
From: Katie Clifton <katie.clifton@brighton.tas.gov.au>
Sent: Wednesday, 25 October 2023 10:05 AM
To: TPC Enquiry
Subject: Draft Amendment RZ2023/02 - Brighton Local Provision Schedule - Email 2 of 2
Attachments: Documents - RZ2023-002 - Part 1.pdf; Documents - RZ2023-002 - Part 2.pdf

Good afternoon,

Pursuant to Section 40F (4) of the *Land Use Planning and Approvals Act 1993*, please see attached documentation regarding draft amendment RZ2023/02 to the Brighton Local Provision Schedule.

REGARDS,

KATIE CLIFTON
ADMIN OFFICER – DEVELOPMENT SERVICES



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going places



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VISION

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We acknowledge the traditional owners who once walked this country, the Mumirimina people, the original custodians of the skies, land and water of kutalayna (Jordan River). We forward our respect to the palawa/pakana (Tasmanian Aboriginal) community as the traditional and original owners of lutruwita (Tasmania).

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Officer: Jo Blackwell
Direct ☎ (03) 62687041

Date: 19th October 2023
Our Ref.: RZ2023/002

Manager
Tasmanian Planning Commission
GPO Box 1691
HOBART TAS 7001

Dear Sir,

Draft Planning Scheme Amendment (RZ 2023/002) 203 and 205 Old Beach Road, Old Beach

Council resolved at its meeting of 17th October 2023 to initiate draft amendment RZ2023/002 to the *Tasmanian Planning Scheme including the Brighton Local Provisions Schedule* to:

- Rezone the affected land from Future Urban Zone to General Residential Zone, Low Density Residential Zone, Environmental Management Zone and Open Space Zone
- Amend the Priority Vegetation overlay
- Insert the Flood Prone Hazard overlay

In accordance with s.35(4) of LUPAA, enclosed is the following: -

- Copy of draft amendment and instrument of certification.
- Officer report to Council and minutes of the meeting.

The draft amendment will be exhibited from 23rd October 2023 until 4:45 PM on 20th November 2023. Owner/occupiers of the affected sites and those adjoining shall also be notified in writing.

For further information on this amendment please contact the above officer.

Yours faithfully,

Jo Blackwell
Senior Planner

5.1 Planning Scheme Amendment to the Brighton Local Provisions Schedule Rezone 203 and 205 Old Beach Road, Old Beach from Future Urban Zone to General Residential Zone, Low Density Residential Zone, Environmental Management Zone and Open Space Zone

Author: Jo Blackwell – Acting Director Development Services

Requested by:	JMB Engineers & Planners obo Great Divide Developments Pty Ltd
Owner/s:	Mark Nolan; Lisa Schimanski
Address:	<ul style="list-style-type: none"> • 203 Old Beach Road, Old Beach (CT 123119/1) • 205 Old Beach Road, Old Beach (CT 135401/7)
Proposal:	<p>Amend the planning scheme map to:</p> <ul style="list-style-type: none"> • Rezone the land at 203 and 205 Old Beach Road, Old Beach from Future Urban Zone to General Residential Zone, Low Density Residential Zone, Environmental Management and Open Space Zone as shown in Annexure A. • Amend the Priority Vegetation Overlay from 203 and 205 Old Beach Road, Old Beach, as shown in Annexure B. • Insert the Flood Prone Hazard Overlay over 203 and 205 Old Beach Road, Old Beach, as shown in Annexure C.
Planning Scheme:	Tasmanian Planning Scheme - Brighton
Attachments	<p>Attachment A: s37 Rezoning proposal and appendices A - H</p> <p>Attachment B: Instrument of Certification</p> <p>Attachment C: Traffic Impact Statement (Midson Traffic)</p>

EXECUTIVE SUMMARY

The purpose of this report is for the planning authority to consider an application received under s37 of the *Land Use Planning and Approvals Act 1993* (the Act) to:

- rezone land at 203 and 205 Old Beach Road, Old Beach (the Site) from Future Urban Zone to General Residential Zone, Low Density Zone, Environmental Management Zone and Open Space Zone.
- To remove the priority vegetation overlay from the proposed General Residential Zone area, based on the Natural Values advice from EnviroDynamics.
- Apply the flood prone hazards overlay based on flood modelling,

To proceed the planning authority must be satisfied that the draft amendment of the Brighton Local Provisions Schedule (LPS) meets the LPS criteria under section 34 of the Act. This report outlines how the proposed draft amendment satisfies each of the criteria.

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 Commission who will likely invite any representors to attend a public hearing.

The amendment is to implement the Master Plan and recommendations of key strategic planning documents that have had input from the community and endorsed by the Council.

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

LEGISLATIVE AND POLICY CONTENT

The purpose of this report is for the planning authority to consider whether to prepare a draft amendment of an LPS as described in this report and as shown in the Instrument of Certification at Attachment A.

The amendment request is made under section 37 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 38 of the Act requires Council 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.

RISK AND IMPLICATIONS

The purpose of the amendment is to rezone land to general residential zone, low density residential, environmental management, and open space zones. The proposal will create opportunities for additional housing supply in Old Beach and apply appropriate zoning to the balance of the site to address site constraints such as flood risks. There is a risk that if the amendment is not approved there will continue to be an inadequate supply residential land within the Greater Hobart Urban Growth Boundary to meet anticipated demand in the Brighton municipality over the next 15- 20 years.

SITE AND SURROUNDS

The site is contained within 203 Old Beach Road (CT 123119/1) and 205 Old Beach Road, Old Beach (CT 135401/7), which is zoned Future Urban pursuant to the Tasmanian Planning Scheme - Brighton (the Scheme). The site is bounded by land zoned General Residential and Open Space, with Rural zoned land located to the east of Old Beach Road (refer Figure 1). Both lots have been developed for residential use and contain a number of outbuildings.

203 Old Beach Road has a land area of 6.676ha, and 205 Old Beach Road has a land area of 5.885ha.

205 Old Beach Road is dissected by a TasWater Bulk Transfer Main, which lays within a 10m wide Pipeline Easement. The existing dwellings are serviced by reticulated water mains. Neither site is serviced for sewer.

Access to 205 Old Beach Road is via right of way across 203 Old Beach Road from Old Beach Road.

The planning authority approved subdivision application (SA 2022-0044) at its meeting in May 2023, which provided approval for a total of 4 lots across the two existing titles. Access to the additional lots is to be created from Lottie Mews (refer Figure 2). Preliminary plans show a proposed lot layout for an additional 80 lots, if a rezoning to General Residential zone is approved.

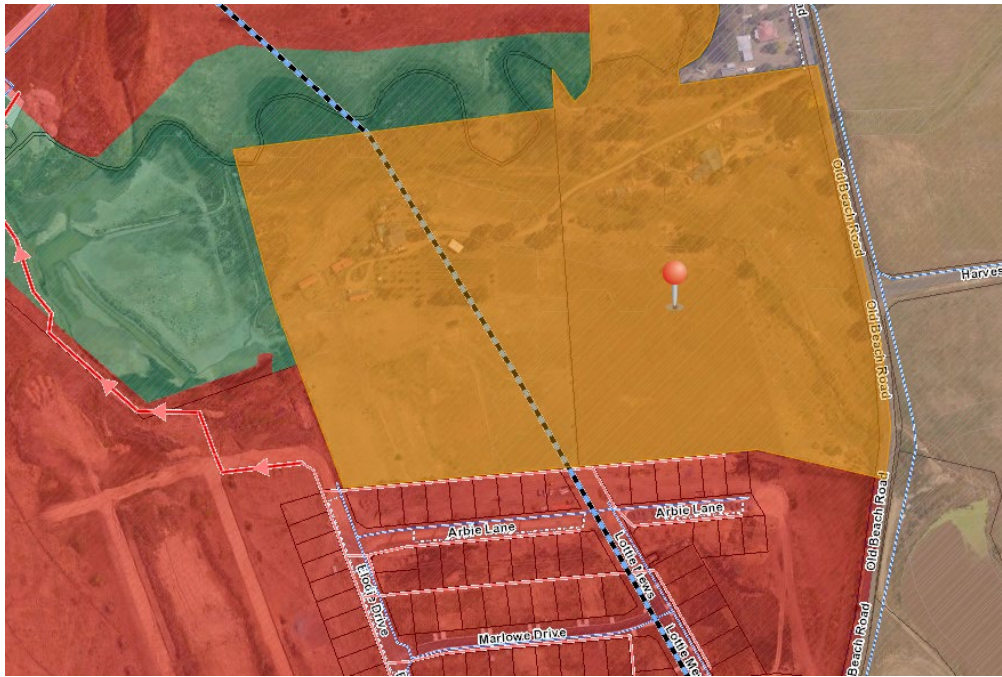


Figure 1: Current Zoning (source: www.thelist.tas.gov.au)

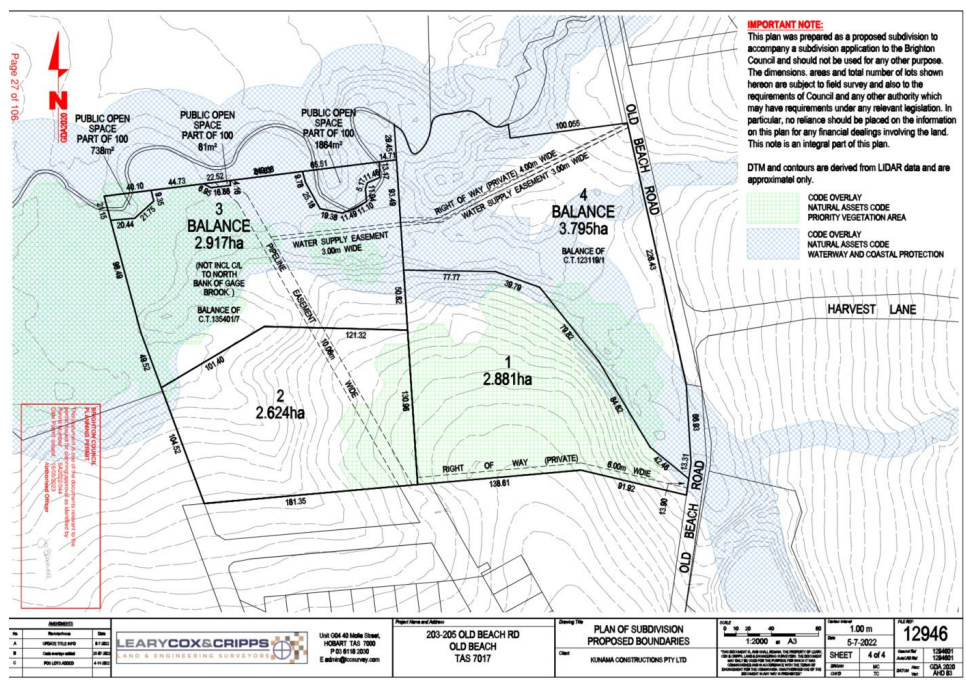


Figure 2: Approved subdivision layout.

OVERLAYS

The site is subject to the following planning scheme overlays.

Bushfire Prone Areas Code

The entirety of the site is covered by the Bushfire Prone Areas Code

Natural Assets Code

Both lots are partially subject to a Natural Assets overlay which identifies both a Waterway and Coastal Protection area and a Priority Vegetation area, as shown in figures 2 and 3.

