



Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.05P.M. ON TUESDAY,
20TH JANUARY, 2015

PRESENT: Cr Gray (Chairperson); Cr Curran; Cr Foster; Cr Garlick; Cr Owen; Cr Taylor and Cr Williams.

IN ATTENDANCE: Mrs J Banks (Governance Manager) and Mr S Wells (Senior Planning Officer).

1. APOLOGIES:

Cr Owen moved, Cr Taylor seconded that Cr Garlick and Cr Jeffries be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Owen	
Cr Williams	

2. QUESTION TIME & DEPUTATIONS:

There was no requirement for public 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 – RESIDENTIAL (DWELLING AND OUTBUILDING) IN LANDSCAPE AND SKYLINE CONSERVATION ZONE, 9 COOMERA COURT, DROMEDARY:

FILE REFERENCE: COOMER / 9

AUTHOR: Senior Planner (S Wells)

Applicant: P Rainbird

Owner: P & N Rainbird

Location: 9 Coomera Court, Dromedary

Application no.: DA 2014/ 265

Zoning: Landscape and Skyline Conservation & Rural Residential

Use Status: Residential – Discretionary

Relaxation to standards: Nil

Date accepted: 5 December 2014

Date advertised: 12 December 2014

Decision required: 23 January 2015

Background:

Subdivision Permit SA 2005/29 provided for the creation of the subject lot. A condition of approval required the creation of a building envelope on the lot to contain all structures within the Rural Residential zoned portion of the site. This zoning is shown in Figure 1 below. The boundary between the Rural Residential Zone and the Landscape and Skyline Conservation Zone correlates loosely to the 100m contour.

In 2012 Council became aware of unapproved works at the property. These works included land clearing and minor excavations for a private driveway and house site. The house site was outside of the building envelope and at a higher elevation of 140m and approximately 200m to the north.

At its meeting of 15 May 2012 Council considered a request from the owner of the land to increase the building envelope to an elevation of 200 metres which would incorporate all of the unapproved works. The request did not involve a formal application and little supporting information was provided. Accordingly the request was declined. No further works have occurred.

Application

Application is made for dwelling and outbuilding. The dwelling is a single storey structure comprised of three bedrooms, study and living areas. The dwelling is rectangular in shape with dimensions of 18.5m long and 10.2m wide. A 3.0m wide verandah extends from the eastern elevation linked to a 1.5m wide verandah along part of the southern elevation.

The design is comprised of a simple gable roofed structure with a maximum height of 5.1m. External materials are a mixture of Colorbond and compressed sheet cladding with a Colorbond roof and timber screen around the footings.

A 9m X 6m X 3.5m Colorbond clad outbuilding is proposed to the north of the dwelling.

A small amount of excavation will be required for the dwelling. A larger cut of approximately 2m is required for the outbuilding. No further vegetation removal is proposed.

The dwelling and outbuilding are proposed to be located on a spur positioned centrally within the site and which was previously cleared. The dwelling will be setback 143m from the south-west boundary, 116m from the north-east boundary and 202m from the southern boundary.

The application would, if approved, legitimise the previous works.

Restrictive Covenant

The application seeks approval for the proposal under the terms of the planning scheme, notwithstanding this covenant. A separate report to this agenda considers Council consent to depart from the restrictive covenant.

Site

The site is a 25.45ha internal lot located off Coomera Court and positioned above the River Derwent and Boyer Road. The lower section of the site adjoins the Pegasus Drive subdivision that is located to the west. The lot is comprised of native vegetation with a generally southerly aspect. A ridgeline runs through the site from the north to south. The lot proper rises in elevation from 60m to 260m. The highest point of the current building envelope lies at approximately 100m in elevation where the slope is generally between 1 in 3 and 1 in 3.5. The proposed house location lies at approximately 140m in elevation.

Native vegetation on the property is described by TASVEG 3.0 as (DPU) Eucalyptus pulchella forest and woodland. Whilst no formal on ground assessment of native vegetation has been provided it appears likely that this native vegetation community does occur on the lot. This community is not threatened or vulnerable. Threatened species have not been identified in the immediate area, however the site is likely to support a range of native flora and fauna, including the threatened Eastern Barred Bandicoot, which has been recorded nearby.

