



GLAMORGAN SPRING BAY
COUNCIL

Notice of Meeting and Agenda

For the Ordinary
Meeting of
Council to be
held at the
Buckland Hall

25th October, 2016

NOTICE OF ORDINARY MEETING

Notice is hereby given that the next ordinary meeting of the Glamorgan Spring Bay Council will be held at the Buckland Hall on Tuesday, 25th October, 2016 commencing at 5.00pm.



Dated this Thursday 20th October, 2016

David Metcalf
GENERAL MANAGER

"I certify that with respect to all advice, information and recommendations provided to Council with this agenda:

- 1. The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation, and***
- 2. Where any advice is given directly to the Council by a person who does not have the required qualifications or experience, that person has obtained and taken into account in that person's general advice the advice from any appropriately qualified or experienced person. "***

Note : Section 65 of The Local Government Act 1993 states –

- (1) A general manager must ensure that any advice, information or recommendation given to the council or a council committee is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.***
- (2) A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council or council committee.***



David Metcalf
GENERAL MANAGER

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Audio Recording of Ordinary Meetings of Council

As determined by Glamorgan Spring Bay Council, all Ordinary and Special Meetings of Council will be electronically audio recorded from April 2014 onwards.

In accordance with the Local Government Act 1993 and Regulation 33, these audio files will be retained by Council for at least 6 months and made available for listening on written request by any person. The written minutes of a meeting, once confirmed, prevail over the audio recording of the meeting.

1. Opening

The Mayor to welcome Councillors, staff and members of the public and declare the meeting open at (Time).

1.1 Present and Apologies

1.2 In Attendance

1.3 Declaration of Pecuniary Interests

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2005, the Mayor requests Elected Members to indicate whether they or a close associate have, or likely to have, a pecuniary interest in any item included in the Agenda.

2. Confirmation of Minutes and Workshops

2.1 Ordinary Meeting – September 27th, 2016

Recommendation

That the Minutes of the Ordinary Meeting held Tuesday 27th September, 2016 be confirmed as a true and correct record.

2.2 Workshop Held – September 27th, 2016

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2005*, it is reported that a workshop was held at 3pm on Tuesday 27th September in Swansea. This workshop was to receive a briefing from the General Manager on the Prosser Plains Dam Proposal (Tea Tree Rivulet, Buckland) and review the revised Triabunna Marina and Wharf Precinct Policy.

2.3 Workshop Held – October 11th, 2016

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2005*, it is reported that a workshop was held at 3pm on Tuesday 11th October in Triabunna. This workshop was held to receive training in the new Local Government Councillor Model Code of Conduct.

Recommendation

That Council notes this information.

3. PLANNING AUTHORITY SECTION

Under Regulation 25 of *Local Government (Meeting Procedures) Regulations 2005* the Chairperson hereby declares that the Council is now acting as a Planning Authority under the provisions of the *Land Use Planning and Approvals Act 1993* for Section 3 of the Agenda.

Recommendation

That Council now acts as a Planning Authority. (Time:)
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3.1 DA16121 – Montgomerys Road, Buckland

Planning Assessment Report

Proposal:	Quarry
Applicant:	Bryden Elliot
Location:	4 & 188 Montgomerys Road, Buckland
Planning Document:	Glamorgan Spring Bay Interim Planning Scheme 2015 (Interim Scheme)
Zoning:	Rural Resource Zone
Application Date:	18 July 2016
Statutory Date:	24 November 2016
Attachments:	Appendix A – EPA Permit Conditions
Author:	Shane Wells, Manager Planning and Special Projects

1. Executive Summary

- 1.1. Planning approval is sought for a quarry off Montgomerys Road, Runnymede.
- 1.2. The application is a Level 2 activity under the Environmental Management and Pollution Control Act 1994 and is therefore discretionary.
- 1.3. One statutory representation was received.
- 1.4. The application is essentially the same as an earlier application to Council (ref DA 2015 / 136).
- 1.5. This application was approved by Council at its August 2015 Council meeting on the advice from the Department of State Growth that the junction of Montgomerys Road and Tasman Highway was adequate for the proposal. Council's approval was appealed. During the appeal process significant issues with the junction were identified. The developer proposed a solution to access Montgomerys Road from a different section of the Tasman Highway closer to Buckland. However, the Resource Management and Planning Appeal Tribunal considered that the extent of the change to the application was technically too great and warranted a fresh planning application in order to allow the application with the revised access configuration to be reconsidered.
- 1.6. The earlier application was also subject to the former planning scheme.
- 1.7. The proposal is recommended for conditional approval.
- 1.8. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period.

2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2016 / 00121.
- 2.2. This determination must be made no later than 24 November 2016, which has been extended beyond the normal statutory timeframe with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993 (LUPAA)*. The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

3. Risk & Implications

- 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.
- 3.2. Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications. The application proposes works to Montgomerys Road including sealing part of the Council maintained section of the road.

4. Relevant Background and Past Applications

- 4.1. See section 1.

Site Detail

- 4.2. The quarry site is located at 188 Montgomerys Road, Runnymede. 4 Montgomerys Road, Runnymede is to the east and is adjacent to the Tasman Highway. Vehicular access from the Tasman Highway to Montgomerys Road is proposed over this property. Both properties are within the Rural Resource Zone.
- 4.3. The site is an 80ha property approximately 8km west of Buckland.
- 4.4. The quarry will be situated on the north side of Mt. Calder on a 15 to 20 degree slope. The vegetation is dry sclerophyll forest. The proponents dwelling is located beside a large dam approximately 200m from the proposed quarry.

- 4.5. The surrounding land use is similar sized forested lots with some cleared areas utilized for grazing. There are four neighbours in Montgomerys Road, with the closest dwelling being approximately 1.2km from the proposed quarry.
- 4.6. Access to the site is via Montgomerys Road which is a narrow unsealed rural road maintained by Council for a distance of approximately 245 metres from the Tasman Highway. Beyond this, Montgomerys Road is a private road. The vehicular access point onto the Highway is approximately 450m from Montgomerys Road on the Buckland side. This access point is near an existing access. From the highway it is proposed to use an existing driveway parallel to the highway to gain access onto Montgomerys Road

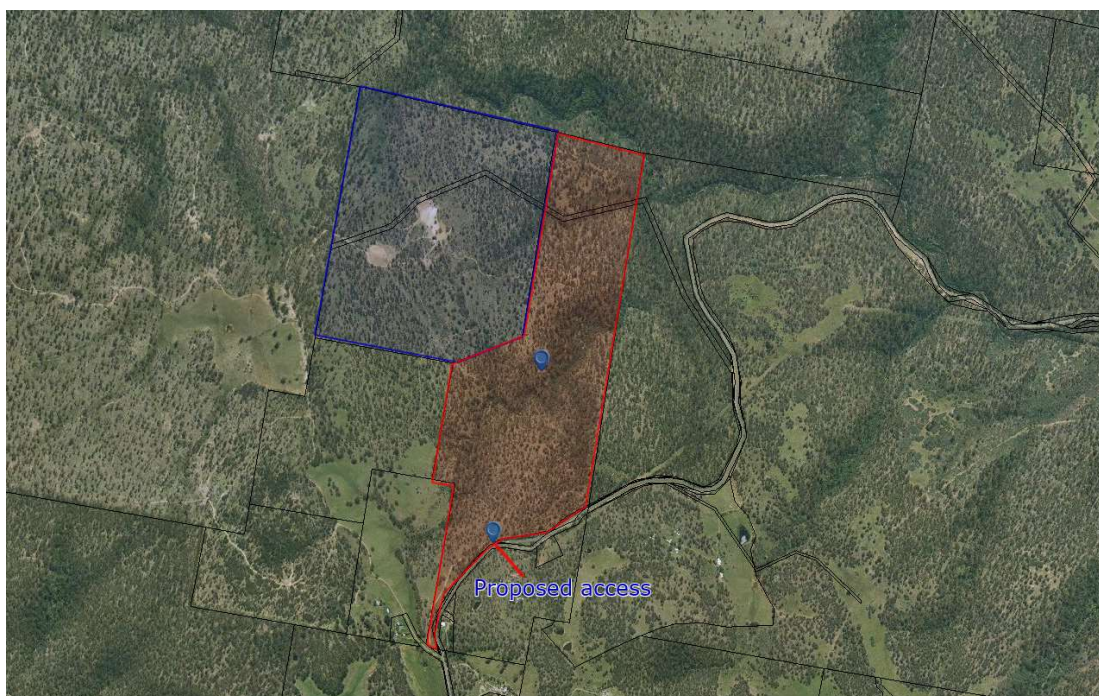


Figure 1: An aerial photograph of the subject area (#188 in blue, #4 in red).

