



**Brighton
Council**

**Planning
Authority
Agenda**

14 March 2023

Name:

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Planning Authority: 14 March 2023

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Brighton Council

Council Representatives: Cr L Gray (Chairperson); Cr P Owen (Deputy Chairperson); Cr B Curran; Cr A De La Torre; Cr P Geard; Cr G Irons & Cr M Whelan

NOTICE OF MEETING

Dear Councillor,

Notice is hereby given that the next **Planning Authority Meeting** will be held in the Council Chambers, Council Offices, Old Beach at **5.30 p.m. on Tuesday, 14th March 2023**, to discuss business as printed below.

QUALIFIED PERSON CERTIFICATION

I HEREBY CERTIFY that in accordance with Section 65 of the Local Government Act 1993, any advice, information and recommendation contained in the reports related to the Agenda have been prepared by persons who have the qualifications or experience necessary to give such advice, information and recommendations.

Dated at Old Beach this 9th day of March 2023.

A handwritten signature in black ink, appearing to read 'James Dryburgh', written in a cursive style.

James Dryburgh

GENERAL MANAGER

A G E N D A

Please note: It is now Council Policy to record proceedings of Ordinary Council Meetings, Special Meetings and Planning Authority meetings from July 2021. Other than official Council audio recordings, no unauthorised video or audio recording of proceedings of Council meetings shall be permitted without specific approval by resolution of Council. An audio recording of the meeting will be available via a link on the Brighton Council website within 7 business days of the meeting.

1. Acknowledgement of Country

Brighton Council acknowledges the palawa/pakana (Tasmanian Aboriginal) community as the traditional and original owners of the skies, land and water of lutruwita (Tasmania) and forward our respect to their elders both past and present.

Brighton Council acknowledges the continued connection the Tasmanian Aboriginal people still have to the skies, land and water of lutruwita that provides them with the food, medicine and craft celebrated through ceremony today.

2. Apologies

Cr Curran has requested leave of absence.

3. Public Question Time and Deputations

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.

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 SA 2023 / 00003 for Subdivision (3 lots plus balance) at 173 Tea Tree Road, Brighton & 177 Tea Tree Road, Brighton

Author: Kelly Min (Planning Officer)

Authorised: David Allingham (Manager Development Services)

Applicant:	PDA Surveyors
Subject Site:	173 Tea Tree Road, Brighton & 177 Tea Tree Road, Brighton
Proposal:	Subdivision (3 lots plus balance)
Planning Scheme:	<i>Tasmanian Planning Scheme – Brighton</i> (the planning scheme)
Zoning:	11.0 Rural Living Zone A
Specific Area Plan	BRI-S8.0 Urban-Rural Interface Specific Area Plan
Codes:	C2.0 Parking and Sustainable Transport Code C3.0 Road and Railway Assets Code C7.0 Natural Assets Code (Priority vegetation area) C7.0 Natural Assets Code (Waterway and coastal protection area) C13.0 Bushfire-Prone Areas Code C15.0 Landslip Hazard Code (Low) C12.0 Flood-Prone Areas Hazard Code (Flood-prone areas)
Local Provisions:	Nil
Use Class:	Residential
Discretions:	<ul style="list-style-type: none"> ▪ Lot Design ▪ Lot Frontages ▪ Access Construction ▪ Priority Vegetation Area ▪ Road Authority Consent
Representations:	<p>Two (2) representations were received. The representors raised the following issues:</p> <ul style="list-style-type: none"> ▪ Proposed Shared Access (Unreasonable nuisance to the adjoining properties by reason of increased traffic generation, speeding, and dust) ▪ Maintaining Existing Vegetation (Privacy loss to an adjoining property) ▪ Stormwater Management
Attachments	<p>Attachment 1 Assessment documents</p> <p>Attachment 2 TasWater Submission to Planning Authority Notice</p> <p>Attachment 3 Updated Bushfire Assessment 070323</p>
Recommendation:	Approval with conditions

1. STATUTORY REQUIREMENTS

The purpose of this report is to enable the Planning Authority to determine application SA2023 / 00003.

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 two lots: 173 Tea Tree Rd, Brighton & 177 Tea Tree Rd, Brighton, where each lot is developed by an existing single dwelling.

The lot subject to three lot plus balance subdivision is 173 Tea Tree Rd. It is sized 3.524 hectares (ha) and shaped irregularly (see Figure 1). 177 Tea Tree Rd is sized 1.005 hectares (ha) and shaped rectangular.

177 Tea Tree Rd is included in the proposal to support the facilitation of the abovementioned subdivision by providing Rights of Way in favour of all proposed vacant lots.

The site is zoned Rural Living A (see Figure 2). The surrounding land is zoned Rural Living, except for the adjoining riparian corridor (Jordan River) to the west that is zoned Open Space.

The site is fully within the Urban Rural Interface Specific Area Plan and Bushfire-Prone Areas Code overlay. Also, the site is minimally affected by a low landslip hazard band, priority vegetation area, waterway and coastal protection area, and flood-prone areas.

The site is burdened by:

Easements on Schedule of Easements	<ul style="list-style-type: none"> ▪ Drainage Easement 20.12 Wide ▪ Right of Way (Private) 4.00 Wide ▪ Right of Carriageway ▪ Pipeline Easement
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Figure 1. Aerial Map (Site bounded by purple: 173 Tea Tree Rd; Site bounded by blue: 177 Tea Tree Rd)

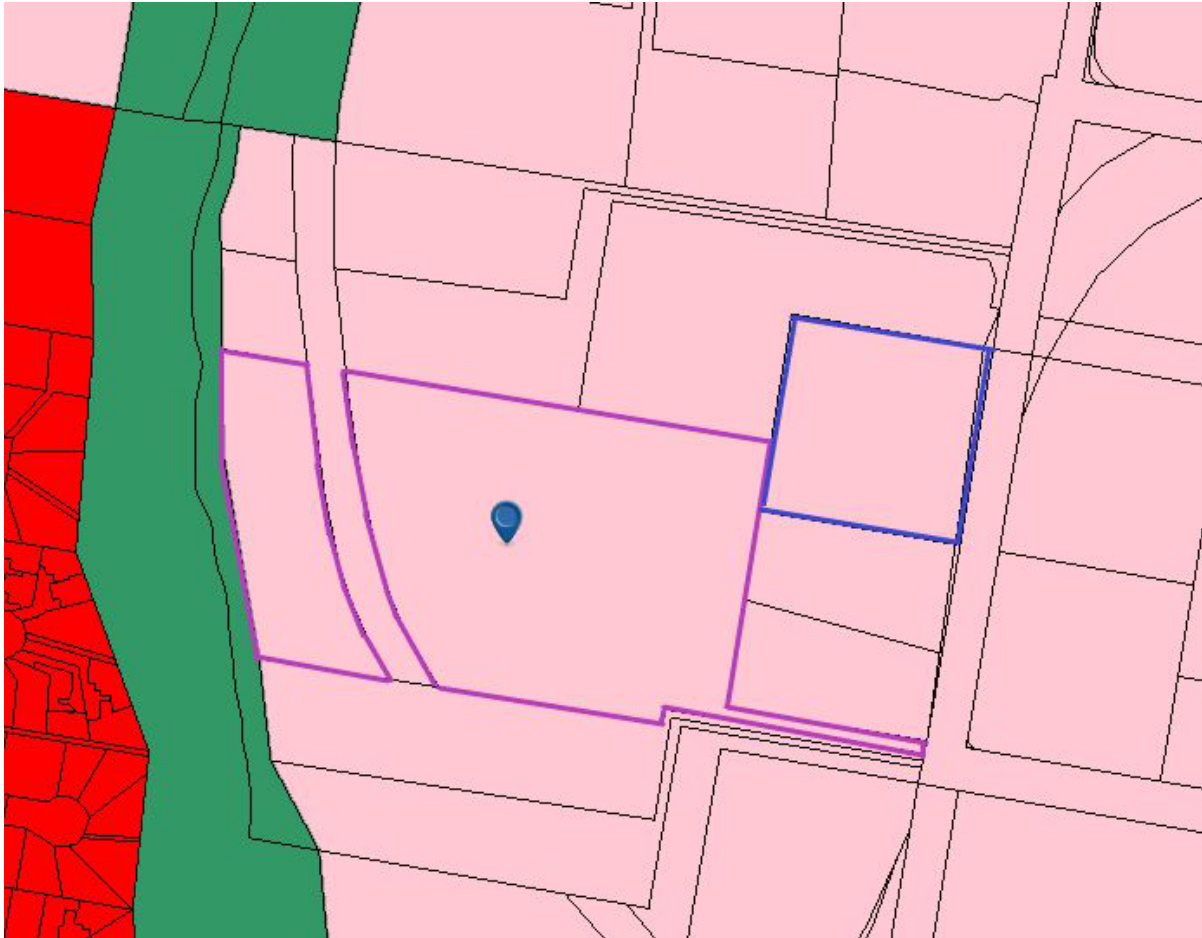


Figure 2. Zoning (Pink: Rural Living, Green: Open Space, and Red: General Residential)

3. PROPOSAL

The proposal seeks to subdivide 173 Tea Tree Rd from one lot into three plus balance (see Figure 3).

Lot 1 is approximately 5685 square metres (m²) in size; Lots 2 and 3 are sized 5000 square metres (m²) each; and the balance lot is sized 2.18 hectares (ha).

Lots 1, 2, and 3 will utilise a shared access via reciprocal rights of way from Tea Tree Rd in alignment with the southern boundary of 177 Tea Tree Rd. The balance lot will utilise the existing access, located to the south of 175 Tea Tree Rd.

No development is proposed within the drainage and pipeline easement.

The application is supported by a Planning Report, a Bushfire Hazard Report and Management Plan, and Natural Values Statement, all prepared by suitably qualified persons.

