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22nd October 2022

The Commissioner
Tasmanian Planning Commission
GPO Box 1691
Hobart TAS 7001
Via email: tpc@planning.tas.gov.au

re: Break o' Day Draft Local Provisions Schedule (LPS) - zoning of 36 Parnella Dve, title 30650/3, PID 7391024 (Open Space)

Dear Commissioner,

Following up on our representation (no. 18, item 4), we are writing to respond to the additional information provided by Robert M. Hamilton on behalf of Parnella Holdings Pty Ltd regarding the proposed zoning of 36 Parnella Drive, Stieglitz.

We reiterate that the subject land should be zoned Open Space, as proposed by Council, and as has been the case under the current Interim Planning Scheme.

In responding to the points raised for Parnella Holdings, including those provided by Van Diemen Consulting, I (Anna Povey) would like to point out my own qualifications.

I am an experience and qualified ecologist, currently working for a conservation organisation, and have been a natural values consultant myself in the past for many years. I completed a Bachelor of Science, with Honours in Zoology, in 1989, and a Masters in Environmental Studies in 1993. Since then, I have had 29 years' practical experience in flora and fauna surveys, ecological impact assessment, mapping, reporting, native vegetation management and community environmental education. My Curriculum Vitae is attached.

In this matter of zoning at 36 Parnella Drive, I am representing myself and my husband, Michael, as private citizens who care about the natural environment of the area and I have a particular and relevant ecological knowledge. Our interest is not only as immediate neighbours who own a conservation covenant, but also as people who are striving to protect important remnants of native vegetation in the municipality.

Suitability of Open Space Zone

Our original representation is reproduced here and is still relevant:

"We support the Open Space zoning for 36 Parnella Drive, Stieglitz (PID 7391024), as it is supposed to be a council-owned area and it is important to the protection of natural values that remain in the area following subdivision. It is appreciated by the public for its extraordinary wildflowers and native vegetation. It is contiguous with our own conservation covenant, which enhances the viability of both. It is covered by Priority Vegetation Area overlay, and it has numerous recorded threatened flora species (see map NVA-thrtd-flora-Stieglitz), including rare *Hibbertia virgata* and rare *Acacia ulicifolia*."

The Planning Authority accepted this representation and supports retaining the Open Space zoning, as this was a condition of the original subdivision approval. "The subject land was required as Municipal Reserve Open Space land as part of Condition 11 of Stage V Parnella Heights Subdivision approval (Council reference P31-2/84) approved on 21/02/1984. ...The Folio Plan identifies the land as Public Recreation Space." (Section 35F report).

Such areas of Open Space are important within urban areas, having value for the community and for the environment.

The importance of bushland Open Space in this suburb is shown by the public walking regularly on 36 Parnella Drive, and by the requests of many locals to also be permitted to walk in our own bushland. There is no other pleasant public area accessible within the Parnella subdivision, as all is private land or roadside, the coast is not accessible here, and the only other Open Space is part of the caravan park. This bushland is strategically important as a central, pleasant area where people can walk and appreciate nature.

Evidence is growing about the importance of access to nature for human health and well-being particularly in urban environments, for urban cooling (especially important with climate change together with the urban heat effect) and also for the value of housing as a result (e.g. <https://theconversation.com/how-urban-bushland-improves-our-health-and-why-planners-need-to-listen-72876>; <https://theconversation.com/higher-density-cities-need-greening-to-stay-healthy-and-liveable-75840>; <https://www.allhomes.com.au/news/cover-dps-nov-24-784967/>). While it might seem that there is plenty of bush around St Helens, it is important to have areas of bushland Open Space within easy walking distance of houses, for the community benefits to be realised, as well as for the support of nature in our suburbs.

I argue that this land suits the purpose and application guidelines of Open Space:

"29.1.1 To provide land for open space purposes including for passive recreation and natural or landscape amenity

29.1.2 To provide for use and development that supports the use of the land for open space purposes or for other compatible uses."

The subject land is highly suitable for locals to walk and appreciate the abundant wildflowers and birds. The bushland also has flow-over effects to nearby gardens, with birds such as wrens and honeyeaters able to visit gardens, while breeding in the Open Space area, thereby providing natural amenity directly and indirectly to locals.

