

**Lowe, Emma**

---

**From:** Benji Krom <bkrom@circularhead.tas.gov.au>  
**Sent:** Tuesday, 24 November 2020 4:57 PM  
**To:** TPC Enquiry  
**Cc:** Edwards, Johanna  
**Subject:** CH\_Further details\_Hearings\_24November2020  
**Attachments:** CH\_Further details\_Hearings\_24November2020.pdf

**Follow Up Flag:** Jude processing  
**Flag Status:** Flagged

Hi there Jo,  
Please find our response to the TPC request for a written submission.

Let me know if you require anything else.

Kind regards,

**Benji Krom**  
**Strategic Planner**  
P (03) 6452 4846

*\*My usual work days are Tuesday to Friday – To make an appointment please call Wilma on 64524840*



33 Goldie St, Smithton TAS 7330  
ABN: 43 826 151 424  
PO Box 348, Smithton TAS 7330

P (03) 6452 4800  
E [council@circularhead.tas.gov.au](mailto:council@circularhead.tas.gov.au)  
W [www.circularhead.tas.gov.au](http://www.circularhead.tas.gov.au)

---

Our Council Offices are open to the public for limited hours from 10am-4pm. Our normal business hours remain 8:15am-5:00pm. Please do not meet with staff during business hours.

For the most up to date information on COVID-19 visit: <https://www.coronavirus.tas.gov.au>  
Public Health Hotline - 1800 671 738

[Get the App Link](#)

This e-mail including all attachments is intended solely for the named addressee. It is confidential and may be subject to legal or other professional privilege. If you receive this message in error, please do not print, copy, retransmit, disseminate or otherwise use the information contained herein. If you are not the named addressee, please notify the sender immediately. Any views expressed in this communication are those of the individual sender and not necessarily those of the Council. This e-mail and any files transmitted with it are unclassified and may contain information that is exempt from release under the Freedom of Information Act 1992. This e-mail and any files transmitted with it are unclassified and may contain information that is exempt from release under the Freedom of Information Act 1992.

---

## Further information to support Circular Head representation

The planning authority provides the written submission as follows:

**Part A** - further justification for recommending a site-specific qualification (SSQ) for the Landscape Conservation Zone, in response to representations 9 (21096 Bass Highway, Wilshire) and 16 (486 Marcus River Road, Marrawah), specifically addressing section 32(4) of the Land Use Planning and Approvals Act 1993;

**Part B** - the proposed drafting for the two proposed Site Specific Qualification's for the properties in (a) above;

**Part C** - further clarification of the section 35F report response to 12d – Attenuation distances for development of sensitive uses, in particular the Planning Authority's recommendation for the LPS made for 12d.

**Part D** - further advice about the proposed removal of the Future Coastal Refugia overlay, specifically how this is consistent with the LPS requirements in LP 1.7.5 with reference to NAC 4c, to justify the recommendations for 12b and 12c.

## Circular Head - TPC Direction For Further Details Part A

### Justification for SSQ's at 21096 Bass Hwy, and 486 Marcus River Road:

Section 32(4) LUPAA

*An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –*

*(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or*

*(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.*

21096 Bass Highway (Representation 9) & 486 Marcus River Road (Representation 16)

It is the opinion of the Planning Authority that the use of Site Specific Qualifications (SSQ's) are appropriate and meet the test of 32(4) of LUPAA for the same reason that the properties have been selected for the use of the Landscape Conservation zone. The properties are large (620 & 383 ha respectively) and have varying types of landscapes within the same lot. The properties both feature a very high environmental and cultural conservation value, yet also contain functioning agricultural uses. In addition to traditional cattle grazing, both properties engage in a mix of native bush product harvesting and processing, kelp harvesting and processing. The properties also have demonstrated capacity for broader recreational, tourism and educational uses at a regional level. In order to preserve this balance of uses it is determined that the use of SSQ's will be necessary.

