



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,
20th OCTOBER 2015**

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

IN ATTENDANCE: Mr R Sanderson (General Manager); Mr G Davoren (Deputy General Manager); Mrs J Banks (Governance Manager); Mr H Macpherson (Manager Asset Services) and Mr J Dryburgh (Manager Development Services)

1. CONFIRMATION OF MINUTES:

1.1 CONFIRMATION OF MINUTES OF THE WASTE MANAGEMENT COMMITTEE MEETING OF 15th SEPTEMBER 2015.

Cr Taylor moved, Cr Curran seconded that the Minutes of the Waste Management Committee Meeting of 15th September 2015 be confirmed.

CARRIED

VOTING RECORD

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

1.2 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 15th SEPTEMBER 2015.

Cr Jeffries moved, Cr Garlick seconded that the Minutes of the Ordinary Council Meeting of 15th September 2015 be confirmed.

CARRIED

VOTING RECORD

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

1.3 CONFIRMATION OF MINUTES OF THE FINANCE COMMITTEE MEETING OF 13TH OCTOBER 2015.

Cr Curran moved, Cr Garlick seconded that the Minutes of the Finance Committee Meeting of 13th October 2015 be confirmed.

CARRIED

VOTING RECORD

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

1.4 CONFIRMATION OF MINUTES OF THE PLANNING AUTHORITY MEETING OF 13TH OCTOBER 2015.

Cr Geard moved, Cr Jeffries seconded that the Minutes of the Planning Authority Meeting of 13th October 2015 be confirmed.

CARRIED

VOTING RECORD

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

2. APPLICATIONS FOR LEAVE OF ABSENCE:

All members were present.

3. PUBLIC QUESTION TIME AND DEPUTATIONS:

- Inspector Matthew McCreadie attended and answered a number of questions from Councillors and staff.

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 2015*, 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 2015*.

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’s communications were as follows:-

- Sep 17 Meeting at Parliament House – re Syrian Refugee crisis
Meeting with Dennis Burke
- Sep 22 Meeting at Council of Civic Pride Consultative Group
Meeting with Dennis Burke and James Dryburgh.
- Oct 01 Meeting with GM and Jen Butler at Council
Microwise Board Meeting
Meeting with GM and Emanuel Kallis.
- Oct 06 Taswater Office in Moonah to sign documents.
Meeting in City with Chairman of Taswater Miles Hampton.
- Oct 13 Attended official opening at the Civic Centre of The Salvation
Army – Communities for Children anti-poverty week.
Finance Committee meeting
Planning Authority meeting
- Oct 14 Attended along with Noeline the official opening of
“The Spirit of Anzac” at the DEC.
- Oct 19 STCA meeting
- Oct 20 Ordinary Council meeting.

RECOMMENDATION:

That the Mayor’s communications be received.

DECISION:

Cr Gray moved, Cr Curran 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	
Cr Williams	

5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority – Cr Gray representative.

Cr Geard attended the Old council Chamber User group meeting. Cr Geard also chaired the Pontville Users Groups.

DECISION:

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

CARRIED

VOTING RECORD

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

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 Governance Manager or General Manager.

6. NOTIFICATION OF COUNCIL WORKSHOPS:

In accordance with the requirements of the Local Government (Meeting Procedures) Regulations 2015, it was reported that there were no workshops held since the last Ordinary Council Meeting.

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 2015, 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 2015.

The General Manager had emailed and tabled Item 11.10 - SUNDAY TASMANIAN ARTICLE 11TH OCTOBER 2015; for discussion.

DECISION:

Cr Gray moved, Cr Jeffries seconded that the supplementary item 11.10 be considered.

CARRIED

VOTING RECORD

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

9. REPORTS FROM COMMITTEES:

9.1 FINANCE COMMITTEE – 13/10/15:

The recommendations of the Finance Committee Meeting of 13th October 2015, were submitted to Council for adoption.

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
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 2015, 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.

DECISION:

There were no planning items listed on this agenda.

11. REPORTS FROM OFFICERS:

11.1 APPLICATION FOR KENNEL LICENCE – 119 STONEFIELD ROAD, BRIGHTON:

FILE REFERENCE: STONEF/119

AUTHOR: Governance Manager
(Mrs J Banks)

Background:

An application for a kennel licence for 5 mixed breed dogs at 119 Stonefield Road, Brighton was lodged with Council on 14th September 2015.

