



# Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
OLD BEACH AT 5.30 P.M. ON TUESDAY,  
20<sup>th</sup> NOVEMBER 2018**

**PRESENT:** Cr Foster (Mayor); Cr Garlick; Cr Geard; Cr Gray; Cr Jeffries, Cr Murtagh; Cr Owen and Cr Whelan.

**IN ATTENDANCE:** Mr R Sanderson (General Manager); Mr G Davoren (Deputy General Manager); Mr H Macpherson (Municipal Engineer); Mrs J Banks (Governance Manager); Mr J Dryburgh (Chief Operations Officer) and Mr D Allingham (Senior Planner)

**A: COUNCIL ELECTIONS OCTOBER 2018 – ELECTION OF COUNCILLORS AND MOTION ACKNOWLEDGING THE RECEIPT OF ALL DECLARATIONS OF OFFICE MADE:**

**AUTHOR:** General Manager  
(Mr R V Sanderson)

The General Manager presented the Certificate of Election dated 2<sup>nd</sup> November 2018, which revealed that the following Councillors had been duly elected for a period of four (4) years:-

- Tony Foster
- Barbara Curran
- Phil Owen
- Leigh Gray
- Peter Geard
- Jessica Whelan
- Moya Jeffries
- Tennille Murtagh
- Wayne Garlick

The Certificate also revealed that Tony Foster has been elected as Mayor and Barbara Curran has been elected as Deputy Mayor, also for a period of four (4) years.

The General Manager reported that all Councillors were required to complete their Declaration of Office, before being able to participate at the meeting. The Declaration of Office was made on the 7<sup>th</sup> November 2018, by all Councillors at their Induction.

**RECOMMENDATION:**

That the Council formally acknowledge the receipt of all Declarations of Office made.

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**1. CONFIRMATION OF MINUTES:**

**1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 16<sup>th</sup> OCTOBER 2018.**

*Cr Gray moved, Cr Garlick seconded that the Minutes of the Ordinary Council Meeting of 16<sup>th</sup> October 2018 be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 2. APPLICATIONS FOR LEAVE OF ABSENCE:

*Cr Garlick moved, Cr Jeffries seconded that Cr Curran (Deputy Mayor) be granted leave of absence.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 3. PUBLIC QUESTION TIME AND DEPUTATIONS:

- Justin Abrahams provided an update to Councillors on the Bridgewater PCYC and its programs.

## 4. DECLARATION OF INTEREST:

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

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2015*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2015*.

*Cr Gray, Cr Whelan and Cr Geard declared an interest in Item 11.2*

## 5. REPORTS FROM COUNCILLORS:

## 5.1 MAYOR'S COMMUNICATIONS:

**AUTHOR:** Mayor  
(Cr T Foster)

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The Mayor's communications were as follows: -

- |     |    |  |
|-----|----|--|
| Oct | 20 | Attended the Brighton Cricket Club launch at Pontville clubrooms.  |
|     | 23 | Interviews for Taswater Chairman of the Board.   |
|     | 24 | Interviews for Taswater Chairman of the Board.   |
|     | 31 | Farewell dinner for Miles Hampton outgoing Taswater Board Chairman.  |
| Nov | 07 | Swearing In of new Brighton Council  |
|     | 11 | Noeline and I attended the Remembrance Day Ceremony at Hobart Cenotaph.                                    |
|     | 12 | Noeline and I attended the Brighton Primary School Remembrance Day Ceremony at Remembrance Park, Brighton. |
|     | 19 | STCA Meeting   |
|     | 20 | Ordinary Council Meeting.  |

Mayor Tony Foster also addressed Councillors with the following address:-

### **STATE OF THE COUNCIL ADDRESS 20<sup>TH</sup> NOVEMBER 2018.**

Brighton Council is very stable, and rarely have we seen changes to our elected representatives, except for resignations after long periods of service, or sadly when some councillors have passed away. The old adage that you can't escape death or taxes is particularly pertinent here at Brighton.

This year is an exception and I warmly greet our two newest Councillors, Councillor Whelan and Councillor Murtagh. Congratulations to you both and as well, may I say congratulations to all returning Councillors on your re-election.

At this time, it is worth examining why other Councils have a greater turnover of elected members than we do here at Brighton.

There are obvious reasons in extreme cases where factional infighting becomes embedded in a Council to the detriment of the community. Ironically, I expect that each Councillor when elected intended to represent their community, but instead ended up representing their faction of vested interest. Glenorchy City Council and Huon Valley Council are clear examples of where this has occurred and in the lead-up to the most recent elections, even the Hobart City Council got caught up in factional squabbles.

Fortunately for Brighton, our Councillors in the past have not fallen for this trap. Each of us has vehemently kept our independence determined to only act and vote truly for what we believe is in the community's best interest.

Long may this continue.

As one of our Senior Managers said to me and I quote: “It is amazing to have seen the changes that have happened over the past 15 years since I started work at Brighton” and added “ Going from a time where we had very little money to spend on projects and had to reduce the standard to try and complete a project within budget to now where we have excellent design and pricing skills that allow us to complete large projects on budget and building everything to the accepted standard.”

No doubt Grant Funding has been a big help to us and we have worked hard to gain this advantage. None of this has been achieved without the experience and skill of those putting the Grant Applications together so I compliment our staff who not necessarily work in the same department but work together to achieve great outcomes for our Council and community.

There is no doubt that having a vision and direction with clear strategic objectives, as well as developing broad-ranging masterplans has helped us to be successful in applying for Commonwealth and State Grant funding.

So, everyone involved in Brighton Council should be rightly proud. We are a Council with a good reputation – a Council that has earned respect from its peers, as well as all tiers of government. Over the years, we have built very solid and productive relationships with successive Commonwealth and State Governments, This is one aspect of our business of which I’m very proud.

While we have evolved dramatically over the past two decades now is not the time to be complacent. We must continue to be progressive, to embrace new ideas and not assume that the same approaches used in the past are still the best.

I am confident that we have the people, resources and capacity to do this.

As an organisation, one of our biggest strengths is having developed a culture that attracts and retains talented and loyal staff. We must guard and protect this as it is one of our critical assets and one that will become increasingly important in the future.

Looking ahead, during this term of Council we will see a transition of a number of our long serving staff into different roles or retirement.

Council is very fortunate that it has talented, experienced and long serving staff across all of its senior management, ready and indeed enthusiastic to play their part and progress their roles as we look towards a successful transition.

In the new year our Council will undertake the important process to develop our Strategic Plan, Financial Plan, Asset Management Plan and associated Council policies.

This will be a great opportunity to set our course for the coming years.

Careful long-term planning will ensure that Brighton remains a sound financial Council and a leader in Tasmania’s local government sector.

While we are all individuals and may often have differing views, we must aim to work as a team and work through any differences we may have in a professional and constructive manner. If we do this openly and fairly, it will ensure the best outcomes for our community.

On the important issue of rates and cost of living pressures on the community, I am regularly asked, how Brighton Council has been able to keep its rate increases to at or below CPI for more than 20 years when other councils have been unable to come anywhere near this achievement.

Well the answer is very simple. Good planning, sound financial management and a collective commitment from both the elected Councillors and our staff to do the very best for the people of the Brighton Municipality.

I would like to say a little more about all our staff – both those who serve our Council and community indoors and outdoors. Brighton is privileged by the fact that we have been able to attract some of Tasmania's best talent and retain them to work for our community. I thank them for their service and commitment.

It is important that all Councillors are aware of the division of responsibilities that exist between we as Councillors who are responsible for the Governance of the Council and agreeing to our policy direction, and the staff who are responsible for the day-to-day operations and the provision of services to ratepayers and the community.

Our Council recognises this division of responsibilities.

We must always be aware that in the event that this line is crossed, either by staff or elected Councillors, that council is doomed to fail.

So again, my congratulations to all.

I am looking forward to the next four years with great optimism and confidence.

Brighton is in a very sound position. We have enormous potential and opportunities in what is probably the most exciting era that I have witnessed, for our Council and the Brighton Municipality, as we continue to grow.

One initiative alone, the opportunity to be involved in the guidance of a new high school for Brighton will enable us to make a great contribution to our community's future. There are many more.

So as leaders of our community I will leave you with this very relevant quote by the American philosopher Jim Rohn.

"The challenge of Leadership is to be strong, but not rude

be kind but not weak, be bold but not bully

be thoughtful but not lazy, be humble but not timid

be proud but not arrogant and have humour, but without folly".

If we can aspire to achieve those philosophical views, then I believe we can continue to be the most stable and effective Council in Tasmania.

My own personal mantra is Trust, Respect and Communication. (I call it my TRC model). I commit to continue that approach as Mayor – to earn and give trust, to respect the views of others and to communicate as effectively as I am able.

Thank you.

## RECOMMENDATION:

That the Mayor's communications be received.

## DECISION:

*Cr Jeffries moved, Cr Garlick seconded that the recommendation be adopted.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

## DECISION:

Cr Geard advised that he officially opened the Brighton Show held on 11<sup>th</sup> November and also the Brighton Poultry show.

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

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

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

Correspondence and reports from the STCA, LGAT, TasWater and Joint Authorities.

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

## **6. APPOINTMENT OF COUNCIL'S REPRESENTATIVES ON COMMITTEES:**

### **6.1 COUNCIL MEETINGS – COMMENCEMENT TIME:**

**AUTHOR:** Governance Manager  
(Mrs J Banks)

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#### **Background:**

The *Local Government (Meeting Procedures) Regulations 2015*, require that “after each Ordinary Election, a Council and a Council Committee are to review the times of commencement of meeting”.

#### **Consultation:**

Nil.

#### **Risk Implications:**

Nil.

#### **Financial Implications:**

Nil.

#### **Other Issues:**

N/A

#### **Assessment:**

N/A

#### **Options:**

1. As per the recommendation.
2. That Ordinary Council Meetings commence at 5.30 p.m. on the third Tuesday of each month.
3. That Ordinary Council Meetings commence at a different time and day of each month as nominated by Council.



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## RECOMMENDATION:

For discussion and recommendation.

## DECISION:

*Cr Geard moved, Cr Owen seconded that option 2 be adopted.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 6.2 PARKS AND RECREATION COMMITTEE:

The Parks and Recreation Committee meet monthly at 5.00 pm on the Tuesday prior to the Council Meeting. Members of the Parks and Recreation Committee were Cr Geard (Chairperson), Cr Curran (Deputy Chair); Cr Gray, Cr Higgins; Cr Jeffries and Cr Williams.

## RECOMMENDATION:

That Cr P Geard(Chair), Cr B Curran (Deputy Chair), Cr L Gray; Cr M Jeffries; Cr T Murtagh and Cr J Whelan be elected to this Committee.

MEETING CYCLE – second Tuesday of each month at 5.00 pm.

## DECISION

*Cr Gray moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

### VOTING RECORD

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

Cr Owen  
Cr Whelan

### 6.3 FINANCE COMMITTEE:

The Finance Committee meet monthly at 5.15 pm on the Tuesday prior to the Council Meeting. Members of the Finance Committee were Cr. Foster (Chairperson), Cr Curran (Deputy Chairperson), Cr Garlick; Cr Gray; Cr Jeffries and Cr Owen.

#### RECOMMENDATION:

Cr T Foster (Chair), Cr B Curran (Deputy Chair); Cr W Garlick; Cr L Gray; Cr M Jeffries and Cr P Owen.

MEETING CYCLE – second Tuesday of each month at 5.15 p.m.

#### DECISION:

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

**CARRIED**

#### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

### 6.4 PLANNING AUTHORITY:

The Planning Authority met monthly at 5.30pm on the Tuesday prior to the Council Meeting. All Councillors were members on the Planning Authority.

#### RECOMMENDATION:

Cr L Gray (Chair), Cr P Owen (Deputy Chair); Cr B Curran; Cr T Foster; Cr Garlick; Cr P Geard; Cr Jeffries; Cr T Murtagh and Cr J Whelan.

MEETING CYCLE – second Tuesday of each month at 5.30 p.m.

#### DECISION:

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.5 SOUTHERN TASMANIAN COUNCILS ASSOCIATION:**

Council's representative on the Southern Tasmanian Councils Association was Cr Foster and Cr Curran (alternative representative). Meetings are as determined by the Association.

**RECOMMENDATION:**

Cr T Foster and Cr B Curran (alternative representative)

MEETING CYCLE - As determined by the Association.

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.6 OLD COUNCIL CHAMBERS USERS GROUP:**

The Chairperson was Cr Geard. This Committee meets infrequently.

**RECOMMENDATION:**

Cr P Geard (Chair)

MEETING CYCLE - As determined by the Committee.

**DECISION:**

*Cr Gray moved, Cr Garlick seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.7 JORDAN RIVER LEARNING FEDERATION SCHOOL COUNCIL:**

Council's representative on the Jordan River Learning Federation School Council were Cr Jeffries and Cr Williams.

**RECOMMENDATION:**

Cr M Jeffries.

MEETING CYCLE - As and when determined by the School Council.

**DECISION:**

*Cr Whelan moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.8 GAGEBROOK PRIMARY SCHOOL COUNCIL:**

Council's representative on the Gagebrook Primary School Council was Cr. Williams. Meetings were as determined by the School Council.

**RECOMMENDATION:**

Cr W Garlick.

MEETING CYCLE - As and when determined by the School Council.

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.9 BRIGHTON PRIMARY SCHOOL COUNCIL:**

Council's representative on the Brighton Primary School Council was Cr. Curran.  
Meetings were as determined by the School Council.

**RECOMMENDATION:**

Cr B Curran.

MEETING CYCLE - As and when determined by the School Council.

**DECISION:**

*Cr Owen moved, Cr Jeffries that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 6.10 WASTE MANAGEMENT COMMITTEE:

Council's representatives on the Waste Management Committee were Cr Owen (Chairperson), Cr Curran (Deputy Chairperson), Cr Foster; Cr Geard and Cr Gray. This Committee meets as and when required.

### RECOMMENDATION:

Cr P Owen (Chair), Cr B Curran (Deputy Chairperson); Cr T Foster; Cr W Garlick; Cr P Geard; Cr L Gray and Cr Whelan.

MEETING CYCLE – As and when required.

