



Draft Planning Scheme Amendment

Land Use Planning and Approvals Act 1993

Notice is given pursuant to s40G of the *Land Use Planning and Approvals Act 1993* that the Brighton Planning Authority has certified draft Amendment RZ2024/01 to the Local Provisions Schedule.

A copy of the certified draft amendment and all other documents may be viewed on Council's website www.brighton.tas.gov.au and at the Council Offices, 1 Tivoli Road, Old Beach between 8.15am and 4.45pm Monday to Friday from **29th April 2024** until **27th May 2024**.

What land is affected by the amendment?

168 Brighton Road, Brighton

What does the draft amendment seek to do?

- Remove the land at 168 Brighton Road, Brighton (BRI-C6.1.23) from BRI-Table C6.1 of the Brighton Local Provisions Schedule.
- Amend the Local Heritage Place overlay to remove the land at 168 Brighton Road, Brighton.

How can I be involved?

Any person may make representation about the draft amendment during the above period by letter addressed to the General Manager, Brighton Council, 1 Tivoli Road, Brighton 7017 or by email to development@brighton.tas.gov.au.

Representations should include a daytime telephone number to allow council officers to discuss, if necessary, any matters raised.

It is important, if you wish to make comment that you put your comments in writing to Council. This will allow you to be involved in future processes relating to the draft amendment.

Further information regarding the draft amendment can be obtained from Development Services, ph: 03 62687041

JAMES DRYBURGH

General Manager

Brighton
going places

168 Brighton Road,
Brighton
**Planning scheme
amendment**

Supporting planning report | March 2024

ERA Planning and Environment acknowledge *palawa* as the Traditional Owners of *lutruwita* (Tasmania).

They are the original custodians of our land, sky and waters. We respect their unique ability to care for country and deep spiritual connection to it.

We honour and pay our respect to Elders past and present, whose knowledge and wisdom has and will ensure the continuation of culture and traditional practices.

We acknowledge that their sovereignty has never been ceded.

Always was, always will be.

ERA Planning Pty Ltd trading as ERA Planning and Environment

ABN 67 141 991 004

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Job Number: 2324-052

Document Status

Document Version	Date	Author	Reviewer
Final	27 March 2024	Patrick Carroll	Clare Hester

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1 Introduction

1.1 Purpose of the report

ERA Planning and Environment (ERA) has been engaged by Rohan Targett, sole director of Torelo Pty Ltd, to support an amendment to the Local Provisions Schedule (LPS) of the *Tasmanian Planning Scheme – Brighton*, made by Mr Targett pursuant to section 37 of the *Land Use Planning and Approvals Act 1993* (LUPA Act).

The application was made to Brighton Council on 31 January 2024; this report responds to Brighton Council's further information request dated 7 February 2024.

The amendment is to remove 168 Brighton Road, Brighton from the Local Historic Heritage Code of the LPS. Subsequent amendments to the planning scheme maps will also be required.

This report forms the basis of the supporting information, and has been prepared considering the provisions of the planning scheme, the relevant provisions of the LUPA Act and any other relevant strategic documents.

1.2 Enquiries

Enquiries relating to this request can be directed to:

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E: enquiries@eraplanning.com.au

1.3 Planning scheme

The applicable planning scheme is the *Tasmanian Planning Scheme – Brighton* (LPS).

2 Proposed amendment

2.1 Description

The proposed LPS amendment is to update the list of Local Heritage Places within the LPS. Specifically, the amendment is to amend BRI-Table C6.1 (Local Heritage Places) to remove listing BRI-C6.1.23, which currently includes the cottage at 168 Brighton Road, Brighton as a Local Heritage Place.

The amendment maintains that the site does not contain matters of local heritage significance, and as such, the site should be removed from the heritage listing. To support this position, the application is accompanied by a heritage assessment prepared by Graeme Corney.

The planning scheme maps will also require amending, specifically to remove the Local Historic Heritage Code overlay from the site.

2.2 Purpose of the amendment

The purpose of the LPS amendment is to update BRI-Table C6.1 to remove 168 Brighton Road from the heritage listing in BRI-Table C6.1, as it is the view of a suitably qualified heritage consultant that the site no longer contains local heritage value.

2.3 Section 8A Guidelines

For existing heritage places, Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application¹ (Section 8A Guidelines) includes a note, which states:

Transitioning of existing heritage lists is addressed in Minister's Advisory Statement -Transitional Arrangements for Existing Provisions, 23 June 2017 and is subject to the transitional provisions under Clause 8D, Schedule 6 of the Act.

As the site was listed as a Heritage Place in Table E13.1 of the former *Brighton Interim Planning Scheme 2013*, the listing was transitioned across to the respective LPS listing automatically.

2.4 Title information

The proposal relates to the land detailed in Table 1. Title documentation is included at Appendix A.

Table 1 - Title information.

Address	Owner	Title reference	Site area
168 Brighton Road Brighton	Torelo Pty Ltd	11271/3	1,138 m ²

¹ Tasmanian Planning Commission (2018) *Guideline No. 1 – Local Provisions Schedule (LPS) zone and code application*. Version 2.0, dated 6 June 2018. Accessed at 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

3 Background

3.1 Site description

168 Brighton Road, Brighton is the land contained at Certificate of Title Vol. 11271 Fol. 3, and is currently developed by a weatherboard cottage, as shown in Figure 1. The site has an area of approximately 1,138 m², and is serviced by reticulated sewer, water, and stormwater.

The site is located within the General Business Zone of the LPS (refer to Figure 2) and is currently subject to the Local Historical Heritage Code overlay, as well as the General Business Zone Local Area Objective overlay.

The cottage located on the site was constructed in the 1880s. Externally, the cottage still demonstrates some of its original form, including windows, weatherboard cladding and external architraves. Images of the cottage are included at Figure 3 and Figure 4.

However, the building has been significantly altered, including the building's relocation from its original location on the site (between 1979 and 2002). The proposed LPS amendment is accompanied by a supporting heritage assessment, prepared by a suitably qualified person, and notes the following external alterations:

- New veranda and decking
- Blockwork foundations
- Demolition of the original chimney, replaced with a modern flue
- New plastic downpipes

Internally, there have also been significant alterations, including:

- Removal of the original fireplaces
- The installation of new ceilings and modern cornices
- Modern doors and architraves have been fitted.



