



# 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,  
21<sup>st</sup> AUGUST 2018**

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

**IN ATTENDANCE:** Mr J Dryburgh (Acting General Manager); Mr H Macpherson (Municipal Engineer); Mrs J Banks (Governance Manager); Mrs G Browne (Corporate Executive) and Mr D Allingham (Senior Planner).

## **1. CONFIRMATION OF MINUTES:**

### **1.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 17<sup>TH</sup> JULY 2018.**

*Cr Curran moved, Cr Garlick seconded that the Minutes of the Ordinary Council Meeting of 17<sup>th</sup> July 2018 be confirmed.*

**CARRIED**

## **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Jeffries	
Cr Owen	
Cr Williams	

1.2 CONFIRMATION OF MINUTES OF THE PLANNING AUTHORITY MEETING OF 14<sup>TH</sup> AUGUST 2018.

*Cr Gray moved, Cr Geard seconded that the Minutes of the Planning Authority Meeting of 14<sup>th</sup> August 2018 be confirmed.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Jeffries	
Cr Owen	
Cr Williams	

**2. APPLICATIONS FOR LEAVE OF ABSENCE:**

*All members were present.*

**3. PUBLIC QUESTION TIME AND DEPUTATIONS:**

- Dr Lisa Schimanski, TasCOSS – Brighton Care Collective Project
- Mrs J Butler and Mr R Mitchelmore addressed Council in relation to the Anglican church in Briggs Road, Gagebrook.
- Mr C Rowe addressed Council in relation to Item 11.2
- Cr Gray addressed Council in relation to Policing and break-ins in the Brighton municipality.
- Mr M Bartlett addressed Council in relation to Policing in the municipality.

**4. DECLARATION OF INTEREST:**

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

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

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

*There were no declarations of interest.*

## 5. REPORTS FROM COUNCILLORS:

### 5.1 MAYOR & DEPUTY MAYOR'S COMMUNICATIONS:

<b>AUTHOR:</b>	Mayor (Cr T Foster)	Deputy Mayor (Cr B Curran)
----------------	------------------------	-------------------------------

---

The Mayor and Deputy Mayor's communications were as follows: -

- Jul 18 Met with Milton Moody to hear about idea for Dog arena at Pontville park. I advised him to contact Cr Peter Geard (Chairman Parks and Rec C'tee)
- Jul 20 Meeting with Bob Gordon (President of FFA Tasmania ) re ideas for a team at Brighton. GM and COO also in attendance.
- Jul 25 Acting GM (James Dryburgh) and I attended the LGAT AGM and also the following General Meeting. Further discussions with Minister for Education and also Christine Lane made contact to set up a meeting with her and Dan Skuse.
- Jul 26 LGAT annual dinner- Noeline and I and senior staff attended. No other Councillors attended.
- Jul 27 Early morning meeting with Charles Wooley and other Mayors to discuss issues with Anglican Church proposed property sell off.
- Jul 28 Meeting with Tom Holloway (Melbourne Playwright ) at his request to talk about his proposed play about the Kosovars.
- Jul 30 Acting GM and I met with Dan Skuse and Christine Lane to talk about a future Brighton High School.
- Jul 30 Old Army Camp site discussion. (James Dryburgh to elaborate)
- Jul 31 Whilst at Revolving Restaurant in the evening had the opportunity to catch up with Greg Farrell.
- Aug 01 Site inspection Centrecare Evolve with Andrew Goelst, senior staff and Cr Gray.
- Aug 01 Acting GM and I met with representatives of the Hindu community to discuss the approved Hindu Cultural Centre in Bridgewater.
- Aug 02 I had a meeting with Senator Jonathon Duniam and MLC Jane Howlett. Same day had a catch up with Michael Aird and Terry Aulich.
- Aug 03 I attended the Soldiers Memorial Avenue Commemoration. Guest speaker Brendan Nelson.

Aug 06 Meeting with Deputy Mayor Barbara Curran.

**Acting Mayor's Communications:**

Aug 06 Meeting with Mayor Tony Foster.

Aug 07 Meeting at TasWater with Acting General Manager, James Dryburgh re MOU with Government.

Aug 14 Meeting with Acting General Manager, Mr James Dryburgh.

Aug 14 Planning authority meeting

**RECOMMENDATION:**

That the Mayor and Acting Mayor's communications be received.

**DECISION:**

*Cr Owen moved, Cr Jeffries seconded that the reports be received.*

**CARRIED**

**VOTING RECORD**

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

**5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:**

**DECISION:**

Cr Owen advised he recently attended a Hobart Gymnastics Academy meeting.

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

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	

Cr Geard  
Cr Gray  
Cr Higgins  
Cr Jeffries  
Cr Owen  
Cr Williams

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

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

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

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

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

### **7. NOTICE OF MOTION:**

#### **7.1 POTENTIAL PITCHES FOR FEDERAL GOVERNMENT FUNDING:**

Cr Owen had requested the following:-

*That this Council sees a Youth Hub as an integral component for the support of struggling youth in the Brighton Municipality. Homelessness, not feeling safe, disengagement among identified issues. As such Brighton Council will consult with community organisations to determine youth related needs and adopts a centrally located youth hub project as council's highest priority when lobbying political parties at both State and Federal levels, for funding.*

#### **Background:**

Re-Email -Potential pitches for Federal Government Funding.

The Acting General Manager communicated to councillors a list of possible "ribbon cutters" in the light of a possible Federal election later this year. Missing from the list was at least one identified need in this municipality. Not dismissing any of the projects listed in that email and taking into consideration the outcomes from recent community youth forum I propose the above motion.

## DECISION:

*Cr Owen moved, Cr Jeffries seconded that this Council sees a Youth Hub as an integral component for the support of struggling youth in the Brighton Municipality. Homelessness, not feeling safe, disengagement among identified issues. As such Brighton Council will consult with community organisations to determine youth related needs and adopts a centrally located youth hub project as council's highest priority when lobbying political parties at both State and Federal levels, for funding.*

**CARRIED**

## VOTING RECORD

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

## 8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:

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

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

## RECOMMENDATION:

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

**DECISION:**

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

**9. REPORTS FROM COMMITTEES:**

*There were no Committee meetings held in August.*

The Chairperson adjourned the Ordinary Council Meeting to allow the Planning Authority to discuss Item 10.1.

Cr Gray resumed the Chair.

