



# Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING  
OF THE BRIGHTON COUNCIL HELD IN THE  
COUNCIL CHAMBERS, COUNCIL OFFICES, OLD BEACH  
AT 5.30 P.M. ON TUESDAY,  
19<sup>th</sup> JANUARY 2021**

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

**IN ATTENDANCE:** Mr J Dryburgh (General Manager); Mrs J Banks  
(Governance Manager); Mr D Allingham (Manager  
Development Services); Mrs G Browne (Corporate  
Executive) and Mr P Carroll (Senior Planner).

**1. ACKNOWLEDGEMENT OF COUNTRY:**

**2. CONFIRMATION OF MINUTES:**

**2.1 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING  
OF 15 DECEMBER 2020:**

*Cr Jeffries moved, Cr Geard seconded that the Minutes of the Ordinary Council meeting of  
15<sup>th</sup> December 2020, be confirmed.*

**CARRIED**

**VOTING RECORD**

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

### **3. APPLICATIONS FOR LEAVE OF ABSENCE:**

*All members were present.*

### **4. PUBLIC QUESTION TIME AND DEPUTATIONS:**

- \* Ms Banks addressed Council in relation to Council's policy on kennel licences and the impending application and process for Boarding Kennels in Tea Tree.

### **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*.

*There were no declarations of interest*

### **6. REPORTS FROM COUNCILLORS:**

#### **6.1 MAYOR'S COMMUNICATIONS:**

Mayor Tony Foster provided a verbal update at the meeting.

#### **DECISION:**

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

**CARRIED**

#### **VOTING RECORD**

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

## **6.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:**

### **DECISION:**

Cr Gray advised that he, along with the General Manager and Deputy General Manager attended a recent Taswater meeting.

*Cr Whelan moved, Cr Garlick seconded that the report be received.*

**CARRIED**

### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
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.

**6.3.1** Letter from TasWater's CEO regarding TasWater's Capital Delivery Office (CDO).

## **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 at 4.15pm on the 15<sup>th</sup> December 2020, to present the Brighton Hub (Industrial Estate) Placemaking Strategy to Council. Councillors in attendance were: Cr Curran (Deputy Mayor); Cr Gray; Cr Geard; Cr Jeffries; Cr Murtagh; Cr Owen and Cr Whelan. Apologies were received from Cr Foster (Mayor) 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 Mayor advised that there was a supplementary agenda to be discussed in closed Council on the General Manager's performance review.

*Cr Curran moved, Cr Murtagh seconded that the supplementary agenda item be discussed in closed Council.*

**CARRIED**

## VOTING RECORD

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

For the purpose of these minutes the Items will remain in chronological order.

## 10. REPORTS FROM COMMITTEES:

*There were no committee meetings held in January.*

*Cr Curran moved, Cr Gray seconded that the Council meeting be adjourned.*

**CARRIED**

### VOTING RECORD

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

*Cr Gray Chairperson, Planning Authority 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 2020/355 – 34 LILLE STREET, BRIGHTON - THREE (3) MULTIPLE DWELLINGS:

Type of Report	Planning Authority – For Decision
Application No:	DA 2020/355
Address:	34 Lille Street, Brighton
Proposal:	Three (3) Multiple Dwellings
Zone:	General Residential Zone
Representations:	One (1)
Discretions:	1. Privacy (Section 10.4.6 A1) 2. Privacy (Section 10.4.6 A3) 3. Layout of Parking Areas (Section E6.7.5 A1)

Author: Senior Planner (Patrick Carroll)  
Manager Development Services (David Allingham)

## 1. Executive Summary

- 1.1. Planning approval is sought for three (3) Multiple Dwellings at 34 Lille Street, Brighton (the 'site'). The site is within the General Residential Zone of the *Brighton Interim Planning Scheme 2015* (the 'Interim Scheme').
- 1.2. The application is known as DA 2020/355. The application is discretionary, and relies on Performance Criteria. The key issues relate to privacy and layout of the parking areas.
- 1.3. One (1) representation was received within the statutory public advertising period, with concerns relating to density.
- 1.4. The application is recommended for approval.
- 1.5. 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 2020/355
- 2.2. This determination must be made no later than 25 January 2021. The statutory assessment period has been extended to this date with the consent of both the applicant and the Planning Authority.
- 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**

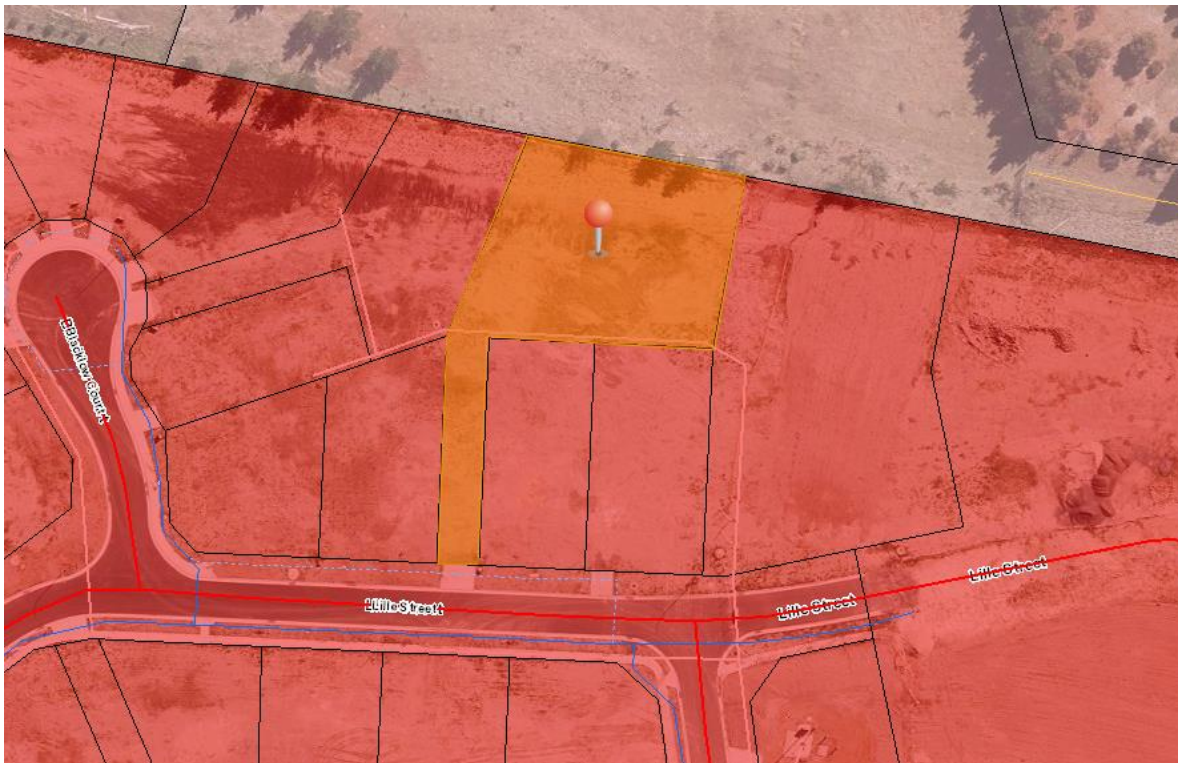
- 4.1. None relevant.

### **5. Site Detail**

- 5.1. The subject site consists of one title, being CT 178347/134, which has a lot size of 1526m<sup>2</sup>. The site sits on the northern side of Lille Street, which is a Council maintained road. The site is zoned General Residential under the Interim Scheme.
- 5.2. The site is an internal lot, with frontage to Lille Street.
- 5.3. The site is currently vacant, and – for the most part - is generally flat. However, the northern portion of the lot drops off, sloping down steeply towards the northern boundary fence (see Figure 3).
- 5.4. The majority of land adjoining the site (i.e. the land in Lille Street and Blacklow Court) is also zoned General Residential, with the land immediately to the north (i.e. the land in Linda Court) zoned as Rural Living.
- 5.5. The lot immediately to the east is dedicated as public open space, and is owned by Brighton Council.



*Figure 1. Aerial photography of the subject site.*



*Figure 2. Zoning of the subject site and surrounds. Red denotes the General Residential Zone.*





*Figure 3. Photo of the subject site, looking generally east.*

## **6. Proposal**

- 6.1. The applicant has proposed the development of three multiple dwellings at the site.
- 6.2. Each of the proposed dwellings includes three bedrooms, two bathrooms, and an open plan kitchen/living/ dining area. Each dwelling also includes a deck and a garage.
- 6.3. The proposed Unit 1 will be setback 10.50 metres from the northern (rear) boundary; 1.10 metres from the western (side) boundary and 6.36 metres from the southern (side) boundary. Unit 1 is proposed to be built to a maximum height of 4.52 metres above natural ground level.
- 6.4. The proposed Unit 2 will be setback 8.88 metres from the northern (rear) boundary; 12.98 metres from the western (side) boundary and 6.76 metres from the southern (side) boundary. Unit 2 is proposed to be built to a maximum height of 4.56 metres above natural ground level.

- 6.5. The proposed Unit 3 will be setback 7.76 metres from the northern (rear) boundary; 1.10 metres from the eastern (side) boundary and 5.86 metres from the southern (side) boundary. Unit 3 is proposed to be built to a maximum height of 4.49 metres above natural ground level.

## 7. Assessment

- 7.1. The *Brighton Interim Planning Scheme 2015* is a performance-based planning scheme.
- 7.2. To meet an applicable standard, a proposal must demonstrate compliance with either an Acceptable Solution or a Performance Criterion. Where a proposal complies with a standard by relying on one or more Performance Criteria, the Council may approve or refuse the proposal on that basis. The ability to refuse the proposal relates only to the Performance Criteria relied upon.

## 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 E5.0 – Road and Railway Assets Code
  - Part E – Section E6.0 – Parking and Access Code
  - Part E – Section E7.0 – Stormwater Management Code
- 8.2. The proposed use (Residential – Multiple Dwellings) is a permitted use pursuant to the Use Table for the General Residential Zone (Table 10.2).
- 8.3. The application satisfies the following relevant Acceptable Solutions of the applicable provisions:
- Section 10.4.1 A1 – Residential Density for Multiple Dwellings
  - Section 10.4.2 A1 – Setbacks from a Frontage
  - Section 10.4.2 A2 – Setbacks for Garages
  - Section 10.4.2 A3 – Building Envelope
  - Section 10.4.3 A1 – Site Coverage
  - Section 10.4.3 A2 – Private Open Space
  - Section 10.4.4 A1 – Sunlight and Overshadowing

- Section 10.4.6 A2 – Privacy
- Section E5.5.1 A3 – Existing Road Accesses and Junctions
- Section E5.6.2 A2 – Road Accesses and Junctions
- Section E5.6.4 A1 – Sight Distances
- Section E6.6.1 – Number of parking spaces
- Section E6.7.1 A1 – Number of Vehicular Accesses
- Section E6.7.2 A1 - Design of Vehicular Accesses
- Section E6.7.3 A1 – Vehicular Passing Areas Along an Access
- Section E6.7.4 A1 – On-Site Turning
- Section E6.7.6 A1 – Surface Treatment of Parking Areas
- Section E6.7.14 A1 - Access to a Road
- Section E7.7.1 A1 – Stormwater Drainage and Disposal
- Section E7.7.1 A2 - Stormwater Drainage and Disposal

8.4. The following discretions are invoked by the proposal:

- Section 10.4.6 A1 – Privacy
- Section 10.4.6 A3 – Privacy
- Section E6.7.5 A1 – Layout of Parking Areas

8.5. **Discretion 1 – Privacy**

8.4.1 The Acceptable Solution contained in Section 10.4.6 A1 states:

*A balcony, deck, roof terrace, parking space, or carport (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1 m above natural ground level must have a permanently fixed screen to a height of at least 1.7 m above the finished surface or floor level, with a uniform transparency of no more than 25%, along the sides facing a:*

*(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 3 m from the side boundary; and*

(b) *rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of at least 4 m from the rear boundary; and*

(c) *dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is at least 6 m:*

(i) *from a window or glazed door, to a habitable room of the other dwelling on the same site; or*

(ii) *from a balcony, deck, roof terrace or the private open space, of the other dwelling on the same site.*

8.4.2 The proposed deck for Unit 2 sits more than 1m above natural ground level. The Unit 2 deck does have a privacy screen included on its eastern elevation, which protects against privacy impacts to Unit 3. However, the Unit 2 deck is situated less than 6m from the private open space of Unit 1.

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

8.4.4 Section 10.4.6 P1 states:

*A balcony, deck, roof terrace, parking space or carport (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1 m above natural ground level, must be screened, or otherwise designed, to minimise overlooking of:*

(a) *a dwelling on an adjoining lot or its private open space; or*

(b) *another dwelling on the same site or its private open space; or*

(c) *an adjoining vacant residential lot.*

8.4.5 It is considered that the proposed development can satisfy the Performance Criteria contained in Section 10.4.6 P1 of the Interim Scheme by the inclusion of a condition on the permit, requiring the addition of a privacy screen along either the eastern elevation of the deck of Unit 1 or the western elevation of the deck of Unit 2.

8.4.6 It is recommended that the privacy screen be permanently fixed, and constructed to a height of at least 1.70 metres above the finished floor level of the deck, with a uniform transparency of the screen of no more than 25%.

- 8.4.7 Subject to the inclusion of such a condition, it is considered that the proposed development satisfies the Performance Criteria.

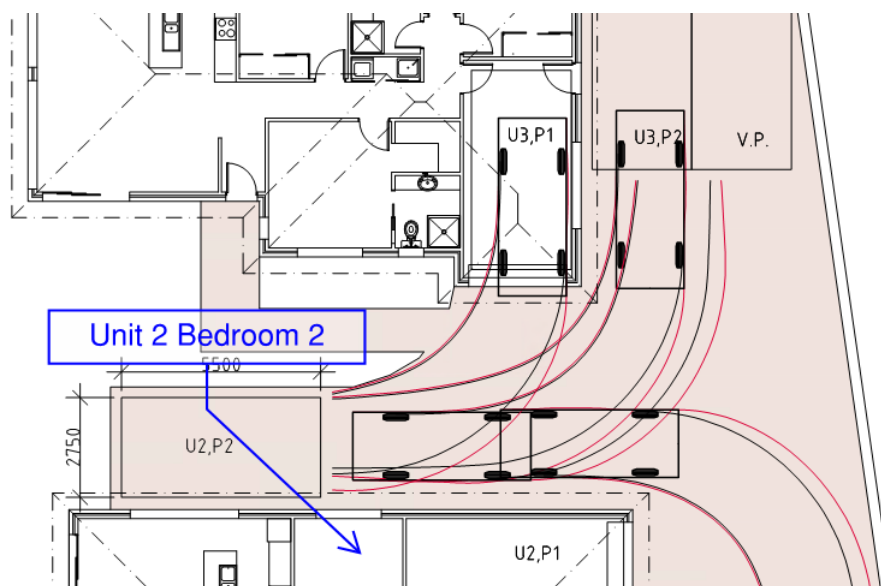
## 8.5 Discretion 2 - Privacy

- 8.5.1 Section 10.4.6 A3 of the Interim Scheme states:

*A shared driveway or parking space (excluding a parking space allocated to that dwelling) must be separated from a window, or glazed door, to a habitable room of a multiple dwelling by a horizontal distance of at least:*

- (a) 2.5 m; or
- (b) 1 m if:
  - (i) it is separated by a screen of at least 1.7 m in height; or
  - (ii) the window, or glazed door, to a habitable room has a sill height of at least 1.7 m above the shared driveway or parking space, or has fixed obscure glazing extending to a height of at least 1.7 m above the floor level.

