



13 January 2020

Mr Peter Fischer
Acting Executive Commissioner
Tasmanian Planning Commission
email: <tpc@planning.tas.gov.au>

Dear Sir,

DRAFT LOCAL PLANNING PROVISIONS - RESPONSE TO FURTHER INFORMATION

I am writing on behalf of our clients Tony and Julie Gee in response to the further information submitted by the Department of State Growth (3/1/2020) and to provide further information regarding the suitability of our client's property for consideration as Rural Living (Area A).

Following the hearings held in November 2019, our client seeks approval for a rezoning under the draft LPS to Rural Living, which was originally supported by Council in their s35F report.

Our client currently owns the sites identified as:

- CT 27345/1 - 170 Preservation Drive, Preservation Bay; and
- CT 199807/1



Figure 1: Site location (source: www.thelist.tas.gov.au © the State Government of Tasmania)

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Figure 2: Site detail (source: www.thelist.tas.gov.au © the State Government of Tasmania)

BACKGROUND

The property was considered for General Residential Zoning during the hearings undertaken on November 29th. As a result of these hearings it was determined that due to a lack of strategic guidance (i.e. no local Settlement Strategy) the merits of any decision would need to be made based on the Central Coast Regional Land Use Strategy alone, despite this document suffering from out-of-date information.

Therefore, our client has decided to proceed with their original request for the land to be zoned Rural Living (Area A) under the Central Coast LPS, to allow further residential development whilst a Local Settlement Strategy is prepared.

The following has been provided in response to the further information submitted by the Department of State Growth and to support the request for the property to be rezoned Rural Living (Area A).

RESPONSE TO STATE GROWTH - LANDSLIP HAZARD

Further information submitted by the Department of State Growth has referred to the proposed landslip hazard overlay which will apply to parts of our client's property as part of the draft LPS. The information submitted indicates that a detailed geotechnical report should be provided to support rezoning of the land for residential purposes or where involving sensitive uses.

As detailed in the section below, the areas of the site to be identified as susceptible to medium landslip hazard risk is isolated to the upper (southern) portions of the site. Due to the steep

topography in these areas, any future development in these locations will be avoided where possible.

For our client and/or adjoining landowners to commission such a report at this early stage is not warranted. No development is currently proposed, and use of land within low and medium hazard bands is exempt, provided it is not for a vulnerable use (which does not include dwellings).

A geo-technical report would normally be prepared and provided at the development application stage where any dwelling or subdivision were proposed to address the relevant use and development standards under the Code.

