



Brighton Council

MINUTES OF THE **PLANNING COMMITTEE MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
GAGEBROOK AT 5.30P.M. ON TUESDAY,
14TH AUGUST, 2012

PRESENT: Cr Gray (Chairperson); Cr Foster; Cr Garlick; Cr Owen and Cr Taylor.

IN ATTENDANCE: Cr Curran; Cr Jeffries; Cr Williams; Mrs J Banks (Manager Governance & Human Services) and Mr J Dryburgh (Manager Strategic Planning) and Miss J Tyson (Planning Officer)

1. APOLOGIES:

Cr Geard requested leave of absence as he is overseas.

Cr Garlick moved, Cr Taylor seconded that Cr Geard be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Owen	
Cr Taylor	

2. QUESTION TIME & DEPUTATIONS:

As there were no members in the gallery there was no requirement for question time.

3. DECLARATION OF INTEREST:

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2005*, 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 any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2005*.

There were no declarations of interest.

4. COUNCIL ACTING AS PLANNING AUTHORITY:

In accordance with the provisions of Part 2 Regulation 25 of the *Local Government (Meeting Procedures) Regulations 2005*, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 4. on this agenda, inclusive of any supplementary items.

4.1 APPLICATION FOR PLANNING APPROVAL - RESIDENTIAL (CHANGE OF USE FROM SHED TO DWELLING), VERANDAH & FOUR SHIPPING CONTAINERS IN INTENSIVE AGRICULTURE ZONE, 128 OLD BEACH ROAD OLD BEACH :

FILE REFERENCE: DA 2012/65

AUTHOR: Planning Officer
(Miss J Farmer)

Applicant: L McLaine & W Watson

Owner: As above

Location: 128 Old Beach Road, Old Beach

Application no.: DA2012/65

Zoning: *Intensive Agriculture-* Brighton Planning Scheme
2000 (the planning scheme)

Date accepted: 31 May 2012

Date advertised: 2 June 2012

Decision required 17 July 2012 (Agreement by extension of time)

Discretion(s):

Residential use in Intensive Agriculture Zone

Proposal:

A planning application has been made to formalise an existing dwelling which over time has been converted from a shed to a dwelling in the Intensive Agriculture Zone. The application also seeks approval for an existing veranda attached to the dwelling, and four shipping containers used for storage purposes.

The property is within the Intensive Agriculture Zone and is well established with horse stables, stock yards, horse training facilities and equipment.

Site and Locality:



Figure 1: A recent aerial image of the subject site.



Figure 2: The zoning of the subject locality.

Consultation:

The application was subject to the 14 day statutory notification period. The proposal is discretionary because the application is for a Residential use in the Intensive Agriculture Zone and also seeks variation to the rear and side setbacks for the four shipping containers.

The application was advertised twice due to an administrative error. The first advertising period was from the 2nd to the 15th of June 2012, and the second from the 5th of July to the 17th of July 2012.

One (1) representation was received during the first statutory notification period. The concerns raised in the representations are outlined and addressed as follows:

Concerns Raised	Planning Response
<i>Representor 1:</i>	
Council were notified that the owners of the property were living on the premises 19 months ago, and the planning application was not lodged until May 2012.	Council have been in regular contact with the owners of the property over that period of time. The application has now been lodged and is being dealt with under the relevant legislations. It is considered that appropriate action has been taken to deal with this planning matter.
The four shipping containers restrict the representor’s view of their grazing property.	The <i>Brighton Planning Scheme 2000</i> does not take views into consideration as part of an assessment of a development application.

<p>The positioning of the shipping containers may inhibit fire management plans.</p>	<p>The subject land is not considered to be of either a moderate or high bushfire risk as defined in the <i>Brighton Planning Scheme 2000</i>, and subsequently this concern is not considered to have planning merit.</p>
<p>The shipping containers are a visual pollution and were positioned without any Council guidance.</p>	<p>The existing shipping containers are used for the storage of equipment used for horse training purposes. The containers are within a close proximity to the boundary which rendered the application discretionary as it seeks relaxation to the boundary setbacks. However, it is considered that appropriate conditions are able to be placed on the planning permit to ensure that the containers are painted to blend in with the surrounding landscape which is considered acceptable.</p>

Risk Implications:

Section 63A of the Act provides that a planning authority that fails to take all reasonable steps to ensure that its planning scheme is complied with may be liable to a fine of up to \$50,000.