5. Proposal

- 5.1. Planning approval is sought to extract, crush and screen up to 20,000m³ per annum of weathered dolerite. The gravel will be extracted using an excavator and/or blasting and most material crushed and screened and gravel will be sold and for road building, construction purposes and landscaping. The location of the quarry has been previously cleared. The quarry's expected life is 10 years.
- 5.2. The quarry will be largely developed to the north and north-west of the site. A ring road will be constructed around the quarry and V-drain upslope to divert stormwater from the working area. A sediment pond will be created downslope of the working face.
- 5.3. The quarry will not be open to the general public and operating hours are proposed as 8am to 5pm weekdays, and 9am to 4pm on Saturdays.
- 5.4. A traffic impact assessment submitted with the application anticipates 14 truck movements per day. Sight distance is deficient to the south but can be made compliant by removal of roadside vegetation. Other recommendations of the TIA, and which form part of the application are:

5.4.1. Construct a BAR junction treatment on the Tasman Highway at the vehicular access

5.4.2. Provide passing bays along the existing private driveway

5.4.3. Provide passing bays along Montgomerys Road

5.4.4. Remove vegetation along Montgomerys Road

5.4.5. Seal 120m of Montgomerys Road adjacent to an existing dwelling for dust suppression

5.4.6. Install signage near the vehicular access

5.5. The proposal is a Level 2 activity under the Environmental Management and Pollution Control Act 1994 (EMPCA) and the application has been referred to Board of Environmental Management and Pollution Control for assessment. It is the Boards role to assess the environmental related aspects of the application which include:

- Odour emissions
- Liquid Waste
- Groundwater impacts
- Noise emissions
- Solid and controlled waste management; and
- Biodiversity

5.6. An assessment of the proposal has been undertaken by the Board in accordance with the Environmental Impact Principles set out under EMPCA and it was concluded that the proposal is capable of being managed in an environmentally acceptable manner subject to permit conditions that must be included in any permit granted.

5.7. It is Council's role to consider the remaining planning aspects of the proposal. As such, this report does not address the environmental elements of the application.

6. Assessment against planning scheme provisions

6.1. An application must meet every applicable standard to be approved. Each standard can be met by either an acceptable solution or performance criteria. Where a performance criteria is relied upon an application is discretionary and the application may be approved or refused.

6.2. The following provisions are relevant to the proposed use and development;

- Rural Resource Zone
- E5.0 Road and Rail Assets Code
- E6.0 Parking and Access Code
- E14.0 Scenic Landscapes Code

6.3. The proposal complies with all applicable acceptable solutions other than the following where the proposal is reliant on the associated performance criteria.

		Requirement	Proposed
1	Use (Extractive Industries)	Extractive industry is a discretionary use in the Rural Resource Zone.	Discussed below.
2	Use standard for discretionary uses	Clause 26.3.3 provides a use standard for all discretionary uses.	Discussed below.
3	New access	Clause E 5.6.2 A1 requires any new access in a 60km/hr or greater speed environment to be assessed against the performance criteria.	A new access. Discussed below.
4	Sight distance	Clause E 5.6.4 A1 provides that sight distance to be 210 metres or more.	Sight distance to the north is 260m but 171m to the south. The TIA recommends vegetation removal to achieve compliance. A condition of approval to this effect is recommended for any permit granted.
5	Works in scenic landscape code	Clause E 17.7.4 A1 provides that works within the scenic landscapes code along the Tasman Highway must not be visible or be additions to existing buildings.	The access and driveway is visible from the Tasman Highway, albeit to a very limited degree and the issue is not discussed further.

6.4. Discretion 1 & 2 – Use

6.4.1. The performance criteria for discretionary use provides that:

A discretionary non-agricultural use must not conflict with or fetter agricultural use on the site or adjoining land having regard to all of the following:

- (a) *the characteristics of the proposed non-agricultural use;*
- (b) *the characteristics of the existing or likely agricultural use;*
- (c) *setback to site boundaries and separation distance between the proposed non-agricultural use and existing or likely agricultural use;*
- (d) *any characteristics of the site and adjoining land that would buffer the proposed non-agricultural use from the adverse impacts on amenity from existing or likely agricultural use.*

6.4.2. It is considered that the proposal will not impact agricultural potential of any adjoining or nearby land. Agricultural potential is limited and quarrying impacts are primarily related to amenity.

6.5. Discretion 3 – New Access

6.5.1. The performance criteria for a new access provides:

For roads in an area subject to a speed limit of more than 60km/h, accesses and junctions must be safe and not unreasonably impact on the efficiency of the road, having regard to:

- (a) the nature and frequency of the traffic generated by the use;*
- (b) the nature of the road;*
- (c) the speed limit and traffic flow of the road;*
- (d) any alternative access;*
- (e) the need for the access or junction;*
- (f) any traffic impact assessment; and*
- (g) any written advice received from the road authority.*

6.5.2. Council will recall that the Montgomerys Road / Tasman Highway junction was identified as a deficient junction under the former planning scheme. No such mechanism to list deficient junctions exists in the new scheme.

6.5.3. A new access is proposed to alleviate deficiencies of the former application and its means of access. The new access is supported by a traffic impact assessment, preliminary engineering designs and the Department of State Growth.

6.5.4. On this basis it is considered that the proposal is consistent with the performance criteria, subject to implementation of the recommendations of the Traffic Impact Assessment.

7. Referrals

7.1. TasWater

7.1.1. The proposal does not require referral to TasWater.

7.2. Department of State Growth

7.2.1. The Department advises that:

The Department of State Growth has no objection to the application.

The Department provides in-principle support for the access upgrade to the Tasman Highway. However, there are some minor issues with some of the details, which can be sorted during the 'Work Permit' process.

As usual no work is able to be undertaken within the State Road Reservation without the developer obtaining a 'Works Permit' from the Department and works to be completed prior to commencement of use.

7.3. Board of the Environment Protection Authority

- 7.3.1. Being a level 2 activity, the proposal was referred to the Board who have issued conditions that must be included on any permit granted.

7.4. Council's Technical Officer

- 7.4.1. The application has been referred to Council's Technical Officer, who has provided conditions and advice to be included on the permit, should Council grant approval.

8. **Concerns raised by representors**

- 8.1. The following table outlines the issues raised by the representor.

Issue	Response
Request for sealing of Montgomerys Road.	This is provided for in the recommendations of the Traffic Impact Assessment.
Request to limit construction hours associated with access works.	Construction hours are principally regulated under the Environmental Management and Pollution Control Act 1994 and associated regulations. It is beyond the Planning Authorities scope to deviate from Tasmanian regulation.
Request that the new access is wholly contained within 4 Montgomerys Road.	This is provided for in the preliminary engineering design submitted with the application.
Request that conditions proposed through mediation on the previous appeal process be carried forward.	The recommended conditions provide for the mediated outcome.

