

TASMANIAN PLANNING COMMISSION



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8 March 2024

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

Attention: Ms Jo Blackwell

By email: admin@brighton.tas.gov.au;
jo.blackwell@brighton.tas.gov.au

Dear Mr Dryburgh

Tasmanian Planning Scheme - Brighton Draft amendment RZ-2023-004

I refer to the above draft amendment and to a hearing held at the Commission's office in Hobart on 22 August 2023 which was adjourned.

Following the hearing, the Commission issued directions letters on 1 September 2023 and 14 December 2023. The planning authority provided responses on 22 and 24 November 2023 and 19 January 2024.

Due to the proximity of draft amendment **RZ-2022-05 - South Brighton Specific Area Plan** also being considered by the Commission, it is recommended that the planning authority's response to the directions below be coordinated with direction responses in relation to that draft amendment, to ensure consistency of definitions, provisions, and expression wherever possible.

General drafting notes for specific area plans (SAPs)

- As part of a statutory instrument, a SAP needs to use simple, common terms and language that are consistent with those of the State Planning Provisions wherever possible. Descriptive terms that may reduce clarity, like 'streetscape', are to be avoided.
- Provisions of a SAP are to be consistent with the purpose of the underlying zone and should not be detrimental to the existing activities occurring in accordance with the applicable zone.
- All standards in a SAP, including each standard's objectives, must relate to and further the SAP Purpose.
- All Acceptable Solutions and Performance Criteria must relate to and further the objective of the relevant standard.
- Each Acceptable Solution and corresponding Performance Criterion must address the same matter.
- Acceptable Solutions must be drafted to be clear and measurable.

- Performance Criteria must be drafted to enable the exercise of discretion; the introduction is to incorporate the language of the objective, and any inclusion of the word ‘must’ is to be followed by ‘having regard to’ and a list of relevant matters.
- To ensure transparency and ease of use, the references to Council policies are to be drafted to only apply to policies that are endorsed by Council and relevant to the SAP.

The Commission directs that the planning authority submit revised draft amendments responding to the drafting issues raised at the hearing. Additionally, several directions have resulted from similar or related matters arising from the assessment of draft amendment **RZ-2022-05 - South Brighton Specific Area Plan**.

1.0	Review the attached marked up SAP document for minor editorial and suggested changes. Make any necessary minor corrections such as formatting or punctuation, perhaps using the template. A word version is available by contacting the Commission. Also, please see Practice Note 5 and Practice Note 8 for guidance on the drafting conventions, technical drafting requirements and writing style of the SPPs.
2.0	Consider whether the standards in clause BRI-S12.3 could be incorporated into the relevant development standards within the SAP and deleted as Local Area Objectives. Redraft if/as necessary. Note: There is advice about the operation of Local Area Objectives in the Planners Portal on the TPC website.
3.0	To provide consistency with draft amendment RZ-2022-05, change the definition for ‘Council Infrastructure’ in clause BRI-S12.4 by amending the text as follows: ‘means infrastructure managed by Council including stormwater networks, footpaths, roads, streetlighting, landscaping, street trees and the like.’
3.1	To provide consistency with draft amendment RZ-2022-05, include a definition for ‘Development Framework’ referencing Figure BRI-S12.3 in clause BRI-S12.4.
3.2	To provide consistency with draft amendment RZ-2022-05, change ‘on’ to ‘within’ within the definition of ‘Street Tree’ in clause BRI-S12.4 and consider amending the definition to refer to Council’s Street Tree Policy.
4.0	To provide consistency with draft amendment RZ-2022-0-5, consider redrafting clause BRI-S12.7.1 A1 to either: <ul style="list-style-type: none"> (i) have no acceptable solution; or (ii) recognise existing multiple dwellings but require new multiple dwelling development to be assessed against the performance criteria.
4.1	Revise clause BRI-S12.7.1 P1 to: <ul style="list-style-type: none"> (i) integrate the standard’s objective; (ii) include reference to developer contributions; (iii) ensure the required infrastructure is subjected to a merit-based assessment by the planning authority having regard to: <ul style="list-style-type: none"> a. the demand the subdivision places on Council Infrastructure; b. any existing infrastructure;

