

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	Launceston Interim Planning Scheme 2015
Amendment	58 – Rezone 40520 Tasman Highway, St Leonards (FR 164745/1) from Rural Resource to Rural Living
Permit	DA0472/2019 for the land to be developed by subdivision of 30 lots and associated works
Planning authority	City of Launceston
Applicant	6ty° Pty Ltd
Date of decision	22 December 2020

Decision

The draft amendment is approved under section 42 of the *Land Use Planning and Approvals Act 1993*.

The permit is modified under section 43H(1)(b)(ii) of the *Land Use Planning and Approvals Act 1993*, as set out in Annexure B.

Marietta Wong
Delegate (Chair)

Peter Fischer
Delegate

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

Rezone land at 40520 Tasman Highway, St Leonards (the site) from Rural Resource to Rural Living.

Permit

A permit for the land to be subdivided into 30 lots and associated works.

Site information

The site comprises a single title, being folio of the Register 164745/1, with an area of 40.07ha. The site contains a single dwelling and multiple outbuildings which have direct access from Tasman Highway. The site is predominantly cleared, with remnant vegetation located along the north west boundary.

Land adjoining the site is zoned Rural Living, Rural Resource and Utilities.

Issues raised in representations

Seven representations were received, in which the following issues were raised:

- demand and supply for rural residential land;
- proposed density;
- potential agriculture and residential land use conflicts;
- increased volume of traffic, impact on road network and safety;
- reticulated water supply;
- water supply for fire fighting purposes;
- onsite waste water management;
- stormwater management;
- bushfire hazard management;
- landslide risk;
- visual impact;
- lack of public transport;
- fencing;
- lack of inclusion of the site in F5.0 Drivers Run Specific Area Plan;
- validity of the request; and
- nomenclature (place naming) status.

Planning authority's response to the representations

The planning authority considered the representations and recommended:

The representations have been considered and it has been determined that:

- there are no reasons for Council not to proceed with the draft amendment 58; and
- in response to the representations, that conditions of Permit DA0472/2019 (where relevant) are amended in accordance with the above discussion.

The report has provided an assessment of the representations and it is recommended that it be forwarded to the Tasmanian Planning Commission with a recommendation that it be approved with amendments to the conditions of Permit DA0472/2019.

Date and place of hearing

A hearing was held on the 5 August 2020 at the Tasmanian Planning Commission (the Commission)'s office on Level 3, 144 Macquarie Street, Hobart and by video conference.

Appearances at the hearings

Planning authority:	Mr Iain More, Town Planner Mr Richard Jamieson, Manager City Development Ms Heidi Goess, Plan Place
Applicant:	Mr Ashley Brook, 6ty° Pty Ltd Mr Joe Lutrell, JCBGP Pty Ltd Mr Kurt Ainsaar, Urban Enterprises (Land demand-supply expert) Mr Richard Burk, Traffic and Civil Services (Traffic expert) Ms Astrid Ketelaar, AK Consultants (Agricultural land expert) Mr Michael Tempest, AK Consultants (Agricultural land expert) Mr Tony Barriera, GeoTon (Landslide risk expert)
Representors:	Mr Chris Davis and Ms Emma McCrum Ms Rebecca Green, Rebecca Green and Associates on behalf of C & M Partridge
Other:	Mr Jason Taylor, TasWater

The hearing was reconvened on 20 November 2020. It was attended by Mr Iain More, Mr Richard Jamieson, and Ms Heidi Goess for the planning authority and Mr Ashley Brook for the applicant.

Consideration of the draft amendment

1. Under section 40 of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. A hearing was convened to assist the Commission consider the issues in the representations.

3. The amendment has been initiated and certified by the City of Launceston, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
5. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.
6. Section 300 includes that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.
7. Subsections 300(2)-(5) inclusive relate to the effect of amending a local provision with respect to common provisions. These matters are not relevant, as the draft amendment has no implications for any common provisions.
8. Under section 32(1)(f) regional impacts of use and development permissible under the amendment have been considered with reference to the Northern Tasmania Regional Land Use Strategy, 27 June 2018 (the regional strategy).

Consistency with the regional land use strategy

9. In a direction dated 22 July 2020, the Commission sought submissions from the planning authority and the applicant as to whether the rezoning is consistent with the regional strategy.
10. The planning authority submitted that the draft amendment is consistent with the regional strategy as it seeks to consolidate growth in an established rural residential area as directed by local strategies. This was stated to be consistent with the intent of D2.2.2 and the Key Planning Principles 2, 7, 8 and 11 of D.2.2.4 of the regional strategy.
11. The planning authority submitted that the Launceston Residential Strategy 2009-2029 (the residential strategy) is a housing strategy for the Launceston municipality and is focussed on providing a range of housing types and locations to offer choices which meet the different requirements of the population for the municipal area.
12. The applicant stated that the site is within a preferred location for rural residential use and development. It was identified for this purpose in the Eastern Approaches Long Term Conceptual Development Plan (5 October 2010) (the conceptual development plan) and more recently, it has been identified as having rural residential development opportunity in the St Leonards Village Discussion Paper (6 February 2018) (the discussion paper).
13. The applicant also submitted that section D.2.2.2 identifies that rural residential areas can divert pressure away from productive resource areas by providing opportunities for this type of housing.

