

## Directions Schedules – Break O’Day Council – Response

**1. Submit written evidence that the owner of the Frome Regional Reserve support the application of the EMZ to the land.**

**Response:**

Written confirmation sent to TPC directly by Department of Natural Resources and Environment directly on 9/08/2022.

**2. Provide a copy of the Land Use and Development Strategy – Break O’Day Council Municipal Management Plan.**

**Response:**

Copy of the requested document sent to Samuel McCrossen on 9/08/2022.

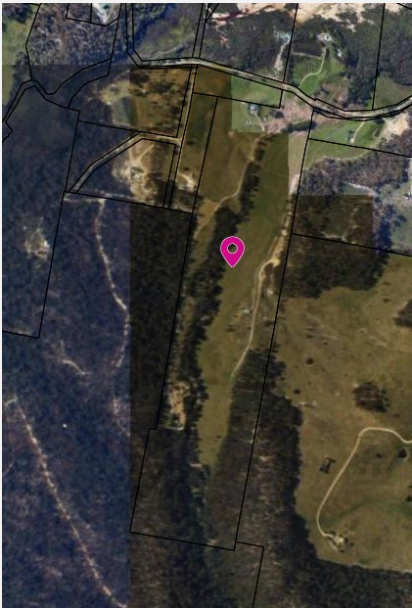
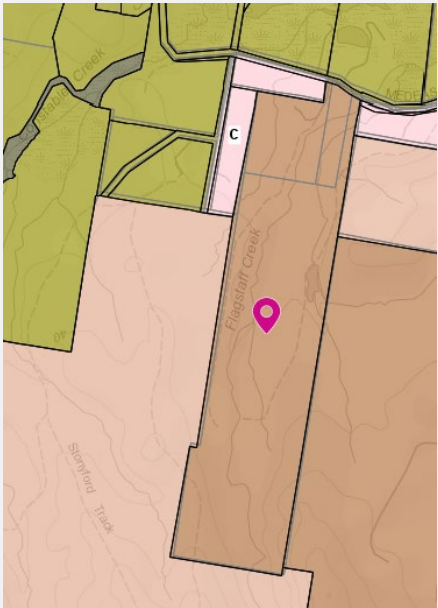
The document is also available on the Break O’Day Council website and can be accessed [here](#).


**3. Provide any other supporting information, such as an agricultural report by a suitably qualified person that would support application the Rural Zone to the following properties:**

- 265 Medeas Cove Road, St Helens FR 181557/5
- 89 Medeas Cove Road, St Helens FR 2230414
- 55Leaside Drive, St Helens FR11929/1 and FR148075/1

**Response:**

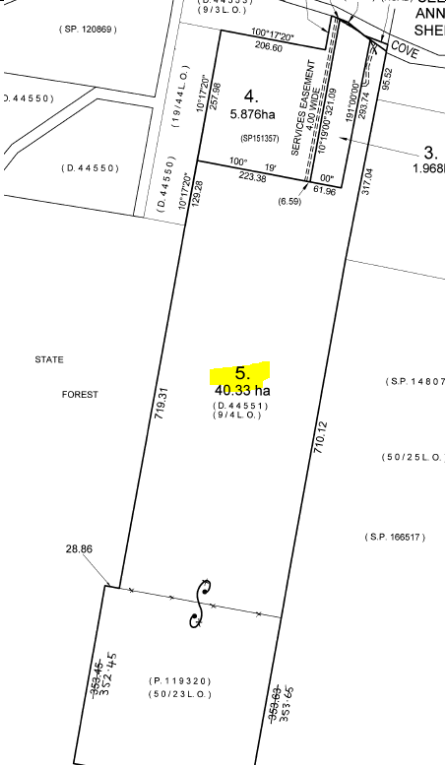
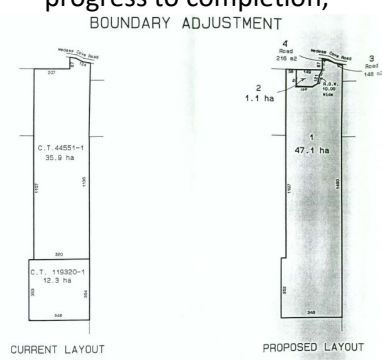
**A. Representation 39**

<b>Representation No. 39</b>	<b>Name:</b> Hendrik and Greta Jansen <b>Address (CT Details):</b> 265 Medeas Cove Road, St Helens <b>Title Reference:</b> 181557/4; 181557/3; 181557/5 <b>PID:</b> 1680466 <b>Land Area:</b> 48ha (approx.) <b>IPS Zoning:</b> Rural Resource Zone	
<b>Mapping Zoom Level 15</b>		

	Site Location	Draft LPS Zoning - Agriculture		
Matter(s) raised in the representation (including property information details where applicable)	Representation raised the following matters:			
	<b>Rural Living Zone</b> <ul style="list-style-type: none"><li>- That two (2) titles at 265 Medeas Cove Road, St Helens described as CT 181557/3 and CT 181557/4 are in the Agriculture Zone in the draft LPS;</li><li>- That these two (2) titles should be in the Rural Living Zone; and</li><li>- That the adjoining properties (on either side) of the two (2) titles are in the Rural Living Zone under IPS and draft LPS</li></ul>  <ul style="list-style-type: none"><li>• <i>Figure: Two (2) titles at 265 Medeas Cove Road, St Helens described as CT 181557/3 and CT 181557/4 in the Agriculture Zone under the draft LPS.</i></li></ul>			
Planning Authority response	Consistency Overview:			
	NTRLUS	<input type="checkbox"/>	Local Strategy / Policy	<input type="checkbox"/>
	Section 8A Guideline No.1	<input type="checkbox"/>	Relate to the drafting / content of the SPP?	<input type="checkbox"/>
	TPC Practice Notes	<input type="checkbox"/>	Reflect a like for like conversion of the IPS?	<input type="checkbox"/>
	Response: <b>Rural Living Zone</b> <ul style="list-style-type: none"><li>- The land was identified as unconstrained for agriculture under the Land Potentially Suitable for the Agriculture Zone layer on the list mapping services.</li><li>- The land is in the Rural Resource Zone under the Interim Planning Scheme.</li><li>- The land is in the Agriculture Zone under the draft LPS.</li><li>- The Section 8A guidelines, per RLZ 4 provide that the Rural Living Zone should not be applied to land that has been identified as potentially suitable for the Agriculture Zone unless supported/justified in accordance with the regional land use strategy or more detailed local strategic analysis.</li><li>- The application of the Rural Living Zone is not supported by the regional land use strategy or the <i>Land Use and Development Strategy Break O’Day Council – Municipal Management Plan, August 2015</i>; furthermore</li><li>- RLZ1, RLZ2 provide that the Rural Living Zone should not be applied to land unless:</li></ul>			

## Directions Schedules – Break O'Day Council – Response

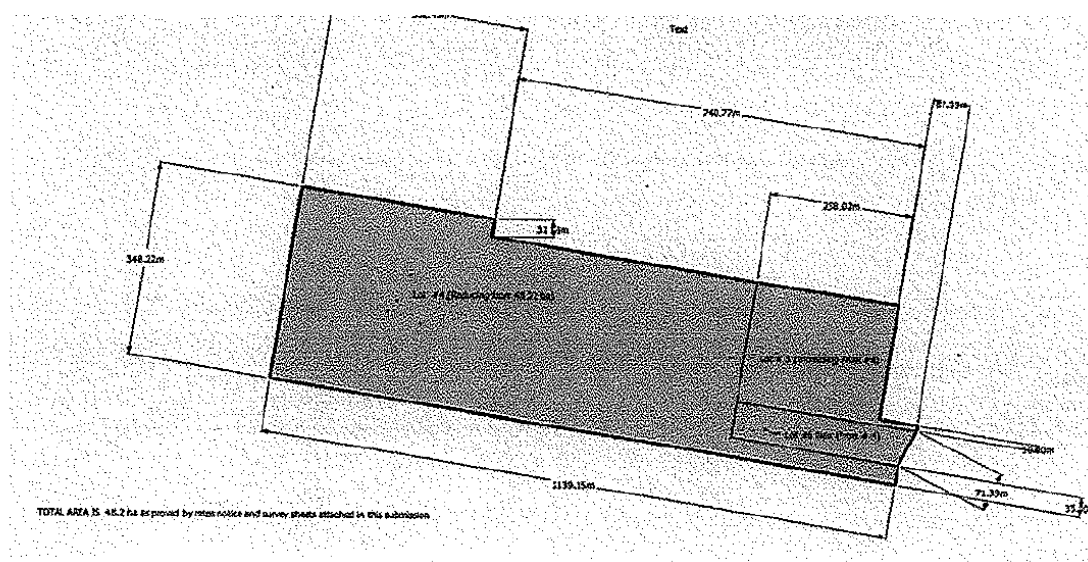
	<ul style="list-style-type: none"> <li>- Land is currently in the Rural Living Zone or priority is given to residential amenity in lower order rural activity areas;</li> <li>- Consistent with the regional land use strategy or more detailed local strategy;</li> <li>- Land is currently in the Environmental Living Zone and the primary strategic intention is for residential use and development in a rural setting with similar allowable lot size.</li> <li>- The Section 8A guidelines do not provide scope to include these two (2) titles in the Rural Living Zone under the LPS process.</li> <li>- However, upon review, the land is potentially constrained for Agriculture and that the Agriculture Zone should not be applied to this land.</li> <li>- The land is adjoining the Rural Living Zone and the land and surrounding land is of limited agricultural value per the Land Capability layer on the List mapping services. This was also identified in the Agricultural Report that accompanied an application to subdivide the nearby property at 48 Brooks Road, St Helens in 2012 for residential use/development. This subdivision has substantially commenced. This will introduce further residential use to this area and further constrain the land for agricultural use.</li> </ul> <p>The Section 8A guidelines support the application of the Rural Zone to these two (2) titles and the adjoining title CT 181557/5 which is under the same ownership as Rural Zone. This is consistent with RZ2 and RZ3 of the Section 8A Guidelines.</p>
<b>Recommended action</b>	Recommend modification to the draft LPS to: That the three titles at 265 Medeas Cove Road (CT 181557/4 and CT 181557/3 and CT 181557/5) be changed to the Rural Zone under the draft LPS.
<b>Effect of recommendation on the draft LPS</b>	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34(2) of LUPAA is maintained.
<b>Directions Schedule</b>	Provide any other supporting information, such as an agricultural Report by a suitably qualified person that would support application of the Rural Zone to the following properties – CT181557/5

<p><b>Response</b></p>		<p><b>Historical Development Assessment</b></p> <ul style="list-style-type: none"> <li>13/10/1997 a 2 lot subdivision application was refused. The land was zoned Rural B within the Portland Scheme (Portland S46 Planning Scheme No. 1 of 1993). Refused based on flood prone land; fragmentation of a rural holding.</li> <li>DA073-2001 P14/06/2001 Planning Approval for Olive Grove, Walnut Plantation and Vineyard; Boundary Adjustment and Ancillary Works; Approval was granted for Lots 1 &amp; 2 as agricultural lots and Lots 3 &amp; 4 as road lots; didn't progress to completion;</li> </ul> <div data-bbox="997 952 1380 1310">  </div> <ul style="list-style-type: none"> <li>DA015-2004 – Boundary Adjustment, Cropping Operation, Dwellings and Ancillary Works; Zone was Coastal &amp; Resource Management (21/06/2004)</li> <li>12/07/2004 a Planning Permit was issued for Boundary Adjustment, Establishment of Olive Grove, Vineyard and Walnut Plantation, New Dwellings and Sheds and Ancillary Works; this application was due to DA073-2001 lapsing; conversion for grazing – landlocked parcel to the south was part of the boundary adjustment; also a small 1.5ha lot (lot 3) and a 46.6 ha lot (lot 4) – lots 1 &amp; 2 are road portions; two dwellings; Zone is</li> </ul>
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		<p>Coastal and Resource Management; Break O'Day Planning Scheme 1996;</p> <ul style="list-style-type: none"> <li>• DA340-2008 approved subdivision. At the time of lodgement the planning report describes the site as a Residential Property within the Environmental Protection Zone. The report also mentions farm improvements. Report also mentions olive grove, vineyard and walnut plantations. Lot 5 was identified as being used for grazing. Historically there has been a residential use and an agricultural use prior to subdivision.</li> </ul>
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#### Extract from Planning Report DA340-2008

Development Application 015-04 had an Amended Section 57 Planning Permit issued 15 March 2005 for a boundary adjustment, new dwellings, sheds, ancillary works and the establishment of an olive grove, vineyard and walnut plantations. The approved boundary adjustment moved the northern boundary of C.T. 119321-1 and formed Lot 3 of 1.52ha inside the northern boundary of C.T. 4455-1. The Final Plan of Survey was signed by Council's Delegate 17 August 2006 and the Sealed Plan lodged 01 June 2007, though the current Title does not indicate this to have been effected, indicating two Titles: C.T. 44551/1 of 35.92ha, and C.T. 119320/1 of 12.34ha. A caveat was placed on both Titles in January 2008.



