



# SORELL PLANNING AUTHORITY (SPA) AGENDA

26 NOVEMBER 2024

COUNCIL CHAMBERS  
COMMUNITY ADMINISTRATION CENTRE (CAC)

# NOTICE OF MEETING

Notice is hereby given that the next meeting of the Sorell Planning Authority (SPA) will be held at the Community Administration Centre (CAC), 47 Cole Street, Sorell on Tuesday, 26 November 2024 commencing at 4:30 pm.

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## CERTIFICATION

I, Robert Higgins, General Manager of the Sorell Council, hereby certify that in accordance with Section 65 of the *Local Government Act 1993*, the reports in this Agenda have been prepared by persons who have the qualifications and experience necessary to give such advice. Information and recommendations or such advice was obtained and taken into account in providing general advice contained within the Agenda.

ROBERT HIGGINS  
GENERAL MANAGER  
21 NOVEMBER 2024



## **AGENDA**

FOR THE SORELL PLANNING AUTHORITY (SPA) MEETING TO BE HELD AT THE COMMUNITY ADMINISTRATION CENTRE (CAC), 47 COLE STREET, SORELL ON TUESDAY 26 NOVEMBER 2024.

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## 1.0 ATTENDANCE

^  
Chairperson Mayor Gatehouse  
Deputy Mayor C Wooley  
Councillor B Nichols  
Councillor S Campbell  
Councillor M Reed  
Councillor N Reynolds  
Councillor C Torenus  
Robert Higgins, General Manager

## 2.0 APOLOGIES

Councillor M Larkins  
Councillor M Miro Quesada Le Roux

## 3.0 CONFIRMATION OF THE MINUTES OF 29 OCTOBER 2024

### RECOMMENDATION

“That the Minutes of the Sorell Planning Authority (SPA) Meeting held on 29 October 2024 be confirmed.”

## 4.0 DECLARATIONS OF PECUNIARY INTEREST



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In considering the following land use planning matters the Sorell Planning Authority intends to act as a planning authority under the *Land Use Planning and Approvals Act 1993*.

## 5.0 LAND USE PLANNING

### 5.1 BOUNDARY ADJUSTMENT APPLICATION NO. SA 2024 / 23 - 1

<b>Applicant:</b>	Rogerson & Birch Surveyors
<b>Proposal:</b>	Boundary Adjustment
<b>Site Address:</b>	93 Lewisham Scenic Drive, & Part of Road Reserve along Lewisham Scenic Drive, Lewisham (CT 27024/1 & CT 35367/1)
<b>Planning Scheme:</b>	Tasmanian Planning Scheme - Sorell
<b>Application Status</b>	Permitted
<b>Relevant Legislation:</b>	Section 57 of the <i>Land Use Planning and Approvals Act 1993 (LUPAA)</i>
<b>Reason for SPA meeting:</b>	Council land

<b>Relevant Zone:</b>	Low Density Residential
<b>Proposed Use:</b>	Not Applicable
<b>Applicable Overlay(s):</b>	Nil.
<b>Applicable Codes(s):</b>	Nil.
<b>Valid Application Date:</b>	07 October 2024
<b>Decision Due:</b>	28 November 2024
<b>Discretion(s):</b>	Not Applicable
<b>Representation(s):</b>	Not Applicable

#### RECOMMENDATION

That pursuant to Section 57 of the *Land Use Planning and Approvals Act 1993* Council resolve that Planning Application 7.2024.23.1 for a Boundary Adjustment at 93 Lewisham Scenic Drive, & Part of Road Reserve along Lewisham Scenic Drive, Lewisham be approved, subject to the following conditions:

1. Except where modified by a condition of this permit, the use and development must be substantially in accordance with the endorsed plans and documents:
  - a) P1 (subdivision layout by Rogerson and Birch dated 19 September 2024



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2. All land noted as roadway, footway, open space or similar must be transferred to Council. Complete transfer documents that have been assessed for stamp duty, must be submitted with the final plan of survey.

