



**Brighton  
Council**

**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 19<sup>th</sup> September 2023 are submitted for confirmation.

**RECOMMENDATION:**

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

**DECISION:**

*Cr McMaster moved, Cr Irons seconded that the Minutes of the previous Ordinary Council Meeting held on the 19<sup>th</sup> 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 3<sup>rd</sup> October 2023 are submitted for confirmation.

**RECOMMENDATION:**

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

**DECISION:**

*Cr Irons moved, Cr Whelan seconded that the Minutes of the Planning Authority Meeting held on the 3<sup>rd</sup> 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*

## 6. Public Question Time and Deputations

In accordance with the requirements of Part 2 Regulation 8 of the *Local Government (Meeting Procedures) Regulations 2015*, the agenda is to make provision for public question time.

*There was no requirement for public question time.*

## 7. Reports from Council

*Cr De La Torre joined the meeting during the Mayor's communications at 5.40pm*

### 7.1 Mayor's Communications

The Mayor's communications were as follows:

- 22/9 Meeting re Cities for Climate Protection (GM and Climate Officer in attendance)
- 25/9 South Central Sub-Region Meeting
- 25/9 Meeting with Minister Barnett and community members re Greenpoint Medical Centre
- 27/9 Tour of Tasmanian Botanicals with Deputy Mayor and Cr Owen
- 29/9 Meeting re Brighton Township Development (GM and A/Director Development Services in attendance)
- 3/10 Meeting with CEO of Tas Irrigation re developments with Greater South East Irrigation Scheme
- 3/10 Planning Authority Meeting
- 3/10 Council Workshop
- 3/10 LGAT Mayors Dinner

- 4/10 LGAT Mayors Workshop
- 5/10 Meeting with Rodney Croome (GM & Cr Irons in attendance)
- 6/10 STCA Media Release launch of Community Carbon Emissions & Energy Footprints
- 10/10 Meeting with Greens MP's (GM in attendance)
- 12/10 Meeting with Minister Barnett, Dept. of Health, Community representative and senior staff.
- 17/10 GMC meeting re LGAT Service Awards
- 17/10 Brighton Alive Meeting
- 17/10 Council Meeting

### **RECOMMENDATION:**

That the Mayor's communications be received.

### **DECISION:**

*Cr Whelan moved, Cr Murtagh seconded that the Mayor's communications be received.*

**CARRIED**

#### **VOTING RECORD**

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **7.2 Reports from Council Representatives**

- Cr Geard attended a State Fire commission meeting.
- Cr Geard also attended a Sub-committee meeting on Emergency Management Services and Recovery recently, which was attended by regional Councils.
- Cr Geard had been asked to report on the proposed amalgamation of SES & Fire Services re changes to Act – via Teams.
- Cr Irons who was invited by the Smith Family to attend both Gagebrook & Brighton Primary schools recently to talk about leadership and conservation with the students.

### **RECOMMENDATION:**

That the verbal reports from Council representatives be received.

**DECISION:**

*Cr De La Torre moved, Cr McMaster seconded that the verbal reports from Council representatives be received.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**8. Miscellaneous Correspondence**

- Letter from Minister for Planning dated 29<sup>th</sup> September 2023 regarding Major Project Proposal for Kangaroo Bay Hotel.
- Letter from Minister for Education, Children and Youth regarding the new southern youth detention facility at 466 Brighton Road, Pontville.

**9. Notification of Council Workshops**

*In accordance with the requirements of Section 8(2)(c) of the Local Government (Meeting Procedures) Regulations 2015.*

One (1) Council workshop has been held since the previous Ordinary Council meeting.

A workshop was held on the 3<sup>rd</sup> October 2023 at 6.25pm to receive an update on the interim Derwent River Foreshore Coastal Hazards & Risk Assessment Report.

Crs Gray, Curran, De La Torre, Irons, McMaster, Murtagh, Owen and Whelan were in attendance.

**10. Notices of Motion****10.1 Motion - Cr Greg Irons**

Cr Greg Irons has submitted the following motion:

*“That Council consider what potential steps it can take, including and in addition to flying relevant flags on relevant dates, to demonstrate its commitment to inclusion and equality and its support of the LGBTIQ+ community”.*

Background comments from Cr Irons:

I am aware the council has been approached with a request to fly the LGBTIQ+ flag and this has been discussed. I support this in order to demonstrate a commitment to inclusion and equality. Community Leadership is a very important role of council - whilst I believe the council staff and councillors are aware of the importance of inclusion and equality, I believe our community could benefit and grow in these areas with some leadership from Brighton Council. I have experienced right in front of me hateful and hurtful language and actions - sometimes even from younger people in playgrounds when attending school talks, and very recently, as well as a couple of incidents in our community I am aware of that certainly did not reflect the same values.

The long-term mental health damage this can cause to individuals that are targeted is quite horrific, and I feel we as a council may be able to do more in this space to help promote inclusion and equality in our community.

