



Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
GAGEBROOK AT 5.30 P.M. ON TUESDAY,
15th MAY 2012**

PRESENT: Cr Taylor (Acting Mayor); Cr Curran; Cr Garlick; Cr Geard; Cr Gray; Cr Owen and Cr Williams.

IN ATTENDANCE: Mr R Sanderson (General Manager); Mr H Macpherson (Municipal Engineer); Mrs J Banks (Manager Governance & Human Services) and Mr J Dryburgh (Senior Planner).

1. CONFIRMATION OF MINUTES:

1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 17th APRIL 2012.

Cr Curran moved, Cr Geard seconded that the Minutes of the Ordinary Council Meeting of the 17th April 2012, be confirmed.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

1.2 CONFIRMATION OF MINUTES OF THE FINANCE COMMITTEE MEETING OF 8TH MAY 2012.

Cr Gray moved, Cr Garlick seconded that the Minutes of the Finance Committee Meeting of the 8th May 2012, be confirmed.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

2. APPLICATIONS FOR LEAVE OF ABSENCE:

Cr Foster (Mayor) had requested leave of absence as he would be overseas.

Cr Owen moved, Cr Williams seconded that Cr Foster and Cr Jeffries be granted leave of absence.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

3. PUBLIC QUESTION TIME AND DEPUTATIONS:

- Marie Bennett; Natalie Lovell and Damian Williams (Red Cross) addressed Council regarding the YPiA DVD clip "Whispers in the Wind".

4. 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.

5. REPORTS FROM COUNCILLORS:

5.1 ACTING MAYOR'S COMMUNICATIONS:

FILE REFERENCE: 0205-6

AUTHOR: Acting Mayor
(Cr G Taylor)

The Acting Mayor reported directly to the meeting.

RECOMMENDATION:

That the Acting Mayor's communications be received.

DECISION:

Cr Geard moved, Cr Garlick seconded that the report be received.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority – Cr Geard representative.

Cr Geard advised that he had attended a Southern Waste Strategy Board meeting on 26th April 2012.

Cr Geard advised that he had attended the Pontville User Group meeting on 9th May 2012.

Cr Geard also advised that he had attended the Senior Citizens Management Committee meeting on 15th May 2012.

Cr Garlick moved, Cr Curran seconded that the reports be received.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

5.3 CORRESPONDENCE FROM SOUTHERN TASMANIAN COUNCILS ASSOCIATION (STCA), LGAT AND JOINT AUTHORITIES:

Correspondence and reports from the STCA, LGAT and Joint Authorities e.g. Southern Waste Authority are received periodically by Council.

If any Councillor wishes to view documents received contact should either be made with the Manager Governance and Human Services or General Manager.

6. NOTIFICATION OF COUNCIL WORKSHOPS:

In accordance with the requirements of the Local Government (Meeting Procedures) Regulations 2005, it was reported that there was a Planning Scheme workshop on 8th May 2012. Those present at the workshop were:- Cr G Taylor (Acting Mayor); Cr B Curran; Cr W Garlick; Cr P Geard; Cr L Gray; Cr M Jeffries; Cr P Owen and Cr S Williams.

(This includes workshop, seminar or meeting, other than a meeting that is conducted by or on behalf of the council for the councillors.)

7. NOTICE OF MOTION:

There were no notices of motion.

8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:

In accordance with the requirements of Part 2 Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2005, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

- (a) the reason it was not possible to include the matter on the agenda, and
- (b) that the matter is urgent, and
- (c) that advice has been provided under Section 65 of the *Local Government Act 1993*.

RECOMMENDATION:

That the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the Local Government (Meeting Procedures) Regulations 2005.

DECISION:

The General Manager requested that the following item be tabled as a supplementary agenda item due to the urgency with grant timelines.

Cr Gray moved, Cr Curran seconded that Item 11.7 be discussed in Committee.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

11.7 PRIMARY HEALTH CARE INFRASTRUCTURE GRANT APPLICATION:

The General Manager had discussions on 14th May 2012, with the Department of Health and Aging about Council’s grant application for a new medical clinic in Brighton.

The General Manager will report directly to the meeting about this discussion.

9. REPORTS FROM COMMITTEES:

9.1 FINANCE COMMITTEE MEETING – 8/5/12:

The recommendations of the Finance Committee Meeting of 8th May 2012 are submitted to Council for adoption.

Cr Geard moved, Cr Curran seconded that the recommendations of the Finance Committee meeting of 8th May 2012 be adopted except Item 4.1

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

Item 4.1 was discussed.

Cr Owen moved, Cr Geard that this matter be held over until the June Finance Committee meeting pending further information.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

10. 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 10. on this agenda, inclusive of any supplementary items.

There were no Planning items listed on this Agenda.

