

31<sup>st</sup> May 2023

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Representation about the Kentish Draft LPS – proposal to change the zoning of thirteen properties with conservation covenants to Landscape Conservation

## **Summary of Representation**

Conservation Landholders Tasmania (CLT) has reviewed the Kentish Draft LPS Zone Maps and the Supporting Report and believes that thirteen of the sixteen properties with conservation covenants, reserved for the protection of biodiversity, should be rezoned to Landscape Conservation based on Guidelines LCZ 1 and LCZ2, when read together with Guidelines RZ1 and AZ6, and the 22 April 2021 Planners Portal advice, <u>subject to landowner agreement</u>.

Reserve Name	Property Address	Property	Title
		ID	References
The Valley	'THE VALLEY' - ELLIS FLATS RD LOWER	6494873	216105/1
	WILMOT TAS 7310		
Don River	Lot 2 ALLISONS RD LOWER BARRINGTON TAS	2844178	153050/2
	7306		
Lower Barrington #1	'FEATHER TOP' - 144 ALLISONS RD LOWER	6481896	66838/1
	BARRINGTON TAS 7306		
Lower Barrington #2	145 ALLISONS RD LOWER BARRINGTON TAS	1941101	132884/1
	7306		
Noonameena Wilmot	'NOONAMEENA' - 250 MASONS RD WILMOT	7330707	244488/1
	TAS 7310		
Erriba	675 CRADLE MOUNTAIN RD ERRIBA TAS 7310	6494195	202205/1
Erriba #2	705 CRADLE MOUNTAIN RD ERRIBA TAS 7310	2256958	140068/2

ABN 47 746 051 320 website <u>www.clt.asn.au</u>

post 675 Cradle Mountain Road Erriba TAS 7310

Reserve Name	Property Address	Property	Title
		ID	References
Kelly's Cage	188 KELLYS CAGE RD WEEGENA TAS 7304	1593709	116282/2
Iris Farm	2100 CRADLE MOUNTAIN RD MOINA TAS 7310	6495948	235186/1
Cider Vale	CRADLE MOUNTAIN RD MOINA TAS 7310	7330651	104424/1
Daisy Dell #2	CRADLE MOUNTAIN RD MOINA TAS 7310	3129088	119439/3 119439/4
Daisy Dell	2706 CRADLE MOUNTAIN RD MIDDLESEX TAS 7306	3131591	119439/2
Badger Box Lorinna	928 LORINNA RD LORINNA TAS 7306	3361530	168850/1

The natural values within these Reserves have already been identified for protection and conservation by the Minister for Environment and Landscape Conservation Zone should be applied during the current Draft Local Provisions Schedule assessment process given that Landscape Conservation zone was inadvertently not applied when drafting the LPS.

For the three properties at Erriba currently proposed for Agriculture Zone, the Priority Vegetation Area overlay should also be applied to these three properties as per the REM layer.

Tasmanian Land Conservancy, the owners of the Vale of Belvoir private reserve protected by conservation covenant, supports the retention of the Environmental Management Zone for this property.

Reserve Name	Property Address	Property	Title
		ID	References
Vale of Belvoir	BELVOIR RD MIDDLESEX TAS 7306	7559085	252075/1
			209013/1
			134978/1
			111271/3
			111271/4
			111271/2
			135860/1
			111271/1

In keeping with the 22 April 2021 Planners Portal advice, the remaining two properties with conservation covenants in the Kentish municipality, have not been recommended for rezoning to Landscape Conservation Zone due to their size and isolation from other covenanted land or land zoned Environmental Management.

Reserve Name	Property Address	Property	Title
		ID	References
Railton	251 NEW BED RD RAILTON TAS 7305	6488756	238969/1
Claude Road	120 FEBEYS RD CLAUDE ROAD TAS 7306	6490709	207230/1

### Background

Conservation Landholders Tasmania (CLT) is an educational trust. Conservation landholders including those with land reserved by conservation covenant are the beneficiaries of the Trust. In Tasmania there are currently about 935 reserves under conservation covenant totaling 111,000 ha, or 4.2% of the private property in the state. The Trustees organise field days and forums on topics of relevance and interest to these conservation landholders. CLT has been supported by the three NRMs and the Tasmanian Land Conservancy for over 10 years.

