

SOUTHERN  
MIDLANDS  
COUNCIL



# **AGENDA**

## **SPECIAL COUNCIL MEETING**

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Wednesday, 13<sup>th</sup> June 2018

Municipal Offices, 71 High Street, Oatlands  
commencing at 9.00 a.m.

# INDEX

1.	<b>ATTENDANCE .....</b>	<b>4</b>
2.	<b>APOLOGIES.....</b>	<b>4</b>
3.	<b>DECLARATION OF PECUNIARY INTEREST .....</b>	<b>4</b>
4.	<b>COUNCIL ACTING AS A PLANNING AUTHORITY PURSUANT TO THE LAND USE PLANNING AND APPROVALS ACT 1993 AND COUNCIL’S STATUTORY LAND USE PLANNING SCHEME .....</b>	<b>5</b>
4.1	<i>Planning Scheme Amendment (RZ2018/01) for Rezoning from General Residential to General Business and Amendment to Use Table Of General Business Zone at 99 High Street, Oatlands (CT240022/1), Owned by Lake Frederick Inn Pty Ltd .....</i>	<i>5</i>
5.	<b>CLOSURE .....</b>	<b>18</b>



Dear Sir

**NOTICE OF SPECIAL COUNCIL MEETING**

Notice is hereby given that a Special Meeting of Council will be held on:-

**Date: Wednesday, 13<sup>th</sup> June 2018**  
**Time: 9.00 a.m.**  
**Venue: Municipal Offices, 71 High Street, Oatlands**

I certify under s.65(2) of the *Local Government Act 1993* that the matters to be discussed under this agenda have been, where necessary, the subject of advice from a suitably qualified person and that such advice has been taken into account in providing any general advice to the Council.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tim Kirkwood', written in a cursive style.

Tim Kirkwood  
**GENERAL MANAGER**

# OPEN COUNCIL AGENDA

## 1. ATTENDANCE

## 2. APOLOGIES

## 3. DECLARATION OF PECUNIARY INTEREST

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015*, the chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the Agenda.

Accordingly, Councillors are requested to advise of a pecuniary interest they may have in respect to any matter on the agenda, or any supplementary item to the agenda, which Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2015*.

#### **4. COUNCIL ACTING AS A PLANNING AUTHORITY PURSUANT TO THE LAND USE PLANNING AND APPROVALS ACT 1993 AND COUNCIL'S STATUTORY LAND USE PLANNING SCHEME**

*Session of Council sitting as a Planning Authority pursuant to the Land Use Planning and Approvals Act 1993 and Council's statutory land use planning schemes.*

##### **4.1 PLANNING SCHEME AMENDMENT (RZ2018/01) FOR REZONING FROM GENERAL RESIDENTIAL TO GENERAL BUSINESS AND AMENDMENT TO USE TABLE OF GENERAL BUSINESS ZONE AT 99 HIGH STREET, OATLANDS (CT240022/1), OWNED BY LAKE FREDERICK INN PTY LTD**

*File Ref: T 5842397*

**Author:** PLANNING OFFICER (JACQUI TYSON)

**Date:** 8 JUNE 2018

**Enclosure:**  
*Representations*

#### **BACKGROUND**

At the Council Meeting held on 24<sup>th</sup> April 2018, Council resolved to initiate and certify the Planning Scheme Amendment RZ2018/01.

The draft amendment and associated documents were placed on public exhibition between 5<sup>th</sup> May 2018 and the 5<sup>th</sup> June 2018, in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993* (the Act).

During the advertising period two (2) representations were received from members of the public and a submission was also received from TasWater. This report considers the matters raised in the representations.

#### **PROPOSAL**

Planning consultants ERA Planning Pty Ltd on behalf of Lake Frederick Inn Pty Ltd have lodged a request under Section 33 of the *Land Use Planning and Approvals Act 1993* ("the Act") to rezone land at 99 High Street, Oatlands and amend the planning scheme ordinance.

The proposal is for an amendment to the *Southern Midlands Interim Planning Scheme 2015* ("the Scheme") in two parts, as follows:

- Rezone the rear section of 99 High Street from General Residential to General Business (the front section is already zoned General Business); and
- Amend Clause 21.2 Use Table of the General Business Zone to introduce Resource processing as a Discretionary use class with a qualification.

<b>Discretionary</b>	
Use Class	Qualification
Resource processing	If for food and beverage production

The purpose of the planning scheme amendment is to facilitate the use and development of a new whisky distillery at 99 High Street.

