



# Brighton Council

MINUTES OF THE **PLANNING COMMITTEE MEETING**  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
GAGEBROOK AT 5.35P.M. ON TUESDAY,  
9<sup>TH</sup> OCTOBER, 2012

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

**IN ATTENDANCE:** Cr Curran; Cr Garlick Mrs J Banks (Manager Governance & Human Services) and Miss J Tyson (Planning Officer)

## 1. APOLOGIES:

All members were present.

## 2. QUESTION TIME & DEPUTATIONS:

*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 –UTILITIES (TELECOMMUNICATIONS FACILITY) REQUIRING VARIATION TO SETBACK IN RURAL ZONE AND WITHIN THE VEGETATION AND BUSHLAND MANAGEMENT OVERLAY, 333 COVE HILL ROAD, HONEYWOOD:**

**FILE REFERENCE:** COVHIL/333

**AUTHOR:** Miss J Farmer  
(Planning Officer)

**APPROVED:** Miss J Tyson  
(Planning Officer)

**Applicant:** Daly International Pty Ltd obo NBN Co Limited

**Owner:** Brighton Council

**Location:** 333 Cove Hill Road Honeywood

**Application no.:** DA2012/111

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

**Date accepted:** 7 August 2012

**Date advertised:** 18 August 2012

**Decision required** 16 October 2012

---

#### **Discretion(s):**

Use (Utilities) requiring variation to setback in Rural Zone.

#### **Proposal:**

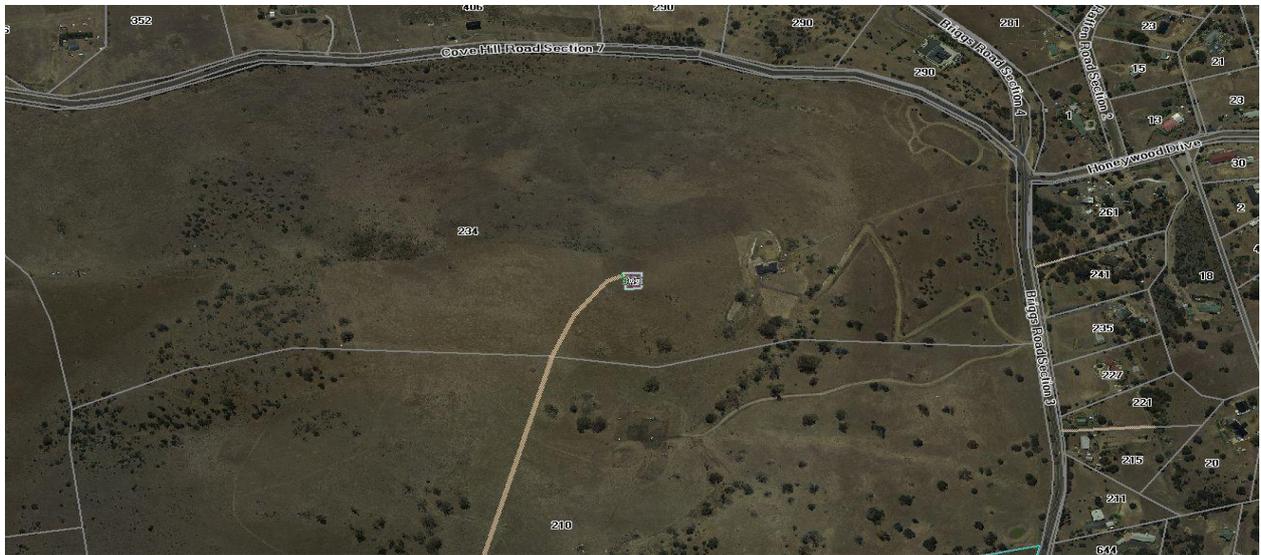
Application has been made for a fixed wireless NBN (telecommunications) facility at 333 Cove Hill Road Honeywood.

The National Broadband Network base stations use electromagnetic radiation to provide high speed broadband services to the community. The highest values of the radiofrequency electromagnetic energy that the public would be exposed to from the base station is very low and less than 1/100 of the Australian public exposure limit.

