

PLAN 1

PLANNING APPLICATION P15-385

637 RELBIA ROAD, RELBIA

ATTACHMENTS

- Request to amend, supporting letter and correspondence with applicant
- Certificate of Title and Part 5 Agreement
- Copy of original permit and plan of subdivision

Request to Amend Permit




NORTHERN
MIDLANDS
COUNCIL

13 Smith St / PO Box 156
Longford Tas 7301

Phone: 6397 7301 Fax: 6397 7331
E-mail: planning@nmc.tas.gov.au

Applicant: AJ & LM Shepherdson Pty Ltd

Signature of Applicant:  **Date:** 31/05/2017

Description of amendment requested: To amend conditions to a planning approval of a two lot
subdivision.

Site address: 587 Relbia Road, RELBIA, TAS, 7258

Planning Permit Number: P 15 / 385

Area of land: 2 HA **CT no:**

Are there currently any buildings on this property? Yes No

If yes – main building is used as

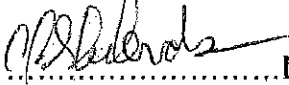
Applicant's Details:

Postal address: 637 Relbia Road, RELBIA, TAS, 7258

Phone: 0418 80 40 60 **Fax:** N/A **Mobile:** Same

E-mail: sheps8email @ .gmail.com

As the owner of the land, I consent to the request being submitted

Signed:  **Date:** 31/05/2017 **Name of Owner:** AJ & LM Shepherdson Pty Ltd

Owner's Postal Address: 637 Relbia Road, RELBIA, TAS, 7258

(attach extra page if required)

Office use only:

Paid \$: 355 **Date:** 31.5.17

Receipt No: 386915 (Code 01)

Ref: P151385

Discretionary / Permitted

I am writing to you today to seek an amendment to a 2 lot subdivision approval that was granted in June 2016 – P15-385. In that approval two conditions were applied that we are seeking at this time to have removed. In the original approval it was point 4 which read –

The applicant shall enter into, and comply with all conditions of, an agreement under Part 5 of the Act with the Northern Midlands Council to provide for the following:

“ Lot 2 shall not be used for residential purposes other than those incidental and subservient to the use of the vineyard on site.

The agreement shall be prepared by the applicant and forwarded to the Council (with a cheque for the Recorder of Titles for the fee for the registration of the Agreement) and shall be forwarded to the Land Titles Office with the final plan of survey.

And point 5 which read –

The final plan of survey shall include a building envelope and endorsement preventing the development of habitable buildings and associated out buildings from the current vineyard area.

These two points now form part of the sealed title documents as follows:

Point 4 is found under Deed of Agreement in Final Plan Schedule, under Operative Part as point 3.1 Development of Land.

3.1 The Owner or any other person must not develop or use lot 1 as shown on the final plan of subdivision for residential purposes other than those incidental and subservient to the use of the vineyard located on that lot.

Point 5 is found in Final Plan Schedule in Annexure to Schedule of Easements, page 2 now recognisable as “restrictive covenants”

The owner of lot 1 on the Plan hereby covenants with the Northern Midlands Council to the intent that the burden of this covenant will run with and bind all successors in title as follows: Not to construct or allow to be constructed any habitable building or structure, or any outbuilding associated with any habitable building or structure, outside the area marked ABCDE on the Plan.

The reasons we are seeking these 2 amendments are stated as follows :-

The Part 5 Agreement states that if a person was to purchase this new lot, that if they intend to build a dwelling on that lot that it has to be subservient to the vineyard. There are several reasons why we find this problematic as a condition to any future purchasers of this lot. The reason that we applied to have this new lot created was to raise capital for the purchase of water and infrastructure from the new irrigation scheme that has been announced in this area. Below is an excerpt from the Interim Planning Scheme 2013 for the rural zone:

26.4.2 Subdivision

Objective

To ensure that subdivision is only to: a) improve the productive capacity of land for resource development and extractive industries;

As stated it makes mention that there has to be an improvement to the capacity of land but when you move onto the performance criteria which states the following:

Performance Criteria

P1 The subdivision

a) must demonstrate that the productive capacity of the land will be improved as a result of the subdivision;

