

APPLICATION UNDER CITY OF HOBART PLANNING SCHEME 1982

Committee:	13 November 2018
Council:	19 November 2018
Expiry Date:	20 November 2018
Application No:	PLN-14-01177-01
Address:	607-627 Nelson Road, Mount Nelson and Adjacent Road Reserve
Applicant:	Hugh Clement, PDA Surveyors
Proposal:	Subdivision (9 Additional Lots, Road Lot, Public Open Space Lot and Balance)
Representations:	Four (4)
Discretion:	Schedule D – Siting and Landscaping Schedule I – Clearing of Land Schedule K – Rescode Schedule Q – Flood Prone Land

1. Executive Summary

- 1.1. Planning approval is sought for Subdivision (9 Additional Lots, Road Lot, Public Open Space Lot and Balance) at 607 to 627 Nelson Road. More specifically, the proposal is for nine residential lots that range in size from 1006sqm to 2065sqm, to be located in the south western corner of the site and accessed off Hargrave Place. The proposal also incorporates a 19,500sqm public open space lot, that will be located behind the residential lots and connect with other Council owned park land at the rear of what was 3 Hargrave Place.
- 1.2. The application was validly lodged in 2014, and as such is required to be assessed under the former *City of Hobart Planning Scheme 1982*. The proposal relies on performance criteria under that planning scheme in relation to the following:
 - 1.2.1. Schedule D – Siting and Landscaping – Clause D.6 Watercourse Setback.
 - 1.2.2. Schedule I – Clearing of Land – Clause I.2 Clearing more than 500sqm.
 - 1.2.3. Schedule K – Rescode – Clause K.3.1 PC1.4 Residential Density.
 - 1.2.4. Schedule Q – Storm Surge and Flood Prone Land – Clause Q.5.1 P1 Standards for Development within Flood Prone Land.
- 1.3. Four (4) representations were received during the statutory advertising period between 10 and 24 October 2018.

1.4. The proposal is recommended for approval subject to conditions.

1.5. The final decision is delegated to the Council.

2. Site Detail

2.1. The site is 607 to 627 Nelson Road, which is a large 90,137sqm site accessed off Nelson Road and extending to the boundary of the Council's Bicentennial Park.



Figure 1: The site is highlighted yellow.

2.2. The site is well vegetated and has the headwaters of Lambert Creek within it.

2.3. The site is zoned Residential 2 (Reserved Residential) under the *City of Hobart Planning Scheme 1982*.

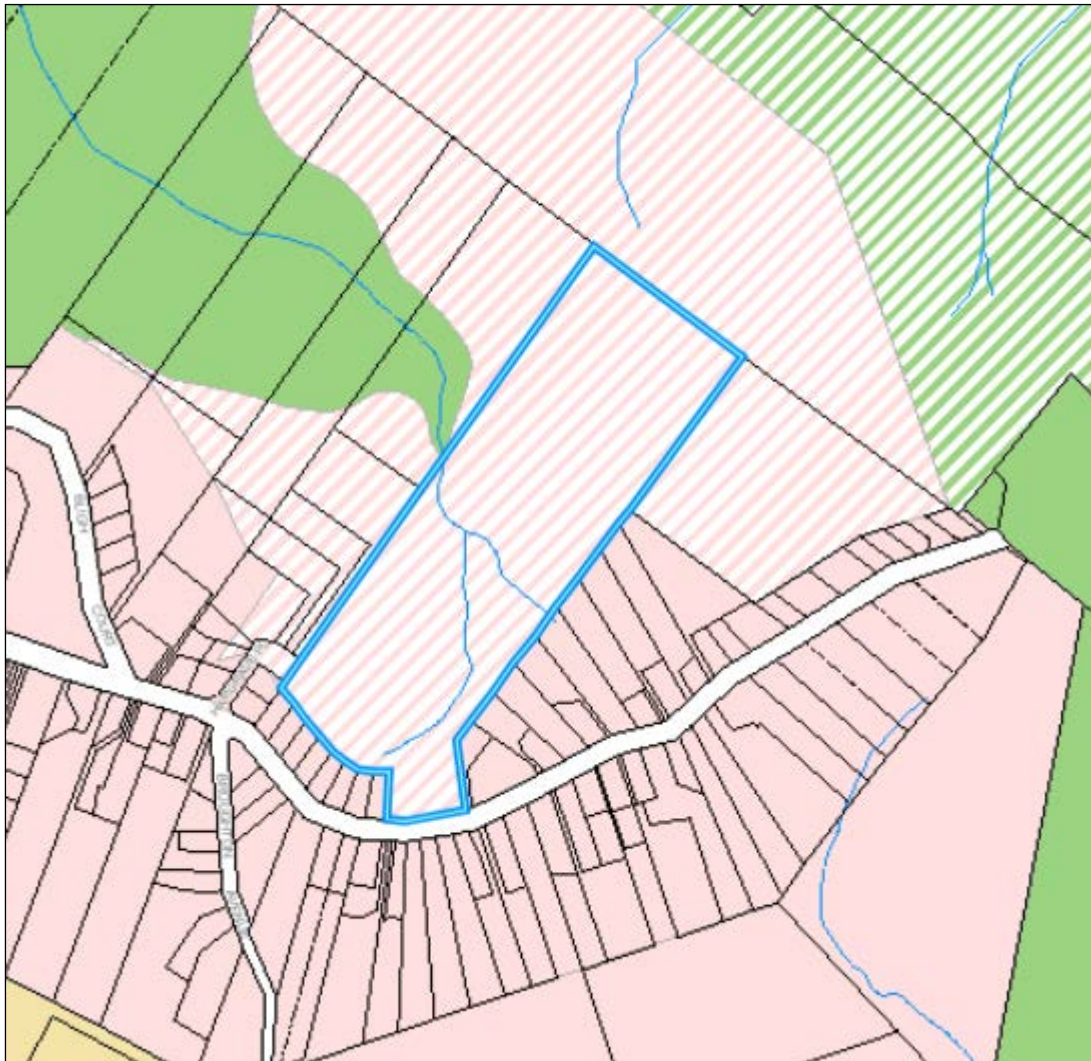


Figure 2: The site is bordered in blue. The light pink denotes Residential 2 zoning. The pink stripes denote Residential 2 (Reserved Residential) zoning under the City of Hobart Planning Scheme 1982.



Figure 3: Access to the site off Nelson Road.



Figure 4: Access to the site off Hargrave Place.

3. Proposal

- 3.1. The proposal is to create nine additional lots at 607 to 627 Nelson Road, Mount Nelson. The nine additional lots are located in the south western portion of the site. The lots range in size from 1006sqm (lot 9) to 2065sqm (lot 4). All lots will slope with varying degrees of steepness, and generally down in a south west to north east direction. All residential lots will be connected to reticulated services. Stormwater from the lots would be collected and discharged into Council infrastructure (Lambert Rivulet). All nine lots will gain access off a new road extension to Hargrave Place. The proposal includes a new road lot of 1746sqm.
- 3.2. The proposal also includes a large public open space lot, of 19,500sqm. This public open space lot will encompass Lambert Rivulet and will connect into the Council owned public open space at the rear of what was 3 Hargrave Place. While the lot does not have direct frontage to Nelson Road, the public will be able to access it via a public right of way over the balance lot.
- 3.3. The remaining 55,300sqm of the site is the balance lot.

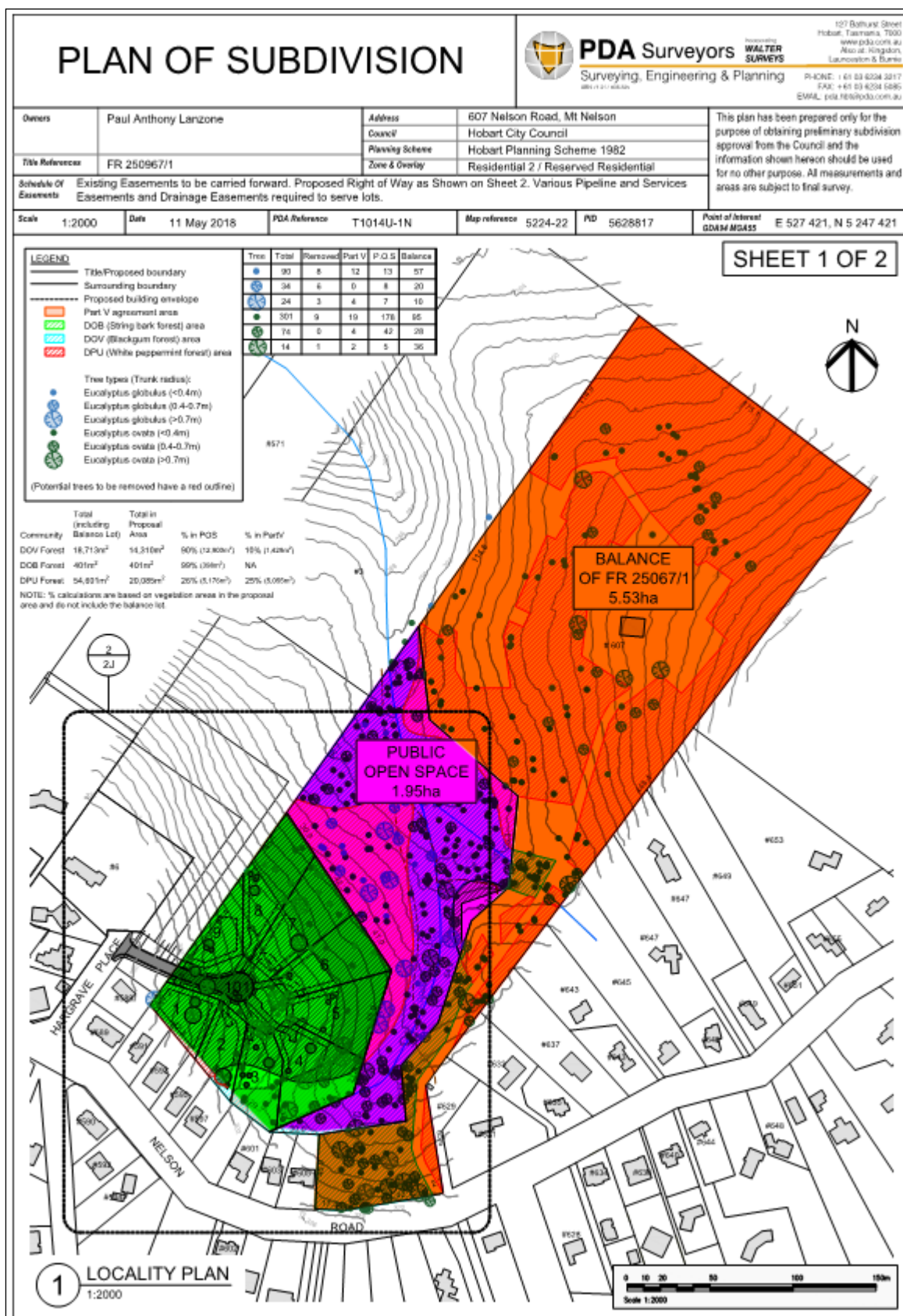


Figure 5: The proposed plan of subdivision. The nine additional lots (and road lot) are shown all highlighted green. The public open space lot is shown highlighted pink. The balance lot is shown highlighted orange.