In late 2019 CLT became aware that private properties with land reserved for their significant natural values are routinely being rezoned from Rural Resource to Rural or Agriculture by local planning authorities in their Draft LPS. CLT considers that most of this reserved land is more appropriately zoned as Landscape Conservation.

#### The application of Landscape Conservation Zone in the Kentish Draft LPS

The Kentish planning authority did not consider the application of the Landscape Conservation within the municipality. The only explanation provided by the planning authority is on p 65, Section 3.1, which states

For the most part, the Kentish Draft LPS carries through existing Interim Planning Scheme zoning, as these correlated with the zone application guidelines.

Appendix 1 of the Supporting Report includes the RMCG Consultants Report which provides Decision Rules for the application of the new TPS Zones Agriculture and Rural for land identified in the Agricultural Land Mapping Project (ALMP). It would appear that RMCG were instructed not to consider Landscape Conservation Zone even though their widely used Decision Tree required consideration of Landscape Conservation Zone for private reserves under a conservation covenant (see p 168).

The planning authority failed to consider the Commission's advice to planning authorities posted on the Planner Portal on 22 April 2021 about the application of Landscape Conservation Zone or Environmental Management Zone to land protected by conservation covenant.

Guideline No.1 for both the Landscape Conservation Zone (LCZ) and Environmental Management Zone (EMZ) indicate that land which contains a conservation covenant will invariably have values that can result in the land being suitable for zoning in either the EMZ or LCZ.

Refer to Appendix A of this representation for the complete advice about the circumstances where Landscape Conservation Zone is more appropriate than Agriculture or Rural Zone.

The Planning Authority's non-consideration of 13 of the covenanted properties within the municipality for rezoning to Landscape Conservation is an unfortunate oversight that can be remedied in its Section 35F Report.

### Private land in Kentish municipality reserved for the protection and conservation of biodiversity

In the Kentish planning area there are 16 properties containing 1,233 ha of private reserved land protected by conservation covenant distributed across 24 titles. This represents 1.1 % of the land in the municipality.

All of this land is included in the Tasmanian Reserve Estate which is land reserved to be managed for biodiversity conservation under Tasmania's Regional Forest Agreement. All of this land is also part of Australia's National Reserve System thereby contributing to the fulfillment 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 (CAPAD 2020) available at https://www.environment.gov.au/land/nrs/science/capad.

The landscape values within these Reserves have already been identified for protection and conservation by both the State and Federal Ministers for the Environment. Details of the natural values are contained in the Nature Conservation Plans which are held by the Private Land Conservation Program in DPIPWE. These natural values were 'ground-truthed' by DPIPWE or Tasmanian Land Conservancy ecologists when the Reserves were established.

## Case for rezoning many of these properties to Landscape Conservation

Of the 16 properties with Private Reserves listed in the Summary, CLT considers that 13 of the 15 properties currently zoned Rural or Agriculture in the Draft Zone Maps, should have Landscape Conservation Zone applied to them. One property should remain as Environmental Management Zone as requested by the landowner, Tasmanian Land Conservancy. The other two properties were not considered because of their relative size and isolation from other land with similar values.

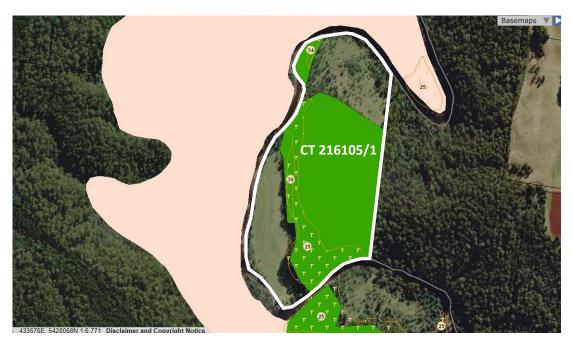
Titles that are fully reserved as well as titles that are partly reserved, where the non-reserved part is unsuitable for agriculture, should therefore be zoned as Landscape Conservation, as indicated by the Commission's 22 April 2021 Q&A on the Planners Portal.

