
From: Carolyn Milnes <CMilnes@devonport.tas.gov.au>
Sent: Friday, 28 April 2023 8:30 AM
To: TPC Enquiry
Cc: Tom Reilly
Subject: Response to directions - Draft amendment AM2022.01 and permit PA2022.0024 - 133 Middle Road, Miandetta
Attachments: Letter supporting applicant's submission - Draft amendment AM2022.01 and permit PA2022.0024 - 133 Middle Road, Miandetta.pdf; 12590738-LET-Letter to Tasmanian Planning Commission.pdf; Amended Draft Planning Permit - PA2022.0024 - 133 Middle Road, Miandetta - 7 Lot Subdivision.docx; Devonport Draft amendment AM2022.01 & permit PA2022.0024 - Letter to parties - Confirmation of directions given at a hearing - general.PDF

Categories:

Good morning,

Please find attached a response from the applicant and Planning Authority in regard to the Commission's directions letter, dated 3 April, 2023.

Also included is a letter of support and the amended planning permit.

Regards,

Carolyn



Carolyn Milnes | Senior Town Planner
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Our ref: 12590738

27 April 2023

Tasmanian Planning Commission
Sent by email to: tpc@planning.tas.gov.au

Draft amendment AM2022.01 and permit PA2022.0024 133 Middle Road, Miandetta

Dear Tasmanian Planning Commission

We refer to the Tasmanian Planning Commission's letter of 3 April 2023, requesting additional information and we respond to each matter raised in turn.

1.
Devonfield makes no further submissions in relation to the Greater Devonport Residential Growth Strategy 2021 – 2041 and the Devonport Open Space Strategy. Devonfield maintains that the proposal advances the strategic objectives of both of these key strategies, as previously expressed in the applicant's email provided to the Commission on 2 March 2023.

2.
A digital copy of A Ton of Pennies has been provided to the Commission.

3.
We recognise the effort and time spent on the creation of the book titled Devonfield's Wonderland (the book). However, no permission was sought from Devonfield to enter onto the premises to take the photographs, nor for the publication of the book and Devonfield has had no responsibility in the creation of it.

Devonfield submits that no information has been adduced in relation to the relevance of the book to the applicable standards of the *Land Use Planning and Approvals Act 1993*. If the Commission considers that the relevance threshold is met, Devonfield also submits that the reliability of the information in the undated book is inadequate to afford it any evidentiary weight. The book is a selective representation, composed with no intention of providing a realistic reflection of the site, or that it be presented as evidence.

At and after the hearing, additional information was submitted by the representor including an undated document titled Location Index of photographs in Devonfield's Wonderland, and an undated document titled Index to Devonfield's Wonderland. The three documents must be read together but it remains challenging to decipher what photograph was taken where and when. It appears that a number of the photographs may have been taken in the area proposed to be in the Open Space Zone but it remains Devonfield's opinion that the photographs are insufficiently referenced or annotated to constitute reliable evidence.

The photographer, editor, publisher and any the other contributors to this booklet were not present at the hearing and so it is not possible to properly test the value of this information as evidence. Therefore, it is submitted that the book and the additional indexes fail relevance and reliability tests and that the book is a selective composition, inaccurately representing of some aspects of the site, with no context as to how it may inform any decision in relation to the *Land Use Planning and Approvals Act 1993*.

4(a).

Please see attached plan, titled Concept Servicing for Potential Future Development of Lots 4 and 5. This plan was produced using LIDAR data and includes a green line running generally east-west that represents a gently rounded transition from the north facing slopes to the south facing slopes.

Unsubstantiated submissions in relation to the use of the upper elevations of the site were made by representors at the hearing. TasWater also made unsubstantiated submissions during the hearing in relation to serviceability of the upper elevations of Lot 4. Devonfield opposes both of these unsubstantiated submissions.

Devonfield maintains that the upper elevations of the site have no special significance that should be prioritised over residential use. The southernmost boundary of the proposed Lot 4 was designed to appropriately align with the electricity transmission corridor (see attached plan) and provides appropriate land for residential use in accordance with the demand clearly identified in the Greater Devonport Residential Growth Strategy 2021 – 2041.