9. **Conclusion**

The proposed quarry satisfies the relevant provisions of the *Glamorgan Spring Bay Interim Planning Scheme 2015* as outlined in this report and is recommended for approval.

10. **Recommendations**

That:

- A. Pursuant to Section 57 of the Land Use Planning & Approvals Act 1993 and the Glamorgan Spring Bay Interim Planning Scheme 2015, that the application for a quarry at 4 & 188 Montgomerys Road, Runnymede (DA2016/00121), be APPROVED subject to the following conditions:**

General

1. The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
2. All recommendations of the Traffic Impact Assessment must be implemented to the satisfaction of the Council General Manager.
3. Proposed signage must be modified to reduce the amount of text and increase text size in order to increase legibility to drivers. An amended signage plan must be submitted to and approved by the Council General Manager prior to commencement of use.

Environment Protection Authority (EPA) Tasmania

4. The person responsible for the activity must comply with the conditions contained in Schedule 2 of Permit Part B, which the Board of the Environment Protection Authority (EPA) Tasmania has required the planning authority to include in the permit, pursuant to section 25(5) of the *Environmental Management and Pollution Control Act 1994* and is attached as Appendix A.

Existing services

5. The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed development. Any work required is to be specified or undertaken by the authority concerned.

Parking and Access

6. The internal driveway (including private road), parking and associated turning, loading and unloading areas servicing the development must be designed and constructed to the satisfaction of Council's General Manager and must include:
 - a) Adequate turning space on site to allow that vehicles enter and leave the site in a forward direction.
 - b) An all-weather pavement constructed and surfaced to the satisfaction of the Council's General Manager.
 - c) Passing bays
 - d) Stormwater drainage to the satisfaction of the Council's General Manager.
7. The internal driveway accessing the quarry is to be constructed and maintained to avoid erosion and sediment transfer or de-stabilisation of the soil on site, or on adjacent properties, to the standard required by Council's General Manager.
8. Unless recommended by the Traffic Impact Assessment prepared by Milan Prodanovic and dated 26 April 2016, all areas set-aside for parking and associated turning, loading and unloading areas and access must be completed prior to cartage of any product extracted from the quarry and must continue to be maintained to the satisfaction of the Council's General Manager. Works not required to be completed prior to the commencement of cartage, must be completed within 12 months of the date of the permit.

Roadworks

9. Prior to the cartage of any product extract from the quarry over Montgomerys Road, and generally in accordance with the Traffic Impact Assessment prepared by Milan Prodanovic and dated 26 April 2016 and the concept drawings prepared by Ross Cumming Drawing No. BE-01-16 Sheets 1 and 2, the developer must:
 - a) upgrade the intersection of the private road on Certificate of Title Volume 163917 Folio 1 (private road) and the Tasman Highway to the satisfaction of the Department of State Growth.
 - b) upgrade the intersection of the Private Road and Montgomerys Road to the satisfaction of the Council's General Manager.
10. Prior to the cartage of any product extracted from the quarry over Montgomerys Road the developer must upgrade the Council maintained section of Montgomerys Road (from the intersection with the Private Road and Montgomerys Road to the north-west. Unless approved otherwise by Councils General Manager, roadworks must include:
 - a) Vehicle carriageway with a minimum trafficable width of 4.0 metres
 - b) 2 coat seal for a length of 145m extending from 5 metres north of the northern access and 5 metres south of the southern access to the dwelling at land described as 5087 Tasman Highway, Buckland and more particularly defined in Certificate of Title 12840 Folio 1
 - c) Passing bays as necessary

- d) Construction of stormwater drains.
- 11. Roadworks and drainage must be constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's General Manager.
- 12. The Montgomerys Road access to the Tasman Highway must not be used in association with the quarry use exception:
 - a) Machinery and equipment associated with the road works
 - b) Transport or machinery and equipment in to the site to commence the use
 - c) Standard passenger vehicle movements
- 13. All work on or affecting the State Road (Tasman Highway) including drainage must be carried out in accordance with a permit provided by the Department of State Growth. No works on the State Road shall commence until the Ministers consent has been obtained under the Roads and Jetties Act 1935.

Engineering Drawings

- 14. Engineering design drawings for the sealing of Montgomerys Road, the upgraded vehicle access to Montgomerys Road and other recommendations of the Traffic Impact Assessment, to the satisfaction of the Council's General Manager must be submitted to and approved by the Glamorgan Spring Bay Council before development of the land commences.
- 15. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with Standards Australia (1992): Australian Standard AS1100.101 Technical Drawing – General principles, Homebush, and Standards Australia (1984): Australian Standard AS1100.401 Technical Drawing – Engineering survey and engineering survey design drawing, Homebush, and must show -
 - a) all existing and proposed services required by this permit;
 - b) all existing and proposed roadwork required by this permit;
 - c) measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
 - d) measures to be taken to limit or control erosion and sedimentation;
 - e) any other work required by this permit.
- 16. All new public infrastructure must be designed and constructed to the satisfaction of Council's Municipal Engineer and in accordance with the following (where applicable and as may be amended or replaced from time to time):
 - a) Local Government (Building and Miscellaneous Provisions) Act 1993 (Tas);
 - b) Local Government (Highways) Act 1982 (Tas);
 - c) Waterworks Clauses Act 1952 (Tas);
 - d) Standards issued by Standards Australia Limited (ABN 85 087 326 690);
 - e) Regulations made under the Building Act 2000 (Tas);
 - f) by-laws made by Council under the Local Government Act 1993 (Tas);
 - g) Current IPWEA (Tasmanian Division) Standard Drawings and Specifications; and
 - h) All standard drawings and specifications adopted by the Glamorgan Spring Bay Council.

Construction

- 17. The developer must provide not less than forty eight (48) hours written notice to Council's General Manager before commencing construction works within a council roadway.

18. Roadworks works must be carried out under the direct supervision of an approved practising professional civil engineer engaged by the subdivider and approved by the Council's General Manager.

Maintenance and Defects Liability Period

19. The road works must be placed onto a twelve (12) month maintenance and defects liability period in accordance with Council Policy following the completion of the works in accordance with the approved engineering plans and permit conditions.
20. Prior to placing the roadworks onto the twelve (12) month maintenance and defects liability period the Supervising Engineer must provide certification that the works comply with the Council's Standard Drawings, specification and the approved plans.

Protection of water quality

21. Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's General Manager before development of the land commences (refer to advice below). The SWMP shall form part of this permit when approved.

Construction amenity

22. All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
 - a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - b) The transportation of materials, goods and commodities to and from the land.
 - c) Obstruction of any public footway or highway.
 - d) Appearance of any building, works or materials.
23. Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's General Manager.
24. Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
25. The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

