

# TASMANIAN PLANNING COMMISSION



## DECISION

**Local Provisions Schedule** Central Coast

**Date of decision** 6 November 2020

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

A handwritten signature in black ink that reads "John Ramsay".

John Ramsay  
**Delegate (Chair)**

A handwritten signature in black ink that reads "Marietta Wong".

Marietta Wong  
**Delegate**

## REASONS FOR DECISION

### Background

The Central Coast planning authority (the planning authority) exhibited the Central Coast draft Local Provisions Schedule (the draft LPS), under section 35D of *Land Use Planning and Approvals Act 1993* (the Act), from 11 June 2019 until 9 August 2019.

On 30 September 2019, the planning authority provided the Tasmanian Planning Commission (the Commission) with a report under section 35F(1) into 112 representations received on the draft LPS. A list of representations is at Attachment 1.

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

### Date and place of hearing

A directions hearing was held at the Gnomon Pavilion, Wharf Road, Ulverstone on 13 November 2019.

Hearings were held at the Central Coast Council Chambers, 19 King Edward Street, Ulverstone on 27, 28 and 29 November 2019 and 21, 22 and 23 January 2020; and at the Commission's office at Level 3, 144 Macquarie Street, Hobart on 24 July 2020.

### 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 of the Act; 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 Cradle Coast Regional Land Use Strategy 2011 (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 under section 8A of the Act.
  6. The requirements for making modifications to the draft LPS are set out under section 35K of the Act. The modifications can be broadly categorised as modifications [section 35K(1)(a) and (b)] or substantial modifications [section 35K(1)(c)(ii)].
  7. The Commission may also reject the draft LPS and request that the planning authority prepare a substitute [section 35K(c)(i)].
  8. When considering the requirements of section 35J and whether modifications ought to be made, the Commission must determine, firstly, whether the modification has merit, and secondly, if it is a substantial modification.
  9. Where the Commission has determined modifications ought be made, and these are substantial, these are set out in a notice under 35K(1)(c) of the Act (see Attachment 2).

## Issues raised in the representations

### Low Density Residential Zone - 80 Deviation Road, Penguin

#### Representation: Vince De Santis (24)

10. The representor requested that land at 80 Deviation Road, Penguin be revised from the Agriculture Zone to the Low Density Residential Zone.
11. The reasons include that the Low Density Residential Zone will enable subdivision in keeping with the adjoining area which will ensure more efficient utilisation of the town services and other infrastructure.
12. In the section 35F report the planning authority recommended the zoning be revised to the Low Density Residential Zone. The comments included:
  - the land is not suitable for the Agriculture Zone as it is separated from agricultural land by a watercourse and band of native vegetation;
  - the General Residential Zone is located on land on the opposite side of Deviation Road;
  - the land area is small (2.05ha) and accommodates a single dwelling; and
  - the land is connected to the sewer network.
13. The original representation sought the Low Density Residential Zone for part of the land. At the hearing, the representor sought that the entire title be revised to the Low Density Residential Zone to avoid split zoning.
14. The planning authority supports the entire title being revised to the Low Density Residential Zone.

#### Commission consideration

15. The land is fully serviced and adjoins the General Residential Zone. The Commission considers that the characteristics and values of the land are not consistent with the zone purpose for the Agriculture Zone.

16. The Commission notes that the site is not identified as Land Potentially Suitable for Agriculture Zone layer on theLIST.
17. The Commission accepts that the land is small in area, constrained from being used for agriculture in conjunction with any adjoining title and application of the Low Density Residential Zone would result in a very small extension to the settlement of Penguin.

