



# Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
OLD BEACH AT 5.40PM ON TUESDAY,  
11<sup>TH</sup> JUNE, 2019

**PRESENT:** Cr Gray (Chairperson) Cr Owen; (Deputy Chairperson);  
Cr Curran; Cr Foster; Cr Garlick; Cr Geard; Cr Jeffries  
and Cr Whelan

**IN ATTENDANCE:** Mrs J Banks (Governance Manager) and Mr D  
Allingham (Senior Planner)

## 1. APOLOGIES:

*Cr Owen moved, Cr Jeffries seconded that Cr Murtagh be granted leave of absence.*

**CARRIED**

## VOTING RECORD

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

## 2. QUESTION TIME & DEPUTATIONS:

*As there were no members in the gallery there was no requirement for question time.*

## 3. DECLARATION OF INTEREST:

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

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

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

*There were no declarations of interest.*

#### **4. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 4. on this agenda, inclusive of any supplementary items.

##### **4.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – DA 2019/79 – 7 GUILFORD CRESCENT, GAGEBROOK - MULTIPLE DWELLINGS ( 1 EXISTING 2 ADDITIONAL):**

Type of Report	Planning Authority – For Decision
Author	Jo Blackwell
Application No:	DA 2019/79
Address:	7 Guilford Crescent, Gagebrook
Applicant:	Wilson Homes
Proposal:	Multiple Dwellings (1 existing, 2 additional)
Zone:	General Residential
Representations:	Eight (8)
Discretions:	1. Building Envelope (D10.4.2 A3) 2. Water Sensitive Urban Design (E7.7.1 A2)

## **1. Executive Summary**

- 1.1. Approval is sought in relation to the use and development of the site to allow for the construction of 2 additional dwellings. The site is currently developed by a single dwelling including a colorbond garage at the rear of the property. The garage will be demolished as part of the proposed development.
- 1.2. The application is discretionary arising from reliance on performance criteria in relation to the building envelope and stormwater management.
- 1.3. Eight (8) representations were received raising concerns in relation to the privacy, impact on the streetscape, increase in traffic, loss of amenity through environmental nuisance (including increased noise, violence, and the possible increase in number of dogs). The representors' concerns are addressed more fully in this report.
- 1.4. The proposal is recommended for approval subject to conditions relating to the above key planning issues and on servicing of the site.
- 1.5. 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 2019/79.
- 2.2. This determination must be made no later than 18<sup>th</sup> June 2019, 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's 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.

- 2.5. 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.

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

- 4.1. DA 2015/122 - Garage - No Permit Required
- 4.2. DA 2007/327 - Multi Units (2 units) plus Existing - Refused. Appealed.

Decision upheld by RMPAT (PlanArc Pty Ltd v. Brighton Council [2009] TASRMPAT 35)

- 4.3. DA 2009 / 104 - One additional dwelling unit - Approved 19<sup>th</sup> May 2009. (Lapsed)

### **5. Site Detail**

- 5.1. The subject site is 1,135m<sup>2</sup> and located on the western side of Guilford Crescent, approximately 65m south of that street's intersection with Tottenham Drive. The rear boundary adjoins land zoned Public Open Space which serves as a buffer to the East Derwent Highway.
- 5.2. The site is vacant, with single dwellings constructed on surrounding lots. The site as fenced does not correspond with the cadastre. The application has been submitted, and assessed, based on the survey plans which form part of the Certificate of Title, as shown in Figure 1.



Figure 1: Aerial view of the subject site. Cadastre is shown by red boundary lines. Note fencing to the north west of the site is identified by blue lines (Source: Listmap)

5.3. The area is zoned general residential and is dominated by single dwelling development, as shown in Figure 2. There are no Planning Scheme Overlays applicable to the site.



Figure 2: Zoning Map. Red = General residential, Green = Open Space; Yellow = Utilities; (Source: Spectrum Spatial Analyst)

## 6. Proposal

6.1 The proposal is for three dwelling units (one existing and two additional). Each of the units has a floor area of 78.78sqm, comprising three bedrooms, an open plan kitchen/living/dining area and the usual amenities. A total of seven (7) car parking spaces are provided on the site.

6.2 The application is supported by the attached site plan and elevations.

## **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:

8.1.1 Part D - Clause 10 - General Residential Zone

8.1.2 Part E - Clause 5.0 - Road and Railway Assets Code

8.1.3 Part E - Clause 6.0 - Parking and Access Code

8.1.4 Part E - Clause 7.0 - Stormwater Management Code

8.2 The proposed use is for Multiple Dwelling Units in the General Residential zone. Multiple dwelling units are a Permitted Use for the site pursuant to the Use Table set out in clause 10.2 of the Scheme.

8.3 The proposal is considered to satisfy the acceptable solutions (AS) of the relevant planning controls as follows:

- 10.4.1 Density
- 10.4.3 Site Coverage and Private Open Space for All Dwellings
- 10.4.4 Sunlight and Overshadowing for all Dwellings
- 10.4.5 Width of Openings
- 10.4.6 Privacy for all Dwellings
- 10.4.7 Frontage Fences for all Dwellings
- 10.4.8 Waste Storage for Multiple Dwellings
- E5.0 Road and Railways Assets Code
- E6.0 Parking and Access Code
- E7.0 Stormwater Management Code (E7.7.1 A1, A3, A4)

8.4 The following discretions are invoked and are discussed in more detail below:

- 8.4.1 General Residential Zone - Clause D10.4.2 A3 - Building Envelope
- 8.4.2 Stormwater Management Code - E7.7.1 A2 - Water Sensitive Urban Design

**8.5 Discretion 1: Building Envelope (D 10.4.2. A3)**

- 8.5.1 The AS for a minimum setback to a rear boundary is 4m. proposal shows a minimum setback to the rear boundary of 1.5m for unit 3.
- 8.5.2 Accordingly, the application is required to address the performance criteria:

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.

