

From: [Jason Whitehead](#)
To: [TPC Enquiry](#)
Cc: [Mick Purves](#); [Lowe, Emma](#)
Subject: Cape Herbert Pty Ltd - additional expert assessment for Hearing on Glamorgan Spring Bay Draft LPS - Tuesday 8th Dec
Date: Wednesday, 11 November 2020 4:06:02 PM
Attachments: [10-11-2020 LPS representation from Cape Herbert Pty Ltd - Natural & other values constrain Agricultural use & request Rural Zone be applied.pdf](#)

Hello,

Please find attached a letter providing further expert assessment that was required for Justification of Rural Zoning on the Cape Herbert Pty Ltd property in Glamorgan Spring Bay Council Area. At the TPC hearing on the 8 Dec 2020 I wish to talk in relation to the information in this letter and the report I provided previously from Pinion Advisory.

Kind regards,
Jason Whitehead
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10 November 2020

To the Glamorgan Spring Bay Council and Tasmanian Planning Commission

Expert natural asset assessment
Information for LPS representation from Cape Herbert Pty Ltd

Prepared by Jason Whitehead (Co-Director Cape Herbert Pty Ltd)
using expert data, advice, and reports

'Request Rural Zone rather than proposed Agricultural Zone'

Please acknowledge receipt of this letter as I am requesting our land be zoned 20.0 Rural, rather than the proposed 21.0 Agriculture, on the titles RF 155176/2 and 155176/1. The basis for my requests is consistent with the *Guideline No. 1 local provision schedule (LPS) zone and code application*.

I acknowledge that the Glamorgan Spring Bay sent the TPC on 13 October 2020 (although letter dates 12 May 2020), a response in clarification to council's decision in the Section 35F report. On page 3 it is apparent that use of an AK consulting decision tree supports the Rural Zone application on our property. The council letter states that AZ6 & RZ3 may apply and requests that 'expert assessment required'. I have provided previously a report from Pinion Advisory that highlights aspects relating to i) Research, Development & Extension activities, ii) updated land capability mapping and water resource assessment, and some iii) updated natural assets information. The relevant Guideline 1 documentation (with reference to AZ6 and RZ3 matters) was provided in Appendix E of the Pinion Advisory report justifying why the Agricultural Zone is not suitable and why the Rural Zone should apply to the property.

At the directions hearing on the 19 Oct 2020 I confirmed that I would provide further independent expert assessment on the natural and other values on the property and explain how these constrain Agricultural use (AZ6) and justify the Rural Zone request (RZ3). The current documentation provides evidence that at least 50% (Figure 1) of the property is constrained from agriculture use due to dispersed natural and cultural assets, in combination with conservation covenants, land capability 7 land and expert advice relating to eagle nests. Prior documentation has highlighted that the land class further constrains many areas on the balance of the property as does the current and likely future lack of irrigation water. Further analysis on the ground water obtained from sample collected on the 14 Oct 2020 from the property, and analysed by Analytical Services Tasmania, indicates that the waters high salinity levels are not compatible with irrigational use.

The recent data supports constraints on agriculture (consistent with Guideline 1 (AZ6) and why the Rural Zone is more appropriate (consistent with Guideline 1 (RZ3)).

