



Notice of Withdrawal

Land Use Planning and Approvals Act 1993

Notice is given pursuant to s40E(1)(b) and s40E(3)(b) of the *Land Use Planning and Approvals Act 1993* that Brighton Council has withdrawn the following draft amendments to Brighton Local Provisions Schedule:

- RZ 2024/05 – Burrows Avenue Specific Area Plan and
- RZ 2024/06 – South Brighton Specific Area Plan

A copy of the withdrawal 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. It is also available upon request by contacting Council Officers at development@brighton.tas.gov.au or 6268 7070.

This withdrawal will come into effect on the 8th April 2025.

JAMES DRYBURGH
Chief Executive Officer



Brighton
going places



Brighton Council

**(EXTRACT OF) MINUTES OF THE PLANNING AUTHORITY MEETING
OF THE BRIGHTON COUNCIL, HELD IN THE COUNCIL CHAMBERS,
COUNCIL OFFICES, 1 TIVOLI ROAD, OLD BEACH
AT 5.40P.M. ON TUESDAY, 1 APRIL 2025**

PRESENT: Cr Gray (Chairperson); Cr Curran; Cr De La Torre; Cr Irons, Cr Owen & Cr Whelan.

IN ATTENDANCE: Cr McMaster; Mr J Dryburgh (Chief Executive Officer); Mr C Pearce-Rasmussen (Director Asset Services); Ms J Banks (Director, Governance & Regulatory Services); Mr A Woodward (Director, Development Services); Ms G Browne (Director Corporate Services); Mrs J Blackwell (Senior Planner) and Mr D Van (Planning Officer).

1. Acknowledgement of Country

2. Apologies

Cr Owen moved, Cr De La Torre seconded that Cr Geard be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Gray	
Cr Irons	
Cr Owen	
Cr Whelan	

3. Public Question Time and Deputations

There was no requirement for Public Question Time.

4. 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 Chief Executive Officer, in writing, the details of any interest(s) that the councillor has declared within 7 days of the declaration.

There were no declarations of interest.

5. Council Acting as Planning Authority

In accordance with the provisions of Part 2 Regulations 25 of the *Local Government (Meeting Procedures) Regulations 2015*, the intention of the Council to act as planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 5 on this agenda, inclusive of any supplementary items.

5.1 Withdrawal of the Draft Amendment to the Brighton Local Provisions Schedule to Amend the BRI-S12.0 Burrows Avenue Specific Area Plan - RZ 2024/05

Author: Planning Officer (D Van)

Authorised: Director Development Services (A Woodward)

File Reference:	RZ 2024/05
Type of Application:	Section 40E(1)(b) of the <i>Land Use Planning and Approvals Act 1993</i>
Address/Subject Site:	Various
Owner/s:	Various
Requested by:	Brighton Council
Planning Instrument:	Tasmanian Planning Scheme - Brighton
Proposal:	To withdraw the draft amendment to Brighton Local Provisions Schedule ordinance in the BRI-S12.0 Burrows Avenue Specific Area Plan (RZ 2024/05).

1. Executive Summary

The purpose of this report is for Council to consider whether to withdraw the draft planning scheme amendment RZ 2024/05 made under Section 40D(b) of the *Land Use Planning and Approvals Act 1993*

(‘the Act’).

The draft amendment RZ 2024/05 is seeking to amend the Brighton Local Provision Schedule (LPS) by revising subclauses BRI-S12.7.1 P1.2 and BRI-S12.8.1 P2.2 of the Burrows Avenue Specific Area Plan (Burrows Avenue SAP), as follows:

To remove the current wording of “Council’s adopted Key Infrastructure Investments and Defined Infrastructure Charges policy that is relevant to the land” and replace with “Council’s adopted Infrastructure Contributions Policy or as amended or replaced from time to time that are relevant to the land.”

The Planning Authority, at its meeting on 17 December 2024, resolved to initiate and prepare Draft Amendment RZ 2024/05 under section 40D(b) of the Act. As part of this resolution, the Planning Authority also requested that the Commission dispense with the requirement for public exhibition under section 40I(2)(b) of the Act.

Following its preliminary assessment, the Commission issued a direction to the Planning Authority on 7 March 2025, advising that the inclusion of the phrase “as amended or replaced from time to time” in the draft amendment would introduce new uncertainty and, on that basis, directed that Draft Amendment RZ 2024/05 be publicly exhibited.

