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**Minutes of an ordinary meeting of the Planning Sub-Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 5 February 2024 commencing at 6.00pm**

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**Member attendance**

Cr Cheryl Fuller (Mayor)  
Cr Garry Carpenter  
Cr Philip Viney

Cr John Beswick  
Cr Amanda Diprose

**Member apologies**

Nil

**Employee attendance**

Chief Executive Officer (Mr Barry Omundson)  
Director Community, Growth and Development (Mr Daryl Connelly)  
Director Infrastructure Services (Mr Paul Breaden)  
Director Corporate Services (Mrs Samantha Searle)  
Executive Services Officer (Mr Ian Brunt)

**Employee apologies**

Nil

**Public attendance**

Four members of the public attended during the course of the meeting.

**Legislative terminology – General Manager**

At the Central Coast Council, the title Chief Executive Officer is a term of reference for the General Manager as appointed by Council pursuant to section 61 of the *Local Government Act 1993*; and carries the same meaning for the purposes of the *Local Government Act 1993* and all other legislation administered by or concerning the Council.

### **Digital recording of Council meetings**

At the commencement of the meeting, the Mayor notified those present that the meeting will be digitally recorded and made publicly available through the Council's website.

Digital recordings will be conducted in accordance with Regulation 33 of the *Local Government (Meeting Procedures) Regulations 2015* and the Council's Digital Recording Policy (109/2022 – 20.04.2022).

### **Acknowledgement of Country**

Cr Diprose stated as follows:

“The Central Coast Council acknowledges and pays respect to the traditional owners of lutrawita (Tasmania), the palawa/pakana people.

We acknowledge the Punnilerpanner tribe of this Northern Country, and in doing so, we celebrate one of the world's oldest continuing cultures.”

### **Statement of Values**

Cr Diprose stated as follows:

“Guided by the diverse beliefs, experiences and backgrounds of the people we represent, we strive to make inspired and respectful decisions today that will build a better tomorrow.”

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## MAYOR'S COMMUNICATIONS

### 1/2024 Mayor's communications

The Mayor reported as follows:

“Under the terms of appointment of the Planning Sub-Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2015* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

In the event that items listed for consideration are referred, under the terms of the Committee's appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision.”

- Cr Carpenter moved and Cr Beswick seconded, “That the Mayor's report be received.”

Carried unanimously

## DECLARATIONS OF INTEREST

### 2/2024 Declarations of interest

The Mayor reported as follows:

“Members are requested to indicate whether they have, or are likely to have, a pecuniary (or conflict of) interest in any item on the agenda.”

The Executive Services Officer reported as follows:

“The *Local Government Act 1993* provides that a member must not participate at any meeting of a council committee in any discussion, nor vote on any matter, in respect of which the member has an interest or is aware or ought to be aware that a close associate has an interest.

Members are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted

that a member must declare any interest in a matter before any discussion on that matter commences.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

No interests were declared at this time.

## **DEPUTATIONS**

### **3/2024      Deputations**

The Executive Services Officer reported as follows:

“No requests for deputations to address the meeting or to make statements or deliver reports have been made.”

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## OPEN REPORTS

4/2024      Subdivision – 1 lot and 1 balance lot – Lot design; and reliance on *C13.0 Bushfire-Prone Areas Code* at 236 Pine Road, Penguin – Application No. DA2023311

The Director Community, Growth and Development reports as follows:

“The Planning Consultant has prepared the following report:

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|-------------------------------------|--|
| <i>DEVELOPMENT APPLICATION NO.:</i> | DA2023311  |
| <i>PROPOSAL:</i>                    | Subdivision – 1 lot and 1 balance lot – Lot design; and reliance on <i>C13.0 Bushfire-Prone Areas Code</i> |
| <i>APPLICANT:</i>                   | PDA Surveyors  |
| <i>LOCATION:</i>                    | 236 Pine Road, Penguin   |
| <i>ZONE:</i>                        | Agriculture  |
| <i>PLANNING INSTRUMENT:</i>         | <i>Tasmanian Planning Scheme – Central Coast</i> (the planning scheme)                                     |
| <i>ADVERTISED:</i>                  | 16 December 2023   |
| <i>REPRESENTATIONS EXPIRY DATE:</i> | 8 January 2024   |
| <i>REPRESENTATIONS RECEIVED:</i>    | One  |
| <i>42-DAY EXPIRY DATE:</i>          | 18 January 2024 (extension of time granted until 19 February 2024)   |
| <i>DECISION DUE:</i>                | 5 February 2024  |
| <i>PURPOSE</i>                      |  |

The purpose of this report is to consider an application for subdivision of the site into two separate titles. This would result in one lot of approximately 1ha and a balance lot of 26.4ha on the property known as 236 Pine Road, Penguin.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – photographs; and
- . Annexure 4 – representation.

## *BACKGROUND*

### *Development description -*

Application is made for subdivision of the property into two separate titles resulting in one lot of approximately 1 ha and a balance lot of 26.4ha.

### *Site description and surrounding area -*

Certificate of Title 47330/1 (236 Pine Road, Penguin) has a land area of 27.4ha and is zoned Agriculture. The site is subject to the Bushfire-Prone Areas Overlay under the *C13.0 Bushfire-Prone Areas Code* and also contains pockets of land within the low and medium landslip hazard bands under *C15.0 Landslip Hazard Code*. It is however, exempt from the Landslip Hazard Code under the planning scheme's Clause 5.41(e), (h) and (i). The site also contains two dams making the *C7.0 Natural Assets Code* applicable.

The site contains a dwelling and outbuildings. The majority of the land is cleared of native vegetation for agricultural purposes. The property contains a number of differing slopes, up to a peak in the western side of the property.

There are two existing road accesses from Pine Road. Adjoining properties are within the Agriculture Zone and contain a mixture of cropping, grazing and some single dwellings, in a similar pattern to the subject site.

The development site is not connected to reticulated services.

### *History -*

The property known as 236 Pine Road, Penguin was the subject of an application for a permit for a new shed in 2014. There is no other history relevant to this application.

## *DISCUSSION*

The following Table is the Planning Consultant's assessment against the planning scheme provisions:

## 21.0 Agriculture Zone

### 21.1 Zone Purpose

The purpose of the Agriculture Zone is:

21.1.1 To provide for the use or development of land for agricultural use.

21.1.2 To protect land for the use or development of agricultural use by minimising:

- (a) conflict with or interference from non-agricultural uses;
- (b) non-agricultural use or development that precludes the return of the land to agricultural use; and
- (c) use of land for non-agricultural use in irrigation districts.

21.1.3 To provide for use or development that supports the use of the land for agricultural use.

#### Planners comment

The proposal satisfies the Zone Purpose in that it would provide for development without impacting agricultural use. The agricultural use(s) of the property and adjoining properties will continue without impact with the subdivision of the land which will be divided along an existing physical barrier. No change in use is proposed.