Figure 1 Aerial photograph of the subject site

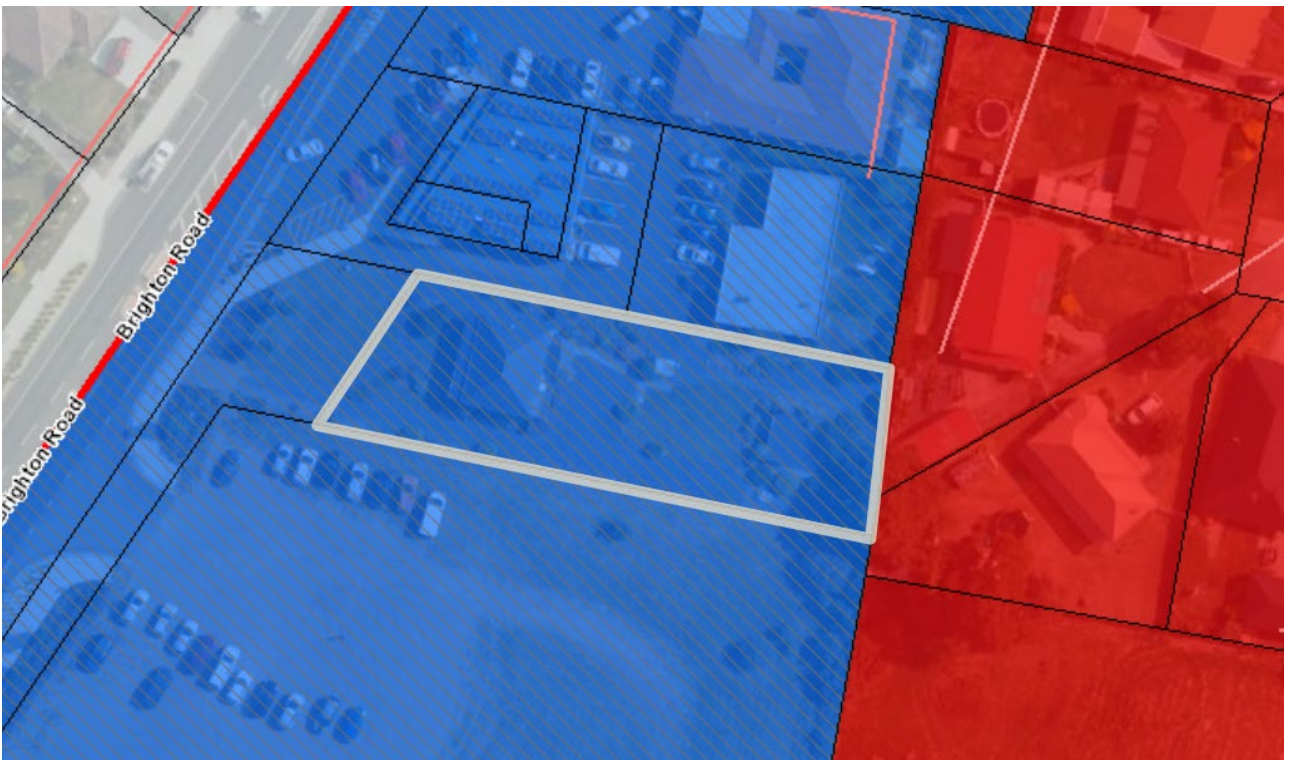


Figure 2 Zoning of the subject site. Blue denotes the General Business Zone, red denotes the General Residential Zone, grey denotes the Urban Mixed Use Zone. The hatching denotes the area covered by the General Business Zone Local Area Objectives overlay.



Figure 3 Photograph of the subject site, as viewed from Brighton Road. The site is located in the heart of the Brighton town centre, adjacent to the IGA development that is currently under construction, as well as the post office and pharmacy.



Figure 4 Photograph of the subject site, as viewed from Brighton Road..

3.2 Current LPS listing

BRI-Table C6.1 Local Heritage Places is reproduced, in part, below:

Table 2 - Extract of BRI-Table C6.1.

Reference	THR No.	Town / Locality	Street address	Property name	Folio of the Register	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
BRI-C6.1.23		Brighton	168 Brighton Road	Cottage	11271/3	This is a weatherboard cottage with a central door, flanking double hung windows and hipped roof with narrow boxed eaves. The skillion veranda, on the street facade, has single posts and a timber valance.

The existing planning scheme map, showing the Local Historic Heritage Code overlay for 168 Brighton Road, is also reproduced in Figure 5.



Figure 5 Cream denotes the extent of the Local Historic Heritage Code overlay in the Local Historical Heritage Code.

3.3 Heritage listings

The site was previously listed by the Tasmanian Heritage Council as a heritage place. However, as part of a process to refine listings on the Tasmanian Heritage Register that was undertaken in the mid-2010's, the site was removed from the Tasmanian Heritage Register. The Tasmanian Heritage Council concluded that, following a reassessment of the listing, the place no longer met the criteria defined in section 16 of the *Historic Cultural Heritage Act 1995* (HCA Act) to be considered a place of State heritage significance.

Those criteria are:

(2) For the purposes of subsection (1), the Heritage Council may determine that a place has historic cultural heritage significance if it is satisfied that the place meets one or more of the following criteria:

- (a) the place is important to the course or pattern of Tasmania's history;*
- (b) the place possesses uncommon or rare aspects of Tasmania's history;*
- (c) the place has the potential to yield information that will contribute to an understanding of Tasmania's history;*
- (d) the place is important in demonstrating the principal characteristics of a class of place in Tasmania's history;*
- (e) the place is important in demonstrating a high degree of creative or technical achievement;*
- (f) the place has a strong or special association with a particular community or cultural group for social or spiritual reasons;*
- (g) the place has a special association with the life or works of a person, or group of persons, of importance in Tasmania's history;*
- (h) the place is important in exhibiting particular aesthetic characteristics.*

The proposed LPS amendment is accompanied by a supporting heritage assessment, prepared by a suitably qualified person. The assessment notes that the criteria contained in section 16 of the HCA Act can reasonably be applied at the local level, provided measurement of significance is undertaken at the 'local' level, rather than based on 'Tasmanian significance'.

That assessment concludes that the loss of the more significant elements of the building fabric, combined with the relocation of the building means that the building and its environs, no longer contains sufficient heritage significance to warrant inclusion on the Local Heritage Register under the LPS.

The supporting heritage assessment ultimately concludes that the relocation of the building struck a fatal blow on the site's ability to demonstrate that heritage listing criteria could still be met. It is the cumulative effect of the relocation of the building, the demolition/removal of heritage fabric, and the inclusion of modern building materials that has caused the site to lose all remaining heritage value.

For those reasons, the supporting heritage assessment concludes that the site has lost much of its important heritage fabric which previously demonstrated its history, and the place no longer meets the threshold for entry to the Local Heritage Register of the Heritage Code of the LPS, and BRI-C6.1.23 should be removed from the LPS.