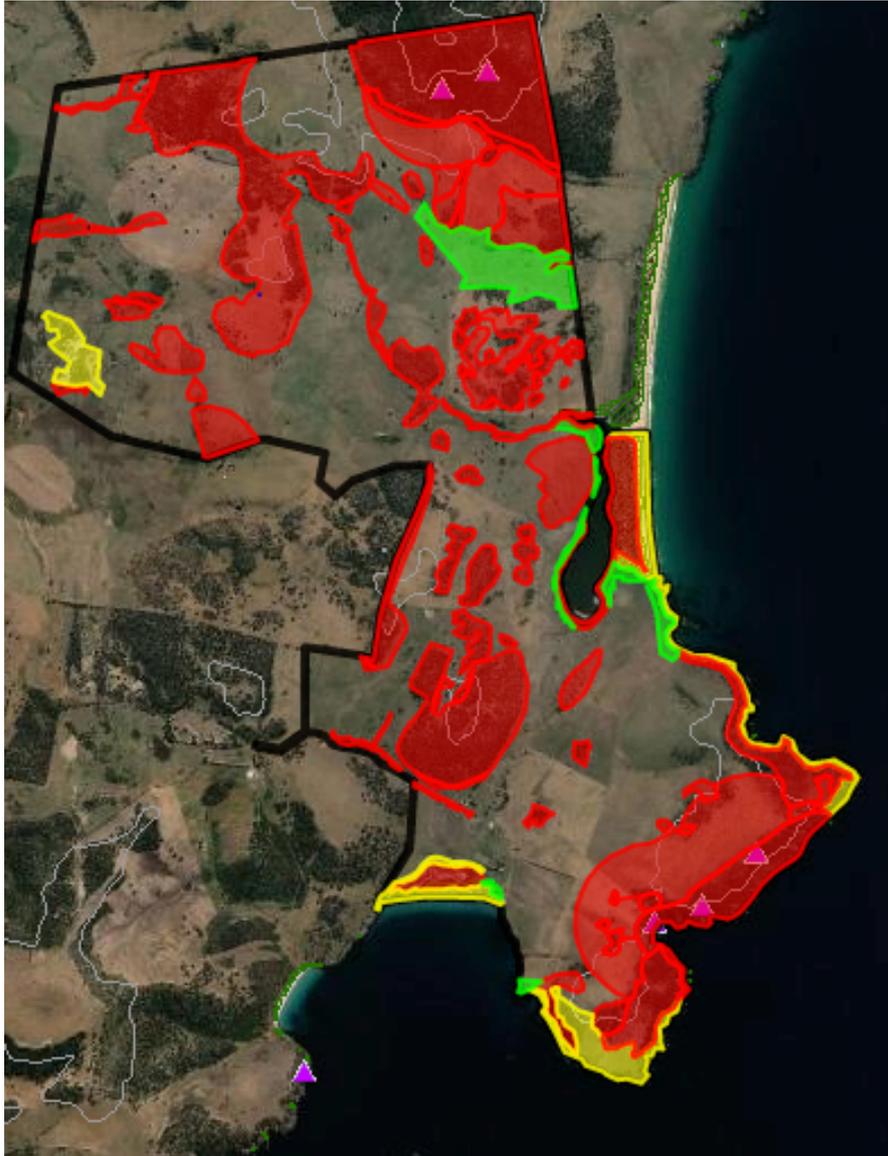


Figure 1. 50% of property is constrained from agricultural use due to natural and other assets and other physical constraints

KEY (Appendix: A contains greater description of expert data origins)

RED (Natural Assets):

- i) Priority vegetation areas mapped as Biodiversity overlay in the interim Planning Scheme;
- ii) Threatened vegetation (Nature Conservation Act) recently mapped by Dr. L Gilfedder;
- iii) Conservation Covenants under the NCA, and identification of area that should be fenced from livestock grazing (*Dr Kerry Bridle report*)
- iv) 500m buffer sea-eagle nests (nest on theLIST). DPIPWE advice via James Hill (ERA planning) is to have an exclusion area for 6months of the year with no human activity and development avoidance zone
- v) 1km visual buffer from Wedgetail eagle nest (modelled by DPIPWE)

YELLOW (Land Capability 7) – updated by Pinion Consulting,

GREEN (Other)

- i) Aboriginal Sites – located on site and proposed exclusion fencing (Dr K Bridle),
- ii) Future Coastal Climate Change Refugia Areas (theLIST),
- iii) Fragile dry north slopes we have been advised to exclude totally from agriculture – advice from Pinion Consulting



Figure 1 and the accompanying explanatory detail in Appendix A, provides evidence that the constraints on agriculture support my request that the land not be placed in the Agricultural Zone, but is better suited to the Rural Zone.