Devonfield also maintains that the upper elevations of the site are currently within 120m of a fire hydrant and are likely to be fully serviceable by regular means. As seen on the attached plan, titled Concept Servicing for Potential Future Development of Lots 4 and 5, a small area of Lot 4 would be impractical (not incapable) to drain by sewer. We submit that this small area of land ought to be within the General Residential Zone because its highest and best use is as a bushfire hazard management area servicing residential activity. This will be substantiated in the forthcoming response regarding TasWater matters.

4(b).

Devonfield understands that Council will supply a revised permit with conditions that specify the parts of the applicant's documents that are to apply to the development.

4(c).

Please see attached plan, titled Concept Servicing for Potential Future Development of Lots 4 and 5. This plan includes the area identified as containing a Eucalyptus ovata community (labelled DOV) and the central north burrowing crayfish (Engaeus granulatus) habitat area (labelled FPE).

4(d)(I).

In accordance with Guideline No. 1, the most appropriate zone for land identified as containing the Eucalyptus ovata community and the central north burrowing crayfish (Engaeus granulatus) habitat area is the Environmental Management Zone. In relation to the Environmental Management Zone, the guideline states:

EMZ 1 The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values, such as:

- (a) land reserved under the Nature Conservation Act 2002;
- (b) land within the Tasmanian Wilderness World Heritage Area;
- (c) riparian, littoral or coastal reserves;
- (d) Ramsar sites;
- (e) any other public land where the primary purpose is for the protection and conservation of such values; or
- (f) any private land containing significant values identified for protection or conservation and where the intention is to limit use and development.

The majority of the land on the proposed Lot 7b contains significant environmental values. Therefore, at present, the land meets (f). Once transferred to Council, the land would meet (e).

A continuation of the Open Space Zone is practical in some senses but does not meet Guideline No. 1 because, according to the guideline:

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

- (a) with significant natural values (see Environmental Management Zone);

(d)(II).

Please see attached plan, titled Concept Servicing for Potential Future Development of Lots 4 and 5. This plan reconfigures the previously proposed Lots 4, 5 and 7 into Lots 4, 5, 7(a) and 7(b). All areas within the proposed Lot 4 and 5 would be within the General Residential Zone. All areas within the proposed Lot 7a would be in the Open Space Zone. All areas containing the Eucalyptus ovata community and the central

north burrowing crayfish (*Engaeus granulatus*) habitat area would be contained within lot 7(b), within the Environmental Management Zone.

Lot 7b maintains potential for a pedestrian linkage between Lot 4 and Penambul Drive. This linkage is important for interconnection within the local area. It would significantly shorten walking distances between Lot 4 and Miandetta Primary School and should be created if/when Lot 4 is fully residentially developed. The most appropriate mechanism for this would be as a condition on any permit for the subdivision of the proposed lot 4.

Uncontrolled pedestrian movement between Lot 4 and Penambul Drive risks impacting the central north burrowing crayfish (*Engaeus granulatus*) habitat area and so access to Penambul Drive from Lot 4 would need to be designed to have an appropriately minimal impact on that environment. Detail in relation to this matter can be appropriately resolved at the appropriate time.

4(d)(III).

It is considered appropriate to provide a control in the form of a development exclusion zone over the environmentally significant areas. This would be created through a covenant on the title of Lot 7b, accompanied by an appropriately worded description in the Schedule of Easements. The description would exclude any form of development other than development intended to manage environmental values and be to the satisfaction of the Council and the Tasmanian Planning Commission. It is suggested that a condition on the subdivision permit be as follows:

The area within the proposed lot 7b that is identified as containing the *Eucalyptus ovata* community and the central north burrowing crayfish (*Engaeus granulatus*) habitat area must be spatially defined on the Plan of Survey and accompanied on the Schedule of Easements by a covenant to exclude any form of development other than development associated with the management of environmental values. The spatial definition and the wording of the covenant must be to the satisfaction of the Council's General Manager.

As a further measure to minimise impacts associated with having residential activity nearby to areas of environmental significance, a further covenant could be placed on any title adjoining the proposed Lot 7b (excluding Lot 7(a)) to the effect that owners will have no access to Lot 7b through gates or other means and that rubbish, garden waste or any other materials will not be deposited onto Lot 7b.