4 Legislative assessment

4.1 LUPA Act requirements

ERA have prepared this planning report to support the LPS amendment request made to Brighton Council by Rohan Targett on 31 January 2024.

The LPS amendment is prepared in accordance with section 37 of the LUPA Act. As Mr Targett is both the owner and the applicant, ERA is not required to provide the consent of the owner.

On 7 February 2024, Brighton Council, under section 54 of the LUPA Act, has requested the applicant provide the following information to support the application:

Please provide a planning assessment prepared by a suitably qualified person pursuant to s37 of the Land Use Planning and Approvals Act 1993. The planning assessment will need to demonstrate that the proposal can meet the LPS criteria set out in s34 of the Act.

While Council have made the request under section 54 of the LUPA Act, this report is being prepared on the basis that the Council's intention was to make this request under section 40 of the LUPA Act. In response to the request, ERA Planning and Environment have provided this supporting planning report to Council on behalf of Mr Targett.

Section 34(2) of the LUPA Act is relevant for a planning scheme amendment as it stipulates the assessment criteria that are required to be met, which are:

- (2) The LPS criteria to be met by a relevant planning instrument are that the instrument –*
 - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and*
 - (b) is in accordance with section 32; and*
 - (c) furthers the objectives set out in Schedule 1; and*
 - (d) is consistent with each State policy; and*
 - (da) satisfies the relevant criteria in relation to the TPPs; and*
 - (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; and*
 - (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; and*
 - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and*
 - (h) has regard to the safety requirements set out in the standards prescribed under the Gas Safety Act 2019.*

The following sections address the matters that are required under section 34(2) of the LUPA Act.

4.2 Section 34(2)(a)

Section 34(2)(a) of the LUPA Act requires that the amendment results in a planning scheme instrument that contains all the provisions that the State Planning Provisions (SPPs) specify must be contained in an LPS.

The proposed LPS amendment will not override the existing provisions in the LPS that are specified by the SPPs, nor does it affect matters such as LPS structuring and numbering, application of the SPPs, or the general application of mapping.

The proposed LPS amendment does seek to remove the specific application of the Local Historic Heritage Code overlay to the site, as well as removing the site from BRI-Table C6.1 Local Heritage Places.

The proposed LPS amendment is in accordance with the Section 8A Guidelines.

This legislative requirement is satisfied.

4.3 Section 34(2)(b)

Section 34(2)(b) of the LUPA Act requires that the proposed LPS amendment is in accordance with section 32 of the LUPA Act, which prescribes the content for an LPS.

Table 3 responds to the LPS requirements of Section 32(2) of the LUPA Act.

Table 3 - Response to section 32(2) of the LUPA Act.

Requirements of s32(2) of LUPA Act	Response
a. must specify the municipal area to which its provisions apply; and	The applicable local government area is Brighton.
b. must contain a provision that the SPPs require to be included in an LPS; and	The proposed LPS amendment does not affect this clause.
c. must contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land, if required to do so by the SPPs; and	The current LPS includes both a spatial overlay and a list of heritage properties across the municipality. The proposed LPS amendment includes the removal the site from both that overlay and list.
d. may, subject to this Act, contain any provision in relation to the municipal area that may, under section 11 or 12, be included in the Tasmanian Planning Scheme; and	The proposed LPS amendment does not affect this clause.
e. may contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to particular land; and	The current LPS includes a specific planning scheme overlay that relates to locally listed heritage places. This proposed LPS amendment seeks to amend that map, by removing its application to 168 Brighton Road.
f. must not contain a provision that is inconsistent with a provision of section 11 or 12; and	The proposed LPS amendment is not inconsistent with sections 11 or 12 of the LUPA Act.
g. may designate land as being reserved for public purposes; and	The proposed LPS amendment does not affect this clause.
h. may, if permitted to do so by the SPPs, provide for the detail of the SPPs in respect of, or the application of the SPPs to, a particular place or matter; and	The proposed LPS amendment demonstrates that the site no longer holds local heritage significance. If successful, the Local Historic Heritage Code of the SPPs will no longer apply to the site.
i. may, if permitted to do so by the SPPs, override a provision of the SPPs; and	The proposed LPS amendment does not affect this clause.
j. may, if permitted to do so by the SPPs, modify, in relation to a part of the municipal area, the application of a provision of the SPPs; and	The proposed LPS amendment, if approved, will result in the Local Historic Heritage Code no longer applying to the site.
k. may, subject to this Act, include any other provision that – <ul style="list-style-type: none"> i. is not a provision of the SPPs or inconsistent with a provision of the SPPs; and ii. is permitted by the SPPs to be included in an LPS; and 	The proposed LPS amendment does not affect this clause.
l. must not contain a provision that the SPPs specify must not be contained in an LPS.	The proposed LPS amendment does not affect this clause.

This legislative requirement is satisfied.

4.4 Section 34(2)(c)

Section 34(2)(c) of the LUPA Act requires that the LPS amendment furthers the objectives of the Resource Management and Planning System of Tasmania (RMPS), as set out in Schedule 1 of the LUPA Act. Schedule 1

is divided into two parts: Part 1 is the objectives of the RMPS; part 2 is the objectives of the planning process established by the LUPA Act.

An assessment of the proposed LPS amendment against the RMPS objectives is provided in Table 4.

Table 4 - Assessment of the proposed LPS amendment against the Part 1 objectives of Schedule 1.

Part 1 Objectives of the RMPS	Response
<p>1. The objectives of the resource management and planning system of Tasmania are –</p>	
<p>a. to promote the sustainable development² of natural and physical resources and the maintenance of ecological processes and genetic diversity; and</p>	<p>The proposed LPS amendment will promote sustainable development of land that has no known ecological value. The site is zoned General Business and is not subject to the Natural Assets Code. The site, which is in the heart of the business area of Brighton, whilst adjoining residential areas, is appropriately located for further development improving the viability and sustainability of this area.</p>
<p>b. to provide for the fair, orderly and sustainable use and development of air, land and water; and</p>	<p>The proposed LPS amendment removes the cottage at 168 Brighton Road, Brighton as a Local Heritage Place as it lacks sufficient heritage significance due to a series of works on the site including its relocation. The proposed LPS amendment contributes to further this objective through being fair and orderly, by recognising that the heritage value of the place has been diminished throughout the site's history.</p> <p>The location of the site in the heart of Brighton together with the application of other provisions in the LPS to the site, including the zone standards, and applicable codes and overlays, will ensure that any use and development of the site and its surrounds will continue to be undertaken in a way that is sustainable.</p>
<p>c. to encourage public involvement in resource management and planning; and</p>	<p>Should the amendment request be initiated by the planning authority, the public are provided with an opportunity to make comment and attend hearings regarding the proposed amendment.</p>
<p>d. to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and</p>	<p>The proposed LPS amendment, removes the site as a Local Heritage Place as it no longer contains sufficient heritage significance; this will contribute to this objective by opening up a range of commercial possibilities that will benefit the town and municipality.</p> <p>The site is in the heart of the Brighton township, adjacent to the pharmacy, post office and the supermarket that is currently under construction. Being within the General Business Zone, there is an opportunity to consolidate this commercial centre of the town, providing benefits to the community.</p>
<p>e. to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.</p>	<p>If initiated, the proposed amendment will have input from the community through the statutory public exhibition process. Early engagement with Council officers has already occurred, and State Agencies will also be afforded opportunity to comment.</p>

Table 5.provides for an assessment of the proposed LPS amendment against Part 2.