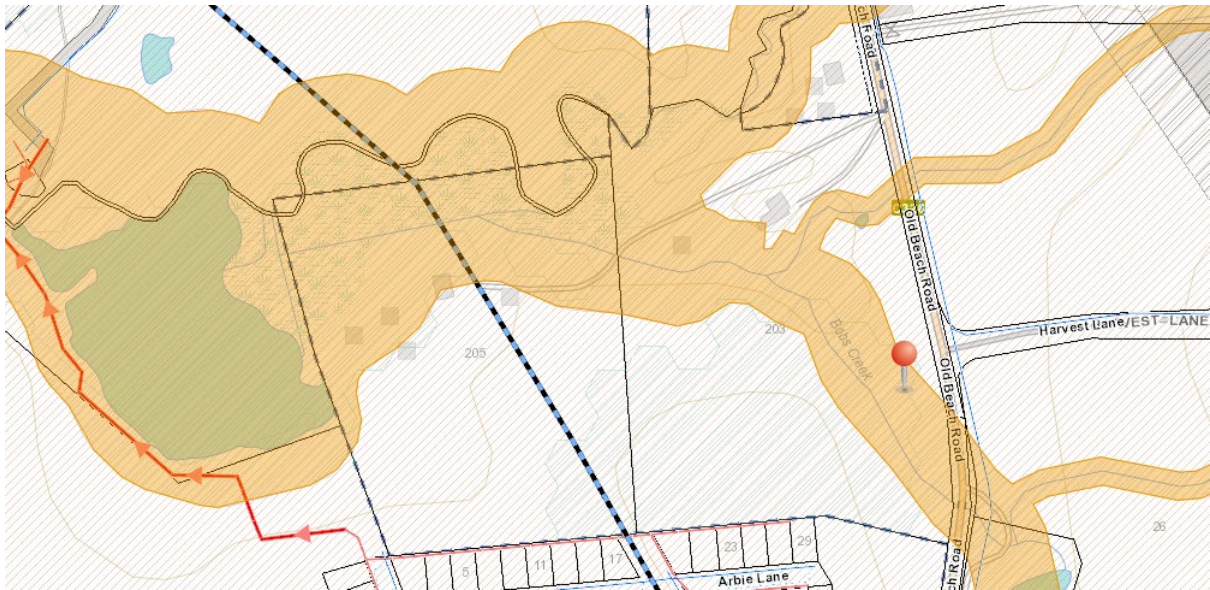


Figure 3: Waterway and Coastal Protection Overlay (source: www.thelist.tas.gov.au)

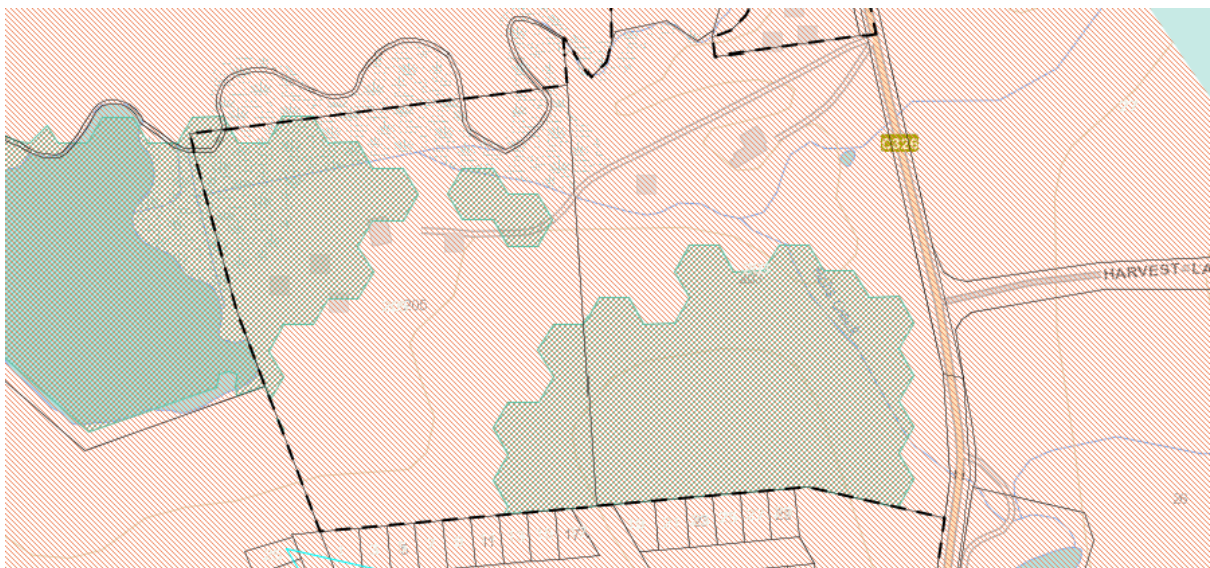


Figure 4: Existing Priority Vegetation mapped overlay (green) (source: www.thelist.tas.gov.au)

PROPOSAL

Pursuant to s37 of the Act, the Applicant seeks to amend the Brighton LPS by:

1. rezoning the land contained in Certificate of Title Volume 123119/1 (203 Old Beach Road, Old Beach) and Certificate of Title Volume 135401 Folio 7 (205 Old Beach Road, Old Beach from Future Urban to General Residential, Low Density Residential, Environmental Management and Open Space, as shown in Figure 5.
2. amending the Priority Vegetation overlay, as shown in figure 6; and
3. inserting the Flood Prone Hazards overlay, as shown in figure 7.

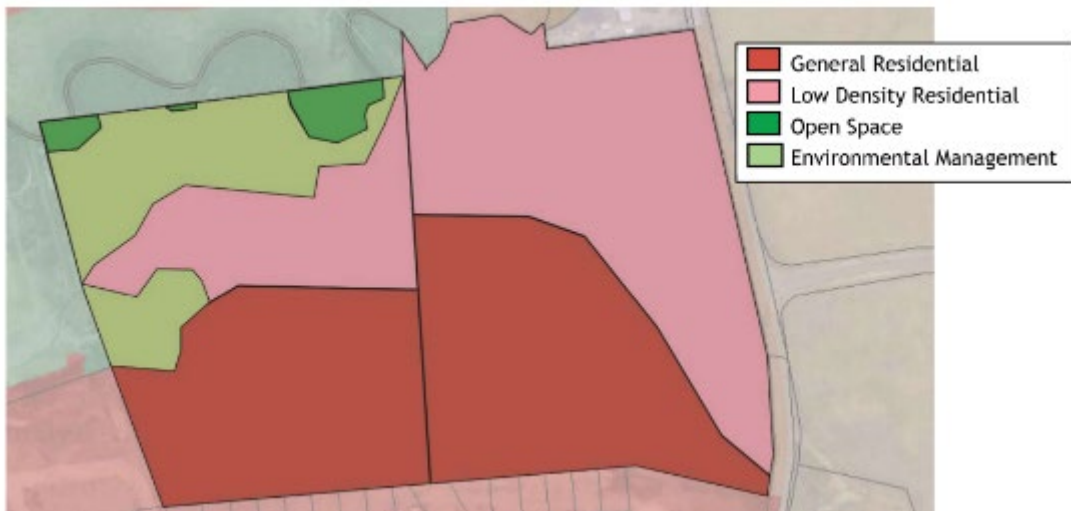


Figure 5: Proposed rezoning (Source: JMG Report, October 2023)



Figure 6: Amended Priority Vegetation overlay (Source: JMG Report, September 2023)



Figure 7: Proposed Flood Prone Hazard overlay for insertion in planning scheme map (Source: JMG Report, September 2023).

The proposal is supported by the attached Rezoning request prepared by JMG Engineers and Planners obo Great Divide Developments Pty Ltd dated September 2023, and includes assessments for traffic impact, natural values and bushfire hazard management.

LEGISLATIVE REQUIREMENTS

Land Use Planning and Approvals Act 1993

The Land Use Planning and Approvals Act 1993 (the Act) is the principal planning Act and forms an essential part of the Resource Management and Planning System (RMPS). The following section considers the applicable criteria under LUPAA 1993.

Objectives of LUPAA

Schedule 1 of the Act sets out the objectives to be furthered by the Act. Table 1 below provides an assessment of the proposed amendment against the objectives of the RMPS and the planning process established by the Act.

Table 1: Assessment against objectives of RMPS and planning process

Part 1	Applicant's Assessment
<p>a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and</p>	<p>The proposed amendment would promote appropriate land use, having regard to the attributes of the subject land and the surrounding land. It will enable future development of the proposed General Residential land, whilst protecting the land proposed to be zoned Low Density Residential, Environmental Management and Open Space, due to the natural, ecological and physical characteristics of the site.</p> <p>Stormwater and wastewater will be managed appropriately and will be controlled by provisions in the applicable zone and codes.</p> <p>The amendment will have minimal impact with regard to ecological processes and genetic diversity and accordingly, the amendment is considered to further Objective (a) of Part 1</p> <p><i>The Applicant's submission is supported</i></p>
<p>b) To provide for the fair, orderly and sustainable use and development of air, land and water; and</p>	<p>The proposed amendment will provide for urban use of land and development in a location that adjoins existing urban land, is capable of being fully serviced with reticulated water and sewerage supply, and is capable of capturing stormwater.</p> <p>Any future development will be required to comply with the existing provisions of the Planning Scheme applicable to the site and will be controlled by provisions in the applicable zones and codes.</p> <p>Accordingly, the amendment is considered to further Objective (b) of Part 1.</p> <p><i>The Applicant's submission is supported</i></p>
<p>c) To encourage public involvement in resource management and planning; and</p>	<p>A public notification period will be conducted in accordance with the requirements of the Act.</p> <p>Accordingly, the amendment is considered to further Objective (c) of Part 1.</p> <p><i>The Applicant's submission is supported</i></p>

<p>d) To facilitate economic development in accordance with the objectives set out in paragraph a), b) and c); and</p>	<p>The proposed amendment will allow for urban use and development that effectively utilises land, and that will promote economic growth through the delivery of urban uses and housing on suitable land.</p> <p>Accordingly, the amendment is considered to further Objective (d) of Part 1.</p> <p><i>The Applicant's submission is supported</i></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 process is demonstrative of the sharing of responsibility for planning.</p> <p>Accordingly, the amendment is considered to further Objective (e) of Part 1.</p> <p><i>The Applicant's submission is supported</i></p>
<p>Part 2</p>	<p>Amendment Response</p>
<p>a) To require sound strategic planning and coordinated action by State and local government; and</p>	<p>The proposed amendment is consistent with the Southern Tasmania Regional Land Use Strategy.</p> <p>Accordingly, the amendment is considered to further Objective (a) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>b) To establish a system of planning instruments to be the principal way of setting objectives, policies and controls of the use, development and protection of land; and</p>	<p>The proposed amendment contributes to an established planning scheme that sets controls for use and development.</p> <p>Accordingly, the amendment is considered to further Objectives (b) of Part 2.</p> <p><i>The Applicant's submission is supported</i></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; and</p>	<p>The existing site is cleared land and will have an acceptable environmental effect as outputs will be controlled through the planning scheme. It also ensures the efficient use of land that is likely to be capable of being fully connected to reticulated services and has existing road infrastructure, promoting compact urban development.</p> <p>Accordingly, the amendment is considered to further Objective (c) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>d) To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource</p>	<p>The proposed amendment is consistent with state, regional and municipal policy as outlined in this report. The proposed amendment does not affect the attainment of this objective.</p>

<p>management policies at State, regional and municipal levels; and</p>	<p>Accordingly, the amendment is considered to further Objective (d) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>e) To provide for the consolidation of approvals for land use or development and relates matters, and to co-ordinate planning approvals with related approvals; and</p>	<p>The proposed amendment does not affect the attainment of this objective.</p> <p>Accordingly, the amendment is considered to further Objective (e) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>f) To promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and</p>	<p>The proposed amendment will directly provide a pleasant, efficient, and safe environment for living, adjacent to existing residential areas.</p> <p>Accordingly, the amendment is considered to further Objective (f) of Part 2.</p> <p><i>It is noted that the application proposes to include the identified flood hazard areas within the Environmental Management Zone and seeks to introduce flood mapping into the planning scheme maps relating to the sites.</i></p> <p><i>The Applicant's submission is supported.</i></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; and</p>	<p>The proposed amendment will have no impact upon listed or identified places of value.</p> <p>Accordingly, the amendment is considered to further Objective (g) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>h) To protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and</p>	<p>The proposed amendment will allow for residential development and will support non-residential uses without adversely impacting on public infrastructure, assets or utilities that is likely to be capable of being fully serviced and with existing road access.</p> <p>Accordingly, the amendment is considered to further Objective (h) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>
<p>i) To provide a planning framework which fully considers land capability.</p>	<p>The proposed amendment does not affect the attainment of this objective.</p> <p>Accordingly, the amendment is considered to further Objective (i) of Part 2.</p> <p><i>The Applicant's submission is supported</i></p>

5.1 Section 34 Land Use Planning and Approvals Act

Section 34(2) of the Act sets out the criteria to be met by a planning instrument. Table 2 provides an assessment against the criteria:

Table 2: Assessment against s34(2) Criteria

Criteria	Assessment
<i>(a) contains all the provisions that the SPPs specify must be contained in an LPS</i>	The proposed amendment accords with the structure and contents of the LPS.
<i>(b) is in accordance with section 32</i>	The proposed amendment is for rezoning in accordance with the relevant application of the specific zones and is therefore in accordance with s32.
<i>(c) furthers the objectives set out in Schedule 1</i>	The proposed amendment meets the objectives of Schedule 1 as discussed above.
<i>(d) is consistent with each State policy</i>	State Policies are addressed later in this report. The proposed amendment is considered to be consistent with each State Policy.
<i>(da) satisfies the relevant criteria in relation to the TPPs</i>	At present, there are no adopted TPPs.
<i>(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;</i>	The regional land use strategy is addressed later in this report. It is considered that the proposed amendment is consistent with the Southern Regional Land Use Strategy 2010 – 2035.
<i>(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;</i>	The proposal is considered to be consistent with the Brighton Strategic Plan 2023-2033.
<i>(g) as far as practicable is consistent with and coordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates.</i>	The site is not adjacent to another LPS.
<i>(h) has regard to the safety requirements set out in the standards prescribed under the Gas Safety Act 2019</i>	The proposed amendment relates to land outside the declared pipeline corridor, and as such will not impact the safety requirements of the Act.

STATE POLICIES

State Coastal Policy 1996

The State Coastal Policy 1996 applies to land within 1km of the high-water mark. The site is within 1km of the high water mark but is separated from coastal waters by the East Derwent Highway, and General Residential and Open Space zoned land on adjoining land. The proposed amendment will not impact the Coastal Zone.

