



Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.30 P.M. ON TUESDAY,
10TH AUGUST, 2021

PRESENT: Cr Gray (Chairperson); Cr Curran (Acting Mayor); Cr Garlick; Cr Geard; Cr Jeffries; Cr Owen; Cr Murtagh and Cr Whelan

IN ATTENDANCE: Mrs J Banks (Governance Manager); Mrs J Blackwell (Senior Planner) and Mr L Wighton (Senior Technical Officer).

1. Acknowledgement of Country

2. Apologies

All members were present.

3. Public Question Time and Deputations

There was no requirement for public question time.

4. Declaration of Interest

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

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

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

There were no declarations of interest.

5. Council Acting as Planning Authority

In accordance with the provisions of Part 2 Regulations 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 5 on this agenda, inclusive of any supplementary items.

5.1 Application under the Brighton Interim Planning Scheme 2015 - DA 2021/13 - 71 Tongatabu Road, Dromedary - Outbuilding:

Type of Report:	Planning Authority – For Decision
Application No:	DA 2021/13
Address:	71 Tongatabu Road, Dromedary
Proposal:	Outbuilding
Zone:	Rural Living Zone (Area C)
Representations:	One (1)
Discretions:	1. Setback to side boundary 2. Cut/fill 3. Outbuildings 4. Stormwater management
Author:	Planning Officer (Richard Cuskelly)

1. Executive Summary

- 1.1. Planning approval is sought for an outbuilding at 71 Tongatabu Road, Dromedary (the 'site').
- 1.2. This application was received prior to 11 February 2021 and therefore must be determined under the Brighton Interim Planning Scheme 2015 (the 'Interim Scheme').
- 1.3. The site is situated within the Rural Living Zone (Area C).
- 1.4. The key planning issues relate to amenity and stormwater management.
- 1.5. One (1) representation was received within the statutory public advertising period.
- 1.6. The application is recommended for approval subject to conditions.
- 1.7. There are issues raised in the representation that have warranted separate investigation from Council staff.
- 1.8. Due to the receipt of a representation during the public advertising period, the final decision is delegated to the Planning Authority or by full Council acting as a Planning Authority.

2. Legislative & Policy Content

- 2.1. The purpose of this report is to enable the Planning Authority to determine application DA 2021/13.
- 2.2. This determination must be made no later than 17 August 2021. The statutory assessment period has been extended with the consent of the applicant.
- 2.3. The relevant legislation is the *Land Use Planning and Approvals Act 1993* (the 'Act'). The provisions of the Act require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 2.4. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2015*.
- 2.5. This report has been prepared with appropriate regard to the State Policies that apply under the *State Policies and Projects Act 1993*.
- 2.6. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

3. Risk & Implications

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

4. Site Detail

- 4.1. The site is a 6689m² lot (not including the Tongatabu and Crown Road reserves) with existing access to Tongatabu Road (see Figure 1).
- 4.2. It is already developed by a dwelling and BBQ area.

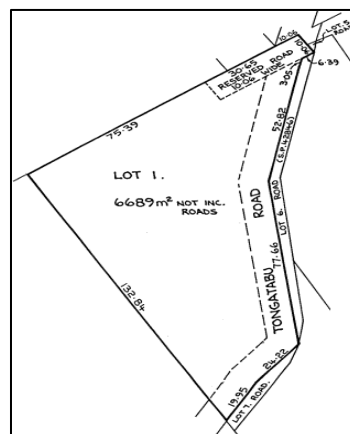


Figure 1. Folio plan

- 4.3. The site is within Area C of the Rural Living Zone of the Interim Scheme, while land to the north and west is zoned Environmental Living (see Figure 2).
- 4.4. The western portion of the site is within a mapped threatened vegetation community: (DTO) *Eucalyptus tenuiramis* forest and woodland on sediments; though the proposed outbuilding is just clear of this area.
- 4.5. The site drops to the west at a gradient of approximately 1 in 5 (and a low-risk Landslide Hazard Area covers much of the site).



Figure 2. Aerial photograph of the site (highlighted)

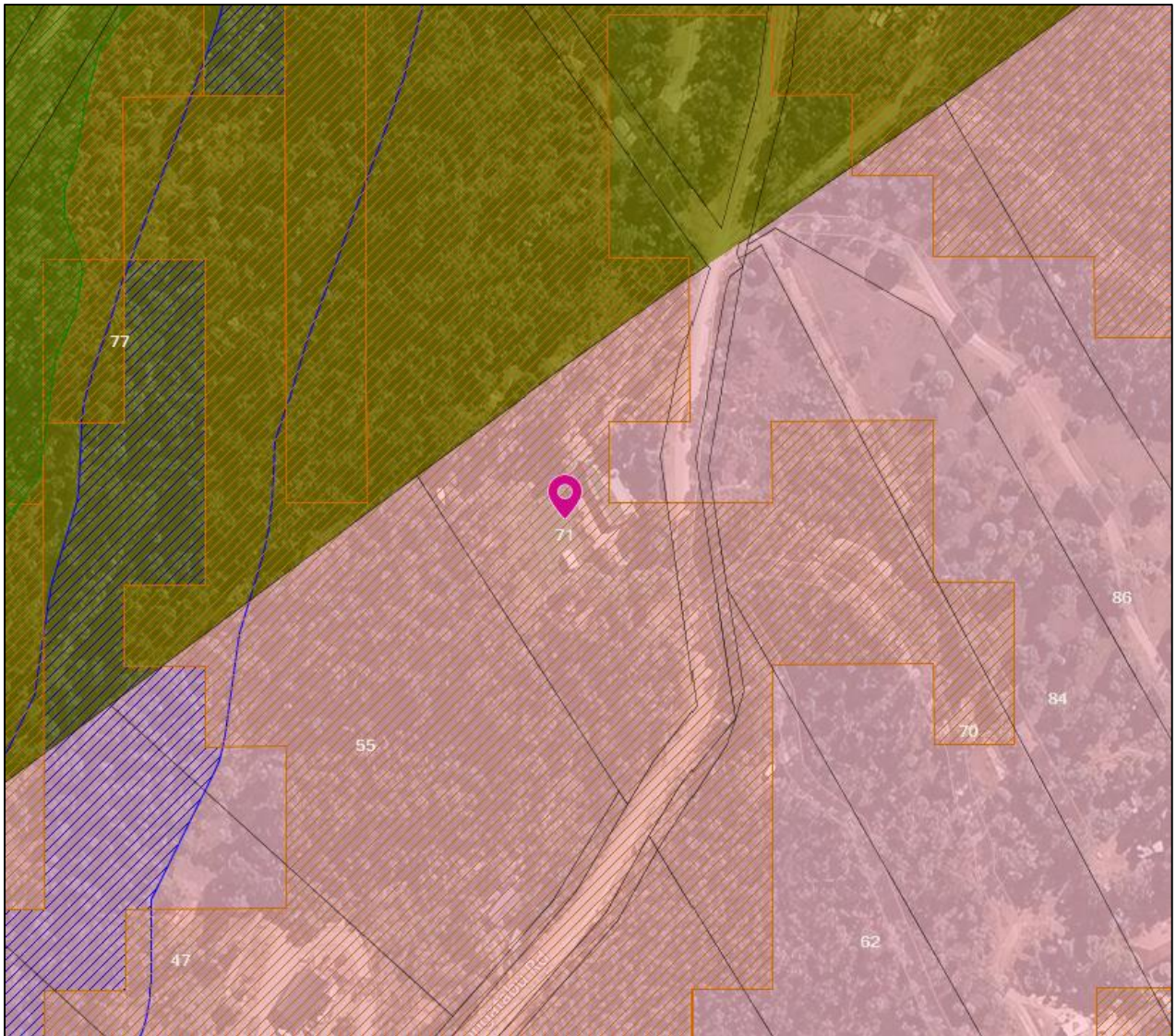


Figure 3. Planning controls affecting the site and surrounds (Pink = Rural Living Zone (C); Green = Environmental Living Zone; Orange Hatch = Landslide Hazard Area (Low Risk); Blue Hatch = Waterway Protection Area)

5. Proposal

- 5.1. One outbuilding is proposed for domestic purposes.
- 5.2. The outbuilding has a floor area of 77m², a maximum height above natural ground level of 4.6m and requires cut of up to 1.5m.
- 5.3. Vehicle access, an unsealed driveway and informal parking area for 2+ cars are existing.
- 5.4. Stormwater is proposed to be retained on-site via tanks.

6. Assessment

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

7. Assessment against planning scheme provisions

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

- Part D – Clause 13.0 – Rural Living Zone
- Part E – Clause 6.0 – Parking and Access Code
- Part E – Clause 7.0 – Stormwater Management Code

7.2. The proposed use is 'residential', which is a No Permit Required use in the Rural Living Zone, under Use Table 13.2.

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

13.4.1 – Building height

13.4.2 A1 – Front setback

13.4.2 A3 – Agricultural zone setback

13.4.2 A4 – Environmental management zone setback

13.4.3 A1 – Design

13.4.3 A2 – Building colour (via permit condition)

13.4.3 A3 – Gross floor area

E6.0 – Parking and Access Code (all)

7.4. The following discretions are invoked by the proposal:

13.4.2 P2 – Side setback

13.4.3 P3 – Cut/fill

13.4.4 P1 - Outbuildings

E7.7.1 A1 – Stormwater management

8. Discretion 1 – Side setback

8.1. The proposed outbuilding has a minimum setback to the north-west side boundary of approximately 19m.

8.2. Acceptable Solution 13.4.2 A2 states:

Building setback from side and rear boundaries must be no less than 20m.

