

# MINUTES OF THE PLANNING COMMITTEE MEETING OF THE CENTRAL HIGHLANDS COUNCIL HELD AT THE BOHTWELL TOWN HALL, AT 9.00AM ON TUESDAY 9<sup>TH</sup> AUGUST 2022

## 1.0 PRESENT

Deputy Mayor Allwright (Chairperson), Mayor Triffitt, Clr Cassidy & Clr Archer

## IN ATTENDANCE

Clr Honner, Mrs L Eyles (General Manager), Mr G Rogers (Manager DES), Mr D Mackey (Planning Consultant) & Mrs K Bradburn (Minutes Secretary)

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## 2.0 APOLOGIES

Clr Bailey, Clr Campbell & Mrs L Brown (Planning Officer)

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## 3.0 PECUNIARY INTEREST DECLARATIONS

In accordance with Regulation 8 (7) of the Local Government (Meeting Procedures) Regulations 2015, the Chairman requests Councillors to indicate whether they or a close associate have, or are likely to have a pecuniary interest (any pecuniary or pecuniary detriment) in any item of the Agenda.

Nil

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## 4.0 CONFIRMATION OF MINUTES

Moved **Mayor Triffitt**

Seconded **Clr Cassidy**

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 12<sup>th</sup> July 2022 to be confirmed.

*Carried*

**For the Motion:** Deputy Mayor Allwright, Mayor Triffitt, Clr Cassidy & Clr Archer

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## 5.0 QUESTION TIME & DEPUTATIONS

Nil

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## 6.0 DA2022/64 : SUBDIVISION 1 LOT PLUS BALANCE : 30 CURLYS LANE, ELLENDALE

### Report by

Louisa Brown (Planning Officer)

### Applicant

PDA Surveyors

**Owner**

T Clark & S Gatenby-Clark

**Discretions**

Subdivision is Discretionary.

16.5.1 A2 (b)

16.5.3 A1

16.5.4 A2 & A3

**Proposal**

An application for a 1 lot subdivision plus balance has been made to Council by PDA Surveyors on behalf of the Central Highlands Council, for land described in Title Plan and Folio – CT 244366/1, 30 Curlys Lane Ellendale. The land is currently 1.643ha in area and is currently vacant.

The proposal seeks to create:

- Lot 1 will be 3802m<sup>2</sup>, with a frontage onto Ellendale Road of 30m. A new vehicular access and water connection will be provided to Ellendale Road. A drainage easement is proposed located between Lot 1 and the Jones River: and
- Balance of Lot will be 1.263ha, with frontage of 15m via an existing vehicular access to Ellendale Road. This access will require upgrading in line with Council's standards.

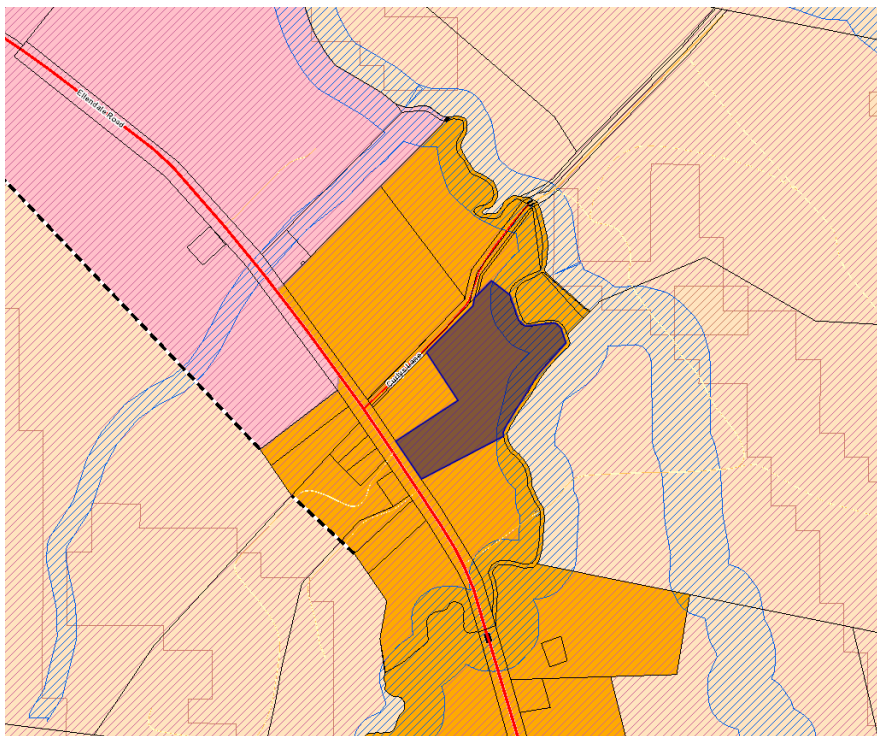
The proposal is discretionary owing to being a subdivision and is assessed against the subdivision standards for the Village Zone of the Central Highlands Interim Planning Scheme 2015.

