



Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.30 P.M. ON TUESDAY,
21st JANUARY 2014**

PRESENT: Cr Foster (Mayor); Cr Taylor (Deputy Mayor); Cr Curran;
Cr Garlick; Cr Geard; Cr Gray; Cr Jeffries and Cr Owen.

IN ATTENDANCE: Mr R Sanderson (General Manager); Mr G Davoren
(Deputy General Manager); Mr H Macpherson (Municipal
Engineer); Mr J Dryburgh (Manager Strategic Planning)
and Mrs J Banks (Manager Governance & Human
Services)

1. CONFIRMATION OF MINUTES:

1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING
OF 17th DECEMBER 2013.

Cr Geard moved, Cr Garlick seconded that the Minutes of the Ordinary Council Meeting of the 17th December 2013, be confirmed.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

2. APPLICATIONS FOR LEAVE OF ABSENCE:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

3. PUBLIC QUESTION TIME AND DEPUTATIONS:

- Mr Peter Killick addressed Council on the Baskerville Racetrack.
- Andrew Bullock & Layth Langford addressed Council in relation to the Bullock recycling plant.

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 MAYOR'S COMMUNICATIONS:

FILE REFERENCE: 0205-6

AUTHOR: Mayor
(Cr T Foster)

The Mayor reported directly to the meeting and made the following speech:-

Base Camp

It could be argued that Brighton Council has reached its Golden years. A time to reflect on our achievements. A time for congratulations.

Congratulations are certainly justifiable and we must certainly be proud to be recognised as the leading Tasmanian Council in so many fields of excellence.

If I reflect for a moment then I can easily identify success in:

Economic Development:

Brighton Council is consistently named by the Australian Bureau of Statistics as one of the fastest growing council's across Tasmania. A sound achievement considering many local government areas are in decline.

Social

Brighton Council is recognised for doing more with less. Examples include free access to all Council facilities for our children and the funding and Council support offered to our vast network of community groups.

Environmental

Thanks to our past performance we have previously achieved the most prestigious Banksia Award for sustainable development and Tasmanian awards for environmental excellence.

Financial

The latest Auditor General report on Tasmanian local Government identifies Brighton Council as having the lowest rates per capita in Tasmania yet the highest average six year operating surplus ratio in Tasmania. The highest profit with the lowest rates is indeed a notable achievement.

Asset Management

The latest Auditor General report on Tasmanian local Government identifies Brighton Council as having the highest Asset Renewal Funding Ratio in Tasmania

Commercial Activities

Brighton Council clearly leads the state in its commercial activities with revenue in the last financial year around \$1.4 million. Almost 10% of our entire total income.

Staffing

The latest Auditor General report on Tasmanian local Government identifies Brighton Council as having the lowest staff ratio as a percentage of population in the state.

Councillors

Brighton Council has possibly the most stable and experienced Councillors in the state. I have been told that it is the most difficult Council to gain election from outside which must be a vote of confidence from our ratepayers to us all.

Conquering the summit

But now is not a time for reflection or a time to rest on our laurels. Now is the time to lift higher and raise the bar above the expectations of our ratepayers and challenge our own personal goals. Collectively, we have now placed our Council on a solid foundation. With the fundamentals of a sound financial position, stable management and our experienced councillors there is never a more opportune time to leave a legacy of achievement for future generations. We have been given the responsibility by our community to create a better place so let us all reward our community for their faith in us.

Our journey over the coming years will not however be without challenges. We face an ever greater demand for higher service but with an ongoing commitment to keep our revenue base to CPI. Our long term asset management plan has identified some significant obstacles to climb including the imminent replacement of 2 major bridges and an increasing need to finally develop a new council chambers deserving of a regional centre into the years to come. Our overall State economy is lagging that of the other States and parts of our own community are beset with unemployment and social disadvantage.

The solution is to do what we do best. Work collegially with experience and vision. Do not fear the path where others have not yet tread. Being the first Council in Australia to have a residential flat rate is a fine example. Do not fear innovation. Where would we be today without the Transport Hub, Microwise or BIHC.

Let us continue to consolidate, grow and lead local government resource sharing in Tasmania. Why can't Brighton be hub for Tasmanian resource sharing or even Australia? Opportunities abound in the provision of consulting services to other local government units and agencies across Australia and overseas. This provides employment and financial rewards to our Council.

We need to continue to support our senior staff as they face a challenging future to take Microwise from a niche player in Australian Local Government to a dominant position in Australia and an expansion on a more global basis. Like Brighton Council, Microwise has established itself in its own sound position to surpass our original expectations. We now have a great partnership with OST and the team in place to achieve success. Already we have taken steps toward establishing our software in Kota Kinabalu and Palawan to complement our success in Fiji but with only 10 major software players in the global market; why shouldn't Microwise have a greater piece of the global action.