No agricultural land is being converted as a result of the development.

| CLAUSE                                 | COMMENT                             |  |
|--|-------------------------------------|--|
| <b>21.3 Use Standards</b>              |                                     |  |
| <b>21.3.1 Discretionary uses</b>       | Not applicable                      | Assessment   |
| 21.3.1-(A1)<br>No acceptable solution. | <input checked="" type="checkbox"/> | The provision of this Clause relates to a use listed as Discretionary, excluding Residential or Resource Development.<br><br>No change in use is proposed, which is both Residential and Resource Development. |
| 21.3.1-(A2)<br>No acceptable solution. | <input checked="" type="checkbox"/> | The provision of this Clause relates to a use listed as Discretionary, excluding Residential.  |

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|   |                                     | No change in use is proposed, which is both Residential and Resource Development.   |
| 21.3.1–(A3)<br><br>No acceptable solution.  | <input checked="" type="checkbox"/> | The provision of this Clause relates to a use listed as Discretionary, excluding Residential.<br><br>No change in use is proposed, which is both Residential and Resource Development.  |
| 21.3.1–(A4)<br><br>No acceptable solution.  | <input checked="" type="checkbox"/> | The provision of this Clause relates to a use listed as Discretionary and includes Residential.<br><br>No change in use is proposed. Residential use is existing and is therefore considered Permitted under Clause 7.2 of the planning scheme. |
| <b>21.4 Development Standards for Buildings and Works</b>   |                                     |   |
| <b>21.4.1 Building height</b>   | <b>Not applicable</b>               | <b>Assessment</b>   |
| 21.4.1–(A1)<br><br>Building height must be not more than 12m.   | <input checked="" type="checkbox"/> | No new buildings are proposed.  |
| <b>21.4.2 Setbacks</b>  | <b>Not applicable</b>               | <b>Assessment</b>   |
| 21.4.2–(A1)<br><br>Buildings must have a setback from all boundaries of:<br><br>(a) not less than 5m; or<br><br>(b) if the setback of an existing building is within 5m, not less than the existing building. | <input checked="" type="checkbox"/> | No new buildings are proposed.<br><br>Setbacks under this Clause is assessed below in the discussion for Clause 21.5.1-(P1)(c) in relation to the existing single dwelling.   |
| 21.4.2–(A2)   | <input checked="" type="checkbox"/> | No new buildings are proposed.  |



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| Buildings for a sensitive use must have a setback from all boundaries of:<br><br>(a) not less than 200m; or<br><br>(b) if the setback of an existing building for a sensitive use on the site is<br><br>within 200m of that boundary, not less than the existing building.   |                                     | Setbacks under this Clause is assessed below in the discussion for Clause 21.5.1-(P1)(c) in relation to the existing single dwelling.                                 |
| <b>21.4.3 Access for new dwellings</b>   | <b>Not applicable</b>               | <b>Assessment</b>   |
| 21.4.3-(A1)<br><br>New dwellings must be located on lots that have frontage with access to a road maintained by a road authority.  | <input checked="" type="checkbox"/> | No new dwellings are proposed.  |
| <b>21.5 Development Standards for Subdivision</b>  |                                     |   |
| <b>21.5.1 Lot design</b>   | <b>Not applicable</b>               | <b>Assessment</b>   |
| 21.5.1-(A1)<br><br>Each lot, or a lot proposed in a plan of subdivision, must:<br><br>(a) be required for public use by the Crown, a council or a State authority;<br><br>(b) be required for the provision of Utilities or irrigation infrastructure; or<br><br>(c) be for the consolidation of a lot with another lot provided both lots are within the same zone. | <input type="checkbox"/>            | (a) Refer to (c).<br><br>(b) Refer to (c).<br><br>(c) Non-compliant. The subdivision is not for a consolidation.<br><br>Refer to the "Issues" section of this report. |
| 21.5.1-(A2)<br><br>Each lot, or a lot proposed in a plan of subdivision, must be provided with a   | <input type="checkbox"/>            | Compliant via conditions provided by Infrastructure Services. Each existing access will require some upgrades.  |

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| vehicular access from the boundary of the lot to a road in accordance with the requirements of the road authority. |  |  |
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| CODES   | NOT APPLICABLE                      | APPLICABLE            |
|---|-------------------------------------|-----------------------|
| <b>C1.0 Signs Code</b>  | <input checked="" type="checkbox"/> |                       |
| <b>C2.0 Parking and Sustainable Transport Code</b>                  |                                     | Refer to table below. |
| <b>C3.0 Road and Railway Assets Code</b>                            | <input checked="" type="checkbox"/> |                       |
| <b>C4.0 Electricity Transmission Infrastructure Protection Code</b> | <input type="checkbox"/>            |                       |
| <b>C5.0 Telecommunications Code</b>                                 | <input checked="" type="checkbox"/> |                       |
| <b>C6.0 Local Historic Heritage Code</b>                            | <input checked="" type="checkbox"/> |                       |
| <b>C7.0 Natural Assets Code</b>                                     |                                     | Refer to table below. |
| <b>C8.0 Scenic Protection Code</b>                                  | <input checked="" type="checkbox"/> |                       |
| <b>C9.0 Attenuation Code</b>  | <input checked="" type="checkbox"/> |                       |
| <b>C10.0 Coastal Erosion Hazard Code</b>                            | <input checked="" type="checkbox"/> |                       |
| <b>C11.0 Coastal Inundation Hazard Code</b>                         | <input checked="" type="checkbox"/> |                       |
| <b>C12.0 Flood-Prone Areas Hazard Code</b>                          | <input checked="" type="checkbox"/> |                       |
| <b>C13.0 Bushfire-Prone Areas Code</b>                              |                                     | Refer to table below. |
| <b>C14.0 Potentially Contaminated Land Code</b>                     | <input checked="" type="checkbox"/> |                       |
| <b>C15.0 Landslip Hazard Code</b>                                   | <input checked="" type="checkbox"/> |                       |
| <b>C16.0 Safeguarding of Airports Code</b>                          | <input checked="" type="checkbox"/> |                       |

## C2.0 Parking and Sustainable Transport Code

| CLAUSE   | COMMENT                  |  |
|--|--------------------------|--|
| <b>C2.5 Use Standards</b>  |                          |  |
| <b>C2.5.1 Car parking numbers</b>  | <b>Not Applicable</b>    | <b>Comments</b>  |
| <p><b>A1</b></p> <p>The number of on-site car parking spaces must be no less than the number specified in Table C2.1, excluding if:</p> <p>(a) the site is subject to a parking plan for the area adopted by council, in which case parking provision (spaces or cash-in-lieu) must be in accordance with that plan;</p> <p>(b) the site is contained within a parking precinct plan and subject to Clause C2.7;</p> <p>(c) the site is subject to Clause C2.5.5; or</p> <p>(d) it relates to an intensification of an existing use or development or a change of use where:</p> <p>(i) the number of on-site car parking spaces for the existing use or development specified in Table C2.1 is greater than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case no additional on-site car parking is required; or</p> | <input type="checkbox"/> | <p>Compliant. On-site car parking must provide for 2 parking spaces for the existing residential use. These exist and will remain. There is no requirement for agricultural use.</p> |