### Planning Response

As required by the Henry decision (refer clause 7.3 above), the whole of the site must address the performance criteria set out above.

The existing dwelling (Unit 1) is in alignment with the dwellings constructed at 5 and 9 Guilford Crescent (refer figure 2). Accordingly, there is no change in the status quo arising from the existing dwelling.

The two additional single storey dwellings will be located to the south of the private open space of 5 Guilford Crescent, and will have a minimum separation distance to 9 Guilford Crescent of 7.495m (unit 2) and 10m (Unit 3). There may be some slight overshadowing from unit 2 to the south, but this is unlikely to occur until late afternoon (calculated using suncalc.org), therefore providing the adjoining property at 9 Guilford Crescent, with a minimum of 5 hours sunlight available to the western facing portion of the dwelling. Any overshadowing will also be buffered by an existing outbuilding on the adjoining property. It is considered that the proposed development will not significantly reduce sunlight to habitable rooms of dwellings or private open space on adjoining land.



Visual impacts are considered to be minimal with each of the additional units to be single storey, with a total building height 3.934m (unit 2) and 4.403m (unit 3). The elevations submitted with the application show building facades facing adjoining properties are to be articulated through a variety of window and door openings, and landscaping is to be implemented. A condition is recommended that all landscaping be undertaken prior to occupancy of the additional units.

With regard to (b) above, the separation distances between the proposed dwellings and the southern boundary range between 6.7m to 10m to the south; 3m – 3.3m to the northern boundary; and 1.5m to the north western boundary (unit 3). These setbacks, in most cases reflect or exceed those existing in Guilford Crescent, as identified via desktop assessment (refer Listmap).

Accordingly, it is considered that the proposal satisfies the performance criteria.

## **8.6 Discretion 2 - Water Sensitive Urban Design (WSUD)**

**8.6.1** The acceptable solution for E7.7.1 A2 requires that:

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

- (a) the size of new impervious area is more than 600 m<sup>2</sup>;*
- (b) new car parking is provided for more than 6 cars;*
- (c) a subdivision is for more than 5 lots.*

**8.6.2** The proposal has not addressed WSUD. However, Council's technical officer has assessed the proposal and considered that suitable WSUD principles can be implemented. Conditions requiring WSUD to be implemented as part of the development are recommended for inclusion in the permit.

## **9. Referrals**

### **9.1 Technical Officer**

Council's Technical Officer has reviewed the application against Code E5, E6 & E7 and his comments and response to representations are incorporated into the body of the document.

9.2 **TasWater**

The application was referred to TasWater, who have issued a Submission to Planning Authority Notice (SPAN) TWDA 2019/00496-BTN dated 15<sup>th</sup> April 2019. The SPAN will form part of any permit approved.

**10. Discussion**

10.1 The Zone Purpose Statements for the General Residential Zone are:

10.1.1.1 To provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided.

10.1.1.2 To provide for compatible non-residential uses that primarily serve the local community.

10.1.1.3 To provide for the efficient utilisation of services.

The proposal is considered to meets the zone purpose statements.

**11. Concerns raised by representors**

10.1 Eight representations were received during the public notification period, with six (6) representations being in identical form. The following table briefly summarises the issues raised by the representors.

<b>Representation 1</b>	<b>Brief Response</b>
Reduced sightlines during construction	<p>In traffic engineering terms temporary (legally) parked vehicles are not usually considered a legitimate restriction to sight distance. Road safety risks in this case are minimised due to Guilford Crescent being a low speed, low volume urban road with an adequate trafficable width of approximately 8m.</p> <p>Development (Construction Amenity) conditions require that safety of adjoining land is preserved during</p>

	construction and highways/footpaths are not obstructed.
Reverse beepers will make dog bark	This is not a planning consideration.
The smell of diesel fumes will have me locked inside my house	This is not a planning consideration.
<b>Representation 2</b>	<b>Brief Response</b>
Change the nature of the street	The proposal is for a permitted use within the general residential zone. The proposed development also satisfies the density standards for the zone and is considered to satisfy the performance criteria in relation to the discretion arising from a variation to the building envelope (Refer to clause 8.5.2)
Reduce privacy to adjacent blocks	The proposal satisfies the acceptable solutions for privacy required by the development standards in the General Residential Zone.
Increase traffic	The proposal meets the acceptable solution for new development pursuant to E5.5.1A3 of the Road and Railways Assets Code of up to a maximum of 20% or 40 vehicle movements (whichever is the greater).  The road network has the capacity for increased traffic.
Reduced Safety  Extra traffic will increase risk to children playing	This is not a planning consideration

	Footpaths are provided on both sides of Guilford Crescent for pedestrians/ children.
Loss of amenity through all night parties and domestic violence	This is not a planning consideration. These issues should be referred to Tasmania Police.
Increase chance of noise and disturbance in the area	This is not a planning consideration. These issues should be referred to Tasmania Police.
Additional dwellings are going to cause trouble and possibly violence through the types of tenants introduced in the area.	This is not a planning consideration. These types of issues should be referred to Tasmania Police.
The representor has raised the occurrence of “high levels of smoke from surrounding neighbours that burn under the cover of darkness”.	This is not a planning consideration. Complaints should be directed to Council’s Senior Environmental Health Officer.
Possible increase in the number of dogs on the property,  Increase in the number of dogs running loose/not being controlled	This is not a planning consideration.  Complaints should be directed to Council’s Animal Control Compliance Officer.
Emotional distress caused by the increased number of neighbours which will exacerbate the already “poor quality sleep as it is, with the surrounding dogs barking all night, the continuing use of Guildford Crescent as a drag strip at all hours, the unlawful behaviour and dealings that manifest	This is not a planning consideration.  These issues should be referred to Tasmania Police, and/or Council’s Animal Compliance Officer.

themselves in the surrounding area.”	
<b>Representation 3 - 8</b>	<b>Brief Response</b>
The development will change the nature of the street	The proposal is for a permitted use within the general residential zone. The proposed development also satisfies the density standards for the zone and is considered to satisfy the performance criteria in relation to the discretion arising from a variation to the building envelope (Refer to clause 8.5.2)
It will invade privacy to adjacent blocks	The proposal satisfies the acceptable solutions for privacy required by the development standards in the General Residential Zone.
It will increase the change of us being affected by all night parties, and domestic violence and also a possibility of up to 6 more dogs etc are not welcome in the street	This is not a planning consideration.  These issues should be referred to Tasmania Police or Council’s Animal Control Compliance Officer.
We do not need any more noise and disturbance in the area	This is not a planning consideration. These issues should be referred to Tasmania Police.