² Clause 2 of Part 1, Schedule 1 of the LUPA Act defines 'sustainable development', and how that definition applies to clause 1(a).

Table 5 - Assessment of the proposed LPS amendment against the Part 2 objectives of Schedule 1

Part 2 Objectives of the planning process	Response
<p>2. The objectives of the planning process established by this Act are, in support of the objectives set out in Part 1 of this Schedule –</p>	
<p>a. to require sound strategic planning and co-ordinated action by State and local government; and</p>	<p>The proposed LPS amendment invites both the local and State tiers of government to participate in the amendment process.</p> <p>In preparing this supporting planning report, consideration has been given to how the proposed LPS amendment is consistent with the STRLUS and its applicable policies and actions. An assessment of those policies and actions is included in Table 7.</p> <p>The proposed LPS amendment has also been considered against the Brighton Structure Plan 2018³ – the municipality's key strategic planning document. Generally, the Structure Plan notes that the town centre is growing, yet retains its rural service town feel. Strategy 10 of the Structure Plan is to improve the amenity of the town's high street, with key actions identified. On that basis, the proposed LPS amendment is consistent with the strategies contained in the Structure Plan.</p>
<p>b. to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land; and</p>	<p>The LPS regulates use and development across Brighton, in keeping with the framework.</p> <p>The proposed LPS amendment does not alter how the LPS operates across the municipality.</p>
<p>c. to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land; and</p>	<p>The proposed LPS amendment will not have a direct impact on the environment, as there are no known environmental values.</p> <p>The proposed LPS amendment opens up a range of social and economic benefits to the town and the municipality through commercial development opportunities, as the site, which no longer contains sufficient heritage significance to warrant is retention as a Local Heritage Place, is located in the heart of the Brighton township and within the General Business Zone.</p>
<p>d. to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels; and</p>	<p>The proposed LPS amendment does not affect the achievement of this objective.</p>
<p>e. to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals; and</p>	<p>The proposed LPS amendment does not conflict with this objective.</p>
<p>f. to promote the health and wellbeing of all Tasmanians and visitors to Tasmania by ensuring a pleasant, efficient and safe environment for working, living and recreation; and</p>	<p>The proposed LPS amendment removes the cottage at 168 Brighton Road, Brighton as a Local Heritage Place as it lacks sufficient heritage significance due to a series of works on the site including its relocation. This will subsequently, open up the possibility of a range of social and economic benefits to the town and the municipality through commercial development opportunities, as the site is located in the heart of the Brighton township and within the General Business Zone.</p> <p>These commercial opportunities will complement existing commercial developments in the township,</p>

³ Echelon Planning (2018) *Brighton Structure Plan 2018*. Accessed at <https://www.brighton.tas.gov.au/wp-content/uploads/2019/05/Strategic-Plans-Brighton-Structure-Plan-%E2%80%93-Final-LR.pdf>

Part 2 Objectives of the planning process	Response
	making Brighton a more pleasant place to live, visit, and work in.
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	The proposed LPS amendment demonstrates that the local heritage value has been diminished to the point where this place no longer holds heritage value of local significance.
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	Public infrastructure and other assets will not be affected by the proposed LPS amendment.
i. to provide a planning framework which fully considers land capability.	The site is not subject to, nor is it suitable for, agricultural uses.

This legislative requirement is satisfied.

4.5 Section 34(2)(d)

Section 34(2)(d) of the LUPA Act requires that the amendment be consistent with each State policy. There are currently three state policies that are operational in Tasmania, as established under the State Policies and Projects Act 1993. These state policies articulate the government's strategic policy direction in relation to:

- The protection of agricultural land
- Water quality management
- Coastal areas

The relevance of these policies on the proposed LPS amendment are addressed below in Table 6. This table also outlines the National Environment Protection Matters (NEPMs), which are developed under the *National Environment Protection Council (Tasmania) Act 1995*. Section 12A of the *State Policies and Projects Act 1993* provides NEPMs with the status of a State policy.

Table 6 - Assessment against State policies.

State Policy	Response
State Policy on the Protection of Agricultural Land 2009	The policy applies to all agricultural land in Tasmania. As the site is not agricultural land, the State policy does not apply to the land, and therefore does not affect the proposed LPS amendment.
State Policy on Water Quality Management 1997	<p>This policy applies to all surface waters, including coastal waters, and groundwaters, other than:</p> <ul style="list-style-type: none"> • privately owned waters that are not accessible to the public and are not connected to, or flow directly into, waters that are accessible to the public; or • waters in any tank, pipe or cistern. <p>Therefore, the policy applies to use and development that may impact on surface or ground water quality in Tasmania.</p> <p>The proposed LPS amendment does not impact or limit the application or operation of the policy. Any future use and development will comply with the policy by meeting any applicable use and development standards within the LPS.</p>
State Coastal Policy 1996	The policy applies to Tasmania's coastal area, including all islands except for Macquarie Island. The coastal zone includes State Waters (as defined in the <i>Living Marine Resources Management Act 1995</i>) and all land to a distance of 1km from the high-water mark.

State Policy	Response
	As the site is more than 1 km from high-water mark, the policy does not apply.
National Environment Protection Matters.	<p>Current NEPMS include:</p> <ul style="list-style-type: none"> • Air Toxics NEPM • Ambient Air Quality NEPM • Assessment of Site Contamination NEPM • Diesel Vehicle Emissions NEPM • Movement of Controlled Waste between States and Territories NEPM • National Pollutant Inventory (NPI) NEPM • Used Packaging Materials NEPM <p>It is opined that the NEPMs are not applicable to the proposed LPS amendment.</p>

This legislative requirement is satisfied.

4.6 Section 34(2)(da)

Section 34(2)(da) of the LUPA Act requires the proposed LPS amendment to satisfy the relevant criteria of a Tasmanian Planning Policy (TPP).

