
Citation: S and S McElwaine and A Hamilton v West Tamar Council and Growth Developments Pty Ltd [2021] TASCAT 13B

Division: General

Stream: Resource and Planning

Parties: Shaun and Sonya McElwaine (74/21S) (First Appellants)
Ann Hamilton (79/21S) (Second Appellant)
West Tamar Council (First Respondent)
Growth Developments Pty Ltd (Second Respondent)

Hearing Date(s): Submissions were made and responded to in writing

Hearing Location: Hobart

Date Reasons Issued: 17 December 2021

Panel: M Duvnjak, Deputy President
ME Ball, Ordinary Member
M Kitchell, Ordinary Member

Orders Made: The permit granted by Council on 18 June 2021 be amended in accordance with Annexure “A” attached hereto.

Catchwords: Planning Appeal – Ecclestone Road, Riverside

Cases Cited: *S and S McElwaine and A Hamilton v West Tamar Council and Growth Developments Pty Ltd* [2021] TASCAT 4

Representation: *Appellants (74/21S):* Self-represented
Appellant (79/21S): Self-represented
First Respondent: N Street / R Holbrook, Simmons Wolfhagen
Second Respondent: A Spence SC / S Wilson, Page Seager

File Nos: 74 & 79/21S

Publication Restriction: Nil

Amended pursuant to s23(5) of the *Resource Management and Planning Appeal Tribunal Act 1993*

Clerical error, incorrect permit conditions attached

Dated this 20th day of December 2021

M Duvnjak
Deputy President

REASONS FOR DECISION

Introduction

1. The Tribunal refers to its decision of 17 November 2021.¹ In accordance with the Tribunal's directions at paragraph [115], Council has filed draft amended permit conditions addressing those matters set out in the Tribunal's decision.
2. The First Appellants advised they took no issue with the draft conditions as prepared by Council but asserted that it would be appropriate to draft the Part 5 Agreement proposed by Condition 3 to form part of the permit conditions to prevent later disputes about the contents of the document and whether it in fact fully implements the conditions of approval.
3. Submissions were received from the Second Respondent which proposed further amendments to those conditions. In addition to those matters raised at paragraph [115] of the Tribunal's decision, the Second Respondent effectively seeks to exclude from Conditions 2 and 3 any construction works with respect to the stormwater infrastructure. The Second Respondent also seeks to amend Condition 2 to provide that the Natural Values Protection Area includes the Eucalyptus Ovata forest and the wedge-tailed eagle nest.
4. The Second Appellant took issue with amended Condition 7 which originally provided:

“7. Construction must not commence until the CEMP has been approved by the Council's Manager Development.”

But which was amended by the Second Respondent to include:

“This consent should not be unreasonably withheld.”

5. Condition 7 does not contemplate any other 'consent', rather it refers to the 'approval' of the Construction Environment Management Plan (CEMP). It goes without saying that Council's approval of the CEMP, compliant with the requirements of Condition 6, should not be refused without reasonable cause. The amendment sought is unnecessary.
6. The Council objected to the inclusion of most of the Second Respondent's proposed amendments. Council submissions were in the following terms:
 1. *It is not agreed that any changes should be made to condition 2. There should be no exception for stormwater works and this work should not occur until the extent of the Natural Values Protection Areas are set and determined. Additionally, the changes to condition 2(c) are irrelevant commentary and do not assist in the operation and application of the permit.*
 2. *In respect of condition 3, no exemption ought to be provided for the provision of stormwater infrastructure. Such an exemption defeats the purpose of the Natural Values Protection Areas. The Natural Values Protection Areas need only be generally in accordance with the Bushfire Hazard Management Plan and amendments can be made to their location in the Amended Plans to allow the infrastructure to be placed at the rear of the lots and on the Balance.*
 3. *The amendment of condition 7 is unnecessary and again simply provides commentary.*

¹ *S and S McElwaine and A Hamilton v West Tamar Council and Growth Developments Pty Ltd [2021] TASCAT 4.*

4. *No objection is taken to the inclusion of 'new' condition 19, apart from the need to amend the spelling of Rowsphorn Road and Ecclestone Road.*
5. *New condition 25 should be further amended to remove the duplicated words "completed prior to the sealing of". No objection is taking the staging requirement of this condition."*

The First Appellants agreed with Council's position.

