



SPECIAL COUNCIL MEETING MINUTES

Tuesday 26 April 2022
Council Chambers, St Helens

John Brown, General Manager
Break O'Day Council
26 April 2022

**This page left blank
intentionally**

CONTENTS

CONTENTS	3
AUDIO RECORDING OF ORDINARY MEETINGS OF COUNCIL	5
OPENING	5
ACKNOWLEDGEMENT OF COUNTRY.....	5
SCM04/22.1.0 ATTENDANCE	5
SCM04/22.1.1 Present	5
SCM04/22.1.2 Apologies.....	6
SCM04/22.1.3 Leave of Absence	6
SCM04/22.1.4 Staff in Attendance	6
SCM04/22.2.0 PUBLIC QUESTION TIME.....	6
SCM04/22.3.0 DECLARATION OF INTERESTS OF A COUNCILLOR OR CLOSE ASSOCIATE	6
SCM04/22.4.0 PLANNING AUTHORITY	7
SCM04/22.4.1 Report on Representations to the Draft Break O’Day Council Local Provisions Schedule (LPS).....	7

AUDIO RECORDING OF ORDINARY MEETINGS OF COUNCIL

As determined by Break O'Day Council in March 2019 all Ordinary, Special and Annual General Meetings of Council are to be audio recorded and a link will be available on the Break O'Day Council website where the public can listen to audio recordings of previous Council Meetings.

In accordance with the Local Government Act 1993 and Regulation 33 of the Local Government (Meeting Procedures) Regulations 2015, these audio files will be retained by Council for at least six (6) months and made available for listening online within seven (7) days of the scheduled meeting. The written minutes of a meeting, once confirmed, prevail over the audio recording of the meeting and a transcript of the recording will not be prepared.

The Mayor also advised that due to an unresolved technical failure with the audio recording equipment we are attempting to record this meeting however it is noted for the minutes that due to the unresolved issues the audio may or may not record properly.

OPENING

The Mayor welcomed Councillors, members of the community and staff and declared the meeting open at 9.28am.

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Traditional Custodians of the land on which we work and live, the Palawa people of this land Tasmania, and recognise their continuing connection to the lands, skies and waters. We pay respects to the Elders Past, present and future.

SCM04/22.1.0 ATTENDANCE

SCM04/22.1.1 Present

Mayor Mick Tucker
Deputy Mayor John McGiveron
Councillor Janet Drummond
Councillor Barry LeFevre
Councillor Glenn McGuinness (*arrived at 9.50am*)
Councillor Margaret Osborne OAM

SCM04/22.1.2 Apologies

Councillor Kristi Chapple
Councillor Lesa Whittaker
Councillor Kylie Wright

SCM04/22.1.3 Leave of Absence

Nil

SCM04/22.1.4 Staff in Attendance

General Manager, John Brown
Executive Assistant, Angela Matthews
Manager Infrastructure and Development Services, David Jolly
Development Services Coordinator, Jake Ihnen
Senior Town Planner, Deb Szekely
Planning Officer, Alex McKinlay
Planning Consultant from GHD, Odin Kelly

SCM04/22.2.0 PUBLIC QUESTION TIME

Three (3) people in the gallery.

In accordance with Section 31(1) of the Local Government (Meeting Procedures) Regulations 2015 the following questions were submitted in writing prior to the Council Meeting.

Nil.

SCM04/22.3.0 DECLARATION OF INTERESTS OF A COUNCILLOR OR CLOSE ASSOCIATE

Section 48 or 55 of the Local Government Act 1993 requires that a Councillor or Officer who has an interest in any matter to be discussed at a Council Meeting that will be attended by the Councillor or Officer must disclose the nature of the interest in a written notice given to the General Manager before the meeting; or at the meeting before the matter is discussed.

A Councillor or Officer who makes a disclosure under Section 48 or 55 must not preside at the part of the meeting relating to the matter; or participate in; or be present during any discussion or decision making procedure relating to the matter, unless allowed by the Council.

Clr Dummond declared an interest in relation to Agenda Item No SCM04/22.4.1 – Representation Number 7 of the Report on Representations to the Draft Break O’Day Council Local Provisions Schedule (LPS).

SCM04/22.4.0 PLANNING AUTHORITY

Pursuant to Section 25 of the Local Government (Meeting Procedures) Regulations 2015 the Mayor informed the Council that it was now acting as a Planning Authority under the Land Use Planning and Approvals Act 1993.