Guideline No 1 LPS zone & code application

'AZ6 Land identified in the 'Land Potentially Suitable for Agriculture Zone' layer may be considered for alternate zoning if:

- (a) *...consistent with the relevant regional land use strategy.*
- *"Land Use Strategy BNV 1.1 Maintain and manage the regions biodiversity."*
 - *BNV1.1 Manage and protect significant native vegetation at the earliest possible stage of the land use planning process. Where possible, ensure zones that provide for intensive use or development are not applied to areas that retain biodiversity values that are to be recognised and protected by Planning Schemes."*
 - *BNV 1.2 Recognise and protect biodiversity values deemed significant at the local level and ensure that planning schemes:*
 - *a. specify the spatial area in which biodiversity values are to be recognised and protected (either by textural description or map overlay); and*
 - *b. implement and 'avoid, minimise, mitigate' hierarchy of actions with respect to development that may impact on recognised and protected biodiversity values.*
- (c) *for the identification and protection of significant natural values, such as priority vegetation areas as defined in the Natural Assets Code, which require an alternate zoning,*

EVIDENCE

Agricultural Zone not appropriate

Figure 1, and supporting evidence in Appendix A, show that 50% of the property (over a dispersed area) cannot be set aside for the purpose of the Agriculture Zone. There are conflicts with the purpose of the Agricultural zone 21.1.1, 21.1.2 and 21.1.3 and thus Guideline 1 AZ6 applies:

- *40 % of the land has biodiversity values where agriculture should not be the primary purpose for management, including priority vegetation areas, threatened vegetation areas, proximity to eagle nests, and conservation covenants*
- *10% of the land has other values or reasons to be excluded from agriculture, including fragile Aboriginal heritage sites, climate change refugia sites, fragile dry north slopes, and land capability 7 areas (e.g., beaches, sand-dunes, rocky cliffs)*



Rural Zone more appropriate

The Rural Zone 'purpose 20.1.1. is to provides for a range of use or development in a rural location: (a) where agricultural use is limited or marginal due to topographical, environmental or other site or regional characteristics.'

RZ 3 applies and justifies application of Rural Zone: 'The Rural Zone may be applied to land identified in the 'Land Potentially Suitable for Agriculture Zone' layer, if:

(a) it can be demonstrated that the land has limited or no potential for agricultural use and is not integral to the management of a larger farm holding that will be within the Agriculture Zone;

- This is the case on the property where 50% of the area is not usable for agriculture (over a dispersed distribution over the entire property), or is constrained, due to natural and other values, or site constraints (such as land capability 7).

(b) it can be demonstrated that there are significant constraints to agricultural use occurring on the land;

- Water availability is limited to ephemeral dams and one bore and there is limited potential to develop water resources on the property (see Pinion Advisory report). AST analysis on the bore water sampled on 14 Oct 2020 indicated that the salinity is too high for irrigational use (3.75 mS/cm (note for irrigation purposes 2.5 to 5.0 mS/cm is consider as 'salty', Cl 969 mg/L, Na dissolved 391 mg/L).

Agricultural Land Mapping Project - Identifying land suitable for inclusion within the Tasmanian Planning Scheme's Agriculture Zone. Background Report 2017. (page 6 of 27) State Planning Provisions ... creating two zones which: provide a broader scope for identification and protection of agricultural land (the Agriculture Zone); and allows the zoning land with limited potential for agricultural use and which is not otherwise identified for the protection of specific values (the Rural Zone).

- The Rural Zone application is more appropriate on the property due to the constraints on agricultural use and the need to protect other specific values on the property that are identified in Figure 1 and Appendix A.

The flexibility of land use provide through the Rural Zone application is important for the long term sustainable agricultural use of the property and economic viability of the business, philanthropic, educational (RD&E) and environmental activities occurring here and planned into the future.



