



**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,  
8 FEBRUARY 2022**

**PRESENT:** Cr Gray (Chairperson); Cr Curran (Deputy Mayor); Cr De La Torre;  
Cr Geard; Cr Jeffries; Cr Murtagh; Cr Owen and Cr Whelan.

**IN ATTENDANCE:** Mrs J Banks (Governance Manager); Mrs J Blackwell (Senior  
Planning Officer) 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 Development Application DA 2021 / 00200 for Glenstone Road, Bridgewater (CT 164049/4) - Recycling, Waste Disposal and Construction of Sheds

Author: Brian White (Planning Officer)

Authorised: David Allingham (Manager Development Services)

Applicant:	PDA Surveyors
Subject Site:	Glenstone Road, Bridgewater (CT 164049/4)
Proposal:	Recycling and Waste Disposal. Construction of sheds.
Planning Scheme:	Tasmanian Planning Scheme - Brighton
Zoning:	General Industrial
Codes:	Parking and Sustainable Transport Road and Railway Assets
Local Provisions:	N/A
Use Class:	Recycling and Waste Disposal
Discretions:	Clause C2.6.5 (P1) Pedestrian access Clause C3.5.1 (P1) - Traffic generation at a vehicle crossing, level crossing or new junction
Representations:	One (1) representation was received. The representors raised the following issues: <ul style="list-style-type: none"> <li>Impacts on residential amenity due to dust and other emissions.</li> </ul>
Recommendation:	Approval with conditions

## 1. STATUTORY REQUIREMENTS

The purpose of this report is to enable the Planning Authority to determine application DA 2021/ 00200.

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.

Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act, 1993* (LUPAA).

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. SITE ASSESSMENT

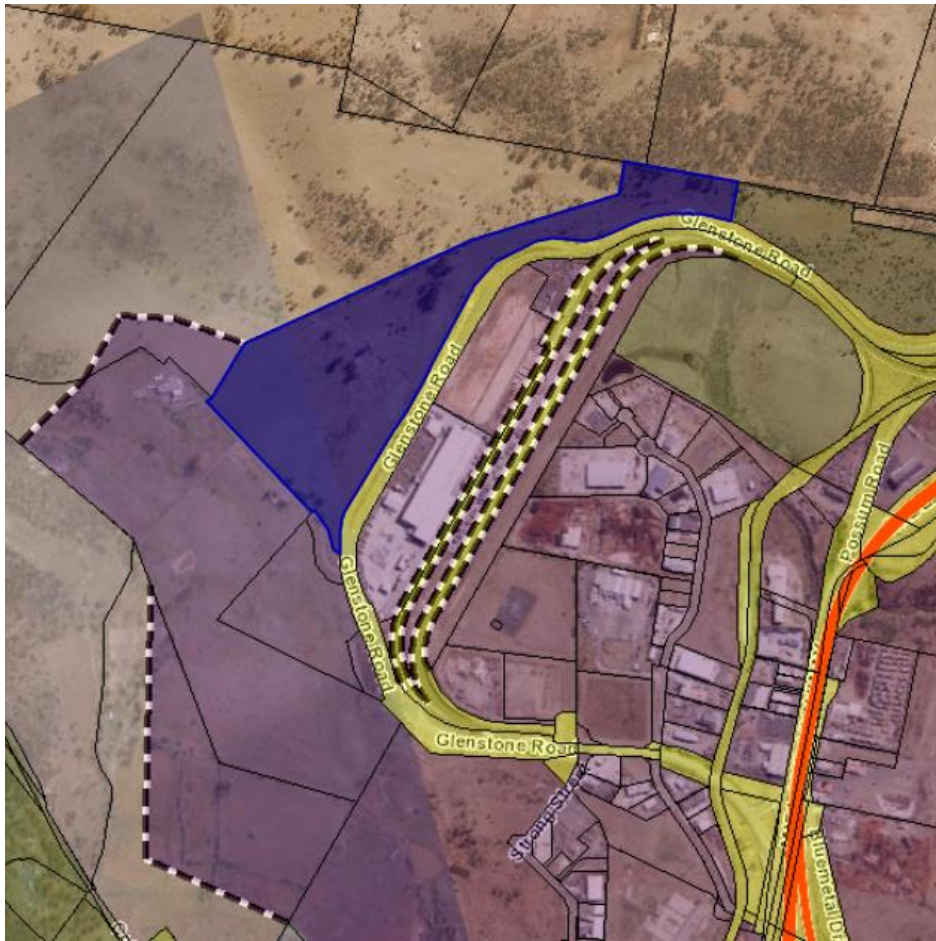
The site is located on a vacant site in the northwest corner of the Brighton Hub. It is accessed via a sealed reserved road (Crown) which connects the site to Glenstone Road. The site is irregular shaped and has a total area of 21.07ha. The site slopes down from the west to the east at a grade of approximately 5% and is mostly cleared of vegetation.

The site is adjacent to the Brighton Transport Hub to the east. The surrounding area to the west of the site is mostly vacant farmland with some residential uses.

The site is zoned General Industrial. The adjoining land to the north and west is zoned Rural.

The site is currently owned and managed by the Department of Stage Growth. The consent of the relevant Minister has been provided for the making of the application.

The site is shown in Figure 1 below.



**Figure 1 Subject site**

### 3. PROPOSAL

Planning approval is sought to utilise the site for a recycling and waste disposal use and to construct two (2) sheds and earthworks. The reserve road providing access to the site from Glenstone Road, is also to be upgraded. Glenstone Road is managed by the Department of State Growth.

Bullocks Civil Contracting Pty Ltd have been undertaking the proposed use on a site nearby within the Industrial Estate for several years. This proposal is to relocate the current business to a new site in the Estate.

It should be noted that some of the proposed use and development has already commenced on site, including construction of sheds and earthworks, and that this application is somewhat retrospective as a result of enforcement. Council Officers knowledge that no processing of materials has commenced to date.

The proposed recycling and waste disposal use will receive, stockpile, segregate, crush, mix, store, and transport materials suitable for reuse as clean fill in construction, backfilling etc.

Sources of material to be transported to the site via trucks will include:

- Crushed rock and gravels from under pavements.
- Concrete from footpath and curb.
- Topsoil.
- Asphalt mixed with pavement substrate solid waste resulting from excavation: gravel, sand, soil.

The materials will be distributed from the site via trucks to work sites for use as fill, road pavements, trench backfill and nature strip reinstatement etc. The recycled materials will also be supplied to the construction and landscape industry and to for landfill capping.

The materials brought to the site are considered to constitute 'clean fill'. It is not expected that contaminated materials will be brought to the site to be recycled.

According to the submitted Environmental Management Plan (EMP), the primary activities to occur on site will be as follows:

- inward carting of mixed clean trench, excavation & demolition materials via truck;
- unloading and stockpiling of mixed excavated materials;
- primary separation and stockpiling of oversized and coarse components (concrete rubble, rock, asphalt);
- screening of materials to separate coarser fractions of rock, clay and soil from the finer soil and clay;
- primary crushing of concrete and rock to generate a 60 minus product;
- secondary screening of soil and topsoil;
- separation of reinforcing steel, plastic, etc.;
- stockpiling of segregated reusable wastes;
- storing of plastics and steel scrap/waste in dedicated skip bins for offsite recycling;
- loading of materials onto trucks.