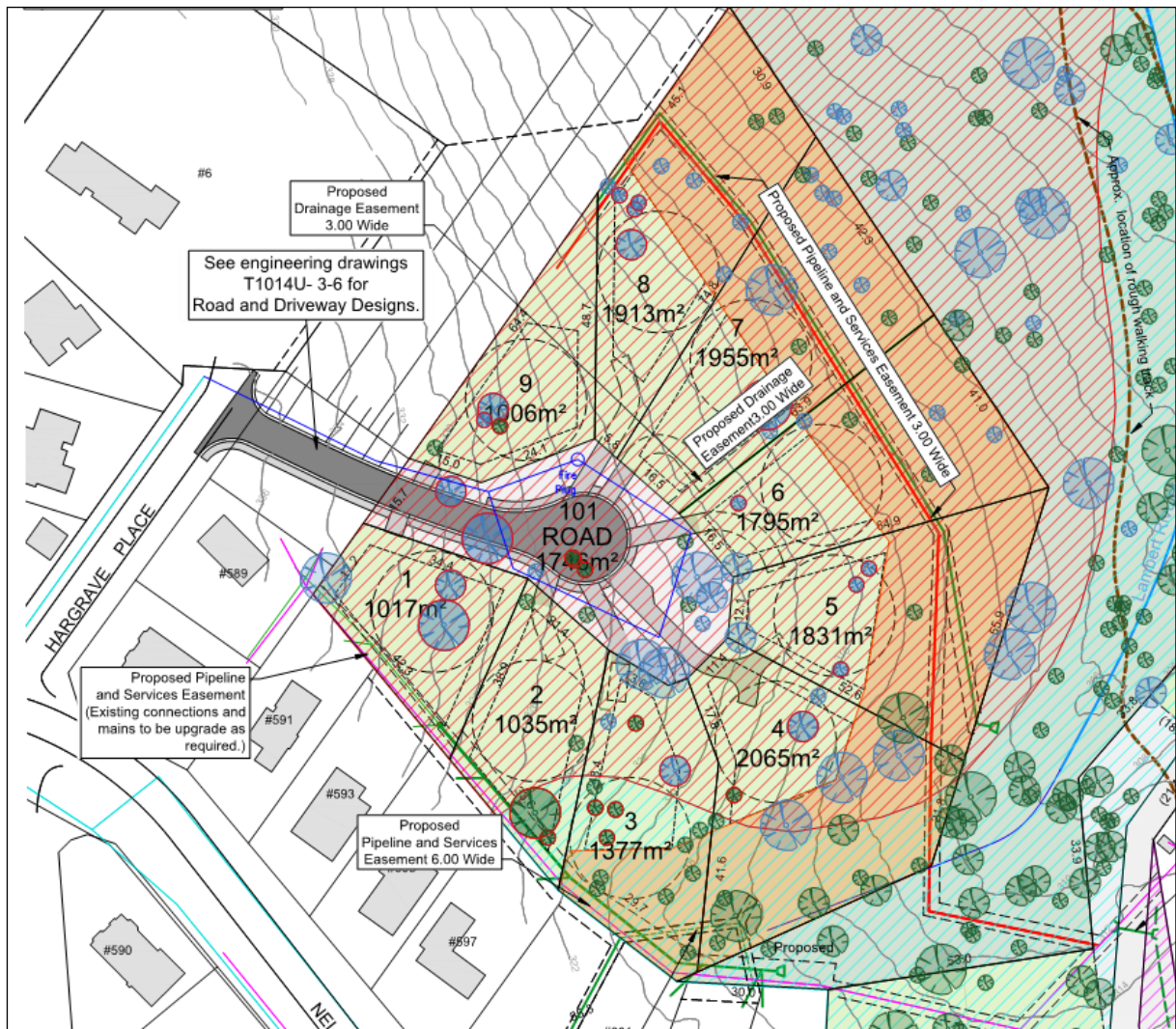


Figure 6: The proposed subdivision, focussing on area where the nine additional lots are to be located.

4. Background

- 4.1. The application was lodged validly in 2014, when the *City of Hobart Planning Scheme 1982* was still in force, with the *Hobart Interim Planning Scheme 2015* yet to be enacted. The application must be assessed against the planning scheme which was in force at the time the application was validly made, therefore the proposal must be assessed against the *City of Hobart Planning Scheme 1982*.
- 4.2. For reference, under the current *Hobart Interim Planning Scheme 2015* the site has three zonings: Low Density Residential, Environmental Living and Rural Living. The lot sizes in the Low Density Residential zone must be between 1000sqm and 2500sqm. In the Environmental Living zone the minimum lot size is 100,000sqm. In the Rural Living zone the minimum lot size is 10,000sqm. The image below shows the current zoning of the site.

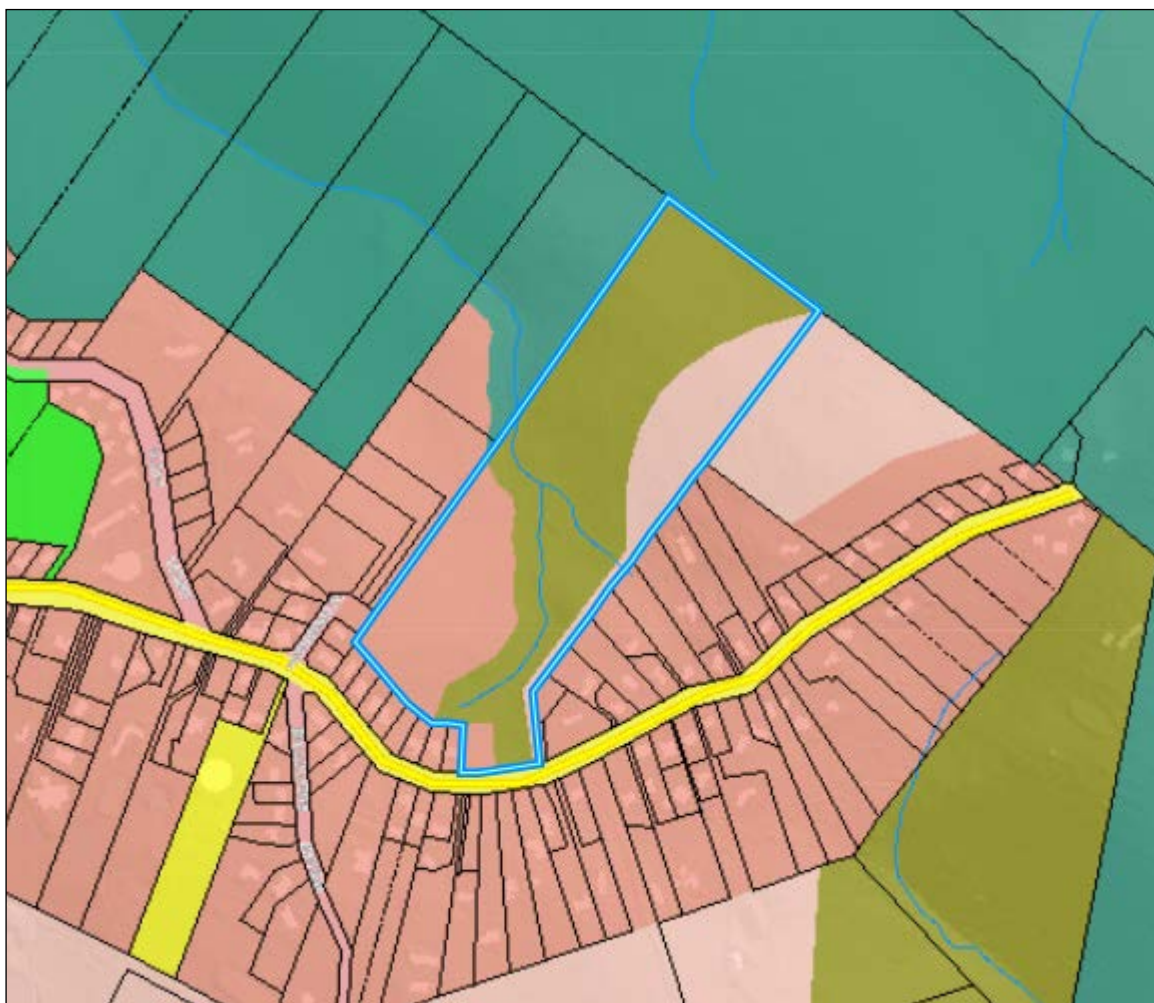


Figure 7: The subject site is bordered in blue. The colours denote the zoning of the site under the current Hobart Interim Planning Scheme 2015. Dark pink denotes the Low Density Residential zone. The green is the Environmental Living zone, and the light pink denotes Rural Living zoning.

- 4.3. Noting that the application was originally submitted in 2014, the applicant and Council officers (including from stormwater, surveying, roads, development appraisal, open space, environmental planning, and development engineering) have worked together for an extensive period of time to get the application to this point. As originally submitted, the proposal was for 12 residential lots and an 8595sqm public open space lot. This original iteration of the application was advertised in 2017 and received six (6) objections.



Figure 8: The subdivision as originally advertised. Note the number of proposed lots is 12, including lots 6, 7 and 8 which front directly onto Nelson Road, and that the size of the public open space lot is 8595sqm.

- 4.4. Council officers indicated that they would be unlikely to support the proposal in that configuration, primarily due to concerns about environmental and ecological impacts. As a consequence of extensive discussions, the applicant amended the design of the proposal to that now before the Council, which more than doubles the amount of public open space to 19,500sqm, and reduces the number of lots to nine. Importantly, the land which fronts directly onto Nelson Road is no longer proposed to be subdivided.
- 4.5. When the application was submitted in 2014, the adjoining land was not a Council owned road reserve but was part of 3 Hargrave Place. The owner of that property was properly notified in accordance with the requirements of the

Land Use Planning and Approvals Act 1993. The works required in what is now the Council's road reserve are not, based on advice from the Council's Manager Development Compliance, considered to warrant General Manager consent for the lodging of the application given they are for typical road works to be undertaken within a road reserve.

- 4.6. There are a number of existing approvals for the site, that relate primarily to the north eastern end of the site. In 2013, approval for a house was granted, which is now under construction (PLN-13-01265-01). In 2014, a large extension to the house was approved (PLN-14-00374-01). Later in 2014, ten self-contained visitor accommodation units were approved adjacent to the north western boundary, and these are also under construction (PLN-14-00971-01). In 2015, further alterations to the under-construction house were approved (PLN-15-00805-01). There is a live but 'on hold' application for a reception, lounge, storage and BBQ shelter under PLN-17-2, all associated with the approved visitor accommodation units.
- 4.7. The applicant has also undertaken illegal works on the site, including built structures and vegetation clearing. The Council's Development Compliance Unit is in the process of investigating these illegal works under compliance action ENF-18-141.
- 4.8. In 1996, approval for a three lot subdivision was granted (961282). The subdivision sought to create two new lots fronting Nelson Road, adjacent to the current access, and a third lot behind.