APPENDIX A. Constraints to Agricultural use & development due to natural and other assets and site constraints

Priority vegetation occurs on the property

The recent zoning as Agricultural Zone over the property has seen that the Natural Asset overlay removed from the property (Figure 2), although under the interim planning scheme there is a significant area of priority vegetation recognised under the Biodiversity Overlay (Figure 3). The biodiversity overlay priority vegetation covers 329Ha and is 20% of the property.

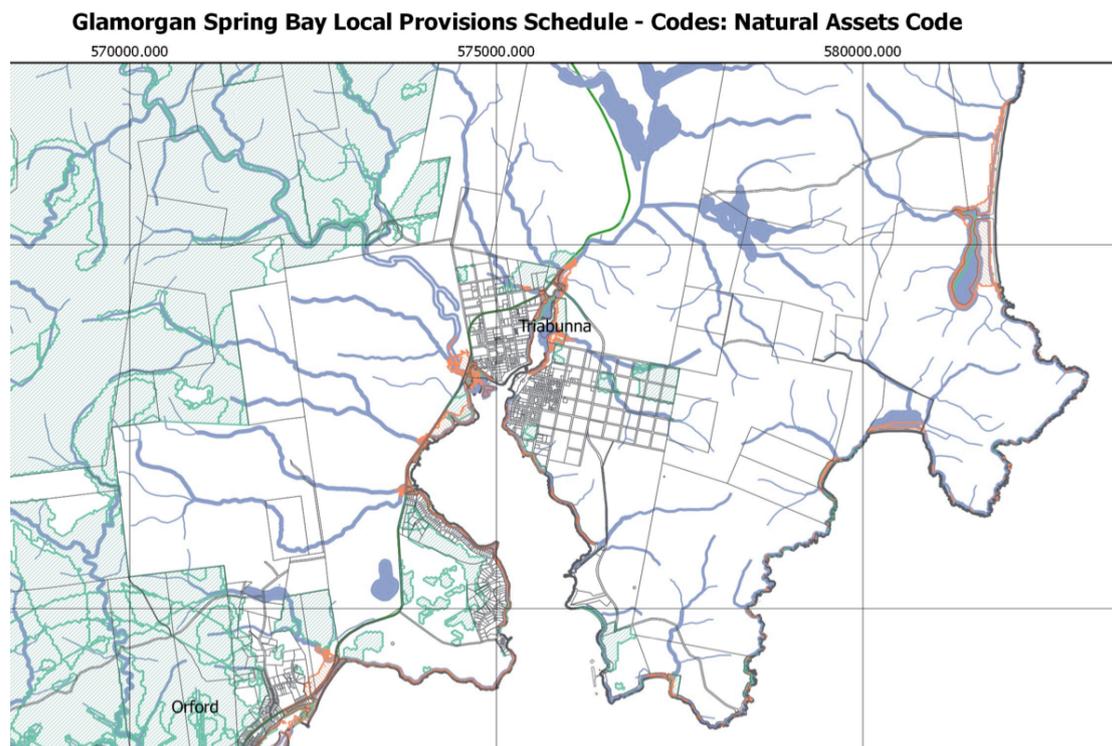
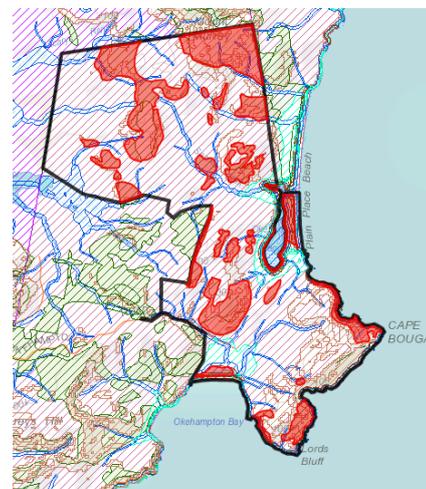


Figure 2. Draft LPS Natural Asset Overlay, noting not applied to the property due to removal and no recognition of Natural Assets/priority vegetation as a consequence of applying the Agricultural Zone.

