



Brighton Council

MINUTES OF THE **PLANNING COMMITTEE MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
GAGEBROOK AT 5.50P.M. ON TUESDAY,
11TH DECEMBER, 2012

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

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

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 – COMMUNITY SERVICES (GYMNASIUM) IN RURAL RESIDENTIAL ZONE, 63 ROWE STREET, BRIGHTON:

FILE REFERENCE: ROWE/63

AUTHOR: Jacqui Tyson
(Planning Officer)

Applicant: A Webster

Owner: A Webster & I Hermanis

Location: 63 Rowe Street, Brighton

Application no.: DA2012/152

Zoning: *Rural Residential and Brighton Horse Racing Overlay - Brighton Planning Scheme 2000 (the planning scheme)*
and

Date accepted: 23 October 2012

Date advertised: 3 November 2012

Decision required 18 December 2012 (by agreement to extension of time)

Discretion(s):

Community Services use in the Rural Residential Zone that is not a park or playground.

Proposal:

Application is made to construct and operate a gymnasium at a Rural Residential property in Rowe Street, Brighton.

The applicant currently operates a health services business in Brighton which provides pilates classes and physical therapies to private clients. The applicant also runs a Heart Foundation Community Health program called 'Heartmoves' which involves exercise and equipment classes tailored to individual needs that is currently delivered from the Brighton Community Health Centre in Bridgewater. The applicant is also qualified to provide physical therapy for animals, specialising in horses. A stable is included in the proposal and would be used to accommodate horses receiving therapy on the property for short periods.

The gymnasium facility would be used for small classes only, usually between 5-12 people and with no more than 15 clients at any time. The classes would mainly be conducted during normal business hours and some one-on-one sessions may occur at later times until around 8pm.

The purpose of this application is to enable the proponent to consolidate the various aspects of her business and deliver them from one location, reducing travel and operating costs. The owner also intends to build a dwelling on the property in the future so that she can live and work from one location.

The proposal includes construction of a 20 metre long, 14 metre wide and 2.5 metre high gymnasium building with change room, office and reception area. The building would be constructed from brick walls with windows and a Colorbond roof. The application also includes construction of a 6 metre by 5 metre horse stable on the property. The buildings are proposed to be sited in the north eastern corner of the property, within the building envelope specified on the title which is 10 metres from the northern side boundary. The buildings are located close to the access driveway and a gravel car park with space for at least 10 cars will be provided.

Background:

The applicant currently operates a pilates and exercise studio in Andrew Street, Brighton which was approved in 2008 (DA2008/268).

Site and Locality:

The subject land is a 2.39 hectare parcel located on the western side of Rowe Street, Brighton. It is an internal lot with a narrow access strip providing access to the lot proper. A building envelope is nominated on the title which restricts all buildings to eastern portion of the property. The site exists as cleared pasture and is currently vacant.

Adjoining land to the north and east constitutes similar Rural Residential properties, mostly used for residential purposes, with some properties also used for horse breeding/training purposes. Land to the south is zoned Rural and land to the west is zoned Intensive Agriculture.

These areas include larger parcels of land that are used for a variety of purposes including residential, grazing, some cropping and horse breeding/training. The Brighton racecourse is located further to the southeast.



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 Community Services other than a park or playground is a discretionary use class in the Rural Residential zone.

Three (3) representations were received during the statutory notification period. The concerns raised in the representations are outlined and addressed as follows:

Concerns Raised	Planning Response
<i>Representor 1:</i>	
<p>(a)</p> <p>Section 6.3.1 (a) states that the Rural Residential zone is to allow for residential living on larger blocks. This application is not for a residence but for a commercial enterprise although it is deemed a community service.</p>	<p>Residential use is the priority for the zone; however the potential for other uses is reflected by their inclusion in the Use Table.</p> <p>The applicant also intends to build a residence and live on the site in the future, so the proposal will not be a stand-alone commercial activity for long.</p>
<p>(b)</p> <p>A Permitted Use under 6.3.4 lists parks or playgrounds as a Community Service and this is neither.</p>	<p>Use Classes are defined in Clause 4.3.</p> <p>Community Services means the use of land for community, cultural, religious, social, entertainment or recreational purposes. Some of the examples listed include art gallery, cemetery, cinema, library, playground, gymnasium and place of worship.</p> <p>The Table of Use or Development in clause 6.3.4 lists Community Services in as a Permitted Use or Development with the condition 'If a public park or playground'. The Discretionary section of the table includes any Permitted use or development that does not meet the condition. Therefore, all Community Services other than a public park or playground are deemed discretionary, not prohibited.</p>

<p>(c)</p> <p>The area is under the Brighton Horse Racing Overlay and as per section 7.8 a) and b) the purpose is to protect and encourage long term potential of the area as a horse training and stabling venue. The application is not for a stable or training venue.</p>	<p>The Brighton Horse Racing Overlay does encourage uses associated with the industry, but it does not restrict other uses allowed in the underlying zones.</p> <p>This application does include a stable as the owner delivers physical therapy to horses as part of her business.</p>
<p>(d)</p> <p>There will be an increase in traffic on the road which may cause problems with horses on the roads.</p>	<p>The increase in traffic will be limited and it is not anticipated that this will cause any detriment.</p>
<p>(e)</p> <p>What about parking, noise, hours of operation etc?</p>	<p>Conditions are recommended to ensure that operation of the facility protects amenity of the area.</p>
<p>(f)</p> <p>Under section 6.3.3 e) the building design should maintain the residential character of the area which it does not, it is a bulky industrial looking building and is in conflict with the area.</p>	<p>The gymnasium building will have a floor area of 280sqm and a maximum height of 2.5m. While this is larger than most domestic outbuildings, it is not excessively so. It will be constructed of brick and Colorbond which blend more in a residential setting than a building constructed entirely from Colorbond or similar.</p>
<p>(g)</p> <p>The application in a rural residential area and within the Brighton Horse Racing Overlay and it is not a residence or horse facility and may never be one. This is a commercial enterprise and is in conflict with the zoning and overlay purposes.</p>	<p>It is acknowledged that this is an unusual application for the area. However the potential for Community Services to be allowed in the zone is reflected by their inclusion in the Use Table. It is considered that this development can be conditioned appropriately to enable it to exist in the rural residential area without significant adverse impacts.</p>

Representor 2:	
<p>(a)</p> <p>The applicant has detailed that they would like to propose discretionary use under 3.1 Uses – Business and Professional Services. Section 3.1 of the Brighton Planning Scheme does not relate to uses.</p>	<p>The applicant appears to have referred to section 3.1 in error as definitions are found in part 4 of the Scheme.</p> <p>This is not a material deficit in the application.</p>
<p>(b)</p> <p>Section 6.3 indicates that the permitted Community Service use in the Rural Residential zone is a Public Park or Playground. A gymnasium of any nature does not meet this requirement. On what grounds can the applicant’s proposal be considered worthy of being granted a permit under Section 58 of the <i>Land Use Planning and Approvals Act 1993</i>?</p>	<p>Use Classes are defined in Clause 4.3.</p> <p>Community Services means the use of land for community, cultural, religious, social, entertainment or recreational purposes. Some of the examples listed include art gallery, cemetery, cinema, library, playground, gymnasium and place of worship.</p> <p>The Table of Use or Development in clause 6.3.4 lists Community Services in as a Permitted Use or Development with the condition ‘If a public park or playground’. The Discretionary section of the table includes any Permitted use or development that does not meet the condition.</p> <p>Therefore, all Community Services other than a public park or playground are deemed discretionary, not prohibited. Accordingly, if approval is granted it would be under Section 57 of the <i>Land Use Planning and Approvals Act 1993</i>.</p>
<p>(c)</p> <p>The applicant has indicated that the business will be built to look like a granny flat – I have difficulty accepting how a 280sqm structure is like a granny flat.</p>	<p>The building is certainly larger than a typical granny flat, however the building materials and low roof profile contribute to the look of a residential rather than commercial building.</p>