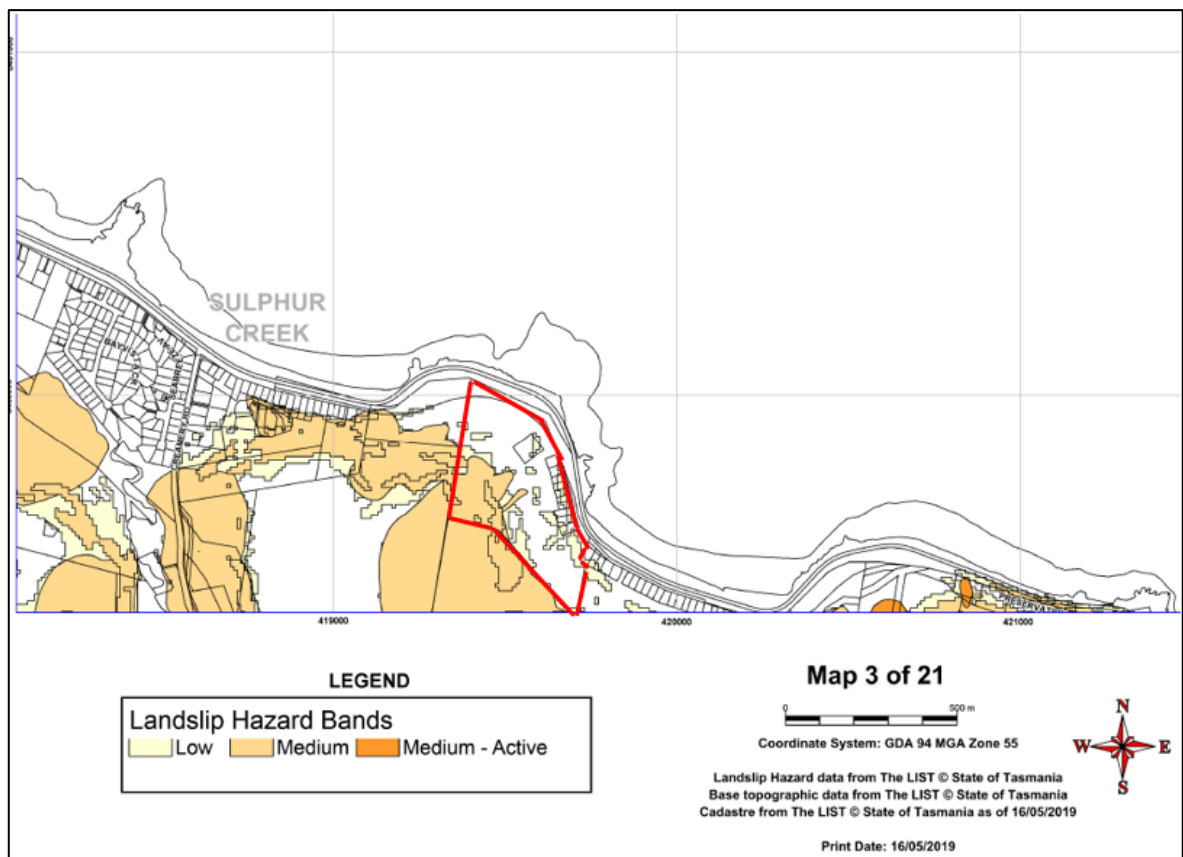


Figure 3: Proposed landslip hazard bands (source: Draft Central Coast LPS - Code Overlays)

The following information was submitted as part of our client's original representation and subsequent supplementary responses during previous hearings. As our client is now seeking Rural Living (Area A), the following has been revised.

LAND CAPABILITY & ADJOINING LAND USE

The land capability mapping available on the List indicates that the sites contain a mix of Class 4 and 6 land, as shown in figure 3.

An on-site investigation has been undertaken by Ag Logic, to provide a more detailed determination of the soil categories specific to the site. Preliminary advice from the consultant has indicated that the site contains predominately Class 4 land.

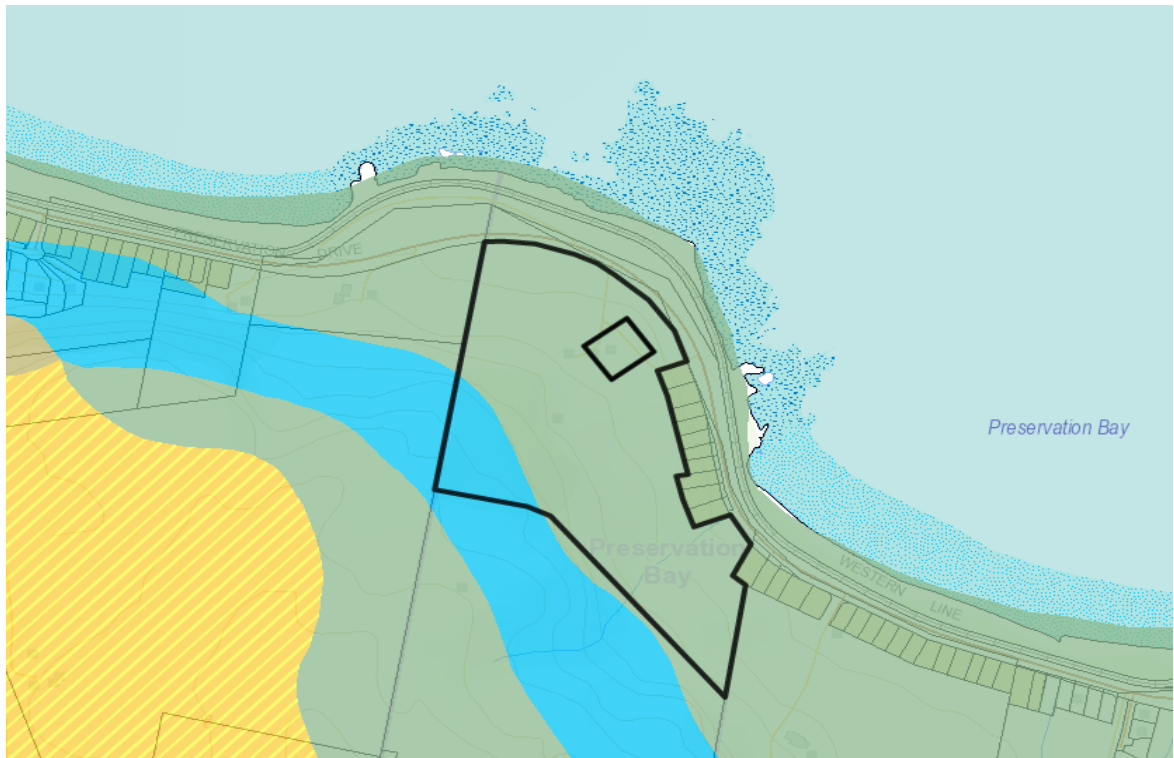


Figure 4: Land capability mapping (source: www.thelist.tas.gov.au © the State Government of Tasmania)

Class 4 land is defined as follows:

Land primarily suitable for grazing but which may be used for occasional cropping. Severe limitations restrict the length of cropping phase and/or severely restrict the range of crops that could be grown. Major conservation treatments and/or careful management is required to minimise degradation.¹

The southern corner of the site is currently heavily vegetated and is considered unsuitable for cropping and possesses a low pastoral suitability.

