

GLENORCHY PLANNING AUTHORITY MEETING

AGENDA

TUESDAY, 14 JUNE 2022



GLENORCHY CITY COUNCIL

- * Aldermen with an interest or concern in relation to a particular item on this Agenda, are invited to attend the meeting.
- * All application information is available to Aldermen for inspection upon request to the relevant Planning Officer.

Chairperson: Alderman Bec Thomas

Hour: 4.00 p.m.

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1. PLANNING AUTHORITY DECLARATION

The Chairperson stated that the Glenorchy Planning Authority intended to act as a Planning Authority under the *Land Use Planning and Approvals Act 1993*.

2. APOLOGIES/LEAVE OF ABSENCE

3. PECUNIARY INTERESTS

4. CONFIRMATION OF MINUTES

That the minutes of the Glenorchy Planning Authority Meeting held on 16 May 2022 be confirmed.

5. REPORT ON REPRESENTATIONS TO PLAM-21/04 - 60, 80, 80A & 90 CREEK ROAD, NEW TOWN

Author: Senior Strategic Planner (Lyndal Byrne)

Qualified Person: Senior Strategic Planner (Lyndal Byrne)

Property ID: 3117925

REPORT SUMMARY

Application No.	PLAM-21/04
Applicant	ERA Planning & Environment
Owner	Ray Taylor Investments Pty Ltd
Proposal	To rezone 60, 80, 80A & 90 Creek Road, New Town to an Inner Residential Zone and combined with a planning permit application to subdivide (Consolidate) the four properties into one lot.
Report Purpose	To consider the merits of representations received. The Planning Authority's assessment must be provided to the Commission under Section 40K and S42 of the <i>Land Use Planning and Approvals Act 1993</i>
Representations:	Twenty-seven (27) (one indicating no objection from TasWater)
Recommendation:	Refer representations and amendment, without changes, to the Commission

REPORT IN DETAIL

The draft amendment was publicly notified from 31 March 2022 until 2 May 2022.

The public notification involved advertisements in the Mercury on Wednesday 30 March 2022 and Saturday 2 April 2022, and a mailout of letters to landholders adjoining the land.

Twenty-seven (27) representations were received during the exhibition period, noting that one from TasWater indicated no objection subject to conditions on the planning permit. This report examines the merits of the representations.

BACKGROUND:

The amendment seeks to:

- Rezone 80 & 80A Creek Road, New Town from a Light Industrial Zone to an Inner Residential Zone.
- Rezone 60 & 90 Creek Road, New Town from a General Residential Zone to an Inner Residential Zone.
- Apply a Specific Area Plan (SAP) to the land to ensure site contamination mitigation requirements outlined in the Environmental Site Assessment are implemented, encourage pedestrian connections to the Moonah Activity Centre, and ensure appropriate traffic management occurs as part of future development of the site.

The area to be rezoned, and to which the SAP will apply, is shown in Figure 1.



Figure 1: land subject to the amendment

A copy of the certified amendment documents is included in **Attachment 1**.

Council, at its Glenorchy Planning Authority meeting on 21 March 2022, determined to initiate and certify the draft amendment and place it on public exhibition for 28 days.

STATUTORY REQUIREMENTS:

Section 40K(2) of the *Land Use Planning and Approvals Act 1993* (LUPAA) requires a planning authority to provide a report to the Tasmanian Planning Commission (the Commission), comprising:

- a copy of each representation made under section 40J in relation to the draft amendment before the end of the exhibition period in relation to the draft amendment, or, if no such representations were made before the end of the exhibition period, a statement to that effect; and*
- a copy of each representation, made under section 40J in relation to the draft amendment after the end of the exhibition period in relation to the draft*

amendment, that the planning authority, in its discretion, includes in the report; and

- (c) a statement of the planning authority's opinion as to the merit of each representation included under paragraph (a) or (b) in the report, including, in particular, as to –*
 - (i) whether the planning authority is of the opinion that the draft amendment ought to be modified to take into account the representation; and*
 - (ii) the effect on the draft amendment, and the LPS to which it relates, as a whole, of implementing the recommendation; and*
- (d) a statement as to whether it is satisfied that the draft amendment of an LPS meets the LPS criteria; and*
- (e) any recommendations in relation to the draft amendment that the planning authority thinks fit.*

Where the planning scheme amendment request has been combined with a planning permit application, the Planning Authority must also provide to the Commission a report under S42 of LUPAA that indicates whether the representation justifies modification to the Planning Authority's decision on the application for the planning permit.

