ensure the retention of the trees to the extent feasible, including radiata pines located within the Nebraska Road reserve;
 - (v) identifies reasonable mitigation and/or protection measures to be implemented to minimise the impacts of the development on the health of trees to be retained and avoid their loss within the scope of the approved development; and
 - (vi) is in accordance with Australian Standard 4970-2009 for the protection of trees on development sites.

Once endorsed the plans will form part of the permit.

- 12. Prior to the commencement of site works a soil and water management plan must be submitted to Council for approval. The plan must be in accordance with NRM South Soil and Water Management of Construction Sites – Guidelines and Tasmanian Standard Drawings (TSD-SW28). A site inspection of the implemented plan by the Council's Development Inspector must be satisfactorily undertaken with the principal contractor prior to the commencement of any work on site.
- 13. The construction works must be undertaken in accordance with the approved drawings. Works must be to the satisfaction and approval of the Director Engineering Services and include the following:
 - (a) A 150mm diameter stormwater lot connection point must be provided to each lot
 - (b) The vehicular accesses for all lots must be constructed in accordance with the Tasmanian Standard Drawings (TSD-R09-v3, TSD-RF01-v3 and TSD-E01-v1) from the kerb crossing layback to the lot boundary
 - (c) The existing power pole must be relocated as required in accordance with the TasNetworks requirements
 - (d) Scour and erosion protection measures must be provided as required
 - (e) Upgrade of the existing stormwater swale at the rear of Lots 9 and 10 in accordance with the endorsed engineering drawings required under Condition 11 prior to the sealing of the final plan of survey for Stage 1.

The works must be supervised by a professional Civil Engineer in accordance with Council's inspections schedule. All enquiries and matters pertaining to the works during the construction and maintenance stages shall be directed to the applicant or applicant's representative in the first instance, until the works have successfully undergone the requisite 52 week maintenance period and have been taken over by Council.

14. A Council fee of 2% of the estimated value of the civil engineering construction works (including GST, provisional items and contingencies) for the development or the current minimum fee, whichever is the greater, must be paid at the time of submission of the engineering design plans for approval. The actual amounts payable shall be based on the rates adopted by Council and prevailing at the time of payment.
15. Only that vegetation identified for removal in the endorsed engineering drawings required under Condition 11 and the revised Bushfire Hazard Report and BHMP endorsed under Condition 3 is approved for removal as part of the subdivision.

This vegetation must not be removed prior to approval of an 'Application for Approval of Planning Start of Works Notice'.

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.

16. Prior to the commencement of on-site works (including any vegetation removal, demolition, excavations, placement of fill, delivery of construction materials and/or temporary buildings), all native vegetation identified for retention in endorsed plans required under Condition 1 must be retained and appropriately protected during subdivision works in accordance with the endorsed engineering drawings and accompanying arborist advice required under Condition 11. This includes but is not limited to the installation of signage and temporary fencing between any on-site works and retained 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 provided to the Manager Development Services prior to the commencement of on-site works.

17. Due to the presence of environmental weeds, prior to the commencement of on-site works, a Weed Management Plan developed by a suitably qualified person and to the satisfaction Council's Manager Development Services must be submitted. This Plan needs to include:
 - (a) timeframes and methods of primary and follow up treatment for all declared and environmental weeds on site, including but not limited to boneseed, radiata pine, thistles and winter euryops;

- (b) weed hygiene measures required to ensure the risk of the spread of weeds from the site during clearing and construction is minimised;
- (c) a fully costed implementation, monitoring and reporting plan for a minimum of five years (including actions and timeframes).

When endorsed, this plan forms part of the permit.

In addition, a weed management bond equivalent to the costs of implementing, monitoring and reporting on outstanding actions in the Weed Management Plan must be bonded to Council prior to the sealing of the Final Plan of Survey.

Reporting on the progress with respect to the Weed Management Plan outcomes for the site is to be to Council no less than once a year for a minimum of 5 years.

The bond will be repaid to the payer in stages on an annual basis upon completion of the plan to the satisfaction of Council's Manager Development Services and receipt of the annual report, in accordance with the cost schedule identified in the Plan.

