



The City with Spirit

NOTICE OF MEETING

Notice is hereby given that a **Planning Authority Committee** meeting of the Devonport City Council will be held in the Aberdeen Room, Level 2, paranaple centre, 137 Rooke Street, Devonport on Monday 11 October 2021, commencing at 5:30 PM.

The meeting will be open to the public and live streamed from 5:30 PM.

QUALIFIED PERSONS

In accordance with Section 65 of the *Local Government Act 1993*, I confirm that the reports in this agenda contain advice, information and recommendations given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

Jeffrey Griffith
ACTING GENERAL MANAGER

06 10 2021

**Agenda for a Planning Authority Committee meeting of the Devonport City Council
held on Monday 11 October 2021, in the Aberdeen Room, Level 2, paranapple centre,137
Rooke Street, Devonport at 5:30 PM**

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ATTENDEES

		Apology
Chair	Cr A Rockliff (Mayor)	
	Cr J Alexiou	
	Cr P Hollister	
	Cr S Milbourne	
	Cr L Murphy	
	Cr L Perry	

ACKNOWLEDGEMENT OF COUNTRY

Council acknowledges and pays respect to the Tasmanian Aboriginal community as the traditional and original owners and continuing custodians of this land.

IN ATTENDANCE

All persons in attendance are advised that it is Council policy to record Council Meetings, in accordance with Council's Digital Recording Policy. The audio recording of this meeting will be made available to the public on Council's website for a minimum period of six months. The meeting is also being live streamed via YouTube.

1 APOLOGIES**2 DECLARATIONS OF INTEREST**

3 DELEGATED APPROVALS

3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY

Author: **Jennifer Broomhall, Planning Administration Officer**

Endorser: **Karen Stone, Acting Development Services Manager**

RECOMMENDATION

That the list of delegated approvals be received.

Planning applications approved under delegated authority 1 July 2021 – 30 September 2021.

ATTACHMENTS

1. Delegated Approvals [**3.1.1** - 2 pages]

4 DEVELOPMENT REPORTS

4.1 PA2021.0125 - 139 WAVERLEY ROAD DON - 2 LOT SUBDIVISION

Author: **Carolyn Milnes, Senior Town Planner**

Endorser: **Jeffrey Griffith, Deputy General Manager**

RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Tasmanian Planning Scheme – Devonport 2020* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2021.0125 and grant a Permit to develop land identified as 139 Waverley Road, Don for the following purposes:

- 2 lot subdivision

Subject to the following conditions:

1. The Development is to proceed generally in accordance with the submitted plans and documentation referenced as
 - a. Development Application Proposal Plan, DWG No 1886-D01 dated 23 July, 2021 by Land and Sea Surveys;
 - b. Bushfire Hazard Management Report and Bushfire Hazard Management Plan Version 1, date 12 August, 2021 by Environmental Service & Design; and
 - c. Landslide Risk Assessment, Site Classification and Onsite Wastewater Disposal Assessment and Design, Reference No. GL21063Ab, dated 24 March, 2021 by Geoton Pty Ltd;copies are attached and endorsed as documents forming part of this Planning Permit.
2. Building envelopes, including areas for on-site wastewater disposal and bushfire hazard management areas, are to be identified on the final plan. The building envelope for Lot 2 is to be drawn in accordance with Site Plan, Project No. GL19100A, Figure No. 6, dated 7/5/2019 by Geoton Pty Ltd.
3. As much vegetation as possible is to be retained within the Bushfire Hazard Management Areas in accordance with the specifications under clause 1.5 of the approved Bushfire Hazard Management Plan.
4. The Council Certificate page of the final plan documentation is to state that the lots are not suitable for primary treated effluent.
5. Declared weeds, including blackberry, may be removed from the property in accordance with the *Weed Management Act 1999*.
6. Concentrated stormwater is to be discharged in accordance with the National Construction Code.
7. A sealed driveway for lots 1 and 2 is to be generally constructed in accordance with Tasmanian Standard Drawings TSD-R03 and TSD-R04 with a shallow dish to ensure no damming of overland flow from the upstream nature strip.
8. The developer is to contact TasNetworks regarding driveway access for lot 2. The developer must comply with any requirements of TasNetworks.

9. The gates on the fence line are to be set back a minimum of 7m from the edge of the existing road seal.
10. The developer is to comply with the conditions specified in the Submission to Planning Authority Notice which TasWater has required to be included in the planning permit pursuant to section 56P(1) of the *Water and Sewerage Industry Act 2008*. A copy of this notice is attached.

Note: The following is provided for information purposes.

The development is to comply with the requirements of the current National Construction Code. The developer is to obtain the necessary building and plumbing approvals and provide the required notifications in accordance with the *Building Act 2016* prior to commencing building or plumbing work.