**Conclusion**

8.6 The proposed use and development of Residential (one existing, two additional,) in the General Residential Zone at 7 Guilford Crescent, Gagebrook, satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015, and as such is recommended for approval, subject to conditions.

## **RECOMMENDATION:**

That pursuant to the Brighton Interim Planning Scheme 2015, Council approve application DA 2019/79 for use and development of Multiple Dwellings (one existing, two additional) at 7 Guilford Crescent, Gagebrook, 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) All works must be contained within the Title boundaries.

### *Amenity*

- (4) 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*

- (5) The private open space must be formed and/or constructed to the satisfaction of Council's Manager Development Services prior to occupancy of the two additional units.

### *Landscaping*

- (6) 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 occupancy of the two units. Medium sized plants *Pittosporum Tenuifolium* must be a minimum of 1.5m in height at the time of planting. All landscaping must continue to be maintained to the satisfaction of Council.

### *Services*

- (7) 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.
- (8) Any services located under the proposed driveway are to be provided with trafficable covers to the requirements of the relevant authority and Council's Municipal Engineer.

***Parking and Access***

- (9) A 5.5m wide vehicle access onto Guilford Crescent must be constructed in accordance with standard drawing TSD-R09-v1 Urban Roads Driveways prepared by the IPWE Aust. (Tasmania Division) and the satisfaction of Council's Municipal Engineer.
- (10) At least seven (7) parking spaces must be provided on the land at all times for the use of the development including one (1) visitor space, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (11) 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 width of 3.0m with 0.3m offset to any wall or fence.
  - (b) Passing Bays 5.5m wide x 6.0m long at the road and at maximum 30m spacing
  - (c) Surfaced with concrete, asphalt or pavers.
  - (d) Drained to an approved stormwater system.
- (12) 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.
- (13) 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,
  - signage
- and shall form part of the permit when approved.
- (14) 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.

- (15) 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.

**Access to Public Road**

ADVICE: 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.

**Stormwater**

- (16) 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.
- (17) The Developer is to incorporate Water Sensitive Urban Design Principles in the form of proprietary stormwater devices for treatment and disposal of driveway runoff (SPEL StormSack or equivalent). 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.
- (18) The developer must provide a minor stormwater drainage system designed to comply with 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;
- (19) 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.

**Soil and Water Management**

- (20) 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.
- (21) 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.



*TasWater*

(22) The use and/or development must comply with the requirements of TasWater, as detailed in the form Submission to Planning Authority Notice, Reference TWDA 2019/00496-BTN dated 15<sup>th</sup> April 2019 as attached to this permit.

**Construction amenity**

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

- Monday to Friday 7:00 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.

(24) 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.

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

(26) 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.

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

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. **This 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 Foster 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 Jeffries	
Cr Owen	
Cr Whelan	

**4.2 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – SA 2018/43 – 3 RACECOURSE ROAD, BRIGHTON - SUBDIVISION (21 LOTS PLUS BALANCE):**

Type of Report	Planning Authority - For Decision
Author	Richard Cuskelly (Planning Officer)
Application No:	SA 2018 / 43
Address:	3 Racecourse Road, Brighton 179 & 181 Brighton Rd, Brighton -
Applicant:	Rogerson & Birch Surveyors
Proposal:	Subdivision (21 lots plus balance)
Zone:	General Residential
Representations:	One (1)
Discretions:	<ol style="list-style-type: none"> <li>1. Subdivision</li> <li>2. Building Area</li> <li>3. Frontage</li> <li>4. Internal Lot</li> <li>5. Number of Lots (3+)</li> <li>6. New Road</li> <li>7. Ways and Public Open Space</li> <li>8. Stormwater Management</li> <li>9. New Road Servicing</li> </ol>

## **1. Executive Summary**

- 1.1. Approval is sought for a twenty-one (21) lot plus balance subdivision at 3 Racecourse Rd, Brighton. The site is currently vacant. The application includes properties at 179 & 181 Brighton Rd, Brighton for provision of hydraulic services.
- 1.2. The application is discretionary due to reliance on a number of Performance Criteria.
- 1.3. One (1) representation was received raising concerns with infrastructure provision. The representor's concerns are addressed more fully in this report.
- 1.4. The proposal is recommended for approval subject to various standard conditions.
- 1.5. 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 SA 2018 / 43.
- 2.2. This determination must be made no later than 18<sup>th</sup> June 2019, 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's 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.
- 2.5. 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.

### 4. Relevant Background and Past Applications

4.1. Nil.

### 5. Site Detail

5.1. The vacant subject site is 1.397ha in area and situated in the centre of the block of land encompassed by Racecourse Rd, Seymour St, Bedford St and Brighton Rd, Brighton. The site has two 27.5m wide frontages to Racecourse Rd and Seymour St, a very gentle slope (1 in 30) down to the north-east and is benefitted by four drainage easements.