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| <p>(ii) the number of on-site car parking spaces for the existing use or development specified in</p> <p>Table C2.1 is less than the number of car parking spaces specified in Table C2.1 for the proposed use or development, in which case on-site car parking must be calculated as follows:</p> <p><math>N = A + (C - B)</math></p> <p>N = Number of on-site car parking spaces required</p> <p>A = Number of existing on site car parking spaces</p> <p>B = Number of on-site car parking spaces required for the existing use or development specified in Table C2.1</p> <p>C = Number of on-site car parking spaces required for the proposed use or development specified in Table C2.</p> |  |  |
| <p><b>C2.5.2 Bicycle parking numbers</b></p>   | <p><b>Not Applicable</b></p>               | <p><b>Comments</b></p>                   |
| <p><b>A1</b></p> <p>Bicycle parking spaces must:</p> <p>(a) be provided on the site or within 50m of the site; and</p>   | <p><input checked="" type="checkbox"/></p> | <p>Not required for the subdivision.</p> |

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| (b) be no less than the number specified in Table C2.1.   |                                     |                                   |
| <b>C2.5.3 Motorcycle parking numbers</b>  | <b>Not Applicable</b>               | <b>Comments</b>                   |
| <p><b>A1</b></p> <p>The number of on-site motorcycle parking spaces for all uses must:</p> <p>(a) be no less than the number specified in Table C2.4; and;</p> <p>(b) if an existing use or development is extended or intensified, the number of on-site motorcycle parking spaces must be based on the proposed extension or intensification provided the existing number of motorcycle parking spaces is maintained.</p> | <input checked="" type="checkbox"/> | Not required for the subdivision. |
| <b>C2.5.4 Loading bays</b>  | <b>Not Applicable</b>               | <b>Comments</b>                   |
| <p><b>A1</b></p> <p>A loading bay must be provided for uses with a floor area of more than 1000m<sup>2</sup> in a single occupancy.</p>   | <input checked="" type="checkbox"/> | Not required for the subdivision. |
| <b>C2.5.5 Number of car parking spaces within General Residential Zone and Inner Residential Zone</b>   | <b>Not Applicable</b>               | <b>Comments</b>                   |
| <p><b>A1</b></p> <p>Within existing non-residential buildings in the General Residential Zone and Inner Residential Zone, on-site car parking is not required for:</p>  | <input checked="" type="checkbox"/> | Site is zoned Agriculture.        |

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| (a) Food Services uses up to 100m <sup>2</sup> floor area or 30 seats, whichever is the greater; and  |  |  |
| (b) General Retail and Hire uses up to 100m <sup>2</sup> floor area, provided the use complies with the hours of operation specified in the relevant Acceptable Solution for the relevant zone. |  |  |

| <b>C2.6 Development Standards for Buildings and Works</b>  |                          |   |
|--|--------------------------|---|
| <b>C2.6.1 Construction of parking areas</b>  | <b>Not Applicable</b>    | <b>Comments</b>   |
| <p><b>A1</b></p> <p>All parking, access ways, manoeuvring and circulation spaces must:</p> <p>(a) be constructed with a durable all weather pavement;</p> <p>(b) be drained to the public stormwater system, or contain stormwater on the site; and</p> <p>(c) excluding all uses in the Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Recreation Zone and Open Space Zone, be surfaced by a spray seal, asphalt, concrete, pavers or equivalent material to restrict abrasion from traffic and minimise entry of water to the pavement.</p> | <input type="checkbox"/> | <p>(a) Compliant. Existing arrangement is adequate for the existing single dwelling.</p> <p>(b) Compliant. Existing arrangement is adequate for the existing single dwelling.</p> <p>(c) Not applicable. Site is zoned Agriculture.</p> |

| <b>C2.6.2 Design and layout of parking areas</b>   | <b>Not Applicable</b>    | <b>Comments</b>  |
|--|--------------------------|--|
| <p><b>A1.1</b></p> <p>Parking, access ways, manoeuvring and circulation spaces must either:</p> <p>(a) comply with the following:</p> <ul style="list-style-type: none"> <li>(i) have a gradient in accordance with <i>Australian Standard AS 2890 – Parking facilities, Parts 1-6</i>;</li> <li>(ii) provide for vehicles to enter and exit the site in a forward direction where providing for more than 4 parking spaces;</li> <li>(iii) have an access width not less than the requirements in Table C2.2;</li> <li>(iv) have car parking space dimensions which satisfy the requirements in Table C2.3;</li> <li>(v) have a combined access and manoeuvring width adjacent to parking spaces not less than the requirements in Table C2.3 where there are 3 or more car parking spaces;</li> <li>(vi) have a vertical clearance of not less than 2.1m above the parking surface level; and</li> </ul> | <input type="checkbox"/> | <p>Compliant. Existing arrangement is adequate for the existing single dwelling.</p> |

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| <p>(vii) excluding a single dwelling, be delineated by line marking or other clear physical means; or</p> <p>(b) comply with <i>Australian Standard AS 2890- Parking facilities, Parts 1-6.</i></p> <p><b>A1.2</b></p> <p>Parking spaces provided for use by persons with a disability must satisfy the following:</p> <p>(a) be located as close as practicable to the main entry point to the building;</p> <p>(b) be incorporated into the overall car park design; and</p> <p>© be designed and constructed in accordance with <i>Australian/New Zealand Standard AS/NZS 2890.6:2009 Parking facilities, Off-street parking for people with disabilities.</i><sup>1</sup></p> <p><sup>1</sup> Requirements for the number of accessible car parking spaces are specified in part D3 of the National Construction Code 2016.</p> |                                 |   |
| <p><b>C2.6.3 Number of accesses for vehicles</b></p>  | <p><b>Not Applicable</b></p>    | <p><b>Comments</b></p>  |
| <p><b>A1</b></p> <p>The number of accesses provided for each frontage must:</p> <p>(a) be no more than 1; or</p>  | <p><input type="checkbox"/></p> | <p>(a) Compliant. One access is proposed for each lot.</p> <p>(b) Refer to (a).</p> |



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| <p>(b) no more than the existing number of accesses,<br/><br/>whichever is the greater.</p>  |                                     |  |
| <p><b>A2</b><br/><br/>Within the Central Business Zone or in a pedestrian priority street no new access is provided unless an existing access is removed.</p>  | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p>        |
| <p><b>C2.6.4 Lighting of parking areas within the General Business Zone and Central Business Zone</b></p>  | <p><b>Not Applicable</b></p>        | <p><b>Comments</b></p>                   |
| <p><b>A1</b><br/><br/>In car parks within the General Business Zone and Central Business Zone, parking and vehicle circulation roads and pedestrian paths serving 5 or more car parking spaces, which are used outside daylight hours, must be provided with lighting in accordance with clause 3.1 “Basis of Design” and Clause 3.6 “Car parks” in <i>Australian Standards/ New Zealand Standard AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting – Performance and design requirements.</i></p> | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p>        |
| <p><b>C2.6.5 Pedestrian access</b></p>   | <p><b>Not Applicable</b></p>        | <p><b>Comments</b></p>                   |
| <p><b>A1.1</b><br/><br/>Uses that require 10 or more car parking spaces must:</p> <p>(b) have a 1m wide footpath that is separated from the access ways or parking aisles, excluding where crossing</p>  | <input checked="" type="checkbox"/> | <p>Not required for the subdivision.</p> |