The EMP confirms that the north western corner of the site will be excavated to create 'berms' parallel to the side and rear boundaries which will assist in reducing exposure to westerly winds and reduce the surrounding tenants' exposure to noise. The site stockpiles used for separation, screening and crushing will be located below the berms.

The EMP confirms that some 100,000 tonnes of raw material will be delivered to site via truck per year. The use will generate approximately 4 -10 heavy vehicle movements per day, and approximately 10 – 20 light vehicle movements .

There is an existing gravel access way and manoeuvring area on site which, according to the submitted planning report and Traffic Impact Statement (TIS), will be constructed to ensure all weather pavement, and surfaced with a two (2) coat spray seal. 22 parking spaces are shown on the submitted parking plan to service the use, along with truck parking and turning areas. The access owned by the Crown from Glenstone Road to the boundary of the site is sealed and is shown as Figure 2.



**Figure 2 Access via Glenstone Road**

The use is to operate Monday – Friday, 7:00am to 6:00pm, and 8:00am to 4:00pm on Saturdays. It will be closed Sunday and Public Holiday. There will be 3-4 employees on site on a full time basis.

Two (2) sheds are proposed on site, along with a site office which has already been constructed. The structures are located at least 10m from all property boundaries.

The application is supported by the attached plans, a planning report, TIS, and an EMP.

#### 4. PLANNING SCHEME ASSESSMENT

##### Compliance with Applicable Standards:

5.6.1 *A use or development must comply with each applicable standard in the State Planning Provisions and the Local Provisions Schedules.*

5.6.2 *A standard is an applicable standard if:*

- (a) *the proposed use or development will be on a site within:*
  - (i) *a zone;*
  - (ii) *an area to which a specific area plan relates; or*
  - (iii) *an area to which a site-specific qualification applies; or*
- (b) *the proposed use or development is a use or development to which a relevant applies; and*
- (c) *the standard deals with a matter that could affect, or could be affected by, the proposed use or development.*

5.6.3 *Compliance for the purposes of subclause 5.6.1 of this planning scheme consists of complying with the Acceptable Solution or satisfying the Performance Criterion for that standard.*

5.6.4 *The planning authority may consider the relevant objective in an applicable standard to determine whether a use or development satisfies the Performance Criterion for that standard.*

##### Determining applications (clause 6.10.1):

6.10.1 *In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:*

- (a) *all applicable standards and requirements in this planning scheme; and*
- (b) *any representations received pursuant to and in conformity with section 57(5) of the Act,*

*but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.*

##### Use Class

The Use Class is categorised as Recycling and Waste Disposal under the Scheme. In the General Industrial Zone, the use is Permitted. Therefore, the use is in harmony with the purpose of the Zone.

## Compliance with Performance Criteria

The proposal meets the Scheme's relevant Acceptable Solutions with the exception of the following.

### Clause C2.6.5 A1/P1 Pedestrian Access

Objective:	
That pedestrian access within parking areas is provided in a safe and convenient manner.	
Acceptable Solution	Performance Criteria
<p>A1.1</p> <p>Uses that require 10 or more car parking spaces must:</p> <p>(a) have a 1m wide footpath that is separated from the access ways or parking aisles, excluding where crossing access ways or parking aisles, by:</p> <p>(i) a horizontal distance of 2.5m between the edge of the footpath and the access way or parking aisle; or</p> <p>(ii) protective devices such as bollards, guard rails or planters between the footpath and the access way or parking aisle; and</p> <p>(b) be signed and line marked at points where pedestrians cross access ways or parking aisles.</p> <p>A1.2</p> <p>In parking areas containing accessible car parking spaces for use by persons with a disability, a footpath having a width not less than 1.5m and a gradient not steeper than 1 in 14 is required from those spaces to the main entry point to the building.</p>	<p>P1</p> <p>Safe and convenient pedestrian access must be provided within parking areas, having regard to:</p> <p>(a) the characteristics of the site;</p> <p>(b) the nature of the use;</p> <p>(c) the number of parking spaces;</p> <p>(d) the frequency of vehicle movements;</p> <p>(e) the needs of persons with a disability;</p> <p>(f) the location and number of footpath crossings;</p> <p>(g) vehicle and pedestrian traffic safety;</p> <p>(h) the location of any access ways or parking aisles; and</p> <p>(i) any protective devices proposed for pedestrian safety.</p>



The proposal provides for a 600mm wide gravel footpath adjacent to the parking spaces nearby to the site office which does not satisfy the acceptable solution. Therefore, assessment against the performance criteria is required to comply with the Standard.

### Performance Criteria Assessment

The parking spaces will be generally used by employees rather than members of the public. Therefore, workers will be familiar with the site conditions and the types of vehicles entering and leaving the site. The existing hardstand area is large enough to allow trucks to pass the car parking spaces with a significant amount of separation. There is also a 600mm gravel footpath that will provide pedestrians with a safe access from the parking spaces to the site office. Protective bollards or pedestrian crossings are not considered necessary given the size of the site and the familiarity that workers will have with the site conditions.

Accordingly, the PC is satisfied with conditions.

### Clause C3.5.1 Traffic generation at a vehicle crossing, level crossing or new junction

<b>Objective:</b>	
To minimise any adverse effects on the safety and efficiency of the road or rail network from vehicular traffic generated from the site at an existing or new vehicle crossing or level crossing or new junction.	
Acceptable Solution	Performance Criteria
<p>A1.1</p> <p>For a category 1 road or a limited access road, vehicular traffic to and from the site will not require:</p> <ul style="list-style-type: none"> <li>(a) a new junction;</li> <li>(b) a new vehicle crossing; or</li> <li>(c) a new level crossing.</li> </ul> <p>A1.2</p> <p>For a road, excluding a category 1 road or a limited access road, written consent for a new junction, vehicle crossing, or level crossing to serve the use and development has been issued by the road authority.</p>	<p>P1</p> <p>Vehicular traffic to and from the site must minimise any adverse effects on the safety of a junction, vehicle crossing or level crossing or safety or efficiency of the road or rail network, having regard to:</p> <ul style="list-style-type: none"> <li>(a) any increase in traffic caused by the use;</li> <li>(b) the nature of the traffic generated by the use;</li> <li>(c) the nature of the road;</li> <li>(d) the speed limit and traffic flow of the road;</li> </ul>

<p>A1.3</p> <p>For the rail network, written consent for a new private level crossing to serve the use and development has been issued by the rail authority.</p> <p>A1.4</p> <p>Vehicular traffic to and from the site, using an existing vehicle crossing or private level crossing, will not increase by more than:</p> <p>(a) the amounts in Table C3.1; or</p> <p>(b) allowed by a licence issued under Part IVA of the Roads and Jetties Act 1935 in respect to a limited access road.</p> <p>A1.5</p> <p>Vehicular traffic must be able to enter and leave a major road in a forward direction</p>	<p>(e) any alternative access to a road;</p> <p>(f) the need for the use;</p> <p>(g) any traffic impact assessment; and</p> <p>(h) any advice received from the rail or road authority.</p>
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Glenstone Road is a category 2 road as defined in the State Road Hierarchy, so, therefore meets the definition of a 'major road' as defined in Clause C3.3.1 of the Code.

