

From: [Alison Westwood](#)
To: [TPC Enquiry \(DoJ\)](#)
Subject: Glamorgan Spring Bay Draft Amendment AM2018/07(a) and permit SA 2017/04 and Draft Amendment2018(b)
Date: Wednesday, 5 June 2019 1:30:50 PM
Attachments: [RhebanSubmission.pdf](#)

I refer to the directions made on 21 May 2019 in relation to the above matter and letter dated 23 May 2019 from the Delegate (Chair) of the Commission.

Please find attached a copy of my submission dated 4 June 2019 in response to the planning authority's submission dated 20 May 2019.

I would be grateful if you would please confirm receipt of this email and attached submission.

Yours faithfully,

Alison Westwood

In the Tasmanian Planning Commission

Glamorgan Spring Bay Interim Planning Scheme 2015 – Draft Amendment 2018/07(a) and permit SA 2017/04, rezone CT 149641/2, Rheban Road, Orford from Rural Resource to General Residential, and 91 lot subdivision

And

Draft amendment AM 2018/07(b), rezone CT 149641/1 and CT 117058/150, Rheban Road, Orford from Rural Resource to General Residential

SUBMISSION IN RESPONSE TO PLANNING AUTHORITY'S SUBMISSION DATED 20 MAY 2019

Preliminary Matters

1. By letter dated 6 May, the Commission requested further detail and clarification from the planning authority on the following issues identified from a preliminary consideration of the matter:
 - a. the consistency of the draft amendments with the Southern Tasmanian Regional Land Use Strategy ('RLUS'), particularly with reference to the growth management strategy for Orford which is for 'low growth' relying on a consolidation' growth scenario (19.5.2 and Table 3, page 89 RLUS).
 - b. identification of the available yield from development of existing residential zoned land (General Residential, Low Density Residential and Rural Living) in Orford which is either developed (with some capacity for further development) or vacant.
 - c. Confirmation of the number of lots approved and potential further yield in the nearby Solis development (p21 Triabunna Orford Structure Plan June 2014 ["TOSP"]).
 - d. These issues go to the threshold questions of whether the draft amendments are consistent with Regional policies.
2. The planning authority's further submission in support of the draft amendments prepared by Shane Wells dated 20 May 2019 (the 'Wells' Submission') failed to clarify the issues set out at paragraph 1 above as requested by the Commission. Moreover it illustrates a misconception on behalf of the planning authority of the requirements of the RLUS and TOSP insofar as the draft amendments are concerned. The result is a clouding of the core issues with irrelevant material.

3. Given the planning authority's failure to clarify issues set out at paragraph 1 above as requested by the Commission, at the Directions Hearing on 21 May, and by letter dated 23 May, the Commission again required further consideration of:
 - a. An understanding of the extent of the Orford township with reference to the regional strategy;
 - b. Clarification of the number of dwellings existing at the declaration date of the regional strategy; and
 - c. Clarification of how many dwellings represent a 10% increase in the number of potential buildings.
 - d. These matters relate to the outstanding issue previously raised by the Commission as set out at paragraph 1(a) above.

Inconsistency of draft amendments with requirements of the RLUS

4. The RLUS "*...is the central document in the land use planning framework, intended to guide land use, development and infrastructure investment across the region by state and local government and infrastructure providers*" (1.4 RLUS). It is submitted that the draft amendments must be consistent with the RLUS given it is the central document guiding land use and development for the planning authority. The key requirements of the RLUS in so far as they relate to the draft amendments are discussed at 2-10 below. The Wells Submission downplays the importance of the RLUS and also misconstrues the effect of the RLUS requirements insofar as they relate to the draft amendments.
5. The RLUS assigns the township of Orford a low growth strategy, to be considered against a consolidation growth scenario (19.5.2, Table 3 Growth Management Strategies for Settlements, p89 RLUS). This relates to the information request referred to at paragraph 1(a) above.
6. The RLUS defines the low growth strategy as "*...less than a 10% increase in the number of dwellings (the percentage of growth is calculated as the percentage of the number of dwelling existing at the declaration date that can occur across the 25 year planning period*" (19.5.2 RLUS).
7. The RLUS defines "Dwellings" to mean "*...a building or part of a building used as a self-contained residence which includes food preparation facilities, a bath or shower, a toilet and sink and any outbuilding and works normal to a dwelling*" (see Glossary p102 RLUS).
8. The Wells Submission does not correctly answer the question of the number of existing dwellings in Orford as at the declaration date. Based on data set out in the TOSP the total number of private dwellings in Orford in 2011 was 716 (see p47, Table 16 Triabunna and Orford occupied and unoccupied private dwellings 2011). It is submitted that it

is this 2011 figure can be used for determining the number of dwellings existing at the declaration date of October 2011.