The covenant would carry forwards to any subsequent titles adjoining the proposed Lot 7b. It is suggested that a condition on the subdivision permit be as follows:

A covenant must be placed on any title adjoining the proposed Lot 7b (excluding Lot 7(a)) to the effect that owners must not have or allow access (pedestrian, vehicular or otherwise) to Lot 7b through gates or other means and that rubbish, garden waste or any other materials will not be deposited onto Lot 7b. The covenant must be with the Devonport City Council and must be included within the Schedule of Easements.

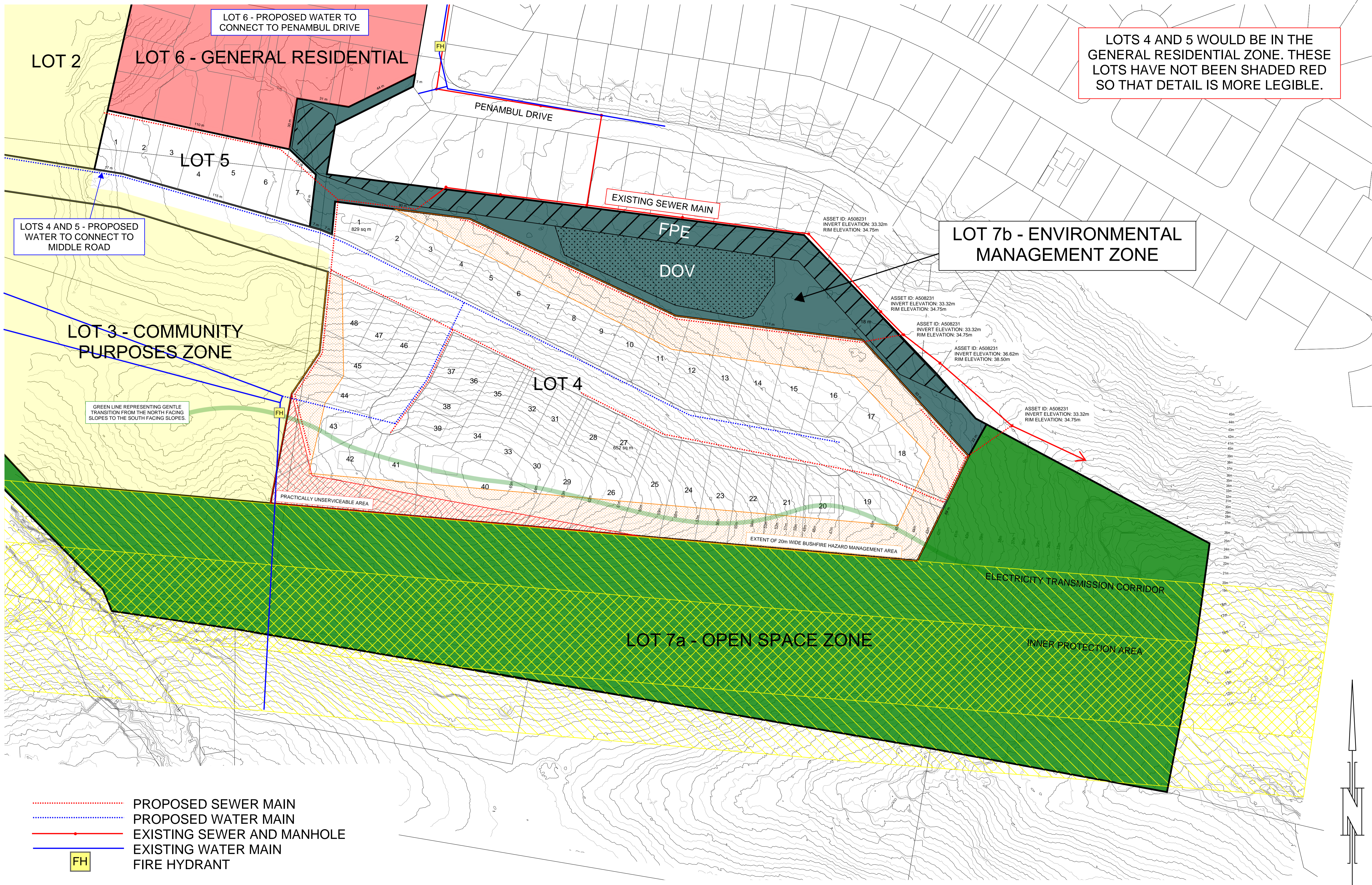
It is considered that these mechanisms are an appropriate means of protecting the *Eucalyptus ovata* community and the central north burrowing crayfish (*Engaeus granulatus*) habitat areas.