Financial Implications:

Approval of the application will increase the number and value of rateable properties/ provide for further development in the area.

Other Issues:

This report details the basis and reasons for the recommendation. An alternative decision by Council will require a statement of the reasons for the decision in order to maintain the integrity of the planning approval process and to comply with the intent of the Judicial Review Act 2000. In addition, section 25 of the Local Government (Meeting Procedures) Regulations 2005 provides that the General Manager is to ensure that the reasons for a decision by a Council acting as a planning authority are recorded in the minutes of the meeting.

Assessment:

Strategic Plan

The Council’s Strategic Plan provides for a future with practical and effective land use strategies that will be achieved by focusing on the following key area¹: -

¹ Brighton Council: *Strategic Plan 2006 – 2016*, Brighton Council, Gagebrook, 2006.

1. *A land use and development strategy to provide a long-term approach that produces sustainable and measurable economic, environmental (built and "green") and social benefits for the municipal area and the region.*

The proposal is considered consistent with Council's Strategic Plan as the development of the land is for a house and shipping containers associated with horse training which is considered an appropriate rural activity to undertake on land zoned Intensive Agriculture. The approval of a house in this instance is considered integral to the Intensive Agriculture zone as the animals have daily care needs which requires the owner/trainers to live onsite.

Objectives of the Resource Management and Planning System of Tasmania

Section 5 of the Act provides that Council is obliged to further the Objectives of the Resource Management and Planning System of Tasmania (RMPS) set out in Schedule 1 of the Act when determining an application for planning approval. The Objectives of the RMPS are –

- a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and*
- b) *to provide for the fair, orderly and sustainable use and development of air, land and water; and*
- c) *to encourage public involvement in resource management and planning; and*
- d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and*
- e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

The proposal is consistent with the objectives of Schedule 1 of the Act.

State Policies

Clause 3.3 (a) of the Planning Scheme requires Council to take into consideration any State planning policies before granting or refusing planning approval and Section 13(1) provides that where inconsistency occurs between State Policy and Planning Scheme the Policy takes precedence.

State Coastal Policy 1996

The State Coastal Policy 1996 (Coastal Policy) applies to the coastal zone, which includes all State waters and land within 1 km from the High Water Mark (HWM).² The subject land is not located within 1 km from the HWM of the Derwent Estuary (Jordan River estuary) and the Coastal Policy does not apply to the land.

State Water Quality Policy 1997

²State Coastal Policy Validation Act 2003

The State Policy on Water Quality Management 1997 (Water Quality Policy) requires that a use or development be consistent with the physical capacity of the land so that the potential for erosion and subsequent water quality degradation is minimised.

The total site disturbance will be less than 250 square metres as the building is established.

The State Policy on the Protection of Agricultural Land 2009

The development application must be considered against the revised State Policy for the Protection of Agricultural Land 2009 (PAL Policy). The PAL Policy applies to all agricultural land in Tasmania. The subject land is predominantly agricultural.

The objectives of the PAL Policy are as follows:

To enable the sustainable development of agriculture by minimising:

- (a) conflict with or interference from other land uses; and
- (b) non-agricultural use or development on agricultural land that precludes the return of that land to agricultural use.

The proposal is considered to be consistent with the State Policy on the Protection of Agricultural Land as it furthers the policy by

National Environmental Protection Measures (NEPM's)

No NEPM's are applicable to this proposal.

Planning Scheme

The land is located within the Intensive Agriculture zone of the Planning Scheme.

Zone

The proposed change of use from a shed to a dwelling, verandah & four shipping containers meet the definition of a 'residential use', which is 'discretionary' under the Table of Uses pursuant to Clause 6.2.3.

