



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,
9TH JULY, 2013

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

IN ATTENDANCE: Cr Curran; Cr Garlick; Mr H Macpherson (Municipal Engineer); Miss J Tyson (Planning Officer) and Mrs J Banks (Manager Governance & Human Services).

1. APOLOGIES:

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

CARRIED

VOTING RECORD

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

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 SUBDIVISION – 38 LOTS AND BALANCE IN THE RESIDENTIAL ZONE110 FOCHE AVENUE, OLD BEACH:

FILE REFERENCE:	SA 2013/12
AUTHOR:	Carrie Southern (Planning Officer)
Applicant:	Mr R G Aitkins
Owner:	Mr R G Aitkins
Location:	110 Fouche Avenue, Old Beach
Application no.:	SA 2013/12
Zoning:	<i>Residential</i> , Brighton Planning Scheme 2000 (the planning scheme)
Date accepted:	7 th May 2013
Date advertised:	23 rd May 2013
Decision required	Extension of time granted until the 16 th of July 2013

Discretion(s):

The proposed subdivision is a discretionary development, as it does not comply with Clauses 6.2.5 or 6.2.6 of the planning scheme (permitted subdivision in accordance with Section 58 of the *Land Use Planning and Approvals Act 1993* or permitted strata division).

Specifically, the proposed development involves the creation of additional residential lots, rather than consolidation of existing lots; adjusting boundaries between existing lots; providing for public services and utilities; or providing for public open space. The creation of additional residential lots is discretionary.

Proposal:

The applicant seeks to subdivide a 3ha lot (Volume 154093 Folio 202) into 38 lots, within an area of Old Beach zoned Residential (see Figure 1 for location and Figure 2 for zoning). As part of the proposal, Fouche Avenue is to be extended, connecting the eastern and western sections of this road, and an extension to an existing 35m length of road known as 'Magus Terrace', terminating in a cul-de-sac. Magus Terrace currently has two dwellings - one either side of the road. The proposed subdivision plan illustrating these features is provided as Attachment 1.

The applicant proposes to undertake the development in the following stages:

Stage 1: lots 1-4, and 9-12

Stage 2: lots 5-8, and 13-15

Stage 3: lots 16-21, and lot 38

Stage 4: lots 22-25, and 35-37

Stage 5: lots 26-34

The applicant has indicated that if the property market improves markedly, he would prefer to construct Stages 1 and 2 concurrently. This flexibility does not present any significant planning issues. Proposed lot numbers are noted on the proposed subdivision plan in Attachment 1.

The applicant indicates that the proposal does not include a contribution to public open space, as this was provided for as part of the original subdivision of the parent title in 1998, and was "well in excess of the 5% statutory requirement". The applicant also refers to a letter from Michael Shields (Senior Planner) to the Tasmanian Planning Commission in 2002, confirming that Council were prepared to concede the appealed condition for a public open space contribution. As such no requirement for a further public open space contribution will be required at this time.

Background:

The property at 110 Fouche Avenue has been subject to a number of development applications over the years.

The current application is a re-design of a 2005 application, differing in the following ways:

- a single terminating cul-de-sac (extension of Magus Terrace on the western side of the site) running parallel to the East Derwent Highway, rather than the development of a shorter street off the eastern end of Fouche Avenue terminating in two cul-de-sacs, in combination with the development of a cul-de-sac on Magus Terrace in its current form; and
- creation of 38 lots, rather than 30.

Site and Locality:

The subject land is located within an established residential area of Old Beach. The East Derwent Highway forms the northern boundary of the lot; the eastern boundary abuts the rear boundaries of existing residential allotments on Cloak Place; the western boundary abuts residential allotments off Jetty Road; and the southern boundary abuts residential allotments on Calm Place. The proposed lots are generally consistent with the size of existing lots in the surrounding area, ranging from 550m² up to 930m². The varying lot sizes are to provide choice and 'affordability'. The site is situated within a residential precinct, in keeping with the form of surrounding residential lots. The proposal subdivision will facilitate infill development within the residential zone, as well as create a thoroughfare currently unavailable, with the extension of Fouche Avenue.

The southern boundary of the lot is approximately 130m from the Derwent River at its nearest point, situated inland behind the partially developed residential subdivision along Calm Place.

Figure 1 below shows the location of the land in relation to the surrounding area.

Environmental and Cultural Values

The land has been previously modified, having been cleared of native coastal vegetation many years ago, probably for pastoral uses. It has a gentle gradient, with no watercourses. Regrowth silver wattles are dispersed along the northern boundary. *Radiata* pines can also be found along the northern boundary and in the north-western corner of the site.