I am very supportive of the employment positions Brighton Council have that have the direct community connection we see currently and have planned for the future. Often it does not take a lot, or cost a lot, to instigate some small changes that offer positive outcomes, especially for those that have directly suffered as a result of not being included in the past, or who we can avoid having challenges in the future through being leaders in this area now. There are some great things happening in this space in many areas already that we could investigate their levels or success, and maybe look to instigate ourselves - and I would like to see council explore what else it could be doing to support inclusion and equality in our community.

#### **General Manager's Response:**

Council staff have begun work on a range of possible actions for council to demonstrate their support for the LGBTIQ+ community and inclusion and equality more generally. This has included reviewing the actions of other councils. It is hoped that these potential actions can be workshopped with council within the next two months, with recommended measures then going to council for endorsement shortly afterwards.

Potential actions being investigated include:

- Flying Pride, Transgender and appropriate other flags on appropriate days.
- Conducting staff training on LGBTIQ+ issues.
- Conducting councillor training on LGBTIQ+ issues.
- Conducting training for local businesses in being LGBTIQ+ inclusive.
- Consulting with the LGBTIQ+ community in the municipality.
- Hosting or supporting LGBTIQ+ community events.
- Developing an LGBTIQ+ Action Plan (as Kingborough Council has done).
- Funding public art that promotes greater inclusion.

Other councils in Tasmania that have been quite active in this area, including undertaking a range of the above actions, include Hobart, Kingborough, Central Coast, Meander Valley, Huon Valley and Derwent Valley.

Doing more in this space is entirely consistent with Council's Values, 2050 Vision and Strategic Plan, including via the following specific strategies:

**Council values:**

*Community, Vision, Integrity, Respect.*

**From our 2050 Vision:**

*Inspiring pride in where we live and who we are.*

*Building connections with communal events and spaces.*

*Fostering an inclusive approach which empowers all regardless of who you are and where you come from.*

*Ensuring all voices are included and represented in shaping our future.*

**Goal 1 of our Strategic Plan:**

*Inspire a proud community that enjoys a comfortable life at every age.*

Sadly, many LGBTIQ+ people in Tasmania amongst other harm, still suffer discrimination and abuse, feel unsafe and feel the need to hide their identity. This is clear justification for institutions such as councils to take action to promote inclusion, challenge prejudice and show support for their local communities.

It is proposed that a council workshop is convened before the end of 2023 for councillors to consider a range of potential actions presented by staff.

**DECISION:**

*Cr Irons moved, Cr De La Torre seconded that Council consider what potential steps it can take, including and in addition to flying relevant flags on relevant dates, to demonstrate its commitment to inclusion and equality and its support of the LGBTIQ+ community.*

*Council initiate a workshop for this to be discussed further.*

**CARRIED****VOTING RECORD**

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**11. Consideration of Supplementary Items to the Agenda**

In accordance with the requirements of Part 2 Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

- (a) the reason it was not possible to include the matter on the agenda, and

- (b) that the matter is urgent, and
- (c) that advice has been provided under Section 65 of the *Local Government Act 1993*.

*The General Manager advised that there were no supplementary agenda items.*

*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"> <li>• 203 Old Beach Road, Old Beach (CT 123119/1)</li> <li>• 205 Old Beach Road, Old Beach (CT 135401/7)</li> </ul>
Proposal:	<p>Amend the planning scheme map to:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Amend the Priority Vegetation Overlay from 203 and 205 Old Beach Road, Old Beach, as shown in Annexure B.</li> <li>• Insert the Flood Prone Hazard Overlay over 203 and 205 Old Beach Road, Old Beach, as shown in Annexure C.</li> </ul>
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.