7. The Tribunal accepts all of the Council's submissions. Most of the amendments proposed by the Second Respondent do not respond or address any of the matters identified as requiring amendment in the Tribunal's determination. The exemption to stormwater works proposed by Conditions 2 and 3 was not the subject of any finding or determination of the Tribunal on the appeal. With respect to the proposed inserted Conditions 19 and 25, given Council's submission, the Second Respondent's proposed amendments are acceptable subject to minor modification.
8. Further, with respect to whether a draft Part 5 Agreement should form part of the conditions, in particular Condition 3, the Tribunal accepts the Second Respondent's submissions that the Part 5 Agreement need not be prepared and attached to the conditions. In the Tribunal's view, the matters required to be included in the Part 5 Agreement are sufficiently certain.
9. Having considered the submissions of the parties, the Tribunal is satisfied that the draft permit conditions prepared by Council, with the minor amendments as noted, are appropriate and consistent with the Tribunal's decision of 17 November 2021.
10. Accordingly, the Tribunal makes the following orders:
 - a) That the permit granted by Council in relation to PA2020501 on 18 June 2021 be amended in accordance with Annexure "A" hereto and Council be directed to issue an amended permit within 14 days of the date of this decision; and
 - b) The Tribunal will entertain any application for an order for costs in this appeal / application if made to the Tribunal in writing with supporting submissions within the next 21 days. If requested, the Tribunal may reconvene to hear any evidence in respect of any matter bearing upon an order for costs. In the absence of any such application for an order for costs, the order of the Tribunal is that each party bear its own costs.

ENDORSED PLANS

1. The use and/or development must be carried out as shown on/described in the:
 - (a) Endorsed plans by 6ty° dated 11 March 2021, project no. 18.116;
 - (b) Traffic Impact Assessment prepared by 6ty° dated 12 March 2021, project no. 18.116;
 - (c) Natural Values Assessment prepared by North Barker Ecosystem Services dated 3 December 2020, reference no. SIX001;
 - (d) Bushfire Report and Hazard Management Plan prepared by North Barker Ecosystem Services, dated 6 May 2021, reference no. SIX001; and
 - (e) Stormwater Assessment Catchment Analysis prepared by 6ty°, dated 29 August 2020, amended date 12 March 2021, project no. 18.116;

and described in the endorsed documents, unless otherwise amended by a condition of this permit.

AMENDED PLANS

2. Prior to works commencing, amended plans must be submitted and approved by the Council's Manager Development. Once approved, these plans will form part of the Permit. The Amended Plans must show modifications to the Plan of Subdivision by 6ty° dated 11 March 2021, project no. 18.116, by creating 'Natural Values Protection Areas'. The 'Natural Values Protection Areas' must generally be in accordance with those described within the Bushfire Hazard Management Plan prepared by North Barker Ecosystem Services, dated 6 May 2021 referred to in Figure 2 as being 'Proposed areas set aside under Part 5 agreements for vegetation conservation'. The 'Natural Values Protection Areas' must be clearly delineated by a solid line and/or hatching. The 'Natural Values Protection Areas' will retain existing native vegetation by applying to:
 - (a) at least 30% of the area of lots 2, 4-13, 17, 24, 27-33 and 36;
 - (b) At least 20% of the area of lots 1, 3, 14-15, 18-21, 34-35 and 37; and
 - (c) At least 92% of the area of the balance lot. This must include the area of the Eucalyptus ovata forest and the Wedge-tailed Eagle's nest on the balance lot, being the hatched area as described in the plan set out in the decision of the Tasmanian Civil and Administrative Tribunal being *S and S McElwaine and A Hamilton v West Tamar Council and Growth Developments Pty Ltd* [2021] TASCAT 4 at page 26.

SECTION 71 AGREEMENT

3. Prior to the sealing of the Final Plan of subdivision, the landowner, under section 71 of the Land Use Planning and Approvals Act 1993, must prepare and enter into an agreement with the West Tamar Council, to the satisfaction of the General Manager. The agreement must provide for the following:
 - (a) Confirm that no further subdivision of the balance lot is permitted;
 - (b) Limit development on the balance lot to be for Residential Use for a single dwelling only;
 - (c) Prohibit the clearing or modification of native vegetation within the 'Natural Values Protection Area' as shown on the Amended Plan of Subdivision required by condition 2;

- (d) Prohibit buildings, structures or infrastructure, including internal driveways being constructed within the 'Natural Values Protection Area' as shown on the Amended Plan of Subdivision required by condition 2;
- (e) Annex a copy of the Amended Plan of Subdivision required by condition 2;
- (f) Annex separate plans delineating the 'Natural Values Protection Area' for each lot and clearly identify the purpose of each 'Natural Values Protection Area';

All costs associated with the preparation and registration of the agreement, including those of the Council, must be borne by the landowner.