The application indicates that an Aboriginal Heritage Assessment was completed as part of the 2005 application for subdivision, and included the current site and surrounding area. From the documentation provided, this appears to have been a search of the TASI database, and did not include a site assessment by an Aboriginal Heritage Officer. Standard conditions apply regarding compliance with the Aboriginal Relics Act.

There are no places of European cultural significance on the site.



Figure 1: Recent aerial image, showing location of the land at 110 Fouche Avenue, and its relationship to surrounding residential areas, the existing road network, and the foreshore.

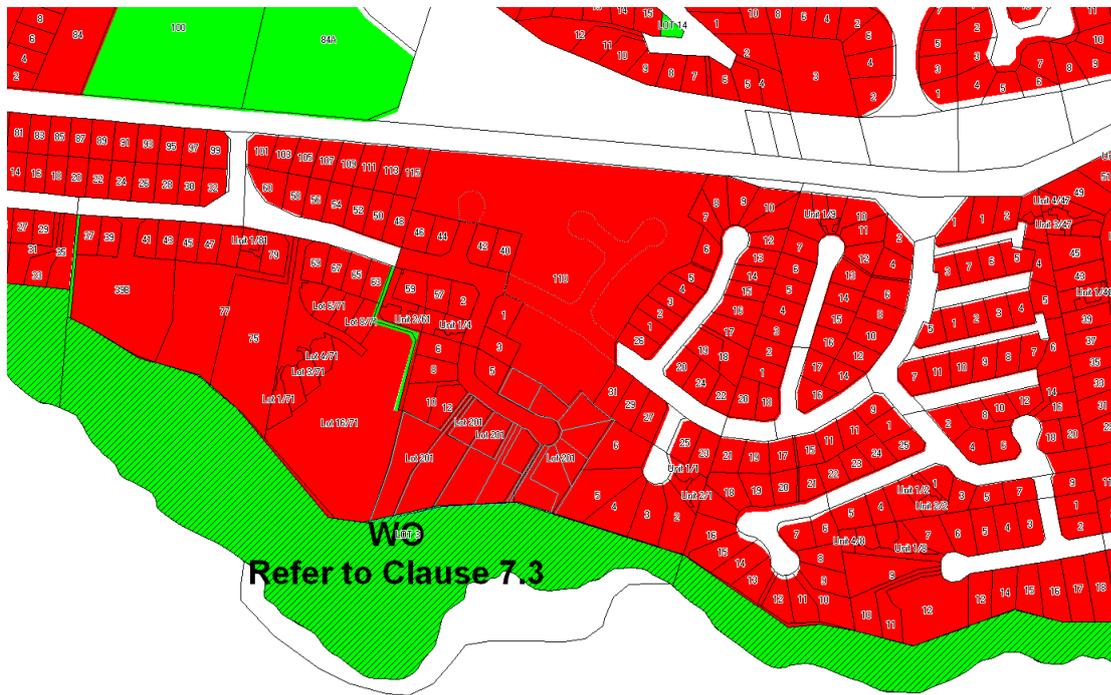


Figure 2: Zoning under the *Brighton Planning Scheme 2000*. The red colour represents the Residential zone; green represents the Recreation zone. Note the dotted road network shown on the land, has been superseded with the current application.

Servicing

Southern Water has indicated there is no capacity issues with water and sewer associated with the proposed subdivision. The proponent has also indicated that Aurora and Telstra have advised “sufficient supply capacity is available for extension at both east and west ends of Fouche Avenue”.

Reticulated stormwater infrastructure was constructed on the site as per the completion of works for the 2005 subdivision, and connections are in place at three locations. See the “Engineering Report” section later in this report for detailed servicing assessment.

Consultation:

The application was subject to the 14 day statutory notification period. The proposal is discretionary because it does not comply with Clauses 6.2.5 or 6.2.6 of the planning scheme (permitted subdivision in accordance with Section 58 of the *Land Use Planning and Approvals Act 1993* or permitted strata division).

One (1) representation was received during the advertising period, which was in support of the proposed subdivision.

Risk Implications:

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

Financial Implications:

Approval of the application will increase the number and value of rateable properties, and facilitate further residential development in the area. The varying lot sizes will provide some choice for differing buyers – the smaller lots may provide affordable options for first home buyers.