The distillery and associated development cannot be considered under the current provisions of the Scheme as the applicable use class '*Resource processing*' is not allowed in the General Residential or General Business zones that currently apply to the site.

If approved, the amendment will allow a future Development Application for the distillery development to be considered by Council.

### **LEGISLATIVE REQUIREMENTS**

In accordance with sections 39(2) and 43F(6) of the Act, Council must, within 35 days after the exhibition period, forward to the Tasmanian Planning Commission a report comprising a copy of each representation and a statement of its opinion on the merit of each representation and any recommendations regarding the draft amendment and planning permit it considers necessary.

Council are reminded that references to the provisions of the Act are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015. The former provisions of the Act remain in force until the Local Provisions Schedule comes into effect.

### **PUBLIC NOTIFICATION**

Section 38 of the Act sets out that after making a decision to initiate a planning scheme amendment it is to be publicly advertised for a period of at least 28 days.

In this case the draft amendment was placed on public exhibition as required by the Act between 5<sup>th</sup> May 2018 and the 5<sup>th</sup> June 2018.

A total of three (3) representations were received, including a submission from TasWater. The representations are addressed in the table below.

Representation 1	Officer Comment
<p>As residents of the Southern Midlands who have lived here all our lives and living in the house we built at Oatlands for almost 24 years, we are shocked that we have not been approached by the council or the developer about the re-zoning of the property next to ours, so they can build a whiskey distillery.</p>	<p><i>The draft amendment has been placed on public exhibition as required under the Act, which includes a direct letter to surrounding property owners including the representor.</i></p> <p><i>There is no statutory requirement for the applicant/developer or Council to undertake separate consultation than what has occurred.</i></p>
<p>It seems that everyone except us has been approached by the developer, asking for their opinions; in saying that, we were not against the proposed whiskey distillery initially. We have now seen the plans and believe that what was only supposed to be a small shed, as described to us, has now grown to 3 buildings of mammoth proportions with 3 tanks, a pumping station, air conditioner, truck entrance, and turning space all ridiculously close to our property, and only a small distance from our bedroom and living room windows, which we also view the Callington Mill from.</p>	<p><i>The current application is for the planning scheme amendment (rezoning and ordinance change) only.</i></p> <p><i>The draft plans of the distillery have been provided for context but do not form part of this assessment.</i></p> <p><i>If the planning scheme amendment is successful, the distillery proposal will be subject to a separate Development Application including public notification. Concerns relating to the design and operation of the distillery can be addressed at that time.</i></p>
<p>We are concerned about constant noise, amongst other issues, which we have listed below, and in light of this, we now opposed the re-zoning altogether. The proposed entrance, which was put there by the previous owner, was not built correctly, as it was put there with no culvert and it is on the crest of a hill, which is dangerous. It should be moved to the original entrance near the public toilet block.</p>	<p><i>As indicated above, the distillery does not form part of the current application, which is for a planning scheme amendment only.</i></p> <p><i>Therefore, concerns relating to the design and operation of the distillery are not matters that can be addressed in this assessment but will be subject to assessment and advertising under a future Development Application.</i></p>
<p>We have listed the concerns we have, all of which have the potential to make our lives difficult:</p> <ol style="list-style-type: none"> <li>1. Constant noise from pumping station and air conditioning, which is worsened by it being so close to our bedroom.</li> <li>2. Noise from the location of the truck entrance (general noise and reversing noise)</li> </ol>	<p><i>See responses above.</i></p>

<p>3. Internet and TV reception interference          4. Our view of Callington mill will be blocked.          5. 3 5-metre-high tanks blocking view and light, especially in cold winter days          6. Photo opportunities for tourists taking pictures of Callington Mill from Esplanade will be completely blocked          7. Almost certain to devalue our property          8. Impact of increased heavy traffic.          9. Fumes from distillery.          10. Potential fungus from distillery.          11. Potential risk of explosion          12. Potential health risk due to chemical fumes          13. Diesel fumes from the trucks          14. Proposed entrance is not the original entrance, and is not built to standard</p>	
<p>We built our house here because it was a nice, quiet country area, and if this proposed distillery goes ahead that will no longer be the case.</p>	<p><i>The desire for the continued amenity afforded by undeveloped land to neighbouring properties is recognised.</i></p> <p><i>However, the subject site at 99 High Street and surrounds form part of the heart of Oatlands, with many of the local business, government and community services located within 500m, which is considered to be walking distance for most people. The development of suitable enterprises in key locations such as this one is essential to the economic future of the town.</i></p> <p><i>While the proposed rezoning and planning scheme amendment will change the nature of development allowed on the site to a degree, it should be recognised that the existing zoning of General Residential also allows for significant developments that would change the current situation. For example, multiple dwellings to a density of 325m<sup>2</sup> per dwelling, approximately 10 in the General Residential zoned portion of the site, is a permitted use here (not withstanding heritage requirements). This is not a rural area, it is part of a growing town.</i></p>