The increase in vehicle movements on Glenstone Road is to be approximately 4 -10 heavy vehicle movements per day, and approximately 10 – 20 light vehicle movements. As this is greater than the 10 vehicle movements required by Clause A1.4 (a) and Table C3.1, the proposal must be assessed against the performance criteria is relied upon.

### Performance Criteria Assessment

The relatively modest increase in vehicle movements onto Glenstone is likely to have a negligible impact the road network given the road has been constructed to cater for heavy vehicle movements from uses such as what is proposed. Given the site is located in an industrial estate adjacent to Toll, heavy vehicle movements occur frequently.

Given the use is simply being transferred from one site in the Estate to another site, there isn't likely to be a significant increase of movements onto the road network.

The existing access from Glenstone Road onto the reserve road that provides access to the site is to be upgraded and will therefore be clearly capable of accommodating the modest traffic volumes from the use.

Glenstone Road has a speed limit of 70m/h and there is sufficient site distances looking either way from the intersection of the reserve road and Glenstone Road. Therefore, vehicles entering and leaving the site onto Glenstone Road is highly unlikely of resulting in traffic safety issues with other road users.

Vehicle movement onto Glenstone Road would have also been a consideration taking into account when the Estate was zoned for residential use and in the design of the road. The DSG, acting as the Road Authority, have been referred the application and have consented to a permit being issued subject to conditions.

A TIS has been provided as part of the application which opines that the increase in vehicle movements is highly unlikely of causing adverse effects on the safety and efficiency of the road network.

Accordingly, the PC is satisfied with conditions.

## 5. Referrals

### *Technical Officer*

Council's Technical Officer has provided comments which are incorporated into this report and conditions of approval.

### *TasWater*

TasWater have issued a SPAN which will form part of the permit.

### *Department of State Growth*

The Department have provided Road Owner Consent and conditions of approval for the development application.

### *Zinfra*

Zinfra were referred the application as they alerted Council that an existing shed on site may have been located too close to their infrastructure. Zinfra have not provided any further correspondence. A note on the permit will recommend that the applicant liaise with Zinfra.

### *Environmental Protection Authority*

The Environmental Protection Authority have confirmed the proposal is not a 'Level 2 Activity' under the *Environmental Management and Pollution Control Act 1994*.

## 6. Representations

One (1) representation was received during the statutory public exhibition period between 18<sup>th</sup> December 2021 and 10<sup>th</sup> January 2022.

The concerns of the representors are summarised below:

Representor's concerns	Planning Response
The operation is too close to property boundaries so dust and other emissions will cause an unreasonable loss of residential amenity.	<p>Notwithstanding the fact that the existing dwelling approximately 22m to the west of the subject site is located within the General Industrial Zone and that the proposed recycling and waste disposal use has a permitted status in the zone, the proposal is unlikely to cause any significant amenity impacts on the residents of nearby dwellings due to:</p> <ul style="list-style-type: none"><li>• Dust generating activities being contained within a lowered re-profiled surface and surrounded by earth berm.</li><li>• Active dust suppression will also occur via application of water.</li><li>• The stockpiles and crushing activities are to be located at least 200m to the north east of the nearest dwelling.</li><li>• Vehicle speeds within the site will be kept below 20km/h.</li><li>• The hours of operation are reasonable, with no activities occurring before 7am or 6pm on Mondays through to Saturdays, and no works occurring on Sundays or public holidays.</li><li>• Vehicle movements will not exceed approximately 20 per day.</li><li>• Truck loads will be covered and site yard surface and driveway will</li></ul>

	<p>be constructed to minimise dust and vibrations.</p> <ul style="list-style-type: none"><li>• Vehicles and heavy operating machinery will be regularly maintained and have standard exhaust systems to minimise any nuisance air emissions.</li><li>• The site is within an industrial estate nearby to existing industrial uses so there are already noise emissions occurring.</li><li>• Noise from the activities (such as crushing) will be intermittent and the inputs are generally quite low compared with large scale quarrying operations.</li></ul> <p>Given that the existing dwelling is in a General Industrial Zone, the level of amenity to be expected for residential uses in this area cannot be as high as if the dwelling was located in a residential zone.</p> <p>The General Industrial Zone contains no provisions which deal with the amenity of nearby sensitive uses and the proposed use has a permitted status in the Zone. Nonetheless, the applicant has provided an EMP which outlines a number of measures for how the proposal can minimise off site impacts to nearby dwellings. A condition on the permit will require that the use and development is undertaken in accordance with the report's recommendations.</p> <p>The Attenuation Code of the Tasmanian Planning Scheme – Brighton, does not apply to the proposal pursuant to Clause C9.2.3: "The code does not apply to sensitive uses occurring within the Light Industrial Zone, General Industrial Zone,</p>
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	<p>Port and Marine Zone, and Utilities Zone". Therefore, no response to the Code is required.</p> <p>Overall, it is considered that the representation does not warrant refusal of the application and that the matters raised in the representation are adequately dealt with by the endorsed EMP.</p>
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## 7. Conclusion

The proposal for Recycling and Waste Disposal and construction of two (2) sheds at Glenstone Road, Bridgewater (CT 164049/4) satisfies the relevant provisions of the Tasmanian Planning Scheme - Brighton and is recommended for approval.

### **Recommendation:**

That: A. Pursuant to the *Tasmanian Planning Scheme - Brighton*, Council approves application DA 2021 / 00200 for Recycling and Waste Disposal, and construction of sheds at Glenstone Road, Bridgewater (CT 164049/4) for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

and a permit containing the following conditions be issued:

#### *General*

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

#### *Services*

3. 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.
4. The approved structure(s) must be sited clear of any easement and located at least 1.00 metre measured horizontally from any Council service mains.

*Future Subdivision or Strata Development*

5. This permit in no way approves the subdivision of the site, or the division of the site by strata plan.

*Landscaping*

6. Trees along the western boundary must be retained.

*Parking and Access*

7. At least twenty two (22) car parking spaces and six (6) articulated truck with dog trailer 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 of lot 6 and areas set-aside for parking and associated access and turning of lot 6 must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and to the satisfaction of Council's Municipal Engineer, and must include all of the following;
  - (a) Constructed with a durable all-weather pavement.
  - (b) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material must be a two-coat double spray seal or other approved material.
  - (c) Minimum carriageway width of 6 metres of seal road with 1m wide shoulders each side.
  - (d) Drained to an approved stormwater system.
  - (e) Truck trailer passing areas 6 metres wide x 40 metres long every 200 metres.
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. An upgraded and widened vehicle access off Glenstone Road must be provided from the Glenstone Road carriageway to the property boundary as required by the Department of State Growth.
11. Prior to undertaking any works in the state road reserve, a Works Permit is required from the Department of State Growth in accordance with Section 16 of the Roads and Jetties Act 1935.

12. Prior to the concentration and discharge of stormwater to the state road reserve, consent is required under Section 17B (1) of the Roads and Jetties Act 1935.

Application for permits can be found at

[https://www.transport.tas.gov.au/roads\\_and\\_traffic\\_management/permits\\_and\\_bookings](https://www.transport.tas.gov.au/roads_and_traffic_management/permits_and_bookings). Applications must be received by the Department of State Growth at least 20 business days before the expected start date for works, to allow enough time to assess the application.

