



# GLAMORGAN SPRING BAY COUNCIL

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## **SPECIAL COUNCIL MEETING MINUTES**

TUESDAY 5 SEPTEMBER 2023

Council Chambers, Triabunna

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## NOTICE OF MEETING

Notice is hereby given that the Mayor has called a Special Meeting of the Glamorgan Spring Bay Council to be held at the Triabunna Council Offices on Tuesday 5 September 2023, commencing at 2:00 pm.

## QUALIFIED PERSON CERTIFICATION

I hereby certify that, in accordance with section 65 of the *Local Government Act 1993*, any advice, information and recommendations contained in the reports related to this Agenda have been prepared by persons who have the qualifications or experience necessary to give such advice, information and recommendations.

**Dated** this Thursday 31 August 2023



Greg Ingham  
**GENERAL MANAGER**

### IMPORTANT INFORMATION

- As determined by Glamorgan Spring Bay Council in April 2017, all Ordinary and Special Meetings of Council are to be audio/visually recorded and streamed live.
- A recording of the meeting will be available via the link on the Glamorgan Spring Bay Council website following the meeting.

In accordance with the *Local Government Act 1993* and Regulation 33, these video/audio files will be retained by Council for at least 6 months and made available for viewing live, as well as online within 5 days of the scheduled meeting. The written minutes of a meeting, once confirmed, prevail over the video/audio recording of the meeting.

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## 1 OPENING OF MEETING

The Mayor welcomed Councillors, staff and members of the public and declared the meeting open at 2:00 pm.

### 1.1 Acknowledgement of Country

*Glamorgan Spring Bay Council acknowledge and pays respect to the Tasmanian Aboriginal people as the traditional and original owners, and continuing custodians of this land on which we gather and acknowledge their Elders - past and present.*

### 1.2 Present

**Present:**

Mayor Cheryl Arnol  
Clr Carole McQueeney  
Clr Jenny Woods  
Clr Robert Young

*In accordance with regulation 13 of the Local Government Meeting procedures Mayor Arnol, adjourned the meeting until 2:15pm due to the lack of a quorum and to allow Councillor Churchill to arrive to the meeting.*

*The meeting reconvened at 2:15pm and Mayor Arnol welcomed Clr Churchill to the meeting, Mayor Arnol stated that Clr Churchill was delayed by a personal matter.*

*Mayor Arnol declared that Council has a quorum.*

### 1.3 Apologies and Leave of Absence

Clr Greg Luck (Approved Leave of Absence)

#### **Leave of Absence**

*In accordance with r.39 of the Local Government (Meeting Procedures) Regulations 2015, the Chairperson hereby requests Leave of Absence for Deputy Mayor Michael Symons for this meeting of Council, due to family commitments and Clr Neil Edwards due to personal commitments.*

### **RECOMMENDATION**

That Council grant Deputy Mayor Michael Symons a leave of absence for the Special Meeting of Council held on Tuesday 5 September 2023.

### **DECISION 187/23**

Moved Cllr Jenny Woods, seconded Cllr Carole McQueeney:

That Council grant Deputy Mayor Michael Symons and Cllr Neil Edwards a leave of absence for the Special Meeting of Council held on Tuesday 5 September 2023.

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 5/0**

For: Mayor Cheryl Arnol, Cllr Rob Churchill, Cllr Carole McQueeney, Cllr Jenny Woods and Cllr Robert Young

Against: Nil

#### **1.4 In Attendance**

Acting General Manager, Mr Alex Woodward  
Director Works and Infrastructure, Mr Peter Porch  
Executive Officer, Mrs Jazmine Kerr  
Community & Communications Officer, Ms Eliza Hazelwood  
Senior Planner, Mr James Bonner

#### **1.5 Declaration of Interest or Conflict**

*The Mayor requests Elected Members to indicate whether they have:*

- 1. any interest (personally or via a close associate) as defined in s.49 of the Local Government Act 1993; or*
- 2. any conflict as described in Council's Code of Conduct for Councillors,*  
*in any item included in the Agenda.*

**Nil.**

## 2 PLANNING AUTHORITY SECTION

*Under Regulation 25 of Local Government (Meeting Procedures) Regulations 2015, 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 2 of the Agenda.*

### **RECOMMENDATION**

That Council now acts as a Planning Authority at [time].

### **DECISION 188/23**

Moved Clr Robert Young, seconded Clr Jenny Woods:

That Council now acts as a Planning Authority at 2:17pm

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 5/0**

For: Mayor Cheryl Arnol, Clr Rob Churchill, Clr Carole McQueeney, Clr Jenny Woods and Clr Robert Young

Against: Nil

## 2.1 SA2022/34 - 4 lot subdivision - 945 Dolphin Sands Road, Dolphin Sands

<b>Proposal:</b>	4 lot subdivision
<b>Applicant:</b>	PDA Surveyors, Engineers & Planners
<b>Application Date:</b>	10/08/2022
<b>Statutory Date:</b>	08/09/2023
<b>Planning Instruments:</b>	Tasmanian Planning Scheme - Glamorgan Spring Bay
<b>Zone:</b>	GSB-P1.0 - Particular Purpose Zone - Dolphin Sands
<b>Codes:</b>	C2.0 Parking and Sustainable Transport Code, C3.0 Road and Railway Assets Code, C7.0 Natural Assets Code, C13.0 Bushfire Prone Areas Code
<b>Specific Area Plans:</b>	N/A
<b>Use:</b>	-
<b>Development:</b>	Subdivision
<b>Discretions:</b>	GSB-P1.7.1 – development standards C3.0 Road and Railway Assets Code – C3.5.1 - new vehicle crossings C7.0 Natural Assets Code – C7.7.2 - priority vegetation area
<b>Representations:</b>	3
<b>Attachments:</b>	1. Exhibited Documents SA2022/00034 [2.1.1 - 134 pages] 2. De-identified Representations SA2022/00034 [2.1.2 - 9 pages]
<b>Author:</b>	James Bonner, Senior Planner

### Executive Summary

Planning approval has been sought for the subdivision of an existing lot to create four (4) lots at 945 Dolphin Sands Road, Dolphin Sands.

The subdivision provisions in GSB-P1.0 - Particular Purpose Zone - Dolphin Sands that allowed the creation of new lots were previously understood by Council to be an error that occurred during the processing of the Local Provisions Schedule (LPS). In accordance with that understanding Council did not advertise the application when it was originally submitted and the application was refused at the ordinary meeting of 13 December 2022.

The refusal was appealed by the applicant and on 28 July 2023 the Tasmanian Civil and Administrative Tribunal found in favour of the appellant as follows:

‘The decision by the Glamorgan Spring Bay Council to refuse a permit for subdivision application SA2022/34 is set aside and the matter is sent back to the Council for determination in accordance with law.’

In accordance with the appeal findings the application was advertised on 3<sup>rd</sup> August to 17<sup>th</sup> August 2023 and three (3) representations were received objecting to the proposal. The Planning Authority must consider the planner's recommendation and make a final determination by 08 September 2023.

## **PART ONE**

### **1. Statutory Requirements**

The *Land Use Planning and Approvals Act 1993 (LUPAA)* requires the Planning Authority to take all reasonable steps to ensure compliance with the planning scheme.

The planning scheme provides the overriding considerations for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

The initial assessment of this application identified where the proposal met the relevant Acceptable Solutions under the planning scheme, and where a discretion was triggered. This report addresses only the discretions and the representations and makes a final recommendation for the proposed development.

The Planning Authority must consider the report but is not bound to it. It may:

1. Adopt the recommendation.
2. Vary the recommendation.
3. Replace an approval with a refusal (or vice versa).

The *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015* require a full statement of reasons if an alternative decision to the recommendation is made.

### **2. Approving applications under the planning scheme**

A Development Application must meet every relevant standard in the planning scheme to be approved. In most cases, the standards can be met in one of two ways:

1. By Acceptable Solution, or if it cannot do this,
2. By Performance Criteria.

If a proposal meets an Acceptable Solution, it does not need to satisfy the Performance Criteria.

In assessing this application, the Planning Authority must exercise sound judgement to determine whether the proposal meets the relevant Performance Criterion and must consider the issues raised in the representations.

### **3. The Proposal**



The application seeks approval to subdivide the existing lot into 4 lots of 3.55ha±, 3.59ha±, 2.67ha± and 2.32ha±.