- 8.5.2 The window of Bedroom 2 of Unit 2 has a sill height of more than 1.70 metres above floor level. However, the window is setback less than 1.00 metre from the shared driveway. Specifically, the window is setback less than 1.00 metre from the turning path for cars reversing from the garage of Unit 3 (U3P1), as depicted below:



- 8.5.3 The development does not comply with the Acceptable Solution. As such, the application invokes discretion, and must be assessed against the relevant Performance Criteria.

8.5.4 Section 10.4.6 P3 states:

*A shared driveway or parking space (excluding a parking space allocated to that dwelling), must be screened, or otherwise located or designed, to minimise detrimental impacts of vehicle noise or vehicle light intrusion to a habitable room of a multiple dwelling.*

8.5.5 It is considered that the proposed window sill height is satisfactory to minimise the detrimental impacts of the noise and light intrusion of those vehicles reversing from the garage of Unit 3.

8.5.6 It is recommended that a condition be included on the permit that the sill height of the window of Bedroom 2 of Unit 2 be at least 1.70 metres above the finished floor level of that room.

8.5.7 The proposed development satisfies the Performance Criteria contained in Section 10.4.6 P3.

**8.6 Discretion 3 – Layout of Parking Areas**

8.6.1 The Acceptable Solution contained in Section E6.7.5 A1 states:

*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.*

8.6.2 The layout of the proposed parking area does not comply with the Acceptable Solution, in that the aisle width in front of Unit 3 is too narrow. As such, the application invokes discretion for this standard, and must be assessed against the relevant Performance Criteria.

8.6.3 Section E6.7.5 P1 states:

*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.*

8.6.4 Council’s Senior Technical Officer has assessed the access arrangements and is of the opinion that the parking area is satisfactory, subject to aisle width being increased to meet Australian Standards.

8.6.5 It is recommended that a condition to this effect is included on any permit.

- 8.6.6 As such, the proposed development satisfies the Performance Criteria.

**9. Concerns raised by representors**

- 9.1. The application was advertised in accordance with the statutory requirements of the *Land Use Planning and Approvals Act 1993*.
- 9.2. One (1) representation was received during the statutory public advertising period. The concerns of the representor are listed below:

<i>Concerns of Representor 1</i>	<i>Planning Response</i>
Concerns relating to the density of the proposed development.	The proposed density complies with the relevant Acceptable Solution.

**10. Referrals**

10.1. Development Engineering

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

10.2. TasWater

The application was referred to TasWater. TasWater has provided a Submission to Planning Authority Notice (TasWater Ref No TWDA 2020/01702-BTN, dated 18 November 2020), which is to be included with any permit, should approval be granted.

**11. Conclusion**

- 11.1. The proposal is for Three (3) Multiple Dwellings in the General Residential Zone at 34 Lille Street, Brighton
- 11.2. The key issues relate to privacy and layout of parking areas.
- 11.3. The proposed development has been assessed against the relevant provisions of the *Brighton Interim Planning Scheme 2015*, and is considered to perform well.
- 11.4. The development application is recommended for approval, subject to conditions.

## **RECOMMENDATION:**

That pursuant to the *Brighton Interim Planning Scheme 2015*, Council approves application DA 2020/355 for the proposed Multiple Dwellings in the General Residential Zone at 34 Lille Street, Brighton, and a permit be granted 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*.

### *TasWater*

- (3) 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 2020/01702-BTN, dated 18 November 2020, as attached to this permit.

### *Staging*

- (4) The development must not be staged, unless otherwise agreed in writing by Council's Manager Development Services.

### *Amenity*

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

### *Private Open Space*

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

### *Landscaping*

- (7) Subject to Condition 8 of this permit, the submitted landscaping plan (Landscape Plan, Drawing 02/12, dated 30 September 2020, drawn by G. Tilley) is hereby approved and forms part of this permit. Landscaping must be undertaken in accordance with the approved landscaping plan, unless otherwise agreed in writing by Council's Manager Development Services.



- (8) Prior to the issue of occupancy under the Building Act 2016 or the sealing of a strata plan (whichever occurs first), any areas shown as lawn on the approved landscaping plan must be fully established grassed areas, completed to the satisfaction of Council's Manager Development Services.
- (9) Prior to the issue of occupancy under the Building Act 2016 or the sealing of a strata plan (whichever occurs first), all trees and landscaping must be planted and installed in accordance with both Condition 8 of this permit and 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.
- (10) 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.

*Privacy*

- (11) Prior to the issue of occupancy under the Building Act 2016 or the sealing of the strata plan, fixed screening to the satisfaction of Council's Manager Development Services must be provided and maintained along the eastern elevation of the deck of Unit 2, to a height of 1.70 metres above that deck's floor level. This screening must have a uniform transparency of no greater than 25%.
- (12) The sill height of the window in bedroom 2 of Unit 2 must be at least 1.7 metres above the finished floor level of that room.
- (13) Prior to the issue of occupancy under the Building Act 2016 or the sealing of the strata plan, fixed screening to the satisfaction of Council's Manager Development Services must be provided and maintained along either:
  - (a) The eastern elevation of the deck of Unit 1; or
  - (b) The western elevation of the deck of Unit 2;to a height of 1.70 metres above that deck's floor level. This screening must have a uniform transparency of no greater than 25%.
- (14) Prior to the issue of building consent under the Building Act 2016, drawings complying with Condition 12 must be submitted to the Council's Manager Development Services for approval. Once approved, these drawings shall form part of this permit and must be adhered to.
- (15) All screening referred to in Condition 11 & Condition 12 of this permit must be maintained whilst the decks are in existence.

*Services*

- (16) 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.
- (17) Services located under the proposed driveway are to be provided with trafficable covers to the requirements of the relevant authority and Council's Municipal Engineer.

*Parking and Access*

- (18) Prior to the issue of building consent under the Building Act 2016, the endorsed plans must be amended to the satisfaction of Council's Municipal Engineer to provide for:
  - (a) An aisle width in front of the unit 3 garage to comply with Figure Fig 5.4 of Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney

If considered satisfactory, the plans or documents will be endorsed by Council's Senior Planner. Once endorsed, the approved plans will form part of the permit and must be adhered to.

- (19) At least seven (7) parking spaces must be provided on the land at all times for the use of the occupiers including at least two (2) car parking space per dwelling and at least one (1) designated for visitor parking, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (20) 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 the endorsed drawings, Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and include all of the following;
  - (a) A minimum trafficable width of 3m
  - (b) Passing bays 5.5m wide by 6.0m long located at the road and every 30m.
  - (c) Constructed with a durable all weather pavement.
  - (d) Drained to an approved stormwater system.
  - (e) Surfaced with concrete, or approved equivalent.
  - (f) On site turning

- (21) 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.
- (22) 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:
- (a) pavement details,
  - (b) design surface levels and gradients,
  - (c) drainage,
  - (d) turning paths,
  - (e) dimensions,
  - (f) line marking,
  - (g) signage,
  - (h) pedestrian access,
  - (i) lighting
- and shall form part of the permit when accepted.
- (23) 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, permit conditions and relevant standards before the use commences.
- (24) 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*

- (25) Drainage from the proposed development must be connected to the public stormwater system to the satisfaction of Council’s Municipal Engineer and in accordance with the Building Act 2016.
- (26) The Developer is to incorporate Water Sensitive Urban Design Principles into the development for the treatment and disposal of stormwater. These Principles will be in accordance with the Water Sensitive Urban Design Procedures for Stormwater Management in Southern Tasmania and to the satisfaction of the Council’s Municipal Engineer.

Alternatively;

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

*Advice: A copy of Policy 6.1 Interim Water Sensitive Urban Design Contributions can be downloaded from Council's website - <https://www.brighton.tas.gov.au/wp-content/uploads/2019/05/Policy-6.1-Interim-Water-Sensitive-Urban-Design-Contributions.pdf>*

- (27) The developer must provide a minor stormwater drainage system designed to comply with all of the following:
- (a) be able to accommodate a storm with an ARI of 20 years when the land serviced by the system is fully developed; and
  - (b) stormwater runoff will be no greater than pre-existing runoff or any increase can be accommodated within existing or upgraded public stormwater infrastructure.
- (28) The driveways must be drained to minimise surface runoff over the footpath or to the adjoining road in accordance with the requirements of the Municipal Engineer and a Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.

#### *Soil and Water Management*

- (29) Before any work commences install temporary run-off, erosion and sediment 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.

#### *Construction Amenity*

- (30) 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.
- (31) 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.
- (32) 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.
- (33) 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.
- (34) 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. Separate approval is required for the strata division of the land.
- C. No work on or affecting any Council road reservation is to be commenced until the Brighton Council has issued a WORKS IN ROAD RESERVATION PERMIT. Application for the issue of the necessary works permit is to be made to the Brighton Council's Asset Services department prior to the proposed date of commencement of any works.
- 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 Murtagh moved, Cr Geard seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

**In favour**

**Against**

Cr Curran

Cr Foster

Cr Garlick

Cr Geard  
Cr Gray  
Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

## **11.2 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 – DA 2020/406 – 7 HANNAH COURT, OLD BEACH - ALTERATIONS AND ADDITIONS (DECKS):**

Type of Report	Planning Authority – For Decision
Application No:	DA 2020/406
Address:	7 Hannah Court, Old Beach
Applicant:	Bryden Homes Pty Ltd
Proposal:	Alterations and Additions (Decks)
Zone:	General Residential Zone
Representations:	Two (2)
Discretion:	1. Building Envelope
Author:	Planning Officer (Jo Blackwell)

### **1. Executive Summary**

- 1.1. Retrospective planning approval is sought for Alterations and Additions (Decks) in the General Residential Zone at 7 Hannah Court, Old Beach.
- 1.2. The application is discretionary due to reliance on performance criteria.
- 1.3. Two (2) representations were received. It is considered that the issues raised in the representations do not warrant refusal or modification of the application.
- 1.4. The key planning issues relate to the proposed decks falling outside the building envelope and privacy.
- 1.5. The proposal is recommended for approval.
- 1.6. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period for the development application.

## **2. Legislative & Policy Content**

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2020/406.
- 2.2. This determination must be made no later than 19<sup>th</sup> January 2021, which has been extended beyond the statutory timeframe with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993 (LUPAA)*. The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

## **3. Risk & Implications**

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

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

- 4.1. The Planning Authority approved DA 2018/164 for four (4) multiple dwellings and associated infrastructure at its meeting on 12<sup>th</sup> February 2019.

## **5. Site Detail**

- 5.1. The subject site is situated on the northern side of Hannah Court, Old Beach. It has an area of 1487sqm, and slopes gently towards the eastern boundary of the site.

- 5.2. The site has been developed through the construction of four (4) dwellings, pursuant to DA 2018/164. Adjoining sites have been developed through the construction of dwellings and associated outbuildings.
- 5.3. The site is in an area characterised by large lot sizes. The area demonstrates a mix of both single dwellings and strata title development, as shown in Figure 1.



Figure 1: Location Plan - 7 Hannah Court, Old Beach

- 5.4. The property is zoned General Residential, as are the properties immediately adjoining the site. There are no Planning Scheme overlays applicable to the site (refer to Figure 2).
- 5.5. Land further to the east is zoned Rural Resource, and land situated further to the south west is zoned Rural Living.





Figure 2: Zoning Map

## 6. Proposal

- 6.1. The proposal is for retrospective approval for timber decks which have been constructed to the western elevation of units 2 and 3, measuring approximately 2.2m x 2.9m. The proposal plans show that the decks will have setbacks from the rear boundary of 1.8m, and from the side boundaries of 1.5m. The proposal plan shows 1.7m high screening on both decks to satisfy acceptable solutions for privacy.
- 6.2. The application is supported by the attached building design plans, marked up by hand.

## 7. Assessment

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

**8. Assessment against planning scheme provisions**

8.1. The following provisions are relevant to the proposed use and development;

- General Residential Zone

8.2. The proposal accords with the use table contained in clause 10.2. Clause 10.3, which provides for non-residential uses, does not apply, as the approved use is for residential purposes.

8.3. The following standards are not applicable to this proposal, having been previously assessed pursuant to DA 2018/164:

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

8.4. The application satisfies the following relevant Acceptable Solutions:

- 10.4.3 A1 and A2 - Site Coverage and Private Open Space
- 10.4.6 A1 - Privacy

8.5. The following discretions are invoked:

- 10.4.2 A3 - Building Envelope

**8.6. Discretion 1 – Building Envelope**

8.6.1 The proposal does not satisfy the acceptable solution in that the proposed decks for Units 2 and 3 have a proposed 1.8m setback which encroaches into the 4m setback required by Section 10.4.2 A3 of the Interim Scheme, as demonstrated by Diagram 10.4.2A (Figure 3 below).

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

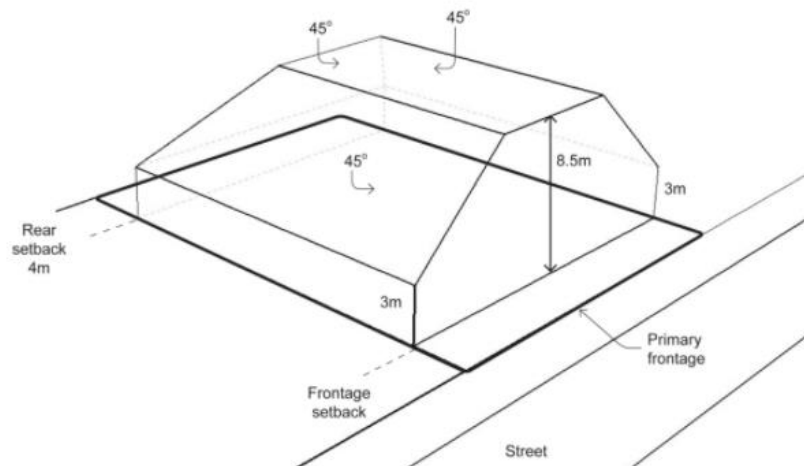


Figure 3: Diagram 10.4.2A Brighton Interim Planning Scheme 2015

8.6.2 Accordingly, the application invokes discretion under this standard, and the application must address the relevant 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 In addressing the criterion above, due to the topography of the site, separation distances between dwellings on adjoining land, as well as the scale and height of the proposed decks and screening, it is not considered that there will be an unreasonable loss of amenity (if any) in relation reduction in sunlight to habitable rooms, overshadowing or visual impacts.

8.6.5 As shown in figure 1, due to the way adjoining lots have been developed, there remains a significant separation distance between the proposed decks and the dwellings on adjoining lots. Separation distances exceeds the combined setback distance of both lots required by the General Residential Zone.

8.6.6 The performance criteria can be satisfied.

## 9. Discussion

9.1. It is considered that the proposal can satisfy the performance criteria in relation the building envelope as set out in paragraph 9 above.

9.2. It is recommended, given the quality of the plans submitted for assessment, that a specific condition be included in any permit approved requiring the construction of the screening, and that it remain in situ for the life of the decks.

## 10. Concerns raised by representors

10.1. Two (2) representations were received during the public advertising period. The following table outlines the issues raised by representors.