Other Issues:

The Local Government (Buildings and Miscellaneous Provisions) Act 1993 provides that land may only be subdivided in accordance with a previously approved plan, or a plan of subdivision approved by the granting of a permit under the Land Use Planning Approvals Act 1993 (the Act). Section 81(2) requires that unless the planning scheme provides otherwise, an application for subdivision be treated as a discretionary permit under Section 57 of the Act.

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 to be generally consistent with Council's Strategic Plan, as it will facilitate residential infill development in an existing urbanised area. The proposed extension of Fouche Avenue will connect the eastern and western sections of this road. This will be a significant community outcome, given that Fouche Avenue will become the main through road in this area of Old Beach, providing improved vehicular and pedestrian/cycling connections.

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

The land has been previously modified, having been cleared of native coastal vegetation many years ago, probably for pastoral uses. Providing servicing needs are met (e.g. stormwater runoff and sewer), along with any other conditions deemed necessary, the proposed subdivision should not result in major environmental impacts.

Approval of the application will increase the number and value of rateable properties, and facilitate further residential development in the area. The varying lot sizes will provide some choice for differing buyers – the smaller lots may provide affordable options for first home buyers.

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 considered to be generally 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 located within 1km from the HWM of the Derwent Estuary and therefore, the provisions of the State Coastal Policy apply to the land.

²State Coastal Policy Validation Act 2003

The following outcomes of the Coastal Policy are of particular relevance to the assessment of this development application:

Principle 1 - Natural and cultural values of the coast shall be protected

Clause 1.1.10:

The design and siting of buildings, engineering works and other infrastructure, including access routes to the coastal zone, will be subject to planning controls to ensure compatibility with natural landscapes;

Principle 2 - The coast shall be used and developed in a sustainable manner

Clause 2.1.3:

Siting, design, construction and maintenance of buildings, engineering works and other infrastructure, including access routes within the coastal zone will be sensitive to the natural and aesthetic qualities of the coastal environment;

Clause 2.4.2 states:

Urban and residential development in the coastal zone will be based on existing towns and townships. Compact and contained planned urban and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast; and

In addition, Clause 2.4.3 also states:

Any urban and residential development in the coastal zone, future and existing, will be identified through designation of areas in planning schemes, consistent with the objectives, principles and outcomes of this policy.

The land has been previously modified, having been cleared of native coastal vegetation many years ago. The proposed application will not impact directly on the coastal reserve, remnant native vegetation, or littoral environment. The applicant indicates that reticulated stormwater infrastructure is already in place - constructed as part of a previous approved application. Additional, or complimentary stormwater management practices could be implemented to further minimise the impact on the coastal zone, and loading on the stormwater system (e.g. domestic water tanks).

The proposal is generally consistent with the intent of Clauses 2.4.2 and 2.4.3, being within an established urban area and within an area zoned Residential under the Scheme.

On the above basis, the proposal is considered consistent with the outcomes of the State Coastal Policy.

Planning Committee Meeting
State Water Quality Policy 1997

9/7/13

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 proposed development site is zoned Residential, and situated within an established urban area. Therefore, the Agricultural Policy does not apply to the land or this subdivision application.

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 area of undeveloped, cleared land within an established residential area.

Scheme Objectives

Clause 2.2 of the Scheme provides that the residential objectives for the municipal area are:

- (a) *To encourage and facilitate opportunities for diversity in residential type, choice and affordability commensurate with Brighton's quality of lifestyle and environment.*
- (b) *To promote Brighton as an independent suburb within the regional metropolitan context.*
- (c) *To establish residential growth within existing settlement areas serviced with infrastructure.*
- (d) *To ensure that the future patterns of residential development protect and enhance the natural and man-made assets of the Municipality.*
- (e) *To encourage infill within the existing townships and suburbs as a consolidation of services and to provide definable communities with strong interconnectivity.*
- (f) *To discourage the loss of existing housing stock by conversion to or redevelopment for non-residential uses.*

- (g) *Concentration of new residential development remains within the green field sites of Tivoli Green and Compton and for continued growth of Old Beach and Brighton – Pontville. Other areas will concentrate on the infill of existing developed areas within the service capabilities of the local area.*

The proposed development is broadly consistent with the residential objectives for the municipal area of Brighton – in particular establishing residential growth in existing settlement areas, encouraging infill in existing townships, and continued growth of Old Beach.