The site is identified within an irrigation district; however the land is not identified as prime agricultural land (prime agricultural land being between class 1-3) and is serviced by existing reticulated water and sewer infrastructure. Therefore, it is unlikely that access to irrigation would be beneficial given that the current owners of the site do not have any plans to use the site for agricultural use that would benefit from access to an irrigation scheme.

In addition, any desire to undertake moderate to large scale cropping and cultivation on the site would be difficult to achieve partially due to the land classification and proximity to the existing

¹ Grose C.J. (Ed) 1999, Land Capability Handbook. Guidelines for the Classification of Agricultural Land in Tasmania. 2nd Edition, DPIPWE, p 10.

residential zoning, which would also restrict agricultural related operations such as cropping procedures due to potential impacts on the adjoining residential properties by way of spraying, machinery, dust and noise emissions. It is considered that the proposed zoning of our client's property should be re-evaluated and considered under the Rural Living Zone (Area A) under the declared SPPs. This would allow for a more efficient utilisation of the site and would act as a more reasonable and efficient buffer between potential Significant Agricultural land to the south.

A rezoning of the land to Rural Living is not considered to be inconsistent with the objectives of the State Policy on the Protection of Agricultural Land (2009), given that the site is not considered prime agricultural land. The following key principles of the PAL Policy are relevant:

- 1. Agricultural land is a valuable resource and its use for the sustainable development of agriculture should not be unreasonably confined or restrained by non-agricultural use or development.*
- 5. Residential use of agricultural land is consistent with this Policy where it is required as part of an agricultural use or where it does not unreasonably convert agricultural land and does not confine or restrain agricultural use on or in the vicinity of that land.*
- 7. The protection of non-prime agricultural land from conversion to non-agricultural use will be determined through consideration of the local and regional significance of that land for agricultural use.²*

The existing strip of residential land already severely constrains use of the site for agricultural purposes, given that these properties would not comply with the current setback requirements and any agricultural activity, such as cultivation/spraying, harvesting and associated emissions would impact upon those properties. In addition, the topography of the site substantially limits the available area suitable for cropping or grazing, along with associated runoff issues.

The pattern of development in the area suggests that coastal properties are not generally significant in terms of agricultural use. A large proportion of the coast between Penguin and Burnie is occupied by residential settlement nodes, interspersed with pockets of agricultural land and large tracts of woodland and extractive industries.

In addition, the Council's Planning Report specifies the following on page 23:

While some new areas proposed to be zoned Rural Living contain land classified as prime agricultural land, agricultural use of the land is either unreasonably confined or restrained by Residential use and development or not practicably useable for agriculture due to topographic or access constraints.³

Access to the site is also directly adjoining the residential zones which may further restrict heavy machinery, commercial vehicle movements and general agricultural activities. In addition to the above, a large extent of existing General Residential zoned land to the west of the site is also identified as Class 4 land, particularly the land in and around the Sulphur Creek locality. This is demonstrated in Figure 4 below.

² State Policy on the Protection of Agricultural Land (2009)

³ Planning Report - Central Coast Draft Local Provisions Schedule, February 2019, p 23