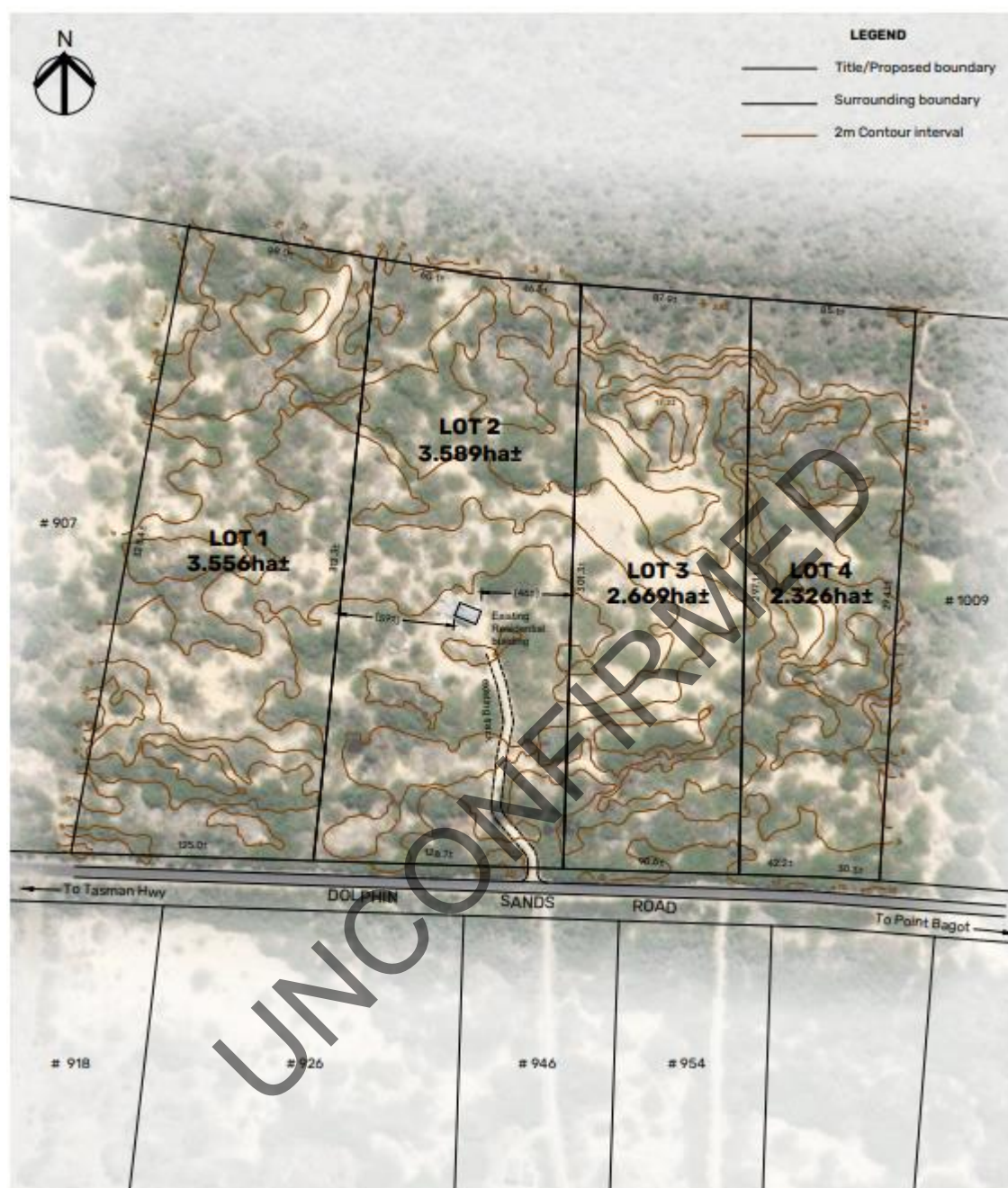


Figure 1 – Subdivision Plan

#### 4. Risk and implications

Approval or refusal of this application should have no direct financial risk for Council, in relation to planning matters, other than should an appeal against the Authority's decision be lodged or should the Planning Authority fail to determine the application within the statutory timeframe.

#### 5. Background and past applications

The following planning and building applications have been received over the subject lot.

- DA2006/00262 – outbuilding

- BA2006/00200 – outbuilding

## 6. Site Description

The site is contained within certificate of title CT 54666/148 with a total land area of 12.14ha±. The land is covered with a mix of native scrub and grasses. There is an existing outbuilding on the property which is to be located within proposed Lot 2. The land is bound by Dolphin Sands Road to the south and rural zoned land to the north.



Figure 2 – Locality – Source: LIST Map



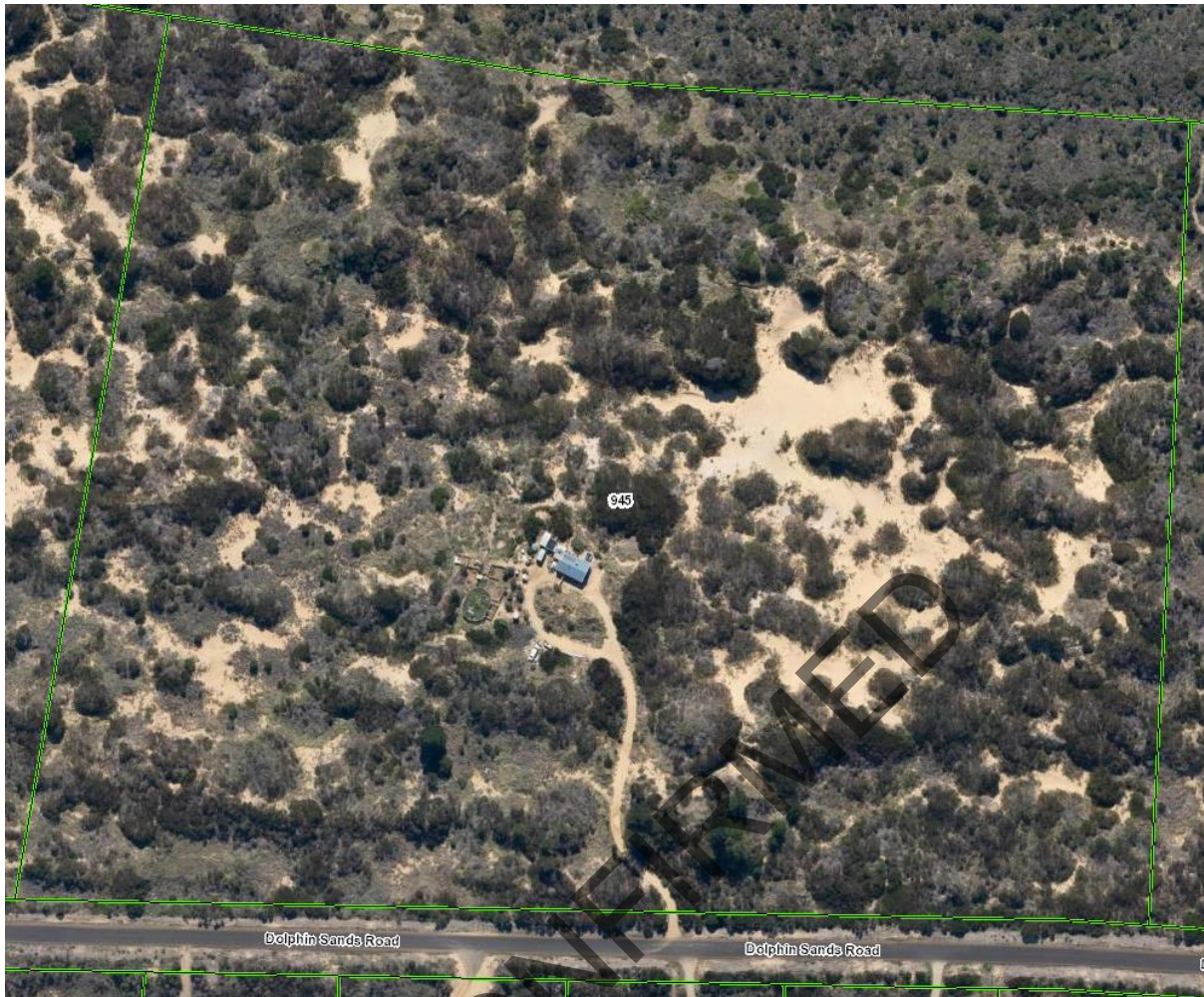


Figure 3 – Site Source: LIST Maps

## 7. Planning Instruments

Tasmanian Planning Scheme – Glamorgan Spring Bay

## 8. Easements and Services

No easements were identified on the title. The site does not have access to reticulated sewer or water.

## 9. Covenants

No covenants were identified on the title.

## PART TWO

## 10. Meeting the Standards via Acceptable Solution

The proposal has been assessed against the acceptable solutions provided in:

- GSB-P1.0 Dolphin Sands Particular Purpose Zone
- C2.0 Parking and Sustainable Transport Code
- C3.0 Road and Railway Assets Code

- C7.0 Natural Assets Code
- C13.0 Bushfire-Prone Areas Code

All standards were met by Acceptable Solution excepting those identified below. These have been assessed against the applicable performance criteria.

## 11. Meeting the Standards via Performance Criteria

The standards not met by Acceptable Solution need to satisfy the relevant Performance Criteria to be approved. These are:

- GSB-P1.0 Dolphin Sands Particular Purpose Zone – GSB-P1.7.1 development standards
- C3.0 Road and Railway Assets Code - C3.5.1 - new vehicle crossings,
- C7.0 Natural Assets Code - C7.7.2 - priority vegetation area

## PART THREE

## 12. Assessing the Proposal against the Performance Criteria

### GSB-P1.0 Dolphin Sands Particular Purpose Zone

GSB-P1.7.1 – Subdivision (A1) – The acceptable solution is that subdivision must be for the consolidation of lots if no additional lots are created. The proposal is for a 4 lot subdivision and as such it must meet the following performance criteria.