### Stormwater

13. Stormwater drainage from the proposed development must be retained and treated on site and drain to a legal point of discharge to the satisfaction of Council's General Manager and in accordance with a Certificate of Likely Compliance or Plumbing permit issued by the Permit Authority in accordance with the *Building Act 2016*.
14. Stormwater is to be captured and treated to meet the targets of the State Stormwater Strategy, draft Tasmanian Stormwater Policy and the requirements of Brighton Councils Stormwater Engineer and applicable policies, requiring,
  - (a) 90% reduction in the average annual load of gross litter and pollutants.
  - (b) 80% reduction in the average annual load of total suspended solids based on typical stormwater concentrations.
  - (c) 45% reduction in the average annual load of total suspended phosphorous based on typical stormwater concentrations.
  - (d) 45% reduction in the average annual load of total nitrogen based on typical stormwater concentrations.
15. A Stormwater Management Report is to be submitted to Council for approval by Council's Municipal Engineer prior to the commencement of works. Once approved the stormwater management report will form part of the permit and recommendations must be implemented and maintained for the duration of the use. The report must have regard to the endorsed Environmental Management Plan (EMP), prepared by NTCADS Pty Ltd, dated September 2021.
16. The proponent is to undertake and submit to Council engineering design drawings for the proposed use and development, for approval prior to the application of building and plumbing permits having regard to the recommendations of the Stormwater Management Report. Stormwater information supplied with this application is considered conceptual and may require alteration following thorough assessment.

### Wastewater

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



*Soil and Water Management*

18. Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South, must be approved by Council's General Manager before development of the land commences. The SWMP shall form part of this permit when approved.
19. Before any work commences install temporary run-off, erosion and sediment controls in accordance with the recommendations of the approved SWMP and maintain these controls at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines *Soil and Water Management on Building and Construction Sites*, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's General Manager.

*Environmental Management*

20. The use and development must be undertaken in accordance with the endorsed Environmental Management Plan (EMP), prepared by NTCADS Pty Ltd, dated September 2021.

*TasWater*

21. 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/ 01334-BTN, dated 16/11/2021, as attached to this permit.

*Construction amenity*

22. 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.

23. All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function, and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
  - (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, wastewater, waste products, grit or otherwise.
  - (b) The transportation of materials, goods, and commodities to and from the land.
  - (c) Obstruction of any public footway or highway.

(d) Appearance of any building works or materials.

24. 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.
25. 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.
26. The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

#### **THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:**

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.
- C. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.
- D. It is recommended the applicant liaise with Zinfra regarding the Pipeline Planning Corridor and any requirements under the Gas Industry Act 2019.
- E. The applicant should ensure that any stormwater is appropriately contained and treated with no potential to enter the land or drainage system within the Brighton Transport Hub which comprises 140 and 142 Glenstone Road, 220 and 250 Glenstone Road and 268 Glenstone Road.
- F. The applicant should ensure that there is no potential for contamination/excessive emissions (dust etc) which could impact Tasrail's infrastructure.
- G. The applicant should be aware of Tasrail's standard notes which are attached to the permit.

#### **DECISION:**

*Cr Jeffries moved, Cr De La Torre seconded that the recommendation be adopted.*

**CARRIED**

#### VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 5.2 Development Application DA 2021 / 00290 for Additions & Alterations to Dwelling at 16 Clives Avenue, Old Beach

Author: Andres Perez-Roca (Planning Officer)

Applicant:	Dennis Cantwell
Subject Site:	16 Clives Avenue, Old Beach
Proposal:	Additions & Alterations to Dwelling
Planning Scheme:	<i>Tasmanian Planning Scheme – Brighton</i> (the Planning Scheme)
Zoning:	General Residential
Codes:	Parking and Sustainable Transport Code
Local Provisions:	Nil
Use Class:	Residential (for a single dwelling)
Discretions:	8.4.2 Setbacks and building envelopes for all dwellings 8.4.6 Privacy for all dwellings
Representations:	2 representations were received. The representors raised the following issues: <ul style="list-style-type: none"> <li>• Unreasonable loss of amenity to adjoining properties</li> <li>• Privacy loss to an adjoining property</li> </ul>
Recommendation:	Approval (with conditions)

## 1. STATUTORY REQUIREMENTS

The purpose of this report is to enable the Planning Authority to determine application DA 2021 / 00290.

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.

Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of LUPAA.

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. SITE ASSESSMENT

The site is a 1,083m<sup>2</sup> irregular shaped, sloping internal lot with an access strip to Clives Avenue, Old Beach (see Figure 1 below).



Figure 1. An aerial image of the site (highlighted in ochre) and surrounds

A single dwelling has been developed on the site.

Site slopes range up to a maximum of about 20 degrees (where the existing dwelling is), falling to the front and rear boundaries.

The site and adjoining land are zoned General Residential and not affected by any overlays or local provisions (see Figure 2 below).



Figure 2. Zoning (Red = General Residential Zone)

The site is burdened by a Drainage Easement 2.0 metres wide that runs along the northeast side boundary. There is a TasWater sewer main within this easement.

### 3. PROPOSAL

The proposal is for additions and alterations to the existing dwelling and includes:

- A carport

The carport consists of four posts and a roof, with open walls. It is 6m long x 5.4m wide (32.4m<sup>2</sup>), with a maximum height of up to 4m above the natural ground level. It is located east of the existing dwelling and has a minimum setback of 2.6m from the northeast side boundary. It is outside the Drainage Easement and its footings are setback by a minimum of 1.22m from the TasWater sewer main. An extension to the existing driveway is not required.



- *A covered area over the existing deck*

The existing dwelling has an existing deck of 44m<sup>2</sup> accessible from the hall and main living area. A 3.8m<sup>2</sup> covered area over the existing deck connecting the hall with the proposed carport is proposed.

- *A deck extension (with a workshop under)*

The applicant proposes extending the existing deck by 11.5m<sup>2</sup>. The extended deck is setback by up to 1.2m from the rear boundary of the property at 14 Clives Avenue and has a finished surface of more than 1m above the existing ground level. A 23m<sup>2</sup> enclosed workshop under the extended deck, with a 3.15m wide by 2.1m high door, is also proposed.

In response to concerns raised within representations regarding overlooking from the deck and visual impacts when viewed from adjoining properties to the south, the applicant has submitted updated plans showing a 1.7m high privacy screen on the deck along the south and east of the deck and landscaping along the rear boundary. These amended plans will be endorsed via permit conditions as discussed later in the report.

- *An extension to the back of the existing dwelling*

The applicant proposes a 54m<sup>2</sup> extension to the back of the existing dwelling to accommodate an additional bathroom and bedroom and increase the existing bedrooms' size.

The application is supported by the attached site plan, floor plan, and elevations. The applicant also provided shadow diagrams for the proposed deck extension.

#### 4. PLANNING SCHEME ASSESSMENT

##### Compliance with Applicable Standards:

*5.6.1 A use or development must comply with each applicable standard in the State Planning Provisions and the Local Provisions Schedules.*

*5.6.2 A standard is an applicable standard if:*

- (a) the proposed use or development will be on a site within:*
  - (i) a zone;*
  - (ii) an area to which a specific area plan relates; or*
  - (iii) an area to which a site-specific qualification applies; or*
- (b) the proposed use or development is a use or development to which a relevant applies; and*

- (c) *the standard deals with a matter that could affect, or could be affected by, the proposed use or development.*

*5.6.3 Compliance for the purposes of subclause 5.6.1 of this planning scheme consists of complying with the Acceptable Solution or satisfying the Performance Criterion for that standard.*

*5.6.4 The planning authority may consider the relevant objective in an applicable standard to determine whether a use or development satisfies the Performance Criterion for that standard.*

#### **Determining applications (clause 6.10.1):**

*6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:*

- (a) all applicable standards and requirements in this planning scheme; and*
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act,*

*but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.*

#### **Use Class**

The Use Class is categorised as Residential (for a single dwelling) under the Planning Scheme. In the General Residential Zone, this Use Class has a 'No Permit Required' status.