8.3. Therefore, the application must be assessed against corresponding Performance Criteria 13.4.2 P2, which states:

Building setback from side and rear boundaries must maintain the desirable characteristics of the surrounding landscape and protect the amenity of adjoining lots, having regard to all of the following:

(a) the topography of the site;

(b) the size and shape of the site;

- (c) the location of existing buildings on the site;*
- (d) the proposed colours and external materials of the building;*
- (e) visual impact on skylines and prominent ridgelines;*
- (f) impact on native vegetation;*
- (g) be sufficient to prevent unreasonable adverse impacts on residential amenity on adjoining lots by:*
 - (i) overlooking and loss of privacy;*
 - (ii) visual impact, when viewed from adjoining lots, through building bulk and massing.*

8.4. The side boundary in question is shared with 77 Tongatabu Rd which is a large undeveloped lot zoned Environmental Living under the Interim Scheme. This lot is well vegetated and any future single dwelling on this lot would unlikely be within visual proximity of the proposed outbuilding.

8.5. Due to topography and vegetation, it is unlikely that the outbuilding will be visible from the adjoining lot to the south-west. To ensure there are no adverse impacts on visual amenity, a permit condition is recommended that exterior buildings are non-reflective.

8.6. No native vegetation modification is required for the proposed outbuilding.

8.7. For the reasons set out above, the proposal is considered to meet the Performance Criteria.

9. Discretion 2 – Cut/fill

9.1. Acceptable Solution 13.4.3 A4 states:

Fill and excavation must comply with all of the following:

- (a) height of fill and depth of excavation is no more than 1 m from natural ground level, except where required for building foundations;*
- (b) extent is limited to the area required for the construction of buildings and vehicular access.*

9.2. A cut has been made to the area required for the construction of buildings and vehicular access (see Photo 1).



Photo 1: Excavation for outbuilding/access

9.3. The excavation is a maximum of 1.5m into the natural ground level. Therefore, the application must be assessed against corresponding Performance Criteria 13.4.3 P4, which states:

Fill and excavation must satisfy all of the following:

(a) does not detract from the landscape character of the area;

(b) does not unreasonably impact upon the privacy for adjoining properties;

(c) does not affect land stability on the lot or adjoining land.

9.4. The cut made is not of a scale that detracts from the landscape character of the area. It is not visible from adjoining properties and will ensure the outbuilding has minimal visual impact.

9.5. The excavation is minor enough not to affect land stability and foundational requirements will be regulated under the Building Act 2016 to ensure the outbuilding is built sustainably.

9.6. For the reasons set out above, the proposal is considered to meet the Performance Criteria.

10. Discretion 3 – Outbuildings

10.1. Acceptable Solution 13.4.4 A1 states:

Outbuildings (including garages and carports not incorporated within the dwelling) must comply with all of the following:

(a) have a combined gross floor area no more than 100 m²;

(b) have a wall height no more than 6.5 m and a building height not more than 7.5 m;

(c) have setback from frontage no less than that of the existing or proposed dwelling on the site.

- 10.2. The proposed outbuilding has a floor area of 77m², a maximum height above ground level of 4.6m and is setback slightly further the frontage than the existing dwelling. However, with the existing BBQ area, there will be a combined gross floor area of the outbuildings on-site of 113m² which means the proposal must comply with Performance Criteria 13.4.4 P1, below:

Outbuildings (including garages and carports not incorporated within the dwelling) must be designed and located to satisfy all of the following:

(a) be less visually prominent than the existing or proposed dwelling on the site;

(b) be consistent with the scale of outbuildings on the site or in close visual proximity;

(c) be consistent with any Desired Future Character Statements provided for the area or, if no such statements are provided, have regard to the landscape.

- 10.3. The outbuilding is located and designed to be less visually prominent than the existing dwelling, and it is consistent with the scale of the existing BBQ area on the site.

- 10.4. The Desired Future Character Statement for Rural Living Area C is:

Rural Living Area C will develop at a density of approximately one lot per 2 hectares providing rural living further from settlements where a high level of amenity and privacy will be enjoyed and ecological and aesthetic values will be maintained.

This can be achieved with a recommended permit condition that the outbuilding is to be used for Residential purposes only (and not for commercial, industrial or habitable purposes).

- 10.5. For the reasons set out above, the proposal is considered to meet the Performance Criteria.

11. Discretion 4 – Stormwater management

- 11.1. Acceptable Solution 13.4.4 A1 states:

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

- 11.2. There is no public stormwater infrastructure servicing this limited access rural road. Therefore, the proposal must meet Performance Criteria E7.7.1 P1 below:

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

(a) disposed of on-site with soakage devices having regard to the suitability of the site, the system design and water sensitive urban design principles;

(b) collected for re-use on the site;

(c) disposed of to public stormwater infrastructure via a pump system which is designed, maintained and managed to minimise the risk of failure to the satisfaction of the Council.

- 11.3. Water tanks are proposed for rainwater collection and storage. Given the environment is categorised a “dry sclerophyll forest” with a neighbouring steep gully, uncaptured overflow stormwater will be directed to the present overland flow path in a much-reduced capacity. It is likely there will be a net reduction in frequency and volume from the development.
- 11.4. The proposal meets the above Performance Criteria.

12. Referrals

12.1. Engineering

The application was referred to Council’s Development Officer, whose Engineering Report is attached.

12.2. Environmental Health

The application was referred to Council’s Senior Environmental Health Officer, who has investigated complaints regarding machinery, bike and chain-saw noise, litter and burning-off under their relevant legislation.

12.3. Animal Control

The application was referred to Council’s Animal Control Officer, who advised that all dog-related complaints have, and will be, investigated under the *Dog Control Act 2000*.

13. Concerns raised by the representor

- 13.1. The application was advertised in accordance with the statutory requirements of the Act.
- 13.2. One (1) representation was received during the statutory public advertising period. The concerns of the representor are summarised below:

Concern	Response
Increased risk of erosion, soil health and landslip due to landfill, excavation, grading, vegetation removal and burning off on the site.	See criteria above and attached Engineering Report. Council’s Development Officer has determined that the risk of erosion or landslip from the development is minimal and reasonable. Soil health is not a consideration for Council in its assessment under the Planning Scheme.
Native vegetation has been removed from the site.	Upon visiting the site there was evidence that at least one eucalypt had been removed in the past. However, it was near the existing dwelling and there was no evidence of land clearing near a scale warranting enforcement under the Planning Scheme. A condition that no mature eucalypts are to be removed or modified from the property without the permission of Council is recommended.
Wastewater run-off more likely to other properties	Council’s Development Officer has advised that there will likely be a net reduction in frequency and volume

due to land disturbance.	from the development.
Commercial/industrial uses are already undertaken on the site and the proposed outbuilding will likely facilitate an intensification of this use. Specifically leading to unreasonable: <ul style="list-style-type: none"> Noise impacts from machinery and traffic generation (already occurs early in morning); Noise impacts from uninsulated outbuilding. 	A condition that the outbuilding is to be used for Residential purposes only (and not for commercial, industrial or habitable purposes) is recommended. Council's Senior Environmental Health Officer has also been consulted.
Dog management (noise and containment on property).	Not a Planning matter, however Council's Animal Control Officer has been consulted.
Increased rubbish and littering as a result of use of the proposed outbuilding.	Not a Planning matter, however Council's Senior Environmental Health Officer has been consulted.
The height of the proposed outbuilding could lead to overlooking of adjoining properties.	No privacy impacts are envisaged. The outbuilding has no windows and a 4.6m maximum height above natural ground level.

14. Conclusion

- 14.1. Proposed is an outbuilding at 71 Tongatabu Road, Dromedary. The site is situated within the Rural Living Zone of the *Brighton Interim Planning Scheme 2015*.
- 14.2. The key issues are dwelling separation to a side boundary, increase in vehicle movements to an existing road access and the requirement for Water Sensitive Urban Design.
- 14.3. The proposal is considered to satisfy the requirements of the *Brighton Interim Planning Scheme 2015*, and as such, is recommended for approval subject to conditions.

15. Recommendations

That:

A. Pursuant to the Brighton Interim Planning Scheme 2015, Council approve DA 2021/13 for an Outbuilding for Residential use at 71 Tongatabu Road, Dromedary with the following conditions:

General

- (1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings 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*.

Building Colour

- (3) Within 28 days of the date of this permit, a list of exterior building colour(s) must be submitted to Council. Colour(s) must have a light reflectance value not greater than 40 percent or be

otherwise approved by Council's Senior Planner.

- (4) Once approved by Council's Senior Planner, the colour schedule will form part of this permit.

Amenity

- (5) No mature eucalypts are to be removed or modified on the site without prior written approval of Council's Senior Planner.

Services

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

Parking and Access

- (7) At least two (2) car parking spaces must be provided on the land at all times for the use of the development, in accordance with Standards Australia (2004) Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (8) The internal driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and to the satisfaction of Council's Municipal Engineer, and must include all of the following;
- (a) Constructed with a durable all-weather gravel pavement,
 - (b) Minimum carriageway width of 4 metres, and
 - (c) Drained to the present overland flow path via swale drains as required located above and below batters.
- (9) The internal driveway and areas set-aside for parking and associated access and turning must be designed, constructed, and maintained to avoid dust or mud generation, erosion and sediment transfer off site or de-stabilisation of the soil on site or on adjacent properties to the standard required by Council's Municipal Engineer.

Access to Road

- (10) Unless approved otherwise by Council's General Manager the existing vehicular access, from the road carriageway to the property boundary, must be maintained to comply with Standard Drawings TSD-R03-v1 Rural Roads Typical Property Access, TSD-R04-v1 Rural Roads Typical Driveway Profile and TSD-RF01-v1 Guide To Intersection And Domestic Access Sight Distance and to the satisfaction of Council's General Manager.

