

From: "Jana Rockliff" <j.rockliff@veris.com.au>
Sent: Wed, 28 Jun 2023 08:44:09 +1000
To: "Kentish Council" <council@kentish.tas.gov.au>
Cc: "Phil Gerke" <philgerke64@gmail.com>
Subject: Representation to draft Kentish LPS
Attachments: 305501_L01_Rev0 Representation.pdf

Dear Sir or Madam,

Please find enclosed representation.

If you have any queries, please do not hesitate to contact me.

Kind regards

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Wednesday, 28 June 2023

Ref: 305398_L01_Rev0

The General Manager
Kentish Council
69 High Street
Sheffield TAS 7306
Email: council@Kentish.tas.gov.au

Dear Sir

Representation to Draft Kentish Local Provisions Schedule – Tasmanian Planning Scheme

Veris Australia Pty Ltd has been engaged by Philipp Gerke, owner of 11 Ramsay Road and son of owner of 8 New Bed Road, Railton (FR159414/2, 34958/1) to submit a representation on their behalf in respect to the Draft Kentish Local Provisions Schedule.

The subject site is comprised of two (2) property titles with a combined area of about 45ha (FR159414/2– 14.95ha, FR34958/1– 30.07ha). It is identified as class 4 and 5 land which is defined within the Land Capability Handbook 1999 as:

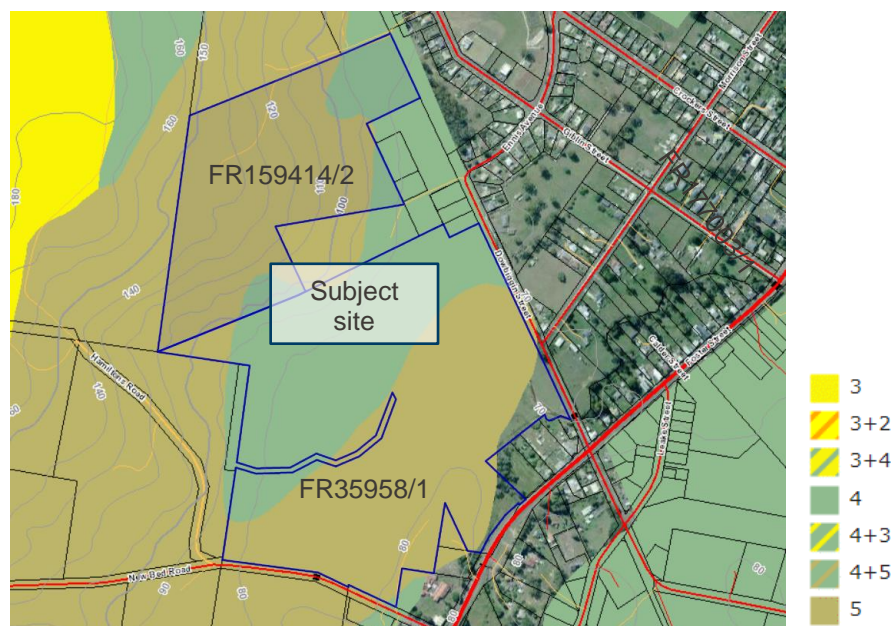


FIGURE 1: LAND CAPABILITY

CLASS 4

“Land primarily suitable for grazing but which may be used for occasional cropping. Severe limitations restrict the length of cropping phase and/or severely restrict the range of crops that could be grown. Major conservation treatments and/or careful management is required to minimise degradation.

Cropping rotations should be restricted to one to two years out of ten in a rotation with pasture or equivalent, during ‘normal’ years to avoid damage to the soil resource. In some areas longer cropping phases may be possible but the versatility of the land is very limited. (NB some parts of Tasmania

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are currently able to crop more frequently on Class 4 land than suggested above. This is due to the climate being drier than 'normal'. However, there is a high risk of crop or soil damage if 'normal' conditions return.)”

CLASS 5

“This land is unsuitable for cropping, although some areas on easier slopes may be cultivated for pasture establishment or renewal and occasional fodder crops may be possible. The land may have slight to moderate limitations for pastoral use. The effects of limitations on the grazing potential may be reduced by applying appropriate soil conservation measures and land management practices.”

FR159414/2 is accessed via Ramsay Road while FR34958/1 has frontage to New Bed Road, Foster Street and Dowbiggin Street. Both properties comprise residential dwellings.