	<ul style="list-style-type: none"> c. any upgrades to existing infrastructure that may be required; d. site conditions; and e. consistency with draft amendment RZ-2022-05.
4.2	To provide consistency with draft amendment RZ-2022-05, consider the revisions to clause BRI-S12.7.1 A2 shown within the tracked changes version of the draft SAP accompanying this directions letter, and whether this acceptable solution is a subdivision standard.
4.3	To provide consistency with draft amendment RZ-2022-05, consider whether the intent of clause BRI-S12.7.1 A2/P2 is to require discretionary assessment of existing trees, and if not, revise accordingly.
5.0	<p>Modify clause BRI-S12.7.2 so that the standards relate to and further the clause objective, and specifically:</p> <ul style="list-style-type: none"> (i) either include text at subclause b) of the Objective or delete; (ii) consider whether the word 'gardens' is required in the Objective, and if so, reference the word within the standard; (iii) revise A1 to indicate where trees are expected to be planted - for example, planted in a group equivalent to one tree per dwelling or planted individually in an area allocated to each dwelling; (iv) revise A2 to clarify how '<i>5 percent of the area of the car park</i>' is to be measured – for example, does the area include circulation areas; and <p>revise the Objective to reflect the reference to '<i>minimising opportunities for crime or anti-social behaviour through the creation of concealment spaces</i>' in P2(c) (consider the revisions to clause BRI-S12.7.2 shown within the tracked changes version of the draft SAP accompanying this directions letter).</p>
6.0	Consider whether the Objective of clause BRI-S12.7.3 sufficiently reflects the number of bedrooms specified in the standard or whether it requires revision to include reference to size/bedrooms.
6.1	Revise clause BRI-S12.7.3 P1 to clarify how discretion will be exercised. Alternatively, the planning authority may wish to consider whether the intent of the clause is sufficiently reflected by the acceptable solution to enable there being no performance criterion.
7.0	<p>Consider whether clause BRI-S12.7.4 should reference non-dwelling development.</p> <p>Note that this clause is similar to one proposed for the South Brighton Specific Area Plan.</p>
8.0	Confirm (and revise as necessary) whether clause BRI-S12.8.1 is <i>in addition to</i> or <i>in substitution for</i> clause 8.6.1 A4/P4 of the General Residential Zone.
8.1	<p>In relation to similar provisions within draft amendment RZ-2022-05 discussed at that draft amendment's hearing, consider having no acceptable solution for clause BRI-S12.8.1 A2 and revising P2 as necessary.</p> <p>Revision of P2 should ensure the required infrastructure is subjected to a merit-based assessment by the planning authority having regard to:</p> <ul style="list-style-type: none"> a. the demand the subdivision places on Council Infrastructure;

	<ul style="list-style-type: none">b. any existing infrastructure;c. any upgrades to existing infrastructure that may be required;d. site conditions; ande. consistency with draft amendment RZ-2022-05. <p>Note that this clause is similar to or the same as one proposed for the South Brighton Specific Area Plan and the standard that related to multiple dwelling infrastructure above, clause BRI-S12.7.1 P1.</p>
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1. The planning authority is to provide to the Commission by **29 March 2024** a submission responding to the above directions and attached marked up SAP document.
2. That any response submissions be provided to the Commission and other parties by **12 April 2024** (14 days).

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

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

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

If you require further information please contact Louise Blyth, Planning Adviser, on 6165 6818.