5.2. The site is zoned General Residential, with a range of zones on surrounding land (see Figure 2).

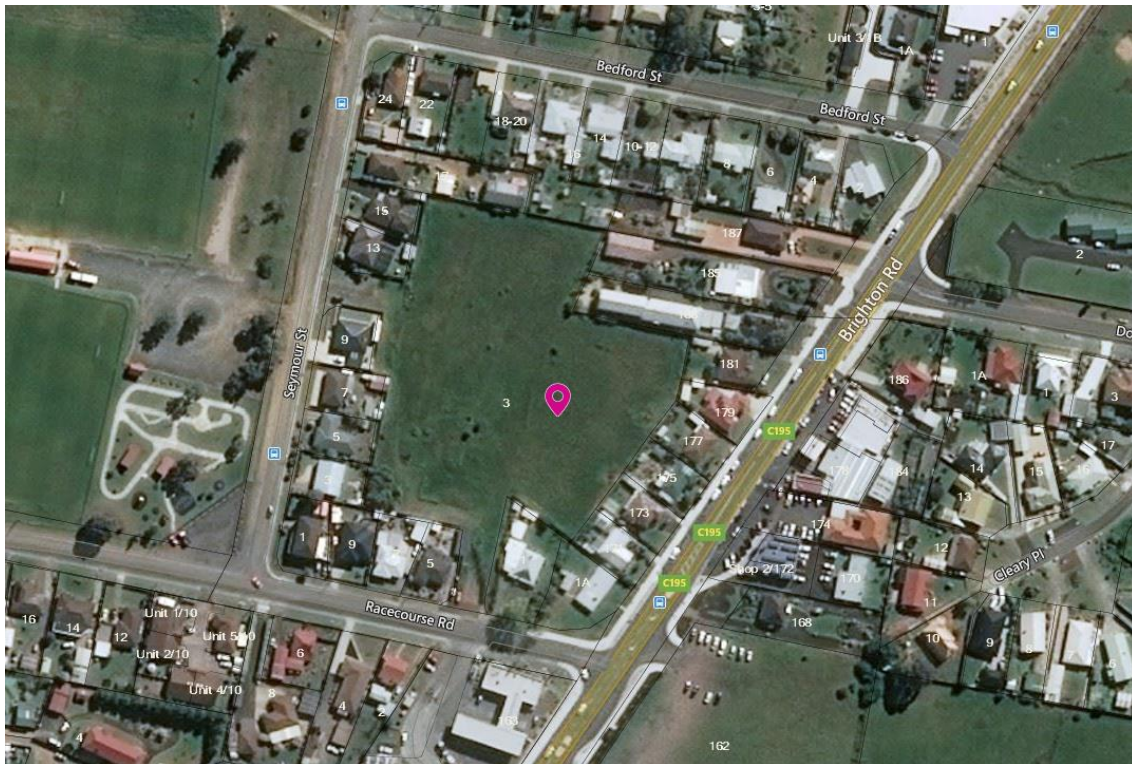
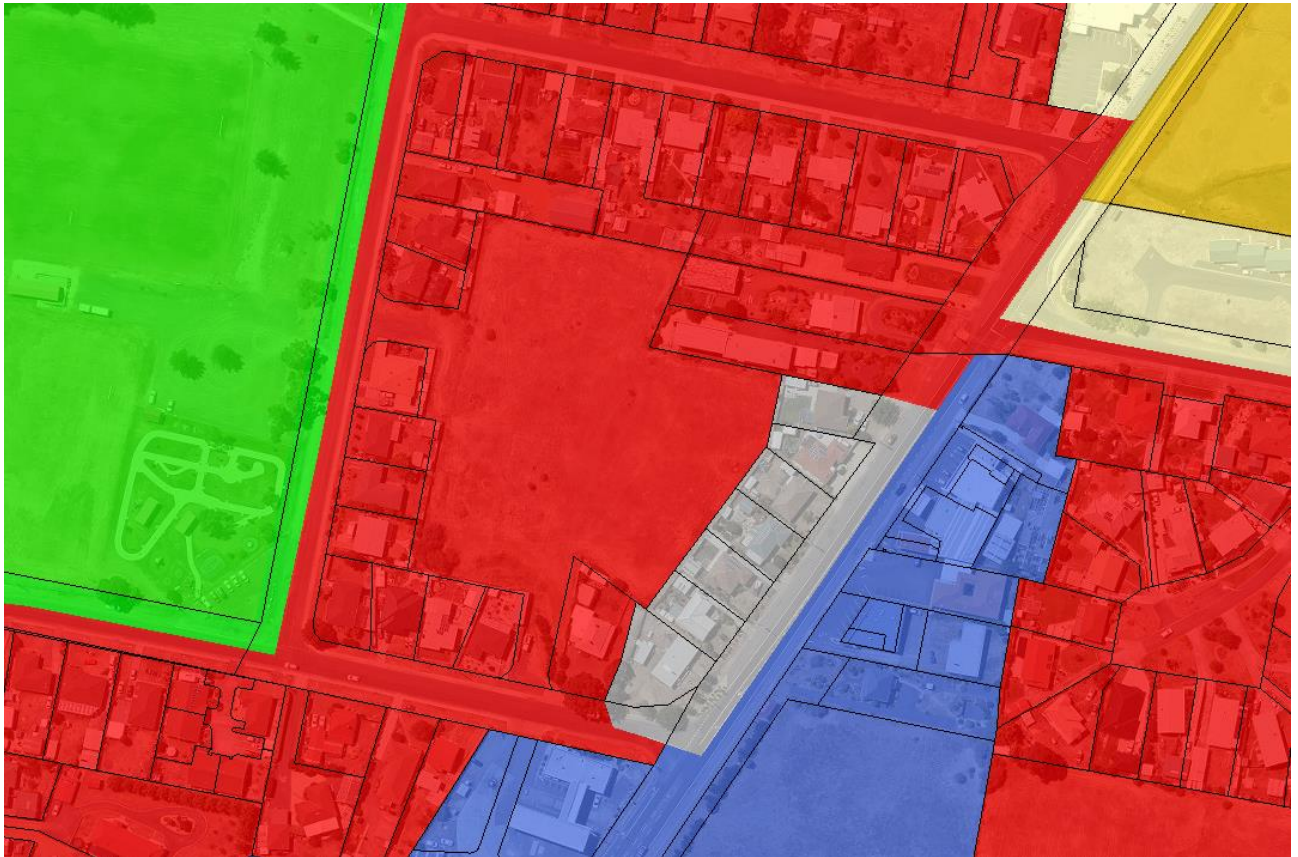


