



Brighton Council

MINUTES OF THE ORDINARY COUNCIL MEETING OF THE BRIGHTON COUNCIL HELD REMOTELY AT 5.30 P.M. ON TUESDAY, 19th MAY 2020

PRESENT: Cr Foster (Mayor); Cr Curran (Deputy Mayor); Cr Geard;
Cr Gray; Cr Jeffries; Cr Murtagh; Cr Owen and Cr Whelan.

IN ATTENDANCE: Mr Ron Sanderson (General Manager), Mr G Davoren (Deputy General Manager); Mr J Dryburgh (Chief Operations Officer); Mr H Macpherson (Municipal Engineer); Mr D Allingham (Manager Development Services) and Mrs J Banks (Governance Manager).

RECORDING OF COUNCIL MEETINGS DURING COVID-19

During the COVID-19 emergency, Council conducted its Ordinary Council Meetings using remote meeting technologies. An audio recording was made available to the public via Council's website, except for the part held in Closed Session.

NO PUBLIC ATTENDANCE AT THE COUNCIL MEETING

As this Council Meeting was being held remotely due to the COVID-19 emergency, public attendance at the meeting was not possible.

1. ACKNOWLEDGEMENT OF COUNTRY:

I'd like to begin by acknowledging the traditional owners of the land on which we meet today. I would like to pay my respects to Elders past, present and emerging and acknowledge the Aboriginal people present today.

2. CONFIRMATION OF MINUTES:

2.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 21 APRIL 2020:

Cr Geard moved, Cr Whelan seconded that the Minutes of the Ordinary Council meeting of 21st April 2020 be confirmed.

CARRIED

VOTING RECORD

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

3. APPLICATIONS FOR LEAVE OF ABSENCE:

Cr Jeffries moved, Cr Whelan seconded that Cr Garlick be granted leave of absence.

CARRIED

VOTING RECORD

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

4. PUBLIC QUESTION TIME AND DEPUTATIONS:

There was no questions from the public.

5. DECLARATION OF INTEREST:

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

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

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

Cr Owen declared an interest in Item 13.1

6. REPORTS FROM COUNCILLORS:

6.1 MAYOR'S COMMUNICATIONS:

Mayor Tony Foster provided a verbal update at the meeting.

DECISION:

Cr Owen moved, Cr Jeffries seconded that the report be received.

CARRIED

VOTING RECORD

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

6.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

Cr Geard advised that he recently attended a Tas Fire meeting in relation to the Volunteer stations.

DECISION:

Cr Jeffries moved, Cr Curran seconded that the report be received.

CARRIED

VOTING RECORD

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

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

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

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

7. NOTIFICATION OF COUNCIL WORKSHOPS:

In accordance with the requirements of Section 8(2)(c) of the Local Government (Meeting Procedures) Regulations 2015, it was reported that a workshop was held remotely on **Tuesday the 12th May at 4.30pm** to review Council's proposed **budget for 2020/21** financial year. Councillors in virtual attendance were:- Mayor Foster, Deputy Mayor Curran, Cr Gray, Cr Geard, Cr Owen, Cr Jeffries, Cr Murtagh, Cr Whelan and Cr Garlick.

8. NOTICES OF MOTION:

There were no notices of motion.

9. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:

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

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

RECOMMENDATION:

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

DECISION:

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

10. REPORTS FROM COMMITTEES:

There were no Committee meetings held in May.

Cr Owen moved, Cr Jeffries seconded that the Ordinary Council meeting be adjourned for the Planning Authority.

CARRIED

VOTING RECORD

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

Cr Gray took the Chair.

11. COUNCIL ACTING AS PLANNING AUTHORITY:

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 11 on this agenda, inclusive of any supplementary items.

11.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 DA 2020/076 - 18 MORRISON STREET, BRIGHTON OUTBUILDING:

Type of Report	Planning Authority – For Decision
Application No:	DA 2020/076
Address:	18 Morrison Street, Brighton
Proposal:	Outbuilding
Zone:	General Residential Zone
Representations:	One (1)
Discretions:	1. Building Envelope
Author:	Planning Officer (Jo Blackwell)

1. Executive Summary

- 1.1. Planning approval is sought for the development of an Outbuilding at 18 Morrison Street, Brighton (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.
- 1.3. The application has been advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993*. One representation was received during the public exhibition period.
- 1.4. The application is recommended for approval subject to conditions.
- 1.5. Due to the receipt of a representation 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 2020/76.
- 2.2. This determination must be made no later than 29 May 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.

3. Risk & Implications

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

4. Relevant Background

- 4.1. None relevant.

5. Site Detail

- 5.1. The site has a land area of 1042m². It has recently been developed by the construction of a dwelling on the site (DA 2018/158), with site inspection on 29th April 2020 indicating that the proposed dwelling is close to completion. Figure 1 identifies the subject site.



Figure 1: Site location – Source Google Earth Pro (Image taken 12/4/2019)

- 5.2. The site and surrounding land are located within the General Residential Zone of the Interim Scheme. Land located to further to the south and east is zoned Light Residential (see Figure 2).

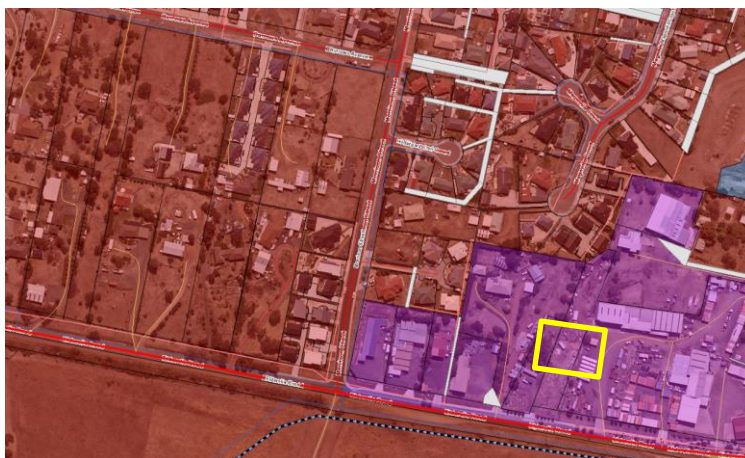


Figure 2: Locality and Zoning. Red = General Residential Zone, Pink = Light Industrial Zone. (source: Listmap)

- 5.3. The site falls to the south east corner of the site. There is no significant vegetation present on the site.

6. Proposal

- 6.1. The proposal is for an outbuilding to be constructed at the south eastern corner of the dwelling, approximately 9.2m from the northern boundary, 1.5m from the eastern (rear) boundary and 10.8m from the southern boundary.
- 6.2. The proposed outbuilding is to be constructed from Colourbond cladding in "Monument" (black), with dimensions being 7m x 6m x 4.788m.

7. Assessment

- 7.1. The *Brighton Interim Planning Scheme 2015* is a performance-based planning scheme.
- 7.2. To meet an applicable standard, a proposal must demonstrate compliance with either an Acceptable Solution or 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.

8. Assessment against planning scheme provisions

- 8.1. 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 7.0 – Stormwater Management Code

- 8.2. The existing use of the site is for a single dwelling. Dwelling is defined in clause 4.1 of the Planning Scheme as:

*dwelling means a building, or part of a building, used as a self-contained residence and which includes food preparation facilities, a bath or shower, laundry facilities, a toilet and sink, and **any outbuilding** [emphasis added] and works normally forming part of a dwelling.*

- 8.3. A single dwelling under the residential use class is identified by Table 10.2 of the Planning Scheme as No Permit Required.

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

Part D

- Section 10.4.2 A1 & A2 – Setbacks and Building Envelope (*excluding A3*)
- 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

Part E

- Section E7.0 – Stormwater Management Code

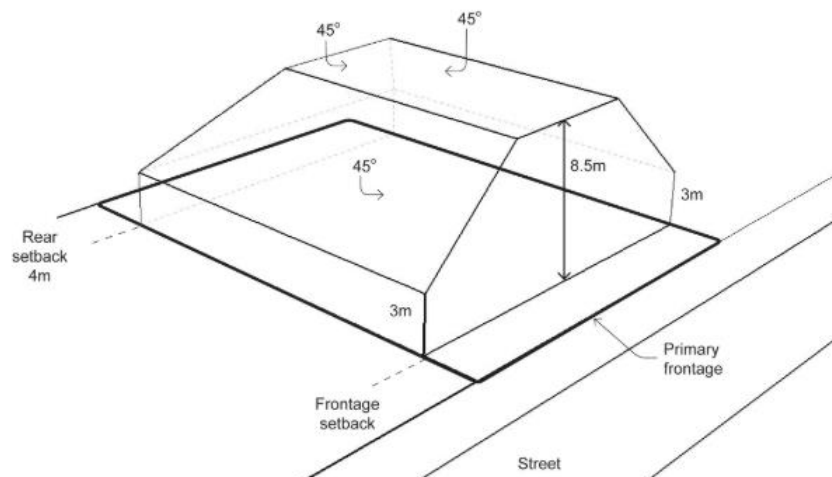
8.5. The following discretions are invoked by the proposal:

- Section 10.4.2 A3 – Building Envelope

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

8.6.1. 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 10.4.2A of the Interim Scheme, below:

Diagram 10.4.2A. Building envelope as required by subclause 10.4.2 A3 (a)



8.6.2. The proposal shows a rear setback of 1.5m. As such, the application invokes discretion under this standard, and the application must be assessed against the corresponding Performance Criteria.

8.6.3. 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.*

- 8.6.4. The application has been supported by shadow diagrams which indicate that the positioning of the outbuilding is not going to cause an unreasonable loss of amenity in relation to overshadowing private open space or habitable rooms on adjoining lots, nor will it result in an unreasonable reduction in sunlight to a habitable room (refer sheet P04).
- 8.6.5. In addressing visual amenity, the proposed outbuilding has a total building height at the ridgeline of 4.788m, approximately 1.5m higher than standard outbuildings.
- 8.6.6. A 1.7m high paling fence has been constructed along the boundary, and an excavation approximately 650mm - 700mm deep will be undertaken along the northern elevation of the outbuilding, reducing the height of the outbuilding above natural ground level at the northern end to 3.55m above natural ground level.
- 8.6.7. Council records indicate that a bedroom and the kitchen of the nearest dwelling on the adjoining lot face the proposed outbuilding. The orientation of the dwelling allows for views from the bedroom window to be directed north to north west, past the north eastern corner of the proposed outbuilding.
- 8.6.8. A small kitchen window of the adjoining lot will be facing directly to towards the outbuilding. It is downslope of the proposed garage, but set back from the dividing boundary approximately 3.5m.
- 8.6.9. Given the height of the proposed shed, and its proximity to the boundary, it is recommended that a condition be included for a landscaping plan to be submitted for approval showing planting and/or screening between the outbuilding and the eastern boundary, to soften the visual impact of the proposed outbuilding.
- 8.6.10. Clause 10.4.2 P3(b) of the planning scheme requires *separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area*. It is considered that the separation between dwellings is consistent with that prevailing in the area.
- 8.6.11. Accordingly, it is considered that the Performance Criteria can be satisfied.