We need to use our positions of responsibility and experience to lobby our political leaders for a better deal for our community. Collectively it is our duty to not accept poor transport, high unemployment or low educational standards for our kids. We may not be responsible for these areas but we are responsible to stand up for our community and seek a better outcome.

Growth has been good for Brighton. Our capital budget is dependent on growth so why not push our growth even higher. We have a track record of responsible growth that is both sustainable and considerate of our valued lifestyle. We know how to do it right so let our time in office be the time of growth. Opportunities exist with industry developing around the Transport Hub and with new families seeking to share our treasured lifestyle.

Let us ensure the best broad community benefit from Council owned land. We must maximise value and dispose of inappropriate land allowing funds to be available for more appropriate use and development. We need to continue to secure and purchase strategically important land, such as open space linkages; pursue mutually beneficial partnerships and land swaps, such as with public housing administrators. Our journey in this area has only just began.

We have an amazing opportunity to create something really special with an ambitious master plan for the former Army Camp site. We have been entrusted to recreate the Brighton Township as a regional centre that is attractive yet prosperous. A place of pride in our community now that the Bypass is built. Our recent purchase of land at Old Beach, land along the Jordan river in Brighton, the unimproved land around our sporting facilities at Pontville and the vast area behind our Civic Centre in Bridgewater, all provide us with the blue print to really leave a mark for future generations. A mark left that provides for a happier and healthier community.

Councillors, we have worked so hard to make it so far, but I personally feel that we are only at the base camp. Now it is our time to collectively conquer the summit. I look forward to that journey and would specifically like to thank you; Councillors and all staff, both inside and outside for their support so far.

RECOMMENDATION:

That the Mayor’s communications be received.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	

Cr Owen
Cr Taylor

5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority – Cr Geard representative.

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

Correspondence and reports from the STCA, LGAT, Taswater 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 were no workshops held since the last Council meeting.

(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 advised that there were no supplementary agenda items.

9. REPORTS FROM COMMITTEES:

There were no Committee meetings held during January.

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.

10.1 NOTICE OF HEARING FOR PETITION TO AMEND SEALED PLANS 110944 & 140796:

FILE REFERENCE: SA2013/30

AUTHOR: Planning Officer
(Mr D Allingham)

Background:

A Petition to Amend Sealed Plans 110944 and 140796, relating to the properties highlighted in **Figure 1** at Magnolia Court Brighton, was received on the 21st of November 2013. The proposed amendment is to delete from the Schedule of Easements the following covenant:

“not to erect or cause to be erected on any lot more than one private dwelling and out buildings usually appurtenant thereto”

The applicant served a copy of petition on all persons that have an estate or interest in the proposed amendment as required by s.103 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* (the Act).

Three objections to the Petition were received within 28 days after the last notice was served, therefore Council is required to appoint a day for hearing any petitioner and those persons who have asked to be heard pursuant to s.104 of the Act.

It is recommended that the hearing is heard by Council’s Planning Committee.



Figure 1 – Location of properties affected by the covenant for SP110944

Discussion:

Abetz Curtis has prepared a “Hearing Guide” to provide Council with an outline of the process for conducting a hearing under s. 104 of the Act which is attached to this report and summarised below.

Conducting the Hearing

Council must afford procedural fairness and natural justice to all parties.

The suggested structure for the hearing is as follows:

Step 1: Council advises the parties at the outset in a summary way as to how the hearing will be conducted. This is set out in Steps 2 to 4 below.

Step 2: The Petitioners go first and present their case as to why the amendment ought to be made. The Petitioners will be invited to:

- a) Make an opening statement;
- b) Present evidence to Council in support of their petition – this evidence can be in the form of witnesses or documents;
- c) If witnesses are called, after a witness has given their evidence the Objectors must be given a chance to question that witness about their evidence;
- d) Once the objectors have questioned the witness, Council has a chance to question the witness;
- e) Once the objectors have called all of their witnesses, Council should ask them confirm they have called their all of the evidence they wish to present in support of their case.

Step 3: Once the Petitioners have called all of their evidence, the Objectors present their case following the same process in Step 2.

Step 4: Once the Objectors have called all of their evidence, the parties make closing statements to Council with the Petitioners going first:

Step 5: After the closing statements, Council can declare that it needs time to consider the matter and state that it is “reversing its decision”.

It is possible that neither party will wish to call evidence as such (i.e. witnesses) and wants to move straight to submissions. If this occurs, go straight to Step 4.

At any time during the hearing Council may ask questions of the Petitioner or the objector in order to clarify or raise issues.

Council should conduct the hearing so that proper order is kept and interruptions and irrelevant evidence are avoided.

