

**MINUTES OF THE PLANNING COMMITTEE MEETING  
OF THE CENTRAL HIGHLANDS COUNCIL HELD  
AT THE BOTHWELL COUNCIL CHAMBERS,  
AT 9.00AM ON TUESDAY 13<sup>TH</sup> JULY 2021**

**1.0 PRESENT**

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

**IN ATTENDANCE**

Clr Honner, Clr Poore, Clr Bowden (attended at 9.05am), Mrs L Eyles (General Manager), Mr G Rogers (Manager DES), Mr D Mackey (Southern Midlands Council), & Mrs K Bradburn (Minutes Secretary)

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**2.0 APOLOGIES**

Clr Campbell

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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 **Clr Bailey**

Seconded **Clr Cassidy**

THAT the Draft Minutes of the Planning Committee Meeting of Council held on Tuesday 9<sup>h</sup> March 2021 to be confirmed.

***Carried***

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

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**5.0 QUESTION TIME & DEPUTATIONS**

**Nil**

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**6.0 DA2021/21 : REORGANISATION OF BOUNDARIES : 9 MARRIOTTS ROAD, ELLENDALE**

**Report by**

Louisa Brown (Planning Officer)

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## **Applicant**

Rogerson & Birch Surveyors

## **Owner**

SA Davies

## **Discretions**

### **26.5.2 (A1) Reorganisation of Boundaries**

## **Proposal**

The proposal seeks to reorganise existing boundaries for CT 197616/1 and CT 209350/1, known as 9 Marriots Road, Ellendale both are in the same ownership.

The existing titles have areas of 20.23ha (CT 197616/1) and 11.03ha (CT 209350/1). Vehicular access, a dwelling and 2 outbuildings are contained within CT197616/1. Marriotts Road runs parrallell to Montos Creek which forms the boundary of CT 209350/1. Dillions Road cuts through both titles to the north of the property.

The proposal seeks to combine sections of both lots south of Dillions Road into Lot 2, with an area of 27ha. The remaining land would form Lot 1 to the North of Dillions Road and would be approximately 4ha. Lot 1 would include the existing dwelling and outbuildings and existing access from Marriotts Road. Both lots will have frontage onto Dillions Road.

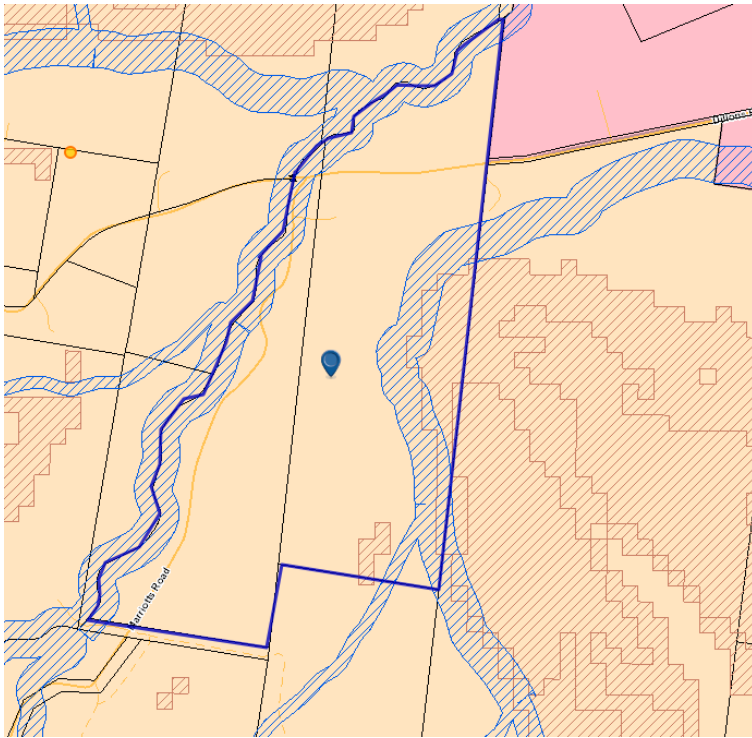
There are no easements, water or sewer services in the area. The new boundary follows existing fence lines, no earthworks or new infrastructure are required.

The proposal is discretionary owing to being a boundary reorganisation and is assessed against the subdivision standards for the Rural Resource Zone pursuant to section 26.0 of the Central Highlands Interim Planning Scheme 2015.

## **Subject site and Locality.**

The subject land is located 1.4km to the North West of Ellendale, south of Montos Creek and consists of two adjoining titles CT 197616/1 and CT 209350/1.