Performance Criteria	Planner's Response
<b>P1</b> Subdivision of land must: (a) provide for public open space, a public reserve, public services or utilities; or (b) have a minimum frontage of 60m; and (c) not create a lot that is less than 1 hectare in area.	<p>Performance criteria (a) is not relevant to the application as the subdivision is not for public open space, a public reserve, public services or utilities.</p> <p>The proposed lots each have a minimum frontage of 60m and have a minimum lot size of not less than 1 hectare and therefore (b) and (c) are satisfied.</p>

### C3.0 Road and Railway Assets Code

C3.5.1 - new vehicle crossings (A1.2) - The acceptable solution is that the written consent of the road authority has been issued for new vehicle crossings. The acceptable solution cannot be met as the road authority (Council) has not issued written consent, and as such the proposal must meet the following performance criteria.

Performance Criteria	Planner's Response
<b>P1</b> Vehicular traffic to and from the site must minimise any adverse effects on the safety of a junction, vehicle crossing or level crossing or safety or efficiency of the road or rail network, having regard to: (a) any increase in traffic caused by the use;	<p>The three additional lots proposed will result in an increase in traffic once they are developed. The anticipated increase would be that expected for a single dwelling.</p>

Performance Criteria	Planner's Response
(b) the nature of the traffic generated by the use; (c) the nature of the road; (d) the speed limit and traffic flow of the road; (e) any alternative access to a road; (f) the need for the use; (g) any traffic impact assessment; and (h) any advice received from the rail or road authority.	<p>Council's Infrastructure Department have reviewed the proposal and provided recommended conditions.</p> <p>It is considered that the additional traffic generated will not impact on the safety or efficiency of the road network in regard to the listed performance criteria.</p>

## C7.0 Natural Assets Code

C7.7.2 Subdivision within a priority vegetation area (A1) - The acceptable solution is that a proposed lot be for the creation of separate lots for existing buildings, be required for public use or utilities, be for the consolidation of a lot or not include any works, building area, access, bushfire hazard management area within the priority vegetation area. The acceptable solution cannot be met as the subdivision is not for existing buildings, public or utility uses, or consolidation, and the building areas and bushfire hazard management areas will be within the priority vegetation area, and as such the proposal must meet the following performance criteria.

Performance Criteria	Planner's Response
<p><b>P1.1</b> 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 Tasmania 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 ongoing pre-existing management cannot ensure the survival of the priority</p>	<p><b>P1.1</b> The following performance criteria are relevant to the proposal.</p> <p>(b) The subdivision is proposed to allow for the future construction of a single dwelling on each lot as allowed for by the Particular Purpose Zone.</p> <p>(f) The submitted Natural Values Assessment (NVA) by ECOtas, dated 26 October 2022, undertook an assessment of the proposed subdivision in accordance with the requirements of the Natural Assets Code and threatened species legislation. The NVA concluded that the vegetation on the site is not priority vegetation and therefore the performance criteria (f) is satisfied.</p>

Performance Criteria	Planner's Response
vegetation and there is little potential for long-term persistence; or (f) subdivision involving clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.	
<p><b>P1.2</b> Works association with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p> <p>(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;</p> <p>(b) any particular requirements for the works and future development likely to be facilitated by the subdivision;</p> <p>(c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings;</p> <p>(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;</p> <p>(e) any on-site biodiversity offsets; and (f) any existing cleared areas on the site</p>	<p><b>P1.2</b> The NVA has concluded that while the site is identified as being within a priority vegetation area there is no priority vegetation on the site in which case the performance criteria is satisfied by default as there is no adverse impact on priority vegetation.</p> <p>However, the NVA does then address each performance criteria and concludes that the proposal meets the criteria without the need for specific conditions in relation to natural values.</p>

### 13. Referrals

The application was referred to Council's Infrastructure Department who provided recommended conditions.

### 14. Representations

The proposal was advertised for two weeks from 03 August 2023 to 17 August 2023 and three (3) representations were received objecting to the proposal. A summary of concerns raised, and responses are included in the Table below. The submissions are included in the attachments to the report with personal details redacted for privacy reasons.

Representation 1	Response
1. The word 'or' was included as an error and there was no community consultation on the change and the	The Administrative Appeals Tribunal found that the inclusion of 'or' was not an error and therefore the application must be assessed d

<p>impact it would have on the Dolphin Sands development standards.</p> <p>2. The inclusion of 'or' creates a non-sensical situation where the intent of the performance criteria is lost.</p>	<p>in accordance with the Particular Purposes Zone standards as they are currently written.</p>
<b>Representation 2</b>	<b>Response</b>
<p>1. If approved the application would set a precedent for the large number of residential lots along Dolphin Sands road.</p> <p>2. Subdivision adds to traffic volume along a lightly sealed road not built for frequent traffic and would impose additional safety hazards and noise on residents.</p> <p>3. Subdivision adds to the sewerage load on the area from septic tank disposal.</p> <p>4. Subdivision increases risk of fires starting and more people being at risk.</p> <p>5. The existing amenity of the area is on good balance with the natural environment.</p>	<p>1. Each application is assessed on its merits against the requirements of the planning scheme.</p> <p>2. The additional traffic generated by the current proposal is well within the limits of Dolphin Sands Road. Consideration cannot be given to potential future applications.</p> <p>3. Each lot has an area of over 1ha which is a suitable area for on-site sewerage management.</p> <p>4. The submitted Bushfire Hazard Report assessed the proposal against the requirements of the Bushfire Prone Areas Code and found the proposal meets the requirements of the code.</p> <p>5. The submitted Natural Values Assessment has concluded the subdivision impact on natural values meets the requirements of the Natural Assets Code.</p>
<b>Representation 3</b>	<b>Response</b>
<p>1. The 'or' was incorrectly included in the particular purpose zone and any decisions relating to the number and size of subdivisions warrant increased scrutiny and no decisions should be made until the current amendment to the TPC to amend the particular purposes has been concluded.</p>	<p>1. The Administrative Appeals Tribunal found that the inclusion of 'or' was not an error and therefore the application must be determined in accordance with the Particular Purposes Zone standards as they are written.</p> <p>2. The current planning scheme amendment before the Tasmanian Planning Commission is not a consideration in the assessment of the current application.</p>

## 15. Conclusion

The assessment of the application taken in association with the representations received has identified that the proposal satisfies the relevant provisions of the Tasmanian Planning Scheme - Glamorgan Spring Bay and therefore the application is recommended to be approved subject to the recommended conditions.

## 16. Recommendation

**That:**

Pursuant to section 57 of the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Scheme – Glamorgan Spring Bay, SA2022/00034 at 945 Dolphin Sands Road, Dolphin Sands (CT54666/148) be approved with the following conditions.

1. Use and development must be substantially in accordance with the endorsed plans and documents unless modified by a condition of this permit.

*Advice: Any changes may either be deemed as substantially in accordance with the permit or may first require a formal amendment to this permit or a new permit to be issued.*

**Final Plan**

2. A final approved plan of survey and schedule of easements as necessary, must be submitted to Council for sealing. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
3. The final plan of survey must include easements over all drains, pipelines, wayleaves and services to the satisfaction of Council's Municipal Engineer.
4. Covenants or other restrictions must not conflict with, or seek to override, provisions of the planning scheme.
5. Prior to sealing the Final Plan of Survey or execution of the Schedule of Easements and associated documents, certification must be provided from an accredited bushfire practitioner that all recommendations and requirements of the Bushfire Hazard Report by GES, Report No. J7741v1, dated October 2022, have been implemented and complied with.

**Public Open Space**

6. Prior to sealing the final plan of survey, a cash contribution for public open space must be provided to Council that is equal to 5% of the value of the area of land of each lot as described by lots 1, 3 and 4 on the endorsed plan as at the date of lodgment of the final plan of survey.  
The value is to be determined by a Land Valuer within the meaning of the *Land Valuers Act 2001* and as agreed to by the Council's General Manager.

*Advice: this condition is imposed pursuant to section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993 and Council policy.*

**Environment Management**

7. All work must be generally in compliance with the Tasmanian Coastal Works Manual, available at. <https://dpiwwe.tas.gov.au/conservation/coastal-management/managing-the-coast/tasmanian-coastal-works-manual>



8. The developer must implement a soil and water management plan (SWMP) to ensure that soil and sediment does not leave the site during the construction process and must provide a copy of the SWMP to Council's General Manager prior to the commencement of works.
9. No top soil is to be removed from the site.
10. All vehicles and equipment associated with construction of the development and/or operation of the use must be cleaned of soil prior to entering and leaving the site to minimise the introduction and/or spread of weeds and diseases to the satisfaction of Council's General Manager.