9. Referrals

9.1. Engineering

The application was referred to the Council's Technical Officer, whose comments and conditions are included within the report.

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.** One (1) representation was received during the second statutory public advertising period. The concerns of the representors are summarised below:

<i>Concerns of Representor</i>	<i>Planning Response</i>
1. <i>Concerns that the building will not be erected in the proposed location</i>	The application must be assessed on the information provided. Should Council become aware that the building has been constructed in an alternative location, it will be dealt with pursuant to under s63 of LUPA
2. <i>Change of Plans from multiple dwelling to single dwelling</i>	This is not considered a planning consideration in relation to this application. However, by way of explanation, revised plans were received by Council which satisfied the use and development standards for the General Residential Zone, rendering the application as No Permit Required.
3. <i>Privacy and overlooking</i>	Please refer to Section 8.6 of this report.
4. <i>Loss of Sunlight / Overshadowing of neighbouring dwelling</i>	Please refer to Section 8.6 of this report.

11. Discussion

- 11.1.** The development application is for an outbuilding to be constructed outside of the permitted building envelope for the General Residential Zone
- 11.2.** The application is considered to satisfy the performance criteria, as set out in clause 8.6 above.

12. Conclusion

- 12.1.** The proposal is an outbuilding at 18 Morrison Street, Brighton (the 'site'). The site is situated within the General Residential Zone of the Brighton Interim Planning Scheme 2015 (the 'Interim Scheme').
- 12.2.** The proposal has been assessed against the relevant standards of the Brighton Interim Planning Scheme 2015, and is considered to perform

well. As such, is recommended for approval subject to conditions.

RECOMMENDATION:

That: A. Pursuant to the *Brighton Interim Planning Scheme 2015*, the Planning Authority approve DA 2020/076 for an Outbuilding in the General Residential Zone at 18 Morrison Street, Brighton, subject to 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 and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the Land Use Planning and Approvals Act 1993.

Amenity

- (3) 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.
- (4) The outbuilding is to be used for domestic storage only. It is not to be used for commercial, industrial or habitable purposes.

Landscaping

- (5) Before any work commences submit a landscape plan prepared by a suitably qualified person for approval by Council's Manager Development Services. The landscape plan must show landscaping or screening along the eastern boundary adjacent to the outbuilding. The landscape plan must include details of screening including 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. If considered satisfactory, the landscape plan will be endorsed and will form part of this permit.
- (6) Planting must bear a suitable relationship to the proposed height of the buildings. Any proposed trees must be a minimum of 1.5m high at the time of planting. Evidence showing compliance with this condition must be submitted to and approved by the Manager Development Services within 30 days of planting.
- (7) 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.

- (8) 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.

Services

- (9) 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

- (10) At least two (2) car parking spaces must be maintained on the land at all times for the use of the development, in accordance with Standards Australia (2004) Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (11) The internal 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 to the satisfaction of Council's Municipal Engineer, and must include all of the following;
- a) Constructed with a durable all weather pavement;
 - b) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material must be spray seal, asphalt, concrete or other approved material;
 - c) Drained to an approved stormwater system; and

Stormwater

- (12) Stormwater drainage from the proposed development must drain to a legal point of discharge to the satisfaction of Council's General Manager and in accordance with a Certificate of Likely Compliance or Plumbing permit issued by the Permit Authority in accordance with the Building Act 2016.

Soil and Water Management

- (13) Before any work commences install temporary run-off, erosion and sediment controls and maintain these 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.

Construction amenity

- (14) 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 10:00 a.m. to 6:00 p.m. holidays
- (15) 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.
- (16) 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.
- (17) 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.
- (18) 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. Please contact your private building surveyor to ascertain what approvals (if any) are required under the Building Act 2016.
- B. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- C. 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 Curran moved, Cr Geard seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Geard	

Cr Gray
Cr Jeffries
Cr Murtagh
Cr Owen
Cr Whelan

11.2 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 DA 2019/247 – SHOP 1, 28 STANFIELD DRIVE, OLD BEACH COMMUNITY MEETING AND ENTERTAINMENT (RESIDENTS’ CLUB ROOMS):

Type of Report	Planning Authority – For Decision
Application No:	DA 2019/247
Address:	Shop 1, 28 Stanfield Drive, Old Beach (i.e. the land contained in C/T 174199/3. Previously known as 24 Stanfield Drive, Old Beach, and also known as 1 Radius Drive, Old Beach)
Proposal:	Community Meeting and Entertainment (Residents’ Club Rooms)
Zone:	Particular Purpose Zone 3 (St Ann’s Precinct)
Representations:	Four (4)
Discretions:	<ol style="list-style-type: none">1. Number of Bicycle Parking Spaces2. Design of Vehicular Parking Spaces3. Layout of Parking Areas4. Landscaping of Parking Areas5. Design of Bicycle Parking Spaces
Author:	Planning Officer (Jo Blackwell)

1. Executive Summary

- 1.1.** Planning approval is sought for the construction of residents’ club rooms at St Ann’s Living, Shop 1, 28 Stanfield Drive, Old Beach (the ‘site’). The site is situated within the Particular Purpose Zone 3 – St Ann’s Precinct of the *Brighton Interim Planning Scheme 2015* (the ‘Interim Scheme’).
- 1.2.** The application invokes discretion under the Interim Scheme related to the Parking and Access Code.
- 1.3.** The application has been advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993*. Four (4) representations were received.
- 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 2019/247.
- 2.2. This determination must be made no later than 19th May 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.

3. Risk & Implications

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

4. Relevant Background

- 4.1. DA 2010/171 – 24 Stanfield Drive, Old Beach – Redevelopment (including General Retail and Hire, Community Services, Business and Professional Services and Residential. Approved by Council in November 2010.

5. Site Detail

- 5.1. The subject site is located at the southernmost point of Stanfield Drive, and has a land area of 7661m². It currently contains a commercial building which houses a coffee shop/cafe, a beautician, a hairdresser and an office space, and associated vehicle parking (refer figure 1).



Figure 1: Aerial imagery of subject site (Source: Listmap)

- 5.2. The site sits within Particular Purpose Zone 3 – St Ann’s precinct (PPZ3). The subject site is bordered on the east by the East Derwent Highway, which is zoned Utilities. All other adjoining land is zoned PPZ3 (refer figure 2). No mapped planning scheme overlays affect the site.

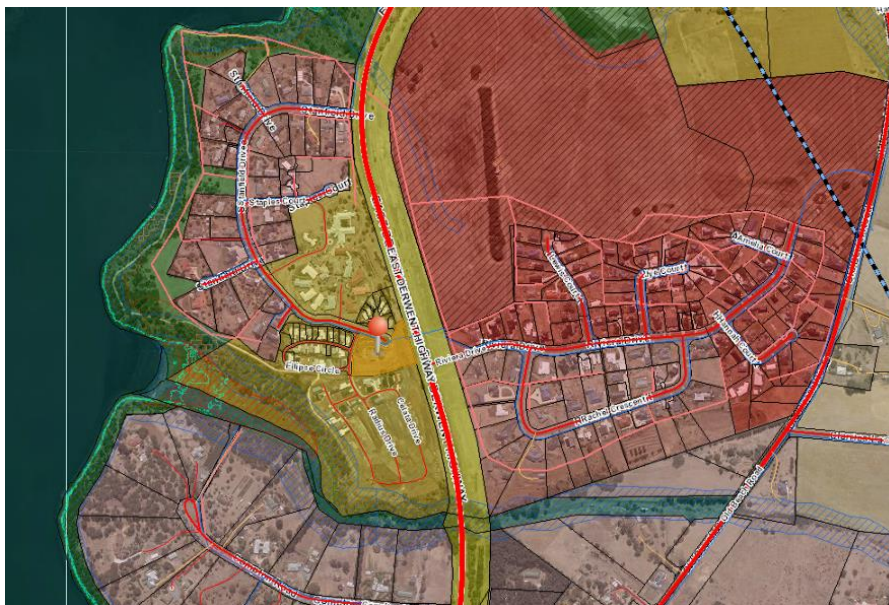


Figure 2: Zoning Map: Key: Yellow – PPZ3; Pink – Low Density Residential; Red – General Residential.

6. Proposal

- 6.1. The proposal is for a new building to house a residents' club rooms. The application indicates that the building will be approximately 23.5m in length and 12m wide. A kitchen, dining area, and lounge areas are proposed, as is an office room, storage and smaller multi-purpose room.
- 6.2. The proposed club house is to be situated 3.5m from the southern edge of the alfresco dining area of the existing café and approximately 7.3m south of the building.
- 6.3. An additional 17 car parking spaces, as required by Table 6.1 of the Parking and Access Code are to be constructed to the east of the existing and proposed development.

7. Assessment

- 7.1. The *Brighton Interim Planning Scheme 2015* is a performance-based planning scheme.
- 7.2. To meet an applicable standard, a proposal must demonstrate compliance with either an Acceptable Solution or 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.

8. Assessment against planning scheme provisions

- 8.1. The following provisions are relevant to the assessment of the proposed use and development:
 - Part D – Section 34.0 – Particular Purpose Zone 3 – St Ann's Precinct
 - 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
- 8.2. The proposed use is for Community Meeting and Entertainment, which pursuant to the Use Table in clause 34.2 is a permitted use within the zone.
- 8.3. The proposal is considered to satisfy the relevant Acceptable Solutions listed below:

Part D

- 34.3.1 Amenity
- 34.4.1 Building height
- 34.4.2 Setback
- 34.4.3 Design and Site Coverage
- 34.4.4 Private Open Space and Parking

Part E

- Section E5.0 - Road and Railway Assets Code
- Section E6.0 – Parking and Access Code (except: E6.6.4 A1; E6.7.2 A1; E6.7.5 A1; E6.7.8 A1; E6.7.10A1)
- Section E7.0 – Stormwater Management Code

8.4. The following discretions are invoked by the proposal:

- Section E6.6.4A1 – Number of Bicycle Parking Spaces
- Section E6.7.2 A1 – Design of Vehicular Access
- Section E6.7.5 A1 – Layout of Parking Areas
- Section E6.7.8 A1 – Landscaping of Parking Areas.
- Section E6.7.10 A1 – Design of Bicycle Parking Facilities.

8.5. **Discretion 1 – Section E6.6.3 A1 – Number of Bicycle Parking Spaces**

8.5.1. The Acceptable Solution states:

- *The number of on-site bicycle parking spaces provided must be no less than the number specified in Table E6.2.*

8.5.2. Table E6.2 provides that 1 employee/resident bicycle parking space is required for each 500m² of floor area. As the application states that the club rooms are to be used by residents only, there is no bicycle parking requirement for visitors to the site.

8.5.3. No bicycle parking spaces have been provided as part of the development. As such, the application is discretionary, and must be assessed against the corresponding Performance Criteria.