**10. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 10 on this agenda, inclusive of any supplementary items.

**10.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 - DA2018/00128 – 20 GUNN ST AND 14 NIELSEN ESP, BRIDGEWATER - 24 MULTIPLE DWELLING UNITS AND ASSOCIATED INFRASTRUCTURE WORKS:**

Type of Report	Planning Authority – For Decision
Application No:	DA2018/00128
Address:	20 Gunn Street, Bridgewater and 14 Nielsen Esplanade, Bridgewater
Applicant:	Holmes Dyer
Proposal:	25 multiple dwelling units and associated infrastructure works
Zone:	General Residential Zone
Representations:	One (1)
Discretions:	1. Density D10.4.1 P1 2. Setbacks D10.4.2 P1 and P3 3. Site Coverage and Private Open Space D10.4.3 P1 and P2 4. Sunlight and Overshadowing D10.4.4 P1 5. Frontage Fences D10.4.7 P1

- 6. No. of accesses E5.6.2 P2 & E6.7.1 P1
- 7. No. of parking spaces E6.6.1 P1
- 8. Lighting E6.7.7 P1

Author: Jo Blackwell

## 1. Executive Summary

- 1.1. Planning approval is sought for Twenty-five (25) multiple dwelling units and associated infrastructure works in in the General Residential Zone at 20 Gunn Street, Bridgewater and 14 Nielsen Esplanade, Bridgewater.
- 1.2. The application is a permitted use, but discretionary due to reliance on performance criteria.
- 1.3. One (1) representation was received and a submission from the Department of State Growth.
- 1.4. The key planning issues relate to the alignment of the proposed Bridgewater Bridge, density, parking and access, solar access and stormwater drainage.
- 1.5. Due to the uncertainty of the final Bridgewater Bridge design, the applicant and DSG have **agreed that dwellings 1 and 2 should not be approved as part of this application.**
- 1.6. The proposal is recommended for approval of **23 dwellings** subject to various non-standard conditions relating to the above key planning issues and on servicing of the site.
- 1.7. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period for the development application.

## 2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2018/00128.
- 2.2. This determination must be made no later than 21/8/2018, which has been extended beyond the statutory timeframe with the consent of the applicant].
- 2.3. The relevant legislation is the Land Use Planning and Approvals Act 1993 (LUPAA). The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.



- 2.4. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the Judicial Review Act 2000 and the Local Government (Meeting Procedures) Regulations 2015.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the State Policies and Projects Act 1993.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

### **3. Risk & Implications**

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

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

- 4.1. The alignment of the new Bridgewater Bridge is relevant to this application and the application was referred to the Department of State Growth.
- 4.2. 14 Nielsen Esplanade, which forms part of this application for stormwater disposal, is subject to an approved subdivision for 3 lots and a public open space lot along the foreshore. The subdivision has been substantially commenced, but titles have not yet been issued.
- 4.3. Irrespective of the Gunn St proposal the easement is required for the future orderly disposal of stormwater from the land. As such Council has previously agreed to compulsorily acquire a drainage easement should the developers not reach an agreement.

- 4.4. 20 Gunn St is owned by Housing Tasmania and stormwater is proposed to be discharged to the Derwent River foreshore which is managed by the Parks & Wildlife Service. The applicant has provided the necessary consent as required under s.52(1) of LUPAA. The applicant has also provided evidence that the owner(s) of 14 Nielsen Esp has been notified.

## 5. Site Detail

- 5.1. 20 Gunn Street comprises two titles (C/T 11661/1566 and 243407/1) and has a combined land area of 7316sqm. As shown in figure 1, the site is a vacant allotment situated at the westernmost end of Gunn Street.



Figure 1: Site Map. (Source: Listmap)

- 5.2. 14 Nielsen Esplanade is a large allotment (4.5ha), which comprises "Fairfield", a heritage listed property and associated outbuildings. The site forms part of the application due to a need to connect sewer to existing infrastructure and the addition of stormwater services.
- 5.3. The site has approval for a three (3) lot subdivision and ancillary site works pursuant to SA 2010/0052. The subdivision has not yet been completed.
- 5.4. The subject site is located within an expansive area of general residential zoned land. To the south and east land zoned Open Space runs along the banks of the River Derwent; to the west is land zoned Utilities, which incorporates the road reserve either side of the Midlands Highway (see figure 2).





**Figure 2:** Zoning Map (Source: Listmap). Red = General Residential; Green = Open Space; Yellow = Utilities

## 6. Proposal

- 6.1. The proposal is for 25 multiple dwelling units. Fourteen dwellings are single storey, with the balance being two storey. Dwelling 11 (D11) has three bedrooms, with the balance comprising two bedrooms.
- 6.2. Access to the dwellings is provided directly from Gunn Street for dwellings D8-D10; D1 and D2 are accessed from Nielsen Esplanade, and the balance from a 5.9m wide internal road which forms part of the common property.
- 6.3. A total of 51 car parking spaces is proposed – 39 residential spaces comprising 25 carports, and 14 additional on-site parking spaces. Twelve (12) additional car parking spaces are located on the site;
- 6.4. The developer proposes that stormwater will be disposed from the south-east corner of the site following treatment in a private stormwater treatment chamber to new public stormwater infrastructure running through 14 Nielsen Esplanade.

Titles for the new subdivision at 14 Nielsen Esplanade have not been issued and as such the stormwater easement does not currently exist. The easement would also need to be extended an additional 7 metres over the original proposal to allow stormwater infrastructure to reach the foreshore reserve to the south.

- 6.5. The application is supported by the attached building design plan, a traffic impact assessment, coastal vulnerability assessment and a planning submission from the applicant.

## **7. Assessment**

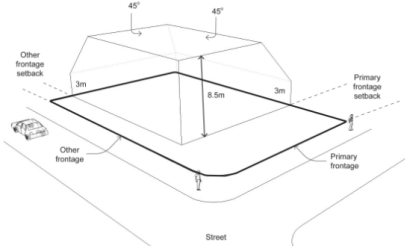
- 7.1. The Brighton Interim Planning Scheme 2015 is a performance-based planning scheme.
- 7.2. To meet an applicable standard, a proposal must demonstrate compliance with either an acceptable solution or a performance criterion. Where a proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to refuse the proposal relates only to the performance criteria relied upon.
- 7.3. As per the precedent set by the Resource Management and Planning Appeal Tribunal (RMPAT) in *Henry Design and Consulting v Clarence City Council & Ors* [2017] TASRMPAT 11, the standards of an acceptable solution are not relevant for the planning authority in determining whether a proposal meets the corresponding performance criteria. Instead, performance criteria are a standalone control, and no consideration should be made by the planning authority back to the corresponding acceptable solution.

## **8. Assessment against planning scheme provisions**

- 8.1. The following provisions are relevant to the proposed use and development;
- General Residential Zone
  - Road and Railways Assets Code
  - Parking and Access Code
  - Stormwater Management Code
- 8.2. The application satisfies the following Acceptable Solutions:
- 8.2.1. 10.4.2 A2 – Garage/Carport setback

- 8.2.2. 10.4.4 A2 and A3 – Sunlight and Overshadowing
- 8.2.3. 10.4.5 A1 – Width of Openings
- 8.2.4. 10.4.6 A1, A2 and A4 – Privacy
- 8.2.5. 10.4.8 A1 – Multi Dwelling Waste
- 8.2.6. E5.6.4 – Sight Distance at accesses, junctions and level crossings
- 8.2.7. E6.7.2 A1 – Design of Accesses
- 8.2.8. E6.7.3 A1 – Passing
- 8.2.9. E6.7.4 A1 - Turning
- 8.2.10. E6.7.5 A1 – Layout
- 8.2.11. E6.7.6 A1 – Surfacing
- 8.2.12. E6.7.8 A1 – Landscaping
- 8.2.13. E6.7.14 – Road Access
- 8.2.14. E7.7.1 A2, A2, A3 and A4 - Stormwater Management