Figure 1. Aerial image



**Figure 2.** Zoning Map (Red = General Residential; Grey = Urban Mixed Use; Green = Recreation; Blue = General Business; Tan = Community Purpose; Yellow = Particular Purpose [School Farm])

**6. Proposal**

- 6.1. The proposal is for a twenty-one (21) lot plus balance subdivision. Proposed lots vary between 400m<sup>2</sup> and 800m<sup>2</sup>, with the majority between 400m<sup>2</sup> and 500m<sup>2</sup>. The balance road lot (3792m<sup>2</sup>) is a continuous L shaped road connecting to Seymour St and Racecourse Rd, with a cul-de-sac head at the end of the Seymour St leg.
- 6.2. The application is supported by the attached Plan of Subdivision and associated engineered servicing plans.

**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;

8.1.1. Part C - Clause 9.7 - Subdivision

8.1.2. Part D - Clause 10 - General Residential Zone

8.2. The proposal is considered to satisfy the following applicable Acceptable Solutions (AS):

8.2.1. Services (Connection to reticulated potable water supply and reticulated sewerage system) - 10.6.4 A1 & A2

8.3. The following discretions are invoked and are discussed in more detail below:

8.3.1. C9.7 - Subdivision

8.3.2. General Residential Zone

- Lot Size - 10.6.1 A1
- Building Area - 10.6.1 A2
- Frontage - 10.6.1 A3
- Internal Lot - 10.6.1 A4
- Over 3 Lots - 10.6.1 A5
- New Road - 10.6.2 A1
- Ways and Public Open Space - 10.6.3 A1
- Services (Connection to stormwater system by gravity and new road underground servicing) - 10.6.4 A3 & A4

### **8.4. Subdivision (C9.7.2)**

8.4.1. An application for subdivision is discretionary under clause 9.7.2 and must satisfy the General Residential Zone purpose:

10.1.1 Zone Purpose Statements

10.1.1.1 – To provide for residential use or development that accommodates a range of dwelling types at suburban densities, where full infrastructure services are available or can be provided.

10.1.1.2 – To provide for compatible non-residential uses that primarily serve the local community.

10.1.1.3 – To provide for the efficient utilisation of services.

- 8.4.2. The proposal is considered to accord with each of the above zone purpose statements. The proposal provides for a range of dwelling types and the potential for compatible non-residential uses. Infrastructure can be provided, and the proposed lot density is higher than average, which is appropriate for the residential land near a public transport corridor, businesses and services.

**8.5. Lot Size (10.6.1 A1)**

- 8.5.1. The AS requires lots within 400m of a public transport corridor or within 200m walking distance of a business zone be between 400m<sup>2</sup> and 600m<sup>2</sup> in size (not including access strips). The maximum lot size provision does not apply to balance lots or lots designated for multiple dwellings, retirement villages or residential aged care facilities, or non-residential uses. For corner lots, the minimum size rises to 550m<sup>2</sup>.
- 8.5.2. All lots are within the above proximities to a public transport corridor and business zone, to the east along Brighton Rd.
- 8.5.3. The mean lot size is 485m<sup>2</sup> and most lots comply with the AS. However, Lots 5, 9 and 15 are above 600m<sup>2</sup>, and Lots 10 and 18 are corner lots below 550m<sup>2</sup>. Therefore, assessment must occur against the corresponding Performance Criteria (PC).
- 8.5.4. The PC states:

P1 – The size of each lot must satisfy all of the following:

- a) *variance above the maximum lot size in Table 10.1 only to the extent necessary due to demonstrated site constraints;*
- b) *be consistent with any applicable Local Area Objectives or Desired Future Character Statements for the area.*

- 8.5.5. Lots 5, 9 and 15 are over 600m<sup>2</sup> in area. The size and shape of these lots are suitable for multiple dwellings (2) and a permit condition for a Part 5 Agreement requiring the lot be developed by multiple dwellings is recommended, in accordance with Table 10.1.

8.5.6. Lots 10 and 18 are corner lots (447m<sup>2</sup> and 435m<sup>2</sup>, respectively). These lots are rectangular and provide for a small-to-medium single dwelling development, aligning with Zone Purpose Statement 10.1.1.1 - *To provide for residential use or development that accommodates a range of dwelling types at suburban densities.*

8.5.7. It is considered that the application satisfies the PC.

## **8.6. Building Area (10.6.1 A2)**

8.6.1. The AS requires:

A2 - The design of each lot must provide a minimum building area that is rectangular in shape and complies with all of the following, except if for public open space, a riparian or littoral reserve or utilities:

- a) clear of the frontage, side and rear boundary setbacks;*
- b) not subject to any codes in this planning scheme;*
- c) clear of title restrictions such as easements and restrictive covenants;*
- d) has an average slope of no more than 1 in 5;*
- e) the long axis of the building area faces north or within 20 degrees west or 30 degrees east of north;*
- f) is 10m x 15m in size.*

8.6.2. Nine of the proposed lots comply with the above. However, Lots 10, 11, 15 and 18 cannot provide building areas clear of the frontage, side and rear boundary setbacks, and Lots 1-4 and 8 are too narrow to provide the long axis of the building area faces north or within 20 degrees west or 30 degrees east of north. Therefore, assessment must occur against the corresponding PC.

