

Our Ref: 22.030

Measured form and function

21 March 2022

Mr Gerald Monson
 General Manager
 Latrobe Council
 By email: submissions@latrobe.tas.gov.au

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Dear Gerald,

REPRESENTATION TO THE DRAFT LATROBE LOCAL PROVISIONS SCHEDULE

6ty° Pty Ltd has been engaged by MD and JM Perkins to prepare a representation to the draft Latrobe Local Provisions Schedule ("LPS") in accordance with section 35E(1) of the *Land Use Planning and Approvals Act 1993* (the LUPA Act).

This representation is guided by section 35E(3)(b) of the Act. To this effect, it is submitted that the LPS should zone land identified by Certificate of Title Volume 154502 Folio 1 ("the site") to Rural instead of Agriculture in the LPS, excluding the portion of the site that is zoned General Residential¹.

Summary of the Site

The site comprises a single lot that has an area of 33.61ha. It is dissected by the southern end of Hamilton Street and Shale Road which run in a general north to south alignment (refer to Figure 1).

Figure 1 - aerial image of the site within the context of its surrounding area.



¹ This is dealt with in a separate submission to the LPS.

The western boundary of the site follows the bank of the Mersey River. The western half of the site is dissected by a lot that was previously a reserved road which is now under the same ownership as the site. The eastern half of the site is dissected by a reserved road which extends from Shale Road in an easterly direction.

The eastern half of the site comprises a dairy and associated buildings within a reasonably well defined curtilage. The remaining area of the site comprises improved pasture which is used to support the stud and dairy farm.

Apart from a ~2106m² area of the north-eastern corner of the western half of the site, which is zoned General Residential, the site is zoned Rural in accordance with the provisions of the *Latrobe Interim Planning Scheme 2013*.

Purpose of Submission

The purpose of this submission is to provide information detailing the future intentions of the land owners of the site and preliminary information to support the application of the Rural zone to the site instead of the Agriculture zone.

In this regard, the owners of the land intend to undertake the following tasks which relate to use and development of their land:

1. a development application has been submitted with Council to subdivide the portion of the site that is currently zoned General Residential into three (3) lots;
2. due to aging infrastructure, effluent and odour issues and proximity of residential land to the existing dairy, it is proposed to relocate the site of the dairy to a different location within the farm and to construct a new contemporary dairy facility;
3. it is intended to undertake the necessary investigation and studies to support rezoning the northern end of the western half of the site to General Residential (refer to Figure 2).

Figure 2 - indicative area of the site that will be investigated for rezoning to General Residential to support future residential growth.



Preliminary factors which appear to support the potential rezoning of the part of the site identified in Figure 2 are:

1. The application of the Agriculture zone to the site and adjoining and adjacent land to the south, east and west appears to be based on Guideline AZ 1².

However, whilst the land is identified as Land Potentially Suitable for Agriculture Zone (potentially unconstrained), there does not appear to be any other analysis to inform the application of the Agriculture zone.

Based on a preliminary analysis, the land that is zoned General Residential is identified as Class 4 and 5 Agricultural Land³. Class 4 Agricultural Land is land well suited to grazing but which is limited to occasional cropping or a very restricted range of crops and Class 5 Agricultural Land is identified as land unsuited to cropping and with slight to moderate limitations to pastoral use.

Furthermore, based on the Enterprise Suitability Clusters⁴ the site should be identified as being Potentially Constrained Land (criteria 2B) rather than being identified as Potentially Unconstrained Agricultural Land.

In this regard, the title which the site is comprised within has an area of less than 40ha which is required by Criteria 1 of Figure 4⁵ for an ES3 Cluster (Irrigated Pasture - Dairy).

Based on Figure 4, the site should be categorised into Criteria 2B on the basis that it has a capital value of \$8,665/ha⁶ and the title adjoins other titles with the same or similar capital value per ha.

On this basis, the application of the Agriculture zone under Guideline AZ 1 is considered to be misguided if it was applied on the basis that the site is identified as Potentially Unconstrained Agricultural Land.

In addition, the site adjoins and is adjacent to residential zoned land which contains established residential use and development. The site is therefore considered to be potentially constrained by adjoining and adjacent residential use and development.

On this basis, the land is considered to be potentially constrained due to limitations of the land, size of the title and proximity to established residential land.

2. It is intended to relocate the site of the dairy to a different part of the farm which will result increase the separation distance between the proposed residential land and the dairy and therefore minimise potential land use conflict between the attenuating activity and sensitive use.

² Section 8A Guideline No.1 - Local Provisions Schedule (LPS): zone and code application (version 2.0), June 2018 (Page 16).

³ According to the data published on the LIST which has been field checked.

⁴ Table 2 of the Agricultural Land Mapping Project Background Report May 2017 (Page 9).

⁵ Figure 4 of Agricultural Land Mapping Project Background Report May 2017 (Page 19).

⁶ In accordance with the Capital Value of the Property Report with inspection date 08/02/2018.

3. The removal of this area of the site from the farm will not compromise the viability of the farming operation. In this regard, the farm comprises several titles which cover an area of approximately 219ha. The existing water rights which apply to the land are equivalent to irrigating approximately 141ha or 64% of the farm. The area of land that is proposed to be rezoned is approximately 3.89ha or 1.7% of the total farming area. Accordingly, the proposed rezoning will not reduce the amount of land below the level of land that is equivalent to the existing water rights.
4. The land is capable of being serviced by reticulated water, sewer and stormwater infrastructure⁷;
5. The land appears to have been earmarked for residential expansion due to the extension of Bradshaw Street to the boundary of the land.

In summary, it is contended that the site should be rezoned Rural instead of Agriculture under the LPS on the basis that the site appears to be potentially constrained. Zoning the land to Rural under the LPS will not preclude the ability to continue to use the land for Resource Development uses.

Furthermore, any attenuating activities would be subject to the applicable standards of the Attenuation Code of the Tasmanian Planning Scheme irrespective of the underlying zone of the land.

Please do not hesitate to contact me should you require any further information or wish to discuss any of the matters raised above.

Yours faithfully
6ty° Pty Ltd



George Walker
Director/Planning Consultant

⁷ The site and adjoining land to the east is identified as Water and Sewer Serviced Land in accordance with the TasWater mapping data published on the LIST.

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6ty° Pty Ltd has been engaged by MD and JM Perkins to prepare a representation to the draft Latrobe Local Provisions Schedule (“LPS”) in accordance with section 35E(1) of the *Land Use Planning and Approvals Act 1993* (the LUPA Act).

This representation is guided by section 35E(3)(b) of the Act. To this effect, it is submitted that the LPS should retain the portion of land identified by Certificate of Title Volume 154502 Folio 1 (“the site”) within the General Residential zone instead of assigning it to the Agriculture zone in the LPS.

Summary of the Site

The site comprises a single lot that has an area of 33.61ha. It is dissected by the southern end of Hamilton Street and Shale Road which run in a general north to south alignment (refer to Figure 1).

Figure 1 - aerial image of the site within the context of its surrounding area.



The western boundary of the site follows the bank of the Mersey River. The western half of the site is dissected by a lot that was previously a reserved road which is now under the same ownership as the site. The eastern half of the site is dissected by a reserved road which extends from Shale Road in an easterly direction.

The eastern half of the site comprises a dairy and associated buildings within a reasonably well defined curtilage. The remaining area of the site comprises improved pasture which is used to support the stud and dairy farm.

Apart from a ~2106m² area of the north-eastern corner of the western half of the site, which is zoned General Residential, the site is zoned Rural in accordance with the provisions of the *Latrobe Interim Planning Scheme 2013*.

This submission relates to the area of the site that is zoned General Residential (refer to Figure 2).

Figure 2 - aerial image identifying the area of the site that is subject to the General Residential zone.



Strategic Rationale

Table 3.2.1(b) of Council's Supporting Report¹ recommends that the area of the site that is subject to the General Residential zone be rezoned to Agriculture under the LPS on the basis that the site is split zoned and the land that is zoned General Residential is used for grazing purposes and therefore satisfies Guideline AZ 1.²

¹ Latrobe Draft LPS Supporting Report - January 2022 (Page 76).

² Section 8A Guideline No.1 - Local Provisions Schedule (LPS): zone and code application (version 2.0), June 2018 (Page 16).

It is contended that the area of the site that is zoned General Residential should be retained under the LPS on the following grounds:

1. An application to subdivide the area of General Residential Zoned land into three (3) lots was submitted on 15 March 2022 (Plan of Subdivision enclosed). It is submitted that the application for subdivision is approvable, and should be approved under the applicable standards of the *Latrobe Interim Planning Scheme 2013*, for the following reasons:
 - a. Each proposed lot will have an area greater than 330m² and is capable of containing a 10m by 15m building area that:
 - i. satisfies applicable setbacks for frontage, side and rear boundaries;
 - ii. is unlikely to contribute to an increase of constraint and interference to the function of the adjoining Rural zoned land above that created by the presence of the established residential use that is proximate to the Rural zoned land;
 - iii. is clear of registered easements, rights of carriageway and restrictions imposed by a utility;
 - iv. has direct frontage to a road; and
 - b. Each proposed lot will have a long-axis that predominately faces north;
 - c. Each proposed lot will be provided with a frontage greater than 3.6m in width that does not include an access strip;
 - d. Each proposed lot is capable of connecting to a reticulated water, sewer and stormwater system; and
 - e. Each proposed lot is intended for residential use.

It is anticipated that the proposed subdivision would be approved prior to the LPS coming into effect. In this instance the LPS would change the zone of each of the proposed new lots to a degree that would significantly alter the pathway for future residential use and development on each lot.

2. The subdivision application has been made under the auspices of the owners of Calthorpe Stud Farm Pty Ltd. They have determined that removing the land that is zoned General Residential from the farm will not compromise the viability of their existing farming operation.
3. With respect to Guideline AZ 1, it appears that the guideline has not been applied in totality. In this regard, whilst the land is identified as Land Potentially Suitable for Agriculture Zone (potentially unconstrained), there does not appear to be any other analysis to inform the application of the Agriculture zone.

Based on a preliminary analysis, the land that is zoned General Residential is identified as Class 5 Agricultural Land³. Class 5 Agricultural Land is identified as land unsuited to cropping and with slight to moderate limitations to pastoral use.

Additionally, the land is located between developed General Residential zoned land to the north and a smaller lot (2404m²) that contains a dwelling to the south and is therefore considered to be potentially constrained by adjoining and adjacent residential use and development.

Furthermore, based on the Enterprise Suitability Clusters⁴ the site should be identified as being Potentially Constrained Land (criteria 2B) rather than being identified as Potentially Unconstrained Agricultural Land.

In this regard, the title which the site is comprised within has an area of less than 40ha which is required by Criteria 1 of Figure 4⁵ for an ES3 Cluster (Irrigated Pasture - Dairy).

Based on Figure 4, the site should be categorised into Criteria 2B on the basis that it has a capital value of \$8,665/ha⁶ and the title adjoins other titles with the same or similar capital value per ha.

On this basis, the application of the Agriculture zone under Guideline AZ 1 is considered to be misguided if it was applied on the basis that the site is identified as Potentially Unconstrained Agricultural Land.

In summary, it is contended that the area of land within the site that is zoned General Residential should be retained within the General Residential zone under the LPS.

Please do not hesitate to contact me should you require any further information or wish to discuss any of the matters raised above.

Yours faithfully
6ty° Pty Ltd



George Walker
Director/Planning Consultant

³ According to the data published on the LIST which has been field checked.

⁴ Table 2 of the Agricultural Land Mapping Project Background Report May 2017 (Page 9).

⁵ Figure 4 of Agricultural Land Mapping Project Background Report May 2017 (Page 19).

⁶ In accordance with the Capital Value of the Property Report with inspection date 08/02/2018.

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DATE	ISSUED FOR	NO.
01	18/03/22	PRELIMINARY FEEDBACK



DIMENSIONS AND LEVELS DO NOT SCALE. CHECK AND VERIFY ALL DIMENSIONS AND LEVELS. ALL WORK SHALL BE CONDUCTED IN ACCORDANCE WITH A LOCAL AUTHORITY REQUIREMENTS.

PROJECT: REZONING AND SUBDIVISION
AS: 214 SHALE ROAD
TYPE: LATTROBE
DESIGNER: M. PERKINS
DATE: 1/2/20

PROPOSAL PLAN
 DRAWN BY: G.A.W. DATE: 03/03/22 CHECKED BY: M.C.V.
 SCALE: 1:200 DATE: 1/2/20

PROJECT NO. 22.030 DRAWING NO. Cp01 -



PLEASE NOTE

- INTENDED USE OF PLAN**
 THIS PLAN WAS PREPARED TO ACCOMPANY A DEVELOPMENT APPLICATION TO COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. DETAILS ARE SUBJECT TO CHANGE AND IN PARTICULAR NO RELIANCE SHOULD BE PLACED ON THE INFORMATION ON THIS PLAN FOR ANY FINANCIAL DEALINGS INVOLVING THIS LAND.
- LAYOUT MEASUREMENTS**
 ALL MEASUREMENTS, AREAS AND LOTS SHOWN ARE INDICATIVE ONLY AND SUBJECT TO CHANGE DUE TO FINAL FIELD SURVEY, DETAILED DESIGN AND CONSTRUCTION.
- SERVICES**
 ALL SERVICES SHOWN ARE APPROXIMATE ONLY. NO GUARANTEE CAN BE GIVEN THAT ALL RELEVANT SERVICES ARE SHOWN.
- DETAILED DESIGN APPROVALS**
 ROAD, DRIVEWAYS, FOOTPATHS, SEWER, STORMWATER, WATER AND LANDSCAPING SHOWN IS PRELIMINARY ONLY AND SUBJECT TO CHANGE. ALL CHANGES DURING DETAILED DESIGN AND CONSTRUCTION ARE SUBJECT TO THE APPROVALS OF THE RELEVANT SERVICE AUTHORITIES.

THIS NOTE IS AN INTEGRAL PART OF THIS PLAN