#### **Compliance with Performance Criteria**

The proposal meets all relevant Planning Scheme's Acceptable Solutions except for the following:

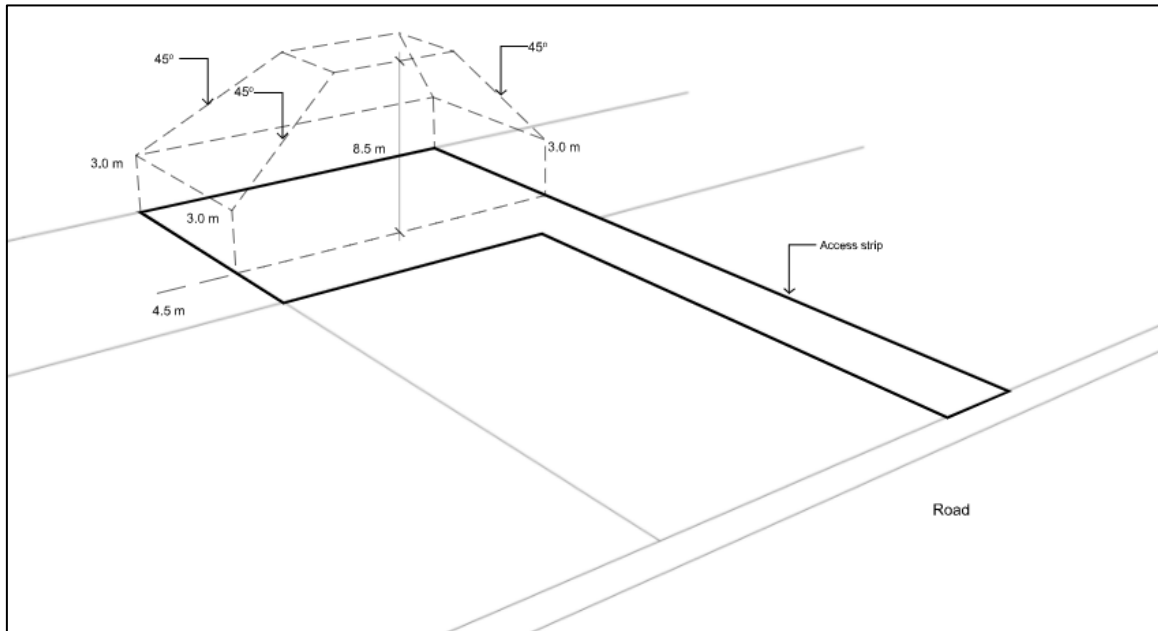
#### **Clause 8.4.2 A3/P3 – Setbacks and building envelopes for all dwellings**

<b>Objective:</b>
<p>The siting and scale of dwellings:</p> <ul style="list-style-type: none"> <li>(a) provides reasonably consistent separation between dwellings and their frontage within a street;</li> <li>(b) provides consistency in the apparent scale, bulk, massing and proportion of dwellings;</li> </ul>

<p>(c) provides separation between dwellings on adjoining properties to allow reasonable opportunity for daylight and sunlight to enter habitable rooms and private open space; and</p> <p>(d) provides reasonable access to sunlight for existing solar energy installations.</p>	
Acceptable Solution	Performance Criteria
<p><b>A3</b></p> <p>A dwelling, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally beyond the building envelope, must:</p> <p>(a) be contained within a building envelope (refer to Figures 8.1, 8.2 and 8.3) determined by:</p> <ul style="list-style-type: none"> <li>(i) a distance equal to the frontage setback or, for an internal lot, a distance of 4.5m from the rear boundary of a property with an adjoining frontage; and</li> <li>(ii) projecting a line at an angle of 45 degrees from the horizontal at a height of 3m above existing ground level at the side and rear boundaries to a building height of not more than 8.5m above existing ground level; and</li> </ul> <p>(b) only have a setback of less than 1.5m from a side or rear boundary if the dwelling:</p> <ul style="list-style-type: none"> <li>(i) does not extend beyond an existing building built on or within 0.2m of the boundary of the adjoining property; or</li> <li>(ii) does not exceed a total length of 9m or one third the length of the side boundary (whichever is the lesser).</li> </ul>	<p><b>P3</b></p> <p>The siting and scale of a dwelling must:</p> <p>(a) not cause an unreasonable loss of amenity to adjoining properties, having regard to:</p> <ul style="list-style-type: none"> <li>(i) reduction in sunlight to a habitable room (other than a bedroom) of a dwelling on an adjoining property;</li> <li>(ii) overshadowing the private open space of a dwelling on an adjoining property;</li> <li>(iii) overshadowing of an adjoining vacant property; or</li> <li>(iv) visual impacts caused by the apparent scale, bulk or proportions of the dwelling when viewed from an adjoining property;</li> </ul> <p>(b) provide separation between dwellings on adjoining properties that is consistent with that existing on established properties in the area; and</p> <p>(c) not cause an unreasonable reduction in sunlight to an existing solar energy installation on:</p> <ul style="list-style-type: none"> <li>(i) an adjoining property; or</li> <li>(ii) another dwelling on the same site.</li> </ul>



The proposal is not within the building envelope required by the Acceptable Solution in sub-clause 8.4.2 A3 (a) of the Planning Scheme (see Figure 3 below), given that the proposed deck extension is within 4.5m (i.e., up to 1.2m) of the rear boundary of the property at 14 Clives Avenue.



**Figure 3.** Building envelope for Internal lots as required by clause 8.4.2 A3(a)

Therefore, the Acceptable Solution in sub-clause 8.4.2 A3 (b) of the Planning Scheme is not met, and assessment against the relevant Performance Criteria is required

It can be inferred from the provided shadow diagrams that the proposal will not cause an unreasonable reduction in sunlight or overshadow a habitable room (other than a bedroom), private open space or solar panels on any adjoining property.

The submitted shadow diagrams indicate that the adjoining dwelling to the south will be largely unaffected by overshadowing from the proposed additions between 9:00am and approximately 3:00pm on the 21<sup>st</sup> June (winter solstice).

The submitted shadow diagrams indicate that the private open space of the dwelling to the south is largely unaffected by overshadowing between 9:00am and 12:00pm on the 21<sup>st</sup> June (winter solstice). Between 12:00pm and 3:00pm the area of private open space that will be overshadowed is minimal in comparison to the total private open space available on the site.

The proposed deck and workshop extension – including the 1.7m high privacy screen on the deck - have a maximum height of approximately 4.5m above natural ground level. The additions are not perpendicular to the rear boundary of the dwelling to the south so have a setback ranging between approximately 1.2m and 3.8m. This will assist in reducing the bulk of the additions when viewed from the dwelling on the adjoining lot to the south which is setback some 12m from its rear boundary.

