



Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.30PM ON TUESDAY,
11TH SEPTEMBER, 2018

PRESENT: Cr Gray (Chairperson) Cr Owen; (Deputy Chairperson);
Cr Foster; Cr Garlick; Cr Geard; Cr Higgins and Cr
Jeffries.

IN ATTENDANCE: Mr D Allingham (Senior Planner)

1. APOLOGIES:

Cr Jeffries moved, Cr Owen seconded that apologies be received from Cr Curran and Cr Williams.

CARRIED

VOTING RECORD

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

2. QUESTION TIME & DEPUTATIONS:

There was no requirement for public 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.

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 SECTION 34 REQUEST – 23 MENIN DRIVE, BRIGHTON: INSERTING THE BRIGHTON ARMY CAMP HOSPITAL BUILDING INTO TABLE E13.1 ‘HERITAGE PLACES’ OF THE HISTORIC HERITAGE CODE – SECTION 35 REPORT:

FILE REFERENCE:	RZ2018-01
Author:	Richard Cuskelly
Applicant:	Brighton Council
Owner:	Brighton Council
Location:	23 Menin Drive, Brighton (CT 169004/1)
Application no.:	RZ2018-01
Zoning:	Community Purpose
Planning Instrument:	Brighton Interim Planning Scheme 2015
Date received:	N/A
Date advertised:	N/A
Decision required	N/A

Proposal summary

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

- Inserting 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) into Table E13.1 'Heritage Places' of the Historic Heritage Code.

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

Site Description

Site context:

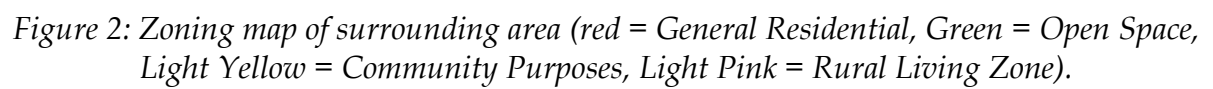
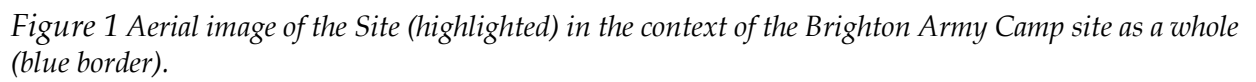
23 Menin Drive, Brighton (the Site) is located within the wider Brighton Army Camp site (see Figure 1 and 2).

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

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

The Site:

The Site is 8,202m² rectangular lot in the Community Purpose Zone. The only structure on-site is a single storey painted timber building with a footprint of over 1000m² constructed in 1939. Legal access to the Site is currently from Menin Drive via a 20m wide Right of Way, but it will soon be accessed from a new road being constructed to connect Brighton Road to the Army Camp. The Site is also together with an Electricity Infrastructure Easement in favour of TasNetworks and several Drainage and Pipeline Easements in favour of TasWater and Brighton Council.