<p>(d)</p> <p>The table in Section 6.3.4 indicates that Prohibited Use or Development is any defined use or development not specified as Permitted or Discretionary, so how can the application be considered?</p>	<p>See response to (b) above</p>
<p>(e)</p> <p>The application appears to be in conflict with the Brighton Horse Racing Overlay. How does a gymnasium encourage the long term potential for the Brighton training facility? A gymnasium and carpark would restrict future use of the land for stabling, horse breeding and training and may cause land use conflicts.</p>	<p>The proposal is of a limited nature and includes some horse related activities. The property is only around 2ha and there is no mandatory requirement for it to be used for horse racing related activities.</p>
<p>(f)</p> <p>The applicant has not advised the operating hours which indicates the intention is for a 24/7 business.</p>	<p>The operating hours will be limited by condition as recommended.</p>
<p>(g)</p> <p>Gymnasiums are usually associated with loud music and there may be an unreasonable level of noise from the business.</p>	<p>The applicant advises that music is kept to a domestic level. A condition addressing noise levels is included in the recommended permit.</p>
<p>(h)</p> <p>There will be increased traffic and associated traffic noise from Rowe Street that will affect amenity both visually and audibly.</p>	<p>The expected traffic volumes are well within the capacity of the surrounding roads and significant impact on the amenity of neighbouring properties is not expected.</p>
<p>(i)</p> <p>The applicant has indicated they will have small groups but the number has not been declared and one must consider the number of people that could use a 280sqm gymnasium. It is not unrealistic to expect traffic movements in excess of twenty vehicles every half hour.</p>	<p>The applicant has advised that class sizes are typically between 5-12 people. A condition restricting use to an absolute maximum of 15 people at one time is recommended in the permit conditions. The applicant has also advised that many clients are couples or friends that travel together, so car numbers are generally lower than client numbers.</p>

<p>(j)</p> <p>With such a dramatic increase in vehicles in Rowe Street there is a risk to horses and riders as several of the bridle ways cross Rowe and Cartwright Streets to facilitate access to the training facility. It must also be assumed that clients going to the gymnasium are less likely to be mindful of horses training in the area.</p>	<p>This matter is not considered to be a significant risk given the low class numbers and the general expectation that drivers will travel at an appropriate speed and with attention.</p>
<p>(k)</p> <p>As the business expands then we can expect that our amenity will be adversely impacted accordingly.</p>	<p>There is no intent to increase the hours of operation or class sizes in the future. This application will transfer the existing business to one location.</p>
<p>(l)</p> <p>Object under section 6.3.3 as our visual amenity will be impacted by the 280sqm gymnasium and associated car park and traffic movements.</p>	<p>While it is large, the building will have a low profile and be constructed from normal brick and Colorbond materials. It is sited at least 10 metres from the nearest boundary and over 80 metres from the road frontage. Visual amenity is not considered to be a significant issue</p>
<p>(m)</p> <p>The proposed business is not consistent with the existing character and uses of the area.</p>	<p>The proposed use is different for the area however it is considered that the scale and nature of the proposal is such that it will not cause a significant impact on the amenity or character of the area.</p>
<p>(n)</p> <p>There are no details of advertising signage that may also impact our visual amenity.</p>	<p>No signage is proposed. Any sign exceeding 0.2sqm would require further planning approval.</p>
<p>(o)</p> <p>As the business expands impacts on our amenity will increase.</p>	<p>Permit conditions including maximum class sizes and operating hours are recommended to limit the scale of the business to an appropriate level for a rural residential area.</p>