you will notice that it says an improvement to the capacity of the land. Through the process our understanding of this criteria was that the productivity of the land, which in our case is for irrigation, was for the land before the subdivision. So in understanding this, that the creation of the new lot is to finance and enable us to improve the productivity of the land. We took that understanding as the new lot, once sold, is not under our control. We cannot dictate to future purchasers as to what they can or can't do. Council planners took the position that this meant that both lots had to be improved. In our situation it was by pure coincidence that there was an unused vineyard on this site. It was our understanding of the planning scheme that there had to be able to be a good reason shown as to why we wanted a subdivision and for us it was to be able to raise funds for irrigation to improve the productivity of the land. It was never our thinking that the vineyard would form part of any condition of the subdivision, though we felt in selling this vineyard in the new lot, it could if the new buyer so chose be one avenue of rural pursuit they could go down as the infrastructure was already there. The question could be asked, then why did we accept this condition as part of the approval? The answer is simple – this process took 12 months and tens of thousands of dollars and we were notified a week before council meeting that it was to go to & subsequent meetings, that this condition would have to be imposed for planners to recommend for approval. In the end it did not end up going to council meeting as there were no objections and planners could approve at their own discretion. Though accepting this condition was not our preferred option we felt it was necessary after the finances that we had thus far spent. Since the approval and now being on the market for over 8 months it is absolutely clear that unless the land is sold for a nominal amount this lot with these conditions is unsaleable. Keeping in mind that the reason we created this lot was for the purchase of water & infrastructure so that the productivity of the land could be improved. At this stage and most likely into the future, there will be no improved productivity and capacity, as without the sale of the new lot there can be no purchase of water & infrastructure. That is why it is our opinion that the council planners interpretation doesn't take into account the productivity of the remaining lot because council planners have put a restriction on the sale of the new lot which simply makes it far too difficult to achieve the original purpose of creating the lot. In our case we have to start paying for water infrastructure in September. We have had 8 months now of the new lot being for sale and it is clear to us from the feedback that we have received from potential buyers through the real estate agents that these conditions do not suit their needs. It is also our thought that anyone should have the right to choose any rural pursuit, therefore giving us the ability to have a much more marketable lot and thence being able to achieve our original goal and that was for the irrigation.

In some of that feedback there has been comments as follows:

- 1) People who were interested on the vineyard side being the rural pursuit of the land have stated to us that although the vines are still alive, most of the vines are not of a variety (e.g. pinot) that are now the standard in Tasmania. They are thinking that the work that has to be done to clear (removal of blackberries and weeds) and replace new varieties is something that they are not interested in as the costs involved compared to starting a fresh on a blank canvas of land are way too high. Now in saying that they do have the option to demolish and replace but they want to do that by only just paying for the land at rural land prices for example \$7,000-\$15,000 an acre.
- 2) other people have looked at it for rural pursuits such as horse breeding, a cellar door (but not necessarily wines but spirits) and others for their own horse/recreation purposes but obviously with the conditions imposed none of these people could take it further, because even if they didn't want to build a dwelling and they destroy the vineyard, for themselves and for future buyers a dwelling could never be placed on that land. So what has been the situation is that none of them want to pay market value for this lot due to the possibility, basically the same situation we are in, that the lot is not a saleable item.

Subsequent to these potential buyers looking at the new lot, it has also come to our attention that the point 5 which is the restrictive covenant actually doesn't allow them to build anywhere on the property except for a small area close to the vineyard, close to the road, which is not something any of them want to consider. The reason this is, is that in the area of ABCDE on the title annex there is an area of land slip which you can only build 15m back from the natural ridge where this land slip potential area is located. So when you move back from that 15m it puts you right back hard against the road.

So by adding this extra drawback to this lot we really don't have a lot that is saleable for a price that the real estate agents feel are achievable by past sales in this area.

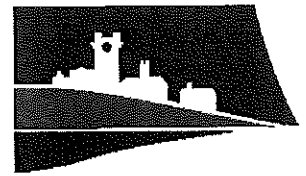
So I would like to make the following recommendations to amend the conditions attached to this lot.

- 1) That the restrictive covenant of only being able to build within ABCDE be removed.
- 2) That point 3.1 from the Deed of Agreement also be removed.

We believe that with these 2 conditions imposed on the lot that this lot will never achieve what it was originally intended, which was to improve the productivity of the land by purchasing irrigation. As you would be aware, water in Tasmania is not a cheap commodity and to just sell the lot for market rural land prices will not achieve what we had set out to do. Though we do appreciate council planners seeing that we had an acceptable solution to warrant a subdivision, which was to purchase irrigation water & infrastructure, by adding these 2 restrictions it has not achieved the desired result on our future plans of improving this property. We seek council's acceptance of our request to amend the conditions on this new lot.

Regards

Andrew Shepherdson



**NORTHERN
MIDLANDS
COUNCIL**

Our ref: P15-385
Your ref:

4th April 2017

A & L Shepherdson
637 Relbia Road
RELBIA TAS 7258

By email: sheps8email@gmail.com

**Planning Permit P15-385
637 Relbia Road, Relbia**

Dear Mr & Mrs Shepherdson,

I refer to your email of 27th March. The matters that you raise have been considered and it is concluded that the Part 5 Agreement is supportive of the terms on which the application was made.

Such terms and the Part 5 Agreement were required for the application to be supported by the planning scheme. The planning scheme has not changed, and therefore the removal or amendment of the Part 5 Agreement is not supported.

If you wish to take this matter further, your next course of action would be to apply to Council to:

- Amend planning permit P15-385 with regard to the condition requiring the Part 5 Agreement; and
- Amend the sealed plan with regard to the Part 5 Agreement under section 103 (1) of the Local Government (Building & Miscellaneous Provisions) Act 1993.

If you have any questions please contact me on 6397 7303 or email des.jennings@nmc.tas.gov.au.