While draft TPPs have been prepared by the Tasmanian Planning Commission, and have undergone public exhibition, no TPPs are currently in effect.

This legislative requirement is therefore not applicable.

4.7 Section 34(2)(e)

Section 34(2)(e) of the LUPA Act requires the proposed LPS amendment to be, as far as practicable, consistent with the relevant regional land use strategy.

The relevant strategy is the *Southern Tasmania Regional Land Use Strategy 2010-2035*⁴ (STRLUS). The STRLUS is the statutory regional plan that outlines the strategy and policy basis to facilitate and manage change, growth, and development in Southern Tasmania.

Section 9.1 of the STRLUS recognises that while the region has a good level of understanding of historic cultural heritage places, many heritage listings do not contain the information necessary to adequately identify and ascribe values to heritage places. This demand in resourcing results in the Heritage Tasmania and local Councils not updating their heritage registers regularly.

This site was removed from the State heritage register through a dedicated process to overhaul that list. When determining to remove the listing from the State register, the Tasmanian Heritage Council concluded that the place no longer met the registration criteria contained in section 16 of the *Historic Cultural Heritage Act 1995*.

The policies of the STRLUS that are relevant to the proposed amendment are addressed in Table 7 below.

Table 7 – Assessment against relevant provisions of the STRLUS.

Policy	Action
<p>CV 2</p> <p>Recognise, retain and protect historic cultural heritage values within the region for their character, culture, sense</p>	<p>CV 2.2</p> <p>Promulgate the nationally adopted tiered approach to the recognition of heritage values and progress towards the relative categorisation of listed places as follows:</p>

⁴ Southern Tasmanian Councils Authority (2011) *Southern Tasmania Regional Land Use Strategy 2010-2035*. Amended 17 May 2023. Accessed at https://planningreform.tas.gov.au/_data/assets/pdf_file/0019/708013/Southern-Tasmania-Regional-Land-Use-Strategy-2010-2035-Effective-17-May-2023.PDF

of place, contribution to our understanding history and contribution to the region's competitive advantage.

- (a) places of local significance are to be listed within Heritage Codes contained within planning schemes, as determined by the local Council.
- (b) places of state significance are to be listed within the Tasmanian Heritage Register, as determined by the Tasmanian Heritage Council.
- (c) places of national or international significance are listed through national mechanisms as determined by the Australian Government.

CV 2.4

Recognise and list heritage precincts within planning scheme Heritage Codes and spatially define them by associated overlays on planning scheme maps.

CV 2.5

Base heritage management upon the Burra Charter and the HERCON Criteria, with heritage code provisions in planning schemes drafted to conform with relevant principles therein.

Response

The proposed LPS amendment is supported by a heritage assessment, prepared by a suitably qualified person. That assessment concludes that the removal of heritage building fabric and modern building additions, combined with the relocation of the building, has resulted in the fatal loss of heritage values at the site.

In forming this opinion, the heritage consultant has considered the Burra Charter, and opines that the site does not meet the threshold for inclusion on the local heritage register.

While the site is not within a heritage precinct, the site is mapped in the LPS as being on the local heritage register (noting this automatically transitioned across from the interim planning scheme). It is highlighted that the listing includes a high-level description only; that is, there is no statement of local heritage significance or statement of historic heritage values.

As the site no longer holds any local heritage values, its removal from the local heritage register is warranted.

Policy CV 2 is met.

Policy	Action
CV 3 Undertake the statutory recognition (listing) and management of heritage values in an open and transparent fashion in which the views of the community are taken into consideration.	CV 3.1 Heritage Studies or Inventories should be open to public comment and consultation prior to their finalisation.

Response

The management of heritage values through the site's statutory listing is managed through the statutory LPS amendment process.

Members of the public are invited to view the proposed LPS amendment, including the supporting heritage assessment, and provide comment through the defined statutory process. Any comments will be considered in the decision making at both local and State government level.

Policy CV 3 is met.

This legislative requirement is satisfied.

4.8 Section 34(2)(f)

Section 34(2)(f) of the LUPA Act requires the proposed LPS amendment to have regard to the relevant strategic plan prepared under section 66 of the *Local Government Act 1993*.

The relevant strategic plan is the *Brighton Council Strategy 2023-2033*⁵, which sets out the values, goals and strategies that Council aspire to. The proposed LPS amendment is generally aligned with the strategic plan. Specifically, it is consistent with the following strategies:

1.3 – *Ensure attractive local areas that provide social, recreational and economic opportunities.*

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.*

This legislative requirement is satisfied.

4.9 Section 34(2)(g)

Section 34(2)(g) of the LUPA Act requires the amendment to be, as far as practicable, both consistent with and coordinated with any LPSs that apply to municipal areas that area adjacent to the municipal area to which the relevant planning instrument relates.

Brighton Council is adjacent to the following municipalities:

- Clarence
- Glenorchy
- Derwent Valley
- Southern Midlands

Clarence, Glenorchy, and Southern Midlands have an LPS that is operational.

The LPS amendment is consistent with the requirements specified in the Section 8A Guidelines, and will therefore align with other LPSs that are in effect in adjoining municipalities. The site is located a considerable distance from municipal boundaries, and is not impacted by, nor will it have an impact on, the operation of an adjoining LPS.

This legislative requirement is satisfied.

4.10 Section 34(2)(h)

Section 34(2)(h) of the LUPA Act requires the proposed LPS amendment to have regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

The site is not located close to a high-pressure gas main, and will not impact the safe operation of that infrastructure.

This legislative requirement is satisfied.

⁵ Brighton Council (2023) *Brighton Council Strategy 2023-2033*. Accessed at <https://www.brighton.tas.gov.au/wp-content/uploads/2023/03/Brighton-Strategic-Plan-and-Values-FINAL-21-Feb-2023.pdf>

5 Conclusion

The proposed LPS amendment is to update the *Tasmanian Planning Scheme – Brighton* to remove 168 Brighton Road, Brighton from BRI-Table C6.1 Local Heritage Places. The amendment is to also update the mapping within the LPS to remove the Local Historic Heritage Code overlay from 168 Brighton Road.

The supporting heritage assessment notes that:

- The building was constructed in the 1880s, or thereabouts. It was, however, relocated from its original location at some point between 1979 and 2002.
- The building has had several external alterations, including a veranda, new blockwork foundations, a new chimney, and new downpipes.
- Internally, alterations to significant building fabric have also occurred, such as removal of the original fireplace, installation of new ceilings and cornices, and new doors and architraves.

