



GLAMORGAN SPRING BAY
COUNCIL

Special Meeting Agenda

For the Special
Meeting of Council
to be held **via
remote
conference**

15 May, 2020

NOTICE OF SPECIAL MEETING

Notice is hereby given that the Mayor has called a Special Meeting of the Glamorgan Spring Bay Council to be held on Friday 15 May 2020 commencing at 2.00pm **via remote video conference**.

Please note in response to COVID-19 social gathering regulations, members of the public will be unable to attend the meeting.

Dated this Tuesday 12 May 2020.



**Marissa Walters
ACTING GENERAL MANAGER**

"I certify that with respect to all advice, information and recommendations provided to Council with this agenda:

- 1. The advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation, and**
- 2. Where any advice is given directly to the Council by a person who does not have the required qualifications or experience, that person has obtained and taken into account in that person's general advice the advice from any appropriately qualified or experienced person. "**

Note: Section 65 of The Local Government Act 1993 states:

- (1) A general manager must ensure that any advice, information or recommendation given to the council or a council committee is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.**
- (2) A council or council committee is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council or council committee.**



**Marissa Walters
ACTING GENERAL MANAGER**



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Please Note: Due to limits imposed on public gatherings for coronavirus (COVID-19) this meeting will be held via remote conference. Members of the public will be unable to attend the meeting.

Audio/Video Recording of Ordinary and Special Meetings of Council

As determined by Glamorgan Spring Bay Council in April 2017 all Ordinary and Special Meetings of Council are to be audio/visually recorded and streamed live.

In response to COVID-19 social gathering regulations, this meeting will be held remotely via video conference. Where possible a live stream of the meeting will be made available.

In accordance with the GSBC Council Meetings – Audio/Visual Recording and Live Streaming Policy No. 6.2, a recording of the meeting will be available via the link on the Glamorgan Spring Bay Council website within five business days of the meeting.

In accordance with the Local Government Act 1993 and Regulation 33, these video/audio files will be retained by Council for at least 6 months and made available for viewing live, as well as online within 5 days of the scheduled meeting. The written minutes of a meeting, once confirmed, prevail over the video/audio recording of the meeting.

1. Opening

The Mayor to welcome Councillors and staff and declare the meeting open at [time].

1.1 Acknowledgement of Country

The Glamorgan Spring Bay Council acknowledges the Traditional Owners of our region and recognises their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.

1.2 Present and Apologies

1.3 In Attendance

1.4 Declaration of Interest or Conflict

The Mayor requests Elected Members to indicate whether they have:

- 1. any interest (personally or via a close associate) as defined in s.49 of the Local Government Act 1993; or*
- 2. any conflict as described in Council's Code of Conduct for Councillors,*

in any item included in the Agenda.

2. Officers' Reports Requiring a Decision

2.1 Draft Major Projects Bill 2020 Submissions

Senior Planning Consultant for Acting General Manager

The purpose of this report is to determine the Council submission to the current exhibition period for the *Draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2020* (Bill).

Background / Overview

Council requested that a response be prepared to the current exhibition of the Bill. A workshop was held with the Council and the Senior Planning Consultant on the afternoon of 7 May 2020 to scope the likely issues and content of a submission for Council.

The current exhibition period closes on 15 May 2020.

Statutory Implications

The draft submission raises multiple points that identify ongoing statutory requirements or implications for Council. Identification of these matters will allow Council to discuss them further should hearings on the submissions be held.

Budget Implications

The draft submission raises many points that are likely to impact the future budgets of Council should the Bill be carried into legislation.

Risk Considerations

Identified risks to Council were raised in the draft submission. It is understood Council is likely to continue prosecuting these risks and interests through the exhibition and assessment process.

Conclusion

A recommendation was provided for Council's submission to the Bill.

Recommendation

That Council makes submission to the exhibition of the *Draft Land Use Planning and Approvals Amendment (Major Projects) Bill 2020* as provided in Attachment 1 to this report.

*Planning Policy Unit
Department of Justice
PO Box 825
HOBART TAS 7001*

SUBMISSION TO LUPAA MAJOR PROJECTS BILL 2020

Thank you for the opportunity to make submissions on this significant reform.

Council supports significant reforms to improve regulatory processes and outcomes. Noting this, we have formed a view that there are matters that do not appear consistent with the objectives of the Resource Management and Planning System and Land Use Planning and Approvals Act 1993. For the Bill to deliver its intended purpose, Council considers these matters need to be addressed.

Council is of the opinion the Bill will remove the ability of the local Council and community to have productive input to how their area develops in the future.

Council has concerns that there is generally a lack of clarity for the justification in taking a proposal outside of the normal planning application process and the subsequent cost implications that has for both the Council and the local community.

Council is of the opinion that the eligibility criteria requires better definition. A project could be listed under the criteria provided for (c) due to water, sewer, stormwater or road infrastructure and then also at (e) because it requires multiple approvals and therefore be elevated to the Major Projects process on procedural issues rather than matters that actually relate to regional or state significance.