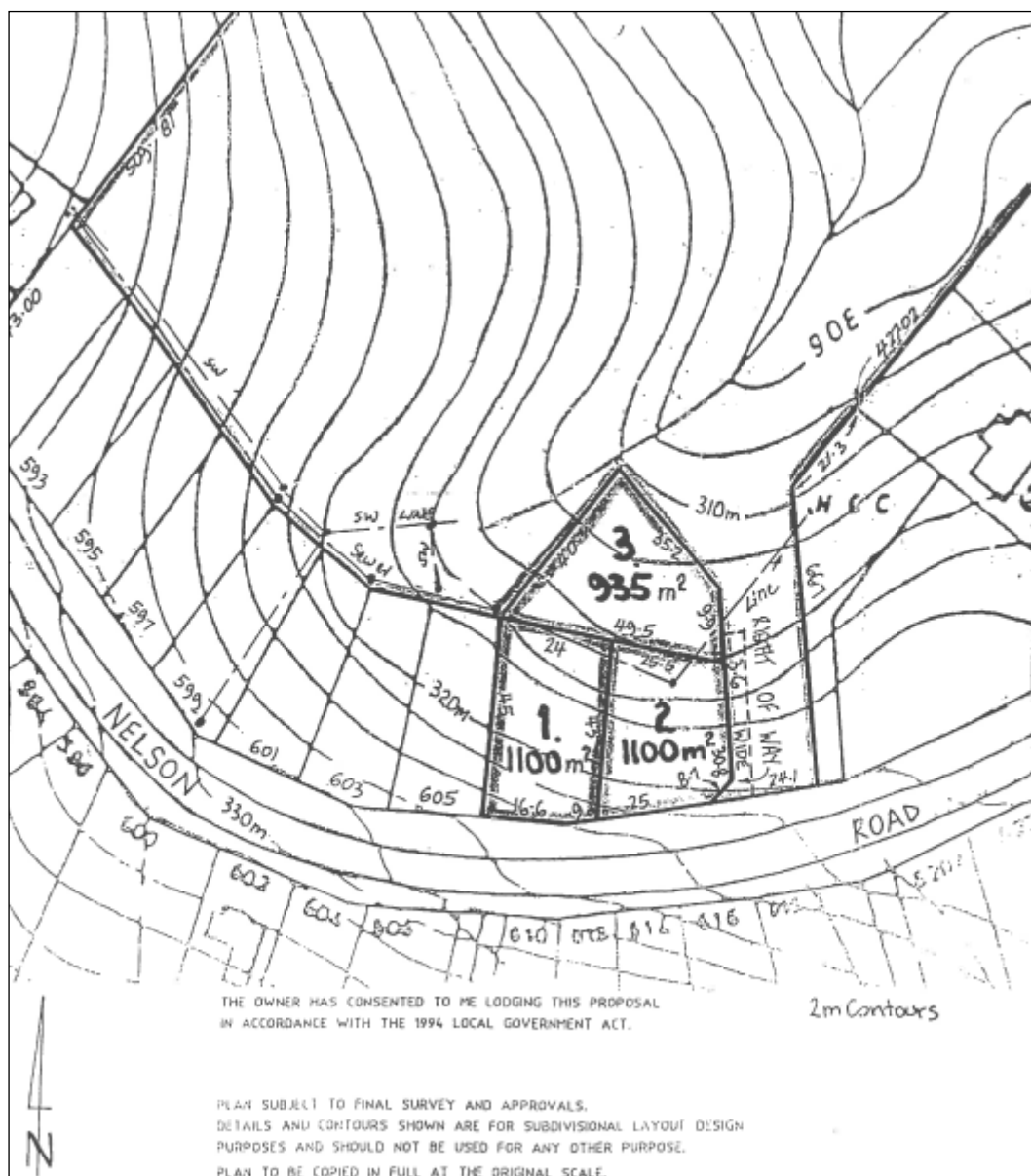


Figure 9: The approved plan of subdivision for 961282.

- 4.9. The conditions of approval on the planning permit did not approve lot 3, and specified building envelopes on lots 1 and 2 to protect environmental values. The permit was not acted on and has now lapsed. Under the current subdivision proposal the lots shown as 1 and 2 in Figure 9 above form part of the balance lot, and the majority of lot 3 forms part of the public open space, and some forming part of proposed lot 4.

5. Concerns Raised By Representors

- 5.1. Four (4) representations were received during the statutory advertising period 10 to 24 October 2018.
- 5.2. The following table outlines the concerns raised in the representations received. Those concerns which relate to a discretion invoked by the proposal are addressed in Section 6 of this report.

Concerns Raised by Representors
Environmental:-
<p>I object to the application on the basis that its approval would completely ruin the amenity of my property, where I have lived for more than 60 years in a bush setting and fundamentally alter the nature of the Mt Nelson community.</p>
<p>It must be noted that the ecological impact associated with managing Lots 1-9 in their entirety as a hazard management area is not specifically considered in the supporting documentation. The ECOtas addendum report does not specifically consider the current proposed layout, nor does it acknowledge that the total area of bushland that is proposed to be heavily modified (i.e. the sum area of Lots 1-9). The further information provided more recently by PDA Surveyors indicates that the proposed Part 5 Agreement includes a requirement to protect specific trees within the defined Part 5 Agreement Area whilst trees within the building areas will be removed. The associated impacts are considered in general terms by the applicant however no further evidence from a suitably trained ecological consultant has been provided.</p>
<p>The proposal simply does not minimise impacts on natural values as far as is practicable.</p>
<p>I commend the proponent for incorporating some of the required information and amending the proposed subdivision to exclude most identified areas of Eucalyptus ovata forest on the site. This will undoubtedly reduce the impact of the proposed subdivision on the natural values of the area and region.</p> <p>There now exists opportunity to ensure long-term protection of these values in the development of a Part 5 Agreement over the balance of the subdivision area and also on the larger proposed lot ('residual'). In order to meaningfully protect the natural values on the area the following measures should be incorporated into the Part 5 Agreement:</p> <ul style="list-style-type: none"> • All mapped E.ovata forest on the residual lot should be included in the agreement. • The agreement should include measures to correctly assess and protect root protection zones for all works as per Australian Standard - 4970-2007- Protection-of-Trees-on Development Sites. • Specify proposed rehabilitation, landscaping and the measures proposed to reduce erosion, maintain the ecological and hydrological values of waterways and protect public infrastructure. • Specify performance standards for the above environmental works. <p>The development and implementation of a meaningful Part 5 Agreement should minimise impacts of this development and ensure the development is more consistent with the character of the area and its importance as habitat for threatened species.</p>
<p>Although a formal vegetation site survey was performed in 2004, it states that a number of threatened flora species may have been missed due to the timing of the survey. No additional survey appears to have been performed since 2004. Similarly there is no evidence that any formal on-site survey for habitat use by threatened fauna (e. g. scats, dens, remote camera monitoring). There has been no additional</p>

input in relation to the proposal from the ecological consultants in the relation to the current amended application. It is also clear that based on the PDA (2018) letter the site has improved in ecological condition since 2004. The ET (2016) report did not do any formal surveying for threatened vegetation species. At this time the presence of any threatened, vulnerable or rare vegetation species is based on a survey 14 years ago.

The assessment of ecological impacts by Et (2016) restricts its discussion to the areas of the original subdivision and proposed public space. It is clear however that in the time between the original NB (2005) report and the Et (2016) letter that a development had occurred in the northern portion of the title. There is no discussion as to the relevance of impacts of this development (vegetation clearing, road access or bushfire management) on the ecological values of the site as whole. It is apparent that some of the impacts of the development on the northern part of the title (removal of habitat trees, removal or modification of DOV) are similar to the current development. What, if any, prescriptions were imposed on this development and how do they relate to the current proposal?

No assessment has been carried out on the potential effect to waterways (specifically the Lambert Rivulet and downstream waterbodies) by the proposed increase in residential density and its associated infrastructure.

A waterway and coastal protection zone is present around all of the Lambert Rivulet. This zone is in close proximity to lot 5 and around 400m² is within lot 4. No consideration has been given in relation to the impacts of disturbance or clearance and conversion of the riparian zone of the creek. Similarly there is no assessment of impacts on water quality or quantity in the rivulet by the development. It should be noted that runoff from the proposed new road and residences in the original proposal was transferred directly to the rivulet via stormwater infrastructure. It is not clear on the new plan where stormwater will be collected and discharged.

The subdivision has the potential to significantly reduce vegetation cover. There is now an assessment of the of Swift Parrot foraging habitat (Blue Gum and Black Gums) that will be removed or retained.

There is no assessment of the extent or proportion of clearing of vegetation other than Blue and Black Gums. The majority of the subdivision area is characterised as *Eucalyptus pulchella* (DPU) forest. Based on the assessment of Blue and Black gums (which are considered sub-dominant in this vegetation type) there is likely to be a significant amount of *E. pulchella* within the subdivision area that may be high quality habitat trees for hollow dwelling species. Similarly although the Blue and Black gums are assessed based on their foraging quality and quantity the presence of 38 trees >0.7m in diameter and potentially many similarly sized *E. pulchella* habitat trees indicates that the site should be assessed as potential nesting habitat for swift parrots.

Clearance of Blue Gums and Black gum should be considered against the Swift Parrot Species Habitat Planning Guideline – working draft 5 November 10 to determine its potential as foraging and breeding habitat. Reductions in foraging area within 10km of nesting sites are considered a likely contributing cause of Swift Parrot decline. There is a number of known Swift Parrot nesting sites within 10km of the site. The quantification of Blue and Black Gums confirms that there is a significant amount of high or medium quality foraging habitat present but a

proportion of these will be removed (4 trees >0.7m diameter and 6 trees 0.4-0.7m diameter). The proposal includes an area of POS and a proportion of the new lots will be subject to a Part 5 agreement that presumably will protect the environmental attributes of these trees. However, a significant proportion of the Blue and Black Gums on the site will be on the balance of the lot with no formal protection.

The NB (2005) report considers the potential for environmental impacts both at the subdivision and further development stage (residential living) however Et (2016) considers that consideration of impacts at a later stage of development is inappropriate. The development will lead to loss of foraging habitat within a known foraging area of Swift Parrots. In addition the additional infrastructure and traffic could lead to direct impacts on this species through collision with vehicles and other infrastructure. Clearly the majority of impacts from the development will come when residences are built on the lots (e.g. vegetation clearance, bird strike, weed spread, stormwater runoff, predation by domestic animals), however many of these impacts relate to the position and size of the lots and should be considered at the design stage in order to properly consider mitigation strategies for all stages of the development.

The Et (2016) letter purports that any removal of Blue Gum and Black Gums within the DPU forest should be considered in the context of the area of trees to be retained (presumably as an offset) in the open public space. This is inconsistent with the current offset principles where the offset area should be as far as possible "like for like". DPU and DOV are different forest communities, at this site both contain Black Gums but the DPU is likely to have a higher proportion of Blue Gums based on the NB (2005) report.

Both Blue gums and Black Gums provide foraging habitat when they flower. Generally these two species flower at different times providing a longer foraging time for Swift Parrots. Both these species therefore should be afforded a very high level of protection with as many trees as possible being retained and protected both within the project area and on the balance of the title.

Based on the maps provided in the amended proposal (2018) there will still be a loss (~400m²) or substantial modification (~1400m²) of DOV in lots 2, 3 and 4. It is important to consider that when dealing with a relatively small patch of a forest community that long term viability is dependent on successful recruitment and long term health. Generally bushfire hazard management actions (clearance of understory, removal of coarse woody debris, thinning of canopy trees) would substantially reduce recruitment success and also provide greater potential for the establishment of environmental weeds. It is clear from the mapped distribution of Black Gums that most of the Bushfire Management zone contains small to medium sized Black Gums and that recruitment of this species is occurring upslope from the creek into the subdivision area (particularly lots 6, 7 and 8). Retention of the smaller Black and Blue Gum trees should be a priority within the bushfire management zone.

The proposal intends to retain some of the DOV in a public open space, however there does not appear to be a proposal to formally protect the remainder of the DOV on the balance of the lot. How the designation of DOV as a public open space will preserve this community is not discussed. Whilst a part 5 agreement is discussed in relation to the development area of the site the mapping indicates that this will only cover the area of bushfire management indicated on the plan. No

overall vegetation management plan is proposed either in relation to native vegetation or weed species.