Representor 1	Brief Response
Decks already constructed.	The application is a retrospective application for works identified at the time of building completion.
Concern regarding privacy and need for screening on U3	The proposed plans show screening to a height of 1.7m along the north eastern and north western sides of unit 3, which satisfies the Acceptable Solution.
Fence rails broken during construction	Not a planning consideration. However, the concern has been passed on to the applicant to address.
Representor 2	Brief Response
The decks on each unit had been constructed some time ago at time of building the dwellings.	The application is a retrospective application for works identified at the time of building completion.
The decks also look over the fence line of surrounding properties on three sides with no screening in place. This is affecting our neighbouring properties and their privacy.	The proposed plans show screening to a height of 1.7m along the north eastern and north western sides of Unit 3 which satisfies the Acceptable Solution.  The applicant has also shown screening along the south western boundary, although the proposal satisfies the acceptable solution.

	A condition is recommended that the screening be left in situ for the life of the deck.
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## 11. Conclusion

The proposed use and development of Alterations and Additions (Decks) in the General Residential Zone at 7 Hannah Court, Old Beach satisfies the relevant provisions of the *Brighton Interim Planning Scheme 2015*, and as such is recommended for approval.

### RECOMMENDATION:

Pursuant to the *Brighton Interim Planning Scheme 2015*, Council approve application DA-2020/406 of Alterations and Additions (Decks) in the General Residential Zone at 7 Hannah Court, Old Beach, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

#### General

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

#### 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.

#### Services

- (4) 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.

#### Privacy

- (5) A 1.70m high screen no more than 25 per cent transparent must:
  - a. extend the full length of the south western end of the deck for unit 2.

- b. extend the full length of the north eastern and north western deck for unit 3.
- (6) The screening must remain in place for the life of the decks on both units.

**Construction amenity**

- (7) 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.
- (8) 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:
  - (c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
  - (d) The transportation of materials, goods and commodities to and from the land.
  - (e) Obstruction of any public footway or highway.
  - (f) Appearance of any building works or materials.
- (9) 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.
- (10) 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.
- (11) 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 consult 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.
- D. Please note that section 19A of the Strata Titles Act 1998 requires that where a building on a lot or common property is altered or a new building is added to a lot or common property and the alteration or addition requires the approval of Council, an amendment to the strata plan is to be lodged with the Recorder of Titles.

Furthermore pursuant to clause 1(3) of the model by-laws in Schedule 1 of the Strata Titles Act 1998, "the owner of a lot must not, without the written permission of the body corporate, make or permit a change to the exterior character, design or finish of buildings or structural improvements to the lot" and section 131(2) of the Strata Titles Act 1998 provides that if the "alteration or addition to a lot is being, or has been, made contrary to the by laws, the Recorder of Titles may order the owner of the lot to restore the lot to its former condition".

The applicant is advised to make application to amend the strata plan pursuant to the provisions of Part 2 Division 6 of the Strata Titles Act 1998 in order to reflect the completed development works.

## DECISION:

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

**CARRIED**

## VOTING RECORD

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

### **11.3 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 - DA 2020/419 – 35 FOUCHE AVENUE, OLD BEACH - DWELLING:**

Type of Report	Planning Authority – For Decision
Application No:	DA 2020/419
Address:	35 Fouche Avenue, Old Beach
Applicant:	Wilson Homes Tasmania Pty Ltd
Proposal:	Dwelling
Zone:	General Residential
Representations:	One (1)
Discretion:	1. Building Envelope 2. Private Open Space 3. Solar Access
Author:	Planning Officer (Jo Blackwell)

#### **1. Executive Summary**

- 1.1. Planning approval is sought for a dwelling in the General Residential zone at 35 Fouche Avenue, Old Beach.
- 1.2. The application is discretionary due to reliance on performance criteria.
- 1.3. One (1) representation was received. It is considered that the issues raised in the representations do not warrant alteration of the proposal.
- 1.4. The key planning issues relate to building extension beyond the building envelope, solar access and private open space.
- 1.5. The proposal is recommended for approval.
- 1.6. The final decision must be made by the Planning Authority or by full Council acting as a planning authority due to the receipt of representations via the public exhibition period for the development application.

#### **2. Legislative & Policy Content**

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2020/419.
- 2.2. This determination must be made no later than 19<sup>th</sup> January 2021, which has been extended beyond the statutory timeframe with the consent of the applicant].



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

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

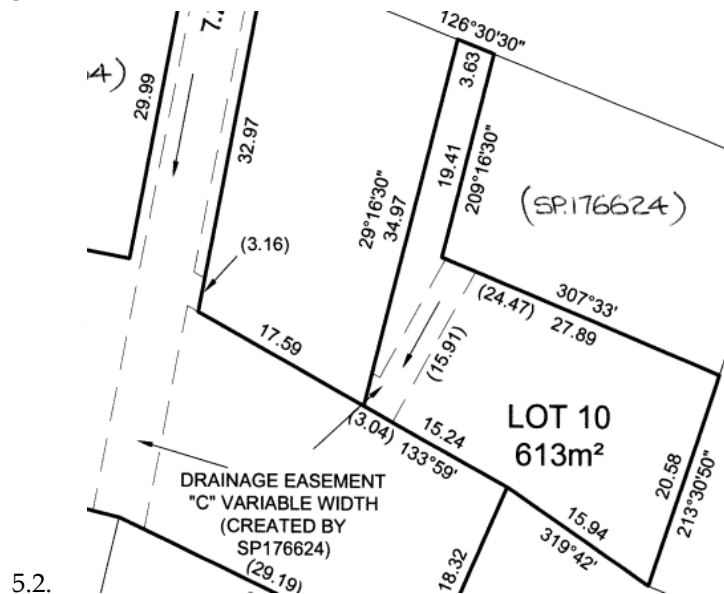
- 3.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.

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

- 4.1. None relevant.

### **5. Site Detail**

- 5.1. The subject site is an internal lot of 613m<sup>2</sup> including access strip (approx. 70m<sup>2</sup>) on the southern side of Fouche Avenue, Old Beach. The site is intersected by a 3.0m wide drainage easement as shown in Figure 1.



- 5.3. The land is zoned General Residential and is not subject to any mapped overlays (refer Figure 2). The site is situated in an area characterised by single dwellings and small multiple dwelling development on residential sized allotments.



Figure 2: Zoning Map. Site is highlighted in orange.

- 5.4. The site slopes gently to the south west, and as shown in Figure 3, has no significant vegetation for removal.



Figure 3: Site Image

## 6. Proposal

- 6.1. The proposal seeks approval for a three-bedroom brick veneer dwelling with an open plan living area. The proposed dwelling is single storey. Two car parking spaces are provided in accordance with the requirements of the Parking and Access Code.

## 7. Assessment against planning scheme provisions

- 7.1. The following provisions are relevant to the proposed use and development;
- General Residential Zone – 10.0
  - Road and Railway Assets Code – E5.0
  - Parking and Access Code – E6.0
  - Stormwater Management Code – E7.0
- 7.2. The proposed use for the site is residential, which is classed as a No Permit Required use within Table 10.2. Clause 10.3 relates to non-residential uses, and accordingly is not applicable in this instant.
- 7.3. The application satisfies the following relevant Acceptable Solutions:

- 10.4.2 A1 – Setbacks and Building Envelope
- 10.4.3 A1 – Site Coverage and Private Open Space
- E5.0 Road and Railway Assets Code
- E6.0 Parking and Access Code
- E7.0 Stormwater Management Code

7.4. The following discretions are invoked:

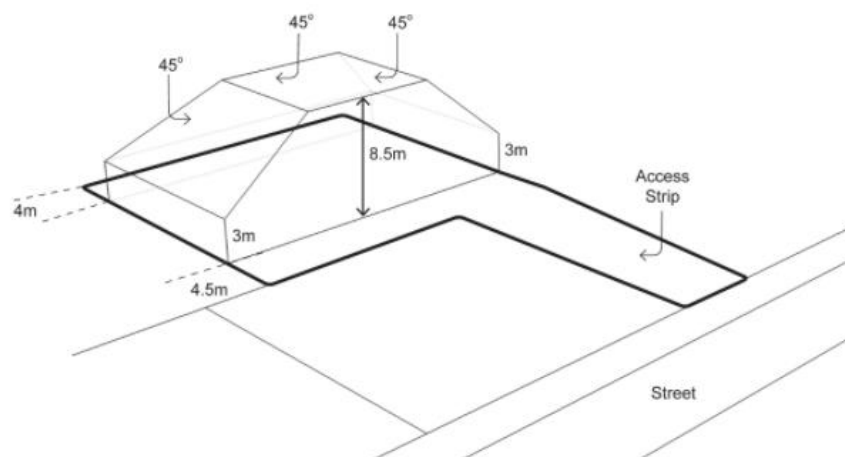
- 10.4.2 A3 – Building envelope
- 10.4.3 A2 – Site Coverage and Private Open Space
- 10.4.4 A1 – Sunlight and Overshadowing

7.5. **Discretion 1 - Building Envelope**

7.5.1 The proposal does not comply with the permitted building envelope provided for in Diagram 10.4.2D of the Interim Scheme (see Figure 4).

The proposal does not comply with the permitted building envelope provided for in Diagram 10.4.2D of the Interim Scheme (see Figure 4).

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



*Figure 4: Diagram 10.4.2D showing internal lot building envelope (source: Brighton Interim Planning Scheme 2015)*

7.5.2 Accordingly, the application is discretionary and the proposal must satisfy the corresponding Performance Criteria.

7.5.3 Section 10.4.2 P3 of the Interim Scheme 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.*

7.5.4 The applicant has provided shadow diagrams showing overshadowing arising from the proposed dwelling at 21 June (Figure 5)

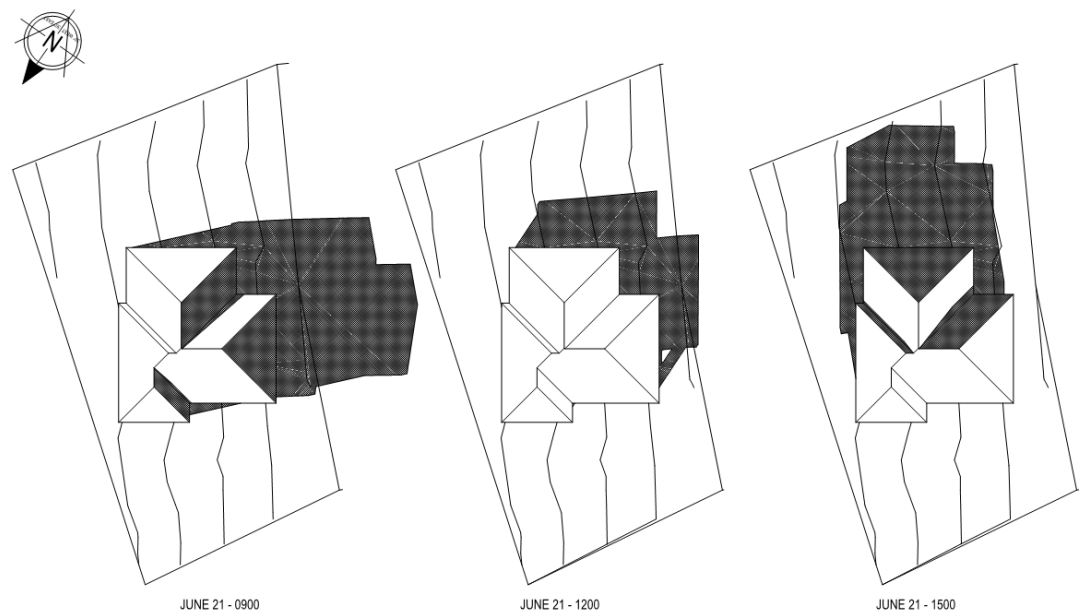


Figure 5: Shadow Diagrams as at 9am, 12noon and 3pm, June 21 (Applicant supplied)

- 7.5.5 The shadow diagrams show that, for much of the day, shadowing is contained generally within the property's boundaries, with some overshadowing arising on the vacant sites located to the south at 9am. Council records indicate that the dwelling approved for 11 Calm Place (east of the boundary truncation) will not be significantly impacted. Similarly, the north eastern corner of the vacant lot at 39-41 Fouche Avenue is not considered to be significantly overshadowed.
- 7.5.6 It is considered that there is no significant loss of amenity arising from overshadowing of habitable rooms, private open space or vacant land.
- 7.5.7 In assessing visual amenity, the proposed dwelling is single storey, with a standard roof pitch of 23 degrees. The dwelling is not overly large, with the gross floor area of 104.4sqm. Changes in wall lengths provide articulation, as do location of doors and windows. Construction materials consist of face brick and monument (black) Colorbond sheet roofing.
- 7.5.8 The proposal plans show a maximum fill of 0.556m above natural ground level in the south western corner to allow for the fall across the site, and excavation works along the eastern elevation of approximately 400mm. A maximum building height of 4.925m is proposed.
- 7.5.9 In assessing the proposal against existing development on adjoining land, the natural ground level of the subject site along the eastern facade is approximately one metre (1m) lower than that of the adjoining dwelling at 33 Fouche Avenue, and is approximately 2.2m below the finished floor level of that dwelling.
- 7.5.10 The rear of the dwelling at 31 Fouche, which is set further back on its site, appears to have a natural ground level similar to the subject site according to mapped contours (source: <http://maps.brighton.tas.gov.au>)
- 7.5.11 The remaining adjoining lots are vacant.
- 7.5.12 Accordingly, the site topography, together with the small scale of the dwelling and dark roof, is considered to have the effect of reducing the overall visual bulk.
- 7.5.13 It is considered that there is no significant detrimental visual impact arising from the proposal.

- 7.5.14 Sub-clause (b) requires separation between dwellings on adjoining lots that is compatible with that prevailing in the surrounding area.
- 7.5.15 Setbacks within the area are typified by development close to side boundaries, with outbuildings located within close proximity to the rear boundaries. The majority of lots within the area are rectangular shaped allotments with frontage to the road. These lots can easily satisfy frontage setbacks due to the shape and size of the lots.
- 7.5.16 In contrast, there are few completed examples of development on internal lots within close proximity. However, council records indicate that applicants seeking planning approval for internal allotments have relied on performance criteria to address the development standards for building envelope, with similar setbacks.
- 7.5.17 It is therefore considered that the Performance Criteria can be satisfied.

## **7.6 Discretion 2 - Private Open Space**

- 7.6.1 The designated private open space shown on the proposal plans does not have a 24m<sup>2</sup> area a minimum of 4m in width, and therefore does not satisfy the Acceptable Solution.
- 7.6.2 The Performance Criteria contained in Section 10.4.3 P2 requires that a dwelling must have private open space that:
- (a) *includes an area that is capable of serving as an extension of the dwelling for outdoor relaxation, dining, entertaining and children's play and that is:*
    - (i) *conveniently located in relation to a living area of the dwelling; and*
    - (ii) *orientated to take advantage of sunlight.*
- 7.6.3 The proposal shows a designated area of private open space directly accessible from the living area to the western side of the lot, with a land area greater than the required 24m<sup>2</sup>. In addition, direct access is also provided from the dining room, to the remainder of the site, allowing for two areas capable of serving as an extension to the dwelling for outdoor relaxation, providing access to morning and afternoon sunlight.
- 7.6.4 It is therefore considered that the performance criteria can be satisfied.



## 7.7 Discretion 3 – Solar Access

7.7.1 The acceptable solution requires that a dwelling must have at least one habitable room (other than a bedroom) in which there is a window that faces between 30 degrees west of north and 30 degrees east of north.

7.7.2 The proposal plans show the western facing windows in the living room are approximately 55 degrees west of north. Accordingly, the performance criteria contained in Section 10.4.4 P1 must be addressed, which states:

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

7.7.3 Sunlight is able to enter the open plan habitable living areas from both east and west, through the dining and living areas.