8.6.3. The PC states:

P2 - The design of each lot must contain a building area able to satisfy all of the following:

- a) is reasonably capable of accommodating residential use and development;*
- b) meets any applicable standards in codes in this planning scheme;*
- c) enables future development to achieve reasonable solar access, given the slope and aspect of the land;*



- d) *minimises the requirement for earth works, retaining walls, and cut & fill associated with future development;*
- e) *provides for sufficient useable area on the lot for both of the following:*
  - (i) *on-site parking and manoeuvring;*
  - (ii) *adequate private open space.*

8.6.4. The very gentle slope (1 in 30) down to the north-east, supporting c) and d) above. Though some lots are of a size and/or shape that invoke a building area discretion, all are considered to meet the above PC.

### **8.7. Frontage (10.6.1 A3)**

8.7.1. The AS requires lots have a minimum frontage of 12m (except for corner lots where it is 15m) and maximum of 15m (unless for a lot designated for multiple dwellings).

8.7.2. Several lots have smaller or larger frontage widths than the above. Therefore, assessment must occur against the corresponding PC.

8.7.3. The PC states:

P3 – The frontage of each lot must satisfy all of the following:

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

8.7.4. All lots have frontage at least 6m wide that provides for safe access and opportunity for passive surveillance.

8.7.5. It is considered that the application satisfies the PC.

### **8.8. Internal Lot (10.6.1 A4)**

8.8.1. The AS states – *No lot is an internal lot.*

8.8.2. Lots 15 and 20 are internal lots. Therefore, they must satisfy the corresponding PC:

P4 – An internal lot must satisfy all of the following:

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

8.8.3. The two internal lots are considered reasonably required to efficiently utilise the land (i.e. provide for desired residential density), due to the size and shape of the site and the subsequent depth of the lots to the east and west of the new road.

8.8.4. Both lots are considered to meet each of the PC above.

### **8.9. Over 3 Lots (10.6.1 A5)**

8.9.1. The AS states – *Subdivision is for no more than 3 lots.*

8.9.2. The subdivision is for 21 lots plus balance (road), therefore must satisfy the corresponding PC:

P5 – Arrangement and provision of lots must satisfy all of the following;

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

8.9.3. The mean lot size is 485m<sup>2</sup>. However, three lots have the potential for two dwellings, which provides for an optimal net density of 424m<sup>2</sup> per dwelling. Such a net density is considered suitable for the proximity to the Brighton township.

8.9.4. Staging is not proposed, passive surveillance (to the new public road, in this case) is provided for, and there are no Local Area Objectives or Desired Future Character Statements for this zone.

8.9.5. The application is considered to meet the PC.

#### **8.10. Roads (10.6.2 A1)**

8.10.1. The AS states – *The subdivision includes no new road.*

8.10.2. A new road is proposed connecting the subdivision with Racecourse Rd and Seymour St, therefore the application must satisfy the corresponding PC:

P1 – The arrangement and construction of roads within a subdivision must satisfy all of the following:

- a) *the route and standard of roads accords with any relevant road network plan adopted by the Planning Authority;*
- b) *the appropriate and reasonable future subdivision of the entirety of any balance lot is not compromised;*

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

8.10.3. In consultation with Council's Senior Technical Officer, the proposed is considered to meet all of the applicable above criteria, with a range of engineering conditions recommended.

8.10.4. Note that required provision of a new public pedestrian path linking the cul-de-sac head and Brighton Rd is considered unreasonable due to the existing built form (i.e. minimal separation between residential development) of the neighbouring lots fronting Brighton Rd.

8.10.5. The application is considered to meet the PC.

### **8.11. Ways and Public Open Space (10.6.3 A1)**

8.11.1. There is no AS for this standard.

8.11.2. The relevant PC - 10.6.3 P1 (h) - requires that Public Open Space (POS) be provided as land or cash in lieu.

8.11.3. The close pedestrian proximity of the existing Seymour St park to the immediate west, and the difficulty in requiring public footway connection to Brighton Rd due to existing residential development along that frontage, means that the provision of POS as land is not considered desirable.

- 8.11.4. The application is considered to meet the PC on condition that Public Open Space is be provided as cash in lieu, in accordance with current Council policy.

**8.12. Stormwater (10.6.4 A3)**

- 8.12.1. The AS states – *Each lot must be connected to a stormwater system able to service the building area by gravity.*
- 8.12.2. The application requires a combination of public system and on-site stormwater management measures, therefore must satisfy the corresponding PC:
  - P3 – If connection to a stormwater system is unavailable, each lot must be provided with an on-site stormwater management system adequate for the future use and development of the land.
- 8.12.3. The site generally falls to the north east. Stormwater is proposed to discharge to the existing public SW system in Brighton Rd via an existing easement through 179 Brighton Rd.
- 8.12.4. An assessment of the existing SW main determined that it had insufficient capacity to accommodate the stormwater from the subdivision once the lots were fully developed. The existing main was required to be upsized from the connection point in Brighton Road to the Bedford St intersection to DN600 minimum. As the main is located under footpath and there are numerous services in the vicinity the upgrading of the main would be cost prohibitive. The applicant proposes to reduce peak flows from the site using a combination of private rainwater detention tanks and underground detention on each lot along with larger underground detention within the road reservation.
- 8.12.5. Part 5 Agreements will be required on the lots the regulate the installation of the rainwater tanks and management of the underground detention tanks.
- 8.12.6. Any underground detention should be provided at the time of subdivision and not imposed on future lot owners.
- 8.12.7. The development triggers WSUD requirements. Some of this requirement could be addressed through the use of rainwater tanks on each lot or similar smaller WSUD elements such as rain gardens at side entry pits. The balance would be best dealt with via a contribution to Council for a larger treatment downstream of the subdivision.

- 8.12.8. Consideration will need to be given to the design of the intersections to limit stormwater from adjacent roads entering the subdivision.
- 8.12.9. The application is considered to meet the PC with the inclusion of engineering conditions.