Stormwater

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

Soil and Water Management

- (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 holidays | • 10:00 a.m. to 6:00 p.m. |
- (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:
- Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - The transportation of materials, goods and commodities to and from the land.
 - Obstruction of any public footway or highway.
 - 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:

- Before commencing any works contact your private building surveyor to ascertain what approval is required under the Building Act 2016.
- This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- If you notify Council that you intend to commence the use or development before the date specified above, you forfeit your right of appeal in relation to this permit.
- This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

DECISION:

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

CARRIED

VOTING RECORD

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

5.2 Application Under Brighton Interim Planning Scheme 2015 - SA2020/50 - Lot 1 Greenbanks Road, Bridgewater – Subdivision (30 Lots):

Type of Report:	Planning Authority – For Decision
Application No:	SA 2020/50
Address:	Lot 1 Greenbanks Road, Bridgewater (more particularly described in C/T 176402/1)
Applicant:	PDA Surveyors
Proposal:	Subdivision (30 Lots)
Zone:	General Industrial Zone
Representations:	Two (2)
Discretion:	1. Subdivision (C9.10) 2. Frontage (D25.5.1) 3. Arrangement of Roads (D25.5.1) 4. Public Open space (D25.5.1) 5. Road and Railway Assets Code (E5.0) 5. Attenuation Code (E9.0) 6. Waterway and Coastal Protection Code (E11.0) 7. Inundation Prone Areas Code (E15.0)
Author:	Senior Planner (Jo Blackwell)

1. Executive Summary

- 1.1. Planning approval is sought for Subdivision (30 Lots) in the General Industrial Zone at Lot 1 Greenbanks Road, Bridgewater.

- 1.2. The application is discretionary under Special Provision 9.10 of the Brighton Interim Planning Scheme 2015 and reliance on performance criteria in relation to subdivision standards.
- 1.3. Two representations were received. It is considered that the issues raised in the representations do not warrant refusal of the application.
- 1.4. The key planning issues relate to lot design (frontage and arrangement of roads) and stormwater.
- 1.5. The proposal is recommended for approval subject to various non-standard conditions relating to the above key planning issues and on servicing of the site.
- 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 SA 2020/50.
- 2.2. This determination must be made no later than 17th August 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. Implications for Council include general matters related to rate income, asset maintenance and renewal and responding to future building applications.

4. Relevant Background and Past Applications

- 4.1. The application was originally submitted to Council for approval in December 2020.

Given the most recent amendments made to the *Land Use Planning and Approvals Act 1993*, which came into effect on 14th July 2021, the application is to be assessed against the former planning scheme, the Brighton Interim Planning Scheme, pursuant to s51(3) of the Act:

- 51(3) *The decision of a planning authority on an application referred to in subsection (1A) or (1B) is to be made in accordance with the provisions of the planning scheme as in effect on the day on which the application is validly made, unless another subsection of this section applies in relation to the application.*

Site Detail

- 4.2. The subject site is a vacant site which comprises a single title, being Certificate of Title Volume 176402 Folio 1). The land is comprehensively described in the Bushfire Hazard Management Plan prepared by Enviro-Dynamics, submitted in support of the proposal. That site assessment is reproduced here:

1.3 Site Description

The subject land is a single title occupying 22.99ha within the Brighton Industrial Estate at Greenbanks Road, Bridgewater (see location and context maps at Figures 2 & 3). It does not currently contain any built infrastructure except towers associated with high voltage electricity transmission lines that cross the land from west to east near the northern boundary.

The land is bisected from north-west to south-east by Ashburton Creek, with a large in-stream dam lying roughly in the centre of the site. To the north and east of the creek, the land has a southerly aspect, descending from a maximum height of approximately 67m above sea level asl in the north-west corner to approximately 39m asl in the south-east corner. To the south and west of the creek, the land has an easterly aspect, descending from a maximum height of approximately 62m asl in the south-west corner to approximately 39m asl in the south-east corner. Slopes across the land are generally in the range of 5-10°, with small areas of less than 5° on areas of floodplain east of the creek and in the north-east corner.

Vegetation across the site is predominantly grassland and pasture containing only scattered small trees and tall shrubs. Until recently, land west of the creek was occupied by dense regrowth scrub, but this area was cleared in October 2020 and is now mostly bare ground (compare aerial photography in figures with photos at Appendix A). Along Ashburton Creek there are areas of scrub and woodland with potential to succeed to forest over time.

Properties to the west, north and east of the subject land are also zoned General Industrial and are predominantly occupied by grassland or pasture, with small patches of scrub and woodland. To the south are Rural Living properties containing existing habitable buildings. Vegetation on these blocks is comprised of a mix of managed land, grassland/pasture and scrub or woodland with the potential to succeed to forest if left unmanaged. The broader landscape around the subject land includes large areas of contiguous woodland and forest to the west.

- 4.5. The site is subject to a number of mapped overlays including:
- Bushfire Prone Area (entirety of site)
 - Electricity Infrastructure Easement (figure 3),
 - Declared pipeline corridor (figure 4).
 - Waterway and Coastal Protection area for Ashburton Creek (Figure 5)
 - Attenuation Area (Figure 6)

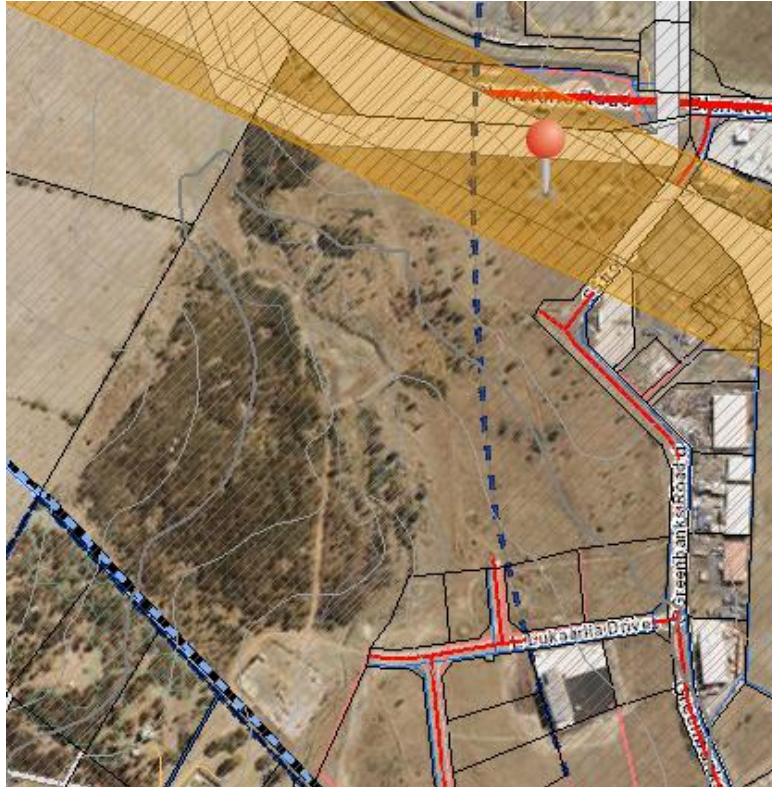


Figure 3: Mapped Electricity Transmission Infrastructure Overlay (Source: www.thelist.tas.gov.au)



Figure 4: Declared Gas Pipeline Planning Corridor (Source: www.thelist.tas.gov.au)

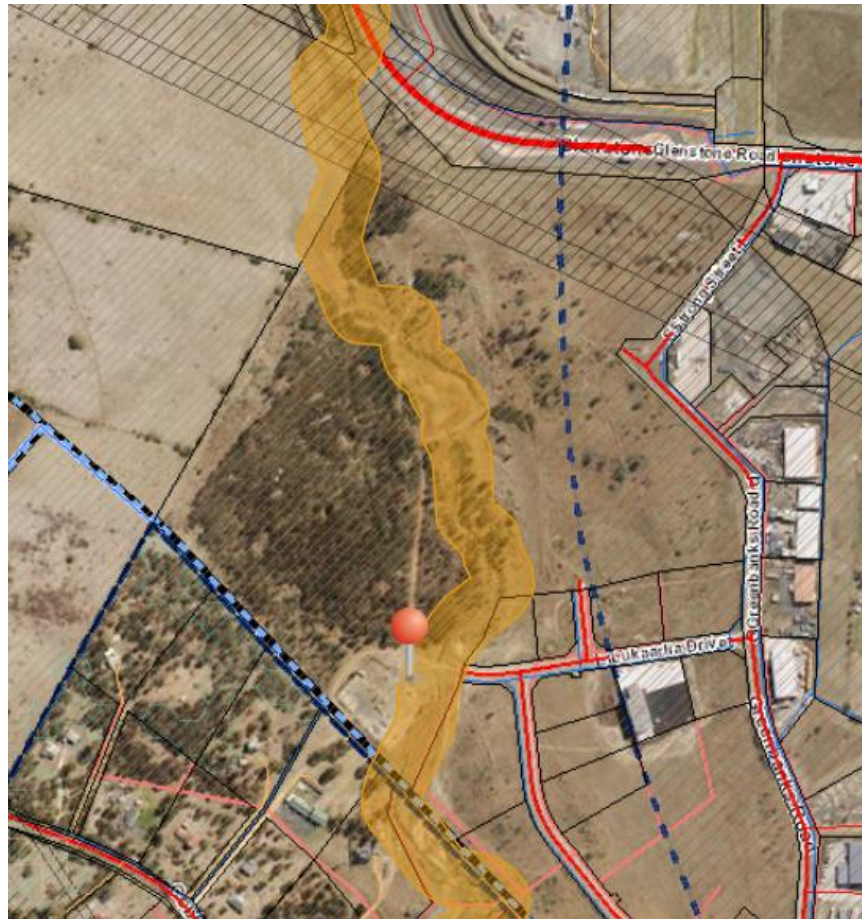


Figure 5: Waterway and Coastal Protection Overlay



Figure 6: Attenuation Overlay

- 4.6. The site has also been identified as possibly being the location for *Dianella amoena* (grassland flaxlily). *Dianella amoena* is identified by the *Environmental Protection and Biodiversity Protection Act* (Cwth) as an endangered species, whilst the *Threatened Species Protection Act 1995* (Tas) identifies the species in Schedule 5 as rare (refer figure 7):



Figure 7: Identified threatened flora (source www.thelist.tas.gov.au)

- 4.7. The Biodiversity Code of the Brighton Interim Planning Scheme does not apply to this proposal (refer figure 10), given the site is not a mapped biodiversity protection area, and the removal of any potential threatened species falls under State and Federal legislation:

E10.0 Biodiversity Code

E10.1 Purpose

E10.1.1 The purpose of this provision is to:

- (a) minimise loss of identified threatened native vegetation communities and threatened flora species;
- (b) conserve identified threatened fauna species by minimising clearance of important habitat and managing environmental impact;
- (c) minimise loss of other biodiversity values that are recognised as locally significant by the Planning Authority;

where not otherwise regulated by the State or the Commonwealth.