State Policy on the Protection of Agricultural Land 2009 (PAL)

Resource Development (if for agricultural use, except for controlled environment agriculture) is a permitted use pursuant to the Use Table contained in clause 30.2 of the Scheme. Listmap identifies the land capability as Class 4, defining the land as “*Land well suited to grazing but which is limited to occasional cropping or a very restricted range of crops.*”

The layer “Land Potentially Suitable for Agricultural Zone” available on Listmap, does not identify the land as being required to be set aside for agricultural purposes.

Further, conversion to residential uses adjacent to existing residential zoned land is in keeping with PAL pursuant to principle 6 of the policy, in that future subdivision will provide approximately 80 additional lots for residential housing supply, thereby providing significant benefits to the region.

State Policy on Water Quality Management 1997

The s37 application notes that the future residential development of the proposed General Residential zoned land will result in lots being fully connected to reticulated services. The lots within the Low Density Residential, Environmental Management and Open Space zones will protect the values of the waterways corridor, and protect water quality, ecological health, habitat values and water conveyance and supporting the waterway’s corridors.

The applicant's submission is supported relating to state policies is supported.

National Environment Protection Measures (NEPMs)

The proposed amendment is not likely to adversely impact any environmental matters specified in this policy and therefore, deemed consistent with the Policy.

It is considered that the proposed amendment accords with State Policies.

SECTION 8A GUIDELINES

Guideline 1 "Local Provisions Schedule (LPS): zone and code application"¹ (the Guideline) sets out how zones and codes should be applied in the provision of the LPS. Clause 3.4 of the Guideline identifies the primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible.

The proposal includes the conversion of land zoned Future Urban to the General Residential, Low Density Residential, Environmental Management and Open Space Zones. The guidelines relative to each zone are addressed below.

Future Urban Zone

Pursuant to the Brighton Planning Scheme 2000, the site was zoned rural residential. The land was rezoned to PPZ1 - Urban Growth Zone during the transition to the Brighton Interim Planning Scheme 2015, and subsequently identified as Future Urban under the current Planning Scheme. The section 8A Guidelines note:

FUZ1 The Future Urban Zone should be applied to land identified for future urban development to protect the land from use or development that may compromise its future development, consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.

General Residential Zone

The Zone application guidelines for the General Residential zone require:

GRZ 1 The General Residential Zone should be applied to the main urban residential areas within each municipal area which:

(a) are not targeted for higher densities (see Inner Residential Zone); and

(b) are connected, or intended to be connected, to a reticulated water supply service and a reticulated sewerage system.

GRZ 2 The General Residential Zone may be applied to green-field, brown-field or grey-field areas that have been identified for future urban residential use and development if:

(a) within the General Residential Zone in an interim planning scheme;

(b) within an equivalent zone under a section 29 planning scheme; or

(c) justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; and

¹ Guideline No. 1 Local Provisions Schedule (LPS): zone and code application.

https://www.planning.tas.gov.au/__data/assets/pdf_file/0006/583854/Section-8A-Guideline-No.-1-Local-Provisions-Schedule-LPS-zone-and-code-application-version-2.pdf

(d) is currently connected, or the intention is for the future lots to be connected, to a reticulated water supply service and a reticulated sewerage system,

Note: The Future Urban Zone may be used for future urban land for residential use and development where the intention is to prepare detailed structure/precinct plans to guide future development.

GRZ 3 The General Residential Zone should not be applied to land that is highly constrained by hazards, natural values (i.e. threatened vegetation communities) or other impediments to developing the land consistent with the zone purpose of the General Residential Zone, except where those issues have been taken into account and appropriate management put into place during the rezoning process.

Comment

The proposal accords with GRZ 1 and GRZ 2 in that:

- (a) it is intended under future division of land to create lots to be connected to reticulated water supply service and a reticulated sewerage system;
- (b) the land is identified within the Southern Tasmanian Regional Land Use Strategy as being within the Urban Growth Boundary. As previously noted, the land is currently zoned Future Urban. There is an expectation that future subdivision will connect with the Tivoli Green precinct.

Accordingly, the Applicant's proposal to rezone land to general residential is supported.

Low Density Residential Zone

The land identified to be zoned Low Density Residential in figure 5 complies with the Guidelines in that the land is identified as having environmental constraints relating to flooding and priority vegetation:

LDRZ 1 The Low Density Residential Zone should be applied to residential areas where one of the following conditions exist:

- (a) *residential areas with large lots that cannot be developed to higher densities due to any of the following constraints:*
 - (i) *lack of availability or capacity of reticulated infrastructure services, unless the constraint is intended to be resolved prior to development of the land; and*
 - (ii) *environmental constraints that limit development (e.g. land hazards, topography or slope); or*
- (b) *small, residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services; or*

- (c) *existing low density residential areas characterised by a pattern of subdivision specifically planned to provide for such development, and where there is justification for a strategic intention not to support development at higher densities.*
- LDRZ 2 *The Low Density Residential Zone may be applied to areas within a Low Density Residential Zone in an interim planning scheme or a section 29 planning scheme to lots that are smaller than the allowable minimum lot size for the zone, and are in existing residential areas or settlements that do not have reticulated infrastructure services.*
- LDRZ 3 *The Low Density Residential Zone should not be applied for the purpose of protecting areas of important natural or landscape values.*
- LDRZ 4 *The Low Density Residential Zone should not be applied to land that is targeted for greenfield development unless constraints (e.g. limitations on infrastructure, or environmental considerations) have been identified that impede the area being developed to higher densities.*

Comment

The proposal is considered to satisfy both LDRZ 1(a) and LDRZ 4, given the existing constraints on the site relating to natural values and waterway and coastal protection overlays.

Environmental Management Zone

The land identified for rezoning to environmental management zone includes riparian and flood affected areas identified in the applicant's Flood Report, which forms part of this application.

The Zone application guidelines for the environmental management zone are:

EMZ 1 The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values, such as:

- (a) land reserved under the Nature Conservation Act 2002;*
- (b) land within the Tasmanian Wilderness World Heritage Area;*
- (c) riparian, littoral or coastal reserves;*
- (d) Ramsar sites;*
- (e) any other public land where the primary purpose is for the protection and conservation of such values; or*
- (f) any private land containing significant values identified for protection or conservation and where the intention is to limit use and development.*

EMZ 2 The Environmental Management Zone should be applied to land seaward of the high water mark unless contrary intention applies, such as land with existing, or intended for:

- (a) passive recreation opportunities (see Open Space Zone);*
- (b) recreational facilities (see Recreation Zone);*

(c) large scale port and marine activities or facilities (see Port and Marine Zone);

(d) industrial activities or facilities (see industrial zones); or

(e) major utilities infrastructure (see Utilities Zone).

EMZ 3 The Environmental Management Zone may be applied to land for water storage facilities directly associated with major utilities infrastructure, such as dams.

Comment

The land is privately owned land. The proposed zoning is intended to limit use and development due to the risk associated with the identification of the land as a high risk flood area. The applicant notes that EMZ 3 is partly applicable to the site as some of the area proposed for environmental management zoning will be used for a sewer pump station. This location of any service infrastructure will be a matter for assessment pursuant to any future application for subdivision. It is noted that utilities such as a sewer pump station will be a discretionary use within the environmental management zone.

Open Space Zone

The small parcels of land which have been identified for rezoning to open space zone are riparian areas, adjacent to Bob's Creek. A condition of the subdivision approval SA 2022/44 requires the land to be zoned open space to be contributed to Council pursuant to s117 of the Local Government Act for Public Open Space.

The Guidelines Identify that Open Space (OSZ 1) "*should be applied to land that provides, or is intended to provide, for the open space needs of the community, including land identified for: (a) passive recreational opportunities; or (b) natural or landscape amenity within an urban setting.*"

REGIONAL POLICIES

Southern Tasmanian Regional Land Use Strategy 2010 - 2035

As required under s34(2)(e) of the Act, the proposed amendment must be, as far as practicable, consistent with the regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS).

An assessment against the Regional Policies is contained within the Applicant's s37 application, and replicated below.

Strategic Directions	Amendment Response
<i>(1). Adopting a More Integrated Approach to Planning and Infrastructure</i>	<p>The proposed amendment relates to cleared and altered land adjacent to existing residential uses that is likely to be capable of being fully serviced by existing social and physical infrastructure systems including reticulated services and road access. The use of the subject site for use and development as proposed in the amendment would ensure that land use and infrastructure planning are coordinated.</p> <p>The amendment is considered to align with Strategic Direction 1.</p>
<i>(2). Holistically Managing Residential Growth</i>	<p>The proposed amendment enables a contained settlement pattern. It is anticipated that the land can be adequately serviced. Any future development will be required to comply with the existing provisions of the Planning Scheme that will help create a more compact settlement pattern, with existing zone controls enabling the delivery of a diversity of housing and supporting uses.</p> <p>The amendment is considered to align with Strategic Direction 2.</p>
<i>(6). Increasing Responsiveness to our Natural Environment</i>	<p>The proposed amendment is on land with identified risk, however, existing codes and zone provisions within the current planning scheme will adequately manage these risks.</p>
<i>(8). Supporting Strong and Healthy Communities</i>	<p>The proposed amendment would enable denser urban development to be delivered within an existing settlement, which will provide good access to community services and education and health facilities within the existing urban area, on land that is accessible and well designed and located.</p>
<i>(10). Creating Liveable Communities</i>	<p>The proposed amendment supports a liveable community by providing increased housing options close to living services such as transport, parks and community facilities.</p>

Relevant STRLUS policies relating to residential growth are as follows:

- SRD2.1 Ensure residential growth for Greater Hobart occurs through 50% infill development and 50% greenfield development.
- SRD 2.2 Manage greenfield growth through an Urban Growth Boundary, which sets a 20-year supply limit with associated growth limits on dormitory suburbs.
- SRD 2.3 Provide greenfield land for residential purposes across the following Greenfield Development Precincts: Bridgewater North, Brighton South, Gagebook/Old Beach.
- SRD 2.6 Distribute residential infill growth across the existing urban areas for the 25-year planning period as follows: Brighton LGA 15% (1,987 dwellings). It is noted that this is in addition to greenfield development.
- SRD 2.7 Ensure that the residential zone in planning schemes does not encompass more than a 10-year supply of residential land.
- SRD 2.8 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.
- SRD 2.9 Investigate the redevelopment to higher densities potential of rural residential areas close to the main urban extent of Greater Hobart.

The proposal supports the achievement of the above policies through allowing greenfield residential development, within the urban growth boundary, close to the main urban extent of Greater Hobart.

More specifically, the following regional policies are applicable:

- MRH2 Minimise the risk of loss of life and property from flooding;
- SRD 2.2 Manage greenfield growth through an Urban Growth Boundary, which sets a 20 year supply limit with associated growth limits on dormitory suburbs
- SRD 2.3 Provide greenfield land for residential purposes across the following Greenfield Development Precincts:
 - Gagebrook/Old Beach
- SRD 2.4 Recognise that the Urban Growth Boundary includes vacant land suitable for land release as greenfield development through residential rezoning as well as land suitable for other urban purposes including commercial, industrial, public parks, sporting and recreational facilities, hospitals, schools, major infrastructure, etc

It is considered that the proposed amendment continues to further the objectives of STRLUS. The applicant's assessment is supported.

Brighton Council Strategic Plan 2023-2033

Section 34(2)(f) of the Act requires consideration of Council's strategic plan prepared under s66 of the Local Government Act 1993. The proposed amendment is consistent with the below relevant strategies from the Brighton Council Strategic Plan 2023-2033:

- 1.3 Ensure attractive local areas that provide social, recreational and economic opportunities.
- 2.2 Encourage respect and enjoyment of the natural environment.
- 2.3 Demonstrate strong environmental stewardship and leadership.
- 3.2 Infrastructure development and service delivery are guided by strategic planning to cater for the needs of a growing and changing population.
- 3.4 Advocate and facilitate investment in our region.
- 4.1 Be big picture, long term and evidence-based in our thinking.

The proposed amendment does not conflict with any of Council's strategies.

Brighton Structure Plan 2018

While consistency with the Brighton Structure Plan 2018 (the Structure Plan) is not a legislative requirement under the Act, it does represent orderly and sound strategic planning direction for the Brighton Municipal Area.

The Structure Plan guides the major changes to land use, built form and public spaces that together can achieve identified economic, social and environmental objectives for years 2018-2023.

The proposed amendment is consistent with the following strategies identified in the Structure Plan:

- Strategy 1: Maintain an urban growth boundary
- Strategy 2: Plan for housing growth within the urban growth boundary
- Strategy 3: Increase housing diversity

8.9 Local Provisions Schedule

The relevant planning instrument is the *Tasmanian Planning Scheme - Brighton Local Provisions Schedule* (the Planning Scheme).

The subject site is located within the Future Urban Zone. It is subject to the Bushfire Prone Areas overlay, Waterway and Coastal Protection overlay and the Priority Vegetation overlay.

