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25 November 2020

Executive Commissioner
Tasmanian Planning Commission

Email to: tpc@planning.gov.au

Attention: Mr John Ramsay, Chair, Delegated Assessment Panel

Dear Sir

GLAMORGAN SPRING BAY LOCAL PROVISIONS SCHEDULE

Response to Directions

Please see the following response to the directions request issued by the Chair of the Delegated Assessment Panel dated 17 November 2020.

If you wish to discuss this response, please contact me, on 0418 597 997 or by return email.

Yours sincerely

Mick Purves

Senior Planning Consultant

Response to 17 November directions

The following response is provided to the Commission directions, issued on 17 November, concerning additional information provided by representors. Documentation was obtained from the Iplan website, per advice contained in advice from the Commission.

Cape Herbert, Rep 13 (Jason Whitehead)

Mr Whitehead provided additional reports and submissions in response to the 35F report of Council, comprising an agricultural assessment by Pinion and a response to relevant decision criteria prepared by Mr Whitehead.

The Agricultural Assessment was prepared by Mr Jason Lynch of Pinion Advisory. Mr Lynch provides detailed arguments that the use and nature of the property is best suited to the Rural zone. Key points include:

- The discretionary status provided to the Research and Development use class under the Agriculture zoning is expected to constrain the scope and breadth of activities within existing UTAS MOU through loss of the permitted status under the Rural zone.
- The land holding has soils within the classifications of 4, 4+5, 5, 5+6, 6 and 7 agricultural land, with soils subject to erosion and other limitations that constrain agricultural use;
- Irrigation is available to the land, however it is unlikely that the return on investment and limited water harvesting that would result would be economically viable for pastoral or cropping activities, noting that the natural values of the catchments are likely to establish additional limitations on water harvesting;
- The ability to establish a wider range of diversified uses for the property should be retained,
- The property is subject to significant biodiversity values that impact approximately 46% of the property and require management through a range of regulatory regimes that are not readily recognised through the SPP Agriculture zone, but support use of the SPP Rural zone

Mr Lynch provides expert evidence that the Agriculture zone is not appropriate for the Oakhampton property. Review against the guidelines identified Mr Lynch's arguments are consistent with AZ6 (c) and (e)(ii) and (iii), which allows consideration of alternatives to the Agriculture zone.

Further, Mr Lynch provides substantive expert arguments that demonstrate the intent of the Rural zone is more appropriate to the sustainable long term management of the property. Review against the Guidelines identifies that these arguments are consistent with Guideline RZ3 (b) and (e); most specifically that the SPP Agriculture zone does not allow consideration of the complex biodiversity values of the site.

This questions the ability of the Agriculture zone to comply with the objectives of the RMPS and planning system in this location, specifically Part 1 objectives 1 a, b and e; 2 a, b, and c, and Part 2 objectives c, d, g and i.

Mr Whitehead's submissions built on those provided by Mr Lynch. In particular:

- 50% of the property is not suited to commercial agricultural pursuits, through biodiversity, threatened species, aboriginal heritage, likely natural hazards, unsuitable land capability/topography (refer Figure 9 for an illustrated example of constrained areas)...

- The suitability for agriculture is fragmented over the entire holding;
- Water availability is limited to ephemeral surface waters, with the bore having been assessed as too salty for irrigation purposes;
- The range of uses within the Rural zone is better suited to the diverse activities required to support the property into the future.

Alternative zoning options for the property are Rural and Landscape Conservation for areas with significant biodiversity values. It is not clear that the boundaries of the Landscape Conservation zone can be readily defined under the requirements of section 2.4 of Practice Note 7. As a result, it is not considered possible to define the boundaries for use of the Landscape Conservation zone on the available information.

Accordingly, it is considered appropriate to support the Rural zone for the property.

Recommendation:

- That the further submissions by Jason Whitehead and Pinion Advisory have merit; and
- That the Oakhampton property should be zoned rural.