Addressing:

- Lot 1 will retain the current address of 139 Waverley Road.
- Lot 2 will become 153 Waverley Road.

This complies with AS/NZS 4819.2011 Rural and urban addressing.

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

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

Sediment control measures will be required during construction of any future dwelling on Lot 1 to ensure the adjacent watercourse is not negatively impacted.

In regard to condition 5, the applicant/developer should contact the Department of Primary Industries, Parks, Water and Environment Tasmania – Ph 6165 3777.

In regard to conditions 6-9, the applicant should contact Council's Infrastructure & Works Department – Ph 6424 0511 with any enquiries.

In regard to condition 10, the applicant/developer should contact TasWater – Ph 136992 with any enquiries.

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

RELEVANCE TO COUNCIL'S PLANS & POLICIES

Council's Strategic Plan 2009-2030:

- | | |
|----------------|--|
| Strategy 2.1.1 | Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use |
| Strategy 2.1.2 | Provide consistent and responsive development assessment and compliance processes |

SUMMARY

The purpose of this report is to enable Council's Planning Authority Committee to make a decision regarding planning application PA2021.0125.

BACKGROUND

Planning Instrument:	<i>Tasmanian Planning Scheme – Devonport 2020</i>
Address:	139 Waverley Road, Don
Applicant/Owner:	Mr DT Archer
Proposal:	2 lot subdivision
Existing Use:	Vacant
Zoning:	Rural Living
Decision Due:	06/10/2021

SITE DESCRIPTION

The site is a 1.753ha vacant lot located on the western side of Waverley Road, Don. The site is undulating, and a watercourse intersects the property with a dam situated in the southeast corner. The site is predominantly cleared however areas of the site are densely vegetated, generally with introduced species, however some native vegetation exists. The lot was recently developed as part of a two-lot residential subdivision approved in 2019 (refer to PA2019.0158). As part of the subdivision, a building envelope was identified for this lot to the north of 151 Waverley Road. Figure 1 shows the existing title plan and Figure 2 shows an aerial view of the subject site and surrounding area.

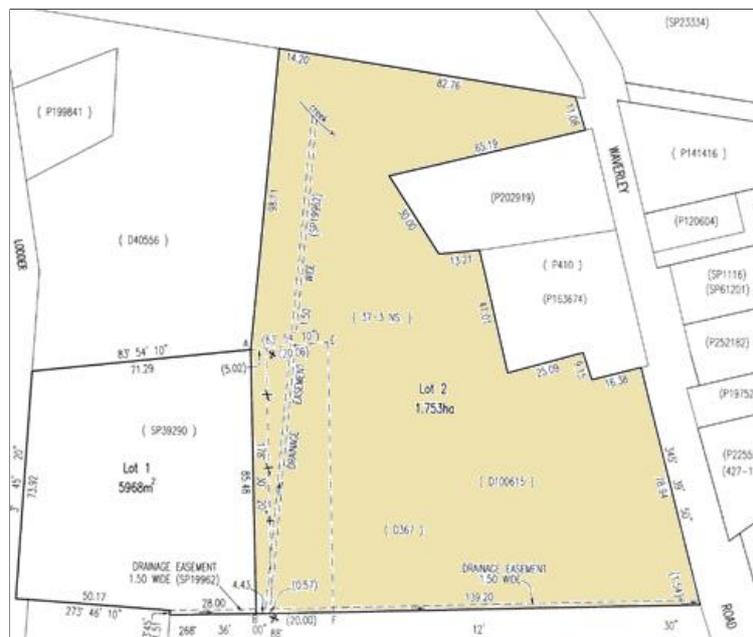


Figure 1 - Title plan - CT180138/2



Figure 2 - Aerial view of subject site and surrounding area

APPLICATION DETAILS

The applicant is seeking approval for a 2-lot subdivision. Each lot will have an area of 8760m² and frontage to Waverley Road. Figure 3 shows the proposed subdivision plan.

