

SPECIAL COUNCIL MEETING

COUNCIL MINUTES

Monday 6 June 2016

Council Chambers



John Brown
General Manager
Break O'Day Council
6 June 2016

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Meeting commenced at 9.45am

SCM06/16.1.0 ATTENDANCE

SCM06/16.1.1 Present

Mayor Mick Tucker
Deputy Mayor John McGiveron
Councillor Margaret Osborne OAM
Councillor Barry LeFevre
Councillor Kylie Wright

SCM06/16.1.2 Apologies

Councillor Janet Drummond
Councillor Glenn McGuinness
Councillor John Tucker

SCM06/16.1.3 Leave of Absence

Councillor Hannah Rubenach-Quinn

SCM06/16.1.4 Staff in Attendance

General Manager, John Brown
Executive Assistant, Angela Matthews
Manager Works and Infrastructure, Stephen Yam (*Item 1.0 – 5.1*)
Building Services Coordinator, Jake Ihnen (*Item 1.0 – 4.1 / 5.1*)
Planning Officer, Chris Triebe (*Item 1.0 – 5.1*)

SCM06/16.2.0 PUBLIC QUESTION TIME

Nil (0) people in the gallery.

In accordance with Section 31(1) of the Local Government (Meeting Procedures) Regulations 2005 the following questions were submitted in writing prior to the Council Meeting.

Nil.

SCM06/16.3.0 DECLARATION OF PECUNIARY INTEREST 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.

Nil.

SCM06/16.4.0 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.

SCM06/16.4.1 Resumption of Extractive Activities, St Helens Point

FILE REFERENCE	DA 041-2016
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OFFICER'S RECOMMENDATION:

Pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Interim Planning Scheme 2013* that the application for LEVEL 2 EXTRACTIVE INDUSTRY on land situated at P1747 ST HELENS POINT ROAD, STIEGLITZ described in Certificate of Title 228670 Folio 1, be APPROVED subject to the following conditions:

1. Development must accord with the Development Application DA 041-16 received by Council 12 February 2016, together with all submitted documentation received and forming part of the development application, except as varied by conditions on this Planning Permit.
2. The development must comply with the conditions contained in Schedule 2 of Permit No. 9339 Part B, which the Board of the Environment Protection Authority (EPA) has required the Planning Authority to include in the permit, pursuant to Section 25(5) of the *Environmental Management and Pollution Control Act 1994*.

3. Upon receipt, a copy of the mining lease as issued by Mineral Resources Tasmania, is to be provided to the Break O’Day Council within 21 days.
4. A copy of the Construction Environment Management Plan is to be forwarded to Council within 14 days of its receipt.
5. The transport contractors are to erect a minimum four (4) regulatory truck warning signs (W5-22) “Symbolic Trucks Entering”. Two (2) signs are to be positioned at the statutory distances before and after the quarry access/exit point and two (2) signs are to be positioned before and after the track used to access the training wall, as a warning to other road users. These signs are to be erected prior to any works commencing on the quarry and remain in place for the duration of the transport operations.
6. The existing driveway is to be upgraded to a minimum 4m width if the trucks are not fitted with two-way radios.
7. If access to the quarry site and Blanches Beach is blocked, trucks are not to be parked or left standing on any section of St Helens Point Road.
8. The access road to the quarry site must be constructed in a manner that ensures sediment is neither tracked nor eroded across the property boundary. Stormwater runoff from the access road is not to be disposed of to the north of the access road.
9. Vehicular sight distances are to be maintained in accordance with the Traffic Impact Assessment authored by Terry Eaton and dated March 2016.
10. Any damage that may occur to any Council infrastructure during the quarry operations and use of Council maintained roads must be reinstated to the satisfaction of Council, at the cost of the developer.
11. Portable toilets are to be provided in accordance with the requirements of OH&S standards and are not to create an environmental nuisance. The collected waste is to be disposed of within a certified waste system dump point.
12. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.
13. All underground infrastructure including all forms of water, storm water, power, gas and telecommunication systems must be located prior to the commencement of any on-site excavation and / or construction works. Any works to be undertaken within two (2) metres of any Council owned infrastructure must be done in consultation with Council’s Manager Works and Infrastructure.