The supporting heritage assessment concludes that the relocation of the building, combined with the loss of heritage building fabric, means that the heritage significance of the place is lost, and therefore, the removal of the place from the Heritage Code of the LPS is warranted.

No other changes are proposed to the content of the LPS.

It is opined that the proposed LPS amendment meets the relevant requirements of section 34 of the LUPA Act. Based on the information contained in this report, it is submitted that there is sufficient justification for Council to certify the draft amendment under section 40F of the LUPA Act.

Appendix A Title documentation

SEARCH OF TORRENS TITLE

VOLUME 11271	FOLIO 3
EDITION 4	DATE OF ISSUE 29-Nov-2022

SEARCH DATE : 30-Jan-2024

SEARCH TIME : 02.08 PM

DESCRIPTION OF LAND

Town of BRIGHTON

Lot 3 on Sealed Plan 11271

Derivation : Part of Lot 2 Section Y. Gtd. to J. Cooney

Prior CT 3708/9

SCHEDULE 1

M984540 TRANSFER to TORELO PTY LTD Registered 29-Nov-2022
at 12.01 PM

SCHEDULE 2

Reservations and conditions in the Crown Grant if any

SP 11271 FENCING COVENANT in Schedule of Easements

E321713 MORTGAGE to Commonwealth Bank of Australia

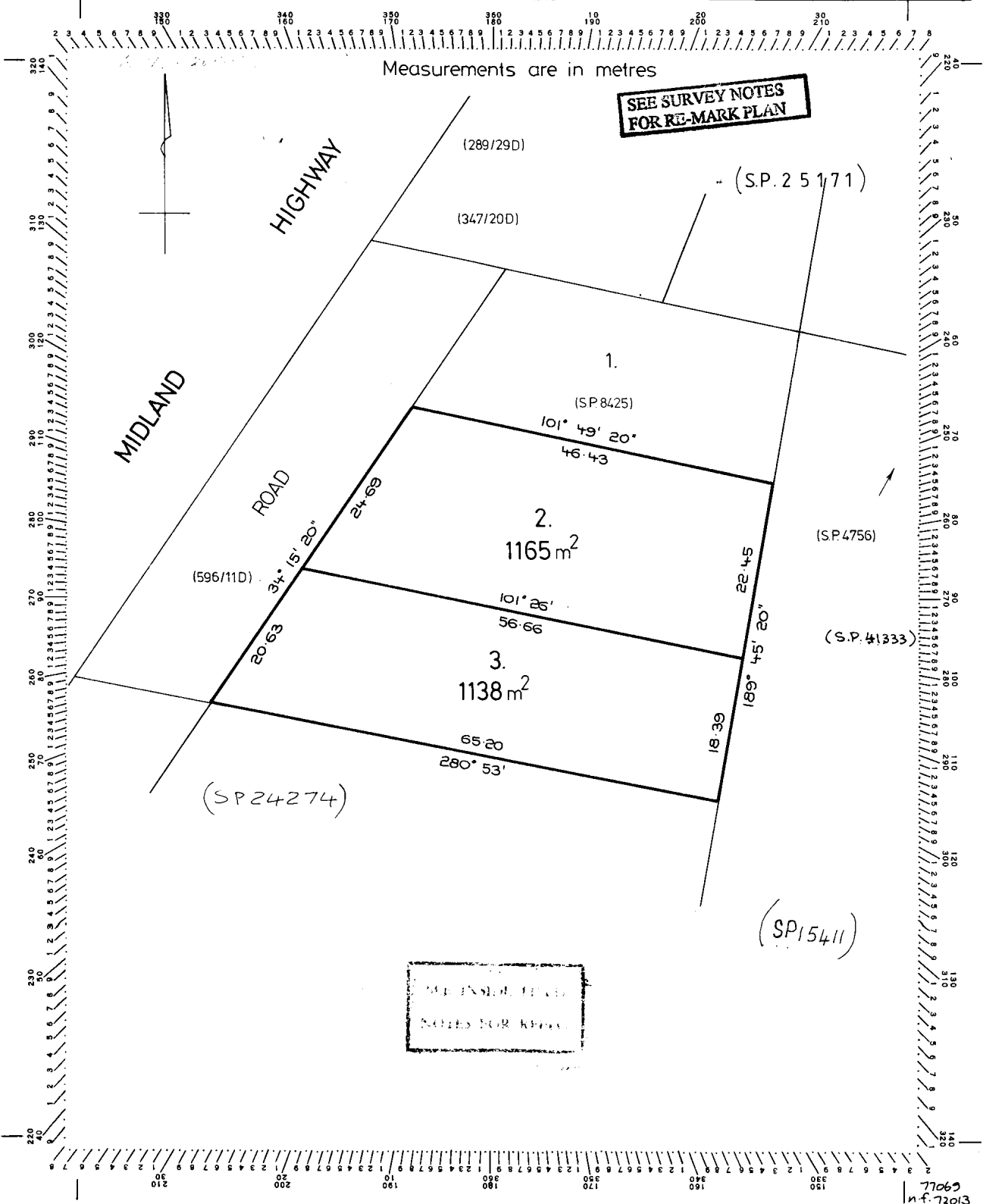
Registered 29-Nov-2022 at 12.02 PM

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations

SP 11271

<p>Owner: Roy Clifford Roe & Auriel Elaine Roe</p>	<p>PLAN OF SURVEY by Surveyor J. B. Medbury of land situated in the</p>	<p>Registered Number: S.P. 11271</p>
<p>Title Reference: C.T. 3560-15 C.T. 3214-07</p>	<p>TOWN OF BRIGHTON</p>	<p>Effective from: 11 AUG 1978</p>
<p>Grantee: (1-0-2) Part of Lot 2, Sec. Y gtd. to J. Cooney</p>	<p>Scale 1:500</p>	<p><i>P. J. Schlabach</i> ACTING DEPUTY Recorder of titles</p>





SCHEDULE OF EASEMENTS

Plan No. **S.P**
11271

NOTE:—The Town Clerk or Council Clerk must sign the certificate on the back page for the purpose of identification.

The Schedule must be signed by the owners and mortgagees of the land affected. Signatures should be attested.

COVENANT

The Owner of Lots 2 and 3 on the plan hereby covenants with Roy Clifford Roe and Auriel Elaine Roe (hereinafter called "the Vendors") that the Vendors shall not be required to fence.

EASEMENTS

No easements, no other covenants and no profits a prendre are created to benefit or burden any Lots shown on the Plan.