8.5.4. The Performance Criteria requires:

P1 The number of on-site bicycle parking spaces provided must have regard to all of the following:

- (a) the nature of the use and its operations;*
- (b) the location of the use and its accessibility by cyclists;*
- (c) the balance of the potential need of both those working on a site and clients or other visitors coming to the site.*

8.5.5. It is considered that the design of the building can accommodate bicycle parking, and that a condition should be included in any permit that a minimum of one bicycle parking space is provided for use by residents or employees of the site.

8.5.6. It is considered that the proposed development can satisfy the Performance Criteria with appropriate conditioning of the permit.

8.6. **Discretion 2 –E6.7.2 A1 Design of Vehicular Parking**

8.6.1. The Acceptable Solution requires that:

Design of vehicle access points must comply with all of the following:

- (a) in the case of non-commercial vehicle access; the location, sight distance, width and gradient of an access must be designed and constructed to comply with section 3 – “Access Facilities to Off-street Parking Areas and Queuing Areas” of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking;*
- (b) in the case of commercial vehicle access; the location, sight distance, geometry and gradient of an access must be designed and constructed to comply with all access driveway provisions in section 3 “Access Driveways and Circulation Roadways” of AS2890.2 - 2002 Parking facilities Part 2: Off-street commercial vehicle facilities..*

- 8.6.2.** The vehicle access to the proposed carpark from the existing 2-way carpark aisle is shown a minimum 4.1m and up to 4.5m wide. AS2890.1 identifies this space as a circulation roadway, which is defined at clause 1.3.9 (p7) of the Standard as:

A roadway within an off-street car park which is used solely for circulation and to gain access to parking aisles, and on which there is no parking.

- 8.6.3.** The development also proposes to relocate the existing loading zone to a vacant area at the end of the existing parking aisle.

- 8.6.4.** The proposed development does not comply with the Acceptable Solution and must be assessed against the corresponding Performance Criteria.

- 8.6.5.** The Performance Criteria requires that:

Design of vehicle access points must be safe, efficient and convenient, having regard to all of the following:

- (a) avoidance of conflicts between users including vehicles, cyclists and pedestrians;*
- (b) avoidance of unreasonable interference with the flow of traffic on adjoining roads;*
- (c) suitability for the type and volume of traffic likely to be generated by the use or development;*
- (d) ease of accessibility and recognition for users.*

- 8.6.6.** The application has been referred to Council’s Technical Officer for assessment. That officer makes the following comments:

AS2890.1 Figure 2.8 (a) requires 2-way circulation roadways to be a minimum of 5.5m wide for straight roadways and greater for curved roadways.

The objective of E6.7.2 is to ensure safe/efficient access for road users by locating, designing and constructing access points safely relative to the road network. The vehicle access point to the nearest private road is unchanged and the connection of this road to the nearest public road is also unchanged. Further,

The connection between the carparks is low speed. There is visibility from each end of the single lane circulation roadway. A separate footpath is being provided.

There is little risk of congestion on adjoining roads. The circulation roadway is 50m from a private road and another 50m from a public road.

The development is for internal residents only and light vehicles. It is claimed most patrons will walk to the facility i.e. there will be limited vehicle traffic.

8.6.7. Council's Technical Officer recommends that a condition requiring the implementation of a directional sign for residents to 'Community Club Rooms' or similar at the access from Radius Drive or the start of circulation roadway be included in any permit.

8.6.8. It is also recommended that a standard condition requiring access and parking to be in accordance AS2890.1 be included in the permit.

8.6.9. It is considered that, subject to appropriate conditioning of a permit, the proposal can satisfy the Performance Criteria.

8.7. Discretion 3 –E6.7.5 A1 Layout of Parking Areas

8.7.1. The Acceptable Solution requires:

The layout of car parking spaces, access aisles, circulation roadways and ramps must be designed and constructed to comply with section 2 "Design of Parking Modules, Circulation Roadways and Ramps" of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and must have sufficient headroom to comply with clause 5.3 "Headroom" of the same Standard.

8.7.2. The proposed development does not comply with the Acceptable Solution. As such, the application invokes discretion for this standard, and must be assessed against the corresponding Performance Criteria:

The layout of car parking spaces, access aisles, circulation roadways and ramps must be safe and must ensure ease of access, egress and manoeuvring on-site.

8.7.3. Please refer to the discussion in clause 8.6 above for consideration of the proposal regarding access and circulation.

8.7.4. It is considered, subject to appropriate conditioning of a permit, the development can satisfy the Performance Criteria.

8.8. Discretion 4 – E6.7.8 A1 Landscaping of Parking Areas

8.8.1. The Acceptable Solution requires:

Landscaping of parking and circulation areas must be provided where more than 5 car parking spaces are proposed. This landscaping must be no less than 5 percent of the area of the car park, except in the Central Business Zone where no landscaping is required.

8.8.2. The proposal does not show landscaping adjacent to the new parking area, which incorporates an additional 17 car parking spaces.

8.8.3. As such, the application does not comply with the Acceptable Solution, and the application must be assessed against the corresponding Performance Criteria, which states:

Landscaping of parking and circulation areas accommodating more than 5 cars must satisfy all of the following:

- (a) relieve the visual impact on the streetscape of large expanses of hard surfaces;*
- (b) soften the boundary of car parking areas to reduce the amenity impact on neighbouring properties and the streetscape;*
- (c) reduce opportunities for crime or anti-social behaviour by maintaining passive surveillance opportunities from nearby public spaces and buildings.*

8.8.4. Should the Planning Authority determine to approve the application, it is recommended that a condition be imposed on the permit that requires the preparation and submission of a landscaping plan.

8.8.5. Subject to the above, it is considered that the proposal can satisfy the performance criteria.

8.9. Discretion 5 – E6.7.10 A1 Design of Bicycle Parking Facilities

8.9.1. The Acceptable Solution requires

The design of bicycle parking facilities must comply with all the following;

- (a) be provided in accordance with the requirements of Table E6.2;*
- (b) be located within 30 m of the main entrance to the building.*

8.9.2. The proposed development does not comply with the Acceptable Solution, as bicycle parking has not been included in the proposal. As such the application is discretionary, and must be assessed against the corresponding Performance Criteria, which state:

The design of bicycle parking facilities must provide safe, obvious and easy access for cyclists, having regard to all of the following:

- (a) *minimising the distance from the street to the bicycle parking area;*
- (b) *providing clear sightlines from the building or the public road to provide adequate passive surveillance of the parking facility and the route from the parking facility to the building;*
- (c) *avoiding creation of concealment points to minimise the risk.*

8.9.3. It is considered that as part of the condition recommended in Section 8.5, that there be a requirement for bicycle parking space/s to be installed within 30m of the main entrance to the proposed club house, which will satisfy the Performance Criteria.

9. Referrals

9.1. Engineering

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

9.2. Environmental Health

The application was referred to the Council's Environmental Health Officer, who has provided conditions.

9.3. Department of State Growth

The application was referred to the Department of State Growth, but no response was received.

9.4. TasWater

The application was referred to TasWater, but no response was received.

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. Four (4) statutory representations were received. Two of the representations were supportive of the proposal, and two representations objected to the proposal. The representations are summarised below:

<i>Concerns of Representor 1</i>	<i>Planning Response</i>
I am looking forward to having the club rooms for gatherings, morning teas, film nights and many other activities.	Noted

<i>Concerns of Representor 2</i>	<i>Planning Response</i>
<p>There are 67 homes at St Ann's Living Lifestyle Village, with more than 100 residents. There is a need for the clubhouse to be built.</p> <p>Future development of the village comprises 43 allotments, which will see a further influx of residents.</p> <p>It is most important the clubhouse receive planning approval and building starts as soon as possible to allow residents an opportunity to socialise and meet in a purpose-built facility.</p>	Noted
<i>Concerns of Representor 3</i>	<i>Planning Response</i>
Separation distance between existing café and proposed building	The Particular Purpose Zone for St Ann's (PPZ) does not include development standards for separation distances.
New building will overshadow the café dining area and outside eating area	The new building is located to the south of the existing building.
<p>Only 1 entry/exit door attached to a ramp;</p> <p>Ramp is not suitable for free access by stretchers or electric wheelchairs;</p> <p>Fire Safety requirements.</p>	This is dealt with under the Building requirements, and is not a planning consideration
Lighting on the walking path to the roadside pathways required.	A condition is recommended to be included on the permit requiring suitable lighting.
Differing types of facades	This is not a planning consideration.
Need for landscaping plan.	Refer to Section 8.8 of this report.
Proposal plans exclude reference to a boom gate	No boom gate is shown in the application documents that will form part of any approved permit.

Proposal has no emergency management plans, no evacuation plan and is reliant on community systems	This is dealt with under the Building requirements, and is not a planning consideration.
No consideration of the values of older residents, limited consultation and residential participation	Council has undertaken its statutory consultation, as provided for by the <i>Land Use Planning and Approvals Act 1993</i> . The level of consultation between property owner and occupants is a separate matter.
Concerns of Representor 4	Planning Response
Environmental Impact – Block out views of Mount Wellington; Proposed building height.	The proposal satisfies the acceptable solution in relation to building height, and is therefore deemed to comply with the relevant standard.
Screening, and siting of the proposed building	There are no requirements in the PPZ to provide separation between buildings. It is recommended, however, that a condition be included in any permit that a landscaping plan be submitted for approval which will assist in reducing visual impact.
Recommendation that the building and carpark be swapped around.	The proposal satisfies the acceptable solution for setback for the PPZ. Council is obliged to assess the application based on the information provided to it
Installation of a boom gate	No boom gate is shown in the application documents that will form part of any approved permit.

Loading Bay Relocation	The business served by the loading bay is modest in size and would require limited deliveries. The delivery vehicle is also expected to occupy the turning area for a short duration only. Indeed AS2890.2 Section 3.2 permits (subject to the relevant authority)manoeuvring on a public street to service businesses. A low speed private carpark presumably presents a lower risk. A separate footpath has also been proposed that will presumably reduce pedestrians accessing via the carpark.
Demolition of concrete access/delivery pathway	It is not clear in the application documents if the existing loading access will remain – although it is expected it would. Recommended conditions include preserving access.

11. Discussion

- 11.1. The proposal is for the construction of Community Meeting and Entertainment, being a residents' club rooms.
- 11.2. Discretions arise in relation to the Parking and Access Code.
- 11.3. It is considered that the proposal can satisfy the performance criteria in relation to the discretions identified, as set out in the assessment above.

12. Conclusion

- 12.1. The proposal is for a Community Meeting and Entertainment at Shop 1, 28 Stanfield Drive, Old Beach (the 'site'). The site is situated within the Particular Purpose Zone 3 – St Ann's Precinct of the *Brighton Interim Planning Scheme 2015* (the 'Interim Scheme').
- 12.2. The key issues relate to parking and access.
- 12.3. The proposal has been assessed against the relevant standards of the Brighton Interim Planning Scheme 2015, and is considered to perform well. As such, the proposed development is recommended for approval, subject to conditions.

RECOMMENDATION:

That: A. Pursuant to the *Brighton Interim Planning Scheme 2015*, the Planning Authority approve DA 2019/247 for Community Meeting and Entertainment in the Particular Purpose Zone 3 – St. Ann's Precinct at Shop 1, 28 Stanfield Drive, Old Beach, subject to 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 and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the Land Use Planning and Approvals Act 1993.