<p>(p)</p> <p>The applicant has not detailed the nature of animals that the business provides therapies for and it would seem possible that the applicant would be permitted to perform animal therapy on any animal, for example tigers at Zoo Doo. What limitations can Council apply to stop such an animal escaping and causing injury or death to people or livestock?</p>	<p>It is not considered necessary to limit the type of animals that can be treated on the site. If an exotic animal such as those at Zoo Doo were to be treated it is considered likely that the therapist would go to the animal rather than have the animal on the premises.</p>
<p>Representor 3:</p>	
<p>(a)</p> <p>Concerned that when I initially contacted the Council that the information given was not complete and did not include the applicant's letter which would have helped alleviate my concerns.</p>	<p>The applicant's supporting letter was initially missed, but was supplied after further enquiry.</p>
<p>(b)</p> <p>I have no objection to the future residential dwelling, garage and stables and no objection to animal therapy being conducted from the premises providing it will not create too much traffic/noise.</p>	<p>The noise and traffic generated by the animal therapy component of the business is unlikely to cause amenity impacts.</p>
<p>(c)</p> <p>The applicant's website states their business hours are:</p> <p>Monday-Tuesday 7:30am - 8pm</p> <p>Wednesday: 7am - 9pm</p> <p>Thursday 7am - 8:30pm</p> <p>Friday 7am - 8pm</p> <p>Saturday 8am - 4pm</p> <p>(And extended times can be arranged by request).</p> <p>I don't agree with these business hours of operation from the property and believe they should be restricted to 8am -</p>	<p>A permit condition limiting operation hours is recommended.</p>

<p>6pm Monday - Saturday and 10am - 8pm Sunday.</p>	
<p>(d) The applicant's letter to Council specifies 'pilates and similar exercise' and 'Heart foundation Heartmoves program'. I have no objection to pilates but would like more explanation of similar exercises as dancing/singing classes could have a noise impact.</p>	<p>A standard condition addressing noise levels is recommended below.</p>
<p>(e) I believe the Heartmoves program should be run from the Brighton community centre where it is more easily accessible to public transport and there is no indication on the number of people who would attend this.</p>	<p>The location of the program is not a planning consideration. A limit on the number of clients is recommended below.</p>
<p>(f) Traffic is of concern, depending on how many classes are running per day and entering/exiting is of concern as there is a blind corner in Rowe Street near the entrance.</p>	<p>Traffic is considered further in the report below.</p>
<p>(g) I would have been more agreeable for the applicant to have asked for a studio/professional rooms rather than a gymnasium as it indicates a more intensive use.</p>	<p>Gymnasium is an appropriate description of the development and if the recommended conditions are applied the scale of the use will be appropriate for the site.</p>
<p>(h) I would like the permit to restrict the premises from being rented out to a third party.</p>	<p>This is not considered necessary. Any third party operating from the site would have to comply with the permit conditions and could not expand the business without further approval.</p>

The issues raised within the objections are considered further within this report.

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 value of a rateable property. No adverse fiscal issues are foreseeable upon Council.

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. *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 proposal will provide a local business opportunity and exercise option for residents, which will deliver social and economic benefits.

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*

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

- 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 considered to be 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 and the Coastal Policy does not apply to the land.

State Water Quality Policy 1997

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 greater than 250 square metres. A Soil and Water Management Plan will be required prior to the issue of any Building Permit for the works and a permit condition is recommended to reflect this.

The State Policy on the Protection of Agricultural Land 2009

The subject land is located in a residential zone and it is therefore considered that the Agricultural Policy does not apply to the land.

National Environmental Protection Measures (NEPM's)

No NEPM's are applicable to this proposal.