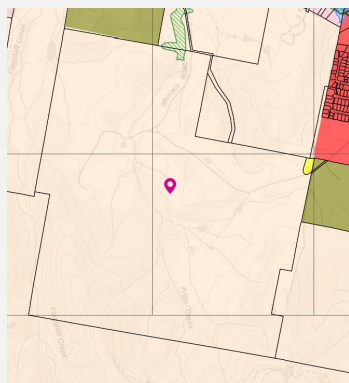
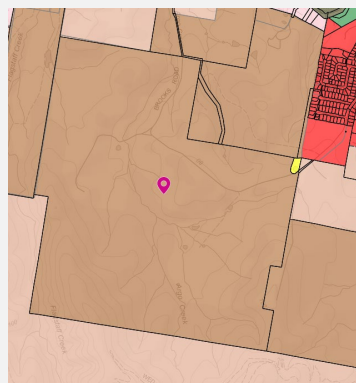
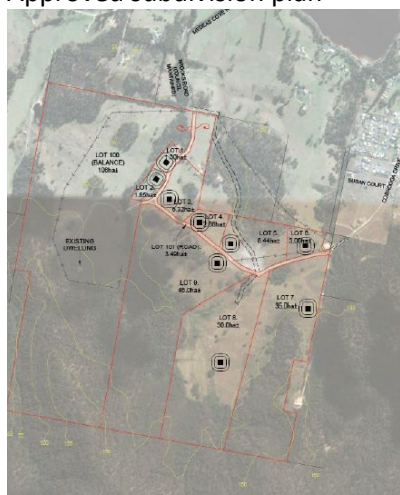
Intended sub division and boundary changes from existing lots

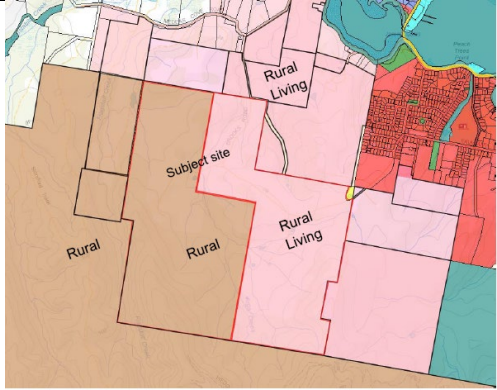
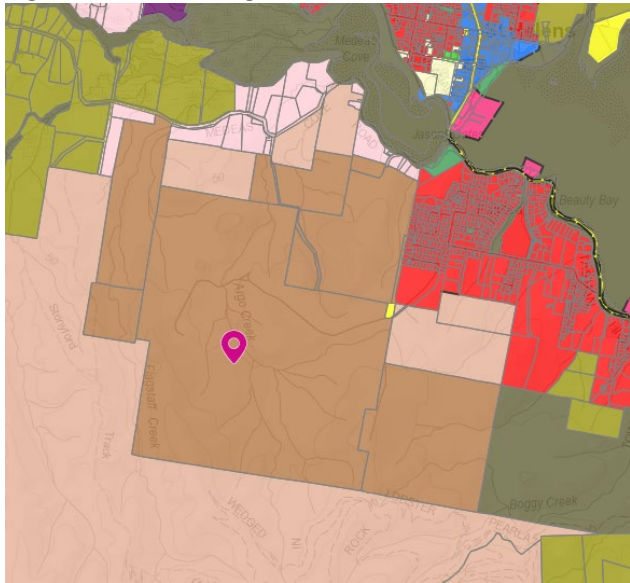
<p><b>Conclusion</b></p>	<p>A review of Council's records demonstrates numerous development applications over the property spanning from 1997 through to 2008. During this period there was also zone changes concluding in Environmental Protection Zone (2003). The Break O'Day Interim Planning Scheme 2013 assigned the zone Rural Resource Zone. Up until the 2008 development approval, it was accepted that the property supported an Agricultural Use. In 2008 a subdivision was approved that assigned a Use Class <b>Residential</b>.</p> <p style="text-align: center;"><b>PLANNING REPORT</b> Section 57 Approval</p> <table border="1" data-bbox="574 600 1366 752"> <tr> <td><i>DA No.</i></td><td>DA 340-08</td></tr> <tr> <td><i>Applicant:</i></td><td>G C Alexander</td></tr> <tr> <td><i>Location:</i></td><td>259 Medeas Cove Road, St Helens</td></tr> <tr> <td><i>Proposal:</i></td><td>2 Lot subdivision and boundary adjustment</td></tr> <tr> <td><i>Zone:</i></td><td>Environment Protection</td></tr> <tr> <td><i>Use Class:</i></td><td>Residential</td></tr> </table> <p>The Land Capability Mapping has predominantly applied a land capability of 5, land unsuited to cropping and with slight to moderate limitations to pastoral use.</p> <p>Due to the subdivision approval creating smaller lots with a common boundary to folio 5 and the assignment of the Use Class Residential during the assessment process, the Land Capability Class supported the application of the Rural Zone within the draft LPS. The Zone application guidelines within Section 8A Guideline No. 1 advise the Rural Zone should be applied to land in non-urban areas with <u>limited potential for agriculture</u>.</p> <p>Documents submitted as part of DA340-2008 advised the Olive Grove project which started in 2002 was discontinued due to soil mineral deficiencies, pH constraints and exposure to high winds. It would not be unreasonable to conclude that the Land Capability Class assigned to the lot further supports limited potential for agricultural use and the Rural Zone Use Table enables Resource Development to occur for those limited agricultural uses viable on the site.</p> <p>The Agricultural Land Mapping Project Background Report provides guidelines in applying the Agriculture Zone which states any other relevant data sets published on the LIST should be given regard to. This would include the Land Capability mapping.</p> <p>Council will not be providing an agricultural report prepared by a suitably qualified person to support this recommendation. Council confirms its recommendation. Council will be accepting of the Tasmanian Planning Commission decision at the Hearing.</p>	<i>DA No.</i>	DA 340-08	<i>Applicant:</i>	G C Alexander	<i>Location:</i>	259 Medeas Cove Road, St Helens	<i>Proposal:</i>	2 Lot subdivision and boundary adjustment	<i>Zone:</i>	Environment Protection	<i>Use Class:</i>	Residential
<i>DA No.</i>	DA 340-08												
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<i>Zone:</i>	Environment Protection												
<i>Use Class:</i>	Residential												

## B. Representation 45

<p><b>Representation No. 45</b></p>	<p><b>Name:</b> Michelle Schleiger (Woolcott) obo D Smith  <b>Address (CT Details):</b> 48 Brooks Road, St Helens CT 166517/1  <b>PID:</b> 3262428  <b>Land Area:</b> 247.6 ha</p>
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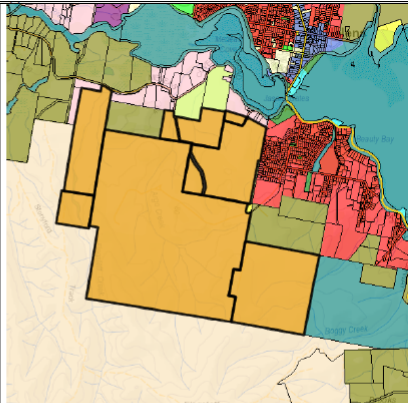
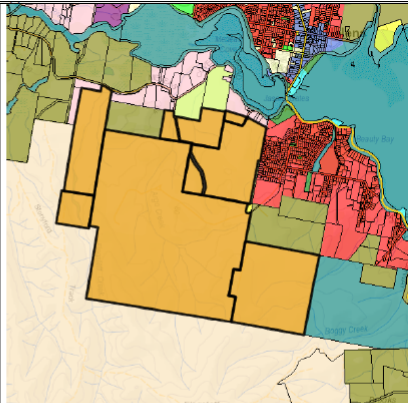
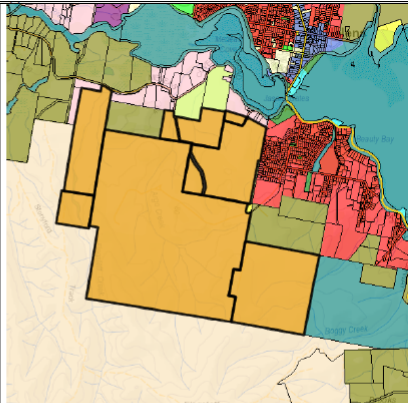
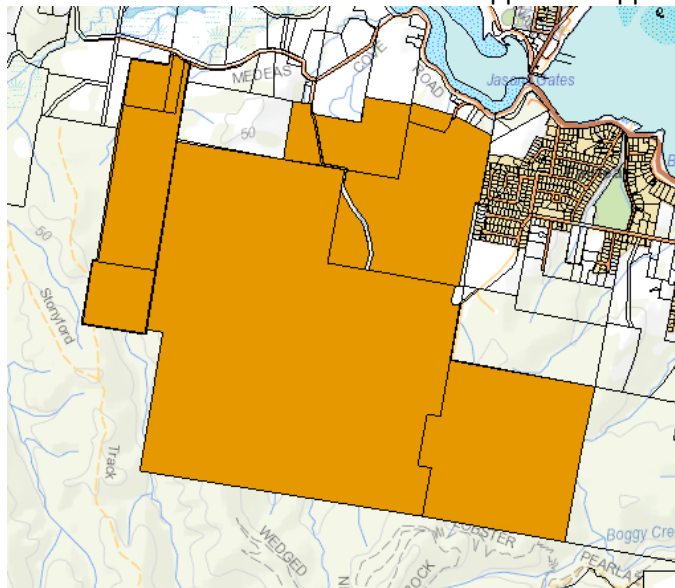


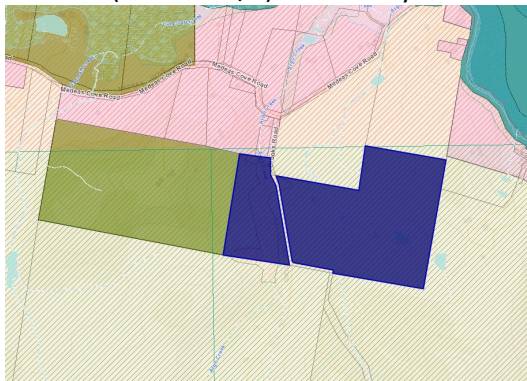
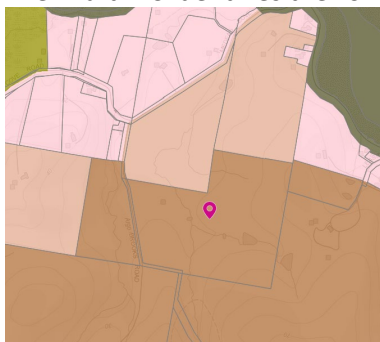
	IPS Zoning: Rural Resource Zone (RRZ)																									
Mapping Zoom Level 15																										
	Site Location	Draft LPS Zoning – Agriculture Zone																								
Matter(s) raised in the representation (including property information details where applicable)	<p>Representation raised the following matters:</p> <ul style="list-style-type: none"><li>- Submit that the Rural Zone (RZ) and the Rural Living Zone (RLZ) more suited to land and approved use and development than the Agriculture Zone (AZ) that is applied through the LPS</li><li>- In 2012, a permit was issued for a 9 lot residential subdivision. Substantial commencement has been made and the permit is valid.</li><li>- The subdivision allows for residential development</li><li>- Land has been mapped as ‘Unconstrained’ (orange) in agricultural mapping on LISTmap. Which did not take into account the approved subdivision.</li><li>- Representation supported by Agricultural Report which detailed significant constraints to agricultural use occurring on the land and that the property does not have any prime land rather consists of class 6 and 6.</li></ul> <p>Approved subdivision plan</p>  <table><thead><tr><th>Lot</th><th>Area</th></tr></thead><tbody><tr><td>1</td><td>1.3ha</td></tr><tr><td>2</td><td>1.85ha</td></tr><tr><td>3</td><td>5.32ha</td></tr><tr><td>4</td><td>2.66ha</td></tr><tr><td>5</td><td>8.44ha</td></tr><tr><td>6</td><td>3.0ha</td></tr><tr><td>7</td><td>35.0ha</td></tr><tr><td>8</td><td>30.0ha</td></tr><tr><td>9</td><td>45.0ha</td></tr><tr><td>101 (Road)</td><td>3.49ha</td></tr><tr><td>100 (Balance)</td><td>106.0ha</td></tr></tbody></table> <p>Requested rezoning</p>		Lot	Area	1	1.3ha	2	1.85ha	3	5.32ha	4	2.66ha	5	8.44ha	6	3.0ha	7	35.0ha	8	30.0ha	9	45.0ha	101 (Road)	3.49ha	100 (Balance)	106.0ha
	Lot	Area																								
1	1.3ha																									
2	1.85ha																									
3	5.32ha																									
4	2.66ha																									
5	8.44ha																									
6	3.0ha																									
7	35.0ha																									
8	30.0ha																									
9	45.0ha																									
101 (Road)	3.49ha																									
100 (Balance)	106.0ha																									