### DECISION:

*Cr Jeffries moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 6.11 WASTE STRATEGY SOUTH:

Council's representative on the Waste Strategy South Cr Gray (representative) and Cr Curran (alternative representative). This Committee meets as and when required.

### RECOMMENDATION:

Cr L Gray (representative), Cr B Curran (alternative representative)

MEETING CYCLE – As and when required.

### DECISION:

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

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	

Cr Gray  
Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

## **6.12 EMERGENCY MANAGEMENT ADVISORY COMMITTEE:**

Council's representative on the Emergency Management Advisory Committee was Cr Foster and Cr Geard. This Committee meets as and when required.

### **RECOMMENDATION:**

Cr T Foster and Cr P Geard.

MEETING CYCLE – As and when required.

### **DECISION:**

*Cr Gray moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **6.13 HOBART FIRE MANAGEMENT COMMITTEE:**

Council's representative on the Hobart Fire Management Committee is Cr Geard. This Committee meets as and when required.

### **RECOMMENDATION:**

Cr P Geard.

MEETING CYCLE – As and when required.

### **DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.14 ENVIRONMENT AND HERITAGE COMMITTEE:**

Council's representatives on the Environment & Heritage Committee were Cr. Curran (Chairperson), Cr Geard (Deputy Chairperson), Cr Garlick; Cr Higgins ; Cr Jeffries ; Cr Foster and Cr Owen. Caroline Verth and Janet Browning were also invited to the meeting but have no voting rights. This Committee meets as and when required.

**RECOMMENDATION:**

Cr B Curran (Chair), Cr P Geard (Deputy Chair); Cr W Garlick; Cr M Jeffries; Cr T Foster and Cr P Owen.

MEETING CYCLE – As and when required.

**DECISION:**

*Cr Garlick moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.15 CYCLING SOUTH:**

Council's representative on Cycling South is Cr Gray. This Committee meets as and when required.

**RECOMMENDATION:**

Cr L Gray.

MEETING CYCLE – as and when required



**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**6.16 TASWATER:**

Council's representative was Cr T Foster (Owner Rep) and Cr B Curran (Deputy Rep). See separate report under 12.2.

**6.17 CIVIC PRIDE CONSULTATIVE GROUP:**

Council members on this group were the Mayor, Deputy Mayor, Chairperson Parks & Recreation, General Manager, Deputy General Manager, Manager Development Services, Manager Asset Services and Works Supervisor.

MEETING CYCLE – as and when required.

**RECOMMENDATION:**

Mayor, Deputy Mayor, Chairperson Parks & Recreation, General Manager, Deputy General Manager, Chief Operations Officer, Manager Asset Services and Works Supervisor.

MEETING CYCLE – as and when required.

**DECISION:**

*Cr Gray moved, Cr Jeffries seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **6.18 REMEMBRANCE PARK COMPLEX CONSULTATIVE GROUP:**

Council members on this group were Mayor, Deputy Mayor, Chairperson Parks & Recreation, General Manager, Deputy General Manager, Manager Development Services.

MEETING CYCLE – as and when required.

### **RECOMMENDATION:**

Cr Curran (Chairperson); Cr Geard and Cr Gray, Chief Operations Officer, Manager Asset Services and Works Supervisor.

MEETING CYCLE – as and when required.

### **DECISION:**

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

**CARRIED**

### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **7. NOTIFICATION OF COUNCIL WORKSHOPS:**

In accordance with the requirements of Section 8(2)(c) of the Local Government (Meeting Procedures) Regulations 2015, it was reported that there were no workshops held since the last Council Meeting.

## **8. NOTICE OF MOTION:**

*There were no notices of motion.*

## **9. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:**

In accordance with the requirements of Part 2 Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2015, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

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

### **RECOMMENDATION:**

That the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the Local Government (Meeting Procedures) Regulations 2015.

### **DECISION:**

*The General Manager advised there were no supplementary agenda items.*

## **10. REPORTS FROM COMMITTEES:**

*There were no Committee meetings held in October.*

The Chairperson adjourned the Council meeting to allow the Planning Authority to discuss the following Planning items.

Cr Gray took the Chair.

## **11. 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 11 on this agenda, inclusive of any supplementary items.

Item 11.1 and 11.3 were discussed first, but for the purposes of these Minutes the items remain in chronological order.

**11.1 SECTION 34 REQUEST – 23 MENIN DRIVE & 241 BRIGHTON ROAD, BRIGHTON: INSERTING THE BRIGHTON ARMY CAMP HOSPITAL & PARADE GROUNDS INTO TABLE E13.1 ‘HERITAGE PLACES’ OF THE HISTORIC HERITAGE CODE INCLUDING ZONE BOUNDARY REALIGNMENT – SECTION 35 REPORT:**

<b>FILE REFERENCE:</b>	RZ2018-02
<b>Author:</b>	Richard Cuskelly
<b>Applicant:</b>	Brighton Council
<b>Owner:</b>	Brighton Council
<b>Location:</b>	23 Menin Drive, Brighton (CT 169004/1), 241 Brighton Road, Brighton (166272/1) & Lot 2012 Brighton Road, Brighton (175749/2012)
<b>Application no.:</b>	RZ2018-02
<b>Zoning:</b>	Community Purpose, Open Space & General Residential
<b>Planning Instrument:</b>	Brighton Interim Planning Scheme 2015
<b>Date received:</b>	N/A
<b>Date advertised:</b>	N/A
<b>Decision required</b>	N/A

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**Proposal summary**

Council seeks to amend the *Brighton Interim Planning Scheme 2015* (the Scheme) by:

- Inserting 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) and 241 Brighton Road, Brighton (the Brighton Army Camp parade grounds) into Table E13.1 ‘Heritage Places’ of the Historic Heritage Code.
- Rezoning the small section of Community Purpose land on Lot 2012 Brighton Road, Brighton (175749/2012) to General Residential to align with the existing lot boundary adjoining 23 Menin Drive, Brighton.

Under section 34 of the *Land Use Planning and Approvals Act 1993* (LUPAA), Council may initiate an amendment to the Scheme.

## **Background**

A similar section 35 report proposing 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) be inserted into Table E13.1 'Heritage Places' of the Historic Heritage Code was certified by Council at the September Planning Authority Meeting.

However, due to an internal error, adjoining land-owners were not properly notified in accordance with Section 38(1)(b). Instead of re-advertising as certified, Development Services have taken the opportunity to expand the proposed amendment to best recognise the heritage value of the site and to correct a small zoning error.

One recommendation of this report is that Council determines to formally withdraw the original amendment request with the Tasmanian Planning Commission.

## **Site Description**

### **Site context:**

23 Menin Drive, 241 Brighton Road and Lot 2012 Brighton Road Brighton (the Site) are located within the wider Brighton Army Camp site (see Figure 1 and 2).

The majority of the wider Army Camp site was sold in 2003 to a private developer. A 300-lot subdivision was approved in 2007 (Permit SA2007/00070) and approximately half of the subdivision has been completed, as shown in Figure 3. The entirety of the land subject to the subdivision is zoned General Residential (bar the small section of Community Purpose zoned land, discussed below), as is the established adjoining residential area to the south-east.

Council has endorsed the Brighton Army Camp Open Space Master Plan (see attachment 2) for the two sites which aims to provide a community recreational space and to interpret and preserve the site's history. The Remembrance Park along the Brighton Road frontage was recently completed to celebrate the site's military history and has been used for ANZAC Day services for the community.

### **The Site:**

23 Menin Drive is an 8,202m<sup>2</sup> rectangular lot zoned Community Purpose. The only structure on-site is a single storey painted timber building with a footprint of over 1000m<sup>2</sup> constructed in 1939. Legal access to is currently from Menin Drive via a 20m wide Right of Way, but it will soon be accessed from a new road being constructed to connect Brighton Road to the Army Camp. The Site is also together with an Electricity Infrastructure Easement in favour of TasNetworks, and several Drainage and Pipeline Easements in favour of TasWater and Brighton Council.

241 Brighton Road is a 2.94 hectare rectangular lot zoned Open Space. Parallel roads, avenue trees, open lawn, flag pole and war memorial all exist on-site.

Lot 2012 Brighton Road refers to the large balance lot comprising the incomplete Army Camp subdivision stages to the north of the aforementioned lots (see Figure 3).



Figure 1. Aerial image of the Brighton Army Camp hospital building and parade grounds(blue border).

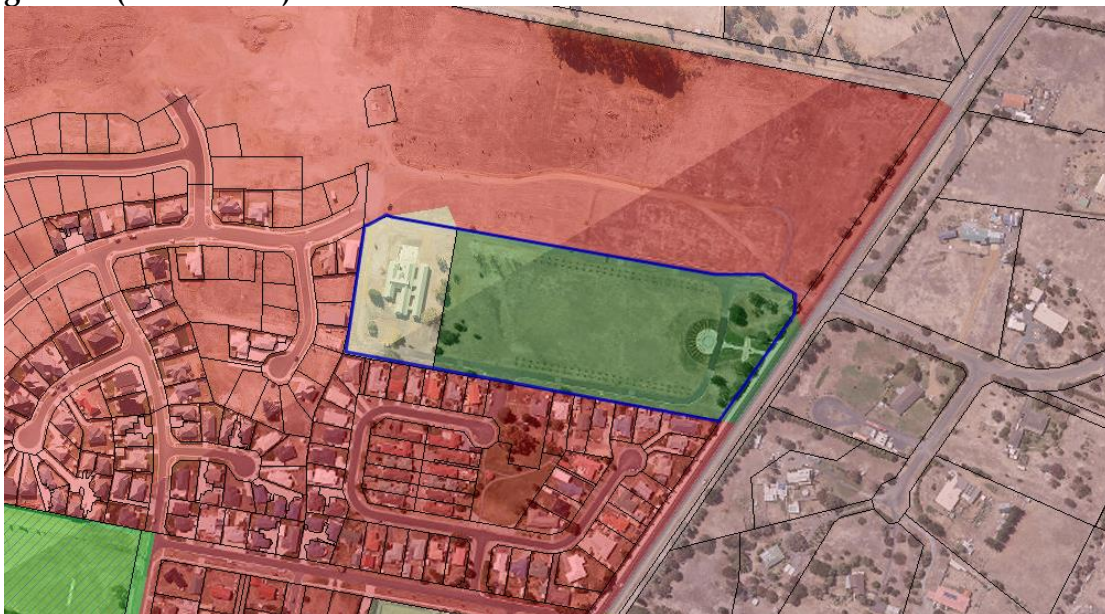
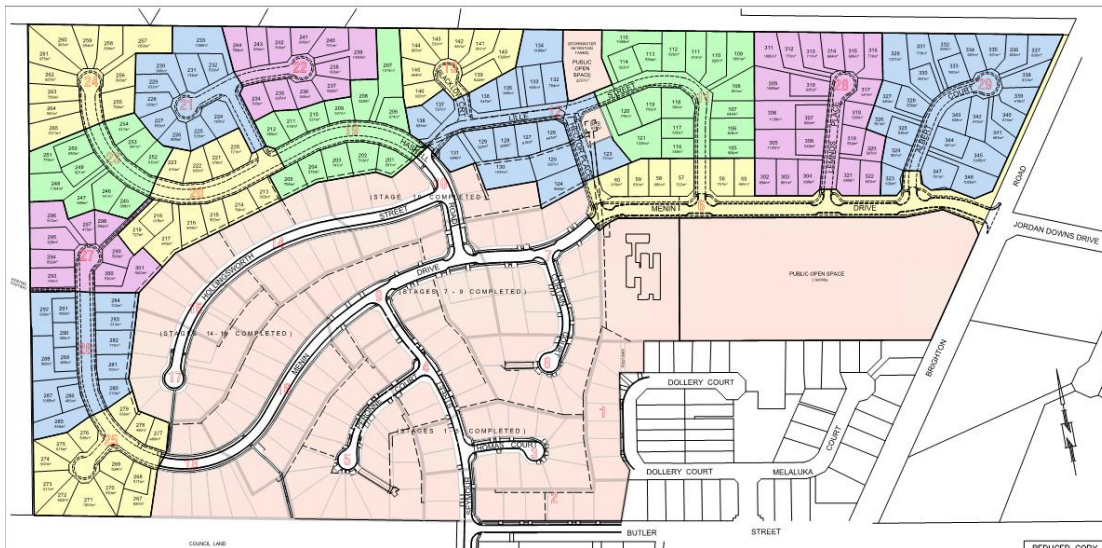
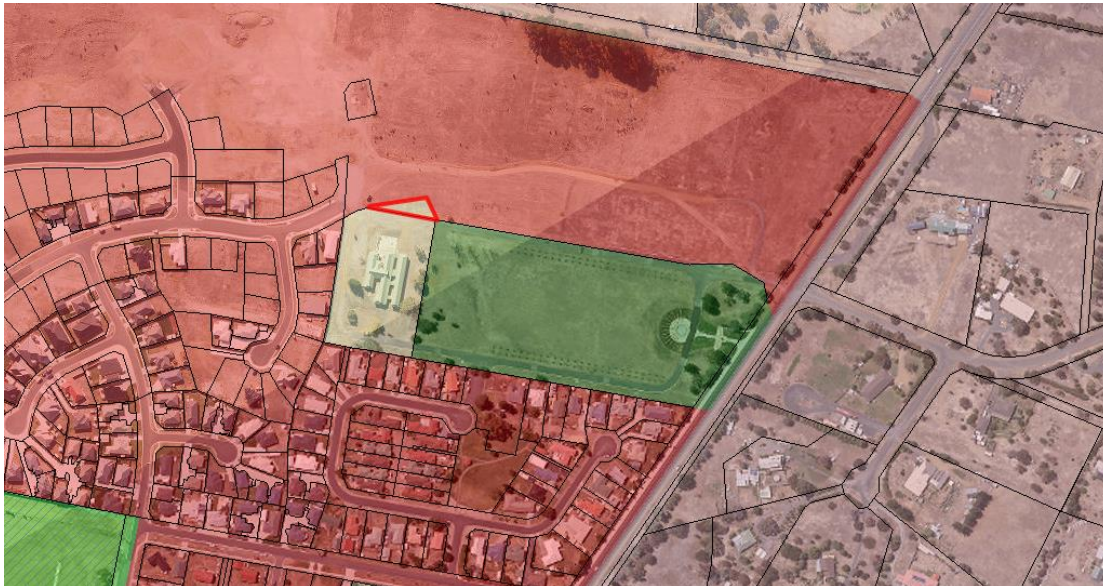


Figure 2. Zoning map of site and surrounds(Red = General Residential, Dark Green = Open Space, Light Yellow = Community Purpose, Bright Green - Recreation, Light Pink = Rural Living).