DISCUSSION ON THE MERITS OF THE REPRESENTATIONS:

Twenty-seven (27) representations were received during the public notification period. The representation from TasWater indicated no objection to the amendment or permit application but provided conditions to be applied to the planning permit.

Representations have been allocated a number and this has been shown against the issue raised in **Attachment 2**. Except for the representations from the Derwent Estuary Program and TasWater, the representors live or own properties in Sinclair Avenue to the north of the subject land as shown in Figure 2.

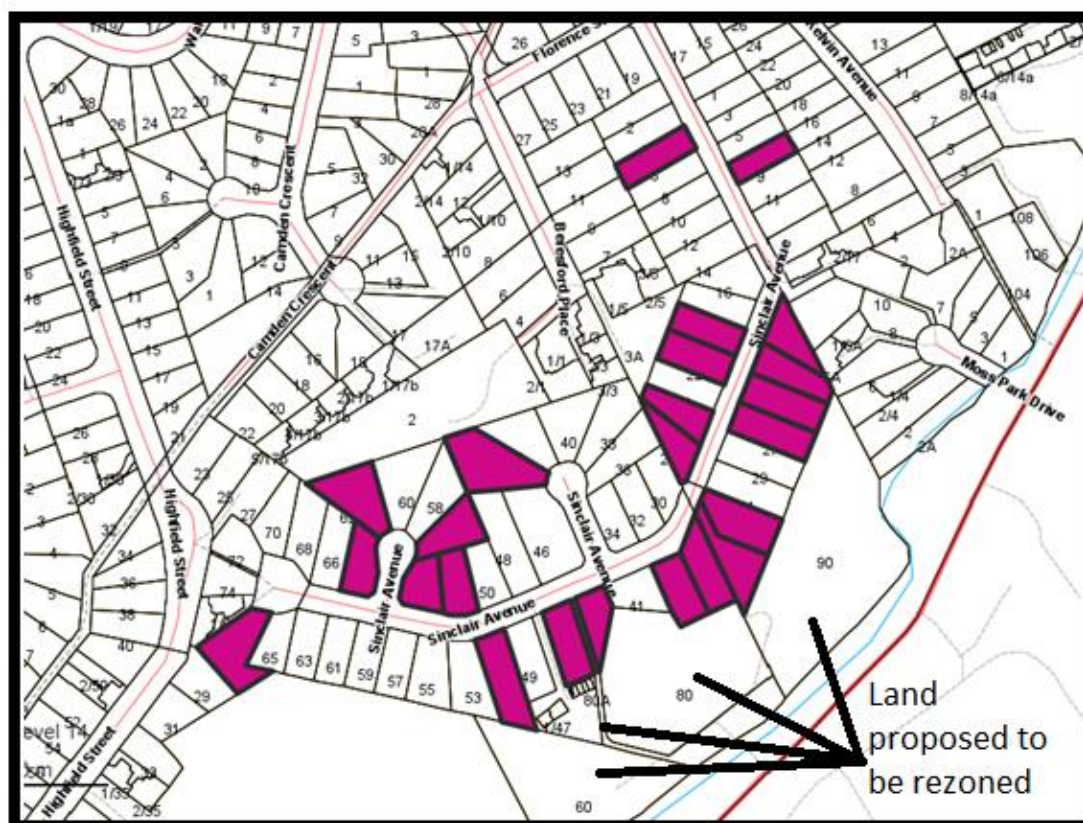


Figure 2: Representor owned properties in Sinclair Avenue.

Note that further clarification on the issues raised by representor No 3 was sought and these issues are discussed in this report even though the expanded comments were received after the exhibition period closed.

The issues raised in the representations are summarised below with officer comment on: the merits of each issue; the need for modification and the potential impacts on the amendment and the Local Provisions Schedule (LPS) as a whole, if a modification were made; and whether there should be any modification to the Planning Authority's decision on the planning permit.