E10.2 Application

E10.2.1 This code applies to development involving clearance and conversion or disturbance of native vegetation within a Biodiversity Protection Area.

Figure 10: Clause 10.1 and 10.2 of the Biodiversity Code (Brighton Interim Planning Scheme 2015)

- 4.8. However, it is considered appropriate that advice be included in any permit approved, advising the applicant that the site is identified as having threatened species and that the provisions of the *Threatened Species Protection Act 1995* and the *Environmental Protection and Biodiversity Conservation Act 1999* apply.

5. Proposal

- 5.1. The proposal is for a 30 lot subdivision, including Lot 101 to be allocated for private open space, and associated infrastructure including roadworks and stormwater management. The lot layout is shown in figure 11 below.
- 5.2. The application is supported by the attached bushfire hazard management plan and servicing plans, which comprised the publicly exhibited documents.



Figure 11: Proposed Lot Layout

6. Assessment

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

7. Assessment against planning scheme provisions

- 7.1. The following provisions are relevant to the proposed use and development:
 - Special Provisions - Subdivision C9.10
 - General Industrial Zone D25.0
 - E1.0 - Bushfire Prone Areas Code
 - E5.0 - Road and Railway Assets Code
 - E6.0 - Parking and Access Code
 - E7.0 - Stormwater Management Code
 - E8.0 - Electricity Transmission Infrastructure Protection Code
 - E9.0 Attenuation Code
 - E11.0 Waterway and Coastal Protection Code
 - E15.0 Inundation Prone Areas Code
- 7.2. As the proposal is for subdivision only, the Use Table (25.2), Use standards (25.3) and Development standards for buildings and works (25.4) in the General Industrial Zone are not applicable.
- 7.3. The application satisfies the following Acceptable Solutions:
 - Lot size (D25.5.1 A1)
 - Lot Design (D25.5.1 A2)
 - E1.0 Bushfire Prone Areas Code
 - E5.0 Road and Railway Assets Code (all standards except for E5.5.1 A3)
 - 6.0 Parking and Access Code
 - E7.0 Stormwater Management Code
 - E8.0 Electricity Infrastructure Protection Code - Entire Code
 - E9.0 Attenuation Code - E9.7.1
 - E11.0 Waterway and Coastal Protection Code - (E11.7.1 A2, A3; E11.7.2 A1-A3)
 - E15.0 Inundation Prone Areas Code (E15.6, E15.7.1 A1, A2; E15.7.2 - E15.7.4; E15.7.6; E15.8.1; E15.8.2)
- 7.4. The following discretions are invoked:
 - Subdivision Special Provision 9.10
 - Frontage (D25.5.1 A3)
 - Arrangement of Roads (no acceptable solution) (D25.5.1 A4)
 - Public Open Space (no acceptable solution) (D25.5.1 A6)
 - Road and Railway Assets Code E5.5.1 A3
 - 9.0 Attenuation Code - 9.7.3 A1
 - E11.0 Waterway and Coastal Protection Code - E11.8.1.A1 (Subdivision)

- E15.0 Inundation Prone Areas Code (E15.7.5 A1 Landfill and A2 - Mitigation measures); (E15.7.3 A1)

7.5. Discretion 1 - Subdivision (C9.10)

7.5.1 Section C Special Provisions of the Brighton Interim Planning Scheme 2015 (BIPS) requires that:

9.10 Subdivision

9.10.1 A permit is required for development involving a plan of subdivision.

9.10.2 A permit for development involving a plan of subdivision is discretionary unless:

(a) for adjustment of a boundary in accordance with clause 9.3.1.

(b) the subdivision is prohibited in accordance with clause 8.9; or

(c) the plan of subdivision must not be approved under section 84 Local Government (Building and Miscellaneous Provisions) Act 1993.

7.5.2 The proposal does not satisfy the requirements of 9.7.2 (a), (b) and (c) and accordingly must be assessed as being discretionary.

7.6. Discretion 2 - Frontage (D25.5.1 A3)

7.6.1 The Acceptable Solution (AS) required by clause D25.5.1 A3 of BIPS requires that *"The frontage for each lot must be no less than: 40m"*.

7.6.2 The proposal plan shows that of the 29 industrial lots proposed, Lots 1 - 6, 9-12, 21 and 23 do not satisfy the AS.

7.6.3 Accordingly, the PC must be addressed, which requires at 25.5.1P3: *"The frontage for each lot must be sufficient to accommodate development consistent with the Zone Purpose, having regard to any Local Area Objectives or Desired Future Character Statements."*

7.6.4 The Zone Purpose, contained at clause 25.1 is replicated here:

25.1.1 Zone Purpose Statements:

25.1.1.1 To provide for manufacturing, processing, repair, storage and distribution of goods and materials where there may be impacts on neighbouring uses;

25.1.1.2 To provide industrial activity with good access to strategic transport networks;

25.1.1.3 To promote efficient use of existing industrial land stock

25.1.1.4 To restrict intensification of existing non-conforming uses;

25.1.1.5 To provide industrial activity with good access to strategic transport networks.

- 7.6.5 There are no Local Area Objectives nor Desired Future Character Statements identified for the General Industrial Zone.
- 7.6.6 As shown on the proposal plan (refer Figure 11), most of the lots with subminimum frontages, for example Lots 2, 3, and 4 which are accessed from the proposed cul-de-sac, either widen from the access to the rear of the site, and are considered likely to be able to provide for on-site manoeuvring, or have frontages just below the AS of 40m, for example lots 6, 8 and 23. Accordingly, those lots are considered to satisfy the PC.
- 7.6.7 However, the design of Lots 11 and 12 are not considered to satisfy the Zone Purpose as currently provided for, in particularly 25.1.12/25.1.1.5, which are replicated). Both lots are narrow and are considered insufficient to provide appropriate turning and manoeuvring on site, given the industrial zoning of the site. Given the uses provided for in the use table at 25.2, and similarly in the Tasmanian Planning Scheme, the narrow lots proposed at Lots 11 and 12 are considered likely to fetter future development of the site.
- 7.6.8 Accordingly, it is considered reasonable that for the PC to be satisfied, a condition be included in any permit approved requiring that an amended plan of subdivision be submitted for the approval of the Manager Development Services showing the amalgamation of Lots 11 and 12.

7.7. Discretion 3 - Arrangement of Roads (D25.5.51 P4)

- 7.7.1 There is no AS relating to the arrangement of roads within a subdivision. Accordingly, the PC must be addressed, which is replicated here:

P4 The arrangement of roads within a subdivision must satisfy all of the following:

(a) will not compromise appropriate and reasonable future subdivision of the entirety of the parent lot;

(b) accords with any relevant road network plan adopted by the Planning Authority;

(c) facilitates the subdivision of neighbouring land with subdivision potential through the provision of connector roads, where appropriate, to the common boundary;

(d) provides acceptable levels of access safety, convenience and legibility through a consistent road function hierarchy.

- 7.7.2 The proposed plan of subdivision includes a future road which will extend north west from the intersection of Strong Street and Greenbanks Road before circling round and connecting with the western end of Lukarlia Street.

The proposal plan also includes an area "Required for Future Road" within Lot 101 to be designated for Public Open Space.

- 7.7.3 The proposed area designated "Required for Future Road" is shown directly abutting Ashburton Creek, which is not considered appropriate as it is located within the Waterway and Coastal Protection overlay. Further, the road lot adjoins the dividing boundary of two neighbouring lots to the west, namely 155 and 158 Cobbs Hill Road, requiring both sites to be developed simultaneously to allow extension of the proposed road.
- 7.7.4 The proposal was referred to Council's Senior Technical Officer who advises that the extension of the future road into the adjacent lots is problematic without both adjacent property owners working cooperatively. It is considered a better outcome to relocate the future road between lots 13 and 15.
- 7.7.5 A condition is recommended that an amended plan of subdivision is submitted to the Manager Development Services showing the road lot adjacent to the southern boundary of Lot 15.
- 7.7.6 The proposal does not demonstrate an intention to build the connector road to the common boundary of adjoining land, as required by the performance criteria at (c). It is therefore recommended that a condition be included in the permit that the road is to be constructed prior to sealing of the Final Plan.
- 7.7.7. The PC can be satisfied, with conditions.

7.8. Discretion 4 - Public Open Space (D25.5.1 A6)

- 7.8.1 There is no AS in relation to public open space. The PC requires that *"Public Open Space must be provided as land or cash in lieu, in accordance with the relative Council policy"*
- 7.8.2 Clause 2.3 of Council's policy in relation to Public Open Space (AP13) is relevant to the assessment. That clause is replicated below:

"A land contribution in any Zone may be requested on a merit based assessment by the Council to obtain land for the purposes of a riparian, foreshore or littoral reserve to assist in preservation of the environmental values attributed to these areas through improved land management"

- 7.8.3 The applicant proposes to transfer the land contained in Lot 101 to Council as a "land contribution" in accordance with clause 2.3 of the policy.
- 7.8.4 Ashburton Creek is considered a significant catchment which supports council's stormwater network, in the Bridgewater West area.

- 7.8.5 Provision of the Public Open Space along Ashburton Creek was discussed with council staff prior to lodgement of the application, and assessed as a suitable land contribution
- 7.8.6 It is recommended that a condition be included in any permit approved requiring the applicant to submit a landscaping plan for the entirety of the open space contained in Lot 101. The landscaping plan is to be prepared by a suitably qualified person and provides for the remediation and establishment of a publicly accessible riparian reserve adjacent to Ashburton Creek, to be approved by the Manager Development Services. An additional condition is recommended requiring implementation of the landscaping plan to be completed prior to sealing of any lots on the plan.
- 7.8.7 The PC can be satisfied, with conditions.