7.7.4 It is therefore considered that the Performance Criteria can be satisfied.

## 8. Referrals

### 8.1 Council's Senior Technical Officer

Council's Senior Technical Officer has reviewed the proposal and has recommended standard conditions, in relation to construction of the crossover, apron and driveway.

## 9. Concerns raised by representors

9.1. One (1) representation was received during the public advertising period. The following table outlines the issues raised by representor:

Representor	Brief Response
When plans were submitted to Council for representors property, the "planner stated that any dwelling on 35 Fouche Avenue would be 4500mm from the front boundary"	The acceptable solution for building envelope includes a 4500mm setback as shown in the diagram in section 7.5.1 (Figure 4) herein. In this instant, the applicant has sought approval by relying on the performance criteria, which is assessed in clause 7.5 of this report.
Loss of amenity by visual impact cause by the apparent scale, bulk or proportions of the dwelling when viewed from the adjoining lot.	Refer to clause 7.5.7 to 7.5.13 (inclusive) of this report for assessment



The proposed dwelling is not compatible with that prevailing in the surrounding area	Refer to clause 7.5.14 to 7.5.16 (inclusive) of this report for assessment
<p>The representor suggested that if certain conditions were met, the representation would be rescinded, being:</p> <p>The slab level of the proposed dwelling is adjusted from RL7.76 down to RL 7.40 and</p> <p>The roof pitch of the proposed dwelling be reduced to 15 degrees.</p>	The representors suggestions were communicated to the applicant, who does not propose any alterations at this time.

## 10. Conclusion

- 10.1. The proposed use and development of Dwelling in the General Residential Zone at 35 Fouche Avenue, Old Beach satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015, and as such is recommended for approval.

### RECOMMENDATION:

That pursuant to the *Brighton Interim Planning Scheme 2015*, Council approve application DA-2020/419 for use and development of Dwelling in General Residential Zone at 35 Fouche Avenue, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

#### *General*

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

*Amenity*

- (3) Any front fence or gate must have a height above natural ground level of not more than:
  - (a) 1.2m, if the fence is solid; or
  - (b) 1.8m, if the fence has openings above a height of 1.2m which provide a uniform transparency of not less than 30%.
- (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.

*Services*

- (5) 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.
- (6) Services located under the proposed driveway are to be provided with trafficable covers to the requirements of the relevant authority and Council's Municipal Engineer.
- (7) The structure must be sited clear of any easement and located at least 1.00 metre measured horizontally from the Council storm water main.

*Parking and Access*

- (8) At least two (2) parking spaces must be provided on the land at all times for the use of the occupiers, in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (9) 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 the endorsed drawings, Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and include all of the following:
  - (a) A minimum trafficable width of 3m
  - (b) Constructed with a durable all weather pavement.
  - (c) Drained to an approved stormwater system.
  - (d) Surfaced with concrete, or approved equivalent.
  - (e) Be fully complete within 6 months of the commencement of use (occupancy) to the satisfaction of Council's Municipal Engineer.

*Stormwater*

- (10) Drainage from the proposed development must be connected to the public stormwater system to the satisfaction of Council's Municipal Engineer and in accordance with the Building Act 2016.
- (11) The driveways must be drained to minimise surface runoff over the footpath or to the adjoining road in accordance with the requirements of the Municipal Engineer and a Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.

*Soil and Water Management*

- (12) 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*

- (13) 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
- (14) 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.
- (15) 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.

- (16) 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.
- (17) 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. Before commencing any works 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 Owen seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

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

## **11.4 SOUTHERN TASMANIA REGIONAL LAND USE STRATEGY – EXTENSION OF URBAN GROWTH BOUNDARY AT 69 BRIGHTON ROAD, BRIGHTON:**

Type of Report	Planning Authority
Address:	69 Brighton Road, Brighton
Requested by:	Brighton Council
Proposal:	Amend the Regional Land Use Strategy to extend the Urban growth Boundary over part of 69 Brighton Road
Zone:	Rural Resource Zone
Author:	Manager Development Services (David Allingham) & Senior Planner (Patrick Carroll)

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### **1. Executive Summary**

- 1.1. The purpose of this report is to consider a request to amend the Southern Tasmanian Regional Land Use Strategy (STRLUS) 2010-2035 to extend the Urban Growth Boundary (UGB) the part of 69 Brighton Road that is not covered by the Attenuation Area overlay (approximately 11.27ha).
- 1.2. Largely, the request is a result of the Department of Education (DoE) compulsorily acquiring 10ha of General Residential zoned land at 33 Elderslie Road that was earmarked for residential development for a new Brighton High School
- 1.3. The existing Jordan River Learning Federation (JRLF) school farm site was Council's preferred site for the new Brighton High School as it was already owned by DoE and all other proposed sites were needed to accommodate residential or recreation growth for the municipality.
- 1.4. STRLUS and the UGB has not had a significant review since it was first gazetted in 2011. In the subsequent 10 years, rapid growth has put significant pressure on land supply in the municipality, particularly in Brighton.
- 1.5. State treasury has forecast that the Brighton municipality is predicted to be the fastest growing municipality in Tasmania to 2032 with most of the growth to be located within Brighton. The loss of 10ha of general residential land puts significant pressure on land supply in the Brighton township.
- 1.6. A land supply analysis predicts that all remaining infill development opportunities will need to be completed to accommodate the growth, which is unrealistic.

- 1.7. The extension of the UGB over 11.27ha over 69 Brighton Rd is urgently needed and a logical extension of the Brighton township and will effectively replace the 10ha of land compulsorily acquired by DoE.
- 1.8. In partnership with DoE, Brighton Council have engaged a consultant to prepare a Master Plan over the South Brighton area, which includes 69 Brighton Road. The Master Plan will ensure a thorough planning process and that the new high school development is appropriately integrated into the surrounding residential area.
- 1.9. To proceed, the request must be considered and supported by the Planning Authority. If supported, a letter will be sent to the Minister for Planning to request a STRLUS amendment to extend the UGB.
- 1.10. The proposal is recommended to be supported.

## 2. Legislative & Policy Content

- 2.1. The Southern Tasmanian Regional Land Use Strategy (STRLUS) was approved by the Minister for Planning on 27 October 2011. The STRLUS was subsequently amended on 1 October 2013, 14 September 2016, 9 May 2018, and 19 February 2020. Most of the amendments to the STRLUS were to provide for minor expansions of the Urban Growth Boundary.
- 2.2. Under Section 5A of the *Land Use Planning and Approvals Act 1993* (LUPAA), the Minister must undertake regular and periodic reviews of regional strategies. To date, no broad review has taken place, nor has the process for a review begun.
- 2.3. The Tasmanian Planning Commission (TPC) has advised it cannot consider planning scheme amendments that propose to rezone land for suburban densities that is located outside the UGB as shown in STRLUS.
- 2.4. Since the STRLUS was declared in 2011, Brighton has experienced significant growth. The municipality is starting to experience increasing development pressure on the fringes of Brighton's township, and there have been substantial changes in terms of housing, employment and education. As such, the STRLUS is in urgent need of review.
- 2.5. Currently, there is no statutory mechanism for either individuals or Planning Authorities to apply to amend the STRLUS.
- 2.6. The purpose of this report is to enable the Planning Authority to determine whether to support an amendment to the STRLUS.
- 2.7. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (the Act).

- 2.8. In the context of land use planning, the STRLUS sets the broad strategic direction for the region as a whole.
- 2.9. The provisions of the Act specifically require all planning schemes to be – as far as practicable – consistent with the relevant Regional Land Use Strategy. Specifically, pursuant to Section 32(ea) of the Act, before certifying and publicly exhibiting a draft planning scheme amendment, the Planning Authority must be satisfied that the draft amendment is consistent with the Regional Land Use Strategy. Further, pursuant to Section 30O(1) of the Act, the Tasmanian Planning Commission must also be satisfied that a draft amendment is consistent with the Regional Land Use Strategy before approving the amendment.
- 2.10. As the land at 69 Brighton Road is outside the existing Urban Growth Boundary within the STRLUS, any application to rezone the land to an urban zoning would be inconsistent with the STRLUS, and as such, a planning scheme amendment of this nature could not be approved.

### **3. Reviewing and Amending the Regional Land Use Strategies**

- 3.1. As no thorough review of STRLUS has commenced and there is no statutory mechanism for it to be amended by an individual or planning authority, the Planning Policy Unit has prepared an Information Sheet<sup>1</sup> (see Attachment A), which provides guidance on when and under what circumstances the regional land use strategies are reviewed and amended. It also provides information on the requirements and process for reviewing and considering amendments to the regional land use strategies.
- 3.2. The Information Sheet specifies the following minimum information requirements to support an amendment request:
  - All requests for an amendment to a regional land use strategy should first be directed to the relevant local planning authority or regional body representing the local planning authorities in the region.
  - All draft amendments to a regional land use strategy should be submitted in writing to the Minister for Planning by the relevant local planning authority or regional body representing the local planning authorities in the region.
  - The supporting documentation should include details on why the amendment is being sought to the regional land use strategy.

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<sup>1</sup> Department of Justice (2019) *Information Sheet RLUS 1 – Reviewing and Amending the Regional Land Use Strategies*. Hobart, Tasmania.

[https://www.planningreform.tas.gov.au/\\_data/assets/pdf\\_file/0004/456961/Information-Sheet-RLUS-1-Reviewing-and-amending-the-Regional-Land-Use-....pdf](https://www.planningreform.tas.gov.au/_data/assets/pdf_file/0004/456961/Information-Sheet-RLUS-1-Reviewing-and-amending-the-Regional-Land-Use-....pdf)

- The supporting documentation should include appropriate justification for any strategic or policy changes being sought and demonstrate how the proposed amendment:
  - (a) furthers the Schedule 1 objectives of LUPAA;
  - (b) is in accordance with State Policies made under section 11 of the State Policies and Project Act 1993;
  - (c) is consistent with the Tasmanian Planning Policies, once they are made; and
  - (d) meets the overarching strategic directions and related policies in the regional land use strategy.
- 3.3. The Information Sheet also recommends that written endorsement for the proposed change is sought from all planning authorities in the relevant region as well as all relevant State Service agencies.
- 3.4. Where an amendment seeks to modify an UGB the following additional supporting information should also be required:
  1. Justification for any additional land being required beyond that already provided for under the existing regional land use strategy. This analysis should include the current population growth projections prepared by the Department of Treasury and Finance.
  2. Analysis and justification of the potential dwelling yield for the proposed additional area of land.
  3. Analysis of land consumption (i.e. land taken up for development) since the regional land use strategy was declared.
  4. Justification for any additional land being located in the proposed area, considering the suitability of the area in terms of access to existing physical infrastructure, public transport, and activity centres that provide social services, retail and employment opportunities.
  5. Consideration of appropriate sequencing of land release within the local area and region.
  6. Consideration of any targets for infill development required by the regional land use strategy.
  7. Potential for land use conflicts with use and development on adjacent land that might arise from the proposed amendment.
- 3.5. Additionally, the following matters must be considered if an amendment is proposed to a regional land use strategy to develop 'greenfield' land:



1. How the amendment accords with the other strategic directions and policies in the relevant regional land use strategy.
  2. Impacts on natural values, such as threatened native vegetation communities, threatened flora and fauna species, wetland and waterway values, and coastal values.
  3. Impacts on cultural values, such as historic heritage values, Aboriginal heritage values and scenic values.
  4. The potential loss of agricultural land from Tasmania's agricultural estate (including but not limited to prime agricultural land and land within irrigation districts) or land for other resource-based industries (e.g. extractive industries).
  5. The potential for land use conflicts with adjoining land, such as agricultural land and nearby agricultural activities, other resource-based industries (e.g. forestry and extractive industries) and industrial land taking into account future demand for this land.
  6. Risks from natural hazards, such as bushfire, flooding, coastal erosion and coastal inundation, and landslip hazards.
  7. Risks associated with potential land contamination.
  8. The potential for impacts on the efficiency of the State and local road networks (including potential impacts/compatibility with public transport and linkages with pedestrian and cycle ways), and the rail network (where applicable).
- 3.6. The following sections address the matters that are covered by the above-mentioned legislative requirement.

#### **4. Risk & Implications**

- 4.1. Approval or refusal of this request will have no direct financial implications for the Planning Authority.
- 4.2. As noted in the body of the report, refusing the request may result in a shortage of appropriately zoned residential land in the medium to long term.

#### **5. Site Detail**

- 5.1. The proposed area to be added to the Urban Growth Boundary is the northern portion of 69 Brighton Road, Brighton. The area encompasses all land to the north of the existing Bridgewater Industrial Precinct Attenuation Area.

- 5.2. The total area of 69 Brighton Road measures 24.59ha. However, the area proposed to be relocated within the Urban Growth Boundary (i.e. the area shown in red in Figure 1) measures approximately 11.27ha.
- 5.3. The site sits approximately 388m to the south of Elderslie Road, and immediately to the west of Brighton Road.
- 5.4. The site is within close proximity to the Brighton commercial precinct and Brighton Industrial Estate and is located on an existing bus route along Brighton Rd.
- 5.5. The adjoining property at 1 Elderslie Road has recently been sold to the Department of Education. 1 Elderslie Road has been announced as the location of the future Brighton High School site, which is due to open in 2025.
- 5.6. 69 Brighton Road is currently zoned Rural Resource under the *Brighton Interim Planning Scheme 2015*. The site is immediately adjacent to both 1 Elderslie Road and 33 Elderslie Road, both of which sit within the Urban Growth Boundary.
- 5.7. 1 Elderslie Road has an area of 10ha, and is shown in yellow on Figure 1 below.

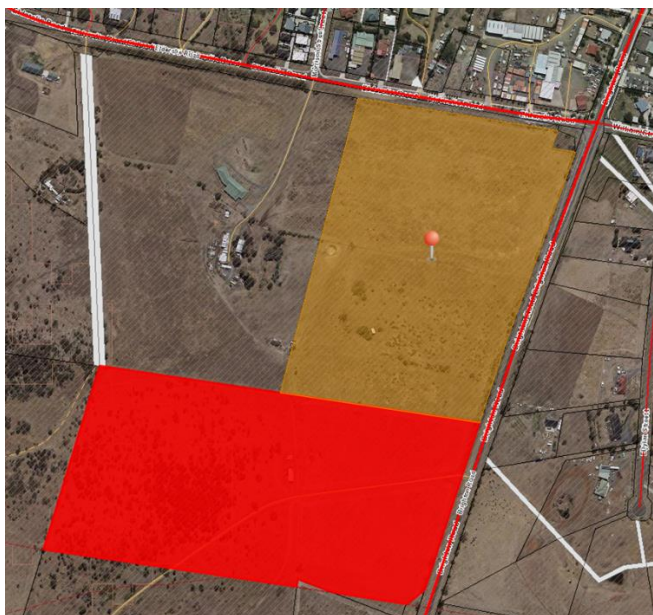


Figure 1: 69 Brighton Rd is shown in red and 1 Elderslie Rd shown in yellow.

- 5.8. 1 Elderslie Road is currently situated within the Urban Growth Boundary. However, as the land has been sold to the Department of Education and nominated as the future high school site, this 10ha parcel will now be unavailable for future residential development.

## 6. Proposal

- 6.1. The existing UGB is shown on Map 10 of the STRLUS and the area over Brighton is reproduced in Figure 2.