Yours sincerely,

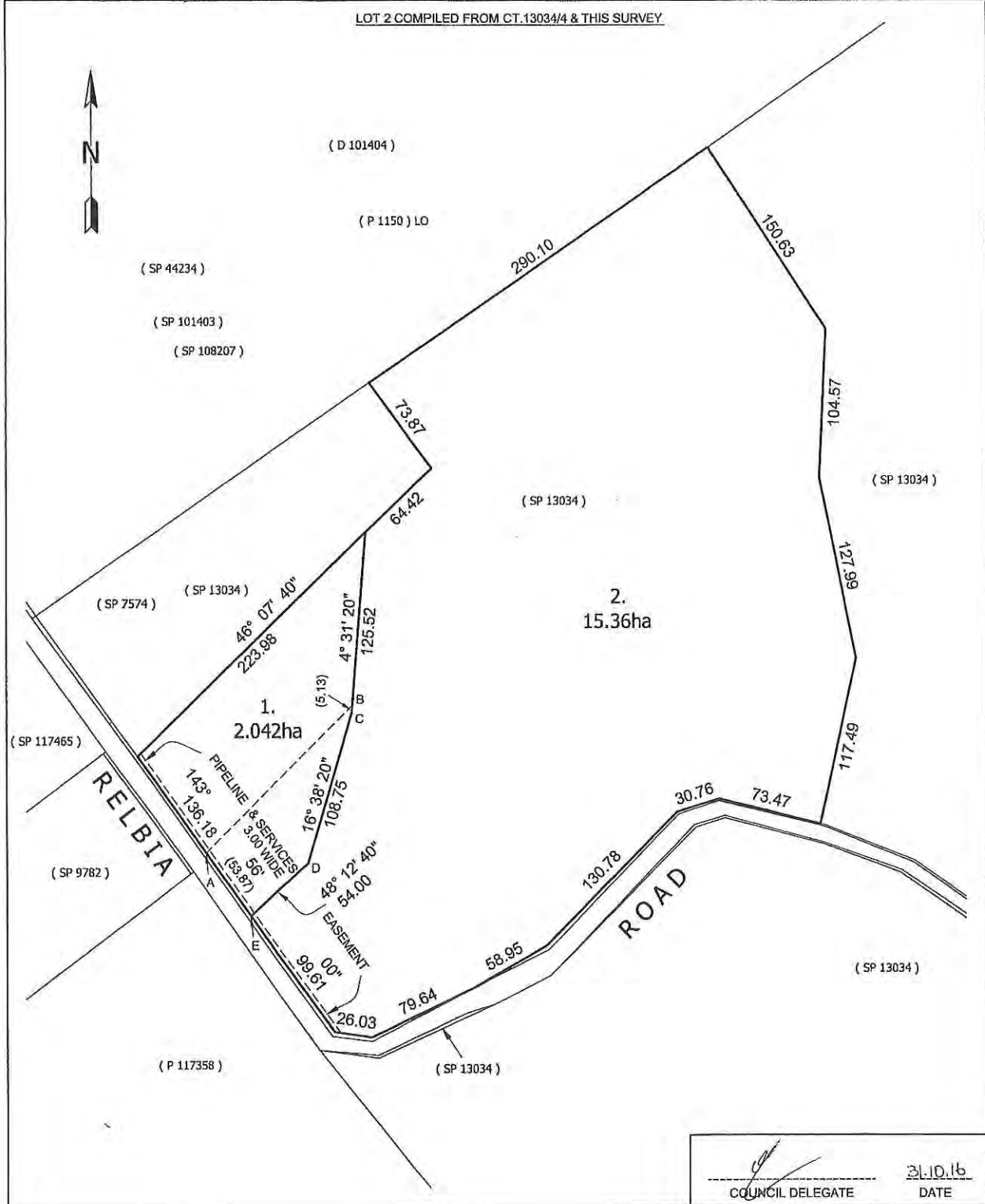
Des Jennings

GENERAL MANAGER

P.O. Box 156
Longford 7301

Telephone (03) 6397 7303
Facsimile (03) 6397 7331
www.northernmidlands.tas.gov.au

OWNER: AJ & LM SHEPHERDSON PTY LTD FOLIO REFERENCE: CT.13034/4 GRANTEE: PART OF 1074-0-0 GRANTED TO THEODORE BRYANT BARTLEY AND JAMES RYLEY KENWORTHY.		PLAN OF SURVEY  WOOLGOTT SURVEYS BY SURVEYOR S.C. BUCKNELL LOCATION: LAND DISTRICT OF CORNWALL PARISH OF BREADALBANE SCALE 1:2500 LENGTHS IN METRES		REGISTERED NUMBER SP171958
MAPSHEET MUNICIPAL CODE No. 123 (5040)		LAST UPI No	LAST PLAN No. SP 13034	APPROVED EFFECTIVE FROM - 4 NOV 2016 <i>Alice Kawa</i> Recorder of Titles
ALL EXISTING SURVEY NUMBERS TO BE CROSS REFERENCED ON THIS PLAN				



<p align="center">SCHEDULE OF EASEMENTS</p> <p>NOTE: THE SCHEDULE MUST BE SIGNED BY THE OWNERS & MORTGAGEES OF THE LAND AFFECTED. SIGNATURES MUST BE ATTESTED.</p>	<p align="center">Registered Number</p> <p align="center" style="font-size: 2em;">SP 171958</p>
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PAGE 1 OF 3 PAGE/S

EASEMENTS AND PROFITS

Each lot on the plan is together with:-

- (1) such rights of drainage over the drainage easements shown on the plan (if any) as may be necessary to drain the stormwater and other surplus water from such lot; and
- (2) any easements or profits a prendre described hereunder.