7.9 Discretion 5 - Road and Railway Assets Code - E5.5.1A3

- 7.9.1 The AS at A3 requires that the annual average daily traffic (AADT) of vehicle movements to a site, using an existing access or junction in an area subject to a speed limit of 60km/h or less, must not increase by more than 20% or 40 vehicle movements per day, whichever is the greater.
- 7.9.2 The proposal provides connection to the existing Strong Street / Greenbanks Road intersection and to the end of the existing section of Lukaarlia Drive. The proposal is for subdivision of a total of 29 lots for industrial use, which will exceed the AADT permitted by A3 above.
- 7.9.3 The PC requires:

Any increase in vehicle traffic at an existing access or junction in an area subject to a speed limit of 60km/h or less must be safe and not unreasonably impact the efficiency of the road, having regard to:

(a) the increase in traffic caused by the use;

(b) the nature of the traffic generated by the use;

(c) the nature and efficiency of the access or the junction;

(d) the nature and category of the road;

(e) the speed limit and traffic flow of the road;

(f) any alternative access to a road;

(g) the need for the use;

(h) any traffic impact assessment; and

(i) any written advice received from the road authority.

- 7.9.4 The proposal was supported by a Traffic Impact Assessment, which was referred to council's Senior Technical Officer for assessment. That officer advises that when the site is fully developed, the traffic at the existing Strong Street/Greenbanks Road intersection is likely to increase by 4500 vehicle movements per day.
- 7.9.5 The application was also referred to the Department of State Growth, who had no concerns.
- 7.9.6 It is considered that the PC can be satisfied with a condition recommended for inclusion in any permit approved, requiring the upgrade of the Strong Street/Greenbanks Rd intersection.

7.10 Discretion 6 - Attenuation Code - E9.7.2 A1

- 7.10.1 There is no acceptable solution provided for E9.7.2A1. Accordingly, the PC must be addressed which requires:

Development for sensitive use, including subdivision of lots within a sensitive zone, must not result in potential to be impacted by environmental harm from use with potential to cause environmental harm, having regard to all of the following:

(a) the nature of the use with potential to cause environmental harm; including:

(i) operational characteristics;

(ii) scale and intensity;

(iii) degree of hazard or pollution that

may be emitted from the activity;

(b) the degree of encroachment by the sensitive use into the Attenuation Area or the attenuation distance;

(c) measures in the design, layout and construction of the development for the sensitive use to eliminate, mitigate or manage effects of emissions

- 7.10.2 The proposal is not for subdivision of lots within a sensitive zone. Further clause 9.2.3 prohibits sensitive use within the Attenuation areas shown on the planning scheme maps.
- 7.10.3 Future applications pursuant to the Tasmanian Planning Scheme will also be prohibited from establishing a sensitive use, pursuant to the Brighton Industrial Hub Specific Area Plan which prohibit sensitive use in clause BRI-S10.6.1.

7.11 Discretion 7 - Attenuation Code - E9.7.3 A1

7.11.1 There is no AS provided for clause E9.7.3 A1. Accordingly, the PC must be considered which is replicated below:

Development, including subdivision, must not result in potential to be impacted by quarry operations having regard to all of the following:

(a) the nature of the quarry, including:

(i) operational characteristics

(ii) scale and intensity;

(iii) degree of hazard or pollution that may be emitted from the activity;

(b) the degree of encroachment of development or use into the Bridgewater Quarry Attenuation Area;

(c) measures in the design, layout and construction of the development or use to eliminate, mitigate or manage effects of the quarry.

7.11.2 The proposal is for subdivision only, with future uses being assessed at the time of application.

7.11.3 The proposed site encroaches on the western outer edge of the mapped attenuation area for the Bridgewater Quarry (refer figure 6).

7.11.4 The proposal was referred to the Bridgewater/Boral Quarry for comment, however, a response has not been received. It is taken that the lack of response would indicate that the proposal does not raise any issues regarding the subdivision.

7.11.5 Further, any future development on the proposed lots within the overlay will be referred to the Bridgewater Quarry for comment, pursuant to the requirements of the Attenuation Code.

7.11.6 It is considered that there are no additional measures required in relation to managing the effects of the quarry on the site.

7.11.7 The PC can be satisfied.

7.12 Discretion 8 - Waterway and Coastal Protection Code - E11.7.1 A1

7.12.1 The AS requires that "Building and Works within a Waterway and Coastal Protection Area must be within a building area on a plan of subdivision under this planning scheme."

7.12.2 As the proposal includes work along Ashburton Creek, the PC will need to be addressed, which states:

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

(a) avoid or mitigate impact on natural values;

(b) mitigate and manage adverse erosion, sedimentation and runoff impacts on natural values;

(c) avoid or mitigate impacts on riparian or littoral vegetation;

(d) maintain natural streambank and streambed condition, (where it exists);

(e) maintain in-stream natural habitat, such as fallen logs, bank overhangs, rocks and trailing vegetation;

(f) avoid significantly impeding natural flow and drainage;

(g) maintain fish passage (where applicable);

(h) avoid landfilling of wetlands;

(i) works are undertaken generally in accordance with 'Wetlands and Waterways Works Manual' (DPIWE, 2003) and "Tasmanian Coastal Works Manual" (DPIPWE, Page and Thorp, 2010), and the unnecessary use of machinery within watercourses or wetlands is avoided.

7.12.3 It is considered that the PC can be satisfied by requiring a condition that all works are undertaken in accordance with the 'Wetlands and Waterways Works Manual (DPIWE,2003). A further condition is recommended that a requiring a landscaping plan to be submitted prior to commencement works showing remediation and landscaping of the WCP area, taking into account the natural values of the site.

7.13 Discretion 9 - Waterway and Coastal Protection Code - E11.7.1 A4

7.13.1 The AS requires that "Development must involve no new stormwater point discharge into a watercourse, wetland or lake".

7.13.2 The proposal includes a number of point discharges to the watercourse. Accordingly the AS cannot be satisfied

7.13.3 The PC requires:

Development involving a new stormwater point discharge into a watercourse, wetland or lake must satisfy all of the following:

(a) risk of erosion and sedimentation is minimised;

(b) any impacts on natural values likely to arise from erosion, sedimentation and runoff are mitigated and managed;

(c) potential for significant adverse impact on natural values is avoided.

7.13.4 The proposal shows that each outfall will be provided with a Gross Pollutant Trap and will discharge to detention basins prior to discharging to the watercourse.

7.13.5 Council's Senior Technical Officer has advised that on this basis the PC can be satisfied.

7.14 Discretion 10 - Waterway and Coastal Protection Code - E11.8.1.A1

7.14.1 The AS for subdivision in the Waterway and Coastal Protection (WCP) Code requires that:

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

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

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

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

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

7.14.2 The WCP overlay encroaches onto Lots 1, 6, 16 and 20. Therefore the AS cannot be satisfied.

7.14.3 The PC requires:

Subdivision of a lot, all or part of which is within a Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply

Area, must satisfy all of the following:

(a) Minimise impact on natural values;

(b) provide for any building area and any associated bushfire hazard management area to be either:

(i) outside the Waterway and Coastal Protection Area, Future Coastal Refugia Area or Potable Water Supply Area; or

(ii) able to accommodate development capable of satisfying this code;

(c) if within a Potable Water Supply Area, be in accordance with the requirements of the water and sewer authority.

7.14.4 A reserve/public open space area has been provided along Ashburton Creek, which ensures the identified Lots are clear of the watercourse itself.

7.14.5 The proposed road extension will dissect Ashburton Creek at both the northern and southern ends of the site. Civil drawings demonstrate that the Creek is to be piped under the road to the dam, to be addressed satisfactorily at detailed design stage, as shown on the concept stormwater plans prepared by PDA surveyors.

7.14.6 Building areas and bushfire hazard management areas are provided for outside of the WCP area.

7.14.7 The area is not a "potable water supply area".

7.14.8 It is considered that the PC can be satisfied. However, it is also recommended that a Soil and Water Management Plan be submitted for the approval of the Manager Development Services, and to form part of any approved permit, once approved to ensure that site works do not impact the WCP area.

7.15 Discretion 11 - Inundation Prone Areas Code E15.7.5 A1

7.15.1 The AS requires that "For Landfill, or solid walls greater than 5m in length and 0.5m in height, there is no acceptable solution".

7.15.2 It is considered likely that fill will be required at the road crossings of the watercourse and boundaries of some lots, greater than 0.5m in height.

7.15.3 The PC requires:

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

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

7.15.4 The proposal was referred to Council's Senior Technical Officer, who has advised that the concept stormwater design should result in better management of inundation. To inform the future stormwater design, it is recommended that a condition requiring a Flood Hazard Report be undertaken and any specific hazard reduction or protection measures recommended in the report to be implemented.

7.16 Discretion 12 - Inundation Prone Areas Code E15.7.5 A2

7.16.1 There is no AS applicable to E15.7.5 A2. Accordingly, the PC must be addressed, which states:

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

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

7.16.2 The proposal was referred to Council's Senior Technical Officer. That officer's response outlined in clause 8.14.4 is applicable to this criterion.

7.16.3 It is considered that the PC can be satisfied with the provision of a Flood Hazard Report identified in clause 8.14.4.

7.17 Discretion 13 - Subdivision within a Riverine Inundation Hazard Area - 15.8.3 A1

17.7.1 The AS requires:

Each lot, or a lot proposed in a plan of subdivision, within a Riverine Inundation Hazard Area must:

- (a) be able to contain a building area, vehicular access and services, that are wholly located outside a Riverine Inundation Hazard Area;*

(b) be for the creation of separate lots for existing buildings;

(c) be required for public use by the Crown, a council or a relevant agency; or

(d) be required for the provision of Utilities

17.7.2 Internal stormwater/catchment modelling identifies that the site is subject to inundation. Figure 12 and 13 shows Council's Catchment Management Plan for the Industrial Area which highlights the periphery flow paths around Ashburton Creek that are likely to run through future lots to ensure they are considered in the development of this area.