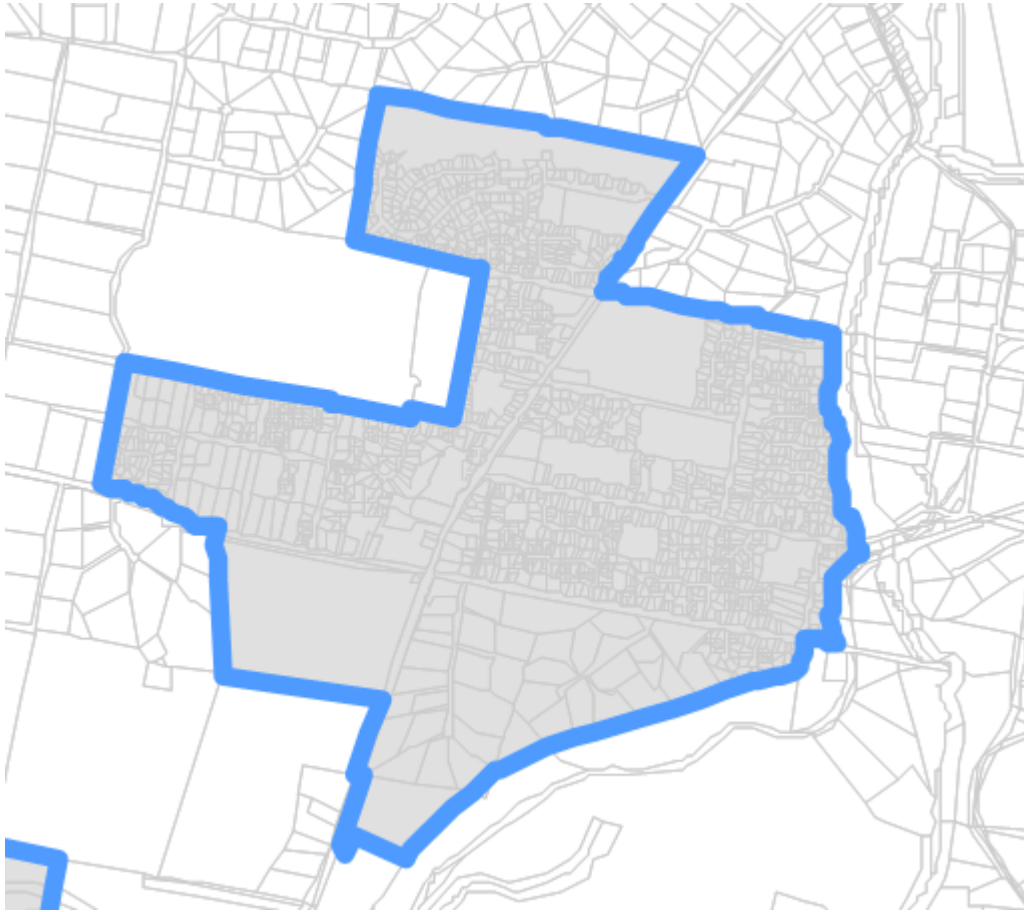


Figure 2: Existing UGB over Brighton

- 6.2. It is proposed that the STRLUS be amended by expanding the UGB by approximately 11.27ha to include part of 69 Brighton Road. The proposed area to be added to the UGB is shown bound in red in Figure 3.
- 6.3. No planning scheme amendment, subdivision or development applications are requested at this time. However, a Master Plan is being prepared for 69 Brighton Rd and the surrounding South Brighton Development Precinct.
- 6.4. The landowner has provided a consent for the UGB expansion (Attachment B)

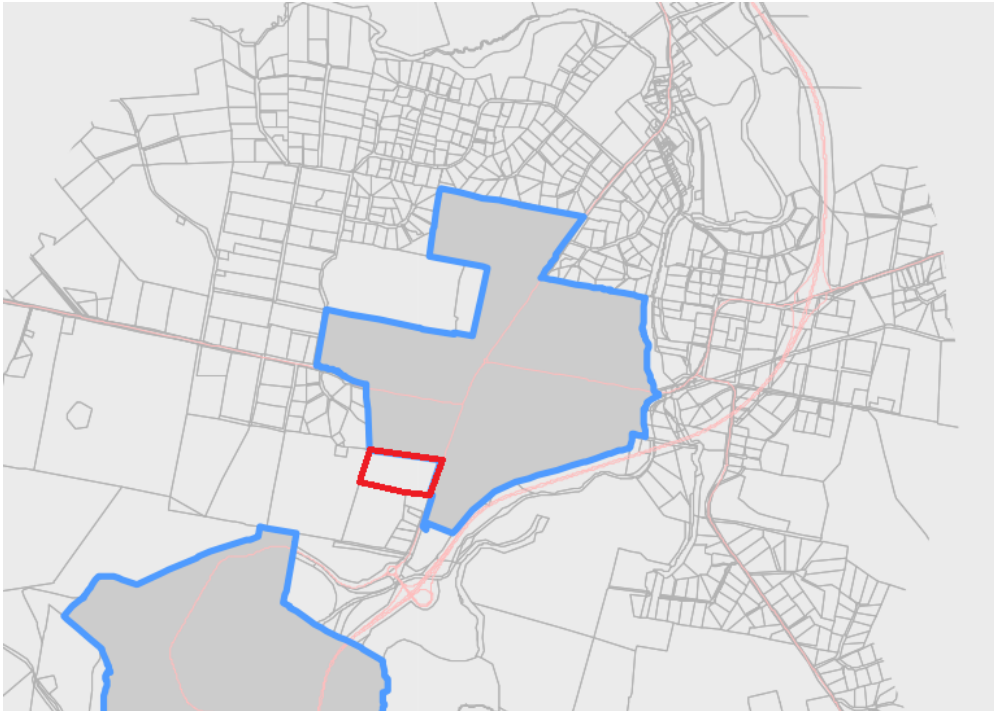


Figure 3: The red border depicts the proposed extension of the UGB over 69 Brighton Rd.

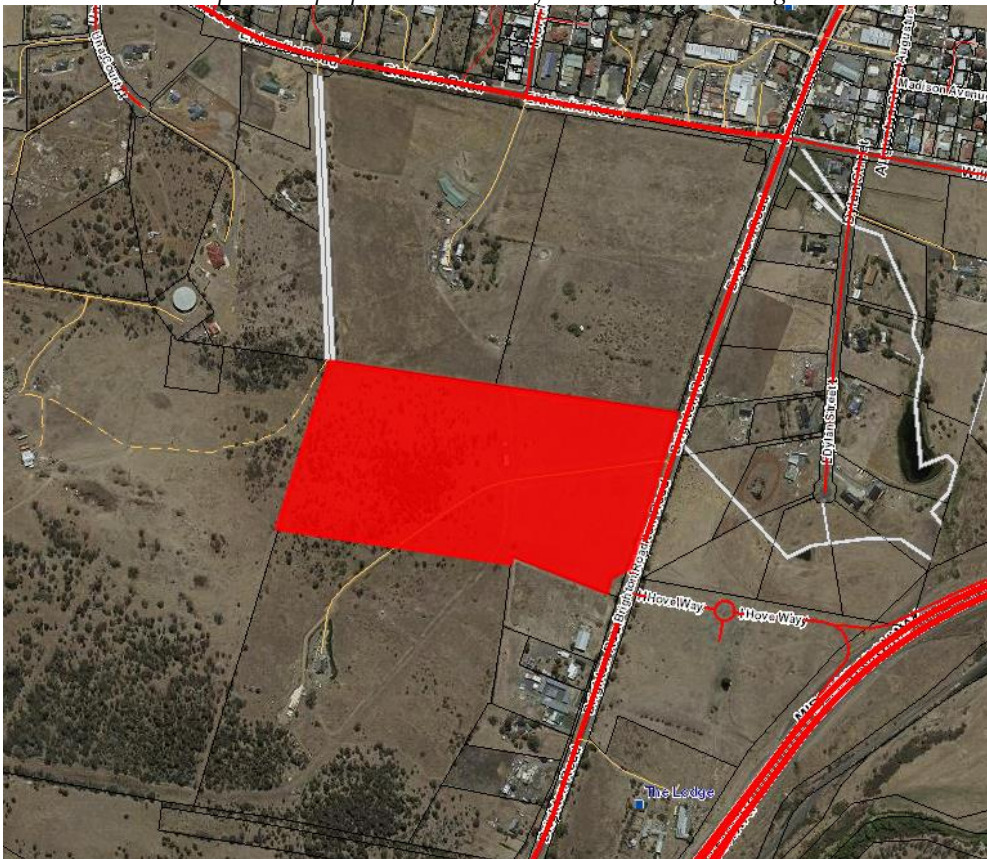


Figure 4: The proposed extension UGB extension over 69 Brighton Rd is shown in red.

## 7. Relevant Background

- 7.1. South Brighton has long been earmarked as a residential growth option and is identified as a Greenfield Development Precinct in the STRLUS and the Brighton Local Area Plan 2012 (BLAP 2012). A key action in the BLAP 2012 is to prepare a Specific Area Plan for the South Brighton Greenfield Development Precinct (“the Development Precinct”) in the short/medium term.
- 7.2. In early 2020, the Department of Education (DoE) announced that a new \$30 million high school will be built in Brighton, providing state of the art learning facilities for Years 7-12. The site chosen for the Brighton High School is 10 hectares of land within the Greenfield Development Precinct on the corner of Elderslie and Brighton Road (now 1 Elderslie Rd).
- 7.3. Prior to the announcement, Brighton Council advocated for the Brighton High School to be located on the existing DoE owned Jordan river Learning federation school farm site in central Brighton as all other potential sites were needed to accommodate residential or recreation growth for the municipality.
- 7.4. The loss of 10 hectares of land within the Greenfield Development Precinct puts significant pressure on land supply in the Brighton township.
- 7.5. The extension of the UGB over 11.27ha over 69 Brighton Rd will effectively replace the 10ha of land compulsorily acquired by DoE and is a logical extension of the Brighton township.
- 7.6. In June 2020, Brighton Council, in partnership with DoE, have engaged a consultant to prepare a Master Plan for the South Brighton Development Precinct, which includes the land at 69 Brighton Road (See Figure 5 below). The objective of the Master Plan is:

*“To develop a comprehensive Master Plan for South Brighton which will guide the development of an attractive gateway neighbourhood which seamlessly integrates the new Brighton High School.”*



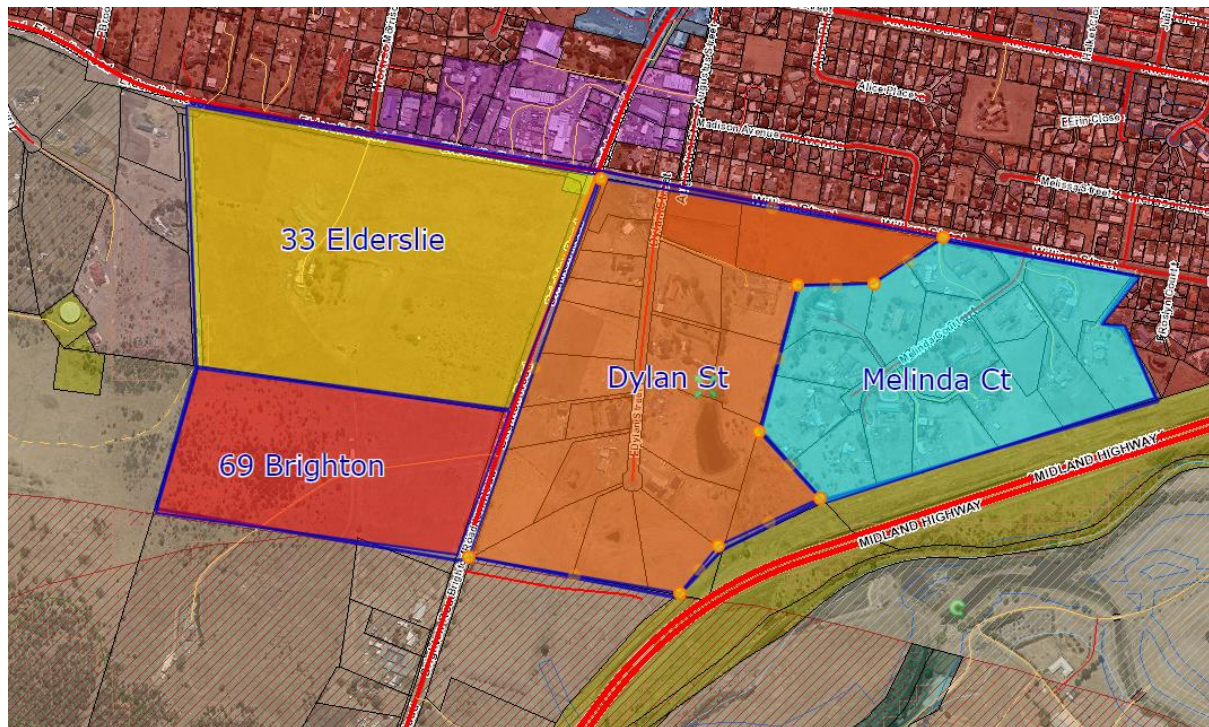


Figure 5: The South Brighton Development Precinct Master Plan area.

- 7.7. At the time of writing, the consultant had completed an infrastructure feasibility for the area and aboriginal heritage surveys and natural values assessments had been commissioned.

## 8. Planning Assessment

### 8.1. Southern Tasmanian Regional Land Use Strategy

#### 8.1.1 Greater Hobart Residential Strategy

STRLUS provides for a Greater Hobart Residential Strategy to provide for greater efficiency in the use of land through balancing the ratio of greenfield to infill development.

While there are sufficient infill opportunities within existing residential areas in Greater Hobart to accommodate forecast demand, there are many barriers to overcome if a 100% infill policy would be adopted.

The Strategy proceeds based on a 50/50 ratio of greenfield to infill scenario with a minimum net density of 15 dwelling per hectare. Residential growth will be primarily managed through an UGB that will set the physical extent for a 20-year supply of residential land for the metropolitan area.

Also, to be included within the UGB is land for other urban purposes (i.e. commercial and industrial development) as well as pockets of open space and recreational land that assist in providing urban amenity.

### 8.1.2 Brighton Context

Figure 6 shows how the UGB is applied in the Brighton municipality.