9. The Wells Submission does not correctly answer the question of what is a 10% increase in the number of dwellings. Based on the total number of dwellings existing in Orford at the declaration date being 716, it is submitted that a 10% increase would be 71.6 dwellings. Pursuant to the RLUS the increase in existing dwellings in Orford is therefore to be less than 71.6 over the 25 period 2010-2035.
10. In addition to failing to demonstrate that the draft amendments are consistent with the RLUS requirements for low growth strategy (as referred to in paragraphs 5 and 6 above) the Wells Submission also fails to show that the draft amendments comply with the RLUS requirement to apply a consolidation scenario to Orford.
11. The consolidation growth scenario applicable to Orford under the RLUS provides “... *that growth should be predominantly from infill developments which can involve development of existing subdivided lots, subdivision of existing zoned but vacant or developed residential, construction of additional dwellings on existing developed lots, redeveloping existing developed lots*” (19.5.2 RLUS). “Infill Development” is defined under the RLUS to mean “...*development within existing urban areas through: (a) small scale subdivision or unit development on existing residential lots; or (b) redevelopment of brownfield or greyfield sites*” (Glossary p102 RLUS).
12. In seeking to rezone Rural Resource Land to General Residential Land, the draft amendments do not fall within the types of infill development indicated by the consolidation growth scenario. It is submitted that in order to go beyond infill development the planning authority would have to demonstrate that it had undertaken the appropriate yield analysis of available residential lots (General Residential, Low Density Residential or Rural Living) whether developed (with capacity to further develop) or vacant and that such yield analysis indicated the rezoning of further residential land was required to meet the additional 71.6 dwellings allowed pursuant to the low growth strategy for Orford referred to at paragraph 9 above. It is further submitted that the Wells Submission (and the planning report in support of the application) demonstrates a proper yield analysis has not been carried out and also shows that the planning authority’s monitoring and understanding of the extent of existing zoned land and yield capacity in Orford is not well thought through. This is discussed further below. The draft amendments are therefore inconsistent with the RLUS.
13. Contrary to applying a consolidation growth scenario as specifically required under the RLUS, it appears that the planning authority has sought to apply a mixed growth strategy. The RLUS states that “...*a mixed growth scenario indicates that residential growth should come from a mix of both greenfield and infill circumstances and that expansion of the*

residential zone may be required dependant upon an assessment of the yield capacity and vacancy of existing zoned land” (19.5.2 RLUS). It is submitted that the application of a mixed growth scenario to Orford is incorrect and the draft amendments are therefore inconsistent with the RLUS.

Draft Amendments inconsistency with the TOSP

14. The TOSP states that under the RLUS Orford has been assigned the function of a “Township” with a growth strategy of “...*low ie less than 10% in the number of dwellings from 2010 to 2035...*” and a growth scenario of “consolidation” (4.2 TOSP). The RLUS and the TOSP are therefore clearly at one on this point. The draft amendments are therefore inconsistent with the TOSP for the same reasons outlined above. It is noted that the Wells Submission fails to address that the TOSP is at one with the RLUS on this point.
15. The objectives of the TOSP with regard to residential land uses include to “*promote infill development by utilizing existing residentially zoned land before zoning new residential land*” (see paragraph 9.2 TOSP). This is consistent with the consolidation scenario that applies to the low growth strategy with consolidation scenario for Orford under the RLUS (referred to at paragraphs 5-6 and 10-11 above). The draft amendments are therefore inconsistent with the TOSP. The Wells Submission fails to address that the TOSP supports the RLUS on this point.