Formal reservation of all of the remaining DOV community and all the remaining Blue and Black Gum trees on the title should be a high priority.

An objective of the Resource Management and Planning System for Tasmania (RMPS) is to promote 'sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity'. The RMPS definition of sustainable development includes 'avoiding, remedying or mitigating any adverse effects of activities on the environment'. The starting point for the consideration of impacts of a development on significant ecological values is through a mitigation hierarchy. The first consideration is whether impacts can be avoided or minimised, followed by remedying of the impacts on site, followed by mitigation options within the footprint area of the development, followed by offsetting some or all of the residual impacts (Guidelines for Natural Value surveys DIPWE, 2015).

Clearly the current proposal has the potential to impact a number of significant ecological values however no options for avoidance of these impacts is discussed. Although some of these ecological values have been considered in detail there is no holistic consideration of the proposal in the light of all of the known on-site values or potential threats. For instance a portion of the DOV community has already been removed to provide road access to the southern portion of the site, impacts from this development is already apparent (building site clearance and down-slope vegetation clearance). The density of the Swift Parrot foraging habitat (Blue Gum and Black Gums) in the proposed subdivision and the removal of DOV make it probable that a subdivision in the North eastern half of the lot may have led to a smaller environmental impact.

If a development elsewhere on the site was impractical reducing the scale of the currently proposed subdivision could significantly reduce its impact. On the basis of the information available, a smaller 4-5 lot proposal in the south-western corner of the block (incorporating lots 1, and 9, some of the road reserve and some of the southern portions of lots 7 and 8) could have retained all of the DOV and provided a bushfire hazard area that impacted far fewer Blue and Black Gums.

Although the Et (2016) letter states that the proportion of vegetation to be retained would satisfy any legislative requirements it does not supply any data (or reference to current guidelines) to support this contention. Vegetation mitigation strategies are based on both quantity (number of trees or area) and quality, as well as consideration of understory species and other habitat features (i.e. litter and logs). No quantitative assessment of vegetation condition (other than the enumeration of Blue and Black Gums) is provided. The most relevant document in relation to considering offsets is the 2013 document Guidelines for the use of Biodiversity Offsets in the local planning approval process (GBFO). These guidelines set out seven principles that should be followed when planning an offset. Key principles in the guidelines are:

Principle 1. Offsets are the final component of a mitigation hierarchy Impacts should in the first instance be avoided; alternatives to minimise and remedy must also be thoroughly addressed and only in the event that these actions cannot achieve satisfactory results for biodiversity conservation, impacts should be offset; and

Principle 2. Offsets must deliver a net benefit for biodiversity conservation When taken as a whole, the benefits of an offset action(s) must be greater than the scope of the adverse impacts on biodiversity values.

It appears that Et (2016) considers that both these principles will be delivered through the provision of 0.85ha of retained DOV regardless of the potential loss of ecological values through clearing or substantially modifying more than 0.6ha of DOV and 1.5ha of DPU. There is no consideration as whether any of these impacts could be avoided or minimised. There is also no consideration of the relative ecological values of the impacted versus retained areas of vegetation. On balance it appears extremely unlikely that the proposal as currently configured would lead to a net benefit for biodiversity conservation.

A primary consideration in relation to the potential impacts of the development on EPBC listed species is whether these would be sufficient to trigger an assessment under the commonwealth EPBC Act. Four species listed as endangered or critically endangered by the commonwealth are considered to have suitable habitat that is likely to be degraded by the proposal.

Et (2016) argued that in their opinion a referral was not warranted in relation to impacts on Swift Parrot foraging or breeding habitat, no assessment of potential impacts on the other species was considered. Neither of the ecological assessment documents provided quantitative advice on impacts to any of the EPBC listed species.

Potential impacts are defined on the EPBC Act website is "if there is a real chance or possibility" of the development causing;

- one or more of the National Heritage values to be lost
- one or more of the National Heritage values to be degraded or damaged
- one or more of the National Heritage values to be notably altered, modified, obscured or diminished.

The onus is on the proponent to provide the information required to determine and to decide if an action should be referred under the EPBC Act. Based on the current information it would be impossible to determine the level of impact of the development of any of the listed species. Clearly the loss of habitat for these species will lead to heritage values being "altered, modified and diminished" the question remains whether this will lead to "a real chance or possibility" of significant effects to the viability of the species. On balance given the precarious state of the Swift Parrot and the importance of conservation of habitat for the other species it would be prudent that the proposal was referred to the commonwealth for assessment.

In addition the lack of a formal survey of threatened vegetation or fauna species for 14 years makes it unclear if EPBC listed species are present.

The current proposal has quantified the number and size both Blue and Black Gums on the site. This has shown that the subdivision will lead to the loss of a number of these trees (17 Blue and 10 Black Gums) but will protect a proportion within the POS and Part 5 area (46 Blue and 250 Black Gums). The remainder of the block however still retains a significant number of these trees (87 Blue and 129 Black Gums). It is particularly worrying that of the larger trees >0.7m diameter (with the highest foraging value) four will be removed and of the remaining 35 trees 16 (46%) are not afforded any protection. Similarly 48 of the 102 trees in the medium

value foraging range (0.4-0.7m diameter) are on the balance of the lot.

As some of the Swift Parrot foraging resource will be removed it is important to afford formal protection to all Blue and Black Gum trees on the lot. A possible addition to the requirements of the Part 5 agreement or the addition of a vegetation management plan as part of the conditions of approval could afford this protection.

The DOV forest community is classified at the highest level of threat - endangered and inadequately reserved at both statewide and bioregional level. The current development proposal will lead to significant disturbance or the clearance and conversion of DOV. The actual amount to be cleared or disturbed has not been defined but may be as much as 0.2ha. The most current estimates of the status of DOV at both a state and bioregional (IBRA 6) level are reported the Analysis of comprehensiveness of existing conservation reserves and proposed additions to the Tasmanian forest reserves system (2012). This report gives an estimate for pre European area of DOV for the state of 186,000ha and a current extent of 17,733ha indicating a decline of 90.5% since settlement. It also estimates that only 23% of the current DOV is within reserves at the state level. In terms of the South-East bioregion (that includes the City of Hobart) DOV is estimated to have covered 47,000ha prior to European settlement and to have declined to 4,285ha by 2012, a 91% loss. The percentage of DOV reserved in the South-East bioregion is 22%. Based on the Convention on Biological Diversity strategic plan for biodiversity 2011-2020 all vegetation groups should be preserved at 17% of pre European levels within protected areas. Based on these criteria all current areas of DOV should be protected.

An underlying assumption in the ecological assessments for the proposal is that partial clearance of (DOV) is justified on the basis that the retention of a proportion of this community will lead to a higher level of protection than if left in its present state. The assumption is that the DOV currently has no or little protection and that the transfer of a portion of this community to a different tenure (public open space) will provide a better long term environmental outcome. In reality any disturbance to this community under the present tenure would trigger the provisions of the *Forest Practices Act 1985*. Clearing or disturbance of any amount of this community on public or private land would require a Forest Practice Plan (FPP) certified by a Forest Practice Officer under the provisions of the Forest Practice Code and the *Forest Practices Act 1985*.

Under the *Forest Practices Act 1985* clearance of a Threatened Native Vegetation Community is only allowed if one or more of four circumstances are present:

- (a) *the clearance and conversion is justified by exceptional circumstances;*
- (b) *the activities authorised by the forest practices plan are likely to have an overall environmental benefit;*
- (c) *the clearance and conversion is unlikely to detract substantially from the conservation of the threatened native vegetation community;*
- (d) *the clearance and conversion is unlikely to detract substantially from the conservation values in the vicinity of the threatened native vegetation community.*

The application for a development approval under LUPPA however provides an exemption from the requirement for a FPP under the Forest Practice Regulations 2009. This exemption transfers assessment of impacts on Threatened Native Vegetation Communities impacted by a development to local government when a

development is approved. Crucially the *Forest Practices Act 1985* provides a high level of protection when clearance of a TNVC is proposed in the absence of a development permit.

In the context of the current proposal it is important that the status and protection of as much of the ecological values of the DOV community that is impacted by the development is retained by the provisions of the Part 5 agreement. Similarly the management prescriptions within the POS should have the intention of retaining and improving the quality of the DOV community. It would also be prudent to increase the size of the POS to encompass all of the DOV within the balance of the lot (particularly the area between 605 and 629 Nelson Road in to the south of the POS) to ensure future development is constrained to areas of lower ecological value.

It remains for the Council to consider the appropriateness of clearing some DOV as part of this proposal in the light of the objectives of sustainable development as defined by Schedule 1 of LUPAA. In the first instance the Council needs to consider the current protection of this community against its status after the proposal is approved. Secondly they need to be satisfied that the change of status is likely to deliver a better long term ecological outcome for the community even when a portion of it has been removed.

Planning Scheme Compliance:-

The proposal does not comply with the Hobart Interim Planning Scheme 2015. (Note that the proposal must be assessed against the City of Hobart Planning Scheme 1982, which was the planning scheme in force at the time that the application was validly lodged.)

Bushfire:-

Importantly, the BHMP requires that the entire area of Lots 1-9 is required to be managed as a 'hazard management area'. Furthermore, it is silent with respect to the actual extent of vegetation removal that is required. 'Hazard management area' has a defined meaning in the Planning Scheme and is essentially land that is maintained in a minimum fuel condition to prevent the spread of fire. In the absence of any prescriptions or guidance within the BHMP, it must be assumed that future owners may remove all vegetation, with the exception of the specific trees identified for retention on the amended subdivision plans. The absence of any guidance will also make it extremely difficult for building surveyors to assess whether future building work meets the requirements of the BHMP.

The new proposal provides a 'Part 5 Agreement Area' that encompasses the rear part of Lots 3-8. It is understood that this is intended to provide a mechanism for ensuring each landowner can establish and manage the required hazard management area in the event that the neighbouring lots have not yet been developed. Curiously the Part 5 Agreement Area does not include the front half of the subject lots, hence the benefitting lot owner would only have the right to maintain the rear portion of an undeveloped neighbouring land whilst adjoining land immediately on either side of the building work (the front half of the neighbouring lots) would be left in a hazardous state. This clearly will not provide the required level of protection from bushfire hazard. Furthermore, the proposed Part 5 arrangement unnecessarily sets up a complex legal arrangements that Council will be required to enforce under s.60A of the *Land Use Planning and Approvals Act 1993*.

A far better simpler solution to address the hazard on adjoining lots would be for the BHMP to require that building areas and hazard management areas be established by the subdivider as part of the civil works and maintained in perpetuity by the respective owners to ensure all building areas can achieve BAL-19.

If the application is to be approved, Council will need to consider conditioning the permit to require the proposed building areas at a minimum are cleared by the subdivider and maintained by owners in perpetuity.