Figure 3. Interim planning scheme Biodiversity Overlay (representing priority vegetation) – has been highlighted in RED here. This covers 20% of the property, but is not inclusive of all high conservation threatened vegetation and other natural assets, or other constraints on agriculture.





Conservation covenants occurs on the property

Two conservation covenants occur on the property and comprise a combined area of 90.7Ha. One covenant is on Mount Murray and is within the interim planning scheme Biodiversity Overlay area captured in Figure 3; however, the other covenant area occurs along the cliff front and adds a further 28Ha to the natural assets that can be identified and increases the area of the property from which agriculture is precluded or severely constrained to 26% (Figure 4).



Figure 4. Conservation covenants under the Nature Conservation Act

Threatened vegetation occurs on the property

Recent mapping of threatened vegetation by Dr Louise Gilfedder, and compiled by James Hill (ERA Planning) covers 327Ha of the property, when added to the balance of the 'priority vegetation' and 'conservation covenant areas' this adds a further 74Ha to the property, increasing the area from which agriculture is precluded or severely constrained to 31% (Figure 5a & 5b).



Figure 5a & 5b. Threatened vegetation mapping.



Eagle nest occurs on the property

Three Sea Eagle nests occur on the coast and two Wedgetail Eagle nests occur on Mount Murray. Advice provided to James Hill (ERA Planning), from Clare Lond-Caulk (Section Head – Conservation Assessment and Wildlife Management Section Policy. Advice & Regulatory Services Branch, DPIWWE) on 16-Sept 2020 is that “This species (Sea Eagle) is sensitive to disturbance, especially during the breeding season. It is recommended that activity within 500 m or 1 km line-of-sight of an active nest is avoided during the breeding season (June to January inclusive).” A buffer of 500m has been applied to all eagle nests (positions from theLIST) (Figure 6a) and line of sight modelling from DPIWWE from Eagle Nests on Mount Murray (Figure 6b). These areas have constraints on agricultural use and adds a further 110Ha to the natural assets identifiable, this increases the area of the property from which agriculture is precluded or severely constrained to 40%.