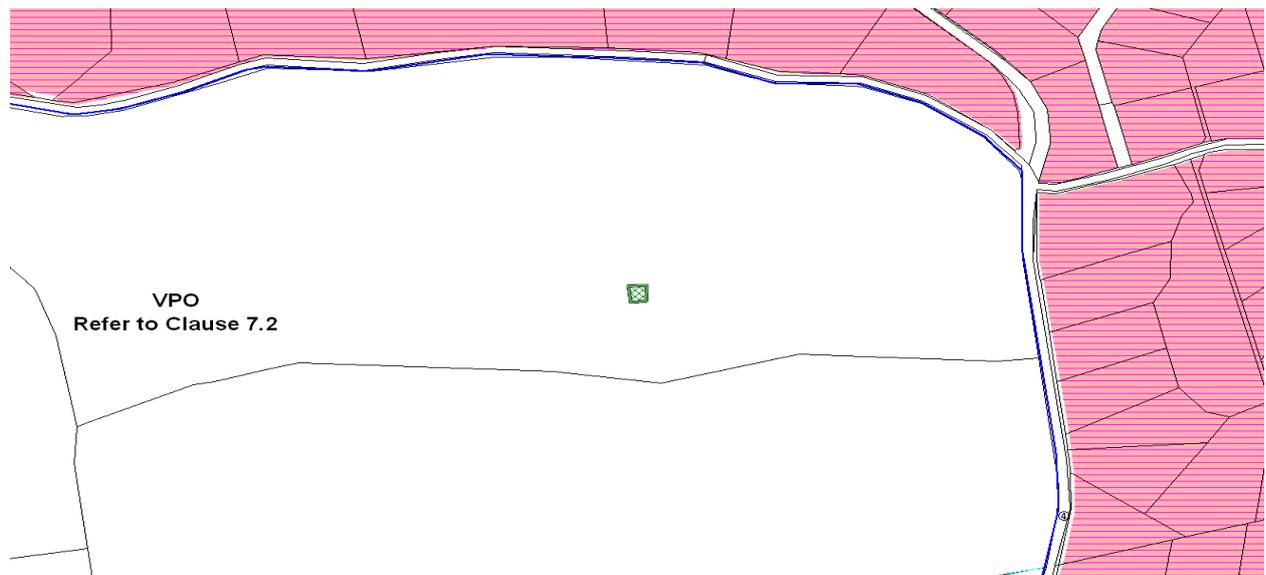
The proposed lease area owned by Brighton Council is approximately 10m x 6m. The design features a monopole, measuring 30m high. The applicant has indicated to Council that the pole and supporting infrastructure will be painted a natural colour to blend in with the surrounding rural landscape. The site will be accessed via an existing right of way access track which is currently used to access the Council Radio facility.

**Site and Locality:**

The subject land is



**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 of the use (Utilities) in a Rural zone.

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

Concerns Raised	Planning Response
<b>Representor 1:</b>	
<p>The scientific community are divided as to whether there are health risks associated with these towers; and as the representors live within 200m of the proposed location with a young family they are concerned for their health and wellbeing outside their home and near the proposed tower site.</p>	<p>The applicants have provided Council with a response in relation to this concern and have stated that Electromagnetic Energy telecommunications facilities are statutorily required to operate in compliance with strict science based limits, which are recognised as providing appropriate protection for all members of the community.</p> <p>The proposed NBN facility at Cove Hill Rd generates a maximum predicted EME level of less than 1% of the allowable limit for public safety. The maximum level of EME to be produced occurs 327.79m away from the facility with a reading of 0.016%.</p> <p>It is acknowledged that there is a degree of community concern regarding the perceived health impacts of EME associated with telecommunications structures. The applicant has advised Council that the NBN fixed-wireless antennas operate at a much lower frequency than typical mobile phone antennas, and are not known to cause any health impacts.</p>

<p>During the planning application stage for the representors home, Council were concerned about preserving the skyline with construction at such an elevated level. It now seems contradictory for Council to approve a 30m high tower on the pinnacle of Cove Hill with no surrounding vegetation.</p>	<p>The hilltop of Cove Hill whilst rural in character already contains other telecommunications facilities including a Council radio facility, a 25m Telstra monopole, high voltage pylons, large water tanks and power poles. It is considered preferable to cluster these like-uses together which also accords with the Telecommunications Act 1997.</p> <p>The slim monopole of the design aids in ensuring that visual bulk is kept to a minimum. NBN Co have also advised that they are able to provide landscaping around the perimeter of the compound to soften the interface of the facility and also intend on painting the monopole and antennas to blend in with the surrounding environment.</p>
<p>The representors were previously approached by Telstra to lease some of their land for the purpose of constructing a mobile phone tower, to which they declined for the same reasons as listed in the representation.</p>	<p>The land on which the tower to is proposed to be constructed is owned by Brighton Council, however this concern is noted.</p>
<p>The representors are concerned that the site will be unsafe during construction as they have children within close proximity to the site and livestock which could wander into the construction zone.</p>	<p>To ensure the safety of the public and to protect the proposed facility from livestock or any trespassers, the facility will have a 2.4m high chainlink fence around the perimeter of the compound.</p>
<p>It has been verbally suggested by Council that the representors driveway be used as an access for the delivery of plant &amp; equipment, product and construction workers. Council have a right of way to access the subject land however the road is poorly finished and not suitable as an access for construction.</p>	<p>This concern has been addressed further below.</p>

