

TASMANIAN PLANNING COMMISSION



Our ref: DOC/24/24023
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29 February 2024

Mr Greg Ingham
General Manager
Glamorgan Spring Bay Council
9 Melbourne Street
TRIABUNNA TAS 7190

By email: admin@freycinet.tas.gov.au
mick.purves@freycinet.tas.gov.au

Dear Mr Ingham

**Tasmanian Planning Scheme - Glamorgan Spring Bay
Draft amendment AM2023-01 and permit SA 2022-046
155 Rheban Road, Orford**

I refer to the draft amendment above.

The Commission has reviewed your response to its direction letter dated [1 December 2023](#)¹ and requests the following:

Section A item 2 - Section 40K report

It is noted that the planning authority considers that its section 40K report under the *Land Use Planning and Approvals Act 1993* (the Act) is provided as Table 1 and Council's resolution dated 26 September 2023. The Commission does not accept this as a section 40K report for the following reasons.

Section 40K(2)(c) of the Act requires the planning authority to provide a statement of its opinion into the merit of *each* representation. This statement is to include whether the planning authority considers that the draft amendment ought to be modified. If so, it should include what the modifications are and the effect they have on the draft amendment and the Local Provisions Schedule.

It is noted that the resolution of the planning authority on 26 September 2023 states:

That Council, having received and considered 27 representations, has determined that they raise matters that are considered valid concerns, and that substantially impact its consideration of AM2023-01 and SD2023-01.(p.26)

No information was provided in terms of which representations and what information raise matters that are considered valid concerns. That is, no information has been provided on what the planning authority considers as having merit.

¹ https://www.planning.tas.gov.au/__data/assets/pdf_file/0009/736353/Commission-directions-1-December-2023.

By not addressing the requirements of section 40K(2)(c), it is also considered that the planning authority has not complied with sections 40K(2)(d) and 40K(2)(e) of the Act. These sections require the planning authority to include a statement as to whether it is satisfied that the draft amendment meets the LPS criteria and provide recommendations in relation to the draft amendment.

It is noted that Table 1 of the planning authority's decision of 26 September 2023 indicates that the planning authority no longer considers that the draft amendment meets the LPS criteria, but it does not provide reasons why it considers this. For example, the section 40K report may detail what information in the representations has influenced the planning authority's decision by relating it back to the LPS criteria.

Furthermore items 2, 3 and 4 of the planning authority's resolution suggest that the Commission seeks its own advice on various matters. These matters are not for the Commission. The amendment proposed and the decision by the planning authority on representations is one for the planning authority. If the planning authority considers that this information is required, it is the planning authority's responsibility to obtain the information. The recommendations referred to in section 40K(2)(e) relate to recommendations to the draft amendment, not recommendations for the Commission to seek independent advice.

The planning authority may wish to prepare its section 40K report using a similar template to the report prepared by its Senior Planning Consultant at Attachment 4.1.1 of the meeting agenda dated 26 September 2023. The Commission cannot accept the report prepared by the Senior Planning Consultant as a section 40K report as it was not adopted by the planning authority.

The planning authority is required to prepare a report that meets the requirements of section 40K of the Act.

A hearing will be scheduled once a section 40K report meeting the requirements of the Act is received by the Commission.

Section A item 3 – Attenuation Code

The matter of the sewage treatment plant and compliance with the Attenuation Code will be discussed at the hearing. The planning authority is advised that if any expert evidence is to be submitted at the hearing, it must be provided to the Commission **14 days** prior to the hearing (date to be confirmed).

Section A item 4 – Flood-Prone Areas Hazard Code

The planning authority is to provide to the Commission a copy of the Flussig Engineers report referenced in section 6.2.5 of the Neil Shephard and Associates report dated 10 March 2023. The Commission notes further evidence is required. The planning authority is advised that if any further expert evidence is to be submitted at the hearing, it must be provided to the Commission **14 days** prior to the hearing (date to be confirmed).

Section B item 4– Attenuation Code

The planning authority response did not include assessment of Clause C9.6.7 A1/P1 of the Attenuation Code. The planning authority is to provide the complete assessment of the requirements of the code.

Section B item 5 – Bushfire-Prone Areas Code

The email exchange provided by the planning authority in response to the Commission's direction does not confirm which documents were referred to the Tasmania Fire Service. The planning authority is to provide evidence of which documents were referred.

Submissions must be made by email to tpc@planning.tas.gov.au. Once received, the submissions referred to above will be made available under the [relevant assessment](#)² on the Commission's website.

All information is to be provided by close of business on **24 April 2024**. Any response submissions that other parties may wish to make must be received by **8 May 2024**.

Please note that submissions will be published in full, without redaction.

This website will be the primary portal for exchanging information.

If you require further information or are unable to access the website please contact Louise Blyth, Planning Adviser, on 6165 6818.

Yours sincerely



Roger Howlett
Delegate (Chair)

cc all parties

² <https://www.planning.tas.gov.au/assessments-and-hearings/current-assessments-and-hearings/AP-GSB-AM-2023-01>