14. It was not contested by the planning authority and the applicant that the regional strategy does not spatially identify rural living areas in Greater Launceston and reference must be made to policy actions that reference the role of local strategy to guide the location of rural living opportunities (RSN-A22 and RSN-A26).
15. Through written submissions and at the hearing, the Commission examined more closely whether the subject site had been identified in local strategy and whether the existing land supply within the region had been correctly identified.

Local strategy

16. At the hearing, Mr Richard Jamieson confirmed that the residential strategy is an endorsed local strategy and that the discussion paper and the conceptual development plan are complementary to the residential strategy and provide the local strategic context for the site.
17. At the reconvened hearing, Mr Jamieson explained that while the residential strategy spatially identified a limited number of areas for rural residential development when prepared in 2009, it intentionally did not identify all rural residential land to be developed over the life of strategy. Rather, it provides a set of criteria to identify suitable rural residential land throughout the 20 year period when required.
18. Mr Jamieson submitted that this approach is more responsive because it allows for the market to influence the timing and location of land release. He stated that this mechanism was the basis for rezoning of Drivers Run and the subsequent Boomer Road land adjoining the subject site.
19. Mr Jamieson also submitted that considerable additional planning associated with long term strategic provision for residential development over a 50 year period, in which St Leonards is a prominent element, has been undertaken. He cited this as evidence of the planning authority's commitment to the local strategic planning undertaken for the St Leonards area.
20. Ms Heidi Goess submitted that strategic planning for St Leonards foreshadows much of where the land supply for serviced residential land will be located. This confirms that if the subject site is zoned Rural Living, that it will not prejudice future development at urban densities.
21. Mr Jamieson submitted the draft amendment is consistent with the planning authority's local strategic plans for greater Launceston as the site forms part of the residential fringe for the St Leonards area and that the proposed subdivision would deliver housing choice, complementing the proposed expansion of St Leonards. He also submitted that rezoning of the subject site to Rural Living is consistent with the residential strategy, with reference to the attributes of Table 8 in the residential strategy (p. 54).

Land supply and demand

22. Initially information about the supply of rural living lots was limited to the available lots in the Launceston municipal area. The Commission directed the planning authority and applicant to provide further information about consistency with RSN-A26 in the regional strategy, with reference to the 'region' for the purpose of this policy action.
23. A further submission from the planning authority on dwelling commencements dated 5 August 2020, states on plan A0 that the region, for the purpose of the regional strategy, is within 10kms of the central business district. This includes Relbia, St Leonards (Launceston), Travellers Rest/Hadspen (Meander Valley), Norwich Drive (Northern Midlands), Ecclestone Road and Cormanston Road (West Tamar).
24. The submission is based on an analysis of four categories of land: vacant market ready lots, suitably zoned but not yet subdivided, suitably zoned but occupied and not yet subdivided and suitably zoned, occupied and requiring consolidation before subdivision.

25. Anecdotal evidence from Mr Ashley Brook and Mr Jamieson was that lots have been taken up quickly at Drivers Run. In a subsequent submission, Ms Goess provided a plan (A1 Single dwellings on land zoned Rural Living, St Leonards) showing there are three lots within the Drivers Run and three lots within the Boomer Road subdivisions yet to be developed.
26. At the hearing, differing submissions were also made about what constitutes a 'functional region' for the purpose of considering land supply under RSN-A26.
27. Mr Chris Davis submitted that Legana, in the West Tamar municipality, is in close range to the city and the availability of lots in this area may be relevant to supply and demand in the region.
28. Mr Kurt Ainsaar submitted that rural living areas further afield may be less influenced by Launceston and more influenced by other sub-regional centres. He submitted that land at Riverside may represent the edge of the 'region' on the west of the Tamar because beyond this, occupants of land further north in the West Tamar may have greater interaction with Legana than Launceston.