<p>The representors are concerned that during the construction period, there property will be used to house construction equipment and materials, excavated fill and anything else associated with the construction of the tower.</p>	<p>The application states that no neighbouring property will be used for either construction or delivery purposes.</p>
<p>The representors have had difficulty in securing their property and have had items stolen . They believe this problem would be exacerbated if the tower is to go ahead. They would like to see 333 Cove Hill Road fenced, and also the right of way. Council have previously stated they do not have the funds to do this nor do they see any benefits.</p>	<p>The applicant intends to secure the site with a 3m wide access gate into the compound, which will be secured at all times. Access to the facility will only be granted to authorised personnel conducting maintenance once annually.</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 provide for a high speed broadband internet service for the municipal area which will provide further economic benefits.

**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 area<sup>1</sup>: -

---

<sup>1</sup> 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 application provides for a telecommunications facility that will benefit the general region and further both economically and socially by providing a high speed broadband service and opportunities for shared communications infrastructure.

### **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).<sup>2</sup> 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.

---

<sup>2</sup>*State 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 is expected to be less than 250 square metres. As such a soil and water management plan is not considered necessary.

The State Policy on the Protection of Agricultural Land 2009

The subject land is located in a rural zone and therefore it is considered that the Agricultural Policy applies to the land. The following objectives are considered relevant to the proposal:

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.

It is not considered that the proposal will result in conflicting land use with surrounding rural properties as the site itself will only be accessed once annually for maintenance or in the instance that the facility is damaged.

National Environmental Protection Measures (NEPM's)

No NEPM's are applicable to this proposal.

Planning Scheme

The land is located within the Rural zone of the Planning Scheme.

*Scheme Objectives*

*Clause 2.4 of the Scheme provides that the rural objective of the Scheme is -*

- (a) To promote rural pursuits as an integral part of the Municipality's economic and employment base.*
- (b) To ensure the higher quality agricultural land remains for agricultural production.*
- (c) To promote agricultural activities that is compatible with the conservation of soil, water and vegetation resources.*
- (d) To encourage the protection of marginal agricultural land with landscape value from undue development pressure.*
- (e) Recognition of land with higher productivity values inter-related to the recycling of effluent as an initiative by Council allows for more intensive forms of crop production to be achieved. These areas have been identified as such and will continue to be reserved and protected from encroachment of non-agricultural uses.*

## **Zone**

The proposed telecommunications facility meets the definition of a 'utilities use', which is 'discretionary' under the Table of Uses pursuant to Clause 6.6.3 as it does not meet the permitted use of a utility in the zone.

- (a) *Zone*
- (b) Clause 6.6.1 of the Scheme provides that the purpose of the Rural zone is: -
  - (a) *An integrated approach to land management.*
  - (b) *Development of new sustainable rural enterprises through value adding to products at source.*
  - (c) *Promotion of economic development compatible with rural activities and land capability.*
  - (d) *Improvement of existing agricultural techniques.*
  - (e) *Protection and enhancement of the bio-diversity of the area.*
  - (f) *To ensure that subdivision promotes effective land management practices and infrastructure provision.*

Whilst the land is zoned Rural, the subject site itself is small in size measuring only 10m by 6m and therefore not able to be used for Rural purposes. Cove Hill is already developed with other similar infrastructure including a Council radio facility, a 25m Telstra monopole, high voltage pylons, large water tanks and power poles. For this reason it is also considered preferable to cluster these types of utilities together in order to minimise visual impacts across the municipality.

## **Development Standards**

### *Siting*

The minimum setback in the Rural zone is 20m from any boundary.