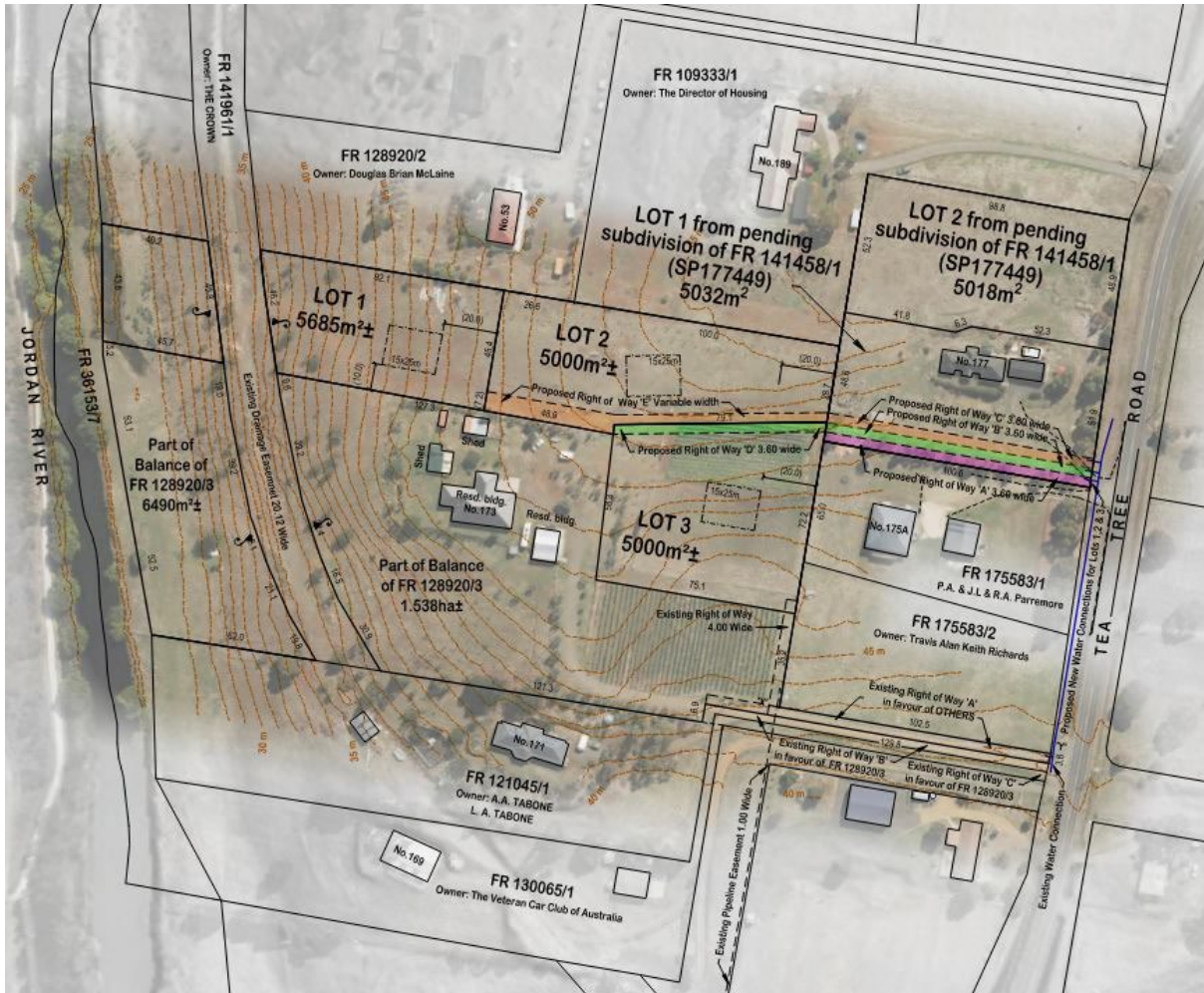


Figure 3. Proposed Plan of Subdivision

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 existing Use Class is categorised as Residential under the Scheme, with a single dwelling on the site. In the Rural Living Zone, the Residential use is “No Permit Required” for a single dwelling. However, the application involves subdivision of land, which is deemed discretionary as the proposal cannot satisfy the provisions of Clause 7.3 of the Scheme.

Compliance with Performance Criteria

The proposal meets the Scheme’s relevant Acceptable Solutions with the exception of the following:

Clause 11.5.1 A1/P1 Lot Design – Lot Size/Building Area

Objective:	
That each lot: (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; and (c) contains areas which are suitable for residential development.	
Acceptable Solution	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, must:	P1 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have sufficient useable

<p>(a) have an area not less than specified in Table 11.1 and:</p> <p>(i) be able to contain a minimum area of 15m x 20m clear of:</p> <p>a. all setbacks required by clause 11.4.2 A2 and A3; and</p> <p>b. easements or other title restrictions that limit or restrict development; and</p> <p>(ii) existing buildings are consistent with the setback required by clause 11.4.2 A2 and A3;</p> <p>(b) be required for public use by the Crown, a council or a State authority;</p> <p>(c) be required for the provision of Utilities; or</p> <p>(d) be for the consolidation of a lot with another lot provided each lot is within the same zone.</p>	<p>area and dimensions suitable for its intended use, having regard to:</p> <p>(a) the relevant requirements for development of existing buildings on the lots;</p> <p>(b) the intended location of buildings on the lots;</p> <p>(c) the topography of the site;</p> <p>(d) any natural or landscape values;</p> <p>(e) adequate provision of private open space; and</p> <p>(f) the pattern of development existing on established properties in the area, and must be no more than 20% smaller than the applicable lot size required by clause 11.5.1 A1.</p>
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Two outbuildings to the north of the dwelling on the balance lot do not satisfy the acceptable solution, which would require 10m setbacks from the new northern side boundary. Therefore, assessment against the performance criteria is relied upon.

The balance lot is relatively flat and sized 2.18ha. Therefore, it is considered to contain sufficient area for private open space and future developments suitable for the residential use and character of the Rural Living Zone.

The outbuildings are currently screened by existing vegetation (see Figure 4), and there is no proposal for vegetation removal in the balance lot.



Figure 4. Location of outbuildings (bounded by black)

The pattern of development on the balance lot is consistent with the existing developments on adjoining properties, such as 53 Ford Rd, Brighton, 171 Tea Tree Rd, Brighton, and 175 Tea Tree Rd, Brighton, which consist of buildings that have setbacks from side boundaries of less than 10m.

Accordingly, the PC is satisfied.

Clause 11.5.1 A2/P2 Lot Design – Frontage

Objective:	
That each lot: (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; and (c) contains areas which are suitable for residential development.	
Acceptable Solution	Performance Criteria
A2 Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 40m.	P2 Each lot, or a lot proposed in a plan of subdivision, must be provided with a frontage or legal connection to a road by a right of carriageway, that is

	<p>sufficient for the intended use, having regard to:</p> <ul style="list-style-type: none"> (a) the width of frontage proposed, if any; (b) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access; (c) the topography of the site; (d) the functionality and useability of the frontage; (e) the ability to manoeuvre vehicles on the site; and (f) the pattern of development existing on established properties in the area, and is not less than 3.6m wide.
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It is proposed that each lot has a 3.6m wide frontage to Tea Tree Road, created by Rights of Way over 177 Tea Tree Road. Accordingly, the proposal is not able to satisfy the acceptable solution. Therefore, assessment against the performance criteria is relied upon.

A new Right of Way is proposed for each of lots 1, 2, and 3, in alignment with the southern boundary of 177 Tea Tree Road (see Figure 3). Accordingly, the access crossover and apron will service 4 properties. The balance lot will utilise an existing Right of Way 'A' which is located along the southern boundary of 175 Tea Tree Rd, Brighton.

The site has a gentle slope facing south-west, and Tea Tree Rd is a Council maintained road constructed to a sealed rural standard. Tea Tree Rd has a posted speed limit of 60km/h.

The increased traffic generation as a result of the subdivision can be estimated at 27 vehicle movements per day ('vmpd') (being 3 additional residences, generating 9vmpd each) which is under the acceptable increase of 40vmpd in Table C3.1 of the Planning Scheme.

The proposal was referred to Council's Development Officer/Engineer, who considers that the proposed access/frontage arrangements are suitable.

Accordingly, the PC is satisfied.

Clause C2.6.1 A1/P1– Access Construction

Objective:	
That parking areas are constructed to an appropriate standard.	
Acceptable Solution	Performance Criteria
<p>A1</p> <p>All parking, access ways, manoeuvring and circulation spaces must:</p> <p>(a) be constructed with a durable all weather pavement;</p> <p>(b) be drained to the public stormwater system, or contain stormwater on the site; and</p> <p>(c) excluding all uses in the Rural Zone, Agriculture Zone, Landscape Conservation Zone, Environmental Management Zone, Recreation Zone and Open Space Zone, be surfaced by a spray seal, asphalt, concrete, pavers or equivalent material to restrict abrasion from traffic and minimise entry of water to the pavement.</p>	<p>P1</p> <p>All parking, access ways, manoeuvring and circulation spaces must be readily identifiable and constructed so that they are useable in all weather conditions, having regard to:</p> <p>(a) the nature of the use;</p> <p>(b) the topography of the land;</p> <p>(c) the drainage system available;</p> <p>(d) the likelihood of transporting sediment or debris from the site onto a road or public place;</p> <p>(e) the likelihood of generating dust; and</p> <p>(f) the nature of the proposed surfacing.</p>

The driveway is not proposed to be sealed, nor does the proposal show stormwater management for the driveway. Therefore, the proposal does not satisfy the acceptable solution and assessment against the performance criteria is relied upon.

Two representations were received in relation to dust generation from the new access.

The proposed new access to the site is relatively flat and maintains sufficient setbacks of at least 19m from the existing dwellings of the properties adjoining the access.

The proposal was referred to Council's Development Officer/Engineer for assessment. That officer has assessed the proposal against the performance criteria and concluded that:

- (a) the introduction of multiple access rights of way with a single access road should not impact on the ability of the property at 177 Tea Tree Road to manage stormwater on site. Drainage for the driveway can be considered as part of future engineering design approval via permit condition.
- (b) it is likely that dust will be generated through the creation of the various rights of way and there is an ability to transport sediment or debris onto Tea Tree Road.

In order to satisfy the performance criteria, it is recommended that conditions be included in any permit approved, which require:

- the entire access strips and passing bays for lots 1 – 3 inclusive to be sealed where those access strips are servicing more than two lots.
- no increase in stormwater runoff onto adjacent properties as a result of the development.
- engineering design drawings be submitted for the approval of Council's Municipal Engineer.

Accordingly, the PC is satisfied with conditions.

Clause C7.7.2 A1/P1.1 & P1.2 – Subdivision within a Priority Vegetation Area

Objective:	
That:	
(a) works associated with subdivision will not have an unnecessary or unacceptable impact on priority vegetation; and	
(b) future development likely to be facilitated by subdivision is unlikely to lead to an unnecessary or unacceptable impact on priority vegetation.	
Acceptable Solution	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must:	P1.1 Each lot, or a lot proposed in a plan of subdivision, within a priority vegetation area must be for:
(a) be for the purposes of creating separate lots for existing buildings;	(a) subdivision for an existing use on the site, provided any clearance is contained within the minimum area necessary to be cleared to provide adequate bushfire protection, as recommended by the Tasmania Fire Service or an accredited person;
(b) be required for public use by the Crown, a council, or a State authority;	
(c) be required for the provision of Utilities;	
(d) be for the consolidation of a lot; or	

<p>(e) not include any works (excluding boundary fencing), building area, bushfire hazard management area, services or vehicular access within a priority vegetation area.</p>	<p>(b) subdivision for the construction of a single dwelling or an associated outbuilding;</p> <p>(c) subdivision in the General Residential Zone or Low Density Residential Zone;</p> <p>(d) use or development that will result in significant long term social and economic benefits and there is no feasible alternative location or design;</p> <p>(e) subdivision involving clearance of native vegetation where it is demonstrated that on-going pre-existing management cannot ensure the survival of the priority vegetation and there is little potential for long-term persistence; or</p> <p>(f) subdivision involving clearance of native vegetation that is of limited scale relative to the extent of priority vegetation on the site.</p> <p>P1.2</p> <p>Works association with subdivision within a priority vegetation area must minimise adverse impacts on priority vegetation, having regard to:</p> <p>(a) the design and location of any works, future development likely to be facilitated by the subdivision, and any constraints such as topography or land hazards;</p> <p>(b) any particular requirements for the works and future development likely to be facilitated by the subdivision;</p> <p>(c) the need to minimise impacts resulting from bushfire hazard management measures through siting and fire-resistant design of any future habitable buildings;</p>
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	<p>(d) any mitigation measures implemented to minimise the residual impacts on priority vegetation;</p> <p>(e) any on-site biodiversity offsets; and</p> <p>(f) any existing cleared areas on the site.</p>
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The proposal involves vegetation clearance within a priority vegetation area on the new proposed access for lots 1, 2, and 3, which does not satisfy the acceptable solution. Therefore, assessment against the performance criteria is relied upon.

