

#### 4 PLANNING AUTHORITY SECTION

*Under Regulation 25 of Local Government (Meeting Procedures) Regulations 2015, the Chairperson hereby declares that the Council is now acting as a Planning Authority under the provisions of the Land Use Planning and Approvals Act 1993 for Section 4 of the Agenda.*

##### **RECOMMENDATION**

That Council now acts as a Planning Authority at [time].

##### **DECISION 199/23**

Moved Cllr Robert Young, seconded Cllr Rob Churchill:

That Council now acts as a Planning Authority at 2:10pm

**THE MOTION WAS PUT AND CARRIED UNANIMOUSLY 7/0**

For: Mayor Cheryl Arnol, Deputy Mayor Michael Symons, Cllr Rob Churchill, Cllr Neil Edwards, Cllr Carole McQueeney, Cllr Jenny Woods and Cllr Robert Young

Against: Nil

#### **4.1 Draft Amendment AM2023-01 – Glamorgan Spring Bay Local Provisions Schedule – Rezone 155 Rheban Road, Orford & 90-lot subdivision –Representations**

Author: Senior Planning Consultant (Town Planning Solutions Pty Ltd)  
Responsible Officer: Director Planning and Development

#### **ATTACHMENT/S**

1. Plan of subdivision
2. Draft Planning Permit AM2023-01
3. Representations
4. 40K Report - Draft Amendment AM2023-01

#### **PURPOSE**

The purpose of this report is for the Planning Authority to consider the 27 representations that were received to the exhibition of AM2023-01 to the Glamorgan Planning Scheme – Glamorgan Spring Bay (Scheme) to rezone land at 155 Rheban Road from Future Urban to General Residential and approve a subdivision of the land for residential purposes, as shown in Attachment 1 to this report.

#### **BACKGROUND/OVERVIEW**

The Planning Authority will recall that AM2023-01 was initiated and certified at its meeting on 28 March 2023. The Planning Authority supported the proposed subdivision and determined to approve it subject to 46 conditions.

The following attachments were provided for this report:

1. the plan of subdivision that supports the application
2. draft Planning Permit AM2023-01
3. Copies of representations
4. 40K Report draft Amendment AM2023-01.

#### **STRATEGIC PLAN REFERENCE**

##### **Guiding Principles**

7. Communicate and explain Council's decisions and reasons in an open and timely manner.

##### **Key Foundations**

1. Our Governance and Finance

##### **What we plan to do**

- Advocate and lobby effectively on behalf of the community.

## **STATUTORY IMPLICATIONS**

### Land Use Planning and Approvals Act 1993

- Division 3B – Amendments to LPS's
- 40G. Notice of exhibition
- 40H. Exhibition
- 40J. Representations
- 40K. Report to Commission about draft amendments
- 40Z. Exhibition in respect of permit application
- 41. Representations
- 42. Report in relation to draft amendment of LPS to contain representations

AM2023-01 and the associated draft planning permit were exhibited for the statutory period of 28 days in accordance with the requirements of sections 40 G, H and Z of the Act, from 2012 April to 12 May 2023.

Sections 40K and 42 of the Act require that the Planning Authority submits a report on the representations that were received addressing the following:

- a. A copy of each representation received during the exhibition period;
- b. A copy of each representation that was received after the exhibition period, that the Planning Authority decides to include;
- c. A statement on the merit of the representation regarding:
  - i. whether the draft amendment should be modified as a result of the representation; and
  - ii. the effect on the draft amendment and the Scheme, as a result of the recommendation;
- d. A statement on compliance with the LPS criteria (defined at section 34 of the Act);
- e. Any recommendations about the draft amendment the planning authority thinks fit.
- f. A statement on each representation against the subdivision regarding:
  - iii. The merits of the representation against the subdivision; and
  - iv. whether a decision on the subdivision should be modified as a result of the representation; and
- g. The recommendations about the subdivision the planning authority thinks fit.

The detailed analysis and responses to these requirements were provided in the 40K Report on Representations provided as Attachment 4 to this report.

## **BUDGET IMPLICATIONS**

Ongoing maintenance of the Scheme was addressed as part of Council's operational budget.

## RISK CONSIDERATION/S

Risk	Likelihood	Consequence	Rating	Risk Mitigation Treatment
<b>Adopt the recommendation</b>				None required.
Nil				
<b>Do not adopt the recommendation</b>				Seek an extension of time from the Commission
The statutory deadline will expire.	Possible	Moderate	Moderate	
The 40K Report is not provided to the Commission	Possible	Moderate	Moderate	The Commission may take over the Planning Authority functions under the Act.

## OFFICER'S COMMENTS

The majority of representations oppose the proposal, in part or completely. Copies of the representations were provided as an attachment to this report, along with the 40K Report that provided a detailed assessment of the issues raised within the representations.

A summary of the issues that were raised in the representations follows.