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| <p>access ways or parking aisles by:</p> <p>(i) a horizontal distance of 2.5m between the edge of the footpath and the access way or parking aisle; or</p> <p>(ii) protective devices such as bollards, guard rails or planters between the footpath and the access way or parking aisle; and</p> <p>(b) be signed and line marked at points where pedestrians cross access ways or parking aisles.</p> |                                     |  |
| <p><b>A1.2</b></p> <p>In parking areas containing accessible car parking spaces for use by persons with a disability, a footpath having a width not less than 1.5m and a gradient not steeper than 1 in 14 is required from those spaces to the main entry point to the building.</p>   | <input checked="" type="checkbox"/> | <p>Not required for the subdivision.</p> |
| <p><b>C2.6.6 Loading bays</b></p>   | <p><b>Not Applicable</b></p>        | <p><b>Comments</b></p>                   |
| <p><b>A1</b></p> <p>The area and dimensions of loading bays and access way areas must be designed in accordance with <i>Australian Standard AS 2890.2-2002 Parking Facilities Part 2: Parking facilities- Off-street commercial vehicle facilities</i>, for the type of vehicles likely to use the site.</p>  | <input checked="" type="checkbox"/> | <p>Not required for the subdivision.</p> |

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| <p><b>A2</b></p> <p>The type of commercial vehicles likely to use the site must be able to enter, park and exit the site in a forward direction in accordance with <i>Australian Standard AS2890. 2- 2002 Parking Facilities Part 2: Parking facilities- Off-street commercial vehicle facilities.</i></p>   | <input checked="" type="checkbox"/> | <p>Not required for the subdivision.</p> |
| <p><b>C2.6.7 Bicycle parking and storage facilities within the General Business Zone and Central Business Zone</b></p>   | <p><b>Not Applicable</b></p>        | <p><b>Comments</b></p>                   |
| <p><b>A1</b></p> <p>Bicycle parking for uses that require 5 or more bicycle spaces in Table C2.1 must:</p> <p>(a) be accessible from a road, cycle path, bicycle lane, shared path or access way;</p> <p>(b) be located within 50m from an entrance;</p> <p>(c) be visible from the main entrance or otherwise signed; and</p> <p>(d) be available and adequately lit during the times they will be used, in accordance with Table 2.3 of <i>Australian/New Zealand Standard AS/NZS 1158.3.1: 2005 Lighting for roads and public spaces – Pedestrian area (Category P) lighting – Performance and design requirements.</i></p> | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p>        |

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| <p><b>A2</b></p> <p>Bicycle parking spaces must:</p> <p>(a) have dimensions not less than:</p> <p>(i) 1.7m in length;</p> <p>(ii) 1.2m in height; and</p> <p>(iii) 0.7m in width at the handlebars;</p> <p>(b) have unobstructed access with a width of not less than 2m and a gradient not steeper than 5% from a road, cycle path, bicycle lane, shared path or access way; and</p> <p>(c) include a rail or hoop to lock a bicycle that satisfies <i>Australian Standard AS 2890.3-2015 Parking facilities – Part 3: Bicycle parking</i>.</p> | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p> |
| <p><b>C2.6.8 Siting of parking and turning areas</b></p>   | <p><b>Not Applicable</b></p>        | <p><b>Comments</b></p>            |
| <p><b>A1</b></p> <p>Within an Inner Residential Zone, Village Zone, Urban Mixed Use Zone, Local Business Zone or General Business Zone, parking spaces and vehicle turning areas, including garages or covered parking areas must be located behind the building line of buildings, excluding if a parking area is already provided in front of the building line.</p>   | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p> |
| <p><b>A2</b></p> <p>Within the Central Business Zone, on-site parking at ground level adjacent to a frontage must:</p> <p>(a) have no new vehicle accesses, unless an existing access is removed;</p>  | <input checked="" type="checkbox"/> | <p>Site is zoned Agriculture.</p> |

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| (b) retain an active street frontage; and<br>(c) not result in parked cars being visible from public places in the adjacent roads.                    |                                     |  |
| <b>C2.7 Parking Precinct Plan</b>   |                                     |  |
| <b>C2.7.1 Parking precinct plan</b>   | <b>Not Applicable</b>               | <b>Comments</b>                          |
| <b>A1</b><br>Within a parking precinct plan, on-site parking must:<br>(a) not be provided; or<br>(b) not be increased above existing parking numbers. | <input checked="" type="checkbox"/> | Site not within a parking precinct plan. |

#### C7.0 Natural Assets Code

| CLAUSE  | COMMENT                             |   |
|---|-------------------------------------|---|
| <b>C7.5 Use Standards</b><br><br>There are no use Standards in this code.   |                                     |   |
| <b>C7.6 Development Standards for Buildings and Works</b>   |                                     |   |
| <b>C7.6.1. Buildings and works within a waterway and coastal protection area or a future coastal refugia area</b>   | <b>Not Applicable</b>               | <b>Assessment</b>                                       |
| <b>A1</b><br>Buildings and works within a waterway and coastal protection area must:<br>(a) be within a building area on a sealed plan approved under this planning scheme; | <input checked="" type="checkbox"/> | No building or works proposed within the waterway area. |

|  |                                     |  |
|--|-------------------------------------|--|
| <p>(b) in relation to a Class 4 watercourse, be for a crossing or bridge not more than 5m in width; or</p> <p>(c) if within the spatial extent of tidal waters, be an extension to an existing boat ramp, car park, jetty, marina, marine farming shore facility or slipway that is not more than</p> <p>20% of the area of the facility existing at the effective date.</p> |                                     |  |
| <p><b>A2</b></p> <p>Buildings and works within a future coastal refugia area must be located within a building area on a sealed plan approved under this planning scheme.</p>  | <input checked="" type="checkbox"/> | <p>No building or works proposed within a future coastal refugia area.</p> |
| <p><b>A3</b></p> <p>Development within a waterway and coastal protection area or a future coastal refugia area must not involve a new stormwater point discharge into a watercourse, wetland or lake.</p>  | <input checked="" type="checkbox"/> | <p>No development proposed within the waterway area.</p>                   |
| <p><b>A4</b></p> <p>Dredging or reclamation must not occur within a waterway and coastal protection area or a future coastal refugia area.</p>   | <input checked="" type="checkbox"/> | <p>No dredging or reclamation.</p>   |
| <p><b>A5</b></p> <p>Coastal protection works or watercourse erosion or inundation protection works must not occur within a waterway and coastal protection area or a future coastal refugia area.</p>  | <input checked="" type="checkbox"/> | <p>No works proposed within the waterway area.</p>                         |

