



# Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**  
OF THE BRIGHTON COUNCIL HELD  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES  
OLD BEACH AT 5.40 P.M. ON TUESDAY,  
10<sup>TH</sup> MARCH, 2020

**PRESENT:** Cr Gray (Chairperson); Cr Curran; Cr Garlick; Cr Geard; Cr Murtagh; Cr Owen and Cr Whelan

**IN ATTENDANCE:** Mr H Macpherson (Municipal Engineer) and Mrs J Banks (Governance Manager) and Mr D Allingham (Manager Development Services)

## 1. **ACKNOWLEDGEMENT OF COUNTRY:**

## 2. **APOLOGIES:**

*Cr Owen moved, Cr Whelan seconded that Cr Jeffries and Cr Foster be granted leave of absence.*

**CARRIED**

### **VOTING RECORD**

**In favour    Against**

Cr Curran

Cr Garlick

Cr Geard

Cr Gray

Cr Murtagh

Cr Owen

Cr Whelan

## 3. **QUESTION TIME & DEPUTATIONS:**

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

**4. DECLARATION OF INTEREST:**

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

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

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

*There were no declarations of interest.*

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

**5.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 DA 2019/00222 – LOT 201 CALM PLACE, OLD BEACH MULTIPLE DWELLINGS (4):**

Type of Report	Planning Authority - For Decision
Application No:	DA 2019/00222
Address:	Lot 201 Calm Place, Old Beach
Proposal:	Multiple Dwellings (4)
Zone:	General Residential Zone
Representations:	Three (3)
Discretions:	<ol style="list-style-type: none"> <li>1. Building Envelope</li> <li>2. Private Open Space</li> <li>3. Sight Distance at Accesses</li> <li>4. Stormwater Drainage and Disposal</li> <li>5. Buildings and Works within a Waterway and Coastal Protection Area</li> <li>6. Buildings and Works within a Waterway and Coastal Protection Area</li> <li>7. Coastal Inundation High Hazard Area</li> </ol>

8. Coastal Inundation Medium Hazard Area
9. Coastal Inundation Low Hazard Area
10. Riverine, Coastal Investigation Areas, Low, Medium, High Inundation Hazard Areas
11. Riverine, Coastal Investigation Areas, Low, Medium, High Inundation Hazard Areas

Author: Planning Officer (Jo Blackwell)

## 1. Executive Summary

- 1.1. Planning approval is sought for four (4) multiple dwellings at Lot 201 Calm Place, Old Beach (the 'site'). The site is situated within the General Residential Zone of the *Brighton Interim Planning Scheme 2015* (the 'Interim Scheme').
- 1.2. The application invokes discretion under the Interim Scheme related to the building envelope, private open space and various codes including Parking and Access Code, Stormwater Management Code, Waterway and Coastal Protection Code, Inundation Prone Areas Code and the Coastal Inundation Hazard Code.
- 1.3. The application has been advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993* on two occasions. The first public exhibition period attracted a total of eight (8) representations. Subsequent receipt of amended plans required a second period of public exhibition, and three (3) amended representations were received. Based on legal advice received, only the three representations received during the second public advertising period are considered statutory representations, and are considered when assessing this application.
- 1.4. The application is recommended for approval subject to conditions.
- 1.5. Due to the receipt of representations during the public exhibition period, the final decision is delegated to the Planning Authority or by full Council acting as a Planning Authority.

## 2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2019/00222.
- 2.2. This determination must be made no later than 17 March 2020. The statutory assessment period has been extended with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (the 'Act'). The provisions of the Act require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.

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

### **Risk & Implications**

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

### **3. Relevant Background**

- 3.1. None relevant.

### **4. Site Detail**

- 4.1. The site is a vacant 2662m<sup>2</sup> lot with existing access to Calm Place (see Figure 1).
- 4.2. The site and surrounding land on three sides is within the General Residential Zone of the Interim Scheme, while land located to the south is zoned Open Space Resource (see Figure 2).
- 4.3. A number of overlays affect the land including waterway and coastal protection, inundation, future coastal refugia, coastal inundation hazard and coastal erosion hazard areas (see Figure 3).
- 4.4. The site is relatively level, falling slightly to the south.
- 4.5. There is no significant vegetation present on the site. The adjacent Open Space zoned land located to the south is identified by TasVeg 3.0 as Saltmarsh and Wetland (Listmap).
- 4.6. Calm Place has a speed limit of 50kmh.

- 4.7. There is a Pipeline and Drainage Easement 3.00m wide located cross the access strip.

