



# Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
OLD BEACH AT 5.30PM ON TUESDAY,  
11<sup>TH</sup> JULY, 2017

**PRESENT:** Cr Gray (Chairperson); Cr Foster; Cr Curran; Cr Geard;  
Cr Higgins and Cr Owen.

**IN ATTENDANCE:** Mrs K Hossack (Corporate Consultant) and Mr D  
Allingham (Senior Planning Officer)

## 1. APOLOGIES:

Cr Williams, Cr Jeffries and Cr Garlick all requested leave of absence.

*Cr Geard moved, Cr Higgins seconded that Cr Williams, Cr Jeffries and Cr Garlick be granted leave of absence.*

**CARRIED**

## VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Owen	

## 2. QUESTION TIME & DEPUTATIONS:

*There was no requirement for question time.*

## 3. DECLARATION OF INTEREST:

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 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.*

**4. 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 4. on this agenda, inclusive of any supplementary items.

**4.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – SA 2017/0006 – 10 ALANAH COURT, OLD BEACH – SUBDIVISION 10 LOTS PLUS BALANCE:**

<b>Type of Report:</b>	Planning Authority – For Decision
<b>Application No:</b>	SA 2017 /0006
<b>Address</b>	10 Alanah Court, Old Beach
<b>Applicant</b>	Lark and Creese
<b>Owner:</b>	VA Ernst and MA Ernst
<b>Proposal:</b>	10 Lot subdivision plus balance
<b>Zone:</b>	General Residential
<b>Representations:</b>	One (1)
<b>Discretions:</b>	Subdivision Development Standards for Subdivision Bushfire Management Code Stormwater Code
<b>AUTHOR:</b>	Jo Blackwell (Planning Officer)

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**1. Executive Summary**

- 1.1 Planning approval is sought for a Ten (10) lot subdivision plus balance in the General Residential Zone at 10 Alanah Court, Old Beach
- 1.2 The application is discretionary due to the proposal being for subdivision (clause 9.7.2 of the Brighton Interim Planning Scheme 2015) and reliance on performance criteria.
- 1.3 One (1) representation was received. It is considered that the issues raised in the representation does not warrant refusal or modification of the application.
- 1.4 The key planning issues relate to variations to the acceptable solutions for lot design and applicable codes.
- 1.5 The proposal is recommended for approval subject to various non-standard conditions relating to the above key planning issues and on servicing of the site.
- 1.6 The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt a representation via the public exhibition period for the development application.

## **2. Legislative and Policy Content**

- 2.1 The purpose of this report is to enable the Planning Authority to determine application SA 2017/0006.
- 2.2 This determination must be made no later than 18<sup>th</sup> July 2017, which has been extended beyond the statutory timeframe with the consent of the applicant.
- 2.3 The relevant legislation is the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4 This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- 2.5 This report has been prepared with appropriate regard to the State Policies that apply under *the State Policies and Projects Act 1993*.
- 2.6 This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for

preparing or amending the planning scheme.

### 3. Risk & Implications

- 3.1 Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications.

### 4. Relevant Background and Past Applications

#### 4.1 Sub 91/32

4.1.1 16<sup>th</sup> May 1992

Approval Stage 1 - Lots 1 - 10

4.1.2 25<sup>th</sup> June 1992

Approval of 61 lots (stages 2, 3, 4, 6, 8 9), with stages 5 and 7 refused due to proximity to the Old Beach Quarry for safety and amenity reasons. Council agreed in principle that stages 5 and 7 can be subdivided in the future provided that those stages are redesigned and that the quarry in stage 7 is rehabilitated.

4.1.3 June 1994

Planning approval lapsed for stages 2, 8, 9 and a portion of stage 6.

#### 4.2 Sub 95/23

4.2.1 11<sup>th</sup> December 1995

Approval of 13 lots (5 of which were approved pursuant to Sub 91/32 above) which comprised the residual lots of Stage 6

- 4.3 The proposal site is within close proximity to the attenuation zone surrounding the quarry. However, pursuant to E9.2.1(b)(ii) of the Attenuation Code, the code applies to

*(b) development or use for sensitive use, including subdivision intended for sensitive use;*

*(i) on land within an Attenuation Area shown on the planning scheme maps, or ....*

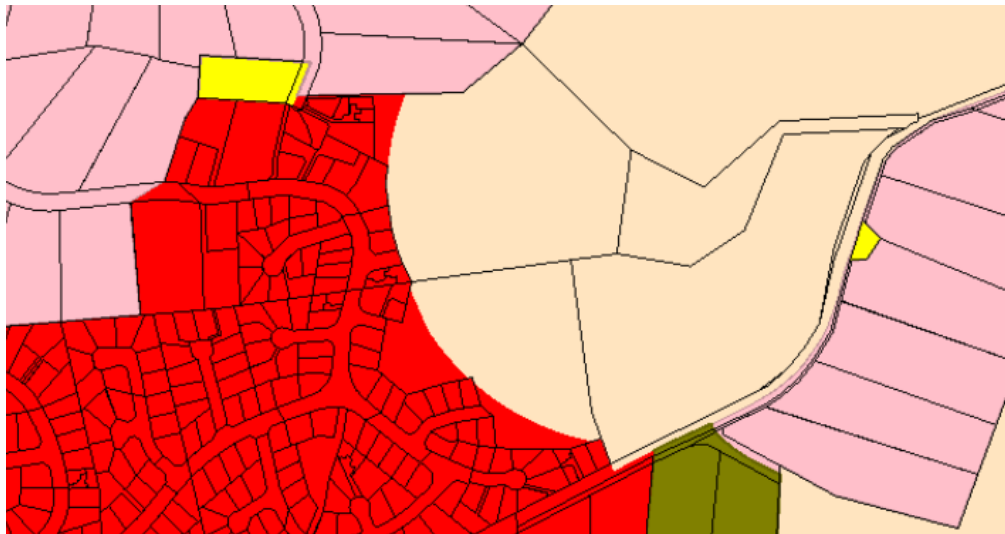
As the proposed land sits outside the planning scheme map (see figure 1), the Code does not apply.



Figure 1: A recent aerial image of the subject site ([www.listmap.tas.gov.au](http://www.listmap.tas.gov.au))

## 5. Site Detail

- 5.1 The subject land is located at the rear of existing residential allotments accessed via Shelmore Drive, Tandara Court and Alanah Court. The area of land to be subdivided is 6300m<sup>2</sup>, with the balance lot to comprise approximately 3.2ha. Access to the proposed lots is from Tandara Court, which will be extended to create a cul-de-sac in the southern portion of the site.
- 5.2 The land area comprised in the balance lot falls within the attenuation overlay surrounding the Old Beach Quarry, whilst the area to be subdivided is not affected by any overlays applicable to the Planning Scheme, and is zoned rural resource. To the north and east, larger lots are zoned rural living to the north and east, with some land to the south zoned Environmental Living. Figure 2 shows the zoning within the locality.



**Figure 2:** The zoning of the subject locality (Brighton Interim Planning Scheme 2015)

Zone Key: Red: General Residential; Pink: Rural Living; Buff: Rural Resource; Green: Environmental Living

- 5.3 The portion of the land to be subdivided is generally clear of significant vegetation, with unmaintained grasses and weeds dominant on the relevant section of the site. The vegetation on the area of the lot within the Rural Resource zone and quarry buffer is identified as Acacia woodland and scrub (TasVeg 3.0). There is no threatened flora or fauna identified by DPIPWE on the site.
- 5.4 Refer to the application drawings attached as Annexure A.

## **6. Proposal**

- 6.1 The proposal is for subdivision of 10 lots plus balance and a road lot in the General Residential Zone.
- 6.2 The application is supported by the attached Subdivision plan and supporting documentation from the Applicant.

## **7. Assessment Against Planning Scheme Provisions**

- 7.1 The following provisions are relevant to the proposed use and development:-
- 7.1.1 General Residential Zone - Development Standards for Subdivision (D10.6)
  - 7.1.2 Code E1.0 Bushfire Hazard Management Code
  - 7.1.3 Code E 6.0 Parking and Access Code
  - 7.1.4 Code E7.0 Stormwater Management Code
- 7.2 The application satisfies the following Acceptable Solutions:-
- 7.2.1 10.6.4 A1 Services - Reticulated Potable Water
  - 7.2.2 10.6.4 A2 Services - Reticulated Sewerage System
  - 7.2.3 E6.0 Parking and Access Code
- 7.3 The following discretions are invoked:-
- 7.3.1 C9.7.2 Subdivision
  - 7.3.2 Development Standards for Subdivision including:
    - Lot Design (10.6.1)
    - Roads (10.6.2)
    - Ways and Public Open Space (10.6.3)

Services (10.6.4)

7.3.3 Bushfire Hazard Management Code (E1.0)

7.3.4 Stormwater Management Code (E7.0)

**7.4 Discretion 1 - Subdivision**

7.4.1 Clause 9.7.2 notes that a permit for development involving a plan of subdivision is discretionary unless:

(a) for adjustment of a boundary in accordance with clause 9.3.1;

(b) the subdivision is prohibited in accordance with clause 8.9; or

(c) the plan of subdivision must not be approved under section 84 Local Government (Building and Miscellaneous Provisions) Act 1993.

The proposal received is not in relation to a boundary adjustment, nor is it prohibited pursuant to clause 8.9 or s.84 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. Accordingly, the proposal must be assessed as a discretionary application.