Details of the 13 properties are provided below including ListMap screenshots of the Tasmanian Reserve Estate (green areas), Threatened Flora Points (light green triangles), Threatened Fauna Points (red squares) and Threatened Native Vegetation Communities (numbered areas with 'T' pattern) layers. Where there are adjoining covenanted properties these have been discussed together.

## The Valley Reserve (CAPAD 2020 Row Nos 2518-2519)

Address 'THE VALLEY' - ELLIS FLATS RD LOWER WILMOT TAS 7310

PID 6494873 Title Ref 216105/1



The 21.6 ha The Valley Reserve covers 59% of the 36.6 ha CT 216105/1 (solid white border). The title adjoins the municipality boundary with Central Coast municipality which is located on the eastern side of the Wilmot River riparian zone. Across the river to the south is another covenanted property and is half surrounded by a Sustainable Timbers Tasmania (STT) Informal Reserve to its west (pale pink), both in the Central Coast municipality.



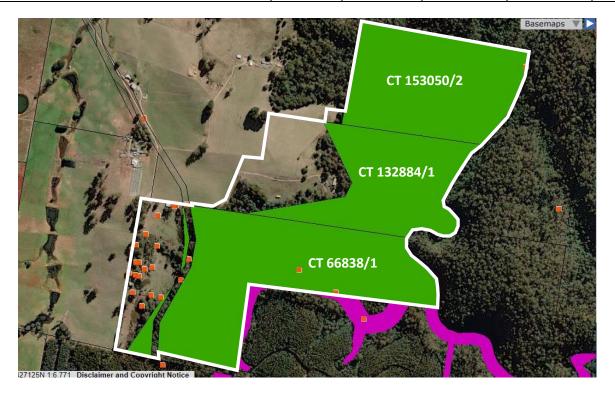
The ListMap image above, including the TPS Zones layer, shows that the Wilmot River riparian zone surrounding CT 216105/1 is zoned Environmental Management in the Central Coast LPS.

It is proposed that CT 216105/1 is rezoned from Rural to Landscape Conservation given that it adjoins Crown Land containing the Wilmot River and riparian zone zoned Environmental Management, consistent with the Planners Portal advice about connectivity with land zoned for similar values.

The Valley Reserve contains areas of three different threatened vegetation communities, No 25 *Eucalyptus viminalis* wet forest, No 34 Riparian scrub, and No 39 Wetlands as listed in Schedule 3A of the *Nature Conservation Act 2002*. Further details of the natural values protected by this Reserve are in the Nature Conservation Plan held by Private Land Conservation Program in DNRE.

**Don River Reserve** (CAPAD 2020 Row No 1444) **Lower Barrington #1 Reserve** (CAPAD 2020 Row Nos 1894-1896) **Lower Barrington #2 Reserve** (CAPAD 2020 Row No 1897)

Addresses	PIDs	Title Refs	Title Area (ha)	Reserve Area (ha)	Percent reserved
Lot 2 ALLISONS RD LOWER BARRINGTON TAS 7306	2844178	153050/2	18.2	17.9	98%
'FEATHER TOP' - 144 ALLISONS RD LOWER BARRINGTON TAS 7306	6481896	66838/1	31.0	25.2	81%
145 ALLISONS RD LOWER BARRINGTON TAS 7306	1941101	132884/1	23.3	14.1	61%
		Total	69.5	57.2	82%



The combined Don River and Lower Barrington #1 and #2 Reserves have an area of 57.2 ha and cover 82% of the 69.5 ha for the three titles. Residential dwellings are located in the non-covenanted areas for CT 66838/1 and CT 132884/1, and a 0.25 ha area in the south-west corner of CT 153050/2 is set aside for future residential use to enable the landowner to be on site to manage protect the natural values within the Don River Reserve. The adjoining purple areas to the south of CT 66838/1 are classed as Other Private Reserve.

It is proposed that three adjoining titles (solid white border), including the Reserved Road intersecting CT 66838/1, are rezoned from Rural to Landscape Conservation given their connectivity and combined size. The non-reserved land on the three titles is unsuitable and not used for agriculture. The rezoning will have no impact on titles to the west proposed for the Agriculture Zone.