Use

- (3) The proposed development is approved for the sole use of residents of the adjacent Retirement Village. The development is not permitted to be open nor accessible to the general public without separate planning approval.

Amenity

- (4) The proposed colours and materials for the walls and roof as shown on Elevation Plan – Drawing no. 04 are approved. Any variation in the colours and materials must be submitted to and approved by the Council's Manager Development Services.
- (5) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Manager Development Services.

Landscaping

- (6) Before any work commences submit a landscape plan prepared by a suitably qualified person for approval by Council's Manager Development Services. The landscape plan must include:
 - (a) A survey of all existing vegetation to be retained and/or removed.
 - (b) Details of surface finishes of paths and driveways.
 - (c) Lighting along pedestrian pathways between the proposed building and Radius Drive.
 - (d) 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.
 - (e) Landscaping and planting within all open areas of the site.

Once approved, the landscaping plan will form part of the permit, and must be adhered to.

- (7) 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.

- (8) 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.
- (9) 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.

Services

- (10) 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

- (11) Parking and access must be generally in accordance with the approved plans and to the satisfaction of Council's Municipal Engineer.
- (12) At least seventeen (17) parking spaces must be provided on the land at all times for the use of the development, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (13) At least one (1) bicycle parking space must be provided within 30m of the building access at all times for the use of the development.
- (14) 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 Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking and AS 2890.2 - 2002 - Parking Facilities Part 2: Off Street Car Street Commercial Vehicle Facilities and include all of the following:
 - (a) Constructed with a durable all weather pavement.
 - (b) Surfaced with concrete, asphalt or spray seal.
 - (c) Drained to an approved stormwater system.
- (15) 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.
- (16) 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 – including directional sign for residents to ‘Community Club Rooms’ or similar at the access from Radius Drive or the start of circulation roadway
- pedestrian and loading access – including preserving access to existing businesses,
- lighting - including the pedestrian path
- bicycle parking within 30m of the building access.

Once approved, the certified parking plan shall form part of this permit and must be adhered to.

- (17) 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.
- (18) A sign directing residents to the club rooms must be installed either at the site entrance on Radius Drive, or at the commencement of the circulation roadway.
- (19) 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.

Stormwater

- (20) Drainage from the proposed development must drain to the legal discharge point 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.
- (21) 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.

Advice: The carpark may drain directly to the existing open drain subject to submission of a drainage plan from a civil engineer demonstrating suitable WSUD measures are included in the drain.

- (22) The developer must provide a minor stormwater drainage system designed to comply with all of the following:

Ordinary Council Meeting

19/05/2020

- a) be able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed;
 - b) stormwater runoff will be no greater than pre-existing runoff or any increase can be accommodated within existing or upgraded public stormwater infrastructure
- (23) The completed stormwater treatment systems, detention and outfalls must be certified by a practicing civil engineer to the effect that they have been constructed in accordance with the endorsed drawings and specifications approved by Council before the use commences.

Soil and Water Management

- (24) 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.
- (25) 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

- (26) The use and/or development must comply with the requirements of TasWater, as detailed in the form Submission to Planning Authority Notice, Reference No TWDA 2019/01716-BTN dated 15th May 2020, as attached to this permit.

Environmental Health

- (27) No food is to be manufactured or sold from the venue without the separate approval of Council's Environmental Health Officer.

Advice: The plans show that a new kitchen is to be constructed as part of the works. The application has specifically identified that at no stage will food be manufactured/sold from this venue. If it is proposed to undertake this activity in the future, the premises will require substantial additional works to permit this under the Building Code H102, and a food license will be required under the Food Act 2003.

The manufacture or sale of food without the necessary approvals from this location will result in Council having to take immediate regulatory action.

Construction amenity

- (28) 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.
- (29) 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.
- (30) 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.
- (31) 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.
- (32) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.
- C. The issue of this permit does not ensure compliance with the provisions of the Commonwealth Disability Discrimination Act 1992 in relation to access to or use of premises that the public can enter or use. Building access issues may also arise under other Disability Discrimination Act 1992 provisions relating to employment, access to services and accommodation provisions. The operator may be liable to complaints in relation to any non-compliance with the Disability Discrimination Act 1992.

There are currently no standards prescribed for compliance with the Disability Discrimination Act 1992, however, Australian Standards associated with the Act, including AS 1428.1-2001 - Design for access and mobility - General requirements for access - New building work and the Building Code of Australia

(BCA) may apply to occupants of the building. It is recommended that you obtain further information concerning the Disability Discrimination Act 1992 from the Office of the Human Rights and Equal Opportunities Commission or the Tasmanian Anti-Discrimination Commission.

- D. 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 Foster seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

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

11.3 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – SA 2020 / 003 – 221 BASKERVILLE ROAD, OLD BEACH SUBDIVISION (1 LOT PLUS BALANCE):

Type of Report	Planning Authority – For Decision
Author	Richard Cuskelly (Planning Officer)
Application No:	SA 2020 / 003
Address:	221 Baskerville Rd, Old Beach
Applicant:	Rogerson & Birch Surveyors
Proposal:	Subdivision (1 lot plus balance)
Zone:	Rural Living (C)
Representations:	One (1)
Discretions:	<ol style="list-style-type: none">1. Subdivision2. Building Area3. Frontages4. Internal Lot5. Ways and Public Open Space

6. Wastewater Treatment
7. Stormwater Management
8. Waterway Protection Area (Subdivision)

1. Executive Summary

- 1.1. Approval is sought for a one (1) lot plus balance subdivision at 221 Baskerville Rd, Old Beach. A new internal lot is proposed behind the existing homestead.
- 1.2. All subdivision applications are discretionary under the Brighton Interim Planning Scheme 2015. This application also relies on meeting several Performance Criteria.
- 1.3. The application was subject to a period of statutory public notification. One (1) representation was received.
- 1.4. The proposal is recommended for approval, subject to conditions.
- 1.5. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period for the development application.

2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application SA 2020 / 003.
- 2.2. This determination must be made no later than 26 May 2020, which has been extended beyond the statutory timeframe with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (LUPAA). The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4. This report details the reasons for the officer's recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

3. Risk & Implications

- 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.

4. Relevant Background and Past Applications

- 4.1. None relevant.

5. Site Detail

- 5.1. 221 Baskerville Rd ('the site') is 4.02ha in area and situated at the end of a small gravel offshoot road of Baskerville Rd. The road is public Council-maintained and currently serves eight dwellings and one farm.
- 5.2. The site has one approximately 40m wide frontage to Baskerville Rd, slopes at an average of 1:7 down to the north-west and is affected by a Wayleave Easement and a Right of Way.
- 5.3. The site shares an access to Baskerville Rd with adjoining 221A Baskerville Road and has a Right of Way over the end of No. 221A's gravel access strip. The shared access is initially sealed. The internal driveways to the existing dwelling are sealed but in poor condition.
- 5.4. The site is not serviced by public water, stormwater or sewer infrastructure.
- 5.5. The site is split into three paddocks and a house yard around the existing dwelling. The two southern paddocks are currently grazed with predominantly short cropped pasture, while the northern paddock is covered with native grasses. Trees (typically regeneration/ pioneer species) also scatter the site (see Figure 1).



Figure 1. Aerial image

- 5.6. The site and surrounding parcels to the east are zoned Rural Living (Area C). Adjoining land to the west is zoned Rural Resource. A watercourse, including several dams, dissects the site – hence the Waterway and Coastal Protection Area Overlay (see Figure 2).



Figure 2. Planning Scheme Map (Pink = Rural Living (C); Brown = Rural Resource; Blue Hatch = Waterway and Coastal Protection Area)

6. Proposal

- 6.1. The proposal is one (1) new internal lot plus balance subdivision. The new internal lot is 2ha.
- 6.2. A 6m wide access strip is proposed for the new internal lot. This will require rights to the flared Right of Way at the road reserve boundary. The internal driveway surface is proposed to be gravel.
- 6.3. The application is supported by the attached Plan of Subdivision, Bushfire Hazard Management Report and Plan, and associated engineered servicing plans.

Assessment

- 6.4. The *Brighton Interim Planning Scheme 2015* is a performance-based planning scheme.
- 6.5. To meet an applicable standard, a proposal must demonstrate compliance with either an acceptable solution or a performance criterion. Where a proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to refuse the proposal relates only to the performance criteria relied upon.

7. Assessment against planning scheme provisions

- 7.1. The following provisions are relevant to the proposed use and development;
- 7.1.1. Part C – Clause 9.7 - Subdivision
 - 7.1.2. Part D – Clause 10 – Rural Living Zone (Area C)
 - 7.1.3. Part E – Clause 1 – Bushfire-Prone Areas Code
 - 7.1.4. Part E – Clause 11 – Waterway and Coastal Protection Code
- 7.2. The proposal is considered to satisfy the following applicable Acceptable Solutions (AS):
- 7.2.1. Lot size - 13.5.1 A1
 - 7.2.2. Setback from a new boundary for an existing building – 13.5.1 A5
 - 7.2.3. No new roads – 13.5.2 A1
 - 7.2.4. Water supply – 13.5.4 A1
 - 7.2.5. Bushfire-Prone Areas Code – E1.6
- 7.3. The following discretions are invoked and are discussed in more detail below:
- 7.3.1. Subdivision – C9.7
 - 7.3.2. Building Area – 13.5.1 P2
 - 7.3.3. Frontage – 13.5.1 P3
 - 7.3.4. Internal Lot – 13.5.1 P4
 - 7.3.5. Ways and Public Open Space – 13.5.3 P1 & P2
 - 7.3.6. On-Site Wastewater Treatment - 13.5.4 P2
 - 7.3.7. On-Site Stormwater Management - 13.5.4 P3
 - 7.3.8. Waterway and Coastal Protection Code - E11.8.1 P1
- 7.4. **Discretion 1 - Subdivision (C9.7.2)**
- 7.4.1. All applications for subdivision are discretionary under clause 9.7.2 and must satisfy the Rural Living Zone purpose:
- 13.1.1 *Zone Purpose Statements*
 - 13.1.1.1 *To provide for residential use or development on large lots in a rural setting where services are limited.*

13.1.1.2 To provide for compatible use and development that does not adversely impact on residential amenity.

13.1.1.3 To provide for agricultural uses that do not adversely impact on residential amenity.

13.1.1.4 To facilitate passive recreational uses that enhance pedestrian, cycling and horse trail linkages.

13.1.1.5 To avoid land use conflict with adjacent Rural Resource or Significant Agriculture zoned land by providing for adequate buffer areas.

7.4.2. The proposal does not conflict with the above zone purpose statements, as such, is considered to satisfy the standard.