8.3. The following discretions are invoked:

		BIPS 2015 requirement	Proposed
1	10.4.1 – Density for Multiple Dwellings	325sqm/dwelling	Average of 293sqm
2	10.4.2 A1 Front Setback	4.5m – Primary Frontage	2.59m min (Nielsen Esplanade)
3	10.4.2 A3 – Building Envelope	<p>For corner lots, a 4.5m frontage is required for the primary frontage, a 3m frontage for the secondary frontage, with no rear setback. (Refer Diagram 10.4.2C)</p> <p><small>Diagram 10.4.2C. Building envelope for corner lots as required by subclause 10.4.2 A3(a)</small></p> 	2.59m min (Nielsen Esplanade)

4	10.4.3 A1 Site Coverage	<p>Dwellings must have:</p> <p>(a) a site coverage of not more than 50% (excluding eaves up to 0.6m); and</p> <p>(b) for multiple dwellings, a total area of private open space of not less than 60m<sup>2</sup> associated with each dwelling, unless the dwelling has a finished floor level that is entirely more than 1.8m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(c) a site area of which at least 25% of the site area is free from impervious surfaces.</p>	<p>The proposal satisfies (a) and (c) of the AS. In relation to (b) the following dwellings do not achieve a minimum 60sqm of POS:</p> <p>D4 - 28m<sup>2</sup>;  D16 - 37m<sup>2</sup>;  D17 - 48m<sup>2</sup>;  D18 - 49m<sup>2</sup>;  D19 - 49m<sup>2</sup>;  D20 - 48m<sup>2</sup>;  D21 - 45m<sup>2</sup>;  D22 - 45m<sup>2</sup>;  D23 - 42m<sup>2</sup>;  D24 - 43m<sup>2</sup>;  D25 - 51m<sup>2</sup>;</p>
5	10.4.3 A2 - Private Open Space	<p>A dwelling must have an area of private open space that:</p> <p>(a) is in one location and is at least:</p> <p>(i) 24 m<sup>2</sup>; or</p> <p>(ii) 12 m<sup>2</sup>, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and</p> <p>(b) has a minimum horizontal dimension of:</p> <p>(i) 4 m; or</p> <p>(ii) 2 m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage,</p>	<p>D2 - D3 and D7-D12 inclusive, have identified POS located to the south, or SE or SW of the dwelling.</p>

		<p>carport or entry foyer); and</p> <p>(c) is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and</p> <p>(d) is not located to the south, south-east or south-west of the dwelling, unless the area receives at least 3 hours of sunlight to 50% of the area between 9.00am and 3.00pm on the 21st June; and</p> <p>(e) is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and</p> <p>(f) has a gradient not steeper than 1 in 10; and</p> <p>(g) is not used for vehicle access or parking.</p>	
6	10.4.4 A1 Sunlight & Overshadowing	A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).	Dwellings 4 5 and 6 are terraces, orientated east west, which are not able to meet the AS for north facing windows.
7.	10.4.7 Frontage Fences for all Dwellings	<p>A fence (including a free-standing wall) within 4.5 m of a frontage must have a height above natural ground level of not more than:</p> <p>(a) 1.2 m if the fence is solid; or</p>	The application shows 1800mm high colorbond fence between dwellings within 4.5m of a frontage facing Gunn Street

		(b) 1.8 m, if any part of the fence that is within 4.5 m of a primary frontage has openings above a height of 1.2m which provide a uniform transparency of not less than 30% (excluding any posts or uprights).	and Nielsen Esplanade
8	E5.6.2 A2 No of Roads accesses and junctions	No new access or junction to roads in an area subject to a speed limit of more than 60km/h.	2 x internal road accesses (Gunn St) 5 x property accesses (3 Gunn St, 2 Nielsen Esp).
9	E6.6.1 Number of Car parking Spaces	Multiple dwelling containing 2 or more bedrooms (including all rooms capable of being used as a bedroom) 2 for each dwelling and: 1 dedicated visitor parking space per 4 dwellings (rounded up to the nearest whole number) Requirement = 57 total spaces (50 dedicated spaces for dwellings and 7 visitor spaces)	51
10	E6.7.1 A1 Number of Accesses	1 from each street frontage	2 from each street frontage
11	E6.7.7 A1 Lighting	Parking and vehicle circulation roadways and pedestrian paths serving 5 or more car parking spaces, used outside daylight hours, must be provided with lighting in accordance with clause 3.1 "Basis of Design" and clause 3.6 "Car Parks" in AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting.	Nil Shown



**8.4. Discretion 1 - Density: 10.4.1 A1**

8.4.1. The proposed average density across the site is 293sqm, with lot sizes for each dwelling ranging between 128sqm (D24) and 459sqm (D11)

8.4.2. The acceptable solution provides for an average site area per dwelling of 325sqm.

8.4.3. Accordingly, the PC requires:

Multiple dwellings must only have a site area per dwelling that is less than 325 m<sup>2</sup>, or that specified for the applicable density area in Table 10.4.1, if the development will not exceed the capacity of infrastructure services and:

- (a) is compatible with the density of the surrounding area; or
- (b) provides for a significant social or community housing benefit and is in accordance with at least one of the following:
  - (i) the site is wholly or partially within 400 m walking distance of a public transport stop;
  - (ii) the site is wholly or partially within 400 m walking distance of a business, commercial, urban mixed use, village or inner residential zone.

8.4.4. The proposal is considered to satisfy the performance criteria in (b) as site is being developed for low income housing and is within 400m of a public transport stop.

**8.5. Discretion 2 - Front Setback D10.4.2 A1**

8.5.1. The site has frontage to two roads, Gunn Street and Nielsen Esplanade. Nielsen Esplanade is deemed the primary frontage, as it has the shortest dimensions for and requires a setback of 4.5m to satisfy the acceptable solution. The setback proposed for Nielsen Road is a minimum of 2.59m for D2 and 3.036m for D1

8.5.2. For dwellings facing Gunn Street, the acceptable solution for a secondary frontage is 3m. The proposed dwellings have a setback between 3.250m and 3.4m which satisfies the acceptable solution for setback for secondary frontages.

8.5.3. The PC in relation to frontages requires that:

A dwelling must:

- (a) have a setback from a frontage that is compatible with the existing dwellings in the street, taking into account any topographical constraints; and
- (b) if abutting a road identified in Table 10.4.2, include additional design elements that assist in attenuating traffic noise or any other detrimental impacts associated with proximity to the road.

8.5.4. The plans for D1 and D2 show setbacks consistent with the relevant section of Nielsen Esplanade. The adjoining lot (6 Nielsen Esplanade) is developed by an outbuilding constructed along the north western side boundary (which is the secondary frontage also), with the dwelling setback a minimum of 2.8m at the eaves. Similarly, 4 Nielsen Esplanade has been constructed along the south eastern boundary of the site. It is therefore considered that the application can satisfy the PC set out in 10.4.2 P1 (a) above.

8.5.5. 10.4.2. P1(b) does not apply.