		
<b>Planning Authority response</b>	<b>Consistency Overview:</b>	
	<b>NTRLUS</b>	<input type="checkbox"/> <b>Local Strategy / Policy</b> <input type="checkbox"/>
	<b>Section 8A Guideline No.1</b>	<input type="checkbox"/> <b>Relate to the drafting / content of the SPP?</b> <input type="checkbox"/>
	<b>TPC Practice Notes</b>	<input type="checkbox"/> <b>Reflect a like for like conversion of the IPS?</b> <input type="checkbox"/>
	<p><b>Response:</b></p> <ul style="list-style-type: none"> <li>- Planning Authority's original report to the Commission detailed that the site is more suited to the RZ than the AZ given the sites surrounding land uses and limited agricultural potential.</li> <li>- Zoning in draft LPS shown is Figure 1. Figure 2 is an extract from the original request to the Commission regarding the zoning in this area.</li> <li>- Strategy does not identify site for RLZ.</li> <li>- Do not support request to apply the RLZ as this is not consistent with the Guidelines.</li> <li>- In light of the approved subdivision and agricultural assessment support for the RZ is provided.</li> </ul> <p><b>Figure 1 – LPS Zoning</b></p>  <p><b>Figure 2 – originally proposed zoning by Planning Authority</b></p>	



# Directions Schedules – Break O'Day Council – Response

	<table><tr><td>St Helens CT44551/1, CT119320/1, CT166517/1, CT223041/1, CT148075/1, CT11929/1, CT15988/3</td><td>RRZ</td><td>RZ</td><td></td></tr><tr><td>Justification</td><td colspan="3">Despite the titles being identified as Potentially Unconstrained they are not considered suitable for the AZ. The RZ is considered to be more appropriate given the surrounding land uses and the limited agricultural potential of the land. The land adjoining to the south currently within the RRZ was not identified in the Mapping Project and as such will transition into the RZ. The application of the RZ will allow for broader range of land uses to occur over this area. The RZ application is consistent with AZ 6, RZ 1, RZ 2 and RZ 3. As discussed in the previous section of this report the adjoining light green titles to the north are to be rezoned to the RLZ. The adjoining ELZ (dark green) sites will also be rezoned to the RZ.</td></tr></table>	St Helens CT44551/1, CT119320/1, CT166517/1, CT223041/1, CT148075/1, CT11929/1, CT15988/3	RRZ	RZ		Justification	Despite the titles being identified as Potentially Unconstrained they are not considered suitable for the AZ. The RZ is considered to be more appropriate given the surrounding land uses and the limited agricultural potential of the land. The land adjoining to the south currently within the RRZ was not identified in the Mapping Project and as such will transition into the RZ. The application of the RZ will allow for broader range of land uses to occur over this area. The RZ application is consistent with AZ 6, RZ 1, RZ 2 and RZ 3. As discussed in the previous section of this report the adjoining light green titles to the north are to be rezoned to the RLZ. The adjoining ELZ (dark green) sites will also be rezoned to the RZ.		
St Helens CT44551/1, CT119320/1, CT166517/1, CT223041/1, CT148075/1, CT11929/1, CT15988/3	RRZ	RZ							
Justification	Despite the titles being identified as Potentially Unconstrained they are not considered suitable for the AZ. The RZ is considered to be more appropriate given the surrounding land uses and the limited agricultural potential of the land. The land adjoining to the south currently within the RRZ was not identified in the Mapping Project and as such will transition into the RZ. The application of the RZ will allow for broader range of land uses to occur over this area. The RZ application is consistent with AZ 6, RZ 1, RZ 2 and RZ 3. As discussed in the previous section of this report the adjoining light green titles to the north are to be rezoned to the RLZ. The adjoining ELZ (dark green) sites will also be rezoned to the RZ.								
	<ul style="list-style-type: none"><li>- This rezoning from AZ to RZ has implication on the adjoining titles proposed in the draft LPS as AZ.</li><li>- Considering the Agricultural Report, the approved residential subdivision, surrounding land uses and isolated cluster of lots all lots in the following figure are proposed to be rezoned to RZ.</li><li>- These include CT 15988/3 (same ownership); CT 148075/1, CT 11929/1, CT 223041/1; CT 181557/5; CT 181557/4; CT 181557/4</li><li>- The Natural Assets Code should be applied as appropriate.</li></ul> 								
Recommended action	<p>Recommend modification to the draft LPS to:</p> <ul style="list-style-type: none"><li>- Rezone CT 166517/1 to the RZ; as well as</li><li>- CT 15988/3 (same ownership); CT 148075/1, CT 11929/1, CT 223041/1; CT 181557/5; CT 181557/4; CT 181557/4</li><li>- Apply the Natural Assets Code as provided in the Rod Knight state-wide mapping</li></ul>								
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34(2) of LUPAA is maintained.								

<b>Directions Schedule</b>	Provide any other supporting information, such as an agricultural Report by a suitably qualified person that would support application of the Rural Zone to the following properties – CT223041/1
<b>Response</b>	<p>The title (CT223041/1) is currently zoned Rural Resource Zone</p>  <p>The Draft LPS identifies the zone to be Agriculture</p>  <p>This was based on the mapping project for Land Potentially Suitable for Agriculture Zone.</p> <p>The Break O'Day Council has previously proposed the titles should be within the Rural Zone (March, 2020 submission), however the TPC required the title to transition to the Agriculture Zone.</p> <p>Title CT166517/1 to the south of the subject site has similarly been recommended to transition to the Rural Zone. This site has a subdivision approval. As part of Representation No 45, an Agricultural Assessment was submitted. This report prepared by a suitably qualified person reported that stated:</p> <p>“the property in question is constrained agriculturally due to topography, soil limitations and adjacent land use and therefore, is not able to support a profitable grazing and livestock based agricultural business. It is not suitable to support a cropping based enterprise due to the land capability class and lack of irrigation. The area immediately surrounding the property is either Rural or General Residential under the Tasmanian Planning Scheme. Agricultural activity in the form of low intensity grazing is conducted to the north only. Area to the south and southwest is under reserve for future potential production forests. Thus, the property is considered to be a lower order rural land (suitable for hobby farming activities) rather than productive agricultural land and has previously been approved for a 9 lot subdivision”. Due to proximity, it stands to reason that consideration could be given to this northern title.</p> <p>Similarly for 55 Leaside Drive, St Helens FR 11929/1 and FR 148075/1.</p>

## Directions Schedules – Break O'Day Council – Response

	Council maintains its reasoning as part of Representation 45 to transition the titles to the Rural Zone.
<b>Conclusion</b>	Council will not be providing an agricultural report prepared by a suitably qualified person to support this recommendation. Council confirms its recommendation. Council will be accepting of the Tasmanian Planning Commission decision at the Hearing.

### **4. Provide revised zone purpose statements and a revised response to s.32 (4) of the Land Use Planning and Approval Act 1993 response for BRE-P3.0 Particular Purpose Zone – St Helens Coastal Maritime that account for the recommended inclusion of Sports and Recreation as a Discretionary use.**

#### **Response:**

#### **Break O Day LPS – Directions Schedule**

Rep 68 - Provide revised zone purpose statements and a revised response to s.32 (4) of the Land Use Planning and Approvals Act 1993 response for BRE-P3.0 Particular Purpose Zone – St Helens Coastal Maritime that account for the recommended inclusion of Sports and Recreation as a Discretionary use.

#### **Notes:**

SPPs define Sports and Recreation as - *use of land for organised or competitive recreation or sporting purposes including associated clubrooms. Examples include a bowling alley, fitness centre, firing range, golf course or driving range, gymnasium, outdoor recreation facility, children's play centre, swimming pool, race course, sports ground, and major sporting facility.*

35F report recommended to modify the draft LPS to include Sports and Recreation as a Discretionary Use qualified with 'if for water based recreational and/or sporting activities, including associated club room'.

#### **Response:**

The following amendments to the Zone Purpose Statements are identified in red below.

The purpose of the Particular Purpose Zone – St Helens Coastal Maritime is:

- BRE-P3.1.1 That future use and development provides a mixture of port and tourist related activity that promotes the St Helens foreshore as a place to visit.
- BRE-P3.1.2 To provide for commercial and recreational boating, slippage and related maritime activities in a manner that respects the coastal character of the area, and amenity of the surrounding residential areas.
- BRE-P3.1.3** To provide water based recreational and/or sporting activities, including associated club room that support water-based community activity.
- BRE-P3.1.34** To provide for low impact non-residential uses that fit within the character of the coastal area.
- BRE-P3.1.45** That areas subject to natural hazards are managed in an appropriate way so as to protect private property with minimal impact to natural process.

**BRE-P3.1.56** To provide for uses that support, supply or facilitate port and/or maritime activity.

The Use Table is proposed to be amended to include Sport and Recreation Use Class as a Discretionary Use. This is to be qualified with 'if for water based recreational and/or sporting activities, including associated club room'. This addition is reflected through a revised zoned purpose statement as specified above. This amendment reflects the existing use of the area by the St Helens Sailing Squadron who currently run competitive sporting events and are seeking grants from a clubroom.

This revision is considered to be consistent with current uses occurring on site and within the intended scale and character of the St Helens. For this reason, it is considered the proposed zone purpose and use is appropriate for inclusion in the LPS pursuant to Part 32(4) (b) the Land Use Planning and Approvals Act 1993.

**5. Provide a copy of planning permit P31-2/84, including the endorsed plan of subdivision**

**Response:**

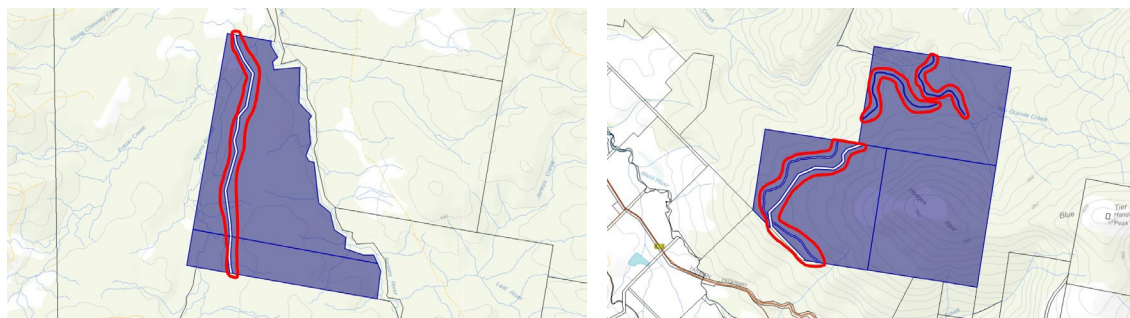
See attached.

**6. Confirm the proposed application of zoning to the reserved and acquired roads in the vicinity of land proposed to be zoned Landscape Conservation in representation 70 (Conservation Landholders Tasmania) if it was determined to apply the Landscape Conservation Zone. The relevant parcels are circled in red in the diagram in Appendix 1 – land highlighted in blue is the land proposed to be zoned Landscape Conservation.**

**Response:**

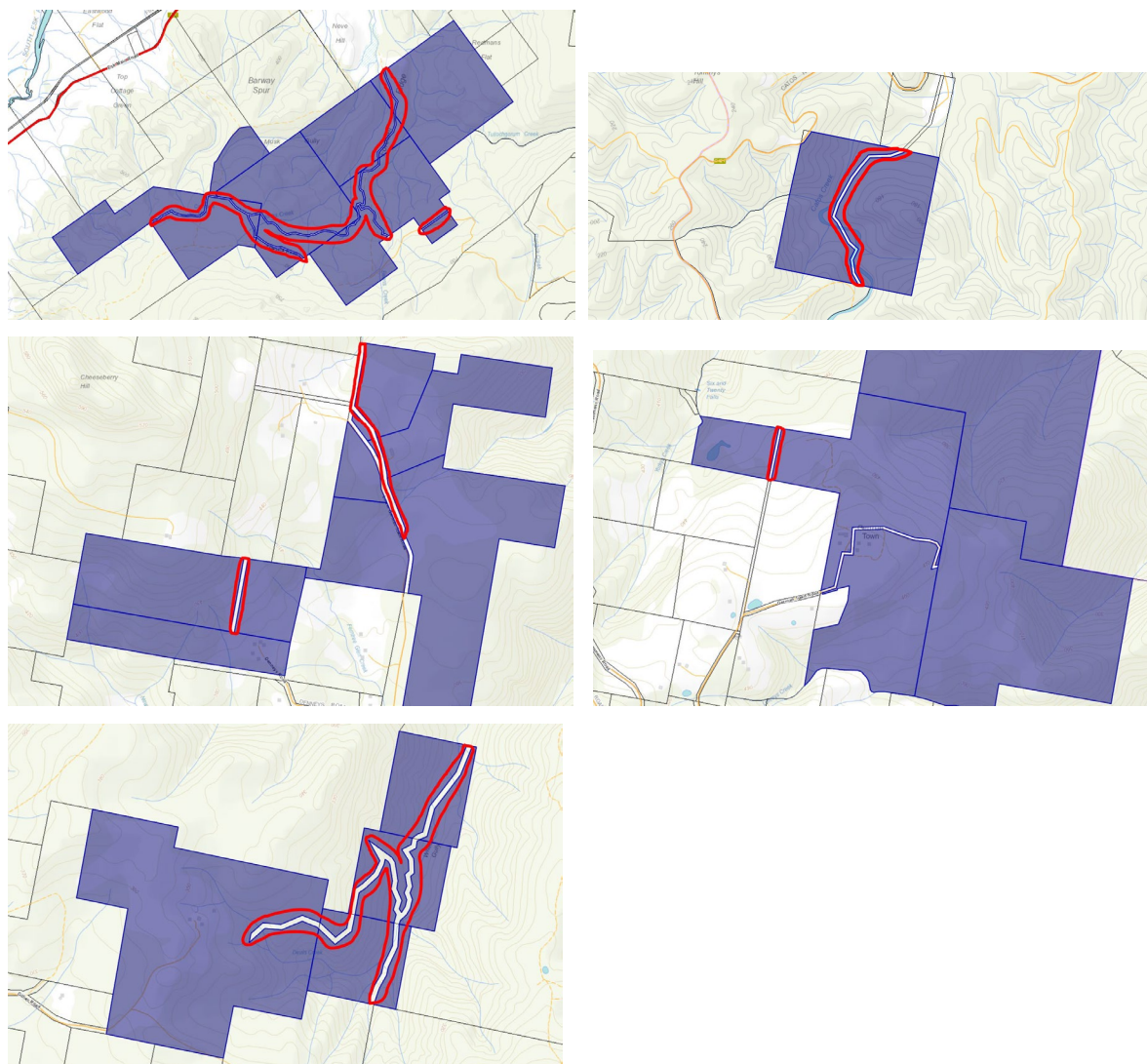
The Planning Authority agree that the Landscape Conservation Zone should be applied to the road reserves identified in the following figures.

