



# Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING  
OF THE BRIGHTON COUNCIL, HELD IN THE COUNCIL CHAMBERS,  
COUNCIL OFFICES, 1 TIVOLI ROAD, OLD BEACH  
AT 5.30 P.M. ON TUESDAY,  
21 FEBRUARY 2023**

PRESENT: Cr Gray (Mayor); Cr Curran (Deputy Mayor); Cr De La Torre; Cr Geard; Cr Irons; Cr McMaster; Cr Murtagh; Cr Owen and Cr Whelan

IN ATTENDANCE: Mr J Dryburgh (General Manager); Mr G Davoren (Deputy General Manager); Mr C Pearce-Rasmussen (Manager Asset Services); Ms A Turvey (Acting Governance Manager) and Mr D Allingham (Manager Development Services).

## **1. Acknowledgement of Country**

## **2. Confirmation of Minutes**

2.1 Confirmation of minutes of the Ordinary Council meeting of 17 January 2023.

*Cr De La Torre moved, Cr Geard seconded that the Minutes of the Ordinary Council meeting of 17 January 2023 be confirmed.*

**CARRIED**

### **VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 2.2 Confirmation of minutes of the Finance Committee meeting of 14 February 2023.

*Cr Curran moved, Cr Whelan seconded that the Minutes of the Finance Committee meeting of 14 February 2023 be confirmed.*

CARRIED

### VOTING RECORD

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

## 2.3 Confirmation of minutes of the Environment & Climate Committee meeting on 14 February 2023.

*Cr Curran moved, Cr Irons seconded that the Minutes of the Environment & Climate Committee meeting on 14 February 2023 be confirmed.*

CARRIED

### VOTING RECORD

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

## 3. Apologies and Applications for Leave of Absence

*All members were present.*

## 4. Declaration of Interest

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015*, the chairperson of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest or conflict of interest in any item on the Agenda.

In accordance with Section 48(4) of the *Local Government Act 1993*, it is the responsibility of councillors to then notify the general manager, in writing, the details of any interest(s) that the councillor has declared within 7 days of the declaration.

*Cr Owen declared an interest in agenda item 16.1 relating to 85-87 Gunn Street, Bridgewater lease (Closed Session).*

## **5. Public Question Time and Deputations**

- Ursula Taylor- CEO of the Derwent Estuary Program provided an update to Councillors regarding various activities of the Derwent Estuary Program.

## **6. Transfer of Agenda Items**

According to regulation 8 (4) of the *Local Government Act 1993*, agenda items must be conducted in the order in which they are set out in the agenda of that meeting, unless the council by absolute majority, or the council committee by simple majority, determines otherwise.

## **7. Petitions**

According to regulation 57 (1) of the *Local Government Act 1993*, a person may lodge a petition with a council by presenting it to a councillor or the general manager. A general manager who has been presented with a petition or receives a petition under subsection (1)(b) is to table the petition at the next ordinary meeting of the council.

## **8. Reports from Council**

### **8.1 Mayor's Communications**

The Mayor's communication are as follows:

18/02	Meeting with Sorell Mayor – Kerry Vincent
19/02	Meeting with Michael Gaffney – MLC
23/01	Meeting with Kingborough Mayor – Paula Wriedt
24/01	Special Council Meeting
26/01	Citizenship Ceremony at Civic Centre for 13 New Australian Citizens – Councillors Irons, McMaster, Murtagh and Whelan in attendance
27/01	Meeting with LGAT President Christina Holmdahl
30/01	STRWA Special Meeting – Report by Board Selection Committee
30/01	Meeting with General Manager
31/01	Meeting with Nic Hansen – General Manager and Senior Staff in attendance
02/02	Meeting with Nic Street – Senior staff and Councilors in attendance

02/02	Meeting with General Manager and senior staff
06/02	Meeting with General Manager
07/02	Bridgewater Bridge Masterplan Workshop
13/02	Online Briefing Local Government Review
14/02	Committee Meetings
16/02	TasWater Quarterly Briefing
20/02	STCA Workshop and Board Meeting
20/02	Meeting with General Manager
21/02	Brighton Alive Meeting
21/02	Brighton Council Ordinary Meeting for February

*Cr Irons moved, Cr Murtagh seconded that the Mayor's communications be received.*

CARRIED

#### VOTING RECORD

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

## 8.2 Reports from Council Representatives

- Cr Geard met with Steve Doulton from Soccer Tas Inc.
- Cr Geard provided an update on:
  - Southern Region Emergency Management meeting.
  - Red Cross Evacuation Centre training.
- Cr Irons attended an online briefing regarding the Local Government Review and a Waste and Resources Recovery Plan meeting.

