



# Notice of Approval

## ***Land Use Planning and Approvals Act 1993***

Notice is given pursuant to s40S(3) of the *Land Use Planning and Approvals Act 1993* that the Tasmanian Planning Commission has approved draft Amendment RZ2025/03 to the Brighton Local Provisions Schedule.

The content of the approved amendment (RZ2025/03) and the location of the affected area, are as follows:

- Amend subclauses BRI-S12.7.1 P1.2 and BRI-S12.8.1 P2.2 of the BRI-S12.0 Burrows Avenue Specific Area Plan.

A copy of the approved amendment and all other documents may be viewed on Council's website [www.brighton.tas.gov.au](http://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 on [development@brighton.tas.gov.au](mailto:development@brighton.tas.gov.au) or 6268 7070.

The approved amendment will come into effect on the 10<sup>th</sup> June 2025.

**JAMES DRYBURGH**  
**Chief Executive Officer**



**Brighton**  
*going places*

# TASMANIAN PLANNING COMMISSION



## DECISION

<b>Planning scheme</b>	Tasmanian Planning Scheme - Brighton
<b>Amendment</b>	RZ 2025-03 Burrows Avenue Specific Area Plan
<b>Planning authority</b>	Brighton Council
<b>Date of decision</b>	2 June 2025

## Decision

The draft amendment is approved under section 40Q(3) of the *Land Use Planning and Approvals Act 1993*.

John Ramsay  
**Executive Commissioner**

## REASONS FOR DECISION

### Background

#### Amendment

At its meeting of 1 April 2025, the planning authority resolved to initiate and certify the draft amendment and request the Commission to dispense with the requirements of sections 40G to 40H and 40J to 40P of the *Land Use Planning and Approvals Act 1993* (the Act) relating to exhibition in accordance with section 40I.

The draft amendment proposes to make several changes to the BRI-S12.0 Burrows Avenue Specific Area Plan (SAP). The changes are detailed below:

Amend the wording of BRI-S12.7.1 P1.2 and BRI-S12.8.1 P2.2, by removing ‘Council’s adopted Key Infrastructure Investments and Defined Infrastructure Charges policy that is relevant to the land’ and replacing with ‘Council’s adopted Infrastructure Contributions Policy that is relevant to the land.’

The Infrastructure Contributions Policy replaces Council’s Key Infrastructure Investments and Charges Policy. Copies of both policies were provided by the planning authority along with a description of the differences described in the table below (provided in the planning authority’s supporting report).

Key Infrastructure Investments and Charges Policy (superseded policy)	Infrastructure Contribution Policy (amended policy)	Planning Authority Comments
<p><b>Background</b></p> <p><b>6.4</b> – The removal of the ability for TasWater to impose headworks charges has resulted in situation where the outlay costs of critical infrastructure has prohibited strategic development. Effectively TasWater has no means to recoup its costs and its investment in new capacity building infrastructure has been limited.</p> <p><b>6.5</b> – The result of this has meant that in the case of residential rezonings and subdivisions, the first to develop must incur major costs that then benefit all subsequent developers within that area.</p> <p><b>6.6</b> – Council can fill this void by acting as an intermediary and provide an investment in the upfront contribution to these infrastructure costs.</p> <p><b>6.7</b> – There may be cases where strategic infrastructure other than sewerage or water, such as roads, bridges, stormwater and the like, may be appropriate for</p>	<p><b>Background</b></p> <p><b>6.4</b> - The situation often arises where the first to undertake development must incur major costs for critical infrastructure that then benefit all subsequent developers within that area. This is called the “first mover” problem and it can be a significant barrier to achieving strategic development outcomes.</p> <p><b>6.5</b> – The issue is more prevalent for infill development projects where land has recently been “upzoned” and there are multiple property owners. This can also result in development occurring in an ad-hoc manner that creates undesirable and inefficient outcomes.</p> <p><b>6.6</b> - Council can fill this void by acting as an intermediary and provide an investment in the upfront contribution to these infrastructure costs, or collect contributions to provide a coordinated approach to infrastructure delivery.</p> <p><b>6.7</b> - This policy will generally be applied to infrastructure that is the</p>	<p>The updates to the background section in the amended policy provide developers with a clearer understanding of its rationale.</p> <p>The amended policy explicitly identifies infill development and fragmented land ownership as key challenges, offering greater clarity on the factors affecting infrastructure provision.</p> <p>Additionally, it clarifies Council’s role, emphasizing that its primary responsibility is for Council-managed infrastructure. However, in some cases, Council may act on behalf of other infrastructure authorities, such as TasWater and TasNetworks. This reference does not impose new obligations but simply clarifies that Council may serve as a collector of contributions for these entities, rather than directly funding their infrastructure.</p> <p>The amended policy (6.4-6.5) does not introduce a new principle but rather formally names the existing issue as the “first mover” problem to enhance understanding. This terminology provides a clearer and more structured explanation without altering the original intent.</p> <p>It is important to note that the background section does not function as a set of policy principles or provisions that Council officers</p>

