

DRAFT MEANDER VALLEY LPS

TEA FURTHER SUBMISSION – SCENIC MANAGEMENT AREAS

MVC RESPONSE 29.8.19

Further to a direction of the TPC, subsequent to the hearing which heard matters relating to scenic management, the TEA has elaborated on its submission that multiple locations within the Meander Valley municipality should be included in scenic management areas and have submitted objectives for management for those areas.

Council has reviewed those areas and the submitted objectives. It is noted that the submission has not provided mapped extents for each of the areas submitted. The attached Appendix 1 provides maps of each of the features and an analysis of tenure, zoning and existing and likely future potential land uses to assist an assessment against the provisions of the SPP Scenic Protection Code as to whether the submitted objectives can be achieved.

Also discussed in regard to the draft LPS modifications for Travellers Rest, are the limitations to the consideration of development impacts resulting from the application of the acceptable solution *C8.6.1 Development within a scenic protection area*, the interpretation of which has a direct effect on the recommendations for provisions to manage the visual impacts of development.

C8.6.1 Development within a scenic protection area – Acceptable Solution A1 reads:

Buildings or works, including destruction of vegetation, within a scenic protection area must:

- (a) be on land not less than 50m in elevation below a skyline; and*
- (b) not total more than 500m² in extent.*

According to standard statutory interpretation, the conjunctive ‘and’ means that both requirements of the provision must be met in order to take the benefit of the provision. In this instance, it appears that the provision requires that buildings or works (including vegetation clearance) must be on land below the top 50 metres below a skyline and be no more than 500m² in extent. The alternate scenarios that may eventuate are:

- Development is below the skyline threshold and greater than 500m² in extent;
- Development is above the skyline threshold and is less than 500m² in extent;
- Development above the skyline threshold and is more than 500m² in extent.

It would appear that each of these scenarios do not meet both of the requirements and would be assessed under the performance criteria. There appears to be a loophole in the acceptable solution in that there is no timeframe applied to the 500m² limitation. For example, numerous increments of 500m² of vegetation could be removed over time in that part of the scenic protection area below the 50m elevation threshold, without any intervention of the scenic protection code. Included in Appendix 1 are a few examples of the 50m elevation threshold area.

Further limitations to the application of the SPP code are contained in the code exemptions at C8.4.1 which include:

- destruction of vegetation on existing pasture or crop production land (qualified exclusions for a scenic road corridor);
- agricultural buildings and works in the Agriculture or Rural Zones (excluding the qualifications cited above);

- alterations and extensions to existing buildings, subject to size limits;
- subdivision not involving any works;
- development under the Telecommunications Code (i.e. transmission towers)
- road construction within a scenic road corridor,

with additional exemptions contained in section 4.0 of the SPP's which include:

- vegetation disturbance or removal:
 - in accordance with a certified FPP;
 - for the maintenance or construction of electricity infrastructure in accordance with the Forest Practices Regulations 2007;
 - fire hazard reduction under the Fire Service Act 1979;
 - clearance within 2m of existing buildings and infrastructure, including roads, power lines , telecommunications facilities,
 - for safety reasons;
 - within 3m of a fence line for construction or maintenance;
 - for rehabilitation works (i.e. Landcare);
- dam works approved under the Water Management Act 1999;
- road works for maintenance and repair of roads up to 3m from the carriageway;
- minor infrastructure including ... shelters, public toilets, lighting by Crown, Council or State authority;
- small outbuildings generally and larger outbuildings in the Rural Living, Rural and Agriculture Zones (max floor area 108m² and height of 6m);
- wind turbines (1 per lot and size limitations for zones, qualified for Codes requiring a permit).

The TEA submit that the various objectives to be achieved for the nominated locations are:

- To avoid significant landscape change and scarring;
- Provide an inevident alteration landscape criteria;
- To better manage any proposed significant landscape change to the [west] face;
- To avoid further clearance and scarring;
- To ensure the landscape values are considered in any land use decisions;
- To avoid significant landscape change and avoid any exacerbation of the historic scarring from the quarry;
- To consider rehabilitation of the scarring feature of the quarry;
- To retain on the [western] end an inevident alteration prescription;
- To retain the natural appearance of the [northern] face;
- To ensure the landscape values are considered in any land use decisions regardless of the zone and the use proposed;
- To retain the natural appearance of the escarpment/bluff and its slopes;
- To avoid significant landscape change regardless of the land tenure regarding the more topographically prominent features;
- To ensure the cultural and scenic landscape values are always considered in any land use decisions regardless of the zone and the use proposed; and
- To retain the natural and cultural appearance of the Hill and the roadside forest views into the hillside forest.

It would appear that, in consideration of the SPP exemptions, the Code provisions are severely limited in being able to deliver most of the objectives. The reasons for this are:

- Significant landscape change and/or scarring:

Almost all of the landscape features submitted by the TEA are forest. The uses that create significant landscape change in forested landscapes are those requiring large areas of land clearance, mainly forestry, agriculture (conversion to pasture, horticulture), extractive industries and electricity transmission corridors. Each of these uses is subject to the requirement for a certified FPP, which when obtained, exempts the vegetation clearance from the planning scheme. The code will not apply. Forestry conducted in State forests or in Private Timber Reserves is exempted from the operation of the planning scheme by legislation.

The Porters Hill, Grassy Hut Tier, Cluan Tier, Black Sugarloaf Ridge, part of Long Ridge, Christmas Hills, Long Hill, Gardners Ridge, Upper Liffey, areas along the lower slopes of the Great Western Tiers, Wurra Wurra Hills are mostly State forest or private land in PTR. It would appear the only development that would be subject to code provisions would be a future extractive industry or a rare change to a dwelling or visitor accommodation.

Other submitted areas that are not substantially forest are Black Hills, the quarry lease area of Needles Ridge, Liffey Valley, Chudleigh Valley and Gibsons Sugarloaf. Significant landscape change or 'scarring' on non-forest landscapes are likely to result from the establishment of plantation forestry, horticulture, large areas of poly-tunnels for intensive horticulture or extractive industry (usually gravel quarries). The establishment of a plantation is not generally exempt from the planning scheme, however the exemptions from the Scenic Protection Code exempts all agricultural buildings and works within the Agriculture or Rural zones, which apply to the areas listed, except for some parts of Liffey Valley and an area to the south of Chudleigh township which are Rural Living Zone.

It is apparent that the code would only have an operational effect on the occasional quarry, which in any case, are still governed by the visual impact practices of the Quarry Code of Practice (EPA 2017). Virtually all likely use and development outcomes that create a 'significant landscape change' are not subject to the code. On those lots contained within the Rural Living Zones, significant landscape change can still potentially occur without any intervention of the planning scheme if developers obtain a certified FPP prior to any future application for a dwelling. Applications for development will then subsequently be on cleared land.

- Inevitable alteration to landscape:

Landscape impacts can occur through obtrusive development, though it is a matter of some subjectivity as to what is the extent to which development becomes obtrusive in the landscape. One aspect that is recognised and included in the code is skyline impact, where the profile of development projects beyond the skyline, when viewed from vantage points. One type of development that always has a skyline impact is telecommunications towers, however these are exempt from the code. They are subject to alternative scenic considerations through the Telecommunications Code, though the meaning of '*unreasonable loss of visual amenity*' is anyone's guess.

Another aspect is the colour and tone of development that can either integrate with the tones of the landscape or can stand out because of contrast or reflectivity of materials. The scale of development can also have an impact, together with the degree of earthworks that may be required to site, access or service the development.

In a rural landscape, large, zincalume sheds can be obtrusive due to reflectivity, as can expansive areas of poly-tunnel. However, in the Rural or Agriculture zones, neither of these elements are considered by the code due to the exemptions described above. Similarly, in Rural Living Zone areas,

the SPP exemption would allow for a reasonable sized zincalume shed at 108m² without the intervention of the code. State reserves are mostly likely to be subject to smaller scale development for ancillary facilities such as picnic shelters, public toilets, walkers shelters and platforms. If there is no removal of vegetation required for the development, it is likely that most public facilities will be exempt. If vegetation removal is required, the acceptable solutions in both the code and the Environmental Management Zone provide for a no-permit required pathway for Natural & Cultural Values Management if the clearance is less than 500m². Again, the most likely form of development in reserves will not be subject to the code. Development that would be potentially subject to the code would be new car parks (clearance above 500m²) or visitor facilities greater than 500m². In the State reserves submitted by TEA at Black Jack Hill, Long Ridge, Archers Sugarloaf, Warners Sugarloaf, Christmas Hills, Gog Range, Great Western Tiers (Central Plateau), Quamby Bluff, Alum Cliffs, Dogs Head Hill, Sensation Gorge and Mole Creek National Park, new larger-scale facilities are highly unlikely, with the most likely prospects being augmentation of existing car parks and facilities at key visitation points such as Alum Cliffs, Mole Creek National Park and some walks accessed via the Lake Highway on the Central Plateau. In any respect, development in these reserves are subject to a Reserve Activity Assessment and the State has obligations to minimise the visual impacts of development. Council's view is that within the Meander Valley, visitor infrastructure is sensitively sited and designed and is not of concern in regard to the potential for future, obtrusive development such that it is necessary to apply the code.

In effect, that just leaves the Rural Living Zone areas as being subject to expected development that is likely to be applicable under the code (noting that code cannot apply to the Low Density Residential zone at Pumicestone Ridge and Elizabeth Town). Vegetation clearance (noting the FPP loophole discussed above) and the construction of a dwelling on lots at Mt Arnon, Black Sugarloaf, Archers Sugarloaf, Elizabeth Town, Liffey Valley, Golden Valley, Hadspen, Chudleigh would inevitably exceed the acceptable solution threshold of 500m², though would all likely be below the 50m elevation contour due to the topography in those areas.

Council questions the value, and fairness, of applying the regulatory impost of the code on a comparatively small degree of development for dwellings (or potentially visitor accommodation) on land zoned for that purpose, in the context of the extent of land that is open to development that has a far greater visual impact without any intervention by the code. There may be an occasion where a dwelling may be applied for in one of the Rural or Agricultural zoned areas, however this creates an apparent absurdity whereby a large, visually obtrusive, zincalume shed could be built without being subject to the code (and possibly not needing a permit at all), whereas a dwelling of the same size on adjoining land (that will always have a development area greater than 500m² because of access and bushfire requirements) will be subject to discretion, simply because the use may be classified as residential due to lot size. Council does not support such an unfair outcome.

When analysing the areas and the likely development scenarios, it is clear that the Scenic Protection Code applies to very little. In fact Council's revised submission for the area at Travellers Rest is based on the inability of the code to actually address the nature of the management required for scenic values in a prominent, residential area. In addition, Council considers it highly inappropriate to map areas in the LPS as 'scenic protection' when very little, to no, scenic protection is actually afforded. This misleads the public into an expectation that there is a higher degree of intervention in the management of use and development than there actually is.

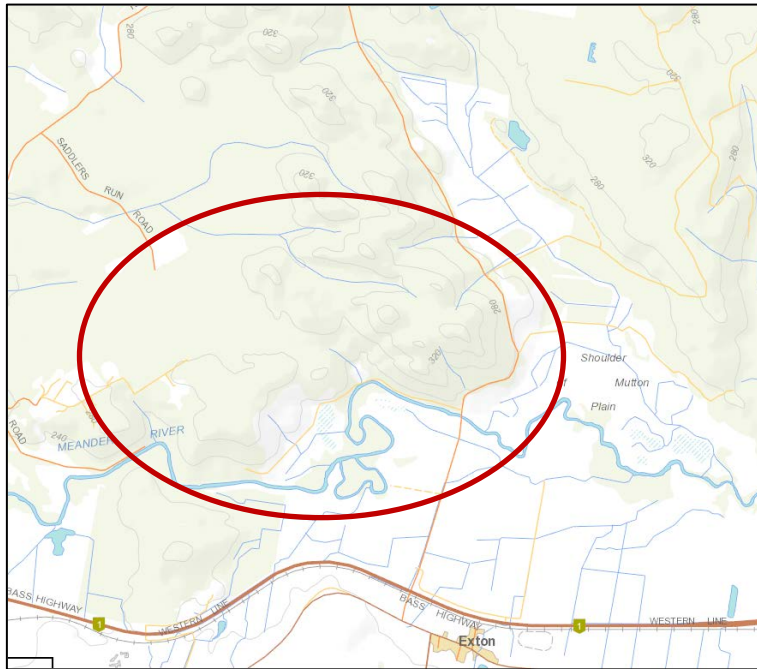
Council does not dispute the TEA appreciation of the many features described as being an integral part of the scenic amenity of the Meander Valley. They have been so for a very long time. The potential for development that the code can actually apply to is a very low degree when considered in the context of the Meander Valley landscape. Council considers that the various State reserves

will be appropriately managed by the responsible agencies and are reasonably 'protected' for scenic values and do not require the intervention of the code.

APPENDIX 1

MVC Comment – TEA Submission on Scenic Management Areas

1. 'Porters Hill' – Exton



Tenure: Private land

Zoning: Rural and Rural Living

Use:

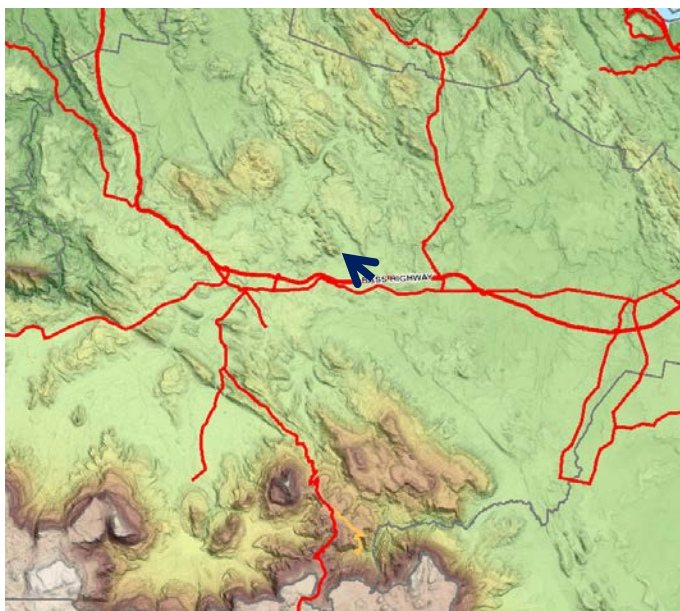
Forestry (PTR) and a small number of rural residential properties to the western side. Adjacent to Porters Bridge Road and a range of other hills/slopes in the area. Actual location of suggested hills and slopes is not clear.

Development Potential:

Forestry

Residential, Visitor Accommodation

The 2 metre contour layer in Figure shows a good degree of topographical relief to characterise the landform. Figure 2 shows the 10m metre contours and highlights in green the approximate 50m below ridge contour. Ridgeline measurement (blue line) would be dependent upon the angle of view.





2 metre contours

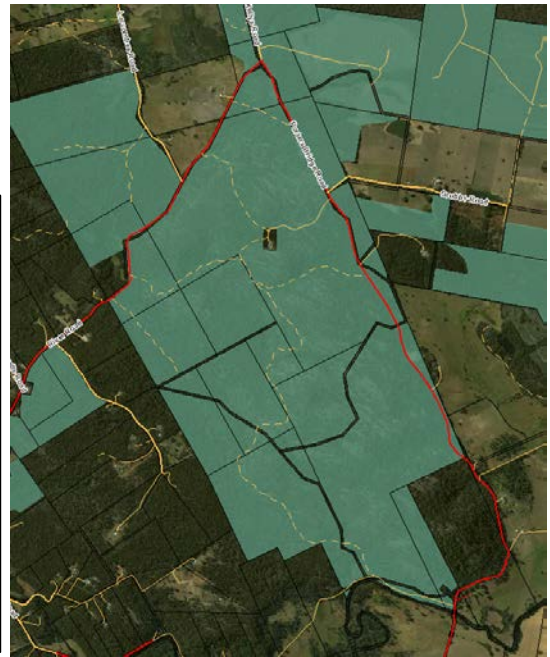


Figure 1 - PTR

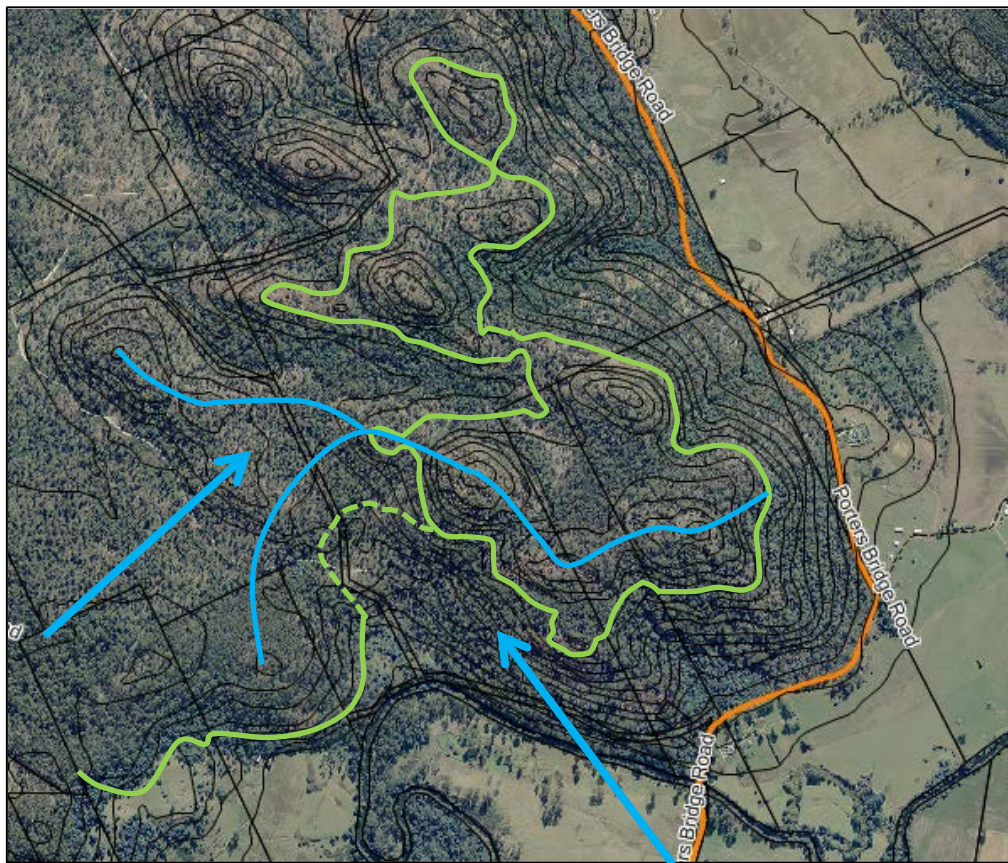
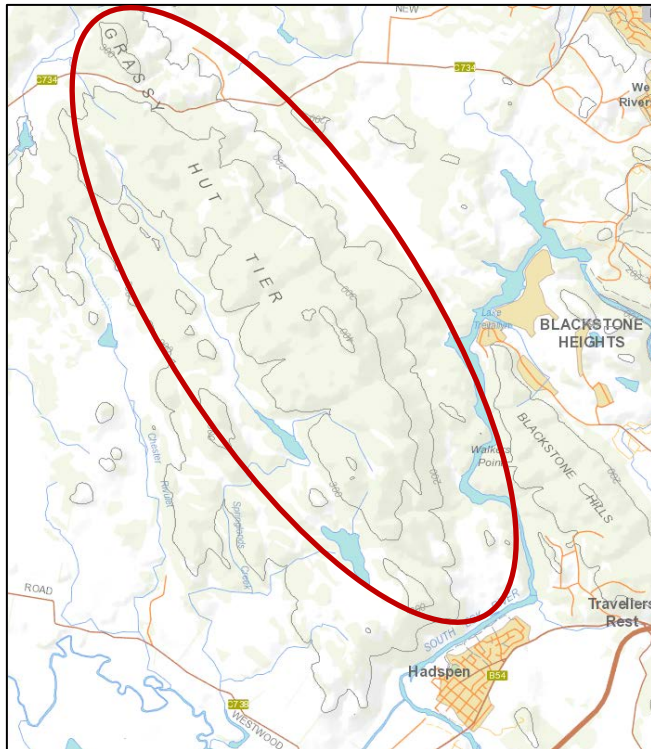


Figure 2 – Code applicability to 50m below ridge in green outline.