The proposal is for an existing residential use on the site, and an accredited bushfire practitioner has provided a Bushfire Hazard Report and Management Plan, which ensures the proposed clearance is contained within the minimum area necessary to be cleared to provide adequate bushfire protection.

Following the public exhibition period, an updated Bushfire Hazard Report and Management Plan was submitted by the applicant. That report is attachment 3. It is considered that the contents of that report do not require re-advertising the proposal. It is recommended that a condition allowing the amended report to be substituted be included in the permit, if approved.

A Natural Values Statement has been provided by a qualified person to support the abovementioned clearance.

A condition requiring no vegetation is to be cleared other than that necessary for the construction of the associated access and services without the approval of Council is recommended for inclusion on any permit approved.

Accordingly, the PC is satisfied with conditions.

Clause S8.8.1 A1/P1- Urban Rural Interface SAP - Lot Design

<p>Objective:</p>
<p>That each lot:</p> <p>(a) has an area and dimensions appropriate for use and development in the zone;</p> <p>(b) is provided with appropriate access to a road; and</p> <p>(c) contains areas which are suitable for residential development.</p>

Acceptable Solution	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <p>(a) have an area not less than 5,000m²; and</p> <p>(b) comply with the lot design standards required by Rural Living Zone - clause 11.5.1 Lot design A1, excluding lot area specified in Table 11.1.</p>	<p>P1</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have sufficient useable area and dimensions suitable for its intended use, having regard to:</p> <p>(a) the relevant requirements for development of existing buildings on the lots;</p> <p>(b) the intended location of buildings on the lots;</p> <p>(c) the topography of the site;</p> <p>(d) any natural or landscape values;</p> <p>(e) adequate provision of private open space; and</p> <p>(f) the pattern of development existing on established properties in the area,</p> <p>(g) and must be not less than 5,000m².</p>

The proposal does not comply with the lot design standards under clause 11.5.1 due to the two outbuildings of the balance lot not meeting the side setback requirements. Accordingly, the proposal cannot satisfy the acceptable solution. Therefore, assessment against the performance criteria is relied upon.

Please refer to the comments made under Clause 11.5.1 A1/P1 Lot Design – Lot Size/Building Area.

Accordingly, the PC is satisfied.

Clause C3.5.1 A1.2/P1 – Traffic Generation at a Vehicle Crossing, Level Crossing or New Junction

Objective:
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>A1.2</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"> (a) any increase in traffic caused by the use; (b) the nature of the traffic generated by the use; (c) the nature of the road; (d) the speed limit and traffic flow of the road; (e) any alternative access to a road; (f) the need for the use; (g) any traffic impact assessment; and (h) any advice received from the rail or road authority.

The proposal does not consist of written consent for a new vehicle crossing issued by the road authority. Therefore, assessment against the performance criteria is relied upon.

Tea Tree Rd is a Council maintained road, and thus, the proposal was referred to Council’s Development Officer/Engineer for assessment.

That officer has assessed the proposal and concluded the proposed access will not generate a significant increase in traffic movements onto Tea Tree Road, which has a speed limit (60kmh). Accordingly, it is considered that the proposal can satisfy the performance criteria. It is recommended that advice be included in any permit approved, which requires:

No works on or affecting any Council road reservation is to be commenced until the Brighton Council has issued a WORKS IN ROAD RESERVATION PERMIT. Application for the issue of the necessary works permit is to be made to the Brighton Council’s Asset Services Department prior to the proposed date of commencement of any works.

Accordingly, the PC is satisfied, with advice.

5. Referrals

Development Officer/Engineer

The application was referred to Council’s Development Officer/Engineer, who has responded to technical issues raised in the representations. That officer’s comments are incorporated in this report.

TasWater

The application was referred to TasWater for comment. TasWater has issued A Submission to Planning Authority Notice (SPAN) with standard water provision conditions. A copy of this SPAN will be attached to any planning permit issued.

6. Representations

Two (2) representations were received during the statutory public exhibition period between 18 February 2023 and 6 March 2023.

The representors’ concerns are summarised below and a planning response to these concerns is provided:

Representor’s concerns	Planning Response
<p>Proposed Shared Access (Unreasonable nuisance to the adjoining properties by reason of increased traffic generation, speeding, and dust)</p>	<p>Tea Tree Rd is a Council maintained road constructed to a sealed rural standard. Tea Tree Rd has a posted speed limit of 60km/h. The proposed access can meet the required sight line distances.</p> <p>A condition is recommended in any permit approved that the new shared access be sealed where it services more than two properties.</p> <p>The proposal satisfies the acceptable solution in relation to traffic generation. This will be further assessed when any subsequent development application is submitted.</p> <p>A condition is also recommended to include adequate passing in the apron area to prevent queueing on Tea Tree Road and will be facilitated by the engineering design drawings required to be submitted.</p>

<p>Maintaining Existing Vegetation (Privacy loss to an adjoining property)</p> <p>A mature line of vegetation falls within the southern boundary of 177 Tea Tree Rd, adjacent to the proposed access. This vegetation currently acts as a visual screen between an adjoining property and 177 Tea Tree Rd. Both the representors wish the vegetation to be retained to prevent unreasonable privacy loss to adjoining properties.</p>	<p>The proposal to clear the existing vegetation along the proposed access satisfies the Performance Criteria in clause C7.7.2 P1.1 & P1.2 of the planning scheme for the reasons outlined above.</p> <p>Creation of the access strips will require the developer to comply with any recommendation of the Bushfire Hazard Management Report and Plan. However it is considered that there is scope for the access to be constructed without significant vegetation removal.</p> <p>A condition is recommended for any permit approved, requiring that no vegetation other than that necessary for the construction of the associated access and services is to be cleared without the approval of Council is recommended.</p>
<p>Stormwater Management</p> <p>The representor is concerned that the proposed changes to the access road will increase the amount of storm water runoff, potentially damaging adjoining property.</p>	<p>A condition requiring engineering plans for approval by Council is recommended. Drainage of the driveway will be considered as part of the design approval. An additional condition to the effect that there is no increase in stormwater runoff onto adjacent properties as a result of the development is also recommended.</p>

7. Conclusion

The proposal for Subdivision (3 lots plus balance) at 173 Tea Tree Rd, Brighton & 177 Tea Tree Rd, Brighton, satisfies the relevant provisions of the Tasmanian Planning Scheme - Brighton, and as such is recommended for approval.

RECOMMENDATION:

That:

- A. Pursuant to the *Tasmanian Planning Scheme - Brighton*, Council approve application SA 2023 / 00003 for Subdivision (3 lots plus balance) at 173 Tea Tree Rd, Brighton & 177 Tea Tree Rd, Brighton, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

General

- (1) The subdivision layout or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.
- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit unless, as the applicant and the only person with a right of appeal, you notify Council in writing that you propose to commence the use or development before this date, in accordance with Section 53 of the Land Use Planning and Approvals Act 1993.
- (3) The development and works must be carried out in accordance with the amended BUSHFIRE HAZARD REPORT AND BUSHFIRE HAZARD MANAGEMENT PLAN, for proposed 4 lot subdivision at Carnevale Vineyard, 173 Tea Tree Road, Brighton, v1.1, prepared by Jim Mulcahy from enviro-dynamics, dated March 2023.

Vegetation Protection

- (4) No vegetation is to be cleared other than that necessary for the construction of the building, associated access, and services without the approval of Council.

Public Open Space

- (5) In accordance with the provisions of Section 117 of the Local Government (Building and Miscellaneous Provisions) Act 1993, payment of a cash contribution for Public Open Space must be made to the Council prior to sealing the Final Plan of Survey. The cash contribution amount is to be equal to 5% of the value of the land being subdivided [i.e., Lots 1, 2, and 3] in the plan of subdivision at the date of lodgement of the Final Plan of Survey.

The value is to be determined by a Land Valuer within the meaning of the Land Valuers Act 2001 at the developers' expense.

- (6) The cash-in-lieu of public open space must be in the form of a direct payment made before the sealing of the final plan of survey or, alternatively, in the form of a Bond or Bank guarantee to cover payment within ninety (90) days after demand, made after the final plan of survey has taken effect.

Easements

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

Endorsements

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

Final plan

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

Engineering

- (13) The subdivision must be carried out and constructed in accordance with the:

- (a) Tasmanian Subdivision Guidelines*
- (b) Tasmanian Municipal Standard – Specifications*
- (c) Tasmanian Municipal Standard – Drawings*

as published by the Local Government Association of Tasmania and to the satisfaction of Council's Municipal Engineer.

- (14) Engineering design drawings, to the satisfaction of the Council's Municipal Engineer, must be submitted to and approved by Council before any works associated with development of the land commence.
- (15) The subdivision is to be carried out in accordance with the Bushfire Hazard Report by Enviro-Dynamics version 1.1 dated March 2023. All the recommendations of the report are to be included in the engineering design drawings further described below. Works are to include the access way for No173.

- (16) Engineering design drawings are to be prepared by a qualified and experienced civil engineer, or other person approved by Council's Municipal Engineer, and must show,
- a) all existing and proposed services required by this permit,
 - b) all existing and proposed access strip roadwork required by this permit,
 - c) measures to be taken to provide sight distance in accordance with the relevant standards of the planning scheme,
 - d) measures to be taken to limit or control erosion and sedimentation,
 - e) widening of the crossover to meet required sweep lines from Tea Tree Rd,
 - f) location and formation of the access driveway for No177,
 - g) seal width and length from road edge to the boundary of lot 1,
 - h) requirements from the bushfire hazard plan,
 - i) location of existing trees and desired clearance from road edge,
 - j) any other work required by this permit.
- (17) Approved engineering design drawings will remain valid for a period of 2 years from the date of approval of the engineering drawings.
- (18) Unless approved otherwise by Council's Municipal Engineer, the developer shall appoint a qualified and experienced Supervising Engineer (or company registered to provide civil engineering consultancy services) who will be required to certify completion of subdivision construction works. The appointed Supervising Engineer shall be the primary contact person on matters concerning the subdivision.
- (19) On completion of all works the developer is to provide certification from the bushfire practitioner that all recommendations required have been completed.