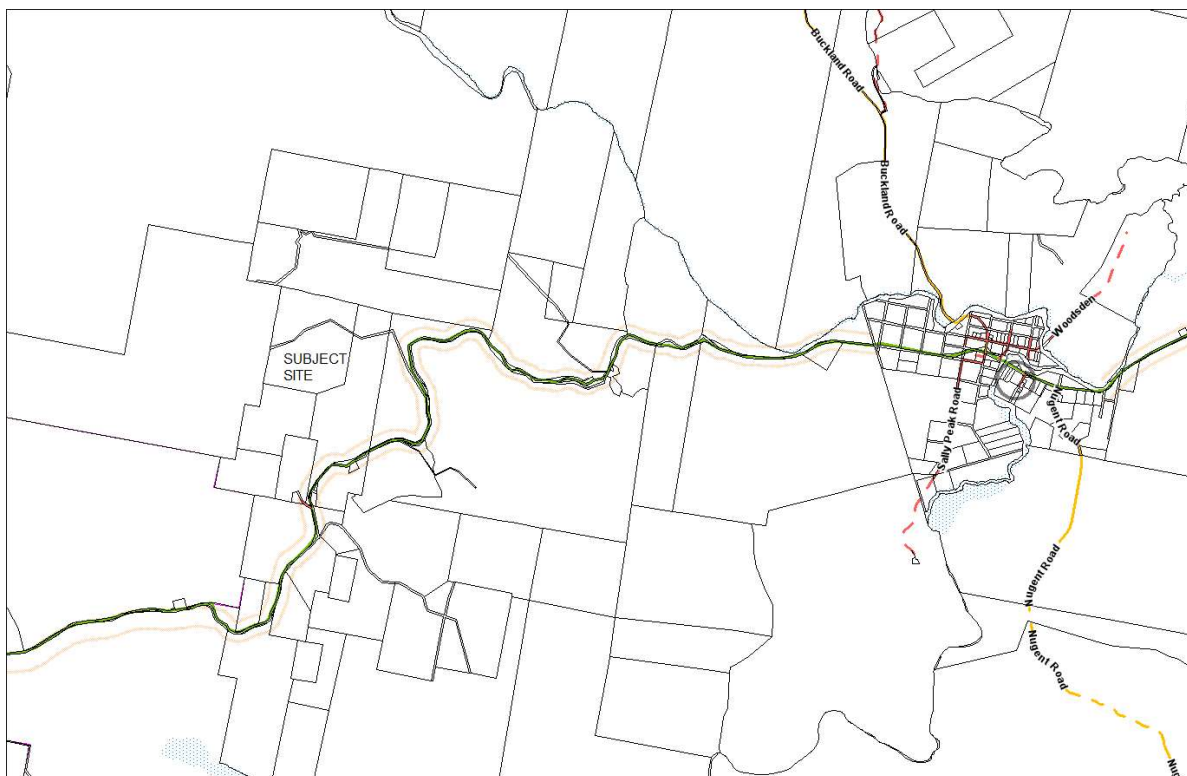
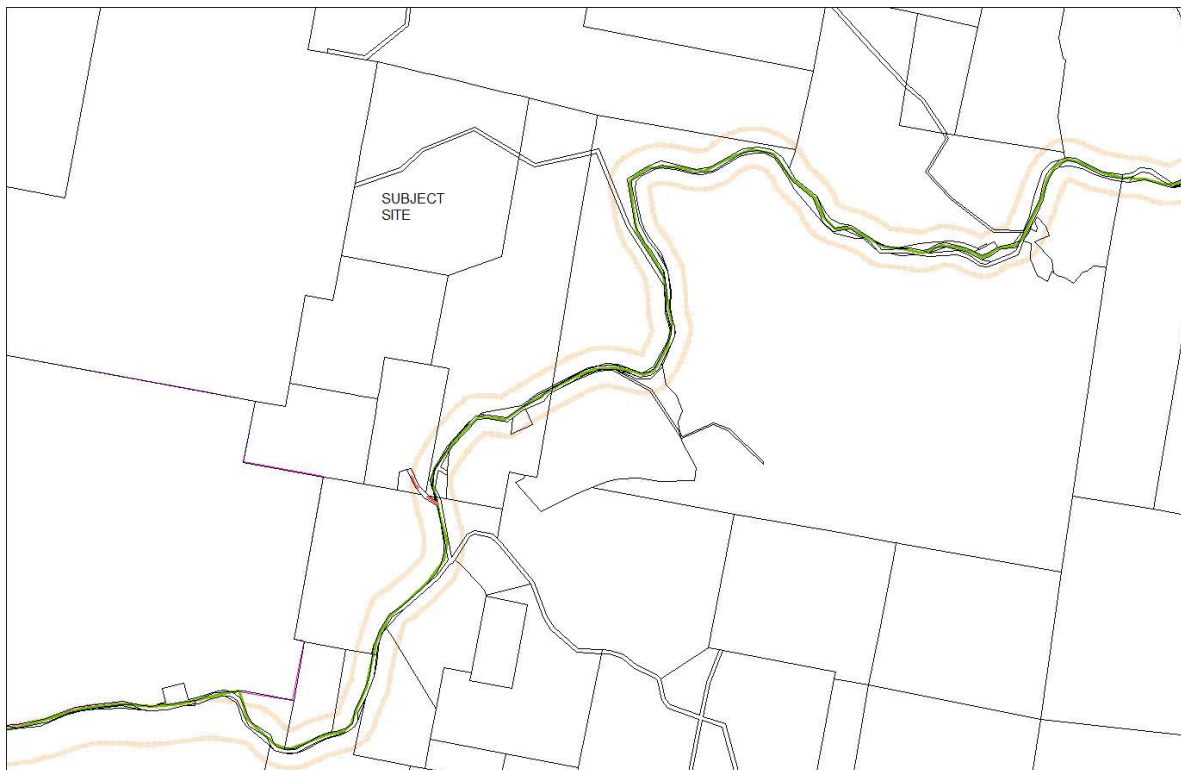
- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. A separate permit is required for any buildings and signs unless otherwise exempt under Council's planning scheme.
- C. The issue of this permit does not ensure compliance with the provisions of the Threatened Species Protection Act 1995 or the Commonwealth Environmental Protection and Biodiversity Protection Act 1999. The applicant may be liable to complaints in relation to any non-compliance with these Acts and may be required to apply to the Threatened Species Unit of the Department of Primary Industry, Water & Environment or the Commonwealth Minister for a permit.

- D. Through the act of granting this permit the Glamorgan Spring Bay Council is not and is in no way to be construed as making any representation, providing any advice, issuing any guarantee or giving any assurance to any person or entity regarding the impact or potential impact of the effects of climate change on the proposed use and/or development or the subject land generally. It is the sole responsibility of the applicant and/or the land owner to investigate and satisfy themselves as to the impact or potential impact of the effects of climate change on the proposed use and/or development and the subject land generally.