11271

SIGNED by ROY CLIFFORD ROE
and AURIEL ELAINE ROE as
Registered Proprietors of the
land comprised in Certificate
of Title Registered Volume
3560 Folio 15 in the presence of:

Handwritten signature: Roy c. Roe

Handwritten signature: Auriel Elaine Roe

SIGNED for and on behalf of
COMMERCIAL BANK OF AUSTRALIA LIMITED
the Registered Proprietor of Mortgage
Number A416714 by its duly constituted
Attorney
in the presence of:

Commercial Bank of Australia Limited by its Attorney:

Signed by GORDON WILLIAM LAWRENCE
as Attorney for THE COMMERCIAL BANK OF AUSTRALIA LIMITED and
as the Act and deed of the said Bank in the presence of:-
Bank Officer, Hobart.

THE COMMERCIAL BANK OF AUSTRALIA LIMITED BY ITS ATTORNEY

Handwritten signature: Gordon William Lawrence
WHO HEREBY CERTIFIES THAT HE HAS RECEIVED NO NOTICE OF REVOCATION OF POWER No. 22901 GRANTED TO HIM.

I,
Manager of the Hobart Branch of the
Commercial Bank of Australia do solemnly
and sincerely declare that I have not received
any notice of the revocation of the Power
of Attorney dated the
day of 19
given to me by the said Bank and the said
Power of Attorney is still in force.

Commercial Bank of Australia Limited by its Attorney:

11271

Certified correct for the purposes of the Real Property Act 1862, as amended.

B. R. HENRY WHEPRETT & BENJAMIN

[Signature]
Subdivider/Solicitor for the Subdivider

This is the schedule of easements attached to the plan of Roy Clifford ROE

(Insert Subdivider's Full Name)

and Auriel Elaine ROSE

..... affecting land in

CT 3214-97

(Insert Title Reference)

Sealed by Re Municipality, of Brighton on 13th July 19 78

[Signature]
Council Clerk/Town Clerk

10384

Appendix B Heritage impact statement

HERITAGE REPORT

FOR PROPOSED DELISTING OF 168 BRIGHTON ROAD, BRIGHTON



Photo 1 168 Brighton Road

1 INTRODUCTION

I have been asked by the owner of the weatherboard cottage at 168 Brighton Road, Brighton to give an opinion on the potential removal of that place from the Brighton Council's Local Heritage Schedule.

The Local provisions of the Brighton Council list 168 Brighton Road on its local heritage schedule as item BRI-C6-1.23 'cottage'.

2 RECENT HISTORY OF THE PLACE

It is firstly acknowledged that this report does not include any archival research of the place. I am advised that local knowledge of previous ownership has found no owners or occupants of particular importance to Tasmanian history.

The owner of this cottage has been advised by heritage practitioner and archaeologist Brad Williams of the following:

- The cottage was relocated from nearer the street frontage back towards the centre of the allotment to make way for the construction widening of the Midlands Highway.
- Aerial photographs from 1961, 1979 and 2002 show that the cottage was moved from its original location between 1979 and 2002.

The relocation has necessitated at least three adverse heritage impacts:

1. The compromise of location, which I discuss below;
2. The loss of the (likely) brick fireplace/s as the centrepiece of the living room and possibly the kitchen. In cottages like this the fireplace is the single most significant internal fabric; and
3. The loss of the foundation, demonstrated by the house now sitting on Besser blocks and the loss of the original chimney as a consequence of the fireplace removal.



Photo 2 Relocated cottage now on Besser block foundations

3 DISCUSSION

3.01 Location

The Foundation document for all conservation practice in Australia (and some other countries) is the Burra Charter -first endorsed by Australia ICOMOS in 1979.

The document The Burra Charter described the importance of 'Location' in its Article 9.

The physical location of a place is part of its cultural significance. A building, work or other component of a place should remain in its historical location. Relocation is generally unacceptable unless this is the sole practical means ensuring its survival.¹

GC Comments:

It is clear from the Burra Charter Article 9 that relocation has an unacceptable, (perhaps fatal) impact on the heritage significance of a place.

Given that the cottage in 1979 actually had a greater front setback than some of its neighbours which still remain in their original location, it is likely that the relocation of 168 Brighton Road was NOT its only means of ensuring its survival. It seems that the relocation was more likely generated by the wants of the owner at that time -perhaps for a quieter location on the site. Whatever the reason was at the time, it is clear that the heritage values of the cottage were greatly impacted upon.

The fact that the relocation was within the same allotment and within its original environs would perhaps reduce the adverse heritage impact to some degree if there were no loss of significant heritage fabric in the relocation process. Unfortunately it is the case that the cottage has also

¹ The Burra Charter 2013, p.5

undergone several changes which need to be understood in combination with loss of heritage significance brought about by the relocation itself.

3.02 Fabric

The cottage still can demonstrate its original c.1880s external form. Most windows, weatherboard cladding and external architraves, and symmetrical façade are intact.

External alterations include the following:

- The veranda is a modern addition
- Besser foundations are modern
- Original chimney has been replaced by a modern flue
- Downpipes are now plastic
- Veranda decking is modern

Internal alterations include the following;

- Original fireplace/s removed
- New ceilings and modern cornices installed
- Modern doors and architraves fitted

Original joinery (doors, architraves, skirtings etc) and fireplaces are heritage fabric of higher value as they best demonstrate the history of the place. This cottage has lost almost all of that joinery and of course the fireplace/s.

If not for the loss of the more important original fabric, notwithstanding that the cottage was relocated, a case could be made that the heritage significance of the place remained sufficiently to warrant retention of the place on the Local Heritage Schedule.

However, given the combination of relocation (likely not as a 'last resort' for roadworks) and the loss of the more significant fabric, it is my view that the place does not meet the threshold for inclusion in the local heritage schedule.

3.03 Listing criteria

The Historic Cultural Heritage Act list a number of criteria for entry to the Tasmanian heritage Register.

Criterion (a)

It is important in demonstrating the evolution or pattern of Tasmania's history

Criterion (b)

It demonstrates rare, uncommon or endangered aspects of Tasmania's heritage

Criterion (c)

It has potential to yield information that will contribute to an understanding of Tasmania's history

Criterion (d)

It is important as a representative in demonstrating the characteristics of a broader class of cultural places

Criterion (e)

It is important in demonstrating a high degree of creative or technical achievement

Criterion (f)

It has strong meaning for any group or community because of social, cultural or spiritual; associations

Criterion (g)

The place is important in exhibiting particular aesthetic characteristics

The same criteria can be applied for entry into Local Heritage Schedules with the modification that the measurement is against 'local' significance rather than 'Tasmanian' significance. On that basis the cottage at 168 Brighton Road would normally meet criteria (d) and likely (f).