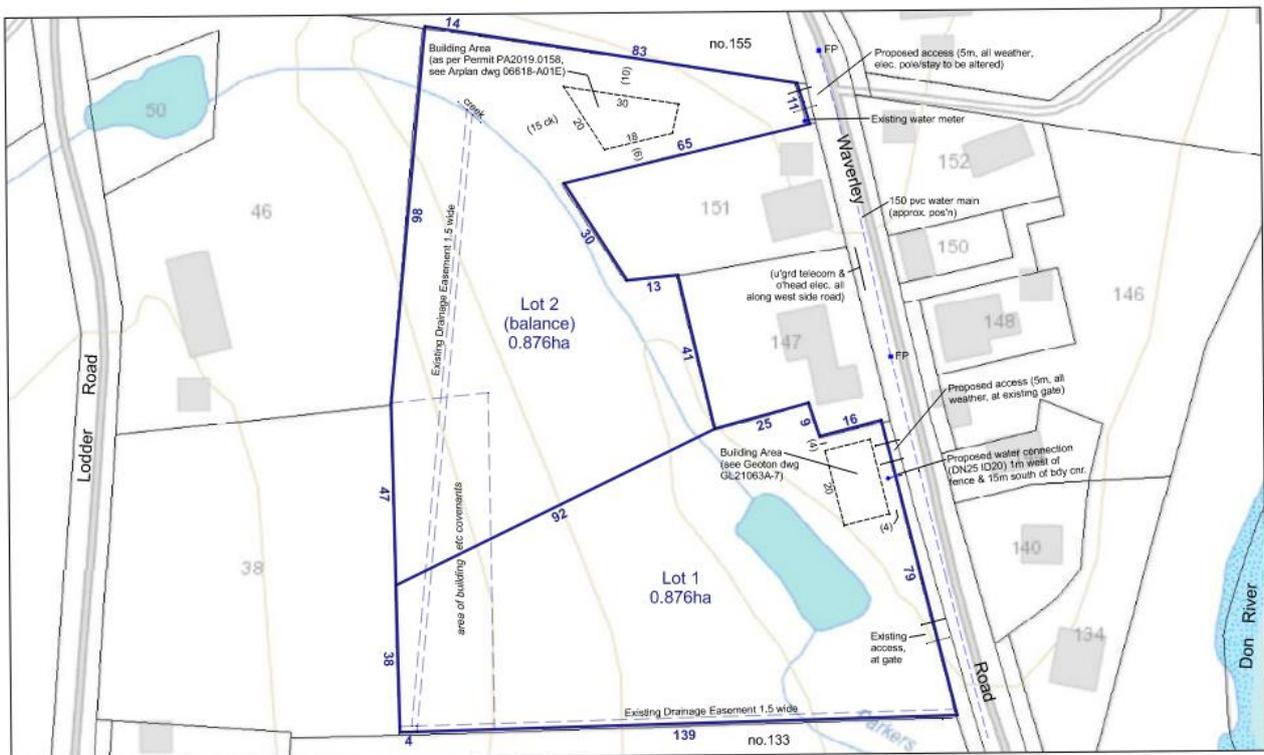


Figure 3 - Proposed subdivision plan

PLANNING ISSUES

The land is zoned Rural Living under the *Tasmanian Planning Scheme – Devonport, 2020*. The purpose of the zone is as follows:

11.1.1 To provide for residential use or development in a rural setting where:

(a) services are limited; or

(b) existing natural and landscape values are to be retained.

11.1.2 To provide for compatible agricultural use and development that does not adversely impact on residential amenity.

11.1.3 To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off-site impacts.

11.1.4 To provide for Visitor Accommodation that is compatible with residential character

Subdivision is permitted in the zone provided the proposal satisfies all relevant development standards and codes contained within the planning scheme. In instances where the applicable standards cannot be met, the proposal must be assessed against the corresponding performance criteria. Each relevant clause is reproduced below, followed by comment.

11.0 Rural Living zone

11.5.1 Lot design

Objective:	That each lot: (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; and (c) contains areas which are suitable for residential development.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <p>(a) have an area not less than specified in Table 11.1 and:</p> <p>(i) be able to contain a minimum area of 15m x 20m clear of:</p> <p style="margin-left: 20px;">a. all setbacks required by clause 11.4.2 A2 and A3; and</p> <p style="margin-left: 20px;">b. easements or other title restrictions that limit or restrict development; and</p>	<p>P1</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have sufficient useable area and dimensions suitable for its intended use, having regard to:</p> <p>(a) the relevant requirements for development of existing buildings on the lots;</p> <p>(b) the intended location of buildings on the lots;</p> <p>(c) the topography of the site;</p> <p>(d) any natural or landscape values;</p> <p>(e) adequate provision of private open space; and</p>

<p>(ii) existing buildings are consistent with the setback required by clause 11.4.2 A2 and A3;</p> <p>(b) be required for public use by the Crown, a council or a State authority;</p> <p>(c) be required for the provision of Utilities; or</p> <p>(d) be for the consolidation of a lot with another lot provided each lot is within the same zone.</p>	<p>(f) the pattern of development existing on established properties in the area, and must be no more than 20% smaller than the applicable lot size required by clause 11.5.1 A1.</p>
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Comment – The minimum lot size in the Rural Living zone for Area A, which applies to the subject site, is 1ha. In addition, the front setback is 20m and the side setback is 10m. The proposal is not able to comply with these standards, however, is able to meet the corresponding performance criteria.

The absolute minimum lot size is 8000m². Each lot is 8760m² and therefore satisfies this lot size requirement.