2. Grassy Hut Tier

Southern and western faces of the Tier



Tenure: Private land

Zoning: Rural Zone and Agriculture Zone

Use:

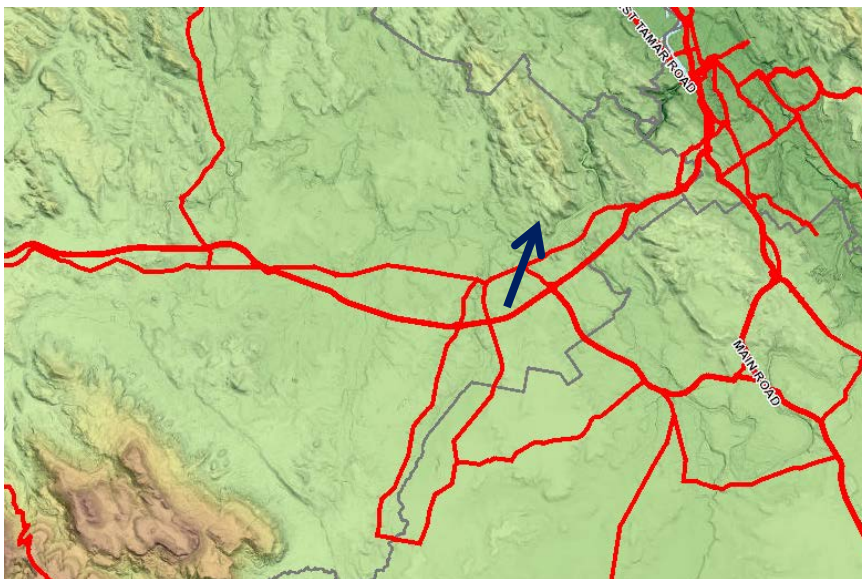
Agriculture and Forestry (PTR)

Development Potential:

Forestry, agriculture

Visitor Accommodation

Figure 1 shows the 10m metre contours and highlights in green the approximate 50m below ridge contour. Ridgeline measurement (blue line) would be dependent upon the angle of view.



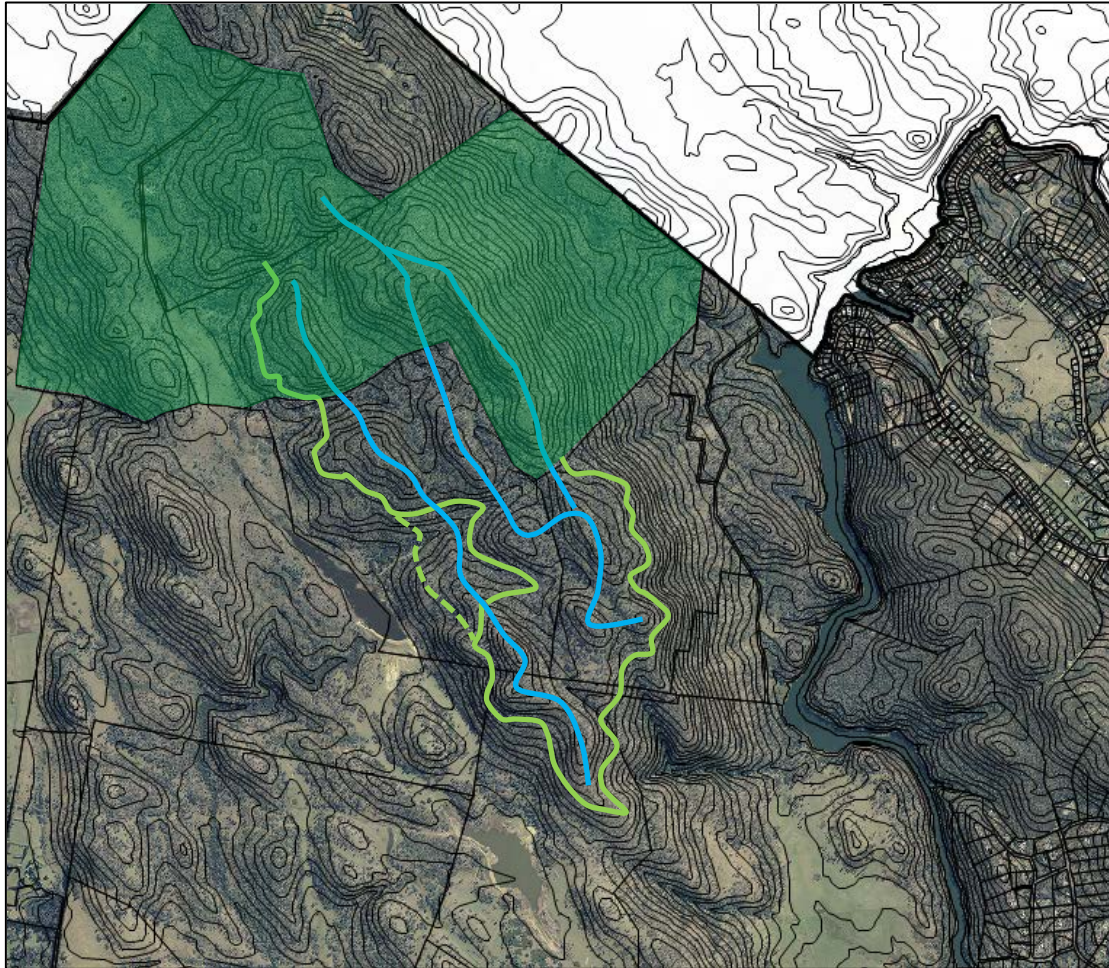
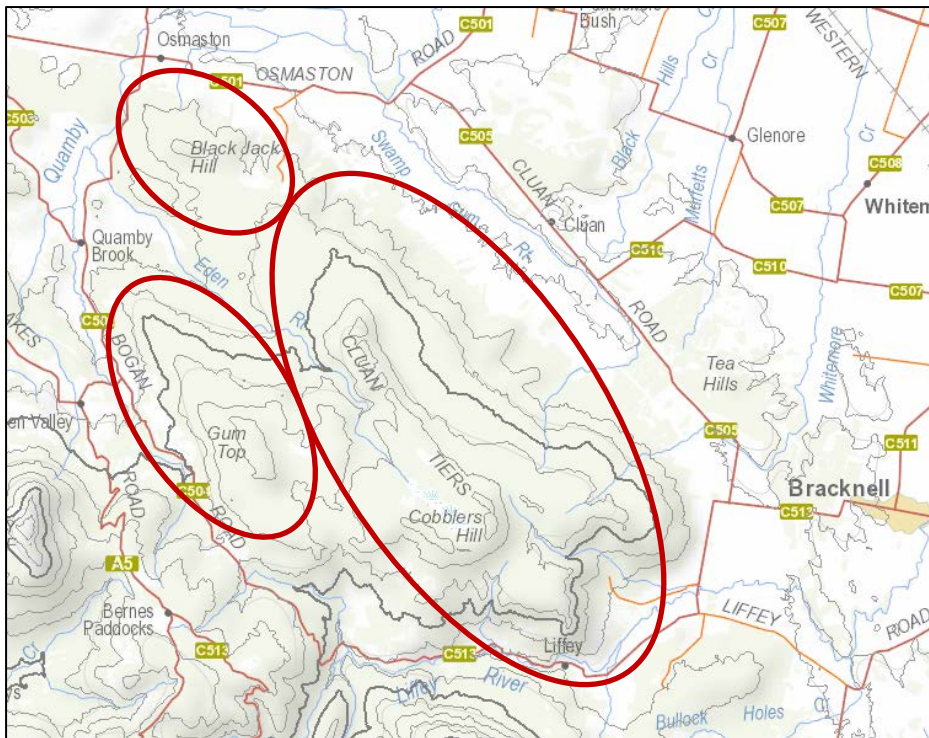


Figure 1 – Code applicability to 50m below ridge and PTR (green shading)

3. Cluan Tiers (Eastern face), Gum Top & Black Jack Hill



Tenure: State Reserve - Blackjack Hill Regional Reserve

Mostly State Forest

Private land - PTR's, vacant eastern most lot on Cluan Tier not in PTR.

Zoning: Rural Zone and Environmental Management Zone

Use:

Forestry (PTR)

Natural values management

Residential (lot adjoining reserve to the north on Bogan Rd)

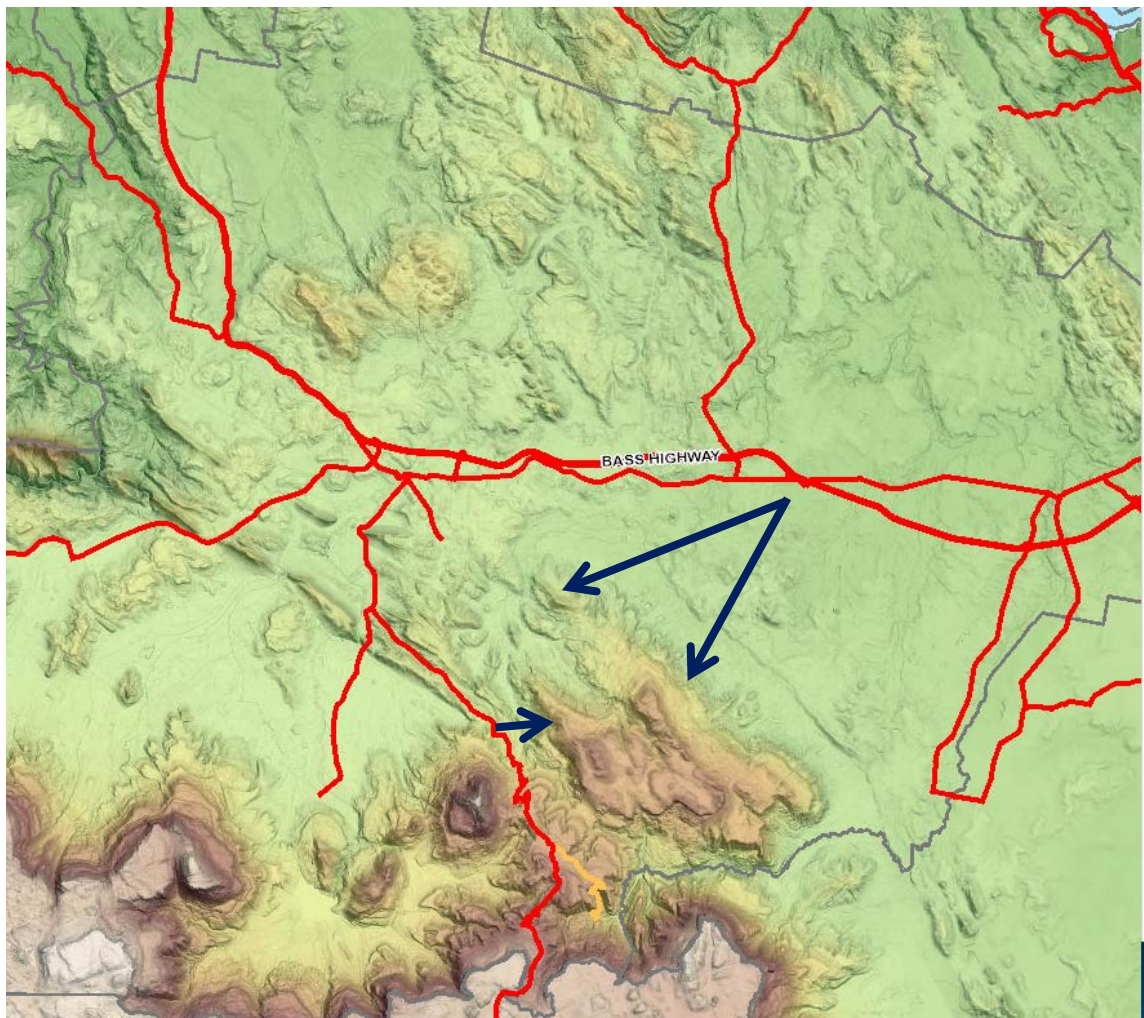
Development Potential:

Forestry, gravel extraction

Natural values management, recreation.

Dwelling ? (eastern most lot, accessible via Myrtle Creek Rd)

The southern end of the Cluan Tier is shown in Figure 1 and shows the 10m metre contours and highlights in green the approximate 50m below ridge contour. Ridgeline measurement (blue line) would be dependent upon the angle of view.