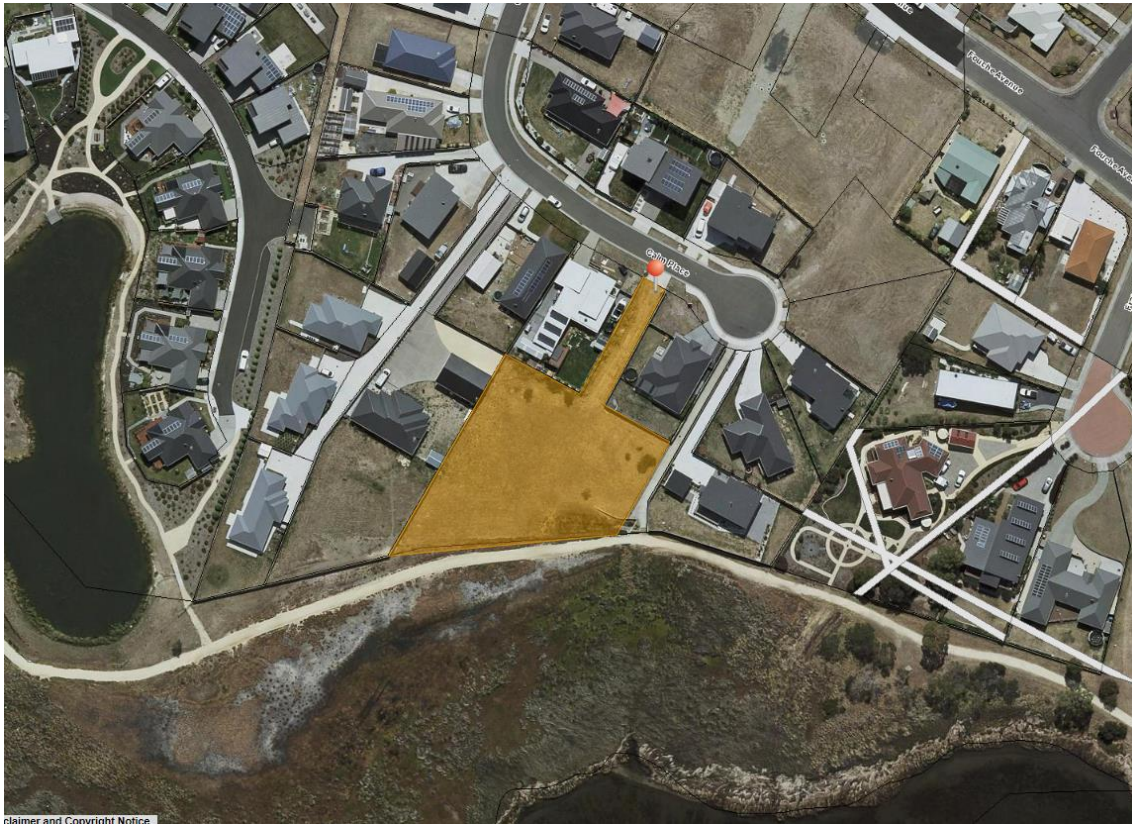
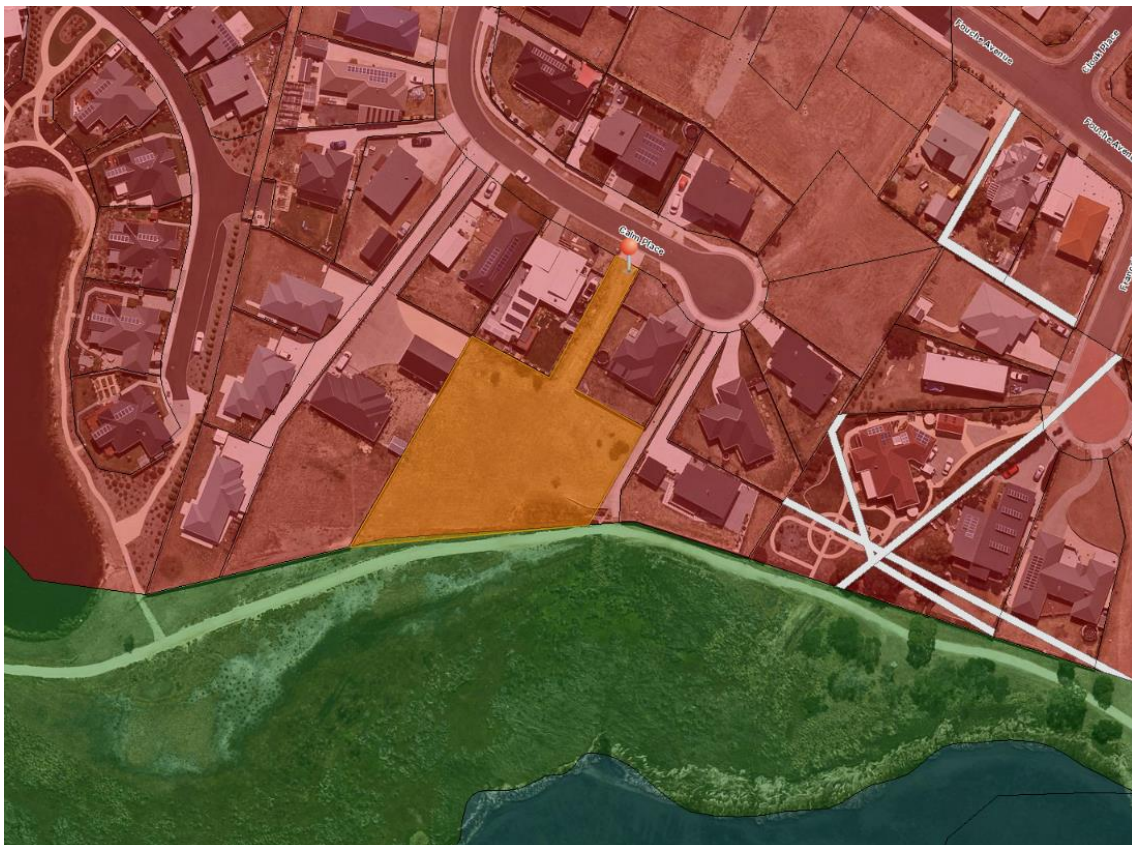


Figure 1. Aerial photograph of the site.



**Figure 2.** Zoning of the site and surrounds (Red = General Residential Zone; Green = Open Space Zone, Blue = Environmental Management Zone (Derwent River)).



**Figure 3:** Applicable Overlays

**5. Proposal**

- 5.1. Four (4) multiple dwellings are proposed, each double storey with three (3) bedrooms, internal double garage, open plan living, private open space and associated landscaping. Total floor area is approximately 234sqm per unit, with the building footprint approximately 125sqm, excluding decks.
- 5.2. Ten (10) parking spaces are proposed, two (2) of which are designated for visitor parking only.

**6. Assessment**

- 6.1. The Brighton Interim Planning Scheme 2015 is a performance-based planning scheme.
- 6.2. To meet an applicable standard, a proposal must demonstrate compliance with either an Acceptable Solution or Performance Criteria. 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. Assessment against planning scheme provisions

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

- Part D – Section 10.0 – General Residential Zone
- Part E – Section 5.0 – Road and Railway Assets Code
- Part E – Section 6.0 – Parking and Access Code
- Part E – Section 7.0 – Stormwater Management Code
- Part E – Section 11.0 – Waterway and Coastal Protection Code
- Part E – Section E15.0 – Inundation Prone Areas Code
- Part E – Section 16.0 – Coastal Erosion Hazard Areas Code

7.2. The proposed use is for Multiple Dwellings within the General Residential Zone. 'Residential (Multiple Dwellings)' is a Permitted Use in the Zone, pursuant to the Use Table set out in Section 10.2.

7.3. The proposal is considered to satisfy the relevant Acceptable Solutions listed below:

### Part D

- Section 10.4.1 A1 – Residential Density for Multiple Dwellings
- Section 10.4.2 A1 & A2 – Setbacks and Building Envelope
- Section 10.4.3 A1 – Site Coverage and Private Open Space
- Section 10.4.4 A1, A2 & A3 – Sunlight and Overshadowing
- Section 10.4.5 A1 – Width of Openings for Garages & Carports
- Section 10.4.6 A1, A2 & A3 – Privacy
- Section 10.4.7 A1 – Frontage Fences
- Section 10.4.8 A1 – Waste Storage for Multiple Dwellings

### Part E

- Section E5.0 - Road and Railway Assets Code (except Section E5.6.4)
- Section E6.0 – Parking and Access Code
- Section E7.0 – Stormwater Management Code (except Section E7.7.1)

A2)

- Section E15.6.1 A1 – Use Standards for Inundation Prone Areas

7.4. The following discretions are invoked by the proposal:

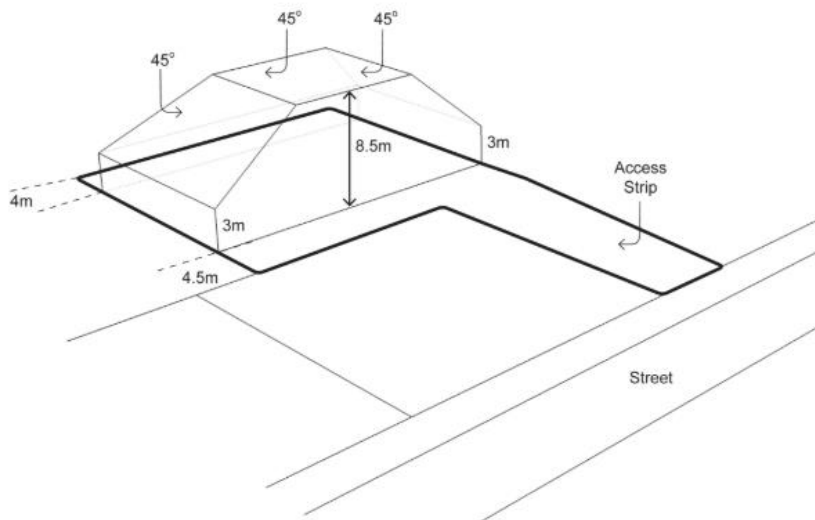
- Section 10.4.2 A3 – Building Envelope
- Section 10.4.3 A2 – Private Open Space
- Section E5.6.4 A1 - Sight Distance at Accesses, Junctions and Level Crossings
- Section E7.7.1 A2 - Stormwater Drainage and Disposal
- Section E11.7.1 A1 – Buildings and Works within a Waterway and Coastal Protection Area
- Section E11.7.1 A2 - Buildings and Works within a Waterway and Coastal Protection Area
- Section E15.7.1 A2 – Coastal Inundation High Hazard Areas
- Section E15.7.2 A1 – Coastal Inundation Medium Hazard Areas
- Section E15.7.3 A1 – Coastal Inundation Low Hazard Areas
- Section E15.7.5 A1 - Riverine, Coastal Investigation Area, Low, Medium, High Inundation Hazard Areas
- Section E15.7.5 A2 - Riverine, Coastal Investigation Area, Low, Medium, High Inundation Hazard Areas