<p>The developer has already used bullying tactics by trying to purchase our property through a third party, which was denied, and seeing that Damien Mackey somehow seems to have a vested interest in this proposed development, we do not believe that he is protecting the Callington Mill precinct from a heritage point of view, therefore making his opinions biased.</p>	<p><i>These comments are not considered to be relevant to the assessment.</i></p>
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<p><b>Representation 2</b></p>	<p><b>Officer Comment</b></p>
<p>I wish to make a representation in respect of the above matter.</p> <p>I am owner of an adjacent property at Oatlands. I am in favour, in principle, with the planned amendment, but would like to draw attention to several factual errors in the application that affect my property.</p>	<p><i>Support is noted.</i></p>
<p>The existence of private land (title 26704/2) is not recognised in the document. This land, known as Mill Lane, is privately owned but is subject to an easement giving public right of way. Title 26704/02 is not shown in Figure 1 in the application.</p> <p>My property, including title 26704/02 is zoned General Business and is not part of the Callington Mill Precinct, which is zoned Community Purpose. So, the statement under section 2.2 of the application on page 5 “The site borders the Callington Mill Historic Site to the west, and to the east is adjacent to properties in the General Business and General Residential zones.” is only partially correct. The same error is made in the draft minutes of the council meeting on 24th April 2018 (page 30).</p> <p>Going forward it would be useful to ensure that the property plans show the boundary between title 26704/02 and the Callington Mill Precinct for the avoidance of doubt and misunderstanding as the plans for the precinct unfold.</p>	<p><i>The existence and private ownership of the Mill Lane title (CT26704/2) is certainly understood and recognised.</i></p> <p><i>However, it is not annotated on the draft site plan of the distillery plan set or in figures used in the planning submission.</i></p> <p><i>If the proposed amendment is successful, this oversight will be rectified in the final documents for the distillery Development Application.</i></p>

<b>Representation 3 - TasWater</b>	<b>Officer comment</b>
TasWater has provided the following response:  TasWater does not object to the draft amendment to planning scheme and has no formal comments for the Tasmanian Planning Commission in relation to this matter and does not require to be notified of nor attend any subsequent hearings.	<i>Noted.</i>

## CONCLUSION

This report has provided an assessment of the representations received in relation to the proposed amendment to the *Southern Midlands Interim Planning Scheme 2015* to rezone land at 99 High Street, Oatlands from General Residential to General Business and amend the ordinance to allow for Resource Processing (“food and beverage production” only) in the General Business Zone.

It is recommended that Council continues to support the planning scheme amendment with no change and provide this report together with the representations to the Tasmanian Planning Commission.

It is noted that if Council decide not to continue to support the proposal the final assessment and determination will still be undertaken by the Tasmanian Planning Commission.

## RECOMMENDATION

### THAT Council:

1. Consider the representations received in regard to the draft Planning Scheme Amendment RZ2018/01, together with the responses provided above; and
2. Advise the Tasmanian Planning Commission that three (3) representations were received in accordance with Section 39(2) of the *Land Use Planning & Approvals Act 1993* (under Schedule 6 Savings and Transitional Provisions); and
3. A copy of this report be forwarded to the Tasmanian Planning Commission being Council’s assessment of the merit of the representations in accordance with Section 39(2)(b) of the *Land Use Planning & Approvals Act 1993* (under Schedule 6 Savings and Transitional Provisions); and
4. Pursuant to Section 39(2) of the *Land Use Planning & Approvals Act 1993* (under Schedule 6 Savings and Transitional Provisions), the Council recommend to the Tasmanian Planning Commission that no modification to the draft Planning Scheme Amendment RZ2018/01 is required.