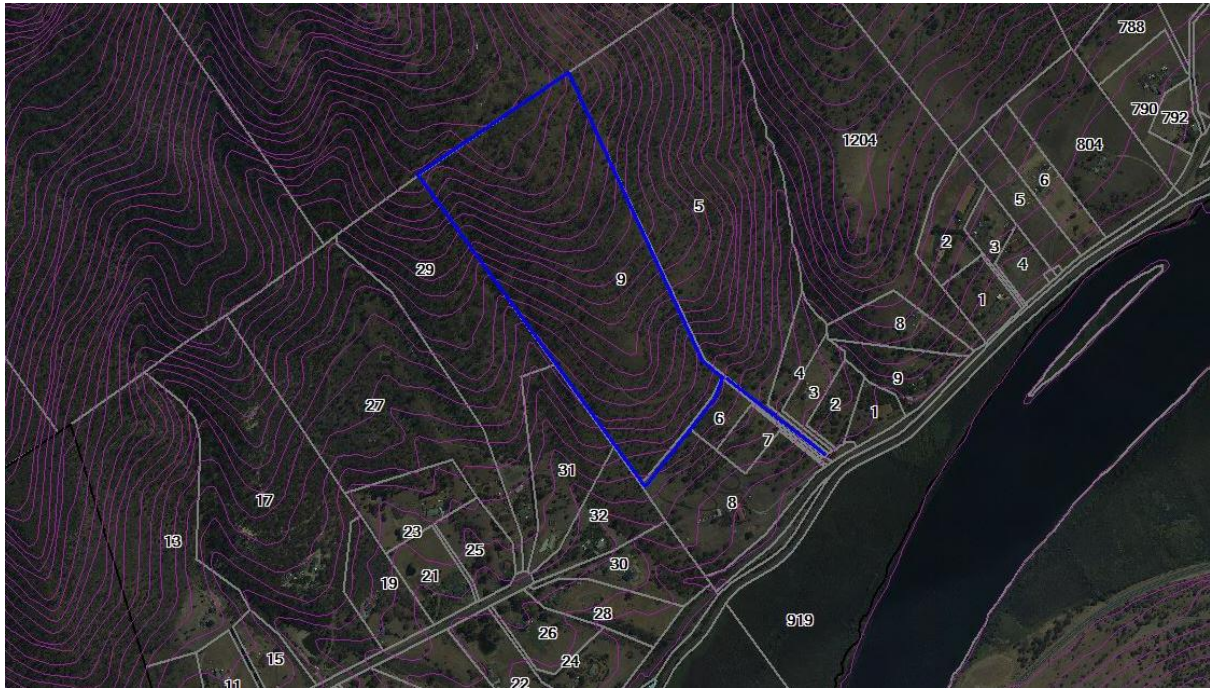


Figure 1. The site and surrounding land.



Figure 2. Zoning (Landscape and Skyline Conservation Zone in Brown; Rural Residential Zone in Pink)

Consultation:

The application was advertised in accordance with the Act and *Land Use Planning and Approvals Regulations 2004* and no representations were received.

Risk Implications:

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

Financial Implications:

Approval of the application will increase the number and value of rateable properties.

Judicial Review:

This report details the reasons for the recommendation. Any alternative decision requires a full statement of reasons in order to maintain the integrity of the planning process and to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.

Statutory Assessment

Decision Guidelines of the Planning Scheme:

Clause 3.3 of the planning scheme requires consideration of several decision guidelines, of which the following are relevant:

- c) the purpose of the Zone and all other provisions of this Scheme including the decision guidelines for each zone;*
- e) the character of the locality, the existing and future amenities of the neighbourhood and the effect of the development on the amenity of the area;*
- g) the size and shape of the parcel of land and whether it is subject to bush fire hazard or is likely to become subject to inundation;*
- h) the provision of access, loading, parking and manoeuvring of vehicles;*
- i) the provision of adequate landscaping and associated furniture, amenity facilities, illumination and treatment of the site generally;*
- j) the position and scale of buildings on allotments in relation to boundaries or to other buildings, their density, character, height and harmony in design of facades;*
- l) the existing character of the site and the buildings and vegetation thereon;*
- m) the orderly planning of the area;*
- n) the environmental effect of the development on any nearby land;*
- q) whether native vegetation is to be or can be protected, planted or regenerated through the proposed use or development;*
- t) effects of the proposal on natural habitats, wetlands, waterways or cultural heritage values;*
- u) protection of landscape and visual aesthetics; and comments of any other Department or Authority.*

The following will have regard to these matters.

Zone Provisions

The proposal is located within the Landscape and Skyline Conservation Zone.

Zone Purpose:

Clause 6.8.1 provides that 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.*

These purpose statements are given effect through the following Zone Decision Guidelines.

Zone Decision Guidelines:

Clause 6.8.2 provides the following decision guidelines that are additional to those detailed in clause 3.3:

- (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;*

- (d) *building and structures shall be designed in such a way and be of such a scale as to be unobtrusive and enhance the desired natural character of the area, and in particular:-*
 - (i) *the profile of buildings should be low and the roof lines should reflect the natural form of the land;*
 - (ii) *the mass of buildings should be minimised by variations in wall and roof lines and by floor plans which complement the contours of the land;*
 - (iii) *large eaves, awnings and pergolas should be incorporated into design so as to create shadowed areas which reduce the bulky appearance of the buildings; and*
 - (iv) *the mass of buildings should be minimised by having separate vehicle storage areas;*

- (e) *the external materials of buildings must:-*
 - (i) *have surfaces that have a low light reflective nature; and*
 - (ii) *be of dark natural colours such as brown and green so as to be unobtrusive, blend with a natural rural landscape and minimise any visual intrusion;*

- (f) *additions to buildings must:-*
 - (i) *maintain the single storey profile of the building;*
 - (ii) *be located on the side of the dwelling that minimises the obtrusiveness of the completed building; and*
 - (iii) *comply with the previously mentioned principles relating to the location and design of buildings;*

- (g) *the number of outbuildings shall be limited and, where appropriate, should be grouped together, located in unobtrusive locations and comply with the previously mentioned principles relating to the location and design of buildings;*

- (h) *retaining walls shall be designed in such a way that they are a stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping;*

- (i) *driveways and access tracks must follow the contours of the land so as to reduce their visual impact, erosion from water run-off and be surfaced with dark materials. No alteration shall be made to natural watercourses and the excavation/filling of land shall be kept to a minimum in order to preserve the natural form of the land and the native vegetation;*

- (j) *fences, if required, shall be located in such a way as to minimise their visual impact and should be of post and wire or other materials that can be seen through. Council may vary this requirement where it can be shown that such fencing may pose a hazard to native fauna. Obtrusive gateways, particularly of brick or masonry, must not be constructed;*
- (k) *when solid fences are essential they shall be of materials that have a low light reflective nature and of dark natural colours so as to blend with a natural landscape and minimise any visual intrusion;*
- (l) *use or development must only be undertaken if it can be located and designed to maximise the retention of existing native vegetation and, where possible, increase the extent of native vegetation; and*
- (m) *native trees, shrubs and ground covers should be established to screen development, including scree slopes created as a result of the excavation and/or filling of land, in such a way that the bushfire hazard is not increased.*

Consistent with the zone purpose, these guidelines relate to the impact of development on environmental and visual values. The environmental impact has occurred and retrospective approval is sought. The impact that occurred is however minor and contained to the place of least impact. The dwelling will be visible, and appear above the skyline, from off-site locations. This visibility is not universal and is limited to discrete locations; predominately to the west and (likely) from the opposite side of the River Derwent. The dwelling will most easily be viewed from approximately half way along Pegasus Drive which is the highest point of that road, but approximately 1 kilometre away. The topography generally ensures that the building will only be visible from a distance.