Zone Purpose

The Tasmanian Planning Scheme – Brighton including the Local Provisions Schedule establishes a set of objectives for achieving sustainable use and development of land, which are relevant for the consideration of any planning scheme amendment.

It is relevant for this amendment to outline the relevant provisions which relate to the proposed amendment to rezone the land to General Residential, Low Density Residential, Environmental Management and Open Space zones.

Clause 8.0 - General Residential Zone

8.1 Zone Purpose

The purpose of the General Residential Zone is:

- 8.1.1 To provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided.
- 8.1.2 To provide for the efficient utilisation of available social, transport and other service infrastructure.
- 8.1.3 To provide for non-residential use that:
 - (a) primarily serves the local community; and
 - (b) does not cause an unreasonable loss of amenity through scale, intensity, noise, activity outside of business hours, traffic generation and movement, or other off site impacts.
- 8.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Clause 10.0 - Low Density Residential Zone

10.1 Zone Purpose

The purpose of the Low Density Residential Zone is:

- 10.1.1 To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location or form of development.
- 10.1.2 To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off site impacts.
- 10.1.3 To provide for Visitor Accommodation that is compatible with residential character.

Clause 23.0 Environmental Management Zone

23.1 Zone Purpose

The purpose of the Environmental Management Zone is:

- 23.1.1 To provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value.
- 23.1.2 To allow for compatible use or development where it is consistent with:
 - (a) the protection, conservation and management of the values of the land; and
 - (b) applicable reserved land management objectives and objectives of reserve management plans.

Clause 29.0 - Open Space Zone

29.1 Zone Purpose

The purpose of the Open Space Zone is:

29.1.1 To provide land for open space purposes including for passive recreation and natural or landscape amenity.

29.1.2 To provide for use and development that supports the use of the land for open space purposes or for other compatible uses

The proposal is considered to be consistent with each zone's purpose.

Allowable Uses

The following tables set out the comparison of uses between the current Future Urban zoning to General Residential, Low Density Residential and Open Space zoning.

Table 3: Comparison of uses of 'Future Urban' to 'General Residential'

Status	Future Urban Zone (Current)	General Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation 	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation Residential (if for a single dwelling) Utilities (if for minor utilities)
Permitted	<ul style="list-style-type: none"> Residential (if for a single dwelling or home-based business) Resource development (if for agricultural use, excluding controlled environment agriculture). Utilities (if for minor utilities) 	<ul style="list-style-type: none"> Residential (if not listed as No Permit Required) Visitor Accommodation
Discretionary	<ul style="list-style-type: none"> Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> Business and professional services (if for a consulting room, medical centre, veterinary centre, child health clinic, or for the provision of residential support services). Community meeting and entertainment (if for a place of worship, art and craft centre, public hall, community centre, or neighbourhood centre). Education and Occasional Care (if not for a tertiary institution) Emergency services

		<ul style="list-style-type: none"> • Food Services (if not for a takeaway food premises with a drive through facility). • General retail and Hire (if for a local shop) • Sport and Recreation (if for a fitness centre, gymnasium, public swimming pool or sports ground). • Utilities (if not listed as No Permit required)
Prohibited	All other uses	All other uses

Table 4: Comparison of uses "Future Urban" to "Low Density Residential"

Status	Future Urban Zone (Current)	Low Density Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation 	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation • Residential (if for a single dwelling) • Utilities (if for minor utilities)
Permitted	<ul style="list-style-type: none"> • Residential (if for a single dwelling or home-based business) • Resource development (if for agricultural use, excluding controlled environment agriculture). • Utilities (if for minor utilities) 	<ul style="list-style-type: none"> • Residential (if not listed as No Permit Required) • Visitor Accommodation
Discretionary	<ul style="list-style-type: none"> • Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> • Business and professional services (if for a consulting room, medical centre, veterinary centre, child health clinic, or for the provision of residential support services). • Community meeting and entertainment (if for a place of worship, art and craft centre, public hall). • Education and Occasional Care (if not for a tertiary institution) • Emergency services • Food Services (if not for a takeaway food premises with a drive through facility).

		<ul style="list-style-type: none"> • General retail and Hire (if for a local shop) • Residential (if not listed as No Permit Required or Permitted) • Sport and Recreation (if for a fitness centre, gymnasium, public swimming pool or sports ground). • Utilities (if not listed as No Permit required)
Prohibited	All other uses	All other uses

Table 5: Comparison of uses “Future Urban’ to ‘Environmental Management’

Status	Future Urban Zone (Current)	Environmental Management Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation 	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation
Permitted	<ul style="list-style-type: none"> • Residential (if for a single dwelling or home-based business) • Resource development (if for agricultural use, excluding controlled environment agriculture). • Utilities (if for minor utilities) 	<ul style="list-style-type: none"> • Community Meeting and Entertainment • Educational and Occasional Care • Emergency Services • Food Services • General Retail and Hire • Pleasure boat Facility • Research and Development • Residential If: (a) for reserve management staff accommodation; and (b) an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976. • Resource Development If: (a) for grazing; and (b) an authority under the National Parks and Reserve

		<p>Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976.</p> <ul style="list-style-type: none"> • Sports and Recreation • Tourist Operation • Utilities if: (a) for minor utilities; and (b) an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976. • Visitor Accommodation
Discretionary	<ul style="list-style-type: none"> • Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> • Community Meeting and entertainment* • Educational and occasional care* • Emergency services* • Extractive industry • Food Services* • General Retail and Hire* • Pleasure Boat Facility* • Research and Development* • Resource Development* • Resource Processing • Sports and Recreation* • Tourist Operation* • Utilities * • Vehicle Parking • Visitor Accommodation *
Prohibited	All other uses	All other uses

All but one use in the permitted category are qualified by “If an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976

Discretionary uses marked “*” are qualified “if not listed as permitted”.

Table 6: Comparison of uses 'Future Urban' to 'Open Space'

Status	Future Urban Zone (Current)	Low Density Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation 	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation • Utilities (if for minor utilities)
Permitted	<ul style="list-style-type: none"> • Residential (if for a single dwelling or home-based business) • Resource development (if for agricultural use, excluding controlled environment agriculture). • Utilities (if for minor utilities) 	<ul style="list-style-type: none"> • No Permitted Uses
Discretionary	<ul style="list-style-type: none"> • Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> • Community meeting and entertainment • Emergency services • General retail and Hire • Pleasure Boat Facility • Resource Development (if for marine farming shore facility or other facility that relies upon a coastal location to fulfil its purpose or grazing) • Tourist Operation • Transport Depot and Distribution • Residential (if not listed as No Permit Required or Permitted) • Utilities (if not listed as No Permit required) • Visitor accommodation
Prohibited	All other uses	All other uses

The Applicant has provided an assessment against the comparison of uses. The s37 application notes that the subject land is zoned Future Urban and that the 'principle' of urban use and development has been accepted on the site; the extension of the general residential zone will not have a significant impact on adjoining sites; and will be adequately controlled by existing planning scheme provisions.

Accordingly, it is considered that the rezoning of land from Future Urban to General Residential, Low Density Residential, Environmental Management and Open Space is appropriate.

CODE IMPLICATIONS

In addition to zone assessment, future use and development of the land will be subject to assessment against a number of Codes including:

- Road and Railway Assts Code.
- Parking and Sustainable Transport Code
- Natural Assets Code
- Flood Prone Hazard Areas Code
- Bushfire Prone Areas Code

The application of all Codes will need to be assessed during future development applications.

RELEVANT ISSUES

Traffic and Transport Networks

The applicant has provided a traffic impact statement (TIS) (refer Attachment C) considering impact on the road network which may arise from future development of the site. In summary the TIS identifies that access to the East Derwent Highway will be constrained based on development of the approved lots in the Tivoli Green and any future lots should this amendment be approved.

Council's senior technical officer considers that the TIS does not sufficiently consider the impact of the proposal on the road network.

Recently, a comprehensive Traffic Impact Assessment (Old Beach TIA) has been prepared as part of a broader Old Beach Rezoning project, which has identified limitations in the East Derwent Highway. The proposed rezoning under consideration results in a moderate increase in traffic on the East Derwent Highway above the already approved Tivoli Green development. The 2 main upgrades identified in the Old Beach TIA to accommodate Tivoli Green (and moderate additional development) are located outside the municipality at the Bowen Bridge and Otago Bay. A 3rd upgrade at the Clives Avenue/East Derwent Highway Roundabout is also likely to be required near completion of the existing Tivoli Green subdivision.

These upgrades, particularly the Bowen Bridge and Otago Bay are required irrespective of the rezoning under consideration. The Department of State Growth is currently undertaking a corridor study of the

East Derwent Highway partially in response to concerns raised by Council over the future performance of the East Derwent Highway.

More specifically related to the proposed land to be rezoned, construction of an intersection between Riviera Drive and Old Beach Road is in the final design stages, and will most likely be finalised within the next 6-12 months, which assist by diverting some traffic from Riveria Drive onto Old Beach Road.

Flora and Fauna

The applicant has submitted a Natural Values assessment that was prepared in support of its application for subdivision identified previously in this report. That findings of that report are used to support the applicant's application to amend the Priority Vegetation overlay to delete the overlay from the area to be zoned General Residential.

TasVeg4.0 (Listmap) identifies the land as "modified land". There are no threatened communities, species or species habitats identified on the site.

Based on the Natural Values assessment submitted by the Applicant, the application to remove the priority vegetation overlay from the General Residential land is supported.

Water Sewer and Stormwater

The applicant addresses stormwater, water and sewer on the site. It is considered that reticulated services will be achievable. The existing flood mapping when compared with the proposed concept servicing plan shows a sewer pump station within the H5 Flood Hazard areas, which will need to be reconsidered, should an application for future subdivision be submitted. However, it is considered that there is sufficient scope for the site to be serviced, should it be rezoned to General Residential.

Council's senior technical officer has confirmed that stormwater treatment would be a requirement of any future subdivision application.

ABORIGINAL HERITAGE

The applicant has provided an assessment by Cultural Heritage Management Australia (CHMA) which has determined that there were no sites identified during field study assessment of 203 or 205 Old Beach Road. Accordingly the site has been determined as having a low potential for Aboriginal sites to be present. However, any development of the site will remain subject to the legal and procedural requirements specified by the *Aboriginal Heritage Act 1975*.

9. CONCLUSION

9.1 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.

9.2 On this basis, it is recommended that Council initiate and certify draft amendment RZ 2023-002, as detailed in the attachments to this report.

RECOMMENDATION:

- A. That in accordance with s38(2)(a) of the Land Use Planning and Approvals Act 1993, to be known as draft amendment RZ 2023-02, the Planning Authority agree to rezone the land contained in Certificate of Title Volume 123119 Folio 1 and Certificate of Title Volume 135401 Folio 7, known as 203 Old Beach Road, Old Beach and 205 Old Beach Road, Old Beach respectively.
- B. That in accordance with Section 40F(2)(a) of the Land Use Planning and Approvals Act 1993, Council considers that draft amendment RZ 2023-02 satisfies the provisions of Section 34 of the Land Use Planning and Approvals Act 1993.
- C. That in accordance with Section 40F(3) of the Land Use Planning and Approvals Act 1993, Council directs that draft amendment RZ 2023-02 be certified by instrument in writing affixed with the common seal of the Council; and
- D. 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 2023-02 be given to the Tasmanian Planning Commission within seven (7) days.
- E. 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 RZ 2023-02 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.
- F. That in accordance with Section 40G(1) of the Land Use Planning and Approvals Act 1993, Council directs that draft amendment RZ 2021-03 be placed on public exhibition.

DECISION:



**Brighton
Council**

**EXTRACT OF MINUTES OF THE ORDINARY COUNCIL MEETING
OF THE BRIGHTON COUNCIL, HELD IN THE COUNCIL CHAMBERS,
COUNCIL OFFICES, 1 TIVOLI ROAD, OLD BEACH
AT 5.35 P.M. ON TUESDAY, 17 OCTOBER 2023**

1. Acknowledgement of Country

2. Attendance

Cr Gray (Mayor); Cr De La Torre (5.40pm), Cr Geard, Cr Irons; Cr McMaster; Cr Murtagh, Cr Owen, Cr Whelan

IN ATTENDANCE: Mr J Dryburgh (General Manager); Ms J Banks (Director, Governance & Regulatory Services); Mr D Allingham (Director, Development Services); Mr C Pearce-Rasmussen (Director, Asset Services); Ms G Browne (Director, Corporate Services)

3. Applications for Leave of Absence

Cr Owen moved, Cr Geard seconded that Cr Curran be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

4. Confirmation of Minutes

4.1 Ordinary Council Meeting

The Minutes of the previous Ordinary Council Meeting held on the 19th September 2023 are submitted for confirmation.

RECOMMENDATION:

That the Minutes of the previous Ordinary Council Meeting held on the 19th September 2023, be confirmed.

DECISION:

Cr McMaster moved, Cr Irons seconded that the Minutes of the previous Ordinary Council Meeting held on the 19th September 2023, be confirmed.