**7.5 Discretion 2 - Lot Design**

7.5.1 Clause 10.6.1 sets out the acceptable solutions in relation to Lot Design. The applicant seeks variations to the following acceptable solutions within the scheme:

10.6.1 A1 Minimum Lot Size

10.6.1 A2 Building Area

10.6.1. A3 Frontage

10.6.1. A4 Internal Lot

10.6.1. A5 Subdivision exceeding 3 lots

**7.5.2 Minimum Lot Size**

7.5.2.1 Table 10.1 notes that a minimum lot size of 450m<sup>2</sup> and maximum lot size of 1000m<sup>2</sup> is required, "not including any fee simple access strip and any balance lots or lots designed for multiple dwellings, retirement villages or residential aged care facilities or non-residential uses".

7.5.2.2 The Plan of Subdivision notes that the application is for a staged development, with stage 1 combining lots 1 - 10 as a single 6300m<sup>2</sup> development parcel, and stage 2 separating the land created in stage 1 into lots 1-10. The proposal is logical in that it allows for the separation of the general residential land from that zoned Rural Resource. However, it is prudent to require a condition for an agreement pursuant to s71 of the *Land Use Planning and Approvals Act 1993* to ensure that the lot created by stage 1 of the subdivision is developed as per the

lot layout as shown in Stage 2 of the proposed Plan of Subdivision.

7.5.2.3 Lots 1 – 10 as shown on the Plan of Subdivision comply with the minimum and maximum lot sizes, as prescribed by Table 10.1.

7.5.2.4 The proposal satisfies the Performance Criteria, subject to conditions.

### 7.5.3 *Building Area*

7.5.3.1 Clause 10.6.1 A2 provides acceptable solutions for minimum building areas which are clear of setbacks, not subject to codes, clear of title restrictions and restrictive covenants, reasonable gradient, and provide for solar access.

7.5.3.2 Various lots are able to comply with the criteria for building area. Addressing each of the criteria in turn:

(a) *Clear of the frontage, side and rear boundary setbacks.*

The plans submitted by the applicant indicate that the building areas for each lots are able to provide building areas clear of the frontage, side and rear boundary setbacks.

(b) *Not subject to any codes in this planning scheme*

All development is subject to the Parking and Access Code (E6.0) and the Stormwater Management Code (E7.0), both of which are considered in this report. In summary, the application is able to comply with those codes.

Lots 1 – 5 are subject to the Bushfire Hazard Management Code. A Bushfire Hazard Management Plan prepared by Nick Creese (BFP 118) and dated 4<sup>th</sup> April 2017 has been submitted in support of the application. The Bushfire Management Code is addressed more fully later in this report.

It is noted that the proposal is able to satisfy the requirements of the Code, subject to a condition on the permit requiring the registration of an agreement pursuant s71 of the *Land Use Planning and Approvals Act 1993* stipulating that all development is to be in accordance with the abovementioned Bushfire Hazard Management Plan.

(c) *Clear of title restrictions such as easements and restrictive covenants.*

The parent title (Folio of the Register 140781 Folio 2) is clear of title restrictions such as easements and restrictive covenants. The submitted subdivision plan shows pipeline



easements to be created over lots 5 – 9 inclusive to facilitate stormwater and sewer infrastructure. The easements will be created along boundary lines, such that development of each lot is not unreasonably restricted.

- (d) *Has an average slope of no more than 1:5*

All lots have an average gradient of 1:5 or less.

- (e) *The long axis of the building area faces north or within 20 degrees west or 30 degrees east of north.*

The proposal shows that the majority of the lots (1 – 8 and 10) have the short axis of the building areas facing north, rather than the long axis. Lot 9's long axis faces 20 degrees west of north.

- (f) *Is 10 x 15m in size*

The plan shows all lots other than lots 1 and 10 have rectangular building areas measuring 10 x 15m. Lots 1 and 10 have irregularly shaped building areas, which measure 168m<sup>2</sup> (Lot 1) and 190m<sup>2</sup> (Lot 10).

7.5.3.3 The performance criteria requires the design of each lot must contain a building area able to satisfy all of the following:

- (a) *be reasonably capable of accommodating residential use and development;*
- (b) *meets any applicable standards in codes in this planning scheme;*
- (c) *enables future development to achieve maximum solar access, given the slope and aspect of the land;*
- (d) *minimises the need for earth works, retaining walls, and fill and excavation associated with future development;*
- (e) *provides for sufficient useable area on the lot for both of the following;*
  - (i) *on-site parking and manoeuvring;*
  - (ii) *adequate private open space.*

7.5.3.4 The demonstrated building areas meet setback standards, and provide for sufficient private open space on each lot. Some excavation work may be required to develop the lots on the north-eastern side of the road, but given that the average gradient is less than 1:5 for all lots, any excavation works would not be considered excessive. Site inspection at various times of the day indicates that the subject land has good solar access.

It is therefore considered that the proposal can accord with the performance criteria for building area. Taking into account the

proposed lot layout and topography of the site, the proposed subdivision will enable residential use to be accommodated on the site in a manner which provides for reasonable solar access, private open space and on-site parking and manoeuvring in accordance with residential development standards.

#### 7.5.4 Frontage

7.5.4.1 Clause 10.6.1 A3 relates to minimum frontage requirements. Table 10.2 of the Scheme provides for a minimum frontage of 15m for all lots as the acceptable solution. Lots 2, 3, and 10 are able to meet the acceptable solution, with lots 1, 4, 6, 7, 8, and 9 relying on the performance criteria. Lot 5 is an internal lot which is addressed separately under 7.6.4 below. The performance criteria states:

*The frontage of each lot must satisfy all of the following:-*

- (a) *provides opportunity for practical and safe vehicular and pedestrian access;*
- (b) *provides opportunity for passive surveillance between residential development on the lot and the public road;*
- (c) *is no less than 6m.*

7.5.4.2 The subject lots are considered to be able to satisfy the performance criteria as set out above, with Council's Senior Technical Officer determining that the proposed frontages are wide enough to accommodate practical and safe vehicular and pedestrian access; provide for opportunities for passive surveillance given the topography of the lots. All lots can achieve the minimum frontage of 6m.

#### 7.5.5 Internal Lot

7.5.5.1 Clause 10.6.1 A4 relates to internal lots. Lot 5 on the plan of subdivision is classed as an internal lot, given that it is lying predominantly behind lots 4 and 6 and vehicular access is provided to the road via an access strip 3.64m wide.

7.5.5.2 The performance criteria requires that internal lots must satisfy all of the following:

*An internal lot must satisfy all of the following:-*

- (a) *the lot gains access from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;*
- (b) *it is not reasonably possible to provide a new road to create a standard frontage lot;*

- (c) *the lot constitutes the only reasonable way to subdivide the rear of an existing lot;*
- (d) *the lot will contribute to the more efficient utilisation of residential land and infrastructure;*
- (e) *the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;*
- (f) *the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;*
- (g) *passing bays are provided at appropriate distances to service the likely future use of the lot;*
- (h) *the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;*
- (i) *a sealed driveway is provided on the access strip prior to the sealing of the final plan.*
- (j) *the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.*

7.5.5.3 It is not considered that a standard frontage lot can be achieved for Lot 5. The possibility of creating a roadway which would allow access to any future development of the balance lot to the north east has been considered by council, but dismissed, given the width of the existing road (4.5m) and the gradients that would be required (see clause 8.6.2).

An internal lot, on this occasion, allows for an efficient utilisation of residential land and infrastructure on land which has been identified by its zoning as suitable for residential use.

The plan of subdivision demonstrates that a building area is able to be achieved on the lot, which accords with the acceptable solutions for setbacks for the general residential zone.

7.5.5.4 The proposal accords with (f), (g) and (h) in that the proposal is for a single access strip 18m long. Clause E6.7.3 A1 requires that vehicle passing areas are required if the access serves more than 5 car parking spaces, is more than 30m long or meets a road serving more than 6000 cars per day. Accordingly, passing areas are not required, given the access strip is only 18m in length. Further site density would restrict any future residential development to a maximum of two multiple dwelling units on the lot.

7.5.5.5 A condition is recommended to be included in the permit to ensure that the driveway is sealed prior to sealing of the final plan.

7.5.5.6 Sub-clause (j) is not applicable, as the lot does not front public open space or public rights of way.

7.5.6 *Subdivision is for no More Than 3 Lots*

7.5.6.1 The subdivision is for 10 lots plus balance, which exceeds the acceptable solution of 3 lots. Accordingly, the performance criteria requires that the:

*Arrangement and provision of lots must satisfy all of the following:*

- (a) have regard to providing a higher net density of dwellings along;*
  - (i) public transport corridors;*
  - (ii) adjoining or opposite public open space, except where the public open space presents a hazard risk such as bushfire;*
  - (iii) within 200 m of business zones and local shops;*
- (b) will not compromise the future subdivision of the entirety of the parent lot to the densities envisaged for the zone;*
- (c) staging, if any, provides for the efficient and ordered provision of new infrastructure;*
- (d) opportunity is optimised for passive surveillance between future residential development on the lots and public spaces;*
- (e) is consistent with any applicable Local Area Objectives or Desired Future Character Statements.*

7.5.6.2 The proposed subdivision provides for higher densities than that created by previous subdivisions in the area, but satisfies the minimum lot size stipulated by the Planning Scheme in relation to residential development. Access to public transport is approximately 550m from the site, which is accessed via public open space which is located between Clives Avenue and Child's Drive, and again from Child's Drive, connecting to the East Derwent Highway. There is no business zone in the Old Beach area; a local shop is located at 11 Fouche Avenue, approximately 700m from the site.