Each lot on the plan is subject to:-

- (1) such rights of drainage over the drainage easements shown on the plan (if any) as passing through such lot as may be necessary to drain the stormwater and other surplus water from any other lot on the plan; and
- (2) any easements or profits a prendre described hereunder.

The direction of the flow of water through the drainage easements shown on the plan is indicated by arrows.

Lots 1 and 2 on the Plan are subject to a pipeline and services easement in gross (as hereinafter defined) in favour of Tasmanian Water & Sewerage Corporation Pty Limited, its successors and assigns (TasWater) over the area marked "PIPELINE AND SERVICES EASEMENT 3.00 WIDE" shown passing through Lots 1 and 2 on the Plan ("the Easement Land").

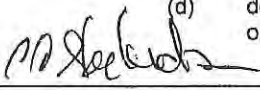
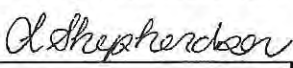
In this Schedule of Easements "Pipeline and Services Easement" is defined as follows:

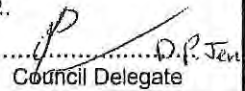
THE FULL RIGHT AND LIBERTY for TasWater at all times to:

- (1) enter and remain upon the Easement Land with or without employees, contractors, agents and all other persons duly authorised by it and with or without machinery, vehicles, plant and equipment;
- (2) investigate, take soil, rock and other samples, survey, open and break up and excavate the Easement Land for any purpose or activity that TasWater is authorised to do or undertake;
- (3) install, retain, operate, modify, relocate, maintain, inspect, cleanse and repair the Infrastructure;
- (4) remove and replace the Infrastructure;
- (5) run and pass sewage, water and electricity through and along the Infrastructure;
- (6) do all works reasonably required in connection with such activities or as may be authorised or required by any law:
 - (1) without doing unnecessary damage to the Easement Land; and
 - (2) leaving the Easement Land in a clean and tidy condition; and
- (7) if the Easement Land is not directly accessible from a highway, then for the purpose of undertaking any of the preceding activities TasWater may with or without employees, contractors, agents and all other persons authorised by it, and with or without machinery, vehicles, plant and equipment enter the Lot from the highway at any then existing vehicle entry and cross the Lot to the Easement Land; and
- (8) use the Easement Land as a right of carriageway for the purpose of undertaking any of the preceding purposes on other land, TasWater reinstating any damage that it causes in doing so to any boundary fence of the Lot.

PROVIDED ALWAYS THAT:

- (1) The registered proprietors of the servient land ("the Owner") must not without the written consent of TasWater first had and obtained and only in compliance with any conditions which form the consent:
 - (a) alter, excavate, plough, drill or otherwise penetrate the ground level of the Easement Land;
 - (b) install, erect or plant any building, structure, fence, pit, well, footing, pipeline, paving, tree, shrub or other object on or in the Easement Land;
 - (c) remove any thing that supports, protects or covers any Infrastructure on or in the Easement Land;
 - (d) do anything which will or might damage or contribute to damage to any of the Infrastructure on or in the Easement Land;


(USE ANNEXURE PAGES FOR CONTINUATION)


<p>SUBDIVIDER: AJ & LM Shepherdson Pty Ltd</p> <p>FOLIO REF: Volume 13034 Folio 4</p> <p>SOLICITOR & REFERENCE: Sproal & Associates (BDS:161084)</p>	<p>PLAN SEALED BY: Northern Midlands Council</p> <p>DATE: <u>31-OCT-2016</u></p> <p><u>P15-385; 27/003/746</u></p> <p>REF NO.  Council Delegate</p>
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NOTE: The Council Delegate must sign the Certificate for the purposes of identification.

