

9. PLANNING AUTHORITY ITEMS

The Chairperson is to advise the meeting if the Council (or a Council Committee) intends to act at a meeting as a Planning Authority under the Land Use Planning and Approvals Act 1993.

The General Manager is to ensure that the reasons for a decision by the Council (or a Council Committee) acting as a Planning Authority are recorded in the minutes.

Any alternative decision the Council may make to a recommendation appearing on the Agenda requires a full statement of reasons to maintain the integrity of the planning approval process and to comply with the requirements of the Judicial Review Act.

9.1 SECTION 39 REPORT – PSA 2021/6 – LOTS 5&6 POULTERS ROAD, NEW NORFOLK

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|----------------------|---|
| Decision #: | |
| Responsible Officer: | Executive Manager Development |
| Reporting Officer: | Senior Planner |
| File: | PSA 2021/6 |
| Attachments: | Copy of the advertised draft amendment (attached separately) |

EXECUTIVE SUMMARY

PURPOSE

The purpose of this report is to consider, in accordance with [former provision] Section 39 of the Land Use Planning and Approvals Act 1993 (LUPAA), on the merits of submissions received during public exhibition of a draft planning scheme amendment under [former provision] Section 33 of LUPAA.

RECOMMENDATION

That the Council resolves, under [former provision] Section 39(2) of the Land Use Planning and Approvals Act 1993, to advise the Tasmanian Planning Commission that it considers the merits of the submissions do not warrant any modification to the amendment and request that the Commission proceed with draft Planning Scheme Amendment PSA 2021/6.

IMPLICATIONS AND FINANCIALS

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|--|--|
| Our Valley 2030 Strategic Plan | 3. - We preserve, protect, and promote our lived, built, and natural environment for the next generation. |
| Policy | Nil |
| Consultation | The Planning Scheme Amendment was advertised in accordance with statutory requirements and one submission was received. |
| Resources Required | Not applicable |
| Risk / Legal / Legislative | <p>This report details the assessment of the proposal and basis for recommendation. An alternative decision by Council will require supporting reasons in order to comply with the <i>Judicial Review Act 2000</i> and the <i>Local Government (Meeting Procedures) Regulations 2015</i>.</p> <p>The proposal is referred to Council for decision-making, pursuant to [former provision] Section 39 of the Land Use Planning and Approvals Act 1993, as submissions were received as part of the statutory referral process.</p> |
| Opportunities | Not applicable |
| 22/23 Budget Allocation | Not applicable |
| Impact on Long Term Financial Management Plan | Not applicable |
| Life of Project, Service, Initiative or (Expectancy of) Asset | Not applicable |
| 22/23 Mid-year budget review (if applicable) | Not applicable |
| Ongoing Costs (e.g., maintenance cost) | Not applicable |
| Other Funding Sources | Not applicable |

DISCUSSION

1. The Proposal

- 1.1 The request seeks to rezone the portion of the site zoned Low Density Residential and Rural Living to General Residential at Lot 5 Poulters Road (CT 142090/5) and Lot 6 Poulters Road (CT 141514/6), New Norfolk.

The amendment also proposes to apply a Specific Area Plan (SAP) to the land at Lots 5 & 6 Poulters Road to allow for unique planning controls to be introduced to a spatially mapped area. The provisions of an SAP may override or be additional to the planning controls of the underlying zone and/or Codes.

The proposed SAP proposed seeks to introduce planning controls to override some provisions of the General Residential Zone, which reflect the intent of the concept Masterplan.

A rezoning by itself could allow for a higher lot yield than the approved permit, therefore it is also proposed that a Specific Area Plan be introduced to cover the site, to provide alternative development and subdivision controls, while restricting total lot yield.

2. Background

- 2.1 Council resolved to initiate and certify Draft Planning Scheme Amendment PSA 2021/6 at its 25 November 2021 meeting.
- 2.2 Following this decision, the amendment was certified and placed on public exhibition from 8 December 2021 to 18 January 2022. During this period, no representations were received, and correspondence was sent to the Tasmanian Planning Commission (the Commission) confirming this, in accordance with [former provision] Section 39 of LUPAA.
- 2.3 It was later identified that there were some issues with the description of the land during the first round of advertising and the amendment was subsequently readvertised from 15 June 2022 to 13 July 2022. During this period, no representations were received, and correspondence was sent to the Tasmanian Planning Commission confirming this, in accordance with [former provision] Section 39 of LUPAA.
- 2.4 Correspondence received from the Commission dated 1 August 2022 identified that there were some further discrepancies between the description of the amendment that was initiated by Council on 25 November 2022 and the certified amendment, as advertised. After discussion with the Commission, it was decided to recertify the amendment and readvertise again to clarify any inconsistencies.
- 2.5 The amendment was re-certified on 17 August 2022 to reflect the correct description of the land and was the decision was made to readvertise the amendment. The amendment was advertised from 20 August 2022 and 19 September 2022 via the newspaper, placement of site notices and notification letters were sent to each adjoining owner.
- 2.6 The amendment was also referred to TasWater in accordance with Section 56S of the Water and Sewerage Industry Act 2008, as directed by the Commission.
- 2.7 The purpose of this report is to report on submissions received during the public consultation and referrals undertaken in August – September 2022.