Clause 6.7.1 of the Scheme provides that the purpose of the Intensive Agriculture zone is: -

- (a) *An integrated approach to land management.*
- (b) *Development of a range of intensive agricultural enterprises.*
- (c) *Development of new sustainable rural enterprises through value adding to products at source.*
- (d) *Promotion of economic development compatible with rural activities.*
- (e) *Improvement of existing agricultural techniques.*
- (f) *To ensure that subdivision promotes effective land management practices, intensive agricultural production and infrastructure provision.*

The application is considered to be consistent with the purpose of the Intensive Agriculture Zone as it provides development which diversifies the type of agricultural use within the immediate vicinity and also has potential to promote economic development which is compatible with other rural activities.

Overlays

The subject site is not located within any of the overlays listed in Section 7 of the Brighton Planning Scheme 2000.

Schedules

Schedule 1: Off Street Parking: - Car Parking, Access and Loading

The purpose of Schedule 1 of the Planning Scheme is to ensure the provision of an appropriate number of car spaces having regard to the activities of the land and the nature of the locality as well as ensuring an appropriate design and location of car parking and manoeuvring areas.

Two car parking spaces are required in order to meet the prescriptive parking space provision. Sufficient car parking is already provided onsite to meet this requirement and that of the residents.

Accordingly, the application complies with the required number of parking spaces.

The proposal complies with all other relevant provisions relating to car space dimensions and driveway access.

Schedule 4: Environmental Management Standards

Clause 3.3(n) of the planning scheme requires Council to take into consideration the effect on the environment of the development on nearby land before granting or refusing planning approval.

The proposal is consistent with the provisions outlined under the Environmental Management Schedule subject to a number of conditions that should form part of any planning permit in the event the proposal is approved.

Amenity

Clause 3.3(e) of the Planning Scheme requires Council to take into consideration the character of the locality, the existing and future amenities of the neighbourhood and the effects of the development on the amenity of the area.

As the land is zoned Intensive Agriculture, the property is surrounded by various agricultural uses including the grazing of livestock, orchards and other horse training facilities along Old Beach Road. For this reason, the application is considered to be compatible with the existing amenity of the area.

Services

Clause 3.4(l) of the planning scheme requires Council to take into consideration the availability and provision of utility services, including water, sewerage, drainage and electricity when considering the application.

There are no issues relating to the servicing of the property.

A standard condition is required to ensure that the developer meets the cost of any alterations or reinstatement of existing services, Council infrastructure or private property incurred as a result of the development.

Southern Water

The application was referred to Southern Water who have provided a response with conditions to be attached to the permit.

Traffic and Access:

The proposal is considered acceptable from a traffic and access point of view.

Conclusion:

The application is considered to be consistent with the intent of the Intensive Agriculture Zone. The property is surrounded by others which are also used for agricultural activities many of which are developed with associated dwellings. The location of the shipping containers close to the side boundary requires discretion. In this case the containers are used for storage and are sited to make the best use of space on the site for the horse training use. The siting of the containers will not inhibit agricultural use of adjoining land in any way, with the only concern regarding visual amenity. Conditions requiring the containers to be painted and landscaped are therefore recommended. The applicant has adequately demonstrated to Council the need to live onsite in order to continue to use the property for agricultural purposes which are consistent with the zone and surrounding locality. For these reasons, the application is recommended for approval.

Options:

1. Issue a written approval specifying the conditions (if any) imposed upon the use or development in accordance with the recommendation; or
 2. Issue a written approval providing alternative or additional conditions (if any) imposed upon the use or development; or
 3. Issue a written refusal for the use or development stating the reasons for refusal.
-

RECOMMENDATION:

That the application submitted in accordance with Part 3 of the Local Government (Building and Miscellaneous Provisions) Act 1993 and Part 4 of the Land Use Planning and Approvals Act 1993 for land at 128 Old Beach Road, Old Beach, described in Folio of the Register Volume 139107 Folio 7, to be developed by a change of use (shed to a dwelling), veranda, four shipping containers and associated works approved subject to the following conditions:

General

- (1) The use 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*.
- (3) The shipping containers are approved as ancillary to the *Residential* use only and must not be used for any other purpose unless in accordance with a permit issued by Council or as otherwise permitted by Council's planning scheme.