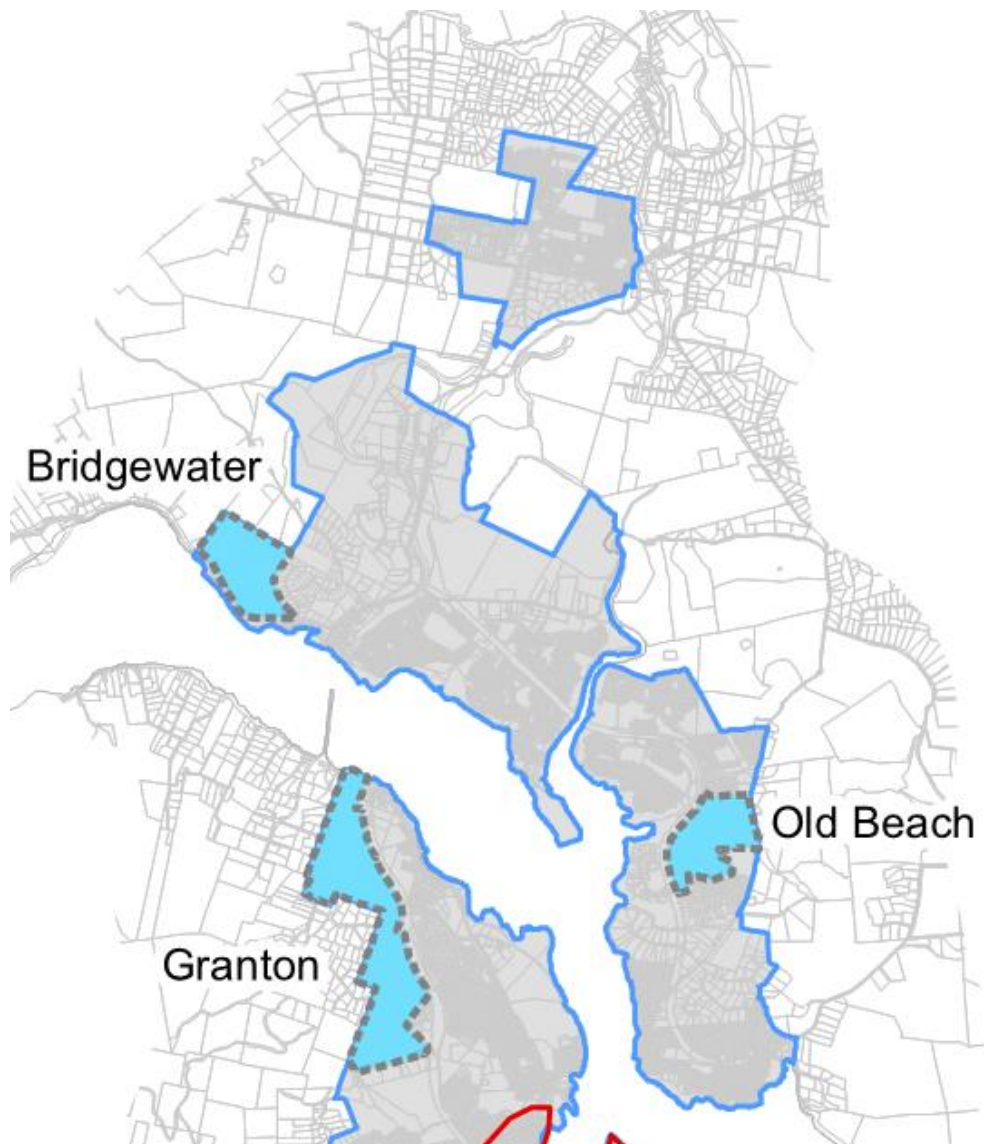


Figure 6: The STRLUS UGB over the Brighton municipality.

Policy SRD 2.3 provides greenfield land for residential purposes across nine Greenfield Development Precincts within the greater Hobart area. Three of these are within the Brighton municipality:

- Bridgewater North
- Brighton South
- Gagebrook/Old Beach

The Brighton South Greenfield Development Precinct was annotated Map 10 in the 2011 gazetted version of STRLUS, but the annotation was removed in the amended 2013 version for unknown reasons.

Regardless, the Brighton South Greenfield Development Precinct at 33 Elderslie Road was zoned to residential in 2009 but has never been developed. 10ha of this land has now been acquired by DoE for the Brighton High School.

The majority of the Gagebrook/Old Beach Greenfield Development Precinct has now been rezoned to General Residential with the Tivoli Green Specific Area Plan overlay which provides for 566 lots. There is a further 15.4ha of land across three parcels that is still zoned Future Urban.

The Bridgewater North Precinct is also zoned Future Urban, but is considered to be poorly located and has poor access to services. In regard to the Bridgewater North Precinct, the BSP 2018 states:

*Given that it is currently isolated from other residential zoning development, its development for urban purposes may only be a long term prospect if land to the east is developed for similar purposes.*

*The potential development of a light rail stop at Bridgewater would provide a catalyst for development. Given that it represents the only viable growth direction for Bridgewater, its zoning should be retained.*

Policy SRD 2.7 requires residential infill growth to be distributed across the existing urban areas for the 25 year planning period, with 15%, or 1987 dwellings, to be accommodated within the Brighton municipality UGB.

- 8.2** *Justification for any additional land being required beyond that already provided for under the existing regional land use strategy. This analysis should include the current population growth projections prepared by the Department of Treasury and Finance.*

#### **8.2.1 Brighton Land supply**

A review of current lot supply in Brighton was undertaken in December 2020 (see attachment C). The review is comprised of the most significant subdivisions/land holdings and is completed to provide an indication of residential land availability. It does not account for all available lots or minor infill subdivision and on this basis underrepresents the number lots actually available, or readily subdividable within the UGB. However, the STRLUS acknowledges that there are many barriers to infill development and that is why it uses a 50/50 ratio of greenfield to infill development.

In summary, there are currently 1,499 potential infill lots that are already zoned General Residential. This includes 726 lots that are located within the Gagebrook/Old Beach and South Brighton Greenfield Development Precincts that have already been rezoned. It does not include the 10ha acquired for the new Brighton High School.



There is also potential for 735 greenfield lots within the Bridgewater North and Gagebrook/Old Beach Greenfield Development Precincts that is currently zoned Future Urban. Although, as noted above, the Bridgewater North Precinct is isolated and remains a long-term prospect.

Accordingly, **there are a total of 2,234 lots** in Brighton municipality (1,499 infill and 735 greenfield) that are either approved or could be approved and able to be released in coming years. **Only 599 of these are within the Brighton township.**

The Tasmanian Department of Treasury and Finance (Treasury) population projections in 2019 expect Brighton Local Government Area (LGA) to be the fastest growing LGA in Tasmania in percentage terms with an expected population gain of 33.4%, or 5,754 people, by 2042. This is an average growth rate of 1.18% per annum.

Analysis undertaken for the Brighton Structure Plan 2018 (BSP 2018) predicts considerably stronger population growth of 7,040 people by 2033 (Based on a 2% growth scenario).

The BSP predicts that 43% of the growth will be accommodated within the suburbs of Brighton and Pontville at a growth rate of 2.7% per annum, or an increase of 3,040 people by 2033 (or 2,465 people by 2042 under the Treasury scenario).

Using ABS data of 2.6 people per household this equates to a demand of 2,213 dwellings by 2042 under the Treasury scenario and 2,708 dwellings by 2033 under the BSP scenario.

This existing supply just satisfies the 20 year supply from Treasury the Treasury projections, but would require ALL infill development opportunities to proceed. The existing supply is well short of the BSP scenario.

Under the BSP scenario for 43% of growth to be accommodated in Brighton township, there will be a shortage of 351 dwellings under the Treasury scenario or 565 dwellings under the BSP scenario.

Of further concern is the release of land in Brighton municipality has generally been slow. Only 309 of potential lots are currently approved and this includes 77 lot subdivision at Plymouth Rd, Gagebrook which hasn't sold a single lot since it was approved in 2006.

Brighton township is expected to accommodate the most growth, but there are only 99 approved lots, 64 of which are in the Army Camp and are likely to be released in early 2021.

A further issue is the isolated location of the Bridgewater North Precinct (approximately 600 lots) and whether the General Residential Zone would even be appropriate in this area.

The loss of 10ha of General Residential land for the use of the Brighton High School has put significant pressure on the land supply within the Brighton township. However, this can be logically replaced on the adjoining land at 69 Brighton Road if the UGB is extended.

### **8.2.2 Brighton Structure Plan 2018**

In addition to Council's own lot supply analysis is that undertaken in the BSP 2018.

Whilst the BSP is not a legislative requirement under the Act, it does represent orderly and sound strategic planning direction for the Brighton municipal area.

The BSP acts as a guide for major changes to land use, built form and public spaces that together can achieve identified economic, social and environmental objectives for Brighton.

Strategy 1 from the BSP is relevant to this proposal:

*Strategy 1: Review the Urban Growth Boundary.*

Based on an analysis of land availability and projected population growth for Brighton, the Structure Plan states that there is inadequate land within the existing Urban Growth Boundary to accommodate Brighton's long term housing needs.

The Structure Plan identifies that 58.2ha of additional land will be needed to meet the required demand within the life of the Structure Plan. It should be noted that the Structure Plan was written in 2018, prior to the Department of Education announcing its plans to develop a high school on the 10ha parcel at 1 Elderslie Road. As noted above, the 10ha of land sits immediately to the north of 69 Brighton Road, and within the existing Urban Growth Boundary.

By removing the 10ha of land acquired by the Department of Education from land to be developed at urban densities, essentially Brighton needs 68.2 ha of additional urban land to meet the projected demand.

The proposed extension of the Urban Growth Boundary would provide for 11.27ha of the 68.2ha, should the land be rezoned and developed in the future.

The Structure Plan recommends that 69 Brighton Road be considered as a primary urban growth option (p.53). It also recommends the Urban Growth

Boundary be extended to encompass new greenfield development precincts – i.e. the land at 69 Brighton Road (p.44).

The proposed amendment is considered to be consistent with the relevant strategies and actions from the Structure Plan.

### 8.3 *Analysis and justification of the potential dwelling yield for the proposed additional area of land.*

Council in partnership with DoE has engaged a consultant to undertake an infrastructure feasibility and prepare a Master Plan for the South Brighton Development Precinct.

Figure 7 shows an early concept sketch for 69 Brighton Rd and how it might be developed. The concept sketch shows a dwelling yield of approximately 123.

If the land was developed at 15 dwelling per hectare, as required for greenfield developments under STRLUS, then the dwelling yield will be approximately 169. However, a threatened vegetation community has been identified on the upper western slope and this area may not be developable.

In summary, it is likely that the dwelling yield on 69 Brighton Road will be between 120 and 170 dwellings.

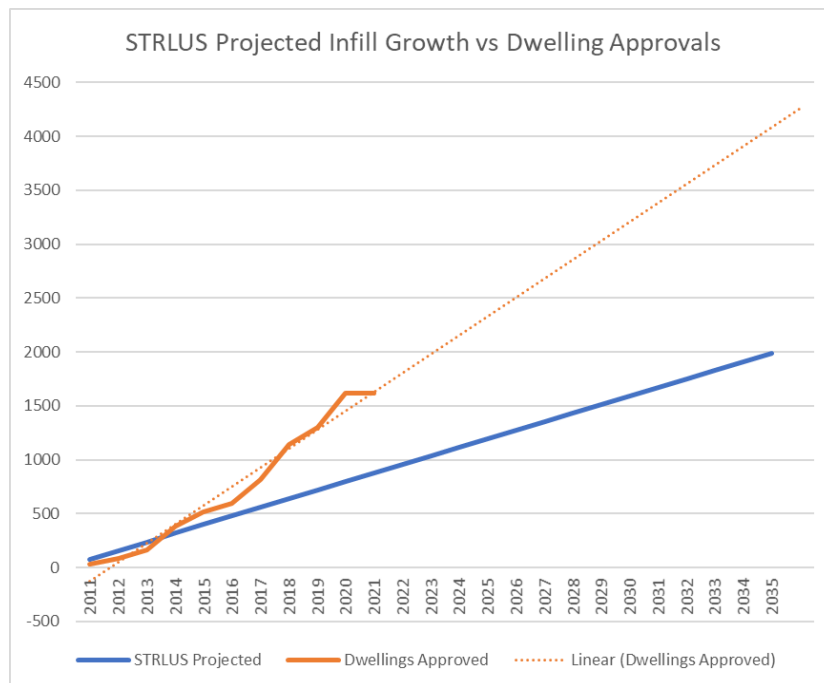


Figure 7: Concept sketch for 69 Brighton Rd (Source: GHD, 2019)

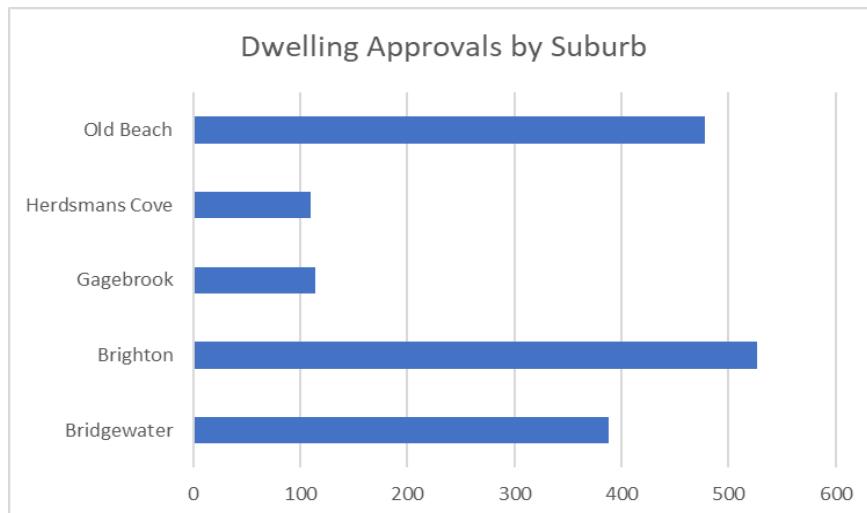
**8.4 Analysis of land consumption (i.e. land taken up for development) since the regional land use strategy was declared.**

STRLUS identifies that 1,987 dwellings should be accommodated as infill growth within the Brighton municipality over the 25 year planning period. Using Council's development approvals database, it has been estimated that approximately 1,618 dwellings have been constructed on brownfield sites since the STRLUS was gazetted in 27 October 2011. The results have been filtered to ensure that only dwelling approvals within the UGB (excluding Greenfield Development Precincts) have been included.

**It is only 10 years into 25 year planning period and the Brighton Council has already achieved 81% of its infill target** (see Graph 1). Graph 2 confirms that the strongest growth is within the Brighton township.



Graph 1: STRLUS projected infill growth vs actual development approvals.



Graph 2: Dwelling approvals within UGB by suburb since 27 October 2011.

Additionally, DoE compulsorily acquired 10ha of General Residential zoned land at 33 Elderslie Rd, Brighton (now 1 Elderslie Rd) for the new Brighton High School.

It is acknowledged that land within the UGB will include land for urban purposes, however 33 Elderslie Road has always been earmarked for residential development. For this reason, Brighton Council's preferred high school site was on the existing JRLF school farm site which was already owned by DoE and zoned appropriately. Arguably a school farm is not an urban use and does not belong in the UGB.

STRLUS identified three greenfield sites within Brighton. Two of these have now been rezoned and the other with poor proximity to services and a long term prospect.

Other than 15ha balance of the Old Beach Greenfield Development Precinct (6ha of which is waterway), there is effectively no well-located greenfield land remaining in the Brighton municipality. Of particular concern is the lack of land available within the Brighton township.

**8.5 *Justification for any additional land being located in the proposed area, considering the suitability of the area in terms of access to existing physical infrastructure, public transport, and activity centres that provide social services, retail and employment opportunities.***

As previously mentioned, 69 Brighton Road has been included in a master planning process being undertaken on behalf of Brighton and DoE.

The site will obviously have excellent access to the adjoining high school facility and the master planning process will ensure that there is strong connectivity to the surrounding neighbourhood.

The site has excellent frontage to Brighton Road which is an existing public transport corridor and there is an opportunity to provide a new bus stop once the land is developed. Footpaths and bike lanes will be extended from the corner of Elderslie Road along Brighton Rd to the roundabout to the south. This will provide excellent connectivity to the Brighton township activity centre to the north and the Brighton Industrial Estate to the south.

The Brighton activity centre provides a range of social services and employment opportunities. The Industrial Estate is also a major employer in the municipality and has significant growth potential. The Highway Services Precinct at 40 Brighton Road (opposite 69 Brighton Road) provides further employment opportunities. An extension of the Brighton activity centre into the Master Plan area is also being considered.