7.5. **Discretion 1 – Section 10.4.2 A3 - Building Envelope**

8.5.1 The proposal falls outside the permitted building envelope prescribed in Section 10.4.2 A3 of the General Residential Zone, which is demonstrated by Diagram 10.4.2D, below:



Diagram 10.4.2D. Building envelope for internal lots as required by subclause 10.4.2 A3(a)



8.5.2 As such, the application invokes discretion under this standard, and the application must be assessed against the corresponding Performance Criteria.

8.5.3 Section 10.4.2 P3 states:

*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.*

8.5.4 The dwellings are each two storeys, with a maximum height of 8.186m above natural ground level (refer sheet C05 E), which is less than the maximum building height permitted by Section 10.4.2 A3. However, reliance on the Performance Criteria arises in relation to Townhouse 01, where the total height of the building is 8.134m, and setback from the rear boundary is 4m. The south-eastern corner of the dwelling protrudes outside the permitted building envelope where the envelope angles internally by 45 degrees (refer east elevation, sheet A16 - E).

- 8.5.5 As shown in figure 4 below, the proposed units will be located to the south and south east of existing dwellings at 16, 20 and 26 Calm Place.
- 8.5.6 Shadow diagrams (refer sheets A08E and A09E) submitted in support of the development application show that there will be no overshadowing impact on either habitable rooms or private open space of adjoining properties.
- 8.5.7 28 Calm Place will not experience an unreasonable loss of amenity, with the aforesaid diagrams showing that if any overshadowing of private open space is to occur, it will not be before 1.00pm on June 21.
- 8.5.8 The only adjoining vacant lots are the pedestrian walkway to the east of the site, and the Derwent River foreshore to the south of the site. Neither of which will suffer an unreasonable loss of amenity due to overshadowing impacts.
- 8.5.9 In respect to visual impacts, the site plan shows that the proposed units, whilst close together, have been slightly offset on the site to break up building mass. Further, a mix of materials are proposed with timber, stone, glass and lightweight cladding to comprise the exterior.
- 8.5.10 In addition, the landscaping plan proposes a mix of vegetation to be planted, including screening trees which will - once established - reduce the visual impact from adjoining properties. A condition requiring mature feature trees to be a minimum height at the time of planting is recommended to accelerate this outcome.
- 8.5.11 A representation has been received in relation to the species and anticipated height of the some of the screening trees. However, the vegetative screening will mitigate the visual bulk of the two storey dwellings. Following receipt of representations in relation to the height of some of the proposed trees, the applicants have agreed to include a condition requiring an alternative species grows to a maximum of 9m, rather than 12m.
- 8.5.12 Generally, Calm Place and surrounding streets appear to be characterised by minimal side boundary setbacks, whilst maintaining front and rear minimum setbacks as required. There are some exceptions to this, depending on lot shape. However, it is considered that given the size of the site, and proposed siting of the dwellings, the proposal is in keeping with separation distances evidenced within the surrounding area.
- 8.5.13 For the reasons set out above, the proposal is considered to meet the Performance Criteria contained in Section 10.4.2 P3.

8.6      **Discretion 2 – Section 10.4.3 A2 - Private Open Space**

8.6.1    The acceptable solution contained in Section 10.4.3 A2, which is in relation to a dwelling's area of private open space, requires:

*A dwelling must have an area of private open space that:*

- (a)    *is in one location and is at least:*
  - (i)    *24 m<sup>2</sup>; or*
  - (ii)   *12 m<sup>2</sup>, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and*
- (b)    *has a minimum horizontal dimension of:*
  - (i)    *4 m; or*
  - (ii)   *2 m, if the dwelling is a multiple dwelling with a finished floor level that is entirely more than 1.8 m above the finished ground level (excluding a garage, carport or entry foyer); and*
- (c)    *is directly accessible from, and adjacent to, a habitable room (other than a bedroom); and*
- (d)    *is not located to the south, south-east or south-west of the dwelling, unless the area receives at least 3 hours of sunlight to 50% of the area between 9.00am and 3.00pm on the 21st June; and*
- (e)    *is located between the dwelling and the frontage, only if the frontage is orientated between 30 degrees west of north and 30 degrees east of north, excluding any dwelling located behind another on the same site; and*
- (f)    *has a gradient not steeper than 1 in 10; and*
- (g)    *is not used for vehicle access or parking.*

8.6.2    The deck on the northern elevation of each of the units is identified as the private open space to be assessed against the standard. This area of private open space has a horizontal dimension of less than 4m.

8.6.3    As such, the application does not satisfy the Acceptable Solution contained in Section 10.4.3 A2, and the application invokes discretion and must be assessed against the corresponding Performance Criteria.

8.6.4 Section 10.4.3 P2 states:

*A dwelling must have private open space that:*

*(a) includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and that is:*

*(i) conveniently located in relation to a living area of the dwelling;  
and*

*(ii) orientated to take advantage of sunlight*

8.6.5 The total floor area of the north facing deck is 24sqm, which is accessible from the office (a habitable room as defined by the Planning Scheme) and is located within close proximity to the open plan living area contained on the first floor.

8.6.6 The north facing deck is 2.2m in width, which is considered sufficient to accommodate a small dining suite or outdoor furniture.

8.6.7 In addition, each unit has a south facing deck at ground level with a private lawn area (minimum of 60m<sup>2</sup>) for the exclusive use of the occupants of each dwelling. Further, there is a south facing balcony on the upper storey of each dwelling.

8.6.8 To further support the application, the applicant has also included in its landscaping plan two areas of outdoor space within the common areas which will be for the use of occupants, and which will provide communal outdoor areas with full access to sunlight throughout the day.

8.6.9 For the reasons set out above, the proposal is considered to meet the Performance Criteria contained in Section 10.4.3 P2.

8.7 **Discretion 3 – Section E5.6.4 A1 – Sight Distance at Accesses, Junctions and Level Crossings**

8.7.1 Section E5.6.4 A1 requires that the sight distance from an access be in accordance with the distances set out in Table E5.1. That table states that an area of with traffic speeds of 60kmh or less requires a sight distance of 80m. The sight distance for the access is less than that required by Table E5.1

8.7.2 As such, the application invokes discretion under this standard, and must be assessed under the corresponding Performance Criteria.