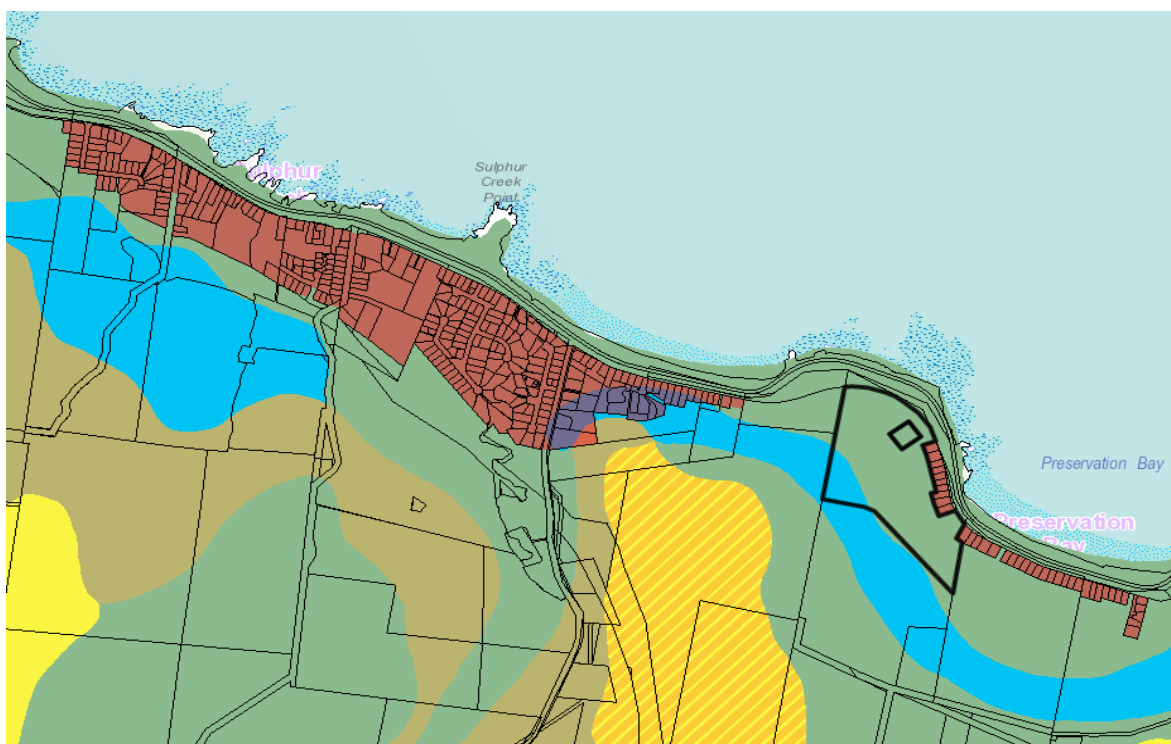


Figure 5: Extent of land capability (green areas - class 4 land) and distribution of existing General Residential zones (red areas) (source: www.thelist.tas.gov.au © the State Government of Tasmania)

The predominate spatial placement of residential land is generally restricted to the coastline and further infill development of the site would maintain consistency with this approach. The capability mapping also demonstrates a significant supply of existing Class 2 - 3 land south of the coastline and settled areas around Sulphur Creek, suggesting that re-use of the site at Preservation Bay for Rural Living development would be unlikely to result in any significant loss of agricultural land at a local or regional level.

CODE OVERLAYS

Under the draft Central Coast LPS, the north-eastern section of the site between the two existing General Residential zones is identified as containing priority vegetation which would be subject to the forthcoming Natural Assets Code.

Depending on the extent of the natural assets within this area, it may require management and/or retention. This may further restrict the area of the site that would be suitable for agricultural use, that being the land classified as Class 4.

It is worth noting that the current TASVEG 3.0 and Threatened Native Vegetation Communities (TVNC 2014) mapping available on the LIST does not indicate any areas on the site that possess priority vegetation.

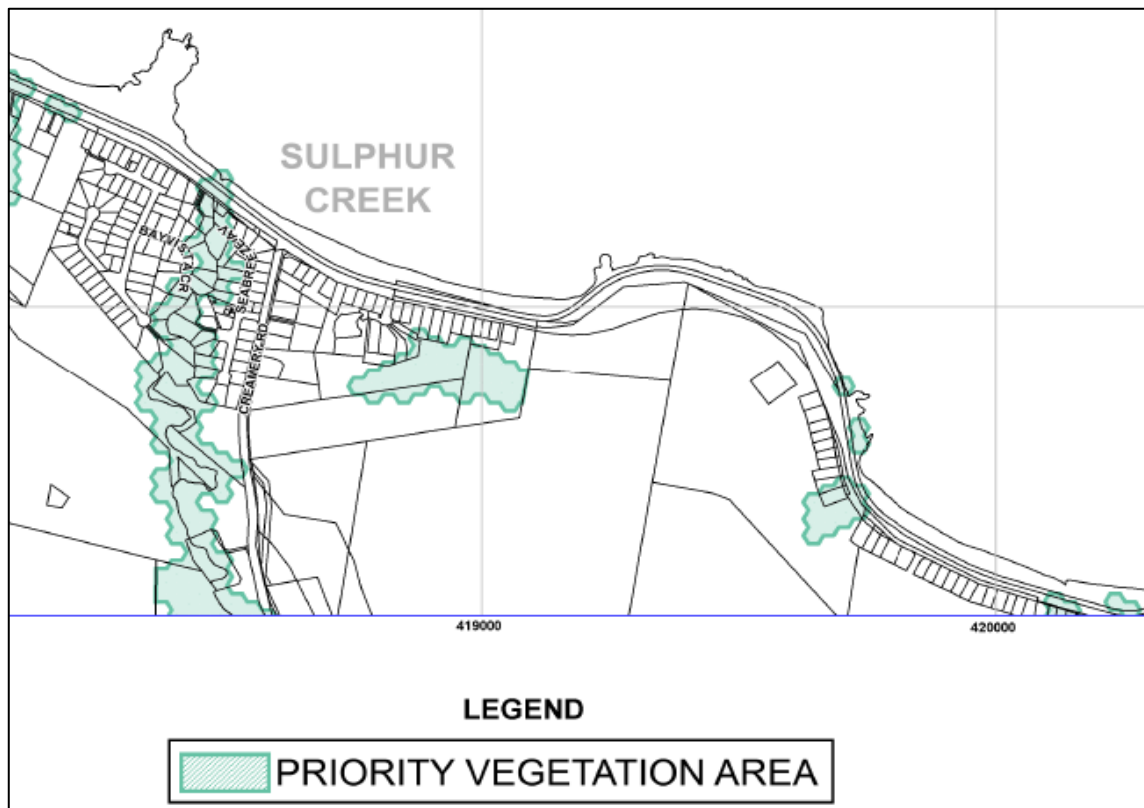


Figure 6: Natural Assets Code overlay (source: Tasmanian Planning Scheme - Draft Central Coast LPS - Priority Vegetation)

INFRASTRUCTURE

Although the provision of infrastructure is not necessarily considered as part of the application of the LPS, the site is currently serviced by reticulated sewer and water infrastructure and the following figures demonstrate the extent of the serviced areas. The figures indicate that the infrastructure follows existing residential development along the coastline, providing services for potential new residential developments. It is also evident that a large portion of existing Rural Resource land which directly adjoins existing residential areas is also serviced by reticulated infrastructure.