Planning Scheme

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

Scheme Objectives

Clause 2.3 of the Brighton Planning Scheme 2000 provides that the Rural Residential objectives of the Scheme are -

- (a) *To provide an opportunity for rural residential living in appropriate locations having regard to land capability, locational suitability, existing/likely future demand/supply, and the efficient use and economic provision of necessary services and infrastructure.*

²State Coastal Policy Validation Act 2003

- (b) *To promote consolidation of rural residential areas already subdivided to enable infill and rationalisation of services.*
- (c) *Ensure levels of servicing are provided by developers to reduce maintenance costs to Council at the same time as providing potential residents with an appropriate response.*
- (d) *To provide for areas of rural residential living which integrate with future settlement patterns projected for Brighton-Pontville.*
- (e) *Glen Lea Estate remains the only other area of land to be expanded for rural residential living having regard to its overall relationship to the Brighton – Pontville strategy and proposed links to enable a complete traffic network given the potential for development of the Army Camp site.*

The proposed use and development is not for a residential use however it is envisaged that a dwelling will be constructed on the site in the near future. The proposed gymnasium business will provide consolidated premises for the owner to eventually work from home and continue to provide a beneficial service for Brighton residents. It is considered that the proposed use can be conditioned in such a way that it is limited to a scale that is appropriate within a mainly residential area and not have unacceptable impacts on residential amenity. The development will not impact the level of services or consolidation of surrounding land and is considered to be a reasonable use of the site.

Zone

The proposed gymnasium meet the definition of a 'Community Services' use, which is 'discretionary' unless for a park or playground under the Table of Uses pursuant to Clause 6.3.4.

Clause 6.3.1 of the Scheme provides that the purpose of the Rural Residential zone is: -

- a) To allow for residential living on larger sized lots than contained in urban areas, where a reticulated water supply cannot always be provided.*
- b) To allow for a semi-rural semi-residential character with retention of existing tree cover and enhancement of biodiversity.*
- c) To avoid ribbon type development that creates multiple access points onto main access roads.*
- d) To encourage substantial consolidation of the existing Rural Residential zoned areas before additional areas are re-zoned for rural residential subdivision.*

While the proposal is not of a residential nature it is considered that it will fit within the rural residential area and the site will eventually also be developed for residential use. The semi-rural character will be maintained and the development does not constitute ribbon development. Overall it is considered that the proposed use can be approved without undue impact on the amenity or character of the area.

Decision Guidelines

Council must consider the following decision guidelines before deciding on an application within the Rural Residential zone under Clause 6.3.3: -

- a) *whether the subdivision design complies with the bushfire provisions set out in Schedule 6, particularly provision of through roads or adequate turning areas and means of escape in the event of fire to the satisfaction of the Tasmanian Fire Service;*
- b) *whether the subdivision design provides a range of lot sizes and does not result in multiple minimum lot sizes side by side along a road frontage;*
- c) *whether the subdivision design facilitates energy efficient housing and reduces energy wastage;*
- d) *whether the building appearance from public streets and adjoining sites is visually compatible with surrounding development;*
- e) *whether the building siting and design enable flexibility to protect neighbouring amenity, enhance passive surveillance, maintain residential character and visual bulk, and the usability of private open space; and*
- f) *whether the building design optimises aspects of solar and energy efficiency.*

Clauses a) – c) address subdivision and are not relevant to this assessment. In regard to (d) and (e), the proposed gymnasium building is larger than most domestic buildings but it retains a low profile and uses typical building materials, namely brick walls and Colorbond roof. The proposed stable is typical for the area. The site is an internal lot so the structures will not be close to the road or any public space. It is considered that the proposal will not be unreasonably bulky and will not have a large impact on the residential character of the area. The building is not habitable so clause (f) is not of great significance.

Development Standards

Siting

The permitted siting standards in the Rural Residential zone pursuant to Clause 6.3.11 (a) are 15 metres setback from the primary frontage and 10 metres setback from all other boundaries. In this case the site is an internal lot and a front setback of over 70 metres is achieved. The minimum setback to a side boundary is 10 metres.

The proposal therefore complies with the permitted siting standard and no discretion is generated.