However the fact that the cottage has been relocated impacts to a great (fatal) degree on its ability meet any criteria. If in doubt it is appropriate then to revert to the foundation document for heritage considerations, ie the Burra Charter, for guidance on properly understanding heritage significance. The discussion presented above explains my opinion that 168 Brighton Road does not meet the threshold for inclusion in the Local heritage Schedule because of the **combination** of its relocation and its loss of its significant heritage fabric.



Photo 3 Internal view showing new doorway in original fireplace location

4 CONCLUSIONS AND RECOMMENDATION

It is my view that that because 168 Brighton Road, Brighton has been relocated, combined with the fact that it has lost much of its important heritage fabric which previously demonstrated its history, the place does not meet the threshold for entry to the Local Heritage Schedule and should be removed.

1.01 Author identification

This assessment was prepared by Graeme Corney, architect & heritage consultant.

Between 1997 and 2007 I was the Senior Heritage Advisor for the Tasmanian Heritage Council, a role that involved establishment of the Tasmanian Heritage Register of 5,000 places and the provision of advice to the Tasmania Heritage Council on over 2,000 works applications over 10 years.

Since retirement from Government I have specialized in conservation of heritage places and the provision of heritage advice.

A handwritten signature in blue ink that reads "Graeme Corney". The signature is written in a cursive, flowing style.

Architect and Heritage Consultant

3/78a Esplanade, Rose Bay 7015 tel (03) 6243 1994 or 0448 014 005

era

PLANNING
& ENVIRONMENT

Contact us

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☎ (03) 6165 0443

✉ enquiries@eraplanning.com.au

eraplanning.com.au

Brighton Local Provisions Schedule

Amendment RZ 2024 - 1

The Brighton Local Provision Schedule is amended as follows:

1. To amend the planning scheme map to:
 - a. Remove the land at 168 Brighton Road, Brighton from the Local Historic Heritage Code as shown in Annexure A.
 - b. Remove the land at 168 Brighton Road, Brighton (BRI-C6.1.23) from BRI-Table C6.1 of the Brighton Local Provisions Schedule, as shown in Annexure B.

Instrument of Certification

The Brighton Council Planning Authority resolved at its meeting held on 16th April 2024 that Amendment RZ 2024-1 of the Tasmanian Planning Scheme including the Brighton Local Provisions Schedule meets the requirements specified in Section 32 of the Land Use Planning and Approvals Act 1993.

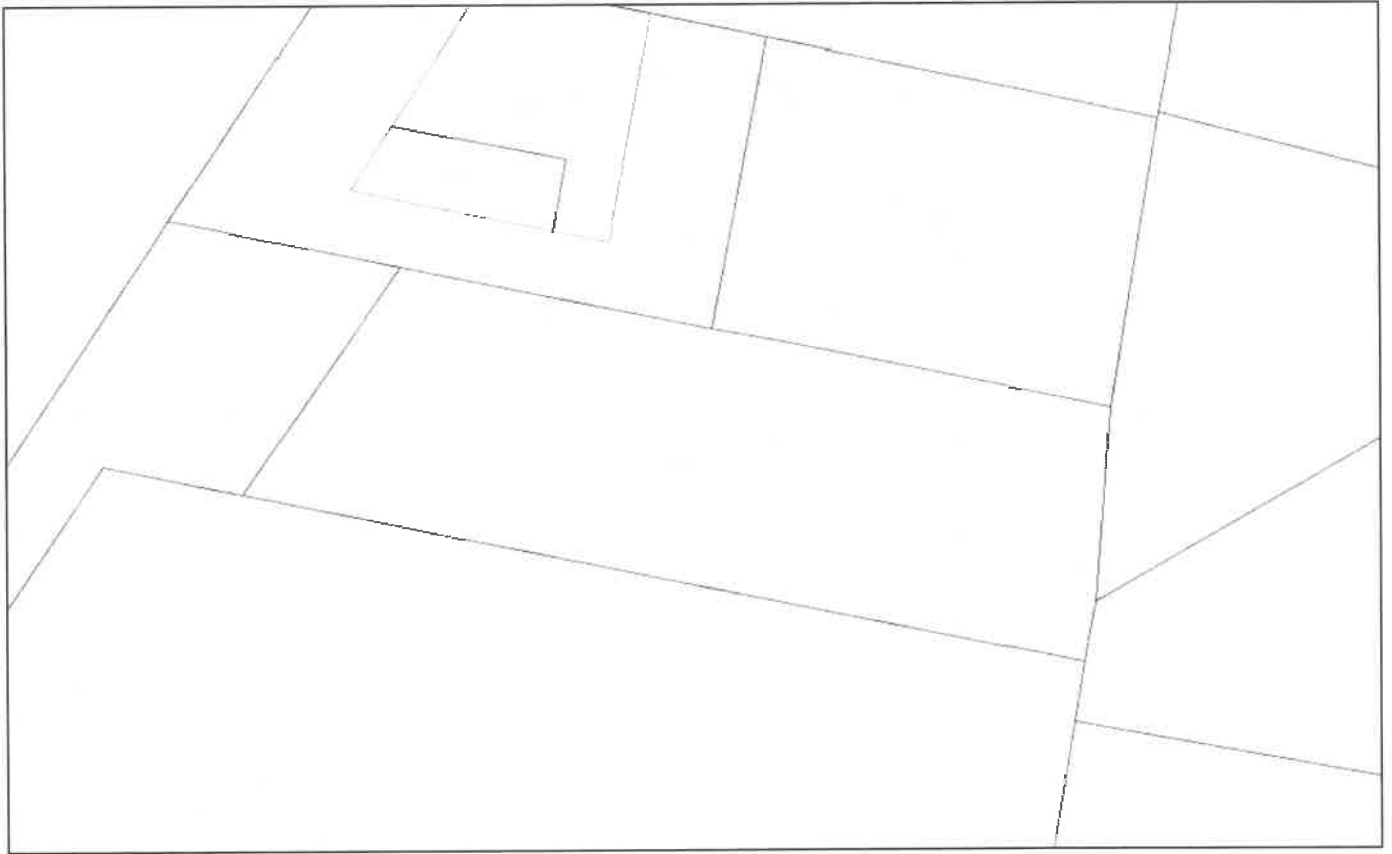
The Common Seal of the Brighton Council is affixed below, pursuant to the Council resolution of 16th May 2006, in the presence of:



General Manager



ANNEXURE A



ANNEXURE B

BRI- C6.1.23		Brighton	168 Brighton Road	Cottage	11271/3	This is a weatherboard cottage with a central door, flanking double hung windows and hipped roof with narrow boxed eaves. The skillion veranda, on the street facade, has single posts and a timber valance.
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