



Brighton Council

MINUTES OF THE **PLANNING COMMITTEE MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.30P.M. ON TUESDAY,
10TH DECEMBER, 2013

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

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

1. APOLOGIES:

Cr Geard moved, Cr Owen seconded that apologies be received from Cr Williams.

CARRIED

VOTING RECORD

In favour	Against
Cr Foster	
Cr Geard	
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 TWO LOT SUBDIVISION IN THE INTENSIVE AGRICULTURE ZONE AND ENVIRONMENTAL BUFFER OVERLAY - 38 STONEFIELD ROAD, BRIGHTON:

FILE REFERENCE:	SA 2013/26
AUTHOR:	David Allingham (Planning Officers)
Applicant:	Bullock Consulting
Owner:	Noel & Marlene Salter
Location:	38 Stonefield Road, Brighton
Application no.:	SA2013/26
Zoning:	<i>Intensive Agriculture</i> , Brighton Planning Scheme 2000 (the Scheme)
Date accepted:	4 th October 2013
Date advertised:	31 st October to the 13 th of November 2013
Decision required	17 th December 2013

Discretion(s):

The proposed subdivision is located within the Intensive Agriculture Zone and is a Discretionary application pursuant to Clause 6.7.6 of the Scheme. The Subdivision Standards are outlined in clause 6.7.8 of the Scheme, and compliance is sought for this application under Section 6.7.8(c) whereby the lot sizes are to be a minimum of 5ha as opposed to the minimum lot size of 40 ha required by clause 6.7.8(a). The application must be accompanied by an agricultural report that demonstrates that the land capability of the lot of lesser size is adequate to achieve sustainable outcomes by the particular projected use together with any preferred management strategies.

Proposal:

The proposal is to subdivide a 19.24ha lot into two lots. Lot 1 is proposed to be 9.03ha and contains an existing dwelling, associated outbuildings and a 4ML dam. Lot 2 is proposed to be 10.21ha and consists of a large horse training track.

Proposed Lot 1 has approximately 208m frontage to Stonefield Road and the existing dwelling is serviced by an existing access. Proposed Lot 2 has legal frontage to both Elderslie Road and Stonefield Road, with the main frontage along Stonefield Road being approximately 302m.

No specific agricultural enterprise has been proposed for either of the lots created by the subdivision as part of this application.

Site and Locality:

The subject land is situated approximately 2.6km north west of Brighton. Surrounding lots are of a rural character and vary in size from 5ha to 60 ha. The adjoining lot to the NE is approximately 60ha and contains a number of farm buildings. The adjoining property to the NW consists of a dwelling and is approximately 19ha. The property to the east is also 19ha and contains no structures. There are three smaller residential lots (approx. 1.1ha each) containing dwellings clustered to the south of the subject land.

A 6 lot subdivision was approved for 5Ha lots by planning permit SA2009/47 on the opposite side of Stonefield Road. The road is currently being upgraded as part of that subdivision. There are no buildings on these lots. Adjoining this subdivision to the west is a similar subdivision to which was approved by planning permit SA2007/52 which also consists of lots ranging between 5Ha and 7Ha which front Elderslie Road. Both these subdivisions are located within the Intensive Agriculture Zone.

The subject land is 19.24ha and consists of the following infrastructure:

- Dwelling and associated sheds
- Sheds and barns associated with livestock and horse management

- Livestock holding yards
- Training track
- 4 ML dam
- Pipeline and off take from TasWater pipeline for off peak irrigation water.

The property is currently used for dryland grazing of improved introduced pasture species. The predominant grazing is in the form of horses as part of training and breeding enterprise. The current infrastructure of yards, fencing, shelter sheds and track has been developed for these purposes.

The subject land is zoned Intensive Agriculture under clause 6.7 of the Scheme. Additionally, the Environmental Buffer Overlay covers a large area to the south of the site as can be seen in Figure 2 below. All adjoining properties are zoned Intensive Agriculture and the surrounding area is covered by either this zone or the Rural Zone.