### **LUPA, RLUS & Structure Plan Previous amendment and associated issues**

- Whilst on part of the previous site, the application is similar to the recent proposal refused by the Commission and disregards the relevant Commission findings (i.e., number and size of lots).
- The proposal is inconsistent with the objectives of the Act (i.e., sustainable development, orderly release of land, health and wellbeing, encourage public involvement).
- Inconsistent with STRLUS (i.e., growth scenario, Orford strategy).
- Opposing assertions that the Structure Plan and STRLUS are out of date.

### **Access to other services**

- The lack of facilities for medical care and healthy communities and impacts on rural based health services, difficulties recruiting health practitioners and existing limitations on doctor services in the area;
- The general lack of availability of services at Orford;

### **Demographics**

- The proposal and SGS report have not demonstrated demand and have not had regard to recent lot creation (Solis, Holkham, Bayport).
- Proposal likely to result in more holiday homes rather than permanent residents.

### **Amenity/Character/Suitability**

- The proposed lots are too small and will result in over-development, changing the existing low-density character of the area to suburban residential and detracting from the character of Orford generally.
- Oppose development in existing POS areas.

### **Infrastructure**

- Inadequate infrastructure (i.e., public open space, traffic management [during construction and ongoing], parking, pedestrian paths) leading to increased costs to ratepayers and the community.
- Inadequate infrastructure (i.e., water supply, sewer, NBN) which struggles at peak/dry/flood times.

### **Roads**

- Roads should be wider and redesigned to provide improved safety and to satisfy performance criteria.
- More consideration of holiday period impacts.

### **Stormwater flooding**

- Failure to comply with Coastal Erosion Hazard Code and Tasmanian Stormwater Policy
- No Stormwater Management Report to demonstrate that proposed stormwater services will be adequate and not adversely impact neighbours or East Shelly Beach.
- Flooding impacts are not properly considered – uses old data and proposal not consistent with limitations identified in the Aldanmark and Flussing reports.
- Proposal will not comply with conditions or meet predevelopment flows for 1%AEP event.

### **Sewerage**

- The existing sewerage treatment plant has odour issues – greater impact on existing residents.
- Questioning whether the treatment plant can cope with additional loads and not overflow and contaminate East Shelly Beach in high rainfall events.
- Contesting compliance with the Attenuation Code – reports did not consider future population estimates and upgrades to the treatment plant.

### **Flooding, Coastal & Erosion**

- Failure to comply with Coastal Erosion Hazard Code and Tasmanian Coastal Works Manual, and likely failure to comply with conditions.
- Contesting capacity of existing stormwater systems to cope, the site is prone to flooding which will increase with climate change.
- Proposal relies on mitigation rather than design solutions to address natural hazards.

### **Vegetation**

- The lack of a flora or fauna report to consider vegetation removal (notably the existing Eucalyptus Ovata on site);
- Lots too small to promote replacement tree planting.

## Other Issues

- Lots should be larger.
- More public open space required.
- Limiting the use of caravans on the lots;
- Limiting development on lots adjoining properties to East Shelley Beach Road to single-story development.
- Contesting the loss of local landscape and environmental values that were unique to the area.
- Contesting the lack of substantial independent analysis.
- The lack of medical facilities in the area and provision for affordable housing.

AM2023-01 followed an extended process where the strategic future development of the subject land for urban residential purposes was supported by the Council. The previous rezoning and subdivision application was refused by the Commission in July 2019 for a range of reasons including:

- Failure to comply with the low growth strategy and consolidation growth scenario defined for Orford in the Southern Tasmanian Regional Land Use Strategy (RLUS);
- The Commission was not satisfied there was not a 25-year supply of land available in Orford, as defined Triabunna/Orford Structure Plan (Structure Plan) and as a result, the proposal did *not* represent orderly development and created a potential oversupply if infrastructure issues were resolved elsewhere in the Structure Plan area;
- While the application was not inconsistent with the relevant state policies, it was not consistent with the Schedule 4 policies under the Act; and
- As a result, the amendment was refused as it was not consistent with the RLUS and did not represent an orderly release of land.

Since that decision, the following occurred:

- Additional demographic data was provided in the *Orford Residential Capacity and Demand Analysis* by SGS Economics and Planning (SGS Report), which included a detailed assessment of demand based on approval and growth rates up to 2021 and expert assessment of the potentially available lots through further subdivision in the existing zoned lands;
- Council endorsed the Addendum to the Triabunna/Orford Structure Plan, which reflected the SGS Report findings and identified that a High Growth Strategy to meet the demonstrated demand at Orford;
- The RLUS was revised by the Minister for Planning to address the dated nature of demand projections across the southern region by inclusion of SRD1.1A, to enable consideration of up to date demographic data;
- The Local Provisions Schedule confirmed the Future Urban zoning of the lands; and
- The 2021 Census data became available, confirming the assessment and projections within the SGS Report.

As in 2019, many locals oppose the rezoning and subdivision of this land under AM2023-01.

As a result of the analysis in the SGS Report, insertion of SRD1.1A to the RLUS, revisions to the Structure Plan and 2021 Census data, many of the reasons that generated the 2019 refusal by the Commission are no longer relevant.

