

# TASMANIAN PLANNING COMMISSION



## DECISION

<b>Planning scheme</b>	Tasmanian Planning Scheme - Brighton
<b>Amendment</b>	RZ2022/01 - Insert Site Specific Qualification 21.1 to allow for pole/pylon signs on a portion of two titles in the Utilities Zone
<b>Permit</b>	DA2022/032 – Two pole/pylon signs
<b>Planning authority</b>	Brighton Council
<b>Date of decision</b>	26 September 2022

## Decision

The draft amendment is modified under section 40N(1)(b) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 40Q.

The permit is modified under section 42B(1)(b)(ii) of the *Land Use Planning and Approvals Act 1993*, as set out in Annexure B.

Dan Ford  
**Delegate (Chair)**

Claire Hynes  
**Delegate**

## REASONS FOR DECISION

### Background

#### Amendment

The draft amendment proposes to insert site specific qualification (SSQ) 21.1 to allow for one pole/pylon sign on two titles, folios of the Register 156374/1 and 152012/1, which are located in the Utilities Zone.

#### Permit

A permit for one pole/pylon sign on each of the titles is proposed. The signs would be 10m high, partially illuminated and advertise the Brighton Industrial Hub (industrial estate).

#### Site information

The site, folios of the Register 156374/1 and 152012/1, is located along the Midland Highway road reserve between the Midland Highway and East Derwent Highway junction, and the Possum Road exit. The site covers land on both sides of the highway.

The site is owned by the Crown and owners consent was granted for the lodgement of the application.

#### Issues raised in representations

The draft amendment was referred to TasWater under sections 56S and 56O of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating it had no objection to the draft amendment and provided conditions to be included with any permit. TasWater advised it did not wish to attend the hearing.

A representation was also received from the Department of State Growth (State Growth) raising concerns with the ambiguity of the proposed SSQ. Particularly, this related to previous advice from State Growth that provided specific conditions about the precise location of the pole/pylon signs associated with the permit.

State Growth advised that it was unable to attend the hearing and confirmed the suitability of the building envelopes and GPS coordinates provided in the section 40K report proposed modifications, to nominate the exact siting of the signs on a small portion of each of the two titles.

#### Planning authority's response to the representations

The planning authority considered the representations and recommended that:

... the representation received during advertising warrants modifications to the draft amendment by:

- i. Amending the draft amendment mapping by inserting 10m x 10m building envelopes and GIS coordinates on each of the subject titles; and
- ii. Including the GIS coordinates in an amended ordinance.
- iii. Insert a new BRI reference 'BRI -21.2' into the SSQ Table. (p. 4)

#### Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 31 August 2022.

## Appearances at the hearing

Planning authority: Mr Brian White, Brighton Council

## Consideration of the draft amendment

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the Local Provisions Schedule (LPS) and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. A hearing was convened to assist the Commission's consideration of the issues raised in the representations.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
  - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
  - (b) is in accordance with section 32; and
  - (c) furthers the objectives set out in Schedule 1; and
  - (d) is consistent with each State policy; and
  - (da) satisfies the relevant criteria in relation to the TPPs; and
  - (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
  - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
  - (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;
  - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
  - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

## Site Specific Qualification

4. Under section 32(4) of the Act, a LPS may only include a site specific qualification 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.

5. The planning authority considers that the draft amendment meets section 32(4)(a) of the Act as it would provide significant social and economic benefit to the region by promoting the industrial estate.
6. In its section 40F report, the planning authority further stated that the draft amendment would assist to:
  - ... implement the findings of the BSP [Brighton Structure Plan 2018] and Strategy [Brighton Industrial Estate Brand and Place Strategy 2020], which both recommend that entrance/landmark signage is essential to provide an improved sense of arrival, to instigate a sense of pride in the Estate, and to ensure the Estate fulfils its potential as a regionally and State significant industrial estate. (p. 84)
7. It was considered by the planning authority that the estate is recognised in the Southern Tasmania Industrial Land Strategy as a state significant industrial estate due to its intermodal access and capacity to provide 50% of future demand for industrial land up to 2041.
8. Noting the importance of this industrial estate, in 2020 Brighton Council commissioned the Brighton Estate Brand and Place Strategy for the industrial estate. This strategy recommended entry signs for the industrial estate to increase wayfinding in the area.
9. It was also advised at the hearing that pole/pylon signs were considered discretionary in the Utilities Zone under the Brighton Interim Planning Scheme 2015, which is when the strategy was prepared. Since then the Tasmanian Planning Scheme – Brighton has come into effect in the municipality, and pole/pylon signs in the Utilities Zone is now prohibited, resulting in the need for an SSQ.