PROPOSED ZONE

The Draft Kentish LPS proposes to apply the Agriculture Zone to the subject land.

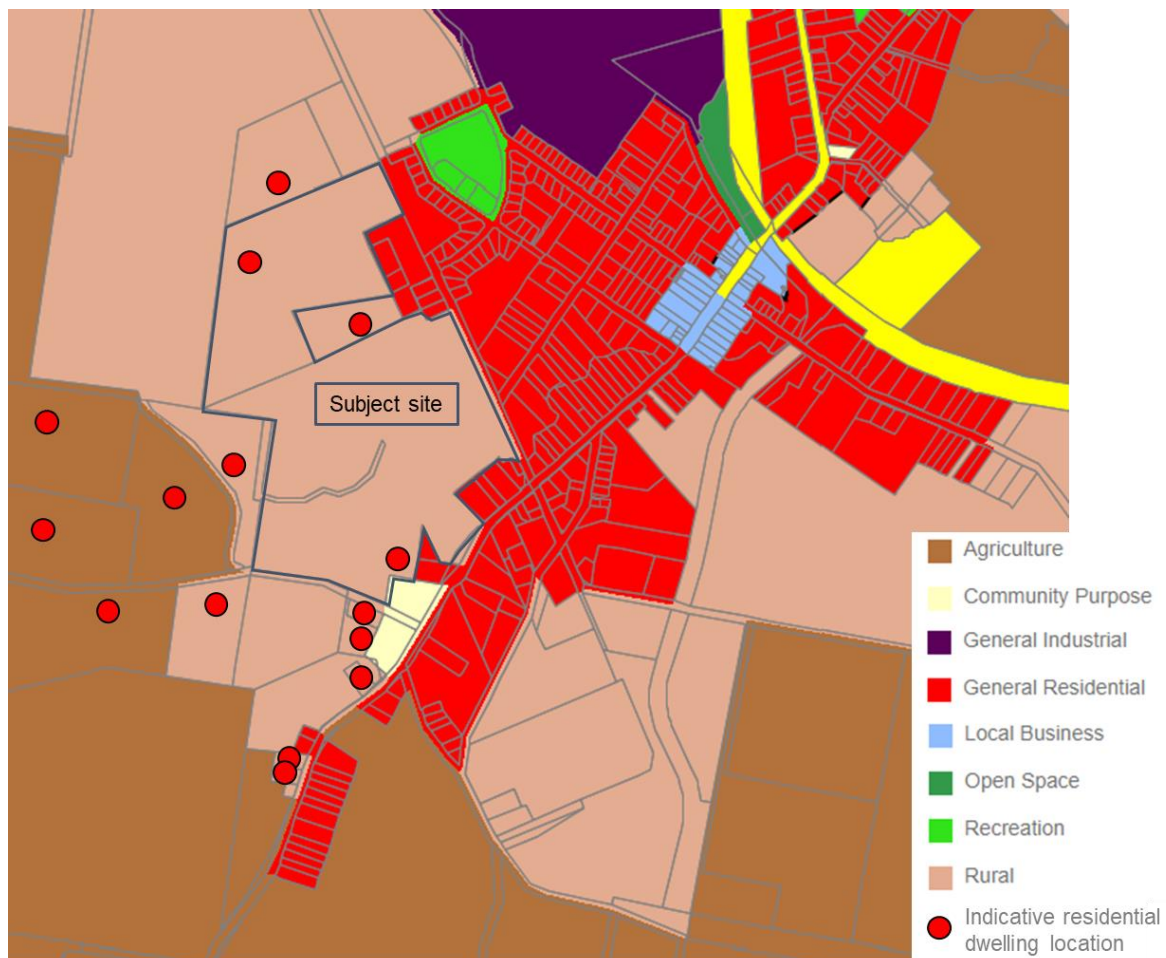


FIGURE 2: EXTRACT ZONING MAP DRAFT KENTISH LPS

Figure 2 shows that the subject site is proposed to adjoin General Residential zoned land to the east and south. Directly to the north two smaller lots with one comprising a residential dwelling. The western side is zoned Rural and further west Agriculture, while the south-west is proposed to be

zoned Rural on smaller titles. Figure 2 also shows the indicative locations of existing residential dwellings in the vicinity of the subject site, already showing a generally land use pattern of rural residential.