- **The proposal is a spot rezoning**

Several representors have indicated this is a 'spot rezoning' claiming that the size of the subject area has no relevance to the argument that the land is not a 'spot rezoning'.

Spot rezonings are generally considered to be the application of a zone to a specific parcel or parcels of land within a larger area where the applied zone is at odds with surrounding zoning provisions.

The Inner and General Residential Zones focus on the provision of housing and are considered similar zones. The large size of the parcel, about 2.2 hectares, provides the opportunity for any future development to achieve reasonable side and rear setbacks and still produce a greater diversity of housing types than a General Residential Zone. Therefore, the size of the parcel assists in mitigating any potential visual amenity impacts that may occur on the interface between the two zones.

It is considered that the two residential zones are not in conflict with each other and that the proposed rezoning is not a 'spot rezoning.'

The land also abuts an Environmental Management Zone which applies along the New Town Rivulet. This zone abuts many residentially zoned areas within the municipality. The zone is often combined with provisions of the Natural Assets Code, such as the Waterway and Coastal Protection Overlay which applies here to mitigate impacts of development on the New Town Rivulet. Due to the controls applying to protect the watercourse, it is considered that the application of an Inner Residential Zone adjacent to an Environmental Management Zone is not in conflict and is therefore not a 'spot rezoning'.

It is considered that the issues raised by the representors do not have adequate merit to warrant modification to the amendment.

- **Inner Residential Zone will have negative impact on character**

Sinclair Avenue sits 'above' the subject land for most of the subject site's length. There is an approximate 10m drop between the top of the ridge to the ground level of the site (location of the slab at 80 Creek Road – refer to Figure 3), noting that the south-western and north-eastern portions of the site graduate up to Sinclair Avenue (refer to Figure 4).



Figure 3: View from 80 Creek Road north towards houses on Sinclair Avenue



Figure 4: 5 metre contours over the site – extract from LIST map

While it is acknowledged that an Inner Residential Zone may change the character of the area, the differences in elevation create a visual separation of the subject land from Sinclair Avenue.

Further, the opportunity to increase dwelling density and offer a diversity of new housing opportunities does not equate to a negative impact on character. Impacts on amenity (including visual impacts from the apparent scale, bulk and proportions of any new development and any loss of solar access and overshadowing) are still required to be assessed under the planning scheme and a reasonable standard of amenity must still be achieved.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **More housing can still be achieved without rezoning**

Several representors feel that medium density housing can still be achieved without having buildings that would be significantly larger than anything else in the area.

The proposal does not include an application for development, so the built form of any development on site at this time is unknown. It is also noted that the height difference between the acceptable solutions in an Inner Residential Zone and a General Residential Zone is one metre (9.5m verses 8.5m), which does not necessarily equate to a significantly larger built form occurring in an Inner Residential Zone.

An Inner Residential Zone provides for a greater multiple dwelling density (the Acceptable Solution for multiple dwellings in an Inner Residential Zone is 1 per 200m² versus 1 per 325m² in a General Residential Zone). Therefore, if a proposal was to comply with the Acceptable Solutions of the Inner Residential Zone, a greater number of dwellings could be achieved with potentially little difference in the perceived built form outcome and height difference.

No evidence has been presented by the representors as to where medium density housing opportunities are being achieved elsewhere within the City. The evidence appears to be to the contrary, that development is not being realised in the current Inner Residential Zone partly as a result of the small lot sizes, and that development is occurring at the lower density levels on land in a General Residential Zone. However, this lower density development, is not achieving the objectives of the *Southern Tasmania Regional Land Use Strategy 2010 – 2035* (STRLUS).

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Monolithic apartments complexes are not supported**

The final form of any proposed development will need to be assessed via a planning permit application against the provisions of the Tasmanian Planning Scheme - Glenorchy (TPS-G) if the amendment is approved.

These controls are implemented through a building envelope that sets height and setback standards for buildings, windows and decks. Any proposal that cannot comply with the building envelope requirements is assessed regarding its potential impact on the amenity of adjoining properties regarding overshadowing, reduction of sunlight and visual impacts caused by any apparent scale, bulk or proportions. The planning scheme controls have been implemented by the State Government to ensure a reasonable standard of amenity, including mitigation of visual impacts of development, are achieved.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **A General Residential Zone will ensure an appropriate height**

Several representors feel that the 8.5m height under a General Residential Zone is still significantly higher than any surrounding building in the area, and therefore a General Residential Zone would maintain the overall nature of the area and is a more appropriate zoning choice.