Commission's consideration

29. The Commission notes that the regional strategy includes at D.2.2.2:

'The region's rural landscape includes land suitable for opportunities for rural residential use and development on large allotments in preferred locations'. (p. 20)
30. The Commission agrees that the key principles of D.2.2.4, cited by the planning authority, identifying support for rural living opportunities, are relevant.
31. The Commission considers that RSN -A26 which states that 'Consolidation and growth of Rural Residential Areas is to be directed to areas identified in local strategy...' (p. 26) setting out 10 criteria as 'tests' is relevant.
32. The planning authority provided considerable further information at the reconvened hearing about the operation of the residential strategy and local strategic planning that is yet to be completed for residential expansion aligned with the eastern growth corridor shown in the regional strategy. The Commission accepts that the endorsed local strategy is the residential strategy, noting that the residential strategy does not spatially identify all the land to be released for residential development over the life of the strategy. It provides a set of criteria to determine whether candidate sites are appropriate for rezoning.
33. The Commission notes that the considerable local strategic planning associated with the eastern corridor of Greater Launceston, encompassing St Leonards (and Waverley) is not yet complete or endorsed by the planning authority and is therefore of less weight. The Commission also considers it is largely peripheral to the subject site and focusses on urban land release. However, it assists by confirming that the subject site is likely not required for urban expansion and that rural living lots will add to the diversity of housing choice.
34. The Commission accepts that the region, for the purpose of RSN-A26, does not necessarily refer to the entire northern region. However, for the purpose of considering regional land supply, given that Launceston is located at the convergence of several municipal areas, the supply of rural living lots should consider lots available beyond the Launceston municipal area.
35. While there were differing submissions about which areas surrounding Launceston should be taken into account when considering regional land supply, the Commission considers that with reference to 'existing supply in the region' (in RSN-A26), it may be reasonable to take into account the existing supply of suitably zoned land that is between 5 and 10kms of Launceston.

36. However, the effect of this recalibration appears to be of little overall effect on the projected land supply and demand provided with the application. The Commission therefore accepts that the proposed 30 lot subdivision will amount to approximately two years supply which can be accommodated in the projected demand for 155-170 rural residential dwellings by 2042 (Launceston Rural Residential Demand Assessment, Urban Enterprise, p.15)
37. The Commission considers that on balance, the draft amendment is, as far as is practicable, consistent with the regional strategy.

Agricultural land and potential land use conflicts

38. In the supporting information from the applicant, Ms Astrid Ketelaar and Mr Michael Tempest state that the subject site is:

... limited for existing and potential primary industry use by land capability, size and lack of existing or potential irrigation water resources. There is no Prime Agricultural Land associated with the subject land. Land with these sorts of characteristics is best farmed in conjunction with other land. However, in this instance there is limited opportunities due to the existing surrounding constraints for the title to be farmed in conjunction with other land. The loss of this land to the wider agricultural estate is considered to be minimal (p.i).

39. Mr Ed Brown and Ms Sarah Tighe submitted in their representation that while there are small parcels of agricultural land in the area, these parcels of land are still productive and raised concerns about potential land use conflict between agricultural and future sensitive uses, as follows:

We are a small-scale 6.269 ha cropping farm that produces rye grass and clover hay and although we are a small producer, we are among a handful of farmers in the Launceston region who still provide high-quality small bails for horses and other small-scale livestock holders (p.1).

40. Ms Ketelaar and Mr Tempest submitted that:

From an agricultural perspective, the proposed development does pose some risk of constraining this enterprise. Because of this, we are of the opinion that a 50m buffer as a minimum, is required between the boundary of CT 110442/1 and any future dwelling located on any of the proposed adjacent lots on CT 164745/1.

41. Additionally, in its submission, the Department of State Growth (State Growth) advised that a nearby parcel of land has an existing exploration licence, as follows:

The existing of an exploration licence, in itself, is understood not to be an impediment for rezoning. In this particular case, the discovery of a potential bauxite resource, during works undertaken under the exploration licence, indicates an increase potential for an extractive industry to be established at some stage in the future.

... the Department's intention was to highlight the existence of this active exploration project in an area zoned rural resource and potential implications for adjacent developments for sensitive uses.

42. Submissions from both the planning authority and applicant considered that there is appropriate separation distance between the potential extractive industry and the site, and therefore land use conflict between the sites would be minimised.

Commission's consideration

43. Strategic Direction G1.3 of the regional strategy focuses on protecting key industry needs, including agricultural use and mineral development. ED-A7 of the regional strategy states:

Protect the long-term operation of rural industries and support an expanded agricultural sector.
44. The Commission notes that the site has previously been used for livestock grazing, however, given its proximity to existing rural living development, the Commission agrees with Ms Ketelaar and Mr Tempest that the loss of agricultural land as result of the rezoning would be minimal in the context of the wider region.
45. The Commission accepts the submission of Ms Ketelaar and Mr Tempest that adjoining development has constrained agricultural use of the site. ED-A9 of the regional strategy states:

Limit the encroachment of 'Rural Residential' style development onto existing and potential agricultural lands.
46. The Commission agrees with Mr Brown and Ms Tighe that existing agricultural uses must be protected. The Commission is satisfied that the recommendations from Ms Ketelaar and Mr Tempest would protect existing agricultural uses in the area.
47. The Commission is satisfied with the justification from the planning authority and applicant regarding existing separation distances to potential extractive industry. Additionally, the Commission notes that State Growth has advised that the draft amendment is unlikely to cause an impediment to the existing exploration licence.