Clause 6.2.9(a)(ii) gives Council the ability to exercise discretion with regard to setbacks. In assessing the merit of exercising discretion, Council must consider the following:

- (i) *The location of any building must demonstrate its relationship to land capability and productivity of the subject land and relationship of the building site to surrounding agricultural uses.*

As previously discussed in the report, the subject site is very small and as such cannot be used for Rural purposes. For this reason it is considered acceptable to exercise discretion with regard to the setback requirements.

### **Overlays**

The subject site is located within the Vegetation Protection and Bushland Management overlay the overlays listed in Section 7 of the Brighton Planning Scheme 2000.

Relevant decision guidelines are discussed below:

7.2.2 (k) communications towers and masts should be sited and designed in such a way as to minimise their visual impact. The number of masts should be contained by use of shared facilities.

The design is a monopole which will aid in minimising the visual impact from surrounding properties. The pole will also be painted a natural colour to blend in with the surrounding environment.

### *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.

Clause S1.2 of this Schedule requires that the number of car parking spaces be provided in accordance with the requirements of Table S1.1. Under Table S1.1 the required parking is to be determined by Council.

For this development application it is not considered necessary to provide car parking onsite.

#### *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.

On balance, 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.

The proposal is considered consistent with the amenity of the area as there are numerous other utilities located on Cove Hill, nor is it considered that approval of the telecommunications facility will result in a loss of amenity for surrounding properties used for rural purposes.

### *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.

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 proposal was referred to Southern Water who provided a response indicating that they wish to impose conditions on the planning permit relating to service connections and asset protection. The conditions from the water authority shall form part of the recommended permit conditions.

*Traffic and Access:*

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

Refer to engineering report below for additional comments.

*Engineering report*

With respect to engineering assets, Council's Senior Technical Officer advises as follows -

*Access*

Access to the site is via an existing right of way. The applicant has stated that once operational the tower would be unstaffed and typically subject to an annual maintenance check only. As such traffic to the site as a result of the development is considered insignificant.

Given the small size of the site, onsite parking and manoeuvring is restricted. The development should be undertaken in such a manner that onsite parking for at least one vehicle and adequate manoeuvring space, to allow a vehicle to enter and exit the site in a forward direction, is provided.

*Stormwater*

Council has no stormwater reticulation in the vicinity of the development.

**Conclusion:**

Application has been made for a telecommunications facility at 333 Cove Hill Road Honeywood. The tower will be located within close proximity to other similar infrastructure which is considered preferable to minimise the potential for any land use conflicts, and will have no significant long term impacts on surrounding rural land uses. As such, 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 333 Cove Hill Road Honeywood, described in Folio of the Register Volume 146793 Folio 5, to be developed by a telecommunications facility, 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 letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *land Use Planning And Approvals Act 1993*.

### ***Amenity***

- (3) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Manager Strategic Planning.
- (4) Before any work commences a schedule specifying the finish and colours of all external surfaces and samples must be submitted to and approved by the Council's Manager Strategic Planning. The schedule must provide for finished colours that blend in with the natural rural landscape to minimise visual intrusion, such as natural browns or greys. The schedule shall form part of this permit when approved.

### ***Parking & access***

- (5) At least one (1) parking space 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***

**9/10/12**

- (6) 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) Space on site to allow that vehicles and enter and leave the site in a forward direction.
  - (c) An all weather pavement constructed and surfaced to the satisfaction of the Council's Municipal Engineer.
- (7) All areas set-aside for parking and associated turning and access must be completed before the use commences to the satisfaction of the Council's Municipal Engineer.

***Services***

- (8) 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.

***Southern Water***

- (9) The development must meet all required Conditions of approval specified by Southern Water Response to the Council Notice of Planning Application Referral, date 13/08/2012 (SWSA2012/00554-BTN).

***Protection of water quality***

- (10) Before any work commences install temporary run-off, erosion and sediment controls (refer to advice below) and maintain these at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's Manager Strategic Planning.

***Construction amenity***

- (11) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Strategic Planning:
- 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.
- (12) 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.
- (13) 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 Manager Strategic Planning.
- (14) 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.
- (15) 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.

*Vegetation Clearance*

- (16) No vegetation other than that necessary for the construction of the building, associated access and services is to be cleared without the approval of Council.

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 Geard moved, Cr Taylor seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Geard	
Cr Gray	
Cr Owen	
Cr Taylor	

The meeting closed 5.40 p.m.

Confirmed: \_\_\_\_\_  
 (Mayor)

Date: \_\_\_\_\_  
 16<sup>th</sup> October 2012