**Subject site and Locality.**

The subject land is located described as 30 Curlys Lane, Ellendale and has frontage to this road and Ellendale Road. It is irregular in shape, with the Jones River forming the property boundary to the north, east and south east. The property is characterised by grassland and is relatively level.

The property is located 400m north of Ellendale recreation ground and is within the Village Zone of the Central Highlands Interim Planning Scheme 2015. The property is within the Bushfire Prone Area Code and the Waterway & Coastal Protection Code overlays of the Planning Scheme.

The property has a dominant north-easterly aspect and is surrounded by land used for agricultural production, with some scattered residential development. An existing residential property at 990 Ellendale Road is located adjacent to the south-west corner of the property.



**Fig 1.** Location and zoning of the property (blue shaded), indicating the Village Zone (orange) and surrounding Rural Resource Zone (cream), the Waterway & Coastal Protection Code is shown in blue lines, brown lines indicate the Bushfire Prone Area Code. (Source: LISTmap, accessed 1/8/2022)



**Fig 2.** Aerial photo of the subject land and surrounding area, title marked blue shaded Source: LISTmap, accessed 1/8/2022).

### **Options**

The Planning Authority must determine the Development Application DA2022/64 1 Lot plus Balance Subdivision at 30 Curlys Lane, Ellendale CT 244366/1 in accordance with one of the following options:

**1. Approve in accordance with the Recommendation:-**

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the DA2022/64 1 Lot plus Balance Subdivision at 30 Curlys Lane, Ellendale CT 244366/1, subject to conditions in accordance with the Recommendation.

**2. Approve with altered conditions:-**

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the Development Application DA2022/64 1 Lot plus Balance Subdivision at 30 Curlys Lane, Ellendale CT 244366/1, subject to conditions as specified below.

*Should Council opt to approve the Development Application subject to conditions that are different to the Recommendation the modifications should be recorded below, as required by Section 25(2) of the Local Government (Meeting Procedures) Regulations 2015:*

Alteration to Conditions:-

**3. Refuse to grant a permit:-**

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Refuse** the Development Application DA2022/64 1 Lot plus Balance Subdivision at 30 Curlys Lane, Ellendale CT 244366/1, for the reasons detailed below.

*Should the Planning Authority opt to refuse to grant a permit contrary to the officers Recommendation, the reasons for the decision should be recorded below, as required by Section 25(2) of the Local Government (Meeting Procedures) Regulations 2015:*

Reasons :-

## **RECOMMENDATION**

Moved **Mayor Triffitt**

Mayor Triffitt took the Chair

Seconded **Clr Allwright**

Deputy Mayor Allwright resumed the Chair

**THAT** the following recommendation be made to Council:

**1. Approve in accordance with the Recommendation:-**

In accordance with section 57 of the Land Use Planning and Approvals Act 1993 the Planning Authority **Approve** the DA2022/64 1 Lot plus Balance Subdivision at 30 Curlys Lane, Ellendale CT 244366/1, subject to conditions in accordance with the Recommendation.

### **Recommended Conditions**

#### *General*

- 1) The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- 2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.

#### *Public Open Space Contribution*

- 3) Council requires that an amount equal to five percent (5%) of the unimproved value of the land be provided as cash-in-lieu of public open space in accordance with the provisions of Section 117 of the Local Government (Building & Miscellaneous Provisions) Act 1993. The subdivider must obtain a valuation for the unimproved value of the subdivision from a registered Valuer.
- 4) The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey.