There are some major infrastructure upgrades required, however the consultants have prepared a draft infrastructure feasibility study to ensure the most cost-effective outcomes can be achieved.

**8.6 *Consideration of appropriate sequencing of land release within the local area and region.***

As noted above, the supply of land in the Brighton local area is unlikely to meet forecast demand even with the extension of the UGB over 69 Brighton Road. The Master Plan process will look at the staged release of land in the area.

**8.7 *Consideration of any targets for infill development required by the regional land use strategy.***

See section 8.4 above. Brighton is likely to achieve its infill development target well before the 25 year planning period.

**8.8 *Potential for land use conflicts with use and development on adjacent land that might arise from the proposed amendment.***

The proposal is to extend the UGB over 69 Brighton Road to the edge of the Boral Quarry and Industrial Precinct Attenuation areas. As the land is located outside the Attenuation Areas, the land is not subject to the controls of the Attenuation Code. Regardless, Council has received a letter of support from Mineral Resources Tasmania (MRT) for the extension of the UGB to the edge of the buffer (see attached).

The land to the north and west are zoned for residential use and no land use conflicts are likely to occur. Land to the south is zoned Rural Resource, but these are smaller lots established by residential use and is a pseudo rural-living area. The land to the west is zoned Rural Resource and used for dryland grazing. A buffer to this land can be incorporated into the Master Plan and may be required anyway due to threatened vegetation.

**8.9 How the amendment accords with the other strategic directions and policies in the relevant regional land use strategy.**

The relevant STRLUS strategic policies and corresponding comments demonstrating how the proposal is consistent with STRLUS are listed in the table below.

Policy	Comment
<p>BNV 1.1</p> <p>Manage and protect significant native vegetation at the earliest possible stage of the land use planning process.</p> <p>Where possible, avoid applying zones that provide for intensive use or development to areas that retain biodiversity values that are to be recognised and protected by the planning scheme.</p>	See section 8.10 below
<p>BNV 2.1</p> <p>Avoid the clearance of threatened native vegetation communities except:</p> <p>a. where the long-term social and economic benefit arising from the use and development facilitated by the clearance outweigh the environmental benefit of retention; and</p> <p>b. where the clearance will not significantly detract from the conservation of that threatened native vegetation community.</p>	See section 8.10 below

BNV 2.2  Minimise clearance of native vegetation communities that provide habitat for threatened species.	See section 8.10 below
BNV 2.3  Advise potential applicants of the requirements of the Threatened Species Protection Act 1995 and their responsibilities under the Environmental Protection and Biodiversity Conservation Act 1999	See section 8.10 below
MRH 1.1  Provide for the management and mitigation of bushfire risk at the earliest possible stage of the land use planning process (rezoning or if no rezoning required; subdivision) by the identification and protection (in perpetuity) of buffer distances or through the design and layout of lots.	See section 8.14 below
CV 1.3  Avoid the allocation of land use growth opportunities in areas where Aboriginal cultural heritage values are known to exist.	See section 8.11 below
ROS 1.5  Provide for residential areas, open spaces and other community destinations that are well connected with a network of high quality walking and cycling routes.	Open space and connectivity to the site will be considered through the master planning process for the site and surrounds.



<p>SI 1.2</p> <p>Match location and delivery of social infrastructure with the needs of the community and, where relevant, in sequence with residential land release.</p>	<p>The need for social infrastructure will be considered through the master planning process for the site and surrounds.</p>
<p>SI 1.3</p> <p>Provide social infrastructure that is well located and accessible in relation to residential development, public transport services, employment and education opportunities.</p>	<p>See section 8.5 above</p>
<p>SI 1.4</p> <p>Identify and protect sites for social infrastructure, particularly in high social dependency areas, targeted urban growth areas (both infill and greenfield) and in identified Activity Centres.</p>	<p>The need for the UGB expansion is a result of identifying the need for a high school on residential land.</p>
<p>SI 1.6</p> <p>Co-locate and integrate community facilities and services to improve service delivery, and form accessible hubs and focus points for community activity, in a manner consistent with the Activity Centre hierarchy.</p>	<p>The need for social infrastructure will be considered through the master planning process for the site and surrounds. Opportunities for partnerships with the new High School will also be considered.</p>
<p>SI 1.8</p> <p>Provide for the aged to continue living within their communities, and with their families, for as long as possible by providing appropriate options and flexibility within the planning scheme.</p>	<p>The owner of the site has indicated they are interested in providing aged care on the site and this will be considered as part of the master planning process.</p>

<p>PI 1.1</p> <p>Preference growth that utilises under-capacity of existing infrastructure through the regional settlement strategy and Urban Growth Boundary for metropolitan area of Greater Hobart.</p>	<p>New infrastructure (e.g. sewer pump station) is already required to service much of the South Brighton Development Precinct. 69 Brighton Road will be able to utilise this infrastructure making it more efficient.</p>
<p>PI 2</p> <p>Plan, coordinate and deliver physical infrastructure and servicing in a timely manner to support the regional settlement pattern and specific growth management strategies.</p>	<p>A draft Infrastructure Feasibility Study has been prepared for the South Brighton Development Precinct Area to ensure that infrastructure is delivered in a coordinated and efficient manner.</p>
<p>LUTI 1.1</p> <p>Give preference to urban expansion that is in physical proximity to existing transport corridors and the higher order Activity Centres rather than Urban Satellites or dormitory suburbs.</p>	<p>69 Brighton Rd is on a public transport corridor and within 700m of the Brighton Activity centre.</p>
<p>LUTI 1.4</p> <p>Consolidate residential development outside of Greater Hobart into key settlements where the daily and weekly needs of residents are met.</p>	<p>See above comment</p>
<p>LUTI 1.6</p> <p>Maximise road connections between existing and potential future roads with new roads proposed as part of the design and layout of subdivision.</p>	<p>Maximising road connectivity is being considered as part of the master planning process.</p>

<p>LUTI 1.11</p> <p>Encourage walking and cycling as alternative modes of transport through the provision of suitable infrastructure and developing safe, attractive and convenient walking and cycling environments.</p>	<p>See section 8.5 above.</p>
<p>PR 1.2</p> <p>Avoid potential for further fettering from residential development by setting an acceptable solution buffer distance of 200 metres from the boundary of the Agriculture Zone, within which the planning scheme is to manage potential for land use conflict.</p>	<p>See section 8.12 below</p>
<p>IA 1.2</p> <p>Locate new industrial areas away from sensitive land uses such as residentially zoned land.</p>	<p>See section 8.8 above.</p>
<p>SRD 1.1</p> <p>Implement the Regional Settlement Strategy and associated growth management strategies through the planning scheme.</p>	<p>See sections 8.1 &amp; 8.2 above</p>
<p>SRD 1.2</p> <p>Manage residential growth in District Centres, District Towns and Townships through a hierarchy of planning processes as follows:</p> <p>1. Strategy (regional function &amp; growth scenario);</p>	<p>The proposal to extend the UGB is addressing point 1 and the master planning process that has commenced for the site and surrounds addresses point 2.</p>

<p>2. Settlement Structure Plans (including identification of settlement boundaries);</p> <p>3. Subdivision Permit;</p> <p>4. Use and Development Permit.</p>	
<p>SRD 1.5</p> <p>Encourage land zoned General Residential to be developed at a minimum of 15 dwellings per hectare (net density).</p>	<p>15 dwellings/ha will be the aim for 69 Brighton Rd.</p>
<p>SRD 2</p> <p>Manage residential growth for Greater Hobart on a whole of settlement basis and in a manner that balances the needs for greater sustainability, housing choice and affordability.</p>	<p>See Sections 8.1 – 8.7.</p>

**8.10 *Impacts on natural values, such as threatened native vegetation communities, threatened flora and fauna species, wetland and waterway values, and coastal values.***

A flora and fauna, desktop assessment and site visit have been undertaken for the site. No state-listed threatened native vegetation communities (under the *Nature Conservation Act 2002*) are mapped as occurring on the site. However, a patch of Lowland grassland complex (GCL) occurs (see Figure 8) and are critically endangered ecological community listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBCA).



Figure 8: Map showing location of Lowland grassland complex (GCL) (Source: GHD Flora & Fauna Assessment)

The landowner has engaged a consultant to undertake a more thorough site assessment in coming months so that the grassland communities can be more thoroughly mapped. The more detailed study will inform the Master Planning process and be provided as any future rezoning proposal.

**8.11 *Impacts on cultural values, such as historic heritage values, Aboriginal heritage values and scenic values.***

An aboriginal heritage consultant has been engaged as part of the master planning process and is expected to have a report completed by March 2021.

An initial Dial-Before-You-Dig did not identify any registered Aboriginal relics or apparent risks of impacting Aboriginal relics.

**8.12 *The potential loss of agricultural land from Tasmania's agricultural estate (including but not limited to prime agricultural land and land within irrigation districts) or land for other resource-based industries (e.g. extractive industries).***

The agricultural potential was reviewed as part of the preparation of the Brighton draft Local Provisions Schedule (LPS). The following comments were provided by the agricultural consultant in regard to 69 Brighton Rd and surrounds:

*Rural Zone is appropriate for these titles. Most of the titles west of Brighton Rd have existing dwellings on them. While the largest title is 25ha in area, it has an existing dwelling, is steeply sloped, has a relatively poor Land Capability, no irrigation resources and is poorly connected to land that it would likely be farmed in conjunction with. To the north of these titles is land zoned General Residential. While the title to the west is zoned Rural Resource and is around 30ha in area, it has an existing dwelling and also appears to have limited ag potential due to Land Capability, slope and adjacent constraints.*

69 Brighton Road is not significant agricultural land.

- 8.13** *The potential for land use conflicts with adjoining land, such as agricultural land and nearby agricultural activities, other resource-based industries (e.g. forestry and extractive industries) and industrial land taking into account future demand for this land.*

See Section 8.8 above.

- 8.14** *Risks from natural hazards, such as bushfire, flooding, coastal erosion and coastal inundation, and landslip hazards.*

The only applicable land use hazard is bushfire and the land is within the bushfire overlay. The bushfire risk will be considered as part of the Master Planning process.

- 8.15** *Risks associated with potential land contamination.*

There is no land contamination risk.

- 8.16** *The potential for impacts on the efficiency of the State and local road networks (including potential impacts/compatibility with public transport and linkages with pedestrian and cycle ways), and the rail network (where applicable).*

A feasibility study has been prepared as part of the Master planning process. The study identifies that roundabouts are likely to be required at the Brighton Rd/Elderslie Rd/William St intersection and the Brighton Rd/Hove Way intersection with a new connection to 69 Brighton Rd.

Pedestrian cycling linkages will need to be constructed along Brighton Rd and throughout the development and a new bus stop along the Brighton Rd frontage can be accommodated.

- 8.17** **RMPS Objectives**

The objectives of the Resource Management and Planning System must be furthered by the rezoning request.

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

The request will provide for the sustainable development of a compact township and the master planning process will consider how best to manage an identified threatened vegetation community.

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

The request continues to provide for fair, orderly and sustainable use and development of air, land and water.

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

There is no formal public exhibition process for requests of this nature. However, the public has had significant involvement in resource management and planning within Brighton over the last five years, through the public consultation for the *Brighton Interim Planning Scheme 2015*, the preparation of the *Brighton Structure Plan 2018*, and through the public consultation periods for the preparation of Brighton's Local Provisions Schedule for the *Tasmanian Planning Scheme*.

The request is for a minor expansion of the Urban Growth Boundary, and is considered to be relatively minor.

Once the STRLUS is formally reviewed in full, the public will again have the opportunity to provide additional comment, demonstrating public involvement through the Resource Management and Planning System in Tasmania.

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

The request, if successful, will help facilitate future amendments of the planning scheme to urban densities. Assuming the land is rezoned at some point in the future, there will likely be substantial urban development, which will stimulate the construction economy.

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

The proposed request will require the consideration of the Brighton's Planning Authority, all other southern region Planning Authorities and of the Minister for Planning, which will include the involvement of and consultation with various sections and agencies of the Tasmanian Government.

Other local planning authorities within the region will also be formally consulted with as part of the process.

The proposed Planning Scheme Amendment as it relates to the Objectives

of Part 2 of Schedule 1 of LUPAA is discussed below:

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

The report demonstrates that the proposal is consistent with the *Southern Tasmania Regional Land Use Strategy 2010-2035*, *Brighton Structure Plan 2018* and the *Brighton Council Strategic Plan 2015-2025*.

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

The proposal has been submitted in accordance with “Information Sheet RLUS 1 – Reviewing and amending the Regional Land Use Strategies”.

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

See section 8.10 and 8.5 of this report.

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

The proposal does not conflict with this objective and is consistent with State, regional and local planning policies and strategies.

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

This objective is not directly relevant to the current matter.

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

The site forms part of a broader master planning process which will provide the necessary planning controls to provide for a liveable neighbourhood.

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

The site and adjoining land are not known to contain any items or places of scientific, aesthetic, architectural or historic interest.



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

An Infrastructure Feasibility study is being prepared to provide for co-ordinated delivery of public utilities.

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

See section 8.12 of this report.

## **8.18 State Policies**

### **8.18.1 State Coastal Policy 1996**

The *State Coastal Policy 1996* applies to land within 1 km of the high-water mark. The subject land is more than 1km from the high-water mark and this policy does not apply.

### **8.18.2 State Policy on the Protection of Agricultural Land 2009**

The *State Policy on the Protection of Agricultural Land 2009* protects Prime Agricultural Land (Land Capability Classes 1, 2, and 3). The land is not considered to be Prime Agricultural Land.

### **8.18.3 The State Policy on Water Quality Management 1997**

The *State Policy on Water Quality Management 1997* applies but is more relevant to individual developments.

## **8.19 Tasmanian Planning Policies**

The Tasmanian Planning Policies have not been made.

## **8.20 Brighton Council Strategic Plan 2019-2029**

The proposed amendment is consistent with the below relevant strategies from the *Brighton Council Strategic Plan 2019-2029*<sup>2</sup>:

- *S1.2: Create Housing/Employment/Play/Education (Liveability)*
- *S1.5: Build a resilient community and environmentally sustainable future.*
- *S2.1: A focus on Agriculture/Horticulture/Aquaculture – (Food)*
- *S3.1: Support 30% Growth Target*
- *S4.4: Long-term thinking & evidence-based*

The proposed amendment does not conflict with any of Council's strategies.

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<sup>2</sup> Brighton Council (2019) *Brighton Council Strategic Plan 2019-2029*. <https://www.brighton.tas.gov.au/wp-content/uploads/2019/08/Brighton-Strategy-on-a-page-2019-29.pdf>

## **8.21 Southern Tasmania Regional Land Use Strategy 2010-2035**

As required under s.32(1)(ea) the proposed amendment must be, as far as practicable, consistent with regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the *Southern Tasmania Regional Land Use Strategy 2010-2035* (STRLUS).

Consistency with STRLUS is demonstrated at section 8.9 of this report.

## **9 Consultation**

### **9.1 Technical Reference Group**

Council has advised the Southern Technical Reference Group (TRG), which is a regional body representing the local planning authorities in the Southern Region, of its intention to pursue the amendment of the STRLUS. Senior Strategic Planners from all southern region Councils sit on TRG. Informally, members of the group were asked if it were likely that their Council would object to the proposed amendment. Whilst no objections were made, one member stated that the decision would be referred to their planning authority.