11. REPORTS FROM OFFICERS:

11.1 REQUEST FOR LODGEMENT OF APPLICATION (AMENDMENT TO SEALED PLAN 147005) FOR INCREASING SCOPE OF EXISTING BUILDING ENVELOPE TO AN ELEVATION OF 200 METRES AHD AS REQUIRED BY A RESTRICTIVE COVENANT:

FILE REFERENCE: 9 Coomera Court, Dromedary

OWNER: P and N Rainbird

AUTHOR: Planning Officer
(Miss A Beyer)

APPROVED: Senior Planner
(Mr J Dryburgh)

Purpose:

The purpose of this report is for Council to consider a request made by the owner of the land to grant consent, in accordance with Covenant 2 on Sealed Plan No.147005 to enable the construction of buildings (and associated infrastructure including driveways) outside of the existing building envelope on Lot 5 on the Sealed Plan (otherwise known as 9 Coomera Court, Dromedary). Specifically, it is requested that the building envelope be increased to an elevation of approximately 200 metres AHD to incorporate a recent illegally constructed driveway and cleared and levelled house site.

The request has been made in anticipation of making a formal application to amend the Sealed Plan under Section 103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. This legal process involves considerable fiscal resources therefore the owner has been advised to seek in principle support from Council.



Plate 1: The site subject to this request is known as 9 Coomera Court and is located partially within the Rural Residential Zone and the Landscape and Skyline Conservation Zone.

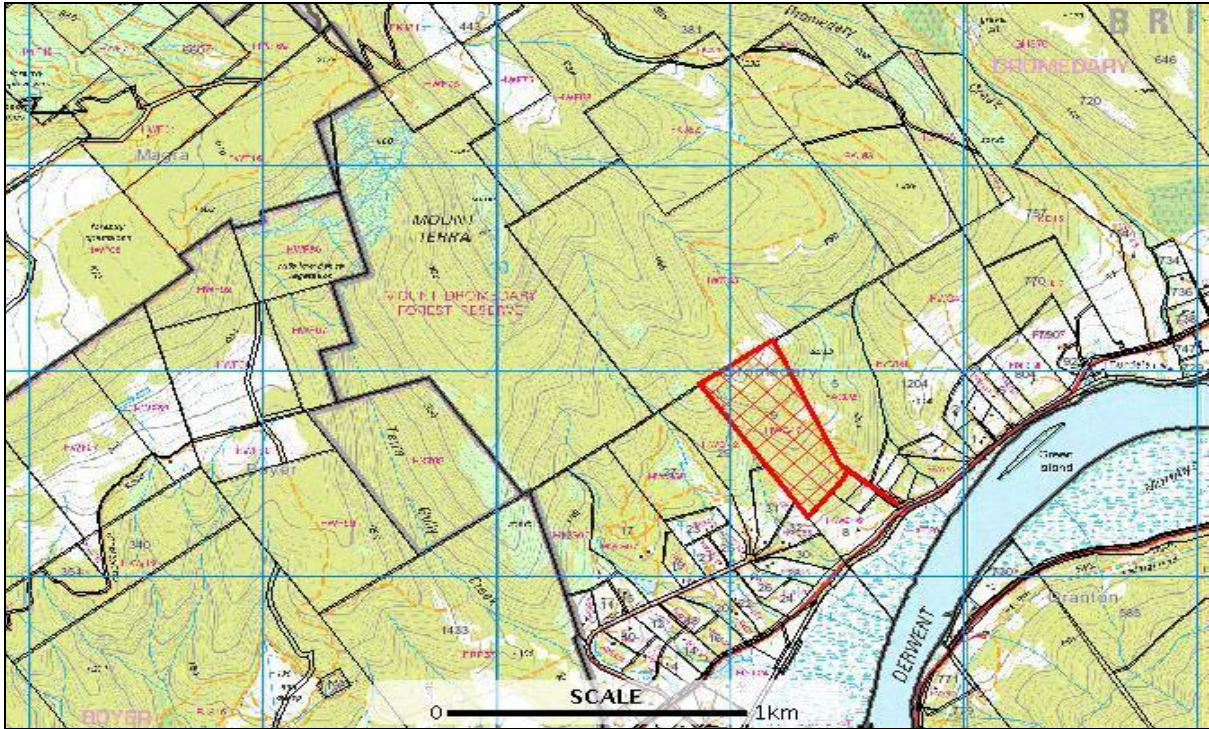


Plate 2: 1:25000 Topographic map showing the density of allotments and nature of the steep terrain rising to the north of the site forming the forested hills of Mount Terra (Known as Mount Dromedary Forest Reserve).