7.5.6.3 The number of lots proposed is not considered to compromise the future subdivision of the balance lot as it presently stand. Any future subdivision would initially be subject to a rezoning application, given that the balance lot is zoned Rural Resource, and would only be able to be considered by council for the balance land and adjacent sites, upon cessation of quarry operations and remediation of the site.

7.5.6.4 As discussed in 7.5.2, the proposed staging of the subdivision is prohibited, given that the proposal would result in subdivision of a lot exceeding the maximum lot size prescribed by Table 10.1 of the Scheme. Accordingly, (c) is not applicable.

7.5.6.5 The adjacent land is not currently zoned for residential use, nor is it a public space. Accordingly (d) does not apply.

7.5.6.6 There are no Local Area Objectives or Desired Future Character Statements for the Zone. Accordingly (e) does not apply.

7.5.7 Roads

7.5.7.1 Contrary to the acceptable solution for Clause 10.6.2 which requires that the subdivision includes no new road, an extension of Tandara Court is proposed, terminating in a cul-de-sac.

7.5.7.2 The performance criteria states:-

*The arrangement and construction of roads within a subdivision must satisfy all of the following:-*

- (a) the route and standard of roads accords with any relevant road network plan adopted by the Planning Authority;*
- (b) the appropriate and reasonable future subdivision of the entirety of any balance lot is not compromised;*
- (c) the future subdivision of any neighbouring or nearby land with subdivision potential is facilitated through the provision of connector roads and pedestrian paths, where appropriate, to common boundaries;*
- (d) an acceptable level of access, safety, convenience and legibility is provided through a consistent road function hierarchy;*
- (e) cul-de-sac and other terminated roads are not created, or their use in road layout design is kept to an absolute minimum;*
- (f) connectivity with the neighbourhood road network is maximised;*
- (g) the travel distance between key destinations such as shops and services is minimised;*
- (h) walking, cycling and the efficient movement of public transport is facilitated;*
- (i) provision is made for bicycle infrastructure on new arterial and collector roads in accordance with Austroads Guide to Road Design Part 6A;*
- (j) any adjacent existing grid pattern of streets is extended, where there are no significant topographical constraints.*

7.5.7.3 The cul-de-sac proposed by the applicant is considered the most reasonable outcome, given the excessive gradient of any proposed connector road to the balance lot. Accordingly, the proposed road layout is not considered to compromise any future subdivision of the balance lot, with access available from Alanah Court. Tandara Court is too narrow (4.5m wide excluding kerb and channel) to be considered for use as a through road. It is expected that adjacent,

undeveloped lots are more likely to be afforded vehicular access from the yet unnamed road north of Tandara Court (6m wide), Alanah Court (6.5m wide) and from Baskerville Road, given the topography of the sites.

7.5.7.4 The road hierarchy is consistent with that in the vicinity: Tandara Court links to the Shelmore Drive/Clives Avenue collector road, which intersects with the East Derwent Highway approximately 660m south of the proposed subdivision. Further, there are existing arrangements for pedestrian traffic from the site, with footpaths and connections through public open space, providing accessed to public transport on the East Derwent Highway approximately 550m from Tandara Court.

7.5.7.5 There is no requirement for bicycle infrastructure as required by (i) given that Tandara Court is not an arterial or collector road, nor does (j) apply, as Figure 2 demonstrates that there is no existing grid pattern for surrounding streets within the area.

#### 7.5.8 *Ways and Public Open Space*

7.5.8.1 There is no proposal to include any ways or public open space within the plan of subdivision.

7.5.8.2 There is no acceptable solution in relation to clause D10.6.3 A1. The performance criteria requires:

*The arrangement of ways and public open space within a subdivision must satisfy all of the following:-*

- (a) connections with any adjoining ways are provided through the provision of ways to the common boundary, as appropriate;*
- (b) connections with any neighbouring land with subdivision potential is provided through the provision of ways to the common boundary, as appropriate;*
- (c) connections with the neighbourhood road network are provided through the provision of ways to those roads, as appropriate;*
- (d) convenient access to local shops, community facilities, public open space and public transport routes is provided;*
- (e) new ways are designed so that adequate passive surveillance will be provided from development on neighbouring land and public roads as appropriate;*
- (f) provides for a legible movement network;*
- (g) the route of new ways has regard to any pedestrian & cycle way or public open space plan adopted by the Planning Authority;*
- (h) Public Open Space must be provided as land or cash in lieu, in accordance with the relevant Council policy.*

(i) *new ways or extensions to existing ways must be designed to minimise opportunities for entrapment or other criminal behaviour including, but not limited to, having regard to the following:*

*(i) the width of the way;*

*(ii) the length of the way;*

*(iii) landscaping within the way;*

*(iv) lighting;*

*(v) provision of opportunities for 'loitering';*

*(vi) the shape of the way (avoiding bends, corners or other opportunities for concealment).*

7.5.8.3 There is no proposal for ways shown on the plan of subdivision. It is noted that access to the balance lot and adjoining land to the north and east of the proposed subdivision can be accessed via Alanah Court to the south, and a yet to be named connection road to the north of Tandara Court.

7.5.8.4 A condition requiring a Public Open Space contribution as cash in lieu in accordance with Council Policy AP13 is recommended.

#### 7.5.9 Services

7.5.9.1 Clause 10.6.4 relates to provision of services to each lot. The acceptable solutions for clause 10.6.4 requires that each lot must:

- be connected to a reticulated potable water supply (A1);
- be connected to a reticulated sewerage system (A2);
- be connected to a stormwater system able to service the building area by gravity (A3); and
- include no new road (A4).

There are no performance criteria for A1 and A2.

7.5.9.2 The application was referred to TasWater for comment. That authority has imposed conditions governing the provision of water and sewerage infrastructure to the development.

7.5.9.3 The performance criteria for A3 states that *"If connection to a stormwater system is unavailable, each lot must be provided with an on-site stormwater management system adequate for the future use and development of the land."*

7.5.9.4 The proposal shows that each lot can be service by a stormwater property connection able to service the entirety of each lot.

7.5.9.5 The performance criteria in relation to A4 requires that "the subdivision provides for the installation of fibre ready facilities (pit

and pipe that can hold optical fibre line) and the underground provision of electricity supply.”

It is recommended that a condition requiring provision of electrical and telecommunications infrastructure is included in any permit.

### 7.6 Discretion 3 - Bushfire Hazard Management Code

7.6.1 Code E1.0 of the Planning Scheme relates to Bushfire Hazard Management. Clause 1.6.1 relates to the proposed subdivision.

7.6.2 A Bushfire Hazard Management Plan certified by N M Creese (BFP-118) dated 14<sup>th</sup> March 2017 has been submitted with the application. That Plan certifies that the proposed Plan of Subdivision, which shows the building area for each lot and hazard management areas between bushfire prone vegetation, is able to achieve the dimensions equal or greater to the separation distances required for BAL 19.

It is recommended that a condition requiring that an agreement be entered into with the Brighton Council pursuant s71 of the *Land Use Planning and Approvals Act 1993* which stipulates that no buildings are to be constructed within the Bushfire Protection Zone 10m wide along the north eastern boundary of lots 1 - 5 inclusive.

7.6.3 The submitted Bushfire Hazard Management Plan incorrectly refers to Tables that were applicable under Planning Directive 5 for Bushfire Hazard Management, rather than the more recently introduced Interim Planning Directive 1 (IPD1). The incorrect table references are not considered to affect the application of the bushfire hazard management plan. However, it is recommended that a condition requiring an amended Bushfire Hazard Management Plan be submitted to Council for the approval of Council’s Senior Planner, which shall form part of any approved documents within 30 days of the date of the date of the permit, if issued.

7.6.4 The proposal seeks to include a hazard management area located on land which will be on land external to the proposed subdivision (Clause E1.6.1. A1(c)). Accordingly a condition is recommended requiring that an agreement be entered into with the Brighton Council pursuant s71 of the *Land Use Planning and Approvals Act 1993* which is to be registered on the Certificate of Title for the balance lot, and provides for the fire trail 5m wide be managed in accordance with the Bushfire Hazard Management Plan dated 14<sup>th</sup> March 2017 (or as amended).

### 7.7 Discretion 4 - Stormwater Management Code

7.7.1 Code E7 relates to Stormwater Drainage and Disposal. Clause E7.7.1 A2 is relevant and requires that:-



*A stormwater system for a new development must incorporate water sensitive urban design principles R1 for the treatment and disposal of stormwater if any of the following apply:*

*(c) a subdivision is for more than 5 lots.*

The development does not incorporate Water Sensitive Urban Design principles. The performance criteria requires:-

*A stormwater system for a new development must incorporate a stormwater drainage system of a size and design sufficient to achieve the stormwater quality and quantity targets in accordance with the State Stormwater Strategy 2010, as detailed in Table E7.1 unless it is not feasible to do so.*

7.7.2 Some stormwater treatment is provided at the outfall of this catchment in Eaves Court. Given the small size of this subdivision and the steep terrain incorporation of WSUD elements within the subdivision is problematic. A stormwater report and addendum submitted with the application proposed installation of stormwater detention to limit the increase in stormwater flows to that would be treated downstream.