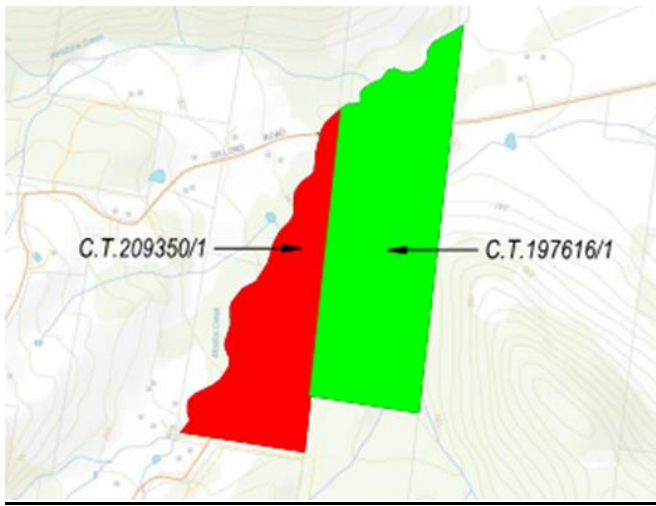
The locality is characterised by medium lots of productive farm land with single dwellings and associated outbuildings. Land in the area is predominantly zoned Rural Resource.



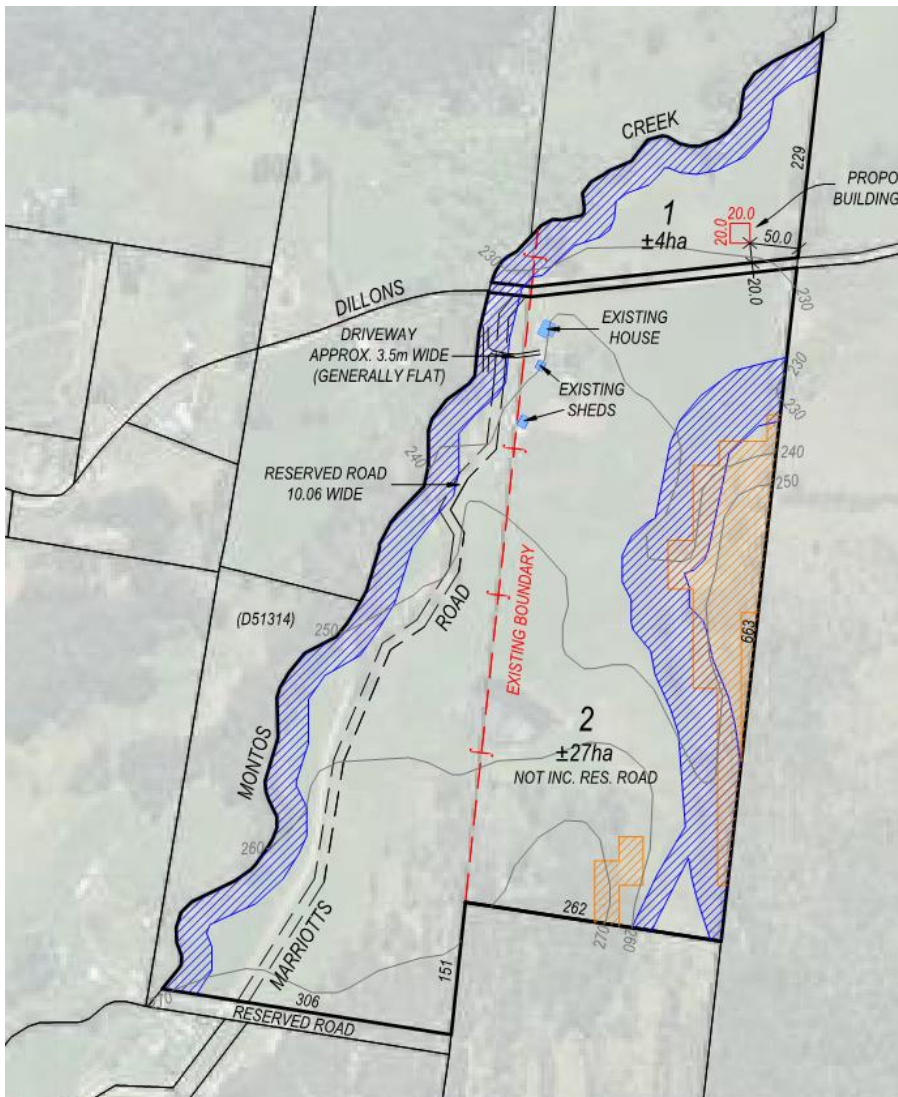
**Fig 1.** Location and zoning of the existing two titles, indicating the Rural Resource zone (Cream) and adjoining Rural Living (pink). Water courses are shown as blue hatched areas. (Source: LISTmap, accessed 13/9/2017)



**Fig 2.** Aerial photo of the subject land and surrounding area, title areas marked blue (Source: LISTmap, accessed 13/9/2017)



**Fig 3.** The two existing title areas.



**Fig 4.** Plan of land for reorganisation

**Exemptions**

Nil

**Special Provisions**

Nil

**Use standards**

There are no applicable use standards for subdivision.