It is noted that the second last diagram of German Town where the road enters 686 German Town Road (CT 16802/2) the Landscape Conservation Zone should also be applied.





## Directions Schedules – Break O'Day Council – Response



### 7. Provide a response to the support for the proposed zoning applied to the following properties given in representation 82 (North East Bioregional Network):

- the Environmental Management Zone applied to the Crown Land at the corner of Akaroa Avenue and St Helens Point, Akaroa;
- the Landscape Conservation Zone applied to Tasman Highway St Helens PID 9697916;
- the Environmental Management Zone applied to the Crown Land at Newmans Road, St Marys PID 2153297;
- the Environmental Management Zone applied to the Crown Land adjacent to Main Road, Binalong Bay;
- the Landscape Conservation Zone applied to 74 Gardens Road, Binalong Bay;
- the Landscape Conservation Zone applied to 203 Binalong Bay Road, St Helens;
- the Landscape Conservation Zone applied to Lot 920 Tasman Highway, Scamander;
- the Environmental Management Zone applied to the Fingal Rivulet Conservation Area near FR 120261/3;
- the Environmental Management Zone applied to the Ansons River Conservation Area; and

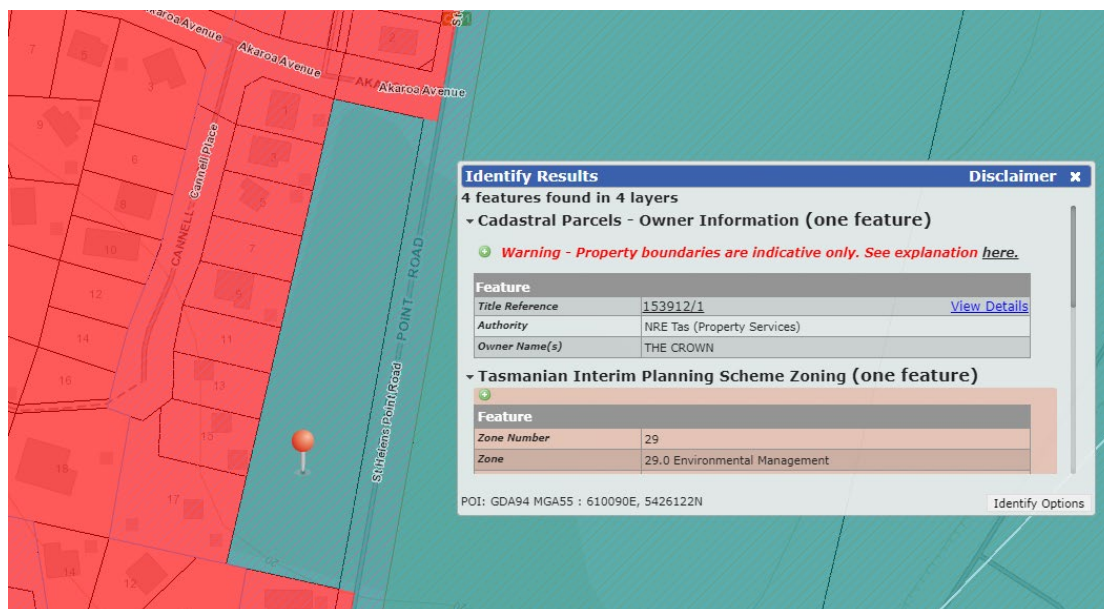


## Directions Schedules – Break O'Day Council – Response

- the Environmental Management Zone applied to the Jocks Lagoon RAMSAR site at Aerodrome Road, Stieglitz FR 50226/1.

### Response:

- The Environmental Management Zone applied to the Crown Land at the corner of Akaroa Avenue and St Helens Point Akaroa



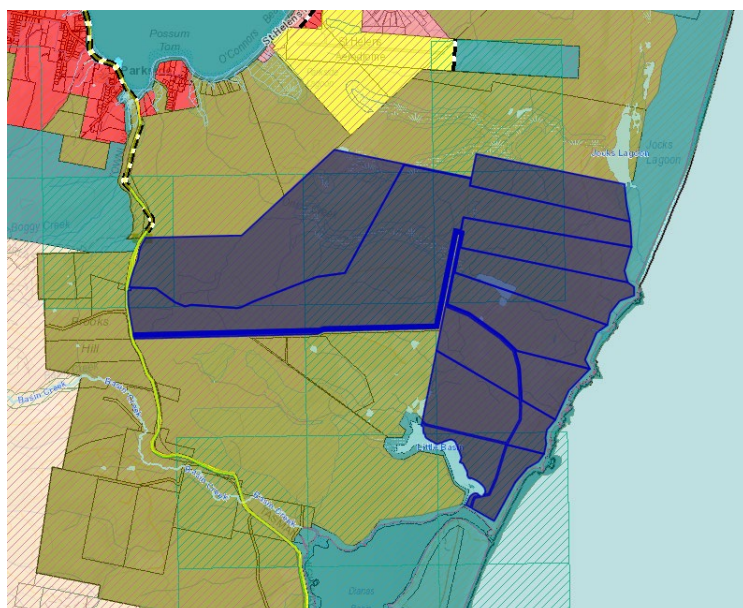
The site is currently zoned 29 Environmental Management and is proposed to be zoned Environmental Management (BOD Draft LPS). The Break O'Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this site. Council acknowledges the representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- The Landscape Conservation Zone applied to Tasman Highway St Helens PID 9697916

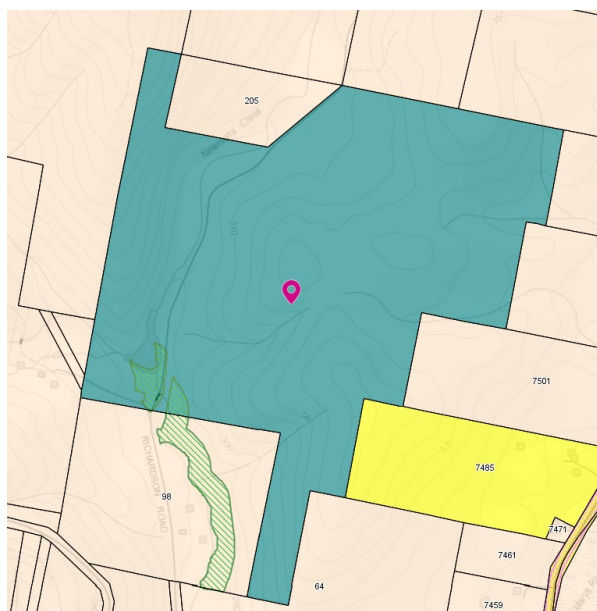
The site is currently zoned Environmental Living and is proposed to be zoned Landscape Conservation (BOD Draft LPS). The Break O'Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this site. Council acknowledges the representation.

## Directions Schedules – Break O’Day Council – Response



Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

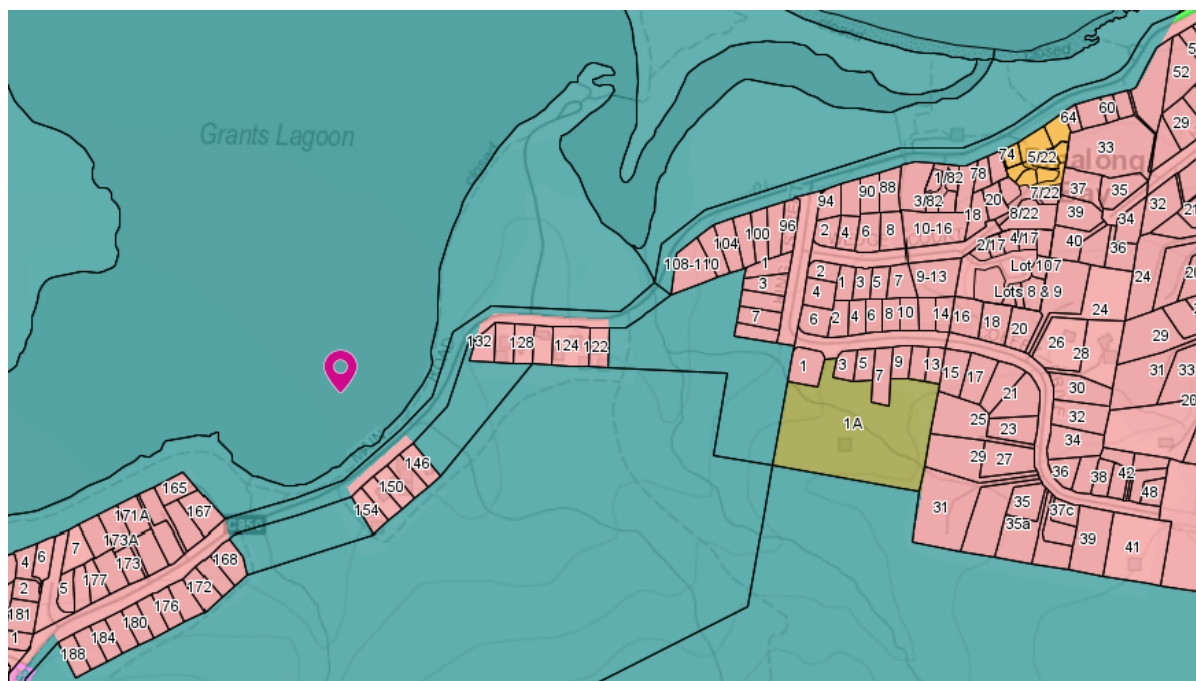
- iii. The Environmental Management Zone applied to the Crown Land at Newmans Road, St Marys PID2153297



The site is currently zoned 29 Environmental Management and is proposed to be zoned Environmental Management (BOD Draft LPS). The Break O’Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this site. Council acknowledges the representation.

<b>Recommended action</b>	<b>No modification to the draft LPS</b>
<b>Effect of recommendation on the draft LPS</b>	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- iv. The Environmental Management Zone applied to the Crown Land adjacent to Main Road, Binalong Bay.

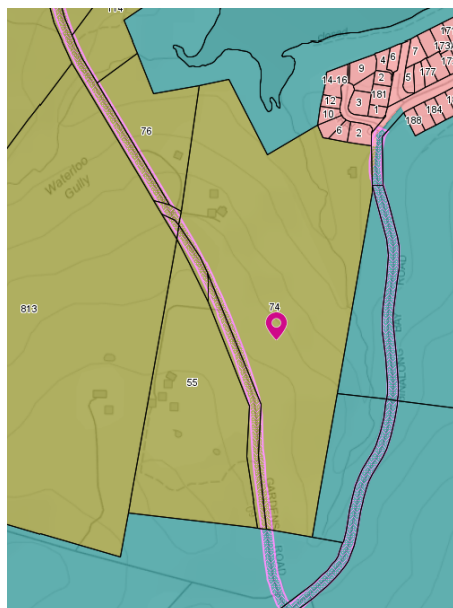


The land is currently zoned 29 Environmental Management and is proposed to be zoned Environmental Management (BOD Draft LPS). The Break O'Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges their representation.

<b>Recommended action</b>	<b>No modification to the draft LPS</b>
<b>Effect of recommendation on the draft LPS</b>	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- v. The Landscape Conservation Zone applied to 74 Gardens Road, Binalong Bay.

