

# TASMANIAN PLANNING COMMISSION



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8 March 2024

Mr James Dryburgh  
General Manager  
Brighton Council  
1 Tivoli Road,  
OLD BEACH TAS 7017

Attention: Mr David Allingham

By email: [admin@brighton.tas.gov.au](mailto:admin@brighton.tas.gov.au);  
[David.Allingham@brighton.tas.gov.au](mailto:David.Allingham@brighton.tas.gov.au)

Dear Mr Dryburgh

## **Tasmanian Planning Scheme - Brighton Draft amendment RZ-2022-05**

I refer to the above draft amendment and to a hearing held at the Commission's office in Hobart on 28 February 2024 which was adjourned.

Due to the proximity of draft amendment **RZ-2023-04 - Burrows Avenue Specific Area Plan** also being considered by the Commission, it is recommended that the planning authority's response to the directions below be coordinated with direction responses in relation to that draft amendment, to ensure consistency of definitions, provisions and expression wherever possible.

### **General drafting notes for specific area plans (SAPs)**

- As part of a statutory instrument, a SAP needs to use simple, common terms and language that are consistent with those of the State Planning Provisions wherever possible. Descriptive terms that may reduce clarity, like 'streetscape', are to be avoided.
- Provisions of a SAP are to be consistent with the purpose of the underlying zone and should not be detrimental to the existing activities occurring in accordance with the applicable zone.
- All standards in a SAP, including each standard's objectives, must relate to and further the SAP Purpose.
- All Acceptable Solutions and Performance Criteria must relate to and further the objective of the relevant standard.
- Each Acceptable Solution and corresponding Performance Criterion must address the same matter.
- Acceptable Solutions must be drafted to be clear and measurable.
- Performance Criteria must be drafted to enable the exercise of discretion; the introduction is to incorporate the language of the objective, and any inclusion of the word 'must' is to be followed by 'having regard to' and a list of relevant matters.
- To ensure transparency and ease of use, the references to Council policies are to be drafted to only apply to policies that are endorsed by Council and relevant to the SA

The Commission directs that the planning authority submit revised draft amendments responding to the drafting issues raised at the hearing.

<b>Direction 1- South Brighton Specific Area Plan</b>	
1.0	Review the drafting conventions and formatting of the SAP. Make any necessary minor corrections, such as formatting or punctuation, perhaps using the template. A word version is available by contacting the Commission. Also, please see Practice Note 5 and Practice Note 8 for guidance on the drafting conventions, technical drafting requirements and writing style of the SPPs.
2.1	Replace 'South Brighton Development Precinct Plan' with 'Development Framework' in clause BRI-S11.1.1.
2.20	Delete 'future' from clause BRI-S11.1.4.
2.30	In clause BRI-S11.1.5, remove 'with higher density living', replace 'in close proximity' with 'close', replace 'open space' with 'public open space' and remove 'open space networks'.
2.4	Remove the first reference to 'environment' from clause BRI-S11.1.7.
3.0.0	In clause BRI-S11.4, include definitions for: <ul style="list-style-type: none"> <li>• 'Development Framework' referencing Figure BRI-S11.2</li> <li>• 'Shared path link'</li> </ul> And restructure in alphabetical order.
3.1.	To provide consistency with draft amendment RZ-2023-004, change 'on' to 'within' within the definition of 'Street tree' in clause BRI-S11.4 and consider amending the definition to refer to Council's Street Tree Policy.
3.2	To provide consistency with draft amendment RZ-2023-004, change the definition for 'Council Infrastructure' in clause BRI-S11.4, by amending the text, as follows:  'means infrastructure managed by Council including stormwater networks, footpaths, roads, streetlighting, landscaping, street trees and the like'.
4.0	Remove ', or a home-based business' from clause BRI-S11.7.1 A1 (a).
4.1	Remove 'readily' and 'for urban purposes' from clause BRI-S11.7.1 A1 (b).
4.2	Change 'from an approved subdivision' to 'by a subdivision approved' in clause BRI-S11.7.1 A1 (c).
5.0	Replace 'safe access' with 'safe vehicular access' in the clause BRI-S11.7.2 Objective.
5.1	Remove 'ways' from clause BRI-S11.7.2 A1.
6.0	Modify the Objective in clause BRI-S11.8.1 to include 'shared pathways'.
6.1	To provide consistency with draft amendment RZ-2023-004, consider whether the intent of clause BRI-S11.8.1 A1/P1 is to require discretionary assessment of existing trees, and if not, revise accordingly.
6.2	Change clause BRI-S11.8.1 A2 by amending the text, as follows:  'The subdivision does not include any public open space lots.'