State Policies and Resource Management and Planning System Objectives

48. Both the applicant and planning authority consider that the draft amendment is consistent with the State Policies and that appropriate controls on future development associated with the draft amendment are applicable under the interim planning scheme.
49. To address State Policy of Agricultural Land 2009, the applicant provided an agricultural assessment to assess the suitability of the site for agricultural uses and the impacts of future uses on adjacent agricultural uses. The assessment concludes that given the land capability, size and lack of existing or potential irrigation water resources, the site contains many constraints for primary industry use.
50. The applicant considers that the draft amendment would not contravene the requirements of the State Policy on Water Quality Management 1997, as there are measures in the interim planning scheme to monitor stormwater and waste water management for associated future development.

Commission's consideration

51. The Commission finds that the draft amendment has been prepared in accordance with the State Policies and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

Decision on draft amendment

52. The draft amendment is approved under section 42 of the *Land Use Planning and Approvals Act 1993*.

Consideration of the permit

53. Under section 43H, the Commission is required to review the planning authority's decision as reported under section 43F. A number of representations raised matters that relevant to the permit including potential impacts on adjoining agricultural land, reticulated water supply and traffic impacts.

Agricultural buffer area

54. In their representation, Mr Brown and Ms Tighe raised concerns regarding the impact of the proposed subdivision and future sensitive uses on adjoining agricultural uses.
55. In response to the matters raised in the representation, Ms Ketelaar and Mr Tempest recommended a 50m buffer between the subdivision and adjoining agricultural uses to reduce any future land use conflicts.
56. The planning authority recommended that an agricultural buffer area be provided for as part of amended conditions 2 and 3 of the planning permit.

Commission's consideration

57. The Commission considers that introducing an agricultural buffer area to protect existing agricultural uses will support ongoing agricultural use of the adjoining Rural zoned land by mitigating the potential for land use conflict.
58. The Commission agrees with the permit changes proposed by the planning authority.

Reticulated water supply

59. Reticulated water supply is not proposed as part of the subdivision and individual lots will require on-site water storage tanks for potable water.
60. Clause 13.4.7 P1 of the planning scheme requires demonstration that 'reticulated services are not available or capable of being connected'.
61. In its assessment, the planning authority concluded that the cost of connecting water to the site would be prohibitive and therefore the site is not capable of being connected to a water supply.
62. Advice from TasWater was also that reticulated water supply would not be required for this site due to the high cost of infrastructure.
63. A number of representors raised concerns about the lack of reticulated water supply and that the proposed subdivision does not comply with clause 13.4.7 P1 as the cost of infrastructure should not be a factor when determining whether a site is capable of being connected.
64. At the hearing, Mr Jason Taylor submitted that to provide reticulated water to the site would require the existing infrastructure to be upgraded, including the pump station, reservoir, water mains, and feed lines to lots. He also submitted that given the topography of the site and surrounding land, there are no suitable sites for a reservoir that would achieve adequate pressure.

Commission's consideration

65. The Commission accepts Mr Taylor's evidence that the topography of the site itself, the lack of a suitable near-by site for a reservoir and pump station due to the surrounding topography, or practicalities of augmenting of the adjoining reticulated water supply, effectively render the site incapable of being serviced.

66. The Commission considers that provision of on-site water storage tanks, in this instance, is acceptable for the subdivision.

Traffic

67. The application was accompanied by a Traffic Impact Assessment by Mr Richard Burk to address the impact of the proposed subdivision road on the White Gum Rise and Tasman Highway junction. The Traffic Impact Assessment states that the existing junction has enough capacity to accommodate the additional traffic generated from the proposed subdivision.
68. In its section 35 report, the planning authority considered the proposed subdivision to comply with the relevant Acceptable Solutions and Performance Criteria of Code E4.0 Road and Railway Assets, as the junction would retain acceptable levels of sight distance and traffic movement.
69. A number of representors raised concerns in their representations regarding the safety of the White Gum Rise and Tasman Highway junction. The representors raised particular concerns regarding the increased number of traffic movements from the proposed subdivision and sight lines from White Gum Rise.
70. At the hearing, Mr Burk explained that the methodology used to prepare the Traffic Impact Assessment complied with 'A Framework for Undertaking Traffic Impact Assessments, 2007' (Tasmanian Department of Infrastructure, Energy and Resources). He submitted it had identified that no unreasonable impacts would arise to the safety of the road network from the proposed subdivision.
71. Mr Brook advised that the applicant liaised with State Growth prior to lodgement of the application and that State Growth's suggestions were incorporated into the subdivision plan. A referral received by State Growth dated 20 August 2020 confirmed that they had no objection to the proposed subdivision.
72. At the hearing, Mr Davis and Ms McCrum raised concerns regarding the seasonal difference in sight lines caused by the sun in the winter months and that this was not considered in the supporting report.
73. Mr Burk advised that for the context and situation the assessment is sufficient in meeting the requirements of a Traffic Impact Assessment. Mr Burk advised that in terms of seasonal changes, it is up to drivers to drive to the road conditions.