Height

The maximum height allowable within the Rural Residential zone is 8 metres pursuant to Clause 6.3.11 (b). The maximum height of the buildings would be 2.5 metres above natural ground level, which is in accordance with the numerical standard for the Zone.

Overlays

The subject site is located within the Area C of the Brighton Horse Racing Overlay listed in Section 7.8 of the Brighton Planning Scheme 2000.

Clause 7.8.12 states that within Precinct C, notwithstanding Clause 6.3.11 (a), the minimum setback for all structures will be 20 metres from all boundaries. Clause 7.8.12 (i) gives Council power to exercise discretion in relation to this requirement.

In this case the gymnasium and stables are sited 10 metres from the northern side boundary, within a building envelope that is nominated on the title. The siting is as close as possible to the entry driveway and this is considered to be desirable so that internal traffic movements are as short as possible. The buildings are not habitable and amenity impacts from activities on the neighbouring property are not of concern. It is therefore considered reasonable for Council to exercise discretion in this case.

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 for a Community Services use is to be determined by the Council with no numeric value given.

The applicant has nominated a car parking area beside the gymnasium building that will be 20 metres long. A typical car space is 2.6 metres wide, so this area would have space for at least 7 cars.

With the recommended maximum client occupancy of 20 people, it is considered necessary for at least 10 spaces to be provided. Most classes will not exceed 10 people and there is plenty of flat open space available for overflow car parking if necessary on occasion.

Clause S1.18 requires adequate maneuvering space to ensure vehicles enter and leave the site in a forward direction with a single turning movement. The site is large and the parking area can be configured to comply with this requirement.

Clause S1.19 requires driveway widths to be 5.5 metres wide for a distance of 7.5 metres from the carriageway of the road to allow for vehicle passing. A condition to this effect is included below.

Council's Senior Technical Officer has indicated that the proposed car parking arrangement is suitable for the proposed use and development.

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 main consideration under this Schedule is the potential for sediment transfer from stormwater run-off during construction. A condition requiring a stormwater management plan to be submitted with the building application is recommended to address this issue.

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 proposed use and development is somewhat unusual for a rural residential area and the potential for amenity impacts exist if the nature and scale of the use is not restricted. In this case the proposed buildings are considered to be of a scale and form that can blend with the residential character of the area. Conditions restricting the operating hours, number of clients and noise emissions are necessary to ensure that the amenity of the neighbourhood is suitably protected.

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.

Reticulated water and electricity are available to the site. Sewerage disposal and drainage must be contained on site and conditions to this effect are recommended below.

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.

Traffic and Access:

The proposal is considered acceptable from a traffic and access point of view. The limitation on client numbers will ensure that the traffic generated will not exceed the capacity of the access and car parking space.

Refer to engineering report below for additional comments.

Engineering report

With respect to engineering assets, Council's Project Engineer advises as follows –

Access

Access to the site is achieved from Rowe Street and is currently constructed to a typical rural residential standard. Sight distances in excess of 100 metres can be achieved in both directions. The

Stormwater

There is no reticulated stormwater in the area. Stormwater will be disposed of on site, in accordance with standard conditions.

Water and Sewer

Reticulated water is available to the site. There is no reticulated sewerage in the area.

Conclusion:

Application is made to develop a property in Rowe Street with a gymnasium and stable to be used for exercise classes and animal therapies. The applicant currently runs exercise programs from a number of premises and would like to consolidate her business onto one site, which will eventually be developed with a home as well.

While the proposal is unusual for a Rural Residential area, it is considered that the scale and form of the buildings and nature of the proposed use can be accommodated without having a significant impact on residential amenity or rural uses including horse breeding and training.

Provided that appropriate conditions are applied to limit the size of the business in terms of operating hours, client numbers and noise emissions the proposal can be approved.