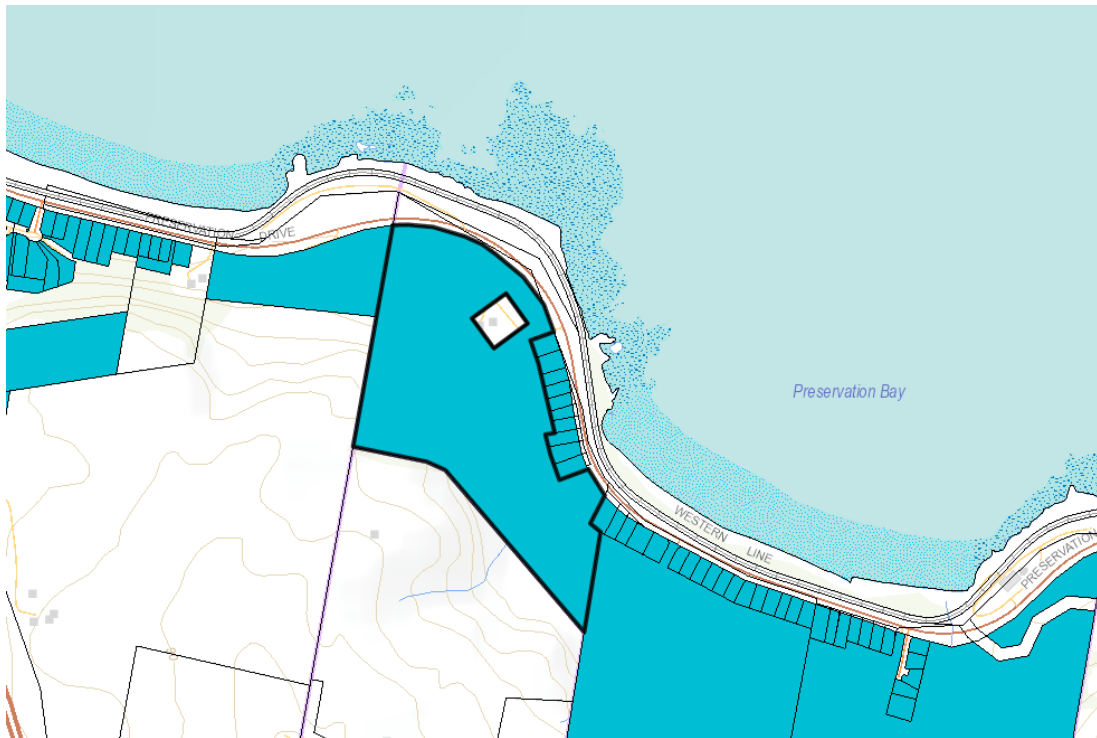


Figure 7: Water serviced land (source: www.thelist.tas.gov.au © the State Government of Tasmania)