The Acceptable Solution height difference between an Inner Residential Zone and a General Residential Zone is only one metre (9.5m in an Inner Residential Zone and 8.5m in a General Residential Zone). Therefore, there is likely to be little difference in perceived height in development that meets the Acceptable Solution under either zone.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **The lots should remain separate**

Several representors consider that the subdivision (consolidation) allows greater height and density on the land and that there should be a covenant that the four lots can never be amalgamated in the future.

Restricting potential redevelopment opportunities on serviced land, within the Urban Growth Boundary and the urban infill development areas identified in the STRLUS would be inconsistent with the Schedule 1 Objectives of LUPAA and the regional strategy. Preventing future development opportunities in this manner is not orderly and proper planning and is not supported.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Only pedestrian access should occur through to Sinclair Avenue**

The northern access of the site to Sinclair Avenue is 2.93m in width and is not wide enough for a road access. Road access to a property for up to two dwellings requires a 3.0m wide access with a 3.6m wide frontage. It is noted that this cannot be reduced as the performance criteria require the Australian Standard AS2890 to be met and this also has the same minimum requirements for road access widths.

While the access could serve as a pedestrian link, the subject proposal does not include a development application proposing a link. If the amendment is approved and a future development proposal includes a pedestrian link, this would need to be assessed against the provisions of the planning scheme.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Properties will be devalued**

The valuation of land is determined by many factors, zoning being only one of these elements. There is no evidence that this would occur, particularly given the current housing market.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Environmental pollution and negative impacts on the Rivulet**

The proposal seeks to rezone land and grant a permit for a subdivision (consolidation), it does not include any physical works. The draft Specific Area Plan requires any works occurring on the contaminated slab at 80 Creek Road to be undertaken in accordance with the requirements of a site contamination practitioner to manage asbestos and for any unexpected finds to be appropriately managed as part of a Construction Management Plan.

Should the amendment be approved, and a planning permit for redevelopment lodged, any development within the Waterway and Coastal Protection Overlay that applies to the New Town Rivulet will need to be appropriately managed to minimise adverse impacts on the watercourse. Any permit issued for development of the land would also include the requirement for a Soil and

Water Management Plan to prevent soil and other materials entering the local stormwater system.

Noting that the subject proposal does not include any physical works and would have no impact on the environment per se, any future works are considered to be appropriately managed through the development process to mitigate environmental impacts.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Noise during construction and occupation**

Construction times are managed through Construction Management Plans and need to be in line with the noise regulations implemented by Environment Protection Authority Tasmania.

There are no provisions in the scheme relevant to noise levels from residential development. Increased numbers of people inevitably lead to an increased level of noise, however excessive or unreasonable noise nuisance, that cannot be satisfactorily resolved between neighbours, can be investigated by Council under the *Environmental Management and Pollution Control Act 1994* or via a complaint to Tasmania Police.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Soil erosion and structural integrity impacts on assets and buildings on adjoining land**

The proposed scheme amendment and planning permit application under consideration does not propose any physical works.

Should the amendment be approved, any development of the land would need to address any potential erosion issues [noting Clause 6.11.3 (g) of the TPS-G enables conditions and restrictions to be placed on a planning permit relating to erosion management].

It is considered that this issue raised by the representor does not have adequate merit to warrant modification to the amendment.

- **Parking of motor vehicles on the land as part of the development**

The proposed scheme amendment and planning permit application under consideration does not propose any physical works.

Should the amendment be approved, any development proposal would need to be assessed against the Parking and Sustainable Transport Code and the Road and Railway Assets Code of the TPS-G in respect to car parking provision.

The representor also questioned whether a multi-storey car park to serve adjacent businesses could be developed on the land. Under the Inner Residential Zone and General Residential Zone, use of the land for Vehicle Parking (ie a public car park) is prohibited.

It is considered that this issue raised by the representor does not have adequate merit to warrant modification to the amendment.