The General Residential Zone is not appropriate for this site, because of its natural values, including threatened flora species and its position in the catchment of Chimneys Lagoon (detailed below).

"GRZ 3 The General Residential Zone should not be applied to land that is highly constrained by hazards, natural values (i.e. threatened vegetation communities) or other impediments to developing the land consistent with the zone purpose of the General Residential Zone, except where those issues have been taken into account and appropriate management put into place during the rezoning process."

Furthermore, the guidelines allow for Open Space Zone to be applied to private land.

The Zone Application Guidelines state:

"OSZ 1 The Open Space Zone should be applied to land that provides, or is intended to provide, for the open space needs of the community, including land identified for:

- (a) passive recreational opportunities; or
- (b) natural or landscape amenity within an urban setting.

OSZ 2 The Open Space Zone may be applied to land seaward of the high water mark where it includes existing, or is intended for, passive recreation opportunities.

OSZ 3 The Open Space Zone should generally only be applied to public land, but may be applied to privately owned land if it has been strategically identified for open space purposes.

OSZ 4 The Open Space Zone should not be applied to land:

- (a) with significant natural values (see Environmental Management Zone); or
- (b) with, or intended for, formal recreational facilities, such as sporting grounds, golf courses, racecourses or major sporting facilities (see Recreation Zone)."

Parnella Holdings disagrees with this zoning simply because they want to subdivide and develop the land for their own benefit.

Van Diemen Consulting, their paid consultants, provide arguments to support their client's proposal. I will respond to some of their arguments below.

Nature conservation significance of the subject site

I disagree absolutely with the consultants' dismissive conclusion that the land is of "very little nature conservation significance" because of the impacts of the surrounding residential development, stormwater etc. These impacts, while disappointing, do not affect more than a small part of the land, mostly along the edges. Even along the drain, natural regeneration is proceeding well, and should recover to an almost natural state over time.

Most of the site supports healthy *Eucalyptus amygdalina* coastal forest and *Melaleuca squarrosa* scrub. This land supports **at least two threatened flora species** (more on this below), is full of incredible wildflowers, grasstrees, an abundance of woodland bird species, echidnas, hundreds of species of native invertebrates, fungi and more. **The land contains suitable habitat for the threatened New Holland Mouse**, including all the indicator species, and should be assessed for this. Although a small lot itself, it is contiguous with a huge area of native vegetation to the south, that ensures it provides viable habitat for a wide range of fauna. **It forms part of the catchment for Chimneys Lagoon, for which urban development has been specifically identified as a major threat** (more below).

Pictures show just some of the delightful and healthy wildflowers on the land.



As an ecologist, I find it surprising that ecological specialists would dismiss the abundant ecological values of this site, even the threatened species and Chimneys Lagoon catchment, so easily. Perhaps they are making sure that the land does not get zoned Environmental Management, as OSZ 4 state "The Open Space Zone should not be applied to land: (a) with significant natural values (see Environmental Management Zone)". We would support Environmental Management as an alternative zone, if required.

Where once the whole area was naturally vegetated (for thousands, millions of years), thriving and full of wildlife, residential development has cleared the existing urban area and has slightly impacted this remnant of the original vegetation. Nevertheless, the land retains considerable natural values, now even more important as they have been lost from other areas and certainly sufficient for Open Space Zone.

Protecting native vegetation is compatible with the objectives of the *Land Use Planning and Approvals Act 1993 s34 (2)(c)*, set out in Schedule 1 Part 1:

1. The objectives of the resource management and planning system of Tasmania are –
 - (a) to promote the sustainable development of natural and physical resources and the **maintenance of ecological processes and genetic diversity**;

Sustainable development includes:

- 2.(c) (c) **avoiding**, remedying or mitigating **any adverse effects of activities on the environment**.

Planning is supposed to balance community and environmental needs with the desire for individual development, not use the unfortunate impacts of past development as a reason to justify further destruction. Nature should not keep losing these compromises, especially as the world heads for biodiversity and climate disaster.

If some damage by adjacent residential development is justification for its clearing, then this argument proceeds incrementally until all is gone.