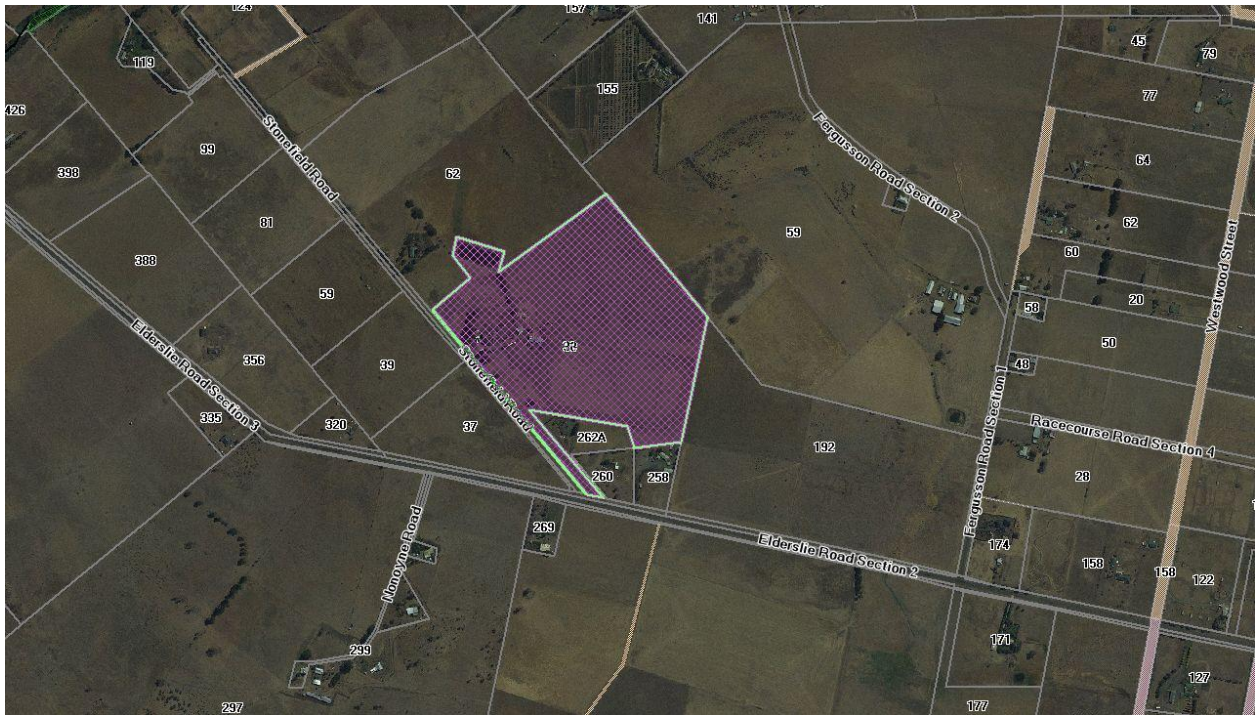


Figure 1: An aerial image of 38 Stonefield Road and surrounds.



Figure 2: Zoning Map, showing the predominant Intensive Agriculture zoning of the site and surrounding area, and the extent of the Environment Buffer Overlay covering the subject land.

Consultation:

The proposal was subject to the 14 day statutory notification period in accordance with section 57(3) of the *Land Use Planning and Approvals Act 1993*. The application was advertised from the 31 October 2013 through to the 13 December 2013.

No representations were received.

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 of rateable properties.

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.*

There is some concern that there have been a number of subdivisions approved in the Intensive Agricultural Zone for sub-minimum lots in the surrounding area in recent years which is resulting in fragmentation of agricultural land. Lots of less than 40Ha in this zone are meant to be used to provide a sustainable unit of intensive agriculture, however there is the potential that a number of these lots are being used as hobby farms which are better suited to the Rural Residential Zone or existing small lots in the Rural zone. This is a very difficult matter for the Council to manage as the Planning Scheme provides an avenue for this subdivision that is arguably not adequately restricted to ensure "intensive" agricultural uses occur on the land, rather than simply agricultural, or in some cases, rural residential.