8.7.3 Section E5.6.4 P1 states:

*The design, layout and location of an access, junction or rail level crossing must provide adequate sight distances to ensure the safe movement of vehicles, having regard to:*

- (a) the nature and frequency of the traffic generated by the use;*
- (b) the frequency of use of the road or rail network;*
- (c) any alternative access;*
- (d) the need for the access, junction or level crossing;*
- (e) any traffic impact assessment;*
- (f) any measures to improve or maintain sight distance; and*
- (g) any written advice received from the road or rail authority.*

8.7.4 The proposal was referred to Council's Technical Officer, who has provided the following comment:

*The access is existing and located at the end of a cul-de-sac. Whilst the sight distance to the west may be marginally less than 80m, the road alignment and environment means actual vehicle speeds are likely to be less than 50km/h.*

*The sight distance also meets the more realistic figures listed in Australian Standard AS 2890 for a domestic access.*

8.7.5 It is therefore considered that the proposal is able to satisfy the Performance Criteria contained in Section E5.6.4 P1.

**8.8 Discretion 4 – Section E7.7.1 A2 – Stormwater Drainage and Disposal**

8.8.1 The proposal does not satisfy the Acceptable Solution contained in Section E7.7.1 A2 in relation to water sensitive urban design (WSUD). As such, the application invokes discretion, and must be assessed against the corresponding Performance Criteria.

8.8.2 Section E7.7.1 P2 states:

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

8.8.3 The application was referred to Council's Technical Officer, who has recommended standard conditions in relation to implementing WSUD or in the alternative, to make a financial contribution in accordance with Council Policy 6.1 "Interim Water Sensitive Urban Design Contributions".

8.8.4 It is considered that the Performance Criteria can be satisfied by imposing standard conditions on a permit, should the application be approved.

8.9 **Discretion 5 – Section E11.7.1 A1 – Buildings and Works within a Waterway and Coastal Protection Area**

8.9.1 Section E11.7.1 A1 states:

*Building and works within a Waterway and Coastal Protection Area must be within a building area on a plan of subdivision approved under this planning scheme.*

8.9.2 The application does not comply with the Acceptable Solution. As such, the application invokes discretion, and must be assessed against the corresponding Performance Criteria.

8.9.3 Section E11.7.1 P1 states:

*Building and works within a Waterway and Coastal Protection Area must satisfy all of the following:*

- (a) *avoid or mitigate impact on natural values;*
- (b) *mitigate and manage adverse erosion, sedimentation and runoff impacts on natural values;*
- (c) *avoid or mitigate impacts on riparian or littoral vegetation;*
- (d) *maintain natural streambank and streambed condition, (where it exists);*
- (e) *maintain in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;*
- (f) *avoid significantly impeding natural flow and drainage;*
- (g) *maintain fish passage (where applicable);*
- (h) *avoid landfilling of wetlands;*
- (i) *works are undertaken generally in accordance with 'Wetlands and Waterways Works Manual' (DPIWE, 2003) and "Tasmanian Coastal Works Manual" (DPIPWE, Page and Thorp, 2010), and the unnecessary use of machinery within watercourses or wetlands is avoided.*

- 8.9.4 The applicant provided an amended Coastal Vulnerability Assessment for the site dated January 2020, prepared by Geo-Environmental Solutions which addresses the requirements of the Waterway and Coastal Protection Code. That report forms part of the application documents.
- 8.9.5 GES' quantitative risk assessment at Appendix 4 of their report addresses each point of the Performance Criteria, and concludes that any risk in relation to development of the site within the Waterway and Coastal Protection Code is at the lower end of the scale. GES does recommend that a Soil and Water Management Plan (SWMP) be provided. A condition requiring the submission of a SWMP prior to the commencement of works to be approved by the Manager Development Services which shows that the works can be undertaken in a manner which complies with the PC as set out above.
- 8.9.6 As such, it is considered that the proposed development satisfies the Performance Criteria contained in Section E11.7.1 P1.

**8.10 Discretion 6 – Section E11.7.1 A2 – Buildings and Works within a Waterway and Coastal Protection Area**

- 8.10.1 The Acceptable Solution contained in Section E11.7.1 A2 is similar to that of E11.7.1 A1, in that building and works within a Future Coastal Refugia Area must be within a building area on a plan of subdivision approved under this planning scheme.
- 8.10.2 The application does not comply with the Acceptable Solution. As such, the application invokes discretion, and must be assessed against the corresponding Performance Criteria.
- 8.10.3 Section E11.7.1 P2 states:

*Building and works within a Future Coastal Refugia Area must satisfy all of the following:*

- (a) *allow for the landward colonisation of wetlands and other coastal habitats from adjacent areas;*
- (b) *not be landfill;*
- (c) *avoid creation of barriers or drainage networks that would prevent future tidal inundation;*
- (d) *ensure coastal processes of deposition or erosion can continue to occur;*
- (e) *avoid or mitigate impact on natural values;*
- (f) *avoid or mitigate impact on littoral vegetation;*

(g) *works are undertaken generally in accordance with 'Wetlands and Waterways Works Manual' (DPIWE, 2003) and "Tasmanian Coastal Works Manual" (DPIPWE, Page and Thorp, 2010).*

8.10.4 The GES report identifies existing saltmarsh communities between 0m AHD and 1.0m AHD, with a prediction that, by 2069, the saltmarsh is likely to have shifted to 1.35m AHD, and is "projected to extend onto the site and marginally within the building envelope area of unit 4 (beneath a fraction of the deck)". The assessment concludes that the "Unit 4 deck is unlikely to have any negative impact on migration of saltmarsh vegetation within the given timeframe".

8.10.5 GES' risk assessment determines that there is a low risk that the proposed development will inhibit natural inward colonisation, obstruct tidal flow, natural erosion or accretion, natural values or littoral vegetation, during the lifetime of the proposed development. The risk assessment also recommends that site works be undertaken generally in accordance with 'Wetlands and Waterways Works Manual' (DPIWE, 2003) and "Tasmanian Coastal Works Manual" (DPIPWE, Page and Thorp, 2010). A condition to this effect is recommended.

8.10.6 To further protect the Future Coastal Refugia Area as mapped and to allow the landward colonisation identified by the Waterway and Coastal Protection Code, it is considered prudent that conditions:

- requiring a Part 5 Agreement to be registered against the title to the effect that the site must not be obstructed through landscaping, fencing, retaining walls or any similar works without the approval of council's Manager Development Services; and
- That all excavated material created during construction, other than topsoil to be retained for landscaping, is to be removed from the site.

8.10.7 For the reasons set out above, the proposal is considered to meet the Performance Criteria contained in Section 11.7.1. P2.

8.11 **Discretion 7 - Section E15.7.1 A2 - Coastal Inundation High Hazard Areas**

8.11.1 The deck for Unit 4 will be within the high hazard area of the Inundation Prone Areas Code, as mapped by GES. The proposal is for the deck to be constructed with an independent structural system, separate from that of the dwelling. The deck will be classified independent as a separate class 10b structure.

8.11.2 There is no Acceptable Solution for non-habitable structures in a high hazard area. As such the application is discretionary, and must be assessed against the corresponding Performance Criteria.