Should Council determine to support the recommendation, it is understood that the Minister for Planning will formally contact all Councils within the region for their comment on the proposal.

### **9.2 Planning Policy Unit**

Council has consulted with the Planning Policy Unit regarding the proposed amendment.

### **9.3 Public Exhibition**

The request to amend the Regional Land Use Strategy has not been publicly exhibited. There is no statutory requirement to do so.

### **9.4 Other**

**9.4.1** Council has obtained letters of support from the Department of State Growth, Mineral Resources Tasmania, and a planning consultant acting on behalf of the previous land owner.

**9.4.2** Consultants have prepared a draft Infrastructure Feasibility study for the South Brighton Development Precinct and have engaged with infrastructure providers throughout this process to gain an understanding of the infrastructure needs for the area.

## **CONCLUSION:**

The proposal to amend STRLUS to extend the UGB over 69 Brighton Road has become critical since 10ha of land at 1 Elderslie Rd earmarked for residential development was compulsorily acquired by DoE for the new Brighton High School.

This report demonstrates that the rapid growth in the Brighton municipality since STRLUS was gazetted in 2011 has strained land supply, particularly in the Brighton township.

Treasury population projections predict that Brighton will be the fastest growing municipality to 2042 and the land supply analysis predicts that there is insufficient land in the Brighton municipality to accommodate the growth.

The extension of the UGB to 69 Brighton Rd is urgently required to meet the future need of Greater Hobart and is a logical extension of the Brighton township and adjoins the new high school site. The site is in good proximity to the Brighton activity centre and Brighton Industrial Estate and provides excellent access to social services and employment opportunities.

The site is already being considered in the master planning process for the South Brighton Development Precinct to ensure it is part of an attractive, well planned neighbourhood which integrates with the new Brighton High School.

On this basis, the proposed amendment to STRLUS to expand the UGB over 11.27ha of 69 Brighton Road is recommended for approval.

## RECOMMENDATION:

That Council resolve to request the Minister for Planning to amend the Southern Tasmania Regional Land Use Strategy 2010-2035 (STRLUS) to extend the Urban Growth Boundary over the part of 69 Brighton Road that is not covered by the Attenuation Area overlay.

## DECISION:

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

**CARRIED**

### VOTING RECORD

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

*Mayor Foster resumed the Chair*

## 12. REPORTS FROM OFFICERS:

Cr Murtagh left the meeting 6.14pm

## **12.1 BRIGHTON COUNCIL'S 2050 VISION:**

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

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### **Background:**

During the second half of 2020, council prepared its 2050 Vision. The process involved an extensive consultation and engagement. In December 2020, Council held a workshop to discuss and fine tune the draft Vision and associated report. All the relevant changes have now been made to address matters raised in the workshop.

Externally, the process provided a great opportunity for broadscale input from our community and stakeholders about their aspirations for the municipality and demonstrated that council is willing to listen and respond.

Internally, the process will assist councillors and council staff to develop a shared long-term vision, which in turn helps to provide greater focus and motivation to work towards clearer aspirations. It will also assist in the more detailed work of renewing council's long term financial plan and 10 year asset plan, and preparing Annual Plans.

Once endorsed, the Vision will be shared publicly and utilised in various ways in council communications and strategy.

### **Consultation:**

Consultation has occurred amongst councillors, staff, the consultant team, the community and a broad range of stakeholders.

### **Risk Implications:**

No significant risks.

### **Financial/Budget Implications:**

The process cost in the vicinity of \$25,000, which includes consultant/facilitator fees; professionally designed documentation, final report; and digital collateral and community consultation. This cost has been accommodated within the Long-Term Planning budget item.

### **Strategic Plan:**

The 2050 Vision will sit above the Strategic Plan and assist in developing and reviewing it.

### **Social Implications:**

The process offered a great opportunity for the community to be heard. This in turn provided council a good base from which to consider their long-term aspirations for council and the municipality in its strategic planning processes.

The 2050 Vision provides an ongoing platform from which the community can engage with council positively in shaping the future.

A broad range of social issues and opportunities were considered during the process.

### **Environmental or Climate Change Implications:**

A broad range of environmental issues and opportunities were considered during the process.

### **Economic Implications:**

A broad range of economic issues and opportunities were considered during the process.

### **Options:**

1. As per the recommendation.
  2. Other.
- 

### **RECOMMENDATION:**

That Council endorse the 2050 Vision, including both the 'Four Pager' and the Full Report and support these documents being made public and promoted.

### **DECISION:**

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

**CARRIED**

#### **VOTING RECORD**

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

Cr Murtagh rejoined the meeting 6.17pm

## **12.2 DOG MANAGEMENT POLICY AND DECLARED AREAS:**

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

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### **Background:**

Brighton Council has conducted a full review of its Dog Management Policy. This has been undertaken in three stages.

According to the *Dog Control Act 2000* (Part 1 - Preliminary, 7. Dog Management Policy (4)), a council is to review its dog management policy at least once every 5 years.

### **Stage 1: Community engagement**

This first stage of community engagement was undertaken from 3 to 24 July 2020. This stage was a broad and open consultation before any proposed updates to the current policy or initiation of declared areas for the Brighton Council Municipality. The consultation was undertaken according to Section 7 of the *Dog Control Act 2000*. The public and any 'appropriate body or organisation' were invited to make submissions online via an electronic survey form on Council's website under 'Have Your Say' or in writing via email or letter. Feedback was also collected via Council's Facebook page.

Specific stakeholder groups were emailed directly alerting them to the public consultation commencing and inviting them to make a submission on behalf of their organisation.

The community consultation was advertised in The Mercury newspaper, the Brighton Community News and promoted via Council's Facebook page and the Brighton Community News Facebook page. Follow-up and reminder posts were conducted via Facebook during the consultation period.

Council received a total of 22 comments/submissions predominantly via the online form. The comments received in writing or via Facebook were manually added to the online database of feedback.

It is fair to say that the majority of comments and feedback received did not relate specifically to improvements or changes to the current Dog Management Policy but were requests for additional dog exercise areas throughout the municipality or improvements to the existing Old Beach Dog Park that have generally been addressed.

### **Stage 2: Develop new draft policy and identify proposed declared areas for public comment**

After a review of the feedback from Stage 1 and assessment of any changes to legislation since 2013, the current Dog Management Policy was updated for Council's review.

This included the following key changes or updates:

- Clearly stating the annual dog registration period in the policy.
- Referencing the Annual Fees & Charges on Council's website rather than specific fees or charges amounts.
- Developing a list of areas to be declared and referenced in the policy.
- A more concise summary of Council's approach to dog management education.
- Updates to requirements for keeping a dangerous dog as per the latest legislation (mainly associated with requirements for child-proof enclosures).
- Inclusion of specific steps related to dealing with nuisance dogs and associated complaints.

As part of this process, Council conducted an audit of current signage related to dog management in parks and reserves. A list of the proposed declared areas for Brighton

Council has been prepared based on areas where dog management rules may need to be enforced but would not be covered by the *Dog Control Act 2000* under Prohibited Public Areas (Section 28).

At the Ordinary Meeting of Council in October 2020, Council endorsed the updated Dog Management Policy (Draft - October 2020) and the proposed dog management areas in Appendix B of the draft policy (to be declared according to Dog Control Act 2000, Part 3 –Control of Dogs, Division 2). This was endorsed for Stage 2 of the community engagement process.

Council identified that the draft policy, to be taken to Stage 2 of the community engagement process, should state that sporting recreation grounds and perimeters are to specifically be declared by Brighton Council as prohibited to dogs at all times. This was included in the draft policy released for Stage 2 community feedback in November/December 2020.

### **Stage 3: Adopt policy and declare areas**

A copy of the updated draft Dog Management Policy, which included maps and a list of the proposed declared areas was made available for public comment from **30 November to 18 December 2020** as part of the second stage of community engagement.

The intention to declare areas and the opportunity for the community to have their say was advertised in the public notices of The Mercury newspaper on Saturday 28 November 2020, published on Council's website and promoted on Council's Facebook page up until the week beginning 14 December 2020. The advertising was as follows:

*Pursuant to section 24 of the **Dog Control Act 2000** (the Act), Brighton Council gives notice of its intention to declare the following areas:*

#### **OFF-LEAD EXERCISE AREAS**

- Old Beach Dog Park, Jetty Road, Old Beach.
- Bridgewater Parkland Dog Park, Gunn Street end, Bridgewater (to be constructed).
- Seymour Street Dog Park, Brighton (to be constructed).

#### **ON-LEAD EXERCISE AREAS**

- Childs Drive Park, Old Beach.
- Old Beach Foreshore Walking Track, Old Beach.
- Bridgewater Foreshore Walking Track, Bridgewater.
- Riverside Drive Walking Track, Bridgewater.
- Ford Road to Andrew Street Walking Track (Polonia Bridge), Brighton.
- Pontville Walking Track, Brighton Road to Hartley Court, Pontville.

#### **PROHIBITED AREAS**

- All sports grounds, playing fields and the perimeters are prohibited to dogs at all times.

## TRAINING AREAS

- Pontville Park Dog Arena, Pontville.
- Greyhound Training Area, behind Seymour Street Park, Brighton.

*A copy of the draft Dog Management Policy, which includes the proposed declared areas is available to the public for comment from **30 November to 18 December 2020** as follows:*

- Download the draft policy and declared areas [here](#).
- Email – [admin@brighton.tas.gov.au](mailto:admin@brighton.tas.gov.au)
- Phone – (03) 6268 7000

*Please submit your feedback by **18 December 2020** via:*

- The electronic feedback form is available by clicking [here](#)
- Email to [admin@brighton.tas.gov.au](mailto:admin@brighton.tas.gov.au)
- Mail c/o the General Manager, 1 Tivoli Road, Old Beach 7017

*James Dryburgh,*  
**GENERAL MANAGER**

As for Stage 1, specific stakeholder groups were emailed directly alerting them to the public consultation commencing and inviting them to make a submission on behalf of their organisation. This included the Tasracing Greyhound Adoption Program (GAP).

From 30 November to 18 December 2020, Council received a total of four (4) comments/submissions. Three (3) submissions were received via the online form (see Attachment 2) and one (1) via email. The email submission was provided in confidence and as such is provided to Council under separate cover.

Based on the submissions received there are no recommended changes to the draft Dog Management Policy.

## **Consultation:**

Community, relevant stakeholder groups, Animal Control Officer, Senior Management Team. Public consultation has been undertaken in accordance with the requirements of the *Act*.

## **Risk Implications:**

Inability to enforce dog management rules in areas that fall outside of Section 28 of the *Dog Control Act 2000* are not formally declared by Council. The new policy and declared areas have been developed in accordance with the requirements of the *Act*.

## **Financial Implications:**

There may be some requirement for updated signage for some of the declared areas.

## **Strategic Plan:**

Goal 1: Strengthen our Communities

S1.1: Understand/Improve Health and Wellbeing



S1.3: Provide Public Facilities/Amenities

S1.4: Support Connected Communities

**Social Implications:**

Promotion and education around responsible dog ownership and good governance in the area of dog management, contributes positively to a healthy, happy and connected community.

**Environmental or Climate Change Implications:**

Not applicable.

**Economic Implications:**

Not applicable.

**Other Issues:**

Not applicable.

**Assessment:**

The review of Brighton Council's Dog Management Policy and Declared Areas has been undertaken in accordance with the *Dog Control Act 2000* and best practice community engagement processes.

**Options:**

1. As per the recommendations.
  2. Do not endorse draft Dog Management Policy and proposed Declared Areas.
- 

**RECOMMENDATION:**

1. Council endorses the Dog Management Policy (January 2021), to be reviewed no later than 2025, or earlier if required.
2. Pursuant to Section 20 of the *Dog Control Act 2000* Council declares the areas contained in Appendix B of the Dog Management Policy.
3. Pursuant to Section 25 of the *Dog Control Act 2000* Council endorses notification of the declared areas in Attachment 3 on 23 January 2021 to take effect on 22 February 2021 and remain in force until 23 February 2026.

**DECISION:**

*Cr Owen moved, Cr Whelan seconded that the recommendation be adopted excluding Childs Drive Park, Old Beach being an on-lead exercise area ie prohibited.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr Foster	

Cr Garlick  
Cr Geard  
Cr Gray  
Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

## **12.3 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM:**

**AUTHOR:** Manager Asset Services  
(Mr H Macpherson)

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### **Background:**

As part of the Federal Government's Local Roads and Community Infrastructure Program Phase 2, Brighton Council has been allocated an additional \$630,998 that wasn't allowed for in Council's 2020-21 budget. A grant agreement has been completed with the Federal Government but Council needs to nominate a project for approval to receive the money.

### **Consultation:**

General Manager, Deputy General Manager and Manager Asset Services.

### **Risk Implications:**

If Council doesn't nominate a project the funds may be withdrawn.

There is a risk that the project could go over budget, but the Asset Services Department has processes in place to reduce this risk.

### **Financial/Budget Implications:**

This money is additional to the current budget and needs to be spent on a project that isn't in the budget to help stimulate the economy.

### **Strategic Plan:**

Goal 1: Strengthen our Communities

S1.3: Provide Public Facilities/Amenities

Goal 3: Drive Infrastructure Development

S3.2: Implement Strategic Asset Management Plan (Existing and New)

S3.3: Enabling Infrastructure

### **Social Implications:**

Not applicable.

## **Environmental or Climate Change Implications:**

Not applicable.

## **Economic Implications:**

The grant program is aimed at stimulating the economy during these challenging times.

## **Other Issues:**

There are a number of roads that need renewal in the 10-year plan. This grant would be an ideal opportunity to renew one of these roads.

The grant requires the works to be carried out and completed in the 2021 calendar year.

## **Assessment:**

The roads that this money could be used on include:

- Elderslie Road, Brighton
- Albion Road, Bridgewater
- Andrew Street, Brighton
- Baskerville Road, Old Beach
- Back Tea Tree Road, Tea Tree

It is felt that due to the timeframe of the grant, Elderslie Road, Brighton would be a great project to select. There are minimal services that will need relocation and staff will be able to do a design that will renew the worst sections of the road and ensure that the grant amount will not be exceeded.

## **Options:**

1. As per the recommendation.
2. Council nominates an alternative project/road.

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## **RECOMMENDATION:**

That Council allocate the additional grant funding from the Local Roads and Community Infrastructure Program Phase 2 to the reconstruction of Elderslie Road, Brighton.

## **DECISION:**

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

**CARRIED**

## **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	

Cr Gray  
Cr Jeffries  
Cr Murtagh  
Cr Owen  
Cr Whelan

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

**CARRIED**

**VOTING RECORD**

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

**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)(a).*

**13.1 REVIEW OF GENERAL MANAGER'S PERFORMANCE:**

The Mayor and Deputy Mayor conducted an initial 6 month performance review of General Manager, James Dryburgh on 18<sup>th</sup> January 2021.

The Mayor and Deputy Mayor addressed Councillors in relation to that review. They both praised the performance and milestones that the General Manager had achieved during his first six months.

**RECOMMENDATION:**

That the Mayor and Deputy Mayor's report be received.

**DECISION:**

*Cr Curran moved, Cr Geard seconded that the report be received.*

**CARRIED**

**VOTING RECORD**

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

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

**CARRIED**

**VOTING RECORD**

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

**13. QUESTIONS ON NOTICE:**

*There were no Questions on Notice.*

The meeting closed 6.32pm

Confirmed:

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

Date:

\_\_\_\_\_  
16<sup>th</sup> February 2021