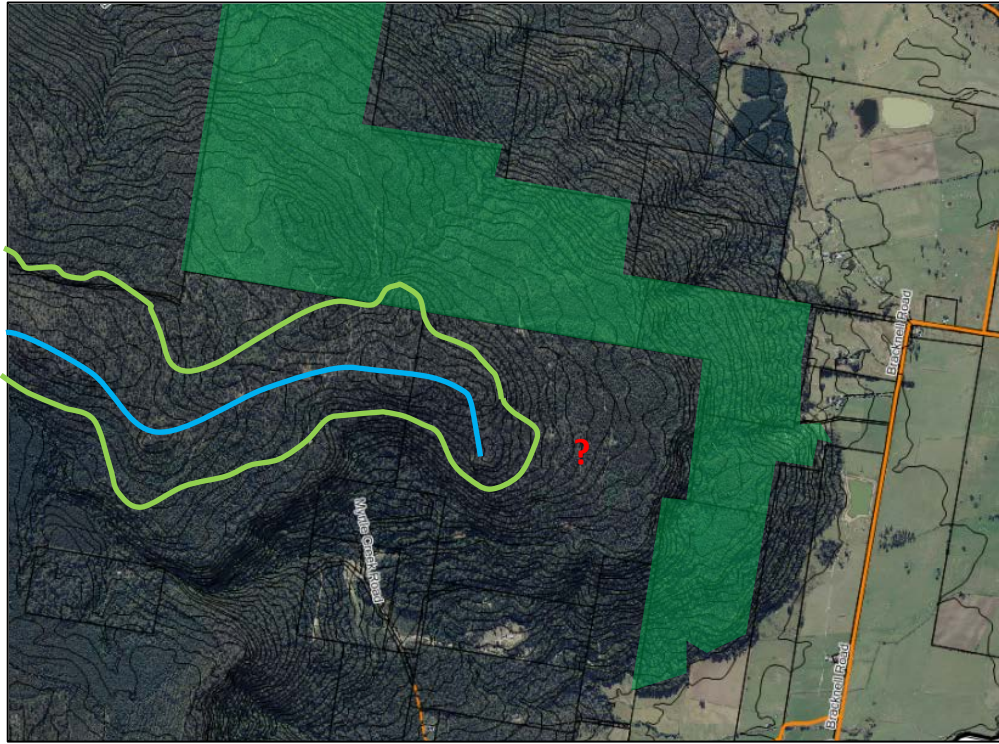


Figure 2 – southern end Cluan Tier

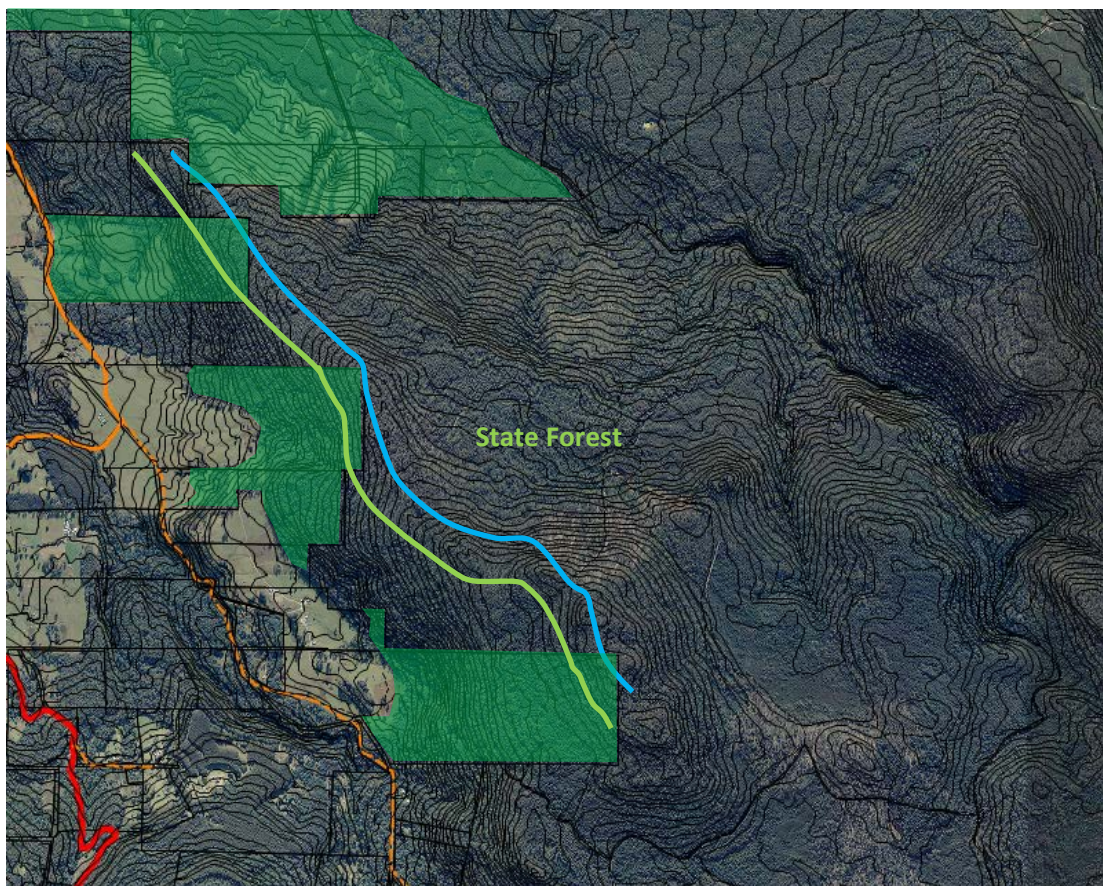


Figure 3 – Gum Top above Bogan Road

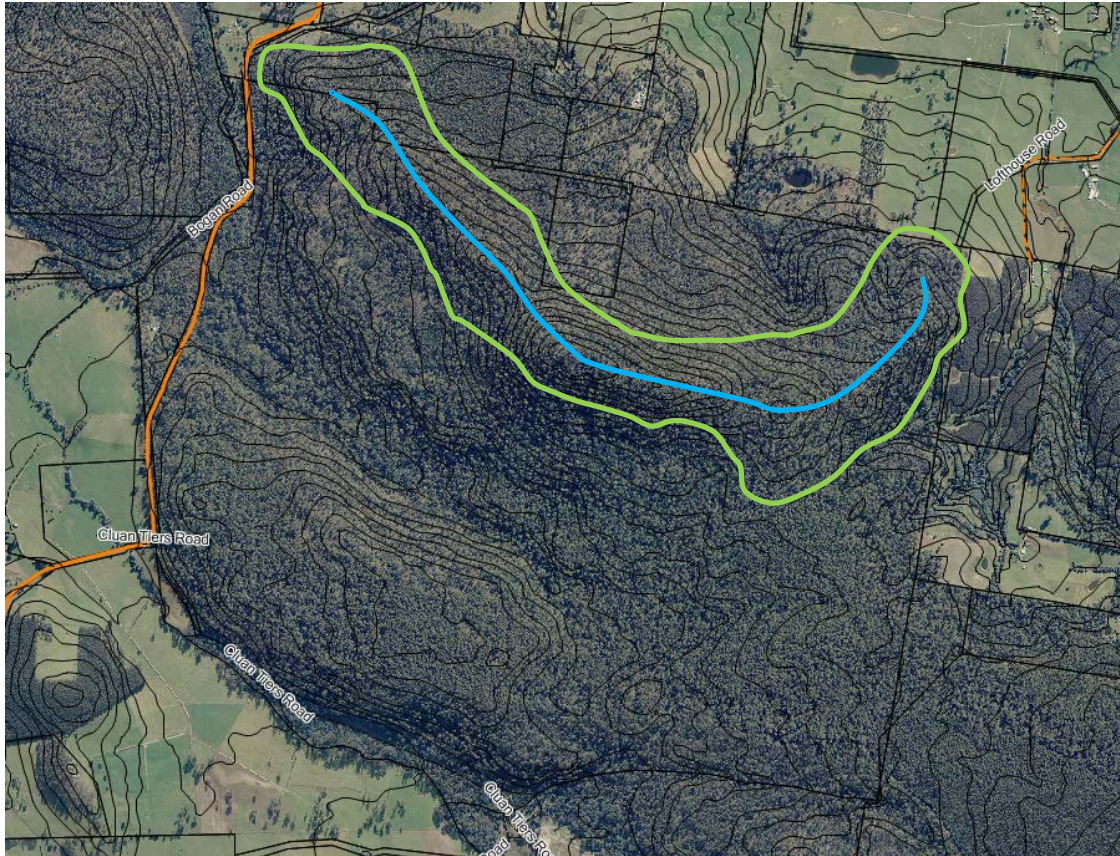
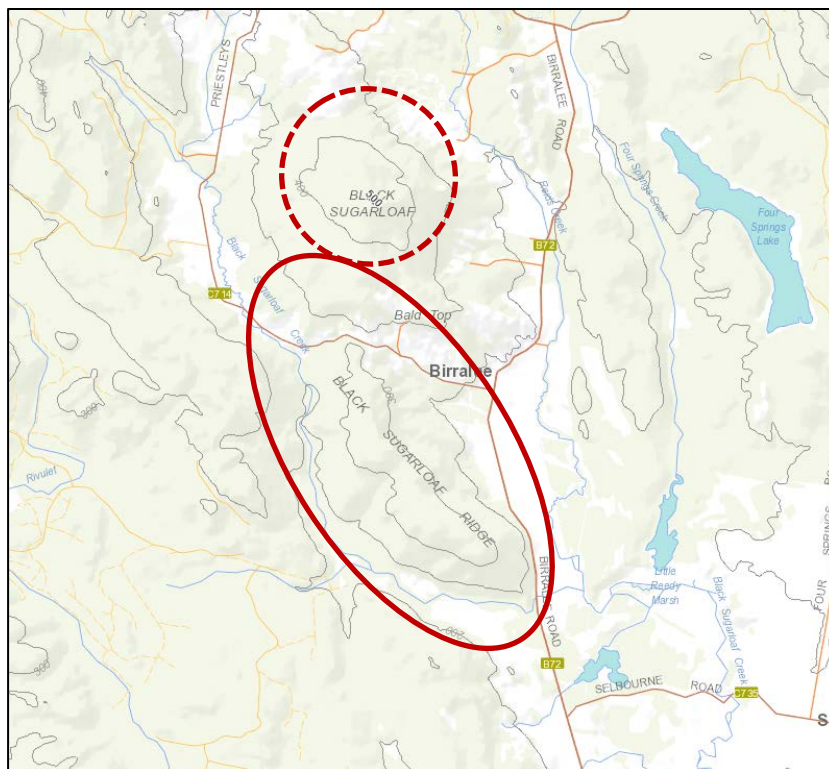


Figure 4 – Blackjack Hill Regional Reserve

4. Black Sugarloaf Ridge

What about Black Sugarloaf ?



Tenure: Private land - The landform is almost entirely contained in a PTR.
 Black Sugarloaf – Largely private, Informal State Reserve at apex (available for extractive industries)

Zoning: Rural Zone and Rural Living Zone (2 Black Sugarloaf lots in RL Zone under conservation covenant)

Use:

Forestry (PTR's)

Residential

Development Potential:

Forestry, gravel extraction

Residential, Visitor accommodation

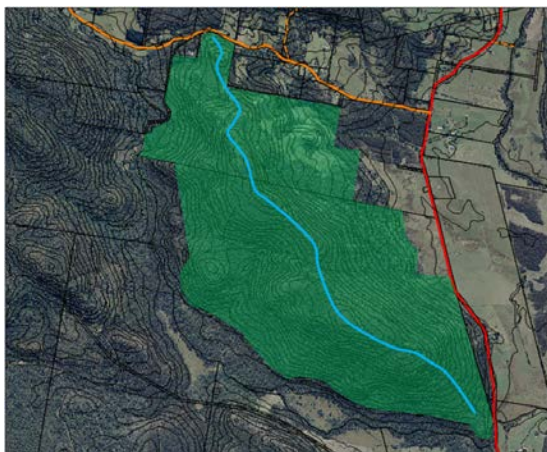
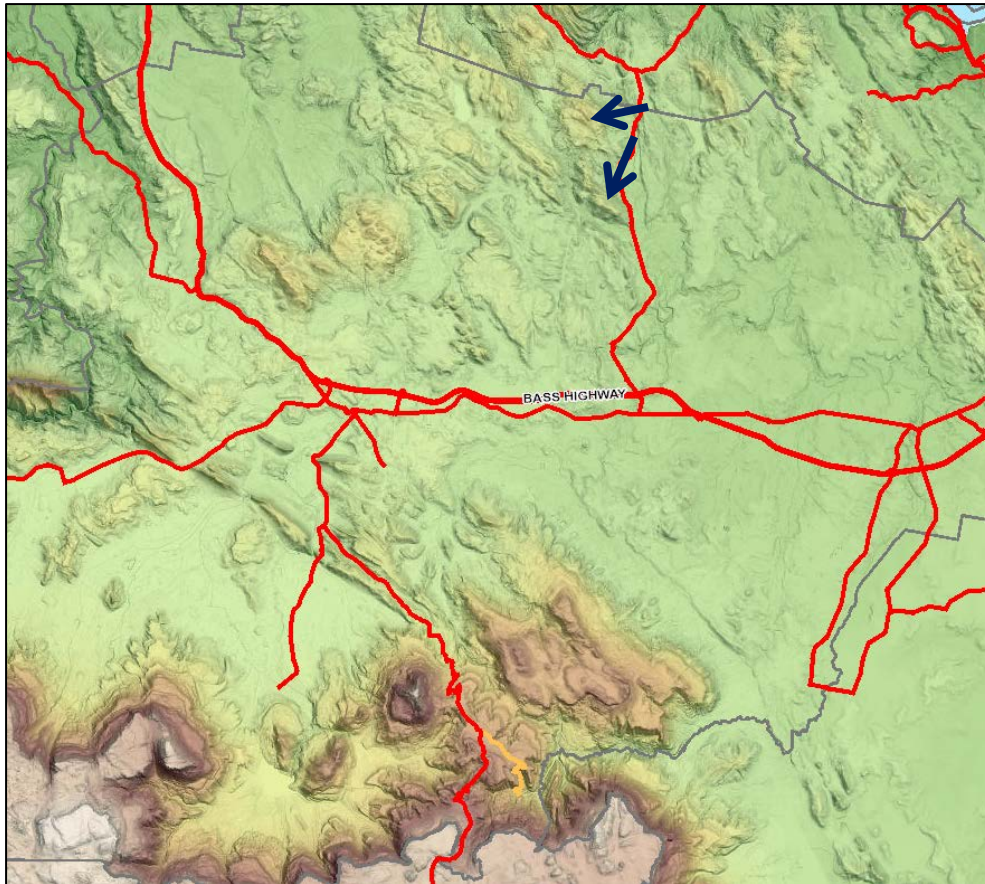
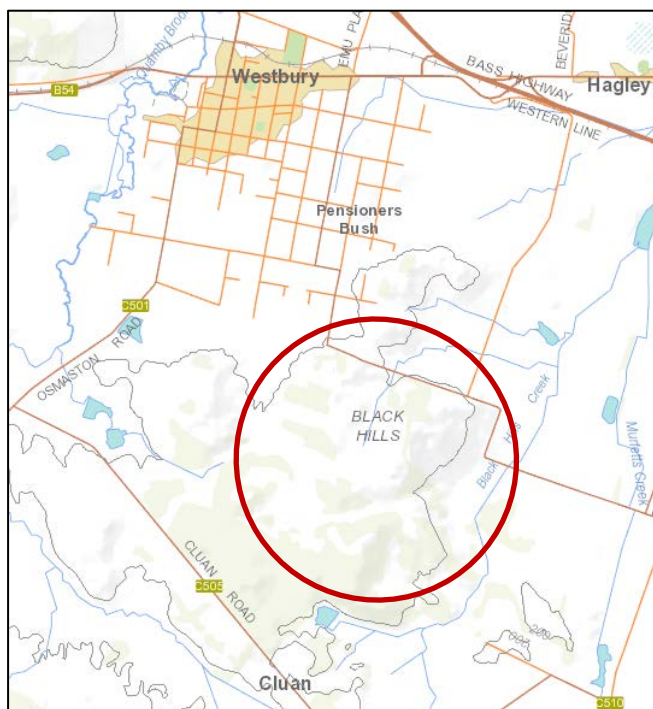


Figure 1 – Black Sugarloaf Ridge & PTR



Figure 2 – Black Sugarloaf

5. Black Hills - Westbury



Tenure: Private land (PTR over largest section of remnant vegetation)

Zoning: Agriculture Zone

Use:

Agriculture, Forestry (PTR)

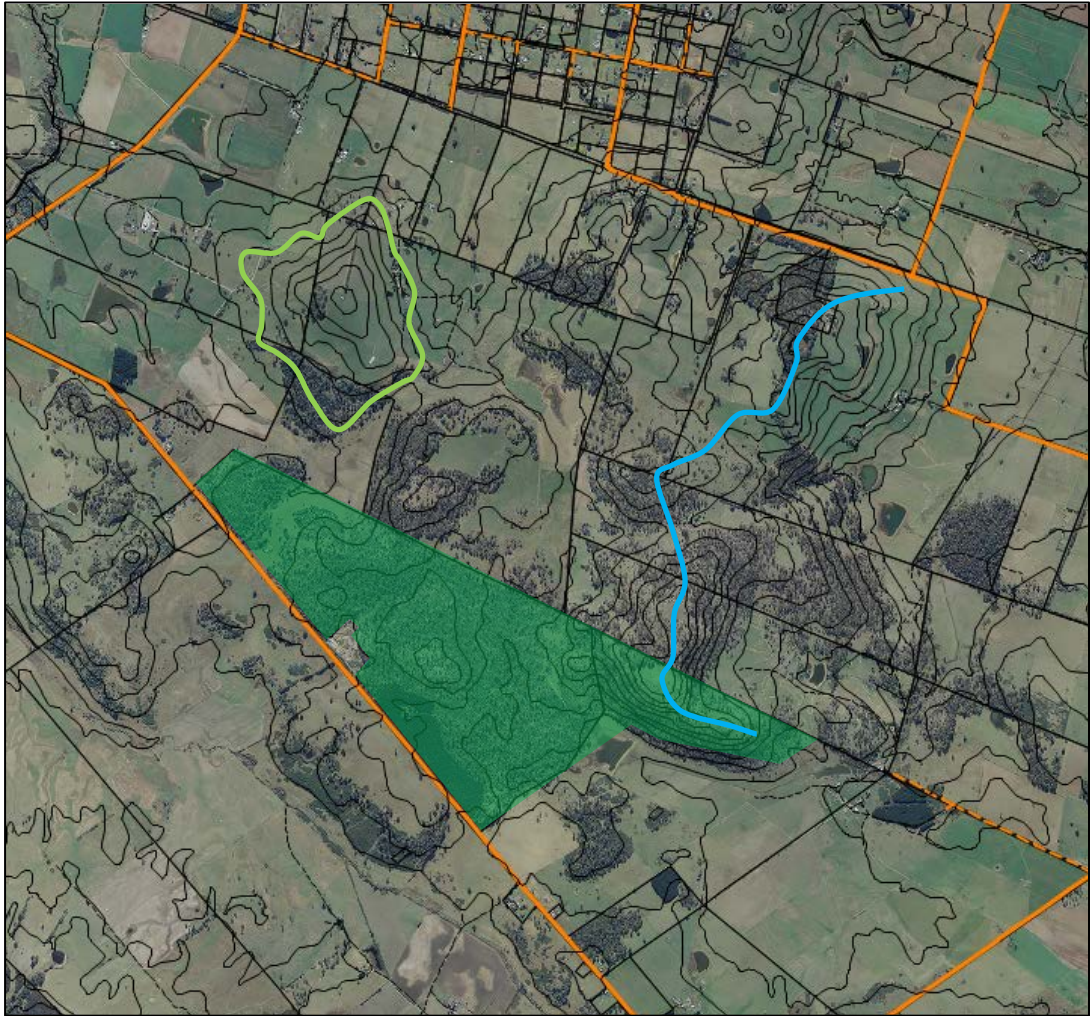
Residential

Development Potential:

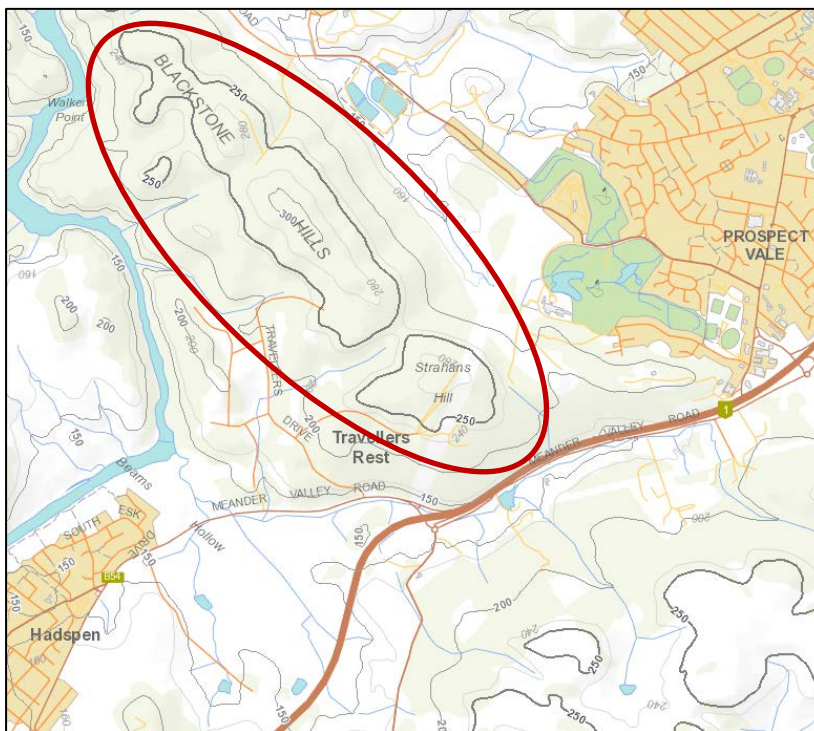
Agriculture, Forestry, gravel extraction

Residential, Visitor accommodation - 1 Vacant title, part of a larger farm.