#### **Commission decision**

18. Modification:
  - Revise the zoning of 80 Deviation Road, Penguin (folio of the Register 121621/1) to the Low Density Residential Zone.
19. Reason:
  - To apply the Low Density Residential Zone consistent with the purpose of the zone and Guideline No. 1.
20. The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

#### **Rural Living Zone – 172 Main Street, Ulverstone**

##### **Representations: Trevor McKenna (29), Department of State Growth (95)**

21. Representor 29 supported the proposed Rural Living Zone B for the land at 172 Main Street, Ulverstone (folio of the Register 152582/1). Representor 95 submitted that the land, which is within the off-ramp adjacent to the Bass Highway, is not suitable for residential development.
22. In the section 35F report, the planning authority recommended that the land remain in the Rural Living Zone B. The reasons included that the representation is in support of the proposed zoning.
23. The Department of State Growth provided a further submission on 20 December 2019 noting concern with the proximity of this property to the Bass Highway:

A number of proposed rezonings have been supported in the Section 35F report, without appropriate consideration of the impacts on the State Road network (for example, representations 25, 29, 30 and 84). Generally, direct access onto the State Road network is not supported where frontage to a lower category road exists. Any new accesses require preparation of a traffic impact assessment, and Crown landowner consent from State Roads. As a limited access road, no new accesses are permitted on to the Bass Highway. It is noted that there are amenity issues associated with some of the proposed rezonings, due to proximity to the Bass Highway (Representation 29).
24. At the hearing, Ms Selena Dixon for the Department of State Growth, confirmed that the Bass Highway is a limited access road. Ms Dixon submitted that because the site is small in area and completely surrounded by highway that is part of the Bass Highway road network, it lacks residential amenity.

#### **Commission Consideration**

25. The Commission agrees with the Department of State Growth that there is insufficient justification for applying the Rural Living Zone, including a lack of evidence that traffic issues can be addressed, and that the site is not suitable for residential development as it has been isolated by road developments.

26. The Commission acknowledges that the land has been isolated by road development, making it difficult to determine the appropriate zoning.

**Commission decision**

27. Modification:
- Revise the zoning of 172 Main St, Ulverstone (folio of the Register 152582/1) to the Rural Zone.
28. Reason:
- To apply the Rural Zone consistent with the purpose of the zone and Guideline No. 1.
29. The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

**Rural Living Zone - 76 Reynolds Road, Heybridge**

**Representation: Ros and Rob Hill (27)**

30. The representors requested that the land at 76 Reynolds Road, Heybridge (folio of the Register 174599/1) be revised from the Rural Zone to the Rural Living Zone.
31. The reasons include the land is surrounded by small residential lots and holiday accommodation.
32. In the section 35F report, the planning authority recommended the zoning of land at folio of the Register 174599/1 be revised from the Rural Zone to the Rural Living Zone A and the land at folio of the Register 174599/2 remain in the Rural Zone. The comments included:
- folio of the Register 174599/1 has a land area of approximately 4ha and is not able to be used for any form of primary industry; and
  - the land can only be accessed via Allegra Drive, a Rural Living residential estate.
33. At the hearing, the representors submitted that there are no agricultural values on the property. The adjoining titles to the west are proposed to be zoned Rural Living Zone A. The land also backs onto Crown land that is zoned Environmental Management. The planning authority submitted that there is a right-of-way accessing the property.
34. In response to directions from the Commission, the planning authority provided a further submission proposing that the land be revised to the Rural Living Zone B and stating that:
- the land has an area of 4.04ha and is accessed via a 6m wide right of way that burdens 85 Allegra Drive, Heybridge.
35. No comment was made regarding bushfire hazard, although it is noted by the planning authority that:
- Land is characterised by steep slopes that fall to an adjoining dam to the south east and a watercourse to the north. Much of the land is vegetated except for a building envelope that has been cleared of native vegetation

**Commission consideration**

36. The land is included in the Central Coast Rural Living Strategy as part of the larger title folio of the Register 153626/1.

37. A previous application for rezoning to Rural Living at 76 Reynolds Road in the Central Coast Interim Planning Scheme draft amendment 1-2017, concluded that there was a lack of strategic context for the rezoning, including a lack of settlement strategy. The draft amendment was modified to insert in the use table of the Rural Resource Zone at clause 26.2 a specific qualification to allow for a single dwelling on folio of the Register 174599/1.
38. The Commission accepts the evidence of the planning authority that supports application of the Rural Living Zone B to the land at folio of the Register 174599/1, which is consistent with Guideline No. 1. The Commission accepts that the land meets the criteria for inclusion in the local Rural Living Strategy and is adjacent to and a continuation of the Rural Living Zone that exists on a number of the adjoining properties. No natural values report was provided on the presence of threatened ecological communities or threatened species. It is noted that the land is mapped in the priority vegetation area overlay.