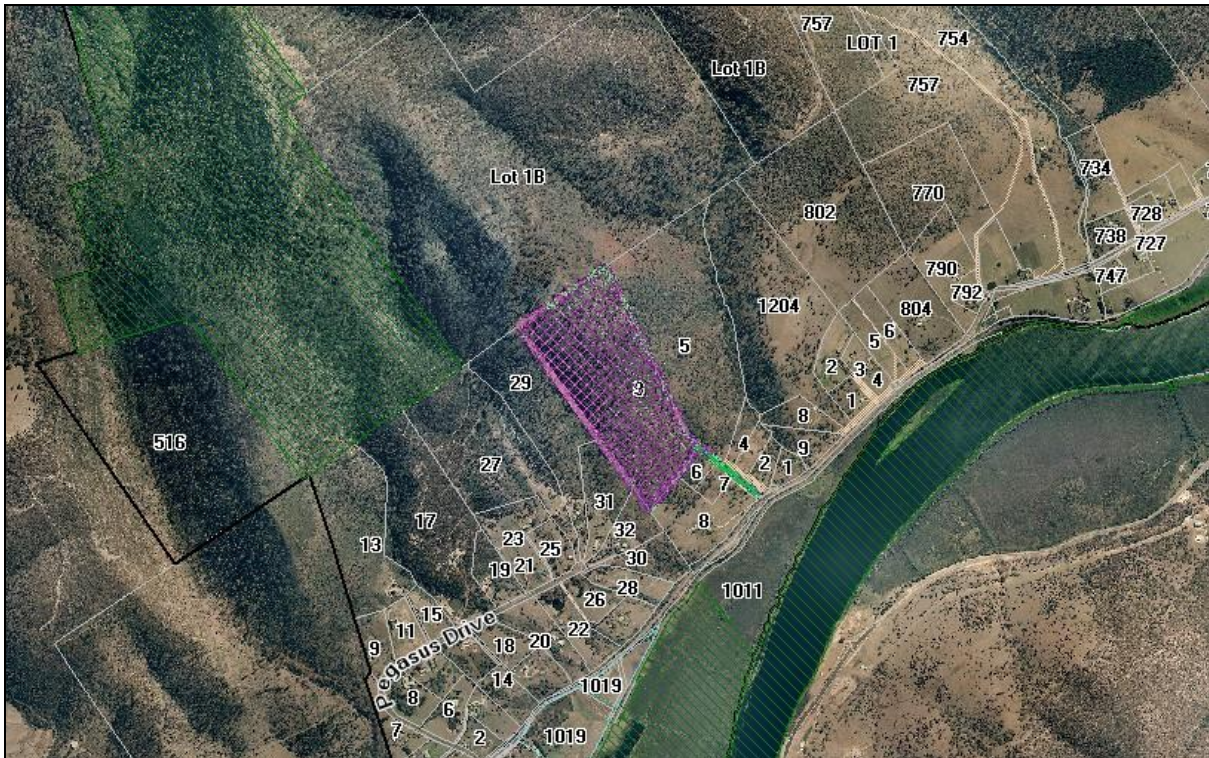


Plate 3: Aerial image of the subject site and surrounding built and natural environs.

Background:

In 2005 Council considered a Subdivision application for a boundary adjustment and subdivision of two lots and balance (SA2005/29) lodged by Tim Gowlland on behalf of P and N Rainbird. The Planner's report recommended the application be approved subject to conditions. This was upheld at the Council meeting dated 11 October 2005. Of relevance to the assessment of this request, Condition 4 provided for the following:

'This permit does not take effect and shall not be acted upon until a revised plan of survey is submitted to the satisfaction of the Manager, Environment & Development Services showing the deletion of Lot 3 and a building envelope for the balance lot over the portion zoned Rural Residential.'

Consequently, the Final Plan of Survey and Schedule of Easements submitted to Council for approval in relation to the Balance Lot, contained a covenant which expressly states:

'Not without the consent of the Brighton Council to construct or allow to be constructed any dwelling or other structure on Lot 5 outside the area marked H I J K on the plan (except a fence which is constructed in accordance with the policy from time to time of the Brighton Council).'

The intent of this covenant was accepted as meeting the requirements of the condition in the planning permit and the Final Plan of Survey and Schedule of Easements were subsequently sealed by Council. The new titles were issued by the Lands Titles Office on the 13 July 2006.

By way of additional background, in 2006 an application for an amendment to Sealed Plan No.SP130628 was requested. The amendment was made to expunge the existing rights-of-way which were relocated on the new plan. The amendment was signed and sealed by Council.

With regard to the illegal works undertaken on the Balance land to date, Council has recently undertaken enforcement proceedings against the owner of the property (P Rainbird) as extensive works have been undertaken on the property without obtaining the relevant Planning and Building Approvals administered under the *Building Act 2000* and the *Land Use Planning and Approvals Act 1993*. The extent of the works includes land clearing to facilitate an internal driveway and multiple levelled building sites including a levelled site at an elevation of approximately the 200 AHD metre contour level which is considerably higher than any dwelling nearby. The covenant limits development on the Balance Lot to that contained within the existing portion of Rural Residential zoned land which has an upper elevation of 140 AHD metres. The driveway and levelled building site are intended to facilitate the construction of a dwelling in the near future.

Statutory requirements:

The covenant registered on the Certificate of Title prevents development occurring outside of the building envelope without the prior consent of the Brighton Council.

Section 94(5)(b) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* provides that:

“(5) When a plan has taken effect a person must not-

(a) ...; or

(b) Contravene a restriction on the use of land shown on the plan.”

A fine not exceeding 10 penalty units may apply to a contravention of this section.