Brighton Structure Plan

In June 2009, Council adopted the *Brighton Structure Plan 2009*, which was prepared by Aurecon. In February 2012, Council adopted the *Brighton Structure Plan Revision 2012 (BSP)* which updated the 2009 structure plan particularly in response to much higher actual growth and growth predictions than were originally used as a basis for the 2009 Structure Plan. The BSP contains a detailed analysis of the land and services required within the Council Area to meet current and future needs.

The Brighton Structure Plan identifies the Intensive Agriculture land either side of Elderslie Road as a long term urban growth area. Further subdivision of land in this area that does not further the outcomes of a proposed agricultural pursuit is discouraged, as the fragmentation of the land will make the task of providing an effective layout for future residential subdivision more constrained and difficult.

Brighton Council Interim Planning Scheme

Brighton Council, along with the other eleven Southern Tasmanian Councils are currently preparing draft interim planning schemes for submission to the Minister of Planning. The Brighton Interim Planning Scheme has not yet been declared, but does provide the strategic basis for land-use planning in Brighton for the future.

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

Under the Interim Scheme, the subject land is intended to be zoned Rural Resource and this zone strongly discourages fragmentation and fettering of agricultural land. The minimum lot size proposed is 40 hectares, without this provision to allow for 5 hectare lots for intensive agriculture.

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 subdivision proposal promotes further fragmentation of Intensive Agricultural land which has the potential to impact on the long term viability of the agricultural sector in the municipality.

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 1km from the HWM of the Derwent Estuary and therefore, the provisions of the State Coastal Policy do not apply to the land.

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 is expected to be less than 250 square metres, therefore appropriate temporary erosion and sedimentation control measures will be required and this will become a condition of the planning permit.

The State Policy on the Protection of Agricultural Land 2009

The State Policy on the Protection of Agricultural Land protects Prime Agricultural Land (Land Capability Classes 1, 2, and 3) and conversion to non-agricultural uses is subject to the principles of the Policy.

There are seven principles to guide outcomes that give effect to the Policy. Principles 1 to 4 deal with Prime Agricultural Land and are not relevant to the consideration of this application given the land is considered Class 5. Principles 5 to 7 state:

5. *All agricultural land is a valuable resource for Tasmania. The protection of other than prime agricultural land from conversion to non-agricultural use will be determined through planning schemes.*
6. *Adjoining non-agricultural use and development should not unreasonably fetter agricultural uses.*
7. *Planning schemes will make provisions for the appropriate protection of the range of non-prime agricultural lands within a specified irrigation scheme.*

The subject land is currently utilised for dryland grazing, predominantly in the form of horses as part of a training and breeding enterprise that has been in operation for a number of decades. The application does not clearly outline the purpose for the proposed subdivision and will effectively cut the existing agricultural use in half. There is nothing in the application that suggests that the horse enterprise will be continued on either lot, nor is any other agricultural use proposed.

An agricultural assessment was submitted with the application for subdivision, Agricultural Report 262 Elderslie Road Brighton September 2013 prepared by Macquarie Franklin. The Report states that the soil types precludes annual cropping (e.g. poppies, peas) but are suitable for horticultural perennial crops such as stonefruit and viticulture. The climatic conditions are also suitable for such enterprises. There is also sufficient water through management of off peak water from TasWater and on-farm storage to allow for intensification of agricultural operations on the proposed lots. The report surmises that the proposed subdivision creates 2 agricultural productive lots and does not limit the opportunity for agricultural development of the existing land resource.