Figure 12: Overland Flow Paths

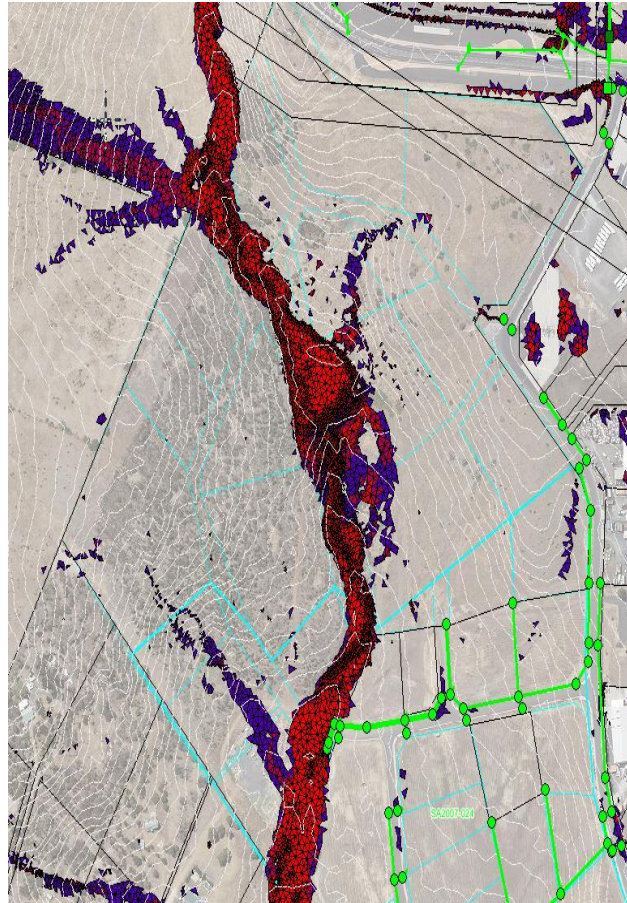


Figure 13: Flood map – 1% AEP with full development and climate change

7.17.3 The development of the Public Open Space area will include works on land that is subject to riverine inundation around Ashburton Creek. Accordingly, the AS is not able to be satisfied, and the PC must be addressed, which states:

Each lot, or a lot proposed in a plan of subdivision, within a riverine inundation hazard area, must not create an opportunity for use or development that cannot achieve a tolerable risk from flood, having regard to:

(a) any increase in risk from flood for adjacent land;

(b) the level of risk to use or development arising from an increased reliance on public infrastructure;

(c) the need to minimise future remediation works;

(d) any loss or substantial compromise by flood of access to the lot, on or off site;

(e) the need to locate building areas outside the riverine inundation hazard area;

(f) any advice from a State authority, regulated entity or a council; and

(g) the advice contained in a flood hazard report

7.17.4 The proposal was referred to Council's Senior Technical Officer, who has advised that the proposal will require the modification of the open space area for stormwater management (including detention) and passive recreation. The design will directly impact on the extent of any inundation.

7.17.5 Accordingly, it is recommended that a condition requiring a flood hazard report, prepared by a suitably qualified person, be submitted for approval prior to commencement of works. The report should demonstrate that works:

- (a) do not cause or contribute to flood on the site, on adjacent land or public infrastructure; and
- (b) can achieve and maintain a tolerable risk from a 1% annual exceedance probability flood event for the intended life of the use without requiring any flood protection measures.

The condition should also require that any specific hazard reduction or protection measures recommended in the report are to be incorporated in the engineering design drawings and implemented prior to the sealing of the Plan of Survey for the subdivision.

8. Discussion

8.1 External Referrals

8.1.1 TasWater

8.1.1.1 TasWater have imposed the attached conditions in their Submission to Planning Authority Notice reference TWDA 2021-0008-BTN dated 15th January 2021 that must be included in any permit granted.

8.1.2 TasNetworks

8.1.2.1 TasNetworks have provided advice that there are no concerns regarding the proposed subdivision, however, "the minor encroachment of the building envelope within Lot 24 into the Inner Protection Area (IPA) is not to be taken as support by TasNetworks for any future building encroachment into the IPA (and therefore into our existing wayleave easement.) "

8.1.2.2 TasNetworks have therefore recommended that a Wayleave Easement be registered against the title in a form provided by them. A condition to this effect is recommended for inclusion in any permit approved.

8.1.3 Department of State Growth

8.1.3.1 The Department of State Growth advised that it had no comment to make, given there is no new access to Glenstone Road proposed and is not deemed to adversely affect the safety or efficiency of the state road.

8.1.4 Boral/Bridgewater Quarry

8.1.4.1 No response was received.

8.1.5 Tasmanian Gas Pipeline

8.1.5.1. Tasmania Gas Pipeline have advised that it have no objection to the proposed application.

8.1.6 TasRail

8.1.6.1 TasRail have advised that it has no objection to the proposal.

8.1.7 Other - Bushfire Assessment

8.1.7.1 Subsequent to the conclusion of the public exhibition period, an officer of the Tasmanian Fire Service contacted the bushfire assessor directly, requesting some minor changes to the way the proposed Bushfire Hazard Report has been written.

8.1.7.2 The bushfire assessor has contacted the assessing officer to discuss the proposed changes. The proposed changes do not affect any neighbouring landowners and recommends a restrictive instrument (either Part 5 agreement or a restrictive covenant) to ensure that the site is kept in a low-fuel state.

8.1.7.3 It was determined that a further period of public exhibition was not required, given there was no impact arising outside the site boundaries. Further, it is considered appropriate that a condition requiring the submission of an amended Bushfire Hazard Management Plan to accord with TFS requirements, be included in any permit approved, with the amended Bushfire Hazard Management to form part of the approved documents, once received and approved by Council's Manager Development Services.

8.2 Internal Referrals

8.2.1 Council's Technical Officer

8.2.1.1 The application was referred to council's Senior Technical Officer. That officer's comments have been incorporated into the assessment where required.

9. Concerns raised by representors

9.1 Two representations were received to the applicant. One representor sought to provide a supplementary representation, given the need to assess the application under the Brighton Interim Planning Scheme 2015, rather than the Tasmanian Planning Scheme - Brighton, which was approved.

9.2 The following table outlines the issues raised by representors.

	Representor 1	Response
1.	Need for buffer between the planned industrial subdivision and adjoining rural living zone	<p>There is a 13m wide buffer created by two pipeline easements 3m and 10m wide respectively at the rear of the lots 6-10 adjacent to the nearby Rural Living Zone.</p> <p>Strategy 29 of the Brighton Structure Plan 2018 addresses buffer management between different land uses, and makes recommendations for potential interface treatments for industrial uses backing onto residential uses including:</p> <ul style="list-style-type: none"> - <i>Requiring buildings to be built close to the rear boundary in a continuous form to provide an acoustic barrier;</i> - <i>Requiring landscaping to be planted along the rear boundary;</i> - <i>Using acoustic fencing;</i> - <i>Including at-source treatments (eg acoustic treatments).</i> <p>Option 2 (Landscaping) is difficult to provide given the existence of TasWater Bulk Transfer Main and Reticulation Main in the existing easements and potential impacts from the vegetation on the existing pipelines. There is however, nothing preventing adjoining landowners from planting vegetative screening along the rear boundary of their own properties.</p>

		More appropriate, however, would be a condition requiring the construction of acoustic fencing along the south western boundary adjoining Lots 6-10 as shown in the proposed plan of subdivision. If this condition was to be included in any permit approved, it should also be accompanied by a condition requiring the provision of an acoustic report, demonstrating the most appropriate form of acoustic fencing, taking into account the industrial zoning of the site, and adjoining residential uses.
2.	Excess noise and dust during construction.	Standard construction conditions requiring compliance with the <i>Environmental Management and Pollution Control Act 1993</i> are included in the proposed permit conditions.
3.	Loss of privacy due to loss of tranquillity of rural living area	Site inspection and satellite imagery shows that many of the residential sites have created vegetative screening barriers to the industrial. It is respectfully submitted, given that the site has been zoned and identified for industrial use since at least the 1977 planning scheme, that the property owners should have been aware that this development of the site was likely to occur at some stage.
4.	Clearing of the land and the effect on wildlife in the area. Did the land have an environment assessment before it was cleared?	The area cleared was in readiness for subdivision. Public records (Listmap) do not indicate any threatened species identified in the area where the vegetation was removed. Further the Biodiversity Code in the Brighton Interim Planning Scheme does not apply to the site, and the General Industrial Zone does not contain standards relating to vegetation clearance.
5.	Not happy with planned building envelopes on the blocks adjoining my back boundary being more towards the rear, and being closer to the rural residential boundaries.	The building envelopes are placed on the proposed plan to demonstrate that a specified area can be accommodated on site for development and satisfy bushfire hazard management. Whilst having building envelopes at the rear of the site is recommended for noise attenuation (see the first response above), it is not proposed to require a condition of the permit to register the building envelopes on the final plan.
6.	Concern about any street lighting and how this will affect my property at night.	The proposal is for an industrial subdivision that includes pedestrian footpaths. Street lighting in accordance with the relevant Australian Standards is to be provided for pedestrian and traffic safety. It is standard practice for street lighting design to be undertaken in conjunction with the electrical reticulation design. This design will require approval by Council. Standard LED light heads will be used throughout the road network.