Council Officers have been communicating with the owners of the property for some time regarding the number of unregistered dogs on their property. The dogs (sometimes up to 15) had been used for hunting and belong to other members of the family.

The owner has now reduced this number to 5 and they are all currently registered.

The application was advertised on the 23rd June 2015. Three objections were received during the statutory 14 day advertising period.

These objections relate mainly to the number of other animals on the property; but there is mention of barking dogs.

Consultation:

Governance Manager, Animal Control Officer, Environmental Health Officer, applicant and an objector.

Risk Implications:

N/A

Financial Implications:

N/A

Other Issues:

The *Dog Control Act 2000* states that “any person residing or owning land within 200 metres of the boundary of the premises to which a licence relates may object to the General Manager against the granting of the licence within 14 days after a notice is published”. Although there were 3 objections, only 1 falls within the above category i.e. within 200 metres of the boundary, however all representations were taken into consideration.

There have been verbal complaints (March & April 2014) to Council regarding the barking of dogs from this property. Council’s ACO visited the property and spoke with the owners. There haven’t been any other complaints regarding the dogs. However, Council Officers have received complaints about the various animals that were wandering onto neighbouring properties. This has since been resolved and the

number of animals on this property i.e. turkeys, pigs, cows, chickens, sheep has been massively reduced. There are no turkeys or pigs on the property anymore.

Assessment:

Council's Animal Control Officer (ACO) has visited the site and advised that the property is now satisfactorily maintained.

The ACO has also spoken with the applicant regarding the dogs barking and causing a nuisance.

It is not Council's position to advise a property owner how many farm animals they can keep on their rural property, therefore this application has been assessed only in relation to the Kennel licence for five dogs.

Council's ACO undertakes an annual inspection of all Kennel Licenced properties within the municipality.

Options:

1. As per the recommendation.
2. Not approve the application for a Kennel Licence at 119 Stonefield Road, Brighton.

RECOMMENDATION:

That Council approve a Kennel Licence for 5 mixed breed dogs at 119 Stonefield Road, Brighton, subject to the following conditions:-

1. No more than 5 dogs are to be kept on this property.
2. Adequate provisions for the health, welfare and control of all dogs.
3. Compliance with all laws relating to public health, environmental protection and required plumbing and planning approvals if required.
4. Compliance with the provisions of the *Dog Control Act 2000* or any other relevant Act, including but not limited to the *Animal Welfare Act 1993*.
5. Each dog is to be registered annually and microchipped in accordance with the *Dog Control Act 2000*. Council to be notified of each microchip number.
6. The dogs are not to create a nuisance by barking.

DECISION:

Cr Owen moved, Cr Jeffries seconded that this item be held over until the November Council meeting pending further information.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	

Cr Gray
Cr Jeffries
Cr Owen
Cr Taylor
Cr Williams

11.2 KENNEL LICENCE – CANCEL – 41 NELSONS BUILDING ROAD, BRIGHTON:

FILE REFERENCE: NELSON/41
AUTHOR: Governance Manager
(Mrs J Banks)

Background:

A kennel licence was applied and approved for eight dogs at 41 Nelsons Building Road, Brighton in 2003.

For the past three years the owners have not complied with the Kennel Licence conditions i.e. have not registered any of their dogs.

Despite writing to the owners, issuing Caution and then infringement notices, registrations have still not been paid.

Notice was given under Section 58 of the *Dog Control Act 2000*, to allow the owners to show cause to why the licence should not be cancelled. No response was received during the one month period of notice. A Notice was also given to them under this Section in July 2014, and a response was received, yet no dogs were registered despite promising they would.

Consultation:

Animal Control Officer, property owners, Corporate Service staff.

Risk Implications:

Nil

Financial Implications:

Nil

Other Issues:

Since 2003, there have been several occasions for non-payment of dog registrations and kennel licence renewals.

Since the 2012/13 financial year the owners have not registered any of their dogs, despite this being a condition of their kennel licence. Council Officers wrote to the owners in 2013, 2014 and again this year seeking payment.

One of the owners rang the Governance Manager on 31st July 2014, and promised to pay the outstanding dogs registrations. This did not occur.

Infringement notices have been issued for non-registration of dogs in accordance with the *Dog Control Act 2000*.

The dogs still remain unregistered and the Kennel Licence has not been paid for the 2015/16 financial year.