INTRODUCTION:

The application is for the resumption of a Level 2 extractive activity within an existing quarry located to the east of Lords Point, Akaroa, within the St Helens Point Conservation area.

ZONE – Environmental Management

USE CLASS – Extractive Industry

The Extractive Industrial use is a discretionary use with the qualification of either being for an existing use as at the date of commencement of this Planning Scheme or if located within Certificate of Title 228670 Folio 1.

DISCUSSION:

- The Planning Officer advised that the mining lease is very close to being issued by Mineral Resources Tasmania (MRT).
- Clr McGiveron stated that he was in full support of this project, doesn't know of anything that would cause any issues.
- Clr LeFevre stated that he was impressed with the report and the level of consultation with people in the area.

COUNCIL DECISION:

SCM06/16.4.1.135

Moved: Clr M Osborne / Seconded: Clr B LeFevre

Pursuant to Section 57 of the *Land Use Planning & Approvals Act 1993* and the *Break O'Day Interim Planning Scheme 2013* that the application for LEVEL 2 EXTRACTIVE INDUSTRY on land situated at P1747 ST HELENS POINT ROAD, STIEGLITZ described in Certificate of Title 228670 Folio 1, be APPROVED subject to the following conditions:

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positioned before and after the track used to access the training wall, as a warning to other road users. These signs are to be erected prior to any works commencing on the quarry and remain in place for the duration of the transport operations.

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9. Vehicular sight distances are to be maintained in accordance with the Traffic Impact Assessment authored by Terry Eaton and dated March 2016.
10. Any damage that may occur to any Council infrastructure during the quarry operations and use of Council maintained roads must be reinstated to the satisfaction of Council, at the cost of the developer.
11. Portable toilets are to be provided in accordance with the requirements of OH&S standards and are not to create an environmental nuisance. The collected waste is to be disposed of within a certified waste system dump point.
12. Native vegetation must not be removed outside that necessitated by the proposed development (this includes the clearing of vegetation to retain or expand views or vistas) unless consented to by Council.
13. All underground infrastructure including all forms of water, storm water, power, gas and telecommunication systems must be located prior to the commencement of any on-site excavation and / or construction works. Any works to be undertaken within two (2) metres of any Council owned infrastructure must be done in consultation with Council's Manager Works and Infrastructure.

FOR Clr B LeFevre, Clr M Osborne, Clr M Tucker, Clr J McGiveron
AGAINST Clr K Wright
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.

SCM06/16.5.0 GOVERNANCE

SCM06/16.5.1 Review of the Local Government Act – Council Submission to the Local Government Association of Tasmania (LGAT)

FILE REFERENCE	039\002\008\
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OFFICER'S RECOMMENDATION:

That Council endorse the following responses to the Local Government Association of Tasmania (LGAT) as Break O'Day Council's submission to the Review of the Local Government Act.

THE PEOPLE WHO LEAD AND SERVE OUR COMMUNITIES

Q1 *What should the leadership role of the mayor include?*

No change

Q2 *What should the requirement for the mayor to liaise with the general manager include?*

Mayor and General Manager should liaise as required to ensure optimisation the running of the organisation.

Q3 *Should mayors be required to undertake induction and training, particularly in the development of leadership skills?*

Yes.

Q4 *Should mayors be given a casting vote when decisions are tied, so that tied decisions are not automatically determined in the negative?*

No – the Mayor is elected as a Councillor as well and already gets one (1) vote.

Q5 *Should the provisions requiring a person to be both a mayor and councillor candidate remain?*

Yes.

Q6 *What should the role of deputy mayor include?*

- Supporting the Mayor and share the role of mentoring of Councillors
- Sharing corporate knowledge on a regular basis with the Mayor and General Manager

Q7 *Should deputy mayors be appointed by the council rather than popularly elected?*

No.