|   |                                     |  |
|---|-------------------------------------|--|
| <b>C7.6.2- Clearance within a priority vegetation area</b>  | <b>Not Applicable</b>               | <b>Assessment</b>  |
| <b>A1</b><br><br>Clearance of native vegetation within a priority vegetation area must be within a building area on a sealed plan approved under this planning scheme.  | <input checked="" type="checkbox"/> | No clearing proposed.  |
| <b>C7.7 Development Standards for Subdivision</b>   |                                     |  |
| <b>C7.7.1 Subdivision within a waterway and coastal protection area or a future coastal refugia area</b>  | <b>Not Applicable</b>               | <b>Assessment</b>  |
| <b>A1</b><br><br>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: <p>(a) be for the creation of separate lots for existing buildings;</p> <p>(b) be required for public use by the Crown, a council, or a State authority;</p> <p>(c) be required for the provision of Utilities;</p> <p>(d) be for the consolidation of a lot; or</p> <p>(e) not include any works (excluding boundary fencing), building area, services, bushfire hazard management area or vehicular access within a waterway and coastal protection area or future coastal refugia area.</p> | <input type="checkbox"/>            | <p>(a) Refer to (e).</p> <p>(b) Refer to (e).</p> <p>(c) Refer to (e).</p> <p>(d) Refer to (e).</p> <p>(e) Compliant. No works or hazard management areas are proposed within the waterway area.</p> |

| <b>C7.7.2 Subdivision within a priority vegetation area</b>  | <b>Not Applicable</b>               | <b>Assessment</b>                               |
|--|-------------------------------------|---|
| <p><b>A1</b></p> <p>Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must:</p> <p>(a) be for the purposes of creating separate lots for existing buildings;</p> <p>(b) be required for public use by the Crown, a council, or a State authority;</p> <p>(c) be required for the provision of Utilities;</p> <p>(d) be for the consolidation of a lot; or</p> <p>(e) not include any works (excluding boundary fencing), building area, bushfire hazard management area, services or vehicular access within a priority vegetation area.</p> | <input checked="" type="checkbox"/> | <p>No priority vegetation area is impacted.</p> |

### **C13.0 Bushfire-Prone Areas Code**

| CLAUSE  | COMMENT                             |                                       |
|---|-------------------------------------|---------------------------------------|
| <b>C13.5 Use Standards</b>                      |                                     |                                       |
| <b>C13.5.1. Vulnerable uses</b>                 | Not Applicable                      | Assessment                            |
| <p><b>A1</b></p> <p>No Acceptable Solution.</p> | <input checked="" type="checkbox"/> | <p>No vulnerable use is proposed.</p> |
| <p><b>A2</b></p>                                | <input checked="" type="checkbox"/> | <p>No vulnerable use is proposed.</p> |



|   |                                     |   |
|---|-------------------------------------|---|
| An emergency management strategy (vulnerable use) is endorsed by the TFS or accredited person.  |                                     |   |
| <b>A3</b><br>A bushfire hazard management plan that contains appropriate bushfire protection measures that is certified by the TFS or an accredited person.   | <input checked="" type="checkbox"/> | No vulnerable use is proposed.  |
| <b>C13.5.2. Hazardous uses</b>  | Not Applicable                      | Assessment  |
| <b>A1</b><br>No Acceptable Solution.  | <input checked="" type="checkbox"/> | No hazardous use is proposed.   |
| <b>A2</b><br>An emergency management strategy (hazardous use) is endorsed by the TFS or accredited person.  | <input checked="" type="checkbox"/> | No hazardous use is proposed.   |
| <b>A3</b><br>A bushfire hazard management plan that contains appropriate bushfire protection measures that is certified by the TFS or an accredited person.   | <input checked="" type="checkbox"/> | No hazardous use is proposed.   |
| <b>C13.6 Development Standards for Subdivision</b>  |                                     |   |
| <b>C13.6.1 Provision of hazard management areas</b>   | Not Applicable                      | Assessment  |
| <b>A1</b><br>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of hazard management areas as part of a subdivision; or<br>(b) The proposed plan of subdivision: | <input type="checkbox"/>            | (a) Refer to (b).<br>(b) Compliant. The application is accompanied by a Bushfire Hazard Management Plan, with actions required to achieve compliance with (b).<br>(c) Refer to (b). |

|  |  |  |
|--|--|--|
| <p>(i) shows all lots that are within or partly within a bushfire-prone area, including those developed at each stage of a staged subdivision;</p> <p>(ii) shows the building area for each lot;</p> <p>(iii) shows hazard management areas between bushfire-prone vegetation and each building area that have dimensions equal to, or greater than, the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959-2009 Construction of buildings in bushfire-prone areas</i>; and</p> <p>(iv) is accompanied by a bushfire hazard management plan that addresses all the individual lots and that is certified by the TFS or accredited person, showing hazard management areas equal to, or greater than the separation distances required for BAL 19 in Table 2.4.4 of <i>Australian Standard AS3959-2009 Construction of buildings in bushfire-prone Areas</i>; and</p> |  |  |
|--|--|--|

|   |                                 |   |
|---|---------------------------------|---|
| <p>(c) if hazard management areas are to be located on land external to the proposed subdivision the application is accompanied by the written consent of the owner of that land to enter into an agreement under section 71 of the Act that will be registered on the title of the neighbouring property providing for the affected land to be managed in accordance with the bushfire hazard management plan.</p>   |                                 |   |
| <p><b>C13.6.2 Public and fire fighting access</b></p>   | <p>Not Applicable</p>           | <p>Assessment</p>   |
| <p><b>A1</b></p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant specific measures for public access in the subdivision for the purposes of fire fighting; or</p> <p>(b) A proposed plan of subdivision showing the layout of roads, fire trails and the location of property access to building areas, is included in a bushfire hazard management plan that:</p> <p>(i) demonstrates proposed roads will comply with Table C13.1, proposed property proposed fire trails will comply with Table C13.3 and</p> <p>(ii) is certified by the TFS or an accredited person.</p> | <p><input type="checkbox"/></p> | <p>(a) Refer to (b).</p> <p>(b) Compliant. The application is accompanied by a Bushfire Hazard Management Plan, with actions required to achieve compliance with (b).</p> |

| <b>C13.6.3 Provision of water supply for fire fighting purposes</b>   | Not Applicable                      | Assessment   |
|---|-------------------------------------|--|
| <p><b>A1</b></p> <p>In areas serviced with reticulated water by the water corporation:</p> <p>(a) TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant the provision of a water supply for fire fighting purposes;</p> <p>(b) A proposed plan of subdivision showing the layout of fire hydrants, and building areas, is included in a bushfire hazard management plan approved by the TFS or accredited person as being compliant with Table C13.4; or</p> <p>(c) A bushfire hazard management plan certified by the TFS or an accredited person demonstrates that the provision of water supply for fire fighting purposes is sufficient to manage the risks to property and lives in the event of a bushfire.</p> | <input checked="" type="checkbox"/> | <p>Area is not serviced.</p>   |
| <p><b>A2</b></p> <p>In areas that are not serviced by reticulated water by the water corporation:</p> <p>(a) The TFS or an accredited person certifies that there is an insufficient increase in risk from bushfire to warrant provision of a water supply for fire fighting purposes;</p> <p>(b) The TFS or an accredited person certifies that a proposed plan of</p>   |                                     | <p>(a) Refer to (b).</p> <p>(b) Compliant. The application is accompanied by a Bushfire Hazard Management Plan, with actions required to achieve compliance with (b).</p> <p>(c) Refer to (b).</p> |