**Figure 3. Approved staging plan for 300 lot subdivision. The pink area shows completed stages.**



**Figure 4. The portion of Lot 212 Brighton Road, Brighton, proposed to be rezoned from Community Purpose to General Residential (red border).**

### Heritage Significance:

The significance of the two lots is best considered in context of the whole Brighton Army Camp site.

During the 1920s and 30s, the land was used as Tasmania's first airfield and was home to flight and gliding clubs. In 1939, the land was developed into a military base that housed and trained thousands of soldiers and army cadets until it ceased operation in 1998.

During WWII, the camp held Italian prisoners of war, and after the war, it was used as a migrant hostel for WWII refugees while also providing housing for Tasmanians who were homeless.

This also included the provision of emergency accommodation for some of those who lost their homes in the 1967 bushfires, and in 1999 it was renamed Tasmanian Peace Haven and became a temporary home to around 400 Kosovar refugees.

In 1998, the Brighton Army Camp was deemed surplus to Army requirements and put on the market. In 2003, most of the land was purchased by a private buyer. The army huts were all sold and removed, and the hospital is the only original building remaining.

As part of the sale process, the Brighton Camp Planning Report (de Gryse & Hepper for the Department of Defence, 2001) (the Planning Report) (see Attachment 3) was produced, providing a detailed summary of the past, present and potential future of the Brighton Army Camp site. Most relevant to this proposed amendment is Appendix 5 of the Planning Report: a Heritage Assessment by David Button (Architect). This assessment is based on the History of Brighton Army Camp Report by Dr David Young, which also forms part of the main Planning Report (Appendix 4).

The Heritage Assessment concludes that the hospital building holds considerable to exceptional significance and recommends the hospital building be retained 'to conserve a component of the site which will retain significance and allow past users of the site and future generations to interpret the place' (p.10). The parade grounds were levelled and formed in the early 1950s as part of wider camp upgrades to provide for more extensive National Service training. This included lawn-laying and tree-planting. The Heritage Assessment states that, 'the avenue of trees, parallel roads and open spaces are important to the understanding of the place' (p.9).

Prior to colonisation, the site was part of land inhabited by the Aboriginal Big River Tribe. An inspection of the site by Mr Steve Stanton (a qualified Aboriginal Heritage Consultant) in April 2000 found no evidence of Aboriginal sites, cultural or landscape values (de Gryse & Hepper, 2001).

Neither the hospital or parade grounds are currently listed on either the state Tasmanian Heritage Register or the local Heritage Places table of the Scheme.

## **Scheme Amendment**

### **Proposal:**

The request seeks to amend the Scheme to insert the Brighton Army Camp hospital site and parade grounds into Table E13.1 'Heritage Places' of the Historic Heritage Code of the Scheme.

The purpose of the Historic Heritage Code is 'to recognise and protect the historic cultural heritage significance of places, precincts, landscapes and areas of archaeological potential by regulating development that may impact on their values, features and characteristics.'



Also included in the proposal is to rezone the section of Community Purpose zoned land on Lot 2012 Brighton Road, Brighton to General Residential (see Figure 4 above). This small section of mixed zoning stems from a past subdivision road lot design that never proceeded and should be corrected to align with the actual lot boundary adjoining 23 Menin Drive, Brighton.

**Consultation:**

If certified, the draft planning scheme amendment must be forwarded to the Tasmanian Planning Commission within 7 days of the draft amendment being certified, and to TasWater. The certified draft amendment must then be placed on public exhibition for a period of no less than 21 days, with public notice of the exhibition being given in the Mercury newspaper on two separate occasions, with at least one of those occasions on a Saturday. A report will then come back to Council detailing any representations and responding to them.

Consultation has been held with the Council's Manager Development Services and previously with Councillors.

**Risk Implications:**

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

**Financial Implications:**

Advertising costs will be incurred during the exhibition period. A fee of \$316.00 is required to be paid to the Commission on submission of the certified draft amendment.

**Legislation:**

Pursuant to s.32(1) of LUPAA:

*(1) A draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of the relevant decision-maker within the meaning of section 20(2A) –*

*(a) . . . . .*

*(b) . . . . .*

*(c) . . . . .*

*(d) . . . . .*

*(e) must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*

*(ea) must not conflict with the requirements of section 30O ; and*

*(f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.*

*(2) The provisions of section 20 (2) , (3) , (4) , (5) , (6) , (7) , (8) and (9) apply to the amendment of a planning scheme in the same manner as they apply to planning schemes.*

Section 30O of the Act requires that an amendment to an interim planning scheme is as far as practicable, consistent with the regional land use strategy. Section 30O also sets a number of requirements relating to the insertion of a local provision and its relationship to a common provision.

In addition to these requirements, Section 20(1) is also relevant as a planning scheme amendment is also the making of a planning scheme:

*(1) A relevant decision-maker, in preparing, accepting, declaring or making a relevant scheme, or giving approval in relation to the making or approving of a relevant scheme, must, in the opinion of the relevant decision-maker–*

*(a) seek to further the objectives set out in Schedule 1 within the area covered by the scheme; and*

*(b) prepare the scheme in accordance with State Policies made under section 11 of the State Policies and Projects Act 1993 ; and*

*(c) . . . . .*

*(d) have regard to the strategic plan of a council referred to in Division 2 of Part 7 of the Local Government Act 1993 as adopted by the council at the time the planning scheme is prepared; and*

*(e) have regard to the safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000 .*

This report details the basis and reasons for the recommendation. An alternative decision by Council will require a statement of the reasons for the decision in order to maintain the integrity of the planning approval process and to comply with the intent of the *Judicial Review Act 2000*. In addition, section 25 of the *Local Government (Meeting Procedures) Regulations 2005* provides that the General Manager is to ensure that the reasons for a decision by a Council acting as a planning authority are recorded in the minutes of the meeting.

## **Assessment**

The following sections address the matters that are covered by the above mentioned legislative requirement.

### ***Brighton Strategic Plan 2015-2025***

The Brighton Council Strategic Plan 2015-2025 outlines the following key focus areas for the next ten years:

- Provide sustainable and responsible financial management of council resources;
- Manage and influence population growth with appropriate land use planning;
- Promote sustainable practices throughout council, local businesses and the community;

- Promoting Brighton as a great place to be;
- Facilitate provision of better transport systems;
- Maintain and improve our physical infrastructure; and
- Promoting industrial, business and employment growth

The *Brighton Structure Plan 2012 (BSP)* and *Brighton Town Centre Local Area Plan 2012 (BLAP)* were prepared to further a number of the focus areas. Consideration of the proposed amendment against the BSP and BLAP is outlined below.

### ***Brighton Structure Plan 2012***

In 2012, Council adopted the BSP which updated the 2009 Structure Plan in response to higher actual growth and growth predictions than were originally used to form the 2009 Structure Plan. The BSP contains a detailed analysis of the land and services required within the municipal area to meet current and future needs. Principle 5 of the BSP (7.4.5) states to:

- 'Recognise the importance of Brighton's heritage assets to the community's identity.' (p.56)

One high priority recommendation of the BSP (RES-2) was to:

- 'Prepare a Local Area Plan for the township of Brighton which considers the viability of commercial development on a portion of the former army site.' (p.80)

Relevant 'key area directions' recommended in the subsequently developed and adopted *Brighton Town Centre Local Area Plan Report* (Aurecon Australia Pty Ltd, 2012) include:

- 'Discourage the use and development of the former army site for unplanned commercial development that will fragment the existing commercial centre and create an undesirable urban form.
- The former army camp buildings adjoining the existing open green space should be protected by Brighton Council for future community use.' (p.46)

Currently, the Planning Authority has no statutory ability to consider the Site's heritage significance in a development application. The proposed amendment is aligned with the above key directions by providing the Planning Authority with the statutory ability to consider and assess a development application in the specific context of the Site's acknowledged heritage value.

In order to protect the Site there needs to be a viable use for the building to enable some return on the investment required to restore and maintain the building. A heritage listing not only ensures that the heritage values of the Site are considered in any development application, it also ensures that a broad range of potential uses can be considered to make conservation viable.

### ***Southern Tasmania Regional Land Use Strategy***

The *Southern Tasmania Regional Land Use Strategy* (STRLUS) acknowledges that,

*Listing processes (including updating old listings) now demand much more resourcing per listing that was the case in previous decades. This has reduced the rate at which both the Tasmanian Heritage Register and local Councils are able to update their respective registers. As a result, there are a significant number of outstanding nominations to the Tasmanian Heritage Register and many Councils would acknowledge their planning scheme lists are in need of a substantial overhaul. (p.36)*

The following Cultural Values Regional Policies of the STRLUS are most relevant to the proposed amendment:

**CV 2.2** *Promulgate the nationally adopted tiered approach to the recognition of heritage values and progress towards the relative categorisation of listed places as follows:*

- a. places of local significance are to be listed within Heritage Codes contained within planning schemes, as determined by the local Council ...*

**CV 2.3** *Progress towards a system wherein the assessment and determination of applications for development affecting places of significance is undertaken at the level of government appropriate to the level of significance:*

- a. Heritage places of local significance: by the local Council acting as a Planning Authority ...*

**CV 2.6** *Standardise statutory heritage management at the local level as much as possible.*

- a. Listings in planning schemes should be based on a common regional inventory template ...*
- b. Heritage code provisions in planning schemes should be consistent in structure and expression, whilst providing for individual statements in regard to heritage values and associated tailored development control.*

**CV 4.2** *Ensure the key values of regionally significant landscapes are not significantly compromised by new development through appropriate provisions within planning schemes.*

The inclusion of the Site into Table E13.1 'Heritage Places' of the Historic Heritage Code of the Scheme is entirely consistent with the above STRLUS recommendations.

#### **Overriding Local and Common Provisions:**

In addition to requiring that a Draft Amendment is consistent as far as practicable with the Regional Land Use Strategy, Section 30O requires that an amendment to a local provision of the scheme is not directly or indirectly inconsistent with the common provisions.

The inclusion of the site as Heritage Place will not conflict with common or overriding local provisions of the Scheme.

## ***Objectives of the Resource Management and Planning System of Tasmania***

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

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

The proposed amendment supports this Objective.

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

The proposed amendment supports this Objective. There is significant heritage and social value in the Site. In order to respect and protect these values there needs to be a fair and sustainable future for the Site. A heritage listing, and the associated discretionary uses, will help enable this to occur.

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

The public will be involved in the draft planning scheme amendment through opportunity to make representation and attend public hearings (at the discretion of the TPC). The public have also had the opportunity to provide input in to the BSP, BLAP and various processes including master planning of the area.

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

The draft amendment will facilitate economic development in the area by formally acknowledging the Site's heritage significance and ensuring any forthcoming development application for commercial use is sensitive and complimentary to this significance. It will enable a broader range of uses to be considered than the Community Purpose and Open Space zones currently do.

- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

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

### **Land Use Planning and Approvals Act 1993**

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

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

The proposed amendment is seen as a strategic response to the shared goal of considering heritage values within sustainable development, as recognised in the JLUPI Land Use Strategy, the BSP and the STRLUS, which have all been adopted by Council. This Objective is furthered by ensuring local heritage value is considered by the Planning Authority at the most suitable level of government.

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

The proposal has been prepared in accordance with section 34 of LUPAA. The proposed amendment will form part of the Planning Scheme, which controls the use, development and protection of land. The draft amendment has been considered against a suite of planning instruments, including STRLUS, the BIPS and the BSP.

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

The Site contains no environmental values of note.

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

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

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

This Objective is furthered by ensuring local heritage value is considered by the Planning Authority at the local level.

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

The proposed amendment supports this Objective.

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

Providing the Planning Authority with the statutory ability to consider and assess a development application in the specific context of the Site's acknowledged heritage value, furthers the above.

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

The proposed amendment supports this Objective.

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

The proposed amendment supports this Objective.

### **State Policies**

#### *State Coastal Policy 1996*

The *State Coastal Policy 1996* came into operation on 10 October 1996. This Policy applies to the coastal zone, which includes all State waters and land within 1 km from the High Water Mark (HWM)<sup>1</sup>, and therefore does not apply to the subject land.

#### *State Policy on Water Quality Management 1997*

The *State Policy on Water Quality Management 1997* (Water Quality Policy) came into operation on 27 September 1997. Clause 31.5 of the Water Quality Policy requires that a use or development be consistent with the physical capacity of the land so that the potential for erosion and subsequent water quality degradation is minimised.

The proposed amendment is consistent with the above.

#### *State Policy for the Protection of Agricultural Land 2009*

Not applicable: The *State Policy for the Protection of Agricultural Land 2009* (PAL Policy) only applies to agricultural land in Tasmania.

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<sup>1</sup> *State Coastal Policy Validation Act 2003*

*National Environmental Protection Measures (NEPM)*

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

None of the NEPMs are considered relevant to the proposed draft amendment.

**Gas Pipeline safety**

Section 20(e) of the Act provides that a draft amendment must have regard to the safety requirements for gas pipelines.

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

**Potential for Land Use Conflicts S 32 1 (e)**

There are no potential new land use conflicts caused by the proposed amendment.

**Regional Impacts s 32 1 (f)**

As discussed earlier in this report, the proposed listing is entirely consistent with the STRLUS in terms of conserving significant heritage and social values of the region.

***Brighton Interim Planning Scheme 2015***

The planning scheme establishes a series of objectives for achieving sustainable use and development of land, which are relevant for the consideration of any planning scheme amendment.

**Historic Heritage Code:**

As previously noted, the purpose (13.1) of the Historic Heritage Code (the Code) is “to recognise and protect the historic cultural heritage significance of places, precincts, landscapes and areas of archaeological potential by regulating development that may impact on their values, features and characteristics.”

