



City of **HOBART**

Memorandum: Lord Mayor
Deputy Lord Mayor
Elected Members

Response to Question Without Notice

PLANNING AUTHORITY - DECISIONS

Meeting: Finance and Governance Committee Meeting date: 19 January 2021

Raised by: Councillor Coats

Question:

Can the General Manager advise if the Council is at risk, when sitting as a planning authority, of decisions being challenged if a member experiences compromised audio during hybrid meetings?

Response:

The Council is currently conducting its meetings in accordance with a Notice issued by the Premier on 3 April 2020 under section 18 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. This order allows for virtual attendance by elected members at meetings which are being physically held in the Council Chamber – i.e. in a hybrid manner.

As a general rule it is incumbent on each elected member to ensure that they are informed to the extent necessary in order to vote on matters before a meeting. This includes being able to hear clearly any debate at the meeting.

Under section 51 the *Land Use Planning and Approvals Act 1993*, in determining an application for a permit, a planning authority, as far as relevant:

- (a) must seek to further the objectives set out in the Act ; and
- (b) must take into consideration such of the prescribed matters as are relevant to the use or development the subject of the application; and
- (c) must take into consideration the matters set out in representations relating to the application that were made during the period referred to in section 57(5).

Provided Elected Members have considered the matters in section 51 when determining the application, the decision would not be open to challenge on the basis that information made available at a meeting was not able to be heard.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

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

N D Heath
GENERAL MANAGER

Date: 11 February 2021
File Reference: F21/5541; 13-1-10