18. Prior to the commencement of on-site works, including vegetation removal or modification, demolition, construction, excavations, placement of fill, delivery of building/construction materials and/or temporary buildings, an 'Application for Approval of Planning Start of Works Notice' must be lodged with Council's Planning Department.

This application 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.

19. An application for a Council permit to undertake works in Council's road reserve must be lodged by the applicant's supervising engineer, the associated fee paid and permit issued prior to works commencement within (Nebraska Road) road reservation.
21. Prior to the sealing of the Final Plan of Survey for Stage 1, the subdivision road must be constructed in accordance with the certified Bushfire Hazard Report and BHMP required under Condition 3.

Prior to the sealing of the Final Plan of Survey for each stage, any interim hazard management areas must be established in accordance with the certified Bushfire Hazard Report and BHMP required under Condition 3.

22. The titles are to be endorsed to state that onsite wastewater disposal must be via an Aerated Wastewater Treatment System (AWTS), or an alternative treatment system capable of treating effluent to secondary standard prior to discharge to the land application area.
23. At practical completion and the satisfactory completion of all mandatory audit inspections for each approved stage of the subdivision works the supervising engineer must:
 - (a) Request a joint on-site practical completion inspection with the Council's authorised representative;
 - (b) Provide written confirmation that the works have been substantially completed in accordance with the Council approved plans and specifications and that the appropriate levels of quality and workmanship have been achieved;
 - (c) Provide a copy of relevant documentation that all requirements have been carried out as applicable by the following:
 - (i) Telecommunication authorities

- (ii) TasNetworks
- (d) Provide supervising engineer's certification that site filling exceeding 300mm has been placed in accordance with AS3798 (guidelines on earthworks for commercial and residential developments). Fill areas must be shown on the 'As Constructed' drawings;
- (e) Provide a signed checklist for 'As Constructed' drawings;
- (f) Submit 'As Constructed' drawings in accordance with Council's Survey Brief, certified as correct by a registered land surveyor in accordance with Council's Survey requirements for subdivisions, developments and capital works projects;
- (g) Provide CCTV inspection and report (by Council approved contractor) of any new public stormwater infrastructure to be taken over by Council; and
- (h) Provide an arborist assessment that the vegetation protection measures as required in the Vegetation Protection Plan have been satisfactorily implemented.

Council will issue a Certificate of Practical Completion including a minor defects list, upon the successful completion of:

- (a) All mandatory audit inspections;
 - (b) Provision of acceptable documentation;
 - (c) Practical completion inspection;
 - (d) Provision of Bond and Bank guarantees.
24. Underground power and telecommunication services must be provided to all lots on the endorsed plan of subdivision in accordance with the requirements of TasNetworks and the telecommunications authority. Services conduits must be provided to the lots proper at the developer's cost and in accordance with the service authority's requirements. The underground cabling and street lighting design including annual operating costs must be submitted to Council for approval prior to engineering plan approval.
25. All works associated with each approved stage of the subdivision must be completed to the satisfaction of the Director Engineering Services prior to the sealing of the Final Plan of Survey by Council for the respective stage. Quality assured contractors may lodge a notice of intent to Council requesting assessment and approval that security be accepted to cover the completion of any outstanding works to enable the sealing of the Final Plan of Survey. The assessment must be in accordance with Council's policy at the time, is subject to an onsite inspection and report by Council's officers. The follow must be confirmed in writing:
- (a) That all stormwater and associated lot connections are constructed and capable of satisfactory operation; and
 - (b) That all requirements of the Electricity and Telecommunication agencies and other relevant service authorities have been satisfactorily completed.

Acceptable "As Constructed" drawings must be provided.

26. A dedication of public land for road widening of nine (9) metres from the centreline of the existing constructed Bruny Island Main Road as required by the Department of State Growth (DSG) and indicated on the approved plans, must be shown as "Road" on the Final Plan of Survey submitted for sealing.

ADVICE: The applicant shall arrange for the necessary transfer of the road reservation(s) to Department of State Growth (DSG) at the time of lodgement of the Plan of Survey for sealing.