CARRIED

VOTING RECORD

In favour	Against
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

4.2 Planning Authority

The Minutes of the Planning Authority Meeting held on the 3rd October 2023 are submitted for confirmation.

RECOMMENDATION:

That the Minutes of the Planning Authority Meeting held on the 3rd October 2023, be confirmed.

DECISION:

Cr Irons moved, Cr Whelan seconded that the Minutes of the Planning Authority Meeting held on the 3rd October 2023, be confirmed.

CARRIED

VOTING RECORD

In favour	Against
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

4.3 Committees of Council

There were no Committee Meetings held during October 2023.

5. Declaration of Interest

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

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

Cr Gray and Cr Irons declared an Interest in Item 12.1

Cr Gray and Cr Irons had declared an interest in the following items and left the room at 5.55pm.

Cr Owen (Deputy) took the Chair for the Planning Authority report.

12. Council Acting as a Planning Authority

Under the provisions of the *Land Use Planning and Approvals Act 1993* and in accordance with Regulation 25 of the *Local Government (Meeting Procedures) Regulations 2015*, the Council will act as a planning authority in respect to those matters appearing under Item 12 on this agenda, inclusive of any supplementary items.

12.1 Planning Scheme Amendment to the Brighton Local Provisions Schedule - Rezone 203 and 205 Old Beach Road, Old Beach from Future Urban Zone to General Residential Zone, Low Density Residential Zone, Environmental Management Zone and Open Space Zone

Author: J Blackwell – Acting Director Development Services

Requested by:	JMB Engineers & Planners obo Great Divide Developments Pty Ltd
Owner/s:	Mark Nolan; Lisa Schimanski
Address:	<ul style="list-style-type: none"> • 203 Old Beach Road, Old Beach (CT 123119/1) • 205 Old Beach Road, Old Beach (CT 135401/7)
Proposal:	<p>Amend the planning scheme map to:</p> <ul style="list-style-type: none"> • Rezone the land at 203 and 205 Old Beach Road, Old Beach from Future Urban Zone to General Residential Zone, Low Density Residential Zone, Environmental Management and Open Space Zone as shown in Annexure A. • Amend the Priority Vegetation Overlay from 203 and 205 Old Beach Road, Old Beach, as shown in Annexure B. • Insert the Flood Prone Hazard Overlay over 203 and 205 Old Beach Road, Old Beach, as shown in Annexure C.
Planning Scheme:	Tasmanian Planning Scheme - Brighton

Executive Summary

The purpose of this report is for the planning authority to consider an application received under s37 of the *Land Use Planning and Approvals Act 1993* (the Act) to:

- rezone land at 203 and 205 Old Beach Road, Old Beach (the Site) from Future Urban Zone to General Residential Zone, Low Density Zone, Environmental Management Zone and Open Space Zone.
- To remove the priority vegetation overlay from the proposed General Residential Zone area, based on the Natural Values advice from EnviroDynamics.
- Apply the flood prone hazards overlay based on flood modelling,

To proceed the planning authority must be satisfied that the draft amendment of the Brighton Local Provisions Schedule (LPS) meets the LPS criteria under section 34 of the Act. This report outlines how the proposed draft amendment satisfies each of the criteria.

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 Commission who will likely invite any representors to attend a public hearing.

The amendment is to implement the Master Plan and recommendations of key strategic planning documents that have had input from the community and endorsed by the Council.

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

Legislative and Policy Content

The purpose of this report is for the planning authority to consider whether to prepare a draft amendment of an LPS as described in this report and as shown in the Instrument of Certification at Attachment A.

The amendment request is made under section 37 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 38 of the Act requires Council 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*.

Risk and Implications

The purpose of the amendment is to rezone land to general residential zone, low density residential, environmental management, and open space zones. The proposal will create opportunities for additional housing supply in Old Beach and apply appropriate zoning to the balance of the site to address site constraints such as flood risks. There is a risk that if the amendment is not approved there

will continue to be an inadequate supply residential land within the Greater Hobart Urban Growth Boundary to meet anticipated demand in the Brighton municipality over the next 15- 20 years.

Site and Surrounds

The site is contained within 203 Old Beach Road (CT 123119/1) and 205 Old Beach Road, Old Beach (CT 135401/7), which is zoned Future Urban pursuant to the Tasmanian Planning Scheme - Brighton (the Scheme). The site is bounded by land zoned General Residential and Open Space, with Rural zoned land located to the east of Old Beach Road (refer Figure 1). Both lots have been developed for residential use and contain a number of outbuildings.

203 Old Beach Road has a land area of 6.676ha, and 205 Old Beach Road has a land area of 5.885ha.

205 Old Beach Road is dissected by a TasWater Bulk Transfer Main, which lays within a 10m wide Pipeline Easement. The existing dwellings are serviced by reticulated water mains. Neither site is serviced for sewer.

Access to 205 Old Beach Road is via right of way across 203 Old Beach Road from Old Beach Road.

The planning authority approved subdivision application (SA 2022-0044) at its meeting in May 2023, which provided approval for a total of 4 lots across the two existing titles. Access to the additional lots is to be created from Lottie Mews (refer Figure 2). Preliminary plans show a proposed lot layout for an additional 80 lots, if a rezoning to General Residential zone is approved.



Figure 1: Current Zoning (source: www.thelist.tas.gov.au)

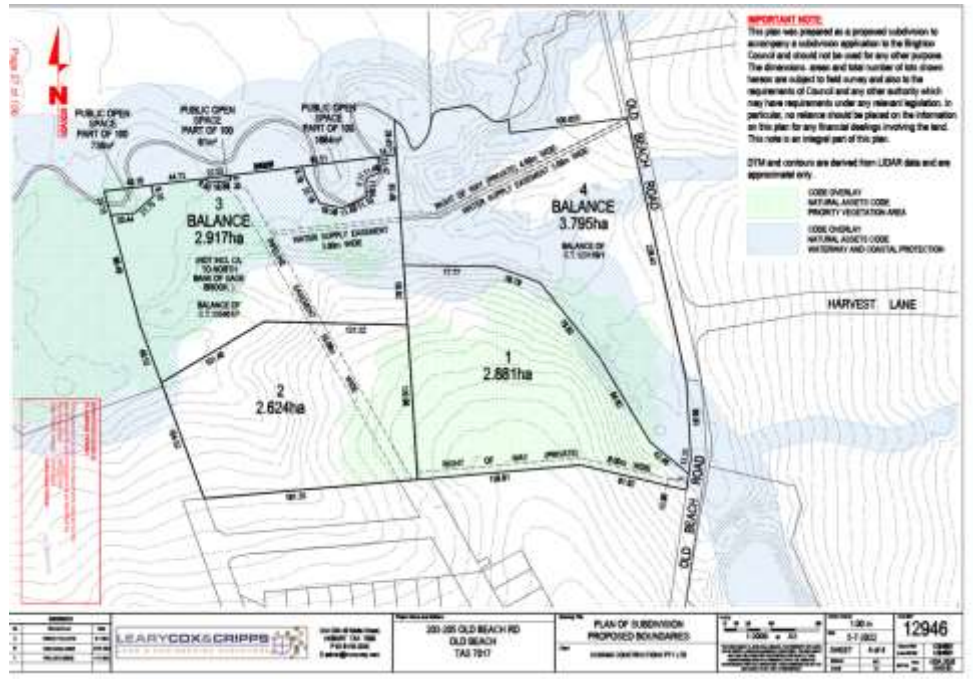


Figure 2: Approved subdivision layout.

Overlays

The site is subject to the following planning scheme overlays.

Bushfire Prone Areas Code

The entirety of the site is covered by the Bushfire Prone Areas Code

Natural Assets Code

Both lots are partially subject to a Natural Assets overlay which identifies both a Waterway and Coastal Protection area and a Priority Vegetation area, as shown in figures 2 and 3.

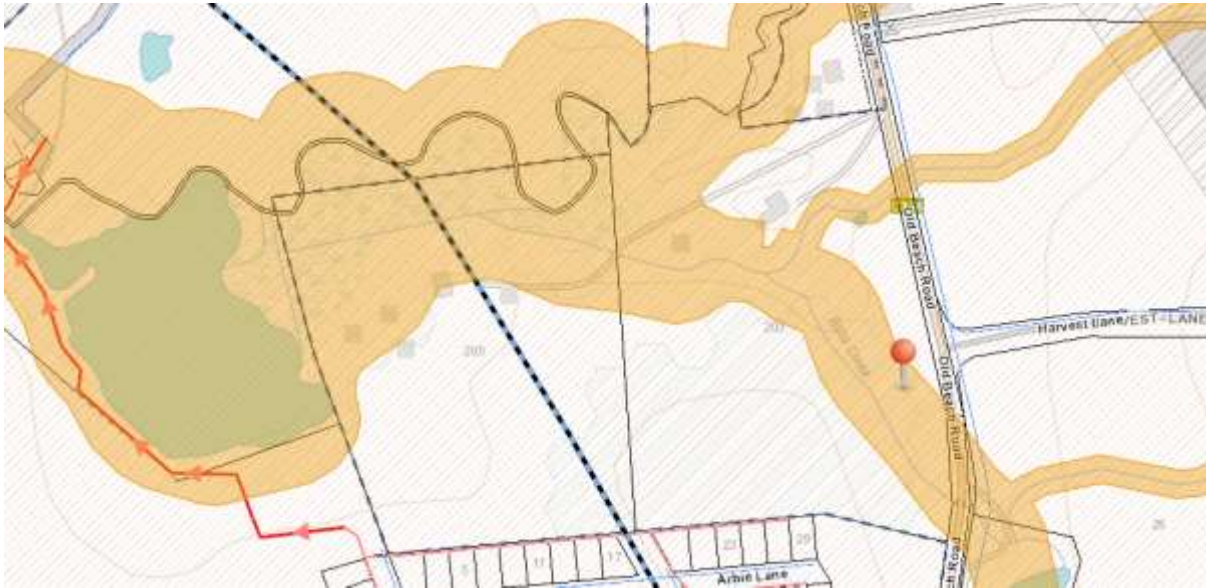


Figure 3: Waterway and Coastal Protection Overlay (source: www.thelist.tas.gov.au)

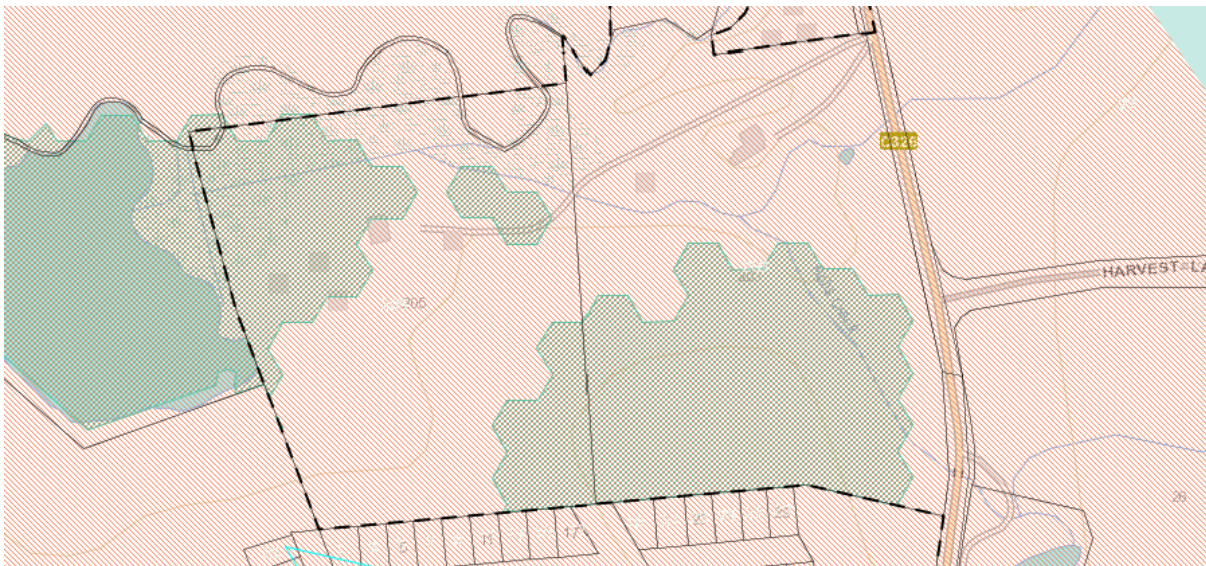


Figure 4: Existing Priority Vegetation mapped overlay (green) (source: www.thelist.tas.gov.au)

Proposal

Pursuant to s37 of the Act, the Applicant seeks to amend the Brighton LPS by:

1. rezoning the land contained in Certificate of Title Volume 123119/1 (203 Old Beach Road, Old Beach) and Certificate of Title Volume 135401 Folio 7 (205 Old Beach Road, Old Beach from Future Urban to General Residential, Low Density Residential, Environmental Management and Open Space, as shown in Figure 5.
2. amending the Priority Vegetation overlay, as shown in figure 6; and
3. inserting the Flood Prone Hazards overlay, as shown in figure 7.