It is important to avoid these edge impacts of residences then being imposed on our own covenanted land, by the development of 36 Parnella Drive. The covenant requires us to protect the native vegetation from clearing, so the requirement for firebreaks etc would compromise the covenant.

Threatened flora present

As I am familiar with the *Hibbertia virgata* and *Acacia ulicifolia* on my own land and visible on the subject land immediately beside our own boundary track, I can confirm that these threatened species are present on 36 Parnella Drive.

While the consultants attempt to diminish the reputation of Mr Dudley in plant identification, perhaps to undermine the legitimacy of his Natural Values Atlas records, I can state that Mr Dudley is highly capable of identifying these species, having observed him distinguish between several species of *Hibbertia* correctly while walking in a nearby area. The reference by North East Bioregional Network (in representation 81) to "*Hibbertia calycina*" was clearly a slip of the tongue and meant to be "*Hibbertia virgata*". Mr Dudley noted the common name as Twiggy Guineaflower, which is correct for *Hibbertia virgata*. The extensive demolishing by the consultants of the supposed claim that *H. calycina* exists on the site is patronising and unnecessary and adds no weight to their argument regarding the ecological values of the site.

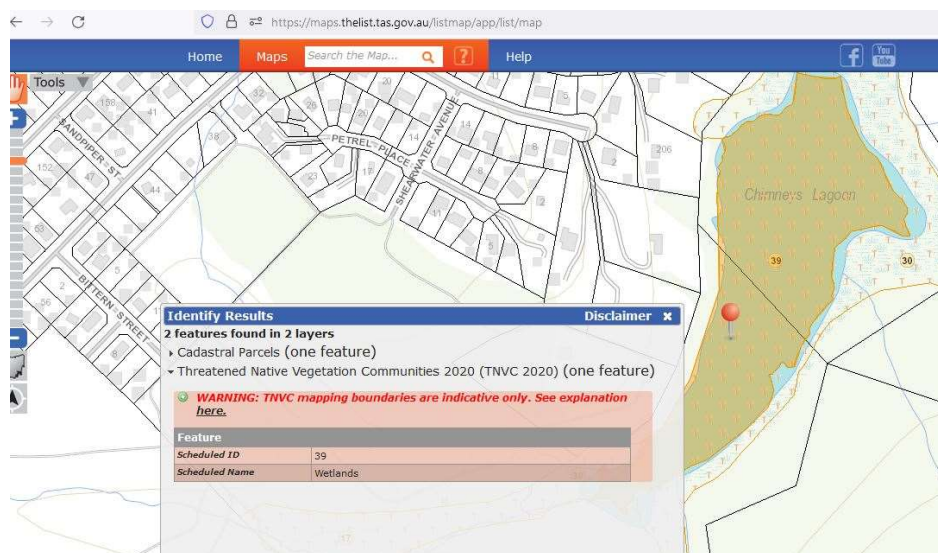
I would be happy to do a field survey of the site, to record any further presence of threatened species, with permission of the owners.

I note that the consultants' report does not mention their having actually been on the site themselves. They refer only to existing reference material, and limited material at that (see point below).

I also note that they have not done a threatened flora survey, but merely considered the incidental records on the Natural Values Atlas and state in their Discussion that the "number of plants of each species present are low". A low number of records, when no focussed survey has been conducted, says only that there are few records, not that there are few of the threatened plants. One has to look in order to find.

The importance of protecting the catchment of Chimneys Lagoon

Van Diemen Consulting point to the limited coverage of the Regional Ecosystem Model's Priority Vegetation Area Overlay on Chimneys Lagoon as evidence that it "is of little ecological significance". An unusually dismissive statement to make on the basis of a planning tool, instead of conducting an actual assessment of the lagoon. As experienced consultants, they should know that **the whole lagoon is listed as a threatened vegetation community** (on Schedule 3A of the *Nature Conservation Act 2002*, and see ListMap image below), as are all wetlands (in this case, freshwater aquatic herbland, TASVEG code AHF).



Chimneys Lagoon is an extraordinarily healthy lagoon, supporting a breeding colony of hundreds of Little Pied Cormorants, eels and foraging by White-bellied Sea-Eagles. Very few wetlands or lagoons remain in such natural condition. Around Australia, they have been drained or polluted, and very few have largely naturally vegetated catchments. This lagoon is worthy of protection, by maintaining all of the vegetation within the catchment if at all possible.