27. The applicant must lodge a maintenance bond and bank guarantee of 10% of the total contract sum including GST to cover the satisfactory rectification of all defects and defective works during the statutory 52 weeks maintenance period prior to the issue of Certificate of Practical Completion for each approved stage of the subdivision.

The supervising engineer must request a Final Inspection of the subdivision works with Council's Development Engineer just prior to the end of the maintenance period. Any outstanding works must be completed and reinstated prior to Council take-over of their infrastructure.

28. The satisfactory completion of all public infrastructure for each stage of the subdivision works will be considered achieved when:

- (a) A Certificate of Practical Completion has been issued;
- (b) All defects and any defective works have been satisfactorily rectified at the completion of the 52 week maintenance period;
- (c) Council will be entitled to call upon the bond and bank guarantee funds to complete or rectify any outstanding defective works after the expiry of the maintenance period;
- (d) At the end of the statutory 52 week maintenance period, the supervising Engineer must request a joint onsite inspection with the Council's authorised representative to confirm that all outstanding defects and defective works have been satisfactorily completed;
- (e) Upon satisfactory completion of all outstanding defects and defective works Council will issue a notice of satisfactory 'Final Inspection' and the public assets will be taken over by Council;

After takeover of the works, it will be the responsibility of the supervising engineer or applicant to request Council to release all Bond and Bank Guarantee monies.

29. All stormwater pipelines must be provided with all necessary drainage easements and shown on the Final Plan of Survey lodged for sealing. These easement/s must be to the satisfaction Director Engineering Services

Specific easements as required by other authorities must also be provided and shown on the Final Plan of Survey lodged for sealing.

30. A road reservation must be provided with the lot boundaries to the satisfaction of the Director Engineering Services and shown as "Road" on the Final Plan of Survey. The applicant must arrange at their expense for the necessary transfer of the road reservation(s) to Council at the time of lodgement of the Final Plan of Survey for sealing.

ADVICE

- A. 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.
- B. 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.

- C. The Developer should not allocate any property address numbers for the proposed lots.

New property addresses have been allocated as follows:

Lot No.	Allocated Property Address
1	1 Un-named Road, Dennes Point
2	3 Un-named Road, Dennes Point
3	5 Un-named Road, Dennes Point
4	7 Un-named Road, Dennes Point
5	9 Un-named Road, Dennes Point
6	10 Un-named Road, Dennes Point
7	8 Un-named Road, Dennes Point
8	6 Un-named Road, Dennes Point
9	4 Un-named Road, Dennes Point
10	2 Un-named Road, Dennes Point

In Favour: Crs Paula Wriedt, Clare Glade-Wright, Aldo Antolli, David Bain, Kaspar Deane, Flora Fox, Mark Richardson and Christian Street

Against: Crs Gideon Cordover and Amanda Midgley

CARRIED 8/2

Cr Antolli left the room at 7.04pm

C87/5-2023

13.2 DA-2022-480 - DEVELOPMENT APPLICATION FOR MIXED USE COMMERCIAL BUILDING (OFFICES, RETAIL AND CAFE) AND ASSOCIATED ROAD WORKS (FOOTPATH AND STAIRS) AT 'KINGSTON PARK', 7 GOSHAWK WAY, KINGSTON AND GOSHAWK WAY ROAD RESERVE (CT 179541/101)

Moved: Cr Clare Glade-Wright

Seconded: Cr Gideon Cordover

Cr Antolli returned at 7.06pm

Cr Richardson left the room at 7.06pm

Cr Richardson returned at 7.08pm

That the Planning Authority resolves that the development application for mixed use commercial building (offices, retail and cafe) and associated road works (footpath and stairs) at 'Kingston Park', 7 Goshawk Way, Kingston and Goshawk Way road reserve (CT 179541/101) for Traders In Purple Pty Ltd 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. DA-2022-480 and Council Plan Reference No's. P2 submitted on 15 November 2022, P5 submitted on 15 January 2023, P6 submitted on 31 January 2023, and P7 submitted on 28 February 2023.

