



City of
LAUNCESTON

MINUTES COUNCIL COMMITTEE

**COUNCIL COMMITTEE
HEARING TO AMEND SEALED PLAN
25 JULY 2019**

**3.15PM
RECEPTION ROOM, ST JOHN STREET, LAUNCESTON**

A Council Committee Hearing - Petition to Amend Sealed Plan SPD15 - 24-26 Queechy Road, Norwood, of the City of Launceston Council was held in the Reception Room, Town Hall, St John Street, Launceston:

Date: 25 July 2019

Time: 3.15pm

Certificate of Qualified Advice

Background

To comply with section 65 of the *Local Government Act 1993* (Tas):

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 -
 - (a) the general manager certifies, in writing -
 - (i) that such advice was obtained; and
 - (ii) the general manager took the advice into account in providing general advice to the council or council committee; and
 - (b) a copy of that advice or, if the advice was given orally, a written transcript or summary of that advice is provided to the council or council committee with the general manager's certificate.

Certification

I certify that:

- (i) the advice of a qualified person has been sought where required;
- (ii) this advice was taken into account in providing general advice to the council or council committee; and
- (iii) a copy of the advice, or a written transcript or summary of advice provided orally, is included with the agenda item.



Michael Stretton
General Manager

ORDER OF BUSINESS

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1 OPENING OF MEETING - ATTENDANCE and APOLOGIES

The Chair of the Meeting, Councillor D H McKenzie, opened the Meeting at 3.15pm and welcomed those attending. Councillor McKenzie provided those in attendance with a summary of the process to be undertaken during the Meeting.

Those in attendance were:

Committee:

Councillor D H McKenzie (Chair), Councillor T G Walker, Councillor A G Harris and Councillor J Finlay

City of Launceston

Mr Sam Pratt (Legal Counsel), Mr Duncan Campbell (Governance and Paralegal Officer), Mrs Leanne Hurst (Director Development Services), Mr Luke Rogers (Town Planner), Mrs Abby Osborne (Statutory Services Officer) and Mrs Anthea Rooney (Secretary)

Proponent and Representors:

Mr James Kitto (Petitioner's Legal Counsel), Mr Luke Gul (Developer), Mrs Angela Prosser-Green, Mr Gus Green, Mr Michael Gee (Representor), Mrs Karen Gee (Representor), Mrs Sheryl Manktelow and Mr Wayne Chilcott (Representor)

2 DECLARATIONS OF INTEREST

There were no declarations of interest for this Meeting.

3 HEARING - PETITION TO AMEND SEALED PLAN SPD15 - 24-26 QUEECHY ROAD, NORWOOD - Section 103 - *Local Government (Building and Miscellaneous Provisions) Act 1993 (Tas)*

The following representations/discussions occurred at the Meeting:

Mr Luke Gul (Developer) spoke on behalf of the Petitioner and provided the following information for consideration:

- the proposal is to construct two townhouses.
- the 2000m² allotment should accommodate the development without issue.
- there will be a shared driveway.
- it is anticipated that the townhouses will sell for between \$500,000 and \$550,000 each therefore they are high end developments.
- consideration was given to the planning scheme requirements when design was considered including issues relating to setback and steepness of the land.
- the proposed dwellings will not impact on nearby dwellings.
- the covenants were created in the 1960s and there is an increased demand for housing.
- sewerage related issues are a matter for TasWater to remedy, not the developers.
- A third dwelling is not proposed at this stage, however, it may be considered in the future but would need planning approval.

