

TASMANIAN PLANNING COMMISSION



DECISION

LPS Waratah-Wynyard

Date of decision 6 February 2023

Under section 35K(1)(a) of *Land Use Planning and Approvals Act 1993* (the Act), the Commission directs the planning authority to modify the draft LPS in accordance with the notice at Attachment 2.

When the directed modifications have been undertaken under section 35K(2), the Commission is satisfied that the LPS meets the LPS criteria and is in order for approval under section 35L(1).

Ann Cunningham
Delegate (Chair)

Dan Ford
Delegate

REASONS FOR DECISION

Background

The Waratah-Wynyard Planning Authority (the planning authority) exhibited the Waratah-Wynyard draft LPS (the draft LPS), under section 35D of *Land Use Planning and Approvals Act 1993* (the Act), from 21 March 2022 until 24 May 2022.

On 22 July 2022, the planning authority provided the Commission with a report under section 35F(1) into 24 representations received on the draft LPS-. In addition, one representation, made after the end of the exhibition period, was included by the planning authority in the report under section 35F(2)(b) of the Act. A list of representations is at Attachment 1.

Date and place of hearing

The Commission must hold a hearing in relation to representations to the draft LPS under section 35H of the Act.

The hearing was held at the Waratah-Wynyard Council Chambers, 21 Saunders Street, Wynyard on:

- 18 October 2022;
- 19 October 2022;
- 20 October 2022; and
- 21 October 2022.

Consideration of the draft LPS

1. Under section 35J(1) of the Act the Commission must consider:
 - the planning authority section 35F(1) report and the draft LPS to which it relates;
 - the information obtained at the hearing;
 - whether it is satisfied that the draft LPS meets the LPS criteria under section 34; and
 - whether modifications ought to be made to the draft LPS.
2. Under section 35J(2) of the Act the Commission may also consider whether there are any matters that relate to issues of a technical nature or may be relevant to the implementation of the LPS if the LPS were approved.
3. The draft LPS must meet the LPS criteria and specifies that the draft LPS:
 - (a) must contain all the provisions that the State Planning Provisions (SPPs) specify must be contained in an LPS;
 - (b) is in accordance with section 32 of the Act;
 - (c) furthers the objectives set out in Schedule 1 of the Act;
 - (d) is consistent with each State policy;

- (e) is as far as practicable, consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates;
 - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates;
 - (g) is as far as practicable, consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
 - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.
4. The relevant regional land use strategy is the Cradle Coast Regional Land Use Strategy 2010-2030 (regional strategy).
 5. In addition to the LPS criteria, the Commission has considered Guideline No. 1 – LPS (LPS): zone and code application (Guideline No. 1) issued under section 8A of the Act.
 6. The requirements for making modifications to the draft LPS are set out under section 35K of the Act [section 35K(1)(a) and (b)].
 7. Under section 35KA, the Commission may also direct under section 35K(1)(a) or (b) that a draft LPS be modified to include relevant modifications, which are subsequent planning scheme amendments that have been approved and contain provisions of a kind that may be included in a draft LPS. Relevant modifications may be varied to meet requirements and terminology of the SPPs and will achieve the effect intended by the amendment of the planning scheme.
 8. The Commission may also reject the draft LPS and request that the planning authority prepare a substitute draft LPS [section 35K(c)].
 9. Where the Commission has determined modifications ought to be made, these are set out in a notice under sections 35K(1)(a) of the Act (see Attachment 2).
 10. The decisions on relevant modifications considered under section 35KA of the Act are set out below.

Consideration of subsequent amendments to the Waratah-Wynyard Interim Planning Scheme 2015 under section 35KA

Amendment AM-WAR-PSA-1-2021 – Site Specific Qualification 15275 Bass Highway, Somerset

11. The draft amendment initially proposed to rezone 15275 Bass Highway (folio of the Register 153130/4) and 55 McKays Road, Somerset (folio of the Register 15471/1) from the General Industrial Zone to the Particular Purpose Zone 1 under the Waratah-Wynyard Interim Planning Scheme 2013 (the interim planning scheme).
12. The subsequent decision modified the draft amendment to insert a qualification into the General Industrial Zone's Use Table, limiting the discretionary General Retail and Hire (bottle shop only), Hotel Industry and Visitor Accommodation use classes to the land at 15275 Bass Highway, Somerset. The amendment also introduced buildings and works standards associated with these uses. The decision was made on 11 October 2022 and the amendment came into effect on the 20 October 2022.

Commission consideration

13. The land at 15275 Bass Highway, Somerset is zoned General Industrial Zone in the draft LPS. As in the interim planning scheme, General Retail and Hire, Hotel Industry and Visitor Accommodation are prohibited use classes in the state planning provisions. If incorporated into the LPS under section 35KA as a site-specific qualification, the use qualifications and development standards approved under AM-WAR-PSA-1-2021 would continue to provide equivalent provisions.
14. The Commission finds that a relevant modification should be made to reflect the insertion of the site-specific qualifications and development standards approved under amendment AM-WAR-PSA-1-2021. The amendment is required to be in the format set out in Appendix A – Local Provisions Schedule of the State Planning Provisions.
15. A further consequential change is required in order to apply an overlay identifying the Site-specific Qualifications.

Commission decision

16. Modification:
 - Insert WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 into the draft LPS as set out in Annexure A.
 - Insert overlay map to apply WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 to 15275 Bass Highway, Somerset (folio of the Register 153130/4), as shown below:

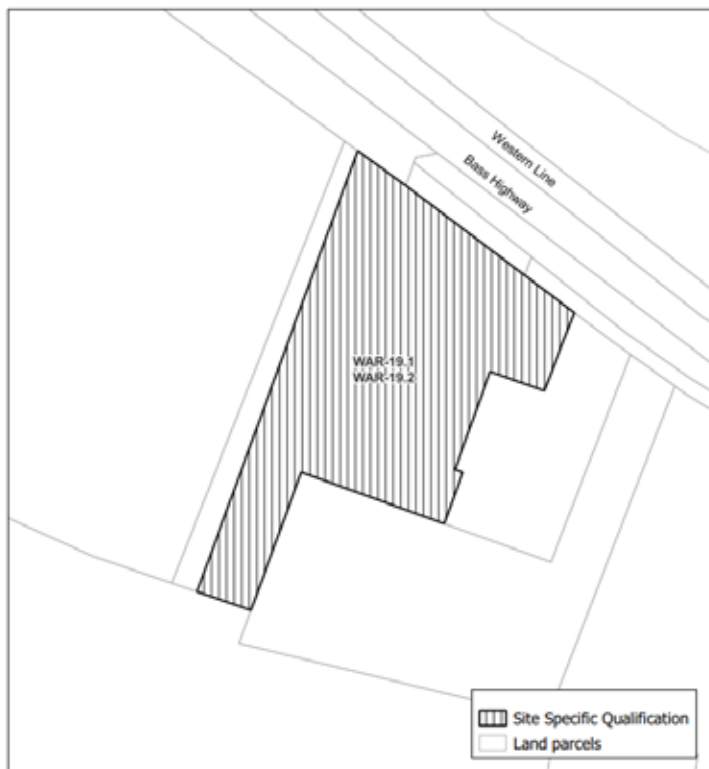


Figure: Overlay map to apply WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 to 15275 Bass Highway, Somerset (folio of the Register 153130/4)

Issues raised in the representations

General Residential Zone Lot 2 Golfs Link Road, Wynyard

Representation: PDA Surveyors for Andrew Richardson and Alistair Carter (9).

17. The representor requested that the land at Lot 2 Golf Links Road, Wynyard (folio of the Register 148923/2) be revised from the Agriculture Zone to the General Residential Zone. The reasons include:
 - while the site is currently zoned Rural Resource under the interim planning scheme, it was not used for primary industry due to reduced land capability;
 - an agricultural assessment undertaken by Pinion Advisory confirmed limitations associated with the land which made the land unfeasible for use as an agricultural enterprise;
 - the land was adjacent to land in the General Residential Zone to the east and land in the Low Density Residential Zone to the west; and
 - the land was able to be fully serviced.
18. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
 - Council's Liveable Waratah-Wynyard Settlement Strategy 2021 (the settlement strategy) was not considered by the representor and therefore GRZ 2 of Guideline No. 1 was not demonstrated;
 - the site was not recommended for urban expansion by the settlement strategy;
 - while it was acknowledged that the land was constrained for agricultural purposes, these constraints would also impact the site's suitability for future residential development and be inconsistent with GRZ 3 of Guideline No. 1;
 - application of LPS zones was primarily undertaken on a like-for-like basis except where strategic work had been undertaken or Guideline No. 1 instructed otherwise. Under this methodology it was appropriate that the site should remain in the Agriculture Zone; and
 - any proposed access to the site would require a traffic impact assessment.
19. The planning authority suggested the requested zoning be submitted as a planning scheme amendment after the LPS had come into effect and following the preparation of any relevant supporting reports.
20. At the hearing, the representor tabled a submission prepared by Mr Andrew Richardson, seeking to provide justification for the inclusion of the land within the General Residential Zone. The representor submitted that the request was consistent with Guideline No. 1 and would act to mitigate health and environmental issues associated with the operation of on-site wastewater systems in wet areas. The submission stated that the location of the land constitutes a logical extension of the Wynyard township and provided an analysis of development potential within Wynyard. The submission was intended to demonstrate how the proposed rezoning was consistent with the settlement strategy. Mr Richardson attended the hearing and spoke to the submission, highlighting failing on-site wastewater management systems within the area. Mr. Richardson also submitted that usual infrastructure associated with the General Residential Zone, such as kerb and gutter, would result in better management of stormwater within the immediate area.

21. The planning authority responded that the settlement strategy did not identify any new areas for inclusion in the General Residential Zone. The planning authority confirmed that a water course passes through the land and that parts of the site are subject to flooding highlighting the need for further investigation into land capability and the feasibility of developing the land for residential purposes. The planning authority confirmed that other information relating to traffic impact and infrastructure provision would also need to be addressed before the proposal could be entertained. For these reasons the planning authority reiterated that the requested rezoning should be considered through the submission of an application for a draft amendment to the LPS.

Commission consideration

22. The Commission agrees with the planning authority in that inclusion of the land within the General Residential Zone is inconsistent with the settlement strategy. The settlement strategy does not identify a need for additional General Residential Zoned land in Wynyard. The Commission notes that the representation refers to the ability to service the land, potentially meeting with GRZ 1 of Guideline No. 1. Advice from TasWater was included with the representation in relation to reticulated sewerage, however, the advice was preliminary in nature and highlights the planning authority's assertion that further evidence is required and should accompany any request to rezone to the land to General Residential Zone.

Commission decision

23. The Commission considers that no modification is required.

Rural Living Zone – 319 Murchison Highway, 339 Murchison Highway and 63 Haywoods Lane, Somerset

Representation: EnviroPlan for Neil Machen and Lynette Machen (8).

24. The representor requested that the land at 319 Murchison Highway, Somerset (folio of the Register 158979/2), and also 63 Haywoods Lane, Somerset (folio of the Register 114109/3) and 339 Murchison Highway, Somerset (folio of the Register 158979/1), be revised from the Agriculture Zone to the Rural Living Zone. The reasons include:
- the land has severe limitations, meaning it could not be used for agricultural purposes and was unproductive;
 - there was a maintenance liability associated with increased and unnecessary overheads; and
 - agriculture and horticulture uses were not commercially viable as evidenced in a land capability survey accompanying the representation.
25. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- the representation did not address the settlement strategy;
 - zones had been applied on a like-for-like basis unless otherwise supported by strategic work or Guideline No. 1 suggested otherwise;
 - consistency with RLZ 2 of Guideline No. 1 had not been demonstrated; and
 - the zoning request would be more appropriately submitted as a draft amendment to the LPS.
26. At the hearing, the planning authority stated that a previous draft amendment for the site had been considered. The amendment had been initiated and certified by the planning

authority but ultimately rejected by the Commission. The reasons outlined by the Commission in the decision had in part informed application of the Agriculture Zone to the land. The planning authority stated further that the site had in the past been used for cropping and had access to water for agricultural irrigation. The planning authority considered that there was an adequate supply of Rural Living Zoned land within the municipality and the zoning proposal was not supported by the settlement strategy.

Commission consideration

27. The Commission is not persuaded that the Rural Living Zone should be applied to the land and accepts the position of the planning authority. The representation is not supported by local strategy that would otherwise demonstrate compliance with RLZ 2(a) of Guideline No. 1.
28. The Commission notes the planning authority's assertion that there is an adequate supply of land in the Rural Living Zone within the municipality and that the settlement strategy suggests the current supply of land in the Rural Living Zone will satisfy demand for 10 to 17 years. It is also noted, that the site is clear of vegetation and benefits from a dam which provides a degree of on-site water storage able to support agricultural activity. The Commission is not persuaded that a zone other than the Agriculture Zone ought to apply to the land.

Commission decision

29. The Commission considers that no modification is required.

Rural Living Zone – 122 Deep Creek Road, 73 Oldina Road and 16463 Bass Highway, Wynyard

Representation: PDA Surveyors for Ian Bowers, Des Donohoe and Robert Wilson (14).

30. The representor requested that the land at 122 Deep Creek Road, Wynyard (folio of the Register 106693/1), 73 Oldina Road, Wynyard (folio of the Register 106693/1) and 16463 Bass Highway, Wynyard (folio of the Register 102795/1) be revised from the Rural Zone to the Rural Living Zone A. The reasons include:
 - the application of the Rural Zone was not consistent with the Guideline No. 1 given the land was located within an urban area and located only 1.5km from the Wynyard township;
 - an agricultural assessment prepared for 16463 Bass Highway, Wynyard provided evidence that the site was constrained and opportunities to farm or to carry out productive rural activities were minimal;
 - the application of the Rural Zone to the three titles resulted in land use conflict given the proximity of existing residential development;
 - Council's settlement strategy repeatedly referred to high demand for rural living land; and
 - poor strategic planning had resulted in the creation of an isolated pocket of Rural Zone land, which was fettered and unable to be used for rural purposes.
31. In its section 35F report, the planning authority supported a change of zone for 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard to the Rural Living Zone B. However, it did not support the application of the Rural Living Zone to 16463 Bass Highway, Wynyard.

32. The reason the planning authority supported application of the Rural Living Zone to 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard was due to small lot sizes and limited potential for further subdivision.
33. The reason for not supporting application of the Rural Living Zone to 16463 Bass Highway, Wynyard was due to constraints associated with being located under the Burnie Airport flight path and proximity to the Bass Highway, both of which would result in reduced residential amenity. Despite this the planning authority was satisfied that there was a sufficient supply of land in the Rural Living Zone, which was confirmed by the settlement strategy. The settlement strategy suggested that the current supply of land in the Rural Living Zone would satisfy demand for 10 to 17 years. The planning authority further suggests that there may be merit in revisiting the zoning of 16463 Bass Highway, Wynyard in the future.
34. At the commencement of the hearing, there was discussion regarding the lot sizes of 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard. In particular, the area of 73 Oldina Road, Wynyard was discussed due to the emergence of differing lot areas. The areas of 73 Oldina Road and of 122 Deep Creek Road were confirmed as being 3.8ha and 2.2ha respectively.
35. The Panel acknowledged the representors request for application of the Rural Living Zone A to 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard. In seeking further comment from the planning authority, who had recommended application of the Rural Living Zone B, the planning authority expressed support for application of the Rural Living Zone A to 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard. This was due to site specific constraints, such as slope and access, which would limit future subdivision potential and also ensure consistency with the surrounding zone, which is Rural Living Zone A under the draft LPS.
36. At the hearing, Mr Jason Lynch of Pinion Advisory gave evidence on behalf of the representor. Mr Lynch advised that as 16463 Bass Highway, Wynyard does not have connectivity to agricultural land it is unusually isolated and would not be able to function at a higher level than that currently. Mr Lynch further stated that direct intake from the water course located on the property boundary was not possible and the construction of an on-site dam would be high risk due to the proximity of residential development and possible dam failure. The site was not considered to be suitable for cropping or perennial horticulture.
37. At the hearing, Mr Robert Wilson, who attended with the representor and is the owner of 16463 Bass Highway, Wynyard gave an account outlining a history of conflict with surrounding neighbours due to agricultural activity being undertaken on 16463 Bass Highway, Wynyard. Mr Wilson attributed the conflict to the management of spray drift, noise, dog predation, livestock management and toxoplasmosis due to the presence of cats. Mr Wilson had in previous years grown poppy crops and submitted that this was now less feasible due to a need to manage spray drift. The land is currently grazed at a lower stocking rate.
38. In response the planning authority referred to the settlement strategy which confirmed that there is a sufficient supply of rural living land. The planning authority ultimately concluded that further investigation was required and that the sought change of zone was best considered as a draft amendment after the LPS comes into effect.

Commission consideration

39. The Commission accepts the planning authority's position in relation to 16463 Bass Highway, Wynyard particularly noting that the settlement strategy identifies that there is an adequate supply of rural living land.