*Cr Owen moved, Cr Murtagh seconded that the verbal reports be received.*

CARRIED

#### VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	

Cr Irons  
Cr McMaster  
Cr Murtagh  
Cr Owen  
Cr Whelan

### **8.3 Miscellaneous Correspondence**

- Letter from the Director of Local Government dated 19 January 2023.
- Letter to the Local Government Review Board dated 2<sup>nd</sup> February 2023 regarding summary of Brighton Council's recent workshop discussion.
- Letter from Office of the Hon Michelle Rowland MP dated 6<sup>th</sup> February 2023 regarding mobile connectivity in the Tea Tree area.
- Letter to Telstra, Optus & TPG Telecom dated 10<sup>th</sup> February 2023 regarding mobile coverage in the Tea Tree area.

### **9. Notification of Council Workshops**

*In accordance with the requirements of Section 8(2)(c) of the Local Government (Meeting Procedures) Regulations 2015.*

Two (2) Council Workshop have been held since the last Ordinary Meeting of Council.

A workshop was held on the 17<sup>th</sup> January 2023 at 3.30 p.m. to discuss the 10 Year Capital Works Plan; Strategic Plan Review and the Future of Local Government Review.

Cr Gray, Cr Curran, Cr De La Torre, Cr Geard, Cr Irons, Cr McMaster, Cr Murtagh, Cr Owen and Cr Whelan were in attendance.

A workshop was held on the 14<sup>th</sup> February 2023 at 5.30 p.m. to discuss various Planning items including the Planning Appeals Policy; Public Open Space Policy; Burrows Avenue SAP and the Land Use Planning and Approvals Act Delegations.

Cr Gray, Cr Curran, Cr De La Torre, Cr Irons, Cr McMaster, Cr Murtagh, Cr Owen and Cr Whelan were in attendance.

### **10. Notices of Motion**

Nil.

### **11. Consideration of Supplementary Items to the Agenda**

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

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

**RECOMMENDATION:**

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

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

**12. Reports from Committees****12.1 Finance Committee - 14 February 2023**

The recommendations of the Finance Committee of 14 February 2023 are submitted to Council for adoption.

*Cr Curran moved, Cr Irons seconded that the recommendations of the Finance Committee of 14 February 2023 are adopted by Council.*

CARRIED

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**12.2 Environment & Climate Committee - 14 February 2023**

The recommendations of the Environment & Climate Committee of 14 February 2023 are submitted to Council for adoption.

*Cr De La Torre moved, Cr Curran seconded that the recommendations of the Environment & Climate Committee of 14 February 2023 are adopted by Council.*

CARRIED

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

### **13. Council Acting as a Planning Authority**

In accordance with the provisions of Part 2 Regulation 25 of the *Local Government (Meeting Procedures) Regulations 2015*, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 13 on this agenda, inclusive of any supplementary items.

Please note: There were no Planning Authority items listed.

## 14. Reports from Officers

### 14.1 Councillors Code of Conduct - Policy 2.4

**Attachment:** Councillors Code of Conduct Policy 2.4

**Author:** General Manager (James Dryburgh)

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#### Background

Section 28T of the *Local Government Act 1993* (The Act) requires council to review its Code of Conduct within three months after each ordinary election.

The Code of Conduct sets out the standards of behaviour expected of the councillors of the Brighton Council, with respect to all aspects of their role.

The Act provides a local government code of conduct framework for all Tasmanian Councils. This framework was initially introduced in 2016 and provides a consistent, effective and enforceable means to address any councillor misconduct. The Code of Conduct is administered by an independent Code of Conduct Panel established to investigate and determine complaints involving alleged breaches of the Code. Under this framework, it was a requirement that all Tasmanian Councils adopted the revised Model Code of Conduct and this was adopted by Brighton Council on the 19/3/2019.

The Code of Conduct applies to a councillor whenever he or she is conducting council business; conducts the business of his or her office (which may be that of the Mayor, Deputy Mayor or Councillor or acts as a representative of the Council.

#### Consultation

Senior Management Team

#### Risk Implications

Nil.