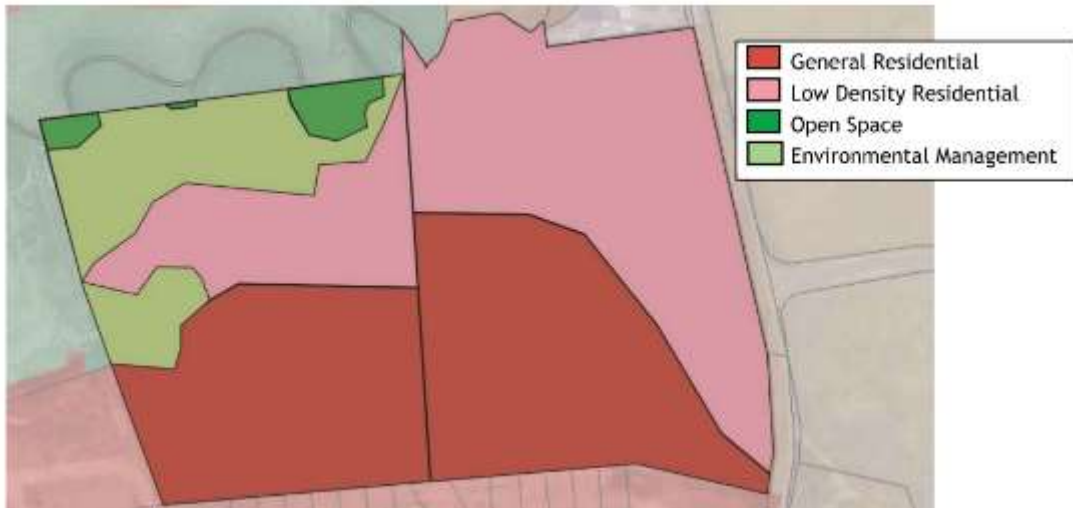


Figure 5: Proposed rezoning (Source: JMG Report, October 2023)

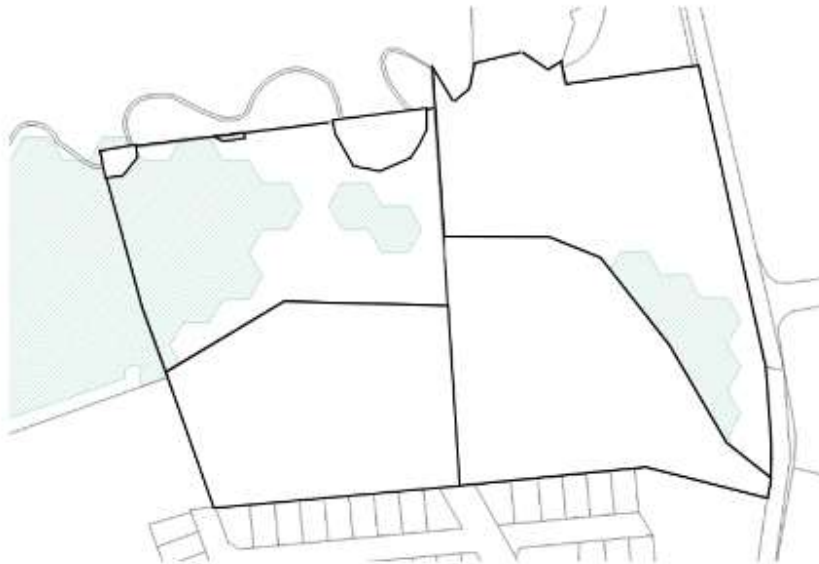


Figure 6: Amended Priority Vegetation overlay (Source: JMG Report, September 2023)

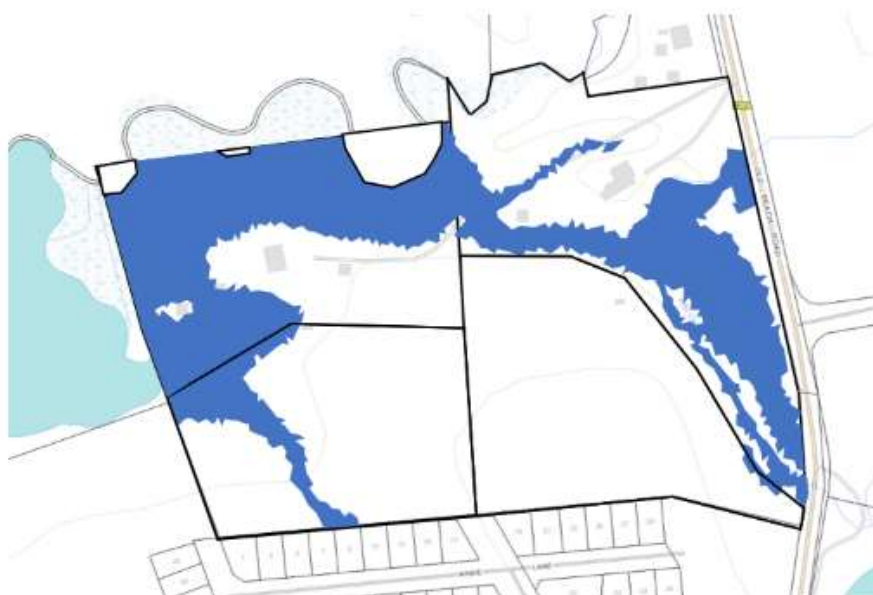


Figure 7: Proposed Flood Prone Hazard overlay for insertion in planning scheme map (Source: JMG Report, September 2023).

The proposal is supported by the attached Rezoning request prepared by JMG Engineers and Planners obo Great Divide Developments Pty Ltd dated September 2023, and includes assessments for traffic impact, natural values and bushfire hazard management.

Legislative requirements

Land Use Planning and Approvals Act 1993

The Land Use Planning and Approvals Act 1993 (the Act) is the principal planning Act and forms an essential part of the Resource Management and Planning System (RMPS). The following section considers the applicable criteria under LUPAA 1993.

Objectives of LUPAA

Schedule 1 of the Act sets out the objectives to be furthered by the Act. Table 1 below provides an assessment of the proposed amendment against the objectives of the RMPS and the planning process established by the Act.

Table 1: Assessment against objectives of RMPS and planning process

Part 1	Applicant’s Assessment
<p>a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and</p>	<p>The proposed amendment would promote appropriate land use, having regard to the attributes of the subject land and the surrounding land. It will enable future development of the proposed General Residential land, whilst protecting the land proposed to be zoned Low Density Residential, Environmental Management and Open Space, due to the natural, ecological and physical characteristics of the site.</p> <p>Stormwater and wastewater will be managed appropriately and will be controlled by provisions in the applicable zone and codes.</p> <p>The amendment will have minimal impact with regard to ecological processes and genetic diversity and accordingly, the amendment is considered to furthered Objective (a) of Part 1</p> <p><i>The Applicant’s submission is supported</i></p>
<p>b) To provide for the fair, orderly and sustainable use and development of air, land and water; and</p>	<p>The proposed amendment will provide for urban use of land and development in a location that adjoins existing urban land, is capable of being fully serviced with reticulated water and sewerage supply, and is capable of capturing stormwater.</p> <p>Any future development will be required to comply with the existing provisions of the Planning Scheme applicable to the site and will be controlled by provisions in the applicable zones and codes.</p> <p>Accordingly, the amendment is considered to further Objective (b) of Part 1.</p> <p><i>The Applicant’s submission is supported</i></p>
<p>c) To encourage public involvement in resource management and planning; and</p>	<p>A public notification period will be conducted in accordance with the requirements of the Act.</p> <p>Accordingly, the amendment is considered to further Objective (c) of Part 1.</p> <p><i>The Applicant’s submission is supported</i></p>

<p>d) To facilitate economic development in accordance with the objectives set out in paragraph a), b) and c); and</p>	<p>The proposed amendment will allow for urban use and development that effectively utilises land, and that will promote economic growth through the delivery of urban uses and housing on suitable land.</p> <p>Accordingly, the amendment is considered to further Objective (d) of Part 1.</p> <p><i>The Applicant’s submission is supported</i></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 process is demonstrative of the sharing of responsibility for planning.</p> <p>Accordingly, the amendment is considered to further Objective (e) of Part 1.</p> <p><i>The Applicant’s submission is supported</i></p>
<p>Part 2</p>	<p>Amendment Response</p>
<p>a) To require sound strategic planning and coordinated action by State and local government; and</p>	<p>The proposed amendment is consistent with the Southern Tasmania Regional Land Use Strategy.</p> <p>Accordingly, the amendment is considered to further Objective (a) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></p>
<p>b) To establish a system of planning instruments to be the principal way of setting objectives, policies and controls of the use, development and protection of land; and</p>	<p>The proposed amendment contributes to an established planning scheme that sets controls for use and development.</p> <p>Accordingly, the amendment is considered to further Objectives (b) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></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; and</p>	<p>The existing site is cleared land and will have an acceptable environmental effect as outputs will be controlled through the planning scheme. It also ensures the efficient use of land that is likely to be capable of being fully connected to reticulated services and has existing road infrastructure, promoting compact urban development.</p> <p>Accordingly, the amendment is considered to further Objective (c) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></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; and</p>	<p>The proposed amendment is consistent with state, regional and municipal policy as outlined in this report. The proposed amendment does not affect the attainment of this objective.</p> <p>Accordingly, the amendment is considered to further Objective (d) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></p>
<p>e) To provide for the consolidation of approvals for land use or development and relates matters, and to co-ordinate planning approvals with related approvals; and</p>	<p>The proposed amendment does not affect the attainment of this objective.</p> <p>Accordingly, the amendment is considered to further Objective (e) of Part 2.</p>

	<i>The Applicant’s submission is supported</i>
f) To promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and	<p>The proposed amendment will directly provide a pleasant, efficient, and safe environment for living, adjacent to existing residential areas.</p> <p>Accordingly, the amendment is considered to further Objective (f) of Part 2.</p> <p><i>It is noted that the application proposes to include the identified flood hazard areas within the Environmental Management Zone and seeks to introduce flood mapping into the planning scheme maps relating to the sites.</i></p> <p><i>The Applicant’s submission is supported.</i></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; and	<p>The proposed amendment will have no impact upon listed or identified places of value.</p> <p>Accordingly, the amendment is considered to further Objective (g) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></p>
h) To protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and	<p>The proposed amendment will allow for residential development and will support non-residential uses without adversely impacting on public infrastructure, assets or utilities that is likely to be capable of being fully serviced and with existing road access.</p> <p>Accordingly, the amendment is considered to further Objective (h) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></p>
i) To provide a planning framework which fully considers land capability.	<p>The proposed amendment does not affect the attainment of this objective.</p> <p>Accordingly, the amendment is considered to further Objective (i) of Part 2.</p> <p><i>The Applicant’s submission is supported</i></p>

5.1 Section 34 Land Use Planning and Approvals Act

Section 34(2) of the Act sets out the criteria to be met by a planning instrument. Table 2 provides an assessment against the criteria:

Table 2: Assessment against s34(2) Criteria

Criteria	Assessment
<i>(a) contains all the provisions that the SPPs specify must be contained in an LPS</i>	The proposed amendment accords with the structure and contents of the LPS.
<i>(b) is in accordance with section 32</i>	The proposed amendment is for rezoning in accordance with the relevant application of the specific zones and is therefore in accordance with s32.
<i>(c) furthers the objectives set out in Schedule 1</i>	The proposed amendment meets the objectives of Schedule 1 as discussed above.
<i>(d) is consistent with each State policy</i>	State Policies are addressed later in this report. The proposed amendment is considered to be consistent with each State Policy.
<i>(da) satisfies the relevant criteria in relation to the TPPs</i>	At present, there are no adopted TPPs.
<i>(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;</i>	The regional land use strategy is addressed later in this report. It is considered that the proposed amendment is consistent with the Southern Regional Land Use Strategy 2010 – 2035.
<i>(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;</i>	The proposal is considered to be consistent with the Brighton Strategic Plan 2023-2033.
<i>(g) as far as practicable is consistent with and coordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates.</i>	The site is not adjacent to another LPS.
<i>(h) has regard to the safety requirements set out in the standards prescribed under the Gas Safety Act 2019</i>	The proposed amendment relates to land outside the declared pipeline corridor, and as such will not impact the safety requirements of the Act.

State Policies

State Coastal Policy 1996

The State Coastal Policy 1996 applies to land within 1km of the high-water mark. The site is within 1km of the high water mark but is separated from coastal waters by the East Derwent Highway, and General Residential and Open Space zoned land on adjoining land. The proposed amendment will not impact the Coastal Zone.

State Policy on the Protection of Agricultural Land 2009 (PAL)

Resource Development (if for agricultural use, except for controlled environment agriculture) is a permitted use pursuant to the Use Table contained in clause 30.2 of the Scheme. Listmap identifies

the land capability as Class 4, defining the land as “*Land well suited to grazing but which is limited to occasional cropping or a very restricted range of crops.*”

The layer “Land Potentially Suitable for Agricultural Zone” available on Listmap, does not identify the land as being required to be set aside for agricultural purposes.