6. Strahan's Hill & Blackstone Hills - Travellers Rest & Blackstone Heights



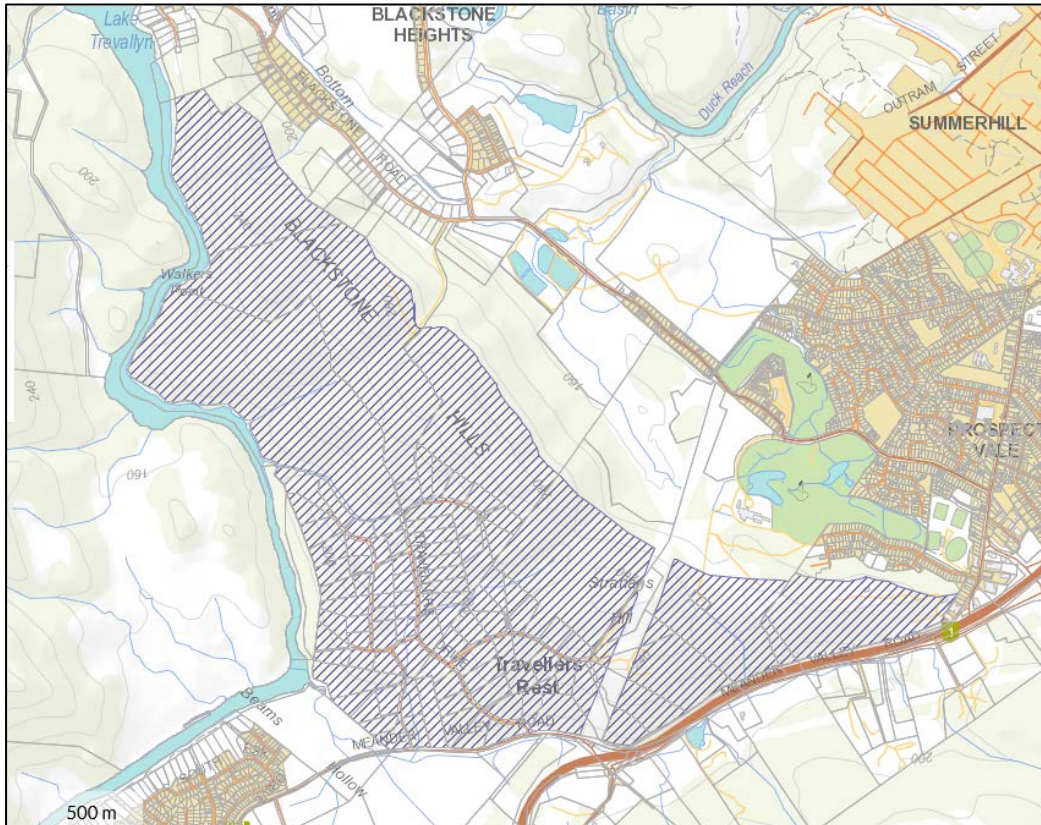


Figure 1 - Scenic management area (apart from high voltage power line), carried forward from IPS as a transitional provision.

Tenure: Private land

Zoning: Landscape Conservation Zone and Rural Zone

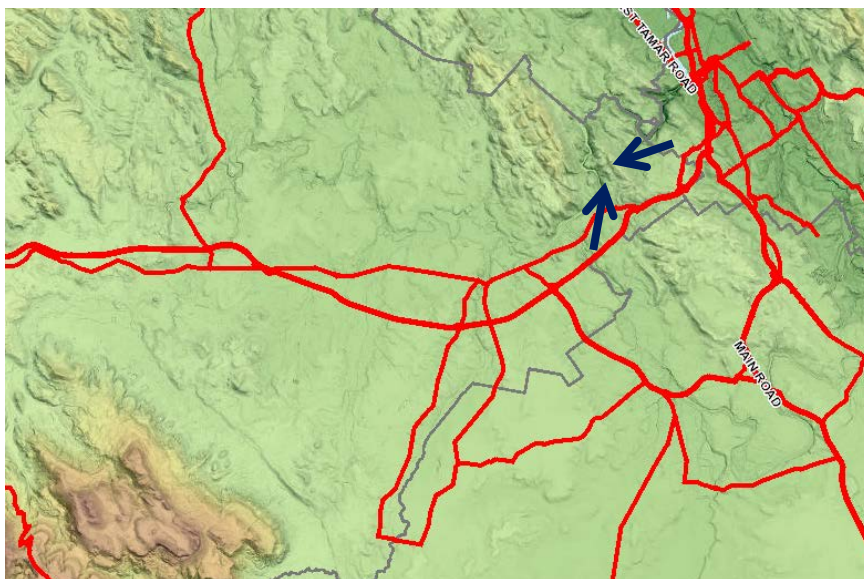
Use: Residential & non-defined for Blackstone Hills

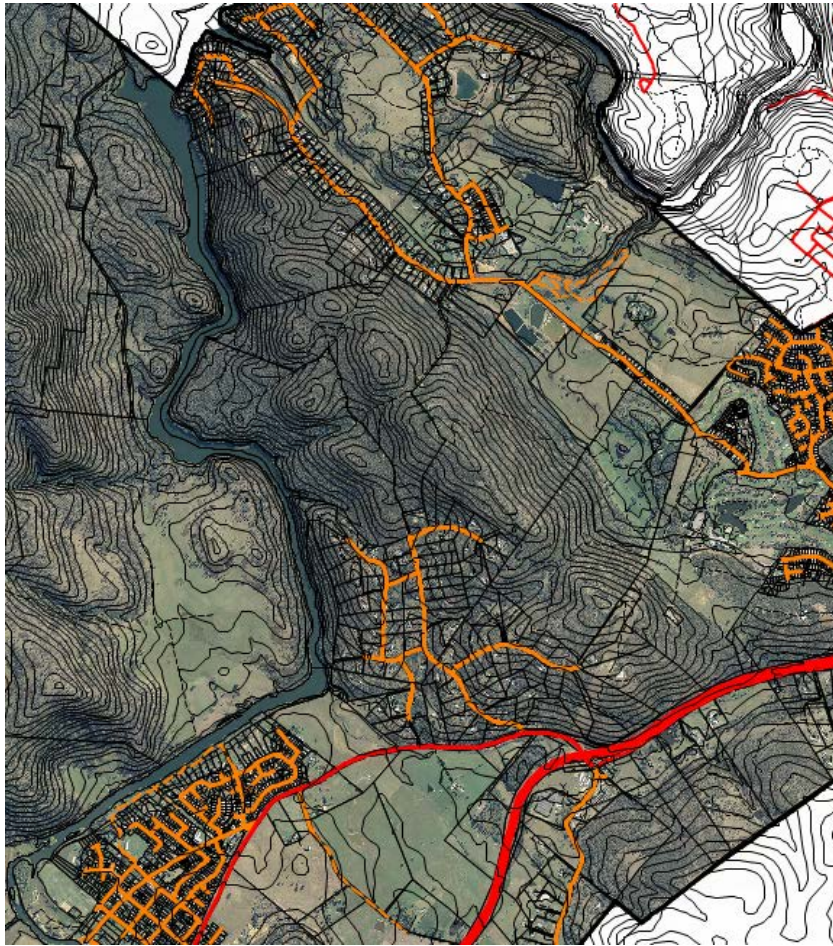
Telecommunications

Development Potential:

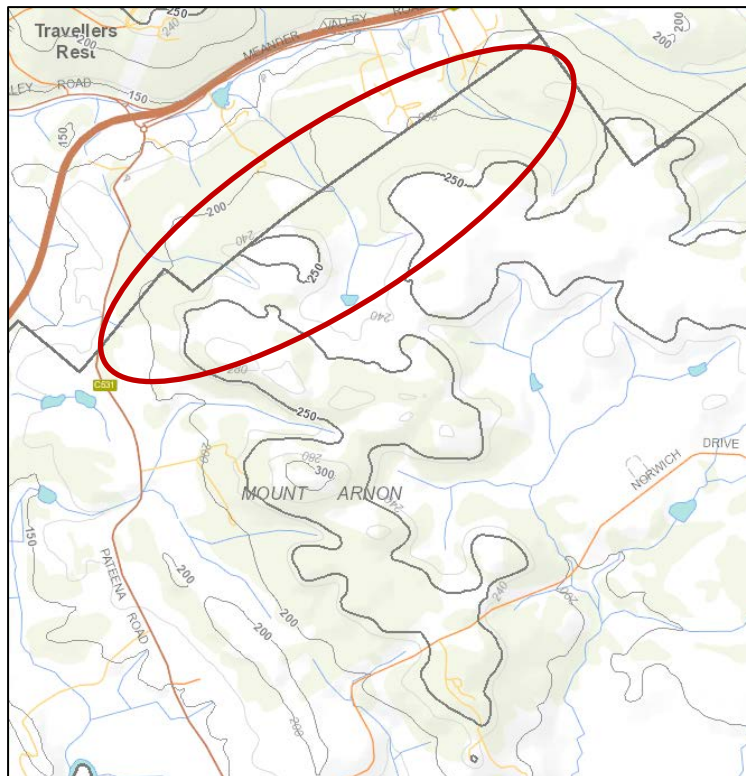
Agriculture, Forestry, gravel extraction

Residential, Visitor accommodation





7. Mt Arnon (northern slopes)
Mostly in NMC



Tenure: Private land

Zoning: Rural Living

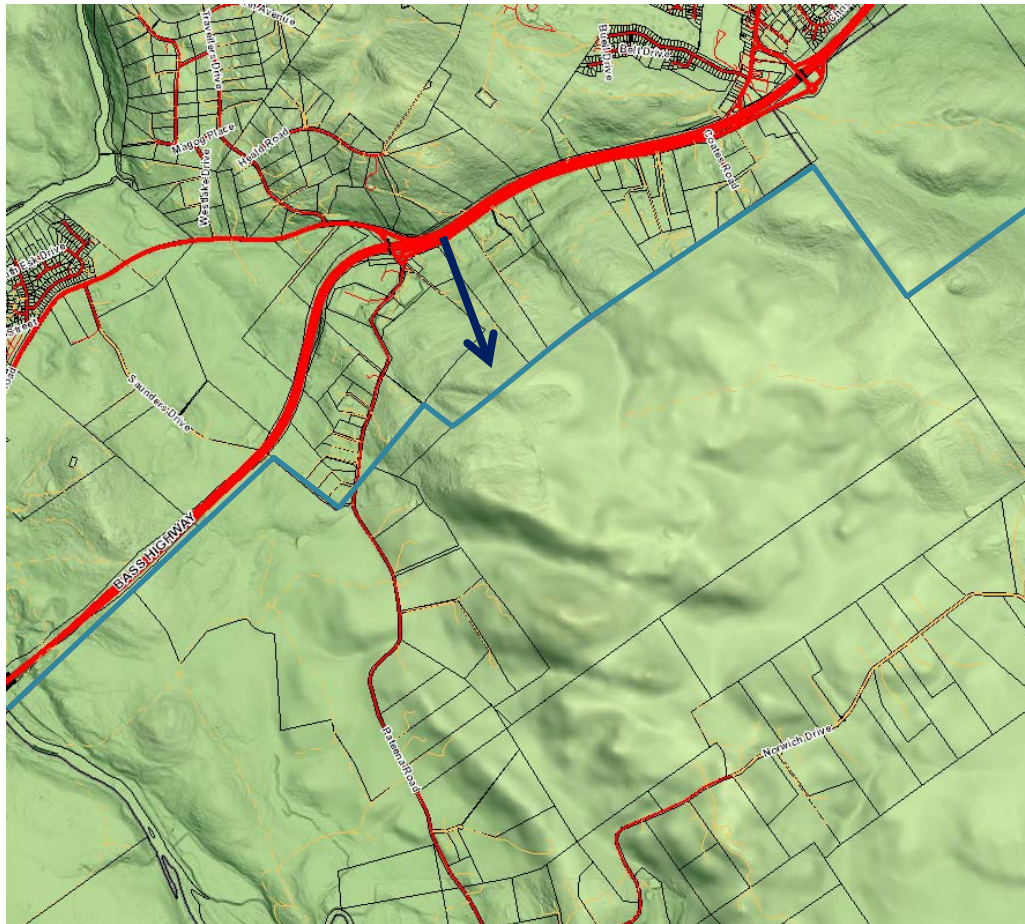
Use:

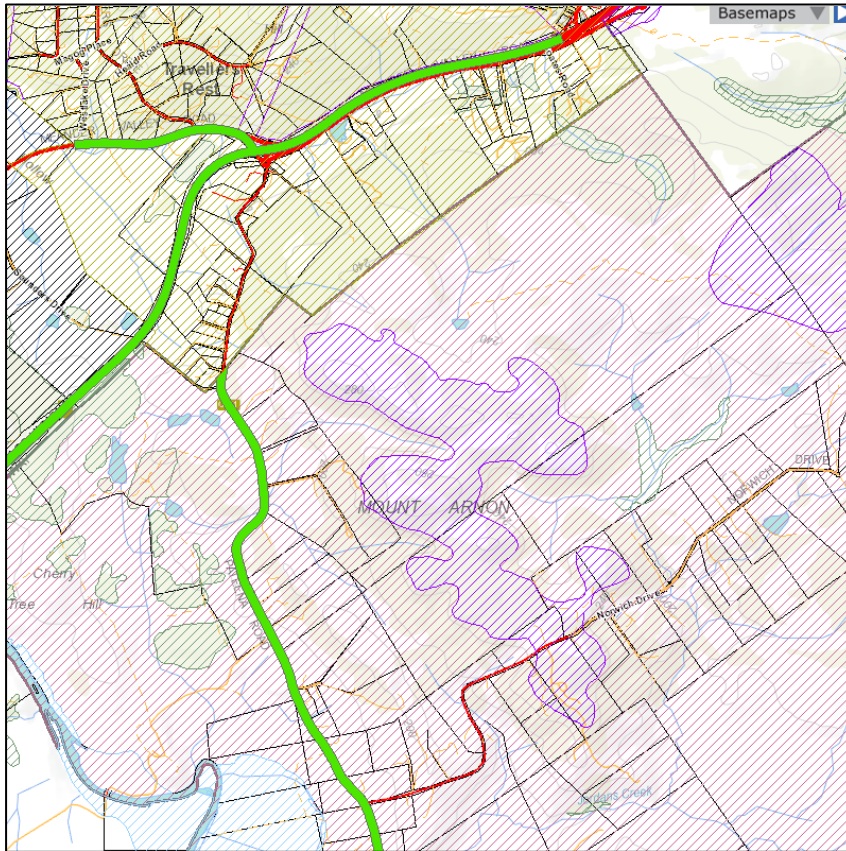
Remnant forest. High voltage powerline traverses the slope. Not obvious due to vegetation.

NMC have picked up elevation above the 250m contour on Mt Arnon for scenic management , but not adjacent land above the 250m contour. The northern slopes located in MVC are below 240m AHD.

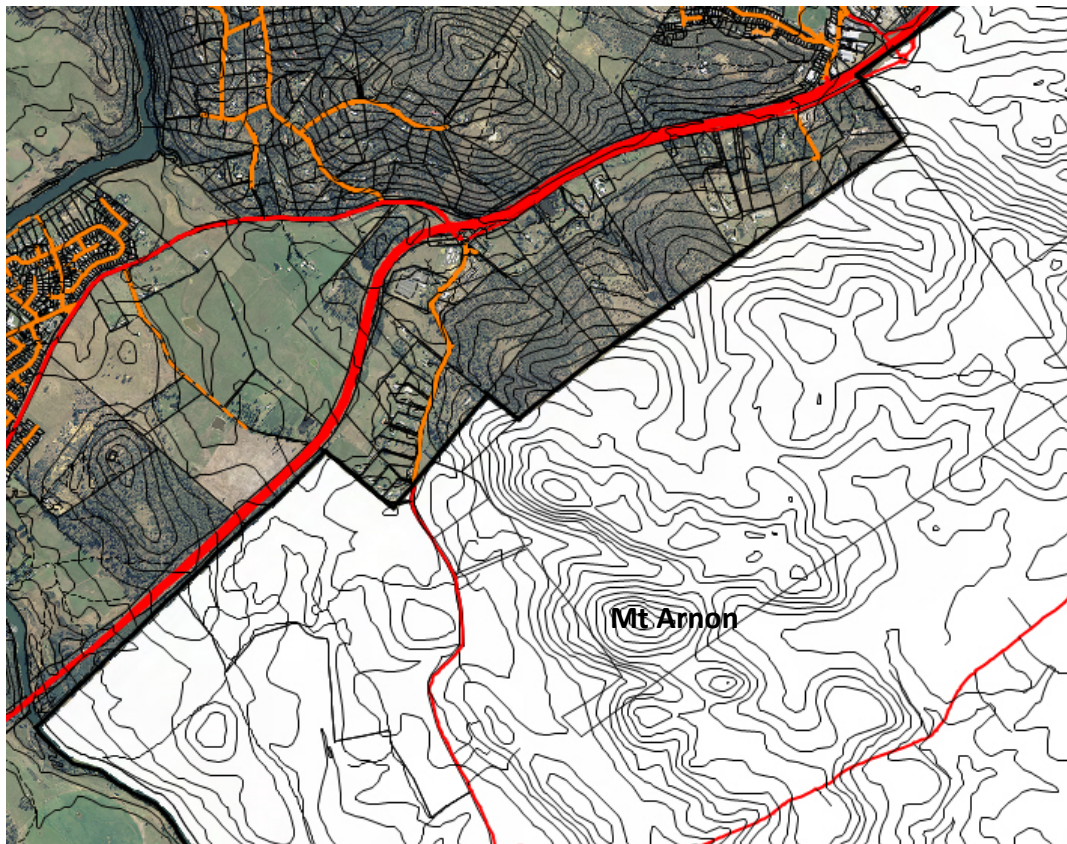
Development Potential:

Natural values management, recreation

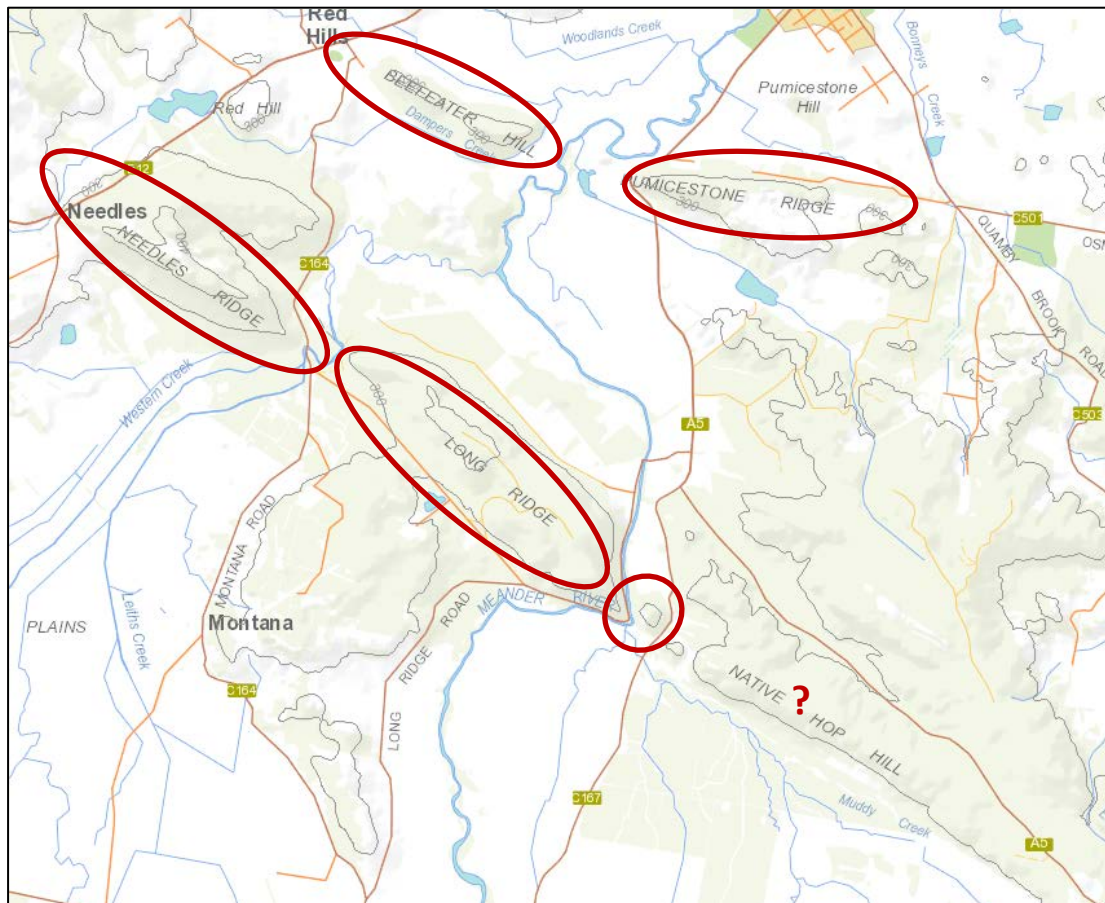




LISTmap showing NMC scenic management area at Mt Arnon



8. Cubits Sugarloaf, Needles Ridge, Beefeater Hill, Pumicestone Ridge, Long Ridge



Tenure: Needles Ridge, Native Hop Hill, Cubits Sugarloaf, Beefeater Hill, Pumicestone Ridge
- Private land

Long Ridge – State Regional Reserve & State Forest

Zoning: Pumicestone Ridge – Low Density Residential and Rural

Long Ridge – Environmental Management & Rural

Beefeater Hill, Needles Ridge – Agriculture

Native Hop Hill, Cubits Sugarloaf – Rural

Use:

Needles Ridge is largely private land under private forestry, mining lease for gravel extraction. Native Hop Hill is under PTR. Long Ridge is State regional reserve and State forest. Cubits Sugarloaf is the southern part of a small farm. Beefeater Hill is part of a large farm, and has been previously subject to FPP for selective harvesting around the base. Pumicestone Ridge is low density residential use to the northern slopes (potentially 1 vacant lot available for development in that zone), balance in Rural Zone is on two separate titles, one owned in conjunction with a Low Density Residential Property on Barra Road and the other is 15ha residential property to the southern side.