#### Financial Implications

Nil

#### Strategic Plan

Goal 4 – Ensure a Stable Organisation

S4.2 – Be well-governed

#### Social Implications

Not Applicable.

#### Environmental or Climate Change Implications

Not Applicable.



## Economic Implications

Not Applicable.

## Other Issues

Nil.

## Assessment

It should be noted that any variation to the Code of Conduct must be consistent with the Model Code of Conduct so that it remains consistent across all Councils. A Council wishing to make a variation to the Model Code is required to submit a written request to the Minister for Local Government. Any variation must be in accordance with the process set out in the Act and approved by the Minister. Any supplementary council policies or procedures can be included as attached schedules to the Code of Conduct.

## Options

1. As per the recommendation.
2. Other.

## **RECOMMENDATION:**

That the Councillors Code of Conduct (Policy 2.4) be adopted and in accordance with the *Local Government Act 1993*, a copy is forwarded to the Director of Local Government; it is made available and free of charge to members of the public; and uploaded to Councils website.

## **DECISION:**

*Cr Geard moved, Cr De La Torre seconded that the Councillors Code of Conduct (Policy 2.4) be adopted and in accordance with the Local Government Act 1993, a copy is forwarded to the Director of Local Government; it is made available and free of charge to members of the public; and uploaded to Councils website.*

**CARRIED**

## VOTING RECORD

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 14.2 Draft Strategic Plan 2023-2033

**Attachment:** Draft Brighton Council Strategy 2023-2033

**Author:** General Manager (James Dryburgh)

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### Background

Section 66 of the *Local Government Act 1993* requires that Council prepare a strategic plan for the area for at least a 10 year period. Section 70E stipulates that it must be reviewed every four years.

Section 68 of the *Act* stipulates that once drafted, Council is to invite submissions in respect of the plan and consider these before final adoption.

It is considered good practice to undertake this work early in the term of a new council, which ensures that Strategic Plans run roughly in tandem with the term of a council.

The previous Strategic Plan “Strategy-on-a-page - Brighton Council 2019-2029” was workshopped and endorsed in 2019. This strategic plan was prepared prior to the extensive process for Council’s 2050 Vision, which involved significant research, extensive public consultation and workshopping by council. The 2050 Vision was endorsed and published in February 2021.

Reviewing the 2050 Vision reveals that it is still completely contemporary and still comprehensively represents Council’s long-term direction. Council’s Strategic Plan however, needs to be updated and brought into line with the Vision, which sits above it.

### Consultation

Senior Management Team.

### Risk Implications

Nil.

### Financial Implications

Nil.

### Strategic Plan

The Strategic Plan should be reviewed at least every four years.

### Social Implications

Captured within the Strategic Plan.

### Environmental or Climate Change Implications

Captured within the Strategic Plan.

### Economic Implications

Captured within the Strategic Plan.

## Other Issues

Nil.

## Assessment

Given Council has a long-term vision with it's 2050 Vision it is sensible and good for public understanding to continue with the simple 'strategy-on-a-page' model for Council's new Strategic Plan.

The strategic plan has been reviewed to ensure that it now aligns properly to the 2050 Vision. Each of the 36 aspirations within the six focus areas of the 2050 Vision are now considered to be broadly captured within the draft Strategic Plan. The draft Strategic Plan is also now updated to ensure alignment with a contemporary understanding of council and of the Brighton community.

Council's values have been updated in the new Strategic Plan. Council staff were surveyed about values and were able to suggest and rate different values. The four values presented as Council's core values represent the synthesis of this deep staff input and the values that they bring and aspire to bring to their work and to our organisation.

It is widely accepted that if employees have had input into the agreed values of an organisation they are far more likely 'buy-in' to them – to adhere to them and to encourage others to adhere to them. The goals and strategies also now fully align with the values.

## Options

1. As per the recommendation.
2. That Council endorse the Strategic Plan 2023-33 being advertised for public submission consistent with Section 68 of the *Local Government Act 1993*.

## **RECOMMENDATION:**

That Council endorse the Strategic Plan 2023-33 being advertised for public submission consistent with Section 68 of the *Local Government Act 1993*.