PRE CONSTRUCTION SURVEY

- 4. For each stage of the subdivision, at least 14 days prior to the clearance of any vegetation commencing (including for roads, service and fencing) on the site, a flora and fauna survey for activity, use or occupancy must be undertaken by a suitably qualified person. This survey must assess: the wedge-tailed eagle nest, any potential Tasmanian devil dens, spotted-tailed quoll dens, and potential masked owl tree hollows, including those identified in the Natural Values Assessment by North Barker Ecosystem Services (2020). Specifically, the survey must include:
 - (a) An activity check of the wedge-tailed eagle nest, completed by a suitably qualified person in accordance with the procedures described within Part 6 of the 'Fauna Technical Note No. 1 - Eagle nest searching, activity checking and nest management' published by the Forest Practices Authority, to determine if the nest is active;
 - (b) A survey for Tasmanian devil and spotted-tailed quoll dens, undertaken in accordance with the Part 3 of the 'Survey Guidelines and Management Advice for Development Proposals that may Impact on the Tasmanian Devil (*Sarcophilus harrisii*) – A supplement to the Guidelines for Natural Values Surveys – Terrestrial Development Proposals', prepared by the Natural and Cultural Heritage Division of the Department of Primary Industries, Parks, Water and Environment (2015) or any subsequent revisions;
 - (c) A survey of masked owl tree hollows by way of a pre-clearance assessment undertaken by a tree climber (either one who is suitably qualified to determine occupancy or in collaboration with a suitably qualified person on the ground); and
 - (d) An updated survey of *Brunonia australis* and *Poa mollis*.
- 5. Following completion of the survey undertaken in accordance with condition 4, the Council must be presented with a report detailing the findings of and actions taken during the pre-construction survey.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- 6. At least 28 days prior to the commencement of the works approved by this permit for each stage of the subdivision a Construction Environmental Management Plan (CEMP) must be submitted to and approved by Council's Manager Development.

The CEMP must contain a detailed description of the proposed timing and sequence of the major construction activities and the proposed management measures to be implemented to manage environmental impacts during the construction phase.

The CEMP must include, but not necessarily be limited to, management measures in relation to:

- (a) The prevention of impacts upon surface water and watercourses;
 - (b) Erosion, sediment and dust control;
 - (c) The timing and method of vegetation removal onsite, including details of wood waste management to ensure that any stockpiling or burning of wood waste does not create a nuisance;
 - (d) Tasmanian devil and spotted-tailed quoll dens, and suspected hollows occupied by a masked owl if identified during pre-construction surveys. The CEMP must detail the timing of and the procedures for decommissioning of any dens or hollows.
 - (i) The procedures for the decommissioning of dens must be generally in accordance with the procedures described within Part 4 of the 'Survey Guidelines and Management Advice for Development Proposals that may Impact on the Tasmanian Devil (*Sarcophilus harrisii*) – A supplement to the Guidelines for Natural Values Surveys – Terrestrial Development Proposals', prepared by the Natural and Cultural Heritage Division of the Department of Primary Industries, Parks, Water and Environment (2015) or any subsequent revisions; and
 - (ii) The procedures for the management, blocking or decommissioning of suspected hollows occupied by a masked owl, these procedures must be developed in consultation with the Department of Primary Industries, Parks, Water and Environment;
 - (e) The protection of the 'Natural Values Protection Areas' referred to in Condition 2 during the period of construction, including measures preventing vehicles from entering and building materials from being stored within those areas. The 'Natural Values Protection Areas' must be physically identified and marked on each lot in collaboration with a qualified surveyor prior to any construction or infrastructure works commencing and remain marked out and protected during the period of construction;
 - (f) Weed, pest and disease management including wash down criteria and measures regarding hygiene management;
 - (g) Noise control;
 - (h) Quality control arrangements including supervision by appropriately qualified and experienced persons, detailed construction specifications for key items of environmental management infrastructure, documented site procedures, quality control testing and the keeping of appropriate records;
 - (i) A table containing all the major commitments made in the plan; and
 - (j) An implementation timetable for key aspects of the plan.
7. Construction must not commence until the CEMP has been approved by the Council's Manager Development.
8. Construction activities must be carried out in accordance with the requirements of the approved CEMP.

NOTE: This planning permit does not satisfy section 51 of the Tasmanian Threatened Species Protection Act 1995 regarding permits to 'take'. It is your responsibility to comply with the legislation and therefore you should contact the Department of Primary Industries, Parks, Water

and Environment to determine whether there will be any issues which may arise under that Act in relation to the development, including any permits required in relation to *Brunonia australis* and/or *Poa mollis*.