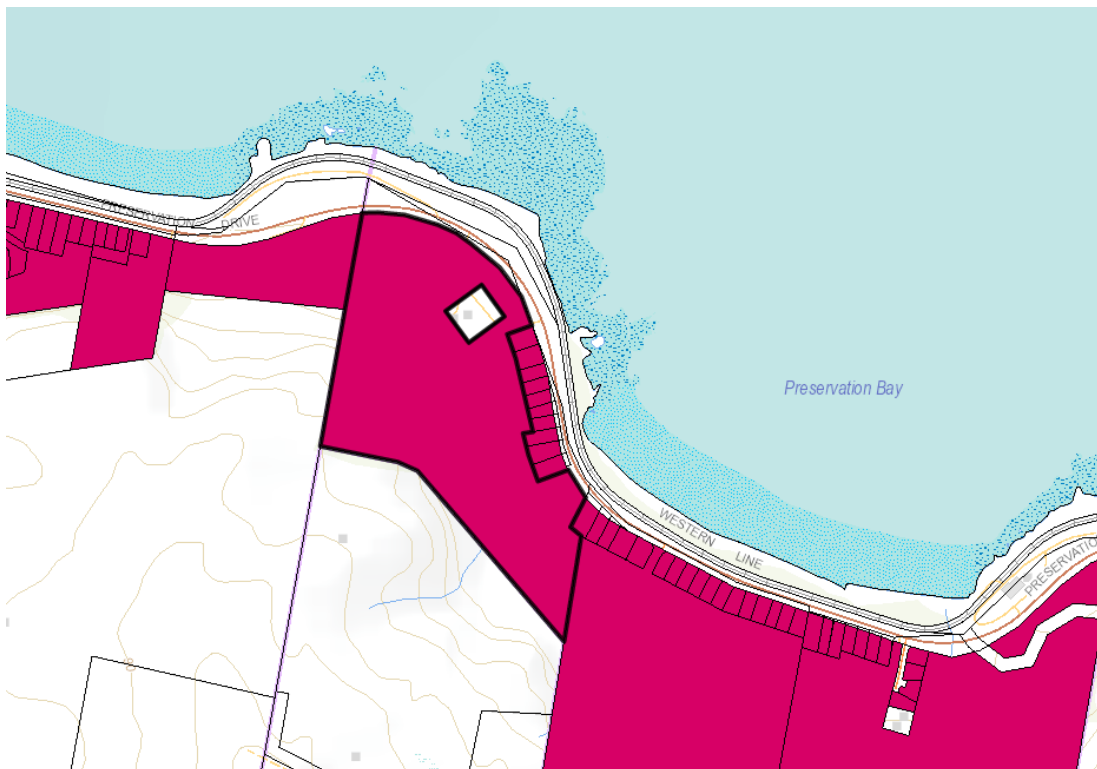


Figure 8: Sewer serviced land (source: www.thelist.tas.gov.au © the State Government of Tasmania)

CRADLE COAST REGIONAL LAND USE STRATEGY

According to the Strategy, the Cradle Coast region is the least populous area of Tasmania. Despite this, the medium growth scenario for Tasmania, presented within the strategy, suggests that the regional population will increase by around 7% by 2030. The strategy states that:

The changing characteristics of the population mean that even in municipalities with little or no population growth, there will be continued development and a changing demand for housing, employment, community services and amenities.⁴

The strategy states that the majority of settlement growth is likely to occur within existing centres, including Penguin, which is the closest locality (aside from Sulphur Creek) that provides key community services.

In addition, housing occupancy rates in the Cradle Coast Region are anticipated to fall to 2.1 persons per dwelling by 2030. These falling rates are in-common with the rest of Australia, which suggests that lower occupancy rates will result in additional demand for housing:

Falling occupancy rates suggest an additional housing demand of some 8,600 dwellings or 18% growth on existing housing stock over the next 20 years in the absence of any population growth. Population growth to 2030 anticipates an increase by 7,500 people. Assuming occupancy rates of 2.1 persons per dwelling an increase of 3,570 dwellings is required by 2030.

The combined effect of falling occupancy rates and population growth could result in need for some 12,500 new dwellings.⁵

A substantial proportion of the data used within the CCRLUS is also outdated, particularly census data which was collected in 2005-2006. The Planning Authority's submission also shares this conclusion, stating that:

The Cradle Coast Regional Strategy recognises nearby Sulphur Creek as a settlement with a low growth scenario. However, since the strategy was written the Sulphur Creek area has experienced constant growth to the extent there is a shortage of residential land available.⁶

The CCRLUS states that the circumstances of the Cradle Coast Region is such that it is difficult for settlements to sustain growth entirely through raw land releases, suggesting that existing land suitable for residential development (i.e. underutilised land which is serviced and in proximity to existing centres) should be utilised.⁷

With regard specifically to land for rural housing, the CCRLUS states the following:

The Framework must ensure adequate opportunity for choice and diversity in housing location, type and style appropriate to all needs and circumstances; and which are designed to complement the natural and build environment and which maximise opportunity for amenity, safety and efficiency.

Rural residential is a legitimate housing option and should be located without creation or increase in demand for inefficient infrastructure and service provision, compromise for

⁴ Cradle Coast Regional Land Use Strategy (2010-2035, p: 61)

⁵ Cradle Coast Regional Land Use Strategy (2010-2035, p: 83)

⁶ Central Coast draft LPS - Response submission Central Coast Council, 21st November 2019.

⁷ Cradle Coast Regional Land Use Strategy (2010-2035, p: 85)

*future urban settlement, risk to people or property or impact on resource development, natural and cultural values.*⁸

In addition:

*The Framework proposes each municipal area prepare a local settlement plan to identify planned and future options for growth and development. It is not the role of the regional land use strategy to define the details of settlement in individual locations.*⁹

Therefore, it is considered that the CCRLUS cannot be the sole basis on which to determine the suitability of additional Rural Living land within specific localities.