#### *TasWater*

- 5) Pursuant to the Water and Sewerage Industry Act 2008 (TAS) Section 56P (2) (b) TasWater impose conditions on the permit as per Submission to Planning Authority Notice TWDA 2022/00924-CHL dated 21/07/2022 (attached).

#### *Bushfire Hazard Management*

- 6) The development and works must be carried out in accordance with the approved Bushfire Hazard Report prepared by GEO Environmental Solutions, April 2022, J6843v1.

#### *Services*

- 7) The Subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.



- 8) Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and the satisfaction of Council's General Manager.

#### *Access*

- 9) A sealed vehicle access must be provided from the road carriageway to Lot 1. The access must be located and constructed in accordance with the standards shown on standard drawings TSD-R09-v2 and the satisfaction of Council's Works Manager.
- 10) The access strip to the Balance Lot is to be sealed from Ellendale Road to the lot proper.

#### *Easements*

- 11) Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

#### *Endorsements*

- 12) The final plan of survey must be noted that Council cannot or will not provide a means of drainage to all lots shown on the plan of survey.

#### *Final plan*

- 13) A final approved plan of survey and schedule of easements as necessary, together with one copy, must be submitted to Council for sealing. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
- 14) A fee of \$205.00, or as otherwise determined in accordance with Council's adopted fee schedule, must be paid to Council for the sealing of the final approved plan of survey.
- 15) All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage.
- 16) It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.

#### **The following advice applies to this permit:**

- a) This permit does not imply that any other approval required under any other legislation has been granted.
- b) If you notify Council that you intend to commence the use or development before the date specified above you forfeit your right of appeal in relation to this permit.

**Carried**

**For the Motion:** Deputy Mayor Allwright, Mayor Triffitt, Cllr Cassidy & Cllr Archer

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## **6.1 PROPOSED TOWNSHIP STRUCTURE PLANNING PROJECT**

### **REPORT BY**

Council Planning Consultant (SMC) Damian Mackey

### **PURPOSE**

The purpose of this report is to progress the initiative to develop 'structure plans' for the townships of Bothwell, Ouse & Hamilton and possibly Miena, Gretna and Ellendale/Fentonbury. In particular, the 'workshopping' of the draft Project Brief at the Planning Committee.

### **BACKGROUND**

The feedback received during last year's public notification of the Central Highlands Draft Local

Provisions Schedule brought into focus a need to undertake strategic land use planning exercises for the townships of Bothwell and Ouse. Furthermore, it is now standard practice for the Tasmanian Planning Commission to require that proposed planning scheme amendments within towns are supported by wholistic strategic planning. In other words: 'structure plans.

The State Planning Office (SPO) within the Department of Premier and Cabinet has advised it has funds available to assist Councils with this kind of work. The Central Highlands project has been costed at 240,000 over two financial years. The SPO has confirmed it will provide up to \$140,000, with the first financial year's allocation of \$70,000 confirmed. Through the recent budgeting workshop process, Council has allocated the necessary funds for the coming financial year. In short, the project is funded and can commence.

Recently, Council considered the timing of the project in regard to the need to appoint a Project Steering Committee that can see the project through to completion, and a recent proposal from the SPO that a component of the first stage of the project be undertaken in conjunction with the other rural councils in Southern Tasmania.

At the July Council meeting the following was resolved:

THAT:

- A. The Project Steering Committee be appointed after the October Council elections;
- B. Prior to October, full Council develop the Project Brief to a penultimate stage, to be finalised under the new Council after the elections.
- C. That Council join with the State Planning Office's proposed regional approach to a Residential Demand Analysis, which will be one component of the first phase of Council's township structure planning project.

## **THE STRUCTURE PLANNING PROCESS**

The development of a structure plan is generally undertaken by suitably qualified and experienced independent consultants appointed by Council and working under the direction of a Council-appointed Project Steering Committee.