7.7.3 A condition requiring SW detention or a contribution to be used to upgrade the treatment system downstream is recommended.

## **8 Discussion**

### **8.1 Referrals**

#### **8.1.1 TasWater**

The application was referred to TasWater. That authority have imposed the attached conditions that must be included in any permit granted.

#### **8.1.2 Council's Senior Technical Officer**

##### *Roadworks*

Tandara Court is constructed to a full urban standard with kerb and channel and concrete footpath on the northern side. It is proposed to extend the road by approximately 60 metres terminating in a cul de sac.

It is unlikely that Tandara Court could be extended beyond the proposal due to gradients required. The existing section is also very narrow at 4.5m wide (Exclusive of kerb and channel). More likely road linkages would be provided from Alanah Court to the south and the new link road off Shelmore Drive to the north. Both of which are much wider than Tandara Court.

##### *Stormwater*

A stormwater report was submitted with the application.

Stormwater is to discharge to Council's existing piped stormwater network.

There is no clear overland flood path for the 100 year ARI due to downstream development. It is proposed that the 100 year ARI will be conveyed by pipe.

The applicant proposes addressing SW treatment by reducing 3 month ARI flows with detention. The reliance on rainwater tanks provided at the time of further subdivision of the lots is not supported as a suitable means of addressing treatment or capacity issues due to the reliance of ongoing maintenance by future property owners and Councils limited ability to control the function of the rainwater tanks. Any detention required is to be provided at the time of subdivision and is to be underground. Alternatively a contribution for the expansion of the existing downstream treatment system could be considered.

*Sewer & Water*

Water sewerage services are available to the subdivision. The application was referred to TasWater who have imposed conditions.

**9 Representations**

- 9.1 The application was subject to the 14 day statutory notification period. The proposal is discretionary due to reliance on performance criteria in relation to development standards for subdivision, and code requirements relating to bushfire hazard management, and stormwater management.
- 9.2 One (1) representation (Attachment B) was received during the statutory notification period. The concerns raised in the representations are outlined and addressed as follows:-

Concerns Raised	Planning Response
<b>Representor 1:</b>	
<p>Although the majority of the lots appear to meet the minimum requirements, it should be noted they are the minimum requirements. 60% of the proposed lots meet this requirement by less than 10m<sup>2</sup>. The median lot size for the subdivision is 459m<sup>2</sup>, just 9m<sup>2</sup> larger than the minimum. The lot sizes are not in keeping with the immediate, or for that matter the greater surrounding area. The smallest immediate surrounding properties are numbers 4 and 6 Tandara Court, these both appear to be in excess of 500m<sup>2</sup>. The</p>	<p>Each of the lots comply with Table 10.1, the acceptable solution has been satisfied.</p> <p>See clause 7.5.2 for assessment.</p>

<p>average size of the immediate adjoining properties appears to be in excess of 700m<sup>2</sup>.</p>	
<p>Considering the entire application, there is minimal variance in size in the vast majority of lot on offer. Therefore, the proposal does not seek to provide for, nor will it meet the needs of a diverse population. Old Beach is a family location, these lots will struggle to provide reasonable outdoor space for future occupiers. It should be noted that the development does not allow for any public open space, nor is there is any suitable public open space nearby.</p>	<p>Clause 7.5.4 of the Planning Scheme states that the planning authority may consider the relevant objective in an applicable standard to help determine whether a use of development complies with the performance criterion for that standard.</p> <p>As the proposal is not relying on performance criteria in relation to lot size, there is no requirement under the Scheme to consider the objectives of the zone.</p>
<p>We have been unable to find a definition of a corner allotment, however for all practical purposes lot 10 is a corner lot. The minimum lot size for a corner allotment is 550m<sup>2</sup>. Lot 10 is only 459m<sup>2</sup></p>	<p>A corner lot is defined as one which has frontages bounded by two streets. The proposal shows subdivision is to occur as an extension of Tandara Court. Accordingly, Lot 10 is not a corner lot.</p>
<p>According to table 10.2 all lots unless specified require a minimum frontage of 15m. From the plans provided only lots 2, 3 and 10 meet this criterion. The proposed street frontages do not appear to be consistent with the overall surrounding area. Lot 1 in particular fails to provide the minimum required frontage of 15m and given the location of the proposed building area, and that the design of the access to the lot is located on a corner in the road this could not be considered to be practical and safe. Due to the location of the proposed building area the opportunity for passive surveillance is also minimalised, nor does it appear to provide sufficient area for parking and vehicle</p>	<p>The proposal relies on the performance criteria in relation to frontage for all lots, (excluding lots 2, 3, and 10).</p> <p>See clause 7.5.4 of this report for assessment of the proposal against the performance criteria with regard to frontage.</p>

<p>movement. It also appears that lots 4 and 5 provide minimal opportunity for passive surveillance.</p>	
<p>Lot 1 does not provide a minimum building area that is rectangular and 10 X 15m in size. Given the proximity to the roadway of the proposed building the lot must be considered to fail to provide a sufficient area for the provision of on-site parking and manoeuvring. Lot 10 also fails to provide the required building area and does not provide an area for any future reasonable private open space.</p>	<p>The proposal relies on the performance criteria in relation to building areas for lots 1 and 10. See clause 7.5.3 of this report for assessment of the proposal against the performance criteria with regard to building areas.</p>
<p>Should Lot 4 be considered an internal lot as per the definition in the planning provisions? It does not lie predominantly behind another lot. If the lot is not considered internal it does not meet the required minimum frontage. If the lot is considered an internal lot, it does not meet the required minimum lot size of 550m<sup>2</sup> for an internal lot. During the application Lot 4 has been inconsistently classified as both an internal lot and an ordinary lot depending on the circumstances.</p>	<p>Lot 4 is not considered an internal lot, as it does not lie predominantly behind another lot nor does the application propose access via an access strip, private road, or right of way, as defined by the planning scheme in clause 4.1. See clause 7.5.2 and 2.5.4 of this report for assessment of the proposal against the performance criteria with regard to frontage.</p>
<p>Based on the quality of the drawings provided it appears that the building areas of many lots may exceed or push to the limit the required setbacks, and/or the bushfire protection zone. As mentioned previously many of the building areas do not provide an area that would be considered sufficient for on-site parking and vehicle movement. Considering the gradient of the site the location of</p>	<p>See clause 7.5.3 of this report for assessment.</p>

<p>the building areas do not minimise the future need for earthworks, retaining walls and excavation.</p>	
<p>100% of the roads within the proposal result in the creation of a cul-de-sac. Surely this cannot be considered an absolute minimum?</p> <p>This proposal also may be considered to compromise the efficient future development of remaining land and means that once further developed Alanah Court will most practically be another cul-de-sac.</p> <p>Are there any plans (current or previous) submitted to council for the development of the next street up Shelmore Drive? Will this result in another cul-de-sac or could consideration be made to allow the new development to join either with the existing Alanah Court of the currently undeveloped road to prevent the creation of further no through roads?</p>	<p>As the proposal includes a road, the applicant relies on the performance criteria.</p> <p>See clause 7.5.7 of this report for assessment of the proposal against the performance criteria with regard to roads.</p> <p>The property in question is not able to be developed for residential use at this time, based on zoning, current use and the attenuation overlay pertaining to the Old Beach Quarry.</p>
<p>We understand the application is for a subdivision and not a building application. However, we wonder how many of any future dwelling will be able to meet either the standards / acceptable solutions. Considering the lot sizes, building envelopes provided, required setbacks and the overall gradient of the site it may be difficult to meet the requirements. We are aware this of no apparent concern in regards to this actual application, but surely developers should have a greater</p>	<p>The Scheme envisages that if a building area can be achieved for each lot, the lot has an appropriate area and dimensions to accommodate development consistent with the Zone Purpose and any relevant Local Area Objectives or Desired Future Character Statements (Objectives, D10.6.1)</p> <p>See clause 7.5.3 of this report for assessment of the proposal against the performance criteria in relation to building envelopes</p>

consideration to the future development of individual lots that they create?	
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The issues raised within the objections have been considered further within this report. Consultation has also been held with Council’s Senior Technical Officer. That officer’s assessment has been included within this report.

**10. 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.

**11. Conclusion**

The proposed subdivision of 10 lots plus balance at 10 Alanah Court, Old Beach satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015, and as such is recommended for approval.

**RECOMMENDATION:**

THAT: A. Pursuant to the Brighton Interim Planning Scheme 2015, Council APPROVE application SA 2017/0006 for subdivision of 10 lots plus balance in the General Residential Zone at 10 Alana Court, Old Beach for the reasons outlined in the officer’s report and a permit containing the following conditions be issued:-

**General**

1. The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
2. This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.

### **Public Open Space**

3. In accordance with the provisions of Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, payment of a cash contribution for Public Open Space must be made to the Council prior to sealing the Final Plan of Survey. The cash contribution amount is to be equal to 5% of the value of the land, excluding the balance lot, being subdivided in the plan of subdivision at the date of lodgement of the Final Plan of Survey.

The value is to be determined by a Land Valuer within the meaning of the *Land Valuers Act 2001* at the developer's expense.

4. The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey or, alternatively, in the form of a Bond or Bank guarantee to cover payment within ninety (90) days after demand, made after the Final Plan of Survey has taken effect.