## **DECISION:**

*Cr Irons moved, Cr De La Torre seconded that Council endorse the Strategic Plan 2023-33 being advertised for public submission consistent with Section 68 of the Local Government Act 1993.*

**CARRIED**

## VOTING RECORD

### In favour

Cr Curran  
Cr De La Torre  
Cr Geard

### Against

Cr Gray  
Cr Irons  
Cr McMaster  
Cr Murtagh  
Cr Owen  
Cr Whelan

### 14.3 NAIDOC Week 2023 School Initiatives

**Attachment:** NAIDOC Week 2023 School Initiatives Proposal Document

**Author:** Acting Governance Manager (A Turvey)

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#### Background

It has been confirmed that in 2022 the following schools participated in the NAIDOC Week School Initiatives, which includes a colouring-in, poem writing, poster design and essay writing competition.

- St Paul's Primary School
- Brighton Primary School
- Gagebrook Primary School

It should be noted that this program is a national program and not specific to Tasmania but part of the overall celebration of National NAIDOC Week 2023. It is a nationwide program and not culturally specific to Tasmania or any other state.

The NAIDOC Week School Initiatives is the only activity throughout NAIDOC Week that provides students with an educational component to NAIDOC Week and Indigenous culture and heritage.

Koori Kids is a community organisation that engages young people across Australia in a range of school initiatives to promote education and awareness of Aboriginal and Torres Strait Islander culture. Each year Koori Kids conducts the NAIDOC Week School Initiative Competitions for school aged children Australia wide.

Koori Kids thanks and acknowledges Brighton Council's support last year and is once again seeking support from Council. They request consideration of Council to be an associate partner with a \$450 donation towards the program.

NAIDOC Week 2023 will take place from the 2<sup>nd</sup> to 9<sup>th</sup> July 2023.

The Koori Kids 2023 School Initiatives program is coordinated in partnership with the Department of Education, Department of Health and Department of Premier and Cabinet.

As Council is currently in the process of developing a *Reflect* Reconciliation Action Plan (RAP), this program fits well with key deliverables required in the RAP, including raising

awareness and sharing information about the meaning of NAIDOC Week and supporting/promoting external NAIDOC week events in our local area.

### **Consultation**

General Manager, Governance Manager, Council Services Officer, Executive Officer.

### **Risk Implications**

Not applicable.

### **Financial Implications**

Koori Kids has provided a proposal for the 2023 initiatives. The contribution sought is \$450 to be utilised towards the costs for printing and distribution of information packs, posters and entry forms to schools across Brighton Council's Local Government Area.

### **Strategic Plan**

An initiative such as this supports Council's 2019-29 Strategic Plan as follows:

Goal 1 – Strengthen our Communities.

S1.4 - Support Connected Communities.

S1.5 - Build a Resilient Community.

### **Social Implications**

Improved relationships between Council and the Aboriginal community, and the organisations which operate in our municipality.

These initiatives are designed to educate all students on cultural diversity and involve a whole of community approach in the spirit of reconciliation and bringing us 'all together as one community'.

This year students will design posters for NAIDOC Week activities; poem writing; essay writing and colouring in. This year's patrons include Jessica Mauboy (Indigenous Singer) and Lance Franklin (Indigenous Sportsman).

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

The initiatives will enable participants to explore concepts linking environmental; and social/cultural issues and foster harmony in the community.

### **Economic Implications**

Not applicable.

### **Other Issues**

Not applicable.

### **Assessment**

This cross cultural initiative has been operating very successfully since 2001 and is aligned with NAIDOC Week, celebrated in July each year. Hundreds of entries are

received each year from schools within Council's LGA, and the success of the program is due in part to the support of councils and partner organisations.

Council is acknowledged through logo inclusion as an associate partner on information packs sent to schools throughout Council's LGA. If there is a winner school from within Council's LGA, an invitation for the Mayor and or a representative is invited to attend the school, along with Executive Director, NAIDOC Week Initiatives and other dignitaries to make special presentation of the NAIDOC Medal of Excellence and the student's prize.

A media release for the winning school is prepared in consultation with Council's media officer. Council is also forwarded a final report on the program.

The NAIDOC Week School Initiatives is a great fit with the development of Council's Reconciliation Action Plan (RAP), which includes raising awareness of NAIDOC week and promoting external events for NAIDOC week in our local area.

### Options

1. As per the recommendation.
2. That Council not contribute to NAIDOC Week 2023 – School Initiative Competitions in our area.

### **RECOMMENDATION:**

That Council contribute \$450 to the Koori Kids NAIDOC Week 2023 School Initiatives program to be utilised towards the costs for printing and distribution of information packs, posters and entry forms to schools across Brighton Council's Local Government Area.