**NOTE: THE FOLLOWING ADVICE APPLIES TO THIS PERMIT**

Legal

- The permit does not take effect until 15 days after the date that this permit 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.
- This planning approval shall lapse at the expiration of two (2) years from the date on which this permit became valid, if the permit is not substantially commenced. At the discretion of the Planning Authority, the expiration date may be extended for a further two (2) years on two separate occasions for a total of six (6) years. Once lapsed, a new application will be required.
- Any changes to the use or development approved, may be deemed as substantially in accordance with the permit or may first require either a formal amendment to this permit or a new permit.

Asset Protection

- In accordance with the Local Highway Bylaw 2 of 2015, the owner is required to repair any damage to any Council infrastructure caused during construction.
- Council recommends contacting Dial-Before-You-Dig (phone 1100 or [www.1100.com.au](http://www.1100.com.au)) before undertaking any works.

Other Approvals

- All stormwater management measures and designs on the endorsed plans and documents, together with any related permit condition, constitutes General Managers consent under section 14 of the *Urban Drainage Act 2013*.
- This permit does not imply that any other approval required under any other by-law or legislation has been granted.

## Generally

- Requirements for works or other outcomes to the satisfaction of the General Manager will be delegated to the appropriate officer for determination.
- All engineering related queries should be directed to the Development Engineer. The Council General Manager has delegated functions relevant to the permit to the Development Engineer.
- Sealing of a final plan of survey is subject to a prescribed Council fee at the date of lodgement of the final plan or survey. Land Title Office fees must be paid directly to the Recorder of Titles.
- The final plan of survey is inclusive of any schedule of easement and Part 5 Agreement.
- The final plan of survey will not be sealed until all works required by this permit are complete. On lodgement of the final plan of survey, inspections will be undertaken ,unless otherwise advised by the developer, and additional inspection fees will apply to incomplete or substandard works.

You may appeal against the above conditions, any such appeal must be lodged within fourteen (14) days of service of this notice to TASCAT, 38 Barrack Street Hobart 7000 Ph: ☐(03) 6165 6790 or email [resourceplanning@tascat.tas.gov.au](mailto:resourceplanning@tascat.tas.gov.au)

## Executive Summary

Application is made for a Boundary Adjustment at 93 Lewisham Scenic Drive, & Part of Road Reserve along Lewisham Scenic Drive, Lewisham. This property is zoned Low Density Residential and is located opposite the junction of Lewisham Scenic Drive and Mary Street on the Lewisham foreshore. The dwelling currently encroaches into Council's land which forms part of the road reserve (Certificate of Title 35367/1).

The key planning considerations relate to:

- The application for a boundary adjustment is Permitted and a permit must be granted.
- The dwelling currently encroaches into Council's land which forms part of the road reserve (Certificate of Title 35367/1).



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The application is considered to comply with each applicable standard of the *Tasmanian Planning Scheme Sorell* and is recommended for conditional approval.

### Relevance to Council Plans & Policies

Strategic Plan 2019-2029	Objective 1: To Facilitate Regional Growth Objective 2: Responsible Stewardship and a Sustainable Organisation Objective 3: To Ensure a Liveable and Inclusive Community
Asset Management Strategy 2018	The proposal has no significant implications for asset management.
Risk Management Strategy 2018	In its capacity as a Planning Authority, Council must determine this application. Due diligence has been exercised in preparing this report and there are no predicted risks from a determination of this application.
Financial Implications	No financial implications are anticipated unless the decision is appealed to TASCAT. In such instances, legal counsel is typically required.
Open Space Strategy 2020 and Public Open Space Policy	The proposal has no significant implications for open space management.
Enforcement Policy	Not applicable.
Environmental Sustainability Policy	There are no environmental implications associated with the proposal.