Amenity

- (4) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Council's Manager Strategic Planning.
- (5) The containers are to be painted in a colour that it compliment the surrounding character of the area or matches existing structures on the site.
- (6) The northern and western perimeters of the containers must be landscaped by trees, shrubs, screens or other means approved by Council's Manager Strategic Planning. Plantings must bear a suitable relationship to the proposed height of the building and must not use species listed as noxious weeds within Tasmania, displaying invasive characteristics or unsuitable for fire prone areas. Landscaping should be concentrated near the siting of the containers.

Parking & access

- (7) At least two (2) parking spaces must be provided on the land at all times for the use of the occupiers in accordance with Standards Australia (2004): *Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking*; Standards Australia, Sydney.

Planning Committee Meeting

14/8/12

- (8) Car parking spaces, other than those designed and marked out for use by the disabled, must be a minimum of 2.60 metres wide and 5.50 metres long, unless otherwise approved by the Council's Manager Strategic Planning.
- (9) The areas set-aside for parking and associated access and turning must have: -
 - (a) A driveway access with a minimum 3 metres internal width and an average maximum longitudinal grade of 1 in 5 (20%) or, if the topography makes this impractical, an absolute maximum longitudinal grade of 1 in 4 (25%).
 - (b) An all weather pavement constructed and surfaced to the satisfaction of the Council's Municipal Engineer.
 - (c) Drainage discharging to the stormwater system in accordance with the requirements of a plumbing permit issued by the plumbing Permit Authority.
- (10) The vehicle access from the carriageway of the road onto the subject land must be located and constructed using a sealed/gravel pavement in accordance with the construction and sight distance standards shown on standard drawings SD 1012 and SD 1009 prepared by the IPWE Aust. (Tasmania Division) (**attached**) and to the satisfaction of Council's Municipal Engineer.

Southern Water

- (11) The development must meet all required Conditions of approval specified by Southern Water Response to the Council Notice of Planning Application Referral, date 31 May 2012 (SWDA2012/00358-BTN).

Services

- (12) The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.

Stormwater

- (13) Stormwater from the roof must not discharge directly to the road but must discharge through a storage tank overflow or to another legal point of discharge in accordance with a Plumbing Permit issued by the Permit Authority in accordance with the *Building Act 2000*.

Construction amenity

- (14) The development must only be carried out between the following hours unless otherwise approved by the Council's Senior Planner:
 - Monday to Friday 7:00 a.m. to 6:00 p.m.

- Saturday 8:00 a.m. to 6:00 p.m.
 - Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.
- (15) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or 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 of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - (b) The transportation of materials, goods and commodities to and from the land.
 - (c) Obstruction of any public footway or highway.
 - (d) Appearance of any building, works or materials.
- (16) 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 Senior Planner.
- (17) 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.
- (18) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. Appropriate temporary erosion and sedimentation control measures include, but are not limited to, the following -
 - Minimise site disturbance and vegetation removal;
 - Diversion of up-slope run-off around cleared and/or disturbed areas, or areas to be cleared and/or disturbed, provided that such diverted water will not cause erosion and is directed to a legal discharge point (eg. temporarily connected to Council's storm water system, a watercourse or road drain);
 - Sediment retention traps (e.g. sediment fences, straw bales, grass turf filter strips, etc.) at the down slope perimeter of the disturbed area to prevent unwanted sediment and other debris escaping from the land;
 - Sediment retention traps (e.g. sediment fences, straw bales, etc.) around the inlets to the stormwater system to prevent unwanted sediment and other debris blocking the drains;

- Gutters spouting and downpipes installed and connected to the approved stormwater system before the roofing is installed; and
 - Rehabilitation of all disturbed areas as soon as possible.
- C. **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.**
- D. **This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.**

DECISION:

Cr Garlick moved, Cr Taylor seconded that the recommendation be adopted subject to the removal of Condition 6 and the inclusion of the following condition:-

- *The shipping containers must be relocated to achieve setbacks of 15 metres from the frontage and 10 metres from rear and side boundaries. Prior to development commencing an amended site plan showing the new location of the shipping containers must be submitted to and approved by the Council’s Manager Strategic Planning and shall form part of this permit when approved.*

CARRIED

VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Owen	
Cr Taylor	

The meeting closed 5.45 p.m.

Confirmed: _____
(Mayor)

Date: _____
21st August 2012