ZONE PURPOSE

The primary objective of the Draft Kentish Local Provisions Schedule is to apply a zone to achieve the zone purpose to the greatest extent possible (*Guiding Principle 3.4 prepared under Section 8A LUPA 1993*).

The purpose of the Rural Zone is

- 20.1.1. To provide for a range of use or development in a rural location:
 - (a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics;
 - (b) that requires a rural location for operational reasons;
 - (c) is compatible with agricultural use if occurring on agricultural land;
 - (d) minimises adverse impacts on surrounding uses.
- 20.1.2. To minimise conversion of agricultural land for non-agricultural use.
- 20.1.3. To ensure that use or development is of a scale and intensity that is appropriate for a rural location and does not compromise the function of surrounding settlements.

The subject site and adjoining properties are currently zoned Rural Resource. We assume the proposed translation to Rural zoning is based on the recommendation to apply the Rural or Agricultural Zone for land currently zoned Rural Resource. In this context the proposed zone is applied correctly; however, the primary objective of the Draft Kentish Local Provisions Schedule is to apply a zone to achieve the zone purpose to the greatest extent possible (*Section 8A Guiding Principle 3.4*).

The subject site was partially excluded from the Land potentially suitable for Agriculture Zone analysis and partially has been identified as potentially constrained (Criteria 3) (see Figure 3). Criteria 3 indicates the potential land use conflicts caused by adjoining residential zoned land and therefore minimises the potential for agricultural use on that site. Potentially constrained (Criteria 2A) recognises a capital value of the property of more than \$50,000/ha generally indicating land improvements like buildings (residences). These properties are considered to not be able to be amalgamated with adjoining land to enable agricultural use. (*Agricultural Land mapping Project: Identifying land suitable for inclusion within the Tasmanian Planning Scheme's Agriculture Zone – Background report, p. 15-17*)

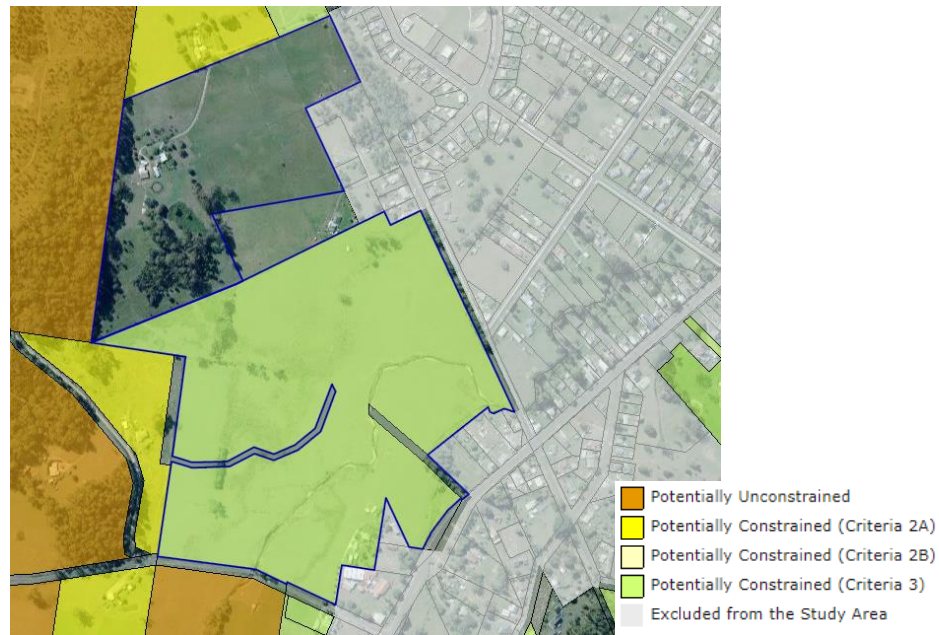


FIGURE 3: LAND POTENTIALLY SUITABLE FOR AGRICULTURE ZONE LAYER (THE LIST)

Table 1: Zone Application guidelines Rural Zone (Section 8A)