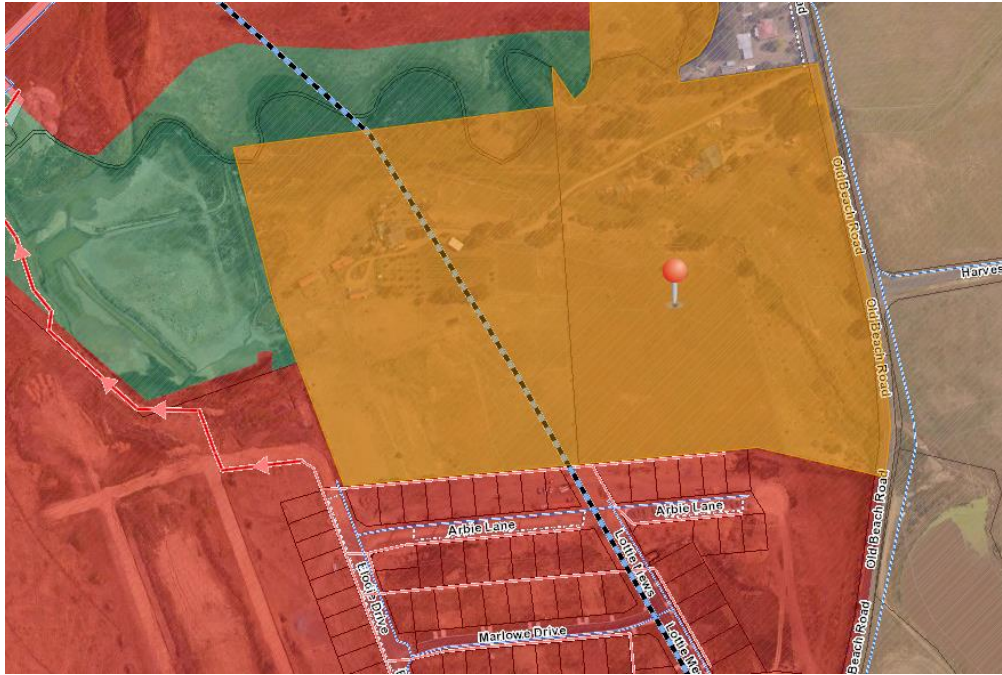


Figure 1: Current Zoning (source: www.thelist.tas.gov.au)

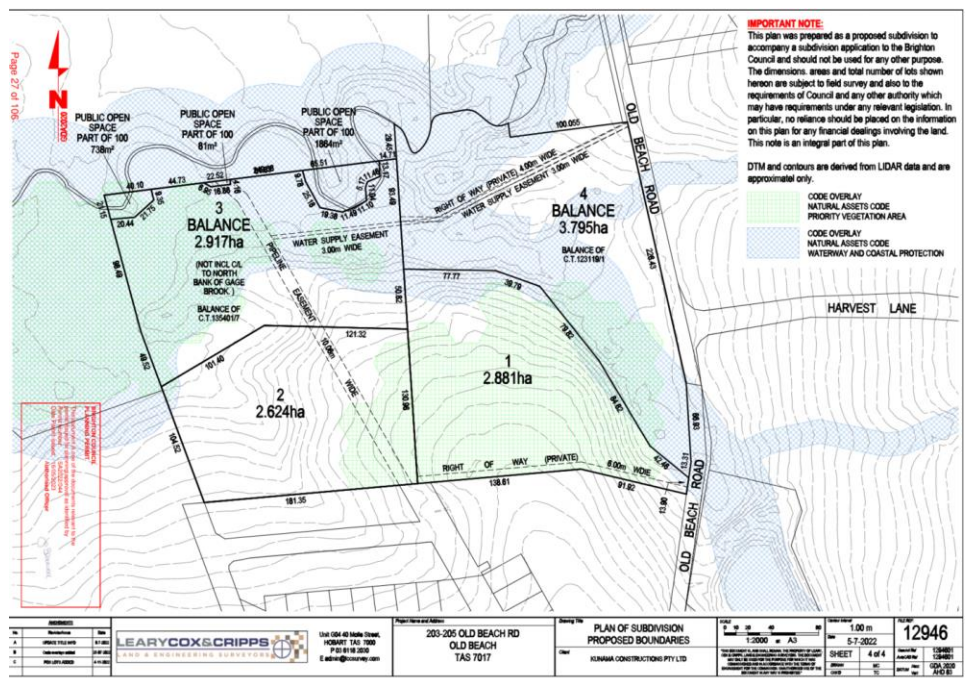


Figure 2: Approved subdivision layout.

## 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.

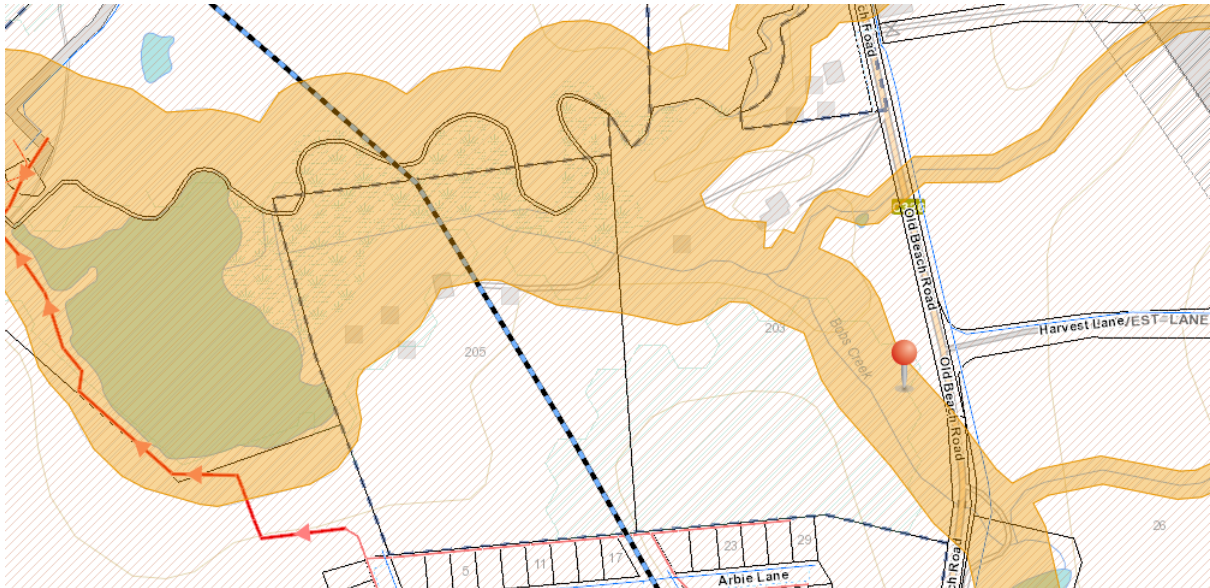


Figure 3: Waterway and Coastal Protection Overlay (source: [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au))