**Development standards for Reorganisation of Boundaries**

The subject land is in the Rural Resource Zone. The proposal must satisfy the requirements of the following development standards, relevant to subdivisions:

<b>26.5.2 Reorganisation of Boundaries</b>		
To promote the consolidation of rural resource land and to allow for the rearrangement of existing titles, where appropriate, to provide for a better division of land.		
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>	<b>OFFICER COMMENT</b>
<p><b>A1</b></p> <p>A lot is for <u>public open space</u>, a riparian or littoral reserve or <u>utilities</u>.</p>	<p><b>P1</b></p> <p>The reorganisation of boundaries must satisfy all of the following:</p> <p>(a) all existing lots are adjoining or separated only by a road;</p> <p>(b) no existing lot was formally a crown reserved road or other reserved land;</p> <p>(c) provide for the sustainable commercial operation of the land by either:</p> <p style="padding-left: 20px;">(i) encompassing all or most of the agricultural land and key agricultural infrastructure (including the primary dwelling) in one lot, the 'primary agricultural lot', as demonstrated by a whole farm management plan,</p> <p style="padding-left: 20px;">(ii) encompassing an existing or proposed non-agricultural rural resource use in one lot;</p> <p>(d) if a lot contains an existing dwelling, setbacks to new boundaries satisfy clause 26.4.2;</p> <p>(e) if containing a dwelling, other than the primary dwelling, the dwelling is surplus to rural resource requirements of the primary agricultural lot;</p> <p>(f) a new vacant lot must:</p> <p style="padding-left: 20px;">(i) contain land surplus to rural resource requirements of the primary agricultural lot;</p>	<p>The proposal does not comply with the Acceptable Solution and must be assessed against the Performance Criteria.</p> <p>(a) Complies – both lots are adjoining.</p> <p>(b) Complies – no lot was formerly a crown reserved road or reserved land.</p> <p>(c) Complies – dwelling and primary agricultural lot combined. Additional agricultural land in one lot.</p> <p>(d) Complies – existing dwelling complies with setbacks of 26.4.2.</p> <p>(e) Complies – Not Applicable, there are no other dwellings.</p> <p>(f) Complies – land is surplus to requirements, building area shown and complies with 26.4.2 and 26.4.3, no significant increase for infrastructure or services.</p> <p>(g) Complies – Lot 1 is over 1ha, has frontage greater than 6m and will be serviced by a safe access.</p> <p>(h) There are no Local Area Objectives or Desired Future Character Statements in the Rural Resource zone.</p>

	<p>(ii) contain a building area capable of accommodating residential development satisfying clauses 26.4.2 and 26.4.3.</p> <p>(iii) not result in a significant increase in demand for public infrastructure or services;</p>	
	<p>(g) all new lots must comply the following:</p> <p>(i) be no less than 1ha in size;</p> <p>(ii) have a frontage of no less than 6m;</p> <p>(iii) be serviced by safe vehicular access arrangements;</p>	
	<p>(h) be consistent with any Local Area Objectives or Desired Future Character Statements provided for the area.</p>	

## **Codes**

### ***E1 Bushfire-Prone Areas Code***

The Bushfire-Prone Code applies to subdivision of land that is located within a bushfire-prone area. E1.6 Development Standards, E1.6.1 Subdivision: Provision of Hazard Management Areas requires that a Bushfire Risk and Hazard Management Plan be prepared by TFS or an accredited person.

A Bushfire Hazard Report has been submitted as a part of the application, by ERA Planning & Environment prepared in May 2021. This report includes a Certificate confirming that the proposed Lot 2 which contains the existing dwelling and outbuildings meets the criteria in that there is insufficient increase in risk to warrant the provision of additional hazard management areas. A certificate is provided in Appendix C of the Bushfire Hazard Report. The Bushfire Hazard Management Plan provides a building area on Lot 1 which complies with a minimum BAL – 12.5 construction standard. The report has been certified by an accredited Bushfire Assessor.