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. A total of 23 parking spaces are provided within the internal carpark at lower ground level of the proposed building, and a further 58 bays are provided within the external parking area designated as Phase 1. The commercial development is approved on the basis that there is sufficient parking within the existing 'temporary' car park approved under DA-2019-39 to provide the additional 45 car parking spaces required for the development. In the event that this temporary car park site is redeveloped, a replacement car park must be constructed providing for a minimum of 45 spaces for users of the commercial building prior to removal of the existing 'temporary' carpark. These additional 45 spaces will need to be incorporated in the final development to be located within Phase 2.
3. Prior to the use commencing, a Waste Management Plan for private collection must be prepared to the satisfaction of the Manager Development Services. Once satisfactory, the Waste Management Plan will be endorsed and must be implemented to the satisfaction of the Manager Development Services. The Waste Management Plan must provide the following details of a regular private waste (including recyclables) collection service for the subject land including:
 - (a) the type/s and number of waste bins;
 - (b) any screening of bins;
 - (c) type/size of trucks;
 - (d) frequency of waste collection;
 - (e) notation/statement that the bins are not to be placed kerbside for collection prior to the collection, but instead the collector has the responsibility for collection and return to internal areas of the site immediately after collection; and
 - (f) hours of collection (to comply with EPA Regulations).

The endorsed Waste Management Plan must not be amended without prior written consent of the Manager Development Services.

Prior to the Permit coming into effect, the developer must enter into a Part 5 Agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993* with and to the satisfaction of the Council to the effect that Council will not provide a garbage collection service.

This Part 5 Agreement must use Council's template Part 5 Agreement and be executed by all parties and registered on the title prior to commencement of works.

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.

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. Registration of the Agreement on the titles can be done at the time of the registration of the Final Plan of Survey. A template, and a checklist for the process of drafting and lodging such an Agreement, may be obtained from Council's planning team.

4. The individual native tree identified for retention in Council Plan Reference No. P5 submitted on 15 January 2023 and P6 submitted on 31 January 2023, must be appropriately protected prior to and during construction in accordance with the Tree Protection Plan (TPP) contained in Appendix C of the Arboriculture Impact Assessment (Tasmanian Arboriculture Consultants, 15 November 2022). This includes, but is not limited to implementation of the following measures:
- (a) Prior to the commencement of on-site works (including excavations, placement of fill, delivery of building/construction materials and/or temporary buildings), implementation of the TPP, including:
 - (i) establishing the tree protection zone (TPZ) through the installation of 1.8m high chain wire mesh panels in accordance with AS 4687;
 - (ii) ensuring the fencing follows the development footprint as close as possible to the south-eastern boundary of Lot 27 within the TPZ;
 - (iii) ensuring the fencing follows the perimeter of the expanded TPZ circle, with a radius of 15.3m from the centre of the tree, in all other directions; and
 - (iv) installing visible signage securely attached to the fencing and in accordance with AS 1319 identifying the tree protection zone.

Written verification from the Project Arborist confirming that the TPP has been satisfactorily implemented must be provided to Council prior to works commencing.

- (b) During construction the protective fencing must not be altered without permission from the Project Arborist and the following activities must be excluded from within the fenced area:
 - (i) machine excavation including trenching;
 - (ii) excavation for silt fencing;
 - (iii) cultivation;
 - (iv) storage;
 - (v) preparation of chemicals, including preparation of cement products;
 - (vi) parking of vehicles and plant;
 - (vii) refuelling;
 - (viii) dumping of waste;
 - (ix) wash down and cleaning of equipment;
 - (x) placement of fill;
 - (xi) lighting of fires;
 - (xii) soil level changes;
 - (xiii) temporary or permanent installation of utilities and signs; and
 - (xiv) physical damage to the tree.

The protection measures must remain in place until after the construction is complete.