The building envelope on Lot 2 meets the setback requirements, however the building envelope on Lot 1 is located 4m from the front and side boundaries. These setbacks are in keeping with the pattern of development on established properties in the area and necessary as a result of the topography and landslide hazard areas located on the site.

The proposal satisfies the performance criteria.

<p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 40m.</p>	<p>P2</p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to:</p> <p>(a) the width of frontage proposed, if any;</p> <p>(b) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access;</p> <p>(c) the topography of the site;</p> <p>(d) the functionality and useability of the frontage;</p> <p>(e) the ability to manoeuvre vehicles on the site; and</p> <p>(f) the pattern of development existing on established properties in the area, and is not less than 3.6m wide.</p>
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Comment – Lot 1 has a 79m frontage and meets the acceptable solution. Lot 2 has an 11m frontage and must be assessed against the performance criteria.

Lot 2 will provide sufficient room to manoeuvre onsite and no other lots will use the land for access. A number of other lots in the area have frontages of a similar width or less and the proposed frontage exceeds the minimum 3.6m requirement.

A power pole is currently located in front of the proposed access and may require relocation. Consultation with TasNetworks is required in this regard.

The proposal satisfies the performance criteria.

<p>A3</p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with a vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority.</p>	<p>P3</p> <p>Each lot, or a lot proposed in a plan of subdivision, must be provided with reasonable vehicular access to a boundary of a lot or building area on the lot, if any, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the length of the access; (c) the distance between the lot or building area and the carriageway; (d) the nature of the road and the traffic; (e) the anticipated nature of vehicles likely to access the site; and (f) the ability for emergency services to access the site.
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Comment – Each lot will have a crossover to provide vehicular access to the site. The proposal meets the acceptable solution.

11.5.2 Roads

Objective:	<p>That the arrangement of new roads with a subdivision provides:</p> <ul style="list-style-type: none"> (a) safe, convenient and efficient connections to assist accessibility and mobility of the community; (b) adequate accommodation of vehicular, pedestrian, cycling and public transport traffic; and (c) the efficient ultimate subdivision of the entirety of the land and of surrounding land.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>The subdivision includes no new roads.</p>	<p>P1</p> <p>The arrangement and construction of roads within a subdivision must provide an appropriate level of access, connectivity, safety, convenience and legibility for vehicles, having regard to:</p> <ul style="list-style-type: none"> (a) any relevant road network plan adopted by the council; (b) the existing and proposed road hierarchy; (c) maximising connectivity with the surrounding road network; (d) appropriate access to public transport; and (e) access for pedestrians and cyclists.

Comment – No new road is proposed. The proposal meets the acceptable solution.

11.5.3 Services

Objective:	That the subdivision of land provides services for the future use and development of the land.	
Acceptable Solutions	Performance Criteria	
A1 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must: (a) be connected to a full water supply service if the frontage of the lot is within 30m of a full water supply service; or (b) be connected to a limited water supply service if the frontage of the lot is within 30m of a limited water supply service, unless a regulated entity advises that the lot is unable to be connected to the relevant water supply service.	P1 No Performance Criterion.	

Comment – Lot 2 has an existing connection to the reticulated water supply. A new connection will be made to Lot 1. The proposal meets the acceptable solution.

A2 Each lot, or a lot proposed in a plan of subdivision, excluding within Rural Living Zone C or Rural Living Zone D or for public open space, a riparian or littoral reserve or Utilities, must: (a) be connected to a reticulated sewerage system; or (b) be connected to a reticulated sewerage system if the frontage of each lot is within 30m of a reticulated sewerage system and can be connected by gravity feed.	P2 Each lot, or a lot proposed in a plan of subdivision, excluding within Rural Living Zone C or Rural Living Zone D or for public open space, a riparian or littoral reserve or Utilities, must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.
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Comment – There is no reticulated sewer system within 30m of the subject site therefore no connection is required.

The proposal meets the acceptable solution.

A number of Codes are also applicable to the site. These include the Local Historic Heritage Code, Bushfire-Prone Areas Code, Natural Assets Code and the Landslip Hazard Code. Each is addressed below.

C6.0 Local Historic Heritage Code

C6.10.2 Lot design for a Local Heritage Precinct or a Local Historic Landscape Precinct

Objective:	That: (a) subdivision within a local heritage precinct is consistent with historic patterns of development; and (b) subdivision within a local historic landscape precinct is compatible with the character of the precinct.
Acceptable Solutions	Performance Criteria
A1 No Acceptable Solution.	P1 Subdivision must be compatible with the local historic heritage significance of a local heritage precinct or a local historic landscape precinct, as identified in the relevant Local Provisions Schedule, having regard to: (a) any relevant design criteria or conservation policy for a local heritage precinct or local historic landscape precinct, as identified in the relevant Local Provisions Schedule; and (b) the historic pattern of subdivision of the precinct.