SCM04/22.4.1 Report on Representations to the Draft Break O'Day Council Local Provisions Schedule (LPS)

FILE REFERENCE	031\011\021\
----------------	--------------

OFFICER'S RECOMMENDATION:

1. That the Planning Authority endorse 'Break O'Day Draft Local Provisions Schedule Section 35F Report' including 'Tables for Attachment 1' as its report pursuant to Section 35F of the Land Use Planning and Approvals Act 1993 and forward to the Tasmanian Planning Commission.
2. That the Planning Authority, pursuant to section 6 of the Land Use Planning and Approvals Act 1993, delegate to the General Manager and Development Services Coordinator (or persons acting in those positions) its powers and functions to:
 - a) modify the reports submitted under sections 35F if a request is received from the Tasmanian Planning Commission for further information; and
 - b) represent the planning authority or appoint a representative for the planning authority at hearings pursuant to Section 35H.

INTRODUCTION:

The purpose of this report is to determine the Planning Authorities position on the representations that were lodged to the exhibition of the Local Provisions Schedule (LPS) and provide recommendations to the Tasmanian Planning Commission (Commission) pursuant to section 35F of the Land Use Planning and Approvals Act 1993 (Act).

DISCUSSION:

The General Manager explained to Councillors that as a result of the rep[resentation from Clr Drummond it is necessary to amend the recommendation to deal with the Section 35F Report in two parts, one for all of the representations excluding Representation from Rodney and Janet Drummond and then a separate decision relation to Representation 7. This would enable Clr Drummond to participate in the discussion and decision making where she has no pecuniary interest.

The Senior Town Planner tabled to all Councillors a list of minor corrections as follows – Draft LPS Zoning where missing; spelling corrections;

- Rep 1
 - inclusion of draft LPS zoning
 - inclusion of 'the majority of ' to dot point 2 in response
 - consistency overview - check box

- Rep 2
 - inclusion of draft LPS zoning - Agriculture
 - Rep 3
 - inclusion of draft LPS Zoning - Agriculture
 - Rep 4 Item 1
 - Apply the Rural Zone to CT168012/2 instead of CT209977/1
 - Table in main report
 - Rep 16 - Within Response section , removal of incorrect material relating to LORZ
 - Rep 18 Item 1 - in response section, incorrectly references LORZ and is correctly amended to LCZ
 - Rep 28 - inclusion of 'the majority of ' to dot point 2 in response
 - Rep 31 - inclusion of 'the majority of' to dot point 2 in response
 - Rep 37 - inclusion within Response - The land has mapped threatened vegetation communities
 - Rep 66
 - Correct IPS Zoning from Rural to Rural Resource
 - Include mapping for illustrative purposes
 - Include Draft LPS Zoning – Rural
 - Rep 70
 - Item 5 - inclusion of details within section "Matter(s) raised in the representation..."
 - Item 6 - inclusion of Rural Resource Zone within IPS Zoning description
 - Item 9 - inclusion of Rural Resource Zone within IPS Zoning description
 - Item 13 - inclusion of Rural Resource Zone within IPS Zoning description
 - Rep 76 - inclusion within response 'The Boundary Adjustment will occur within Crown processes.'" To provide greater clarification
 - Rep 81
 - Item 1 - recommendation changed to "No modification to the Draft LPS" for consistency
 - Item 2 - recommendation changed to "No modification to the Draft LPS" for consistency
 - Item 6 - recommendation changed to "No modification to the Draft LPS" for consistency
 - Item 13 altered wording for consistency
-
- Clr Drummond stated that she doesn't feel that she has had time to do the report justice. Clr Drummond stated that she would have liked an index to be able to cross reference as she felt like she got bogged down and lost a little bit. Clr Drummond asked, was there any reason why they couldn't have had the representations earlier without the Officer's report as there was another 680 page agenda that was required to be read during that time also.
 - Clr LeFevre stated that he wanted to acknowledge the phenomenal work that the planners have done.
 - Clr McGiveron stated that he agrees with Clr LeFevre, everyone that represented has their particular case in mind. There is so much of it and so much diversity in there.
 - Clr Osborne stated that she also agrees, the planners have done a phenomenal job and she was able understand it and she feels quite confident on behalf of the people she represents to make a decision.
 - The Planning Consultant stated that this is not the end of the line for everyone. Every representor will have the opportunity to appeal through the Tasmanian Planning Commission (TPC).