While the lots may be suitable for agricultural development in the future, it is of some concern that no specific intensive agricultural use is proposed as part of the subdivision. Without specifying the future agricultural use there is potential that proposed Lot 1 will be used primarily as rural residential property or hobby farm, which is more suited to the Rural Residential Zone. This can be avoided on proposed Lot 2 as any application for a dwelling will have to show that the dwelling is “integral to the agricultural use” proposed for the site. As such it is recommended that a permit condition be included to require that a Site Management Plan for future agricultural use be prepared for proposed Lot 1 and the use commenced prior to the final sealing of the subdivision plans.

Furthermore, in past applications for subdivisions under Clause 6.7.8(c) of the Scheme, planning permit conditions have required that a Part 5 Agreement be created to ensure lots remain primarily for sustainable agricultural use and development, and that the land is managed appropriately for this use. A similar Part 5 Agreement is recommended as a condition of the permit should this subdivision be approved.

National Environmental Protection Measures (NEPM's)

There are no NEPM's applicable to the proposed subdivision.

Planning Scheme

The land is located within the Residential zone under the Brighton Planning Scheme 2000, and comprises a large flat site with existing structures and parking.

Scheme Objectives

Clause 2.4 of the Scheme provides that the rural objectives for the municipal area are:

- 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 are 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.*

The subject land is used as an existing horse training and breeding enterprise. The proposed two lot subdivision will effectively cut the enterprise in half. The application does not propose any particular use for either of the two new lots; therefore it is difficult to say whether the proposal promotes rural pursuits or agricultural activities that are compatible with the conservation of soil, water and vegetation resources.

However, the Agricultural Report concludes that certain types of agriculture such as stonefruit and viticulture would be suitable given the sites land capability, climatic conditions and available water supply, which would not be impacted by the subdivision. As such, it could be expected that the land could be used for an appropriate agricultural enterprise.

Zone

Clause 6.7.1 of the Scheme provides that the purpose of the Intensive Agricultural zone is to encourage: -

- 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 Agricultural Report submitted with the application puts forward potential uses for the two lots that will be created as part of the proposed subdivision. However, the application does not indicate that the lots will be utilised for the uses put forward, therefore it cannot be determined what kind of agricultural enterprise will be developed. Given the number of other 5Ha lots created by recent subdivisions there is now a large supply of vacant land available for the potential uses put forward in the agricultural report, which have not yet to date been developed for what would normally be considered an "intensive" agricultural use. It can be argued further subdivision of land in the area for an unspecified use is not effective land management and does not ensure there will be intensive agricultural production.

The Zone purpose suggests that subdivision of Intensive Agricultural land should be for the purposes of developing an agricultural enterprise, or for providing greater efficiencies to an existing enterprise. Therefore, it is recommended that any planning permit have conditions ensuring that both lots are used primarily for the purposes of sustainable agriculture.

Decision Guidelines

Council must consider the following decision guidelines before deciding on an application within the Intensive Agriculture zone under Clause 6.7.2: -

(a) General issues

- (i) any Catchment and Land Protection Strategy and policies applying to the land including the State Policy for the Protection of Agricultural Land 2000;*
- (ii) the capability of the land to accommodate the proposed use or development, addressing site quality attributes including soil type, soil fertility, soil structure, soil permeability, aspect, contour and drainage patterns;*
- (iii) how the use or development relates to rural land use, rural diversification and natural resource management; and*
- (iv) whether the dwelling is integral to the operation of the rural activity conducted on the land.*

(b) Rural issues

- (i) the maintenance of farm production and the impact on the rural economy;*
- (ii) whether the site is suitable for the use or development and the compatibility of the proposal with adjoining and nearby farming and other land uses;*
- (iii) the farm size and the productive capacity of the site to sustain the rural enterprise and whether the use or development will have an adverse impact on surrounding land uses;*
- (iv) the need to prepare an integrated land management plan;*
- (v) the impact on the existing and proposed rural infrastructure; and*
- (vi) an assessment of industry requirements, growth expectations, staging of the development and investment requirements.*