5. Plant, equipment and minor structures affixed to the building are to be screened from view from Goshawk Way and the Huon Highway so as not to be obvious elements in the external

appearance of the building, to the satisfaction of the Manager Development Services. This restriction includes:

- (a) any mechanical plant and miscellaneous equipment such as heat pumps, air conditioning units, switchboards, hot water units or similar; and
 - (b) roof-top service infrastructure, including service plants and lift structures which are to be incorporated within the design of the roof as shown in the endorsed plans; and
 - (c) all pipes (except down-pipes), fixtures, fittings and vents servicing any building.
6. Prior to commencement of on-site works, engineering design drawings must be submitted to Council for approval. The engineering plans and specifications must be prepared and certified by a professional Civil Engineer. Plans must be to satisfaction of the Director Engineering Services and comply with:
- Tasmanian Standard Drawings
 - Austroads Standards and Australian Standards
 - Australian Rainfall and Runoff Guidelines

The Plans must include, but are not limited to:

- (a) Detailed internal vehicular and pedestrian access, carparking and manoeuvring areas including:
 - (i) Longitudinal and cross sections of the driveway/access road;
 - (ii) Contours, finish levels and gradients of the driveway/access road;
 - (iii) Provision of vehicle access (crossovers) with notation to be constructed in standard grey concrete with a broomed non-slip finish;
 - (iv) No parking/keep clear signage for turning bay areas;
 - (v) Wheel stops for parking bays (as appropriate);
 - (vi) Lighting for parking and vehicle circulation roadways and pedestrian paths; and
 - (vii) Surface treatment and stormwater drainage.
- (b) Design (including supporting documentation and hydraulic calculations) of the proposed stormwater infrastructure including:
 - (i) Layout details;
 - (ii) A water sensitive urban design system to achieve the acceptable stormwater quality and quantity targets required in Table E7.1 of the Kingborough Interim Planning Scheme 2015 including MUSIC modelling; and
 - (iii) A reticulated stormwater system sized to accommodate at least the estimated 5% AEP (Annual Exceedance Probability) flow.

Once endorsed the plans will form part of the permit.

7. Prior to the commencement of any on-site works, a Construction Management Plan must be submitted to and endorsed by the Manager Development Services. No works are permitted to occur until the Plan has been endorsed by the Manager Development Services. Once endorsed, the Plan will form part of the permit and must be implemented to the satisfaction of the Manager Development Services. The plan must provide details of the following:

- (a) Hours for construction activity in accordance with any other condition of this Permit;
- (b) Measures to control noise, dust, water and sediment laden runoff;
- (c) Measures for waste management and disposal;
- (d) Measures relating to removal of hazardous or dangerous material from the site, where applicable;
- (e) The specifications and location of tree protection measures in accordance with Condition 3;
- (f) The extent of cut and fill;
- (g) Storage locations for the stockpiling of fill on site;
- (h) Demonstration that the stockpiling of fill will not encroach into the Tree Protection Zones of trees identified for retention;
- (i) A plan showing the location of parking areas for construction and sub- contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises;
- (j) A Traffic Management Plan showing truck routes to and from the site;
- (k) Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- (l) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;
- (m) Measures to ensure that pedestrians are able to use with safety any footpath along the boundaries of the site;
- (n) Measures to ensure that sub-contractors / tradespersons operating on the site are aware of the contents of the Construction Management Plan;
- (o) Contact details of key construction site staff; and
- (p) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support site sheds on Council road reserves.

A site inspection of the implemented plan by the Council's Development Inspector and Council's Environmental Planner or delegates must be satisfactorily undertaken with the principal contractor prior to the commencement of on-site works and approval of an 'Application for Approval of Planning Start of Works Notice'.

8. Prior to the commencement of site works a Soil and Water Management Plan (SWMP) must be prepared by a suitably qualified engineer for the approved staged construction works to the satisfaction and approval of the Director Engineering Services and in accordance with the following:
 - (a) NRM South – Soil and Water Management of Construction Sites Guidelines.
 - (b) Prior to commencement of each stage of the works the approved SWMP must be implemented and satisfactorily inspected by the Development Inspector.
 - (c) Suitable approved topsoil must be stockpiled on the site for future reinstatement of disturbed areas for each construction stage.