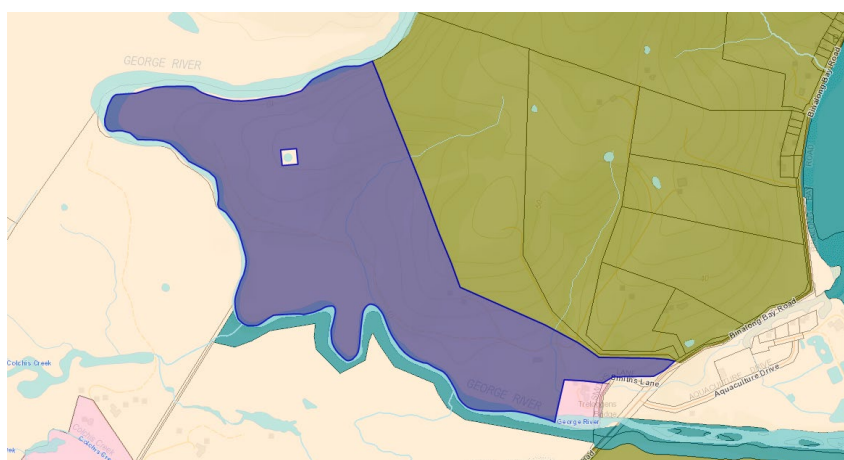
## Directions Schedules – Break O’Day Council – Response



The land is currently zoned Environmental Living and is proposed to be zoned Landscape Conservation (BOD Draft LPS). The Break O’Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- vi. The Landscape Conservation Zone applied to 203 Binalong Bay Road, St Helens  
PID 1788987; CT126959/12



The land is currently zoned Rural Resource Zone and is proposed to be zoned Landscape Conservation Zone (BOD Draft LPS). The reasoning behind the change to the zone is detailed within the Break O’Day Council draft LPS 2020 Supporting Report. The Break O’Day Council is supportive of

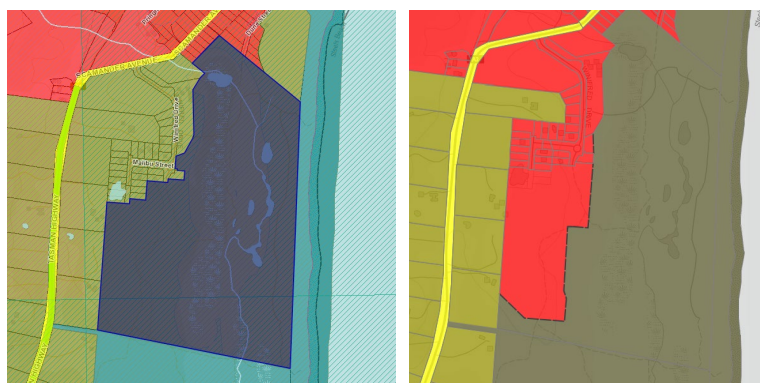


## Directions Schedules – Break O'Day Council – Response

the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- vii. The Landscape Conservation Zone applied to Lot 920 Tasman Highway Scamander.



BOD Interim Scheme 2013

BOD Draft LPS

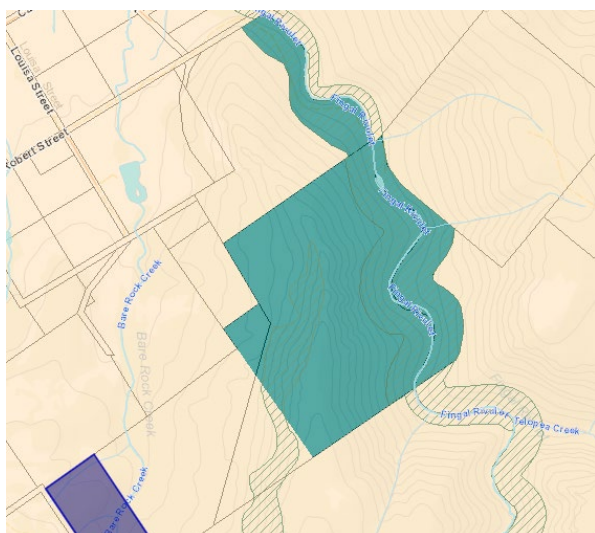
The land is currently zoned Environmental Living. Land forming part of the approved subdivision will transition to General Residential Zone, with the balance transferring to the Environmental Management Zone. The reasoning behind the change to the zone is detailed within the Break O'Day Council draft LPS 2020 Supporting Report. The Break O'Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

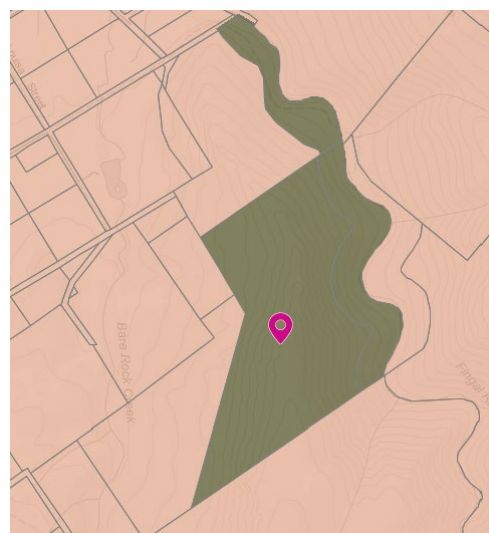
- viii. The Environmental Management Zone applied to the Fingal Rivulet Conservation Area near FR120261/3



Directions Schedules – Break O’Day Council – Response



**BOD Interim Planning Scheme 2013**

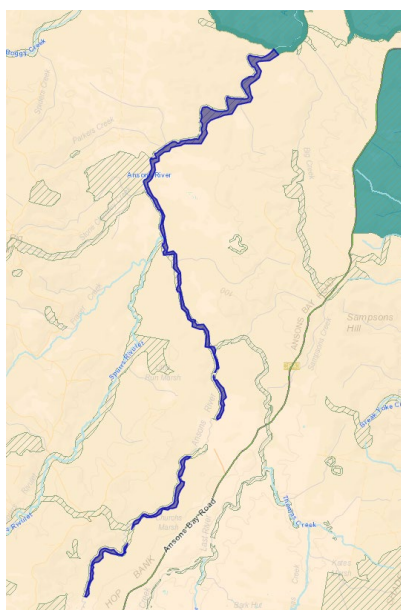


**BOD Draft LPS**

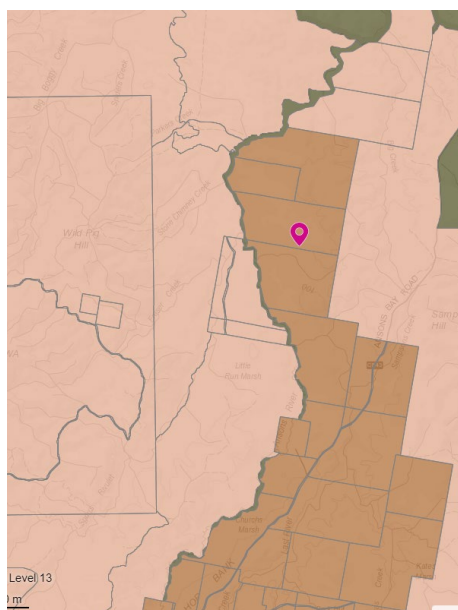
The Break O’Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- ix. The Environmental Management Zone applied to the Ansons River Conservation Area



**BOD Interim Planning Scheme 2013**



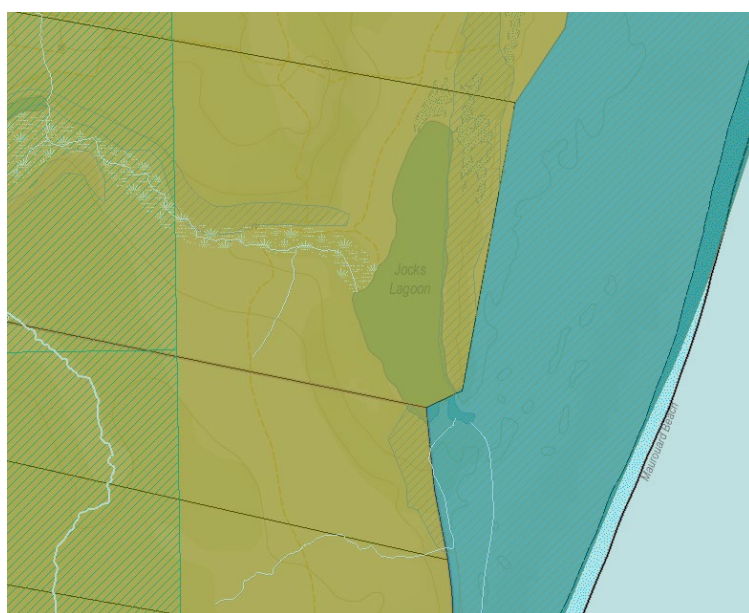
**BOD Draft LPS**

## Directions Schedules – Break O’Day Council – Response

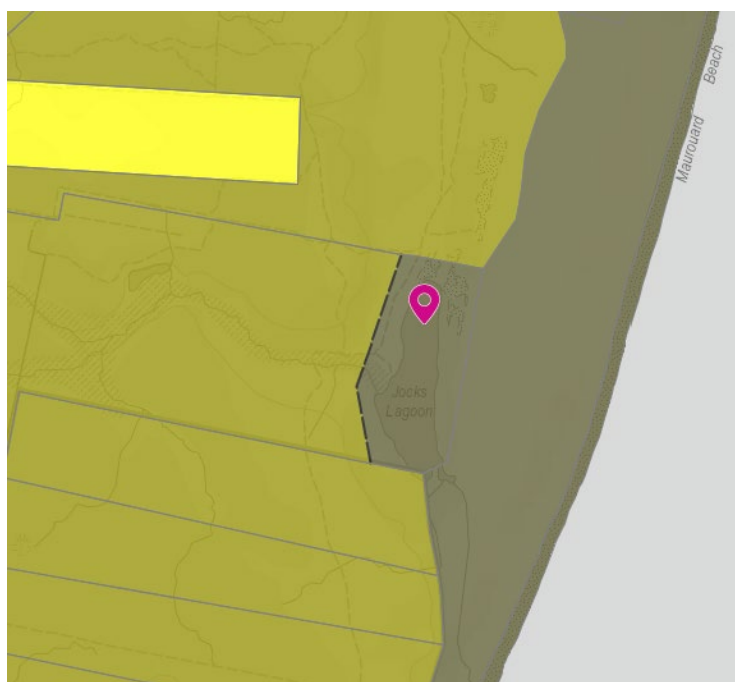
The Break O’Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

- x. The Environmental Management Zone applied to the Jocks Lagoon RAMSAR site at Aerodrome Road Stieglitz FR 50226/1



BOD Interim Planning Scheme 2013



## Directions Schedules – Break O'Day Council – Response

### BOD Draft LPS

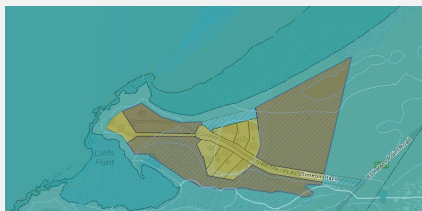
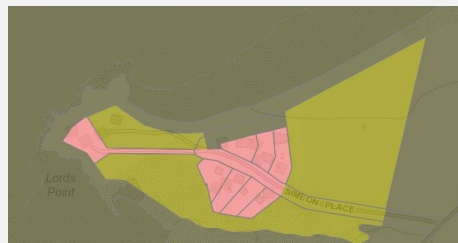
The Break O'Day Council is supportive of the zoning proposed within the Draft LPS. The NEBN has made a representation advising their support of BOD Draft LPS with respect to this land. Council acknowledges representation.

Recommended action	No modification to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

### 8. Provide a response to the proposal given in representation 81 (North East Bio regional Network) to apply the Environmental Management Zone to 9 Simeon Place Akaroa.

#### BOD Interim Planning Scheme



Representation No. 81 Item 16	<b>Name:</b> North East Bio regional Network (NEBN) <b>Address:</b> 9 Simeon Place, Akaroa <b>Title Reference:</b> CT32902/1 <b>PID:</b> - 7386524 <b>Land Area:</b> - 3.415 ha <b>IPS Zoning:</b> Environmental Living	
Mapping Zoom Level 15		
	Site Location	Draft LPS Zoning – Landscape Conservation Zone

<b>Matter(s) raised in the representation (including property information details where applicable)</b>	Apply the Environmental Management Zone to 9 Simeon Place Akaroa			
<b>Planning Authority response</b>	Consistency Overview:			
	NTRLUS	<input checked="" type="checkbox"/>	Local Strategy / Policy	<input type="checkbox"/>
	Section 8A Guideline No.1	<input checked="" type="checkbox"/>	Relate to the drafting / content of the SPP?	<input type="checkbox"/>
	TPC Practice Notes	<input checked="" type="checkbox"/>	Reflect a like for like conversion of the IPS?	<input type="checkbox"/>
	<p>Response:</p> <p>After conducting desktop research for the property via the online mapping tool developed for Council's draft LPS, it is apparent that the property contains prominent levels of vegetation along the eastern side, priority vegetation report indicates that there could be Succulent Saline Herbland (Threatened Vegetation Communities) towards the south however the reliability of this data varies from highly to extremely variable. As previously mentioned by the representor the southern area of the property appears to be low lying indicating that flooding and tides impact upon this area of the property and finally the western side contains a single dwelling with some of the vegetation cleared.</p> <p>Although there are approximately seven overlays applicable to the property, three overlays that were applied to the property and of particular interest included the overlays within the Natural Assets Code:</p> <ul style="list-style-type: none"> <li>• Priority Vegetation Area</li> <li>• Future Coastal Refugia Area</li> <li>• Waterway and Coastal Protection</li> </ul> <p>Due to the presence of three overlays from the Natural Assets Code being identified on the property, the following zone application guideline from the Section 8A Guideline no.1, specifically for the Landscape Conservation Zone was deemed to be applicable to the property (pp. 19):</p> <p>LCZ 2 The Landscape Conservation Zone may be applied to:</p> <p>(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species</p> <p>or other areas of locally or regionally important native vegetation;</p> <p>(b) land that has significant constraints on development through the application of the</p> <p>Natural Assets Code or Scenic Protection Code; or</p> <p>(c) land within an interim planning scheme Environmental Living Zone and the primary</p> <p>intention is for the protection and conservation of landscape values.</p> <p>The applicability of the three overlays from the natural Assets Code in conjunction with both the potential presence of Succulent Saline Herbland and prominent levels of vegetation, indicates strong alignment with the application guidelines provided for the Landscape Conservation Zone.</p>			
<b>Recommended action</b>	No modification to the draft LPS.			