Specific issues taken with Wells Submission

16. Issue is taken with paragraphs 1.1-1.8 of the Wells Submission under the heading “Zone revisions post Southern Tasmanian Land Use Strategy” which details various historical amendments to the zoning of land within Orford purportedly with a view to stating whether the rezoning increased the “potential” number of lots. It is submitted that the number of “potential” lots in Orford is irrelevant to the threshold question referred to at 1(a) and 3(a), (b) and (c) above. The relevant question is: what was the number of dwellings *existing* at the date of declaration of the RLUS, being 25 October 2011.
17. Issue is taken with paragraphs 2.2-2.4 of the Wells Submission under the heading “The Southern Tasmanian Regional Land Use Strategy 2010-203[5] *sic*” which refers to and apparently seeks to rely on various matters in Background Report 14 as being relevant to a consideration of the growth strategy for Orford under the RLUS. The RLUS itself however provides that the relevant Background Reports (including Background Report 14 “Providing for Housing Needs”) *have* already been taken into account in the formulation of the RLUS. Further, at 19.4 the RLUS specifically states “...[p]lease note that all background analysis has influenced the regional and Greater Hobart Settlement Strategies”. On that basis, to the extent that any inconsistency exists between the RLUS and the Background Reports (which is disputed) the correct interpretation

would be that the RLUS, being the central guiding document, takes precedence.

18. Issue is taken with paragraph 2.5 of the Wells Submission which states that “...[w]ith respect to the RLUS, various towns are prescribed a high, medium or low growth scenario with a consolidation or expansion strategy.” There are two errors here. Firstly, a fourth category of growth strategy is provided for under the RLUS, being “very low growth”. Secondly, there is no such “expansion” strategy provided for under the RLUS, rather the second growth scenario is referred to as “mixed”. These errors demonstrate the level of confusion on the part of the planning authority regarding the interpretation and effect of the RLUS to the draft amendments.
19. Paragraph 2.5 of the Wells Submission goes on to state that “[f]or regional towns, neither the rational [sic] nor analysis behind the scenarios and strategies is described”. In my submission this is plainly incorrect. Section 19 of the RLUS which covers settlements and residential development, deals at length with the special challenges of managing the growth of regional towns. For example, relevantly, paragraph 19.1 of the RLUS states that “[t]here is evidence of settlements experiencing significant growth pressures for holiday homes for the regions residents as well as visitor accommodation...particularly evident in (areas such as) Glamorgan Spring Bay, where natural, cultural and recreational assets strongly underpin their attractiveness. Issues identified with this include that residential development has been occurring in an ad hoc manner without any state or regional level land use and settlement planning. Small shack settlements are growing into permanent residential populations. Climate change, changing demographics, rising infrastructure costs and environmental management require a more sustainable approach to residential growth. The strategy is therefore promoting consolidation of existing settlements and minimization of urban sprawl and lower density developments. This policy direction has a range of benefits, which are articulated in the background.” Further, paragraph 19.5.3 states “...there are settlements which experience significant seasonal fluctuations in population due to attractiveness as shack/holiday settlements for residents of the region or because of the strength of the tourism industry in the area. Managing their growth arising from seasonal population pressure is not straightforward. Allowing for additional residential growth above that allowed in Table 3 to accommodate demand for holiday homes or shacks could create land use and infrastructure problems into the future as holiday homes are converted into permanent dwellings”. It is submitted therefore that the RLUS sets out well-considered and cogent reasons why the growth strategies and scenarios set out in Table 3 are in place. It is further submitted that pursuant to the RLUS there is no basis for the low growth/consolidation strategy prescribed for Orford being relaxed.