Comment – The subject site is located in the Don/Lillico Strait Local Heritage Landscape Precinct. There are no relevant design criteria and there is no conservation policy for the precinct. The Code merely states that the area can be seen from much of Devonport and is a landmark landscape within the region.

The proposal is in keeping with the pattern of subdivision in the area which is a mix of large and small lots. The proposed building envelopes will ensure any future dwellings are located in line with the existing pattern of development.

The performance criteria are satisfied.

C7.0 Natural Assets Code

The site is subject to a Priority Vegetation Area and a Waterway and Coastal Protection Area and therefore the Natural Assets Code applies.

C7.7.1 Subdivision within a waterway and coastal protection area or a future coastal refugia area

Objective:	That: (a) works associated with subdivision within a waterway and coastal protection area or a future coastal refugia area will not have an unnecessary or unacceptable impact on natural assets; and (b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on natural assets.
Acceptable Solutions	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must: (a) be for the creation of separate lots for existing buildings; (b) be required for public use by the Crown, a council, or a State authority; (c) be required for the provision of Utilities; (d) be for the consolidation of a lot; or (e) not include any works (excluding boundary fencing), building area, services, bushfire hazard management area or vehicular access within a waterway and coastal protection area or future coastal refugia area.	P1 Each lot, or a lot proposed in a plan of subdivision, within a waterway and coastal protection area or a future coastal refugia area, must minimise adverse impacts on natural assets, having regard to: (a) the need to locate building areas and any associated bushfire hazard management area to be outside a waterway and coastal protection area or a future coastal refugia area; and (b) future development likely to be facilitated by the subdivision.

Comment – The building envelope shown on the geotechnical investigation report for Lot 2 is located 56m into the property from the frontage on the northern side and 30m from the frontage on the southern side. This is not in keeping with the building envelope shown on the proposed subdivision plan. As such, the plan requires amendment to reflect the building envelope identified by Geoton Pty Ltd. This also reduces encroachment on the Waterway and Coastal Protection Area.

The building envelope for Lot 1 does encroach on the Water and Coastal Protection Area however any future development is unlikely to lead to an unacceptable impact on the waterway. The area specified for on-site wastewater disposal is also within the protection area however is able to comply with the required setback of 15m from a watercourse. Although the submitted documentation shows the disposal area is marginally within the 15m threshold, these areas are able to be of any shape and do not have to be rectangular. This allows for the disposal area to be designed in such a way as to ensure the setback is met. The landslide hazard areas on the site limit the areas available for the construction of a dwelling, therefore pushing the building envelope into the protection area. At the time a dwelling is constructed the development will be required to ensure sediment runoff into the waterway is prevented.

The bushfire hazard management areas (BHMA) required for each lot will be within the Waterway and Coastal Protection Areas. The BHMAs do not require the removal of all

vegetation. Trees may remain provided they are trimmed to at least 2m above ground level. Shrubs may also remain, provided cover is kept to a maximum of 20% of the available area. The retention of vegetation will minimise adverse impacts on the creek.

The proposal satisfies the performance criteria.

C7.7.2 Subdivision within a priority vegetation area

Objective:	<p>That:</p> <p>(a) works associated with subdivision will not have an unnecessary or unacceptable impact on priority vegetation; and</p> <p>(b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on priority vegetation.</p>
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must:</p> <p>(a) be for the purposes of creating separate lots for existing buildings;</p> <p>(b) be required for public use by the Crown, a council, or a State authority;</p> <p>(c) be required for the provision of Utilities;</p> <p>(d) be for the consolidation of a lot; or</p> <p>(e) not include any works (excluding boundary fencing), building area, bushfire hazard management area, services or vehicular access within a priority vegetation area.</p>	<p>P1.1</p> <p>Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must be for:</p> <p>(a) subdivision for an existing use on the site, provided any clearance is contained within the minimum area necessary to be cleared to provide adequate bushfire protection, as recommended by the Tasmanian Fire Service or an accredited person;</p> <p>(b) subdivision for the construction of a single dwelling or an associated outbuilding;</p> <p>(c) subdivision in the General Residential Zone or Low Density Residential Zone;</p> <p>(d) use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design;</p> <p>(e) subdivision involving clearance of native vegetation where it is demonstrated that on-going pre-existing management cannot ensure the survival of the priority vegetation and there is little potential for long-term persistence; or</p> <p>(f) subdivision involving clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.</p> <p>P1.2</p> <p>Works association with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p>

	<ul style="list-style-type: none"> (a) the design and location of any works, future development likely to be facilitated by the subdivision, and any constraints such as topography or land hazards; (b) any particular requirements for the works and future development likely to be facilitated by the subdivision; (c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings; (d) any mitigation measures implemented to minimise the residual impacts on priority vegetation; (e) any on-site biodiversity offsets; and (f) any existing cleared areas on the site.
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The proposal complies with P1.1 (b) as the subdivision is for the creation of lots to contain a single dwelling and associated outbuildings.