Council officers accept and agree with the Commission’s position that the phrase “as amended or replaced from time to time” is unnecessary in the context of the draft amendment.

It is therefore recommended that the Planning Authority formally withdraw Draft Amendment RZ 2024/05 from the Tasmanian Planning Commission and proceed to prepare a revised draft amendment that addresses the Commission’s concerns.

2. Legislative & Policy Content

The draft amendment RZ 2024/5 is made under section 40D(b) of the *Land Use Planning and Approvals Act 1993* (the Act).

Section 40I(2)(b) of the *Land Use Planning and Approvals Act 1993* (the Act) sets out specific circumstances in which the Tasmanian Planning Commission (the Commission) may dispense with the requirement for public exhibition under section 40G.

There is no provision under the Act that permits the planning authority to modify the draft amendment after certification (section 40F) and before the public exhibition (section 40G).

Section 40I(2)(b) provides that an exemption may be granted where the draft amendment is for one or more of the following purposes:

- (i) *correcting an error in the LPS;*
- (ii) *removing an anomaly in the LPS;*
- (iii) *clarifying or simplifying the LPS;*
- (iv) *removing an inconsistency in the LPS;*
- (v) *removing an inconsistency between the LPS and this Act or any other Act;*
- (vi) *removing an inconsistency between the LPS and the SPPs;*
- (vii) *making a change to a procedure set out in the LPS;*
- (viii) *bringing the LPS into conformity with a State Policy;*
- (ix) *changing the structure of the provisions of the LPS, or the form of a provision of an LPS, so that the LPS conforms with the structure to which an LPS is required by the SPPs to conform or the form that a provision of an LPS is to take;*

(x) *a prescribed purpose –*

and if it is satisfied that the public interest will not be prejudiced by the draft amendment not being publicly exhibited.

The planning authority may at any time decide to withdraw the draft amendment pursuant to section 40D(1)(b).

Under section 40D(3), the Commission must be notified of the withdrawal. The planning authority is also required to give notice in a newspaper published in Tasmania and circulating generally in the area of the draft amendment relates, that the draft amendment has been withdrawn and of the date on which the withdrawal takes effect.

3. Details:

The draft amendment RZ 2024/05 was initiated by the Planning Authority at its Ordinary Meeting on 17 December 2024. The purpose of the draft amendment is to amend the Brighton Local Provisions Schedule (LPS) by revising subclauses BRI-S12.7.1 P1.2 and BRI-S12.8.1 P2.2 of the Burrows Avenue Specific Area Plan (SAP) to correct outdated policy references. Specifically, the amendment seeks to:

To remove the current wording of “Council’s adopted Key Infrastructure Investments and Defined Infrastructure Charges policy that is relevant to the land” and replace with “Council’s adopted Infrastructure Contributions Policy or as amended or replaced from time to time that are relevant to the land.”

The intent of the amendment is to resolve inconsistency in the wording relating to Council’s Infrastructure Contributions Policy, following the renaming and updating of that policy in October 2024. However, at the time of preparing draft amendment RZ 2024/05, it was an oversight to include the phrase “as amended or replaced from time to time.” This wording has raised unnecessary concern with the Tasmanian Planning Commission (the Commission), as detailed below.

“A preliminary consideration of the draft amendment by the Commission has identified a potential issue with the proposed change of wording specifically with ‘as amended or replaced from time to time’.

The Commission's preliminary view is that the proposed wording introduces an element of uncertainty into the scheme. Specifically, there is no guidance or limitation on the potential scope of change to the policy, which can be amended at any time in the absence of a statutory process. This in turn introduces uncertainty to developers and third parties alike as to how and when any changes to the policy may impact a particular proposal. This is an issue that the planning authority should be prepared to address at or prior to any hearing.

The Commission is of the view that the amendments should be publicly exhibited as they may be of public interest. Following exhibition and the submission of council's section 40K reports it is anticipated that the draft amendments will be delegated to consider the issue identified above."

Given the sole purpose of the draft amendment is to correct an outdated reference and ensure consistency and considering that including the phrase "as amended or replaced from time to time" is not essential to achieving that aim, Council officers agree with the Commission's direction. There is no provision under the Act that permits the planning authority to modify the draft amendment after the certification and before the public exhibition. Therefore, it is recommended that RZ 2024/05 be withdrawn.