Importantly, no other buildings nearby are at a similar elevation and those that are higher in the broader area are accessed off side roads.

With respect to each of the decision guidelines it is considered that the proposal:

- a)
 - i. Is positioned on a section of the site where excavation is minimised to the extent necessary to provide a low profile building.
 - ii. Requires only negligible fill.
 - iii. Should, as a condition of any permit granted, include a landscape plan with details of how the defensible space around the dwelling will be developed and maintained.
- b)
 - i. Is unlikely to cause erosion or pollution due to the low impact siting of the dwelling and outbuilding.
 - ii. Can minimise weed species through appropriate landscape design and driveway construction, which should be detailed in conditions included on any permit granted.

- iii. Requires no further land clearing; past land clearing is contained to the driveway, building footprint and required defensible space for bushfire hazard management and prior to this the land contained no cleared areas capable of containing development.
- c)
- i. Is located well below any substantial ridge line. The location of the dwelling is upon land that forms a small ridge line when viewed from some locations; the most prevalent of which is approximately half way along Pegasus Drive, approximately 1km away.
 - ii. Is located on, rather than behind, a spur. It is not possible to locate behind the spur as doing so would position the dwelling to the front of the spur as viewed from the opposite direction, either the east or west. This is common to almost all spurs making the clause difficult to apply. It is however important that the overall impact of the dwelling and outbuilding on the landscape is minimal.
 - iii. The building will be visible. The clause is not absolute however; it is designed to give effect to the zone purpose statement being to "... protect areas of landscape and/or conservation significance ...". Thus it is necessary to consider whether the impact is to a place of significance and whether that impact is unreasonable.
On the first point, the site is considered significance as it contains a noticeable spur protruding out from the broader Dromedary hills. The impact is minimised by low profile design but arguably increased by the fact that there are no other nearby buildings at that elevation. The next three lots to the east, which exist over a 1 kilometre stretch, are all vacant and potentially developable at that elevation. Pegasus Drive to the west contains a number of lots that extend into the Landscape and Skyline Conservation Zone but all development is contained to the Rural Residential Zone.
 - iv. Is setback a significant distance from public roads.
 - v. Is located in a section that maximises the retention of native vegetation. Any other section of the site would have require greater vegetation clearing associated with deeper excavation and defensible space for bushfire hazard management.
- d)
- i. Provides is single storey design only with a gable roof design that follows the natural form of the land with the southern half of the roof corresponding to the topography of the broader hillsides.
 - ii. Has minimal building mass and makes effective use of simple variations to cladding link to building openings.
 - iii. Has 600mm eaves and extensive verandahs to create shadow and reduce reflectance from glazing.
 - iv. Has separate car parking areas to minimise mass.
- e)
- i. The use of Colorbond cladding, subject to colour selection, has adequate light reflective properties.

- ii. Does not specify colours and a condition to this effect should be included on any permit granted.
- f) Not applicable.
- g) Provides a single outbuilding only.
- h) Does not include retaining walls. A condition of any permit granted should require a landscaping plan and this can consider any low level retaining walls proposed for landscaping purposes.
- i) The excavation for the driveway follows the natural topography of the land to minimise site works and impact whilst achieve an adequate standard of access. A condition of approval should be included on any permit granted detailing how the driveway should be completed.
- j) Fencing is not proposed. A condition of approval should be included on any permit granted that limits future fencing to post and wire only unless separate approval is sought.
- k) See above.
- l) Is sited at the place of least impact to native vegetation. Given the prevalence of native vegetation on the site there are no opportunities to increase native vegetation cover.
- m) As noted above, a condition of any permit granted should require a landscape plan to be submitted.

The proposal is sited to have least impact to the natural environment. In doing so the potential for visual impact is increased by the higher elevation.

This higher elevation also affects where any visual impact may arise. If development was contained to the building envelope, a significant visual impact would likely arise to immediately adjoining land; whereas development as proposed will have no impact on adjoining land but some minimal impact to land further away. Ideally no visual impact would arise but given the low profile building design and the context of a difficult site, it is considered that the visual impact of the buildings will be within the acceptable limits established by the objectives for the zone.

It is therefore considered that the proposal satisfies the decision guidelines and purpose statements for the zone.

Use and Development Standards:

Setback:

The setback standard is 20m to all boundaries. The proposal complies with this standard.

Height:

The height standard is 8m. The proposal complies with this standard.

Water Supply:

The scheme requires 45,000 litres of water storage, of which 22,500 litres shall be in tanks and 5,000 litres readily available for fire fighting. The proposal details that at least 10,000 litres will be provided for fire fighting. No details are provided regarding domestic supply. A condition should be included on any permit granted requiring details of water storage prior to construction.

Overlay Provisions:

The land is subject to the Vegetation Protection and Bushland Management Overlay.

Vegetation Protection and Bushland Management Overlay Purpose:

Clause 7.2.1 provides that the purpose of the 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 that development minimises loss of vegetation.*
- (c) *To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.*
- (d) *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- (e) *To encourage the regeneration of native vegetation.*

These purpose statements are given effect through the following Overlay Decision Guidelines.