Development Potential:

Pumicestone Ridge - Dwelling, forestry, visitor accommodation, extractive industry

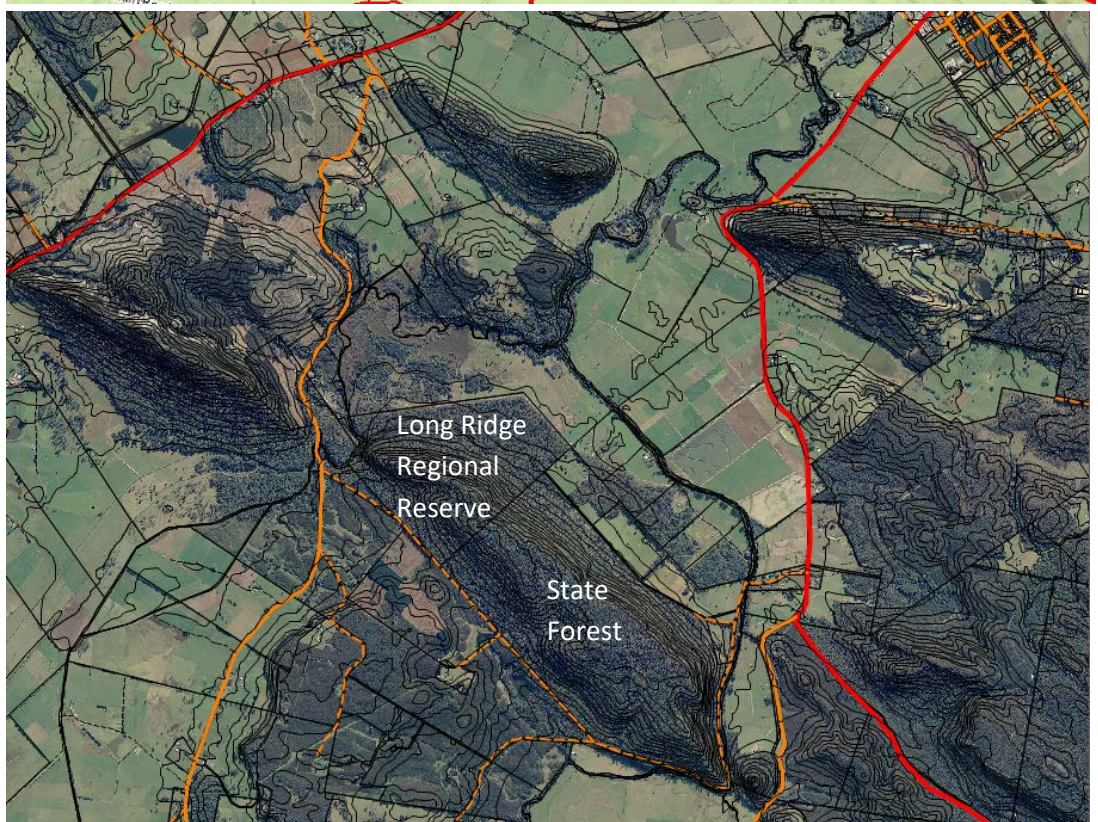
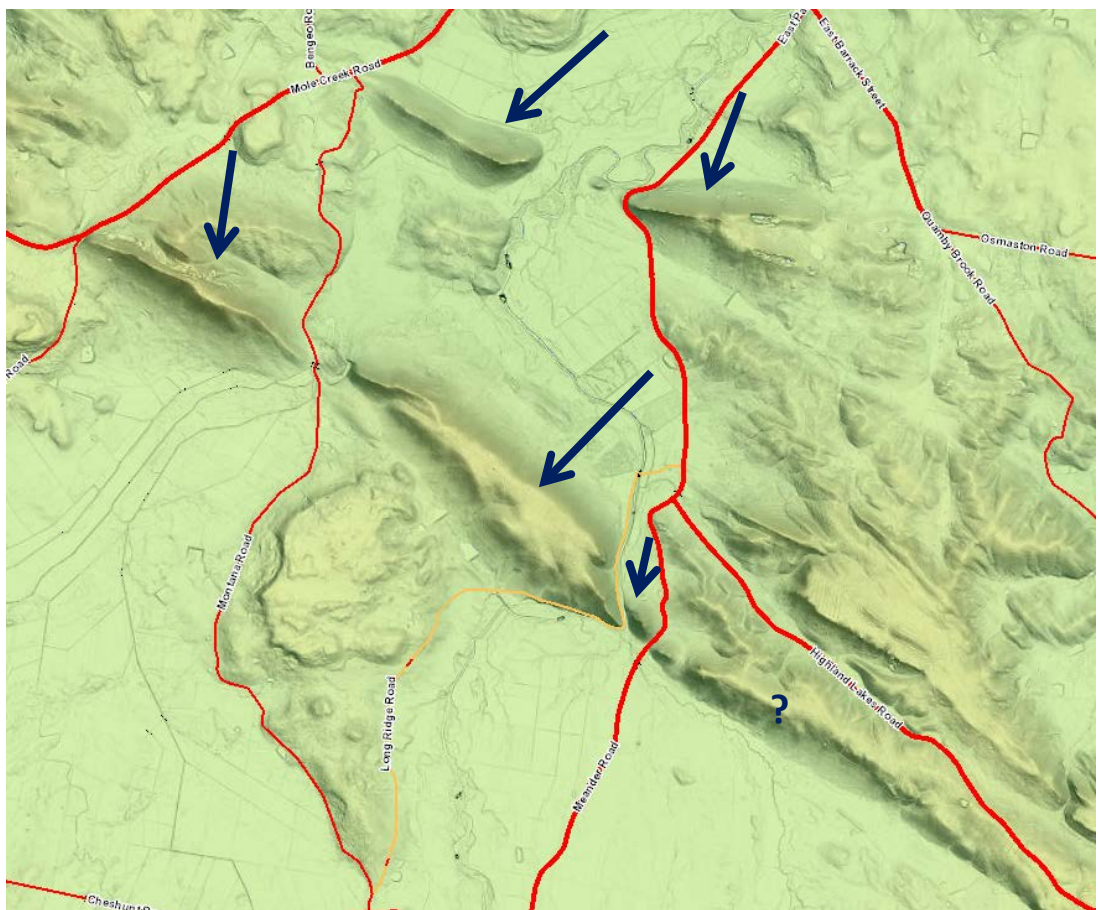
Needles Ridge – forestry, extractive industry

Native Hop Hill – forestry, extractive industry

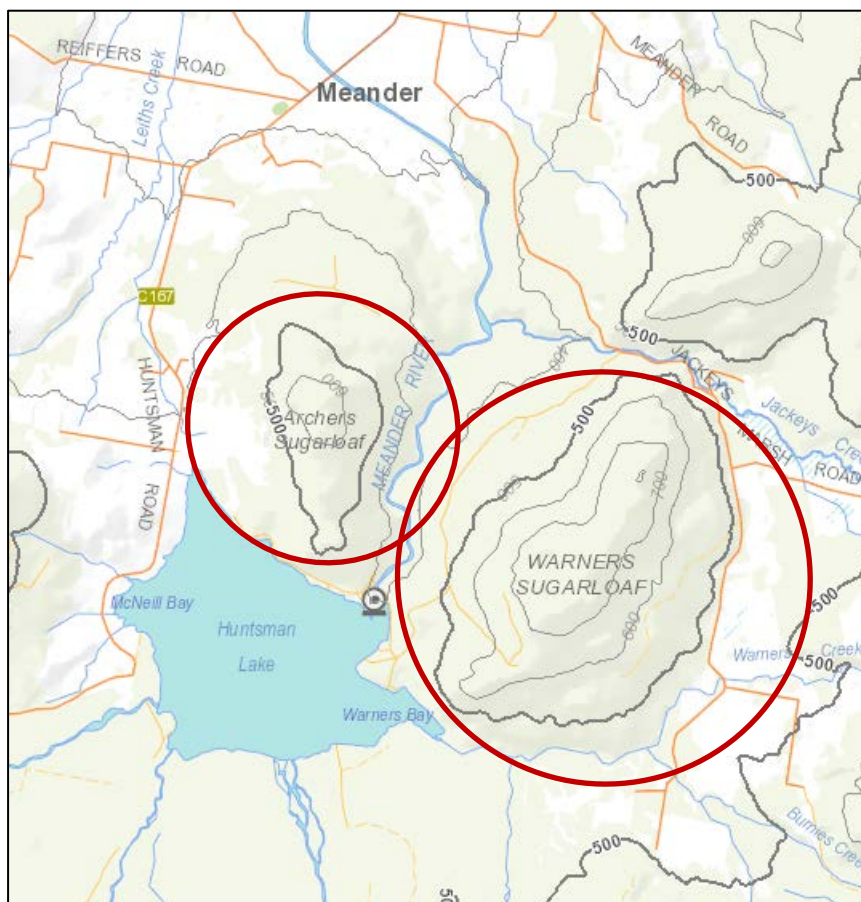
Cubits Sugarloaf – forestry, extractive industry (unlikely)

Beefeater Hill – forestry

Long Ridge – forestry, Natural Values Management (NCA)



9. Archers Sugarloaf & Warners Sugarloaf



Tenure: Majority Crown land – FPPF, within extension of the WHA

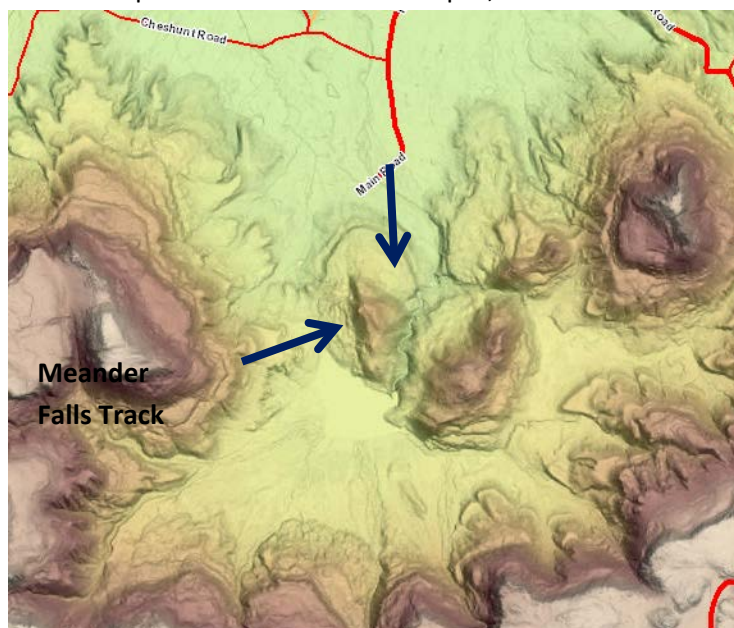
Zoning: Environmental Management and small amount of Rural Living to eastern slopes around Archers Sugarloaf

Use: Land surrounding Huntsman Lake, appears to conserved.

Development Potential:

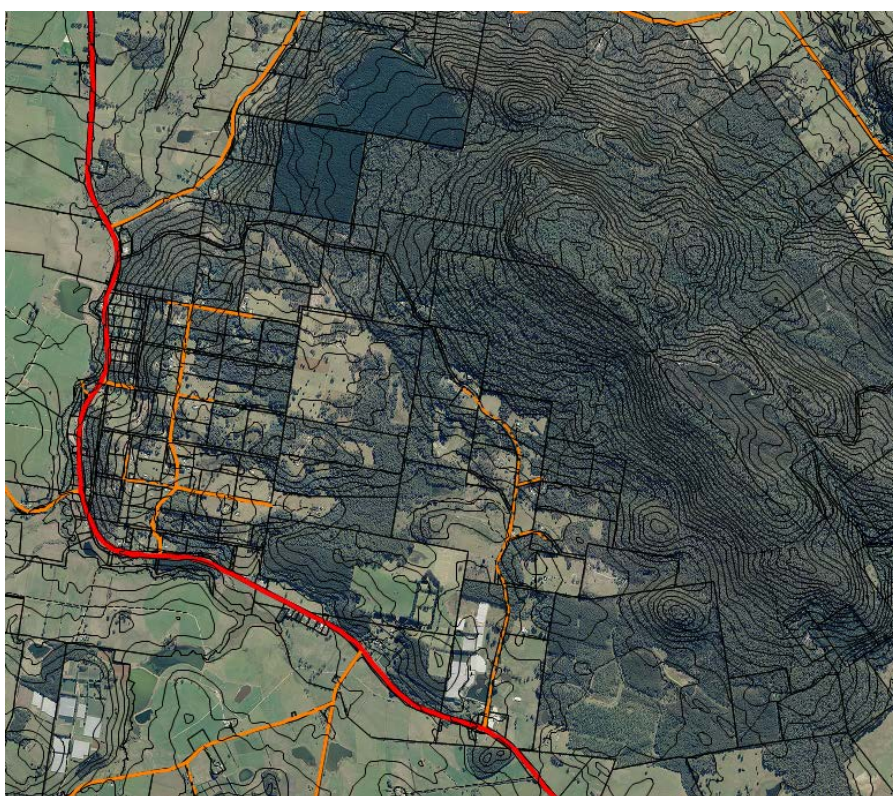
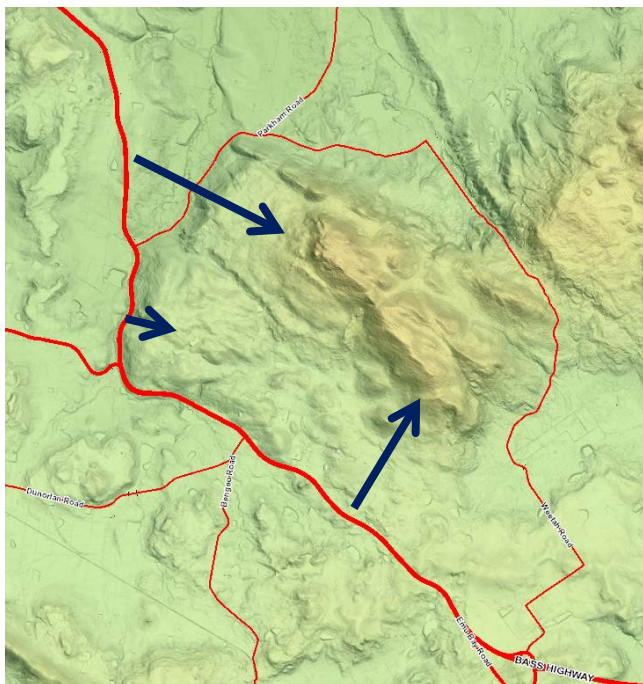
Recreation, Natural Values Management (NCA)

No vacant private land to eastern slopes, additional visitor accommodation



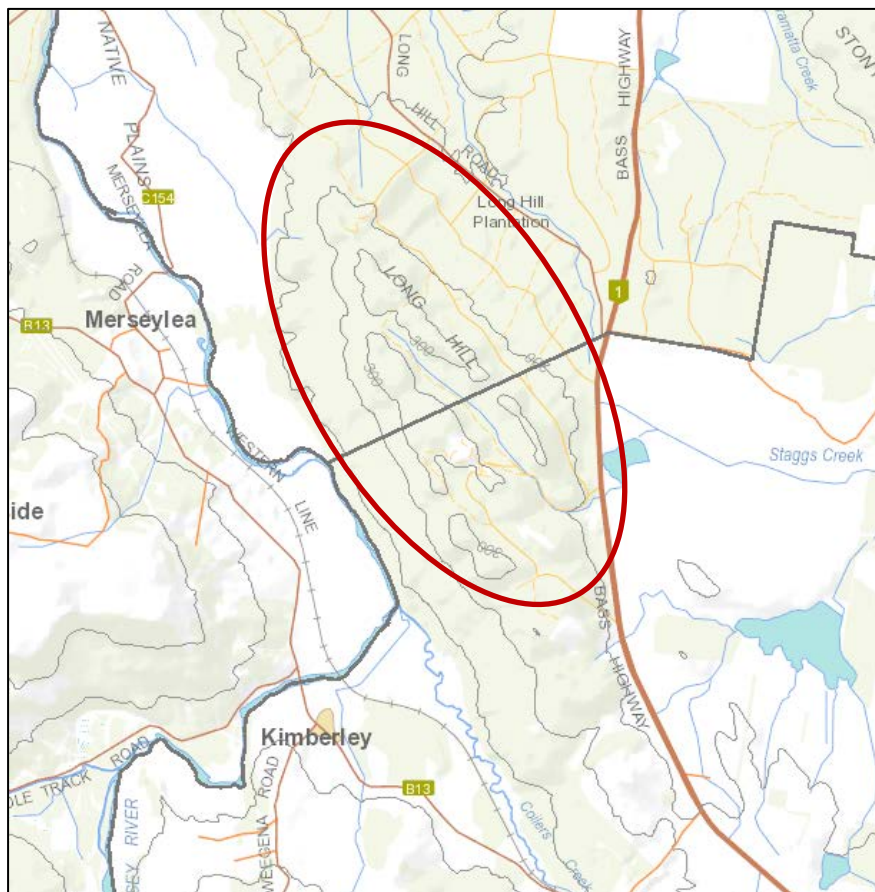
Development Potential:

Christmas Hills - Recreation, Natural Values Management (NCA), Forestry, extractive industry
Elizabeth Town – residential, visitor accommodation



11. Long Hill

Across boundary with Latrobe Council



Tenure: Majority State Forest

Western slopes above Mersey River are Long Hill Conservation Area

Zoning: Rural Zone and Environmental Management.