The ListMap image above indicates various recorded sightings of threatened fauna across the combined Reserves. These include the species listed in Schedules 3-5 of the *Threatened Species Protection Act 1995* and/or the *Environment Protection and Biodiversity Conservation Act 1999*:

- Endangered Accipiter novaehollandiae (Grey goshawk)
- Vulnerable Astacopsis gouldi (Giant freshwater crayfish)
- Rare Dasyurus maculatus (Spotted tail quoll)
- Endangered Aquila audax subsp. Fleayi (Wedge-tailed eagle)
- Endangered Lathamus discolor (Swift parrot)
- Endangered Sarcophilus harrisii (Tasmanian devil)
- Vulnerable Perameles gunnii (Eastern barred bandicoot)

Further details of the natural values protected by these three Reserves are in the respective Nature Conservation Plana held by Private Land Conservation Program in DNRE.

Noonameena Wilmot Reserve (CAPAD 2020 Row No 2103) Erriba Reserve (CAPAD 2020 Row No 1458) Erriba #2 Reserve (CAPAD 2020 Row No 1459)

Addresses	PIDs	Title Refs	Title Area (ha)	Reserve Area (ha)	Percent reserved
'NOONAMEENA' - 250 MASONS RD WILMOT TAS 7310	7330707	244488/1	26.0	13.2	51%
675 CRADLE MOUNTAIN RD ERRIBA TAS 7310	6494195	202205/1	30.6	20.3	66%
705 CRADLE MOUNTAIN RD ERRIBA TAS 7310	2256958	140068/2	10.0	10.0	100%
		Total	66.6	43.5	65%



The combined Noonameena Wilmot, Erriba and Erriba #2 Reserves have an area of 43.5 ha and cover 85% of the 66.6 ha for the three titles. CT 202205/1 and CT 244488/1 are connected by the 15.9 ha unnamed Conservation Area (golden brown colour) on Crown Land, increasing the total area of reserved land to 82.5 ha. Residential dwellings are located in the non-covenanted areas for CT 202205/1 and CT 244488/1, and a residential dwelling is located in a 0.7 ha domestic zone in the northern part of the covenanted land.

It is proposed that all of CT 140068/1 and CT 202205/1, and 18.4 ha (71%) of CT 244488/1 (solid white borders), are rezoned from Agriculture to Landscape Conservation given their connectivity and combined size. The non-reserved land on CT 140068/1 and CT 202205/1 and the non-reserved forested land in the northwest corner of CT 244488/1 are unsuitable and not used for agriculture. The 7.6 ha of non-covenanted land in the southeast corner of CT 24488/1 (dashed

white line) should remain as Agriculture as there is a clear demarcation of land uses within the title and the zone boundary is readily defined by four grid points on the covenant boundary as follows:

Latitude	Longitude			
-41.43391	146.14631			
-41.43206	146.14703			
-41.43137	146.14850			
-41.43116	146.15033			

None of the three titles appear in the Land Potentially Suitable for Agriculture Layer (ALMP Map 2) and only the non-covenanted land in the northwest corner of CT 202205/1 and the southeast corner of CT 244488/1 was included in the Initial Analysis (ALMP Map 1).



The Kentish Draft Zone Map shows the connectivity of the three titles with the Conservation Area and each other, and the areas within the three titles proposed for rezoning to Landscape Conservation (solid bright green lines). The dashed white line indicates the 7.6 ha area within CT 244488/1 proposed to remain within the Agriculture Zone. Spot zoning is not an issue as the Environmental Management and Landscape Conservation Zones are considered to be zones protecting similar values on public and private land, respectively.

In addition to the rezoning the Priority Vegetation Area overlay should be added to these three titles, except the 7.6 ha area within CT 244488/1 as identified in the REM layer. The rezoning will have no impact on surrounding titles proposed for the Agriculture Zone.

The three Private Reserves contain areas of two threatened vegetation communities, No 25 *Eucalyptus viminalis* wet forest and No 29 Highland poa grassland, as listed in Schedule 3A of the

Nature Conservation Act 2002. The combined Reserve also provide habitat for the endangered Sarcophilus harrisii (Tasmanian devil) as listed in Schedule 3 of the Threatened Species Protection Act 1995. Further details of the natural values protected by these Reserves are in the Nature Conservation Plans held by Private Land Conservation Program in DNRE.