**8.13. New Road Servicing (10.6.4 A4)**

- 8.13.1. The AS states – *The subdivision includes no new road.*
- 8.13.2. A new road is proposed connecting the subdivision with Racecourse Rd and Seymour St, therefore the application must satisfy the corresponding PC:
  - P4 – The subdivision provides for the installation of fibre ready facilities (pit and pipe that can hold optical fibre line) and the underground provision of electricity supply.
- 8.13.3. Council’s Senior Technical Officer has assessed and conditioned for compliance with the above.
- 8.13.4. The application meets the PC with the recommended conditions.

**9. Referrals**

**9.1 Internal**

- 9.1.1 Council’s Senior Planner and Senior Technical Officer (in conjunction with Council’s Project Engineer) have assessed and reviewed the application.

**9.2 TasWater**

- 9.2.1 The proposal was referred to TasWater who submitted a Submission to Planning Authority Notice (SPAN) dated 3 April 2019 with conditions. A copy of the SPAN is to be attached to any permit issued.

**10. Concerns raised by representors**

- 10.1 One (1) representation was received during the public notification period. The following table briefly summarises the issues raised by the representor. As concerns related to engineering matters, responses are from Council’s Senior Technical Officer.

Representation	Response
<p>1. Our sewerage has been connected in this area for about 44-45 years, and we now there has been no upgrades in this time.</p> <p>2. Sometimes there is an odour in our toilet, as well as outside.</p>	<p>TasWater are the relevant sewer authority. The application was referred to TasWater who have imposed conditions for approval.</p>
<p>3. The Roads will not cope, as since the upgrades to Brighton Road, we have lost 23 Parking Spaces, and parking in the Area has become almost non-existing, and all Businesses are suffering.</p>	<p>The development does not impose a direct parking demand on Brighton Road. The proximity of the lots to the shopping district potentially creates an increase in customer base for local businesses all within reasonable walking distance.</p>
<p>4. With all the sub-divisions that have gone into the area in the last 10-20 years, this is a real concern for all infrastructure, which has not been up-dated.</p>	<p>Stormwater infrastructure in the area has limited capacity to accept increased inflows from the subdivision. This has been addressed by the applicant with the implementation of stormwater detention.</p>

**11. Conclusion**

11.1. The proposed subdivision of 21 lots plus balance satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015, and as such is recommended for approval, subject to conditions. The proposal provides for a range of dwelling types and the potential for compatible non-residential uses. Infrastructure can be provided, and the proposed lot density is of an appropriate level for level residential land near a public transport corridor, businesses and services.

**RECOMMENDATION:**

That pursuant to the Brighton Interim Planning Scheme 2015, Council approve application SA 2018 / 43 for subdivision (twenty-one (21) lots plus balance) at 3 Racecourse, Brighton, for the reasons outlined in the officer’s report above, and a permit containing the following conditions be issued:

### **General**

- (1) The subdivision layout and 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.

### **Public Open Space**

- (3) In accordance with the provisions of Section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993, payment of a cash contribution for Public Open Space must be made to the Council prior to sealing the Final Plan of Survey. The cash contribution amount is to be equal to 5% of the value of the land being subdivided in the whole plan of subdivision at the date of lodgement of the Final Plan of Survey.
- (4) The value is to be determined by a Land Valuer within the meaning of the Land Valuers Act 2001 at the developer's expense.

### **Easements**

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

### **Endorsements**

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

### **Final plan**

- (7) A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
- (8) Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the Local Government (Building & Miscellaneous Provisions) Council 1993. The amount of the security shall be determined by the Council's Municipal Engineer in accordance with Council Policy



6.3 following approval of any engineering design drawings and shall not to be less than \$5,000.

- (9) All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider's responsibility to notify Council in writing that the conditions of the permit have been satisfied.
- (10) The subdivider must pay any Titles Office lodgement fees direct to the Recorder of Titles.

**Transfer of reserves**

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

**Part 5 Agreements**

- (12) Where rainwater tanks are required to limit stormwater flows from each of the proposed lots and/or underground detention is provided for each lot an agreement pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be entered into prior to the sealing of the final plan of survey, or occupancy of any of the dwellings, to the effect that:
  - a. The owners of the lots must install and maintain rainwater detention tanks of a size and type to be determined by detailed design and approved by Council's Municipal Engineer prior to the issue of a plumbing permit.
  - b. The owners of the lots must maintain the stormwater detention tanks so as they continue to operate as designed.
- (13) For Lots 5, 9 and 15, as described on the approved Plan of Subdivision, an agreement pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be entered into prior to the sealing of the final plan of survey to the effect that:
  - a. The lots are only to be developed by multiple dwellings or a compatible non-residential use approved in writing by Council's General Manager.
- (14) 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.

## **Landscaping**

- (15) The road reserves and public open space must be landscaped by trees or plants in accordance with a landscape plan prepared by a landscape architect or other person approved by Council. The landscaping plan must be submitted to Council for endorsement with the engineering drawings and must show the areas to be landscaped, the form of landscaping, and the species of plants and estimates of the cost of the works.

## **Engineering**

- (16) The subdivision must be carried out in accordance with the Tasmanian Subdivision Guidelines October 2013 (**attached**).
- (17) Engineering design drawings, to the satisfaction of the Council's Municipal Engineer, must be submitted to and approved by Council before any works associated with development of the land commence.
- (18) Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with the Tasmanian Subdivision Guidelines October 2013, and must show:
- a. all existing and proposed services required by this permit;
  - b. all existing and proposed roadwork required by this permit;
  - c. measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
  - d. measures to be taken to limit or control erosion and sedimentation;
  - e. any other work required by this permit.
- (19) Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
- (20) The developer shall appoint a qualified and experienced Supervising Engineer (or company registered to provide civil engineering consultancy services) who will be required to certify completion of subdivision construction works. The appointed Supervising Engineer shall be the primary contact person on matters concerning the subdivision.