In regard to P1.2, impacts on priority vegetation will be limited given the building area for Lot 2 is already cleared and the vegetation located within the building area for Lot 1 consists of predominantly introduced species which do not fall within the definition of priority vegetation under the planning scheme.

As mentioned above, there is no requirement to clear vegetation completely within the BHMA and therefore any significant vegetation can be retained provided it is properly maintained.

The performance criteria is met.

C13.0 Bushfire-Prone Areas Code

C13.6.1 Provision of hazard management areas

Objective:	<p>That subdivision provides for hazard management areas that:</p> <ul style="list-style-type: none"> (a) facilitate an integrated approach between subdivision and subsequent building on a lot; (b) provide for sufficient separation of building areas from bushfire-prone vegetation to reduce the radiant heat levels, direct flame attack and ember attack at the building area; and (c) provide protection for lots at any stage of a staged subdivision.
Acceptable Solutions	Performance Criteria
<p>A1</p> <ul style="list-style-type: none"> (a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of hazard management areas as part of a subdivision; or (b) The proposed plan of subdivision: <ul style="list-style-type: none"> (i) shows all lots that are within or partly within a bushfire-prone area, including those developed at each stage of a staged subdivision; (ii) shows the building area for each lot; (iii) shows hazard management areas between bushfire-prone vegetation and each building area that have dimensions equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959–2009 Construction of buildings in bushfire-prone areas</i>; and (iv) is accompanied by a bushfire hazard management plan that addresses all the individual lots and that is certified by the TFS or accredited person, showing hazard management areas equal to, or greater than the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959-2009 Construction of buildings in bushfire-prone Areas</i>; and (c) if hazard management areas are to be located on land external to the proposed subdivision 	<p>P1</p> <p>A proposed plan of subdivision shows adequate hazard management areas in relation to the building areas shown on lots within a bushfire-prone area, having regard to:</p> <ul style="list-style-type: none"> (a) the dimensions of hazard management areas; (b) a bushfire risk assessment of each lot at any stage of staged subdivision; (c) the nature of the bushfire-prone vegetation including the type, fuel load, structure and flammability; (d) the topography, including site slope; (e) any other potential forms of fuel and ignition sources; (f) separation distances from the bushfire-prone vegetation not unreasonably restricting subsequent development; (g) an instrument that will facilitate management of fuels located on land external to the subdivision; and (h) any advice from the TFS.

the application is accompanied by the written consent of the owner of that land to enter into an agreement under section 71 of the Act that will be registered on the title of the neighbouring property providing for the affected land to be managed in accordance with the bushfire hazard management plan.

Comment – The Bushfire Hazard Management Report and accompanying BHMP submitted as part of the application demonstrate that the separation distances required for BAL 19 can be achieved.

The proposal meets the acceptable solution.

C13.6.2 Public and fire fighting access

Objective:	<p>That access roads to, and the layout of roads, tracks and trails, in a subdivision:</p> <ul style="list-style-type: none"> (a) allow safe access and egress for residents, fire fighters and emergency service personnel; (b) provide access to the bushfire-prone vegetation that enables both property to be defended when under bushfire attack, and for hazard management works to be undertaken; (c) are designed and constructed to allow for fire appliances to be manoeuvred; (d) provide access to water supplies for fire appliances; and (e) are designed to allow connectivity, and where needed, offering multiple evacuation points.
Acceptable Solutions	Performance Criteria
<p>A1</p> <ul style="list-style-type: none"> (a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant specific measures for public access in the subdivision for the purposes of fire fighting; or (b) A proposed plan of subdivision showing the layout of roads, fire trails and the location of property access to building areas, is included in a bushfire hazard management plan that: <ul style="list-style-type: none"> (i) demonstrates proposed roads will comply 	<p>P1</p> <p>A proposed plan of subdivision shows access and egress for residents, fire-fighting vehicles and emergency service personnel to enable protection from bushfires, having regard to:</p> <ul style="list-style-type: none"> (a) appropriate design measures, including: <ul style="list-style-type: none"> (i) two way traffic; (ii) all weather surfaces; (iii) height and width of any vegetation clearances;

<p>with Table C13.1, proposed property accesses will comply with Table C13.2 and proposed fire trails will comply with Table C13.3 and</p> <p>(ii) is certified by the TFS or an accredited person.</p>	<ul style="list-style-type: none"> (iv) load capacity; (v) provision of passing bays; (vi) traffic control devices; (vii) geometry, alignment and slope of roads, tracks and trails; (viii) use of through roads to provide for connectivity; (ix) limits on the length of cul-de-sacs and dead-end roads; (x) provision of turning areas; (xi) provision for parking areas; (xii) perimeter access; and (xiii) fire trails; and <p>(b) the provision of access to:</p> <ul style="list-style-type: none"> (i) bushfire-prone vegetation to permit the undertaking of hazard management works; and (ii) fire fighting water supplies; and <p>(c) any advice from the TFS.</p>
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Comment – The Bushfire Hazard Management Report demonstrates compliance with the acceptable solutions.