### Legislation

- This report details the reasons for the officer recommendation.
- Broadly, the planning authority can either adopt or change the recommendation by adding, modifying or removing conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- The planning authority has a specific role in LUPAA. As noted by the Tribunal:



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*The role of the Council in relation to planning matters is, in very broad terms, to uphold its planning scheme. In that context it is in a sense, blind to everything but the terms of the Scheme. It cannot put economic advantage or perceived community benefits over the terms of the Scheme. And in the context of enforcement proceedings unless expressly authorised to do so, it may not take any approach which is inconsistent with the terms of its Scheme.*

### **Planning Scheme Operation – for Zones, Codes and site specific provisions**

- Clause 5.6.1 requires that each applicable standard is complied with if an application is to be approved.
- Clause 5.6.2, in turn, outlines that an applicable standard is any standard that deals with a matter that could affect, or could be affected by, the proposal.
- A standard can be met by either complying with an acceptable solution or satisfying the performance criteria, which are equally valid ways to comply with the standard.
- An acceptable solution will specify a measurable outcome. Performance criteria require judgement as to whether or not the proposal reasonably satisfies the criteria.
- Clause 6.10 outlines the matters that must be considered by a planning authority in determining applications. Clause 6.11 outlines the type of conditions and restrictions that can be specified in a conditional approval.

### **Referrals**

Agency / Dept.	Referred?	Response?	Conditions?	Comments
Development Engineering	Yes	Yes	Nil	
Environmental Health	No			
Plumbing	No			
NRM	No			
TasWater	No			
TasNetworks	No			
State Growth	No			

## Report

### Description of Proposal

Application is made for a Boundary Adjustment at 93 Lewisham Scenic Drive, & Part of Road Reserve along Lewisham Scenic Drive, Lewisham. This property is zoned low density residential and is located opposite the junction of Lewisham Scenic Drive and Mary Street on the Lewisham foreshore. Currently building works encroach into Council's land which forms part of the road reserve (Certificate of Title 35367/1) which is also zoned low density residential.

The application is supported by:

- An existing Title Plan and a proposed Subdivision Plan;
- Assessment response to Clause 7.3 – Adjustment of Boundary of the Scheme; and
- Signed General Manager Consent form for planning applications relating to Council owned land.

