

TASMANIAN PLANNING COMMISSION



Our ref: DOC/23/73229
Officer: Paola Barlund
Phone: 6165 6835
Email: tpc@planning.tas.gov.au

27 June 2023

David Allingham
Acting General Manager
Brighton Council
1 Tivoli Road,
Old Beach TAS 7017

By email: David.Allingham@brighton.tas.gov.au; Development@brighton.tas.gov.au

Dear Mr Allingham,

Brighton Local Provisions Schedule Draft amendment RZ-2022-05

I refer to the above draft amendment. The Commission notes that Mr Boardman submitted a representation on behalf of Ramilya Khayrutdinova on 21 February 2023 to the planning authority. The planning authority did not consider the representation as part of their 40K reporting on representations nor provide a copy of the representation to the Commission.

While the approach outlined in your email dated 23 June 2023 is noted, the response does not satisfy respective elements of section 40K(2) as it relates to Mr Boardman's client's representation.

The Commission directs the planning authority to provide to the Commission, by close of business, on or before **31 July 2023**, the following:

- (a) a report under section 40K containing a statement of the planning authority's opinion as to the merit of Ramilya Khayrutdinova's representation (attached), and whether the planning authority is of the opinion that the draft amendment ought to be modified to take this into account. The planning authority is also requested to consider the effect on the draft amendment if a modification is proposed.

The report must be sent by email to tpc@planning.tas.gov.au. Once received, the report referred to above will be made available under the [relevant assessment](#)¹ on the Commission's website.

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

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

If you require further information please contact Paola Barlund, Planning Adviser, on (03) 6165 6835.

Yours sincerely,

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

Dan Ford

Delegate (Chair)

Attachments:

- Representation - Mr Boardman on behalf of Ramilya Khayrutdinova, 18 February 2023



18 February 2023

James Dryburgh
General Manager
Brighton Council
1 Tivoli Road, Old Beach
TAS 7017, Australia
HOBART TAS 7001

RE: Draft Planning Scheme Amendment RZ2022/05 South Brighton Masterplan

Please find following a submission/objection on the above proposed planning scheme amendment lodged on behalf of my client Ramilya Khayrutdinova owner of a property at 9 Melinda Court Brighton (the Property).

The Property as you would be aware is one of many which is proposed to be subject to the Draft South Brighton Masterplan Specific Area Plan (the SAP) to be inserted into the *Tasmanian Planning Scheme Brighton Local Provisions Schedule* (TPSBRI).

The SAP introduces another layer of necessary complexity to the planning controls and regulations which Council is seeking to apply unilaterally across approximately 40 properties. The majority of which have already been developed for residential uses and have dwellings constructed upon them. This is the case with my Client's property as shown in figure 1.

It is my Client's submission that due to unworkability and inequity of the SAP that it should be abandoned and that a simple rezoning from Rural Living to General Residential be pursued.





Figure 1: Property Location

There would appear to be two separate very different outcomes sought to be achieved via the SAP, those which relate to Precinct B (rezone land from Rural to General Residential with no Masterplan) and those which relate to Precinct A (rezone land from Rural Living to General Residential subject to a Masterplan). This difference is represented geographically in the two separate areas as shown figure 2 and Table 1.

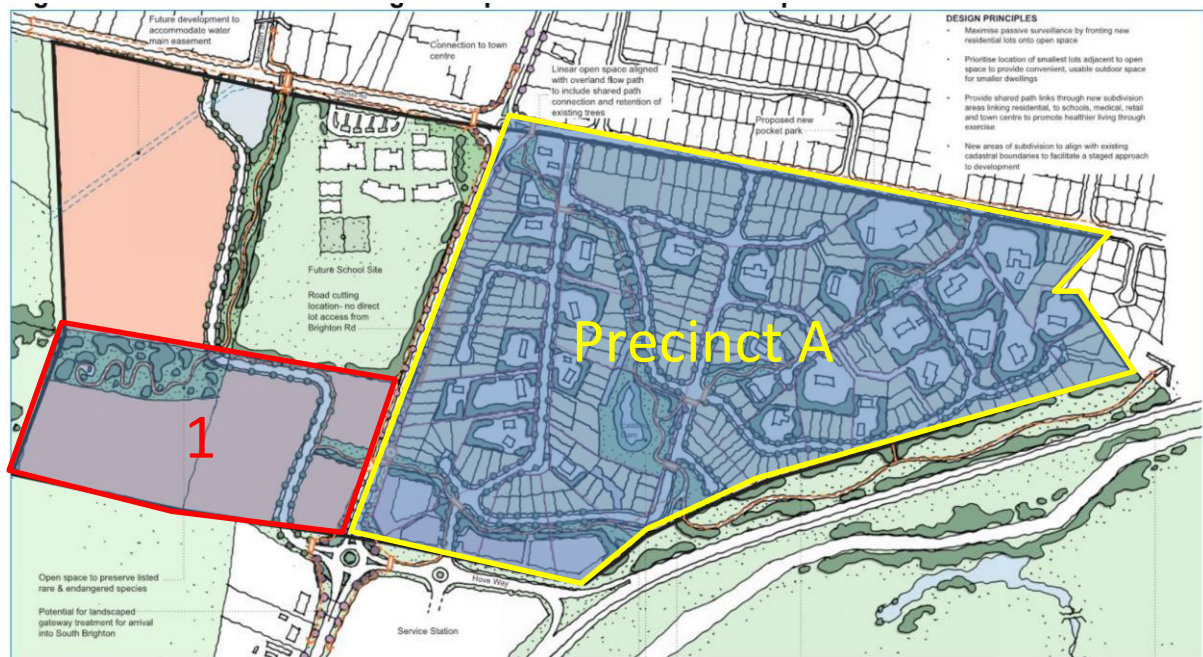


Figure 2: Screenshot of the Masterplan showing the two separate planning outcomes sought.