## **Engineering**

11. Engineering design drawings 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.
12. The subdivision must be carried out in accordance with the Tasmanian Subdivision Guidelines October 2013 or as otherwise agreed by Council's General Manager or required by conditions of this permit.
13. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's General Manager, these drawings must be submitted to and approved by the Glamorgan Spring Bay Council before development of the land commences. The detailed engineering drawings must show the following:
  - a) all existing and proposed services required by this permit;
  - b) all proposed stormwater infrastructure.
  - c) all existing and proposed roadwork required by this permit;
  - d) measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
  - e) measures to be taken to limit or control erosion and sedimentation;
  - f) any other work required by this permit.

*Advice: Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.*

14. 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.
15. Sealed vehicle accesses must be located and constructed in accordance with the standards shown on standard drawings TSD-R03-v3 Rural Roads Typical Property Access and TSD-R04-v3 Rural Roads Typical Driveway Profile and TSD-RF01-v1 Guide to Intersection and Domestic Access Sight Distance Requirements prepared by the IPWE Aust. (Tasmania Division) and to the satisfaction of Council's General Manager.

*Advice: The developer must obtain a Works in Road Reserve Permit from Council for any work within the road reserve.*

### **Construction**

16. The subdivider must provide not less than forty-eight (48) hours written notice to Council's General Manager before commencing construction works on-site or within a council roadway.
17. The subdivider must provide not less than forty-eight (48) hours written notice to Council's General Manager before reaching any stage of works requiring hold point inspection by Council unless otherwise agreed by the Council's General Manager.
18. Subdivision 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.
19. Through the construction process to the satisfaction of Council's General Manager, and unless otherwise noted on the endorsed plans or approved in writing by Council's General Manager, the developer must:
  - a) Ensure soil, building waste and debris does not leave the site other than in an orderly fashion and disposed of at an approved facility;
  - b) Not burn debris or waste on site;
  - c) Promptly pay the costs associated with any alteration, extension, reinstatement, and repair or cleaning of Council infrastructure, public land or private property;
  - d) Ensure public land, footpaths and roads are not unreasonably obstructed by vehicles, machinery or materials or used for storage;
  - e) Provide a commercial skip (or similar) for the storage of construction waste on site and arrange for the removal and disposal of the waste to an approved landfill site by private contract.

### **Sealing of Final Plan**

20. All conditions of this permit must be satisfied before the Council seals the final plan of survey. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.
21. A Letter of Release from each authority confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed, must be submitted to Council prior to the sealing of the Final Plan of Survey.

### **Telecommunications and Electrical Reticulation**

22. Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's General Manager.

### **'As constructed' Drawings**

23. Prior to the works being placed on the maintenance and defects liability period an 'as constructed' drawings with CCTV footage of all engineering works provided as part of this approval must be submitted to Council to the satisfaction of the Council's General Manager. These data must be prepared by a qualified and experienced civil engineer or other person approved by the General Manager in accordance with Council's *Guidelines for As Constructed Data*.

#### **Maintenance and Defects Liability Period**

24. The subdivision must be placed onto a twelve-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.
25. Prior to placing the subdivision onto the twelve-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.
26. 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 subdivision works. Any work required is to be specified or undertaken by the authority concerned.

**The following advice is provided for information and assistance only and imposes no direct obligation on the developer.**

- a. Please read all conditions of this permit and contact the planner for clarification if required.
- b. All costs associated with acting on this permit are borne by the person(s) acting on it.
- c. The permit does not take effect until 15 days after the date that it was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the *Land Use Planning and Approvals Act 1993*.
- d. This permit is valid for two years from the date of approval and shall lapse unless it has been substantially commenced to the satisfaction of the Council Senior Planner or otherwise extended by written consent.
- e. The permit and conditions on it are based on the information submitted in the endorsed plans and documents. The Planning Authority is not responsible or liable for any errors or omissions. I encourage you to engage a land surveyor to accurately set out the location of buildings and works.
- f. The granting of this permit takes in no account of any civil covenants applicable to the land. The developer should make their own enquiries as to whether the proposed development is restricted or prohibited by any such covenant and what consequences may apply.
- g. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- h. The native vegetation approved for removal is limited to that necessary for the construction of buildings and works, the connection of services, vehicular access and

the implementation of the Bushfire Hazard Management Plan. Clearing or adversely impacting other native vegetation on the property at any stage in the future may require a separate planning permit and advice should be sought from the Glamorgan Spring Bay Council prior to commencing any additional works.

- i. The following legislation may impose obligations that affect the approved or use development. This legislation is separate to the planning scheme and as such has not been considered by the Planning Authority in granting this permit. You may wish to obtain your own independent advice or discuss with the relevant Government department:
- *Aboriginal Relics Act 1975* (Tasmanian)
  - *Threatened Species Protection Act 1995* (Tasmanian)
  - *Weed Management Act 1999* (Tasmanian)
  - *Environment Protection and Biodiversity Conservation Act 2000* (Commonwealth)
  - *Environmental Management and Pollution Control (Miscellaneous Noise) Regulations 2014* (Tasmanian)
- j. The *Environmental Management & Pollution Control (Distributed Atmospheric Emissions) Regulations 2007* prohibit backyard burning in incinerators or in the open on lots less than 2000m<sup>2</sup> and the burning of plastics, and other non-wood or non-vegetative material.
- k. Sealing of a final plan of survey is subject to a prescribed Council fee. Please refer to [www.gsbc.tas.gov.au](http://www.gsbc.tas.gov.au) for the fee current at the date of lodgement of the final plan or survey.
- l. Land Title Office fees must be paid directly to the Recorder of Titles.
- m. The developer is responsible to ensure that all necessary inspections are undertaken before proceeding past mandatory inspection points as detailed in the Tasmanian Subdivision Guidelines. A minimum of two full working days' notice must be provided to ensure Council can inspect at the requested time.
- n. The Final Plan of Survey will not be sealed until all works required by this permit are complete.
- o. The Final Plan of Survey is inclusive of any schedule of easement and Part 5 Agreement.
- p. Construction waste, other than of a quantity and size able to be enclosed within a standard 140 litre mobile garbage bin, will not be accepted at Council's Waste Management Centres. All asbestos-based waste must be disposed of in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC: 2002(1988). No material containing asbestos may be dumped at Council's Waste Management Centres.
- q. 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.

- r. The applicant is advised to contact Aurora Energy on 1300 137008 to ensure that the works do not impede on existing electricity easements and to ensure that proposed works are at a safe distance from powerlines.
- s. The applicant is advised to refer to the Tasmanian Coastal Works Manual while undertaking development. <https://dpiwwe.tas.gov.au/conservation/coastal-management/managing-the-coast/tasmanian-coastal-works-manual>
- t. In the event that any suspected Aboriginal cultural material is encountered during surface or sub surface disturbances associated with development of the site, then the activity creating the disturbance should cease immediately, and Aboriginal Heritage Tasmania must be informed to enable further assessment of the situation. Go to <https://www.aboriginalheritage.tas.gov.au> for further assistance.

**Moved** Clr Rob Churchill, **seconded** Clr Carole McQueeney:

That consideration of SA2022/34, 945 Dolphin Sands Road, Swansea, be deferred to the second meeting following a decision by the Tasmanian Planning Commission to Amendment AM2022/02.

*Mayor Arnol adjourned the meeting until 2:45pm to gain further qualified advice.*

*The meeting reconvened at 2:47pm and Mayor Arnol advised that the developer has refused the extension of time for the application and opened up the meeting for further discussion.*

**THE MOTION WAS WITHDRAWN WITH THE CONSENT OF THE SECONDER**

#### **DECISION 189/23**

Moved Clr Jenny Woods, seconded Clr Robert Young:

**That:**

Pursuant to section 57 of the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Scheme – Glamorgan Spring Bay, SA2022/00034 at 945 Dolphin Sands Road, Dolphin Sands (CT54666/148) be approved with the following conditions 1-26 and advice a-t.

**THE MOTION WAS PUT AND CARRIED 3/2**

For: Mayor Cheryl Arnol, Clr Jenny Woods and Clr Robert Young

Against: Clr Rob Churchill and Clr Carole McQueeney

## 2.2 SA2022/31 - 1433 Dolphin Sands Road, Dolphin Sands - 3 lot subdivision

<b>Proposal:</b>	3 lot subdivision
<b>Applicant:</b>	PDA Surveyors, Engineers & Planners
<b>Application Date:</b>	26/07/2022
<b>Statutory Date:</b>	08/09/2023
<b>Planning Instruments:</b>	Tasmanian Planning Scheme - Glamorgan Spring Bay
<b>Zone:</b>	GSB-P1.0 - Particular Purpose Zone - Dolphin Sands
<b>Codes:</b>	C2.0 Parking and Sustainable Transport Code, C3.0 Road and Railway Assets Code, C7.0 Natural Assets Code, C13.0 Bushfire Prone Areas Code
<b>Specific Area Plans:</b>	N/A
<b>Use:</b>	-
<b>Development:</b>	Subdivision
<b>Discretions:</b>	GSB-P1.7.1 – development standards C3.0 Road and Railway Assets Code – C3.5.1 - new vehicle crossings C7.0 Natural Assets Code – C7.7.1 waterway area and C7.7.2 - priority vegetation area
<b>Representations:</b>	5
<b>Attachments:</b>	1. Exhibited Documents SA2022/00031 [2.2.1 - 141 pages] 2. De-identified Representations SA2022/00031 [2.2.2 - 11 pages]
<b>Author:</b>	James Bonner, Senior Planner

### Executive Summary

Planning approval has been sought for the subdivision of an existing lot to create three (3) lots at 1433 Dolphin Sands Road, Dolphin Sands.