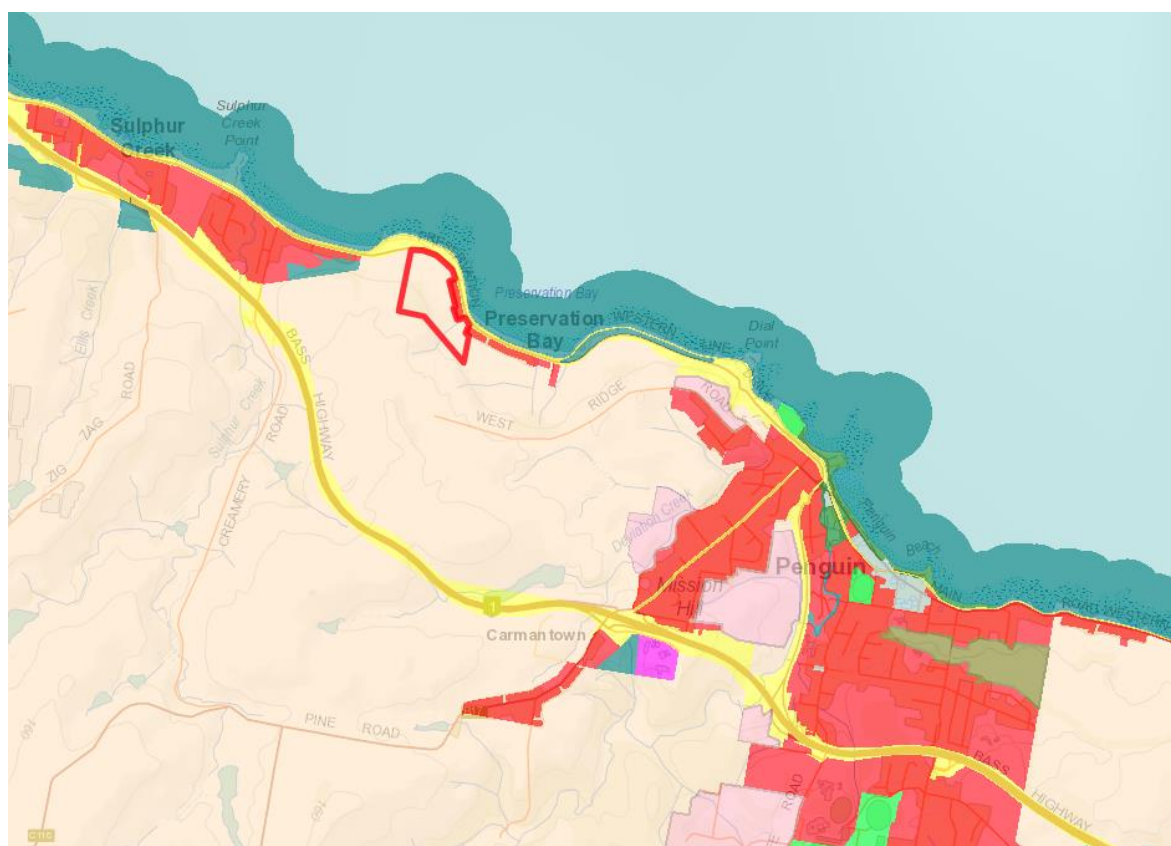


Figure 9: Site location and existing arrangement of Rural Living land (pink) (source: www.thelist.tas.gov.au © State of Tasmania).

In order to better manage the provision of Rural Living land the Rural Living Settlement Strategy was prepared in 2016 for the Cradle Coast region. The Strategy provides guidance and criteria to be applied when considering land for Rural Living purposes. An analysis of the strategy has been provided in the following section.

⁸ Cradle Coast Regional Land Use Strategy (2010-2035, p: 87)

⁹ Cradle Coast Regional Land Use Strategy (2010-2035, p: 88)

RURAL LIVING STRATEGY 2016

The Strategy specifies that no further rezoning of land to Rural Living will be approved unless the following objectives and criteria is satisfied. The objectives of the Strategy are as follows:

Objective 1:

To ensure future Rural Living zoned areas will not fetter productive agricultural land, will not adversely impact on areas of environmental and cultural significance and are economically sustainable.

Objective 2:

To recognise that the rural residential living zone has a role in providing residential diversity.

Objective 3:

To support the rezoning of land to Rural Living subject to meeting a set of criteria.

The Strategy provides the following criteria which must be considered and complied with:

1. The area is not to be located within an area which will benefit from irrigation, a private timber reserve or in a mining lease.

Although the site and surrounding properties are located within an Irrigation District, the site possesses a land capability of Class 4 land which is not considered suitable for intensive agriculture that would benefit from access to irrigation. In addition, the site constraints also severely reduce the agricultural potential of the site, specifically proximity to existing general residential land and the steep topography. In addition, the site is already serviced by reticulated sewer and water infrastructure.

2. No damage to threatened flora or fauna on the site will occur. If threatened flora or fauna are present, then appropriate management regimes must be enacted.

The site is not currently subject to priority vegetation mapping and does not possess any threatened vegetation communities, according to TASVEG 3.0 and Threatened Native Vegetation Communities (TNVC 2014) mapping.

The draft code overlay maps provided as part of the Draft LPS indicates that an area of the site is to be identified as priority vegetation, however there is no supporting information provided to indicate why this area of the site has been considered. Notwithstanding this, the potential existence of priority vegetation and management/conservation of such vegetation can be dealt with through the planning process through the provision of a Natural Values Assessment and the standards applicable under the Natural Assets Code.