- (d) All cleared vegetation must be removed from the site. Disposal by burying or burning is not permitted.
9. The construction works must be undertaken in accordance with the approved engineering design drawings to the satisfaction and approval of the Director Engineering Services.
- The works must be supervised by a professional Civil Engineer in accordance with Council's inspections schedule.
10. Documentation submitted for building approval must demonstrate that the development will be constructed to BAL-12.5, consistent with the requirements of the Part 5 Agreement (Dealing No. E268965).
- All BAL-12.5 construction requirements identified in the approved building plans must be satisfactorily implemented and maintained for the life of the development.
11. The design of bicycle parking spaces must be to the class specified in Table 1.1 of AS2890.3-1993 Parking facilities Part 3: Bicycle parking facilities in compliance with section 2 "Design of Parking Facilities" and Clauses 3.1 "Security" and 3.3 "Ease of Use" of the same Standard.
12. Prior to the commencement of on-site works, including construction, excavations, placement of fill, delivery of building/construction materials and/or temporary buildings, an 'Application for Approval of Planning Start of Works Notice' must be lodged with Council's Planning Department.
- This application 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.
- For Advice: This Planning Start of Works Notice is not the same as the Form 39 Building Start Works Notice. As such, lodgement of a Form 39 will not satisfy this condition and a separate 'Application for Approval of Planning Start of Works Notice' must be lodged with Council's Planning Department. A copy of the application form is available on Council's website.
13. A Permit to carry out works within a Council road reservation must be obtained prior to any works commencing within the Council road reservation.
14. To reduce the spread of weeds or pathogens, all machinery must take appropriate hygiene measures prior to 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.
- Any imported fill materials must be from a weed and pathogen free source to prevent introduction of new weeds and pathogens to the area.
15. Delivery vehicles must park within the site boundaries and must not under any circumstances block vehicular access along any road or adjoining property access.
16. During the period of construction, all waste material generated by the development or from other sources must be contained in appropriate building waste containers for periodic removal to a licensed disposal site. The receptacle must be of a size to adequately contain the amount of waste generated and must be appropriately located on the subject site and must not impede residential traffic or parking at any time.
17. Prior to the occupation of the new building, landscaping must be provided to the satisfaction of the Council's Manager Development Services.

The landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the Manager Development Services.

18. Prior to the use of the building the following works must be completed in accordance with the endorsed plans to the satisfaction of the Council:
 - (a) The parking areas, including signage and access;
 - (b) The garden and landscape areas; and
 - (c) Drainage works.
19. Hours of operation must be within the hours of:
 - (a) 6.00am to 11.59pm Mondays to Saturdays inclusive; and
 - (b) 8.00am to 10.00pm Sundays and Public Holidays.
20. The conditions as determined by TasWater, and set out in the attached Appendix A, form part of this permit.

ADVICE

- A. 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.
- B. The approval in this permit is under the *Land Use Planning and Approvals Act 1993* and does not provide any approvals under other Acts including, but not limited to *Building Act 2016*, *Urban Drainage Act 2013*, *Food Act 2003* or Council by-laws.

If your development involves demolition, new buildings or alterations to buildings (including plumbing works or onsite wastewater treatment) it is likely that you will be required to get approvals under the *Building Act 2016*. Change of use, including visitor accommodation, may also require approval under the *Building Act 2016*. Advice should be sought from Council's Building Department or an independent building surveyor to establish any requirements.

- C. A drainage design plan at a scale of 1:200, designed by a qualified Hydraulic Designer, showing the location of the proposed sewer and stormwater house connection drains; including the pipe sizes, pits and driveway drainage, must be submitted with the application for Plumbing Permit.
- D. The proposed food business onsite is to be registered as a food business in accordance with the *Food Act 2003*.
- E. In accordance with the *Building Act 2016*, a Form 42 request from a Building Surveyor for an environmental health officer assessment of the food business must be received.
- F. Only those signs shown on the endorsed plans are approved as part of this Permit. Any further signage is not permitted without the prior written consent of the Council. Application for a Planning Permit must be submitted to Council, together with relevant documentation.
- G. Prior to the commencement of any on-site works within Kingston Park, a permit under the Parks, Recreation and Natural Areas By-Law 3 of 2021 must be obtained from Council.