<b>Key Infrastructure Investments and Charges Policy (superseded policy)</b>	<b>Infrastructure Contribution Policy (amended policy)</b>	<b>Planning Authority Comments</b>
such a strategic investment by Council	responsibility of Council, such as roads, bridges, stormwater, open space and the like. There may be occasions where Council act as an intermediary to collect funds for other infrastructure authorities such as TasWater, TasNetworks, etc.	are responsible for implementing.  On this basis, the changes to the background section are minor refinements that do not expand the scope of the amended policy.
<p><b>Application</b></p> <p><b>6.19</b> - The infrastructure investments of Council may include but are not limited to the following general areas:</p> <ul style="list-style-type: none"> <li>(a) water;</li> <li>(b) sewerage;</li> <li>(c) roads and other transport;</li> <li>(d) public open space infrastructure;</li> <li>(e) stormwater drainage;</li> <li>(f) carparking.</li> </ul>	<p><b>Application</b></p> <p><b>6.19</b> - The infrastructure investments of Council may include but are not limited to the following general areas:</p> <ul style="list-style-type: none"> <li>(a) roads and other transport;</li> <li>(b) public open space and recreation infrastructure;</li> <li>(c) stormwater drainage;</li> <li>(d) carparking; or</li> <li>(e) social infrastructure (e.g. buildings for youth hubs, social services, etc.)</li> </ul>	<p>The removal of water and sewerage from the list indicates that Council does not provide those services.</p> <p>Addition of social infrastructure While this appears to be a new category, it does not fundamentally change Council's role. Many councils already invest in community infrastructure (e.g., community centres, public facilities). The inclusion of social infrastructure clarifies that Council may also support community-based infrastructure when it aligns with strategic development objectives. It does not introduce new financial burdens but rather provides a clearer scope for the types of infrastructure that align with Council's strategic priorities.</p> <p>The mention of recreation infrastructure does not expand Council's role but rather clarifies what public open space investment may include.</p> <p>Given that section 6.19 states that infrastructure investments "may include but are not limited to" the listed areas, these changes are minor refinements rather than an expansion of Council's role and do not introduce a broader scope to the policy.</p>
<p><b>Roles &amp; Responsibilities</b></p> <p><b>8.1</b> – Councillors are to:</p> <ul style="list-style-type: none"> <li>(a) ...</li> <li>(b) ...</li> <li>(c) approve the Key Infrastructure Investment Policy</li> </ul>	<p><b>Roles &amp; Responsibilities</b></p> <p><b>8.2*</b> – Councillors are to:</p> <ul style="list-style-type: none"> <li>(a) ...</li> <li>(b) ...</li> </ul>	There is no 8.1 (c) in the new policy.

\*NB: reference to 8.2 above should be to 8.1

## Site information

The area subject to the SAP is approximately 26ha, irregularly shaped and comprised of the properties bounded by Racecourse Road to the north, Elderslie Road to the south, Morrison Street to the east and Brooke and Cartwright Streets to the west (as shown in figure1).