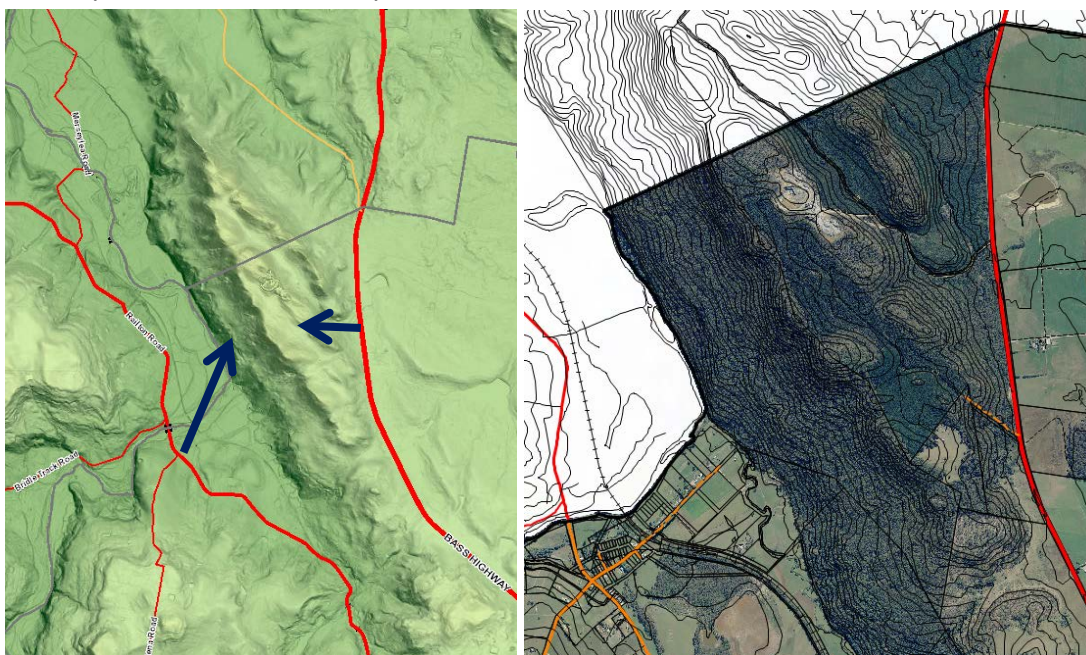
Use: Forestry and conservation

Hazells Quarry within State forest.

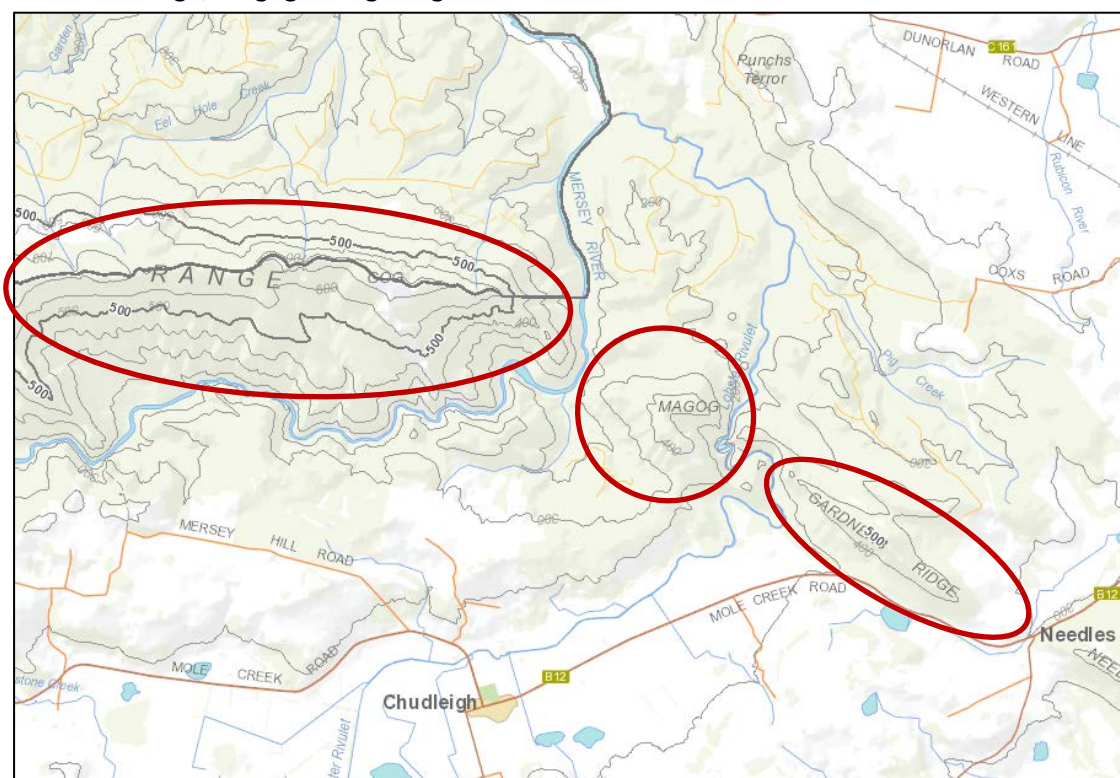
Development Potential:

Conservation area - Recreation, Natural Values Management (NCA)

Forestry and extractive industry



12. Gardner's Ridge, Magog & Gog Range



Tenure: Gog Range – Alum Cliffs State Reserve, Gog Range Regional Reserve
 Magog – Lobster Rivulet Regional Reserve, some State forest
 Gardner's Ridge – majority State Forest and some private land to southern end

Zoning: Rural Zone and Environmental Management.

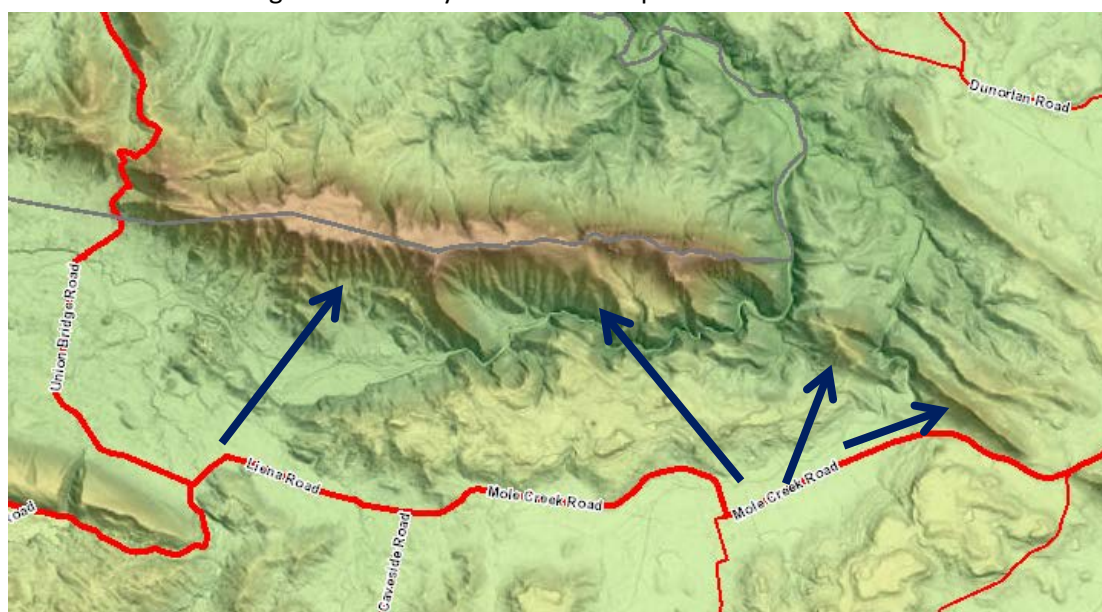
Use: Forestry, gravel extraction and conservation
 1 hobby farm at southern end Gardner's Ridge
 Recreation, Natural Values Management – Alum Cliffs walk

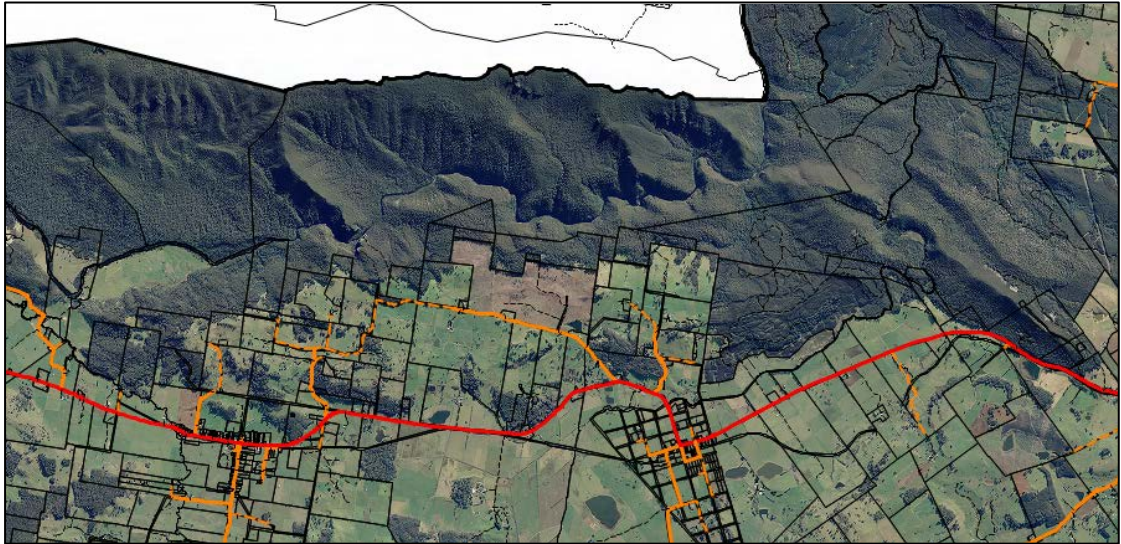
Development Potential:

Conservation area - Recreation, Natural Values Management (NCA)

Forestry and extractive industry

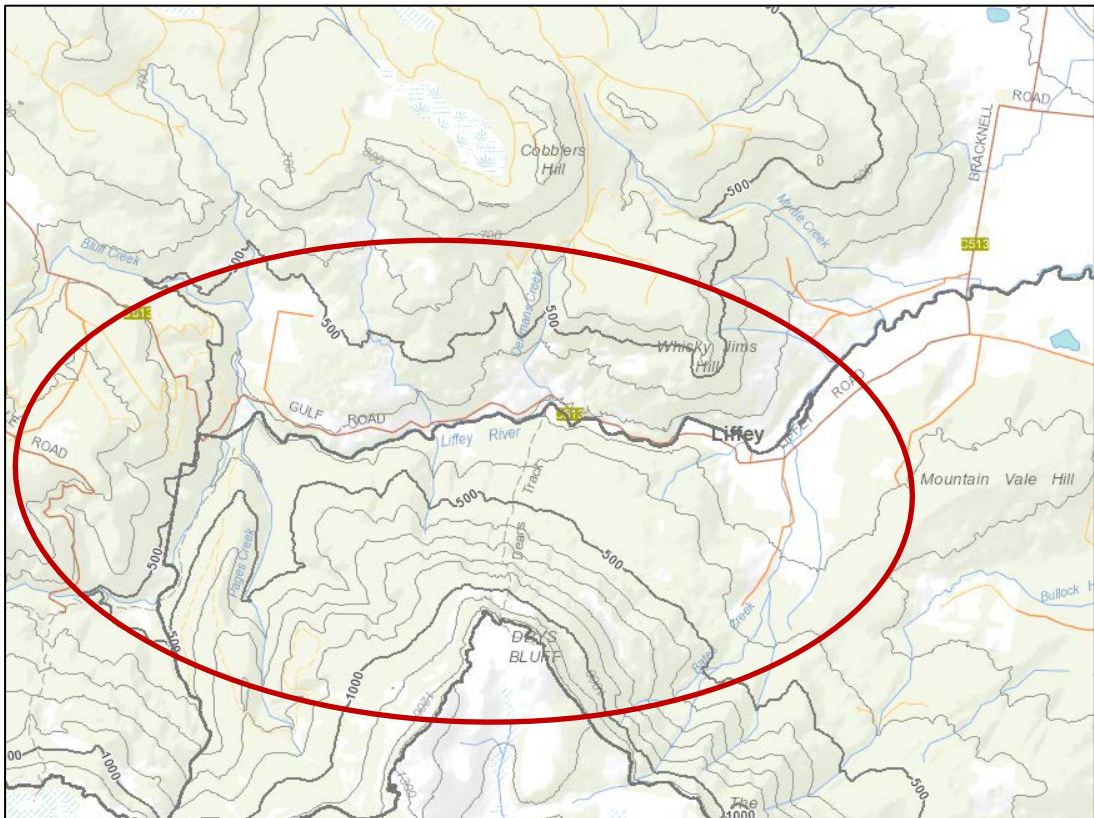
Note: No scenic management overlay to northern slopes in Kentish





13. Upper Liffey

Southern side is NMC



Tenure: State Forest

Private land

Zoning: Rural Zone and Rural Living

Use: State and small private forestry, small areas of grazing

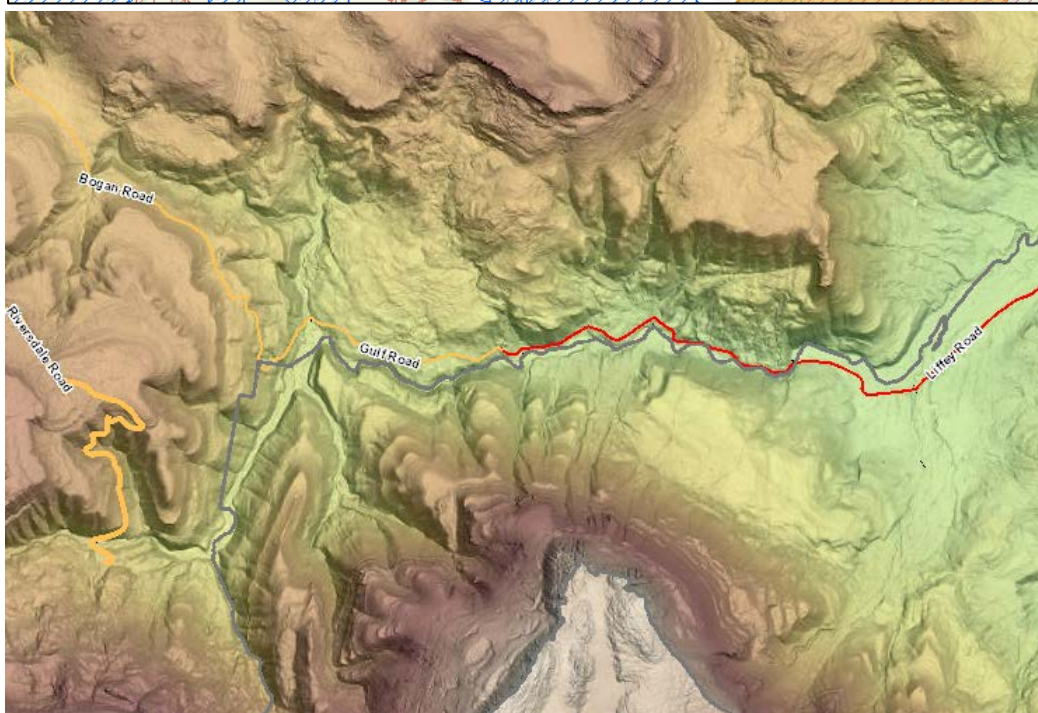
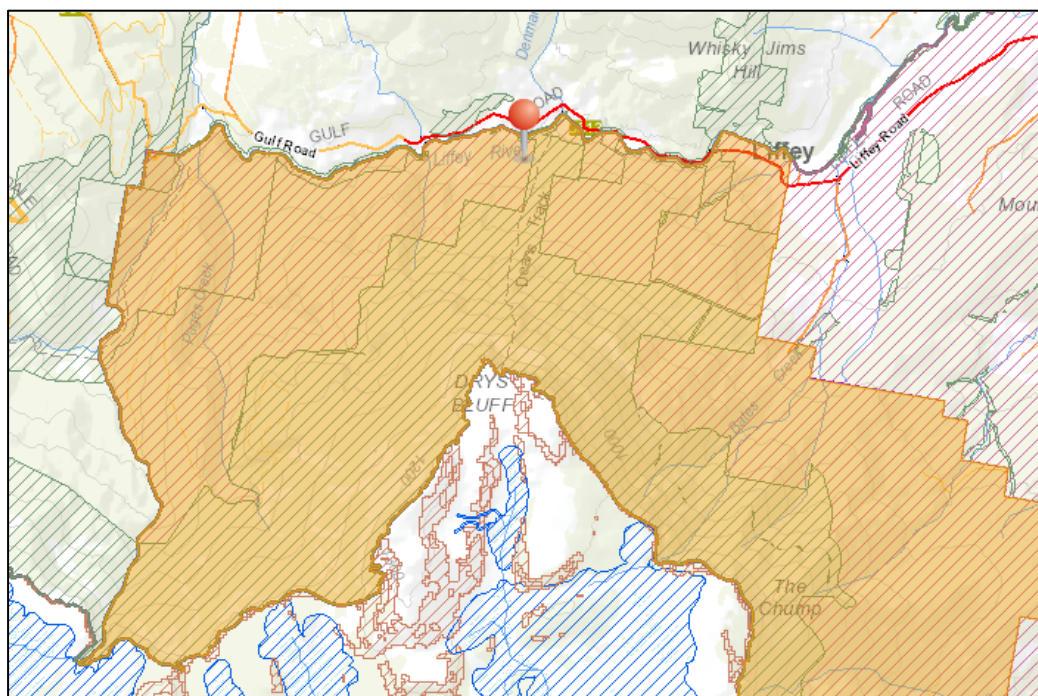
Rural residential

Development Potential:

Residential, visitor accommodation

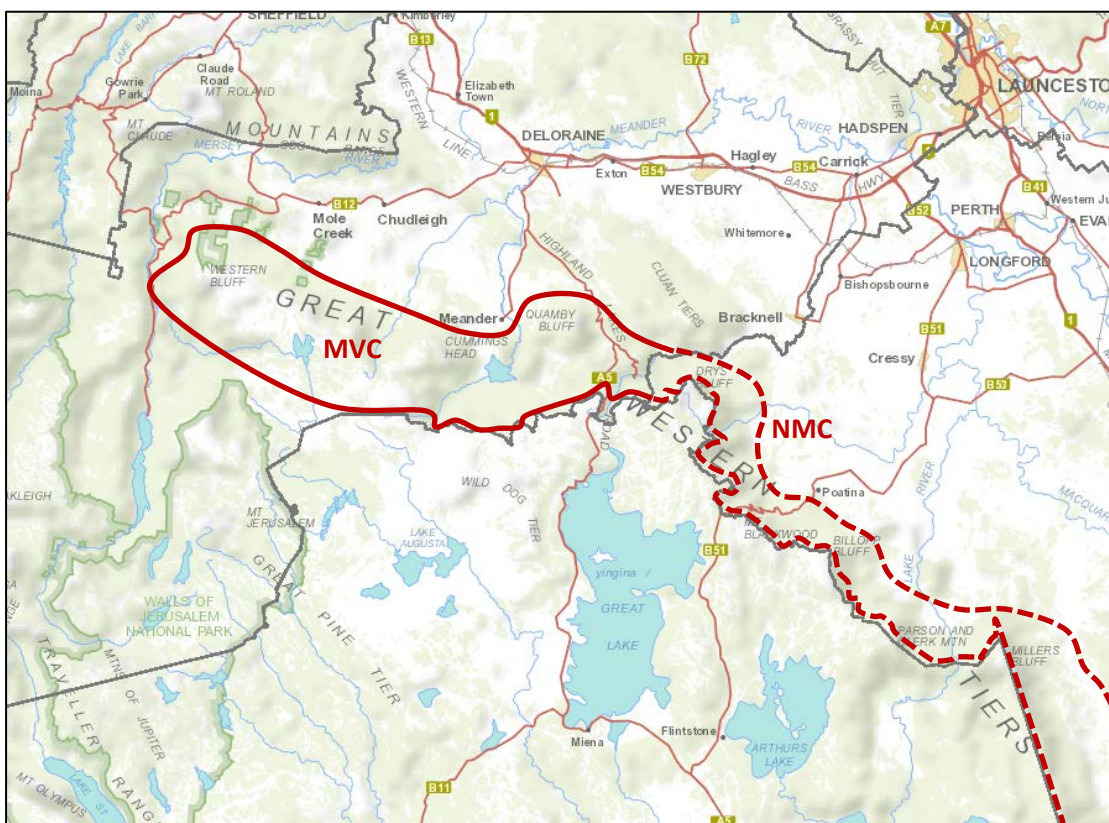
Forestry and extractive industry

The slopes around Drys Bluff are in a SPA overlay in the Northern Midlands IPS shown below.





14. Great Western Tiers (including Quamby Bluff)



Tenure: State Reserves – Central Plateau Conservation Area, FPPFL, Mole Creek Karst National Park, Quamby Bluff Conservation Area, Great Western Tiers Conservation Area.

State Forest

Private land

Hydro

Zoning: Rural Zone, Environmental Management, Rural Living (Golden Valley)

Use: State and private forestry,
Conservation area - Recreation, Natural Values Management (NCA)
Rural residential
Electricity generation

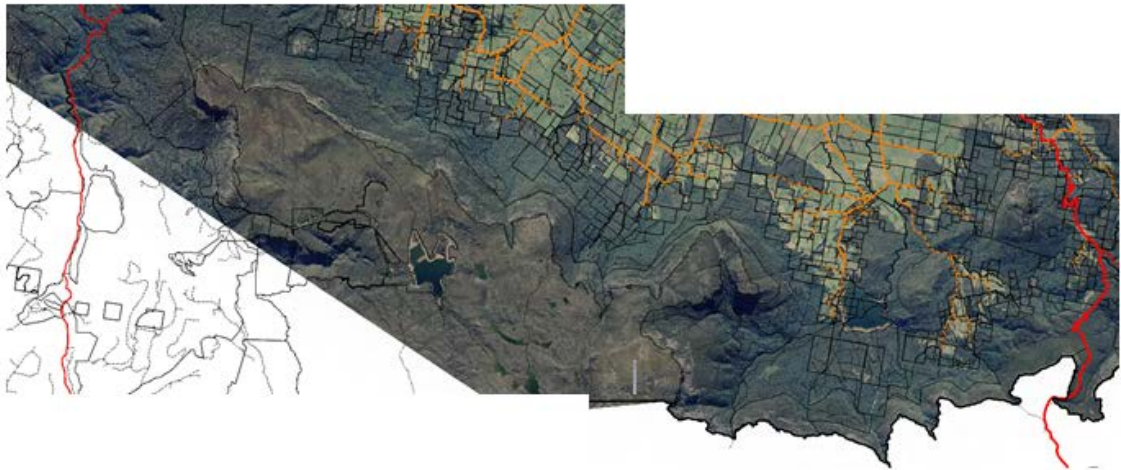
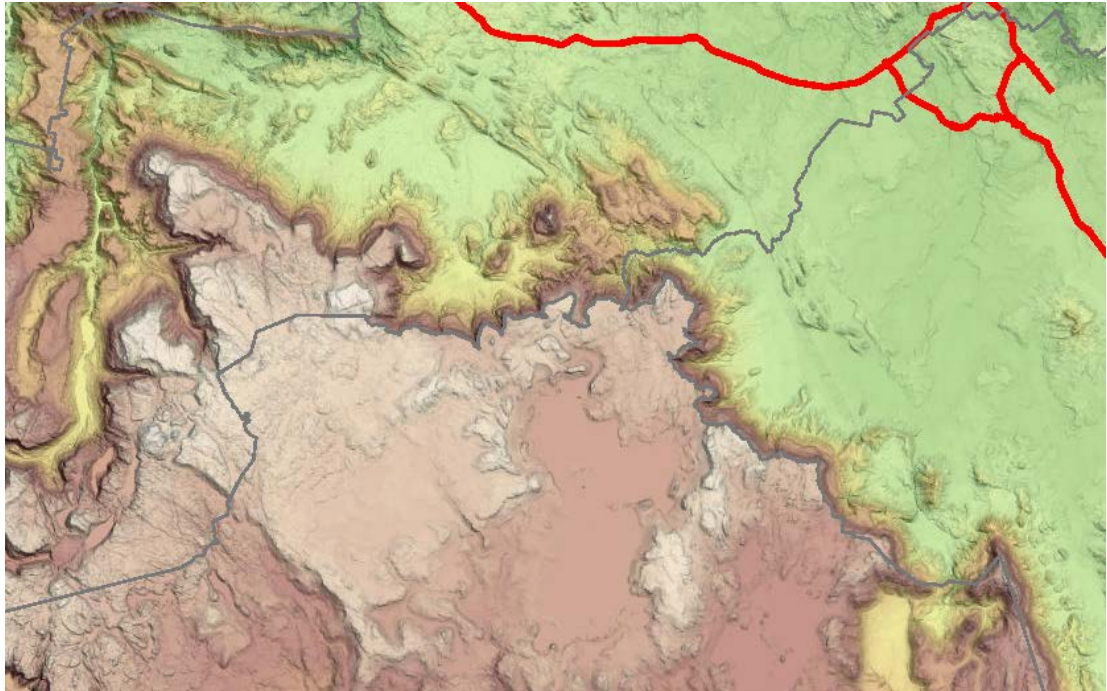
Development Potential:

Recreation

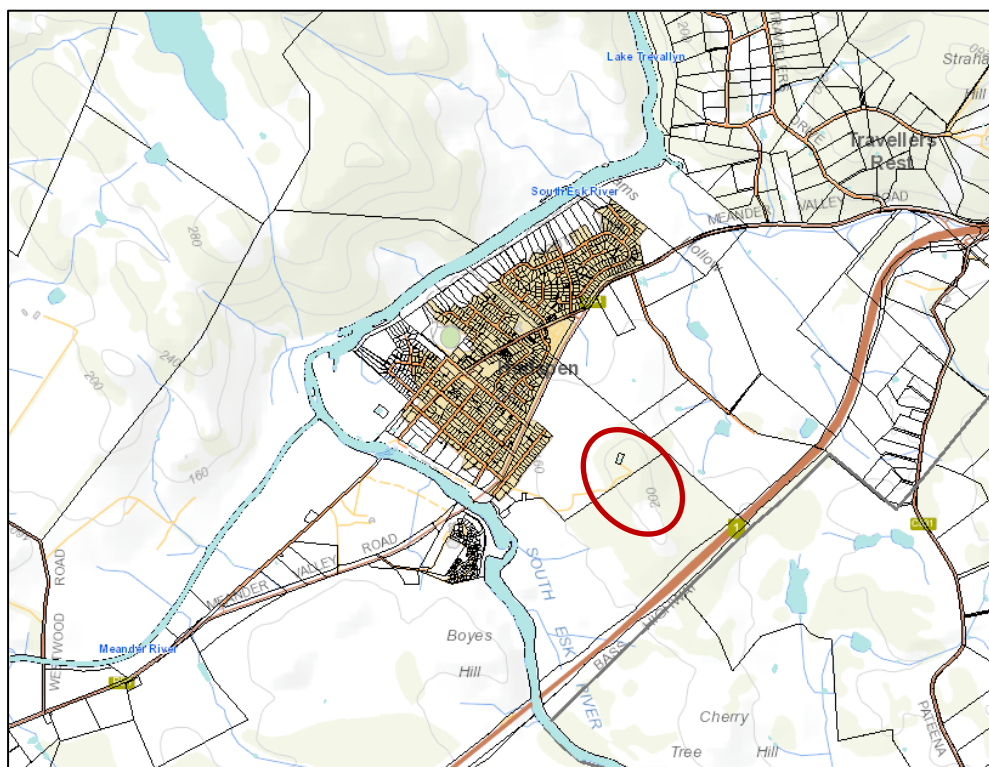
Residential, visitor accommodation

Forestry and extractive industry

Energy generation



15. Hadspen (un-named hill to south of MV Road)



Tenure: Private land

Zoning: Recreation Zone, Low Density Residential Zone & Rural Living Zone

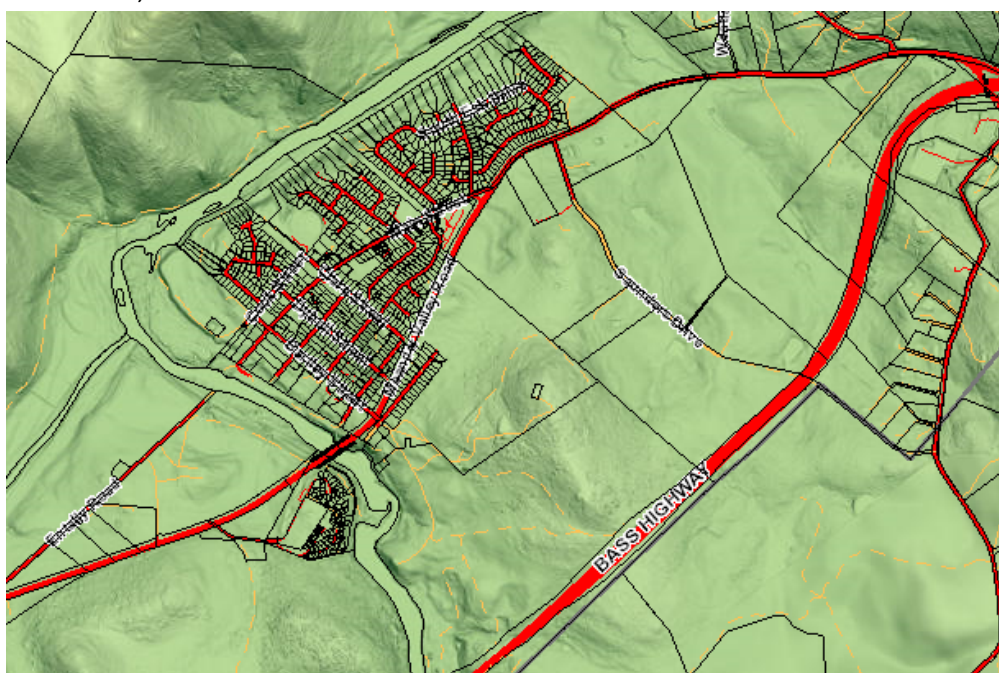
Use: Residential, undeveloped

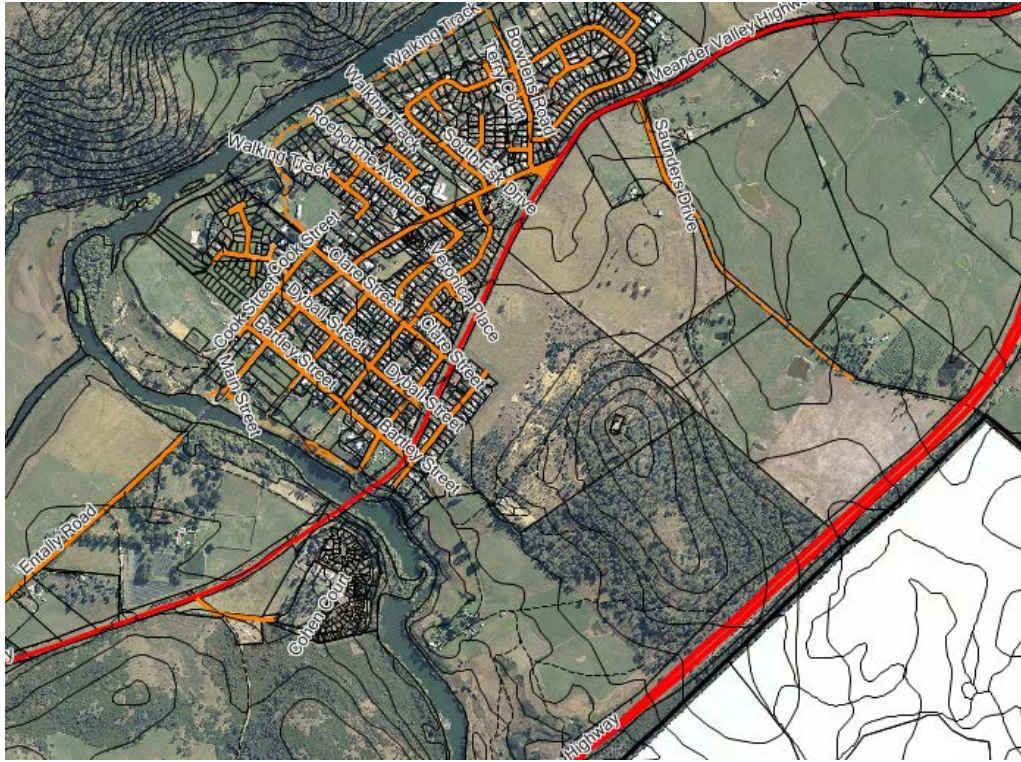
Development Potential:

The zoning arrangement reflects the Hadspen Urban Growth Area amendment which allocates a 'bush reserve' to the top of the hill for public open space. Visual graduation of development toward the recreation zone is a requirement of the SAP.

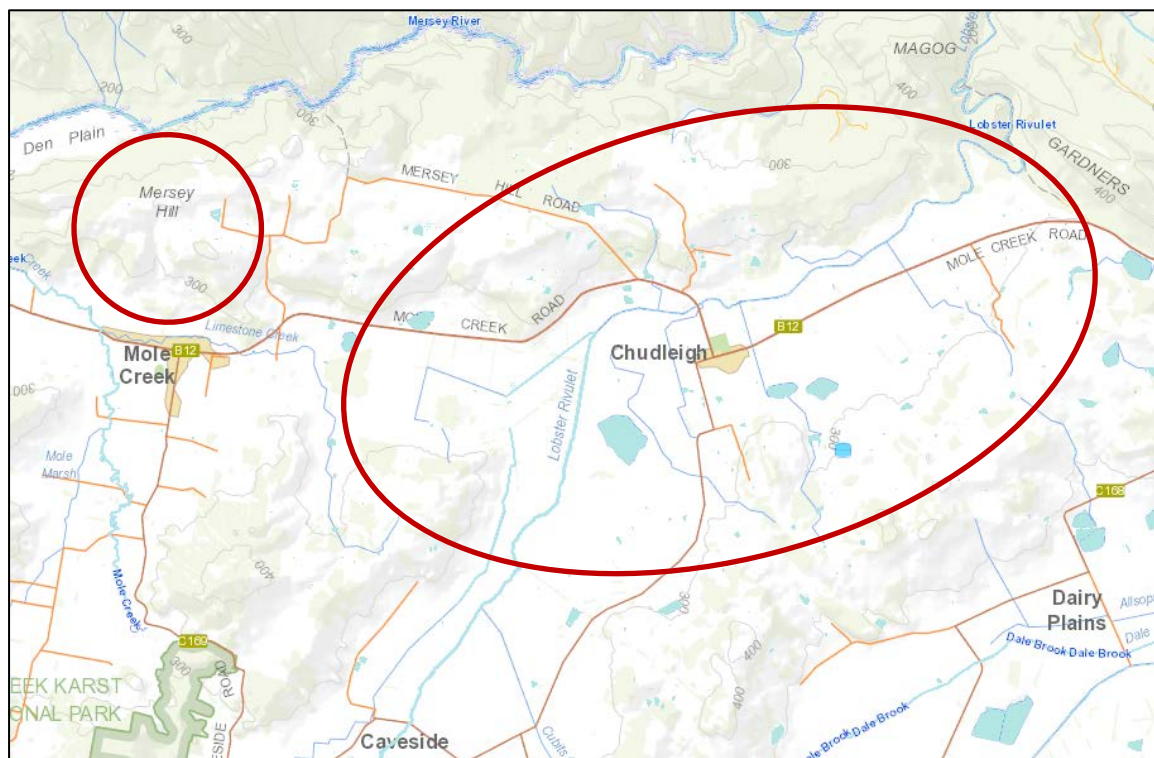
Recreation infrastructure

Residential, visitor accommodation





16. Chudleigh Valley & Mersey Hill



Tenure: Private land

Zoning: Agriculture Zone, Rural Zone & Rural Living Zone

Use: Agriculture, forestry
residential

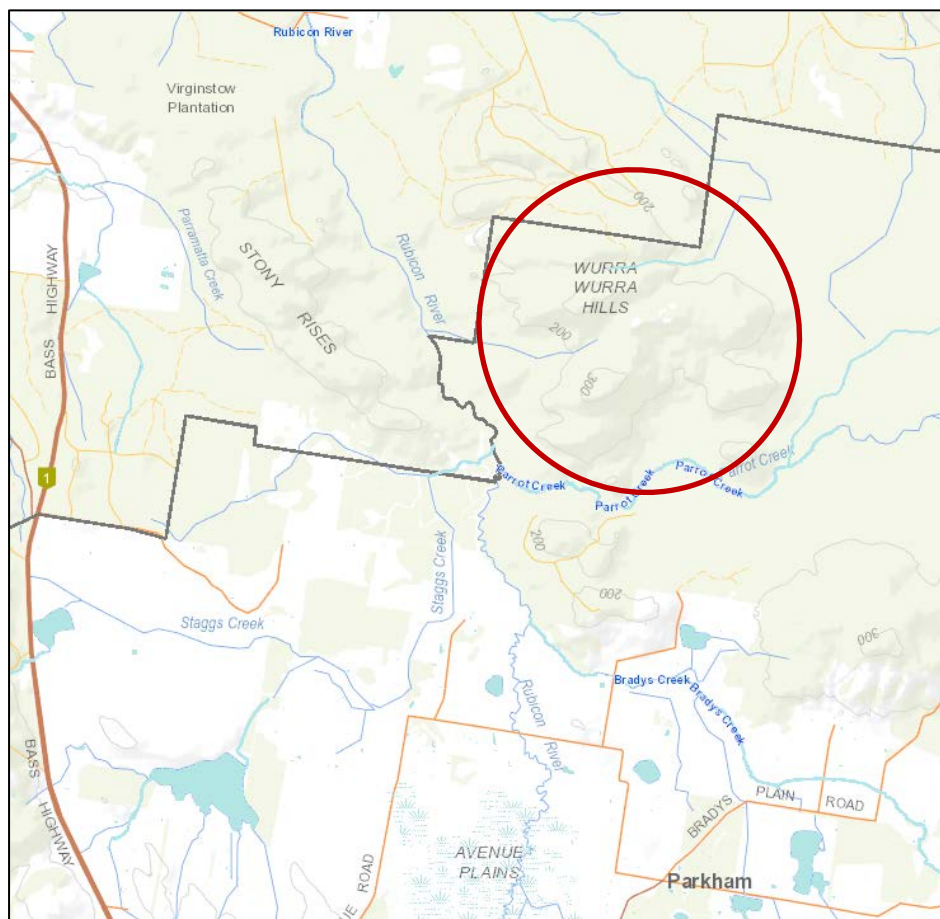
Development Potential:

Agriculture, forestry

Residential, visitor accommodation



17. Wurra Wurra Hills



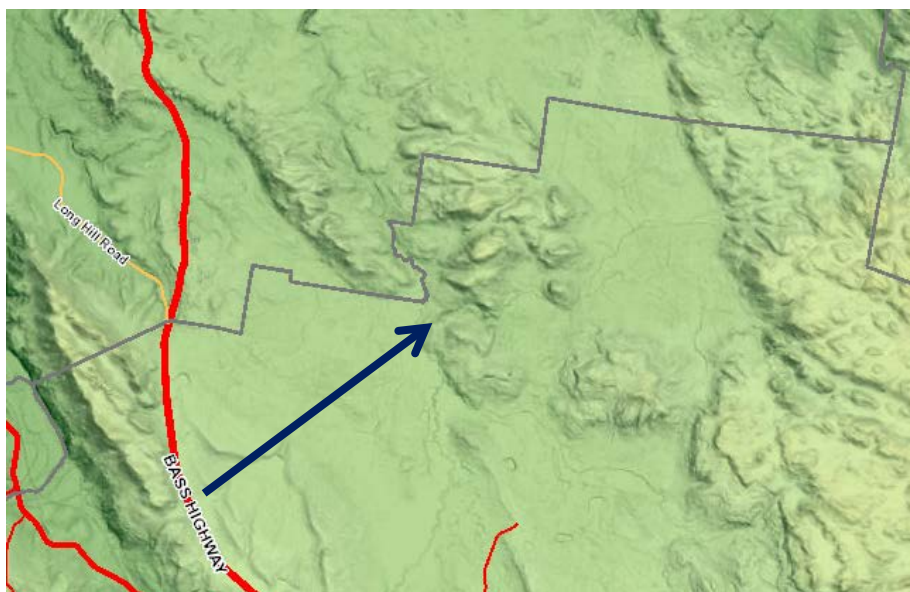
Tenure: Private land, State Forest

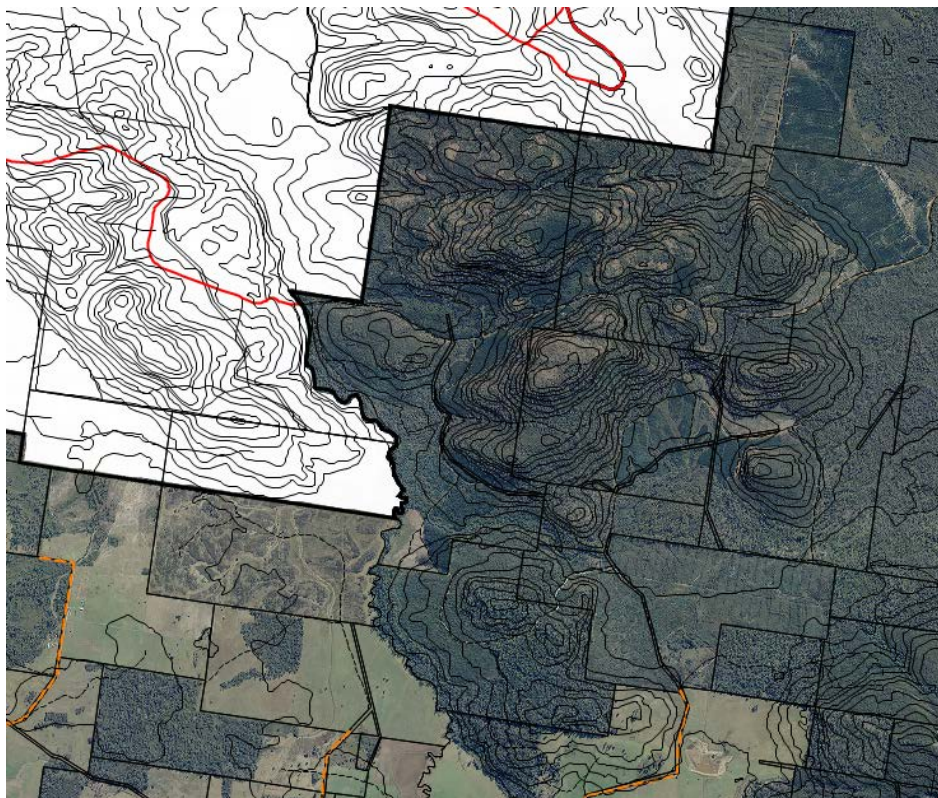
Zoning: Rural Zone

Use: forestry – State and private (PTR)

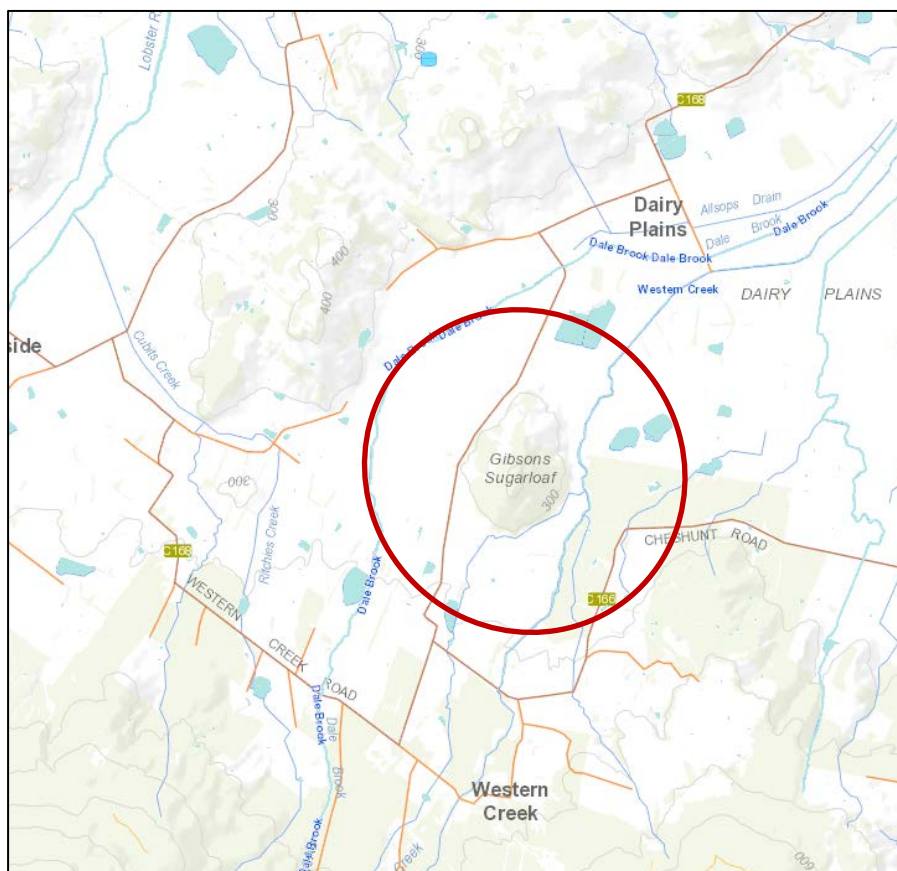
Development Potential:

Forestry





18. Gibsons Sugarloaf – Western Creek

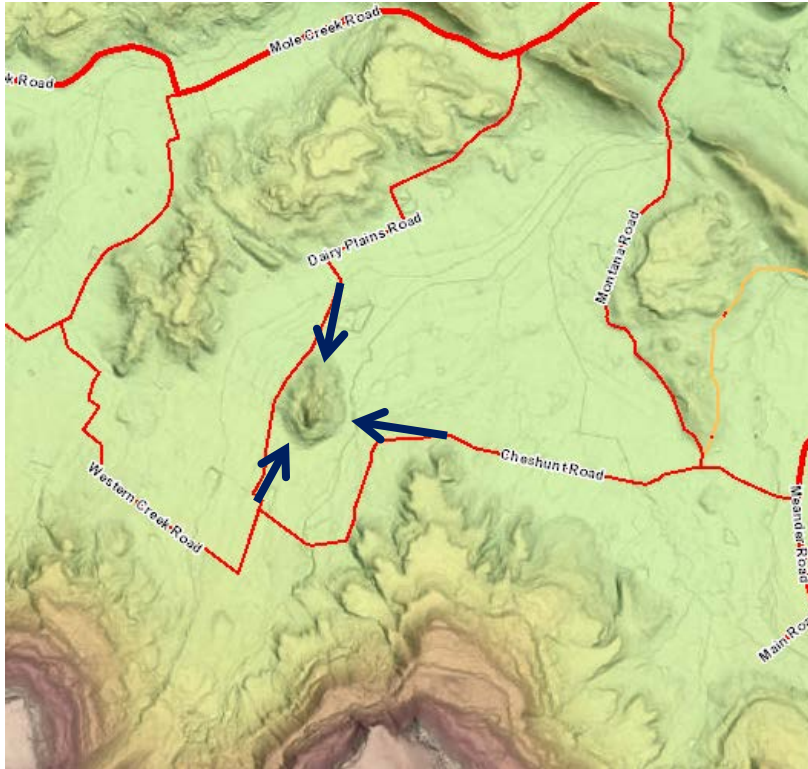


Tenure: Private land

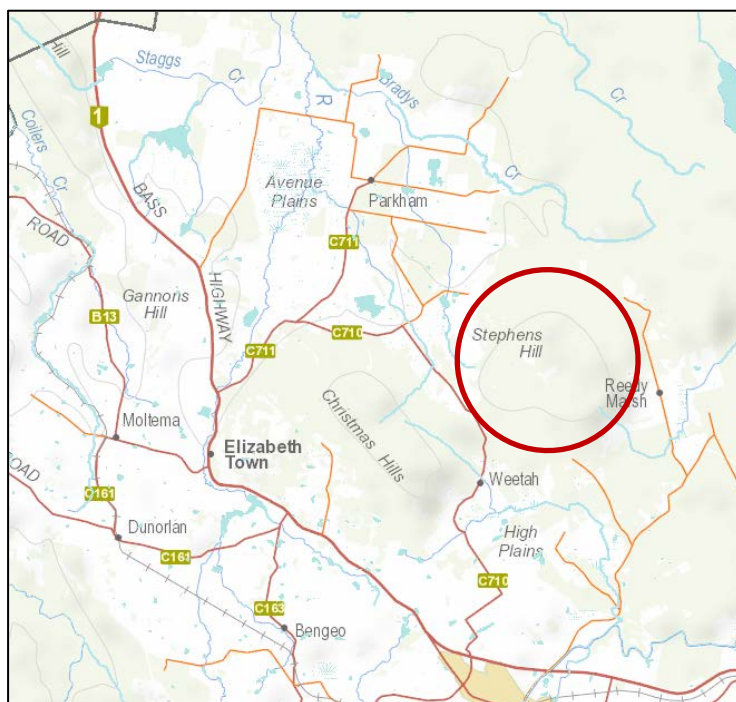
Zoning: Agriculture Zone

Use: Agriculture, forestry (PTR)

Development Potential:
Forestry
Residential, visitor accommodation



19. Stephens Hill – Reedy Marsh



Tenure: State Reserve – Reedy Marsh Conservation Area & FPPFL

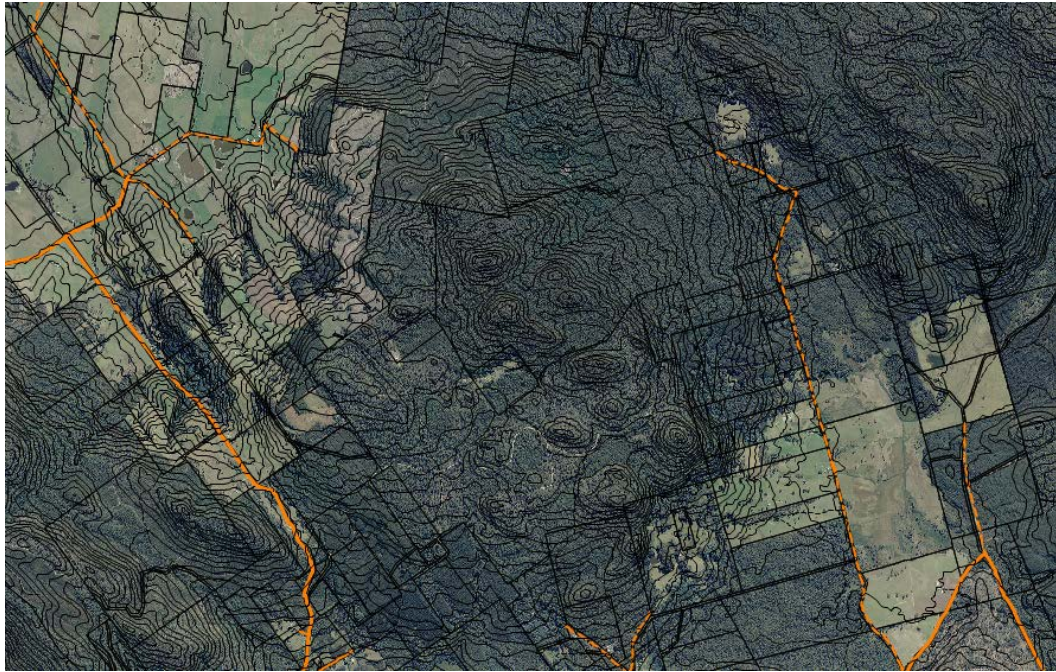
Zoning: Rural Zone & Environmental Management Zone

Use: Natural values management

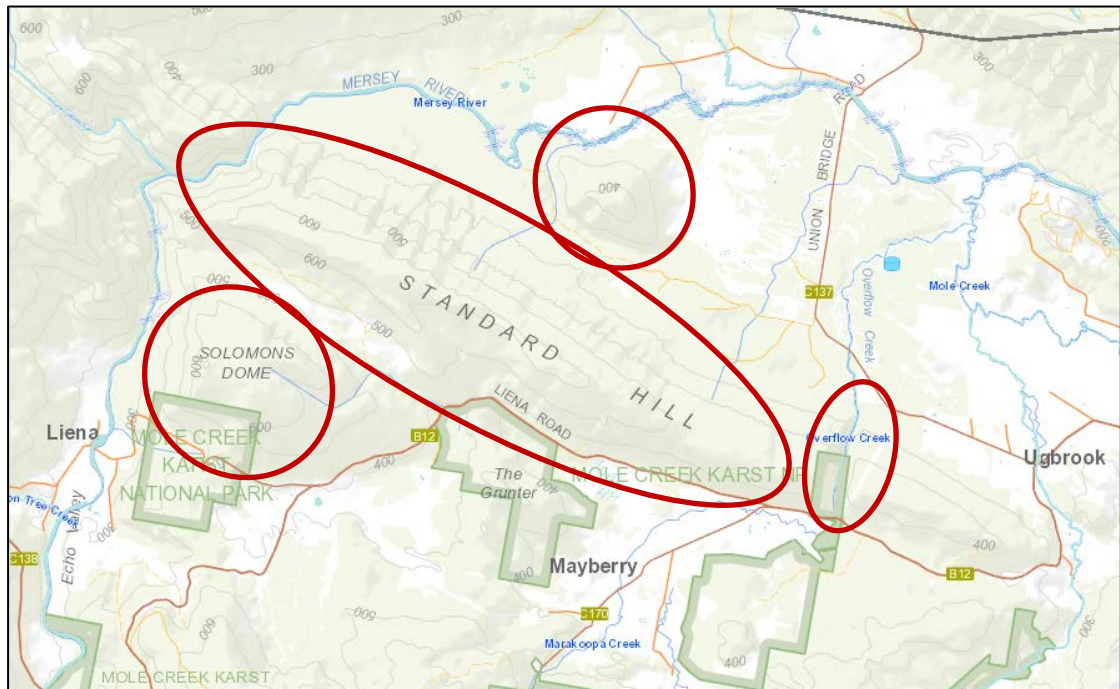
Development Potential:

Natural values management, recreation





20. Standard Hill – Liena, Dogs Head Hill, Solomon's Dome and Sensation Gorge



Tenure: State Reserve – Dogs Head Hill Regional Reserve (includes Standard Hill), Sensation Gorge Conservation Area, Mole Creek National Park & FPPFL (Solomons Dome)

Zoning: Environmental Management Zone

Use: Natural values management, recreation

Development Potential:

Natural values management, recreation