6. Assessment

- 6.1. The proposal is to be assessed against the *City of Hobart Planning Scheme 1982*.
- 6.2. The site is located in the Residential 2 (Reserved Residential) zone and Precinct 37D - The Mount Nelson Precinct.
- 6.3. The proposal is for subdivision of residentially zoned land.
- 6.4. The proposal has been assessed against the following:
 - 6.4.1. Part 4 – Principles of Development Control
 - 6.4.2. Part 5 – Residential 2 (Reserved Residential) Zone Objective and The Mount Nelson Precinct 37D Statement of Desired Future Character.
 - 6.4.3. Schedule A - Use
 - 6.4.4. Schedule B – Density
 - 6.4.5. Schedule D – Siting and Landscaping
 - 6.4.6. Schedule E – Traffic Access and Parking
 - 6.4.7. Schedule I – Clearing of Land
 - 6.4.8. Schedule K – Rescode
 - 6.4.9. Schedule Q – Flood Prone Land
- 6.5. The proposal relies on performance criteria to satisfy the following:
 - 6.5.1. Schedule D – Siting and Landscaping – Clause D.6 Watercourse Setback
 - 6.5.2. Schedule I – Clearing of Land – Clause I.2 Clearing more than 500sqm
 - 6.5.3. Schedule K – Rescode – Clause K.3.1 PC1.4 Residential Density
 - 6.5.4. Schedule Q – Storm Surge and Flood Prone Land – Clause Q.5.1 P1

Standards for Development within Flood Prone Land

6.6. Each performance criteria is assessed below.

6.7. Schedule D – Siting and Landscaping – Clause D.6 Watercourse Setback

- 6.7.1. Clause D.6.1 requires development to be setback 10m from the top of the bank of any open watercourse.
- 6.7.2. Development is defined to include subdivision. The proposed subdivision includes works within 10m of Lambert Rivulet.
- 6.7.3. The subdivision does not meet the acceptable solution, and must therefore satisfy the corresponding performance criterion at clause D.6.2, which states:

Council may exercise its discretion to refuse or permit any development which departs from the setbacks specified in D.6.1. Council will only approve a reduction in the specified setback where it can be demonstrated that:

- a) there will be minimum adverse impact upon the environment,*
- b) no compromising of recreational opportunities,*
- c) there will be no increased risk of any hazard such as flooding, erosion or land instability level, and*
- d) there will be no constraint on access to a Council or other utility service.*

- 6.7.4. With respect to (a), the Council's Environmental Development Planner provides as follows:

The drainage line through proposed lots 4 and the southern portion of the proposed public open space lot provides minimal habitat values given its ephemeral nature and lack of defined watercourse features such as bed and banks. Impacts upon natural values as a result of these works can be minimised through:

- *Implementation of a construction management plan including a soil and water management plan. The key issues that need to be addressed are minimising the area of disturbance, installing sediment and erosion control measures and revegetation of disturbed areas.*
- *Provision of a stormwater quality treatment system below the proposed outfalls.*
- *Extension of the proposed stormwater mains closer to the drainage line.*
- *Provision of scour protection at the proposed outfalls.*

Conditions to this effect are recommended below or have been recommended by Council's Environmental Engineering Unit.

- 6.7.5. With respect to (b), the land is currently privately owned and therefore there are no public recreational opportunities to be lost, although it is

acknowledged that the site is used informally by people in the area. However, the subdivision will result in an increase in recreational opportunities by formalising an addition to Bicentennial Park. The Council's Environmental Development Planner has also commented as follows:

Recreational opportunities are unlikely to be affected by the proposed works within the waterway setback area, particularly if stormwater outfalls are moved closer to the creek to avoid the creation of nuisance stormwater areas.

- 6.7.6. With respect to (c), the Council's Environmental Engineering Unit has indicated support for the proposal subject to conditions. The following assessment has been provided:

Flooding risks are considered to be minimal for the subdivision itself, given this is the very top of the catchment for Lambert Rivulet. Instability for the majority of the site is considered to also be minimal based off geology for the Mt Nelson area, as it is largely comprised of Jurassic dolerite acting as the bedrock/outcrops. However, due to the historic creek line that passes through lot 4 and 5 there may be some potential stability issues with the natural ground at these locations, but this is more specifically tied the consideration of future development on these lots.

The primary concern for the site is the potential for erosion due to the increase and concentration of flow from the development. While particular details on flows / erosion controls at the discharge point have not formed part of the application; these would be considered detailed elements. Conditions will be added which require detainment of flows to suitable levels as well as outfall control measures to mitigate erosion, which is in-line with Part A.2 of the State Policy Considerations – Implementation of the State Policy on Water Quality Management.

In terms of future risks for development on these lots, flooding and instability risks will be assessed in greater detail via the planning scheme requirements tied to the specific dwelling proposal / lot limitations.

- 6.7.7. With respect to (d), the Council's Development Engineer has indicated support for the proposal, subject to conditions.

- 6.7.8. The proposal complies with the performance criterion.

6.8. Schedule I – Clearing of Land – Clause I.2 Clearing more than 500sqm

- 6.8.1. The acceptable solution provides that up to 500m² of vegetation may be cleared.
- 6.8.2. The proposal includes more than 500m² of vegetation clearing, as a consequence of the works associated with the subdivision (i.e. road, services).

- 6.8.3. The proposal doesn't meet the acceptable solution, therefore it must satisfy the performance criterion at clause 1.4 which states as follows:

Council, in considering applications for the destruction or removal of soil or vegetation not exempt under Clause 1.3 above, shall take into account:-

- (a) the nature and extent of the vegetation to be destroyed or removed;*
- (b) the proposed means of destruction or removal of vegetation;*
- (c) possible soil erosion, land instability or drainage channels and the proposed measures to mitigate adverse effects;*
- (d) the protection of watercourses and water quality including the impact of land clearing on critical riparian areas for protecting water catchments, watershed recharge areas, springs, wetlands, flood plains, and estuaries;*
- (e) the protection of the amenity value of the vegetation and the general area and its cultural landscape and heritage significance;*
- (f) the protection of biodiversity, including species, genetic and ecosystem diversity, rare, vulnerable or endangered species, habitat and wildlife corridors; and*
- (g) any hazards the vegetation poses to health, welfare and safety of persons and property, including the risks from fire.*

- 6.8.4. The Council's Environmental Development Planner has undertaken a thorough assessment of the above criteria and concludes as follows:

The proposed subdivision will have direct and indirect impacts upon significant environmental values present on the site, both through subdivision works and future development of the proposed residential lots. The subdivision would impact a vegetation community ('Eucalyptus ovata forest and woodland') which is listed as threatened under the Nature Conservation Act 2002, and which is also likely to be listed as a matter of national environmental significance under the Environment Protection and Biodiversity Conservation Act 1999 (EPBCA). The Comprehensive Regional Assessment forest classification system places this community in the highest status level of threat ('endangered') and the nomination under the EPBCA is for the community to be classified as 'critically endangered' (also the highest status of threat aside from 'extinct in the wild' and 'extinct'). The subdivision would also result in the loss of foraging habitat for a species (swift parrot) listed under the Threatened Species Protection Act 1995 in the highest category of threat ('endangered') and listed as a matter of national environmental significance under the EPBCA as 'critically endangered'. The subdivision may also impact upon breeding habitat for the swift parrot.

On balance, my recommendation is that Council exercises discretion under clause 1.2 of Schedule 1 of the Scheme.

- 6.8.5. The officer's full report is provided at Attachment C.
- 6.8.6. The officer's assessment does not address subclause (e), which refers

to the impact of the clearing on amenity and landscape values of the 'general area'. The extent of clearing is minor compared to the extent of land being provided as public open space, and being retained in the balance lot. The clearing proposed is restricted to that required to facilitate the subdivision, and is not proposing additional and unnecessary vegetation clearing. The majority of the clearing will not be readily apparent from Nelson Road, being located off Hargrave Place, which slopes relatively steeply down away from Nelson Road. While there will definitely be a change to the appearance of this portion of land as a consequence of the subdivision, it is not considered to have an unacceptable impact on the amenity or landscape values of the 'general area', with the bushland character and feel of Mount Nelson to be maintained.

6.8.7. The proposal satisfies the performance criterion.

6.9. Schedule K – Rescode – Clause K.3.1 PC1.4 Residential Density

6.9.1. The acceptable solution at clause AS1.3 specifies that lots are to have an inscribed circle and frontage of 25m.

6.9.2. Lots 2, 3, 4, 5, 6, 7 and 8 do not meet the 25m frontage. Lots 2 and 8 do not meet 25m inscribed circle.

6.9.3. The lots not meeting the acceptable solution must therefore satisfy the performance criterion at clause PC1.4, which states:

Lots shall have the appropriate area, dimensions, and frontage for the siting and construction of a dwelling and ancillary outbuildings, the provision of private open space, convenient vehicle access and parking subject to the following absolute minimum standards:

2) Lots with a gradient of 20% or greater shall have:-

(a) an area not less than 500m²;

(b) a minimum frontage of 3.6m in accordance with Clause B.8.3(i)

Council may require building envelopes to be shown on the subdivision plan which define the limits for the siting, and wall and roof height of any dwelling and/or building.

6.9.4. All lots are generously sized and are in excess of the permitted size of 1000m² and well in excess of the 500m² absolute minimum. Similarly all lot frontages are in excess of the 3.6m standard, with lot 8 having the smallest frontage at 5.8m. All lots have more than adequate space to provide for a residential dwelling, ancillary outbuildings and associated space for gardens and parking and access. The table below sets out the proposed lots' size and frontage.

LOT	SIZE (m ²)	FRONTAGE (m)
1	1017	34.4

2	1035	21.4
3	1377	17.5
4	2065	11.4
5	1831	12.1
6	1795	16.5
7	1955	16.5
8	1913	5.8
9	1006	39.1
Public Open Space	19,500	-
Road	1746	15.7
Balance	55,300	76.1

- 6.9.5. It is noted that the site is within the Residential 2 Zone (Reserved) and Precinct 37D. The objective of the zone and the precinct statement of desired future character provide as follows:

The Objective of the Residential 2 Zone is to sustain and enhance the character and amenity of areas of predominantly detached houses, with limited development of complementary dwelling-types and minimum intrusion or further development of non-residential uses not necessary to serve local residents.

And

These Precincts should continue to develop primarily with detached housing in a bushland setting. The use of materials that blend with the colours and textures of the natural vegetation should be encouraged. Two storey houses will be allowed where they do not interfere with the skyline. Precinct 37D is reserved for residential subdivisions pending the availability of services.

- 6.9.6. The proposal provides large lots which will facilitate detached residential development that is able to retain the bushland character and feel present in Mount Nelson. External finishes on subsequently proposed dwellings that blend with the colours and textures of the natural vegetation can be encouraged when development applications are submitted for them. The proposed subdivision is considered to be consistent with the zone objective and precinct statement.
- 6.9.7. The *City of Hobart Planning Scheme 1982* also provides the following

Principle of Development in relation to subdivision:

Within the Residential and Rural Zones, the subdivision of land, other than minor boundary adjustments, shall not be permitted unless it is in conformity with the desired future character of its Precinct and it can be demonstrated that such subdivision will either:

(a) lead to an increase in population density whose needs can be met by existing community and physical services without deleterious effect on the environment; or

(b) ensure the orderly, proper and incremental expansion of the existing residential area of the City, and provide adequate physical and community service facilities and amenities for such an extension.

- 6.9.8. As noted above the proposal is considered to accord with the precinct statement, and it is considered that the existing community and physical services can meet the additional demand created by the proposed nine lots.

- 6.9.9. Specifically in relation to 'Reserved Residential' zoned land, the planning scheme provides at clause B.10.1:

The several areas shown on 'the Plan' with the notation 'Reserved Residential' shall not be further subdivided into lots until provision has been made for vehicular access and the supply of reticulated services to the satisfaction of the Council.

- 6.9.10. All lots will be connected to reticulated services and will have vehicular access.

- 6.9.11. Noting all of the above, the proposal complies with the performance criterion.

6.10. Schedule Q – Storm Surge and Flood Prone Land – Clause Q.5.1 P1 Standards for Development within Flood Prone Land

- 6.10.1. Schedule Q applies because parts of the site meet the definition of flood-prone land (Lambert Rivulet and the areas immediately adjacent the Lambert Rivulet).