8.11.3 Section E15.7.1 P2 states:

*P2 A non-habitable building, an outbuilding or a Class 10b building under the Building Code of Australia must satisfy all of the following:*

- (a) if an outbuilding, be a component of an existing dwelling;*
- (b) risk to users of the site, adjoining or nearby land is acceptable;*
- (c) risk to adjoining or nearby property or public infrastructure is acceptable;*
- (d) risk to buildings and other works arising from wave run-up is adequately mitigated through siting, structural or design methods;*
- (e) need for future remediation works is minimised;*
- (f) provision of any developer contribution required pursuant to policy adopted by Council for coastal protection works.*

*except if it is development dependent on a coastal location.*

8.11.4 The GES risk assessment has determined that the risk arising from Deck 4 being constructed within the high hazard band is low, given that the structure will be raised above the modelled inundation level for the building design life. That report recommends that “Footings are to be separate, and deck is not to be connected to the proposed unit 4 dwelling”.

8.11.5 A condition is recommended that building plans are to reflect the above, should the application be approved.

8.11.6 The application is considered to satisfy the Performance Criteria contained in Section E15.7.1 P2.

**8.12 Discretion 8 - Section E15.7.2 A1 - Coastal Inundation Medium Hazard Areas**

8.12.1 There is no Acceptable Solution in relation to habitable buildings sited in the medium hazard areas of the Inundation Prone Areas Code. As such, the application is discretionary, and must be assessed against the corresponding Performance Criteria.

8.12.2 Section E15.7.2 P1 states:

*A new habitable building must satisfy all of the following:*

- (a) *floor level of habitable rooms, and rooms associated with habitable buildings (other than a dwelling) that are either publically accessible, used frequently or used for extended periods, must be no lower than the Minimum Level for the Coastal Inundation Low Hazard Area in Table E15.1;*
- (b) *risk to users of the site, adjoining or nearby land is acceptable;*
- (c) *risk to adjoining or nearby property or public infrastructure is acceptable;*
- (d) *risk to buildings and other works arising from wave run-up is adequately mitigated through siting, structural or design methods;*
- (e) *need for future remediation works is minimised;*
- (f) *access to the site will not be lost or substantially compromised by expected future sea level rise either on or off-site;*
- (g) *provision of any developer contribution required pursuant to policy adopted by Council for coastal protection works;*

*except if it is development dependent on a coastal location.*

- 8.12.3 The habitable rooms for the proposed dwellings will all have a finished floor level (FFL) of 2.5m AHD, as required by Table E15.1
- 8.12.4 GES' report identifies that following detailed site survey, there is a "low risk of site coastal stillwater inundation or wave runup inundation which is likely to exceed the garage FFL of 2.1m AHD within the lifetime of the proposed development, in a 1% AEP scenario". There is no further management required by GES based on the submitted plans.
- 8.12.5 The garage is not considered to be a habitable room.
- 8.12.6 Considering the advice of GES, the risk to users of the site, adjoining land, nearby land, and to nearby property and public infrastructure is considered to be acceptable. Further, the risk to the building from wave run-up is also considered to be acceptable.
- 8.12.7 Access is not expected to be substantially compromised, and there is no identified need for future remediation works.
- 8.12.8 Council does not have a policy for a developer contribution for coastal protection works.

8.12.9 As such, the application is considered to satisfy the Performance Criteria contained in Section E15.7.2 P1.

**8.13 Discretion 9 – Section E15.7.3 A1 – Coastal Inundation Low Hazard Areas**

8.13.1 The garage of each unit has a FFL of 2.1m AHD. As such, the application does not comply with the Acceptable Solution contained in Section E15.7.3 A1.

8.13.2 The application is discretionary, and must be assessed against the corresponding Performance Criteria.

8.13.3 Section E15.7.3 P1 states:

*A new habitable building must satisfy all of the following:*

- (a) risk to users of the site, adjoining or nearby land is acceptable;*
- (b) risk to adjoining or nearby property or public infrastructure is acceptable;*
- (c) risk to buildings and other works arising from wave run-up is adequately mitigated through siting, structural or design methods;*
- (d) need for future remediation works is minimised;*
- (e) access to the site will not be lost or substantially compromised by expected future sea level rise either on or off-site;*
- (f) provision of any developer contribution required pursuant to policy adopted by Council for coastal protection works.*

8.13.4 Again, the GES report does not identify any risk associated with the construction of the non-habitable garage at 2.1m AHD.

8.13.5 As stated in Discretion 8 above, there is no identified need for remediation works; no substantial compromise to access to the site, and no Council policy relating to developer contribution.

8.13.6 The development is considered to satisfy the Performance Criteria contained in Section E15.7.3 P1.

**8.14 Discretion 10 – Section E15.7.5 A1 – Riverine, Coastal Investigation Area, Low, Medium and High Inundation Hazard Areas**

8.14.1 There is no Acceptable Solution for landfill or solid walls greater than 5m in length and 0.5m in height. As such, the application is discretionary, and must be assessed against the corresponding Performance Criteria.

8.14.2 Section E15.7.5 P1 states:

*Landfill, or solid walls greater than 5 m in length and 0.5 m in height, must satisfy all of the following:*

- (a) no adverse affect on flood flow over other property through displacement of overland flows;*
- (b) the rate of stormwater discharge from the property must not increase;*
- (c) stormwater quality must not be reduced from pre-development levels.*

8.14.3 The GES report notes that the site is within a low water current energy environment, where any stormwater discharge will not channelise flow and stormwater quality will not be reduced. The report assesses any risk as low and does not recommend any additional management measures.

8.14.4 The application documents show that stormwater is to be directed to existing stormwater infrastructure on the site.

8.14.5 It is considered that the proposed development will satisfy the Performance Criteria contained in Section E15.7.5 P1.

8.15 **Discretion 11 – Section E15.7.5 A2 – Riverine, Coastal Investigation Area, Low, Medium and High Inundation Hazard Areas**

8.15.1 There is no Acceptable Solution contained in Section E15.7.5 A2. The corresponding Performance Criteria states:

*Mitigation measures, if required, must satisfy all of the following:*

- (a) be sufficient to ensure habitable rooms will be protected from flooding and will be able to adapt as sea levels rise;*
- (b) not have a significant effect on flood flow.*

8.15.2 No mitigation measures are required. As such, the application satisfies the Performance Criteria.

8.15.3 Based on the expert advice of GES, in support of the application, it is considered that the proposal can satisfy the Performance Criteria contained in Code E15.0.

9 **Referrals**

9.1 Engineering

The application was referred to the Council's Technical Officer, who has provided comments, conditions and advice.

9.2 TasWater

The application was referred to TasWater, who have provided a Submission to Planning Authority Notice.

10 Concerns raised by representors

10.1 The application was advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993*.

10.2 Eight (8) representations were received when the application was originally advertised. However, due to amended drawings being received, it was necessary that the application be re-advertised. Council staff wrote to each of the representors advising them that the application was being re-advertised with new information. The representors were asked if they wanted their representation to stand or to provide an addendum. No response was received from five of the representors. The legal advice is that the original representations are not considered to be statutory representations, and are not to be considered by the Planning Authority.