Zone

Clause 6.2.1 of the Scheme provides that the purpose of the Residential zone is: -

- a) *To ensure sufficient land is available to meet anticipated demand for residential use in the next 5 years.*
- b) *To protect residential amenity by reducing the potential for land use conflicts between residential uses and other uses.*
- c) *To allow for a range of housing types within the zone, subject to meeting performance guidelines, so as to satisfy different housing needs within the community.*
- d) *To restrict non-residential uses to those that are compatible with maintaining residential amenity and servicing local needs.*
- e) *A broad range of residential options should be accommodated subject to the maintenance of satisfactory levels of amenity for new and existing development.*

The proposed development is broadly consistent with the purpose of the Residential Zone, and will provide opportunities for a range of residential lot sizes, and contribute to meeting future residential demand.

Decision Guidelines

Council must consider the following decision guidelines before deciding on an application within the Residential zone under Clause 6.2.2: -

- (a) *the building appearance from public streets and adjoining sites is visually compatible with surrounding development;*
- (b) *the siting and design of the development protect the amenity of neighbours, minimise overshadowing and overlooking, enable passive surveillance without unreasonably diminishing privacy, and contribute to residential character and usability of private open space;*
- (c) *issues relevant to multi-unit housing are addressed adequately; and*
- (d) *the design and siting of lots and buildings optimises solar access and water usage, minimizes waste and contributes to efficient use of energy and water.*

The proposed subdivision has the potential to meet some of the desired outcomes mentioned above ((d) is particularly relevant). Subdivision design allows for the development of dwellings capable of efficient use of energy and water and can all achieve good solar access.

Subdivision Standards

Clause 6.2.8 of the Scheme provides the subdivision standards that must be applied within the Residential Zone:-

6.2.1 Unless classified as a Permitted development under Section 58 of the Act, the subdivision of land or strata division of land or building/s must comply with the following standards:-

- (a) minimum lot size of 400m², except for the Residential zoned land with frontage to Stanfield Drive (not including that area within the St Ann's Development Plan), where a minimum lot size of 2000m² shall apply;
- (b) average lot size of 550m² where three or more lots are created, except for the Residential zoned land with frontage to Stanfield Drive (not including that area within the St Ann's Development Plan), where an average lot size of 2500m² shall apply;
- (c) minimum frontage of 3.6m;
- (d) a building envelope with minimum dimensions of 10m x 15m clear of any easements, the front boundary setback or any other title restrictions including rights of way, shall be shown on the plan; and
- (e) where the division is of a building alone, lots must each have a minimum area of 200m².

All of the proposed lots exceed the minimum lot size applying in the residential zone (400m²). The proposed lots are generally consistent with the size of existing lots in the surrounding area, ranging from 550m² up to 930m². The average lot size for the proposed subdivision is 662m², consistent with the minimum average size of 550m² required under Clause 6.2.8 of the Scheme.

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 subdivision does not create any significant issues under Clause 3.3. These criteria have been addressed in other sections of this report.

Applications to subdivide – Clause 3.4

In addition to Clause 3.3, which applies to all planning applications, Council must consider Clause 3.4 when determining subdivision applications:-

- (a) *the suitability of the land for subdivision or strata division;*
- (b) *the existing use and possible future development of the land and nearby land;*
- (c) *the effect of development on the use or development of other land that has a common means of drainage;*
- (d) *the subdivision or strata division pattern having regard to the physical characteristics of the land, including existing vegetation;*
- (e) *the density of the proposed development;*
- (f) *the area and dimensions of each lot in the subdivision or strata division;*
- (g) *the layout of roads, having regard to their function and relationship to existing roads;*
- (h) *the movement of pedestrians and vehicles throughout the subdivision or strata and the ease of access to all lots;*
- (i) *the provision and location of reserves for public open space and other community facilities;*
- (j) *the staging of the subdivision or strata division;*
- (k) *the design and siting of buildings, having regard to safety and the risk of spread of fire;*
- (l) *the availability and provision of utility services, including water, sewerage, drainage and electricity;*
- (m) *the capacity of the land to treat and retain all sewage and sullage within the lot boundaries of each lot, if the land is not sewered and no provision has been made for the land to be sewered; and*
- (n) *whether native vegetation can be protected and the siting of open space areas in such a way as to preserve its habitat and landscape value and function.*

Relevant Subdivision Considerations (Clause 3.4)	Summary
(a)	<p>The land is the last sizable undeveloped lot in the immediate area, surrounded by established residential development.</p> <p>The proposal is consistent with Council’s Strategic Plan, as it will facilitate residential infill development in an existing urbanised area</p>
(b)	<p>The land is zoned Residential under the Brighton Planning Scheme 2000, and is zoned ‘General Residential’ under the Draft Brighton Planning Scheme. The proposed development is consistent with the current and proposed future land use planning</p>