Yours sincerely



Dan Ford
Delegate (Chair)

Attachment B - Marked up SAP

cc. representors

¹ <https://www.planning.tas.gov.au/assessments-and-hearings/current-assessments-and-hearings/AM-BRI-RZ-2023-004>

BRI-S12.0 Burrows Avenue Specific Area Plan

BRI-S12.1 Plan Purpose

The purpose of the Burrows Avenue Specific Area Plan is:

- BRI-S12.1.1 To provide for the infrastructure required to service the demand created by subdivision and multiple dwelling developments.
- BRI-S12.1.2 To provide for lot and housing diversity and residential amenity which respond to the constraints of the existing landuse pattern.
- BRI-S12.1.3 To provide road and pedestrian network connectivity.
- BRI-S12.1.4 To provide for landscaping that contributes to and improves the character of the area.
- BRI-S12.1.5 To provide for the construction of the undeveloped road reserve and encourage subdivision in accordance with the Burrows Avenue - Precinct A Development Framework.

BRI-S12.2 Application of this Plan

- BRI-S12.2.1 The specific area plan applies to the area of land designated as Burrows Avenue Specific Area Plan on the overlay maps.
- BRI-S12.2.2 In the area of land this plan applies to, the provisions of the specific area plan are in substitution for, or in addition to, the provisions of:
 - (a) 8.0 General Residential zoneas specified in the relevant provision.

BRI-S12.3 Local Area Objectives

- BRI-S12.3.1 Local Area Objectives - Precinct A

Sub-clause	Area Description	Local Area Objectives
BRI-S12.3.1	Precinct A, shown on overlay map as BRI-12.2.	The local area objectives for the Precinct A are to: <ul style="list-style-type: none">(a) facilitate the development of the road reserve as a public access for vehicle and pedestrian thoroughfare.

BRI-S12.4 Definition of Terms

BRI-S12.4.1 In this specific area plan, unless contrary appears:

Terms	Definition
Council Infrastructure	means infrastructure managed by Council including stormwater networks, footpaths, roads, streetlighting, landscaping, street trees, and the like.

Development framework	means as shown in Figure BRI-S12.3.
Precinct A	means the area of land shown in Figure BRI-S12.2 as Precinct A.
Street Tree	Means a tree that has the centreline of its trunk within a road reserve and grows to a minimum height of 3 metres.

BRI-S12.5 Use Table

This sub-clause is not used in this specific area plan.

BRI-S12.6 Use Standards

This sub-clause is not used in this specific area plan.

BRI-S12.7 Development Standards for Buildings and Works

BRI-S12.7.1 Council Infrastructure for multiple dwellings

This clause is in addition to General Residential Zone - Clause 8.4 Development Standards for Dwellings

Objective:	That: (a) Multiple dwelling development delivers sufficient council infrastructure to provide for road and pedestrian network connectivity and amenity. (b) Developer contributions are made towards the cost and provision of infrastructure in accordance with the relevant Policy adopted by Council.
Acceptable Solutions	Performance Criteria
A1 New multiple dwelling developments must either: (a) be serviced by existing infrastructure, or alternatively (b) propose to provide it as part of the development application.	P1 New multiple dwelling developments must provide necessary Council Infrastructure having regard to the increased demand generated by the proposal, surrounding development and any existing infrastructure. Developer contributions?
A2 Not less than one street tree must be provided along the frontage of multiple dwelling development, unless on an internal lot.	P2 Street trees must be provided along the frontage of multiple dwelling development, having regard to: (a) the width of lot frontages; (b) location of infrastructure; (c) the topography of the site;

	<ul style="list-style-type: none"> (d) the safety and efficiency of the road network; (e) the nature of the road; and (f) existing or proposed landscaping treatments.
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BRI-S12.7.2 On site Landscaping for multiple dwellings

This clause is in addition to General Residential Zone - Clause 8.4 Development Standards for Dwellings