A revised draft amendment will then be initiated, removing the phrase "as amended or replaced from time to time", which will address the Commission's concerns and better align with Section 40I(2)(b) of the Act. This will enable a more efficient process, including the potential to request exemption from public exhibition, as the amendment would qualify as a correction of an error or inconsistency.

To address the concerns raised by the Commission, it is recommended that the Planning Authority withdraw draft amendment RZ 2024/05 and initiate a new draft amendment to resolve these concerns in a manner that better aligns with Section 40I(2)(b) of the Act. Ensuring compliance with Section 40I(2)(b) will streamline the planning scheme amendment process for this type of minor correction, providing a clearer framework and improved provisions within the Burrows Avenue Specific Area Plan to support future development applications.

4. Risk & Implications

There is no major risk associated with withdrawing the planning scheme amendment (RZ 2024/05). However, following its withdrawal, it is essential that a new draft amendment be initiated as soon as possible to ensure that the Brighton LPS operates as intended. Not initiating the planning scheme amendment will create unnecessary confusion for developers when identifying the appropriate policy which will apply to development in the future.

There will be some financial implications associated with the process, including a Tasmanian Planning Commission (TPC) assessment fee of \$374 for considering the new draft amendment application, as well as costs associated with publicly notifying the withdrawal of the RZ 2024/5 in a local newspaper.

5. Conclusion

Following the Tasmanian Planning Commission’s direction, it is recommended the draft amendment RZ 2024-05 to be withdrawn under section 40E(1)(b). A revised draft amendment will then be initiated at different process, removing the phrase "as amended or replaced from time to time", which will address the Commission’s concerns and better align with Section 40I(2)(b) of the Act. This will enable a more efficient process, including the potential to request exemption from public exhibition, as the amendment would qualify as a correction of an error or inconsistency.

RECOMMENDATION:

1. That in accordance with s40E(1)(b) of the *Land Use Planning and Approvals Act 1993*, the planning authority agrees to withdraw a draft amendment, known as RZ 2024-05.
2. That in accordance with Section 40E(3)(a) of the *Land Use Planning and Approvals Act 1993*, the planning authority directs that notice of withdrawal of the draft amendment RZ 2024-05 be provided to the Tasmanian Planning Commission as soon as possible.
3. That in accordance with Section 40E(3)(b) of the *Land Use Planning and Approvals Act 1993*, the planning authority directs that notice of the withdrawal of draft amendment RZ 2024/05 be advertised in a local newspaper.

DECISION:

Cr Owen moved, Cr Irons seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Gray	
Cr Irons	
Cr Owen	
Cr Whelan	



Brighton Council

**(EXTRACT OF) MINUTES OF THE PLANNING AUTHORITY MEETING
OF THE BRIGHTON COUNCIL, HELD IN THE COUNCIL CHAMBERS,
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IN ATTENDANCE: Cr McMaster; Mr J Dryburgh (Chief Executive Officer); Mr C Pearce-Rasmussen (Director Asset Services); Ms J Banks (Director, Governance & Regulatory Services); Mr A Woodward (Director, Development Services); Ms G Browne (Director Corporate Services); Mrs J Blackwell (Senior Planner) and Mr D Van (Planning Officer).

1. Acknowledgement of Country

2. Apologies

Cr Owen moved, Cr De La Torre seconded that Cr Geard be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Gray	
Cr Irons	
Cr Owen	
Cr Whelan	

3. Public Question Time and Deputations

There was no requirement for Public Question Time.

4. 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 Chief Executive Officer, in writing, the details of any interest(s) that the councillor has declared within 7 days of the declaration.

There were no declarations of interest.

5. Council Acting as Planning Authority

In accordance with the provisions of Part 2 Regulations 25 of the *Local Government (Meeting Procedures) Regulations 2015*, the intention of the Council to act as planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 5 on this agenda, inclusive of any supplementary items.