- **Uncertainty in timeframes for development completion given access to materials and current world events**

Planning permit applications can be staged to enable discrete parts of a project to be constructed. LUPAA also allows for two (2) requests to extend the time to begin a development or use for two (2) years. If a planning permit has not been acted upon after six (6) years from the date of the original approval, then it will lapse.

While it is acknowledged that access to materials and workforces are currently impacting on the development industry, it is considered that this issue does not have adequate merit to justify modification to the amendment.

- **Increased traffic impacts**

The representors consider that there are already high levels of traffic from the sports (netball) stadium in Creek Road. They are also concerned that future occupants on the site will park in Sinclair Avenue and use the walkway to access the site, creating further traffic impacts as Sinclair Avenue is already congested.

Impacts on the road network from Creek Road have been considered in the assessment of the proposal, as this is where the vehicle and pedestrian accesses are proposed to be. The Traffic Impact Assessment (TIA) has addressed the increase in traffic onto Creek Road, taking into account the impacts of the sports centre. Traffic modelling was undertaken and demonstrated that additional trips from the development are not expected to cause any adverse traffic impacts. If a future development generates a vehicle access that has more than ten right turn movements per hour (which is likely) then a short marked right turn lane into the development site on Creek Road would likely be required to manage traffic.

The proposed Specific Area Plan seeks to ensure the safety and efficiency of the local road network and road frontage by including an additional applicable standard to the assessment of access to the site.

The TIA did not include an assessment of a potential pedestrian link onto Sinclair Avenue as this is not proposed under the amendment or subdivision application. Should the amendment be approved, any future development would need to demonstrate an acceptable level of visitor and occupant residential car parking provision under the planning scheme.

It is acknowledged that redevelopment of the site would increase vehicular traffic along Creek Road, however the submitted TIA indicates this increase can be appropriately managed. There is no evidence based on the subject proposal that future residents and visitors would park in Sinclair Avenue. It is therefore considered that this issue does not have adequate merit to justify modification to the amendment.

- **Potential problems with pedestrian walkway**

The proposed scheme amendment and planning permit application under consideration does not propose any development or a walkway to Sinclair Avenue from the site. However, Council officers are keen to ensure safe and convenient pedestrian linkages along Creek Road to Main Road are achieved and this is being sought through the provisions of the draft Specific Area Plan.

Based on the subject planning scheme amendment and planning permit application, there is no evidence that a pedestrian walkway to Sinclair Avenue would cause problems, and it is therefore considered that this issue does not have adequate merit to warrant modification to the amendment.

- **Flooding in Creek Road**

The Flood-Prone Areas Hazard Code applies to the land particularly around the New Town Rivulet. Any development of the site will be required to address potential flooding impacts, particularly in respect to bridge heights, and demonstrate that any future buildings and works can achieve and maintain a tolerable risk from flood and not increase the risk from flood to adjacent land and infrastructure.

While the Section 8A Guidelines provide that an Inner Residential Zone should not be applied to land that is highly constrained by hazards, the applicants' Flood Hazard Report by Flussig Spatial, October 2022, indicates that future development could be achieved with minimal risk to users of the site and no impact on existing flooding extent on surrounding properties. In this regard, while any future development would need to be fully assessed against the Flood-Prone Areas Hazard Code, it is considered that the land is not highly constrained by flood hazard and the Inner Residential Zone can be applied.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Overlooking and privacy issues from future development**

The subject planning permit application relates to subdivision only, no new dwellings are proposed at this stage. Should the amendment be approved, any future redevelopment proposal of the site would need to comply with the provisions of the TPS-G.

The scheme provisions manage the impact of overlooking and privacy through setbacks for buildings, windows and decks and through a building envelope. Any determination on whether new development is appropriate for the site or may impact on privacy and outlook needs to be considered under a future planning permit application process.

It is considered that this issue raised by the representors does not have adequate merit to warrant modification to the amendment.

- **Impact on views**

The subject planning permit application relates to subdivision only, no new dwellings are proposed at this stage. Should the amendment and permit be

approved, any future redevelopment proposal of the site would need to comply with the provisions of the TPS-G.

While there are no specific provisions relevant to views in the planning scheme, there are provisions that seek to limit visual impacts, maintain privacy and limit overlooking. These controls are implemented through a building envelope that sets height and setback standards for buildings, windows and decks. Any determination on whether new development is appropriate for the site or may have negative visual impact needs to be considered under a future planning permit application process.