#### **Commission consideration**

10. The Commission agree with the planning authority that the Brighton industrial estate is of economic significance to the southern region of Tasmania and note that the SSQ would provide for updated and appropriate wayfinding to the industrial estate reflecting this significance.
11. The Commission considers that the draft amendment meets section 32(4)(a) of the Act.

#### **Regional and local land use strategies**

12. The relevant regional strategy is the Southern Tasmania Regional Land Use Strategy (regional strategy).
13. In its section 40F report the planning authority considers that updating the appearance of the estate aligns with the regional strategy as it would attract investment and therefore be consistent with the Southern Tasmania Industrial Land Strategy. It is noted in the section 40F report that the Southern Tasmania Industrial Land Strategy forms part of the background documents of the regional strategy.
14. In addition to the regional land use strategy the planning authority submit that the draft amendment is consistent with strategies S2.3 and S3.1 of the Brighton Council Strategic Plan 2019-2029 (local strategy).

#### **Commission consideration**

15. The Commission agrees with the planning authority that the draft amendment supports the policies and actions of the regional strategy.
16. Specifically, the Commission notes that the regional strategy states:

Without providing ample industrial land for industry to grow and expand, there will be pressure to utilise land within Activity Centres for industrial purposes, thereby compromising the mixed-use objectives of an Activity Centre. (p. 70)

17. The planning authority advised at the hearing that investment in the industrial estate is lacking due to its current unwelcoming state. The Commission acknowledge that the draft amendment would assist in implementing a broader place strategy to assist in attracting investors to an existing industrial estate rather than activity centres.
18. The Commission finds that the draft amendment, as far as practicable, is consistent with the regional land use strategy.
19. The Commission also agrees with the planning authority that the draft amendment has regard to the local strategy.

### **State Policies and Resource Management and Planning System Objectives**

20. The Commission finds that no State Policies are relevant to the draft amendment and that the draft amendment generally seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

### **Modifications required to draft amendment**

21. Under section 40M of the Act the Commission must consider whether modifications to a draft amendment of an LPS ought to be made.
22. The representation from State Growth expressed concerns relating to the ambiguity of the draft amendment in relation to the precise location of future signs in the event that the permit did not proceed. In response to the representation, the planning authority recommended a modification in their section 40K report that the SSQ ordinance be amended to include GPS coordinates, and the SSQ overlay mapping be amended to contain a 10m x 10m 'building envelope' on each of the titles to narrow the future locations of the signs on the lots. The planning authority stated that the 10m x 10m approach was chosen rather than an exact GPS location 'point' to allow some flexibility on ground for future construction of the signs. It was advised that the planning authority liaised with State Growth to identify an appropriate site for the pole/pylon signs. It was further advised that the modifications proposed by the planning authority in its section 40K report are satisfactory to both parties.
23. At the hearing the drafting of the proposed modifications were discussed. It is considered that the additional annotations on the SSQ overlay mapping are not in accordance with Practice Note 7.
24. The Commission makes the following modifications to the draft amendment:
  1. Amend the draft amendment overlay mapping by reducing the spatial application of the SSQ to 10m x 10m building envelopes on each title, so the overlay only applies to the portion of each title, reflecting the location of the 'building envelope' submitted by the planning authority and supported by State Growth;
  2. Insert a new BRI reference 'BRI-21.2' into the SSQ table to create a separate listing of each sign in the table; and
  3. Amend the description of the SSQ to include the relevant zone.
25. The modification to the draft amendment is outlined in Annexure A.