Zone Application Guidelines	Comment
<p>RZ 1</p> <p>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.</p>	<p>The guideline requires the Rural Zone to be applied to non-urban areas. The term non-urban is not defined in the Planning Scheme or LUPA.</p> <p>The larger parcel is included within the Railton Strategic Plan study area identified as South sub-area. The Strategic Plan states that “<i>apart from these groupings</i> (referring to subdivision occurred with irregular spacing in the past resulting in a grouping of smaller residential lots) <i>the residential development of single dwellings on large lots is more akin to rural living area than suburban residential</i>” (p.12). This statement indicates that the area is already experienced as rural residential area, which could be seen to form part of the wider urban area of Railton. In this case, the Rural Zoning should not be applied.</p>
<p>RZ 2</p> <p>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 ‘Land Potentially Suitable for Agriculture Zone’ layer identifies the subject site and surrounding land as potentially constraint. Combined with existing developments on the site and adjoining land, the Agriculture Zone is considered not suitable for the site.</p>

The Rural Zone would allow for a range of industrial type uses to be established on the land without any tests of locational appropriateness. The proximity to Cement Australia potentially increases the attractiveness of such businesses to this region. This could lead to land use conflicts and is considered contrary to the long-term strategic intent of the area.

POTENTIAL ZONE ANALYSIS

The Railton Strategic Plan identifies the need for Rural Living zoned land surrounding the township to provide for greater housing option. Rural residential has been established in the area in the past on Rural Resource zoned land, where residential development is limited. This has resulted in the creation of irregular and uncoordinated development pattern.

The land identified within the Strategy has not been rezoned for rural residential purposes. It is furthermore noted that this land comprises threatened native vegetation communities and is highly vegetated. The subject site is cleared and comprises pastureland.

Based on the existing residential developments in the area and the exclusion of the Agricultural and Rural Zone as potential zones for the subject land, it is considered that the Rural Living Zone A would be most appropriate allowing development of the land and providing for rural residential land and therefore greater housing choices.

Rural Living Zone (RZ)

The purpose of the Rural Living Zone is:

- 11.1.1. To provide for residential use or development in a rural setting where:
 - (a) services are limited; or
 - (b) existing natural and landscape values are to be retained.
- 11.1.2. To provide for compatible agricultural use and development that does not adversely impact on residential amenity.
- 11.1.3. To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off-site impacts.
- 11.1.4. To provide for Visitor Accommodation that is compatible with residential character.

Table 2: Zone Application guidelines Rural Living Zone (Section 8A)

Zone Application Guidelines	Comment
RLZ 1 The Rural Living Zone should be applied to: <ul style="list-style-type: none"> (a) residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g. hobby farming), but priority is given to the protection of residential amenity; or (b) land that is currently a Rural Living Zone within an interim planning scheme or a 	The subject land has not been zoned for rural residential purposes although both properties comprise a residential dwelling. While the properties are both above 10ha in size, priority shall be given to the protection of residential amenity of the area.

Zone Application Guidelines	Comment
<p>section 29 planning scheme, unless RLZ 4 below applies.</p>	
<p>RLZ 2</p> <p>The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:</p> <ul style="list-style-type: none"> (a) consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or (b) the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater. 	<p>The Cradle Coast Regional Land Use Strategy acknowledges that Kentish is “largely a rural residential community within commuter distance of Devonport” (p.166).</p> <p>The Railton Strategic Plan states that there is “<i>no opportunity for residential use on larger lots in a rural setting on suitably zoned land in the Railton area</i>” (p.22) Although the subject land has not been directly identified for rural residential development, the existing development surrounding the site, the physical site conditions and location of the site provide for the suitability of the Rural Living Zone application.</p>
<p>RLZ 3</p> <p>The differentiation between Rural Living Zone A, Rural Living Zone B, Rural Living Zone C or Rural Living Zone D should be based on:</p> <ul style="list-style-type: none"> (a) a reflection of the existing pattern and density of development within the rural living area; or (b) further strategic justification to support the chosen minimum lot sizes consistent with the relevant regional land use strategy or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council. 	<p>The existing pattern in the area are consistent of general residential lots and irregular (rural living type) residential development on larger lots within the Rural Resource Zone. It is noted that the subject land is adjoining the primary school, which makes this land attractive to young families seeking the rural lifestyle.</p> <p>The Rural Living Zone A would allow for the coordinated and orderly development of the land for rural residential purposes, which would be a desired addition to the currently limited available housing options.</p>
<p>RLZ 4</p> <p>The Rural Living Zone should not be applied to land that:</p> <ul style="list-style-type: none"> (a) is suitable and targeted for future greenfield urban development; (b) contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas 	<p>The subject land has been excluded or identified as potentially constrained within the ‘Land Potentially Suitable for Agricultural Zone’ layer. The application of the Rural Zoning could lead to land use conflicts and impact the residential amenity of the area.</p> <p>The existing natural features on site (waterway and landslip) can be sufficiently protected with applicable Code overlays.</p>