10.3 Three (3) representations were received during the second statutory public advertising period. The concerns of the representors are summarised below:

<i>Concerns of Representor 1</i>	<i>Planning Response</i>
<p>1. <i>We request that council seek to outline the traffic management and risk management measures and provide a Traffic Impact Assessment to address these legitimate community concerns regarding increased traffic volume for Calm Place.</i></p>	<p>The proposal meets the acceptable solution for increased traffic at an existing access (&lt;40/day). The typical traffic generation for 4 x townhouses is known. The road is a low volume/low speed cul-de-sac. It would be unusual and unnecessary to undertake a TIA under such circumstances.</p>
<p>2. <i>We request council also seek to provide residents of Calm Place an outline to how the onsite management of trade workers vehicles would be organised to alleviate any further impacts on the street parking issues already suffered by residents in this area.</i></p>	<p>For such a small development with a short term construction period, it is not usual to require any specific management plan regarding construction vehicles and parking. Council Standard conditions prohibit use of public streets for construction work/storage. It is reasonable to assume that there will be a short-term increase in traffic/parking demand due to construction works.</p>

<p>3. <i>We object to multiple dwellings on this property as was originally two separate titles, and strongly object to double story multiple dwellings.</i></p> <p>4. <i>We request council consider the privacy concerns of adjacent landowners and the aesthetic values of all residents of Calm Place by either the reduction of the number of dwellings or by restricting the proposal to single level dwellings, as well as the variation to side and back setbacks to the public reservoir and walking pathways and the impact of this on the general public.</i></p> <p>5. <i>We ask council to consider the fact there are no double story homes on the foreshore for a number of kilometres in distance, in any direction, from this proposed development site. That maintaining single level dwellings along the foreshore is one of the key values of enjoyment and liveability for local residents that should be maintained.</i></p> <p>6. <i>We request council have the proponent address the natural, cultural and aesthetic values by an independent assessment.</i></p> <p>7. <i>That council consider the outcome of these assessments and any identified impacts and provide feedback to residents of Calm Place regarding the outcome of these assessments, including mitigation</i></p>	<p>Multiple Dwellings are a permitted use in the General Residential Zone of the Brighton Interim Planning Scheme 2015 (BIPS)</p> <p>The proposal satisfies the Acceptable Solutions for Privacy as required by the BIPS.</p> <p>Refer to Section 8.5 of this report for discussion regarding building envelope.</p> <p>The nearest two storey homes along the foreshore are approx. 560m west and 180m east (as the crow flies) from the subject site.</p> <p>There is no restriction in BIPS regarding construction of single or double storey dwellings. Refer to Clause 8.5 for discussion regarding building envelope.</p> <p>The site is not listed under the Tasmanian Heritage Register or Brighton Interim Planning Scheme in relation to European heritage. Whilst not required by the BIPS, an Aboriginal Heritage search for the site was undertaken. That search has not identified any registered Aboriginal relics or apparent risk of impacting Aboriginal relics. However, advice is to be included on any permit (if approved) as to</p>
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<p><i>measures to ensure there is no negative impact on these shared community values.</i></p> <p>8. <i>As residents of Calm Place, we would like to see the issue of wheelie bin storage and curb side placement of bins outlined in the site plan, this will allow us to provide council with an informed view on how this will affect our street.</i></p> <p>9. <i>We would like council to consider future flooding potentials with this block as an adjacent block the resident found it hard to insure as was in a flood zone and this block is at a higher level than theirs and council could be liable in the future.</i></p> <p>10. <i>We would like council to consider that along the foreshore area 1 klm each way there is no other double story properties. This would change the outlook of this area immensely do to very high roof lines and angles of the properties.</i></p>	<p>the applicant/ developer/property owner's obligations under the Aboriginal Heritage Act 1975 should aboriginal relics be uncovered.</p> <p>The application is for determination by Council at its meeting on 10<sup>th</sup> March 2020.</p> <p>Proposed conditions include construction of the footpath on the eastern side of the access to provide additional room for temporary placement of wheelie bins for collection.</p> <p>Numerous internal lots and/or units temporarily place bins on public streets for collection. Bins will be located on site in between collection days.</p> <p>The applicant supported its development proposal with a Coastal Vulnerability Assessment (refer to advertised documents) which in part assessed flood risk to the site. Please refer to clause 8.10.</p> <p>Insurance is not a planning consideration.</p> <p>See point 5 above.</p>
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<p>11. <i>We would like council to consider that the properties driveway access is directly opposite out house and the impact of headlights shining into our bedrooms as vehicles leave the property.</i></p>	<p>This is a common occurrence in an urban setting. There is nothing in BIPS that prohibits this occurrence.</p>
<p><b>Concerns of Representor 2 (summary)</b></p>	<p><b>Planning Response</b></p>
<p>The representor raises concerns in relation to:</p> <p>Increased traffic congestion, impact on traffic flow, amount of parking provided on site to accommodate for visitor parking, impact on curb side parking in the street, access to pedestrian walkways/footways, which are not located on “this side of the street”, and safety impacts for children in the area</p> <p>Proximity of visitor parking to dividing boundary and having an access which runs the full length of the boundary, and the ongoing traffic interference from noise and traffic flow beyond the reach of just the normal council road expectancy.</p> <p>The representor feels that the proposal will impact on liveability and enjoyment of the social and community spirit shared in our street. And that the level of increased vehicular activity will take away from the safe, family friendly environment and will impact on the safety of our children.</p> <p>This development is not in keeping with the original intent of the subdivision.</p>	<p>Refer to comments in representation 1.</p> <p>Subdivision was for creation of residential lots in the General Residential zone. The general residential zone permits multiple dwellings.</p> <p>Refer to comments in representation 1</p>