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.
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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 63 Rowe Street, Brighton, described in Folio of the Register Volume 140601 Folio 2, to be developed with Community Services (gymnasium and stable), 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, which ever is later, in accordance with section 53 of the *land Use Planning And Approvals Act 1993*.
- (3) Approval is given for a maximum client occupancy of fifteen (15) people at any time.

Hours of Operation

- (4) The use or development must only operate between the following hours unless otherwise approved by Council's Manager Strategic Planning:
 - Monday to Friday 7:00 a.m. to 8:00 p.m.
 - Saturday 8:00 a.m. to 4:00 p.m.
 - Sunday and State-wide public holidays Closed

Amenity

- (5) 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.
- (6) 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 complement the surrounding rural character. The schedule shall form part of this permit when approved.

Noise

- (7) Noise emissions from the use or development must not exceed a time average acoustic environmental quality objective weighted sound pressure level ($LA_{eq,T}$) of 5 dB(A) above the background level, adjusted in accordance with Standards Australia: *AS 1055, Acoustics – Description and measurement of environmental noise*, Standards Association of Australia, Sydney, 1997 when measured at the boundary with another property. All methods of measurement must be in accordance with relevant Australian Standards and DPIWE (2003): *Draft Noise Measurement Procedures Manual*, Department of Primary Industries, Parks, Water and Environment.

Landscaping

- (8) The site must be landscaped by trees, shrubs, fences or other means approved by Council's Manager Strategic Planning. The planting must screen the proposed gymnasium and car park along the northern side. Planting must bear a suitable relationship to the proposed height of the buildings and must not use species listed as noxious weeds within Tasmania, displaying invasive characteristics or unsuitable for fire prone areas.
- (9) The landscaping works must be completed to the satisfaction of Council's Manager Strategic Planning within six (6) months of the first use of the development. All landscaping must continue to be maintained to the satisfaction of Council.

Parking & access

- (10) At least ten (10) 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.
- (11) 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.
- (12) 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 enter and leave the parking space in a single manoeuvre and enter and leave the site in a forward direction.
 - (c) A gravel pavement constructed and surfaced to the satisfaction of the Council's Municipal Engineer.
 - (d) A passing bay 5.5 metres wide by 7.5 metres long halfway along the access,
 - (e) Line-marking or some other means to show the parking spaces to the satisfaction of Council.
 - (f) Drainage discharging to the stormwater system in accordance with the requirements of a plumbing permit issued by the plumbing Permit Authority.
- (13) The driveway must be a minimum of 5.5 metres wide for a distance of 7.50 metres from the carriageway of the road to allow vehicles to pass each other, or otherwise as required by Standards Australia (2004): *Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking*; Standards Australia, Sydney / Standards Australia (2002): *Australia Standard AS 2890.2 – 2002, Parking facilities - Part 2: Off-Street, Commercial vehicle facilities*, Sydney.
- (14) The vehicle access from the carriageway of the road onto the subject land must be located and constructed using a 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.

Services

- (15) 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

- (16) Drainage from the proposed development must be retained on site or drained to a legal discharge point to the satisfaction of Council's Municipal Engineer and in accordance with a Plumbing permit issued by the Permit Authority in accordance with the *Building Act 2000*.

Protection of water quality

- (17) Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South, must be approved by Council's Manager Strategic Planning before development of the land commences (refer to advice below). The SWMP shall form part of this permit when approved.
- (18) Before any work commences install temporary run-off, erosion and sediment controls in accordance with the recommendations of the approved SWMP and maintain these controls 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

- (19) 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.
- (20) 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.

- (21) 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.
- (22) 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.
- (23) 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.

DECISION:

Cr Owen moved, Cr Taylor seconded that this item be held over to the Ordinary Council Meeting pending a site management plan from the applicant and a thorough assessment with respect to 7.8.2 of the Brighton Planning Scheme 2000.

CARRIED

VOTING RECORD

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

The meeting closed 6.00 p.m.

Confirmed: _____
(Mayor)

Date: _____
18th December 2012