Zone Application Guidelines	Comment
<p>of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or</p> <p>(c) is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.</p>	

It is noted, although not subject to this representation, that the property surrounded by the subject site would need to be included in the requested Rural Living Zone A to avoid spot zoning. Our client informed us, that he has consulted his neighbours (Anthony Walker – FR38890/1, Adrian Taylor – FR39051/1 and Brian Shone – FR159414/1) and all expressed their agreement to the requested Rural Living zone change for their land as well. It is highly likely that they will submit their own representations.

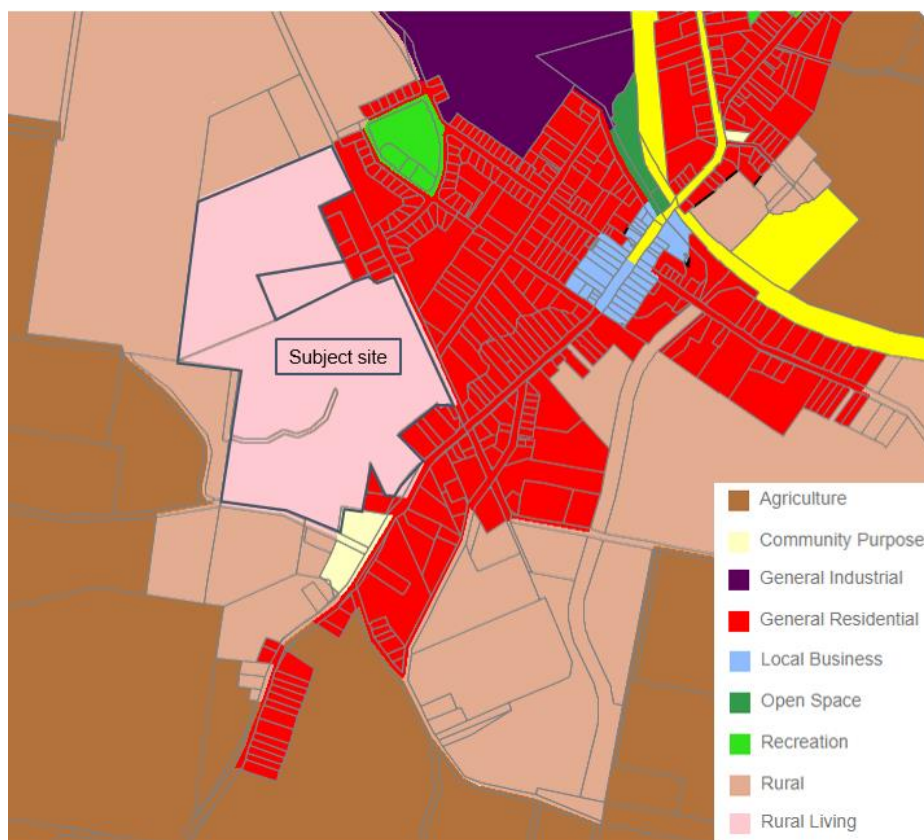


FIGURE 4: POTENTIAL RRZ ZONING OF SUBJECT SITE WITH ADDITIONALLY IDENTIFIED AREAS

SUMMARY AND CONCLUSION

- The subject land has been excluded or identified as potentially constrained for the agricultural zone.
- The application of the Rural Zone could lead to land use conflict and undesired long-term outcomes.
- The zoning of the land for rural residential development would close the available housing option gap identified within the Railton Strategic Plan and protect the residential amenity of the area.
- Although not subject of this application, there is potential for the rural living zone to extend north and south to create a continuous land use pattern according to existing developments.

We therefore submit that in order to best achieve the objectives of the Local Provisions Schedule that our client's land should be zoned Rural Living A. Council could additionally consider the rezoning of the adjoining land to the north and south to provide for a continuous expansion of rural residential land consistent with already existing developments.

Your sincerely



Jana Rockliff

Town Planner