Vegetation Protection and Bushland Management Overlay Decision Guidelines:

Clause 7.2.2 provides the following decision guidelines that are additional to those detailed in clause 3.3:

- (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;*
- (j) *buildings should be predominantly single storey, low profile design with rooflines which compliment the natural form of the land;*
- (k) *communication towers and masts should be sited and designed in such a way so as to minimise their visual impact. The number of masts should be contained by shared use of facilities;*
- (l) *infrastructure should be located underground wherever possible, should be located and designed in such a way as to minimise their visual intrusion and disturbance of the natural habitat through which they pass; and*
- (m) *fences if required should be located in such a way as to minimise their visual impact and should be of post and wire or other materials that can be seen through.*

With respect to each of the decision guidelines it is considered that the proposal:

- a) The vegetation has no conservation value in terms of threatened or vulnerable species or vegetation communities.
- b) The siting of the dwelling and outbuilding has minimised the extent of vegetation clearance.

- c) The vegetation of the lot would provide general habitat for a range of native species but its clearance has been minimised to the extent necessary.
- d) The vegetation is not key habitat for rare flora or fauna and what has been removed is not a key wildlife corridor.
- e) Ground water recharge is not known to be a key issue in the locality. The proposal would result in a small proportion of hardstand area and vegetation clearance that is likely to have minimal effect on surface and subsurface water.
- f) The vegetation clearance has been sited where slopes are lowest on the site and away from watercourses. It has no affect on erosion or stability and had no previous conservation or heritage value.
- g) No other vegetation clearance is proposed and this can be reflected in a condition on any permit granted.
- h) Structures have been sited to minimise vegetation removal to the smallest extent necessary.
- i) Vegetation clearance is visible from discrete areas as being on a skyline however as the extent is small this has not had a significantly unreasonable impact.
- j) The dwelling and outbuilding are single storey, low profile and complement the natural form of the land.
- k) Not applicable.
- l) The developer could provide above-ground power supply to the site outside of the planning system. All other infrastructure will be below ground.
- m) Fencing is not proposed.

Vegetation Protection and Bushland Management Overlay Standards:

The overlay provides no use or development standards.

Schedule Provisions

The application is subject to Schedule 1 Off-Street Parking; Schedule 4 Environmental Management Standards; Schedule 6 Bushfire Management and Schedule 8 Road Assets.

Schedule 1 Off-Street Parking:

S1.2 requires the provision of 2 car parking spaces per dwelling. The proposal complies with this standard through the outbuilding.

Schedule 4 Environmental Management Standards:

Schedule 4 provides various standards of which Issue 1 (gradient); Issue 2 (landscape); and Issue 7 (soil and water management) are relevant.

Issue 1:

ACCEPTABLE SOLUTION		PERFORMANCE CRITERIA	
<p>Issue 1: Environmental Impact</p> <p>To protect the environmental and visual qualities of land units through ensuring that buildings, structures and other works are located, constructed and subsequently managed/maintained so as to minimise impact.</p>			
<p>A1 Building and access roads are on sites with slopes of less than 1 in 5 (20% grade). [Amend. RZ 02/05 effective 1/09/05]</p>	<p>P1 Development must demonstrate that:-</p> <ul style="list-style-type: none"> (a) Site works will not cause erosion; [Amend. RZ 03/04A effective 6/12/04] (b) Access roads are on a slope of less than 1 in 5; [Amend. RZ 03/04A effective 6/12/04] (c) There is adequate on site waste disposal; (d) Cut and fill is minimised; [Amend. RZ 03/04A effective 6/12/04] (e) Development will not be subject to landslip or foundation failure; [Amend. RZ 03/04A effective 6/12/04] (f) The visibility of material used for the access road is considered acceptable; and [Amend. RZ 03/04A effective 6/12/04] (g) A soil management plan has been prepared with the application. 		

The driveway, through the Rural Residential Zoned portion of the site, exceeds 1 in 5 however this section was approved as part of the earlier subdivision and its alignment cannot be rectified. Some improvements to its condition are proposed.

It is considered that the position of the building and driveway minimises cut and fill and minimises erosion potential and that appropriate conditions of any permit granted will ensure a satisfactory outcome.

<p>Issue 2: Landscape protection and visual amenity</p> <p>To ensure that development does not adversely impact on the visual amenity and landscape qualities of the Municipality.</p>	
<p>A2 Use or development within the Landscape and Skyline Conservation Zone cannot be viewed from a public place.</p>	<p>P2 All use or development in the Landscape and Skyline Conservation Zone must demonstrate:-</p> <ul style="list-style-type: none"> (a) analysis of landscape character,

	<p>identifying the specific elements to conserve; [Amend. RZ 03/04A effective 6/12/04]</p> <p>(b) minimisation of cut and fill excavation;</p> <p>(c) use of sympathetic and compatible colour schemes and buildings materials eg. avoiding highly reflective materials such as zincalume in buildings or water tanks;</p> <p>(d) siting of development to have full regard to the various locations available on site;</p> <p>(e) attention to scale, bulk and character of the proposed development or works;</p> <p>(f) minimisation/avoidance of bushland clearance for fire mitigation or building platforms; and [Amend. RZ 03/04A effective 6/12/04]</p> <p>(g) management of existing vegetation species, density, screening character, growth rates and likelihood of disturbance eg. from fire.</p>
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As noted above, the development will be visible from sections of Pegasus Drive and Boyer Road. Much of the performance criteria is addressed through similar provisions in other parts of the scheme. It is considered that the proposal will not adversely impact on visual amenity or landscape values.

Issue 7 A12 (soil and water management) is relevant and can be satisfied by way of a condition on any permit granted.

Schedule 6 Bushfire Management

The application is supported by a report from an accredited bushfire practitioner demonstrating compliance with all provisions within schedule 6.

Schedule 8 Road Assets

Table S8.2 Issue 1 A1 specifies the minimum sight distance requirements for accesses which are complied with.

Referrals

TasWater

It was not necessary to refer the proposal to TasWater.