<p>ANNEXURE TO SCHEDULE OF EASEMENTS</p> <p>PAGE 2 OF 3 PAGES</p>	<p>Registered Number</p> <p>SP 171958</p>
<p>SUBDIVIDER: AJ & LM Shepherdson Pty Ltd</p> <p>FOLIO REFERENCE: Volume 13034 Folio 4</p>	

- (e) in any way prevent or interfere with the proper exercise and benefit of the Easement Land by TasWater or its employees, contractors, agents and all other persons duly authorised by it; or
- (f) permit or allow any action which the Owner must not do or acquiesce in that action.
- (2) TasWater is not required to fence any part of the Easement Land.
- (3) The Owner may erect a fence across the Easement Land at the boundaries of the Lot.
- (4) The Owner may erect a gate across any part of the Easement Land subject to these conditions:
 - (a) the Owner must provide TasWater with a key to any lock which would prevent the opening of the gate; and
 - (b) if the Owner does not provide TasWater with that key or the key provided does not fit the lock, TasWater may cut the lock from the gate.
- (5) If the Owner causes damage to any of the Infrastructure, the Owner is liable for the actual cost to TasWater of the repair of the Infrastructure damaged.
- (6) If the Owner fails to comply with any of the preceding conditions, without forfeiting any right of action, damages or otherwise against the Owner, TasWater may:
 - (a) reinstate the ground level of the Easement Land; or
 - (b) remove from the Easement Land any building, structure, pit, well, footing, pipeline, paving, tree, shrub or other object; or
 - (c) replace anything that supported, protected or covered the Infrastructure.

Interpretation:

"Infrastructure" means infrastructure owned or for which TasWater is responsible and includes but is not limited to:

- (a) sewer pipes and water pipes and associated valves;
- (b) telemetry and monitoring devices;
- (c) inspection and access pits;
- (d) power poles and lines, electrical wires, electrical cables and other conducting media (excluding telemetry and monitoring devices);
- (e) markers or signs indicating the location of the Easement Land, the Infrastructure or any warnings or restrictions with respect to the Easement Land or the Infrastructure;
- (f) anything reasonably required to support, protect or cover any of the Infrastructure;
- (g) any other infrastructure whether of a similar nature or not to the preceding which is reasonably required for the piping of sewage or water through the Easement Land or monitoring or managing that activity; and
- (h) where the context permits, any part of the Infrastructure.

RESTRICTIVE COVENANTS

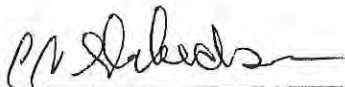
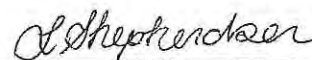
* the covenantor's lot and each and every part thereof and the benefit shall be in favour of the said Northern Midlands Council to observe the following stipulation, namely:

The owner of lot 1 on the Plan hereby covenants with the Northern Midlands Council to the intent that the burden of this covenant will run with and bind ~~all successors in title as follows:~~ *

Not to construct or allow to be constructed any habitable building or structure, or any outbuilding associated with any habitable building or structure, outside the area marked ABCDE on the Plan.

FENCING COVENANT

The owner of each lot on the Plan covenants with the Vendor (AJ & LM Shepherdson Pty Ltd) that the Vendor shall not be required to fence.

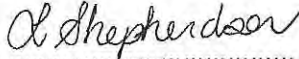
NOTE: Every annexed page must be signed by the parties to the dealing or where the party is a corporate body be signed by the persons who have attested the affixing of the seal of that body to the dealing.

<p>ANNEXURE TO SCHEDULE OF EASEMENTS</p> <p>PAGE 3 OF 3 PAGES</p>	<p>Registered Number</p> <p>SP 171958</p>
<p>SUBDIVIDER: AJ & LM Shepherdson Pty Ltd</p> <p>FOLIO REFERENCE: Volume 13034 Folio 4</p>	

EXECUTED by AJ & LM SHEPHERDSON PTY LTD
being the registered proprietor of the land comprised in
Folio of the Register Volume 13034 Folio 4 in the
presence of:



.....
Andrew James Shepherdson
Director



.....
Lyndal Meredith Shepherdson
Director

NOTE: Every annexed page must be signed by the parties to the dealing or where the party is a corporate body be signed by the persons who have attested the affixing of the seal of that body to the dealing.

TASMANIAN LAND TITLES OFFICE

Notification of Agreement
under the Land Use Planning
and Approvals Act 1993

Section 71

DESCRIPTION OF LAND			
Folio of the Register			
Volume	Folio	Volume	Folio
13034	4		

REGISTERED PROPRIETOR:

AS & LM SHEPHERDSON PTY LTD

PLANNING AUTHORITY:

I/we DES JENNINGS

of NORTHERN MIDLANDS COUNCIL

the abovename Planning Authority, certify that the above particulars are correct and that attached is a certified executed copy of the agreement between the abovenamed parties, notice of which is to be registered against the abovementioned folio of the Register.

The abovenamed Planning Authority holds the original executed Agreement.

Date: 31-OCT-2016

Signed: 

(on behalf of the Planning Authority)

Land Titles Office Use Only

LUA
Version 1 (TOLD)

THE BACK OF THIS FORM MUST NOT BE USED

Created 27-Jun-2016 09:16AM

DEED OF AGREEMENT

This DEED OF AGREEMENT is made the 31st day of October 2016

PARTIES

NORTHERN MIDLANDS COUNCIL of 13 Smith Street, Longford in Tasmania (the Council) and

AJ & LM SHEPHERDSON PTY LTD of 637 Relbia Road, Relbia in Tasmania (the Owner)

RECITALS

The Owner is the owner of all that land described in Certificate of Title Volume 13034 Folio 4 and situate at 637 Relbia Road, Relbia in Tasmania (the land).