40. The Commission also notes the position of the planning authority in relation 122 Deep Creek Road, Wynyard and 73 Oldina Road, Wynyard. The Commission is persuaded that the Rural Living Zone A ought to apply to both of these properties. Application of the Rural Living Zone results in a minor extension to the existing Rural Living Zone extent and application of sub zone A would result in limited subdivision potential due to site specific constraints.

Commission decision

41. Modification:
- Revise the zoning 122 Deep Creek Rd, Wynyard folio of the Register 106693/1 to Rural Living Zone A.
 - Revise the zoning 73 Oldina Rd, Wynyard folio of the Register 21485/1 to Rural Living Zone A.
42. Reason:
- To apply the Rural Living Zone consistent with Guideline No. 1.

Rural Living Zone – River Road, Wynyard

Representations: Codie Hutchison (3) and Paul and Teresa West (22)

43. Representor 22 requested that land at 66 River Road, Wynyard (folio of the Register 40412/1) be revised from the Rural Zone to Rural Living Zone A. Representor 22 also requested that the following cluster of properties within proximity to 66 River Road, Wynyard be included in the Rural Living Zone A:
- 52 River Road, Wynyard (folio of the Register 229571/1);
 - 62 River Road, Wynyard (folio of the Register 239723/1);
 - 54 River Road, Wynyard (folio of the Register 24330/1);
 - 46 River Road, Wynyard (folio of the Register 101599/3);
 - 42 River Road, Wynyard (folio of the Register 101599/2);
 - 44 River Road, Wynyard (folio of the Register 101599/1);
 - 40 River Road, Wynyard (folio of the Register 83438/1); and
 - the access handle of 48 River Road, Wynyard (folio of the Register 245434/1) which created a split zone with the Rural Zone.
44. The reasons include:
- the land collectively exhibited a rural living character;
 - reticulated water and residential waste collection services were provided to the properties;
 - River Road was located close to the Wynyard town centre; and
 - the land collectively bore a similarity to land located at Peck Road, Flowerdale which was zoned Rural Living Zone A in the draft LPS.
45. Representor 3 raised general concerns relating to the development of the settlement strategy and specifically the identification of River Road as a growth front. Concerns related to the conversion of agricultural land for residential purposes, the process leading up to its adoption and degree of public engagement and consultation that had occurred.

46. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. While the settlement strategy, identified 66 River Road, Wynyard and surrounding land as a future growth front, it also identified that further strategic work was required to be undertaken in the form of a development plan, before a rezoning could be entertained. The planning authority submitted that the Rural Zone would act as a holding zone until further strategic work had been completed, noting that the settlement strategy recommended the application of both the Low Density Residential Zone and the Rural Living Zone to the growth front.
47. A pre-hearing submission was received from representor 22 on the 7 October 2022. The submission included signatures from the owners of those properties identified by the representor as forming the cluster which should be included in the Rural Living Zone A. The owners indicated support for the inclusion of their properties within the Rural Living Zone A.
48. A further submission was tabled by representor 22 at the hearing on the 20 October 2022. The submission reiterated matters raised in the representation and the pre-hearing submission. The submission tabled at the hearing addressed the recommendations raised in the section 35F report arguing that application of the Rural Living Zone did meet the objectives of the settlement strategy and that the River Road growth front is more walkable than other potential development sites. The submission argued that the River Road cluster had an undeniable rural residential character and that no amount of further strategic work would alter this fact. Application of the Rural Living Zone would ensure that this established character was protected as it was valued by the residents of River Road. The submission explored the applicability of Guideline No. 1, concluding that application of the Rural Living Zone was not inconsistent with the Guidelines. This point was particularly evidenced by an analysis of lot yield, determining that there was limited subdivision potential, as only one additional lot from the subdivision of 66 River Road under the Rural Living Zone A provisions was possible.
49. The submission highlighted clusters located at Pecks Road, Aldersons Road and Deep Creek Road which were located in the Rural Living Zone and drew attention to similarities between these clusters and the River Road Cluster.
50. At the hearing, representor 22, Mr Paul West, addressed concerns outlined in a submission received from representor 3, Mr Codie Hutchison, in relation to a perceived or actual conflict of interest. The submission from Mr Hutchison expressed concern that Mr West had previously held senior positions in local government enabling him to have an influence in the development of the settlement strategy and specifically how it related to 66 River Road, Wynyard and its inclusion within the growth front.
51. Additionally, Mr Hutchison expressed concern that, as Mr West is a current Commission delegate, the Panel was unable to remain impartial and ought to disallow the further consideration of Mr West's representation.
52. Mr West categorically denied these allegations at the hearing and confirmed that he had notified both the Commission and Council of his intention to make a personal representation. Mr West submitted and that in doing so he had disclosed his interest which in turn would ensure a transparent process with no further influence on the LPS assessment and determination than that afforded to any other representor.
53. The planning authority, in response to Mr West's requested rezoning, submitted that the settlement strategy identified the growth front as a holding area for potential future development and that the Rural Zone was the best fit for this reason.
54. Mr Hutchison was advised that the Panel members did not have a conflict of interest to declare and were subsequently able to consider Mr West's representation. In the following

hearing session, held on the 20 October 2022, the Panel addressed Mr Hutchinson in relation to his submission.

Commission consideration

55. The Commission notes that both representor 22 and the planning authority rely on the settlement strategy to support their respective opposing arguments. In this instance the Commission agrees with the planning authority in that further strategic work is required to be undertaken before the recommendations of the settlement strategy can be fully realised. In particular it is noted that the growth front suggests the use of both the Low Density Residential Zone and the Rural Living Zone. In order to support a higher density, it is appropriate that a development plan be prepared allowing the planning authority to better understand any constraints which may require resolution prior to rezoning. Given this, the Commission agrees that application of the Rural Living Zone at this stage may compromise anticipated outcomes for the growth front and that the retention of the Rural Zone will provide an appropriate mechanism to preserve the current integrity of the growth front until further strategic work can be undertaken.

Commission decision

56. The Commission considers that no modification is required.

General Industrial Zone - Stennings Road, Wynyard

Representation: JDA Planning for Robert Edwards and Cindyanne Edwards (18).

57. The representor requested that land at Stennings Road, Wynyard (folio of the Register 29646/1) be revised from the Rural Zone to the General Industrial Zone. The reasons include:
- the site is contiguous with land in General Industrial Zone;
 - the site is currently used for a commercial/industrial use;
 - the site qualifies for inclusion in the General Industrial Zone based upon objectives of the Tasmanian Economic Development Plan, which were reinforced through the regional land use strategy;
 - the site had no agricultural value, although it was acknowledged that the Rural Zone did not necessarily reflect agricultural potential;
 - the site had been modified in accordance with a planning permit under which the current commercial/industrial use operated. The extent of modification lent itself to inclusion within the General Industrial Zone;
 - a successful economy is dependent upon a sufficient supply of industrial land across the region;
 - the rezoning meets with the Schedule 1 Objectives set out in the Act;
 - the rezoning meets with the regional land use strategy; and
 - the rezoning of land in the draft LPS from General Industrial Zone to Light Industrial Zone around the Burnie Airport was seen as an example of the planning authority not necessarily applying the zones on a like-for-like basis but rather selecting zones to better reflect established uses. The requested modification was similar in principle.
58. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:

- the application of zones in the municipal area were adopted on a like-for-like basis, unless otherwise supported by Council's strategic planning or by Guideline No. 1;
 - the current planning permit, allows for grain and gravel storage. The use was approved as Storage Use within the Rural Resource Zone. Application of the Rural Zone under the draft LPS provides for this use as a Permitted use with qualifications or a Discretionary use with no qualifications;
 - there is a surplus of industrial land within the municipality with multiple vacant sites within the industrial precinct adjacent to the site; and
 - the submission did not make reference to the settlement strategy which stated that an industrial land supply and demand analysis and development activity indicated little demand for more industrial land. Given this, the need to modify the zone to General Industrial Zone had not been demonstrated.
59. At the hearing, the representor could not provide any more specific details about any potential future uses for the site. The planning authority drew the Panels' attention to multiple vacancies within the adjoining industrial precinct and that the Rural Zone allows for the current use to continue unimpeded.
60. A post-hearing direction was issued on the 31 October 2022 requesting that the planning authority provide a copy of the planning permit in relation to the approved grain and gravel storage on the land. The planning authority provided a response on the 15 November 2022.

Commission consideration

61. The Commission notes that the site does not contain any significant infrastructure and that the current use and development appears to be confined to the portion of the site identified on the approved plans.
62. The Commission agrees with the planning authority that the Rural Zone will allow for the current use and development approved under Planning Permit No. DA 25/2019 to continue. The Commission also agrees with the planning authority that the need to zone the land General Industrial has not been demonstrated, particularly given the adequate supply of industrial zoned land within the municipality and the latent development potential in the immediate vicinity of the site.

Commission decision

63. The Commission considers that no modification is required.

Landscape Conservation Zone – Sisters Beach

Representations: Planning 4 Bushfire for Conroy and Others (11) and Planning 4 Bushfire for KAW Training Pty Ltd (16)

64. Representations 11 and 16 by Planning 4 Bushfire sought the following modifications to land located at Sisters Beach:
- 122B Irby Boulevard, Sisters Beach (folio of the Register 34078/1) be revised from a split zone between the Environmental Management Zone and Rural Zone to either the Rural Living Zone applied to the whole of the site or revision of the Rural Zone to the Rural Living Zone and revision of the Environmental Management Zone to the Landscape Conservation Zone, resulting in a maintenance of the exhibited zone boundary;

- 124 Irby Boulevard, Sisters Beach (folio of the Register 111004/1) be revised from a split zone between the Environmental Management Zone and Rural Zone to either the Rural Living Zone applied to the whole of the site or revision of the Rural Zone to the Rural Living Zone and revision of the Environmental Management Zone to the Landscape Conservation Zone, resulting in a maintenance of the exhibited zone boundary; and
 - 50B, 70A, 70B and 70C Irby Boulevard, Sisters Beach (folio of the Registers 142029/2, 63107/3, 63107/2 and 63107/1 respectively) be revised from the Environmental Management Zone to either the Rural Zone or the Landscape Conservation Zone, noting that the land was technically contained within a split zone with the Rural Living Zone and Low Density Residential Zone and that the request proposed retention of the Rural Living Zone and Low Density Residential Zone which applied only to the parcel's access handle from Irby Boulevard.
65. The reasons include:
- the translation of the interim planning scheme Environmental Management Zone to the SPPs Environmental Management Zone no longer remain the best fit zone. The application of the Environmental Management Zone would remove the current rights of property owners and should not be applied to private land;
 - the Natural Assets Code would provide adequate protection of natural values;
 - many lots within the Sisters Beach area contained threatened vegetation and had not been zoned Environmental Management;
 - the Rural Zone portions of land were unable to be used meaningfully for any agricultural purpose; and
 - land use conflict could arise given the proximity of land used for residential purposes and the uses provided for in the Rural Zone's Use Table.
66. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- there was some inconsistency in approach between representations 11 and 16;
 - a higher level of protection was required for the land due to the presence of natural values and environmental hazards;
 - the Landscape Conservation Zone would significantly increase development potential;
 - a like-for-like application of the zone had been undertaken; and
 - application of the Environmental Management Zone was reinforced due to the number of environmental overlays present on the land.
67. Prior to the hearing, a direction was issued on the 15 September 2022 to the representor and the planning authority. In relation to representation 11, the direction requested confirmation from the representor as to which properties were the subject of the representation and whether evidence demonstrating landowner support for alternative zoning could be provided. The direction also required the representor to identify what landscape values were present on that land identified in representation 11. The direction to the planning authority requested advice in relation to the historical application of the Environmental Management Zone to the land and what significant ecological, scientific, cultural or scenic values might be present on the land warranting application of the Environmental Management Zone.

68. The representor provided a response on 1 and 3 October 2022 confirming that the following properties were the subject of the representation:
- 122B Irby Boulevard, Sisters Beach folio of the Register 34078/1;
 - 124 Irby Boulevard, Sisters Beach folio of the Register 111004/1;
 - 70A Irby Boulevard, Sisters Beach folio of the Register 63107/3;
 - 70B Irby Boulevard, Sisters Beach folio of the Register 63107/2;
 - 70C Irby Boulevard, Sisters Beach folio of the Register 63107/1;
 - 50B Irby Boulevard, Sisters Beach folio of the Register 142029/2; and
 - 47 Bridge Street, Sisters Beach folio of the Register 131367/1.
69. The representor provided signatures from the landowners of each of the subject properties indicating support for revision of the Environmental Management Zone to either the Landscape Conservation Zone or the Rural Zone.
70. The representor described present landscape values referring to the presence of *Banksia serrata* which was a threatened native vegetation community. The response also sought to clarify the historical application of the Environmental Management Zone. The response stated that the Environmental Management Zone had been applied upon the implementation of the Waratah-Wynyard Planning Scheme 2000. The representor submitted that the application of the zone was applied at that time due to limited controls able to protect natural values under that scheme.
71. The representor explained that historically visitor accommodation and dwellings had been allowed on the land and in order to continue that use right the interim planning scheme had included use class qualifications for private residential use and visitor accommodation within the Environmental Management Zone.
72. The planning authority provided a response to the direction on 3 October 2022. The response stated that threatened vegetation (*Banksia serrata*) and threatened fauna (Tasmanian azure kingfisher) were present within those properties zoned Environmental Management. Other mapped vegetation included coastal heathland, *Eucalyptus nitida* wet forest, Western wet scrub, *Eucalyptus nitida* dry forest and woodland and *Leptospermum* scrub. The planning authority stated that the land adjoined the Rocky Cape National Park to the west and south. The land therefore had scenic value, forming part of the vegetated hills behind Sisters Beach. The planning authority advised that the Environmental Management Zone was first applied in 2000 under the Waratah-Wynyard Planning Scheme 2000. The response advised further that the Environmental Management Zone was transitioned from the 2000 scheme into the interim planning scheme on a like-for-like basis.
73. At the hearing, the planning authority subsequently reconsidered support for application of the Environmental Management Zone given the origin of the zone and the SPPs which would result in greater restriction upon those affected properties.
74. At the hearing, the representor pointed out that while there were no conservation covenants present on the land, the operation of the Natural Assets Code would limit the form of future development and that no further subdivision could occur as the lots were generally below minimum lot sizes.
75. A post-hearing direction was issued to the planning authority, on 31 October 2022, seeking written evidence that the landowner of 50A Irby Boulevard, Sisters Beach (FR 175911/1) supported application of the Rural Living Zone A to the whole of the site. The planning authority was unable to obtain a response from the landowner.

Commission consideration

76. The Commission has considered evidence presented at the hearing and supports the application of the Landscape Conservation Zone to that land zoned Environmental Management in the draft LPS. Furthermore, the Commission supports the revision of that portion of Rural Zone land at 47 Bridge Street, Sisters Beach to the Landscape Conservation Zone and the inclusion of the whole of 50A Irby Boulevard, Sister Beach within the Rural Living Zone A. This will ensure a congruous zoning pattern, limiting opportunities for land use conflict and will not facilitate any further subdivision potential.
77. The Commission is persuaded that landscape values are of sufficient significance to warrant application of the Landscape Conservation Zone. Those values extend from the adjoining Rocky Cape National Park as the subject land contains similar natural bushland and land form.

Commission decision

78. Modification:
- Revise the zoning of the following properties from the Environmental Management Zone to Landscape Conservation Zone maintaining a split zone with the Rural Living Zone A and the Low Density Residential Zone as shown in the figure below:
 - 70A Irby Boulevard, Sisters Beach folio of the Register 63107/3;
 - 70B Irby Boulevard, Sisters Beach folio of the Register 63107/2;
 - 70C Irby Boulevard, Sisters Beach folio of the Register 63107/1; and
 - 50B Irby Boulevard, Sisters Beach folio of the Register 142029/2.



Figure: Application of the Landscape Conservation Zone to 70A, 70B, 70C and 50B Irby Boulevard, Sisters Beach

79. Revise the zoning of 122B Irby Boulevard, Sisters Beach folio of the Register 34078/1 from the Environmental Management Zone and the Rural Zone so as to be wholly contained within the Landscape Conservation Zone.

80. Revise the zoning of 124 Irby Boulevard, Sisters Beach folio of the Register 111004/1 from the Environmental Management Zone to the Landscape Conservation Zone and the Rural Zone to the Rural Living Zone C maintaining the exhibited zone boundary, as shown in the figure below:



Figure: Application of the Landscape Conservation Zone and Rural Living Zone C to 124 Irby Boulevard, Sisters Beach

81. Revise the zoning of 47 Bridge Street, Sisters Beach, folio of the Register 131367/1 from the Environmental Management Zone and the Rural Zone to the Landscape Conservation Zone maintaining a zone boundary with the exhibited Rural Living Zone A, as shown in the figure below:



Figure: Application of the Landscape Conservation Zone to 47 Bridge Street, Sisters Beach

82. Revise the zoning of 50A Irby Boulevard, Sisters Beach folio of Register 175911/1 from the Rural Living A and Rural Zone so as to be wholly contained within the Rural Living Zone A, as shown in the figure below:



Figure: Application of the Rural Living Zone A to 50A Irby Boulevard, Sisters Beach

83. Reason:
- To apply the Landscape Conservation Zone and Rural Living Zone consistent with Guideline No. 1.

Agriculture Zone – General Issues

Representation: Department of Natural Resources and the Environment (1).