- 6.10.2. The proposal does not meet the acceptable solution at clause Q.5.1 A1 because it is for subdivision.

- 6.10.3. The performance criteria at clause Q.5.1 P1.1 provides as follows:

The design and siting of development must:

(a) have habitable rooms with a FFL above the storm surge level or at least 300mm above the flood level where new buildings or subdivision are proposed, and

(b) ensure the free flow of flood or tidal waters; and

(c) avoid concentrating flood or tidal waters, or intensifying flow velocity on land up or downstream; and

(d) avoid net loss of flood storage and or conveyance on land within

the Floodplain; and

(e) avoid damage to or loss of existing or future proposed buildings or works, and the associated potential risk to human life from potential flood/storm surge; and

(f) not increase the level of risk of hazard for the site or for adjoining or nearby properties or infrastructure; and

(g) avoid or minimise the risk of water pollution from inundation of any materials, substances or wastes on the site.

- 6.10.4. The Council's Environmental Development Planner has assessed the proposal against the above performance criteria and commented as follows:

Flooding issues for the proposed new lots will be minimal as the areas where dwellings would be constructed are outside the flood areas.

The free flow of flood waters will be maintained under the proposal. Concentration will not occur. There would be no increased risk of flood damage, risk to human life or water pollution associated with flooding.

Requirements for inundation free land under Local Government (Building and Miscellaneous Provisions) Act 1993 will also be met.

- 6.10.5. The officer's full report is provided at Attachment C.

- 6.10.6. The proposal complies with the performance criterion.

7. Discussion

- 7.1. Planning approval is sought for Subdivision (9 Additional Lots, Road Lot, Public Open Space Lot and Balance) at 607 to 627 Nelson Road.
- 7.2. The application was advertised and received four (4) objections. The concerns raised in the objections included non-compliance with the current planning scheme, bushfire hazards, and unacceptable impacts on environmental and ecological values.
- 7.3. The proposal was validly lodged under the *City of Hobart Planning Scheme 1982* and is considered to perform well in relation to the discretions invoked under that planning scheme.
- 7.4. The proposal includes a large almost 20,000sqm public open space lot, which adjoins directly with the Council's Bicentennial Reserve at the rear of what was formerly 3 Hargrave Place. Although the lot does not have direct frontage to Nelson Road, there is a public right of way over the balance lot which will give the public direct access from Nelson Road onto the public open space lot and into Bicentennial Reserve. Council also owns the former TasWater pump station at 629 Nelson Road, and this could in the future provide a more formal public entry into Bicentennial Reserve off Nelson Road at this point. Refer to image below.

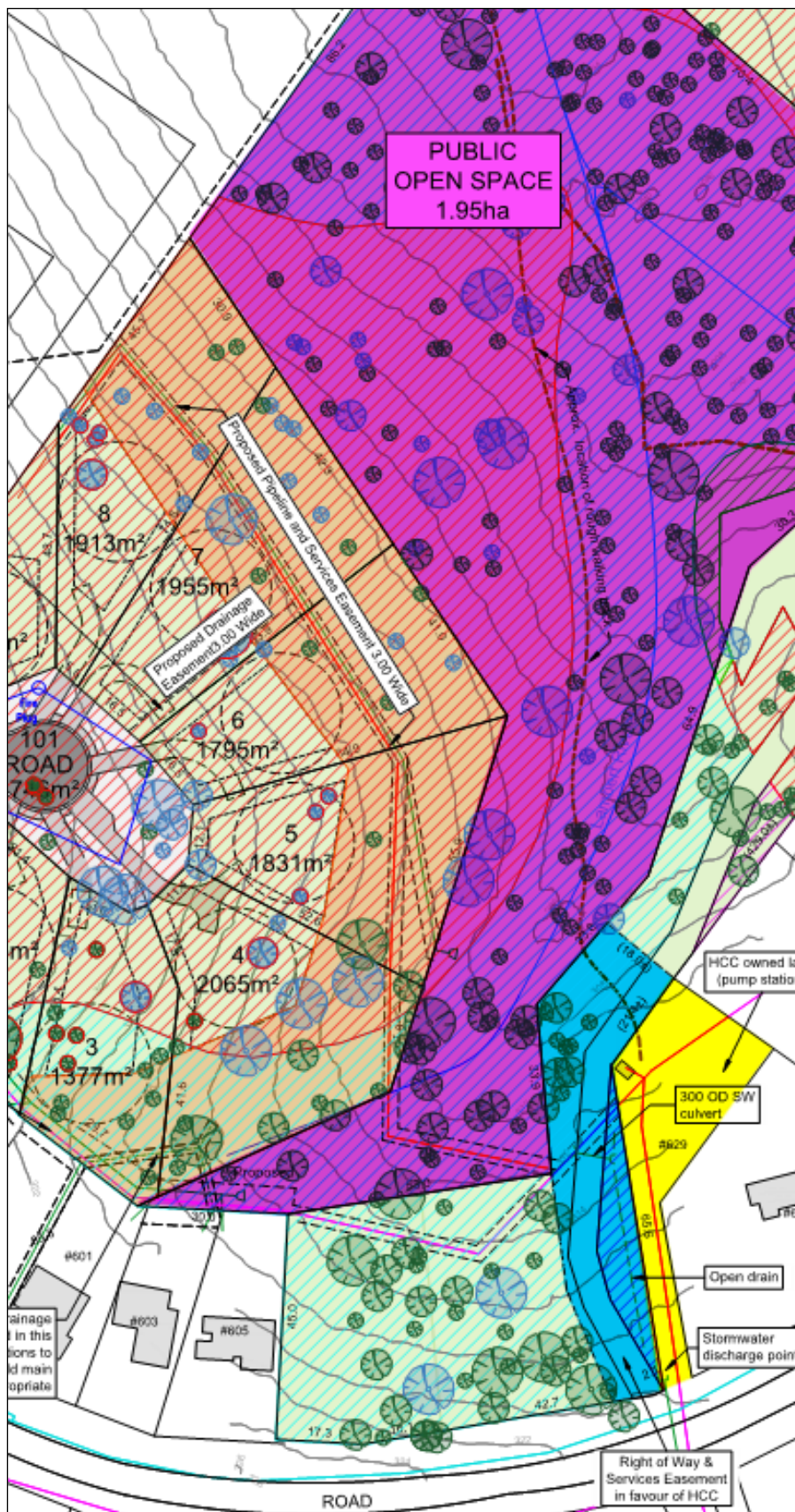


Figure 10: The public open space lot is shown highlighted purple. The public right of way off Nelson Road is shown highlighted blue. The Council's land at 629 Nelson Road (pump station) is shown highlighted yellow.

7.5. The proposal has been assessed and supported subject to conditions by the Council's Environmental Development Planner, Development Engineer, Road and Environmental Engineering Unit, and Surveying Services Unit.

7.6. The report of the Council's Environmental Development Planner is provided at Attachment C.

7.7. The proposal is recommended for approval subject to conditions.

8. Conclusion

8.1. The proposed Subdivision (9 Additional Lots, Road Lot, Public Open Space Lot and Balance) at 607 to 627 Nelson Road, Mount Nelson and Adjacent Road Reserve satisfies the relevant provisions of the *City of Hobart Planning Scheme 1982* and is recommended for approval.

9. Recommendation

That:

Pursuant to the *City of Hobart Planning Scheme 1982*, the Council approve the application for Subdivision (9 Additional Lots, Road Lot, Public Open Space Lot and Balance) at 607 to 627 Nelson Road, Mount Nelson and Adjacent Road Reserve for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

GEN

The use and/or development must be substantially in accordance with the documents and drawings that comprise PLN-14-01177-01 - 607-627 Nelson Road - MOUNT NELSON – Final Planning Documents except where modified below.

Reason for condition

To clarify the scope of the permit.

TW

The use and/or development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2014/01071-HCC dated 18 June 2018 as attached to the permit.

Reason for condition

To clarify the scope of the permit.

ENG sw2

Where all approved works have been completed and prior to the sealing of the final survey plan, the developer must submit a recorded CCTV inspection and

associated report of any new public stormwater infrastructure, taken no more than one month prior to commencement of the maintenance period. A maintenance period of 12 months (roads, piped infrastructure) or 24 months (vegetated stormwater infrastructure) will apply. Council will perform a final inspection at the end of the maintenance period. Should any rectification works be required, these must be done at the Developer's cost within a time frame specified by Council, and an additional 12 month maintenance period may be applied.

Advice: A maintenance bond of 5% of the contract value of the works will be required by Council. Upon the expiry of the maintenance period, please contact the Council's Project and Development Inspector on telephone 6238 2967 to arrange the final inspection prior to the release of the security bond.

Reason for condition

To ensure that the Lots are serviced by adequate public infrastructure.

ENG sw4

The new storm water connections for the existing lots fronting Nelson Road must be constructed and existing abandoned connections sealed at the owner's expense, prior to the sealing of the final plan.

Detailed engineering drawings must be submitted and approved, prior to commencement of work. The detailed engineering drawings must include the location and size of the proposed connections

All work required by this condition must be undertaken in accordance with the approved detailed engineering drawings.

Advice: Once the detailed engineered drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Please note that once the condition endorsement has been issued you will need to contact Council's City Infrastructure Unit to initiate an application for service connection.

Reason for condition

To ensure the site is drained adequately.

ENG sw5

The new stormwater system must be constructed prior to the sealing of the final plan. All costs associated with works required by this condition are to be met by the owner.

Engineering design plans in accordance with the relevant standards and specifications must be submitted and approved prior to the commencement of works. The engineering design plans must:

- 1. Be certified by a suitably qualified and experienced engineer.**
- 2. Show the direction of stormwater run-off.**
- 3. Include independent drainage and a point of discharge for each lot.**
- 4. Show in both plan and longitudinal section the proposed stormwater infrastructure including (but not limited to): connections, flows, velocities, hydraulic grade lines, clearances, cover, gradients, sizing, material, pipe class, adequate working platforms around manholes, easements and inspection openings.**
- 5. Include the associated calculations and catchment area plans. The stormwater system must be designed using the major/minor concept with the major system catering for 1% AEP flows as at 2100 (i.e. including climate change loading) from a fully developed catchment, and the minor (underground pipe) system sized to accommodate 5% AEP flows from a fully-developed catchment.**
- 6. Provide sufficient detail to demonstrate that overland flow from the 1% AEP storm event is contained and safely conveyed within the proposed overland flow path (and drainage easement).**
- 7. Detail suitable erosion and scour protection at the drainage outfall points.**
- 8. Provide details of infrastructure to convey stormwater from Nelson Road to Lambert Rivulet via the proposed public open space.**

All work required by this condition must be undertaken in accordance with the approved engineering design drawings.

Advice:

- The proposed drainage outfalls should discharge as near as practicable to the defined rivulet centreline.*
- Drainage from Nelson Rd passing through the public open space must be*

conveyed formally in public infrastructure.

- *Once the engineering design drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).*
- *Please note that once the condition endorsement has been issued you will need to contact Council's City Infrastructure Division to obtain a Permit to Construct Public Infrastructure.*

Reason for condition

To ensure Council's hydraulic infrastructure meets acceptable standards.

ENG sw6

Construction of the proposed infrastructure must not adversely impact the Lambert Rivulet. A Construction Management Plan must be submitted and approved prior to commencement of works. The plan must:

- 1. Be prepared by a suitably qualified and experienced person.**
- 2. Detail the proposed works and construction methodology including the machinery expected to be used in the vicinity of the rivulet, the potential adverse environmental impacts of the construction activity and suitable methods of mitigating those impacts.**
- 3. Include a relevant impact monitoring system and schedule.**

All work required by this condition must be undertaken in accordance with the approved plan.

