

From: "John Thompson" <thompsonjohng@gmail.com>
Sent: Mon, 23 May 2022 16:46:43 +1000
To: "Council" <council@warwyn.tas.gov.au>
Cc: "Gail Dennett" <gaildennett@gmail.com>;"John Dennett" <jcd675@gmail.com>;"Anna Povey" <APovey@tasland.org.au>
Subject: Representation on the Waratah Wynyard Draft LPS by Conservation Landholders Tasmania
Attachments: Representation to Waratah Wynyard Council re Draft LPS - CLT - 23May22.pdf

Attention: Waratah Wynyard Planning Authority

Please find attached our 9 page representation on the currently exhibited Waratah Wynyard Draft LPS. Could you please acknowledge receipt of this email?

Regards

John

--

John Thompson
on behalf of the Board of CLT Trust

Phone 0424 055 125
Email thompsonjohng@gmail.com



23rd May 2022

Shane Crawford
General Manager
Waratah Wynyard Council
PO Box 168
WYNYARD TAS 7325

Via email: council@warwyn.tas.gov.au

Representation about the Waratah Wynyard Draft LPS – proposal to change the zoning of three reserved properties to Landscape Conservation

Summary of Representation

Conservation Landholders Tasmania (CLT) has reviewed the Waratah Wynyard Draft LPS Zone Maps and the Supporting Report and believes that three properties containing Private Reserves protected by conservation covenant, with land reserved for the protection of biodiversity, should be rezoned fully or partly to Landscape Conservation. The case for rezoning these three properties is based on the 22 April 2021 Tasmanian Planning Commission (TPC) advice about the zoning of covenanted land and on Guideline LCZ2, when read together with Guidelines RZ1 and AZ6. CLT has written to the owners of these three properties to inform them of Council's proposed rezoning of their properties. To date the owners of two of the properties have made representations in support of CLT's proposal.

Reserve Name	Property Address	Property ID	Title References
Redbanks Sisters Creek	254 BROOMHALLS RD SISTERS CREEK TAS 7325	7096703	220390/1
Sandridge	191 SISTERS BEACH RD BOAT HARBOUR TAS 7321	7096199	107898/1
Milabena	60 MASONS RD MILABENA TAS 7325	7494357	36590/1

ABN 47 746 051 320
website www.clt.asn.au
post 675 Cradle Mountain Road Erriba TAS 7310
email gaildennett@gmail.com

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 900 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 9 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 some of this reserved land is more appropriately zoned as Landscape Conservation.

The application of Landscape Conservation Zone in the Waratah Wynyard Draft LPS

In the Draft Zone Maps the Landscape Conservation Zone has not been used. While the application of this new zone to land with significant natural values is discussed in Appendix B of the Supporting Report this rationale has not been applied.

The lack of consideration of Landscape Conservation zone for properties containing reserved land protected by conservation covenant is contrary to the Tasmanian Planning Commission advice on the Planners Portal dated 22 April 2021 on this matter (included in Appendix A of this representation) that states:

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.

The Home Page of the Planners Portal states:

The Planners Portal acts as a central resource to obtain clarification and information leading up to exhibition of a draft LPS.

This oversight by the Planning Authority can be remedied in its Section 35F Report.

Private land in Waratah Wynyard municipality reserved for the protection and conservation of biodiversity

In the Waratah Wynyard planning area there are 10 properties containing 2,447 ha of private reserved land protected by conservation covenant distributed across 13 titles. The great majority of this land is owned by The Trust Company (PTAL) Limited and managed by Forico Pty Ltd.

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 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 (CAPAD 2020) available at <https://www.environment.gov.au/land/nrs/science/capad>.

The natural 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 three of these properties to Landscape Conservation

Of the ten properties with Private Reserves mentioned above CLT considers that three should have Landscape Conservation Zone applied to all or part of them. One is zoned Agriculture and two are zoned Rural. All three have perpetual conservation covenants. The other 7 properties were not considered because significant areas within titles on those properties are also used for Resource Development (mainly plantation forestry) or the rezoning to Landscape Conservation would create a spot zone.