The subdivision provisions in GSB-P1.0 - Particular Purpose Zone - Dolphin Sands that allowed the creation of new lots were previously understood by Council to be an error that occurred during the processing of the Local Provisions Schedule (LPS). In accordance with that understanding Council did not advertise the application when it was originally submitted and the application was refused at the ordinary meeting of 13 December 2022.

The refusal was appealed by the applicant and on 28 July 2023 the Tasmanian Civil and Administrative Tribunal found in favour of the appellant as follows:

‘The decision by the Glamorgan Spring Bay Council to refuse a permit for subdivision application SA2022/31 is set aside and the matter is sent back to the Council for determination in accordance with law.’

In accordance with the appeal findings the application was advertised on 3<sup>rd</sup> August to 17<sup>th</sup> August 2023 and five (5) representations were received objecting to the proposal. The Planning Authority must consider the planner's recommendation and make a final determination by 08 September 2023.

## **PART ONE**

### **1. Statutory Requirements**

The *Land Use Planning and Approvals Act 1993 (LUPAA)* requires the Planning Authority to take all reasonable steps to ensure compliance with the planning scheme.

The planning scheme provides the overriding considerations for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

The initial assessment of this application identified where the proposal met the relevant Acceptable Solutions under the planning scheme, and where a discretion was triggered. This report addresses only the discretions and the representations and makes a final recommendation for the proposed development.

The Planning Authority must consider the report but is not bound to it. It may:

1. Adopt the recommendation.
2. Vary the recommendation.
3. Replace an approval with a refusal (or vice versa).

The *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015* require a full statement of reasons if an alternative decision to the recommendation is made.

### **2. Approving applications under the planning scheme**

A Development Application must meet every relevant standard in the planning scheme to be approved. In most cases, the standards can be met in one of two ways:

1. By Acceptable Solution, or if it cannot do this,
2. By Performance Criteria.

If a proposal meets an Acceptable Solution, it does not need to satisfy the Performance Criteria.

In assessing this application, the Planning Authority must exercise sound judgement to determine whether the proposal meets the relevant Performance Criterion and must consider the issues raised in the representations.

### **3. The Proposal**

The application seeks approval to subdivide the existing lot into three lots of 1.104ha, 1.106 ha and 1.51ha±.

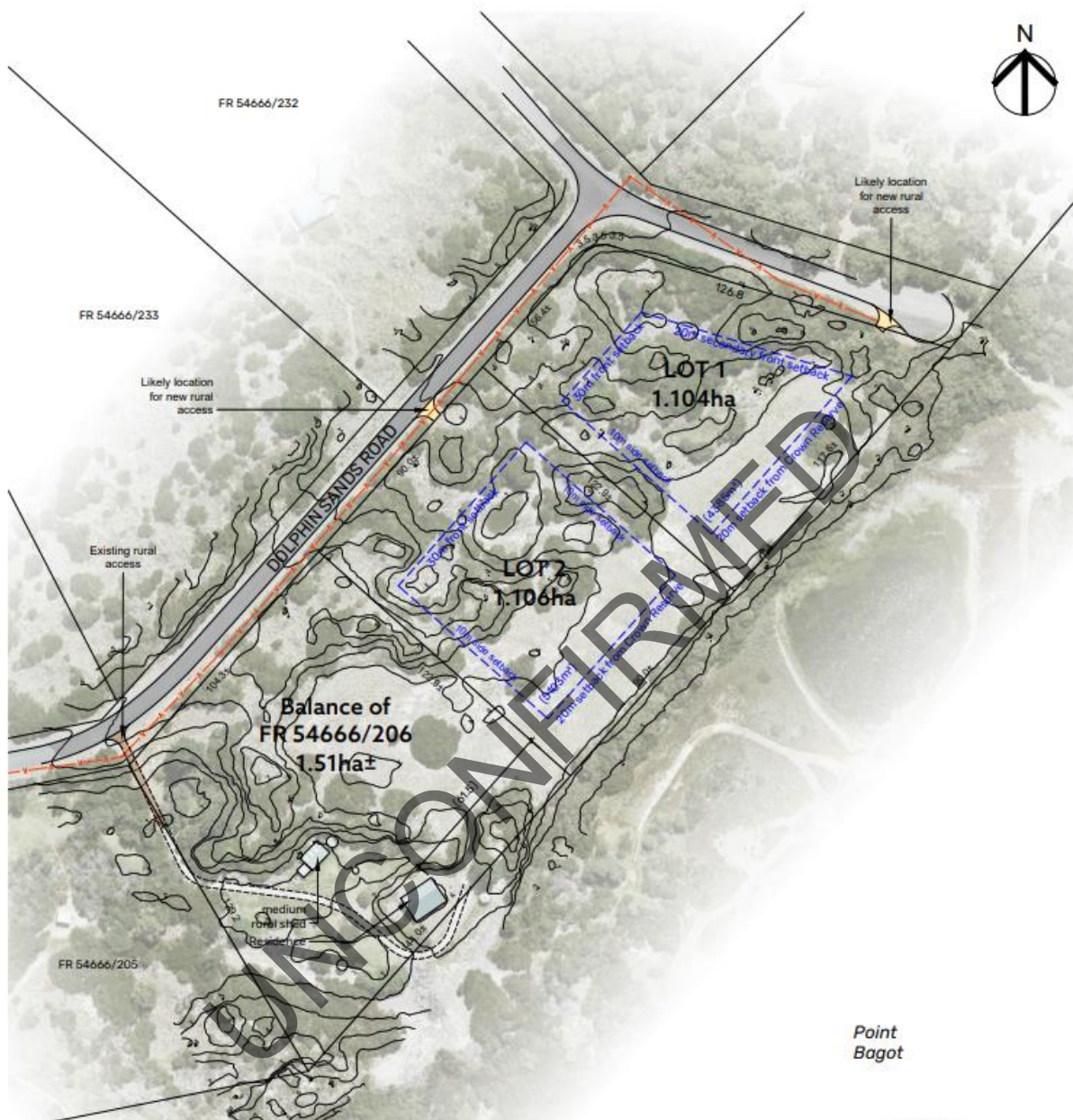


Figure 1 – Subdivision Plan

#### 4. Risk and implications

Approval or refusal of this application should have no direct financial risk for Council, in relation to planning matters, other than should an appeal against the Authority's decision be lodged or should the Planning Authority fail to determine the application within the statutory timeframe.

#### 5. Background and past applications

The following planning applications have been received over the subject lot.

- DA2023/00004 – boat and storage shed



## 6. Site Description

The site is contained within certificate of title CT 54666/208 with a total land area of 3.7.1ha±. The land is covered with a mix of native scrub and grasses with some introduced species around the existing dwelling and outbuilding. Some areas have been cleared and maintained by slashing for a number of years as indicated in figure 3 below. The existing buildings on the property are to be located within proposed Lot 3 (balance lot). The land is bound by Dolphin Sands Road to the north and Crown land to the south.