FLORA AND FAUNA

9. Native vegetation clearing must not be undertaken within the 'Natural Values Protection Areas' as shown on the Amended Plan of Subdivision required by condition 2.
10. All structures and development ancillary to the development approved by this permit (site office areas, car parking etc.) must not be located within the 'Natural Values Protection Areas' as shown on the Amended Plan of Subdivision required by condition 2.
11. Prior to the commencement of any construction works, if the activity check of the wedge-tailed eagle nest identified in the Natural Values Assessment by North Barker Ecosystem Services (2020) in accordance with condition 4(a) determines that the nest is active, development must only occur outside of the breeding season (August to January inclusive) or in accordance with a management plan approved by Council's Manager Development in consultation with Department of Primary Industries, Parks, Water and Environment.
12. Prior to the commencement of any construction works, any Tasmanian devil and spotted-tailed quoll dens identified during the survey undertaken as required by condition 4(b) must be decommissioned in accordance with the procedures described within the CEMP as provided for by condition 6(d) of this permit.
13. Prior to the commencement of any construction works, any suspected masked owl tree hollows identified during the survey undertaken as required by condition 4(c) or suspected hollow occupied by a masked owl must be managed, blocked or decommissioned in accordance with the procedures described within the CEMP as provided for by condition 6(d) of this permit.
14. If during the carrying out of the construction activities approved by this permit, any active Tasmanian devil and spotted-tailed quoll den or suspected masked owl tree hollow is identified, construction activities must immediately cease within 50 metres of that location, Council's Manager Development must be notified of that identification in writing, and the den or tree hollow must be managed in accordance with the procedures described with the CEMP. Construction activities may only resume once all relevant procedures described within the CEMP have been carried out and completed to the satisfaction of Council's Manager Development.

WEED MANAGEMENT

15. All occurrences of declared weeds on the site must be treated prior to completion of works with evidence of this provided to Council. The treatment areas and treatment details must be included as part of the CEMP.
16. Follow up weed control is required 6-12 months after initial treatment to treat any individual weed colonisation with evidence provided to Council, and the treatment areas and treatment details must be included as part of the CEMP.
17. Best practice construction hygiene in accordance with the Weed and Disease Planning and Hygiene Guidelines prepared by the Department of Primary Industries, Parks, Water and Environment (2015) or any subsequent revisions of that document must be practiced to prevent the spread of weed propagules in contaminated soil.

TASWATER

18. The development must be in accordance with the Submission to Planning Authority Notice issued by TasWater (TWDA 2020/02148-WTC attached).
19. Reference to “*prior to the commencement of any works*” or “*prior to the commencement of any construction works*” or “*works must not commence*” in this permit excludes works required to TasWater’s infrastructure within the Rowsphorn Road and Ecclestone Road Reserve.

SOIL, WATER AND DUST MANAGEMENT CONTROL PLAN

20. Prior to the commencement of any works on site (including vegetation removal), a site management plan must be submitted detailing how soil, water and dust is to be managed on the site during the construction process to prevent the escape of soil and sediments beyond site boundaries. This plan must clearly set out the property owner’s obligations for erection, inspection and maintenance of all control measures approved. The management plan must include the following:
 - (a) Date and author.
 - (b) Property boundaries, location of adjoining roads, impervious surfaces, underground services and existing drainage , contours, approximate grades of slope, directions of fall, north point and scale.
 - (c) General soil description.
 - (d) Location and types of all existing natural vegetation, location and amount of the proposed ground disturbance, the limit of clearing, grading and filling and the proposed location of soil, sand, topsoil and other material stockpiles.
 - (e) Critical natural areas such as drainage lines, cliffs, wetlands and unstable ground.
 - (f) Location of vegetation to be retained and removed.
 - (g) Location of stabilised site access.
 - (h) Initial and final contours, location of watercourses, surface drainage and existing stormwater infrastructure.
 - (i) Stormwater discharge point, if proposed.
 - (j) Location of all proposed temporary drainage control measures.
 - (k) Construction details - buildings or subdivision.
 - (l) Location and details of all proposed erosion control measures.
 - (m) Location and details of the measures to minimise dust escaping from the site
 - (n) Location and details of all proposed sediment control measures.
 - (o) A statement of who is responsible for establishing and maintaining erosion and sediment control measures.
 - (p) Site rehabilitation or revegetation/landscaping program.
 - (q) The estimated dates for the start and finish of the works - including the installation sequence of the different erosion and sediment controls.

- (r) Any information required to address soil, water and dust control measures required to accommodate staging of the proposal.
- (s) Outline of the maintenance program for the erosion and sediment controls; this must include a weekly inspection as well as before and after every rain event and a reporting schedule to council.

Works must not commence prior to the approval of the Soil, Water and Dust Management Control Plan by Council's Manager Infrastructure. The approved Plan must be implemented with the commencement of works on site and maintained during construction to ensure that soil erosion and dust are appropriately managed to reasonably maintain amenity of adjoining and nearby properties. A copy of the approved Soil, Water and Dust Management Plan must be on the site at all times. All on ground workers must be aware of and understand the plan.

COMMENCED DEVELOPMENT STOP

21. Where development has commenced on site and then stops for two weeks or more, interim stormwater, erosion and dust control measures must:
- (a) Be installed and maintained on site to the satisfaction of the Manager Infrastructure;
 - (b) Ensure that overland flows do not become a nuisance to adjoining properties or council's infrastructure;
 - (c) Be maintained until work recommences on site; and
 - (d) Include a weekly inspection as well as before and after every rain event and a reporting schedule to council.

