



City of
LAUNCESTON

MINUTES

COUNCIL COMMITTEE MEETING

**PETITION TO AMEND SEALED PLAN
NUMBERS 16325 and 19533 - 304 and 308 PENQUITE ROAD,
NORWOOD**

9 JUNE 2022
5:00PM
**COUNCIL CHAMBERS, TOWN HALL,
ST JOHN STREET, LAUNCESTON**

A Meeting of the Council Committee established in respect of the Petition to Amend Sealed Plans Nos. 16325 and 19533 - 304 and 308 Penquite Road, Norwood was held in the Council Chambers, Town Hall, St John Street, Launceston:

Date: 9 June 2022

Time: 5:00pm

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

Chief Executive Officer

General Manager pursuant to section 61 of the Local Government Act 1993 (Tas)

ORDER OF BUSINESS

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1 OPENING OF MEETING - ATTENDANCE and APOLOGIES

The Chair of the Meeting, Councillor A G Harris, opened the Meeting at 5.00pm

Those in attendance were:

Committee: Councillor P S Spencer, Councillor A G Harris (Chair) and Councillor K M Preece

City of Launceston: Kelsey Hartland (Team Leader Governance) and Duncan Campbell (Team Leader Legal Services

In the public gallery: Jim Woolston

[Apologies: Councillor N D Daking was on a leave of absence and prior to the meeting Councillor J G Cox advised of his apology].

2 DECLARATIONS OF INTEREST

There were no declaration of interests for this Meeting

3 CONFIRMATION OF MINUTES

Local Government (Meeting Procedures) Regulations 2015 - Regulation 35(1)(b)

RECOMMENDATION:

That the Minutes of the Hearing of the Committee established in respect of the Petition to Amend Sealed Plans Nos. 16325 and 19533 - 304 and 308 Penquite Road, Norwood, held on 21 April 2022, be confirmed as a true and correct record.

DECISION: 9 June 2022

MOTION

Moved Councillor P S Spencer, seconded Councillor K M Preece.

That the Minutes of the Hearing of the Committee established in respect of the Petition to Amend Sealed Plans Nos. 16325 and 19533 - 304 and 308 Penquite Road, Norwood, held on 21 April 2022, be confirmed as a true and correct record.

CARRIED 3:0

FOR VOTE: Councillor A G Harris, Councillor P S Spencer and Councillor K M Preece

AGAINST VOTE: Nil

**4 DECISION - PETITION TO AMEND SEALED PLANS 16325 and 19533 -
304 and 308 PENQUITE ROAD, NORWOOD**

FILE NO: 304 and 308 Penquite Road, Norwood

AUTHOR: Duncan Campbell (Team Leader Legal Services)

GENERAL MANAGER APPROVAL: Louise Foster (Organisational Services Network)

DECISION STATEMENT:

To consider making a formal decision, with reasons, in respect of the matters heard by the Committee on 21 April 2022.

RELEVANT LEGISLATION:

Local Government Act 1993 (Tas)

Local Government (Building and Miscellaneous Provisions) Act 1993 (Tas)

Local Government (Meeting Procedures) Regulations 2015

PREVIOUS COMMITTEE CONSIDERATION:

Hearing to Amend Sealed Plan - 21 April 2022

RECOMMENDATION:

That the Council Committee:

1. notes the hearing conducted by it on 21 April 2022.
2. pursuant to the delegation of Council on 24 March 2022 and section 103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, **refuses to exercise the discretion to cause the amendments to be made**, as sought by the Petition to Amend Sealed Plan Numbers 16325 and 19533, 304 and 308 Penquite Road, Norwood (Petition) on the basis of the following reasons:
 - (a) the covenants sought to be removed from Sealed Plan Numbers 16325 and 19533 confer proprietary rights in favour of third parties who were representors at the Meeting;
 - (b) representors objected to the removal of the relevant restrictive covenants on the basis that:
 - (i) properties benefiting from and restricted by the covenants were purchased with notice;
 - (ii) the covenants continue to provide proprietary rights holders with value, in terms of monetary value and amenity; and
 - (iii) the covenants and associated rights had not been abandoned;

- (c) the evidence provided by the petitioner, in the form of the Petition itself and the submissions made by Peter Woolston and the petitioner's representative Irene Duckett:
 - (i) fails to address how the removal of the restrictive covenants to facilitate the proposed development will not constitute an unreasonable detriment to the rights holders; and
 - (ii) provides an insufficient basis upon which to exercise the discretion in favour of causing the amendments to be made.
3. notes, therefore, that the amendments sought by the Petition will not be made.
-

DECISION: 9 June 2022

MOTION

Moved Councillor P S Spencer, seconded Councillor K M Preece.

That the Council Committee:

1. notes the hearing conducted by it on 21 April 2022.
2. pursuant to the delegation of Council on 24 March 2022 and section 103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, refuses to exercise the discretion to cause the amendments to be made, as sought by the Petition to Amend Sealed Plan Numbers 16325 and 19533, 304 and 308 Penquite Road, Norwood (Petition) on the basis of the following reasons:
 - (a) the covenants sought to be removed from Sealed Plan Numbers 16325 and 19533 confer proprietary rights in favour of third parties who were representors at the Meeting;
 - (b) representors objected to the removal of the relevant restrictive covenants on the basis that:
 - (i) properties benefiting from and restricted by the covenants were purchased with notice;
 - (ii) the covenants continue to provide proprietary rights holders with value, in terms of monetary value and amenity; and
 - (iii) the covenants and associated rights had not been abandoned;
 - (c) the evidence provided by the petitioner, in the form of the Petition itself and the submissions made by Peter Woolston and the petitioner's representative Irene Duckett:
 - (i) fails to address how the removal of the restrictive covenants to facilitate the proposed development will not constitute an unreasonable detriment to the rights holders; and
 - (ii) provides an insufficient basis upon which to exercise the discretion in favour of causing the amendments to be made.
3. notes, therefore, that the amendments sought by the Petition will not be made.

CARRIED 3:0

FOR VOTE: Councillor A G Harris, Councillor P S Spencer and Councillor K M Preece

AGAINST VOTE: Nil

5 CLOSE OF MEETING

The Chair, Councillor A G Harris closed the Meeting at 5.05pm