Therefore prior to Council, as a Planning Authority, agreeing to amend the Sealed Plans and processing any development application for use outside of the building envelope, a decision must be made whether to grant consent in accordance with the requirements of the covenant on the title.

Assessment:

The works undertaken on site to date occur well above the 140 metre contour line which is the legally binding limitation imposed on development on the Balance Lot by way of a building envelope restrictive covenant. The building site and driveway encroach into the Landscape and Skyline Conservation Zone in which case residential development is ‘Discretionary’ development type. The developments on the site are inconsistent with the Purpose Statements and Decision Guidelines provided for development occurring within the Landscape and Skyline Conservation Zone. The relevant passages of the Zone Purpose are reproduced as follows and underlined for clarity:

6.8.1 *The purpose of the Landscape and Skyline Conservation Zone is:-*

- (a) *To restrict use or development in areas considered unsuitable for future urban development due to such factors as:-*
 - (i) *inherent physical and environmental constraints;*
 - (ii) *the need to avoid the inefficient provision and utilisation of urban services; and*
 - (iii) *multiple uses of the resource.*
- (b) **To identify and protect areas of landscape and/or conservation significance. These include forested skylines, prominent ridgelines and hills which contribute to important vistas.**
- (c) *To conserve important native vegetation and fauna habitats close to urban areas.*
- (d) *To provide for passive recreation activities in areas of natural character close to urban development.*
- (e) *To reduce and plan for potential bushfire risk. [Amend. RZ 03/04A effective 6/12/04]*

Clause 6.8.1(b) is particularly important as it aims to protect the landscape values attributed to the undeveloped forest-clad backdrop to Boyer Road and the Derwent River. The views of the subject site from the opposite side of the Derwent River (Lyell Highway) demonstrate that the driveway and house site clearing are visually prominent and are situated higher on the hillside than surrounding development. This presents an issue to Council for visual reasons and would set an unwanted precedent for future development to occur higher up within the vegetated and mostly undeveloped slopes.

The relevant passages of the Decision Guidelines are reproduced as follows:

6.8.2 *In addition to the matters listed in Clause 3.3, Council must consider the following matters before deciding on an application:-*

- (a) *the excavation and/or filling of land:-*
 - (i) **be kept to a minimum so as to preserve the natural form of the land and the native vegetation;**
 - (ii) *only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use or development on the allotment; and*
 - (iii) *result in stable scree slopes that are covered with topsoil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the area;*
- (b) *use or development must not be undertaken if the operation and management of such use or development is likely to result in:-*
 - (i) *the pollution of watercourses;*
 - (ii) *unnecessary loss or damage to native vegetation;*
 - (iii) *erosion;*
 - (iv) *dust;*
 - (v) *noise nuisance; or*
 - (vi) *the introduction of, or an increase in, the number of pest plants or vermin;*
- (c) *buildings and structures shall be located in unobtrusive locations and, in particular, should be:-*
 - (i) **located well below the ridge line;**
 - (ii) **located behind spurs;**
 - (iii) **located in such a way so they are not visible against the skyline when viewed from any location outside the property boundaries;**
 - (iv) *set well back from public roads, particularly when the allotment is on the high side of the road; and*
 - (v) **located to maximise the retention of existing native vegetation and retain watercourses in their natural state;**

The proposal is clearly incompatible with Clause 6.8.1(a)(i) and 6.8.1(c)(i),(ii),(iii) and (v) as the development is located on the top of a knoll that is prominent from Boyer Road, surrounding properties and even more visually obtrusive from the Lyell Highway on the opposite side of the River. Generally, development has been contained to the lower reaches of the Dromedary Hills within existing Rural Residential zoned land lining Boyer Road. The Landscape and Skyline Conservation Zone reflects the elevated portions of the hills and development in this zone is characteristically contained along road networks bisecting gullies and valleys or nestled further to the north of the Dromedary Hills and thus being obscured from view from Boyer Road. This development history has resulted in the southern elevation of the Dromedary Hills remaining relatively intact from development with minimal visual scarring formed by building sites and associated accesses. The foothills of Mount Dromedary have avoided development to the extent that these hills almost exude a 'wilderness area' ambience, not too dissimilar to the scenic qualities associated with the Wellington Range to the south.

The house site and driveway access are also located within the Vegetation Protection and Bushland Management Overlay which renders such development as being Discretionary. The proposal is considered to conflict in part with the Purpose Statements provided under Clause 7.2.1 which are reproduced as follows:

The purpose of the Vegetation Protection and Bushland Management Overlay is:-

- (a) To protect areas of significant vegetation and bushland habitat including forested skylines, prominent ridgelines and hills which contribute to important vistas and in particular those which create a natural backdrop to the urban setting for the Municipality.*
- (b) To ensure development minimises loss of vegetation.*
- (c) To recognise vegetation protection areas as locations of special significance, natural beauty, interest an importance.*

As mentioned previously, the intended building location is much higher than surrounding approved developments which would act to fragment the currently uninterrupted forested skyline associated with the Dromedary Hills (Figure 1).



Figure 1: The view south towards the Lyell Highway and west of the Wellington Range from the cleared and levelled 'house site'.