The report makes two recommendations;

- That static water supply for both lots must comply with the standards in Bushfire Prone Area Code: and
- Access for both lots will need to meet construction standards of the Code.

### ***E3.0 Landslide Code***

Some parts of the subject land are identified as Low Landslide Risk Areas. As the areas are small and no works will be required for the subdivision further assessment is not required.

### ***E11.0 Waterway and Coastal Protection Code:***

Parts of the site include minor creeks/drainage lines are covered by Waterway Protection Areas under the Waterway and Coastal Protection Code. The Code applies to all development including subdivision however this proposal meets the exemptions of the code owing to there being no works required within a Waterway Protection Area.

## Representations

The proposal was advertised for the statutory 14 days period from 31 May 2021 until 14 June 2021. No representations were received.

## Conclusion

The proposal for the reorganisation of boundaries CT 197616/1 and CT 209350/1, known as 9 Marriots Road, Ellendale is assessed to comply with the applicable standards of the Rural Resource Zone and the relevant codes of the *Central Highlands interim Planning Scheme 2015* as outlined in the body of this report.

The proposal was advertised for public comment, no representations were received.

It is recommended that the application be approved, subject to conditions.

## Legislative Context

The purpose of the report is to enable the Planning Authority to determine the Development Application DA2021/21 in accordance with the requirements of the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA require a Planning Authority to take all reasonable steps to ensure compliance with the Planning Scheme.

This report details the reasons for the officers Recommendation. The Planning Authority must consider the report but is not bound to adopt the Recommendation. Broadly, the Planning Authority can either: (1) adopt the Recommendation, (2) vary the Recommendation by adding, modifying or removing recommended conditions or (3) replacing an approval with a refusal.

This determination has to be made no later than 23<sup>rd</sup> July 2021, which has been extended beyond the usual 42 day statutory time frame with the consent of the application.

Any decision that is an alternative to the Recommendation requires a full statement of reasons to ensure compliance with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*. Section 25 (2) of the *Local Government (Meeting Procedures) Regulations 2015* states:

**25 (2):** *The general manager is to ensure that the reasons for a decision by a council or council committee acting as a planning authority are recorded in the minutes of the meeting.*

## Options

The Planning Authority must determine the Development Application DA2021/21 Reorganisation of Boundaries at 9 Marriots Road, Ellendale CT 197616/1 and CT 209350/1, 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 Development Application DA2021/21 Reorganisation of Boundaries at 9 Marriots Road, Ellendale CT 197616/1 and CT 209350/1, 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 DA2021/21 Reorganisation of Boundaries at 9 Marriots Road, Ellendale CT 197616/1 and CT 209350/1, 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 DA2021/21 Reorganisation of Boundaries at 9 Marriots Road, Ellendale CT 197616/1 and CT 209350/1, 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 **Clr Cassidy**

Seconded **Clr Bailey**

**THAT** the Planning Committee recommends the Planning Authority approve DA 2021/21 in accordance with Option 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 Development Application DA2021/21 Reorganisation of Boundaries at 9 Marriots Road, Ellendale CT 197616/1 and CT 209350/1, subject to conditions in accordance with the Recommendation.

### **Recommended Conditions**

#### *General*

- 1) The boundary reorganisation 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.

#### *Services*

- 3) Property services must be contained wholly within each lots served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.
- 4) 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.

#### *Easements*

- 5) 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.

#### *Covenants*

- 6) Covenants or other similar restrictive controls that conflict with any provisions or seek to prohibit any use provided within the planning scheme must not be included or otherwise imposed on the titles to the lots created by this permit, either by transfer, inclusion of such covenants in a Schedule of Easements or registration of any instrument creating such covenants with the Recorder of Titles, unless such covenants or controls are expressly authorised by the terms of this permit or the consent in writing of the Council's General

#### *Access*

- 7) A separate vehicle access must be provided from Dillons Road to Lot 1. Accesses must be constructed in accordance with the standards shown on standard drawings SD-1009 *Rural Roads - Typical Standard Access* and SD-1012 *Intersection and Domestic Access Sight Distance Requirements* prepared by the IPWE Aust. (Tasmania Division) and to the satisfaction of Council's Municipal Engineer.



*Final plan*

- 8) 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.
- 9) A fee of \$210.00, 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.
- 10) 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.
- 11) 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.

*Construction amenity*

- 12) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Environment and Development Services:

Monday to Friday	7:00 AM to 6:00 PM
Saturday	8:00 AM to 6:00 PM
Sunday and State-wide public holidays	10:00 AM to 6:00 PM
- 13) All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of -
  - a. Emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property.
  - b. Transport of materials, goods or commodities to or from the land.
  - c. Appearance of any building, works or materials.
- 14) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Municipal Engineer.
- 15) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.