### **Staging**

5. The subdivision development must not be carried out in stages except in accordance with the Final Plan of Subdivision approved by Council's Senior Planner.
6. An agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993* must be registered against the lot created by Stage 1 of this approval, such that further subdivision of the lot must be in accordance with the Final Plan of Subdivision approved by this permit and that no development on the lot created by Stage 1 inhibit Stage 2. The agreement must be approved by Council's Senior Planner.

### **Bushfire Hazard Management**

7. An amended Bushfire Hazard Management Plan referring to the current tables identified in Interim Planning Directive 1 must be submitted to Council's Senior Planner for approval within thirty (30) days of the date of this permit. The amended Bushfire Hazard Management Plan will form part of the permit, once approved.
8. An agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993* must be registered against the Certificate of Title to the balance lot providing that the 5.0m wide fire break marked on the Bushfire Hazard Management Plan prepared by N M Creese (BFP-118) and dated 14<sup>th</sup> March 2017. The fire break must

be managed in accordance with the Bushfire Hazard Management Plan aforesaid or as amended in accordance with Condition 6 of this permit.

9. An agreement pursuant to section 71 of the *Land Use Planning and Approvals Act 1993* must be registered against the Certificates of Title for Lots 1, 2, 3, 4, and 5 as shown on the Bushfire Hazard Management Plan prepared by N M Creese (BFP-118) and dated 14<sup>th</sup> March 2017 or as amended pursuant to Condition 6 above, prohibiting development within the No Build Area as marked on that plan unless supported by separate bushfire hazard assessment.

### **Agreements**

10. Agreements made pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993* must be prepared by the applicant on a blank instrument form to the satisfaction of the Council and registered with the Recorder of Titles. The subdivider must meet all costs associated with the preparation and registration of the Part 5 Agreement.

### **Covenants**

11. Covenants or other similar restrictive controls that conflict with any provisions or seek to prohibit any use provided within the planning scheme must not be included or otherwise imposed on the titles to the lots created by this permit, either by transfer, inclusion of such covenants in a Schedule of Easements or registration of any instrument creating such covenants with the Recorder of Titles, unless such covenants or controls are expressly authorised by the terms of this permit or the consent in writing of the Council's Senior Planner.

### **Transfer of Reserves**

12. All roads or footways must be shown as "Road" or "Footway" on the Final Plan of Survey and transferred to the Council by Memorandum of Transfer submitted with the Final Plan of Survey.

### **Easements**

13. Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

### **Final Plan**

14. A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan



of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.

15. Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the *Local Government (Building & Miscellaneous Provisions) Council 1993*. The amount of the security shall be determined by the Council's Municipal Engineer in accordance with Council Policy 6.3 following approval of any engineering design drawings and shall not to be less than \$5,000.
16. **All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied.**
17. The subdivider must pay any Titles Office lodgment fees direct to the Recorder of Titles.

### **Engineering**

18. The subdivision must be carried out in accordance with the *Tasmanian Subdivision Guidelines October 2013*.
19. Engineering design drawings, to the satisfaction of the Council's Municipal Engineer, must be submitted to and approved by Council before any works associated with development of the land commence.
20. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with the *Tasmanian Subdivision Guidelines October 2013*.
21. Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
22. The developer shall appoint a qualified and experienced Supervising Engineer (or company registered to provide civil engineering consultancy services) who will be required to certify completion of subdivision construction works. The appointed Supervising Engineer shall be the primary contact person on matters concerning the subdivision.

### **Water Quality**

23. A soil and water management plan (here referred to as a 'SWMP') prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's Municipal Engineer before development of the land commences.
24. Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
25. The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's Municipal Engineer.
26. All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with top soil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's Municipal Engineer.

### **Existing Services**

27. The Subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.

### **Telecommunications and Electrical Reticulation**

28. Electrical and telecommunications services must be provided underground to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's Municipal Engineer.
29. Prior to the work being carried out a drawing of the electrical reticulation and street lighting, and telecommunications reticulation in accordance with the appropriate authority's requirements and relevant Australian Standards must be submitted to and endorsed by the Council's Municipal Engineer.
30. A Letter of Release from each authority confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed, must be submitted to Council prior to the sealing of the final plan of survey.

### Drainage

31. The developer must provide a minor stormwater drainage system designed to comply with all of the following:
  - a) be able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed;
  - b) stormwater runoff will be no greater than pre-existing runoff or any increase can be accommodated within existing or upgraded public stormwater infrastructure
32. The developer is to provide a major stormwater drainage system designed to accommodate a storm with an ARI of 100 years.
33. The developer is to provide a stormwater property connection to each lot in accordance with Council standards and to the satisfaction of Council's Municipal Engineer.
34. The developer is to provide on-site detention to limit 3 month ARI flows generally in accordance with the stormwater advisory report and addendum prepared by Hutching Spurr Pty Ltd, dated 24 April 2017 and 10 May 2017 respectively, so as to limit flows into the downstream stormwater treatment system.
35. Stormwater detention systems must be provided underground at the time of subdivision unless approved otherwise by Council's Municipal Engineer giving consideration to public safety, amenity and maintenance.

### Roadworks

36. The corners of each road intersection must be splayed or rounded by chords of a circle with a radius of not less than 6.00 metres in accordance with Sections 85(d)(viii) and 108 of the *Local Government (Building & Miscellaneous Provisions) Act 1993* and the requirements of the Council's Municipal Engineer.
37. Roadworks and drainage must be constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer. Unless approved otherwise by Council's Municipal Engineer roadworks must include -
  - (a) Tandara Court
    - i. Minimum road reserve of 15 metres and 25 metres at the cul de sac;
    - ii. Fully paved, sealed and drained carriageway with a minimum carriageway width (face of kerb to face of kerb) of 6 metres or 18 metres diameter at the cul de sac,

- iii. Concrete kerb and channel on both sides;
  - iv. Concrete footpaths 1.50 metres wide on one side;
  - v. Underground drains
38. All carriageway surface courses must be constructed with a 10 mm nominal size hotmix asphalt with a minimum compacted depth of 35 mm in accordance with standard drawings and specifications prepared by the IPWE Aust. (Tasmania Division) and the requirements of Council's General Manager.
39. Kerb ramps must be provided to accommodate the needs of people with disabilities in accordance with standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.
40. A reinforced concrete vehicle access must be provided from the road carriageway to each Lot.
41. Vehicle accesses must be located and constructed in accordance with the standards shown on standard drawings TSD-R09-v1 *Urban Roads Driveways* and TSD-RF01-v1 *Guide to Intersection and Domestic Access Sight Distance Requirements* prepared by the IPWE Aust. (Tasmania Division) and the satisfaction of Council's Municipal Engineer.
42. The vehicular access for lot 5 must be constructed for the entire length of the access strip and include:-
- (a) Constructed with a durable all weather pavement
  - (b) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material may be asphalt, concrete, pavers or other approved material.
  - (c) Stormwater drainage.

*Advice: Any future development on lot 5 that requires more than 5 car parking spaces may require the provision of passing areas.*

**TasWater**

43. The development must meet all required Conditions of approval specified by Tas Water Submission to Planning Authority Notice, date 27 March 2017 (TWDA 2017/00354-BTN).

**Construction Amenity**

44. The development must only be carried out between the following hours unless otherwise approved by the Council's General Manager

- Monday to Friday 7:00 AM to 6:00 PM
  - Saturday 8:00 AM to 6:00 PM
  - Sunday and State-wide public holidays 10:00 AM to 6:00 PM
45. All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of -
- (a) emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property; and/or
  - (b) transport of materials, goods or commodities to or from the land; and/or
  - (c) appearance of any building, works or materials.
46. Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the land in an approved manner. No burning of such materials on-site will be permitted unless approved in writing by the Council's General Manager.
47. 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 subdivision during the construction period.

**Survey Pegs**

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

**Maintenance and Defects Liability Period**

50. The subdivision must be placed onto a 12 month maintenance and defects liability period following the completion of the works in accordance with the approved engineering plans, permit conditions and Council Policy.

**'As Constructed' Drawings**

51. Prior to the works being placed on the maintenance and defects liability period "as constructed" drawings and data for all engineering works provided as part of this approval must be provided to Council to the satisfaction of the Council's

Municipal Engineer. These drawings and data sheets must be prepared by a qualified and experienced civil engineer or other person approved by the Municipal Engineer in accordance with Council’s *Guidelines for As Constructed Data*.