(e)	The density of the proposed subdivision is consistent with the size of existing lots in the surrounding area, which range between 500-800m ² .
(f)	The range of lot sizes is consistent with the surrounding settlement pattern, with the capacity to accommodate residential development meeting the requirements of PD4.
(g)	Connecting the two ends of Fouche Avenue will provide a through route from the south eastern area of Old Beach (e.g. Eaves Court, Churinga Waters Drive) through to Jetty Road, where none currently exists.
(h)	<p>A good quality concrete footpath along this new section of road will ensure that pedestrian access is enhanced, as well as vehicular. This could comprise a condition of the planning permit. The subdivision plan shows an extension of the existing 2m wide footway onto Cloak Place.</p> <p>The majority of lots are to be directly accessed off Fouche Avenue or Magus Terrace. 10 lots are internal, in that they have a narrower frontage, and a driveway.</p>
(i)	The applicant indicates that he is exempt to having to provide a contribution to public open space, as he did so as part of a previous application.
(j)	<p>The subdivision is to proceed in five stages:</p> <ul style="list-style-type: none"> • Stage 1 - 8 lots • Stage 2 - 7 lots • Stage 3 - 7 lots • Stage 4 - 7 lots • Stage 5 - 9 lots <p>Stage 1 comprises the lots either side of the proposed Fouche Avenue extension - eastern end, and Stage 2, the lots either side of western end of Fouche Avenue. The applicant notes that given the community benefit associated with the completion of Fouche Avenue, he would prefer to construct Stages 1 and 2 concurrently - if the financial climate allows. The proposed staging is considered logical, particularly if Fouche Avenue can be completed as part of Stage 1.</p>
(l)	The application states that Telstra and Aurora have indicated sufficient supply at either end of Fouche Avenue.

	Southern Water has indicated there are no water or sewer capacity issues. Advice has been received from Southern Water imposing a number of conditions on the application.
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Overlays

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

Schedules

Schedule 4: Environmental Management Standards

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

The proposed development triggers the need for a Soil and Water Management Plan (SWMP) to be prepared at the road construction stage (site disturbance exceeds 250m²). This is proposed to be a condition of the planning permit.

Schedule 5: Coastal and River Foreshore Development

Clause 3.3(g) of the Scheme requires Council to take into consideration whether any part of the land is likely to become subject to inundation before granting or refusing planning approval. The purpose of the Coastal and River Foreshore Development Schedule pursuant to S5.1 of the Planning Scheme is prescribed as follows:

The purpose of the Coastal and River Foreshore Development Schedule is to control development that may cause environmental harm to foreshore areas and the waters of the Jordan or Derwent Rivers. [Amend. RZ03/04A effective 6/12/04]

Clause 5.3 of the Coastal and River Foreshore Development Schedule of the Planning Scheme provides the following:

An application for development or use which is proposed within 30 metres of the High Water Mark of the tidal reaches of either river shall be accompanied by a report demonstrating that the proposal will satisfy the State Coastal Policy and that any building will not be subject to inundation from the 1 in 100 year estimated flood levels (ie. 3 metres AHD). [Amend. RZ03/04A effective 6/12/04]

The proposed subdivision is located on land well beyond 30 metres from the high water mark (e.g. in excess of 150m from the southern-most lot boundary). The land is also well above the 1 in 100 year flood zone, and is, therefore, is considered acceptable under this schedule.

Schedule 8: Road Assets

Schedule 8 applies to the proposed subdivision, as it:

(a) is for, proposes or may require a new access or a new junction, or an improvement to an existing access or junction

A Traffic Impact Assessment is required under this Schedule, and has been provided as part of supporting information with the subdivision application.

The findings and recommendations from the Traffic Impact Assessment are summarised below.

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 subdivision is not considered to present a significant impact on the amenity of Old Beach. The completion of Fouche Avenue, including quality and pedestrian access ways, will facilitate improved vehicular and pedestrian access through this area.

Services

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

As noted above, the application states that Telstra and Aurora have indicated sufficient supply at either end of Fouche Avenue.

Southern Water has indicated there are no water or sewer capacity issues. Advice has been received from Southern Water imposing a number of conditions on 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 (SWSA 2013/00183-BTN) imposing a number of conditions on the planning permit.

