

11 November 2021

Anne Cunningham  
Delegate  
Tasmanian Planning Commission  
144 Macquarie Street  
HOBART TAS 7001

**RE: Glamorgan Spring Bay Interim Planning Scheme 2015 - Draft amendment AM 2021-01 and permit DA 2020-80 – Final Submission on behalf of Adam Greenhill and Marie Von Haniel**

Please accept this correspondence as a final submission on the above hearing submitted on behalf of my clients.

1. It is our submission that the proposed development application for a residential use and development housing up to 300 residents, which requires the rezoning of Significant Agricultural land to a Particular Purpose Zone, must be refused.
2. The combined rezoning and development application (the proposal) is inappropriately located being a discrete, Unserved 19ha parcel of significant agricultural zoned land (the land) 3.7km from the small seaside town of Swansea. It would if approved provide for a residential population half the size of Swansea itself.
3. A critical economic driver for the region is high quality viticulture and rather than protecting vineyards, Council by approving this development is positively seeking to damage it.

4. There is no Strategic Planning Study which supports the proposal. The Southern Tasmanian Regional Land Use Strategy, the Swansea Structure Plan and the Glamorgan Spring Bay Local Provision Schedule do not consider the land as being appropriate for anything other than to remain as significant agriculturally zoned land.
5. Council and the proponent both stated that this was because the proposal is for specific type of residential retirement development proposed which is new and thus was not considered when these strategic documents were prepared. It is our submission that the simple reason the proposal is not supported by any strategic planning documents is that the proposal is exactly the type of ad-hoc, out of place, out of context development that strategic planning seeks to prevent.
6. This lack of any strategic direction from Council is evidenced by the fact that Council have approved the Particular Purpose Zone for Tempus to the south of Swansea and a Specific Area Plan for Cambria Green to the north (a rezoning proposal for 3,200ha) without any strategic consideration as to the overall impact of either proposal on the township of Swansea.
7. It should not, in our submission be for a developer to determine where a new residential area outside any established population centre should be developed. This determination should be made by the planning authority and ultimately the Commission based upon a detailed strategic plan which considers amongst other things, residential land supply and demand, protection of economic drivers, agricultural land, transport, infrastructure, services, facilities, surrounding land use, potential land use conflict and environmental impact. The proposal does none of these.
8. It is inappropriate for a developer to determine that because they can not 'fit' a retirement village within existing vacant

residential zoned properties that further land outside the established township of Swansea should be provided.

9. The land is unconnected to services, facilities and infrastructure and is separate from any shops, doctors, medical facilities, public transport, and entertainment activities. Besides the buffer setbacks from neighbouring properties there are no areas for exercise or horse riding as suggested by the proponent. Residents would be required to drive or more likely being elderly be reliant upon someone else to get them to shops, doctors or to the beach etc.
10. The proposal would require the installation of a new 2.1km water pipeline, water treatment plant and 1km of new or upgraded roads. Construction of this infrastructure would detract from other existing infrastructure upgrade requirements and would not make the most efficient use of existing infrastructure
11. The potential for land use conflict between a residential retirement village accommodating in excess of 300 possibly elderly residents adjacent to an intensive horticultural operation is real. Existing agricultural operations can and do impact upon the amenity of neighbouring residents. Requiring the adjacent agricultural operation to alter its practices to accommodate a rezoning to provide for the amenity of future residents does not constitute strategic planning
12. Mr Wells even went so far in his evidence to state *"The Tempus development will create some management restrictions or modifications on the vineyard operator, particularly around spraying and the use of gas guns."*
13. Measures were put forward by the agricultural experts to reduce the potential for land use conflict, virtually all these places the onus upon the agricultural operator, including

- a. Limiting the time, operation, and application of spraying for pests and diseases
  - b. Changing the type of sprayer which could be used (Tunnel sprayer)
  - c. Taking on and off netting of grape vines,
  - d. Restricting the use of firearms.
  - e. Prohibiting the use of gas guns
  - f. Some existing agricultural practices to only be undertaken during specific weather conditions
  - g. All these practices would add substantial costs to the existing agricultural operations.
14. The owner of the Gala Estate vineyard, Adam Greenhill, purchased the land upon which the vineyard is site, principally because it was zoned significant agriculture and was surrounded by similarly zoned land. It was his reasonable expectation that the risk of the adjacent land being rezoned to and developed for residential use was virtually zero.
15. Mr Hancl would have the Commission accept that diversification of agricultural operations should provide for a retirement village so long as the land is not 'prime agricultural land.'
16. Ms Keetlaar in being questioned, agreed that up to 5ha of the land proposed for the Tempus development could be developed for viticulture, albeit with some caveats.
17. The evidence of both experts is contrary to Principle 5 of the *Protection of Agricultural Land Policy 2000*, which states:
- Residential use of agricultural land is consistent with this policy where it does not unreasonably convert agricultural*

