

PLAN 3

PLANNING APPLICATION PLN-19-0221

74 MARLBOROUGH STREET, LONGFORD

ATTACHMENTS

- Draft amendment and permit

- Representation

- The Director of Building Control's Determination on Protection Work

NORTHERN MIDLANDS INTERIM PLANNING SCHEME 2013

DRAFT AMENDMENT 06/2019 - INSTRUMENT OF CERTIFICATION

The Northern Midlands Council resolved at its meeting of 16 March 2020 to certify that draft amendment 06/2019 of the *Northern Midlands Interim Planning Scheme 2013* meets the requirements specified in section 32 of the *Land Use Planning and Approvals Act 1993*.

To amend the text provisions of the *Northern Midlands Interim Planning Scheme 2013*, General Residential Zone, clause 10.4.15.1 - Lot Area, Building Envelopes and Frontage as follows.

- Insert a new clause 10.4.15.1 A1.2:
 - A1.2 On Certificate of Title 222877/1, lots fronting Marlborough Street must have a minimum area of at least 590m² which:
 - a) is capable of containing a rectangle measuring 10m by 15m; and
 - b) has new boundaries aligned from buildings that satisfy the relevant acceptable solutions for setbacks.
- Renumber clause 10.4.15.1 A1 to A1.1
- Insert a new clause 10.4.15.1 P1.2:
 - P1.2 No performance criteria
- Renumber clause 10.4.15.1 P1 to P1.1
- Rezone part of 74 Marlborough Street, Longford (CT 222877/1) from Community Purpose to General Residential as shown on the following page.

The **COMMON SEAL** of the)
 Northern Midlands Council is)
 affixed, pursuant to the)
 Council's resolution of)
16 March 2020 in the presence of:)