<b>Effect of recommendation on the draft LPS</b>	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.
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**9. Provide an opinion on the merits of the submission dated 27 May 2022 made by Gray Planning for Mark and Anna Sawyer relating to the zoning of 280 Lohreys Road, St Marys, which is available on the Commission's website.**

**Response:**

Notes on issues outlined within the late Draft LPS Submission by Danielle Gray | Gray Planning OBO Mark and Anna Sawyer:

Key points of the letter (In chronological order)

**Table of the Key Points extracted from the Letter and Response to each (if relevant):**

Issue/Key Point	Page	Opinion/Response
1. Mark and Anna Sawyer purchased 280 Lohreys Road at St Marys which is currently subject to the Interim Planning Scheme's Rural Resource Zone and under the draft LPS has been proposed to be changed to the Agriculture zone.	01	N/A – Context provided by the representor
2. States that Council had heavily relied on agricultural mapping as noted within Part 3 of the supporting report.	01	N/A – Context provided by the representor
3. Client (Mark and Anna Sawyer) was not made aware of the proposed rezoning to the aforementioned draft LPS Zone. Only found out about it while looking through the council website during early May.	01	<p>All purchasers of property must exercise their own due diligence.</p> <p>The applicant requested a Council Land Information Certificate in accordance with S337 Local Government Act 1993 in March 2022.</p> <p>Part 13(e) requires Council to identify as to whether Council as the planning authority has prepared and submitted a draft Local Provisions Schedule to the Tasmanian Planning Commission. Council responded "Yes" to this part alerting the prospective purchaser to the same.</p>
4. The 337 certificate for the subject site (issued on the 18 <sup>th</sup> of March) provided no specifics from the council regarding the LPS and does not indicate the proposed draft LPS zone of which the subject site is intended to be rezoned to.		
5. The proposed rezoning from the Rural Resource Zone to the Agriculture Zone will result in	02 02	The Residential Use Class (new single dwelling) is Discretionary within:



## Directions Schedules – Break O'Day Council – Response

<p>any Development application lodged for any proposed development involving residential uses to face more scrutiny compared to the current Rural Resource Zone. Reference is made to SPP's Agricultural Zone Use Standard, Clause 21.3.1 Discretionary Uses and highlights the criterion outlined within P4.</p> <p>6. The Planner believes that under the current Rural Resource Zone, there is an increased chance that a residential use would be approved compared to the SPP Agricultural Zone.</p>		<ul style="list-style-type: none"> <li>- Rural Resource Zone (Qualified)(Break O'Day Interim Planning Scheme 2013);</li> <li>- Agriculture Zone (qualified) (State Planning Provisions);</li> <li>- Rural Zone (qualified) (State Planning Provisions);</li> </ul> <p>There are similar restrictions within the Use Class Residential Use Table across the two planning instruments and relevant zones.</p> <p>Visitor Accommodation (which may provide for additional dwellings on the site) and when considering new builds, is discretionary within:</p> <ul style="list-style-type: none"> <li>- Rural Resource Zone (qualified) (Break O'Day Interim Planning Scheme 2013);</li> <li>- Agriculture Zone (unqualified) (State Planning Provisions);</li> <li>- Rural Zone (qualified) (State Planning Provisions);</li> </ul>
<p>7. Clients effectively bought the property without knowing that any potential application lodged for a residential use development would be significantly more difficult under LPS. It is further reiterated that the proposed rezoning of the property under the LPS was not made apparent to them through the 337. The Planner infers that there has been a major failure in communications which resulted in their client purchasing a property whereby agricultural use is supported more so than residential use and development.</p>	02	<p>Application for Residential Use Class (Single Dwelling) Vacant Land: BOD Interim Planning Scheme 2013 Rural Resource Zone – Discretionary (Qualified); State Planning Provisions Agriculture Zone – Discretionary (Qualified); State Planning Provisions Rural Zone – Discretionary (Qualified)</p>
<p>8. Planner states that if their clients had been appropriately informed of the proposed change in zoning and it associated implications, they</p>	02	<p>Refer to the response provided for 3 &amp; 4.</p>

## Directions Schedules – Break O'Day Council – Response

would not have purchased the property.		
9. Planner notes that their client was unable to submit a representation during the timeframe since the public notification period concluded before they even expressed interest in the property of which they have purchased. Clients have been caught in a 'cross-fire' as the proposed rezoning is likely to limit their ability to use and or development the property.	02	The land owners have made separate submission to the Tasmanian Planning Scheme.
10. Planner asserts that natural justice and failure of Council to notify the client during the 337 process should not be dismissed by the TPC even though the client had not submitted a representation during the public notification period.	02	The Break O'Day Council responded to a request for a Council Land Information Certificate (S337 Local Government Act 1993 with all relevant fields completed.
11. The change in use classification and standards for a residential use between the current Rural Resource Zone and the proposed Agricultural Zone is no small matter.	02	Commentary.
12. The Planner expresses that it is not feasible for their clients to now sell the property with the knowledge that there will be major difficulties in being able to develop the property for residential use and development. Planner anticipates that if the client were to apply for his planned future residential development it will be significantly difficult.	02	Any application for a Residential Use Class on vacant land will be discretionary (qualified) under the BOD Interim Planning Scheme 2013 and discretionary (qualified) under the State Planning Provisions.
13. Had the client been notified of the impacts caused by the rezoning under the LPS, they would not have purchased the property and further if they had purchased the property prior to the public notification period	02	This matter does not require a comment from Council.

## Directions Schedules – Break O'Day Council – Response

ending they would have submitted a representation.		
14. Planner claims that the property does not demonstrate any characteristics which would justify the proposed Agricultural Zoning which is detailed within an attached planning report (i.e. review my notes on the planning report below).	02	See responses below

### Key points of the Planning Report (In chronological order)

#### Table of the Key Points extracted from the Planning Report and Response to each (if relevant):

Issue/Key Point	Page	Opinion/Response
1. Owner objects to the proposed LPS zoning of the property from the Rural Resource Zone to the Agricultural Zone since the proposed rezoning is not justified under the Section 8A Guideline No.1 document when considering the characteristics of the site.	05	The site has been identified as “Unconstrained” within the Agricultural Land Mapping Project. The draft LPS has identified the site to transition to the Agriculture Zone based on the ‘Land Potentially Suitable for Agriculture Zone’ layer published on the LIST and in the absence of any further supporting information for the Rural Zone. This is consistent with Guideline No. 1 LPS zone and code application. It is further accepted that Land Capability layer published on the LIST identifies the land as Class 6 which is land marginally suited to grading due to severe limitations.
2. The subject property (280 Lohreys Road) is currently utilised for the purposes of a residential dwelling that is located along the south eastern section of the property and is also in close proximity to the another residential dwelling located at 267 Lohreys Road and is largely covered by thick native vegetation (Eucalyptus Forest) which accounts for approximately 90-95% of the owners property. The property has a gradient of 1.4/average of	05	It is evident that both the subject site and adjoining property have substantial vegetation coverage (TASVEG 3.0 and 4.0 note Wet Eucalypt Forest and Woodland). Additionally, review of the mapped contours via LIST in conjunction with the Break O'Day Council's draft LPS mapping reveals that the property at 280 Lohrey Road is relatively sloped due to the presence of both the Low Landslip Hazard and Medium Landslip Hazard band overlay.

# Directions Schedules – Break O'Day Council – Response

1.35 across the property and is not considered appropriate nor would it would in accordance with the Section 8A No. 1 document with regards to the application of the LPS Agricultural Zone.		
3. The representation opposes the application of the Agricultural Zone and instead requests that consideration be given to rezoning the property more appropriately to the Rural Zone.	05	<p>Review of the subject property against the representor's requested application of the <b>Rural Zone</b> via the <i>Section 8A Guideline No. 1 Local Provisions Schedule (LPS): zone and code application</i> document, reveals that most of the application guidelines could potentially be satisfied. This can be briefly demonstrated in the assessment below:</p> <p><b>RZ 1 The Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area, and which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values.</b></p> <p>The subject site at 280 Lohrey Road, St Marys, is located within a non-urban area and has been attributed a classification 6 from the Land Capability overlay ('<i>Land marginally suited to grazing due to severe limitations</i>'). Existing contour lines shown via LIST indicate that the subject site is located on sloped land which is further confirmed through the application of the Low Landslip Hazard Band and Medium Landslip Hazard Band. Upon applying the TAS VEG 3.0 and 4.0 overlays available on the LIST, the subject site does in fact appear to be covered largely by Wet eucalypt forest &amp; woodland. Upon adding a number of Environmental Layers available on the LIST (i.e. Threatened Native Vegetation Communities 2020, Non-Threatened Flora Point, Threatened Flora Point and Conservation Significance Flora Point), the subject site does not appear to possess any flora species which could have warranted an alternative zoning of the property to either the Landscape Conservation Zone or the Environmental Management Zone. Additionally, it is worth noting that the adjoining property of Tasman Highway,</p>

		<p>Falmouth (PID 3385604) has been identified as a Future Potential Production Forest.</p> <p>RZ 2 The Rural Zone should only be applied after considering whether the land is suitable for the Agriculture Zone in accordance with the 'Land Potentially Suitable for Agriculture Zone' layer published on the LIST.</p> <p>The subject site has been allocated the Unconstrained classification</p> <p>RZ 3 The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if: (a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone; (b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land; (c) the land is identified for the protection of a strategically important naturally occurring resource which is more appropriately located in the Rural Zone and is supported by strategic analysis; (d) the land is identified for a strategically important use or development that is more appropriately located in the Rural Zone and is supported by strategic analysis; or (e) it can be demonstrated, by strategic analysis, that the Rural Zone is otherwise more appropriate for the land.</p> <p>(a) The approximately 16.5659206 ha subject site is not integral to a larger farm holding within the Agricultural Zone. This is particularly evident since the adjoining property at 'Daisyburn' – 374 Dublin Town Road, St Marys, is a pastoral farm comprised of 11 titles and the same farm also owns PID 6406941 Dublin Town Road, St Marys.</p> <p>(b) Please review responses provided above.</p> <p>(c) The subject site has not been identified for the protection of any particular strategically important naturally occurring resource nor is there any strategic analysis which can demonstrate that the proposed Rural Zone would be more appropriate.</p> <p>(d) The subject site has not been identified for a strategically important use or development nor is there any strategic analysis which can demonstrate that the</p>
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		<p>proposed Rural Zone would be more appropriate</p> <p>(e) The representor has presented within their representation an assessment/strategic analysis presenting key considerations to support the requested application of the Rural Zone. Notably, the representor outlines the following:</p> <ul style="list-style-type: none"> <li>• <i>"The property has been rated for residential purposes, the land use classified as 'rural residential' and contains an existing single dwelling with construction dated back to 1983.</i></li> <li>• <i>The property is adjacent to residential development/dwellings at 251 and 267 Lohreys Road. Currently no agricultural use on the property.</i></li> <li>• <i>There is agricultural use evident on the neighbouring property at 374 Dublin Town Road 'Daisyburn'. This neighbouring property seems to be used for grazing in cleared areas of the property. There is an approximate distance of nearly 500m separation between the cleared areas from the neighbouring property at 374 Dublin Town Road and the title boundary of 280 Lohreys Road.</i></li> <li>• <i>The property has undulating gradients up to 1 in 2 steepness in parts with average gradient exceeding 1 in 4 across the site. Current owners (Mark and Anna Sawyer) purchased the property back in April 2022 and have used it for private residential purposes and have continued the existing residential use of the property since the dwelling's construction in 1983.</i></li> <li>• <i>Surrounding properties experience moderate to steep and undulating gradients and substantial native vegetation coverage.</i></li> <li>• <i>East of the subject site, there are four titles that are predominately cleared (includes Daisyburn) with no cropping apparent cropping or other related agricultural use evident.</i></li> </ul>
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# Directions Schedules – Break O'Day Council – Response

		<ul style="list-style-type: none"> <li><i>Grazing at Daisyburn appears to be the only agricultural use within the surrounding area.</i></li> <li><i>The Agricultural Zone has been proposed to be applied to a relatively small cluster of properties east of the subject site. It is worth noting that majority of this cluster is comprised of the 11 titles associated with 'Daisyburn' – 374 Dublin Town Road in addition to the other property owned by Daisyburn at PID 6406941 Dublin Town Road, St Marys."</i></li> </ul> <p>The Planning Authority would also like to note that the subject site adjoins properties (251 and 267 Lohreys Road, St Marys) proposed for the application of the Rural Zone. Therefore, if the subject site in future were to be rezoned to Rural this would still contribute to consistent land-use patterns (i.e. application of the Rural Zone to the subject site would not result in spot-zoning).</p>
4. The property has been rated for residential purposes and the use of the land being 'rural residential' and contains a single dwelling which was constructed back in 1983 which the use exists till this day.	05	N/A – Context provided by the representor
5. The property is 14.9ha and has frontage onto Lohreys Road and the property only has access from Lohreys Road which services the existing dwelling. All properties in the surrounding area are subject to the Rural Resource Zone.	05&06	N/A – Context provided by the representor
6. The property is adjacent to residential development/dwellings at 2512 and 267 Lohreys Road. Currently no agricultural use on the property.	06	N/A – Context provided by the representor
7. There is agricultural use evident on the neighbouring property at 274 Dublin Town Road 'Daisyburn'. This neighbouring property seems to be used for grazing in cleared areas of the	06	N/A – Context provided by the representor