8.5.6. The proposal satisfies the PC.

### 8.6. Discretion 3 – Building Envelope D10.4.2. A3

8.6.1. The proposal seeks to rely on PC in relation to building envelope due to the reduced setback proposed in 8.5 above. Diagram 10.4.2C for the General Residential Zone (see Figure 3) shows that for corner lots, a 4.5m frontage is required for the primary frontage, a 3m frontage for the secondary frontage, with no rear setback. The proposal does not satisfy the AS in relation to building envelope

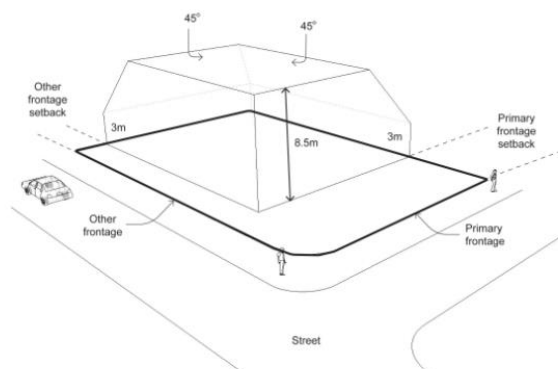


Figure 3: Diagram 10.4.2C

The proposal does not satisfy the AS in relation to building envelope.

8.6.2. The proposal relies on the PC due to D1 and D2 having a reduced setback. The PC requires:

The siting and scale of a dwelling must:

- (a) not cause unreasonable loss of amenity by:
  - (i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining lot; or
  - (ii) overshadowing the private open space of a dwelling on an adjoining lot; or
  - (iii) overshadowing of an adjoining vacant lot; or
  - (iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining lot; and
- (b) provide separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.

The proposal shows that dwellings along the frontage and eastern side boundary are single storey dwellings, with two storey dwellings located internally. Given the siting and scale of the proposed dwellings, there is not considered to be an unreasonable reduction in sunlight to habitable rooms on adjoining lots, or overshadowing of private open space and adjoining vacant land.

Visual impact will also be minimised through the scale of the development, with single dwellings located around boundaries and two storey dwellings in the centre of the lot. Proposed landscaping is also considered to assist in reducing visual impact.

The proposed separation between dwellings on adjoining lots is considered to be compatible with that prevailing in an area which exhibits a range of housing types from single dwellings to conjoined units across a number of sites. The separation distance between the proposed dwellings along the south eastern corner of the site and the adjoining dwelling is approx. 5.5m (min), a distance which is replicated along Gunn Street.

8.6.3. The proposal satisfies the PC.

## 8.7. **Discretion 4 – Site Coverage and Private Open Space (POS)**

8.7.1. The proposal satisfies (a) and (c) of the acceptable solution, but does not provide a minimum of 60sqm of POS for each dwelling (refer clause 8.3 for details).

8.7.2. The PC requires:

Dwellings must have:

- (a) private open space that is of a size and dimensions that are appropriate for the size of the dwelling and is able to accommodate:
  - (i) outdoor recreational space consistent with the projected requirements of the occupants and, for multiple dwellings, take into account any communal open space provided for this purpose within the development; and
  - (ii) operational needs, such as clothes drying and storage; and
- (b) reasonable space for the planting of gardens and landscaping.

8.7.3. Each dwelling has a minimum area of POS of 24m<sup>2</sup>, which is considered to be sufficient to accommodate outdoor space consistent with projected requirements of the occupants. The site has limited communal space, with one area located on the north western corner of the site, and another located to the south east. Open space for the site is supported by the provision of public open spaces within close proximity, with “pocket parks” located to the north in Warruga Street (approx. 130m), and to the south in Neilsen Esplanade, with access to the foreshore reserve to the east, approx. 230m). The Bridgewater Parklands are approximately 800m to the north east.

8.7.4. The proposal is considered to provide for operational needs, with clothes drying areas and storage shown. The application is supported by a landscaping plan detailing the planting to occur on the site as part of the proposed development.

8.7.5. The proposal satisfies the PC.

## 8.8. Discretion 5 – Private Open Space

8.8.1. Dwellings D2-D3 and D7-D12 inclusive have identified POS located to the south, south-east or south-west of the dwelling, which does not receive at least 3 hours sunlight to 50% of the area between 9.00am and 3.00pm on 21<sup>st</sup> June (D10.4.3 A2 (d)).

8.8.2. The PC requires that a dwelling must have private open space that:

- (a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and that is:
  - (i) conveniently located in relation to a living area of the dwelling; and
  - (ii) orientated to take advantage of sunlight.

8.8.3. All units have access to POS which forms an extension of the dwelling, and is conveniently located in relation to a living area of the dwelling.

8.8.4. Dwellings 2, 3, 7 and 12 provide secondary areas of outdoor space along Gunn Street, to optimise solar access to POS at the winter solstice. The Landscape Plan shows this area as garden bed. However, a condition requiring a portion of this area to be lawn so that it is more useable is included in the planning permit.

8.8.5. Dwellings 8 and 9 receive the least amount of winter sunlight, however the PC does not refer to winter sunlight only sunlight. Comparative shadow diagrams prepared for the summer solstice demonstrate that all POS for each dwelling are able to receive sunlight for the majority of the day.

8.8.6. The proposal can satisfy the PC.

## 8.9. Discretion 6 – Sunlight and Overshadowing 10.4.4.A1

8.9.1. Dwellings 4, 5 and 6 are terrace houses, orientated east-west, which are not able to meet the AS for north facing windows, which requires:

A dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north (see Diagram 10.4.4A).

8.9.2. The PC requires:

A dwelling must be sited and designed so as to allow sunlight to enter at least one habitable room (other than a bedroom).

8.9.3. The proposal plans show open plan living areas on the ground floor with window, facing east and west. Accordingly, the dwellings have access to morning and afternoon sunlight.

8.9.4. The proposal is considered to satisfy the PC.

**8.10. Discretion 7 – Frontage Fences for all Dwellings**

8.10.1. The proposal seeks to rely on PC in relation to constructing 1800mm high colourbond fences between dwellings within 4.5m of a frontage.

8.10.2. The PC requires:

A fence (including a free-standing wall) within 4.5 m of a frontage must:

- (a) provide for the security and privacy of residents, while allowing for mutual passive surveillance between the road and the dwelling; and
- (b) be compatible with the height and transparency of fences in the street, taking into account the:
  - (i) topography of the site; and
  - (ii) traffic volumes on the adjoining road.

8.10.3. The proposed fences are to be located behind the building line of each dwelling. Accordingly, it is considered that the propose 1800mm high colorbond fences satisfy the PC, as passive surveillance from each dwelling can be maintained from habitable rooms to the street. The fences are also setback far enough so that they will not obstruct sight lines of vehicles entering the road.

8.10.4. Neighbourhood fencing is characterised by fencing located behind the building line, with various types of materials used.

8.10.5. The proposal is considered to accord with the performance criteria.

**8.11. Discretion 8 – Road and Railways Assets Code – No of Road Accesses and Junctions E5.6.2 A2**

8.11.1. The proposal includes two internal road accesses from Gunn Street, and five property accesses (3 from Gunn Street and 2 from Nielsen Esplanade).