## Current SPP LCZ Use Table

### 22.2 Use Table

Use Class	Qualification
<b>No Permit Required</b>	
Natural and Cultural Values Management	
Passive Recreation	
<b>Permitted</b>	
Residential	If for a: (a) home-based business; or (b) single dwelling located within a building area, if shown on a sealed plan.
Utilities	If for minor utilities.
<b>Discretionary</b>	
Community Meeting and Entertainment	If for a place of worship, art and craft centre or public hall.
Domestic Animal Breeding, Boarding or Training	
Emergency Services	
Food Services	If for a gross floor area of not more than 200m <sup>2</sup> .
General Retail and Hire	If associated with a Tourist Operation.
Residential	If for a single dwelling.
Resource Development	If not for intensive animal husbandry or plantation forestry.
Sports and Recreation	If for an outdoor recreation facility.
Tourist Operation	
Utilities	If not listed as No Permit Required.
Visitor Accommodation	
<b>Prohibited</b>	
All other uses	

## Circular Head - TPC Direction For Further Details Part B

### Proposed SSQ's at 21096 Bass Hwy (CT137668/1), and 486 Marcus River Road (CT107781/1):

For both properties the primary use of the land is Resource Development, but with other uses also quite prominent. Given Resource development is the primary use, it is considered appropriate that it be a No Permit Required use as is currently the case, but with the qualification '*if not for intensive animal husbandry or plantation forestry*' in order to maintain the landscape protection goals of the zone.

A number of other uses have been requested by the landowners, though it is only considered fair and appropriate if the SSQ's enable uses that are already allowable in the current Rural Resource Zone, or the SPP Rural Zone and Landscape Conservation Zone. As such, those in red writing would not meet this requirement and are not suggested by the PA. Some uses have been requested by the owners of the Bass Highway property (CT137668/1) which are unique to that land and considered appropriate to include as these uses are already undertaken to varying degrees.

A modification to the Landscape Conservation Zone Use Table is required to accommodate the proposed SSQ's as described above.

### Proposed LCZ Use Table

*Blue – PA suggestion based on request and assessment*

*Red – Additional uses requested by landowner not recommended*

Use Class	Qualification
<b>No Permit Required</b>	
Natural and Cultural Values Management	
Passive Recreation	
<i>Resource Development</i>	<i>If not for intensive animal husbandry or plantation forestry and located at CT137668/1 or CT107781/1</i>
<b>Permitted</b>	
Residential	If for a: (a) Home-based business; or (b) Single dwelling located within a building area, if shown on a sealed plan.
Utilities	If for minor utilities.
<i>Educational and Occasional Care</i>	<i>If located at CT137668/1</i>
<i>Manufacturing and Processing</i>	<i>If located at CT137668/1</i>
<i>Research and Development</i>	<i>If located at CT137668/1</i>
<i>Residential</i>	<i>If located at CT137668/1</i>
<i>Resource Processing</i>	<i>If located at CT137668/1 &amp; CT107781/1</i>
<i>Sports and Recreation</i>	<i>If located at CT137668/1</i>
<i>Tourist Operation</i>	<i>If located at CT137668/1</i>
<i>Visitor Accommodation</i>	<i>If located at CT137668/1</i>
<b>Discretionary – No change</b>	

## Circular Head - TPC Direction For Further Details Part C

### Application of the C.9.0 Attenuation Code:

The PA recommendation in the S.35F Annexure contained the following comment in its Representation 12d (see on following page).

**Recommendation for Draft LPS:**

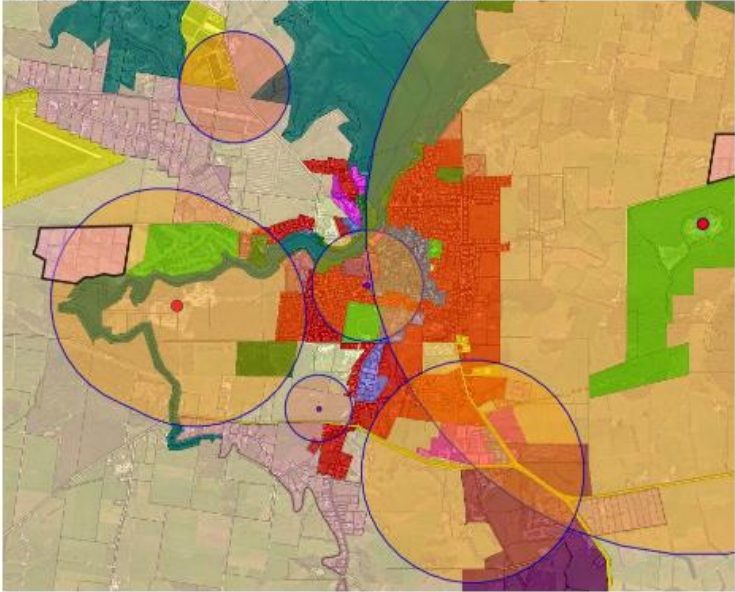
Recommended that Future Coastal Refugia Area  
be removed from land zoned Public Open Space.