Traffic and Access:

The Traffic Impact Assessment (Prodanovic, May 2013) concludes that there are no concerns with the proposed subdivision from a traffic management perspective. The missing section of Fouche Avenue is to be constructed to the same standard as the existing sections, and will have the capacity to safely handle the projected traffic volume generated by the residential lots as well as diversion traffic from Jetty Road.

The Assessment also indicates that the existing round-a-bout on the East Derwent Highway/Clives Avenue/Fouche Avenue will also be able to handle the additional projected traffic volume.

Refer to engineering report below for additional comments.

Engineering Report

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

Roadworks

The subdivision will result in the completion of Fouche Avenue, joining the eastern and western sections, and the extension of Magus Terrace. Both streets are constructed to a full urban standard. The Traffic Impact Assessment submitted with the application did not identify any issues resulting from the subdivision.

A 1.5m wide reinforced concrete footpath is to be provided between lots 31 and 32.

Stormwater

An existing DN600 main runs inside the western boundary of the proposed subdivision. This main services land to the north of the East Derwent Highway and has limited capacity to service the subdivision. Stormwater mains have previously been extended to service the proposed subdivision at 3 other locations. There are no known capacity issues in these mains. A floodway is to be provided between Magus Terrace and the East Derwent Highway, between lots 20 and 21. This floodway is to provide an overland flood path from land to the north to cater for storm events exceeding the capacity of the piped network. As previously agreed the floodway is to be incorporated into the subdivision design and constructed by Council.

Water and Sewer

The subdivision proposal has been referred to Southern Water who have imposed conditions.

Conclusion:

In summary, the proposed subdivision is entirely consistent with the Planning Scheme, Council strategies and the broader legislative and policy context. There is no reason why this proposal should not be approved, subject to standard permit conditions.

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 110 Fouche Avenue, Old Beach, described in Folio of the Register Volume 154093 Folio 202 to be developed by subdivision of 38 lots and associated works be approved subject to 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*.

Staged development

3. The subdivision development must not be carried out in stages except in accordance with the planning application and the endorsed staging plan, or as otherwise approved by Council's Manager Strategic Planning.

Transfer of reserves

4. All roads or footways must be shown as "Road" or "Footway" on the final plan of survey and transferred to the Brighton Council by Memorandum of Transfer submitted with the final plan.
5. The parcel of land between lots 20 and 21 is to be described as "reserved for municipal purposes" on the final plan of survey and transferred to the Brighton Council by Memorandum of Transfer submitted with the final plan of survey

Easements

6. 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.

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 Manager Strategic Planning.

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 of \$167.00, or as otherwise determined 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 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.

Weed management

13. Prior to the carrying out of any works approved or required by this approval, the subdivider must provide a weed management plan detailing measures to be adopted to limit the spread of weeds listed in the *Weed Management Act 1999* through imported soil or land disturbance by appropriate water management and machinery and vehicular hygiene to the satisfaction of Council's Municipal Engineer and of the Regional Weed Management Officer, Department of Primary Industries Water and Environment.

Water quality

14. Where a development exceeds a total of 250 square metres of ground disturbance 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 Municipal Engineer before development of the land commences.
15. Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
16. The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's Municipal Engineer.
17. All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with top soil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's Municipal Engineer.

Property Services

18. 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

19. 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

20. 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.

Telecommunications, electrical and gas reticulation

21. Where provided, electrical reticulation and street lighting, telecommunication reticulation and gas reticulation must be installed underground in accordance with the requirements of Aurora Energy Pty. Ltd., Telstra, NBN Co. and the gas authority.
22. 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.
23. Prior to the work being carried out a drawing of the electrical reticulation and street lighting, telecommunications reticulation and gas conduits in accordance with the appropriate authority's requirements and relevant Australian Standards must be submitted to and endorsed by the Council's Municipal Engineer.
24. A Letter of Release from each authority confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed, must be submitted to Council prior to the sealing of the final plan of survey.

Drainage

25. Stormwater from the development is to be connected to the Council's existing reticulation system to the satisfaction of Council's Municipal Engineer. Note: The strategy has been endorsed by Council.
26. The developer is to incorporate a floodway between Lots 20 and 21. The design and construction of the floodway and a temporary channel from the floodway to the existing north end of Magus Terrace is to be the responsibility of council. When Stage III of the subdivision is undertaken the developer is to provide suitable kerbing to direct surface stormwater to Magus Terrace adjacent the southern boundaries of Lots 16 and 38

Southern Water

27. The development must meet all required Conditions of approval specified by Southern Water Response to the Council Notice of Planning Application Referral, date 21/05/2013 (SWSA 2013/00183-BTN).