Sincerely



Tom Reilly
Planning Technical Leader

0410 831 242
tom.reilly@ghd.com



LOTS 4 AND 5 WOULD BE IN THE GENERAL RESIDENTIAL ZONE. THESE LOTS HAVE NOT BEEN SHADED RED SO THAT DETAIL IS MORE LEGIBLE.

LOTS 4 AND 5 - PROPOSED WATER TO CONNECT TO MIDDLE ROAD

LOT 7b - ENVIRONMENTAL MANAGEMENT ZONE

GREEN LINE REPRESENTING GENTLE TRANSITION FROM THE NORTH FACING SLOPES TO THE SOUTH FACING SLOPES.

- PROPOSED SEWER MAIN
- PROPOSED WATER MAIN
- EXISTING SEWER AND MANHOLE
- EXISTING WATER MAIN
- FH** FIRE HYDRANT



27 April 2023

Mr Rob Nolan
Delegate
Tasmanian Planning Commission

By email: tpc@planning.tas.gov.au

Dear Mr Nolan

Draft amendment AM2022.01 and permit PA2022.0024 - 133 Middle Road, Miandetta

In regard to the directions issued by the Tasmanian Planning Commission, the Planning Authority is in agreement with the submission prepared by the applicant in regard to item 4.

Enclosed is a copy of the amended permit in word format.

Yours faithfully

Matthew Atkins
General Manager





Devonport City Council Planning Permit

Permit Number: PA2022.0024

Permit Type Section 40Y (2)(a) *Land Use Planning and Approvals Act 1993*

Development Address: 133 Middle Road, Miandetta

Applicant Details: GHD PTY LTD
PO BOX 567
BURNIE TAS 7320

This Permit allows for: 7 lot Subdivision

The following conditions apply to this permit:

1. Unless altered by subsequent conditions the development is to proceed generally in accordance with the submitted plans referenced as:
 - a. Job No. 12548932, Figures 13 & 14, Rev A dated 06 Oct 2021 & Figure 16, Rev A dated 22 April, 2022 by GHD Pty Ltd;
 - b. Bushfire Hazard Management Report: Subdivision, Version 2, dated 24th August, 2022, by Livingston Natural Resource Services;
 - c. Bushfire Hazard Management Plan: Subdivision, SRL22/555, dated 24/8/2022 by Scott Livingston; and
 - d. Central North Burrowing Crayfish (*Engaeus granulatus*) and *E. ovata* habitat, shown as FPE and DOV on the northern boundary of the site in Figure 4, page 13, is to be excluded from future development in accordance with the recommendations of the Natural Values Report, dated 5th July, 2021, by Livingston Natural Resource Services;

copies of which are attached and endorsed as documents forming part of this Planning Permit.
2. An amended subdivision plan which includes Lot 7b is to be submitted, prior to sealing any final plan.
3. A revised Bushfire Hazard Management Report and Plan is to be submitted prior to sealing any final plan taking into account Lot 7b.
4. The area within the proposed lot 7b that is identified as containing the *Eucalyptus ovata* community and the central north burrowing crayfish (*Engaeus granulatus*) habitat area must be spatially defined on the Plan of Survey and accompanied on the Schedule of Easements by a covenant to exclude any form of development other than development associated with the management of environmental values. The spatial definition and the

Signed

Dated

wording of the covenant must to the satisfaction of the Council's General Manager.