C15.0 Landslip Hazard Code

C15.7.1 Subdivision within a landslip hazard area

Objective:	That subdivision within a landslip hazard area does not create an opportunity for use or development that cannot achieve a tolerable risk from a landslip.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, within a landslip hazard area, must:</p> <p>(a) be able to contain a building area, vehicle access, and services, that are wholly located outside a landslip hazard area;</p> <p>(b) be for the creation of separate lots for existing buildings;</p> <p>(c) be required for public use by the Crown, a council or a State authority; or</p> <p>(d) be required for the provision of Utilities.</p>	<p>P1</p> <p>Each lot, or a lot proposed in a plan of subdivision, within a landslip hazard area must not create an opportunity for use or development that cannot achieve a tolerable risk from landslip, having regard to:</p> <p>(a) any increase in risk from a landslip for adjacent land;</p> <p>(b) the level of risk to use or development arising from an increased reliance on public infrastructure;</p> <p>(c) the need to minimise future remediation works;</p> <p>(d) any loss or substantial compromise, by a landslip, of access to the lot on or off site;</p> <p>(e) the need to locate building areas outside the landslip hazard area;</p> <p>(f) any advice from a State authority, regulated entity or a council; and</p> <p>(g) the advice contained in a landslip hazard report.</p>

Comment – Both lots can contain building areas outside the landslip hazard areas located on the property. In addition, a report from a Geotechnical engineer has been included as part of the application demonstrating the risk of constructing a dwelling on proposed Lot 2 is low, which is deemed tolerable. The report was written on the basis that a suitable building envelope had previously been identified for Lot 1 which was also deemed to be low risk.

The proposal meets the acceptable solution.

COMMUNITY ENGAGEMENT

On 25/08/2021, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 08/09/2021;
- (b) Making a copy of the proposal available in Council Offices from the 08/09/2021;
- (c) Notifying adjoining property owners by mail on 07/09/2021; and
- (d) Erecting a Site Notice for display from the 07/09/2021.

The period for representations to be received by Council closed on 21/09/2021.

REPRESENTATIONS

One representation was received within the prescribed 14-day public scrutiny period required by the *Land Use Planning and Approvals Act 1993*.

The representor previously subdivided the subject site through the separation of a lot to the west. The full representation is appended as an attachment to this report.

The representation raises questions in regard to lot size, setbacks, encroachment of bushfire hazard management areas on priority vegetation and waterway and coastal protection areas and the pattern of development in the area. In addition, questions are raised in regard to on-site wastewater disposal and the issue that the proposed distribution bed may be located less than 15m from the watercourse as required by relevant standards.

The matters listed above have been addressed as part of the assessment of the proposal. Lot size, setbacks and the pattern of development in the area are deemed to satisfy the performance criteria given many of the existing dwellings along this section of Waverley Road do not meet the current setback requirements. In addition, the lot size satisfies the minimum requirement of 8000m².

In regard to the encroachment of the bushfire hazard management areas on priority vegetation, the majority of vegetation is not native, and does not meet the requirements of priority vegetation as defined in clause C7.3.1 (below).

priority vegetation	<p>means native vegetation where any of the following apply:</p> <p>(a) it forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the <i>Nature Conservation Act 2002</i>;</p> <p>(b) is a threatened flora species;</p> <p>(c) it forms a significant habitat for a threatened fauna species; or</p> <p>(d) it has been identified as native vegetation of local importance.</p>
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The mapping of the priority vegetation areas is not entirely accurate, as demonstrated by the figure below which shows large, established areas of Devonport covered by priority vegetation areas. Given the inaccuracy of the mapping and the fact that the vegetation located in the area of the proposed bushfire hazard management area is not native, can be managed and not totally removed, the proposal is deemed to comply with the requirements of the code.



Figure 4 - Map showing location of Priority Vegetation Area

In regard to the impact of the proposed aerated wastewater treatment system and distribution beds on the Waterways and Coastal Protection Area, and the fact that the location shown on the plan is within 15m of the watercourse, it is acknowledged that the distribution beds do not have to be rectangular and may take any shape.