|  |  |  |
|--|--|--|
| <p>subdivision demonstrates that a static water supply, dedicated to fire fighting, will be provided and located compliant with Table C13.5; or</p> <p>(c) A bushfire hazard management plan certified by the TFS or an accredited person demonstrates that the provision of water supply for fire fighting purposes is sufficient to manage the risks to property and lives in the event of a bushfire.</p> |  |  |
|--|--|--|

| SPECIFIC AREA PLANS                              | NOT APPLICABLE                      | APPLICABLE |
|--|-------------------------------------|------------|
| <b>CCO-S1.0 Forth Specific Area Plan</b>         | <input checked="" type="checkbox"/> |            |
| <b>CCO-S2.0 Leith Specific Area Plan</b>         | <input checked="" type="checkbox"/> |            |
| <b>CCO-S3.0 Penguin Specific Area Plan</b>       | <input checked="" type="checkbox"/> |            |
| <b>CCO-S4.0 Revell Lane Specific Area Plan</b>   | <input checked="" type="checkbox"/> |            |
| <b>CCO-S5.0 Turners Beach Specific Area Plan</b> | <input checked="" type="checkbox"/> |            |

| CCO CODE LISTS                              |   |
|---|---|
| <b>CCO-Table C3.1 Other Major Roads</b>     | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C6.1 Local Heritage Places</b> | This table is not used in this Local Provisions Schedule. |

|   |   |
|---|---|
| <b>CCO-Table C6.2 Local Heritage Precincts</b>                        | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C6.3 Local Historic Landscape Precincts</b>              | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C6.4 Places or Precincts of Archaeological Potential</b> | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C6.5 Significant Trees</b>                               | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C8.1 Scenic Protection Areas</b>                         | Not applicable to this application.                       |
| <b>CCO-Table 8.2 Scenic Road Corridors</b>                            | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Table C11.1 Coastal Inundation Hazard Bands AHD levels</b>     | Not applicable to this application.                       |
| <b>CCO-Applied, Adopted or Incorporated Documents</b>                 | This table is not used in this Local Provisions Schedule. |
| <b>CCO-Site-Specific Qualifications</b>                               | This table is used in this Local Provisions Schedule.     |

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*Issues –*

*1 Clause 21.5.1–(P1) – Development Standards for Subdivision (Lot design) –*

As stated in the planning scheme’s Clause 5.6.4, the planning authority may consider the relevant Objective in an applicable standard to determine whether a use or development satisfies the Performance Criterion for that standard.

The Objective for Clause 21.5.1 states that lot design is to:

- (a) Relate to public use, irrigation infrastructure or Utilities; and
- (b) Protect the long term productive capacity of agricultural land.

Planner’s comment: The agricultural report, included in the application documentation, states that the lot to be excised contains no existing irrigation. All irrigation mains and infrastructure would be retained in proposed Lot 2. Any current or future irrigation potential at the property will not be negatively impacted nor diminished by the proposed development. In addition, the report states that “there is no loss of productive capacity of the land”.

The subdivision cannot satisfy the planning scheme’s Acceptable Solution for Clause 21.5.1–(A1). The application is therefore discretionary and relies on assessment against the Performance Criteria.

The planning scheme’s Performance Criteria for Clause 21.5.1–(P1) states that lot design must comply with Clause part (a), (b) or (c). This proposal relies on assessment and compliance under part (c) of this Clause. Part (a) and (b) do not apply to this application. Therefore, no discussion or assessment is necessary regarding part (a) and (b).

Clause 21.5.1–(P1)(c) of the planning scheme states that each lot, or a lot proposed in a plan of subdivision, must:

- (c) excising a use or development existing at the effective date that satisfies all of the following:
  - (i) the balance lot provides for the operation of an agricultural use, having regard to:

- a. not materially diminishing the agricultural productivity of the land;

Planner's comment: The application is accompanied by an agricultural report prepared by a suitably qualified agronomist. This report confirms that the area to be excised does not include any land that is currently productive.

- b. the capacity of the balance lot for productive agricultural use;

Planner's comment: The agronomist's report states that the "*balance lot retains 96% of the land area and all existing agricultural land use and there is no loss of productive capacity of the land*".

- c. any topographical constraints to agricultural use; and

Planner's comment: The agronomist's report does not mention topography in response to this provision. However, an on-site assessment indicates that topography does not constrain the existing agricultural use on any portion of the site, regardless of lot layout.

- d. current irrigation practices and the potential for irrigation;

Planner's comment: The agronomist's report states that "*the proposed Lot 1 to be excised has no existing irrigation. All irrigation mains and infrastructure are retained in proposed Lot 2. Any current or future irrigation potential at the property will not be negatively impacted no diminished by the proposed development*".

- (ii) an agreement under section 71 of the Act is entered into and registered on the title preventing future Residential use if there is no dwelling on the balance lot;



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Planner's comments: Any permit for a house excision that has relied on an assessment against this provision must include a condition requiring a binding legal agreement under Section 71 of the Act. This Agreement must prevent future Residential use, if there is no dwelling on the balance lot. This is mandatory to ensure compliance can be achieved. There is currently no dwelling on the proposed balance lot, therefore a Part 5 Agreement is required. The Permit has been conditioned accordingly.

- (iii) any existing buildings for a sensitive use must meet the setbacks required by clause 21.4.2-(A2) or (P2) in relation to setbacks to new boundaries; and

Planner's comment: The agronomist's report has addressed this provision in relation to Clause 21.4.2-(P2). This is because the existing single dwelling (considered a sensitive use being Residential) would not be setback 200m from the new boundaries.

The planning scheme's Clause 21.4.2-(P2) states that buildings for a sensitive use must be sited so as not to conflict or interfere with an agricultural use, having regard to:

- (a) the size, shape and topography of the site;

Planner's comment: The site is undulating, with a variety of gentle to moderate slopes.

- (b) the prevailing setbacks of any existing buildings for sensitive uses on adjoining properties;

Planner's comment: The site has three adjoining properties. The adjoining properties immediately to the north and west do not contain a sensitive use. The property to the east contains a sensitive use. The single dwelling on the adjoining eastern property is setback to its eastern boundary (closest boundary) approximately 20m. The existing single dwelling on the development site would be

setback approximately 34m to a boundary as a result of the subdivision.

- (c) the location of existing buildings on the site;

Planner's comment: The existing buildings for the sensitive use are located in the south-eastern corner of the site, on the proposed Lot 1, in proximity to Pine Road. One agricultural building would be retained on the proposed balance lot.

- (d) the existing and potential use of adjoining properties;

Planner's comment: The proposed house excision site would be surrounded on all sides (with the exception of the southern boundary) by the existing agricultural uses, including cropping, irrigation, grazing and a horse stud. Potential future use is likely to be similar to these existing uses.

- (e) any proposed attenuation measures; and

Planner's comment: The application documentation proposes no attenuation measures.