Prior to seeking proposals from potential consultants, a Project Brief needs to be finalised setting out the key components of the project, such as necessary research, timeframes, community consultation, specific matters that have already been identified, outputs and the project budget. It is essential to build into the process substantial community involvement. This will ensure the vision developed for a town is the best it can be, and the local community have a level of ownership. There are usually two phases of community involvement. The first phase is a structured process run by the consultants calling for all manner of ideas, issues, problems, risks, opportunities, etc, from the community. This usually involves a community workshop held at a venue in the town, along with a submission process for those unable to attend.

The second phase of community consultation is undertaken after the consultants (with Council) have developed a draft of the structure plan, which is put out to the community for comment.

Other inputs besides that from the community include research on population growth forecasts, residential land demand & supply analysis, demographic trends, gaps in social services, key infrastructure issues and system capacities (water, sewer, roads, etc.), employment trends including existing and future industry sectors and a range of other issues that might be identified at the community workshops. All inputs contribute to a collective 'visioning' phase of the process

## **BENEFITS**

The final structure plans would set out an agreed vision for each town. Desirable zone changes would be highlighted and the strategic planning rationale explained. Recommendations may also go to community infrastructure and/or facilities that may be missing or inadequate. Where such facilities are within Council's purview, the Structure Plan recommendations can inform Council's future works program and budgeting as well as support grant applications to State or Federal Government. Where

such facilities are State-level responsibilities, the Structure Plan can be used to bolster Council's lobbying efforts.

## GOVERNANCE

Full Council would always provide high level governance and make/endorse key decisions. The Steering Committee would provide regular direction and governance, and report back to full Council at key decision points. These would be specified in the Project Brief. Day-to-day liaison with the project consultants will be through a Project Manager, who will report to the Project Steering Committee.

As determined at the last Council meeting, the Steering Committee is to be appointed following the October council elections. This will provide governance continuity for the life of the project.

## DRAFT PROJECT BRIEF

A draft Project Brief is provided in Attachment 1 for consideration in detail at the Planning Committee meeting. It is intended that the document be 'workshopped' at the meeting. Councillors will note that there are a number of blanks and questions, highlighted in yellow, where particular input is needed.

As determined at the last Council meeting, the intention is that the Project Brief be developed to a high level before the October council elections. This will provide the Steering Committee, once appointed after the elections, with a sound basis to then finalise the document.

## POINTS RAISED AND DISCUSSED BY PLANNING COMMITTEE 9 AUGUST 2022

- Cost of infrastructure will be a major factor
- Heritage Precinct boundaries
- Lack of public transport
- Bushfire Overlay encroaching into the town boundaries
- Public Sessions
- Potential land conflicts
- Inclusion of a timeline

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Clr Archer left the meeting at 9.52am & returned at 9.55am

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## RECOMMENDATION

**Moved:** Clr Cassidy

**Seconded:** Mayor Triffitt

**THAT** the Draft Project Brief be workshopped at the September Planning Committee Meeting and be forwarded to the September Council Meeting for consideration.

**Carried**

**For the Motion:** Deputy Mayor Allwright, Mayor Triffitt, Clr Cassidy & Clr Archer

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Mrs L Eyles left the meeting at 10.20am & returned at 10.25am

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## 6.2 SUBMISSION TO THE FIVE-YEAR STATUTORY REVIEW OF THE STATE PLANNING PROVISIONS

### REPORT BY

Planning Consultant (SMC) Damian Mackey

### PURPOSE

The purpose of this report is to develop a submission to the State's five-year statutory review of the State Planning Provisions (the SPPs).

The submission period was initially intended to close on 29 July, but this has been extended to 14 August. It is proposed that a submission be developed at the Planning Committee meeting on 9 August and submitted before the 14 August deadline. If full Council amends the submission when endorsing it at its meeting on 16 August, Council would simply then submit the amended version.

## BACKGROUND

The attached *State Planning Provisions Review Scoping Paper* outlines what the SPPs are and why this review is being undertaken.

The SPPs form the great majority of the ordinance of the Tasmanian Planning Scheme, with the local provisions (as set out in each Council's Local Provisions Schedule) constituting a just small fraction. Around half of the Councils in the State have completed the move over to the Tasmanian Planning Scheme. Central Highlands will join them once the final hearings into its Draft Local Provisions Schedule are held at the Planning Commission in September and the Commission issues its final decisions on the matters of contention. The SPPs will therefore be a crucial part of the planning rules in the Central Highlands in the future.