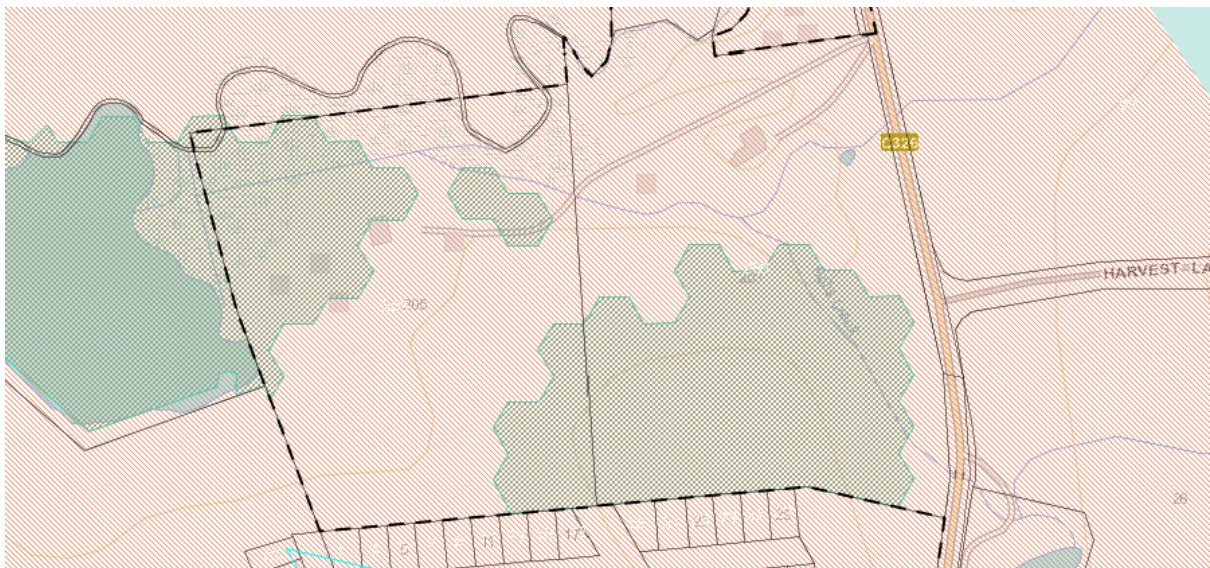


Figure 4: Existing Priority Vegetation mapped overlay (green) (source: [www.thelist.tas.gov.au](http://www.thelist.tas.gov.au))

### 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.

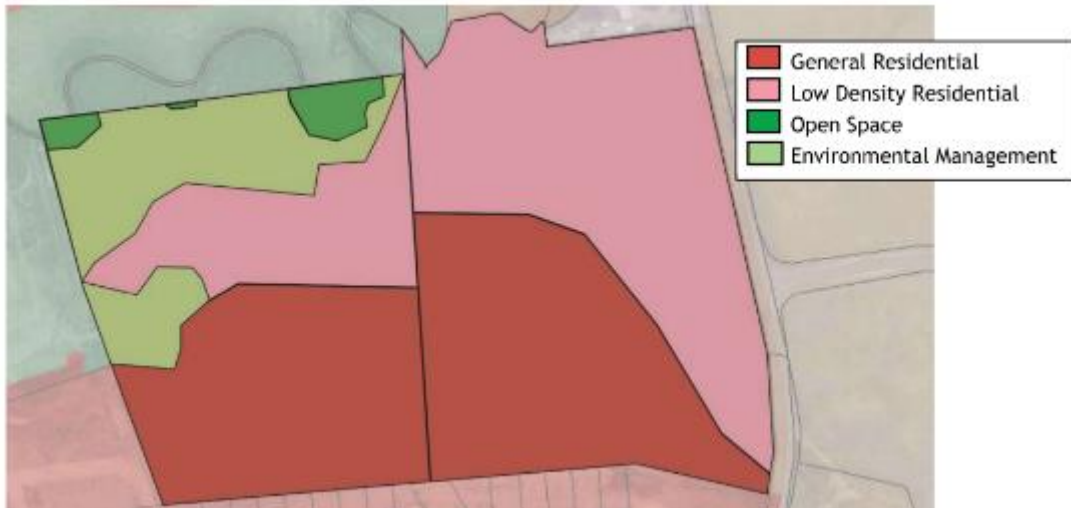


Figure 5: Proposed rezoning (Source: JMG Report, October 2023)