8.11.2. The PC requires:

For roads in an area subject to a speed limit of 60km/h or less, accesses and junctions must be safe and not unreasonably impact on the efficiency of the road, having regard to:

- (a) the nature and frequency of the traffic generated by the use;
- (b) the nature of the road;
- (c) the speed limit and traffic flow of the road;
- (d) any alternative access to a road;
- (e) the need for the access or junction;
- (f) any traffic impact assessment; and
- (g) any written advice received from the road authority.

8.11.3. Gunn St is a minor local collector with numerous direct accesses along its length. A TIA was submitted with the application which did not identify any issues.

**8.12. Discretion 9 – Parking and Access Code – No. of Car Parking Spaces (E6.6.1 P1)**

8.12.1. The AS requires, pursuant to Table 6.1, multiple dwellings with two or more bedrooms require 2 on-site car parking spaces, and 1 visitor parking space per 4 dwellings. This equates to 57 parking spaces (50 dedicated to dwellings and 7 visitor spaces).

8.12.2. The applicant proposes a total of 51 car parking spaces on site comprising 39 residential parking spaces and 12 visitor car parking spaces. Resident spaces comprise of a single undercover carport or garage for each of the 25 dwelling plus 14 of the dwellings have an additional parking space available within their driveway. The twelve on-site visitor car parks comprise eight visitor car parking spaces located along the

southern site boundary, three visitor car parking spaces near the eastern site access and a single visitor car parking space near the western site access.

8.12.3. The PC requires:

The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:

- (a) car parking demand;
- (b) the availability of on-street and public car parking in the locality;
- (c) the availability and frequency of public transport within a 400m walking distance of the site;
- (d) the availability and likely use of other modes of transport;
- (e) the availability and suitability of alternative arrangements for car parking provision;
- (f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;
- (g) any car parking deficiency or surplus associated with the existing use of the land;
- (h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;
- (i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;
- (j) any verified prior payment of a financial contribution in lieu of parking for the land;
- (k) any relevant parking plan for the area adopted by Council;



- (l) the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code;

The applicant has justified the reduced parking by referencing the NSW RTA's Guide to Traffic generating Developments which recommends a minimum of 36 spaces (31 resident and 5 visitor).

Some on street parking will be available in Gunn Street and Nielsen Esplanade.

A Transport Impact Assessment (TIA) prepared by GTA Consultants was submitted with the application. The TIA concluded that:

- The proposed development generates a statutory parking requirement of 57 spaces, which is considered excessive for the 25 multiple dwellings.
- The proposed supply of 39 resident spaces (25 garage/carport spaces, 14 private visitor spaces) and 12 visitor spaces is considered to be appropriate having consideration to the relevant decision guideline (the RTA Guide).
- The proposed parking layout shall generally be consistent with the dimensional requirements as set out in the Australian/New Zealand Standards for Off Street Car Parking (AS/NZS2890.1:2004 and AS/NZS2890.6:2009).
- The proposed access locations for Units 8 to Units 10 will be located in appropriate locations and comply with AS/NZS2890.1:2004.
- Bicycles will be able to be stored within each dwelling/garage as required.
- Refuse bins will be wheeled to the internal road network, Gunn Street or Nielsen Esplanade for kerbside Council collection.
- The site is expected to generate up to 13 and 125 vehicle movements in any peak hour and daily respectively.

- There is adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development.

**8.13. Discretion 9 – Parking and Access Code – Number of Accesses (E6.7.1 P1)**

8.13.1. The acceptable solution for the Code in relation to number of accesses provides for one access per road frontage. The proposal includes two internal accesses from Gunn Street, and 5 direct property accesses (3 from Gunn Street and 2 from Nielsen Esplanade).

8.13.2. The PC requires

The number of vehicle access points for each road frontage must be minimised, having regard to all of the following:

- (a) access points must be positioned to minimise the loss of on-street parking and provide, where possible, whole car parking spaces between access points;
- (b) whether the additional access points can be provided without compromising any of the following:
  - (i) pedestrian safety, amenity and convenience;
  - (ii) traffic safety;
  - (iii) residential amenity on adjoining land;
  - (iv) streetscape;
  - (v) cultural heritage values if the site is subject to the Local Historic Heritage Code;
  - (vi) the enjoyment of any ‘al fresco’ dining or other outdoor activity in the vicinity.

8.13.3. Council’s Senior Technical Officer agrees with the TIA found the access arrangements to be adequate in terms of providing safe access to all dwellings., and that the access points do not compromise pedestrian safety, amenity and convenience P1 (b)(i), traffic safety P1(b)(ii), amenity of adjoining land P1(b)(iii), streetscape P1(b)(iv), or cultural heritage P1(b)(v).

**8.14. Discretion 10 - Parking and Access Code – Lighting (E6.7.7 P1)**

8.14.1. The Code requires that

Parking and vehicle circulation roadways and pedestrian paths serving 5 or more car parking spaces, used outside daylight hours, must be provided with lighting in accordance with clause 3.1 “Basis of Design” and clause 3.6 “Car Parks” in AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting.

- 8.14.2. The applicant has not provided details with respect to lighting for the development. However it is considered that a condition can be included in any permit requiring lighting to comply with the acceptable solution.

## 9. Discussion

### 9.1. External Referrals

#### 9.1.1. TasWater

- 9.1.1.1. TasWater have imposed the attached conditions that must be included in any permit granted.

#### 9.1.2. Department of State Growth

- 9.1.2.1. The Department of State Growth (DSG) has made the following comments in relation to the proposed development:

.....funding has been committed to build a new Bridgewater Bridge between Granton and Bridgewater. The design for the bridge project is yet to be finalised, however, further investigations and refinement of the design will commence this financial year.

The proposed design under DA-2018-00128 shows a 25 lot subdivision in the vicinity of the proposed bridge. It appears that the proposed subdivision is not compatible with State Roads’ draft concept design road works associated with the bridge upgrade plans previously considered and revised in consultation with the proponent and for this reason State Roads has concerns about the development in its current form.

Matters of particular concern include:

- The provision of accesses directly onto Nielsen Esplanade. The draft concept design for the bridge upgrade will realign the road network in this location, which will include some relocation of Nielsen Esplanade in accordance with the draft concept design provided by the applicant with the application.
- The vicinity of the proposed northern access driveway to 20 Gunn Street to the proposed off ramp of the new bridge and the impact this may have on safe and efficient traffic movements in the area. It is recommended that this be reconsidered.
- The lack of detail regarding directional pathways for traffic into and out of the two major access points of the site. It is unclear whether these access points allow left in / left out / right in / right out turn movements or are proposed to be restricted to particular turn movements only.

9.1.2.2. Due to the uncertainty of the final Bridgewater Bridge design, the applicant and DSG have agreed that dwellings one and two should not be approved as part of this application. A condition to this effect is included in the recommendation.