Measures under this condition may require a revised Soil, Water and Dust Management Control Plan to be approved for the site.

STREET LANDSCAPE PLAN

22. Prior to the commencement of any works on the site, a streetscape/tree planting plan must be prepared by a suitably qualified person and submitted to the Council. Once approved by Council's Manager Infrastructure, it will form part of this permit. The approved landscaping of the site must:
- (a) Contain an average of one tree every 15 metres;
 - (b) Include the following in the Walkway Reserve:
 - (i) A 2m wide concrete path to link the cul-de-sac at Lot 22 with Valley View Drive;
 - (ii) A solid, no-gap fence along the side boundaries;
 - (iii) Bollards at either end to prevent vehicular access; and
 - (iv) Trees along one side of the concrete path at an average spacing of 15m.
 - (c) Be coordinated with the construction plans of underground services and pavement works so as to provide sufficient clearances around each shade tree.

SUBMISSION AND APPROVAL OF PLANS

23. Prior to the commencement of any works on the site, detailed plans and specifications must be submitted to the Council's Manager Infrastructure for approval. Such plans and specifications must:
- (a) Include all infrastructure works required by the permit or shown in the endorsed plans and specifications including:
 - (i) Electricity infrastructure including street lighting; and
 - (ii) Communications infrastructure;
 - (b) Be prepared strictly in accordance with the Tasmanian Subdivision Guidelines applicable at the date of approval of the plans. These Guidelines are available at www.lgat.tas.gov.au;
 - (c) Be prepared by a suitably qualified and experienced engineer or Engineering Consultancy; and
 - (d) Be accompanied by:
 - (i) An estimate of the construction cost of the future public works together with a schedule of the major components and their relevant costs; and
 - (ii) A Plan Checking fee as described in Council's Fees and Charges. Such fee covers assessment of the plans and specifications, audit inspections and Practical Completion & Final inspections.

FILLING OF LAND

24. Site filling must comply with the provisions of AS 3798 Guidelines on earthworks for commercial and residential developments current at the time of the application. Prior to the sealing of the Final Survey Diagram, a Civil Engineer must certify that all the works have been carried out in accordance with AS 3798 and the endorsed plan.

STORMWATER WORKS

25. Stormwater works must include:
- (a) Provision of a public drainage system to drain roadways, footpaths and nature strips within the road reserves and all land draining onto the road reserve;
 - (b) The provision of a minimum DNI50 connection to the lowest point of each lot, except:
 - (i) Lot 18, where a building envelope only can be serviced by gravity; and
 - (ii) Lots 19-22 inclusive, where stormwater may be disposed of into a dispersion trench. Dispersion trenches shall be suitably sized to contain a 5% AEP storm, with an impervious area of at least 750m² directly connected to the trench;
 - (c) Provision of an overland flow path for flows up to a 1% AEP storm event;
 - (d) On-site detention storage must be provided to limit the peak rate of piped stormwater discharge and overland flows from the site. The detention storage system must be designed by an appropriately qualified engineer, so post-development flows from Stages 3-6, inclusive, do not exceed flows from the existing catchment, for a range of storms up to the 1% AEP event.
 - (i) The works are to be fully contained within the development site and fenced to the satisfaction of the Manager Infrastructure.

- (ii) The detention storage system and roadside swale drains are to include elements of Water Sensitive Urban Design (WSUD).
 - (iii) The design of the detention storage must be in accordance with the latest edition of Australian Rainfall and Runoff.
 - (iv) An 'initial assessment', as defined by the ANCOLD (Australian National Committee on Large Dams) guidelines, should be undertaken to determine the hazard category of the structure.
 - (v) The plans, calculations and computer model are to be submitted to the Manager Infrastructure for approval. On completion, an "as constructed" plan complete with surveyed levels must be submitted, complete with a certification that the storage volume and outlet structure have been constructed in accordance with the approved design.
 - (vi) The overflow structure should generally be designed to avoid failure in events larger than the 1% AEP storm.
 - (vii) A risk assessment of the potential threat to downstream property, community and infrastructure must be submitted prior to engineering approval.
 - (viii) The pipe out of the basin must contain suitable trench stop protection to prevent water infiltration and "piping" between the conduit and surrounding material.
 - (ix) Warning signage and depth indicators are to be installed to the satisfaction of the Manager Infrastructure; the depth of water in the basin must be limited to 1.2m (max) for the 5% AEP storm.
 - (x) Inundated side slopes should be no steeper than 1:6. Embankment slopes should be no steeper than 1:4.
 - (xi) The basin must have at least 300mm of freeboard; and a floor with a minimum slope of 2%.
 - (xii) The embankment, all batters and basin floor must be well grassed with 90% cover.
 - (xiii) The control structure and overflow configuration must be designed to prevent blockages.
- (e) The existing DN750 culvert under Valley View Drive is to be upgraded to a DN1350, with suitable end walls and erosion protection. This upgrade must be completed prior to the sealing of Stage 3.