Whilst many Councils are yet to complete the move to the Tasmanian Planning Scheme, the State Planning Provisions are now actually five years old. The legislation directs that the State must review the SPPs every five years, hence the review now underway.

This provides an opportunity for Council to raise some of the issues that arose through the process of developing the Local Provisions Schedule over the last few years. A number of these are set out below for discussion at the Planning Committee meeting. Councillors are encouraged to raise any other State Planning Provision matters for discussion.

## THE AGRICULTURE ZONE

### Spatial Application

The 'recalibration' of the previous Significant Agriculture and Rural Resource zones into the new Agriculture and Rural zones is the most significant change introduced by the SPPs for Central Highlands Council. The new Agriculture Zone provisions combined with the spatial allocation rules caused significant problems in the creation of the Local Provisions Schedule. The core issue is that there is a fundamental mis-match between the provisions of the zone and its spatial allocation rules.

The written provisions are essentially that of a *significant agriculture zone*, as they give almost absolute primacy to agricultural use to the exclusion of other uses, whilst the spatial allocation rules dictate that it should apply to good, average and poor agricultural land. Therefore, it ostensibly ought to cover a very large proportion of the Tasmanian countryside, whilst removing significant economic development opportunities from that land, (being almost anything that is a non-agricultural rural use).

Furthermore, implicit in the zone is the notion that the agricultural potential of the land is so important and the land so rare, that the Priority Vegetation Overlay must not apply. This principle is correct for genuinely important agricultural land, but not for poor or modest quality agricultural land.

The mis-match between the written provisions and the spatial allocation rules has resulted in a situation where the overall effect has gone far beyond Parliament's intention as expressed in the State Policy on the Protection of Agricultural Land.

Eleven principles are contained within the PAL Policy aimed at identifying and protecting agricultural land through regulations in planning schemes. Five of the eleven principles relate specifically to Prime Agricultural Land whilst four of the remainder pertain to various forms of significant agricultural land. It is therefore appropriate that these nine principles are implemented through the Agriculture Zone and that in only apply to Prime Agricultural Land and other agricultural land considered 'significant'.

It is appropriate that the remaining two principles are implemented through the Rural Zone. It is important to recognise that both the Agriculture and Rural Zones are 'agriculture zones' in essence. The difference is that the Agriculture Zone is a restrictive single-purpose zone focussed on agriculture only, whilst the alternative Rural Zone is a multi-purpose zone able to accommodate not only agriculture but the full range of rural activities ranging from mining & forestry to lower-order nature conservation.

The current zone allocation rules provide that the default zone is Agriculture, with the Rural Zone to



apply where it can be demonstrated that the Agriculture Zone is inappropriate. This is back-the-front, and will lead to the loss of sound economic development initiatives in rural areas. It is the Rural Zone that is the flexible multi-purpose, flexible zone, and it should be the default with the Agriculture Zone only applying where the PAL Policy warrants it. To do otherwise is bureaucratic policy over-reach.

It is contended that the Southern Region's application of the Significant Agriculture Zone in the 2015 Interim Planning Schemes is far more in alignment with the PAL Policy than the SPPs Agriculture Zone.

### **Residential Use**

The Agriculture Zone appears to allow, as a discretionary use, farm workers' accommodation. For clarity, the list of examples under the definition of 'Residential' should be expanded to specifically include farm workers' accommodation.

### **Access for New Dwellings**

The Agriculture Zone provides that access for new dwellings must be either by direct frontage to a public road or via a right-of-way to such a road. This excludes the possibility of the use of a Reserved Road, and would render many titles in the large expanses of the Central Highlands off-limits for a new dwelling. In the past it has not been uncommon for landowners to obtain a Crown licence to use Reserved Roads for access, and this should be possible in the future, at the Planning Authority's and the Crown's discretion.

## **THE RURAL ZONE**

### **Landscape Provisions**

The old Rural Resource Zone contains (brief) provisions aimed at minimising unnecessary impacts on the rural landscape. The new Rural Zone contains no such provisions, and it appears the intention of the SPPs is that if a rural area is considered to have particularly important scenic landscape qualities, then the Planning Authority should establish a Scenic Protection Area or a Scenic Road Corridor under the Scenic Protection Code.