**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.
- c) Council Officers note the recommendations to property CT167017/1 of the Bushfire Hazard Report. It is advised that the owner undertake the upgrades as per 4.0 Recommendations of the Bushfire Hazard Report.

**Carried**

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

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*Clr Bowden attended meeting at 9.05am*

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## 6.1 DRAFT CENTRAL HIGHLANDS LOCAL PROVISIONS SCHEDULE – FORMAL NOTIFICATION FROM THE TASMANIAN PLANNING COMMISSION

### Report By

Planning Consultant (SMC) Damian Mackey

### Attachments

1. Correspondence from the Tasmanian Planning Commission (the Commission), dated 23 June 2021, with Commission Attachments A, B and C.
2. Issues Assessment Table, including proposed amendments to the Supporting Report.

### Purpose

The purpose of this report is to:

- A. Advise Council of the “Section 35 Notice” received from the Tasmanian Planning Commission (the Commission) dated 23 July 2021 regarding Council’s draft Local Provisions Schedule (the draft LPS) for the Tasmanian Planning Scheme and,
- B. To seek guidance in regard to modifying Council’s *Supporting Report*, in preparation for the formal public notification of the draft LPS.

### Background

The Tasmanian Planning Scheme will consist of the State Planning Provisions (SPPs) and the LPSs from individual Councils.

As Councillors are aware, Central Highlands has been working to get its draft LPS into a form that the Commission is prepared to endorse as suitable for public exhibition, attempting to negotiate through many issues of contention.

The Commission has now moved the process to the next stage by issuing the formal Notice under Section 35 of the *Land Use Planning & Approvals Act 1993*, (refer Attachment 1). This is the formal direction setting out the modifications that must be made to the initial draft LPS submitted by Council to the Commission over a year and a half ago, so that it can be put out to the community for the formal public notification process.

Council must amend the draft LPS accordingly (both maps and ordinance) and return it to the Commission for checking. If the Commission is satisfied that its required changes have been made, it will then issue a further direction that Council undertake the public exhibition process.

Councillors will recall that when the initial draft LPS was signed-off, it was accompanied by a substantial *Supporting Report*. This document sets out how the draft LPS was arrived at, including how the mandatory state-wide provisions have been incorporated, how the existing scheme provisions have been translated into the state-wide format, what new or substantially amended aspects are proposed by Council and how Council has undertaken the spatial allocation of zones.

The Supporting Report will be placed on public exhibition alongside the draft LPS. Council now has the opportunity to amend or add to this document. This includes setting out its views in regard to matters where Council and the Commission have not been in agreement. In the interests of democratic accountability, it is important that community members are aware of the views of their local representatives especially where they vary from what are essentially the views of their State representatives (albeit filtered through the bureaucracy of the State planning apparatus).

Once the public exhibition period is completed, it will be Council's role to consider the matters raised in submissions received and determine a view on them, including whether the LPS should be amended as a result. The submissions and Council's views on them will then be forwarded to the Commission which will hold public hearings and, ultimately, make final determinations. The Minister will then declare the Tasmanian Planning Scheme to be in force in the Central Highlands municipal area.

### **Review of the Section 35 Notice**

The Section 35 Notice from the Commission is provided in Attachment 1. (Note that it includes three of its own attachments.)

Attachment 2 is an "Issues Assessment Table". This includes an assessment of each change required by the Commission, firstly noting whether the change accords with Council's view and, secondly, if it does not, a recommendation as to what the Supporting Report should state in regard to that issue.

Following the Planning Committee meeting, a report will be prepared for the full Council meeting and amendments will be undertaken to the Supporting Report in line with Council direction.

### **Public Exhibition**

A report will be provided to a future Council meeting setting out the proposed process for the public exhibition of the Draft Local Provisions Schedule. This will include proposed dates and times for information drop-in sessions that Council typically holds at Bothwell, Hamilton and Miena.

## **RECOMMENDATION**

Moved **Mayor Triffitt**

Seconded **Clr Cassidy**

**THAT** the Planning Committee makes the following recommendation to full Council:

- 1) The Section 35 Notice issued by the Tasmanian Planning Commission dated 23 June 2021 be received; and
- 2) Council endorse the changes to the Supporting Report as detailed.

**Carried**

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

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## **7.0 OTHER BUSINESS**

**Nil**

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## **8.0 CLOSURE**

There being no further business the meeting closed at 10.10am

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