

**From:** [Richard Cuskelly](#)  
**To:** [TPC Enquiry](#)  
**Cc:** [O'Brien, Lauren](#); [David Allingham](#)  
**Subject:** s39 Documents - RZ2020-01 - Draft amendment to insert bushfire-prone area overlay maps into BIPS 2015  
**Date:** Tuesday, 25 August 2020 2:55:23 PM  
**Attachments:** [image001.png](#)  
[DOC-44068-6064583333-41379-6424865723.pdf](#)  
[DOC-44018-3541782407-68185-0612163544.pdf](#)

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Dear TPC,

Please see attached planning authority minutes (including s39 report) and TasWater response to this draft amendment to insert bushfire-prone area overlay maps into the BIPS 2015.

If you have any questions or require anything further, please let me know.

Best,

**RICHARD CUSKELLY**  
**PLANNING OFFICER**



1 Tivoli Road, Old Beach TAS 7017  
Tel: (03) 6268 7022 | Fax: (03) 6268 7013  
[www.brighton.tas.gov.au](http://www.brighton.tas.gov.au)

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## **11. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 11 on this agenda, inclusive of any supplementary items.

### **11.1 RZ 2020 / 1 – SECTION 39 REPORT – AMENDMENT TO BRIGHTON INTERIM PLANNING SCHEME 2015 – INSERTION OF BUSHFIRE-PRONE AREAS OVERLAY:**

File Reference:	RZ 2020 / 1
Applicant:	Brighton Council
Proposal:	Insertion of Bushfire-Prone Areas Overlay
Location:	Whole Municipality
Zoning:	All
Planning Instrument:	Brighton Interim Planning Scheme 2015
Date initiated:	21 April 2020
Attachments:	TasWater submission (See pages 150-151)
Representations:	Nil
Author:	Richard Cuskelly (Planning Officer)

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#### **1. Executive Summary**

- 1.1 The report considers the amendment of the Brighton Interim Planning Scheme 2015 (BIPS 2015) ordinance to insert Bushfire-Prone Areas Overlay maps produced by the Tasmania Fire Service (TFS).
- 1.2 The request to initiate the draft amendment was approved by Council's Planning Authority at its 21 April 2020 meeting.
- 1.3 Notice of the certified draft amendment was forwarded to the Tasmanian Planning Commission (TPC) on 28 April 2020.

- 1.4 The draft amendment was publicly exhibited in accordance with relevant legislation and no representations were received.
- 1.5 TasWater were referred the draft amendment and responded that they do not object or have any comments.
- 1.6 This report recommends that Council:
  - 1.6.1 Advise the TPC that no representations were received following exhibition of draft amendment RZ 2020 / 1 to the BIPS 2015, and
  - 1.6.2 Advise the TPC that no modifications to the draft amendment RZ 2020 / 1 are necessary.

## **2. Background**

- 2.1 Council resolved at its meeting of 21 April 2020 to initiate a draft amendment to the BIPS 2015 to insert Bushfire-Prone Areas Overlay maps produced by the TFS.
- 2.2 The purpose of the proposed amendment is to remove the ambiguity often associated with case-by-case assessment of sites, and to utilise expert spatial mapping of bushfire-prone areas in decision-making as early as possible.

## **3. Consultation**

- 3.1 The draft amendment was advertised in the Mercury newspaper on 23 May 2020 (Saturday) and 27 May 2020 (Wednesday), and placed on public exhibition between 23 May 2020 and 16 June 2020, and 14 July 2020 and 21 July 2020.
- 3.2 The draft amendment was publicly exhibited for a total of 30 statutory days in accordance with Section 38 of the *Land Use Planning and Approvals Act 1993* (the Act) and Section 6 of the *Land Use Planning and Approvals Act Regulations 2004*.
- 3.3 No public representations were received.
- 3.4 TasWater were referred the draft amendment and submitted a Submission to Planning Authority Notice stating:

*TasWater does not object and has no formal comments for the Tasmanian Planning Commission in relation to this matter and does not require to be notified of nor attend any subsequent hearings.*