Commission's consideration

74. The Commission is satisfied with the methodology used for the Traffic Impact Assessment and accepts Mr Burk's evidence that the additional traffic movements resulting from the proposed subdivision are safe and do not unreasonably impact on the efficiency of the road as required under E4.5.1 and E4.6.2 of the Road and Railway Assets Code. The sight distance requirement under E4.5.4 or the Code is also considered to be satisfied.

Resource Management and Planning System Objectives

75. The Commission finds that the permit seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

Modification to permit conditions

76. The Commission makes the following modifications to the permit:
- (a) Remove reference to use as the permit is for subdivision.
 - (b) Modify the permit in accordance with the endorsed changes from the planning authority's meeting minutes dated 16 April 2020, including:
 - inclusion of amended cul-de-sac design requirements;
 - inclusion of a 'sensitive use no build area' for lots 18, 20, 21, 23, and 27-30;
 - include the requirement for future dwellings to have water storage tanks for fire-fighting purposes with a minimum capacity of 20,000L;
 - include ability to provide alternate waste-water disposal solutions;
 - inclusion of a refer to the Tasmanian Standard Guidelines and LGAT-IPWEA Standard Drawings for soil and water management control; and
 - amendments to the Bushfire Hazard Management Plan should the subdivision be staged.
 - (c) Condition 7 to the Submission to Planning Authority Notice by TasWater is deleted.
 - (d) The following conditions are renumbered.
 - (e) Minor formatting and department references are updated.

Decision on permit

77. Subject to the modifications described above, the Commission finds that the draft amendment is in order and gives its approval.

Attachments

Annexure A – Modified permit

Annexure A

Modified permit DA0472-2019

Property address:	40520 Tasman Highway, St Leonards
Development:	SF6966 - Rezone land from Rural Resource to Rural Living, Subdivision - subdivide land into 30 lots including new road, associated works, drainage and electricity infrastructure
Zone:	Rural Living
Decision:	

That the Council, at its meeting held on 23 January 2020 (Minute No: 9.9), made a decision to approve the development application, subject to the following conditions:

1. Endorsed plans & documents

The development must be carried out in accordance with the following endorsed plans and documents to the satisfaction of the Planning Authority except where modified by the Permit conditions below:

- (a) Planning Submission, Section 43A Application, Combined Draft Planning Scheme Amendment and 30-lot Rural Residential Subdivision, 40520 Tasman Highway, St Leonards, prepared by 6ty Pty Ltd, dated 22 November 2019;
- (b) Subdivision Concept, Subdivision Proposal Plan, Project No. 19.060 Drawing No. P01 Rev E prepared by 6ty Pty Ltd, dated 25 October 2019;
- (c) Subdivision Concept, Site Stormwater Existing Drainage Features Plan, Project No. 19.060 Drawing No. P13 prepared by 6ty Pty Ltd, dated 25 October 2019;
- (d) Subdivision Concept, Site Stormwater Drainage Path Alignment, Project No. 19.060 Drawing No. P14 prepared by 6ty Pty Ltd, dated 25 October 2019;
- (e) Subdivision Concept, Proposed Road Section and Details, Project No. 19.060 Drawing No. P08 prepared by 6ty Pty Ltd, dated 16 October 2019;
- (f) Subdivision Concept, Roadside Drainage Concept Plan, Driveway Cross Section;
- (g) Agricultural Report, prepared by AK Consultants Pty Ltd, dated 16 August 2019;
- (h) Traffic Impact Assessment, prepared by Traffic & Civil Services, dated August 2019;
- (i) Natural Values Assessment, prepared by North Barker Ecosystem Services, dated 10 September 2019;
- (j) Bushfire Report and Hazard Management Plan, prepared by North Barker Ecosystem Services, dated 23 October 2019;
- (k) Landslide Risk Assessment, Preliminary Wastewater Assessment and Preliminary Stormwater Assessment, dated 9 December 2019;
- (l) Draft – White Gum Rise Dam Break Assessment, prepared by Macquarie Franklin, dated 15 July 2019.

***2. Amended plans required**

Prior to works commencing, further amended and additional plans must be submitted to the satisfaction of the Manager City Development and annotated as "Section 71 Agreement Plans Required". Once approved, these plans will be endorsed by Council and will then form part of the Permit.