The deck addition is also relatively narrow in scale in comparison with the total width of the rear boundary of the adjoining property to the south (approximately 20%). The proposed 1.7m high timber screen will also provide articulation when viewed from the property to the south rather than the upper level being a solid blank wall.

The decking additions will therefore not present a 'looming' presence above the boundary fence when viewed from the dwelling or private open space of the adjoining property to the south for those reasons set out above.

Except for the deck extension, the remaining additions and alterations are contained within the building envelope in Figure 3, so it is considered that their depth, width and height is consistent with dwellings in the General Residential Zone. It is recommended that a permit condition be included to provide for landscaping along the boundary adjoining the rear boundary of the property at 14 Clives Avenue to further reduce visual impacts caused by the apparent scale, bulk or proportions of the deck extension.

Overall, it is considered that the siting and scale of the proposed additions are highly unlikely of causing an unreasonable loss of amenity to the adjoining dwelling to the south due to overshadowing and visual impacts.

The separation between the proposed decking extension and the property boundaries is consistent with that existing in the area. A neighbouring property (i.e., 19 Natlee Crescent) has a deck within 4.5m from the rear boundary of a property with an adjoining frontage (i.e., 17 Natlee Crescent). The separation between the remaining additions and alterations and dwellings on adjoining properties is consistent with that existing on established properties in the area, as shown in aerial images of the site and surroundings.

Accordingly, it is considered that the Performance Criteria in clause 8.4.2 P3 can be met with conditions.

#### Clause 8.4.6 A1/P1 – Privacy for all dwellings

<b>Objective:</b>	
To provide a reasonable opportunity for privacy for dwellings.	
Acceptable Solution	Performance Criteria
<b>A1</b>  A balcony, deck, roof terrace, parking space, or carport for a dwelling (whether freestanding or part of the dwelling), that has a finished surface or floor level more than 1m above existing ground level must have a permanently fixed screen to a	<b>P1</b>  A balcony, deck, roof terrace, parking space or carport for a dwelling (whether freestanding or part of the dwelling) that has a finished surface or floor level more than 1m above existing ground

<p>height of not less than 1.7m above the finished surface or floor level, with a uniform transparency of not more than 25%, along the sides facing a:</p> <p>(a) side boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 3m from the side boundary;</p> <p>(b) rear boundary, unless the balcony, deck, roof terrace, parking space, or carport has a setback of not less than 4m from the rear boundary; and</p> <p>(c) dwelling on the same site, unless the balcony, deck, roof terrace, parking space, or carport is not less than 6m:</p> <p>(i) from a window or glazed door, to a habitable room of the other dwelling on the same site; or</p> <p>(ii) from a balcony, deck, roof terrace or the private open space of the other dwelling on the same site.</p>	<p>level, must be screened, or otherwise designed, to minimise overlooking of:</p> <p>(a) a dwelling on an adjoining property or its private open space; or</p> <p>(b) another dwelling on the same site or its private open space.</p>
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The proposed deck has a finished surface level of more than 1m in height above the existing ground level and is within 4m (i.e., up to 1.2m) of the rear boundary of the property at 14 Clives Avenue. Amended plans have been provided following the advertising period showing a 1.7m high privacy screen with a uniform transparency of not more than 25% along the southern and eastern side of the extended deck. Thus, subject to the plans being endorsed via a permit condition, the proposal now satisfies the Acceptable Solution in clause 8.4.6 A1.

## 5. Referrals

- *Development Officer/Engineer*

The Council's Development Officer/Engineer was consulted in relation to potential stormwater issues created by the proposal. This officer has determined that the proposed additions and alterations to dwelling are favourably located to collect stormwater and discharge it to the public stormwater system.

- *TasWater*

The application was referred to TasWater, and TasWater has imposed development conditions. A copy of TasWater's Submission to Planning Authority Notice (SPAN) will be attached to any planning permit issued.

## 6. Representations

Two representations were received during the statutory public exhibition period between 08/01/2022 and 24/01/2022.

The concerns of the representors are summarised below:

Representor's concerns	Planning Response
Unreasonable loss of amenity to adjoining properties via adverse visual impacts caused by the apparent scale, bulk and proportions of the proposed north extension.	<p>The proposed extension on the northern side meets the relevant acceptable solution for setbacks and building envelopes. The decking extension is the only element of the proposal that relies on a performance criteria.</p> <p>The proposed deck extension is considered to meet the Performance Criteria in clause 8.4.2 P3 for the reasons outlined previously.</p> <p>The apparent scale, bulk and proportions of the proposed additions when viewed from the adjoining properties is considered modest and unlikely to result in a 'looming' or visually dominating presence above the boundary fence.</p>
Privacy loss to an adjoining property caused by the proposed deck extension, which does not have a privacy screen along the eastern side of the extended deck.	<p>The recommended permit conditions are copied below:</p> <p><i>"A 1.7-metre-high screen no more than 25 per cent transparent must be provided along the southern and eastern sides of the extended deck in accordance with Floor Plan, Sheet No. DWG – 06 C, dated 10/10/21 and Elevations, Sheet No. DWG – 07 B, dated 10/10/21."</i></p> <p><i>"The above screen must be permanently fixed and maintained even after the</i></p>

	<i>proposed privacy shrubs have reached their maximum height."</i>
--	--

## 7. Conclusion

The proposal satisfies all relevant provisions of the Planning Scheme. Thus, it is recommended for approval with conditions.

### **Recommendation:**

That: A. Pursuant to the *Tasmanian Planning Scheme - Brighton*, Council approves application DA 2021 / 00290 for Additions and Alterations to Dwelling at 16 Clives Avenue, Old Beach, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

#### **General**

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

#### **Landscaping**

- (3) Privacy shrubs along the boundary adjoining the rear boundary of the property at 14 Clives Avenue, Old Beach, must be provided in accordance with Floor Plan, Sheet No. DWG – 06 C, dated 10/10/21 and Elevations, Sheet No. DWG – 07 B, dated 10/10/21. Shrubs must be 1.5m at the time of planting and grow to a mature height of at least 4m. Evidence showing compliance with this condition must be submitted to and approved by the Manager Development Services within 30 days of planting.
- (4) Landscaping must be maintained to the satisfaction of the Manager Development Services.

#### **Privacy**

- (5) A 1.7-metre-high screen no more than 25 per cent transparent must be provided along the southern and eastern sides of the extended deck in accordance with Floor Plan, Sheet No. DWG – 06 C, dated 10/10/21 and Elevations, Sheet No. DWG – 07 B, dated 10/10/21.
- (6) The above screen must be permanently fixed and maintained even after the proposed privacy shrubs have reached their maximum height.

### Amenity

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

### TasWater

- (8) 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 2021/01968-BTN dated 05/01/2022, as attached to this permit.

### Services

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

### Parking and Access

- (10) At least two (2) car parking spaces must be maintained on the land at all times for the use of the development, in accordance with Standards Australia (2004) Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off-Street Car Parking; Standards Australia, Sydney.
- (11) The internal driveway and areas set-aside for parking and associated access and turning must be maintained to avoid dust or mud generation, erosion and sediment transfer off site or de-stabilisation of the soil on site or on adjacent properties to the standard required by Council's Municipal Engineer.

### Stormwater

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

### Soil and Water Management

- (13) Before any work commences install temporary run-off, erosion and sediment controls and maintain these at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's General Manager.