M Knowles

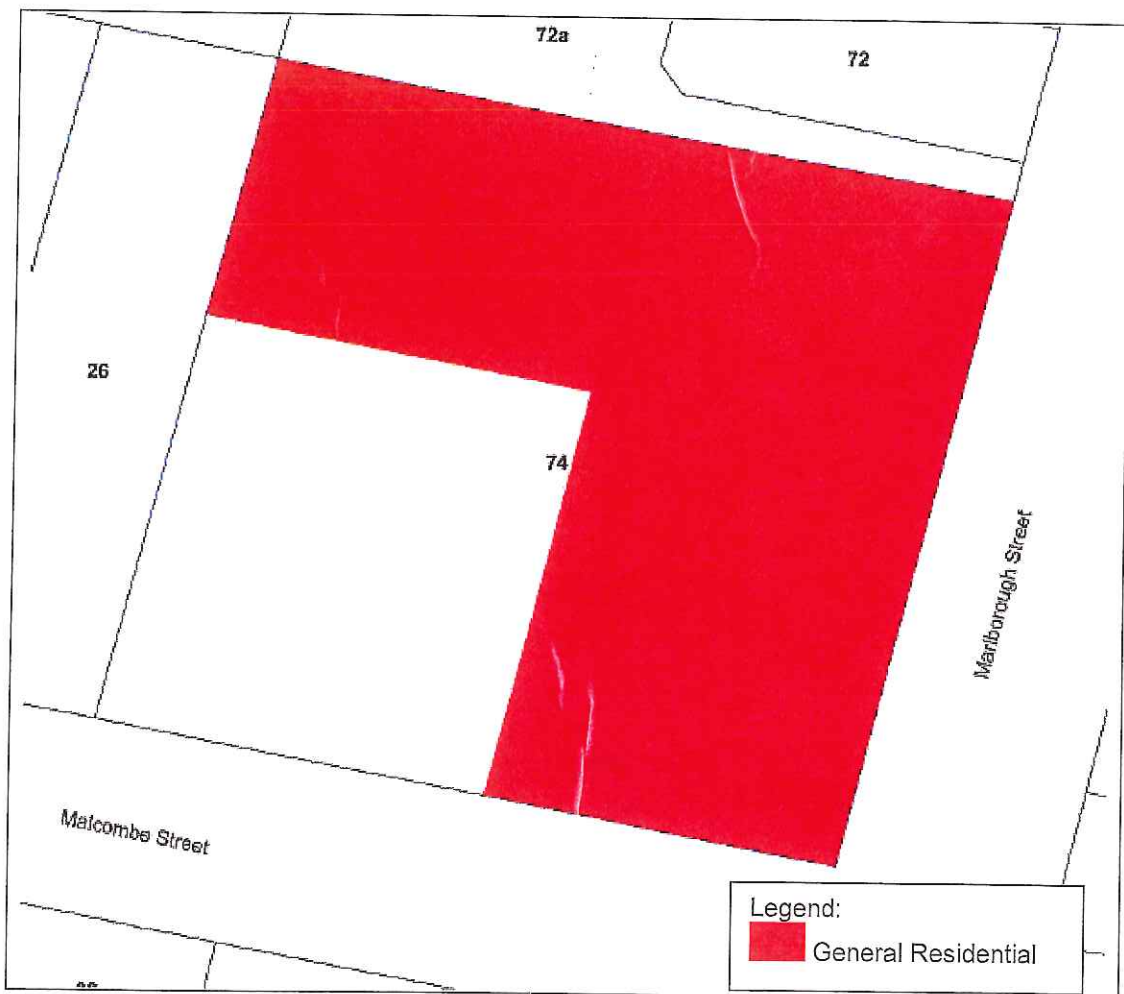
.....
Mayor

.....
General Manager

**NORTHERN MIDLANDS INTERIM PLANNING SCHEME 2013
DRAFT AMENDMENT 06/2019 - INSTRUMENT OF CERTIFICATION**

Rezone part of 74 Marlborough Street, Longford (CT 222877/1) from Community Purpose to General Residential. Map coordinates of proposed General Residential zone (± 0.1 metres):

Easting	Northing
509910.14	5394503.28
509984.64	5394489.91
509967.57	5394422.89
509931.81	5394429.60
509942.17	5394470.26
509903.30	5394477.56



The **COMMON SEAL** of the Northern Midlands Council is affixed pursuant to the Council's resolution of **16 March 2020** in the presence of:



A Knowles

.....
Mayor

[Signature]

.....
General Manager

Northern Midlands Interim Planning Scheme 2013

DRAFT



NORTHERN
MIDLANDS
COUNCIL

Planning Permit PLN-19-0221

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:

74 MARLBOROUGH STREET LONGFORD

Property No: 6735067
Subdivision No: 27/003/859
CT 222877/1

THIS PERMIT ALLOWS FOR:

The land at 74 MARLBOROUGH STREET, Longford to be developed and used for a 6 Lot Subdivision (Heritage Precinct) (access and infrastructure across Community Purpose zone) in accordance with application **PLN19-0221**, and subject to the following conditions:

1 LAYOUT NOT ALTERED

Except as required by condition 2, the use and development must be in accordance with the endorsed documents:

- P1 (Proposed 7 Lot Subdivision, Woolcott Surveys, Job Number L190718, Date 06/12/19, Sheet 1/1)

2 PLANS REQUIRED

Before the development starts, plans to the approval of the General Manager must be submitted. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the endorsed plans but amended to detail:

- The crossover to Lot 4 located as close as practical to its southern boundary
Reason for condition: To provide enough space between the driveways of lots 4 and 5 for the bus stop.

3 TASWATER

Sewer and water services must be provided in accordance with the attached Submission to Planning Authority Notice (reference number **TWDA 2019/01696-NMC**).

4 COUNCIL'S WORKS & INFRASTRUCTURE DEPARTMENT'S CONDITIONS

4.1 Stormwater

- Each lot must be provided with a connection to the Council's stormwater system, constructed in accordance with Council standards and to the satisfaction of Council's Works Manager.

- A stormwater design plan including long sections and the depth, size (minimum diameter 225mm) and grade of the proposed main must be provided to the Works Manager's approval before the commencement of any works on site.