Council's Senior Technical Officer

Council's Senior Technical Officer advises as follows:

Access

Access is available to the site from Coomera Court. Whilst the lower section of the driveway is steep an acceptable standard of access can be achieved if works are completed in accordance with standard conditions. Passing bays will be required in accordance with standards for development in bushfire prone areas.

Stormwater

The development must retain stormwater on site.

State Policies

The State Policies are of limited relevance to this site as the land is not agricultural land and is over 500 metres from the high water mark. A standard condition relating to storm and water management plans is considered appropriate for any permit granted.

Conclusion:

Application is made for a dwelling and outbuilding located outside of a building envelope on the land. Notwithstanding the building envelope, the proposal is considered to be consistent with the purpose of the zone and is recommended for condition approval.

Options

1. Issue a written refusal in accordance with the recommendation; or
2. Issue a written refusal with modified reasons with a statement detailing the modification; or
3. Issue a written approval with or without conditions stating the reasons for approval.

RECOMMENDATION:

That the application submitted in accordance with section 57 of the *Land Use Planning and Approvals Act 1993* for land at 9 Coomera Court, Dromedary, to be used for Residential purposes and developed by construction of a dwelling, outbuilding & associated works be approved subject to the following conditions.-

General

- (1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.

Amenity

- (2) Prior to the issue of a Building Permit a schedule specifying the finish and colours of all external surfaces must be submitted to and approved by Council's Senior Planner. This schedule must demonstrate that:
 - A. all external metal building surfaces will be clad in non-reflective pre-coated metal sheeting; and
 - B. finished colours blend in with the natural rural landscape to minimise potential visual intrusion, such as natural browns or greens.

The schedule shall form part of this permit when approved.

Fire protection

- (3) Before the use commences the land and dwelling must be developed and completed in accordance with the approved Bushfire Hazard Assessment and Bushfire Hazard Management Plan and must continue to be maintained to the satisfaction of the Council's Senior Planner.
- (4) 45,000 litres of water storage must be provided on site of which a minimum of 22,500 litres shall be contained in water tank(s) with 10,000 litres of tank storage exclusive for fire fighting purposes. The colour and material of the water tank(s) must be to the satisfaction of Council's Senior Planner and must be of dark natural colours such as brown and green or otherwise located behind a timber screen or positioned to the eastern side of the dwelling and outbuilding.

Landscaping

- (5) Prior to the issue of a Building Permit, a landscape plan prepared by a landscape architect or other person approved by Council's Senior Planner must be submitted to and approved by Council's Senior Planner. The landscape plan must show the areas to be landscaped, any changes to natural ground levels, the form of landscaping, plants species and estimates of the cost of the works. The landscaping plan shall form part of the permit when approved.
- (6) The defendable space for the Bushfire Hazard Management Plan and all previously cleared areas not developed for buildings or access must be landscaped with suitable groundcover and trees and/or shrubs that are consistent with the native vegetation retained. Planting must bear a suitable relationship to the proposed height of the buildings and must not use species listed as noxious weeds within Tasmania, displaying invasive characteristics or unsuitable for fire prone areas.

- (7) The landscaping works must be completed in accordance with the endorsed landscape plan and to the satisfaction of Council's Manager Development Services within six (6) months of the first use of the development or prior to the sealing of a stratum plan. All landscaping must continue to be maintained to the satisfaction of Council.

Vegetation Protection Overlay

- (8) Vegetation must not be removed, destroyed or lopped without separate Council planning approval, except:-
- (a) for fire hazard reduction required by an abatement order under the *Local Government Act 1993* or the *Fire Services Act 1979*;
 - (b) to provide for public safety or to protect property;
 - (c) required for the development of a use approved under this planning scheme;
 - (d) that impairs the access of vehicles along an existing track or driveway; and
 - (e) declared weeds under the *Weed Management Act 1999* or any other environmental weed.

Parking & access

- (9) At least two (2) parking spaces must be provided on the land at all times for the use of the occupiers in accordance with Standards Australia (2004): *Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking*; Standards Australia, Sydney.
- (10) Car parking spaces, other than those designed and marked out for use by the disabled, must be a minimum of 2.60 metres wide and 5.50 metres long, unless otherwise approved by the Council's Manager Development Services.
- (11) The areas set-aside for parking and associated access and turning must have: -
- (a) A driveway access with a minimum 3 metres internal width and an average maximum longitudinal grade of 1 in 5 (20%) or, if the topography makes this impractical, an absolute maximum longitudinal grade of 1 in 4 (25%).
 - (b) An all-weather pavement constructed and surfaced to the satisfaction of the Council's Municipal Engineer.
 - (c) Drainage discharging to the stormwater system in accordance with the requirements of a plumbing permit issued by the plumbing Permit Authority.

- (12) The existing access from the carriageway of the road onto the subject land must be constructed using a sealed/gravel pavement in accordance with the construction and sight distance standards shown on standard drawings TSDRF01v1 and TSDR03v1 prepared by the IPWE Aust. (Tasmania Division) (**attached**) and to the satisfaction of Council's Municipal Engineer.
- (13) The driveway must be a minimum of 5.5 metres wide for a distance of 7.50 metres from the carriageway of the road to allow vehicles to pass each other, or otherwise as required by Standards Australia (2004): *Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking*; Standards Australia, Sydney / Standards Australia (2002): *Australia Standard AS 2890.2 - 2002, Parking facilities - Part 2: Off-Street, Commercial vehicle facilities*, Sydney.

Services

- (14) The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.
- (15) The approved structure(s) must be sited clear of any easement and located at least 1.00 metre measured horizontally from any Council service mains.

Stormwater

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

Protection of water quality

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

(19) The development must only be carried out between the following hours unless otherwise approved by the Council’s Manager Development Services:

- Monday to Friday 7:00 a.m. to 6:00 p.m.
- Saturday 8:00 a.m. to 6:00 p.m.
- Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.