The Code applies to [development](#) involving land defined as any of the following:

- (a) a Heritage Place;
- (b) a Cultural Landscape Precinct;

The Code does not apply to use, unless a Heritage Place is listed because its use or history of use is a key criterion in its listing. There are, however, no specific use standards in the Code. This means that, if applicable, assessment of use under the Code would be guided by the purpose statement (E13.1) above.

‘Place’ is defined in the Code as meaning ‘a place listed and described in Table E13.1 that is a site, area, landscape, building or other work, group of buildings or other works, with any associated views, spaces, and surroundings such as historic plantings or landscaping features, or evidence of past land use.’



In the context of this proposed amendment, *place* refers to the whole 23 Menin Drive lot (169004/1) and the whole 241 Brighton Road lot (166272/1). Wording and formatting of the draft inclusion can be found in Attachment 1.

The Code standards below are applicable to development involving land defined as a Heritage Place:

<b>E13.7 Development Standards for Heritage Places</b>	
<i>Standard</i>	<i>Objective</i>
E13.7.1 Demolition	To ensure that demolition in whole or part of a heritage place does not result in the loss of historic cultural heritage values unless there are exceptional circumstances.
E13.7.2 Buildings and Works other than Demolition	To ensure that development at a heritage place is: (a) undertaken in a sympathetic manner which does not cause loss of historic cultural heritage significance; and (b) designed to be subservient to the historic cultural heritage values of the place and responsive to its dominant characteristics.
E13.7.3 Subdivision	To ensure that subdivision of part of a heritage place maintains cohesion between the elements that collectively contribute to an understanding of historic cultural heritage values and protects those elements from future incompatible development.

## Conclusion:

The draft amendment is consistent with all relevant local and regional strategies and plans. It is also consistent with all relevant policies and legislation and will better reflect the hospital building and parade ground's acknowledged local heritage value. There are not expected to be any negative impacts or land use conflicts created by the amendment.

On the above basis, the amendment is recommended for certification.

## RECOMMENDATION:

- A. That in accordance with Section 34(3) of the *Land Use Planning & Approvals Act 1993*, Council determines to withdraw draft amendment RZ 2018/01 to insert 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) into Table E13.1 'Heritage Places' of the Historic Heritage Code.

- B. That in accordance with Section 34(5) of the *Land Use Planning and Approvals Act 1993*, Council directs that notification of the withdrawal of draft amendment RZ 2018/01 be given to the Tasmanian Planning Commission within 7 days and notice of the withdrawal be given in the *Mercury* newspaper.
- C. That in accordance with Section 34(1)(b) of the *Land Use Planning & Approvals Act 1993*, subject to the provisions of section 3 of schedule 6, Council initiates the draft amendment, to be known as draft amendment RZ 2018/02, to insert 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) and 241 Brighton Road, Brighton (the Brighton Army Camp parade grounds) into Table E13.1 'Heritage Places' of the Historic Heritage Code, and to rezone the portion of land zoned Community Purpose (identified in Figure 4) to General Residential.
- D. That in accordance with Section 35(1) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2018/02 satisfies the provisions of Section 32 of the *Land Use Planning and Approvals Act 1993*.
- E. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/02 be certified by instrument in writing affixed with the common seal of the Council; and
- F. That in accordance with Section 35(4) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2018/02 be given to the Tasmanian Planning Commission within 7 days;
- G. That in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/02 be placed on public exhibition for no less than 21 days.

## DECISION:

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

**CARRIED**

## VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

Cr Gray, Cr Geard and Cr Whelan had declared an interest in this item and left the meeting at 6.35pm

Cr Owen took the Chair as Acting Chairperson.

**11.2 RZ 2018/04 – SECTION 35 REPORT – AMENDMENT TO BRIGHTON INTERIM PLANNING SCHEME 2015 – REMOVAL OF MAPPED ATTENUATION AREA SURROUNDING QUARRIES AT 252 ELDESLIE RD BRIGHTON & 157 WILLIAM ST BRIGHTON:**

Type of Report	Planning Authority
Application No:	RZ 2018 / 04
Address:	157 William Street, Brighton and land within attenuation area relating to quarry at that address 252 Elderslie Rd and land within attenuation area relating to quarry at that address
Requested by:	Brighton Council
Proposal:	Removal of Mapped Attenuation Area(s)
Zone:	Utilities Zone, Rural Resource Zone, Environmental Management Zone, Significant Agriculture Zone
Author:	Senior Planner (David Allingham)

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**1. Executive Summary**

- 1.1. The report considers an amendment of the *Brighton Interim Planning Scheme 2015* (BIPS 2015) for the purposes of removing the mapped Attenuation Areas that surround two different quarries at 157 William St and 252 Elderslie Rd, Brighton.
- 1.2. To proceed, the request must be initiated by the Planning Authority. If initiated, public exhibition would follow, with the final decision ultimately made by the Tasmanian Planning Commission.
- 1.3. Residential development is prohibited within mapped Attenuation Areas under the *Brighton Interim Planning Scheme 2015*. This is largely inconsistent with other interim planning schemes in the State and the draft Local Provisions Schedule.

- 1.4. The mapped Attenuation Area at 252 Elderslie Rd presently has a radius of approximately 900 metres from the stone quarry. The mapped Attenuation Area at 157 William St is approximately 300m.
- 1.5. If the amendment is successful, any application for a sensitive development would still need to demonstrate that it satisfies the relevant provisions of the Attenuation Code.
- 1.6. The amendment has not previously been considered.
- 1.7. The proposal is recommended for initiation.

## **2. Legislative & Policy Content**

- 2.1. The purpose of this report is to enable the Planning Authority to determine whether or not to initiate the planning scheme amendment.
- 2.2. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA establish the test of whether a planning scheme amendment is reasonable or not.
- 2.3. 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 2005*.
- 2.4. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.

## **3. Risk & Implications**

- 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.
- 3.2. Removal of the Attenuation Areas may result in Development Applications for residential uses on land where it previously wasn't allowed. This includes on land within the Significant Agriculture Zone and Rural Resource Zone which may lead to conflicts between the agricultural use, extractive industry use and sensitive use. These can be addressed through the zone requirements in BIPS 2015 as outlined below.

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

- 4.1. The quarry at 252 Elderslie Rd was established many decades ago and a permit has never been issued but has continued to operate with “existing use rights”. The quarry currently has a Mining Lease (1701P/M) which was renewed in 2017 and this is currently the only regulatory mechanism for the quarry. At the time of writing, Council officers were preparing an Environment Protection Notice (EPN) for the quarry which includes a requirement that blasting is prohibited. The quarry is a Level 1 Activity and regulated by Council.
- 4.2. The quarry at 157 William Street no longer has an active Mining Lease, which expired on 1/05/2015. Previously the quarry operated under Level 2 Permit No. 5941 (former Licence to Operate Scheduled Premises) issued by the Environment Protection Authority (EPA). On 12 October 2015 the EPA issued EPN No. 9246/1 to vary the conditions of Permit No. 9541, which included limiting the extraction of materials per annum to 4,999m<sup>3</sup>, effectively downgrading the quarry to a Level 1 activity.

## 5. Site Detail

### 5.1. 252 Elderslie Road, Brighton

- 5.1.1. 252 Elderslie Road is a 2.025ha lot containing a stone quarry which is subject to Mining Lease 1701P/M. The quarry has access to Elderslie Road via a 7.32m wide Right of Way (ROW) approximately 511m long.
- 5.1.2. The quarry is located within the south-west corner of a 94.54ha agricultural property at 177 Elderslie Road (see Figure 1).
- 5.1.3. 252 Elderslie Road is zoned Rural Resource under BIPS 2015 and has a mapped Attenuation Area relating to the quarry with a radius of approximately 900m. The Attenuation Area covers a number of Rural Resource and Significant Agriculture zoned properties. There are ten existing dwellings within the Attenuation Area.

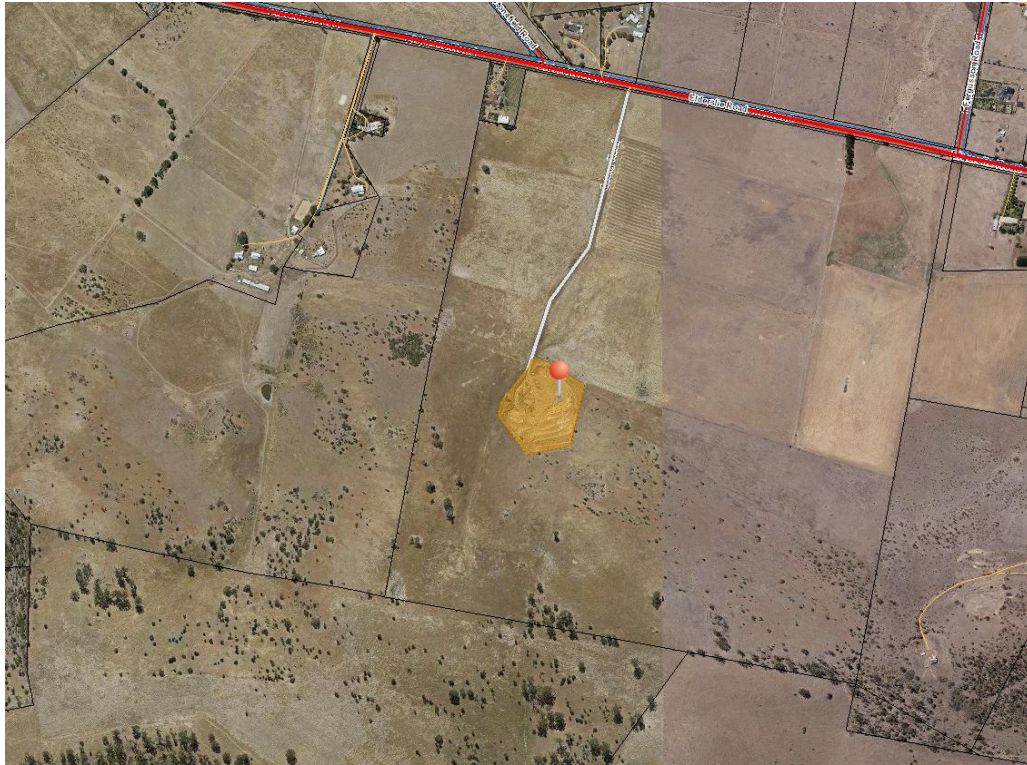


Figure 1. – Aerial photography of 252 Elderslie Rd.

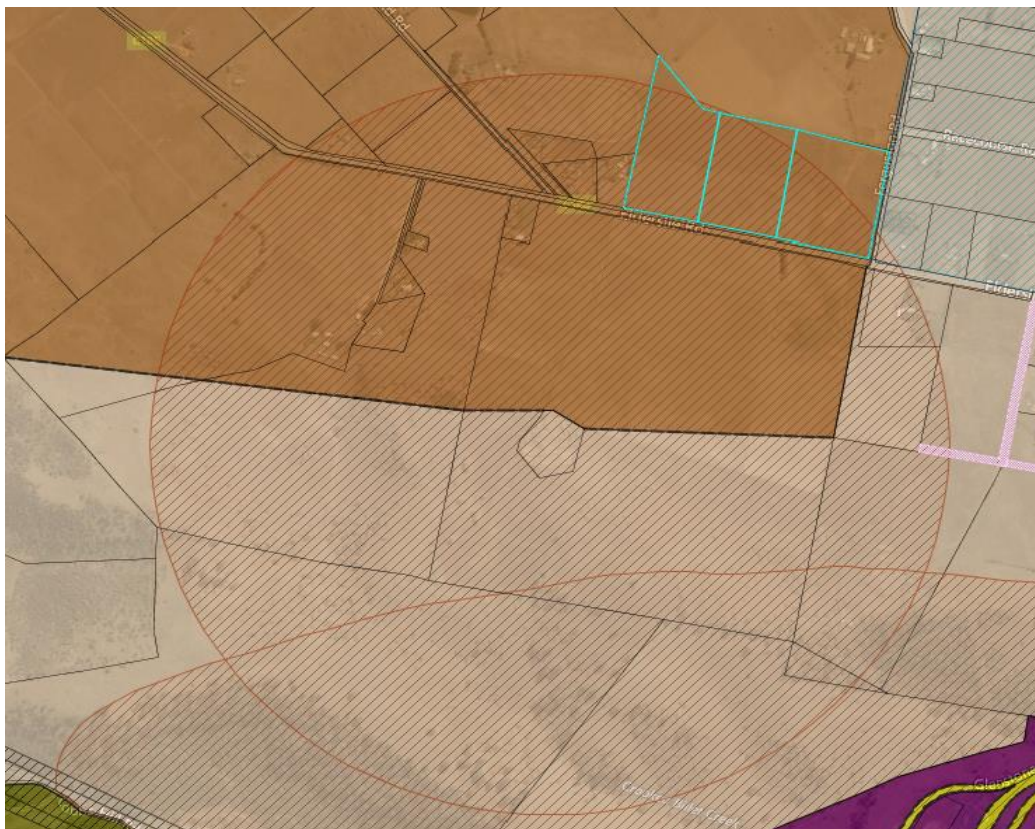


Figure 2. Aerial photography of 252 Elderslie Road and the surrounding area. Light brown denotes the Rural Resource Zone, and brown denotes Significant Agriculture Zone. The red hatched circle denotes the Attenuation Area for the quarry.



5.2. 157 William St, Brighton

- 5.2.1. 157 William St is a 90.59ha property which contains an unused quarry, a residential dwelling, horse training track and associated stables.
- 5.2.2. The quarry is located to the east of the property adjacent to the Jordan River.
- 5.2.3. 157 William St is zoned Rural Resource and has a mapped Attenuation Area relating to the quarry with a radius of approximately 300m. The Attenuation Area is generally contained within the property except where it covers the Midland Highway to the north and the Jordan River. The majority of the Attenuation Area is also covered by the Bridgewater Quarry overlay.



Figure 3 - Aerial photography of 157 William St and the surrounding area. The marker is located within the quarry.