7.5. Discretion 2 – Building Area (13.5.1 P2)

7.5.1. The Acceptable Solution (AS) requires:

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

(a) clear of the frontage, side and rear boundary setbacks;

(b) not subject to any codes in this planning scheme;

(c) clear of title restrictions such as easements and restrictive covenants;

(d) has an average slope of no more than 1 in 5;

(e) has a separation distance no less than:

(i) 100 m from land zoned Rural Resource;

(ii) 200 m from land zoned Significant Agriculture;

(f) has a setback from land zoned Environmental Management no less than 100 m.

(g) is a minimum of 30 m x 30 m in size.

7.5.2. It is possible to locate a 30m x 30m building area on the new internal lot that complies with the above except for (e)(i): 100 m from land zoned Rural Resource. Therefore, assessment must occur against the corresponding Performance Criteria (PC).

7.5.3. The PC states:

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

(a) is reasonably capable of accommodating residential use and development;

(b) meets any applicable standards in codes in this planning scheme;

(c) enables future development to achieve reasonable solar access, given the slope and aspect of the land;

(d) minimises the requirement for earth works, retaining walls, and cut & fill associated with future development;

(e) is sufficiently separated from the land zoned Rural Resource and Significant Agriculture to prevent potential for land use conflict that would fetter non-sensitive use of that land, and the separation distance is no less than:

(i) 40 m from land zoned Rural Resource;

(ii) 80 m from land zoned Significant Agriculture;

(f) is setback from land zoned Environmental Management to satisfy all of the following:

(i) there is no significant impact from the development on environmental values;

(ii) the potential for the spread of weeds or soil pathogens onto the land zoned Environmental Management is minimised;

(iii) there is minimal potential for contaminated or sedimented water runoff impacting the land zoned Environmental Management;

(iv) there are no reasonable and practical alternatives to developing close to land zoned Environmental Management.

7.5.4. The approximate building area shown in Figure 3 below shows an area capable of residential development that:

- is clear of Code overlays,
- can achieve reasonable solar access,
- minimises earthwork requirements compared to other locations on the site,
- is a suitable distance (over 40m) to act as a buffer between the adjoining agricultural activity on the adjoining Rural Resource zoned 219 Baskerville Rd property, and
- is setback 900m+ from the nearest Significant Agriculture or Environmental Management zoned land.



Figure 3. Indicative building area considered to meet 13.5.1 P2.

7.5.5. The area shown above accords with the development area recommendations of the attached Bushfire Hazard Management Plan.

7.5.6. The application is considered to meet the PC.

7.6. Discretion 3 – Frontages (13.5.1 P3)

7.6.1. The AS states that the frontage for each lot must be no less than 40m (unless an internal lot – see 8.7).

7.6.2. The proposal reduces the frontage of the balance lot from 41.23m to 35.23m, therefore must satisfy the corresponding PC:

P3 – The frontage of each lot must provide opportunity for reasonable vehicular and pedestrian access and must be no less than 6m.

7.6.3. Both lots are no less than 6m and provide opportunity for reasonable vehicular and pedestrian access

7.6.4. The application is considered to meet the PC.

7.7. Discretion 4 – Internal Lot (13.5.1 P4)

7.7.1. The AS states

No lot is an internal lot.

7.7.2. The proposed new lot is internal. Therefore, it must satisfy the corresponding PC:

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

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

j) *the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.*

- 7.7.3. Access is from Baskerville Road, which is an existing road.
- 7.7.4. It would be considered unreasonable in this instance to require a new road to service one new lot. The existing homestead, vegetation and watercourse means that the internal lot layout is the only reasonable way to subdivide the rear of the lot.
- 7.7.5. By creating a lot that can be developed leads to the more efficient utilisation of Rural Living Zone land.
- 7.7.6. It is likely that the future dwelling will be setback a minimum of 80m from the nearest residences, and will not encroach of the existing residential amenity due to the screening provided by the vegetation.
- 7.7.7. Access is provided by an access strip of at least 3.6m in width. Passing bays are provided for in the Bushfire Hazard Management Plan. The access strip is adjacent to one other, being that of 221A Baskerville Road.
- 7.7.8. The sealing of the internal access strip (approximately 160m in length) is considered practically unreasonable in this case where the existing access road is unsealed and currently in a condition requiring safety improvements. It is recommended, rather, to:
- condition for the new internal access to be sealed where it is shared with Lot 1 and otherwise surfaced with a material to resist abrasion from traffic and to minimise the entry of water, and
 - condition for a financial contribution of \$5000.00 be made to Council by the subdivider toward the widening of the road at the crest on the gravel section of Baskerville Road (prior to the sealing of a final plan of subdivision).
- 7.7.9. Draft permit conditions 28 and 30 reflect this. It should also be noted Tasmanian Standard Drawing TSD-R03-v1 – Rural Roads – Typical Property Access permits unsealed accesses where the road is unsealed.
- 7.7.10. The proposal is considered to meet the PC.

7.8. Discretion 5 – Ways and Public Open Space (13.5.3 P2)

- 7.8.1. There is no AS for this standard. As such, the application is discretionary and must be assessed against the relevant Performance Criteria, which states:
- Public Open Space must be provided as land or cash in lieu, in accordance with the relevant Council policy.*
- 7.8.2. The application is considered to meet the PC, subject to conditioning of the permit should the Planning Authority determine to approve the application.

7.9. Discretion 6 – Wastewater (13.5.4 P2)

7.9.1. There is no AS for this standard.

7.9.2. Therefore, the proposal must satisfy the corresponding PC:

P2 – Each lot must be capable of accommodating an on-site wastewater treatment system adequate for the future use and development of the land.

7.9.3. The site is 2ha which is ample to provide for a future residential-scale on-site wastewater system.

7.9.4. The application is considered to meet the PC.

7.10. Discretion 7 – Stormwater (13.5.4 P3)

7.10.1. The AS states - *Each lot must be connected to a stormwater system able to service the building area by gravity.*

7.10.2. A suitable public system is not available to the site nor practical. Therefore, the proposal must satisfy the corresponding PC:

P2 – Each lot must be capable of accommodating an on-site stormwater management system adequate for the future use and development of the land.

7.10.3. The site is 2ha which is ample to provide for a future residential-scale on-site stormwater management system.

7.10.4. The application is considered to meet the PC.

7.11. Discretion 8 – Waterway and Coastal Protection Code Subdivision Standards (E11.8.1 P1)

7.11.1. The AS states:

A1 – Subdivision of a lot, all or part of which is within a Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area must comply with one or more of the following:

(a) be for the purpose of separation of existing dwellings;

(b) be for the creation of a lot for public open space, public reserve or utility;

(c) no works, other than boundary fencing works, are within a Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area;

(d) the building area, bushfire hazard management area, services and vehicular access driveway are outside the Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area.

7.11.2. The application does meet the above, therefore must satisfy the corresponding PC:

P1 – Subdivision of a lot, all or part of which is within a Waterway and

Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area, must satisfy all of the following:

- (a) minimise impact on natural values;*
- (b) provide for any building area and any associated bushfire hazard management area to be either:*
 - (i) outside the Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area; or*
 - (ii) able to accommodate development capable of satisfying this code.*
- (c) if within a Potable Water Supply Area, be in accordance with the requirements of the water and sewer authority.*

- 7.11.3. The proposed access crosses the watercourse at its upper end in an area relatively clear of vegetation. The location of the required crossing minimises natural values impact.
- 7.11.4. The bushfire hazard management area is shown in a location where no clearing or modification is required within the Waterway Protection Area overlay as shown in Figure 2 above.
- 7.11.5. Council's Technical Officer has assessed the proposal, and has recommended a condition be imposed for a detailed soil and water management plan be prepared in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South, submitted for approval prior to any works commencing on-site.
- 7.11.6. The site is not within a Potable Water Supply Area.
- 7.11.7. The application is considered to meet the PC.

9. Referrals

9.1 Development Engineering

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

10. Concerns raised by representors

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

Representation	Response
<i>"My concern has been for years is the number of dwellings with one access to the "Road" (referring to the road off Baskerville Road which accesses a number of properties from 213 to 225) at 221 Baskerville Road. If it was previously subdivided how was this completed</i>	Council's Municipal Map shows the gravel section of road serving No. 213 to 225 Baskerville Road as a public (council) road. SP140023 & SP162622 also shows the road

<p><i>with only one entrance to the road at 221 Baskerville Road.</i></p> <p><i>I have previously contacted the Brighton Council a number of times to determine if the Road is now in the control of the Brighton Council or the five right aways (PROW'S) still exist for 215, 217, 219, 221 and 221 Baskerville Road. The Brighton Council have undertaken the upgrade of the "Road" which I believe was around the time when the garbage collection started. I am not sure when the previous owner (Barrett) vacated the property(s) how or if the titles reflected the sub division or separation of the property's, even though there was still only one entrance.</i></p> <p><i>My title still has the 5 PROW'S shown.</i></p> <p><i>The Road has endured extra traffic over the years, the crest of the hill and heading west is not really wide enough for two cars to pass safely especially when approaching the crest from opposite directions. I recently approached the Brighton Council regarding the entrance to my property as holes are appearing and the water flows into these holes with no obvious exit point. I am fearful of the road being undermined and the road caving in.</i></p> <p><i>The application to me looks like there will be an extra two entrances onto the Road which maybe an issue if there are still PROW,S in place. I have no issue with the two extra entrances, if indeed it is a Council maintained road and as long as the Road is to an acceptable standard and suitable for the extra sub division proposal, there entrances and future traffic."</i></p>	<p>up to and including the gravel turning head as 'road'.</p> <p>Given the road serves only 7 properties and a farm, traffic volumes are expected to be low.</p> <p>Conditions of development are proposed to include a financial contribution toward widening the gravel road at the crest to suit 2-way traffic.</p> <p>Accesses from the road edge to the property boundary are the responsibility of the adjoining property owner. This responsibility includes the provision and maintenance of a culvert to permit runoff to be discharged along roadside drains.</p> <p>The development is proposing a shared access utilising an existing ROW to Councils gravel road.</p>
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11. Conclusion

- 11.1. The proposed subdivision of 1 (lot) plus balance at 221 Baskerville Road, Old Beach, satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015 and is recommended for approval subject to conditions.

RECOMMENDATION:

That: A. Pursuant to the Brighton Interim Planning Scheme 2015, Council approve subdivision application SA 2020 / 003 for subdivision (one (1) lot plus balance) at 221 Baskerville Road, Old Beach, for the reasons outlined in the officer's report above, and a permit containing the following conditions be issued:

General

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

Public Open Space

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

Easements

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

Endorsements

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

Final plan

- (7) A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
- (8) Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the *Local Government (Building & Miscellaneous Provisions) Council 1993*. The amount of the security shall be determined by the Council's Municipal Engineer in accordance with Council Policy 6.3 following approval of any engineering design drawings and shall not to be less than \$5,000.

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

Engineering

- (11) The subdivision must be carried out in accordance with the *Tasmanian Subdivision Guidelines October 2013* (**attached**).
- (12) Engineering design drawings, to the satisfaction of the Council's Municipal Engineer, must be submitted to and approved by Council before any works associated with development of the land commence.
- (13) Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, in accordance with the *Tasmanian Subdivision Guidelines October 2013*, and must show:
 - a. all existing and proposed services required by this permit;
 - b. all existing and proposed roadwork required by this permit;
 - c. measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme;
 - d. measures to be taken to limit or control erosion and sedimentation;
 - e. any other work required by this permit.
- (14) Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
- (15) Subdivision works must be carried out under the direct supervision of an approved practising professional civil engineer engaged by the subdivider and approved by the Council's Municipal Engineer.