CARRIED



Submission to Planning Authority Notice

Council Planning Permit No.	DA-2022-480	Council notice date	22/11/2022
TasWater details			
TasWater Reference No.	TWDA 2022/01897-KIN	Date of response	20/01/2023
TasWater Contact	Elio Ross	Phone No.	0467 874 330
Response issued to			
Council name	KINGBOROUGH COUNCIL		
Contact details	kc@kingborough.tas.gov.au		
Development details			
Address	7 GOSHAWK WAY, KINGSTON	Property ID (PID)	9409135
Description of development	New commercial building		
Schedule of drawings/documents			
Prepared by	Drawing/document No.	Revision No.	Date of Issue
MRC Consulting Engineers	Project: J22146	--	--
	Sheets: C-1.01, C-1.10, C-1.11, C-5.10, C-6.10	B	13/01/2023
	C-1.12,	A	13/01/2023
MRC Consulting Engineers	RAI Response Letter	--	12/01/2023
MRC Consulting Engineers	Water & Sewerage Report	--	14/10/2022
Netteton Tribe	Project: 11572	--	--
	Sheets: SK1, SK3	E	21/12/2022
	SK2, SK4	D	21/12/2022
	SK5	C	26/10/2022
Conditions			
<p>Pursuant to the <i>Water and Sewerage Industry Act 2008 (TAS)</i> Section 56P(1) TasWater imposes the following conditions on the permit for this application:</p> <p>CONNECTIONS, METERING & BACKFLOW</p> <ol style="list-style-type: none"> 1. A suitably sized water supply with metered connections and sewerage system and connection to the development must be designed and constructed to TasWater's satisfaction and be in accordance with any other conditions in this permit. <i>Advice: TasWater notes that this development requires a private sewerage pump making this development a high-hazard site. Therefore increased backflow protection is required on the water connections. i.e The water connection will need to include an RPZD and any fire connections will require Double detector check valves.</i> 2. Any removal/supply and installation of water meters and/or the removal of redundant and/or installation of new and modified property service connections must be carried out by TasWater at the developer's cost. 3. Prior to commencing construction of the subdivision/use of the development, any water connection utilised for construction/the development must have a backflow prevention device and water meter installed, to the satisfaction of TasWater. 			



INFRASTRUCTURE WORKS

4. The developer must take all precautions to protect existing TasWater infrastructure. Any damage caused to existing TasWater infrastructure during the construction period must be promptly reported to TasWater and repaired by TasWater at the developer's cost.
5. Ground levels over the TasWater assets and/or easements must not be altered without the written approval of TasWater.
6. A construction management plan must be submitted with the application for Certificate(s) for Certifiable Work (Building and/or Plumbing). The construction management plan must detail how the existing TasWater infrastructure will be protected during the construction of the works. The construction plan must include a risk assessment and contingency plans covering major risks to TasWater during any works. The construction plan must be to the satisfaction of TasWater prior to TasWater's Certificate(s) for Certifiable Work (Building and/or Plumbing) being issued.

56W CONSENT

7. Prior to the issue of the Certificate for Certifiable Work (Building and/or Plumbing) by TasWater the applicant or landowner as the case may be must make application to TasWater pursuant to section 56W of the Water and Sewerage Industry Act 2008 for its consent in respect of that part of the development works which is built within a TasWater easement or over or within two metres of TasWater infrastructure.

DEVELOPMENT ASSESSMENT FEES

8. The applicant or landowner as the case may be, must pay a development assessment fee of \$723.84 to TasWater, as approved by the Economic Regulator and the fee will be indexed, until the date paid to TasWater.
The payment is required within 30 days of the issue of an invoice by TasWater.

Advice

Water Capacity

Modelling indicates there is capacity in the existing network to supply this proposed 18 ET commercial development. Total boundary heads (HGL), not pressures, at the end of the existing DN150 main A3375765 are:

	HGL (m)
Peak Hour	75.51
Peak Hour + 20 L/s commercial fire flow	37.54

It should be noted that these are the boundary heads in the water main itself at the proposed connection point and do not include losses through the actual connection or associated pipework



56W Consent

The plans submitted with the application for the Certificate for Certifiable Work (Building and/or Plumbing) will need to show elevations and sections at suitable intervals for the works over or within 2.0m from TasWater infrastructure and will need to be designed by a suitably qualified person to adequately protect the integrity of TasWater's infrastructure, and to TasWater's satisfaction to ensure that no damaging loads are transferred to TasWater's infrastructure. These plans will need to clearly show the existing infrastructure depths and proposed finished surface levels over the infrastructure and where relevant any up-grades to lids and surrounds of infrastructure to withstand vehicular loads.