#### 4. Legislation

- 4.1 Section 39(2) of the Act provides that a Planning Authority must, within 35 days of the public notification period closing, forward to the TPC a report comprising:
- (a) *a copy of each representation received by the authority in relation to the draft amendment or, where it has received no such representation, a statement to that effect; and*
  - (b) *a statement of its opinion as to the merit of each such representation, including, in particular, its views as to–*
    - (i) *the need for modification of the draft amendment in the light of that representation; and*
    - (ii) *the impact of that representation on the draft amendment as a whole; and*
  - (c) *such recommendations in relation to the draft amendment as the authority considers necessary.*
- 4.2 Subsection (b) relates specifically to any representation received.
- 4.3 Subsection (c) allows the Planning Authority to provide any additional information or recommendation in relation to the draft amendment as certified or recommend to the TPC that a modification should be made regardless of any representation.
- 4.4 As the draft amendment has been initiated and certified the TPC must decide on the matter.

#### 5. Assessment

- 5.1 The draft amendment received no public representations, and one submission from TasWater stating that they do not object or have any comments.

#### **OPTIONS:**

1. To adopt the recommendation; or
2. To adopt an alternative recommendation satisfying the provisions of section 39 of the Act, with a full statement of reasons as determined by Council.

#### **RECOMMENDATION:**

That in accordance with Section 39 (2) of the *Land Use Planning and Approvals Act 1993* Council resolves to:

- A. Advise the Tasmanian Planning Commission that no representations were received following exhibition of draft amendment RZ 2020/1 to the Brighton Interim Planning Scheme 2015; and

- B. Advise the Tasmanian Planning Commission that no modification to amendment RZ 2020/1 is considered necessary to the initial section 35 report.

**DECISION:**

Cr Gray took the Chair.

## **11. COUNCIL ACTING AS PLANNING AUTHORITY:**

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 11 on this agenda, inclusive of any supplementary items.

### **11.1 RZ 2020 / 1 – SECTION 39 REPORT – AMENDMENT TO BRIGHTON INTERIM PLANNING SCHEME 2015 – INSERTION OF BUSHFIRE-PRONE AREAS OVERLAY:**

File Reference:	RZ 2020 / 1
Applicant:	Brighton Council
Proposal:	Insertion of Bushfire-Prone Areas Overlay
Location:	Whole Municipality
Zoning:	All
Planning Instrument:	Brighton Interim Planning Scheme 2015

Date initiated: 21 April 2020

Representations: Nil

Author: Richard Cuskelly (Planning Officer)

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- 1.1 The report considers the amendment of the Brighton Interim Planning Scheme 2015 (BIPS 2015) ordinance to insert Bushfire-Prone Areas Overlay maps produced by the Tasmania Fire Service (TFS).
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  - 1.6.2 Advise the TPC that no modifications to the draft amendment RZ 2020 / 1 are necessary.

## 2. Background

- 2.1 Council resolved at its meeting of 21 April 2020 to initiate a draft amendment to the BIPS 2015 to insert Bushfire-Prone Areas Overlay maps produced by the TFS.
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**OPTIONS:**

- 1. To adopt the recommendation; or
- 2. To adopt an alternative recommendation satisfying the provisions of section 39 of the Act, with a full statement of reasons as determined by Council.

**RECOMMENDATION:**

That in accordance with Section 39 (2) of the *Land Use Planning and Approvals Act 1993* Council resolves to:

- A. Advise the Tasmanian Planning Commission that no representations were received following exhibition of draft amendment RZ 2020/1 to the Brighton Interim Planning Scheme 2015; and
- B. Advise the Tasmanian Planning Commission that no modification to amendment RZ 2020/1 is considered necessary to the initial section 35 report.

**DECISION:**

*Cr Geard moved, Cr Curran seconded that the recommendation be adopted.* **CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Murtagh	
Cr Owen	
Cr Whelan	

*Cr Whelan moved, Cr Curran seconded that the Council Meeting be resumed.* **CARRIED**

**VOTING RECORD**

In favour	Against
Cr Curran	
Cr Foster	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Murtagh	