Roadwork's

28. The corners of each road intersection must be splayed or rounded by chords of a circle with a radius of not less than 6.00 metres in accordance with Sections 85(d)(viii) and 108 of the *Local Government (Building & Miscellaneous Provisions) Act 1993* and the requirements of the Council's Municipal Engineer.

29. 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. Roadwork's must include -
- (a) Fouche Avenue
 - Minimum road reserve of 18.00 metres.
 - Fully sealed paved and drained carriageway with a seal width of 10.00m, with concrete barrier kerb and channel both sides, or as otherwise approved to match existing.
 - Concrete footpath 1.50 metres wide located adjacent to the kerb on both sides.
 - Underground drains.
 - (b) Magus Terrace
 - Minimum road reserve of 15.00 metres and 25 metres at the cul-de-sac.
 - Fully sealed paved and drained carriageway with a seal width of 6.00m or 17 metres diameter at the cul-de-sac and concrete semi mountable kerb and channel both sides.
 - Concrete footpaths 1.50 metres wide located 0.10 metres from the property boundary on one side.
 - Underground drains.
30. The carriageway surface course must be 10 mm nominal size hotmix asphalt with a minimum compacted depth of 50 mm in accordance with standard drawings and specifications prepared by the IPWE Aust. (Tasmania Division) and the requirements of Council's Municipal Engineer unless approved otherwise by the Council's Municipal Engineer.
31. Kerb ramps must be provided to accommodate the needs of people with disabilities in accordance with standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.

Urban Access

32. A separate reinforced concrete vehicle access must be provided from the road carriageway to each lot. The access must have a minimum width of 3.6 metres at the property boundary and be located and constructed in accordance with the standards shown on standard drawings SD 1003 and SD 1012 prepared by the IPWE Aust. (Tasmania Division) (attached) and the satisfaction of Council's Municipal Engineer. Where semi mountable kerb is used the developer may leave out driveway aprons providing that footpaths have been constructed to a driveway standard

33. All driveway carriageways providing shared access to more than one lot must be constructed in accordance with Section 107 of the *Local Government (Buildings and Miscellaneous Provisions) Act 1993* and municipal standard drawings. Shared access must include a:
- maximum grade of 1 in 5 (20%) onto the lot;
 - minimum trafficable width of 3.00 metres for up to 30 metres length, or with minimum 5.5 metres wide by 7.5 metre long passing bays at the boundary and every 30 metres along the access otherwise;
 - reinforced concrete in accordance with the construction standards shown on standard drawings SD 1003 unless approved otherwise by Council's Municipal Engineer;
 - stormwater drainage as required.
34. The subdivider must construct a 1.5 metre wide reinforced concrete footpath, with 250mm wide gravel edge strips either side, in the walkway between lots 31 and 32.
35. Road construction standards may be varied by Council's Municipal Engineer to incorporate Water Sensitive Urban Design principles.

Engineering drawings

36. Engineering design drawings to the satisfaction of the Council's Municipal Engineer must be submitted to and approved by the Brighton Council before development of the land commences.
37. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with Standards Australia (1992): *Australian Standard AS1100.101 Technical Drawing – General principles*, Homebush, and Standards Australia (1984): *Australian Standard AS1100.401 Technical Drawing – Engineering survey and engineering survey design drawing*, Homebush, and must show -
- (a) All existing and proposed services required by this permit;
 - (b) All existing and proposed roadwork required by this permit;
 - (c) Measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
 - (d) Measures to be taken to limit or control erosion and sedimentation;
 - (e) Any other work required by this permit.
38. Two sets of preliminary engineering design drawings are to be initially submitted to Council for inspection and comment. Following this, four (4) sets of final engineering plans are to be submitted for final approval by Council. The approved engineering design drawings shall form part of this permit when approved.

Council will keep two (2) sets of approved drawings and two (2) sets will be returned to the subdivider's engineer. One (1) set of the approved engineering design drawings must be kept on site at all times during construction.

39. Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
40. All new public infrastructure and subdivision work must be designed and constructed to the satisfaction of Council's Municipal Engineer and in accordance with the following -
 - *Local Government (Building & Miscellaneous Provisions) Act 1993;*
 - *Local Government (Highways) Act;*
 - *Drains Act 1954;*
 - *Waterworks Clauses Act;*
 - Australian Standards;
 - Building and Plumbing Regulations;
 - Relevant By-laws and Council Policy;
 - Current IPWEA (Tasmanian Division) and Brighton Council Municipal Standard Drawings;
 - Current IPWEA and Brighton Council Municipal Standard Specification.