Assessment:

Section 58 of the *Dog Control Act 2000* states:-

- (1) A general manager may cancel a licence if satisfied that –
 - (a) the provisions of this Act or any other relevant Act are not being complied with; or
 - (b) any condition of the licence is not being complied with; or
 - (c) the situation or condition of the premises is creating a nuisance; or
 - (d) it is in the public interest that the licence be cancelled.
- (2) Before cancelling a licence, the general manager is to –
 - (a) give to the holder of the licence one month’s notice in writing to show cause why the licence should not be cancelled; and
 - (b) give consideration to any representations which the holder may make in that respect.
- (3) The cancellation of a licence is to be effected by the service of a notice on the holder of the licence notifying that the licence expires at the end of a period, not less than one month, specified in the notice, unless the normal expiry is first reached.

Section 58(1)(a) and (b) clearly applies.

The applicant may apply to the Magistrates Court for a review of:-

- The refusal of a general manager to renew a licence; or
- The cancellation of a licence; or
- The decision of the general manager to cancel the licence.

Options:

1. As per the recommendation.
2. That the Kennel Licence is not revoked and Council Officers continue to follow-up on the dog registrations and issue infringements for non-compliance of the *Dog Control Act 2000*.

RECOMMENDATION:

That the Kennel Licence for 41 Nelsons Building Road, Brighton is cancelled in accordance with the *Dog Control Act 2000*, and that the owners are notified of their review rights under Section 59 of the *Dog Control Act 2000*.

DECISION:

Cr Geard moved, Cr Garlick 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	
Cr Williams	

11.3 PROPOSED ACCESS ADVISORY COMMITTEE:

FILE REFERENCE: 0803

AUTHOR: Governance Manager
(Mrs J Banks)

Background:

At the August Ordinary Council Meeting a report was submitted requesting the re-establishment of the Access Advisory Committee.

Council previously had an Access Advisory Committee starting in December 1997 which operated until 2004 with varying degrees of success.

A notice was put in the *Brighton Community News* calling expressions of interest for residents to be on the Committee. Only two residents contacted Council.

Consultation:

Deputy Mayor, Governance Manager, Asset Services Manager, Donna Campbell and Elaine Williams

Risk Implications:

None.

Financial Implications:

None.

Other Issues:

Council should be proactive in addressing disability access issues, particularly now that a resident has raised concerns about access problems in the Municipality.

Assessment:

The Deputy Mayor and Council Officers met with the two ladies who expressed an interest in being on the Committee.

The discussion was mainly around access and footpath issues within the Bridgewater area, particularly along the East Derwent Highway and some major road networks to the shopping centres.

Councillors would be aware that this year there is a major focus on footpath replacements, including cross overs. The areas highlighted by these ladies will be a priority.

Other issues raised were to do with commercial premises not being DDA compliant and these will be followed up by Council officers.

Rather than re-establish the Committee, it was decided to maintain contact with these ladies and to meet on a regular basis to discuss their concerns, particularly prior to the compilation of next year's budget.

Options:

1. Adopt the recommendation.
 2. Do nothing.
-

RECOMMENDATION:

That Council not establish an Access Advisory Committee.

DECISION:

Cr Owen moved, Cr Curran 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	
Cr Williams	

11.4 DELEGATION – HEAVY VEHICLE NATIONAL LAW (TASMANIA) 2013:

FILE REFERENCE:

AUTHOR: Governance Manager
(Mrs J Banks)

Background:

Legislation enables Council to delegate some of its functions to assist in the smooth and efficient running of Council affairs.

In order for Council to make a valid delegation, legislation requires:-

- a) Council must have authority from legislation to delegate the Function
- b) The legislation must allow Council to delegate the Function to the Delegate
- c) Council must resolve to make the delegation
- d) Council must resolve to seal and Instrument of Delegation

In addition, Council may resolve to allow the delegate to sub-delegate the Function.

The *Heavy Vehicle National Law (Tasmania) 2013* came into effect on 10th February 2014. Through this legislation, local government is now recognised as the road manager of its roads and thus having responsibility for approve the use of heavy vehicles on its roads.

Previously approval of heavy vehicles was generally under a permit or notice issued by the State Government who would involve local councils in most decisions.

Councils are now legally required to approve or reject applications for heavy vehicles to use its roads and can impose travel conditions and/or road conditions.

These heavy vehicles range from Class 1 being mobile cranes, oversized and over mass vehicles; Class 2 B Doubles; and Class 3 being other vehicles such as truck and dog combinations.

