

Response to petition

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tabled L. Hiscott

Government response
to member for Murchison's
petition regarding the call for
parliamentary review of the planning
process around the cable car development
on Kananyi /
Mt Wellington

RESPONSE:

- The Government does not consider that an inquiry into the handling of the Cable Car proposal by the Hobart City Council is required.
- These matters relate to the exercise of statutory planning functions by the Council under the *Land Use Planning and Approvals Act 1993* (LUPAA) and the obligations of councillors regarding conflicts of interest under the *Local Government Act 1993* (LGA).
- The Council acting as a planning authority is bound to conduct its assessment in line with the requirements of the LUPAA.
- The decision-making process in relation to development applications is set out in Part 4 of LUPAA, which specifically sets out the matters that must be considered. These include the requirements of the planning scheme relevant to the proposal, and any representations made during a statutory notification period.
- The decision of the Council is not one of unbound discretion but an assessment against the relevant planning rules.
- Decisions and processes of councils acting as planning authorities are subject to review by the independent Tasmanian Civil and Administrative Appeals Tribunal (TasCAT) and the courts.
- Section 4 of the *Cable Car (Kananyi/Mount Wellington) Facilitation Act 2017* provides that landowner consent is not required for lodging a planning permit associated with land owned by a Council.
- Under the LGA, councillors are required to declare, and appropriately manage, conflicts of interest. This includes both pecuniary and non-pecuniary interests.
- Councillors must declare any pecuniary interest in a matter before council. Where such an interest arises, they must remove themselves from discussion and voting on the matter at the relevant council meeting. It is an offence for a councillor to fail to comply with these requirements and significant financial penalties apply.
- Councillors are required to manage any non-pecuniary interests in accordance with the Local Government Model Code of Conduct framework. Under this framework, a councillor must:
 - bring an open and unprejudiced mind to all matters being decided on in the course of their duties, including when making planning decisions as part of the Council's role as a Planning Authority. This includes making decisions free from personal bias or prejudgement;
 - not be, or be seen to be, unduly influenced by personal or private interests in undertaking their functions as a councillor;
 - act openly and honestly in the public interest, including declaring any actual, potential or perceived conflict of interest at any council meeting or

10/3/2021

judgement to determine whether they should remove themselves from discussion of the relevant matter.

- As elected representatives of their communities, councillors can be expected, and are entitled to have, views on matters that come before council. This is part of the democratic process and should not of itself disqualify councillors from participating in discussion and voting on a matter.
- Importantly however, councillors are required to exercise their statutory functions in accordance with the terms on which they are granted and must be prepared to listen to, and consider, contrary argument.
- Local Government elections will be held later this year (2022) which is the community's opportunity to express its views on this and other matters of importance that come before the Hobart City Council.



Hon Michael Ferguson MP
Minister for Local Government and Planning

Date: 9 March 2022