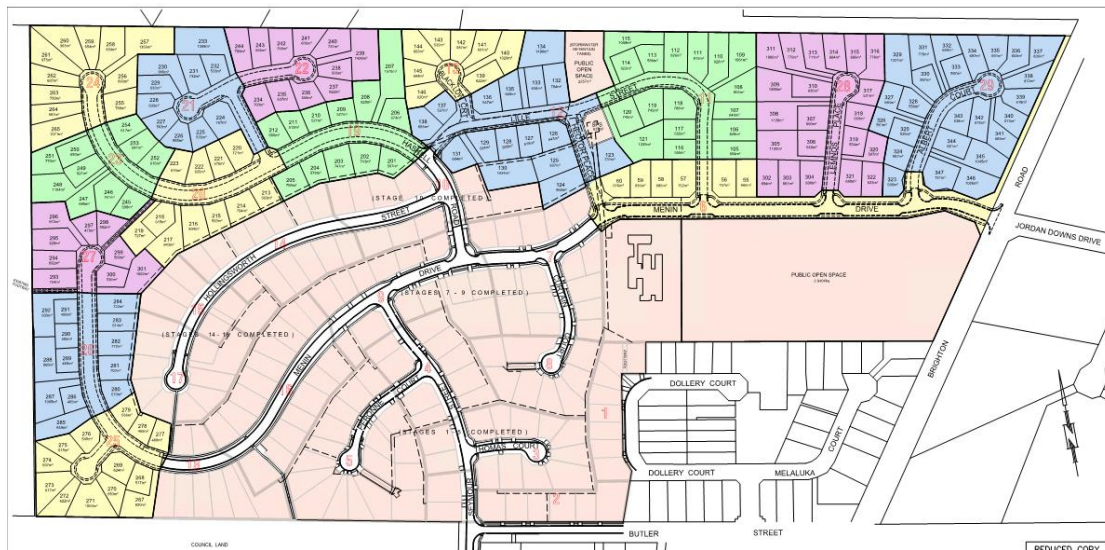


Figure 3: Approved staging plan for 300 lot subdivision. The pink area shows completed stages.

Heritage Significance:

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

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

During WWII, the camp held Italian prisoners of war, and after the war, it was used as a migrant hostel for WWII refugees while also providing housing for Tasmanians who were homeless. This also included the provision of emergency accommodation for some of those who lost their homes in the 1967 bushfires, and in 1999 it was renamed Tasmanian Peace Haven and became a temporary home to around 400 Kosovar refugees.

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

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

The Heritage Assessment concludes that the hospital building holds considerable to exceptional significance and recommends the hospital building be retained 'to conserve a component of the site which will retain significance and allow past users of the site and future generations to interpret the place' (p.10).

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

Neither the Site and/or the Hospital building are currently listed on either the state Tasmanian Heritage Register or the local Heritage Places table of the Scheme.

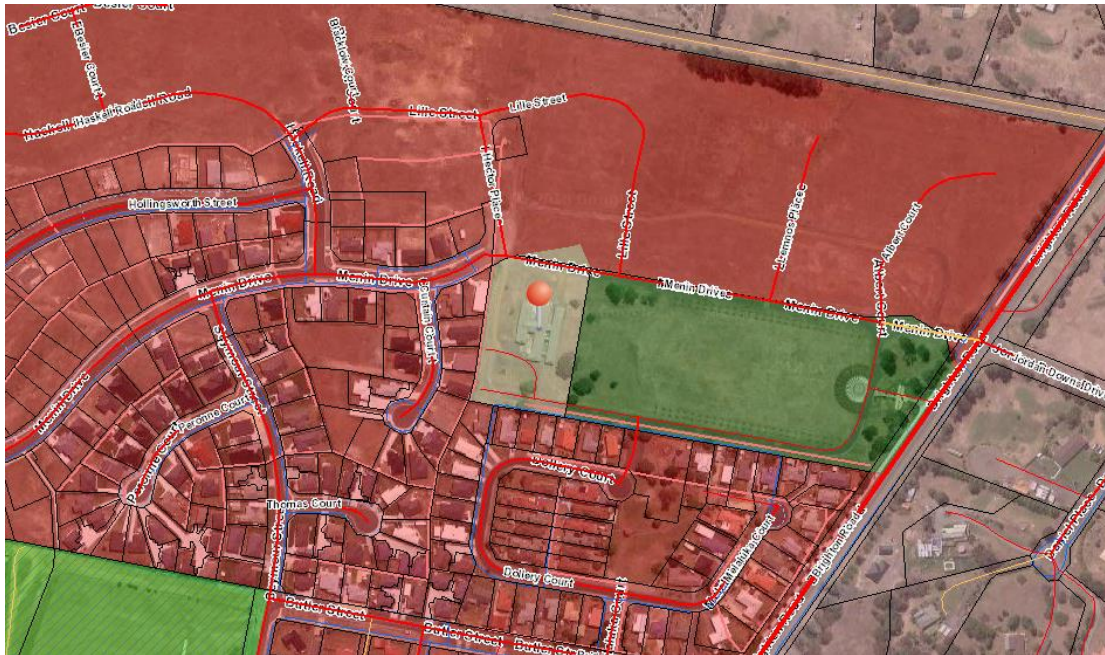


Figure 2: Zoning map of the Site (Community Purpose) and surrounding land (General Residential = red; Open Space = dark green; Rural Living = pink; Recreation = bright green)