Consultation:

LGAT, Municipal Engineer

Risk Implications:

Council may incur legal costs if demonstrated that Council's delegation/s are invalid.

Financial Implications:

None unless delegations are deemed invalid and action is taken against Council.

Options:

1. As per the recommendation.
2. That the Delegation not be adopted.

RECOMMENDATION:

That Council resolve to delegate the following functions and powers to the General Manager in accordance with Section 22 of the *Local Government Act 1993*; and that the General Manager sub-delegate functions and powers in accordance with Section 64 of the *Local Government Act 1993*, and if at any time the General Manager is unable to act, Council delegates the Function to the person acting as the General Manager at the time.

Heavy Vehicle National Law (Tasmania) Act 2013

1.	S.16(b) to perform the duties of the Road Manager	Sub-delegation required to Municipal Engineer
2.	S.156 - to perform duties of the Council if the Regulator asks for Council's consent to the grant of a mass or dimension authority, decide to give or not to give the consent	Sub-delegation required to Municipal Engineer
3.	S.158 - to perform the duties of the Council if the consultation with the other entity is not yet completed, to, as far as practicable, deal with the request for consent and decide to give or not to give the consent (even though the consultation with the other entity is not completed)	Sub-delegation required to Municipal Engineer
4.	S.159 - to perform the duties of the Council to form the opinion a route assessment is necessary for deciding whether to give or not to give the consent and notify the Regulator.	Sub-delegation required to Municipal Engineer
5.	S.160 - to perform the duties of the Council to impose road conditions.	Sub-delegation required to Municipal Engineer
6.	S.161 - to perform the duties of the Council to impose travel conditions	Sub-delegation required to Municipal Engineer
7.	S.162 - to perform the duties of the Council to impose vehicle restrictions	Sub-delegation required to Municipal Engineer
8.	S.167 - to perform the duties of the Council to expedite the Road Manager's consent for renewal of mass or dimension authority	Sub-delegation required to Municipal Engineer
9.	S.169 - to perform the duties of the Council to grant limited consent for trial purposes	Sub-delegation required to Municipal Engineer
10.	S.170 - to perform the duties of the Council to renew limited consent for trial purposes	Sub-delegation required to Municipal Engineer

11.	S.172 - to perform the duties of the Council to issue a statement explaining adverse decision of the Road Manager	Sub-delegation required to Municipal Engineer
12.	S.173 - to perform the duties of the Council to issue an amendment or cancellation on the Regulator's initiative	Sub-delegation required to Municipal Engineer
13.	S.174 - to perform the duties of the Council to issue an amendment or cancellation on request of the relevant Road Manager	Sub-delegation required to Municipal Engineer
14.	S.176 - to perform the duties of the Council to issue an amendment or cancellation on application by the permit holder.	Sub-delegation required to Municipal Engineer
15.	S.178 - to perform the duties of the Council to issue an amendment or cancellation on the request of the Road Manager.	Sub-delegation required to Municipal Engineer

The Delegations are made on the following conditions:

1. The Delegation is subject to the conditions or restrictions (if any) outlined in the table above.
2. The Delegation is subject to such policies, policy guidelines and directions as the authority may from time to time approve.
3. The Delegation is subject to the Council's by-laws or the provisions of any Act.
4. That the general Instruments of Delegation in relation to the Act listed above be signed and sealed by the authority.

DECISION:

Cr Jeffries moved, Cr Garlick 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	
Cr Williams	

11.5 COMMON SERVICES JOINT VENTURE MONTHLY REPORTS:

AUTHOR: Manager Professional Services
(Mr G Boyd)

Background:

When the Common Services Joint Venture was formalised there was an undertaking that monthly reports would be provided to member councils. There are seven councils that have joined to date.

One report is for the overall performance of the joint venture which is provided to all member councils. The other report is council specific for each member council that is provided only to that council. The second attachment is for Brighton Council's performance for the month of August.

Consultation:

General Manager

Risk Implications:

Nil

Financial Implications:

See attached reports for financial information about the Common Services Joint Venture and Brighton Council.

Other Issues:

These reports provide detailed information to assist in dealing with the amalgamation program and the financial sustainability of the joint venture and individual councils.

Assessment:

The reports provide updates of proposed actions and collaborations which will build the overall capability and outputs of the group.