7.	The amount of fill and debris being dumped on the site is an eyesore	This is a separate matter to the current application for assessment.
8.	The disturbance and noise from trucks dumping fill are sometimes arising before 6am	<p>This is a separate matter to the current application for assessment.</p> <p>A condition setting out permitted hours for construction pursuant to the Environmental Management and Pollution Control (Noise) Regulations is recommended for inclusion in any permit approved.</p>
9.	Real estate agents have advised that the construction of the subdivision will dramatically devalue my property	This is not a planning consideration.
10.	Request for Council to consider the term of rural living as this is our home and built to enjoy privacy and quiet, not to look at roads and concrete every time we go into our back yard.	<p>Due to their large lot sizes, Rural Living Zones are often used as a buffer zone between Industrial or Agriculture zones and conventional residential zones. The larger lot sizes allow dwellings to be well setback and provide vegetation screening on their lots which is generally the case in this area.</p> <p>The land has also been zoned Industrial for over 20 years.</p>
	Representor 2 - Initial Representation	Response
11.	No buffer zones between differing uses	Refer to point 1 above.
12.	Building areas shown located towards rear of lots closer to residential buildings	Refer to point 5 above.
13.	Brighton Structure Plan 2018 refers to buffer management	Refer to point 1 above
14.	Local objectives outcomes at clause 3.04(a) of the scheme require outcomes to be achieved by 'ensuring surrounding land use and zonings are appropriate (including the use of buffer areas to protect the industrial	Section 3 of the BIPS outlines the regional objectives under the planning scheme, which are more particularly addressed in the Southern Tasmanian Regional Land Use strategy. The STRLUS guides land use across southern Tasmania and is used to determine appropriate zoning for sites at a strategic level. However, this application is for statutory assessment, and council has no ability to alter the zoning of the site under this assessment.

	area from conflict with other uses)"	
15.	Attenuation code has a minimum attenuation distance of 100 that applies from the boundary of the site on which the activity is located for relevant listed activities. ... A greater distance to be determined by council is required in line with its stated intentions in the various strategic plans	The Attenuation Code is considered at clause 8.10 and 8.11 of this report. Attenuation distances will be determined for specific, individual uses, as they are applied for in future development applications
16.	The Code applies to certain activities, sensitive uses and also to a subdivision if it creates a lot where a sensitive use could be established.	Refer to paragraphs 8.10 and 8.11 of this report.
17.	Interface of buffer zone treatments could include reducing the lot sizes to create an appropriate buffer zone between the two conflicting uses and amending the location on the proposed lots of the building area, removing lots 7-10 and creating further open space, and reinstating a natural division to fit with surrounding existing properties eg the re-introduction of mature trees	Council is required to assess the application that has been submitted against the use and development standards provided by BIPS; more particularly the General Industrial zone standards and applicable codes.
18.	General nuisance such as noise of construction, truck movements, artificial light pollution, smoke dust, weed dispersal and loss of privacy will cause a loss of amenity.	<p>Construction activities such as noise, dust, etc are regulated by the Environmental Management and Pollution Control Act.</p> <p>Refer to point 6 re: street lighting</p> <p>A condition relating to weed management is recommended for inclusion in any permit approved.</p> <p>Loss of privacy - refer to point 10 above.</p>
19.	Removal of vegetation	Refer to point 4 above.
20.	Lack of information about street lighting.	Refer to Point 6 above.

21.	Amount of fill placed on the development site suggests the topography will change	The dumping of fill is not related to the current application. However, it may be that the fill will be used in the construction of the subdivision.
22.	The DA does not accurately reflect the proposed topography of the land once the fill is in its final place.	<p>The assessing officer has been advised recently that the placement of fill has not been undertaken by the land owner.</p> <p>Accordingly, the issue is one of compliance, and hence does not form part of the application for assessment.</p>
23.	Will any water run-off at the rear of the proposed lots flow onto residential properties once the topography is changed, is the drainage system proposed adequate to prevent this	The applicant has proposed a stormwater design, which will be refined during the engineering assessment process. However, the stormwater design has been reviewed by Council's technical officer, and is considered adequate and suitable to contain stormwater on the site, with conditions as outlined below. As can be seen from Figures 12 and 13 above, existing overland flows run typically North-South across the site.
24.	Will any future potential buildings as allowed under the proposed building areas block access to sunshine on adjacent residential properties if the contours of the land change?	The application is for subdivision only.
25.	Proposed alteration to standard construction times.	Construction hours are regulated by the Environmental Management and Pollution Control Act 1993.
26.	Request for council to be mindful of the Rural Residential Zone and the amenity and privacy.	Refer to Point 10 above.
	Additional issues raised in Supplementary Representation	
27.	There are no local area objectives (LOA) or desired future character statements (DFCS) in relation to the subdivision standards for the General Industrial Zone. It is submitted that the LAO and and DFCS for the Rural Living Zone are relevant when considering the proposed subdivision.	The proposal must be assessed against the development standards of the General Industrial Zone. However in considering strategy 29 of the Brighton Structure Plan, and by the recommendation of a condition for an acoustic fence, it is submitted that the amenity of the Rural Living Zone has been considered, within the functions available for statutory assessment.

28.	Application requirements for assessment of an application for use or development under BIPS requires a full description of the proposed use and development.	Clause 8.1.2 sets out the application requirements. It is considered that the proposal can satisfy the requirements of the planning scheme, based on the information provided.
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10. Conclusion

- 10.1 The proposed use and development of **Subdivision (30 Lots)** in General Industrial Zone at Lot 1 Greenbanks Road, Bridgewater (C/T 176402/1) satisfies the relevant provisions of the *Brighton Interim Planning Scheme 2015* and as such is recommended for approval.

11. Recommendations

- That: A. Pursuant to the *Brighton Interim Planning Scheme 2015*, Council approves application SA 2020/50 for use and development of **Subdivision (30 Lots)** in General Industrial Zone at Lot 1 Greenbanks Road, Bridgewater (C/T 176402/1), for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

General

1. The subdivision layout 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. Prior to the subdivision commencing the developer must submit an amended proposal plan including:
 - a. A road with a minimum 20 metre reservation width provided between lots 13 and 15;
 - b. Amalgamate Lots 11 and 12;

Once accepted by the General Manager, the amended plan will form part of the endorsed documents.
3. Prior to Council sealing the final plan of survey for any stage the developer must provide certification from a suitably qualified person that all requirements of the approved Bushfire Hazard Management Plan has been complied with.
4. This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.

Bushfire Hazard Management Plan

5. Prior to commencement of works, an amended Bushfire Hazard Management Plan must be submitted to, and approved by, Council's Manager Development Services, incorporating amendments required by the Tasmanian Fire Service relating to hazard management areas, and more particularly comprised in Bushfire Hazard Report (Version 3) prepared by Enviro-Dynamics dated July 2021.

Acoustic Fencing

6. Prior to commencement of works, a report prepared by a suitably qualified person must be submitted to, and approved by Council's Manager Development Services. The report must assess potential industrial use and design an appropriate acoustic fence to be constructed on the south western boundary adjacent to Lots 6 - 10 inclusive.
7. The acoustic fence required by condition 4 above must be constructed prior to sealing of the Final Plan of Subdivision, or If a staged development plan is approved, prior to the sealing of the first plan relating to lots 6-10 inclusive.
8. The cost of the acoustic fence is to be borne solely by the developer.

TasWater

9. 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 2021/0008-BTN dated 15th January 2021, as attached to this permit.

Agreements

10. Prior to the sealing of the Final Plan of Survey an agreement pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be entered into for the proposed lot, to the effect that the owner covenants and agrees with the Brighton Council that –
 - a) Prior to connecting to the public stormwater system each lot must provide for the treatment of stormwater to achieve the quality targets in accordance with the State Stormwater Strategy 2010, as detailed in Table E7.1 of the Brighton Interim Planning Scheme 2015, and to the satisfaction of the Council's General Manager.
 - b) The owners of lot 1 through 30 agree to manage the entirety of their lots in perpetuity as 'low threat vegetation' and /or non-vegetated land as defined by clause 2.2.3.2 of AS 3959-2009 Construction of Buildings in Bushfire Prone areas".
11. Agreements made pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must be prepared by the applicant on a blank instrument form to the satisfaction of the Council and registered with the Recorder of Titles. The subdivider must meet all costs associated with the preparation and registration of the Part 5 Agreement.

Staged development

12. The subdivision development must not be carried out in stages except in accordance with a staged development plan submitted to and approved by Council's Senior Planner.

Transfer of reserves

13. All roads or footways must be shown as “Road” or “Footway” on the final plan of survey and transferred to the Brighton Council by Memorandum of Transfer submitted with the final plan.

Public open space

14. At the time of sealing of the Final Plan, the public open space contained in Lot 101 as indicated on the endorsed plan must be transferred to the Brighton Council.

Easements

15. Easements must be created over all drains, pipelines, wayleaves, and services in accordance with the requirements of the Council’s Municipal Engineer. The cost of locating and creating the easements shall be at the subdivider’s full cost.
16. Easements must be created over all electricity infrastructure in accordance with the requirement of Tasmanian Networks Pty Ltd, in the form attached to this permit.
17. The cost of locating and creating the easements shall be at the subdivider’s full cost.

Covenants

18. Covenants or other similar restrictive controls that conflict with any provisions or seek to prohibit any use provided within the planning scheme must not be included or otherwise imposed on the titles to the lots created by this permit, either by transfer, inclusion of such covenants in a Schedule of Easements or registration of any instrument creating such covenants with the Recorder of Titles, unless such covenants or controls are expressly authorised by the terms of this permit or the consent in writing of the Council’s Senior Planner.

Final plan

19. A final approved plan of survey and schedule of easements as necessary, together with two (2) copies, must be submitted to Council for sealing for each stage. The final approved plan of survey must be substantially the same as the endorsed plan of subdivision and must be prepared in accordance with the requirements of the Recorder of Titles.
20. Prior to Council sealing the final plan of survey for each stage, security for an amount clearly in excess of the value of all outstanding works and maintenance required by this permit must be lodged with the Brighton Council. The security must be in accordance with section 86(3) of the Local Government (Building & Miscellaneous Provisions) Council 1993. The amount of the security shall be determined by the Council’s Municipal Engineer in accordance with Council Policy 6.3 following approval of any engineering design drawings and shall not be less than \$5,000.
21. All conditions of this permit, including either the completion of all works and maintenance or payment of security in accordance with this permit, must be satisfied before the Council seals the final plan of survey for each stage. It is the subdivider’s responsibility to notify Council in writing that the conditions of the permit have been satisfied.
22. The subdivider must pay any Titles Office lodgement fees direct to the Recorder of Titles.