3. Legislative requirements

3.1 This report details the assessment of the proposal and basis for recommendation. An alternative decision by Council will require supporting reasons to comply with the Judicial Review Act 2000 and the Local Government (Meeting Procedures) Regulations 2015.

[Former provision] Section 39 of LUPPA requires that the Planning Authority must provide a report that includes:

- a) a copy of each representation received by the authority in relation to the draft amendment or, where it has received no such representation, a statement to that effect; and*
- b) a statement of its opinion as to the merit of each such representation, including, in particular, its views as to:
 - i. the need for modification of the draft amendment in the light of that representation; and*
 - ii. the impact of that representation on the draft amendment as a whole; and**
- c) such recommendations in relation to the draft amendment as the authority considers necessary.*

As the Tasmanian Planning Scheme has not been adopted for the Derwent Valley Municipality, in accordance with the Savings and Transitional Provisions of LUPAA, the former provisions of the Act are operative in relation to this application.

4. Consultation

4.1 The draft amendment was placed on public exhibition in accordance with [former provision] Section 38 of LUPAA.

4.2 The amendment was publicly exhibited via the newspaper on 20 August 2022 and 24 August 2022, placement of site notices and notification letters were sent to each adjoining owner, and to TasWater.

4.3 One representation was received from TasWater requesting further information on future servicing of the site for water & sewer services. A detailed response to the issue raised in the submission is provided below.

4.4 Future site servicing for TasWater infrastructure

Comment: As the subject land is 'not located within land serviced by TasWater for water and sewerage,' the submission from TasWater requested further information on the future servicing property, including providing a master concept servicing study and masterplan.

Comment:

The proposal is for a rezoning and introduction of specific planning controls only and is not an application for subdivision. If the planning scheme amendment is approved by the Commission, then an application for subdivision would still need to be made separately to Council, including referral to TasWater.

The landowner has engaged their own civil engineer to undertake preliminary investigations and provide advice around site servicing.

It is noted that the current subdivision permit for the site (with the SAP seeking to allow for an alternative proposal) requires the Developer to engage with TasWater to demonstrate that each lot can be adequately serviced. It is considered that it is still appropriate to engage with this level of detail during the subdivision application process, rather than at the planning scheme amendment stage.

Accordingly, it is considered that the submission from TasWater, in relation to future servicing, do not warrant modification to the certified amendment.

5. External Referrals

The proposal was referred to TasWater who have provided a submission as outlined in this report.

6. State Policies and the Objectives of the Act

- 6.1 The proposal is consistent with the outcomes of any relevant State Policies, including the State Policy on the Protection of Agricultural Land 2009 and the State Coastal Policy 1996.
- 6.2 The proposal is consistent with and furthers the objectives of Schedule 1 of LUPAA.

7. Council Strategic Plan and Other Implications

- 7.1 It is considered that the proposal will further the objectives of the Strategic Plan.
- 7.2 There is no other significant policy, financial or risk implications.

8. Conclusion

- 8.1 In accordance with the requirements of [former provision] Section 39 of LUPAA, Council is required to consider the merits of any representations received, the merit of the amendment or the need to modify the amendment based on the representations received or other considerations.

The representations received have been reviewed and it is considered that no changes to the draft amendment as advertised are warranted.

ATTACHMENTS

All attachments distributed separately.

Cr Hill returned to the Chambers at 6.30 pm.

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| Responsible Officer: | Executive Manager Development |
| Reporting Officer: | Senior Planner |
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EXECUTIVE SUMMARY

PURPOSE

The purpose of this report is to consider, in accordance with [former provision] Section 39 of the Land Use Planning and Approvals Act 1993 (LUPAA), on the merits of submissions received during public exhibition of a draft planning scheme amendment under [former provision] Section 33 of LUPAA.

DECISION

Moved by Cr Binny / Seconded by Cr Hill

That the Council resolves, under [former provision] Section 39(2) of the Land Use Planning and Approvals Act 1993, to advise the Tasmanian Planning Commission that it considers the merits of the submissions do not warrant any modification to the amendment and request that the Commission proceed with draft Planning Scheme Amendment PSA 2021/6.

The motion was put and was CARRIED

| | |
|------------------------|------------|
| Mayor Dracoulis | For |
| Cr Bingley | For |
| Cr Binny | For |
| Cr Browning | For |
| | |
| Cr Derksen | For |
| Cr Hill | For |
| Cr Lowe | For |