ROADS

26. Road works must include:

- (a) Provision of a fully constructed road for the full length of all the property frontages. The new road is to be a rural style road with 7m wide sealed surface, 0.5m wide gravel shoulders and table drains;
- (b) Provision of a single rural vehicular crossing for each lot within the subdivision, including culvert and headwalls where necessary;

- (c) The existing access to be used for Lot 1 must be upgraded in accordance with current Council Standards;
- (d) Provision of a suitable-sized turning head. Cul-de-sacs, including temporary turning heads for each stage, must have a minimum 12m outer radius to facilitate the turning of a fire fighting vehicle in an emergency. The width of the road reserve at the cul-de-sac head is to be 31m;
- (e) Widen the Ecclestone Road pavement from the existing road centreline to provide for a rural BAR type treatment at the new junction. Realign roadside drains as necessary;
- (f) Provision of a public street lighting scheme;
- (g) All necessary line marking and signage.

ELECTRICITY, COMMUNICATIONS & OTHER UTILITIES

- 27. An underground reticulated electricity system and public street lighting scheme must be provided to service all lots and installed to the approval of the Responsible Authority;
- 28. An underground telecommunications system must be provided to service all lots and installed to the approval of the Responsible Authority.

BUSHFIRE

- 29. Prior to sealing of the Final Plan of Subdivision, written advice from an Accredited Bushfire Practitioner must be submitted to Council to the satisfaction of Council's Manager Development advising that all recommendations and requirements of the Bushfire Report and Hazard Management Plan prepared by North Barker Ecosystem Services, dated 6 May 2021 reference no. SIX001 have been implemented including requirements regarding water supply, access, and vegetation / fuel hazard management.
- 30. Temporary turning areas must be provided for each development stage in accordance with the requirements of clause E1.6.2(b) of the Bushfire Prone Areas Code.

CONSTRUCTION OF WORKS

- 31. Prior to the sealing of the Final Plan of Subdivision, the private and public infrastructure works must be constructed in accordance with plans and specification approved by the Council's Manager Infrastructure. The required infrastructure works must be as shown in the application documents and endorsed plans or as modified by the approval of the detailed engineering drawings and specifications.

WORKS REQUIRED FOR EACH LOT IN A STAGE

- 32. Prior to the sealing of the Final Plan of Subdivision, each lot in a stage must be provided with the following infrastructure and/or services:
 - (a) Fully constructed public road along all frontages, including the secondary frontage where a corner lot;
 - (b) A sealed vehicular crossing and driveway from the public road to the property boundary;
 - (c) A stormwater connection to the public drainage system (except lots 19-22 inclusive); and
 - (d) Access to underground electricity and communications infrastructure.

CONSTRUCTION DOCUMENTATION

33. At the time of practical completion of the infrastructure, Council must be provided with construction documentation sufficient to show that the works are completed in accordance with Council standards and are locatable for maintenance or connection purposes. The construction documentation must consist of:
- (a) An "as constructed" plan in accordance with Council's standard requirements for as constructed drawings;
 - (b) A Closed Circuit Television inspection report for all stormwater mains constructed or incorporated in the works;
 - (c) Compaction and soil test results for all earthworks or pavement works;
 - (d) An engineer's certificate that each component of the works comply with the approved engineering plans and Council standards.

COMPLETION OF WORKS

34. All works must be carried out to Council standards and to the satisfaction of the Council's Manager Infrastructure and under the direct supervision of a civil engineer. Certification that all works have been carried out in accordance with the approved engineering design plans and to Council standards will be required prior to issue of the Certificate of Practical Completion. When the certificate for practical completion is issued by council, the relevant works will be placed on a 12 month defects liability period.

PAYMENT IN LIEU OF PUBLIC OPEN SPACE

35. Prior to the sealing of the Final Plan of Subdivision, the developer must pay to the Council a sum equivalent to 5% of the unimproved value of the approved lots as determined by a registered land valuer procured at the subdivider's expense or the current value of the land as per The LIST.

EASEMENTS

36. Easements are required over all Council and third party services located in private property. The minimum width of easements is detailed in the Tasmanian Subdivision Guidelines. A lesser width may be approved for a private service prior to the lodgement of a Final Plan of Subdivision.

COVENANTS ON SUBDIVISIONS

37. Covenants or similar restrictive controls must not be included on or otherwise imposed on the titles to the lots created by the subdivision permitted by this permit unless:
- (a) Such covenants or controls are expressly authorised by the terms of this permit;
 - (b) Such covenants or similar controls are expressly authorised by the consent in writing of the Council; or
 - (c) Such covenants or similar controls are submitted for and receive written approval by Council prior to submission of the Final Plan of Subdivision and associated title documentation is submitted to Council for sealing.