# Directions Schedules – Break O'Day Council – Response

property. There is an approximate distance of nearly 500m separation between the cleared areas and the title boundary of the property at 280 Lohreys Road.		
8. The property has undulating gradients up to 1 in 2 steepness in parts with average gradient exceeding 1 in 4 across the site. Current owners (Mark and Anna Sawyer) purchased the property back in April 2022 and have used it for private residential purposes which continues the existing residential use of the property since the dwellings construction in 1983.	06&07	N/A – Context provided by the representor
9. The Planner provides a bit of an overview of the current zoning for the subject site including: <ul style="list-style-type: none"> <li>Property is zoned Rural Resource</li> <li>Surrounding properties are also subject to the same zone</li> <li>Surrounding properties experience moderate to steep and undulating gradients and substantial native vegetation coverage.</li> <li>East of the subject site, there are four titles that are predominately cleared (includes Daisyburn) with no cropping apparent cropping or other related agricultural use evident.</li> <li>Grazing at Daisyburn appears to be the only agricultural use within the surrounding area.</li> <li>Considering the surrounding land uses and existing uses on the property in addition to the characteristics of the general area, the</li> </ul>	08	N/A – Context provided by the representor

# Directions Schedules – Break O'Day Council – Response

planner questions the proposed application of the Agricultural Zone.		
10. The Planner notes that under the LPS the property is proposed to be rezoned to the Agricultural Zone which they assume to be the result of agricultural mapping as noted within section 3 of the LPS report prepared by Council. The Planner further notes that the Agricultural Zone has been proposed to be applied to a relatively small cluster of properties east of the subject site (note: there is a figure included within the planning report, review for context).	09	See below response to 13 for a detailed response.
11. There is an inconsistency of the application of the Rural and Agricultural Zone within the draft LPS since it is supposedly unclear as what the threshold is for Agricultural Zone Vs. Rural Zone other than the aforementioned agricultural mapping (refer to pp. 40 of the supporting report for context).		
12. Some properties within the surrounding area and indeed the subject site which are proposed for the rezoning from Rural Resource to the Agricultural Zone appear to contain no agricultural use and in some instances contain single dwelling. The subject site has no history of agriculture and contains an existing single dwelling.	09&10	N/A – Context provided by the representor
13. The Planner asserts that the rationale behind the proposed rezoning and particularly when considering the application of either Rural or Agricultural, <b>is based upon desktop mapping with no ground truthing to ascertain existing use or site characteristics</b> . There are not	10	The Planning Authority expresses that the application of the Agricultural Zone to the property is consistent with the zoning application guideline designated for the Agricultural Zone outlined within the TPC <i>Section 8A Guideline No.1 - Local Provisions Schedule (LPS): zone and code application</i> document.



<p>any consistent land characteristics which apply to land either subject to the Rural or Agricultural Zone.</p>		<p>Specifically, the utilisation of the '<i>Land Potentially Suitable for Agriculture Zone</i>' overlay available on the LIST to assist in determining the suitability of the application of the SPP's Agricultural Zone to a subject site, is the predominate to ascertain the applicability of the Agricultural Zone. The Planning Authority does note that while the subject site has been mapped as Unconstrained, this classification does not account for onsite features or uses which is further outlined within the <i>Agricultural Land Mapping Project – Identifying land suitable for the inclusion within the Tasmanian Planning Scheme's Agriculture Zone – Background Report</i> when it states that:</p> <p><i>'The potential constraints analysis was not meant to provide a comprehensive analysis of all factors that may contribute to constraining agricultural uses from occurring on the land. It is not possible to achieve this at a statewide level and many factors would be dependent on the agricultural enterprise, the characteristics of the operations, and the locational circumstances. It was also considered unnecessary to analyse all potential constraints for the purposes of developing a strategic planning mapping tool for the identification of the future agricultural potential of the land (pp. 15).</i></p> <p>The Planning Authority can confirm that in this instance desktop mapping was primarily utilised to determine the application of the Agricultural Zone. Additionally, the TPC's <i>Section 8A Guideline No.1 - Local Provisions Schedule (LPS): zone and code application</i> does in fact delineate in zoning application guideline AZ6 and RZ3, the characteristics of land that could potentially be subject to the Rural Zone instead. The representor has provided comments on zoning application guideline AZ6 in an attempt to articulate that the subject site possesses site characteristics closer to that of Rural Zoned land in order to demonstrate that the requested application of the Rural Zone could be justified.</p>
<p>14. The property has notable constraints and contains an</p>	<p>10</p>	<p>N/A – Context provided by the representor</p>

## Directions Schedules – Break O'Day Council – Response

existing single dwelling, substantial coverage of Eucalyptus forest/native vegetation covering at least 90% is evident, has a relatively steep gradient and is adjacent to other residential uses.		
15. The subject site has a Land Capability classification of 6 (see LIST for further information). The Planner then postulates that the agricultural zone should not be applied to the subject site due to the property being identified to have low or very low for grazing purposes. Additionally, the planner further notes that there are other constraints including native vegetation coverage, adjoining residential uses/developments and existing residential use on the subject site.	11	N/A – Context provided by the representor
<p>16. The Planner outlines that the proposed application of the agricultural zone for the subject site does not align with the Section 8A Guideline No. 1 document. Notably the Planner has provided comment for each guideline and includes the following:</p> <ul style="list-style-type: none"> <li>• <b>AZ1</b> = (a) Unclear if Council specifically considered the subject site regarding existing features on the property, identified use of the site and the constraints do not appear to be accurately reflected within the '<i>Land Potentially Suitable for Agricultural Zone</i>' mapping as the property has been mapped as unconstrained. (b) &amp; (c) Requests that Council should confirm if any further detailed strategic planning regarding the application of the Agricultural zone was undertaken.</li> </ul>	12, 13, 14, 15, 16, 17 & 18	<p>AZ1 = (a) As previously mentioned, the Planning Authority can confirm that in this instance desktop mapping was primarily utilised to determine the application of the Agricultural Zone. (b) &amp; (c) No additional strategic planning concerning the application of the Agricultural Zone to the subject site was conducted.</p> <p>AZ2 = N/A as the subject site is not currently subject to the Significant Agricultural Zone as no such zone has been incorporated into the Break O'Day Council's current interim planning scheme.</p> <p>AZ3 = The subject site has not been mapped under the 'Land Potentially Suitable for Agricultural Zone' as either Potentially Constrained 2A, 2B nor 3. It is worth noting that the subject site does adjoin land that has been mapped as Potentially Constrained Criteria 2B (Properties mapped as Potentially Constrained 2B = 267 Lohreys Road &amp; 251 Lohreys Road, St Marys). The Planning Authority does acknowledge the quote from the Background Report included within the page 15 of the representation but assessment</p>

<ul style="list-style-type: none"> <li>• <b>AZ2</b> = The property is currently subject to the Rural Resource Zone and reiterates that due to identified constraints the proposed Agricultural Zone should not be applied to the property.</li> <li>• <b>AZ3</b> = (a) Notes that the property currently contains an existing dwelling but despite this constraint the property has been mapped as unconstrained. The representor included a quote from the Agricultural Land Mapping Project Background Report May 2017, <i>'Despite the sophisticated methodology, the mapping is not intended to be a definitive strategic land use planning tool as it is predominantly a desktop analysis and has only focussed on assessing the agricultural potential of the land. Local planning authorities will need to utilise this data in conjunction with a range of other data sets and information sources in making strategic land use planning decisions about some of the areas identified'</i>. The representor then concludes Council have not considered other sources, ground truthing or assessment of characteristics when considering the application of the Agricultural Zone. (b) The property is located adjacent to other land mapped as Potentially Constrained (Criteria 2B). (c) The property is privately owned and does not have any known history of agricultural use occurring on the subject site and has various constraints as noted earlier. The subject site does not form part of any existing agricultural land. (d) The subject site has low agricultural potential as</li> </ul>	<p>against this zoning application guideline is not required.</p> <p>AZ4 = Application of the 'Potential Agricultural Land Initial Analysis' demonstrates that the subject site (approx. 16.5659206ha in area) is mostly covered by the aforementioned layer except for the south-eastern corner of the property. (a), (b) &amp; (c) The subject site has been mapped as Unconstrained under the 'Land Potentially Suitable for the Agricultural Zone'. (d) Available aerial imagery of the subject site displays fairly substantial vegetation coverage across the subject site and under both TASVEG 4.0 the following vegetation communities have been mapped on the site:</p> <ul style="list-style-type: none"> <li>• Wet eucalypt forest and woodland, <u>(WOU) Eucalyptus obliqua wet forest (undifferentiated)</u> – covers the majority of the subject site.</li> <li>• Wet eucalypt forest and woodland, <u>(WOB) Eucalyptus obliqua forest with broad-leaf shrubs</u> – predominately located along the northern and the eastern boundary of the property.</li> <li>• Scrub, heathland and coastal complexes, <u>(SBR) Broad-leaf scrub</u> – extends from the northern boundary of the property near the north-east corner and extends down towards the eastern boundary and notably crosses over into the adjoining property.</li> <li>• Dry eucalypt forest and woodland, <u>(DAM) Eucalyptus amygdalina forest on mudstone</u> – located in sections along the eastern boundary of the property.</li> <li>• Non eucalypt forest and woodland, <u>(NAD) Acacia dealbata forest</u> – small section of this vegetation community group located along the northern boundary of the property near the north-west corner.</li> </ul> <p>AZ5 = The subject site has not been proposed to be split-zoned under the LPS nor does the representor request split-zoning to be applied to the subject site.</p>
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<p>determined within the Land Capability Score of 6. (e) The Planner requests that Council should provide more information which justifies the proposed agricultural zoning of the property with regards to the existing residential use and other noted constraints.</p> <ul style="list-style-type: none"> <li>• <b>AZ4</b> = (a) Subject site is adjacent to other properties mapped as being Potentially Constrained as well. (b) The attributed unconstrained mapping of the subject site is disputed but there are other properties in close proximity that have been mapped as Potentially Constrained and land mapped as 2B have almost identical features with regards to residential use, size, gradient and extensive native vegetation coverage. (c) Subject site is located within close proximity to other land parcels mapped as unconstrained (east of the property) but the aforementioned land parcels are significantly larger in area, have minimal native vegetation cover, large areas of pasture, level gradients and minimal to nil residential use/development. (d) The subject site could be considered as a larger title due to its 10+ hectares area and has a native vegetation coverage of approximately 90%.</li> <li>• <b>AZ5 &amp; AZ6</b>= Subject site has been discerned as a large title but it is not proposed for it to be split zoned and therefore AZ5 is irrelevant.</li> <li>• <b>AZ7</b> = (a) Requests that Council provides information as to why the subject site has been proposed to be rezoned to the Agricultural Zone regarding if there was detailed local</li> </ul>		<p>AZ6 =</p> <ol style="list-style-type: none"> <li>a. There is no local or strategic analysis which identifies or supports the need for an alternative zoning to the site nor has there been any undertaking of detailed local strategic analysis consistent with the Northern Tasmania Regional Land-Use Strategy.</li> <li>b. The subject site has not been recognised to possess a strategically important naturally occurring resource which would require protection through the application of an alternative zone.</li> <li>c. Though the subject site has been identified via the TASVEG 4.0 overlay to contain various vegetation community groups as outlined AZ4. The property did not have the priority vegetation area overlay included since the subject site has been proposed to be rezoned to the Agricultural Zone but it is worth noting that land adjoining the subject site at 251 Lohreys Road and PID 3385604 Tasman Highway (note: this property is owned by Department Of Primary Industries, Parks, Water &amp; Environment) are in fact subject to the priority vegetation area overlay observable on the Planning Authority's draft LPS online mapping. It could be assumed that if the priority vegetation overlay were to be applied, sections of the property could have potentially been covered by the aforementioned overlay. Thus, the subject site is not deemed to contain any significant natural values since this is unable to be determined at this time.</li> <li>d. The subject site has not been identified for the protection and or provision of strategically important uses that would otherwise require the application of an alternative zone.</li> <li>e. The subject site has been attributed a classification 6 from the Land Capability overlay available on the</li> </ol>
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<p>strategic analysis.(b) The property does not have similar characteristics to land mapped as suitable for Agricultural Zone and is subject to a number of constraints as outlined earlier within the representation and the property does not form part of a larger area of land used in conjunction with land mapped as suitable for the Agricultural Zone. (c) The application of the Agricultural Zone is not considered appropriate for the subject site since there is limited potential for the land to be utilised for agricultural use due to site characteristics, an existing residential use and being mapped as having a Land Capability Classification of 6. (d) Subject site should not be zoned Agricultural due to identified constraints.</p>	<p>LIST which includes the following description, <i>'Land marginally suited to grazing due to severe limitations'</i>. However, it is worth noting that within the 'Agricultural Land Mapping Project – Background Report' does state, <i>'While land capability classification data has historically been used for mapping potential agricultural land in Tasmania, it has many limitations. There is only partial coverage of the State and large portioned modelling has been used with limited ground-truthing. The land capability classification mapping is at a broad scale of 1:100,000 and does not reflect the potential agricultural enterprise value. For example, land capability class 5 indicates the land is only really suited to dryland grazing with low economic return, but such areas may have soils ideally suited to viticultural production with a high economic return'</i>, as seen on page 08.</p> <p>As previously mentioned, the existing contour lines shown via LIST indicate that the subject site is located on sloped land which is further confirmed through the application of the Low Landslip Hazard Band and Medium Landslip Hazard Band. The approximately 16.5659206 ha subject site is not integral to a larger farm holding within the Agricultural Zone. This is particularly evident since the adjoining property at 'Daisyburn' – 374 Dublin Town Road, St Marys, is a pastoral farm comprised of 11 titles and the same farm also owns PID 6406941 Dublin Town Road, St Marys.</p> <p>AZ7 = The subject site has been mapped as Unconstrained within the 'Land Potentially Suitable for Agricultural Zone' overlay and under the LPS the Agricultural Zone has been proposed to be applied to the subject site. No further assessment required.</p>
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## Directions Schedules – Break O'Day Council – Response