Objective:	That new multiple dwelling developments contribute positively to the amenity, safety and character of the area through provision of trees, gardens and landscaping treatments.	
Acceptable Solutions		Performance Criteria
A1	Multiple dwellings must provide not less than one tree per dwelling which can grow to a minimum height of 3m at maturity and minimum spread of 2m.	P1 Multiple dwellings must provide a reasonable level of landscaping, having regard to: <ul style="list-style-type: none"> (a) existing vegetation on site; (b) areas to be landscaped; (c) the topography of the site; (d) proposed planting; and (e) location of infrastructure
A2	Landscaping of parking and circulation areas must be provided where more than 5 car parking spaces are proposed. This landscaping must be no less than 5% of the area of the car park.	P2 Landscaping of parking and circulation areas must contribute positively to the amenity and character of the area having regard to: <ul style="list-style-type: none"> (a) minimising the visual impact of the parking and circulation areas on the streetscape; (b) minimising any loss of amenity of the occupants of adjoining properties; and (c) minimising opportunities for crime or anti-social behaviour through the creation of concealment spaces.

BRI-S12.7.3 Housing diversity

This clause is in addition to General Residential Zone – clause 8.4 Development Standards for Dwellings

Objective:	To provide for a diversity of multiple dwelling options.	
Acceptable Solutions	Performance Criteria	
A1 Multiple dwelling development must be for: (a) No more than 4 multiple dwellings on a site; or (b) no more than 80% of multiple dwellings are 2 bedroom dwellings.	P1 Multiple dwelling development must provide a range of dwelling sizes in terms of the number of bedrooms per dwelling, or rooms that could be used as a bedroom.	

BRI-S12.7.4 Development and works in Precinct A

This clause is in addition to General Residential Zone – Clause 8.4 Development Standards for Dwellings

Objective:	That buildings and works do not prejudice the future utilisation of land for urban development in Precinct A.	
Acceptable Solutions	Performance Criteria	
A1 Building and works within Precinct A must be: (a) for alterations or an addition to an existing dwelling; or (b) be on a lot that has been created in accordance with the development framework.	P1 Building and works within Precinct A must not preclude or hinder the effective implementation of the development framework in Figure BRI-S12.3 having regard to: (a) streetscape character and amenity, (b) existing use and development, (c) opportunities for passive surveillance, (d) the local area objective, and (e) provision of Council infrastructure along the frontage of the site.	

BRI-S12.8 Development standards for Subdivision

BRI-S12.8.1 Subdivision - Precinct A

This clause is in addition to General Residential Zone - Clause 8.6 Development Standards for Subdivision

Objective:	That within Precinct A:
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	<ul style="list-style-type: none"> (a) Subdivision provides for Council infrastructure that will enable further land development in accordance with the Development Framework and purpose of the Specific Area Plan; and (b) Developer contributions are made towards the cost and provision of infrastructure in accordance with the relevant Policy adopted by the Council.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, must be:</p> <ul style="list-style-type: none"> (a) in accordance with the development framework; (b) required for public use by the Crown, a council or a State authority; (c) required for the provision of Utilities; or (d) for the consolidation of a lot with another lot provided each lot is within the same zone. 	<p>P1</p> <p>The layout of lots must be compatible with the development framework in Figure BRI-S12.3 having regard to:</p> <ul style="list-style-type: none"> (a) demonstrated site constraints; (b) local area objectives; (c) topography; (d) provision of necessary road and service infrastructure; (e) any relevant codes; and (f) any advice received from the road authority.
<p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for Utilities, must have existing Council Infrastructure.</p>	<p>P2</p> <p>The provision, and upgrades of Council infrastructure, must:</p> <ul style="list-style-type: none"> (a) be provided entirely at the developer's expense; or (b) an infrastructure contribution must be paid as specified in any relevant endorsed Council Policy.