*and does not confine or restrain agricultural use in the vicinity of the land.*

18. The conversion and rezoning of significant agricultural land to provide for a residential retirement village is clearly inconsistent with this principle.
19. Mr Lynch provided evidence and examples (Tamar Valley and Pass Road Cambridge), where incursion of residential development adjacent to vineyards has and is continuing to create substantial ongoing land use conflict from gas guns, spray drift, noise, complaints etc. The same could be expected to occur if the proposal were developed.
20. The proposed buffer zones and vegetated screen is relied upon by the proponent to mitigate some potential land use conflict and visual impact, however there is no guarantee that a vegetated buffer would be planted, that it would grow, be maintained, or provide the mitigation sought.
21. Mr Wells stated that it would be difficult to grow grapes on the land, yet the proponent would have you believe that trees if planted would grow at a rate of 1 ½ metres in height per annum. The extent of exposed bedrock in the areas where the vegetated screen is proposed to be planted makes these suggested growth rates a completely unrealistic expectation.
22. Dr Osborne in his evidence could provide no guarantee that the vegetation screen would grow, he went so far as to state that he had not given any detailed consideration to the buffer site area.
23. Although the vegetated buffer screen was put forward by the proponent, discussed by the agricultural experts and is included within the Landscaping Plan, it is absent from the Fire Protection Report prepared by Mr Ross Murphy.

24. There is no development standard within the PPZ which would require the future development to plant or maintain any vegetated screen as suggested by the experts.
25. As the Commission would be aware there is no guarantee that the proposed development application if approved for an independent living unit retirement village would be constructed and an alternate proposal with a different layout or more units could be proposed and developed without potentially Council having any ability to refuse it.
26. It is submitted that the PPZ provides Council with no ability to ensure that residents of the residential retirement village would be elderly, over 50, retired or otherwise. Even if they were the PPZ provides no controls which would prevent the land from being developed for a more typical residential estate.
27. The PPZ contains twelve development standards, this is the entire extent of planning provisions. There are no standards to regulate or control critical matters such as density or subdivision
28. While there is a Masterplan within the PPZ, it is only referenced once under staging in GSB-P8.6.9A1. If no staging is proposed, then there would be no requirement to develop the land in accordance with any masterplan.
29. There are no maximum height limits within the PPZ and three storey or even four storey residential units could not be refused by Council if applied for.
30. Although the PPZ and the development application were developed concurrently the acceptable solution for setbacks for sensitive uses of 200m was ignored in the development of the Masterplan which provides for dwellings within 80m of the adjacent intensive horticultural operation.

31. It is questioned, how the planning authority satisfied itself that the relevant performance criteria:

*Buildings for a sensitive use must be sited as to not conflict or interfere with uses in the agriculture zone.*

could be met, if all the evidence from the agricultural experts was that the proposed retirement village would create the potential for land use conflict.

32. Although the evidence of the agricultural consultants regarding land use conflict is not disputed, Council still approved the Masterplan which if implemented would clearly result in potential for land use conflict.

33. The most telling evidence that the proposal would result in land use conflict can be found in condition 3b of the draft planning permit, which states:

*That residents on lot 50, acknowledge that the Tempus site is located adjoining an area used for primary industry and agriculture, they accept that the site will not enjoy an amenity consistent with an urban residential area and that agricultural uses nearby and in the area will have detrimental impacts from time to time.*

34. Although the proposed condition recognises that the proposed development would result in potential land use conflict, it does nothing to address this conflict but rather seeks to place the onus for managing land use conflict upon future residents.

35. The proposed condition would not stop residents complaining about gas guns, shooting, noisy tractors, spraying, hours of operation, weather conditions, wind direction or any other typical agricultural practices, Council would still have to accept residents' complaints without having any ability to address them. It would be completely unsatisfactory for Council to point to any Part 5 Agreement

and tell the complainant that they '*had to accept*' a lesser degree of amenity than they might if they lived in an alternate residential area.

36. It is our submission that Council would be the ones to blame when land use conflicts occur and not residents and the existing agricultural operation.

It is our submission that the proposal for the above reasons must be refused.

Regards

A handwritten signature in blue ink, appearing to read 'Evan Boardman'.

Evan Boardman  
Grad Dip URP, B ScEnv, B Econ