<p>17. The Planner then assessed the proposed rezoning of the property to the Rural Zone instead against the Regional Policies which included the following:</p> <ul style="list-style-type: none"> <li>• State Policy on Water Quality Management 1997 = there is a watercourse located towards the far eastern side of the property adjoining Daisyburn and as such it is believed that the application of the Agricultural Zone would result in potential use or development that may impact upon the watercourse.</li> <li>• State Coastal Code 1996 = the property is not located in a coastal area.</li> <li>• State Policy on Protection of Agricultural Land 2009 = the property has not been classified as prime agricultural land, is not used for agricultural activities nor has there been any history of recent agricultural uses associated with the property, has low potential for agricultural uses due to the identified constraints and land Capability Classification of 6.</li> </ul>	<p>19&amp;20</p>	<p>N/A - Not overly relevant and does not add anything of significance to the representation.</p>
<p>18. The Planner concludes by reiterating that the clients request the application of the Agricultural zone to the subject site to be reconsidered in light of the above and concludes by requesting that the Tasmanian Planning Commission to consider applying the Rural Zone to the property instead.</p>	<p>21</p>	<p>No response needs to be provided for this (i.e. effectively the summary of the representation)</p>

## Conclusion

The material has been reviewed as requested by the Tasmanian Planning Commission. The Break O'Day Council makes the following recommendation in the absence of a formal representation on the Break O'Day Draft LPS during the exhibition stage:

# Directions Schedules – Break O'Day Council – Response

Recommended action	No change to the draft LPS
Effect of recommendation on the draft LPS	There is no effect on the draft LPS as a whole resulting from implementing the recommendation. Satisfaction of the LPS criteria at section 34 (2) of LUPAA is maintained.

The Break O'Day Council will accept any differing recommendation put forward by the Tasmanian Planning Commission.

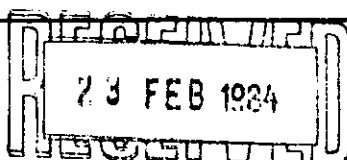
End of Record.

## Appendix 1



# PORTLAND MUNICIPAL COUNCIL

COUNCIL CHAMBERS ESPLANADE ST. HELENS TAS.



P.O. Box 21, St. Helens, Tas. 7216  
Telephone 76 1281, Area Code 003  
Council Clerk J.L. BONEY  
Our Reference / Your Reference

JLB/RMT  
P31-2/84

21st February, 1984.

The Manager,  
Parnella Estate P/L.,  
P.O. Box 123,  
NORTH HOBART. TAS. 7001

Re: Subdivision Proposal (Pd 372) Stage V Parnella Heights Subdivision off St. Helens Point Road and Parnella Drive.

Dear Sir,

I wish to advise that the above subdivision proposal has now been approved, subject to the following conditions:-

1. Approval is for Lots 85 to 98 inclusive, Lots 99 to 108 are approved as eight (8) Lots only of roughly equal size and Lots 109 to 117 subject to the table drain being re-aligned to allow it to be piped down the access strip to the public open space between Lots 110 and 111 and the boundary between Lots 111 and 112, being altered to give two (2) equal sized lots.
2. Roads are to be constructed in accordance with the requirements of the Local Government Highways Act, 1983.
3. Provision is to be made for all and any necessary drainage easements.
4. Developer to provide a water connection to each Lot to Councils policy, standards, and specifications and to Council Engineers satisfaction.
5. Developer to provide a water main to Councils policy, standards and specifications and to Council Engineers satisfaction, to service all of these proposed Lots.
6. Developer to provide piped stormwater to each Lot to connect to other mains which drain to the lagoon, to Councils policy, standards, specifications and to Council Engineers satisfaction.
7. Developer to provide kerb and channel for all streets/roads including Parnella Drive and connector roads to St. Helens Point Road, to Council standards, specifications and to Council Engineers satisfaction.
8. Developer to provide a sealed footpath of at least 1½ metres on the western side of Parnella Drive and the connector road (Penguin Street) to St. Helens Point Road and the balance of footpath reserves are to be levelled and sown down as nature strips and free draining to kerb and channel.
9. Developer to provide and construct all internal roads/streets and foot paths to the standards and specifications as set out in By-Law No. 20.
10. All services are to be completed to Council Engineers satisfaction before the final plans are to be authorised for sealing and signing.
11. Developer to provide Municipal Reserve Open Space land to be incorporated in the sealed plan, as set out in this proposal.
12. Developer to reimburse Council for all Engineering costs associated with this proposal.
13. Written notice of commencement of work to be provided to Council at least seven (7) days prior to starting work on site.

14. Developer to provide vehicular access for each Lot to Councils policy, standards and specifications and to Council Engineers satisfaction.
15. Council Engineers report required at Developers expense.
16. Developer to apply a covenant on the title of each Lot to prevent the removal of any trees without the written consent of Council.
17. Developer to provide poles for street lights if they are not to be provided by H.E.C.
18. Developer to provide street name signs as required for both ends of Parnella Drive; Osprey Street and Penguin Street.
19. Development to be in accordance with the St. Helens Planning Scheme.

NOTE -

- (a) The Director of Public Health has advised that each Lot (and balance) is suitable for the installation of a septic tank and the disposal of sullage from a Class One Dwelling.
- (b) The applicant should be advised that this apparent suitability is based upon the generally accepted understanding that many factors affect the successful operation of a septic tank. Following initial installation, it may be necessary that additional work will require to be done on the septic tank and/or drains to maintain the system in an operational condition and free of nuisance. This is the responsibility of the owner.
- (c) This consent is given in the knowledge that Council is to impose the conditions as detailed in the Engineers Report dated 11th November, 1983.

Yours faithfully,



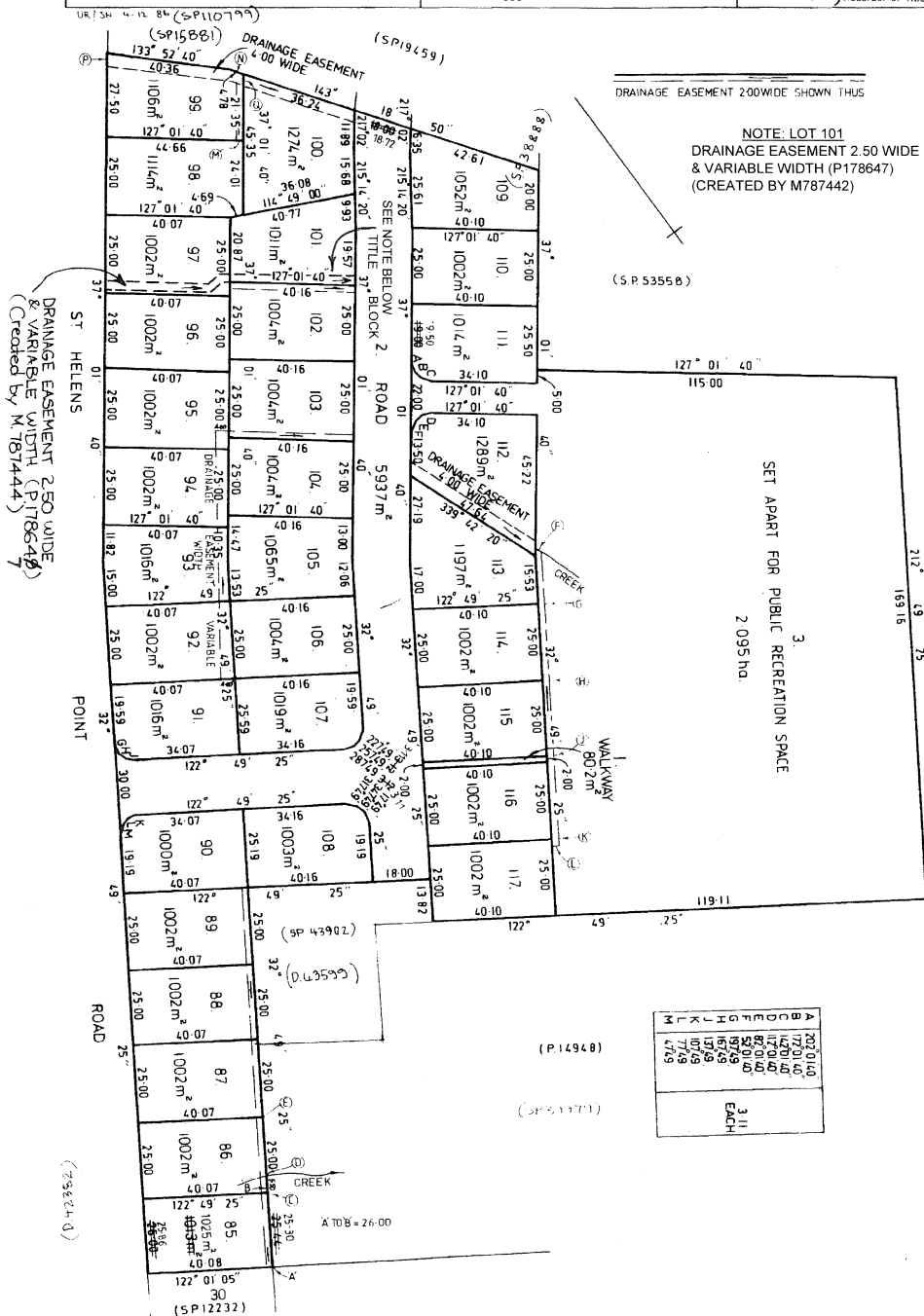
J.L. BONNEY  
COUNCIL CLERK



OSK 1110

4437 SP 30650

Owner: <b>PARNELLA HOLDINGS PTY LTD</b>	PLAN OF SURVEY by Surveyor <b>M E MORLEY</b> of land situated in the <b>LAND DISTRICT OF CORNWALL</b> <b>PARISH OF MORIARTY</b>	Registered Number <b>S.P30650</b>
Title Reference: <b>4004-66 CT.</b>	SCALE 1:1000 MEASUREMENTS IN METRES	Approved Effective from: <b>16 FEB 1987</b>
Grantee: <b>PART OF LOT 296 190 AC. GTD. TO FREDERICK R LEWIS STIEGLITZ</b>		<i>Anthony Lee</i> Acting Recorder of Titles



# Department of Natural Resources and Environment Tasmania

OFFICE OF THE SECRETARY

**Hobart** GPO Box 44, Hobart, Tasmania, 7001  
**Launceston** PO Box 46, Kings Meadows, Tasmania, 7249  
**Devonport** PO Box 303, Devonport, Tasmania, 7310  
Ph 1300 368 550  
Web: [nre.tas.gov.au](http://nre.tas.gov.au)

Our ref: 21/3611.026  
Your ref: DOC/22/77973



Mr Roger Howlett  
Delegate (Chair)  
Tasmanian Planning Commission  
[tpc@planning.tas.gov.au](mailto:tpc@planning.tas.gov.au)

Dear Mr Howlett

## **Break O'Day Draft Local Provisions Schedule - Directions**

Thank you for your correspondence of 28 July 2022 seeking a representation from the Department of Natural Resources and Environment Tasmania (the Department) in response to Attachment B – Directions Schedule for Break O'Day Draft LPS.

The Frome Regional Reserve is Crown land reserved under the *Nature Conservation Act 2002*. As the Acting Secretary of the Department that administers the Frome Regional Reserve I can confirm that the Department supports the application of the Environmental Management Zone (EMZ) to the Frome Regional Reserve.

The application of the EMZ zone is in accordance with Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application for EMZ 1:

The Environmental Management Zone should be applied to land with significant ecological, scientific, cultural or scenic values such as:

(a) land reserved under the *Nature Conservation Act 2002*.

Should you have any further questions in relation to this matter please contact Sonia Mellor, Policy Analyst, Strategic Projects and Policy Branch, Strategy and Business Services Division. Ms Mellor can be contacted by phone on 0436 636 279 or by email at [sonia.mellor@nre.tas.gov.au](mailto:sonia.mellor@nre.tas.gov.au)

Yours sincerely

Jason Jacobi  
Acting Secretary

8 August 2022