This issue also arose during the exhibition and assessment of the Local Provisions Schedule that supports the Scheme. Multiple representations objected to application of the Future Urban zone under that process, which the Council did not support and ultimately saw the Commission zone the land Future Urban under the Local Provisions Schedule, as noted in the following extract of the decision:

94. *The Commission considers that the planning authority is being prudent to effectively reserve the site for future consideration for residential development. Application of the Future Urban Zone will achieve this and ensure that there are no actions taken that will constrain the potential for the future use of the land. Should the planning authority seek to rezone the land for residential purpose in future, issues associated with the development of the land such as mentioned by the planning authority in its section 351 report can be considered in any assessment of the rezoning application.*

95. *The Commission considers that the primary objective in applying the Future Urban Zone should be to identify potential land for future urban use, noting the application of the zone should not compromise existing residential uses and overall demand within the planning area.*

96. *The location of the land in Orford indicates that it is prudent planning to establish a zone such as the Future Urban Zone, to prevent uses and development occurring on the land which would preclude a future consideration of the most appropriate use for the land, residential use clearly being a possibility.*

*(Source: P15, Tairāwhiti Planning Commission, Decision, Local Provisions Schedule, Glamorgan Springs Bay 4 February 2022)*

While many of the concerns raised by the representors were determined to have merit, two changes were identified following assessment of the representations as follows:

- Revise AM2023-01 to establish an overlay for the attenuation buffer for the Orford Sewage Treatment Plant based on the attenuation reports provided as part of the application and terminated at the southern boundary of Rheban Road; and
- Revise condition 3 of Draft Planning Permit AM2023-01 as follows:  
*The PO shown on the Lot Layout Plan must be set aside for drainage on the Final Plan, when submitted.*

A discussion of the issues and detailed response to the representations was provided as in the Section 40K Report provided as Attachment 4 to this report. A recommendation was provided to reflect this assessment.

Note: This item was presented to Council at the August Ordinary meeting and the motion was lost. The item was then deferred. If Council wishes to put forward an alternate motion it should do so in accordance with the requirements of the Act.

## 16. Recommendation

That:

Pursuant to Sections 40k and 42 of the *Land Use Planning and Approvals Act 1993* the Planning Authority:

1. Endorse Attachment 4: *40K Report - Draft Amendment AM2023-01 v1.1* as its report on AM2023-01 in accordance with Sections 40K(2) and 42 of the Act; and
2. Recommend to the Tasmanian Planning Commission that AM2023-01 be modified establish an overlay for the attenuation buffer for the Orford Sewage Treatment Plant based on the attenuation reports provided as part of the application and terminated at the southern boundary of Rheban Road; and
3. Recommend to the Tasmanian Planning Commission that condition 3 of Draft Planning Permit AM2023-01 be amended as follows:  
*The POS shown on the Lot Layout Plan must be set aside for drainage on the Final Plan, when submitted.*

UNCONFIRMED



## **DECISION 200/23**

Moved Clr Carole McQueeney, seconded Clr Rob Churchill:

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.

Pursuant to Sections 40K and 42 of the *Land Use Planning and Approvals Act 1993* (Act) the Planning Authority:

1. Endorses *Table 1: Table of decisions AM2023-01* (below) as its report on AM2023-01 in accordance with Sections 40K(2) and 42 of the Act;
2. Recommends to the Tasmanian Planning Commission that it seeks further stormwater information about the downstream impacts to the built and natural environments, encompassing impacts during both flood and non-flood periods, in the context of the area's accepted periodic flooding and close proximity to the coastal reserve;;
3. Recommends to the Tasmanian Planning Commission that it seeks further information from Taswater on their planned infrastructure delivery program to ensure both adequate water supply capacity and increased sewerage treatment capacity at Orford's wastewater plant (with discrepancies existing between the proposal and Taswater's published data) and water supply capacity;
4. Recommends to the Tasmanian Planning Commission that it satisfy itself of the currency, integrity and accuracy of the SGS Report regarding growth and demand, given the Report's reliance on 2016 data, and its absence of recent approvals and development across the Orford/Triabunna area.

*Table 1: Table of decisions AM2023-01 and SD2023-01*

	1	2	3	4	5	6	7	8
<b>Item</b>	<b>Merits require changes (re 2)</b>	<b>Impact of changes on AM2023-01</b>	<b>Impact of changes on Scheme</b>	<b>Compliance with LPS Criteria</b>	<b>Any other recommendations for AM 2023-01</b>	<b>Merits require changes (re 6-7)</b>	<b>Impact of changes on Subdivision</b>	<b>Any other recommendations for subdivision</b>
<b>Decision</b>	Yes	Withdraw support	Withdraw support	Does not comply	See Item 2.	Yes	Refuse	Withdraw support

**THE MOTION WAS PUT AND CARRIED 4/3**

**For:** Clr Rob Churchill, Clr Carole McQueeney, Clr Jenny Woods and Clr Robert Young

**Against:** Mayor Cheryl Arnol, Deputy Mayor Michael Symons and Clr Neil Edwards