Water quality

- (16) The development and works must be carried out in accordance with:
 - a. *Dispersive Soils and their Management: Technical Reference Manual* (DPIPWE, 2009)
 - b. *Wetlands and Waterways Works Manual* (DPIPWE, 2003)
- (17) A soil and water management plan (here referred to as a 'SWMP') prepared in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South, must be approved by Council's Municipal Engineer before development of the land commences.

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

Services

- (21) The subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred because of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.
- (22) Property services must be contained wholly within each lot served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.
- (23) Property services must be extended the length of the access strip to the lot proper, or conduits for future services provided, to the satisfaction of Council's Municipal Engineer.

Telecommunications and electrical reticulation

- (24) Electrical and telecommunications services must be provided to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's Municipal Engineer.
- (25) Prior to sealing the final plan of survey, the developer must submit to Council:
 - a. A "Provisioning of Telecommunications Infrastructure - Confirmation of final payment" or "Certificate of Practical Completion of Developer's Activities" from NBN Co.
 - b. A Letter of Release from TasNetworks confirming that all conditions of the Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections at the time each lot is further developed.

Vehicular Access

- (26) A shared sealed vehicle access must be provided from the road carriageway to the lot boundary.

- (27) Vehicular accesses must be located and constructed in accordance with the standards shown on standard drawings must be located and constructed in accordance with the standards shown on standard drawings *TSD-R03-v1 Rural Roads Typical Property Access* and *TSD-R04-v1 Rural Roads Typical Driveway Profile* prepared by the IPWE Aust. (Tasmania Division), or as otherwise required by this permit, and the satisfaction of Council's Municipal Engineer.
- (28) The vehicular access to internal lot 2 must be constructed for the entire length of the access strip to the lot proper (approx. 160m) and, unless approved otherwise by Council's Municipal Engineer, be:
- a. Constructed with a durable all-weather pavement.
 - b. Drained to an approved stormwater system.
 - c. Sealed where it is shared with Lot 1 and otherwise surfaced with a material to resist abrasion from traffic and to minimise the entry of water.
 - d. A minimum pavement width of 4.0m.
 - e. As required by *Bushfire Attack Level Assessment and Bushfire Hazard Management Plan for a subdivision for Matthew and Jessica Heenan, 221 Baskerville Road, Old Beach*.
- (29) The internal driveway must be designed, constructed and maintained to avoid dust or mud generation, erosion and sediment transfer off site or de-stabilisation of the soil on site or on adjacent properties to the standard required by Council's Municipal Engineer.

Roadworks

- (30) Due to the developments increased traffic generation, the developer is to make a financial contribution of \$5000.00 toward the widening of the road at the crest on the gravel section of Baskerville Road. This is to be payable before the sealing of the final plan.

Construction Amenity

- (31) The development must only be carried out between the following hours unless otherwise approved by the Council's General Manager
- Monday to Friday 7:00 AM to 6:00 PM
 - Saturday 8:00 AM to 6:00 PM
 - Sunday and State-wide public holidays 10:00 AM to 6:00 PM
- (32) All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of -

- a. emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property; and/or
 - b. transport of materials, goods or commodities to or from the land; and/or
 - c. appearance of any building, works or materials.
- (33) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the land in an approved manner. No burning of such materials on-site will be permitted unless approved in writing by the Council's General Manager.
- (34) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the subdivision during the construction period.

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. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works, or a minimum of \$290.00, must be paid to Council in accordance with Council's fee schedule.
- C. 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 Owen moved, Cr Curran seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

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

11.4 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 DA 2020/0077 – 449 BOYER ROAD, DROMEDARY DWELLING

Type of Report	Planning Authority – For Decision
Application No:	DA 2020/0077
Address:	449 Boyer Road, Dromedary
Proposal:	Dwelling
Zone:	Rural Living Zone
Representations:	One (1)
Discretions:	<ol style="list-style-type: none">1. Design2. Vehicular Passing Areas Along an Access3. Surface Treatment of Parking Areas4. Stormwater Drainage and Disposal
Attachments:	A – Advertised documents B – Representations (x1)
Author:	Planning Officer (Jo Blackwell)

1. Executive Summary

- 1.1.** Planning approval is sought for a dwelling (including shipping containers to be utilised as outbuildings) at 449 Boyer Road, Dromedary (the ‘site’). The site is situated within the Rural Living Zone of the *Brighton Interim Planning Scheme 2015* (the ‘Interim Scheme’).
- 1.2.** The application invokes discretion under the Interim Scheme related to the exterior colour scheme (shipping containers) and various codes including Parking and Access Code and the Stormwater Management Code.
- 1.3.** The application has been advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993*. One representation was received during the public exhibition period.
- 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 2020/0077.

- 2.2. This determination must be made no later than 19th May 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.
3. **Risk & Implications**
 - 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority, unless the decision is appealed.
 - 3.2. Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications.
4. **Relevant Background**
 - 4.1. None relevant.
5. **Site Detail**
 - 5.1. The site is a vacant 1.356ha internal lot with shared right of way access from Boyer Road.
 - 5.2. The site is dissected by TasWater's bulk transfer main, as shown in Figure 1.
 - 5.3. There are two shipping containers and a caravan currently located at the site.



Figure 1: Aerial imagery of subject site and adjoining land. (Source: LISTMAP)

- 5.4. The site and surrounding land on the north, west and north east are all zoned Rural Living zone. To the south the lot is adjacent to TasRail's utilities zone, with rural resource zoned land on the southern side of the railway (see Figure 2).



Figure 2: Zoning Map

- 5.5. Part of the site is subject to a Waterway and Coastal Protection overlay (Refer to figure 3). All proposed development is outside of the mapped area.



Figure 3: Planning Scheme overlays (source: Listmap)

- 5.6. The site has previously been excavated (sometime prior to September 2015, source: Google Earth Pro) along the northern boundary, with the fill pushed towards the centre of the lot. The lot is relatively level in the northern part of the site, before falling towards the south and the Derwent River.
- 5.7. There is no significant vegetation present on the site.
6. **Proposal**
 - 6.1. A single dwelling and three shipping containers are proposed for the site. The single storey dwelling consists of 4 bedrooms, open plan family/ dining/ kitchen area, and separate living area, orientated to take into account the views of the Derwent River, plus the usual amenities. The total floor area is approximately 161sqm.
7. **Assessment**
 - 7.1. The *Brighton Interim Planning Scheme 2015* is a performance-based planning scheme.
 - 7.2. To meet an applicable standard, a proposal must demonstrate compliance with either an Acceptable Solution or 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.

8. Assessment against planning scheme provisions

8.1. 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

8.2. The proposed use is for a Dwelling in the Rural Living Zone, which is identified as No Permit Required, pursuant to the Use Table set out in Section 13.2.

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

Part D

- 13.4.1 Building Height
- 13.4.2 Setback
- 13.4.3 Design (excluding 13.4.3 A2)
- 13.4.4 Outbuildings
- 13.4.5 Outdoor Storage Areas

Part E

- Section E5.0 - Road and Railway Assets Code
- Section E6.0 – Parking and Access Code (excluding E6.7.3 A1; and E6.7.6 A1)
- Section E7.0 – Stormwater Management Code (excluding Section E7.7.1 A1)

8.4. The following discretions are invoked by the proposal:

- Section 13.4.3 A2 – Design
- Section E6.7.3 A1 – Vehicular Passing Areas Along an Access
- Section E6.7.6 A1 – Surfacing
- Section E7.7.1 A2 - Stormwater Drainage and Disposal

8.5. Discretion 1 – Section 13.4.3 A2 Design

8.5.1. The Acceptable Solution states:

- *Exterior building surfaces must be coloured using colours with a light reflectance value not greater than 40 percent.*

- 8.5.2. The proposal shows that the dwelling will be constructed of face brick and "dark" sheet metal roofing. Two of the existing shipping containers are blue, and one is cream.
- 8.5.3. The cream shipping container does not meet the acceptable solution for exterior colour scheme, which requires that exterior building surfaces have a light reflectance value not exceeding forty percent (40%).
- 8.5.4. As such, the application is discretionary and must be assessed against the relevant Performance Criteria.
- 8.5.5. The Performance Criteria states:
- *Exterior building surfaces must avoid adverse impacts on the visual amenity of neighbouring land and detracting from the contribution the site makes to the landscape, views and vistas.*
- 8.5.6. A representation was received which identified the colour of the shipping containers as detracting from visual amenity of the landscape.
- 8.5.7. It is considered that the performance criteria can be satisfied by including a condition in the permit that the shipping containers be painted in a colour which blends with the proposed dwelling, and which have a light reflectance value not exceeding 40%.

8.6. Discretion 2 – E6.7.3 A1 Vehicular Passing Areas Along an Access

- 8.6.1. The Acceptable Solution requires that:

A1 Vehicular passing areas must:

- (a) *be provided if any of the following applies to an access:*
 - (i) *it serves more than 5 car parking spaces;*
 - (ii) *is more than 30 m long;*
 - (iii) *it meets a road serving more than 6000 vehicles per day;*
- (b) *be 6 m long, 5.5 m wide, and taper to the width of the driveway;*
- (c) *have the first passing area constructed at the kerb;*
- (d) *be at intervals of no more than 30 m along the access.*

- 8.6.2. The site is accessed via an existing driveway constructed at the time of subdivision. It includes reciprocal rights of way from Boyer Road to 445 and 447 Boyer Road, and an informal access to 451 Boyer Road. (refer figure 4).

- 8.6.3. The proposed development does not comply with the Acceptable Solution, and must be assessed against the relevant Performance Criteria.