The revised plans must show:

Modifications to the Subdivision Proposal Plan, Project No. 19.060 Drawing No. P01 Rev E:

- (a) Showing an enlarged turning circle with a 12m radius at the end of each cul-de-sac road;
- (b) 'Natural Values No Build Area' be shown on the Subdivision Proposal Plan in accordance with the green hatched area - *Eucalyptus amygdalina* Inland Forest and Cainozoic Deposit shown on the On-Site Wastewater Plan, Drawing No P07, Rev C, prepared by 6ty Pty Ltd, dated 16 December 2019 for lots 13, 14, 15, 16.
- (c) 'Sensitive Use No Build Area' be shown on the Subdivision Plan for:
 - (i) Lots 18, 20, 21 and 23 for a depth of 50m measured from the common boundary shared with the property of 40580 Tasman Highway, St Leonards (FR 110442/1); and
 - (ii) Lots 27, 28, 29 and 30 for a depth of 50m from the boundaries shared with the Tasman Highway as shown on Figure 7 in the Agricultural Report by AK Consultants.
- (d) The 'no build' areas must be clearly delineated by a solid line and/or hatching with the purpose of the no build areas for natural values and sensitive uses clearly noted on the amended plan of subdivision.

Note that, if compliance with (a) results in building envelopes inconsistent with the endorsed Bushfire Report and Hazard Management Plan prepared by North Barker Ecosystem Services (dated 23 October 2019) the report will need to be amended to reflect those changes.

***3. Protection of natural values no build areas during construction**

Prior to the commencement of works, information must be provided to the satisfaction of Manager City Development which demonstrates that the no build areas for natural values shown on the endorsed plans will be protected during construction. This must include measures preventing vehicles from entering and building materials from being stored within those areas.

The 'Natural Values No Build Area' and 'Sensitive Use No Build Area' must be physically identified on each lot prior to any construction or infrastructure works commencing.

***4. Section 71 agreement**

Prior to the sealing of the Final Plan, the owner, under section 71 of the Land Use Planning and Approvals Act 1993, must prepare, present for consideration and then enter into an agreement with the Launceston City Council to confirm the following matters:

- (a) No Build Areas to Protect Natural Values
- (i) No buildings, structures or infrastructure, including internal driveways shall be constructed within the 'Natural Values No Build Area' as shown on the endorsed plans amended by Condition 2. The 'Natural Values No Build Area' must be satisfactorily protected during construction via barriers and similar devices.

The agreement must contain a plan prepared for each lot delineating the no build areas and clearly identifying the purpose of each area. The boundaries must be surveyed to allow them to be accurately translated from the plan to the site.

- (ii) Requiring the owners of those lots to take all necessary actions to not:
- allow invasive weed species to occur on the lots;
 - remove trees or native vegetation;
 - plant exotic plant species;
 - take or harm wildlife; and
 - keep livestock (including horses).

within the 'Natural Values No Build Areas' as shown on the endorsed plans amended by Condition 2 unless approved in writing by Council.

- (b) No Build Area to Protect adjoining Agricultural Uses
- (i) No sensitive uses and associated private open space must be constructed within the 'Sensitive Use No Build Area' as shown on the endorsed plans amended by condition 2.

The agreement must contain a plan prepared for each lot delineating the no build areas and clearly identifying the purpose of each area. The boundaries must be surveyed to allow them to be accurately translated from the plan to the site.

- (c) Onsite Wastewater Treatment
- (i) Lots 1, 2 and 4 to 30 inclusive must utilise approved aerated waste water treatment systems and sub-surface irrigation land application areas to manage the disposal of domestic effluent;
- (ii) Installation of an approved aerated wastewater treatment system and sub-surface irrigation land application area is required for any new development and/or alterations to the existing on-site waste water management system on Lot 3;
- (iii) The location of the land application area for disposal of domestic effluent on all lots (1 to 30 inclusive) must achieve the minimum setbacks specified in the Geoton Landslide Risk Assessment, Preliminary Wastewater Assessment and Preliminary Stormwater Assessment dated 9 December 2019.

- (iv) Alternate on-site wastewater systems, sub-surface irrigation land application areas may be provided with the prior written permission of the Council.
- (d) Fire-fighting water supply
 - (i) Installation of water tanks with a capacity of 20,000L must be provided for a new residential use on each lot or alterations to the established residential use on Lot 3.

Once executed, the agreement must be lodged and registered in accordance with Section 78 of the *Land Use Planning and Approvals Act 1993*.

All cost associated with preparing and registering the Agreement must be borne by the owner.

5. Legal title

All development and use associated with the proposal must be confined to the legal title of the subject land.

6. Hours of construction

Construction works must only be carried out between the hours of:

Monday to Friday - 7.00am to 6.00pm

Saturday - 8.00am to 5.00pm Saturday

No works on Sunday or Public Holidays

***7. Soil and Water Management Control Plan**

Prior to the commencement of works, a site management plan must be submitted detailing how soil and water must be managed on the site during the construction process. The management plan must include the following:

- (a) Allotment boundaries, contours, approximate grades of slope and directions of fall.
- (b) Location of adjoining roads, impervious surfaces, underground services and existing drainage.
- (c) Location and types of all existing natural vegetation, the proposed location of topsoil stockpiles and the limit of clearing, grading and filling.
- (d) Critical natural areas such as drainage lines, cliffs, wetlands and unstable ground.
- (e) The estimated dates for the start and finish of the works.
- (f) The erosion control practices to be used on the site such as cut off drains, fencing off areas to be undisturbed, revegetation program and so on.
- (g) The sediment control practices to be used on site such as silt fencing, stabilised site access, filter screens for inlets to the drainage system, sediment traps and so on.
- (h) Timing of the site rehabilitation or landscaping program.