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
a) To promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and	<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><b><i>The Applicant's submission is supported</i></b></p>
b) To provide for the fair, orderly and sustainable use and development of air, land and water; and	<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><b><i>The Applicant's submission is supported</i></b></p>
c) To encourage public involvement in resource	<p>A public notification period will be conducted in accordance with the requirements of the Act.</p>

management and planning; and	<p>Accordingly, the amendment is considered to further Objective (c) of Part 1.</p> <p><i>The Applicant's submission is supported</i></p>
d) To facilitate economic development in accordance with the objectives set out in paragraph a), b) and c); and	<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>
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>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>
<b>Part 2</b>	<b>Amendment Response</b>
a) To require sound strategic planning and coordinated action by State and local government; and	<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>
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>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>
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>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>
d) To require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at	<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>



State, regional and municipal levels; and	
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>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><b><i>The Applicant's submission is supported</i></b></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>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><b><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></b></p> <p><b><i>The Applicant's submission is supported.</i></b></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><b><i>The Applicant's submission is supported</i></b></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><b><i>The Applicant's submission is supported</i></b></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><b><i>The Applicant's submission is supported</i></b></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”<sup>1</sup> (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.

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<sup>1</sup> 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](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:

*GRZ1 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.*

*GRZ2 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.*

*GRZ3 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). <i>Adopting a More Integrated Approach to Planning and Infrastructure</i>	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). <i>Holistically Managing Residential Growth</i>	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). <i>Increasing Responsiveness to our Natural Environment</i>	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). <i>Supporting Strong and Healthy Communities</i>	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). <i>Creating Liveable Communities</i>	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"> <li>Natural and cultural values management</li> <li>Passive Recreation</li> </ul>	<ul style="list-style-type: none"> <li>Natural and cultural values management</li> <li>Passive Recreation</li> <li>Residential (if for a single dwelling)</li> <li>Utilities (if for minor utilities)</li> </ul>
Permitted	<ul style="list-style-type: none"> <li>Residential (if for a single dwelling or home-based business)</li> <li>Resource development (if for agricultural use, excluding controlled environment agriculture).</li> <li>Utilities (if for minor utilities)</li> </ul>	<ul style="list-style-type: none"> <li>Residential (if not listed as No Permit Required)</li> <li>Visitor Accommodation</li> </ul>
Discretionary	<ul style="list-style-type: none"> <li>Utilities (if not listed as permitted)</li> </ul>	<ul style="list-style-type: none"> <li>Business and professional services (if for a consulting room, medical centre, veterinary centre, child health clinic, or for the provision of residential support services).</li> <li>Community meeting and entertainment (if for a place of worship, art and craft centre, public hall, community centre, or neighbourhood centre).</li> <li>Education and Occasional Care (if not for a tertiary institution)</li> <li>Emergency services</li> <li>Food Services (if not for a takeaway food premises with a drive through facility).</li> <li>General retail and Hire (if for a local shop)</li> </ul>

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

		<ul style="list-style-type: none"> <li>• Residential (if not listed as No Permit Required or Permitted)</li> <li>• Sport and Recreation (if for a fitness centre, gymnasium, public swimming pool or sports ground).</li> <li>• Utilities (if not listed as No Permit required)</li> </ul>
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"> <li>• Natural and cultural values management</li> <li>• Passive Recreation</li> </ul>	<ul style="list-style-type: none"> <li>• Natural and cultural values management</li> <li>• Passive Recreation</li> </ul>
Permitted	<ul style="list-style-type: none"> <li>• Residential (if for a single dwelling or home-based business)</li> <li>• Resource development (if for agricultural use, excluding controlled environment agriculture).</li> <li>• Utilities (if for minor utilities)</li> </ul>	<ul style="list-style-type: none"> <li>• Community Meeting and Entertainment</li> <li>• Educational and Occasional Care</li> <li>• Emergency Services</li> <li>• Food Services</li> <li>• General Retail and Hire</li> <li>• Pleasure boat Facility</li> <li>• Research and Development</li> <li>• 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.</li> <li>• 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</li> </ul>