### Construction amenity

- (14) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Development Services:
- |                                       |                         |
|---------------------------------------|-------------------------|
| Monday to Friday                      | 7:00 a.m. to 6:00 p.m.  |
| Saturday                              | 8:00 a.m. to 6:00 p.m.  |
| Sunday and State-wide public holidays | 10:00 a.m. to 6:00 p.m. |
- (15) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function, and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, wastewater, waste products, grit or otherwise.
  - (b) The transportation of materials, goods, and commodities to and from the land.
  - (c) Obstruction of any public footway or highway.
  - (d) Appearance of any building, works or materials.
- (16) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
- (17) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
- (18) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

### THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. Please contact your private building surveyor to ascertain what approvals (if any) are required under the *Building Act 2016*.
- B. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- C. A covenant on the title restricts the erection of "any building which does not have a roof constructed of tiling or other substance which does not reflect light and so

that no galvanised Iron or other reflective material or substance shall be used for the construction of any roof or any other part of any dwelling or structure". Any development that breaches this covenant may not be able to proceed without the written approval of the vendor or other owners in the subdivision.

- D. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

### **DECISION:**

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

**CARRIED**

### **VOTING RECORD**

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **5.3 Development Application DA 2021 / 00344 for Outbuilding - 3 Summerville Place, Brighton**

Author: Kelly Min – Graduate Planning Officer

Authorised: David Allingham - Manager Development Services

<b>Applicant:</b>	Michael Eastwood
<b>Subject Site:</b>	3 Summerville Place, Brighton
<b>Proposal:</b>	Outbuilding
<b>Planning Scheme:</b>	Tasmanian Planning Scheme - Brighton
<b>Zoning:</b>	Rural Living Zone B
<b>Codes:</b>	Bushfire-prone Areas Code Natural Assets Code Parking & Sustainable Transport Code Road & Railway Assets Code



Local Provisions:	Nil
Use Class:	Residential
Discretions:	11.4.1 - Site coverage
Representations:	<p>1 representation was received. The representor raised the following issue:</p> <ul style="list-style-type: none"> <li>Unreasonable nuisance to the owners of the adjoining property - i.e., 5 Summerville Place, Brighton by reason of noise, dust, and speeding.</li> </ul>
Recommendation:	Approval with conditions

## 1. STATUTORY REQUIREMENTS

The purpose of this report is to enable the Planning Authority to determine Development Application DA 2021 / 00344.

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.

Council's assessment of this proposal should also consider the issues raised in any representations received, the outcomes of the State Policies and the objectives of Schedule 1 of the *Land Use Planning and Approvals Act, 1993* (LUPAA).

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. SITE ASSESSMENT

The site refers to 3 Summerville Place, Brighton, which is developed by an existing single dwelling and two outbuildings (see Figure 1).

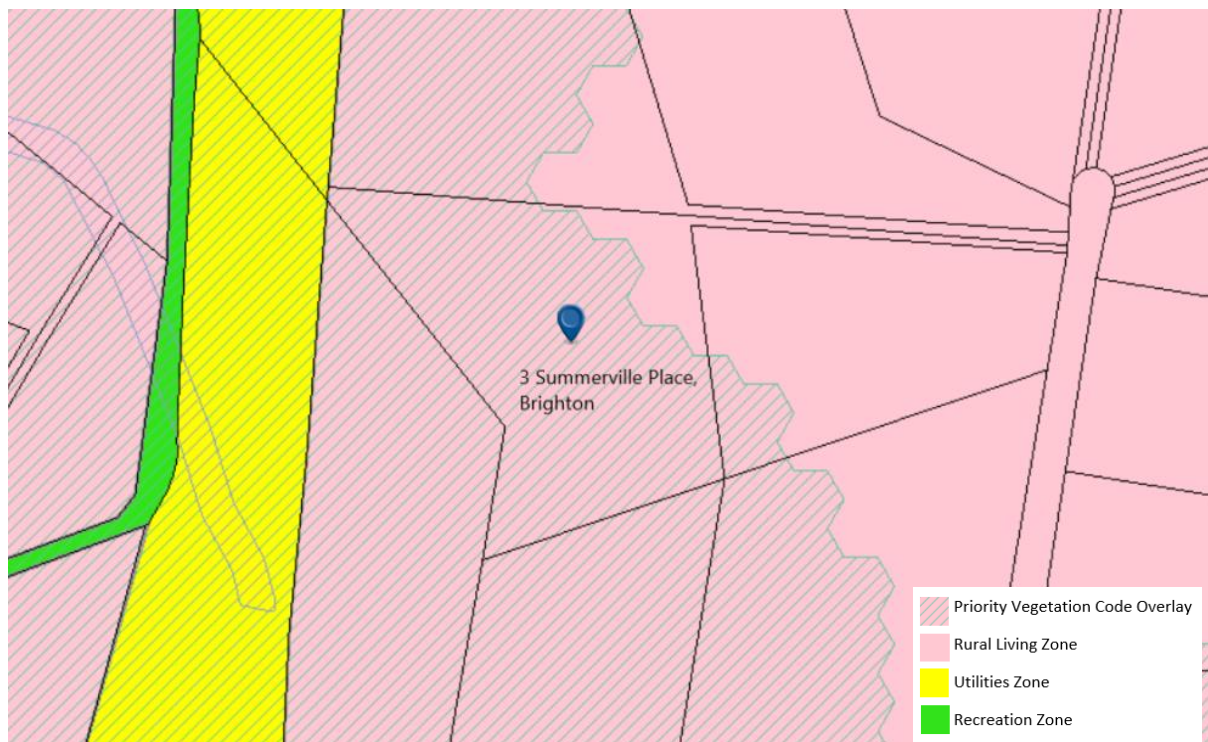
The internal lot is flat and 3.085 hectares (ha) in size with frontage and access to Summerville Place, Brighton.



*Figure 1. Aerial image of the site*

The site is zoned Rural Living B (see Figure 2).

The site is fully within the Bushfire-Prone Areas Code overlay, and partially affected by a Natural Assets Code overlay (priority vegetation area).



*Figure 2. Zoning*

The site is burdened by 2.00 Wide Pipeline Easement each passing through Lot 15 (2 Summerville Place, Brighton) and Lot 1(Kingsfield Park - 291 Tea Tree Rd, Brighton).

The site is also subject to a Right of Carriage over the Rights of Way (private).

### 3. PROPOSAL

The proposal is for a 600m<sup>2</sup> (50m x12m) outbuilding with a maximum height of 6.5m above the existing ground level and a minimum setback of 10m from the northern side boundary.

The intended use of the proposed outbuilding is a residential garage (for a home-based business), , and it does not require an extension to the existing driveway.

It should be noted that the attached plans show a tipper truck and excavator to be stored in the garage as part of the owner's construction business. It has been clarified by the owner that large construction vehicles will not be stored on the site and no more than two small commercial vehicles will be allowed.

The proposed outbuilding sits outside the Pipeline Easements.

The application is supported by the attached site plan and elevations.