Q8 *How should mayors fulfill their role of overseeing councillors in the performance of their functions?*

- To ensure that all Councillors are active and as individuals bring all ideas to the table to contribute to the discussion and in doing that will achieve the best outcomes for Council.
- Mayor should have an open door policy to all Councillors.

- All opinions around the table are respected.

Q9 *What protocols should councils develop to guide interactions between council staff and councillors?*

No change required.

Q10 *Should elected members be required to participate in induction and professional development programs and, if so, what sort of training should they do?*

- Building capacity and professionalism among elected members by requiring them to:
 - Participate in induction programs following elections;
 - Create and implement annual professional development plans; and
 - Report on participation in induction and professional development in the annual report.

Q11 *What role should mayors have in relation to the appointment and performance appraisal of general managers?*

Mayor would take lead role as the “Chair” in the appointment and performance role of the General Manager.

Q12 *Should the Act include principles for the selection, reappointment and performance appraisal of general managers?*

No

Q13 *What should the requirement for general managers to liaise with mayors include?*

General Manager and Mayor should liaise as required to ensure optimisation the running of the organisation.

Q14 *What level of information should be provided to the council by the general manager?*

Should include from page 15:

- “to ensure the mayor and Councillors receive timely information, advice and administrative and professional support necessary for the effective discharge of their responsibilities”
- In a reasonable manner within Council’s resources

Q15 *Is a council’s organisational structure a strategic or operational matter?*

Take the SA thread – General Managers are required to consult with the Council when determining or significantly changing the organizational structure for the staff of the Council.

Q16 *Should the strategic matters that are the responsibility of the council and the operational matters that are the responsibility of the general manager be clarified?*

Implementation up to the General Manager

MONITORING HOW EFFECTIVELY COUNCILS SERVE OUR COMMUNITY

Q17 *Is it necessary to have two separate bodies to perform the functions of conducting strategic reviews of and investigations into councils, or should the two be combined?*

No change

Q18 *Can the processes for a Local Government Board review or Board of Inquiry investigation be improved?*

No change

Q19 *Are the potential outcomes of a review or inquiry sufficient? Or should the Act provide additional potential outcomes following an inquiry or review, such as the suspension or dismissal of an individual councillor?*

No change

Q20 *Should the Director of Local Government have the power to summons councillors and council staff as part of his/her investigation?*

No Change

Q21 *Does the Director of Local Government have sufficient power to enable him/her to support councils and councillors to practice good governance and comply with the Act (especially following an investigation)?*

No Change

Q22 *Should the Act contain a for a mechanism to dismiss a council and/or individual councillor following an investigation by the Director of Local Government?*

No

Q23 *Should the Act provide a mechanism for more rapid intervention (such as a performance improvement order) in the instance where it is evident a council and/or individual councillor's performance is significantly impacting on the governance of the council and/or the service provided to the community?*

Should be a mechanism, but how that should look ?? – perhaps a stand down provision by the Director of Local Government whilst investigations undertaken.

Q24 *Does the Act provide sufficient powers to suspend or dismiss an individual councillor for breaches of the Act?*

Yes, no change

Q25 *Do the penalty provisions in the Act need to be both increased and broadened to include other important sections of the Act?*

No Change

Q26 *Should councils be required to report to the Minister on the actions taken in response to the Auditor-General's findings on their financial statements?*

Already happens

Q27 *Does the Act provide for best practice in relation to keeping record of and reporting financial activities and transactions?*

No change

Q28 *Has recent reform of Part 7 (Administration) and Part 8 (Financial Management) of the Act achieved the desired outcomes in relation to financial management and reporting?*

Currently works well

FAIR AND TRANSPARENT COUNCIL ELECTIONS

Q29 *Should the general manager's roll be retained in its current form, amended or abolished?*

Believe that should be retained but through application just prior to each election every 4 years – the GM Roll should not be rolled over from year to year

Q30 *If it is retained, should the general manager's roll be amended so it includes only Australian citizens or permanent residents living in the municipality, not non-permanent residents?*