Construction amenity

41. 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 AM to 6:00 PM
 - Saturday 8:00 AM to 6:00 PM
 - Sunday and State-wide public holidays 10:00 AM to 6:00 PM
42. All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably 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 from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property.
 - (b) Transport of materials, goods or commodities to or from the land.
 - (c) Appearance of any building, works or materials.

43. 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.
44. 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.

Traffic management

45. Traffic Management must be provided in accordance with DIER (2011): *Traffic Control for Works on Roads*, Department of Infrastructure, Energy and Resources, Hobart or the current replacement.
46. A Traffic Management Plan prepared by a suitably qualified person in accordance with Section G2.6 of DIER (February 2005): *General Specifications*, Department of Infrastructure, Energy and Resources, Hobart and the referenced document DIER (June 2004): *Traffic Control at Work Sites Code of Practice*, Department of Infrastructure, Energy and Resources, Hobart or the current replacements must be submitted to the council's Municipal Engineer prior to the commencement of any work within a public road reserve. All traffic control is required to be performed and certified by accredited traffic control personnel and all works within the road reserve to comply with all relevant occupational health and safety regulations.

Construction

47. The subdivider must provide not less than 48 hours written notice to Council's Municipal Engineer before commencing construction works on site or within a council roadway. The written notice must be accompanied by evidence of payment of the Building and Construction Industry Training Levy where the cost of the works exceeds \$12,000.
48. The subdivider must provide not less than 48 hours written notice to Council's Municipal Engineer before reaching any stage of works requiring inspection by Council unless otherwise agreed by the Council's Manager Engineering Services.
49. A fee for supervision of any works to which Section 10 of the *Local Government (Highways) Council 1982* applies must be paid to the Brighton Council unless carried out under the direct supervision of an approved practising professional civil engineer engaged by the owner and approved by the Council's Municipal Engineer. The fee must equal not less than three percent (3%) of the cost of the works.

Survey pegs

50. Survey pegs to be stamped with lot numbers and marked for ease of identification.
51. Prior to the works being taken over by Council, evidence must be provided from a registered surveyor that the subdivision has been re-pegged following completion of substantial subdivision construction work. The cost of the re-peg survey must be included in the value of any security.

'As constructed' drawings

52. Prior to the works being placed on the maintenance period an "as constructed" drawing of all engineering works provided as part of this approval must be provided to Council to the satisfaction of the Council's Municipal Engineer. These drawings must be prepared by a qualified and experienced civil engineer or other person approved by the Municipal Engineer and provided in both digital and "hard copy" format.

Defects Liability Period

53. The subdivision must be placed onto a 6 month statutory defects liability period in accordance with section 86 of the *Local Government (Buildings and Miscellaneous Provisions) Act 1993*, Councils Specification and Policy following the completion of the works in accordance with the approved engineering plans and permit conditions.

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. The SWMP must show the following:

- (a) Allotment boundaries, north-point, contours, layout of roads, driveways, building envelopes and reticulated services (including power and telephone and any on-site drainage or water supply), impervious surfaces and types of all existing natural vegetation;
- (b) Critical natural areas such as drainage lines, recharge area, wetlands, and unstable land;
- (c) Estimated dates of the start and completion of the works;
- (d) Timing of the site rehabilitation or landscape program;
- (e) Details of land clearing and earthworks or trenching and location of soil stockpiles associated with roads, driveways, building sites, reticulated services and fire hazard protection.
- (f) Arrangements to be made for surface and subsurface drainage and vegetation management in order to prevent sheet and tunnel erosion.
- (g) Temporary erosion and sedimentation controls to be used on the site.
- (h) Recommendations for the treatment and disposal of wastewater in accordance with Standards Australia (2000), AS/NZS 1547: *On-site wastewater management*, Standards Australia, Sydney.

Appropriate temporary control measures include, but are not limited to, the following (refer to brochure **attached**):

- 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;
 - Stormwater pits and inlets installed and connected to the approved stormwater system before the roadwork's are commenced; and
 - Rehabilitation of all disturbed areas as soon as possible.
- F. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works, or a minimum of \$250.00, must be paid to Council in accordance with Council's fee schedule.

- G. The traffic management Code of Practice can be found at <http://www.transport.tas.gov.au/safety/>. Typical details are shown in the relevant Australian Standard field guide.
- H. 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 Taylor 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 5.45 p.m.

Confirmed:

(Mayor)

Date:

16th July 2013