The reasoning for taking a project outside of the normal application process is critical to the integrity of the process. Failure to clarify this and provide direction on how and when the process is to be used is likely to undermine the social licence of the process and approvals issued under this process.

It is noted that the Minister can both nominate a proposal for Major Project status and then determine the nomination. This creates a conflict of interest. The determination guidelines are also not mandatory and not required to be reported upon. Council requests that

- the Minister for Planning not be allowed to nominate projects for Major Project status;*
- the determination guidelines at 60J be a mandatory requirement for the use of the process;*
- determination guidelines must be issued by the Commission prior to the use of the process; and*
- the Minister be required to report on assessment against the determination guidelines at 60O.*

Council considers that the composition of the Assessment Panel needs to include expert and elected representatives from each of the affected Councils at 60V(b).

The Assessment Panel process is seen as a way to bypass the local Council and community, particularly given the lack of representation on the panel itself and through the Relevant or participating regulator role.

Relevant or participating regulators, at 60Z series, need to include the range of statutory regulators and provide carriage of their regulatory regimes to this process. The general catch-all at subclause (5) is unclear and does not provide a clear intent for its use. The nature of the provision and contents of the clauses suggest that the full ambit of regulatory regimes from State need to be addressed at this point to ensure the process delivers its stated intent. Specific omissions include:

- *Aboriginal Land Council of Tasmania,*
- *TasNetworks;*
- *State Growth;*
- *Parks and Wildlife Service;*
- *Threatened Species Unit*
- *Crown Land services;*
- *Affected Planning Authorities for advice regarding assessment against their planning schemes;*
- *Affected Councils for inclusion of relevant requirements for matters such as stormwater, roads, infrastructure etc;*
- *Tasmanian Planning Commission for impact of required planning scheme changes to accommodate a specific proposal.*

Council is concerned that the process removes assessment of such projects from Local Government and the practical ability of the local and wider communities to have involvement, obtain information and have productive input into the assessment and determination of applications.

Council also has a concern that the process removes much of the existing statutory requirements and considerations for assessment of a project. The discretion provided in the Bill is understandably broad, but Council does not consider that there is a clear enough process for the integrity of existing regulatory requirements to be carried through to the new process. As an example, the environmental impact assessment required for Level 2 assessments is not clearly transferred to the guidelines in the Bill.

Council considers this loss of existing statutory assessment is significant.

Council considers that the 14 day consultation period on the assessment guidelines at 60ZN (2)(b) is not a reasonable period for potentially affected parties to obtain planning and or legal advice to determine satisfaction or otherwise with the assessment guidelines. This should be at least 28 days. The process in the act also does not provide for a contact process for questions and answers as happens with the planning application process at Council. This process is important in building understanding at the local level of the proposal and how it will be assessed. Given the intent of this legislation, it is submitted that this task must be resourced by the project process and not devolved to Council as an additional cost for the local community to resource.

Council is also concerned that the Exhibition of major projects at 60ZZB is un-resourced and presents a similar opportunity for cost and work imposition to the local Council with no recourse to the assessment process.

Council has similar concerns for other potential cost implications for this process. For example, enforcement of the permit and conditions generally falls to the relevant agencies and where that is the Commission, 60ZZZF is unclear whether that obligation rests with the Commission or divests to the Planning Authority. This needs to be clarified and resourcing needs to be addressed.

If it is intended that Council is responsible for enforcement of the planning functions of the permit, we object to this devolvement of obligation and require that Section 60ZZZF makes the Commission or another State agency the enforcement agent of Major Project permits.

Council also has concern that post decision, there is a requirement to amend the relevant planning schemes to remove inconsistencies with permits that are issues. 60ZZZC provides no further guidance on how or why this must be done and there is concern this will have unintended impacts beyond the approved development site. Clarity must be provided on how this is to be done (type of amendment and extent of impacts) and it must be subject to the exhibition, hearings and review process established in the Act, much like the current 43A process.

Absent this, there is no opportunity for community input of the amendment or review of its impact or effects. More guidance must be provided on this process to better define what type of amendment should be considered, the process to be used and the consultation with the local community. It is also important that the Council and community do not bear the cost of that process.

Many of the concerns for Council and our community arise because the criteria for declaration of a project are not clear and provide for procedural matters rather than justifying why a proposal should be taken out of the normal assessment process.

Insert contact info and closing....

3. Confidential Items (Closed Session)

In accordance with the requirements of the *Local Government (Meeting Procedures) Regulations 2015*, the Mayor to declare the meeting closed to the public in order to discuss the following matter:

- Item 1: Personnel Matter**
As per the provisions of regulation 15(2) (a) of the Local Government (Meeting Procedures) Regulations 2015.

Recommendation

That Council moves into closed session (Time:)

The recording of the meeting will now be switched off.

4. Close

The Mayor will declare the Special Meeting closed at (Time).

CONFIRMED as a true and correct record.

Date:

Mayor Debbie Wisby