Water Submetering

As of July 1 2022, TasWater's Sub-Metering Policy no longer permits TasWater sub-meters to be installed for new developments. Please ensure plans submitted with the application for Certificate(s) for Certifiable Work (Building and/or Plumbing) reflect this. For clarity, TasWater does not object to private sub-metering arrangements. Further information is available on our website (www.taswater.com.au) within our Sub-Metering Policy and Water Metering Guidelines.

General

For information on TasWater development standards, please visit <https://www.taswater.com.au/building-and-development/technical-standards>

For application forms please visit <https://www.taswater.com.au/building-and-development/development-application-form>

Service Locations

Please note that the developer is responsible for arranging to locate the existing TasWater infrastructure and clearly showing it on the drawings. Existing TasWater infrastructure may be located by a surveyor and/or a private contractor engaged at the developers cost to locate the infrastructure.

- (a) A permit is required to work within TasWater's easements or in the vicinity of its infrastructure. Further information can be obtained from TasWater.
- (b) TasWater has listed a number of service providers who can provide asset detection and location services should you require it. Visit www.taswater.com.au/Development/Service-location for a list of companies.
- (c) Sewer drainage plans or Inspection Openings (IO) for residential properties are available from your local council.

Declaration

The drawings/documents and conditions stated above constitute TasWater's Submission to Planning Authority Notice.

TasWater Contact Details			
Phone	13 6992	Email	development@taswater.com.au
Mail	GPO Box 1393 Hobart TAS 7001	Web	www.taswater.com.au

OPEN SESSION RESUMES

Meeting adjourned 7.16pm

Meeting resumed at 7.25pm

Open session resumed at 7.25pm

14 PETITIONS STILL BEING ACTIONED

There are no petitions still being actioned.

15 PETITIONS RECEIVED IN LAST PERIOD

No Petitions had been received.

16 OFFICERS REPORTS TO COUNCIL

C88/5-2023

16.1 FINANCIAL REPORT - FEBRUARY 2023

Moved: Cr Gideon Cordover

Seconded: Cr Flora Fox

That Council endorses the attached Financial Report as at 28 February 2023.

CARRIED

17 NOTICES OF MOTION

C89/5-2023

17.1 ROADKILL MITIGATION STRATEGY

Moved: Cr Gideon Cordover

Seconded: Cr Amanda Midgley

That Kingborough Council will prepare a Roadkill Mitigation Strategy.

In Favour: Crs Gideon Cordover and Amanda Midgley

Against: Crs Paula Wriedt, Clare Glade-Wright, Aldo Antolli, David Bain, Kaspar Deane, Flora Fox, Mark Richardson and Christian Street

LOST 2/8

C90/5-2023**18 CONFIRMATION OF ITEMS TO BE DEALT WITH IN CLOSED SESSION**

Moved: Cr Flora Fox
Seconded: Cr David Bain

That in accordance with the *Local Government (Meeting Procedures) Regulations 2015* Council, by absolute majority, move into closed session to consider the following items:

Confirmation of Minutes

Regulation 34(6) *In confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.*

Applications for Leave of Absence

Regulation 15(2)(h) *applications by councillors for a leave of absence*

CARRIED BY ABSOLUTE MAJORITY

In accordance with the Kingborough Council *Meetings Audio Recording Guidelines Policy*, recording of the open session of the meeting ceased.

Open Session of Council adjourned at 8.06pm

OPEN SESSION ADJOURNS

OPEN SESSION RESUMES

Open Session of Council resumed at 8.08pm

C91/5-2023

Moved: Cr Mark Richardson
Seconded: Cr Aldo Antolli

The Closed Session of Council having met and dealt with its business resolves to report that it has determined the following:

Item	Decision
Confirmation of Minutes	Confirmed
Applications for Leave of Absence	Approved

CARRIED

CLOSURE

There being no further business, the Chairperson declared the meeting closed at 8.09pm

.....
(Confirmed)

.....
(Date)