- 8.6.4. The Performance Criteria requires that:

P1 Vehicular passing areas must be provided in sufficient number, dimension and siting so that the access is safe, efficient and convenient, having regard to all of the following:

- (a) *avoidance of conflicts between users including vehicles, cyclists and pedestrians;*
- (b) *avoidance of unreasonable interference with the flow of traffic on adjoining roads;*
- (c) *suitability for the type and volume of traffic likely to be generated by the use or development;*
- (d) *ease of accessibility and recognition for users.*

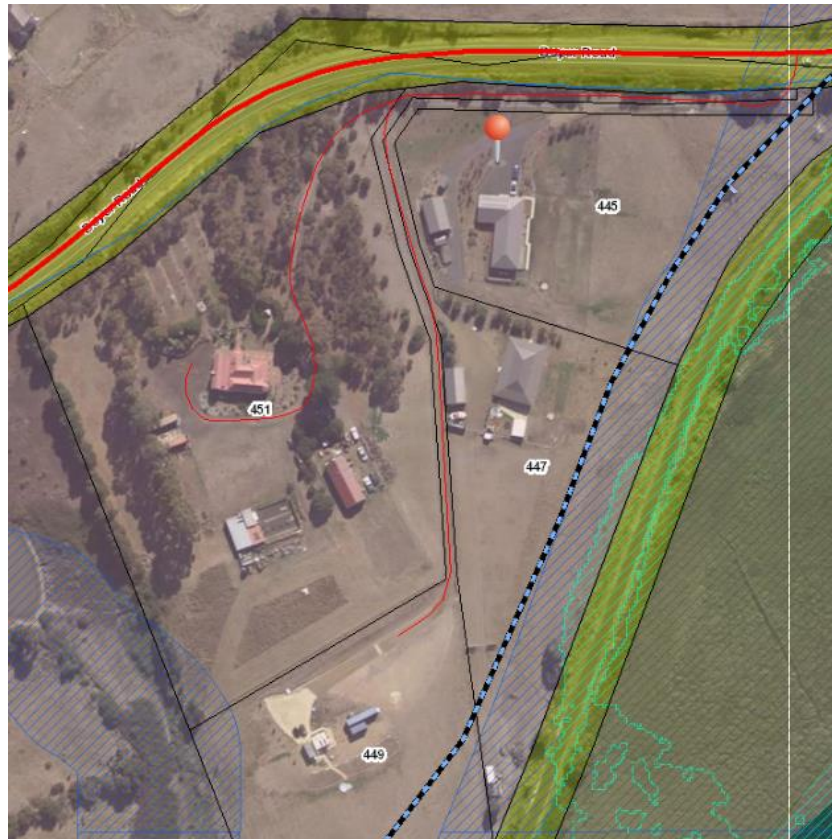


Figure 4: Vehicle Access via shared Right of Ways (shown by thin red line) (Source: Listmap).

- 8.6.5. The access from Boyer Road provides an approved access to 3 dwellings, being 445, 447 and 449 Boyer Road, with 451 Boyer Road using the access informally.
- 8.6.6. The use and development standards of the Rural Living Zone restricts residential development to a single dwelling per site. Accordingly, vehicle movements along the access strip are low.
- 8.6.7. Informal passing bays have been created utilising existing vehicle access to each lot, and are located at (approximately) 80m, 150m, and 230m distance from the access to Boyer Road. The last 100m of the access strip services the subject site only, with sufficient area on the lot proper to accommodate passing at this point.

8.6.8. It is considered that the existing vehicular passing arrangements can satisfy the Performance Criteria.

8.7. Discretion 3 – E6.7.6 A1 Surface Treatment of Parking Areas

8.7.1. The Acceptable Solution requires that:

Parking spaces and vehicle circulation roadways must be in accordance with all of the following;

(a) *paved or treated with a durable all-weather pavement where within 75m of a property boundary or a sealed roadway;*

(b) *drained to an approved stormwater system,*

unless the road from which access is provided to the property is unsealed.

8.7.2. Boyer Road is a sealed, Category 2 road within the State Road Hierarchy.

8.7.3. The existing access from Boyer Road to the shared right of carriageway is FCR for approximately 200m, before becoming gravel for the balance of the access to the subject site. No change to the access is proposed.

8.7.4. As such, the development does not comply with the Acceptable Solution. The application invokes discretion under this standard, and must be assessed against the corresponding Performance Criteria.

8.7.5. The Performance Criteria requires:

“Parking spaces and vehicle circulation roadways must not unreasonably detract from the amenity of users, adjoining occupiers or the quality of the environment through dust or mud generation or sediment transport, having regard to all of the following:

(a) *the suitability of the surface treatment;*

(b) *the characteristics of the use or development;*

(c) *measures to mitigate mud or dust generation or sediment transport.”*

8.7.6. A distance exceeding 200m is considered sufficient to ensure that mud or dust generation or sediment transport is unlikely to affect Boyer Road. Regardless, should the Planning Authority determine to approve the proposed development, it is recommended that a standard condition be imposed on the permit.

8.7.7. It is considered that the access, as constructed, can satisfy the Performance Criteria.

8.8. Discretion 4 – E7.7.1A1 Stormwater Drainage and Disposal

8.8.1. The Acceptable Solution states:

Stormwater from new impervious surfaces must be disposed of by gravity to public stormwater infrastructure.

- 8.8.2.** The proposal is unable to satisfy the acceptable solution as there is no public stormwater infrastructure available. As such, the application is discretionary, and must be assessed against the relevant Performance Criteria, which states:

P1 Stormwater from new impervious surfaces must be managed by any of the following:

- (a) disposed of on-site with soakage devices having regard to the suitability of the site, the system design and water sensitive urban design principles*
- (b) collected for re-use on the site;*
- (c) disposed of to public stormwater infrastructure via a pump system which is designed, maintained and managed to minimise the risk of failure to the satisfaction of the Council.*

- 8.8.3.** It is proposed that soakage trenches located to the south east of the proposed dwelling will disperse the increase in stormwater, which is considered to accord with the performance criteria set out in E7.7.1 P1(a).

- 8.8.4.** The development satisfies the Performance Criteria.

9. Referrals

9.1. Engineering

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

9.2. TasWater

The application was referred to TasWater, who have advised that that authority has "*determined that the proposed development does not require a submission from TasWater*".

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.** One (1)) representation was received during the public exhibition period. The concerns of the representors are summarised below:

<i>Concerns of Representor 1</i>	<i>Planning Response</i>
Concern with the colour of the containers. Would like them to be painted a colour so as to not stand out.	Refer to Section 8.5

Query as to whether the caravan annex and container are in accordance with guidelines on ancillary dwellings	<p>A caravan is not defined as a dwelling (which BIPS defines as a “building or part of a building...”), as it is not classed as a building within the definition contained in the Land Use Planning and Approvals Act 1993.</p> <p>Advice as to the occupation of a caravan on the site needing to comply with Council’s By-Laws is included in the conditions</p> <p>The container forms part of this application.</p>
Query as to why representor’s property was not joined as part of the application.	Title search shows that the representor’s property does not have legal right of way along the subject land, instead obtaining access from Boyer Road.

11. Discussion

- 11.1. The proposal is for the construction of a dwelling and retaining existing shipping containers on site.
- 11.2. Discretions arise in relation to exterior colours, surfacing of the vehicle access and disposal of stormwater
- 11.3. It is considered that the proposal can satisfy the performance criteria in relation to the discretions identified, as set out in paragraphs 8.5 – 8.7 above.

12. Conclusion

- 12.1. The proposal is for a dwelling at 449 Boyer Road, Dromedary (the ‘site’). The site is situated within the Rural Living Zone of the Brighton Interim Planning Scheme 2015 (the ‘Interim Scheme’).
- 12.2. The key issues relate to exterior surface colours, vehicle access and disposal of stormwater.
- 12.3. 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*, the Planning Authority approve DA 2020/0077 for a Dwelling in the Rural Living Zone at 449 Boyer Road, Dromedary, subject to 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 and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the Land Use Planning and Approvals Act 1993.

Use

- (3) The shipping containers are to be used for domestic storage only. They are not to be used for commercial, industrial or habitable purposes.

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.
- (5) Prior to the issue of building consent under the Building Act 2016 or the commencement of works (whichever occurs first), a schedule specifying the finish and colours of all external building surfaces (including shipping containers) and samples must be submitted to and approved by the Council's Manager Development Services. The schedule must provide for finished colours have a light reflectance value not exceeding 40%. Once approved, the schedule shall form part of this permit and must be adhered to.

Services

- (6) 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

- (7) At least two (2) car parking spaces must be provided on the land at all times for the use of the development, in accordance with Standards Australia (2004) Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (8) The internal 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 to the satisfaction of Council's Municipal Engineer, and must include all of the following;

- a) Constructed with a durable all weather pavement.
- b) Minimum carriageway width of 4 metres
- c) Drained to an approved stormwater system.
- d) Vehicular passing areas 6 metres wide (total) x 20 metres long every 200 metres.

or as otherwise required by an approved Bushfire Plan.

- (9) The internal driveway and areas set-aside for parking and associated access and turning must be designed, constructed and maintained to avoid dust or mud generation, erosion and sediment transfer off site or de-stabilisation of the soil on site or on adjacent properties to the standard required by Council's Municipal Engineer

Stormwater

- (10) Stormwater drainage from the proposed development must be retained on site to the satisfaction of Council's General Manager and in accordance with a Certificate of Likely Compliance or Plumbing permit issued by the Permit Authority in accordance with the Building Act 2016.

Wastewater

- (11) Wastewater from the development must discharge to an on-site waste disposal system in accordance with a Certificate of Likely Compliance or Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.

Soil and Water Management

- (12) 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.
- (13) 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

Shipping Containers

- (14) Any existing advertising material located on the containers must be removed.
- (15) The containers are to be painted in accordance with the colour schedule required pursuant to condition 5 of this permit.

Construction Amenity

- (16) 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.
- (17) 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.
- (18) 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.
- (19) 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.
- (20) 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. Any occupation of the caravan on the site must be in accordance with Council's Environmental Health By-Law – No. 1 of 2017
- C. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

DECISION:

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

CARRIED

VOTING RECORD

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

Cr Owen moved, Cr Curran seconded that the Ordinary Council meeting be resumed.

CARRIED

VOTING RECORD

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

Mayor Foster resumed the Chair.

12. REPORTS FROM OFFICERS:

12.1 BUDGET 2020-2021:

AUTHOR: Deputy General Manager
(Mr G Davoren)

Background:

The draft 2020-2021 budget and Fees & Charges Register has been provided to all Councillors. The budget review workshop has been undertaken and the draft budget has been completed in accordance with Councillors requests and it is now ready to be adopted in principle.

Consultation:

Councillors, Senior Management, ratepayers and other stakeholders.

Risk Implications:

Nil

Financial/Budget Implications:

As per the budget.

Strategic Plan:

The budget has been prepared in accordance with the strategic plan.

Social Implications:

The budget has considered the social needs of our community.

Environmental or Climate Change Implications:

The budget has considered the environmental expectations of our community.

Economic Implications:

The budget has allowed for appropriate economic stimulus for our community with consideration for long term generational equity.

Other Issues:

Nil

Assessment:

In accordance with the *Local Government Act 1993*, the budget may not be adopted more than one month before the start of that financial year. It is intended that the Budget be adopted in principle only.

Options:

1. As per the recommendation.
2. Review the budget and make further changes prior to adoption in principle

RECOMMENDATION:

That the 2020-2021 budget be adopted in principle.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Geard	
Cr Gray	

Cr Jeffries
Cr Murtagh
Cr Owen
Cr Whelan

12.2 DOG REGISTRAION & KENNEL LICENCE FEES 2020-2021:

AUTHOR: Deputy General Manager
(Mr G Davoren)

Background:

Under Brighton's Dog Management Policy, Council is required to adopt dog registration and kennel licence fees annually.

It is proposed to bring fees gradually into line with the true cost involved with maintaining animal control services as well as inflation increases.

Therefore, a slight increase in dog registration and kennel licence fees is recommended for this financial year.

Consultation:

Governance Manager.

Risk Implications:

None foreseen.

Financial Implications:

As provided.