Mr James Kitto (Petitioner's Legal Counsel) contributed the following for consideration:

- As far as he is aware the land in question used to be on two separate titles prior to 1960 (no evidence was provided to support this).
 - the covenant was created in the 1960s.
 - a full and comprehensive geotechnical survey had been completed and took into account development of two units during the survey.
 - objections relating to issues with the geotechnical survey should be dismissed as the survey delivered a fully prescribed geotechnical engineering report.
 - issues relating to traffic flow were included in the development application report, and although traffic numbers will increase, the impact will be minimal and unlikely to impact the general flow of the area therefore objections relating to traffic should be dismissed.
 - amenity of the area has been considered and as there are no dwellings on the Crown land behind the proposed buildings and no buildings in front of the proposed buildings, no views or shading would occur therefore, the amenity would not be diminished and should be dismissed and there is no basis for objection.
 - issues relating to water and sewerage have already been identified by TasWater as part of the development application and therefore there is no basis for an objection.
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- there is a significant sub-division across the road which has already had an impact in the immediate area.
- there appears to be no merit in any of the objections raised.
- is unaware of any proposal to build a third dwelling and the current proposal is for two buildings only.
- the price to be asked for the dwellings is likely to increase mean property prices in the area, not devalue them.
- the impact of the development will be negligible.
- TasWater has imposed relevant restrictions on the development and the developer is aware of the restrictions.

Mr Michael and Mrs Karen Gee (Representors) provided the following information:

- there are significant issues related to TasWater's provision of adequate sewerage services with overflows and contamination still occurring.
- the covenant applies to all lots in the immediate area, not just the one being considered today.
- it is a residential area and should be treated as one and kept that way.
- there is a potential issue for construction of a third dwelling, although the current development application only allows for two - are there plans for a third dwelling?
- the pump house was constructed in 2009.
- there is concern regarding the potential for accidents on Queechy Road with more development.
- historically, there have been boundary and sub-division adjustments on nearby properties.
- the covenant should remain in place.
- there should not be a precedent set by removing the covenant.
- the area is zoned residential not a commercial zone.
- solar degradation regarding the proposed development do not pose a problem because of positioning of dwellings on the slope.
- objections relating to the dwellings with regard to changes in the water course pose a problem.
- speed humps or traffic calmers need to be constructed to aid with traffic issues in the area.
- more dwellings will overload the area.

Mr Wayne Chilcott (Representor) contributed the following:

- advised that he is the nearest neighbour and most affected by the proposed development noting that he will experience an increase in noise levels.
 - a downgrading of the area will occur as a result of the development.
 - the covenant states there is to be a single dwelling on the current land configuration but if the land was sub-divided back into two blocks, the issue will not occur.
 - if the current covenant is broken, there is a requirement for a further development application.
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- to alleviate the issue with the covenant he suggested that the best solution would be to subdivide the land into two blocks.
- advised that he had never received any written advice relating to the petition.
- acknowledged that the lack of advice did not hinder or disadvantage his preparation for the meeting and advised he was content to allow the hearing to continue.

4 CLOSE OF MEETING

The Chair, Councillor D H McKenzie, closed the Meeting at 4.08pm thanking those in attendance for their conduct during the Hearing. Councillor McKenzie indicated a decision would be provided as soon as possible.

Summary from Legal Counsel:

Mr Pratt summarised the key points of the Hearing, noting that legal considerations for him were those relating to:

- planning issues having been met in the development application process.
- legal case where Justice Blow held that the legislation did not give Council any guidance as to the factors that need to be taken into account when considering a petition to amend a Sealed Plan.
- if the covenant is removed, then the building of two or more dwellings can occur on the one lot.
- if the land is subdivided, then the covenant will be on all lots resulting from the subdivision.
- subdivision issues were discussed openly at the Hearing.

Summary from the Chair

Following further discussion, Councillor D H McKenzie noted the following:

- although the Committee has delegated authority, the matter will be referred to Council for the final decision.
- issues were raised during the Hearing which will not inconvenience any of the parties.
- the covenant will still be relevant if the land is subdivided and will transfer to the new lots created by the sub-divisions.

Following the completion of the Hearing, the Committee recommended the following be forwarded to Council for decision:

- the covenant remain in place and the petitioner's application to amend the sealed plan be rejected.

The Committee, having finalised its recommendation, indicate there was no need to reconvene prior to documentation being forwarded to the 8 August 2019 Council Meeting for decision.