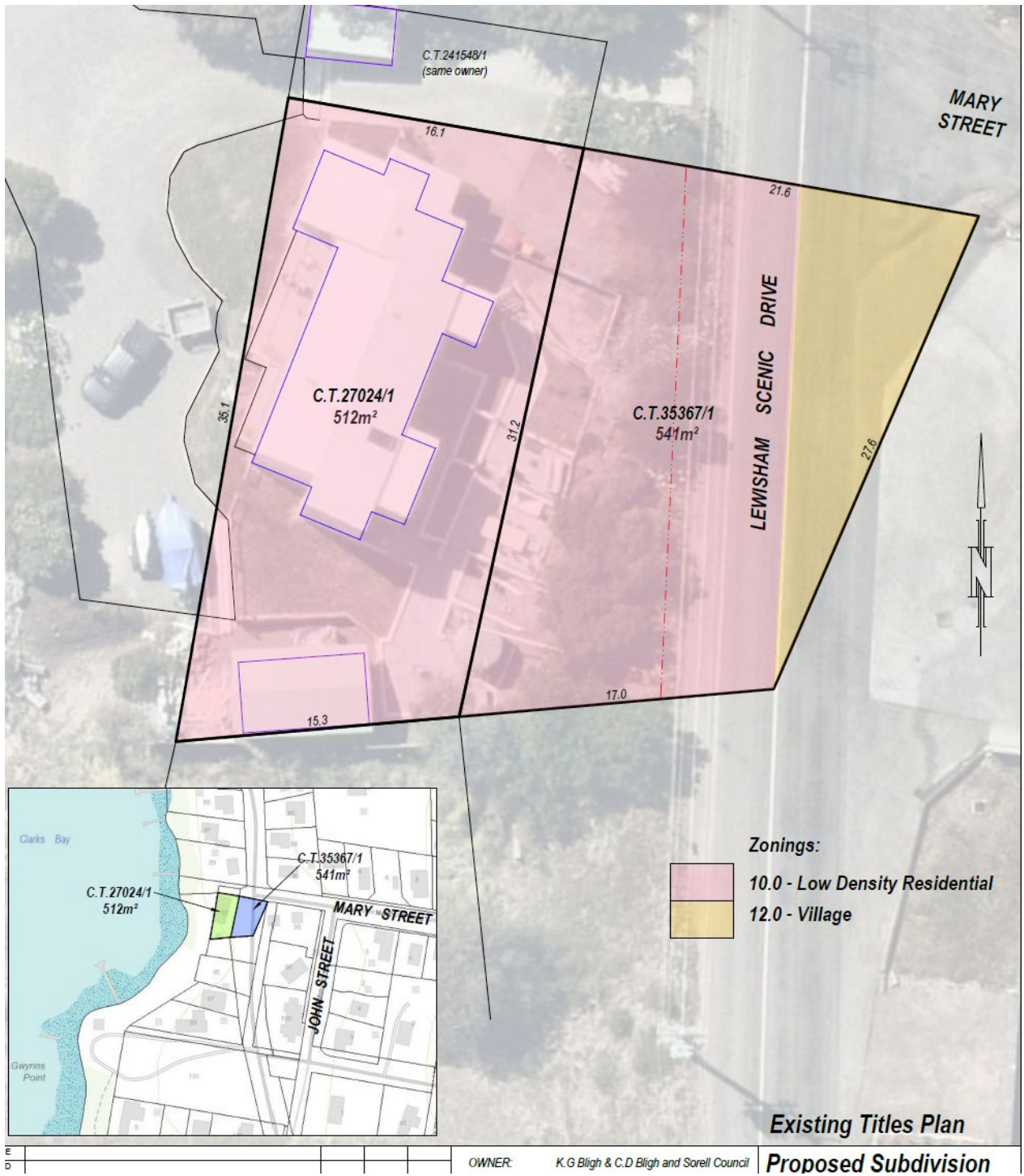


Figure 1 – Existing Titles

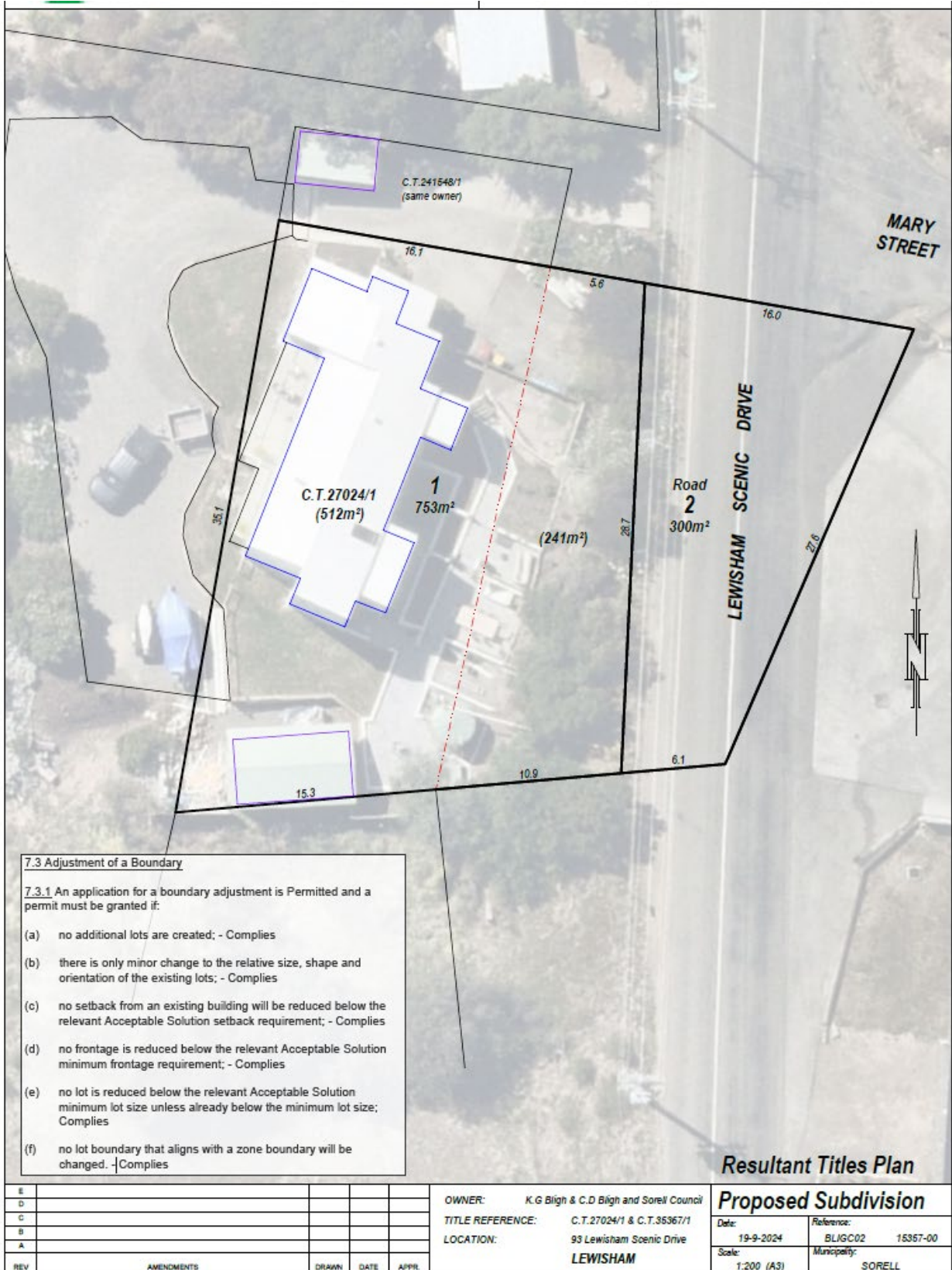


Figure 2 – Proposed Subdivision (Boundary Adjustment) Description of Site



Planning and Building Approval for the dwelling was issued in 1991. It is unclear from Council's records with regards to established lot boundaries adjacent to Council's road reserve within previous planning and building approvals on file.

The site is not serviced with an onsite wastewater system. Access is via 93 Lewisham Scenic Drive via a sealed crossover.



**Figure 3 Subject Site.**

## **Planning Assessment**

### *7.3 Adjustment of a Boundary*

*7.3.1 An application for a boundary adjustment is Permitted and a permit must be granted if:*

- (a) no additional lots are created;*
- (b) there is only minor change to the relative size, shape and orientation of the existing lots;*
- (c) no setback from an existing building will be reduced below the relevant Acceptable Solution setback requirement;*

- (d) *no frontage is reduced below the relevant Acceptable Solution minimum frontage requirement;*
- (e) *no lot is reduced below the relevant Acceptable Solution minimum lot size unless already below the minimum lot size; and*
- (f) *no lot boundary that aligns with a zone boundary will be changed*

As a permitted application, the Planning Authority may not refuse the application but may approve the application or approve the application with conditions.

RESPONSE:-

- (a) Complies, given that no additional lots are created;*
- (b) Complies, given that the change to the relative size, shape and orientation of the existing lots are considered minor;*
- (c) Complies, given the setbacks to the dwelling will be greater and comply with the relevant low density setback Acceptable Solution.*
- (d) Complies, given frontage to Lewisham Scenic Drive is not reduced in length and complies with the relevant Acceptable Solution.*
- (e) Complies, given that both existing lots are below the Acceptable Solution and results in a larger lot size of 994sqm for 93 Lewisham Scenic Drive.*
- (f) Complies, given the boundary adjustment maintains a lot boundaries of the same zone, low density residential.*

## **Conclusion**

The application is considered to comply with each applicable standard of Clause 7.3 of the Tasmanian planning Scheme – Sorell and is recommended for conditional approval.

Shannon McCaughey  
**Senior Planner**

Attachments: Nil