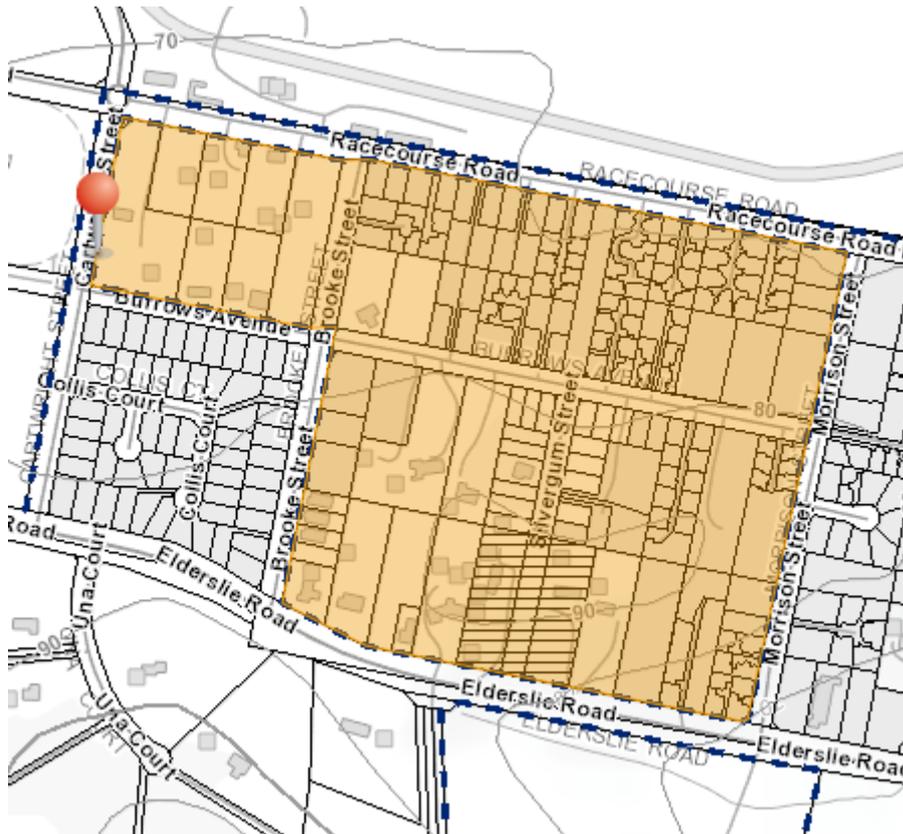


Figure 1: LISTMap area of the Burrows Avenue SAP.

### Issues raised in representations

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating it had no objection to the draft amendment and that TasWater did not wish to attend any hearing.

In response to a referral from the planning authority Tas Networks provided a submission dated 14 May 2025 stating it had no issue with the draft amendment.

### Consideration of the draft amendment

1. Under section 40I of the Act, the Commission may dispense with the requirements of sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O, and 40P in relation to a draft amendment if the Commission is satisfied that the draft amendment is for the purpose of:
  - (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.
2. In its section 40F report, the planning authority requested the Commission dispense with the requirement to publicly exhibit the proposed amendment in accordance with Section 40I(2)(b)(iv) of the Act due to the simplicity of the proposed changes.
3. The Commission does not agree that public exhibition can be dispensed with based on the simplicity of the proposed changes or because of reliance on sub paragraph (iv) of section 40I of the Act.
4. A simple amendment may be significant, so simplicity alone is not an appropriate test. Further the changes to the policy do not remove an inconsistency in the LPS which is the test under sub paragraph (iv).
5. The amendment to the text of the LPS is a change to the name of a policy. Where such an amendment is proposed, it is necessary to review the change in the policy to determine whether the changes are such that there may be a public interest in the changes and the amendment should not be the subject of the section 40I process.
6. The Commission has reviewed the terms of the new policy. When the policy differences are considered, they essentially clarify the terms of the existing policy. The changes:
  - remove the irrelevant references to TasWater
  - enable the Council to collect funds for other infrastructure providers
  - add an existing Council infrastructure responsibility to the list of Council infrastructure investments referred to in the policy i.e. social infrastructure.
7. Those changes clarify the terms of a policy that is referred to in the LPS and thus the test in subparagraph (iii) of section 40I(2)(b) is met – “clarifying or simplifying the LPS”.
8. For those reasons the Commission is satisfied that the public interest would not be prejudiced by the draft amendment not being publicly exhibited. Under section 40I the Commission dispensed with the requirements of sections 40G, 40H, 40J, 40K, 40L, 40M, 40N, 40O and 40P.
9. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
  - (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.

### **Specific Area Plan**

- 10. The intent of the Burrows Avenue SAP is to provide for sufficient public infrastructure, housing diversity, improved residential amenity, road and pedestrian connectivity, public and private landscaping and the construction of an unmade road.
- 11. To achieve this the SAP incorporates a precinct, associated local area objectives and associated definitions. The SAP applies in addition to the underlying zone provisions and contains Development Standards relating to frontage infrastructure, landscaping, housing diversity, development and works in the proposed precinct and subdivision.

### **Commission consideration**

- 12. The draft amendment reflects the renaming of the Council's policy. The Commission notes that while there are minor changes within the updated policy, the changes do not alter the operation or intent of the SAP.