DEVELOPMENT APPLICATION 16121

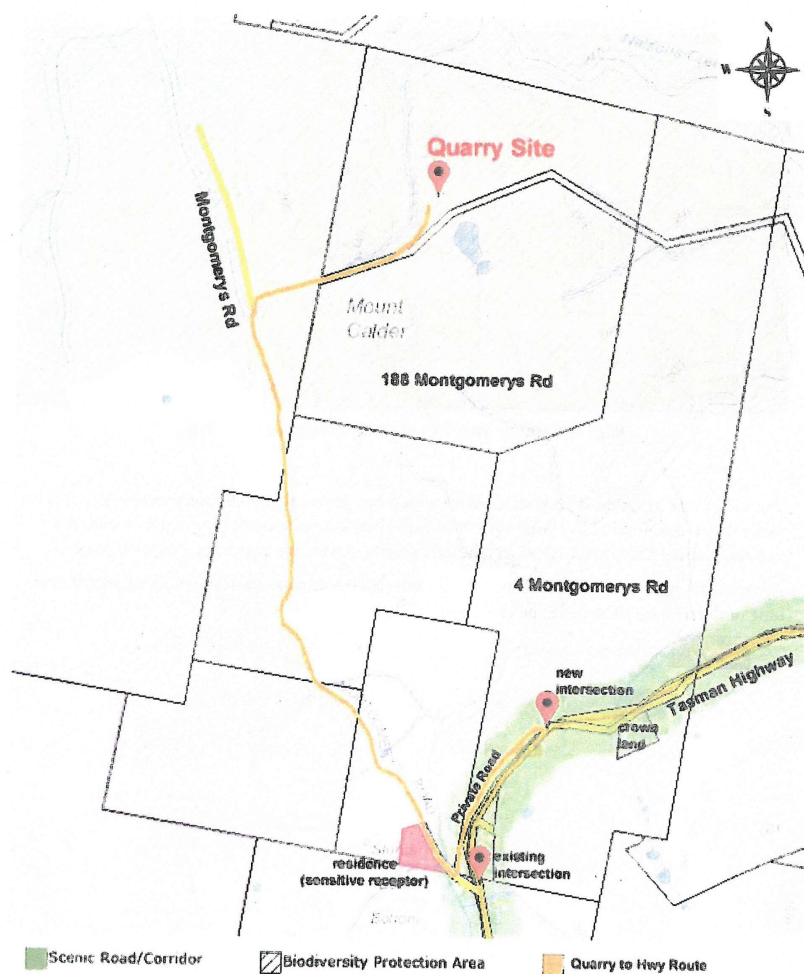
Quarry

188 Montgomerys Road, Buckland





Map 9 - Quarry site with distances of quarry to nearest dwellings



version 2.3 - 25 Jul 2016



ITEM 3.1: APPENDIX A – EPA PERMIT CONDITIONS

3.2 DA16147 – 21 Esplanade East, Coles Bay

Planning Assessment Report

Proposal:	Additions to dwelling & partial change of use to visitor accommodation
Applicant:	Jennifer Bins
Location:	21 Esplanade East, Coles Bay
Planning Document:	Glamorgan Spring Bay Interim Planning Scheme 2015 (Interim Scheme)
Zoning:	Low Density Residential Zone
Application Date:	23 August 2016
Statutory Date:	28 October 2016 (by consent of applicant)
Discretions:	Seven
Attachments:	Appendix A – Plans
Author:	Shane Wells, Manager Planning and Special Projects

1. Executive Summary

- 1.1. Planning approval is sought for additions to dwelling and a partial change of use to visitor accommodation at 21 Esplanade East, Coles Bay.
- 1.2. The application is discretionary due to reliance on a number of different performance criteria.
- 1.3. Three representations were received.
- 1.4. The proposal is recommended for conditional approval.
- 1.5. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period.

2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2016 / 00147.
- 2.2. This determination must be made no later than 28 October 2016, which has been extended beyond the normal statutory timeframe with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993 (LUPAA)*. The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

3. Risk & Implications

- 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.
- 3.2. Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications. No specific implications for Council have been identified.

4. Relevant Background and Past Applications

- 4.1. Nil

5. Site Detail

- 5.1. The site is located at 21 Esplanade East, Coles Bay, and is within the Low Density Residential Zone of the Glamorgan Spring Bay Interim Planning Scheme 2015.
- 5.2. The site is a regular shaped lot, approximately 580m². The site has a gradient in the order of 1 in 5 with a southerly aspect. There is an existing dwelling located centrally on the lot. Vehicular access is from a right of way from Florence Street over a number of adjoining lots with car parking provided at the northern edge of the site.

- 5.3. The site is bordered by residential lots to the side and the foreshore to the south. The residential lots adjoining and nearby are also within the Low Density Residential Zone. The foreshore is within the Environmental Management Zone. The site is subject to a landslide overlay however the risk is rated as a low hazard and the planning scheme places no requirements on the application.
- 5.4. The site is serviced by water, but is not serviced by sewer.

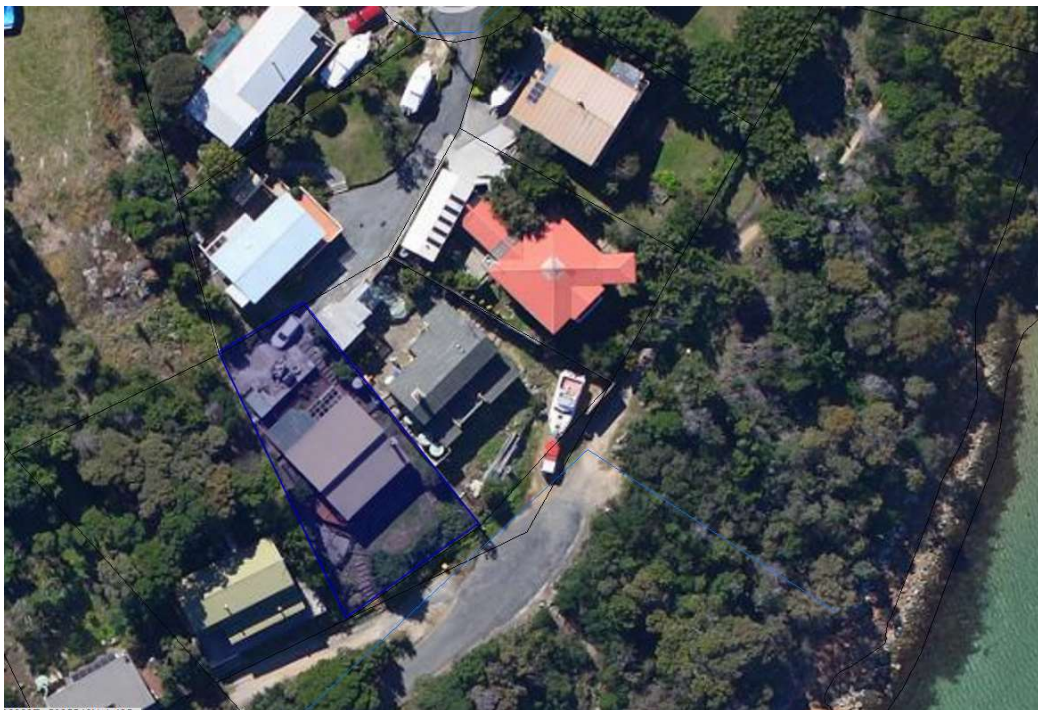


Figure 1: An aerial photograph of the subject area.

6. Proposal

- 6.1. Planning approval is sought for additions to dwelling and a partial change of use to visitor accommodation at 21 Esplanade East, Coles Bay.
- 6.2. The dwelling additions are comprised of four separate elements:
 - 6.2.1. An extension to an existing deck on the south-east elevation;
 - 6.2.2. The construction of an ensuite addition on the north-east elevation. This is 1.9m x 3.9m single storey element that varies in height from 2.4m to 3.6m and with a setback of 0.25m.
 - 6.2.3. Raising the roof over part of the living room to provide a series of clerestory windows
 - 6.2.4. A small laundry addition to the north-west elevation contained under the existing eaves
- 6.3. External cladding of the additional elements is vertical cladding with an unspecified colour.
- 6.4. The change of use is partially to visitor accommodation in order to allow visitor accommodation use when not occupied as a dwelling.

7. Assessment against planning scheme provisions

- 7.1. An application must meet every applicable standard to be approved. Each standard can be met by either an acceptable solution or performance criteria. Where a performance criteria is relied upon an application is discretionary and the application may be approved or refused.
- 7.2. The following provisions are relevant to the proposed use and development;
- Low Density Residential Zone
 - E6.0 Parking and Access Code
 - E7.0 Stormwater Management Code
 - E24.0 Coastal Development Code
- 7.3. The proposal complies with all applicable acceptable solutions other than the following where the proposal is reliant on the associated performance criteria.