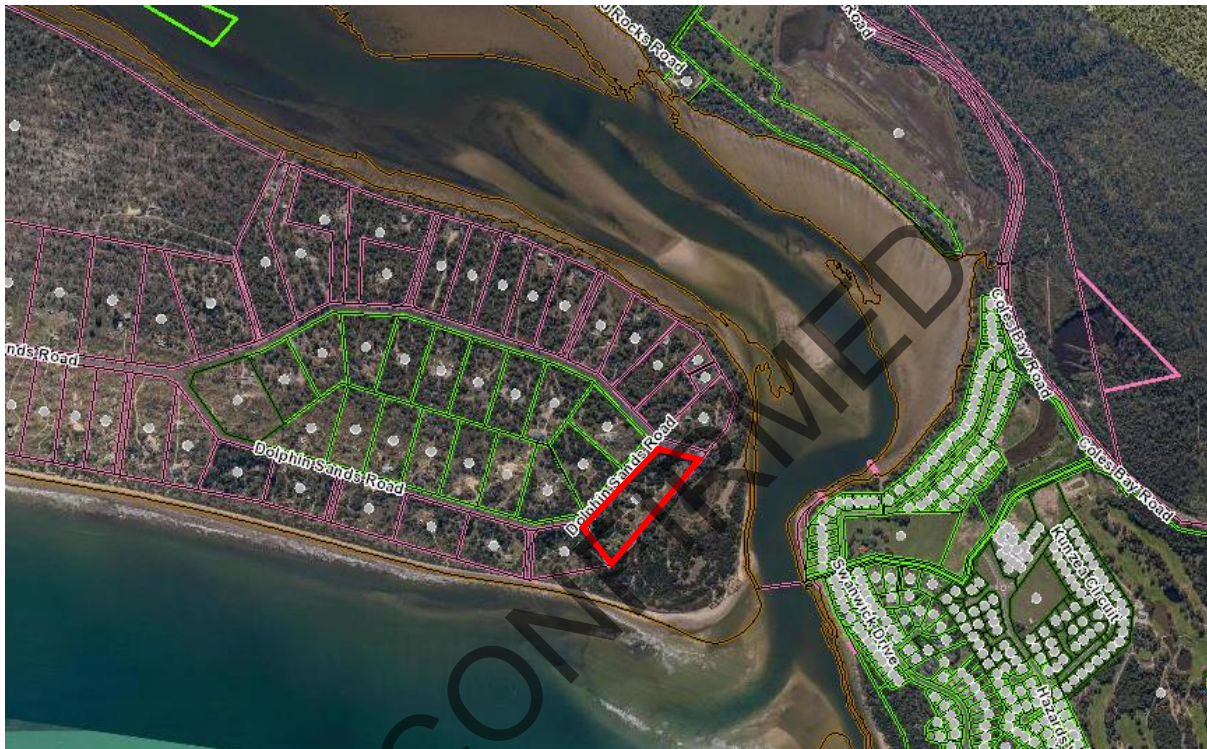


Figure 2 – Locality Source: LISTMap



Figure 3 – Site Source: LISTMap

## 7. Planning Instruments

Tasmanian Planning Scheme – Glamorgan Spring Bay

## 8. Easements and Services

No easements were identified on the title. The site does not have access to reticulated sewer or water.

## 9. Covenants

No covenants were identified on the title.

## PART TWO

## 10. Meeting the Standards via Acceptable Solution

The proposal has been assessed against the acceptable solutions provided in:

- GSB-P1.0 Dolphin Sands Particular Purpose Zone
- C2.0 Parking and Sustainable Transport Code
- C3.0 Road and Railway Assets Code
- C7.0 Natural Assets Code
- C13.0 Bushfire-Prone Areas Code

All standards were met by Acceptable Solution excepting those identified below. These have been assessed against the applicable performance criteria.

## 11. Meeting the Standards via Performance Criteria

The standards not met by Acceptable Solution need to satisfy the relevant Performance Criteria to be approved. These are:

- GSB-P1.0 Dolphin Sands Particular Purpose Zone – GSB-P1.7.1 development standards
- C3.0 Road and Railway Assets Code - C3.5.1 - new vehicle crossings,
- C7.0 Natural Assets Code – C7.7.1 – waterway area and C7.7.2 - priority vegetation area

## PART THREE

## 12. Assessing the Proposal against the Performance Criteria

### GSB-P1.0 Dolphin Sands Particular Purpose Zone

GSB-P1.7.1 – Subdivision (A1) – The acceptable solution is that subdivision must be for the consolidation of lots if no additional lots are created. The proposal is for a 3-lot subdivision and as such it must meet the following performance criteria.

Performance Criteria	Planner's Response
<b>P1</b> Subdivision of land must: (a) provide for public open space, a public reserve, public services or utilities; or (b) have a minimum frontage of 60m; and (c) not create a lot that is less than 1 hectare in area.	Performance criteria (a) is not relevant to the application as the subdivision is not for public open space, a public reserve, public services or utilities.  The proposed lots each have a minimum frontage of 60m and have a minimum lot size of not less than 1 hectare and therefore (b) and (c) are satisfied.

### C3.0 Road and Railway Assets Code

C3.5.1 - new vehicle crossings (A1.2) - The acceptable solution is that the written consent of the road authority has been issued for new vehicle crossings. The acceptable solution cannot be met as the road authority (Council) has not issued written consent, and as such the proposal must meet the following performance criteria.

Performance Criteria	Planner's Response
<b>P1</b> Vehicular traffic to and from the site must minimise any adverse effects on the safety of a junction, vehicle crossing or level crossing or safety or efficiency of the road or rail network, having regard to:	The two additional lots proposed will result in an increase in traffic once they are developed. The anticipated increase would be that expected for a single dwelling.

Performance Criteria	Planner's Response
(a) any increase in traffic caused by the use; (b) the nature of the traffic generated by the use; (c) the nature of the road; (d) the speed limit and traffic flow of the road; (e) any alternative access to a road; (f) the need for the use; (g) any traffic impact assessment; and (h) any advice received from the rail or road authority.	<p>Council's Infrastructure Department have reviewed the proposal and provided recommended conditions. Due to potential conflict with users of the Bagot Point reserve and concerns identified below with priority vegetation it is recommended that the driveway entrance for lot 1 be relocated so that it is on the northern frontage of that lot. The final position of the driveway to be agreed to by Council at the engineering design stage.</p> <p>It is considered that the additional traffic generated will not impact on the safety or efficiency of the road network in regard to the listed performance criteria.</p>

## C7.0 Natural Assets Code

C7.7.1 – Development standards for subdivision (A1) – The acceptable solution is that a proposed lot must be for the creation of separate lots for existing buildings, be required for public use, be required for utilities, be for consolidation or not include any works, building area, services, bushfire hazard management area or vehicular access within a waterway and coastal protection area. The proposal does not meet the first four requirements and the building area and hazard management area are located within the buffer. As such the proposal must meet the following performance criteria.

Performance Criteria	Planner's Response
<p><b>P1</b> 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:</p> <p>(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</p> <p>(b) future development likely to be facilitated by the subdivision.</p>	<p>It is noted that the majority of the subject property is subject to the waterway buffer and it is not possible to locate the proposed building areas outside of this area.</p> <p>Future development likely to be developed would be a single dwelling or visitor accommodation. The aerial photos show that the land adjoining the waterway has been managed through clearance and slashing for a number of years. Therefore, any future development should not require removal of further vegetation between the dwelling and the waterway as this area is already managed, noting that any bushfire hazard management area must be contained within each lot.</p> <p>It is recommended to minimise any adverse impact on the waterway that a building area be provided on the title that is located a minimum of 50m from the south-eastern boundary.</p>



## C7.0 Natural Assets Code

C7.7.2 Subdivision within a priority vegetation area (A1) - The acceptable solution is that a proposed lot be for the creation of separate lots for existing buildings, be required for public use or utilities, be for the consolidation of a lot or not include any works, building area, access, bushfire hazard management area within the priority vegetation area. The acceptable solution cannot be met as the subdivision is not for existing buildings, public or utility uses, or consolidation, and the building areas and bushfire hazard management areas will be within the priority vegetation area, and as such the proposal must meet the following performance criteria.

Performance Criteria	Planner's Response
<p><b>P1.1</b> 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 Tasmania 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 ongoing 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><b>P1.1</b> The following performance criteria are relevant to the proposal.</p> <p>(b) The subdivision is proposed to allow for the future construction of a single dwelling on each lot as allowed for by the Particular Purpose Zone.</p> <p>(f) The submitted Natural Values Assessment (NVA) by ECOTAS, dated 27 October 2022, undertook an assessment of the proposed subdivision in accordance with the requirements of the Natural Assets Code and threatened species legislation. The NVA concluded that the majority of the native vegetation on the site is not priority vegetation with the exception of a small patch in the northeast corner of proposed lot 1 that is located outside of the potential building area shown on the subdivision plan. The NVA concluded that (f) is satisfied.</p> <p>It is recommended that the driveway for lot 1 is relocated so it is clear of the priority vegetation identified in figure 12 (page 20) of the NVA.</p>
<p><b>P1.2</b> Works associated with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p> <p>(a) the design and location of any works, future development likely to be</p>	<p><b>P1.2</b> The NVA has concluded that while the site is identified as being within a priority vegetation area there is very little priority vegetation on the site which can be avoided having regard to (a).</p>

Performance Criteria	Planner's Response
<p>facilitated by the subdivision, and any constraints such as topography or land hazards;</p> <p>(b) any particular requirements for the works and future development likely to be facilitated by the subdivision;</p> <p>(c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings;</p> <p>(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;</p> <p>(e) any on-site biodiversity offsets; and (f) any existing cleared areas on the site</p>	<p>The NVA does then address each performance criteria and concludes that the proposal meets the criteria without the need for specific conditions in relation to natural values provided that the design can demonstrate the exclusion of the patch of priority vegetation in the northeast corner of proposed lot 1.</p> <p>It is recommended that the driveway for lot 1 is relocated so it is clear of the priority vegetation identified in figure 12 (page 20) of the NVA.</p>

### 13. Referrals

The application was referred to Council's Infrastructure Department who provided advice and recommended conditions.

### 14. Representations

The proposal was advertised for two weeks from 03 August 2023 to 17 August 2023 and five (5) representations were received objecting to the proposal. A summary of concerns raised, and responses are included in the Table below. The submissions are included in the attachments to the report with personal details redacted for privacy reasons.