This was an error in the drafting – the correct recommendation for the Draft LPS should have been:

*Recommended that the SPP be modified accordingly.*

## Circular Head - TPC Direction For Further Details

### Circular Head Draft LPS – S.35F Annexure

Rep #	Representor and Location	Proposed Zone	Representation Issue and Justification	Planning Comment and Recommendation
12d	Circular Head Council  General Region  Draft LPS – Application of Attenuation Code	<p><b>DIAGRAM OF SUBMISSION CONTENT:</b>  <i>Example of Attenuation distances in relation to residential areas.</i></p> 	Requests that Attenuation Distance for development of sensitive uses do not apply in existing General Residential and Rural Living zones.	<p><b>Comments:</b>  The application of the proposed attenuation distances to new development of Sensitive Uses within the small mixed use townships of Smithton and Stanley will impose a significant impost on development. Small regional and rural towns have industrial uses in close proximity to the residential areas, and almost half of the residential areas will be subject to the C9.0 Attenuation code, and will need to demonstrate measures to reduce the impact of long-term pre-existing industrial and fish-processing plants, and sewage treatment plants.  This seems an unnecessary impost for land already zoned for residential forms of development.</p> <p><b>LPS or SPP's</b>  As such, an addendum to the Written Instrument of the LPS which outlines that under Section C9.4 Use or Development Exempt from this Code will be inserted as follows:  (c) Development for sensitive use within the General Residential, Low Density Residential, and Rural Living zones at the Scheme Date.  Or, an alternative might be limit the application of the code to sensitive uses only when a subdivision application is made. This way established sensitive uses and vacant lots in the residential zones would not be subject to the code.</p> <p><b>Recommendation for Draft LPS:</b>  Recommended that Future Coastal Refugia Area be removed from land zoned Public Open Space.</p> <p><b>Effect on Draft LPS as a Whole:</b>  Not applicable</p> <p><b>LPS Criteria:</b>  The Planning Authority is satisfied the Draft LPS meets the LPS Criteria.</p>

## Circular Head - TPC Direction For Further Details

### Part D

#### Application of the C.7.0 Natural Assets Code - Future Coastal Refugia Area:

##### Background

It is the opinion of the Planning Authority that the Future Coastal Refugia area component of C.7.0 Natural Assets Code should not apply to the Open Space zone. The affected areas are shown in the representation extract 12c on the following pages.

In most cases, public open space is highly managed/landscaped areas and are also zoned Open Space zone. They usually feature public facilities and in many cases either already contain, or have the potential to host a wider range of commercial uses which might include Food Services, Tourist operations, Community meeting and entertainment, and Visitor Accommodation.

With the application of the Future Coastal Refugia overlay these uses will not be possible unless Clause P2.2 of C7.0 is taken very loosely in the interpretation of 'relies on a coastal location to fulfil its purpose' and potentially P2.2(f) 'provision of open space...'. This is a significant issue for these small townships which are seeking to diversify public and commercial use of the coastal areas to improve liveability and viability.

The representation extract shows the several examples where this will have an impact in Circular Head, but it is expected to be an issue much further afield in other Council areas. As can be noted in the images, the Future Coastal Refugia Area covers much of the waterfront areas of Smithton and Stanley despite these being highly modified and managed environments.

##### Justification

In relation to the Future Coastal Refugia Area component, it is deemed that the practical operation of the code has effects beyond its purpose.

The relevant Code Purpose is:

*C7.1.3 – To protect vulnerable coastal areas to enable natural processes to continue to occur, including the landward transgression of sand dunes wetlands, saltmarshes and other sensitive coastal habitats due to sea level rise.*

The allowable uses within the Open Space zone are quite broad and are not generally conducive to allowing natural processes to occur as is the purpose of the code. Much of the landscapes within the Open Space zone are highly modified and consist of structures and surfaces that area specifically designed to prevent the natural process of coastal refugia, yet the application of the code requires its consideration.