The Regional Ecosystem Model is a model done across the whole municipality (and the state), to capture many matters of conservation significance and consolidate them into a system that can inform planning. It is not meant to override more specific and local, ground-truthed assessments.

The ground-truthed assessment of lagoons in the area is the Break O' Day Coastal Lagoon Assessment (North and Barker, 2009 - <http://www.nrmnorth.org.au/client-assets/documents/reports/nrm/break-oday-coastal-lagoon-assessment-2009-intro-method-general-results.pdf>). The NEBN submission includes a copy of the relevant section of that assessment, about Chimneys Lagoon. The assessment

records “The overall condition of Chimneys Lagoon is very good”. The assessment specifically recognises the local urban development as a High Threat, because of the “threats to water quality due to sediment and nutrient runoff into the lagoon.” Further development would “put further pressure on the lagoon” and a buffer is recommended to restrict such development.

The residential development intended by the landowner is exactly the kind of development within the immediate catchment of the lagoon that is regarded as a High Threat.

Supposed presence of *Phytophthora cinnamomi*

I am not sure what point the consultants are making here, with considerable supposition about the presence and impacts of *Phytophthora*. While all lowland heathy vegetation in Tasmania is susceptible to *Phytophthora* and this water mould is present in patches across the state, I have never before seen this used as a reason to justify wholesale clearing of native vegetation altogether. If the



potential presence of *Phytophthora* were a reason to rezone land for development, there would barely be a remnant of heathy vegetation left in the state.

Picture shows the site (right of the track), with healthy Xanthorrhoeas, bushpeas and heaths that show this land is free of Phytophthora.

While the consultants do not appear to have been to the land, but I regularly walk the track along its boundary, I can confirm that the vegetation appears free of this water mould, at least over a substantial area. There is a strong presence of indicators; the susceptible species including *Xanthorrhoea australis* and a wide range of species from Fabaceae, Ericaceae and Dilleniaceae families which are here and disease-free. As I have already stated, there is *Hibbertia virgata* on the land.

LPS Zoning and Priority Vegetation Area Overlay

The consultants point to the “ubiquitous application of the Priority Vegetation Area Overlay in the area around the Subject Site”. That is because there is indeed a wonderful abundance of native vegetation in the area, that needs to be protected for good ecosystem functioning. Unfortunately, there does exist historical Residential Zoning in the area that predates the establishment of the PVAO but is carrying over to the new LPS. We did ask for the Residential Zone on our own land to be changed to Landscape Conservation for this reason (and the Planning Authority has agreed), and we made a strong case for the land to southwest to also be changed to a zone that better protects vegetation. Where the PVAO extends a short way into the already urbanised part of the Residential Zone, it is likely mistaken computer modelling, probably based on older aerial photographs that showed vegetation on vacant lots at that time. The overlay is a guide that can be adjusted with the evidence of on-ground surveys. In this case, the diverse native vegetation, that includes threatened flora, on the subject site does justify PVAO status.

The presence of PVAO “has not driven the process of zoning of land”, I agree, but it is certainly a relevant factor to consider when an application is made to *change* the zoning from one that is compatible with Priority Vegetation to one that is fundamentally incompatible with it.

Ownership of the site

While Parnella Holdings Pty Ltd is listed as the owner of the site currently, it is our understanding that this title was intended to be transferred to the Break o’Day Council as part of the Parnella subdivision in 1984.

In its 35F report, the Planning Authority states in response to Representation 80 (Richard Barnes OBO Parnella Holdings Pty Ltd):

“The subject land was required as Municipal Reserve Open Space land as part of Condition 11 of Stage V Parnella Heights Subdivision approval (Council reference P31-2/84) approved on 21/02/1984. There is ongoing legal dispute regarding transfer of ownership to Council. Parnella Holdings Pty Ltd is a de-registered company. Adverse possession claim has been denied by the Titles Office. The Folio Plan identifies the land as Public Recreation Space.”

Why should other developers have to provide OS as part of a subdivision, but this developer gets to continue subdividing because of a dispute in process? The just solution for everyone, especially the community, is, rather than allow the developer to cash-in by rezoning to Residential as suits them, to complete the transfer process to Council.