Further, conversion to residential uses adjacent to existing residential zoned land is in keeping with PAL pursuant to principle 6 of the policy, in that future subdivision will provide approximately 80 additional lots for residential housing supply, thereby providing significant benefits to the region.

State Policy on Water Quality Management 1997

The s37 application notes that the future residential development of the proposed General Residential zoned land will result in lots being fully connected to reticulated services. The lots within the Low Density Residential, Environmental Management and Open Space zones will protect the values of the waterways corridor, and protect water quality, ecological health, habitat values and water conveyance and supporting the waterway’s corridors.

The applicant's submission is supported relating to state policies is supported.

National Environment Protection Measures (NEPMs)

The proposed amendment is not likely to adversely impact any environmental matters specified in this policy and therefore, deemed consistent with the Policy.

It is considered that the proposed amendment accords with State Policies.

Section 8A Guidelines

Guideline 1 "Local Provisions Schedule (LPS): zone and code application"¹ (the Guideline) sets out how zones and codes should be applied in the provision of the LPS. Clause 3.4 of the Guideline identifies the primary objective in applying a zone should be to achieve the zone purpose to the greatest extent possible.

The proposal includes the conversion of land zoned Future Urban to the General Residential, Low Density Residential, Environmental Management and Open Space Zones. The guidelines relative to each zone are addressed below.

¹ Guideline No. 1 Local Provisions Schedule (LPS): zone and code application.

https://www.planning.tas.gov.au/__data/assets/pdf_file/0006/583854/Section-8A-Guideline-No.-1-Local-Provisions-Schedule-LPS-zone-and-code-application-version-2.pdf

Future Urban Zone

Pursuant to the Brighton Planning Scheme 2000, the site was zoned rural residential. The land was rezoned to PPZ1 - Urban Growth Zone during the transition to the Brighton Interim Planning Scheme 2015, and subsequently identified as Future Urban under the current Planning Scheme. The section 8A Guidelines note:

FUZ1 The Future Urban Zone should be applied to land identified for future urban development to protect the land from use or development that may compromise its future development, consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.

General Residential Zone

The Zone application guidelines for the General Residential zone require:

GRZ 1 The General Residential Zone should be applied to the main urban residential areas within each municipal area which:

(a) are not targeted for higher densities (see Inner Residential Zone); and

(b) are connected, or intended to be connected, to a reticulated water supply service and a reticulated sewerage system.

GRZ 2 The General Residential Zone may be applied to green-field, brown-field or grey-field areas that have been identified for future urban residential use and development if:

(a) within the General Residential Zone in an interim planning scheme;

(b) within an equivalent zone under a section 29 planning scheme; or

(c) justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; and

(d) is currently connected, or the intention is for the future lots to be connected, to a reticulated water supply service and a reticulated sewerage system,

Note: The Future Urban Zone may be used for future urban land for residential use and development where the intention is to prepare detailed structure/precinct plans to guide future development.

GRZ 3 The General Residential Zone should not be applied to land that is highly constrained by hazards, natural values (i.e. threatened vegetation communities) or other impediments to developing the land consistent with the zone purpose of the General Residential Zone, except where those issues have been taken into account and appropriate management put into place during the rezoning process.

Comment

The proposal accords with GRZ 1 and GRZ 2 in that:

(a) it is intended under future division of land to create lots to be connected to reticulated water supply service and a reticulated sewerage system;

- (b) the land is identified within the Southern Tasmanian Regional Land Use Strategy as being within the Urban Growth Boundary. As previously noted, the land is currently zoned Future Urban. There is an expectation that future subdivision will connect with the Tivoli Green precinct.

Accordingly, the Applicant's proposal to rezone land to general residential is supported.

Low Density Residential Zone

The land identified to be zoned Low Density Residential in figure 5 complies with the Guidelines in that the land is identified as having environmental constraints relating to flooding and priority vegetation:

LDRZ 1 The Low Density Residential Zone should be applied to residential areas where one of the following conditions exist:

- (a) *residential areas with large lots that cannot be developed to higher densities due to any of the following constraints:*
- (i) *lack of availability or capacity of reticulated infrastructure services, unless the constraint is intended to be resolved prior to development of the land; and*
 - (ii) *environmental constraints that limit development (e.g. land hazards, topography or slope); or*
- (b) *small, residential settlements without the full range of infrastructure services, or constrained by the capacity of existing or planned infrastructure services; or*
- (c) *existing low density residential areas characterised by a pattern of subdivision specifically planned to provide for such development, and where there is justification for a strategic intention not to support development at higher densities.*

LDRZ 2 The Low Density Residential Zone may be applied to areas within a Low Density Residential Zone in an interim planning scheme or a section 29 planning scheme to lots that are smaller than the allowable minimum lot size for the zone, and are in existing residential areas or settlements that do not have reticulated infrastructure services.

LDRZ 3 The Low Density Residential Zone should not be applied for the purpose of protecting areas of important natural or landscape values.

LDRZ 4 The Low Density Residential Zone should not be applied to land that is targeted for greenfield development unless constraints (e.g. limitations on infrastructure, or environmental considerations) have been identified that impede the area being developed to higher densities.

Comment

The proposal is considered to satisfy both LDRZ 1(a) and LDRZ 4, given the existing constraints on the site relating to natural values and waterway and coastal protection overlays.

Environmental Management Zone

The land identified for rezoning to environmental management zone includes riparian and flood affected areas identified in the applicant's Flood Report, which forms part of this application.

The Zone application guidelines for the environmental management zone are:

EMZ 1 The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values, such as:

- (a) land reserved under the Nature Conservation Act 2002;*
- (b) land within the Tasmanian Wilderness World Heritage Area;*
- (c) riparian, littoral or coastal reserves;*
- (d) Ramsar sites;*
- (e) any other public land where the primary purpose is for the protection and conservation of such values; or*
- (f) any private land containing significant values identified for protection or conservation and where the intention is to limit use and development.*

EMZ 2 The Environmental Management Zone should be applied to land seaward of the high water mark unless contrary intention applies, such as land with existing, or intended for:

- (a) passive recreation opportunities (see Open Space Zone);*
- (b) recreational facilities (see Recreation Zone);*
- (c) large scale port and marine activities or facilities (see Port and Marine Zone);*
- (d) industrial activities or facilities (see industrial zones); or*
- (e) major utilities infrastructure (see Utilities Zone).*

EMZ 3 The Environmental Management Zone may be applied to land for water storage facilities directly associated with major utilities infrastructure, such as dams.

Comment

The land is privately owned land. The proposed zoning is intended to limit use and development due to the risk associated with the identification of the land as a high risk flood area. The applicant notes that EMZ 3 is partly applicable to the site as some of the area proposed for environmental management zoning will be used for a sewer pump station. This location of any service infrastructure will be a matter for assessment pursuant to any future application for subdivision. It is noted that utilities such as a sewer pump station will be a discretionary use within the environmental management zone.

Open Space Zone

The small parcels of land which have been identified for rezoning to open space zone are riparian areas, adjacent to Bob's Creek. A condition of the subdivision approval SA 2022/44 requires the land to be zoned open space to be contributed to Council pursuant to s117 of the Local Government Act for Public Open Space.

The Guidelines Identify that Open Space (OSZ 1) *"should be applied to land that provides, or is intended to provide, for the open space needs of the community, including land identified for: (a) passive recreational opportunities; or (b) natural or landscape amenity within an urban setting."*

Regional Policies

Southern Tasmanian Regional Land Use Strategy 2010 - 2035

As required under s34(2)(e) of the Act, the proposed amendment must be, as far as practicable, consistent with the regional land use strategies. In southern Tasmania, the relevant regional land use strategy is the Southern Tasmanian Regional Land Use Strategy 2010-2035 (STRLUS).

An assessment against the Regional Policies is contained within the Applicant's s37 application, and replicated below.

Strategic Directions	Amendment Response
(1). Adopting a More Integrated Approach to Planning and Infrastructure	The proposed amendment relates to cleared and altered land adjacent to existing residential uses that is likely to be capable of being fully serviced by existing social and physical infrastructure systems including reticulated services and road access. The use of the subject site for use and development as proposed in the amendment would ensure that land use and infrastructure planning are coordinated. The amendment is considered to align with Strategic Direction 1.
(2). Holistically Managing Residential Growth	The proposed amendment enables a contained settlement pattern. It is anticipated that the land can be adequately serviced. Any future development will be required to comply with the existing provisions of the Planning Scheme that will help create a more compact settlement pattern, with existing zone controls enabling the delivery of a diversity of housing and supporting uses. The amendment is considered to align with Strategic Direction 2.
(6). Increasing Responsiveness to our Natural Environment	The proposed amendment is on land with identified risk, however, existing codes and zone provisions within the current planning scheme will adequately manage these risks.
(8). Supporting Strong and Healthy Communities	The proposed amendment would enable denser urban development to be delivered within an existing settlement, which will provide good access to community services and education and health facilities within the existing urban area, on land that is accessible and well designed and located.
(10). Creating Liveable Communities	The proposed amendment supports a liveable community by providing increased housing options close to living services such as transport, parks and community facilities.

Relevant STRLUS policies relating to residential growth are as follows:

- SRD2.1 Ensure residential growth for Greater Hobart occurs through 50% infill development and 50% greenfield development.
- SRD 2.2 Manage greenfield growth through an Urban Growth Boundary, which sets a 20-year supply limit with associated growth limits on dormitory suburbs.
- SRD 2.3 Provide greenfield land for residential purposes across the following Greenfield Development Precincts: Bridgewater North, Brighton South, Gagebrook/Old Beach.
- SRD 2.6 Distribute residential infill growth across the existing urban areas for the 25-year planning period as follows: Brighton LGA 15% (1,987 dwellings). It is noted that this is in addition to greenfield development.
- SRD 2.7 Ensure that the residential zone in planning schemes does not encompass more than a 10-year supply of residential land.
- SRD 2.8 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.
- SRD 2.9 Investigate the redevelopment to higher densities potential of rural residential areas close to the main urban extent of Greater Hobart.

The proposal supports the achievement of the above policies through allowing greenfield residential development, within the urban growth boundary, close to the main urban extent of Greater Hobart.

More specifically, the following regional policies are applicable:

- MRH2 Minimise the risk of loss of life and property from flooding;
- SRD 2.2 Manage greenfield growth through an Urban Growth Boundary, which sets a 20 year supply limit with associated growth limits on dormitory suburbs
- SRD 2.3 Provide greenfield land for residential purposes across the following Greenfield Development Precincts:
 - Gagebrook/Old Beach
- SRD 2.4 Recognise that the Urban Growth Boundary includes vacant land suitable for land release as greenfield development through residential rezoning as well as land suitable for other urban purposes including commercial, industrial, public parks, sporting and recreational facilities, hospitals, schools, major infrastructure, etc

It is considered that the proposed amendment continues to further the objectives of STRLUS. The applicant's assessment is supported.

Brighton Council Strategic Plan 2023-2033

Section 34(2)(f) of the Act requires consideration of Council's strategic plan prepared under s66 of the Local Government Act 1993. The proposed amendment is consistent with the below relevant strategies from the Brighton Council Strategic Plan 2023-2033:

- 1.3 Ensure attractive local areas that provide social, recreational and economic opportunities.
- 2.2 Encourage respect and enjoyment of the natural environment.
- 2.3 Demonstrate strong environmental stewardship and leadership.
- 3.2 Infrastructure development and service delivery are guided by strategic planning to cater for the needs of a growing and changing population.

3.4 Advocate and facilitate investment in our region.

4.1 Be big picture, long term and evidence-based in our thinking.

The proposed amendment does not conflict with any of Council's strategies.

Brighton Structure Plan 2018

While consistency with the Brighton Structure Plan 2018 (the Structure Plan) is not a legislative requirement under the Act, it does represent orderly and sound strategic planning direction for the Brighton Municipal Area.

The Structure Plan guides the major changes to land use, built form and public spaces that together can achieve identified economic, social and environmental objectives for years 2018-2023.

The proposed amendment is consistent with the following strategies identified in the Structure Plan:

- Strategy 1: Maintain an urban growth boundary
- Strategy 2: Plan for housing growth within the urban growth boundary
- Strategy 3: Increase housing diversity

8.9 Local Provisions Schedule

The relevant planning instrument is the *Tasmanian Planning Scheme - Brighton Local Provisions Schedule* (the Planning Scheme).

The subject site is located within the Future Urban Zone. It is subject to the Bushfire Prone Areas overlay, Waterway and Coastal Protection overlay and the Priority Vegetation overlay.

Zone Purpose

The Tasmanian Planning Scheme – Brighton including the Local Provisions Schedule establishes a set of objectives for achieving sustainable use and development of land, which are relevant for the consideration of any planning scheme amendment.

It is relevant for this amendment to outline the relevant provisions which relate to the proposed amendment to rezone the land to General Residential, Low Density Residential, Environmental Management and Open Space zones.