## Decision on draft amendment

26. Subject to the modifications described above, the Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.

## Consideration of the permit

27. In its consideration of the permit under section 42A of the Act, the Commission is required to review the planning authority's decision as reported under section 42B.

## Planning scheme provisions

28. The proposed development is discretionary under the Signs Code due to clauses C1.6.1 (P1), C1.6.2 (P1), C1.6.3 (P1) and C1.6.4 (P1). The planning authority considers that the signs are appropriate as they form a landmark entrance signs in prominent road reserves nearby to the entrance to the industrial estate, creating a recognisable identity and a greater sense of arrival and place.
29. The planning authority have addressed the performance criteria for each of these discretions in the section 40F report. It considers that the signs have been suitably designed and will improve the appearance of the entrance to the industrial estate and will not cause visual clutter along Midland Highway.
30. The traffic report prepared by Howarth & Associates dated February 2022 has identified that the signs comply with sightline requirements and are of a size suitable for motorists to read without distraction at high speeds. The report states:
- The Midland Highway is subject to a 110km/hr speed limit, signs are typically sized based on the speed of the road therefore it is compatible with the road environment. (p. 16)
31. The signs are also proposed to be partially illuminated. The traffic report identifies that the illumination of the signs would be a static, non-electronic display. It is stated that the illumination will comply with the current Australian Standards.
32. One of the signs would be located on a local heritage place listed in the Local Historic Heritage Code and requires a discretionary assessment under clause C1.6.4.
33. The local heritage listed place applies to a property containing a dwelling and farmland. In its section 40F report the planning authority considers that:
- The sign will not detract from the heritage significance of the site as it is to be located in a road reserve on a National Highway which is separated by some distance from the rest of the property to the east containing and dwelling and farmland. (p. 101)
34. Lastly, the site is subject to the Bridgewater Quarry Specific Area Plan (SAP) which requires development to be compatible with the operations of the Bridgewater Quarry. There is no acceptable solution in the SAP.
35. The planning authority consider that the signs are highly unlikely to impact the operations of the quarry. Additionally, the application was referred to the operator of the quarry who raised no issue with the proposal.

## Commission consideration

36. The Commission is satisfied with the planning authority's assessment of the permit under the planning scheme provisions.

### **Modification to permit conditions**

37. At the hearing, the Commission and planning authority discussed the conditions of the draft permit. The following conditions require modifying, deleting or adding as a result of the representations received and clarification of the intention of the permit condition.
- Condition 1 is modified to list the endorsed plans.
  - Condition 2 is deleted as the permit cannot be appealed under section 53 of the Act.
  - Condition 4 is modified to require the advice of Council's General Manager with consideration of advice from Department of State Growth.
  - Condition 7 is deleted as a permit of works within the state road reserve this is a matter unrelated to the planning permit.
  - A new condition is added that incorporates the condition listed in the TasWater representation.
38. The new condition was not included in the permit endorsed by the planning authority or recommended in the section 40K report. The condition was discussed at the hearing where it was agreed that it should be added to the permit as requested by TasWater.