The 22 April 2021 TPC advice to Planning Authorities on the zoning of covenanted land outlines the circumstances where the application of Landscape Conservation is appropriate.

the LCZ should not simply be applied on the basis that a conservation covenant is in place. However, 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.

The three properties proposed for rezoning to Landscape Conservation all adjoin Public Reserves which are zoned Environmental Management and therefore have ‘connectivity with other land zoned for similar values’.

The rezoning of these three properties is also supported by Guideline LCZ2(a), when read together with Guidelines RZ1 or AZ6 (see Appendix A for the relevant extracts from Guideline No. 1). Guideline LCZ2(a) states

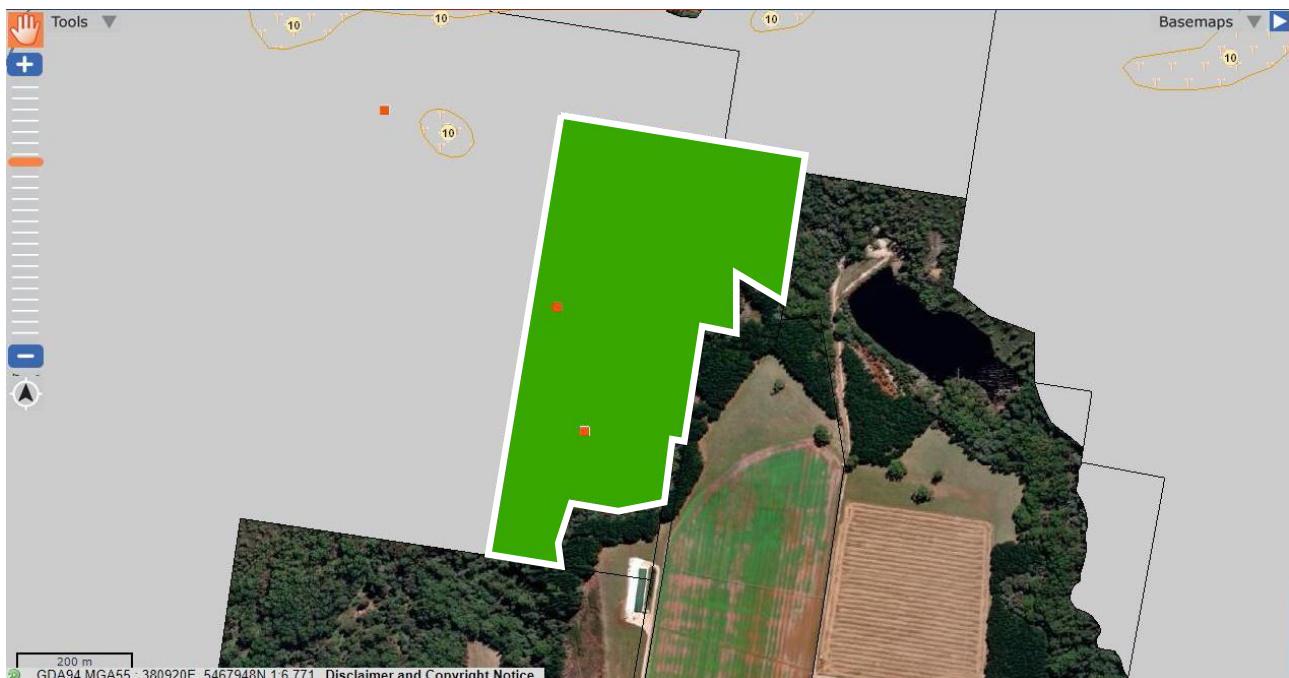
The Landscape Conservation Zone may be applied to:

(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation

Details of the three 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.

Redbanks Sisters Creek Reserve (CAPAD 2020 Row No 2207)

Address 254 BROOMHALLS RD SISTERS CREEK TAS 7325
PID 7096703
Title Ref 220390/1



The 26.0 ha Redbanks Sisters Creek Reserve covers 91% of the 28.6 ha Title Ref. 220390/1. The Reserve adjoins the Rocky Cape National Park to its west and north (grey area).