- The General Manager stated that he completely understands the challenges Councillors have faced with dealing with this however the critical part of the information is the Officer's Report which was not finalised until just prior to Easter. The General Manager stated that in his observation the first few representations were a cluster of properties that had all argued a similar case and most of the others then were individual properties.
- Mayor Tucker stated that he at times was a little confused but he also picked up on a few clusters in the information.
- The Senior Town Planner stated that as the Planning Consultant mentioned we do have the hearing coming up so there is further opportunity for people to be heard. We will discuss internally how we make it known to representors as to what the next steps are and how it can occur. It is essential that people know that they have been heard. The Senior Town Planner stated that they tried to keep the report very structured but we were governed by Guideline 1, however we are a unique Local Government area. The process has highlighted the need for further strategic work for the area. The representations form a great body of work that we can draw on in the future.
- The Planning Consultant stated that this process incorporated a transitioning of the zones that were already in place. The representations highlight that we have a very engaged community.
- Clr LeFevre asked, why the information regarding Southern Forest, Tarkine, etc is included in the paperwork. The Senior Town Planner stated that this material was submitted with this representation 81 supporting their representation.
- Clr McGuinness asked, with regards to why many of the representations having highlighted wildlife overlays in their area they were asking to have the Environmental Landscape zoning and these were knocked back. The Senior Town Planner stated that as part of the decision making we developed a matrix that had conservation covenants on the title and in the main document we have on page 10 it shows the assessment process undertaken every time they looked at a lot to determine whether it should transition to a new zone or leave it the same. The Planning Consultant stated that the decision matrix that was created was based off other LPS from other Councils who have already been through this process and hearings so we tried to apply with what direction has already been used in the past.
- Clr Drummond stated that she has concerns with the removal of the 1km rule – particularly with climate change etc however she is concerned that it has not been included. She is concerned with removing the blanket requirement however she acknowledged that it has been noted. The Senior Town Planner stated that the Landscape Conservation Zone does have a 20 hectare minimum lot size so it does restrict it in that sense, however there may be lots available for subdivision if it meets the performance criteria. The Senior Town Planner stated that like any application received we will need to demonstrate how it meets the performance criteria before any approvals are considered. The Planning Consultant stated that back at the beginning of this process this was presented as something that was high value to this community but the TPC did not see this as a planning mechanism they could see in the LPS. This was not a decision of Council it was the TPC. Clr Drummond stated that she agrees that the particular zoning is very important to the community. It is a shame that the State Government have said we shouldn't go down this path but maybe that we as a Council should have pursued this as it is something that is unique to the area.
- Clr McGiveron stated that he had no comments in particular however he is amazed by the number and quality of representations received which shows the real interest in the community. It highlights that people want to see it right.

COUNCIL DECISION:

SCM04/22.4.1.81

Moved: Clr J McGiveron / Seconded: Clr B LeFevre

1. That the Planning Authority endorse 'Break O'Day Draft Local Provisions Schedule Section 35F Report' including 'Tables for Attachment 1' as its report pursuant to Section 35F of the *Land Use Planning and Approvals Act 1993* and forward to the Tasmanian Planning Commission **excluding the content of Representation No 7** and the Planning Authority is satisfied that the draft LPS meets the LPS criteria.

FOR Clr J McGiveron, Clr M Osborne, Clr G McGuinness, Clr B LeFevre, Clr M Tucker
AGAINST Clr J Drummond (Abstained)
CARRIED

Clr J Drummond left the meeting at 10.04am

DISCUSSION:

No discussion took place on this item.

COUNCIL DECISION:

SCM04/22.4.1.82

Moved: Clr B LeFevre / Seconded: Clr G McGuinness

2. That the Planning Authority endorse 'Break O'Day Draft Local Provisions Schedule Section 35F Report' including 'Tables for Attachment 1' as its report pursuant to Section 35F of the *Land Use Planning and Approvals Act 1993* and forward to the Tasmanian Planning Commission **relating to the content of Representation No 7** and the Planning Authority is satisfied that the draft LPS meets the LPS criteria..

CARRIED UNANIMOUSLY

Clr J Drummond returned to the meeting at 10.05am

DISCUSSION:

No discussion took place on this item.

COUNCIL DECISION:

SCM04/22.4.1.83

Moved: Clr B LeFevre / Seconded: Clr J McGiveron

- 3. That the Planning Authority, pursuant to section 6 of the *Land Use Planning and Approvals Act 1993*, delegate to the General Manager and Development Services Coordinator (or persons acting in those positions) its powers and functions to:
 - a) modify the reports submitted under sections 35F if a request is received from the Tasmanian Planning Commission for further information; and
 - b) represent the planning authority or appoint a representative for the planning authority at hearings pursuant to Section 35H.

FOR Clr J McGiveron, Clr M Osborne, Clr G McGuinness, Clr B LeFevre, Clr M Tucker
AGAINST Clr J Drummond (Abstained)
CARRIED

The Mayor advised the Council that it had now concluded its meeting as a Planning Authority under Section 25 of the Local Government (Meeting Procedures) Regulations 2015.

Mayor Tucker thanked everyone for their attendance and declared the meeting closed at 10.07am.

.....
MAYOR

.....
DATE