## Kelly's Cage Reserve (CAPAD 2020 Row Nos 1777-1778)

Address 188 KELLYS CAGE RD WEEGENA TAS 7304

PID 1593709 Title Refs 116282/2



The 17.7 ha Kelly's Cage Reserve covers 92% of the 19.2 ha CT 116282/2 (solid white border). The title adjoins the Mersey River riparian zone. A residential dwelling is located in the 1.5 ha non-covenanted area. Across the river to the northwest and west in the Meander Valley municipality are other covenanted properties and it also adjoins a Sustainable Timbers Tasmania (STT) Informal Reserve to its southwest (pale pink).



The Draft Zone Map image above shows that the Mersey River riparian zone to the north and west of CT 116282/2 is zoned Environmental Management.

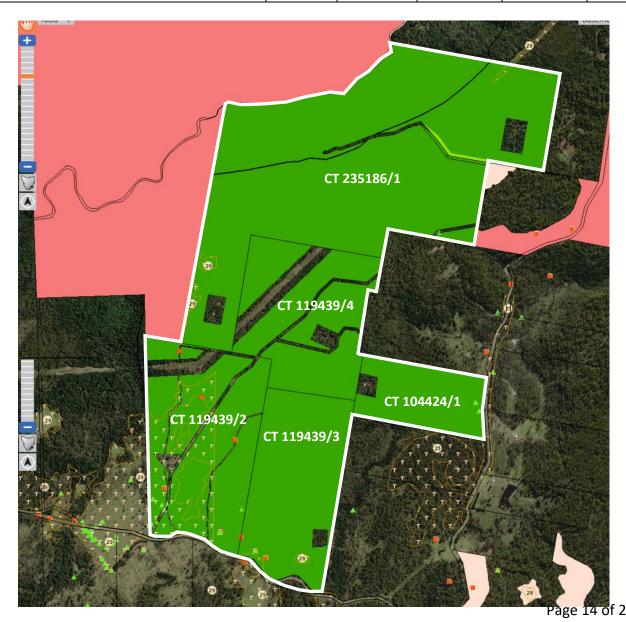
It is proposed that CT 116282/2 is rezoned from Rural to Landscape Conservation given that it adjoins Crown Land containing the Mersey River and riparian zone zoned Environmental

Management, consistent with the Planners Portal advice about connectivity with land zoned for similar values. The small area of non-covenanted land is unsuitable and not used for agriculture.

The Kelly's Cage Reserve contains a small pocket of the threatened vegetation community No 34 Riparian scrub as listed in Schedule 3A of the *Nature Conservation Act 2002*. It also contains the vulnerable *Desmodium gunnii* (Southern ticktrefoil) as listed in Schedule 4 of the *Threatened Species Protection Act 1995*. Further details of the natural values protected by this Reserve are in the Nature Conservation Plan held by Private Land Conservation Program in DNRE.

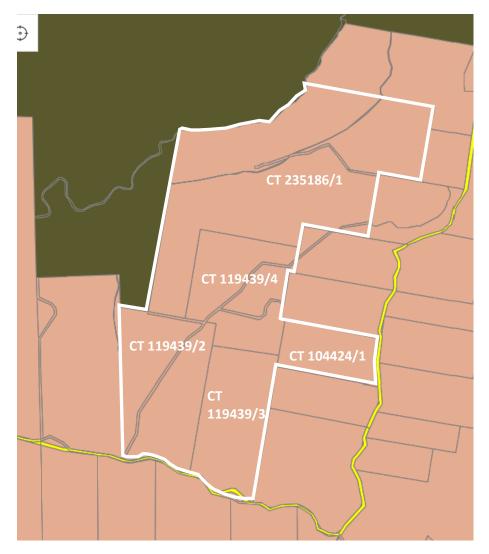
Iris Farm Private Reserve (CAPAD 2020 Row Nos 3621-3624)
Cider Vale Reserve (Not listed in CAPAD 2020)
Daisy Dell #2 Reserve (Not listed in CAPAD 2020)
Daisy Dell Reserve (Not listed in CAPAD 2020)