This means that the distribution beds can be designed in such a way to ensure they do not encroach on any of the setbacks required from boundaries or watercourses. The disposal area will, however, encroach on the Waterway and Coastal Protection Area. Impact on the watercourse will be minimised through compliance with the required setbacks from the watercourse for any future on-site wastewater system and through the implementation of erosion control measures to ensure sediment does not wash into the watercourse.

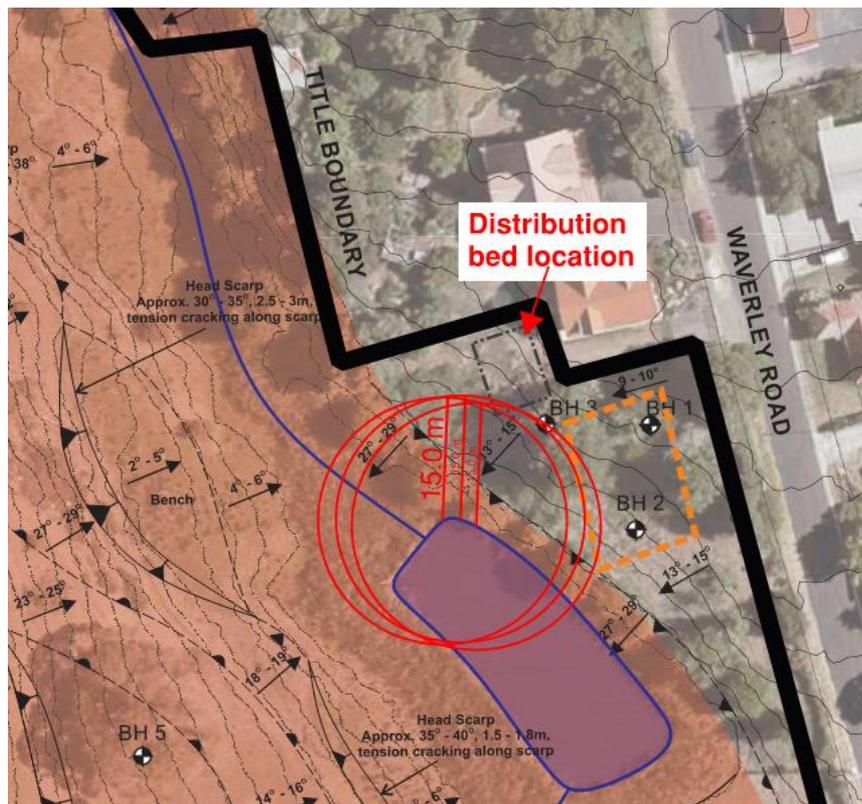


Figure 5 - Plan showing minimal encroachment of onsite wastewater distribution beds on watercourse setback

The representor has also raised the issue of the applicant not providing information in regard to the Local Historic Heritage Code.

The planning scheme states, under clause 6.1.2, that an application must include a signed application form, any written permission required under s.52 of the *Land Use Planning and Approvals Act 1993*, details of the location of the proposal, a copy of the current certificate of title and a full description of the proposed use or development. Clause 6.1.3 states that, in addition to the information required by clause 6.1.2, a planning authority may require such further information as the planning authority considers necessary, including the schedule of easements, a site plan/site analysis and building plans.

Given the Local Historic Landscape Precinct does not include any design criteria or conservation policy, and the proposed building lots are in keeping with the established pattern of development in the area, it was not deemed necessary to require any information from the applicant in this regard.

The issues raised by the representor do not require any changes be made to the proposal.

DISCUSSION

The applicant has raised the issue of clearing blackberries, a declared weed, from the site, including the creek. The applicant has contacted the Environment Protection Authority in this regard and been informed that there is no issue removing the weed.

As a Waterways and Coastal Protection Area covers the creek, it is deemed appropriate that a condition be placed on the permit regarding blackberry removal. The removal of weeds will be beneficial rather than detrimental to the waterway.

FINANCIAL IMPLICATIONS

No financial implications are anticipated, unless an appeal is made against the Council's decision to the Resource Management and Planning Appeal Tribunal. In such instance, legal counsel will likely be required to represent Council. The opportunity for such an appeal

exists as a result of the Council determining to either approve or refuse the permit application.

RISK IMPLICATIONS

In its capacity as a planning authority under the *Land Use Planning and Approvals Act 1993* (LUPAA), Council is required to make a determination on this application for a discretionary planning permit. Due diligence has been exercised in the preparation of this report and there are no identified risks associated with a determination of this application.

CONCLUSION

The proposal has been assessed by Council's Development and Infrastructure and Works Staff and can be approved with conditions.

ATTACHMENTS

1. Application - PA2021.0125 - 139 Waverley Road [**4.1.1** - 84 pages]
2. Representation - Tina Smith - PA2021.0125 - 139 Waverley Road - 2 lot subdivision [**4.1.2** - 6 pages]

5 CLOSURE