(c) Environmental issues

- (i) an assessment of the likely environmental impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours;*
- (ii) the impact of the use or development on the flora, fauna and landscape features of the locality;*

- (iii) *the protection and enhancement of the natural environment and the character of the area, including the retention of vegetation and fauna habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridge lines, property boundaries, discharge and recharge areas; and*
 - (iv) *the impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- (d) Design and siting issues**
- (i) *the design, colours and materials to be used and the siting, including the provision of development and effluent envelopes for any building or works;*
 - (ii) *the impact of the use or development on the existing and surrounding rural uses;*
 - (iii) *the location of any building or works with respect to the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts; and*
 - (iv) *the location and design of existing and proposed roads and their impact on the landscape and whether the use or development will cause significant traffic generation which will require additional traffic management programs to be initiated.*

The agricultural report demonstrates that the land has the capability for specialised agricultural enterprises, such as stonefruit and viticulture, but is silent on whether it is intended for any of these enterprises will be adopted on either of the proposed lots.

Additionally, the proposed subdivision effectively divides an existing rural pursuit in the form of a horse training and breeding enterprise. The application is not clear on whether this enterprise will continue on either lot.

Introducing a new enterprise to Lot 2 in particular could prove difficult given the existing horse track which covers a large area of the proposed lot. There is nothing in the application that suggests that the existing rural enterprise will continue or to guarantee that an intensive agricultural use will be provided on either of the proposed lots.

As mentioned above, it is recommended that conditions of a planning permit include requirements for the proposed lots to be developed for intensive agricultural purposes.

The application is for a subdivision under clause 6.7.8 (c) of the Planning Scheme which is reproduced as follows:

- (c) *the subdivision is to approve a lot of lesser size to provide a sustainable unit for intensive agriculture provided that the applicant can demonstrate to the satisfaction of Council that such subdivision recognises the land capability of the site, demonstrates that the lot sizes, shape and location are adequate for the future use of the site, demonstrates that a sustainable agricultural use can be achieved (including water supply) and that the proposal will have no adverse effect on the continued operation of the land uses surrounding the site. A minimum lot size of 5 hectares will apply. Each application shall be accompanied with a report from a qualified agricultural consultant or the Department of Primary Industries, Water and Environment that demonstrates that the land capability is adequate to achieve sustainable outcomes for the particular projected use together with any preferred management strategies.*

The two lot subdivision will create two lots, with Lot 1 being 9.03Ha +/- and Lot 2 being 10.21ha +/-, which complies with the minimum lot size. The agricultural report submitted with the application identifies the land as Class 5 that has the capability and sufficient water supply to sustain an intensive agricultural use. While it has been demonstrated that a sustainable intensive agricultural pursuit could exist on the proposed lots, there is nothing to guarantee that this is how the sites will be developed in the future.

General Provisions

Decision Guidelines – Clause 3.3

The criteria within Clause 3.3 of the Scheme must be considered before Council determines an application for planning approval.

The proposed change of use does not create any significant issues under Clause 3.3, other than determining whether the application is consistent with the intent of the Zone, which has been dealt with elsewhere in this report.

Overlays

Clause 7.6 Environmental Buffer Overlay

As can be seen in Figure 3, a large portion of proposed lot 2 will be located within an Environmental Buffer Overlay (EBO) that has been created in the area around a nearby quarry based on a Standard Recommended Attenuation Distance (SRAD) from the environmental source. Any residential use or development is prohibited within the EBO, which constrains development of a dwelling on proposed Lot 2 to the north-west corner of the site.



Figure 3: Aerial view of the subject land and the extent of the EBO covering the property.

TasWater

The proposal was referred to TasWater who provided a response (TWSA 2013/00413-BTN) imposing conditions on the permit. The conditions were attached to this report.