Relevant considerations:

The “Hearing Guide” recommends that Council considers the following:

- a) Does the covenant still have practical benefit?
- b) Does the covenant prevent a use that the Planning Scheme permits?
- c) Does the covenant prevent any other reasonable use?
- d) Will removal of the covenant cause a loss to others?
- e) What are the benefits that the covenants grant to neighbouring properties?
- f) For what specific purpose does the petitioner wish to remove the covenant?
- g) How long have the covenants been in place?

- h) What planning controls apply to the land – i.e. what can be constructed on the land as of right or at Council’s discretion, but for the existence of the covenant?

Further information on relevant considerations can be found in the attached “Hearing Guide”.

Council’s Decision:

It is recommended that Council prepare a “Reasons for Decision” document to be circulated to the parties which sets out the relevant evidence, the legal test and Council’s ultimate determination.

Consultation:

The Petitioner and Objectors will need to be notified of the date of the date of the hearing and it is recommended that they are provided with information about how the hearing will be conducted.

Risk Implications:

N/A.

Financial Implications:

Section 105 of the Act prescribes that:

- Any person who is adversely affected by an amendment to a sealed plan is entitled to compensation by the Council; and
- If compensation is payable under s.105(1), the Council can recover the compensation from the Petitioner (or any other person who asks to be heard in favour of the amendment) according to the extent to which the Petitioner benefited from the amendment.

The “Hearing Guide” suggests that Council reserve the issue of compensation until they have determined whether or not to grant the amendment. If the amendment is granted, Council can then request written submissions from the parties as to the appropriate amount of compensation payable to the objector.

Options:

1. As per the recommendation.
2. Council does not adopt the recommendation.

RECOMMENDATION:

That Council receive the report and the hearing for the Petition to Amend Sealed Plans 110944 and 140796 be heard by Council’s Planning Committee.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

11. REPORTS FROM OFFICERS:

11.1 AMENITY POLICY FOR INDUSTRY ZONE:

AUTHOR: Planning Officer
(Mr D Allingham)

Background:

The Brighton municipality is a significant urban growth area, and the Transport Hub and Brighton Industrial Estate will be the major transport interchange for the Southern Region of Tasmania.

These industrial areas are likely to attract a significant amount of additional business and development to the Brighton Municipality from older industrial areas closer to the centre of Greater Hobart where commercial pressures exist to convert to commercial, retail, mixed-use and denser residential development.

To encourage businesses to relocate and establish in Brighton it is important that existing and future developments in the Industrial areas have a high level of amenity and are of high quality.

While there have been a number of recent high quality developments in the commercial and industrial areas, there have also been some which could have a better appearance and site management regime, helping to improve the profile of the area. It is important that just because an area is zoned for industry this does not create a perception of "anything goes". Modern industrial estates and precincts are well-planned, environmentally sound and invest significantly in the appearance of the area.

The Brighton Planning Scheme 2000 is the mechanism available for enforcing amenity standards for developments. Currently, and historically, amenity requirements, such as landscaping, building finishes and access requirements have been added as conditions to planning permits. The costs and work involved to comply with these permit conditions are sometimes unexpected for the developer and in some cases they are ignored. In these instances, the processes for enforcing compliance with the permit conditions are costly and time consuming for Council.

It is therefore beneficial to both Council and developers for the developer to understand Council's expectations in relation to amenity standards at the beginning of the planning process. As such, Brighton Council planning, engineering and environmental health staff have developed an Amenity Policy for the Industry Zone to ensure that there is a clear upfront understanding of Council requirements and a level playing field for all developers. The Policy will be a useful document to provide to developers in initial stages of the planning and approvals process.

The Amenity Policy sets expectations in regards to landscaping, colours and materials, parking and access areas and management of environmental issues likely to cause a nuisance.

RECOMMENDATION:

That Council adopt Policy AP16 - Amenity for the Industrial Zone

DECISION:

Cr Geard moved, Cr Jeffries seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Taylor	

11.2 MONTHLY FINANCE REPORT AS AT 31 DECEMBER 2013:

FILE REFERENCE: 0103
AUTHOR: Deputy General Manager
(Mr G Davoren)

Background:

The finance reports were submitted for consideration.

They comprised the summarised financial position and revenue and expenses of the Council for the first six months of the 2013/14 financial year.

Consultation:

Nil

Risk Implications:

Nil

Financial Implications:

Not Applicable

Other Issues:

Nil

Assessment:

Nil

Options:

1. As per the recommendation.
 2. Not receive the reports.
-

RECOMMENDATION:

That the reports be received.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	

Cr Geard
Cr Gray
Cr Jeffries
Cr Owen
Cr Taylor

12. QUESTION ON NOTICE:

There were no questions on notice.

The meeting closed at 7.15 pm.

Confirmed:

(Mayor)

Date:

18th February 2014