Should be on the House of Assembly in this case

Q31 *If it is retained, should the general manager's roll continue to include people who own or occupy a property in the municipality or are the nominee of a corporate body in the municipality?*

Yes – must be a rateable property

Q32 *If the general manager's roll is retained, should it be amended so a person cannot vote in their own right as well as on behalf of a corporate body in a single municipality?*

Yes

Q33 *If the general manager's roll is retained, should it be amended so a person may only vote in one municipality, rather than in any municipality where they own or occupy a property?*

No

Q34 *Should electoral campaign advertising expenditure limits be abolished, retained or increased?*

Retained

Q35 *Should there be restrictions on the donations local government electoral candidates are permitted to receive? If so, what should the restrictions include?*

If there is a limit on what can be spent it wouldn't matter if donations are received

Q36 *Should local government electoral candidates disclose who they receive election campaign donations from and the monetary value of the donations?*

Yes – register and then give to electoral commission

Q37 *If candidates are required to disclose donations received, should there still be limits on campaign advertising expenditure?*

Yes.

Q38 *Should online electoral campaign advertising be included in the existing advertising regulations?*

Too hard to monitor and regulate – until there is a system put in place elsewhere that could monitor this.

Q39 *Should internet advertising be included in the expenditure limit (if there is a limit)?*

If there is an expense incurred, yes it should be included.

Q40 *Should an electoral candidate be able to name another candidate in campaign advertising?*

No Change

REGIONAL BODIES

Q41 *Should the regional bodies have a common governance structure or should there be a flexible approach on how they operate?*

No – needs to be flexibility

Q42 *How will legislative recognition and prescription of common over-riding functions add value to regional decision making? How will it add value to the sector as a whole?*

It won't.

Q43 *What roles and functions of regional bodies should be specified in the Act?*

None

RED TAPE

Q44 *Are there any opportunities for reducing red tape in the Act to enable councils to more effectively govern themselves?*

Individual responses will be forwarded.

INTRODUCTION:

The State Government has commenced a targeted review of the Local Government Act with the release of a discussion paper for consultation. The Local Government Association of Tasmania (LGAT) will be preparing a sectoral response to the review and have provided advice in regards to their intended consultation process for the review of the Local Government Act – Phase 1 – The Consultation Paper.

DISCUSSION:

- Clr LeFevre raised concerns with the response listed for question 10 being on paper - in regards to “create and implement annual professional development plans; and report on participation in induction and professional development in the annual report”.
 - Clr Osborne stated that as a Councillor if we find we have a deficiency in an area we could come forward and look into to.
 - Clr LeFevre stated that if we had mentors and fill in a form and concentrate on specific weaknesses.
 - The General Manager stated do we have these? Do we report in the annual report regarding professional development and induction?
 - Clr McGiveron asked, can it just be internal or is it legislated?
 - Clr LeFevre stated that in relation to point 2 – wouldn’t formalise (have internally), but from a ratepayer perspective it shows what is offered.
 - The General Manager stated that the needs of professional development should be customised, would prefer it was a policy type approach of Council.
 - Clr McGiveron stated that a lot of the professional development is repetitive, a refresher is good but if we don’t go and it is reported in the annual report it looks as if, as Councillors we are not doing anything.
- Clr LeFevre stated that he was slightly confused with the response for question 16, it didn’t really answer the question.
 - The Mayor stated that it was up to the General Manager to implement Council decisions. The Council would decide what they want and the General Manager would implement.
 - Clr LeFevre stated that he believed the answer should be a “yes/No” answer.
 - It was agreed that it be changed to “No”.

COUNCIL DECISION:

SCM06/16.5.1.136

Moved: Clr J McGiveron / Seconded: Clr B LeFevre

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No.

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RED TAPE

Q44 *Are there any opportunities for reducing red tape in the Act to enable councils to more effectively govern themselves?*

Individual responses will be forwarded.

CARRIED UNANIMOUSLY

Mayor Tucker thanked everyone for their attendance and declared the meeting closed at 10.13am.

.....
MAYOR

.....
DATE