20. Paragraph 2.6 of the Wells Submission is plainly incorrect. Low growth is a less than 10% increase in the number of existing dwellings (not “potential” dwellings). The error here would appear to explain why paragraphs 1.1-1.8 of the Wells Submission discusses the irrelevant matter of the increase in “potential” lots (see paragraph 16 above).
21. For the reasons set out at paragraph 17 above, reliance on matters relating to Background Report 14 when considering consistency of the draft amendments with the RLUS (see paragraph 3.1-3.3 of the Wells Submission) is incorrect. Furthermore, reference is once again erroneously made to the question of the number of “potential” dwellings rather than the number of existing dwellings (see paragraph 16 above).
22. Paragraph 3.2 of the Wells Submission is plainly incorrect. Applying the low growth strategy under the RLUS does not require a determination of demand for holiday homes. The factors to consider when applying the low growth strategy are set out in detail above.
23. Again, the attempt to bring Background Report 14 into play at paragraph 3.3 of the Wells Submission is incorrect for the reasons set out at paragraph 17 above. The submission purports to point to a perceived confusion between Background Report 14 excluding holiday homes from analysis and the policy recommendations at 16.5.3 of the RLUS which include holiday homes. This illustrates the confusion underpinning the Wells Submission. Under the RLUS low density strategy, it is the number of existing dwellings at the declaration date that is the relevant consideration, regardless of whether they are permanent or holiday dwellings. Consistently with this, the RLUS also states at 19.5.3 that “*the planning system through the Common Key Elements Template does not distinguish between the use of a dwelling for permanent residence and dwellings for occasional residence*”. It is simply erroneous to suggest that consideration of whether dwellings are for permanent or holiday use is relevant to the threshold questions of compliance with the RLUS.
24. Paragraph 3.4-3.8 of the Wells Submission purports to discuss the “Relevant Spatial Area”. It is assumed that this discussion relates to the boundaries of the township of Orford being the subject of the Commission’s two requests for clarification of issues referred to at paragraph 1(a) and 2(a) above). The matters raised in paragraphs 3.4-3.8 of the Wells Submission are vague and irrelevant. It is noted that the TOSP states that Orford includes the very “...*extensive areas of approved residential land within the Solis Estate (330 lots approved with potential for up to 550 lots)*” (see paragraph 3 TOSP). Further, the planning report relating to the draft amendments concedes that “*the ABS Orford Urban Center Locality does include the substantial number of approved lots on the Solis land.*” It is submitted that on any reasonable view the available land in the Solis estate would satisfy the 25 year growth allowed for Orford pursuant to the combined low growth strategy and consolidation scenario.

25. Issue is taken with paragraphs 3.9-3.17 of the Wells Submission which purports to relate to the number of “potential” dwellings and seeks to rely on Background Report 14. For the reasons stated at paragraphs 16 and 17 above, the “potential” number of dwellings is not relevant for the purposes of applying the low growth strategy to Orford and further there is no basis for going behind the RLUS to Background Report 14 to make irrelevant assumptions. As stated at paragraph 8 above, it is reasonable to say that the existing number of dwellings in Orford as at October 2011 was 716.
26. Issue is taken with paragraphs 4.1-4.3 of the Wells Submission which purports to suggest that yield analysis has limited value in small regional towns where sample size is reduced and that yield analysis ought not be given weight in aging holiday communities since decision making relies on “individual preferences and opportunities”. These assertions are vague and spurious and ignore both the low growth/consolidation strategy prescribed for Orford under the RLUS and the objectives of the TOSP. Further it is submitted that it is a clear requirement of the TOSP (and a matter of prudent practice) that the planning authority undertake 15 year monitoring of available residential supply (see paragraph 9 TOSP).
27. As to paragraph 24 of the Wells Submission, issue is taken with the exclusion of parcels of land from the yield analysis. For example, the rezoned land at Holkham Court is apparently excluded yet at paragraph 1.8 it is stated that the land could provide an increased number of dwellings in the order of 150 (with 3 lots already created and applications for 41 lots on foot pending additional information). It is submitted that the basis for exclusion of these parcels is unreliable and in the case of the Holkham Court land unfounded.
28. Issue is taken with the potential yields otherwise set out at paragraph 4.3 of the Wells Submission on the basis of the planning officer’s apparent confusion regarding the “relevant spatial area” for Orford (see paragraph 24 above). The figures stated for potential yields are therefore unreliable.

Conclusion

29. In summary, based on the matters raised above, the Wells Submission indicates that the planning authority has at the outset misconstrued the requirements of the RLUS and the TOSP insofar as the draft amendments are concerned. The irrelevant propositions and reliance on incorrect data in the Wells Submission does not cure the failure of the draft amendments to meet the threshold tests under those regional strategies. Further, those matters simply cloud and confuse what should be a simple analysis based on prudent monitoring and investigation by the planning authority. I therefore seek that the Commission refuse the draft amendments.

30. If however the Commission determines to allow the amendments, I would seek that the matters raised at paragraphs 4-8 of my filed representation dated 7 February 2019 (going to my objections to the application for subdivision permit) be taken into account.

FILED BY THE REPRESENTOR

Alison Westwood

4 June 2019