(20) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:

- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
- (b) The transportation of materials, goods and commodities to and from the land.
- (c) Obstruction of any public footway or highway.
- (d) Appearance of any building, works or materials.

(21) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council’s Manager Development Services.

(22) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.

(23) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council’s Municipal Engineer.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	

Cr Owen
Cr Williams

4.2 VARIATION TO RESTRICTIVE COVENANT – BUILDING ENVELOPE FOR 9 COOMERA COURT, DROMEDARY:

FILE REFERENCE:	COOMER / 9
AUTHOR:	Senior Planner (S Wells)
Applicant:	P Rainbird
Owner:	P & N Rainbird
Location:	9 Coomera Court, Dromedary
Application no.:	DA 2014/ 265
Zoning:	Landscape and Skyline Conservation & Rural Residential
Use Status:	Residential - Discretionary
Relaxation to standards:	N/A
Date accepted:	N/A
Date advertised:	N/A
Decision required:	N/A

Background:

Subdivision Permit SA 2005/29 provided for the creation of the subject lot. A condition of approval required the creation of a building envelope on the lot to contain all structures to the Rural Residential zoned portion of the site. This zoning is shown in Figure 1 below. The boundary between the Rural Residential Zone and the Landscape and Skyline Conservation Zone correlates loosely to the 100m contour.

In 2012 Council became aware of unapproved works at the property. These works included land clearing and minor excavations for a private driveway and house site. The house site was outside of the building envelope and at a higher elevation of 140m and approximately 200m to the north.

At its meeting of 15 May 2012 Council considered a request from the owner of the land to increase the building envelope to an elevation of 200 metres which would incorporate all of the unapproved works.

The request did not involve a formal application and little supporting information was provided. Accordingly the request was declined. No further works have occurred.

In a separate matter to this agenda, an application has been made for planning approval for a dwelling and outbuilding outside of the building envelope.

The planning application has been made in order to provide a means to assess in a structured and transparent manner the effect of granting a departure to the covenant

Assessment

The restrictive covenant is between the owners of the land and Brighton Council and provides that:

“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)”

Thus Council can provide written consent to vary the covenant.

The associated report provides an assessment of the potential impacts of the proposed structure. It is considered appropriate that if the planning application is approved that Council agrees to vary the restrictive covenant so that the permit can be acted upon. Conversely, if the planning application is refused so too should this request.

Risk Implications:

Nil.

Financial Implications:

Approval of the application will increase the number and value of rateable properties.

Judicial Review:

This report details the reasons for the recommendation. Any alternative decision requires a full statement of reasons in order to maintain the integrity of the planning process and to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.

Options

1. Consent to the construction of a dwelling and outbuilding outside the building envelope in accordance with planning application DA 2014 / 265; or

2. Consent to the construction of a dwelling and outbuilding and other works without any limitation or restriction; or
3. Decline the construction of any works contrary to the restrictive covenant.

RECOMMENDATION:

That consent be given to allow for the construction of a dwelling and outbuilding and associated works strictly in accordance with planning application DA 2014 /265.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Owen	
Cr Williams	

4.3 DRAFT PLANNING SCHEME AMENDMENT – DEVELOPMENT PLAN OVERLAY; 620 MIDDLE TEA TREE ROAD, TEA TREE:

FILE REFERENCE: RZ 2014/05

AUTHOR: Planning Officer (J Farmer)

APPROVED: Senior Planner (S Wells)

Applicant: Ireneinc Planning & Urban Design obo T & P Cutriss

Owner: T & P Cutriss
620 Middle Tea Tree Road, Tea Tree.

Location:

Application no.: RZ 2014/05

Zoning: *Rural*

Date received: 3 December 2014

Date advertised: NA

Decision required NA

Background:

Planning consultants Ireneinc Planning & Urban Design on behalf of Trevor & Pauline Cutriss from ZooDoo Wildlife Park seek to amend the *Brighton Planning Scheme 2000* (“the Scheme”) by means of providing a Development Plan Overlay at 620 Middle Tea Tree Road, Tea Tree.

The proposed amendment seeks to enable the further development of the subject land contained within title reference Volume 12952 Folio 3 in order to facilitate further agricultural and economic growth in the area.

The subject site comprises approximately 32 ha of relatively flat rural land which is mainly cleared and has frontage to Middle Tea Tree Road.

The site contains a dwelling used for Residential purposes, and a range of facilities and buildings associated with the wildlife park such as stables, an animal hospital & feed sheds.



Figure 1: Location Map – 620 Middle Tea Tree Road, Tea Tree.



Figure 2: Location Map highlighting the proposed boundary of the development plan overlay at 620 Middle Tea Tree Road, Tea Tree.

Consultation:

A copy of the draft planning scheme amendment must be forwarded to the Tasmanian Planning Commission within 7 days of the draft amendment being certified. The certified draft amendment must then be placed on public exhibition for a period being not less than 3 weeks or more than 2 months, with public notice of the exhibition being given in the 'Mercury' newspaper.

It is proposed that the draft amendment be placed on public exhibition at the Council's and Commission's offices for 3 weeks.

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:

Advertising costs will be incurred during the exhibition period. A fee of \$250.00 is required to be paid to the Commission on submission of the certified draft amendment.

Other issues:

Before certifying a draft amendment, a planning authority must determine that a draft amendment meets the requirements specified in section 32 of the Act, which provides that an amendment to a planning scheme:

- a) *Must seek to further the objectives of the Resource Management and Planning System of Tasmania set out in Schedule 1 of the Act; and*
- b) *Must be prepared in accordance with the provisions of State Policies made under the State Policies and Projects Act 1993; and*
- c) *May make any provision that relate to the use, development, protection or conservation of any land; and*
- d) *Must have regard to the safety requirements set out in the standards proscribed under the Gas Pipelines Act 2000.*
- e) *Must, as far as practicable avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*
- f) *Must have regard to the impact that the use and development permissible*

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:

Brighton Planning Scheme 2000

The Scheme establishes a series of objectives for achieving sustainable use and development of resources in the Planning Scheme area. The proposal seeks to amend the Scheme by inserting a development plan overlay for 620 Middle Tea Tree Road, Tea Tree.