9.1.3. Tasmanian Heritage Council

9.1.3.1. The THC have provided a Notice of Interest, stating that it has no interest in the proposal, and providing a Certificate of Exemption for the underground works to be undertaken in 14 Nielsen Esplanade, which are attached to this Report.

9.1.4. Metro

9.1.4.1. No response was received.

9.1.5. TasGas

9.1.5.1. No response was received.

## 9.2. Internal Referrals

### 9.2.1. Council's Senior Technical Officer

- 9.2.1.1. The application was referred to Council Senior Technical Officer and their assessment is incorporated in the body of the report and conditions provided in the recommendation. In summary, that officer does not raise any concerns in relation to the proposal. Standard conditions in relation to design, access, lighting and parking are recommended.

## 10. Concerns raised by representors

- 10.1. The following table outlines the issues raised by representor. The representor withdrew part of their representation on 14/08/2018.

<ul style="list-style-type: none"> <li>- The Development requires the introduction of a Storm Water easement over 14 Nielsen Esplanade that will significantly impact the value of the property.</li> <li>- The overall design of the water treatment and waste system will potentially impact the value of our adjoining property.</li> </ul>	<p>14 Nielsen Esplanade is subject to an approved subdivision which required a pipeline and drainage easement to be provided through the land. This easement accommodates an already constructed sewer and was to allow for future stormwater. Works on this subdivision are completed but titles are yet to be issued. The proposed drainage easement connects with the constructed cul de sac but does not extend further south to meet the foreshore reserve. It is only the short extension which will have any further impact on the 14 Nielsen Esplanade property. Irrespective of the Gunn St proposal the easement is required for the future orderly disposal of stormwater from the land. As such Council has previously agreed to compulsorily acquire a drainage easement should the developers not reach an agreement.</p> <p>The stormwater system on 20 Gunn St is underground and will accommodate a 20 year ARI.</p> <p>The applicant's engineers advise that the internal driveway provides sufficient storage to detain stormwater flows for the 1 in 100 year ARI. Specifically, the 1% AEP stormwater overland flows channelled through the site will be contained to the private road using a berm to</p>
--	---

	ensure the overland flow is contained within the subject site. At the design low point, a pit or pits with sufficient inlet capacity to contain the overland flow will be installed to capture the 1% AEP flow and pipe underground (via 14 Nielsen Esplanade) to the Derwent River.
--	--

## 11. Conclusion

- 11.1. The proposed use and development is for 25 multiple unit dwellings has a number of key planning issues, such as density, overshadowing, parking & access, traffic and stormwater. All the above issues were assessed as satisfying the relevant requirements of the Planning Scheme.
- 11.2. A key issue is the alignment and design of the new Bridgewater Bridge which is yet to be finalised. DSG and the applicant have agreed that units 1 and 2 should not be approved due to the uncertainty surrounding the final bridge design.
- 11.3. Due to the agreement between DSG and the applicant the recommendation is for approval of **23** multiple dwelling units. and associated hydraulic infrastructure in the General Residential Zone at 20 Gunn Street, Bridgewater and 14 Nielsen Esplanade, Bridgewater, which satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015 as outlined in this report.

## RECOMMENDATION:

That Pursuant to the Brighton Interim Planning Scheme 2015, Council approve application DA-2018/128 for use and development of **23 Multiple Dwelling Units and associated hydraulic infrastructure in General Residential Zone** at 20 Gunn Street, Bridgewater and 14 Nielsen Esplanade, Bridgewater for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

### *General*

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

- (3) Dwellings 1 and 2 (D1 & D2) shown on the endorsed plans are not approved as part of this permit.
- (4) Prior to issuing occupancy certificates, Certificates of Title Volume 11661 Folio 1566 and Volume 24304 Folio 1 must be adhered to create one title.

*Amenity*

- (5) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Manager Development Services.

*Private open space*

- (6) All private open space must be formed or constructed to the satisfaction of Council's Manager Development Services before the use commences.

*Landscaping*

- (7) Prior to or in conjunction with a Building Application, a comprehensive landscape plan to the satisfaction of Council's Manager Development Services must be submitted and approved. The plans must be drawn to scale with written dimensions. The landscaping plan must be generally in accordance with the endorsed "Landscaping Plan" dated 26/06/2018 prepared by Prime Design (Drawing No.: PD18041-06, Revision: 01), except the plan must show:
  - a. A survey of all existing vegetation to be retained and/or removed.
  - b. Details of surface finishes of paths and driveways.
  - c. A planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
  - d. Landscaping and planting within all open areas of the site, including the areas that were to be occupied by dwellings 1 and 2 (D1 & D2).
  - e. A portion of the open space area in Dwellings D3 and D7-D12 to be lawn to provide a secondary area of open space.

If considered satisfactory, the landscape plan will be endorsed and will form part of this permit.

- (8) The landscaping works must be completed in accordance with the endorsed landscape plan and to the satisfaction of Council's Manager Development Services prior to the building(s) being occupied. All landscaping must continue to be maintained to the satisfaction of Council.

### ***Agreements***

- (9) An agreement pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be entered into, prior to occupancy of any of the dwelling, to the effect that:
- a. the stormwater treatment and detention systems must be maintained to ensure quality is maintained and water is conveyed so as not to create any nuisance to adjacent properties.
  - b. The number of parking spaces required by this permit will be maintained and kept available on site.
- (10) Agreement(s) made pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must bind the current owner and his/her successors in title and must be prepared on a blank instrument form and registered with the Recorder of Titles in accordance with Section 78 of the Land Use Planning and Approvals Act 1993 by the applicant at no cost to Council.
- (11) Prior to the use commencing the owner/body corporate must provide written agreement allowing Councils waste collection contractor to enter the site and indemnify Council and said contractor from any damage arising from the collection of waste from the site.

### ***Services***

- (12) The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.

### ***Parking and Access***

- (13) Parking and access must be generally in accordance with:
- (a) the approved plans;
  - (b) Traffic Impact Assessment, 20 Gunn Street, Bridgewater, Tasmania, 4/7/2018 prepared by GTA GTA Consultants; and;
- and to the satisfaction of Council's Municipal Engineer.
- (14) Vehicle accesses directly onto Gunn Street and Nielsen Esplanade must be provided in accordance with:
- (a) Councils Standard Drawings;
  - (b) Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney;



- (c) Standards Australia (2002): Australia Standard AS 2890.2 – 2002, Parking facilities - Part 2: Off-Street, Commercial vehicle facilities, Sydney;

and to the satisfaction of Council's Municipal Engineer.

- (15) At least forty-nine (49) parking spaces must be provided on the land at all times for the use of the occupiers including at least one (1) car parking space per dwelling and at least twelve (12) designated for visitor parking, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (16) Unless approved otherwise by Council's Municipal Engineer the internal private driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and include all of the following;
- (a) A minimum trafficable width of 5.5m (face of kerb to face of kerb).
  - (b) Constructed with a durable all weather pavement.
  - (c) Drained to an approved stormwater system.
  - (d) Surfaced with concrete, asphalt or pavers.
  - (e) Provision for two way traffic.
- (17) Parking and vehicle circulation roadways and pedestrian paths serving 5 or more car parking spaces, used outside daylight hours, must be provided with lighting in accordance with clause 3.1 "Basis of Design" and clause 3.6 "Car Parks" in AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting, or as otherwise approved by Council's General Manager.
- (18) A parking plan prepared and certified by a qualified civil engineer or other person approved by Council's Municipal Engineer must be submitted to Council prior to or in conjunction with lodgement of Building Application. The parking plan is to include:
- pavement details,
  - design surface levels and gradients,
  - drainage,
  - turning paths,
  - dimensions,
  - line marking,

- signage,
- pedestrian access,
- lighting

and shall form part of the permit when approved.