- (i) Outline of the maintenance program for the erosion and sediment controls. Works must not commence prior to the approval of the Soil and Water Management Control Plan by the General Manager, Infrastructure and Assets Network. The Plan must be implemented and maintained during construction to ensure that soil erosion is to be appropriately managed.
- (j) All construction works must be undertaken in accordance with the Tasmanian Subdivision Guidelines and LGAT-IPWEA Standard Drawings. These documents specify:
 - (i) Construction requirements;
 - (ii) Appointment of suitable qualified supervising engineer to supervise and certify construction works, arrange council audit inspections and other responsibilities;
 - (iii) Construction audit inspections;
 - (iv) Practical completion and after a 12 months defects liability period the final inspection and hand-over;
 - (v) Be accompanied by:
 - a. An estimate of the construction cost of the future public works together with a schedule of the major components and their relevant costs; and
 - b. A fee of 1.5% of the public works estimate (or a minimum of \$250). Such fee covers assessment of the plans and specifications, audit inspections and practical completion and final inspections.

***8. Submission and approval of plans**

Prior to the commencement of the development of the site, detailed plans and specifications must be submitted to the General Manager, Infrastructure and Asset Network for approval. Such plans and specifications must:

- (a) include all infrastructure works required by the permit or shown in the endorsed plans and specifications including:
 - (i) Electricity infrastructure including street lighting.
 - (ii) Communications infrastructure and evidence of compliance with the 'fibre-ready' requirements of National Broadband Network.
- (b) be prepared strictly in accordance with the Tasmanian Subdivision Guidelines and the LGAT-IPWEA Tasmanian Standard Drawings applicable at the date of submission of the plans.
- (c) be prepared by a suitably qualified and experienced engineer or Engineering Consultancy.

***9. Construction of works**

Private and public infrastructure works must be constructed in accordance with plans and specification approved by the General Manager, Infrastructure and Assets Network.

The required infrastructure works must be as shown in the application documents and endorsed plans and modified by the approval of the detailed engineering drawings and specifications. Works must include:

- (a) Stormwater
 - (i) Provision of a public drainage system to drain all roadways, footpaths and nature strips within the road reserves and all land draining onto the road reserve;
 - (ii) Provision of an overland flow path for flows up to a 100 year ARI storm event.
- (b) Roads
 - (i) Provision of a fully constructed S4 sealed rural road 6m wide with 0.4m wide sealed shoulders for the entire length of all the property frontages except Lots 4, 5 and 11, including any changes required in White Gum Rise to facilitate the full range of turning manoeuvres at the proposed junction;
 - (ii) Provision of a fully constructed S3 sealed rural road 5.5m wide with 0.4m wide sealed shoulders from the existing termination of Magpie Crescent for the entire length of all the property frontages of Lots 4, 5 and 11;
 - (iii) Provision of a sealed turning head with a turning circle radius of 12m with a minimum sealed diameter of 18m at the end of each road;
 - (iv) Provision of a single sealed vehicular crossing for each lot within the subdivision;
 - (v) Provision of a 1.5m wide sealed walkway within the parcel denoted as footpath linking to the sealed shoulder of the turning head of the cul de sac at each end;
 - (vi) Bollards or other approved barriers to prevent unauthorised vehicle access are to be installed at either end of the footpath to prevent unauthorised vehicle access. Maximum distance between bollards is to be 1.5m. A minimum of one lockable bollard to be located at each end of the walkway;
 - (vii) All road verges are to be established to be readily maintainable and sown with an approved grass mixture;
 - (viii) Provision of a sealed temporary turning head of a suitable size for incomplete roads;
 - (ix) Installation of all necessary line marking, signage and other traffic control devices.
- (c) Electricity, Communications and Other Utilities
 - (i) A reticulated electricity system and public street lighting scheme must be provided to service all lots and installed to the approval of the Responsible Authority;
 - (ii) An underground telecommunications system must be provided to service all lots and installed to the approval of the Responsible Authority;

- (iii) Provision of a suitably sized conduit/corridor for the future provision of broadband internet infrastructure.

All construction works must be undertaken in accordance with the Tasmanian Subdivision Guidelines and LGAT-IPWEA Standard Drawings. These documents specify:

- (a) Construction requirements;
- (b) Appointment of a suitably qualified Supervising Engineer to supervise and certify construction works, arrange Council Audit inspections and other responsibilities;
- (c) Construction Audit inspections;
- (d) Practical Completion and after a 12 months defects liability period the Final Inspection and Hand-Over.