The Decision Guidelines attributed to this Overlay also further compound the argument that development should be restricted/minimised wholly to the lower slopes and this is provided in Clause 7.2.2(a) through to 7.2.2(i) which is replicated as follows:

7.2.1 *In addition to the matters listed in Clause 3.3, Council must consider the following matters before deciding on an application for use or development within the Vegetation Protection and Bushland Management Overlay:-*

- (a) *the statement of the nature and significance of the vegetation to be protected and the vegetation protection objective contained in the Vegetation Protection and Bushland Management Overlay;*
- (b) *the effect of the proposed use, building works or subdivision on the nature and type of vegetation to be protected;*
- (c) *the role of native vegetation in conserving flora and fauna;*
- (d) *the need to retain native or other vegetation if it supports rare species of flora or fauna or forms part of a wildlife corridor;*
- (e) *the need to retain vegetation that prevents or limits adverse effects on ground water recharge;*
- (f) **the need to retain vegetation:-**
 - (i) **where ground slopes exceed 20 percent;**
 - (ii) *within 30 metres of a waterway, natural watercourse or wetland;*
 - (iii) *on land where the soil or subsoil may become unstable if cleared;*
 - (iv) *on land subject to or which may contribute to soil erosion, slippage or salination;*
 - (v) *in areas where the removal, destruction or lopping of vegetation could adversely affect the integrity or long term preservation of an identified site of scientific nature conservation or cultural significance; and*
 - (vi) *that is of heritage or cultural significance;*
- (g) **whether provision is made or is to be made to establish and maintain vegetation elsewhere on the land;**
- (h) **siting of structures should minimise the need to remove existing trees on the site;**
- (i) **avoid skylines and natural watercourses, especially when viewed from roads and important tourist lookouts;**

Allowing development outside the prescribed building envelope would result in substantial clearing of existing mature trees and this could present a significant bearing on the visual qualities of the hill through creating a prominent 'scar' on the hillside. This scarring effect is visible from the Lyell Highway which is a major tourist route linking Hobart with the West Coast.

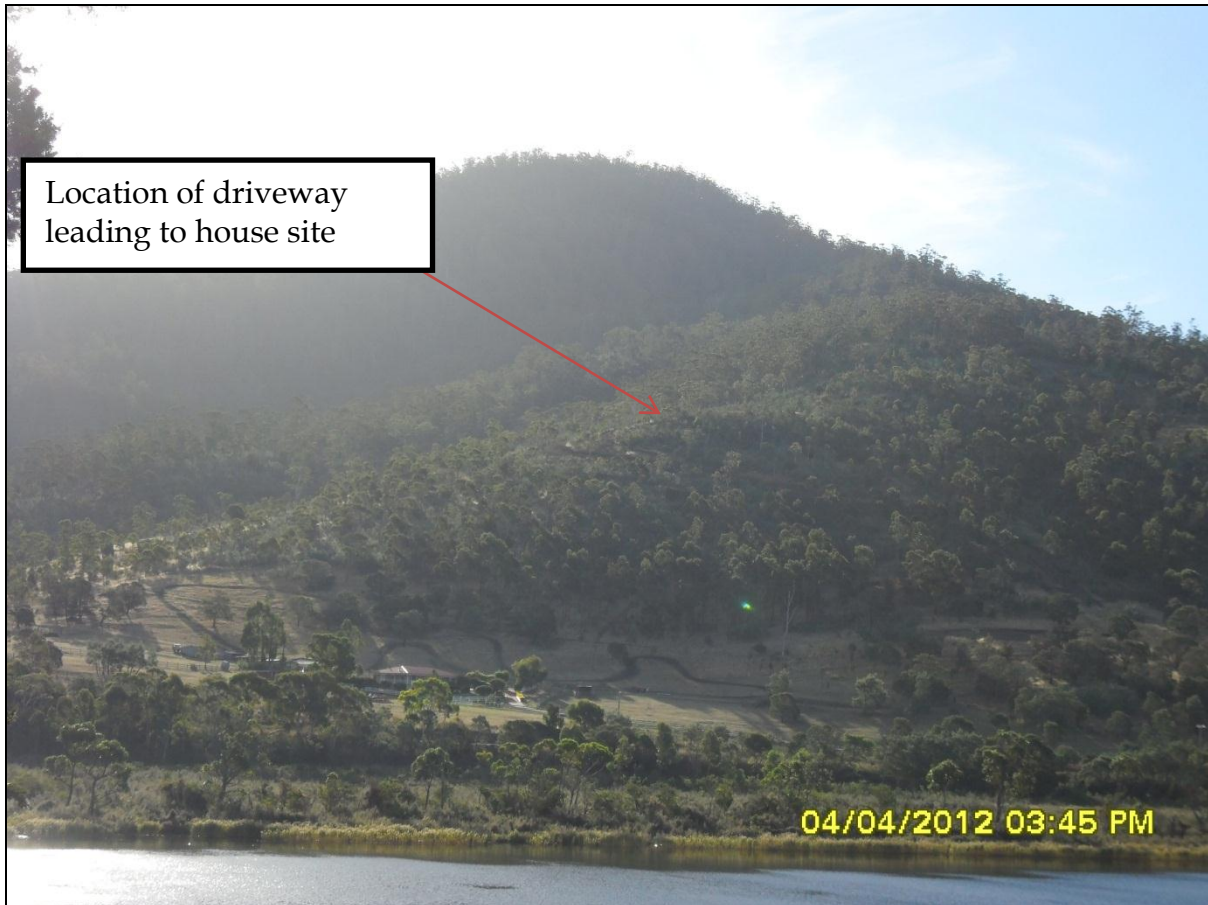


Figure 2: The driveway and house site have formed a visual scar on the landscape.