Options:

1. Adopt the recommendation.
 2. Do nothing.
-

RECOMMENDATION:

That the reports be received.

DECISION:

Cr Curran moved, Cr Jeffries 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	
Cr Williams	

11.6 MONTHLY PLANNING UPDATE:

FILE REFERENCE:

AUTHORS: Manager Development Services
(Mr J Dryburgh)

Background:

This report is intended to provide a monthly summary of planning matters for Council.

Discussion:

Brighton Industrial and Housing Corporation (BIHC):

- Several houses complete in Paice Street.

Purchase and Receipt of land:

Nothing to report.

Projects:

- **5+5+5 project:** The second stage of works under the 5+5+5 project is complete and has been very successful. We are investigating when and how we can get stages 3 and 4 underway and what works can be done in the interim, including by utilizing Community Blitz and/or Correction Services.
- **Brighton Tomorrow:** The Brighton Tomorrow report is on public exhibition.
- **Old hospital building:** Investigations regarding facilitating the users of the Pontville Chambers and the Brighton Playgroup within the old hospital building are progressing with a meeting with users held on the 29th of September.
- **Bridgewater South Master Plan:** The draft Bridgewater South Master Plan report is awaiting Boral sign off to be placed on public exhibition for 3 weeks.

Development Applications and leases on Council-owned land:

Nothing new to report.

Council Land Subdivisions and Sales:

Nothing new to report.

Other Strategic Matters:

- **Brighton Draft Interim Planning Scheme:** The draft interim planning scheme is up and running. The submission period has now closed. The public hearing for submissions was held on the 8th October at Council.
An Urgent Amendment request has been submitted to reinstate the split zonings along Boyer Road, with verbal agreement given by the TPC.
- **Potential HT Land Master plan:** No news.

Planning Professional Services:

This past month has continued as extremely busy with significant additional work for other councils undertaken in relation to interim planning schemes for all five councils.

Other matters: None

Statutory update (September 2015):

For the past month (See Attachment).

Enforcements:

Nothing to report.

Consultation:

All council departments.

Risk Implications:

N/A.

Financial Implications:

N/A.

Options:

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

RECOMMENDATION:

That Council receive the report.

DECISION:

Cr Gray moved, Cr Jeffries 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	
Cr Williams	

11.7 DELEGATIONS FOR PLANNING COMPLIANCE:

FILE REFERENCE:

AUTHOR: Senior Planner
(Mr S Wells)

Background:

This report was discussed and adopted at the August Ordinary Council Meeting, however the *Land Use Planning and Approvals Act 1993* (LUPAA) states that delegations must be to a person and not a position, therefore the recommendation has been amended to reflect this change.

The legislative provisions for planning compliance have recently been amended and it is appropriate to consider what delegations could be granted to Council Officers.

Broadly, the amendments provide for -

- More formal process for dealing with alleged non-compliance raised by the community, including timeframes to investigate and respond;
- The ability to issue enforcement notices and orders and to cancel permits and to prosecute if the issue is unresolved; and
- The ability to issue an infringement notice with monetary penalties.

The previous provisions were cumbersome and, at times, ineffective. The new provisions of the *Land Use Planning and Approvals Act 1993* (LUPAA) reduce the role of the *Resource Management and Planning Appeals Tribunal* and give more direct powers to Planning Authorities. Generally, the extent of powers and the process is similar to building and environmental management legislation.

Delegations:

Current delegations for planning compliance are limited as there was little scope for officer action. Previously Council Officers would investigate and if the matter could not be resolved would have to seek an order of the Tribunal and then prosecute failure to comply with that order; all of which required solicitors.

It is not foreshadowed that current practice will change. The amendments do however provide some more teeth that, if necessary, could bring prompt and efficient resolution to issues. The practice of Council Officers is not guided by any Council Policy and none is currently sought; however Council staff seek to ensure that compliance is:-

- Outcome, rather than punitive, focused;
- Proportional to the seriousness of the offence;
- Transparent, equitable and consistent;
- In the public interest;
- Necessary in light of the available evidence;
- Follows due process; and
- Cost effective to Council.

It is considered appropriate that Council's General Manager, Manager Development Services and Senior Planner be authorised officers for planning compliance with the powers set out in Division 4B of LUPAA and have the delegated authority to:-

- Issue and serve an infringement notice (s65A);
- Issue a notice of intention to issue enforcement notice (s65B);
- Issue and serve an enforcement notice (s65C & s65D);
- Issue and serve a notice of intention of cancel a permit (s65F); and
- Issue notice and advice with respect to whether a charge, infringement notice or enforcement notice will be issued in response to the receipt of a notice of contravention or failure or likely contravention of failure received by the planning authority under s63B (s63B & s64).