### **Schedule 1 Objectives**

- 13. The planning authority in its supporting report dated 1 April 2025 submitted that the draft amendment would further the Schedule 1 objectives by providing for the fair, orderly and sustainable development of the area, improve strategic outcomes and facilitate economic development.

### **Commission consideration**

- 14. The Commission accepts the submission provided by the planning authority and finds that the purpose of the draft SAP is consistent with fair, orderly and sustainable use and development, and that it seeks to further the Schedule 1 objectives of the Act.

### **State Policies**

#### **State Policy on Water Quality Management 1997**

- 15. In the supporting report dated 1 April 2025 the planning authority submitted that the draft amendment would have no direct impact on water quality and any

impact on water quality will be regulated through future development applications.

### **National Environment Protection Measures (NEPMs)**

16. In the supporting report dated 1 April 2025 the planning authority submitted the draft amendment would not trigger consideration under the NEPMs.

### **Commission consideration**

17. The Commission finds that the Water Quality Policy would be adequately addressed through future development applications.
18. The Commission finds the draft amendment is not inconsistent with any of the NEPMs and that no other State Policies are relevant to the draft amendment.

### **Regional land use strategy**

19. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010-2035 (regional strategy).
20. In the supporting report dated 1 April 2025 the planning authority submitted that the draft amendment was consistent with SRD 2.1, 2.6 and 2.9 as it provided a strong framework for developers and Council to work together.
21. The planning authority submitted that the draft amendment was consistent with ROS 1.5 which states:

‘This is a strategic approach to infrastructure investment to ensure that the Council delivers the highest appropriate opportunities for growth, whilst ensuring efficiency and amenity for the community, economy, and environmental sustainability.’

22. The planning authority submitted that the proposal was consistent with P1 2.2 (relating to coordination, prioritisation and sequencing of infrastructure) and LUTI 1.6 (relating to road connections between existing and potential future roads) as the draft amendment makes provision for local infrastructure requirements.

### **Commission consideration**

23. The Commission finds that the draft amendment is, as far as is practicable, consistent with the regional strategy.

### **Decision on draft amendment**

24. The Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.

### **Attachments**

Annexure A – Approved amendment

## Annexure A

Approved amendment

Amend clause BRI-S12.7.1 P1.2 and BRI-S12.8.1 P2.2 of the BRI-S12.0 Burrows Avenue Specific Area Plan as follows:

### **BRI-S12.7.1 Infrastructure provision for multiple dwellings**

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

<p><b>Objective:</b></p>	<p>That:</p> <ul style="list-style-type: none"> <li>(a) multiple dwelling development delivers sufficient council infrastructure to provide for road and pedestrian network connectivity and amenity; and</li> <li>(b) developer contributions are made towards the cost and provision of council infrastructure in accordance with the relevant policy adopted by council</li> </ul>
<p><b>Acceptable Solutions</b></p>	<p><b>Performance Criteria</b></p>
<p><b>A1</b> No Acceptable Solution.</p>	<p><b>P1.1</b> Council infrastructure must be provided or upgraded as required, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the demand that the development places on council infrastructure;</li> <li>(b) any existing council infrastructure;</li> <li>(c) the topography and other site conditions; and</li> <li>(d) any advice from a State authority, regulated entity or council.</li> </ul> <p><b>P1.2</b> For council infrastructure that has been provided by council, an infrastructure contribution must be paid, having regard to Council’s adopted Infrastructure Contributions Policy that is relevant to the land.</p>

**BRI-S12.8.1 Subdivision - Precinct A**

This clause is in substitution for General Residential Zone - Clauses 8.6.1 Lot design A1 and P1; and 8.6.1 A4 and P4.

<b>Objective:</b>	That subdivision within Precinct A provides for consistency with the purpose of the specific area plan and the development framework.
<b>Acceptable Solutions</b>	<b>Performance Criteria</b>
<p><b>A2</b></p> <p>No Acceptable Solution.</p>	<p><b>P2.1</b></p> <p>Council infrastructure must be provided or upgraded as required, having regard to:</p> <ul style="list-style-type: none"> <li>(a) the demand that the development places on council infrastructure;</li> <li>(b) any existing council infrastructure;</li> <li>(c) the topography and other site conditions; and</li> <li>(d) any advice from a State authority, regulated entity or council</li> </ul> <p><b>P2.2</b></p> <p>For council infrastructure that has been provided by council, an infrastructure contribution must be paid, having regard to Council's adopted Infrastructure Contributions Policy that is relevant to the land.</p>