This proposition is costly to pursue and the outcome would, in many circumstances, be 'regulatory overkill'.

The existing Rural Resource provisions provide Planning Authorities with an efficient, flexible and 'light touch' mechanism to minimise unnecessary visual impacts which in practice would often be achieved by conditions of approval relating to external colour and/or the planting of screening trees, for example.

The proposed establishment of Scenic Protection Areas raises the issue by several orders of magnitude, both in a local political sense and in the regulatory outcome. It creates a sledgehammer for cracking what are, in most circumstances, walnuts.

The reintroduction of landscape protection provisions similar to those in the Rural Resource Zone should be considered.

### **Access for New Dwellings**

The Rural Zone provides that access for new dwellings must be either by direct frontage to a public road or via a right-of-way to such a road. This excludes the possibility of the use of a Reserved Road, and would render many titles in the large expanse of the Central Highlands off-limits for a new dwelling. In the past it has not been uncommon for landowners to obtain a Crown licence to use Reserved Roads for access, and this should be possible in the future, at the Planning Authority's and the Crown's discretion.

## **THE LOCAL HISTORIC HERITAGE CODE**

Clause C6.2.2 of the Local Historic Heritage Code provides that if a site is listed as a Local Heritage Place and is within a Local Heritage Precinct, any development application is not subject to the rules of the Local Heritage Precinct.

This misses the point of Local Heritage Precincts, which are concerned with visual impacts on an entire streetscape, or townscape.

This provision should be removed.

## **LANDSCAPE CONSERVATION ZONE / SCENIC PROTECTION CODE**

The Landscape Conservation Zone does the same thing as the Scenic Protection Code. The issue at hand, protecting important landscape values, is a matter best suited to a code overlay, as such values may extend over a wide area in which the best underlying zone may change.

The need for the Landscape Conservation Zone should be questioned. It would appear that wherever the zone has been applied in Local Provisions Schedules so far, the same result could have been achieved by using one of the other zones combined with a Scenic Protection Area overlay.

### **RECOMMENDATION**

**Moved:** Cllr Archer

**Seconded:** Cllr Cassidy

**THAT** the above points be submitted to the State's five-year statutory review of the State Planning Provisions, with the following additional point:

#### **Environmental Management Zone**

The spatial application rules applying to the Environmental Management Zone require that lakes in the Central Highlands be zoned Environmental Management. A number of these are multi-use lakes and the Environmental Management Zone is not the most appropriate in these cases. The State Planning Provisions should be amended to better recognise their real-world use.

**Carried**

**For the Motion:** Deputy Mayor Allwright, Mayor Triffitt, Cllr Cassidy & Cllr Archer

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Mr D Mackey left the meeting at 10.40am

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## **6.3 ASSESSMENT OF MAJOR DEVELOPMENT APPLICATIONS**

The assessment of major development applications has been discussed at previous meetings.

Council has a current resource share arrangement with Southern Midlands Council for a Planning Officer one day per week to undertake routine planning and development application assessments. Council has seen an increase in enquiries and the number of applications submitted over the past few years which is being managed during the one day per week. Southern Midlands Council have advised that they do not have the resources to provide additional coverage to assess major developments of this kind.

For this reason, during budget deliberations the budget allocation for consultants was increased knowing that one large development application would likely be submitted during this financial year and Council would have to engage a consultant planner to undertake the assessment.

Council Officers have recently met with a Developer who has advised a Development Application will be submitted soon. Based on this Council will need to have resources in place to undertake the assessment of the application.

### **RECOMMENDATION**

**Moved:** Cllr Cassidy

**Seconded:** Mayor Triffitt

**THAT** due to current staffing constraints Council engage a Consultant Planner to assess major development applications.

**Carried**

**For the Motion:** Deputy Mayor Allwright, Mayor Triffitt, Cllr Cassidy & Cllr Archer

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## **7.0 OTHER BUSINESS**

**Nil**

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## **8.0 CLOSURE**

There being no further business the Chairperson thanked everyone for attending and closed the meeting at 10.53am.

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