The use was originally approved as discretionary under the *Brighton Planning Scheme 1992*. The current Rural zoning prohibits use of the site as Tourist Operation unless such use is integral to the agricultural use of the land. The Resource Management and Planning Appeal Tribunal has ruled that the current activity is not integral to the agricultural use, thus making the activity prohibited.

However in accordance with Clause 3.11.2 of the *Brighton Planning Scheme 2000* "Council may at its discretion permit the extension of a nonconforming use provided that such a permit shall result in the floor area exceeding by no more than 30% the existing floor area existing at the effective date". The zoo has reached this 30% limit due to additional animal shelters, sheds and enclosures developed over time.

The insertion of a development plan overlay into the *Brighton Planning Scheme 2000* will allow for future further development of the site which will not be restricted due to this current constraint.

Rural Zone

Scheme Objectives

Clause 2.4 of the Scheme provides that the rural objective of the Scheme is -

- (a) To promote rural pursuits as an integral part of the Municipality's economic and employment base.*
- (b) To ensure the higher quality agricultural land remains for agricultural production.*
- (c) To promote agricultural activities that is compatible with the conservation of soil, water and vegetation resources.*
- (d) To encourage the protection of marginal agricultural land with landscape value from undue development pressure.*
- (e) Recognition of land with higher productivity values inter-related to the recycling of effluent as an initiative by Council allows for more intensive forms of crop production to be achieved. These areas have been identified as such and will continue to be reserved and protected from encroachment of non-agricultural uses.*

The proposed amendment is consistent with Objective's (a) and (b) in that the use of the land for animal keeping is of a rural nature, is compatible with and will not fetter surrounding rural and agricultural activities. The existing sheds and shelters are of a rural appearance and the proposed amendment does not involve any future land clearing.

It also furthers objective (d) in that it encourages the protection of marginal agricultural land which both protects an important vista view field and maintains a semi rural environment.

The draft amendment is consistent with all objectives of the Planning Scheme.

Zone

Clause 6.6.1 of the Scheme provides that the purpose of the Rural zone is: -

- (a) An integrated approach to land management.*
- (b) Development of new sustainable rural enterprises through value adding to products at source.*
- (c) Promotion of economic development compatible with rural activities and land capability.*
- (d) Improvement of existing agricultural techniques.*
- (e) Protection and enhancement of the bio-diversity of the area.*
- (f) To ensure that subdivision promotes effective land management practices and infrastructure provision.*

The proposed amendment is site specific and will not involve any additional land that could be used for agricultural purposes.

The site has already been developed for a particular use and the proposed amendment seeks to further an existing compatible use within a rural area.

Strategic Assessment

It is necessary to demonstrate that there is a strategic basis for the proposed amendment.

The Southern Tasmanian Regional Land Use Strategy (STRLUS) addresses an extensive list of issues, which through specific strategies and policies provides an overarching strategic direction for the Southern Region of Tasmania.

The following strategic directions of the STRLUS are relevant to the amendment:

- *SD5: Supporting our Productive Resources*
- *SD9: Making the Region Nationally and Internationally Competitive*

The STRLUS places an emphasis on Tourism as a policy area to implement strategic directions.

The tourism industry provides approximately 17% of the total Tasmanian employment in 2012-2013, including direct and indirect employment. The STRLUS acknowledges that land use planning is significant in order to generate beneficial outcomes for the tourism industry. As such it is important that planning schemes provide flexibility so that the industry can evolve along with the market.

The strategic policy area for protecting and supporting the State's productive resources in relation to farming land is:

PR 2 Manage and protect the value of non-significant agricultural land in a manner that recognises sub-regional diversity in land and production characteristics.

The site is situated at the fringe of a larger network of significant agricultural and as identified within the STRLUS. The land capability is assessed as Class 4 at the site which the majority of the productive land is classed as in the southern part of the state.

The amendment will ensure that the subject land responds to social and economic changes in the future. It will do so without fettering surrounding agricultural activities and the amendment will not result in long-term agricultural potential being lost. The amendment will facilitate a tourist operation of a rural nature to be allowed at the site.

Objectives of the Resource Management and Planning System of Tasmania

The Objectives of the Resource Management and Planning System of Tasmania are listed below with appropriate planning comment:

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and*

The proposed amendment will have no adverse impact on natural or physical resources or the maintenance of ecological processes and genetic diversity.

The existing area also does not contain any threatened flora or fauna species listed under the Tasmanian Threatened Species Protection Act 1995.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water; and*

The proposed amendment would encourage further development that is in character with the surrounding rural area whilst respecting the existing use rights of the site under controlled circumstances.

- (c) *to encourage public involvement in resource management and planning; and*

The public will be involved in the planning scheme amendment through opportunity to make representation and attend public hearings.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and*

The draft amendment will facilitate economic development in the area by providing suitable land for additional activities which are of a rural nature and which may feed through to local commercial centres.

- (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.*

Consultation will involve the Tasmanian Planning Commission, the Brighton Council, and the community.

The proposed Planning Scheme Amendment as it relates to the Objectives of Part 2 of Schedule 1 of LUPAA is discussed below:

- (a) *to require sound strategic planning and co-ordinated action by State and local government;*

The proposed amendment provides for the sound strategic planning of land which is appropriately zoned given the surrounding area, and is consistent with the State Policies and the regional land use strategy.

- (b) *to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land.*

The proposal has been submitted in accordance with Section 33 of the *Act*. The proposed amendment will form part of the Planning Scheme, which controls the use, development and protection of land.