		Requirement	Proposed
1	Building envelope	<p>Clause 12.4.2 A3 provides:</p> <p><i>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions (such as eaves, steps, porches, and awnings) that extend not more than 0.6m horizontally beyond the building envelope, must:</i></p> <p><i>(a) be contained within a building envelope (refer to diagrams 12.4.2A, 12.4.2B, 12.4.2C and 12.4.2D) determined by:</i></p> <p><i>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a lot with an adjoining frontage; and</i></p> <p><i>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above natural ground level at the side boundaries and a distance of 4m from the rear boundary to a building height of not more than 8.5m above natural ground level;</i></p>	<p>The ensuite addition extends partially outside the envelope. This occurs as the north-east elevation of the addition increases in height to follow the existing roofline whilst the land simultaneously falls away.</p>

2	Privacy for decks	<p>Clause 12.4.6 A1 provides:</p> <p><i>A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1 m above natural ground level must have a permanently fixed screen to a height of at least 1.7 m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:</i></p> <p>(a) <i>side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3 m from the side boundary; and</i></p> <p>(b) ...</p>	The deck extension is setback 1.7m from the north-east boundary.
3	Visitor accommodation	<p>Clause 12.3.2 A1 provides:</p> <p><i>Visitor accommodation must comply with all of the following:</i></p> <p>(a) <i>is accommodated in existing buildings;</i></p> <p>(b) <i>provides for any parking and manoeuvring spaces required pursuant to the Parking and Access Code on-site;</i></p> <p>(c) <i>has a floor area of no more than 160m².</i></p>	The existing arrangement for car parking for the house does not provide compliant car parking or manoeuvring areas.
4	Vehicular passing areas along an access	<p>Clause E 6.7.3 A1 provides:</p> <p><i>Vehicular passing areas must:</i></p> <p>(a) <i>be provided if any of the following applies to an access:</i></p> <p>(i) <i>it serves more than 5 car parking spaces;</i></p> <p>(ii) <i>is more than 30 m long;</i></p> <p>(iii) <i>it meets a road serving more than 6000 vehicles per day;</i></p> <p>(b) <i>be 6 m long, 5.5 m wide, and taper to the width of the driveway;</i></p> <p>(c) <i>have the first passing area constructed at the kerb;</i></p> <p>(d) <i>be at intervals of no more than 30 m along the access.</i></p>	The existing right of way is only 3.6m wide and therefore passing is not provided for.

5	On-site turning	<p>Clause E6.7.4 A1 provides:</p> <p><i>On-site turning must be provided to enable vehicles to exit a site in a forward direction, except where the access complies with any of the following:</i></p> <p>(a) <i>it serves no more than two dwelling units;</i></p> <p>(b) <i>it meets a road carrying less than 6000 vehicles per day.</i></p>	The existing car parking and access arrangements do not permit on-site turning and vehicles must reverse along the right of way.
6	Layout of parking areas	<p>Clause E6.7.5 A1 provides:</p> <p><i>The layout of car parking spaces, access aisles, circulation roadways and ramps must be designed and constructed to comply with section 2 "Design of Parking Modules, Circulation Roadways and Ramps" of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and must have sufficient headroom to comply with clause 5.3 "Headroom" of the same Standard.</i></p>	The existing car parking spaces are deficient in length. The length should be 4.8m or 5.4m depending on provision of wheel-stop. The car parking area is 4.6m long. The vehicles shown on the proposal plan are approximately 4m long.

7.4. Discretion 1 – Building envelope

7.4.1. The ensuite addition extends partially outside the envelope. This occurs as the north-east elevation of the addition increases in height to follow the existing roofline whilst the land simultaneously falls away. The deck extension is setback 1.7m from the north-east boundary.

The siting and scale of a dwelling must:

(a) *not cause unreasonable loss of amenity by:*

- (i) *reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or*
- (ii) *overshadowing the private open space of a dwelling on an adjoining lot; or*
- (iii) *overshadowing of an adjoining vacant lot; or*
- (iv) *visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and*

(b) *provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.*

7.4.2. The element will not cause overshadowing and is considered unlikely to give rise to visual impacts to scale or bulk given its small size and that the works are no higher than the existing dwelling.

7.5. Discretion 2 – Privacy for decks

- 7.5.1. The deck extension is setback 1.7m from the north-east boundary. The deck extension is setback 1.7m from the north-east boundary.

A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1 m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:

- (a) *a dwelling on an adjoining lot or its private open space; or*
- (b) *another dwelling on the same site or its private open space; or*
- (c) *an adjoining vacant residential lot.*

- 7.5.2. The potential impact on privacy is negligible. The extended deck could lead to a change in how the deck is used or see more use of the deck than present however impacts are minimal as there is limited overlooking.

7.6. Discretion 3, 4, 5 & 6 – Car parking and access

- 7.6.1. The existing arrangements for car parking and access do not meet the requirements for the design of car parking spaces, provision of on-site turning, or vehicular passing and therefore a number of performance criteria are relevant.

- 7.6.2. The current arrangements are via a 3.6m wide right of way approximately 52m in length and used by five lots. The right of way is partially delineated by bollards which effectively preclude vehicles from the site leaving the right of way despite the right of way and adjoining land to the north being one continual surface.

- 7.6.3. On the site, an elevated pad exists near the north-west boundary for vehicle parking but it is limited in length and does not permit on-site turning. Vehicles must therefore exit the site by reversing the length of the right of way.

- 7.6.4. To achieve compliant car parking and manoeuvring the pad would need to be extended but this potential is limited by proximity to the dwelling.

- 7.6.5. The change of use to visitor accommodation is unlikely to give rise to increased vehicular movements to and from the site and is proportional to normal residential use. Visitors, however, will be unfamiliar with the existing arrangements on site, the limitations of the right of way and may use trailers or larger vehicles.

- 7.6.6. The relevant performance criteria for the absence of on-site turning is:

On-site turning may not be required if access is safe, efficient and convenient, having regard to all of the following:

- (a) *avoidance of conflicts between users including vehicles, cyclists, dwelling occupants and pedestrians;*

- (b) *avoidance of unreasonable interference with the flow of traffic on adjoining roads;*
- (c) *suitability for the type and volume of traffic likely to be generated by the use or development;*
- (d) *ease of accessibility and recognition for users;*
- (e) *suitability of the location of the access point and the traffic volumes on the road.*

7.6.7. The performance criteria for the absence of vehicular parking deal with similar issues to the above.

7.6.8. The relevant performance criteria for the deficient car parking spaces is:

The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.

7.6.9. The right of way and the cul-de-sac public road are low speed streets serving residential use. Reversing onto the street is not ideal however it is unlikely to cause conflicts in this particular location. Conflicts between other users of the right of way could arise however design solutions are limited given the existing situation. The operator could employ a number of behavioural solution to mitigate the potential for conflict and a number of recommended conditions have been included for any permit granted

8. Referrals

8.1. TasWater

8.1.1. The proposal does not require referral to TasWater.

8.2. Council's Technical Officer

8.2.1. The application has been referred to Council's Technical Officer, who noted the deficiencies of the existing arrangements on site and the difficulties of providing a compliant solution within the space available.

8.3. Council's Environmental Health Officer

8.3.1. Council's Environmental Health Officer has no concerns with the proposal.

9. Concerns raised by representors

9.1. The following table outlines the issues raised by the representor.

Issue	Response
Vehicle parking, passing and manoeuvring	This issue has been discussed earlier in the report.
Lack of disabled access	The issue is ultimately a matter for the owner to consider. It should be noted that there is no current way to enter the dwelling other than by a number of stairs.
Florence Street is congested	Visitor accommodation in one existing dwelling is considered unlikely to have any demonstrably effect on traffic movements on the street or in Coles Bay more generally

Sewage	The statement that the existing onsite wastewater management is deficient is not supported by evidence. Septic systems do fail eventually and sufficient regulation is in place to address that issue should it eventuate. Any permit granted should include a condition limiting the occupancy to the capacity of the existing system.
Setback of ensuite addition and overshadowing	This issue has been discussed earlier in the report.
Ensuite poses a fire risk	The National Construction Code provides standards for windows within 0.9m of a boundary.
Setback of deck	This issue has been discussed earlier in the report.
Loss of amenity	Visitor accommodation is a prevalent use throughout Coles Bay and is not considered inconsistent with residential amenity. This particular application is complicated by the existing right of way configuration however it is considered that this can be managed to minimise any unreasonable impact to amenity.
Zoning	The use is consistent with the current zoning, and the zoning under the former planning scheme.
Access should be via the Esplanade	This is not practically possible for this site without a substantially amount of excavation.
Overflowing rubbish from an adjoining property	Irrelevant to the matter at hand.
Changing nature of Coles Bay particularly with increase number of holiday rentals.	Noted. The State Government have recently signalled that visitor accommodation will be exempt for up to 42 nights a year in its proposed State planning scheme.