Conclusions:

- The land was zoned Open Space for many years and is proposed for Open Space Zone under the new scheme. The Planning Authority supports this zoning.
- The bushland is valued by locals for walking and nature appreciation and would contribute to urban cooling and other benefits. Research finds that such natural spaces in suburbs are important for the health of the community.
- The Guidelines support Open Space zone for “passive recreational opportunities; or natural or landscape amenity within an urban setting”, both of which apply here. The zone can be used on private land. It is assumed that the Open Space zone was applied strategically during initial subdivision planning.
- General Residential Zone “should not be applied to land that is highly constrained by ... natural values”. This land has high natural values.
- There are at least two threatened flora species on the land, and more could be present if a survey was conducted. There is potential habitat for threatened New Holland Mouse. The land is small but contiguous with a large area of protected native vegetation that means it is of viable size. The vegetation is in predominantly very good condition, with impacts only around the urban edges and along the new drain, which is now regenerating back to native vegetation.
- The land is in the catchment for Chimneys Lagoon, which is a threatened vegetation community, and was identified by the Break O’Day Coastal Lagoon Assessment as in very good condition but under High Threat from further urban development.
- Open Space remains the most appropriate zone for this land, but Environmental Management could also be considered.
- Processes should be undertaken to transfer the land to Council ownership, as Municipal Reserve Open Space was a condition of the original subdivision approval. This should be upheld.

Yours sincerely,

A handwritten signature in dark ink, reading "Anna Povey". The signature is fluid and cursive, with the first name "Anna" and the last name "Povey" clearly distinguishable.A handwritten signature in dark ink, reading "Michael Fox". The signature is written in a cursive style, with "Michael" and "Fox" joined together.

Anna Povey and Michael Fox

Curriculum Vitae – Anna Povey

B.Sc. (Hons), M.Env.Stud.

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Summary of skills:

Skilled field botanist and zoologist, with 29 years' practical experience since training in zoology, botany, ecology and environmental studies.

Employment summary:

Current (since March 2014) - Land for Wildlife Coordinator (north), Tasmanian Land Conservancy.
Previously Conservation Programs Ecologist in Protected Areas Partnership.

March 2011 to May 2021 – Principal Ecologist with Bush Matters, flora and fauna consultancy.

August 2003 to June 2011 – Partner, Bushways Environmental Services Tasmania, environmental consultancy.

November 1999 to July 2003 – Bushcare Support Officer, Greening Australia, Tasmania

September to November 1999 – Author, "Habitats" in "Watching Wildlife Australia". Lonely Planet Publications, Melbourne.

1999 – Short-term work while cycle-touring in Asia and Europe

November 1995 to February 1998 – Coordinator, The Understorey Network, Tasmania.

May 1995 to July 1996 – Technical Officer, Natural Pastures Sustainability Program, Department of Primary Industry and Fisheries, Tasmania.

1990 to 1995 - Various temporary positions while studying and travelling: Seasonal Ranger; radiotracking Field Assistant in "Wildcru" (Oxford University); Research Assistant; leading outdoor activities for "Wild Perspectives"; Tutor at Melbourne and Macquarie Universities; Trip Leader at Queenscliff Marine Studies Centre, Victoria; Farm Labourer

Education:

1992 – 1993 - Masters in Environmental Studies, Graduate School of the Environment, Macquarie University, NSW. Coursework and research combined Masters. Research: "Small Native Mammals on Farmland".

1986-1989 - Bachelor of Science, with Honours in Zoology (H1), University of Melbourne, Victoria

Publication:

Povey, A., and Keough, M.J. (1991), 'Effects of trampling on plant and animal populations on rocky shores', *Oikos* 61, pp. 355-368

Membership:

Member of the Ecological Society of Australia

President and Founder of Friends of Trevallyn Reserve

Community Representative on Cataract Gorge Reserve Advisory Committee

Awards:

Postgraduate Coursework Award for Masters study during 1992-3.

E.F. Miller Exhibition Prize (Botany), Georgina Sweet Exhibition (Zoology), 1987.

Dwight's Prize (Chemistry), 1986.

School Captain and Dux of School, Canterbury Girls' High School, 1985.