Services

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

Vehicular Access

- (24) A vehicular access must be provided from the road carriageway to the boundary of each lot.
- (25) The shared vehicular access to Lots 1, 2 & 3 must, unless approved otherwise by Council's Municipal Engineer, be:
- (a) Constructed with a durable all-weather pavement.
 - (b) Drained to the roadside drain, or contain stormwater on the site, such that stormwater is not concentrated onto adjacent properties.
 - (c) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water where servicing 3 or more lots. The surfacing material may be a spray seal, asphalt, concrete, pavers, or other approved material.
 - (d) The remaining vehicular access must have a minimum gravel surface that is designed, constructed and maintained to avoid dust or mud generation, erosion or sediment transfer on or off site;
 - (e) Have a gradient in accordance with Australian Standard AS 2890 - Parking facilities, Parts 1-6;
 - (f) A min trafficable width of 4.0m (with 0.5m clearance either side to the property boundary)
 - (g) Provided with passing bays of 2.0m additional width and 20 metres long (excluding tapers) every 100 metres.
 - (h) Designed to minimise vegetation clearance where possible.
 - (i) In accordance with the approved Bushfire Hazard Management Plan

Access to Public Road

ADVICE: No works on or affecting any Council road reservation is to be commenced until the Brighton Council has issued a WORKS IN ROAD RESERVATION PERMIT. Application for the issue of the necessary works permit is to be made to the Brighton Council's Asset Services Department prior to the proposed date of commencement of any works. (No application fee will be charged where an Engineering Plan Assessment and Inspection Fee has been paid for the approval of engineering design drawings.)

Water

- (26) Each lot must be connected to a reticulated potable water supply.

TasWater

- (27) The development must meet all required Conditions of approval specified by Tas Water Submission to Planning Authority Notice TWDA 2023/00161-BTN, dated 15/02/2023.

Telecommunications and Electrical Reticulation

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

- (29) Prior to sealing the final plan of survey, the developer must submit to Council:
- a) A “Provisioning of Telecommunications Infrastructure – Confirmation of final payment” or “Certificate of Practical Completion of Developer’s Activities” from NBN Co.
 - b) Written advice from TasNetworks confirming that all conditions of any Agreement between the Owner and authority have been complied with and that future lot owners will not be liable for network extension or upgrade costs, other than individual property connections (basic connection) at the time each lot is further developed.

Wastewater

- (30) Prior to sealing, the wastewater report prepared by a suitably qualified person must be provided.
- (31) Any relocation/alteration of the existing wastewater treatment system(s) is to be designed by a suitably qualified environmental consultant and installed in accordance with a Special Plumbing Permit issued from Councils Environmental Health Officer.
- (32) Any relocation/alteration of the existing stormwater drainage system must be carried out in accordance with a Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.

Soil & Water Management

- (33) Before any work commences install temporary run-off, erosion and sediment controls 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.
- (34) All disturbed surfaces on the land, except those set aside for roadways, footways and driveways, must be covered with topsoil and, where appropriate, re-vegetated and stabilised to the satisfaction of the Council’s Municipal Engineer.

Construction Amenity

- (35) The road frontage of the development site including road, kerb and channel, footpath and nature strip, must be:
- a) Surveyed prior to construction, photographed, documented and any damage or defects be noted in a dilapidation report to be provided to Council’s Asset Services Department prior to construction.
 - b) Be protected from damage, heavy equipment impact, surface scratching or scraping and be cleaned on completion.

In the event a dilapidation report is not provided to Council prior to commencement, any damage on completion will be deemed a result of construction activity requiring replacement prior to approval.

(36) The development must only be carried out between the following hours unless otherwise approved by the Council's General Manager

- Monday to Friday 7:00 AM to 6:00 PM
- Saturday 8:00 AM to 6:00 PM
- Sunday and State-wide public holidays 10:00 AM to 6:00 PM

(37) All subdivision works associated with the development of the land must be carried out in such a manner so as not to unreasonably cause injury to, or unreasonably prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:

- a) emission from activities or equipment related to the use or development, including noise and vibration, which can be detected by a person at the boundary with another property; and/or
- b) transport of materials, goods or commodities to or from the land; and/or
- c) appearance of any building, works or materials.

(38) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the land in an approved manner. No burning of such materials on-site will be permitted unless approved in writing by the Council's General Manager.

(39) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the subdivision during the construction period.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- B. This permit does not take effect until all other approvals required for the use or development to which the permit relates have been granted.
- C. The owner is advised that an engineering plan assessment and inspection fee of 1% of the value of the approved engineering works (minimum of \$300.00), or as otherwise specified in Council's Schedule of Fees, must be paid to Council prior to the approval of engineering plans.

- D. 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:

5.2 Combined Permit & Amendment Application: Combined Planning Scheme Amendments & Planning Permit Application - Covehill Road Bridgewater - Section 40K & 42 Report

File Reference:	RZ 2022-02 & SA 2022/ 37
Author:	Brian White (Senior Strategic Planner)
Approved:	David Allingham (Manager Development Services)
Applicant:	Brighton Council Officers
Owner:	Brighton Council
Location:	1. 131 Cove Hill Road, Bridgewater, contained in Certificate of Title Volume 31616, Folio 1697; 2. Lot 105 Taylor Crescent, Bridgewater, contained in Certificate of Title Volume 177664, Folio 105; and 3. A portion of the land contained in Certificate of Title Volume 7884, Folio 136
Zoning:	Utilities & Open Space
Planning Instrument:	Tasmanian Planning Scheme - Brighton
Date Advertised:	20 th January 2023 to 21 st February 2023
Attachments	A. Representations B. Amended Bushfire Hazard Report
Representations:	Three (3)

1. Executive Summary

The report considers the exhibition period regarding a combined permit and amendment application to amend the Brighton Local Provisions Schedule to:

- a) Rezone 131 Cove Hill Road from Utilities to Light Industrial;
- b) Rezone 2,763m² of Lot 105 Taylor Crescent from Open Space to Light Industrial; and
- c) Rezone a portion of the land contained in Certificate of Title Volume 7884, Folio 1368, from Utilities to Light Industrial; and
- d) Approve a reorganisation of boundaries (via subdivision) to add 2,763m² of Lot 105 Taylor Crescent to 131 Cove Hill Road.

The application was made by Council Officers pursuant to Section 40T of the *Land Use Planning and Approvals Act 1993* ('the Act').

Council's Planning Authority, at its meeting of the 20th of December 2022, agreed to the proposed planning scheme amendment made by Brighton Council (s. 38(2)) and, therefore prepared and certified the draft amendment to the LPS (s. 40F) as meeting the LPS criteria (s. 34) under the Act.

The application was accompanied by a permit application which was considered concurrently to the draft amendment and was approved subject to conditions (s. 40Y).

The combined permit and amendment application was then exhibited for a period of twenty-eight (28) days (s. 40H).

This is a report required by section 40K and 42 of the Act to be submitted to the Commission in relation to the three (3) representations received during advertising.

It is considered that the representation to the draft amendment does not raise matters that warrant its modification.

It is considered that the representation from the Tasmanian Fire Service (TFS) relating to the draft permit contains merit; however, a condition on the draft permit allowed for subsequent versions of a Bushfire Hazard Report to be endorsed which incorporated amendments required by the Tasmanian Fire Service.

The updated Bushfire Hazard Report is provided as Attachment B.

2. The Representations and Response

Representation 1 - Taswater SPAN

Taswater have provided a SPAN pursuant to section 56P (1) of the *Water and Sewerage Industry Act 2008*. The draft permit includes reference to the SPAN. No further action necessary.

Section 42 (b) Response

No changes necessary to permit.

Representation 2 - Tasmanian Fire Service

The Tasmanian Fire Service (TFS) raised concerns with the submitted bushfire report by Southern Planning prior to the application being determined by Council and have submitted a representation provided as attachment A to this report.

Section 42 (b) & (c) Response

Due to time constraints and delays in correspondence with TFS Officers, Council Officers decided that, rather than waiting for an amended report to be produced that the TFS were satisfied with, they would deal with any issues the TFS had during the representation period and condition the draft permit allowing a subsequent report to be provided.

The author of the bushfire report and the TFS have since resolved the issues with the original report and the TFS confirmed in their correspondence of the 7th February 2023 that they no longer object to the proposal on the proviso the revised document forms part of the approval documentation. Therefore, the revised Bushfire Hazard Report, Prepared by Southern Planning, dated 13th December 2022, will supercede the previously endorsed report of the same, dated 8th December 2022.

The proposal is still considered to satisfy the Bushfire Prone Hazard Code of the Tasmanian Planning Scheme - Brighton.

Representation 2 - Taswater advice on amendment

Taswater have provided a submission pursuant to section 56S (2) of the *Water and Sewerage Industry Act 2008* stating that they have no objections and have no formal comments for the Tasmanian Planning Commission in relation to this matter, and do not require to be notified of nor attend any subsequent hearings.

Section 40K Response

The submission does not impact on the draft amendment. The draft amendment therefore is still considered to meet the LPS criteria.

3. Conclusion

It is recommended that the Planning Authority endorses the amended documents provided as Attachment B, and that this report and the relevant attachments are forwarded to the Tasmanian Planning Commission for determination.

4. Options:

- a) To adopt the recommendation; or
- b) To adopt an alternative recommendation satisfying the provisions of section 40K and 42 of the Act, with a full statement of reasons as determined by Council.

RECOMMENDATION:

It is recommended that Council resolves that:

- a) Pursuant to section 40K(1) of the *Land Use Planning and Approvals Act 1993*, advise the Tasmania Planning Commission that one (1) representation was received during the exhibition of draft amendment RZ 2022-02 that related to the draft amendment.
- b) Pursuant to section 42(a) of the *Land Use Planning and Approvals Act 1993*, advise the Tasmania Planning Commission that two representations were received during the exhibition of the draft amendment RZ 2022-02 and permit application SA 2022/37 that related to the permit application.
- c) Pursuant to section 40K (2)(a) and 42(a) of the *Land Use Planning and Approvals Act 1993*, provides to the Tasmanian Planning Commission a copy of the representations that were received during the advertising of draft amendment RZ 2022-02 and draft permit SA 2022/ 37.
- d) Pursuant to section 40K (2)(c) of the *Land Use Planning and Approvals Act 1993* advise the Tasmanian Planning Commission that the representations received during advertising do not warrant modifications to draft amendment RZ 2022-02 as detailed in this report.
- e) Pursuant to section 42 (b) and (c) of the *Land Use Planning and Approvals Act 1993* advise the Tasmanian Planning Commission that the representations received during advertising do not warrant modifications to draft permit SA 2022/ 37.