Representation 1	Response
<p>The access driveway for lot 1 is located very close to the turning circle for the Bagot Point recreation area and will make it harder to park a car, boat trailer, campervan in this area.</p> <p>Proposed that the driveway entrance be moved further up the road past the driveway to RA1381 or around the corner closer to the lot 2 driveway entrance.</p>	<p>Recommended that the driveway is re-located as discussed above.</p>
Representation 2	Response
<p>1. The word 'or' was included as an error and there was no community consultation on the change and the</p>	<p>The Administrative Appeals Tribunal found that the inclusion of 'or' was not an error and therefore the application must be assessed in</p>

<p>impact it would have on the Dolphin Sands development standards.</p> <p>2. The inclusion of 'or' creates a non-sensical situation where the intent of the performance criteria is lost.</p>	<p>accordance with the Particular Purpose Zone standards as they are currently written.</p>
<b>Representation 3</b>	<b>Response</b>
<p>The 'or' was incorrectly included in the particular purpose zone and any decisions relating to the number and size of subdivisions warrant increased scrutiny and no decisions should be made until the current amendment to the TPC to amend the particular purposes has been concluded.</p>	<p>1. The Administrative Appeals Tribunal found that the inclusion of 'or' was not an error and therefore the application must be determined in accordance with the Particular Purpose Zone standards as they are written.</p> <p>2. The current planning scheme amendment before the Tasmanian Planning Commission is not a consideration in the assessment of the current application.</p>
<b>Representation 4</b>	<b>Response</b>
<p>1. The property backs onto Bagot Point Coastal Reserve located at the mouth of Moulting Lagoon Game Reserve which is a critical habitat for birdlife.</p> <p>2. The original surveyor deliberately kept this site larger than the surrounding allotments. This site is at the end of the road forming the only barrier between the river mouth with bird breeding area and the rest of Dolphin Sands.</p> <p>3. This site is the last stop for wildlife on the peninsular, it is adjacent to the only potential water-evacuation point for residents and visitors in the case of a bushfire and is key to stabilising the shape of Bagot Point. Clearing vegetation or changing wind dynamics by way of building dwellings, sheds, water tanks and driveways has the potential to impact a large number of other allotments.</p>	<p>1. The application was supported by a Natural Values assessment that did not identify any threatened species or priority vegetation, except for a small area in the north-eastern corner of lot 1. No works are proposed within the Bagot Point Coastal Reserve.</p> <p>2. As discussed above the current planning scheme allows for subdivision to 1 hectare.</p> <p>3. It is unclear how the proposal would impact on residents ability to access the water-evacuation point or how clearing vegetation for dwellings and associated infrastructure would impact on a large number of allotments. It is noted that a substantial area of the lot has been maintained for a number of years as evidenced by aerial photos on LISTMap.</p>
<b>Representation 5</b>	<b>Response</b>
<p>1. When I bought my block I was informed that subdivision was not permitted and a minimum block size of 5 acres must be maintained. The limitation on the block size also limited the potential impact and usage of the underlining aquifer.</p>	<p>1. As discussed above the current planning scheme allows for subdivision to 1 hectare.</p> <p>2. The Administrative Appeals Tribunal found that the inclusion of 'or' was not an error and therefore the application must</p>

2. I understand that this application has been enabled by the current wording of GSB-P1.7 which I am told was inadvertently changed and is no longer in accord with the initial intent. The original and correct intent of the planning scheme should be corrected before the consideration of this subdivision application.	<p>be determined in accordance with the Particular Purpose Zone standards as they are written.</p> <p>3. The current planning scheme amendment before the Tasmanian Planning Commission is not a consideration in the assessment of the current application.</p>
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## 15. Conclusion

The assessment of the application taken in association with the representations received has identified that the proposal satisfies the relevant provisions of the Tasmanian Planning Scheme - Glamorgan Spring Bay and therefore the application is recommended to be approved subject to the recommended conditions.

## 16. Recommendation

### That:

Pursuant to section 57 of the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Scheme – Glamorgan Spring Bay, SA2022/00031 at 1433 Dolphin Sands Road, Dolphin Sands (CT54666/206) be approved with the following conditions.

1. Use and development must be substantially in accordance with the endorsed plans and documents unless modified by a condition of this permit.

*Advice: Any changes may either be deemed as substantially in accordance with the permit or may first require a formal amendment to this permit or a new permit to be issued.*

### Final Plan

2. A final approved plan of survey and schedule of easements as necessary, must be submitted to Council for sealing. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
3. The final plan of survey must include easements over all drains, pipelines, wayleaves and services to the satisfaction of Council's Municipal Engineer.
4. The final plan must show a building area for lots 1 and 2 that is located no closer than 50m from the southern boundary with the Crown reserve land and includes a covenant on each title that no buildings are to be located closer than 50m to boundary with the Crown reserve.

*Reason: To minimise any adverse impact on the adjoining wetland and waterway.*

5. Covenants or other restrictions must not conflict with, or seek to override, provisions of the planning scheme.



6. Prior to sealing the Final Plan of Survey or execution of the Schedule of Easements and associated documents, certification must be provided from an accredited bushfire practitioner that all recommendations and requirements of the Bushfire Hazard Report by GES, Report No. J7740v1, dated September 2022, have been implemented and complied with.

### **Public Open Space**

7. Prior to sealing the final plan of survey, a cash contribution for public open space must be provided to Council that is equal to 5% of the value of the area of land of each lot as described by lots 1 and 2 as at the date of lodgment of the final plan of survey. The value is to be determined by a Land Valuer within the meaning of the *Land Valuers Act 2001* and as agreed to by the Council's General Manager.

*Advice: this condition is imposed pursuant to section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993 and Council policy.*

### **Environment Management**

8. All work must be generally in compliance with the Tasmanian Coastal Works Manual, available at. <https://dpiwwe.tas.gov.au/conservation/coastal-management/managing-the-coast/tasmanian-coastal-works-manual>
9. The developer must implement a soil and water management plan (SWMP) to ensure that soil and sediment does not leave the site during the construction process and must provide a copy of the SWMP to Council's General Manager prior to the commencement of works.
10. No top soil is to be removed from the site.
11. All vehicles and equipment associated with construction of the development and/or operation of the use must be cleaned of soil prior to entering and leaving the site to minimise the introduction and/or spread of weeds and diseases to the satisfaction of Council's General Manager.

### **Engineering**

12. Engineering design drawings 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.
13. The subdivision must be carried out in accordance with the Tasmanian Subdivision Guidelines October 2013 or as otherwise agreed by Council's General Manager or required by conditions of this permit.
14. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's General Manager, these drawings must be submitted to and approved by the Glamorgan Spring Bay Council before development of the land commences. The detailed engineering drawings must show the following:
  - a) all existing and proposed services required by this permit;
  - b) all proposed stormwater infrastructure.

- c) all existing and proposed roadwork required by this permit;
- d) measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
- e) measures to be taken to limit or control erosion and sedimentation;
- f) any other work required by this permit.

*Advice: Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.*

15. 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.
16. The access for lot 1 is required to be relocated so that it is located on the northern boundary fronting Dolphin Sands Road in a location agreed to be the Council's General Manager..
17. Sealed vehicle accesses must located and constructed in accordance with the standards shown on standard drawings TSD-R09-v3, Urban Roads TSD-R06-v3 and TSD-RF01-v1 Guide to Intersection and Domestic Access Sight Distance Requirements prepared by the IPWE Aust. (Tasmania Division) and the satisfaction of Council's General Manager.

*Advice: The developer must obtain a Works in Road Reserve Permit from Council for any work within the road reserve.*

## **Construction**

18. The subdivider must provide not less than forty-eight (48) hours written notice to Council's General Manager before commencing construction works on-site or within a council roadway.
19. The subdivider must provide not less than forty-eight (48) hours written notice to Council's General Manager before reaching any stage of works requiring hold point inspection by Council unless otherwise agreed by the Council's General Manager.
20. Subdivision 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.
21. Through the construction process to the satisfaction of Council's General Manager, and unless otherwise noted on the endorsed plans or approved in writing by Council's General Manager, the developer must:
  - a) Ensure soil, building waste and debris does not leave the site other than in an orderly fashion and disposed of at an approved facility;
  - b) Not burn debris or waste on site;
  - c) Promptly pay the costs associated with any alteration, extension, reinstatement, and repair or cleaning of Council infrastructure, public land or private property;

- d) Ensure public land, footpaths and roads are not unreasonably obstructed by vehicles, machinery or materials or used for storage;
- e) Provide a commercial skip (or similar) for the storage of construction waste on site and arrange for the removal and disposal of the waste to an approved landfill site by private contract.

#### **Sealing of Final Plan**

- 22. All conditions of this permit must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.
- 23. A Letter of Release from each authority confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed, must be submitted to Council prior to the sealing of the Final Plan of Survey.

#### **Telecommunications and Electrical Reticulation**

- 24. Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's General Manager.

#### **'As constructed' Drawings**

- 25. Prior to the works being placed on the maintenance and defects liability period an 'as constructed' drawings with CCTV footage of all engineering works provided as part of this approval must be submitted to Council to the satisfaction of the Council's General Manager. These data must be prepared by a qualified and experienced civil engineer or other person approved by the General Manager in accordance with Council's *Guidelines for As Constructed Data*.