1. The land is within the area subject to the provisions of the Northern Midlands Interim Planning Scheme 2013 (the Planning Scheme).
2. The Owner made application to the Council to develop and use the land as a two lot subdivision (the application).
3. On the 17th May 2016 the Council issued a permit in respect of the application, being Planning Permit No P15-385 (the permit).
4. Condition No. 4 of the permit requires that this agreement be entered into.

OPERATIVE PART

The parties agree and covenant as follows:

1. Interpretation & Definitions

1.1 Definitions

In this agreement unless the contrary intention appears:

“Act” is the Land Use Planning & Approvals Act 1993.

“Permit” is the permit described in recital 4.

“Land” means the land described in Certificate of Title Volume 13034 Folio 4 situate at 637 Relbia Road, Relbia in Tasmania.

“Planning Scheme” is the Northern Midlands Interim Planning Scheme 2013 and any amendment, modification or replacement of that scheme made pursuant to the provisions of the Act.

I, Des Jennings, General Manager of Northern Midlands Council, do hereby certify that this is a true and correct copy of the original Agreement under Part 5 of the Land Use Planning & Approvals Act 1993.

Signed: 
Dated: 31 October 2016

"Lot" is a block of land created by subdivision of the land of which it was part.

"The Miscellaneous Act" is the Local Government (Building & Miscellaneous Provisions) Act 1993

"The application" is the application referred to in recital 3.

"The approved plans" means the plan or plans of subdivision approved by the permit.

"A final plan of subdivision" in respect of the land means a plan or plans for:

- (a) The subdivision of all of the land;
- (b) The subdivision of any stage of the land; or
- (c) The subdivision of any combination of stages of the land;

Within the meaning of division 3 of Part 3 of the Miscellaneous Act which is lodged with the Council pursuant to section 88 of that Act.

1.2 Interpretation

In this agreement:

- (a) A reference to the Council includes a reference to any new Council which has jurisdiction in respect of the land established pursuant to part 2 of the Local Government Act 1993 or any other legislation or proclamation;
- (b) A reference to the Owner includes its assignees and any person bound by the covenants in it as provided for in section 79 of the Act;
- (c) A reference to this agreement in another instrument is a reference to this agreement as amended, varied, novated or substituted from time to time
- (d) A reference to a statute, ordinance, code, law or planning scheme includes a reference to such document as amended or substituted from time to time.
- (e) A reference to a person or party includes that person's executors, administrators, successors, substitutes (including persons taking by novation), transferees, assigns and any person deriving title under such a person.
- (f) Words and expressions used both in this agreement and in the Act, the Local Government Act 1993 or the Miscellaneous Act have the same meanings as they have in those Acts.

- (g) Words and expressions used both in this agreement and in the planning scheme have the same meanings as they have in the planning scheme.

THE PARTIES COVENANT AND AGREE AS FOLLOWS:

2. Objective and Function of this Agreement

- 2.1 Without limiting any operation or effect which this agreement otherwise has, the Council and the Owner acknowledge that this agreement is made under Part 5 of the Act with the intent that the burden of the Owner's covenants run with the land as provided for by section 79 of the Act.
- 2.2 The parties enter this agreement:
- (a) To give effect to the permit; and
 - (b) To provide for the matters set out in section 72(2) of the Act.
- 2.3 This agreement must be registered pursuant to section 78 of the Act in respect of the land and each lot created by subdivision of the land.

3. Development of the Land

- 3.1 The Owner or any other person must not develop or use lot 1 as shown on the final plan of subdivision for residential purposes other than those incidental and subservient to the use of the vineyard located on that lot.

4. Other Obligations of the Owner

- 4.1 The Owner must permit registration of this agreement in accordance with section 78 of the Act and pay the costs of registering it.

5. Relationship between the Parties

- 5.1 Nothing in this agreement creates the relationship of partnership or of principal and agent or of joint venture between the Council and the owner.

6. Proper Law

- 6.1 This deed of agreement is governed by the laws of the State of Tasmania and the parties submit to the jurisdiction of those courts and from courts competent to hear appeals therefrom.

7. Commencement

- 7.1 This agreement begins immediately upon execution by the parties.

8 Other Documents

- 8.1 This agreement is to be read in conjunction with the permit and any plans submitted to an approved by the Council in relation to the permit or the subdivision of the land.

9 Termination

- 9.1 This agreement will end upon completion by the Owner of its obligations under this agreement or otherwise in accordance with the Act.
- 9.2 Despite the fact that another person may become liable for the obligations of the Owner under this agreement or may be bound by this agreement in conjunction with the Owner, the Owner does not cease to be liable to comply with this agreement until it has been discharged by performance of all of the Owner's obligations in full.
- 9.3 If a party terminates this agreement for breach of it by the other party, then that termination does not affect rights which have accrued prior to the date of termination.
- 9.4 The Council may terminate this agreement by notice in writing to the Owner if:
- (a) The Owner breaches it;
 - (b) The consent required by a mortgagee is not provided;
 - (c) The Owner fails to comply with the permit or the amended permit;
 - (d) The Owner fails to comply with the planning scheme, the Act or the Miscellaneous Act in respect of the use or development of the land; or
 - (e) This agreement is not registered pursuant to the provisions of the Land Titles Act 1980.
- 9.5 This agreement also terminates as provided for in the Act.