**Southern Midlands Council**Agenda (Special Council Meeting) – 13 June 2018

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<b>DECISION</b>		
<b>Councillor</b>	<b>Vote FOR</b>	<b>Vote AGAINST</b>
Mayor A E Bisdee OAM		
Dep. Mayor A O Green		
Clr A Bantick		
Clr R Campbell		
Clr E Batt		
Clr D F Fish		
Clr D Marshall		

**ATTACHMENT**

*Agenda Item 4.1*

**Sent:** Monday, 14 May 2018 2:30 PM  
**To:** SMC Mail  
**Subject:** Attention: Jacqui Tyson

FILE Ref 5842397  
RZ2018/01

To Jacqui Tyson,

As residents of the Southern Midlands who have lived here all our lives and living in the house we built at [REDACTED] Oatlands for almost 24 years, we are shocked that we have not been approached by the council or the developer about the re-zoning of the property next to ours, so they can build a whiskey distillery.

It seems that everyone except us has been approached by the developer, asking for their opinions; in saying that, we were not against the proposed whiskey distillery initially. We have now seen the plans and believe that what was only supposed to be a small shed, as described to us by Tim Kirkwood, has now grown to 3 buildings of mammoth proportions with 3 tanks, a pumping station, air conditioner, truck entrance, and turning space all ridiculously close to our property, and only a small distance from our bedroom and living room windows, which we also view the Callington Mill from.

We are concerned about constant noise, amongst other issues, which we have listed below, and in light of this, we now opposed the re-zoning altogether. The proposed entrance, which was put there by the previous owner, was not built correctly, as it was put there with no culvert and it is on the crest of a hill, which is dangerous. It should be moved to the original entrance near the public toilet block.

We have listed the concerns we have, all of which have the potential to make our lives difficult:

1. Constant noise from pumping station and air conditioning, which is worsened by it being so close to our bedroom.
2. Noise from the location of the truck entrance (general noise and reversing noise)
3. Internet and TV reception interference
4. Our view of Callington mill will be blocked.
5. 3 5-metre-high tanks blocking view and light, especially in cold winter days
6. Photo opportunities for tourists taking pictures of Callington Mill from Esplanade will be completely blocked
7. Almost certain to devalue our property
8. Impact of increased heavy traffic.
9. Fumes from distillery.
10. Potential fungus from distillery.
11. Potential risk of explosion
12. Potential health risk due to chemical fumes
13. Diesel fumes from the trucks
14. Proposed entrance is not the original entrance, and is not built to standard

We built our house here because it was a nice, quiet country area, and if this proposed distillery goes ahead that will no longer be the case. The developer has already used bullying tactics by trying to purchase our property through a third party, which was denied, and seeing that Damien Mackey somehow seems to have a vested interest in this proposed development, we do not believe that he is protecting the Callington Mill precinct from a heritage point of view, therefore making his opinions biased.

Kind regards,



PS could you please acknowledge you have received this email .



OATLANDS  
Tasmania 7120

General Manager  
Southern Midlands Council  
PO BOX 21 OATLANDS  
Tasmania 7120

Dear Sir

**Re: Notice of Draft Planning Scheme Amendment – Rezone part of the land at 99 High Street, Oatlands (RZ 2018/1)**

I wish to make a representation in respect of the above matter.

I am owner of an adjacent property at [redacted] High Street, Oatlands. I am in favour, in principle, with the planned amendment, but would like to draw attention to several factual errors in the application that affect my property.

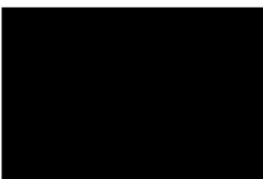
The existence of private land (title 26704/2) that I own on the west side of 99 High Street is not recognised in the document. This land, known as Mill Lane, is privately owned but is subject to an easement giving public right of way. Title 26704/02 is not shown in Figure 1 in the application.

My property, including title 26704/02 is zoned General Business and is not part of the Callington Mill Precinct, which is zoned Community Purpose. So, the statement under section 2.2 of the application on page 5 “The site borders the Callington Mill Historic Site to the west, and to the east is adjacent to properties in the General Business and General Residential zones.” is only partially correct. The same error is made in the draft minutes of the council meeting on 24<sup>th</sup> April 2018 (page 30).

Going forward it would be useful to ensure that the property plans show the boundary between title 26704/02 and the Callington Mill Precinct for the avoidance of doubt and misunderstanding as the plans for the precinct unfold.

Thank you for your consideration.