Landscaping

23. The landscape reserve and road reserves must be landscaped by trees or plants in accordance with a landscape plan prepared by a suitably qualified landscape architect or other person approved by Council and submitted to Council for endorsement with the engineering drawings. The landscape plan must show the areas to be landscaped, the form of landscaping, and the species of plants and estimates of the cost of the works.
24. Planting shall be equivalent to a minimum of 1 tree per 20 metres frontage, whichever is greater, using advanced plants that suit the character of the locality. No plants listed as noxious weeds within Tasmania or displaying invasive characteristics shall be used in the landscaping of the road.
25. The landscaping plan must be designed in accordance with Council Policy No AP03 Trees on Council Land and:
 - a. Show:
 - i. remediation of the entirety of the land contained in Lot 101
 - ii. Appropriate revegetation of Ashburton Creek and the riparian areas adjacent to Ashburton Creek. All plantings must be native to the area.
 - c. Provide public access to Lot 101, including a gravel walking track, a minimum of 1.5m wide adjacent to Ashburton Creek.
 - d. Provide a minimum of one (1) street tree every 20m. Each mature tree must be a minimum 2.0m high at the time of planting.
 - e. Street trees must be located after considering all services under and above ground, and traffic safety Refer to the IPWEA standard drawing TSD-RF01-v1 SIGHT DISTANCES, or any subsequent version for details.
 - f. the Landscaping in the road reserve, located such that it does not affect the operation of proposed infrastructure.

Weed management

26. Prior to the carrying out of any works approved or required by this approval, the subdivider must provide a weed management plan detailing measures to be adopted to limit the spread of weeds listed in the Weed Management Act 1999 through imported soil or land disturbance by appropriate water management and machinery and vehicular hygiene to the satisfaction of Council's Municipal Engineer and of the Regional Weed Management Officer, Department of Primary Industries Water and Environment.

Engineering

27. The subdivision must be carried out in accordance with the Tasmanian Subdivision Guidelines October 2013 (attached).
28. Engineering design drawings, to the satisfaction of the Council's Municipal Engineer, must be submitted to and approved by Council before any works associated with development of the land commence.

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

Services

32. The Subdivider must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the proposed subdivision works. Any work required is to be specified or undertaken by the authority concerned.
33. Any existing services shared between lots are to be separated to the satisfaction of Council's Municipal Engineer.
34. Property services must be contained wholly within each lot served or an easement to the satisfaction of the Council's Municipal Engineer or responsible authority.
35. Property services for internal lots must be extended the full length of the access strip to the lot proper or conduits for future services provided to the satisfaction of Council Municipal Engineer.

Roadworks

36. Roadworks and drainage must be constructed in accordance with the standard drawings and specifications prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer or as otherwise required by this permit.
37. Roadworks must, unless approved otherwise by Council's Municipal Engineer, include: -
- a. New Roads
 - i. 20m min. reservation width;
 - ii. 11.0m min. carriageway width;
 - iii. 25.0m min dia (carriageway) cul de sac

- iv. Kerb and channel;
 - v. 1.5m min. width concrete footpath both sides; and
 - vi. Underground stormwater drainage.
38. The developer must upgrade the Strong Street/Greenbanks Road intersection to a minimum T-junction with a channelised right turn lane on the eastern approach of Greenbanks Road.
39. A 1.5m minimum width reinforced concrete footpath must be provided across the frontage of the proposed lots on the existing sections of Strong Street and Greenbanks Road, including lots 24, 27, 28, 29 and 30.
40. All carriageway surface courses must be constructed with a hot mix asphalt with a minimum compacted depth of 40mm, in accordance with standard drawings and specifications prepared by the IPWE Aust. (Tasmania Division) and the requirements of Council's General Manager.
41. An industrial standard reinforced concrete vehicle access must be provided from the road carriageway to each Lot.
42. Vehicle accesses must be in accordance with Council's standard drawings, Australian Standard AS 2890.2, Parking facilities - Part 2: Off-Street, commercial vehicle facilities, and to the satisfaction of Council's Municipal Engineer.
43. Kerb ramps must be provided to accommodate the needs of people with disabilities in accordance with standard drawings prepared by the IPWE Aust. (Tasmania Division) and to the requirements of Council's Municipal Engineer.
44. Unless approved otherwise by Council's Municipal Engineer the developer must provide a minimum 1.5m wide gravel footpath in the walkway between Lots 6 and 7.
45. A minimum 1.5m wide concrete footpath is to be provided in the central open space land (Part of Lot 101) to provide a pedestrian linkage along Ashburton Creek, or as recommended by the Flood Study required pursuant to condition 50 of this permit and to the satisfaction of council's Municipal Engineer.
46. The road required between Lots 13 and 15 must be constructed prior to sealing of the Final Plan, or if a staged development scheme is approved by Council's Manager Development Services, prior to the sealing of the Final Plans for Lots 11 to 15 inclusive.

Stormwater

47. The developer is to provide a minor stormwater drainage system designed to be able to accommodate a storm with an ARI of 50 years when the land serviced by the system is fully developed.
48. The developer is to provide a major stormwater drainage system, including culverts under the proposed road, designed to accommodate a storm with an ARI of 100 years.
49. Advice: Overland flow paths to accommodate a storm with an ARI of 100 years are to be contained wherever possible to roads or reserves. Where overland flow paths run through lots, easements are to be provided.

50. The developer is to provide a piped stormwater property connection to each lot capable of servicing the entirety of each lot by gravity in accordance with Council standards and to the satisfaction of Council's Municipal Engineer.
51. The stormwater system is to be designed such that there is no increase in pre-development flows in the Ashburton Creek where it leaves the subject property.
52. The Developer is to incorporate Water Sensitive Urban Design Principles into the development for the treatment and disposal of stormwater. The stormwater treatment system is to achieve the quality targets in the State Stormwater Strategy 2010 and be in accordance with:
 - a. the Water Sensitive Urban Design Procedures for Stormwater Management in Southern Tasmania, and
 - b. to the satisfaction of the Council's Municipal Engineer.
53. Gross pollutant traps are to be provided on the outfalls of all piped stormwater networks prior to discharging to any basins or watercourses.
54. Prior to the approval of Engineering Design Drawings the developer must submit a Flood Hazard Report, prepared in accordance with section E15.0 Inundation Prone Areas Code of the Brighton Interim Planning Scheme 2015 for approval by Council's Municipal Engineer. Once approved the Report will form part of the endorsed documents.

The Report is to demonstrate that works:

- (a) do not cause or contribute to flood on the site, on adjacent land or public infrastructure; and
- (b) can achieve and maintain a tolerable risk from a 1% annual exceedance probability flood event for the intended life of the use without requiring any flood protection measures.

Any specific hazard reduction or protection measures recommended in the report are to be incorporated in the engineering design drawings and implemented prior to the sealing of the Plan of Survey for the subdivision.

Sewer & Water

55. Each lot must be connected to a reticulated potable water supply.
56. Each lot must be connected to a reticulated sewerage system.
57. The development must meet all required Conditions of approval specified by Tas Water Submission to Planning Authority Notice TWDA 2021/00008-BTN, dated 15/01/2021.

Telecommunications and electrical reticulation

58. Electrical and telecommunications services must be provided underground to each lot in accordance with the requirements of the responsible authority and to the satisfaction of Council's Municipal Engineer.

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

Water quality

61. A soil and water management plan (here referred to as a 'SWMP') prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's Municipal Engineer before development of the land commences.
62. Temporary run-off, erosion and sediment controls must be installed in accordance with the approved SWMP and must be maintained at full operational capacity to the satisfaction of Council's Municipal Engineer until the land is effectively rehabilitated and stabilised after completion of the development.
63. The topsoil on any areas required to be disturbed must be stripped and stockpiled in an approved location shown on the detailed soil and water management plan for reuse in the rehabilitation of the site. Topsoil must not be removed from the site until the completion of all works unless approved otherwise by the Council's Municipal Engineer.
64. All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with topsoil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council's Municipal Engineer.

Construction amenity

65. 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 AM to 6:00 PM
Saturday	8:00 AM to 6:00 PM
Sunday and State-wide public holidays	10:00 AM to 6:00 PM
66. All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function, and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of -

- (a) Emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property.
 - (b) Transport of materials, goods, or commodities to or from the land.
 - (c) Appearance of any building works or materials.
67. 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
68. 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.

Maintenance and Defects Liability Period

69. The subdivision must be placed onto a twelve (12) month maintenance and defects liability period in accordance with Council Policy following the completion of the works in accordance with the approved engineering plans and permit conditions.
70. Prior to placing the subdivision onto the maintenance and defects liability period the Supervising Engineer must provide certification that the works comply with the Council's Standard Drawings, specification and the approved plans.
71. Prior to commencement of works a construction management plan prepared by a suitably qualified person is to be submitted to, and approved by, the Manager Development Services. The construction management plan must include details addressing:
- a) safety,
 - b) traffic management (including parking for trades/workers, vulnerable users (pedestrians/cyclists),
 - c) environmental management:
 - a. air and dust management
 - b. stormwater management
 - c. noise and vibration management plan
 - d. building waste management
 - e. work times
 - f. asbestos management (if identified on site)
 - d) general issues including construction program, signage, security (if required)
 - e) monitoring and compliance.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT: -

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works (minimum of \$300.00), or as otherwise specified in Council's Schedule of Fees, must be paid to Council prior to the approval of engineering plans.
- D. The issue of this permit does not ensure compliance with the provisions of the *Threatened Species Protection Act 1995* or the *Environmental Protection and Biodiversity Protection Act 1999* (Commonwealth). The applicant may be liable to complaints in relation to any non-compliance with these Acts and may be required to apply to the Threatened Species Unit of the Department of Tourism, Arts, and the Environment or the Commonwealth Minister for a permit.
- E. The issue of this permit does not ensure compliance with the provisions of the *Aboriginal Relics Act 1975*. If any aboriginal sites or relics are discovered on the land, stop work, and immediately contact the Tasmanian Aboriginal Land Council and Aboriginal Heritage Unit of the Department of Tourism, Arts, and the Environment. Further work may not be permitted until a permit is issued in accordance with the *Aboriginal Relics Act 1975*.
- F. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

DECISION:

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

CARRIED

VOTING RECORD

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

The meeting closed at 6.05pm.

Confirmed:

(Acting Mayor)

Date:

17th August 2021