1. Area 1 (subset of Precinct B)- Rezoning of 69 Brighton Road from Rural to General Residential, without a Masterplan, and
2. Precinct A -Increasing the residential density of an already subdivided Rural Living Zoned via a Masterplan.

The outcomes sought within each area are virtually mutually exclusive and implementation of them requires very different approaches and processes. In my opinion there is no planning need to include both areas within one albeit disjointed Masterplan. I have attempted to examine this in table 1.

	Area 1	Precinct A
Rezoning Proposed	Rural to General Residential	Rural Living to General Residential
Subdivision potential change	Prohibited to 450m2	1ha to 450m2
Expansion of Urban Growth Boundary	Previously approved	Not required
Future development	As per clause BRI-S11.8.4.1 Lot size - Precinct B and table BRI-S11.9.1 of the SAP	As per clause BRI-S11.8.3.1 Subdivision layout – Precinct A of the SAP.
Type of site	Greenfield	Infill
Number of landowners	one	36

Table 1: Table highlighting the different planning outcomes sought under the SAP.

It is appreciated that Council is seeking to increase the residential density of land within Precinct A of the SAP however in my opinion it is simply not practical to achieve any of the outcomes sought. Some of these difficulties are examined below,

1. *Clause S11.8.3.1 Subdivision layout* requires all subdivision to be either compatible or comparable with the subdivision layout as per figure BRI-S11.2. It would not be possible to satisfy the acceptable solution or the performance criteria, if and unless all individual lots were subject to a future development application. This would obviously require the agreement and support for all lot owners. This is simply not realistic.
2. The impacts and benefits to owners within the Precinct would not be felt equally. Some owners would be required to give up land for roads, public open space or walkways which would benefit other landowners. Some owners would reap the benefits of subdivision without any loss of some areas of their land to infrastructure or public open space. This is the case for my client who would have a road across the rear of their property and public open space and a public walkway to the west, with the potential for 3 lots at the cost of all outbuildings.
3. Infrastructure costs – how would infrastructure costs for matters such as roads, stormwater, sewer be paid for when there are 36 landowners all

of whom would receive differing costs and benefits from the masterplan.

4. The SAP has the potential to create real conflict between landowners within Precinct A. The SAP would encourage those benefiting the most from the SAP to pressure others to support it regardless of their opinion. This could even lead to some landowners to pressure others to sell. None of this would foster a sense of community and belonging, presumably an objective of the SAP.
5. The actual impact of the SAP has not been calculated for each individual lot. Figure BRI-S11.2 is at a scale which makes it impossible to definitively calculate areas to be lost to roads or public open space and any resulting new lots. Figure 3 attempts to calculate the areas of 9 Melinda Court which would need to be foregone to roads and public open spaces for the SAP.
6. No minimum lot size is specified under Clause S11.8.3.1 as the Clause is in substitution for that within the General Residential Zone. The performance criteria if adopted could result in greater density than that proposed.
7. The SAP introduces the potential for Council to compulsory acquire land to achieve the layout within figure BRI-S11.2.
8. The SAP introduces unnecessary complexity. Instead of delivering a simpler planning system it would be challenging for any reasonable person to determine which clause is relevant – the one in the General Residential Zone or one within the SAP.



Figure 3: 9 Melinda Court showing the approximate areas which would need to be sacrificed to provide for the SAP.

My client strongly objects to the South Brighton Specific Area Plan (the SAP) as it is unworkable and ignores the fact that there are 36 individual property owners, all of whom have differing ideas, aspirations, financial capacities and family situations towards land development and what their land means to them. Implementation of the SAP requires cooperation between landowners, from a land development and financial perspective. In the three decades which I have worked in the development industry I have never encountered a situation whereby 36 individual landowners have all agreed and cooperated in delivering a masterplan, particularly one which does not have unanimous support

It would appear that the principal driver for the SAP is Council and the owner's desire to rezone a portion 69 Brighton Road from Rural to General Residential, including a Masterplan for Precinct A is unnecessary and unworkable and adds no strategic planning weight to rezoning 69 Brighton Road.

In my opinion no cognisant strategic planning reason has been demonstrated in the Council documents to show why Precinct A and figure BRI-S11.2 must be included in the SAP. It would be more appropriate and equitable for Precinct A to simply be rezoned General Residential in the same manner as Precinct B without the need for an overarching Masterplan/SAP.


My client purchased the property for its large area and private open spaces, these would be severely impacted if the SAP was implemented, in particular:

- Lots would be developed hard up against her dwelling
- Loss of outbuildings which are used by her children
- Roads would be constructed within 40m of her house reducing her amenity and peaceful outlook;
- Walkways within 20 metres of her dwelling, increasing public access over private areas.
- Over 5,000m² of the property would need to be given over to roads and public open space to provide for the SAP.

The approach adopted in the SAP is considered socialist planning with Brighton Council seeking to achieve what it wants whilst ignoring the desires and wishes of the existing residents.

If you have any further queries, please do not hesitate to contact me on 0438 376 840 or email evan@e3planning.com.au.

Regards



Evan Boardman
Grad Dip URP, B ScEnv, B Econ MPIA