Assessment:

A comparison between the current (2019-20) and proposed dog registration and kennel licence fees for the 2020-2021 financial years are as follows:-

	CURRENT 2019-2020	PROPOSED DISCOUNTED 2020-2021	FULL RATE 2020-2021
	Paid by July 31	Paid by July 31	Paid after July 31
Domestic Dog (desexed)	\$30.00	\$31.00	\$46.00
Domestic Dog (not desexed)	\$80.00	\$83.00	\$98.00
Working Dog	\$45.00	\$47.00	\$62.00
TGRB registered Greyhound	\$45.00	\$47.00	\$62.00

Pure Bred Dog kept for breeding	\$45.00	\$47.00	\$62.00
Dangerous Dog (declared under the Act)	\$500.00	\$517.00	\$517.00
Assist Dog	Nil	Nil	Nil

The following concession rates can apply to **ONE** dog only per owner and a Pensioner Concession Card or Health Care Card must be sighted at the time of payment.

	CURRENT 2019-2020	PROPOSED DISCOUNTED 2020-2021	FULL RATE 2020-2021
	Paid by July 31	Paid by July 31	Paid after July 31
Concession Rates			
Domestic Dog (desexed)	\$25.00	\$25.00	\$40.00
Domestic Dog (not desexed)	\$52.00	\$52.00	\$67.00

Fees will be discounted to the above rates if registrations are paid by 31st July 2020 or otherwise the full rate will apply.

Renewal of kennel licences and other related dog/ animal fees are as follows:-

Kennel Licences & Fees	CURRENT 2019-2020	PROPOSED DISCOUNTED RATE 2020-2021	FULL RATE 2020-2021
Renewal	\$130.00	\$134.00	\$165.00
Dog Complaint Fee - Reimbursed	\$90.00	\$93.00	\$93.00
Replacement Tags	\$3.00 each	\$3.00 each	
Animal Agistment Fee	\$45.00 per day	\$47.00 per day	\$47.00 per day
Reclaim Fees from the Dogs Home	\$75.00 per dog	\$75.00 per dog	\$75.00 per dog

Other Issues:

N/A

Options:

1. As per the recommendation.
 2. That Council not adopt the Animal Control fees for the 2020-2021 financial year.
-

RECOMMENDATION:

That Council adopts the proposed Animal Control Fees for the 2020-2021 financial year as listed in the report.

DECISION:

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

CARRIED**VOTING RECORD**

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

12.3 REVIEW OF BRIGHTON COMMUNITY NEWS:

AUTHOR: Chief Operating Officer
(Mr J Dryburgh)

Background:

At its January 2020 Ordinary Meeting, Council determined to undertake a review of the Brighton Community News (BCN) via a council workshop. After agreeing the scope of the review, the workshop was held on March 10. A version of this report was on the March OCM Agenda but was deferred pending responses from the producers of the BCN regarding the proposed changes. These have now been received.

A number of matters were discussed at the workshop relating to potential cost savings, content, advertising, postage and distribution, community involvement and the mix of internal and external resources.

At the workshop it was unanimously agreed to the following actions, some of which would require a gradual implementation/transition:

1. No change to number of issues per year.
2. Scheduling in December – January to be looked at (not necessarily changed).
3. Discontinue BCN website and Facebook page.
4. Host BCN with section on council website.
5. Post BCN-related items with BCN banner on Council's Facebook.

6. Greater internal control of council's Social Media, including the BCN Facebook page.
7. Continue increased involvement of Executive Officer in content creation and contact liaison.
8. Increase price of political ads.
9. Discontinue Uncle Chris publication and include a 'well-being' or similar type section in the BCN.
10. Continue with current postage/distribution, but DGM to try to negotiate a better deal.
11. Review calendar/what's on section, to make it clearer/more user friendly.
12. Continue to ensure a high level of community content, access and engagement.
13. Maintain council control of BCN and its content.
14. Include more content on health/healthy living.
15. Ensure impartiality (issue-focussed).

The producers/editors of the BCN are agreeable to most of the recommended actions resulting from the workshop, however there are a couple they have argued strongly against.

The producers argue that the Facebook page directly attributed to the BCN publication is essential for such a publication to share its content widely, it also assists with the actual running of the BCN by previewing articles, calling for submissions, reminders and other information. It is also argued that it has a high value in posting or sharing content that is particularly community-focussed that may not be so relevant for the Council Facebook page to post. This enables far more communication with the community, community groups and organisations. The page also has almost 2000 followers who may not all be people who also follow the Brighton Council Facebook page.

In summary, it is argued that the negative implications far outweigh the minimal cost saving. It is recommended that the BCN Facebook page be kept.

It is also argued that the website is necessary for receiving enquiries, including for ads. It also has the capacity, and uses it, to publish some things digitally that are not in the print edition, and for better linking articles from the print edition to Facebook. Again, it is argued that for the sake of saving a few hundred dollars a year on website hosting fees it is not worth removing the website.

The producers have negotiated a new deal with PML to process the paper for Australia Post distribution, with the new deal commencing in May. This new deal represents a saving of \$1,000 per issue (\$11,000 per year).

The proposal to increase political ads has also been reviewed. The current prices are already at the high end for comparable publications and many of the political advertisements are on multi-year agreements. It is also not good industry practice to charge one client a higher rate than others.

In light of the above it is recommended that the proposed actions from the workshop be modified to remove actions 3, 4, 5 and 8 above, which leaves the following actions for endorsement:

1. No change to number of issues per year.
2. Scheduling in December – January to be looked at (not necessarily changed).
3. Greater internal control of council's Social Media, including the BCN Facebook page.
4. Continue increased involvement of Executive Officer in content creation and contact liaison.
5. Discontinue Uncle Chris publication and include a 'well-being' or similar type section in the BCN.
6. Continue with current postage/distribution approach, but DGM to try to negotiate a better deal.
7. Review calendar/what's on section, to make it clearer/more user friendly.
8. Continue to ensure a high level of community content, access and engagement.
9. Maintain council control of BCN and its content.
10. Include more content on health/healthy living.
11. Ensure impartiality (issue-focussed).

Consultation:

Consultation has occurred amongst the Senior Management Team, Executive Officer, the BCN producers/editors and Councillors.

Risk Implications:

It is important for council operations, reputation and for a number of community functions that council has a good quality, regular publication such as the BCN. Not having it would make essential communications with the community and stakeholders difficult and would reduce council's control over how it is perceived.

Financial/Budget Implications:

The proposed actions and the printing and distribution changes represent a saving of over \$30,000 per year.

Social Implications:

The BCN is extremely important to a number of community organisations and is very important for council to be able to communicate broadly with the community, and advocate on issues of local importance.

Environmental/ Climate Change Implications:

The BCN is an important platform for getting relevant information and educative materials to the community.

Economic Implications:

The BCN providing a cheap/free platform for local businesses and organisations to advertise or to reach a wide audience with information.

Strategic Plan:

The BCN is consistent with all the social goals within council's Strategic Plan.

Options:

1. As per the recommendation.
2. Other.

RECOMMENDATION:

That Council endorse the 11 actions listed in this report.

DECISION:

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

CARRIED

VOTING RECORD

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

12.4 WASTE MANAGEMENT OPTIONS:

AUTHOR: Asset Services Manager
(Mr H Macpherson)

Background:

A "Case for Change" report has previously been submitted to Councillors for review and comments. As part of the report an Options Assessment Matrix has been developed listing all the options and ranking them against Council's strategic goals.

Consultation:

General Manager, Deputy General Manager and Chief Operations Officer.

Risk Implications:

At this stage there are minimal risks, but it is intended for this document to be used to shape the way forward with waste management.

Financial/Budget Implications:

There are no budget outcomes at this stage but the final results will have significant effects on future budgets.

Strategic Plan:

Goal 1: Strengthen our Communities

S1.3: Provide Public Facilities/Amenities

A1.5: Build a resilient community and environmentally sustainable future

Goal 2: Create 2-3 hubs for our Connector Satellite City

S2.1: A focus on Agriculture /Horticulture/ Aquaculture – (Food)

S2.3: Support further development of a ‘business & logistics hub’

Goal 3: Drive Infrastructure Development

S3.1: Support 30% Growth Target

S3.3: Enabling Infrastructure

Goal 4: Ensure a Stable Organisation

S4.1: Ensure Financial & Risk Sustainability

S4.4: Long-term thinking & evidence-based

Social Implications:

N/A

Environmental or Climate Change Implications:

This will depend on what option is chosen, but most items will have significant environmental benefits.

Economic Implications:

This will depend on what option is chosen, but most items will have significant economic impact.

Other Issues:

As stated in the “Case for Change”, the state government proposed to introduce a waste levy in 2021 and a Container Refund Scheme (CRS) by 2022. It is unknown what overall effect this will have on waste and recycling in Tasmania, but it will drive reduced waste to landfill and Council will have to look at way to divert recoverable waste streams away from landfill.

Assessment:

The proposed options in the “Case for Change” report have been assessed against the strategic goals of Council to rank the various options against the goals.

The matrix doesn’t take into account costs, willingness to participate, timing etc, as these will be looked at in more detail as part of the next stage. As such, this should not be viewed as a definitive assessment, but rather a first cut at looking at the options and eliminating some of the more unrealistic or undesirable options. Having said that, it’s worth considering at a high-level, Councillors’ thoughts on these options and discussing them in more detail to determine the final short-list.

Option 1 is the base case so has not been scored but it is worth discussing whether this is an option, especially if a FOGO service and other offsetting services are introduced.

Options 2 and 3, even though they rank highly against the strategic goals, would be difficult to implement and are likely too ambitious.

At an officer level it is felt that Option 6, 8 and 9, along with the base case, are the best options to pursue. Option 7 is worth having initial discussions with Glenorchy City Council (GCC) but at this stage will likely be too early for GCC to make a decision or commitments.

The proposal is to explore these short-listed items in more detail and consider a strategic business case on these items to be submitted to Council at a later date.

Options:

1. As per the recommendation.
2. Amend the short-listed items.

RECOMMENDATION:

That Council approve:

1. Staff to explore the short-listed items: 1, 6, 8, and 9 in more detail, developing a strategic business case to bring back to Council.
2. Initial discussions with Glenorchy City Council about option 7 to see whether it should be included in the short-list.

DECISION:

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

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Foster	
Cr Geard	

Cr Gray
Cr Jeffries
Cr Murtagh
Cr Owen
Cr Whelan

Cr Whelan moved, Cr Curran seconded that Council resolve into Closed Council.

CARRIED

VOTING RECORD

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

Cr Owen had declared an interest and left the meeting.

13. CLOSED MEETING:

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

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

This item was to be considered in closed session in accordance with Meeting Procedures Regulation 15(2)(b).

14. QUESTIONS ON NOTICE:

There were no Questions on Notice.

Cr Curran moved, Cr Whelan seconded that Council resolve out of Closed Council and the decisions made while in closed council be ratified.

CARRIED

VOTING RECORD

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

The meeting Closed 6.30pm

Confirmed:

(Mayor)

Date:

16th June 2020