Addresses	PIDs	Title Refs	Title Area (ha)	Reserve Area (ha)	Percent
			· '	Area (IIa)	reserved
2100 CRADLE MOUNTAIN RD MOINA	6495948	235186/1	291.9	282.6	97%
TAS 7310					
CRADLE MOUNTAIN RD MOINA TAS	7330651	104424/1	42.0	39.8	95%
7310					
CRADLE MOUNTAIN RD MOINA TAS	3129088	119439/3	86.5	82.8	96%
7310		119439/4	90.0	75.4	84%
2706 CRADLE MOUNTAIN RD	3131591	119439/2	106.0	94.9	90%
MIDDLESEX TAS 7306					
		Total	616.4	575.5	93%



The combined Iris Farm, Cider Vale, Daisy Dell #2 and Daisy Dell Reserves have an area of 575.5 ha and cover 93% of the 616.4 ha for the five titles. Residential dwellings are located in the non-covenanted areas for CT 235186/1 and CT 104424/1, and there are also small non-covenanted areas in CT 119439/4 and CT 119439/3 set aside for future residential use. The adjoining dark pink areas to the northwest and east are classed as Future Potential Production Forest.

CT 235186/1, CT 119439/4 and CT 119439/2 are intersected by the Electricity Transmission Corridor for the Farrell-Sheffield 220 kV transmission line but only the latter two titles have excluded these areas from the covenanted land.



The Draft Zone Map image above shows that the cluster of five titles adjoins Crown land to its northwest zoned Environmental Management.

It is proposed that all five adjoining titles (solid white border), including the Reserved Roads intersecting the titles, are rezoned from Rural to Landscape Conservation given their connectivity to land zoned for similar values and their combined size. The non-reserved land on each of the titles is unsuitable and not used for agriculture.

The five Private Reserves contain areas of the threatened vegetation community No 29 Highland poa grassland, as listed in Schedule 3A of the *Nature Conservation Act 2002*. The combined Reserves also contained the rare *Rhodanthe anthemoides* (Chamomile sunray) and *Hovea Montana* (Mountain purplepea), and the endangered *Leucochrysum albicans subsp.Tricolor* (Grassland paperdaisy), as listed in Schedules 5 and 3, respectively, of the *Threatened Species Protection Act 1995*.

The combined Reserves also contain and provide habitat for the endangered *Dasyurus viverrinus* (Eastern quoll) and *Sarcophilus harrisii* (Tasmanian devil) as listed in Schedule 3 of the *Threatened Species Protection Act 1995*. Further details of the natural values protected by these Reserves are in the Nature Conservation Plans held by Private Land Conservation Program in DNRE. Details of the natural values at Daisy Dell are also available at <a href="https://tasland.org.au/reserves/daisy-dell/">https://tasland.org.au/reserves/daisy-dell/</a>

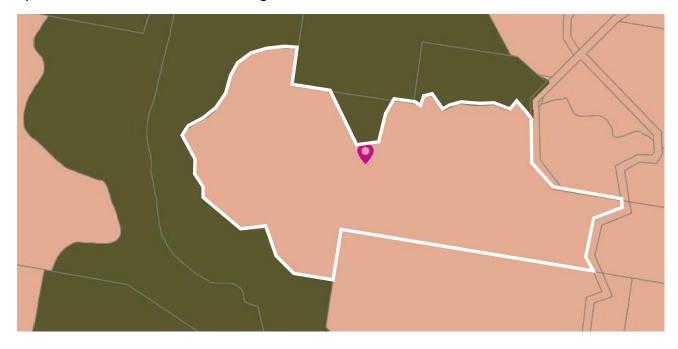
# Badger Box Lorinna Reserve (CAPAD 2020 Row No 1153)

Address 928 LORINNA RD LORINNA TAS 7306

PID 3361530 Title Ref 168850/1



The 25.3 ha Badger Box Lorinna Reserve covers 71% of the 35.7 ha CT 168850/1 (solid white border). The western half of the title is surrounded by Lake Cethana and adjoins land managed by Hydro Tasmania. A residential dwelling is located in the non-covenanted area.



The Draft Zone Map image above shows that CT 168850/1 is mostly surrounded by Crown land zoned Environmental Management.

It is proposed that CT 168850/1 is rezoned from Rural to Landscape Conservation given that it is mostly surrounded by land zoned Environmental Management, consistent with the Planners Portal advice about connectivity with land zoned for similar values. The small area of non-covenanted land is unsuitable and not used for agriculture.