4.2 Footpath

A 1.8m wide concrete footpath must be constructed for the Malcombe Street frontage in accordance with Standard Drawing TSD-R11-v1 (Local Government Association of Tasmania).

4.3 Access

- A concrete driveway apron must be constructed from the edge of Malcombe Street to the property boundary of Lot 1 in accordance with Standard Drawing TSF-R09-v1 (Local Government Association of Tasmania).

Reason for condition: A crossover exists. The concrete apron is to match the proposed concrete footpath.

- A concrete driveway crossover and concrete apron must be constructed from the edge of Malcombe Street to the property boundary of Lot 2 in accordance with Standard Drawing TSF-R09-v1 (Local Government Association of Tasmania)

Reason for condition: The concrete apron is to match the proposed concrete footpath.

- A concrete driveway crossover and hotmix sealed apron must be constructed from Marlborough Street to the property boundary of Lots 3, 4 & 5 in accordance with Standard Drawing TSF-R09-v1 (Local Government Association of Tasmania).

Reason for condition: The hotmix sealed aprons are to match the existing hotmix footpath.

- Access works must not commence until an application for vehicular crossing has been approved by Council.

4.4 As constructed information

As Constructed Plans and Asset Management Information must be provided in accordance with Council's standard requirements.

4.5 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.

4.6 Works in Council road reserve

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 Manager.

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.

4.7 Works in State road reserve

- The developer must obtain a permit from the Department State Growth for any works to be undertaken within the State Road reservation, including any works necessary in relation to access construction, stormwater drainage and/or traffic management control and devices from the proposal.

- Application requirements and forms can be found at transport.tas.gov.au/road/permits, applications must be submitted at least twenty-eight (28) days prior to any scheduled works. In accordance with the Roads and Jetties Act 1935, works must not be commenced within the State Road reservation until a permit has been issued.

4.8 Separation of stormwater services

- All existing stormwater pipes and connections must be located.
- Where required, pipes are to be rerouted to provide an independent system for each lot.
- Certification must be provided that stormwater services have been separated between the lots.

4.9 Easements to be created

Easements must be created over all Council owned services in favour of the Northern Midlands Council. Such easements must be created on the final plan to the satisfaction of the General Manager.

4.10 Pollutants

- The developer/property owner must ensure that pollutants such as mud, silt or chemicals are not released from the site.
- Prior to the commencement of the development authorised by this permit 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 nature strip, 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.

4.11 Nature strips

Any areas of nature strip 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.

4.12 Bonds

The civil works shall be subject to a maintenance period of 12 months and a bond shall be held by Council until satisfactory completion of an inspection at the completion of the maintenance period. The bond shall be calculated based on 5% of the cost of works.

5 PUBLIC OPEN SPACE CONTRIBUTION

A cash contribution must be paid in lieu of land for public open space equal to 5% of the value of the area of land described as lots 2 – 6, as demonstrated in a valuation not less than one month old by a registered land valuer.

6 POWERPOLES

Any powerpoles that require relocation must be at the developer's expense.

7 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.

8 DEPARTMENT OF STATE GROWTH

Provision of the new accesses and associated works to the Marlborough Street frontage shall be undertaken as outlined by the findings in the applicants Traffic Impact Assessment dated October 2019. Detailed engineering drawings showing the exact locations of the accesses and associated works, inclusive of any adjustment to the existing bus stop arrangements, must be provided to the Department of State Growth for review and acceptance as part of a works permit application per the details noted below.

NOTE 1: A valid works permit is required for all works undertaken in the State Road (Marlborough Street) reservation. Details of the permit process and application forms can be found at: www.transport.tas.gov.au/road/permits/road-access. Applications must be received by the Department of State Growth a minimum of twenty (20) business days prior to the expected commencement date for works in order to allow sufficient time for the application to be assessed. No works are to be undertaken until a written permit has been issued.

NOTE 2: National Broadband Network

The developer is strongly encouraged to contact NBN Co about the National Broadband Network to the subdivision.