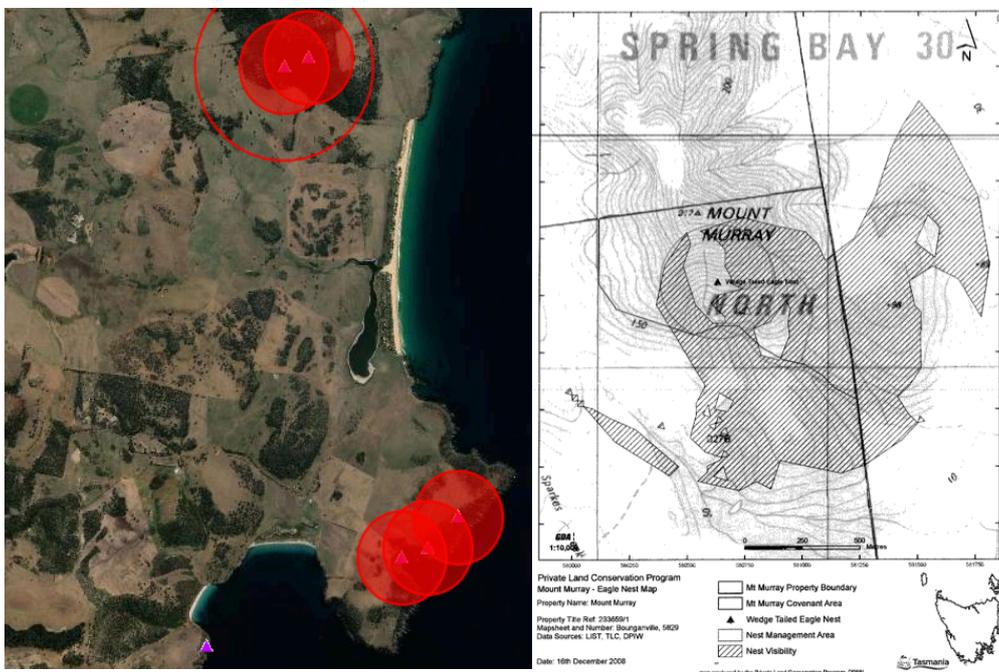


Figure 6a (left image) 500m buffer around eagle nests, nest locations from theLIST =RED fill areas, Red outline is 1000m distance from Mount Murray Wedgetail Eagles Nest. **Figure 6b (right image)**. DPIWWE modelling of sensitive line of sight areas within 1000m of Wedgetail nests on Mount Murray.



Other constraints to agriculture occurs on the property

The property land capability was recently remapped by Macquarie Franklin / Pinion Advisory, noting that CLASS 7 land capability areas are deemed as unsuitable for agricultural use (Figure 7) and should not have been included in the Agricultural land mapping project. Class 7 land covers 228Ha of the property and adds a further 46Ha area, when combined with the natural assets areas, which increases the area of the property from which agriculture is precluded or constrained to 43%.



Figure 7. Updated land capability mapping.

Other land with very severe to extreme limitations that make it unsuitable for agricultural use are those areas mapped as Class 6. The Land Use Capability handbook notes that “ *Class 6 land is often very steep, rocky or wetlands. The land may have either a single very severe limitation or a combination of several severe limitations. These limitations make this class of land unsuitable to be cleared for grazing and steeper areas should be left under a vegetative cover, because of the potential erosion hazard and low productivity. Conservation measures including revegetation or retention of existing vegetation cover should be adopted. Class 6 land usually remains under native pasture or other natural vegetation cover and is generally*



impractical to traverse by a wheeled vehicle due to steep slopes, excessive topographic variability, stoniness or wetness.” Figure 8 is an example of class 5+6er land on the property on dry north facing slope areas.



Figure 8. Rocky seep inclines that occur over many areas (is class 5+6er), but mapped as class 4 on theLIST.

Jamie Kirkpatrick (University of Tasmania) verified that a single clearing event in the 1940s caused mass soil loss from Cape Bougainville, including the area in Figure 8. The farming tenant has confirmed these areas are not suitable for pasture regeneration using direct drilling, and further ploughing will exacerbate soil erosion. Jason Lynch from Pinion Advisory has recommended these and other highly sensitive north facing slope areas be precluded from future agriculture use. Sensitive ‘dry north facing slope sites’ cover in excess of 76Ha and when combined with the natural assets areas and class 7 capability areas this increases the area of the property from which Agriculture is precluded or constrained to ~49%.

Aboriginal living sites have been confirmed through Aboriginal education facilitators, who have worked on site, and stock-fencing exclusion of these areas has been designed by Dr Kerry Bridle. Some additional small areas also provide future saltmarsh coastal refugia, due to predicted sea level rise – that constrains some agricultural use in these areas.

The total combined areas of all these “other” physical and heritage constraints on agriculture cover 10% of the property.

In the ~50% balance of the property that can be used for agriculture there are further constraints on the type of agricultural use due to i) topographic constraints, such as the presence of water ways and ephemeral creek lines (see Figure 9 – theList waterways), ii) areas prone to storm surge flooding (see Figure 9 – theList inundation hazard) and soil salinity risk.