- f) Pursuant to Section 40K and Section 42 of the *Land Use Planning and Approvals Act 1993* that this report, relevant attachments, and the amended endorsed Bushfire Hazard Report, Prepared by Southern Planning, dated 13th December 2022, regarding draft amendment RZ 2022-02 and SA 2022/ 37 be provided to the Tasmanian Planning Commission as detailed in this report.

DECISION:

5.3 Planning Scheme Amendment for the Burrows Avenue Specific Area Plan

Type of Report:	Section 40F(1) of <i>Land Use Planning and Approvals Act 1993</i>
Application No:	RZ 2023 -04
Address:	<ul style="list-style-type: none"> • 38, 40, 42, 44, 44A, 46, 48, 48A, 48B and 48D, 50, 52, 54, 56, 58, 60, 60A, 62, 62A – E, 64, 66, 68, 70, and 72 Racecourse Road, Brighton • 10 - 15, 14A,14B, 16, 16A,16B, 18A - F, 19 – 26, 26A, 20A, 20B, 28, 30 Burrows Avenue, Brighton • 2, 6, 8, 8A, 10, 14, 16, and 18 Brooke Street, Brighton • 3, 5, 15, 17, 19, 21, 23, and 25 Morrison Street, Brighton • 40, 42, 44, 52, 54, 60, 64, 70, 72, and 74 Elderslie Road, Brighton • Subdivision road (C/T 150382/2) (cnr Racecourse and Cartwright Street)
Owner/s:	Various
Requested by:	Brighton Council
Proposal:	<p>Insert the Burrows Avenue Specific Area Plan over:</p> <ul style="list-style-type: none"> • 38, 40, 42, 44, 44A, 46, 48, 48A, 48B and 48D, 50, 52, 54, 56, 58, 60, 60A, 62, 62A – E, 64, 66, 68, 70, and 72 Racecourse Road, Brighton • 10 - 15, 14A,14B, 16, 16A,16B, 18A - F, 19 – 26, 26A,20A, 20B, 28, 30 Burrows Avenue, Brighton • 2, 6, 8, 8A, 10, 14, 16, and 18 Brooke Street, Brighton • 3, 5, 15, 17, 19, 21, 23, and 25 Morrison Street, Brighton • 40, 42, 44, 52, 54, 60, 64, 70, 72, and 74 Elderslie Road, Brighton • Subdivision road (C/T 150382/2) (cnr Racecourse and Cartwright Street)
Attachments:	<p>Attachment A: Instrument of Certification</p> <p>Attachment B: Property Identification Details</p>
Author:	Senior Planner (Jo Blackwell)
Authorised:	Manager Development Services (David Allingham)

1. Executive Summary

The purpose of this report is for Council to consider whether to, of its own motion, initiate a draft planning scheme amendment made under Section 40D(b) of the *Land Use Planning and Approvals Act 1993* ('LUPAA'), to amend the Brighton Local Provision Schedule (LPS) to insert the Burrows Avenue Specific Area Plan (Burrows Avenue SAP).

The Burrows Avenue SAP is intended to cover an area of approximately 22ha, being 85 lots in the General Residential zone. Original subdivision of the land has resulted in narrow but deep rectangular lots being created, typically with each lot having a land area of approximately 4850-5000m² [dimensions of 40m x 120m (approx.)] between Elderslie Road and Burrows Avenue. Between Racecourse Road and Burrows Avenue lots are slightly smaller (3000m² approx.) [dimensions measuring approximately 40m x 75m]. The lot layout was considered suitable at the time to accommodate the Brighton horse racing industry, which once dominated the area.

Recently, the area has been subject to residential infill, predominantly in the form of multiple dwelling development. Existing lot layouts do not encourage subdivision, given the narrow widths of the lots. This has resulted in an increase in multiple dwelling developments, reduced green spaces and landscaping on private land, increased hard surfaces for parking and turning areas, lack of public infrastructure and a need for additional public open space.

In order to address the localised issues associated with the original division of the land, council officers have prepared the Burrows Avenue Specific Area Plan (Attachment B) for initiation by the Planning Authority. The Burrows Avenue SAP seeks to introduce planning controls which require developers:

- a) to provide public infrastructure when undertaking subdivision or multiple dwelling developments.
- b) to provide greater lot and housing diversity, and greater residential amenity, while responding to constraints in existing land use patterns.
- c) to provide improved road and pedestrian connectivity and landscaping that contributes to and improves the character of the area; and
- d) to construct the undeveloped road reserve and encourage subdivision in Precinct A.

To proceed, the Planning Authority must first agree to the amendment to the LPS. If the amendment is agreed to, the Planning Authority must notify the Tasmanian Planning Commission (the Commission) of the decision and commence public exhibition.

The Planning Authority will then decide whether any representations received warrant amending or refusing the draft amendment or the planning permit. If approved by the Planning Authority, the final decision will be made by the Tasmanian Commission who will likely invite any representors to attend a public hearing.

It is submitted that the amendment is necessary to address key issues arising from historical development within the SAP area, including greater residential amenity and housing diversity, provision of public infrastructure, and road and pedestrian linkages.

It is recommended that Council certify the draft amendment to the LPS.

2. Legislative & Policy Content

The purpose of this report is to consider whether to, of its own motion, prepare a draft amendment of an LPS as described in this report.

The amendment request is made under section 40D(b) of the *Land Use Planning and Approvals Act 1993* (the Act). The provisions of the Act establish the test of whether a planning scheme amendment is reasonable or not.

Section 40F(1) of the Act requires the Planning Authority to consider the criteria of the LPS when approving or refusing an amendment. The LPS criteria is contained in section 34 of the Act.

This report details the reasons for the officer recommendation. The Planning Authority is not bound to adopt the recommendations in this report. The Planning Authority can either: (1) adopt the recommendation; or (2), vary the recommendation by adding, modifying, or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the *Judicial Review Act 2000* and the *Local Government (Meeting Procedures) Regulations 2005*.

3. Risk & Implications

There may be financial implications for the delivery of infrastructure, should this application be refused. However, any financial implications will be subject to separate decisions of Council and will have no direct financial implication for the Planning Authority.

4. Site and Surrounds

The subject area contained within the proposed Burrows Avenue SAP is approximately 22ha, and is contained with the land bounded by Racecourse Road, Morrison Street and Elderslie Road, as indicated in the Figure 1 below:

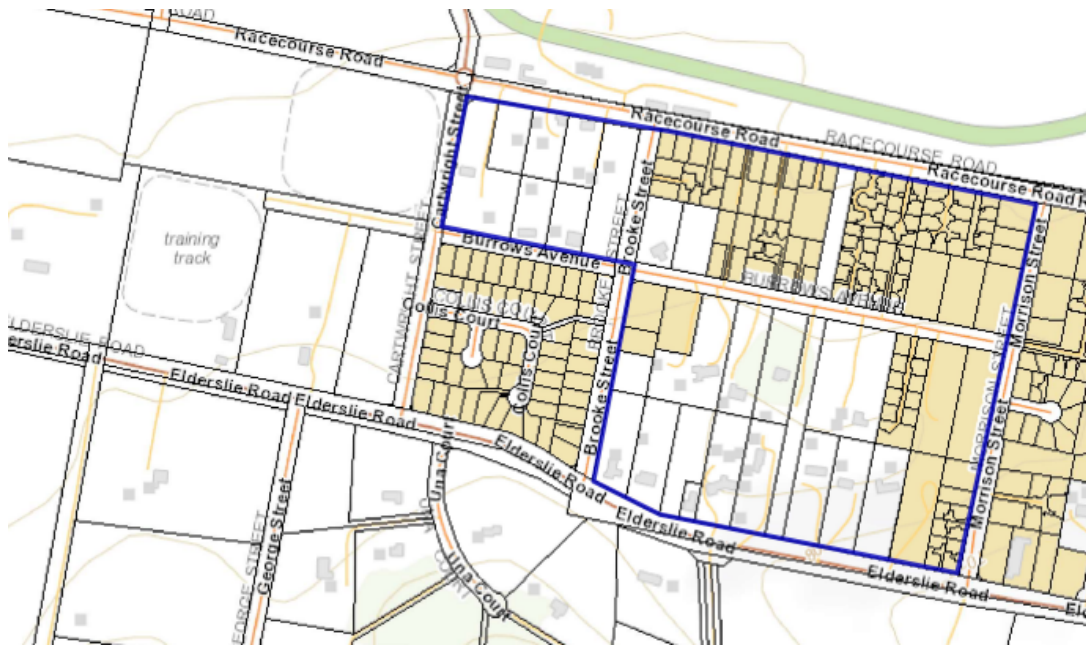


Figure 1: Topographical image of the proposed BURROWS AVENUE SAP area, depicted by the blue line (Source: Base image and data from the LIST (www.thelist.tas.gov.au) © State of Tasmania)

The Burrows Avenue SAP area (SAP area) is located approximately 370m west of Brighton Road and includes approximately 85 lots.

The land slopes up from Elderslie Road, with the crest of the hill covering the northern half of 52-64 Elderslie Road, and the southern portions of 15-21 Burrows Avenue, before falling slightly down to Racecourse Road. The area is largely unvegetated. Listmap identifies the soil type as “moderate to imperfectly drained black cracking soils developed on Tertiary basalt bedrock and colluvium on low undulating (3-10%) plateaus”.

The entirety of the land is currently serviced by reticulated water. However, access to reticulated sewer services is intermittent across the SAP area (refer Figure 2).