CONVEYANCE OF ROADS

38. Any lots on the Final Plan of Subdivision for the relevant stage described as “public open space”, “public access way”, “road” or “to be acquired by the Highway Authority” must be transferred to the Council at no cost and must be accompanied by a Memorandum of Transfer to the West Tamar Council, together with all documentation in relation to discharges of any Mortgages, Caveats or the like, and all relevant registrable dealings. This Transfer must be executed by the subdivider upon the issue of titles. The subdivider is responsible for all Land Titles Office and stamp duty fees and charges. The subdivider remains responsible for ensuring that any Land Titles Office requisitions are effectively resolved and must meet the costs of such requisitions.

FINAL PLAN OF SUBDIVISION

39. The Final Plan of Subdivision and Schedule of Easements (and three copies) must be submitted for sealing, together with a copy of the Survey Notes.
40. The Final Plan of Subdivision must be endorsed to show:
- (a) The area of Lot 18 that can't be serviced by a gravity stormwater connection;
 - (b) That Lots 19-22 inclusive can't be serviced by a gravity stormwater connection and the location of the absorption trenches in these lots;
41. Unless this permit specifically provides otherwise, the Final Plan of Subdivision will not be sealed by Council and/or TasWater where applicable until all conditions of this permit have been satisfied.
42. The Final Plan of Subdivision must include easements in favour of the Council (or other relevant public authority) over all infrastructure situated in non-public land. Easement widths must be determined by the Council and/or TasWater where applicable based on final services design location and depth.

DEFECTS LIABILITY PERIOD

43. A defects liability period of 12 months applies to all infrastructure required under this permit.

PERMIT NOTES

Notations

- A. This permit was issued based on the proposal documents submitted for PA2020501. You should contact Council with any other use or developments, as they may require the separate approval of Council.
- B. This permit is valid for two (2) years only from the date of approval and will thereafter lapse if the development is not substantially commenced. An extension may be granted subject to the provisions of the Land Use Planning and Approvals Act 1993 as amended, by a request to Council.

Other Approvals

- C. This permit does not imply that any other approval required under any other by-law or legislation has been granted.
- D. This property contains threatened species. Permits are required under the Threatened Species Protection Act 1995 for any activities that may impact those species. Information can be found at: The Conservation Assessments, Natural and Cultural Heritage Division of the Department of Primary Industries, Parks, Water and Environment (www.dpipwe.tas.gov.au) phone: 03 6165 4417

or email: ConservationAssessments@dpipwe.tas.gov.au; and Forest Practices Authority website (www.fpa.tas.gov.au) or phone 03 6336 5300.

Aboriginal Heritage

- E. If any Aboriginal relics are uncovered during works:
- (a) All works are to cease within a delineated area sufficient to protect the unearthed and other possible relics from destruction;
 - (b) The presence of a relic is to be reported to Aboriginal Heritage Tasmania Phone: (03) 6233 6613 or 1300 135 513 (ask for Aboriginal Heritage Tasmania), fax: (03) 6233 5555, email: aboriginal@heritage.tas.gov.au; and
 - (c) The relevant approval process will apply with state and federal government agencies.

Submission to Planning Authority Notice

Council Planning Permit No.	PA2020501	Council notice date	15/12/2020
TasWater details			
TasWater Reference No.	TWDA 2020/02148-WTC	Date of response	22/12/2020
TasWater Contact	David Boyle	Phone No.	0436 629 652
Response issued to			
Council name	WEST TAMAR COUNCIL		
Contact details	planning@wtc.tas.gov.au		
Development details			
Address	ECCLESTONE RD, RIVERSIDE	Property ID (PID)	7655464
Description of development	Subdivision - 37 Lots		
Schedule of drawings/documents			
	Prepared by	Drawing/document No.	Revision No.
	6ty°	18.116 P02	D
			Date of Issue
			3/12/2020
Conditions			
<p>Pursuant to the <i>Water and Sewerage Industry Act 2008 (TAS)</i> Section 56P(1) TasWater imposes the following conditions on the permit for this application:</p> <p>CONNECTIONS, METERING & BACKFLOW</p> <ol style="list-style-type: none"> 1. A suitably sized water supply with metered connections to each lot of the development must be designed and constructed to TasWater's satisfaction and be in accordance with any other conditions in this permit. 2. Any removal/supply and installation of water meters and/or the removal of redundant and/or installation of new and modified property service connections must be carried out by TasWater at the developer's cost. 3. Prior to commencing construction of the subdivision, any water connection utilised for construction must have a backflow prevention device and water meter installed, to the satisfaction of TasWater. <p>ASSET CREATION & INFRASTRUCTURE WORKS</p> <ol style="list-style-type: none"> 4. The developer shall construct DN150mm Ø water main from the existing reticulation on Rowsphorn Rd with existing reticulation in Ecclestone Rd and continue the DN150mm Ø water main to feed the proposed subdivision and install a zone boundary valve (PRV) on the DN100 outside 63 Ecclestone Road 5. Plans submitted with the application for Engineering Design Approval must, to the satisfaction of TasWater show, all existing, redundant and/or proposed property services and mains. 6. Prior to applying for a Permit to Construct to construct new infrastructure the developer must obtain from TasWater Engineering Design Approval for new TasWater infrastructure. The application for Engineering Design Approval must include engineering design plans prepared by a suitably qualified person showing the hydraulic servicing requirements for water to TasWater's satisfaction. 7. Prior to works commencing, a Permit to Construct must be applied for and issued by TasWater. All infrastructure works must be inspected by TasWater and be to TasWater's satisfaction. 8. In addition to any other conditions in this permit, all works must be constructed under the supervision 			