Reason for condition

To ensure the protection of the Council's hydraulic infrastructure.

ENG 1

The cost of repair of any damage to the Council infrastructure resulting from the implementation of this permit, must be met by the owners within 30 days of the completion of the development or as otherwise determined by the Council. Any damage must be immediately reported to Council.

A photographic record of the Council infrastructure adjacent to the subject site

must be provided to the Council prior to any commencement of works.

A photographic record of the Council's infrastructure (e.g. existing property service connection points, roads, buildings, stormwater, footpaths, driveway crossovers and nature strips, including if any, pre-existing damage) will be relied upon to establish the extent of damage caused to the Council's infrastructure during construction. In the event that the owner/developer fails to provide to the Council a photographic record of the Council's infrastructure, then any damage to the Council infrastructure found on completion of works will be deemed to be the responsibility of the owner.

Reason for condition

To ensure that any of the Council infrastructure and/or site-related service connections affected by the proposal will be altered and/or reinstated at the owner's full cost.

ENG 3b

The design of the access driveways must be submitted and approved, prior to the commencement of work.

The design must:

- 1. Be prepared and certified by a suitably qualified engineer.**
- 2. Be generally in accordance with the Australian Standard AS/NZS2890.1:2004.**
- 3. Where it deviates from AS/NZS2890.1:2004, demonstrate that the design will provide a safe and efficient access, and enable safe, easy and efficient use.**
- 4. Show dimensions, levels, gradients and transitions, and other details as Council deem necessary to satisfy the above requirement, including showing:**
 - a. Long sections for the driveways onto each lot.**
 - b. Practical access onto each lot. I.e. construction vehicles must be able to access and park within the lots.**
 - c. A sealed driveway up to the front boundary of each lot, noting that driveways must be sealed where subject to a right of way.**

- d. **A separate long section along the inside wheel track where there is a bend in a driveway with a centerline gradient exceeding 20%.**
- e. **A long section along the centerline for the driveway onto lot 4 (where separate from shared driveway to lot 5) demonstrating acceptable gradients. Refer to Advice clause immediately below.**

All work required by this condition must be undertaken in accordance with the approved design.

Advice: Once the design has been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Access onto lot 4 should branch off the shared driveway with lot 5 before the bend north towards lot 5, that is, try to avoid turning left then right with steep gradients.

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 3c

The access driveways must be constructed in accordance with the design drawings approved by Condition ENG 3b.

Prior to the sealing of the final plan, documentation by a suitably qualified engineer certifying that the driveways have been constructed in accordance with the above drawings must be lodged with Council.

Reason for condition

To ensure the safety of users of the access and parking module, and compliance with the relevant Australian Standard.

ENG 4

The access driveway to each lot approved by this permit must be constructed to a sealed standard (spray seal, asphalt, concrete, pavers or equivalent Council approved) and surface drained to the satisfaction of the Council's Director City Infrastructure prior to the sealing of the final plan.

Reason for condition

To ensure the safety of users of the access driveway, and so that it does not detract

from the amenity of users, adjoining occupiers or the environment by preventing dust, mud and sediment transport.

ENG r7

Residential underground power to each lot and street lighting must be installed prior to the sealing of the final plan.

A street lighting design for all roads and footways must be submitted and approved, prior to sealing of the final plan. The street lighting design must:

- 1. Be in accordance with AS/NZS 1158.3.1 category P4 series to the requirements of Tas Networks and Council;**
- 2. Include Tas Networks light standard supplied poles and energy-efficient road light fittings; and**
- 3. Be certified by a qualified person.**

All work required by this condition must be undertaken in accordance with the approved street lighting design.

Advice: Once the street lighting design has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that the subdivision of land provides adequate services to meet the projected needs of future development.

ENG r8

The subdivision must provide adequate services to meet future development.

Engineering drawings must be submitted and approved prior to commencement of work on the site. The engineering drawings must:

- 1. Be prepared and certified by a suitable qualified professional and experienced engineer.**
- 2. Be in accordance with LGAT-Tasmania Standard Drawings and Subdivision Guidelines 2013, the Department of State Growth Specifications and all other relevant Standards, Guidelines and procedures or to the approval of the Director City Infrastructure.**

3. Show long and cross sections of the footpaths, footway and driveways onto each lot and concept landscaping plan.
4. Show the existing and new driveway access design onto the existing lots 3, 5 and 7 Hargrave Place.
5. Show the existing and new intersection design from Hargrave Place onto the new road and include the location of the power pole and stay-wire with any modifications required.
6. Show location of fences, barriers or landscaping required adjacent to footpaths due to slope of land.
7. Show parking restrictions in particular No Stopping around cul-de-sac and on one side of the road when less than 7m wide to allow fire trucks to gain access.
8. Show any embankment easements.
9. Include designs of any excavation and/or any batter fill and/or any earth-retaining structures (i.e. embankments, cuttings, fills, retaining walls) and associated structures certificates for any structures. The design must:
 - a. Show the batter filling be designed in accordance with AS1289 and/or earth retaining structure be designed in accordance with AS4678, with a design life in accordance with table 3.1 typical application major public infrastructure works.
 - b. Take into account any additional surcharge loadings as required by relevant Australian Standards and any Geotechnical findings.
 - c. Detail any mitigation measures required.
 - d. The structure certificated and/or design should note accordingly the above.
10. Include design and certification of pedestrian and vehicle barriers in accordance with the Department of State Growth Specifications Guidelines and procedures, Australian/New Zealand Standard AS/NZS 1170.1 and/or the (IPWEA) LGAT - Tasmania Standard Drawings. Upon completion the barriers must be inspected by a qualified engineer and a certification submitted to the Council, confirming that the installed barriers comply with the above requirement.
11. Include a safe design of structures assessment in accordance with the Safe Design of Structures Code of Practice (as adopted under section 274

of the *Work Health and Safety Act 2012*) and supply to the Council any documentation for the ongoing maintenance and replacement of any structures within the Highway Reservation.

All work required by this condition must be constructed in accordance with the approved engineering drawings.

Advice: Once the engineering drawings have been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure that the subdivision of land provides adequate services to meet the projected needs of future development.

SURV 1

The applicant must submit to the Council a copy of the surveyor's survey notes at the time of lodging the final plan.

Reason for condition

To enable the Council to accurately update cadastral layers on the corporate Geographic Information System.

SURV 2

The final plan and schedule of easements must be submitted and approved in accordance with section 89 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Reason for condition

To ensure that the subdivision is carried out in accordance with the Councils requirements under the provisions of Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

SURV 3

The final plan and schedule of easements must be submitted and approved under section 89 *Local Government (Building and Miscellaneous Provisions) Act 1993*.

The final plan and schedule of easements must provide easements to the satisfaction of the council:

- 1. Over any proposed or existing stormwater, water or sewer mains passing through the lots on the final plan, in favour of the Hobart City Council and/or TasWater.**
- 2. Over any existing or proposed overland flow paths in favour of the Hobart City Council.**
- 3. Over any existing or proposed private right of ways, drainage and/or service easements in favour of the lots they are required to serve.**
- 4. Over any existing, proposed or required road embankments or road batters in favour of the Hobart City Council.**
- 5. Over the proposed right of way and services easement in favour of the Hobart City Council.**

Advice: Easement widths should be in general accordance with the LGAT (2013) Tasmanian Subdivision Guidelines.

Reason for condition

To ensure that there are no impediments to the provision of public and private services and access to the lots.

SURV 5

The proposed Road and Public Open Space lots are to be transferred in fee simple to the Council at nominal consideration.

Prior to the sealing of the final plan an executed and stamp duty assessed Land Titles Office transfer instrument is to be forwarded to the Council together with a cheque made payable to the Land Titles Office for the associated Land Titles Office registration fees.

Reason for condition

To ensure that titles to the proposed road and public open space lots issue in the Council.

SURV 12

Lots 5, 6, 7, and 8 on the final plan are to be notated in accordance with the provisions of section 83(5)(a)(ii) of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, to the effect that the Hobart City Council

cannot provide a means of gravity reticulated stormwater disposal for the parts of the lots on the north-eastern and eastern side of the of the proposed Pipeline and Services Easement 3.00 Wide passing through the lots.

The final plan must be submitted for approval by Council. The final plan must be notated to the satisfaction of Council.

Reason for condition

To ensure that the restriction in the Council's ability to provide a means of gravity reticulated stormwater disposal is noted on the final plan.

SURV 13

The final plan is to be notated in accordance with the provisions of section 83(7) (b) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* to the effect that the Tasmanian Water and Sewerage Corporation cannot provide a means of gravity reticulated sewerage disposal from lots 5, 6, 7 and 8 on the north-eastern and eastern side of the proposed Pipeline and Services Easement 3.00 Wide passing through the lots.

The final plan must be submitted for approval by Council.

The final plan must be notated to the satisfaction of the Council.

Reason for condition

To ensure that the limitation in TasWater's ability to provide a means of gravity reticulated sewerage disposal from Lots 5, 6, 7 and 8 is noted on the final plan.

SUB s1

An amendment to Sealed Plan No. 12788 to delete the Rights of Drainage (appurtenant to Lots 1 to 5 on Sealed Plan No. 12788) over the Drainage Easement marked A. B. C. on SP 127888 and (appurtenant to Lots 6, 7 and 8 on Sealed Plan No. 127888) marked D.B.C. on SP 127888 burdening C.T. 250967/1 is to be lodged concurrently at the Land Titles Office with the sealed final plan of survey for the subdivision.

Reason for condition

To ensure that redundant rights of drainage are not brought forward to burden lots in the subdivision.

SUB s2

The Highway Reservation area at the cul-de-sac must be minimised while still providing frontage to the properties. The engineering plans must be amended to reduce the amount of land to be dedicated as Highway Reservation to the satisfaction of the Director City Infrastructure prior to commencement of work on the site. Any other associated plans affected must be amended accordingly prior to commencement of work on the site.

Reason for condition

To reduce the amount of Highway Reservation that would be required to be maintained by the City.

OPS 1

The title boundary shared between the Public Open Space lot as shown on the final plan of subdivision, and the adjoining lots (Lots 4, 5, 6, 7, and 8 and the Balance) must be clearly marked by the owner on the ground before any works commence.

Reason for condition

To protect the riparian and recreational values of the Public Open Space lot.

OPS 4

The lot notated as Public Open Space (1.95ha) on the final plan of subdivision must be transferred to the Council in fee simple for nominal consideration, prior to the sealing of the final plan.

The final boundaries of the Public Open Space must be modified along the eastern boundary to the satisfaction of the Director Parks and City Amenity.

Advice: It is noted that the amended boundary is to be in accordance with that agreed 29 October 2018 during the site meeting.

Reason for condition:

Approval of the subdivision will create further demand upon Hobart's Public Open Space System. The land acquired will contribute to Hobart City Council's open space network for recreational use.

ENV 2

Sediment and erosion control measures, in accordance with an approved soil

and water management plan (SWMP), must be installed prior to the commencement of work and maintained until such time as all disturbed areas have been stabilised and/or restored or sealed to the Council's satisfaction.

A SWMP must be submitted and approved, prior to the commencement of work. The SWMP must be prepared in accordance with:

- 1. The Soil and Water Management on Building and Construction Sites fact sheets (Derwent Estuary Program, 2008), available [here](#); and**
- 2. The Waterways and Wetlands Works Manual (DPIWE, 2003).**

The SWMP must detail remediation works.

All work required by this condition must be undertaken in accordance with the approved SWMP.