10 Reading Down and Severability

- 10.1 If a provision of this agreement is void or voidable by a party, unenforceable or illegal but would not be so if read down or severed from the agreement, it must be read down or severed accordingly.

11. Council's Costs

- 11.1 The Owner must immediately on demand pay to the Council the Council's costs and expenses (as between solicitor and client) relating to this agreement and anything done

before or after this agreement for the enforcement of any obligation imposed upon the Owner under it.

12. Change to Plans of Subdivision

12.1 In the event that there is an amendment or revision of a plan of subdivision in respect of the land approved by the Council or required by the Recorder of Titles pursuant to the provisions of the Land Titles Act 1980, this agreement must be read so as to apply to the plan as amended or revised.

13. Exercise of Powers

13.1 The Council and the Owner expressly acknowledge that any obligation imposed upon the Council under this agreement does not fetter the future exercise of any statutory discretion by the Council whether in relation to the permit or the land or otherwise and the provisions of this agreement must be read accordingly.

13.2 In particular, this agreement does not mean the Council must approve any applications for a permit to subdivide, develop and use the land.

14. Further Documents

14.1 The Council and the Owner will do all things and prepare and sign all further documents necessary to give effect to this agreement and to ensure that this agreement is fully carried out.

15. Disclosure of this Agreement

15.1 The Owner must not at any time before or after the registration of this agreement sell, transfer, dispose of or in any way part with possession of the land without first disclosing the existence of and nature of this agreement to the Owner's successors.

16. Alteration to this Agreement

16.1 This agreement may be amended by agreement between the Council and all persons who are bound by any covenant in the agreement.

16.2 If any proposed amendment to this agreement requires a new or any amended permit then that permit or that amended permit (as the case may be) must be obtained before this agreement is amended.

16.3 Despite this clause, the Council may determine that a new agreement is required.

17. Notices

17.1 A notice pursuant to this agreement must be in writing. Notices may be served:

- (a) personally by leaving them with the party on whom they are to be served at that party's address stated in clause 17.3; or
- (b) by pre-paid post sent to the address stated in clause 17.3; or
- (c) by facsimile (or by any other like method by which a written or recorded message may be sent) directed to the party on whom they are to be served at that party's address stated in clause 17.3;

17.2 Notices are not effective until received by the other party and any such notice is without prejudice to any other mode of receipt, deemed to be received by such other party;

- (a) if served personally when left at the address of the other party stated in clause 17.3;
- (b) when mailed, three business days after being put into the post addressed to such party at that address; and
- (c) if made by facsimile or any other like method upon the production of a transmission report by a machine from which the transmission was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient stated in clause 17.3.

17.3 The addresses of the parties for service of notices are as follows:

Northern Midlands Council
13 Smith Street, Longford in Tasmania
Phone: 03 6397 7303
Facsimile 6397 7331

Owner's details:

AJ & LM Shepherdson Pty Ltd
637 Relbia Road, Relbia in Tasmania
Phone:

Dated this 31st day of October 2016

EXECUTED AS A DEED


The Common Seal of NORTHERN MIDLANDS COUNCIL was hereunto affixed pursuant to a resolution of the Council passed on the day of 2016 delegating authority to the General Manager to affix the Corporation's seal




.....
General Manager


Mayor

EXECUTED by AJ & LM SHEPHERDSON PTY LTD
under Section 127(1) of the Corporations Act


.....
ANDREW JAMES SHEPHERDSON
Director


.....
LYNDAL MEREDITH SHEPHERDSON
Director

ATTACHMENT C

Northern Midlands Interim Planning Scheme 2013



**NORTHERN
MIDLANDS
COUNCIL**

Planning Permit P15-385

In accordance with Division 2 of the *Land Use and Planning Approvals Act 1993*, the Northern Midlands Council (Planning Authority) hereby grants a permit for –

ADDRESS OF LAND:

637 RELBIA ROAD, RELBIA

P/N: 202900.13
27/003/746
CT 13034/4

THIS PERMIT ALLOWS FOR:

The land at 637 Relbia Road, Relbia to be developed and used for a 2-lot subdivision to create 2ha & 15.4ha lots, in accordance with application P15-385, and subject to the following conditions:

1 Layout not altered

The use and development shall be in accordance with the endorsed plans numbered **P1** (*Drawing: Woolcott Surveys 2015-41, dated: 15/12/2015*), **D1** (*Submission by Andrew Shepherdson – 1 page*), **D2** (*Appraisal by TP Jones & Co – 1 page*), **D3** (*Development Application by Woolcott Surveys – Dec 2015*), **D4** (*Bushfire Report by Pitt & Sherry*), **D5** (*Noise Report by Pitt & Sherry*), and **D6** (*Land Capability Assessment by Geo-Environmental Solutions*), and **D7** (*Traffic Statement by Pitt & Sherry*).