- (19) The completed parking and associated turning areas and access must be certified by a practicing civil engineer to the effect that they have been constructed in accordance with the endorsed drawings and specifications approved by Council before the use commences.
- (20) All areas set-aside for parking and associated turning, and access must be completed before the use commences or the building is occupied and must continue to be maintained to the satisfaction of the Council's Municipal Engineer.

#### ***Stormwater***

- (21) Stormwater management must be generally in accordance with the following documents submitted with the application, and to the satisfaction of Council's Municipal Engineer:
- a. Gandy & Roberts drawings 16.0345 C010, Site and Stormwater Plan Revision F
- (22) Drainage from the proposed development must drain to a legal discharge point to the satisfaction of Council's Municipal Engineer and in accordance with a Plumbing permit issued by the Permit Authority in accordance with the Building Act 2016.
- (23) The Developer is to incorporate Water Sensitive Urban Design Principles and proprietary treatment devices into the development for the treatment and disposal of stormwater. These Principles will be in accordance with the Water Sensitive Urban Design Procedures for Stormwater Management in Southern Tasmania and to the satisfaction of the Council's Municipal Engineer.
- (24) The developer must provide a minor stormwater drainage system designed to comply with all of the following:
- a) be able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed;
  - b) stormwater runoff will be no greater than pre-existing runoff or any increase can be accommodated within existing or upgraded public stormwater infrastructure
- (25) The developer is to provide a major stormwater drainage system designed to accommodate a storm with an ARI of 100 years.

- (26) The driveways must be drained to minimise surface runoff over the footpath or to the adjoining road in accordance with the requirements of the Municipal Engineer and a Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.
- (27) Prior to the commencement of works or the issue of a plumbing permit, detailed plans and calculations of the stormwater drainage system, including treatment, detention and outfalls must be prepared by a suitably qualified civil engineer and be submitted to Councils Municipal Engineer for approval.
- (28) The completed stormwater treatment systems, detention and outfalls must be certified by a practicing civil engineer to the effect that they have been constructed in accordance with the endorsed drawings and specifications approved by Council before the use commences.

#### ***Tas Water***

- (29) The development must meet all required Conditions of approval specified by Tas Water Submission to Planning Authority Notice TWDA 2018/00849-BTN, dated 18 June 2018.

#### ***Soil and Water Management***

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

#### ***Engineering***

- (32) All works associated with Council Assets or within Council's Road Reservation must be carried out in accordance with the Tasmanian Subdivision Guidelines October 2013 (attached).
- (33) Engineering design drawings for all Council Assets or Works within Council's Road Reservation must be submitted to and approved by Council's Municipal Engineer before any works associated with development of the land commence.

- (34) Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with the Tasmanian Subdivision Guidelines October 2013.
- (35) Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
- (36) The developer shall appoint a qualified and experienced Supervising Engineer (or company registered to provide civil engineering consultancy services) who will be required to certify completion of construction works relating to Council assets or works within Council's Road Reservation.

***Public Works***

- (37) Public roadworks and drainage must be constructed in accordance with the standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.

***Maintenance and Defects Liability Period***

- (38) All works to be adopted by Council or within a Council Road Reservation must be placed onto a 12 month maintenance and defects liability period following the completion of the works in accordance with the approved engineering plans, permit conditions and Council Policy.

***'As constructed' drawings***

- (39) Prior to the works being placed on the maintenance and defects liability period "as constructed" drawings and data for all engineering works provided as part of this approval must be provided to Council to the satisfaction of the Council's Municipal Engineer. These drawings and data sheets must be prepared by a qualified and experienced civil engineer or other person approved by the Municipal Engineer in accordance with Council's Guidelines for As Constructed Data.

***Construction amenity***

- (40) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Development Services:
  - Monday to Friday 7:00 a.m. to 6:00 p.m.
  - Saturday 8:00 a.m. to 6:00 p.m.
  - Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.

- (41) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
  - (b) The transportation of materials, goods and commodities to and from the land.
  - (c) Obstruction of any public footway or highway.
  - (d) Appearance of any building, works or materials.
- (42) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
- (43) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
- (44) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.
- C. This permit does not imply any approval to undertake works required under the Crown Lands Act 1976 or the National Parks and Reserves Management 2002. Separate and distinct consent from the Crown is required before commencing any works on Crown or Reserved Land.
- D. No works on or affecting any Council road reservation is to be commenced until the Brighton Council has issued a WORKS IN ROAD RESERVATION PERMIT. Application for the issue of the necessary works permit is to be made to the Brighton Council's Asset Services department prior to the proposed date of commencement of any works.

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

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Jeffries	
Cr Owen	
Cr Williams	

The Ordinary Council meeting resumed.

**11. REPORTS FROM OFFICERS:**

**11.1 KENNEL LICENCE CANCELLED – 509 MILLVALE ROAD, BRIGHTON:**

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

**Background:**

Councillors may recall this item was discussed at the Ordinary Council meeting held in May 2018.

The Kennel Licence was cancelled in accordance with Council's decision and the *Dog Control Act 2000* complied with.

The Licence holder and his son have now written to Council requesting Council reconsider its position and to reinstate the Licence.

The following was the chain of events over the past 4-5 years:-

- September 2013, Officers wrote to Licence holder after a site inspection requesting that the dogs be registered within 2 weeks.
- 27<sup>th</sup> November 2013, letter sent confirming a commitment to pay off the dog registrations over a 10-week period.
- 18<sup>th</sup> November 2013 – did not comply with commitment to pay dog registrations as confirmed in letter of 27<sup>th</sup> November 2013.
- September 2015 – the son of the Kennel Licence holder advised that he was no longer at the premises and did not require the kennel licence. However, as the Licence was not in his name the owner (who hasn't resided in the municipality for a few years) was sent a letter seeking his direction as to whether he wished to keep the Kennel Licence (as the property was still in his ownership) or to cancel it. No contact or cancellation was received by Council.
- 9<sup>th</sup> November 2016, Kennel Licence renewal paid but no dogs registered.
- Property is again being used to house greyhounds and other dogs.
- Animal Control Officer visits property in September 2017 – more than 10 greyhounds and 3 domestic dogs on-site – nothing registered. Son has returned from interstate.
- 27<sup>th</sup> September 2017 – further letter reminding licence holder of the conditions of a Kennel Licence i.e. must register/microchip dogs.
- 9<sup>th</sup> November 2017 – reference to September 2017 letter. This letter also refers to Section 58 of the *Dog Control Act 2000*, effectively giving one month notice that the licence will be cancelled. Licence holder to show cause, in writing why the licence should not be cancelled.
- Licence holder's son came into the office on 21<sup>st</sup> November 2017 and spoke with the Governance Manager (GM); GM allowed three dogs to be registered by 22<sup>nd</sup> December 2017 and to extend the infringement due date to 28<sup>th</sup> January 2018. Nothing was received in writing about showing cause as to why the Licence should not be cancelled.
- 22<sup>nd</sup> December 2017 – no payments received, and further letter sent.
- 8<sup>th</sup> February 2018, further letter sent.
- Infringement for not having a valid kennel licence lodged with the Monetary Penalty Service 28<sup>th</sup> February 2018.