3. Not be located on prime land - classes 1 to 3, unless the PAL Policy is amended.

The site is not classified as prime agricultural land. Current land capability mapping available on the list indicates the site possesses a combination of Class 4 and 6 land. Initial investigations undertaken by Ag Logic, indicate that the site is largely considered Class 4 land, with limited opportunities for cropping and grazing. The site constraints, including topography, landslip hazard and existing service infrastructure makes the site relatively unsuitable for any moderate or even small-scale agricultural use, particularly given the proximity to general residential land.

4. Be located approximately within 10 kilometres from a settlement that will service the area with social and community infrastructure (e.g. shops, health and community services and schools).

The site is within 3km of social and community services and infrastructure in Penguin.

5. Not be in a high-profile landscape area such as ridgelines and coastal headlands.

Currently, large areas of the coastline from Ulverstone through to Burnie support existing coastal communities which include areas of relatively high-density residential land on coast headlands and ridgelines. Due to the site constraints (i.e. topography, existing land use and hazards) the higher portions of the site (ridgeline) are unlikely to be suitable for development, ensuring that the upper slopes are maintained along with tracts of vegetation and tree lines.

Into the near future, increasing risks associated with sea-level rise, coastal inundation and erosion is likely to push new development further inland and increase risk to existing settlements in close proximity to the water's edge. The provision of new or repurposed rural residential land further inland is heavily restricted by land capability due to the abundance of high-quality soils for agriculture to the south of existing settlements.

These factors further restrict the available land for additional rural and higher density developments.

6. The land capability of soils, road access, water, drainage, and sewage and stormwater disposal is adequate for the proposed development.

The entire site is already serviced by reticulated water and sewer infrastructure, ensuring that on-site wastewater would not be required. The land slopes downward toward the Preservation Bay ensuring that stormwater disposal and drainage can be adequately provided. Primary access to the site is currently from Preservation Drive, which extends through from Sulphur Creek to Penguin. Land capability has been addressed previously in this report.

7. Be void of unacceptable risk from natural hazards such as landslide, flooding, bushfire, sea level rise and storm surge.

The site is currently subject to landslide risk, predominately low risk with small patches identified as medium risk. The further information provided by the Department of State Growth indicates that further geo-technical assessments should be undertaken prior to any rezoning of the land for residential purposes. However, such detail is normally provided and assessed as part of the development application process and would be provided to determine the risk associated with any corresponding development. Therefore, until a development application is lodged, this information is not considered necessary.

8. Not be located within an area that will create conflict with an existing or potential resource development or use, such as agriculture.

As specified in this report, the site currently adjoins existing general residential land which substantially constrains the ability for low to moderate scale agricultural activity, particularly crops and grazing due to emissions such as odour, spraying and runoff. Preliminary investigations indicate that the site has predominately Class 4 land, which is suited to limited grazing and/or cropping. However, this does not take into account the additional constraints such as steep topography and proximity to existing residential land. The site is also serviced by reticulated water and sewer infrastructure.

9. Not be in an area containing construction or mineral resources or will impact on existing mining operations.

10. Not to adversely impact on a vulnerable environmental area such as a marshland or riverbank.

The site is not known to contain construction or mineral resources and does not contain any substantial marshlands or riverbanks.

11. Has adequate existing service infrastructure or appropriate infrastructure will be provided at the proponents cost.

12. Not adversely impact on cultural or built heritage.

13. The area is not required for future urban development.

The site has not been identified for future urban development and is considered consistent with the criteria above and is suitable for rezoning for residential purposes. The site is serviced by reticulated water and sewer infrastructure and is connected to electricity supply. The site is not subject to any known cultural or built heritage.

SUMMARY

It is our view that the site is not suited for rural resource use and/or development and that the proposed zoning under the Draft Central Coast LPS would result in an inefficient use of the land, particularly given the following:

- Proximity to existing residential properties within the General Residential Zone;
- Land capability limits the extent of agricultural activities;
- The site is serviced by reticulated water and sewer infrastructure and is in close proximity to existing localities such as Sulphur Creek and is considered to be underutilised and is more suited for residential development.

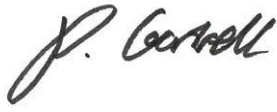
Although the site is within an irrigation district, the adjoining general residential area and land capability is likely to significantly restrict the feasibility of undertaking any moderate to large scale cropping activities that would benefit from access to the irrigation scheme.

The site is consistent with the requirements of the Rural Living Strategy (2016) which provides a local framework to guide the provision of Rural land for residential purposes. The requirements set forth in that strategy should be given higher priority than the high-level and outdated analysis and provisions set forth in the CCRLUS.

In addition, Council's planning report acknowledges that there is a shortage of residential land within proximity to existing settlements and has indicated support for the site to be rezoned Rural Living. On this basis, the availability of infrastructure on the site, proximity to existing general residential land, nearby access to existing localities such as Penguin and Sulphur Creek and consistency with the Rural Living Strategy, suggests that the site is suitable for future residential development.

If you would like further information please do not hesitate to contact me on 6234 9281.

Yours sincerely



Phil Gartrell

Planner

IRENEINC PLANNING