10. Conclusion

The proposed dwelling & outbuilding with demolition of existing dwelling satisfies the relevant provisions of the *Glamorgan Spring Bay Interim Planning Scheme 2015* as outlined in this report and is recommended for approval.

11. Recommendations

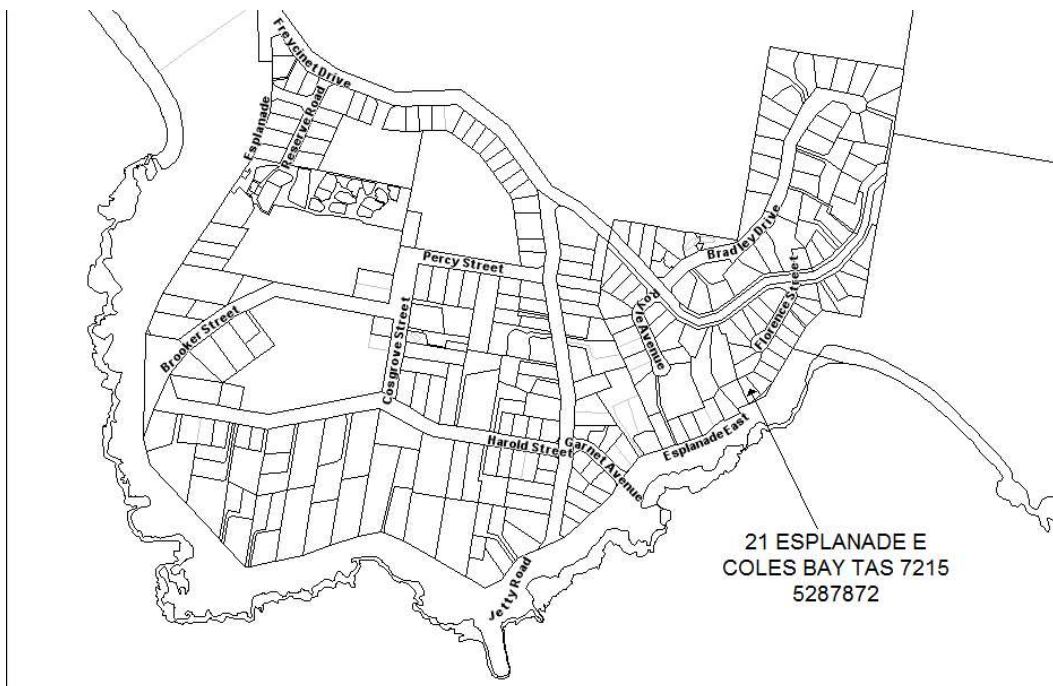
That:

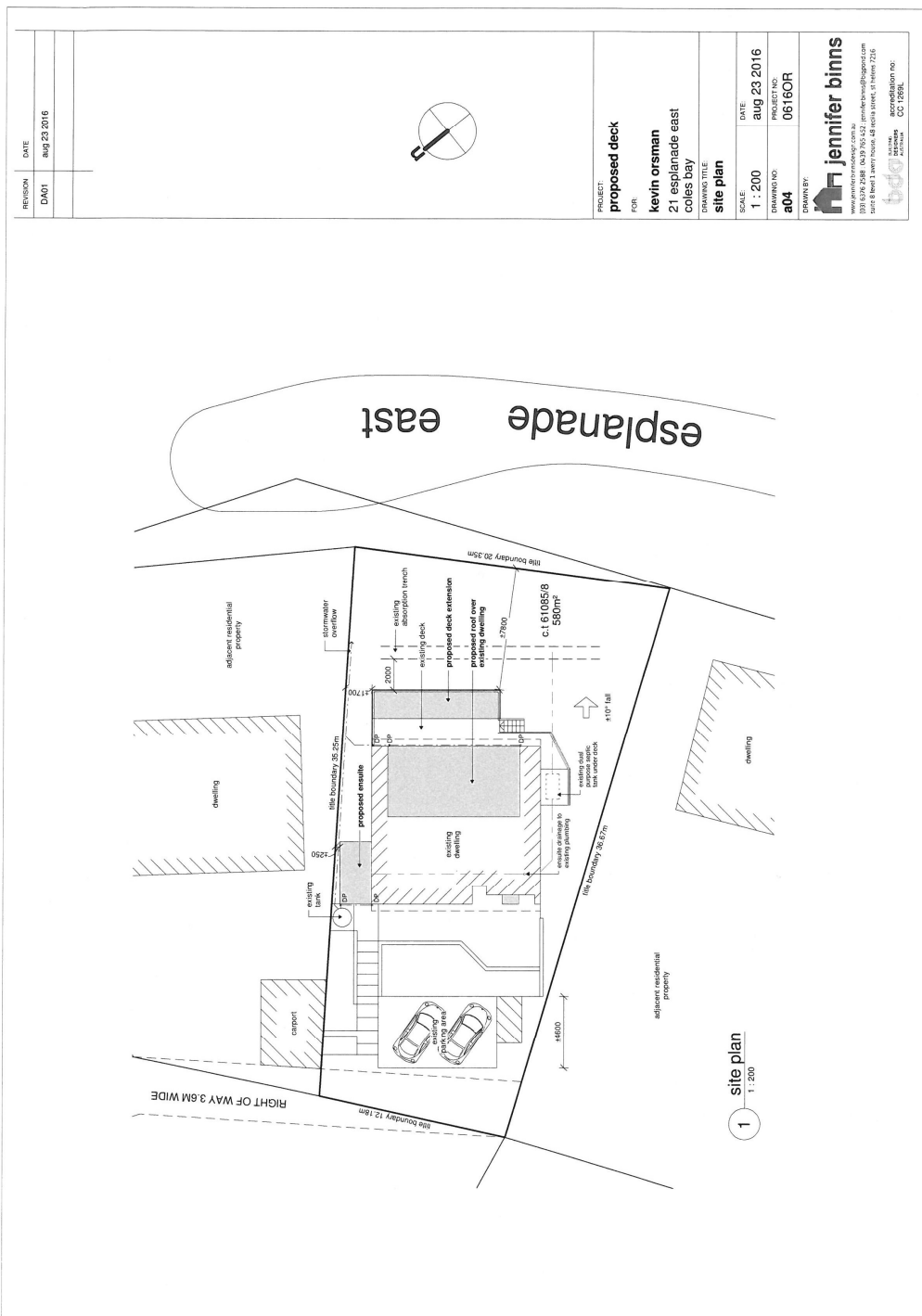
- A. Pursuant to Section 57 of the Land Use Planning & Approvals Act 1993 and the Glamorgan Spring Bay Interim Planning Scheme 2015, that the application for Additions to dwelling & partial change of use to visitor accommodation at 21 Esplanade East, Coles Bay (DA2016/00147), be APPROVED subject to the following conditions:
 1. The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
 2. This permit allows the building to be interchangeably used for visitor accommodation or as a dwelling without further planning approval.
 3. Maximum occupancy of the Visitor Accommodation is six (6) persons (two people per each bedroom of house). Signage is to be located adjacent to the front door, stating:

"Maximum occupancy permitted is six (6) persons only"
 4. All advertising of the premise for visitor accommodation use must clearly indicate that the site has limited parking and cannot provide onsite car parking for more than one small to medium sized vehicle.
 5. The operator must provide clear instructions to customers in relation to the parking and manoeuvring of vehicles, and on maintaining access for other users of the right of way.