This contribution be reported accordingly in Council's Annual Report in accordance with Section 77 of the *Local Government Act 1993*.

### **DECISION:**

*Cr Geard moved, Cr Murtagh seconded that Council contribute \$450 to the Koori Kids NAIDOC Week 2023 School Initiatives program to be utilised towards the costs for printing and distribution of information packs, posters and entry forms to schools across Brighton Council's Local Government Area.*

*This contribution be reported accordingly in Council's Annual Report in accordance with Section 77 of the Local Government Act 1993.*

**CARRIED**

### VOTING RECORD

#### **In favour**

#### **Against**

Cr Curran  
Cr De La Torre  
Cr Geard

Cr Gray  
Cr Irons  
Cr McMaster  
Cr Murtagh  
Cr Owen  
Cr Whelan

#### **14.4 Remove "Addendum 1 - South Brighton Urban Growth Area" from Policy 1.7 - Key Infrastructure Investments & Defined Infrastructure Charges**

**Attachment:** Addendum 1 - South Brighton Urban Growth Area List

**Author:** D Allingham (Manager Development Services)

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##### **Purpose**

This purpose of this report is for Council to endorse the removal of "Addendum 1 - South Brighton Urban Growth Area" from "Policy 1.7 Key Infrastructure Investments and Defined Infrastructure Charges".

Note: this item was tabled at the January 2023 Ordinary Council meeting where it was resolved to hold this item until the February Ordinary Council meeting for decision.

##### **Background**

In August 2017, Council approved a \$200,000 contribution to the building of a sewer pump station in the Dylan Street area, Brighton, if it was built as part of the development of a highway services precinct at 40 Brighton Road.

Subsequently, Council approved "Policy 1.7 Key Infrastructure Investments and Defined Infrastructure Charges" (the Infrastructure Policy) so that council can recoup this contribution via infrastructure contributions at the time of future creation of lots or dwelling approvals. The Policy is structured so that any new proposal would require an addendum to the policy to be approved by Council, such as Addendum 1 – South Brighton Urban Growth Area (Attachment 1).

For various reasons, the developer of the highway services precinct decided to proceed with an on-site wastewater system rather than a sewer pump station and the \$200,000 was no longer required. Addendum 1 is now obsolete and should be removed.

The sewer pump station is still required to support future growth in South Brighton, however this will likely be through an alternative funding model which may or may not include a Council contribution. There is nothing stopping Council creating new addendums to the Infrastructure Policy in the future if required.

##### **Consultation**

Senior Management Team

##### **Risk implications**

The development that triggered the creation of Addendum 1 has now been completed without a sewer pump station and the \$200K has never been spent. Significant work has been done on the South Brighton Master Plan and the Brighton High School since Addendum 1 was approved in 2018 and the funding of a new sewer pump station lacks certainty.

If Addendum 1 is not removed Council could be asked to contribute to a sewer pump station under the Policy when it no longer intends to.

### **Financial Implications**

Nil. The \$200,000 was not budgeted and has not been spent.

### **Strategic plan**

This removal of Addendum 1 aligns with the following strategies:

- S4.1: Ensure Financial & Risk Sustainability
- S4.2: Be well-governed

### **Social implications**

Nil

### **Economic implications**

A sewer pump station in the South Brighton area would stimulate the economy, but the arrangement under which Addendum 1 was created is no longer fit for purpose.

### **Environmental or climate change implications**

Nil

### **Other Issues**

Nil

### **Assessment**

Addendum 1 was created for Council to recoup \$200K that was to be used to fund a sewer pump station in the South Brighton area that would facilitate development of the highway services precinct and future residential growth. Since Addendum 1 was created in 2018, the sewer pump station has never been constructed and the \$200K was not spent. Addendum 1 is now obsolete and should be removed.

### **Options**

1. As per the recommendation; or
2. Council does not endorse the removal of Addendum 1; or
3. Other.



**RECOMMENDATION:**

It is recommended that Council endorses the removal of “Addendum 1 - South Brighton Urban Growth Area” from “Policy 1.7 Key Infrastructure Investments and Defined Infrastructure Charges”.