<p>Request for details regarding on-site management of trade works vehicles</p> <p>Council is requested to provide a pedestrian safe zone via the establishment of a walkway footpath for this area of Calm Place</p> <p>Assumption that given the site was initially two separate titles it was assumed that a single dwelling would be constructed. This was how 3 separate real estate companies interpreted the area and conveyed this to all three adjacent landowners, even as recently as 6 months ago. This is also the same information provided to many, if not all families who have purchased homes in this street.</p> <p>All 3 homes directly adjacent to the proposed development site were given the same information at the time of purchase that only single dwellings were allowed for the currently undeveloped foreshore titles. That no double storey developments were allowed and future impacts on the privacy of our homes or to the current outlook would not be likely. The current proposal will do both</p> <p>With each of the 4 double storey dwellings proposing a north facing balcony at 2.4m, we will have no location within our private back yard that will not be openly observed from these balconies. This is considerable impact on our privacy ...</p>	<p>Works are to comply with relevant WHS/OHS standards. There is an existing footpath on Calm Place. No footpath may be closed without the approval of council.</p> <p>The site is contained within one title. Multiple Dwellings are a permitted use within the General Residential zone of the BIPS.</p> <p>There are no dealings registered against the title restricting the construction of multiple dwellings or two storey dwellings on the title.</p> <p>The original planning permit does not restrict multiple dwelling lots.</p> <p>Refer to paragraph 8.6 for discussion regarding private open space.</p>
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<p>The proposal does not adequately provide private spaces in private yards. These private spaces area located by providing the private balconies. Indicating future residents of these dwellings will have only one option for private outdoor living, and this option will be at the cost of the privacy of adjoining residents.</p> <p>We object to multiple dwellings, ... is attempting to fit a maximum number of dwellings to maximise profit and gives very little thought to the community and surrounding residents. The multiple dwellings will block not only water views for many residents ... will impact on the water views and mountain views. Do not feel that this proposal fits with the intention of the subdivision, nor is it keeping in with the characteristics of the foreshore area of Old Beach.</p> <p>Council is requested to consider reducing the number of dwellings or reducing the proposal to single level dwellings</p> <p>Concerns with the proposed planting/landscaping of the site with the planting of a number of trees with a growth rate of 7-12m in height and 5 metre width, which will block any access to the natural and aesthetic values for the residents of Calm Place.</p>	<p>The proposal exceeds the minimum density requirements of the BIPS, which requires a minimum land area of 325sqm per dwelling, excluding access strip, and as such satisfies the acceptable solution</p> <p>Views are not a planning consideration.</p> <p>Council is required to assess the submitted application against the requirements of the Planning Scheme</p> <p>The proposed planting/ landscaping has been included to mitigate the visual bulk of the development. Refer to comments regarding building envelope in clause 8.5. BIPS does not address landscaping. The applicant has agreed to substitute an alternate species of feature tree which with a maximum height of 9m, rather than 12m.</p>
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<p>Council is requested to:</p> <p>Consider the fact that no other double storey buildings are situated in the forefront of the development footprint along the banks of the Derwent River in the region of Old Beach</p> <p>Consider the fact that there are no double storey homes on the foreshore for a number of kilometres in distance, in any direction, from this proposed development site</p> <p>As this is one of the key values of enjoyment and liveability for local residents that should be maintained. This proposal is not in line with the characteristics of the development of the foreshore areas of Old Beach</p> <p>The natural values of the foreshore are a big concern we do not feel these values have been addressed at all. The birdlife in this area particularly the Masked lapwings are fully protected under the Nature Conservation Act 2002 and Wildlife Regulations 1999. This proposal will impact on the nesting space available to the family groups of these birds permanently found in this general location. we request council provide an outline of how the natural values for these birds will be protected</p> <p>Others values of the area not addressed include Aboriginal cultural heritage .....</p> <p>Management of council services to the street, commonly rubbish removal and recycling. We raise concern with storage and accessibility to Council wheelie bins.</p>	<p>Refer to comments made for representation 1.</p> <p>A search of various layers within Listmap have not identified any mapped threatened fauna species on or near the site.</p> <p>Refer to comments made for representation 1.</p>
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<p>This is a considerable impact to the street where we already have a lack of curb side parking and we have not established footpath in which to position wheelie bins on collection day. Due to the lack of established footpaths neighbouring residents have well established gardens and well cared for gardens. While we understand the road reserve is council land these areas are maintained by homeowners and the placement of 8 bins in residents well cared for yard will undoubtedly lead to community unrest. We feel this should be dealt with in the development design and planning stage.</p>	<p>Refer to comments made in relation to representation 1.</p>
<p><b>Concerns of Representor 3</b></p>	<p><b>Planning Response</b></p>
<p><b>1.</b> <i>Double Storey. I object to this multiple dwelling proposal and very strongly object to the double stories with balconies on the north face overlooking my property. I am not against development but this proposed development is out of character with the existing foreshore developments.</i></p> <p><b>2.</b> <i>Privacy. This proposed development is directly behind and adjoining my property. The north facing balcony on unit 4 is sitting 2.4m off the ground and 6m from my boundary fence. This has been moved back 3 mt but still invades my privacy, there is not one inch of my back yard out of view of this balcony</i></p>	<p>Refer to comments made in relation to Representation 2</p> <p>Refer to paragraph 8.6 for discussion</p>

<p><i>allowing no privacy at all.</i></p> <p><i>This balcony also looks directly into my inside living area. If the balcony was to be made of opaque material this would at least give me privacy from people who are sitting on the balcony.</i></p> <p><b>3.</b> <i>Trade Vehicles. I am concerned regarding the management of trade vehicles while building takes place as to the impact on the street parking and lack thereof.</i></p> <p><b>4.</b> <i>Visitors car parking. I am concerned regarding visitors allocated parking spaces. I know this proposal meets regulations of 10 car spaces for the combined development but as 8 of these are garages leaving only 2 allocated places to cater for the visitors for 4 three-bedroom dwellings. 2 visitor car spaces to service 4 x 3 bedroom town house development is obviously inadequate and should be rectified now before building. If this meets regulations, then the regulations should be looked at now. The impact on street parking could greatly affect the already congested street parking due to cul-de-sac and inset blocks.</i></p> <p><b>5.</b> <i>12mt High Trees. I would like to see the garden in the north east corner of the block, (attached plan), adjoining the walkway and my back fence restricted to low level shrubs (fence height) as this would allow me to retain a slight chance of view if not of the river but the mountain and not be totally blocked in. At the</i></p>	<p>Refer to comments made in relation to representation 1</p> <p>The proposed total (10) and visitor (2) parking spaces meet the acceptable solution for BIPS for an internal lot.</p> <p>It is approximately 50m down a laneway from the street to the townhouses which may deter visitors from parking on the street.</p> <p>The large amount of concrete driveway may also permit some jockey or informal visitor parking.</p> <p>Refer to comments made in relation to representation 2.</p>
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<p><i>moment the proposed 12mt trees are totally inappropriate to this domestic site and waterfront area.</i></p> <p><b>6.</b> <i>Wheelie bins. I would like to see the issue of wheelie bin storage and curb side placement of bins outlined in the site plan. As there is only driveway access to this block 8 wheelie bins would impact on the street parking of this already congested cul-de-sac at bin pick up time.</i></p>	<p>Refer to comments made in relation to representation 1.</p>
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**11 Discussion**

- 11.1 There is a restrictive covenant on the title that relates to the finished floor level (FFL) of the dwelling.
- 11.2 The FFL for the habitable portions of the dwellings exceed 2.5m AHD, which also satisfies the restrictive covenant on the title.
- 11.3 The covenant also had a requirement for the owner of Lot 201 on the plan to not erect or permit to be erected a building or structure of any kind with a finished surface level below 1.67m AHD within the area marked ABCD on the plan.
- 11.4 The development satisfies this requirement.

**12 Conclusion**

- 12.1 The proposal is for four (4) Multiple Dwellings at Lot 201 Calm Place, Old Beach (the 'site'). The site is situated within the General Residential Zone of the Brighton Interim Planning Scheme 2015 (the 'Interim Scheme').
- 12.2 The key issues relate to building envelope, private open space, sight distances, the requirement for WSUD and addressing various overlays mapped across the site.

The proposal is considered to satisfy the requirements of the Brighton Interim Planning Scheme 2015, and as such, is recommended for approval subject to conditions.

**RECOMMENDATION:**

That: A. Pursuant to the *Brighton Interim Planning Scheme 2015*, Council approve DA 2019/00222 for Four (4) Multiple Dwellings in the General Residential Zone at Lot 201 Calm Place, Old Beach with the following conditions:

*General*

- (1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings, supporting reports and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) Plans submitted for approval pursuant to the Building Act 2016 must show that the Footings to the southern deck on unit 4 are to be separate from the dwelling and that the deck is not to be directly connected to the proposed unit 4 dwelling
- (3) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the Land Use Planning And Approvals Act 1993.

*Amenity*

- (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 southern private open space for each dwelling must be enclosed on the eastern and western sides by a 1.7m high privacy fence.
- (6) The south facing decks for each dwelling must be screened on the western side to a minimum height of 1.7m with no greater than twenty-five percent (25%) transparency.
- (7) The private open space must be formed or constructed to the satisfaction of Council's Manager Development Services before the use commences.