5. A covenant must be placed on any title adjoining the proposed Lot 7b (excluding Lot 7(a)) to the effect that owners must not have or allow access (pedestrian, vehicular or otherwise) to Lot 7b through gates or other means and that rubbish, garden waste or any other materials will not be deposited onto Lot 7b. The covenant must be with the Devonport City Council and must be included within the Schedule of Easements.
6. Any subsequent development of the new lots will require additional assessment by a registered Bushfire Hazard Management Practitioner.
7. Unless other arrangements are approved by Council's Infrastructure Manager, the developer is to submit detailed design drawings prepared by a suitably qualified engineer detailing road and stormwater design compliance with current Tasmanian Standard Drawings (TSD-v3), version 3, and Tasmanian Subdivisional Guidelines. These are to demonstrate:
 - a. Stormwater discharge from the subdivision is to be adequately hydraulically detailed and designed by a suitably qualified hydraulic engineer, for all storm events up to and including a 100-year Average Recurrence Interval (ARI), and for a suitable range of storm durations, to adequately identify peak discharge, for the piped and overland flows. All design calculations and drawings are to be submitted for approval by the City Engineer prior to commencing construction on site;
 - b. Pipeline cover in accordance with Tasmanian Standard Drawings;
8. Erosion and sediment control measures are to be implemented and maintained during development to minimise downstream sediment transfer, particularly with respect to watercourses, stormwater outlets and disturbed ground, to the satisfaction of the City Engineer.
9. The developer is to acknowledge that at satisfactory completion of the works, all infrastructure intended to become a council asset will be placed on a minimum 6 month defect liability period and that there will be a bond charged to govern this period in accordance with Council's Subdivision Maintenance Bond Policy.
10. The subdivider is to provide 2 sets of drawings (As cons) in an electronic format one in coordinated .dwg format and one in .pdf at the completion off the works, detailing stormwater assets, invert levels and finished surface levels.
11. In accordance with the Tasmanian Subdivision Guidelines the developer is to appoint a supervising engineer to arrange for joint audit inspections and to certify the works at practical completion.
12. The developer is to ensure that all stormwater run-off is managed in accordance with the Environment Protection Authority's recommendations "Soil & Water Management on Large Building & Construction Sites"
13. The developer is to cover all costs associated with the transfer of the public open space title to Council.
14. The developer is to comply with the conditions specified in the Submission to Planning Authority Notice which TasWater has required to be included in the

Signed

Dated

planning permit pursuant to section 56P(1) of the *Water and Sewerage Industry Act 2008*. A copy of this notice is attached.

Note: The following is provided for information purposes.

Hours of Construction shall be: Monday to Friday Between 7am - 6pm, Saturday between 9am -6pm and Sunday and statutory holidays 10am - 6pm.

During the construction or use of these facilities all measures are to be taken to prevent nuisance. Air, noise and water pollution matters are subject to provisions of the *Building Regulations 2016* or the *Environmental Management and Pollution Control Act 1994*.

In regard to condition 14 the applicant/developer should contact TasWater – Ph 136992 with any enquiries.

Enquiries regarding other conditions can be directed to Council's Development Services Department – Ph 6424 0511.

DRAFT

Signed

Dated

WHAT HAS BEEN DECIDED?

The Planning Authority has issued a planning permit. This notice sets out on the reverse side what the permit allows and what conditions must be met.

WHEN DOES A PERMIT BEGIN?

A permit takes effect on the last date provided by the following:

- a. where there is no right of appeal - on the day on which it is granted; or
- b. where there is a right of appeal - fourteen days after this notice is served; or
- c. where an appeal has been lodged - when the appeal is determined or abandoned; or
- d. when any other approvals under any Act have been granted.

If you are unsure whether a right of appeal exists please check with a Planning Officer.

WHEN DOES A PERMIT EXPIRE?

A permit lapses two years from the date on which it was granted if the use or development has not substantially commenced.

WHAT ABOUT APPEALS?

- The applicant may appeal against any condition in the permit within 14 days after the day on which this notice was served on the applicant.
- Any person who has made a representation concerning the application may appeal against the decision to grant the permit within 14 days after the day on which notice of this permit was served on that person.
- An appeal must be lodged with the
Tasmanian Civil & Administrative Tribunal
Address: G.P.O. Box 1311, HOBART TAS 7001 or
38 Barrack Street, Hobart
Web: www.tascat.tas.gov.au/resource-and-planning/home
Email: resourceplanning@tascat.tas.gov.au
Telephone: 1800 657 500
- Appeal forms can be obtained directly from the Tribunal.
- A fee is payable when making an appeal. Please check with the Tribunal for details.

DRAFT