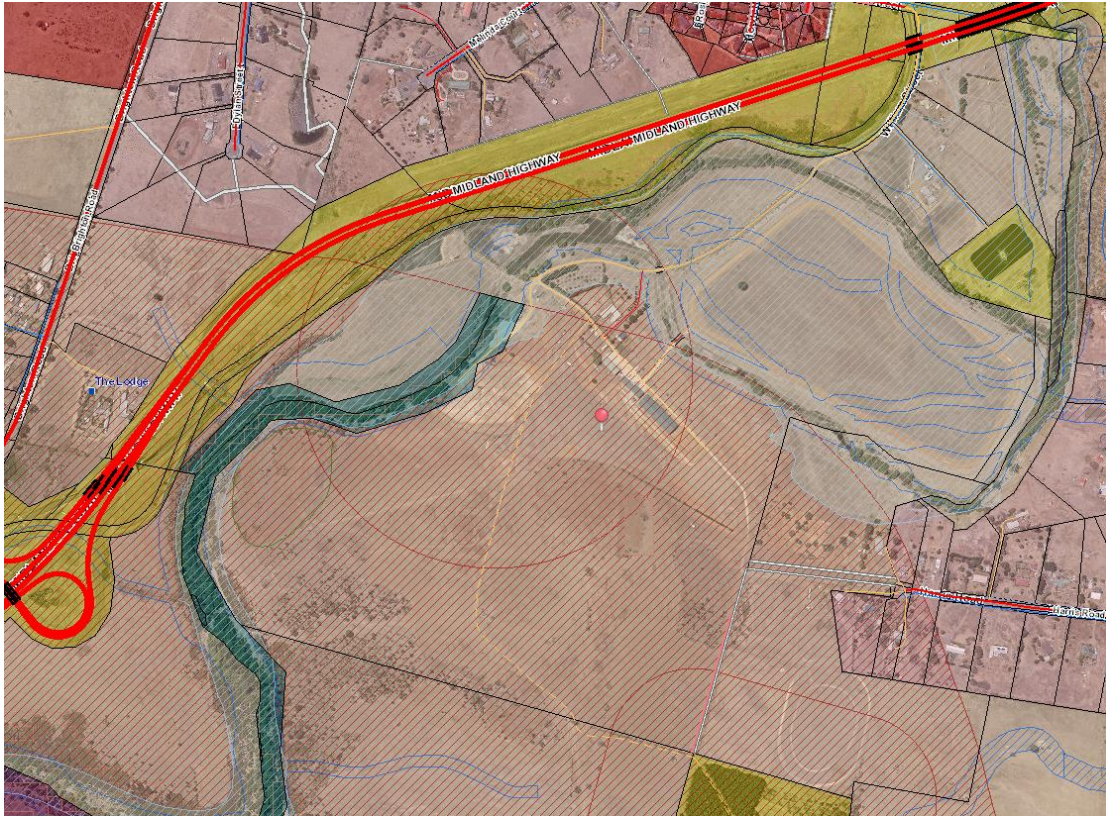


Figure 4 - Aerial photography of 157 William St and the surrounding area. Light brown denotes the Rural Resource Zone, pink denotes Rural Living Zone and yellow denotes Utilities Zone. The red hatched circle denotes the Attenuation Area for the quarry.

- 5.3. The site subject to the planning scheme amendment is the area contained within the mapped Attenuation Area that surrounds the quarry.

## 6. Proposal

- 6.1. The request seeks to amend BIPS 2015 to remove the Attenuation Area that surrounds the quarries located at 252 Elderslie Road & 157 William Street. Not including Council roads, the following properties that are presently affected by the mapped Attenuation Area are listed below:

### 252 Elderslie Rd Attenuation Area

Full Street Address	Suburb	VOLUME	FOLIO	PID
252 Elderslie Road	Brighton	31166	1	5027579
59 Fergusson Road	Brighton	111887	1	5021986
174 Elderslie Road	Brighton	138101	1	2144606
175 Cobbs Hill Road	Bridgewater	156752	1	2989422
175 Cobbs Hill Road	Bridgewater	18922	3	2989422
297 Elderslie Road	Brighton	167353	1	3368177
295 Elderslie Road	Brighton	9240	2	5027608
293 Elderslie Road	Brighton	9240	1	5027595



299 Elderslie Road	Brighton	167353	2	3305766
320 Elderslie Road	Brighton	107711	1	1441844
39 Stonefield Road	Brighton	162182	5	3247922
38 Stonefield Road	Brighton	157284	2	2982714
260 Elderslie Road	Brighton	34619	2	7479720
262A Elderslie Road	Brighton	157284	1	2982706
269 Elderslie Road	Brighton	16929	1	7101066
177 Elderslie Road	Brighton	17309	1	2014051
297 Elderslie Road	Brighton	167354	1	3368177
37 Stonefield Road	Brighton	162182	6	3247930
258 Elderslie Road	Brighton	34619	1	7479712
192 Elderslie Road	Brighton	239223	1	5021978
171 Elderslie Road	Brighton	28731	1	7325713
141 Elderslie Road	Brighton	111159	1	7225085
177 Elderslie Road	Brighton	244820	1	2014051
131 Elderslie Road	Brighton	28722	1	7318804
131 Elderslie Road	Brighton	N/A	N/A	7318804

#### 157 William St Attenuation Area

Full Street Address	Suburb	VOLUME	FOLIO	PID
157 William Street	Brighton	158011	1	3045925
Road Casement, Midland Highway		36374	17	N/A
Road Casement, Midland Highway		22688	1000	N/A
Road Casement, Midland Highway		139691	4	N/A
Jordan River		21755	200	N/A
Jordan River		21755	203	N/A

6.2. The rationale for the proposal is to:

- a) Remove the mapped Attenuation Areas so that the residential prohibition under clause E9.2.3 of BIPS 2015 no longer applies. This will provide greater consistency between BIPS 2015 and other interim planning schemes.
- b) To reduce the buffer around 252 Elderslie Road from approximately 900m to 750m to be consistent with the current activity (i.e. no blasting of hard rock).

## 7. Planning Scheme Implications

BIPS 2015 establishes a series of objectives for achieving sustainable use and development of land, which are relevant for the consideration of any planning scheme amendment. For this amendment, it is appropriate to outline relevant provisions within the Interim Scheme that relate to the Attenuation Code.

Section E9.1 of the Interim Scheme provides for the purpose of the Attenuation Code. It states:

*The purpose of this provision is to:*

- (a) minimise adverse effect on the health, safety and amenity of sensitive use from uses with potential to cause environmental harm; and*
- (b) minimise likelihood for sensitive use to conflict with, interfere with or constrain uses with potential to cause environmental harm.*

As per E9.2.1, the Attenuation Code applies in the following circumstances:

- (a) development or use that includes the activities listed in Table E9.1 and E9.2 in a zone other than the Light Industrial, General Industrial or Port and Marine Zone;*
- (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*
  - (ii) on land within the relevant attenuation distance from an existing or approved (permit granted) activity listed in Tables E9.1 and E9.2 if no Attenuation Area is shown on the planning scheme maps and that activity is not located in the Light Industrial, General Industrial or Port and Marine Zone.*

As the Attenuation Area is mapped, any development for a sensitive use on the land within the Attenuation Area presently triggers the code.

However, Section E9.2.3 states:

*Residential use or development is prohibited within the Attenuation Areas shown on the planning scheme maps.*

Should the mapped Attenuation Area be removed, the Attenuation Code would still be triggered through the Attenuation Distances identified in Table E9.1 in the Interim Scheme. The relevant sections of this Table are shown below:

Activity	Sub-category	Likely environmental impacts	Attenuation Distance
Quarry/pit etc.	no blasting, crushing or vibratory screening	noise, dust	300
	Blasting hard rock	noise, vibration, dust	1000
	Blasting other than hard rock	noise, vibration, dust	300
	Crushing or cutting	noise, dust	750
	Vibratory screening	noise, dust	50

At present, should an application for residential development be submitted for a site within the mapped Attenuation Area, it would be prohibited through Section E9.2.3. However, if the proposed amendment were to take effect, Section E9.2.3 would no longer apply (as the area would no longer be mapped), and any application for residential development within the Attenuation Distance specified in Table E9.1 would move from prohibited to discretionary. The application would, of course, need to demonstrate that it could satisfy the relevant Performance Criteria in Section E9.7.2 P1.

The owner of the quarry at 252 Elderslie Road has advised that the most intensive activity undertaken will be cutting or crushing and therefore a 750m buffer will apply. An EPN prohibiting blasting of hard rock is currently being prepared for the quarry.

The quarry at 157 William St will maintain a buffer of 300m as it still has an EPN for its use despite the Mining Lease having expired.

No other change to the application of the Brighton Interim Planning Scheme 2015 would result from the proposed amendment.

## 8. Planning Assessment

### 8.1. Requirements of the Act

#### 8.1.1. Pursuant to s.32(1) of LUPAA:

(1) *A draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of the relevant decision-maker within the meaning of section 20(2A) –*

(a) . . . . .

(b) . . . . .

(c) . . . . .

(d) . . . . .

(e) *must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*

(ea) *must not conflict with the requirements of section 30O; and*

(f) *must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.*

(2) *The provisions of section 20 (2), (3) , (4) , (5) , (6) , (7) , (8) and (9) apply to the amendment of a planning scheme in the same manner as they apply to planning schemes.*

Section 30O of the Act requires that an amendment to an interim planning scheme is as far as practicable, consistent with the regional land use strategy. Section 30O also sets a number of requirements relating to the insertion of a local provision and its relationship to a common provision.

In addition to these requirements, Section 20(1) is also relevant as a planning scheme amendment is also the making of a planning scheme:

(1) *A relevant decision-maker, in preparing, accepting, declaring or making a relevant scheme, or giving approval in relation to the making or approving of a relevant scheme, must, in the opinion of the relevant decision-maker–*

(a) *seek to further the objectives set out in Schedule 1 within the area covered by the scheme; and*

(b) *prepare the scheme in accordance with State Policies made under section 11 of the State Policies and Projects Act 1993; and*

(c) . . . . .

(d) *have regard to the strategic plan of a council referred to in Division 2 of Part 7 of the Local Government Act 1993 as adopted by the council at the time the planning scheme is prepared; and*

(e) *have regard to the safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000.*

The following sections address the matters that are covered by the above mentioned legislative requirement.

## **8.2. Brighton Strategic Plan 2015-2025**

The Brighton Council Strategic Plan 2015-2025 outlines the following key focus areas for the next ten years:

- *Provide sustainable and responsible financial management of council resources;*
- *Manage and influence population growth with appropriate land use planning;*
- *Promote sustainable practices throughout council, local businesses and the community;*
- *Promoting Brighton as a great place to be;*
- *Facilitate provision of better transport systems;*
- *Maintain and improve our physical infrastructure; and*
- *Promoting industrial, business and employment growth*

The proposed amendment does not conflict with any of Council's key focus areas.

### **8.3. Southern Tasmania Regional Land Use Strategy 2010-2035**

As required under s.32(1)(ea) the proposed amendment must be, as far as practicable, consistent with regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the *Southern Tasmania Regional Land Use Strategy 2010-2035*<sup>2</sup> (STRLUS).

The STRLUS outlines policies for protecting productive resources in section 16. Policy PR3 specifically addresses extractive industries as follows:

*PR 3 Support and protect regionally significant extractive industries.*

*PR 3.1 Existing regionally significant extractive industry sites are to be appropriately zoned, such as the Rural Zone, and are protected by appropriate attenuation areas in which the establishment of new sensitive uses, such as dwellings, is restricted.*

The proposed amendment seeks to remove a mapped Attenuation Area under Section E9.0 of the BIPS 2015.

The risks associated with new sensitive uses being developed in proximity to the existing use that have the potential to cause environmental harm can still be adequately managed via the attenuation distances listed in Table E9.1 and its subsequent application through the Performance Criteria in Section E9.7.2 P1 of the Interim Scheme.

It is worth noting that all properties within the reduced attenuation distance for 252 Elderslie Rd either have an existing residential use or have a building area on the property outside the building envelope.

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<sup>2</sup> [http://stca.tas.gov.au/rpp/wpcontent/uploads/2011/05/land\\_use\\_strategy\\_2013\\_Amended\\_8thnov\\_web.pdf](http://stca.tas.gov.au/rpp/wpcontent/uploads/2011/05/land_use_strategy_2013_Amended_8thnov_web.pdf)

As such, it is considered that the existing extractive industries will continue to be protected by attenuation distances and satisfy the requirements of Section PR3 of the STRLUS.

#### **8.4. Overriding Local and Common Provisions:**

In addition to requiring that a Draft Amendment is consistent as far as practicable with the Regional Land Use Strategy, Section 30O requires that an amendment to a local provision of the scheme is not directly or indirectly inconsistent with the common provisions.

The removal of the mapped attenuation areas does not conflict with common or overriding local provisions of the Scheme.

#### **8.5. State Policies**

##### **8.5.1. State Coastal Policy 1996**

The *State Coastal Policy 1996* applies to land within 1 km of the high water mark. The subject land is more than 1km from the high water mark and this policy does not apply.

##### **8.5.2. State Policy on the Protection of Agricultural Land 2009**

The *State Policy on the Protection of Agricultural Land 2009* protects Prime Agricultural Land (Land Capability Classes 1, 2, and 3) and conversion of agricultural land to non-agricultural uses is subject to the principles of the Policy. The land is considered to be non-prime agricultural land.

Both quarries are existing activities surrounded by agricultural land. The proposed amendment will not impact the current situation.

##### **8.5.3. The State Policy on Water Quality Management 1997**

The *State Policy on Water Quality Management 1997* applies, but is more relevant to individual developments.

#### **8.6. RMPS Objectives**

The objectives of the Resource Management and Planning System must be furthered by the rezoning request.

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

*The proposed amendment will allow for the ongoing use of an existing physical resource without impacting on ecological processes and genetic diversity.*

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

The proposed amendment will result in no change in how the Attenuation Code is applied and will result in minimal changes in the outcomes that are a direct consequence of the amendment. The amendment continues to provide for fair, orderly and sustainable use and development of air, land and water.

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

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

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

The draft amendment provides for ongoing protection of the quarries through the Attenuation Code, thus facilitating ongoing economic development.

- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

*The proposed amendment will require the consideration of the Tasmanian Planning Commission following community consultation.*

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

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

The proposed amendment is consistent with the *Southern Tasmania Regional Land Use Strategy 2010-2035* and the *Brighton Council Strategic Plan 2015-2025*.