of a suitably qualified person in accordance with TasWater's requirements.

9. Prior to the issue of a Consent to Register a Legal Document all additions, extensions, alterations or upgrades to TasWater's water and sewerage infrastructure required to service the development, generally as shown on the concept servicing plan "6ty° 18.116 P02 Rev D ", are to be constructed at the expense of the developer to the satisfaction of TasWater, with live connections performed by TasWater.
10. After testing/disinfection, to TasWater's requirements, of newly created works, the developer must apply to TasWater for connection of these works to existing TasWater infrastructure, at the developer's cost.
11. At practical completion of the water and sewerage works and prior to TasWater issuing a Consent to a Register Legal Document the developer must obtain a Certificate of Practical Completion from TasWater for the works that will be transferred to TasWater. To obtain a Certificate of Practical Completion:
12. Written confirmation from the supervising suitably qualified person certifying that the works have been constructed in accordance with the TasWater approved plans and specifications and that the appropriate level of workmanship has been achieved;
13. A request for a joint on-site inspection with TasWater's authorised representative must be made;
14. Security for the twelve (12) month defects liability period to the value of 10% of the works must be lodged with TasWater. This security must be in the form of a bank guarantee;
15. As constructed drawings must be prepared by a suitably qualified person to TasWater's satisfaction and forwarded to TasWater.
16. After the Certificate of Practical Completion has been issued, a 12 month defects liability period applies to this infrastructure. During this period all defects must be rectified at the developer's cost and to the satisfaction of TasWater. A further 12 month defects liability period may be applied to defects after rectification. TasWater may, at its discretion, undertake rectification of any defects at the developer's cost. Upon completion, of the defects liability period the developer must request TasWater to issue a "Certificate of Final Acceptance". The newly constructed infrastructure will be transferred to TasWater upon issue of this certificate and TasWater will release any security held for the defects liability period.
17. The developer must take all precautions to protect existing TasWater infrastructure. Any damage caused to existing TasWater infrastructure during the construction period must be promptly reported to TasWater and repaired by TasWater at the developer's cost.
18. Ground levels over the TasWater assets and/or easements must not be altered without the written approval of TasWater.
19. A construction management plan must be submitted with the application for TasWater Engineering Design Approval. The construction management plan must detail how the new TasWater infrastructure will be constructed while maintaining current levels of services provided by TasWater to the community. The construction plan must also include a risk assessment and contingency plans covering major risks to TasWater during any works. The construction plan must be to the satisfaction of TasWater prior to TasWater's Engineering Design Approval being issued.

FINAL PLANS, EASEMENTS & ENDORSEMENTS

20. Prior to the Sealing of the Final Plan of Survey, a Consent to Register a Legal Document must be obtained from TasWater as evidence of compliance with these conditions when application for sealing is made.

Advice: Council will refer the Final Plan of Survey to TasWater requesting Consent to Register a Legal

Document be issued directly to them on behalf of the applicant.

DEVELOPMENT ASSESSMENT FEES

21. The applicant or landowner as the case may be, must pay a development assessment fee of \$1,139.79 and a Consent to Register a Legal Document fee of \$149.20 to TasWater, as approved by the Economic Regulator and the fees will be indexed, until the date paid to TasWater.

The payment is required within 30 days of the issue of an invoice by TasWater.
22. In the event Council approves a staging plan, a Consent to Register a Legal Document fee for each stage, must be paid commensurate with the number of Equivalent Tenements in each stage, as approved by Council.

Advice


General

For information on TasWater development standards, please visit <http://www.taswater.com.au/Development/Development-Standards>
For application forms please visit <http://www.taswater.com.au/Development/Forms>

Declaration

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

Authorised by



Jason Taylor
Development Assessment Manager

TasWater Contact Details

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