5.2 Withdrawal of the Draft Amendment to the Brighton Local Provisions Schedule to Amend the BRI-S11.0 South Brighton Specific Area Plan - RZ 2024/06

Author: Planning Officer (D Van)

Authorised: Director Development Services (A Woodward)

File Reference:	RZ 2024/06
Type of Application:	Section 40E(1)(b) of the <i>Land Use Planning and Approvals Act 1993</i>
Address/Subject Site:	Various
Owner/s:	Various
Requested by:	Brighton Council
Planning Instrument:	Tasmanian Planning Scheme - Brighton
Proposal:	To withdraw the draft amendment to Brighton Local Provisions Schedule ordinance in the BRI-S11.0 South Brighton Specific Area Plan (RZ 2024/06).

1. Executive Summary

The purpose of this report is for Council to consider whether to withdraw the draft planning scheme amendment RZ 2024/06 made under Section 40D(b) of the *Land Use Planning and Approvals Act 1993* ('the Act')

The draft amendment RZ 2024/06 is seeking to amend the Brighton Local Provision Schedule (LPS) by revising subclause BRI-S11.8.2 P1.2 of the South Brighton Specific Area Plan (South Brighton SAP), as follows:

To remove the current wording of *“Council’s adopted Key Infrastructure Investments and Defined Infrastructure Charges policy that is relevant to the land”* and replace with *“Council’s adopted Infrastructure Contributions Policy or as amended or replaced from time to time that are relevant to the land.”*

The Planning Authority, at its meeting on 17 December 2024, resolved to initiate and prepare Draft Amendment RZ 2024/06 under section 40D(b) of the Act. As part of this resolution, the Planning Authority also requested that the Commission dispense with the requirement for public exhibition under section 40I(2)(b) of the Act.

Following its assessment, the Commission issued a direction to the Planning Authority on 7 March 2025, advising that the inclusion of the phrase “as amended or replaced from time to time” in the draft amendment would introduce new uncertainty and, on that basis, directed that Draft Amendment RZ 2024/06 be publicly exhibited.

Council officers accept and agree with the Commission’s position that the phrase “as amended or replaced from time to time” is unnecessary in the context of the draft amendment.

It is therefore recommended that the Planning Authority formally withdraw Draft Amendment RZ 2024/06 from the Tasmanian Planning Commission and proceed to prepare a revised draft amendment that addresses the Commission’s concerns.

2. Legislative & Policy Content

The draft amendment RZ 2024/6 is made under section 40D(b) of the *Land Use Planning and Approvals Act 1993* (the Act).

Section 40I(2)(b) of the Act sets out specific circumstances in which the Tasmanian Planning Commission (the Commission) may dispense with the requirement for public exhibition under section 40G.

There is no provision under the Act that permits the planning authority to modify the draft amendment after certification (section 40F) and before the public exhibition (section 40G).

Section 40I(2)(b) provides that an exemption may be granted where the draft amendment is for one or more of the following purposes:

- (xi) *correcting an error in the LPS;*
- (xii) *removing an anomaly in the LPS;*
- (xiii) *clarifying or simplifying the LPS;*
- (xiv) *removing an inconsistency in the LPS;*
- (xv) *removing an inconsistency between the LPS and this Act or any other Act;*
- (xvi) *removing an inconsistency between the LPS and the SPPs;*
- (xvii) *making a change to a procedure set out in the LPS;*
- (xviii) *bringing the LPS into conformity with a State Policy;*
- (xix) *changing the structure of the provisions of the LPS, or the form of a provision of an LPS, so that the LPS conforms with the structure to which an LPS is required by the SPPs to conform or the form that a provision of an LPS is to take;*
- (xx) *a prescribed purpose –*

and if it is satisfied that the public interest will not be prejudiced by the draft amendment not being publicly exhibited.

The planning authority may at any time decide to withdraw the draft amendment pursuant to section 40D(1)(b).

Under section 40D(3), the Commission must be notified of the withdrawal. The planning authority is also required to give notice in a newspaper published in Tasmania and circulating generally in the area of the draft amendment relates, that the draft amendment has been withdrawn and of the date on which the withdrawal takes effect.