The Planning Scheme amendment process allows for coordinated action by State and local government.

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

*The proposal has been submitted in accordance with Section 34(1)(b) of the Act and is consistent with all relevant legislation. The proposed amendment will form part of the Planning Scheme, which controls the use, development and protection of land.*

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

The land contains no natural values of major significance. Risks from future development can be appropriately managed under the *Brighton Interim Planning Scheme 2015* and any subsequent planning schemes.

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

The proposed amendment does not conflict with this objective and is consistent with State, regional and local planning policies and strategies.

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

This Objective is not directly relevant to the current matter.

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

The proposed amendment will continue to provide for protection of resources from encroachment of inappropriate residential development.

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

The site and adjoining land is not known to contain any items or places of scientific, aesthetic, architectural or historic interest.

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

The proposed amendment will not impact any public infrastructure or assets.

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

The subject area not considered to be prime agricultural land.



### **8.7. Gas Pipeline safety**

*Section 20(e) of the Act provides that a draft amendment must have regard to the safety requirements for gas pipelines.*

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

### **8.8. Potential for Land Use Conflicts S 32 1 (e)**

The proposed amendment removes the residential prohibition within the attenuation areas for the two quarries, potentially opening up opportunities for residential use within the buffer areas.

However, land use conflicts will be managed by the relevant use and development standards under the Attenuation Code and underlying zones just as they are in other interim planning schemes.

As noted above, there are building areas on all properties covered by the attenuation distance that fall outside the respective buffer distances for each quarry.

### **8.9. Regional Impacts s 32 1 (f)**

As discussed earlier in this report, the proposed listing is entirely consistent with the STRLUS in terms of protecting extractive industries in the region.

### **8.10. Other requirements of s.20**

The substantially altered Draft Amendment is also consistent with the other requirements under Section 20(2), (3), (4), (5), (6), (7), (8) and (9) of the Act. In particular, the substantially altered Draft Amendment does not:

- prevent the continuance or completion of any lawful use or development;
- prevent the reconstruction or restoration of buildings or works unintentionally destroyed or damaged;
- extend or transfer a use from one part of a parcel of land to another part; and
- affect forestry operations, mineral exploration, fishing or marine farming.

## **9. Referrals**

### **9.1. Mineral Resources Tasmania (MRT)**

Council sought advice from MRT regarding the removal of the mapped Attenuation Area for both quarries. Responses were provided by email on 10 October 2018 by the Assistant Manager Scientific Services as outlined below:

252 Elderslie Road

*MRT has no issue with the removal of the blasting Attenuation Area (1000m) over Mining Lease ML 1701P/M – 252 Elderslie Quarry. A 300m Attenuation Area would still apply to the site to facilitate continued extraction in line with the approved mine plan.*

Note: Council will apply a 750m attenuation area to allow the quarry operator to crush rock as desired. This will be reflected in an EPN.

157 William St

*MRT has no issue with the removal of the Attenuation Buffer – we'll deal with any new mining lease application if it is forthcoming with the new land owner and contact you directly.*

## 10. Conclusion

The proposal to amend the *Brighton Interim Planning Scheme 2015* is consistent with regional and local land use strategy and the requirements of the *Land Use Planning and Approvals Act 1993*.

On this basis, it is recommended that Council initiate and certify draft amendment RZ 2018 / 04, as detailed in the attachments to this report.

## RECOMMENDATION:

- A. That in accordance with Section 34(1)(b) of the *Land Use Planning & Approvals Act 1993*, subject to the provisions of section 3 of schedule 6, Council initiates the draft amendment, to be known as draft amendment RZ 2018/04 to remove the mapped Attenuation Area that surrounds 252 Elderslie Rd and 157 William Street, Brighton.
- B. That in accordance with Section 35(1) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2018/04 satisfies the provisions of Section 32 of the *Land Use Planning and Approvals Act 1993*.
- C. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/04 be certified by instrument in writing affixed with the common seal of the Council; and
- D. That in accordance with Section 35(4) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2018/04 be given to the Tasmanian Planning Commission within 7 days;

- E. That in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/04 be placed on public exhibition for no less than 28 days.

**DECISION:**

*Cr Jeffries moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Jeffries	
Cr Murtagh	
Cr Owen	

Cr Geard, Cr Gray & Cr Whelan re-joined the meeting at 6.40pm

**11.3 RZ 2018 / 03 - SECTION 35 REPORT – AMENDMENT TO BRIGHTON INTERIM PLANNING SCHEME 2015 – REZONE OF LAND AT 13 GAGE ROAD, GAGEBROOK FROM GENERAL RESIDENTIAL ZONE TO LOCAL BUSINESS ZONE:**

<b>Type of Report</b>	Planning Authority
<b>Application No</b>	RZ 2018 /03
<b>Address</b>	13 Gage Road, Gagebrook
<b>Requested by</b>	Brighton Council
<b>Proposal</b>	Rezone site to Local Business Zone
<b>Zone</b>	General Residential
<b>Author</b>	Jo Blackwell

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**1. Executive Summary**

- 1.1.** The report considers an amendment of the *Brighton Interim Planning Scheme 2015* (BIPS 2015) for the purposes of rezoning the land at 13 Gage Road, Gagebrook from General Residential Zone to Local Business Zone.

- 1.2. To proceed, the request must be initiated by the Planning Authority. If initiated, the draft planning scheme amendment must be forwarded to the Tasmanian Planning Commission within 7 days of the draft amendment being certified, and to TasWater. The certified draft amendment must then be placed on public exhibition for a period of no less than 28 days. Public notice of the exhibition must be given in the Mercury newspaper on two separate occasions, with at least one of those occasions on a Saturday. A report will then be presented to Council detailing any representations and responding to them.
- 1.3. The proposal preserves residential use of the site as a discretionary use, and increases the number of uses able to be undertaken on the site (either permitted or discretionary).
- 1.4. The amendment has not previously been considered.
- 1.5. The proposal is recommended for initiation.

## **2. Legislative & Policy Content**

- 2.1. The purpose of this report is to enable the Planning Authority to determine whether or not to initiate the planning scheme amendment.
- 2.2. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA establish the test of whether a planning scheme amendment is reasonable or not.
- 2.3. 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 2005*.
- 2.4. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.

## **3. Risk & Implications**

- 3.1. Approval or refusal of this application will have minimal financial implications for the Planning Authority.
- 3.2. Advertising costs will be incurred during the exhibition period. A fee of \$316.00 is required to be paid to the Commission on submission of the certified draft amendment

3.3. Future development of the site will result in increased rates remittance.

4. **Relevant Background and Past Applications**

4.1 Nil

5. **Site Detail**

5.1. 13 Gage Road, Gagebrook is located within the General Residential zone at the southern end of Gagebrook. The “L-shaped” allotment has an area of 3089m<sup>2</sup> and is located between existing residential dwellings fronting Lamont Place and the United Service Station on the corner of Gage Road and Tottenham Road, Gagebrook (refer figures 1 and 2).

5.2. As shown in figure 3, the site and adjoining residential development is currently zoned General Residential zone (red), with the adjoining 15 Gage Road being zoned Local Business zone (blue).



Figure 1: Locality Map (Source: Spectrum Spatial Analyst, 2018)





Figure 2: Aerial image of site (Source: Spectrum Spatial Analysis, 2018)



Fig. 3: Existing Zoning (Source: Spectrum Spatial Analysis, 2018)

- 5.3.** The site is clear of any significant vegetation. In relation to vehicular access, there is no current vehicular access to the site. Council's Technical Officer has confirmed that it is achievable to install safe vehicular access along both Gage Road and Tottenham Road.

A Metro bus stop is located adjacent to the Gage Road (southern) boundary. Water, sewer, drainage and gas infrastructure is available either on or within close proximity to the site.

**6. Proposal Summary**

**6.1.** Council seeks to amend the *Brighton Interim Planning Scheme 2015* (the Scheme) by:

- Rezoning the land at 13 Gage Road, Gagebrook, being the land contained in Certificate of Title Volume 245525 Folio 1 from General Residential Zone to Local Business Zone

**6.2.** Council may initiate an amendment to the Scheme pursuant to section 34 of the *Land Use Planning and Approvals Act 1993 (LUPAA)*.

**7. Planning Scheme Implications**

**7.1.** BIPS 2015 establishes a series of objectives for achieving sustainable use and development of land, which are relevant for the consideration of any planning scheme amendment. For this amendment, it is appropriate to outline the relevant provisions within the Interim Scheme which relate to the Local Business Zone:

**20.1.1 Zone Purpose Statements**

- 20.1.1.1 To provide for business, professional and retail services which meet the convenience needs of a local area.
- 20.1.1.2 To ensure that facilities are accessible by public transport and by walking and cycling.
- 20.1.1.3 To allow for small scale dining and entertainment activities at night provided that residential amenity of adjoining residential zoned land is protected.
- 20.1.1.4 To encourage residential use where appropriate, provided that it supports the viability of the activity centres and an active street frontage is maintained.
- 20.1.1.5 To ensure that building design and use is compatible with surrounding development and use, particularly on land in residential zones.
- 20.1.1.6 To ensure Brighton is the Rural Services Centre for the area and provides for the daily needs of the surrounding community and a focus for day-to-day life.

20.1.1.7 To ensure the Brighton town centre provides an active and attractive place for locals and visitors to spend time.

7.2 The proposal accords with the zone purpose statements.

7.3 As shown in Table 1 below, including the land in the Local Business Zone will maintain many of the uses attributed to the General Residential Zone, as well as encouraging others to be developed.

<b>Table 1: Uses for the General Residential Zone and the Local Business Zone</b>		
<b>Use</b>	<b>General Residential Zone</b>	<b>Local Business Zone</b>
Any permitted use		No Permit Required <ul style="list-style-type: none"> <li>Only if replacing an existing use on the site and there is no associated development requiring a permit</li> <li></li> </ul>
Educational and Occasional Care	No Permit Required: <ul style="list-style-type: none"> <li>Only if for home-based child care in accordance with a licence under the Child Care Act 2001.</li> </ul> Discretionary	No Permit Required: <ul style="list-style-type: none"> <li>Only if for home-based child care in accordance with a licence under the Child Care Act 2001.</li> </ul> Permitted: <ul style="list-style-type: none"> <li>Only if an employment training facility and except if no permit required</li> </ul> Discretionary
Natural and Cultural Values Management	No Permit Required	No Permit Required
Passive Recreation	No Permit Required	No Permit Required
Residential	No Permit Required: <ul style="list-style-type: none"> <li>Only if single dwelling.</li> <li>Only if home-based business with no more than 1 non-resident worker/employee, no more than 1 commercial vehicle and a floor area no more than 30m2.</li> </ul>	No Permit Required: <ul style="list-style-type: none"> <li>Only if home based business</li> </ul>



	<p>Permitted:</p> <ul style="list-style-type: none"> <li>• Except if no permit required.</li> <li>• Except if home-based business with more than 1 non-resident worker/employee, more than 1 commercial vehicle or a floor area more than 30m<sup>2</sup>.</li> </ul> <p>Discretionary</p>	<p>Permitted:</p> <ul style="list-style-type: none"> <li>• Only if above ground floor level (except for access) or if more than 25 m from frontage, and except if no permit required</li> </ul> <p>Discretionary</p>
Utilities	<p>No Permit Required:</p> <ul style="list-style-type: none"> <li>• Only if Minor Utilities</li> </ul> <p>Discretionary</p>	<p>No Permit Required:</p> <ul style="list-style-type: none"> <li>• Only if Minor Utilities</li> </ul> <p>Discretionary</p>
Visitor Accommodation	Permitted	Discretionary
Business and Professional services	<p>Discretionary:</p> <ul style="list-style-type: none"> <li>• Only if a consulting room, medical centre, veterinary surgery or child health clinic and not displacing a residential use.</li> </ul>	<p>Permitted:</p> <ul style="list-style-type: none"> <li>• Only if consulting room, medical centre or post office</li> </ul> <p>Discretionary</p>
Community Meeting and Entertainment	<p>Discretionary:</p> <ul style="list-style-type: none"> <li>• Only if church, art and craft centre or public hall.</li> </ul>	<p>Permitted</p> <ul style="list-style-type: none"> <li>• Only if for art and craft centre, civic centre, community hall, museum, public art gallery or public hall.</li> </ul> <p>Discretionary</p>
Emergency Services	Discretionary	Discretionary

Food Services	<p>Discretionary:</p> <ul style="list-style-type: none"> <li>Only if not replacing a residential use</li> </ul>	<p>Permitted:</p> <ul style="list-style-type: none"> <li>Except if a take away food premises with a drive through facility</li> </ul> <p>Discretionary</p>
General Retail and Hire	<p>Discretionary:</p> <ul style="list-style-type: none"> <li>Only if a local shop and not displacing a residential use</li> </ul>	<p>Permitted:</p> <ul style="list-style-type: none"> <li>Except if adult sex product shop or supermarket</li> </ul> <p>Discretionary</p>
Sports and Recreation	Discretionary	Discretionary
Tourist Operation	Prohibited	Discretionary
Vehicle fuel sales and service	Prohibited	Discretionary

7.4 Provision of additional services to support increased densities in Gagebrook/Old Beach area is essential. A number of significant residential developments have been approved which increases the amount of housing stock in the area significantly, including:

7.4.1 The approval of fifty (50) new strata title units at 17-39 Gage Road, Gagebrook (DA 2017/297). These units are identified for social housing and are currently under construction.

7.4.2 On 9th October 2018, the Tasmanian Planning Commission approved the rezoning of land at 108 Lewis Court and 201 Old Beach Road, Old Beach to General Residential and Open Space Zones, together with the Tivoli Green Specific Area Plan. The rezoning allows for approximately 35ha (or 700 additional dwelling units) to be constructed across the site.

- 7.4.3 The Tivoli Road/Barrob Street subdivision (SA 2007/54) is nearing completion, with most lots having been developed. This development included the construction of 64 lots across 6 stages, comprised predominantly of single dwellings.
- 7.4.4 A further 90 single dwellings identified for social housing are being constructed by Centacare Evolve across Gagebrook, Herdsmans Cove and Bridgewater, in addition to a total of 77 multiple dwelling units recently approved for construction at various sites in Bridgewater.
- 7.5 The site is in an optimum location for commercial development, relative to its proximity to existing services. The Gagebrook Primary School is approximately 75m to the north and Brighton Council chambers located approximately 200m to the east. A bus stop is situated adjacent to the southern boundary of the site, and access to the East Derwent Highway is approximately 120m to the east.