The Badger Box Lorinna Reserve is mostly covered by the threatened vegetation community No 25 *Eucalyptus viminalis* wet forest as listed in Schedule 3A of the *Nature Conservation Act 2002*. It also contains the rare *Eucalyptus radiata subsp. radiata* (Forth River peppermint) listed in Schedule 5 of the *Threatened Species Protection Act 1995*. Further details of the natural values protected by this Reserve are in the Nature Conservation Plan held by Private Land Conservation Program in DNRE.

Yours sincerely

John Thompson

On behalf of the Board of Trustees, CLT Trust

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### Appendix A

#### The relevant Q & A from the Planners Portal

Extract from the 'Questions and Answers Zones – Other' with key phrases underlined.

22/4/2021

Question What is the most appropriate zone for land with a conservation covenant?

Answer Guideline No.1 for both the Landscape Conservation Zone (LCZ) and Environmental Management Zone (EMZ) indicate that <u>land which contains a conservation covenant</u> will invariably have values that can result in the land being suitable for zoning in either the EMZ or LCZ.

But that land may also be suitable for inclusion in the Rural or Agriculture Zone (and potentially others such as Rural Living). The values that are identified in the conservation covenant are managed or protected by the terms of the covenant and that management or protection is not dependent on the zoning of the land for land use planning purposes. Determining the zone to apply to land with a conservation covenant needs to be balanced with application of zones based on sound planning principles, such as, minimising spot zoning and applying the zoning that satisfies the Guideline No. 1 and the regional strategy.

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 may be available.

Therefore, the LCZ should not simply be applied on the basis that a conservation covenant is in place. However, <u>areas that have extensive conservation covenants (such as, a cluster of many, a large area, or both, or connectivity with other land zoned for similar values) may demonstrate good strategic planning merit for applying this zone.</u>

Where a conservation covenant applies to a small portion of a large landholding that is appropriately zoned Rural or Agriculture or another relevant zone, it may not be appropriate or necessary to apply the LCZ to the area covered by the covenant as the values will be protected by the terms of the covenant, and at the same time be compatible with the wider use of that land.

#### The relevant Guidelines

The following are extracts *from Section 8A Guideline No. 1 - Local Provisions Schedule (LPS): zone and code application (version 2.0), June 2018* for 22.0 Landscape Conservation Zone, 23.0 Environmental Management Zone, 20.0 Rural Zone, and 21.0 Agriculture Zone, with key words and phrases underlined.

- LCZ 1 The Landscape Conservation Zone <u>should</u> be applied to land with <u>landscape values</u> that are <u>identified for protection and conservation</u>, <u>such as bushland areas</u>, <u>large areas of native vegetation</u>, or areas of important scenic values, where some small scale use or development may be appropriate.
- LCZ 2 The Landscape Conservation Zone may be applied to:

  (a) <u>large areas of bushland or large areas of native vegetation</u> which are not otherwise reserved, but <u>contains threatened native vegetation communities</u>, threatened species or <u>other areas of locally or regionally important native vegetation</u>; ...
- EMZ 1 The Environmental Management Zone should be applied to <u>land with significant ecological</u>, scientific, cultural or scenic <u>values</u>, such as:

  (a) <u>land reserved under the Nature Conservation Act 2002</u>; ...
- RZ 1 The Rural Zone should be applied to land ... which is <u>not more appropriately included within</u> the Landscape Conservation Zone or Environmental Management Zone for the protection of <u>specific values</u>.
- AZ 6 Land identified in the 'Land Potentially Suitable for Agriculture Zone' layer <u>may be</u> considered for alternate zoninq if:
  - (c) <u>for the identification and protection of significant natural values</u>, such as priority vegetation areas as defined in the Natural Assets Code, <u>which require an alternate</u> <u>zoning, such as the Landscape Conservation Zone</u> or Environmental Management Zone;
  - (e) it can be demonstrated that:
    - (i) <u>the land has limited or no potential for agricultural use</u> and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;
    - (ii) there are significant constraints to agricultural use occurring on the land; or
    - (iii) the Agriculture Zone is otherwise not appropriate for the land.