- (c) *to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and*

The land contains no environmental values of significance as the land is cleared and contains no threatened species. The land is zoned Rural and the proposed amendment will not significantly alter the existing land use in any way.

- (d) *to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and;*

The proposed amendment supports this Objective and is consistent with State, Regional and local planning policies and strategies.

- (e) *to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and*

This Objective is not applicable as the proposed amendment is for a Planning Scheme amendment only.

- (f) *to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania; and*

The proposed amendment is consistent with this objective.

- (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value; and*

This Objective is not applicable to the proposed amendment as the subject land is not known to contain any items or places of scientific, aesthetic, architectural or historic interest.

- (h) *to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and*

The proposed amendment will not adversely impact upon public infrastructure.

- (i) *to provide a planning framework which fully considers land capability.*

This objective is considered further below in the discussion in relation the State Policy for the Protection of Agricultural Land.

State Policies

The State Coastal Policy 1996 (Coastal Policy)

The subject site is not within 1km of high water mark and as such the *State Coastal Policy 1996* does not apply.

The State Policy on Water Quality Management 1997 (Water Quality Policy)

The proposal is for an amendment only at this time and this policy is not applicable. Future development of the land will require consideration of this Policy.

The State Policy on the Protection of Agricultural Land

The PAL Policy applies to all agricultural land in Tasmania and the subject land is agricultural in nature as it holds the potential to be used for agricultural use.

The Objectives of the PAL Policy are defined as follows:

To enable the sustainable development of agriculture by minimising:

- (a) *conflict with or interference from other land uses; and*
- (b) *non-agricultural use or development on agricultural land that precludes the return of that land to agricultural use.*

The area that will be affected by the proposed amendment is currently zoned Rural and the land is currently subject to a range of activities, all of which are agricultural/rural in character.

The subject site is located within a predominantly rural area with relatively productive agricultural land.

The proposed amendment is in relation to a site where a use of rural character is well established. The principal use is for the site to be used as a tourist operation and as such attract visitors, however the attraction is centred on animal keeping and associated activities. The current use is considered to be compatible with surrounding rural activities despite its non-agricultural status being a tourist attraction. Hence, the use is not in conflict with surrounding rural and agricultural uses.

Furthermore, the amendment does not propose that the purpose of the site be altered. The proposed amendment furthers the operation at the site in a manner which does not result in incremental loss of agricultural land.

The proposed amendment is considered compatible with the policy on the protection of agricultural land.

National Environmental Protection Measures (NEPM).

NEPMs are broad framework setting statutory instruments made under the *National Environment Protection Council (Tasmania) Act 1995* and are taken to be State Policies. Eight NEPMs have been made to date. These deal with air quality, movement of waste, site contamination and used packaging materials.

There are no contaminated sites within the area subject to this draft amendment.

None of the other NEPMs are considered relevant to this draft amendment.

Gas Pipeline safety

Section 32(a) of the Act provides that a draft amendment must have regard to the safety requirements for gas pipelines.

There are no issues of gas pipeline safety associated with the draft amendment.

Potential for Land Use Conflicts S 32 1 (e)

There are no new potential land use conflicts caused by the proposed rezoning. The current scheme requires each application to be assessed in terms of any potential off site impacts, with an emphasis on protecting adjoining rural uses.

Regional Impacts s 32 1 (f)

The proposed rezoning is likely to have a negligible regional impact.

New Brighton Planning Scheme

The endorsed Draft Interim Brighton Planning Scheme 2014 would zone the land Rural Resource in which Tourist Operation is a discretionary use. However this would be without the qualifications and limitations that apply under the current scheme.

Options:

1. To initiate the draft amendment in accordance with the recommendation.
2. To initiate an alternative draft amendment as determined by Council.
3. To refuse to initiate the draft amendment.

RECOMMENDATION:

- A. That in accordance with Section 35(1) of the *Land Use Planning & Approvals Act 1993*, Council initiates draft amendment, to be known as draft amendment RZ 2014/05 to amend the planning scheme by
- i. Amending the planning scheme maps by the addition of a DP03 Zoodoo Wildlife Park Precinct boundary around the entirety of Certificate of Title Volume 12952 Folio 3; and
 - ii. The insertion the following clauses to the end of Clause 7.5.8:

“DPO3 Zoodoo Wildlife Park Precinct

Development within the DP03 - Zoodoo Wildlife Park Precinct identified by reference to this clause shall be in accordance with the following:

(a) Desired Future Character

- The Zoodoo Wildlife Park Precinct is to be developed for the keeping and breeding of native and exotic wildlife.
- Use and development at the Zoodoo Wildlife Park Precinct is not to interfere with the general rural character of the surrounding area.
- The Zoodoo Wildlife Park Precinct is to accommodate supportive tourism activities to the keeping and breeding of native and exotic animals.

(b) Table of Uses

Notwithstanding any other provisions of this Scheme the following uses are permitted within the Development Plan Overlay "DPO3 - The Zoodoo Wildlife Park Precinct:

(i) Business and Professional Services - if for a veterinary surgery;

(ii) Tourist Operation - if for a wildlife park and/or zoo.

(c) Apart from as provided in the provisions within DPO3 (a) and (b) which prevail, the development standards of the Rural Zone apply to use and development at the site.

- B. That in accordance with Section 35(1) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2014/05 satisfies the provisions of Section 32 of the *Land Use Planning and Approvals Act 1993*.
- C. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2014/05 be certified by instrument in writing affixed with the common seal of the Council;
- D. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2014/05 be given to the Tasmanian Planning Commission within 7 days; and
- E. That in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2014/05 be placed on public exhibition for no less than 21 days;

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Gray	
Cr Owen	
Cr Williams	

The meeting closed at 5.20 p.m.

Confirmed: _____
(Mayor)

Date: _____
17th February 2015