*Landscaping*

- (8) Before any work commences submit an amended landscape plan prepared by a suitably qualified person for approval by Council's Manager Development Services. The amended landscape plan must include:
  - (a) A survey of all existing vegetation to be retained and/or removed.
  - (b) An alternative species for "t6 Luscious" is to be planted in the northern and north eastern corners of the site, with a species that does not exceed 9m in height.

- (c) The areas to be landscaped, including landscaping along the access strip with planting to a maximum height of 1.5m.
  - (d) Feature trees (i.e. t6 Luscious) and alternative species where applicable must be a minimum of 1.5mH at the time of planting.
  - (e) Letterboxes
  - (f) Details of surface finishes of paths and driveways.
  - (g) Details of fencing.
  - (h) A planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
- (9) Planting must bear a suitable relationship to the proposed height of the buildings and must not use species listed as noxious weeds within Tasmania, displaying invasive characteristics or unsuitable for fire prone areas. If considered satisfactory, the landscape plan will be endorsed and will form part of this permit.
- (10) Prior to commencement of use, all trees and landscaping must be planted and installed in accordance with the approved Landscaping Plan to the satisfaction of the Council's Manager Development Services. Evidence showing compliance with this condition must be submitted to and approved by the Manager Development Services within 30 days of planting.
- (11) Replacement trees and landscaping in accordance with the approved Landscaping Plan must be planted if any is lost. All landscaping must continue to be maintained to the satisfaction of Council.

***Future Coastal Refugia Area***

- (12) All excavated material created during construction, other than topsoil to be retained for landscaping, is to be removed from the site.

***Agreements***

- (13) An agreement pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be entered into, prior to occupancy of any of the dwellings, to the effect that:
- a. the existing on site and any new stormwater treatment systems must be preserved to ensure quality is maintained and water is conveyed so as not to create any nuisance to adjacent properties.
  - b. the land adjoining the southern boundary of the site must not be obstructed through landscaping, fencing, retaining walls or any similar works without the approval of council's Manager Development Services.
- (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.



*Services*

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

*Parking and Access*

- (16) Parking and access must be generally in accordance with the approved plan and to the satisfaction of Council's Municipal Engineer.
- (17) At least ten (10) parking spaces must be provided on the land at all times for the use of the occupiers including at least two (2) car parking spaces per dwelling and at least two (2) designated for visitor parking, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (18) Unless approved otherwise by Council's Municipal Engineer the internal private driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and include all of the following:
- (a) A minimum trafficable width of 3.0m
  - (b) Passing Bays 5.5m wide x 6.0m long at the road and at maximum 30m spacing
  - (c) Constructed with a durable all weather pavement.
  - (d) Surfaced with concrete.
  - (e) Drained to an approved stormwater system.
- (19) 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.
- (20) A parking plan prepared and certified by a qualified civil engineer or other person approved by Council's Municipal Engineer must be submitted to Council prior to or in conjunction with lodgement of Building Application. The parking plan is to include:
- pavement details,
  - design surface levels and gradients,
  - drainage,
  - turning paths,
  - dimensions,
  - line marking,

- signage,
- pedestrian access,
- lighting

and shall form part of the permit when approved.

- (21) 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.
- (22) All areas set-aside for parking and associated turning, and access must be completed before the use commences and must continue to be maintained to the satisfaction of the Council's Municipal Engineer.

### **Roadworks**

- (23) The missing section of footpath between the site access and No. 26 Calm Place is to be constructed in accordance with TSD-R11-v1. The footpath is to assist with wheelie bin collection.
- (24) No works are to be undertaken within the Calm Place road reservation until written permission from Councils Development Engineering staff is obtained. Council is to inspect the footpath prior to the pouring of concrete.

### **Stormwater**

- (25) Drainage from the proposed development must drain to Council's piped stormwater system by gravity 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.
- (26) The Developer is to incorporate Water Sensitive Urban Design Principles into the development for the treatment and disposal of stormwater. These Principles will be in accordance with the Water Sensitive Urban Design Procedures for Stormwater Management in Southern Tasmania and to the satisfaction of the Council's Municipal Engineer.

Alternatively:

The developer may make a financial contribution to Brighton Council for the provision of stormwater treatment in accordance with Council Policy 6.1 Interim Water Sensitive Urban Design Contributions.

*Advice: A copy of Policy 6.1 Interim Water Sensitive Urban Design Contributions can be downloaded from Council's website.*

<https://www.brighton.tas.gov.au/wp-content/uploads/2019/05/Policy-6.1-Interim-Water-Sensitive-Urban-Design-Contributions.pdf>

- (27) 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;

- (28) The developer is to provide a major stormwater drainage system designed to accommodate a storm with an ARI of 100 years.
- (29) 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*.
- (30) Unless a WSUD contribution is made, prior to the commencement of works or the issue of a plumbing permit, detailed plans and calculations of the stormwater drainage system, including treatment, must be prepared by a suitably qualified civil engineer and be submitted to Councils Municipal Engineer for approval.
- (31) The completed stormwater treatment system must be certified by a practicing civil engineer to the effect that it has been constructed in accordance with the endorsed drawings and specifications approved by Council before the use commences.

***Soil and Water Management***

- (32) 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.
- (33) 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***

- (34) The use and/or development must comply with the requirements of TasWater, as detailed in the form Submission to Planning Authority Notice, Reference No TWDA2019/01541-BTN dated 29<sup>th</sup> October 2019, as attached to this permit.

***Construction amenity***

- (35) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Development Services:
  - Monday to Friday 7:00 a.m. to 6:00 p.m.
  - Saturday 8:00 a.m. to 6:00 p.m.
  - Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.
- (36) 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.
- (37) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
- (38) 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.
- (39) 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. Before commencing any works contact your private building surveyor to ascertain what approvals (if any) are required under the Building Act 2016.
- C. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.
- D. The issue of this permit does not ensure compliance with the provisions of the Threatened Species Protection Act 1995 or the Commonwealth Environmental Protection and Biodiversity Protection Act 1999. The applicant may be liable to complaints in relation to any non-compliance with these Acts and may be required to apply to the Threatened Species Unit of the Department of State Growth or the Commonwealth Minister for a permit.
- E. The issue of this permit does not ensure compliance with the provisions of the Aboriginal Relics Act 1975. If any aboriginal sites or relics are discovered on the land, stop work and immediately contact the Tasmanian Aboriginal Land Council and Aboriginal Heritage Unit of the Department of Premier and Cabinet. Further work may not be permitted until a permit is issued in accordance with the Aboriginal Relics Act 1975.
- F. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced.

Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

**DECISION:**

*Cr Whelan moved, Cr Murtagh seconded that pursuant to the Brighton Interim Planning Scheme 2015, Council refuse DA 2019/00222 for Multiple Dwellings (4 Units) the General Residential Zone at Lot 201 Calm Place, Old Beach for the following reasons:*

*The proposed development does not satisfy the Acceptable Solution contained in Section 10.4.2 A3, nor the corresponding Performance Criteria contained in Section 10.4.2 P3, specifically Section 10.4.2(a)(iv), in that the proposed development causes an unreasonable loss of amenity from visual impacts caused by the apparent scale, bulk and proportions of the dwelling when viewed from adjoining lots.*

**CARRIED**

**VOTING RECORD**

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

The meeting closed at 6.05pm.

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

Date: \_\_\_\_\_  
17<sup>th</sup> March 2020