An additional complicating factor is the impacts of the removal of native vegetation from an environmental perspective. Recent ground surveys of the Dromedary region undertaken by an Ecologist and commissioned by Council has confirmed that the site is vegetated with *E.globulus* dry forest and woodland and *E.pulchella* forest and woodland.

The prior native vegetation community is listed as threatened under Schedule 3A of the *Nature Conservation Act 2002*. This community is a known foraging habitat for the swift parrot and masked owl. The threatened native vegetation community has not been mapped to cover the exact location of the driveway and building site therefore it is likely that threatened vegetation has not been disturbed, however the removal of this vegetation may have wider implications on the ecological values and species richness of this threatened community through associated development pressures and edge effects.

The Balance lot has a high bushfire hazard as defined in the Bushfire Management Schedule of the Planning Scheme. Additional clearing and understorey management would be required in addition to the clearing already undertaken for bushfire risk minimisation purposes. This would result in greater visual impacts through increasing native vegetation disturbances and the scarring effect on the landscape. There would also be greater risk to a future house located on a steep slope in the forested section than lower down nearer the cleared areas.

Allowing a development site at such an elevation also incurs engineering issues as the IPWEA Tasmanian Division Urban Roads Typical Cross Section Standards applied to access driveways limits the gradient of an internal driveway to no greater than 1 in 5 (20-25 percent/11 degrees). The maximum gradient of the site where the existing driveway has been constricted has an average gradient of 60 percent (32 degrees). The existing driveway extends vertically for the first 300 metres and then cuts diagonally across the southern hill face to reach the house site. Access to this lot is unlikely to comply with neither engineering access standards nor the Tasmanian Fire Service truck access gradient requirements.

Regardless of the existence of the covenant, a development of this nature would be a 'Discretionary' use under the Planning Scheme. It is highly likely that a Development Application for a house site and associated access in this location would be recommended for refusal due to inconsistencies with the Purpose Statements and Decision Guidelines provided for the Landscape and Skyline Conservation Zone and the Decision Guidelines afforded to the Vegetation Protection and Bushland Management Overlay. The inconsistencies with the Planning Scheme provisions and previous Planner's Report relating to the subdivision should form the reasoning behind not amending the building envelope restrictive covenant. It is also noted that the physical environment of Dromedary has not changed since the previous subdivision application was approved and therefore no sound justification exists to consider it appropriate now to allow development at an increased elevation.

Should the recommendation within this report be adopted and an alternative house site devised within the designated building envelope, it is likely that any future Development Application would be conditioned in such a manner to require rehabilitation of the cut associated with the driveway and house site to aid regeneration.

Risk Implications:

There is a risk that allowing development on the higher elevated slopes of the Dromedary hills will encourage a precedent which overtime may have significant visual impacts on the forested nature of the hill faces visible from Boyer Road and more broadly from surrounding properties and the Lyell Highway.

Financial Implications:

As it stands, Council is obliged to take all reasonable steps to ensure its Planning Scheme is abided by. The works undertaken on site constitute illegal works and Council is required to undertake action to ensure compliance with the Planning Scheme is maintained. The request made by the owner of the land presents the first step of negotiations with Council to achieve an acceptable outcome and minimise the need to undertake legal proceedings with the Resource Management and Planning Appeals Tribunal under Section 64 of the *Land Use Planning and Approvals Act 1993*. The owner has been advised to cease all further work on site until a resolution has been made and all the relevant approvals are in place.

Options:

1. To adopt the recommendation.
2. To grant consent under the covenant on the title to enable the building envelope to be enlarged to encompass the driveway and house site recently prepared on site which will then facilitate the lodgement of an Amendment to Sealed Plan and Development Application to formalise these works.

RECOMMENDATION:

Council's consent is required to enable an application to be lodged to amend the Sealed Plans and apply for a Development Application for a house outside of the building envelope. Should the request to increase the building envelope to encompass the higher portion of the allotment containing the illegally constructed driveway and house site be endorsed, Council would be required to consider a Development Application for such works against the provisions of the Planning Scheme. Zone and Overlay standards indicate that the application would not be supported as the intent of the Zone is to maintain the forested hill faces and prevent development occurring on the higher ridgelines and elevated slopes. Given the Planning Scheme does not support such developments, it would not be prudent to allow an amendment to the building envelope restrictive covenant that is clearly inconsistent with the Planning Scheme.