**THE FOLLOWING ADVICE APPLIES TO THIS PERMIT: -**

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works, or a minimum of \$270.00, must be paid to Council in accordance with Council’s fee schedule.
- D. **All approved engineering design drawings will form part of this permit on and from the date of approval.**
- E. **This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.**

**DECISION:**

*Cr Owen moved, Cr Geard seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

- | <b>In favour</b> | <b>Against</b> |
|------------------|----------------|
| Cr Curran        |                |
| Cr Foster        |                |
| Cr Geard         |                |
| Cr Gray          |                |
| Cr Higgins       |                |
| Cr Owen          |                |

**4.2 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – SA 2017/0009 – 50 NELSONS BUILDINGS ROAD, BRIGHTON – SUBDIVISION 3 LOTS PLUS BALANCE & BOUNDARY ADJUSTMENT DEVELOPMENT - OUTBUILDING:**

**Type of Report:** Planning Authority – For Decision  
**Application No:** SA 2017 /0009  
**Address** 50 Nelsons Buildings Road, Brighton  
**Applicant** Michael Whelan  
**Owner:** Nigel Booth  
**Proposal:** Three (3) lot subdivision (plus balance and boundary adjustment) and new outbuilding  
**Zone:** Rural Living Area B  
**Representations:** One (1)  
**Discretions:** *Outbuilding*  
13.4.2 A2 Setback – Side and Rear  
13.4.3 A2 Design – Exterior  
E7.7.1 A1 Stormwater – Drainage and Disposal  
*Subdivision*  
9.7.2 Subdivision  
13.5.1 A2 Lot Design – Building Area  
13.5.1 A4 Lot Design – Internal Lots  
13.5.3 A2 Ways and Open Space – Cash in Lieu  
13.5.4 A2 Services – Sewerage  
13.5.4 A3 Services – Stormwater  
**AUTHOR:** Richard Cuskelly (Planning Officer)

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**1. Executive Summary**

- 1.1 Planning approval is sought for a three (3) lot subdivision plus balance, boundary adjustment and new outbuilding in the Rural Living Zone (Area B) at 50 Nelsons Buildings Road, Brighton.
- 1.2 The application is discretionary due to the proposal being for subdivision (clause 9.7.2 of the Brighton Interim Planning Scheme 2015) as well as reliance on Performance Criteria.
- 1.3 One (1) representation was received. It is considered that the issues raised in the representation do not warrant refusal or modification of the application.
- 1.4 The key planning issue relates to the provision of internal lots.
- 1.5 The proposal is recommended for conditional approval.

- 1.6 The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period for the development application.

## **2. Legislative and Policy Content**

- 2.1 The purpose of this report is to enable the Planning Authority to determine application SA 2017/0009.
- 2.2 This determination must be made no later than 18<sup>th</sup> July 2017, which has been extended beyond the statutory timeframe with the consent of the applicant.
- 2.3 The relevant legislation is the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4 This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- 2.5 This report has been prepared with appropriate regard to the State Policies that apply under *the State Policies and Projects Act 1993*.
- 2.6 This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

## **3. Risk & Implications**

- 3.1 Approval or refusal of this application will have no direct financial implications for the Planning Authority.
- 3.2 Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications.

## **4. Relevant Background and Past Applications**

- 4.1 *RZ 2016/0004 - Rezoning from Rural Resource to Rural Living Area B*
  - 4.1.1 Council at its meeting of 13<sup>th</sup> September 2016 resolved to amend the



Brighton Interim Planning Scheme 2015 by rezoning of 33 properties from Nelsons Building Road (15 lots, including number 50), Tea Tree Road (7), Briggs Road (5) and Kanangra Court (6) from the Rural Resource Zone to the Rural Living Zone (Area B).

4.1.2 After subsequent public exhibition, the rezoning was approved by the Tasmanian Planning Commission and the amendment came into effect on 31<sup>st</sup> March 2017.

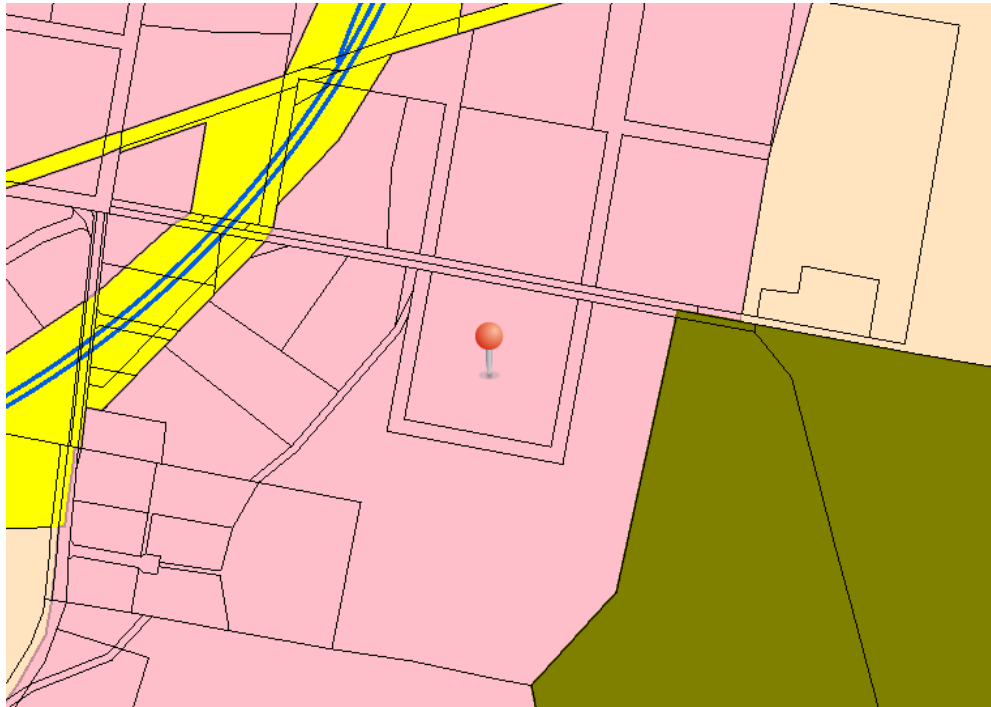
## 5. Site Detail

- 5.1 The subject land is located at Nelsons Buildings Road, as shown below, and has a total size of 5.295ha.
- 5.2 An existing single dwelling (including driveway and outbuilding) is sited in the centre of the front of the site.



*Figure 1: Aerial photograph of site*

- 5.3 Figure 2 below shows the zoning within the locality. The site, its adjoining lots and lots to the north, west and south are zoned Rural Living (pink). Larger lots to the east are zoned Environmental Living (green) and Rural Resource (buff). The yellow area designates the Utility zoned Midland Highway.



*Figure 2: The zoning of the site (Brighton Interim Planning Scheme 2015).*

- 5.4 Reticulated water supply is available to the site, however sewer and stormwater infrastructure are not.
- 5.5 The site is predominantly grassland and clear of significant vegetation (see Figure 3 below).



*Figure 3: Photograph of site showing predominant vegetation (23<sup>rd</sup> June 2017)*

**6. Proposal**

- 6.1 The proposal is for a three (3) lot subdivision plus balance, boundary adjustment and new outbuilding. The end result equates to 5 lots (3 of which

are internal) sized between 1.004 and 1.277ha. The existing single dwelling and proposed new outbuilding are within the balance lot (1.008ha).

- 6.2 The proposed Colourbond outbuilding is 9m (L) x 6m (W) x 3m (H).
- 6.3 The application is supported by the attached subdivision and development plans, written submission by applicant against the planning scheme, and accredited Bushfire Hazard Management Report and Plan from a suitably qualified assessor which confirms compliance with all applicable Acceptable Solutions of the Bushfire-Prone Areas Code.

## 7. Assessment Against Planning Scheme Provisions

7.1 The following provisions are relevant to the proposed use and development:

- 13.0 Rural Living Zone
- E1.0 Bushfire Hazard Management Code
- E7.0 Stormwater Management Code

7.2 The application satisfies the following Acceptable Solutions:-

### 7.2.1 *Outbuilding*

- 13.4.1 A1 Maximum Building Height
- 13.4.2 A1 Setback - Front
- 13.4.2 A3 Setback - Sensitive Use
- 13.4.2 A4 Setback - Environmental Management
- 13.4.3 A1 Design - Location
- 13.4.3 A3 Design - Gross Floor Area
- 13.4.3 A4 Design - Cut & Fill
- 13.4.4 A1 Outbuildings
- E7.7.1 A1 Stormwater - Public Infrastructure

### 7.2.2 *Subdivision (including boundary adjustment)*

- 9.3.1 Boundary Adjustment
- 13.5.1 A1 Lot Design - Lot Size
- 13.5.1 A3 Lot Design - Frontage
- 13.5.1 A5 Lot Design - Existing Building Setback (*Note: A recommended permit condition is that the existing outbuilding in poor condition be removed prior to sealing of any final plans*)
- 13.5.2 A1 Roads
- 13.5.4 A1 Services - Water

- E1.6.1.1 A1 Bushfire Hazard Management – Areas
- E1.6.1.2 A1 and A2 Bushfire Hazard Management – Access
- E1.6.1.3 A1 and A2 Bushfire Hazard Management – Water

7.3 The following discretions are invoked:-

7.3.1 *Outbuilding*

- 13.4.2 A2 Setback – Side and Rear
- 13.4.3 A2 Design – Exterior
- E7.7.1 A1 – Stormwater Drainage and Disposal

7.3.2 *Subdivision (including boundary adjustment)*

- 9.7.2 Subdivision
- 13.5.1 A2 Lot Design – Building Area
- 13.5.1 A4 Lot Design – Internal Lots
- 13.5.3 A2 Ways and Open Space – Cash in Lieu
- 13.5.4 A2 Services – Sewerage
- 13.5.4 A3 Services – Stormwater

**7.4 Discretion 1 – Outbuilding Setback**

- 7.5.10 The proposed outbuilding has a minimum setback to the east side boundary adjoining the proposed Lot 3 of 11m. Clause 13.4.2 A2 specifies a minimum of 20m.
- 7.5.11 Under Performance Criteria 13.4.2 P2, building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots.
- 7.5.12 Landscape characteristics and neighbourhood amenity are not put at unreasonably risk by the proposed outbuilding for the following reasons:-
- The discretionary boundary adjoins two 6m wide access strips (for Lots 3 and 5), effectively creating a minimum 23m setback to the closest lot proper;
  - Outbuildings of similar and larger scale are common in surrounding area;
  - No significant vegetation removal is required;
  - No vehicle access is required (equipment storage); and

- Exterior colours fit in with surrounding landscape (see also Discretion 2 below).