#### **Maintenance and Defects Liability Period**

- 26. The subdivision must be placed onto a twelve-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.
- 27. Prior to placing the subdivision onto the twelve-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.
- 28. 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 subdivision works. Any work required is to be specified or undertaken by the authority concerned.

**The following advice is provided for information and assistance only and imposes no direct obligation on the developer.**

- a. Please read all conditions of this permit and contact the planner for clarification if required.
- b. All costs associated with acting on this permit are borne by the person(s) acting on it.
- c. The permit does not take effect until 15 days after the date that it was served on you as the applicant and each representor provided that no appeal is lodged as provided by s53 of the *Land Use Planning and Approvals Act 1993*.
- d. This permit is valid for two years from the date of approval and shall lapse unless it has been substantially commenced to the satisfaction of the Council Senior Planner or otherwise extended by written consent.
- e. The permit and conditions on it are based on the information submitted in the endorsed plans and documents. The Planning Authority is not responsible or liable for any errors or omissions. I encourage you to engage a land surveyor to accurately set out the location of buildings and works.
- f. The granting of this permit takes in no account of any civil covenants applicable to the land. The developer should make their own enquiries as to whether the proposed development is restricted or prohibited by any such covenant and what consequences may apply.
- g. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- h. The native vegetation approved for removal is limited to that necessary for the construction of buildings and works, the connection of services, vehicular access and the implementation of the Bushfire Hazard Management Plan. Clearing or adversely impacting other native vegetation on the property at any stage in the future may require a separate planning permit and advice should be sought from the Glamorgan Spring Bay Council prior to commencing any additional works.
- i. The following legislation may impose obligations that affect the approved or use development. This legislation is separate to the planning scheme and as such has not been considered by the Planning Authority in granting this permit. You may wish to obtain your own independent advice or discuss with the relevant Government department:
  - *Aboriginal Relics Act 1975* (Tasmanian)
  - *Threatened Species Protection Act 1995* (Tasmanian)
  - *Weed Management Act 1999* (Tasmanian)
  - *Environment Protection and Biodiversity Conservation Act 2000* (Commonwealth)
  - *Environmental Management and Pollution Control (Miscellaneous Noise) Regulations 2014* (Tasmanian)
- j. The *Environmental Management & Pollution Control (Distributed Atmospheric Emissions) Regulations 2007* prohibit backyard burning in incinerators or in the open on lots less than 2000m<sup>2</sup> and the burning of plastics, and other non-wood or non-vegetative material.

- k. Sealing of a final plan of survey is subject to a prescribed Council fee. Please refer to [www.gsbc.tas.gov.au](http://www.gsbc.tas.gov.au) for the fee current at the date of lodgement of the final plan or survey.
- l. Land Title Office fees must be paid directly to the Recorder of Titles.
- m. The developer is responsible to ensure that all necessary inspections are undertaken before proceeding past mandatory inspection points as detailed in the Tasmanian Subdivision Guidelines. A minimum of two full working days' notice must be provided to ensure Council can inspect at the requested time.
- n. The Final Plan of Survey will not be sealed until all works required by this permit are complete.
- o. The Final Plan of Survey is inclusive of any schedule of easement and Part 5 Agreement.
- p. Construction waste, other than of a quantity and size able to be enclosed within a standard 140 litre mobile garbage bin, will not be accepted at Council's Waste Management Centres. All asbestos-based waste must be disposed of in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC: 2002(1988). No material containing asbestos may be dumped at Council's Waste Management Centres.
- q. 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.
- r. The applicant is advised to contact Aurora Energy on 1300 137008 to ensure that the works do not impede on existing electricity easements and to ensure that proposed works are at a safe distance from powerlines.
- s. The applicant is advised to refer to the Tasmanian Coastal Works Manual while undertaking development. <https://dpiwwe.tas.gov.au/conservation/coastal-management/managing-the-coast/tasmanian-coastal-works-manual>
- t. In the event that any suspected Aboriginal cultural material is encountered during surface or sub surface disturbances associated with development of the site, then the activity creating the disturbance should cease immediately, and Aboriginal Heritage Tasmania must be informed to enable further assessment of the situation. Go to <https://www.aboriginalheritage.tas.gov.au> for further assistance.

### **DECISION 190/23**

Moved Clr Jenny Woods, seconded Clr Robert Young:

**That:**

Pursuant to section 57 of the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Scheme – Glamorgan Spring Bay, SA2022/00031 at 1433 Dolphin Sands Road, Dolphin Sands (CT54666/206) be approved with the following conditions 1-26 and advice a-t.

**THE MOTION WAS PUT AND LOST 2/3**

For: Mayor Cheryl Arnol and Clr Jenny Woods

Against: Clr Rob Churchill, Clr Carole McQueeney and Clr Robert Young

*Mayor Arnol advised that the motion was lost, and a decision had not been made as a planning authority and another motion was sought.*

### **DECISION 191/23**

Moved Clr Robert Young, seconded Clr Rob Churchill:

**That:**

Pursuant to section 57 of the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Scheme the proposal SA2022/31, 1433 Dolphin Sands Road, Dolphin Sands (3 lot subdivision) be refused for the following reasons:

- because of vulnerability of the general area on the eastern side to seafront incursion and low lying situation of the land the subject of the development application
- the significant removal of the vegetation subsequent to the photograph contained in figure 3 of the report to Council, without prior council permission, and the further change in the amenity of the area.
- the deleterious effect upon the adjacent reserve, and,
- because of noncompliance with C7.0 Natural Assets Code, specifically C7.7.1 and C7.7.2

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 5/0**

For: Mayor Cheryl Arnol, Clr Rob Churchill, Clr Carole McQueeney, Clr Jenny Woods and Clr Robert Young

Against: Nil

## **2.3 Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision –Representations**

Author: Senior Planner (James Bonner)

Responsible Officer: Director Planning and Development (Alex Woodward)

### **ATTACHMENT/S**

Nil

### **PURPOSE**

To recommend that Council defer *Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision – Representations* to the Ordinary Council Meeting on 26 September 2023.

### **BACKGROUND/OVERVIEW**

At the 22 August 2023 Ordinary Council Meeting, Council resolved the following in relation to *Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision –Representations*:

#### **DECISION 175/23**

Moved Deputy Mayor Michael Symons, seconded Cllr Rob Churchill:

That the Planning Authority agenda item 4.2 be adjourned to the Special Council Meeting on Tuesday 5 September 2023.

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0**

Due to timeframe constraints and the need to hold a further Workshop with Councillors in relation to this item, it is recommended that the item be deferred to the Ordinary Council Meeting in September 2023.

### **STRATEGIC PLAN REFERENCE**

#### **Guiding Principles**

7. Communicate and explain Council's decisions and reasons in an open and timely manner.

#### **Key Foundations**

1. Our Governance and Finance

#### **What we plan to do**

Advocate and lobby effectively on behalf of the community.

### **STATUTORY IMPLICATIONS**

A request for an extension has been sent to the Tasmanian Planning Commission to extend the timeframe for the submission until the 29<sup>th</sup> September 2023 to allow for this item to be considered at the September 2023 Ordinary Meeting.

### **BUDGET IMPLICATIONS**

There is no material financial implications in adopting this recommendation.

### **RISK CONSIDERATION/S**

Risk	Likelihood	Consequence	Rating	Risk Mitigation Treatment
<b>Adopt the recommendation</b>			Low	Nil
Nil				
<b>Do not adopt the recommendation</b>	Almost Certain	Moderate	Extreme	Hold an additional meeting to provide a resolution on the matter.
Council would not comply with the requirements of the Land Use Planning and Approvals Act 1993.				

### **OFFICER'S COMMENTS**

The recommendation is procedural following the previous decision of Council.

### **OFFICER'S RECOMMENDATION**

That Council defer the *Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision –Representations* to the Ordinary Council Meeting on 26 September 2023.



**DECISION 192/23**

Moved Cllr Robert Young, seconded Cllr Rob Churchill:

That Council defer the *Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision – Representations* to the Ordinary Council Meeting on 26 September 2023.

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 5/0**

For: Mayor Cheryl Arnol, Cllr Rob Churchill, Cllr Carole McQueeney, Cllr Jenny Woods and Cllr Robert Young

Against: Nil

UNCONFIRMED

*Under Regulation 25 of Local Government (Meeting Procedures) Regulations 2015, the Chairperson hereby declares that the Council is no longer acting as a Planning Authority under the provisions of the Land Use Planning and Approvals Act 1993 for Section 2 of the Agenda.*

**RECOMMENDATION**

That Council no longer acts as a Planning Authority at [time].

**DECISION 193/23**

Moved Clr Jenny Woods, seconded Clr Carole McQueeney:

That Council no longer acts as a Planning Authority at 4:09pm

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 5/0**

For: Mayor Cheryl Arnol, Clr Rob Churchill, Clr Carole McQueeney, Clr Jenny Woods and Clr Robert Young

Against: Nil

UNCONFIRMED

### 3 CLOSE

The Mayor declared the meeting closed at 4:10pm

**CONFIRMED** as a true and correct record.

**Date:**

**Mayor Cheryl Arnol**

UNCONFIRMED