		<p>of Lands under the Crown Lands Act 1976.</p> <ul style="list-style-type: none"> <li>• Sports and Recreation</li> <li>• Tourist Operation</li> <li>• 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.</li> <li>• Visitor Accommodation</li> </ul>
Discretionary	<ul style="list-style-type: none"> <li>• Utilities (if not listed as permitted)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Community Meeting and entertainment*</b></li> <li>• <b>Educational and occasional care*</b></li> <li>• <b>Emergency services*</b></li> <li>• <b>Extractive industry</b></li> <li>• <b>Food Services*</b></li> <li>• <b>General Retail and Hire*</b></li> <li>• <b>Pleasure Boat Facility*</b></li> <li>• <b>Research and Development*</b></li> <li>• <b>Resource Development*</b></li> <li>• <b>Resource Processing</b></li> <li>• <b>Sports and Recreation*</b></li> <li>• <b>Tourist Operation*</b></li> <li>• <b>Utilities *</b></li> <li>• <b>Vehicle Parking</b></li> <li>• <b>Visitor Accommodation *</b></li> </ul>
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"> <li>Natural and cultural values management</li> <li>Passive Recreation</li> </ul>	<ul style="list-style-type: none"> <li>Natural and cultural values management</li> <li>Passive Recreation</li> <li>Utilities (if for minor utilities)</li> </ul>
Permitted	<ul style="list-style-type: none"> <li>Residential (if for a single dwelling or home-based business)</li> <li>Resource development (if for agricultural use, excluding controlled environment agriculture).</li> <li>Utilities (if for minor utilities)</li> </ul>	<ul style="list-style-type: none"> <li>No Permitted Uses</li> </ul>
Discretionary	<ul style="list-style-type: none"> <li>Utilities (if not listed as permitted)</li> </ul>	<ul style="list-style-type: none"> <li>Community meeting and entertainment</li> <li>Emergency services</li> <li>General retail and Hire</li> <li>Pleasure Boat Facility</li> <li>Resource Development (if for marine farming shore facility or other facility that relies upon a coastal location to fulfil its purpose or grazing)</li> <li>Tourist Operation</li> <li>Transport Depot and Distribution</li> <li>Residential (if not listed as No Permit Required or Permitted)</li> <li>Utilities (if not listed as No Permit required)</li> <li>Visitor accommodation</li> </ul>
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 Riviera 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
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Cr De La Torre	
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Cr Geard	
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Cr Owen	
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Cr Whelan	
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*Cr Irons and Cr Gray rejoined the meeting 6.15pm*

*Cr Gray resumed the Chair.*

## **13. Officers Reports**

### **13.1 Derwent River Foreshore Coastal Hazards Project Report**

**Author:** Climate Resilience Officer (A Johnson)

**Authorised:** Acting Director Development Services (J Blackwell)

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#### **Purpose**

This report aims to seek the endorsement of the Derwent River Foreshore Coastal Hazards Project for community consultation.

#### **Background**

The Derwent River Foreshore Coastal Hazards Project commenced in March 2021. This project responds to the issues of coastal inundation (flooding) and coastal erosion along the Derwent River Foreshore in the Brighton municipality. The Project considers the impact of future climate changes out to 2100 on existing coastal hazard risks.

The Coastal Hazard and Risk Assessment Report has been delivered and outlines:

- The current ListMap hazard bands will continue to be the primary reference on the low, medium, and high risks of coastal erosion and flooding.
- Inundation has the greatest affect on properties and infrastructure, rather than coastal erosion.
- The study focusses on three sites, including Sunrise Avenue, Riverside Drive and Old Beach. Inundation mainly affects households in the Old Beach area..
- Findings suggest:
  - currently mostly people's gardens flood, and these flooding impacts will reach an increasing number of buildings over the next 70 years.
  - \$38.2 million in rate-able properties affected by inundation in Old Beach, equating to 89 properties by 2100.
  - \$23.2 million in rate-able properties affected by coastal erosion in Old Beach, equating to 51 properties by 2100.
  - 18 aboriginal heritage sites are identified at risk.
  - The marshlands and saltwater marshes at Old Beach are likely to be heavily impacted. Sunrise Avenue wetlands will be affected and are rated the highest classification environmental value (high priority site with the highest importance rating), expressing the relative importance of an ecosystem.

- Climate change impacts are expected to increase, as areas become susceptible to increasingly frequent and more intense storm events and a 0.8m rise in sea levels by 2100

The Project includes four key milestones, including:

1. Coastal Hazard and Risk Assessment Report to identify coastal hazard risks and provide an indication of the costs of coastal hazards to private and public assets.
2. Two community forums, one for residents to have a questions and answers session, and the other for essential service providers such as TasNetworks, TasGas, Department of State Growth and TasRail.
3. Community Values Report to provide an indication of community values – aboriginal heritage, environmental and social values to provide an indication of mitigation pathways (ways to reduce future impact of coastal hazards).
4. Pathways Report to provide an estimate of the costs of various adaptation actions.

This report relates to Milestone 2 relating to community engagement. The community engagement proposal includes:

- a. Provide a public workshop at Old Beach Community Hall (Cloak Oval) and mail out to residents in the Old Beach, Sunrise Avenue and Riverside Drive project sites with an invitation to attend.
- b. Provide an essential services provider workshop at the Civic Centre.
- c. Seek community feedback via the Brighton Council Have Your Say website.
- d. Delivery of a draft Community Values Report
- e. Following the delivery of the final reports SGS will present the Project findings back to Council in a workshop.

Ellen DeWitt from SGS will run the events with a coworker, with Brighton Council representatives in attendance.

### **Consultation**

The General Manager, Director Asset Services and Director Development Services have been consulted.