DES JENNINGS

GENERAL MANAGER

16 March 2020

Corrected 30 April 2020 (incorrect application number)

Notes:

- A This permit has no force or effect until such time as the associated Planning Scheme Amendment is approved by the Tasmanian Planning Commission.
- B Attention is directed to Section 39 of the Land Use Planning and Approvals Act 1993: "... representations in relation to that draft amendment may be submitted to the authority by any person before the expiration of the exhibition period referred to in section 38(1)(a) ... 28 days (or a longer period agreed to by the planning authority and the Commission) from the date, specified in the notice, on which the public exhibition of those documents is to begin." (The authority is the Northern Midlands Council.)
- C 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.
- D 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.
- E All new road reservation and/or drainage reserve areas shall be transferred to Council prior to takeover of the subdivision works as council assets at no cost to Council.

1 Dorrington Court
Dingley Village Victoria 3172
Email: \

Northern Midlands Council
PO Box 156
Longford Tasmania 7301

RE: PLN-19-0221

I am the owner of 72 Marlborough Street Longford and would like to raise my concerns that may arise from construction of this development.

The cottage at No 72 is Heritage listed by the National Trust of Tasmania and has previously been impacted by development at the rear of the property causing major damage through earthworks during construction, resulting in shifting foundation subsoil which resulted in damage to the brickwork which is irreplaceable.

As the cottage dates back to 1837 it is extremely important that its heritage value is not impacted by any further construction work near its boundary.

Yours truly,

Patricia Logan



Building Act 2016

Director's Determination – Protection Work

I, Andrew Timothy Goldsworthy, in my capacity as Director of Building Control, and acting pursuant to section 20(1)(e) of the *Building Act 2016*, hereby make the following Determination.

Determination title	Protection Work
Description	This Determination specifies the circumstances when an owner must perform protection work as required by Part 6 of the Act
Version	Version 1.1
Application	For the purposes of 20(3)(b) of the Act, this Determination applies from date of its approval until its revocation
Date of Director's approval	15 October 2018

Andrew Timothy Goldsworthy

Acting Director of Building Control
Consumer, Building and Occupational Services

Document Development History

Version	Application Date	Reason	Sections amended
1.1	15 October 2018	Minor Revisions	Revision of clause numbering.
1.0	08 May 2018	Original release	-

Introduction to Director's Determination – Protection Work (explanatory information)

Building work may sometimes adversely affect adjoining properties. Owners proposing to perform work have obligations under the *Building Act 2016* to protect adjoining property from potential damage. If building work is close to the boundary with adjoining premises, protection work may be required to ensure that the premises and structures on it are not affected.

- This Determination specifically defines the circumstances when owners are required to comply with those legal requirements to perform protection work.
- Protection work should not be confused with general construction work, as it is inherently different in nature, even though protection work may be part of, or associated with, a particular building or demolition project.
- The legal obligation to perform protection work is in addition to requirements of work health and safety laws designed to achieve a safe workplace.

The policy of including protection work provisions as law is two-fold:

- Owners are not to suffer wrongful disturbance, or an interference by others, with the enjoyment of their premises; and
- To provide fairness (“natural justice”) to adjoining owners, to be notified about new work that may affect their premises and to be reassured that appropriate measures are in place to protect their interest before any work commences.

Requirements relating to protection of adjoining property have been the law in Tasmania for over 50 years. The current provisions are contained in Part 6 of the *Building Act* and Regulation 16 of the *Building Regulations 2016*.

Some plumbing work, such as deep trenching, may also require the performance of protection work. In this Determination, the collective term “Construction work” therefore includes any building, demolition or plumbing work that could adversely affect adjoining premises.

- For a more detailed explanatory information on the protection work requirements of the *Building Act*, please refer to the **Director's Guideline - Protection Work**.

Mandatory requirements of this Determination:**1.0 Interpretation**

Except as provided below, the terms used in this Determination are the same as those defined in the *Building Act 2016* and the *Building Regulations 2016*.

“Construction work” means performance of building, plumbing or demolition work.