Traffic and Access:

A new access will be required for proposed Lot 2. Additional traffic generated from the proposal will not be significant and can be absorbed by the existing road network.

Engineering Report

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

Access

Stoniefield Road from the intersection with Elderslie Road to beyond the frontage of the proposed subdivision was recently upgraded to a full rural standard by the owner as part of a previous development. No new works other than the provision of a new access to proposed Lot 2 would be required.

Stormwater

Stormwater would be disposed of on site. There are no proposed changes to stormwater disposal.

Water and Sewer

There is no reticulated sewer in the vicinity of the proposed development. A new water connection would need to be supplied to Lot 2.

Conclusion

The proposal is to subdivide an existing 19.24Ha title into two lots within the Intensive Agriculture Zone and partially covered by the Environmental Buffer Overlay. Proposed Lot 1 will be 9.03Ha and contains an existing dwelling and associated outbuildings relating to a horse training and breeding enterprise. Proposed Lot 2 will be 10.21Ha and its dominant feature is a horse training track.

The application for subdivision is made under Clause 6.7.8(c) of the Scheme which allows minimum lots of 5Ha on the basis that a sustainable unit for intensive agriculture can be provided and supported by an Agricultural Report. An Agricultural Report was submitted with the application that concluded that intensive agricultural pursuits such as stonefruit and viticulture are suitable for the site given the land capability and available water supply.

The key planning concern is that the application does not detail the purpose for the subdivision nor does it propose an intensive agricultural pursuit for the lot with the existing dwelling. Additionally, there is no information about what will happen to the existing horse breeding and training enterprise. It is possible that proposed Lot 1 (containing the existing house) could be used as a rural residential property following the subdivision and that no intensive agricultural pursuit will be developed on the site.

Given that no specific intensive agricultural use is proposed for either of the two lots created by the subdivision, and both lots can continue being used for the existing agricultural activities, it is considered that the proposed subdivision is not for the purpose of developing new sustainable intensive agricultural units and is therefore inconsistent with the purpose of the zone. However, the two lots created by the proposed subdivision have the capacity to be developed by an intensive agricultural use.

For the above reasons, it is recommended that the application be approved with conditions that require:

- a Site Management Plan be required prior to the establishment of intensive agricultural uses; and

- that a Part 5 Agreement be created so that a dwelling can only be approved if it is integral to an agricultural use and that there is an approved site management plan for that lot and the approved agricultural use has substantially commenced.

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 4 of the Land Use Planning and Approvals Act 1993 for land at 38 Stonefield Road, Brighton described in Folio of the Register Volume 157284 Folio 2 to be developed by a Two (2) lot Subdivision and associated works be approved with the following conditions:

General

1. The subdivision layout 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*.

Easements

3. Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

Endorsements

4. The final plan of survey must be noted that Council cannot or will not provide a means of drainage to all lots shown on the plan of survey.

Part V Agreement

5. A Part 5 Agreement in accordance with Section 71 of the *Land Use Planning and Approvals Act 1993* is to be entered into between the applicant and Council (and lodged with the Title of each lot) to the extent that:-
 - a. Each lot owner will be required to produce a site management plan for their lot prior to the establishment of any intensive agricultural activity. The site management plan must be prepared by a suitably qualified person or other person approved by Council's Manager Strategic Planning and must be submitted to and approved by Council's Manager Strategic Planning and shall utilise the *Agricultural Report 262 Elderslie Road Brighton September 2013* prepared by Macquarie Franklin and address the following issues:-
 - i. Description of crops to be irrigated.
 - ii. Design of irrigation system including necessary on site storage for the restricted off-peak water supply.
 - iii. Measures to prevent spray drift beyond boundaries.
 - iv. Measures to prevent run-off from irrigation areas.
 - v. Use of machinery, pumps and hours of operation.
 - vi. Scaled plans of all permanent sub-surface potable reticulation system and method of back flow prevention.
 - vii. Potential house site showing access road, outbuildings, recreational areas and waste disposal method and location.
 - viii. Type of livestock, numbers and management arrangements.
 - b. A dwelling is discretionary only if integral to the agricultural use and will not be approved by Council on any lot unless there is an approved site management plan for that lot, Council is satisfied that substantial commencement of an intensive agricultural activity has occurred and that the dwelling would not conflict with neighbouring activities. The Council must be satisfied that the rural activity shall be the primary activity on that lot.
6. The applicant shall be responsible for the cost of production and lodgement of the Part 5 Agreement(s).