### **Risk Implications**

The risk of providing information is low in the context of reducing future liability. It is a higher risk approach not to provide information on potential hazards. The Project itself discusses a range of risks out to 2100, that includes climate change impacts. This approach is in line with the Regional Strategy – Adapting to a changing coastline in Tasmania, endorsed by the 12 southern Tasmanian councils, under the auspices of the Southern Tasmanian Councils Authority. A central feature of the Strategy is a risk management approach, which uses a set of principles to guide decision making to reduce councils' risks, these include:

- Public safety - human safety is paramount and providing up-to-date information to the community is important.
- Local government – are responsible for the management and cost of coastal hazards impacts on their own assets and services. Councils should actively monitor coastal hazard areas within their municipal areas.
- Legal risk and adaptation - well developed policy and action now will minimise the risk of legal challenges and liability in the future. Coastal legal risks can be identified, managed, and reduced, but can't be avoided.

### **Financial Implications**

There is no financial request associated with the report. If the Project does not deliver on key project milestones there is a risk of reducing the contribution from the Australian Government to the Project's overall funding.

### **Strategic Plan**

The recommendations further the following strategies from Council's strategic plan:

S1.1: Understand/Improve Health and Wellbeing

S1.5: Build a resilient community and environmentally sustainable future

S4.1: Ensure Financial & Risk Sustainability

S4.2: Be well-governed

S4.4: Long-term thinking & evidence-based

### **Social Implications**

The proposal benefits Brighton Council as it will increase community health and wellbeing. Brighton Council instigated this Project to:

- Improve the long-term resilience of the Brighton community, and households, through increasing disaster preparedness.
- Identify built infrastructure such as homes, roads, streetlights, tracks, or jetties at risk of damage and mitigation options/costs.
- Increase Council, and the community's, ability to prepare for the impacts of coastal hazards disasters.
- Improve understanding of local coastal hazards, risk assessment, pathways, and mitigation costs to improve disaster recovery.
- Guide future planning decisions.
- Increase options in the natural environment to build resilience.
- Strengthen social networks and connections with essential services such as the State Emergency Service.

- Clarify the roles and responsibilities of governments, individuals, and essential service providers.

### Environmental or Climate Change Implications

The action also relates to the Brighton Council *Climate Change Resilience Strategy 2019*:

- To promote innovation and generate opportunities.
- Working with the community – Council will integrate climate change issues into relevant community engagement activities.
- Infrastructure, hazards, and risk management – Council needs to engage with the community, and build networks, to improve sustainability and actively foster resilience.

### Economic Implications

Nil

### Other Issues

Nil

### Assessment

The Project outcomes are in line with other councils' work to identify and manage coastal risks and will provide additional clarity to be able to manage coastal hazards in the Derwent Foreshore area. Communication and community engagement will play a critical part in delivery increased disaster preparedness through information provision. Supporting SGS consulting to seek feedback from the community will progress this Project and help deliver the best possible community coastal risk management outcomes.

### Options

1. Endorse the Coastal Hazards and Risk Assessment Report for community consultation and next phase of community engagement.
2. Do not endorse the Coastal Hazards and Risk Assessment Report and next phase of community engagement.

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### **RECOMMENDATION:**

That Council endorse the Coastal Hazards and Risk Assessment Report and next phase of community engagement.

### **DECISION:**

*Cr De La Torre moved, Cr Geard seconded that Council endorse the Coastal Hazards and Risk Assessment Report and next phase of community engagement.*

**CARRIED**

**VOTING RECORD**

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

**13.2 Brighton Hub - Truck Stop Upgrades / Town Square - Concept Plan****Author:** B White (Planning Officer)**Authorised:** J Blackwell (Acting Director Development Services)**Purpose**

This purpose of this report is for Council to consider the submissions received during the public consultation period for the Brighton Hub - Truck Stop Upgrades/ Town Square Concept Plan ('the Concept Plan'), prepared by Play Street.

**Consultation**

The Concept Plan was endorsed for public consultation by Council at its meeting of the 16<sup>th</sup> August 2023. Council officers sent a letter to all properties within the Brighton Industrial Estate ('the Hub') which provided a link to the project page on Council's 'Have Your Say' website and invited submissions. All relevant state agencies and infrastructure providers were also notified via email.

The period for submissions ran for a period of one (1) month between 28<sup>th</sup> August and 25<sup>th</sup> September. Four (4) email submissions were received from the following state agencies and infrastructure providers:

- Taswater
- Tasgas
- Department of State Growth (DSG)
- Tasmanian Gas Pipeline/ Zinfra.

None of the submission objected to the Concept Plan; rather, they generally provided advice regarding the future construction phase of the project and the possible impact on their assets. DSG advised that Council would need to enter into a lease agreement or similar. TasNetworks confirmed they were satisfied that the plan had sufficient regard to their previous comments.

The submissions received are provided as Attachment B.

## Play Street Response

Play Street have responded to the submissions by stating that no changes are required to the masterplan apart from making a minor amendment to an existing advisory note on the plan regarding the need to liaise with relevant authorities in developing a construction methodology for works within an easement. The change to the note is underlined below to include vegetation as well as any structures:

*'Construction methodology for any structures and vegetation located within an easement to be coordinated with relevant authority'.*

Playstreet have provided an updated Concept Plan with this slight change which will supersede the originally exhibited plan as provided in Attachment A.