In determining the use of the overlay the Scheme outlines the following:

##### *LP1.7.5 Natural Assets Code*

*(a) If a planning authority has areas identified for:*

*(i) future coastal refugia; or*

*(ii) waterway and coastal protection,*

*in its municipal area, the LPS must contain an overlay map showing those areas for the application of the Natural Assets Code*

The Planning Authority does not have specific mapping undertaken to identify areas of Future Coastal Refugia additional to that provided by the guidance map. However, should this issue be isolated to the Circular Head municipality, the mapping could be amended to remove the overlay area from the Open space zone where significant community infrastructure exists. This can be seen in the Map XX at the end of this document and the approach can be supported by NAC 4 as shown below:

## Circular Head - TPC Direction For Further Details

NAC 4 *The future coastal refugia area overlay may include modifications to the areas depicted in the guidance map to:*

- (c) *remove an area if it is demonstrated that the application of the future coastal refugia area will constrain the future use and development of existing habitable buildings, major infrastructure, key community facilities and services and the like.*

Further, NAC 6 (d) of the Section 8A Guidelines also outlines the following:

*the future coastal refugia area overlay should be applied to land that is currently within a compatible zone if it is demonstrated that the application of the future coastal refugia area will not constrain the future use and development of existing habitable buildings, major infrastructure, key community facilities and services and the like.*

On the basis that the application of the overlay will constrain future use and development of existing key community facilities, it is argued then that the overlay could be removed from the Open Space Zone.

It should be noted that the functionality of the SPP's are still being established, and had the issues described above been fully understood during the drafting of the LPS, the mapping would have been modified in accordance with NAC 4 & 6 above.

### **Suggested Modification to SPP**

The proposed changes are shown in blue text below.



Alternatively the mapping may be modified as described above. A draft of the possible mapping is included below at the end of the document (Map 01).

C7.2.1 This code applies to development on land within the following zones:



- (a) A waterway and coastal protection area;
- (b) A future coastal refugia area only if within the following zones:
  - i. Rural Living Zone;
  - ii. Rural Zone;
  - iii. Landscape Conservation Zone;
  - iv. Environmental Management Zone;
  - v. Major Tourism Zone;
  - vi. Community purpose Zone;
  - vii. Particular Purpose Zone; or
  - viii. General Residential Zone or Low Density Residential Zone, only if an application for subdivision.
- (c) A priority vegetation area only if within the following zones:
  - i. Rural Living Zone;
  - ii. Rural Zone;
  - iii. Landscape Conservation Zone;
  - iv. Environmental Management Zone;
  - v. Major Tourism Zone;
  - vi. Utilities Zone;
  - vii. Community purpose Zone;
  - viii. Open Space Zone;
  - ix. Particular Purpose Zone; or
  - x. General Residential Zone or Low Density Residential Zone, only if an application for subdivision.



## Circular Head - TPC Direction For Further Details

Rep #	Representor and Location	Proposed Zone	Representation Issue and Justification	Planning Comment and Recommendation
12c	<p>Circular Head Council</p> <p>Wharf Road area, Stanley + East and West Esplanade area, Smithton</p> <p><b>Draft LPS</b> – Future Coastal Refugia Area in Public Open Space zone.</p>	<p><b>Stanley</b></p> <p><b>SUBJECT LAND:</b></p>  <p><b>LPS 'FUTURE COASTAL REFUGIA AREA' MAP:</b></p> 	<p>Requests that the Future Coastal Refugia Area be removed from land zoned Public Open Space.</p>	<p><b>SPP issue</b></p> <p>In most cases, public open space within the townships of Stanley and Smithton are highly managed/landscaped areas. They usually feature public facilities <u>and in some cases</u> have the potential to host a wider range of commercial uses such as Food Services, Tourist operations, Community meeting and entertainment, and Visitor Accommodation.</p> <p>With the application of the Future Coastal Refugia overlay these uses will not be possible unless Clause P2.2 of C7.0 is taken very loosely in the interpretation of 'relies on a coastal location to fulfil its purpose'. This is a significant issue for these small townships which are seeking to diversify public and commercial use of the coastal areas to improve liveability.</p> <p><b>Recommendation for Draft LPS:</b> Recommended that Future Coastal Refugia Area be removed from land zoned Public Open Space.</p> <p><b>Effect on Draft LPS as a Whole:</b> Not applicable</p> <p><b>LPS Criteria:</b> The Planning Authority is satisfied the Draft LPS meets the LPS Criteria.</p>

Circular Head - TPC Direction For Further Details

	<div><p><u>Smithton</u></p><p><b>SUBJECT LAND:</b></p><p><b>LPS 'FUTURE COASTAL REFUGIA AREA' MAP:</b></p></div>		
--	---	--	--



## Circular Head - TPC Direction For Further Details