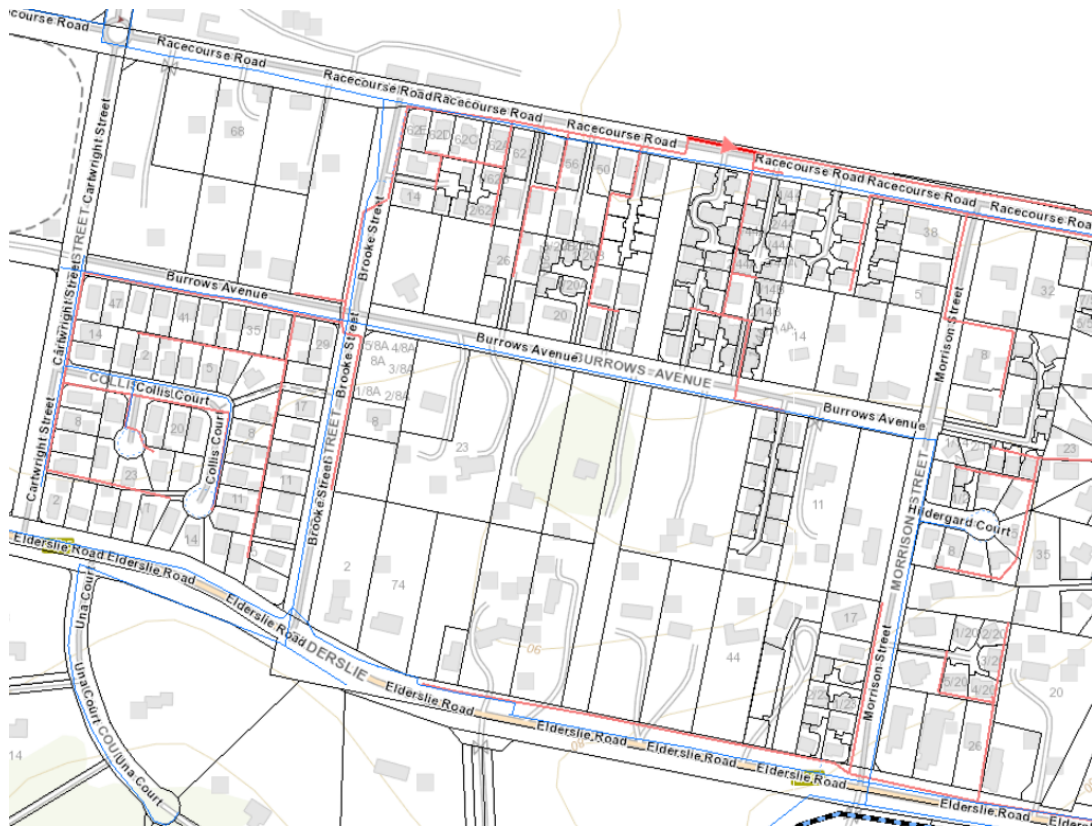


Figure 2: Sewer Serviced Land (red lines) (Source: Base image and data from the LIST (www.thelist.tass.gov.au) © State of Tasmania)

5. Planning Controls

5.1. Zoning

The SAP area is located wholly within the General Residential zone.

Land to the north of the SAP area is zoned Recreation and includes the Brighton Horse Racing Track and the Ted Jeffries Memorial Park.

Land to the south is mixed, with the Community Purpose zone being attributed to 1 Elderslie Road (future Brighton High School site), General Residential (33 Elderslie Road) and Rural Living (Una Court properties).

Land to the west is zoned Rural and is subject to the Brighton Horse Racing Specific Area plan, and land to the East is zoned General Residential and Light Industrial (refer figure 3).

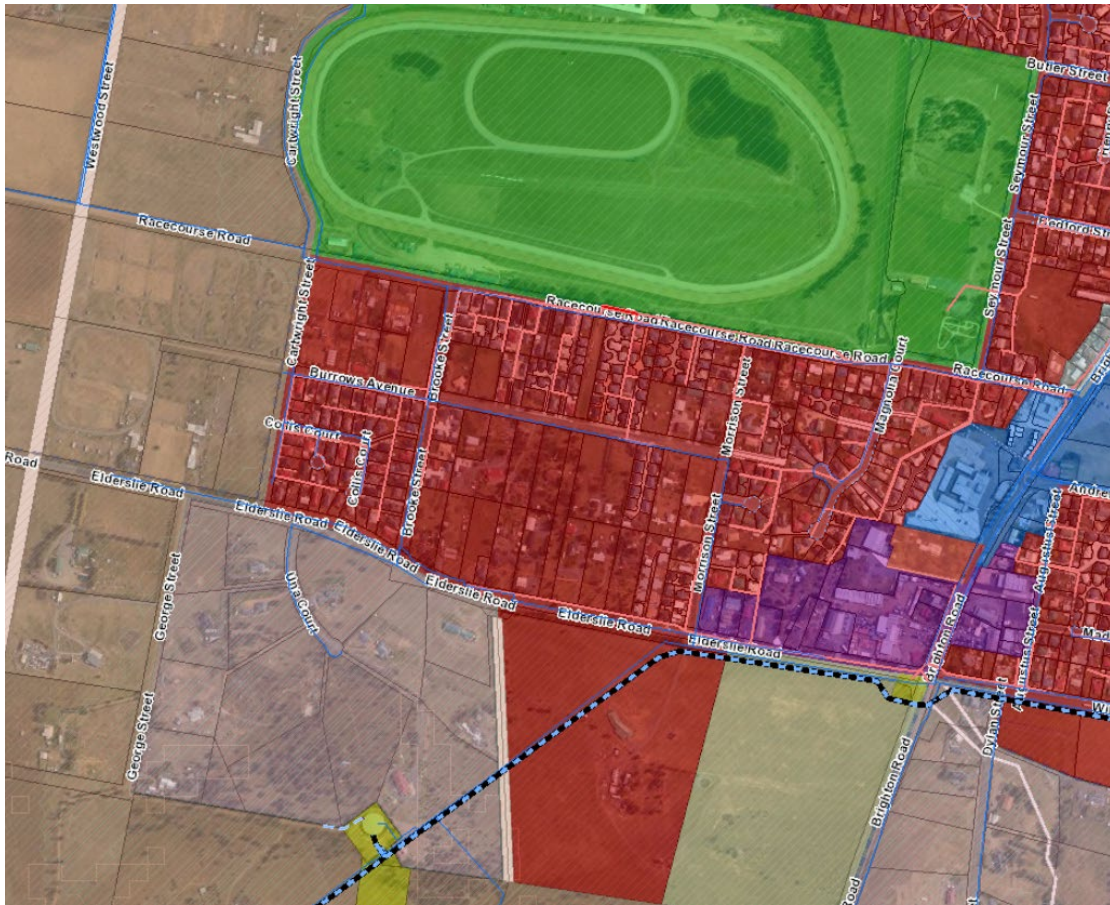


Figure 3: Zoning Map (Source: Base image and data from the LIST (www.thelist.tas.gov.au) © State of Tasmania)

5.2. Overlays & Codes

Bushfire prone areas overlay

Two properties at 70 and 72 Racecourse Road are entirely covered by the Bushfire prone areas overlay. All of the subject properties fronting Elderslie Road have the overlay to a depth of approximately 31m.



Figure 4: The bushfire prone areas overlay is shown in orange. (Source: Base image and data from the LIST (www.thelist.tas.gov.au) © State of Tasmania)

Adjoining land

The Brighton Horse Racing SAP applies to land at to the north and west of the SAP area. The Brighton Horse Racing SAP provides for the long term potential of the Brighton Training Facility as a horse training and stabling venue in southern Tasmania, and addresses land use conflict through appropriate location and management of horse related activities.

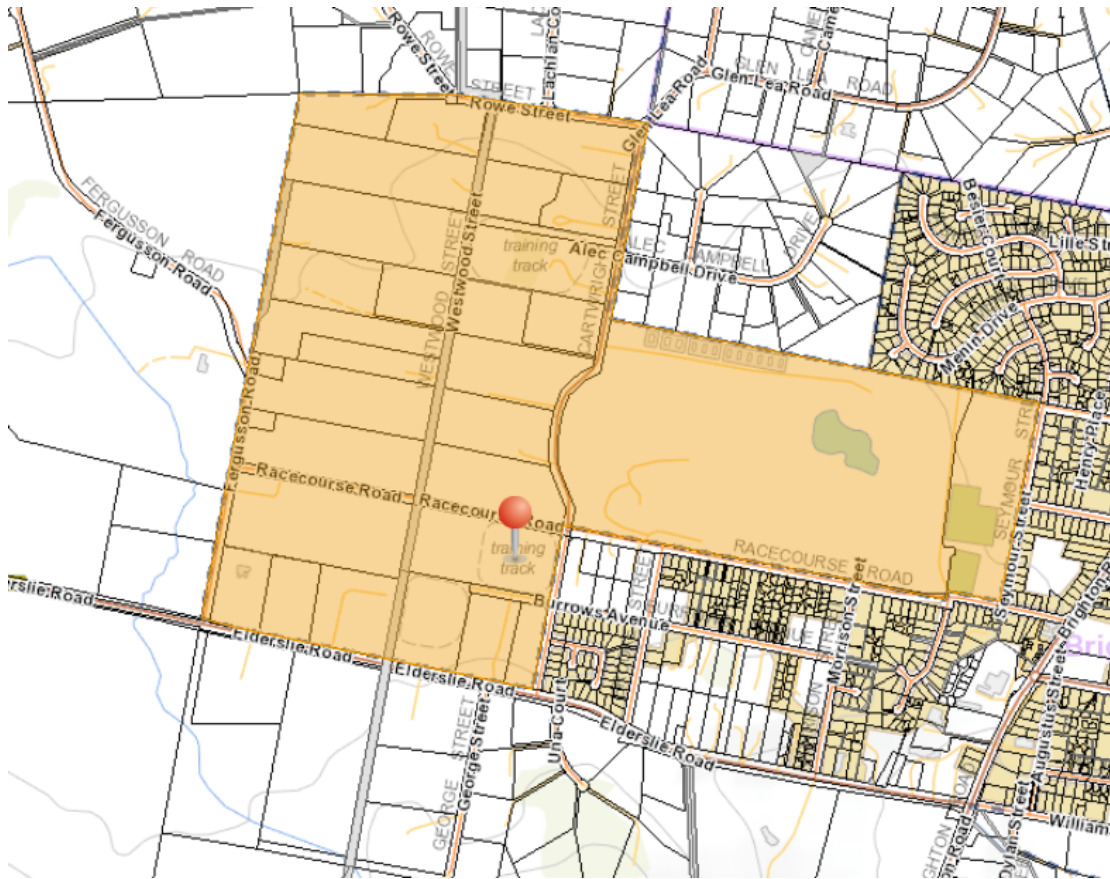


Figure 5: The Brighton Horse Racing Specific Area plan is shown in orange. (Source: Base image and data from the LIST (www.thelist.tas.gov.au) © State of Tasmania)

6. Background and Rationale

6.1. Strategic Rationale

Southern Tasmanian Regional Land Use Strategy 2010-2035

SD2: Holistically Managing Residential Growth

The proposed SAP seeks to bring the SAP area into compliance with this recommendation to holistically manage residential growth by addressing specific difficulties arising from localised land use patterns.

Brighton Structure Plan 2018 (BSP)

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

The BSP includes an analysis of housing supply in the Brighton area to meet the long-term needs based on population projections. The BSP predicts that the strongest population in the municipality will be in the suburbs of Brighton and Pontville of 2.7% per annum, or an increase of 3,040 people by 2033.

Strategy 2 of the BSP identifies that significant vacant and underutilised parcels need to be developed for multiple dwellings, which is occurring in the SAP area.

Strategy 3 of the BSP identifies that Brighton's housing supply should provide medium density options and to consider the provision of a range of lots sizes to avoid homogenous development outcomes. It is considered that the proposed Burrows Avenue SAP addresses that strategy.

6.2. Site History

Steps have been taken by council officers to facilitate connectivity and open spaces within the Burrows Avenue SAP area. An in-principle agreement for the two road parcels currently owned by the Crown (informally known as Fraser Street) which run between Racecourse Road and Elderslie Road are in the process of being transferred to Brighton Council. Given existing development either side of the northern parcel, this land is to be transferred to Council for the purposes of public open space and will also be utilised for pedestrian activities.