- One dog belonging to the son's partner was registered on 13<sup>th</sup> March 2018. Nothing else registered.
- Report to Ordinary Council Meeting 15<sup>th</sup> May 2018 – decision by Council to cancel Kennel Licence.
- Letter dated 18<sup>th</sup> May 2018, sent to Mr Whitney in accordance with Section 58 & 59 of the DCA. Section 59 refers to applying to the Magistrates Court for a review of the decision – this was not done.
- Letter 5<sup>th</sup> July 2018, sent to Mr Whitney advising that the Kennel Licence had now been cancelled as no advice had been received from the Magistrates Court for a review.
- Letter was hand delivered to the property @ 509 Millvale Road, Dromedary. Mr Whitney was on-site.
- Mr S Whitney contacted the Governance Manager on 5<sup>th</sup> July 2018, regarding the cancellation of the licence.

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

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

Notice was given under Section 58 of the *Dog Control Act 2000*, to allow the owners to show cause to why the licence should not be cancelled. No written response was received during the one-month period of notice.

### **Consultation:**

Animal Control Officer, Governance Manager, property owner and property owner's son.

### **Risk Implications:**

If reinstated, may set a precedent.

### **Financial Implications:**

Nil

### **Other Issues:**

Since 2013, there have been several occasions for non-payment of dog registrations and kennel licence renewals.

Since the 2013/14 financial year the owners have not registered any of their dogs, despite this being a condition of their kennel licence. Officers sent numerous letters (as listed above) since 2013, yet they have not complied with Kennel Licence conditions.

Dogs were delisted in 2015 when the son relocated to Victoria.

The dogs remain unregistered.



2 dogs are now currently registered (11<sup>th</sup> July 2018) at the property ie. American Staffy's. The licence is only for greyhounds and no other breed of dogs. There are no greyhounds on the property.

### **Assessment:**

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

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

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

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

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

Council's decision at the May 2018 Council meeting was that the Kennel Licence for 509 Millvale Road, Brighton be cancelled in accordance with the *Dog Control Act 2000*, and that the owners are notified of their review rights under Section 59 of the *Dog Control Act 2000*. Those review rights were not acted upon within the Legislative timelines. Notification was sent to three separate known addresses for Mr Whitney; only one letter addressed to a Post Office box was returned.

There are currently only two (2) dogs registered on this property. No greyhounds.

An inspection of the property on 6<sup>th</sup> August 2018, revealed only the two (2) registered staffy's are on-site.

### **Options:**

1. As per the recommendation.

2. That Mr Whitney be required to reapply for a Kennel Licence. The maximum number of dogs on this size property would be 7.

**RECOMMENDATION:**

Submitted for discussion and direction.

**DECISION:**

*Cr Curran moved, Cr Owen seconded that Item 2 be adopted.*

**CARRIED**

**VOTING RECORD**

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

**11.2 MAIDEN ERLEIGH LANE MAINTENANCE RESPONSIBILITY –  
REQUEST COUNCIL TO TAKE-OVER:**

**AUTHOR:** Acting General Manager  
(Mr J Dryburgh)

---

**Purpose:**

The purpose of this report is to bring for council consideration a written request for council to take responsibility for the future construction and maintenance of Maiden Erleigh Lane.

**Background:**

Staff have previously advised Mr Rowe that council is not responsible for the construction and maintenance of the road, but also advised that he was welcome to make a submission for formal council consideration. Mr Rowe has now done this in the form of the attached letter.

In the below plan Council maintain the section of road that is shown with the red dashed line. This line is from our Council Maintained Roads Map that we have a legal requirement to produce under the *Local Government Act* (Section 208) which shows “(a) all local highways maintainable by the council;”.

In short, Council maintains Maiden Erleigh Lane until it splits into the two last driveways. We do not maintain past this point as they are considered private driveways, and are only of benefit to each individual property.

The fact that the driveway is shown as “road” on the title does not mean that Council have any obligation to maintain it, as Mr Rowe argues. There are many examples of parcels of land shown as “road” on titles around the state that are entirely private and a private responsibility, as is the case with this section.



### **Consultation:**

Consultation has occurred amongst council's senior management team.

### **Risk Implications:**

If council chose to go beyond its obligations for one individual it could set a precedent that others would argue for. It would also arguably be unfair for ratepayers to pay the costs of maintaining a private road for the benefit of one residence.

### **Financial Implications:**

Constructing and maintaining roads is a significant expense.

### **Options:**

1. As per the recommendation.
2. That Council construct and maintain Maiden Erleigh Lane beyond Council's responsibility.

---

### **RECOMMENDATION:**

That Council resolves to inform Mr Rowe in writing that Council's position remains the same and that the driveway access at the end of Maiden Erleigh Lane will not be taken over by Council and is not council's responsibility to construct or maintain.

### **DECISION:**

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

**CARRIED**

#### **VOTING RECORD**

##### **In favour**

##### **Against**

Cr Curran  
Cr Foster  
Cr Garlick  
Cr Geard  
Cr Gray  
Cr Higgins  
Cr Jeffries  
Cr Owen  
Cr Williams

*Cr Garlick moved, Cr Jeffries seconded that Council resolve into Closed Council.*

**CARRIED**

#### VOTING RECORD

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

## 12. CLOSED MEETING:

Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015 provides that Council may consider certain sensitive matters in Closed Meeting.

The following matters are listed in the Closed Meeting section of the Council Agenda in accordance with Regulation 15 of the Local Government (Meeting Procedures) Regulations 2015.

*This matter was to be considered in a Closed Meeting of Council by authority of the Local Government (Meeting Procedures) Regulations 2015, Section 15(2)(g)*

### 12.1 CONFIRMATION OF MINUTES OF THE CLOSED PORTION OF THE ORDINARY COUNCIL MEETING OF 17<sup>th</sup> JULY 2018.

*Cr Higgins moved, Cr Owen seconded that the Minutes of the closed portion of the Ordinary Council meeting of 17<sup>th</sup> July 2018, be confirmed.*

**CARRIED**

#### VOTING RECORD

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

*Cr Jeffries moved, Cr Garlick seconded that Council resolve out of Closed Council and the decision made while in Closed Council be ratified.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Higgins	
Cr Jeffries	
Cr Owen	
Cr Williams	

**13. QUESTIONS ON NOTICE:**

*There were no questions on notice.*

The meeting closed 7.25pm.

Confirmed:

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

Date:

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