Advice: Once the SWMP has been approved, the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To avoid the pollution and sedimentation of roads, drains and natural watercourses that could be caused by erosion and runoff from the development.

ENV 9

No vegetation clearing or disturbance may occur other than the minimum necessary to facilitate the essential subdivision works (i.e. construction of road, driveways and provisions of services).

Reason for condition

To clarify the scope of the permit

ENV 12

An approved Weed Management Plan (WMP) for Lots 1 to 9, 101 and the public open space lot, must be implemented.

A WMP must be submitted and approved prior to the commencement of works.

The WMP must:

- 1. Identify and illustrate the woody environmental weeds on the site;**

- 2. Set out an environmentally-appropriate methodology and program for eradicating these weeds (including appropriate disposal) based on defined management zones (noting that eradication of many species will require follow-up treatments for several years, however weed management prescriptions for the public open space lot must be limited to primary works only);**
- 3. Include a concise action table that provides clear and detailed actions, the area to be targeted, the timing of each action and the persons/parties responsible for undertaking all actions;**
- 4. Include requirements to notify the Council in writing of progress in implementation of the plan;**
- 5. Include a simple map of the property that defines the management zones for specific actions;**
- 6. Include prescriptions to minimise impacts on native vegetation and minimise soil disturbance; and**
- 7. Include a prohibition on the planting of potentially invasive species listed in Council's Restricted Plant List;**
- 8. Specify that no soil is to be imported onto the site unless it is certified weed propagule free in accordance with Australian Standard AS4419 Soils for Landscaping and Garden Use; and**
- 9. Be clear and concise so that follow-up treatments can be easily implemented by future landowners (however the bulk of primary weed control works must be scheduled to occur as part of the subdivision works).**

Advice: Once the weed management plan has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To ensure the development does not contribute to the spread of weeds and to offset the biodiversity impacts associated with the development.

ENV 3

The hazard management areas shown on the bushfire hazard management

plan by Geo-Environmental Solutions dated June 2018 (MRH10690v3) are not approved and must not be implemented.

Reason for condition

To clarify the scope of the permit

ENV 4

The public road and fire-fighting water supply system must be designed and constructed in accordance with prescriptions of the bushfire report and bushfire hazard management system by Geo-Environmental Solutions dated June 2018 (MRH10690v3).

Reason for condition

To reduce the risk to life and property, and the cost to the community, caused by bushfires

ENV 5

Prior to sealing of the final plan, certification from a suitably qualified person must be submitted to the Council confirming that the public road and fire-fighting water supply system have been designed and constructed in accordance with prescriptions of the bushfire report and bushfire hazard management system by Geo-Environmental Solutions dated June 2018 (MRH10690v3).

Reason for condition

To reduce the risk to life and property, and the cost to the community, caused by bushfires

ENV s1

An approved Construction Environmental Management Plan (CEMP) must be implemented.

A CEMP must be submitted and approved prior to the commencement of works.

The CEMP must:

- 1. Show all areas of proposed subdivision works, including ground disturbance and vegetation clearing, in relation to the vegetation**

communities, swift parrot foraging trees, watercourses and drainage lines;

2. Show all swift parrot foraging trees proposed to be removed, or likely to have their root zones disturbed;
3. Specify the proposed works methodology, particularly for vegetation clearing and soil disturbance, and particularly for proposed works within the public open space lot;
4. Demonstrate that vegetation clearing, vegetation disturbance and soil disturbance has been minimised as far as practicable, and that vegetation and soil disturbance will be the minimum necessary to facilitate the essential subdivision works;
5. Include proposed measures to help ensure that vegetation and soil disturbance is compliant with the approved CEMP, particularly works in proximity to swift parrot foraging trees, the *Eucalyptus ovata* dry forest/woodland vegetation community and the watercourse/drainage lines;
6. Include measures to minimise the risk of erosion and sediment transport;
7. Include measures to minimise the risk weed introductions/transfers (including machinery and vehicle washdown and management of any imported soil);
8. Include measures to rehabilitate area of temporary disturbance, including replacement of removed vegetation; and
9. Identify responsible persons, monitoring and maintenance measures.

All measures and works required by this condition must be undertaken in accordance with the approved CEMP.

Advice: Once the CEMP has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Reason for condition

To minimise the potential for impacts to vegetation and watercourses from the construction works

ENV s2

A Part 5 Agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993* must be registered on the new Titles for lots 1 to 9 at the time of issue.

The Agreement must specify that unless the written consent of the Council is obtained:

- 1. The approved Weed Management Plan must be implemented and complied with;**
- 2. No removal of native vegetation may occur;**
- 3. All development must be generally in accordance with the WWF-Australia publication *Minimising The Swift Parrot Collision Threat: Guidelines and recommendations for parrot-safe building design (2008)*; and**
- 4. The owner(s) (Owner A) must allow the owner(s) (Owner B) of an adjacent lot to establish and maintain a bushfire hazard management area on the land owned by Owner A, in accordance with a bushfire hazard management plan based on BAL-19 or lesser separation distances certified by an accredited bushfire hazard practitioner, and approved as part of a permit granted under the *Building Act 2016*, at any time the land owned by Owner A that is within the hazard management area under the approved bushfire hazard management plan of Owner B is not in accordance with the prescriptions for the hazard management area as specified in the approved bushfire hazard management plan.**

The Council will have its solicitors prepare the Agreement for signing by property owner(s). The Council will then lodge the Agreement with the Lands Titles Office. The cost of preparing the Agreement and registration with the Land Titles Office is to be met by the applicant. Please contact the Development Appraisal Planner on 6238 2715 to initiate preparation of the Agreement.

Reason for condition

To ensure future development on the lots can achieve an acceptable level of bushfire risk

ADVICE

The following advice is provided to you to assist in the implementation of the planning permit that has been issued subject to the conditions above. The advice is not exhaustive and you must inform yourself of any other legislation, by-laws, regulations, codes or standards that will apply to your development under which you

may need to obtain an approval. Visit the Council's website for further information.

Prior to any commencement of work on the site or commencement of use the following additional permits/approval may be required from the Hobart City Council.

CONDITION ENDORSEMENT PLANNING

If a condition endorsement is required by a planning condition above, you will need to submit the relevant documentation to satisfy the condition via the Condition Endorsement Submission on Council's online services e-planning

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Once approved, the Council will respond to you via email that the condition has been endorsed (satisfied). Detailed instructions can be found [here](#).

CONDITION ENDORSEMENT ENGINEERING

All engineering drawings required to be submitted and approved by this planning permit must be submitted to the City of Hobart as a CEP (Condition Endorsement) via the City's [Online Service Development Portal](#). When lodging a CEP, please reference the PLN number of the associated Planning Application. Each CEP must also include an estimation of the cost of works shown on the submitted engineering drawings. Once that estimation has been confirmed by the City's Engineer, the following fees are payable for each CEP submitted and must be paid prior to the City of Hobart commencing assessment of the engineering drawings in each CEP:

Value of Building Works Approved by Planning Permit Fee:

Up to \$20,000: \$150 per application.

Over \$20,000: 2% of the value of the works as assessed by the City's Engineer per assessment.

These fees are additional to building and plumbing fees charged under the Building and Plumbing Regulations.

Once the CEP is lodged via the [Online Service Development Portal](#), if the value of building works approved by your planning permit is over \$20,000, please contact the City's Development Engineer on 6238 2715 to confirm the estimation of the cost of works shown on the submitted engineering drawings has been accepted.

Once confirmed, please call one of the City's Customer Service Officers on 6238 2190 to make payment, quoting the reference number (i.e. CEP number) of the Condition Endorsement you have lodged. Once payment is made, your engineering drawings will be assessed.

BUILDING PERMIT

Building permit in accordance with the Building Act 2016. [Click here for more information.](#)

PLUMBING PERMIT

Plumbing permit in accordance with the Building Act 2016, Building Regulations 2016 and the National Construction Code. [Click here for more information.](#)

OCCUPATION OF THE PUBLIC HIGHWAY

Permit for the occupation of the public highway for construction or special event (e.g. placement of skip bin, crane, scissor lift etc). [Click here for more information.](#)

Occupational license for structures in the Hobart City Council highway reservation, in accordance with conditions to be established by the Council. [Click here for more information.](#)

Road closure permits for construction or special event. [Click here for more information.](#)

Permit to Open Up and Temporarily Occupy a Highway (for work in the road reserve). [Click here for more information.](#)

PERMIT TO CONSTRUCT PUBLIC INFRASTRUCTURE

Permit to construct public infrastructure with a 12 month maintenance period and bond (please contact the Hobart City Council's City Infrastructure Division to initiate the permit process).

NEW SERVICE CONNECTION

New service connection (please contact the Hobart City Council's City Infrastructure Division to initiate the application process).

STORM WATER

Please note that in addition to a building and/or plumbing permit, development must be in accordance with the Hobart City Council's Hydraulic Services By law. [Click here](#)

for more information.

WORK WITHIN THE HIGHWAY RESERVATION

Please note development must be in accordance with the Hobart City Council's Highways By law. [Click here for more information.](#)

STORM WATER / ROADS / ACCESS

Services to be designed and constructed in accordance with the (IPWEA) LGAT - standard drawings. [Click here for more information.](#)

COUNCIL RESERVES

This permit does not authorise any works on the adjoining Council land. Any act that causes, or is likely to cause damage to Council's land may be in breach of the Council's Parks, Recreation and Natural Areas Bylaw and penalties may apply. The by law is available [here](#).

WEED CONTROL

Effective measures are detailed in the Tasmanian Washdown Guidelines for Weed and Disease Control: Machinery, Vehicles and Equipment (Edition 1, 2004). The guidelines can be obtained from the Department of Primary Industries, Parks, Water and Environment website.

FEES AND CHARGES

[Click here for information on the Council's fees and charges.](#)

DIAL BEFORE YOU DIG

[Click here for dial before you dig information.](#)

PART 5 AGREEMENT

This property possesses conservation values which may be of national environmental significance (habitat for the endangered Swift Parrot). The proposed development includes activities that may adversely impact on these values (removal of *Eucalyptus globulus* and *Eucalyptus ovata* trees), and therefore may be subject to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. It is therefore recommended that the applicant refer the proposal to the Commonwealth Environment Minister for determination as to whether the development requires approval under the *Environment Protection and Biodiversity Conservation Act 1999*. For more information on how to make a referral visit

Environment Australia's [website](#).

SUBDIVISION ADVICE

All conditions imposed by this permit are in accordance with the *Local Government Building and Miscellaneous Provisions) Act 1993* and the *Conveyancing and Law of Property Act 1884*. Refer to www.thelaw.tas.gov.au.

For information regarding standards and guidelines for subdivision works click [here](#).

A permit to construct public infrastructure must be obtained for any public infrastructure works and includes a 12 month maintenance period (please contact the Council City Infrastructure Divisions to initiate the permit process)

Infrastructure to be designed and constructed in accordance with the (IPWEA) LGAT [Tasmanian Standard Drawings](#) (TSD).

Naming of new roads is undertaken by Council as per the Rules for Place Names in Tasmania by the Nomenclature Board of Tasmania. New roads should be named before the final plan of subdivision is approved by Council. The road naming process takes at least three months. Please contact Council's Road Services Engineer for advice on naming new roads.



(Ben Ikin)

Senior Statutory Planner

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



(Rohan Probert)

Manager Development Appraisal

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Date of Report: 5 November 2018

Attachment(s):

Attachment B - CPC Agenda Documents

Attachment C - Planning Referral Officer Environmental Development Planner Report