**DECISION:**

*Cr Owen moved, Cr Curran seconded that Council endorses the removal of “Addendum 1 - South Brighton Urban Growth Area” from “Policy 1.7 Key Infrastructure Investments and Defined Infrastructure Charges”.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**14.5 Delegations - Land Use Planning & Approvals Act 1993**

**Attachments:** A - Delegated Authority to Grant Permits at other Councils  
 B – DA’s to Planning Authority in last 12 months

**Author:** Development Services Manager (David Allingham)

**Background**

Section 6 of the *Land Use Planning & Approvals Act 1993* (the Act) enables a Planning Authority (Council) to delegate some of its functions to assist in the smooth and efficient running of Council affairs.

In order for a Planning Authority to make a valid delegation, legislation requires:

- a. A Planning Authority must have authority from legislation to delegate the Function.
- b. The legislation must allow the authority to delegate the Functions or powers to Delegate.
- c. An authority must resolve to make the delegation.
- d. Council must resolve to seal an Instrument of Delegation.

In addition, Council may resolve to allow the delegate to sub-delegate the function.

Currently, the Council has delegated the authority to grant a permit under s.57(6) of the Act where no objections have been received. A review of other Council's delegations has shown that most other Councils have delegated authority to grant a permit where up to two representations have been received (See Attachment A).

At a recent workshop, Council indicated that they would consider delegating more authority to grant a permit to staff. This would help to free up planning staff to process applications more efficiently and also work on important strategic planning work.

Councillors suggested that their preference is to continue to be the decision maker on commercial applications when one representation was received, but to delegate authority to staff on residential applications where one application was received.

If this delegation had been implemented in the last 12 months, the number of applications that would have been considered by Council would have been reduced from 19 to 8 (see Attachment B).

### **Consultation**

Governance Manager, Manager Development Services, Senior Planner and Abetz Curtis.

### **Risk Implications**

Council may incur legal costs if demonstrated that Council's delegations are invalid.

### **Financial Implications**

None unless delegations are deemed invalid and action is taken against Council.

### **Strategic Plan**

S4.2: Be well-governed.

### **Social Implications**

None identified.

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

None identified.

### **Economic Implications**

None identified.

### **Other Issues**

No identified.

### **Assessment**

Council delegating more of its authority to grant a permit under s.57(6) of the Act to staff will be more consistent with other Council's and reduce the workload of planning staff.

The proposal to delegate authority to staff on residential applications where one application was received, but to continue to be the decision maker on non-residential applications when an objection is received, strikes a good balance and will generally allow Council to oversee larger developments that may be controversial.

A council, in writing, may delegate with or without conditions to the General Manager, any of its functions or powers under any Act: s.22 *Local Government Act 1993* (subject to restrictions).

The General Manager, in writing, may delegate to an employee of the council (a) any functions or powers under any Act, other than this power of delegation; and (b) any functions or powers delegated by the council which the council authorised the general manager to delegate: s.64 *Local Government Act 1993*.

If an Act confers a power on a person to delegate a function or power, the person may, in accordance with the Act, delegate the function or power to (a) a person by name; or (b) the holder of a particular office or position by reference to the title of the office or position concerned, whether or not the office or position is vacant at the time of the delegation: s.23AA(1) of the *Acts Interpretation Act 1931*.

If a function or power is delegated to a particular officer or the holder of a particular office or position (a) the delegation does not cease to have effect merely because the person who was the particular officer or the holder of the particular office or position when the function or power was delegated ceases to be that officer or the holder of that office or position; and (b) the function or power may be performed or exercised by the person for the time being occupying or acting in the office or position concerned: s.23AA(5) of the *Acts Interpretation Act 1931*.

A function or power that has been delegated may, notwithstanding the delegation, be exercised by the delegator: s.23AA(6) of the *Acts Interpretation Act 1931*.

## Options

4. As per the recommendation.
5. Change the recommendation.
6. Do nothing.

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## **RECOMMENDATION:**

That the Planning Authority resolve to delegate the following functions and powers to the General Manager in accordance with Section 22 of the *Local Government Act 1993*; and that the General Manager sub-delegate functions and powers in accordance with Section 64 of the *Local Government Act 1993*, and if at any time the General Manager is unable to act, Council delegates the Function to the person acting as the General Manager at the time.

The Delegations are made on the following conditions:

1. The Delegation is subject to the conditions or restrictions (if any) outlined in the table below.
2. The Delegation is subject to such policies, policy guidelines and directions as the authority may from time to time approve.