- (f) any buffers created by natural or other features.

Planner's comment: The agronomist's report states that "*the existing dwelling is well buffered by established landscaping vegetation on all sides and recently planted shelter belt to the west. Therefore, the proposal will not confine or constrain surrounding land use and residential amenities*".

- (iv) all new lots must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use.

Planner's comment: The existing development site currently holds two access points. Each of the proposed lots would utilise one of these accesses and therefore have one legal access across Pine Road. Standard conditions regarding access upgrades are to be included in any Permit.

Conclusion: It is considered that the application has demonstrated compliance with Clause 21.5.1 P1-(c).

*Referral advice –*

Referral advice from the various Departments of the Council and other service providers is as follows:

| SERVICE                          | COMMENTS/CONDITIONS                        |
|----------------------------------|--|
| Environmental Health             | Referral not required.                     |
| Building                         | Referral not required.                     |
| Engineering                      | To include Conditions and Notes in Permit. |
| TasWater                         | Referral not required.                     |
| Department of State Growth       | Referral not required.                     |
| Environment Protection Authority | Referral not required.                     |
| TasRail                          | Referral not required.                     |
| Heritage Tasmania                | Referral not required.                     |
| Crown Land Services              | Referral not required.                     |
| Other                            | Referral not required.                     |

## CONSULTATION

In accordance with s.57(3) of the *Land Use Planning and Approvals Act 1993*:

- . a site notice was posted;
- . letters to adjoining owners were sent; and
- . an advertisement was placed in the Public Notices section of The Advocate.


### *Representations –*

One representation was received, a copy of which is provided at Annexure 4.

The representation is summarised and responded to as follows:

| MATTER RAISED                                      | COMMENTS  |
|--|---|
| 1 Objects to the land being classified as Class 4. | The application documentation includes an agricultural assessment by a qualified agronomist. The property is identified as a mix of Class 2, 3 and 4 land.<br><br>The relevant Performance Criteria that assesses land capability in terms of agricultural land is the planning scheme's Clause 21.5.1-(P1)(c). This has been addressed in the "Issues" section above in detail. This provision does not require the land to have any particular classification level for consideration of an excision of a dwelling. |

|   |  |
|---|--|
| <p>2 Proposal does not meet 1c as the land is highly productive land; the land around the house is very productive, fertile land.</p> | <p>It is assumed that this comment refers to Clause 21.5.1–(P1)(c).</p> <p>This Clause is addressed in detail in the “Issues” section above.</p> <p>The application is accompanied by an agricultural report stating that <i>“the proposed excision will result in the loss of approximately 1ha of land, about half of which is already developed and landscaped land and is surplus to the needs for operation and management of the agricultural land use activity at the property. Therefore, the proposed subdivision would have no significant impact in the productive capacity of the land”</i>.</p> |
| <p>3 The land is question has been farmed in the past.</p>  | <p>Historic aerial photos (as obtained from NearMap Aerial Imagery) demonstrate that at least some of the land proposed for excision has been farmed in the past (refer Figure 1 below). This land is currently not being farmed. Rather, it is being utilised as part of the residential use.</p> <p>The relevant Performance Criteria in the planning scheme states that the proposal must be “for the excision of a use or development existing at the effective date...”.</p>  |

|   |  |
|---|--|
|   | <p>The current planning scheme became effective on 27 October 2021. Aerial photographs demonstrate that on this date, the land in question for excision was not being utilised as part of the agricultural use (refer Figure 2 below).</p>  <p><i>Figure 1 October 2015, NearMap Aerial Imagery</i></p> |
|   |  <p><i>Figure 2 October 2021, NearMap Aerial Imagery</i></p>   |
| <p>4 Supports the development of land but not at the cost of agricultural land.</p> | <p>Noted. The Planning Authority must assess the proposal as submitted and ensure it is assessed on its own merits.</p>  |

|   |   |  |
|---|---|--|
| 5 | Nearby land with poorer soils could be developed for residential use.   | Noted. The Planning Authority must assess the proposal as submitted and ensure it is assessed on its own merits.   |
| 6 | Concerned that a later development application would be lodged for a dwelling on the balance land and the nature or strength of any agreement under section 71. | <p>Any permit for a house excision in this scenario is required to include a restriction under section 71 of the Act preventing future Residential use of the balance lot.</p> <p>An agreement under section 71 of the Act is a Part 5 Agreement. This is a legally binding document and forms part of the Certificate of Title documentation. This agreement will always remain with the Certificate of Title documentation and can only be revised if approved by the Council. This Part 5 Agreement would never be removed as it would contradict the planning scheme. Any future property owner would be required to comply with the Part 5 Agreement.</p> |

*RESOURCE, FINANCIAL AND RISK IMPACTS*

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council’s determination should one be instituted.

*CORPORATE COMPLIANCE*

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- . Develop and manage sustainable built infrastructure.

*CONCLUSION*

The representation does not hold sufficient merit to warrant refusal of DA2023311 for Subdivision – 1 lot and 1 balance lot at 236 Pine Road, Penguin.

No agricultural land is being converted, nor would the proposal fetter current or future primary industry activity on the subject or adjoining land. Each lot would have appropriate access and the balance lot would be protected to ensure future residential conversion cannot occur.

The grant of a Permit, subject to conditions, is considered to be justified.

*Recommendation –*

It is recommended that application DA2023311 for Subdivision – 1 lot and 1 balance lot – Lot design; and reliance on *C13.0 Bushfire-Prone Areas Code* at 236 Pine Road, Penguin, be approved, subject to the following conditions:

- 1 The development must be substantially in accordance with the following documentation:
  - (a) Plan of Subdivision by PDA Surveyors, Engineers & Planners, Job No. 51850, Drawing No. P02 dated 16 October 2023;
  - (b) Planning Report by PDA Surveyors, Engineers & Planners, Reference 51850, Revision 1 dated 17 November 2023; and
  - (c) Agricultural Assessment and Compliance Report by Pinion Advisory dated September 2023.
- 2 The development must be in accordance with the Bushfire Hazard Management Report: Subdivision by Scott Livingston of Livingston Natural Resource Services, Accreditation No. BFP-105 dated 24 October 2023.
- 3 Prior to the Final Plan of Survey being endorsed, the owner of the land must submit and enter into the following two Part 5 Agreements with the Central Coast Council under section 71 of the *Land Use Planning and Approvals Act 1993*:
  - (a) A Part 5 Agreement for the balance of the lot that is to set out the following matters to the satisfaction of the Director Community, Growth and Development:
    - (i) Preventing future Residential use on the balance lot.
  - (b) A Part 5 Agreement for the excised lot that is to set out the following matters to the satisfaction of the Director Community, Growth and Development:
    - (i) Acknowledge the 24 hours a day, 365 days a year resource development activities and operations that



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occur on adjoining Agriculture Zone land and make reference to matters contained in the *Primary Industry Activities Protection Act 1995*.

- 4 Execution of the Part 5 Agreements, including drafting and registration of the Agreements against the respective Titles, must be at the developer's expense.