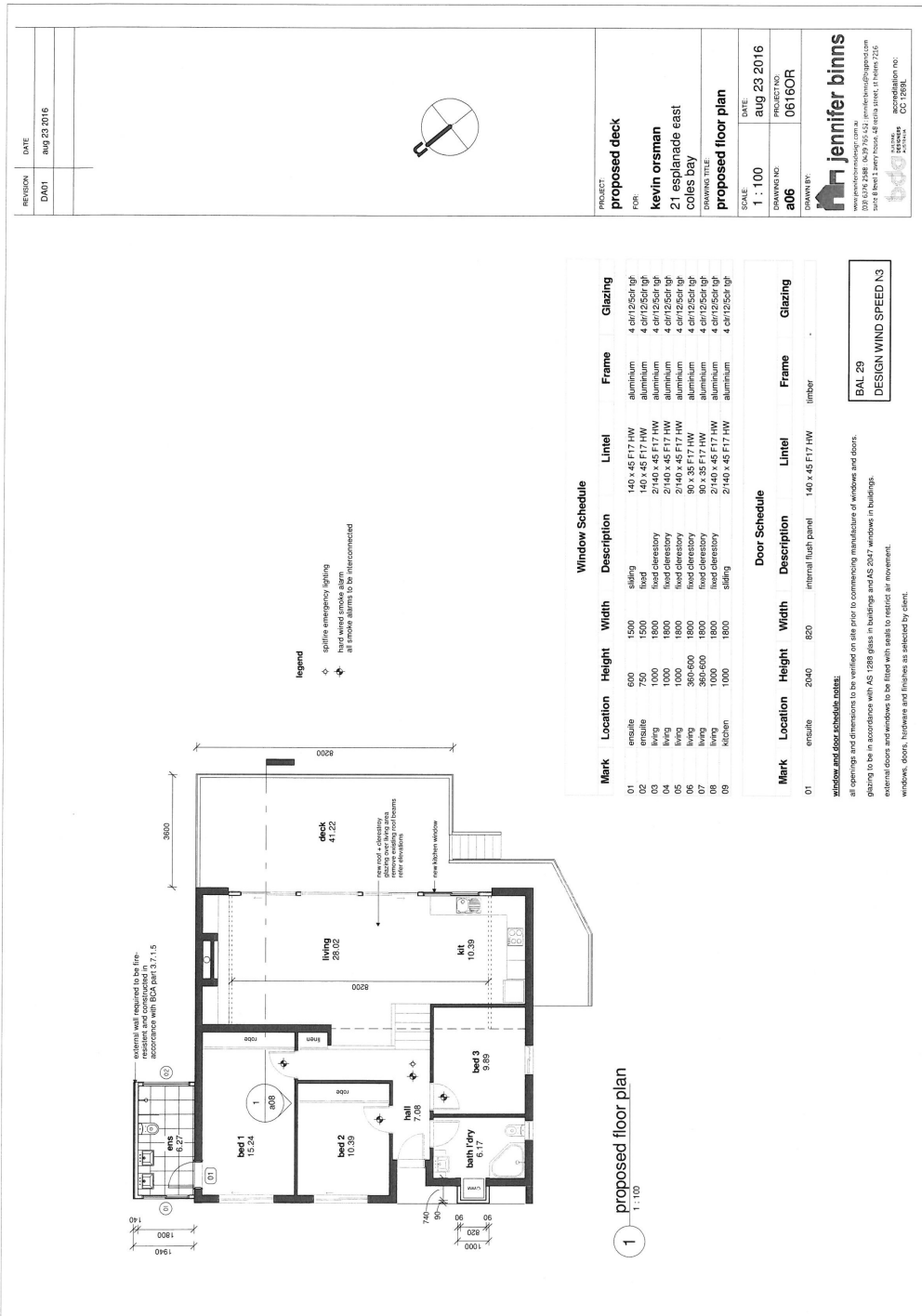
6. No signage is to be installed that is visible from a public street.

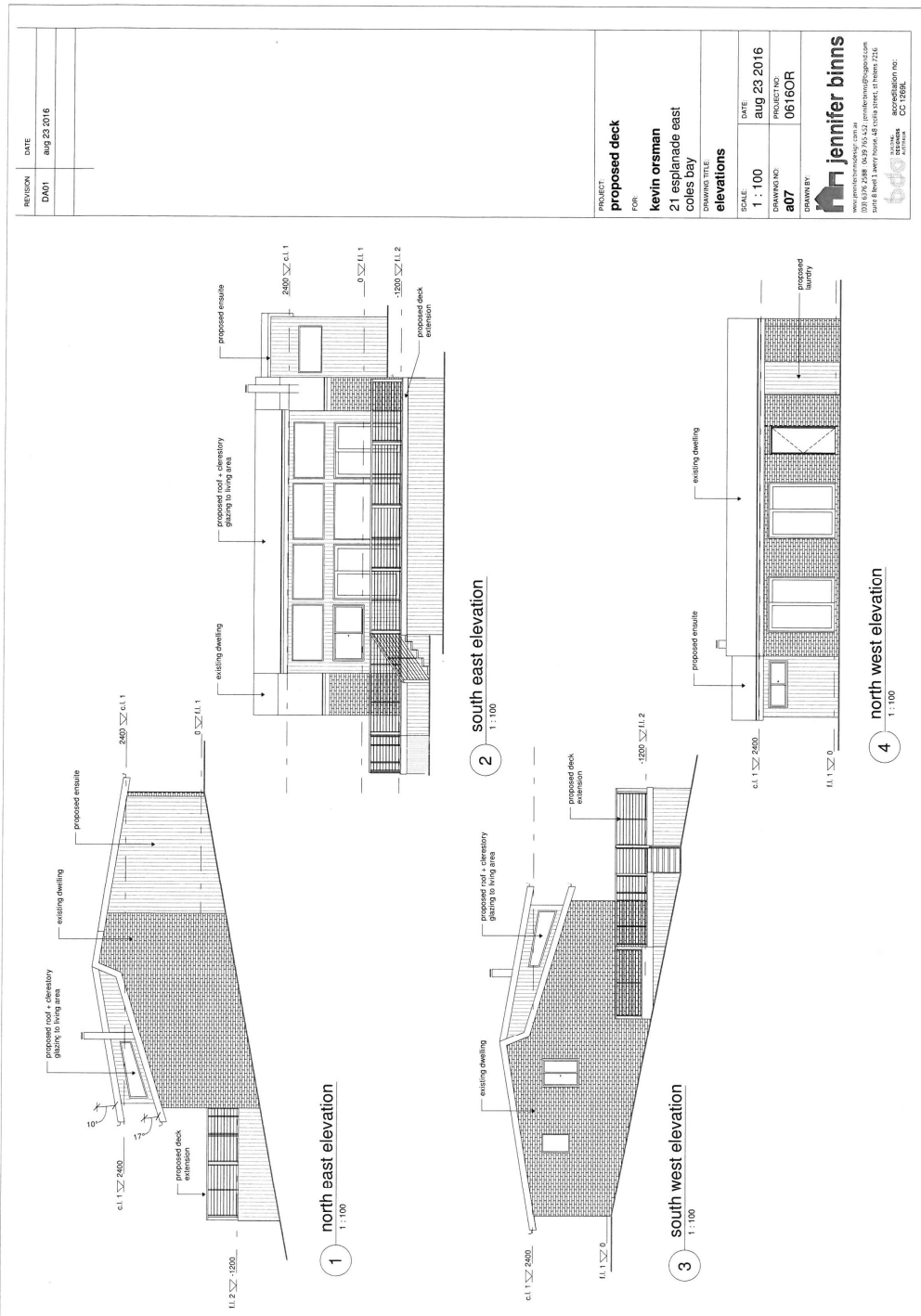
DEVELOPMENT APPLICATION 16147
Change of Use to Visitor Accommodation
21 Esplanade, Coles Bay











Under Regulation 25 of Local Government (Meeting Procedures) Regulations 2005 the Chairperson hereby declares that the Council is no longer now acting as a Planning Authority under the provisions of the Land Use Planning and Approvals Act 1993 for Section 3 of the Agenda.

Recommendation
That Council no longer acts as a Planning Authority. (Time)