#### **Commission decision**

39. Modification:
  - Revise the zoning of land at 76 Reynolds Road, Heybridge (folio of the Register 174599/1) from the Rural Zone to the Rural Living Zone B.
40. Reasons:
  - To apply the Rural Living Zone B consistent with the purpose of the zone and Guideline No. 1.
41. The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

#### **Commercial Zone - Westella Drive, Turners Beach**

##### **Representation: 6ty Pty Ltd on behalf of Lifestyle Caravans (84)**

42. The representor requested that the land at Westella Drive, Turners Beach (folio of the Register 115441/1) be revised from the Rural Zone to the Commercial Zone or the Local Business Zone. The business currently sells, repairs and services caravans at 104 Eastland Drive in Ulverstone. The land where it currently operates is at capacity and the business is seeking to grow.
43. The reasons include there is an absence of appropriately zoned alternative sites within the municipality that allow for the sale of caravans and the operation of the business.
44. The representor presented a detailed submission which supported revising the zoning of the land.
45. In the section 35F report, the planning authority recommended to revise the zoning of the land from the Rural Zone to the Commercial Zone.
46. The reasons include:
  - there is little available land that is zoned Commercial, Local Business or General Business in the municipal area that would be suitable for Bulky Goods Sales; and
  - this parcel of land has been identified as an opportunity for business related use and development.
47. The Department of State Growth provided a further submission on 20 December 2019 which referred to representation 84, as follows:

Commercial development outside of existing activities centres is not supported where there has been no consideration of traffic network impacts or information provided to address these impacts (Representation 84).

48. On 14 January 2020, 6ty Pty Ltd provided a further submission addressing the above concerns raised by Department of State Growth. The further submission envisioned that all future use and development of the site would be accessed from Westella Drive. 6ty Pty Ltd also provided an access and traffic impact assessment based on commercial use of the site. The report concluded that commercial development of the site is feasible and supported on traffic grounds subject to considerations/assumptions taken into account in the assessment.
49. At the hearing the planning authority agreed that there is no vacant commercial land, noting that the draft LPS originally proposed the Light Industrial Zone be applied to land at Maskells Road, but that the planning authority subsequently decided not to continue with this zone change.

#### **Commission consideration**

50. The Commission agrees that there is very little vacant commercial land in the municipal area and considers that the submitted traffic impact assessment demonstrates that commercial development of the site can be achieved.

#### **Commission decision**

51. Modification:
  - Revise the zoning of land at Westella Drive, Turners Beach (folio of the Register 115441/1) from the Rural Zone to the Commercial Zone.
52. Reasons:
  - To apply the Commercial Zone, as far as practicable, consistent with the regional strategy.

The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.

#### **Rural Zone – 21 Maskells Road, Ulverstone**

##### **Representation: Central Coast Council (98), Department of State Growth (95)**

53. The representor (98) requested that land at 21 Maskells Road, Ulverstone (folio of the Register 163345/1) be revised from the Light Industrial Zone to the Rural Zone. The Department of State Growth queried whether any strategic work had been undertaken to address the traffic impacts off Maskells Road to the Bass Highway.
54. In the section 35F report, the planning authority recommended to revise the zoning of the land to the Rural Zone. The reasons include that the planning authority wish to revisit the allocation of industrial land in the municipal area and consider this area in more detail.

#### **Commission consideration**

55. The Commission notes the planning authority wish to revisit the issue of the allocation of industrial land within the municipality. In light of that, the Commission considers that the Rural Zone appropriately reflects a transition for this land from the current Rural Resource Zone under the interim planning scheme and accepts the planning authority's approach to revisit the allocation of industrial land in the municipality.

**Commission decision**

56. Modification:

- Revise the zoning of land at 21 Maskells Road, Ulverstone (folio of the Register 163345/1) from the Light Industrial Zone to the Rural Zone.

57. Reason:

- To apply the Rural Zone consistent with the purpose of the zone and Guideline No. 1.

58. The Commission considers that the modification is a substantial modification as there may be a public interest in the modification.