7.5.13 The proposal is considered to meet the Performance Criteria.

### **7.6 Discretion 2 - Outbuilding Exterior**

7.6.1 Acceptable solution 13.4.3 A2 states that exterior building surfaces must be coloured using colours with a light reflectance value (LRV) not greater than 40%.

7.6.2 The exterior colours proposed for the walls and roof of the outbuilding is Colourbond 'Deep Ocean' (25% LRV), and the doors Colourbond 'Classic Cream' (68% LRV).

7.6.3 'Deep Ocean' meets the acceptable solution. 'Classic Cream' does not and is assessed under the Performance Criteria, which states:

*Exterior building surfaces must avoid adverse impacts on the visual amenity of neighbouring land and detracting from the contribution the site makes to the landscape, views and vistas.*

7.6.4 The 68% LRV of 'Classic Cream' is considered too reflective (and avoidable) to meet the Performance Criteria. A permit condition has been recommended that this colour be changed to one with a LRV not greater than 40% prior to, or in conjunction, with an application for a Building Permit.

7.6.5 With inclusion of the recommended condition, the proposal is considered to meet the Performance Criteria.

### **7.7 Discretion 3 - Outbuilding Stormwater Drainage and Disposal**

7.7.1 Acceptable solution E7.7.1 A1 is that stormwater from new impervious surfaces must be disposed of by gravity to public stormwater infrastructure.

7.7.2 No public stormwater infrastructure is available to the site.

7.7.3 It is proposed that stormwater from the outbuilding be disposed of via an on-site absorption trench as shown on submitted plans.

7.7.4 The proposal is considered to meet the Performance Criteria.

### **7.8 Discretion 3 - Subdivision**

7.8.1 Clause 9.7.2 notes that a permit for development involving a plan of subdivision is discretionary unless:

- (a) for adjustment of a boundary in accordance with clause 9.3.1;
- (b) the subdivision is prohibited in accordance with clause 8.9; or
- (c) the plan of subdivision must not be approved under section 84 Local Government (Building and Miscellaneous Provisions) Act 1993.

- 7.8.2 The proposal received is not in relation to a boundary adjustment, nor is it prohibited pursuant to clause 8.9 or s.84 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*. Accordingly, the proposal must be assessed as a discretionary application.

#### **7.9 Discretion 4 - Building Area**

- 7.9.1 Clause 13.5.1 A2 provides Acceptable Solutions for minimum building areas which are clear of setbacks, not subject to codes, clear of title restrictions and restrictive covenants, have a reasonable gradient, are suitably separated from agricultural and environmental management zones, and are at least 30m x 30m in size.
- 7.9.2 Lots 1, 4 and 5 fully comply with 13.5.1 A2. Lots 2 and 3 comply with 13.5.1 A2 except for (a) *clear of the... side... boundary setbacks*.
- 7.9.3 Lots 2 and 3 are slightly too narrow to accommodate a 30m x 30m building area with 20m side setbacks (the acceptable solution for the Rural Living Zone). Where a minimum lot width of 70m is required to comply, these two lots have widths of 69m.
- 7.9.4 Both lots 2 and 3 are capable of accommodating future residential use and development. The site is relatively level with minimal future earth works required. Additionally, solar access is easily achievable by future development. The lots are not subject to codes, are clear of title restrictions and restrictive covenants, have a reasonable gradient, and are suitably separated from agricultural and environmental management zones.
- 7.9.5 The proposal is considered to meet the Performance Criteria.

#### **7.10 Discretion 5 - Internal Lot(s)**

- 7.10.1 Clause 13.5.1 A4 relates to internal lots. There is no acceptable solution for this standard.
- 7.10.2 Lots 2, 3 and 5 are internal lots and are assessed under each Performance Criteria of 13.5.1. P4 below:-

*An internal lot must satisfy all of the following:*

*(a) access is from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;*

Satisfied. Access is from the existing Nelsons Buildings Road.

*(b) it is not reasonably possible to provide a new road to create a standard frontage lot;*

Satisfied. The option of requiring the applicant to provide a new road was considered by Development Services. However, it was deemed to be an unreasonable and inefficient requirement due to the limited future lot yield of the adjoining land to rear (78 Nelsons Buildings

Road), due largely to challenging existing lot shape and steepening slope to the south.

*(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;*

Satisfied (due to (b) above).

*(d) the lot will contribute to the more efficient utilisation of rural living land;*

Satisfied. The site's existing access to reticulated water and proximity to Brighton Township makes it an efficient utilisation of recently rezoned rural living land, as does the size and shape of the proposed lots.

*(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;*

Satisfied. The majority of neighbouring land is characterised by single dwelling rural residences, which was a driver for the recent rezoning from Rural Resource to Rural Living (RZ 2016/0004).

78 Nelsons Building Road is developed by an existing fertiliser and landscape supplier company; located in a small flat area in the north-east adjoining 50 Nelsons Buildings Road.

Proposed lot sizes and design accommodate future residential development and use that will not unreasonably affect neighbourhood amenity.

*(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;*

Satisfied (6m).

*(g) passing bays are provided at appropriate distances along the access strip to service the likely future use of the lot;*

Satisfied. Passing bay requirements have been assessed by a qualified bushfire hazard assessor (Andrew Goodsell; Accreditation No: BFP 104) and Council's Senior Technical Officer, and conditioned for appropriately in the associated Bushfire Hazard Management Report and recommended permit conditions, respectively.

*(h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;*

Satisfied. A maximum of two access strips are adjacent (Lots 3 and 5).

*(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.*

Satisfied. This is a recommended condition of the permit.

*(j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.*

Satisfied. No such ways or spaces are fronted upon.

7.10.3 The proposal is considered to meet the Performance Criteria.

**7.11 Discretion 6 – Ways and Public Open Space**

7.11.1 There is no proposal (under 13.5.3 A1) to include any ways or public open space within the plan of subdivision, nor is the provision of either appropriate.

7.11.2 Therefore, a condition requiring a Public Open Space contribution as cash in lieu in accordance with Council Policy AP13 is recommended to comply with Performance Criteria 13.5.3 P2.

7.11.3 The proposal is considered to meet the Performance Criteria.

**7.12 Discretion 7 – Sewerage**

7.12.1 There is no public sewer infrastructure available to the site.

7.12.2 Each lot is capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.

7.12.3 The proposal is considered to meet Performance Criteria 13.5.4 P2 (there is no acceptable solution for this clause).

**7.13 Discretion 8 – Stormwater**

7.13.1 Clause 13.5.4 A3 states that each lot must be connected to a stormwater system able to service the building area by gravity.

7.13.2 There is no public sewer infrastructure available to the site.

7.13.3 Each lot is capable of accommodating an on-site stormwater management system adequate for the likely future use and development of the land.

7.13.4 The proposal is considered to meet the Performance Criteria (13.5.4 P3).

**8. Referrals**

**8.1 TasWater**

8.1.1 The application was referred to TasWater. That authority have imposed the attached conditions that must be included in any permit granted.

**8.2 Council's Senior Technical Officer**

8.2.1 The application was referred to Senior Technical Officer Leigh Wighton, whose comments are incorporated into this report and conditions are provided below.



**9. Representations**

9.1 One (1) representation (Attachment B) was received during the 14 day statutory notification period. The concerns raised in the representation are outlined and addressed as follows:-

Concerns Raised	Planning Response
<p>Closer residences may lead to complaints over the existing business (due to out-of-hours truck movements and other rural activity)</p> <p>Negative impacts on existing agricultural transport business and cattle farming (from loss of privacy and rural lifestyle, and potential for dog attacks on cattle)</p>	<p>The adjoining 78 Nelsons Buildings Road site supports an existing agricultural transport business. This site was also part of the recent rezoning to Rural Living where no representations were received. The current zoning supports residential use and development over non-sensitive use and development.</p> <p>However, the business in question will receive existing use rights.</p> <p>A permit condition is recommended requiring a Part 5 agreement be placed on new titles (see proposed Condition 7 below) in order to bring the existing activity to the attention of prospective new lot purchasers and to provide some assurance to the existing business operators.</p>
<p>No address was listed on the planning notice on the council website and no site notice was placed on the site frontage</p>	<p>The link to the advertised documents on the council website listed the application reference number but not the address (as is current practice). Though this is regrettable, web-advertising is not a statutory requirement under LUPAA and this clerical error does not warrant re-advertising.</p> <p>A site notice was in place for the full advertising period on the front fence of the existing 50 Nelsons Buildings Road dwelling (see Figure 5 below)</p>



*Figure 5: 50 Nelsons Buildings Road site notice*

The issues raised within the objections have been considered further within this report.

## 10. Conclusion

10.1 The proposed three (3) lot subdivision (plus balance and boundary adjustment) and new outbuilding at 50 Nelsons Buildings Road, Brighton satisfies the relevant provisions of the *Brighton Interim Planning Scheme 2015*, and as such is recommended for approval.

## RECOMMENDATION:

THAT: A. Pursuant to the *Brighton Interim Planning Scheme 2015*, Council APPROVE application SA 2017/0009 for subdivision of three (3) lots (plus balance and boundary adjustment) and a new outbuilding in Rural Living Area B at 50 Nelsons Buildings Road, Brighton for the reasons outlined in the officer's report and a permit containing the following conditions be issued:-

## SUBDIVISION

### General

1. The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings

and with the conditions of this permit and must not be altered or extended without the further written approval of Council.