Yours sincerely



5<sup>th</sup> June 2018

**Stacey Watkins**

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**From:** TasWater - Development <Development@taswater.com.au>  
**Sent:** Monday, 4 June 2018 10:02 AM  
**To:** SMC Mail  
**Cc:** Jacqueline Tyson  
**Subject:** TasWater Submission to Planning Authority Notice, TWDA 2018/00874-STM, for Council reference RZ 2018/1  
**Attachments:** TWDA 2018-00874-STM.pdf; TasWater preliminary advice SI 2018/00231-STM RE: additional information for Distillery at 99 High St Oatlands RZ 2017-3

Dear Sir/Madam

TasWater does not object to the proposed amendment to the Southern Midlands Interim Planning Scheme 2015 and has no formal comments for the Tasmanian Planning Commission in relation to this matter and does not require to be notified of nor attend any subsequent hearings as stated in the attached SPAN.

Please also find attached Service Advice provided on 23 March 2018 regarding the associated future distillery.

If you have any queries, please contact me.

Thank you.

Phil Papps  
Senior Assessment Officer




D (03) 6237 8246  
F 1300 862 066  
A GPO Box 1393, Hobart TAS 7001  
169 Main Road, Moonah, TAS 7009  
E [phil.papps@taswater.com.au](mailto:phil.papps@taswater.com.au)  
W <http://www.taswater.com.au/>

Have I been helpful? Please provide feedback by clicking [here](#)



## Submission to Planning Authority Notice

Council Planning Permit No.	RZ 2018/1	Council notice date	24/05/2018
<b>TasWater details</b>			
TasWater Reference No.	TWDA 2018/00874-STM	Date of response	04/06/2018
TasWater Contact	Phil Papps	Phone No.	(03) 6237 8246
<b>Response issued to</b>			
Council name	SOUTHERN MIDLANDS COUNCIL		
Contact details	mail@southernmidlands.tas.gov.au		
<b>Development details</b>			
Address	99 HIGH ST, OATLANDS	Property ID (PID)	5842397
Description of development	Draft Amendment to Southern Midlands Interim Planning Scheme 2015		
<b>Schedule of drawings/documents</b>			
Prepared by	Drawing/document No.	Revision No.	Date of Issue
ERA Planning	Planning Report	--	28/03/2018
<b>Conditions</b>			
Pursuant to the <i>Water and Sewerage Industry Act 2008 (TAS)</i> Section 56S(2) TasWater makes the following submission(s):			
1. TasWater does not object and has no formal comments for the Tasmanian Planning Commission in relation to this matter and does not require to be notified of nor attend any subsequent hearings.			
<b>Advice</b>			
<i>Nil</i>			
<b>Declaration</b>			
The drawings/documents and conditions stated above constitute TasWater's Submission to Planning Authority Notice.			
<b>Authorised by</b>			
 Jason Taylor Development Assessment Manager			
<b>TasWater Contact Details</b>			
Phone	13 6992	Email	development@taswater.com.au
Mail	GPO Box 1393 Hobart TAS 7001	Web	www.taswater.com.au



## Stacey Watkins

---

**From:** TasWater - Development <Development@taswater.com.au>  
**Sent:** Friday, 23 March 2018 4:34 PM  
**To:** David Cundall  
**Subject:** TasWater preliminary advice SI 2018/00231-STM RE: additional information for Distillery at 99 High St Oatlands RZ 2017-3

Hi David,

I have referred the associated Hydraulic Report to our Asset Performance Engineers/Modellers and they have offered the following responses:

### Water

Some preliminary information was provided to the consultant Emma Riley by Jacob Ziesel on 10 July 2017. In addition to this, and in the absence of a hydraulic model for Oatlands, the main concern would be the maximum instantaneous draw into their on-site tanks. A large draw could drop reticulation pressures for other customers along the main through the town and we would want to limit this inflow so this does not occur.

*To assist with this assessment, the consultant would need to provide the anticipated maximum instantaneous inflow into the on-site tanks.*

### Sewer

Based on full pipe flow calculated from the invert levels in the GIS, there is sufficient capacity downstream of the development to accept the proposed pumped discharge rate of 50 L/min or 0.83 L/s. It was not deemed necessary to assess the STP capacity.

### Trade Waste

Our trade waste area did not indicate any further information would be required at this stage of the development.

Please note TasWater is treating the referral as a request for service advice (SI 2018/00231-STM ) until such time as the application becomes valid.

Regards

Phil Papps  
Senior Assessment Officer



D (03) 6237 8246  
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W <http://www.taswater.com.au/>

Have I been helpful? Please provide feedback by clicking [here](#).

**5. CLOSURE**