84. Representation 1 referred to the Agriculture Zone stating that the Priority Vegetation Area overlay should apply to this zone, triggering the Natural Assets Code. The representation referred to examples of land zoned Agriculture which contained significant habitat, such as 351 Coopers Lane, Wynyard, folio of the Register 104104/3, which contained a raptor nest and 254 Broomhalls Road, Sisters Creek, folio of the Register 220390/1, upon which a conservation covenant was registered. The representation recommended application of the Environmental Management Zone to these properties and the subsequent application of the Priority Vegetation Area overlay.
85. In the section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- the Agriculture Zone had been applied with a broad brush rather than upon an individual property basis. Such an approach would have resulted in a patchwork effect and lack of consistency;
 - the land at 351 Coopers Lane, Wynyard is primarily cleared for pasture with some remnant native vegetation;
 - the Natural Assets Code does not apply to the Agriculture Zone and was a SPPs matter. As such concerns regarding the operation of the Agriculture Zone could not be considered. The drafting of the LPS had been an exercise in balancing the preservation of agricultural land and environmental protection;
 - threatened vegetation could be protected in other ways, for example through forest practices plans; and
 - forest plantations had not been included in the Priority Vegetation Areas overlay.

Commission consideration

86. The Commission accepts the position of the planning authority and notes that the Priority Vegetation Area overlay does not apply to the Agriculture Zone. This is a SPPs matter that cannot be considered under the LPS process. In relation to the specific sites identified the Commission is satisfied that the Agriculture Zone has been applied in accordance with Guideline No. 1.

Commission decision

87. The Commission considers that no modification is required.

Agriculture Zone – 19 Snares Road, Moorleah

Representation: Mark and Judith Purton (4)

88. The representor requested that the land at 19 Snares Road, Moorleah (folio of the Register 31516/4) and the wider area inclusive of properties fronting Pages Road, Snares Road and Cryans Road be revised from the Rural Zone to the Agriculture Zone. The reasons include:
- a draft amendment to the interim planning scheme in 2017 seeking to rezone land in Moorleah to the Rural Living Zone was rejected by the Commission based upon a need to protect existing resources such as agriculture, forestry and mining;
 - application of the Rural Zone would weaken land use protections that currently exist and which the Commission had previously said should remain;

- a majority of the area was unconstrained and potentially suitable for the Agriculture and therefore the highest protections should be applied.
89. In the section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- The Rural Zone had been applied in accordance with RZ 2 of Guideline No. 1;
 - the land was considered to be potentially constrained;
 - the land was vegetated and the Priority Vegetation Area overlay should apply; and
 - the area is a mix of forestry, mining and agriculture, with agriculture being the least prominent of these uses.
90. A pre-hearing submission was received from the representor on the 14 October 2022. The submission sought to provide a response to the section 35F report. The submission drew attention to potential land use conflict resulting from a large number of uses occurring within a relatively small area. It was the view of the representor that this potential for conflict would be heightened as a consequence of applying the Rural Zone. Application of the Agriculture Zone would instead provide for a higher level of protection thus reducing instances of land use conflict. The submission referred to the current use of 19 Snares Road, Moorleah outlining that the property is used for residential purposes and the operation of a market garden which generates needed income. The submission stated further that a number of surrounding properties were used for small scale agricultural uses and that lot size should not be viewed as an impediment to agricultural productivity. The submission concluded that the prevailing land use for properties located at Snares Road, Pages Road and Cryans Road was agriculture and not residential.
91. At the hearing, the representor Ms Judith Purton drew attention to the importance of the market garden supported at 19 Snares Road, Moorleah which for the last 15 years had produced an income.
92. Ms Purton asserted that the constrained value ascribed to the land in the Land Potentially Suitable for Agriculture Zone mapping was due to the presence of dwellings and that encouraging more dwellings would further undermine agricultural pursuits.
93. The planning authority responded that the Rural Zone had been applied in accordance with Guideline No. 1 as the Rural Zone would support uses associated with mining and forestry.
94. The representor responded, referring to the State Policy on the Protection of Agricultural Land and contended that the application of the Rural Zone was problematic given the land had agricultural values which should be protected through application of the Agriculture Zone.

Commission consideration

95. The Commission accepts the position of the planning authority in that the Rural Zone reflects the range of uses occurring in Moorleah. Land uses such as mining and forestry and mining are more appropriately included within the Rural Zone and this is supported by Guideline No. 1.
96. The Commission notes that Snares Road is shown on the Land Potentially Suitable for Agriculture Zone mapping as potentially constrained (Criteria 2A) and is located within a cluster of land categorised as Criteria 2B. The Commission is satisfied that the Rural Zone has been applied in accordance with Guideline No. 1. The Commission notes further that application of the Rural Zone is not considered to be inconsistent with the State Policy on the

Protection of Agricultural Land as the Rural Zone makes provision for uses such as Resource Development.

Commission decision

97. The Commission considers that no modification is required.

Agriculture Zone – 1 Table Cape Road, Wynyard

Representation: Andrew and Rachel Arnold (12)

98. The representor requested that the draft LPS be revised to include 1 Table Cape Road, Wynyard folio of the Register 200143/1 within the Agriculture Zone. The representation also identified a cluster of land, within which 1 Table Cape Road was located, which should also be included within the Agriculture Zone rather than the Rural Zone as exhibited. All land identified for inclusion in the Agriculture Zone was:

- 1 Table Cape Road, Wynyard (folio of the Register 200143/1);
- 13 Table Cape Road, Wynyard (folios of the Register 130083/4, 130083/3 and 130083/2);
- 21 Table Cape Road, Wynyard (folio of the Register 249062/1);
- Lot 1 River Road, Wynyard (folio of the Register 242116/1);
- 40 River Road, Wynyard (folio of the Register 83438/1);
- 44 River Road, Wynyard (folio of the Register 101599/1);
- 42 River Road, Wynyard (folio of the Register 101599/2);
- 46 River Road, Wynyard (folio of the Register 101599/3);
- 48 River Road, Wynyard (folio of the Register 245434/1);
- 52 River Road, Wynyard (folio of the Register 229571/1);
- 54 River Road, Wynyard (folio of the Register 24330/1);
- 62 River Road, Wynyard (folio of the Register 239723/1);
- 66 River Road, Wynyard (folio of the Register 40412/1);
- 64 River Road, Wynyard (folio of the Register 41357/1); and
- 84 River Road, Wynyard (folio of the Register 122211/1).

99. The reasons include:

- the land currently supports agricultural activity;
- Guideline No. 1 supports application of the Agriculture Zone; and
- the land is unconstrained.

100. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:

- the area is developed in more of a rural living style and does not exhibit those characteristics found within the Agriculture Zone. The focus area within the representation was characterised by dwellings and small lots; and

- the Rural Zone is a better holding zone than the Agriculture Zone given the settlement strategy recommends urban expansion in this area.
101. The Commission received a submission from the representor on the 12 October 2022 which sought to respond to the recommendations of the section 35F report as follows:
- the planning authority has not properly considered decision rules and Council's Strategic Plan both of which provided guidance for application of the Rural and Agriculture Zones;
 - an objection to the settlement strategy as the land identified land was used for farming purposes so should be zoned Agriculture;
 - the settlement strategy was contradictory to Council's Environmental Plan which sought to protect the natural values of the Inglis River;
 - previous development applications have made reference to the agricultural value of River Road;
 - misleading advice was provided by the Council during consultation on the settlement strategy. The advice was that the settlement strategy was not relevant to the draft LPS representation process;
 - inconsistent information had been provided in the section 35F report. The River Road growth front shown in the settlement strategy contained unconstrained land. It is not appropriate to rezone unconstrained land for purposes other than agriculture; and
 - an amendment to the representation was made in relation to which land should be zoned Agriculture. The identified cluster was reduced in size and included River Road, Wynyard (folio of the Register 130083/3), River Road, Wynyard (folio of the Register 130083/2), Lot 1 River Road, Wynyard (folio of the Register 242116/1) and 48 River Road, Wynyard (folio of the Register 245434/1). 1 Table Cape Road, Wynyard was removed from the request to revise the draft LPS.

Commission consideration

102. The Commission accepts the position of the planning authority. Although some agricultural activity may occur within the River Road cluster, it is apparent that due to the location of the land on the periphery of Wynyard, there is a range of uses occurring which makes the Agriculture Zone an incompatible zone. This is reflected in the Land Potentially Suitable for Agriculture Zone mapping available in theLIST. The cluster identified in the representation and amended in the submission, contains land primarily shown as being potentially constrained, being categorised as Criteria 2A, 2B and 3. The application of the Rural Zone is considered to be consistent with Guideline No. 1. Specific concerns relating to the content of the settlement strategy itself, and any consultation leading up to its adoption, is a matter for the Council and not directly relevant to the LPS process.

Commission decision

103. The Commission considers that no modification is required.

Landscape Conservation Zone – Various locations

Representations: Tasmanian Land Conservancy (2), Conservation Landholders Trust (13), Gary and Helen Duhring (20) and Andrew Nichols Redbank Poultry (23)

104. Representor 13 requested that the following sites, upon which conservation covenants are registered, be revised to the Landscape Conservation Zone:

- 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1;
 - 191 Sisters Beach Road, Boat Harbour folio of the Register 107898/1; and
 - 60 Masons Rd, Milabena folio of the Register 36590/1.
105. In relation to 254 Broomhalls Road, Sisters Creek, representor 13 requested that the Landscape Conservation Zone be applied to only to the covenanted portion of the land.
106. The reasons include:
- the properties adjoin public reserves in the Enviromental Management Zone and provided connectivity;
 - the presence of conservation covenants suggest the presence of landscape values; and
 - threatened vegetation communities are located within the properties.
107. Representors 20 and 23 are the landowners of 60 Masons Road, Milabena (folio of the Register 36590/1) and 254 Broomhalls Road, Sisters Creek (folio of the Register 220390/1) respectively and expressed support for representation 13 as it related to their land.
108. Representor 2 requested that land subject to conservation convenants be included in either the Landscape Conservation Zone or the Environmental Management Zone. The reasons for this related to the conservation of land with significant natural values. The representation also did not support reliance upon Regional Ecosystem Model (REM) methodology in the creation of the Priority Vegetation Area overlay.
109. In its section 35F report, the planning authority considered the draft LPS did warrant modification in relation to 254 Broomhalls Road, Sisters Creek. Rather than recommending application of the Landscape Conservation Zone as suggested by representor 13, the planning authority recommended application of the Environmental Management Zone. The planning authority noted that the Natural Assets Code would not apply to 254 Broomhalls Road, Sisters Creek as the land was zoned Agriculture in the draft LPS. The planning authority noted further that the land bore similar characteristics to land in the adjoining Rocky Cape National Park and for this reason should be included in the Environmental Management Zone.
110. In its section 35F report, the planning authority considered the representation did not warrant modification of draft LPS in relation to 191 Sisters Beach Road, Boat Harbour and 60 Masons Road, Milabena. The reasons include:
- the application of the Landscape Conservation Zone should be based upon strategic analysis;
 - conservation covenants in themselves provide protection of natural values; and
 - split zonings should be avoided wherever possible.
111. The Commission issued a pre-hearing direction to representor 13 on the 15 September 2022, requesting evidence of landholder support for application of the Landscape Conservation Zone to 191 Sisters Beach. Representor 13 was unable to provide evidence of landowner support. The representor provided a response to the Commission on the 30 September 2022 which indicated that a zone revision for 191 Sisters Beach Road, Boat Harbour would not be pursued as the owners preference is that the land ought to remain in the Rural Zone.
112. In relation to representation 2, the planning authority submitted:
- no specific properties have been identified for zoning change;

- a review of all covenanted land to determine appropriateness of applying the Landscape Conservation Zone or the Environmental Management Zone would require substantial strategic analysis which is outside the scope of the LPS process; and
 - covenants provide significantly greater protection of natural values than that afforded by either the Landscape Conservation Zone or the Environmental Management Zone that that afforded by either the Landscape Conservation Zone or the Environmental Management Zone.
113. The planning authority noted that the Natural Assets Code and its applicability to the Agriculture Zone is a state planning provisions matter which again is outside the scope of the LPS process.
114. Prior to the hearing, a submission was received from representor 13 on the 27 September 2022 which responded to the section 35F report. The submission can be summarised as follows:
- the planning authority has not followed advice available in the Commission's planners portal with respect to application of the Landscape Conservation Zone;
 - a proposed extension of the Landscape Conservation Zone at 254 Broomhalls Road, Sisters Creek to also include a portion of 152 Broomhalls Road, Sisters Creek folio of the Register 210853/1. The Landscape Conservation Zone was viewed as a compatible zone with adjoining land in the Environmental Management Zone and the inclusion of 152 Broomhalls Road, Sisters Creek was seen to strengthen the case for present landscape values; and
 - a split zone between the Agriculture Zone and Landscape Conservation Zone should be supported at 254 Broomhalls Road, Sisters Creek to facilitate the undertaking of a future boundary adjustment which would rectify an issue relating to the proximity of existing farm building to a boundary.
115. At the hearing, representor 13, Mr John Thompson, acted on behalf of the Gary and Helen Duhring (representation 20) in regards to 60 Masons Road, Milabena. At the hearing Mr Thompson tabled a a Management Agreement and Nature Conservation Plan for the property which appeared to have been prepared by the Department of Primary Industries, Water and Environment. The document contained habitat description and identified significant and threatened species recorded on the site. Mr. Thompson observed that Detention Falls Reserve which adjoins the property to the north and is contained in the Environmental Management Zone.
116. At the hearing, Mr Thompson also acted on behalf of Andrew Nichols, Redbank Poultry (representation 23) in regards to 254 and 152 Broomhalls Road, Sisters Creek which are owned by Mr Nichols. Mr Thompson highlighted the following:
- Rocky Cape National Park adjoins the property to the north. The national park is zoned Environmental Management;
 - there is forested land within those portions proposed to zoned Landscape Conservation;
 - Wedgetail eagle nesting habitat is present within 152 Broomhalls Road, Sisters Creek;
 - at 152 Broomhalls Road, Sisters Creek the covenant covers the forested portion of the site, leaving the remainder of the site available for agriculture; and

- while there may be a future application for a boundary adjustment to incorporate the shed on 254 Broomhalls Road, Sisters Creek into 152 Broomhalls Road, Sisters Creek this was not the primary objective of the representation.

Commission consideration

117. The Commission considers the Environmental Management Zone and Landscape Conservation Zone to be complementary zones providing congruous zoning to particular areas in order to manage use and development within natural areas. It is considered appropriate to apply the Landscape Conservation Zone to both 254 Broomhalls Road, Sisters Creek and 60 Mason Road, Milabena. The Commission also supports application of the Landscape Conservation Zone to the covenanted portion of 254 Broomhalls Road, Sisters Creek only in recognition of the existing agricultural activity being undertaken from that land in the form of a poultry operation.
118. The Commission accepts the evidence of landscape values as submitted by representor 13. It is considered that 254 Broomhalls Road, Sisters Creek and 60 Mason Road, Milabena share characteristics with adjoining reserve land contained in the Environmental Management Zone. Those characteristics relate to natural bushland thereby satisfying LCZ 1 of Guideline No. 1.
119. In relation to 152 Broomhalls Road, Sisters Creek the greater portion of the site is used for agricultural activity and continued application of the Agriculture Zone is considered the better fit. The existing conservation covenant registered on the land will act to protect natural values despite the Natural Assets Code not applying to the site.
120. In relation to 254 Broomhalls Road, Sisters Creek the use of a split zone between the Agriculture Zone and the Landscape Conservation Zone is considered an appropriate mechanism to manage the disparate elements relating to land use. It is appropriate that those portions which devoid of native vegetation and contain farm infrastructure be retained in the Agriculture Zone.
121. The Commission also considers that the Priority Vegetation Area overlay ought to be applied to 254 Broomhalls Road, Sisters Creek as the land will be revised from the Agriculture Zone to the Landscape Conservation Zone. The Priority Vegetation Area overlay ought to be applied consistent with the REM mapping.
122. In relation to representation 2, the Commission supports the position of the planning authority and notes that the representation did not identify land for consideration. The Commission accepts the use of the REM methodology in preparing the Priority Vegetation Area overlay but notes that the overlay may be subject to revision by any planning authority should further strategic work be undertaken.

Commission decision

123. Modification:
 - Revise the zoning of 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1 to the Landscape Conservation Zone as shown in the figure below:

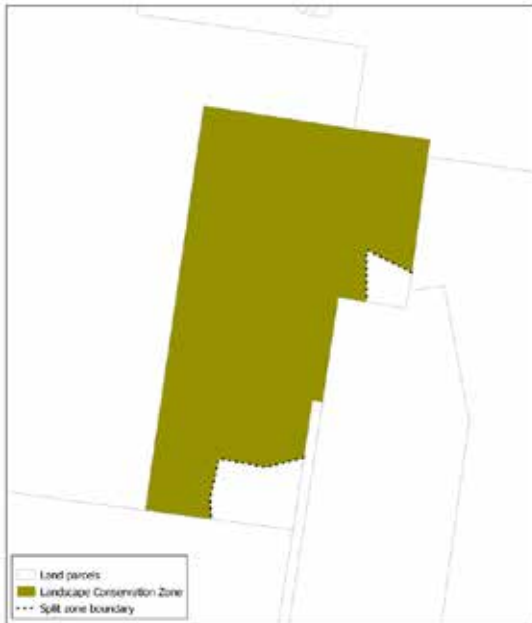


Figure: Application of the Landscape Conservation Zone to 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1

- Revise the zoning of 60 Masons Road, Milabena folio of the Register 36590/1 to the Landscape Conservation Zone.
- Apply the Priority Vegetation Area overlay to of 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1 as shown in the figure below:



Figure: Application of the Priority Vegetation Area overlay to 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1

124. Reason:

- To apply the Landscape Conservation Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.

Environmental Management Zone – Shelter Point Coastal Reserve, Boat Harbour

Representation: Department of Natural Resources and the Environment (1)

125. The representor requested that the Shelter Point Coastal Reserve, Boat Harbour be revised so as to rezone that part zoned Open Space to the Environmental Management Zone. The reasons include:

- this part of the site was zoned Environmental Management Zone in the interim planning scheme;
- the land is a public coastal reserve, meaning that application of the Environmental Management Zoning is consistent with the EMZ 1 (c) and (e) of Guideline No. 1; and
- any development within the reserve is more appropriately dealt with via a masterplan associated with a Specific Area Plan.

126. In its section 35F report, the planning authority considered the representation did not warrant modification of the draft LPS. The reasons included reference to the Boat Harbour Beach Master Plan which underpinned application of the Open Space Zone. The Open Space Zone would assist in implementing the recommendations of the Boat Harbour Beach Master Plan and would support strategic planning undertaken by Council.

127. The Commission issued a direction to the planning authority on the 15 September 2022 requesting a copy of the Boat Harbour Beach Master Plan. The planning authority submitted the Master Plan to the Commission on the 3 October 2022.

128. At the hearing, no further evidence or information was submitted.

Commission consideration

129. The Commission is persuaded that the Open Space Zone ought to apply to that portion identified in the draft LPS. The planning authority has provided strategic justification in the form of the Boat Harbour Beach Master Plan. The application of the Open Space Zone is consistent with OSZ 1, 2, 3 and 4 of Guideline No. 1.

Commission decision

130. The Commission considers that no modification is required.

Environmental Management Zone – Belmont Creek, Inglis and Flowerdale Rivers, Table Cape, Wynyard Golf Course and Geoconservation sites

Representation: Department of Natural Resources and the Environment (1)

131. The representor requested that the following land be revised to the Environmental Management Zone:

- Belmont Creek (riparian reserve adjacent to folio of the Register 144941/1);
- Inglis and Flowerdale Rivers (multiple parcels identified as onshore water bodies);

- riparian reserve adjacent to Inglis River on the western boundary of folio of the Register 30852/1;
- Table Cape State Reserve, folios of the Register 34997/1 and 36041/1;
- the perimeter of the Wynyard Golf Course, folio of the Register 200109/1; and
- Geoconservation sites listed within the Natural Values Atlas.

132. The reasons include:

- inclusion of Crown riparian reserves and onshore water bodies within the Environmental Management Zone is consistent with EMZ 1 (c) and EMZ (e) of Guideline No. 1;
- the land at Table Cape State Reserve is reserved under the Nature Conservation Act and should be zoned Environmental Management Zone in accordance with EMZ 1 (a) and (c) of Guideline No. 1. The representor stated that the land may have been incorrectly zoned within the interim planning scheme;
- in relation to the Wynyard Golf Course, peripheral land forms part of Fossil Bluff Conservation Area which was reserved under the Nature Conservation Act and should be zoned Environmental Management Zone consistent with EMZ 1 (a), (b), (c) and (e) of Guideline No. 1 and also that the zoning was potentially incorrect in the interim scheme; and
- the protection of geodiversity.

133. In its section 35F report, the planning authority recommended the following:

- that the Belmont Creek riparian reserve be revised to the Environmental Management Zone;
- that the parcels forming part of the Table Cape State Reserve be revised to the Environmental Management Zone;
- no modification to the onshore water bodies forming part of the Inglis and Flowerdale Rivers;
- no modification to the riparian reserve adjacent to the Inglis River on the western boundary of folio of the Register 30852/1; and
- no modification to that land forming the perimeter of the Wynyard Golf Course.

134. The reasons include:

- the Belmont Creek riparian reserve and the parcels forming part of the Table Cape State Reserve adjoin land in the Environmental Management Zone;
- the relevant riparian parcels on the Inglis and Flowerdale Rivers had not been specifically identified so there was some uncertainty as to where the Environmental Management Zone should be applied;
- the riparian reserve adjacent to Inglis River on western boundary of folio of the Register 30852/1 is rural in character;
- the Natural Assets Code provides adequate environmental protection for much of the land identified in the representation; and
- the land forming the perimeter of the golf course is primarily used as part of the golf course and does not function as a conservation area. Furthermore, the land accommodates in part, the car park associated with the golf course. The planning

authority also noted that the zone selected was a translation of the zone in the interim planning scheme.

135. The section 35F report did not specifically comment upon application of the Environmental Management Zone to geoconservation sites.

Commission consideration

136. The Commission agrees with the planning authority in relation to the application of the Environmental Management Zone to the Belmont Creek riparian reserve and the identified parcels forming part of the Table Cape State Reserve. Application of the Environmental Management Zone is considered to be consistent with EMZ 1 (a) and (c) of Guideline No. 1. The Commission also considers that the Priority Vegetation Area overlay ought to apply to the identified parcels forming part of the Table Cape State Reserve, being consistent with NAC 13 of Guideline No. 1.
137. In regard to the Inglis and Flowerdale Rivers and the Wynyard Golf Course, the Commission considers adequate protection is provided by the Natural Assets Code. Furthermore, the Commission notes that the land forming the periphery of the golf course is used as part of the golf course and for this reason the application of the Recreation Zone complies with RecZ 1(b) of Guideline No. 1.
138. In regard to geoconservation, it is noted that the representation did not identify the location of sites for inclusion in the Environmental Management Zone, limiting the ability for the planning authority to make any suitable recommendations in its section 35F report.

Commission decision

139. Modification:
- Revise the zoning of the Belmont Creek (riparian reserve adjacent to folio of the Register 144941/1) to the Environmental Management Zone, as shown in the figure below:



Figure: Application of the Environmental Management Zone to Belmont Creek (riparian reserve adjacent to folio of the Register 144941/1)

- Revise the zoning of Table Cape State Reserve folios of the Register 34997/1 and 36041/1 to the Environmental Management Zone.
- Apply the Priority Vegetation Area overlay to Table Cape State Reserve folios of the Register 34997/1 and 36041/1 as shown in the figure below:



Figure: Application of the Priority Vegetation Area overlay to Table Cape State Reserve folios of the Register 34997/1 and 36041/1

140. Reason:

- To apply the Environmental Management Zone and the Priority Vegetation Area overlay consistent with Guideline No. 1.

Utilities Zone – Electricity Infrastructure

Representation: TasNetworks (5)

141. The representor requested application of the Utilities Zone to the following sites:

- Waratah Tee substation PID 3390411;
- Que River substation PID 3391086; and
- Savage River substation PID 6998852.

142. In all cases the representor requested that the Priority Vegetation Area overlay not be applied to substation infrastructure or to land where native vegetation has been cleared.

143. The reasons include:

- the Utilities Zone reflects the role of key infrastructure;
- the Utilities Zone reflects the primary purpose and future use of the sites;
- application of the Utilities Zone is consistent with Guideline No. 1.;
- application of the Utilities Zone is consistent with TasNetworks policy position; and
- other substations have been included in the Utilities Zone.

144. In its section 35F report, the planning authority recommended that the Waratah Tee and Que River substations be revised from the Rural Zone to the Utilities Zone. The planning authority identified that further information was required in relation to the zoning of the

Savage River substation as it appeared application of the Utilities Zone would result in a split zone. Generally however, the planning authority accepted that application of the Utilities Zone satisfied UZ 1 of Guideline No. 1. The section 35F report did not make any recommendation relating the application of the Priority Vegetation Area overlay on the subject sites.

145. A pre-hearing direction was issued by the Commission on the 15 September 2022 and requested that the representor provide evidence of landowner support in relation to application of the Utilities Zone. The direction also requested advice on how the Utilities Zone is to apply to the Savage River substation.
146. The representor responded on the 10 October 2022 and provided evidence of land owner support for the application of the Utilities Zone to the Waratah Tee and Que River substations. The representor also provided a diagram indicating how the Utilities Zone should be applied to the Savage River substation, essentially matching the extent of the existing Substation Facility overlay. The sought revision would result in a split zone between the Environmental Management Zone and the Utilities Zone.
147. At the hearing, the representor, Mr Odin Kelly, noted that he had been unable to obtain advice in relation to the position of the landowner in relation to the Savage River substation and application of the Utilities Zone.

Commission consideration

148. The Commission agrees that the Utilities Zone may be applied to substations. The Commission considers the infrastructure supports significant infrastructure and as such application of the Utilities Zone is consistent with UZ 1 of Guideline No. 1.
149. In considering the creation of a split zone within PID 6998852, in order to zone the Savage River substation Utilities, despite having no evidence of land owner consent, it is clear that an arrangement exists with TasNetworks for the use of the land to maintain and access the substation. It is agreed that the Substation Facility overlay provides a satisfactory template to define the spatial application the Utilities Zone limiting it to the extent of the existing infrastructure.
150. The Commission notes that the Priority Vegetation Area overlay partially affects each of the substation sites. In each case substation infrastructure is largely unaffected by the overlay. As such, it is not considered necessary to remove the Priority Vegetation Area overlay.

Commission decision

151. Modification:
 - Revise the zoning of the following sites as shown in the figures below to the Utilities Zone:
 - (a) Waratah Tee substation PID 3390411;
 - (b) Que River substation, PID 3391086; and
 - (c) Savage River substation PID 6998852.

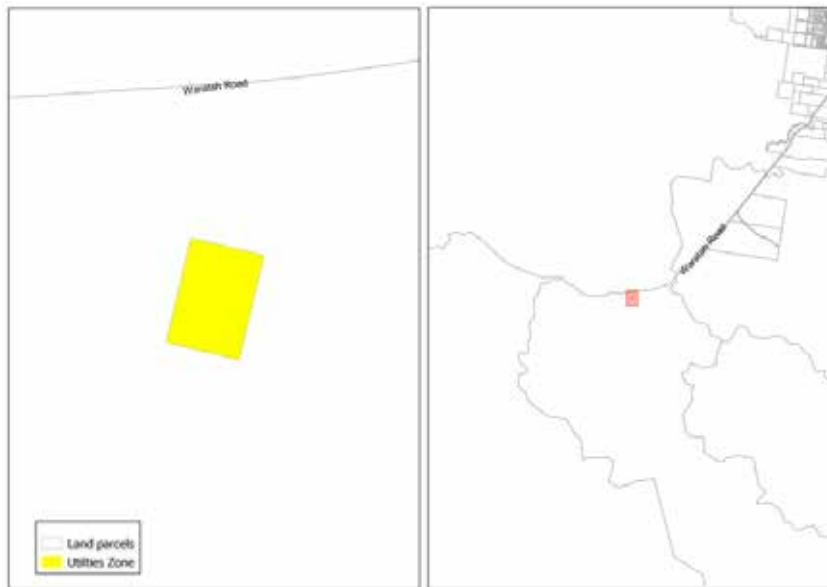


Figure: Application of the Utilities Zone to the Waratah Tee substation

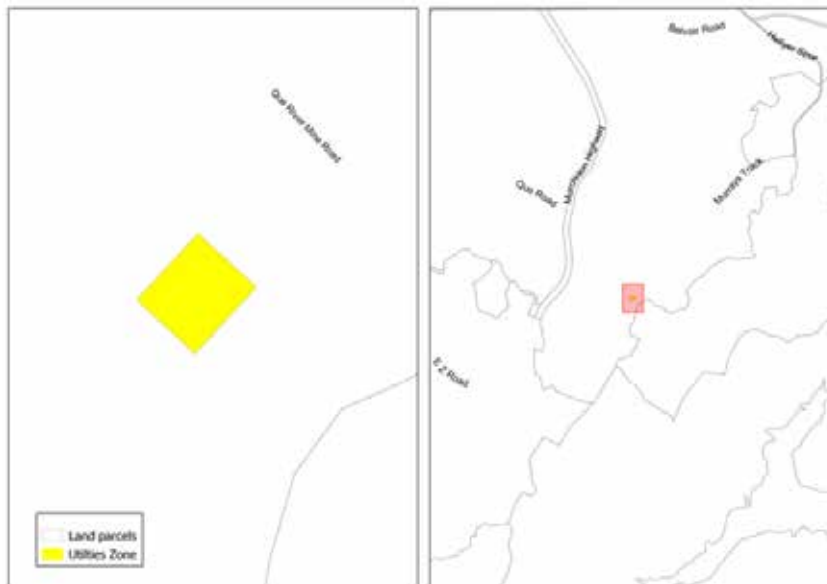


Figure: Application of the Utilities Zone to the Que River substation

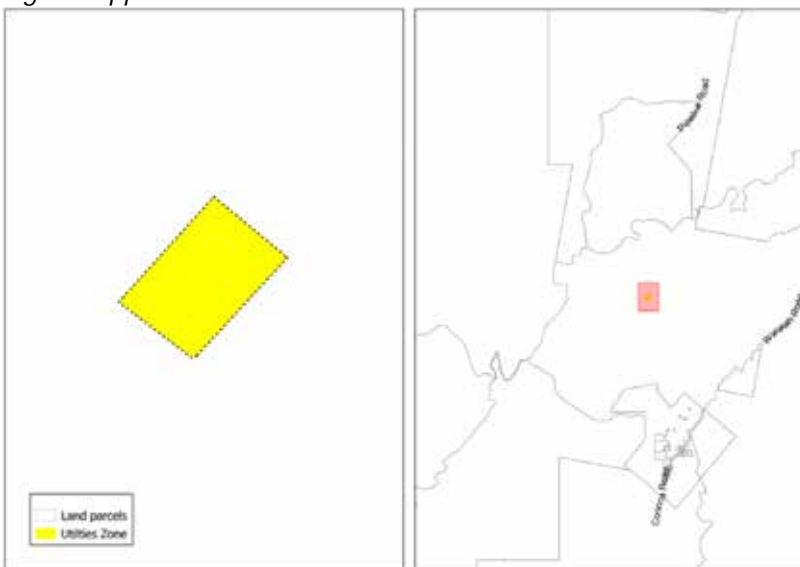


Figure: Application of the Utilities Zone to the Savage River substation

152. Reason:

- To apply the Utilities Zone consistent with Guideline No. 1.

Utilities Zone – State Roads

Representation: Department of State Growth (15).

153. The representor requested that newly acquired land associated with road upgrades be revised from various zones to the Utilities Zone.
154. The reason given relates to the use of these parcels as part of the Bass Highway and the proper inclusion of these parcels within the Utilities Zone.
155. In its section 35F report, the planning authority agreed with the representor recommending that the draft LPS be modified to reflect any changes to the road network to ensure that all casements are zoned Utilities with reference to UZ 1 of Guideline No. 1.
156. The Commission issued a pre-hearing direction on the 15 September 2022 to the representor requesting that the location of the acquired parcels be identified. The representor responded on the 30 September 2022 providing details of which newly acquired parcels should be included in the Utilities Zone. The parcels were:
- Bass Highway folio of the Register 181680/101;
 - Bass Highway folio of the Register 181680/102;
 - Bass Highway folio of the Register 181680/103;
 - Bass Highway folio of the Register 178037/1;
 - Bass Highway folio of the Register 178968/6;
 - Bass Highway folio of the Register 178037/5; and
 - Bass Highway/Murchison Highway folio of the Register 181606/1.
157. At the hearing, no further evidence or information was submitted.

Commission consideration

158. The Commission agrees with the planning authority and accepts that the identified parcels ought to be included in the Utilities Zone.

Commission decision

159. Modification:
- Revise the zoning of the following properties to Utilities:
 - Bass Highway folio of the Register 181680/101;
 - Bass Highway folio of the Register 181680/102;
 - Bass Highway folio of the Register 181680/103;
 - Bass Highway folio of the Register 178037/1;
 - Bass Highway folio of the Register 178968/6;
 - Bass Highway folio of the Register 178037/5; and
 - Bass Highway/Murchison Highway folio of the Register 181606/1.

160. Reason:

- To apply the Utilities Zone consistent with Guideline No. 1.

Recreation Zone – 29 Myalla Road, Sisters Creek

Representation: Codie Hutchinson (3)

161. The representor requested that the land at 29 Myalla Rd, Sisters Creek, folio of the Register 216589/1 be revised from the Agriculture Zone to the Recreation Zone.
162. The reasons include that application of the Recreation Zone would better reflect the historical, current and ongoing use of the land.
163. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include that the ongoing use of the reserve could continue in the Agriculture Zone under the non-conforming use provisions.
164. The representor, Mr Codie Hutchison, tabled a submission at the hearing. The submission provided further justification as to why the reserve should be zoned Recreation, pointing to the importance of the reserve to the surrounding rural residents.
165. At the hearing, Mr Hutchison referred to planning approval which had been issued for camping at the recreation ground.

Commission consideration

166. The Commission accepts the position of the planning authority. The inclusion of the recreation ground within the Agriculture Zone does not impede the ongoing use of the land for operating under a valid permit. The Agriculture Zone has been applied due to the inclusion of surrounding land within the Agriculture Zone representing orderly planning and consistency with Guideline No. 1.

Commission decision

167. The Commission considers that no modification is required.

Recreation Zone – Langely Park, Somerset

Representation: Codie Hutchinson (3)

168. The representor requested that the land at 16A Somerset Esplanade, Somerset (Langley Park) folios of the Register 86882/1, 235473/11, 200348/1, 145056/1 and 14114/1 be revised from the General Residential Zone to the the Recreation Zone.
169. The reasons include:
 - if the population of Somerset grows, there will be a greater need for recreational land;
 - there was no evidence that there is funding to relocate recreation facilities to land near the Somerset Primary School;
 - external funding should be obtained for the construction of new recreational facilities, with that work near completion, before the disposal of Langley Park is contemplated;
 - it is likely that a private developer is behind identification of the land for rezoning;
 - Council should promote existing accommodation providers in the area rather than create opportunities for new accommodation through the sale of public land;
 - Langley Park is centrally located and accessible to all residents;

- foreshore land should be retained for public use rather than sold for private development; and
 - the settlement strategy identifies other land in Somerset to cater for residential growth, meaning this land is not required in order to realise the strategy.
170. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS. The reasons include:
- through the Central Areas Development Strategy Waratah-Wynyard 2019, the Council had undertaken sufficient strategic work to support the consolidation of recreation facilities in Somerset, allowing the prime site of Langley Park to be considered for other uses; and
 - the General Residential Zone was supported in the Central Areas Development Strategy Waratah-Wynyard 2019 and the settlement strategy and both strategies have been prepared based upon extensive consultation.
171. A pre-hearing direction was issued on the 15 September 2022 requiring the planning authority to provide a copy of the Central Areas Development Strategy Waratah-Wynyard 2019. The planning authority provided a copy of the strategy on the 3 October 2022.
172. During the hearing, a submission was received from the representor, Mr Codie Hutchison, on the 19 September 2022. The submission provided further grounds for the application of the Recreation Zone.
173. At the hearing, the planning authority confirmed that the intent to dispose of Langley Park was also identified in the Open Space and Recreation Plan 2017-2027. The planning authority stated further that Langely Park would continue to operate as a recreation ground, despite being zoned General Residential, until the relocation of the facility occurred.

Commission consideration

174. The Commission accepts the position of the planning authority and agrees that sufficient strategic work has been undertaken to warrant the inclusion of Langley Park within the General Residential Zone. The revision is consistent with GRZ 2(c) of Guideline No. 1.

Commission decision

175. The Commission considers that no modification is required.

Road and Railway Assets Code – Rail Infrastructure

Representation: TasRail (6)

176. The representor noted that sections of Council roads are contained within that land shown as State Rail Network within the LIST. The representor noted that inclusion of these roads within the Utilities Zone did not impact upon the draft LPS as roads and railways can equally be included in the Utilities Zone. The representor indicated the need for future discussion between TasRail and Council in relation to those roads.
177. In its section 35F report, the planning authority agreed with the representation in that no further action was required.
178. At the hearing, no further evidence or information was submitted.

Commission consideration

179. It is noted that TasRail has not requested modification of the draft LPS. It is also noted that the representation does not identify the location of the roads in question. The Commission

accepts the recommendation of the planning authority that no modification to the draft LPS is warranted. The Commission is satisfied that land identified as being part of the State Rail Network has been included within the Utilities Zone consistent with Guideline No. 1.

Commission decision

180. The Commission considers that no modification is required.

Local Historic Heritage Code – Various locations

Representations: Codie Hutchinson (3) and Heritage Tasmania (7)

181. Both representations drew attention to the absence of the Local Historic Heritage Code within the draft LPS. The representations can be summarised as follows:

- the planning authority should implement the findings of a heritage place inventory which was completed in 2006 as the basis of a future Local Historic Heritage Code. This would ensure that places with recognised local heritage significance were afforded the necessary statutory protection; and
- the identification of a number of sites which should be included in the Local Historic Heritage Code due to cultural, historic and archaeological relevance including:
 - Freestone Cove;
 - Fossil Bluff;
 - Western Bay, Boat Harbour Beach;
 - Sisters Beach coastline;
 - Waratah locations;
 - Preolenna/Maweena (former coal mine); and
 - Corinna.

182. In its section 35F report, the planning authority responded to the representations as follows:

- substantial work is required to identify the relevant historic attributes that require conservation and protection;
- The development of the Local Historic Heritage Code is outside the direct translation model adopted by the planning authority in preparing the draft LPS; and
- Council would need to determine whether the strategic assessment required to prepare the Local Historic Heritage Code was a priority to be reflected in future budgets.

183. At the hearing, the planning authority advised that a heritage advisory body was to be engaged to assist in compiling a local heritage register however due to limited resources this had not occurred prior to completion of the draft LPS.

184. During the hearing, representor 3, Mr Codie Hutchison, tabled a submission which sought to spatially apply the Local Historic Heritage Code at the following locations:

- Freestone Cove;
- Fossil Bluff; and
- Western Bay, Boat Harbour Beach.

185. The submission sought to further describe the parameters of the Sisters Beach coastline, Waratah, Preolenna/Maweena (former coal mine) and Corinna.

186. Mr Hutchinson advised that despite having trained as a history teacher, he did not have a specific qualification in heritage conservation. In response to those aspects of Mr Hutchinson's submission which focused upon sites of archaeological importance, the planning authority noted that the Aboriginal Heritage Act 1975 appropriately provides for the protection of Aboriginal heritage values outside the planning scheme.

Commission consideration

187. The Commission acknowledges the case made for application of Local Historic Heritage Code and that there are likely to be areas of local heritage significance suitable for inclusion in the Code. However, the Commission accepts the planning authority's recommendations and reasoning that further strategic work is required to be undertaken by a suitably qualified person, together with public consultation, to identify where and what those sites and values are. Following the conclusion of this work it is appropriate for this to be pursued as a separate draft amendment after the LPS comes into effect.

Commission decision

188. The Commission considers that no modifications are required.

Natural Assets Code – Overlays

Representation: ERA Planning and Environment for Epuron (21)

189. The representor raised a concern regarding application of the Priority Vegetation Area overlay. The representation focused upon Guildford Road, Guildford folio of the Register 144941/1, which was being investigated for its suitability as a wind farm site. The representation noted that:
- under the interim planning scheme the site is not subject to the Waterway and Coastal Protection Area overlay or the Biodiversity Protection Area overlay, however, under the LPS, the Natural Assets Code would apply bringing the Waterway and Coastal Protection Area overlay and the Priority Vegetation Area overlay into effect;
 - there are private timber reserves on the site and although forestry operations would be exempt under the Natural Assets Code, the presence of the overlays would result in unnecessary additional controls on what is otherwise a highly modified environment;
 - the Priority Vegetation Area overlay covers a more extensive area than that mapped as containing threatened vegetation on the LIST. REM methodology may have been used to inform the spatial application of the overlay however the overlay appears to have been applied across all native vegetation irrespective of its status;
 - the Natural Assets Code would result in additional standards that development would need to be assessed against as a consequence of the Waterway and Coastal Protection overlay but accepted that the overlay is a SPPs requirement and made no further comment; and
 - there was no objection to the application of the Landslip Hazard Area overlay given similarities between the interim planning scheme and state planning provisions.
190. In its section 35F report, the planning authority confirmed that REM methodology had been used in the creation of the Priority Vegetation Area overlay. The planning authority stated that it is understood that mapping using the REM methodology was accepted by the Commission.
191. The planning authority noted further that the Water and Waterways Code within the interim planning scheme contains text provisions relating to land within 30m of a water body or watercourse and relies upon definition rather than mapping.

192. At the hearing, the representor acknowledged general acceptance of the REM methodology but wanted it noted that the modelling contains inaccuracies and that the mapping had not been ground-truthed. The representor accepted the proposed Rural Zone for the site and maintained concerns regarding application of the Priority Vegetation Area overlay to plantation land.

Commission consideration

193. The Commission notes the concerns raised in the representation. The concerns largely relate to the operation of the SPPs and as such there are aspects of the representation that are not relevant to the determination of the draft LPS and cannot be considered.
194. The Commission accepts the use of the REM methodology in preparing the Priority Vegetation Area overlay. However, it is noted that the planning authority may prepare a suitable planning scheme amendment to implement any new strategic analysis undertaken in the future.

Commission decision

195. The Commission considers that no modifications are required.

Priority Vegetation Area overlay – State Roads

Representation: Department of State Growth (15).

196. The representation requested the removal of the Priority Vegetation Area overlay from the Bass Highway, Calder Road and York Street roundabout in Wynyard and other locations as the overlay does not appear to reflect areas of threatened vegetation mapped under TASVEG 3.0 or 4.0. The representor had requested removal of the overlay in order to properly reflect exemptions which are in place.
197. In its section 35F report, the planning authority considered the representation did not warrant modification to the draft LPS because, although vegetation clearing may be exempt, there could be other development within the State Road Network where the removal of native vegetation required assessment.
198. A pre-hearing direction was issued on the 15 September 2022 requesting confirmation of those specific sites from which the Priority Vegetation Area overlay was to be removed. The representor provided a response on the 30 September 2022 outlining that the information was not readily available and for this reason the representor now accepted application of the overlay as appearing in the exhibited draft LPS.
199. At the hearing, no further evidence or information was submitted.

Commission consideration

200. The Commission notes the submission made by the Department of State Growth.

Commission decision

201. The Commission considers that no modifications are required.

Scenic Protection Code – Various locations

Representation: Codie Hutchinson (3)

202. The representor notes that the Scenic Protection Code had not been used in the draft LPS and identifies the following locations where the Scenic Protection Area overlay should be applied:

- Freestone Cove (Fossil Bluff to Table Cape coastline);
- West Takone/Meunna Campbell Range to Arthur River;
- Boat Harbour Beach to Sisters Beach Coastline;
- Tollymore Road roadside lookout to Boat Harbour Beach; and
- Mount Sunshine to Sister Hills (Two Sisters landscape).

203. The reason given is to recognise valuable scenic areas within the municipality.
204. In its section 35F report, the planning authority noted that applying the Scenic Protection Code was outside the direct translation model Council had adopted in preparing the draft LPS. The planning authority stated that in order to consider application of the Scenic Protection Code, strategic assessment would need to be undertaken and planned for in future budgets.
205. During the hearing, the representor, Mr Codie Hutchison, tabled a submission. The submission contained further information in relation to those locations which ought to be protected by the Scenic Protection Code. The submission sought to spatially apply the Scenic Protection Area overlay to the above localities.
206. At the hearing, the planning authority noted the removal of zone provisions from the SPPs which allowed for the consideration of visual impact. The planning authority noted further that this issue was able to be raised through the section 35G process. In terms of future work required to bring the Scenic Protection Code into the LPS, the planning authority noted that it was important that such work be undertaken impartially and by a qualified person.

Commission consideration

207. The Commission is not persuaded that there is sufficient evidence to support application of the Scenic Protection Area overlay. While the Commission appreciates the detail included in the submission, it is appropriate that such work be undertaken by a suitably qualified person and be subject to a public process. Such work should be undertaken through a separate draft amendment after the LPS comes into effect.

Commission decision

208. The Commission considers that no modification is required.

Coastal Inundation Hazard Code – Coastal Inundation Hazard Area overlay

Representation: Department of Natural Resources and the Environment (1)

209. The representation notes that the Coastal Inundation Hazard Area overlay within the draft LPS has not been modified from that mapping available in the LIST. The representor notes that this mapping is now outdated owing to global sea level rise and that projections should be modelled upon an assessment report prepared by the Intergovernmental Panel on Climate Change (IPCC). The reasons include avoidance of extreme risk associated with approving development below contours set by the IPCC Assessment Report.
210. In its section 35F report, the planning authority stated the overlay had been prepared with reliance upon state mapping. The planning authority expressed a willingness to update mapping within the code should data become available. The planning authority stated further that at this stage it did not have the resources or the knowledge to revise or recreate the coastal inundation mapping.

Commission decision

211. The Commission accepts the position of the planning authority. The Commission notes that the overlay has been applied in accordance with CIHC 1 of Guideline No. 1 and that should any revised State modelling become available in the future, the planning authority may prepare a suitable planning scheme amendment to reflect the model at that time.

Commission decision

212. The Commission considers that no modification is required.

Particular Purpose Zone – 15275 Bass Highway, Somerset

Representations: Department of State Growth (15) and Theresia Williams (24)

213. Representor (24) requested that the land at 15275 Bass Highway, Somerset folio of the Register 153130/4, be revised from the General Industrial Zone to the Particular Purpose Zone 1. Application of the Particular Purpose Zone 1 was in effect an extension of an existing Particular Purpose Zone located at 15285 Bass Highway, Somerset folio of the Register 242170/1.
214. The reasons include:
- the zone would reflect the existing hotel use without resulting in adverse impact on surrounding uses or requiring a wider change of zoning;
 - the current zone impedes future uses given any sought intensification of the existing hotel use would be outside the scope of existing use rights;
 - the land is currently the subject of a draft amendment to the interim planning scheme; and
 - the Somerset General Industrial Zone is identified within the settlement strategy as requiring review, although the strategy did not recommend a replacement zone.
215. Initially representor 15, Department of State Growth, identified concerns related to the application of the Particular Purpose Zone 1 to 15285 Bass Highway, Somerset. Particular concerns related to subdivision potential and associated impact upon the function of the Bass Highway.
216. In its section 35F report, the planning authority recommended that 15275 Bass Highway, Somerset be revised from the the General Industrial Zone to the Particular Purpose Zone 1 for the following reasons:
- the draft amendment, which was running concurrently with assessment of the draft LPS, was considered to be consistent with relevant statutory requirements; and
 - application of the zone would allow for the redevelopment and expansion of the hotel, providing significant economic benefit to the municipal area.
217. In regard to the representation made by the Department of State Growth, the section 35F report noted that these concerns would be equally relevant whether the General Industrial Zone or the Particular Purpose Zone 1 applied to the site. Ultimately the planning authority considered that impacts upon the highway was a matter that future applicants would need to negotiate with the Department of State Growth.
218. A pre-hearing submission was received from the Department of State Growth on the 13 October 2022. The submission acknowledged the potential for draft amendment AM-WAR-PSA-1-2021 to have been determined by the Commission in relation to 15275 Bass Highway, Somerset before the hearing of the LPS matter. Notwithstanding, the Department of State Growth sought to reiterate concerns in relation to the draft amendment. Those concerns related to setbacks from the highway and intensification of the existing use. The submission

from the representor sought a minimum setback of 20m from the site's frontage as an acceptable solution.

Commission consideration

219. The representation from the Department of State Growth related to the inclusion of the Particular Purpose Zone 1 in the draft LPS as it applied to 15285 Bass Highway, Somerset. The Commission notes that as this is a transitioning provision, representations cannot be considered under the LPS process. The Commission acknowledges however further submissions received from the Department of State Growth in relation to AM-WAR-PSA-1-2021 and potential implications for the draft LPS.
220. The Commission considers that a modification to the draft LPS is required in order to insert the Site-specific Qualifications approved under WAR-PSA-1-2021. The approved interim planning scheme amendment is able to be inserted into the draft LPS under section 35KA of the Act. It is noted that the Site-specific Qualifications approved under WAR-PSA-1-2021 include as an acceptable solution, a setback for buildings from the Bass Highway of not less than 20m.

Commission decision

221. Modification:

- Insert WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 into the draft LPS as set out in Annexure A.
- Insert overlay map to apply WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 to 15275 Bass Highway, Somerset (folio of the Register 153130/4), as shown below:

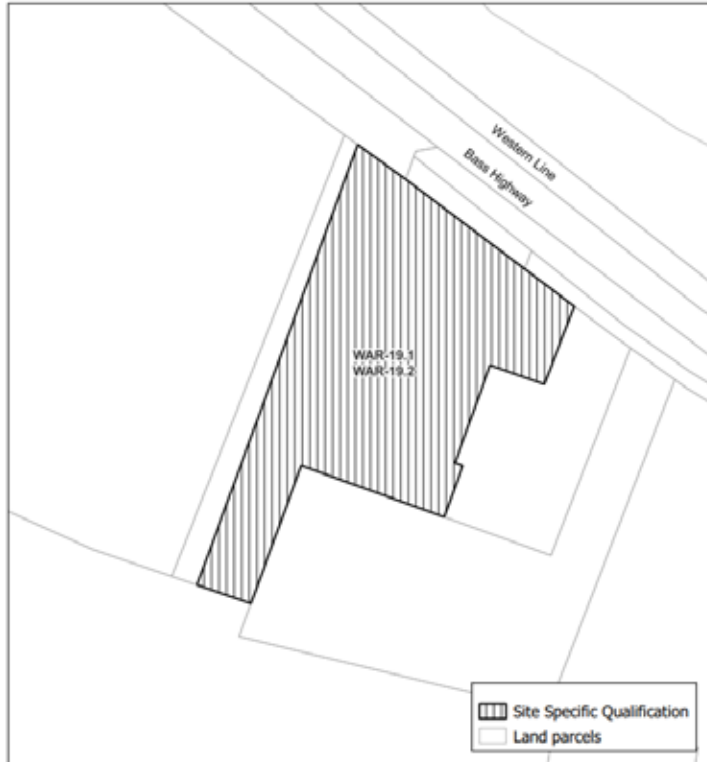


Figure: Overlay map to apply WAR-Site-specific Qualifications, WAR-19.1 and WAR-19.2 to 15275 Bass Highway, Somerset (folio of the Register 153130/4)

Specific Area Plans – Acid Sulfate Soils and Karst

Representation: Department of Natural Resources and the Environment (1)

222. The representation commented upon acid sulfate soils, suggesting that the planning authority consider the preparation of a future Specific Area Plan in relation to acid sulfate soils. The representation also requested a revision to the draft LPS in relation to Karst land through the inclusion of a Specific Area Plan. The reasons include:

- there is mapping available identifying the presence of coastal and subaqueous acid sulfate soils within the municipality. Acid sulfate soils are found in both coastal and inland locations, for example Micklethwaite Marsh; and
- substantial portions of the municipality are underlain by karstic rock types which have implications for planning approvals from an engineering and environmental perspective.

223. The representation notes that the Meander Valley Council had addressed the issue of karst through the preparation of a Specific Area Plan.

224. In its section 35F report, the planning authority stated that the preparation of specific area plans in relation to acid sulfate soils and karst were outside of the direction translation model used by Council in preparing the draft LPS. The planning authority stated further that Council would need to determine whether the strategic assessment required to prepare specific area plans was a priority in future budgets.

Commission consideration

225. The Commission accepts the position of the planning authority. It is acknowledged that the preparation of specific area plans requires a body of strategic work that has not been undertaken.

Commission decision

226. The Commission considers that no modifications are required.

Moorleah Village – New Settlement

Submission: Codie Hutchison (3)

227. A submission received from Mr Codie Hutchison on the 19 October 2022, during the LPS hearing, sought a revision to the draft LPS in order to introduce a new settlement at Moorleah. The submission contained settlement options which were characterised by land use based precincts that allowed for residential, commercial and recreation uses.

Commission consideration

228. The Commission notes that the settlement strategy does make provision for the creation of a new village or settlement within Moorleah. The Commission notes further that the regional land use strategy aims to focus growth within established settlement areas. The proposed Moorleah village is not consistent with the regional land use strategy.

Commission decision

229. The Commission considers that no modifications are required.

Representations in support of the draft LPS

Coastal Inundation Hazard and Flood-Prone Areas Hazard Codes – Hazard Management

Representation: State Emergency Service (19)

230. The representor supported:

- the use of the June 2016 Flood HWM extent data which has informed the Flood-Prone Hazard Area overlay;
- the use of the state guidance mapping prepared by the Department of Premier and Cabinet which has informed the Coastal Inundation Hazard Area overlay; and
- zone application to those areas prone to flooding and coastal inundation where urban density is to be managed.

231. The reasons include:

- the Flood-Prone Hazard Area overlay has been prepared in accordance with FPHAZ 1 and FPHAZ 2 of Guideline No. 1;
- the state-wide flood mapping being prepared as part of the Tasmanian Flood Mapping Project was hoped to be delivered later this year. Although flood-prone areas within the municipality would remain unmapped until that time, the code would allow for potential flooding to be taken into consideration irrespective of whether mapping exists. Guidance material are to be prepared to assist the planning authority with the assessment of development on flood-prone land; and
- the preparation of the Coastal Inundation Hazard Area overlay complied with Guideline No. 1, enabling proper application of the code and the director's determination.

232. In its section 35F report, the planning authority committed to adopting data from the Tasmanian Flood Mapping Project, within the LPS, when it becomes available.

Commission consideration

233. The Commission notes the representation.

Commission decision

234. The Commission considers that no modifications are required.

Road and Railway Assets Code – Road and Railway Attenuation Area overlay

Representation: Department of State Growth (15)

235. The representor supported reliance upon the description of a road or railway attenuation area within the code rather than application of the Road and Railway Attenuation Area overlay. The reason the representor did not support application of the overlay related to perceived inefficiencies should land be acquired necessitating a draft amendment to rectify the extent of the overlay.

236. In its section 35F report, the planning authority noted the representation.

Commission consideration

237. The Commission notes the representation.

Commission decision

238. The Commission considers that no modifications are required.

Other matters

Matters taken not to be a representation

Representations: Codie Hutchison (3), TasNetworks (5), Maureen Corbett (10) and Pamela Shultz (17)

239. Representors raised matters in relation to:

- content of the settlement strategy;
- operation of the Electricity Transmission Infrastructure Protection Code;
- operation of the Port and Marine Code;
- stormwater management;
- management of vegetation, rivers and wetlands;
- operation of boats within waterways;
- aspects of development control and enforcement action;
- development of by-laws, planting guidelines and tree registers.

240. In its section 35F report the planning authority noted the following:

- the settlement strategy must comply with the regional land use strategy;
- the ability for representors to participate in the review of the state planning provisions being undertaken by the State Planning Office;
- the Port and Marine Zone had not been applied within the draft LPS and the planning scheme did not have jurisdiction over open waters; and
- many matters raised were best addressed through Council's Environmental Plan.

Commission consideration

241. The Commission notes that:

- section 35E of the Act sets out matters not taken to be a representation;
- other matters not subject to Part 3A of the Act cannot be considered as part of its consideration under section 35J; and
- during its consideration, it has sought to establish how all matters raised relate to the draft LPS and if the matter can be included within the draft LPS under section 32 of the Act.

242. The Commission considers that the parts of the representations listed above are outside the considerations under section 35J.

Commission decision

243. The Commission considers that it does not have jurisdiction to assess these matters.

Matters of a technical nature or relevant to implementation

244. The Commission notes the draft LPS contains matters that are relevant to section 35J(2) of the Act, including:

- minor numbering and typographical errors in the draft LPS;
 - instances where the draft LPS, or proposed modifications, do not apply the writing style and conventions set out in Practice Note 5: Tasmanian Planning Scheme drafting conventions or Practice Note 8: Draft LPS written document - technical advice;
 - instances where the draft LPS zone and overlay maps or Geographic Information System (GIS) datasets contain overlaps, gaps and errors, or do not apply the technical advice or conventions set out in Practice Note 7 - Draft LPS mapping; technical advice ;
 - instances where the spatial representation of the cadastral parcels dataset have changed after the production of the PDF maps for exhibition that result in minor misalignment between cadastral parcel boundaries and zones or code overlays based on those boundaries;
 - instances where the draft LPS zone and overlay maps or Geographic Information System (GIS) datasets apply outside the Waratah Wynyard; and
 - instances where a modification to the draft LPS written document or draft LPS maps and overlays requires a consequent modification to the other.
245. The Commission further notes that Division 1 – Electronic database and documents of Part 6 of the Act, requires the Commission to maintain a database containing an electronic planning map.

Commission consideration

246. The Commission considers that the draft LPS should:
- minimise numbering and typographical errors and be consistent with the conventions set out in the Commission practice notes;
 - contain zone and overlay maps that reflect current cadastral parcel boundaries, and the Waratah Wynyard according to the Central Plan Register (CPR) map (including notes), current low water mark on the LIST, and any areas described by section 35J(2) of the Act; and,
 - be free from technical anomalies such as gaps and overlaps and be provided in a form suitable for being made under section 35L of the Act and inclusion in an electronic database.

Commission decision

247. Modification:
- Revise the draft LPS written document to include the technical modifications identified in Annexure A of Attachment 2 to:
 - (a) meet the LPS requirements of the SPPs;
 - (b) correct references to relevant provisions;
 - (c) provide for the effective operation of the provisions; and
 - (d) reflect the terminology used in the SPPs.
 - Revise the draft LPS zone and overlay maps to:
 - (a) reflect modifications consequential to modifications made to the draft LPS written document, such as insertion of the WAR-Site-specific qualification WAR-19.1 and WAR-19.2;

- (b) fill any unzoned gaps in the zoning layer;
- (c) remove any overlaps between adjoining zones;
- (d) apply the schema set out in Appendix B of Practice Note 7 to each relevant GIS dataset;
- (e) some overlays supplied by the theLIST have been modified since the original versions were published on LISTmap (eg the Electricity Transmission Infrastructure Protection overlay). Make sure to use the most recent version available;
- (f) remove any overlaps between features in the same overlay layer that have different categories (excluding for transitioning local area objectives of SAPs and PPZs), such as: coastal inundation investigation areas and low coastal inundation hazard band;
- (g) aggregate adjoining zone or overlay polygons sharing the same category, such as: zone type, landslip hazard band, and aggregate adjoining overlay polygons that have no required category, such as priority vegetation area;
- (h) align the boundaries of zones and parcel dependant overlays with parcel boundaries, based on the most recent version of the parcels dataset available from theLIST;
- (i) remove any zone or overlay shown outside the Waratah Wynyard according to the Central Plan Register (CPR) map (including notes), current low water mark map on theLIST, and any areas described by section 35J(2) of the Act; and
- (j) present all GIS data in the recommended Geodatabase format provided to council by the Commission.

248. Reason:

- To make modifications of a technical nature or relevant to the implementation of the LPS if the LPS were approved under section 35L of the Act and to be consistent with the Minister's declaration under Schedule 6, clauses 8 and 8A(1) of the Act.

Attachments

1. Attachment 1 – List of Representations
2. Attachment 2 – Notice under section 35K(1)(a) to modify draft LPS
3. Attachment 2, Annexure A – Modifications to Waratah-Wynyard draft LPS written document

List of Representations

No	Name
1.	Jason Jacobi, Department of Natural Resources and Environment Tasmania
2.	James Hattam, Tasmanian Land Conservancy
3.	Codie Hutchison
4.	Mark and Judith Purton
5.	Odin Kelly, TasNetworks
6.	Jennifer Jarvis, Tasrail
7.	Brett Torossi, Heritage Tasmania
8.	EnviroPlan Australia for N and L Machen
9.	PDA Surveyors for Andrew Richardson and Alistair Carter
10.	Maureen Corbett
11.	Planning 4 Bushfire for Conroy and Others
12.	Andrew and Rachel Arnold
13.	John Thompson, Conservation Landholders Trust
14.	PDA Surveyors for Ian Bowers, Des Donohoe and Rob Wilson
15.	James Verrier, Department of State Growth
16.	Planning 4 Bushfire for KAW Training Pty Ltd
17.	Pamela Schultz
18.	JDA Planning for RC and C Edwards
19.	Leon Smith, State Emergency Service
20.	Gary and Helen Duhring
21.	ERA Planning and Environment for Epuron
22.	Paul and Teresa West
23.	Andrew Nichols, Redbank Poultry
24.	Equilibrium Town Planning for MRU Hotels

Land Use Planning and Approvals Act 1993

Notice to modify under sections 35K(1)(a)

Waratah-Wynyard Draft LPS

6 February 2023

The Tasmanian Planning Commission (the Commission) directs that the Waratah-Wynyard planning authority modify the Waratah-Wynyard draft Local Provision Schedule (draft LPS) in accordance with the following:



1.0 Site-specific Qualifications



- 1.1 Insert WAR-Site-specific Qualifications WAR-19.1 and WAR 19.2 into the draft LPS as set out in Annexure A.



Reason: To include relevant modifications under section 35KA of the Act corresponding to amendment PSA 1-2021 to the Waratah-Wynyard Interim Planning Scheme 2013.


2.0 Zone maps and overlays

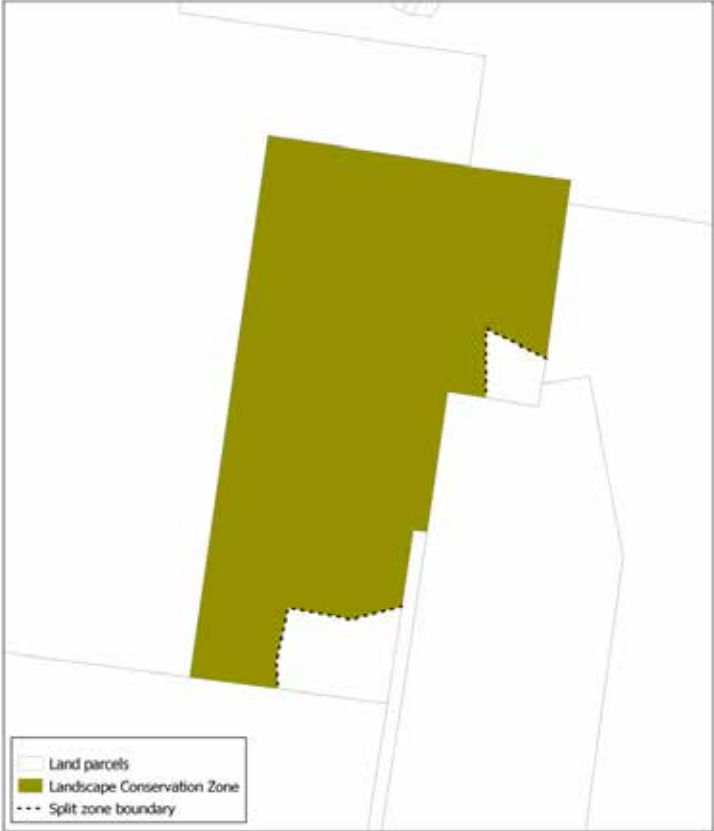
No.	Description	Direction and Reason
2.1	122 Deep Creek Rd, Wynyard, folio of the register 106693/1	Revise the zoning of 122 Deep Creek Rd, Wynyard folio of the register 106693/1 to Rural Living Zone A. <i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1.</i>
2.2	73 Oldina Rd, Wynyard folio of the register 21485/1	Revise the zoning of 73 Oldina Rd, Wynyard folio of the register 21485/1 to the Rural Living Zone A. <i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1.</i>
2.3	70A Irby Boulevard, Sisters Beach folio reference 63107/2	Revise the zoning of 70A Irby Boulevard, Sisters Beach folio reference 63107/2 to apply the Landscape Conservation Zone as shown below:

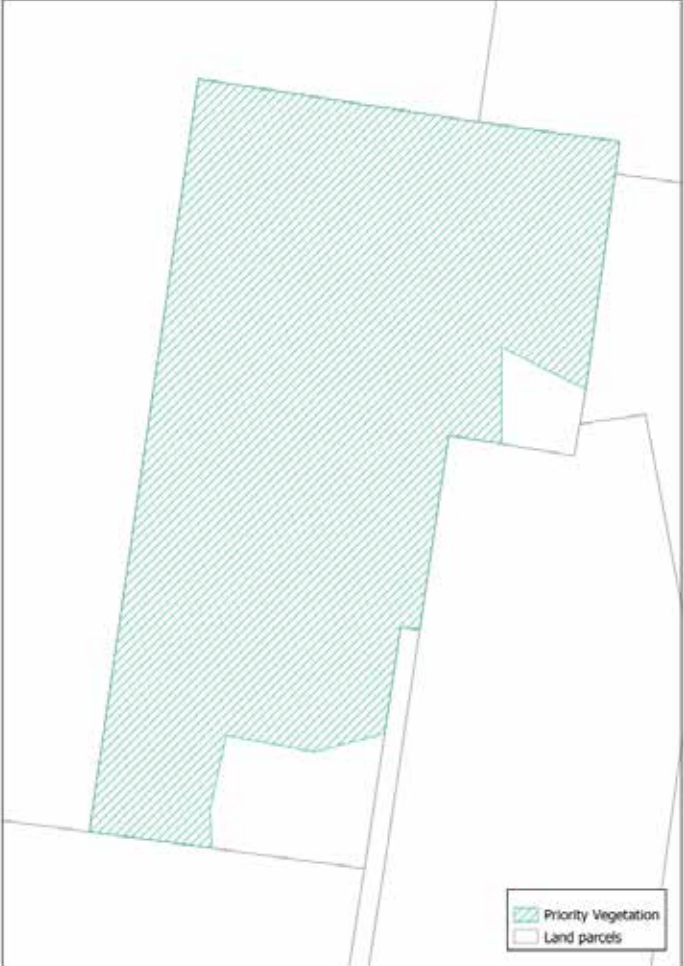
		 <p><i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
2.4	70B Irby Boulevard, Sisters Beach folio reference 63107/2	<p>Revise the zoning of 70B Irby Boulevard, Sisters Beach folio reference 63107/2 to apply the Landscape Conservation Zone as shown below:</p>  <p><i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>

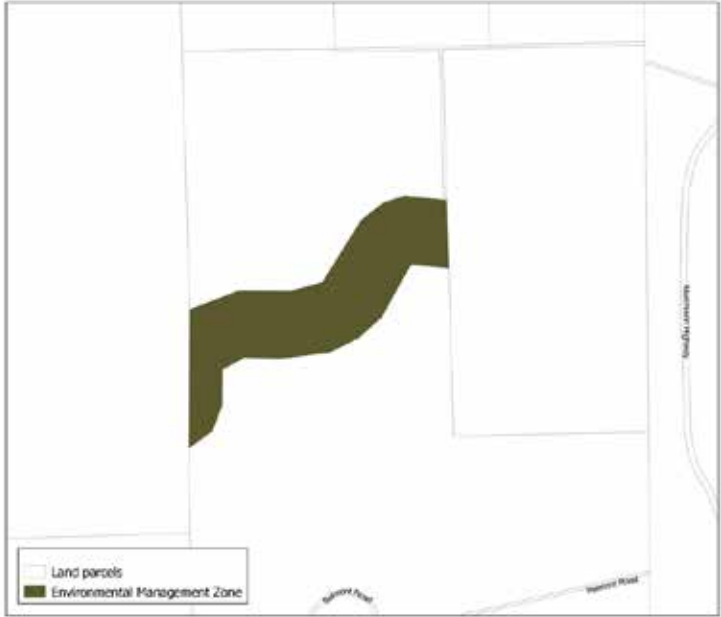
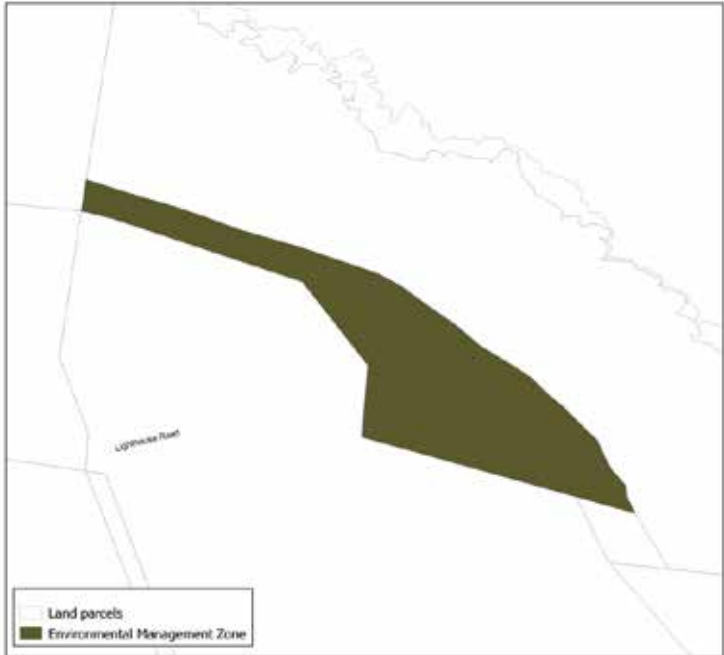
2.5	70C Irby Boulevard, Sisters Beach folio reference 63107/1	<p>Revise the zoning of 70C Irby Boulevard, Sisters Beach folio reference 63107/1 to apply the Landscape Conservation Zone as shown below:</p>  <p><i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
2.6	50B Irby Boulevard, Sisters Beach folio reference 142029/2	<p>Revise the zoning of 50B Irby Boulevard, Sisters Beach folio reference 142029/2 to apply the Landscape Conservation Zone as shown below:</p>  <p><i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>

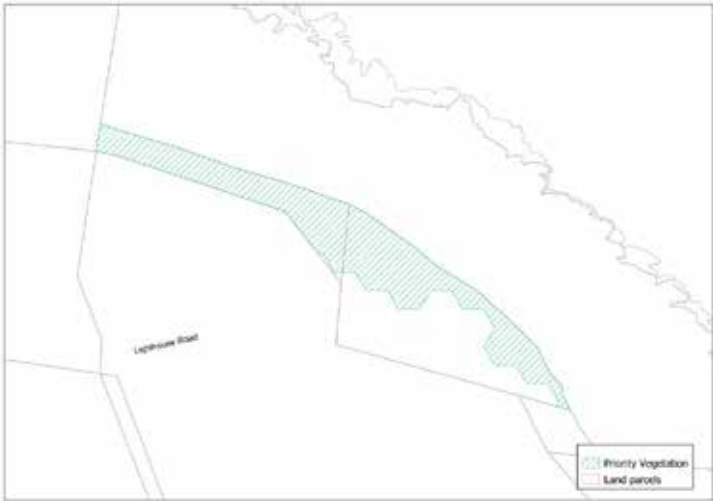
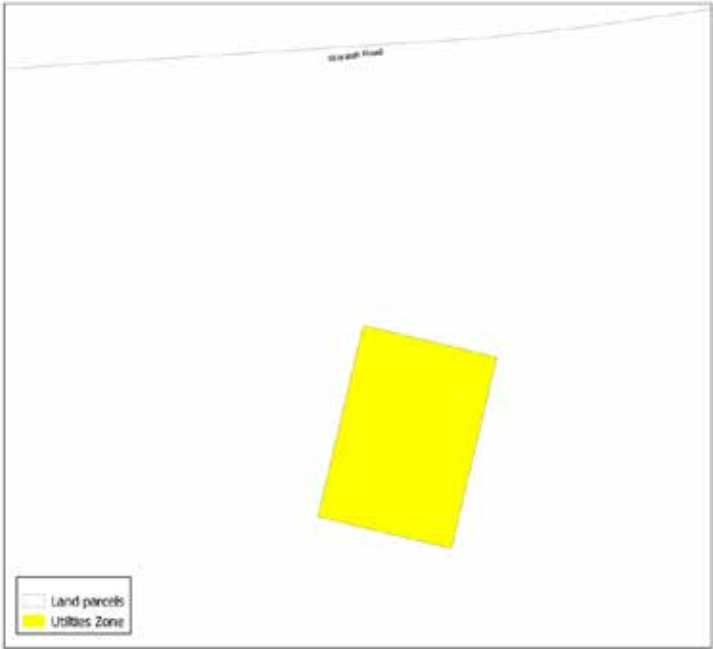
<p>2.7</p>	<p>47 Bridge St, Sisters Beach, folio of the register 131367/1</p>	<p>Revise the zoning of 47 Bridge St, Sisters Beach, folio of the register 131367/1 to apply the Landscape Conservation Zone as shown below:</p>  <p><i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
<p>2.8</p>	<p>122B Irby Boulevard, Sisters Beach folio reference 34078/1</p>	<p>Revise the zoning of 122B Irby Boulevard, Sisters Beach folio reference 34078/1 to apply the Landscape Conservation Zone as shown below:</p> 

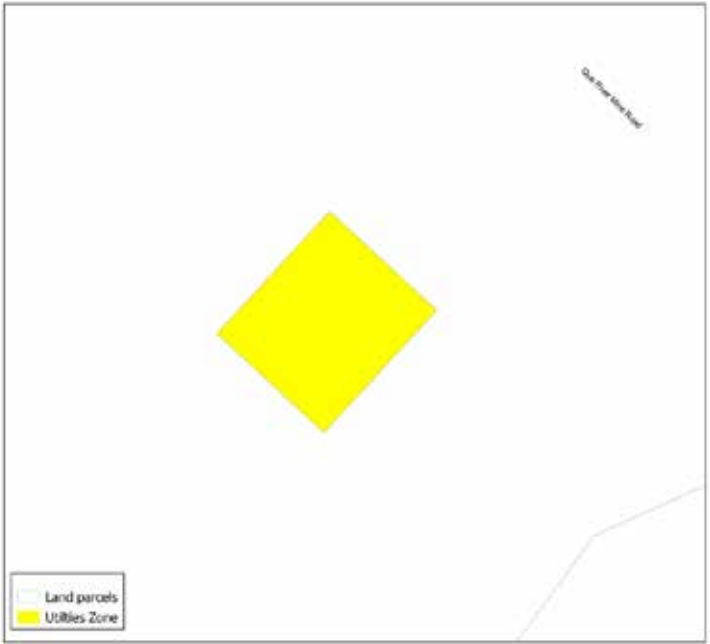
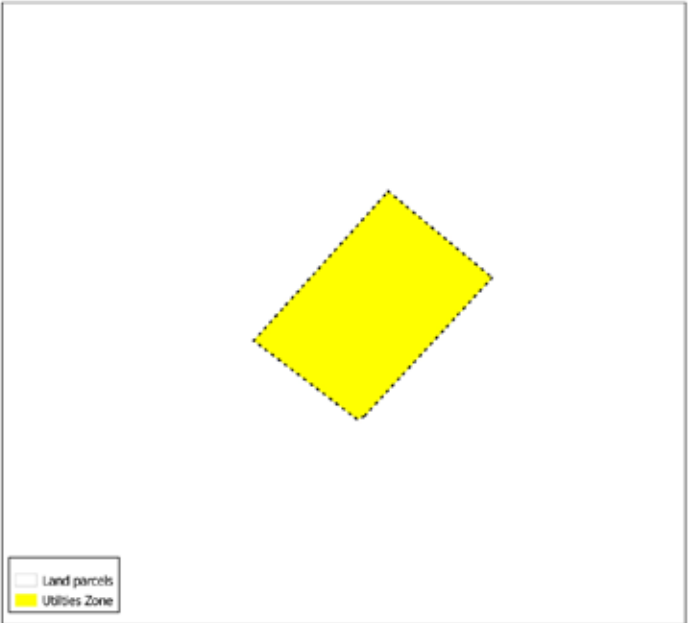
		<i>To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i>
2.9	124 Irby Boulevard, Sisters Beach, folio reference 111004/1	<p>Revise the zoning of 124 Irby Boulevard, Sisters Beach folio reference 111004/1 to apply the Rural Living Zone C and the Landscape Conservation Zone as shown below:</p>  <p>The map shows a section of Irby Boulevard with several land parcels. A large parcel on the left is shaded green, indicating it is within the Landscape Conservation Zone. A smaller parcel on the right is shaded pink, indicating it is within the Rural Living Zone. The map includes a legend with the following items: Land parcels (white outline), Rural Living Zone (pink fill), Landscape Conservation Zone (green fill), and Split zone boundary (dashed line). The map also shows other streets like Broomhalls Road and Sisters Creek Road.</p> <p><i>To apply the Rural Living Zone and the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
2.10	254 Broomhalls Road, Sisters Creek folio of the Register 220390/1	<p>Revise the zoning of 254 Broomhalls Road, Sisters Creek folio of the register 220390/1 to the Landscape Conservation Zone as shown in the figure below:</p>

		 <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
2.11	254 Broomhalls Road, Sisters Creek folio of the Register 220390/1	Apply the Priority Vegetation Area overlay to 254 Broomhalls Road, Sisters Creek folio of the Register 220390/1 as shown in the figure below:

		 <p><i>Reason: To apply the Priority Vegetation Area overlay consistent with Guideline No. 1.</i></p>
2.12	60 Masons Road, Milabena folio of the Register 36590/1	<p>Revise the zoning of 60 Masons Road, Milabena folio of the Register 36590/1 to the Landscape Conservation Zone.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
2.13	Belmont Creek riparian reserve (adjacent to 144941/1)	<p>Revise the zoning of the Belmont Creek riparian reserve (adjacent to 144941/1) to the Environmental Management Zone as shown in the figure below:</p>

		 <p><i>Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.</i></p>
2.14	Table Cape State Reserve folios of the Register 34997/1 and 36041/1	<p>Revise the zoning of the Table Cape State Reserve folios of the Register 34997/1 and 36041/1 to the Environmental Management Zone as shown in the figure below:</p>  <p><i>Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.</i></p>
2.15	Table Cape State Reserve folios of the Register 34997/1 and 36041/1	<p>Apply the Priority Vegetation Area overlay to the Table Cape State Reserve folios of the Register 34997/1 and 36041/1 as shown in the figure below:</p>

		 <p><i>Reason: To apply the Priority Vegetation Area overlay consistent with Guideline No. 1.</i></p>
2.16	Waratah Tee substation PID 3390411	<p>Revise the zoning of the Waratah Tee substation PID 3390411 shown in the diagram below, to Utilities Zone:</p>  <p><i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i></p>
2.17	Que River substation PID 3391086	<p>Revise the zoning of the Que River substation PID 3391086 shown in the diagram below, to Utilities Zone:</p>

		 <p><i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i></p>
2.18	Savage River substation PID 6998852	<p>Revise the zoning of the Savage River substation PID 6998852 shown in the diagram below, to Utilities Zone:</p>  <p><i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i></p>
2.19	Bass Highway folio of the Register 181680/101	<p>Revise the zoning of Bass Highway folio of the Register 181680/101 to the Utilities Zone.</p> <p><i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i></p>

2.20	Bass Highway folio of the Register 181680/102	Revise the zoning of Bass Highway folio of the Register 181680/102 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>
2.21	Bass Highway folio of the Register 181680/103	Revise the zoning of Bass Highway folio of the Register 181680/103 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>
2.22	Bass Highway folio of the Register 178037/1	Revise the zoning of Bass Highway folio of the Register 178037/1 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>
2.23	Bass Highway folio of the Register 178968/6	Revise the zoning of Bass Highway folio of the Register 178968/6 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>
2.24	Bass Highway folio of the Register 178037/5	Revise the zoning of Bass Highway folio of the Register 178037/5 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>
2.25	Bass Highway/Murchison Highway folio of the Register 181606/1	Revise the zoning of Bass Highway/Murchison Highway folio of the Register 181606/1 to Utilities Zone. <i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i>

3.0 Consequential and technical issues

4.1 Revise the draft LPS to include the technical modifications identified in Annexure A, to:

- (a) meet the LPS requirements of the SPPs;
- (b) correct references to relevant provisions;
- (c) provide for the effective operation of the provisions;
- (d) reflect the terminology used in the SPPs; and
- (e) provide for necessary permitted alterations to transition provisions for particular purpose zones, specific area plans and site-specific qualifications, including <insert very brief description of corrections to written document if necessary>.

4.2 Revise the draft LPS zone and overlay maps to:

- (a) reflect modifications consequential to modifications made to the draft LPS written document;

- (b) fill any unzoned gaps in the zoning layer;
- (c) remove any overlaps between adjoining zones;
- (d) apply the schema set out in Appendix B of Practice Note 7 to each relevant GIS dataset;
- (e) remove any overlaps between features in the same overlay later that have different categories (excluding for transitioning local area objectives of SAPs and PPZs), such as: coastal inundation investigation areas and low coastal inundation hazard band;
- (f) aggregate adjoining zone or overlay polygons sharing the same category, including zone type, landslip hazard band, and aggregate adjoining overlay polygons that have no required category, such as priority vegetation area;
- (g) align the boundaries of zones and parcel dependent overlays with parcel boundaries, based on the most recent version of the parcels dataset available from theLIST;
- (h) remove any zone or overlay shown outside the Waratah Wynyard according to the Central Plan Register (CPR) map (including notes), current low water mark map on theLIST, and any areas described by section 35J(2) of the Act; and
- (i) present all GIS data in the recommended Geodatabase format provided to council by the Commission.

Reason: To make modifications of a technical nature or relevant to the implementation of the LPS if the LPS were approved under section 35L of the Act and to be consistent with Guideline No. 1.

Annexure A

Modifications to Waratah-Wynyard draft LPS written document

Waratah-Wynyard Local Provisions Schedule

WAR-Local Provisions Schedule Title

WAR1.1 This Local Provisions Schedule is called the Waratah-Wynyard Local Provisions Schedule and comprises all the land within the municipal area.

WAR Effective Date

WAR-1.2 The effective date for this Local Provisions Schedule is <insert date>.

WAR-Local Area Objectives

This clause is not used in this Local Provision Schedule.

WAR-P1.0 Particular Purpose Zone – 15285 Bass Highway Somerset

WAR-P1.1 Zone Purpose

The purpose of the Particular Purpose Zone – 15285 Bass Highway Somerset is:

- WAR-P1.1.1 To allow for a diversity of development options, including compatible commercial, business, visitor accommodation, tourism and light industrial uses.
- WAR-P1.1.2 That the off site amenity and environmental impacts of use and development are avoided, reduced or mitigated to acceptable levels.
- WAR-P1.1.3 To encourage the preservation and re-use of locally significant buildings and land.
- WAR-P1.1.4 That business or commercial uses supplement and do not compete with the established retail and business hierarchy.
- WAR-P1.1.5 That use or development avoids, mitigates or reduces any existing or potential environmental impacts from nearby properties to acceptable levels.

WAR-P1.2 Local Area Objectives

Reference Number	Area Description	Local Area Objectives
WAR-P1.2.1	15285 Bass Highway, Somerset shown on an overlay map as WAR-P1.2.1.	<p>The local area objectives for 15285 Bass Highway, Somerset are:</p> <ul style="list-style-type: none">(a) provide for a qualified range of uses compatible with the range of commercial and industrial uses existing within the area;(b) provide for uses that can utilise the existing significant buildings on the site;(c) restrict use that conflicts with existing and potential adjoining uses;(d) establish development standards that minimise the risk of land use conflict with adjoining or nearby uses or developments; and(e) use:<ul style="list-style-type: none">(i) may attract a high volume of traffic; and(ii) may preserve or re-use existing significant buildings for commercial, business, tourism or accommodation purposes.

WAR-P1.3 Definition of Terms

This sub-clause is not used in this particular purpose zone.

WAR-P1.4 Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	If for conservation, rehabilitation, or protection against degradation, and not including a building or external activity area for information, interpretation, or display of items, or for any other use.
Passive Recreation	If for a public park or reserve for the local community.
Permitted	
Bulky Goods Sales	If for a single tenancy with a gross floor area of not more than 2,000m ² .
Community Meeting and Entertainment	
Food Services	If not for a drive through facility.
Hotel Industry	
Research and Development	
Sports and Recreation	
Visitor Accommodation	
Service Industry	
Storage	
Utilities	If for minor utilities.
Discretionary	
Business and Professional Services	If for an office.
Bulky Goods Sales	If: (a) not listed as Permitted; and

	(b) for a single tenancy with a gross floor area of not more than 5,000m ² .
Equipment and Machinery Sales and Hire	
General Retail and Hire	If for a single tenancy with a gross floor area of not less than 300m ² and not more than 2,000m ² .
Resource Processing	
Tourist Operation	
Transport Depot and Distribution	
Utilities	If not listed as Permitted.
Prohibited	
All other uses	

WAR-P1.5 Use Standards

WAR-P1.5.1 Discretionary use

Objective:	Uses listed as Discretionary are to be without likely conflict or impact on the amenity or operations of uses on any other land.	
Acceptable Solutions		Performance Criteria
A1 No Acceptable Solution.		P1.1 A use listed as Discretionary must have regard to: (a) the local area objectives; and (b) appropriate means of minimising any likely conflict or impact on the amenity or operations of existing and potential uses of adjacent properties. P1.2 Operating practices and outputs must not cause an unreasonable loss of amenity to properties beyond the site boundary, having regard to:

	<p>(a) emission to air, land or water of light, noise, odour, particulates, radiation or vibration;</p> <p>(b) hours of operation;</p> <p>(c) overlooking and overshadowing;</p> <p>(d) traffic generation; and</p> <p>(e) impact on the efficient and safe operation of a road network.</p> <p>P1.3</p> <p>A use listed as Discretionary:</p> <p>(a) must create a site with a well-defined clearly visible access;</p> <p>(b) may include appropriately located, landscaped, hard-seal and illuminated areas for car parking and loading, or the display, storage and handling of goods and materials; and</p> <p>(c) must separate, screen and buffer, as appropriate, activities at zone boundaries to minimise loss of amenity between uses on properties in adjacent zones.</p>
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WAR-P1.5.2 Amenity

Objective:	<p>That:</p> <p>(a) the use of land is not detrimental to the amenity of the surrounding area in terms of noise, emissions, operating hours or transport; and</p> <p>(b) visitor accommodation is protected from noise from adjacent uses.</p>
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Hours of operation for use within 100m of an existing sensitive use, must be within the hours of 6.00am to 10.00pm.</p>	<p>P1</p> <p>Hours of operation of the use must not cause, or be likely to cause, an environmental nuisance through emissions including noise, smoke, odour, dust and illumination.</p>
<p>A2</p> <p>Signage must not be illuminated or floodlit outside the hours of 6.00am to 10.00pm.</p>	<p>P2</p> <p>Illuminated or floodlit signage must demonstrate that it will not cause an unreasonable loss of amenity to sensitive uses in the surrounding area.</p>

WAR-P1.5.3 Storage of goods

Objective:	Storage of goods, materials or waste, other than for retail sale, must be located or screened to minimise its impact on views into the site from any road or public place.	
Acceptable Solutions		Performance Criteria
A1	Storage of goods, materials or waste, other than for retail sale, must not be visible from any public street or public place.	P1 Storage of goods, materials or waste, other than for retail sale, must be located or screened to minimise its impact on views into the site from any public street or public place.

WAR-P1.6 Development Standards for Buildings and Works

WAR-P1.6.1 Location and configuration of development

Objective:	<p>The location and configuration of development is to:</p> <ul style="list-style-type: none"> (a) provide for the efficient use of land; (b) retain the visual prominence of the existing significant buildings when viewed from the Bass Highway; (c) provide for buildings, service activity and vehicle parking of suitable size to accommodate permissible uses; and (d) assist to minimise visual prominence of industrial uses when viewed from a major road. 	
Acceptable Solutions		Performance Criteria
A1	<p>A building must have a setback from a frontage:</p> <ul style="list-style-type: none"> (a) to Bass Highway of not less than 20m; or (b) in accordance with any building area shown on a sealed plan of subdivision. 	<p>P1</p> <p>A building must have a setback from a frontage that:</p> <ul style="list-style-type: none"> (a) is consistent with prevailing frontage setbacks for any existing and approved building on the site or on adjacent properties; (b) provides a transitional space between the road and any industrial use on the site sufficient to buffer or screen the site to view from a road; and (c) provides measures to attenuate visual impact of the site.

<p>A2</p> <p>Building height must be not more than 10m.</p>	<p>P2</p> <p>Building height must:</p> <ul style="list-style-type: none"> (a) minimise likelihood for overshadowing of visitor accommodation on the same site or on any adjacent property; (b) minimise the apparent scale, bulk, massing and proportion relative to any adjacent building; (c) be consistent with the streetscape; (d) respond to the effect of the slope and orientation of the site; and (e) have regard to the effect and durability of screening other than vegetation to attenuate impact.
<p>A3</p> <p>Buildings must have a setback from side and rear boundaries of not less than:</p> <ul style="list-style-type: none"> (a) 10m; and (b) 15m to a General Industrial Zone if a sensitive use is proposed. 	<p>P3</p> <p>Buildings must be sited to:</p> <ul style="list-style-type: none"> (a) be compatible with the character of the surrounding landscape and streetscape; and (b) provide mitigation for a sensitive use to the General Industrial Zone.

WAR-P1.6.2 Setback from zone boundaries

Objective:	<p>Use or development of land adjoining land in another zone is to minimise:</p> <ul style="list-style-type: none"> (a) likelihood for conflict, interference, and constraint between the use or development of land in the zone and sensitive use of land in an adjoining zone; and (b) unreasonable impact on the use of land beyond the boundaries of the zone.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Development on a site with a boundary that is a zone boundary must:</p> <ul style="list-style-type: none"> (a) be setback from the zone boundary by not less than the distance for that zone shown in Table WAR-P1.8.1; and (b) not include within the setback area: 	<p>P1.1</p> <p>The location of development must:</p> <ul style="list-style-type: none"> (a) minimise likelihood for conflict, constraint or interference from land in an adjoining zone on a sensitive use; and (b) minimise likely impact on the amenity of the sensitive use on land in an adjoining zone.

<ul style="list-style-type: none"> (i) an area for the display, handling, operation, manufacturing, processing, servicing, repair, or storage of any animal, equipment, goods, plant, materials, vehicle, or waste; (ii) an area for the gathering of people, including for entertainment, community event, performance, sport or for a spectator facility; or (iii) external lighting for operational or security purposes. 	<p>P1.2</p> <p>Visitor accommodation must be designed and constructed to minimise the potential for disturbance from adjoining sources of noise, including industrial uses.</p>
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WAR-P1.6.3 Parking

Objective:	That development has an acceptable impact on the streetscape.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>If employee car parking is proposed it must be located behind, or to the side of, the principal buildings on the site.</p>	<p>P1</p> <p>Car parking must be located to minimise visual intrusion in the streetscape.</p>

WAR P1.7 Development Standards for Subdivision

WAR-P1.7.1 Suitability of a lot for development

Objective:	<p>That each lot:</p> <ul style="list-style-type: none"> (a) has an area and dimensions appropriate for use and development in the zone; and (b) is provided with appropriate access to a road.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <ul style="list-style-type: none"> (a) have an area of not less than 1,000m²; and 	<p>P1</p> <p>Each lot, or a lot proposed in a plan of subdivision, must be of sufficient area for the intended use or development, having regard to:</p> <ul style="list-style-type: none"> (a) erection of a building if required by the intended use;

<p>(b) if intended for a building, contain a building area of not less than 300m²:</p> <ul style="list-style-type: none"> (i) clear of any applicable setback from a frontage, side or rear boundary; (ii) clear of any applicable setback from a zone boundary; (iii) clear of any registered easement; (iv) clear of any registered right of way benefitting other land; (v) not including land required as part of access to the site; (vi) accessible from a frontage or access strip; and (vii) clear of any area required for the on-site disposal of sewage or stormwater. 	<ul style="list-style-type: none"> (b) access to the site; (c) use or development of adjacent land; (d) a utility; and (e) any easement or lawful entitlement for access to other land.
<p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, must:</p> <ul style="list-style-type: none"> (a) have a frontage of not less than 4m; (b) have an access strip provided by a right-of-way to a road over land not required as the sole or principal means of access to any other land of a width not less than 10m; or (c) have an access strip to a road not required as the sole or principal means of access to any other land of a width not less than 10m; and (d) provide vehicular access between the carriageway of a road and the frontage or access strip in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i>. 	<p>P2</p> <p>It must be unnecessary to require:</p> <ul style="list-style-type: none"> (a) a frontage; (b) an access strip; and (c) access between the carriageway of a road and the frontage or access strip.
<p>A3</p> <p>Each lot, or a lot proposed in a plan of subdivision, must have a water supply provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>.</p>	<p>P3</p> <p>It must be unnecessary to require a water supply.</p>

A4 Each lot, or a lot proposed in a plan of subdivision, must drain sewage and waste water to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i> .	P4 It must be unnecessary to require the drainage and disposal of sewage or waste water.
A5 Each lot, or a lot proposed in a plan of subdivision, must drain stormwater to a stormwater system provided in accordance with the <i>Drains Act 1954</i> .	P5 It must be unnecessary to require the drainage of stormwater.

WAR-P1.7.2 Subdivision

Objective:	The division and consolidation of estates and interests in land is to create lots that are consistent with the purpose of the particular purpose zone.	
Acceptable Solutions	Performance Criteria	
A1 No Acceptable Solution.	P1 Each lot, or a lot proposed in a plan of subdivision, must be: <ul style="list-style-type: none"> (a) a lot required for public use by the State government, a Council, a statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a statutory authority; or (b) for a permissible use in the zone. 	

WAR-P1.8 Tables

WAR-P1.8.1 Setbacks required by clause WAR-P1.6.2

Adjoining Zone	Use type	Setback
General Residential	Bulky Goods Sales, Community Meeting and Entertainment, Food Services, Hotel Industry, Research and Development, Visitor Accommodation, Storage, Business and Professional Services, General Retail and Hire, Utilities	10m
	Service Industry, Equipment and Machinery Sales and Hire, Resource Processing, Tourist Operation, Transport Depot and Distribution	30m

	Natural and Cultural Values Management, Passive Recreation, Sports and Recreation	No setback
General Industrial	Visitor Accommodation, Tourist Operation, Community Meeting and Entertainment	30m
	Sports and Recreation, Food Services, Hotel Industry, Business and Professional Services, General Retail and Hire	10m
	Service Industry, Equipment and Machinery Sales and Hire, Resource Processing, Storage, Transport Depot and Distribution, Natural and Cultural Values Management, Passive Recreation, Research and Development, Utilities	No setback
Rural Living	Bulky Goods Sales, Community Meeting and Entertainment, Food Services, Hotel Industry, Research and Development, Visitor Accommodation, Storage, Business and Professional Services, General Retail and Hire, Utilities	10m
	Service Industry, Equipment and Machinery Sales and Hire, Resource Processing, Tourist Operation, Transport Depot and Distribution	30m
	Natural and Cultural Values Management, Passive Recreation, Sports and Recreation	No setback

WAR-Specific Area Plans

There are no specific area plans in this Local Provisions Schedule.

WAR-Site-specific Qualifications

Reference Number	Site reference	Folio of the Register	Description (modification, substitution or addition)	Relevant Clause in State Planning Provisions
WAR-19.1	15275 Bass Highway, Somerset	153130/4	An additional Discretionary Use Class for this site is: (a) General Retail and Hire if for a bottle shop; (b) Hotel Industry; or (c) Visitor Accommodation.	General Industrial Zone – clause 19.2 Use Table
WAR-19.2	15275 Bass Highway, Somerset	153130/4	A substitution for these clauses is: Development for General Retail and Hire, Hotel Industry	General Industrial Zone – 19.4 - clause 19.4.1 Building height and clause 19.4.2 Setback

			<p>and Visitor Accommodation uses.</p> <p>Objective:</p> <p>To provide for building height and setback that:</p> <ul style="list-style-type: none"> (a) provides for the efficient use of land; (b) does not compromise the necessary operation or expansion of the Bass Highway; (c) provides for buildings, service activity and vehicle parking of suitable size to accommodate commercial use; and (d) minimises adverse impacts from and to adjoining industrial uses. <p>Acceptable Solution A1:</p> <p>Building height must be not more than 12m.</p> <p>Performance Criteria P1:</p> <p>Use and development should not compromise the use or development of surrounding properties for industrial activities that may have impacts in adjacent uses, having regard to:</p>	
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			<p>(a) the characteristics of the site;</p> <p>(b) the size and scale of the proposed use; and</p> <p>(c) the functions of the industrial area.</p> <p>Acceptable Solution A2:</p> <p>Buildings must have a setback from a side or rear boundary of not less than 5m.</p> <p>Performance Criteria P2:</p> <p>If abutting land zoned General Industrial, the setback or design of the development should have regard to:</p> <p>(a) potential impacts of height, bulk and scale of industrial development, and emissions such as noise associated with proximity to that zone; and</p> <p>(b) minimising likelihood for increase in conflict, constraint or interference with use in the General Industrial Zone.</p> <p>Acceptable Solution A3:</p> <p>Buildings must have a setback from Bass</p>	
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			<p>Highway of not less than 20m.</p> <p>Performance Criteria P3:</p> <p>The setback of a building should have regard to:</p> <p>(a) prevailing frontage setbacks for any existing and approved building on the site;</p> <p>(b) any advice from the relevant road authority; and</p> <p>(c) visual impact of the site.</p>	
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WAR-Code Lists

WAR-Table C3.1 Other Major Roads

Road	From	To
This table is not used in this Local Provisions Schedule.		

WAR-Table C6.1 Local Heritage Places

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
This table is not used in this Local Provisions Schedule.						

WAR-Table C6.2 Local Heritage Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			

WAR-Table C6.3 Local Historic Landscape Precincts

Reference Number	Town/Locality	Name of Precinct	Description, Statement of Local Historic Heritage Significance, Historic Heritage Values and Design Criteria / Conservation Policy
This table is not used in this Local Provisions Schedule.			

WAR-Table C6.4 Places or Precincts of Archaeological Potential

Reference Number	Town/Locality	Property Name / Address/ Name of Precinct	Folio of the Register	Description, Specific Extent and Archaeological Potential
This table is not used in this Local Provisions Schedule.				

WAR-Table C6.5 Significant Trees

Reference Number	Town/Locality	Property Name and Street Address	Folio of the Register	Description / Specific Extent	Botanical Name	Common Name	No. of trees

This table is not used in this Local Provisions Schedule.							
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WAR-Table C8.1 Scenic Protection Areas

Reference Number	Scenic Protection Area Name	Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.				

WAR-Table C8.2 Scenic Road Corridors

Reference Number	Scenic Road Corridor Description	Scenic Value	Management Objectives
This table is not used in this Local Provisions Schedule.			

WAR-Table C11.1 Coastal Inundation Hazard Bands AHD Levels

Locality	High Hazard Band (m AHD)	Medium Hazard Band (m AHD)	Low Hazard Band (m AHD)	Defined Flood Level (m AHD)
	Sea Level Rise 2050	1% annual exceedance probability 2050 with freeboard	1% annual exceedance probability 2100 (design flood level) with freeboard	1% annual exceedance probability 2100
Boat Harbour	1.8	2.6	3.2	2.9
Doctors Rocks	1.8	2.6	3.2	2.9
Flowerdale	1.8	2.6	3.2	2.9
Sisters Beach	1.8	2.6	3.2	2.9
Somerset	1.8	2.6	3.2	2.9
Wynyard	1.8	2.6	3.2	2.9
All other locations	1.8	2.6	3.2	2.9

WAR-Applied, Adopted or Incorporated Documents

Document Title	Publication Details	Relevant Clause in the LPS
This table is not used in this Local Provisions Schedule.		