Council's records also indicate that the conditional requirement for the covenant was incorporated previously as an attempt to protect and retain the vegetated and undeveloped nature of the more elevated slopes and ridgelines that form the important visual backdrop to Boyer Road. The applicant's submission does not sufficiently demonstrate that the amendment to the covenant will protect the values for its implementation in the first instance and ensure the long term protection of the landscape qualities associated with the elevated slopes lining Boyer Road.

Given the complexity of issues surrounding the consideration of an amendment to the building envelope and apparent inconsistencies in the Planning Scheme provisions aimed clearly to limit developments of this nature, it is recommended that Council refuse to grant consent to the broadening of the building envelope to encompass the driveway and house site recently constructed on site. This would therefore restrict development of the land to within the building envelope only as originally intended by the conditions on the original subdivision.

DECISION:

Cr Owen moved, Cr Curran seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

**11.2 BRIGHTON MUNICIPAL AREA OPEN SPACE STRATEGY
2012:**

FILE REFERENCE: 1046

AUTHOR: Senior Planner
(Mr J Dryburgh)

Background:

In late 2011 Council's Senior Planner engaged Inspiring Place to develop an Open Space Strategy for the Brighton Municipal Area. The objectives of the Strategy are to:

- aid in the development of an integrated municipal open space network, incorporating areas and facilities for informal recreation, community gatherings, non-motorised transport, conservation, and general health and wellbeing;
- respond to the needs of the current community, whilst allowing flexibility for future growth and evolution in response to projected needs;
- identify and address gaps in open space provision;
- address open space access and tenure issues so that informed decisions can be better made on acquisition, developer contributions and disposal issues;
- respond to contemporary planning considerations and practices, including sustainable design and land management, conservation, water sensitive urban design, equitable access to quality facilities, and non-motorised transport linkages; and
- provide a prioritised action plan for works over the next decade.

The Strategy was prepared by Inspiring Place with direct consultation with Council's Senior Planner and indirect consultation with Council's General Manager, Deputy General Manager and Municipal Engineer.

The Strategy splits the Municipal Area into five distinct local areas: Bridgewater, Gagebrook, Old Beach, Brighton and Pontville. It then provides an inventory of all open space for each local area. Each open space area is then categorized as one of twelve different categories (see Maps 4.1 to 4.5). Each area is also categorized as either a local, municipal or district facility.

Table 4.2 provides descriptions and options for each area of open space. Maps 4.6 to 4.9 then go on to provide recommendations for the open space network. Explanatory notes for the recommendations are provided in pages 71 to 82.

The Strategy provides guidance through the myriad of policies and legislation that relate to open space, and advice relating to the formulation of the new planning scheme.

The Strategy also provides guidelines for maintenance and management of open space, which will be a useful resource for Council's asset management program and comes at a good time with Council recently having contracted an asset management specialist.

Section 5 (Page 91) provides a prioritized implementation plan to guide Council decisions in the coming years.

The Strategy is not intended to be a rigid document that Council must follow. Rather it is intended as an informative reference document that can inform discussion or decision making with regards to open space. It should also be useful for Councils asset management systems. Any significant Council actions regarding public open space will still be subject to their own assessment process and public involvement, the Strategy will merely provide input and guidance to these processes.

The purpose of this report is to seek formal Council adoption and endorsement of the Brighton Municipal Area Open Space Strategy 2012.

Consultation:

The Strategy was prepared by Inspiring Place with direct consultation with Council's Senior Planner and indirect consultation with Council's General Manager, Deputy General Manager and Municipal Engineer. Councillors have also provided comments on the draft, which have been incorporated into the final document.

Risk Implications:

None

Financial Implications:

The Strategy provides opportunities to more cost-effectively manage open space, whilst also providing a much more functioning and fulfilling network for the community.

Options:

1. As per the recommendation.

2. Council does not adopt and endorse the Strategy.
-

RECOMMENDATION:

That Council resolve to formally adopt and endorse the Brighton Municipal Area Open Space Strategy 2012.

DECISION:

Cr Gray moved, Cr Curran seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

11.3 REQUEST FOR THIRD DOG – 23 WALKER CRESCENT, BRIDGEWATER:

FILE REFERENCE: WALKER/23

AUTHOR: Manager Governance & Human Services
(Mrs J Banks)

Background:

As briefly mentioned at the April Council Meeting, Council and Councillors received a request from the occupiers of 23 Walker Crescent, Bridgewater to have a third dog on their premises. This request had been asked to be placed before Council.

The occupiers currently have two registered dogs on the premises; a 2 year old Saint Bernard and a 3 year old Jack Russell.

Consultation:

Councillors, Animal Control Officers, Manager Governance & Human Services.

Risk Implications:

Will set a precedent for residents in a residential zone to allow three dogs.

Financial Implications:

Nil.

Other Issues:

The occupiers have advised that they originally wished to Show the Saint Bernard, but due to a defect at birth the dog is not able to be shown; the breeder has offered to replace the dog with another show quality dog i.e. 2 Saint Bernards and a Jack Russell on the property.