2 Council's Works & Infrastructure Department conditions

2.1 Stormwater

Stormwater from each lot shall be contained within the lot. Concentrated stormwater must not be discharged into neighbouring properties.

2.2 Access (Rural)

- a) A driveway crossover and hotmix sealed apron must be constructed from the edge of **Relbia Road** to the property boundary of each lot in accordance with Council standards.
- b) The first 6m of the access to each lot from the edge of the road shall be sealed.
- c) **Access works must not commence** until an application for vehicular crossing has been approved by Council.

2.3 Municipal standards & certification of works

Unless otherwise specified within a condition, all works must comply with the Municipal Standards including specifications and standard drawings. Any design must be completed in accordance with Council's subdivision design guidelines to the satisfaction of the Works & Infrastructure Department. Any construction, including maintenance periods, must also be completed to the approval of the Works & Infrastructure Department.

A handwritten signature in black ink, appearing to be 'M. Jones'.

2.4 Works in Council road reserve

- a) Works must not be undertaken within the public road reserve, including crossovers, driveways or kerb and guttering, without prior approval for the works by the Works & Infrastructure Manager.
- b) Twenty-four (24) hours notice must be given to the Works & Infrastructure Department to inspect works within road reserve, and before placement of concrete or seal. Failure to do so may result in rejection of the vehicular access or other works and its reconstruction.

2.5 Pollutants

- a) The developer/property owner must ensure that pollutants such as mud, silt or chemicals are not released from the site.
- b) Prior to the commencement of the development works the developer/property owner must install all necessary silt fences and cut-off drains to prevent soil, gravel and other debris from escaping the site. Material or debris must not be transported onto the road reserve (including the naturestrip, footpath and road pavement). Any material that is deposited on the road reserve must be removed by the developer/property owner. Should Council be required to clean or carry out works on any of their infrastructure as a result of pollutants being released from the site the cost of these works may be charged to the developer/property owner.

2.6 Naturestrips

Any new naturestrips, or areas of naturestrip that are disturbed during construction, must be topped with 100mm of good quality topsoil and sown with grass. Grass must be established and free of weeds prior to Council accepting the development.

3 TasWater conditions

Sewer and water services shall be provided in accordance with TasWater's Planning Authority Notice (reference number TWDA 2016/00450-NMC).

4 Part 5 Agreement

The applicant shall enter into, and comply with all conditions of, an agreement under Part 5 of the Act with the Northern Midlands Council to provide for the following:

- ◊ *Lot 2 shall not be used for residential purposes other than those incidental and subservient to the use of the vineyard on site.*

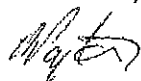
The agreement shall be prepared by the applicant and forwarded to the Council (with a cheque for the Recorder of Titles for the fee for the registration of the Agreement) and shall be forwarded to the Land Titles Office with the final plan of survey.

5 Building envelope

The final plan of survey shall include a building envelope and endorsement preventing the development of habitable buildings and associated out buildings from the current vineyard area

6 Sealing of plans

All conditions must be complied with prior to sealing of the final plan of survey. Council may, at the developer's request, accept a bond or bank guarantee, for particular works or maintenance, to enable early seal and release of the final plan of survey.



DUNCAN PAYTON

PLANNING & DEVELOPMENT MANAGER

17-May-2016

Notes:

- A This permit lapses after a period of two years from the date of granting of this permit if the use or development has not substantially commenced within that period.
- B The issue of this planning permit does not certify compliance with the *Building Code of Australia*, the *Disability Discrimination Act 1992* or any other applicable legislation.



RELBIA ROAD CENTRELINE GRADES

- LENGTH, 31.98m, GRADE 3.8%
- LENGTH, 77.68m, GRADE 8.2%
- LENGTH, 49.59m, GRADE 8.3%
- LENGTH, 55.38m, GRADE 9.2%
- LENGTH, 19.43m, GRADE 8.4%

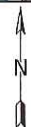
NORTHERN MIDLANDS COUNCIL

This document forms part of
 Planning Permit P15-385
 issued on 17-May-2016
 (P1)

THIS PLAN WAS PREPARED AS A BOUNDARY ADJUSTMENT PROPOSAL FOR A DEVELOPMENT APPLICATION FOR COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.

NOTES:
 ALL MEASUREMENTS, DIMENSIONS
 AND AREAS ARE SUBJECT TO SURVEY.

**PROPOSED 2 LOT
 SUBDIVISION**
 OWNER: AJ & LM SHEPHERDSON
 637 RELBIA ROAD, RELBIA
 C.T. 13034-4



WOOLCOTT SURVEYS

Drawn CSS	File name 2015-41_Proposal_Plan_Final_151215	Date 15/12/2015	Scale AS SHOWN	Job Number 2015-41	Edition v3.0	Sheet 1 of 1
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