2. This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.

### **Public Open Space**

3. In accordance with the provisions of Section 117 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, payment of a cash contribution for Public Open Space must be made to the Council prior to sealing the Final Plan of Survey. The cash contribution amount is to be equal to 5% of the value of the land, excluding Lots 1 & 2, being subdivided in the plan of subdivision at the date of lodgement of the Final Plan of Survey.

The value is to be determined by a Land Valuer within the meaning of the *Land Valuers Act 2001* at the developer's expense.

4. The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey or, alternatively, in the form of a Bond or Bank guarantee to cover payment within ninety (90) days after demand, made after the final plan of survey has taken effect.

### **Easements**

5. Easements must be created over all drains, pipelines, wayleaves and services in accordance with the requirements of the Council's Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider's full cost.

### **Endorsements**

6. The final plan of survey must be noted that Council cannot or will not provide a means of drainage to all lots shown on the plan of survey.

### **Part 5 Agreements**

7. An agreement pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993* must be entered into on all lots prior to the sealing of the final plan of survey to acknowledge that Lots 4 & 5 adjoin an established agricultural transport business.
8. Agreements made pursuant to Part 5 of the *Land Use Planning and Approvals Act 1993* must be prepared by the applicant on a blank instrument form to the satisfaction of the Council and registered with the Recorder of Titles. The subdivider must meet all costs associated with the preparation and registration of the Part 5 Agreement.

### **Final Plan**

9. A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
10. Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the *Local Government (Building & Miscellaneous Provisions) Council 1993*. The amount of the security shall be determined by the Council's Municipal Engineer in accordance with Council Policy 6.3 following approval of any engineering design drawings and shall not to be less than \$5,000.
11. All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied and to arrange any required inspections.
12. The subdivider must pay any Titles Office lodgment fees direct to the Recorder of Titles.

### **Water Quality**

13. A soil and water management plan (here referred to as a 'SWMP') prepared in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South, must be approved by Council's Municipal Engineer before development of the land commences.
14. Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
15. The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's Municipal Engineer.
16. All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with top soil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's Municipal Engineer.

### **Existing Services**

17. The subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.
18. Any existing services shared between lots are to be separated to the satisfaction of Council's Municipal Engineer.
19. Property services must be contained wholly within each lots served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.

### **Telecommunications and Electrical Reticulation**

20. Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and the satisfaction of Council's Senior Planner.
21. A Letter of Release from each authority confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed, must be submitted to Council prior to the sealing of the final plan of survey.

### **TasWater**

22. The development must meet all required Conditions of approval specified by TasWater Submission to Planning Authority Notice, TWDA 2017/00788-BTN, dated 5/06/2017.

### **Roadworks**

23. Roadworks and drainage must be constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.
24. A sealed vehicle access, with a minimum carriageway width of 4 metres, must be provided from the road carriageway to service each lot.
25. Vehicle accesses must located and constructed in accordance with the standards shown on standard drawings TSD-R03-v1 *Rural Roads Typical Property Access*, TSD-R04-v1 *Rural Roads Typical Driveway Profile* and TSD-RF01-v1 *Guide To Intersection And Domestic Access Sight Distance Requirements* prepared by the IPWE Aust. (Tasmania Division), or as otherwise required by this permit, and the satisfaction of Council's Municipal Engineer.
26. The vehicular access to Lot 2 must be constructed for the entire length of the access strip (approx. 80m) and, unless approved otherwise by Council's Municipal Engineer, include:-
  - a) Constructed with a durable all weather pavement

- b) Drained to an approved stormwater system
  - c) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material may be a spray seal, asphalt, concrete, pavers or other approved material.
  - d) A min trafficable width of 4.0m with a minimum sealed width of 3.0m
27. The shared vehicular access to Lots 3 & 5 must be constructed for the entire length of the access strip (approx. 80m) and, unless approved otherwise by Council's Municipal Engineer, include:-
- a) Constructed with a durable all weather pavement
  - b) Drained to an approved stormwater system
  - c) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material may be a spray seal, asphalt, concrete, pavers or other approved material.
  - d) A min trafficable width of 4.0m with a minimum sealed width of 3.0m
  - e) A passing bay, a minimum of 6m long by 5.5m wide and tapering to the width of the driveway, located at the edge of the road.

### Engineering

28. The subdivision must be carried out in accordance with the *Tasmanian Subdivision Guidelines October 2013 (attached)*.
29. Engineering design drawings to the satisfaction of the Council's Municipal Engineer must be submitted to and approved by the Brighton Council before development of the land commences.
30. Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with the *Tasmanian Subdivision Guidelines October 2013*, and must show -
- a) all existing and proposed services required by this permit;
  - b) all existing and proposed roadwork required by this permit;
  - c) measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
  - d) measures to be taken to limit or control erosion and sedimentation;
  - e) any other work required by this permit.
31. Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
32. Subdivision works must be carried out under the direct supervision of an approved practising professional civil engineer engaged by the subdivider and approved by the Council's Municipal Engineer.

**Construction Amenity**

33. The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Strategic Planning:-
- Monday to Friday 7:00 AM to 6:00 PM
  - Saturday 8:00 AM to 6:00 PM
  - Sunday and State-wide public holidays 10:00 AM to 6:00 PM
34. All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of -
- (a) Emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property.
  - (b) Transport of materials, goods or commodities to or from the land.
  - (c) Appearance of any building, works or materials.
35. Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Strategic Planning.
36. 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.

**Survey Pegs**

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

**Maintenance and Defects Liability Period**

39. The subdivision must be placed onto a 12 month maintenance and defects liability period following the completion of the works in accordance with the approved engineering plans, permit conditions and Council Policy.

## **DEVELOPMENT (OUTBUILDING)**

### ***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.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *land Use Planning and Approvals Act 1993*.

### ***Amenity***

- (3) The proposed colours and materials for the walls and roof (Colorbond "Deep Ocean") are approved. Any variation in these colours and materials must be submitted to and approved by the Council's Senior Planner.
- (4) The proposed colour for the doors (Colourbond "Classic Cream") is not approved. A replacement colour with a light reflectance colour not greater than 40% must be submitted to and approved by the Council's Senior Planner prior to, or in conjunction, with an application for a Building Permit.
- (5) The building is not to be used for commercial, industrial or habitable purposes.

### ***Services***

- (6) 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.

### ***Stormwater***

- (7) 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 2016*.

### ***TasWater***

- (8) The development must meet all required Conditions of approval specified by TasWater Submission to Planning Authority Notice, TWDA 2017/00788-BTN, dated 5/06/2017.



***Soil and Water Management***

- (9) Before any work commences install temporary run-off, erosion and sediment controls 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 General Manager.

***Construction Amenity***

- (10) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Strategic Planning:-

- Monday to Friday 7:00 AM to 6:00 PM
- Saturday 8:00 AM to 6:00 PM
- Sunday and State-wide public holidays 10:00 AM to 6:00 PM

- (11) 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.

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

- (13) 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.

- (14) 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.

**THE FOLLOWING ADVICE APPLIES TO THIS PERMIT: -**

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.

- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The SWMP must show the following:-
- (a) Allotment boundaries, north-point, contours, layout of roads, driveways, building envelopes and reticulated services (including power and telephone and any on-site drainage or water supply), impervious surfaces and types of all existing natural vegetation;
  - (b) Critical natural areas such as drainage lines, recharge area, wetlands, and unstable land;
  - (c) Estimated dates of the start and completion of the works;
  - (d) Timing of the site rehabilitation or landscape program;
  - (e) Details of land clearing and earthworks or trenching and location of soil stockpiles associated with roads, driveways, building sites, reticulated services and fire hazard protection.
  - (f) Arrangements to be made for surface and subsurface drainage and vegetation management in order to prevent sheet and tunnel erosion.
  - (g) Temporary erosion and sedimentation controls to be used on the site.
  - (h) Recommendations for the treatment and disposal of wastewater in accordance with Standards Australia (2000), AS/NZS 1547: *On-site wastewater management*, Standards Australia, Sydney.

Appropriate temporary control measures include, but are not limited to, the following:-

- Minimise site disturbance and vegetation removal;
- Diversion of up-slope run-off around cleared and/or disturbed areas, or areas to be cleared and/or disturbed, provided that such diverted water will not cause erosion and is directed to a legal discharge point (eg. temporarily connected to Council's storm water system, a watercourse or road drain);
- Sediment retention traps (e.g. sediment fences, straw bales, grass turf filter strips, etc.) at the down slope perimeter of the disturbed area to prevent unwanted sediment and other debris escaping from the land;
- Sediment retention traps (e.g. sediment fences, straw bales, etc.) around the inlets to the stormwater system to prevent unwanted sediment and other debris blocking the drains;
- Stormwater pits and inlets installed and connected to the approved stormwater system before the roadwork's are commenced; and
- Rehabilitation of all disturbed areas as soon as possible.

- D. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works, or a minimum of \$286.00, must be paid to Council in accordance with Council’s fee schedule.
- E. **This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.**

**DECISION:**

*Cr Higgins moved, Cr Foster seconded that the recommendation with Condition 3 and 7 being amended as tabled, be adopted.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr Foster	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Owen	

The meeting closed at 5.55pm

Confirmed: \_\_\_\_\_  
(Mayor)

Date: \_\_\_\_\_  
18<sup>th</sup> July 2017