3. Details

The draft amendment RZ 2024/06 was initiated by the Planning Authority at its Ordinary Meeting on 17 December 2024. The purpose of the draft amendment is to amend the Brighton Local Provisions Schedule (LPS) by revising subclause BRI-S11.8.2 P1.2 of the South Brighton Specific Area Plan (SAP) to correct outdated policy references. Specifically, the amendment seeks to:

To remove the current wording of *“Council’s adopted Key Infrastructure Investments and Defined Infrastructure Charges policy that is relevant to the land”* and replace with *“Council’s adopted Infrastructure Contributions Policy or as amended or replaced from time to time that are relevant to the land.”*

The intent of the amendment is to resolve inconsistency in the wording relating to Council’s Infrastructure Contributions Policy, following the renaming and updating of that policy in October 2024. However, at the time of preparing draft amendment RZ 2024/06, it was an oversight to include the phrase *“as amended or replaced from time to time.”* This wording has raised unnecessary concern with the Tasmanian Planning Commission (the Commission), as detailed below.

“A preliminary consideration of the draft amendment by the Commission has identified a potential issue with the proposed change of wording specifically with ‘as amended or replaced from time to time’.

The Commission’s preliminary view is that the proposed wording introduces an element of uncertainty into the scheme. Specifically, there is no guidance or limitation on the potential scope of change to the policy, which can be amended at any time in the absence of a statutory process. This in turn introduces uncertainty to developers and third parties alike as to how and when any changes to the policy may impact a particular proposal. This is an issue that the planning authority should be prepared to address at or prior to any hearing.

The Commission is of the view that the amendments should be publicly exhibited as they may be of public interest. Following exhibition and the submission of council’s section 40K reports it is anticipated that the draft amendments will be delegated to consider the issue identified above.”

Given the sole purpose of the draft amendment is to correct an outdated reference and ensure consistency and considering that including the phrase *“as amended or replaced from time to time”* is not essential to achieving that aim, Council officers agree with the Commission’s direction. There is no provision under the Act that permits the planning authority to modify the draft amendment after the certification and before the public exhibition. Therefore, it is recommended that RZ 2024/06 be withdrawn.

A revised draft amendment will then be initiated, removing the phrase *“as amended or replaced from time to time”*, which will address the Commission’s concerns and better align with Section 40I(2)(b) of the Act. This will enable a more efficient process, including the potential to request exemption from public exhibition, as the amendment would qualify as a correction of an error or inconsistency.

To address the concerns raised by the Commission, it is recommended that the Planning Authority withdraw draft amendment RZ 2024/06 and initiate a new draft amendment to resolve these concerns in a manner that better aligns with Section 40I(2)(b) of the Act. Ensuring compliance with Section 40I(2)(b) will streamline the planning scheme amendment process for this type of minor correction, providing a clearer framework and improved provisions within the South Brighton Specific Area Plan

to support future development applications.

4. Risk & Implications

There is no major risk associated with withdrawing the planning scheme amendment (RZ 2024/06). However, following its withdrawal, it is essential that a new draft amendment be initiated as soon as possible to ensure that the Brighton LPS operates as intended. Not initiating the planning scheme amendment will create unnecessary confusion for developers when identifying the appropriate policy which will apply to development in the future.

There will be some financial implications associated with the process, including a Tasmanian Planning Commission (TPC) assessment fee of \$374 for considering the new draft amendment application, as well as costs associated with publicly notifying the withdrawal of the RZ 2024/6 in a local newspaper.

5. Conclusion

Following the Tasmanian Planning Commission’s direction, it is recommended the draft amendment RZ 2024-06 to be withdrawn under section 40E(1)(b). A revised draft amendment will then be initiated at different process, removing the phrase "as amended or replaced from time to time", which will address the Commission’s concerns and better align with Section 40I(2)(b) of the Act. This will enable a more efficient process, including the potential to request exemption from public exhibition, as the amendment would qualify as a correction of an error or inconsistency.

RECOMMENDATION:

1. That in accordance with s40E(1)(b) of the *Land Use Planning and Approvals Act 1993*, the planning authority agrees to withdraw a draft amendment, known as RZ 2024-06.
2. That in accordance with Section 40E(3)(a) of the *Land Use Planning and Approvals Act 1993*, the planning authority directs that notice of withdrawal of the draft amendment RZ 2024-06 be provided to the Tasmanian Planning Commission as soon as possible.
3. That in accordance with Section 40E(3)(b) of the *Land Use Planning and Approvals Act 1993*, the planning authority directs that notice of the withdrawal of draft amendment RZ 2024/06 be advertised in a local newspaper.

DECISION:

Cr De La Torre moved, Cr Curran seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr De La Torre	
Cr Gray	
Cr Irons	
Cr Owen	
Cr Whelan	