It is considered that the issues raised do not justify a modification to the amendment or permit application.

- **Review boundary of land and creek property**

The Derwent Estuary Program has requested the boundary be adjusted on lot CT 13264/1 to bring it back to the existing fence line to protect the existing riparian area and take up more of the flood zoned land. They also request that this portion of the land be rezoned to an Environmental Management Zone to protect native riparian vegetation which supports river condition and natural ecological function of the watercourse making it a high priority area to protect from development.

This matter was discussed with the applicant who provided the following comments:

- *The boundary is a moving target from a surveying perspective and erosion has shifted the creek edge over time (and will continue to do so until the bank is stabilised as part of future development on the site).*
- *The land is currently in private ownership and the developer is responsible for addressing erosion issues; changing this to Council ownership would shift cost to more limited Council resources.*
- *The zone and/or lot boundary lines do not in themselves change how the creek is protected from adverse development as this is controlled through the application of the Natural Assets Code and Flood-Prone Areas Hazard Code.*
- *The zone and/or lot boundary lines do not in themselves change how the creek is managed as there is regulation/legislation in place (e.g. Urban Drainage Act) to enable this.*
- *Any creek boundary readjustments, for whatever reason, do not need to be undertaken as part of the current rezoning process. That is, the current proposal does not prevent future opportunities to do so when more development certainty is available. For example, should the ongoing archaeological investigations lead to the old mill foundations being determined to have archaeological value, Council may wish to negotiate with the property owners to make an adjustment to the creek boundary as part of that scheme amendment process. However, it is preferable for this*

to take place after the site has been developed and creek bank stability works have been completed.

It is considered that a more detailed understanding of the works needed to protect the land from further erosion and stabilise the stream bank is required before any new boundary can be determined. This work would occur as part of any future development. While the elements of the representation are supported in principle, to try and determine the boundary now as part of a rezoning process would be premature.

It is considered that the representation does not justify a modification of the subject amendment or planning permit application.

Conclusion

The key concerns from surrounding property owners relate to impacts from possible increased traffic within Sinclair Avenue and potential negative amenity impacts from the development's built form should a higher density under an Inner Residential Zone be enabled.

While the provisions of an Inner Residential Zone allow for greater density and height than a General Residential Zone, there is still the requirement to not cause an unreasonable loss of amenity to adjoining properties when considering the visual impacts of development, including its bulk, scale and building proportions. Traffic modelling indicates that Creek Road can cater for increased traffic numbers and there is no evidence that visitors and residents would park in Sinclair Avenue in order to access the site.

While the representors in Sinclair Avenue are advocating that the area should not change, or that any change is limited, the planning authority must weight this position with the potential for increased opportunities for housing.

The subject land (with the exception of 60 Creek Road) is included in the densification area of the STRLUS, so including the land in an Inner Residential Zone is a logical infill opportunity. There are limited vacant parcels of land, close to activity centres, within the urban area that present the opportunity for Council to achieve its housing infill priorities under the STRLUS.

Medium density opportunities are not being realised in the current Inner Residential Zone, and this is partly a result of the small lot sizes. Council has acknowledged a need for more housing, and the subject land is a large, serviced, well-located site that could offer that opportunity.

It is considered that the representations do not have adequate merit to support any modifications to the amendment.

The amendment is considered to meet the LPS criteria as required under Section 34 of LUPAA and it is recommended it is submitted to the Tasmanian Planning Commission in the form in which was publicly notified, without change.

The process from here:

The representations, this report and attachments will be forwarded to the Commission. The Commission may hold a public hearing prior to making a determination on the amendment.

Recommendation:

That the Glenorchy Planning Authority, after considering the merits of the representations, and being satisfied that no changes to the amendment are required:

1. PROVIDE the representations, and this GPA Report on PLAM-21/04 on land at 60, 80, 80A and 90 Creek Road, New Town to the Tasmanian Planning Commission under S40K and S42 of the *Land Use Planning and Approvals Act 1993*.

Attachments/Annexures

- 1 Attachment 1: Sealed and Certified Amendment Documents



- 2 Attachment 2: Representations table of issues