The southern portion is to be transferred to Council for road purposes. There are currently two approved subdivisions at 15 and 19 Burrows Avenue which require the construction of a road, ending in a cul-de-sac on the northern half of that parcel.

The development framework for Precinct A as set out in the Burrows Avenue SAP requires the construction of the southern portion of the land, should either lot at 54 and 60 Elderslie Road be developed.

Brighton High School

The Brighton High School is programmed to open for the 2025 school year.

Well managed vehicle and pedestrian connectivity within the Burrows Avenue SAP area is important, with the Traffic Impact Assessment for the proposed school identifying that it can be expected that 360 (approx.) vehicles will enter and leave the school each day. Additional road and pedestrian connections may assist to disperse traffic and pedestrian movements.

6.3. Community Consultation

Council officers have:

- written to all landowners and residents within the Burrows Avenue SAP areas and spoken to two owners to address queries.
- personally met with the owner of 60 Elderslie Road, Brighton regarding the proposed development framework for Precinct A.
- Spoken by telephone with the owner of 54 Elderslie Road, Brighton regarding the proposed development framework for Precinct A.
- Liaised with Crown Property Services as to the transfer of the "Fraser Street" road reserve.

7. The Amendment

The proposed amendment to the Brighton Local Provisions Schedule is to:

7.1. Insert the Burrows Avenue Specific Area Plan over:

- 38, 40, 42, 44, 44A, 46, 48, 48A, 48B and 48D, 50, 52, 54, 56, 58, 60, 60A, 62, 62A – E, 64, 66, 68, 70, and 72 Racecourse Road, Brighton
- 10 - 15, 14A,14B, 16, 16A,16B, 18A - F, 19 – 26, 26A20A, 20B, 28, 30 Burrows Avenue, Brighton
- 2, 6, 8, 8A, 10, 14, 16, and 18 Brooke Street, Brighton
- 3, 5, 15, 17, 19, 21, 23, and 25 Morrison Street, Brighton
- 40, 42, 44, 52, 54, 60, 64, 70, 72, and 74 Elderslie Road, Brighton
- Subdivision road (C/T 150382/2) (cnr Racecourse and Cartwright Street)

The Burrows Avenue SAP is critical to address localised development issues within the SAP area, arising from irregular shaped lots, previous rural uses (horse stabling and management), and the provision of public infrastructure. It is considered that the Burrows Avenue SAP is consistent with the zone purpose for the General Residential Zone.

Explanatory notes for the SAP standards are provided in Table 1 below:

Table 1: Explanatory Notes

Clause No.	Provision	Commentary
BRI-S12.1 Purpose of the Specific Area Plan		
BRI-S12.1.1	To provide for infrastructure required for subdivision or multiple dwelling developments.	The statements under clause BRI-S12.1 outline the overall intent of the specific area plan and the desired character that is to be achieved through future subdivision and development. The purpose statements also articulate the need for the Specific Area Plan above the standard provisions within the General Residential Zone
BRI-S12.1.2	To provide for greater lot and housing diversity and residential amenity which respond to the constraints of the existing land-use pattern.	
BRI-S12.1.3	To provide improved road and pedestrian network connectivity.	
BRI-S12.1.4	To provide for landscaping that contributes to and improves the character of the area.	

BRI-S12.1.5	To provide for the construction of the undeveloped road reserve and encourage subdivision in Precinct A.	
BRI-S12.2 Application of the Specific Area Plan		
BRI-S12.2.1	The specific area plan applies to the area of land designated as Burrows Avenue Specific Area Plan on the overlay maps.	Application of the specific area plan to an application for a planning permit is to be determined by reference to Figure BRI-S12.2.1.
BRI-S12.2.2	<p>In the area of land this plan applies to, the provisions of the specific area plan are in substitution for, or in addition to, the provisions of:</p> <p>(a) 8.0 General Residential zone</p> <p>as specified in the relevant provision.</p>	The SAP is only needed in addition to or substitution for the provisions of the General Residential Zone.
BRI-S12.3 Local Area Objectives – Precinct A		
BRI-S12.3.1	Precinct A, shown on overlay map as BRI-12.1.	<p>The local area objectives for the Precinct A are to:</p> <p>(a) facilitate the development of the road reserve as a public access for vehicle and pedestrian thoroughfare.</p> <p>Facilitate new residential development with lots fronting the road reserve.</p>
BRI-S12.7 Development Standards for Buildings and Works		
BRI-S12.7.1	Frontage Infrastructure	This development standard is intended to prevent any buildings and works from being undertaken without providing for public

		<p>infrastructure along the length of a lot's frontage.</p> <p>The development standard is intended to specifically support Purpose Statement BRI-S12.1.1, BRI-S12.1.3 and BRI-S12.1.4.</p>
BRI-S12.7.2	Landscaping	<p>This development standard is intended to further purpose statement BRI-S12.1.4 by requiring a minimum standard of landscaping and areas free from impervious surfaces per unit.</p>
BRI-S12.7.3	Housing Diversity	<p>This development standard is intended to further purpose statement BRI-S12.1.2.</p> <p>It requires a less homogeneous approach than has been previously been constructed, to provide for a range and mix of dwelling types for multiple dwelling developments.</p>
BRI-S12.7.4	Development and Works in Precinct A	<p>This development standard is intended to further purpose statement BRI-S12.1.5.</p> <p>The standard considers development that does not prejudice future utilisation of the land adjoining the Precinct A road reserve.</p>
BRI-S12.8 Subdivision standards		
BRI-S12.8.1	Subdivision – Precinct A	<p>This subdivision standard is intended to achieve purpose statement BRI-S12.1.1, BRI-S12.1.3 and BRI-S12.1.5</p> <p>The Performance Criteria provides for some flexibility. It</p>

		<p>is considered, however, given the unique layout of the lots in Precinct A, development is constrained</p> <p>Allowing lots to have frontage to the Precinct A road reserve is an important factor in creating additional vehicle and pedestrian connectivity.</p>
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8. Planning Assessment – Draft Amendment of LPS Requirements of the Act

Section 40D (b) of the Act allows a planning authority to prepare a draft amendment of an LPS of its own motion;

40D. Preparation of draft amendments

A planning authority –

(a) must prepare a draft amendment of an LPS, and certify it under [section 40F](#), within 42 days after receiving the request under [section 37\(1\)](#) to which the amendment relates, if –

(i) it decides under [section 38\(2\)](#) to prepare a draft amendment of an LPS; or

(ii) after reconsidering, in accordance with a direction under [section 40B\(4\)\(a\)](#), a request under [section 37\(1\)](#) whether to prepare a draft amendment of an LPS, it decides to prepare such an amendment; or

(b) may, of its own motion, prepare a draft amendment of an LPS; or

(c) must, if it receives under [section 40C\(1\)](#) a direction to do so, prepare a draft amendment of an LPS and submit it to the Commission within the period specified in the direction or a longer period allowed by the Commission.

Section 40F (1) of the Act requires that, where a planning authority has prepared a draft amendment of an LPS (under Section 40D(b)), it must be satisfied the draft amendment of an LPS meets the LPS criteria under Section 34 of the Act.

40F. Certification of draft amendments

(1) A planning authority that has prepared a draft amendment of an LPS must consider whether it is satisfied that the draft amendment of an LPS meets the LPS criteria.

(2) If a planning authority determines that –

(a) it is satisfied as to the matters referred to in [subsection \(1\)](#), the planning authority must certify the draft as meeting the requirements of this Act; or

(b) it is not satisfied as to the matters referred to in [subsection \(1\)](#), the planning authority must modify the draft so that it meets the requirements and then certify the draft as meeting those requirements.

(3) The certification of a draft amendment of an LPS under [subsection \(2\)](#) is to be by instrument in writing affixed with the common seal of the planning authority.

(4) A planning authority, within 7 days of certifying a draft amendment of an LPS under [subsection \(2\)](#), must provide to the Commission a copy of the draft and the certificate.

The LPS criteria is provided under Section 34 of the Act. Section 34(2) is addressed below where relevant to the proposed amendment.

8.1. Assessment of Section 34(2) of the Act.

A discussion of those relevant parts of Section 34(2) are provided below.

The LPS criteria to be met by a relevant planning instrument are that the instrument –

(a) *contains all the provisions that the SPPs specify must be contained in an LPS; and*

Response: the amendment does not affect the provisions that must be contained in an LPS. An LPS can contain specific area plans.

(b) *is in accordance with [section 32](#); and*

Response: Section 32 of the Act sets out the contents of the LPSs. There are no changes to the zoning or overlays that apply to the LPS. The relevant parts of the Section that relate to specific area plans require further consideration and are provided below.

32. Contents of LPSs

(3) Without limiting [subsection \(2\)](#) but subject to [subsection \(4\)](#), an LPS may, if permitted to do so by the SPPs, include –

...

(b) *a specific area plan, being a plan consisting of –*

(i) *a map or overlay that delineates a particular area of land; and*

(ii) *the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPPs;*

...

(4) An LPS may only include a provision referred to in [subsection \(3\)](#) in relation to an area of land if –

(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area;
or

(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.

Assessment of 32(4)(b):

Burrows Avenue SAP

The proposed Burrows Avenue SAP is necessary to address the unique spatial qualities that arises from historical development, originally developed to support the Brighton horse racing industry. More recently, due to the deep but narrow lots, the SAP area has experienced an increase in multiple dwelling developments characterised by impervious surfaces, hard stand parking and turning areas, and reduced levels of landscaping. Lots in the SAP area are typically 4850-5000m² [dimensions of 40m x 120m (approx.)] between Elderslie Road and Burrows Avenue and approximately 3000m² between Racecourse Road and Burrows Avenue [dimensions measuring approximately 40m x 75m].

The increase in multiple dwelling approvals over those for subdivision has placed an increased burden on existing infrastructure services. Under the Tasmanian Planning Scheme there is no head of power for Council's to require that developers undertake the necessary frontage upgrades for multiple dwelling units as they would with a subdivision. In the absence of requirements relating to infrastructure contributions, there are limited opportunities for Council to require developers to contribute to public infrastructure. Accordingly, a user-pays approach is the most appropriate way to achieve a suitable outcome, with the developer being responsible for funding the intensification of the demand on existing infrastructure networks.

The Burrows SAP provides a development framework that will facilitate future development of this land in a way that creates a practical extension to the residential community by providing good connectivity and a high level of amenity in an equitable manner.