6.3	Change 'provides' to 'providing' and 'prevents' to 'preventing' in clause BRI-S11.8.1 P2.
7.0	To provide consistency with draft amendment RZ-2023-004, change clause BRI-S11.8.2 A1 by amending the text, as follows:  'No Acceptable Solution.'
7.1	Change 'upgrades' to 'upgrading' in clause BRI-S11.8.2 P1.  Redraft clause BRI-S11.8.2 P1 to ensure the required infrastructure is subjected to a merit-based assessment by the planning authority having regard to: <ul style="list-style-type: none"> <li>a. the demand the subdivision places on Council Infrastructure;</li> <li>b. any existing infrastructure;</li> <li>c. any upgrades to existing infrastructure that may be required;</li> <li>d. site conditions; and</li> <li>e. consistency with draft amendment RZ-2023-04.</li> </ul>
8.0	Include a reference to 'Precinct A' in the Objective and Acceptable Solution A1 of clause BRI-S11.8.3.1.
8.1	Redraft clause BRI-S11.8.3.1 P1 as required to address the matters raised at the hearing.  Please note that the clause should further the SAP Purpose and be consistent with relevant elements of the Development Framework.  Please also note clause BRI-S12.8.1 A2/P2 of draft amendment RZ-2023-004 and redraft the clauses accordingly.
8.2	Consider redrafting clause BRI-S11.8.3.2 A1/P1 to address the matters discussed at the hearing, and specifically whether modification is required to cater for 'first movers'.  Note: any new AS should reference 'Precinct A'.
9.0	Remove 'new' and 'that have higher densities' from the Objective of clause BRI-S11.8.4.1.
9.1	Include 'Precinct B' within the Objective of clause BRI-S11.8.4.1.
9.2	Modify BRI-S11.8.4.1 A1 to reference 'Precinct B'.
10.0	Change clause BRI-S11.8.4.2 A1 by amending the text, as follows:  'No Acceptable Solution'.
10.1	Remove 'abutting the Precinct' from clause BRI-S11.8.4.2 P1 (a) and replace 'linkages' with 'connections' in clause BRI-S11.8.4.2 P1 (c).  Remove 'new' from BRI-S11.8.4.2 P1 (d).  Include 'Development Framework' to the relevant matters in clause BRI-S11.8.4.2 P1.

<b>Direction 2- Brighton Highway Services SAP</b>	
1.0	<p>Review the drafting conventions and formatting of the SAP. Make any necessary minor corrections, such as formatting or punctuation, perhaps using the template. A word version is available by contacting the Commission.</p> <p>Also, please see Practice Note 5 and Practice Note 8 for guidance on the drafting conventions, technical drafting requirements and writing style of the SPPs.</p>
2.0	Please provide GIS files in MapInfo or ArcInfo for the application of the Light Industrial Zone.
2.1.	<p>Confirm whether the spatial extent of the area subject to the Brighton Highway Services SAP requires modification. Should this area be different to that certified, the planning authority is to provide GIS files in MapInfo or ArcInfo.</p> <p>If significant, any revisions should be supported by an explanation for the change.</p>
3.0	Change 'control' to 'manage' and 'residential properties' to 'residential zones' in the clause BRI-S3.1.4.
4.0	Remove clause BRI-S3.6.1 Noise, and renumber subsequent clauses accordingly.
5.0	Remove clause BRI-S3.6.2 Dust, Smell, Fumes and Other Emissions, and renumber subsequent clauses accordingly.
6.0	Remove references to "(excluding signage)" in clause BRI-S3.7.1 Setbacks A1/P1.
7.0	<p>Consider redrafting clause BRI-S3.7.2 Design A2/P2 as required to more adequately respond to the stated objective.</p> <p>It is noted that the AS prescribes visual standards yet the PC requires consideration of both visual and acoustic impacts. To provide a direct correlation between the AS and corresponding PC, consideration should be given to prescribing these as separate matters in separate standards.</p>
8.0	<p>Change clause BRI-S3.7.5 Fencing A1 by amending the text, as follows:</p> <p>'No Acceptable Solution.'</p> <p>It is also noted that the SPPs include exemptions for frontage fences. These exemptions need to be referenced via a footnote annotated in the Acceptable Solution (see clause 8.5.1 A4 of the SPPs for guidance).</p>
9.0	Change 'compatible' to 'consistent' in the Objective of clause BRI-S3.8.1 Lot design.
9.1	Remove references to 'Local Area Objectives' in clause BRI-S3.8.1 P2 and renumber subsequent clauses accordingly.
9.2	<p>Change clause BRI-S3.8.1 P3 by amending the text, as follows:</p> <p>'The frontage of each lot must be sufficient to accommodate development in accordance with the Specific Area Plan Purpose.'</p>
9.3	Change 'point of entry and exit' to 'access' in clause BRI-S3.8.1 P4(e).

1. The planning authority is to provide the submission responding to the above directions to the Commission by **29 March 2024**.
2. That any response submissions are to be provided to the Commission and other parties by **12 April 2024 (14 days)**

Submissions must be made by email to [tpc@planning.tas.gov.au](mailto:tpc@planning.tas.gov.au). Once received, the submissions referred to above will be made available under the [relevant assessment](#)<sup>1</sup> on the Commission's website.

Please note that submissions will be published in full, without redaction.

If the hearing is to be reconvened, the Commission will advise the parties and publish a notice.

If you require further information please contact Paola Barlund, Planning Adviser, on 6165 6835.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan Ford', enclosed in a thin black rectangular border.

Dan Ford  
**Delegate (Chair)**

cc representors

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<sup>1</sup> <https://www.planning.tas.gov.au/assessments-and-hearings/current-assessments-and-hearings/AM-BRI-RZ-2022-05>