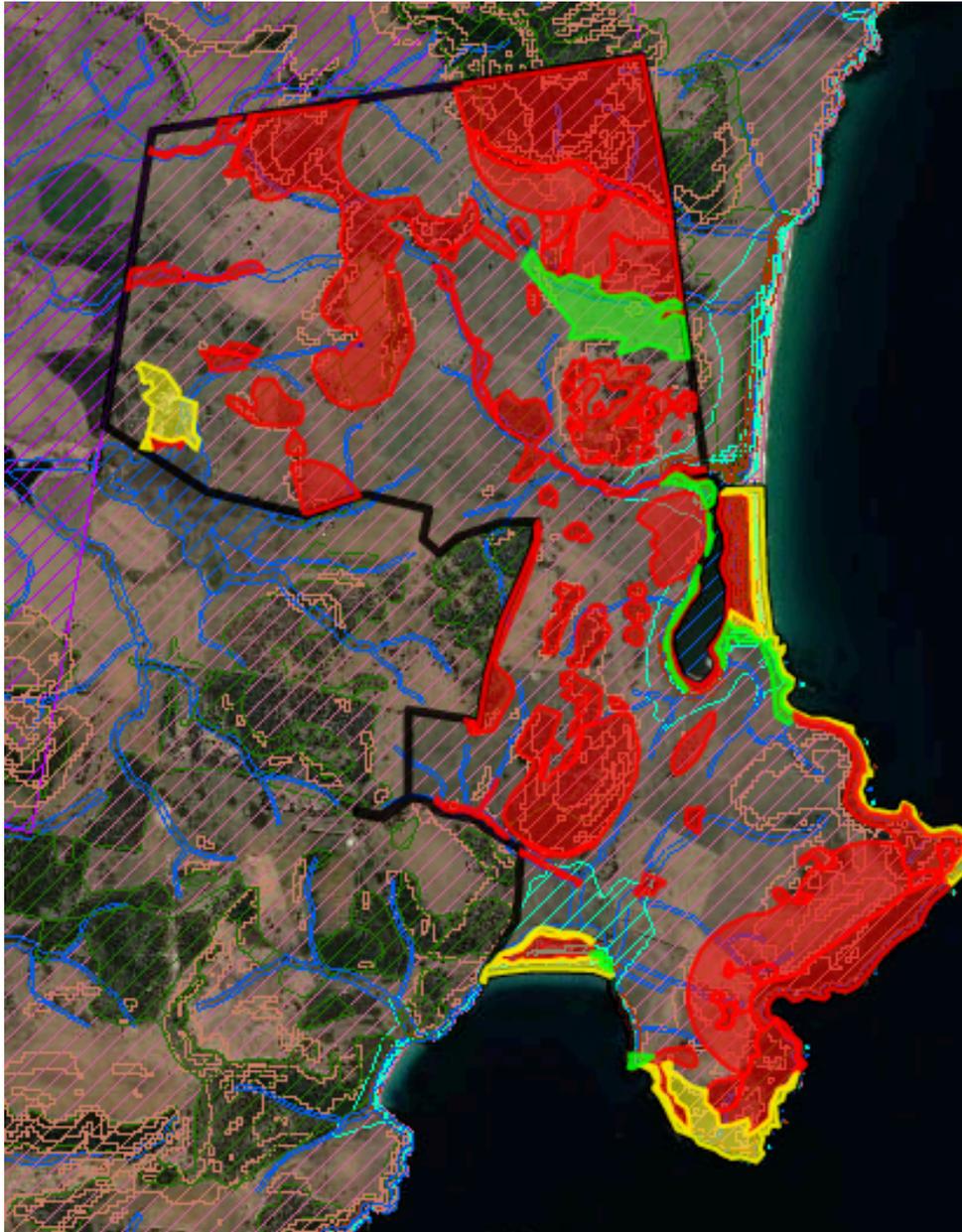


Figure 9. Areas where agriculture severely constrained or precluded (RED, YELLOW GREEN as described in Figure 1). The interim planning scheme planning overlay also illustrates presence of other physical constraints on some agricultural use due to presence of waterways (DARK BLUE hatched areas), and storm surge inundation areas (LIGHT BLUE hatched areas)