Covenants

7. Covenants or other similar restrictive controls that conflict with any provisions or seek to prohibit any use provided within the planning scheme must not be included or otherwise imposed on the titles to the lots created by this permit, either by transfer, inclusion of such covenants in a Schedule of Easements or registration of any instrument creating such covenants with the Recorder of Titles, unless such covenants or controls are expressly authorised by the terms of this permit or the consent in writing of the Council's Senior Planner.

Final Plan

8. A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
9. A fee in accordance with Council's adopted fee schedule, must be paid to Council for the sealing of the final approved plan of survey for each stage.
10. Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the *Local Government (Building & Miscellaneous Provisions) Council 1993*. The amount of the security shall be determined by the Council's Municipal Engineer in accordance with Council Policy 6.3 following approval of any engineering design drawings and shall not to be less than \$5,000.
11. All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.
12. The subdivider must pay any Titles Office lodgment fees direct to the Recorder of Titles.

Property Services

13. Property services must be contained wholly within each lots served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.

Existing Services

14. The Subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.

Sizing of Services

15. All services must be sized and located to service the ultimate potential development of the site to the satisfaction of Council's Municipal Engineer or the responsible authority.

Environmental Health

16. The final plan of survey must be endorsed that the lots are only suitable for the on-site disposal of wastewater using a licensed Aerated Wastewater Treatment System or modified trench septic or other approved system.
17. The current waste water treatment system (including trenches) must be fully contained within the boundaries of Lot 1 shown on the plan of subdivision.

Telecommunications, Electrical and Gas Reticulation

18. Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and the satisfaction of Council's Senior Planner.

TasWater

19. The development must meet all required Conditions of approval specified by TasWater Response to the Council Notice of Planning Application Referral, date 15 October 2013 (TWSA 2013/00413-BTN).

Roadwork's

20. Roadworks and drainage must be constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.

Rural Access

21. A vehicle access must be provided from the road carriageway to each lot. Accesses must be a minimum width of 3 metres at the property boundary and located and constructed in accordance with the standards shown on standard drawings SD-1009 *Rural Roads - Typical Standard Access* and SD-1012 *Intersection and Domestic Access Sight Distance Requirements* prepared by the IPWE Aust. (Tasmania Division) (attached) and the satisfaction of Council's Municipal Engineer.

26. 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.

27. 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.

Survey Pegs

28. Survey pegs to be stamped with lot numbers and marked for ease of identification.

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. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.

- C. The issue of this permit does not ensure compliance with the provisions of the *Threatened Species Protection Act 1995* or the *Environmental Protection and Biodiversity Protection Act 1999* (Commonwealth). The applicant may be liable to complaints in relation to any non-compliance with these Acts and may be required to apply to the Threatened Species Unit of the Department of Tourism, Arts and the Environment or the Commonwealth Minister for a permit.

- D. The issue of this permit does not ensure compliance with the provisions of the *Aboriginal Relics Act 1975*. If any aboriginal sites or relics are discovered on the land, stop work and immediately contact the Tasmanian Aboriginal Land Council and Aboriginal Heritage Unit of the Department of Tourism, Arts and the Environment. Further work may not be permitted until a permit is issued in accordance with the *Aboriginal Relics Act 1975*.

- E. **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 Foster moved, Cr Geard seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

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

The meeting closed 5.50 p.m.

Confirmed:

(Mayor)

Date:

17th December 2013