Adam Greenhill, representation 15

Mr Greenhill provided a land capability assessment by Jason Lynch of Pinion Advisory for the Gala and Glen Gala properties. This assessment concluded that the subject lands have severely limited agricultural capacity and are not consistent with the purpose and intent of the Agricultural zone. Mr Lynch concludes that the subject properties are consistent with the Rural zone of the SPP's. Mr Lynch noted that the subject lands are similar in nature to other lands that were included within the Rural zone of the SPP's.

Review of Mr Lynch's report identified the following:

- Land class 5se comprises approximately 8 ha of the holding
- Land class 6se comprises approximately 775 ha of the holding
- Irrigation is limited to 8 ha under the Swan Valley Irrigation District, due to prohibitions on the use of water from this system for class 6 land;
- Investment in other irrigation sources for the property is not a reasonable proposition based on the limited capacity of the holding;
- Further investment in productivity improvements is an unreasonable proposition, based on the limited capacity of the holding;
- Available information suggests that the land has never been put to agricultural uses since the mid 1800's; and
- The response to guidelines RZ1, RZ2, RZ3 and AZ6 is supported.

Mr Lynch provides expert evidence that the Agriculture zone is not appropriate for the Gala and Glen Gala properties. Review against the guidelines identified Mr Lynch's arguments are consistent with AZ6 (c) and (e)(ii) and (iii), which allows consideration of alternatives to the Agriculture zone.

As a result of Mr Lynch's submissions, it is considered that the holding is not suitable for the Agricultural zone and should be zoned Rural.

Recommendation:

- That the further submissions by Pinion Advisory have merit; and
- That the subject properties should be zoned rural.

JMG for Wallaroo, representation 23

The representor engaged JMG to progress their concerns on application of the Agriculture zone to their property at 17010 Tasman Highway, Bicheno.

JMG confirmed the intent of the representor, provided technical arguments in support of this position and submitted an additional five titles that should be submitted for the rural zone.

JMG provided a land capability assessment by Jason Barnes of Pinion Advisory for 17010 Tasman Highway property. This assessment concluded that the subject property has severely limited agricultural capacity and supports a range of activities aside from agriculture that are significant to the region and rural operations within the area and as such, the existing activities on the property and land is not consistent with the purpose and intent of the Agricultural zone. Mr Barnes concludes that the subject properties are consistent with the Rural zone of the SPP's.

Review of Mr Lynch's report identified the following:

- Land class 4s comprises approximately 217 ha of the holding;
- Land class 5se and 5s comprises approximately 88 ha of the holding;
- Land class 6se and 6s comprises approximately 744 ha of the holding;
- Land class 6se comprises approximately 775 ha of the holding;
- Land class 6-7r comprises approximately 5.4 ha of the holding;
- Irrigation is available to the land from the Apsley River and while application has been made for a 54ML dam, current and future agricultural use is limited by the cost prohibitive nature of such infrastructure;
- Cropping, pastoral and horticultural activities appear to be subject to respective limitations and risks that limit investment in improvements to increase outputs and sustainability;
- The property supports significant primary industry activities (quarrying and distribution).

Mr Barnes provides expert evidence that the Agriculture zone is not appropriate for the range of activities that occur on the holdings and the nature of the soils. Review against the guidelines identified Mr Barnes arguments are consistent with AZ6 (c) and (e)(ii) and (iii), which allows consideration of alternatives to the Agriculture zone.

As a result of Mr Barnes' submissions, it is considered that the holding is not suitable for the Agricultural zone and should be zoned Rural.

Recommendation:

- That the further submissions by JMG Pinion Advisory have merit; and
- That 17010 Tasman Highway, Bicheno should be zoned rural; and
- That the additional titles, CT's 201034/1, 207554/1, 205250/1, 202452/1 and 205248/1 should be zoned rural.

JMG for Wallaroo Contracting, representation 13

Wallaroo Contracting engaged JMG to provide submissions to progress their concerns on application of the Landscape Conservation zone to their property at Coles Bay Road, Coles Bay.

JMG confirmed the intent of the representor, provided a natural values report and technical arguments in support of this position and submitted suggested boundaries for the split between the Rural and Landscape Conservation zones.

JMG provided a Natural Values Report by Scott Livingston of Livingston Natural Resources Services for the property. This assessment concluded that the subject property has natural values that will require assessment under the Priority Vegetation overlay of both the current Interim Scheme and proposed LPS.

Council's response in the 35F report was to support the idea of a split zoning over this property without identifying zoning boundaries as it was expected to be worked out through the hearing process. The JMG submissions progress this discussion.

It is noted that the LPS zoning in the area is somewhat unusual, in that the subject title provides for the Landscape Conservation zone to project into the adjoining Rural zone areas, as shown in Figure 1.



Figure 1 - LPS zoning extract

Supporting documents identify that the key reason for use of the Landscape Conservation zone was associated with the broader landscape area. It is noted that the immediately adjoining properties to the north and south adjoining Coles Bay Road are zoned Rural.

The JMG submissions provide an alternative and equally compelling argument for interpretation of the Guidelines for the subject property.

Unlike the JGM submission, the spot zoning the mining lease rural while leaving the balance of the property zoned Landscape Conservation is not supported. In part, this is due to the reasons identified in the Burnie decision regarding the temporary nature of mining leases.

It is preferred that the Rural zoning continue along Coles Bay Road and is then cut in around the current and proposed mining leases. Two alternatives are provided for consideration in Figure 2, as shown by the red and green lines. Land between Coles Bay Road and the red line is approximately 29 ha, while the green line represents approximately 32 ha. Both options are understood to be able to comply with the requirements of Practice Note 7, for establishing split zones over a property, in that they are located by reference to surveyed and enduring features.

It is noted that the red line provides for better management of the low ridge and peak east of the existing and proposed mining lease.



Figure 2 - suggested zoning boundaries

This recommendation represents a refinement of the decision provided in the section 35F report by Council, which was to consider a split zoning on the subject property.

Recommendation:

- That the further submissions by JMG have merit; and
- That the split zoning of the property should be pursued through the hearings to negotiate a mutually acceptable zoning boundary.

Rod Hancl for Browning, rep 50

The representors engaged Mr Rod Hancl of Agronomy Dynamics to progress their concerns on application of the Agriculture zone to their property at 13593 Tasman Highway, Swansea.

Mr Hancl provided a land capability assessment for the property. Review of Mr Hancl's report identified the following:

- Land classes on the property comprise 5g, 5gf, and 6g (refer 6.5.1);
- Land class 5 was subject to limitations for gravel and flooding;

This assessment concluded that the subject property has severely constraints to its agricultural capacity.

Hancl also provided a further report on the viticultural potential of the class 5 lands on the property. This report concluded that there is 1-2 ha of land on the property that is potentially suitable to establish viticulture, but noted that success would rely upon careful planning and high capital inputs.

Discussions with Hancl identified that the nature of this activity would be considered a high risk venture, given the required knowledge and financial investments required to support establishment. Those discussions also identified that agricultural activities on the site are expected to be a lifestyle operation, rather than a commercial horticultural activity.

Mr Hancl identifies that the agricultural activities that the property currently and can likely sustain into the future is not consistent with the purpose and intent of the SPP Agricultural zone, but is consistent with the SPP Rural zone.

Mr Hancl provides expert evidence that the Agriculture zone is not appropriate for the range of activities that occur on the holdings and the nature of the soils. Review of Mr Hancl's submissions identifies that it complies with guideline AZ6 (c) and (e)(ii) and (iii) and can be considered for an alternative zoning. Review of guideline RZ3(b) identifies that the property complies with the tests for application of the Rural zone.

As a result of Mr Hancl's submissions, it is considered that the holding is not suitable for the Agricultural zone and should be zoned Rural.

Recommendation:

- The further submissions by Mr Rod Hancl of Agronomy Dynamics have merit; and
- That 13,593 Tasman Highway, Swansea should be zoned rural.