## **Water quality**

- (21) A soil and water management plan (here referred to as a 'SWMP') prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's Municipal Engineer before development of the land commences.

- (22) Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
- (23) The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's Municipal Engineer.
- (24) All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with top soil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's Municipal Engineer.

### **Services**

- (25) The subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred because of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.
- (26) Property services must be contained wholly within each lot served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.

### **Telecommunications and electrical reticulation**

- (27) Electrical and telecommunications services must be provided underground to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's Municipal Engineer.
- (28) Street Lighting must be provided in accordance with the requirements of the responsible authority and to the satisfaction of Council's Municipal Engineer.
- (29) Prior to the work being carried out a drawing of the electrical reticulation and street lighting, and telecommunications reticulation in accordance with the appropriate authority's requirements and relevant Australian Standards must be submitted to and endorsed by the Council's Municipal Engineer.
- (30) Prior to sealing the final plan of survey the developer must submit to Council:
  - a. A "Provisioning of Telecommunications Infrastructure - Confirmation of final payment" or "Certificate of Practical Completion of Developer's Activities" from NBN Co.
  - b. A Letter of Release from TasNetworks confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed.

## Drainage

- (31) The developer must provide a stormwater drainage system designed to comply with all of the following:
- a. Peak stormwater flows from the site, once fully developed, are to be limited to pre-development peak flows for up to and including a storm with an ARI of 100 years.
  - b. Public piped (minor stormwater drainage) system able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed;
- (32) The developer must provide a minor stormwater drainage system designed to comply with all of the following:
- c. be able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed;
  - d. stormwater runoff will be no greater than pre-existing runoff or any increase can be accommodated within existing or upgraded public stormwater infrastructure.
- (33) All underground stormwater detention required to limit flows from the subdivision to those that can be accommodated within the public stormwater system must be provided and installed as part of the subdivision works.
- (34) The developer is to provide a major stormwater drainage system designed to accommodate a storm with an ARI of 100 years.
- (35) The developer is to provide a stormwater property connection to each lot in accordance with Council standards and to the satisfaction of Council's Municipal Engineer. The stormwater property connection must be capable of servicing the entirety of each lot by gravity.
- (36) The developer must provide for the treatment of stormwater from the subdivision by:
- a. Incorporating Water Sensitive Urban Design Principles into the development. 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; or
  - b. Provide a financial contribution to Brighton Council equal to the cost of providing stormwater treatment within the subdivision to achieve the stormwater quality targets in accordance with the State Stormwater Strategy 2010, as detailed in Table E7.1 of the Brighton Interim Planning Scheme 2015. The value of the contribution is to be based on a cost estimate provided by the developers engineer and agreed to by Council's Municipal Engineer; or
  - c. A combination of a) and b) above.

- (37) The proposed new stormwater main through 179 Brighton Road must be designed and installed such that no load is imposed from any structure onto the pipe and the structural integrity of the existing dwelling is maintained. Unless approved otherwise by Council's Municipal Engineer the new stormwater main must comply with the following:
- a. The stormwater main is to be located 1.0m clear of the footings of the existing dwelling; and
  - b. The line of influence from the base of the existing/modified footings of the existing dwelling at must pass below the invert of the pipe and be clear of the pipe trench.

### **Roadworks**

- (38) 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.
- (39) Unless approved otherwise by Council's Municipal Engineer roadworks must include:
- a. Minimum road reserve of 15 metres and 25 metres at the cul de sac;
  - b. Fully paved, sealed and drained carriageway with a minimum carriageway width (face of kerb to face of kerb) of 6.9 metres or 18 metres diameter at the cul de sac,
  - c. Concrete kerb and channel on both sides;
  - d. Concrete footpaths 1.50 metres wide on one side;
  - e. Underground drains
- (40) All carriageway surface courses must be constructed with a 10 mm nominal size hotmix asphalt with a minimum compacted depth of 35 mm in accordance with standard drawings and specifications prepared by the IPWE Aust. (Tasmania Division) and the requirements of Council's Municipal Engineer.
- (41) Kerb ramps must be provided to accommodate the needs of people with disabilities in accordance with standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.
- (42) Footpaths constructed adjacent to mountable or semi mountable kerb are to be constructed to a vehicle access standard with regard to thickness and reinforcement.
- (43) Unless approved otherwise by Councils Municipal Engineer a reinforced concrete vehicle access must be provided from the road carriageway to each Lot.

**Advice:** Where mountable or semi mountable kerb is used vehicle accesses may be left out at the discretion of Council's Municipal Engineer where there is flexibility in the location of the access. Where there is no flexibility (such as an internal lot) the access must be provided.

- (44) Vehicle accesses must be located and constructed generally in accordance with the standards shown on standard drawings TSD-R09-v1 Urban Roads Driveways and TSD-RF01-v1 Guide to Intersection and Domestic Access Sight Distance Requirements prepared by the IPWE Aust. (Tasmania Division) and the satisfaction of Council's Municipal Engineer.
- (45) The vehicular access for all internal lots (including lots 15 and 20) must be constructed for the entire length of the access strip and include:
  - a. Constructed with a durable all weather pavement
  - b. Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material may be asphalt, concrete, pavers or other approved material.
  - c. Stormwater drainage.

**TasWater**

- (46) The development must meet all required Conditions of approval specified by TasWater Submission to Planning Authority Notice TWDA 2018/02047-BTN, dated 03/04/2019 (**attached**).

**Construction Amenity**

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

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

**Survey pegs**

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

**Maintenance and Defects Liability Period**

- (53) 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**

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

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

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works, or a minimum of \$290.00, must be paid to Council in accordance with Council's fee schedule.
- D. All approved engineering design drawings will form part of this permit on and from the date of approval.

E. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

**DECISION:**

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

**CARRIED**

**VOTING RECORD**

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

The meeting closed at 6.20pm.

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

Date: \_\_\_\_\_  
18<sup>th</sup> June 2019