Infrastructure Services:

- 5 Existing crossovers and driveway aprons from Pine Road must be used as road access to Lot 1 and the balance lot.
- 6 The existing property accesses and driveway aprons for Lot 1 and the balance lot must be upgraded in accordance with Tasmanian Standard Drawing TSD-R03-v3 Rural Roads – Typical Property Access (enclosed) and Tasmanian Standard Drawing TSD-R04-v3 Rural Roads – Typical Driveway Profile at the developer's cost.
- 7 Stormwater run-off from buildings and hard surfaces, including vehicle parking and manoeuvring areas, must be collected and managed on-site in accordance with the *National Construction Code 2019* to ensure it does not cause nuisance to the neighbouring properties.
- 8 During works and until all exposed soil areas are permanently stabilised against erosion, the developer must minimise on-site erosion and the release of sediment or sediment laden stormwater from the site and work areas in accordance with the 'Soil and Water Management on Standard Building and Construction Sites – Fact Sheet 2' published by the Environment Protection Authority.
- 9 Damage or disturbance to roads, stormwater infrastructures, footpaths, kerb and channel, nature strips or street trees resulting from activity associated with the development must be rectified to the satisfaction of the Council's Director Infrastructure Services and at the developer's cost.
- 10 All works or activity listed above must be at the developer's cost.

Please Note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.

- 2 "Substantial commencement" is the submission and approval of a Building Permit and the physical commencement of infrastructure works on the site, or bank guarantee to undertake such works.

Infrastructure Services:

- 3 Prior to commencement of works in the road reservation, the developer must obtain a "Works in Road Reservation (Permit)".
- 4 Prior to commencement of works, the developer must submit an application for 'Roadworks Authority' (or a 'Private Works Authority'). Roadworks Authority rates as listed in the Council's Fees and Charges register apply.
- 5 Works associated with roads, stormwater infrastructures, footpaths, kerb and channel, nature strips or street trees must be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Infrastructure Services, at the developer's cost.'

The report is supported."

The Executive Services Officer reports as follows:

"A copy of the Annexures referred to in the Planning Consultant's report having been circulated to all Councillors, a suggested resolution is submitted for consideration."

■ Cr Carpenter moved and Cr Beswick seconded, "That application DA2023311 for Subdivision – 1 lot and 1 balance lot – Lot design; and reliance on *C13.0 Bushfire-Prone Areas Code* at 236 Pine Road, Penguin, be approved, subject to the following conditions:

- 1 The development must be substantially in accordance with the following documentation:
  - (a) Plan of Subdivision by PDA Surveyors, Engineers & Planners, Job No. 51850, Drawing No. P02 dated 16 October 2023;
  - (b) Planning Report by PDA Surveyors, Engineers & Planners, Reference 51850, Revision 1 dated 17 November 2023; and
  - (c) Agricultural Assessment and Compliance Report by Pinion Advisory dated September 2023.
- 2 The development must be in accordance with the Bushfire Hazard Management Report: Subdivision by Scott Livingston of Livingston Natural Resource Services, Accreditation No. BFP-105 dated 24 October 2023.

- 
- 3 Prior to the Final Plan of Survey being endorsed, the owner of the land must submit and enter into the following two Part 5 Agreements with the Central Coast Council under section 71 of the *Land Use Planning and Approvals Act 1993*:
- (a) A Part 5 Agreement for the balance of the lot that is to set out the following matters to the satisfaction of the Director Community, Growth and Development:
    - (i) Preventing future Residential use on the balance lot.
  - (b) A Part 5 Agreement for the excised lot that is to set out the following matters to the satisfaction of the Director Community, Growth and Development:
    - (i) Acknowledge the 24 hours a day, 365 days a year resource development activities and operations that occur on adjoining Agriculture Zone land and make reference to matters contained in the *Primary Industry Activities Protection Act 1995*.
- 4 Execution of the Part 5 Agreements, including drafting and registration of the Agreements against the respective Titles, must be at the developer's expense.

Infrastructure Services:

- 5 Existing crossovers and driveway aprons from Pine Road must be used as road access to Lot 1 and the balance lot.
- 6 The existing property accesses and driveway aprons for Lot 1 and the balance lot must be upgraded in accordance with Tasmanian Standard Drawing TSD-R03-v3 Rural Roads – Typical Property Access (enclosed) and Tasmanian Standard Drawing TSD-R04-v3 Rural Roads – Typical Driveway Profile at the developer's cost.
- 7 Stormwater run-off from buildings and hard surfaces, including vehicle parking and manoeuvring areas, must be collected and managed on-site in accordance with the *National Construction Code 2019* to ensure it does not cause nuisance to the neighbouring properties.
- 8 During works and until all exposed soil areas are permanently stabilised against erosion, the developer must minimise on-site erosion and the release of sediment or sediment laden stormwater from the site and work areas in accordance with the 'Soil and Water Management on Standard Building and Construction Sites – Fact Sheet 2' published by the Environment Protection Authority.
- 9 Damage or disturbance to roads, stormwater infrastructures, footpaths, kerb and channel, nature strips or street trees resulting from activity associated with the development must be rectified to the satisfaction of the Council's Director Infrastructure Services and at the developer's cost.

10 All works or activity listed above must be at the developer's cost.

Please Note:

- 1 A Planning Permit remains valid for two years. If the use and/or development has not substantially commenced within this period, an extension may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 "Substantial commencement" is the submission and approval of a Building Permit and the physical commencement of infrastructure works on the site, or bank guarantee to undertake such works.

Infrastructure Services:

- 3 Prior to commencement of works in the road reservation, the developer must obtain a "Works in Road Reservation (Permit)".
- 4 Prior to commencement of works, the developer must submit an application for 'Roadworks Authority' (or a 'Private Works Authority'). Roadworks Authority rates as listed in the Council's Fees and Charges register apply.
- 5 Works associated with roads, stormwater infrastructures, footpaths, kerb and channel, nature strips or street trees must be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Infrastructure Services, at the developer's cost."

Carried unanimously

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## **CLOSURE**

There being no further business, the Mayor declared the meeting closed at 6.07pm.

CONFIRMED THIS 19<sup>th</sup> DAY OF FEBRUARY 2024.

## **Chairperson**

(ib)

## **Appendices**

Nil

### *QUALIFIED PERSON'S ADVICE*

The *Local Government Act 1993* (the Act), Section 65 provides as follows:

- “(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 –
  - (a) the general manager certifies, in writing –
    - (i) that such advice was obtained; and
    - (ii) that the general manager took the advice into account in providing general advice to the council or council committee; and
  - (b) a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council or council committee with the general manager's certificate.”

In accordance with Section 65 of the Act, I certify:

- (i) that the reports within these Planning Sub-Committee minutes contain advice, information and recommendations given by persons who have the qualifications and experience necessary to give such advice, information or recommendation;
- (ii) where any advice is directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account another person's general advice who is appropriately qualified or experienced; and
- (ii) that copies of advice received from an appropriately qualified or experienced professional have been provided to the Planning Sub-Committee members.



Barry Omundson  
CHIEF EXECUTIVE OFFICER