3. The Delegation is subject to the Council's by-laws or the provisions of any Act.
4. That the general Instruments of Delegation in relation to the Act listed above be signed and sealed by the authority.

### *Land Use Planning & Approvals Act 1993*

1.	S.53(5A) - Extension to s.57 & s.58 permit
2.	S.54 - Additional information
3.	S.55 - Correction of mistakes
4.	S.56 - Minor amendments to permits
5.	S.57(2) - Application for discretionary permit – to refuse to grant a permit within 7 days
6.	S. 57(3) – Applications for Discretionary Permits
7.	S.57(5) - To extend the 14 day representation period
8.	S.57(6) - To grant a permit: - where no more than one objection is received for a residential use; - where no objections were received for a non-residential use; and to refuse to grant a permit for which an extension of time has not been granted by the applicant
9.	S.57(6) and 6A) - To extend the 42 day time period
10.	S.57A – Mediation
11.	S.58 - Approval of permitted applications
12.	S. 60 – Council responding and issuing notices relating to compliance with certain permit conditions
13.	S. 60H(3) – Minister may request information from Council or relevant State Authority
14.	S. 60S(4)(b) – Refund of ordinary permit where declaration of Major Project is made
15.	S. 60ZX(1) – Provision to Panel of Further Information
16.	S.63B - Notice of suspected contravention etc may be given
17.	S.64 – Civil Enforcement proceedings
18.	S.65A - Issue and serve an infringement notice
19.	S.65B - Issue a notice of intention to issue enforcement notice
20.	S.65C - Enforcement Notice
21.	S.65D - Requirements of Enforcement Notice

22.	S.65F - Notice of intention to cancel a permit to be issued before permit cancelled
23.	S.71 - Planning authority may enter into agreements
24.	S.73 - Bonds and guarantees
25.	S.73A - Payments and contributions for infrastructure
26.	S.74(3) - Duration of agreement
27.	S.75 - Amendment of agreements
28.	S.78 - Registration of agreements

**DECISION:**

*Cr Irons moved, Cr Curran seconded that the Planning Authority resolve to delegate the functions and powers to the General Manager as outlined in this report, in accordance with Section 22 of the Local Government Act 1993; and that the General Manager sub-delegate functions and powers in accordance with Section 64 of the Local Government Act 1993, and if at any time the General Manager is unable to act, Council delegates the Function to the person acting as the General Manager at the time, on the conditions outlined in this report.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**14.6 Policy 7.5 - Planning Appeals**

**Attachments:** Planning Appeals Policy 7.5

**Author:** Senior Planning Officer (Jo Blackwell)

**Authorised:** Development Services Manager (David Allingham)

**Background**

Council has an existing, albeit brief, policy “Planning Appeals – Appointment of Consultants, Policy No, 7.5” which was adopted by Council in May 1993. The policy is for when Council’s decision is contrary to the recommendation of staff.

Recent decisions by the Planning Authority, which were contrary to officer recommendation and subsequently appealed to the Tasmanian Civil & Administrative Tribunal (TASCAT), has identified that the current policy is not fit for purpose and there is a need to clarify the terms of the existing policy, and how planning appeals are to be managed by the Planning Authority or Council staff.

The revised policy (see Attachment A) clearly outlines the roles and responsibilities for when a decision of the planning authority is appealed. The policy clarifies that responsibility is to be delegated to the General Manager to manage the appeal (e.g. to appoint legal representation and external consultants, to mediate and to approve consent agreements) on the basis that Council staff are obliged to implement any decision of the planning authority.

**Consultation:**

General Manager, Manager Development Services, Manager Governance

**Risk Implications:**

The amended policy provides clarification on when external consultants are to be retained. The existing policy is unclear and has the potential to lead to poor Governance outcomes.

**Financial Implications:**

Council will need to retain legal and other consultants to defend appeal to TASCAT.

**Strategic Plan:**

The Policy aligns with the Brighton Council Strategic Plan 2019-2029:

S4.2: Be well-governed

**Social Implications:**

Nil

**Economic Implications:**

NA

**Other Issues:**

Nil

**Assessment**

The brief nature of the existing *Policy 7.5 - Planning Appeals - Appointment of Consultants* requires clarification to address the way in which planning appeals should be managed. Clarification is specifically required to address the procedures required when a Planning Authority makes a determination contrary to a planning officer's recommendation. It is suggested that the policy be re-named to signify the broader nature of the policy.