## Risk implications

The site is currently owned by the Crown and there is a risk that Council may not be able to secure the land for the proposal. However, the Crown have provided in-principle support for the project and are open to working through an appropriate mechanism for the project to proceed.

Lodgment and approval of a development application will be required to change the use of the site to 'passive recreation', and for any development not exempt under the planning scheme. This adds risk in that the application, if discretionary, and if approved by Council, could face potential planning appeals. The risk of this occurring is minor given the prior engagement with nearby businesses and State Agencies.

The Hub Town Square Project does not currently have a budget allocation and there is a risk that Council raises expectations that the Project is likely to be delivered in the short-term. Preparing Concept or Master Plans is not uncommon and has proved very successful for obtaining grant funding in the past (e.g. Ted Jeffries Memorial Park upgrades, Cris Fitzpatrick Park and Bridgewater Parklands, etc.) and community expectations can be managed through good communication.

## Financial Implications

The consultant brief was to prepare the concept plan based on a budget of \$300K. This will need to be factored into future budgets. The Concept Plan will likely prove useful for attracting grant funding and there may be possibilities for contributions from Government agencies given the proximity to the heavy vehicle rest stop.

## Strategic plan

This project furthers Council's Strategic Plan with a key focus on the following strategies:

- 1.3 - Ensure attractive local areas that provide social, recreational and economic opportunities
- 1.4 - Encourage a sense of pride, local identity and engaging activities
- 2.4 - Ensure strategic planning and management of assets has a long term-sustainability and evidence-based approach



- 3.2 - Infrastructure development and service delivery are guided by strategic planning to cater for the needs of a growing and changing population
- 3.3 - Community facilities are safe, accessible and meet contemporary needs
- 4.3 - Ensure strong engagements and relationships to shape the agenda and advocate for our community

### **Social implications**

The Concept Plan shows a proposal which will improve the appearance of this part of the Hub for the benefit of the community. It will provide workers and visitors to the Hub with a space to socialise and help foster an improved place via best practice landscape architecture and place making principles.

### **Economic implications**

The Masterplan has the potential to stimulate economic activity and attract private investment to the Hub by improving its appearance and the enjoyment of workers and visitors.

### **Environmental or climate change implications**

The Concept Plan will provide landscaping which will benefit people and wildlife.

### **Other Issues**

Nil

### **Assessment**

No objections were received during the consultation period for the Concept Plan. The only submissions received were generally related to future works on site and the impact they may have on infrastructure that run through the site.

It is noted that there is broad support for the proposal from nearby businesses which is evidenced by feedback received from Play Street during their targeted consultation.

Play Street are confident the matters raised can be easily addressed during the design/ construction phase of the project and that the Concept Plan does not require changing apart from the wording to an advisory note.

Council Officers agree with Play Street's comments and no changes are considered necessary to the design of the Concept Plan.

### **Options**

1. As per the recommendation; or
2. Other.

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### **RECOMMENDATION:**

It is recommended that Council:

- a) Notes the submissions received during public consultation.
- b) Endorses the amended Brighton Transport Hub - Truck Stop Upgrades/ Town Square Concept Plan and Site Identity.
- c) Directs Council Officers to send letters and notifications to property owners in the Hub and relevant state agencies notifying them of Council's decision.

### **DECISION:**

*Cr Whelan moved, Cr McMaster seconded that Council:*

- a) Notes the submissions received during public consultation;*
- b) endorses the amended Brighton Transport Hub – Truck Stop Upgrades / Town Square Concept Plan and Site Identity.*

**CARRIED**

#### **VOTING RECORD**

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## **13.3 Finance Quarterly Report - September 2023**

**Author:** Director Corporate Services (G Browne)

### **Background**

The finance report was considered. The report comprised the Comprehensive Income statement for the first three months of the 2023/2024 financial year.

### **Consultation**

Nil.

### **Risk Implications**

Nil.

### **Financial Implications**

Not applicable.

### **Strategic Plan**

S4.4 – Ensure financial & risk sustainability

### Social Implications

Not applicable.

### Environmental or Climate Change Implications

Not applicable.

### Economic Implications

Not applicable.

### Other Issues

Nil.

### Assessment

Nil.

### Options

1. As per the recommendation.
2. Not receive the reports.

### **RECOMMENDATION:**

That the September 2023 Quarterly Report be received.

### **DECISION:**

*Cr De La Torre moved, Cr Owen seconded that the September 2023 Quarterly Report be received.*

**CARRIED**

### VOTING RECORD

In favour	Against
Cr De La Torre	
Cr Geard	
Cr Gray	
Cr Irons	
Cr McMaster	
Cr Murtagh	
Cr Owen	
Cr Whelan	

## 14. Questions on Notice

*There were no Questions on Notice for the October meeting.*

Meeting closed: 6.25 pm

Confirmed: \_\_\_\_\_  
(Mayor)

Date: 21 November 2023  
\_\_\_\_\_