Clause 8.0 - General Residential Zone

8.1 Zone Purpose

The purpose of the General Residential Zone is:

- 8.1.1 To provide for residential use or development that accommodates a range of dwelling types where full infrastructure services are available or can be provided.
- 8.1.2 To provide for the efficient utilisation of available social, transport and other service infrastructure.
- 8.1.3 To provide for non-residential use that:
 - (a) primarily serves the local community; and

- (b) does not cause an unreasonable loss of amenity through scale, intensity, noise, activity outside of business hours, traffic generation and movement, or other off site impacts.

8.1.4 To provide for Visitor Accommodation that is compatible with residential character.

Clause 10.0 - Low Density Residential Zone

10.1 Zone Purpose

The purpose of the Low Density Residential Zone is:

- 10.1.1 To provide for residential use and development in residential areas where there are infrastructure or environmental constraints that limit the density, location or form of development.
- 10.1.2 To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off site impacts.
- 10.1.3 To provide for Visitor Accommodation that is compatible with residential character.

Clause 23.0 Environmental Management Zone

23.1 Zone Purpose

The purpose of the Environmental Management Zone is:

- 23.1.1 To provide for the protection, conservation and management of land with significant ecological, scientific, cultural or scenic value.
- 23.1.2 To allow for compatible use or development where it is consistent with:
 - (a) the protection, conservation and management of the values of the land; and
 - (b) applicable reserved land management objectives and objectives of reserve management plans.

Clause 29.0 - Open Space Zone

29.1 Zone Purpose

The purpose of the Open Space Zone is:

- 29.1.1 To provide land for open space purposes including for passive recreation and natural or landscape amenity.
- 29.1.2 To provide for use and development that supports the use of the land for open space purposes or for other compatible uses

The proposal is considered to be consistent with each zone’s purpose.

Allowable Uses

The following tables set out the comparison of uses between the current Future Urban zoning to General Residential, Low Density Residential and Open Space zoning.

Table 3: Comparison of uses of 'Future Urban' to 'General Residential'

Status	Future Urban Zone (Current)	General Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation 	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation Residential (if for a single dwelling) Utilities (if for minor utilities)
Permitted	<ul style="list-style-type: none"> Residential (if for a single dwelling or home-based business) Resource development (if for agricultural use, excluding controlled environment agriculture). Utilities (if for minor utilities) 	<ul style="list-style-type: none"> Residential (if not listed as No Permit Required) Visitor Accommodation
Discretionary	<ul style="list-style-type: none"> Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> Business and professional services (if for a consulting room, medical centre, veterinary centre, child health clinic, or for the provision of residential support services). Community meeting and entertainment (if for a place of worship, art and craft centre, public hall, community centre, or neighbourhood centre). Education and Occasional Care (if not for a tertiary institution) Emergency services Food Services (if not for a takeaway food premises with a drive through facility). General retail and Hire (if for a local shop) Sport and Recreation (if for a fitness centre, gymnasium, public swimming pool or sports ground). Utilities (if not listed as No Permit required)
Prohibited	All other uses	All other uses

Table 4: Comparison of uses "Future Urban" to "Low Density Residential"

Status	Future Urban Zone (Current)	Low Density Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation 	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation Residential (if for a single dwelling) Utilities (if for minor utilities)

Permitted	<ul style="list-style-type: none"> Residential (if for a single dwelling or home-based business) Resource development (if for agricultural use, excluding controlled environment agriculture). Utilities (if for minor utilities) 	<ul style="list-style-type: none"> Residential (if not listed as No Permit Required) Visitor Accommodation
Discretionary	<ul style="list-style-type: none"> Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> Business and professional services (if for a consulting room, medical centre, veterinary centre, child health clinic, or for the provision of residential support services). Community meeting and entertainment (if for a place of worship, art and craft centre, public hall). Education and Occasional Care (if not for a tertiary institution) Emergency services Food Services (if not for a takeaway food premises with a drive through facility). General retail and Hire (if for a local shop) Residential (if not listed as No Permit Required or Permitted) Sport and Recreation (if for a fitness centre, gymnasium, public swimming pool or sports ground). Utilities (if not listed as No Permit required)
Prohibited	All other uses	All other uses

Table 5: Comparison of uses “Future Urban’ to ‘Environmental Management’

Status	Future Urban Zone (Current)	Environmental Management Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation 	<ul style="list-style-type: none"> Natural and cultural values management Passive Recreation
Permitted	<ul style="list-style-type: none"> Residential (if for a single dwelling or home-based business) Resource development (if for agricultural use, excluding 	<ul style="list-style-type: none"> Community Meeting and Entertainment Educational and Occasional Care

	<p>controlled environment agriculture).</p> <ul style="list-style-type: none"> • Utilities (if for minor utilities) 	<ul style="list-style-type: none"> • Emergency Services • Food Services • General Retail and Hire • Pleasure boat Facility • Research and Development • Residential If: (a) for reserve management staff accommodation; and (b) an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976. • Resource Development If: (a) for grazing; and (b) an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976. • Sports and Recreation • Tourist Operation • Utilities if: (a) for minor utilities; and (b) an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976. • Visitor Accommodation
<p>Discretionary</p>	<ul style="list-style-type: none"> • Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> • Community Meeting and entertainment* • Educational and occasional care* • Emergency services* • Extractive industry • Food Services* • General Retail and Hire* • Pleasure Boat Facility*

		<ul style="list-style-type: none"> • Research and Development* • Resource Development* • Resource Processing • Sports and Recreation* • Tourist Operation* • Utilities * • Vehicle Parking • Visitor Accommodation *
Prohibited	All other uses	All other uses

All but one use in the permitted category are qualified by “If an authority under the National Parks and Reserve Management Regulations 2019 is granted by the Managing Authority, or approved by the Director-General of Lands under the Crown Lands Act 1976

Discretionary uses marked “*” are qualified “if not listed as permitted”.

Table 6: Comparison of uses 'Future Urban' to 'Open Space'

Status	Future Urban Zone (Current)	Low Density Residential Zone (proposed)
No Permit Required	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation 	<ul style="list-style-type: none"> • Natural and cultural values management • Passive Recreation • Utilities (if for minor utilities)
Permitted	<ul style="list-style-type: none"> • Residential (if for a single dwelling or home-based business) • Resource development (if for agricultural use, excluding controlled environment agriculture). • Utilities (if for minor utilities) 	<ul style="list-style-type: none"> • No Permitted Uses
Discretionary	<ul style="list-style-type: none"> • Utilities (if not listed as permitted) 	<ul style="list-style-type: none"> • Community meeting and entertainment • Emergency services • General retail and Hire • Pleasure Boat Facility • Resource Development (if for marine farming shore facility or other facility)

		<p>that relies upon a coastal location to fulfil its purpose or grazing)</p> <ul style="list-style-type: none"> • Tourist Operation • Transport Depot and Distribution • Residential (if not listed as No Permit Required or Permitted) • Utilities (if not listed as No Permit required) • Visitor accommodation
Prohibited	All other uses	All other uses

The Applicant has provided an assessment against the comparison of uses. The s37 application notes that the subject land is zoned Future Urban and that the 'principle' of urban use and development has been accepted on the site; the extension of the general residential zone will not have a significant impact on adjoining sites; and will be adequately controlled by existing planning scheme provisions.

Accordingly, it is considered that the rezoning of land from Future Urban to General Residential, Low Density Residential, Environmental Management and Open Space is appropriate.

Code Implications

In addition to zone assessment, future use and development of the land will be subject to assessment against a number of Codes including:

- Road and Railway Assts Code.
- Parking and Sustainable Transport Code
- Natural Assets Code
- Flood Prone Hazard Areas Code
- Bushfire Prone Areas Code

The application of all Codes will need to be assessed during future development applications.

Relevant Issues

Traffic and Transport Networks

The applicant has provided a traffic impact statement (TIS) (refer Attachment C) considering impact on the road network which may arise from future development of the site. In summary the TIS identifies that access to the East Derwent Highway will be constrained based on development of the approved lots in the Tivoli Green and any future lots should this amendment be approved.

Council's senior technical officer considers that the TIS does not sufficiently consider the impact of the proposal on the road network.

Recently, a comprehensive Traffic Impact Assessment (Old Beach TIA) has been prepared as part of a broader Old Beach Rezoning project, which has identified limitations in the East Derwent Highway. The proposed rezoning under consideration results in a moderate increase in traffic on the East Derwent Highway above the already approved Tivoli Green development. The 2 main upgrades identified in the Old Beach TIA to accommodate Tivoli Green (and moderate additional development) are located outside the municipality at the Bowen Bridge and Otago Bay. A 3rd upgrade at the Clives Avenue/East Derwent Highway Roundabout is also likely to be required near completion of the existing Tivoli Green subdivision.

These upgrades, particularly the Bowen Bridge and Otago Bay are required irrespective of the rezoning under consideration. The Department of State Growth is currently undertaking a corridor study of the East Derwent Highway partially in response to concerns raised by Council over the future performance of the East Derwent Highway.

More specifically related to the proposed land to be rezoned, construction of an intersection between Riviera Drive and Old Beach Road is in the final design stages, and will most likely be finalised within the next 6-12 months, which assist by diverting some traffic from Riveria Drive onto Old Beach Road.

Flora and Fauna

The applicant has submitted a Natural Values assessment that was prepared in support of its application for subdivision identified previously in this report. That findings of that report are used to support the applicant's application to amend the Priority Vegetation overlay to delete the overlay from the area to be zoned General Residential.

TasVeg4.0 (Listmap) identifies the land as "modified land". There are no threatened communities, species or species habitats identified on the site.

Based on the Natural Values assessment submitted by the Applicant, the application to remove the priority vegetation overlay from the General Residential land is supported.

Water Sewer and Stormwater

The applicant addresses stormwater, water and sewer on the site. It is considered that reticulated services will be achievable. The existing flood mapping when compared with the proposed concept servicing plan shows a sewer pump station within the H5 Flood Hazard areas, which will need to be reconsidered, should an application for future subdivision be submitted. However, it is considered that there is sufficient scope for the site to be serviced, should it be rezoned to General Residential.

Council's senior technical officer has confirmed that stormwater treatment would be a requirement of any future subdivision application.

Aboriginal Heritage

The applicant has provided an assessment by Cultural Heritage Management Australia (CHMA) which has determined that there were no sites identified during field study assessment of 203 or 205 Old Beach Road. Accordingly the site has been determined as having a low potential for Aboriginal sites to be present. However, any development of the site will remain subject to the legal and procedural requirements specified by the *Aboriginal Heritage Act 1975*.

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 2023-002, as detailed in the attachments to this report.

RECOMMENDATION:

- A. That in accordance with s38(2)(a) of the *Land Use Planning and Approvals Act 1993*, to be known as draft amendment RZ 2023-02, the Planning Authority agree to rezone the land

contained in Certificate of Title Volume 123119 Folio 1 and Certificate of Title Volume 135401 Folio 7, known as 203 Old Beach Road, Old Beach and 205 Old Beach Road, Old Beach respectively.

- B. That in accordance with Section 40F(2)(a) of the Land Use Planning and Approvals Act 1993, Council considers that draft amendment RZ 2023-02 satisfies the provisions of Section 34 of the *Land Use Planning and Approvals Act 1993*.
- C. That in accordance with Section 40F(3) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2023-02 be certified by instrument in writing affixed with the common seal of the Council; and
- D. 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 2023-02 be given to the Tasmanian Planning Commission within seven (7) days.
- E. 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 RZ 2023-02 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.
- F. That in accordance with Section 40G(1) of the *Land Use Planning and Approvals Act 1993*, Council directs that draft amendment RZ 2021-03 be placed on public exhibition.

DECISION:

Cr De La Torre moved, Cr Geard seconded that:

- A. *That in accordance with s38(2)(a) of the Land Use Planning and Approvals Act 1993, to be known as draft amendment RZ 2023-02, the Planning Authority agree to rezone the land contained in Certificate of Title Volume 123119 Folio 1 and Certificate of Title Volume 135401 Folio 7, known as 203 Old Beach Road, Old Beach and 205 Old Beach Road, Old Beach respectively.*
- B. *That in accordance with Section 40F(2)(a) of the Land Use Planning and Approvals Act 1993, Council considers that draft amendment RZ 2023-02 satisfies the provisions of Section 34 of the Land Use Planning and Approvals Act 1993.*
- C. *That in accordance with Section 40F(3) of the Land Use Planning and Approvals Act 1993, Council directs that draft amendment RZ 2023-02 be certified by instrument in writing affixed with the common seal of the Council; and*
- D. *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 2023-02 be given to the Tasmanian Planning Commission within seven (7) days.*
- E. *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 RZ 2023-02 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.*
- F. *That in accordance with Section 40G(1) of the Land Use Planning and Approvals Act 1993, Council directs that draft amendment RZ 2021-03 be placed on public exhibition.*

CARRIED

VOTING RECORD

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Owen	
Cr Whelan	