Scheme Amendment

Proposal:

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

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

Consultation:

If certified, the draft planning scheme amendment must be forwarded to the Tasmanian Planning Commission within 7 days of the draft amendment being certified, and to TasWater. The certified draft amendment must then be placed on public exhibition for a period of no less than 28 days, with public notice of the exhibition being given in the Mercury newspaper on two separate occasions, with at least one of those occasions on a Saturday. A report will then come back to Council detailing any representations and responding to them.

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

Risk Implications:

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

Financial Implications:

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

Legislation:

Pursuant to s.32(1) of LUPAA:

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

(a)

(b)

(c)

(d)

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

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

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

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

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

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

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

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

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

(c)

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

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

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

Assessment

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

Brighton Strategic Plan 2015-2025

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

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

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

Brighton Structure Plan 2012

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

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

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

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

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

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

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

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

Southern Tasmania Regional Land Use Strategy

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

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

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

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

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

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

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

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

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

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

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

Overriding Local and Common Provisions:

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

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

Objectives of the Resource Management and Planning System of Tasmania

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

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

The proposed amendment supports this Objective.

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

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

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

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

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

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

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

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

Land Use Planning and Approvals Act 1993

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

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

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

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

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

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

The Site contains no environmental values of note.

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

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

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

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

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

The proposed amendment supports this Objective.

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

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

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

The proposed amendment supports this Objective.

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

The proposed amendment supports this Objective.

State Policies

State Coastal Policy 1996

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

State Policy on Water Quality Management 1997

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

The proposed amendment is consistent with the above.

State Policy for the Protection of Agricultural Land 2009

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

¹ *State Coastal Policy Validation Act 2003*

National Environmental Protection Measures (NEPM)

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

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

Gas Pipeline safety

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

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

Potential for Land Use Conflicts S 32 1 (e)

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

Regional Impacts s 32 1 (f)

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

Brighton Interim Planning Scheme 2015

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

Historic Heritage Code:

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

The Code applies to development involving land defined as any of the following:

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

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

‘Place’ is defined in the Code as meaning ‘a place listed and described in Table E13.1 that is a site, area, landscape, building or other work, group of buildings or other works, with any associated views, spaces, and surroundings such as historic plantings or landscaping features, or evidence of past land use.’ In the context of this proposed amendment, *place* refers to the whole 23 Menin Drive (Volume 169004, Folio 1) site. Wording and formatting of the draft inclusion can be found in Attachment 1.

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

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

Conclusion

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

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

RECOMMENDATION:

- A. That in accordance with Section 34(1)(b) of the *Land Use Planning & Approvals Act 1993*, subject to the provisions of section 3 of schedule 6, Council initiates the draft amendment, to be known as draft amendment RZ 2018/01, to insert 23 Menin Drive, Brighton (the Brighton Army Camp hospital site) into Table E13.1 'Heritage Places' of the Historic Heritage Code.

- B. That in accordance with Section 35(1) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2018/01 satisfies the provisions of Section 32 of the *Land Use Planning and Approvals Act 1993*.
- C. That in accordance with Section 35(2) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/01 be certified by instrument in writing affixed with the common seal of the Council; and
- D. That in accordance with Section 35(4) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2018/01 be given to the Tasmanian Planning Commission within 7 days;
- E. That in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2018/01 be placed on public exhibition for no less than 28 days.

DECISION:

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

CARRIED

VOTING RECORD

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

The meeting closed at 5.35 pm

Confirmed: _____
(Mayor)

Date: _____
18th September 2018