## Planning Assessment

### 7.2. *Requirements of the Act*

#### 7.2.1. Pursuant to s.32(1) of LUPAA:

- (1) *A draft amendment of a planning scheme, and an amendment of a planning scheme, in the opinion of the relevant decision-maker within the meaning of section 20(2A) –*
- (a) . . . . .
- (b) . . . . .
- (c) . . . . .
- (d) . . . . .
- (e) *must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and*
- (ea) *must not conflict with the requirements of section 30O ; and*
- (f) *must have regard to the impact that the use and development permissible under the amendment will*

*have on the use and development of the region as an entity in environmental, economic and social terms.*

- (2) *The provisions of section 20 (2) , (3) , (4) , (5) , (6) , (7) , (8) and (9) apply to the amendment of a planning scheme in the same manner as they apply to planning schemes.*

Section 30O of the Act requires that an amendment to an interim planning scheme is as far as practicable, consistent with the regional land use strategy. Section 30O also sets a number of requirements relating to the insertion of a local provision and its relationship to a common provision.

In addition to these requirements, Section 20(1) is also relevant as a planning scheme amendment is also the making of a planning scheme:

- (1) *A relevant decision-maker, in preparing, accepting, declaring or making a relevant scheme, or giving approval in relation to the making or approving of a relevant scheme, must, in the opinion of the relevant decision-maker–*

*(a) seek to further the objectives set out in Schedule 1 within the area covered by the scheme; and*

*(b) prepare the scheme in accordance with State Policies made under section 11 of the State Policies and Projects Act 1993 ; and*

*(c) . . . . .*

*(d) have regard to the strategic plan of a council referred to in Division 2 of Part 7 of the Local Government Act 1993 as adopted by the council at the time the planning scheme is prepared; and*

*(e) have regard to the safety requirements set out in the standards prescribed under the Gas Pipelines Act 2000 .*

- 7.2.2. The following sections address the matters that are covered by the above mentioned legislative requirement.

## **8. Brighton Strategic Plan 2015-2015**

- 8.1. The Brighton Council Strategic Plan 2015-2025 outlines the following key focus areas for the next ten years:

- Provide sustainable and responsible financial management of council resources;
  - Manage and influence population growth with appropriate land use planning;
  - Promote sustainable practices throughout council, local businesses and the community;
  - Promoting Brighton as a great place to be;
  - Facilitate provision of better transport systems;
  - Maintain and improve our physical infrastructure; and
  - Promoting industrial, business and employment growth
- 8.2. The proposed amendment does not conflict with any of Council's key focus areas.
- 8.3. The *Brighton Structure Plan 2018 (BSP)* was prepared to further a number of the key focus areas.
9. **Southern Tasmania Regional Land Use Strategy 2010-2035**
- 9.1. As required under s.32(1)(ea) of LUPAA, the proposed amendment must be, as far as practicable, consistent with regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010-2035 (STRLUS).

STRLUS outlines the following policies which relate to the proposal:

***Social Infrastructure***

- SI 1.2 *Match location and delivery of social infrastructure with the needs of the community and, where relevant, in sequence with residential land release.*
- SI 1.4 *Identify and protect sites for social infrastructure, particularly in high social dependency areas, targeted urban growth areas (both infill and greenfield) and in identified Activity Centres.*
- SI 1.5 *Provide multi-purpose, flexible and adaptable social infrastructure that can respond to changing and emerging community needs over time.*
- SI 1.6 *Co-locate and integrate community facilities and services to improve service delivery, and form accessible hubs and focus points for community activity, in a manner consistent with the Activity Centre hierarchy.*

Recent residential approvals in Gagebrook, Herdsmans Cove and Bridgewater for social housing dictates the need for additional social infrastructure which provides for the high dependency needs of the residents.

The uses provided for in the Local Business Zone supports the type of services required to create a local activity centre which is able to adapt with the changing needs of the local community.

### ***Activity Centres***

The proposed site would enable the creation of a local activity centre, as identified in the Activity Centre Network (STRLUS , p78). The following policies are relevant to the proposal:

- AC 1.1 *Implement the Activity Centre Network through the delivery of retail, commercial, business, administration, social and community and passenger transport facilities.*
- AC 1.2 *Utilise the Central Business, General Business, Local Business Zones to deliver the activity centre network through planning schemes, providing for a range of land uses in each zone appropriate to the role and function of that centre in the network.*
- AC 1.4 *Promote a greater emphasis on the role of activity centres, particularly neighbourhood and local activity centres, in revitalising and strengthening the local community.*
- AC 1.16 *Encourage an appropriate mix of uses in activity centres to create multi-functional activity in those centres*
- AC 1.10 *Activity centres should encourage local employment, although in most cases this will consist of small scale businesses servicing the local or district areas.*
- AC 2.4 *Encourage structure and economic development planning for lower-level Activity Centres by local planning authorities.*

The proposal is considered consistent with the above STRLUS recommendations , in that it seeks to provide additional land which can accommodate increased commercial activity that supports the high social dependency of the area.

By providing land suitable for commercial development, establishment of a local activity centre in Gagebrook will create local employment, and strengthen the local community through access to a mix of uses including commercial and community and government infrastructure.

## 10. Brighton Structure Plan 2018

10.1. In September 2018, Council adopted the BSP which updated the Brighton Structure Plan 2012, to take into account changes in the community since 2012 and to identify new ways to enhance the functioning and amenity of the municipality. The BSP contains a detailed analysis of the land and services required within the municipal area to meet current and future needs.

10.2. Strategy 18 (p95) identifies the need to:

- Provide additional community infrastructure to cater for Brighton's growing population

and that

*"Gagebrook and Herdsman's Cove continue to be impacted by a historical lack of services. The physical disconnection of these communities from facilities in the wider area exacerbates the difficulties for residence to access necessary services. There is a need for Council, the State Government and the Federal Government to ensure improved service provision and connectedness are prioritised for these areas, especially as new dwellings are constructed at higher densities" (p95).*

The actions recommended the BSP relevant to Strategy 18 include a requirement to:

- Further analyse the future needs for community infrastructure in terms of quantities, locations and ease of access to services.

As previously noted in section 7.4, a significant amount of development has been approved over the past 10 years (approx.) in the Gagebrook and Old Beach.

Community infrastructure in the Gagebrook/Old Beach area is currently limited to a primary school, service station and takeaway food shop/mini mart within Gagebrook. An IGA is located in Herdsmans Cove (approx. 1km) from the site, and a local store in Fouche Avenue, Old Beach, approximately 4km south. Uniting Care Emergency Services are currently operating from the Brighton Council offices, subsequent to the loss of premises in Tottenham Road in 2017.

Rezoning the land will create an opportunity to develop a local activity centre (STRLUS, p78), missing community infrastructure, initially identified in the Bridgewater-Gagebrook Housing Regeneration Master Plan 2010, as well as more recently in the BSP.

Accessibility to the site is simple, whether by vehicle, public transport, cycling or pedestrian activity. Vehicular access to the East Derwent Highway is approximately 120m to the west, and public transport is available adjacent to the site. Tottenham Road, which borders the eastern boundary, provides a gateway to the suburb of Gagebrook.

Further, Gage Road is a collector road which provides access routes not only into Gagebrook, but also to Honeywood and Old Beach. Therefore, the provision of additional services along this route is likely to positively impact the residents of these un-serviced suburbs.

**11. Bridgewater-Gagebrook Housing Regeneration Master Plan 2010**

**11.1.** The BGHRMP was adopted in 2010. The masterplan identified that, at the time of preparation, Gagebrook was lacking in good quality commercial/retail premises and services (particularly essential services) (p4).

**11.2.** One of the key directions was the need to “enhance opportunities for the local community and foster social integration” (p7). The subject site was identified in the Priority Projects 8 and 9 “Gagebrook – Tottenham Road & Central” as being one which provided an opportunity for “Mixed land use options at ground level with activated edges” (p22).

**11.3.** The Gagebrook – Tottenham Road and Central area remains poorly serviced today, with a primary school, United Care Emergency Relief Program (currently operating from Council offices), service station and mini-mart/takeaway being the only services available within close proximity.

**12. Overriding Local and Common Provisions**

**12.1.** In addition to requiring that a Draft Amendment is consistent as far as practicable with the Regional Land Use Strategy, Section 30O requires that an amendment to a local provision of the scheme is not directly or indirectly inconsistent with the common provisions.

**12.2.** The draft amendment does not involve any amendments to local provisions as it is a simple rezoning from the General Residential Zone to the Local Business Zone.



### 13. State Policies

#### 14.1 *State Coastal Policy 1996*

The *State Coastal Policy 1996* came into operation on 10 October 1996. This Policy applies to the coastal zone, which includes all State waters and land within 1 km from the High Water Mark (HWM)<sup>3</sup>.

The proposed amendment is consistent with the *State Coastal Policy 1996*

#### 14.2 *State Policy on Water Quality Management 1997*

The *State Policy on Water Quality Management 1997* (Water Quality Policy) came into operation on 27 September 1997. Clause 31.5 of the Water Quality Policy requires that a use or development be consistent with the physical capacity of the land so that the potential for erosion and subsequent water quality degradation is minimised.

The proposed amendment is consistent with the above.

#### 14.3 *State Policy for the Protection of Agricultural Land 2009*

Not applicable: The *State Policy for the Protection of Agricultural Land 2009* (PAL Policy) only applies to agricultural land in Tasmania

#### 14.4 *National Environmental Protection Measures (NEPM)*

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

None of the NEPMs are considered relevant to the proposed draft amendment

#### 14.6 *Gas Pipeline Safety*

Section 20(e) of the Act provides that a draft amendment must have regard to the safety requirements for gas pipelines.

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

### 15 RMPS Objectives

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

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<sup>3</sup> *State Coastal Policy Validation Act 2003*

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

The proposed amendment does not conflict with this objective.

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

The proposed amendment supports this objective. The proposal allows for the land to be used to in the provision of increased services to support the increase in social housing being undertaken.

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

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

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

The draft amendment will facilitate economic development in the area by formally providing additional land for local business uses.

*(j) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

The proposed amendment will require the consideration of the Tasmanian Planning Commission, following community consultation.

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

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

The proposed amendment is consistent with the *Southern Tasmanian Regional Land Use Strategy 2010-2035*, the *Brighton Council Strategic Plan 2015-2025* and the *Brighton Structure Plan 2018*.

The Planning Scheme amendment process allows for coordinated action by State and local government.

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

The proposal has been submitted in accordance with Section 34(1)(b) of the Act and is consistent with all relevant legislation. The proposed amendment will form part of the Planning Scheme, which controls the use, development and protection of land.

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

The land contains no natural values of significance. Risks from future development can be appropriately managed under the *Brighton Interim Planning Scheme 2015* and any subsequent planning schemes.

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

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

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

The proposed amendment accords with this objective by ensuring use and development of the land is considered by the Planning Authority at the local level.

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

The proposed amendment does not conflict with this objective.

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

The proposed amendment does not conflict with this Objective.

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

The proposed amendment supports this Objective.

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

The land is not considered to be prime agricultural land.

#### **14. Potential for Land Use Conflicts S 32 1 (e)**

**14.1.** There is no potential new land use conflicts caused by the proposed amendment. However, any land use conflicts will be managed by the relevant use and development standards for the Local Business Zone.

#### **15. Regional Impacts s 32 1 (f)**

**15.1.** As discussed earlier in this report, the proposed listing is entirely consistent with the STRLUS in terms of providing for activity centres and social infrastructure values of the region.

#### **16. Other requirements of s.20**

**16.1.** The substantially altered Draft Amendment is also consistent with the other requirements under Section 20(2), (3), (4), (5), (6), (7), (8) and (9) of the Act. In particular, the substantially altered Draft Amendment does not:

- prevent the continuance or completion of any lawful use or development;
- prevent the reconstruction or restoration of buildings or works unintentionally destroyed or damaged;
- extend or transfer a use from one part of a parcel of land to another part; and

- affect forestry operations, mineral exploration, fishing or marine farming.

## Conclusion:

The proposal to amend the *Brighton Interim Planning Scheme 2015* is consistent with regional and local land use strategy and the requirements of the *Land Use Planning and Approvals Act 1993*.

On this basis, it is recommended that Council initiate and certify draft amendment RZ 2018 /03, as detailed in the attachments to this report.

## RECOMMENDATION:

- A. That in accordance with Section 34(1)(b) of the *Land Use Planning & Approvals Act 1993*, subject to the provisions of section 3 of schedule 6, Council initiates the draft amendment, to be known as draft amendment RZ 2018/03, to insert rezone 13 Gage Road, Gagebrook (being the land contained in Certificate of Title Volume 245525 Folio 1).
- B. That in accordance with Section 35(1) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2018/03 satisfies the provisions of Section 32 of the *Land Use Planning and Approvals Act 1993*.
- C. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/03 be certified by instrument in writing affixed with the common seal of the Council; and
- D. That in accordance with Section 35(4) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2018/03 be given to the Tasmanian Planning Commission within 7 days;
- E. That in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/03 be placed on public exhibition for no less than 28 days.

## DECISION:

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

**CARRIED**

## VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	

Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

*The Ordinary council meeting resumed.*

## **12. REPORTS FROM OFFICERS:**

### **12.1 LOCAL GOVERNMENT SHARED SERVICES MONTHLY REPORTS:**

**AUTHOR:** Corporate Consultant  
(Mrs K Hossack)

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#### **Background:**

When the Local Government Shared Services (LGSS) was formalised, there was an undertaking that monthly reports would be provided to member Councils. There are now fourteen (14) Councils that have joined to date.

One report is for the overall performance of the shared service agreement which is provided to all member Councils. The other report is Council specific for each member Council that is provided only to that individual Council. The second attachment is for Brighton Council's performance for the previous months.

#### **Consultation:**

General Manager

#### **Risk Implications:**

Nil

#### **Financial Implications:**

See attached reports for financial information about the Local Government Shared Services and Brighton Council.