(c) Furthers RMPS Objectives

The objectives of the Resource Management and Planning System (RMPS) must be furthered by the rezoning request and are addressed in the following table:

Table 1 – RMPS Objective Assessment

Objective	Response
Part 1	
<p>(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity</p>	<p>Land in the SAP area has been developed and significantly modified from what it would have been traditionally. Minimal native vegetation remains, and exotic species introduced.</p> <p>The SAP area does not include any threatened vegetation listed under Schedule 3A of the <i>Nature Conservation Act 2000</i> or any threatened flora or fauna species listed under the <i>Tasmanian Threatened Species Protection Act 1995</i>. The site is mapped as FUR (urban areas) (agricultural, urban and exotic vegetation) by TASVEG 3.0.</p>
<p>(b) to provide for the fair, orderly and sustainable use and development of air, land and water</p>	<p>The amendment is considered to provide a mechanism to improve the existing character of the area. The proposed amendment will better meet the needs of a wider demographic through the provision of a range of housing types. As such the proposed amendment will provide for the fair, orderly and sustainable development of the area.</p>
<p>(c) to encourage public involvement in resource management and planning</p>	<p><i>As noted in section 6.3 above, there has been community consultation on the proposal to date.</i></p> <p><i>The public will be further involved in the draft planning scheme amendment through opportunity to make representations and attend public hearings.</i></p>
<p>(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and</p>	<p>The amendment will facilitate economic development arising from increased housing prices relative to the increased level of amenity, connectivity and public infrastructure in the SAP area.</p>

<p>(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State</p>	<p>The proposed amendment has had input from the community, the Tasmanian Government and Brighton Council officers. If approved, ongoing responsibility will continue through the planning process.</p>
<p>Part 2</p>	
<p>(a) to require sound strategic planning and coordinated action by State and local government</p>	<p>The proposed amendment is to implement the recommendations of regional and local strategic planning documents and is consistent with relevant policies within the Southern Tasmanian Regional Land Use Strategy.</p>
<p>(b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land.</p>	<p>The proposed amendment has been found to be consistent with the contents of the LPS and has been drafted to achieve specific objectives and policies recommended in strategic planning documents endorsed by the Council.</p>
<p>(c) to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.</p>	<p>The land contains no environmental values of any known significance. The proposed SAP is likely to result in better environmental outcomes considering stormwater management.</p> <p>In terms of social and economic effects, the Burrows Avenue SAP will provide increased housing choice and improvement to residential amenity. It will also encourage improved outcomes for connectivity.</p>
<p>(d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels</p>	<p>The proposal is recommended in local strategic planning documents endorsed by the Council and is consistent with regional planning documents and State Policies and legislation.</p>
<p>(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate</p>	<p>The proposal will provide a clear framework for development approvals in the Brighton LPS.</p>

<p>planning approvals with related approvals</p>	<p>The approvals process is generally prescribed and the planning scheme amendment process has little impact on co-ordination of approvals.</p>
<p>(f) to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania</p>	<p>One of the purposes of the planning scheme amendment is to provide for higher levels of residential amenity and connectivity that promotes health and wellbeing.</p>
<p>(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value</p>	<p>There are no buildings or areas of interest within the SAP area.</p>
<p>(h) to protect public infrastructure and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community</p>	<p>One of the objectives of the SAP is to enable the orderly provision and coordination of public utilities and facilities, in an area where these are limited.</p>
<p>(i) to provide a planning framework which fully considers land capability.</p>	<p>The proposed amendment provides a planning framework which addresses existing land constraint to improve connectivity, public infrastructure and facilities and housing diversity.</p>

(d) Consistent with State Policies

- **State Coastal Policy 1996**

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

- **State Policy on the Protection of Agricultural Land 2009**

The *State Policy on the Protection of Agricultural Land 2009* (PAL Policy) protects Prime Agricultural Land (Land Capability Classes 1, 2, and 3) and conversion of agricultural land to non-agricultural uses is subject to the principles of the PAL Policy.

All land in the SAP area is zoned General Residential and is not considered agricultural land.

- **The State Policy on Water Quality Management 1997**

There will be no direct impact on water quality as a result of the amendment. Any impact on water quality will be regulated through future development applications.

- **National Environmental Protection Measures**

The National Environmental Protection Measures (NEPMs) have been adopted as State Policies. They relate to ambient air quality, diesel vehicle emissions, assessment of site contamination, used packing material, movement of controlled pollutant inventory.

The proposal does not trigger consideration under the NEPMs.

(da) consistent with TPPs

There are currently no Tasmanian Planning Policies in effect.

(e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and

As required under s.34(2)(e) the proposed amendment must be, as far as practicable, consistent with regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the *Southern Tasmania Regional Land Use Strategy 2010-2035* (STRLUS). The policies that are relevant to the amendment are addressed in Table 3 below.

Table 2 – STRLUS Assessment

Policy	Action
SRD 2 Manage residential growth for Greater Hobart on a whole of settlement basis and in a manner that balances the needs for greater sustainability, housing choice and affordability	SRD2.1 Ensure residential growth for Greater Hobart occurs through 50% infill development and 50% greenfield development. Where possible, avoid applying zones that provide for intensive use or development to areas that retain biodiversity values that are to be recognised and protected by the planning scheme. SRD 2.6 Increase densities to an average of at least 25 dwellings per hectare (net density) within a distance of 400-850m of integrated transit corridors and Principal and Primary Activity centres, subject to heritage constraints.

	<p>SRD 2.9</p> <p>Encourage a greater mix of residential dwelling types across the area with a particular focus on dwelling types that will provide for demographic change including an ageing population.</p> <p>Recognise and protect biodiversity values deemed significant at the local level and in the planning scheme:</p> <ul style="list-style-type: none"> a) specify the spatial area in which biodiversity values are to be recognised and protected; and b) implement an ‘avoid, minimise, mitigate’ hierarchy of actions with respect to development that may impact on recognised and protected biodiversity values.
<p><u>Consistent:</u></p> <p>The proposed amendment seeks to allow for the SAP area to holistically manage residential growth by addressing specific difficulties arising from localised land use patterns, continuing infill development and provision of homogenous housing stock. There are no biodiversity values recognised and protected by the planning scheme.</p> <p>The SAP area is serviced by public transport, with bus stops located on Elderslie Road, Brooke Street, Burrows Avenue and Morrison Street, and within 400m of each lot. The SAP area is situated between 500m and 1.3km from the Brighton shopping strip (Rural Services Centre).</p> <p>The proposed SAP aims to provide a mix of dwelling types to provide housing diversity across the SAP area, to address the homogenous development of two bedroom strata title units.</p>	
<p>ROS 1</p> <p>Plan for an integrated open space and recreation system that responds to existing and emerging needs in the community and contributes to social inclusion, community connectivity, community health and wellbeing, amenity, environmental sustainability and the economy.</p>	<p>ROS 1.5</p> <p>Ensure residential areas, open spaces and other community destinations are well connected with a network of high-quality walking and cycling routes.</p>

<p><u>Consistent:</u></p> <p>The amendment includes requirements for construction of footpaths, and roadways in the SAP area to increase connectivity to the wider community.</p>	
<p>PI 2</p> <p>Plan, coordinate and deliver physical infrastructure and servicing in a timely manner to support the regional settlement pattern and specific growth management strategies.</p>	<p>P1 2.2</p> <p>Coordinate, prioritise and sequence the supply of infrastructure throughout the region at regional, sub-regional and local levels, including matching reticulated services with the settlement network.</p>
<p><u>Consistent:</u></p> <p>The amendment makes provision for construction of, or contribution to, local infrastructure requirements.</p>	
<p>LUTI 1</p> <p>Develop and maintain an integrated transport and land use planning system that supports economic growth, accessibility and modal choice in an efficient, safe and sustainable manner.</p>	<p>LUTI 1.6</p> <p>Maximise road connections between existing and potential future roads with new roads proposed as part of the design and layout of subdivision.</p>
<p><u>Consistent</u></p> <p>The Precinct A development framework supports road connectivity between Elderslie Road and Burrows Avenue.</p>	

As such, it is considered that the proposed amendment continues to further the requirements of the STRLUS.

(f) Brighton Council Strategic Plan 2019-2029

The proposed amendment is consistent with the following relevant strategies from the Brighton Council Strategic Plan 2019-2029:

- S1.1 – Understand/Improve Health & Wellbeing
- S1.2 - Create Housing/Employment/Play/Education (Liveability)

- S1.4 – Support Connected Communities
- S1.5 - Build a resilient community and environmentally sustainable future.
- S3.3 - Enabling Infrastructure

(g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates.

The proposed amendment will not impact the LPS of adjacent municipal areas. The amendment has been assessed as being consistent with the STRLUS.

(h) Gas Pipeline safety

The subject land is not affected by the Gas Pipeline. Accordingly, there are no issues of gas pipeline safety associated with the draft amendment.

The proposed amendment is therefore considered to be consistent with the requirements under Section 34 (2) of the Act.

9. Conclusion

The proposal to amend the *Brighton Local Provisions Schedule* is consistent with regional and local land use strategy and the requirements of the *Land Use Planning and Approvals Act 1993*.

On this basis, it is recommended that Council initiate and certify draft amendment RZ 2023-04 as detailed in this report and in the attachments.

RECOMMENDATION:

1. That in accordance with s38(2)(a) of the Land Use Planning and Approvals Act 1993, the planning authority agrees to prepare a draft amendment, to be known as RZ 2023-04 as follows:
 - (a) to insert the Burrows Avenue Specific Area Plan over:
 - i. 38, 40, 42, 44, 44A, 46, 48, 48A, 48B and 48D, 50, 52, 54, 56, 58, 60, 60A, 62, 62A – E, 64, 66, 68, 70, and 72 Racecourse Road, Brighton
 - ii. 10 - 15, 14A,14B, 16, 16A,16B, 18A - F, 19 – 26, 26A, 20A, 20B, 28, 30 Burrows Avenue, Brighton
 - iii. 2, 6, 8, 8A, 10, 14, 16, and 18 Brooke Street, Brighton
 - iv. 3, 5, 15, 17, 19, 21, 23, and 25 Morrison Street, Brighton
 - v. 40, 42, 44, 52, 54, 60, 64, 70, 72, and 74 Elderslie Road, Brighton
 - vi. Subdivision road (C/T 150382/2) (cnr Racecourse and Cartwright Street)
 - (b) To amend the Planning Scheme Ordinance to introduce the Burrows Avenue Specific Area plan at clause BRI-S12.0

2. That in accordance with Section 40F(2)(a) of the *Land Use Planning and Approvals Act 1993*, Council considers that draft amendment RZ 2023-04 satisfies the provisions of Section 34 of the *Land Use Planning and Approvals Act 1993*.
3. That in accordance with Section 40F(3) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2023-04 be certified by instrument in writing affixed with the common seal of the Council.
4. That in accordance with Section 40F(4) of the *Land Use Planning and Approvals Act 1993*, Council directs that a certified copy of draft amendment RZ 2023-04 be given to the Tasmanian Planning Commission within seven (7) days.
5. That in accordance with Section 40FA(1) of the *Land Use Planning and Approvals Act 1993*, Council directs that a copy of the draft amendment RZ2023-04 be provided to relevant agencies and those state service, or State authorities, that the planning authority considers may have an interest in the draft amendment.
6. That in accordance with Section 40G(1) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ2023-04 be placed on public exhibition as soon as practicable.

DECISION: