

TASMANIAN PLANNING COMMISSION

DECISION


Local Provisions Schedule Break O'Day

Date of decision 13 July 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).

The Commission finds that the draft LPS requires substantial modification and accordingly, under section 35KB of the Act, the Commission directs the planning authority to prepare an amendment, under Part 3B, of the LPS and to submit the amendment to the Commission after the LPS comes into effect, in accordance with the notice in Attachment 3.



John Ramsay
Delegate (Chair)



Nick Heath
Delegate

Disclosure statement

John Ramsay, a Commission delegate disclosed at a hearing held on 24 August 2022 that he was a former member of the Board of the Tasmanian Land Conservancy for a period of 3 years ending in 2011, and was Chair of the Forest Practices Board for a period of 7 years ending in March 2022.

There were no objections to Mr Ramsay determining the matter.

REASONS FOR DECISION

Background

The Break O'Day Planning Authority (the planning authority) exhibited the Break O'Day draft Local Provisions Schedule (the draft LPS), under section 35D of *Land Use Planning and Approvals Act 1993* (the Act), from 11 October 2021 until 13 December 2021.

On 8 June 2022 the Commission accepted the report provided by the planning authority under section 35F(1) into 77 representations received on the draft LPS. In addition, five representations (numbers 62, 76, 79, 81 and 82), made after the end of the exhibition period, were included by the planning authority in the report under section 35F(2)(b) of the Act. Furthermore two submissions were accepted by the Commission during the hearing process. A list of representations and the submissions is at Attachment 1.

Date and place of hearing

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

Hearings were held on:

- 24, 25 and 26 August 2022 at the Break O'Day Council chambers, 32-34 Georges Bay Esplanade, St Helens;
- 1 September 2022 at the Commission's offices, Level 3, 144 Macquarie Street, Hobart;
- 7 September 2022 at the Panorama Hotel, 1 Quail Street, St Helens;
- 8 and 9 September 2022 at the Break O'Day Council chambers, 32-34 Georges Bay Esplanade, St Helens.

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 hearings;
 - 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 LPS criteria to be met by the draft LPS are:
 - (a) contains all the provisions that the 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) as far as practicable, is 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) as far as practicable, is 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 Northern Tasmania Regional Land Use Strategy 2021 (the regional strategy).
 5. In addition to the LPS criteria, the Commission has considered Guideline No. 1 - Local Provisions Schedule (LPS): zone and code application (Guideline No. 1) issued by the Minister for Planning under section 8A of the Act. Guideline No. 1 assists with the uniform application of the SPPs and it is appropriate for the Commission to have regard to any relevant statements it makes about zone and overlay application. However, the draft LPS is ultimately assessed against the LPS criteria at section 34(2) of the Act, and so the evidence provided to the Commission about zone or overlay application may result in a decision that is different from Guideline No. 1. The Commission adopts a case by case assessment approach in its decision making, taking into account the relevant particular site and local circumstances and evidence submitted.
 6. The requirements for making modifications to the draft LPS are set out under section 35K of the Act.
 7. The Commission may also reject the draft LPS and request that the planning authority prepare a substitute draft LPS (section 35K(c)).
 8. 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).
 9. Where the Commission has determined substantial modifications ought to be made to the draft LPS and such modifications are suitable to be made as an amendment, under Part 3B to the LPS, it may direct the planning authority to prepare the amendment and submit to the Commission after the LPS comes into effect. These are set out in a notice under section 35KB of the Act (see Attachment 3).

Issues raised in the representations

General Residential Zone - 27 Fraser Street, Fingal

Representation: Joanne Howe (15)

10. The representor requested the zoning of 27 Fraser Street, Fingal folio of the Register 176949/1 be revised from the Rural Zone to the General Residential Zone. The reason was the land was vacant but formed part of the settlement, had a connection to the reticulated water service provided by TasWater, and had similar character to land in the General Residential Zone.
11. The planning authority did not support the request in its section 35F report for the following reasons:
 - the land was included in the State land potentially suitable for agriculture zone mapping (agricultural estate mapping) and therefore had some potential for agriculture; and
 - the zoning pattern would be inconsistent with the surrounding Rural Zone on the eastern side of Fraser Street.

12. However the planning authority noted the General Residential Zone potentially satisfied Guideline No. 1, and that the Land Use and Development Strategy - Break O'Day Council Municipal Management Plan 2015 (Land Use and Development Strategy 2015) was not in opposition given it identified the land in a 'potential urban expansion area.'

Commission consideration

13. The Commission agrees with the planning authority that the General Residential Zone should not be applied to the land at this time. In particular, the Commission notes the zoning pattern would be inconsistent with the surrounding Rural Zone on the eastern side of Fraser Street. In addition, no evidence was provided to show that the land has a connection to the reticulated sewer, which is a principle identified in GRZ 1 of Guideline No. 1. The Commission also notes the area is identified in the Land Use and Development Strategy 2015 for its potential to be included in a larger urban area in future subject to further strategic planning justification being provided.

Commission decision

14. The Commission considers that no modifications are required.

General Residential Zone - 83 Annie Street, St Helens

Representation: Ross and Jo Williams (38)

15. The representor requested the zoning of 83 Annie Street, St Helens folios of the Register 241612/1 and 125919/1 be revised from the Rural Zone to the General Residential Zone. The reasons were:
 - the land was surrounded by developing subdivision in the General Residential Zone on Annie Street;
 - the land adjoined existing dwellings on Tully Street; and
 - the General Residential Zone would provide accommodation of the growing population of St Helens.
16. In its section 35F report, the planning authority did not support application of the General Residential Zone and made the following comments:
 - the original draft LPS submitted to the Commission sought to apply the Rural Living Zone to folio of the Register 125919/1 and the General Residential Zone to folio of the Register 241612/1. However the Rural Zone was applied as a result of a direction made by the Commission prior to public exhibition of the draft LPS;
 - the land ought to be considered for General Residential Zone, which is supported by the recommendations of the Land Use and Development Strategy 2015; and
 - the planning authority would consider a draft amendment to apply General Residential Zone after the LPS was in effect.
17. At the hearing, the planning authority added the following comments:
 - the land was identified in the Land Use and Development Strategy 2015 for its potential to be zoned General Residential, but further strategic planning work was required to demonstrate the Zone should be applied;
 - the land had the potential to provide opportunity for urban expansion and dwelling construction required for St Helens, however it did not have evidence the land was required for residential supply;
 - the land could be fully serviced; the western side of the land may need to be managed as a buffer to the adjacent General Industrial Zone; and

- the Rural Living Zone (subdivision category C) may be an appropriate zone to folio of the Register 125919/1 to provide a buffer.

Commission consideration

18. The Commission agrees with the planning authority that rezoning of the land to General Residential is premature because further strategic work is needed to determine the quantity of General Residential zoning needed in the area. The Commission notes the planning authority's intent to undertake strategic planning work to support rezoning of the land. The Commission also notes the land has an advantageous location and topography and appears to be suitable for the General Residential Zone subject to any servicing, land use conflict and residential supply and demand issues being investigated.

Commission decision

19. The Commission considers that no modifications are required.

General Residential Zone - 36 Parnella Drive, Stieglitz

Representations: Michael Fox and Anna Povey (18), Van Diemen Consulting for Parnella Holdings Pty Ltd (80), North East Bioregional Network (81)

20. The representation made by Van Diemen Consulting requested the zoning of 36 Parnella Drive, Stieglitz folio of the Register 30650/3 be revised from the Open Space Zone to the General Residential Zone. The representation explained the land had been in private ownership since 1978 and was changed to the Open Space Zone in the Break O'Day Interim Planning Scheme 2013 (interim planning scheme) in error. The land had previously been zoned Urban under the Break O'Day Planning Scheme 1996.
21. The representation made by North East Bioregional Network requested the zoning of the land be revised to the Environmental Management Zone because the land contained 'good quality native vegetation, including a botanically rich understorey and two known threatened plant species.'
22. The representation made by Michael Fox and Anna Povey supported the Open Space Zone as exhibited on the basis the land was intended to be owned by Break O'Day Council and contained important natural values.
23. In its section 35F report, the planning authority opposed any change to the Open Space Zone for the following reasons:
 - the land was required as a public open space contribution under condition 11 of planning permit P31-2/84 granted on 21 February 1984 for the original subdivision of the area;
 - the sealed plan identified the land as 'Public Recreation Space';
 - there had been an ongoing legal dispute between the Break O'Day Council and the owner of the land about transfer of ownership to the Council;
 - Parnella Holdings Pty Ltd was a de-registered company and an adverse possession claim it made to the Land Titles Office to take ownership of the land had been denied; and
 - natural values could be considered as part of the ongoing management of the land in the Open Space Zone.
24. At the hearing, the owner of the land, Mr Michael Morley, was represented by Mr Robert Hamilton who contended the land was dedicated as public open space on the land title without owner's consent. He added the land was zoned Urban under the Break O'Day Planning Scheme 1996, which was then incorrectly changed to the Open Space Zone in the interim planning scheme. Furthermore, he stated land near St Helens Airport that contained a

reservoir was the actual area that was intended to be dedicated as public open space. Mr Hamilton's view was the land was suitable for urban residential subdivision and should be developed.

25. In response, the planning authority stated the land was required by the conditions of the planning permit granted to subdivide the land and surrounding area.
26. Mr Todd Dudley for the North East Bioregional Network was in agreement with the planning authority and added the land had significant landscape and natural values. Mr Dudley submitted several documents about the Parnella Wildflower Park as evidence of its natural value.
27. Following the hearing, Mr Hamilton, in response to a Commission direction, provided a natural values assessment by a suitably qualified person, which concluded the land had 'very little nature conservation significance.' The submission also contended the planning authority 'changed its original written position opposing any change in zoning to a neutral one that acquiesced to, or at least did not challenge, the correctness and validity of Parnella's written and verbal representations.'
28. Mr Dudley for the North East Bioregional Network made a submission in response, which again highlighted his view the site contained significant natural values and questioned how thorough the natural values assessment of the land provided by the representor had been.
29. The planning authority also made a submission in response and clarified its recommendation was the Open Space Zone be applied for the reasons specified in the section 35F report.

Commission consideration

30. The Commission is not persuaded the General Residential Zone should be applied to the land. Specifically, there is insufficient evidence the Zone is supported by the regional strategy and the Land Use Development Strategy 2015. The Commission notes the land contains some degree of natural value, but that the significance of those values was contested by the parties.
31. Notwithstanding, the land is identified on the land title as 'Set Aside for Public Recreation Space'. The principles of Guideline No. 1 (OSZ 1) indicate the Open Space Zone should be applied to land that is intended to provide for the open space needs of the community. The Commission notes it is beyond its jurisdiction to rule on the disputed status of the public open space; the only relevant evidence at this point in time being the land title inscription.

Commission decision

32. The Commission considers that no modifications are required.

General Residential Zone - Chimney Heights Road, Stieglitz folio of the Register 8489/53

Representation: Break O'Day Council (82)

33. The representor requested the zoning of Chimney Heights Road, Stieglitz folio of the Register 8489/53 be revised from the Open Space Zone to the General Residential Zone for the following reasons:
 - the Land Use and Development Strategy 2015 identified the land as unsuitable for public open space because the lot was 'internal' and serviced by an access strip that significantly reduced its visibility from surrounding areas; and
 - the Strategy recommended the land be divested and used for private residential use and development, with funds from the sale to be used to upgrade other public open space facilities.

34. In its section 35F report, the planning authority recommended that the General Residential Zone be applied.
35. At the hearing, the planning authority reiterated its concern the land was not useful as public open space because a lack of public surveillance of the area. It specifically identified Table 14 in the Break O'Day Recreation and Open Space Strategy 2014 as evidence that no additional local or district parks were required, however the provision of additional facilities at existing places of public recreation was required. The planning authority added that it was unsure whether there was too much or too little public open space in the area, but stated the answer was irrelevant because the land was unsuitable for use as public open space anyway.

Commission consideration

36. The Commission accepts the evidence provided by the planning authority that the land is not suitable for use as public open space. It is considered the General Residential Zone should be applied in its place, consistent with the surrounding area.

Commission decision

37. Modification:
 - Revise the zoning of Chimney Heights Road, Stieglitz folio of the Register 8489/53 to General Residential.
38. Reason: To apply the General Residential Zone consistent with Guideline No. 1.

Low Density Residential Zone - Simeon Place, Akaora

Representations: John Campbell-Smith (14), Woolcott Surveys/East Coast Surveying (72), North East Bioregional Network (81)

39. The representation made by Mr John Campbell-Smith requested the zoning of 9 Simeon Place, Akaora folio of the Register 32902/1, except that part to the south of Simeon Place, be revised from the Landscape Conservation Zone to the Low Density Residential Zone. The representor explained the title was divided into three parts by Simeon Place and other residential properties. Two parts of the land were proposed to be zoned Low Density Residential. This included the western part that contained an existing dwelling, and a large part to the east with an area of approximately 2ha. The reasons were:
 - the land had a clear priority for residential use;
 - the land was similar to the surrounding land parcels that also contained dwellings and were zoned Low Density Residential; and
 - the Landscape Conservation Zone was inconsistent with the requirements of Guideline No. 1.
40. The representation made by North East Bioregional Network requested 9 Simeon Place be zoned Environmental Management because it was 'ecologically and scenically sensitive, and vulnerable to sea level rise.' However, the representor suggested the western part of the land that contained the dwelling could be zoned Landscape Conservation or Particular Purpose - Coastal Settlement in the event the Environmental Management was deemed unsuitable, along with the remainder of the land at Simeon Place that was zoned Low Density Residential.
41. The representation made by Woolcott Surveys/East Coast Surveying was supportive of the Low Density Residential Zone.
42. In its section 35F report, the planning authority did not support any change to the zone of 9 Simeon Place because the land was subject to the Priority Vegetation Area, Future Coastal

Refugia Area and Waterway and Coastal Protection Area overlays. It added the land was a potential site for a species of Succulent Saline Herbland and was therefore suitable for the Landscape Conservation Zone. The planning authority did not agree that the zone of the other properties in Simeon Place should be altered for the following reasons:

- the Low Density Residential Zone was the most practical zone for the existing and surrounding development pattern;
- the land was not serviced, unlike other residential land in Akaroa; and
- the Low Density Residential Zone satisfied the requirements of LDRZ 1 and LDRZ 3 of Guideline No. 1.

43. At the hearing, Mr John and Annie Campbell-Smith made the following comments:

- the land at 9 Simeon Place was developed with a dwelling;
- the land was near General Residential-zoned properties to the south;
- the Landscape Conservation Zone shouldn't be applied to land that contains Residential use;
- Simeon Place is a residential area and 9 Simeon Place should be included in the Low Density Residential Zone applied to the rest of the settlement;
- the land did not contain significant natural values and there was no evidence of threatened species there. However the area had not been assessed specifically for natural values;
- the land had been cleared previously;
- the Low Density Residential Zone should be applied where a full range of infrastructure services is not available;
- the Low Density Residential Zone was consistent with Guideline No. 1;
- there were no plans to use or develop the eastern portion of the land; and
- the Environmental Management Zone could be applied to the southern part of the land in the event the remainder was zoned Low Density Residential Zone. This would enable the land to be used as a conservation reserve.

44. Mr Campbell-Smith submitted a document as evidence the Low Density Residential Zone was consistent with Guideline No. 1 and raised concern the Natural Assets Code overlays had been applied without supporting evidence they were required.

45. Mr Todd Dudley for the North East Bioregional Network was supportive of the Landscape Conservation Zone because the land contained salt-marsh and was not suitable for high-density Residential development. He also noted the area was potentially subject to coastal inundation and contained melaleuca forest. Mr Dudley also contended the Landscape Conservation Zone should be applied to the remainder of the settlement, and noted the Environmental Management or Particular Purpose - Coastal Settlement zones could be a suitable alternatives. Mr Dudley also submitted a copy of a letter dated 25 June 2002 written by Steve Stanton, Aboriginal heritage consultant, as evidence the area should be treated with care given Aboriginal stone artefacts and shell middens were known to exist in the area.

46. In response, the planning authority made the following comments about the land at 9 Simeon Place:

- the land was separated into three parts, but was contained in one title;
- the land was affected by all three Natural Assets Code overlays;
- the land was not suitable for subdivision because it had natural values; and
- it may support split-zoning of the land to include the western part of the property in the Low Density Residential Zone.

47. Following the hearing, the planning authority, in response to a Commission direction, provided a submission that contended the eastern and southern parts of the land should remain in the Landscape Conservation Zone because the land was heavily vegetated and

constrained by hazards, particularly by the potential coastal inundation. It clarified it would support the Low Density Residential Zone for the western part of the land as it contained the dwelling, had a residential character and would make the zone consistent with the remainder of the settlement.

48. In response, Mr and Mrs Campbell-Smith made the following comments in support of the Low Density Residential Zone:
 - the presence of overlays, in particular the Coastal Inundation Hazard Area overlay, should not 'dictate' the underlying zone of land;
 - there was a lack of evidence to support application of the Natural Assets Code overlays;
 - landowners should not be responsible to provide evidence about the natural values and hazards on the land;
 - the eastern part of the land should not be treated as a conservation reserve by application of the Landscape Conservation Zone; and
 - the land forms part of the established residential settlement.
49. Mr and Mrs Campbell-Smith also made a submission that disputed whether there was a threatened species of melaleuca forest located on the land. In particular, the submission noted the only threatened species identified under the *Threatened Species Act 1995* was *Melaleuca pustulata*, which was only found in the region of Swansea and Coles Bay.
50. Mr Dudley for the North East Bioregional Network made a submission that highlighted the potential for the land to be affected by sea level rise, and the positive environmental conditions that exist on the land for *Melaleuca ericafolia*, which was listed as a threatened forest community under the *Natural Conservation Act 2002*.

Commission consideration

51. The Commission agrees the land should be split-zoned so the western part of the title that contains the existing dwelling is included in the Low Density Residential Zone. That part of the land has an established Residential use and has characteristics similar to the other eight lots in Simeon Place that are already zoned Low Density Residential. The land is similarly affected by the Waterway and Coastal Protection Area and Coastal Erosion Hazard Area overlays, but is otherwise largely unencumbered. The Commission is of the opinion that this part of the land should be recognised with the Low Density Residential Zone like the other lots.
52. However, the Commission is not persuaded the Low Density Residential Zone should be applied to either the southern or eastern parts of the land for the following reasons:
 - insufficient evidence has been provided to demonstrate how subdivision potential created by the Low Density Residential Zone would comply with the regional strategy, the Land Use and Development Strategy 2015 and the State Coastal Policy 1996 (State Coastal Policy);
 - the Low Density Residential Zone is not supported by the principle of LDRZ 3 of Guideline No. 1, because the land has landscape value and therefore meets the principles of LCZ 1 and LCZ 2 of Guideline No. 1, which indicates the Landscape Conservation Zone should be applied. The land contains a significant amount of native vegetation, which irrespective of whether it is regrowth or not, provides an important border of vegetation and colour around the coast and helps screen Simeon Place from the surrounding areas;
 - the principle at LCZ 1 of Guideline No. 1 indicates the Landscape Conservation Zone can be applied to land that contains Residential use;
 - evidence was submitted by the North East Bioregional Network, which indicates the possibility items of Aboriginal heritage exist in the area. Further assessment of the land to determine if the land has Aboriginal heritage significance would be required prior to rezoning of the land;

- the Waterway and Coastal Protection Area, Future Coastal Refugia, Priority Vegetation Area (part), Coastal Erosion Hazard Area, Coastal Inundation Hazard Area, Flood-prone Hazard Area and Bushfire-prone Hazard Area overlays apply to the land and indicate the land may contain significant natural values and is at significant risk from hazards, particularly coastal hazards;
 - the Waterway and Coastal Protection Area and Future Coastal Refugia Area overlays apply to the land and indicate presence of natural values. The overlays are based on guidance mapping prepared by the Department of Premier and Cabinet to identify areas vulnerable to impact of use and development on water quality, riparian and coastal vegetation, natural ecological function and natural coastal processes; and
 - a significant area of the land is identified as being in a high risk coastal inundation hazard band and the whole of the eastern part of the site is within the Flood-prone Hazard Area overlay.
53. The Commission considers there is insufficient evidence about the natural values of the land and the risk of coastal erosion, coastal inundation, flooding and bushfire risk to determine whether the potential for use and development created by the Low Density Residential Area would be appropriate.
54. The Commission does not consider it appropriate the Particular Purpose Zone - Coastal Settlement be applied to any of the land in Simeon Place as proposed by the North East Bioregional Network. Compared to other land in the Zone, the land at Simeon Place is affected differently by overlays, and also has a closer relationship to existing settlements. Likewise, the Environmental Management Zone would not be appropriate because the land predominantly contains Residential use. The Commission is satisfied the Low Density Residential Zone fundamentally reflects the existing use of the land, and that any additional natural values or hazards can be managed by the overlays.

Commission decision

55. Modification:
- Revise the zoning of that part of 9 Simeon Place, Akaora folio of the Register 32902/1 that contains the existing dwelling on the western side of the title and to the north of folio of the Register 64450/8 to Low Density Residential.
56. Reason: To apply the Low Density Residential Zone consistent with Guideline No. 1.

Low Density Residential Zone - Gardens Road, Binalong Bay

Representations: Tayler Paulsen (29), Peter Paulsen (33), Raoul Harper (47), Woolcott Surveys/East Coast Surveying (72)

57. The representors requested that an alternative zoning to the Landscape Conservation Zone be applied to 265 Gardens Road, Binalong Bay folio of the Register 21065/42 and 1/291 and 2/291 Gardens Road, Binalong Bay folios of the Register 178238/1 and 178238/2. The representations made by Peter Paulsen and Raoul Harper proposed the Low Density Residential Zone be applied instead. The reasons were the Landscape Conservation Zone:
- was inconsistent with Guideline No. 1;
 - provided a clear priority for the protection of landscape values and for complementary use or development, with residential use largely being Discretionary;
 - restricted residential use rights and increased cost development in coastal areas;
 - was a disincentive for investment and created uncertain use and development potential;

- prioritised natural values and the environment above and beyond the existing residential use, social and economic values of the land;
 - had been incorrectly applied given the residential character and use of the land; and
 - the land did not have landscape values.
58. The representors also raised concern the Particular Purpose Zone - Coastal Settlement had been applied to similar land where a standard SPP zone could be applied, and did not meet section 32(4) of the Act, particularly because there were no social or economic benefits.
59. In its section 35F report, the planning authority did not recommend any change to the draft LPS for the following reasons:
- the Landscape Conservation Zone had been applied consistently across the planning area in accordance with Guideline No. 1;
 - the land was nested in an area with significant landscape, scenic and environmental values characterised by native vegetation that provided habitat for threatened flora and fauna;
 - the area was not strategically prioritised for residential use;
 - the land had limited infrastructure in the area that made it unsuitable for alternate zones;
 - the application of zones is intended to discourage 'ribbon development' along the coastline; and
 - the application of the Low Density Residential Zone to 265 and 291 Gardens Road would be a spot-zoning of the land.
60. At the hearing, Mr Peter Paulsen raised concern the Landscape Conservation Zone had been applied to residential properties despite the status of Residential use being Discretionary. He stated he would be satisfied if the Zone applied to the land was similar to the Environmental Living Zone applied under the interim planning scheme. Furthermore, he contended the land in Gardens Road was intended to be used for rural-residential purposes and the Landscape Conservation Zone created limitations on residential use and development that would have a negative economic impact on the area.
61. Mr James Stewart (Woolcott Surveys) agreed, and added the Rural Living Zone was a suitable alternative zone that could be applied consistent with Guideline No. 1.
62. Mr Raoul Harper was also in agreement, and added the lots were part of the same original subdivision of the land, that much of the land had been cleared in the past and that the lots had rural-residential character. He contended the Landscape Conservation Zone of the SPPs was not suitable for the land and should be replaced with the Rural Living Zone.
63. Mr Todd Dudley for the North East Bioregional Network was supportive of the Landscape Conservation Zone because it had important natural values, particularly diverse heathlands. He raised concern the amount of dwellings in the area resulted in excess land clearing. Mr Dudley contended other zones that provided for subdivision would be inconsistent with clause 2.4.2 of the State Coastal Policy and submitted an extract from a decision of the Resource Management and Planning Appeal Tribunal as supporting evidence (Andrew MacGregor and Associates obo I Sloan v Break O'Day Council [2004] TASRMPAT 183 (5 August 2004)). The decision identified the impact of small subdivisions on 'existing coastal vegetation systems and habitats.'
64. In response, the planning authority made the following comments:
- the Low Density Residential Zone was not appropriate for the land, and the Rural Living Zone was avoided because it provided for uses that were not suitable for the area;
 - the Landscape Conservation Zone was not a perfect fit for the land, however the Rural Living Zone was not suitable because the land contained native vegetation with landscape values;

- the properties in the area had lot sizes approximating 4000m², which was too great for the Low Density Residential Zone, but generally too small for the Landscape Conservation Zone;
- the Landscape Conservation Zone was needed to be satisfied zoning was consistent with the State Coastal Policy;
- the name of the Landscape Conservation Zone was unfortunate because it inferred the Zone was not suitable for residential use and development;
- a zone similar to the Environmental Living Zone applied under the interim planning scheme would have been suitable for the land;
- ideally it would have undertaken a strategic planning review of the area to determine what combination of planning controls would be most appropriate; and
- it intended to do further strategic work following the draft LPS assessment to determine what zone should apply to the land in future.

Commission consideration

65. The Commission is not persuaded the Landscape Conservation Zone should be replaced, because there is insufficient strategic planning evidence an alternate zone should be applied. However, the Commission notes a considerable body of evidence was provided at the hearing about the content of the Zone by the planning authority and representors, and agrees there is merit in further examination of the planning controls that should apply. Such a review could investigate whether the Landscape Conservation Zone adequately reflects the Residential use of the land, and what other controls could apply to the land to manage natural and landscape values. An alternate zone (or other controls) might be applied by draft amendment to the LPS if supported by a review. This would also allow the local community to be properly consulted before or after initiation of a draft amendment.
66. Nevertheless the land contains a considerable amount of native vegetation (recognised by the Priority Vegetation Area overlay) and has landscape values that require management given the absence of a Scenic Protection Area overlay in the area. The Commission therefore determines the Landscape Conservation Zone be applied to the land.
67. The Commission also notes the planning authority has an option to submit a report under section 35G of the Act to put forward an opinion on whether the SPPs should be amended to better manage these issues. A review of the provisions with the appropriate stakeholders would be an opportunity to determine if the zone controls could be altered to better manage Residential use on land with natural and landscape values.

Commission decision

68. The Commission considers that no modifications are required.

Low Density Residential Zone - Ocean Drive, Beaumaris folio of the Register 141533/1

Representation: Woolcott Surveys for Anthony Swanson (46)

69. The representor requested the zoning of part of Ocean Drive, Beaumaris folio of the Register 141533/1 be revised from the Landscape Conservation Zone to the Low Density Residential Zone. The proposal was to extend the Low Density Residential Zone west for approximately 30-40m from the western boundaries of 20, 22, 24, 26, 28, 30, 32-34, 36, 38 and 40 Seaview Avenue. The representor explained this would allow the owners of the adjacent residential properties to adjust their boundaries to increase the areas of their land. The larger properties would enable better weed, bushfire and wastewater management of each property.
70. In its section 35F report, the planning authority recommended there be no modification of the draft LPS for the following reasons:

- the proposal was not supported by the Land Use and Development Strategy 2015, the regional strategy or Guideline No. 1; and
 - the expanded Low Density Residential Zone would create unwanted potential for Multiple Dwellings to be constructed in the area.
71. At the hearing, the owner of the land, Mr Anthony Swanson explained the change would allow the owners of the adjoining properties to expand their properties to develop ancillary residential buildings. Mr Swanson understood the expanded land areas could create potential for Multiple Dwellings, but highlighted any new dwellings would be subject to assessment under the SPPs anyway.
72. In response, the planning authority maintained its recommendation the land remain in the Landscape Conservation Zone, and made the following comments:
- strategic work was required for the settlement at Beaumaris to justify rezoning of land in the area;
 - as an example, 20 Seaview Avenue would be expanded by approximately 880m² of land, which would create potential for Multiple Dwellings to be developed, which would be out of character for the settlement;
 - property owners in the area may not be supportive of larger properties as consequential development may impact current residential amenity; and
 - no strategic work was scheduled, but the planning authority had an interest in undertaking a structure plan for Beaumaris.

Commission consideration

73. The Commission agrees with the planning authority that rezoning of the land to Low Density Residential is premature. Further strategic work is needed to determine the quantity and location of Low Density Residential zoning in the area, what type and extent of consequential use and development in the area should be considered, and whether such changes would be consistent with the State Coastal Policy. The Commission notes the planning authority's interest to undertake strategic planning work for Beaumaris, which may support rezoning of the land in future if the results are favourable.

Commission decision

74. The Commission considers that no modifications are required.

Low Density Residential Zone - 1-4 Vince Lane, Binalong Bay

Representation: Woolcott Surveys for owners 1-4 Vince Lane, Binalong Bay (55)

75. The representor requested the zoning of part of 4 Vince Lane, Binalong Bay lots 1, 2 3 and 4 on strata title folio of the Register 170451/0 be revised from the Landscape Conservation Zone to the Low Density Residential Zone. The reasons were:
- the land is divided into 4 strata lots for Visitor Accommodation cabins; and
 - the land does not satisfy the requirements of Guideline No. 1 for the Landscape Conservation Zone, as the land was suitable for an alternate zone.
76. The representor also added the land could be included in the Particular Purpose Zone - Coastal Settlement similar to other properties located on the opposite side of Vince Lane.
77. In its section 35F report, the planning authority opposed the request for the following reasons:

- the strata lots were part of a larger property with an area of 22.57ha that was predominately covered in native vegetation and subject to the Priority Vegetation Area overlay;
 - the Low Density Residential Zone was not supported by the regional strategy or the Land Use and Development Strategy 2015;
 - the Particular Purpose Zone - Coastal Settlement had not been applied to any land that was strata titled, and the Zone was not suitable for the overall area and character of the land; and
 - the Landscape Conservation Zone was the most appropriate zone based on the provisions of Guideline No. 1.
78. At the hearing Mr James Stewart (Woolcott Surveys) noted the representation only sought to apply the Low Density Residential Zone to the four strata lots and not the full 22.57ha title on which the strata title was applied. He added the following comments:
- construction of one of the Visitor Accommodation cabins had been completed;
 - there were no natural values on the land;
 - there was no perfect alternate zone that could be applied, but the provisions of the Low Density Residential Zone were preferred given the type of use and development approved on the land;
 - the use provisions of the Low Density Residential and Landscape Conservation zones were similar; and
 - the Particular Purpose Zone - Coastal Settlement was no longer supported as the Zone would restrict Visitor Accommodation use to existing buildings.
79. In response, the planning authority stated it had misunderstood the representation and believed the Low Density Residential Zone was proposed for the whole 22.57ha lot. Notwithstanding, it did not change its recommendation the land remain zoned Landscape Conservation. It was prepared to consider application of the Particular Purpose Zone to the lots, but noted the strata title was granted on the basis the land would be used for Visitor Accommodation, which meant the zone of the land was largely irrelevant anyway.

Commission consideration

80. The Commission is not persuaded the Low Density Residential Zone should be applied to the land for the following reasons:
- the strata lots are part of a large coastal title that has landscape value and provides important visual support to the appearance of Binalong Bay;
 - Visitor Accommodation is Discretionary in the Landscape Conservation Zone;
 - the use, development and strata title approvals have already been granted and are in effect irrespective of the zoning; and
 - the Low Density Residential Zone has not otherwise been applied in the area and would be akin to a 'spot-zone,' which should generally be avoided according to accepted planning principles in order to reduce potential for land use conflict.
81. The Commission notes the Particular Purpose Zone may be an appropriate alternative zone, however it was not supported by the representor or planning authority at this time.

Commission decision

82. The Commission considers that no modifications are required.

Low Density Residential Zone - 36 Franks Street, Falmouth

Representation: Woolcott Surveys for Bruce Hogarth and Rita Tobler (56), Friends of the East Coast Inc. (73)

83. The representation made by Woolcott Surveys requested the zoning of 36 Franks Street, Falmouth folio of the Register 25329/3 (strata title folio of the Register 183241/0) be revised from the Landscape Conservation Zone to the Low Density Residential Zone. The reasons were:
- the land had approval for a total of 17 Visitor Accommodation units;
 - the Landscape Conservation Zone did not satisfy Guideline No. 1 because the land did not have any landscape values identified for protection; and
 - the land was not visible from a highway or scenic corridor.
84. The representation made by Friends of the East Coast Inc. raised concern that the Landscape Conservation Zone would continue to provide for further Visitor Accommodation use and development.
85. In its section 35F report, the planning authority recommended the Landscape Conservation Zone be retained for the following reasons:
- the Low Density Residential Zone would provide for more development of the site than the current approval allows, which is inappropriate for the land;
 - the Low Density Residential Zone would increase the developable land in Falmouth by approximately a third; and
 - the Land Use and Development Strategy 2015 intended for the existing town boundaries at Falmouth to be maintained.
86. At the hearing, Mr James Stewart (Woolcott Surveys) noted the land contained a number of luxury Visitor Accommodation units. He contended the Low Density Residential Zone would be consistent with the character of the Falmouth settlement and that the Landscape Conservation Zone was unnecessary because the site did not contain any significant vegetation. He added the Rural Living Zone was another zoning option for the land in the event the Low Density Residential Zone was deemed unsuitable.
87. Mr Graeme Wathen for Friends of the East Coast Inc., raised concern the Low Density Residential Zone would allow the land to be subdivided in a manner that was inappropriate for the coastal area.
88. In response, the planning authority made the following comments:
- the Low Density Residential Zone would significantly increase the amount of land in the Zone at Falmouth;
 - the Visitor Accommodation development undertaken on the land had been controversial in the local community;
 - the strata title was applied to the site because the development was not a subdivision, however it was concerned the development acted like a subdivision;
 - the development had prompted it to review its policy on strata title application;
 - four of the 24 lots had been completed at the time of the hearing; and
 - the Landscape Conservation Zone was a difficult zone to apply, however it was satisfied the Zone should be applied to the site.

Commission consideration

89. The Commission is not persuaded the Low Density Residential Zone should be applied to the land. Although a Visitor Accommodation use and development has been established on the

site, the Low Density Residential Zone does not preclude the possibility the land could be redeveloped at a higher density and subdivided. This would be inappropriate in the location and would extend the settlement along the coastline in contravention of the State Coastal Policy. The Commission is otherwise satisfied the land has landscape values that warrant application of the Landscape Conservation Zone given its coastal location, and its relationship to the foreshore and broader area.

Commission decision

90. The Commission considers that no modifications are required.

Low Density Residential Zone - St Helens Point Road, St Helens

Representation: John Davies (58)

91. The representor requested the zoning of the following properties be revised from the Landscape Conservation Zone to the Low Density Residential Zone:

- 32 St Helens Point Road, St Helens folio of the Register 121513/2;
- 34 St Helens Point Road, St Helens folio of the Register 121512/1;
- 36-40 St Helens Point Road, St Helens folios of the Register 168624/1, 168624/2, 168624/3, 168624/4; and
- 42 St Helens Point Road, St Helens folios of the Register 52521/1 and 52521/2.

92. The reasons were:

- the Low Density Residential Zone was supported by LDR 1 of Guideline No. 1;
- the boundary setback provisions of the Landscape Conservation Zone are not appropriate given the small size of the lots;
- the lots have reticulated water supply and may be able to connect to the reticulated sewer; and
- the lots could be developed to a higher residential density without significant impact on the landscape and conservation values.

93. In its section 35F report, the planning authority opposed the request because the Low Density Residential Zone was not supported by any strategic land use plans.

94. At the hearing, the planning authority made the following comments:

- the land was heavily vegetated with melaleuca forest and had landscape value given its appearance from Georges Bay;
- threatened species were known to exist in the area;
- the Low Density Residential Zone would create potential for 18 lots, which may not be appropriate in the area;
- it was unclear whether the land could be serviced with reticulated sewer and stormwater;
- an alternate zone may be warranted in future, however strategic planning work would need to be undertaken to determine what zone should be applied; and
- the Landscape Conservation Zone was the best zone to apply in the circumstances.

95. In response, the representor, Mr John Davies maintained the land was more suited to the Low Density Residential Zone or General Residential zone, but stated that he understood the planning authority's views.

Commission consideration

96. The Commission agrees with the planning authority for the reasons given in the section 35F report and at the hearing. The Commission notes the planning authority may undertake a

review of zoning in the area in the future to determine whether any additional land should be zoned General Residential or Low Density Residential.

Commission decision

97. The Commission considers that no modifications are required.

Rural Living Zone and Landscape Conservation Zone - 89 Upper Scamander Road, Scamander

Representation: Denis Buchanan (2)

98. The representor requested the zoning of 89 Upper Scamander Road, Scamander folios of the Register 26754/1, 184514/1, 184514/2, 141750/1 and 137864/1 be revised from the Agriculture Zone to the Rural Living Zone and Landscape Conservation Zone. The reasons were:
- a conservation area was intended to be applied to the western side of the lots;
 - the lots formed part of a farm and was intended to be sold into separate private ownership; and
 - farming the land was difficult because of the soil type and availability of water.
99. In its section 35F report, the planning authority recommended the Landscape Conservation Zone be applied to folio of the Register 26754/1 because the Zone was consistent with the zone of the land to the north and south, and that the Rural Zone be applied to the remainder of the land. The planning authority was satisfied that the Rural Zone was supported by AZ 6 of Guideline No. 1 because the land was low in agricultural capability and would produce a more consistent zoning pattern with the land to the west. A consequential amendment to apply the Priority Vegetation Area overlay in accordance with the Regional Ecosystem Model was also recommended.
100. At the hearing, the planning authority added it did not have a land use planning strategy that supported application of the Rural Living Zone.
101. Mr Todd Dudley for the North East Bioregional Network also attended the hearing and expressed a view that all the land should be zoned Landscape Conservation. He added that retention of the vegetation on the site was important because it provided a wildlife corridor between the nearby lagoon and surrounding areas.
102. Following the hearing, the representor, in response to a Commission direction, provided a submission to advise they supported application of the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping to folio of the Register 141750/1. However the representor did not support application of the overlay to the other four titles, because it would inhibit clearance of vegetation for agriculture and Residential use and development.
103. The planning authority, in response to a Commission direction, confirmed the reserved road surrounded by folio of the Register 137864/1 should be also zoned Rural in the event the zone of the land was also changed to Rural.

Commission consideration

104. The Commission agrees the Rural Zone should be applied to folios of the Register 26754/5, 26754/6, 141750/1 and 137864/1. The evidence provided by the planning authority shows the land has significant constraints, particularly its land capability, that significantly reduce the possibility the land can be used for agriculture. The Commission therefore considers the Rural Zone be applied because the land has limited or no potential for agricultural use consistent with the principles of Guideline No. 1 (RZ 3).

105. Mr Dudley's view that all five titles should be zoned Landscape Conservation is noted, however the land is identified in the agricultural estate mapping, which indicates it is of some use for rural purposes. Nevertheless, folio of the Register 26754/1 is different to the other four titles because it fronts the Tasman Highway and is located in a strip of land zoned Landscape Conservation that extends approximately 4km along the Highway. In this instance, the Landscape Conservation Zone should be applied in order to maintain a consistent zoning pattern along the Highway.
106. The Commission consequently determines the Priority Vegetation Area overlay should be applied to the land consistent with the Regional Ecosystem Model mapping to manage the native vegetation, as the overlay is compatible with the Rural and Landscape Conservation zones. The policy intent of the SPPs is that the overlay be applied to compatible zones, and no evidence was submitted from a suitably qualified person to demonstrate the land does not contain Priority Vegetation. The Commission notes the overlay will provide some protection of the vegetation on the land and addresses some of the concerns raised by Mr Dudley about the use of the land by wildlife.

Commission decision

107. Modification:
- Revise the zoning of 89 Upper Scamander Road, Scamander folios of the Register 184514/1, 184514/2, 141750/1 and 137864/1 (including the intersecting reserved road) to Rural, folio of the Register 26754/1 to Landscape Conservation, and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping.
108. Reason: To apply the Landscape Conservation Zone, Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.

Commission consideration under section 35KB

109. The Commission finds that the amendment is a substantial modification as there may be a public interest in the amendment. Under section 35KB, the Commission considers the substantial modifications required are suitable to be made by way of an amendment, under Part 3B of the Act, of the Break O'Day LPS, after it comes into effect.

Commission decision under section 35KB

110. Draft amendment directed to the Break O'Day LPS:
- Revise the zoning of 89 Upper Scamander Road, Scamander folios of the Register 184514/1, 184514/2, 141750/1 and 137864/1 (including the intersecting reserved road) to Rural, folio of the Register 26754/1 to Landscape Conservation, and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping.
111. Reason:
- To apply the Landscape Conservation Zone, Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.
 - The Commission considers that the modification is a substantial modification as there may be a public interest.

Rural Living Zone - 7110 Esk Main Road, St Marys

Representation: Philip and Jeanette Peryman (3)

112. The representor requested the zoning of 7110 Esk Main Road, St Marys folio of the Register 124755/1 be revised from the Agriculture Zone to the Rural Living Zone because the land had an area of 670m² and was therefore unsuitable for agricultural use. The representor added the land could be used for a small business and that the small lots to the east of the site could also be included in the Rural Living Zone.
113. In its section 35F report, the planning authority opposed the request because the Rural Living Zone was not supported by the Land Use and Development Strategy 2015, and that it was important to avoid a spot-zoning of the site. It added a suitable alternate zone was not evident given the Agriculture Zone prevailed over the broader area.
114. At the hearing, the planning authority explained the land was identified as constrained in the agricultural estate mapping, but the land was located within an area zoned Agriculture and used for agriculture activities.

Commission consideration

115. The Commission agrees with the planning authority that the land should remain in the Agriculture Zone. Application of a zone to a single title (spot-zoning) should generally be avoided according to accepted planning principles in order to reduce potential for land use conflict. Nevertheless, the land already contains a Residential use, which may continue as currently established on the land.
116. Likewise, the Commission is not persuaded the Rural Living Zone should be applied to the lots further east along Esk Main Road. The lots are under common ownership and form part of a much larger rural property.

Commission decision

117. The Commission considers that no modifications are required.

Rural Living Zone - 10 Oceanvista Drive, St Helens

Representations: Chris Triebe and Associates Town Planning Services for Gregory and Beth Colwell (22), North East Bioregional Network (81)

118. The representation made by Chris Triebe and Associates Town Planning Services requested the zoning of part of 10 Oceanvista Drive, St Helens folio of the Register 141663/100 be revised from the Rural Zone to the Rural Living Zone (subdivision category B). The reasons were:
 - the Zone would provide a buffer between the General Residential Zone to the north and the Rural and Agriculture zones to the south;
 - the Zone would provide for more established standing vegetation to be retained, bushfire fuel loads to be better managed, and the density of the built environment kept to a minimum;
 - the residential amenity of the surrounding area would not be adversely impacted;
 - there would not be a requirement for additional reticulated water services; and
 - the Zone would be consistent with the character of an approved 16-lot residential subdivision along the eastern side of the land at 48 Brooks Road.
119. The representation made by North East Bioregional Network requested the zoning of 10 Oceanvista Drive and 55 Cobrooga Drive, St Helens folio of the Register 106405/1 be revised

from the Rural Zone to the Landscape Conservation Zone. The reason was the land was covered in native forest and likely to contain threatened forest types *Eucalyptus viminalis* and *Eucalyptus ovata*. The representation also noted the land contains important watercourses.

120. In its section 35F report, the planning authority recommended the zoning of the land remain as proposed for the following reasons:
 - the land is within the urban growth boundary established by the Land Use and Development Strategy 2015;
 - the Rural Living Zone would result in a spot-zoning and provide for further development of the site; and
 - other land nearby was identified in the Land Use and Development Strategy 2015 as future Rural Living investigation areas.
121. At the hearing, Mr Chris Triebe for the owners, Gregory and Beth Colwell, made the following comments in support of the Rural Living Zone:
 - the Zone would provide a buffer between the General Residential Zone to the north and the Rural and Agriculture zones to the south;
 - the land is not suitable for agriculture use;
 - the Rural Zone should only be applied to land in a non-urban setting;
 - the LIST shows evidence of a nearby wedge tailed eagle nest, however there is no evidence the land contains threatened flora, or fauna habitat;
 - the Rural Living Zone would benefit bushfire management and help to protect the recent subdivision of land at Cobrooga Drive from bushfire; and
 - the land was fully serviced with water, sewer and stormwater connections.
122. Mr Triebe conceded spot-zoning of the land was not an accepted planning practice, however was of the opinion the Rural Living Zone was acceptable in the circumstances given the planning authority had limited resources to undertake a strategic planning review of the zoning.
123. In response, the planning authority made the following comments:
 - the land had a similar zoning under the interim planning scheme, and the proposed zoning would generally maintain the existing use and development rights;
 - the land was heavily vegetated and was identified as suitable for the Environmental Living Zone or Landscape Conservation Zone under the Land Use and Development Strategy 2015. Nevertheless, the land was also identified in the strategy as being within the urban growth boundary;
 - although the Land Use and Development Strategy 2015 included the land in the urban growth boundary, it did not identify whether the zone of the land should be changed in the future;
 - the regional strategy did not support the Rural Living Zone because there is already considered to be enough supply of Rural Living-zoned land in the area;
 - no new strategy had been undertaken since the Land Use and Development Strategy 2015 was endorsed by the planning authority;
 - it was working on a review of the Land Use and Development Strategy 2015, in particular a review of the supply and demand for residential land in the area;
 - the review was expected to be completed in the 18 months following the hearing;
 - the review would consider the zoning of the subject land in the context of the surrounding area;
 - the review was only in a draft form at the time of the hearing, however the work indicated there was a demand for Rural Living land, however it was not yet conclusive;

- the Northern Regional Planning Strategy Group had started to undertake some work on land supply and demand for the region that would also account for Rural Living land in Break O'Day; and
 - it could see an argument for the Rural Living Zone if subdivision category D was applied to control subdivision, but ultimately concluded the Rural Zone was most appropriate in the circumstances until a zoning review was completed.
124. Following the hearing, the planning authority, in response to a Commission direction, provided a submission to explain how the urban growth boundary defined in the Land Use and Development Strategy 2015 had been developed. The submission explained the urban growth boundary was based on similar boundaries established in the original version of the regional strategy and former draft planning scheme that preceded the interim planning scheme. At that time, the planning authority identified there was in excess of a ten-year supply of residential land within the boundary.
125. In response, Mr Todd Dudley for the North East Bioregional Network raised concern the Land Use and Development Strategy 2015 did not adequately consider the impacts of urban development on ecological values.

Commission consideration

126. The Commission agrees with the planning authority that rezoning of the land to Rural Living is premature. Further strategic work is needed to determine the quantity, type and location of residential land required in St Helens. Without such work, incoherent rezoning and development of land increases the risk the settlement could be fragmented. It also increases the likelihood that development could occur in an illogical sequence and that poor outcomes for the road network and reticulated infrastructure could arise. The Commission considers the zoning of the subject land should be considered in conjunction with a study of the appropriate zone to apply to the land to the south and east, some of which is the subject of representation 45 (Woolcott Surveys for Darrell Smith). This area also includes 55 Cobrooga Drive identified in the representation made by North East Bioregional Network.
127. There is also the possibility the land has a much higher use and development potential than the Rural Living Zone would provide, as the land is fully serviced. Equally, any review of zoning for the land may need to consider whether the natural and landscape value of the land may require some priority. The Commission notes the planning authority has made a commitment to undertake the required strategic planning work, which would include a detailed study of residential land supply and demand for the area.

Commission decision

128. The Commission considers that no modifications are required.

Rural Living Zone - General

Representation: David Rann (32)

129. The representor raised concern the Rural Living Zone should be applied more broadly in place of the Landscape Conservation Zone because the Zone would provide more opportunity to contain an expansion of a small specialty agricultural fertiliser business. The representor contended the Environmental Living Zone in the interim planning scheme should have been replaced with the Rural Living Zone in the draft LPS.
130. In its section 35F report, the planning authority opposed the request because the Landscape Conservation Zone was applied in accordance with the requirements of Guideline No. 1.

131. At the hearing, the planning authority stated its view that there was enough land zoned Rural Living in the area and would assist the representor to identify suitable land for their business if approached.

Commission consideration

132. The Commission accepts the response made by the planning authority and notes that the representor did not specify a particular site where the zone of land could be examined. Consequently, no modifications to the zoning of land is considered necessary.

Commission decision

133. The Commission considers that no modifications are required.

Rural Living Zone - Medeas Cove Road, Brooks Road, Leaside Drive and Cobrooga Drive, St Helens

Representations: Hendrik and Greta Jansen (39), Woolcott Surveys for Darrell Smith (45), North East Bioregional Network (81)

134. The representation made by Hendrik and Greta Jansen requested the zoning of 265 Medeas Cove Road, St Helens folios of the Register 181557/3 and 181557/4 be revised from the Agriculture Zone to the Rural Living Zone because both lots had recently been created through subdivision and had areas of 1.9ha and 5.8ha. The representor requested the remaining lot that formed part of the property, folio of the Register 181557/5, be revised from the Agriculture Zone to the Rural Zone.
135. The representation made by Woolcott Surveys requested the zoning of 48 Brooks Road, St Helens folio of the Register 166517/1 be revised from the Agriculture Zone to the Rural Living Zone (subdivision category C) or the Rural Zone. The reasons were:
- the land had approval for a nine lot residential subdivision, which had been substantially commenced;
 - the area of the approved lots ranged from under 2ha to 45ha;
 - application of subdivision category C would prevent further subdivision on all but four of the approved lots;
 - AZ6 of Guideline No. 1 supported an alternative zone for land identified as unconstrained in the agricultural estate mapping;
 - an assessment report of the potential to use the land for agriculture (agriculture assessment) by Pinion Advisory was provided with the representation and demonstrated the land was constrained by topography, soil quality, irrigation potential and adjacent land use; and
 - the agriculture assessment concluded the land was therefore suitable for an alternative zone such as Rural Living or Rural.
136. The representation made by North East Bioregional Network requested the zoning of Cobrooga Drive, St Helens folio of the Register 15988/3 be revised from the Agriculture Zone to the Landscape Conservation Zone because it was covered in native forest and adjoined the Boggy Creek Conservation Area.
137. In its section 35F report, the planning authority recommended the Rural Zone be applied to 265 Medeas Cove Road, 48 Brooks Road and Cobrooga Drive, St Helens folio of the Register 15988/3. Furthermore, it recommended the Rural Zone replace the Agriculture Zone on the remaining properties in the area, being 89 Medeas Cove Road and 55 Leaside Drive. The planning authority also recommended the Priority Vegetation Area overlay be applied to the land consistent with the Regional Ecosystem Model. The following reasons were given to support the recommendation:

- the Rural Living Zone was not supported by the regional strategy or the Land Use and Development Strategy 2015;
 - the Rural Living Zone did not comply with RLZ1, RLZ2 and RLZ 4 of Guideline No. 1; and
 - the Rural Zone was most appropriate for 48 Brooks Road given the substantially commenced subdivision and findings of the agriculture assessment;
 - the agriculture assessment, subdivision of 48 Brooks Road, and the existing use of the surrounding land was evidence the Rural Zone should also be applied to the remaining titles; and
 - application of the Rural Zone to all the land would avoid some land zoned Agriculture being left in isolated clusters.
138. At the hearing, Mr Hendrik and Mrs Greta Jansen made the following comments in support of their representation:
- the largest of the titles (folio of the Register 181557/5) was not suitable for agriculture because the land had important natural values;
 - a natural values assessment submitted with the application for the recent subdivision of the land concluded the land was dominated by native vegetation, including native grasses and bracken fern; and
 - the smallest block (folio of the Register 181557/3) had been sold to a new landowner who intended to build a dwelling on the land.
139. Mr James Stewart (Woolcott Surveys) made the following comments in support of representation 45:
- the agriculture assessment indicated the land was not suitable for agriculture;
 - the approved subdivision of the land had been substantially commenced;
 - the new lots had been surveyed and electricity connections provided, however some road works still needed to be completed;
 - the Rural Living Zone should be applied to the smallest six lots, which all had an area less than 8.44ha, with the split-zone defined by the lot boundaries shown on the subdivision plan; and
 - subdivision category C was proposed, which would not increase the potential for subdivision of new lots.
140. In response, the planning authority made the following comments:
- the Land Use and Development Strategy 2015 did not support application of the Rural Living Zone;
 - the recent subdivision of 265 Medeas Cove Road fragmented the land, which meant it was now more suited to the Rural Zone; and
 - likewise, the substantially commenced subdivision of 48 Brooks Road would also fragment the land, which meant it was also more suited to the Rural Zone.
141. Following the hearing, the planning authority, in response to a Commission direction, provided written evidence of the following:
- that the owner of Medeas Cove Road, St Helens folio of the Register 181557/3 supported application of Rural Living Zone (subdivision category C);
 - that the owners of 55 Leaside Drive, St Helens folios of the Register 11929/1, 34908/1 and 148075/1, 89 Medeas Cove Road, St Helens folio of the Register 223041/1 supported application of the Rural Zone to the land; and
 - that the owners of 55 Leaside Drive, St Helens folios of the Register 11929/1, 34908/1 and 148075/1, 89 Medeas Cove Road, St Helens folio of the Register 223041/1, 265 Medeas

Cove Road, St Helens folio of the Register 181557/5 supported application of the Priority Vegetation Area overlay to the land consistent with the Regional Ecosystem Model mapping.

142. The planning authority also confirmed the reserved road surrounded by folio of the Register 148075/1 should be also zoned Rural in the event the Zone was applied to the surrounding area.
143. Woolcott Surveys, in response to a Commission direction, provided a plan that identified the location of a boundary between the Rural Living and Rural zones in the event 48 Brooks Road was split-zoned as proposed at the hearing. The plan also identified the subdivision category that would apply (subdivision category D).
144. The planning authority also made a submission on 23 December 2022, which stated it had reviewed its files on the subdivision and had not, in fact, established whether the subdivision was substantially commenced.

Commission consideration

145. The Commission is satisfied the Rural Living Zone should be applied to Medeas Cove Road, St Helens folio of the Register 181557/3 and 265 Medeas Cove Road, St Helens. Both properties have small areas of 1.968ha and 5.876ha respectively and are adjacent to existing Rural Living-zoned properties to the east and west along Medeas Cove Road. Number 265 Medeas Cove Road already contains a dwelling, while folio of the Register 181557/3 is otherwise not suitable for significant agriculture or rural use. In this instance, it is considered the Rural Living Zone would appropriately recognise the existing and intended use of the properties consistent with the principles of RLZ 1 and RLZ 2(a) of Guideline No. 1. The Rural Living Zone would allow the lots to be consolidated as part of the existing rural-residential area as provided by RSN-A21 of the regional strategy. Application of subdivision category C would prevent the land being subdivided.
146. The Commission is not persuaded the Rural Living Zone should be applied to 48 Brooks Road or any of the surrounding land. The Zone is not supported by the Land Use and Development Strategy 2015 or the regional strategy. However, the Commission accepts the findings of the agriculture assessment that the Rural Living or Rural Zone be applied to the land. It is therefore considered the Rural Zone should be applied to 48 Brooks Road and the surrounding properties to maintain a congruent zoning pattern across the area consistent with accepted planning principles. Irrespective of whether the subdivision of the land is completed, the Rural Zone would be suitable for the wide range of lot sizes in the area, and is supported by the relevant landowners.
147. The Commission consequently determines the Priority Vegetation Area overlay should be applied consistent with the Regional Ecosystem Model mapping to manage the native vegetation, as the overlay is compatible with the Rural Living and Rural zones. It is noted the landowners of the affected properties are supportive of its application. The Commission notes the overlay will provide some protection of the vegetation on the land and addresses some of the concerns raised by Mr Dudley about the potential impact of development on the natural values.

Commission decision

148. Modification:
 - Revise the zoning of Medeas Cove Road, St Helens folio of the Register 181557/3 and 265 Medeas Cove Road, St Helens folios of the Register 181557/4 to Rural Living and apply subdivision category C; and

- Revise the zoning of 89 Medeas Cove Road, St Helens folio of the Register 223041/1, 265 Medeas Cove Road, St Helens folio of the Register 181557/5, 48 Brooks Road, St Helens folio of the Register 166517/1, Cobrooga Drive, St Helens folio of the Register 15988/3, 55 Leaside Drive, St Helens folios of the Register 11929/1, 34908/1 and 148075/1 (including the intersecting reserved road) to Rural and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping.

149. Reason: To apply the Rural Living Zone, Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.

Rural Living Zone - 50 St Helens Point Road, St Helens

Representations: Woolcott Surveys for Marguerite Gee (43), North East Bioregional Network (81)

150. The representation made by Woolcott Surveys requested the zoning of 50 St Helens Point Road, St Helens folios of the Register 43185/2 and 181454/1 be revised from the Landscape Conservation Zone to the Rural Living Zone (subdivision category C). The reasons were:

- the land was approximately 2-3km from the St Helens township and had historically been used for farming;
- the Landscape Conservation Zone application was contrary to LCZ 1 of Guideline No. 1;
- the St Helens and Surrounds Structure Plan 2013 identified that rural-residential areas within 5km of an urban area should be included in the Rural Living Zone; and
- the draft LPS had a shortage of land zoned Rural Living.

151. The representation made by North East Bioregional Network was supportive of the Landscape Conservation Zone.

152. In its section 35F report, the planning authority opposed the request for the following reasons:

- the land had an area of approximately 154ha and the Rural Living Zone (subdivision category C) would create considerable subdivision potential;
- the Natural Assets Code overlays and Scenic Road Corridor overlay applied to the land because the land was predominately covered in vegetation;
- the St Helens and Surrounds Structure Plan 2013 and Land Use and Development Strategy 2015 did not support the Zone;
- the Landscape Conservation Zone was the most logical in the circumstances; and
- further strategic planning assessment in future could determine the site as suitable for the Rural Living Zone, however a recent Commission decision (draft amendment 01-2018) to refuse a request to rezone the land Rural Living under the interim planning scheme indicated it would be premature to zone the land Rural Living without appropriate strategic analysis for the whole for St Helens.

153. At the hearing, Mr James Stewart (Woolcott Surveys), made the following comments in support of the representation:

- the land was within 5km of St Helens and adjoined the St Helens airport;
- the land should have a residential zoning, because the land was zoned Environmental Living Zone under the interim planning scheme where Residential use was Permitted;
- Residential use was Discretionary in the Landscape Conservation Zone;
- the Rural Living Zone subdivision category D would reflect the provisions of the interim planning scheme Environmental Living Zone;
- subdivision category D would create potential for approximately 14 lots, which would not be a significant increase;

- the St Helens and Surrounds Structure Plan 2013 identified the land as a 'lifestyle lot;'
- a lifestyle lot implied residential intent, which could be either the Rural Living Zone or Landscape Conservation Zone;
- the St Helens and Surrounds Structure Plan 2013 informed the Land Use and Development Strategy 2015;
- the Rural Living Zone was not inconsistent with the Land Use and Development Strategy 2015 because the land was outside its established urban growth boundary;
- a natural values assessment of the land indicated the vegetation was not of significant value and the Priority Vegetation Area overlay applied to the land anyway;
- the Rural Living Zone was supported by the regional strategy, particularly clause E2.2 because it would provide for a sustainable urban settlement pattern; and
- the Zone was also supported by clause G2.2.2 of the regional strategy because the land was within 5km of the settlement, was not suitable for agriculture, would not have a detrimental impact on natural values, and was not subject to natural hazards. Furthermore, development on the land could be serviced, including with on-site wastewater systems, and the Zone would provide for subdivision and construction of new dwellings.

154. In response, the planning authority made the following comments:

- Break O'Day had a significant amount of land in the Environmental Living Zone under the interim planning scheme;
- the Environmental Living Zone was not highly comparable with either the Rural Living or Landscape Conservation zones under the SPPs;
- the Landscape Conservation Zone was applied because the land was covered in native vegetation;
- the land was outside the urban growth boundary established in the Land Use and Development Strategy 2015;
- the St Helens and Surrounds Structure Plan 2013 did not support the Rural Living Zone; and
- a draft amendment to the interim planning scheme for the Rural Living Zone was refused in 2020 because the planning authority was unable to provide evidence the Zone was supported by local and regional strategy. No strategic analysis had been undertaken in the intervening period.

155. Following the hearing, Woolcott Surveys, in response to a Commission direction, provided a copy of a flora and fauna habitat assessment undertaken by North Barker Ecosystem Services in December 2017, which was submitted with draft amendment 01-2018. The natural values assessment determined the land featured nine native vegetation communities, four of which were listed as threatened under the *Nature Conservation Act 2002*. The land also contained habitat for a number of threatened fauna species. Nevertheless, the assessment report concluded the land could be developed as a rural-residential subdivision.

156. In response, Mr Todd Dudley for the North East Bioregional Network submitted a report prepared by Dr Nick Fitzgerald, which was submitted as alternative evidence about the natural values of the land. The report was also originally submitted for the purpose of assessment of draft amendment 01-2018, and concluded the land had an even higher level of natural and biodiversity value. On this basis, Mr Dudley contended the Landscape Conservation Zone was clearly the most suitable zoning for the land.

157. The planning authority also made a submission on 23 December 2022, which stated the planning authority was supportive of the draft amendment at the time it was assessed, and, despite its recommendation given in the section 35F report, maintained its original position that the Rural Living Zone was consistent with local land use strategies.

Commission consideration

158. The Commission is not persuaded the Rural Living Zone should be applied to the land. There is insufficient evidence provided to demonstrate how the Rural Living Zone is supported by the regional strategy. In particular, there is no evidence to demonstrate how subdivision potential created by the Rural Living Zone would comply with the regional strategy, the Land Use and Development Strategy 2015, the St Helens and Surrounds Structure Plan 2013 and the State Coastal Policy.
159. Most notably, clause RSN-A26 of the regional strategy requires rural-residential land to be identified in a local strategy. The Land Use and Development Strategy 2015, which was informed by the St Helens and Surrounds Structure Plan 2013, identifies the land in an Environmental Living Zone. The Commission agrees with the planning authority that, in some circumstances, there can be difficulty in determining whether land zoned Environmental Living in an interim planning scheme should be zoned Rural Living or Landscape Conservation in a draft LPS. Nevertheless, the Rural Living Zone would create an increase in subdivision potential on the land, which is not supported by the relevant strategies, and the planning authority has not undertaken any further strategic planning work to justify increased subdivision potential since the Commission's decision on draft amendment 01-2018.
160. The Commission is also not satisfied the Rural Living Zone is consistent with the principles of Guideline No. 1. In particular, LCZ 1 of Guideline No. 1 indicates the Landscape Conservation Zone should be applied to areas of land with landscape value that may or may not also include other natural and biodiversity values. The Commission notes the land has a high degree of natural value, notwithstanding that the significance of those values was contested by the parties. Nevertheless, the land has landscape value and therefore meets the principles of LCZ 1 and LCZ 2, which indicates the Landscape Conservation Zone should be applied. The land contains a significant amount of native vegetation, which irrespective of biodiversity value, provides an important border of vegetation and colour around the coast behind St Helens Road and along the Tasman Highway.
161. The Commission suggests the zoning of the land could be considered in any future strategic planning assessment undertaken for the area to more closely examine the factors that should determine the appropriate future use of the land and the combination of planning controls that should apply.

Commission decision

162. The Commission considers that no modifications are required.

Rural Living Zone - 105 Seymour Street, Fingal**Representation:** Woolcott Surveys for Carl Wagner (44)

163. The representor requested the zoning of 105 Seymour Street, Fingal folio of the Register 183278/2 be revised from the Rural Zone to the Rural Living Zone because the land contained an existing dwelling and a recent subdivision approval was granted to contain the land on a new lot of 2ha.
164. In its section 35F report, the planning authority was satisfied the features of the site and the existing subdivision approval indicated the Rural Living Zone should be applied to the land.
165. At the hearing, Mr James Stewart (Woolcott Surveys) noted the subdivision of the land had been completed. He added that the property owner wanted the zone of the land to recognise its Residential use, but did not desire to create additional subdivision potential.

Commission consideration

166. The Commission agrees the land should be zoned Rural Living. The Zone would recognise the existing use of the land and would be consistent with the zone of the land to the north and west of the site.

Commission decision

167. Modification:
- Revise the zoning of 105 Seymour Street, Fingal folio of the Register 183278/2 to Rural Living and apply subdivision category C.
168. Reason: To apply the Rural Living Zone consistent with Guideline No. 1.

Rural Living Zone - 24833 Tasman Highway, St Helens

Representation: Woolcott Surveys for Lee Hindrum (49)

169. The representor requested the zoning of part of 24833 Tasman Highway, St Helens folio of the Register 177117/1 be revised from the Landscape Conservation Zone to the Rural Living Zone. The reason was the land contained Service Industry and Transport Depot and Distribution uses, including panel beating, boat repairs and maintenance, a mechanics workshop, a water cartage depot and a crane depot.
170. In its section 35F report, the planning authority opposed the request for the following reasons:
- the site is surrounded by the Landscape Conservation Zone;
 - the Rural Living Zone Prohibited Service Industry and Transport Depot and Distribution uses; the existing uses are protected by the non-conforming use provisions of the Act;
 - the Priority Vegetation Area overlay covered more than half of the land; and
 - the Scenic Road Corridor overlay applied to the land.
171. At the hearing Mr James Stewart (Woolcott Surveys) made the following comments in support of the representation:
- the site contained a number of uses established over time, including the owner's home;
 - half the site was used for industrial purposes;
 - the land had vehicle access onto the Tasman Highway, but secondary access may be possible onto the adjacent Flagstaff Road;
 - the Landscape Conservation Zone may not be appropriate for the land given its existing uses;
 - the Rural Living Zone would better provide for the existing uses and avoid them becoming non-conforming; and
 - a Site-specific Qualification could be an alternative option to provide for the uses, which supplied services that were of benefit to the local community.
172. Mr Todd Dudley for the North East Bioregional Network raised concern about the removal of a significant amount of native vegetation over time, and that the land contained natural values.
173. In response, the planning authority made the following comments:
- the site was unique and featured a number of existing uses that were Prohibited, but protected by non-conforming use rights;
 - the owner could apply to expand the non-conforming use and development provided the uses were not substantially intensified;
 - any increase in traffic movements could require a traffic impact assessment to demonstrate access onto the highway was safe and functional;

- the land was surrounded by the Landscape Conservation Zone, which was applied consistently across the surrounding area; and
 - the Landscape Conservation Zone was recommended in order to avoid a spot-zone of the land.
174. Following the hearing, the Commission issued a direction to the representor to provide opportunity to make a proposal for a Site-specific Qualification that would provide for Service Industry and Transport Depot and Distribution uses to occur on the land. The direction included a requirement that a statement be provided to demonstrate how the Site-specific Qualification would comply with section 32(4) of the Act. In response, Mr Stewart advised the matter had been discussed with the landowner, Mr Hindrum who had decided not to pursue a Site-specific Qualification.

Commission consideration

175. The Commission agrees with the planning authority that the land should remain in the Landscape Conservation Zone. Application of a zone to a single title (spot-zoning) should generally be avoided according to accepted planning principles in order to reduce potential for land use conflict. The Commission observes spot-zoning should take into account the context of the land, including the use of the site and surrounding land, subdivision patterns, lot sizes, location of buildings, physical characteristics such as its slope, vegetation coverage, and the application of zones to the broader area. Therefore, although spot-zoning may be acceptable in some situations, Break O'Day generally features a well-delineated and uniform application of zones, which should not be disrupted by application of the Rural Living Zone to the subject site. Nevertheless, the land already contains established uses, which the planning authority has confirmed are protected by the non-conforming use rights of the Act.
176. Otherwise, insufficient evidence was provided about the use of the land and the benefit any services have to the local area to determine whether an alternate zone or other planning controls are warranted. The Commission notes the possibility the owner could put forward a proposal for a Site-specific Qualification to provide an avenue to intensify any of the uses, but the owner has decided not to pursue a Site-specific Qualification at this time.

Commission decision

177. The Commission considers that no modifications are required.

Rural Living Zone - Beaumaris and St Helens

Representations: Maree Willcox (48), Break O'Day Chamber of Commerce and Tourism Inc. (64), Woolcott Surveys/East Coast Surveying (72)

178. The representors raised concern the application of the Landscape Conservation Zone was inconsistent with to Guideline No. 1. In particular, the representors were concerned the Landscape Conservation Zone had been applied to areas with an established rural-residential use and development pattern that were previously zoned Environmental Living under the interim planning scheme.
179. The representation made by Woolcott Surveys/East Coast Surveying specifically opposed application of the Landscape Conservation Zone to land at Sunshine Court, Bay Court and Heritage Road, St Helens for the following reasons:
- Sunshine Court, St Helens was a rural-residential area with lots that had areas between 5000m² to 7000m²;
 - both areas had a rural-residential character;

- the Priority Vegetation Area overlay applied to the lots at Sunshine Court, however many of the lots at Heritage Road were not subject to the overlay; and
 - the Rural Living Zone was consistent with the St Helens Structure Plan and RLZ 1 and RLZ 4(b) of Guideline No. 1.
180. The representation made by the Break O'Day Chamber of Commerce and Tourism Inc. stated it agreed with the representation made by Woolcott Surveys/East Coast Surveying.
181. In its section 35F report, the planning authority opposed the request for the following reasons:
- Guideline No. 1 was unclear about what zone should be applied to land zoned Environmental Living under the interim planning scheme;
 - the Commission had directed the planning authority 'to transition the Environmental Living Zone to the Landscape Conservation Zone and to create a Particular Purpose Zone for some coastal settlements in unique areas';
 - the Rural Living Zone would increase development potential, which would alter the existing character of each area;
 - the Landscape Conservation Zone would be more consistent with provisions in the interim planning scheme, which prohibited subdivision within 1km of the coastal high-water mark;
 - the subdivision requirements in the Landscape Conservation Zone were similar to those in the Environmental Living under the interim planning scheme;
 - the areas were isolated from other rural-residential areas;
 - the Landscape Conservation Zone provided for Residential use and development; and
 - Sunshine Court did have a rural-residential character, however the Rural Living would change the character of the area and the area of the lots were too large for the Particular Purpose Zone - Coastal Settlement.
182. At the hearing, Mr James Stewart for Woolcott Surveys/East Coast Surveying made the following comments:
- the interim planning scheme allowed for consideration of lots less than 1ha in some areas;
 - the Rural Living Zone would properly recognise the character of these areas, including land at Bay Court, St Helens;
 - application of subdivision category C was supported and would limit subdivision potential; and
 - Seabreeze Court, Beaumaris was another area that should be zoned Rural Living because the land did not have landscape values.
183. Mr Todd Dudley for the North East Bioregional Network did not agree that a zone other than the Landscape Conservation should be applied as it would result in land being cleared illegally.
184. Ms Maree Willcox outlined a desire to subdivide her property at 42 Seaview Avenue folios of the Register 169790/1 and 169790/2 into three lots so that a dwelling could be developed on each.
185. In response, the planning authority made the following comments:
- it intended to apply the Rural Living Zone to the land at Sunshine Court, but was not satisfied the zone was consistent with Guideline No. 1;
 - the Landscape Conservation Zone was not an ideal zone for the areas identified in the Woolcott Surveys/East Coast Surveying representation;
 - the areas were not identified in the Land Use and Development Strategy 2015;
 - on balance the Landscape Conservation Zone was more appropriate as much of the land was affected by the Priority Vegetation Area and Waterway and Coastal Protection Area overlays;

- it did not support application of the Rural Living Zone to 42 Seaview Avenue because the land was located between the two separate part of Beaumaris; and
- it intended to undertake strategic planning work for the settlement at Beaumaris to justify rezoning of land in the area.

Commission consideration

186. The Commission does not agree with the planning authority that land in the Environmental Living Zone under the interim planning scheme had to be included in the Landscape Conservation Zone or that any other zones could not be applied. Guideline No. 1 states the Landscape Conservation Zone is not a replacement for the Environmental Living Zone in an interim planning scheme, and should not simply be applied to large residential lots. It is otherwise noted the Commission is an independent statutory authority, which is required to assess the zoning of land on merit against the LPS criteria and the principles of Guideline No. 1, irrespective of the zone applied in the interim planning scheme. It would appear that due to a possible confusion of roles, the assistance provided to the planning authority in preparing its draft LPS by the then Planning Policy Unit (PPU) (now the State Planning Office) has been interpreted as advice from the Commission. The Commission gave no such advice. Whatever assistance was provided and how it was interpreted and applied are not matters for the Commission to consider.
187. Otherwise, the Commission is persuaded the Rural Living Zone should be applied to the land at Sunshine Court, Bay Court, Heritage Road and Seabreeze Court. The lots at Sunshine Court and Bay Court are contained on the same sealed plan and have a distinct rural-residential character. Likewise, the lots at Heritage Road and Seabreeze Court have a distinct rural-residential character. All the land in the identified areas is mostly cleared of vegetation and is not visually prominent from surrounding areas. The land contains a number of overlays that would manage any natural values, scenic values and other hazards present.
188. The Commission determines that subdivision category A be applied to Sunshine Court and Bay Court and subdivision category C be applied to Heritage Road and Seabreeze Court. These subdivision categories would reflect the pattern of subdivision and lot sizes in the respective areas and would prevent subdivision of the lots until a review of zoning for the area could be undertaken. The Commission suggests the planning authority undertake a review of zoning for the area once the draft LPS is in effect to more closely examine whether there are other areas with a rural-residential character where the Rural Living Zone should be applied.
189. The Commission considers that ongoing strategic planning is vital to ensure land uses are carefully and comprehensively allocated throughout the municipality. In particular, it is evident application of the General Residential, Low Density Residential and Rural Living zones needs to be properly investigated as a matter of some importance to establish how much residential land is needed in future, how the required land should be divided between the zones to provide a range of living options, and how zones can be applied to best manage the evident natural values of the area.
190. The Commission is not persuaded the land at 42 Seaview Avenue, Beaumaris should be rezoned at this time. The land has a significant area and further strategic work is needed to determine the quantity and location of further residential zoning in the area. The Commission notes the planning authority's interest to undertake strategic planning work for Beaumaris, which may support rezoning of the land in future if the results are favourable.

Commission decision

191. Modification:

- Revise the zoning of the following properties at Bay Close, Binalong Bay Road and Sunshine Court, St Helens to Rural Living and (subdivision category A):
 - a. 1 Bay Close, St Helens folio of the Register 38962/1;
 - b. 2 Bay Close, St Helens folio of the Register 38962/2;
 - c. 3 Bay Close, St Helens folio of the Register 38962/3;
 - d. 4 Bay Close, St Helens folio of the Register 38962/4;
 - e. 5 Bay Close, St Helens folio of the Register 38962/5;
 - f. LGA Subdivision Road Bay Close, St Helens folio of the Register 38962/7;
 - g. 484 Binalong Bay Road, St Helens folio of the Register 152563/0;
 - h. 4 Sunshine Court, St Helens folio of the Register 38962/26;
 - i. 6 Sunshine Court, St Helens folio of the Register 38962/25;
 - j. 8 Sunshine Court, St Helens folio of the Register 38962/24;
 - k. Footway Sunshine Court, St Helens folio of the Register 38962/30;
 - l. 4 Sunshine Court, St Helens folio of the Register 38962/26;
 - m. 11 Sunshine Court, St Helens folio of the Register 38962/8;
 - n. 13 Sunshine Court, St Helens folio of the Register 38962/9;
 - o. 16 Sunshine Court, St Helens folio of the Register 38962/23;
 - p. 18 Sunshine Court, St Helens folio of the Register 38962/22;
 - q. 20 Sunshine Court, St Helens folio of the Register 38962/21;
 - r. 22 Sunshine Court, St Helens folio of the Register 38962/20;
 - s. 23 Sunshine Court, St Helens folio of the Register 38962/10;
 - t. 24 Sunshine Court, St Helens folio of the Register 38962/19;
 - u. 25 Sunshine Court, St Helens folio of the Register 38962/11;
 - v. 26 Sunshine Court, St Helens folio of the Register 38962/18;
 - w. 27 Sunshine Court, St Helens folio of the Register 38962/12;
 - x. 28 Sunshine Court, St Helens folio of the Register 38962/17;
 - y. 29 Sunshine Court, St Helens folio of the Register 38962/13;
 - z. 30 Sunshine Court, St Helens folio of the Register 38962/16;
 - aa. 32 Sunshine Court, St Helens folio of the Register 38962/15;
 - bb. 36 Sunshine Court, St Helens folio of the Register 38962/14; and
 - cc. LGA Subdivision Road Sunshine Court, St Helens folio of the Register 38962/29.
- Revise the zoning of the following properties at Heritage Road, St Helens to Rural Living (subdivision category C):
 - a. 5 Heritage Road, St Helens folio of the Register 36169/1;
 - b. 13 Heritage Road, St Helens folio of the Register 36169/2;
 - c. 18 Heritage Road, St Helens folios of the Register 130597/1 and 130597/2;
 - d. 25 Heritage Road, St Helens folio of the Register 36169/3;
 - e. 27 Heritage Road, St Helens folio of the Register 39520/1;
 - f. 30 Heritage Road, St Helens folio of the Register 156294/3;
 - g. 32 Heritage Road, St Helens folio of the Register 110059/2;
 - h. 33 Heritage Road, St Helens folio of the Register 39520/2;
 - i. 34 Heritage Road, St Helens folio of the Register 110059/3;
 - j. 35 Heritage Road, St Helens folio of the Register 39520/3;
 - k. 45 Heritage Road, St Helens folio of the Register 39520/4;
 - l. 53 Heritage Road, St Helens folio of the Register 39520/5;
 - m. 54 Heritage Road, St Helens folio of the Register 110059/4;
 - n. 56 Heritage Road, St Helens folio of the Register 154684/5;
 - o. 57 Heritage Road, St Helens folio of the Register 39520/6;
 - p. 58 Heritage Road, St Helens folio of the Register 154684/6;
 - q. 78 Heritage Road, St Helens folio of the Register 154684/7; and

- r. Heritage Road, St Helens folio of the Register 156294/2.
- Revise the zoning of the following properties at Seabreeze Court and Tasman Highway, Beaumaris to Rural Living (subdivision category C):
 - a. 4 Seabreeze Court, Beaumaris folio of the Register 148628/1;
 - b. 6 Seabreeze Court, Beaumaris folio of the Register 148628/2;
 - c. 9 Seabreeze Court, Beaumaris folio of the Register 148628/6;
 - d. 11 Seabreeze Court, Beaumaris folio of the Register 148628/5;
 - e. 12 Seabreeze Court, Beaumaris folio of the Register 148628/3;
 - f. Seabreeze Court, Beaumaris folio of the Register 148628/4;
 - g. 107 Tasman Highway, Beaumaris folio of the Register 138498/1;
 - h. 115 Tasman Highway, Beaumaris folio of the Register 141808/2;
 - i. 133 Tasman Highway, Beaumaris folio of the Register 233427/1;
 - j. 135 Tasman Highway, Beaumaris folio of the Register 22607/2;
 - k. 137 Tasman Highway, Beaumaris folio of the Register 138198/1;
 - l. 141 Tasman Highway, Beaumaris folio of the Register 62113/29;
 - m. 143 Tasman Highway, Beaumaris folio of the Register 62113/28; and
 - n. Part of LGA Subdivision Road Seabreeze Court, Beaumaris folio of the Register 148628/100.

192. Reason: To apply the Rural Living Zone consistent with Guideline No. 1.

Commission consideration under section 35KB

193. The Commission finds the amendment is a substantial modification as there may be a public interest in the amendment. Under section 35KB, the Commission considers the substantial modifications required are suitable to be made by way of an amendment, under Part 3B of the Act, of the Break O'Day LPS, after it comes into effect.

Commission decision under section 35KB

194. Draft amendment directed to the Break O'Day LPS:

- Revise the zoning of the following properties at Bay Close, Binalong Bay Road and Sunshine Court, St Helens to Rural Living (subdivision category A):
 - a. 1 Bay Close, St Helens folio of the Register 38962/1;
 - b. 2 Bay Close, St Helens folio of the Register 38962/2;
 - c. 3 Bay Close, St Helens folio of the Register 38962/3;
 - d. 4 Bay Close, St Helens folio of the Register 38962/4;
 - e. 5 Bay Close, St Helens folio of the Register 38962/5;
 - f. LGA Subdivision Road Bay Close, St Helens folio of the Register 38962/7;
 - g. 484 Binalong Bay Road, St Helens folio of the Register 152563/0;
 - h. 4 Sunshine Court, St Helens folio of the Register 38962/26;
 - i. 6 Sunshine Court, St Helens folio of the Register 38962/25;
 - j. 8 Sunshine Court, St Helens folio of the Register 38962/24;
 - k. Footway Sunshine Court, St Helens folio of the Register 38962/30;
 - l. 4 Sunshine Court, St Helens folio of the Register 38962/26;
 - m. 11 Sunshine Court, St Helens folio of the Register 38962/8;
 - n. 13 Sunshine Court, St Helens folio of the Register 38962/9;
 - o. 16 Sunshine Court, St Helens folio of the Register 38962/23;
 - p. 18 Sunshine Court, St Helens folio of the Register 38962/22;
 - q. 20 Sunshine Court, St Helens folio of the Register 38962/21;
 - r. 22 Sunshine Court, St Helens folio of the Register 38962/20;

- s. 23 Sunshine Court, St Helens folio of the Register 38962/10;
 - t. 24 Sunshine Court, St Helens folio of the Register 38962/19;
 - u. 25 Sunshine Court, St Helens folio of the Register 38962/11;
 - v. 26 Sunshine Court, St Helens folio of the Register 38962/18;
 - w. 27 Sunshine Court, St Helens folio of the Register 38962/12;
 - x. 28 Sunshine Court, St Helens folio of the Register 38962/17;
 - y. 29 Sunshine Court, St Helens folio of the Register 38962/13;
 - z. 30 Sunshine Court, St Helens folio of the Register 38962/16;
 - aa. 32 Sunshine Court, St Helens folio of the Register 38962/15;
 - bb. 36 Sunshine Court, St Helens folio of the Register 38962/14; and
 - cc. LGA Subdivision Road Sunshine Court, St Helens folio of the Register 38962/29.
- Revise the zoning of the following properties at Heritage Road, St Helens to Rural Living (subdivision category C):
 - a. 5 Heritage Road, St Helens folio of the Register 36169/1;
 - b. 13 Heritage Road, St Helens folio of the Register 36169/2;
 - c. 18 Heritage Road, St Helens folios of the Register 130597/1 and 130597/2;
 - d. 25 Heritage Road, St Helens folio of the Register 36169/3;
 - e. 27 Heritage Road, St Helens folio of the Register 39520/1;
 - f. 30 Heritage Road, St Helens folio of the Register 156294/3;
 - g. 32 Heritage Road, St Helens folio of the Register 110059/2;
 - h. 33 Heritage Road, St Helens folio of the Register 39520/2;
 - i. 34 Heritage Road, St Helens folio of the Register 110059/3;
 - j. 35 Heritage Road, St Helens folio of the Register 39520/3;
 - k. 45 Heritage Road, St Helens folio of the Register 39520/4;
 - l. 53 Heritage Road, St Helens folio of the Register 39520/5;
 - m. 54 Heritage Road, St Helens folio of the Register 110059/4;
 - n. 56 Heritage Road, St Helens folio of the Register 154684/5;
 - o. 57 Heritage Road, St Helens folio of the Register 39520/6;
 - p. 58 Heritage Road, St Helens folio of the Register 154684/6;
 - q. 78 Heritage Road, St Helens folio of the Register 154684/7;
 - r. Heritage Road, St Helens folio of the Register 156294/2; and
 - s. road reservation to road centreline.
 - Revise the zoning of the following properties at Seabreeze Court and Tasman Highway, Beaumaris to Rural Living (subdivision category C):
 - a. 4 Seabreeze Court, Beaumaris folio of the Register 148628/1;
 - b. 6 Seabreeze Court, Beaumaris folio of the Register 148628/2;
 - c. 9 Seabreeze Court, Beaumaris folio of the Register 148628/6;
 - d. 11 Seabreeze Court, Beaumaris folio of the Register 148628/5;
 - e. 12 Seabreeze Court, Beaumaris folio of the Register 148628/3;
 - f. Seabreeze Court, Beaumaris folio of the Register 148628/4;
 - g. 107 Tasman Highway, Beaumaris folio of the Register 138498/1;
 - h. 115 Tasman Highway, Beaumaris folio of the Register 141808/2;
 - i. 133 Tasman Highway, Beaumaris folio of the Register 233427/1;
 - j. 135 Tasman Highway, Beaumaris folio of the Register 22607/2;
 - k. 137 Tasman Highway, Beaumaris folio of the Register 138198/1;
 - l. 141 Tasman Highway, Beaumaris folio of the Register 62113/29;
 - m. 143 Tasman Highway, Beaumaris folio of the Register 62113/28; and
 - n. Part of LGA Subdivision Road Seabreeze Court, Beaumaris folio of the Register 148628/100.

195. Reason:

- To apply the Rural Living Zone consistent with Guideline No. 1.
- The Commission considers that the modification is a substantial modification as there may be a public interest.

Village Zone - Lottah

Representation: Kylie Walker (54)

196. The representor requested the zoning of the settlement at Lottah be revised from the Rural Zone to the Village Zone. The reasons were:

- the settlement was a gateway to walking tracks on Blue Tier and areas of cultural heritage significance;
- the State government had identified the place to be developed for future tourism, however there was not Visitor Accommodation available in Lottah;
- the Village Zone was a more suitable zone because it would allow incremental, careful and sustainable development and would encourage Visitor Accommodation and services;
- Lottah was a village with lots that features areas between 700m² and 5000m²; and
- the land had low agricultural value.

197. In its section 35F report, the planning authority opposed the request for the following reasons:

- the property was subject to several overlays, which indicated there were potential environmental constraints. This included the Waterway and Coastal Protection Area, Priority Vegetation Area, Scenic Protection Area, Bushfire-prone Hazard Area and Landslip Hazard Area overlays;
- the township and adjoining land surrounding Lottah had low agricultural potential and some environmental constraints, which indicated the Rural Zone should be applied in accordance with RZ 1 and RZ 2 of Guideline No. 1;
- the heritage significance and tourism potential of the settlement was noted, however the Village Zone was not supported by the Land Use and Development Strategy 2015 or the regional strategy;
- the township of Lottah was an existing rural settlement, but did not accommodate a range of mixed uses, which was specified as a principle in VZ4 of Guideline No. 1; and
- small-scale and sustainable development within Lottah for Tourism (including shops and services) was possible under the Rural Zone.

Commission consideration

198. The Commission agrees with the planning authority that the land should remain in the Rural Zone for the reasons given in the section 35F report.

Commission decision

199. The Commission considers that no modifications are required.

Rural Zone - 546 Upper Scamander Road, Upper Scamander

Representation: Dion Agius (10)

200. The representor requested the zoning of 546 Upper Scamander Road, Upper Scamander folio of the Register 38787/1 be revised from the Agriculture Zone to the Rural Zone. The reasons were:

- the owner intended to submit an application for a weddings venue in the future;
 - planning approval had been given to construct four Visitor Accommodation units on the land, one of which had been completed and was operating;
 - the Visitor Accommodation units provided for visitors to the region; and
 - future wedding events would be an extension of the existing use and would benefit other small businesses along the coast.
201. In its section 35F report, the planning authority opposed the request for the following reasons:
- application of the Rural Zone would result in a spot-zoning of the land;
 - the land was identified as unconstrained in the agricultural estate mapping and RZ 2 and RZ 3 of Guideline No. 1 indicated the land should be included in the Agriculture Zone;
 - the property had a land capability of class 5, which indicated it had potential for agricultural use;
 - the land had few environmental constraints; and
 - there had been no local or regional strategic analysis submitted to support application of a different zone for the area as required by AZ 6 of Guideline No. 1.
202. At the hearing, the planning authority confirmed an approval had been granted to use and develop the land with four Visitor Accommodation units, and that one of the units had been constructed at the time of the hearing. The planning authority concluded it would support the Rural Zone for the land, but conceded it was isolated from the nearby Rural Zone.

Commission consideration

203. The Commission is not persuaded the Rural Zone should be applied to the land. The land is unconstrained in the agricultural estate mapping, and no agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Agriculture Zone should be replaced. The land is located within a broader area zoned Agriculture, and there is evidence, particularly aerial photography, which indicates the land is used for agricultural activities.
204. The Commission also agrees with the planning authority's concerns the Rural Zone would result in a spot-zone of the land. Application of a zone to a single title (spot-zoning) should generally be avoided according to accepted planning principles, in order to reduce potential for land use conflict.
205. The Commission understands an approval exists to develop Visitor Accommodation on the land. The use is Discretionary in the Agriculture Zone, however insufficient evidence about the proposed function centre was submitted to determine whether alternate provisions should apply to cater for that use.

Commission decision

206. The Commission considers that no modifications are required.

Rural Zone - 182 Gillies Road, St Marys

Representations: Peter Power-Lawrence (13), Conservation Landholders Tasmania (70), North East Bioregional Network (81)

207. The representation made by Peter Power-Lawrence requested the zoning of 182 Gillies Road, St Marys folio of the Register 127101/1 be revised from the Environmental Management Zone to the Rural Zone. The reasons were:

- the property had an area of 29.4ha, of which 25 hectares was contained in a Private Nature Reserve (St Patricks Head Private Nature Reserve) made under the *Nature Conservation Act 2002*;
 - the remainder of the property was used for residential purposes and were three existing and approved short term Visitor Accommodation cabins on the land;
 - the Rural Zone would provide flexibility to further develop the land; and
 - the area that surrounded the site was also zoned Rural.
208. The representation made by Conservation Landholders Tasmania noted the Environmental Management Zone had been applied to 'protect the private reserved land.' The representation made by North East Bioregional Network was supportive of the Environmental Management Zone as exhibited because the land contained a 'perpetual conservation covenant.'
209. In its section 35F report, the planning authority opposed the request for the following reasons:
- the land was located within an area with a mix of Rural and Environmental Management zones;
 - RZ 1 and RZ 2 of Guideline No. 1 stipulated the Rural Zone should be applied because the property was not included in the agricultural estate mapping;
 - the Environmental Management Zone was consistent with the Land Use and Development Strategy 2015, which indicated land within the surrounds of St Marys should be investigated to identify vegetation corridors;
 - the property was heavily vegetated; and
 - the Landscape Conservation Zone was a potential alternative option, however the surrounding properties were proposed to be zoned Rural and Environmental Management.
210. However, the planning authority ultimately recommended the land be split-zoned so that the Environmental Management Zone was applied to the area of the land that contained the Private Nature Reserve, and the Landscape Conservation Zone apply to the remainder of the land. It considered the Landscape Conservation Zone would be complementary to the Environmental Management Zone rather than being representative of a spot-zone.
211. Prior to the hearing, the representor, in response to a Commission direction, provided a submission that the owners of the land supported application of the split-zone recommended by the planning authority.
212. At the hearing, Mr John Thompson for Conservation Landholders Tasmania, also supported the split-zoning recommended by the planning authority.

Commission consideration

213. The Commission agrees with the planning authority that the land is most appropriately split-zoned Landscape Conservation and Environmental Management. The property contains land outside the area of the Private Nature Reserve, which contains existing Visitor Accommodation cabins. The Commission notes the landowners support for the split-zoning.

Commission decision

214. Modification:
- Revise the zoning of that part of 182 Gillies Road, St Marys folio of the Register 127101/1 located outside the area of the Private Nature Reserve shown in CPR Plan No. 6329 to Landscape Conservation with the split-zone to be determined by the boundary defined by the CPR Plan.

215. Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.

Rural Zone - Lottah Road, Weldborough folio of the Register 85925/1

Representation: Department of State Growth (63)

216. The representor requested the zoning of Lottah Road, Weldborough folio of the Register 85925/1 be revised from the Utilities Zone to the Rural Zone because the land was used for Extractive Industry, which was a Prohibited use in the Utilities Zone.

217. In its section 35F report, the planning authority recommended the Rural Zone be applied to the land.

Commission consideration

218. The Commission is satisfied the land contains an Extractive Industry and is more appropriately zoned Rural consistent with the principles of Guideline No. 1 (RZ 1).

Commission decision

219. Modification:

- Revise the zoning of Lottah Road, Weldborough folio of the Register 85925/1 to Rural.

220. Reason: To apply the Rural Zone consistent with Guideline No. 1.

Rural Zone - Private Timber Reserves

Representations: Department of State Growth (63), Forico Pty Ltd (77)

221. The representation made by Department of State Growth requested all land that contained private timber reserves be revised to the Rural Zone because the land was set aside specifically for forestry purposes and therefore had limited potential for agriculture use.

222. The representation made by Forico Pty Ltd also requested the zoning of a number of its properties zoned Agriculture be revised to the Rural Zone because the land contained private timber reserves. Specifically, there were 27 titles at Mathinna Road, Mathinna, and a separate title at 256 Nichols Road, Pyengana folio of the Register 109165/1. Furthermore, the representor requested the zone of part of Mathinna Road, Mathinna folio of the Register 155683/2 be included in the Rural Zone, as it formed part of the Mathinna settlement, which was zoned Rural Living. The balance of the land was separated by Mathinna Road and had an area of approximately 490ha.

223. In its section 35F report, the planning authority was open to consider the zoning of private timber reserves, but noted that the Department of State Growth had not specified which titles it proposed to be rezoned.

224. Otherwise, the planning authority did not support application of the Rural Zone to the 28 properties identified by Forico Pty Ltd because all the land was included in the agricultural estate mapping (25 identified as unconstrained) and the Agriculture Zone was consistent with its methodology for application of zones to agricultural land. Furthermore, the planning authority did not support application of the Rural Zone to the land part of folio of the Register 155683/2 (Mathinna Road, Mathinna) because the land was included as part of the Mathinna settlement and had an area (4300m²) and use consistent with the surrounding lots.

225. At the hearing, the planning authority made the following comments:

- forestry operations within private timber reserves were exempt under the SPPs;
- the land could still be used for agriculture in the event forestry use ceased; and

- there was no evidence that another zone should be applied in preference to the Agriculture Zone.

Commission consideration

226. The Commission accepts the view of the planning authority that the right to use land within private timber reserves needs to be balanced with the potential to use the land for agriculture. Therefore, the Commission considers that the Agriculture Zone is appropriate to apply to land mostly unconstrained in the agricultural estate mapping. No agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Agriculture Zone should be replaced. The Commission otherwise notes section 11(3)(a) of the Act provides that nothing in the Tasmanian Planning Scheme affects forestry operations conducted on land declared as a private timber reserve under the *Forest Practices Act 1985*.

Commission decision

227. The Commission considers that no modifications are required.

Rural Zone - 280 Lohreys Road, St Marys

Submission accepted by the Commission: Gray Planning for Mark and Anna Sawyer

228. The submitter requested the zoning of 280 Lohreys Road, St Marys folio of the Register 244267/1 be revised from the Agriculture Zone to the Rural Zone. The reasons were:

- it would be more difficult to obtain approval for Residential use and development in the Agriculture Zone;
- the property did not have the characteristics of land that should be zoned Agriculture;
- the Agriculture Zone was applied on the basis of desktop mapping without an on-site assessment of the land;
- the land was currently used for residential purposes and was not used for agricultural purposes;
- 90-95% of the site was covered in forest;
- the site was adjacent to Residential use and development;
- the land had an average gradient of 1:3.5; and
- the Agriculture Zone was not consistent with Guideline No. 1.

229. Prior to the hearing, the planning authority, in response to a Commission direction, provided an opinion on the merits of the submission. The planning authority recommended the land remain in the Agriculture Zone because the land was identified as unconstrained in the agricultural estate mapping and the Zone complied with Guideline No. 1.

230. At the hearing, Ms Danielle Gray (Gray Planning), added the land was undulating, steep, heavily forested and contained a watercourse, which made agricultural use unfeasible. Ms Gray displayed a number of images as evidence the land was not suitable for agriculture. Furthermore, Ms Gray also explained the land contained an existing dwelling and had a history of exclusive residential use.

231. The owner of the land, Mr Mark Sawyer, supported application of the Priority Vegetation Area overlay to the land consistent with the Regional Ecosystem Model mapping in the event the Rural Zone was applied.

232. In response, the planning authority was persuaded the land was not suitable for agricultural use and recommended the Rural Zone be applied to the land, together with the Priority Vegetation Area overlay.

Commission consideration

233. The Commission agrees that the Rural Zone should be applied to the land. The evidence provided by Ms Gray demonstrates the land has significant topographical constraints that significantly reduce the possibility the land can be used for agriculture. The Commission therefore considers the Rural Zone be applied because the land has limited or no potential for agricultural use consistent with the principles of Guideline No. 1 (RZ 3).
234. The Commission consequently determines the Priority Vegetation Area overlay should be applied to the land consistent with the Regional Ecosystem Model mapping to manage the native vegetation, as the overlay is compatible with the Rural Zone.

Commission decision

235. Modification:
- Revise the zoning of 280 Lohreys Road, St Marys folio of the Register 244267/1 to Rural and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping.
236. Reason: To apply the Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.

Agriculture Zone and Major Tourism Zone - 21554 Tasman Highway, Four Mile Creek

Representations: Bill and Susan Manning (42), Woolcott Surveys/East Coast Surveying (72), North East Bioregional Network (81)

237. The representation made by North East Bioregional Network was opposed to application of the Major Tourism Zone applied to 21554 Tasman Highway, Four Mile Creek folios of the Register 125938/9 and 125938/0 because the land had significant scenic and environmental values. The representor stated the Major Tourism Zone should at least be reduced to the eastern side of the land that contained the existing buildings.
238. Furthermore, the representor requested the zoning of 21554 Tasman Highway, Four Mile Creek folio of the Register 123961/2 and part of folio of the Register 173576/1 be revised from the Rural Zone to the Agriculture Zone. The reasons were the land had been virtually cleared of all native vegetation, and trellis for the establishment of further vineyards was being constructed. The representor noted the Agriculture Zone would be consistent with the zone applied to the vineyard on the western side of the road.
239. The representation made by Mr Bill and Mrs Susan Manning requested the same land, including the whole of folio of the Register 173576/1 be revised to the Landscape Conservation Zone 'for obvious reasons.' Mr and Mrs Manning, and the representation made by Woolcott Surveys supported the Major Tourism Zone as exhibited.
240. In its section 35F report, the planning authority recommended no change to the draft LPS. In particular, it contended the Major Tourism Zone was consistent with MTZ 1 and MTZ 2 of Guideline No. 1. It also held the Rural Zone applied to the land on the eastern side of the Tasman Highway would provide a broader range of uses that would complement the major tourism use located in the Major Tourism Zone. The planning authority otherwise agreed with the North East Bioregional Network representation, that the Agriculture Zone should be applied to the land on the western side of the Tasman Highway.
241. At the hearing, Mr Todd Dudley for the North East Bioregional Network argued the Major Tourism Zone should be replaced by the Landscape Conservation Zone, in particular the western section of the land that did not contain any buildings.

242. In response, the planning authority did not support any change to the Major Tourism Zone because it was supported by the Land Use Development Strategy 2015, and the land contained a vineyard that was associated with the use. It sought to apply the Zone to the whole of parent title (which was also strata titled) in order to avoid a split-zoning of the land.
243. Following the hearing, the planning authority, in response to a Commission direction, highlighted it had intended to zone the land Major Tourism for some time, and maintained the Zone was supported by the strategic direction established by the Land Use Development Strategy 2015. It added the Zone would recognise the discrete tourism use that existed on the site, and that no evidence was available to determine the land had landscape values that warranted application of the Landscape Conservation Zone.
244. In response, Mr Dudley raised concern the Major Tourism Zone would create further development potential in the area, which was inappropriate given the approved area of the development had already been established. Mr Dudley's submission contained a diagram, which identified the Major Tourism Zone could be limited to the eastern area of the land to contain the existing development.

Commission consideration

245. The Commission accepts the Major Tourism Zone is supported by the Land Use Development Strategy 2015, but agrees with Mr Dudley that the Major Tourism Zone should be limited to the eastern area of the land at this time. The Land Use Development Strategy 2015 states the eastern end of the land (approximately 9.4ha) would contain the approved Tourist Operation use and development. It adds the western part of the land may be suitable for an expansion of the use, but 'only those sites already containing a major tourism function should be included in the Major Tourism Zone.' For that reason, the Commission is not satisfied the Major Tourism Zone is appropriate for the whole title at this time. The Zone is specialised for large-scale tourist facilities and detail of intended use and development should be provided before the land is zoned for such a distinct purpose.
246. The Commission therefore determines the Rural Zone should be applied to the remainder of the land to match the Zone of folio of the Register 123961/2 on the eastern side of the Tasman Highway. Both sections of land are used in conjunction with the existing Tourist Operation and contain water storage, a landing strip and other infrastructure associated with the use. The Commission accepts the land should be included in the Rural Zone, which is consistent with the principles of Guideline No.1 (RZ 3 and AZ 6) and would result in an appropriate zoning pattern given the range of uses in the area.
247. The Commission is otherwise satisfied the Agriculture Zone should be applied to the land on the western side of the Tasman Highway. The land is unconstrained in the agricultural estate mapping, and no agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Agriculture Zone should be replaced. A significant proportion of the land contains a vineyard, and application of the Zone is consistent with the principles of AZ 1 of Guideline No.1.

Commission decision

248. Modification:
 - Revise the zoning of that part of 21554 Tasman Highway, Four Mile Creek folio of the Register 125938/0 located to the west of a line determined by the following coordinates to Rural:
 - a. easting 609102.65 and northing 5396825.65; and
 - b. easting 609130.48 and northing 5396697.95.

249. Reason: To apply the Rural Zone consistent with Guideline No. 1.

Landscape Conservation Zone - General Issues

Representations: Conservation Landholders Tasmania (70), Tasmanian Land Conservancy (78), North East Bioregional Network (81)

250. The representors requested all land with a conservation covenant declared under the *Nature Conservation Act 2002* be zoned Landscape Conservation or Environmental Management. The reasons were:

- land that contains conservation covenants was already recognised for natural values. The zone of the land should reflect the use and development potential of such land;
- application of the Landscape Conservation Zone would satisfy Guideline No. 1;
- conservation covenants were part of the Tasmanian Reserve Estate, which is land reserved to be managed for biodiversity conservation under Tasmania's Regional Forest Agreement. The land is also part of Australia's National Reserve System and therefore contributes to the fulfilment of Australia's obligations under the international Convention on Biological Diversity 1993. All of the reserves are listed in the latest version of the Collaborative Australian Protected Area Database;
- in Tasmania, privately protected land covers a smaller area than publicly protected land, but contains a higher percentage of threatened communities;
- private reserves, including all private conservation covenants and Tasmanian Land Conservancy reserves, have a reserve management plan prepared by experts to protect, conserve, and manage the ecological, scientific, cultural and aesthetic values of the area in the public interest; and
- zoning of the broader landscape around conservation covenants should be carefully considered to avoid fragmentation of the land that might impact natural values.

251. In the section 35F report, the planning authority recommended against blanket inclusion of all land with a conservation covenant in the Landscape Conservation and Environmental Management zones.

Commission consideration and observation

252. The Commission observes that conservation covenants are made under the *Nature Conservation Act 2002*, but are not reserves. The reason is that conservation covenants are not specifically identified as reserves in the interpretation in Part 3, or Schedule 1 of the *Nature Conservation Act 2002*. These sections list each type of reserve, including private nature sanctuaries and private nature reserves. The definition of 'reserved' given in the *Nature Conservation Act 2002* (as opposed to the definition for 'reserved land') means land that is 'set aside or acquired for a conservation purpose.' This means the use of land must be primarily for conservation purposes as a consequence of having the status of a reserve of a type listed in Schedule 1 of the *Nature Conservation Act 2002*.

253. The Commission also notes the different processes prescribed for declaration of reserves (made for private land under section 12 of the *Nature Conservation Act 2002*), versus the process for the Minister to 'enter into' a conservation covenant with a landowner (made as a covenant that 'runs with' the land under section 34 of the *Nature Conservation Act 2002*). Unlike a reserve, a conservation covenant 'runs with' the land and the land is not 'set aside'.

254. There may be good strategic planning merit in the application of the Landscape Conservation or Environmental Management zones to areas that have extensive conservation covenants (such as a cluster of many, a large area, or both) provided that broader landscape values (not only biodiversity values) are demonstrated consistent with the purpose of the zone. The zone

that should apply to land that contains a conservation covenant needs to be balanced with application of zones based on sound planning principles. For example, spot-zoning of land should generally be avoided and the zone should be consistent with the regional strategy and the principles of Guideline No. 1. The application of zoning as the primary method of the control of use and development, should firstly be undertaken irrespective of whether a covenant applies, with weight given to the existence and content of a covenant when multiple zoning options are available.

255. Apart from the specific parcels of land considered elsewhere in this decision, the Commission generally supports the Rural and Agriculture zoning that has been applied by the planning authority. The Commission's consideration of representations that requested zoning changes to specific sites and provided significant further detail are outlined below.

Landscape Conservation Zone - Various Properties

Representations: Gary Luck and Gayle Smythe (1), Julia Weston (4), Peter and Leissa Dane (5), Tilman Ruff (8), Brett and Julie Owers (9), Martin and Vanessa Webb (11), Phillip and Barbara McConnell (12), John Thompson for Animal Rescue Inc. (16), Jennifer Roberts (19), Robert Marshall (26), Rebecca Maier (27), Kaylen Jorgensen and Esther Field (28), Chris Barron (31), Sean Guinane (35), Richard and Heather Prebble (36), Ian Matthews (37), Abby Gee (60), Rainforest Rescue (69), Conservation Landholders Tasmania (70)

256. The representors, including representation made by Conservation Landholders Tasmania (70), requested the following properties be revised from the Rural Zone or Agriculture Zone to the Landscape Conservation Zone:

- 22 Denneys Road, St Marys folios of the Register 121906/1 and 121906/2 (representation 1);
- 686 German Town Road, St Marys folios of the Register 168012/2, 209977/1, and 179552/1 (representation 4);
- 225 Lower German Town Road, St Marys folio of the Register 142906/2 (representation 5);
- Forest Lodge Road, Pyengana folio of the Register 240592/1 (representation 8);
- 203 Lower German Town Road, St Marys folio of the Register 157275/1 (representation 9);
- 433 Catos Road, Upper Scamander folios of the Register 242163/1 and 242164/1 (representation 11);
- Schulhofs Road, Blessington folio of the Register 169864/1 (representation 12);
- Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 (representation 16);
- German Town Road, St Marys folio of the Register 179552/1 (representation 19);
- 31 Dalmayne Road, Gray folio of the Register 51295/1 (representation 27);
- 224 Lower German Town Road, St Marys folio of the Register 142906/4 (representation 28);
- Lower German Town Road, St Marys folio of the Register 142906/5 (representation 31);
- Schulhofs Road, Upper Blessington folio of the Register 169864/2 (representation 35);
- 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 (representation 36);
- 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 (representation 37);
- 158 German Town Road, St Marys folio of the Register 210430/1 (representation 60); and
- Forest Lodge Road Pyengana folio of the Register 238246/1 (representation 69).

257. The reasons were:

- the whole or majority of each property contained a conservation covenant and was therefore identified for protection and conservation of natural values;

- the conservation covenants were approved by the Minister for Environment, which demonstrated the properties contained threatened vegetation as listed in Schedule 3A of the *Nature Conservation Act 2002*; and
 - the properties contained large areas of native vegetation, which was prominent in the local landscapes.
258. The representation made by Conservation Landholders Tasmania also requested the following properties be revised from the Rural Zone or Agriculture Zone to the Landscape Conservation Zone:
- Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1;
 - Lower German Town Road, St Marys folio of the Register 142906/3;
 - 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1;
 - 730 Irish Town Road, St Marys folios of the Register 112196/1 and 245582/1;
 - 300 Mount Elephant Pass Road, Gray folio of the Register 200851/1;
 - 822 Mount Elephant Road, Gray folio of the Register 250636/1;
 - Calders Gully Road, Mangana folio of the Register 146101/1;
 - Esk Main Road, Fingal folios of the Register 224858/1, 211222/1, 211225/1, 211226/1, 211223/1, 102678/2, 171558/1, 152147/1, and 121797/1, and 3837 Esk Main Road, Fingal folios of the Register 152324/1 and 229987/1.
259. The representation made by Mr Robert Marshall (26) did not support application of the Landscape Conservation Zone to any part of Esk Main Road, Fingal folios of the Register 224858/1, 211222/1, 211225/1, 211226/1, 211223/1, 102678/2, 171558/1, 152147/1, and 121797/1, 3837 Esk Main Road, Fingal folios of the Register 152324/1 and 229987/1 and 4529 Esk Main Road, Fingal folios of the Register 171587/1 and 181574/1 because the land was part of a farm and used for forestry and sheep grazing.
260. In the section 35F report, the planning authority recommended that the following properties be zoned Landscape Conservation:
- 22 Denneys Road, St Marys folios of the Register 121906/1 and 121906/2 (representation 1);
 - 686 German Town Road, St Marys folio of the Register 209977/1 (representation 4);
 - 225 Lower German Town Road, St Marys folio of the Register 142906/2 (representation 5);
 - Forest Lodge Road, Pyengana folio of the Register 240592/1 (representation 8);
 - 203 Lower German Town Road, St Marys folio of the Register 157275/1 (representation 9);
 - 433 Catos Road, Upper Scamander folio of the Register 242163/1 (representation 11);
 - 224 Lower German Town Road, St Marys folio of the Register 142906/4 (representation 28);
 - Lower German Town Road, St Marys folio of the Register 142906/5 (representation 31);
 - Forest Lodge Road Pyengana folio of the Register 238246/1 (representation 69);
 - Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1 (representation 70);
 - Lower German Town Road, St Marys folio of the Register 142906/3 (representation 70); and
 - 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1 (representation 70).
261. The reasons included:
- the land was connected with other land zoned Landscape Conservation or Environmental Management;
 - the land contained an existing conservation covenant that covered the majority of the title;
 - the landowner was supportive of the Zone, or support could be provided; and
 - the Landscape Conservation Zone was consistent with LCZ 1, LCZ 2 and LCZ 3 of Guideline No. 1.

262. The planning authority recommended the Rural Zone be retained on the following titles:

- 686 German Town Road, St Marys folios of the Register 168012/2 (representation 4);
- 433 Catos Road, Upper Scamander folio of the Register and 242164/1 (representation 11);
- Schulhofs Road, Blessington folio of the Register 169864/1 (representation 12);
- Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 (representation 16);
- German Town Road, St Marys folio of the Register 179552/1 (representation 19);
- 31 Dalmayne Road, Gray folio of the Register 51295/1 (representation 27);
- Schulhofs Road, Upper Blessington folio of the Register 169864/2 (representation 35);
- 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 (representation 36);
- 158 German Town Road, St Marys folio of the Register 210430/1 (representation 60);
- 730 Irish Town Road, St Marys folios of the Register 112196/1 and 245582/1 (representation 70);
- 300 Mount Elephant Pass Road, Gray folio of the Register 200851/1 (representation 70);
- 822 Mount Elephant Road, Gray folio of the Register 250636/1 (representation 70);
- Calders Gully Road, Mangana folio of the Register 146101/1 (representation 70); and
- 4529 Esk Main Road and Esk Main Road, Fingal folios of the Register 224858/1, 211222/1, 211225/1, 211226/1, 211223/1, 102678/2, 171558/1, 152147/1, and 121797/1, and 3837 Esk Main Road, Fingal folios of the Register 152324/1 and 229987/1 (representation 26 and 70).

263. The reasons were:

- the properties did not meet the requirements for the Landscape Conservation Zone described above;
- land did not contain mapped threatened native vegetation communities;
- the requirements of the conservation covenants would apply irrespective of the zone;
- the land did not have identifiable landscape values;
- the Rural Zone should be applied to land in non-urban areas with limited or no potential for agriculture as a consequence of topographical, environmental or other characteristics of the area in accordance with RZ1 and RZ2 of Guideline 1;
- the Priority Vegetation Area overlay would apply to land to manage natural values; and
- land at Esk Main Road was zoned Agriculture, contained agriculture use, and was identified as unconstrained in the agricultural estate mapping.

264. The planning authority also recommended the Rural Zone and Priority Vegetation Area overlay be applied to 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 (representation 37) in accordance with the Regional Ecosystem Model because the Rural Zone was compatible with the overlay.

265. Prior to the hearing, the planning authority, in response to a Commission direction, confirmed a number of reserved and acquired roads in the vicinity of land proposed to be zoned Landscape Conservation should also be similarly zoned in the event the Landscape Conservation Zone was applied.

266. Mr John Thompson for Animal Rescue Inc. (representation 16), in response to a Commission direction, provided evidence the owner of Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 was supportive of the Landscape Conservation Zone.

267. At the hearing, Mr John Thompson for Conservation Landholders Tasmania made the following comments:

- 22 Denneys Road, St Marys (representation 1) had landscape values that justified the Landscape Conservation Zone. The owner of the land, Mr Gary Luck, supported the planning

authority's recommendation as the land was covered in a nationally-listed endangered forest and provided habitat for wildlife;

- 686 German Town Road, St Marys (representation 4) and German Town Road, St Marys folio of the Register 179552/1 (representation 19) should be split-zoned so that the main part of the covenant that adjoins the St Marys Pass State Reserve is included in the Landscape Conservation Zone. Mr Thompson submitted a diagram that showed which parts of the land could be included in the Zone with the balance of the land proposed to remain in the Rural Zone;
- 225 Lower German Town Road, St Marys (representation 5) was part of a cluster of properties that contained conservation covenants (representations 9, 28 and 31), which should all be included in the Zone. The lots collectively had a significant area, evident landscape values, areas of threatened native vegetation, and were not used for agricultural activities;
- the planning authority's recommendation the Landscape Conservation Zone be applied to Forest Lodge Road, Pyengana folio of the Register 240592/1 (representation 8) was supported. The owner of the land, Mr Tilman Ruff, was also supportive and highlighted the important natural values of the land;
- the planning authority's recommendation the Landscape Conservation Zone be applied to 433 Catos Road, Upper Scamander (representation 11) folio of the Register 242163/1 was supported by the landowner. The landowner also supported application of the Rural Zone to folio of the Register 242164/1;
- Schulhofs Road, Blessington folio of the Register 169864/1 (representation 12) and Schulhofs Road, Upper Blessington folio of the Register 169864/2 (representation 35) should not be considered spot-zones, because both properties had large areas and were surrounded by forestry land;
- Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 (representation 16) had landscape value and a large area of approximately 160ha;
- the planning authority's recommendation that 31 Dalmaine Road, Gray folio of the Register 51295/1 (representation 27) remain in the Rural Zone was supported;
- 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 (representation 36) had landscape value and was located on the western slopes of Mount Elephant. The land could be included in the Landscape Conservation Zone with the two adjoining properties (Curtis Road, St Marys folios of the Register 244616/1 and 244662/1). Mr Thompson provided written evidence the owner of folio of the Register 244616/1 supported the Landscape Conservation Zone, however no support for the Zone was received from the owner of folio of the Register 244662/1. The owners of folio of the Register 244662/1, Mr Richard and Mrs Heather Prebble, explained that Mount Elephant was an important feature in the surrounding landscape, and that the Landscape Conservation Zone would help retain vegetation that would assist in the management of the landscape surrounding it;
- 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 (representation 37) had landscape value that justified application of the Landscape Conservation Zone. The landowner, Mr Ian Matthews, added the land had important natural values and that he would support application of the Priority Vegetation Area overlay to the land consistent with the Regional Ecosystem Model in the event the land was zoned Landscape Conservation;
- 158 German Town Road, St Marys folio of the Register 210430/1 (representation 60) was fully forested, contained wedge tail eagle habitat, was steep, and contained a spur. The land was subject to a private timber reserve, which the owner intended to remove;
- Conservation Landholders Tasmania supported the planning authority's recommendation the Landscape Conservation Zone be applied to Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1 and 180 Gillies Road, St Marys folios of the

Register 120232/1, 206762/1 and 120054/1. Mr Thompson noted he had attempted to obtain written evidence the landowners supported the Landscape Conservation Zone, but had been unsuccessful; and

- Conservation Landholders Tasmania supported the request made in representation 26 (Robert Marshall) and the planning authority's recommendation that the land at Esk Main Road, Fingal remain zoned Agriculture.

268. In response, the planning authority made the following comments:

- the proposed split-zone for 686 German Town Road, St Marys (representation 4) and German Town Road, St Marys folio of the Register 179552/1 (representation 19) was supported;
- some of the land that surrounded Schulhofs Road, Blessington folio of the Register 169864/1 (representation 12) and Schulhofs Road, Upper Blessington folio of the Register 169864/2 (representation 35) was designated as Future Potential Production Forest. The land was therefore recognised for its natural values. Although the Landscape Conservation Zone would be a spot-zone of the land, it was consistent with the use of land designated as Future Potential Production Forest and was therefore supported;
- it was persuaded the Landscape Conservation Zone should be applied to Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 (representation 16) because the land was adjacent to the Ansons River Conservation Area;
- it supported the Landscape Conservation Zone for 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 (representation 36) and Curtis Road, St Marys folio of the Register 244616/1;
- it was persuaded the Landscape Conservation Zone should be applied to 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 (representation 37) because the land had landscape values and other natural values. It added he Zone was consistent with LCZ1, LCZ2 and LCZ 3 of Guideline No. 1, and the Priority Vegetation Area overlay should be applied to the land consistent with the Regional Ecosystem Model; and
- it was persuaded 158 German Town Road, St Marys folio of the Register 210430/1 (representation 60) had landscape values that justified application of the Landscape Conservation Zone, and noted the property was connected to land zoned Environmental Management that adjoined its eastern boundary.

269. Following the hearing, the planning authority, in response to a Commission direction, submitted written evidence the new owners of Lower German Town Road, St Marys folio of the Register 142906/5 supported application of the Landscape Conservation Zone to the land.

Commission consideration

270. The Commission is satisfied the Landscape Conservation Zone should be applied as recommended by the planning authority for the following reasons:

- the representors and planning authority provided evidence land has landscape value;
- the Landscape Conservation Zone is consistent with LCZ 1, LCZ 2 and LCZ 3 of Guideline No. 1; and
- the land is connected with other land zoned Landscape Conservation or Environmental Management, which promotes congruent zoning patterns. The Commission has examined the location of the properties, the relationship of those properties to other land with similar characteristics, and how each property is integrated with land that is zoned or reserved for management of natural and landscape values.

271. The following comments are made in response to several of the individual representations detailed above:

- the split-zone at 686 German Town Road, St Marys (representation 4) and German Town Road, St Marys folio of the Register 179552/1 (representation 19) would result in the forested and elevated parts of the land with landscape value being included in the Landscape Conservation Zone alongside the St Marys Pass State Reserve;
 - the properties at 203, 224 and 225 Lower German Town Road and Lower German Town Road, St Marys folio of the Register 142906/5 (representations 5, 9, 28 and 31) form a cluster that together have an area of approximately 60ha and adjoining the St Marys Pass State Reserve. The land has natural and landscape values that are congruent with the Reserve;
 - the land Schulhofs Road, Blessington folio of the Register 169864/1 (representation 12) and Schulhofs Road, Upper Blessington folio of the Register 169864/2 (representation 35) is elevated and located on the slopes of Ben Nevis. Both properties are surrounded by land in the Rural Zone, including land in the adjoining Launceston municipality. Both properties have large areas of approximately 120ha. The Commission agrees with the planning authority that both properties should be recognised for the respective natural and scenic values similar to adjoining land designated as Future Potential Production Forest;
 - the land at Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 (representation 16) has landscape value, a large area of approximately 160ha, and is connected with the Ansons River Conservation Area. The Commission therefore considers the Landscape Conservation Zone is appropriate for the land;
 - the properties at 130 Curtis Road (representation 36) and Curtis Road, St Marys folio of the Register 244616/1 would form a cluster that together have an area of approximately 76ha alongside Mount Elephant. The land has natural and landscape values that are congruent with Mount Elephant (designated as Future Potential Production Forest). The Commission does not agree the Landscape Conservation Zone be applied to Curtis Road, St Marys folio of the Register 244662/1 as the owner of the land may not be supportive;
 - the Commission agrees the Priority Vegetation Area overlay should be applied to 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 (representation 37) as the overlay is compatible with the Landscape Conservation Zone; and
 - the Commission is persuaded the land at Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1 and 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1 should be zoned Landscape Conservation for the reasons given in the representation made by Conservation Landholders Tasmania and in the planning authority's section 35F report.
272. The Commission does not agree that the Landscape Conservation Zone is appropriate for any of the remaining properties at this time because there is insufficient evidence the land has landscape value.
273. The Commission agrees the land at Esk Main Road, Fingal should remain in the Agriculture Zone as the land contains ongoing agriculture and rural use. The Commission notes the conservation covenants will continue to apply to the land and protect the relevant natural values independent of the zoning.

Commission decision

274. Modification:

- Revise the zoning of the following properties to Landscape Conservation:
 - a. 22 Denneys Road, St Marys folios of the Register 121906/1 and 121906/2 including the reserved road intersecting folio of the Register 121906/1;
 - b. 686 German Town Road, St Marys folio of the Register 209977/1 and that part of folio of the Register 168012/2 contained within the conservation covenant shown

in CPR Plan No. 5770 excluding that part that does not adjoin folio of the Register 209977/1;

- c. 225 Lower German Town Road, St Marys folio of the Register 142906/2;
 - d. Forest Lodge Road, Pyengana folio of the Register 240592/1;
 - e. 203 Lower German Town Road, St Marys folio of the Register 157275/1;
 - f. 433 Catos Road, Upper Scamander folio of the Register 242163/1 including the intersecting reserved road;
 - g. Schulhofs Road, Blessington folio of the Register 169864/1;
 - h. Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 including the intersecting reserved road;
 - i. that part of German Town Road, St Marys folio of the Register 179552/1 contained within the conservation covenant shown in CPR Plan No. 5770 excluding that part that adjoins folio of the Register 122133/4;
 - j. 224 Lower German Town Road, St Marys folio of the Register 142906/4 including the intersecting reserved road;
 - k. Lower German Town Road, St Marys folio of the Register 142906/5;
 - l. Schulhofs Road, Upper Blessington folio of the Register 169864/2;
 - m. 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 including the intersecting reserved road;
 - n. Curtis Road, St Marys folio of the Register 244616/1;
 - o. 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1;
 - p. 158 German Town Road, St Marys folio of the Register 210430/1; and
 - q. Forest Lodge Road Pyengana folio of the Register 238246/1.
- Revise the Priority Vegetation Area overlay by applying the overlay to 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 consistent with the Regional Ecosystem Model mapping.

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

Commission consideration under section 35KB

276. The Commission finds part of the amendment is a substantial modification as there may be a public interest in the amendment. Under section 35KB, the Commission considers the substantial modifications required are suitable to be made by way of an amendment, under Part 3B of the Act, of the Break O'Day LPS, after it comes into effect.

Commission decision under section 35KB

277. Draft amendment directed to the Break O'Day LPS:

- Revise the zoning of Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1 including the intersecting reserved roads and Crown land and 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1 including the intersecting reserved roads to Landscape Conservation.

278. Reason:

- To apply the Landscape Conservation Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.
- The Commission considers that the modification is a substantial modification as there may be a public interest.

Landscape Conservation Zone - 121 Lower German Town Road, St Marys

Representation: Rodney and Janet Drummond (7)

279. The representor requested the zoning of 121 Lower German Town Road, St Marys folio of the Register 168898/1 be revised from the Rural Zone to the Landscape Conservation Zone. The reasons were:

- the property was adjacent to St Marys Pass State Reserve to the east;
- there were several covenanted properties near the land and Zone would contribute to the ecological biodiversity of the area being protected;
- there were no plans to undertake commercial agriculture on the property;
- the property was registered as a “garden for wildlife” under the Private Land Conservation Program with threatened species sighted on the property, that included the quoll, eastern quoll, Tasmanian devil and blind velvet worm;
- the property contained a small *Eucalyptus brookeriana* ecosystem; and
- the Landscape Conservation Zone is most appropriate for the land and consistent with Guideline No. 1.

280. In its section 35F report, the planning authority opposed application of the Landscape Conservation Zone for the following reasons:

- the property was identified in the agricultural estate mapping as potentially constrained under criteria 2A, with a land capability of class 5, which indicated the Rural Zone should be applied;
- the land did not contain a conservation covenant recognised by the Commonwealth or State Government;
- the majority of the property was relatively cleared of vegetation, except for vegetation along the boundaries. The property did not meet LCZ 1 and LCZ 2 of Guideline No. 1;
- the LIST indicated a possibility threatened species existed on the land, however the lack of Natural Assets Code overlays that applied to the land indicated there were no significant environmental constraints present; and
- the Rural Zone was consisted with RZ 1 of Guideline No. 1, particularly as the land was largely cleared.

281. At the hearing, Ms Janet Drummond outlined the land is mostly cleared but is used as a wildlife corridor.

282. In response, the planning authority stated that although it had not recommended the Landscape Conservation Zone be applied to the land, it considered there was merit in the representor’s argument the land provided a wildlife corridor. On that basis, the planning authority advised it would not oppose application of the Landscape Conservation Zone.

Commission consideration

283. The Commission is persuaded the Landscape Conservation Zone should be applied to the land. The property is located adjacent the St Marys Pass State Reserve and the land is located among a number of properties subject to conservation covenants. Together, these properties provide areas of native vegetation for animals to move from the Reserve to the surrounding area.

Commission decision

284. Modification:

- Revise the zoning of 121 Lower German Town Road, St Marys folio of the Register 168898/1 to Landscape Conservation.

285. Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.

Landscape Conservation Zone - 99 Mount Elephant Road, Gray

Representation: Elizabeth Dean (17)

286. The representor requested the zoning of 99 Mount Elephant Road, Gray folios of the Register 102195/2 and 46514/1 be revised from the Rural Zone to the Landscape Conservation Zone. The reasons were:

- the land was located within a corridor of significant landscape values;
- the land was registered under the Land for Wildlife program and was maintained for its values;
- there had been sightings of Tasmanian devils, spotted tailed quoll, masked owls, wedge tailed eagles at the land;
- the property may contain the Blind Velvet Worm and a species of stag beetle;
- the University of Tasmania attended the property periodically to conduct research; and
- there was a diverse wet and dry *Eucalypt* forest on the land and a stand of *brookeriana* forest.

287. The representor added they would support rezoning of the whole area from Chain of Lagoons, Lower Marshes Creek through Mount Elephant, South Sister/German Town and Mount Nicholas Range to Landscape Conservation.

288. In its section 35F report, the planning authority opposed the request for the following reasons:

- the Landscape Conservation Zone would result in a spot-zoning;
- one of the titles was identified as unconstrained in the agricultural estate mapping, which demonstrated some capacity for agricultural use;
- the Rural Zone was consistent with RZ 1 of Guideline No. 1;
- there was no evidence the land contained threatened flora and fauna species, however the Priority Vegetation Area and Waterway and Coastal Protection Area overlays applied to the land, which demonstrated there was potential for significant environmental constraints; and
- there was no evidence, including local or regional planning strategy to support application of the Landscape Conservation Zone to the surrounding area.

Commission consideration

289. The Commission is not persuaded the Landscape Conservation Zone should be applied to the land for the reasons given in the section 35F report. In addition, no evidence was submitted to confirm the land has landscape values to demonstrate the Zone would be consistent with the principles of Guideline No. 1. Furthermore, folio of the Register 102195/2 is identified in the agricultural estate mapping and no advice from a suitably qualified person was provided to support application of a zone other than Rural or Agriculture.

Commission decision

290. The Commission considers that no modifications are required.

Landscape Conservation Zone - 405 Irish Town Road, St Marys

Representation: Abby Gee for Sharlene King (61)

291. The representor requested the zoning of 405 Irish Town Road, St Marys folio of the Register 206661/1 be revised from the Rural Zone to the Landscape Conservation Zone. No specific reasons for the request were provided.
292. In its section 35F report, the planning authority opposed the request and noted the land was subject to a Private Timber Reserve. It added the Priority Vegetation Area and Waterway and Coastal Protection Area overlays would apply to the land to manage any natural values present.

Commission consideration

293. The Commission is not persuaded the Landscape Conservation Zone should be applied to the land for the reasons given in the section 35F report. No evidence the land has landscape values was submitted to demonstrate the Zone would be consistent with the principles of Guideline No. 1. In addition, the land is identified in the agricultural estate mapping and no advice from a suitably qualified person was provided to support application of a zone other than Rural or Agriculture.

Commission decision

294. The Commission considers that no modifications are required.

Landscape Conservation Zone - St Helens Point Road and Parnella Drive, St Helens

Representation: North East Bioregional Network (81)

295. The representor requested the zoning of the following properties be revised from the General Residential Zone to the Landscape Conservation Zone:
- 206 St Helens Point Road, St Helens folio of the Register 15881/11;
 - 208 St Helens Point Road, St Helens folio of the Register 15881/10;
 - 214-218 St Helens Point Road, St Helens folio of the Register 15881/5;
 - 220 St Helens Point Road, St Helens folio of the Register 15881/4;
 - 222 St Helens Point Road, St Helens folio of the Register 15881/3;
 - 224 St Helens Point Road, St Helens folio of the Register 15881/2;
 - 226 St Helens Point Road, St Helens folio of the Register 15881/1;
 - 4A Parnella Drive, St Helens folio of the Register 39180/1; and
 - 4B Parnella Drive, St Helens folio of the Register 39180/2.
296. The reasons were:
- the titles shared a common boundary with the Chimneys Lagoon Conservation Area or private land with a conservation covenant;
 - the General Residential Zone was not appropriate as it allowed for high-density development that would impact the natural values of the wetland and high-conservation value vegetation;
 - the Break O'Day Coastal Lagoon Assessment (North Barker 2009) noted urban development represented a high threat to Chimneys Lagoon and recommended restrictions be put in place to protect the area; and
 - the Landscape Conservation Zone was more appropriate for the land.

297. The representor stated the titles could alternatively be included in the Particular Purpose Zone - Coastal Settlement to further the State Coastal Policy, in particular clauses 1.1.5 and 1.1.9.
298. In its section 35F report, the planning authority opposed the request for the following reasons:
- the land was zoned General Residential in the interim planning scheme;
 - the land was fully serviced by reticulated water and sewer and could be serviced by the Council's stormwater management network;
 - the land was affected by the Natural Assets Code overlays, which would apply to assessment of applications for development of the land; and
 - the General Residential Zone was consistent with GRZ 1 and GRZ 2 of Guideline No. 1.
299. At the hearing, Mr Todd Dudley for the North East Bioregional Network added that high-density development in the vicinity of the lagoon would impact waterways because the lagoon was not frequently flushed by natural water flows. Mr Dudley also submitted an extract from the Break O'Day Coastal Lagoon Assessment as evidence of the natural values of the lagoon.

Commission consideration

300. The Commission agrees with the planning authority that the land should be included in the General Residential Zone. The Zone is supported by land use strategy, most notably the Land Use and Development Strategy 2015, and is serviced by reticulated water and sewer.
301. Nevertheless, the Commission notes the evidence submitted by Mr Dudley that important natural values exist in the area, particularly Chimneys Lagoon. However, these values are not necessarily in conflict with urban residential use and development. The Commission notes the land and surrounding areas would be subject to the Priority Vegetation Area (which would apply to subdivision of the land, but not subsequent development), Waterway and Coastal Protection Area, and Future Coastal Refugia Area overlays, which would apply to manage and protect natural values.
302. The Commission suggests the zoning of the land could be considered in any future strategic planning assessment undertaken for the area to more closely examine the factors that should determine the appropriate future use of the land and the planning controls that should apply.

Commission decision

303. The Commission considers that no modifications are required.

Landscape Conservation Zone - 1-15 and 17-21 Poseidon Street, St Helens

Representation: North East Bioregional Network (81)

304. The representor requested the zoning of 1-15 Poseidon Street, St Helens folios of the Register 244229/1 and 160405/2 and 17-21 Poseidon Street, St Helens folio of the Register 160405/1 be revised from the General Residential Zone to the Landscape Conservation Zone. The reasons were:
- the land was in a scenically and environmentally sensitive area that was densely forested;
 - the titles adjoined the Boggy Creek Conservation Area, which contained threatened vegetation communities;
 - the Break O'Day Coastal Lagoon Assessment (North Barker 2009) noted development within adjacent native vegetation was a threat to the Boggy Creek wetland and recommended a buffer to restrict further development within a defined buffer around the wetland; and
 - the titles should be zoned Landscape Conservation, consistent with the State Coastal Policy and LCZ 2(b) and LCZ 3 of Guideline No. 1.

305. In its section 35F report, the planning authority opposed the request for the following reasons:
- the land was zoned General Residential in the interim planning scheme;
 - the land was fully serviced by reticulated water and sewer, but could not be connected to the Council's stormwater management network;
 - the Break O'Day Coastal Lagoon Assessment 2009 did not have any information that related directly to the vegetation on the subject sites;
 - the land contained *Eucalyptus sieberi* forest and woodland on granite, which was not a threatened community;
 - the land was affected by the Natural Assets Code overlays, which would apply to assessment of applications for development of the land; and
 - the General Residential Zone was consistent with GRZ 1 and GRZ 2 of Guideline No. 1.
306. At the hearing, Mr Todd Dudley for the North East Bioregional Network added the land was steep and heavily forested and therefore suitable for the Landscape Conservation Zone. Mr Dudley also submitted an extract from the Break O'Day Coastal Lagoon Assessment as evidence of the natural values of the Boggy Creek wetland.

Commission consideration

307. The Commission agrees with the planning authority that the land should be included in the General Residential Zone. The Zone is supported by land use strategy, most notably the Land Use and Development Strategy 2015, and is serviced by reticulated water and sewer.
308. Nevertheless, the Commission notes the evidence submitted by Mr Dudley that important natural values exist in the area, particularly Boggy Creek.
309. However, these values are not necessarily in conflict with urban residential use and development. The Commission notes the land and surrounding areas would be subject to the Priority Vegetation Area (which would apply to subdivision of the land, but not subsequent development), Waterway and Coastal Protection Area, and Future Coastal Refugia Area overlays, which would apply to manage and protect natural values.
310. The Commission suggests the zoning of the land could be considered in any future strategic planning assessment undertaken for the area to more closely examine the factors that should determine the appropriate future use of the land and the combination of planning controls that should apply.

Commission decision

311. The Commission considers that no modifications are required.

Landscape Conservation Zone - Winifred Drive and Malibu Street, Scamander

Representation: North East Bioregional Network (81)

312. The representor requested the zoning of land at Winifred Drive and Malibu Street, Scamander be revised from the General Residential Zone to the Landscape Conservation Zone. The land was undergoing a subdivision of lots in the General Residential Zone that were within a parent title known as Tasman Highway, Scamander folio of the Register 182594/930. The reasons were:
- the land had significant environmental values and adjoined Crown land to the east and the Winifred Curtis Reserve to the south;
 - the land had similar environmental values to the Winifred Curtis Reserve; and

- the density of use and development should be limited to minimise impact on waterways.
313. The representor suggested the land could be zoned Landscape Conservation and a specific area plan applied to control use and development.
314. In its section 35F report, the planning authority opposed the request for the following reasons:
- the General Residential Zone would reflect an approval granted for an 83 lot subdivision;
 - the land was within the urban growth boundary established in the Land Use and Development Strategy 2015;
 - reticulated services were available to the land; and
 - the General Residential was consistent with GRZ 1, GRZ 2 and GRZ 3 of Guideline No. 1.
315. At the hearing, Mr Todd Dudley for the North East Bioregional Network maintained a view the land should be zoned Landscape Conservation, but conceded urban residential use and development was approved and being developed on the land, which was relevant to the application of the General Residential Zone.

Commission consideration

316. The Commission agrees with the planning authority the General Residential Zone should apply to the land for the reasons given in the section 35F report.

Commission decision

317. The Commission considers that no modifications are required.

Landscape Conservation Zone - Franks Street and Grant Street, Falmouth

Representation: North East Bioregional Network (81)

318. The representor requested the zoning of the following properties at Falmouth be revised from the Low Density Residential Zone to the Landscape Conservation Zone:
- 8 Franks Street folio of the Register 149067/21;
 - 12 Franks Street folio of the Register 149067/22;
 - 14 Franks Street folio of the Register 149067/23;
 - 16 Franks Street folio of the Register 149067/24;
 - 18 Franks Street folio of the Register 149067/25;
 - 20 Franks Street folio of the Register 149067/26;
 - 22 Franks Street folio of the Register 149067/27;
 - 28 Franks Street folio of the Register 149067/28;
 - 30 Franks Street folio of the Register 168325/4; and
 - 67 Grant Street folio of the Register 136081/1.
319. The reasons were:
- the Low Density Residential Zone would allow further development and densification of the land;
 - land in the zone could be strata titled;
 - the Zone would change the intrinsic value, character and amenity of the area; and
 - stormwater and wastewater required sustainable management.
320. In its section 35F report, the planning authority opposed the request for the following reasons:
- the lots were unserviced lots and had an area less than 1800m²;

- density would be largely restricted by the ability to provide onsite wastewater management;
- strata titles were exempt under the SPPs and managed under separate legislation;
- the Low Density Residential Zone is the most logical zone for the land given the lot sizes and surrounding land use pattern;
- the Low Density Residential Zone was supported by the Land Use and Development Strategy 2015; and
- the Zone was consistent with LDRZ 1, LDRZ 2, LDRZ 3 and LDRZ 4 of Guideline No. 1.

Commission consideration

321. The Commission accepts the evidence given by the planning authority and is satisfied the Low Density Residential Zone is the most appropriate zone to apply to the land for the reasons given in the section 35F report.

Commission decision

322. The Commission considers that no modifications are required.

Landscape Conservation Zone - 215 Medeas Cove Road, St Helens

Representation: North East Bioregional Network (81)

323. The representor requested the zoning of 215 Medeas Cove Road, St Helens folio of the Register 121458/1 be revised from the Rural Zone to the Landscape Conservation Zone because the land had a significant amount of native vegetation cover.

324. In its section 35F report, the planning authority opposed the request for the following reasons:

- the land was outside the urban growth boundary established in the Land Use and Development Strategy 2015;
- the land and surrounding area to the east, west and south was identified in the agricultural estate mapping as suitable for the Rural or Agriculture zones;
- the features, topography and proximity of the land to properties zoned General Residential indicated the Rural Zone was the most appropriate zone for the land; and
- the Rural Zone was consistent with RZ 1, RZ 2 and RZ 3 of Guideline No. 1.

Commission consideration

325. The Commission is not persuaded the Landscape Conservation Zone should be applied to the land. Application of a zone to a single title (spot-zoning) should generally be avoided according to accepted planning principles, in order to reduce potential for land use conflict. While the land does contain some native bushland, it would be protected by the Priority Vegetation Area overlay and the property contains a considerable amount of cleared area suitable for Resource Development use. The land is identified in the agricultural estate mapping and no advice from a suitably qualified person was provided to support application of a zone other than Rural or Agriculture. On balance, the Rural Zone is most appropriate for the land.

Commission decision

326. The Commission considers that no modifications are required.

Landscape Conservation Zone - 1284 North Ansons Bay Road, Ansons Bay

Representation: North East Bioregional Network (81)

327. The representor requested the zoning of 1284 North Ansons Bay Road, Ansons Bay folio of the Register 11915/32 and North Ansons Bay Road, Ansons Bay folio of the Register 11914/31 be revised from the Rural Zone to the Landscape Conservation Zone. The representation contended the land had topographical constraints and extensive areas of native vegetation and should therefore be zoned Landscape Conservation.
328. In its section 35F report, the planning authority opposed the request for the following reasons:
- the land was identified in the agricultural estate mapping as unconstrained, however was excluded from the Agriculture Zone because it contained important native vegetation;
 - the Rural Zone allowed the Priority Vegetation Area overlay to be applied to manage natural values; and
 - the Zone was consistent with AZ 6, RZ 1, RZ 2 and RZ 3 of Guideline No. 1.

Commission consideration

329. The Commission agrees with the planning authority that the land should remain in the Rural Zone. The land is identified as unconstrained in the agricultural estate mapping and no advice from a suitably qualified agricultural expert was provided to support a zone other than Rural or Agriculture. The Commission otherwise accepts the planning authority's view the land should be zoned Rural instead of Agriculture given the obvious natural values of the land, which allows the Priority Vegetation Area overlay to apply.

Commission decision

330. The Commission considers that no modifications are required.

Landscape Conservation Zone - Steitglitz

Representations: Michael Fox and Anna Povey (18), North East Bioregional Network (81)

331. The representors requested the zoning of 11 Shearwater Avenue, Steitglitz folio of the Register 53948/1 and 105 St Helens Point Road, Steitglitz folio of the Register 45005/1 be revised from part General Residential Zone and part Landscape Conservation Zone to be wholly included in the Landscape Conservation Zone. The reasons were:
- 11 Shearwater Avenue contains a permanent conservation covenant and adjoins the Chimneys Lagoon Conservation Area;
 - most of 11 Shearwater Avenue was already zoned Landscape Conservation;
 - the part of 11 Shearwater Avenue zoned General Residential supported many known threatened species;
 - 105 St Helens Point Road was illegally cleared in 2007. The land contained some of the largest populations of *Hibbertia virgata* threatened flora species *Acacia ulicifolia* and *Euphrasia collinus ssp deflexifolia*, and *Conospermum hookeri*, which was listed under the federal *Environment Protection and Biodiversity Conservation Act 1999*;
 - 105 St Helens Point Road formed part of the water catchment for Chimneys Lagoon Conservation Area;
 - the Break O'Day Coastal Lagoon Assessment (North Barker 2009) noted development as a threat to the Chimneys Lagoon; and
 - the Landscape Conservation was consistent with LCZ 1 and LCZ 2(a)(b) of Guideline No. 1.

332. In its section 35F report, the planning authority supported the request to zone the entirety of 11 Shearwater Avenue Landscape Conservation for the following reasons:
- the Zone would match the surrounding land and was supported by LCZ 1 and LCZ 2 of Guideline No. 1;
 - there are a number of overlays relevant to the land that demonstrated it had environmental constraints that impacted its potential to be developed for urban residential purposes;
 - the land was covered by relatively dense vegetation and was subject to a conservation covenant; and
 - the General Residential Zone was not consistent with GRZ 3 of Guideline No. 1 because the land contained extensive threatened flora and fauna.
333. However, the planning authority did not support application of the Landscape Conservation Zone to the entirety of 105 St Helens Point Road. It noted the owner of the property may not have been supportive of the change, particularly as it had received a recent application to subdivide the part of the land zoned General Residential. Nevertheless, the planning authority was satisfied the land contained significant environmental values.
334. At the hearing, Mr Todd Dudley for the North East Bioregional Network was supportive of the recommendation to rezone 11 Shearwater Avenue and stated the land had ecological values that transcended the arbitrary zone boundary. Mr Dudley raised concern the land at 105 St Helens Point Road had been illegally cleared and burned in the past, which had propagated threatened species.
335. In response, the planning authority added it was satisfied 11 Shearwater Avenue had significant natural values, as recognised by the conservation covenant, which meant the Landscape Conservation Zone was appropriate to manage the associated landscape values. It also added it would need to account for the loss of land from the General Residential Zone in its future strategic planning work for the area.

Commission consideration

336. The Commission agrees the Landscape Conservation Zone should be applied to 11 Shearwater Avenue for the reasons given in the section 35F report. The land contains part of Chimneys Lagoon and features an area of dense vegetation that provides an important scenic border around the waterbody.
337. The Commission also agrees with the planning authority that it is premature to include 105 St Helens Point Road wholly in the Landscape Conservation Zone. A subdivision application was under consideration at the time of the hearings, and loss of further land from the General Residential Zone would need to be properly considered in strategic planning work for the area. The Commission also notes the appearance of the land has a degree of difference to 11 Shearwater Avenue, which warrants further investigation to establish its landscape values before the Landscape Conservation Zone could be justified.

Commission decision

338. Modification:
- Revise the zoning of 11 Shearwater Avenue, Steiglitz folio of the Register 53948/1 to Landscape Conservation.
339. Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.

Landscape Conservation Zone - Scamander

Representations: Michael and Jessie Groves (20), Narelle Ransley (21), Woolcott Surveys/East Coast Surveying (72)

340. The representors were opposed to application of the Landscape Conservation Zone to 82 Riverview Road, Scamander folio of the Register 141731/2 and 23185 Tasman Highway, Scamander folio of the Register folio of the Register 26754/2.
341. The representations expressed concern land zoned Environmental Living under the interim planning scheme was zoned Landscape Conservation Zone in the draft LPS because the provisions were not commensurate with one another. The representors contended LCZ 1, LCZ 2, LCZ 3 and LCZ 4 of Guideline No. 1 did not support the Landscape Conservation Zone. The representors also made the following comments:
 - lots around Riverview Road and Tasman Highway, Scamander are characterised by single dwellings on large bush blocks;
 - 82 Riverview Road was created by a previous subdivision and adjoined land zoned General Residential that was recently approved for a 69 lot subdivision;
 - dwellings are Permitted in the Environmental Living Zone in the interim planning scheme, but are Discretionary in the Landscape Conservation Zone in the SPPs, which significantly restricts landowners residential use rights;
 - developers and home builders would be reluctant to purchase land and financial institutions reluctant to finance home builders;
 - there would be a loss of value in land previously zoned Environmental Living;
 - there would be a reduction in housing for Break O'Day; and
 - natural values should not be given priority over existing residential use.
342. In its section 35F report, the planning authority did not support any change to the zoning of the land for the following reasons:
 - the Landscape Conservation Zone was applied consistent with Guideline No. 1;
 - land was subject to the Scenic Protection and Natural Assets code overlays;
 - land in the area ranged in size from 1ha - 4ha, and the majority of lots contained buildings;
 - the current Environmental Living Zone in the interim planning scheme prohibited subdivision within 1km of the coastal high-water mark, which included the land, however the SPPs did not contain similar controls;
 - the Land Use and Development Strategy 2015 identified land to the east of the highway as having medium-term rezoning potential subject to a detailed land capability assessment;
 - the Land Use and Development Strategy supported urban consolidation of the existing town, which further supported the requirement for a land capability analysis; and
 - the Landscape Conservation Zone was considered the most suitable zone until further land capability and strategic analysis of Scamander could be undertaken.
343. At the hearing, Ms Narelle Ransley raised concern the Landscape Conservation Zone would reduce development potential of her land at 23185 Tasman Highway and similar properties in the surrounding area. Mr James Stewart for Woolcott Surveys/East Coast Surveying contended it would be more appropriate to zone the area Rural Living Zone (subdivision category C), because the land was predominantly used for residential purposes.

Commission consideration

344. The Commission is not persuaded the Landscape Conservation Zone should be replaced, because there is insufficient strategic planning evidence an alternate zone should be applied. However, the Commission affords some weight to the representors' contentions the

Landscape Conservation Zone does not adequately reflect the Residential use of the land. Nevertheless the land contains a considerable amount of native vegetation (recognised by the Priority Vegetation Area overlay) and scenic value that requires management given the absence of a Scenic Protection Area overlay in the area. The Commission therefore suggests the planning authority undertake a review of zoning for the area once the draft LPS is in effect to more closely examine the factors that should determine the appropriate future use of the land and the combination of planning controls that should apply.

Commission decision

345. The Commission considers that no modifications are required.

Landscape Conservation Zone - Falmouth and Four Mile Creek

Representation: Bill and Susan Manning (42)

346. The representors were supportive of the application of the Landscape Conservation, Environmental Management and Recreation zones to a number of areas from Falmouth to Chain of Lagoons. The representors also requested the Landscape Conservation and Environmental Management zones be applied more extensively to the area in place of the Rural and Agriculture zones because the land had significant natural and landscape values.

347. In its section 35F report, the planning authority did not support any change to the draft LPS for the following reasons:

- the Agriculture Zone had been applied in accordance with the requirements of Guideline No. 1;
- land identified in the maps provided with the representation were actively used for farming; and
- the Landscape Conservation Zone could not be applied to land unless there were demonstrable landscape values.

348. At the hearing, Mr Bill Manning generally raised concern about the impact of development in coastal areas, particularly the loss of significant vegetation and landscape value. Mr Manning highlighted a development at 17 Four Mile Creek Road, Four Mile Creek FR 39416/1 that he believed was inappropriate for the coastal area due to the vegetation removal that had taken place. He contended the loss of vegetation impacted native birds and landscape values.

349. In response, the planning authority stated it was satisfied zoning had been applied to the area in accordance with the LPS criteria in section 34(2) of the Act and Guideline No. 1. It added it was open to reconsider the zoning of the area in the future.

Commission consideration

350. The Commission accepts the response given by the planning authority in the section 35F report and at the hearing, and notes the possibility further strategic planning to review zoning in the area may be undertaken in future.

Commission decision

351. The Commission considers that no modifications are required.

Landscape Conservation Zone and Coastal Environment and Character Specific Area Plan - Various Locations, Including Coastal Areas

Representations: Michael Fox and Ms Anna Povey (18), Narelle Ransley (21), Alan Richmond (23), Christine Hosking (24), Beris Hansberry (30), Leanne Groves (41), Maree Willcox (48), Alison Bleaney

(51), Valerie Legg (52), Paul Thomas (53), Tasmanian Aboriginal Centre (57), Graeme Beech (59), Friends of the East Coast Inc. (73), Seymour Community Action Group Inc. (75), North East Bioregional Network (81)

352. The representors raised concern about the provisions that would apply to use and development of land in coastal areas, particularly within 1km of the coastal high-water mark. The following comments and requests were made:

- development could impact on the water quality, important aquatic ecosystem values, and habitat of wetlands such as Chimneys Lagoon;
- Multiple Dwellings and Visitor Accommodation, including strata title of such developments, should not be allowed coastal areas;
- subdivision should be Prohibited within 1km of the coastal high-water mark to prevent ribbon development, urban sprawl and loss of vegetation and habitat for native animals;
- development should only occur in serviced settlements;
- the coastal area of the Break O'Day municipality was environmentally significant;
- zoning in coastal areas was not consistent with the State Coastal Policy and regional strategy;
- the character of the local area and native biodiversity should be protected;
- the Landscape Conservation and Environmental Management zones should apply more frequently in coastal areas to prevent development impacting landscape values;
- the Landscape Conservation Zone and Priority Vegetation Area overlay would support landscape connectivity and wildlife habitat corridors in farming areas;
- the Rural and Agriculture zones would provide for forestry and intensive rural uses, such as feedlots and fish farms that do not require planning approvals;
- land in the Rural and Agriculture zones should be split-zoned with the Landscape Conservation Zone applied where there are important landscape values; and
- additional settlements, such as Falmouth, should be included in the proposed Particular Purpose Zone - Coastal Settlement.

353. The representation made by the North East Bioregional Network proposed a Specific Area Plan be included in the draft LPS to control use and development in coastal areas.

354. In its section 35F report, the planning authority recommended no changes to the draft LPS and made the following comments in response to the representations:

- the provisions of the zones applied within 1km of the coastal high-water mark were a matter of SPP policy;
- the agricultural estate mapping was used to apply the Agriculture Zone;
- the Rural Zone was applied in accordance with RZ1, RZ2 and RZ3 of Guideline No. 1;
- the Landscape Conservation Zone would prevent residential subdivision;
- the purpose of the Landscape Conservation Zone was not to prioritise Residential use; and
- a Specific Area Plan to manage coastal areas could be considered for inclusion in the draft LPS to provide further development controls within the coastal zone, however the SPPs already contained controls applied through the draft LPS that were suitable. In particular, the SPPs contained development standards for subdivision within the zones, and codes to manage natural assets, coastal erosion and coastal inundation, which were consistent with the provisions of the State Coastal Policy.

355. At the hearing, Mr Graeme Beech raised concern that recent development had an impact on the landscape and the environment, while Mr Graeme Wathen for Friends of the East Coast Inc., raised concern the Landscape Conservation Zone still provided for subdivision.

356. In response, the planning authority considered the concerns related more to the policy of the SPPs, and that zoning had been applied to the coastal areas of the municipality consistent with Guideline No. 1 and in compliance with the LPS criteria.
357. Mr Todd Dudley for the North East Bioregional Network was joined at the hearing by planning expert Ms Heidi Goess, coastal bird life expert Dr Eric Woehler, and invertebrate fauna expert Dr Peter McQuillan who together made the following comments in support of a proposed Specific Area Plan to manage coastal areas:
- Break O'Day had historically had provisions that prohibited subdivision and strata-title development around its coastlines;
 - modern use and development provisions had caused poor outcomes for the environment;
 - small-scale intense development was inappropriate in coastal areas, particularly strata-titled Visitor Accommodation;
 - the proposed provisions would contribute to illegal development that would impact the environment;
 - coastal subdivision and residents caused damage to foreshore vegetation;
 - zoning had not been applied correctly to sensitive coastal areas;
 - the Break O'Day coastline was of international significance because of the habitat it provided for birds;
 - Tasmania contained 65% of the world's hooded plover, of which 7% was located in Break O'Day;
 - the area contained a significant amount of small-scale refugia and deep organic soils that required bespoke management;
 - the forests in the coastal areas of north-east Tasmania were very resilient, but very valuable;
 - the proposed Specific Area Plan would Prohibit subdivision and limit Visitor Accommodation within 1km of the coastal high-water mark;
 - the Specific Area Plan would apply to the Low Density Residential and Landscape Conservation zones and would further the objectives set out in Schedule 1 of the Act; and
 - the Specific Area Plan would provide a more appropriate way to manage Visitor Accommodation where strata title was proposed.
358. In response, the planning authority stated it shared many of the concerns raised by the representor and accepted Break O'Day had a unique and complex coastline. It added it originally desired to apply a similar Specific Area Plan in the draft LPS, but was advised the provision would not be compliant with section 32(4) of the Act. The planning authority recognised there were problems with the Landscape Conservation Zone, and therefore proposed the Particular Purpose Zone - Coastal Settlement as it could demonstrate the provision was compliant with section 32(4) of the Act.
359. Following the hearing, the North East Bioregional Network, in response to a Commission direction, provided a copy of the proposed Coastal Environment and Character Specific Area Plan, including a map to show where the Specific Area Plan would apply. The response also included a statement to explain how the Specific Area Plan would comply with section 32(4) (a) or (b) of the Act. The Specific Area Plan included the following provisions:
- a use table that included Visitor Accommodation as a Permitted use, and Business and Professional Services, Community Meeting and Entertainment, Educational and Occasional Care, Emergency Services, Food Services, General Retail and Hire, Residential, Sports and Recreation as Discretionary uses;
 - a use standard for Visitor Accommodation that would ensure the use did not impact scenic values, environmental values, natural values, cultural values, ecosystems and ecological processes;

- a use standard for Visitor Accommodation that would require the use to be accommodated in one building, including that there be no other existing habitable building on the site; and
 - a subdivision standard that only provided for new lots if intended for public purposes.
360. The Specific Area Plan was proposed to apply to land in the Low Density Residential, Rural Living, Landscape Conservation, Rural, Agriculture and Environmental Management zones.
361. The North East Bioregional Network contended that the Specific Area Plan was compliant with section 32(4) of the Act because the land it would apply to had outstanding environmental and spatial qualities.
362. In response, the planning authority did not support the Specific Area Plan being included in the draft LPS for the following reasons:
- the Specific Area Plan was more restrictive than existing provisions in the interim planning scheme;
 - the Specific Area Plan contravened the Low Density Residential Zone provisions for Visitor Accommodation;
 - the Prohibition of subdivision would apply more broadly than the interim planning scheme;
 - the SPPs adequately address subdivision of land within the coastal zone;
 - the definition of the coastal zone in the State Coastal Policy was outdated and did not reflect more advanced criteria in identifying a coastal zone;
 - the provisions needed to be considered more broadly for coastal areas across the State rather than limited to Break O'Day; and
 - an analysis of properties that would be affected by the proposed Specific Area Plan was undertaken, and it was determined further work would be required to fully understand the impact of the provisions, particularly on provision of housing within the Low Density Residential Zone.

Commission consideration

363. The Commission notes the proposed Coastal Environment and Character Specific Area Plan was generally accepted by all the parties in attendance at the hearing, as a method that would address the concerns that were raised. However, the Commission is not persuaded the Specific Area Plan should be included in the draft LPS at this time because further strategic planning work is required to determine the broader impact of the controls. In particular, the Commission shares the planning authority's concern about the impact subdivision provisions may have on provision of land for housing in the Low Density Residential Zone. Similarly, there is the potential for other unintended consequences could arise in the other zones.
364. Nevertheless, the Commission acknowledges the considerable amount of work undertaken by the North East Bioregional Network in support of the Specific Area Plan, and accepts the expert advice that the Break O'Day municipality has a unique coastline with extensive environmental values. In particular, the Commission considers the representor's response to section 32(4) of the Act has merit, however, compliance with section 32(4) would need to be reconsidered in view of a further investigation of the impact the provisions would have across all the zones to which the Specific Area Plan would apply.
365. The Commission therefore suggests the planning authority undertake further review of the merits of the proposed Specific Area Plan once the draft LPS is in effect to more closely examine whether the provisions, or similar provisions, should be applied. The Commission observes the planning authority expressed an interest to apply a similar Specific Area Plan in its draft LPS, but had some doubt about whether such provisions would comply with section 32(4). Section 32(4) allows such provisions to be considered where unique environmental

conditions exist, and to that end, the North East Bioregional Network provided a considerable amount of useful evidence.

Commission decision

366. The Commission considers that no modifications are required.

Environmental Management Zone - Future Potential Production Forest

Representations: Narelle Ransley (21), Alan Richmond (23), Christine Hosking (24), Beris Hansberry (30), Ian Matthews (37), Leanne Groves (41), Bill and Susan Manning (42), Alison Bleaney (51), Paul Thomas (53), Graeme Beech (59), Seymour Community Action Group Inc. (75), North East Bioregional Network (81)

367. The representors were opposed to application of the Rural Zone to land designated as Future Potential Production Forest and requested application of the Environmental Management Zone be applied. The reasons were the land contained significant natural values and scenic values. The representation made by Mr Ian Matthews noted the land designated as Future Potential Production Forest that surrounded his property at 201 Terrys Hill Road, Goshen contained important habitat for the Bornemisszas Stag Beetle.
368. The North East Bioregional Network was specifically opposed to application of the Rural Zone to Future Potential Production Forest at The Gardens PID 6807980, land alongside Fingal Rivulet Conservation Area, Esk Main Road PID 3384177 and Coach Road PID 3385567.
369. In its section 35F report, the planning authority stated the Rural Zone, which allowed the Priority Vegetation Area overlay to be applied was the appropriate zone to apply to land designated as Future Potential Production Forest. The planning authority added Guideline No. 1 did not support application of the Environmental Management Zone.
370. Prior to the hearing, the Department of Natural Resources and Environment, in response to a Commission direction, made a submission that land designated as Future Potential Production Forest should be included in the Rural Zone because it would be consistent with the State Government's policy objectives for the management of such land.
371. At the hearing, Mr Ian Matthews provided a copy of a map titled Bornemisszas Stag Beetle Protection Area, Forestry Tasmania 23 July 2003, which identified an informal reserve with an area of approximately 73.5ha surrounding Mr Matthews land at 201 Terrys Hill Road, Goshen. Mr Matthews added the conservation covenant that related to his land was applied on the request of the Federal Government, because the land and surrounding area had important natural values. In particular, the area was the 'heartland' of the threatened Stag Beetle. The habitat for the Stag Beetle extended into the adjoining Future Potential Production Forest.
372. In response, the planning authority accepted the evidence submitted by Mr Matthews. It stated that, although it wouldn't usually support application of a zone other than Rural to land designated as Future Potential Production Forest, the evidence indicated an exception was warranted.
373. Otherwise, the hearing was attended by Dr Nick Fitzgerald and Dr Peter McQuillan on behalf of the North East Bioregional Network who generally spoke about the natural values of land designated as Future Potential Production Forest in support of the Environmental Management Zone. Specifically, both highlighted the land in the municipality contained large areas of intact native vegetation, contained significant water catchments, and could not be used for forestry at this time in any case due to legislative provisions.

374. Following the hearing, Sustainable Timber Tasmania, in response to a Commission direction about the Bornemisszas Stag Beetle Protection Area, stated that it did 'not have any comment on the suitability or otherwise of application of an Environmental Management Zone.'

Commission consideration

375. The Commission notes the management objectives for Future Potential Production Forest land, under Schedule 3 of the *Forestry (Rebuilding the Forest Industry) Act 2014*, are broad ranging and include to:
- conserve natural biological diversity, geological diversity, water quality, and the like;
 - encourage education, research, tourism, recreational use, and the like;
 - provide for activities such as the taking of game species, the controlled use of natural resources, exploration activities and taking of mineral resources; and
 - allow for private, commercial or industrial uses.
376. It is otherwise noted the *Forestry (Rebuilding the Forest Industry) Act 2014*, provides for special species timber harvesting on land designated as Future Potential Production Forest that, under clause 4.4.1 of the SPPs, is largely exempt where in conformity with a forest practices plan.
377. The Commission observes that many of the uses provided by the Rural Zone are similar to the Environmental Management Zone. The Commission also observes that the Priority Vegetation Area overlay would apply to the land, and that any impacts on identified Priority Vegetation are managed by the standards in the Natural Assets Code.
378. Irrespective of which zone is applied, forestry activities are exempt under the Natural Assets Code, and would be regulated by a Forest Practices Plan approved under the *Forest Practices Act 1985*.
379. Nevertheless, the Commission accepts the evidence provided by Mr Matthews demonstrates the land that surrounds 201 Terrys Hill Road is of outstanding natural value given the significance of the Bornemisszas Stag Beetle. Consequently, the Environmental Management Zone should be applied to the informal reserve, and the Commission notes the proposal was not opposed by Sustainable Timber Tasmania.

Commission decision

380. Modification:
- Revise the zoning of that part of Peters Road, Goulds Country folio of the Register 159503/1 identified as the Bornemisszas Stag Beetle Protection Area on the Forestry Tasmania map dated 23 July 2003 and shown in hearing submission R40 made by Ian Matthews on 8 September 2022 to Environmental Management.
381. Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.

Environmental Management Zone - 55 Main Road, Binalong Bay and Fingal Rivulet Conservation Area

Representations: Department of Natural Resources and Environment (74), North East Bioregional Network (81)

382. The representation made by the Department of Natural Resources and Environment requested the zoning of 55 Main Road, Binalong Bay folio of the Register 233469/1 be revised from the Recreation Zone to the Environmental Management Zone because it was part of the Humbug Point Nature Recreation Area.

383. Both representations were supportive of the Environmental Management Zone that was applied to the Fingal Rivulet Conservation Area.
384. In its section 35F report, the planning authority opposed the request for the Environmental Management Zone to be applied to the Humbug Point Nature Recreation Area for following reasons:
- the land was zoned Recreation Zone in the interim planning scheme;
 - the land contained tennis courts, toilets and car parking;
 - the land was owned by the Break O'Day Council and was surrounded by the Environmental Management Zone;
 - the Open Space Zone was a possible alternate zone under Guideline No. 1; and
 - EMZ 2 of Guideline No. 1 specified the Environmental Management Zone should not be applied to areas used for passive recreation or to recreational facilities.
385. The section 35F report otherwise noted the support for the zoning of the Fingal Rivulet Conservation Area.

Commission consideration

386. The Commission accepts the reasons given by the planning authority in the section 35 report in support of the Recreation Zone applied to Humbug Point Nature Recreation Area at 55 Main Road. The Environmental Management Zone is typically applied to Nature Recreation Areas, however a significant area of the land already contains public open spaces and sports facilities. The Commission therefore considers an alternate zone is warranted in recognition of the existing use. The Commission notes the land is otherwise dedicated as a Nature Recreation Area under the *Nature Conservation Act 2002*, and the Waterway and Coastal Protection Area and Priority Vegetation Area overlays will apply to the land in any case, which would provide protection for any natural values on the land.
387. The Commission otherwise notes the support of the parties for the Environmental Management Zone applied to the Fingal Rivulet Conservation Area.

Commission decision

388. The Commission considers that no modifications are required.

Environmental Management Zone - Various Locations at Goshen, Pyengana and St Marys

Representation: North East Bioregional Network (81)

389. The representor requested the zoning of the following properties owned by the Crown be revised from the Rural Zone to the Environmental Management Zone:
- Ericksons Road, Goshen PID 6791835;
 - Tasman Highway, Goshen folio of the Register 114281/1;
 - Powers Road, Pyengana (adjacent to the eastern boundary of folio of the Register 225136/1);
 - Upper Irishtown Road, St Marys PID 2154783; and
 - Irish Town Road, St Marys PID 2153182 (adjacent to the southern boundary of folio of the Register 123226/1).
390. The reasons were:
- Ericksons Road, Goshen PID 6791835 was in good ecological condition with threatened vegetation and had high-quality habitat for native fauna;

- Tasman Highway, Goshen was an excellent example of wet and dry *Eucalyptus obliqua* forest. The land was covered in high-quality native forest and featured numerous old growth trees. The land also contained suitable habitat for the Masked Owl, Yellow-tailed Black Cockatoo, Giant Velvet Worm and Bornemisszas Stag Beetle. The Environmental Management Zone was consistent EMZ 1 of Guideline No. 1;
 - Powers Road, Pyengana PID 2159648 was steep and contained damp *Eucalyptus obliqua* forest and contained many old growth trees. The land may also have contained the Giant Velvet Worm and suitable habitat for the Simpsons Stag Beetle, Spotted-tailed Quoll and Grey Goshawk. The Environmental Management Zone was consistent EMZ 1 of Guideline No. 1;
 - Upper Irishtown Road, St Marys PID 2154783 had a mix of wet, damp and dry *Eucalypt* forest in good ecological condition. The land was steep and contained known habitat for the Blind Velvet Worm as well as Swift Parrot habitat; and
 - Irish Town Road, St Marys PID 2153182 contained *Eucalyptus dalrympleana/amygdalina* forest in good ecological condition, which contributed to landscape connectivity in the area.
391. In its section 35F report, the planning authority opposed the request for the following reasons:
- the Rural Zone should be applied to Ericksons Road, Goshen PID 6791835 because the Zone was consistent with RZ 1 of Guideline No. 1. The land should remain in the Rural Zone until a strategic planning review for the area could be conducted;
 - Tasman Highway, Goshen was identified in the agricultural estate mapping included in the agricultural estate mapping. The land may contain significant natural values, however it should remain in the Rural Zone until a strategic planning review for the area could be conducted;
 - Powers Road, Pyengana PID 2159648 may contain significant natural values, however it should remain in the Rural Zone until a strategic planning review for the area could be conducted;
 - Upper Irishtown Road, St Marys PID 2154783 was identified as unconstrained in the agricultural estate mapping, but was zoned Rural due to its topography, the surrounding land uses on smaller titles, and its environmental values; and
 - Irish Town Road, St Marys PID 2153182 was identified as unconstrained in the agricultural estate mapping, but was zoned Rural due to its topography, the surrounding land uses on smaller titles, and its environmental values. The land should remain in the Rural Zone until a strategic planning review for the area could be conducted.
392. At the hearing, Mr Todd Dudley for the North East Bioregional Network submitted several extracts from the Crown Land Assessment and Classification Project 2006 as evidence the land had important natural values. Mr Dudley highlighted the land at Tasman Highway, Goshen folio of the Register 114281/1 and Powers Road, Pyengana PID 2159648 contained habitat for a local stag beetle.
393. Following the hearing, the owner of the land (the Crown), in response to a Commission direction, made a submission that it did not support application of the Environmental Management Zone to the land because several of the lots were subject to Crown licences and the Zone could constrain future uses.
394. In response, Mr Dudley contended the evidence submitted by the North East Bioregional Network about the natural values of the land justified why the land should be zoned to protect conservation values. Mr Dudley added the North East Bioregional Network had undertaken on-site surveys of the land to verify the land had important natural values.

Commission consideration

395. The Commission is not persuaded an alternate zone should be applied to the land for the following reasons:
- Ericksons Road, Goshen PID 6791835, Irishtown Road, St Marys PID 2153182 and Tasman Highway, Goshen folio of the Register 114281/1 are identified in the agricultural estate mapping and no agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Rural Zone should be replaced; and
 - Upper Irishtown Road, St Marys PID 2154783 and Powers Road, Pyengana PID 2159648 were not reserves, were in areas that were broadly zoned Rural, and the landowner did not support the Environmental Management Zone.

Commission decision

396. The Commission considers that no modifications are required.

Environmental Management Zone - Coffey Drive and Felmingham Street, Binalong Bay

Representation: North East Bioregional Network (81)

397. The representor requested that the zoning of the 12 lots at Coffey Drive and Felmingham Street, Binalong Bay folios of the Register 49278/14, 49278/15, 49278/16, 49278/17, 49278/18, 49278/19, 49278/20, 49278/21, 49278/22, 49278/23, 49278/39 and 49278/40, and PID 3383967 adjacent to folio of the Register 49278/19 and PID 2663000, be revised from the Low Density Residential Zone to the Environmental Management Zone. All of the lots were owned by the Crown. The reasons were:
- the land contained *Eucalypt* forest in good condition and habitat for the Chaostola Skipper Butterfly and Swift Parrot;
 - the land contained *Eucalyptus amygdalina* trees with hollows;
 - Swift parrots were regularly seen in the Binalong Bay area and were known to breed in the Humbug Point Nature Recreation Area;
 - a Sea Eagle nest was located within 500m of the land;
 - there were records of threatened species on the land;
 - urban development would result in poorer quality water entering Skeleton Creek and Skeleton Bay which adjoins Humbug Point; and
 - the Low Density Residential Zone was not consistent with the State Coastal Policy.
398. In its section 35F report, the planning authority opposed the request for the following reasons:
- the Low Density Residential Zone was consistent with LDRZ 1 and LDRZ 2 of Guideline No. 1;
 - the land was not serviced by water or sewer;
 - a botanical survey and fauna habitat investigation found the land contained threatened and vulnerable species;
 - the land was used as a walking track for the locals; and
 - the land may be suitable for declaration as a reserve, however should remain in the Low Density Residential Zone until the reserve status could be investigated.
399. At the hearing, Mr Dudley for the North East Bioregional Network submitted a copy of an assessment of the land dated April 2006 as evidence of the natural value of the land. The assessment was undertaken by Sarah Lloyd, a qualified Ornithologist/naturalist, and concluded the land had several vegetation communities in excellent condition and contained potential habitat for threatened fauna species.

400. Following the hearing, the owner of the land (the Crown), in response to a Commission direction, made a submission that it preferred the Rural Zone be applied to the land because it was designated as Future Potential Production Forest. Therefore, its view was that the land should be included in the Rural Zone because it would be consistent with the Government's policy objectives for the management of such land.
401. In response, Mr Dudley raised concern the Crown intended to sell the lots for residential use and contended the evidence submitted by the North East Bioregional Network about the natural values of the land justified why the land should be zoned Environmental Management. Mr Dudley explained the North East Bioregional Network had undertaken on-site surveys of the land to verify the values that were there. He added the land was close to an active Sea Eagle nest and contained suitable Swift Parrot nesting habitat.

Commission consideration

402. The Commission is not persuaded an alternate zone should be applied to the land. All but one of the lots are unusually designated as Future Potential Production Forest to which the Rural Zone would normally be applied. However, the lots are small and separated from any other land designated as Future Potential Production Forest. The Commission has a duty to ensure zoning is applied in an orderly manner, and the proposed Low Density Residential Zone would be applied to the logical edge of the settlement. It is this factor that is most persuasive.
403. The Commission also observes that the Priority Vegetation Area overlay would apply to the land (which would apply to subdivision of the land, but not subsequent development), and that any impacts on identified Priority Vegetation are managed by the standards in the Natural Assets Code. In addition, the designation of the land as Future Potential Production Forest requires the land be conserved for its natural biological diversity, geological diversity, water quality, and the like.

Commission decision

404. The Commission considers that no modifications are required.

Environmental Management Zone - Coach Road, Scamander

Representation: North East Bioregional Network (81)

405. The representor requested that part of 1 Coach Road, Scamander folio of the Register 166723/1 and the adjacent foreshore reserve be revised from the Recreation Zone to the Environmental Management Zone. The split-zone of 1 Coach Road was proposed to be aligned with the native bushland on the site that was located around the perimeter of the golf course. The reasons were:
- the Crown land immediately to the south of the golf course was incorrectly zoned Recreation;
 - the land was steep and contained native forest in good ecological condition, including threatened vegetation communities and Swift Parrot foraging area;
 - two Sea Eagle nests had been recorded in close proximity to the land;
 - the land had scenic value and was prominent from the Tasman Highway;
 - the land should be zoned Environmental Management consistent with the Zone Purpose; and
 - the golf course contained native vegetation in good ecological condition and had recorded sightings of the Giant Velvet Worm.
406. The representor also requested that two parcels of Crown land on the opposite side of Coach Road adjacent to folio of the Register 157623/1 be revised from the General Residential,

Utilities and Recreation zones to the Environmental Management Zone. However the representor noted the existing sewerage treatment plant on the same land should remain in the Utilities Zone. The reasons were:

- most of the land contained native forest and bushland in good ecological condition;
- degraded areas of the land were capable of restoration;
- the land contained New Holland Mouse and Chaostola Skipper Butterfly habitat;
- the land was an important wildlife corridor between Wrinklers Lagoon and the hinterland; and
- there was already sufficient land zoned General Residential in the Scamander area.

407. In its section 35F report, the planning authority opposed the request for the following reasons:

- the site contained the Scamander Sports Complex and a golf course;
- the Priority Vegetation Area overlay applied to the land, which would provide for assessment of the impact of development on natural values;
- the titles zoned General Residential were identified in the Land Use and Development Strategy 2015 as part of the residential settlement pattern;
- the site was capable of being fully serviced with water and sewer;
- Scamander was recognised as a medium growth area; and
- the General Residential Zone was consistent with GRZ 1 and GRZ 2 of Guideline No. 1.

408. At the hearing, Mr Todd Dudley for the North East Bioregional Network stated it was unnecessary for the Recreation Zone to extend onto the Crown land foreshore reserve and that the Environmental Management Zone should apply to the bushland at 1 Coach Road because the land had significant natural value.

409. In response, the planning authority explained the foreshore reserve had been historically split-zoned, however it no longer knew the reason why. Its view was the Environmental Management Zone should be applied to the foreshore reserve instead of the Recreation Zone, however it did not support a change to the zone of 1 Coach Road, because the land contained a golf course. The planning authority also added its desire to undertake a structure plan for the area in future, which would allow it to examine the zones applied to the area in more focus.

Commission consideration

410. The Commission agrees the Environmental Management Zone should be applied to the foreshore reserve because the land contains native bush located alongside a significant watercourse. The Commission also notes the reason for the original split-zoning is unknown.

411. However, the Commission is not persuaded the Environmental Management Zone should be applied to any part of 1 Coach Road. The land contains a golf course and other sporting facilities that cover almost all of the site. The primary objective in zone application is to achieve the zone purpose and recognise existing use to the greatest extent possible. The Priority Vegetation Area overlay applies to the areas of native vegetation identified in the representation, which would provide protection for the natural values. This is the appropriate method to manage natural values in instances where there is a use of land that does not primarily involve management of such values.

412. The Commission otherwise determines the General Residential, Utilities and Recreation zones remain applied to the Crown land on the opposite side of Coach Road for the reasons given by the planning authority in the section 35F report.

Commission decision

413. Modification:

- Revise the zoning of that part of the Crown land foreshore reserve adjoining 1 Coach Road, Scamander folio of the Register 166723/1 zoned Recreation to the Environmental Management Zone.

414. Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.

Environmental Management Zone - 114 Cecilia Street, St Helens

Representation: North East Bioregional Network (81)

415. The representor requested the northern half of 114 Cecilia Street, St Helens folio of the Register 29213/2 be revised from the Rural Zone to the Environmental Management Zone because the land had an area mapped as saltmarsh and was subject to sea level rise. The representor contended the Environmental Management Zone would recognise the inundation pathways and protect the saltmarsh, which would expand over the new few decades.

416. In its section 35F report, the planning authority opposed the request for the following reasons:

- the Rural Zone should be applied to non-urban land with no agricultural potential and topographical, environmental or other constraints;
- the Rural Zone was applied to reflect the lack of agricultural viability; and
- the site was subject to the Future Coastal Refugia Area, Waterway and Coastal Protection Area, Coastal Erosion Hazard Area, Coastal Inundation Hazard Area and Flood-prone Hazard Area overlays.

417. At the hearing, Mr Todd Dudley for the North East Bioregional Network reiterated his view the Environmental Management Zone should be applied to the land because it contained salt marsh and could be impacted by future sea level rise.

418. In response, the planning authority noted the concerns, but highlighted the overlays would apply to manage the environmental values and hazards.

Commission consideration

419. The Commission is not persuaded an alternate zone should be applied to the land. The property is identified in the agricultural estate mapping and no agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Rural Zone should be replaced. The Commission agrees with the planning authority that the land should remain in the Rural Zone and considers any natural values or natural hazards are appropriately managed by the overlays applied to the land.

Commission decision

420. The Commission considers that no modifications are required.

Environmental Management Zone - Tasman Highway, St Helens

Representation: North East Bioregional Network (81)

421. The representor requested the zoning of Tasman Highway, St Helens folio of the Register 128163/1 be revised from the Agriculture Zone to the Environmental Management Zone. The reasons were:

- the land was a large bush block with native forest in good ecological condition;

- the land contained two threatened forest communities listed under the federal *Environment Protection and Biodiversity Conservation Act 1999*, being *Eucalyptus ovata* forest (also swift parrot habitat) and wet *Eucalyptus viminalis* forest;
 - it was appropriate to apply the Environmental Management Zone to Crown Land; and
 - the Environmental Management Zone was consistent with EMZ 1(e) of Guideline No. 1.
422. In its section 35F report, the planning authority opposed the request for the following reasons:
- there was no detailed assessment of the natural values of the land;
 - mapping did not identify the land contained threatened species;
 - a draft amendment to change the zone of the land could be considered in future if further information about the natural values of the land was available; and
 - the site was identified as unconstrained in the agricultural estate mapping;
 - the Agriculture Zone was consistent with AZ 1 of Guideline No. 1.
423. At the hearing, Mr Todd Dudley for the North East Bioregional Network submitted an historic real estate notice, correspondence with the Crown, and an extract from the Crown Land Assessment and Classification Project 2006 as evidence the land had important natural values.
424. Following the hearing, the owner of the land (the Crown), in response to a Commission direction, made a submission that it did not support application of the Environmental Management Zone to the land because several of the lots were subject to Crown licences and the Zone could constrain future uses.
425. In response, Mr Dudley contended the evidence submitted by the North East Bioregional Network about the natural values of the land justified why the land should be zoned to protect conservation values. Mr Dudley added the North East Bioregional Network had undertaken on-site surveys of the land to verify the land had important natural values.

Commission consideration

426. The Commission is not persuaded an alternate zone should be applied to the land. The property is identified as unconstrained in the agricultural estate mapping and no agriculture assessment undertaken by a suitably qualified person was submitted as evidence the Agriculture Zone should be replaced. The Commission also notes the land is not a reserve, is part of a cluster of titles zoned Agriculture, and the landowner did not support the Environmental Management Zone.

Commission decision

427. The Commission considers that no modifications are required.

Environmental Management Zone - 19595 Tasman Highway, Seymour

Representation: North East Bioregional Network (81)

428. The representor requested the zoning of 19595 Tasman Highway, Seymour folio of the Register 209428/1 be revised from the Agriculture Zone to the Environmental Management Zone because the LIST indicated the vegetation on the land was *Eucalyptus amygdalina* forest. The representor added it was likely the south facing slopes of the land would have wetter forest types.
429. In its section 35F report, the planning authority opposed the request because the site was part of a larger land holding and had been identified as unconstrained in the agricultural estate mapping. Consequently, the planning authority was of the view the Agriculture Zone had been applied consistent with AZ 1 of Guideline No. 1.

430. At the hearing, Mr Todd Dudley for the North East Bioregional Network advocated for the Environmental Management Zone, but acknowledged the land was in private ownership, and therefore considered that the Landscape Conservation Zone would be more appropriate.
431. In response, the planning authority maintained it did not support any change to the zone of the land because the property was in private ownership.

Commission consideration

432. The Commission agrees with the planning authority that the land should remain in the Agriculture Zone. The land is identified as unconstrained in the agricultural estate mapping and no advice by a suitably qualified person was provided to support an alternate zone.

Commission decision

433. The Commission considers that no modifications are required.

Environmental Management Zone - Frome Regional Reserve

Representation: Break O'Day Council (82)

434. The representor requested the zoning of the Frome Regional Reserve at Weldborough be revised from the Rural Zone to the Environmental Management Zone because it had been incorrectly zoned Agriculture.
435. In its section 35F report, the planning authority recommended the Environmental Management Zone be applied.

Commission consideration

436. The Commission considers the primary objective in zone application should be to achieve the zone purpose to the greatest extent possible. As such, the Commission considers that public land within a regional reserve declared under the *Nature Conservation Act 2002* should be zoned Environmental Management consistent with the principles of Guideline No. 1 (EMZ 1(a)).

Commission decision

437. Modification:
- Revise the zoning of the Frome Regional Reserve at Weldborough to Environmental Management.
438. Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.

Utilities Zone - State Road Casement

Representations: Department of State Growth (63), Break O'Day Council (82)

439. The representation made by Department of State Growth requested the Utilities Zone be applied to the Binalong Bay Tourist Road because it had recently been declared a State road. The representor was otherwise supportive of the Utilities Zone applied to the State road casement and the planning authority's decision not to apply the Road and Railway Attenuation Area overlay.
440. The representation made by Break O'Day Council noted that a 250m length of Musselroe Road on the boundary of the municipality shared with Dorset Council was included in the State road casement and should be zoned Utilities.

441. The planning authority supported the requests in its section 35F report.

Commission consideration

442. The Commission accepts both roads are significant State roads and should be zoned Utilities consistent with the principles of Guideline No. 1 (UZ 1(a) and UZ 2).

Commission decision

443. Modification:

- Revise the zoning of the following land to Utilities:
 - a. Musselroe Road on the boundary of the planning area shared with Dorset Council (adjacent to 166 North Ansons Road, Gladstone folio of the Register 11970/8) and identified in the State road casement layer available on the LIST;
 - b. Quail Street, from its intersection with Cecilia Street, St Helens, to its intersection with Binalong Bay Road, St Helens, for a distance of 0.453km; and
 - c. Binalong Bay Road, from its intersection with Quail Street, St Helens, to a point 108m south of its intersection with Cray Court and Main Road, Binalong Bay, for a distance of 8.367km.

444. Reason: To apply the Utilities Zone consistent with Guideline No. 1.

Utilities Zone - Rail Infrastructure

Representation: TasRail (65)

445. The representor requested the Utilities Zone be applied to folio of the Register 154750/1 and General Law deed 6/7644 as both parcels contained a rail line that was part of the State rail network as defined under the *Rail Infrastructure Act 2007*.

446. In the section 35F report the planning authority recommended the Utilities Zone be applied to the land.

Commission consideration

447. The Commission agrees the land forms part of the State rail network and should be zoned Utilities consistent with the principles of Guideline No.1.

Commission decision

448. Modification:

- Revise the zoning of folio of the Register 154750/1 and General Law deed 6/7644 to Utilities.

449. Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.

Utilities Zone - Electricity Infrastructure

Representation: TasNetworks (66)

450. The representor requested the zoning of the South Sister Communication Site at Tasman Highway, Falmouth PID 3385604 be revised from the Rural Zone to the Utilities Zone. The extent of the application of the Utilities Zone sought around the communication site was a 20m radius around the centre of the infrastructure. The reason was the land contained major

utilities infrastructure and the Utilities Zone was consistent with UZ 1 and UZ 4 of Guideline No. 1.

451. In the section 35F report the planning authority recommended the Utilities Zone be applied to the land as requested.
452. Prior to the hearing, the representor, in response to a Commission direction, provided an email from the owner of the land (Department of Natural Resources and Environment) to give its opinion on whether the Utilities Zone should be applied. In response, the Department of Natural Resources and Environment advised that it did not support the Zone because it preferred the Rural Zone with the Electricity Transmission Infrastructure Protection Code overlay as planning controls for the land.

Commission consideration

453. The Commission considers that the infrastructure detailed in the representation constitutes major utilities infrastructure and that the Utilities Zone should be applied consistent with the principles of Guideline No. 1 (UZ 1).

Commission decision

454. Modification:
- Apply the Utilities Zone to a 20m radius circle around the South Sister Communication site at Tasman Highway, Falmouth PID 3385604, with the centre of the circle identified as easting 597719.00 and northing 5401251.00.
455. Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.

Utilities Zone - Water Infrastructure

Representation: TasWater (67)

456. The representor requested the following properties containing be revised from the Rural Zone and Recreation Zone to the Utilities Zone because the land contained water service infrastructure:
- Louisa Street, Fingal folio of the Register 165255/2 (water treatment plant);
 - Gardiners Creek Road, St Marys folio of the Register 166345/1 (water treatment plant); and
 - Coach Road, Scamander PID 6812114 (water reservoir).
457. The representor added it was supportive of the planning authority's decision not to apply Attenuation Area overlay buffers around its sewerage treatment plants.
458. In the section 35F report the planning authority recommended the properties be revised to the Utilities Zone.

Commission consideration

459. The Commission considers that the primary objective in applying zones should be to achieve the zone purpose to the greatest possible extent. As such, the Commission considers land that contains water storage infrastructure should be zoned Utilities consistent with the principles of Guideline No. 1.

Commission decision

460. Modification:

- Revise the zoning of the following properties to Utilities:
 - a. Louisa Street, Fingal folio of the Register 165255/2 (water treatment plant);
 - b. Gardiners Creek Road, St Marys folio of the Register 166345/1 (water treatment plant); and
 - c. Coach Road, Scamander PID 6812114 (water reservoir).

461. Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.

Community Purpose Zone - 25 Circassian Street, St Helens

Representation: Department of Communities Tasmania (76)

462. The representor requested the zoning of the foreshore alongside 25 Circassian Street, St Helens folio of the Register 30960/1 be partially revised from the Environmental Management Zone to the Community Purpose Zone. The reason was the land contained a complex of community buildings and part of the existing community shed and bungalow were constructed across the existing title boundary and located on untitled Crown land.
463. The planning authority supported the request in its section 35F report because the land formed part of the existing community use. It added it was aware of the intent of the Department of Communities Tasmania to purchase the land from the Crown and consolidate it with the remainder of the site through a boundary adjustment.
464. Following the hearing, the representor, in response to a Commission direction, provided coordinates to specify the location of the proposed split-zoning.

Commission consideration

465. The Commission agrees the Community Purpose Zone should be applied to the land. The use and development is already established on the site and should be recognised by the Zone of the land. The Commission also notes the facility will be included on a single land title once the intended boundary adjustment is complete.

Commission decision

466. Modification:
- Revise the zoning of that part of the foreshore alongside 25 Circassian Street, St Helens folio of the Register 30960/1 enclosed by a line determined by the following coordinates to Community Purpose:
 - a. easting 604045.842 and northing 5424642.943;
 - b. easting 604027.821 and northing 5424624.917;
 - c. easting 604039.692 and northing 5424614.653;
 - d. easting 604043.786 and northing 5424607.178;
 - e. easting 604069.522 and northing 5424586.674; and
 - f. easting 604075.433 and northing 5424592.921.
467. Reason: To apply the Community Purpose Zone consistent with the purpose of the zone and Guideline No. 1.

Open Space Zone - 12 Oberon Place, Scamander

Representations: Jim Harris (6), Nick Amse (25), Christina Mackeen (40), North East Bioregional Network (81)

468. The representors requested the zoning of 12 Oberon Place, Scamander folio of the Register 156731/20 be revised from the General Residential Zone to the Open Space Zone because the land is designated as public open space on the property title and original plan of subdivision.
469. In its section 35F report, the planning authority accepted the land was intended to be used and developed as public open space and recommended the Open Space Zone be applied.
470. At the hearing, Mr Nick Amse commented the land could be used to provide a pathway through the site. Mr Todd Dudley represented the North East Bioregional Network and also added his support for the Open Space Zone.

Commission consideration

471. The Commission accepts the land is designated as public open space on the property title and is intended to be used and developed for that purpose. Consequently, the Commission agrees the Open Space Zone should be applied to the land.

Commission decision

472. Modification:
- Revise the zoning of 12 Oberon Place, Scamander folio of the Register 156731/20 to Open Space.
473. Reason: To apply the Open Space Zone consistent with Guideline No. 1.

Open Space Zone - Cameron Street and 8 Jason Street, St Helens

Representation: North East Bioregional Network (81)

474. The representor requested the zoning of Cameron Street folio of the Register 30649/2 be revised from the General Residential Zone to the Open Space Zone because the land could be used for stormwater management purposes. The representor also requested the zoning of 8 Jason Street, St Helens folios of the Register 30663/27 and 30563/28 be revised from the General Residential Zone to the Open Space Zone because the land was suitable for public open space.
475. In its section 35F report, the planning authority recommended no modification to the draft LPS because both sites had been identified for disposal in the Land Use and Development Strategy 2015 and was no longer required for public open space.

Commission consideration

476. The Commission accepts the planning authority's view the General Residential Zone should be applied to the land and that the Zone is supported by the St Helens Settlement Plan in the Land Use and Development Strategy 2015.

Commission decision

477. The Commission considers that no modifications are required.

Open Space Zone - Lawry Heights, St Helens

Representations: North East Bioregional Network (81), Break O'Day Council (82)

478. The representation made by North East Bioregional Network requested the zoning of Lawry Heights, St Helens folio of the Register 141663/9 be revised from the General Residential Zone to the Open Space Zone for the following reasons:
- the land was suitable for public open space;
 - the land formed a continuous corridor of public land to the north that could be used to create pathways to connect residents with the foreshore multi-use track around Georges Bay;
 - the land had natural values and was an important riparian vegetation corridor, which reduced sediment and pollutants from entering Georges Bay; and
 - the land provided green space for landscaping and native flora and fauna.
479. The representation made by Break O'Day Council also proposed that the Open Space Zone be applied, because it was supported by the Land Use and Development Strategy 2015.
480. In its section 35F report, the planning authority recommended the Open Space Zone be applied because the land was a useful part of the stormwater management network and contained natural values. It was therefore of the view the Open Space Zone was most appropriate for the land in the circumstances.

Commission consideration

481. The Commission accepts the planning authority's and representor's view that the Open Space Zone should be applied to the land for the reasons given in the representations and section 35F report.

Commission decision

482. Modification:
- Revise the zoning of Lawry Heights, St Helens folio of the Register 141663/9 to Open Space.
483. Reason: To apply the Open Space Zone consistent with Guideline No. 1.

Open Space Zone - 27 Cecilia Street, St Helens

Representation: North East Bioregional Network (81)

484. The representor requested the zoning of 27 Cecilia Street, St Helens folio of the Register 147446/1 be revised from the General Business Zone to the Open Space Zone because it would provide open space in the town centre.
485. In its section 35F report, the planning authority recommended no change to the zone of the land for the following reasons:
- the land previously contained a hospital;
 - the hospital was relocated and the land was no longer required for community purposes;
 - the General Business Zone would be consistent with the zoning along Cecilia Street and would allow commercial use and development to be consolidated in the centre of St Helens;
 - the Open Space Zone was not supported by the Break O'Day Recreation and Open Space Strategy 2014; and
 - the Percy Steel Reserve was in close proximity to the site and provided public open space.

486. At the hearing, the planning authority added the General Business Zone is supported by Land Use and Development Strategy 2015.

Commission consideration

487. The Commission accepts the view of the planning authority that the land is no longer required to provide for community use as the former hospital has been moved from the land. The General Business Zone is considered the most appropriate zone to apply to the land in the circumstances for the reasons given by the planning authority in the section 35F report. There is otherwise insufficient evidence to support application of the Open Space Zone to the land, in particular details about how the Zone is consistent with the Break O'Day Recreation and Open Space Strategy 2014, and the Land Use and Development Strategy 2015.

Commission decision

488. The Commission considers that no modifications are required.

Particular Purpose Zone - Coastal Settlement

Representation: Friends of the East Coast Inc. (73)

489. The representor requested additional settlements, including Falmouth, be revised from the Low Density Residential Zone to the Particular Purpose Zone - Coastal Settlement for the following reasons:
- Visitor Accommodation would be a Discretionary use rather than a Permitted use;
 - building height would be limited to 7m rather than 8.5m;
 - boundary setback requirements for buildings would be increased;
 - overshadowing and sunlight provisions would be improved;
 - subdivisions would be difficult; and
 - Multiple Dwellings could not be developed.
490. In its section 35F report, the planning authority did not support a change to the zone of the land at Falmouth and similar settlements, because the land was more suited to the Low Density Residential Zone, which had also been applied in the interim planning scheme. The planning authority added it was open to a review of zoning to determine if the Particular Purpose Zone was a suitable future zone, however further strategic assessment would be required first.
491. At the hearing, Mr Graeme Wathen for Friends of the East Coast Inc., raised concern the provisions of zones in the SPPs, including the Low Density Residential and Landscape Conservation zones provided for subdivision that was inappropriate in coastal areas given the natural and scenic values of land.

Commission consideration

492. The Commission finds there is insufficient evidence to determine whether an alternate zone should be applied to land at Falmouth and similar settlements. The Commission accepts the planning authority's view that further strategic planning assessment is required to determine if the Particular Purpose Zone - Coastal Settlement should be applied to land, and notes this work may be undertaken after the draft LPS is in effect. The results of such strategic planning work may support rezoning of the land in future if the results are favourable.

Commission decision

493. The Commission considers that no modifications are required.

Particular Purpose Zone - St Helens Coastal Maritime

Representations: St Helens Sailing Squadron (68), Woolcott Surveys/East Coast Surveying (72), North East Bioregional Network (81)

494. The representation made by St Helens Sailing Squadron requested the Use Table at clause BRE-P3.4 of the Particular Purpose Zone - St Helens Coastal Maritime be revised to include Sports and Recreation as a Permitted use. The reason was the Sailing Squadron used the land opposite 90 Tasman Highway, St Helens folio of the Register 146442/1 for its sailing club activities.
495. The representation made by Woolcott Surveys/East Coast Surveying supported the Particular Purpose Zone. The representor suggested Visitor Accommodation could be inserted as a Discretionary use in the Use Table because the site had a desirable coastal location and had potential to be developed for that use.
496. The representation made by North East Bioregional Network requested an existing area of public open space that contained a public park located adjacent to Georges Bay Esplanade be revised from the Particular Purpose Zone to the Open Space Zone. The representor also raised the following concerns with the Particular Purpose Zone:
 - the Use Table would provide for aviation based operations as a Permitted use (Tourist Operation) and it may not be possible to conduct the activity safely in the area;
 - the Particular Purpose Zone would encourage commercialisation of the foreshore by providing for uses such as Tourist Operation and Bulky Goods Sales in an area that should be provided for public open space in combination with boating and port facilities;
 - the Particular Purpose Zone provided for building heights, scale, bulk and siting that would not be appropriate;
 - scenic amenity in the area would be impacted; and
 - the Particular Purpose Zone subdivision standards were not required because subdivision of the foreshore was not necessary.
497. In its section 35F report, the planning authority supported the proposed amendment to the Use Table because the St Helens Sailing Squadron operated from the land and did not have a formal clubroom. It noted the Squadron had sought grants to construct a clubroom on the land, and stated the Zone should provide for the use in case funds were raised. However, the planning authority' view was the use should be listed as Discretionary with a qualification that it be for 'water-based recreational and/or sporting activities, including associated club rooms.' The planning authority did not support inclusion of Visitor Accommodation as a Discretionary use because the use did not fit the character of the area and the purpose of the Zone.
498. The planning authority did not support application of the Open Space Zone to the public park located adjacent to Georges Bay Esplanade for the following reasons:
 - the land was part of the port area;
 - the Particular Purpose Zone was intended to provide for a mix of port and tourist related activity as identified in the St Helens and Surrounds Structure Plan 2013;
 - public open space is otherwise provided along the St Helens Foreshore;
 - the separate areas of the Particular Purpose Zone would be connected to the surrounding public open space by a multi-user track and open space infrastructure at Beauty Bay;
 - the Particular Purpose Zone did not remove existing recreational opportunities along the St Helens foreshore;
 - the Port and Marine Zone was not suitable because its purpose was to provide for major port and marine shipping of regional significance; and

- the Particular Purpose Zone - St Helens Coastal Maritime was tailored to the scale of the marine uses required at St Helens.
499. Prior to the hearing, the planning authority, in response to a Commission direction, provided a statement to show how the amended Particular Purpose Zone would comply with s.32(4) of the Act. The statement explained the Particular Purpose Zone was required to provide for a mixture of port and tourist related activity, and associated water-based recreational and/or sporting activities at a scale consistent with the character of St Helens.
500. In addition, the planning authority, in response to a Commission direction, provided an additional Purpose statement to be inserted in the Particular Purpose Zone to reflect the revised Use Table. The additional Purpose statement read as follows:
- 'To provide water-based recreational and/or sporting activities, including associated club rooms that support water-based community activity.'
501. At the hearing, the planning authority added the Particular Purpose Zone was supported by the Land Use and Development Strategy 2015, which intended to provide public open space in the area adjacent to Georges Bay Esplanade, but not necessarily in the Open Space Zone.

Commission consideration

502. The Commission accepts the evidence given by the planning authority and the St Helens Sailing Squadron that the Particular Purpose Zone should be modified to provide for Sports and Recreation. However, the Commission prefers the planning authority's view that any proposal for Sports and Recreation be listed as a Discretionary use and linked to 'water-based recreational and/or sporting activities.' The use of the land for water-based recreational and/or sporting activities is historic and consistent with the overall Purpose of the Zone to provide for port, tourism and recreational uses.
503. The Commission is also satisfied the proposed amendment to the Particular Purpose Zone complies with section 32(4)(b) of the Act because it would provide for use appropriate for the scale and character of St Helens consistent with its existing spatial qualities.
504. The Commission agrees with the planning authority that Visitor Accommodation should not be included in the Zone at this time for the reasons given in the section 35F report.
505. Additionally, the Commission is not persuaded the Open Space Zone should be applied to the land adjacent to Georges Bay Esplanade. Passive Recreation is a 'No Permit Required' use in the Particular Purpose Zone, and the use and development standards that would apply would be suitable for the use.

Commission decision

506. Modification:
- Revise the draft LPS written document by inserting the following Zone Purpose statement in BRE-P3.0 Particular Purpose Zone - St Helens Coastal Maritime:
 - a. BRE-P3.1.6 To provide water-based recreational and/or sporting activities, including associated club rooms that support water-based community activity.
 - Revise the draft LPS written document by inserting Sports and Recreation as a Discretionary use in BRE-P3.4 Use Table with the qualification 'If for water-based recreational and/or sporting activities, including associated club rooms.'
507. Reason: To meet the requirements of section 32(4) of the Act.

Local Historic Heritage Code - Table C6.1 Local Heritage Places**Representation:** Break O'Day Council (71 and 79)

508. The representor requested clauses BRE-C6.1.11 and BRE-C6.1.18 of Table C6.1 Local Heritage Places be revised as a consequence of the corresponding listings on the Tasmanian Heritage Register being replaced. The listings were:

- St Peter's Anglican Church and Rectory, 2 Talbot Street, Fingal folio of the Register 125334/1; and
- Enstone Park, 22746 Tasman Highway, Falmouth folio of the Register 141662/3.

509. The revised Tasmanian Heritage Register listings reduced the area of the listing at 2 Talbot Street to a portion of the land in the north-east corner of the site. The listing of 22746 Tasman Highway was similarly reduced to the southern portion of the site. The listing for 22746 Tasman Highway was also amended to include an area of the adjacent land at 22464 Tasman Highway.

510. In the section 35F report, the planning authority recommended that both listings in Table C6.1 be revised to reflect the new Tasmanian Heritage Register listings.

Commission consideration

511. The Commission's view is that new listings of places of local heritage significance in Table C6.1 must be supported by the advice of a suitably qualified person who has undertaken a detailed assessment of the heritage values of the land. Table C6.1 is a transitioning code list declared by the Minister for Planning, which cannot be altered through this process. Consequently, the Commission does not agree the listings can be amended. New or amended listings for places of local heritage significance could be included in the LPS if deemed required at a later time through a draft amendment.

Commission decision

512. The Commission considers that no modifications are required.

Local Historic Heritage Code - Table C6.4 Places or Precincts of Archaeological Potential**Representation:** Break O'Day Council (82)

513. The representor requested that Russell Street, Fingal folio of the Register 229216/5 be included in Table C6.4 Places or Precincts of Archaeological Potential because the site was known to likely contain buried structures and artefacts.

514. In the section 35F report, the planning authority recommended the property be listed in Table C6.4.

515. At the hearing, the planning authority acknowledged no evidence from a suitably qualified person could be provided to support a listing and stated that an amendment to Table C6.4 was not essential at that time.

Commission consideration

516. The Commission's view is that new listings of places of archaeological potential in Table C6.4 must be supported by the advice of a suitably qualified person who has undertaken a detailed assessment of the Archaeological Potential of the land. Consequently, the Commission does not agree the land be listed in Table C6.4. Places of archaeological potential could be included in the LPS if deemed required at a later time through a draft amendment.

Commission decision

517. The Commission considers that no modifications are required.

Local Historic Heritage Code - Table C6.5 Significant Trees

Representation: North East Bioregional Network (81)

518. The representor requested Table C6.5 Significant Trees be updated to include additional listings. In particular, the representation identified a group of eight mature Tasmanian Blue Gum trees (*Eucalyptus globulus*) at the St Helens Point Conservation Area and Dianas Basin (PID 2275542) proposed to be included.
519. In the section 35F report, the planning authority recommended no change to the draft LPS because new listings of Significant Trees 'should be achieved through a coordinated, comprehensive assessment that is inclusive across the local government area.'
520. At the hearing, Mr Todd Dudley for the North East Bioregional Network added he was supportive of the zone applied to PID 2275542 (Environmental Management) and requested the trees identified in the representation be recognised as significant. However, he noted the listings may not be crucial given the land was zoned Environmental Management anyway.
521. In response, the planning authority agreed the trees may qualify as significant, and added that it was open to consider further listings, but wanted to consider the issue at a municipal level at a later date.

Commission consideration

522. The Commission's view is new listings of significant trees in Table C6.5 must be supported by the advice of a suitably qualified person who has undertaken a detailed assessment of the value of the trees. Consequently, the Commission does not agree the trees should be listed in Table C6.5, however significant trees could be included in the LPS if deemed required at a later time through a draft amendment. The Commission otherwise notes Table C6.5 is a transitioning code list declared by the Minister for Planning, which cannot be altered through this process.

Commission decision

523. The Commission considers that no modifications are required.

Natural Assets Code - Priority Vegetation Area Overlay

Representations: Alan Richmond (23), Christine Hosking (24), Beris Hansberry (30), Leanne Groves (41), Geoff and Rosie Murray (50), Alison Bleaney (51), Paul Thomas (53), Graeme Beech (59), Daniel Steiner and Melissa Manton (62), Seymour Community Action Group Inc. (75), Tasmanian Land Conservancy (78), North East Bioregional Network (81)

524. The representors raised concern the Priority Vegetation Area overlay was incomprehensive, that it applied to areas that contained introduced species, and should accommodate wildlife corridors. Specifically, the representors made the following comments and requests:
- the overlay should be removed from the *radiata* pine trees and other non-endemic pines at 5 Templestowe Street, Seymour folios of the Register 156231/1, 155018/1 and 155018/2;
 - the overlay applied to the Seymour area was inaccurate, for example the overlay should be removed from the *radiata* pine trees at Long Point;
 - the overlay should be applied to Seymour Beach;

- the overlay should be applied along the coastline of the municipality to land in the Rural and Agriculture Zones; and
 - the Seymour Swamp wetland should be included in the Priority Vegetation Area and Waterway and Coastal Protection Area overlays.
525. The representation made by the North East Bioregional Network included an alternative Priority Vegetation Area overlay for the whole municipality that was prepared by Dr Nick Fitzgerald of Enviro-Dynamics.
526. In its section 35F report, the planning authority recommended no changes to the draft LPS and made the following comments in response to the representations:
- the overlay was based on the Regional Ecosystem Model mapping used across the State, which included threatened vegetation communities, and was compliant with Guideline No. 1;
 - the Regional Ecosystem Model mapping had been applied in the draft LPS without modification (except to remove the overlay from incompatible zones);
 - the overlay applied at Seymour was also based on the Regional Ecosystem Model mapping;
 - the overlay applied to land in the Rural Zone;
 - a review of the overlay would require a comprehensive assessment across the municipality and extensive public consultation;
 - an amendment to the overlay would require field verification, analysis and mapping undertaken by or on behalf of the planning authority; and
 - the overlay and zones were applied to the coastal areas of the municipality in accordance with Guideline No. 1.
527. At the hearing, Dr Nick Fitzgerald, explained the alternative overlay proposed in the North East Bioregional Network representation more comprehensively recognised the outstanding natural values of the municipality. In particular, Dr Fitzgerald highlighted the important natural values of the coastal area that provided habitat for threatened species, and contained many wetlands and lagoons of high-conservation value.
528. In response, the planning authority agreed the alternative overlay had merit, however it was unclear whether it should be supported given the Regional Ecosystem Model was also compliant with Guideline No. 1.
529. Following the hearing, Mr Dudley, in response to a Commission direction, provided a statement from Enviro-Dynamics that gave further detail about the model used to produce the alternative overlay. The response made the following comments:
- the alternative model used relevant flora, fauna, vegetation and ecological datasets from the Natural Values Atlas available on the LIST, Conservation Information System information produced by the Department of Natural Resources and the Environment, and data the Forest Practices Authority;
 - the model simply overlaid all the mapped biodiversity layers;
 - the model was similar to the Regional Ecosystem Model;
 - the Regional Ecosystem Model used a grid of 34m wide hexagons compared to the alternative model, which used 50m wide squares;
 - both models included threatened species observations, threatened species habitat (including hollow-dwelling or mature forest habitat), vegetation conservation values (reservation status, threatened listing) and riparian vegetation;
 - the Regional Ecosystem Model included its own proprietary modelling for habitat of many threatened fauna species and other priority species;
 - the alternative model included information on several biogeographic features from the Conservation Information System that were not included in the Regional Ecosystem Model.

This information included details of other threatened and uncommon plants, contemporary refugia, glacial refugia, and important bird areas;

- the Regional Ecosystem Model used information about landscape features that was not used in the alternative model. This information included details of 'clearing bias', connectivity, remnant vegetation and vegetation condition;
- the alternative model simply recognised presence or absence of biodiversity values while the Regional Ecosystem Model made determinations on the quality of biodiversity values; and
- the two models produced similar results with relatively minor differences.

530. In response, the planning authority did not support replacement of the overlay with the alternative mapping for the following reasons:

- the Regional Ecosystem Model used to produce the overlay was compliant with Guideline No. 1 and should only be modified if field verification, analysis or mapping was undertaken at a local or regional level by the planning authority, or a suitably qualified person on behalf of the planning authority;
- there was no known anomalies or inaccuracies in the State data used to prepare the Regional Ecosystem Model; and
- the planning authority had not been involved in preparation of the alternative mapping and was therefore unable to verify whether the differences between the two models were acceptable.

531. Mr Daniel Steiner, in response to a Commission direction, provided evidence from a suitably qualified person that the land at 5 Templestowe Street, Seymour contained large areas of introduced species, regrowth, plantation and domestic areas that should be removed from the overlay.

Commission consideration

532. The Commission is not satisfied the Priority Vegetation Area overlay should be replaced with the alternative overlay produced by Enviro-Dynamics for the following reasons:

- the Regional Ecosystem Model used to produce the overlay, is compliant with Guideline No. 1 and has been applied in most other municipalities;
- the overlay is consistent with and co-ordinated with the LPSs that apply to adjacent municipal areas as required by section 42(2)(g) of the Act (LPS criteria);
- the alternative overlay has not been verified on-site by the planning authority as required by clause LP1.7.5(d) of the SPPs; and
- there may be significant public interest in changes to the overlay that would result from an update to the Regional Ecosystem Model mapping.

533. The Commission is also of the opinion it is not in a position to assess the differences between the models in full detail. In particular, further consideration of the merits of the approach made in the alternative model, which simply recognises the presence or absence of biodiversity values, in contrast to the qualitative judgements made about native vegetation in the Regional Ecosystem Model is required. Furthermore, there remains the possibility the results of the alternative mapping may have a fundamental impact on the zones that should be applied to land with significant natural values. The Commission's view is that a more comprehensive assessment is required to understand how the broader application of zones would be influenced by the results produced by the alternative model.

534. Nevertheless, the Commission acknowledges the considerable amount of work undertaken by the North East Bioregional Network in support of the alternative overlay, and accepts the expert evidence that the Break O'Day municipality has many important natural values unique to the area. The Commission therefore suggests the planning authority undertake a further

review of the merits of the model used to produce the alternative overlay to determine whether amendments to the overlay, or zoning, should be made. The planning authority could pursue a draft amendment to the LPS after it comes into effect in the event it determines amendments should be made.

535. The Commission accepts the evidence provided by Mr Steiner that areas of 5 Templestowe Street, Seymour should be excluded from the overlay. The evidence has been given by a suitably qualified person and relates to a discreet part of the overlay. The information indicates large areas of the property contains introduced species, regrowth, plantation and urban area, and the Commission is satisfied these areas should be removed.
536. The Commission otherwise notes the Priority Vegetation Area and Waterway and Coastal Protection Area overlays are applied to parts of the Seymour Swamp wetland and Seymour Beach. It is additionally noted both features are zoned Environmental Management, which is applied to manage land that contains significant ecological, scientific, cultural or scenic values.

Commission decision

537. Modification:

- Revise the Priority Vegetation Area overlay by removing the overlay from those areas of 5 Templestowe Street, Seymour folios of the Register 156231/1, 155018/1 and 155018/2 identified as 'FRG', 'FPU' and 'FUR' in the diagram included in the submission by Daniel Steiner dated, 22 September 2022.

538. Reason: To apply the Priority Vegetation Area overlay consistent with Guideline No. 1.

Natural Assets Code - Priority Vegetation Area Overlay

Representation: Department of State Growth (63)

539. The representor requested the Priority Vegetation Area overlay be removed from the Utilities Zone that contained the State road easement because it would have the potential to constrain future use and development of the road network.
540. In the section 35F report, the planning authority stated it was prepared to consider amendments to the overlay, however did not support any change because no details of the changes sought were provided by the representor.

Commission consideration

541. The Commission's view is the Priority Vegetation Area overlay should not be removed from land unless supported by the advice of a suitably qualified person who has undertaken a detailed site assessment. Consequently, the Commission does not agree to remove the overlay from the State road easement, but notes the exemptions in clauses 4.2.4 and 4.4.1 of the SPPs would provide for clearance of vegetation associated with general maintenance and minor road works. However, the Commission considers that more extensive road works that may be undertaken from time to time ought to be assessed against the provisions of the Natural Assets Code where the overlay applies.

Commission decision

542. The Commission considers that no modifications are required.

Scenic Protection Code - Scenic Protection Area Overlay and Scenic Road Corridor Overlay

Representations: Alan Richmond (23), Christine Hosking (24), Beris Hansberry (30), Leanne Groves (41), Geoff and Rosie Murray (50), Alison Bleaney (51), Graeme Beech (59), Seymour Community Action Group Inc. (75), North East Bioregional Network (81)

543. The representors were supportive of the Scenic Road Corridor overlay, but raised concern the overlay should be applied more broadly. The representors also requested the Scenic Protection Area overlay be applied. Specifically, the representors stated a Scenic Protection Area overlay should be applied to protect landscape values across the municipality, and that the Scenic Road Corridor overlay only provided minimal scenic protection along narrow road corridors.
544. The representation made by the North East Bioregional Network included a report titled 'Scenic Protection Assessment: North East Tasmania' prepared by Geoscene International to justify a proposed Scenic Protection Area overlay and additions to the Scenic Road Corridor overlay.
545. In its section 35F report, the planning authority recommended no changes to the draft LPS and made the following comments in response to the representations:
 - a review of the Scenic Road Corridor overlay and inclusion of a Scenic Protection Area overlay would require a comprehensive assessment across the municipality and extensive public consultation;
 - any new Scenic Protection Area or Scenic Road Corridor overlays would require field verification, analysis and mapping undertaken by or on behalf of the planning authority; and
 - the Minister for Planning had declared the Scenic Road Corridor overlay should be transitioned from the existing interim planning scheme to the draft LPS under the requirements of Schedule 6 of the Act. The overlay therefore could not be modified.
546. At the hearing, Dr Dennis Williamson of Geoscene International for the North East Bioregional Network made the following comments in support of the representation:
 - the Scenic Protection Assessment: North East Tasmania studied the coast along the north-east;
 - the north-east region was heavily dependent on tourism;
 - the assessment investigated landscape character, potential visibility from other landscape features and travel routes;
 - the assessment also considered the zoning of land and established 'scenic value areas' and management objectives;
 - the information in the report could be used to inform Scenic Protection Area or Scenic Road Corridor overlays;
 - the assessment divided the areas into categories that reflected the degree of scenic value in each area along the coast;
 - the scenic value areas could be used to translate the results of the assessment to actual Scenic Protection Area or Scenic Road Corridor overlay mapping; and
 - Geographic Information System (GIS) mapping of the scenic value areas was available.
547. Mr Todd Dudley for the North East Bioregional Network added the following comments:
 - the Geoscene assessment identified areas where the overlay would be applied;
 - a copy of the assessment was provided to the Council 2 or 3 years prior;
 - the assessment had been commissioned by the North East Bioregional Network at significant cost; and
 - the assessment provided enough evidence to enable overlay mapping to be prepared.

548. In response, the planning authority made the following comments:

- it would consider whether it should undertake new strategic planning work to investigate whether any a Scenic Protection Area overlay should be applied, or additions to the Scenic Road Corridor overlay made;
- it could not support the proposed changes during the draft LPS assessment process;
- the assessment provided by the North East Bioregional Network was of good quality and would be helpful to the planning authority, however further work would need to be undertaken because the work had not produced actual overlays;
- it may be appropriate to undertake strategic planning work on scenic protection in partnership with Glamorgan Spring Bay Council given the two municipalities featured similar landscapes; and
- the Scenic Road Corridor overlay was a provision that was transitioning from the interim planning scheme in its current form.

549. Following the hearing, Dr Williamson, in response to a Commission direction, provided a copy of GIS files for the proposed Scenic Protection Areas and made a submission with the following comments:

- the mapping identified areas of scenic value categorised as high, moderate and low;
- the high and moderate areas were proposed to be included in the Scenic Protection Area overlay;
- no new Scenic Road Corridor overlays were proposed;
- the Scenic Protection Areas were based on the zoning of land in the interim planning scheme;
- some adjustments to the Scenic Protection Areas may be required to reflect the zoning in the draft LPS;
- the former plantations in the Scamander Forest Reserve and Skyline Tier in the Beaumaris area were being converted to native forest and should be included in the Scenic Protection Area overlay; and
- the entire coastal area between the ocean and the uppermost ridgelines to the west contained important scenic values.

550. In response, the planning authority did not support any new overlays for the following reasons:

- the assessment identified further work was required to develop overlay maps;
- the planning authority was not involved in the development of the methodology used to determine areas of scenic value; and
- the addition of new or amended overlays 'would require a comprehensive assessment across the municipality and extensive public consultation.'

Commission consideration

551. The Commission is not satisfied a Scenic Protection Area overlay or new Scenic Road Corridor overlays should be applied in the draft LPS for the following reasons:

- the assessment submitted by the representor remains a model of scenic values, which has not been used to produce overlay maps;
- the scenic values have not been verified on-site by the planning authority;
- there may be significant public interest in the overlays;
- there is the possibility the results of further strategic planning work may determine different zones should be applied to land with scenic value; and
- the LPS requirements of the SPPs, specifically clauses LP1.7.6 and LP1.8.1, provide for Scenic Protection Code overlays to be included in the draft LPS, but do not mandate inclusion.

552. Nevertheless, the Commission acknowledges the considerable amount of work undertaken by the North East Bioregional Network in support of the overlays, and accepts the expert advice that the Break O'Day municipality has important scenic values. The statement made by the planning authority at the hearing that it considers the findings of the assessment would be useful for its strategic planning work is noted. The Commission therefore suggests the planning authority undertake a further review of the assessment findings to explore whether a Scenic Protection Area overlay or new Scenic Road Corridor overlays should be applied. The Commission also notes there could be merit in approaching a strategic planning review of scenic values in conjunction with adjoining municipalities. The planning authority could pursue a draft amendment to the LPS after it comes into effect.
553. Otherwise, the Commission notes the Scenic Road Corridor overlay has been declared by the Minister for Planning to be a provision that should be transitioned from the existing interim planning scheme to the draft LPS under the requirements of Schedule 6 of the Act. The overlay is intended to be applied in the draft LPS in the same manner as the interim planning scheme and cannot be amended except for permitted alterations to ensure the overlay is applied to compatible zones.
554. Finally, the Commission notes much of the coastal area is zoned Landscape Conservation or Environmental Management. Both zones require the planning authority to consider the impact development would have on scenic and landscape values. Therefore, many of the areas identified in the Scenic Protection Assessment as being of high or moderate scenic value are afforded some protection through the provisions of the zones. In particular, the Commission notes a strong correlation between the areas of high scenic value and land zoned Environmental Management.

Commission decision

555. The Commission considers that no modifications are required.

Safeguarding of Airports Code - Airport Obstacle Limitation Area Overlay

Submission accepted by the Commission: Launceston Airport

556. The submission made by Launceston Airport requested the Airport Obstacle Limitation Area overlay be revised to include the Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surfaces as specified in SAC 4 of Guideline No. 1. The PANS-OPS surfaces would cover the western part of the municipality and reach as far as Mathinna and Mangana.
557. At the hearing, Mr Trent Kneebush for Launceston Airport explained the PANSOPS surfaces were used by aircraft pilots in periods of darkness and poor weather when it is necessary to fly by instrument rather than sight. Mr Kneebush made the following observations about the PANSOPS surfaces that would form the overlay:
- the PANSOPS surfaces are complicated and gradually get lower as the surfaces approach the airport;
 - the PANSOPS surfaces can be sloped or flat, and some are curved to follow flight paths;
 - the Obstacle Limitation Surfaces did not apply to the municipality; and
 - the highest geographical feature within the overlay area was 1368m Australian Height Datum (Ben Nevis), which would still be clear of the overlay by approximately 250m.
558. Mr Kneebush concluded the overlay was required by Launceston Airport and compliant with Guideline No. 1. Mr Kneebush added the overlay would be highly unlikely to have any effect in the municipal area, as any tall structure would need to be proposed on the highest

geographical features for it to penetrate the overlay surface and require an assessment against the Code.

559. In response, the planning authority was generally supportive of the overlay as it related to the Launceston Airport, but added it was not supportive of a similar overlay being applied to the St Helens Airport.
560. Following the hearing, the planning authority, in response to a Commission direction, provided an opinion on the merits of the submission made by Launceston Airport and advised that supported application of the overlay.

Commission consideration

561. The Commission observes the proposed Airport Obstacle Limitation Area overlay is specified in the SPPs as a component of the data that comprises the Airport Obstacle Limitation Area overlay and should therefore be included in the LPS. Nevertheless, the Commission notes the overlay would be unlikely to have any practical application in the municipal area, aside from exceptional circumstances.

Commission decision

562. Modification:
 - Revise the Airport Obstacle Limitation Area overlay as shown in the Launceston Airport submission dated 30 August 2022.
563. Reason: To apply the Airport Obstacle Limitation Area overlay in accordance with the requirements of the SPPs.

Specific Area Plan - BRE-S1.0 Safeguarding St Helens Aerodrome Specific Area Plan

Representations: Michael Fox and Anna Povey (18), Kevin, Lorna and Dale Richards (34), North East Bioregional Network (81)

564. The representation made by Kevin, Lorna and Dale Richards raised concern the Safeguarding St Helens Aerodrome Specific Area Plan had been applied to their land at Aerodrome Road, Stieglitz folio of the Register 179341/1. Specifically, the representors were concerned the Specific Area Plan would significantly restrict the development potential of the land. Furthermore, concern was raised that future use and development of the airport would impact threatened flora and fauna in the area, particularly birds, and cause stormwater and wastewater management problems.
565. The representation made by North East Bioregional Network requested the Specific Area Plan be deleted from the draft LPS because expansion of the airport was unnecessary, and further use in development in the area would impact natural values.
566. The representation made by Michael Fox and Anna Povey raised concern 21 Aerodrome Road, Stieglitz folio of the Register 214209/1 would be zoned Utilities. The representors suggested the extent of the Utilities Zone be reduced to the same area identified in the interim planning scheme and the remainder of the land zoned Environmental Management. The representors raised concern the land contained vulnerable threatened species that should be protected with the Environmental Management Zone.
567. In its section 35F report, the planning authority recommended no change to the draft LPS and made the following comments:
 - the purpose of the Specific Area Plan was to ensure development in the area would not compromise future expansion of the runway and safe air navigation;

- the Specific Area Plan did not need to have any specific regard for natural values because its intent was only to manage potential airspace;
 - the Land Use and Development Strategy 2015 identified the land would be zoned Utilities to provide for expansion of the Airport, for which the Break O'Day Council has commenced planning;
 - the Natural Assets Code of the SPPs would still apply to the land to manage impact on natural values; and
 - stormwater and wastewater would be managed either by the proposed Stormwater Management Specific Area Plan or through other technical building and wastewater management requirements.
568. At the hearing, Mr Dale Richards reiterated his concerns about potential expansion of the runway and noted that stormwater and wastewater runoff in the area had caused algae to grow in the area.
569. Mr Todd Dudley for the North East Bioregional Network shared the concerns of Mr Richards and noted the potential for an expanded runway to impact the nearby RAMSAR wetlands.
570. In response, the planning authority explained the Utilities Zone was already applied to part of 21 Aerodrome Road, Stieglitz folio of the Register 214209/1 in the interim planning scheme and that the objective of the Specific Area Plan was only to protect the consequential airspace. It added that there were no plans for a second runway to be constructed, and the Specific Area Plan would only cause an application for development to be referred to airport safety experts. Furthermore, it state the Specific Area Plan could impact building height, location and external building materials, but would be unlikely cause any application for development to be refused.
571. Following the hearing, Mr Todd Dudley for the North East Bioregional Network, made a submission that gave an account of the natural values of the land and surrounding area. The submission contended the land contained important vegetation communities and wildlife habitats of very high conservation value. The submission also noted the land provided an important wildlife corridor, contained *Eucalyptus amygdalina*, *Xanthorrhoea* (grasstrees), *Acacia ulicifolia*, *Hibbertia virgate*, various orchids, and habitat for important fauna.

Commission consideration

572. The Commission accepts the planning authority's view that the purpose of the Specific Area Plan is to protect potential airspace in the event the existing runway is extended. The Commission is satisfied this represents appropriate use of planning controls for a strategic planning purpose, and therefore agrees the Specific Area Plan should remain in the draft LPS as exhibited. The Commission agrees with the planning authority that stormwater, wastewater and natural values would otherwise be managed through existing SPP, building and drainage requirements independent of the Specific Area Plan.
573. The Commission is also satisfied the Utilities Zone should be applied to the balance of 21 Aerodrome Road, Stieglitz folio of the Register 214209/1 because the Zone is supported by the Land Use and Development Strategy 2015. The Commission notes any future proposal for an extension to the runway would need to be assessed under the Zone provisions of the SPPs and Natural Assets Code (Priority Vegetation Area and Waterway and Coastal Area overlays), which will ensure natural values are not unreasonably impacted.

Commission decision

574. The Commission considers that no modifications are required.

Specific Area Plan - BRE-S2.0 Stormwater Management Specific Area Plan

Representations: Narelle Ransley (21), Alan Richmond (23), Christine Hosking (24), Beris Hansberry (30), Leanne Groves (41), Geoff and Rosie Murray (50), Alison Bleaney (51), Paul Thomas (53), Graeme Beech (59), TasRail (65), Woolcott Surveys/East Coast Surveying (72), Seymour Community Action Group Inc. (75), North East Bioregional Network (81)

575. The representors were supportive of the Stormwater Management Specific Area Plan, but raised concern the Specific Area Plan would not adequately manage stormwater quality. Specifically, the representors made the following comments and requests:
- the Specific Area Plan would not reduce overland flows and improve water quality before stormwater entered waterways;
 - stormwater had been allowed to flow from settlements to natural water bodies without proper treatment or diversion to protect aquatic ecosystems;
 - the provisions of the Specific Area Plan needed to be strengthened so that impacts on ecological values would be minimised; and
 - impervious surfaces created by new developments should be minimised.
576. The representation made by the North East Bioregional Network contained the following comments:
- the Specific Area Plan applied to specific zones within coastal communities that had been subject to historic flooding, were at risk of flooding due to local topography, or had soils of low permeability or were erodible;
 - coastal settlements were poorly serviced by existing infrastructure;
 - development in coastal settlements had potential to have significant environmental impacts;
 - some properties did not have sufficient area to absorb stormwater flows, even if developed in accordance with water sensitive urban design principles;
 - the exhibited Specific Area Plan had been proposed to manage stormwater quality and quantity, natural assets, infrastructure and property, however no information was provided by the planning authority to demonstrate how it would protect natural assets;
 - the State Policy on Water Quality Management 1997 and the State Stormwater Strategy 2010 promoted stormwater control strategies to treat, store and infiltrate stormwater within the boundaries of a site to reduce flows and decrease the concentration of pollutants before stormwater was released to the surrounding stormwater network;
 - several wetlands and lagoons in the municipality were under threat from the impacts of urban development; and
 - the Specific Area Plan should aim to reduce the overall quantity of stormwater and to improve the quality of urban stormwater flows to waterbodies.
577. The representation also included the following supporting documents written by Dr Simon Roberts as evidence of the impacts of untreated stormwater on waterways:
- Review of impacts of residential development on receiving waters, November 2021; and
 - Threats of residential development to aquatic natural values in the Break O'Day Municipality, November 2021.
578. The representation made by Woolcott Surveys/East Coast Surveying raised concern that clause BRE-P2.6.6 of the Specific Area Plan (stormwater control) was unnecessary and duplicated requirements of the *Building Act 2016*. The representor therefore requested the Specific Area Plan be removed from the draft LPS for the following reasons:
- the SPPs only intended for stormwater management provisions to apply to subdivision of land, or where development may have a potential impact on the natural environment (Natural Assets Code);

- the draft LPS should not require consideration of stormwater management issues;
 - stormwater management issues were assessed under separate legislation to the *Land Use Planning and Approvals Act 1993*;
 - section 9(2) of the *Building Act 2016* states the assessment of technical requirements that relate to a plumbing work, that includes assessment of stormwater, could only be approved through a planning instrument if the Minister had declared it could;
 - section 9(4) of the *Building Act 2016* stated a condition that related to the technical requirements of the design or construction of a building, building work or plumbing work that was imposed on a permit issued under the *Land Use Planning and Approvals Act 1993* was of no effect; and
 - the Specific Area Plan would, for example, result in all development at Mathinna requiring Discretionary planning assessment because the settlement was not serviced.
579. In its section 35F report, the planning authority recommended no changes to the draft LPS and made the following comments in response to the representations:
- there were eight areas where there were particular problems with stormwater management;
 - clause 6.11.2(g) of the SPPs allowed the planning authority to impose conditions that related to erosion and stormwater volume and quality controls;
 - the SPPs would not allow the same level of consideration of the impact of development on stormwater infrastructure in comparison with the interim planning scheme;
 - the Specific Area Plan would minimise the impact of stormwater on the private land and public infrastructure that surrounded the site of a development; and
 - the planning authority could develop further policies and standards to apply to stormwater management that were separate to the draft LPS.
580. At the hearing Mr Todd Dudley for the North East Bioregional Network was joined by planning expert Ms Heidi Goess and stormwater expert Dr Simon Roberts who together made the following comments in support of a revised Specific Area Plan to manage stormwater:
- the drafting of the exhibited Specific Area Plan provisions that applied to management of impervious surfaces could be improved;
 - the Specific Area Plan needed more requirements that related to management of stormwater flows; and
 - a revised Specific Area Plan was proposed that included provisions that would better require the interception of stormwater flows and treatment of the water before it was released from a site.
581. At the hearing, Mr James Stewart for Woolcott Surveys/East Coast Surveying made the following comments in opposition to the Specific Area Plan:
- there were no clear reasons why the Specific Area Plan was required;
 - any development on land in an area not serviced with reticulated stormwater would require Discretionary planning assessment;
 - the Specific Area Plan would cause a significant number of additional development applications to be submitted to the planning authority for assessment, which would be an impost on developers;
 - additional technical detail would unnecessarily need to be provided with development applications; and
 - stormwater services should be managed through technical assessments against building and plumbing requirements.

582. In response, the planning authority stated it remained supportive of the exhibited Stormwater Management Specific Area Plan, but was prepared to consider some amendments to it. The planning authority made the following comments:
- the intent of the Specific Area Plan was to manage the quantity and quality of stormwater flows;
 - it believed the exhibited Specific Area Plan maximised what could be demonstrated to be compliant with section 32(4) of the Act;
 - stormwater management was a significant issue for councils across the State because the SPPs did not contain stormwater management provisions;
 - the Break O'Day Council had recently spent the significant amount of \$2.5 million on new stormwater infrastructure in Main Street, St Helens to improve the capacity of its system;
 - the Specific Area Plan applied to areas of the Council's stormwater network that had limited capacity;
 - it was prepared to consider whether there was a method to provide an acceptable solution in the Specific Area Plan that would provide an opportunity for development in unserviced areas to be deemed compliant; and
 - an acceptable solution could provide for the provision of advice from a suitably qualified person (i.e. the Council's General Manager) to be submitted to demonstrate that stormwater could be disposed within the boundaries of a site.
583. Following the hearing, the North East Bioregional Network, in response to a Commission direction, provided a copy of the revised Stormwater Management Specific Area Plan and a statement to explain how the Specific Area Plan would comply with section 32(4) (a) or (b) of the Act. The Specific Area Plan included development standards that imposed a limitation on the amount of impervious surfaces that could be developed on a site. Specifically, it included a standard that required new impervious surfaces to be located a minimum of 30m from a watercourse, wetland or lake, that a minimum of 60% of collected stormwater had to be re-used or disposed of through infiltration or evapotranspiration on the site, and that no more than 50% of the natural pre-existing annual runoff from the site could be directed to the public stormwater network. Development that did not meet those requirements could be considered under the associated performance criteria if the impact of the development did not have an adverse impact on natural assets.
584. The Specific Area Plan was proposed to apply to the same areas proposed in the exhibited version of the draft LPS, except that it would also be applied to the Low Density Zone at Falmouth.
585. The representor contended the revised Specific Area Plan was compliant with section 32(4) of the Act because the provisions would be of environmental, economic and social benefit to the municipality. In particular, the representor contended there would be environmental benefits to protection of native vegetation, saltmarshes and shorebirds, and the ecological health of receiving waters and wetlands.
586. In response, the planning authority did not support the revised Specific Area Plan, and remained supportive of the exhibited Specific Area Plan for the following reasons:
- the SPPs were deficient because stormwater management was not specifically addressed for development that was not subdivision;
 - the exhibited Specific Area Plan would provide important stormwater management requirements for development;
 - the Local Government Association Tasmania had obtained legal advice, which highlighted the Tasmanian Planning Scheme made under the *Land Use Planning and Approvals Act 1993*

could provide stormwater management requirements in addition to the requirements of the *Urban Drainage Act 2013*;

- the Tasmanian Stormwater Policy Guidance and Standards for Development (Local Government Association Tasmania), outlined how a planning scheme could provide use and development standards for stormwater management;
- the Specific Area Plan proposed by the North East Bioregional Network was inconsistent with the approach put forward by the Local Government Association Tasmania; and
- the performance criteria in the proposed Specific Area Plan would be 'prohibitive of development'.

Commission consideration

587. The Commission acknowledges the considerable work undertaken by the North East Bioregional Network in support of the amended Specific Area Plan. The Commission also acknowledges the impact that impervious surfaces can have on stormwater flows and the effective management of stormwater. It also acknowledges that in some locations there is a need to manage the impact of stormwater flows into sensitive aquatic environments. The location of impervious surfaces and their proximity to those environments is one management measure that can be applied.
588. The Commission notes the concerns raised by Woolcott Surveys/East Coast Surveying in its representation, particularly that a development application made for discreet residential developments in unserviced areas, if the planning authority Stormwater Specific Area Plan was approved, would require Discretionary planning assessment. The Commission also notes the view of Woolcott Surveys/East Coast Surveying that stormwater management is primarily managed through building and plumbing regulation. The Commission accepts that building and plumbing regulation are relevant to the management of stormwater, but that in some locations for reason of topography, soils, proximity to sensitive aquatic environments, or colocation with wastewater management systems, planning assessment prior to development approval is desirable.
589. However, the Commission is not persuaded at this time that the exhibited Stormwater Management Specific Area Plan should be replaced with the more detailed standards in the Specific Area Plan proposed by the North East Bioregional Network. A revised Specific Area Plan could be considered in future in light of more information on its locational application and the applicability of any proposed standards, to those locations. To that end, the Commission notes the Tasmanian Stormwater Policy Guidance and Standards for Development (Local Government Association Tasmania) identified by the planning authority, which may support any changes to stormwater management requirements in a future review of the SPPs.
590. The Commission agrees that an alternative Acceptable Solution can be included in clause BRE-2.7.1 of the Specific Area Plan, but not the exemption alternative as proposed by the Planning Authority. Under the *Urban Drainage Act 2013*, the General Manager of the Council is able to exercise a range of statutory powers in relation to the management of stormwater. The Act includes power in section 18, for the General Manager to grant permission, conditionally or unconditionally, for the discharge of stormwater into a system other than a public stormwater system. Given the stormwater controls proposed by the Specific Area Plan, it is appropriate to recognise as an Acceptable Solution in the planning approval assessment process an approval of the General Manager for the discharge of stormwater into another stormwater system, as the General Manager considers appropriate. In granting any such permission it will be for the General Manager to consider all relevant location considerations.

Commission decision

591. Modification:

- Revise the draft LPS written document by amending clause BRE-S2.7.1 A1 Stormwater management to read as follows:
 - BRE- S2.7.1 A1 Development must be:
 - a. capable of connecting to the public stormwater system; or
 - b. permitted by the General Manager to discharge stormwater to a system other than the public stormwater system.

592. Reason: To meet the requirements of section 32(4) of the Act.

Representations in support of the draft LPS

Landscape Conservation Zone - Tasman Highway, St Helens

Representation: North East Bioregional Network (81)

593. The representor supported application of the Landscape Conservation Zone to Tasman Highway, St Helens folios of the Register 180286/1, 180286/2, 167498/3, 167498/4, 167498/5, 167498/6, 167498/8 and 127190/7.

594. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.

595. No new information was submitted at the hearing.

Commission consideration

596. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

597. The Commission considers that no modifications are required.

Landscape Conservation Zone - 74 Gardens Road, Binalong Bay

Representation: North East Bioregional Network (81)

598. The representor supported application of the Landscape Conservation Zone to 74 Gardens Road, Binalong Bay folio of the Register 44117/1.

599. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.

600. No new information was submitted at the hearing.

Commission consideration

601. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

602. The Commission considers that no modifications are required.

Landscape Conservation Zone - 203 Binalong Bay Road, St Helens

Representation: North East Bioregional Network (81)

603. The representor supported application of the Landscape Conservation Zone to 203 Binalong Bay Road, St Helens folio of the Register 126959/12.
604. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.
605. No new information was submitted at the hearing.

Commission consideration

606. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

607. The Commission considers that no modifications are required.

Environmental Management Zone - St Helens Point Road, Stieglitz

Representation: North East Bioregional Network (81)

608. The representor supported application of the Environmental Management Zone to the Crown land at St Helens Point Road, Stieglitz located adjacent to the eastern boundary of Chimneys Lagoon at St Helens Point Road, Stieglitz folio of the Register 15881/29.
609. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.
610. No new information was submitted at the hearing.

Commission consideration

611. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

612. The Commission considers that no modifications are required.

Environmental Management Zone - Corner Akaroa Avenue and St Helens Point Road, Stieglitz

Representation: North East Bioregional Network (81)

613. The representor supported application of the Environmental Management Zone to the Crown land at the corner of Akaroa Avenue and St Helens Point Road, Stieglitz folio of the Register 15312/1.
614. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.
615. At the hearing, Mr Todd Dudley for the North East Bioregional Network, submitted an extract from a previous Tasmanian Planning Commission decision (01/31 and 01/32) on a draft amendment to the Break O'Day Planning Scheme 1996. The draft amendment decision identified the land contained dense screening vegetation that separated a number of dwellings from St Helens Point Road and protected the residential amenity.

Commission consideration

616. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

617. The Commission considers that no modifications are required.

Environmental Management Zone - Richardson Road, St Marys

Representation: North East Bioregional Network (81)

618. The representor supported application of the Environmental Management Zone to the Crown land at Richardson Road, St Marys PID 2153297.
619. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.
620. At the hearing, Mr Todd Dudley for the North East Bioregional Network, submitted an extract from the Crown Land Assessment and Classification Project 2006 as evidence the land had important natural values.

Commission consideration

621. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

622. The Commission considers that no modifications are required.

Environmental Management Zone - Main Road, Binalong Bay

Representation: North East Bioregional Network (81)

623. The representor supported application of the Environmental Management Zone to three parcels of Crown land at Main Road, Binalong Bay adjacent to the Humbug Point Nature Recreation Area.
624. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.
625. No new information was submitted at the hearing.

Commission consideration

626. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

627. The Commission considers that no modifications are required.

Environmental Management Zone - Tasman Highway and Dune Street, Scamander

Representation: North East Bioregional Network (81)

628. The representor supported application of the Environmental Management Zone to 1 Dune Street folio of the Register 18342/1 and part of Tasman Highway folio of the Register 182594/930, Scamander.

629. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.

630. No new information was submitted at the hearing.

Commission consideration

631. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

632. The Commission considers that no modifications are required.

Environmental Management Zone - Ansons River Conservation Area

Representation: North East Bioregional Network (81)

633. The representor supported application of the Environmental Management Zone to the Ansons River Conservation Area.

634. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.

635. No new information was submitted at the hearing.

Commission consideration

636. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

637. The Commission considers that no modifications are required.

Environmental Management Zone - Jocks Lagoon RAMSAR Site

Representation: North East Bioregional Network (81)

638. The representor supported application of the Environmental Management Zone to the Jocks Lagoon RAMSAR site at Aerodrome Road, Stieglitz folio of the Register 50226/1.

639. In the section 35F report, the planning authority noted the representation did not seek any changes to the draft LPS and on that basis recommended that it should not be modified.

640. No new information was submitted at the hearing.

Commission consideration

641. The Commission notes the comments made by the representor and is satisfied with the planning authority's response in the section 35F report.

Commission decision

642. The Commission considers that no modifications are required.

Other matters

Matters taken not to be a representation

Representations: Tasmanian Aboriginal Centre (57), Daniel Steiner and Melissa Manton (62), TasNetworks (66), Forico Pty Ltd (77), Tasmanian Land Conservancy (78)

643. Representors raised matters including:

- the SPPs should include certain provisions or otherwise be revised;
- the SPPs failed to consider matters or otherwise provided too much or too little discretion;
- that there should be alterations to transitioning provisions;
- questions about how the SPPs would be interpreted by the planning authority; and
- ownership of land in coastal areas.

644. In the section 35F report the planning authority noted the issues and indicated that a notice under section 35G of the Act would be provided to the Commission to make recommendations about modifications to the SPPs.

Commission consideration

645. The Commission notes that:

- section 35E of the Act sets out the matters not to be 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.

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

Commission decision

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

Matters of a technical nature or relevant to implementation

648. 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 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 GIS datasets apply outside the municipal area; and
- instances where a modification to the draft LPS written document or draft LPS maps and overlays requires a consequent modification to the other.

649. 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

650. 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 municipal area according to the Central Plan Register (CPR) map (including notes), current low water mark on theLIST, 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

651. 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) fill any unzoned gaps in the zoning layer;
 - (b) remove any overlaps between adjoining zones;
 - (c) apply the schema set out in Appendix B of Practice Note 7 to each relevant Geographic Information System (GIS) dataset;
 - (d) some overlays supplied by theLIST have been modified since the original versions were published on LISTmap (e.g. the Electricity Transmission Infrastructure Protection overlay). Make sure to use the most recent version available;
 - (e) 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;
 - (f) 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;
 - (g) 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;
 - (h) remove any zone or overlay shown outside the municipal area 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.

652. Reason: To make modifications of a technical nature or relevant to the implementation of the Local Provisions Schedule if the Local Provisions Schedule 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 Break O'Day draft LPS written document
4. Attachment 3 - Notice under section 35KB to prepare and submit an amendment of the LPS after the LPS comes into effect

Attachment 1**List of Representations**

No	Name
1.	Gary Luck and Gayle Smythe
2.	Denis Buchanan
3.	Philip and Jeanette Peryman
4.	Julia Weston
5.	Peter and Leissa Dane
6.	Jim Harris
7.	Rodney and Janet Drummond
8.	Tilman Ruff
9.	Brett and Julie Owers
10.	Dion Agius
11.	Martin and Vanessa Webb
12.	Phillip and Barbara McConnell
13.	Peter Power-Lawrence
14.	John Campbell-Smith
15.	Joanne Howe
16.	John Thompson for Animal Rescue Inc.
17.	Elizabeth Dean
18.	Michael Fox and Anna Povey
19.	Jennifer Roberts
20.	Michael and Mrs Jessie Groves
21.	Narelle Ransley
22.	Chris Triebe and Associates Town Planning Services for Gregory and Beth Colwell
23.	Alan Richmond
24.	Christine Hosking
25.	Nick Amse
26.	Robert Marshall
27.	Rebecca Maier
28.	Kaylen Jorgensen and Esther Field
29.	Tayler Paulsen

30. Beris Hansberry
31. Chris Barron
32. David Rann
33. Peter Paulsen
34. Kevin, Lorna and Dale Richards
35. Sean Guinane
36. Richard and Heather Prebble
37. Ian Matthews
38. Ross and Jo Williams
39. Hendrik and Greta Jansen
40. Christina Mackeen
41. Leanne Groves
42. Bill and Susan Manning
43. Woolcott Surveys for Marguerite Gee
44. Woolcott Surveys for Carl Wagner
45. Woolcott Surveys for Darrell Smith
46. Woolcott Surveys for Anthony Swanson
47. Raoul Harper
48. Maree Willcox
49. Woolcott Surveys for Lee Hindrum
50. Geoff and Rosie Murray
51. Alison Bleaney
52. Valerie Legg
53. Paul Thomas
54. Kylie Walker
55. Woolcott Surveys for owners 1-4 Vince Lane, Binalong Bay
56. Woolcott Surveys for Bruce Hogarth and Rita Tobler
57. Tasmanian Aboriginal Centre
58. John Davies
59. Graeme Beech
60. Abby Gee
61. Abby Gee for Sharlene King
62. Daniel Steiner and Melissa Manton
63. Department of State Growth

64. Break O'Day Chamber of Commerce and Tourism Inc.
65. TasRail
66. TasNetworks
67. TasWater
68. St Helens Sailing Squadron
69. Rainforest Rescue
70. Conservation Landholders Tasmania
71. Break O'Day Council
72. Woolcott Surveys/East Coast Surveying
73. Friends of the East Coast Inc.
74. Department of Natural Resources and Environment Tasmania
75. Seymour Community Action Group Inc.
76. Department of Communities Tasmania
77. Forico Pty Ltd
78. Tasmanian Land Conservancy
79. Break O'Day Council
80. Van Diemen Consulting for Parnella Holdings Pty Ltd
81. North East Bioregional Network
82. Break O'Day Council

Submissions to the originally exhibited draft LPS accepted by the Commission

- 1 Gray Planning for Mark and Anna Sawyer
- 2 Launceston Airport

Attachment 2

Land Use Planning and Approvals Act 1993

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

Break O'Day Draft Local Provisions Schedule

13 July 2023

The Tasmanian Planning Commission (the Commission) directs that the Break O'Day planning authority modify the Break O'Day draft Local Provisions Schedule (draft LPS) in accordance with the following:

1.0 Particular Purpose Zone

- 1.1 Revise the draft LPS written document by inserting the following Zone purpose Statement in BRE-P3.0 Particular Purpose Zone - St Helens Coastal Maritime as shown in Annexure A:
 - BRE-P3.1.6 To provide water-based recreational and/or sporting activities, including associated club rooms that support water-based community activity.
- 1.2 Revise the draft LPS written document by inserting Sports and Recreation as a Discretionary use in BRE-P3.4 Use Table with the qualification 'If for water-based recreational and/or sporting activities, including associated club rooms' as shown in Annexure A

Reason: To meet the requirements of section 32(4) of the Act.

2.0 Specific Area Plan

- 2.1 Revise the draft LPS written document by amending clause BRE-S2.7.1 A1 Stormwater management to read as follows as shown in Annexure A:
 - BRE- S2.7.1 A1 Development must be:
 - a. capable of connecting to the public stormwater system; or
 - b. permitted by the General Manager to discharge stormwater to a system other than the public stormwater system.

Reason: To meet the requirements of section 32(4) of the Act.

3.0 Zone maps and overlays

No.	Description	Direction and Reason
3.1	Chimney Heights Road, Stieglitz	Revise the zoning of Chimney Heights Road, Stieglitz folio of the Register 8489/53 to General Residential. <i>Reason: To apply the General Residential Zone consistent with Guideline No. 1.</i>
3.2	9 Simeon Place, Akaora	Revise the zoning of that part of 9 Simeon Place, Akaora folio of the Register 32902/1 that contains the existing dwelling on the western side of the site and to the north

		<p>of folio of the Register 64450/8 to Low Density Residential.</p> <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Low Density Residential Zone consistent with Guideline No. 1.</i></p>
3.3	105 Seymour Street, Fingal	<p>Revise the zoning of 105 Seymour Street, Fingal folio of the Register 183278/2 to Rural Living and apply subdivision category C.</p> <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p>Revise the Stormwater Management Specific Area Plan overlay by removing the overlay from folio of the Register 183278/2.</p> <p><i>Reason: To apply the Rural Living Zone consistent with Guideline No. 1.</i></p>
3.4	Medeas Cove Road, Brooks Road, Cobrooga Drive and Leaside Drive, St Helens	<ul style="list-style-type: none"> • Revise the zoning of Medeas Cove Road, St Helens folio of the Register 181557/3 and 265 Medeas Cove Road, St Helens folios of the Register 181557/4 to Rural Living and apply subdivision category C; and • Revise the zoning of 89 Medeas Cove Road, St Helens folio of the Register 223041/1, 265 Medeas Cove Road, St Helens folio of the Register 181557/5, 48 Brooks Road, St Helens folio of the Register 166517/1, Cobrooga Drive, St Helens folio of the Register 15988/3, 55 Leaside Drive, St Helens folios of the Register 11929/1, 34908/1 and 148075/1 (including the intersecting reserved road) to Rural and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping. <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Rural Living Zone, Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.</i></p>
3.5	121 Lower German Town Road, St Marys	<p>Revise the zoning of 121 Lower German Town Road, St Marys folio of the Register 168898/1 to Landscape Conservation.</p> <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>

3.6	182 Gillies Road, St Marys	<p>Revise the zoning of that part of 182 Gillies Road, St Marys folio of the Register 127101/1 located outside the area of the Private Nature Reserve shown in CPR Plan No. 6329 to Landscape Conservation with the split-zone to be determined by the boundary defined by the CPR Plan.</p> <p>Ensure split-zoning annotations are appropriately applied in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
3.7	Lottah Road, Weldborough folio of the Register 85925/1	<p>Revise the zoning of Lottah Road, Weldborough folio of the Register 85925/1 to Rural.</p> <p><i>Reason: To apply the Rural Zone consistent with Guideline No. 1.</i></p>
3.8	280 Lohreys Road, St Marys	<p>Revise the zoning of 280 Lohreys Road, St Marys folio of the Register 244267/1 to Rural and apply the Priority Vegetation Area overlay consistent with the Regional Ecosystem Model mapping.</p> <p><i>Reason: To apply the Rural Zone and Priority Vegetation Area overlay consistent with Guideline No. 1.</i></p>
3.9	21554 Tasman Highway, Four Mile Creek	<p>Revise the zoning of that part of 21554 Tasman Highway, Four Mile Creek folio of the Register 125938/0 located to the west of a line determined by the following coordinates to Rural:</p> <ul style="list-style-type: none"> a. easting 609102.65 and northing 5396825.65; and b. easting 609130.48 and northing 5396697.95. <p><i>Reason: To apply the Rural Zone consistent with Guideline No. 1.</i></p>
3.10	Landscape Conservation Zone - Various Properties	<p>Revise the zoning of the following properties to Landscape Conservation:</p> <ul style="list-style-type: none"> a. 22 Denneys Road, St Marys folios of the Register 121906/1 and 121906/2 including the reserved road intersecting folio of the Register 121906/1; b. 686 German Town Road, St Marys folio of the Register 209977/1 and that part of folio of the Register 168012/2 contained within the conservation covenant shown in CPR Plan No. 5770 excluding that part that does not adjoin folio of the Register 209977/1; c. 225 Lower German Town Road, St Marys folio of the Register 142906/2; d. Forest Lodge Road, Pyengana folio of the Register 240592/1; e. 203 Lower German Town Road, St Marys folio of the Register 157275/1;

		<ul style="list-style-type: none"> f. 433 Catos Road, Upper Scamander folio of the Register 242163/1 including the intersecting reserved road; g. Schulhofs Road, Blessington folio of the Register 169864/1; h. Ansons Bay Road, Ansons Bay folios of the Register 101080/1 and 101081/1 including the intersecting reserved road; i. that part of German Town Road, St Marys folio of the Register 179552/1 contained within the conservation covenant shown in CPR Plan No. 5770 excluding that part that adjoins folio of the Register 122133/4; j. 224 Lower German Town Road, St Marys folio of the Register 142906/4 including the intersecting reserved road; k. Lower German Town Road, St Marys folio of the Register 142906/5; l. Schulhofs Road, Upper Blessington folio of the Register 169864/2; m. 130 Curtis Road, St Marys folios of the Register 121098/1 and 53239/1 including the intersecting reserved road; n. Curtis Road, St Marys folio of the Register 244616/1; o. 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1; p. 158 German Town Road, St Marys folio of the Register 210430/1; and q. Forest Lodge Road Pyengana folio of the Register 238246/1. <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p>Ensure split-zoning annotations are appropriately applied in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>
3.11	11 Shearwater Avenue, Steiglitz	<p>Revise the zoning of 11 Shearwater Avenue, Steiglitz folio of the Register 53948/1 to Landscape Conservation.</p> <p>Ensure that the redundant split-zone annotation is removed.</p> <p>Revise the Stormwater Management Specific Area Plan overlay by removing the overlay from folio of the Register 53948/1.</p> <p><i>Reason: To apply the Landscape Conservation Zone consistent with Guideline No. 1.</i></p>

3.12	Peters Road, Goulds Country	<p>Revise the zoning of that part of Peters Road, Goulds Country folio of the Register 159503/1 identified as the Bornemisszas Stag Beetle Protection Area on the Forestry Tasmania map dated 23 July 2003 and shown in hearing submission R40 made by Ian Matthews on 8 September 2022 to Environmental Management.</p> <p>Ensure split-zoning annotations are appropriately applied in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.</i></p>
3.13	Frome Regional Reserve, Weldborough	<p>Revise the zoning of the Frome Regional Reserve at Weldborough to Environmental Management.</p> <p><i>Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.</i></p>
3.14	Coach Road, Scamander	<p>Revise the zoning of that part of the Crown land foreshore reserve adjoining 1 Coach Road, Scamander folio of the Register 166723/1 zoned Recreation to the Environmental Management Zone.</p> <p>Ensure that the redundant split-zone annotation is removed.</p> <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Environmental Management Zone consistent with Guideline No. 1.</i></p>
3.15	State Roads	<p>Revise the zoning of the following land to Utilities:</p> <ul style="list-style-type: none"> a. Musselroe Road on the boundary of the planning area shared with Dorset Council (adjacent to 166 North Ansons Road, Gladstone folio of the Register 11970/8) and identified in the State road casement layer available on the LIST; b. Quail Street, from its intersection with Cecilia Street, St Helens, to its intersection with Binalong Bay Road, St Helens, for a distance of 0.453km; and c. Binalong Bay Road, from its intersection with Quail Street, St Helens, to a point 108m south of its intersection with Cray Court and Main Road, Binalong Bay, for a distance of 8.367km. <p><i>Reason: To apply the Utilities Zone consistent with Guideline No. 1.</i></p>
3.16	State Rail Network	<p>Revise the zoning of folio of the Register 154750/1 and General Law deed 6/7644 to Utilities.</p>

		<i>Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.</i>
3.17	South Sister Communication Site	<p>Apply the Utilities Zone to a 20m radius circle around the South Sister Communication site at Tasman Highway, Falmouth PID 3385604, with the centre of the circle identified as easting 597719.00 and northing 5401251.00.</p> <p>Ensure split-zoning annotations are appropriately applied in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.</i></p>
3.18	Water Infrastructure	<p>Revise the zoning of the following properties to Utilities:</p> <ul style="list-style-type: none"> a. Louisa Street, Fingal folio of the Register 165255/2 (water treatment plant); b. Gardiners Creek Road, St Marys folio of the Register 166345/1 (water treatment plant); and c. Coach Road, Scamander PID 6812114 (water reservoir). <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p> <p><i>Reason: To apply the Utilities Zone consistent with the purpose of the zone and Guideline No. 1.</i></p>
3.19	Circassian Street, St Helens	<p>Revise the zoning of that part of the foreshore alongside 25 Circassian Street, St Helens folio of the Register 30960/1 enclosed by a line determined by the following coordinates to Community Purpose:</p> <ul style="list-style-type: none"> a. easting 604045.842 and northing 5424642.943; b. easting 604027.821 and northing 5424624.917; c. easting 604039.692 and northing 5424614.653; d. easting 604043.786 and northing 5424607.178; e. easting 604069.522 and northing 5424586.674; and f. easting 604075.433 and northing 5424592.921. <p>Ensure split-zoning annotations are appropriately applied in accordance with Practice Note 7.</p> <p>Revise the Stormwater Management Specific Area Plan overlay by applying the overlay to the area included in the Community Purpose Zone.</p> <p><i>Reason: To apply the Community Purpose Zone consistent with the purpose of the zone and Guideline No. 1.</i></p>
3.20	12 Oberon Place, Scamander	<p>Revise the zoning of 12 Oberon Place, Scamander folio of the Register 156731/20 to Open Space.</p> <p>Ensure adjacent public roads are appropriately zoned to centrelines in accordance with Practice Note 7.</p>

		<i>Reason: To apply the Open Space Zone consistent with Guideline No. 1.</i>
3.21	Lawry Heights, St Helens	Revise the zoning of Lawry Heights, St Helens folio of the Register 141663/9 to Open Space. <i>Reason: To apply the Open Space Zone consistent with Guideline No. 1.</i>
3.22	201 Terrys Hill Road, Goshen	Revise the Priority Vegetation Area overlay by applying the overlay to 201 Terrys Hill Road, Goshen folios of the Register 239329/1, 239330/1, 239331/1 and 239332/1 consistent with the Regional Ecosystem Model mapping. <i>Reason: To apply the Priority Vegetation Area overlay consistent with Guideline No. 1.</i>
3.23	5 Templestowe Street, Seymour	Revise the Priority Vegetation Area overlay by removing the overlay from those areas of 5 Templestowe Street, Seymour folios of the Register 156231/1, 155018/1 and 155018/2 identified as 'FRG', 'FPU' and 'FUR' in the diagram included in the submission by Daniel Steiner dated, 22 September 2022. <i>Reason: To apply the Priority Vegetation Area overlay consistent with Guideline No. 1.</i>
3.24	Safeguarding of Airports Code	Revise the Airport Obstacle Limitation Area overlay as shown in the Launceston Airport submission dated 30 August 2022. <i>Reason: To apply the Airport Obstacle Limitation Area overlay in accordance with the requirements of the SPPs.</i>

4.0 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 correction of transitional provisions in the use table of LAU-P5.0 Particular Purpose Zone - University of Tasmania, Newnham Campus to list Educational and Occasional Care as a Permitted use.

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 Geographic Information System (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 municipal area 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 Local Provisions Schedule if the Local Provisions Schedule were approved under section 35L of the Act and to be consistent with Guideline No. 1.

Annexure A

Modifications to Break O'Day draft LPS written document

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BRE-Local Provisions Schedule Title

BRE-Effective Date

BRE-Local Area Objectives

Particular Purpose Zones

BRE-P1.0 Particular Purpose Zone – Ansons Bay Small Lot Residential

BRE-P2.0 Particular Purpose Zone – Coastal Settlement

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Specific Area Plans

BRE-S1.0 Safeguarding St Helens Aerodrome Specific Area Plan

BRE-S2.0 Stormwater Management Specific Area Plan

BRE-Site-specific Qualifications

BRE-Code Lists

BRE-Applied, Adopted and Incorporated Documents

Break O’Day Local Provisions Schedule

BRE-Local Provisions Schedule Title

BRE-1.1 This Local Provisions Schedule is called the Break O’Day Local Provisions Schedule and comprises all the land within the municipal area.

BRE-Effective Date

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

BRE-Local Area Objectives

This clause is not used in this Local Provisions Schedule.

BRE-P1.0 Particular Purpose Zone – Ansons Bay Small Lot Residential

BRE-P1.1 Zone Purpose

The purpose of the Particular Purpose Zone – Ansons Bay Small Lot Residential is:

- BRE-P1.1.1 To provide for the amenity of residents in a manner that respects the unique historical character of the waterfront area.
- BRE-P1.1.2 To provide for low impact non-residential uses that fit within the unique character of the waterfront area.
- BRE-P1.1.3 That areas subject to natural hazards are managed in an appropriate way so as to protect private property with minimal impact to natural process.

BRE-P1.2 Local Area Objectives

Reference Number	Area Description	Local Area Objectives
BRE-P1.2.1	Ansons Bay Small Lot Residential, shown on an overlay map as BRE-P1.2.1.	<p>The local area objectives for Particular Purpose Zone - Ansons Bay Small Lot Residential are:</p> <ul style="list-style-type: none">(a) the area is to remain settled with small buildings that are predominantly residential use with a mixture of full time and part time occupation;(b) the area is to remain unfenced and retain an open welcoming appearance;(c) existing public access to the foreshore is to be retained and enhanced where possible; and(d) the number of jetties is to be kept to a minimum so as not to dominate the view of the foreshore and there are to be no new boatsheds.

BRE-P1.3 Definition of Terms

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

BRE-P1.4 Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Permitted	
Residential	
Discretionary	
Visitor Accommodation	If to change the use of a building existing as at 1 June 2013.
Utilities	
Prohibited	
All other uses	

BRE-P1.5 Use Standards

BRE-P1.5.1 Amenity

Objective:	That non-residential uses are of an appropriate scale and type.	
Acceptable Solutions		Performance Criteria
A1 Vehicles must be parked within the boundary of the site.		P1 Vehicles, including delivery vehicles, must not create a traffic hazard or compromise the mixed use functions of the road.
A2 Goods or materials for a use must not be stored outside or in locations visible from adjacent properties, a road or public land.		P2 No Performance Criterion.
A3 Waste materials of a use must be: <ul style="list-style-type: none"> (a) stored in a manner and location that is not visible from the road to which the lot has frontage; and 		P3 No Performance Criterion.

(b) stored in fully self-contained receptacles designed so that waste does not escape to the environment.	
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BRE-P1.6 Development Standards for Buildings and Works

BRE-P1.6.1 Building design and siting

Objective:	That the siting and design of development: <ul style="list-style-type: none"> (a) furthers the local area objectives for this zone; and (b) protects the residential amenity of adjoining properties by ensuring that the height, setbacks, siting and design of buildings provides adequate privacy, separation, open space and sunlight for residents.
Acceptable Solutions	Performance Criteria
A1 Site coverage must be not more than 50% of the site and a minimum of 25% of the site must be free from buildings, paving or other impervious surfaces.	P1 The proportion of the site covered by buildings must protect the residential amenity of adjoining properties, having regard to: <ul style="list-style-type: none"> (a) the existing site coverage and any constraints imposed by existing development or the features of the site; (b) the site coverage of adjoining properties; (c) the effect of the visual bulk of the building and whether it respects the neighbourhood character; (d) the capacity of the site to absorb runoff; and (e) the landscape character of the area.
A2 Building height must be not more than 6.5m.	P2 Buildings must be designed and sited: <ul style="list-style-type: none"> (a) to be consistent with the local area objectives for this zone; and (b) to protect the residential amenity of adjoining dwellings from the impacts of overshadowing and overlooking, having regard to: <ul style="list-style-type: none"> (i) the surrounding pattern of development; (ii) the existing degree of overlooking and overshadowing;

	<ul style="list-style-type: none"> (iii) maintaining a reasonable degree of solar access to secluded private open space and habitable room windows such that available sunlight is not reduced to below 3 hours on the 21st of June, or if existing available sunlight is less than 3 hours on 21st June, not reducing the existing levels of available sunlight; (iv) maintaining reasonable privacy to secluded private open space and windows; and (v) existing screening or the ability to implement screening to enhance privacy.
<p>A3</p> <p>Buildings must have a setback from the primary road frontage:</p> <ul style="list-style-type: none"> (a) of not less than 2m; or (b) within the range of the frontage setbacks of buildings on adjoining properties, indicated by the hatched section in Figure BRE-P1.1. 	<p>P3</p> <p>Buildings setback to a road must have regard to:</p> <ul style="list-style-type: none"> (a) the prevailing setbacks of existing buildings on nearby properties; and (b) the visual impact of the building when viewed from the road.
<p>A4</p> <p>Buildings must have a setback from the side and rear boundaries of not less than 1m.</p>	<p>P4</p> <p>Buildings must be designed and sited:</p> <ul style="list-style-type: none"> (a) to further any local area objectives relating to the visual character of the settlement; and (b) to protect the residential amenity of adjoining dwellings by providing appropriate separation, having regard to: <ul style="list-style-type: none"> (i) the surrounding pattern of development; (ii) the existing degree of overlooking and overshadowing; (iii) maintaining a reasonable degree of solar access to secluded private open space and habitable room windows such that available sunlight is not reduced to below 3 hours on 21st of June, or if existing available sunlight is less than 3 hours on 21st June, not reducing the existing levels of available sunlight; (iv) maintaining reasonable privacy to private open space and windows; and

	(v) existing screening or the ability to implement screening to enhance privacy.
A5 Fences are not allowed on front, side or rear boundaries. ¹	P5 Fences must be required for privacy.
A6 Outbuildings must have a gross floor area not more than 80% of the gross floor area of dwellings on the site.	P6 No Performance Criterion.

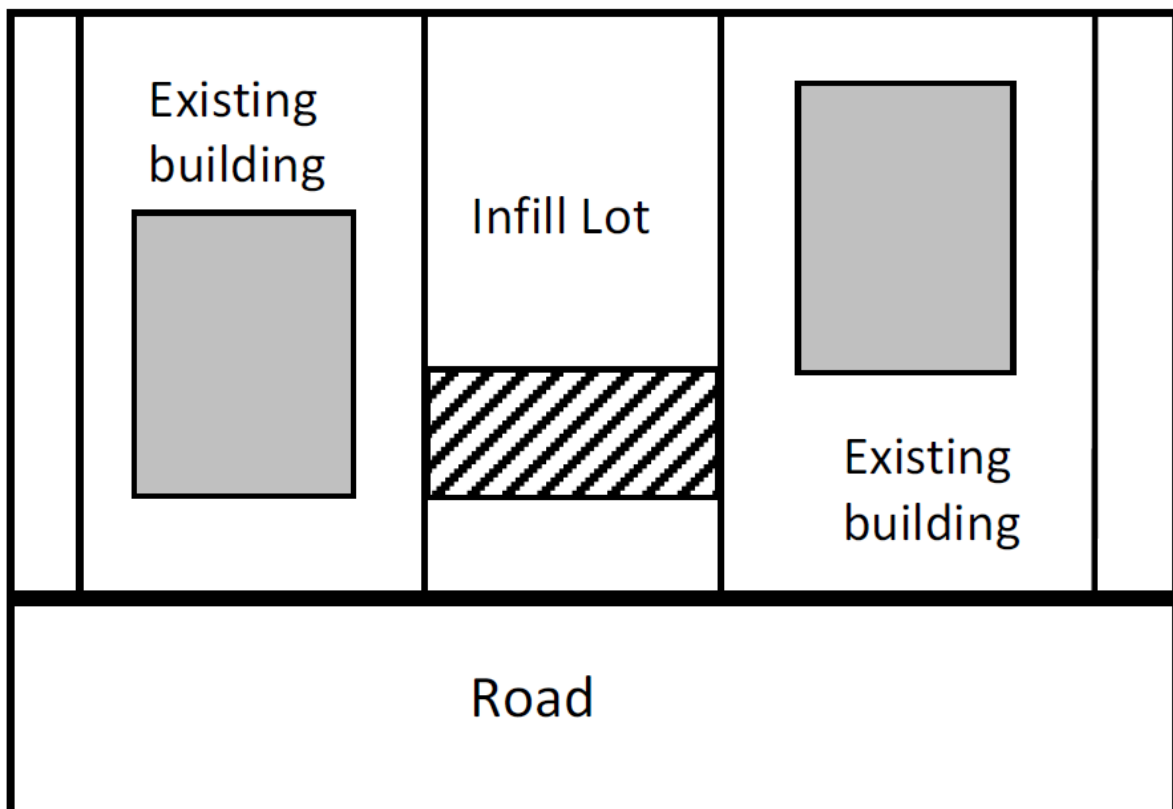


Figure BRE-P1.1 – Primary Frontage Setback for Infill Lots

¹ An exemption applies for fences in this zone – see Table 4.6.

BRE-P1.6.2 Solar efficiency

Objective:	That all dwellings have adequate access to sunlight.	
Acceptable Solutions		Performance Criteria
A1	Buildings on the site or adjoining sites must not cause overshadowing and reduction of sunlight to habitable rooms and private open space to less than 3 hours between 9.00am and 5.00pm on 21 st June.	P1 Buildings must not result in unreasonable loss of solar access for adjoining residential buildings.
A2	Outbuildings must not be constructed so as to obstruct solar access to north and east facing windows of an existing dwelling on the same site as the outbuildings.	P2 No Performance Criterion.

BRE-P1.6.3 Privacy

Objective:	That siting and design of buildings meets projected user requirements for visual privacy, and protects the visual privacy of nearby residents in their dwellings.	
Acceptable Solutions		Performance Criteria
A1	Direct views of windows of habitable rooms, external doorways, balconies, decks or patios of neighbouring dwellings must be screened with vegetation or separated not less than 9m.	P1 Direct views of windows of habitable rooms, external doorways, balconies, decks or patios of neighbouring dwellings must be minimised by appropriately designed and located screening that is consistent with the local area objectives for this zone.

BRE-P1.6.4 Stormwater disposal

Objective:	That stormwater discharge from new development does not result in adverse impacts on surrounding land or the environment.	
Acceptable Solutions		Performance Criteria
A1	All runoff from buildings is to be detained by on-site water storage systems and the overflow released in a manner that does not cause erosion or flooding to adjoining properties.	P1 No Performance Criterion.

BRE-P1.6.5 Development in areas at risk from natural hazards

Objective:	That natural hazards are identified and addressed at the time of development.	
Acceptable Solutions		Performance Criteria
A1 Buildings must be on land where the boundary is setback away from evidence of coastal erosion a distance equal to, or greater than, the vertical distance from the top of the cliff to the natural ground level at the bottom of the cliff, measured at the cliff top adjacent to the centre of the site boundary.		P1 Buildings on land where the boundary is setback from evidence of coastal erosion less than the vertical distance from the top of the cliff to the natural ground level at the bottom of the cliff, measured at the cliff top adjacent to the centre of the site boundary, must reduce the risk to life and property to a low or very low Risk Level Implication in accordance with <i>Practice Note Guidelines for Landslide Risk Management 2007</i> as demonstrated in a report from a suitably qualified person.

BRE-P1.6.6 Vegetation control

Objective:	That vegetation along the foreshore remains and weeds are prevented from being planted.	
Acceptable Solutions		Performance Criteria
A1 Vegetation must not be removed unless it is within the building footprint.		P1 Vegetation must not be removed outside the building footprint unless it can be demonstrated that removal is required to minimise the impacts from natural hazards.
A2 Plants, as listed in Table BRE-P1.8.1, must not be planted.		P2 No Performance Criterion.

BRE-P1.7 Development Standards for Subdivision

BRE-P1.7.1 Subdivision

Objective:	That alterations to the existing pattern of subdivision along the foreshore are minimised and that frontage to a road is maintained.	
Acceptable Solutions		Performance Criteria
A1 Lots must be: <ul style="list-style-type: none"> (a) for the consolidation of a lot with another lot provided no additional titles are created; or (b) to align existing titles with zone boundaries provided no additional lots are created. 		P1 No Performance Criterion.
A2 All lots must have a frontage not less than 4m to a road, or access to a road via a right-of-way with a width not less than 4m.		P2 No Performance Criterion.

BRE-P1.8 Tables

BRE-P1.8.1 Environmental weeds

D - Weeds declared under the *Weed Management Act 1999*

L – Weeds declared locally

L	<i>Acacia pycnantha</i>	Golden Wattle
L	<i>Acacia baileyana</i>	Cootamundra Wattle
D	<i>Acacia nilotica ssp. Indica</i>	Prickly Acacia
L	<i>Acer pseudoplatanus</i>	Sycamore Maple
L	<i>Achillea millefolium</i>	Yarrow
D	<i>Acroptilon repens</i>	Creeping Knapweed
L	<i>Allium triquetrum</i>	Three-Cornered Garlic
D	<i>Allium vineale</i>	Crow Garlic
L	<i>Aloe species</i>	Aloe
D	<i>Alternanthera philoxeroides</i>	Alligator Weed
D	<i>Amaranthus albus</i>	Tumbleweed
D	<i>Amelichloa caudata (=achnatherum caudatum)</i>	Espartillo
D	<i>Amsinckia species</i>	Amsinckia Species
D	<i>Annona glabra</i>	Pond Apple
D	<i>Anthemis cotula</i>	Stinking Mayweed
L	<i>Arctotheca calendula</i>	Capeweed
D	<i>Asparagus asparagoides (=Myrsiphyllum asparagoides)</i>	Bridal Creeper
D	<i>Asparagus scandens</i>	Asparagus Fern
D	<i>Asphodelus fistulosus</i>	Onion Weed
D	<i>Bassia scoparia (=Kochia scoparia)</i>	Kochia
D	<i>Berberis darwinii</i>	Darwins Barberry
D	<i>Berkheya rigida</i>	African Thistle
D	<i>Bifora testiculata</i>	Bifora
L	<i>Briza maxima</i>	Large Quaking Grass
D	<i>Cabomba caroliniana</i>	Fanwort
D	<i>Calluna vulgaris</i>	Heather
D	<i>Cardaria draba</i>	White Weed (Hoary Cress)

D	<i>Carduus nutans</i>	Nodding Thistle
D	<i>Carduus pycnocephalus</i>	Slender Thistle
D	<i>Carduus tenuiflorus</i>	Slender Thistle
D	<i>Carex albula</i>	New Zealand Sedge
D	<i>Carex buechananii</i>	Leather Leaf Sedge
D	<i>Carex flagellifera</i>	New Zealand Sedge
D	<i>Carex testacea</i>	New Zealand Sedge
D	<i>Carthamus lanatus</i> L.	Saffron Thistle
D	<i>Cenchrus incertus</i> (= <i>Cenchrus pauciflorus</i>)	Spiny Burrgrass
D	<i>Cenchrus longispinus</i>	Spiny Burrgrass
D	<i>Centaurea calcitrapa</i>	Star Thistle
D	<i>Centaurea eriophora</i>	Mallee Cockspur
D	<i>Ceratophyllum demersum</i>	Hornwort
D	<i>Chamaecytisus palmensis</i>	Tree Lucerne
D	<i>Chondrilla juncea</i>	Skeleton Weed
D	<i>Chrysanthemoides monilifera</i> (including subspecies)	Boneseed, Bitou Bush
D	<i>Cirsium arvense</i>	Californian Thistle
L	<i>Conium maculatum</i>	Hemlock
L	<i>Coprosma repens</i>	Mirror Bush
D	<i>Coprosma robusta</i>	Karamu
D	<i>Cortaderia</i> species	Pampas Grasses
L	<i>Cotoneaster</i> species	Cotoneaster Species
L	<i>Crataegus monogyna</i>	Hawthorn
L	<i>Crocasmia</i> x <i>crocosmiiflora</i>	Montbretia
D	<i>Crupina vulgaris</i>	Common Crupina
D	<i>Cryptostegia grandiflora</i>	Rubber Vine
D	<i>Cuscuta</i> species (excluding <i>Cuscuta tasmanica</i>)	Dodder
D	<i>Cynara cardunculus</i>	Artichoke Thistle
D	<i>Cyperus rotundus</i>	Purple Nut Grass
D	<i>Cyperus esculentus</i>	Yellow Nut Grass/Yellow Nut Sedge
D	<i>Cytisus scoparius</i>	English Broom
D	<i>Cytisus multiflorus</i>	White Spanish Broom
D	<i>Datura</i> species	Datura
L	<i>Delairea odorata</i>	Cape Ivy
L	<i>Digitalis purpurea</i>	Foxglove
D	<i>Dittrichia viscosa</i>	False Yellowhead
D	<i>Echium plantagineum</i>	Paterson's Curse
D	<i>Echium vulgare</i> L.	Viper's Bugloss
D	<i>Egeria densa</i> (= <i>Elodea densa</i>)	Egeria, Dense Water Weed Water
D	<i>Eichhornia crassipes</i>	Hyacinth
D	<i>Eleocharis parodii</i>	Parodi
D	<i>Elodea canadensis</i>	Canadian Pondweed, Elodea
D	<i>Emex australis</i>	Spiny Emex
D	<i>Equisetum</i> species	Horsetail
D	<i>Eragrostis curvula</i>	African Lovegrass
D	<i>Erica lusitanica</i>	Spanish Heath
L	<i>Euphorbia paralias</i>	Sea Spurge
D	<i>Fallopia japonica</i>	Japanese Knotweed
D	<i>Festuca gautieri</i>	Bear Skin Fescue
D	<i>Foeniculum vulgare</i>	Fennel
L	<i>Fuchsia magellanica</i>	Fuchsia
L	<i>Gazania</i> species	Gazania
D	<i>Galium spurium</i>	False Cleavers
D	<i>Galium tricornutum</i>	Three-Horned Bedstraw
D	<i>Genista monspessulana</i>	Montpellier Broom
D	<i>Gymnocoronis spilanthoides</i>	Senegal Tea Plant, Temple Plant
L	<i>Hedera helix</i>	English Ivy
D	<i>Heliotropium europaeum</i>	Common Heliotrope
D	<i>Heracleum mantegazzianum</i>	Giant Hogweed
D	<i>Hieracium</i> species	Hawkweed
D	<i>Hydrilla verticillata</i>	Hydrilla
D	<i>Hymenachne amplexicaulis</i>	Hymenachne
D	<i>Hypericum perforatum</i>	St John's Wort
D	<i>Hypericum tetrapterum</i>	Square Stemmed St John's Wort

L	<i>Ilex aquifolium</i>	Holly
D	<i>Lagarosiphon major</i>	Lagarosiphon, Oxygen Weed
D	<i>Lantana camara</i>	Lantana
D	<i>Leptospermum laevigatum</i>	Coast Tea Tree
D	<i>Leycesteria formosa</i>	Elisha's Tears
L	<i>Lonicera japonica</i>	Japanese Honeysuckle
L	<i>Lupinus arboreus</i>	Tree Lupin
D	<i>Lycium ferocissimum</i>	African Boxthorn
D	<i>Marrubium vulgare</i>	Horehound
D	<i>Miconia species</i>	Miconia
D	<i>Moraea species</i>	Cape Tulips
D	<i>Myriophyllum aquaticum</i> (= <i>M. brasiliense</i>).	Parrot's Feather
D	<i>Nassella neesiana</i>	Chilean Needle Grass
D	<i>Nassella trichotoma</i>	Serrated Tussock
D	<i>Oenanthe pimpinelloides</i>	Meadow Parsley
D	<i>Onopordum species</i>	Onopordum Thistles
D	<i>Orobancha species</i> (except <i>O. minor</i> and <i>O. cernua</i> var. <i>australiana</i>)	Broomrape
L	<i>Paraserianthes lophantha</i>	Cape Wattle
D	<i>Parkinsonia species</i>	Parkinsonia
D	<i>Parthenium hysterophorus</i>	Parthenium
L	<i>Passiflora mollissima</i>	Banana Passionfruit
D	<i>Pennisetum macrourum</i>	African Feathergrass
D	<i>Pennisetum villosum</i>	Feathertop
L	<i>Polygala myrtifolia</i>	Polygala
L	<i>Pinus radiata</i>	Radiata Pine
L	<i>Pittosporum undulatum</i>	Sweet Pittosporum
D	<i>Prosopis species</i>	Mesquite
L	<i>Psoralea pinnata</i>	Blue Butterfly-Bush
D	<i>Rorippa sylvestris</i>	Creeping Yellowcress
L	<i>Rosa rubiginosa</i>	Briar Rose
D	<i>Rubus fruticosus aggregate</i>	Blackberry
D	<i>Sagittaria graminea</i>	Sagittaria
D	<i>Sagittaria montevidensis</i>	Arrowhead
D	<i>Salix fragilis</i>	Crack Willow
D	<i>Salpichroa organifolia</i>	Pampas Lily-of-the-Valley
D	<i>Salvinia molesta</i>	Salvinia
D	<i>Senecio glastifolius</i>	Holly-Leave Senecio
D	<i>Senecio jacobaea</i>	Ragwort
D	<i>Solanum elaeagnifolium</i>	Silver-Leaf Nightshade
D	<i>Solanum marginatum</i>	White-Edged Nightshade
D	<i>Solanum sodomaeum</i>	Apple-of-Sodom
D	<i>Solanum triflorum</i>	Cut-Leaf Nightshade
L	<i>Sollya heterophylla</i>	Bluebell Creeper
L	<i>Spartina anglica</i>	Rice Grass
D	<i>Striga species</i> (all non-indigenous species)	Witchweed
D	<i>Tamarix aphylla</i>	Athel Pine
L	<i>Tradescantia albiflora</i>	Wandering Creeper
D	<i>Trapa species</i>	Floating Water Chestnut
D	<i>Tribulus terrestris</i>	Caltrop
D	<i>Ulex europaeus</i>	Gorse
D	<i>Urospermum dalechampii</i>	Mediterranean Daisy
L	<i>Vinca major</i>	Blue Periwinkle
L	<i>Watsonia meriana</i>	Watsonia
D	<i>Xanthium species</i>	Burrs, Bathurst Burr
L	<i>Zantedeschia aethiopica</i>	Arum Lily
D	<i>Zizania species</i>	Wild Rice

BRE-P2.0 Particular Purpose Zone – Coastal Settlement

BRE-P2.1 Zone Purpose

The purpose of the Particular Purpose Zone – Coastal Settlement is:

- BRE-P2.1.1 To ensure that future use and development is compatible with the existing settlement pattern.
- BRE-P2.1.2 To provide amenity for residents in a manner that respects the coastal character of the area.
- BRE-P2.1.3 To provide for non-residential use that does not cause an unreasonable loss of amenity, through scale, intensity, noise, traffic generation and movement, or other off site impacts.
- BRE-P2.1.4 That areas subject to natural hazards are managed in an appropriate way so as to protect private property with minimal impact to natural process.

BRE-P2.2 Local Area Objectives

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

BRE-P2.3 Definition of Terms

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

BRE-P2.4 Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Residential	If for a single dwelling.
Discretionary	
Community Meeting and Entertainment	If for art and craft centre or public hall.
Emergency Services	
Utilities	If not listed as No Permit Required.
Visitor Accommodation	If for guests accommodated within an existing building.
Prohibited	
All other uses	

BRE-P2.5 Use Standards

BRE-P2.5.1 Discretionary uses

Objective:	That Discretionary uses do not cause an unreasonable loss of amenity to adjacent sensitive uses.	
Acceptable Solutions		Performance Criteria
A1 Hours of operation for a use listed as Discretionary, excluding Emergency Services or Residential use, must be within: <ul style="list-style-type: none"> (a) 8.00am to 6.00pm Monday to Friday; (b) 9.00am to 12.00 noon Saturday; and (c) nil on Sunday and public holidays. 		P1 Hours of operation for a use listed as Discretionary, excluding Emergency Services or Residential use, must not cause an unreasonable loss of amenity to adjacent sensitive uses, having regard to: <ul style="list-style-type: none"> (a) the timing, duration or extent of vehicle movements; and (b) noise or other emissions.
A2 External lighting for a use listed as Discretionary, excluding Residential use: <ul style="list-style-type: none"> (a) must be within the hours of 7.00pm to 7.00am, excluding any security lighting; and (b) security lighting must be baffled so that direct light does not extend into the adjoining property. 		P2 External lighting for a use listed as Discretionary, excluding Residential use, must not cause an unreasonable loss of amenity to adjacent sensitive uses, having regard to: <ul style="list-style-type: none"> (a) the number of proposed light sources and their intensity; (b) the location of the proposed light sources; (c) the topography of the site; and (d) any existing light sources.
A3 Commercial vehicle movements and the unloading and loading of commercial vehicles for a use listed as Discretionary, excluding Emergency Services or Residential use, must be within the hours of: <ul style="list-style-type: none"> (a) 7:00am to 5:00pm Monday to Friday; (b) 9:00am to 12 noon Saturday; and (c) nil on Sunday and public holidays. 		P3 Commercial vehicle movements and the unloading and loading of commercial vehicles for a use listed as Discretionary, excluding Emergency Services or Residential use, must not cause an unreasonable loss of amenity to adjacent sensitive uses, having regard to: <ul style="list-style-type: none"> (a) the time and duration of commercial vehicle movements; (b) the number and frequency of commercial vehicle movements; (c) the size of commercial vehicles involved; (d) manoeuvring required by the commercial vehicles, including the amount of reversing and associated warning noise;

	<p>(e) any existing or proposed noise mitigation measures between the vehicle movement areas and sensitive use;</p> <p>(f) potential conflicts with other traffic; and</p> <p>(g) existing levels of amenity.</p>
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BRE-P2.5.3 Visitor Accommodation

Objective:	<p>That Visitor Accommodation:</p> <p>(a) is compatible with the character and use of the area;</p> <p>(b) does not cause an unreasonable loss of residential amenity; and</p> <p>(c) does not impact the safety and efficiency of local roads or rights of way.</p>
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Visitor Accommodation must:</p> <p>(a) accommodate guests in existing habitable buildings; and</p> <p>(b) have a gross floor area of not more than 200m² per lot.</p>	<p>P1</p> <p>Visitor Accommodation must be compatible with the character and use of the area and not cause an unreasonable loss of residential amenity, having regard to:</p> <p>(a) the privacy of adjoining properties;</p> <p>(b) any likely increase in noise to adjoining properties;</p> <p>(c) the scale of the use and its compatibility with the surrounding character and uses within the area;</p> <p>(d) retaining the primary residential function of an area;</p> <p>(e) the impact on the safety and efficiency of the local road network; and</p> <p>(f) any impact on the owners and users rights of way.</p>
<p>A2</p> <p>Visitor Accommodation is not for a strata lot that is part of a strata scheme where another strata lot within that strata scheme is used for a residential use.</p>	<p>P2</p> <p>Visitor Accommodation within a strata scheme must not cause an unreasonable loss of residential amenity to long term residents occupying other strata lots within the strata scheme, having regard to:</p> <p>(a) the privacy of residents;</p> <p>(b) any likely increase in noise;</p> <p>(c) the residential function of the strata scheme;</p> <p>(d) the location and layout of the strata lots;</p>

	<p>(e) the extent and nature of any other non-residential uses; and</p> <p>(f) any impact on shared access and common property.</p>
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BRE-P2.6 Development Standards for Dwellings

BRE-P2.6.1 Building height

Objective:	That the height of dwellings is compatible with the streetscape and do not cause an unreasonable loss of amenity for adjoining properties.	
Acceptable Solutions		Performance Criteria
A1 A dwelling must have a building height not more than 7m.		P1 The height of dwellings must be compatible with the streetscape and not cause an unreasonable loss of amenity to adjoining properties having regard to: <ul style="list-style-type: none"> (a) the topography of the site; (b) the height of buildings on the site and adjacent properties; (c) the bulk and form of existing and proposed buildings; (d) sunlight to habitable rooms and private open space of dwellings; and (e) any overshadowing of adjoining properties.

BRE-P2.6.2 Setback

Objective:	That the siting of dwellings is compatible with the streetscape and does not cause an unreasonable loss of amenity for adjoining properties.	
Acceptable Solutions		Performance Criteria
A1 Dwellings, excluding protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage not less than 10m.		P1 The siting of a dwelling must be compatible with the streetscape and character of development existing on established properties in the area having regard to: <ul style="list-style-type: none"> (a) the topography of the site; (b) the setbacks of surrounding buildings; (c) the height, bulk and form of existing and proposed buildings; (d) the appearance when viewed from roads and public open space adjacent to the site; and (e) the safety of road users.

<p>A2</p> <p>Dwellings, excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally from the building, must have a setback from side and rear boundaries of not less than 10m.</p>	<p>P2</p> <p>The siting of a dwelling must not cause an unreasonable loss of amenity to adjoining properties, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the size, shape and orientation of the site; (c) the setbacks of surrounding buildings; (d) the height, bulk and form of existing and proposed buildings; (e) the existing buildings and private open space areas on the site; (f) sunlight to private open space and windows of habitable rooms on adjoining properties; and (g) the character of development existing on established properties in the area.
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BRE-P2.6.3 Site coverage

Objective:	<p>That site coverage:</p> <ul style="list-style-type: none"> (a) is consistent with the character of existing development in the area; (b) provides sufficient area for private open space and landscaping; and (c) assists with the management of stormwater runoff.
Acceptable Solutions	Performance Criteria
<p>A1</p> <p>Dwellings must have a site coverage of not more than 30%.</p>	<p>P1</p> <p>The site coverage of dwellings must be consistent with that existing on established properties in the area, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the capacity of the site to absorb runoff; (c) the size and shape of the site; (d) the existing buildings and any constraints imposed by existing development; (e) the provision for landscaping and private open space; (f) the need to remove vegetation; and (g) the site coverage of adjacent properties.

BRE-P2.5.2 Landscape values

Objective:	That non-residential uses are low-impact and are compatible with the character of the coastal area.
Acceptable Solutions	Performance Criteria
A1 No Acceptable Solution.	P1 A use listed as Discretionary must be compatible with the character of the coastal area, having regard to: <ul style="list-style-type: none"> (a) the nature, scale and extent of the use; (b) the characteristics and type of the use; and (c) the character of the area.

BRE-P2.6.4 Frontage fences for all dwellings

Objective:	That the height and transparency of frontage fences: <ul style="list-style-type: none"> (a) provides adequate privacy and security for residents; (b) allows the potential for mutual passive surveillance between the road and the dwelling; and (c) is reasonably consistent with fences in the street.
Acceptable Solutions	Performance Criteria
A1 No Acceptable Solution. ²	P1 A fence (including a free-standing wall) for a dwelling within 4.5m of a frontage must: <ul style="list-style-type: none"> (a) provide for security and privacy, while allowing for passive surveillance of the road; and (b) be consistent with the height and transparency of fences in the street, having regard to: <ul style="list-style-type: none"> (i) the topography of the site; and (ii) traffic volumes on the adjoining road.

² An exemption applies for fences in this zone – see Table 4.6.

BRE-P2.6.5 Sunlight to dwellings and private open space

Objective:	That all dwellings have adequate access to sunlight.	
Acceptable Solutions		Performance Criteria
A1 Dwellings must not cause overshadowing and reduction of sunlight to habitable rooms and private open space to less than 3 hours between 9.00am and 5.00pm on 21 st June.		P1 Dwellings must not result in unreasonable loss of amenity by overshadowing and reduction of sunlight to habitable rooms and private open space of adjoining dwellings, having regard to: <ul style="list-style-type: none"> (a) topography of the site; (b) the location of existing buildings on the site; (c) the size and shape and orientation of the lots; (d) the setbacks of surrounding buildings; (e) the height, bulk and form of existing and proposed buildings; (f) the existing buildings and private open space areas on the site; (g) sunlight to private open space and windows of habitable rooms on adjoining properties; and (h) the character of development existing on established properties in the area.
A2 Outbuildings must be sited so as not to obstruct sunlight to the north and east-facing windows of an existing dwelling on the same site.		P2 No Performance Criterion.

BRE-P2.6.6 Stormwater disposal

Objective:	That stormwater discharge from new development does not result in adverse impacts on surrounding land or the environment.	
Acceptable Solutions		Performance Criteria
A1 All runoff from buildings is to be detained by on-site water storage systems and the overflow released in a manner that does not cause erosion or flooding to adjoining properties.		P1 No Performance Criterion.

BRE-P2.7 Development Standards for Non-dwellings

BRE-P2.7.1 Non-dwelling development

Objective:	That all non-dwelling development: <ul style="list-style-type: none"> (a) is compatible with the streetscape; (b) is compatible with the form and scale of existing residential development; and (c) does not cause an unreasonable loss of amenity to adjoining properties.
Acceptable Solutions	Performance Criteria
A1 A building that is not a dwelling must have a building height not more than 7m.	P1 The height of a building that is not a dwelling must be compatible with the streetscape and not cause an unreasonable loss of amenity to adjoining properties, having regard to: <ul style="list-style-type: none"> (a) the topography of the site; (b) the height of buildings on the site and adjacent properties; (c) the bulk and form of existing and proposed buildings; (d) sunlight to habitable rooms of dwellings and private open space; and (e) any overshadowing of adjoining properties.
A2 A building that is not a dwelling, excluding protrusions that extend not more than 0.9m into the frontage setback, must have a setback from a frontage not less than 10m.	P2 The siting of a building that is not a dwelling must be compatible with the streetscape and character of development existing on established properties in the area having regard to: <ul style="list-style-type: none"> (a) the topography of the site; (b) the setbacks of surrounding buildings; (c) the height, bulk and form of existing and proposed buildings; (d) the appearance when viewed from roads and public open space adjacent to the site; and (e) the safety of road users.

<p>A3</p> <p>A building that is not a dwelling excluding outbuildings with a building height of not more than 2.4m and protrusions that extend not more than 0.9m horizontally from the building, must have a setback from side and rear boundaries of not less than 10m.</p>	<p>P3</p> <p>The siting of a building that is not a dwelling, must not cause unreasonable loss of amenity to adjoining properties, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the size, shape and orientation of the site; (c) the setbacks of surrounding buildings; (d) the height, bulk and form of existing and proposed buildings; (e) the existing buildings and private open space areas on the site; (f) sunlight to private open space and windows of habitable rooms on adjoining properties; and (g) the character of development existing on established properties in the area.
<p>A4</p> <p>A building that is not a dwelling must have a site coverage of not more than 30%.</p>	<p>P4</p> <p>The site coverage of a building that is not a dwelling must, be consistent with that existing on established properties in the area, having regard to:</p> <ul style="list-style-type: none"> (a) the topography of the site; (b) the capacity of the site to absorb runoff; (c) the size and shape of the site; (d) the existing buildings and any constraints imposed by existing development; (e) the provision for landscaping and private open space; (f) the need to remove vegetation; and (g) the site coverage of adjacent properties.

<p>A5</p> <p>No Acceptable Solution.³</p>	<p>P5</p> <p>A fence (including a free-standing wall) for a building that is not a dwelling within 4.5m of a frontage must:</p> <ul style="list-style-type: none"> (a) provide for security and privacy, while allowing for passive surveillance of the road; and (b) be consistent with the height and transparency of fences in the street, having regard to: <ul style="list-style-type: none"> (i) the topography of the site; and (ii) traffic volumes on the adjoining road.
<p>A6</p> <p>Outdoor storage areas, for a building that is not a dwelling, including waste storage, must not:</p> <ul style="list-style-type: none"> (a) be visible from any road or public open space adjoining the site; or (b) encroach upon parking areas, driveways or landscaped areas. 	<p>P6</p> <p>Outdoor storage areas, for a building that is not a dwelling, must be located or screened to minimise its impact on views into the site from any roads or public open space adjoining the site, having regard to:</p> <ul style="list-style-type: none"> (a) the nature of the use; (b) the type of goods, materials or waste to be stored; (c) the topography of the site; and (d) any screening proposed.
<p>A7</p> <p>Air extraction, pumping, refrigeration systems or compressors, for a building that is not a dwelling, must have a setback from the boundary of a property containing a sensitive use of not less than 10m.⁴</p>	<p>P7</p> <p>Air conditioning, air extraction, pumping, heating or refrigeration systems or compressors, for a building that is not a dwelling, within 10m of a the boundary of a property containing a sensitive use must be designed, located, baffled or insulated to not cause an unreasonable loss of amenity, having regard to:</p> <ul style="list-style-type: none"> (a) the characteristics and frequency of any emissions generated; (b) the nature of the proposed use; (c) the topography of the site and location of the sensitive use; and (d) any mitigation measures proposed.

³ An exemption applies for fences in this zone – see Table 4.6.

⁴ An exemption applies for heat pumps and air conditioners in this zone – see Table 4.6.

BRE-P2.7.2 Stormwater disposal

Objective:	That stormwater discharge from new development does not result in adverse impacts on surrounding land or the environment.
Acceptable Solutions	Performance Criteria
A1 All runoff from buildings is to be detained by on-site water storage systems and the overflow released in a manner that does not cause erosion or flooding to adjoining properties, or adverse impacts on natural assets.	P1 No Performance Criterion.

BRE-P2.8 Development Standards for Subdivision

BRE-P2.8.1 Subdivision

Objective:	That subdivision is appropriate for the intended use or development of the lots and that the natural values of the subject land are not diminished.
Acceptable Solutions	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, must be: <ul style="list-style-type: none"> (a) required for public use by the Crown, a council or a State authority; (b) required for the provision of Utilities; or (c) for the consolidation of a lot with another lot provided each lot is within the same zone. 	P1 No Performance Criterion.

BRE-P2.8 Tables

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

BRE-P3.0 Particular Purpose Zone – St Helens Coastal Maritime

BRE-P3.1 Zone Purpose

The purpose of the Particular Purpose Zone – St Helens Coastal Maritime is:

- BRE-P3.1.1 That future use and development provides a mixture of port and tourist related activity that promotes the St Helens foreshore as a place to visit.
- BRE-P3.1.2 To provide for commercial and recreational boating, slippage and related maritime activities in a manner that respects the coastal character of the area and the amenity of the surrounding residential areas.
- BRE-P3.1.3 To provide for low impact non-residential uses that fit within the character of the coastal area.
- BRE-P3.1.4 That areas subject to natural hazards are managed in an appropriate way so as to protect private property with minimal impact to natural process.
- BRE-P3.1.5 To provide for uses that support, supply or facilitate port and/or maritime activity.
- BRE-P3.1.6 To provide water-based recreational and/or sporting activities, including associated club rooms that support water-based community activity.

BRE-P3.2 Local Area Objectives

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

BRE-P3.3 Definition of Terms

Terms	Definition
Golden Fleece Bridge	means the bridge shown on in Figure BRE-P3.1.
Stormwater management report	means a report prepared by a suitably qualified person for a site, that must include: (a) details of, and be signed by, the person who prepared or verified the report; (b) confirmation that the person has the appropriate qualifications and expertise; and (c) addresses all the relevant matters specifically required by clause BRE-P3.7.2 P2.



Figure BRE-P3.1 Location of the Golden Fleece Bridge

BRE-P3.4 Use Table

Use Class	Qualification
No Permit Required	
Natural and Cultural Values Management	
Passive Recreation	
Utilities	If for minor utilities.
Permitted	
Bulky Goods Sales	If for boat sales, shipping supplies or other maritime purposes.
Emergency Services	If: (a) for additions to buildings existing at the effective date; and (b) located north of the Golden Fleece Bridge.
Pleasure Boat Facility	
Port and Shipping	If not for a shipping container storage.
Tourist Operation	If: (a) for marine, aquatic or aviation based operations; and (b) not south of the Golden Fleece Bridge.
Utilities	If not listed as No Permit Required.

Use Class	Qualification
Vehicle Parking	If located north of the Golden Fleece Bridge.
Discretionary	
Food Services	
Port and Shipping	If not listed as Permitted.
Sports and Recreation	If for water-based recreational and/or sporting activities, including associated club rooms.
Tourist Operation	If not listed as Permitted.
Prohibited	
All other uses	

BRE-P3.5 Use Standards

BRE-P3.5.1 Amenity

Objective:	That use in the zone does not significantly impact on the amenity of sensitive uses in adjoining zones.	
Acceptable Solutions		Performance Criteria
A1 Use must be set back from the boundary of the General Residential zone or a sensitive use in other zones by a distance not less than 50m.		P1 Use must not cause unreasonable disturbances or loss of amenity to sensitive uses in adjoining zones, having regard to: <ul style="list-style-type: none"> (a) the characteristics and frequency of emissions generated; (b) the nature of the proposed use; (c) the topography of the site and location of the sensitive use; and (d) any proposed mitigation measures.

BRE-P3.5.2 Discretionary use

Objective:	That the location, scale and extent of a use listed as Discretionary is compatible with landscape values of the adjoining open space zone.	
Acceptable Solutions		Performance Criteria
A1 A Discretionary use must not be located within 50m of an Open Space Zone.		P1 Use listed as Discretionary must be compatible with the landscape amenity of the adjoining open space zone, having regard to:

	<ul style="list-style-type: none"> (a) the nature, scale and extent of the use; (b) the characteristics and type of the use; (c) the coastal character of the area; and (d) measures to minimise or mitigate impacts.
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BRE-P3.6 Development Standards for Buildings and Works

BRE-P3.6.1 Building height and siting

Objective:	That building height and siting is compatible with the coastal character of the area.	
Acceptable Solutions		Performance Criteria
A1 Building height must be not more than 6m.		P1 Building height must be compatible with the coastal character of the area, having regard to: <ul style="list-style-type: none"> (a) the bulk, scale, siting and form of the building; (b) separation from existing uses on adjoining properties; and (c) any buffers created by natural or other features.
A2 Buildings must have a setback from a frontage not less than 10m.		P2 Buildings must have a setback from a frontage that provides adequate space for vehicle access, parking and landscaping, and must be compatible with the coastal character of the area, having regard to: <ul style="list-style-type: none"> (a) the topography of the site; (b) the setback of buildings on adjacent properties; (c) the safety of road users; and (d) the retention and enhancement of existing public access to the foreshore.
A3 Storage areas must not be located between the building and the frontage.		P3 Storage areas must be sited and designed in a manner that will not have an adverse impact on visual amenity, having regard to: <ul style="list-style-type: none"> (a) the location of the storage area; and (b) any screening treatment proposed.

BRE-P3.6.2 Outdoor storage

Objective:	That outdoor storage areas do not detract from the appearance of the site or surrounding area.
Acceptable Solutions	Performance Criteria
A1 Outdoor storage areas, excluding for the display of goods for sale, must not be visible from any road or public open space adjoining the site.	P1 Outdoor storage areas, excluding for the display of goods for sale, must be located, treated or screened to not cause an unreasonable loss of visual amenity.

BRE-P3.7 Development Standards for Subdivision

BRE-P3.7.1 Subdivision

Objective:	That each lot: <ul style="list-style-type: none"> (a) has an area and dimensions appropriate for use and development in the zone; (b) is provided with appropriate access to a road; and (c) contains areas which are suitable for residential development.
Acceptable Solutions	Performance Criteria
A1 Each lot, or a lot proposed in a plan of subdivision, must: <ul style="list-style-type: none"> (a) have an area of not less than 2000m² and <ul style="list-style-type: none"> (i) be able to contain a circle of not less than 20m in diameter, clear of: <ul style="list-style-type: none"> a. all setbacks required by sub-clause BRE-P3.6.1 A1, A2 and A3; and b. easements or other title restrictions that limit or restrict development; and (ii) existing buildings are consistent with the setback required by clause 10.4.3 A1 and A2; (b) be required for public use by the Crown, a council or a State authority; (c) be required for the provision of Utilities; or (d) be for the consolidation of a lot with another lot provided each lot is within the same zone. 	P1 Each lot, or a lot proposed in a plan of subdivision, must have sufficient useable area and dimensions to allow for its intended use, having regard to: <ul style="list-style-type: none"> (a) the relevant requirements for development of buildings on the lots; (b) the intended location of buildings on the lots; (c) the topography of the site; (d) adequate provision of private open space; (e) the pattern of development existing on established properties in the area; and (f) any constraints to development, (g) on-site parking and manoeuvrability; and (h) waste disposal.

<p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must have a frontage not less than 20m.</p>	<p>P2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be provided with a frontage or legal connection to a road by a right of carriageway, that is sufficient for the intended use, having regard to:</p> <ul style="list-style-type: none"> (a) the width of frontage proposed, if any; (b) the number of other lots which have the land subject to the right of carriageway as their sole or principal means of access; (c) the topography of the site; (d) the functionality and useability of the frontage; (e) the ability to manoeuvre vehicles on the site; and (f) the pattern of development existing on established properties in the area, (g) and is not less than 3.6m wide.
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BRE-P3.7.2 Services

Objective:	That the subdivision of land provides services for the future use and development of the land.	
Acceptable Solutions		Performance Criteria
<p>A1</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must:</p> <ul style="list-style-type: none"> (a) have a connection to a full water supply service; or (b) the frontage of each lot must be within 30m of a connection to: <ul style="list-style-type: none"> (i) a full water supply service; or (ii) a limited water supply service. 		<p>P1</p> <p>A lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be provided with an adequate water supply, having regard to:</p> <ul style="list-style-type: none"> (a) the distance from and location of any water supply service; (b) flow rates; (c) the quality of potable water; (d) any existing or proposed infrastructure to provide a water service and its location; (e) the nature and source of the water supply; (f) the topography of the site; and (g) any advice from a regulated entity.

<p>A2</p> <p>Each lot, or a lot proposed in a plan of subdivision, excluding for public open space, a riparian or littoral reserve or Utilities, must be capable of connecting to a public stormwater system.</p>	<p>P2</p> <p>Stormwater must only be discharged from the site in a manner that will not cause an environmental nuisance, having regard to:</p> <ul style="list-style-type: none"> (a) the intensity of runoff that already occurs on the site before any development has occurred for a storm event of 1% Annual Exceedance Probability (pre-development levels); (b) how the additional runoff and intensity of runoff that will be created by the subdivision for a storm event of 1% Annual Exceedance Probability, will be released at levels that are the same as those identified at the predevelopment levels of the subdivision; (c) whether any on-site storage devices, retention basins or other Water Sensitive Urban Design⁵ (WSUD) techniques are proposed within the subdivision and the appropriateness of their location; (d) overland flow paths for overflows during extreme events both internally and externally for the subdivision, so as to not cause a nuisance; and (e) the advice in a stormwater management report.
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BRE-P3.8 Tables

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

⁵ Water Sensitive Urban Design Engineering Procedures for Stormwater Management in Southern Tasmania or the Model for Urban Stormwater Improvement Conceptualisation (MUSIC), a nationally recognised stormwater modelling software package used to assess land development proposals based on local conditions including rainfall, land use and topography, is recognised as current best practice.

BRE-S1.0 Safeguarding St Helens Aerodrome Specific Area Plan

BRE-S1.1 Plan Purpose

The purpose of the Safeguarding St Helens Aerodrome Specific Area Plan is:

- BRE-S1.1.1 To ensure that development does not compromise future expansion of the runway and therefore the future safe air navigation.

BRE-S1.2 Application of this Plan

- BRE-S1.2.1 The specific area plan applies to the area of land designated as Safeguarding St Helens Aerodrome Specific Area Plan on the overlay maps and shown in Figure BRE-S1.1.

- BRE-S1.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in addition to the provisions of:

- (a) Landscape Conservation Zone; and
- (b) Utilities Zone,

as specified in the relevant provision.

BRE-S1.3 Local Area Objectives

This sub-clause is not used in this specific area plan.

BRE-S1.4 Definition of Terms

This sub-clause is not used in this specific area plan.

BRE-S1.5 Use Table

This sub-clause is not used in this specific area plan.

BRE-S1.6 Use Standards

This sub-clause is not used in this specific area plan.

BRE-S1.7 Development Standards for Buildings and Works

BRE-S1.7.1 Protection of airspace

This clause is in addition to the Landscape Conservation Zone – clause 22.4.2 and the Utilities Zone – clause 26.4.1.

Objective:	Buildings and works do not compromise the potential expansion of the runway and future operational air safety of the airport.	
Acceptable Solutions		Performance Criteria
A1 No Acceptable Solution.		P1 Buildings and works must not compromise the potential expansion of the runway and future operational air safety of the airport, having regard to: (a) any advice provided by: Airservices Australia; (b) The Civil Aviation Safety Authority; or (c) The airport operator.

BRE-S1.8 Development Standards for Subdivision

This sub-clause is not used in this specific area plan.

BRE-S1.9 Tables

This sub-clause is not used in this specific area plan.

BRE-S2.0 Stormwater Management Specific Area Plan

BRE-S2.1 Plan Purpose

The purpose of the Stormwater Management Specific Area Plan is:

- BRE-S2.1.1 That stormwater quality and quantity is managed to protect natural assets, infrastructure and property.

BRE-S2.2 Application of this Plan

- BRE-S2.2.1 The specific area plan applies to the area of land designated as Stormwater Management Specific Area Plan on the overlay maps.

- BRE-S2.2.2 In the area of land to which this plan applies, the provisions of the specific area plan are in addition to the provisions of:

- (a) General Residential Zone;
- (b) Low Density Residential Zone;
- (c) Village Zone;
- (d) Local Business Zone;
- (e) General Business Zone;
- (f) General Industrial Zone; and
- (g) Community Purpose Zone,

as specified in the relevant provision.

BRE-S2.3 Local Area Objectives

This sub-clause is not used in this specific area plan.

BRE-S2.4 Definition of Terms

This sub-clause is not used in this specific area plan.

BRE-S2.5 Use Table

This sub-clause is not used in this specific area plan.

BRE-S2.6 Use Standards

This sub-clause is not used in this specific area plan.

BRE-S2.7 Development Standards for Buildings and Works

BRE-S2.7.1 Stormwater management

This clause is in addition to:

- (a) General Residential Zone - clause 8.4 Development Standards for Dwellings and clause 8.5 Development Standards for Non-Dwellings
- (b) Low Density Residential Zone - clause 10.4 Development Standards for Dwellings and clause 10.5 Development Standards for Non-Dwellings;
- (c) Village Zone - clause 12.4 Development Standards for Building and Works;
- (d) Local Business Zone - clause 14.4 Development Standards for Building and Works;
- (e) General Business Zone - clause 15.4 Development Standards for Building and Works;
- (f) General Industrial Zone - clause 19.4 Development Standards for Building and Works; and
- (g) Community Purpose Zone - clause 27.4 Development Standards for Building and Works.

Objective:	That development provides for adequate stormwater management.
Acceptable Solutions	Performance Criteria
A1 Development must be: <ul style="list-style-type: none">(a) capable of connecting to the public stormwater system; or(b) permitted by the General Manager to discharge stormwater to a system other than the public stormwater system.	P1 Development must be capable of accommodating an on-site stormwater management system adequate for the development, having regard to: <ul style="list-style-type: none">(c) topography of the site;(d) the size and shape of the site;(e) soil conditions;(f) any existing buildings and any constraints imposed by existing development on the site;(g) any area of the site covered by impervious surfaces;(h) any watercourses on the land;(i) stormwater quality and quantity management targets identified in the State Stormwater Strategy 2010; and(j) any advice from a suitably qualified person on the seasonal water table at the site, risks of inundation, land instability or coastal erosion.

BRE-S2.8 Development Standards for Subdivision

This sub-clause is not used in this specific area plan.

BRE-S2.9 Tables

This sub-clause is not used in this specific area plan.

BRE-Site-specific Qualifications

Reference Number	Site reference	Folio of the Register	Description (modification, substitution or addition)	Relevant Clause in State Planning Provisions
BRE-11.1	12 Main Road, Weldborough	148985/1 234011/1 226420/1 247287/1 104676/10	An additional Discretionary Use Class for this site is: Hotel Industry with the qualification "If for alterations or additions to the Weldborough Hotel site."	Rural Living Zone – clause 11.2 Use Table
BRE-22.1	5 West Street, St Helens	131158/3	An additional Discretionary Use Class for this site is: Tourist Operation.	Landscape Conservation Zone – clause 22.2 Use Table

BRE-Code Lists

BRE-Table C3.1 Other Major Roads

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

BRE-Table C6.1 Local Heritage Places

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
BRE-C6.1.1	Not applicable	Ansons Bay	Not applicable	Not applicable	Not applicable	Description Bayley Rocks Specific Extent 30ha area 3km NE of Ansons Bay
BRE-C6.1.2	Not applicable	Ansons Bay	Not applicable	Not applicable	Not applicable	Description Bay of Fires Area Specific Extent 17ha area 6km SSE of Ansons Bay
BRE-C6.1.3	Not applicable	Blue Tier	Not applicable	Not applicable	Not applicable	Description

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
						Chintok Battery Complex
BRE-C6.1.4	Not applicable	Blue Tier	Not applicable	Not applicable	Not applicable	Description Blue Tier Rainforest
BRE-C6.1.5	Not applicable	Blue Tier	Not applicable	Not applicable	Not applicable	Description Bartholomew Griffiths Tunnel
BRE-C6.1.6	599	Eddystone Point	2986 Eddystone Point Road	Not applicable	Not applicable	Description Eddystone Light Station Specific Extent PID 6804536
BRE-C6.1.7	Not applicable	Eddystone Point	2986 Eddystone Point Road	Not applicable	Not applicable	Description Stone Cottages Specific Extent PID 6804536
BRE-C6.1.8	Not applicable	Eddystone Point	Not applicable	Not applicable	Not applicable	Description Georges Rock Nature Reserve Specific Extent 8km south of town
BRE-C6.1.9	Not applicable	Falmouth	Legge Street	Not applicable	108853/1	Description Falmouth Cemetery
BRE-C6.1.10	554	Falmouth	22464 Tasman Highway	Glencoe	Not applicable	Specific Extent PID 2751369
BRE-C6.1.11	553	Falmouth	22746 Tasman Highway	Enstone Park	141662/3	Not applicable
BRE-C6.1.12	Not applicable	Falmouth	Not applicable	Not applicable	Not applicable	Description St Partick's Foreland Specific Extent 11km SSE of town
BRE-C6.1.13	561	Fingal	Victoria Street	St Joseph's Catholic Church	Not applicable	Specific Extent PID 6412890
BRE-C6.1.14	560	Fingal	Seymour Street	St Andrew's Uniting Church	36242/1	Not applicable
BRE-C6.1.15	565	Fingal	Seymour Street	Not applicable	7/688	Description Schoolmaster's House and Primary School

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
						Specific Extent PID 6411900
BRE-C6.1.16	571	Fingal	4 Talbot Street	Not applicable	37857/1	Description Talbot Arm – Fingal Hotel
BRE-C6.1.17	5903	Fingal	3 Short Street	Not applicable	146213/1	Description Railway Station
BRE-C6.1.18	573	Fingal	2 Talbot Street	St Peter's Anglican Church	125334/1	Not applicable
BRE-C6.1.19	574	Fingal	57 Talbot Street	Not applicable	Not applicable	Description Stables Specific Extent PID 2623711
BRE-C6.1.20	5898	Fingal	11 Talbot Street	Kath's Milk Bar	29092/1	Description Shop (Sarich)
BRE-C6.1.21	5893	Fingal	4 Short Street	Council Chambers (Town Hall)	234290/1	Not applicable
BRE-C6.1.22	5894	Fingal	9 Talbot Street	Not applicable	196790/1	Description Fingal Post Office
BRE-C6.1.23	Not applicable	Fingal	22 Legge Street	Not applicable	20031/4	Description Yates Clog Factory
BRE-C6.1.24	566	Fingal	1 Stieglitz Street	Not applicable	234289/1	Description Convict Cells
BRE-C6.1.25	567	Fingal	2 Short Street	Not applicable	231468/1	Description Police Magistrate's House
BRE-C6.1.26	5918	Fingal	Legge Street	Fingal Probation Station	244747/8	Description Former Hospital
BRE-C6.1.27	10254	Fingal	14-16 Stieglitz Street	Fingal Probation Station	213930/4	Description 2 Houses
BRE-C6.1.28	10255	Fingal	18-20 Stieglitz Street	Fingal Probation Station	218997/3	Description House
BRE-C6.1.29	10256	Fingal	17 Russell Street	Fingal Probation Station	229216/6	Description Part of Fingal Probation Station
BRE-C6.1.30	559	Fingal	13 Russell Street	Fingal Probation Station	225097/1	Description Superintendent's Quarters
BRE-C6.1.31	570	Fingal	20 Talbot Street	Not applicable	17192/1	Description Former Tasmanian Hotel
BRE-C6.1.32	576	Fingal	31 Talbot Street	Not applicable	102652/2	Description

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
						Holders Store (two-storey dwelling)
BRE-C6.1.33	577	Fingal	33 Talbot Street	Not applicable	102652/1	Description Holders Store (shop section)
BRE-C6.1.34	556	Fingal	3635 Esk Main Road	Ormley	Not applicable	Specific Extent PID 2867898
BRE-C6.1.35	557	Fingal	3837 Esk Main Road	Rostrevor	Not applicable	Specific Extent PID 2867812
BRE-C6.1.36	558	Fingal	Mathinna Road	Malahide	29296/1 232668/1 232610/1 249994/2 242544/5 235523/1 249994/1 232669/1 131050/1 242544/6 242544/2 249994/3 119075/1 108669/1 202080/1 226339/1 119376/1 242544/3 234873/1 202081/1 242544/4 251643/1 133911/1 232611/1 245003/1 245002/1 131050/2 244595/1	Not applicable
BRE-C6.1.37	582	Goulds Country	317 Lottah Road	Not applicable	Not applicable	Description Council Chambers (former c1900)
BRE-C6.1.38	Not applicable	Goulds Country	20 Church Hill Road	Not applicable	235129/1	Description School House (former c1890)
BRE-C6.1.39	585	Goulds Country	320 Lottah Road	St Gabriel's Anglican Church	229707/1	Not applicable
BRE-C6.1.40	587	Goulds Country	165 Lottah Road	Union Church and Cemetery	203758/4	Not applicable

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
BRE-C6.1.41	Not applicable	Goulds Country	316 Lottah Road	Not applicable	130126/4	Description House - Former Post Office / Bakery
BRE-C6.1.42	5912	Mangana	26 Elizabeth Street	Mangana Catholic Church	Not applicable	Specific Extent PID 6413463
BRE-C6.1.43	5914	Mangana	13 Argyle Street	Not applicable	131665/1	Description Former Mangana School
BRE-C6.1.44	5913	Mangana	25 Elizabeth Street	Not applicable	133481/1	Description Mining Shop and Residence
BRE-C6.1.45	5908	Mathinna	104 High Street	Not applicable	252653/9	Description General Store and Post Office
BRE-C6.1.46	7957	Mathinna	4 Dunn Street	St George's Anglican Church	205368/1	Not applicable
BRE-C6.1.47	8347	Mathinna	35 King Street	Mathinna Catholic Church	134919/1	Not applicable
BRE-C6.1.48	Not applicable	Mathinna	Not applicable	Not applicable	Not applicable	Description Mount Victoria Rock Shelters Specific Extent 14km NNW of town
BRE-C6.1.49	Not applicable	Mathinna	Not applicable	Not applicable	Not applicable	Description Evercreech Forest Reserve Specific Extent 11km NE of town
BRE-C6.1.50	588	Pyengana	250 St Columba Falls Road	Not applicable	111273/5	Description Pyengana Hotel
BRE-C6.1.51	Not applicable	Scamander	Not applicable	Not applicable	Not applicable	Description Shelly Point Specific Extent 2km NW of town
BRE-C6.1.52	Not applicable	Stieglitz	St Helens Point Road	Not applicable	Not applicable	Description Chimney Lagoon
BRE-C6.1.53	Not applicable	Stieglitz	Aerodrome Road	Not applicable	Not applicable	Description Jocks Lagoon – Ramsar Wetland
BRE-C6.1.54	590	St Helens	295 Binalong Bay Road	Not applicable	138486/1	Description Black Swan Inn

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
BRE-C6.1.55	597	St Helens	12-14 Tasman Highway	Fairlea Homestead	35376/3	Not applicable
BRE-C6.1.56	593	St Helens	44 Cecilia Street	Not applicable	31503/2	Description Former Post Office
BRE-C6.1.57	598	St Helens	2 Tasman Highway	Queechy Homestead	123557/5 116055/1 123557/1	Not applicable
BRE-C6.1.58	594	St Helens	58 Cecilia Street	St Paul's Anglican Church	246160/1	Not applicable
BRE-C6.1.59	595	St Helens	60 Cecilia Street	Shop / Gallery	152076/1	Not applicable
BRE-C6.1.60	Not applicable	St Helens	Tully Street	Not applicable	Not applicable	Description Church of England Cemetery Specific Extent PID 6800754
BRE-C6.1.61	602	St Marys	6870 Esk Main Road	Cullenswood Estate	135934/1 135935/1	Not applicable
BRE-C6.1.62	602	St Marys	6870 Esk Main Road	Christ Church and Cemetery	135934/1 135935/1	Not applicable
BRE-C6.1.63	5905	St Marys	4529 Esk Main Road	Tullochgorum Railway Station	Not applicable	Specific Extent PID 6413260
BRE-C6.1.64	605	St Marys	365 Harefield Road	Harefield	120204/1 121724/1 121724/2	Not applicable
BRE-C6.1.65	604	St Marys	6332 Esk Main Road	Killymoon	100588/2 48313/1 142934/1	Not applicable
BRE-C6.1.66	606	St Marys	52 Main Street	Not applicable	20688/1	Description Bakery
BRE-C6.1.67	607	St Marys	50 Main Street	Not applicable	119315/1	Description Bakery Residence
BRE-C6.1.68	613	St Marys	Main Street	Not applicable	Not applicable	Description Railway Station Specific Extent PID 2554912
BRE-C6.1.69	10740	St Marys	Main Street	Not applicable	Not applicable	Description Rail yard tank, platform, ramp Specific Extent PID 2554912
BRE-C6.1.70	612	St Marys	48 Main Street	St Marys Hotel	53274/1	Not applicable

Reference Number	THR Number	Town/Locality	Street address	Property Name	Folio of the Register / PID	Description, Specific Extent, Statement of Local Historic Heritage Significance and Historic Heritage Values
BRE-C6.1.71	5906	St Marys	58-76 Gray Road	Not applicable	111915/1	Description Slab Slaughter House
BRE-C6.1.72	610	St Marys	38 Main Street	Not applicable	38464/1	Description Valley Trading Company
BRE-C6.1.73	616	Weldborough	12 Main Road	Weldborough Hotel	148985/1 234011/1 226420/1 247287/1 104676/10	Not applicable
BRE-C6.1.74	615	Weldborough	51 Main Road	Not applicable	111716/1	Description Cottages (Bakker)

BRE-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			

BRE-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			

BRE-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				

BRE-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
BRE-C6.5.1	Binalong Bay	Binalong Bay Foreshore and Gulch	Not applicable	Blue swift parrot breeding habitat Paperbark trees act as filter from storm water and remnant of significant vegetation community Remnant stand of blue gums on foreshore	Melaleuca ericifolia Eucalyptus globulus	Swamp paperbark and Blue Gum	45
BRE-C6.5.2	St Helens	Cameron Street	Not applicable	Avenue thought to have been planted by children during the 1930s	Corymbia ficifolia Quercus robur	Red fFlowering Gum and Oak Tree	10
BRE-C6.5.3	Scamander	Scamander Avenue	Not applicable	Main Avenue though Scamander	Corymbia ficifolia	Red Flowering Gum	23
BRE-C6.5.4	Goulds Country	Union Chrucl, 165 Lottah Road	229707/1	Planted in memory of Gordon and Norman Steel, killed in WW1. Sons of Percival Steel	Cypress	Pine Tree	2
BRE-C6.5.5	St Helens	Beauty Bay	Not applicable	Prime example of unpruned species	Quercus robur	Oak Tree	1
BRE-C6.5.6	St Helens	Parkside Jetty	Not applicable	Notable leaning foreshore tree	Eucalyptus species	Horizontal Gum Tree	1
BRE-C6.5.7	St Helens	Cecilia Street	Not applicable	Main avenue of trees in various stages	Ulmus procera	Avenue Trees	38
BRE-C6.5.8	St Helens	Tully Street	Not applicable	Long continuous avenue of tress on both sides of road	Ulmus ssp.	Avenue Elm Trees	63
BRE-C6.5.9	St Marys	Main Street	Not applicable	Main avenue of trees in two stages of life	Tillia cordata Quercus ssp.	Avenue ssp.Trees	44
BRE-C6.5.10	St Helens	Memorial Park 39-41 Cecilia Street	148070/1	Planted to commemorate WW1 battles	Phoenix canariensis	Palm Trees	2
BRE-C6.5.11	St Helens	Medea Park	31647/2	One of three large magnolias	Magnolia grandiflora	Magnolia	1

				Covenant on title protecting tree from removal or lopping			
BRE-C6.5.12	St Helens	20-22 Cecilia Street	56991/1	One of three large magnolias	Magnolia grandiflora	Magnolia	1
BRE-C6.5.13	St Helens	Catholic Church, 79 Cecilia Street	222710/1	Best example of species	Quercus robur	Oak Tree	1
BRE-C6.5.14	St Helens	Tully Street Cemetery	Not applicable	Good specimen and unusual species for Break O'Day	Araucaria bidwillii	Bunya Pine Tree	1
BRE-C6.5.15	Falmouth	Enstone Park, 22464 Tasman Highway	168326/1	Very large old walnut tree from early settlement; claimed to be the largest in southern hemisphere	Juglans species	Walnut Tree	1

BRE-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				

BRE-Table C8.2 Scenic Road Corridors

Reference Number	Scenic Road Corridor Description	Scenic Value	Management Objectives
BRE-C8.2.1	Tasman Highway – Great Eastern Drive. - Extends from the southern boundary of the planning area to St Helens	A diverse, ever-changing mix of landscapes either side of the Great Eastern Drive. The road provides views of the coastline, agricultural landscapes, bushland and other reserves.	(a) To maintain the dominant landscape elements when viewed from public roads; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE- C8.2.2	Esk Main Road - Running east-west from near Falmouth to further the western boundary of the planning area via	A rural and bush landscape, which changes as road users shift from the coastal to and inland setting.	(a) To maintain the dominant landscape elements when viewed from public roads; and (b) To reduce the visual contrast between buildings

	St Marys and Fingal		and works and the natural landscape.
BRE-C8.2.3	Elephant Pass Road - Extends north-south from St Marys to the Tasman Highway near Chain of Lagoons	A diverse mix of landscapes including bushland and rocky hills.	(a) To maintain the dominant landscape elements when viewed from public roads;; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE-C8.2.4	Eddystone Point Road and Ansons Bay Road - Extends north-south from Eddystone Point to St Helens	An ever-changing mix of landscapes that provides views of the coastline and bushland.	(a) To maintain the dominant landscape elements when viewed from public roads;; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE-C8.2.5	Binalong Bay Road and Gardens Road - Extends north-south from The Gardens to St Helens	An ever-changing mix of landscapes that provides views of the coastline and bushland.	(a) To maintain the dominant landscape elements when viewed from public roads; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE-C8.2.6	Mathinna - Running north-south from Mathinna to Fingal	A predominately vast rural landscape with an undulating ridgeline.	(a) To maintain the rural landscape as the dominant landscape element when viewed from public roads; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE-C8.2.7	St Columbia Falls Road - East-west from the Tasman Highway at Pyengana to St Columba Falls	A diverse landscape that extends from a cleared rural landscape in the east to forestry and vegetation in the west.	(a) To maintain the dominant landscape elements when viewed from public roads; and (b) To reduce the visual contrast between buildings and works and the natural landscape.
BRE-C8.2.8	Lottah Road	A diverse landscape that extends from a cleared rural landscape in the east to forestry and vegetation in the west.	(a) To the dominant landscape elements when viewed from public roads; and (b) To reduce the visual contrast between buildings and works and the natural landscape.

BRE-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
Ansons Bay	1	1.8	2.5	2.2
Beaumaris	1	1.8	2.5	2.2
Binalong Bay	1	1.8	2.5	2.2
Douglas River	0.9	1.8	2.5	2.2
Falmouth	1	1.8	2.5	2.2
Four Mile Creek	0.9	1.8	2.5	2.2
Scamander	1	1.8	2.5	2.2
Seymour	1	1.8	2.5	2.2
St Helens	1	1.8	2.5	2.2
Stieglitz	1	1.8	2.5	2.2
The Gardens	1	1.8	2.5	2.2
Upper Scamander	1	1.8	2.5	2.2
All other localities	1	1.8	2.5	2.2

BRE-Applied, Adopted or Incorporated Documents

Document Title	Publication Details	Relevant Clause in the LPS
<i>Practice Note Guideline for Landslide Risk Management 2007</i>	Australian Geomechanics Society Landslide Taskforce, Landslide Practice Note Working Group	BRE-P1.6.5 P1
<i>State Stormwater Strategy 2010</i>	DPIPWE, 2010	BRE-S2.7.1

Attachment 3

Land Use Planning and Approvals Act 1993

Notice under section 35KB(1)

Break O'Day Draft Local Provisions Schedule

13 July 2023

The Tasmanian Planning Commission (the Commission) directs under section 35KB(1) that the Break O'Day planning authority prepare draft amendments under Part 3B of the Act, of the Break O'Day draft Local Provisions Schedule (LPS) as follows, and must submit the draft amendments to the Commission within 42 days after the LPS comes into effect. The draft amendments are described below.

- 1.0 89 Upper Scamander Road, Scamander folios of the Register 26754/5, 26754/6, 141750/1, 137864/1 and 26754/1**
- 1.1 Apply the Rural Zone to the following property at Scamander as shown in Figure 1 below:
 - a. 89 Upper Scamander Road, Scamander folios of the Register 184514/1, 184514/2, 141750/1 and 137864/1 (including the intersecting reserved road) as shown in Figure 1 below:



Figure 1 - Application of the Rural Zone at Scamander

- 1.2 Apply the Landscape Conservation Zone to the following property at Scamander as shown in Figure 2 below:
- 89 Upper Scamander Road, Scamander folio of the Register 26754/1



- 1.3 Apply the Priority Vegetation Area overlay to the following properties at Scamander as shown in Figure 3 below:
- a. 89 Upper Scamander Road, Scamander folios of the Register 137864/1, 184514/1, 184514/2, 141750/1 and 26754/1 (including the intersecting reserved road)

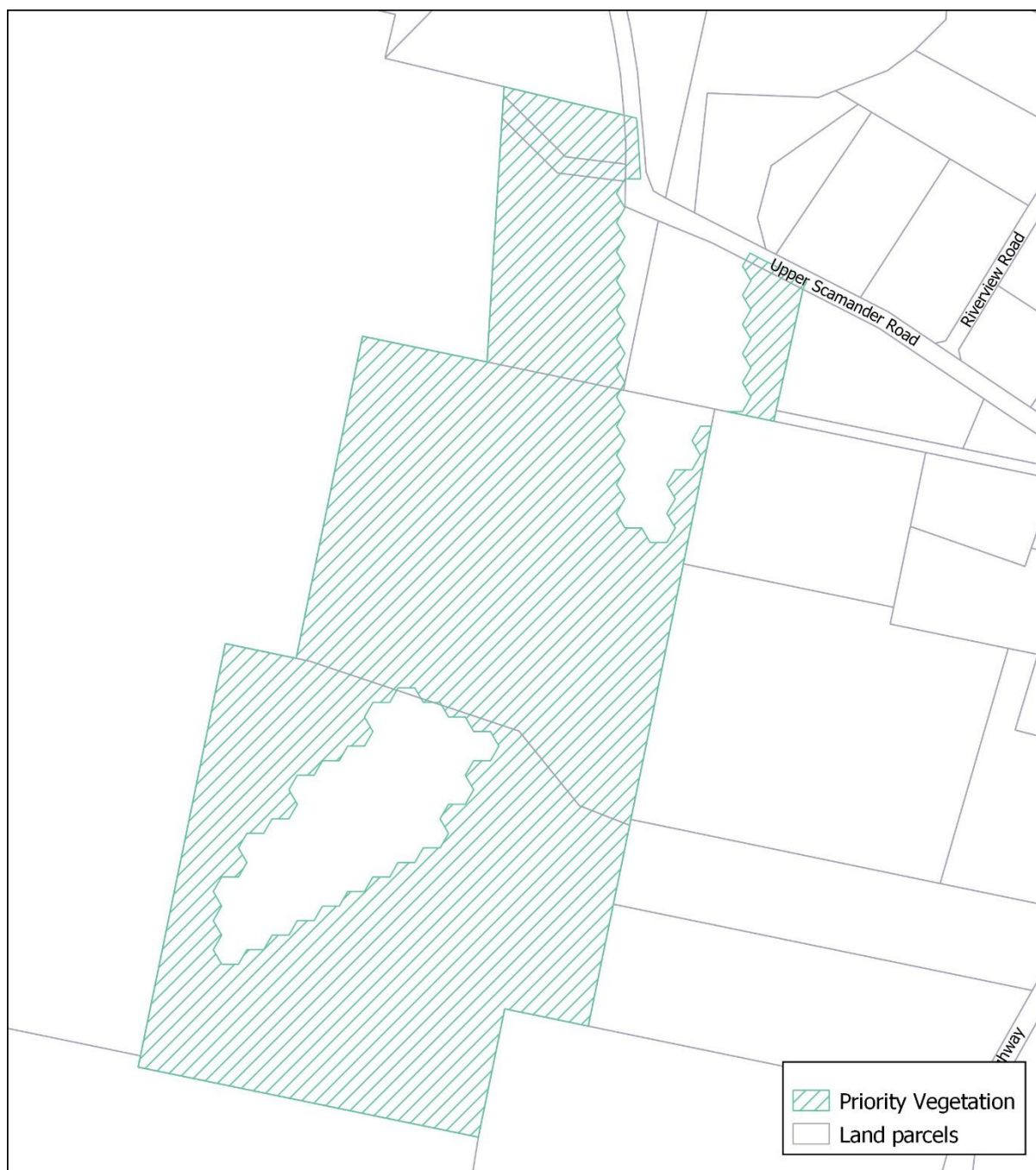


Figure 3 - Application of the Priority Vegetation Area overlay at Upper Scamander Road, Scamander

2.0 Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1

- 2.1 Apply the Landscape Conservation Zone to the following property at Weldborough as shown in Figure 4 below:
- Tasman Highway, Weldborough folios of the Register 228407/1, 236471/1 and 236472/1 including the intersecting reserved roads and Crown land

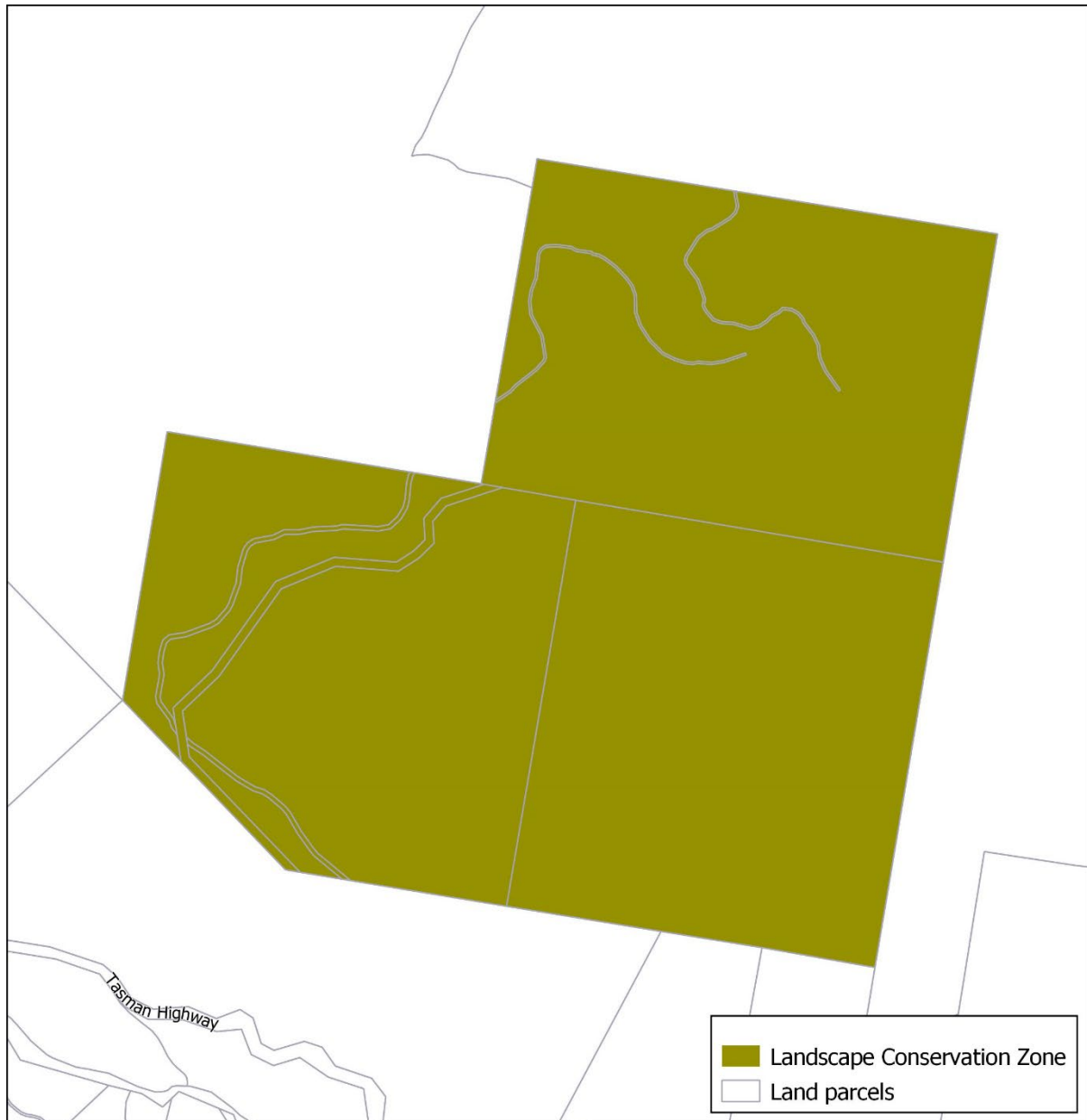


Figure 4 - Application of the Landscape Conservation Zone at Tasman Highway, Weldborough

3.0 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1

3.1 Apply the Landscape Conservation Zone to the following property at St Marys as shown in Figure 5 below:

- a. 180 Gillies Road, St Marys folios of the Register 120232/1, 206762/1 and 120054/1 including the intersecting reserved roads



Figure 5 - Application of the Landscape Conservation Zone at Gillies Road, St Marys

4.0 Bay Close, Binalong Bay Road and Sunshine Court, St Helens

4.1 Apply the Rural Living Zone (subdivision category A) to the following properties at Bay Close, Binalong Bay Road and Sunshine Court, St Helens as shown in Figure 6 below:

- a. 1 Bay Close, St Helens folio of the Register 38962/1;
- b. 2 Bay Close, St Helens folio of the Register 38962/2;
- c. 3 Bay Close, St Helens folio of the Register 38962/3;
- d. 4 Bay Close, St Helens folio of the Register 38962/4;
- e. 5 Bay Close, St Helens folio of the Register 38962/5;
- f. LGA Subdivision Road Bay Close, St Helens folio of the Register 38962/7;
- g. 484 Binalong Bay Road, St Helens folio of the Register 152563/0;
- h. 4 Sunshine Court, St Helens folio of the Register 38962/26;
- i. 6 Sunshine Court, St Helens folio of the Register 38962/25;
- j. 8 Sunshine Court, St Helens folio of the Register 38962/24;
- k. Footway Sunshine Court, St Helens folio of the Register 38962/30;
- l. 4 Sunshine Court, St Helens folio of the Register 38962/26;
- m. 11 Sunshine Court, St Helens folio of the Register 38962/8;
- n. 13 Sunshine Court, St Helens folio of the Register 38962/9;
- o. 16 Sunshine Court, St Helens folio of the Register 38962/23;
- p. 18 Sunshine Court, St Helens folio of the Register 38962/22;
- q. 20 Sunshine Court, St Helens folio of the Register 38962/21;
- r. 22 Sunshine Court, St Helens folio of the Register 38962/20;
- s. 23 Sunshine Court, St Helens folio of the Register 38962/10;
- t. 24 Sunshine Court, St Helens folio of the Register 38962/19;
- u. 25 Sunshine Court, St Helens folio of the Register 38962/11;
- v. 26 Sunshine Court, St Helens folio of the Register 38962/18;
- w. 27 Sunshine Court, St Helens folio of the Register 38962/12;
- x. 28 Sunshine Court, St Helens folio of the Register 38962/17;
- y. 29 Sunshine Court, St Helens folio of the Register 38962/13;
- z. 30 Sunshine Court, St Helens folio of the Register 38962/16;
- aa. 32 Sunshine Court, St Helens folio of the Register 38962/15;
- bb. 36 Sunshine Court, St Helens folio of the Register 38962/14; and
- cc. LGA Subdivision Road Sunshine Court, St Helens folio of the Register 38962/29.

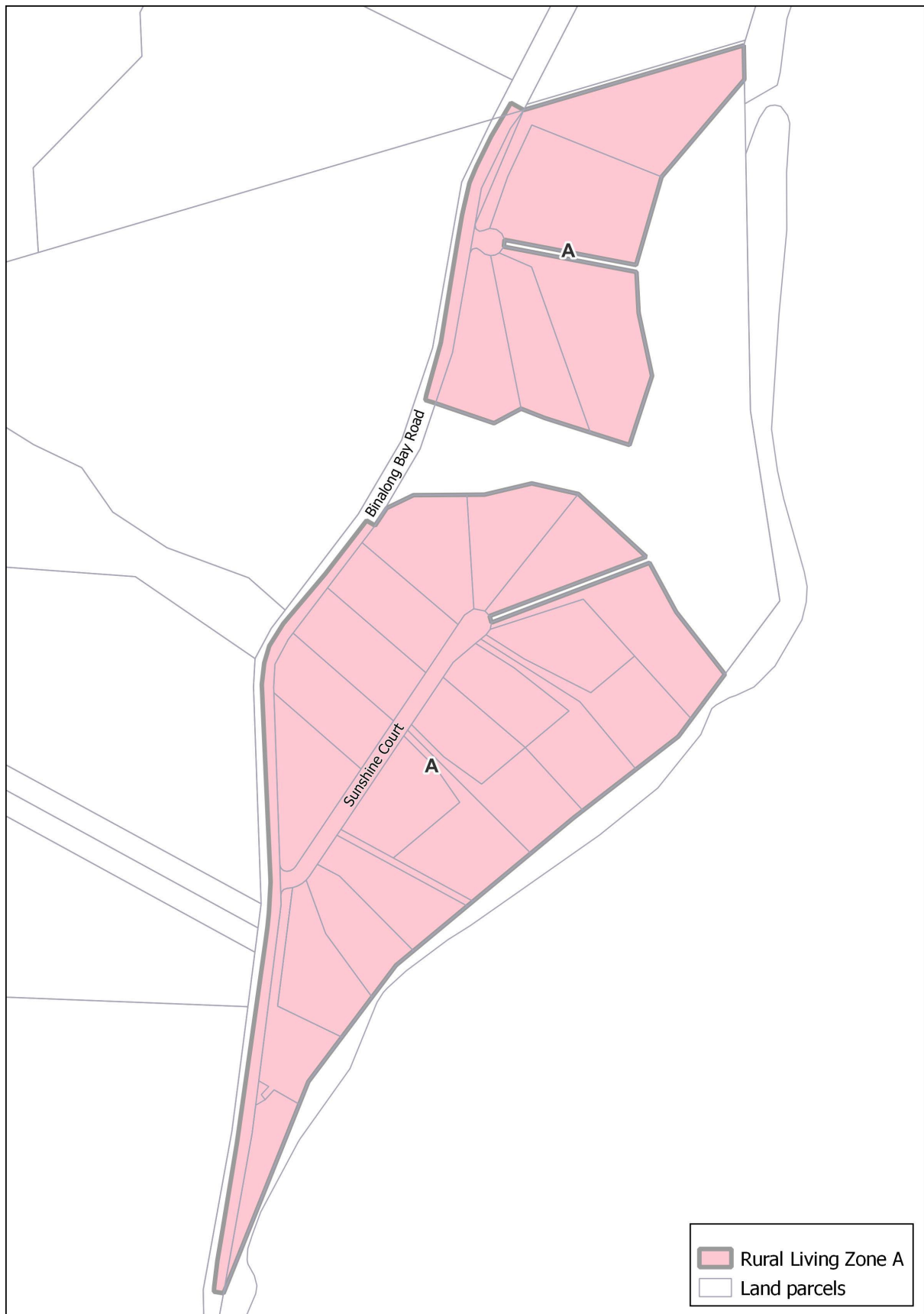


Figure 6 - Application of the Rural Living Zone at Bay Close, Binalong Bay Road and Sunshine Court, St Helens

5.0 Heritage Road, St Helens

5.1 Apply the Rural Living Zone (subdivision category C) to the following properties at Heritage Road, St Helens as shown in Figure 7 below:

- a. 5 Heritage Road, St Helens folio of the Register 36169/1;
- b. 13 Heritage Road, St Helens folio of the Register 36169/2;
- c. 18 Heritage Road, St Helens folios of the Register 130597/1 and 130597/2;
- d. 25 Heritage Road, St Helens folio of the Register 36169/3;
- e. 27 Heritage Road, St Helens folio of the Register 39520/1;
- f. 30 Heritage Road, St Helens folio of the Register 156294/3;
- g. 32 Heritage Road, St Helens folio of the Register 110059/2;
- h. 33 Heritage Road, St Helens folio of the Register 39520/2;
- i. 34 Heritage Road, St Helens folio of the Register 110059/3;
- j. 35 Heritage Road, St Helens folio of the Register 39520/3;
- k. 45 Heritage Road, St Helens folio of the Register 39520/4;
- l. 53 Heritage Road, St Helens folio of the Register 39520/5;
- m. 54 Heritage Road, St Helens folio of the Register 110059/4;
- n. 56 Heritage Road, St Helens folio of the Register 154684/5;
- o. 57 Heritage Road, St Helens folio of the Register 39520/6;
- p. 58 Heritage Road, St Helens folio of the Register 154684/6;
- q. 78 Heritage Road, St Helens folio of the Register 154684/7;
- r. Heritage Road, St Helens folio of the Register 156294/2; and
- s. road reservation to road centreline.

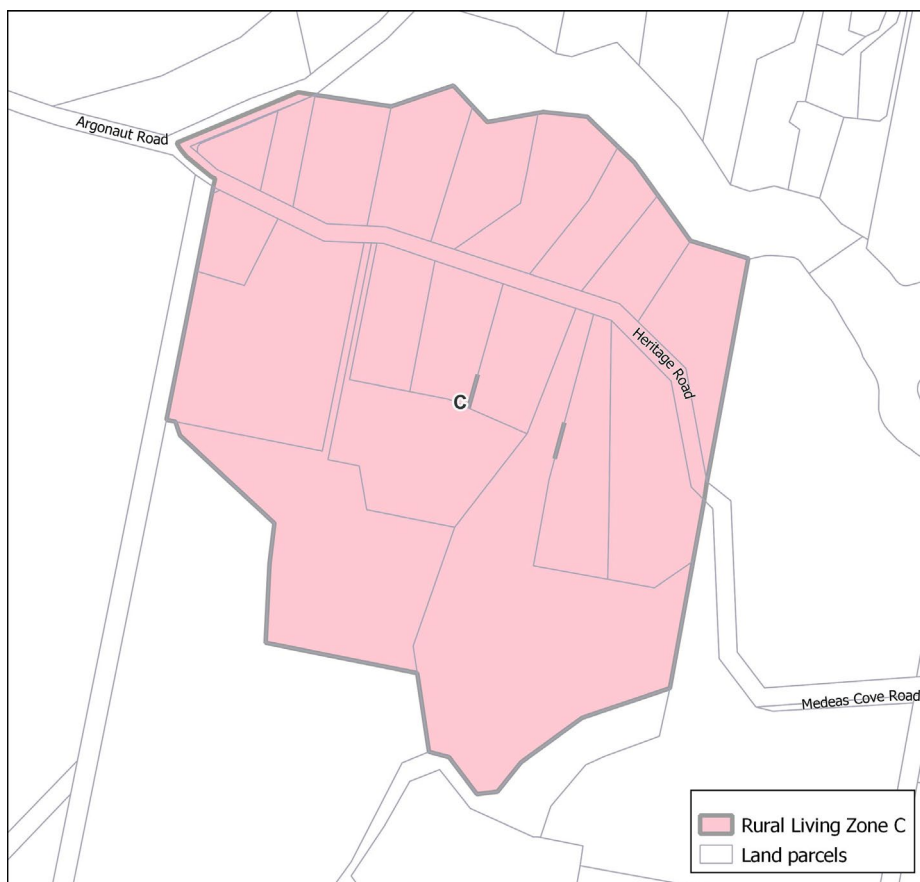


Figure 7 - Application of the Rural Living Zone at Heritage Road, St Helens

6.0 Seabreeze Court, Beaumaris

6.1 Apply the Rural Living Zone (subdivision category C) to the following properties at Seabreeze Court, Beaumaris as shown in Figure 8 below:

- a. 4 Seabreeze Court, Beaumaris folio of the Register 148628/1;
- b. 6 Seabreeze Court, Beaumaris folio of the Register 148628/2;
- c. 9 Seabreeze Court, Beaumaris folio of the Register 148628/6;
- d. 11 Seabreeze Court, Beaumaris folio of the Register 148628/5;
- e. 12 Seabreeze Court, Beaumaris folio of the Register 148628/3;
- f. Seabreeze Court, Beaumaris folio of the Register 148628/4;
- g. 107 Tasman Highway, Beaumaris folio of the Register 138498/1;
- h. 115 Tasman Highway, Beaumaris folio of the Register 141808/2;
- i. 133 Tasman Highway, Beaumaris folio of the Register 233427/1;
- j. 135 Tasman Highway, Beaumaris folio of the Register 22607/2;
- k. 137 Tasman Highway, Beaumaris folio of the Register 138198/1;
- l. 141 Tasman Highway, Beaumaris folio of the Register 62113/29;
- m. 143 Tasman Highway, Beaumaris folio of the Register 62113/28; and
- n. Part of LGA Subdivision Road Seabreeze Court, Beaumaris folio of the Register 148628/100.

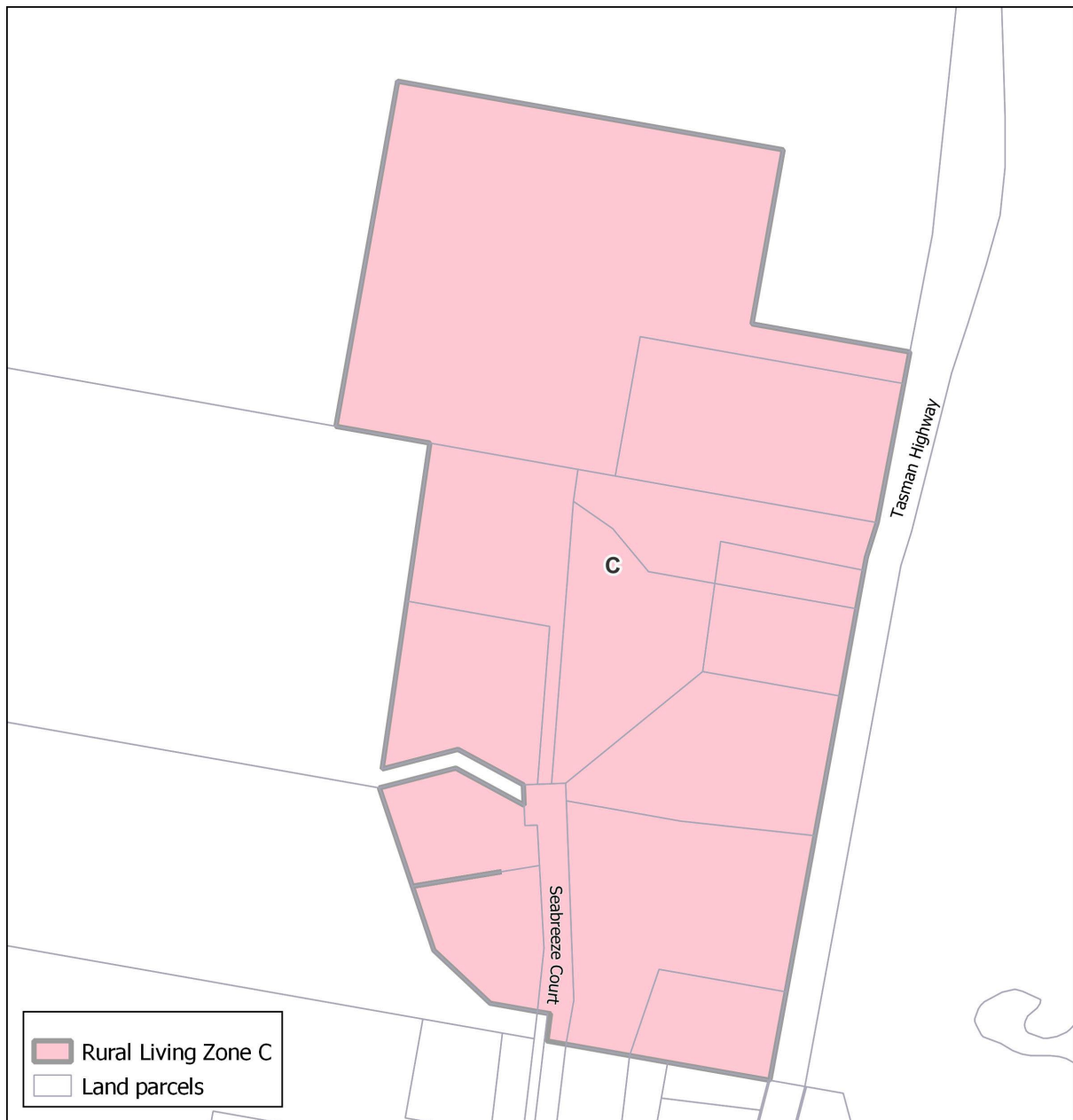


Figure 8 - Application of the Rural Living Zone at Bay Close, St Helens