### **Decision on permit**

39. The Commission modifies the conditions attached to the permit granted by the planning authority, as set out above.

### **Attachments**

Annexure A – Modified amendment

Annexure B – Modified permit

## Annexure A

Modified amendment RZ2022/01

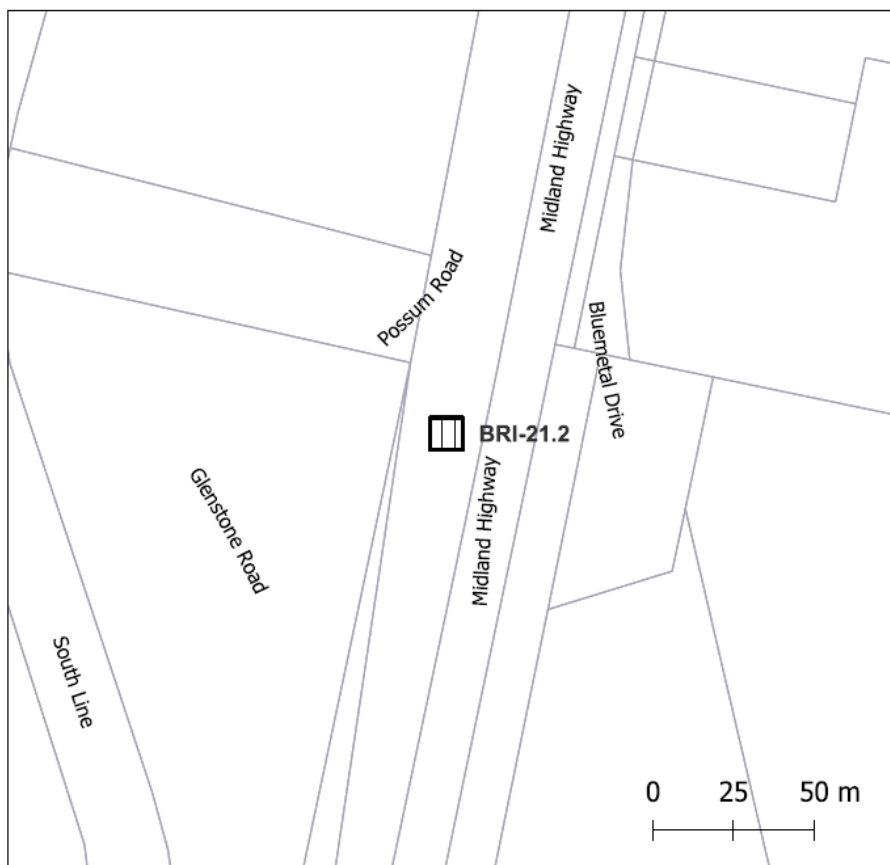
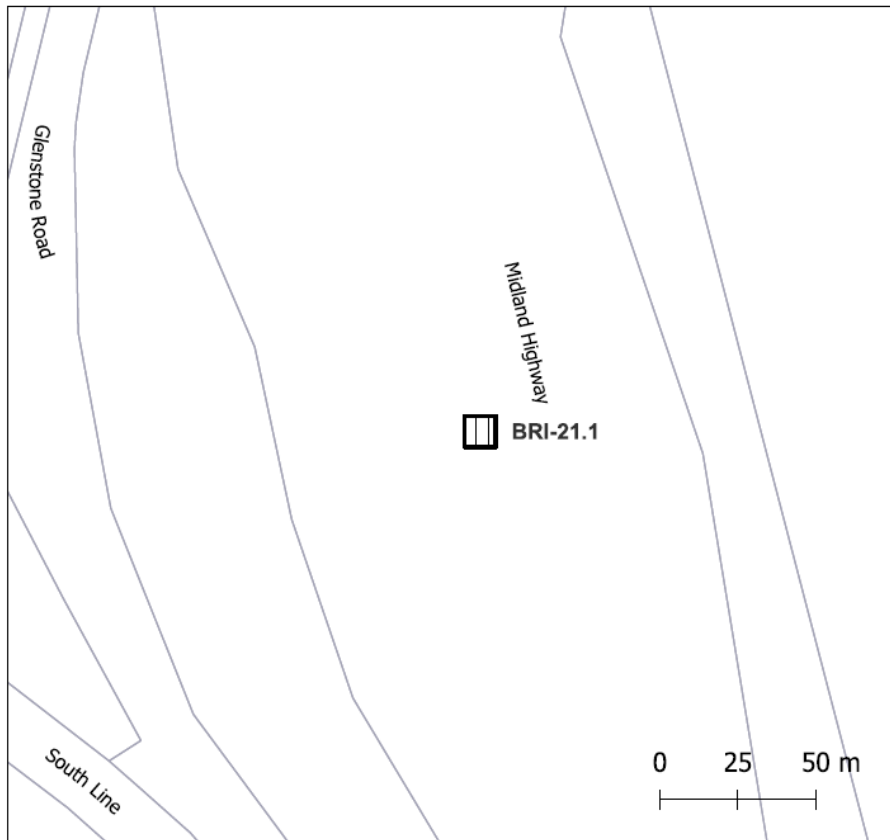
- a) Amend the planning scheme ordinance to insert Site Specific Qualifications BRI-21.1 and BRI-21.2 as follows:

### BRI - Site-Specific Qualifications

Reference Number	Site reference	Folio of the Register	Description (modification, substitution or addition)	Relevant Clause in State Planning Provisions
BRI-21.1	Midlands Highway, Bridgewater	Part of 156374/1	An additional Applicable Zone for one (1) Pole/Pylon Sign Type for this site - Utilities Zone.	Signs Code – clause C1.6 Sign Standards
BRI-21.2	Midlands Highway, Bridgewater	Part of 152012/1	An additional Applicable Zone for one (1) Pole/Pylon Sign Type for this site - Utilities Zone.	Signs Code – clause C1.6 Sign Standards



- b) Amend the planning scheme maps to insert a Site-Specific Qualification overlay with annotation BRI-21.1 and BRI-21.2 on part of folios of the Register 156374/1 and 152012/1 as shown below:



## Annexure B

### Modified permit DA2022/032

For land described as:

A portion of folios of the Register 152012/1 and 159374/1

This permit allows for:

The land to be developed by two pole/pylon signs and ancillary site works in accordance with the information and particulars set out in the development application and the endorsed drawings.

The following conditions apply to this permit:

- \*1) The use and development must be carried out substantially in accordance with the application form 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. The endorsed drawings include the following:
  - a) Locations Plan, Prepared by Howarth Fisher & Associates, Drawing Number P1, Revision No. 03, Dated 19/1/2022.
  - b) Signage Branding, Prepared by Howarth Fisher & Associates, Drawing Number P4, Revision No. 02, Dated 11/1/2022.
  - c) General Arrangement, Prepared by Howarth Fisher & Associates, Drawing Number P5, Revision No. 03, Dated 2/2/2022.
  - d) Signage Setout, Prepared by Howarth Fischer & Associates, Drawing Number P6, Revision No. 02, Dated 11/1/2022.
  - e) Sign Locations, Prepared by Howarth Fisher & Associates, Drawing Number P7, Revision No. 03, Dated 19/1/2022.
- 2) The colours and materials for the signage must be in accordance with the following endorsed drawings:
  - a) Signage Branding, Prepared by Howarth Fisher & Associates, Drawing Number P4, Revision No. 02, Dated 11/1/2022.
  - b) General Arrangement, Prepared by Howarth Fisher & Associates, Drawing Number P5, Revision No. 02, Dated 11/1/2022.
  - c) Signage Setout, Prepared by Howarth Fisher & Associates, Drawing Number P6, Revision No. 02, Dated 11/1/2022.

Any variation in the colours and materials must be submitted to and approved by the Council's Manager Development Services.
- \*3) The illumination of the signs must be in accordance with the relevant Australian Standard/s and the advice of Council's General Manager, having regard to any advice from Department of State Growth.
- 4) Southern sign not to be placed within 10m from back of kerb on Midland Highway.

- 5) The developer must pay the cost of any alternations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.
- 6) Before any work commences install temporary run-off, erosion and sediment controls and maintain these at full operational capacity until the land is effectively rehabilitated and stabilised after completed 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.
- 7) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Development Services:

Monday to Friday	7:00 a.m. to 6:00 p.m.
Saturday	8:00 a.m. to 6:00 p.m.
Sunday and State-wide public holidays	10:00 a.m. to 6:00 p.m.
- 8) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function, and safety or any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
  - a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, wastewater, waste products, frit or otherwise.
  - b) The transportation of materials, goods, and commodities to and from the land.
  - c) Obstruction of any public footway or highway.
  - d) Appearance of any building works or materials.
- 9) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
- 10) The development must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.
- \*11) The signage must be located no closer than 2.0m from TasWater infrastructure.

**\*permit conditions modified by the decision of the Tasmanian Planning Commission dated 26 September 2022**