10. Access over adjacent land

Where it is necessary, for the construction of the public works, to gain access to land not in the ownership of the developer the supervising engineer must:

- (a) Advise the Council 21 days before access is required onsite so that notices pursuant to the *Urban Drainage Act 2013* can be issued to the landowner, then
- (b) Contact the adjacent land owners to advise them of the proposed works and assess any of their (reasonable) requirements which should be incorporated in the works and,
- (c) Ensure that client provides a signed statement advising the Council that they will pay all compensation cost for the easements and the Council's out-of-pocket costs (ie legal, valuation, etc if any). If the compensation claims appears unacceptable then the process under the *Land Acquisition Act 1993* will be followed.

***11. Works required for each lot in a stage**

Where it is proposed to release the subdivision in multiple stages, each lot in a stage must be provided with the following infrastructure and/or services in order to be included in the stage to be released:

- (a) Fully constructed public road along all frontages, including the secondary frontage where a corner lot;
- (b) A sealed vehicular crossing and driveway from the public road to the property boundary, unless a common internal driveway has been specified whereby the common driveway must also be constructed to the extent specified in the relevant construction condition;
- (c) The public drainage system to drain all roads and public lands included in the stage;
- (d) Access to electricity and underground communications infrastructure; and
- (e) An amended Bushfire Hazard Management Plan and associated report.

12. Construction documentation

At the time of practical completion for the public works, the developer must provide the Council with construction documentation sufficient to show that the works are completed in accordance with the Council's standards and are locatable for maintenance or connection purposes. The construction documentation is to consist of:

- (a) An "as constructed" plan in accordance with the Council's standard requirements for as constructed drawings. A separate copy of the requirements is available from Infrastructure and Assets Network.
- (b) A Closed Circuit Television inspection report for all sewers or drains constructed or incorporated in the works.
- (c) Compaction and soil test results for all earthworks or pavement works.
- (d) An engineer's certificate that each component of the works comply with the approved engineering plans and the Council's standards.

13. Easements

Easements are required over all the Council and third party services located in private property. The minimum width of any easement must be 3m for Council (public) mains. A greater width will be required in line with the City of Launceston document 'How close can I build to a Council Service?' where the internal diameter of the pipe is greater than 475 mm or where the depth of the pipe exceeds 2.1m. A lesser width may be approved for a private service prior to the lodgement of a final plan of survey.

14. Covenants on subdivisions

Covenants or similar restrictive controls must not be included on or otherwise imposed on the titles to the lots created by the subdivision permitted by this permit unless:

- (a) Such covenants or controls are expressly authorised by the terms of this permit; or
- (b) Such covenants or similar controls are expressly authorised by the consent in writing of the Council.
- (c) Such covenants or similar controls are submitted for and receive written approval by the Council prior to submission of a Plan of Survey and associated title documentation is submitted to the Council for sealing.

15. Sealing Plans of Subdivision

No Plan of Survey shall be sealed until the following matters have been completed to the satisfaction of the General Manager, Infrastructure and Assets Network:

- (a) The satisfactory completion of all public infrastructure works including the provision of engineering certification and as constructed documentation in accordance the Council requirements.
- (b) The subsequent issue of a Certificate of Practical Completion by the General Manager, Infrastructure and Assets Network.
- (c) The lodgement of a bond and bank guarantee/cash deposit for the duration of the Defect Liability Period.

Any other payment or action required by a planning permit condition to occur prior to the sealing of the Final Plan of Survey.

16. Conveyance of roads

All roads in the Subdivision must be conveyed to the Council upon the issue by the General Manager Infrastructure and Asset Network, of the Certificate under Section 10 (7) of the *Local Government (Highways) Act 1962*. All costs involved in this procedure must be met by the Subdivider.

17. Completion of works

All works must be carried out to Council standards and to the satisfaction of the General Manager, Infrastructure and Assets Network and under the direct supervision of a civil engineer engaged by the owner and approved by the Council. Certification that all works have been carried out in accordance with the approved engineering design plans and to Council standards will be required prior to issue of the Certificate of Practical Completion.

18. As constructed plans

An "as constructed" plan must be provided in accordance with the Council's standard requirements for as constructed drawings. A separate copy of the requirements is available from the Infrastructure and Assets Network.

19. Amenity

The construction of the development permitted by this permit must not adversely affect the amenity of the site and the locality by reason of the processes carried on; the transportation of materials, goods or commodities to or from the subject land; the appearance of any works or materials; the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; the presence of vermin, or otherwise.

20. Burning of waste

No burning of any waste materials generated by the construction process, to be undertaken on-site. Any such waste materials to be removed to a licensed refuse disposal facility (eg. Launceston Waste Centre).

***permit conditions modified by the decision of the Tasmanian Planning Commission dated 22 December 2020.**