“Protection work” means work that provides protection from damage to the adjoining premises, or users of those premises. This work includes, but is not limited to:

- Underpinning, including vertical support, lateral support, protection against variation in earth pressures, ground anchors and other means of support for the adjoining property;
- Shoring up of the adjoining property including retaining walls and bored piers;
- Overhead protection for adjoining property;
- Other work designed to maintain the stability of adjoining property or to protect it from damage from building work including retaining walls and bored piers;
- Any work or use of equipment necessary for the construction, maintenance or removal of building work or equipment, whether or not the work or equipment is carried out or used on, over, under, or in the air space above the land on which the building work is, or is to be carried out, or the adjoining property.

“Zone of Influence” in relation to excavations or trenching, means the zone (e.g. either side of the excavation) in which there may be an influence on the excavation, including possible ground collapse.

- Mechanical plant, vehicles, storage of materials (including excavated material) or any other heavy loads should not be located in the ‘zone of influence’ of an excavation unless a ground support system installed.

2.0 Circumstances requiring performance of Protection work:**2.1 The performance of protection work for compliance with Part 6 of the Act is required either:**

1. If the circumstances in clauses 2.2 to 2.9 will occur (or have been caused) as a result of construction work on the owner’s premises; or
2. In any other circumstances, a building surveyor, after an analysis of risks, decides that the construction work requires performance of protection work, after taking into account (but not limited to) the following matters:
 - location of the premises
 - the proximity of proposed works to adjoining buildings on or near the boundary.

- the nature of the proposed construction work including its engineering or architectural design;
- risk of:
 - falling objects
 - the fall or dislodgement of earth or rock
 - falls from one level to another
 - a person falling into an excavation
- site conditions including:
 - the possible instability of any adjoining structure caused by the excavation
 - the possible instability of an excavation, due to persons or plant working adjacent to the excavation or the placement of excavated materials, plant or other loads in the zone of influence
 - any previous disturbance of the ground including previous construction work or excavation
 - the presence of or possible inrush of water or other liquid
 - vibration and hazardous noise, and
 - overhead essential services (power lines) or ground mounted essential services (transformers, gas and water meters).

2.2 Protection of people during construction work

The users of roads, footpaths or adjoining premises, who may be at risk from the performance of construction work on the owner's premises.

2.3 Excavations or trenching work

Excavations for construction work, where that work could cause damage, instability or collapse of the adjoining premises:

- along the boundary of premises; or
- within three metres of any building on adjoining premises; or
- to a level below that of the footings of a building on adjoining premises; or
- for the particular ground conditions or soil type of the allotment, where the excavation's zone of influence will extend into adjoining premises and may adversely impact on it.

2.4 Excavations or voids that are a danger to the public

Construction work that creates excavations or voids that are a danger to the public including:

1. a void or excavation that adjoins a public way, path or road; or
2. the construction site has not been secured or fenced and members of the public could gain access (even if access is unauthorised) and there is:
 - a risk of a person falling two metres or more, and
 - a trench with an excavated depth of 1.5 metres or more.
 - when trenching, for the purposes of the owner, is required through premises of an adjoining owner.

2.5 Work on external walls

When cutting away any:

- footings of an adjoining building; or
- chimney breasts, jambs or flues or other projections of a party wall or external wall;

in order for the owner to erect an external wall against a party wall or another external wall.

2.6 Work on party walls or party fences

1. a party wall is to be built, added to, or demolished; or
2. a party wall is to be repaired or underpinned; or
3. where the owner intends to erect a party fence wall or to demolish and rebuild it as a party wall; or
4. for a building that is connected to another by arches, or communications over public ways, or over passages belonging to another owner, if there is a need to rebuild or to repair those structures.

2.7 Work on adjoining walls

Where the building owner intends to cut away or demolish part of any wall or building of an adjoining owner, in order to erect an upright wall against it.

2.8 Work on retaining walls

When a retaining wall is to be built on the boundary of premises; *except* where a retaining wall may be erected as Low Risk Work by an owner or competent person (as Determined by the Director to be Low Risk Work).

2.9 Demolition work

Where the demolition of any structure may adversely affect:

- the structural integrity of; or
- cause damage to

any other nearby building, and not just any immediately adjacent buildings.