### 4. PLANNING SCHEME ASSESSMENT

#### Compliance with Applicable Standards:

*5.6.1 A use or development must comply with each applicable standard in the State Planning Provisions and the Local Provisions Schedules.*

*5.6.2 A standard is an applicable standard if:*

- (a) the proposed use or development will be on a site within:
  - (i) a zone;*
  - (ii) an area to which a specific area plan relates; or*
  - (iii) an area to which a site-specific qualification applies; or**
- (b) the proposed use or development is a use or development to which a relevant applies; and*
- (c) the standard deals with a matter that could affect, or could be affected by, the proposed use or development.*

*5.6.3 Compliance for the purposes of subclause 5.6.1 of this planning scheme consists of complying with the Acceptable Solution or satisfying the Performance Criterion for that standard.*

*5.6.4 The planning authority may consider the relevant objective in an applicable standard to determine whether a use or development satisfies the Performance Criterion for that standard.*

**Determining applications (clause 6.10.1):**

6.10.1 *In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:*

- (a) *all applicable standards and requirements in this planning scheme; and*
- (b) *any representations received pursuant to and in conformity with section 57(5) of the Act,*

*but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.*

**Use Class**

The Use Class is categorised as Residential (for residential storage and a home-based business) under the Scheme. In the Rural Living Zone (B), this Use Class has a 'Permitted' status.

**Compliance with Performance Criteria**

The proposal meets the Scheme's relevant Acceptable Solutions with the exception of the following.

**Clause 11.4.1 A1/P1 - Site coverage**

<b>Objective:</b>	
That the site coverage:	
<ul style="list-style-type: none"> <li>(a) is compatible with the character of existing development in the area; and</li> <li>(b) assists with the management of stormwater runoff.</li> </ul>	
<b>Acceptable Solution</b>	<b>Performance Criteria</b>
<b>A1</b>  The site coverage must be not more than 400m <sup>2</sup> .	<b>P1</b>  The site coverage must be consistent with that existing on established properties in the area, having regard to: <ul style="list-style-type: none"> <li>(a) the topography of the site;</li> <li>(b) the capacity of the site to absorb runoff;</li> </ul>

	<p>(c) the size and shape of the site;</p> <p>(d) the existing buildings and any constraints imposed by existing development;</p> <p>(e) the need to remove vegetation; and</p> <p>(f) the character of development existing on established properties in the area.</p>
--	---

The proposal provides for:

Total site coverage of 747m<sup>2</sup> (Outbuilding (carport) sized 600m<sup>2</sup> (50m x 12m x 6.5m) and the existing dwelling is 147m<sup>2</sup>).

Accordingly, the acceptable solution is not satisfied. Therefore, assessment against the performance criteria is relied upon.

Given the average gradient of 3.12%, it is considered that the topography of the site is relatively flat.

The proposed development site has the capacity to absorb runoff, provided that the tanks will be used for retention. Planning permits also include a condition for adequate stormwater management from any proposed development. The relevant recommended permit condition is copied below:

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

The site can easily accommodate the size of the proposed outbuilding, given the total land size is 3.085 hectares. Additionally, two existing outbuildings will be demolished to reduce the scattering of built structures, and existing developments impose no constraints.

The proposal does not entail removing any vegetation, and the site coverage is consistent with the character of development existing on adjoining properties in the area, including 309 Tea Tree Rd (681m<sup>2</sup>), 291 Tea Tree Rd (678.29m<sup>2</sup>), and 2 Summerville PI (650m<sup>2</sup>).

Accordingly, the PC is satisfied.

## 5. Representations

One representation was received during the statutory public exhibition period between 15 December 2021 and 8 January 2022.

The concerns of the representors are summarised below:

Representor's concerns	Planning Response
Request for Council to include conditions to minimise unreasonable nuisance by reason of noise, dust, and speeding potentially caused by the increased traffic of large heavy-duty vehicles.	<p>Information in the application suggests that the site is currently being used for a trucking business - which will be followed up as a separate enforcement matter.</p> <p>The applicant explains that the proposed shed will be for the new owner who will use the shed for an array of recreational vehicles and two small commercial vehicles associated with their construction business.</p> <p>As a result, there should be a reduction in heavy vehicle movements and dust, noise and traffic issues.</p>

## 6. Conclusion

The proposal for an outbuilding at 3 Summerville Place, Brighton, satisfies the relevant provisions of the Tasmanian Planning Scheme - Brighton, and as such is recommended for approval with conditions.

### **Recommendation:**

That: A. Pursuant to the *Tasmanian Planning Scheme - Brighton*, Council approve application DA 2021 / 00344 for an outbuilding at 3 Summerville Place, Brighton, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

#### **General**

1. The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.

2. This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this letter or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the *Land Use Planning and Approvals Act 1993*.

### Use

3. The outbuilding is to be used for domestic storage only. It is not to be used for commercial, industrial, or habitable purposes. The home-based business must only be carried out in accordance with the following requirements:
  - (a) the person conducting the business to use the dwelling as their principal place of residence;
  - (b) it does not involve employment of more than 2 workers on-site who do not reside at the dwelling;
  - (c) any load on a utility is no more than for a domestic use;
  - (d) there is no activity that causes electrical interference to use on other land;
  - (e) there is no storage of hazardous material on site;
  - (f) the display of goods for sale are not visible from any road or public open space adjoining the site;
  - (g) there is, on the site, no advertising of the business other than 1 sign (non-illuminated) not exceeding 0.2m<sup>2</sup> in area;
  - (h) there is, on the site, no refuelling, servicing, detailing or repair of vehicles not owned by a resident;
  - (i) no more than 2 commercial vehicles are on the site at any one time and no commercial vehicle on the site exceeds 2 tonnes; and
  - (j) all vehicles used by the business are parked on the site.

### Amenity

4. All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Manager Development Services.
5. No vegetation other than that necessary for the construction of the building, associated access and services is to be cleared without the approval of Council.

### 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.

### **Tasmanian Gas Pipeline**

7. Prior to conducting any activity within or over the gas pipeline easement, you must contact Dial Before You Dig 1100.

### **Parking and Access**

8. Any extensions to the internal driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 – Parking Facilities Part 1: Off-Street Car Parking; Standards Australia, Sydney and to the satisfaction of Council's Municipal Engineer, and must include all of the following:
  - (a) Constructed with a durable all-weather pavement.
  - (b) Minimum carriageway width of 4 metres.
  - (c) Drained to an approved stormwater system; andor as otherwise required by an approved Bushfire Plan.
9. The internal driveway and areas set-aside for parking and associated access and turning must not generate dust or mud; cause erosion and sediment transfer off site; or de-stabilisation of the soil on site or on adjacent properties.

### **Stormwater**

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

### **Soil and Water Management**

11. Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's General Manager before development of the land commences. The SWMP shall form part of this permit when approved.
12. Before any work commences install temporary run-off, erosion and sediment controls in accordance with the recommendations of the approved SWMP and maintain these controls at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's General Manager.

### **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:
- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, wastewater, waste products, grit or otherwise.
  - (b) The transportation of materials, goods, and commodities to and from the land.
  - (c) Obstruction of any public footway or highway.
  - (d) Appearance of any building, works or materials.
15. Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
16. Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
17. The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. Please contact your private building surveyor to ascertain what approvals (if any) are required under the *Building Act 2016*.
- B. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- C. This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.

**DECISION:**

*Cr De La Torre moved, Cr Curran seconded that the recommendation be adopted.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Murtagh	
Cr Owen	
Cr Whelan	

The meeting closed at 5.50pm.

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

Date: \_\_\_\_\_ 15 February 2021