It is proposed that the covenanted land (solid white border) is rezoned from Agriculture to Landscape Conservation given its connectivity to the Rocky Cape National Park which is zoned Environmental Management and therefore zoned for similar values. The remaining 2.6 ha of the title should remain as Agriculture Zone given the use of this land for Resource Development (plantation forestry and grazing). We understand that the landowner, Andrew Nichols, has already made a representation requesting the rezoning of the covenanted land to Landscape Conservation.

The Reserve contains and provides habitat for the Endangered *Aquila audax subsp. Fleayi* (Tasmanian wedge-tailed eagle) listed in Schedule 3 of the *Threatened Species Protection Act 1995*. Full details of the natural values protected by this Reserve are in the Nature Conservation Plan held by the Private Land Conservation Program in DNRE.

Sandridge Reserve (CAPAD 2020 Row No 2289)

Address 191 SISTERS BEACH RD BOAT HARBOUR TAS 7321
PID 7096199
Title Ref 107898/1



The 68.3 ha Sandridge Reserve covers 35% of the 193.5 ha Title Ref. 107898/1. The Reserve adjoins the Rocky Cape National Park to its west and north (grey area).

Subject to landowner consent it is proposed that the covenanted land (solid white border) is rezoned from Rural to Landscape Conservation given its connectivity to the Rocky Cape National Park which is zoned Environmental Management and therefore zoned for similar values. The remaining 125.2 ha of the title should remain as Rural Zone given the use of this land for Resource Development. The proposal to rezone their covenanted land to Landscape Conservation has been discussed with the owners, Roger and Maureen Bradley, but they remain undecided at the time of this representation.

The Reserve contains the threatened vegetation community No 10 *Banksia serrata* woodland listed in Schedule 3A of the *Nature Conservation Act 2002*. The green triangles identify significant stands of the rare *Banksia serrata* (Saw banksia) listed in Schedule 5 of the *Threatened Species Protection Act 1995*. Full details of the natural values protected by this Reserve are in the Nature Conservation Plan held by the Private Land Conservation Program in DNRE.

Milabena Reserve (CAPAD 2020 Row No 2008)

Address 60 MASONS RD MILABENA TAS 7325
PID 7494357
Title Ref 36590/1



The 29.1 ha Milabena Reserve covers 74% of the 39.3 ha Title Ref. 36590/1. The Reserve adjoins the 329.5 ha Detention Falls Conservation Area to its west and north (brown area).

It is proposed that the whole title (solid white border) is rezoned from Rural to Landscape Conservation given its connectivity to the Detention Falls Conservation Area which is zoned Environmental Management and therefore zoned for similar values. The 10.2 ha of non-covenanted land contains a residential dwelling but is mostly covered by native forest and is not used for agriculture. We understand that the landowners, Gary and Helen Duhring, have already made a representation requesting the rezoning of the whole of their property to Landscape Conservation.

Full details of the natural values protected by this Reserve are in the Nature Conservation Plan held by the Private Land Conservation Program in DNRE.

Yours sincerely



John Thompson
On behalf of the Board of Trustees, CLT Trust

Phone 0424 055 125
Email thompsonjohng@gmail.com

Appendix A

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, 20.0 Rural Zone and 21.0 Agriculture Zone with key words and phrases underlined.

LCZ 2 The Landscape Conservation Zone may be applied to:

(a) large areas of bushland or large areas of native vegetation which are not otherwise reserved, but contains threatened native vegetation communities, threatened species or other areas of locally or regionally important native vegetation

RZ 1 The Rural Zone should be applied to land ... which is not more appropriately included within the Landscape Conservation Zone or Environmental Management Zone for the protection of specific values.

AZ 6 Land identified in the 'Land Potentially Suitable for Agriculture Zone' layer may be considered for alternate zoning if:

- (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, such as the Landscape Conservation Zone or Environmental Management Zone;
- (e) it can be demonstrated that:
- (i) 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;
 - (ii) there are significant constraints to agricultural use occurring on the land; or
 - (iii) the Agriculture Zone is otherwise not appropriate for the land.

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 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.

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, 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.

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.