Assessment:

Section 50(a) of the *Dog Control Act 2000* (DCA) states:-

*A person, without a licence, must not keep or allow to be kept on any premises- (a)
more than 2 dogs over the age of 6 months;*

Under Section 6.2.3 of the Brighton Planning Scheme 2000, kennels in a residential zone is prohibited.

Also, Council’s Policy 4.3 KENNEL LICENCES – DOG CONTROL ACT 2000 states:-

1. *No new Kennel licences to be issued within the Pontville Village Overlay or land within the Residential zone.*

Options:

1. As per the recommendation.
2. Allow a registered third dog to reside at 23 Walker Crescent, Bridgewater.

RECOMMENDATION:

That the request for a third dog from the occupiers of 23 Walker Crescent, Bridgewater be refused in accordance with the *Dog Control Act 2000*, Brighton Planning Scheme and Council’s Policy 4.3.

DECISION:

Cr Curran moved, Cr Garlick seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

| In favour | Against |
|-------------|---------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

11.4 LOCAL GOVERNMENT ASSOCIATION OF TASMANIA (LGAT) – ELECTION OF GENERAL MANAGEMENT COMMITTEE:

FILE REFERENCE: 0068-54

AUTHOR: Manager Governance & Human Services
(Mrs J Banks)

Background:

Nominations for the Local Government Association of Tasmania (LGAT) election of the General Management Committee closed on 18th April 2012. Ballot material has been received with the following nominations for the Southern Electoral District (under 20,000) and Election of President as follows:-

Southern Electoral District

- Deidre FLINT - Central Highlands Council
- James GRAHAM - Derwent Valley Council

President

- Barry EASTHER - West Tamar Council
- Richard JAMES - Clarence Council

Consultation:

N/A

Risk Implications:

Nil.

Financial Implications:

Nil.

Other Issues:

N/A

Assessment:

Nil.

Options:

1. As per the recommendation.
 2. That the Ballot material not be completed and returned to the Tasmanian Electoral Commission.
-

RECOMMENDATION:

That the Ballot material received by the Tasmanian Electoral Commission be completed and returned to the Commission by close of postal ballot 10am Wednesday 20th June 2012.

DECISION:

Cr Gray moved, Cr Geard seconded that Deidre Flint and Barry Easter be nominated.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

11.5 RISK MANAGEMENT AUDIT:

FILE REFERENCE:

AUTHOR: Manager Governance & Human Services
(Mrs J Banks)

Background:

Council is required to undertake a bi-yearly risk management liability assessment which is carried out by our insurers MAV insurance. The purpose of the Audit is to encourage Councils to develop and maintain sound risk management practices. These practices include:-

- Identification of risks and the mechanisms in place to prioritise and treat risks;
- Evidence of traceable documentary trials;
- To assist Council in defending itself in a potential court scenario by substantiating that it has operational processes and systems.

The recommendations resulting from the liability audit are aimed at providing Council with the tools needed to improve their own management of risk.

Council's overall rating this year was 92% a significant improvement on previous year's rating of 67%. Council has been advised that it has won an Excellence Award for most improved with it now being ranked 7th overall in Tasmanian and 4th in Southern Tasmania. The results of each year's audit has a bearing on the premium of our annual insurance.

Consultation:

Wendy Young (Executive Assistant – Corporate Services); Gillian Browne (Executive Officer – Corporate Services).

Risk Implications:

N/A

Financial Implications:

N/A

Other Issues:

Council engaged the services of ex-Derwent Valley Council employee Jann Wakefield on a contract basis to review and improve Council's risk management practices and procedures.

The result of Ms Wakefield's services speaks for themselves and Brighton officers, in particular Wendy Young (Executive Assistant – Corporate Services) is now in a position to continue with the practices that Ms Wakefield developed for Council.

Ms Young will be attending a Risk Management Conference in Launceston this month where Council will be presented with an Excellence Award for most improved.

Assessment:

N/A

Options:

1. As per the recommendation.
2. That the report not be received.

RECOMMENDATION:

That the report be noted.

DECISION:

Cr Owen moved, Cr Curran seconded that the report be received.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

11.6 AMALGAMATION UPDATE:

FILE REFERENCE: 0782

AUTHOR: General Manager
(Mr R Sanderson)

The General Manager and Cr Leigh Gray reported directly to Council on this matter.

Options:

1. As per the recommendation.
2. That the reports not be received.

RECOMMENDATION:

That the reports be received.

DECISION:

Cr Geard moved, Cr Curran seconded that the reports be received.

CARRIED

VOTING RECORD

| In favour | Against |
|------------------|----------------|
| Cr Curran | |
| Cr Garlick | |
| Cr Gray | |
| Cr Geard | |
| Cr Owen | |
| Cr Taylor | |
| Cr Williams | |

12. QUESTION ON NOTICE:

There were no questions on notice.

Meeting closed: 6.55 pm

Confirmed:

(Mayor)

Date:

19th June 2012