#### **Other Issues:**

These reports provide detailed information to assist in dealing with the amalgamation program and the financial sustainability of the shared services and individual Councils.

#### **Assessment:**

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

**Options:**

1. Adopt the recommendation
  2. Do nothing
- 

**RECOMMENDATION:**

That the reports be received.

**DECISION:**

*Cr Jeffries moved, Cr Murtagh seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**12.2 APPOINTMENT OF OWNERS' REPRESENTATIVES FOR TASWATER:**

**FILE REFERENCE:**

**AUTHOR:** Governance Manager  
(Mrs J Banks)

**Background:**

Under TasWater's governance arrangement each Council is required to appoint a person (Owner's Representative) to represent the Council in any matters pertaining to TasWater and act as a liaison between the Council and the TasWater Board.

Following the declaration of the polls in the Local Government Elections Council is required to advise TasWater of its Owner Representative.

**Consultation:**

None

**Risk Implications:**

None.

**Financial Implications:**

None

## Other Issues:

There is a TasWater General Meeting to be held on 29<sup>th</sup> November 2018.

## Assessment:

While not mandatory, member councils have appointed mayors as their representative.

## Options:

1. Do nothing
2. Adopt the recommendation

## RECOMMENDATION:

That Council nominate a Representative and a Proxy as its owners' representative for TasWater, and advise TasWater prior to the 26<sup>th</sup> November 2018.

## DECISION:

*Cr Gray moved, Cr Geard seconded that the Mayor and Deputy Mayor be Brighton's Owner representatives for TasWater.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 12.3 AUDIT PANEL MEMBERSHIP:

**AUTHOR:** Governance Manager  
(Mrs J Banks)

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## Background:

Due to the 2018 election process Council is required to appoint a new Audit Panel.

Councils must choose an independent member for the role of chairperson. The chairperson plays a pivotal role in the efficacy of an audit panel. The overall work plan and activities of an audit panel are driven by the chairperson who has their own set of responsibilities, above and beyond that of the other audit panel members and the panel. The chairperson is responsible for the operation and performance of the audit panel, ensuring the panel meets its legislative requirements, meets the milestones outlined in its work plan, and performs satisfactorily for the council.



The council should select an audit panel chairperson who possesses:

- knowledge of the duties and responsibilities of the position, especially with respect to local government financial reporting and auditing requirements;
- requisite local government knowledge, and financial, governance and leadership skills;
- an ability to build good relationships; and
- strong communication skills.

**Consultation:**

Deputy General Manager, Governance Manager, Mr G Dodge

**Risk Implications:**

Nil

**Financial Implications:**

Not Applicable

**Other Issues:**

Nil

**Assessment:**

Section 5 of the Audit Panel Order requires that an audit panel is appointed by the council; and

- must have between three and five members (inclusive); and
- if the panel has four or five members, a minimum of two must be independent persons; and
- if the panel has three members, at least one must be an independent person.
- may contain a councillor or councillors, other than the mayor of the council;
- may contain an independent member or members of another council's audit panel; and
- may be appointed for a period of one to four years, and can be reappointed once their term expires.

An audit panel must not contain:

- the general manager, mayor or a council employee of the council; or
- a councillor or employee of another council.

Mr Geoff Dodge has been the independent member and Chairperson for the last couple of years and has accepted the role dependent upon Council approval.

Council has previously had a Panel of 3 consisting of the Chairperson, Cr Gray and Cr Owen.

**Options:**

1. As per the recommendation.
  2. Do nothing.
- 

**RECOMMENDATION:**

That Mr Geoff Dodge continue as independent member and Chairperson of our Audit Panel for the next four (4) years.

That Council nominate two (2) Councillors to be on the Audit Panel for the next four (4) years.

**DECISION:**

*Cr Jeffries moved, Cr Geard seconded that Cr Gray and Cr Owen be appointed to the Panel and Mr G Dodge continue as the independent member and Chairperson on the Audit Panel.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**12.4 LGAT – VOTING DELEGATES:**

**AUTHOR:** Governance Manager  
(Mrs J Banks)

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**Background:**

It is a requirement after each ordinary Council Election that Council appoint a Voting Delegate and Proxy as per the Member Rules of the Local Government Association of Tasmania.

As there is an LGAT General Meeting scheduled for the 6<sup>th</sup> December 2018, Council should appoint a voting delegate.

**Consultation:**

General Manager and Governance Manager.

**Risk Implications:**

Nil

**Financial Implications:**

Not Applicable

**Other Issues:**

Nil

**Assessment:**

In previous years the Mayor and Deputy Mayor (as proxy) have been appointed as LGAT Voting delegates.

**Options:**

1. As per the recommendation.
2. Not appoint LGAT Voting Delegates.

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**RECOMMENDATION:**

That the Mayor be appointed as Brighton Council's voting delegate at the LGAT General Meetings and the Deputy Mayor be appointed as proxy.

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **12.5 REQUEST TO REMIT PLANNING, BUILDING & PLUMBING FEES – VETERAN CAR CLUB – 169 TEA TREE ROAD, BRIGHTON**

**AUTHOR:** Governance Manager  
(Mrs J Banks)

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### **Background:**

Councillors may recall that Mike Purdon from the Veteran & Vintage Car Club (VVCC) addressed Council at the October Council Meeting regarding the construction of the Club's new vehicle inspection building at 169 Tea Tree Road, Brighton.

The Club are a not-for-profit organisation and are seeking a remission of the planning and building fees for this development.

### **Consultation:**

Jo Blackwell (Planning Officer); Mike Purdon

### **Risk Implications:**

May set a precedent for other not-for-profit organisations to request remittance of Council fees.

### **Financial Implications:**

The fees associated with this development are:-

- Planning - \$561 (includes advertising component of \$370)
- Building - \$435 (includes levies of \$180)
- Plumbing - \$421

### **Other Issues:**

As this development is Discretionary under the Brighton Planning Scheme the development was required to be advertised at a cost of \$370. This is paid to the Mercury newspaper as advertising and is not a fee that may be waived.

The Building levies amount to \$180 (based on the value of works being \$60,000); this fee is not a Council fee but is collected by Council on behalf of the Government; this fee cannot be waived.

### **Assessment:**

N/A

### **Options:**

1. As per the recommendation.
2. That Council not remit the Planning, Building and Plumbing Fees.

3. That all fees including Mercury advertising and building levies be remitted and therefore funded by Brighton Council

---

### RECOMMENDATION:

That Council remit the Planning, Building and Plumbing fees associated with development at 169 Tea Tree Road, Tea Tree by the VVCC; ie \$867.

That the VVCC are responsible for paying the advertising fee of \$370 and Building levies of \$180.

Remittance of fees to be recorded and shown in Council's Annual Report as a donation.

### DECISION:

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

**CARRIED**

### VOTING RECORD

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 12.6 INVESTMENT POLICY – AP09:

**AUTHOR:** Deputy General Manager  
(Mr G Davoren)

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A revised Investment Policy was presented to Council at the September 2018 meeting. It was resolved that this Policy be held over until the October Council meeting, pending changes to investment authorities.

### Consultation:

Tasmanian Audit Office, Corporate Executive.

### Risk Implications:

An inappropriate investment policy may be considered a significant financial risk.

### **Financial Implications:**

As specified within the policy.

### **Other Issues:**

Nil

### **Assessment:**

I have revised the Investment Policy in accordance with Council wishes. I have also included a Risk Management Guideline to provide detailed limitations to those responsible for investing. This guideline includes specific limitations including:

- Portfolio Credit Framework (To control the investment quality)
- Counterparty Credit Framework (To ensure investment diversity)
- Term to Maturity Framework (To ensure investment timeliness)

### **Options:**

1. As per the recommendation.
  2. That Council modify the Investment Policy.
- 

### **RECOMMENDATION:**

That Council adopt the revised Investment Policy AP09.

### **DECISION:**

*Cr Gray moved, Cr Jeffries seconded that the recommendation be adopted.*

**CARRIED**

#### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **12.7 COMPLETE SET OF FINANCIAL STATEMENTS 2017/18:**

**AUTHOR:** Deputy General Manager  
(Mr G Davoren)

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The Complete set of Financial Statements for the year ending 2017/18 is formally submitted for consideration.

The Tasmanian Audit Office has given its opinion that the Financial Report of Brighton Council and its subsidiaries presents fairly, in all material respects, the Group's financial position as at 30 June 2018, and of its financial performance, cash flows for the year then ended. The report is in accordance with the *Local Government Act 1993* and Australian Accounting Standards.

The Financial Statements have again been passed without any qualifications by the Tasmanian Audit Office.

The final Management Letter identified that no matters were brought to the attention of the Assistant Auditor General Financial Audit Services.

The Tasmanian Audit Office is responsible for the report to be completed in accordance with section 84(3) of the Local Government Act 1993.

The report format also complies with the Australian Equivalent to International Reporting Standards (AIFRS). A summary has been provided below.

Highlights of the General Purpose Financial Report include:

### **Consolidated Statement of Comprehensive Income (P/L)**

- Unqualified Audit Opinion by the Tasmanian Audit Office for Brighton Council including Microwise Australia Pty Ltd and Brighton Industrial Housing Corporation.
- Recurrent Income of \$14,601,003 down from \$15,151,295 last financial year. Predominately due to a decrease of \$594,399 owing to the Federal Government again changing the timing of the Financial Assistance Grant payment across Australia. Commercial income is also significantly down due to the wind up of BIHC. Income for BIHC was \$515,455 in the previous year although this was predominately offset by a reduction of expenditure for BIHC. Rates and charges increased by \$566,898 reflecting increasing in line with CPI and a stellar year of growth within our municipality.
- Total Income \$16,809,294. This includes capital income added to the recurrent income such as \$2,353,208 of capital grant revenue for new or up graded assets, contributions from non-monetary assets
- Other Comprehensive Income that contributed to our overall comprehensive result included a net asset revaluation increment of \$5,407,964. This was predominately due to a revaluation of our roads and other infrastructure assets.

- Total expenses from continuing operations was \$15,117,179 up from \$14,246,386 last year. Expenditure includes: \$3,250,202 in depreciation. The increase in expenditure predominately reflects a general CPI increase and the growth of our community, offset by a reduction in commercial activity of \$294,141 mainly contributed to a significant reduction in BIHC expenditure following the end of our contractual obligations with the State Government.

Please note the significant increase in Other expenses of \$822,218. This increase is predominately attributed to our donation to the Brighton Bowls Club of \$830,158. Normally a building expenditure of this nature would be capitalised but only where the property is owned by Council.

- A positive operating result from continuing operations of \$1,691,515. This profit would be reduced with the removal of non-monetary income being the adoption of taken over infrastructure assets of \$490,000 and timing effects of the Federal Assistance Grant paid in advance of \$70,792. Brighton Council would still have made a significant profit of \$1,130,723.
- Microwise Australia paid \$181,351 last financial year to Brighton Council by way of consultancy and fees. This amount was used to reduce Brighton Council wages, admin and IT expenditure. Brighton Council paid Microwise \$30,397 by way of software licence fees. Microwise Australia produced \$484,005 of external revenue with external expenditure of \$313,107. This represents an external profit of \$170,898 for the financial year ending June 2017. Brighton Council's total equity in Microwise Australia has risen to \$1,416,942.
- Brighton Industrial and Housing Corporation finalised its contractual obligations with the State Government during the financial year. No further land sales were undertaken so revenue was nil. The final expenditure for the company was \$24,697 which included costs associated with finalising the company accounts. Brighton Council's total equity in Brighton Industrial and Housing Corporation was finalised at \$897,781.
- Our professional Service which supports other Councils provided a revenue stream of \$601,053. This year Tas Audit requested wages and on costs be shown under general wages so expenditure of \$55,822 represents the material content only.

### **Consolidated Statement of Financial Position (Balance Sheet)**

All our key economic indicators are in sound shape. The following balance sheet statistics provide an excellent overall picture of our financial position at year end.

- Our current assets are 445% of our current liabilities. The benchmark recognised by the Auditor General is >100%.
- Our total assets have increased from \$184,998,665 to \$192,746,722 mainly from an increase in our infrastructure assets which also includes an asset revaluation of \$5,407,965.



- Our total liabilities have increased slightly from \$1,841,522 to \$1,887,334. Refundable subdivision bonds increased by \$71,852 reflecting the increase development activity within our municipality.
- Our total equity has increased from \$183,157,142 to \$190,859,387 during the financial year. This equity increase reflects the comments provided that relate to the movement in total assets and total liabilities.
- Our total cash held at the end of the year decreased from \$6,847,578 to \$6,380,784. The negative effect on Cash Flow included the timing of the Capital Grants received in the previous year in advance that have yet to be expended.

In summary, the report outlines a strong position for the key financial management ratios of Brighton Council.

I thank Councillors for their support and long term financial vision to place Brighton Council in such a strong financial position.

**Consultation:**

Tasmanian Audit Office, Corporate Executive.

**Risk Implications:**

Nil

**Financial Implications:**

As stated

**Other Issues:**

Not applicable

**Assessment:**

Not applicable

**Options:**

1. As per the recommendation.
  2. That Council not receive the report.
- 

**RECOMMENDATION:**

That the report be received.

**DECISION:**

*Cr Jeffries moved, Cr Garlick seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Foster	
Cr Garlick	
Cr Geard	

Cr Gray  
Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

## **12.8 MONTHLY FINANCE REPORT AS AT 31 OCTOBER 2018:**

**AUTHOR:** Deputy General Manager  
(Mr G Davoren)

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### **Background:**

The attached reports are submitted for consideration.

They comprise the summarised financial position and revenue and expenses of the Council for the first four months of the 2017/18 financial year.

### **Consultation:**

Nil

### **Risk Implications:**

Nil

### **Financial Implications:**

Not Applicable

### **Other Issues:**

Nil

### **Assessment:**

Nil

### **Options:**

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

### **RECOMMENDATION:**

That the reports be received.

### **DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**13. QUESTION ON NOTICE:**

*There were no questions on notice.*

The meeting closed 7.10pm.

Confirmed:

\_\_\_\_\_  
(Mayor)

Date:

\_\_\_\_\_  
18<sup>th</sup> December 2018