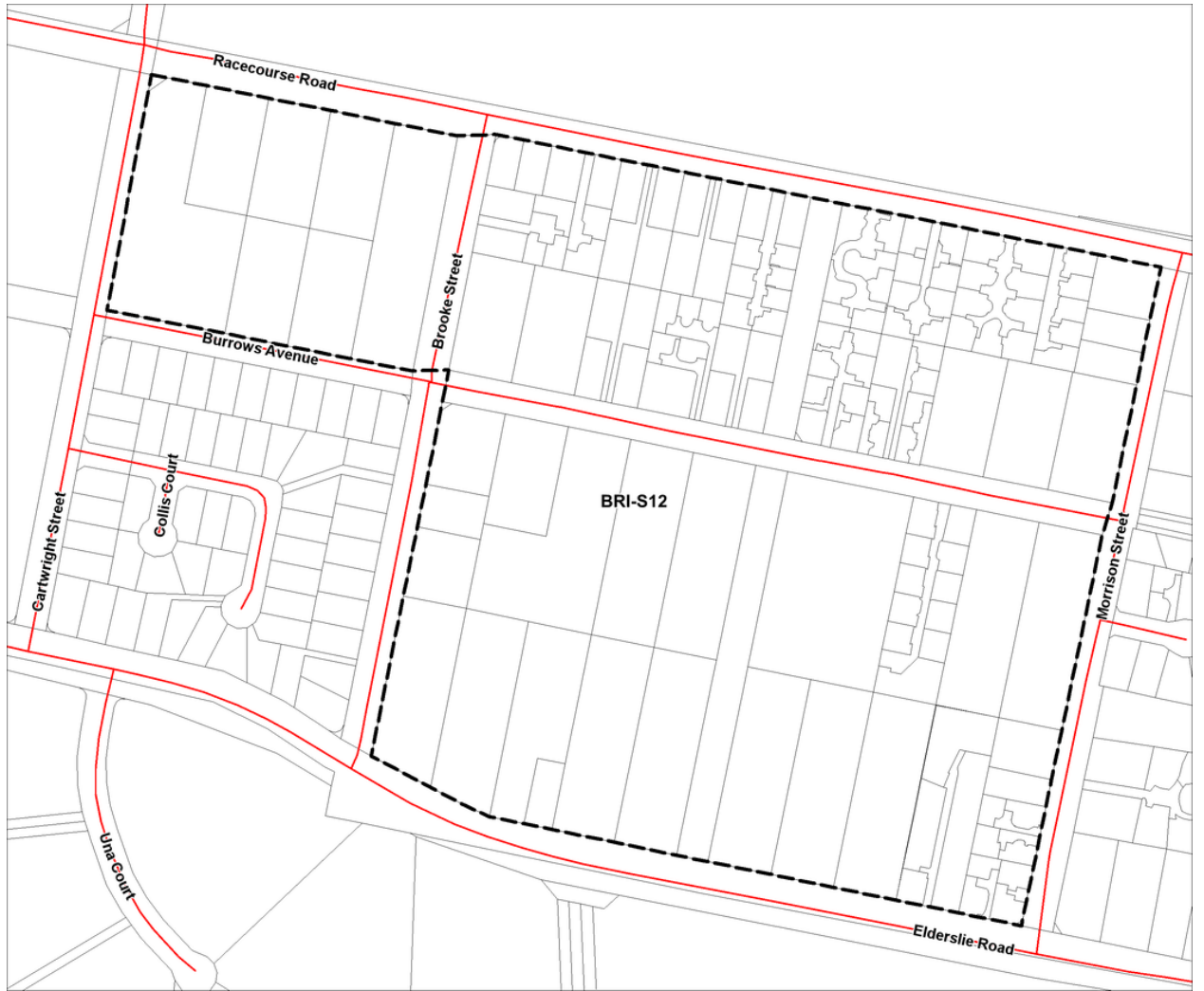


Figure BRI-S12.1 The Burrows Avenue Specific Area Plan Area

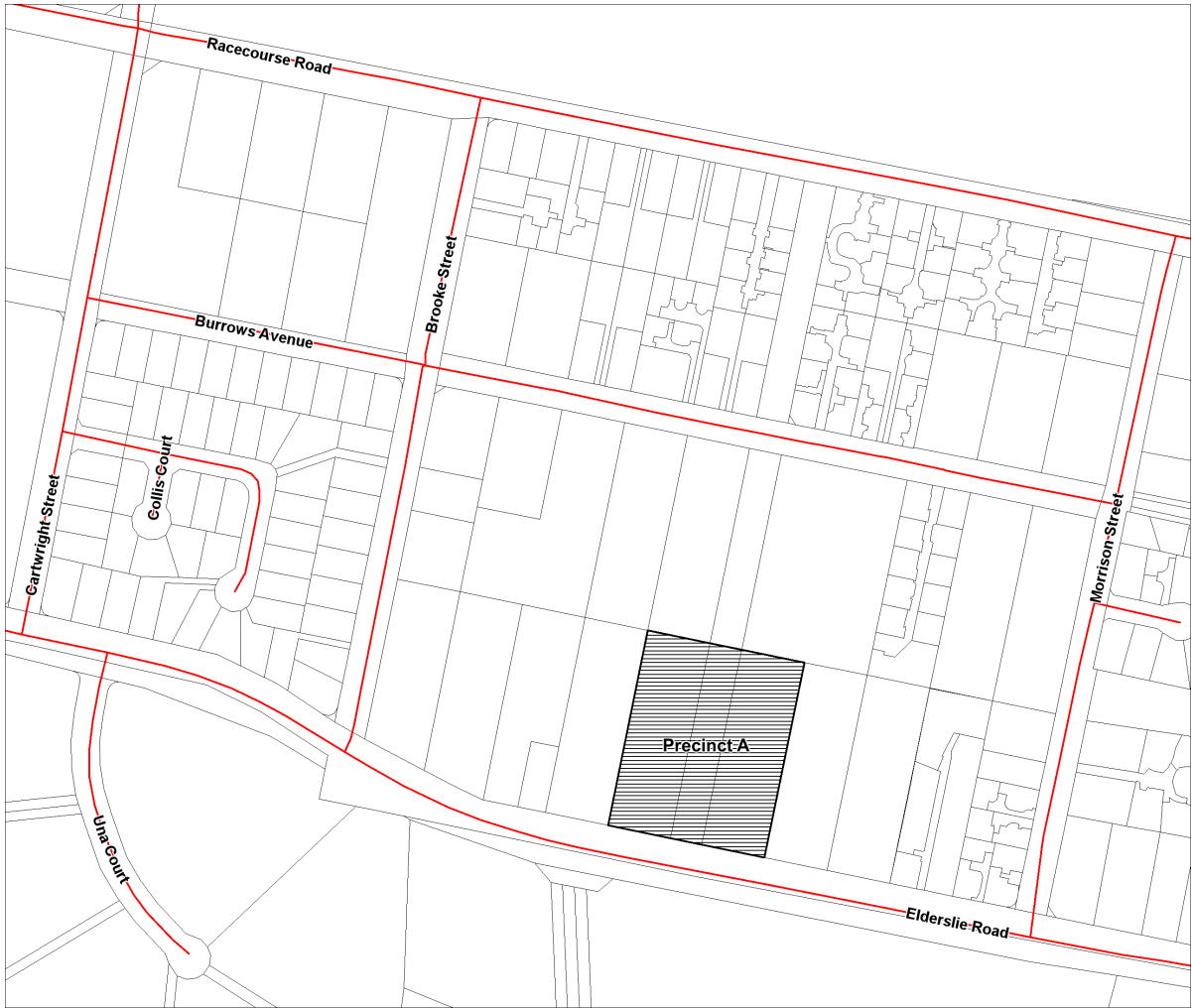


Figure Bri-S12.2 Precinct A Area



Figure BRI-S12.3 The Burrows Avenue Specific Area Plan Precinct A Development Framework