Delegation is not sought in relation to powers to cancel a permit.

Consultation:

Consultation has occurred with Council's General Manager, Manager Development Services and Council's solicitors have briefed Council planning staff on the amendments.

Risk Implications:

There are no significant risks. The recommendation will give delegations that are equivalent to other Council Staff and are considered appropriate in light of new compliance powers.

Financial Implications:

Nil. Infringements could provide additional, but incidental, revenue to Council through use of the recommended delegations. However, compliance activity is generally at a cost to Council.

Options:

1. As per the recommendation.
 2. Council adopts a different option.
 3. Council does not adopt the recommendation.
-

RECOMMENDATION:

That Council delegate powers related to planning compliance to Ron Sanderson, James Dryburgh and Shane Wells in accordance with this report.

DECISION:

Cr Gray moved, Cr Curran 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	
Cr Williams	

11.10 SUNDAY TASMANIAN ARTICLE 11TH OCTOBER 2015:

FILE REFERENCE: PF

AUTHOR: General Manager
(Mr R Sanderson)

Background:

The Mercury newspaper has been running a campaign about councillor and general manager salaries and expenses for southern councils. The article on 11th October about the author was the first for the expenses of general managers.

Council received a Right to Information application on 3rd August for details of the general manager's pay rises for the past three years, criteria to measure his performance and expenses incurred for the past three years for the general manager and elected representatives.

The author met with the editor of the Mercury on 17th August to explain his unique circumstance at Brighton Council as follows:

Brighton Council is not a typical council. It is unique in Australia.

Microwise Australia Pty Ltd – source of external revenue for council

- Wrote our own software in mid-1990's
- Set up a Pty Ltd company in 1998
- 17 users of property software
 - Tasmania / NSW / WA / NT / Fiji
- 28 users of vaccination software
- Use an Adelaide company as an agent for marketing

Common Service Provision – source of external revenue for council

- Have provided services to other councils since 2007
- This is on a commercial basis not resource sharing
- Set up a joint venture of Tasmanian councils with interest from NT councils, City of Palmerston and Litchfield Council

Brighton Council Performance – financial sustainability and ratepayer satisfaction

- 91.2% of residents are satisfied with Council's performance
- 19 years of CPI rate increases
- Past 3 elections had no change of councillors
- Very popular flat general rate where dwellings pay the same amount
- Long history of innovation
 - Two part water pricing
 - Beneficial reuse of sewage effluent

General Manager

- Has a significant role at high level marketing for both Microwise and professional services; different from other general managers
- Approximately 1/4 of his total remuneration is paid by Microwise
- Approximately 1/3 of his expenses are for Microwise
- Councils are successful where councillors and officers work together, in harmony. Where those roles are in conflict it can distract from the overall delivery of strategic objectives of the council. Brighton doesn't have such conflict
- The role of general manager is vitally important in developing and supporting a culture of good democratic governance. The general manager has played an important part in developing and fostering council's positive culture both at a staff and elected member level.

The author delivered the requested information to the Mercury on 21st August.

The author met with the Mercury journalist, Jessica Howard, on 6th October to answer questions about the expenses. Her questions were fair and reasonable unlike most of the published article.

Consultation:

None.

Risk Implications:

None.

Financial Implications:

None.

Other Issues:

Reputation of the author and/or council may be compromised.

Assessment:

The author has received no negative comments and has received support from a wide variety of persons; politicians, councillors, colleagues and the general public.

Council has been given an unqualified opinion from the Auditor General for 2014/15 as it has for many years.

This article is not about the author, rather part of a general campaign to attempt to denigrate local government, presumably to support to push for amalgamating councils.

Options:

- 1. Adopt the recommendation
- 2. Do nothing

RECOMMENDATION:

That the report be received.

DECISION:

Cr Geard moved, Cr Curran seconded that the report be received and that Council fully support Ron Sanderson in his role as General Manager.

CARRIED

VOTING RECORD

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

12. QUESTIONS ON NOTICE:

There were no questions on notice.

Meeting closed at 7.10 pm

Confirmed: _____
(Mayor)

Date: _____
17th November 2015