**Options**

1. As per the recommendation.

2. Do not endorse the Planning Appeals Policy.
3. Other.

### **RECOMMENDATION:**

That the Planning Appeals Policy 7.5 be endorsed.

### **DECISION:**

*Cr De La Torre moved, Cr Whelan seconded that Council endorses the Planning Appeals Policy 7.5.*

**CARRIED**

#### VOTING RECORD

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **14.7 Purchase proposal - 87 Gunn Street, Bridgewater**

**Author:** Executive Officer (Megan Braslin)

**Authorised:** Deputy General Manager (Mr Greg Davoren)

### **Background**

Council owns a building at 85 Gunn Street, Bridgewater which is conjoined with 87 Gunn Street, Bridgewater, that is owned by The Crown.

For many years a childcare centre has operated out of the 85-87 Gunn Street, Bridgewater site however the building is now vacant and in negotiations for a new lease.

Council's negotiations with Yourtown fell through last year and we were left exploring the future of the building.

Council is restricted and faced with delays due to a lease agreement with The Crown when it comes to leasing Crowns portion of 85-87 Gunn Street, Bridgewater.

Council has identified a desire to purchase strategic and opportunistic property purchases within our community, where the opportunity is financially sound and of a community benefit.



### Consultation

Senior Management Team, Knight Frank Real Estate, The Crown.

### Risk Implications

If Council were not to purchase the conjoined building this may cause issues in the future with that The Crown wish to do with it as well as what Council wishes to do with its half of the property.

### Financial Implications

The Crowns valuations is \$330,000 (GST exempt).

Council would purchase the building from the property reserves budget.

Any remaining amount will be outside budgeted cashflow until further property sales. As land is a balance sheet item there will be no variation to our budgeted operating position.

### Strategic Plan

Relates to our Goal 1 to Strengthen our communities.

### Social Implications

Not applicable.

### Environmental or Climate Change Implications

No significant climate or environmental-related issues.



**Economic Implications**

Council has the opportunity for control over the whole site and for the property to support community use without restrictions.

**Other Issues**

Nil.

**Assessment**

The purchase of 87 Gunn Street, Bridgewater provides a strategic opportunity for Council to control the future options for the use of the building together with the conjoined council owned section of the building at 85 Gunn Street.

**Options**

1. As per the recommendation.
2. Do not approve the purchase of 87 Gunn Street, Bridgewater from the Crown.

**RECOMMENDATION:**

That Council approve the purchase of 87 Gunn Street, Bridgewater from the Crown at their valuation total of \$330,000.

**DECISION:**

*Cr Murtagh moved, Cr Curran seconded that Council approves the purchase of 87 Gunn Street, Bridgewater from the Crown at their valuation total of \$330,000.*

**CARRIED**

**VOTING RECORD**

<b>In favour</b>	<b>Against</b>
Cr Curran	
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**15. Questions on Notice**

There are no Questions on Notice for the February meeting.

## 16. Closed Meeting

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

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

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

*Cr Murtagh moved, Cr De La Torre seconded that Council moves into Closed Council.*

CARRIED

### VOTING RECORD

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

*Cr Owen left the meeting at 6.20 p.m. due to a declared interest in item 16.1.*

## 16.1 85-87 Gunn Street, Bridgewater - Lease

*Cr Owen returned to the meeting at 6.47 p.m.*

## 16.2 Authorisation to Move Out of Closed Session and Release of Information to the Public

### **RECOMMENDATION:**

That the Council:

- (i) Having met and dealt with its business formally moves out of Closed Session; and
- (ii) Resolves to report that it has determined the following:

**DECISION:**

Item Number	Matter	Outcome
16.1	85-87 Gunn Street, Bridgewater - Lease	Decision to be made public once both parties have been notified, with lease amount to remain confidential.

*Cr De La Torre moved, Cr McMaster seconded that Council resolve to move out of Closed Council and the decisions made while in Closed Council be ratified.*

**CARRIED**

**VOTING RECORD**

**In favour**

**Against**

Cr Curran  
 Cr De La Torre  
 Cr Geard  
 Cr Gray  
 Cr Irons  
 Cr McMaster  
 Cr Murtagh  
 Cr Owen  
 Cr Whelan

Meeting closed: 6.48 pm

Confirmed:

\_\_\_\_\_

(Mayor)

Date:

\_\_\_\_\_ 21 March 2023 \_\_\_\_\_